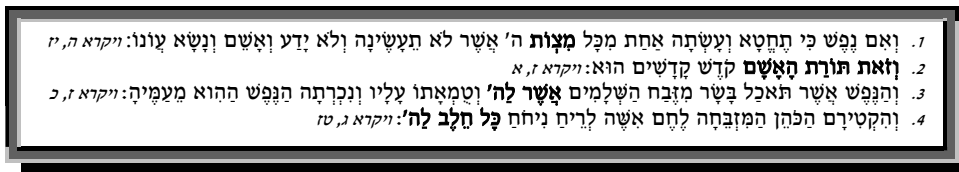


34.5.2

22a → 23b (סיום הפרק) (משנה ב)

Note: in our סוגיא, the notion of *למד עליון מתחתון* is invoked. This refers to inferring information from a later text from the immediately previous text if the later text begins with conjunctive *ואי*, as in the case of *אשם תלוי* which immediately follows *מעילות* in *ויקרא ה*



I ספק מעילות ר"ע: משנה ב

a *ר"ע* in case of ספק מעילות אשם תלוי (exempt חכמים)

i Source: *ר"ע* per ספק מעילות (v. 1) ואם נפש – ברייתא

1 Suggestion: their disagreement is whether *למדיון עליון מתחתון* (see note)

(a) Rejection (*ר"פ*): all agree that *למדיון עליון מתחתון*; else we wouldn't know of שחיטת צפון for בקר עולת חטאת (שווג) חטאת (מזיד) כרת א"ת – (v. 1) מצוות::מצוות חטאת via חטאת infer from חכמים

(a) Whereas: *ר"ע* is liable for אשם if שווג, and מב"ש (per רבי – חכמים have only as אזהרה) if מזיד

(b) *ר"ע* infers via מצוות::מצוות that א"ת only applies where חטאת קבועה applies – excludes ויורד cases

(i) *ר"ע* cannot be used part way

(ii) Implication: *ר"ע* holds that מב"ש may be used part way? (unlikely)

(c) *ר"ע* infers via נפש ואם from מעילות (למד עליון מתחתון)

(i) *ר"ע* infer (only) from אשם תלוי that אשם מעילות must be 2 כסף (only מעליון)

(ii) Implication: *ר"ע* hold that אשם תלוי can be used part way (unlikely)

(d) *ר"ע* generally agree that אין היקש למחצה; but here, the מב"ש from חטאת trumps

(e) *ר"ע* agrees that מב"ש is generally complete; v. 2 (תורת האשם) establishes parity between all אשמות (2 סלעים)

(i) *ר"ע* even with אשם תלוי, require ויא' to connect מעילות to אשם תלוי

1. Argument: אשם תלוי only applies to אשם וודאי; but ספק shouldn't cost more than חדאי (חטאת) – קמ"ל – (חטאת) חדאי

(f) Note: this is valid if we learn אשם תלוי in that way; if not, what is the source for 2 סלעים?

(i) Answer: *ר"ע* – from איל: (ב"ערכך) – שפחה חרופה; אשם מעילה: בערכך: בערכך

b But: *ר"ע* agrees that he doesn't bring his מעילה-payment until he is certain he violated; at that time he brings וודאי אשם

c *ר"ע*: why should he bring 2 אשמות?

i *ר"ע*: let him bring the חומש+מעילה and then an אשם for 2 סלעים, (same animal for both) stipulating:

1 If: there was a violation, the payment is for מעילה and the animal is the אשם מעילות

2 And if: there was no violation, the payment is a נדבה and the animal is אשם תלוי

(a) Note: this proves that אשם וודאי doesn't require מתחילה

II *ר"ע* consents in case of small amount; but why should he bring large amount if it will never be owed (וודאי)?

III status of ספק חטאת יולדת if she found out she was חייבת after מליקה משנה ג

a Rule: complete it as וודאי – same type brought (bird)

