

וּדְרוּר קֵן לֵה עַל מִסַּכַּת קִינִים

עם ציורים בעניני המשנה

מאת
ישראל יצחק בנקייר

A Pictorial Aid to the Study of Mishnayot Kinim

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Masechet Kinim

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Masechet Kinim

Introduction

Masechet Kinim

Foreword

רבי אליעזר בן חסמא אומר, קנין ופתחי נדה, הן הן גופי הלכות.
תקופות וגמטריאות פרפראות לחכמה.

Rabbi Eliezer the son of Chisma said: *Kinim* (the laws of bird sacrifices) and the laws regarding the beginnings of menstrual periods – these are essential laws. Astronomy and geometry are condiments to wisdom.

Avot 3:18

Masechet Kinim deals primarily with mixtures of bird sacrifices. The *Tifferet Yisrael* writes that its legal conclusions have no practical import today. Similarly the issues related to how to calculate the beginning of the menstrual cycle may appear somewhat unpleasant to discuss. Furthermore the study of *kinim* and the beginning of *nida* are dominated by mathematical calculations that arise in cases of doubt. Nevertheless the *Mishnah* stresses their importance, teaching that they are essential laws and can be the prime focus of one's learning.

The *Mishnah* contrasts these topics with the study of astronomy and geometry. *R' Eliezer* was well versed in these subjects (*Horayot* 10a) and certainly was not belittling their importance. The *Kesef Mishnah* (*Yesodei HaTorah* 4:13) writes that the study of astronomy and geometry reveals tremendous wonders. In contrast, the study of *kinim* may appear of little value. Nevertheless they are essential parts of the *Torah*, they are *mitvot* of *Hashem*, and there is a great reward reserved for those that study them.

The *Tifferet Yisrael* adds that the understanding of the scientific is vital for the application of many areas of *Halacha*. However if they become the prime focus, one's soul will be left unnourished. Even though *kinim* itself also involves many logical calculations, it nevertheless has *halachic* ramifications – what one can or cannot do, what is prohibited and what is permitted. In this light, the mathematical is secondary and subservient to the study of *Torah* – the study of *dvar Hashem*.

With full gratitude to *HaKadosh Baruch Hu*, I am able to present this *kuntrus* on *Masechet Kinim*. At the request of a close *Rav*, the first draft was

Masechet Kinim

produced as a brief collection of diagrams to help those learning the *masechet* as part of the *Daf Yomi* cycle.

Over the years, with much *siyata dishmaya*, the *kuntrus* has been expanded to include further explanations and analysis. You will also find extra diagrams for those *Mishnayot* where the *mefarshim* have provided very different understandings. Where they vary greatly, the diagrams have been organised as separate chapters to provide a free flowing explanation for each commentator.

Please send any errata and/or feedback to subscription@mishnahyomit.com.

Hatzlacha with your learning,

Yisrael Yitzchak Bankier

Background

Masechet Kinim deals with issues that arise when different bird sacrifices are mixed together and their resolution.

Who Brought Bird Sacrifices?

Bird sacrifices can first be divided into two groups, the obligatory (*chovah*) and voluntary (*neder* or *nedava*). A pair of birds (*ken*) that is brought as an obligation generally consists of a sin-offering (*chatat*) and burnt-offering (*olah*) and applies to the following people:

- Those obligated to bring a *korban oleh ve'yored*. What constitutes this *korban* varies with the financial standing of the person obligated to bring it. Those belonging to the second lowest category bring a *ken chovah*. The following sins would obligate one with this offering: one who swore falsely in denying knowledge of witness testimony; one who became impure (*tameh*), forgot that he was *tameh* or forgot the *Beit Ha'Mikdash* or food was holy and then entered the *Beit Ha'Mikdash* or ate food that was sanctified (*kadosh*); and one who swore falsely or violated an oath. (*Vayikra* 5:1-12)
- A poor woman that gave birth brings a *ken chovah* at the completion of her purification period. (*Vayikra* 12:1-8)
- The poor *metzora* bring a *ken chovah* as one of the *korbanot* brought at the completion of the purification process. (*Vayikra* 14: 21-32)
- The *Zav* and *Zava*. A man or woman respectively who have unusual discharges. In some cases they are obligated to bring a *ken chovah* at the completion of the purification process. (*Vayikra* 15:1-15, 25-31)
- A *Nazir* who became *tameh met* (impure by contact with a human corpse) brings a *ken chovah* as well as a *korban asham*. (*Bamidbar* 6:9-12)

Birds Used

One of two types of birds could be used for the purpose of bird sacrifices: *torin* (turtledoves) and *bnei yonah* (young-pigeons) – see *Vayikra* 12:8. The *torin* can only be used once they mature while the *bnei yonah* can only be used when they are young. The *Mishnah* in *Chulin* (1:5) explains that the transition point for both animals is when the feathers around the neck “begin to shine”. *Rashi* (*Chulin* 22a) explains that this is the time when the bird’s feathers are in the process of changing. The *Mishnah* rules that both types of bird may not be used during this transition period.

Performance of Bird Sacrifices

The *chatat* and *olah* bird sacrifices are offered in different manners. The *Mishnayot* in *Zevachim* (6:4 onward) discuss the laws relating to how these sacrifices were offered. The following is a brief description.

Firstly, all bird sacrifices are slaughtered through the process called *melikah*. The *Kohen* holds the bird in his right hand, and using his right thumb nail, pierces the back of the bird’s neck cutting until the spine and either the windpipe or food pipe have been severed. One should note, slaughtering in this manner would ordinarily render a bird not kosher and it is only permitted when the bird is used for a sacrifice.

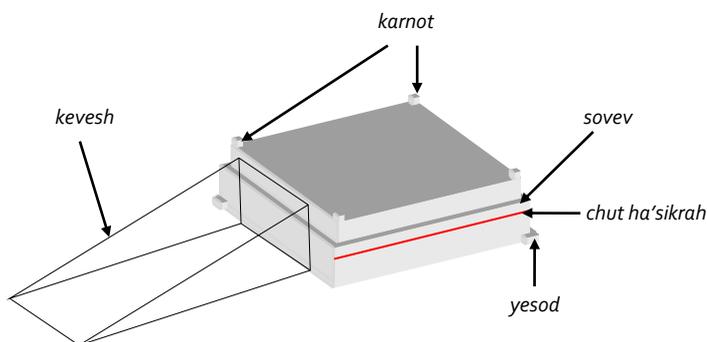
For a *chatat*, the *Kohen* performs *melikah* leaving the head attached to the body. He then takes the bird and casts its blood on the southwest corner, on the bottom half of the *mizbeach* (*haza’ah*). The *Kohen* then takes the bird and presses it against the wall of the *mizbeach* squeezing out the remaining blood (*mitzui*). The bird is then given to *kohanim* to eat.

For an *olah* the *Kohen* takes the bird and ascends the ramp of the *mizbeach*. He proceeds to the southeast corner of the *mizbeach* and performs *melikah*, this time separating the bird’s head from its body. The *Kohen* then immediately presses the bird (then its head) against the wall of the *mizbeach* squeezing out the blood. (Note that ‘sprinkling’ was not performed with this sacrifice.) The *Kohen* then salts the head and throws it on the fire. Following this, the *Kohen* removes the crop, maw and entrails of the bird throwing

them to the *beit ha'deshen* situated in the south of the *mizbeach*, east of the ramp. The *Kohen* then salts the remainder of the bird and places it on the fire.

The *Chut Ha'sikrah*

The *Mishnah* in *Masechet Middot* (3:1) discusses the dimensions of the outer *mizbeach* on which these *korbanot* were offered. A red line referred to as the *chut ha'sikrah* divided the upper and lower halves of the *mizbeach*. The *mizbeach* itself consisted of three, square shaped parts, each one on top of the other. The lowest level, the *yesod* was one *amah* high. Above that was the *sovev* that was five *amot* high. The *yesod* was distinct from the *sovev* in that it jutted out one *amah* on the north and west faces of the *mizbeach*. Finally the top section was inset from the *sovev* on each side by one *amah* and was three *amot* high. The corners of the *mizbeach*, the *karnot*, were raised by one *amah* bringing the total height of the *mizbeach* to ten *amot*. Consequently the *chut ha'sikrah* was marked on the *sovev*, five *amot*ⁱ from the ground.



NB: The ramp of the *mizbeach* (the *kevesh*) has not been included here in detail.

ⁱ"*Amah*"

There are two types of measurements referred to as *amot*: the regular *amah* that is six *tefachim* (handbreadths) and the shorter *amah* that is five *tefachim*. *Gemara Menachot* (97a-98b) teaches that the *mizbeach* consisted of a mix of both these dimension. See the commentaries for further details.

Masechet Kinim

Chapter One
פרק א'

Masechet Kinim

Mishnah One

משנה א

As explained in the introduction, this *Masechet* deals primarily with mixtures of the two different bird offerings – *chatat* and *olah*. Had the methods of their offering been the same, such mixtures would present no problem (*Ya'ir Kino*). Therefore the *Masechet* opens with the difference between these two *korbanot*.

[The blood of] the bird sin-offering (*chatat*) was performed below [on the lower half of the alter (*mizbeach*)], while [the blood of] an animal sin-offering was performed above [on the upper half]¹². [The blood of] the bird burnt-offering (*olah*) was performed above, while the blood of an animal burnt-offering was performed below.³⁴ If one changes [this performance] in either case, [the *korban* is] invalid (*pasul*).

חֲטָאת הָעוֹף נַעֲשִׂית לְמִטָּה,
וְחֲטָאת בְּהֵמָה לְמַעְלָה.
עוֹלֹת הָעוֹף נַעֲשִׂית לְמַעְלָה,
וְעוֹלֹת הַבְּהֵמָה לְמִטָּה. אִם
שָׁנָה בָּזָה וּבָזָה – פָּסוּל.

¹ Different Location of Sprinkling

Why, when it comes to animal offerings, was the blood from a sin offering placed on the upper half and the blood from the burnt offering placed on the lower half, while for bird offerings the reverse was true? The *Zera Yitzchak* explains that wealthy people generally brought animal offerings while the poor usually brought bird offerings (see Introduction). He explains that it is praiseworthy for a wealthy person to admit to his faults and bring a sacrifice, thereby explaining why an animal sin offering is offered on the upper half. For a poor person however it is more praiseworthy that he brings a burnt offer, for even though he is short of funds, he nevertheless brings a “gift” to *Hashem*. Consequently, for bird offerings it is the burnt offering that is performed on the top half of the *mizbeach*.

² A Long Winded *Mishnah*?

Why did the *Mishnah* not combined the two statements and write: “On the bottom half, the bird *chatat* and animal *olah* are offered, while on the top half the bird *olah* and animal *chatat* are offered”? The *Me'einei Yehoshua* explains that this phrasing was important as it enforces that irrespective of the animal used for the sacrifice, the *chatat* is always offered before the *olah*. Therefore the *chatat* offerings brought from both animals and birds are mentioned in the *Mishnah* first. The *Ken Meforeshet* adds that the *chatat* is not only first when offered but also first when separated.

³ Is This The Only Difference?

Please see the Introduction for a full description of the *chut ha'sikrah* – the line that divided the two halves of the *mizbeach* – the difference in the performance of these two bird offerings. As animal offerings are not the subject of this *masechet* a full explanation has been omitted. See *Masechet Zevachim* for more detail.

The *Ken Meforeshet*⁵ explains that the change of location that invalidates the bird sacrifice is only with respect to the sprinkling of the blood for the *chatat* and pressing of the bird (*mitzui*) for the *olah*. The location of the performance of *melika* however does not invalidate the sacrifice.

As noted in the introduction, there are many other differences in the way that the *chatat* and *olah* are offered. The *Ya'ir Kino* provides a number of reasons for their omissions (here only two are included). The first reason is that placing the blood on the wrong part of the *mizbeach* invalidates the *korban* according to all opinions with everyone agreeing that this detail is what causes the problem if the *korbanot* are mixed. The other differences are subject to debate as to whether they would invalidate the *korban*. Another reason he provides is that all the other details of how these *korbanot* are offered are explicitly written in the *Torah*. If one needs to know, the text of the *Torah* is readily available ("go and read"). The location of the placement of the blood for both *korbanot* on the other hand is learnt through a *drasha* (exposition).

⁴ How To Remember

The *Mefaresh* provides a *siman* for us to remember the above distinction – עי טי טי –. The *Ya'ir Kino* explains that the *siman* is to remind us as follows: עולת העוף למעלה, חטאת למטה. The *Tifferet Yisrael* suggests that the words themselves serve as a *siman*: העוף עולה למעלה, literally meaning that it is the way of the bird to fly upward.

⁵ Ken Meforeshet

Here the name *Ken Meforeshet* refers to the commentary on *Masechet Kinim*. A *ken meforeshet* referred to in the *Mishnah* refers to a type of designation of a pair of birds to be use for *korbanot* – see the pages that follow for a full explanation. In an attempt to prevent confusion, when referring the commentary, the name will be capitalised as above.

The order (types) of *kinim* is as follows: The obligatory *ken* is one sin-offering and one burnt-offering.⁶ סֵדֵר קִינִים כֹּךְ הוּא: הַחֹבֶה – אֶחָד חֲטָאת וְאֶחָד עֹלָה

In order to differentiate between the different offerings, colour coding is used. The bird that is a *chatat* will be coloured dark grey while an *olah* will be white, as follows:



chatat



olah

There are two ways one can bring an obligatory *ken* (a *ken chova*). The owner may have already designated which bird will be used for the *chatat* and which bird will be used for the *olah* specifically when purchasing the birds. This is called a *ken meforeshet*.

In such a case the following picture will describe the situation:



However, sometimes one may bring the two birds without designating which bird will be used for which sacrifice. This is called a *ken stumah* and the *kohen* will designate the use of each of the birds at the time of their offering. In such a case both birds will be shaded a light grey colour as follows:



The *Ken Meforeshet* explains that a pair of birds that is purchased without designation, even if the owner later selects which is to be used as a *chatat*

⁶ **A Unique Ken Chovah**

There is another *ken chovah* that consists of two *olah* offerings that is brought by a convert (*Keritut* 8b). That *ken* is not mentioned in this *masechet* because it was not a common sacrifice (*Bartenura, Rambam*).

and which as an *olah*, the *kohen* that offers them need not heed to the selection.

For *nedarim* and *nedavot* (voluntary offerings) all [birds are brought as] burnt-offerings. What is a *neder*? [A sacrifice where] one says, "the obligation is on me to bring a burnt-offering." What is a *nedava*? [A sacrifice where] one says, "this [bird] will be used as a sacrifice." What is the difference between *nedarim* and *nedavot*? If one makes a *neder* and the animal that was set aside dies or is stolen, the person is responsible [to replace the missing sacrifice]. With *nedavot* if the animal set aside for the sacrifice dies, the person is not responsible.⁹

בְּנִדְרִים וּבְנִדְבוֹת – כִּלְכֵן⁷
 עֹלוֹת.⁸ אִיזְהוּ נִדָּר? הָאוֹמֵר:
 הָרִי עָלַי עֹלָה. וְאִיזוֹ הִיא
 נִדְבָה? הָאוֹמֵר: הָרִי זֶה עֹלָה.
 מַה בֵּין נִדְרִים לְנִדְבוֹת? אֶלֶּא
 שְׁהִנְדָּרִים, מִתּוֹ אוֹ נִגְנְבוּ –
 חִיבִים בְּאַחֲרֵיֹתָם; וּנְדָבוֹת:
 מִתּוֹ אוֹ נִגְנְבוּ – אֵין חִיבִים
 בְּאַחֲרֵיֹתָן.

⁷ "All" Olot

The *Ken Meforeshet* explains that the *Mishnah* needed to stress that for voluntary bird offerings they are "all" *olot*. This is because in contrast to voluntary animal offerings that can be brought as *olot* or *shelamim* (or according to *R' Eliezer, Keritut* 6:3, even an *asham talui*) voluntary bird offerings can only be *olot*.

⁸ A Smaller Neder

The *Mefaresh* notes, that unlike what one may understand from this *Mishnah*, one may volunteer to bring a single bird offering (*preidah*) (*Zevachim* 65a).

⁹ More Differences

The *Rosh* quotes *R' Ya'akov M'Orlinus* who asks that we know there is another difference. A *neder* can only be brought from *chulin* while a *nedava* can also be brought from *ma'aser*. The *Rosh* then quotes *R' Elchanan* explaining that such a distinction is inappropriate to be mentioned in *masechet Kinim*, where voluntary bird offerings are always *olot*. This is because we learn in the *Sifrei* that *ma'aser* money cannot be used to purchase *olah* offerings. See the *Ken Meforeshet* for another answer.

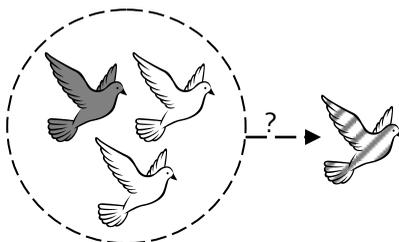
Mishnah Two

משנה ב

A sin offering that becomes mixed with a burnt-offering or a burnt-offering that gets mixed with a sin-offering, even if it was one [mixed] with ten thousand; they are all left to die.

חֲטָאת שֶׁנִּתְעַרְבָה בְּעוֹלָה, וְעוֹלָה בְּחֲטָאת, אֶפְלוּ אֶחָד בְּרִבּוּא – יָמוּתוּ כֻלָּם.

If one selects a bird from a mixture of *chatat* and *olah* offerings they will not know whether it is a *chatat* or *olah*. Such a case will be signified with the striped bird as follows:



Even in a mixture of one in one thousand, the animals must be left to die (locked away and starved) for the following reasons. Firstly each type of sacrifice has its distinct area where the blood must be placed as stated in the previous *Mishnah*. If one places the blood in the wrong area the *korban* is invalid (*pasul*) and one is not allowed to deliberately cause a *korban* to become invalid (*Ra'avad*). Secondly, the principle that the minority can be considered annulled (*batel*) amongst the majority does not apply to living creatures¹⁰ (*Bartenura*, *Zevachim* 73a). Finally, one could not wait for a blemish to appear on all the birds and then redeem them (a possible solution

¹⁰ *Davar Chashuv*

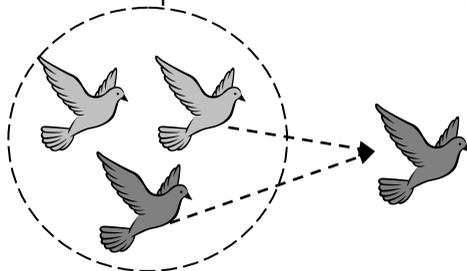
The *Ken Meforeshet (Introduction)* explains that the law that a *davar chashuv* (an important thing) is not *batel* in the majority is rabbinic. Even though in cases of doubt one is lenient with a rabbinic law, with respect to this law the leniency only applies when there is a doubt whether the object concerned is indeed a *davar chashuv*. For all other doubts we rule stringently (see *YD* 110).

when dealing with animal sacrifices) since redemption is not allowed for bird sacrifices (*Menachot* 12:1).

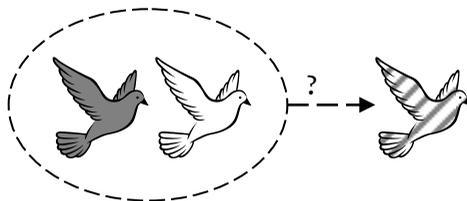
A sin-offering that got mixed up with a *ken chova* [*stuma*] – the number of valid sacrifices equals the number of sin-offerings that are brought as part of the *ken chova* [in the mixture].

חֲטָאת שְׁנֵתְעָרְבָה בְּחוֹבָה אֵין
כָּשֶׁר אֶלָּא כְּמִנְיַן חֲטָאוֹת
שֶׁבְּחוֹבָה.

To explain, we shall use the example of a *chatat* mixed with one *ken stuma*:



Step 1: The first bird can surely be offered as a *chatat*. It is either the designated *chatat* or one of the birds from the *ken chova* that the *Kohen* thereby designates as a *chatat*.



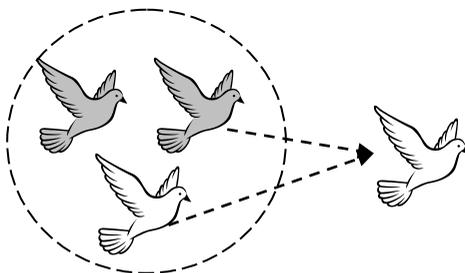
Step 2: Since it is possible that the first bird offered came from the *ken stuma* this would automatically designate⁸ the remaining bird from that *ken* as an *olah* making the remaining two birds a *chatat* and an *olah*. One would therefore not be able to offer the next bird as a *chatat* or *olah* with any certainty.

¹¹ Automatic Designation

The above explanation follows opinion of the *Rosh* (amongst other *Rishonim*) who explains that when dealing with multiple *kinei stumah*, once half has been

Similarly a burnt-offering that got mixed with a *ken chova* (*stuma*) – the number of permissible sacrifices equals the number of burnt-offerings that are brought as part of the *ken chova* [in the mixture].

וְכֵן עֹלָה שֶׁנִּתְעַרְבָה בַּחֹבֶה
אֵין כָּשֶׁר אֶלָּא כְּמִנְיַן עֹלוֹת
שֶׁבַּחֹבֶה.

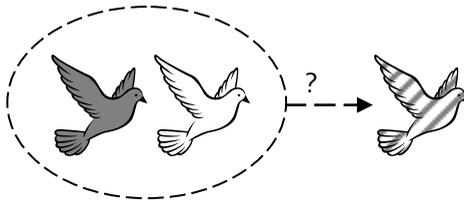


Step 1: The first bird can surely be offered as an *olah*. It is either the designated *olah* or one of the birds from the *ken chova*, which the *Kohen* thereby designates as an *olah*.

designated by the *Kohen* as one type (e.g. *chatat* offerings) the remainder are automatically designated as the other type (*olah* offerings). It has been explained however, designation can only occur at the time the owner sets the birds aside or by the explicit designation of the *Kohen* when performing the sacrifice. Nonetheless, the *Yair Kino* (explaining the *Rosh*) understands that since when one purchases the *ken* it is for the express purpose that one be for a *chatat* and the other *olah* it is as if it has been articulated as such at the time of purchase; aside for the fact that he did not allocate the purpose of each of the birds. Consequently once the *Kohen* designates one of the birds as, for example, a *chatat*, the other is retroactively selected from the time of purchase as being an *olah*.

Bartenura however explains this *Mishnah* differently: If one offered two *chatat* offerings we are concerned that both birds may come from the *ken stumah* and we can only make one of them a *chatat* and the other an *olah*. The implication being that the remainder is not automatically designated. The problem is rather an improper designation by the *Kohen* of the remainder. The *Yair Kino* directs us to the *Rambam* (*P'sulei Mukdashim*, 9) and the *Kesef Mishnah's* explanation as another *Rishon* maintaining this understanding.

Masechet Kinim



Step 2: Since it is possible that the first bird offered came from the *ken stuma* this would automatically designate the remaining bird from that *ken* as a *chatat*, meaning the remaining two birds would be a *chatat* and an *olah*. Therefore one would not be able to offer the next bird as a *chatat* or *olah* with any certainty.⁹

¹² How is the situation remedied?

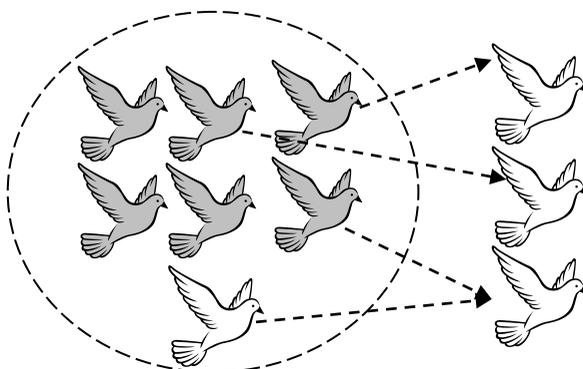
The *Rosh* explains that once the permissible sacrifice has been offered, and the remainder left to die, new birds are brought to replace those that remained – a *chatat* and *olah*.

When offering the *olah* one will stipulate as follows: "If the original bird offered was my *olah*, this one now offered will replace the *olah* from the *ken chovah*. However if the original valid bird came from the *ken chovah*, this then replaces my original *olah*." The other bird will replace the *chatat* from the *ken stumah*.

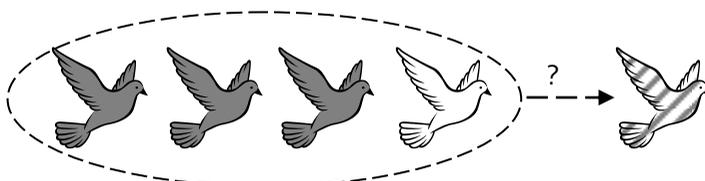
[The above law holds] whether the obligatory birds out-number the voluntary birds; or whether the voluntary birds outnumber the obligatory birds; or whether the numbers are equal.

בין שהחובה מרובה והנדבה ממעטת, בין שהנדבה מרובה והחובה ממעטת, בין ששתיהן שוות.

The following example is where the *kinei chovah* outnumber the *olah* offerings:

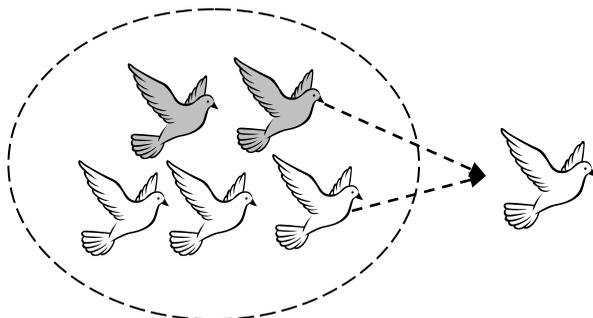


Step 1: The first three birds can surely be offered as *olah* offerings – either the *olah* and two *olah* offerings from the *kinei stuma* or all three from the *kinei stuma*.

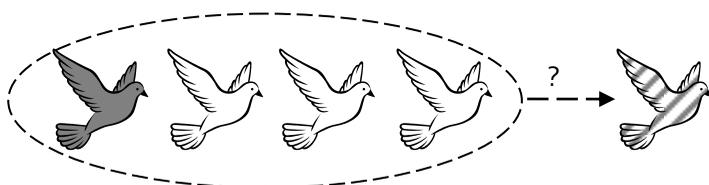


Step 2: Since it is possible that the first three birds offered all came from the *kinei stuma* this would automatically designate the remaining birds as *chatat* offerings. Therefore it is possible that the remaining birds consist of a *chatat* offerings and an *olah*. Therefore one would not be able to offer the next bird as a *chatat* or *olah* with any certainty.

The same rule, that the number of *olah* offerings that may be offered is equal to the number of *kinei chovah*, hold true also when the *olah* offerings outnumber the number *kinei chovah* (*Rosh*):



Step 1: The first bird can surely be offered as an *olah* – it is either one of the *olah* offerings or from the *ken stuma*.



Step 2: Since it is possible that the first bird offered came from the *ken stuma* this would automatically designate the remaining bird as a *chatat*. Therefore it is possible that the remaining birds consist of a *chatat* and *olah* offerings. Therefore one would not be able to offer the next bird as a *chatat* or *olah* with any certainty.

The rule stated in the *Mishnah* would also hold true in the above two examples if we considered *chatat* offerings being mixed with *kinei chovah* instead of *olah* offerings. There was no reason to state it explicitly as it can be derived from the above cases. The reason why the *Mishnah* chose to discuss *olah* offerings¹³ is because they featured in the previous case (*Razah*).

¹³ A Change in Language

One may notice that while initially the *Mishnah* discussed a mixture of an *olah* and *chovah*, half way through it referred to mixtures of a *nedava* and *chovah*. The

Mishnah Three

משנה ג

When does [the rule in the previous *Mishnah*] apply? When the mixture contains obligatory and voluntary sacrifices. However, if obligatory sacrifices [belonging to two people] are mixed together – where

בְּמֵה דְּבָרִים אֲמוּרִים? בְּחֹבֶה וּבְנִדְבָה, אֲבָל שְׁנֵתְעָרְבָה זֶה בְּזֶה¹⁴, אַחַת לְזוֹ וְאַחַת לְזוֹ, שְׁתֵּים לְזוֹ וְשְׁתֵּים

explanation above did not make note of this change. The *Bartenura* explains that the reason why the term *nedava* is used is because voluntary bird offerings consist only of *olah* sacrifices and should be understood as referring to pairs of *olah* offerings. While the *Rosh* understands similarly, he maintains that the term *nedava* as referring not to pairs but rather individual *olah* sacrifices. The diagrams above have followed this later understanding.

But why does the *Mishnah* change the language? Furthermore the *Mishnah* does appear slightly long-winded.

Recall that once the permissible sacrifices have been offered and the remainder left to die, new birds have to replace those that remain (see footnote 9). The *Me'einei Yehoshua* explains that one might think that the ruling in this *Mishnah* applies only when all the birds brought are obligatory; only then replacements must be brought. If however a voluntary offering was involved in the mixture, where one was not obligated to replace it if it was lost (a *nedava*), one might think that if the obligatory offerings outnumbered the voluntary ones, we could assume that the offered *olah* came from the majority. Consequently one might assume that the *olah* left in the mixture was the voluntary one and a replacement *olah* is therefore not required. The change in language negates such assumptions.

See the *Yair Kino* for a different explanation.

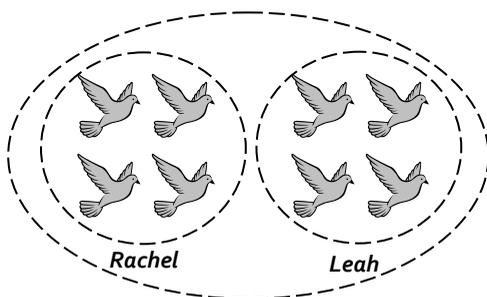
¹⁴ Examples Used

The *Tosfot Yom Tov* points out that all the examples used in this *masechet* refer to women's sacrifices. He explains the reason for this is since *kinei chova* are brought after childbirth, women bring more *kinei chova*. (The *Ken Meforeshet* adds that *zivot* are more frequent in woman as well.) The *Rashash* questions this rationale as a *ken chovah* brought by one who swore falsely in denying knowledge of testimony applies only to men. Perhaps the explanation of the *Tifferet Yisrael* answers this question. The *Tifferet Yisrael* explains in a similar manner to the *Tosfot Yom Tov* but adds the detail that women will bring more *kinei chovah* "without [performing any] sin". The *Razah* (2:5) similarly explains that men only offer bird offerings as a result of sin. The *Mishnah* therefore preferred to refer to women and therefore write in a more respectable manner.

they have one *ken* each, two *kinim* each, or three *kinim* each

לָזוֹ, שְׁלֹשׁ לָזוֹ וְשְׁלֹשׁ לָזוֹ

The following example will be used to explain the *Mishnah*

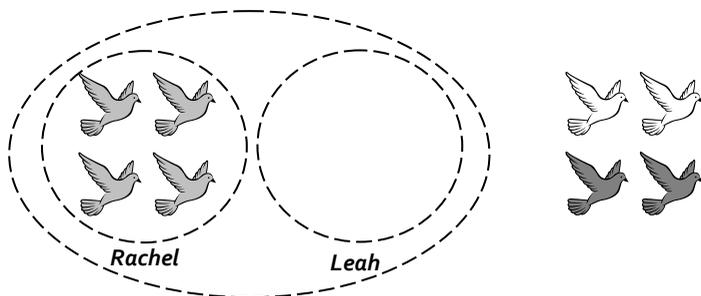


Half the sacrifices are valid and half are invalid.

