

6.3.2

31a (שמע מינה) → 31b (תנו רבנן סוכה גזולה)

(1) וּלְקַחְתֶּם לָכֶם בַּיּוֹם הָרִאשׁוֹן פְּרִי עֵץ הַדֶּרֶךְ כַּפֹּת תִּמְרִים וְעֵנָף עֵץ עֵבֶת וְעֵרְבֵי נָחַל וּשְׂמַחְתֶּם לִפְנֵי ה' אֱלֹהֵיכֶם שִׁבְעַת יָמִים: וּיְקָרָא כֵן, מ

- I. רה"ר in סוכה or סוכה built in רה"ר – dispute about validity of סוכה or חכמים – ברייתא
- a. dispute (re סוכה גזולה) only about a case where he throws the fellow out of his own סוכה
 - i. invalidates – as he requires ownership of סוכה
 1. If: we hold that קרקע can be stolen (land-grab) – it is גזול
 2. And if: we don't accept קרקע נגזלת, it is a "borrowed" סוכה – not יוצא
 - ii. validate – no rule of "לכם" for סוכה
 1. Since: קרקע cannot be stolen, it is simply a "borrowed" סוכה → may fulfill with it
 - b. However: if he stole the materials to build his own סוכה, all agree that סוכה is valid
 - i. And: victim can only claim דמי עצים (תקנת מריש) – but may not demand materials be returned
 - ii. Source (for defining our משנה as a case of סוכה-grab): from juxtaposition of רה"ר:גזול in our משנה
 1. Just as: רה"ר - the land is not his
 2. Similarly: גזולה – land is not his
 - c. Story: women whose wood was stolen by גותא's ריש גלותא to build his סוכה came to complain to ר"ג
 - i. דמי עצים all she gets is ר"ג
 - d. the rabbis applied תקנת מריש to a stolen beam for a סוכה
 - i. Challenge: how is this different than ר"ג's ruling (should be obvious)
 - ii. Answer: perhaps a beam is harder to replace and thief must deconstruct סוכה to return – קמ"ל
 - iii. Note: the application of תקנת מריש only applies during סוכות;
 1. Afterwards: must take apart and return original materials
 2. However: if he attached it with cement, even after סוכות, only has claim for דמי עצים
- II. records יהודה's dissent in validating היבש
- a. dispute is only about לולב (and וערבה)
 - i. read היקש between לולב:אתרוג; just as אתרוג requires הדר, so does לולב
 - ii. ד' יהודה does not read that היקש
 1. However: all agree that אתרוג must be הדר and is invalid if יבש
 - iii. Challenge1: ר' יהודה seems to require הדר for לולב as well
 1. Per: his ruling that לולב requires אגד
 2. Rejection: he requires אגד due to definition of לולב – "כפות" – read כפות
 - iv. Challenge2: he seems to require הדר as he demands that לולב be bound במינו
 1. Rejection: רבא rules that even "unattractive" parts of palm may be used
 2. Rather: his reasoning is due to concern about תוסוף (if it is a 5th מין)
 - v. Challenge3: ר' יהודה apparently does not require הדר even for אתרוג
 1. Per: ברייתא, where he explicitly – and contra רבנן - allows dried מינים
 - a. And: he backs it up with the בני כרכים who would use לולבים from year to year
 - b. Proposal: he was only referring to לולב, not אתרוג
 - c. Note: in that ברייתא, he disallowed a 5th מין
 - i. Justification: א"ס if it were outside of אגד – not תוסוף – קמ"ל – בל תוסוף
 - d. And: in that ברייתא, we disallowed use of a "substitute" for אתרוג
 - i. Justification: א"ס we should use it, so as not to forget אתרוג – קמ"ל – תורת אתרוג
 - vi. Challenge4: ר' יהודה explicitly (again, contra רבנן) allows an 'old' אתרוג –
 - vii. Conclusion: רבא's "split" is rejected and יהודה ר' interprets הדר as something other than "beauty"
 1. And: he interprets הדר as that which resides (דר) on the tree from year to year
 2. Note: his rulings about green and small אתרוגים are grounded in definition of גמר פירא
- III. Analyzing invalidity of לולב של עיר הנדחת (in our משנה) – aligned with אשירה
- a. Challenge: רבא ruled that if he uses לולב של ע"ז, he has fulfilled the מצוה (בדיעבד)
 - i. Answer; we are referring to אשירה של משה (i.e. already planted before we arrived in א"י)
 1. Rationale: since we are obligated to destroy it, שיעור is "non-existent"
 2. Support: similar to עיר הנדחת – slated for destruction