

Zera Shimshon

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Chapter XX: Tetzaveh (Ex. 27:20–30:10)

Essay 5. The limitation that some sacrifices be “without blemish”

“Seven days you shall perform purification for the altar to consecrate it, and the altar shall become most holy; whatever touches the altar shall become consecrated. Now this is what you shall offer upon the altar: two yearling lambs each day, regularly.” – Ex. 29:38–39

פסוק "וְנִזְהָר אֲשֶׁר תַּעֲשֶׂה עַל־הַמִּזְבֵּחַ". הַקִּשָּׁה בַעַל אֹר יִקְרוֹת אֲמַאי לֹא כְּתִיב הֵכָא תְּמִימִים כְּמוֹ שְׁאָמַר בְּפָרָשַׁת פִּינְחָס, וְתִירֵץ, דְּתַמִּיד זֶה הָאֲמֹר בְּפָרָשַׁת תְּצַוֶּה אֵין צוֹרֵךְ לִיכְתֹּב "תְּמִימִים", שְׁהֲרִי זֶה הֵיךְ קוֹדֵם הַקְּמַת הַמְּשֻׁכָּן, וְקוֹדֵם הַקְּמַת הַמְּשֻׁכָּן הֵיךְ מוֹתֵר לְהַקְרִיב אַף בְּעֲלֵי מוּמִין, אֲבָל בְּפָרָשַׁת פִּינְחָס שְׁנֵאָמַר אַחַר הַקְּמַת הַמְּשֻׁכָּן שְׁאֵז הֵיךְ נוֹהֵג אִיסוּר מוּם בְּקָרְבָן לְכַף כְּתִיב אֲצִלוֹ "תְּמִים" עכ"ל.

There is a verse: “Now this is what you shall offer upon the altar: two yearling lambs each day, regularly.”¹ The author of the sefer *Or Yekarot*² asks why “without blemish” isn’t written here, as it is written in parashat Pinchas: “Say to them: These are the offerings by fire that you are to present to the L-rd, two yearling lambs without blemish, as a regular burnt offering every day.”³ He answers, that for this regular daily offering spoken of here, in parashat Tetzaveh, there is no need for it to be written “without blemish,” for this was before the establishment of the Tabernacle. Prior to the establishment of the Tabernacle, it was permitted to bring animals with defects as a sacrifice, but in parashat Pinchas, which speaks of a time after the establishment of the Tabernacle, then the prohibition took effect regarding a defect in a sacrifice. This is why it was written “without blemish” there in parashat Pinchas.

וְקִשָּׁה דְּמַמָּה נְפֻשָׁךְ אִם קוֹדֵם הַקְּמַת הַמְּשֻׁכָּן לֹא הַקְרִיבוּ תְּמִידִין וּפְרָשָׁה זֶה דְּתְצַוֶּה נֶאֱמָרָה עַל מַה שְׁיַעֲשׂוּ אַחַר כָּךְ, אִם כֵּן לֹא תִירֵץ כְּלוּם, שְׁהוֹאִיל שְׁצַוֶּה עַל הַתְּמִידִין שְׁיַקְרִיבוּ אַחַר הַקְּמַת הַמְּשֻׁכָּן, הֵיךְ לוֹ לְכַתּוֹב נָמִי "תְּמִימִים", שְׁאֵז צָרִיךְ שְׁיִהְיוּ תְּמִימִים. וְאִם נֶאֱמַר דְּסִבִּירָא לִיָּה שְׁהַקְרִיבוּ תְּמִידִין בְּשִׁבְעַת יְמֵי הַמִּילואִים קוֹדֵם הַקְּמַת הַמְּשֻׁכָּן, וּמִשׁוּם הֵכִי לֹא כְּתִיב כְּהוּ תְּמִימִים שְׁהֲרִי אֵז לֹא הֵיךְ נוֹהֵג דִּין זֶה, הֲלֹא בְּיַלְקוּט רִישׁ פְּרָשַׁת שְׁמִינִי אֵיתָא שְׁם שְׁאוֹתוֹ הַיּוֹם הֵיךְ רִאשׁוֹן לְעִבּוּדָהּ, וּפִירֵשׁ שְׁם הַמְּפָרֵשׁ בְּשֵׁם סֹדֵר עוֹלָם שְׁאוֹתוֹ הַיּוֹם הַתְּחִילוֹ לְהַקְרִיב תְּמִידִין מַה שְׁלֹא עָשׂוּ בְּשִׁבְעַת יְמֵי הַמִּילואִים.