מִחֲצָה כָּשֵׁר, וּמִחֲצָה פָּסוּל.

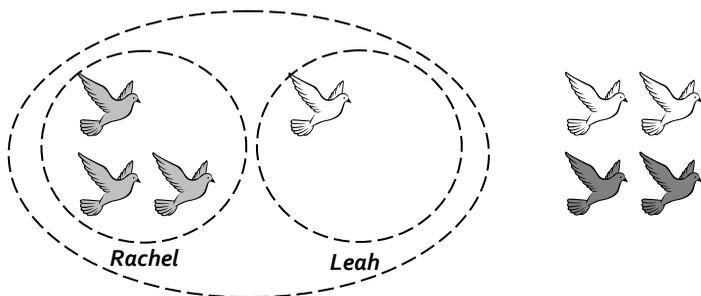
Once half the birds are offered, there are a number of possibilities.

Possibility 1 (or similar)



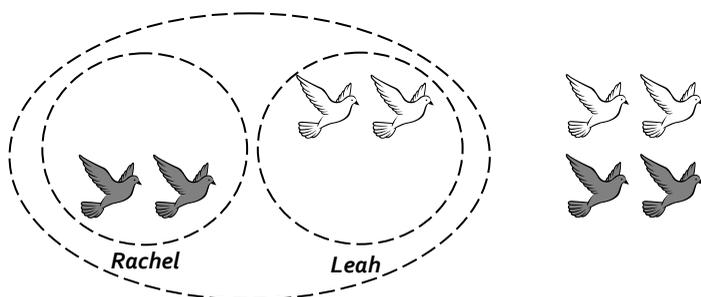
In this case an extra *ken* could be brought.

Possibility 2 (or similar)



More than half of the birds cannot be offered as there is a possibility that the next *ken* offered will offer *Leah's* remaining bird as a *chatat* when it is an *olah*. (An extra *olah* cannot be offered as it is equally possible that only a *chatat* was offered for *Rachel* and that if we offered another bird as an *olah* it may be the remaining *chatat* belonging to *Leah*.)

Possibility 3 (or similar)



According to this possibility nothing else could be offered as we have a mixture of *olah* offerings and *chatat* offerings, which according to the previous *Mishnah* are left to die.

Note, that in order to avoid the problem of offering the *korban* for a person when that bird offered does not really belong to them, the *Kohen* offers the *korbanot* for whomever they belong to.

The *Rosh* explains that after the remaining birds are left to die, *Rachel* and *Leah* will be required to bring four more birds together. (In this case of four

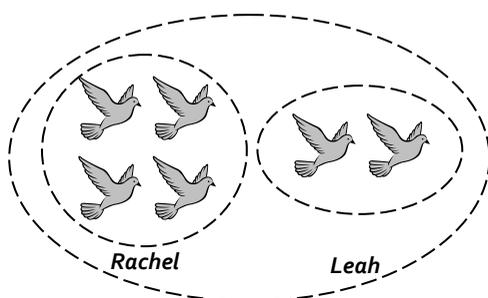
Masechet Kinim

kinim mixed together specifically, the *Yair Kino* maintains that they would not be required to bring the remaining *kinim* together. See the *Yair Kino* for a full explanation.)

If however one has one *ken* and the other has two, three or ten *kinim*, the [number of sacrifices belonging to the person who brought] the least *kinim* are valid.

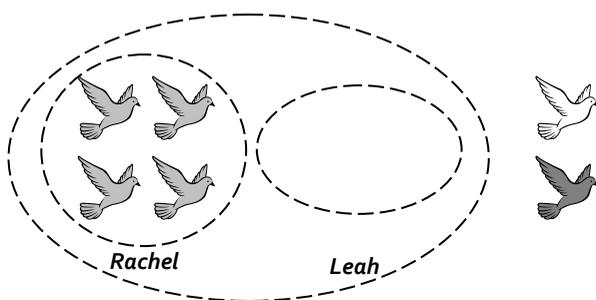
אַחַת לָזוֹ וּשְׁתַּיִם לָזוֹ, וְשֵׁשׁ לָזוֹ, וְעֶשֶׂר לָזוֹ, וּמֵאָה לָזוֹ
הַמְעַט כָּאֶחָד.

Consider the following case:

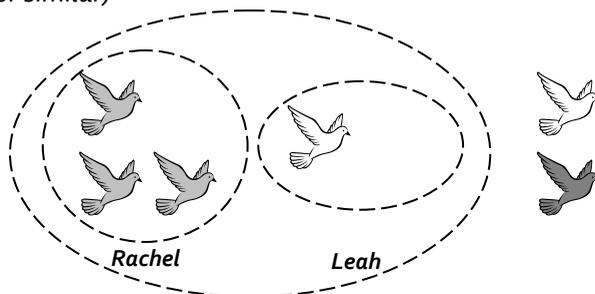


The following is the situation once the amount of the lesser group has been taken:

Possibility 1 (or similar)



Possibility 2 (or similar)



Considering the second possibility, no more birds can be offered since the next *ken* offered might result in offering *Leah's* remaining bird as a *chatat* when it is now an *olah*. An extra *olah* cannot be offered as it is equally possible that only an *olah* was offered for *Rachel* and that if we offered another bird as an *olah* it may be the remaining *chatat* belonging to *Leah*.

[This rule holds true] whether the sacrifices are all brought for the same or different reasons, whether they are owned by one or two women. (This last statement is explained in the next *Mishnah*).

בֵּין מִשָּׁם אֶחָד, בֵּין מִשְׁנַי
שְׁמוֹת, בֵּין מְאִשָּׁה אַחַת, בֵּין
מִשְׁתֵּי נָשִׁים.

The examples that have been provided above involve cases where the *kinim* belonging to two women have been mixed together and these *kinim* have been brought for either the same or different reasons. Recall that this *Mishnah* is dealing with *kinei stuma* – birds that have been set aside, but not yet designated which will be used for a *chatat* and which will be used for an *olah*.

The rule stated in this *Mishnah* can also apply to *kinim* belonging to one woman. The *Rosh* explains that if a woman separately allocated *kinim* for each of (or groups of) her obligatory sacrifices, whether they are for the same or different reasons then it is now equivalent to a case where *kinim* belonging to two different women got mixed together. The reason is that once a *ken* is designated on its own, as soon as one bird is offered as a *chatat* the other is automatically designated as an *olah*. This is not the case however if the woman set aside a number of *kinim* together (for example two *kinim*) for the purpose of a number of obligatory sacrifices. She can hand

the two *kinim* over to the *Kohen* and he can then designate whichever he likes as a *chatat* or *olah*.¹⁵

¹⁵ **A Dissenting Opinion**

The *Ra'avad* explains similarly. The *Razah* however argues that even if the *kinim* were separated separately by one woman they are not considered "mixed *kinim*". If a woman said, "These are for my *chovah* and these are for my *chovah*" she could equally be understood as meaning that these are for the *chatat* offerings and these are for the *olah* offerings. Consequently the *Razah* understands the *Mishnah* differently. He explains that when the *Mishnah* states "whether they are for the same or different reasons, whether they are owned by the same woman..." the *Mishnah* is actually being lenient and stating that there is no problem of a mixture of *kinim* if they all belong to one woman even if the *kinim* are for different reasons. When the *Mishnah* continues "or whether they are for two women", the *Mishnah* is then ruling stringently that when the *kinim* belonging to two women are mixed together even if they are brought for the same purpose (for example, after childbirth) the ruling as stated in our *Mishnah* still applies. He brings support for his position from the fact that the next *Mishnah* that illustrates this one, only brings examples where *kinim* of two women got mixed together.

See also the *Ken Meforeshet* who notes that the *Rambam's* comments on the *Mishnah* appear to be in line with the *Rosh*. After raising a number of difficulties based on that assumption, he develops a different reading of the *Mishnah*.

Mishnah Four

משנה ד

What does it mean by “one name”? For example if a women brought a *ken* for one childbirth and then another for another childbirth. [Alternatively] if she brought one for one case of *ziva* and another for another – this is referred to as “one name”. “Two names” implies a case, for example where she brought one after giving birth and another for being a *zava*. What is a case involving two women? For example each woman brought her *ken* after giving birth or after being a *zava* – this is referred to as “one name”. “Two names” implies a case where one woman brings a *ken* after giving birth and the other after being a *zava*.¹⁶

כִּיצַד מִשֵּׁם אֶחָד? לְדָה וְלִדָּה, זֵיבָה וְזֵיבָה מִשֵּׁם אֶחָד. מִשְׁנֵי שְׁמוֹת? לְדָה וְזֵיבָה. כִּיצַד שְׁתֵּי נָשִׁים? עַל זֹ לְדָה וְעַל זֹ לְדָה, עַל זֹ זֵיבָה וְעַל זֹ זֵיבָה – מִשֵּׁם אֶחָד. מִשְׁנֵי שְׁמוֹת? עַל זֹ לְדָה וְעַל זֹ זֵיבָה.

The diagrams provided for the previous *Mishnah* may be useful here. While in the previous *Mishnah* the example was a mixture of *kinim* belonging to two different people, they are equally applicable for the other cases listed here. Also see the explanation at the end of the previous *Mishnah* for how this rule applies to a mixture of *kinim* belonging to one person.

R' Yossi says, [if] two women purchased their *kinim* together or both gave their money together to the *Kohen*, the *Kohen* may choose which bird will be offered as a *chatat* and which bird as an *olah* – this is the case whether the women bringing sacrifices for the same or different reasons.¹⁷

רַבִּי יוֹסִי אָמַר: שְׁתֵּי נָשִׁים שִׁלְּחוּ קִנְיָהֶן בְּעֶרֶב, אוֹ שִׁנְתָּנוּ דְּמֵי קִנְיָהֶן לַכֹּהֵן לְאִיזוֹ שִׁירְצָהּ הַכֹּהֵן יִקְרִיב חֲטָאת, וְלְאִיזוֹ שִׁירְצָהּ כֹּהֵן יִקְרִיב עוֹלָה, בֵּין מִשֵּׁם אֶחָד, בֵּין מִשְׁנֵי שְׁמוֹת.

¹⁶ Only These Cases

The *Yair Kino* explains that the rule in the *Mishnah* holds true with respect to a mixture of *kinim* belonging to two women only if each of the women independently have *kinim* of one type. However if one of the women has a mixture of different types then the ruling would be different explaining the necessity of defining what is considered the same or different. See the *Yair Kino* for further explanation.

¹⁷ Does R' Yossi Maintain the Principle of *Bereirah*?

Summary of Chapter

The *Yair Kino* explains the structure of this *perek*:

1. After elaborating on the difference between a *chatat* and *olah*, the *Tana* first brings the rule of a mixture between a *chatat* and *olah*. This is the most basic rule and the foundation for all the *Mishnayot* that follow. Based on this, the *Mishnayot* adds layers of complication:
2. A *chatat* or *olah* mixed with a *ken chova* (*stuma*).
3. Multiple *kinei chova* mixed together.

The underlying rationale for the rulings in those *Mishnayot* is based on the ruling given when a *chatat* and *olah* are mixed together.

The *Gemara* (*Eiruvin* 37a) explains that it appears that *R' Yossi* maintains the principle of *bereirah* (retroactive selection). This principle allows the current status to be determined at a later time. A *korban* must be offered on behalf of the owner of the *korban*. It therefore appears that when the *korbanot* are offered, *bereirah* is being employed determining that the *korbanot* offered for *Rachel* belonged to *Rachel* at the time of purchase. The *Gemara* rejects this presumption. The reason why *R' Yossi* maintains that the two women can purchase and bring their *kinim* together is because he is referring to a case where the women pooled the funds together and at the time of purchase, agreed that the *Kohen* would be their messenger in dividing the ownership of the birds before they are offered. The *Ken Meforeshet* explains based on the *Rambam* and *Rashi* that even if the women did not explicitly stated this arrangement, it is considered as if they had. The *Yair Kino* adds when explaining the opinion of the *Ra'avad*, that each of the women contributed to the pooled funds unsanctified money with the intention that they be used either for their own sacrifice or their friend's. The *Kohen* then divided the birds in their presence and the women were *mochel* (gave up) their share in the birds that would be offered for their friend. (See the *Yair Kino* inside for a full explanation of the *halachic* principles on which this ruling is based such that *bereirah* is not required.)

The *Yair Kino* adds that from the wording of our *Mishnah* it is clear that *R' Yossi* does not maintain the principle of *bereirah*. The *Mishnah* in *Shekalim* (6:5) lists the money chests in the *Beit Ha'Mikdash* for people to contribute funds for the offering of *korbanot*. According to *R' Yehuda* there was no chest for *kinei chovah* since he does not agree with the principle of *bereirah* (*Yoma* 55). The *Bartenura* explains that according to *R' Yehuda* one wishing to offer a *ken chovah* would need to give the funds to the *Kohen* (*gizbar* – treasurer) directly rather than placing them in a chest. This being the case we understand why *R' Yossi* specifically stated “or both gave their money to the Kohen” without any mention of a collection chest.

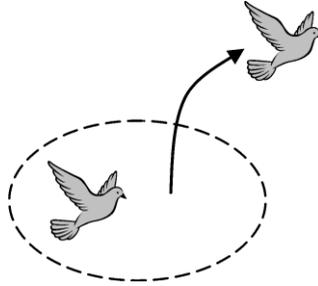
Chapter Two
פרק ב'

Masechet Kinim

Mishnah One
משנה א'

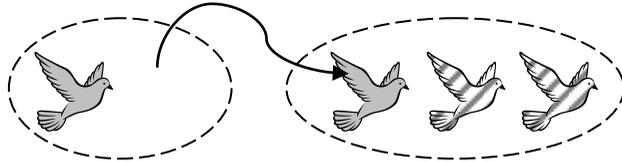
If a bird flew away from a *ken stuma*

קן סְתוּמָה שֶׁפָּרַח מִמֶּנָּה גּוֹזֵל
לְאֵוִיר



Or if one of the birds flew away and [got mixed up] among other birds that are being left to die...¹⁸

או שֶׁפָּרַח בֵּין הַמֵּתוֹת,



¹⁸ Birds "Left to Die"

The *Bartenura* explains that the group of "birds left to die" refer to those that have been given that ruling mentioned in the previous *perek*, for example, a mixture of a *chatat* and *olah*. The *Rosh* however explains that this group refers to one of the five *chatat metot* (see *Temurah* 4:1), for example a *chatat* whose owner passed away. The *Yair Kino* notes that whether the ruling of the *chatat metot* applies to birds is actually a subject of debate. He cites the opinion of the *R' Yaakov* of Orleans that disagrees with the *Rosh* maintaining that it does not apply.

Or if one of the birds died...

או שמת אחד מהן



One should purchase a partner for the remaining bird.

קח זוג לשיני.



In other words, another bird may be purchased to partner with the remaining bird to form a complete *ken stuma*.¹⁹

¹⁹ Does this rule only apply to a *ken stumah*?

The *Bartenura* explains that this is also true when dealing with a *ken meforeshet* where the birds have already been designated as a *chatat* and *olah*. For example, if the *chatat* died, another bird could be purchased to partner with the remaining *olah*. The *Mishnah* needed to teach this rule in connection to a *ken stumah*, as one might think that the remaining bird should be left to die. The *Tifferet Yisrael* elaborates that in a *ken stumah* each bird could potentially be a *chatat* or *olah*. It is only once one is offered as the *chatat* that the remainder becomes an *olah*. Had the *Mishnah* not taught us otherwise, one might have thought that in the case where one of the birds died, the remainder would be considered a mixture of a *chatat* and *olah* and must be left to die.

The *Tosfot Yom Tov* provides a different explanation why the *Mishnah* referred only to a *ken stumah* based on *Tosfot (Nazir 12)*. If one of the birds from a *ken meforeshet* flew away, one would not be able to purchase a second bird to partner the remainder unless he knew exactly which bird, the *chatat* or *olah* flew away; otherwise we would not know how to offer the remaining bird. Since the author of the *Mishnah* would have been required to add this detail he did not include this case.

The *Ken Meforeshet* maintains there is a difference between a *ken stuma* and *meforeshet* in the case where one bird flew away. If the bird that flew from a *ken stuma* was eventually found it is considered *chulin* (unsanctified). This however

If however the bird flew away and mixed with other bird sacrifices: it is invalid and causes and one of the birds from where it left to be invalid. For a bird that flies is [only]²⁰ invalid and [therefore] causes one of the birds from where it left to be invalid.

פָּרַח לְבֵין הַקְּרִבּוֹת פְּסוּל,
וּפְסוּל אֶחָד כְּנָגְדוֹ, שֶׁהִגְזִיל
הַפּוֹרֵחַ פְּסוּל, וּפְסוּל אֶחָד
כְּנָגְדוֹ.

This rule is explained fully in the next *Mishnah*.

would not be the case regarding a bird that flew from a *ken meforeshet*; the designation cannot be reverted. One support for this position is from *Gemara Nazir* (12a). If someone sent a messenger to betroth a woman for him, we assume the messenger carried out the instruction. The sender is then forbidden to marry all women out of concern that she is related to the women the *shaliach* betrothed. The *Gemara* then cites our *Mishnah*. If a bird flew for a *ken meforeshet* and we do not know which one, the remaining bird is left die. Based on the earlier reasoning, all birds should be unfit for use as offerings since they may be the bird that escaped. The *Gemara* explains that the principle that the minority is annulled in the majority can apply to birds, since they have no fixed location. The *Ken Meforeshet* notes that the *Gemara's* question was focused on a *ken meforeshet* and not on a *ken stuma*. This supports his position that a bird from a *ken stuma* that is later found is *chulin*. See the *Ken Meforeshet* who discusses this position at length.

²⁰ **Repetition?**

The *Tifferet Yisrael* explains that the *Mishnah* is not repeating itself, but rather explaining that since the bird that flew away and mixed with other bird sacrifices is only considered invalid and did not die, for this reason it causes one of the birds from its original collection to be invalid. (The reason for this is explained in the next *Mishnah*.) If however that bird did not mix with others, but rather died, all the remaining birds could be offered.

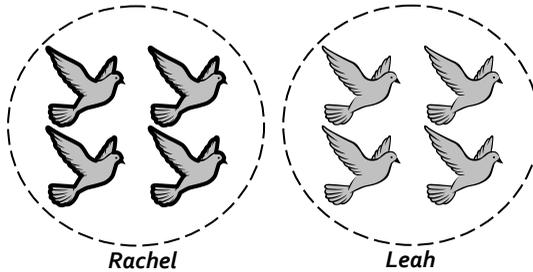
Masechet Kinim

Mishnah Two משנה ב'

How [is the law described in the previous *Mishnah* implemented]? Two women, each with two *kinim*...

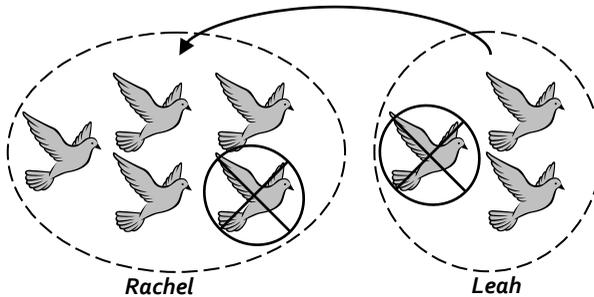
פִּיצָד? שְׁתֵּי נָשִׁים, לְזוֹ שְׁתֵּי קָנִים וְלְזוֹ שְׁתֵּי קָנִים

To help identify how the mixtures develop, *Rachel's* birds will be marked with a thick border.



If [a bird] flew from one to the other, it causes one [of the birds at its original location] to become invalid.

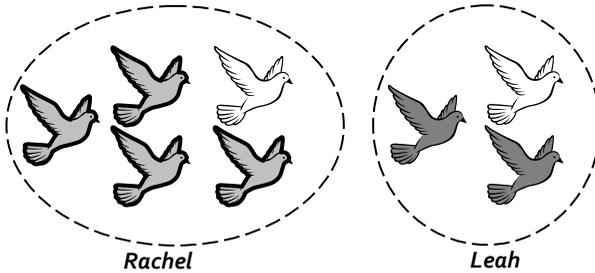
פָּרַח מִזּוֹ לְזוֹ פּוֹסֵל אֶחָד פְּהַלִּיכְתּוּ.



One bird from *Rachel's* is invalid and one bird from *Leah's* collection is invalid. In other words two *olah* offerings and two *chatat* offerings may be offered from *Rachel's* collection and one *chatat* and one *olah* may be offered from *Leah's*. There are two approaches to explain this rule (the *Rosh* uses both).

Starting with Leah – The Approach of the Mefarash

If *Leah* would offer all three, offering the third is a *chatat*, the following scenario would occur:

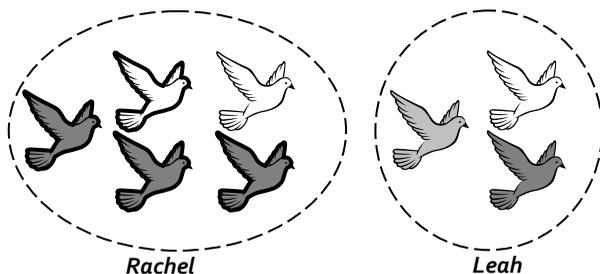


In other words the bird that got mixed up in *Rachel's* collection would be defined as an *olah* and the case would be similar to the *Mishnah* above (1:2) where only two *olah* offerings from *Rachel's* collection could be offered, resulting in *Rachel* also losing out on two *chatat* offerings (*Bartenura's* first explanation).

This situation would invalidate a total three birds from being offered as opposed to two and we ideally wish to reduce the number of sacrifices that will be left to die (*Rosh*). Also, it does not make sense that *Rachel* should lose out on the ability to offer as many birds as possible due to *Leah's* negligence in not guarding her birds properly (*Tifferet Yisrael*).

If *Leah* however only offers two birds *Rachel* may now offer two *olah* offerings and two *chatat* offerings.

The fifth bird however may not be offered as, for example a *chatat*, in case all three *chatat* offerings come from *Rachel's* birds when only two may be offered (*Bartenura*) as shown below:



According to this explanation, when the previous *Mishnah* states that if a bird flies from one collection to the other "it is invalid and it invalidates another [in the collection from which it came]", it does not mean that that bird that flew away is itself invalid; that bird is now part of the mixture of five and cannot be identified. Instead it means that one of the birds in the mixture of five cannot be offered. The *Rosh* explains that the expression "it is invalid" is used because that bird prevented one bird in the mixture from being offered and prevented the owner from satisfying his obligation of bring a bird offering.²¹

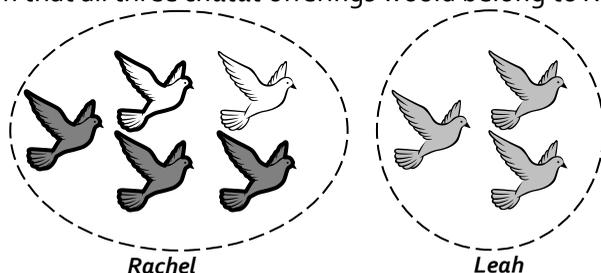
²¹ The "Invalid" Bird

The *Tifferet Yisrael* provides a different approach. According to the above explanation both *Rachel* and *Leah* would be required to bring another *ken*, each bird offered for the one who requires it, with *Rachel* only paying for half of one of the birds. This is because *Leah* must definitely bring one bird, while it is doubtful to whom the unoffered bird from the mixture of five belongs.

The *Tifferet Yisrael* however argues that *Rachel* can tell *Leah* that the mix up was due to *Leah's* negligence and the burden of proof is on her to demonstrate that it was *Leah's* bird that was one of the four that were offered. Therefore it is considered as if it was indeed *Leah's* bird that flew into the mixture that is invalid. He adds that even though one might argue that it is still possible that it was indeed *Leah's* bird that was offered, one can answer that the *Chachamim* placed a fine (*knas*) on *Leah* for not properly guarding her birds and used their power to dissolve ownership of that bird (if it was indeed hers) giving it to *Rachel*.

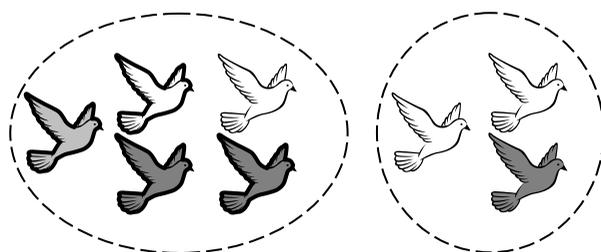
Starting with Rachel – The Approach of the Razah

Based on the earlier explanation, it should be clear that *Rachel* could not offer all five, for example three *chatat* offerings and two *olah* offerings, out of the concern that all three *chatat* offerings would belong to *Rachel*.



This explains why one of *Rachel's* cannot be offered.

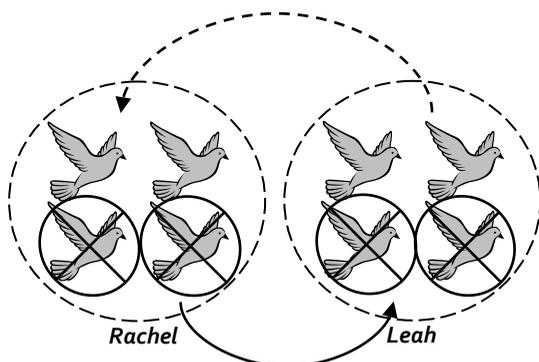
Now if *Rachel* only offered two *olah* offerings and two *chatat* offerings, then *Leah* would only be able to offer a *chatat* and *olah*. This is because it is possible that one of the already offered sacrifices was hers. For example, it is possible that one of the offered *olah* offerings belong to *Leah*. If *Leah* then proceeded to offer two *olah* offerings and one *chatat*, three of her bird will have been offered as *olah* offerings (*Bartenura's* second explanation according to the *Magid Mishnah*):



It is also equally likely that one of the birds offered as *chatat* belonged to *Leah*. Consequently, *Leah's* the third bird could not be offered as a *chatat* or *olah*, explaining why one of *Leah's* birds may not be offered.

If [a bird] returns, it causes one [bird at its starting point] to become invalid.

חֵזֶר פּוֹסֵל אֶחָד בְּחֵזִירָתוֹ.



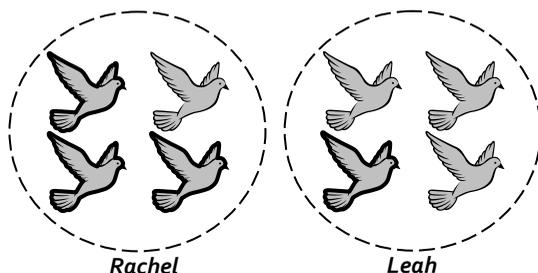
Two birds in each group may not be offered. *Rachel* and *Leah* can now only offer one *olah* or *chatat* each. To explain, it is quite possible²² that the bird that has now flown to *Leah's* group was not the bird that originally flew away.

²² Possibility or Certainty

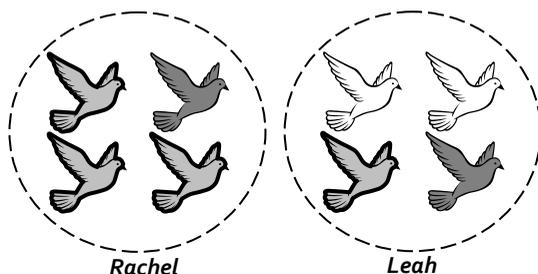
The *Yair Kino* comments that while the *Rosh* describes the above scenario as a possibility, based on the principles of “whatever is removed from a mixture is assumed to be from the majority”, the scenario must be assumed. (See the *Yair Kino* at length to see how he explains how this principle can be applied despite the mixture being considered “fixed” which normally negates the use of the principle.)

The *Ken Meforeshet* explains that the *Mishnah* needed to teach this case of a bird flying back explicitly. Since we know from the first flight that one of the birds is predisposed to flying away, one might of thought that it can be assumed that it was that bird that returned. The *Mishnah* therefore teaches that one cannot make that assumption.

The following would be the result.



If *Leah* offered more than one *olah*, *Rachel* would not be able to offer an *olah*, as it is possible that she would mistakenly offer *Leah's chatat* that was allocated as such when *Leah* offered her *olah* offerings. (*Bartenura*).²³



²³ **Another Solution**

Previously it was explained that according to the *Rosh* we prevented *Leah* from offering all three sacrifices since it would increase the number of sacrifices left to die. The *Yair Kino* asks that if so, what would stop *Rachel* from offering all the sacrifices in this case, since four sacrifices will still be offered?

The *Yair Kino* explains, that the *Rosh* understands that the *Chachimim* made a *gezeirah* (decree) that whenever a bird flies from one group to another it always invalidates one bird from its departure point and one at its destination (see the next *Mishnah*). The *Yair Kino* however disagrees with the *Rosh* and explains that the reason for the even split is because the *Chachimim* instituted a fine (*knas*) on each of the parties for not properly guarding their birds.

If [the birds] continue to fly back and forth [between the groups], no [more birds] are lost – for even if the two groups got mixed together no less than two *kinim* [would be valid].

פָּרַח וְחָזַר, פָּרַח וְחָזַר לֹא
הַפְּסִיד כָּלוּם, שֶׁאֶפִּילוּ הֵן
מֵעוֹרְבוֹת, אֵין פְּחוֹת מִשְׁתֵּים.

If the birds keep flying from one group the other we effectively have a mixture of four *kinim* belonging to two people and, as described in the earlier *Mishnah* (1:3), half are valid and the other half are invalid.

