

34.6.1; 23b (משנה א) → 25a (מכשיר כמכפר)

1. והביא איל תמים מן הצאן בערךך לאשם אל הכהן וכפר עליו הכהן על שגגתו אשר שגג והוא לא ידע ונסלח לו: ויקרא ה, יח

- I א משנה: status of תלוי if, at a particular stage, the doubt was cleared up
- a If: he brought an אשם תלוי and found out, before שחיטה, that he hadn't sinned
 - i מ"מ. animal is fully חולין (goes back to graze)
 - ii (אשם שנתכפרו בעליה חכמים) requires מום and redemption (like אשם שנתכפרו בעליה חכמים)
 - 1 Dispute: impact of intent:
 - (a) מ"מ. since he didn't require it, his הקדש is moot
 - (b) חכמים. he was מקדיש due to pangs of conscience
 - (i) ברייתא: their positions are the same whether he found out he didn't sin or if he learned that he did sin
 - 1. If he did sin: to teach the extent of מ"מ's position – since he didn't need אשם תלוי – אשם הקדש is null
 - 2. If he didn't sin: to teach extent of חכמים's approach – since his conscience bothered him – אשם הקדש is valid
 - (c) מ"מ agrees in case he sets aside 2 אשמות (as backup) that both need מום
 - (i) Reason: by designating backup, he made it clear that he has pangs of conscience → אשם הקדש is valid
 - iii מ"מ. bring it in any case – if not for this sin, for another
 - b If: he found out after שחיטה – the blood is spilled out and the meat goes out to בית השריפה
 - c If: he found out after זרה"ד – continue properly (אשם כהנים)
 - i מ"מ. eve if דם is in כוס (before זרה"ד) – continue properly
- II ב משנה: Differences between תלוי אשם and other קרבנות/animals that are used in ceremony
- a אשם וודאי: if before שחיטה he found out that he wasn't liable, must graze and get מום etc.
 - i If: after שחיטה, animal is buried
 - ii And if: after זרה"ד, meat is burned at בית השריפה
 - b שור הנסקל: if discovered to not require סקילה; if yet alive, goes back to herd; if already killed, בותר בהנאה
 - c עגלה ערופה: if murderer found before עריפה, goes back to herd; if after, processed normally (אסור בהנאה)
 - i Reason: it came to absolve a ספק – which it did (if only for a short time)
- III הזמת עדים: Series of discussions about impact of עדים
- a אשם תלוי agree with מ"מ in case the עדים (of his alleged violation) were מוזם – no אשם תלוי
 - i Reason: in this case, no doubts on his part and he didn't designate אשם תלוי with full intent
 - ii Challenge (זבא): our משנה (below) distinguishes א"ת from שור הנסקל – which could only be עדי in בהוזמו
 - 1 Defense (אבני): שור הנסקל needn't be הזמה – the "victim" could walk into court
 - 2 Parallel: in case of א"ת – if the piece of meat was identified as שומן – may still be אשם תלוי; but not בהזמה
 - (a) Note: this issue is subject to dispute between ר' יוחנן/ר"א in case of א"ת where עדי הוזמו
 - (b) מ"מ. it's like מנחת סוטה – becomes חולין (ב:ו) חולין סוטה
 - (c) מ"מ. must graze and get מום
 - (i) Reason: מנחת סוטה isn't coming for כפרה, but to clarify עיון עדיה (עדי הוזמו does that)
 - b שור הנסקל: if ר' יוחנן – if עדים were מוזם, animal is הפקר and anyone who grabs it – owns it
 - i זבא: this only stands to reason if they testified that his שור was נרבע (he might not know about it)
 - 1 But: if they testified that he was רובע his own animal – he knows it isn't true and isn't מפקיר
 - 2 Challenge: ruling that if עיר הנדחת are מוזמים, all the property is הפקר?
 - (a) Answer: there, each citizen who knows he didn't sin will assume that someone else did and is מפקיר נכסים
 - c מתנה: if B rejects A's gift, it is now הפקר
 - i Challenge: ששה ר' ruled that if a donee says אי אפשי (etc.) – his words are valid (unlike מתנה etc.)
 - 1 Answer: דבריו קיימין doesn't mean that it goes back to donor; means that the gift is null and is now הפקר
 - ii Challenge: if a partner avers that he has no דין ודברים on a field or is removed from it – it is meaningless
 - 1 Answer: in that case, he didn't give up ownership, just interest (דין ודברים)
 - iii Challenge: if someone gifted his property (posthumously) to another, including slaves, and the beneficiary refused it
 - 1 Then: if the intended donee was a כהן, the slaves eat תרומה (!)
 - 2 דשב"ג: the heirs retake ownership (no תרומה)
 - (a) Understood: רשב"ג – the donor gave the gift on condition that it would be accepted → reverts
 - (b) But: ת"ק – if not owned by כהן, how can they eat תרומה?
 - (c) Answer: he holds that if someone is מפקיר his slave, he needs a גט and, w/o גט, still eats תרומה