There is a difficulty any way you look at it. If prior to the establishment of the Tabernacle, they didn’t bring regular daily offerings, and this parasha of Tetzaveh speaks

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¹ Ex. 29:38.

² Aryeh Yehuda Leib ben Shmuel Gershon, *Livyat Chen v'Or Yekarot* (Venice 1742).

³ Num. 28:3.

of what they should do afterward, when the Tabernacle is standing—if so, this doesn't solve anything. That is, if Ex. 29:38 is presented because now they were commanded regarding the regular daily offerings after the establishment of the Tabernacle, they should also speak of them being “without blemish,” for now there is a need that they should be without blemish.

Perhaps one will say that there's an opinion that they brought regular daily offerings in the seven days of consecration prior to the establishment of the Tabernacle. If so, Ex. 29:38 was directed only to sacrifices during that seven-day period. Because of this, it's not written “without blemish” about [the sacrificial animals], for then this law against blemished animals wasn't in effect. However, isn't it found in the Yalkut Shimoni at the beginning of parashat Shmini (remez 520) that the same day spoken of in Lev. 9:1, viz, “On the eighth day, Moses called Aaron and his sons, and the elders of Israel,” was the first day for the sacrificial service? Also, the commentator known as *Seder Olam*⁴ comments there that the same day, they began to bring regular daily offerings, and bringing regular daily offerings is something which they did not do during the seven days of consecration. So if Ex. 29:38 relates to after the establishment of the Tabernacle, why doesn't it require “without blemish”?

וְנִרְאָה לְתַרְזֵן בְּמַאי דְתַנּוּן בְּפֶרֶק ט' דְזִבְחֵי (דף פ"ג) הַמְזֻבָּח מְקַדֵּשׁ אֶת הָרְאוּי לֹו. ר' יְהוֹשֻׁעַ אֹמֵר, כֹּל הָרְאוּי לְאִישִׁים, אִם עָלָה לֹא יֵרֵד, שְׁנֵאמַר "הוּא הָעֹלָה עַל מוֹקְדָה". מָה עוֹלָה שֶׁהִיא רְאוּיָה לְאִישִׁים, אִם עָלְתָה וְכוּ'. אִף כֹּל הַדָּבָר שֶׁרְאוּי לְאִישִׁים. רַבֵּן גַּמְלִיאֵל אֹמֵר, כֹּל הָרְאוּי לְמִזְבֵּחַ, אִם עָלָה לֹא יֵרֵד, שְׁנֵאמַר "עַל מוֹקְדָה עַל־הַמִּזְבֵּחַ" וְכוּ'. מָה עוֹלָה וְכוּ'. וּפְרָשׁ רִש"י ר' יְהוֹשֻׁעַ אֹמֵר וְכוּ', הִנֵּי תִבְנִי פְּלִיגִי, בְּפִירוּשָׁא דְ"אֶת הָרְאוּי לֹו", דְסִתְמָא דְמִתְנִיתִין רַבִּי מְתָם מִתְנִיתִין אֶת הָרְאוּי לְמַעוֹטֵי אֶת שְׁאִינוּ רְאוּי לֹו, וְהֵדֵר מְפָרֵשׁ מַאי נִיהוּ הָרְאוּי לֹו, לֹר' יְהוֹשֻׁעַ רְאוּי לְאִישִׁים וְלְרַבֵּן גַּמְלִיאֵל רְאוּי לְמִזְבֵּחַ עַכ"ל.

This appears to be solved by what we learned in a Mishnah in the ninth chapter of tractate Zevachim (page 83):

[Certain unfit items, once they have been placed on the altar, are nevertheless sacrificed.] **The altar sanctifies [only items] that are suited to it. Rabbi Yehoshua says: Everything that is suited to [be consumed by] the fire [on the altar, e.g., burnt offerings, and the sacrificial portions of other offerings which are burned on the altar], if it ascended [upon the altar, even if it was always disqualified from being sacrificed], it shall not descend. [This is] as it is stated: “This is what is burned on [the] hearth on the altar all night until the morning.”⁵ Just as for a burnt offering, which is suited to [be consumed by] the fire [on the altar], if it ascended it shall not descend, so too, for everything that is suited to [be consumed by] the fire [on the altar], if it ascended it shall not descend.**

Rabban Gamliel says: Everything that is suited to [ascend upon] the altar [even if it is not typically consumed], if it ascended, it shall not descend [even if it was always disqualified from being sacrificed], as it is stated, “The burnt

⁴ Seder Olam is a chronology detailing the dates of Biblical events, traditionally ascribed to Yossi ben Halafta, ca. 160 CE.