Masechet Kinim

Mishnah Two (*Ra'avad*)

משנה ב' – לפי הראב"ד

The previous explanation assumes that the birds have not been offered and the *Kohen* is seeking guidance as to how to proceed with these mixtures. According to most opinions this is the theme until we reach the third chapter.

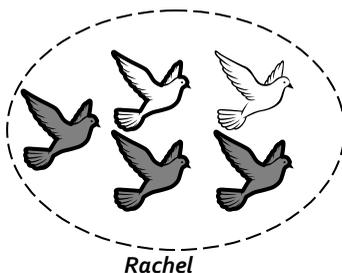
The *Ra'avad* however explains that the case presented in this *Mishnah* refers to where the *Kohen* has already offered the sacrifices without any consultation. The following is brief explanation of his position.

How [is the law described in the previous *Mishnah* implemented]? Two women, each with two *kinim*, if [a bird] flew from one to the other, it causes one [of the birds at its original location] to become invalid.

כיצד? שתי נשים, לזו שתי קנים ולזו שתי קנים, פרח מזו לזו פוסל אחד בהליכתו.

Rachel's Collection

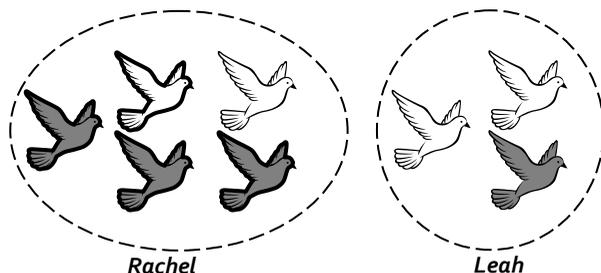
To explain, if all five birds are offered, for example, as two *olah* offerings and three *chatat* offerings then *Rachel* would still need to bring another *olah* out of concern that it was *Leah's* bird that was offered as the *olah*. Put differently, one *chatat* would be invalid out of concern that all three *chatat* offerings belonged to *Rachel* as follows:



A similar concern would exist if three *olah* offerings and two *chatat* offerings were offered.

Leah's Collection

If, for example, *Leah* offered two *olah* offerings and one *chatat* then she would still need to bring another *chatat* as it is not known how her missing bird was offered and it is possible that it was offered as an *olah* as follows.

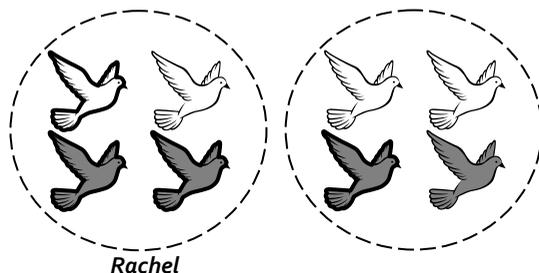


A similar concern would exist if one *olah* and two *chatat* offerings were offered from *Leah's* collection.

חֵזֶר – פּוֹסֵל אֶחָד בְּחִזְרָתוֹ.
 If [a bird] returns, it causes one [bird at its starting point] to become invalid.

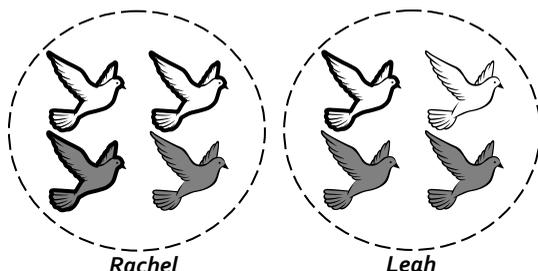
In this case, if both *Rachel* and *Leah* offer two *olah* offerings and two *chatat* offerings each would still need to bring another *chatat* and *olah* due to the following two possibilities.

Possibility 1



According to this possibility *Rachel* would be required to bring another *olah* and *Leah* would be required to bring *chatat*.

Possibility 2



This possibility is equally likely and *Rachel* would be required to bring another *chatat* while *Leah* would be required to bring another *olah*.

Combining the two possibilities only two birds from each group can be considered valid with certainty.

If [the birds] continue to fly back and forth [between the groups], no [more birds] are lost – for even if the two groups got mixed together no less than two *kinim* [would be valid].

פָּרַח וְחָזַר, פָּרַח וְחָזַר לֹא
הַפְסִיד בְּלוֹם, שְׁאַפְּלוּ הֵן
מְעוֹרְבוֹת, אֵין פְּחוֹת מִשְׁתֵּיִם.

The reason why no more birds are invalid is because even if all the *kinim* were mixed together and offered, a total of four birds would be valid and four invalid. For example, if all of *Rachel's* birds were offered as *olah* offerings and all of *Leah's* birds were offered as *chatat* offerings.²⁴

²⁴ A Difficulty

The *Ra'avad* does anticipate the question that further flights between the mixtures does create more problems. In the first case, where a bird flew back and all the birds were then offered, the situation is resolved by both *Rachel* and *Leah* bringing one *ken* together as it is not clear who must bring the *chatat* and who must bring the *olah*, but it is clear that each of them together did offer at least a valid *chatat* and *olah*.

In the case of additional flights back and forth, they would need to bring two *kinim* together. Even though two birds are valid for each woman it is nonetheless unclear which birds. To explain, as a result of further mixing, it is possible that all of *Rachel's* birds were offered as *chatat* offerings or all as *olah* offering. The *Ra'avad* answers that even though the resolution is indeed further complicated, resolution is not the subject of the *Mishnah*.

Masechet Kinim

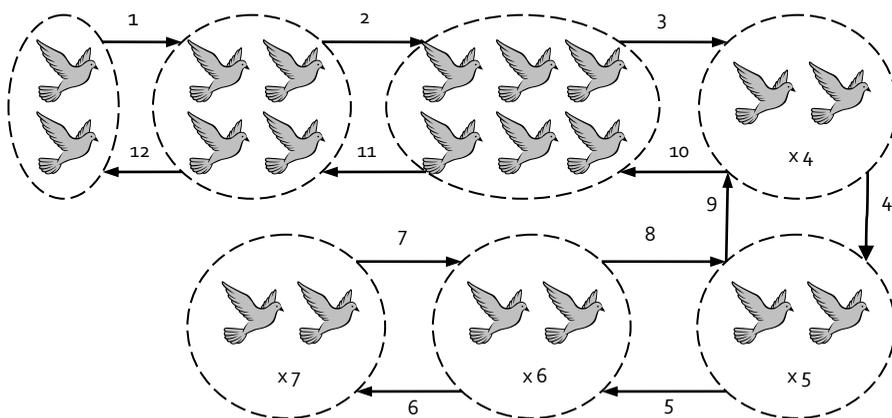
Mishnah Three

משנה ג'

If one [woman] had one *ken*, another had two, another three; another four, another five, another six and another had seven. A bird from the first [group] flew to the second [group]; a bird from the second [group] flew to the third; third to the fourth, fourth to five, fifth to the sixth, sixth to the seventh and back

לְזוֹ אַחַת, וְלְזוֹ שְׁתַּיִם, וְלְזוֹ
שְׁלֹשׁ, וְלְזוֹ אַרְבַּע, וְלְזוֹ חֲמִשׁ,
וְלְזוֹ שֵׁשׁ, וְלְזוֹ שִׁבְעָה; פָּרַח מִן
הָרֵאשׁוֹנָה לְשֵׁנִיָּה, לְשִׁלִּישִׁית,
לְרִבִּיעִית, לְחֲמִישִׁית,
לְשִׁשִּׁית, לְשִׁבְעִית, וְחָזַר

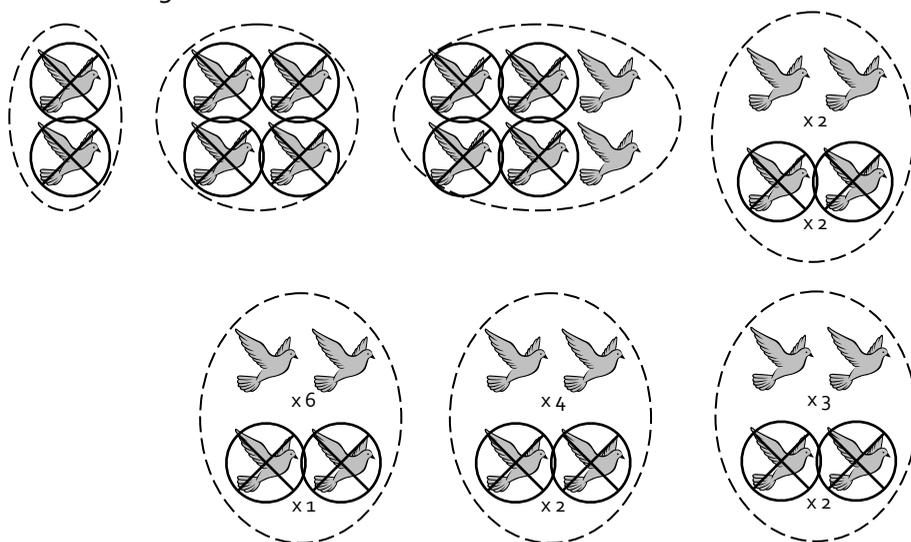
The following is the mix up in order of events



[Each bird] causes another bird to become invalid as they flew away and one when they returned. The first and second person has no [valid birds] left; the third person has one valid ken; the fourth has two; the fifth has three; the sixth has four and the seventh has six.

פוֹסֵל אֶחָד בְּהֵלִיכְתּוֹ, וְאֶחָד
בְּחִזְרָתוֹ; הָרִאשׁוֹנָה וְהַשֵּׁנִיָּה
– אֵין לָהֶם כָּלוּם. הַשְּׁלִישִׁית
יֵשׁ לָהּ אַחַת, הָרְבִיעִית יֵשׁ לָהּ
שְׁתֵּי, הַחֲמִישִׁית יֵשׁ לָהּ
שְׁלֹשׁ, הַשְּׁשִׁית יֵשׁ לָהּ אַרְבַּע,
וְהַשְּׁבִיעִית יֵשׁ לָהּ שֵׁשׁ.

The following is the final result:



For each flight a bird makes, two birds become invalid - one at the departure point and one at the destination (as described in the previous *Mishnah*). To explain further we shall use the group of three *kinim* (six birds) as an example. At this stage it is possible that the collection contains two “foreign” birds. This also means that one “native” bird could be mixed with the collection of two *kinim* and another is in another collection. It could, for example, be in the collection of four *kinim*.

Starting with the Neighbouring Kinim

If both of the native birds were offered as part of the other neighbouring collections then this would invalidate two *kinim* from being offered. This is due to the concern that perhaps, for example, those birds were offered as *chatat* offerings, and there is a chance that three of the remaining native birds will also be offered as *chatat* offerings. This would be a problem since only three *chatat* offerings and three *olah* offerings may be offered from that original group. (The native birds for this example are marked with a thicker border.)



Starting with the "Home" Ken

There is a similar concern if three *chatat* offerings from the collection of three *kinim* were offered first. If that collection included two foreign birds and three of the native birds were offered as *chatat* offerings, it would fix the remaining native birds mixed in the other collections as *olah* offerings. This would then be the problem of an *olah* mixed with *kinei chova*, and would prohibit any *chatat* offerings from being offered from the neighbouring mixtures.



By extension, even if only two of the native birds were used as *chatat* offerings, it could still prohibit all the birds from one of the other collections as being offered as *chatat* offerings. One such case would be if one of native birds mixed in the collection of two *kinim* was also offered as a *chatat*. It would mean that the remaining bird would be designated as an *olah*, and the collection of four *kinim* have the problem of an *olah* mixed with *kinei chova*.



This same logic can be applied to all the collections. In each case, since two of the native birds may be mixed with two other collections, this invalidates two *kinim* from being offered.

While this logic works well for all the collections of four birds and above, the *Rishonim* question the case of three birds described in the example above. Recall that the rule is based on the concern that the native bird will be offered as part of another collection. For each native bird that could be offered elsewhere one *ken* is made invalid. The problem with the above case is that according to the final ruling no birds can be offered for the collection of two *kinim*. This should certainly allay the concern about how one of the potential stray birds from the collection of three *kinim* might be offered. So why is more than one *ken* in the collection of three invalid?

The *Bartenura* answers that since in all the other collections that had a bird enter and leave twice (thereby excluding the collection of seven) two *kinim* are invalid, the *Chachamim* instituted a decree so that the same law applied to the collection of three.²⁵

²⁵ **Understanding the Gezeira**

The *Rosh* explains that the *Chachamim* were concerned that people might be confused with the law and invalidate only one *ken* from the other collections having seen only one *ken* was made invalid in the collection of three.

Alternatively the *Razah* explains that the *gezeira* was not related to other collections, but rather the collection of three itself. He explains that since one *ken* was made invalid due to the bird that flew towards the collections above it, a *gezeira* was made

If [the birds] flew and returned [again in the same manner].

פֶּרַח וְחֵזֶר

relating to the bird that flew towards the collections below making it as if it had been offered.

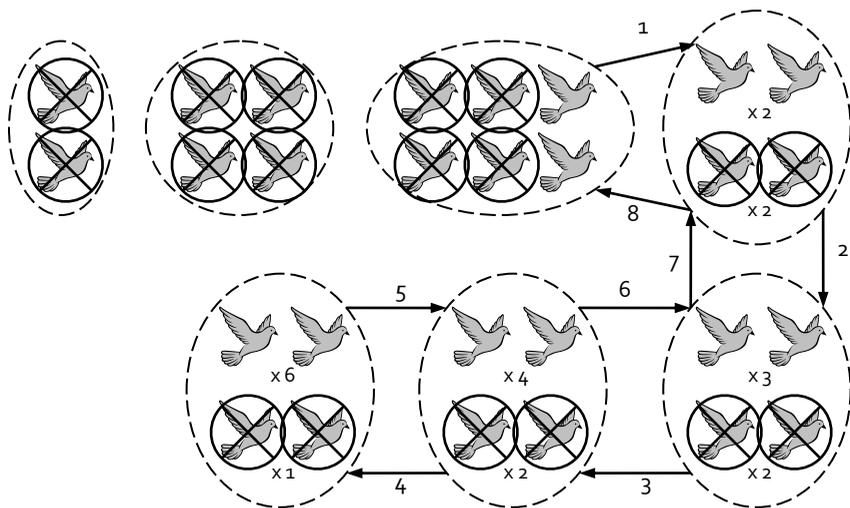
The *Ken Meforeshet* notes that the *Gemara* (*Yoma* 65b) finds it difficult that animals should be left to die due to a *gezeira*. He however explains in his first answer that that case involves animal offerings that can be left until they develop a blemish and then be redeemed. Bird offerings do not have the option as an alternative.

The *Tifferet Yisrael* explains differently that there is no need for the *gezeira*. Even though it is true that the *Chachamim* ruled that all the birds from the collection of two *kinim* should not be offered, if they were offered the offering would be valid. Consequently, the extra *ken* may not be offered out of a concern that the birds from the second *ken* might nonetheless be offered.

The *Yair Kino* also has a difficulty accepting the explanation that the *Chachamim* instituted a *gezeirah*. Instead he explains that just prior to the last movement (number 12), when the second collection had five birds, it was still able to offer a *ken*. Consequently at that moment the concern exists that the native bird of the third collection would be offered. Therefore at that moment two *kinim* from the third collection are deemed invalid. He argues that it does not matter that after the last movement no more birds can be offered from the second collection because once the birds have been made invalid that status is fixed and cannot be reverted. (Note: based on other questions, the *Yair Kino* provides a different explanation of our *Mishnah*.)

The *Ken Meforeshet* however does not accept this suggestion since it relates to a broader debate of whether animals are *nidchin* – whether an animal being temporarily rejected makes them invalid for use. Based on *Gemara Zevachim* (59b), the *Ken Meforeshet* explains that our *Tana* maintains that animals are not *nidchin*.

Masechet Kinim



The above diagram indicates that the second round of mixing begins from the collection of three *kinim* and not from the beginning.

The *Bartenura* explains that the entire collection of two *kinim* has been given the ruling that they must be left to die. Consequently they have the status of *metot*. This being the case had one of the birds mixed with any other collection they would all need to be left to die (as described at the end of the *Mishnah*).²⁶

²⁶ The Position of the *Bartenura*

The *Ken Meforeshet* raises two difficulties. If the *Bartenura* considers the first two *kinim* as equivalent to *chatat metot* then why is this case not listed in the list of the five *chatat metot* (e.g. *Temura* 4:1). Furthermore *R' Shimon* in *Gemara Zevachim* (74a) explains that *Avoda Zara* that mixes with a thousand, then one from the mixture mixes with three and then one separates, that one is permitted. If regarding *Avoda Zara* that which separated from the mixture is permitted, how can we maintain that if the second flight involved birds from the collection of one and two *kinim* that they are left to die? The *Ken Meforeshet* deals with this issue at length and answers that the *Bartenura* must understand that this *Mishnah* is like the opinion of *R' Yehuda* that disagrees with *R' Shimon* in *Gemara Zevachim*. Also the reason why this case is not listed with the five *chatat metot* is because those are invalid even *bedieved*. If the entire mixture in our case were offered a proportion would be valid.

The *Rosh* disagrees. He explains that those birds are not defined as *chatat metot* – they are not truly invalid. The only reason that they cannot be offered is due to a doubt. Consequently any further mixtures involving these birds would be considered a *sfeik sfeika* (double-doubt).²⁷

²⁷ **The Position of the Rosh**

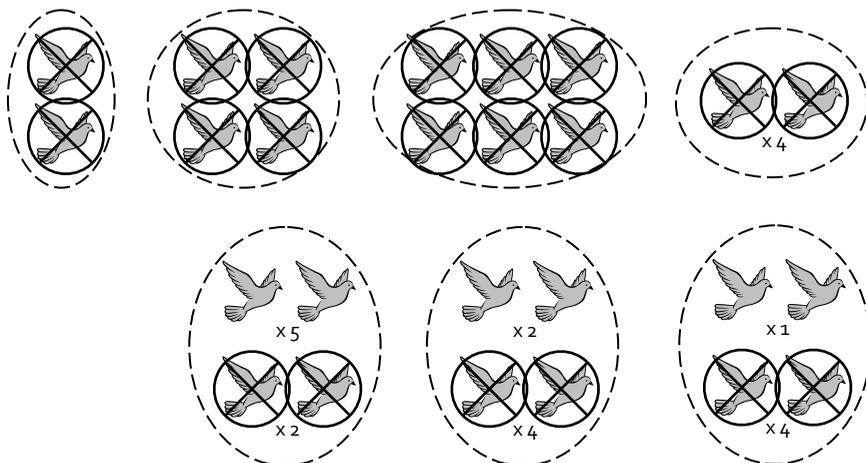
According to one version of the *Rosh*, he agrees that the first set of birds could not be included in the second mixing. If it was, then there is a concern that both these birds will be mixed in another collection. If that is the case then no more than a *chatat* and *olah* can be offered from any of the collections out of concern that both the birds from the original collection of one *ken* will be offered as a *chatat* offerings or *olah* offerings. (The *Razah* also brings this argument.)

According to the version of the *Rosh* printed in the *Gemara*, he argues that the second mixing could even include a bird from the first collection. The *Yair Kino* explains that the reason why we are not concerned that both birds would be mixed together in one collection is because it constitutes a *sfeik sfeika* – a double doubt. The first doubt is if both birds are mixed in the same collection. The second doubt is that even if they were, they might not be the birds that end up being offered from that collection (since some are not offered). The *Yair Kino* explains that even though with respect to *kodshim* (sacrifices) we usually rule strictly even in the case of a *sfeik sfeika*, this is only if there is an initial *chezkat issur* – there has already been an established *issur*. For example, in the case of a *sfeik sfeika* involving a *chatat metah*, the case would be prohibited. Here however there is no *chezkat issur* and since the likelihood is a *sfeik sfeika* we are not concerned about this outcome.

[Each bird] causes another bird to become invalid as they flew away and one when they returned. The third and fourth [women] have no [valid birds] left; the fifth has one; the sixth has two and the seventh has five.

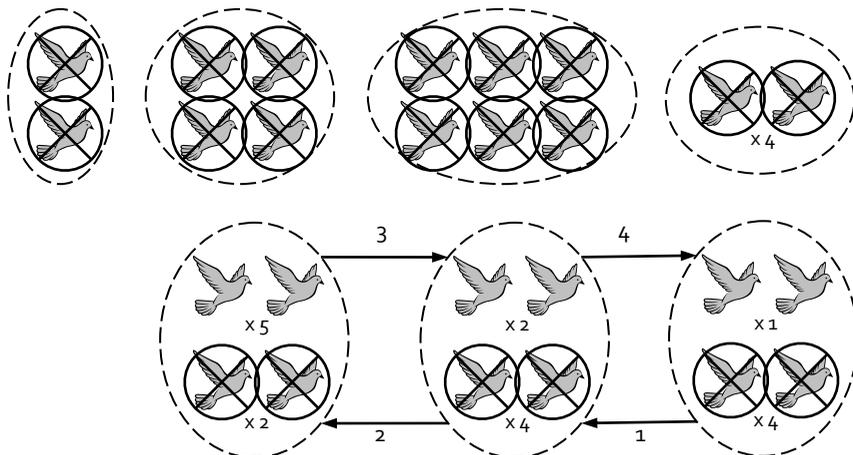
פוסל אֶחָד בְּהִלְכָתוֹ, וְאֶחָד
בְּחִזְרָתוֹ; הַשְּׁלִישִׁית
וְהָרְבִיעִית, אֵין לָהֶם כְּלוּם,
הַחֲמִישִׁית יֵשׁ לָהּ אַחַת,
הַשְּׁשִׁית יֵשׁ לָהּ שְׁתַּיִם,
הַשְּׁבִיעִית יֵשׁ לָהּ חֲמִשָּׁה.

Once again with every flight one bird at the source and one at the destination are deemed invalid. The following is the result:



If [the birds] flew and returned [again in the same manner].

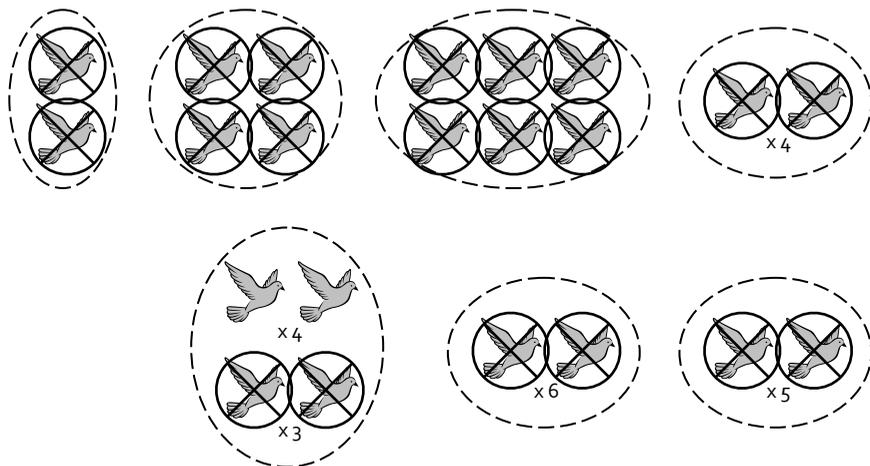
פָּרַח וְחָזַר



[Each bird] causes another bird to become invalid as they flew away and one when they returned. The fifth and sixth [women] have no [valid birds] left; the seventh has four.

פּוֹסֵל אֶחָד בְּהֵלִיכְתּוֹ, וְאֶחָד בְּחִזְרָתּוֹ; הַחֲמִישִׁית וְהַשִּׁשִּׁית, אֵין לָהֶם כְּלוּם, הַשְּׁבִיעִית יֵשׁ לָהּ אַרְבַּע.

Following the pattern once again:



Some say [that in this last stage] the seventh **אִישׁ אֹמְרִים: הַשְּׁבִיעִית לֹא**
 [woman] does not lose any [more²⁸ birds]. **הַפְּסִידָה כְּלוּם.**

This second opinion in the *Mishnah* maintains that in the third and final movement, since all the remaining *kinim* are invalid, it would not matter whether the bird that just flew in was offered as a *chatat* or *olah*. The first opinion however understands that the *Chachamim* made *gezeira* such that with every flight two birds are made *pasul* (*Bartenura*). The concern here is if no additional birds are made invalid, then one might think that in the previous cases no more birds are invalid in the seventh collection (*Razah*). The second opinion however disagrees with this *gezeira*.²⁹

²⁸ **“Does not lose any more birds”**

The commentaries explain that the *Mishnah* does not mean that this second opinion maintains that all the birds in the collection of seven are now valid. The *Tifferet Yisrael* explains that since two *kinim* have already been deemed invalid their status is fixed and cannot be changed. Interestingly, the *Ken Meforeshet* cites the *Gra* that understands that this position maintains that the seventh woman can bring all seven *kinim*.

²⁹ **Why not make a *gezeirah*?**

It was explained above (see footnote 25) that even if there is no concern that the native bird will be offered elsewhere, nonetheless a bird is made invalid nonetheless due to a *gezeirah*. Presumably the second opinion in this *Mishnah* agrees in that case, as the *Mishnah* does not indicate otherwise. Why does he feel there is no reason for the *gezeirah* here? The *Razah* explains that within one round of mixing, when there can be confusion regarding the law that applies to each of the collections, there is a reason to make a *gezeirah*. In this instance however, the only reason would be the potential for confusion between the different rounds of mixing and not the law as it applies to the collections in this case. Consequently this opinion maintains that there is no reason for the *gezeirah*.

If a bird flew from birds that are to be left to die into all the *kinim*, all the *kinim* must be left to die. **וְאִם פָּרַח מִבֵּינֵי הַמֵּתוֹת לְכָלֶם – הָרִי כָּלֶם יָמוּתוּ.**

As mentioned earlier, the *Rosh* maintains that this refers to those birds that have been given a definite status of being left to die (“the five *chatat metot*”) and not those that are left to die due to a doubt.

Masechet Kinim

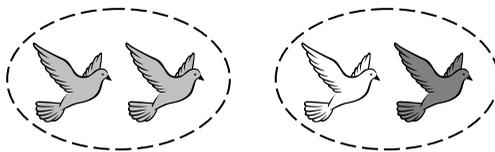
Mishnah Four

משנה ד'

A *ken stuma* and a *ken meforeshet*

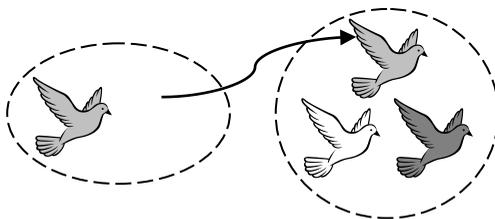
קן סְתוּמָה, וְקן מְפֹרֶשֶׁת

Recall that a *ken meforeshet* is a *ken* where one has explicitly stated which bird will be used for the *olah* and which bird will be used for the *chatat* and a *ken stuma* is where the birds have not been designated.



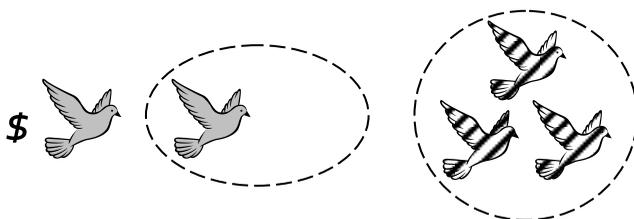
[A bird] flew from the [*ken*] *stuma* to the [*ken*] *meforeshet*...

פָּרַח מִן הַסְתוּמָה לְמִפְרֶשֶׁת



One must purchase a [another bird to] pair with the second [the remaining bird from the *ken stuma*].

יִקַּח זֶוֶג לְשֵׁנִי



The mixture of three birds must now left to die³⁰. Nevertheless another bird may be purchased to pair up with the remaining bird from the original *ken stuma*.³¹

³⁰ **Mixed**

The above explanation follows the opinion of the *Rosh* that initially it was identifiable which bird was the *chatat* and which bird was the *olah*. It was only once the foreign bird mixed in, that the identities of the birds were confused. The *Bartenura* however understands that the identities of the birds were confused from the outset.

The *Yair Kino*, when explaining the *Rosh*, suggests that perhaps the dove-cote was circular with three compartments with the *chatat* to the right of the empty space and the *olah* to the left as shown:



The birds' identities were known as a result of their orientation compared to the empty space. However if a foreign bird filled that space, then the identities of the birds would no longer be clear. Another suggestion is that they might have been in the same compartment and again their identity known by their location. Yet once a foreign bird flew in, it could have caused all the birds to move about thereby making the identity of all the birds unknown.

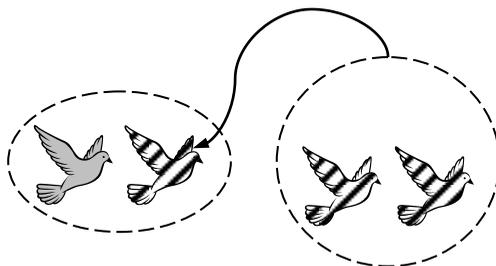
³¹ **Novelty of this Mishnah**

The *Yair Kino* explains that even though it appears that we learnt this law earlier (2:1) the *Mishnah* is teaching a new idea. One might have thought that unlike previously, here the *ken meforeshet* was fit to be offered prior to the mixing. Consequently, we may have thought that the rule should be like the previous *Mishnah* where as a result of the flight of the bird, another bird is made invalid at its point of departure. The reason for this assumption would be that the *Chachamim* might have made a blanket rule (*lo plug*) regarding a bird that flies into a mixture of birds that are fit to be offered. The *Mishnah* therefore teaches that the remaining bird is still valid and one need only purchase one bird to be offered with it.

Alternatively, the next *Mishnah* teaches that if a bird from a *ken stumah* is mixed with an *olah* it is defined as an *olah*. Likewise if it is mixed with a *chatat* it becomes a *chatat*. We might have thought that in this case, since this bird might have mixed with the *chatat* or *olah* first, it would establish the remaining bird as an *olah* or *chatat* respectively. Since we would be unsure which bird it mixed with first, we might have thought that the remaining bird should also be left to die. The *Mishnah* therefore teaches that this is not the case.

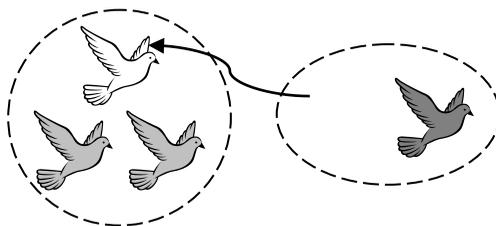
[If one of the birds from the mixture of three birds] returned [to the remaining bird from the *ken stuma*.]³²

תזר



Or [if originally] one of the birds from the *ken meforeshet* flew to the *ken stuma* [yet one is unsure whether it was the *olah* or *chatat*]

או שפרח מן המפרשת ראשון



Importantly in this case we are not sure if the *olah* flew into the *ken stuma* (as in the diagram) or the *chatat*.

