

## **שמע מינה בעלי חיים – We derive from this that live animals, etc.**

### **OVERVIEW**

The תורה writes<sup>1</sup> concerning the two שעירים that were brought on יום כפור (the והשעיר אשר עלה עליו הגורל לעזאזל יעמד חי (שעיר לעזאזל and the שעיר לחטאת שעיר (indicating that it must be alive until the כפרה of the שעיר (חטאת). From this יהודה<sup>2</sup> derives that if the שעיר המשתלח dies before the דם of the שעיר חטאת is sprinkled, the דם is spilled and a new גורל has to be made with two new שעירים. We cannot appoint a new שעיר המשתלח and sprinkle the blood of the original חטאת שעיר; once the דם was נדחה it is נדחה forever.<sup>3</sup>

Concerning מומים by animals, the תורה writes<sup>4</sup> כי משחתם בהם מום במם, they are פסול for a קרבן, but as soon as the מום heals they are fit for a קרבן. A מום עובר does not disqualify an animal from being a קרבן when the מום is no longer there. This is the source of the מחלוקת<sup>5</sup> whether בע"ח are נדחים or not. רב derives that just as a מום עובר is not נדחה so too with any other פסול there is no דיחוי for בע"ח, while יוחנן maintains that it is only by a מום עובר where the תורה specifically tells us that it is not נדחה, however by any other פסול even if it is when the animal is alive, nevertheless once it is נדחה it is נדחה forever.

Our גמרא teaches us that from the ruling of ר"י concerning the בהמה of שני we can derive three הלכות. One, that בע"ח are נדחים; two, that even something which was never fit for a קרבן is נדחה; and three, that דיחוי is effective even if is only קדוש דמים and not קדוש הגוף (as is the case by the שני שותפין regarding these three issues).

first cites רש"י's interpretation of the three שמע מינה, and then explains why it is necessary to mention all three.

**פירש בקונטרס אם נדחו ידחו לעולם דאיכא למאן דאמר אין דיחוי אלא בשחוטין –**  
**explained** that the meaning of בעלי חיים נדחים means **if they were rejected** (even while they were alive) from being offered as a קרבן, **they are rejected forever** (from being offered as a קרבן). It is necessary (for ר"י) to

<sup>1</sup> ויקרא (אחרי) טז.

<sup>2</sup> סה, א and יומא סב, א.

<sup>3</sup> This דיחוי (to which all agree [except for (יומא סג, ב)]) is by שחוטין (not בע"ח) and the דם is קדוש (קדוש דמים) and it was נדחה (it was initially fit to be sprinkled and then became פסול).

<sup>4</sup> ויקרא (אמור) כב, כה.

<sup>5</sup> יומא סד, א.

teach this for there is another opinion which maintains that there is no rule of eternal rejection, except by slaughtered - קרבנות

אבל בעלי חיים שנדחו חוזרים ונראים<sup>6</sup> –

However live animals that were rejected from being offered as a קרבן can return and become fit again for a קרבן (if the cause of the rejection has been rectified) -

ולדידה קרבה הך בהמה כשחזר ולקח חציה –

And according to that מ"ד, this בהמה will be fit to be offered as a קרבן when the original partner returns and buys the other half, not like ר' יוחנן.

ש"מ continues with פרש"י on the second תוספות

ושמע מינה דיחוי מעיקרא הוי דיחוי –

And we derive from this that an initial rejection is a rejection -

פירוש כגון זו שמתחילת הקדישה לא נראית ליקרב –

The explanation of this ש"מ is; for instance this animal that from the beginning of its sanctification (when the partner was first מקדיש his half) it was not fit to be offered as a קרבן (since only half the בהמה was הקדש). It is necessary to teach us this ruling also -

דאיכא מאן<sup>7</sup> דפליג דאין דיחוי אלא בנראה ונדחה –

For there is another opinion which argues and maintains that there can be no initial rejection, only if it was initially fit and then rejected; only then is it considered a דיחוי ר"י disagrees.

