

35.5.2

19b (משנה ב) → 20a (סיום הפרק)

7. וְאֵת אֲשֶׁר חָטָא מִן הַקֹּדֶשׁ יִשְׁלַם וְאֵת חֲמִישְׁתּוֹ יוֹסֵף עָלָיו וְנָתַן אֹתוֹ לַכֹּהֵן וְהִפְהִן יִכְפֹּר עָלָיו בְּאֵיל הָאֶשֶׁם וְנִסְלַח לוֹ: וַיִּקְרָא ה', טו

- I **ב** משנה: requirement for פגם and הנאה to be in same object
- If: he got ½ ש"פ of הנאה and ½ ש"פ of פגם – no מעילה
 - Or: if he got ש"פ of הנאה from one thing and ש"פ of פגם from another – no מעילה
 - No liability unless: he is פגום and gets הנאה – both ש"פ worth – in the same object
- II **ג** משנה: מועל אחר מועל
- There is no: מעילה after מעילה (i.e. once מעילה has been committed, item becomes חולין)
 - Exceptions: animals and כלי שרת
 - Examples: if he rode an animal, then another came along and rode it and then another – each is liable for מעילה
 - Or: if he drank from a כלי שרת, then his friend came along and also drank from it etc. – each is liable for מעילה
 - Or: if he ripped wool from a חטאת, then another came along and did the same etc. – each is liable for מעילה
 - Attribution: תופסתא מעילה ב:ו, per ר' נחמיה –
 - מעילות only בהמה is subject to multiple מעילות
 - כלי שרת בהמה ד' נחמיה
 - Reasons: מעילות infer from v. 1 – איל האשם is superfluous and indicates that an איל may maintain vulnerability to מעילה even after being "misused"
 - since כלי שרת can be מקדש other things put in them, ק"ו they are מקדש themselves
 - Meaning: כלי שרת remain בקדושתן and aren't "made חולין" by misuse → מועל אחר מועל
- c **ד** משנה: anything which is not subject to פדיון allows for מועל אחר מועל
- Question: on what point is רבי disagreeing with חכמים?
 - regarding עציים: רבי holds (commenting on יג: מנחות) that עציים are themselves קרבן, requiring מלח and תנופה
 - Therefore: רבא – they require other עציים; ר"פ – they require קמיצה
 - regarding מוזהב: רבי states that such נשחטין must be buried (קדושת הגוף) (מועל אחר מועל → קדושת הגוף)
 - Support: רבי states that such נשחטין must be buried (קדושת הגוף) (מועל אחר מועל → קדושת דמים)
 - they are redeemed (חכמים)
- III **ד** משנה: point at which confiscation becomes מעילה
- the principle person here must be the זובר; else why is his "taking" any less of a מעילה than that of the 2nd person?
 - If: he took a rock or beam of הקדש – not yet מעילה
 - But: if he gave it to a fellow – then it is מעילה; but only he, not the recipient is liable for מעילה
 - If: he built the rock or beam into his house – no מעילה
 - Until: he lives under it at a ש"פ's worth (e.g. of rental)
 - Question: why the need to live under it? Once he has built it in to the house, he has made a שנוי → מעילה?
 - case where he laid it over the skylight (didn't change it at all)
 - Inference: once he build it in, it becomes part of the house (מחובר לקרקע), yet he is liable for מעילה
 - Supports: רב's ruling that if someone worships a building, he effectively makes it אסור
 - Rejection (ר' אחא בריה דרב איקא): re: מעילה, it is "obvious" הנאה that is forbidden
 - But supported by: ברייתא – if someone lives in a הקדש-house, , once he benefits from it, he is liable for מעילה
 - Rejection (רשב"ל): if he was מקדיש then built it, indeed, he'd be liable
 - But if: he built it (מחובר לקרקע) and then was מקדיש, מעילה would not attach
 - Question: if so, why does the תנא go out of his way to bring a case (ברייתא) about a house that is in a cave – no מעילה; he could have stated that even a stone house, as long as it was built before he was מקדיש, is exempt from מעילה
 - Answer: the "cave" is an unqualified ruling, which he prefers to qualifying with sequencing of house
- d If: he takes a coin of הקדש
- But if: he gives it to a fellow - then it is מעילה; but only he, not the recipient is liable for מעילה
 - Or if: he gave it to a bathhouse attendant – even if he didn't use the bathhouse - מעל
 - Reason: he has a "bathhouse credit"
- IV **ה** משנה: merging eating and הנאה of more than one person for מעילה
- If: he and his friend eat or benefit, or one eats and the other benefits – these join for מעילה – even after a long time