³² "It returned"

The translation follows the explanation of the *Tifferet Yisrael* that a bird from the mixture returned to the lone remaining bird from the original *ken stumah*. The *Rosh* however writes that the bird returned to the "first *ken*". The *Yair Kino* asks that if there is only one bird remaining it should not be referred to as a *ken*. He answers that perhaps the *Rosh* understands that the *Mishnah* means that the bird returns after the replacement bird has already been purchased. The *Mishnah* is then teaching that even though this bird is in the minority, all of the birds must still be left to die.

All the birds must be left to die.³³

הָרִי כֵּלָן יָמוּתוּ.

³³ **Novelty of this Mishnah (2)**

The *Yair Kino* explains that these last two cases where a bird flew from the mixture or from a *ken meforeshet* and is mixed with a *ken stumah* also teaches a new law. We might have thought that in both cases one should be able to offer a *chatat* and *olah* from this mixture due to a *sfeik sfeika* – double doubt. Firstly the bird offered might not be the foreign bird. Secondly, even if it is, maybe we are offering it correctly. The *Mishnah* is teaching that when it comes to sacrifices, we are not lenient in the case of a *sfeik sfeika*. (See also footnote 27.)

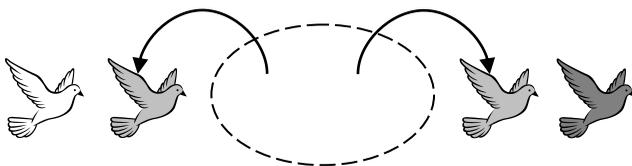
Mishnah Five

משנה ה

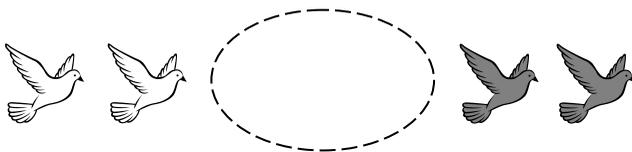
If on one side there is a *chatat* and to the other side an *olah* and in the middle a [ken] *stuma*...
 חֲטָאֵת מִכָּאן, וְעוֹלָה מִכָּאן, וְסִתוּמָה בְּאֶמְצַע



And [the birds] from the centre each flew to the sides, one to one side and one to the other side.
 פָּרַח מִן הָאֶמְצַע לְצַדָּדִין, אֶחָד הַיָּלָף וְאֶחָד הַיָּלָף



One has not lost anything, rather the *Kohen* can say (in order to designate): "the one that flew towards the *chatat* offerings [shall be] a *chatat* and the one that flew to the *olah* offerings [shall be] an *olah*".
 לֹא הִפְסִיד כָּלוּם – אֵלֶּא יֹאמֵר: זֶה שֶׁהֵלָךְ אֶצֶל חֲטָאוֹת – חֲטָאֵת, וְזֶה שֶׁהֵלָךְ אֶצֶל עוֹלוֹת – עוֹלָה.



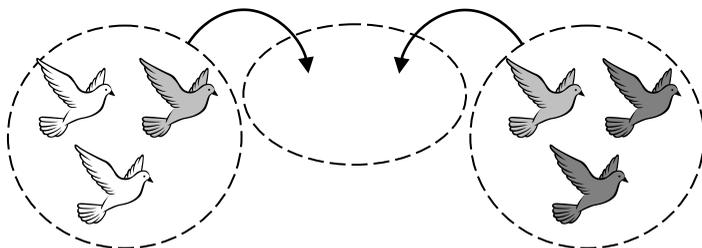
If offered as described in the *Mishnah*, it ensures that all birds can be offered and there are no mixtures of a *chatat* and an *olah*.

The *Tifferet Yisrael* explains that the *Mishnah* should not be understood that each of the birds actually becomes a *chatat* and *olah* respectively but rather

that the *Kohen* should offer them that way. This is because, as learnt previously, the birds are only designated either at the time of purchase or through their sacrificing by the *Kohen*.³⁴

If [a bird from each side] flew back to the middle [and were mixed up]

חֵזַר לְאִמְצַע



The birds in the middle must be left to die, while the remaining *olah* offerings and *chatat* offerings may be offered.³⁵

הָאִמְצָעִים יָמוּתוּ, אֵלּוּ יִקְרְבוּ
חֲטָאוֹת, וְאֵלּוּ יִקְרְבוּ עֹלוֹת.

³⁴ What is the Novelty?

The *Yair Kino* explains that one might have thought that even though the birds are only designated by the *Kohen* (or at the time of purchase) this is only when the *Kohen* has the ability to choose. In this case we are effectively forcing the *Kohen* to designate them in a fixed manner. The *Mishnah* therefore teaches that this is not a problem and the designation by the *Kohen* can happen even if he is forced with his decision.

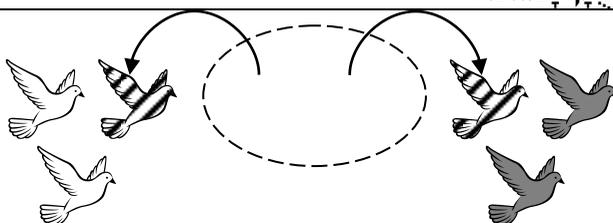
³⁵ Another case sharing the same rule

The *Rosh* and *Ra'avad* add that that in the case where it is possible that the two birds that flew to the middle came from one side and we are not sure which side, the law would be the same. The case would however need to involve many more birds on each side for this doubt to arise.

The *Yair Kino* explains that the reason why that case was not stated explicitly is because it is more obvious in that case the birds would be left to die since the central collection would now definitely include at least a single *chatat* or *olah*. In the case mentioned in the *Mishnah* it is possible that the original two birds returned. The *Razah* explains, that this *Mishnah* teaches that unlike in some other areas of *Halacha* (see *Pesachim* 9b) we do not simply assume the best that the birds that returned were the original birds of the *ken stumah*.

If the birds from the centre flew to the sides all [the birds] must be left to die.

חֵזַר (אוּ שְׁפָרַח) ³⁶ מִן הָאֲמֻצָּע לְצַדֵּי הַרִי כִּלְוֵן יָמוּתוּ.



Turtledoves must not to be used [to partner with] young pigeons, and a young pigeons must not be used [to partner with] a turtledove [to make a *ken*]. ³⁷

אֵין מְבִיאִין תּוֹרִין כְּנֹגֵד בְּנֵי יוֹנָה, וְלֹא בְּנֵי יוֹנָה כְּנֹגֵד תּוֹרִין.

As explained in the introduction, the bird offerings can be brought from one of two different types of birds. The *Rosh* explains that the law that both birds in a single *ken* must be of the same type is learnt from the *pasuk* that states “two turtledoves or two young pigeons, one for an *olah* and one for a *chatat*” (*Vayikra* 12:8).

³⁶ " אוּ שְׁפָרַח "

The explanation of the above *Mishnayot* is according to the version that does not include the words “ אוּ שְׁפָרַח ” – this is the opinion of many of the *Rishonim*. The *Rosh* explains that according to the version that does include those words, the *Mishnah* seems to be teaching that if the birds initially fly from the middle to the outer birds then the birds must be left to die. That would contradict the ruling taught in the beginning of the *Mishnah*.

The *Rambam* nevertheless does maintain this version and explains that that the *Mishnah* is referring to a case where one of the centre (*ken stumah*) birds flew to one side and then a bird flew from that side to the other thus potentially creating a mix of *chatat* and *olah* birds. (This is the meaning of “or it flew from the centre to the sides.”)

(See the *Yair Kino* for another resolution of this version.)

³⁷ **How does this law fit in here?**

The *Tifferet Yisrael* explains that even though the above seems out of place, it is understood as an introduction to the next *perek* for which this rule is important.

Alternatively the *Yair Kino* explains that having learnt that the resolution of the problems described in the previous *Mishnahyot* involve purchasing partnering *korbanot*, one must know that the type of bird brought as a replacement must match the type that was offered (even if it is doubtful as to their necessity).

How so? A woman who brought a turtledove for a *chatat* and a young pigeon for an *olah*, must bring another turtledove as an *olah* (ensuring it is the same type of bird as the *chatat*)³⁸. If she brought a turtledove for an *olah* and a young pigeon for a *chatat* she must bring another young pigeon as an *olah*. *Ben Azai* says, we always go by [the type of bird] that was offered first.³⁹

כיצד? האשה שהביאה חטאתה תור, ועולתה בן יונה – תכפל ותביא עולתה תור. עולתה תור, וחטאתה בן יונה – תכפל ותביא עולתה בן יונה.
 בן עזאי אומר: הולכין אחר הראשון.

In other words, the *Tana Kama* (the first opinion) understands that the *chatat* establishes the type of bird from which the *olah* must be offered, while *Ben Azai* understands that the bird that is offered first dictates the type from which the remaining sacrifice must be offered. To understand the debate, the *Razah* explains that both the *Tana Kama* and *Ben Azai* maintain that “the first” dictates the type. The *Tana Kama* holds that we follow the legal first – that which should be offered first. *Ben Azai* on the other hand understands that the type that was offered first determines the type of the remaining bird in the pair to be offered.

האשה שהביאה חטאתה, אם עברה, הרי היא מביאה עולה.⁴⁰

³⁸ **What is to be done with the Olah?**

The *Rosh* explains that if the incorrect *olah* has been slaughtered but not burnt on the *mizbeach*, it is taken and burnt outside at the *Beit Ha’Sreif*a. (See the *Yair Kino* for a full explanation.) The *Ken Meforeshet* adds that if the *olah* was alive, it would be considered *chulin* since it was sanctified in error.

³⁹ **Separated or Offered?**

The *Ra’avad* understand that the *Tana Kama* and *Ben Azai*, argue both in the case where one of the birds were offered and even in the case where the birds were only designated as a *chatat* and *olah* but not yet offered.

The *Razah* however explains that this debate is to be understood only once a bird has already been offered. If the birds have only been designated for the use of sacrifices then everyone would agree that the *chatat* would determine the type. We would prefer to “double-up” on *olah* offering, which can be offered voluntarily, rather than bring an extra *chatat* and leaving the first one to die.

⁴⁰ **When do the heirs bring the olah?**

Regarding the Olah

If she offered an *olah* then passed away, her heirs do not bring her *chatat*.

וּמְתָה – יְבִיאוּ הַיּוֹרְשִׁין
 עוֹלָתָהּ; עוֹלָתָהּ, וּמְתָה – לֹא
 יְבִיאוּ הַיּוֹרְשִׁין חֲטָאתָהּ.

The *Rosh* explains that the reason why her heirs do not bring her *chatat* is because of the general rule that a *chatat* whose owner has passed away cannot be offered and must be left to die.

The *Rosh* cites the *Gemara* (*Kidushin* 13b) where there is a debate regarding this *Mishnah* between *Rav* and *Shmuel*. One holds that the heirs are only obligated to bring the remaining *olah* if it had already been set aside while the woman was still alive. The other opinion however holds that even if it were not separated, the heirs would bring an *olah*. This is because the obligation is written in the *Torah* and is therefore equivalent to a contractual loan that can be collected after the borrower has passed away. There is consequently a lien on the woman's property for the fulfilment of that "loan". The *Tosfot Yom Tov*, citing the *Rambam*, explains that we rule like the latter opinion.

Regarding the Chatat

From the wording of the *Mishnah* it seems that the family are only obligated to bring the *olah* if the *chatat* had been offered. This is indeed the opinion of the *Rashbatz* who explains that if the *chatat* had not been offered then the obligation to bring a *chatat* disappears with her death, and consequently the obligation to bring an *olah* as well.

The *Tifferet Yisrael* however argues that even if the *chatat* was not offered the family would still be obligated to bring the *olah*. He explains that the wording of the *Mishnah* should be understood in the context of the law just described in the *Mishnah*. In other words, if she offered the *chatat* then died, the family must bring the *olah* from the same type.

Summary of the Chapter

The *Yair Kino* explains that this chapter follows a similar pattern to the previous one. While the previous chapter dealt with definite mixtures, this chapter dealt with doubtful mixtures. The order however is reversed

1. Multiple *kinei chova* mixed together – whether of similar (2) or different sizes (3).
2. A *chatat* or *olah* mixed with a *ken chova (stuma)* – a certain bird from a *stuma* with a doubtful *chatat* or *olah* (4)
3. A mixture of an *olah* and a doubtful *chatat* or *chatat* and doubtful *olah* (5).

Chapter Three
פרק ג'

Masechet Kinim

Mishnah One

משנה א'

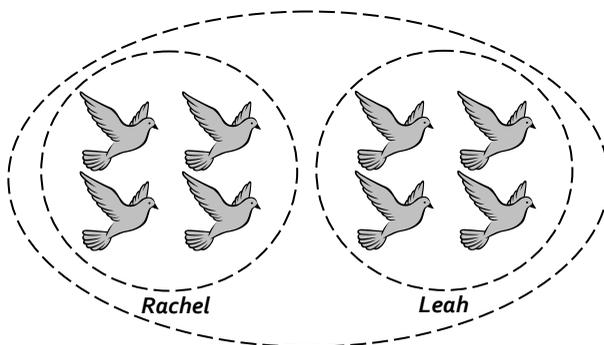
When do these words [of the previous **בְּמָה דְּבָרִים אֲמֹרִים? בְּכֵהֶן נִמְלָד;** *Mishnayot*] apply? When the *Kohen* has asked [what he should do].

In other words the early *Mishnayot* in the first *perek* (*Bartenura*) referred to a case where the *Kohen* came and asked *Beit Din* what to do with the mixture.

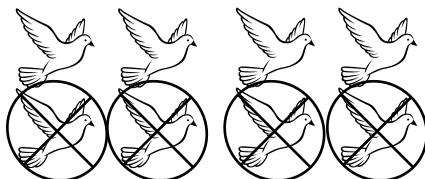
However a *Kohen* that does not ask [and acts on his own accord]: [If obligatory sacrifices belonging to two people are mixed together where] they have one *ken* each, two *kinim* each, or three *kinim* each

אֶבֶל בְּכֵהֶן שְׂאִינוֹ נִמְלָד, אַחַת לָזוֹ וְאַחַת לָזוֹ, שְׁתֵּים לָזוֹ וְשְׁתֵּים לָזוֹ, שְׁלֹשׁ לָזוֹ וְשְׁלֹשׁ לָזוֹ

For illustration purpose, the following example of a mixture of four *kinim* with two *kinim* belonging to each person will be used:



If they were all performed above – half [of the sacrifices] are acceptable while half are invalid. עֲשֶׂה בְּלֶן לְמַעַלָּה – מְחֻצָּה כְּשֶׁר, וּמְחֻצָּה פְּסוּל; ;



In other words, if the blood of all the birds were sprinkled on the top half of the *mizbeach* in the manner required for *olah* offerings then half are invalid, as half of the birds should have been offered as *chatat* offerings. (Note the colouring in this *Mishnah* refers to how the *Kohen* offered the sacrifices.)

If they were all performed below – half [of the sacrifices] are acceptable while half are invalid. בְּלֶן לְמַטָּן – מְחֻצָּה כְּשֶׁר, וּמְחֻצָּה פְּסוּל; ;



Similarly in this case, since half of the birds should have been offered as *olah* offerings, half of the birds are invalid.⁴¹

⁴¹ The Invalid Birds

The *Yair Kino* explains that even though half of the birds are invalid there is more detail that is important about these birds. The first quarter offered is certainly valid. This because even if they all belonged to one of the women, it would constitute the half she is required to bring as *chatat* offerings. The last quarter is certainly invalid, because at this stage we can be certain that all the *chatat* offerings for both women have been offered. Regarding the middle half however, it is doubtful which of those birds are the invalid birds as it depends on the order the birds were offered. This is important for other prohibitions that only relate to valid sacrifices (*pigul*, *notar* and *tameh*). For example, if a *Kohen* who is *tameh* consumed a bird from the first quarter he would be liable. If he however consumed one of the middle birds offered, since it is doubtful whether the bird is invalid, he could not be punished.

<p>If half [of the birds] were [offered] above⁴², and half was [offered] below; of those that were offered above, half are valid and half are invalid; of those that were offered below, half are valid and half are invalid.⁴³</p>	<p>הַצִּיִּים לְמַעַל, וְהַצִּיִּים לְמַטָּה, אֶת שְׁלֹמֶעֱלָה – מְחַצֵּה כָּשֶׁר, וּמְחַצֵּה פְּסוּל; וְאֶת שְׁלֹמֶטָה – מְחַצֵּה כָּשֶׁר, וּמְחַצֵּה פְּסוּל.</p>
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In this case the concern is that all the birds that were offered on top of the *mizbeach* belonged to one of the women, thus invalidating half of them, while those birds offered below belonged to the other, thereby invalidating half of those.⁴⁴

⁴² Half Above

The *Ken Meforeshet* notes a *chatat* should be offered before an *olah* yet the examples brought throughout the *perek* always refer to birds being offered above before the remainder being offered below. The *Ken Meforeshet* explains that voluntary offerings (consisting of *olot*) were brought more frequently than *kinei chova*. He therefore suggests that in the event that the *kohen* did not know the purpose of the *kinim* he would more likely offer them as *olot* assuming they were *nedarim*. Consequently the case of *olot* was brought first in the *Mishnah* and then *chata'ot*. Having ordered it as such, the *Mishnah* continues with that pattern, "half above and half below".

⁴³ Half-Half

The *Tifferet Yisrael* points out that the case should not be understood where all the birds stayed in their original pairs and the birds from each pair was offered one above and one below. If that were the case then all the birds would be valid. Instead the *Mishnah* should be understood that all the birds individually got mixed together and the *Kohen* simply took half and offered them above and the other half below.

⁴⁴ What should they do now?

There are two opinions regarding the remedy:

The *Mefaresh* and *Razah* explain that whether they each initially had one, two or three *kinim* they must now together bring the remaining birds to substitute those that have been declared invalid. When they bring them, they stipulate that the birds offered as *chatat* offerings will be offered for she that requires them and likewise for the *olah* offerings. Since, as explained, the requirement to bring these birds is based on a doubt, the *chatat* offerings are not consumed.

The *Rosh* differs in the case where each of the women brought three *kinim* each. In such a case, each woman must separately bring one *chatat* and three *olah* offerings. The *Yair Kino* explains that the *Rosh's* finds this case similar to the *Mishnah* at the end of the first chapter of *Keritut*. The *Mishnah* teaches that if a woman has many instances of giving birth where it is doubtful whether she is required to bring a *korban*, she can bring just one *chatat* (thereby completing her purification process). Consequently here too, one *chatat* for each woman should suffice. Multiple *olah* offerings however can be brought since *olah* offerings can be offered voluntarily and one can stipulate that if they are not required to bring the *olah* offerings then they should be considered as a voluntary offering. (See the *Yair Kino* inside for a full explanation regarding the opinion of the *Rosh* in the other cases listed in this *Mishnah* and how this case differs.)

The *Ken Meforeshet* asserts that one should not ask that according to the *Rosh* the women should be able to bring one *chatat* and stipulate that it should be for the women that is required to bring one (or more). He explains that such a stipulation would involve an implicit contradiction. The condition would be as follows: "if *Rachel* is required to bring three *chataot* then this one is for her." If that were the case, *Rachel* would be required to bring three! Each side of a stipulation must involve a certain outcome and not a consequence that is itself a *safek*.

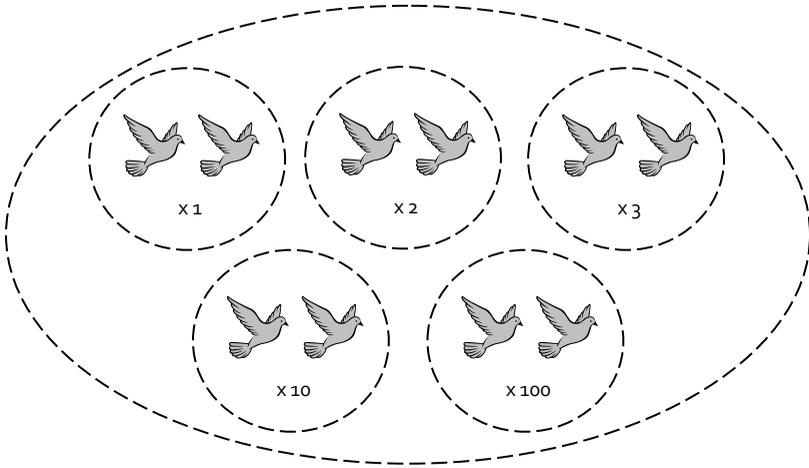
Returning the case in *Keritut*, the *Yair Kino* explains that the *Meforeshet* would argue that that case is different. There the obligation to bring a *korban* is doubtful. Here, the obligation to bring the *korbanot* was certain. The doubt only relates to whether the women released themselves from that obligation. Consequently there is a *chazakah* (presumption) that the women are required to bring up to three *chatat* offerings and must do so, albeit based on a doubt. (The *Ken Meforeshet* brings a similar explanation in the next *Mishnah* to explain why the solution there involves the woman bringing multiple *chataot*, yet raises a number of questions that are left unresolved.)

The *Yair Kino* (1:2) continues explaining the *Meforeshet* that even though, normally a *chatat* cannot be brought together by two people using the above describe stipulation, even if it is only for *mechusarei chapara* (see *Bartenura Keritut* 5:8) in this case such a condition can be made. Ordinarily, when only one of the two women are obligated to bring a sacrifice, then we are concerned that the women that is truly exempt will not be completely resolved to forfeit her share. In this case however both women are obligated to bring at *chatat* offerings or *olah* offerings. Consequently the concern is no longer as strong.

Mishnah Two
משנה ב'

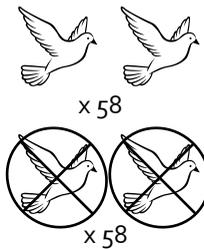
[If] one [woman brought] one *ken*, another brought two, another brought three, another brought ten and another brought one hundred [and they all got mixed together]⁴⁵

אחת לזו, ושתיים לזו, ושלוש לזו, ועשר לזו, ומאה לזו



If [the bird sacrifices] were all performed above, half [of the sacrifices] are invalid.

עשה כָּלֵן לְמַעַלָּה – מְחֻצָּה
כִּשֶׁר, וּמְחֻצָּה פְּסוּל;

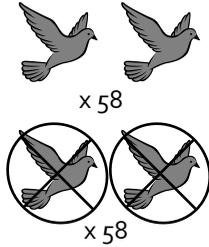


⁴⁵ The Mixtures

The *Tifferet Yisrael* explains that the rule also holds true for any combination of mixtures, e.g. groups of one and two *kinim* mixed together. The *Mefaresh* and *Bartenura* appear to limit the scope, excluding cases where the total number of *kinim* in the mixture is even – ten and one hundred. See the next footnote.

Masechet Kinim

כָּלֵן לְמִטָּן – מְחֻצָּה כָּשֶׁר, וּמְחֻצָּה פְּסוּל;
If [the bird sacrifices] were all performed below, half [of the sacrifices] are invalid.



The reasoning for these first two cases is the same as the previous *Mishnah*.

If half [of the birds] were [offered] above, and half was [offered] below, [the number of *kinim* equal to those belonging to the person who brought]⁴⁶ the most, is valid. — חֲצִי לְמַעַל, וְחֲצִי לְמַטָּן. הַמְרֻבָּה כָּשֵׁר.

⁴⁶ **The Most**

Note that the translation provided for the word “*ha’merubeh*” is not literal and somewhat longwinded. The *Ken Meforeshet* explains that the language of “*ha’merubeh*” is difficult. There are a number of ways one can understand the term.

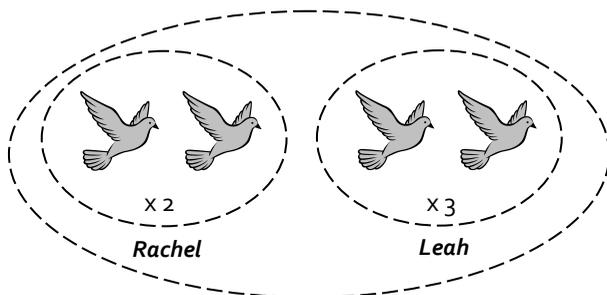
The first and most literal is that all the *kinim* of the woman with the most are valid. That however is not true as there are doubts regarding which *kinim* are valid as we explain in the pages that follow.

The second way is like the translation we provided; it refers to the number of *kinim* equal to the woman’s that has the most. This is the explanation of the *Raavad* and *Tifferet Yisrael*. The *Ken Meforeshet* however argues that that does not fit the literal translation. It should have written “*ke’minyan ha’meruba*”. Furthermore, that rule would not always hold true. For example, in case where there is a mixture of three, four and five *kinim*, seven are valid.

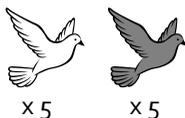
The third possibility is that “the majority” refers to one more than half. The difficulty is that this would only work for a mixture of one and two, or two and three. For a mixture of ten and one hundred, one hundred are valid and not fifty-six. The *Ken Meforeshet* understands that this is the position of the *Bartenura* and *Mefarsh*, who explain that the rule of *ha’meruba* does not apply to the mixture of ten and one hundred. The question raised here is why then does the *Mishnah* include the *kinim* of ten and one hundred.

The final understanding that the *Ken Meforeshet* brings is that of the *Tosfot* who explains that “*ha’merubah kasher*” means that only the women that has the most *kinim* can be certain that some of hers were offer correctly. The difficulty with this understanding that “*ha’merubah kasher*” will not necessary be true in the case of a mixture of six, seven and eight *kinim*, since it is possible that all of the eight *kinim* were either offered above or all below and we have no way of knowing.

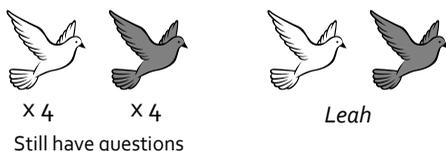
The following example will be used to explain.



Half were offered as *olah* offerings and half were offered as *chatat* offerings such that the following was the case:



Since *Rachel* only brought four birds in total, one of the *chatat* offerings and one of the *olah* offerings definitely belong to *Leah*. The reason is that the total number of *Rachel's* birds is less than the number of birds that were offered above or below. Therefore:

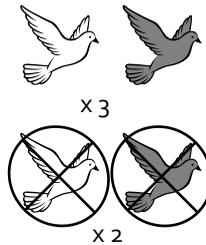


Still have questions

From this point onward it looks like the case of the previous *Mishnah*. Concerning the remainder, four birds belong to *Rachel* and four birds belong to *Leah* and half were offered as *chatat* offerings and half were offered as *olah* offerings. The *Mishnah* there ruled in that case that half were invalid (see that *Mishnah* for the explanation).

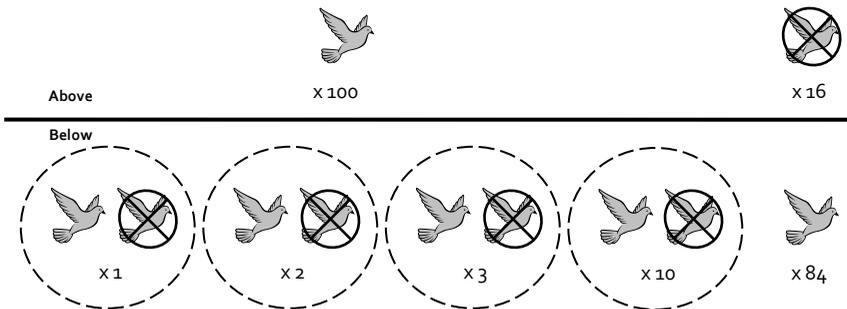
מסכת קינים

The following is the final result:



Consequently three pairs, the original number *Leah* brought, are valid.

With this understood we can explain the original example of *kinim* of one, two, three, ten and one-hundred mixed together. Recall, that 116 were offered above 116 were offered below. The following is the result from the worst possible case:



If all the birds offered above came from the collection of one hundred pairs then 16 of them would be invalid, because only one hundred of the one hundred *kinim* must be offered as *olah* offerings. This would mean that 84 of the remaining birds from the collection of one hundred pairs were offered below and are valid. So far we have 100 valid *olah* offering and 84 valid *chatat* offerings.

This would also mean that all the birds from the other collection (16 pairs in total) were offered below – half of which would be valid while the other half invalid. Therefore we have an additional 16 valid *chatat* offerings increasing the total number of *chatat* offerings to also equal 100. Consequently a total of one hundred *kinim* would be valid, equal to the number of *kinim* in the largest collection.

This is the general rule: Any case where one can divide the *kinim* such that [they cannot say with confidence that] all the birds could belong to one woman above and below, half the birds are valid and half are invalid. Any case where one cannot divide the birds without one woman having birds [offered] above and below, [then the number of birds equals the number a birds brought by the women with] the greatest share is valid.

זֶה הַפֶּלֶל: כָּל מְקוֹם שֶׁאֵתָּה יָכוֹל לְחַלּוֹק אֶת הַקְּנִיּוֹ, וְלֹא יִהְיֶה מִשָּׁל אִשָּׁה אַחַת בֵּין מְלַמְעָלוֹ, בֵּין מְלַמְטוֹן – מִחֻצָּה כְּשֶׁר, וּמִחֻצָּה פְּסוּל; כָּל מְקוֹם שֶׁאֵין אֵתָּה יָכוֹל לְחַלּוֹק אֶת הַקְּנִיּוֹ, עַד שֶׁיְהִי מִשָּׁל אִשָּׁה אַחַת בֵּין מְלַמְעָלוֹ בֵּין מְלַמְטוֹן – הַמְרַבָּה כְּשֶׁר.

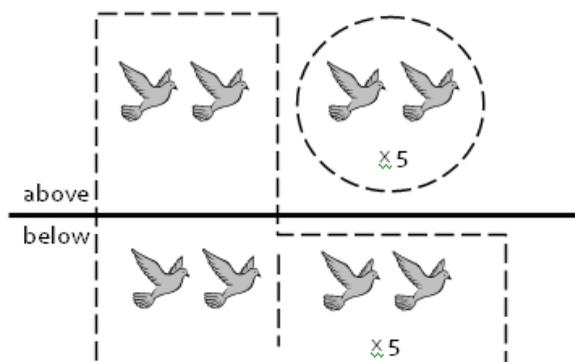
The *Tifferet Yisrael* lists some examples that fit into the above two categories when half the birds are offered above and the other half below:

1. Where it is possible that no collection belonging to one woman has birds that were offered on both the upper and lower parts of the *mizbeach*. This would include collections where:
 - a. Two women have the same number of birds: 1 and 1; 2 and 2, etc.
 - b. A group of women having the same number of birds as one other: 1, 2 and 3; 2, 3, 4 and 9; etc.
 - c. A group of women have the same number together as another group: 1,2, 4 & 5;

In such cases half would be valid and half invalid.

