



OVERVIEW of the Daf

1) Unneeded daily offerings (cont.)

Rabbah and R' Chisda continue their exchange that began with an assertion that unneeded daily offerings may be redeemed even though the animal is unblemished.

One thing that emerges from this exchange is that Rabbah maintains that the physical sanctity of communal korbanos is conditional.

Abaye challenges this position.

The exchange between Abaye and Rabbah about this matter is recorded.

2) Parah adumah

A Beraisa teaches that it is permitted to redeem a parah adumah that died.

R' Mesharshiya explains why someone would want to redeem a dead parah adumah.

This explanation is unsuccessfully challenged.

3) The conditional sanctity of communal offerings

Rabbah's position that the sanctity of communal offerings is conditional is unsuccessfully challenged from R' Shimon's statement in our Mishnah.

The Gemara supports its assertion that R' Shimon does not subscribe to the principle that the sanctity of communal offerings is conditional.

The Gemara inquires about the identity of the Rabbanan who disagree with R' Shimon. ■

REVIEW and Remember

1. Does incense have physical sanctity or monetary sanctity?

2. Explain לב בית דין מתנה עליהן?

3. What is the requirement of העמדה והערכה?

4. Why would someone be interested in redeeming a dead parah adumah?

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 By Rabbi & Mrs. Makhlof Suissa in memory of
 ר' יעיש בן ר' דוד, ע"ה

Distinctive INSIGHT

Beis Din has in mind...

לב בית דין מתנה עליהן

The Gemara had come to the conclusion that the incense spices have the status of being intrinsically holy (קדושת הגוף) after the spices are ground up. The Mishnah which reports that leftover incense may be redeemed is, in fact, a proof for R' Yochanan's contention that the remaining animals which were designated for the tamid offering may also be redeemed. Yet, the Gemara asks for an explanation of what is the technical process whereby the holiness is removed. Rabbah answers that the court establishes a condition as it officially purchases the spices for the incense and the animals for the tamid. This condition is that these items will only be consecrated if they will be needed for service that particular year. If they will not be needed, the rule is that they are holy in terms of their value (קדושת דמים), which is a level of consecration which may be removed with redemption.

Many Rishonim explain that at the moment of purchase, the community stipulates (בית דין מתנה) that if the spices or the animals are not needed there should never be a קדושת הגוף upon them. Ritva adds that the sages did not require that this condition be stated explicitly. Rather, it is understood that this is a necessary rule of acquiring these items, and it is self-evident that this release is part and parcel of the purchase. In fact, we learn from here that even an individual can claim that an animal he buys to bring as an offering will be consecrated conditionally, that if it turns out that he might not need to bring this offering, the intrinsic aspect of the animal's consecration is released, and the animal would only have קדושת דמים which may be redeemed.

Meiri, however, writes that it is only in regard to these communal purchases that we say that "the thought of beis din is that there be a condition." In these cases it is inevitable that there will be leftover spices of the incense and the animals set aside for the tamid each year, and we do not allow this stipulation to be used by an individual in case he does not use an animal he set aside for his personal offering. Tosafos (Menachos 15b) and Rambam (הל' פסולי המוקדשין) concur with the opinion of Meiri that we do not use the rule of לב בית דין מתנה regarding the offerings of an individual.

Chazon Ish (Menachos 28, #7) notes that the crushing of the incense spices in a כלי שרת is the process whereby these spices become הקדש (see Kereisos 6a). If the extra spices from the previous year are redeemed using the rule that they

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HALACHAH Highlight

Deriving personal benefit from sacred items

לב בית דין מתנה עליהן

The mind of the beis din stipulates about them

Shulchan Aruch¹ writes that when designating an item for sacred use, e.g. the cover of a Sefer Torah or the cloth that rests on the bimah, one may stipulate that the sacred item may be used for mundane purposes. Rema² in the name of Terumas Hadeshen takes this a step further. He notes that common practice is to permit using sacred items in a shul for mundane purposes even though stipulations are not made when the item is designated for sacred use. The rationale behind this lenient approach is that since it is very difficult for people to refrain from deriving personal benefit from using sacred items it is considered as though לב בית דין מתנה עליהן –the mind of the beis din stipulates about them – so that people should not transgress the prohibition against deriving personal benefit from sacred items.