ש"מ cites פירש"י for the final תוספות

ושמע מינה יש דיחוי בדמים<sup>8</sup> –

<sup>6</sup> The general explanation (for this and מעיקרא ודיחוי) is that if something was already offered as a קרבן (it was slaughtered) and then rejected, it is inappropriate to offer it up again, once it had been rejected (after it was an actual קרבן). However if it was never offered as a קרבן, then any rejection prior to being offered as a קרבן is not an adequate rejection to make it unfit forever; since it never had the status of being an actual קרבן.

<sup>7</sup> סוכה לג,ב.

<sup>8</sup> There are basically two types of הקדש. There is קדושת הגוף where the object itself (for instance a בהמה) is consecrated to be offered as a קרבן. This animal (as long as it receives no מום, etc.) cannot be redeemed and it must be brought as a קרבן. It has an intrinsic קדושת הגוף – קדושת דמים. There is also קדושת דמים, where someone is מקדיש something which is not fit to be offered on the מזבח (a utensil, or a blemished animal). This is called קדושת דמים; the object is holy for its monetary value only. The גזבר of הקדש will sell this object (and it becomes חולין) and the הקדש retains the money of the sale. The object has no intrinsic קדושה, as it can and must be redeemed. In our גמרא the term קדושת דמים refers to cases where he was מקדיש the animal for a קרבן, and for whatever reason it was נדחה and cannot be brought as a קרבן (as in the case of הקדיש חציה), hence it receives a קדושת דמים, where the rule (usually) is that it must graze until it receives a מום, and then be sold, and a new קרבן be bought with the money. This last ש"מ teaches that even if the animal became unfit when it was only קדושת דמים, nevertheless even if it becomes fit later it is rejected from the מזבח.

**And we derive from this case that there is rejection** even if the object has only a **monetary קדושה**; not a bodily קדושה (הגוף) - (קרבתן as by a קרבן) -

**פירוש יש תורת דיחוי בדבר שאין קדוש אלא לדמיו -**

**The explanation of יש דיחוי בדמים is that the laws of דיחוי apply even for an object which is only sacred for its monetary value -**

**כגון זו שמתחילה לא הקדישה אלא לדמיה שתמכר ויקדשו דמי חציה -**

**For instance this animal, which initially was only sanctified for its money; that it should be sold and half the money would be קדוש -**

**שהרי ליקרב לחצאין לא היתה ראויה -**

**For it was not fit that half the animal should be offered -**

**ואפילו הכי חל עלה תורת דיחוי לדחות מעל המזבח לעולם -**

**And nevertheless the rules of דיחוי apply to this animal that it is to be rejected from being offered on the מזבח for ever -**

**ולא אמרינן אין דיחוי אלא בדבר שהוקדש לגופו ליקרב -**

**And we do not maintain that there is no דיחוי by קדושת דמים; and there is דיחוי only by something whose body was sanctified to be offered on the מזבח.** פירש"י citation of תוספות (i.e. like a קרבן). This concludes תוספות.

In Summation: according to יוחנן ר' something which was rejected once from being a קרבן, can never be brought as a קרבן, even if, 1) it was rejected while it was alive; 2) it never became a קרבן but was rejected initially; and 3) it only had קדושת דמים.

asks: תוספות

**ואם תאמר למה לי למימר הני תרתי שמע מינה יש דיחוי בדמים ודיחוי מעיקרא<sup>9</sup> -**

**And if you will say; why is it necessary to teach these two ש"מ, that there is דיחוי מעיקרא and דיחוי בדמים.** It is not necessary to divide then into two separate rules -

**והלא אי אפשר לדיחוי מעיקרא שלא יהא דיחוי בדמים<sup>10</sup> -**

**For it is impossible that something which was נדחה מעיקרא that it should not be a דיחוי בדמים.** If we were taught that a דיחוי מעיקרא is a דיחוי we would know that there is a דיחוי בדמים, since anything which was נדחה מעיקרא never had a קדושת הגוף only קדושת דמים.

<sup>9</sup> It is evident from the ruling of ר"י that there is דיחוי בדמים and דיחוי מעיקרא (for this animal when it became קדוש, it was only קדוש בדמים and it was נדחה מעיקרא as soon as he was מקדיש it). The question is why mention both rulings. It seems that every דיחוי מעיקרא is only a קדושת דמים (since it was נדחה immediately); therefore the question is if we just mention one ש"מ (either דיחוי מעיקרא or דיחוי בדמים) we already covered both possibilities since (seemingly) one cannot exist without the other. (See footnote # 16.)

