

Introduction to מעילת

מעילה focuses on the rules of *מעילה* – benefitting from *הקדש* (see source in text-box below). *מעילה* has two intersections with *סדר קדשים*; it occurs when someone benefits from *קדשים* that belong to ה' – “קדשי ה'” – and the consequence is liability for an “אשם מעילות”, a ram (between 13-24 months of age) worth 2 *סלעים* along with payment for the “usage” or damage + 1/5 of the aggregate (i.e. ¼ of the *קרן*). *מעילה* applies to *קדשי בדק הבית* as well as *קדשי מזבח*; however, *קדשי מזבח* are only vulnerable to *מעילה* when they are purely ה' *קדשי*; therefore, *קדשים קלים*, which belong to the donor, are not vulnerable until זרה, at which time only the *אימורים* are vulnerable; *קדשי קדשים*, on the other hand, are only released from *מעילה* after זרה, when the *כהנים* are allowed to benefit in one way or the other. Our *מסכת* defines the parameters of which *קדשים* are vulnerable to *מעילה* and under which circumstances *מעילה* applies. Two anomalies about *מעילה*:

- As can be seen from the *פרשה* (below), *מעילה* only applies when done *בשוגג*; if someone misuses *קדשים* deliberately, he owes the *קרן* to *מקדש*, but cannot achieve *כפרה* through *קרבן*
- Although normally we hold that *עבירה* אין שליח לדבר עבירה (if an agent sins at the behest of his dispatcher, the agent is fully and solely responsible), when it comes to *מעילה*, שליחות is meaningful.

35.1.1

2a (משנה א) → 3b (תיקו)

1. וידבר ה' אל משה לאמר: נפש כי תמעל מעל וחסא בשגגה מקדשי ה' והביא את אשמו לה' איל תמים מן הצאן בערך קסף שקלים בשקל הקדש לאשם: ואת אשר חטא מן הקדש ישלם ואת המישתו יוסף עליו ונתן אתו לכהן ולהכהן יכפר עליו באיל האשם ונסלח לו: ויקרא ה' יד-טו

- I א extension of *מעילה* to *קדשי מזבח* that were invalidated before זרה; *מעילה* still attaches even if...
- location: if שחיטה or דם of קדק"ד was done in south (פסול)
 - defense: per עולא's dictum – if קדשים die, *מעילה* no longer attaches, סד"א that שחיטת דרום = choking them → *מעילה* lifted
 - nonetheless: since דרום is fit for קלים קדשים, slaughtering קדק"ד there is not like choking
 - time: if either שחיטה or זרה"ד was done at night
 - justification: if we only learned דרום, שחיטת דרום, we would reason that *מעילה* still applies because קבלה was done בצפון
 - but: if he did קבה"ד in south, should be removed from *מעילה*
 - and: if we had only had those two, סד"א that since they were during the day (זמן הקרבה), *מעילה* attaches,
 - but: once he slaughters at night, *מעילה* no longer attaches
 - and: if we learned that שחיטת לילה doesn't remove *מעילה* – we would surmise that that is due to קבה"ד by day
 - but: if there was זרה"ד at night, since it isn't זמן הקרבה, we would assume it is like חניקה → *מעילה* no
 - invalidating intent: if שחיטה was done with intent for חוץ למקומו or חוץ לזמנו
 - reason: it is מרצה – as a פיגול
 - general rule (ר' יהושע): if it ever had שעת היתר for כהנים, there is no *מעילה*; if there was no שעת היתר לכהנים, *מעילה* attaches
 - examples of היתר: if it became טמא or left the precincts
 - example of היתר: if שחיטה was done with intent for חוץ לזמנו/מקומו, or if פסולים performed קבה"ד or זרה"ד (אם אלו ירדו/לא ירדו) מזבח (of קדשי קדשים) that were put on
- II Dispute ר' יוסף about status of שחיטת/קבלת דרום (of קדשי קדשים) that were put on מזבח (ירדו/לא ירדו)
- דבה: they come down (are not left on מזבח for הקטרה)
 - ג' יוסף: they remain up
 - note: they agree that according to ר' יהודה (זבחים ט:ב) ר' יהודה they come down
 - disagreement: according to ר"ש (ibid) – ר"ש ר' יוסף seems to follow what ר"ש would say
 - only allows to stay up if דם was put above instead of below (or vice-versa); but שחיטת דרום is like חניקה
 - challenge: from our משנה (קדק"ד slaughtered in north still maintain *מעילה*)
 - answer (for דבה): *מעילה* in our משנה is מדרבנן (difference – no חומש paid)
 - proof (of *מעילה* מדרבנן): עולא's rule- קדשים that died are relieved from "דבר תורה" → they have מדרבנן → *מעילה* מדרבנן
- challenge: ר' יוסף's version of our משנה seems to make עולא's rule superfluous
 - answer: סד"א that in our משנה, people don't avoid קדשים like this → *מעילה* מדרבנן; but מתו would be avoided
 - and: perhaps there is no *מעילה* not even מדרבנן → קמ"ל
 - challenge: "מתו" was also taught – if someone is נהנה from חטאת; if alive, no *מעילה* until he causes some damage; if dead – as soon as he gets הנה, there is *מעילה*
 - answer: סד"א since חטאת comes from כפרה, people won't avoid it, but other קדשים that die – people would avoid → קמ"ל that even those have מדרבנן
 - challenge: חטאת doesn't have *מעילה*, per א:א (no *מעילה*, even מדרבנן, post facto)
 - answer: that is חטאת while alive, as people avoid them; as opposed to חטאת which stands to be מכפר

- c *יסף's interwoven challenge*: several משניות from מסכת זבחים which, taken together, provide a challenge
- i *ג:ז*: all קרבנות העוף (which were done improperly; e.g. above/below) are not מטמא בגדים when in the gullet (as is the case w/ נבלת עוף טהור and מעילה attaches, except for חטאת העוף done below in the proper חטאת fashion (no הבדלה etc.)
 - ii *ה:ז*: whenever the פסול is בקודש, there is no טומאת בגדים (אבית הבליעה); if the פסול was not בקודש, it is מטמא בגדים אבה"ב (אם עלו לא ירדו)
 - iii *ט:ב*: if the פסול was בקודש, the קודש "accepts" it (i.e. אם עלו לא ירדו)
 - 1 *in sum*: from 1st ruling, location-error does not generate טומאת בגדים; from 2nd ruling, such קרבנות are considered "פסולם בקודש" and from 3rd משנה, we see that such קרבנות, if they are brought up, are not taken down – (a) *therefore*: רבה is soundly refuted
- d *note*: this dispute between ר' יוסף and ר' רבה was an obvious matter to ר"א
- i *ל"א*: if an עולה from במת יחיד was brought in to עזרה, the מחיצות "accept" it and all דיני עולה apply
 - 1 *he then asked*: if such an עולה was brought in and then became פסול, and then (errantly) put on מזבח – ירד or not?
 - (a) *inference*: since he was asking about this (more arcane) case, our question must have had a clear answer (either in accord with רבה or with ר' יוסף)
 - 2 *block*: he was asking according to each (without taking a position on their dispute)
 - (a) *according to דבה*: perhaps רבה only maintains ירדו since this קרבן was offered in proper מחיצות because it was properly sanctified, דרום שחיטת דרום, which wouldn't extend to במת יחיד
 - (b) *according to ד' יוסף*: perhaps only a proper מחיצה "absorbs" it (→ אם עלו לא ירדו), but not a במת יחיד תיקו-