- IV Analysis of א"ר's opinion – offer the **אשם תלוי** nonetheless
- a *Question*: why does he need to invoke the possibility that there was a sin? He rules that א"ת may be brought as **נדבה**
 - b *Answer*: this is per **אמר לר'** (see next **משנה**) – must at least have some doubt that he sinned to justify **אשם תלוי**
- V Examining consequences of post-**שחיטה** awareness
- a **ר' שמעון**: if found out after **שחיטה**, is burned → **חולין שנשחטו בעזרה**
 - b **ר' יהודה**: is buried → **חולין שנשחטו בעזרה**, per **יהודה** (see **תמורה ז:ד**)
 - i **א"א**: **משנה** is split – part representing **ר"ש** and part – **יהודה**
 - ii **דבא**: no contradiction from **אשם ודאי** to **א"ת**
 - 1 **אשם ודאי**: is really a mistake, must be buried
 - 2 **אשם תלוי**: was sanctified properly, as he had doubt about his actions
 - 3 *However*: there is a contradiction within **אשם ודאי** – buried or burned
 - (a) **דבא**: this one is certainly “split”
 - (b) **אשי**: **ה' שריפה** is for **אשם תלוי** – as it looks to be **פסול** (which is burnt – unlike **שחטו בעזרה**)
- VI Analysis of rest of **א** **משנה**:
- a *If*: **נזרק הדם** – complete the **קרבן**
 - i *Challenge*: he already knows – why complete it?
 - ii *Answer* (**דבא**): per v. 1 – as long as he didn't know at moment of **סליחה** (i.e. **זרה"ד**) – considered done properly
 - b **ד' יוסי**: even if **דם** was in **כוס** when he found out – continue properly
 - i *Challenge*: he knows before **זריקה** (i.e. has **ידיעה** at point of **סליחה**)
 - ii *Answer*: **ר' יוסי** holds like **ר"ש** – **כל העומד לזקק כזרוק דמי**
 - 1 *Challenge*: **ר"ש** only applied that to **דם** that was properly done and ought to be **נזרק**
 - 2 *Answer*: **ר' יוסי** holds that putting it in **כלי שרת** is **מקדש** – even a **פסול** – to be offered
- VII Analysis of end **ב** **משנה** – the **עגלה ערופה**
- a *עגלה*: when does it become **בהנאה**?
 - i **המנוא**: even before being killed (**ר' ינאי** quoting his colleagues – when it's brought down to ravine)
 - 1 *Support*: dispute **ר"ש/חכמים** about “unfit” **שחיטה** for liability of **בנו** ואת **בנו**
 - (a) *If*: slaughtered **פרת חטאת**, **שור הנסקל** or **עגלה ערופה** (on same day) – **ר"ש** exempts **ראויה** (שחיטה שאינה ראויה) (and should be liable for **בנו** ואת **בנו**)
 - (i) *Proof*: must already be **אסור** before death, else **שחיטה** is **ראויה** (and should be liable for **בנו** ואת **בנו**)
 - (ii) *Counter*: perhaps **ר"ש** allows for **שחיטה** as proper killing of **עגלה**
 1. *Rejection*: **תוספתא חולין א:יד** – **פרה** and **עגלה** have opposite **הכשרים** (→ only **עריפה** valid for **עגלה**)
 2. *And*: if **ר"ש** disagreed, **תנא** would've mentioned it
 - ii **דבא**: at **עריפה**
 - 1 *Support*: from our **משנה** – if murderer found before **עריפה** – she goes back to herd
 - (a) *But*: if she is **אסורה** beforehand, how can she go back to herd?
 - (i) *Answer* (**ר' המנוא**): means “if before she is fit for **עריפה**” (i.e. in **איתן**)
 - (b) *Challenge*: then why does **משנה** rule that if she was already **נעריפה**, she should be buried?
 - (i) *Answer* (**ר"ה**): means – “if he was found after she was fit for **עריפה**, she is buried”
 - (c) *Challenge*: end of **משנה** – if found then, buried, since she did her job of **כפרה**
 - (i) *But if*: that means being found before **עריפה**, there was no **כפרה**
 - iii *comment*: this dispute is a **מחלוקת תנאים** (as our **משנה** seems to support **רבא**)
 - 1 **ברייתא**: there is a **מכשיר מצורע** (אשם מצורע) **מכשיר** and **מכפר** (all **חטאות ואשמות**) inside **עזרה**,
 - 2 *And*: **מכשיר מצורע** (צפרי מצורע) and **מכפר** (שעיר המשחלה) and **ערופה** (עגלה ערופה) outside
 - (a) *Just as*: inside **מכשיר** is treated like inside **מכפר**, so with outside –
 - (i) *And*: birds of **מצורע** are **מחיים**, **אסורים**, so too **עגלה** and **שעיר** are **מחיים** **אסורים**