<sup>10</sup> דיחוי מעיקרא means that as soon as he was מקדיש the item it was initially unfit to be brought on the מזבח; meaning that it never achieved the status of קדושת הגוף (since it was immediately נדחה), only קדושת דמים. If we assume that דיחוי מעיקרא is נדחה לעולם that is synonymous with דיחוי בדמים.

answers: תוספות

ויש לומר דאשכחן דיחוי מעיקרא אף על גב שקדוש קדושת הגוף –

And one can say; that we can find a case of דיחוי מעיקרא even though it is קדושת הגוף with קדוש –

כדאמר רבי יוחנן פרק נגמר הדין (סנהדרין דף מז,א) כגון אכל חלב<sup>11</sup> והפריש קרבן –

As ר"י states in פרק נגמר הדין; for instance if one accidentally ate חלב and set aside a קרבן חטאת –

ועבד עבודת כוכבים וחזר בו –

And he worshipped idols and subsequently repented from this sin –

והואיל<sup>12</sup> ונדחה כשעבד עבודת כוכבים משום דזבח רשעים תועבה<sup>13</sup> ידחה –

So since this קרבן was נדחה when he served עכו"ם, since 'the sacrifice of the wicked is an abomination', therefore this קרבן is נדחה forever. This is a case of דיחוי מעיקרא and it is קדושת הגוף (it cannot be redeemed) even though the מקדיש is עובד ע"ז and therefore he is unfit to bring a קרבן.

responds to the anticipated question. Seemingly here it is not a דיחוי מעיקרא for when he was מקדיש the animal he was not עובד ע"ז replies:

ולאו דוקא נקט התם והפריש קרבן תחלה –

And when ר"י mentioned there that he set aside a קרבן before he served ע"ז that is not to be taken literally –

– דהוא הדין עבד עבודת כוכבים ואחר כך הפריש קרבן דהשתא הוי דיחוי מעיקרא –

For the same rule would apply if he first worshipped ע"ז (after eating the חלב) and then he set aside the קרבן before he did תשובה and now it is a דיחוי מעיקרא (it would also be נדחה, even though it is a דיחוי מעיקרא) proves his contention –

– דהא רבי יוחנן הוא דאית ליה דיחוי מעיקרא הוי דיחוי<sup>14</sup> –

For it is ר"י who maintains that דיחוי מעיקרא is a לעולם therefore it makes no difference when he was מפריש the קרבן it will always be נדחה.

responds to the anticipated question. If the ruling of ר"י applies even if he was מפריש the קרבן after he served ע"ז, so why does ר"י state that he was מפריש the קרבן before he served ע"ז?! תוספות explains that ר"י did so –

אלא משום אידך מילתא דרבי יוחנן דמייתי התם –

<sup>11</sup> If one eats חלב במזיד he is חייב כרת and [therefore] if he eats it בשוגג he is חייב a קרבן חטאת.

<sup>12</sup> Others amend this to הואיל (as it appears in סנהדרין).

<sup>13</sup> משלי כא,כז.

<sup>14</sup> This is the case of a דיחוי מעיקרא (for when he was מקדיש it [while he was an עובד ע"ז] it was נדחה because of the person (he cannot bring the קרבן); not because of the animal (the animal is fit for a קרבן it has קדושת הגוף). See ד"ה תוספות תמורה כו,ב ד"ה 'וקדיש קדושת הגוף שהרי אין הדיחוי ע"י קרבן' who states (concerning this very case) ש"מ.