⁵ Lev. 6:2.

offering itself shall remain **where it is burned upon the altar** all night until morning.” Just as for a burnt offering, which is fit for the altar, if it ascended it shall not descend, so too, everything that is fit for the altar, if it ascended it shall not descend.

The difference between the statement of Rabban Gamliel and the statement of Rabbi Yehoshua is only [regarding disqualified] **blood and** [disqualified] **libations** [which are not consumed by the fire, but do ascend upon the altar]. . .

- Mishnah Zevachim 9:1; Zevachim 83a

Rashi explained this Mishnah, “ ‘Rabbi Yehoshua says’: The Tannaim disagree on the meaning of “suitable for it.” Per the anonymous rabbi who authored our Mishnah, “suitable” is to exclude that which is not “suitable for it,” and he explains in greater detail below how it is suitable. Disagreeing are the rabbis he quoted: **Rabbi Yehoshua, according to whom it means suitable for the fire, and Rabban Gamliel, according to whom it means suitable for the altar.** In other words, Rashi is saying that the anonymous rabbi who wrote this Mishnah gave his own opinion (“The altar sanctifies [only items] that are suited to it”) and the disagreeing opinions of Rabbi Yehoshua and Rabban Gamliel.

וְצָרִיךְ עֵינֵינוּ דְּמֵי הַכְּרִיחוּ לְרַש"י לְפָרֵשׁ שֶׁ"הַמְזֻבָּח מְקַדֵּשׁ" הוּא סֵתְמָא דְרַבִּי, וְשָׂרְבֵי יְהוֹשֻׁעַ וְרַבֵּן גַּמְלִיאֵל פְּלִיגֵי לְפָרוּשֵׁי זֶה. וְלָמָּה לֹא פָּרֵשׁ דְּהַמְזֻבָּח מְקַדֵּשׁ הוּא רִישָׁא דְּמִתְנִיתִין, דְּתַנִּי וְהִדְר מְפָרֵשׁ פִּיזַד הוּא רִאשֵׁי, לְמַר כְּדָאִית לִיה, וְלְמַר כְּדָאִית לִיה, כְּמוֹ שְׂמִצִּינוּ כַּמָּה פְּעָמִים בְּמִשְׁנָה כְּיוֹצֵא בְּזֶה. וְלְכַאוּרָה מְצִינֵנוּ לְמִימַר דְּהוֹצֵרָה לְכָה, מִשּׁוּם דְּלִישְׁנָא דְּהַמְזֻבָּח מְקַדֵּשׁ אֵת הָרִאשֵׁי לֹא הִיא מְמַשׁ סְבָרַת רַבֵּן גַּמְלִיאֵל דְּמִתְנִיתִין דְּקָאָמַר כָּל הָרִאשֵׁי לְמִזְבֵּחַ וְכוּ', וְהִנֵּה לֹא לֹמַר דְּרַבִּי רַבֵּן גַּמְלִיאֵל שְׂנַאָמַר וְכוּ' וְאַחַר כֵּן ר' יְהוֹשֻׁעַ אֹמֵר כָּל הָרִאשֵׁי לְאִישִׁים וְכוּ'.

We must examine what forced the Rashi to interpret that “the altar sanctifies” is the anonymous opinion of the rabbi who wrote our Mishnah, and that Rabbi Yehoshua and Rabban Gamliel disagreed with this interpretation. Why didn’t [Rashi] explain that “the altar sanctifies” is the introduction of the Mishnah, that the Tanna teaches this as a principle here and then explains in greater detail below how it is suitable, “according to one sage as he holds, and according to another sage as he holds.”⁶ I.e., why don’t we say that Rabbi Yehoshua and Rabban Gamliel agree with the introductory premise, and simply disagree on the details? This would be an analysis as we have mentioned several times in the Mishnah as such.