IV ספק מעילות: משנה ד

a if: there was a piece of חולין and a piece of הקדש and he ate one (didn't know which)

i *ר"ע*: exempt

ii *ר"ע*: אשם תלוי חייב

b If: two different people each ate one piece

i *ר"ע*: each brings אשם תלוי

ii *ר"ע*: together they bring one מעילות

iii *ר"ע*: two do not bring וודאי together

V classic אשם תלוי and "joined certainty" משנה ה

a If: there was a piece of חלב and a piece of חולין and he ate one (didn't know which) – חייב באשם תלוי

i If: he later found out that he ate חלב – must bring חטאת

b If: two different people each ate one piece

i *ר"ע*: each brings אשם תלוי

ii *ר"ע*: together they bring one חטאת

iii *ר"ע*: two do not bring וודאי together

- VI מוקדשין and חלב case of ספק between משנה ו
- If: he ate one and didn't know which – he brings an **אשם תלוי**
  - If: he then ate the other – must bring **מעילות** and **חטאת**
  - If: two different people each ate one piece – each brings **אשם תלוי**
    - חטאת and **אשם מעילות** together **ל"ש**
    - two do not bring **חטאת** together **ל"י**
- VII חלב מוקדשין and חלב חולין case of ספק between משנה ז
- If: he ate one and didn't know which – he brings a **חטאת** (only)
    - must also bring **אשם תלוי** (for **ספק מעילות**) **ל"ע**
  - If: he then ate the other – must bring 2 **חטאות** and 1 **אשם מעילות**
  - If: two different people each ate one piece – each brings **חטאת**
    - each brings **אשם תלוי** **ל"ע**
    - together they bring one **אשם מעילות** **ל"ש**
    - two do not bring **אשם וודאי** together **ל"י**
- VIII חלב נותר and חלב חולין case of ספק between משנה ח
- If: he ate one and didn't know which – he brings a **חטאת** and **אשם תלוי**
  - If: he then ate the other – must bring 3 **חטאות**
    - Question** (ר"ג **ל"ג**): why not add an **אשם** for **מעילה**? (קודש נותר)
    - Answer**: this piece was worth less than **ש"פ**
      - Challenge**: this was a piece worth **ש"פ**, as we see the **אשם וודאי** above
        - Answer**: that was a piece worth **ש"פ** before it became **נותר** – now it is worth less
        - Challenge**: in **כריתות ג:ד**, we had eating **נותר** for a **חטאת** – and he was liable for an **אשם מעילות**
          - Answer**: perhaps that was **נותר** from a **גסה**, or in winter, when it doesn't go bad so quickly
  - If: two different people each ate one piece – each brings **חטאת** and **אשם תלוי**
    - each brings one **חטאת** and they bring a third **חטאת** together **ל"ש**
    - any **חטאת** brought for a sin may not be brought by two together **ל"י**
      - Note** (ר"ג **ל"ג**): **ר' יוסי** only blocks 2 from bringing **קרבן וודאי** together (not **אשם תלוי**); how does he differ from **ת"ק**?
      - Proposal**: perhaps they disagree about eating 2<sup>nd</sup> of 2 pieces (1 of 1 **ספק** – perhaps no **א"ת**)
        - Rejection**: **ר' יוסי** teaches that each has to bring **אשם תלוי**
        - Rather**: this teaches that **ר' יוסי** is our **קמא**
    - Question**: **ר"ש** holds **איסור חל על איסור חל** (his ruling – if one eats **נבלה** on **יה"כ** – exempt from **יה"כ**)
      - Therefore**: why would **איסור נותר** be added to **חלב**?
        - Suggestion** (ר' **ששת ב"ר אידי**): he ate a kidney with its fat
        - Block**: then it had **איסור עולין** (that which belongs to **מזבח**) – how could **נותר** add on to it?
      - And**: cannot argue that **נותר** is **איסור חמור**; since **יה"כ** is also **חמור** relative to **נבלה**, yet it doesn't add on
      - Rather**: in the context of **קדשים**, the **תורה** ruled that **איסור חל על איסור**
        - Per**: v. 3 which extends **איסור אכילת קדשים בטומאה** to eating **אימורים**
        - Proof**: **רבי** holds that **איסור חל על איסור חמור**, but in **קדשים** – even **איסור חמור**
          - Source**: **רבי** holds that **מעילה** (קל **איסור**) adds on to **חלב** (חמור **איסור חל על איסור**) – per v. 4
        - Challenge**: **ר"ש** ruled that **איסור חל על איסור** (since **איסור חל על איסור**)
          - Rather**: it is a dispute among **תנאים** – whether **איסור חל על איסור** in the context of **קדשים**
            - Question**: according to **מ"ד** that **איסור חל על איסור חל על איסור** in **קדשים**, what does **כל חלב לה'** mean?
              - Answer**: applies to **קדשים**; must hold that **קדושים הן** (i.e. at birth) and **איסור חלב** and **איסור מוקדשים** come simultaneously