**Only because of the other ruling of ר"י which the גמרא cites there -**

**אכל חלב והפריש קרבן ונשתטה וחזר ונשתפה -**

**If one ate חלב and was מפריש a קרבן and became insane, and subsequently become normal** that קרבן is נדחה, for during the time when he was a שוטה it could not be brought as a קרבן. In this case, ר"י -

**דלא מצי למימר דנשתטה תחילה כיון דשוטה הוא לאו בר הפרשה הוא -**

**Could not have said that he first became insane and then was מפריש the קרבן, for since he is a שוטה he is not capable of being מפריש** a קרבן. Therefore in that case it was necessary to state that he was מפריש the קרבן properly. And since in that case of ר"י the הפרשה took place first, therefore in the other case of ע"ז -

**נקט נמי הפריש קרבן ועבד עבודת כוכבים -**

**He also mentions that first he was מפריש a קרבן and afterwards served ע"ז.**

גמרא showed us a case where it was מעיקרא דיחוי and קדושת הגוף. Therefore if the גמרא would just mention מעיקרא דיחוי, I would not know whether there is a דיחוי by קדושת דמים or not (since there can be a case of מעיקרא דיחוי and קדושת הגוף).<sup>15</sup>

The issue at hand now is whether there can be דיחוי בדמים and it should not be מעיקרא דיחוי. If every קדושת דמים is a מעיקרא דיחוי (as it would seemingly appear<sup>16</sup>), then the גמרא should have just mentioned that there is דיחוי בדמים and I would know that there is also מעיקרא דיחוי. Therefore תוספות will now show that there can be a קדושת דמים and not a מעיקרא דיחוי. This will explain why it is necessary to mention מעיקרא דיחוי even if we mention דיחוי בדמים, since the two are separable.

**ואשכחן נמי קדושת דמים אף על גב דלא הוי דיחוי מעיקרא -**

**And we can also find a קדושת דמים even though it is not a מעיקרא דיחוי -**

**כגון המפריש נקבה לפסחו וילדה זכר -**

**For instance if one set aside a female sheep for his פסח and she bore a male sheep -**

**והוי קדושת דמים דאין פסח בא מנקבה<sup>17</sup> -**

<sup>15</sup> If one would just be aware of the ש"מ that דיחוי מעיקרא הוי דיחוי he may mistakenly assume that it refers to a case where it was מעיקרא דיחוי and קדושת הגוף (as the case of ע"ז) but he would know that there is a דיחוי בדמים. It is obvious if one knew the source of this ש"מ (the case of שותפין) he would be aware that דיחוי יש דיחוי בדמים as well.

<sup>16</sup> When one is מקדיש an item that can become קדושת הגוף, it receives קדושת הגוף. If an item has only קדושת דמים, this indicates that it cannot have קדושת הגוף, which means that it is a מעיקרא דיחוי, that as soon as it was made קדוש it could only be קדושת דמים and not קדושת הגוף. This is a מעיקרא דיחוי. [If it originally was a קדושת דמים and it was נדחה, and became a קדושת דמים, then the דיחוי already took place when it was קדושת הגוף.]

<sup>17</sup> According to the חכמים, this ולד should graze until it receives a מום and be sold and the money used to purchase a פסח. קרבן פסח in ר"ש. See later in this תוספות. However תוספות is assuming the view of the חכמים. [וצע"ג]. ר"ש (ור' אליעזר) explain that תוספות is referring to the view of (ר' אליעזר) (עצמ"י).

**And the male sheep (as well as the mother) is only a קרבן for a קדושת דמים cannot be brought from a female;** the קדושה of the mother is a קדושת דמים and this קדושה is transmitted to the child who is also a קדושת דמים and is therefore נדחה.

– <sup>18</sup> **ולא הוא דיחוי מעיקרא שהרי הולד ראוי להקריב**

**And it would not be a קרבן for the child is fit for a מעיקרא.** Therefore if we were only taught that a דיחוי בדמים is a דיחוי we may have mistakenly assumed that this is only in the case of the הפסח, וולד הפסח, but not מעיקרא, therefore it was necessary to add that even דיחוי מעיקרא הוא דיחוי.

Tosfos offers an alternate solution why both ש"מ are mentioned:

– **ויש ספרים דגרסינן שמע מינה קדושת דמים מדחה**

**And there are texts that read, 'it is derived from this that קדושת דמים rejects' -**

– **ומפרש דוחה תמורתה מליקרב מדקתני ותמורתה כיוצא בה**

**And they explain** this to mean that something which is only a קדושת דמים can nevertheless be דוחה its תמורה from being offered on the מזבח. It is derived since ר"י taught that its תמורה is similar to itself. This בהמה which is only a קדושת דמים (and it cannot be brought as a קרבן [ever] affects its תמורה likewise, that the תמורה can also never be brought as a קרבן. This solves the dual ש"מ issue. The גמרא did not say that there is דיחוי בדמים for that is derived from the fact that there is a דיחוי מעיקרא, rather the גמרא is teaching a different ש"מ that קדושת דמים can be מדחה a תמורה.