Apparently, we must say that this position of Rashi is necessary, because the language of “the altar sanctifies what is suitable” is not exactly the opinion of Rabban Gamliel of the Mishnah saying, “everything suitable for the altar.” Thus, [the anonymous author of the Mishnah] had to say the words of Rabban Gamliel that said, “Everything that is suited to

⁶ Sotah 15a.

[ascend upon] the altar [even if it is not typically consumed], if it ascended, it shall not descend.” **And afterward**, he added that **Rabbi Yehoshua says**, “**Any [item] that is suited to [be consumed by] the fire [on the altar, e.g., burnt offerings and the sacrificial portions of other offerings, which are burned on the altar], if it ascended [upon the altar, even if it was always disqualified from being sacrificed], it shall not descend.**”

אלא דעדיין קשה דמעיקרא מנא ליה למנא לחלק בין ראוי לשאינו ראוי, ומכל שכן שהוא נגד פשט הכתוב "כל-הנגע במזבח יקדש", דמשמע בין ראוי בין אינו ראוי, ורבי יהושע ורפון גמליאל נמי איך אפשר דילפינו ממוקדה או ממזבח שמה שאינו ראוי אין המזבח מקדש, והלא האי קרא איצטרייך לדרשא אחריתי, דילפינו ממוקדה ביומא למגן מערכות שהיו שם. ועוד ילפינו מיניה בתורת פהגים דבא הכתוב לעפב שלא לקטירם ביום, אלא מבוא השמש סמוך אחר שקיעת החמה, כדי שיהיה כל הלילה על המזבח, כמו שפירש שם בעל קרבן אהרן, ואיתא נמי במנחות (דף כ"ו) ועיי"ש. וכתב שם רש"י ד"ה איברים ופדרים, דדרפן ליקרב בלילה מהאי קרא גופיה נפקא בתורת פהגים עכ"ל.

But this is still difficult, for initially, how does the anonymous Tanna distinguish between suitable and not suitable? In any case, this conflicts with the plain meaning of the Scripture, “everything touching the altar shall become consecrated,”⁷ meaning whether something is suitable or not suitable, it shall become consecrated. Rabbi Yehoshua and Rabban Gamliel also hold this way, but how is it possible to derive from Lev. 6:2 from the word “hearth” or from the word “altar” that what is not suitable is not consecrated by the altar, for doesn’t this Scripture require another interpretation, that in tractate Yoma, we derive the number of arrangements of wood on the altar from the word “hearth”?⁸

The answer is that they also derive this from *Torat Cohanim*, the Torah instructions to the priests, that the Scripture comes to prevent burning them during the day. Rather, they are burned from the sun’s exit shortly after sundown, in order that they should be on the altar all night, as the author of *Korban Aharon*⁹ writes. This is also brought in tractate Menachot (page 26b), and see there.¹⁰ Rashi writes there at Menachot 26b, at the words beginning “limbs and fats,” “that their way was to bring it near at night from this verse itself of *Torat Cohanim*,” i.e., from Lev. 6:2. Thus, it seems that the rabbis do indeed learn different lessons from this one verse.

⁷ Ex. 29:37.

⁸ Yoma 45a.

⁹ Aharon Ibn Hayyim (1545, Fez, Morocco–1632, Jerusalem), Biblical and Talmudic commentator. He lived in Venice for a while, publishing numerous works. The *Korban Aharon* (Venice 1609) is a commentary on the Sifra.

¹⁰ Menachot 26b: “From where [is it derived that these items may be brought up and burned concurrent] with the setting of the sun, in which [case] they are consumed throughout the entire night [and not during the day]? The verse states: ‘This is the law of the burnt offering’ (Lev. 6:2).”

וגש לומר דהתם בסמוך איתא ר' יוסי הגלילי אומר מתוך ששנאמר כל הנוגע במזבח יקדש שומע אני בין ראוי בין שאינו ראוי, תלמוד לומר "כבשים", מה כבשים ראויים אף כל ראוי, לאפוקי עולת עוף שאינו מין בהמה דומיא דכבשים, ר' עקיבא אומר עולה מה עולה ראויה אף כל ראוי, ואף עולת עוף לא תרד, דהיא נמי עולה היא. ובתרא הכי בעי מאי איכא בין הגי תנאי להגי תנאי דמתניתין, ותיירץ דקמצים שקדשו בכלי איכא ביניהו ע"כ.