2. Where it is impossible that no collection belonging to one women has birds that were offered on both the upper and lower parts of the *mizbeach*:
 - a. One collection has more than the other collection/s: 1, 2 and 5, etc. The number of birds equalling the birds in the largest collection would be valid.

- b. The number of bird in total of the smaller collections together outnumbers the number of birds in the largest collection. For example collections of 3, 4 and 5 *kinim*. In such a case, the combined number of birds in the two smaller *kinim* (7 pairs) would be valid. To explain if half were offered above and half below the following (worst case) would be possible where all the birds from the collection of five were offered above and the remaining two belonged to either of the other two collections:



Using the same method as above, only half of the collection of five is valid (as half of them should have been offered as *chatat* offerings). Since two *olah* offerings had to have been offered from either of the remaining groups of three or four, both birds and two more offered below the line are valid (totalling nine valid birds). This leaves five more *kinim* below the line, half of which would be invalid since half should have been offered as *olah* offerings. Consequently fourteen birds or seven *kinim* equal to the combined number of the smaller two combined, are valid.

Masechet Kinim

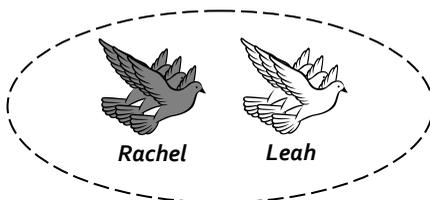
Mishnah Three

משנה ג'

The *Bartenura* explains that the following *Mishnah* parallels the earlier *Mishnah* (1:2) that discusses a mixture of *olah* offerings and *chatat* offerings. In that case the *Kohen* the *Kohen* sought legal advice. Here the *Mishnah* explains the ruling if the *Kohen* offered the mixture without inquiring first what should be done.

If one woman had a *chatat* and another an *olah* [and they mixed together]

חטאת לזו ועולה לזו



And the *Kohen* performed them all above, half are valid and half are invalid. If the *Kohen* performed them all below, half are valid and half are invalid.

עשה כלן למעלה – מחצה
 כשר, ומחצה פסול; כלן
 למטן – מחצה כשר, ומחצה
 פסול;

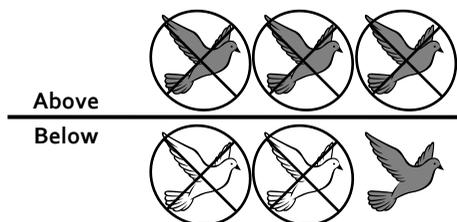
Even though, based on previous learning this ruling seems obvious, it is actually the subject of debate. The *Gemara* (*Zevachim* 73b) cites a debate regarding the law of *ba'alei chayim nidchim*; if an animal is deemed invalid, are they permanently rejected. *Rava* maintains that this is indeed the law. Accordingly, once a *chatat* and *olah* are mixed together and given the ruling that they must be left to die, even if they are offered in the manner described in our *Mishnah*, none of the sacrifices would be considered valid. The *Gemara* explains that the author of our *Mishnah* does not rule like *Rava* and the birds are not permanently rejected. Consequently, if half the birds are offered on the top half, since half of the mixture constitutes *olah* offerings, half the birds are valid (*Rosh*).⁴⁷

⁴⁷ Explanation of the *Rambam*

If half [of the birds] were [offered] above, and half was [offered] below, both are invalid for I would say that the *chatat* was offered above and the *olah* was offered below.

חֲצִיָּן לְמַעַל, וְחֲצִיָּן לְמַטָּן –
 שְׁתֵּיהֶן פְּסוּלוֹת, שְׂאֵנִי
 אוֹמֵר: חֲטָאת קִרְבָּה לְמַעַל
 וְעוֹלָה לְמַטָּן.

The *Tifferet Yisrael* notes that this is only if the number of *olah* and *chatat* offerings are equal. If for example there were four *chatat* offerings and two *olah* offerings, and half were offered above and half below the following would be the worst result:



In other words, the number of birds in the half that are offered below that outnumber the *olah* offerings are valid.

In his commentary on the *Mishnah* the *Rambam* explains like *Rava* that *ba'alei chayim nidchin* and the *Mishnah* therefore cannot be dealing with a mixture of *chatat* and *olah* offerings. Instead the birds were initially separated. The *kohen* however offered them and erred in how they were offered or is unsure which he offered above and below. The *Ken Meforeshet* notes that the *Rambam* in his *Mishnah Torah* however rules that *ba'alei chayim* are not *nidchin* and therefore must have retracted from his position in his commentary on the *Mishnah*. (See the *Ken Meforeshet* for his explanation of how the *Rambam* in his commentary could have provided a different explanation to the *Gemara's*.)

Mishnah Four

משנה ד'

The *Rishonim* each have different ways of explaining this *Mishnah*. Consequently, a number of explanations are included with the difficulties raised by the other *Rishonim*.

Mishnah Four (*Rashi*)

משנה ד' – לפי רש"י (זבחים סז:)

The following is also the explanation of the *Rosh*, *Bartenura* and *Tifferet Yisrael*:

If a *chatat*, *olah*, *ken stuma* and a *ken* **וְעוֹלָה וְסִתּוּמָה וּמִפְרֶשֶׁת** **חֲטָאת וּמִפְרֶשֶׁת** *meforeshet* [were mixed together].

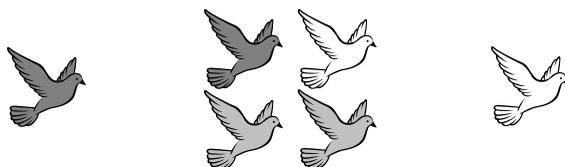
The following is the diagram of what *Rachel* and *Leah* were required to bring:



Rachel

Leah

Rachel and *Leah* therefore purchased six birds together and dedicated them as follows:



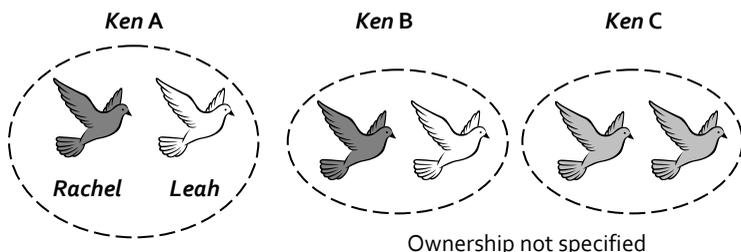
Rachel

Ownership not specified

Leah

The birds were however handed to the *Kohen* in pairs as follows:

Masechet Kinim



If the *Kohen* performed them all above, half are valid and half are invalid. If the *Kohen* performed them all below, half are valid and half are invalid.

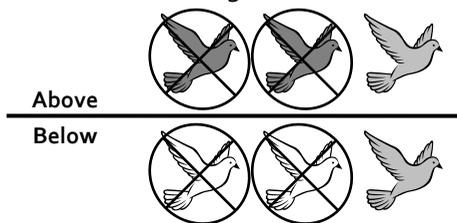
עֲשֶׂה כִּלְוֵן לְמַעַלָּה – מִחֲצָה
 כָּשֶׁר, וּמִחֲצָה פְּסוּל; כִּלְוֵן
 לְמַטָּן – מִחֲצָה כָּשֶׁר, וּמִחֲצָה
 פְּסוּל;

Since only half are to be brought as *chatat* offerings and half are to be brought as *olah* offerings half are invalid if all are offered above or all below.

If half [of the birds] were [offered] above, and half was [offered] below, only the *ken stuma* is *kosher*

חֲצִיָּן לְמַעַל, וְחֲצִיָּן לְמַטָּן –
 אֵין כָּשֶׁר אֶלָּא סְתוּמָּה

All the pairs handed to the *Kohen* were offered with one bird above and the other below. The *Kohen* however thought that all the pairs were *kinei stuma* and therefore was not conscious to offer the birds that were handed to him as they were designated. The following is the worst case:



Consequently, since the birds were offered in pairs, the *ken stuma* will certainly be valid. According to this explanation, the *Mishnah* is quite literal when it writes, “only the *ken stuma* is valid”.

And they would divide [the fulfilment] between them. והיא מתחלקת ביניהן.

Since all the birds were purchased together, they share equally in the number of valid birds. In other words, *Rachel* must certainly bring a *chatat* and *Leah* must bring an *olah* as both birds from *ken A* are invalid. Now both birds from the *ken meforeshet* (*ken B*) are invalid and both birds from the *ken stuma* are valid. However since none of the birds can be clearly attributed to either of the women they must bring another *ken* together and stipulate as follows: "If the *chatat* that was invalid belonged to *Rachel* then the *chatat* being offered now should be for *Rachel* and the *olah* for *Leah*. (Note: this would also mean that the valid *chatat* then belongs to *Leah* and the valid *olah* belonged to *Rachel*.) If however it belonged to *Leah* then the *chatat* being offered now should be for *Leah* and the *olah* for *Rachel*." Such a stipulation ensures that two *chatat* offerings and an *olah* were offered for *Rachel* and two *olah* offerings and a *chatat* were offered for *Leah*.⁴⁸

⁴⁸ Questions Brought

The *Tifferet Yisrael* raises the following questions:

1. Why was it necessary for the *Mishnah* to teach that each of the pairs was offered separately? Instead it could have taught that all the birds were mixed together? (See the next explanation).
2. The *Tosfot* (*Zevachim* 67b) ask why it was necessary, according to this understanding, to teach a *ken meforeshet*, *ken chovah*, and a pair of an *olah* and *chatat*? It would have been sufficient for the *Mishnah* to bring the case a *ken meforeshet* and a *ken stumah* in order to teach this law.

The *Tifferet Yisrael* defends this interpretation and explains that this case specifically teaches a new law. Without the *Mishnah's* ruling we could have thought the following. Referring to the earlier diagram, in *Ken A*, the *chatat* was designated as belonging to *Rachel* and the *olah* to *Leah*. Consequently, one might have thought regarding the *ken meforeshet* (*Ken B*) that since the birds were designated as a *chatat* and *olah*, one might have thought that the intention was that the *chatat* was for *Leah* and the *olah* for *Rachel*. Consequently, regarding the remaining valid *ken stumah* (*Ken C*), the *chatat* definitely was for *Rachel* and the *olah* definitely for *Leah*. This being the case each woman would be required to bring a *chatat* and *olah* alone without the need to bring a *ken* together as described above.

The author of this *Mishnah* therefore teaches that the valid *ken* is "divided amongst them". In other words, it remains uncertain as to which of the valid birds can be attributed to each of the women and the case is resolved as described above. (The *Tifferet Yisrael* explains further, that the *ken stumah*, having been purchase together, was purchased with the assumed stipulation that each bird would be offered for each of the owners. See the *Tifferet Yisrael* for why this is not considered *bereirah*.)

Note that it is the fact that this *Mishnah* included both a *chatat, olah* and a *ken meforeshet* and offered in exactly the way this understanding explains, that might lead to this assumption.

The *Yair Kino* finds this explanation difficult since it means the *Tana* would, at this stage in the *masechet*, be raising a completely new case. He explains that the first *Mishnah* in this *perek* implies that we are simply discussing all the previous cases with the only difference being that the *Kohen* did not consult prior to offering the sacrifices.

The *Yair Kino* raises a further question. If the *chatat* and *olah* belonged to different people, the *Mishnah* should have written "חטאת לזו ועולה לזו" as it had done so previously. Similarly it seems odd that the *Mishnah* would conclude by mentioning that the valid *ken* be divided without having first mentioned that there were multiple owners involved.

Mishnah Four (*Rashbatz*) משנה ד' – לפי רשב"ץ

If a *chatat*, *olah*, *ken stuma* and a *ken meforeshet* [mixed together].

חטאת ועולה וסתומה ומפרשת

As in the previous explanation the following is the diagram of what *Rachel* and *Leah* were required to bring:



Rachel

Leah

Once again *Rachel* and *Leah* therefore purchased six birds together and dedicated them as follows:



Rachel

Ownership not specified

Leah

According to this explanation, however all the birds were then mixed together and then handed to the *Kohen*.

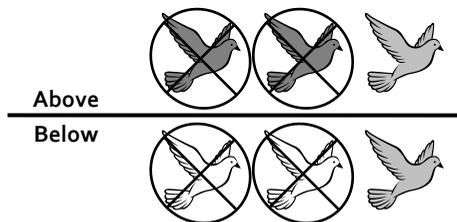
If the *Kohen* performed them all above, half are valid and half are invalid. If the *Kohen* performed them all below, half are valid and half are invalid.

עשה כלן למעלה – מחצה כשר, ומחצה פסול; כלן למטן – מחצה כשר, ומחצה פסול;

Since only half are to be brought as *chatat* offerings and half are to be brought as *olah* offerings, half are invalid if all are offered above or all below.

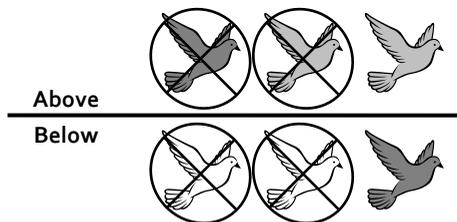
If half [of the birds] were [offered] above, and half was [offered] below, then [the number of birds equal to the birds in] the *ken stuma* are valid. חֲצִיָן לְמַעַל, וְחֲצִיָן לְמַטָּן – אֵין כְּפֶשֶׁר אֶלָּא סְתוּמָה

Possibility 1



There is a chance that the *olah* offerings were offered below while the *chatat* offerings were offered above. In that case they are all invalid. Nonetheless, this would also mean that the *ken stuma* would have been offered correctly.

Possibility 2 (or similar)



If however the birds from the *ken stuma* were offered above, one of them would be invalid. Nonetheless this would mean that one of the *chatat* offerings was offered below correctly. Consequently the number of birds equal to the number of birds in the *ken stuma* is still valid.

And they would divide [the fulfilment]
between them.

וְהָיָא מִתְחַלְקֵת בֵּינֵיהֶן.

Since the birds were purchased together, they share equally the number of valid birds. It is unclear which of the birds were valid, so the women must now bring four birds together and stipulate that the two *chatat* offerings shall be offered for she that requires it and likewise with the two *olah* offerings.⁴⁹⁵⁰

⁴⁹ Opinion of the *Gra*

The *Ken Meforeshet* explains the opinion of the *Gra* in a similar manner. The difference however is that the *ken meforeshet* and *ken stuma* were not purchased together but bought separately; *Rachel* brought the *ken stuma* and *Leah* the *ken meforeshet*. Consequently the novelty of the *Mishnah* is that even though one of the birds from the *Rachel* is definitely valid and it is possible that all of *Leah's* are invalid, since it is also possible that all of *Leah's* are valid she gets an equal share in the valid birds.

⁵⁰ Questions Brought

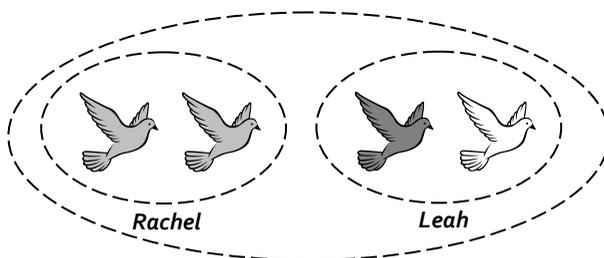
The *Tifferet Yisrael* raises the following question. Only the number of birds in the *ken stumah* are valid and not the *ken stumah* itself as implied by the *Mishnah*. It is therefore difficult to say that, "אין כֶּשֶׁר אֶלָּא סְתוּמָה", refers to the number of birds in the *ken stuma*.

Masechet Kinim

Mishnah Four (*Ra'avad*)

משנה ד' – לפי ראב"ד

If a *chatat* and *olah* [of a] *ken stuma* and a *ken meforeshet* [mixed together]. **חֲטָאת וְעֹלָה סְתוּמָה וּמְפֹרֶשֶׁת**



In other words *Rachel* brought a *ken stuma* while *Leah* brought a *ken meforeshet* and they mixed together.

If the *Kohen* performed them all above, half are valid and half are invalid. If the *Kohen* performed them all below, half are valid and half are invalid.

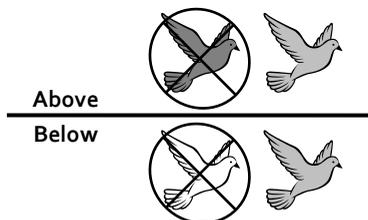
**עֲשָׂה כֶּלֶן לְמַעַלָּה – מְחַצָּה
כָּשֶׁר, וּמְחַצָּה פְּסוּל; כֶּלֶן לְמִטָּן
– מְחַצָּה כָּשֶׁר, וּמְחַצָּה פְּסוּל;**

The reason for both the above two laws is since half need to be brought as *chatat* offerings and half as *olah* offerings, only half of the mixture would have been offered correctly.

If half [of the birds] were [offered] above, and half was [offered] below, then [the number of birds equal to the birds in] the *ken stuma* are valid.

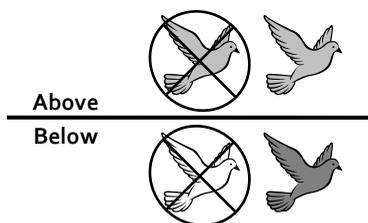
חֲצִיָן לְמַעַל, וְחֲצִיָן לְמַטָּן – אֵין
כְּשֵׁר אֶלָּא סְתוּמָה

Possibility 1



In this case there is a chance that the *olah* was offered below while the *chatat* was offered above; they would both be invalid. Nonetheless it will also mean that the both birds of the *ken stuma* would be offered correctly.

Possibility 2 (or similar)



It is also however possible that both birds from the *ken stuma* were offered above (or below). If that were the case one would be invalid. Nonetheless this would mean that the *chatat* was offered below correctly. Consequently the number of birds equal to the number of birds in the *ken stuma*, two, is still valid.

The *Ra'avad* explains that the rule holds true if *Rachel* brought multiple *kinei stuma* – the number of valid birds would still equal the number of birds the *Rachel* brought.

And they would divide [the fulfilment] between them.

וְהָיָא מִתְחַלְקֵת בֵּינֵיהוֹן.

The *Ra'avad* explains that according to both possibilities described above one of the *Rachel's* birds is definitely valid. It might seem that her doubt is "weaker" than *Leah's* as there is a possibility that both *Leah's* birds were offered incorrectly. Nonetheless since *Rachel* does not know which type of birds (*chatat* or *olah*) was valid, she must also now bring two birds due to a doubt, and therefore they would have to bring the replacement birds together (equally sharing the cost).⁵¹

⁵¹ Questions Brought

The *Tifferet Yisrael* raises the following question:

1. According to the *Ra'avad's* understanding, the first line of the *Mishnah* must read "סְתוּמָה" instead of "וּסְתוּמָה" which is the commonly accept version. The *Yair Kino* adds that it would have been sufficient for the text to read "סתומה ומפורשת" without writing "ועולה" (e.g., see 2:4).
2. Only the number of birds in the *ken stumah* is valid and not the *ken stumah* itself as implied by the *Mishnah*. It is therefore difficult to say that, "אֵין כְּשֵׁר" "אֵין כְּשֵׁר" "אֵין כְּשֵׁר" refers to the number of birds in the *ken stumah*.
3. The point that the *Ra'avad* teaches is the conclusion of the *Mishnah* is itself questionable. Instead of each sharing equally in the cost, the owner of the *ken stumah* should contribute $\frac{3}{8}$ while the owner of the *ken meforeshet* should contribute the rest ($\frac{5}{8}$).

To explain, in three of the four possibilities the women would be in the same position – possibility 2, possibility 2 where the *ken chova* was offered above and where the *korbanot* were offered correctly. Thus far they would each be required to share in $\frac{3}{8}$ of the cost. According to possibility 1 however, the *ken chovah* would be invalid - *Leah's ken*. Therefore *Rachel* would be required to be $\frac{3}{8}$, while *Leah* should contribute the rest ($\frac{5}{8}$)

The *Ken Meforeshet* writes that the *Rambam* (*Peirush HaMishnah* and *Mishnah Torah, Hilchot Psulei Mukdashim* 8:10) must have also had a different version of the *Mishnah*:

חֲטָאת וְעוֹלָה מִכִּפְרֵי שְׁתֵּי וּסְתוּמָה

The understanding therefore is that the case involves three pairs: a *ken chatat meforeshet*, *ken olah meforeshet* and a *ken stuma*. A significant difference is that the ownership of the birds was not stipulated. However when the *Mishnah* ends that the valid *ken stuma* is divided between them, this is because it is assumed that those

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See the footnote for the position of the *Rambam*.

kinim that were *meforeshet* were offered incorrectly, leaving the *ken stuma* to be offered half above and half below. Since however the ownership of the *ken stuma* was not expressed, it is "shared" amongst the owners.

Mishnah Four (*Yair Kino*) משנה ד' – לפי היעיר קנו

If a *chatat*, *olah*, *ken stuma* and a *ken* **חֲטָאת וְעֹלָה וְסִתּוּמָה וּמִפְרֶשֶׁת**
meforeshet [mixed together].

The *Yair Kino* explains that the *Mishnah* is referring to two separate cases, both mentioned already in the previous *perek*. The difference here is that the *Kohen* offered the birds without consultation. The cases are:

1. A *chatat*, *olah* and a *ken stuma* that mixed in the manner described in *Mishnah* 2:5.
2. A *ken stuma* and a *ken chova* that mixed in the manner describe in *Mishnah* 2:4.

Accordingly the term *stuma* must be read twice, once with the first case and another with the second (see *Temurah* 4:1 where that *Mishnah* is taught in this manner). See the *Yair Kino* for why it was necessary to teach both cases.

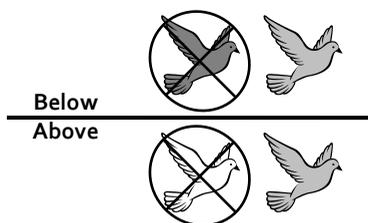
If the *Kohen* performed them all above, half **עֲשָׂה בְּלֹן לְמַעַל – מְחֻצָּה**
are valid and half are invalid. If the *Kohen* **כָּשָׁר, וּמְחֻצָּה פְּסוּל; בְּלֹן לְמִטָּן**
performed them all below, half are valid and **– מְחֻצָּה כָּשָׁר, וּמְחֻצָּה פְּסוּל;**
half are invalid.

Since only half are to be brought as *chatat* offerings and half as *olah* offerings, half are invalid if all are offered above or below.

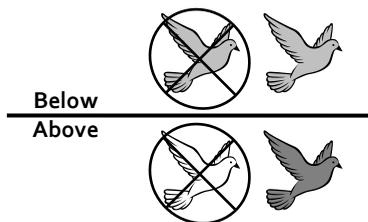
If half [of the birds] were [offered] above, and half was [offered] below, then [the number of birds equal to the birds in] the *ken stuma* are valid. חֲצִיָן לְמַעַל, וְחֲצִיָן לְמַטָּן – אֵין כְּשֵׁר אֶלָּא סְתוּמָה

This is because the following is the worst possible scenarios:

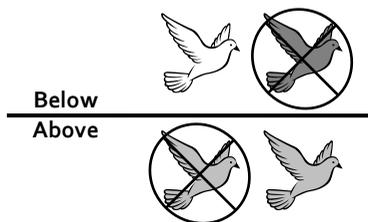
Possibility 1



Possibility 2



Possibility 3



And they would divide [the fulfilment]
between them.

וְהָיָא מִתְחַלְקֵת בֵּינֵיהֶן.

To explain this last statement, the *Yair Kino* provides a unique explanation that relates to when two different women own the *stuma* and *chova*. Referring to the above worst-case scenarios, the worst case for the owner of the *ken meforeshet* (*Rachel*) is that both her birds are invalid, while the owner of the *ken stuma* (*Leah*) only one would be invalid. Consequently, only the *ken stuma* is “divided” in the worst case – one is valid and one not.

He explains that *Rachel* would therefore be required to bring two birds, while *Leah* only one. Now even though *Leah* does not know whether the birds she must be replace is a *chatat* or *olah* this can be solved as follows. Three birds will be brought, with *Rachel* contributing the funds for two and *Leah* the third. One of the birds is offered as a *chatat* while the other two as *olah* offerings. They shall stipulate as follows. In the event of possibility 1, the *chatat* and *olah* are for *Rachel* while the remaining *olah* is a *neder*. In the event of possibility 2 or 3, the *chatat* will be for one, the *olah* for the other and the remaining *olah* as a *neder*. (See the *Yair Kino* for further details about why it must be offered in this manner.)

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Mishnah Five (*Ra'avad* and *Rosh*)

משנה ה' – לפי הראב"ד ורא"ש

If a *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] valid [birds] equals the number of *chatat* offerings [in the mixture].

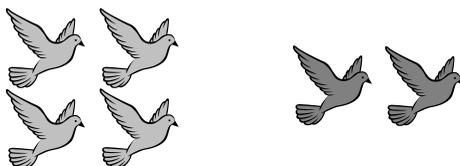
חֲטָאת שְׁנֵתְעָרְבָה בְּחוֹבָה –
אֵין כֶּשֶׁר אֶלָּא מִנֵּן חֲטָאוֹת
שֶׁבְחוֹבָה.

Earlier the *Mishnah* (1:2) taught the above rule that if a *chatat* was mixed with a *ken chova* then the number of *chatat* offerings in the *ken chova* could be offered. The *Mishnah* presented this a general rule and did not differentiate between cases where *chatat* offerings were more or less than the *kinei chova* that they were mixed with. This is indeed the rule appropriate for the circumstances described in the first chapter where the *Kohen* first asks what should be done with such a mixture. As already mentioned, this chapter deals with cases where the *Kohen* has already offered the mixture. Consequently, this *Mishnah* proceeds to explain that the above stated rule under these circumstances is not the same for all cases.

[If in a mixture, the number of birds from] the *ken chova* is double the [amount of birds that are] *chatat* offerings.

חוֹבָה שְׁנַיִם בְּחֲטָאת

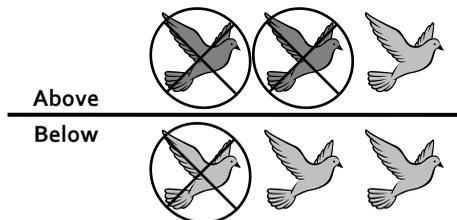
According to this explanation, the number of birds in the *ken chova* outnumber the number of *chatat* offerings, as follows:



Half are valid, and half are invalid.

מְחֻצָּה כָּשֶׁר, וּמְחֻצָּה פְּסוּל.

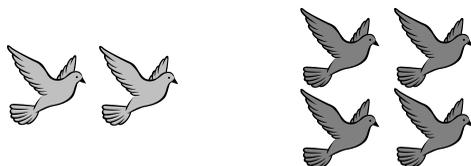
The reason for half the birds being invalid is because the following is the worst-case scenario:



Consequently half of the birds are valid.

[If in a mixture, the number of birds that are] *chatat* offerings is double [the amount of birds from] the *ken chova*

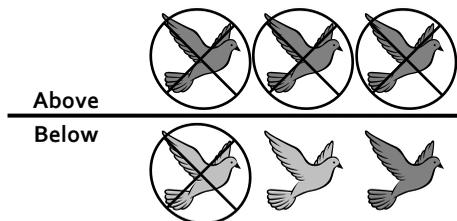
חֲטָאת שְׁנַיִם בְּחוּבָה



The number of birds equal to the amount of birds from the *ken chova* is valid.

הַמִּנִּין שְׁבַחֻבָּה כָּשֶׁר.

The reason for the ruling in the *Mishnah* is because the following case is possible:



Consequently the number of birds equal to the number of the birds in the *chova*, i.e. two, is valid.⁵²

The law is similar for an *olah* that was mixed with a *ken chova* – [the number of] valid [birds] equals the number of *olah* offerings [in the mixture]. [If in a mixture, the number of birds from] the *ken chova* is double the [amount of birds that are] *olah* offerings [and the *Kohen* offered half above and half below] half are valid, and half are invalid.

[If in a mixture, the number of birds that are] *olah* offerings is double [the amount of birds from] the *ken chova*, the number of birds equal to the amount of birds from the *ken chova* are *kosher*.

וְכֵן עֹלָה שְׁנֵתְעָרְבָה בְּחוֹבָה –
אֵין כֶּשֶׁר אֶלָּא מִנֵּין עֹלוֹת
שֶׁבְחוֹבָה. חוֹבָה שְׁנַיִם בְּעֹלָה
– מִחֲצָה כֶּשֶׁר, וּמִחֲצָה פְּסוּל.

עֹלָה שְׁנַיִם בְּחוֹבָה, הַמֵּינִין
שֶׁבְחוֹבָה כֶּשֶׁר.

The remainder of the *Mishnah* that refers to cases with mixtures involving *olah* offerings can be understood with the explanation provided for the beginning of the *Mishnah* involving mixtures with *chatat* offerings.

⁵² A Slight Difficulty

It is my humble opinion that according to this understanding the *Mishnah* could have provided a different ruling that would have been applicable in more cases – “the number of birds that are equal to half the number of *chatat* offerings is valid”. This rule holds true whenever there are an even number of birds that are *stumot* and the total mixture can be offered half below and half above, even if the number of *chatat* offerings are many more than double the number of birds in the *kinei stumah*. To explain, from the above diagram it should be clear that the following birds are valid: half the number of birds in the *kinei chovah* (σ) and the number of *chatat* offerings (n) that exceed half the total number of birds. Mathematical:

$$\frac{\sigma}{2} + \left(\frac{n+\sigma}{2} - \sigma \right)$$

$$\Rightarrow \frac{n}{2} + \frac{\sigma}{2} + \frac{\sigma}{2} - \sigma$$

$$= \frac{n}{2}$$

Consequently half the number of *chatat* offering in the mixture is valid and it is left as a question why this formulation of the rule was not presented.

Perhaps it is for this reason that the other explanations brought below explain that this *Mishnah* is instead elaborating on the earlier *Mishnah* and referring to the *Kohen asking* how this mixture should be offered. In such a case the ruling that “the number of birds equal to the amount of birds in the *ken chovah* is valid” is more precise.