Tosfos rejects this interpretation and גירסא:

– **ולא נהירא דהא בכריתות (דף כה,א) גבי מטמא מקדש<sup>19</sup> עשיר**

<sup>18</sup> The novelty of דיחוי מעיקרא is not (only) that it was נדחה as soon as it became הקדש (which would apply to this זכר also), but rather that it is נדחה even though it is initially totally unfit to be a קרבן. This דיחוי can be on account of the בעלים (as in the case of ע"ז עובד or by עשיר עשיר) or on account of the קרבן (as in our case of שותפין). If something is totally unfit to be a קרבן one would think that דיחוי is inapplicable. (It would almost be tantamount to saying that every בהמת חולין which is presently not fit for the מזבח [since it is not הקדש] therefore it should be נדחה forever. This is unsound reasoning and one would think the same applies to דיחוי מעיקרא, that since the animal is totally unfit for a קרבן, there can be no דיחוי.) However by this זכר, וולד, he is fit for a קרבן; he is being נדחה (not because of the בעלים and not because of himself [which would make it a דיחוי מעיקרא] but rather) only because he is a קדושת דמים (on account of the mother). The וולד is not a קדושת דמים because he is unfit and was נדחה, but rather only because he is a וולד of a קדושת דמים, therefore he is נדחה. If the ש"מ would say יש דיחוי בדמים, we would assume it is referring to this case where the וולד לקרבן הוא וולד. We would never derive from this ש"מ that a regular מעיקרא (where the animal is totally unfit for a קרבן) should be a proper דיחוי. (See "סוכ"ד.)

<sup>19</sup> If a person who is טמא enters the בית המקדש (or he eats קדשים) inadvertently, he is required to bring a קרבן (that is referred to as a קרבן). עולה ויורד (קרבן). A rich person brings a sheep (כשבה), a poor person brings a pair of birds (בני יונה or תורים) often referred to as a קן (nest), and an extremely poor person brings a flour offering. (See ויקרא פרק ה, א-יג.)

**And it is not correct; for in מסכת כריתות concerning a wealthy person who inadvertently desecrated the מקדש with טומאה -**

**שהפריש קן לכבשתו והעני הואיל ונדחה<sup>20</sup> ידחה -**

**Who set aside a nest of birds instead of his sheep for a טומאה and he became poor, the ruling is that since the קן was נדחה when he became an עני, it remains נדחה even if he becomes an עני. In that גמרא -**

**גרסינן נמי שמע מינה תלת כמו בשמעתין -**

**The text also reads; 'we derive from this three', just as in our גמרא -**

**והתם על כרחך אין לפרש קדושת דמים מדחה התמורה דאין תמורה בעופות<sup>21</sup> -**

**And perforce we cannot explain the third ש"מ to mean that קדושת דמים can reject the תמורה (as the מפרשים יש גורס by us), for there is no rule of תמורה by birds;<sup>22</sup> the קדושה of a bird is not transmitted to its תמורה -**

**אלא על כרחך היינו קדושה ואינה קריבה -**

**But rather we must say that יש דיחוי בדמים is referring to the statement of (עושה תמורה and it is not referring to קדושה ואינה קריבה).**

asks: תוספות

**ואם תאמר למה ליה לרבי יוחנן לאשמועינן הני תלת מילי -**

**And if you will say; why is it necessary for our גמרא to inform us<sup>23</sup> that we can derive these three rules from the teaching of ר"י -**

**הא שמעינן לה בפרק מי שהיה טמא<sup>24</sup> (פסחים דף צח,א) -**

**when we already derived it from a משנה in טמא. If it can be derived from a משנה, why derive it (also) from ר"י who is an אמורא.**

answers: תוספות

**ויש לומר משום דפלוגתא היא בפרק בתרא דכריתות (שם) -**

**And one can say; since there is a dispute in the last פרק of כריתות -**

**דפליגי בה רבי שמעון בן יוחאי ורבנן מייתי דברי האמוראים -**

<sup>20</sup> When the עשיר was מפריש the קן it was נדחה, since he is required to bring a כשבה and not a קן. He would not fulfill his obligation (then) if he brought a קן.