It can be said that there in the adjoining section, it is brought in a *Baraita* that:

Rabbi Yossi haGelili says: From that [which] is stated: "Everything touching the altar shall be sanctified,"¹¹ I derive [that the altar sanctifies any item that ascends upon it,] whether it is fit [for the altar] or whether it is unfit. [Therefore,] the verse states: ["Now this is that which you shall offer upon the altar: Two] lambs"¹² [to teach]: Just as lambs are fit [for the altar and are sanctified by it], so too, everything fit [for the altar is sanctified by it]. [This position excludes a bird burnt offering, as birds are not a type of domesticated animal similar to lambs.]

Rabbi Akiva says [that the verse states]: "Burnt offering," [to teach]: Just as a burnt offering is fit [for the altar and is sanctified by it], so too, everything fit [for the altar is sanctified by it]. [He rules that] even a bird burnt offering won't descend [from the altar once sanctified], for it is also a burnt offering.

...

Afterwards, [the Gemara] asks: What [difference] is there between [the opinions of] these Tannaim [of the *Baraita*, Rabbi Yossi haGelili and Rabbi Akiva, and the opinions of] these Tannaim of the Mishna? Rav Pappa said: [The difference] between them is [with regard to] handfuls [of flour, removed from meal offerings], that were sanctified in [a service] vessel [and were then disqualified.] [According] to our Tannaim [in the Mishna, Rabbi Yehoshua and Rabban Gamliel, those handfuls] shall not descend [as they are fit for the altar and for consumption by the fire as well]. [But according] to the Tannaim of the *Baraita* [Rabbi Yossi haGelili and Rabbi Akiva, those handfuls] shall descend [as those Tannaim hold that the halacha applies only to animal offerings and bird offerings].

- Zevachim 83b

ומשום הכי פירש דר' יהושע ור' גמליאל לא פליגי אלא לפרושי "הראוי" דסתם רבי, כלומר עקר הלימוד דהראוי שסתם לן התנא, בא מהסמיכות "וזה אשר תעשה על-המזבח" דסמיה ל"כל-הנגע" וכו', למימר דהאי "כל" לא אתא לרבויי אלא דבר [ים] הראויין דנקא, דבקר ד"על מוקדה על-המזבח" לא הוזכר שם סברא דראוי כלל, ואדרבא אם לא הנה קרא ד"כל-הנגע במזבח יקדש" לא היינו יכולים להתיר פסולין למזבח מדיוקא, אי לא הנה גלי לן קרא בהדא, ואם כן על כרחיה צריה לומר דרישא דמתניתין הוא הרבוי, דשמעין סתם מ"כל-הנגע במזבח" עם מאי דסמיה ליה "וזה אשר תעשה".

Because of this, Rashi explained that Rabbi Yehoshua and Rabban Gamliel only disagreed about the interpretation of the anonymous rabbi who authored our Mishnah about

¹¹ Ex. 29:37.

¹² Ex. 29:38.

the meaning of “suitable.” This is as if to say the principal of the teaching, that the Tanna taught us an unattributed Mishnah, comes from the reliance of “Now this is what you shall offer upon the altar” of Ex. 29:38 to the preceding words of Ex. 29:37, “everything touching the altar shall become consecrated.” This is saying that this word “everything” only comes to include things that are specifically suitable. That is, from the verse “everything touching the altar shall become consecrated,” we are not able to permit disqualified animals to the altar based on the grammar (i.e., that it is the burnt offering on the hearth alone). We could not permit disqualified animals if Scripture wasn’t revealing this to us explicitly. If so, you must necessarily say that the first clause of our Mishnah is inclusive, which we hear expressed generally from “everything touching the altar shall become consecrated,” with the adjacent text, “Now this is what you shall offer upon the altar.”

והני תנאי פליגי בפירושה ד"את הראוי", ומאי דדרשי ר' יהושע ורבן גמליאל מ"מוקדה" ו"ממזבח", הוא כמו אסמכתא, הואיל דקבר פתיב "כל" דמשמע ריבוי, ומשום הכי אתרבו קמצים שקדשו בכלי. והכי פירש נמי הקרבן אהרן ריש פרשת צו ונ"ל, דאחר שהסקימו ר' יוסי הגלילי ור' עקיבא דמה שלא נרד הוא הצריך למזבח, אתו אינהו לפרושי מה הוא הראוי למזבח עכ"ל.

