

7.5.3

37a (משנה ג) → 38a (כרגלי אותה העיר)

Note: only משנה ג is analyzed here; we will present משנה ד on p. 30 along with its analysis

- I. תחומין vis-à-vis יוסטוב status of animals and tools which change possession on משנה ג
- a. *Animals*: follow the תחום of their owners, even if handed over to his son or herdsman on י"ט
 - b. *Tools*: if they belong to only one brother – follow his תחום
 - i. *But if*: they belong to all equally, they follow the common תחום of all brothers
- II. Authorship: apparently against דוסא ר', per ברייתא:
- a. *ברייתא* (perhaps *אבא שאול* is the authority quoted): if someone buys an animal on עיר"ט,
 - i. *Even though*: he only took possession on י"ט, follows תחום of buyer
 - ii. *And*: same rule applies to handing it over to herdsman
 - b. *Block*: perhaps דוסא ר' would agree – in our case, there are several herdsman in town
 - i. *Therefore*: unclear which one will take possession – no possibility of קנין שביטה before י"ט
 - ii. *However*: דוסא ר' was referencing a case where only one herdsman in the town
 1. *Therefore*: it is clear where the שביחה will be and it is נקנה before the onset of י"ט
 2. *Support*: presented in parallel to buyer (who is known on עיר"ט)
 - c. ר' דוסא ruled in accord with יוחנן דבב"ח
 - i. *Challenge*: ר' דוסא's dictum – הלכה כסתם משנה – seems to rule against דוסא ר'
 - ii. *Save*: we've already reconciled דוסא ר' with our משנה – case of one herdsman
- III. ברייתא highlighting the "pulled תחום" problem and the application of ברירה
- a. *If*: 2 people borrowed a cloak together – one for evening use, the other for day use
 - i. *And*: one made his תחומין עירוב to the north, and the other to the south
 - ii. *Then*: the "northerner" may not go further than the "southerner's" תחום and vice-versa (חמר גמל)
 1. *And*: if they extended their תחומין to the maximum possible – the cloak stays put
 - b. *Related מומרא*: if 2 bought an animal or barrel of wine to share on י"ט but they have distinct תחום
 - i. *דב*: the barrel may go to each תחום, but the animal is limited to the common תחום
 1. *Challenge*: if רב allows for ברירה, both should be permitted; if אין ברירה – neither
 - a. *Answer 1*: he allows for ברירה, but the case of animals is unique
 - i. *Animals*: each part, fit for its own תחום, is sustained by the other parts
 - ii. *Challenge* (ר' כהנא ור' אסי): if we aren't concerned about יניקה for מוקצה
 1. *Then*: we shouldn't be concerned about it for תחומין
 2. *דב*: was silent (had no response)
 - ii. *שמואל*: both are limited to common תחום (אין ברירה)
 1. *Parallel dispute in ישראל*: ארץ אושעיא – ר' יוחנן; ברירה – ר' יוחנן – there is ברירה
 - a. *Challenge*: ר' אושעיא rejects ברירה, per his explanation of ב"ב's position in אהלות ז:ג
 2. *Rather*: reverse our report – ר' יוחנן allows for ברירה
 - a. *Challenge*: ר' יוחנן ruled that if brothers split the estate, that's considered מקח (ירושל' ברירה of יובל i.e. can't be judged)
 - i. *And*: the property reverts at יובל
 - ii. *Proposal*: perhaps ר' יוחנן only allows ברירה in a דרבנן
 1. *Rejection*: ר' יוחנן only allows for ברירה in case of עירובין
 - a. *If*: the חכם had already arrived before שבת
 3. *Rather*: do not reverse our report – ר' אושעיא is the one who allows for ברירה
 - a. *However*: he only does so in re: איסורים דרבנן (תחום), not מה"ת (אהל המת)
 - iii. *Practicum*: מר זוטרא ruled according to אושעיא ר' יש ברירה → both בהמה and חבית are מותרים
 - iv. *Related ruling* (שמואל): א שור של פטם (person who fattens up animals for sale) follows תחום of buyer
 1. *But*: שור של רועה follows תחום of residents of that town