<sup>21</sup> See the ימיר בהמה בבהמה (ויקרא [בחקותי] כז, י) because it says עושין תמורה that משנה תמורה יג,א.

<sup>22</sup> See 'Thinking it over'.

<sup>23</sup> There is no question why ר"י teaches us his ruling, for he is informing us that this קדושת דמים is עושה. Rather תוספות question is why the גמרא finds it necessary to derive these three rulings from the teaching of ר"י when we derive it from the משנה in פסחים.

<sup>24</sup> The משנה there (on צז,ב) states if one sets aside a נקבה for his פסח, it should be set out to pasture until it develops a מום then it should be sold, and a שלמים (see footnote # 27) be brought with the money. רב הונא and יש בע"ח נדחים, דיחוי מעיקרא הוי דיחוי משנה that we derive three rules from this משנה comments that בריה דר' יהושע דיחוי בדמים; the same three rules as here.

**Where רשב"י and the רבנן have a dispute,<sup>25</sup> therefore our גמרא cites the rulings of the אמוראים** to derive these laws from their teachings which are acceptable להלכה.

תוספות asks:

**ויש לתמוה אמאי לא פריך עלה דרבי יוחנן –**

**And one can wonder why the גמרא does not challenge the ruling of ר"י -  
כי היכי דפריך בסוף כריתות (שם) עלה דרבי אושעיא –**

**As the גמרא in the end of מסכת כריתות challenges the view of ר' אשעיא**  
**דאמר מטמא מקדש עשיר שהפריש קן לכבשתו והעני הואיל ונדחה ידחה**<sup>26</sup> –

**Who maintains that a rich man who was מטמא מקדש and set aside a קן instead of a sheep and became poor, the ruling is that since it was נדחה when he was rich it remains נדחה even when he is poor. This concludes the ruling of ר"א -**

**דפריד עלה מרבי שמעון מההיא דאמר המפריש נקבה [לפסחו קודם הפסח –**

**Where the גמרא challenges ר"א from the ruling of ר"ש by the case where one was מקבה a מפריש [for his קרבן פסח before פסח; the ruling according to the רבנן is that -**

– תרעה עד שתסתאב ותמכר ויביא בדמיה פסח<sup>27</sup> –

**She should graze until she is blemished and then sold and with the money he should bring another קרבן פסח -**

**ילדה זכר ירעה עד שיסתאב וימכר [ויביא בדמיו פסח] –**

**If she gave birth to a male, he should graze until blemished, be sold [and a פסח be bought with the money].** This is the view of the חכמים, however -

**ורבי שמעון אומר הוא עצמו יקרב פסח –**

קרוב פסח **maintains that the child himself can be brought as a זכר** ר"ש indicating that ר"ש maintains there is no דחי by בע"ה in opposition to the view of ר' אשעיא. The question is why does not the גמרא here ask this very same question on ר"י as it asks on אשעיא?!

<sup>25</sup> In the case (mentioned previously in this תוספות) where one was מפריש לפסחו and she bore a זכר the חכמים maintain that he should graze until he receives a מום and be sold and the money should be used for a פסח. The זכר itself cannot be brought as a פסח since he is the result of a קדושה דחוייה (his mother was נדה since she is a נקבה). However רשב"י maintains that the זכר itself can be brought for a פסח. This proves that according to רשב"י there is no דחוי by בע"ה. Therefore it was necessary to derive these rulings from the teaching of ר"י (and אושעיא in ר' אבהו concerning a עשיר מקדש עשיר), who confirmed that we follow the ruling of the רבנן; and not of רשב"י.

<sup>26</sup> The גמרא there concludes that ר' אושעיא ש"מ תלת from אמר רב הונא בריה דר"י as we say here by ר"י.

