

פרק ששי: הדר עם הנכרי Introduction to

In this chapter, we return to our exploration of the laws of **עירובי חצירות**, specifically the issue of "residence". As we've already seen, a resident who doesn't participate in the **עירוב** makes it impossible for the other members of the **חצר** (or **מבוי**) to make one together; but the definition of **דייר** is not yet clear. This will be the major focus of discussion in this chapter. Is a non-Jew considered a resident for this purpose? A **קטן**? A guest? Other household members? We will explore these and related questions herein.

3.6.1

61b (משנה א) → 62b (כראב"י)

- I. **עירוב** prohibition caused by **דירת גוי** (or sectarian who doesn't accept the principle of **עירוב**)
 - a. **ת"ק (ר"מ)**: his presence prohibits the rest from making an **עירוב**
 - b. **כראב"י**: only if 2 **ישראלים** live there does the **גוי דירת** prohibit them
 - i. *First assessment* (**תלמידי אב"י**): **ר"מ** holds that **גוי דירת** is a residence – any amount prohibit
 1. *But*: **כראב"י**'s opinion is inconsistent (if **דירת גוי** אינה **דירה**, why prohibit if there are 2 **ישראלים**?)
 - ii. *Correction* (**אב"י**): **ברייתא** teaches that **ר"מ** holds that **גוי דירת** is not a **דירה**
 1. *Per*: **היט**: **תוספתא עירובין**, where he compares it to **דיר בהמה** – may move things in and out at will
 - a) *Rather*: both agree that **גוי דירת** and shouldn't affect residents' ability to make **עירוב**
 - b) *Dispute*: if we impose **גזירה** of living **גוי/ר"ח** in 1 **חצר** even for only 1 **ישראלי** (not likely due to fear)
 - c) *And*: **רבנן** decreed **עירוב** invalid if a **גוי** is there, nor can he nullify his **רשות** without us renting from him
 - i. *And*: **גוי** won't rent to us, as he will be concerned that we may turn the rental into a property claim
 - ii. *Understood*: to **ר"ח**, who says that we require a "strong rental" (see below)
 - iii. *But*: according to **ר"ש**, who requires only "weak rental", why would the non-Jew protest?
 1. *Answer*: even so, he will be concerned about our use of **כשפים** and won't rent
 - iii. *Tangent*: clarification of "strong" and "weak" rental
 1. *Proposal*: strong – **פרוטה**; weak - less than a **פרוטה**
 - a) *Rejection*: **פרוטה** plays no role for **בני נח** – we may rent for less and **פחות מש"פ** is considered **גזילה** for **ב"ב**
 2. *Rather*: "strong" - rights to full use; weak - less (or "strong" is w/written lease; "weak" is oral agreement)
- II. revisiting **היט תוספתא עירובין**: re: courtyard of **נכרי** considered as **בהמה דיר של**
 - a. *impact*: permissible to move things from his house to courtyard and vice-versa
 - b. *challenge*: from our **משנה**
 - c. *resolution*: if he's present – prohibited, but if he's absent – permitted
 - i. *challenge*: why is this different from **דירת ישראל**, that prohibits even *in absentia*?
 - ii. *Resolution*: they are inherently different
 1. **דירת ישראל**: is essentially a **דירה**; we extend it as a **גזירה** even when he is absent
 2. **דירת נכרי**: is only considered "דירה" as a precaution (as above, to avoid social mixing)
 - a) *Therefore*: we only extend it when he is present
 - b) *Challenge*: **עירובין ח**: if someone leaves home for **שבת**, whether **ישראל** or **גוי**, still bans others
 - i. *Answer*: that is only if he is returning that day; else, above permission holds
 - III. Final ruling in our dispute: follows **ראב"י**
 - a. **שמואל**: considers it "הלכה" (taught publicly)
 - b. **הונא**: noted that the "מנהג" is per **ראב"י** (not taught publicly, but may be given as private response to question)
 - c. **יוחנן**: noted that "נהגו" to follow **ראב"י** (not even given as private response; but no sanctions attach to one who relies)
 - IV. **משנה ב'**: testimony of **רבן גמליאל**: they lived with a sectarian in 1 **מבוי** (this **משנה** will be analyzed from **סח**)
 - a. **רשב"ג** (*his father*): directed them to use the **מבוי** before **שבת** so that his **ביטול** wouldn't be retractable
 - b. **ד' יהודה**: his **ביטול** is *always* retractable