These Tannaim disagree with the explanation of “suitable.” Regarding what Rabbi Yehoshua and Rabban Gamliel expound from “hearth” and from “altar,” this is like Scriptural support for a rabbinical enactment. For “everything” was already written, and the meaning of “everything” is inclusive. Because of this, it includes handfuls [of flour, removed from meal offerings], that were sanctified in [a service] vessel [and were then disqualified.] Thus the *Korban Aharon* also explained, at the beginning of parashat Tzav, and these are his words, that “after Rabbi Yossi haGelili and Rabbi Akiva agreed that what didn’t descend is consumed by the altar, they came to explain what is suitable for the altar.”

והשתא דחזינו דאליבא דכולי עלמא האי קרא ד"וזה אשר תעשה על המזבח" אתא לפרושי לן דמה שכתב לעיל כל הנוגע אינו אלא בדבר הראוי, אם כן לא הוי מצי למיכתב ביה "תמימים", משום דאיכא למיטעי ולומר שהכתוב אינו ממעט מ"כל" מה שלא הנה פיסולו בקדש, אלא דוקא בעלי מומין, דאי לא הכי לישתוק מ"תמימים", דהא מפכשים ילפינן, מה כפשים ראויים אף כל ראוי, וכל שלא הנה פיסולו בקדש לא מיקרי "ראוי", וממילא אימעטו כל הפסולים כולם.

Now we see that it’s the opinion of the entire world that this verse, “Now this is what you shall offer upon the altar: two yearling lambs each day, regularly,” comes to explain to us what was written above in the Baraita, that only suitable things may touch the altar. If so, we aren’t able to write “without blemish” in [this verse], because there is the possibility of error and to say that it doesn’t exclude from “everything” those things whose disqualification did not [occur] in the sanctified area, rather it only excluded animals with defects. If that’s not so, it should be silent regarding “without blemish,” for this is derived from “lambs.” As discussed above, just as lambs are fit for the altar and are sanctified by it, so too, everything fit for the altar is sanctified by it. Everything whose disqualification did not [occur] in the

sanctified area, i.e., it was disqualified beforehand, is not called “suitable,” and on its own excludes everything that is disqualified.

ועוד לרבי עקיבא דקא דריש מ"עולה" לאתווי עולת עוף דמקרי ראוי, אי הנה פתיב הקא "תמימים" לא הוינו יכולים לרבות עולת עוף מ"עולה", שהרי תמות וזכרות בבהמה ואין תמות וזכרות בעופות. והיינו ממעטים עולת עוף מ"תמימים" שאינם דומיא דעולת בהמה, והוא דלא כהלכתא, שהרי לכלי עלמא עולת עוף אם עלתה לא תרד, חוץ מר' יוסי הגלילי, ומשום הכי לא כתב פאן "תמימים".

Also, Rabbi Akiva was teaching that the word “burnt offering” includes a bird burnt offering that is considered suitable. If “without blemish” had been written here, we wouldn’t have been able to expand a bird burnt offering from the word “burnt offering,” as “unblemished condition and male” is required for cattle sacrifices, while unblemished condition and male is not required for sacrifices of fowls. We excluded from the rule of the bird burnt offering the limitation of “without blemish,” for it’s not similar to a burnt offering of cattle. This was not like the halacha, for everyone agrees that if a bird burnt offering ascends the altar, it does not descend, except for Rabbi Yossi haGelili, and because of this, it’s not written here “without blemish.”

ונכתבו התוספות שם (ד"ה המזבח מקדש וכו'), ר' יהושע ורבן גמליאל אתו לפרושי הך רישא, וכהאי גוונא בתוקת הבתים דר' ישמעאל ור' עקיבא קא מפרשי בסיפא תזקה דרישא עכ"ל. וקשה מאי בעו התוספות.

The Tosafists wrote there, Zevachim 83a, (at the words beginning, “the altar sanctifies”): “Rabbi Yehoshua and Rabban Gamliel came to explain the first clause of the Mishnah. We find an action like this in ‘The presumptive ownership of houses,’ the third chapter of Bava Batra (28a). At the last clause, Rabbi Yishmael and Rabbi Akiva explain the presumption of the first clause.” But it’s difficult to understand what the Tosafists are questioning.