<sup>27</sup> See previous footnote # 24 where the גמרא in פסחים is cited which states that a שלמים be brought with the money. It would seem that the גמרא in פסחים is discussing a case where פסח had already passed (and the rule is that מותר הפסח לשלמים), and the גמרא in כריתות is when it is still before פסח. See תמורה יט,א.



כריתות in גמרא continues to ask on the

ועוד אדפריך עלה מרבי שמעון לסייעה עלה מדרבנן<sup>28</sup> –

**And furthermore; instead of challenging ר"א from the view of ר"ש, let us support ר"א from the view of the רבנן, who maintain that the זכר is נדחה even though he is a בעל חי –**

**דקאמרי ברישא ירעה עד שיסתאב –**

**Who say in the beginning of the ברייתא that the born זכר should graze until he becomes blemished; indicating that there is דיחוי by בע"ח, as ר"א maintains –**

An additional question on the גמרא in כריתות:

ועוד כיון דפריך מיחידאה אדפריך מרבי שמעון דברייתא –

**And additionally, since the גמרא challenges ר"א from the view of an individual (ר"ש), even though the חכמים argue with him, then rather than challenging ר"א from the ruling of ר"ש in a ברייתא, the גמרא –**

**לפרוך מרבי אליעזר דמתניתין דתמורה<sup>29</sup> –**

**– מסכת תמורה of משנה of ר"א from the ruling of ר"א Should challenge**

**דתנן פרק אלו קדשים (דף יח,ב) גבי מפריש נקבה לעולה<sup>30</sup> וילדה זכר –**

**For we learnt in a משנה in קדשים concerning one who set aside a זכר for an עולה and she gave birth to a זכר –**

**רבי אליעזר אומר הוא עצמו יקרב עולה –**

**ר"א maintains that the זכר itself shall be brought as an עולה; again indicating that there is no דיחוי בבע"ח. Why was it necessary to ask from the ברייתא, when we could ask the same question from a משנה?!**

In summation: בע"ח נדחים both ר' אושעיא and ר' יוחנן. asks three questions. תוספות in גמרא challenges ר"א from a ruling of ר"ש in a ברייתא (concerning פסח (קרבת פסח), אין בע"ח נדחים who maintains.

Question 1. Why does not the גמרא ask the same question here on ר"י?

Question 2. Instead of challenging ר"א from ר"ש, the גמרא should support ר"א from the view of the רבנן who maintain דיחוי בע"ח!

Question 3. Why does the גמרא challenge ר"א from ר"ש of a ברייתא when there is the same view of ר"א (concerning עולה) in the משנה?

answers (the second question): תוספות

**ויש לומר היינו טעמא דפריך מרבי שמעון משום דבהיא אפילו רבנן מודו –**

<sup>28</sup> The גמרא there indeed answers it this way; תוספות is asking how could there even be such a question!

<sup>29</sup> A ruling cited in a משנה is more significant than a ruling cited in a ברייתא.

<sup>30</sup> A עולה קרבנו מן הבקר זכר reads ויקרא א, ג in פסוק. The עולה קרבן can be brought only from male animals.

**And one can say that this is the reason that the גמרא challenges ר"א from ר"ש (even though the חכמים argue on ר"ש) because in that case (of ר"א concerning the קן) it is possible that even the רבנן will agree that there is no דיחוי (and he may bring this קן if העני) –**

**עד כאן לא פליגי רבנן עליה אלא בדבר דשייך ביה קדושת דמים<sup>31</sup> –**

**For the רבנן argue on ר"א and maintain נדחה בע"ה, only in cases where קדושת דמים is applicable (by regular animals), for –**

**סברי מיגו דנחתא ביה קדושת דמים נחתא ביה נמי קדושת הגוף –**

**The רבנן maintain that since קדושת דמים 'rests' on the animal, then קדושת הגוף can also 'rest' on the animal<sup>32</sup> –**

**וקדושת הגוף לא הוי שהרי אין פסח בא מן הנקבה –**

**However it cannot be a קדושת הגוף since a קרבן פסח cannot be from a נקבה; therefore it can be נדחה –**

**אבל גבי קן אפילו רבנן מודו שהרי אין קדושת דמים חלה בעופות<sup>33</sup> –**

**However by the קן even the רבנן agree that the קן is not נדחה, since קדושת דמים does not apply to birds.<sup>34</sup> When there is no effective קדושת הגוף, there is no concept of קדושת דמים and פדיון, rather the birds are חולין, and therefore (we could have assumed that) there can be no דיחוי.**

answers the first question:

