

6.3.11

40b → 41b (דרש והתקין) (א"ר אלעזר אין שביעית)

Note: the תורה prohibits (ט5) eating "new grain" ("חדש") – i.e. any grain that has sprouted since the last עמר was brought, until the next עמר is brought. If no עמר is brought (e.g. in the absence of the מקדש), חדש becomes permitted מן התורה at daybreak, as inferred from the two terms in v. 5

(1)	בשנת היובל הזאת תשבּו איש אל אֶחָזְתּוֹ: וְכִי תִמְכְּרוּ מִמֶּכֶר לְעַמִּיתְךָ אוֹ קָנָה מִיָּד עַמִּיתְךָ אֶל תּוֹנוּ אִישׁ אֶת אֶחָיו: וַיִּקְרָא כֹה, יג-יד
(2)	כִּי יוֹבֵל הוּא קֹדֶשׁ תִּהְיֶה לָכֶם מִן הַשָּׂדֶה תֹאכְלוּ אֶת תְּבוּאָתָהּ: וַיִּקְרָא כֹה, יב
(3)	וְנִתְּנָה בַכֶּסֶף וְצִרְתָּ הַכֶּסֶף בְּיָדְךָ וְהִלַּכְתָּ אֶל הַמָּקוֹם אֲשֶׁר יִבְחַר ה' אֱלֹהֶיךָ בּוֹ: דברים יד, כה
(4)	כִּי אֵעֲלֶה אֲרֻכָּה לָךְ וּמִמְכּוֹתֶיךָ אֲרַפְּאֶךָ נֶאֱמַר ה' כִּי נִדְחָה קְרָאוּ לָךְ צִיּוֹן הִיא דָרַשׁ אֵין לָהּ: ירמיהו ל, יז
(5)	וְלַחֶם וְקָלִי וְכַרְמֶל לֹא תֹאכְלוּ עַד עֶצֶם הַיּוֹם הַזֶּה עַד הַבֵּיאֲכֶם אֶת קִרְבַּן אֱלֹהֵיכֶם חֻקַּת עוֹלָם לְדֹרֹתֵיכֶם בְּכֹל מְשֻׁבְּתֵיכֶם: וַיִּקְרָא כֹה, יד

- I. Continued analysis of status of שביעית re purchase
- a. fruit can only become "mundane" vis sale ד' אלעזר
 - i. Reason: v. 1 – juxtaposes יובל (שמיטה) with sale of מטלטלין
 1. And: he accepts יוחנן ר' analogy (below) → just as קדש extends to דמים; so too with שביעית
 - ii. Supporting ברייתא uses v. 2 to teach that שביעית תופסת דמיה
 1. Result: original fruit remain קדש (per "היא"); last item in chain of חילול as well (per "קדש")
 2. Support: ברייתא exclusively uses "לקח" → sanctity only "moves" via transaction
 - b. fruit can become "mundane" via sale or via "rememption" (דך חילול) ד' יוחנן
 - i. Reason: v. 2 refers to יובל as "קודש"; just as קודש is redeemed via sale or חילול; so too with שביעית
 1. And: he reads v. 1 per homily of ריב"ח, detailing the "road to perdition" of שוחרי שביעית
 - ii. Supporting ברייתא and מע"ש are מתחלל on all animals, alive or slaughtered, per ר"מ
 1. חכמים: only on שחוטין; as precaution against him raising flocks (and delaying his מעשרות)
 - a. גזרת עדרים – נקבות חיון on חילול – all agree that no חילול on דבא
 - iii. dispute ר' יוחנן/ר"א ד' אשי
 1. However: secondary fruit – all agree that any form of חילול is valid
 2. Note: the use of לקח in ברייתא (above, supporting ר"א), is a case of parallel construction
 3. Challenge (ריב"א): ruling where he must use transaction to "redeem" פרי שני
 - iv. פרי שני ד' אשי (corrected): dispute only with regards שני
 1. However: original fruit only becomes mundane via transaction
 2. Note: the mention of שביעית in ברייתא (supporting יוחנן) – refers to שביעית דמי
 - a. Proof: מעשר (mentioned ibid) must mean מעשר דמי, per v. 3 → שביעית is שביעית דמי
- II. חרבן הבית in the aftermath of זכאי בן יוחנן בן זכאי: two ordinances of משנה יב
- a. Originally: the לולב was taken in the מקדש all 7 days and everywhere else – only on the first day
 - b. After the חרבן ריב"ז: חרבן ordained that the לולב be taken everywhere all 7 days – as זכר למקדש (v. 4)
 - c. And: he ruled that חדש not be eaten until the end of ניסן טז (see note)
 - i. Reason: he anticipated that the מקדש will be rebuilt
 1. And: people will remember that the year before they ate חדש from daybreak
 2. And: they'll do the same, not understanding that they must now wait for הרבן העמר
 - ii. Question: in this scenario, when would the מקדש have been built?
 1. If: built on 16th – daybreak was already מתיר
 2. But if: built on 15th; should be permitted by midday, per מנחות י:ה
 3. Must be: that it was built at night, or just before sunset (on the 15th)
 - iii. ריב"ז was following יהודה ר' (who understands that if there is no קרבן, entire day is אסור)
 1. יהודה ברייתא ר' interprets "עד" in v. 5 as inclusive ("עד ועד בכלל") → all day is אסור
 2. Challenge: in ריב"ז as recorded as disagreeing with ר' יהודה ברייתא (?)
 - a. Noting: that his "precaution" is the essential התורה
 - i. He thought (as did we): that ריב"ז was instituting a גזירה
 - b. Defense: ריב"ז didn't understand ר' יהודה properly
 - i. He thought (as did we): that ריב"ז was instituting a גזירה
 - ii. But really: he was explicating the law ("התקין" means "דרש והתקין")