Mishnah Berurah³ adds that since Terumas Hadeshen was rationalizing common practice rather than presenting the halacha l'chatchila it would seem that one should make an effort not to rely on this leniency. As such, when donating an item to a Beis Haknesses one should verbally stipulate that the item should not become sacred so that it should be

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were never intrinsically consecrated, and those crushed spices are repurchased to be used for the next year, it would turn out that they were never consecrated in a כלי שרת. He therefore explains that the original הקדש הגוף was קדושת הגוף and in a כלי שרת. The condition retroactively removes that status and changes it to קדושת דמים, but the crushing in the כלי שרת was valid. ■

permitted to derive personal benefit from the item. Additionally, Beir Halacha⁴ writes in the name of Pri Megadim that the principle of לב בית דין מתנה עליהן applies only when there is no alternative but when it is possible to not derive benefit from a "sacred" item one should not rely upon the leniency of Rema. For this reason Rav Shlomo Zalman Auerbach⁵ wrote that one should avoid placing his hat on the bimah since there are other places hats can be placed. There are also some⁶ who make an effort to have a special cloth that is spread on the bimah specifically for Torah reading. Their intent is to maintain the sanctity of the cloth and to avoid relying unnecessarily on the leniency of Rema. ■

1. שו"ע אור"ח סי' קנ"ד סעי' ח'.
2. רמ"א שם.
3. מ"ב שם ס"ק ל"ז.
4. ביאור הלכה שם ד"ה אי אפשר.
5. עי' הליכות שלמה הלכות תפילה פ"ט דבר הלכה סק"ב.
6. עי' דינים והנהגות לחזו"א פ"ה אות ח'.

STORIES Off the Daf

The Prevalent Custom

"לב בית דין מתנה עליהן..."

The venerable custom in Yerushalayim was to use the paroches on the aron hakodesh for what appeared to be much lower uses. Even rabbanim would use them to beautify communal sukkos during the festival, to cover Eliyahu's chair and the chair set aside for the sandek during a bris milah, and so on. Many people wondered what could possibly be behind these leniencies and asked various poskim to render a halachic opinion on this matter.

When Rav Efraim bar Moshe, zt"l, was asked about this he ruled that it was permitted. "Although the Bach, zt"l, prohibits using the paroches for any

mundane use, many rabbanim and gedolei Yerushalayim were lenient about such matters. The Terumas Hadeshen, zt"l, is the first to mention a possible reason this could be permitted. He explains that it is as if beis din made a condition when sanctifying the paroches that they would also use it for these other purposes. And the Magen Avraham explains that this is the same reason for the custom to use the paroches for a chuppah at weddings.

"Even the Bach who rules that this is prohibited is only discussing during his times when this was not the prevalent custom, and he brings a proof that the Terumas Hadeshen held like him in such instances. But nowadays, he too would admit that this is permitted for the same reason. Although the Magen Avraham rules that one may not use the

crowns on the sefer Torah for a chosson, that is not relevant to a paroches at all, since the crowns are actually used for the Sefer Torah while the paroches is merely a cover of the aron hakodesh and has the halachah of a secondary use."

The Bnei Binyamin, zt"l, who brings the above also rules that this is permitted. "It is already fifty years that this custom is prevalent in full view of the greatest poskim and not one has ever protested. Clearly we can continue to follow this custom."¹

The Sedei Chemed, zt"l, rules similarly and concludes, "We hold that the prevalent custom established by great people can even nullify the halachah. How much more so in our case, when there are also excellent reasons for leniency!"² ■

1. שו"ת בני בנימין סימן ל"ט,
2. שדי חמד, מעי' בהכ"י, אות ל"ח, ל"ט. ■