ולפי דרבנו פאו להורות דמאי דתנו ברישא "המזבח מקדש את הראוי לו", הוינו סברת ר' יוסי הגלילי ור' עקיבא דנפקא להו מ"ונה אשר תעשה על-המזבח". ובלימוד זה לא פליגי ר' יהושע ורבן גמליאל, אלא דר' יהושע ורבן גמליאל מכח קרא ד"זאת תורת העלה" נראה להו לרבוני נמי קמצים שקדשו בכלי, דומיא דההיא דפרק תוקת הבתים דר' ישמעאל ורבי עקיבא מודו לתנא קמא דבעי תזקה שלש שנים, אלא דאינהו אתו לרבוני אפילו י"ח חדש או י"ד חדש כדאיתא התם.

According to our way of understanding, they came to instruct that the teaching in the first clause, “The altar sanctifies [only items] that are suited to it,” is the opinion of Rabbi Yossi haGelili and Rabbi Akiva, who derived it from “Now this is what you shall offer upon the altar.” In this teaching, Rabbi Yehoshua and Rabban Gamliel didn’t disagree, except Rabbi Yehoshua and Rabban Gamliel disagreed from the force of Scripture that “this is the ritual of the burnt offering.”¹³ This appears to them to also include handfuls [of flour,

¹³ Ex. 6:2.

removed from meal offerings], **that were sanctified in [a service] vessel [and were then disqualified.]** This is **similar to that in the third chapter** of Bava Batra, **“The presumptive ownership of houses,”** that Rabbi Yishmael and Rabbi Akiva acknowledged the first Tanna who derived a presumption of ownership of three years of daily use, **that they came to include even 18 months or 14 months, as is written there.**¹⁴

ובזה יובן שפיר מה שכתבו התוספות במנחות (דף כ"ו ע"ב ד"ה תורת העלה ריבה), אפתי דרשינו מינה תורה אחת לכל העולין שאם עלו לא ירדו עכ"ל. וצריך עיון אמאי לא הקשו הא איצטריך לדרשא אחריתי, כדמקשינו בכל דוכתא.

Thus we can well understand what the Tosafists wrote in tractate Menachot [page 26b, the words beginning with “ ‘This is the law of the burnt offering’ inclusive”]: “Still, we expound this from [Niddah 40b], [The verse] included in one law everything that ascends [upon the altar, even disqualified offerings, teaching] that if they ascended, they shall not descend.”

We need to investigate why they didn't question that this requires another interpretation, as we question in every other place.

אלא נדאי צריך לומר שעקר הלימוד והרבוי של "זאת תורת העלה" הינו הך דמנחות, ואפילו הכי דרשינו מיניה בפרק יוצא דופן תורה אחת לכל העולין, משום דהיא אינה אלא אסמכתא בעלמא, שהרי עקר הילפותא נפקא לן מ"כל-הנגע במזבח קדש: וזה אשר תעשה" כנ"ל, דאי אמרת דהלימוד של תורה אחת לכל העולין הוי לימוד גמור, אם פן אייתר ליה לגמרי קרא ד"כל-הנגע במזבח קדש", ועוד כיון דאיצטריך קרא להאי דרשא לא הנה מציינו למילף מיניה הרבוי דהתם במנחות.

But surely it should be said that the main teaching and the inclusion of “this is the law of the burnt offering” was that of tractate Menachot, and even so, we derive from it in the fifth chapter *Yotzei Dofen* of tractate Niddah, that “[the verse thereby] included [in] one law everything [addresses] that ascends [to the altar, even disqualified offerings, teaching] that if they ascended, they shall not descend.”¹⁵ Because this is only mere support, for the principal of the derivation coming out of this to us from Ex. 29:37–38 that “everything touching the altar shall become consecrated. Now this is what you shall offer upon the altar” as above, for if you say that the teaching of “one law [addresses] everything that ascends,” is this a complete teaching? If so, the Scripture of “everything touching the altar shall become consecrated” is completely superfluous. Also, since we need Scripture for this derivation, we wouldn't be able to learn from it the inclusion from there in Menachot.

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¹⁴ Mishnah Bava Batra 3:1; Bava Batra 28a.

¹⁵ Niddah 40b.