Masechet Kinim

Mishnah Five (*Bartenura*) משנה ה' – לפי הרב מברטנורא

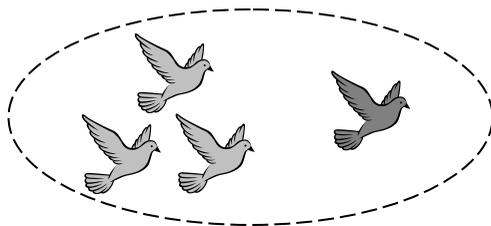
The following explanation follows the *Tifferet Yisrael's* understanding of the opinion of the *Bartenura*.

If *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] *kosher* [birds] equals the number of *chatat* offerings in the mixture. **חֲטָאֵת שְׁנֵתְעָרְבָה בְּחוֹבָה – אֵין כֶּשֶׁר אֶלָּא מִנֵּין חֲטָאוֹת שֶׁבְחוֹבָה.**

Earlier (1:2) the *Mishnah* taught the above rule. This *Mishnah* is also referring to those exact circumstances, where the *Kohen* is asking what should be done with such a mixture, thereby elaborating on that ruling.

If the *ken chova* [contained] double [the amount of birds that are] *chatat* offerings [compared to the **remaining birds** in the *ken chova*] **חוֹבָה שְׁנַיִם בְּחֲטָאֵת**

According to this explanation, the case is referring to two *kinei chova stuma* where the *chatat* offerings are double the number of *olah* offerings (for example where one of the birds designated to be an *olah* flew away). In other words three birds that are *stuma* where two must be *chatat* offerings and one an *olah*. Mixed with these birds is one *chatat*:



Half are valid, and half are invalid.

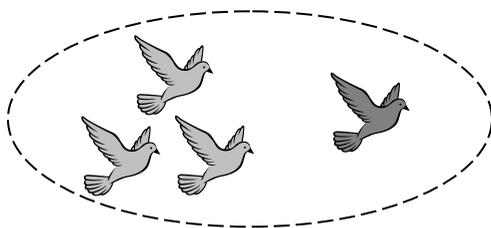
מְחֻצָּה כְּשֶׁר, וּמְחֻצָּה פְּסוּל.

None of the birds may be offered as an *olah* as it is possible that the *chatat* will be selected. No more than two birds may be offered as *chatat* offerings since if the birds selected are those from the *ken stuma* then the remaining bird must be an *olah* and then we would be left with a mixture of a *chatat* and *olah* from which nothing can be offered. Consequently two of the four birds, i.e. half, may be offered as *chatat* offerings.

If the *chatat* [in the *ken chova*] was doubled by the [remaining birds in] the *ken chova*.

חֲטָאת שְׁנַיִם בְּחוּבָה

The second case is referring to two *kinei chova stuma* where the *olah* offerings are double the number of *chatat* offerings (for example where one of the birds designated to be a *chatat* offerings flew away). In other words three birds that are *stuma* where two must be *olah* offerings and one a *chatat*. Mixed with these birds is one *chatat*. Mixed with these birds is one *chatat*:



The number [of birds equal to the amount *chatat* offerings] in the *ken chova* is valid.

הַמִּנִּין שְׁבִחוּבָה כָּשֶׁר.

Again none of the birds may be offered as an *olah* as it is possible that the *chatat* will be chosen. However no more than one bird may be offered as a *chatat* since if the bird selected is from the *ken stuma* then the remaining two birds from the *ken stuma* must be *olah* offerings and we would then be left with a mixture of a *chatat* and *olah* offering from which no birds may be offered.⁵³

⁵³ Questions Brought

The *Tifferet Yisrael* has two difficulties with this explanation:

1. The first case need not have referred to the *chatat* offerings being double the *olah* offerings. Even if the number of *chatat* offerings in the *kinei stumah* simply exceeded the *olah* offerings by one and a *chatat* was mixed the same rule would apply.
2. Likewise with the second case, the number of *olot* in the *stumah* birds need not have been double for this rule to apply. The ruling would have been the same as long as the *olah* offerings were greater than the *chatat* offerings.
3. The language of "חטאת שנים בחובה" does not seem to imply anything about the number of *olah* offerings as is inherent in this explanation.
4. What is the novelty of this *Mishnah*?

Masechet Kinim

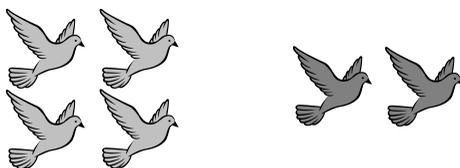
Mishnah Five (*Rashbatz*) משנה ה' – לפי הרשב"ץ

If a *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] *kosher* [birds] equals the number of *chatat* offerings in the mixture. חֲטָאת שְׁנֵיתְעֲרַבָה בְּחוּבָה – אֵין כָּשֶׁר אֶלָּא מִנֵּינ חֲטָאוֹת שֶׁבְּחוּבָה.

The *Rashbatz* understands, like the *Bartenura*, that this *Mishnah* is elaborating on the second *Mishnah* in the first chapter, where here too the *Kohen* is inquiring what he should do prior to offering the birds in the mixture. The terms of the case however appear to be understood in the same manner as the *Ra'avad* and *Rosh* brought earlier.

[If in a mixture, the number of birds from] the *ken chova* is double the [amount of birds that are] *chatat* offerings. חוּבָה שְׁנַיִם בְּחֲטָאת

According to this explanation, the number of birds in the *ken chova* is greater the number of *chatat* offerings, as follows:



Half may be offered, and half cannot be offered. מִחֲצָה כָּשֶׁר, וּמִחֲצָה פְּסוּל.

According to this explanation half the number of birds of the *kinei stuma* (two) can be offered. None of the birds may be offered as *olah* offerings since one of the *chatat* offerings in the mixture may be selected. Also no more than two *chatat* offerings may be offered since those offered may have been from the *kinei stuma* thereby making the remainder *olah* offerings.

[If in a mixture, the number of birds that are] *chatat* offerings is double [the amount of birds from] the *ken chova* חֲטָאת שְׁנַיִם בְּחוּבָה

The *Tifferet Yisrael* explains that the *Rashbatz* does not explain any further, but the following can be understood as his position by inference.



The number of birds equal to the amount of birds from the *ken chova* can be offered.

הַמִּנִּין שֶׁבַחֲנוּבָה כְּשֵׁר.

Again none of the birds may be offered as an *olah* as it is possible that a *chatat* will be selected. However no more than one bird may be offered as a *chatat* since if the bird selected is from the *ken stuma* then the remaining bird from the *ken stuma* must be an *olah* and we could then be left with a mixture of a *chatat* offerings and an *olah* from which no more birds may be offered.⁵⁴

⁵⁴ Questions Brought

The *Tifferet Yisrael* has two difficulties with this explanation:

1. The ruling in the first case would have been the same if the number of *chatat* offerings equalled the number of birds in the *kinei stumah* so why was it necessary to teach that the *stumot* were double?
2. What is the novelty of this *Mishnah*?

Mishnah Five (*Rambam*)

משנה ה' – לפי הרמב"ם

If a *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] valid [birds] equals the number of *chatat* offerings [in the mixture].

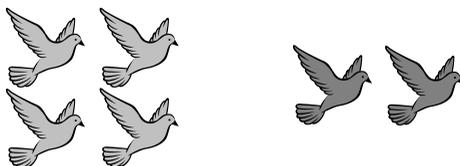
חֲטָאת שְׁנֵתְעָרְבָה בְּחוּבָה –
אֵין כָּשֶׁר אֶלָּא מִנֵּן חֲטָאוֹת
שֶׁבְחוּבָה.

The *Rambam's* explanation is similar to the *Ra'avad* and *Rosh* above in that this *Mishnah* is referring to where the *Kohen* already offered the entire mixture. The *Rambam* differs in the detail of the cases. The following is the beginning of the *Rambam's* explanation according to the understanding of the *Tifferet Yisrael*.

[If in a mixture, the number of birds from] the *ken chova* is double the [amount of birds that are] *chatat* offerings.

חוּבָה שְׁנַיִם בְּחֲטָאת

The *Rambam* refers to a mixture of larger quantities, but for simplicity the following example is used to explain the *Rambam's* position:

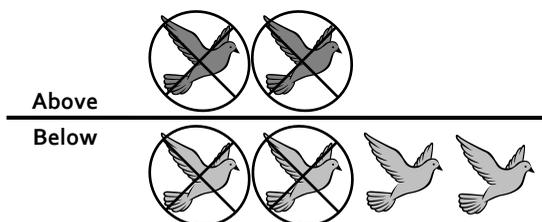


The *Kohen* then offered four birds below and two above.

Half are valid, and half are invalid.

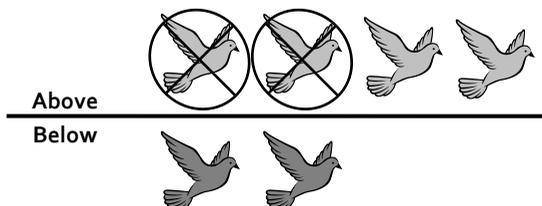
מִחֲצָה כָּשֶׁר, וּמִחֲצָה פְּסוּל.

If the *Kohen* then offered four birds below and two above then the following therefore is the worst possible scenario:



The birds offered above are certainly invalid as they might be the *chatat* offerings; according to the *Rambam* they are not the *Mishnah's* concern. From those offered below, half are valid and half are invalid. It is possible that they are all from the *kinei stuma*, from which only half are to be offered below.

Alternatively, the *Rambam* also considers the case where four are offered above and two below. The following is the worst possibility:

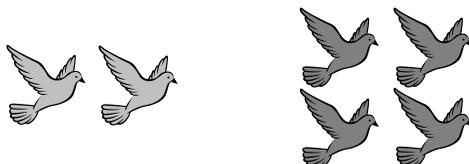


Again, the *Rambam* is not concerned with the birds offered below, as they are clearly valid. For the four offered above, only half are valid as it is possible that the birds all came from the *kinei stuma*.

The *Rambam* does not explain any further. What follows is what the *Tifferet Yisrael* deduces as the rest of the *Rambam's* explanation.

[If in a mixture, the number of birds that are] *chatat* offerings is double [the amount of birds from] the *ken chova*

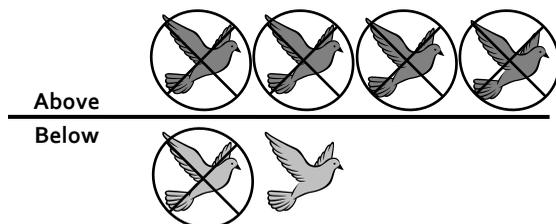
חֲטָאת שְׁנַיִם בְּחוּבָה



The number of birds equal to the amount of [*chatat* birds] in the *ken chova* is valid.

הַמִּנִּין שֶׁבְּחוּבָה כָּשֵׁר.

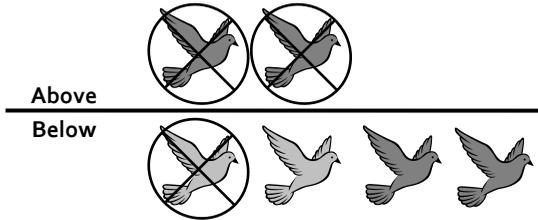
If four are offered above and two below, then the following is the worst possibility:



The *Rambam* is not concerned with the birds offered above, as they are clearly invalid out of the concern that all the birds offered above were *chatat* offerings. For the two offered below, only half are valid as it is possible that the birds all came from the *ken stuma*.

Masechet Kinim

As previously, alternatively if the *Kohen* offered four birds below and two above then the following therefore is the words possible scenario:



The birds offered above are certainly invalid as they might be the *chatat* offerings and the two birds in excess of the number of the *stumot* below are certainly valid; according to the *Rambam* they are not the *Mishnah's* concern. From the *ken stuma* however half are valid and half are invalid as it is possible that they were both offered below.

Mishnah Five (*Riva*) משנה ה' – לפי הריב"א

If a *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] valid [birds] equals the number of *chatat* offerings [in the mixture].

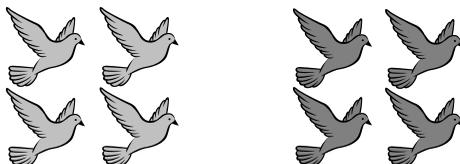
חֲטָאת שְׁנֵתְעָרְבָה בְּחוֹבָה –
אֵין פֶּשֶׁר אֶלָּא מִנֵּן חֲטָאוֹת
שֶׁבְחוֹבָה.

The *Mishnah* here is referring to where the *Kohen* already offered the entire mixture.

[If in a mixture] the *ken chova* is doubled by the *chatat* offerings.

חוֹבָה שְׁנַיִם בְּחֲטָאת

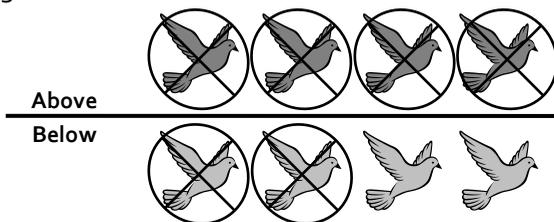
According to the *Riva*, the number of *kinei chova* are doubled by the number of *chatat* offerings as follows:



Half are valid, and half are invalid.

מִחֲצָה פֶּשֶׁר, וּמִחֲצָה פְּסוּל.

The following is the worst-case scenario:

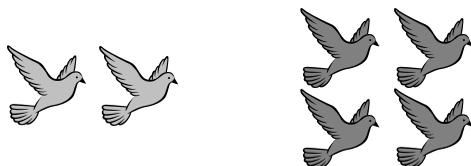


Consequently the *Mishnah* is referring only to those offered below, of which only half are valid.

[If in a mixture] the *chatat* offerings are double the [number of birds in] the *kinei chova*

חֲטָאת שְׁנַיִם בְּחוּבָה

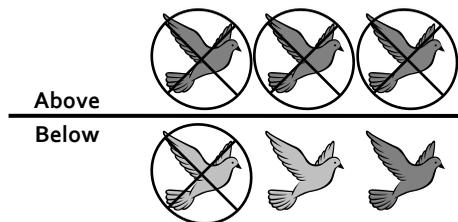
In the second case, the number of *chatat* offerings is double the number of birds in the *ken chova*, for example:



The number of birds equal to the amount of birds from the *ken chova* is valid.

הַמְנִין שֶׁבְּחוּבָה כָּשֵׁר.

The following is the worst-case scenario:



Consequently the number of birds equal to the number of the birds in the *chova* (2) is valid.⁵⁵

⁵⁵ Questions Raised

The following are the difficulties the *Tifferet Yisrael* raised:

1. The same terms in the first and second case are explained differently.
2. The ruling given in the first case only applies to a portion of the mixture while the ruling in the second applies to all the birds.

Mishnah Five (*Yair Kino*)

משנה ה' – לפי יעיר קינו

If a *chatat* mixed with an obligatory *ken* (*ken stuma*) - [the number of] valid [birds] equals the number of *chatat* offerings [in the mixture].

חֲטָאת שְׁנֵתְעָרְבָה בְּחוּבָה – אֵין כְּשֵׁר אֶלָּא מִנִּין חֲטָאוֹת שֶׁבְּחוּבָה.

The *Mishnah* is referring to where the *Kohen* already offered the entire mixture.

[If in a mixture] the *ken chova* is doubled by the *chatat* offerings.

חוּבָה שְׁנַיִם בְּחֲטָאת

Like the *Riva*, each *ken chova* is match by two *chatat* offerings:



Half are valid, and half are invalid.

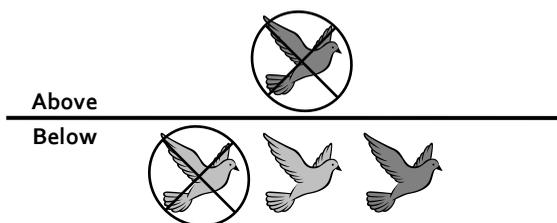
מְחָצָה כְּשֵׁר, וּמְחָצָה פְּסוּל.

Now, like the *Rambam*, since from the entire mixture there must be three *chatat* offerings and one *olah*, the *Kohen* offer one bird above and three below.⁵⁶

⁵⁶ **Why do we assume it is offered in this manner?**

The *Yair Kino* explains that since this *Mishnah* does not state how the birds were offered (e.g. half above and half below) we should understand that they were offered in the manner that was required. The mixture required three *chatat* offerings and one *olah* offerings, therefore three were offered below and one above. The *Kohen's* mistake was that he assumed that all the birds were *stumot* so he randomly selected the birds.

The following is therefore the worst possibility:

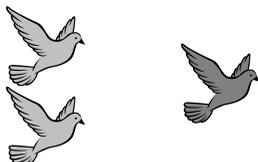


The one offered above is invalid as it may have been the *chatat*. One of the birds offered below is invalid as it is possible that both of the birds from the *ken stuma* were offered below, with only one of which meant to be offered below (as a *chatat*).

[If in a mixture] the *chatat* offerings are doubled by the [number of birds in] the *kinei chova*

חֲטָאֵת שְׁנַיִם בְּחוּבָה

In the second case for each *chatat*, two birds⁵⁷ are *stuma*, for example:

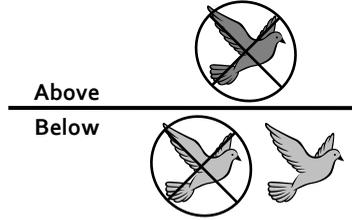


⁵⁷ Are the terms changing?

Even though it may appear that the meaning of the terms in the first and second case are different, the *Yair Kino* explains the term "שְׁנַיִם" is a masculine term thereby always referring to two birds (and not *kinim*). Consequently in the first case, each *ken chovah* has two *chatat* birds, and in the second case each *chatat* has two *ken chovah* birds.

המנין שפחובה פשר. The number of birds equal to the amount of birds from the *ken chova* is valid.

The number of the *chataot* within the *kinei stuma* is valid. This is because the following is the worst-case scenario:



Masechet Kinim

Mishnah Six (*Rashi* and *Rosh*) משנה ו' – לפי רש"י והרא"ש

[If] a [poor] woman says, I take on the *neder* to bring a *ken* when I give birth to a male. [If] she gives birth to a male – she must bring two *kinim*: one for her *neder* and one for her obligation.

האשה שאמרה: הרי עלי קן
כשאלד זכר, ילדה זכר –
מביאה שתי קנים, אחת
לנדרה ואחת לחובתה.



Neder

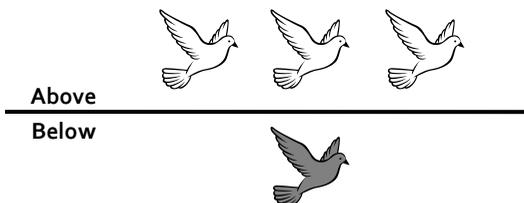


Chova

When she gives [the birds] to the *Kohen*, the *Kohen* must offer three [of the birds] above and one below.

נתנתם לכהן, והכהן צריך
לעשות שלש פרידות
מלמעלן ואחת מלמטון.

The animals should be offered as follows:

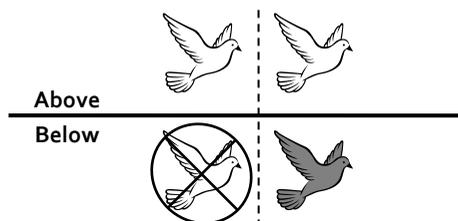


If the *Kohen* did not do so and offered two [of the birds] above, and two below and had not asked her [for which reason each of the birds were brought] she must bring one more bird and offer it above. [This applies when all the birds are brought from] one species.

לא עשה כן, אלא עשה שתיים
למעלן ושתיים למטון, ולא
נמלך – צריכה להביא עוד
פרידה אחת, ויקריבנה
למעלן; ממין אחד.

When the *Kohen* was handed the two pairs, he assumed that they were both *kinei chova* and each of the pairs were offered one above and the other below. Consequently the following is the worst possible case:

Masechet Kinim



One must remember that in all the coming case, the first two birds offered one above and one below are considered as satisfying her obligatory *ken*.⁵⁸ (The dotted line is included to separate between to the two *kinim* that were offered.)

[If however the birds are] from two species

מִשְׁנֵי מִיָּנִין

To differentiate between the two types of birds, the following pictures, with the different types facing different directions, will be used in the diagrams that follow:



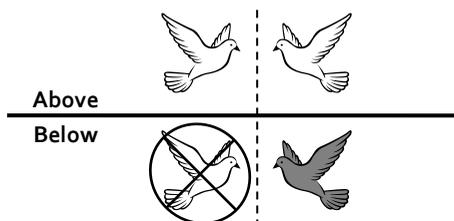
In other words, if she brought two different *kinim*, one *torin* and one *inei yonah* and the *kohen* is unsure which of the two *kinim* he offered first.

⁵⁸ Two Above and Two Below

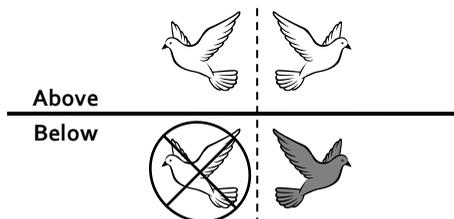
The *Mishnah* implies that two birds were offered above first and then two below. One might ask that the *Tana* should have taught that two were offered below first. Firstly, the ruling of our *Mishnah* that one is invalid will occur immediately after the two are offered below. Secondly, we learnt earlier that *chatat* offerings should be offered before *olah* offerings.

The *Tifferet Yisrael* explains that *Rashi* rules that the first *ken* offered is always considered the *ken chovah*. One therefore might have thought that if the first two birds are offered above, those two would have been considered the *ken chovah* thereby invalidating the required *chatat*. Then once the next two birds are offered below, both would also be invalid as they would be considered as trying to satisfy the voluntary *ken*, both of which *olah* offerings must be offered above. In total three birds would be invalid. Consequently, the *Mishnah* presents the case in this manner to teach that it is not the first two birds that are considered as being offered for the *ken chovah*, but rather the first two birds offered correctly.

Possibility 1



Possibility 2



She must bring two birds.

תביא שתיים.

As before, one bird is definitely invalid but here the type of bird is not known. Therefore she must bring an extra *tor* and *ben yonah* as an *olah*.

[If] she explicitly stated [from which species of bird she would bring as a sacrifice] for her *neder* [when making the *neder*], then she must bring another three birds. [This applies when all the birds are brought from] one species.

פְּרִשָּׁה נְדָרָה – צְרִיכָה לְהַבִּיא
עוֹד שְׁלֹשׁ פְּרִידוֹת; מִמִּין
אֶחָד.

In this case the woman stipulated the type of bird that she was going to bring for her *neder* but forgot which species she had specified. She then brought all four birds from one type. One bird is invalid like in the first case. Yet, she needs to bring two more birds from the other type to be certain that her *neder* is fulfilled.⁵⁹

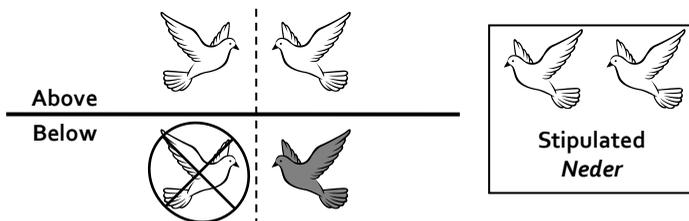
⁵⁹ This rule also applies in other cases

The *Tifferet Yisrael* notes that the obligation to bring three replacement birds can occur in other situations as well. For example she remembered which type she stipulated, but forgot which type of birds she gave to the *Kohen*. However since it is less likely that both the woman and the *Kohen* would forget which birds were involved, the *Tana* brought a more probable case. (Note: the *Tifferet Yisrael* uses this

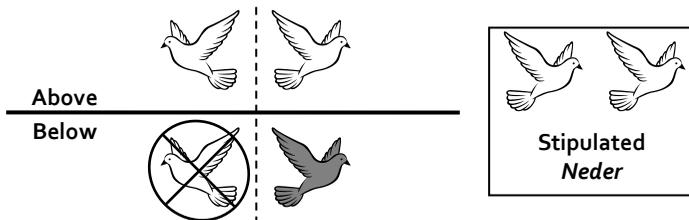
If the birds were [brought] from two different species, **מִשְׁנֵי מִיָּנִין – תְּבִיא אֲרָבַע.**

A combination of the following possibilities is behind the ruling of the *Mishnah*:

Possibility 1



Possibility 2



In the case there are two points of uncertainty: which type of bird was offered second as the *neder* thereby invalidating one of the birds, and which type of birds she vowed to bring. From the above diagrams one sees that in order to be certain that she fulfilled her original obligation she must bring an additional two *kinim* – one of *bnei yonah* and one of *torin* – all of which offered as *olah* offerings.⁶⁰

principle that the *Tana* prefers to bring the more likely case to explain why the *Tana* brought one case instead of another in other instances in this *Mishnah* as well.)

⁶⁰ **What is the *Kohen's* mistake adding?**

The *Markevet Ha'Mishnah* asks that there does not seem to be any novelty in this case according to this understanding. By forgetting what she stipulated to bring to fulfil her *neder* she would be required to bring two *torin* and two *bnei yonah* to fulfil her *neder* anyway, *without* involving a *Kohen* who took the birds and erred when offering the them.

If she established her *neder*.

קְבָעָה נְדָרָה

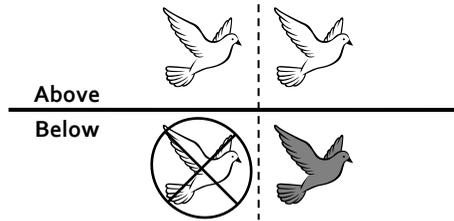
In this case, at the time of her *neder* she vowed to bring her *neder* with her *ken chova*. The motivation for making such a condition is that she wished to offer all three *olah* offerings together. The *Tifferet Yisrael* explains that it is as if she intended not to fulfil her obligation of bringing her *olat chova* if it is not brought alongside her *ken neder*.

In this case however, she again forgot which type she vowed to bring. Ordinarily she would be required to bring her *ken chova* and two *kinei neder* - one *bnei yonah* and one *torin* - however only four birds were brought with all of them being from one type.

The *Yair Kino* answers that without the *Mishnah's* ruling, one might have thought as follows. If at the time of offering, she had remembered what she stipulated, for example *bnei yonah*, then the *bnei yonah* would have been offered for the purpose of the *neder* and the *torin* as the *chovah*. Even though she has forgotten, we might have thought that she can say that she preferred the *chovah* to be brought from the type opposite to the one from which she stipulated to bring her *neder*, even if it was offered second. Now even though we do not know which type it is, "the matter is revealed in heaven." Consequently only one of the birds (an *olah*) would be invalid. Since we do not know which type that bird is, the woman would be able to simply bring one *tor* and one *ben yonah*. The *Mishnah* therefore teaches that this logic does not hold true. Instead, the first pair offered is offered as the *chovah*. Consequently (as explained above) she must bring four birds to be certain that her *neder* is fulfilled.

She must bring another five birds. [This ruling applies when all the birds are] from the same species.

צְרִיכָה לְהֵבִיא עוֹד חֲמִשָּׁה פְּרִידוֹת; מִמִּין אֶחָד.

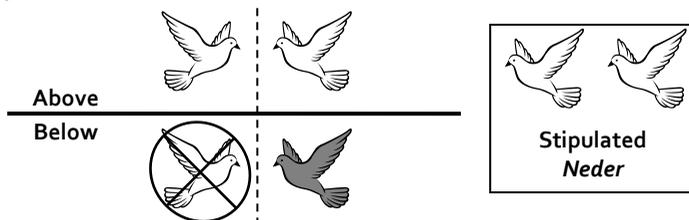


Like previously, one of the *olah* offerings is invalid. Consequently her *neder* to bring the three *olah* offerings together has not have been fulfilled. She must therefore bring two *kinei neder* - one of *bnei yonah* and one of *torin* to certainly satisfy her *neder*. However, she must also bring an extra *olat chova* (from the same type as the valid *chatat chova*) so that the *neder* is offered alongside the valid *ken chova* - five birds in total.

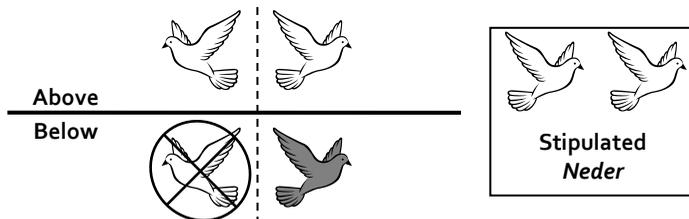
[If however the birds that were offered] came from two different species, she must bring six birds. **משני מינין – תביא שש.**

A combination of the following possibilities is behind the ruling of the *Mishnah*:

Possibility 1



Possibility 2



The logic is the same as the previous case. However since the type of the original *chova* is not known, two birds must be brought (one *ben yonah* and one *tor*) as the *olat chova* – six birds in total.

If she gave [the four birds] to the *Kohen*, but it is not known what she gave him, and [the *Kohen*] went and offered them but does not know what he did.

וְתִנְתֶּם לַכֹּהֵן, וְאִין יָדוּעַ מֵהַ
 – וְעָשָׂה, הֲלֹךְ הַכֹּהֵן וְעָשָׂה –
 וְאִין יָדוּעַ מֵהַ עָשָׂה

The woman once again stipulated which type of bird she wished to offer as her *neder* and subsequently forgot the type. Also no one knows what type of birds was handed to the *Kohen*. To make matters worse we do not know the manner in which they were performed. It is possible that there were all offered above, thereby invalidating the *chatat*. It is also possible that they were all offered below invalidating all the *olah* offerings.

She must bring another four birds for her *neder* and two [*olah* offerings] for her *chova* and one *chatat*.

צְרִיכָה לְהֵבִיא עוֹד אַרְבַּע
 פְּרִיזוֹת לְנֹדֶרָה, וּשְׁתֵּי
 לְחֻבַּתָּהּ, וְחֻטָּאת אַחַת.

She must bring the following birds:

1. Two *bnei yonah* and two *torin* as *olah* offerings – this is to ensure that her *neder* is fulfilled.
2. One *ben yonah* and one *tor* as *olah* offerings – this is in case all birds were offered below thereby invalidating all the *olah* offerings including the *olah* from the *ken chova*. However as we learnt earlier (2:5), the *olat chova* must be brought from the same type as the *chatat* and in this possibility we are unsure of that type. Consequently *olah* offering from both types must be brought.
3. One bird (either type) as a *chatat* – this is in case all birds were offered above thereby invalidating the *chatat*. In the previous point, a bird from each type was required to partner with the possibly valid *chatat*. Here however the *chatat* can be brought from either type. This is because the *chatat* determines type of birds from which the *ken chova* must be brought. (The requirement that the partnering *olah* is brought from the same type is covered by the *olot* mentioned in the previous point.)