**ולמילתא דרבי יוחנן דהכא לא מצי לאותובי –**

**And the גמרא could not refute the view of ר"י here –**

**משום דהוה כי ההוא דהמפריש נקבה לפסחו –**

**Because the case here is similar to that case of המפריש נקבה לפסחו, they both refer to animals and not to birds –**

**ואי הוה מותיב מרבי שמעון הוה אמינא לסיועיה מדרבנן –**

<sup>31</sup> This means that if someone was מקדיש (קרבן) for קדושת הגוף and it was not ראוי למזבח it is to be redeemed, and a replacement קרבן is to be bought with the money of the sale.

<sup>32</sup> See תמורה יט,ב concerning the משנה there that if someone was מפריש an נקבה for an אשם, the rule is that אשם, this is (the equivalent of) a תרעה. The גמרא asks why the תרעה, since she is not fit for an אשם, this is (the equivalent of) a תרעה עד שתסתאב וכו' מום, so let us sell the נקבה immediately. The גמרא responds קדושת הגוף. The fact that the new animal which will be purchased with this money will retain the same קדושת הגוף as the intended קדושה of original animal proves that the original animal (even though it was נדחה and only has a קדושת דמים, nevertheless it) retains a certain measure of קדושת הגוף. The same can apply here, where there is a דיחוי by בהמות, since there is a קדושת דמים for פדיון and therefore also somewhat of a קדושת הגוף.

<sup>33</sup> This answers the second question, we cannot support ר"א from the רבנן, for in the case of a קן, the רבנן may side with ר"א to oppose ר"ש.

<sup>34</sup> Even though there is no קדושת דמים by עופות, nevertheless we derive from ר"א (who discusses the קן) that קדושת דמים (קדושת דמים) as in the case of (and no קדושת הגוף) even if there is no דיחוי, meaning that there is דיחוי even if there is no קדושת דמים. See מהרש"א and ש"מ כו,ב ד"ה ש"מ. מטמא מקדש עשיר.

**And if the גמרא would attempt to refute ר"י from ש"ר we would answer that he is supported by the רבנן who maintain that by בע"ח (animals) there is דיחוי**

(seemingly) is answering the third question:

**וממילתא דר' אליעזר נמי לא מצי לאותביה משום דהוה יחידא<sup>35</sup>:**

**And the גמרא could not refute ר"א from the ruling of ר"א since his is only a singular (not a majority) view.**

### **SUMMARY**

There can be דיחוי מעיקרא even by קדושת הגוף (the case of ע"ז) and there can be קדושת דמים and not be a דיחוי מעיקרא (the case of זכר). There is no תמורה or עופות by פדיון.

### **THINKING IT OVER**

rejects the גירסא of מדחה for it is not applicable in the case of קדושת דמים. <sup>36</sup> Seemingly even if there were תמורה בעופות, this גירסא is incorrect, for how can we derive from the ruling of ר' אושעיא that קדושת דמים is מדחה, when ר"א does not discuss it?!

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<sup>35</sup> See Tosfos in ש"מ (תמורה כו,ב ד"ה ש"מ) who explains (based on the Tosfos in ד"ה ש"מ) that in the מחלוקת between ר"ש and the רבנן (concerning זכר וילדה) it is possible to explain that they argue whether we say נחתא דמים נמי קדושת הגוף (as we find a similar מחלוקת in יט,ב, תמורה, where the גמרא offers this explanation). If indeed this is their מחלוקת by פסח, then we may assume that concerning the case of ר' אושעיא by מפריש קן, even the חכמים agree that there is no דיחוי since there is no קדושת דמים by עופות. However concerning ר"א we do not find any dispute between him and the חכמים, concerning נדחין וכו'. We therefore assume that they argue whether נדחים בע"ח. We cannot refute ר' אושעיא from the ruling of ר"א that בע"ח are not נדחין, since he is a דעת יחיד and the חכמים maintain that בע"ח are נדחין.

<sup>36</sup> See footnote # 22.