בן עזאי אומר: שתי חטאות. Ben Azai says she must bring two *chatat* offering.

Ben Azai disagrees with one point. Consistent with his position earlier (2:5), he maintains that the type from with the *ken chova* must be brought is not determined by the *chatat* but by the bird that was offered first. Consequently two *chatat* offerings must be brought out of concern that all the birds were offered above thereby invalidating the *chatat*. Since we do not know the type of birds that was offered as the *olah*, two *chatat* offerings, one a *tor* and one a *ben yonah* must be brought.

Rabbi Yehoshua said: That is what they say: When he is alive he has one voice, when he is dead his voice is seven. How is his "voice seven"? Two horns [make] two trumpets⁶¹, two forelegs [make] two flutes, the hide [is used] for a drum, the intestines [are used] for harps, the small intestines [are used] for violins.
 Some say, even the wool [is used] for *techelet*.

אמר רבי יהושע: זה הוא שְׁאָמְרוּ: כִּשְׁהוּא חַי קוֹלוֹ אֶחָד, וּכְשֶׁהוּא מֵת קוֹלוֹ שִׁבְעָה. פִּיּוֹד קוֹלוֹ שִׁבְעָה? שְׁתֵּי קַרְנָיו, שְׁתֵּי חֲצוּצְרוֹת; שְׁתֵּי שׁוֹקָיו, שְׁנֵי חֲלִילִין; עוֹרוֹ לְתוֹף; מַעְיוֹ לְנִבְלִים; בְּנֵי מַעְיוֹ לְכַנּוֹרוֹת. וַיֵּשׁ אֹמְרִים: אֵף צִמְרוֹ לְתַכְלֶת.

The *techelet* refers to the "pomegranates" that were next to the bells at the base of the *Kohen Gadol's* coat. (Alternatively the *Razah* understands that this refers to the entire coat.) The *Chachamim* do not consider them in their list either because they themselves did not produce any sound (*Bartenura*, c.v. *Tosfot Yom Tov*) or because the *Chachamim* were only concerned with those things that could only be removed from the animal after it died (*Likutim*).

⁶¹ "Trumpets"

What are the "trumpets"? The horns of the animal are referred to as "*shofarot*" and the trumpets were usually made of silver. The *Bartenura* explains that the *shofarot* are also referred to by the term "*chatzotzrot*" (*Sukkah* 34a). Alternatively, *Tosfot Yom Tov* citing the *Rabbeinu Tam* (*Zevachim* 68) explains that there were two types of *chatzotzrot*. The ones used by the *Kohanim* were made of silver, while the ones used by the *levi'im* for music are the ones mentioned here.

The commentaries explain that this statement of *R' Yehoshua* is brought as a means of remembering the ruling in the previous case. Just like here after the animal dies, seven or eight instruments can be made, so too in the last case, once the animals were offered and she is unsure of their type and the details of her *neder*, seven or eight animal must be brought.⁶² As the *Rambam* explains, in both cases when the animal dies the *mitzvot* increase.

R' Shimon ben Akashya said: the elder unlearned men as they get older, they lose intelligence as it says, "He remove speech of men of trust, the reason of elder he takes" (*Iyov* 12:20). However, for the *Torah* sages it is not so, rather the older they get, the more clear-minded they become as it says, "Is wisdom with aged men, and understanding in length of day?" (*Iyov* 12:12)

רַבִּי שִׁמְעוֹן בֶּן עֲקִשָּׂיָא אוֹמֵר: זְקֵנֵי עִם הָאָרֶץ, כָּל זְמַן שְׂמִזְקִינִין, דְּעֵתָן מְטַרְפֵּת עֲלֵיהוֹן, שְׁנַאֲמַר "מִסִּיר שְׁפָה לְנַאֲמָנִים וְטַעַם זְקֵנִים, יִקָּח" (איוב יב:כ). אֲבָל זְקֵנֵי תוֹרָה אֵינָן כֵּן, אֶלָּא כָּל זְמַן שְׂמִזְקִינִין, דְּעֵתָן מְתִישְׁבֵּת עֲלֵיהוֹן, שְׁנַאֲמַר "בְּשִׁשִּׁים חֲכָמָה וְאֶרֶךְ יָמִים תְּבוֹנָה" (איוב יב:יב).

The *Mefarsh* explains that this last statement of *R' Shimon ben Akashya* is originally a *Beraita* inserted here (see *Gemara Shabbat* 152a). It is added for its similarity to the last case in the *Mishnah*. Just like when the animal dies there is an increase in *mitzvot*, as *talmidei chachamim* get older and physically begin to degrade and weaken, the wisdom only increases (*Rambam*). Alternatively since the *seder* is referred to a *chochma* (*Shabbat* 31a) it is appropriate that we end with a discussion about *chochma* (*Razah*).

⁶² **A Support for the opinion of *Rashi*.**

The *Tifferet Yisrael* writes that this association seems to support *Rashi's* interpretation. This is because the comparison made seems to suggest that *Ben Azai* only argues in the last case. All other explanations involve *Ben Azai* disputing the ruling in the other cases as well, with some understanding that *Ben Azai* does not disagree in the last case.

Mishnah Six (Rambam, Ra'avad, Razah and Bartenura)

משנה ו'

לפי הרמב"ם הראב"ד הרז"ה והרב מברטנורא

While the opinions of the *Rambam*, *Ra'avad*, *Razah* and *Bartenura* do differ from each other, they are included here together as they explain most of the terms of the *Mishnah* in a similar manner. This section does highlight where the opinions differ.

[If] a [poor] woman says, I take on the *neder* to bring a *ken* when I give birth to a male. [If] she gives birth to a male – she must bring two *kinim*: one for her *neder* and one for her obligation.

האשה שאמרה: הרי עלי קן כשאילד זכר, ילדה זכר – מביאה שתי קנים, אחת לנדרה ואחת לחובתה.



Neder



Chova

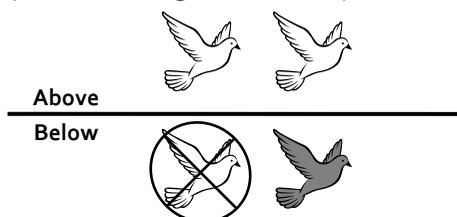
When she gave [the birds] to the *Kohen*, the *Kohen* must offer three [of the birds] above and one below.

If the *Kohen* did not do so and offered two [of the birds] above, and two below and had not asked her [for which reason each of the birds were brought] she must bring one more bird and offer it above. [This applies when all the birds are brought from] one species.

נתנתם לכהן, והכהן צריך לעשות שלש פרידות מלמעלה ואחת מלמטה, לא עשה כן, אלא עשה שתיים למעלה ושתיים למטה, ולא נמלך – צריכה להביא עוד פרידה אחת, ויקריבנה למעלה; ממין אחד.

Masechet Kinim

The *Kohen* did not consult with the woman and offered half above and half below. Consequently the following is the worst possible case:



According to this explanation as well, for the remainder of the *Mishnah*, the first two birds offered (one above and one below) are considered as satisfying her obligatory *ken*.

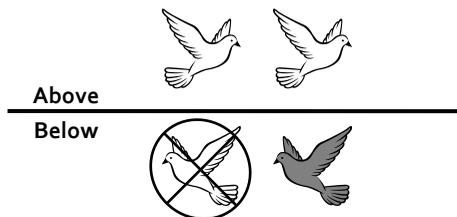
[If however the birds are] from two species

מִשְׁנֵי מִיָּנִין

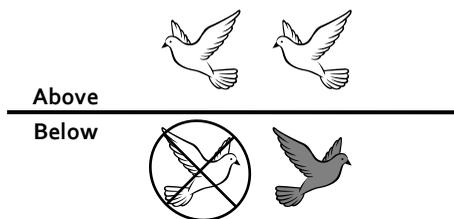


In other words, she brought two different *kinim*, one *torin* and one *bnei yonah*. The *Kohen* then offered one type above and the other type below; he did not know that birds of a *ken chova* must be of the same type. He then subsequently forgot where each type was offered. Consequently the following situations are possible:

Possibility 1



Possibility 2



She must bring two birds.

תביא שְׁתֵּי יָמִים.

The *olah* offerings from her *neder* are both definitely valid, while the *olah* from the *ken chova* is not. However since we are unsure of that bird's type, she must bring an extra *tor* and *ben yonah* as an *olah*.⁶³

⁶³ Is the *Rambam* also concerned for *Rashi's* scenario

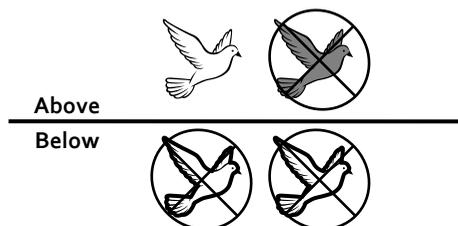
The *Tifferet Yisrael* explains that even if there is also a doubt that the birds from each *ken* were offered one above and one below the rule would be the same. (For diagrams see the explanation of *Rashi's* understanding of this *Mishnah* above.) Unlike *Rashi* however, if that were definitely the case, one bird (not two) brought from either type would be enough. The *Tifferet Yisrael* explains that this is because, unlike a *ken chovah*, the *Rambam* allows the birds for a *ken neder* to be from two different types. (He derives this from the language used by the *Rambam* in *Psulei Mukdashin* 10:1.) He adds that it becomes clear from the *Rambam's* explanation in this *Mishnah* that the *Rambam* also disagrees with *Rashi's* rule that the first *ken* must be the *ken chovah*.

The *Yair Kino* explains that according to the *Rambam*, there is also a doubt that each of the *kinim* were each offered one above and one below. However he explains that the concern described above is necessary to explain the ruling of the *Mishnah* in the case of "*pirsha nidrah*" (see below). It appears from the later explanations of the *Yair Kino* that he disagrees on both points made by *Tifferet Yisrael* and holds that the *Rambam* also required that the bird of a *ken neder* be from the same type. (See the next footnote.)

[If when separating the birds for both her obligation and *neder*] she explicitly stated [the birds that would be used] for her *neder*, then she must bring three birds. [This ruling applies when all the birds are from] one species.

פְּרִשָּׁה נִדְרָה – צְרִיכָה לְהַבְיִיא
עוֹד שְׁלֹשׁ פְּרִידוֹת; מִמִּין אֶחָד.

At the time the woman separate the birds, she stated which birds would be used for the *neder* and which birds would be used for the *chova*. (The birds that she selected for her *neder* are signified with a thick outline in the diagrams.) She then brought all four birds from one type. If one pair was offered above and the other below, then the following is the worst possible case:



Consequently three birds, two *olah* offerings and one *chatat*, all from the same type that was originally brought, must be brought.

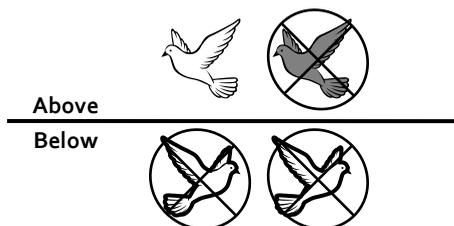
If the birds were [brought] from two different species, she must bring four.

מִשְׁנֵי מִינִין – תְּבִיא אַרְבַּע.

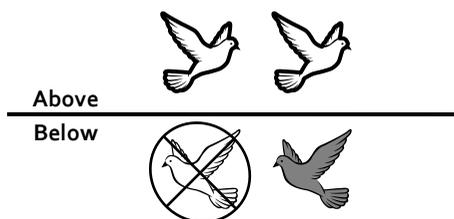
Here she separated one of the two types for her *neder* and knows which type she separated. For simplicity, we shall use the example where she selected the *torin* for her *neder*.

The follow two possibilities exist:

Possibility 1



Possibility 2



From the above diagrams it is clear that she must now bring four birds – a *ken neder* and *ken chova*.

The *Rambam* (*Hilchot Psulei HaMukdashim* 10:2) rules that she must bring two *torin* as her *ken nedava*; the same type as she initially separated for this purpose. The *ken chova* however can come from any type.⁶⁴

⁶⁴ **Question on the opinion of the *Rambam***

The *Tifferet Yisrael* has the following difficulties with this ruling:

1. Since she did not specify at the time of the *neder* which type of birds she wished to use, either type of bird can be used now to fulfil the *neder*. Why then must the *neder* be brought from the type she originally designated?
2. According to Possibility 2, the *chatat* was offered properly. Consequently the *olat chovah* must be brought from that same type – *ben yonah*. Similarly, according to Possibility 1, the *chatat chovah* should also be brought from the same type as the potentially valid *olat chovah*. Why then can the *chatat* be brought from any type?
3. Combining the last two questions, it should be enough to bring three *bnei yonah* – a *chatat* and two *olah* offerings – which can be used to satisfy the concern for both possibilities.

The *Tifferet Yisrael* leaves these as questions on the *Rambam*.

In response to the first question, both the *Mishnat Chachamim* and *Yair Kino* respond that the *neder* can only be brought from either type if we know with certainty that both the original birds are invalid. However in this case it is possible that one of the *olah* offerings from the *neder* was offered correctly if the *ken neder* was offered one above and one below (see footnote 55). Consequently, according to such a concern, a (potentially) second *olah* must be brought from the same type. Since there is also a concern that both *olah* offerings from the *neder* were offered below (Possibility 1) we therefore bring an additional bird from the same type again.

There are however number of different responses to the second question – why can she bring the *ken chovah* from either type? The *Yair Kino* explains that since, as a result of a combination of the above two possibilities, she must bring a full new *ken chovah* the *Rambam* maintains that the *Chachamim* are no longer adamant that even though these birds may be partnering a valid *chatat* or *olah*, that they must be from the same type. (See, in contrast, the *Mishnat Chachamim* who holds that the *Rambam* maintains that neither the *chatat* nor *olah* dictate the type from which the full *ken* must be brought.)

Nonetheless the question still remains, why are the *Chachamim* not adamant? Why do we not try to satisfy the ideal scenario anyway? If one still has a choice, they should bring the replacement birds from the same type as the original *ken chovah*!

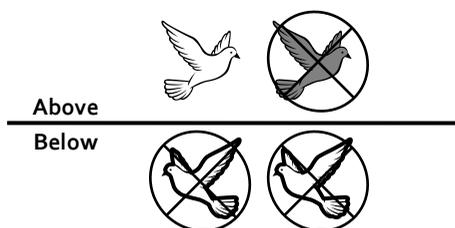
The *Yair Kino* provides an explanation for both possibilities. The first is if the original *olat chovah* was valid. In that case, one could bring the *ken chovah* from the original type and stipulate that if indeed the original *olat chovah* was valid, then the current *olah* should be considered voluntary, and the *chatat* now partners that original valid *ken chovah*. However if one does so, then it would mean that the *olah* was offered prior to the *chatat*, which is not ideal (see footnote 2). Consequently, the *Rambam* has a preference that a full new *ken* is brought now. (The original valid *olah* would thus be retrospectively considered voluntary.)

The second possibility, where the original *chatat* was offered correctly, creates a further problem. In this case, one would assume that the *olat chovah* must be brought from the same type. The *Yair Kino* explains a *chatat* cannot be brought in a conditional manner since a *chatat* cannot be brought voluntarily. Consequently, when it is brought without stipulation (*stam*) the first original *chatat* is “annulled”. The *Yair Kino* explains that this annulment is only possible as long as the original complete *ken chova* was not offered correctly. (This is important since the *Rambam* states explicitly that the *chatat* offered now may not be consumed because its requirement to be brought is doubtful. This implies that it must be possible that original *chatat* remained valid.) The annulment is only possible in the case of the *chatat* and not for the *olat* (as in the previous possibility), precisely because the *chatat* cannot be brought in a conditional manner. Consequently it no longer matters from which type the *ken chovah* is brought. (See the *Yair Kino* for a fuller

The *Ra'avad* however rules she should bring two *torin* as *olah* offerings and one *ben yona* as a *chatat* due to possibility 1, and an extra *ben yona* as an *olah* due to possibility 2.⁶⁵

The *Razah* however understands that in this case the woman forgot which type she separated for the purpose of her *neder*. Consequently the following is an additional possibility:

Possibility 3



Consequently the *Razah* maintains that she must bring two *olah* offerings from one type and a *ken chova* from the other.⁶⁶

discussion on this explanation and its implication that two *chatat* offerings are being brought for one obligation.)

⁶⁵ **Clarification of the *Ra'avad***

The *Ra'avad* admits that she could really bring the birds from any type to satisfy her *neder*, as the type was not stipulated at the time of the *neder*. However ideally she should not do so since she had already separated birds of a particular type for her *neder*. The *Mishnah* is therefore illustrating the ideal circumstance.

⁶⁶ **Full explanation of the *Razah***

To understand this solution, one must recall the opinion of the *Chachamim* at the end of the second *perek* that only the *chatat* dictates the type of birds that constitute the *ken chovah*. Therefore considering the two possible cases above, since the type of bird was not stipulated at the time of the *neder* it can be brought from either type. Furthermore, if the *chatat* is invalid it may also be brought from either type. However, one must also consider Possibility 2, in which case the *chatat* was offered correctly. In such a case the *olah* must be brought from the same type. Yet since we do not know which type that is, one would need to bring an *olah* from each type. Note that according to that possibility, the *neder* would have been satisfied. It is therefore enough if two kinim from different types, one as a *ken chovah* (to satisfy her original obligation) and the other as two *olah* offerings (either to satisfy the *neder* or one of which to complete her *chovah*).

[If] she established her *neder*

קְבָעָה נְדָרָה

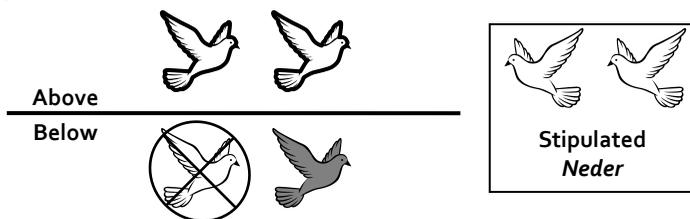
At the time of her *neder* she stipulated the type of birds from which the *ken neder* would be brought. Unfortunately she subsequently forgot what she specified. Once again, when she separated the birds, she designated which birds would be used for the *neder*. In other words, it is possible that what she separated as her *neder* did not match what she stipulated for her *neder*.⁶⁷ The *Mishnah* begins with the ruling of all four birds were brought from one type.

She must bring five birds. This ruling applies when all the birds are of the same species.

צְרִיכָה לְהַבִּיאַ עוֹד חֲמִשָּׁ פְּרִידוֹת; מִמִּין אֶחָד.

The ruling of the *Mishnah* is out of concern from the following possibilities:

Possibility 1

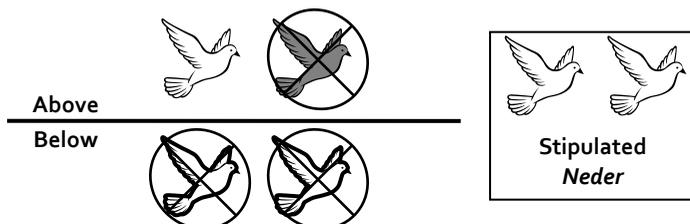


Note that this explanation is immune to the questions asked on the *Rambam* and *Raavad* in the previous two footnotes.

⁶⁷ **Mismatch**

The *Ra'avad* and *Razah* explicitly state this possibility. It is however unclear as to whether the *Rambam* understands this case this way. The *Tifferet Yisrael* understands the *Rambam's* opinion in this manner. The *Yair Kino* however understands that this mismatch is not possible. In other words she remembered when she separated the birds for the *neder* what she stipulated at the time of the *neder*. Instead this case is where she forgot both details of the *neder* and what she gave to the *Kohen*. The end result is therefore the same.

Possibility 2



A combination of the above two possibilities means that she must now bring two *bnei yonah* and two *torin* to ensure that her *neder* has been fulfilled and must also bring an extra *chatat*⁶⁸.

מְשֵׁנֵי מִינִין – תְּבִיא שֵׁשׁ. [If however the birds that were offered] came from two different species, she must bring six birds.

As explained this case is where she both stipulated the type of bird she wished to bring for *neder* and separated birds specifically for the fulfilment of her *neder*.

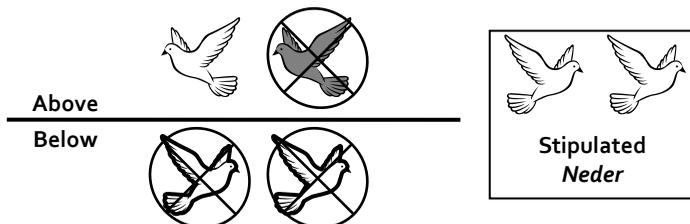
⁶⁸ From which type must the *chatat* be brought?

Following the example above, according to the *Ra'avad* the *chatat* must be a *tor* to account for Possibility 2; it will match the valid *olat chovah*.

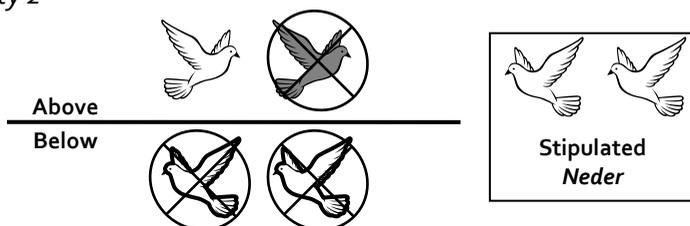
The *Rambam* however rules it can be brought for either type. The *Tifferet Yisrael* explains that two *torin* and two *bnei yonah* are being brought as *olah* offerings. Yet when trying to account for every possibility requiring a *chatat* to be brought, we will have at least an excess of a *tor* and *ben yonah*. Consequently a *chatat* of any type can be brought since there will be an *olah* free to pair with it. (Recall that an *olah* does not dictate the type from which the *chatat* must be brought – see the *Tifferet Yisrael* for a full explanation.)

The following cases are therefore possible⁶⁹:

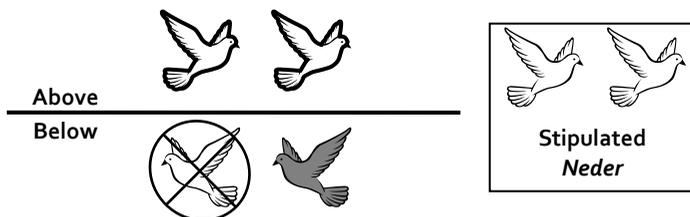
Possibility 1



Possibility 2



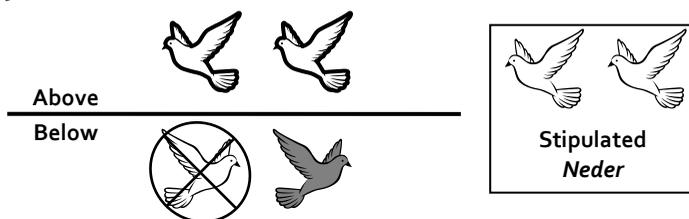
Possibility 3



⁶⁹ **Assumptions in the Diagram**

In this case the birds that were separated for the purpose of the *neder* match that which she stipulated as being brought for her *neder*. (See footnote 73 for an explanation.)

Possibility 4



According to the *Ra'avad*, the logic is the same as the previous case. However in this case there is a doubt about the type of bird that must replace the *chatat*. Consequently an extra *chatat* must be brought. All together she would bring two *kinim* from both types as *olah* offerings and a *tor* and *ben yonah* as *chatat* offerings.⁷⁰

The *Rambam* (Ibid 3) and *Razah* however rule that she can bring two *kinim*, one *torin* and one *beni yonah* to satisfy her *neder* like the *Ra'avad*. However

⁷⁰ Question on the *Ra'avad*

The *Ra'avad* requires two *chatat* offerings to be brought to satisfy the *chovah*. The reason being that due to possibilities 1 and 2 the *olah chovah* may be valid, and we are unsure about the type. Therefore a *chatat* from each type must be brought to match the *olah*. The *Razah* however argues that we have already learnt (2:5) that according to the *Chachamim* the type of bird of the *chatat* dictates the type of bird that constitutes the *ken chovah*.

One might be tempted to suggest that the *Ra'avad* understands that the ruling of the *Chachamim* is only once both the *chatat* and *olah* have already been brought and offered from different types. If however the *olah* alone has been offered, we nonetheless endeavour to bring the *chova* from the matching type.

The argument of the *Razah* however is not that one *chatat* would have been sufficient, but rather if two *chatat* offerings were offered now, we will not have enough olah offerings to satisfy the *chovah*. To explain, consider Possibility 1 in the current case. If a *tor* is offered as the *chatat* first (before the *ben yonah*) this will now invalidate the original *olah chova* since it is different to the *chatat* being offered now as part of her *chova*. She now requires another *tor* to be offered as an *olah chova*. Even though she also brings two *torin* as *olah* offerings, they are already required to satisfy her *neder* that she stipulated at the time of her *neder*. (All this is still according to possibility 1.) Consequently the *Razah* argues that she might be short of *olah* offerings according to the solution of the *Ra'avad*.

instead of bringing two *chatat* offerings she brings a *ken* from either type as a *ken chova*.⁷¹

The *Bartenura* appears to bring both solutions in his explanation.⁷²

According to all opinions six birds are required as the *Mishnah* states.⁷³

⁷¹ **Why does the Rambam prefer this option?**

The *Tifferet Yisrael* explains that she can do so because if the *chatat* that is brought is invalid then, as learnt above, the type of *olah* does not dictate what *chatat* must be brought. Furthermore, he explains that the *Rambam* prefers this options since a *chatat* brought in a case of doubt cannot be consumed, but an *olah* brought in a doubt can be offered with the stipulation that if it is not required it should be considered a *neder*. Therefore it is preferable to bring a *chatat* and *olah* rather than two *chatat* offerings. (See the *Yair Kino* cited in footnote 64 for an explanation of why the *ken chovah* can be brought from either type).

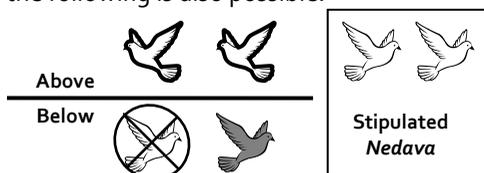
⁷² **The opinion of the Bartenura**

The *Mishnat Chachamim* understands from the wording of the *Bartenura* that he provides two different rules for two different scenarios. One ruling is for the case where each of the *kinim* is offered one above and one below. In that case two *kinim* from each type are brought to fulfil the *neder* while two *chatat* offerings from each type are brought to ensure the *chova* is fulfilled. The second ruling is that she similarly brings the two *kinim* and in addition, instead of two *chatat* offerings, she must bring a new *ken*. That ruling refers to where she does remember which birds she separated for the purpose of the *ken neder* and *ken chovah*, but forgot what she stipulated at the time of the actual *neder*. Consequently the replacement *ken chovah* shall come from the type of the original *ken chovah*, to ensure that the *ken chovah* is fulfilled in case either bird from the *ken chovah* was invalid.

⁷³ **There does not seem to be enough birds**

The *Mishnat Chachamim* asks (based on *Tosfot Yom Tov*'s understanding of the *Bartenura*) that if she has doubts about the type of bird she designated to fulfil her *neder* and what she stipulated, then bringing four *olah* offerings (two from each type) and two extra *chatat* offerings (one from each type) would not be enough to ensure the *chovah* is satisfied.

The reason because the following is also possible:



According to this understanding the term “*pirsha*” refers to the dedication at the time of separation and the term “*kavah*” refers to stipulation at the time the *neder* is made. The *Ra’avad* cites *Gemara Menachot* (102b – 103a) that uses these terms in those ways as proof.

<p>If she gave [the four birds] to the <i>Kohen</i>, but it is not known what she gave him, and [the <i>Kohen</i>] went and offered them but does not know what he did</p>	<p>נְתַנְתָּם לַכֹּהֵן, וְאִין יָדוּעַ מַה נְתַנְתָּהּ, הֲלָךְ הַכֹּהֵן וְעָשָׂה – וְאִין יָדוּעַ מַה עָשָׂה</p>
<p>She must bring another four birds for her <i>neder</i> and two for her <i>chova</i> and one <i>chatat</i>.</p>	<p>צְרִיכָה לְהַבִּיאַ עוֹד אַרְבַּע פְּרִידוֹת לְנִדְרָהּ, וּשְׁתֵּים לְחֻבַּתָּהּ, וְחֻטָּאת אַחַת.</p>
<p><i>Ben Azai</i> said she must bring two <i>chatat</i> offerings.</p>	<p>בֶּן עֲזַאי אוֹמֵר: שְׁתֵּי חֻטָּאוֹת.</p>

Consequently in such a case three torin would be required to fulfil the *neder* and *chovah*!

It is equally possible that the *torin* were offered above as the *neder*, and the *bnei yona* offered below as the *chovah* while the original *neder* was to bring *bnei yona* meaning that she would need to bring six olah offerings, and not four (or five). Consequently this consideration presents a problem for all the opinions.

There are a number of answers. The common theme amongst these answers is that they suggest that the case on which the question is based is not possible.

The *Ra’avad* explains that in this case she dedicated the *kinim* stating that they were both for her *neder* and obligation. Implicit in that dedication is that it is as if she has said that the type that matches my *neder* shall be dedicated for that purpose. Consequently the above-described possibilities are the only feasible outcomes.

The *Yair Kino* (when explaining the *Rambam*) says that at the time she separated the birds, she still remembered what her *neder* was; it is only now that she has forgotten. Therefore the birds separated for the purpose of her *neder* must match what she stipulated for her *neder*. Therefore again the above-described possibilities are the only feasible outcome.

The *Razah* however argues that in the event that the type of bird that she dedicated was different to the bird that she had promised to bring as her *neder*, the dedication is meaningless. In such a case, the result would be similar to the first two cases in the *Mishnah* where only one of the offered birds would have been invalid. Consequently, such possibilities are no worse than the possibilities presented.

The *Mishnat Chachamim*'s solution involves a different understanding of the *Bartenura* (see footnote 72) and the *Rambam* (see footnote 64).

The *Rambam*, *Ra'avad* and *Razah* differ sharply in their explanations of this part of the *Mishnah*. They will therefore be explained separately.

The Rambam

According to the *Rambam* in this case the woman:

1. Stipulated the type of bird from which she wished to bring the *neder*.
2. "Fixed" her *chova*. In other words she decided which type of *chova* she would bring: either the regular *ken* or the wealthy *yoledet's* offering which constitutes a bird's offering as a *chatat* and a lamb which is brought as an *olah*.
3. She was unsure whether she handed the *Kohen* two *kinim* of the same or different types.

The *Kohen* then was not sure whether he offered the birds above or below, or half above and half below.

Due to the uncertainty about how it was performed, none of the birds can be considered valid with any certainty. Therefore:

- She must bring two *bnei yona* and two *olah* offerings to ensure her *neder* is satisfied.
- She must bring another *ken chova* from any type (see footnotes 64 and 71) to satisfy her *chova* in case she stipulated that she would bring a *ken* for her *chova*.
- She must bring another *chatat* in case she stipulated that she would bring a wealthy sacrifice.

Ben Azai however requires an additional *chatat* to be offered. As learnt earlier (2:5) *Ben Azai* maintains that whichever bird is offered first determines the type from which the remaining bird must be brought. Here *Ben Azai* is concerned that if she had fixed that she would bring the wealthy sacrifice, we are concerned she also fixed the type of bird from which the *chatat* will be brought, since the lamb would have been offered.⁷⁴

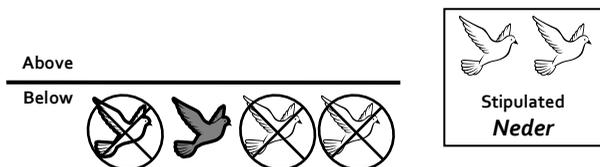
⁷⁴ **Questions on the Rambam**

The *Tosfot Yom Tov* asks that *Ben Azai* position about different birds offered for one *ken* does not seem have any bearing on this issue. The concern is regarding a wealthy offering that consists of a lamb and a bird! Consequently the *Tosfot Yom Tov* understands that the concern is that she stipulated the type from which the *chatat* would be brought.

The Ra'avad

The *Ra'avad* explains that in the following case the woman knows the type of one of the *kinim* she gave the *Kohen* (for example *torin*). She however does not know if she specified the type of bird at the time of the *neder* and also does not know if, at the time of separating the birds, whether she allocated a *ken* as the *neder*. The *Kohen* knows that he offered those *torin* below (marked with a thicker line in the diagrams), but is not sure where he offered the other *ken*.

Possibility 1

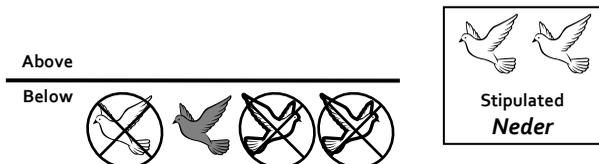


This case would require her to bring three *torin*, one for her *chova* and one for her *neder*. The *Ra'avad* notes that if those known *torin*, were brought for the purpose of her *chova*, or even brought *stam* (for no explicit purpose) they must be for her *chova* since they were offered below (presumably since they would contain a valid *chatat*).

The *Yair Kino* however explains that in the case of a poor sacrifice, according to *Ben Azai* the first sacrifice offered determines the type from the *ken* must be brought. In a wealthy sacrifice, the lamb takes the place of one of the birds. Therefore if, for example, the lamb was initially brought along with a *tor*, because the lamb is taking the place of a *tor*, once offered, any replacement bird that will partner with the lamb must also be a *tor*.

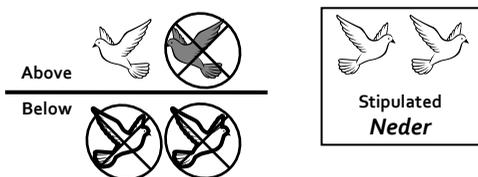
See the *Yair Kino* for further questions of the *Tosfot Yom Tov* and the *Yair Kino's* responses.

Possibility 2



This case would require her to bring a three *bnei yona*, one for her *chova* and one for her *neder*.

Possibility 3



This possibility would require her to bring an extra *ben yona* for a *chatat*. However an extra *chatat* brought as a *tor* is not required since if she had brought *torin* for her *chova* we know the *torin* were brought below and must be for her *chova* (based on the explanation in *Possibility 1* above).

In total therefore, she must bring six *olah* offerings (three *torin* and three *bnei yona*) and one *chatat* (the opposite of the type that she knows was offered below).

Ben Azai is not arguing, but rather referring to a separate case. Here the woman knows that one of the *kinim* was a particular type, but forgot which type, while the *Kohen* offered that *ken* below, but also forgot what type it was and how the other *ken* was offered. In this manner she would be required to bring an extra *chatat*, as it is possible that the *ken chova* from either type, was offered above.

Razah

The explanation of the *Razah* at this point is similar to the *Rashi's* (see the explanation brought earlier.)

Mishnah Six (*R' Yitzchak ben Yehuda*) משנה ו' - לפי שיטת רבינו יצחק בן יהודה

The *Mefaresh* brings the explanation of *Rabbeinu Yitzchak* after having brought the opinion of *Rashi*. The citation in the *Mefaresh* is only from "kavah nidrah" onward. The *Yair Kino* therefore understands that his explanation is the same as *Rashi's* till that point. The explanation presented here will assume as much and continue from that point.

If she established her *neder*

קִבְעָה נִדְרָהּ

Rabbeinu Yitzchak understands the terms *pirsha* and *kavah* in the opposite manner to the previous explanation. *Pirsha* he understands, like *Rashi*, means that she stipulated at the time of the *neder* the type of bird from which she wished to bring her *neder*. *Kavah* means that she designated, at the time she separated the birds, which ones will be used for her *chova* and which one will be used for her *neder*. The *Me'einei Yehoshua*, who also understands these terms in this manner (yet provides a different explanation), cites *Gemara Menachot* (106a) that uses these terms in this manner.

Consequently at this stage she has done both.

She must bring five birds. [This ruling applies when all the birds are] from one species.

צְרִיכָה לְהֵבִיא עוֹד חֲמִשׁ פְּרִידוֹת; מִמִּין אֶחָד.

The woman knew the type of bird she gave the *Kohen*. The *Kohen* however suspected that it was two *kinei chova* and we are therefore not sure whether one *ken* was offered above and the other below or whether birds from each *ken* were offered one above and one below. Consequently she must bring four *olah* offerings (two *torin* and two *bnei yona*) to satisfy her *neder* and an extra *chatat*. (For diagrams see the explanation of the opinion of the *Rambam* on this part of the *Mishnah*).

[If however the birds that were offered came] from two different species, [she must] bring six birds.

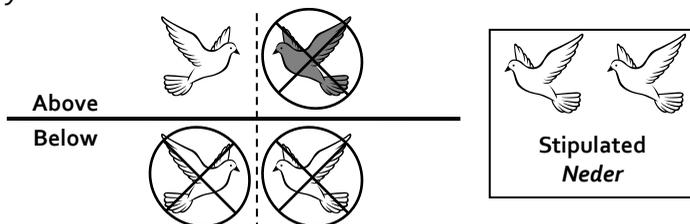
מְשִׁי מִיָּנִין – תְּבִיא שֵׁשׁ.

In this case, *Rabbeinu Yitzchak* understands that when she designated which *ken* would be used for her *chova* she also designated which bird would be used for the *chatat* and which bird would be used for the *olah*.

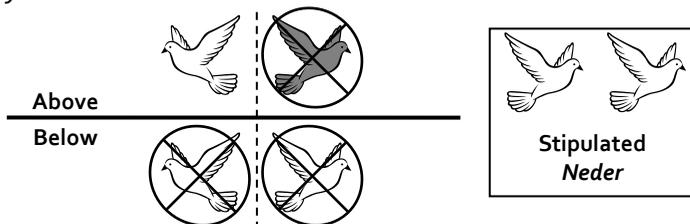
Now that we have two *kinim* from different types, we know that the *Kohen* offered one bird above and one below from each *ken*. The *Yair Kino* explains that *Rabbeinu Yitzchak* understands that the only mistake the *Kohen* makes is thinking that she brought two *kinei chova* that were *stumot*. Therefore if they are brought from two different types, the *Kohen* would have only offered them in this manner. (This explains why her designating the birds that will be used for the *chatat* and *olah* is essential, as will be explained.)

The following cases are therefore possible:

Possibility 1



Possibility 2



According to the above possibilities we can see that one *olah* will certainly be valid, even though we are not certain of its type. Since she must bring two *torin* and two *inei yona* to ensure that her *neder* was satisfied, she no longer

needs that valid *olah*. Consequently she can bring a *chatat* to match that valid *olah* (*Yair Kino*). Since however she does not know the type of that valid *olah* she must bring two *chatat* offerings - a *tor* and *ben yona*. In total six birds.⁷⁵

⁷⁵ **The Explanation of the *Me'einei Yehoshua* for this case**

The *Me'einei Yehoshua* appears to follow the opinion of the *Rabbeinu Yitzchak* closely. His explanation does differ in this last case. He explains that in this case since she forgot what she stipulated at the time of the *neder*, she originally separated three *kinim*. One *torin* and another *inei yonah* which she intended to bring as *olah* offerings in a conditional manner to ensure she fulfilled her *neder*, and another *ken* for her *chovah*. Only two of which however were brought and each of them offered one bird above and one below. She is however unsure which two were offered. Consequently three *kinim*, one *inei yonah* and one *torin* to cover her *neder* and one *ken* for her *chovah*, must be brought.

Masechet Kinim

Mishnah Six (*Yair Kino*) משנה ו' – לפי יעיר קינו

[If] a [poor] woman says, I take on the *neder* to bring a *ken* when I give birth to a male. [If] she gives birth to a male – she must bring two *kinim*: one for her *neder* and one for her obligation.

הָאִשָּׁה שְׁאָמְרָה: הֲרִי עָלַי קֵן
כְּשֶׁאֵלֵד זָכָר, יֵלֵדָה זָכָר –
מְבִיָּאָה שְׁתֵּי קִינִים, אַחַת
לְנִדְרָה וְאַחַת לְחֻבְתָּהּ.



Nedava



Chova

The *Yair Kino* explains that it was necessary for the *Mishnah* to teach that she is indeed obligated to bring an extra *ken* for her *neder*. This is because one might have thought that since a voluntary *ken* involves two *olah* offerings, perhaps her intention was only to add one extra *olah* so that she will bring in total two *olah* offerings. The *Mishnah* therefore explicitly dispels such an idea.

When she gave [the birds] to the *Kohen*, the *Kohen* must offer three [of the birds] above and one below.

If the *Kohen* did not do so and offered two [of the birds] above, and two below and had not asked her [for which reason each of the birds were brought] she must bring one more bird and offer it above. [This applies when the original birds and the replacement birds are brought from] one species.

נִתְּנָתָם לְפָהּ, וְהִכְהֵן צְרִיד
לְעִשׂוֹת שְׁלֹשׁ פְּרִידוֹת
מִלְּמַעַל וְאַחַת מִלְּמַטָּן,
לֹא עָשָׂה כֵּן, אֶלֶּא עָשָׂה שְׁתֵּי
לְמַעַל וּשְׁתֵּי לְמַטָּן, וְלֹא
נִמְלָךְ – צְרִיכָה לְהַבִּיא עוֹד
פְּרִידָה אַחַת, וַיִּקְרִיבָנָה
לְמַעַל; מִמִּין אֶחָד.

This is understood as explained according to the previous explanations where the manner that the *kinim* were offered is not clear.

[If however original birds and the replacement birds are] from two species

מִשְׁנֵי מִינִין

The *Yair Kino* asserts that in every case she gave the *Kohen* birds from a single type. Here the *Mishnah* is explaining what must be done if the replacement birds will come from a different type than the type from which the original birds were offered.

She must bring two birds.

תָּבִיא שְׁתֵּימ.

Since the birds from a voluntary *ken* must be from the same type, she now brings two birds for the purpose of her *neder*. Also since she did not specify which of the original birds would be for her *neder* and which for her *chova*, one of the original valid *olah* offerings can be considered as partnering with the original *chatat*.

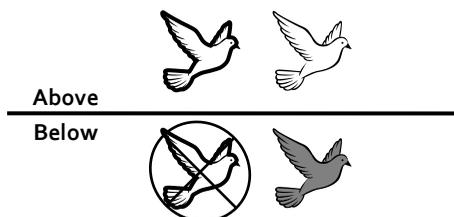
[If when separating the birds for both her obligation and *neder*] she explicitly stated [the birds would be used] for her *neder*, then she must bring three birds. [This ruling applies when all the original birds and replacement birds are from] one species.

פְּרִשָּׁה נִדְרָה – צְרִיכָה לְהַבִּיא
עוֹד שְׁלֹשׁ פְּרִידוֹת; מִמִּין אֶחָד.

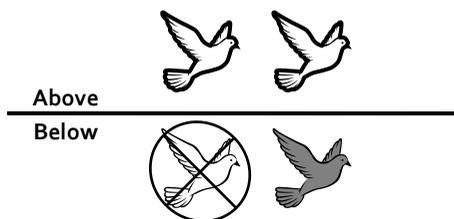
The *Yair Kino* understands the term *pirsha* like the *Rambam* in that she separated one *ken* for the purpose of her *neder*.

The following are therefore all the possibilities:

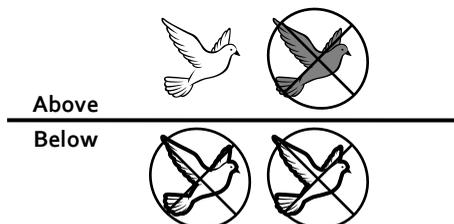
Possibility 1



Possibility 2



Possibility 3



Consequently, it is possible that three of the birds were invalid (Possibility 3). She must therefore bring two birds for her *neder* and an extra *chatat* to partner the originally valid *olat chova*. (Possibility 2 is still covered by the two *olah* offerings because it is not possibility that all three *olah* offerings were invalid.)

[If the original birds and the replacement birds were] from two different species, she must bring four. **מִשְׁנֵי מִיָּנִין – תְּבִיא אַרְבַּע.**

Now since the replacement birds are coming from a different type, we can no longer say that the *chatat* can pair up with the originally valid *olah*. Consequently an extra *olah* is required.

If she established her *neder* **קִבְעָה נִדְרָה**

Here the *Yair Kino* explains the case of *kavah* in a similar direction to *Rashi*. He however explains that at the time of her *neder* she stipulated that she would bring the *neder* immediately after she brought her *ken chova*. Consequently the *neder* must be brought immediately after her *chova* is offered, without any delay. Also if the voluntary *ken* is offered prior to the *chova* she has not fulfilled the *neder*. The *Yair Kino* adds here that that her stipulation is only regarding the essential component of her *chova*, that being the *chatat*. Therefore if the *neder* follows the *chatat* but preceded the *olah*, her *neder* will have been satisfied. The *Yair Kino* also adds however, having stipulated that she would bring a voluntary *ken*, both birds from that voluntary *ken* must be offered together rather than each being offered at different times.

She must bring five birds. [This ruling applies when all the original birds and replacement birds are from] the same species. **צְרִיכָה לְהֵבִיא עוֹד חֲמִשָּׁה פְּרִידוֹת; מִמִּין אֶחָד.**

The following five birds must be brought:

- Two *olah* offerings – this is in case the original *chova* was offered correctly, but the *neder* itself was incomplete (Possibility 1). If this is the case she cannot offer any other sacrifice before the complete *neder* is fulfilled. Otherwise doing so would be violating the prohibition of delaying a sacrifice as she stipulated that both birds would be offered together immediately after her obligatory *ken*.

- One *chatat* – this is in case the *ken chova* was offered above (Possibility 3). Consequently the *chatat* must be brought to partner the originally valid *olat chova*.
- Two *olah* offerings – following on from the previous point. If the *chova* was not originally offered correctly, then once it has been offered correctly, the two *olah* offerings must be offered now as stipulated by her *neder*.

[If the original birds and replacement birds were] from two [different] species, she must bring six birds.	מִשְׁנֵי מִינִין – תְּבִיא שֵׁשׁ.
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If the replacement birds are brought from a different type, the following six birds must be brought:

- Two *olah* offerings – this is in case the original *chova* was offered correctly as in the previous case.
- One *chatat* and one *olah* – this is in case the *ken chova* was offered above. However unlike the previous case, since the *chatat* is brought now from a different type, it can no longer partner with the originally valid *olat chova*. Consequently it must be brought with an *olah* so that a complete *ken chova* may be offered.
- Two *olah* offerings – following from the previous point. If the *chova* was not originally offered correctly, then once it has been offered correctly, the two *olah* offerings must be offered now as stipulated by her *neder*.

If she gave [the four birds] to the <i>Kohen</i> , but it is not known what she gave him, and [the <i>Kohen</i>] went and offered them but does not know what he did	וְתִנְתֶּם לַכֹּהֵן, וְאִין יָדוּעַ מֶה נִתְּנָה, הֲלֹךְ הִכְהֵן וְעָשָׂה – וְאִין יָדוּעַ מֶה עָשָׂה
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In this case she does not what type of bird she gave to the *Kohen*. Nonetheless again, two birds were offered above and two below.

She must bring another four birds for her <i>neder</i> and two for her <i>chova</i> and one <i>chatat</i> .	צְרִיכָה לְהִבִּיא עוֹד אַרְבַּע פְּרִידוֹת לְנִדְרָהּ, וּשְׁתַּיִם לְחֻבְתָּהּ, וְחֻטָּאת אַחַת.
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The *Yair Kino* in his introduction to this *Mishnah* explains that if only a *chatat* was offered correctly (Possibility 2), then the *chatat* offered later (to account for Possibility 3) effectively invalidates that original *chatat*. However if the original full *ken chova* was offered correctly (Possibility 1) then the later *ken chova* does not have this effect. However there is always a preference to offer an *olah* first in the event that only a *chatat* was valid, to complete the full *ken* ensuring that the *ken chova* is complete and the original *chatat* stays valid.

In the previous case this was covered by the two *olah* offerings offered prior to the *chatat* (as there is no case where all three *olot* are invalid). In this case however, as we are unsure of the type of birds that were initially offered, an extra *olah* from the other type is required for this purpose.

Therefore seven birds are required:

- Two *olot* – for her *neder* as explained previously.
- Another *olah* from a different type – ensuring that in the event of Possibility 3, either this *olah* or one of the previous two *olot* partner with the originally valid *chatat*.
- A *chatat* and *olah* – for her *chova*.
- Two *olot* – to ensure that the *neder* is fulfilled after a valid *ken chova*.

בן עזאי אומר: שְׁתֵּי חֲטָאוֹת. *Ben Azai* said she must bring two *chatat* offerings.

As learnt earlier (2:5) *Ben Azai* disagrees with the *Chachamim* arguing that the first bird offered from the *ken chova*, *chatat* or *olah*, determines the type from which the *ken* is offered. Whatever is offered second does not invalidate what was offered first. Consequently the first bird offered is never annulled, even in the case of a *chatat* following a *chatat*. Furthermore the *olah* described in the second point in the explanation of the *Chachamim* is no longer required. However, an extra *chatat* from the other type is required to account for Possibility 2, thereby definitely matching the originally valid *olah*.

Therefore the following must be brought:

- Two *olah* offerings – for her *neder* as previously, in the event of possibility 1.
- A *chatat* followed by two *olah* offerings – to partially account for possibility 3
- A *chatat* from another type followed by two *olah* offerings – to account for possibility 3.

To account for possibility 2, no extra birds need to be offered. One must ensure however that the one of the pairs of *olah* offering comes from different type. This is because in the event of possibility 2, the *chatat* was offered correctly followed by her *neder*. Therefore only one *olah* would need to be brought. Since however we do not know that type of birds that were originally offered, an *olah* from each type would be required. Therefore the *olah* offerings brought, provided they consist of different types, would cover this possibility.

Rabbi Yehoshua said: That is what they say: When he is alive he has one voice, when he is dead his voice is seven. How is his "voice seven"? Two horns [make] two trumpets, two forelegs [make] two flutes, the hide [is use] for a drum, the intestines [are used] for harps, the small intestines [are used] for violins.

אָמַר רַבִּי יְהוֹשֻׁעַ: זֶה הוּא
 שְׁאֲמָרוֹ: כְּשֶׁהוּא חַי קוֹלוֹ אֶחָד,
 וּכְשֶׁהוּא מֵת קוֹלוֹ שִׁבְעָה. פִּי צַד
 קוֹלוֹ שִׁבְעָה? שְׁתֵּי קַרְנָיו, שְׁתֵּי
 חֲצוּצוֹת; שְׁתֵּי שׁוֹקָיו, שְׁנֵי
 חֲלִילִין; עוֹרוֹ לְתוֹף; מַעֲיוֹ
 לְנִבְלִים; בְּנֵי מַעֲיוֹ
 לְפָנּוֹרוֹת. וַיֵּשׁ אֹמְרִים: אֵף
 צָמְרוּ לְתַבְלַת.

It was explained earlier that the case presented here by *R' Yehoshua* relates closely to the previous case in the *Mishnah*. The *Yair Kino* demonstrates however that there is a tight relationship even in its details.

He explains that in the last case of the *Mishnah*, if the *Kohen* offered all the birds except for one and she recognised that that bird was one that was set aside for her *neder*, it is possible that only one bird would need to be replaced. However now that it has "died", she is required to bring seven or eight birds.

But even the birds, their grouping and the order they are to be offered, is similar to the instruments listed by *R' Yehoshua* in the order they are removed from the animal.

According to the *Chachamim*:

1. Two horns. These are removed first after the head is severed from the animal. These correspond to the two *olah* offerings offered for her *neder*.
2. The hide used for the drums. This single part corresponds to the *olah* offered next that is brought from a different type.
3. The intestines and the small intestines. These two are partnered together with one being more important than the other. They therefore correspond to the *ken chova* offered next, consisting of a *chatat* which is more important than an *olah*.
4. The two forelegs. These are removed last as the animal hung by its legs during this process. This corresponds to the two *olah* offerings offered at the end to ensure the *neder* is fulfilled after her *chova* has been fulfilled.

According to *Ben Azai*:

1. Two horns correspond to the two *olah* offerings offered first.
2. The hide, a single item, refers to the *chatat* offered next.
3. The intestines and small intestines pair corresponds to the two *olah* offerings.
4. The wool refers to the *chatat* brought from the other type. (See the *Yair Kino* for why the wool is removed at this point).
5. The two forelegs refer to the two *olah* offerings offered last.

R' Shimon ben Akashya said: the elder unlearned men as they get older, they lose intelligence as it says, "He removes speech of men of trust, the reason of elder he takes" (*Iyov* 12:20). However, for the *Torah* sages it is not the case, rather the older they get, the more clear-minded they become as it says, "Is wisdom with aged men, and understanding in length of day?" (*Iyov* 12:12)

רבי שמעון בן עקשיא אומר: זקני עם הארץ, כל זמן שמזקינין, דעתן מטרפת עליהן, שנאמר "מסיר שפה לנאמנים וטעם זקנים, יקח" (איוב יב:כ). אבל זקני תורה אינן כן, אלא כל זמן שמזקינין, דעתן מתישבת עליהן, שנאמר "בשישים חכמה וארך ימים תבונה" (איוב יב:יב).

The *Yair Kino* also explains here that the years of a man's life, for an unlearned man and a *Torah* sage, also correspond to the pattern in which the animals are offered in the final case in the *Mishnah* (see the *Yair Kino* for a full explanation).

סליק מסכת קינים

Appendix - *Rambam* (1:2-3,2:1-3 3:1-2)

The *Rambam's* explanation differs with the other commentaries in a principle that impacts on a number of *Mishnayot*. Therefore to simplify the learning of the *Mishnayot*, the *Rambam's* opinion has been included separately, and briefly, for a number of the *Mishnayot*.

Masechet Kinim

Chapter 1 Mishnah 2 פרק א משנה ב

The *Rambam* (*Psulei Mukdashim* 8:3) offers a different solution to the one given in the *Mishnah* (according to the *Kesef Mishnah's* understanding). Consider the following example:



The ruling of the *Mishnah* is that one can only offer the number of *olot* in the *chova* (three). The *Rambam* however rules that one could offer all the birds above, thereby resulting in an extra bird being valid, since from the mixture four *olot* must be offered.

The *Ra'avad* questions this solution because the *Rambam* appears to be instructing one to offer the *korbanot* in a manner that will make them invalid.

The *Kesef Mishnah* however explains that since all *chovot* consist of *kinei stuma*, this is not a problem as none of the birds have specifically being designated as, in this case, a *chatat*. (Also recall that the *Rambam* does not agree with the concept of automatic designation – see footnote 11.)

Chapter 1 Mishnah 3

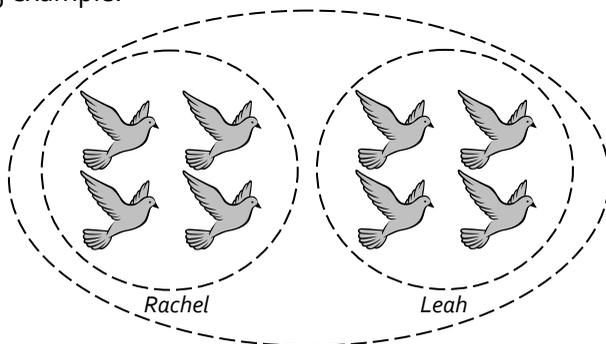
פרק א משנה ג

Since the *Rambam* ruled in the previous *Mishnah* that the mixture could be offered, this results in the *Rambam* differing on other *Mishnayot* as well.

When does [the rule in the previous *Mishnah*] apply? When the mixture contains obligatory and voluntary sacrifices. However, if obligatory sacrifices [belonging to two people] are mixed together – where they have one *ken* each, two *kinim* each, or three *kinim* each, half are valid and half are invalid

בְּמֵה דְּבָרִים אֲמוּרִים? בְּחֻבָּה
וּבְנִדְבָה, אֲבָל בְּחֻבָּה
שְׁנֵתְעָרְבָה זֶה בְּזֶה, אַחַת לְזֶה
וְאַחַת לְזֶה, שְׁתֵּים לְזֶה וְשְׁתֵּים
לְזֶה, שְׁלֹשׁ לְזֶה וְשְׁלֹשׁ לְזֶה,
מִחֲצָה כָּשֶׁר, וּמִחֲצָה פָּסוּל.

The *Rambam* understands that the *Mishnah* is referring to the law once such a mixture has already been offered, whether they have been offered all above, all below or half above and half below, only half are valid. Consider the following example:



The *Rambam* explains that after half have been offered above and half below, it is considered as if both *Rachel* and *Leah* have had a *chatat* and *olah* offered correctly for each of them and they both must now bring a *chatat* and *olah* each.

If however one has one *ken* and the other has two, three or ten *kinim*, the [sacrifices belonging to the person who brought] the least *kinim* are valid.

אַחַת לָזוֹ וּשְׁתַּיִם לָזוֹ, וְשָׁלֹשׁ לָזוֹ, וְעֶשֶׂר לָזוֹ, וּמֵאָה לָזוֹ – הַמְעוֹט כָּשֵׁר.

Also in this case the birds have been offered half above and half below. The *Rambam* rules that in this case, as opposed to 3:1, the *Kohen* consulted with the women. Here the owner of the smaller group has the right to claim that those that were offered correctly belong to her (see 3:2 below). In the previous case the rights were equally shared so that valid sacrifices were shared equally. Note: the total number of birds that are valid will be the same here and in the later *Mishnah* (3:2). The difference is to who the valid birds are attributed. The rationale will be explained below (3:2).

Chapter 3 Mishnah 1

פרק ג' משנה א'

[All the cases till now have assumed] that the *kohen* has consulted...

בְּמָה דְּבָרִים אֲמוּרִים? בְּכֵהֵן נִמְלָךְ...

According to the *Rambam* this *Mishnah* relates to the one just taught (1:3). In this *Mishnah* the *Kohen* has not “consulted”, rather acted on his own accord. The ruling here is the same as in the previous *Mishnah* (1:3), since when both women have an equal number of birds in the mixture their rights are the same whether or not the *Kohen* consulted.

Chapter 3 Mishnah 2 פרק ג' משנה ב'

Only when the two women have a different number of *kinim* in the mixture does the ruling differ if the *Kohen* did or did not consult the women. In this *Mishnah* the *Kohen* has not consulted with the woman how he should act. Consequently in this case, the *Mishnah* rules that the “the birds [of the woman] with the greater share are valid”. The *Rambam* understands the *Mishnah* literally. As opposed to *Mishnah* 1:3, in this case the owner of the larger group has the right to claim that those that were offered correctly belong to her. Since some of the birds from the larger group were definitely offered above and below and thereby valid, she has the right to claim that all the valid birds belong to her. Previously (1:3) however, since he consulted, the *Kohen* was not allowed to act as he pleased. The owner of the small group thereby reserved the right to claim that half her birds were amongst those offered above and the other half were amongst those offered below. (The *Kesef Mishnah* (*Psulei HaMukdashin* 8:6) writes that he does not understand the reason for the *Rambam*'s distinction mentioned here.)

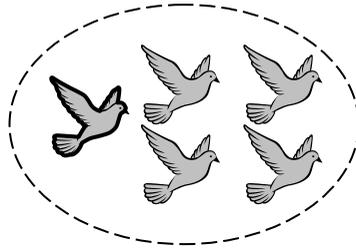
Chapter 2 Mishnah 1, 2 & 3 פרק ב' משנה א', ב' וג'

Since the *Rambam* maintains that an entire mixture of *kinei stuma* can be offered, the *Rambam* differs in the explanation of these *Mishnayot* as well.

The following examples shall be used to explain the principle established in the *Mishnah* (2:1) that if a bird from a *ken stuma* flies amongst *kinei stuma* “it is invalid, and causes another to be invalid against it”.

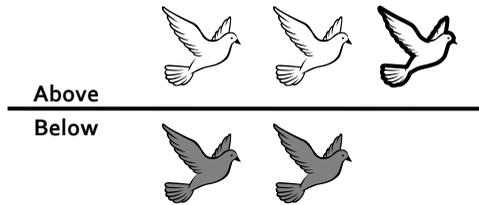
Consider one of *Rachel's* birds (signified with the thicker border) that mixed with *Leah's* birds.

מסכת קינים

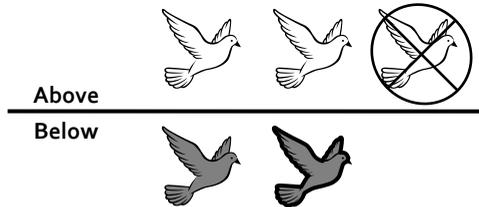


If, for example, they were offered three birds above and two below, the following are situations are possible:

Possibility 1



Possibility 2



Rachel's bird is invalid since, because it came from a *ken stuma* perhaps it was meant to be offered as a *chatat* or as an *olah* and it was not (*Possibility 1* & *2* respectively).

The flight also causes one of *Leah's* birds to be considered invalid dues to *Possibility 2*.

The *Rambam's* explanation of the *Mishnayot* that follow (2:2-3) can then be understood based on this principle, where once again all the birds are offered.