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# מסורת עקיבא

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*A Torah Publication of the Beit Midrash  
Program of Yeshivat Akiva*



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YESHIVAT AKIVA

Akiva Hebrew Day School

# Acknowledgements

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## Greeting

The mitzvah of הינוך, to instruct children to begin performing מצוות before they become בני מצוה and בנות מצוה, normally begins when a child is able to fully perform a מצוה in its full form including the complex details. As the משנה states in כ"ח. מסכת סוכה דף כ"ח. we first begin requiring a child to dwell in a סוכה when he is able to make it through a whole night of sleeping in the סוכה without needing his mother. Likewise, the משנה סוכה מ"ב. states that we first begin requiring a child to perform the מצוה of taking the four species on סוכות when he is able to properly shake them.

This rule does not apply to תלמוד תורה. We begin teaching children תורה as soon as they are able to repeat even the most basic parts of תורה. The ברייתא, as explained by רב המנונא, teaches us that as soon as a child is able to repeat “תורה צוה לנו משה מורשה קהלת יעקב,” we begin to teach the child תורה.

This distinction between תורה and other מצוות, I believe, exists for two reasons. First, the primacy of תורה is such that we simply cannot wait until a child is able to understand difficult concepts in תורה to begin teaching the child תורה. Rather, we must begin תורה learning as soon as possible so that it becomes foundational to the child’s religious consciousness. Second, one of the unique features of תורה among other forms of wisdom is that תורה is infinitely meaningful and impactful whether one is at the level to understand it only in its most simplistic form or if one is ready to delve into its deepest depths.

The רבן יוחנן בן ברייתא סוכה כ"ח. extols the wide ranging learning of רבן יוחנן בן זכאי saying that, among many other things, he knew “small matters” and “large matters.” The גמרא explains that “small matters” are the questions asked by אביי and רבא and “large matters” are the explanations of the meaning of the Divine Chariot. One plausible understanding of this enigmatic passage is that רבן יוחנן בן זכאי

learning encompassed everything from probing into the minute details of mundane life such as whether one is obligated to seek out the owner of a small lost object to delving into the mysteries of the nature of 'ה's presence in the world.

Once again, we see the infinite applicability of תורה. תורה learning is meaningful for every person on every level of understanding and תורה learning confronts every aspect of existence from the most circumscribed to the completely limitless.

I wish ברכה and הצלחה to the young students who opted to take part in the Beit Midrash Program at Akiva. You have chosen to commit yourselves to extra time and effort in learning and to pushing yourselves to deeper depths of understanding and thought. The articles you have written here are, perhaps, among your first forays into תורה's higher levels of depth and complexity. I pray that you keep moving along this path, and, that as you grow intellectually, emotionally and spiritually, your תורה learning grows as well and that you continue to probe the infinite depths of תורה's eternal meaning.

בברכה,

Noam Stein

High School Principal

## Introduction

The גמרא in . דף ד' ד' says:

"אמר רבי יהושע בן לוי: חייב אדם לקרות את המגילה בלילה ולשנותה ביום" רבי יהושע בן לוי said: A person is obligated to read the מגילה at night, during the day. The גמרא is unclear as to the meaning of "ולשנותה"; at first it offers the possibility that we read the מגילה at night and learn the תורה שבעל פה relating to the מגילה during the day. In this scenario, "ולשנותה" comes from the root, "שנה," to teach; as we say each time we recite שמע לבניך: "ושננתם לבניך," and you shall teach your sons. In conclusion, the גמרא explains the word "ולשנותה" from the root "שנן", to repeat. We have a מצוה to read the מגילה at night and repeat it during the day.

When we learned this סוגיה before פורים, we saw an insightful explanation from the נצי"ב, Rabbi Naftali Tzvi Yehudah Berlin, the Rosh Yeshiva of the famed Volozhin Yeshiva, connecting these two possible interpretations of the word לשנותה. The נצי"ב explains that the first time a person learns anything, he gets the general understanding of the topic without analyzing all the minor details and nuances. Repetition gives a person the opportunity to pay closer attention to the details and analyze the topic from new perspectives. Having not read the מגילה since the previous פורים, we read it at night to review the basic plot of our salvation from המן and אחשוורוש and reread the מגילה in the morning to understand much better what happened.

Just as we read the מגילה twice to get a better understanding of what took place, תורה שבעל פה fulfills a similar objective, which is why חז"ל thought perhaps we should learn the תורה שבעל פה of the מגילה as "the second time." One of the principal objectives of תורה שבעל פה is to refine and clarify our understanding of what was ה'’s intention in the תורה שבכתב. Many parts of the תורה שבכתב are not fully comprehensible without תורה שבעל פה, and learning תורה שבעל פה awakens a person’s senses to the nuances in the text.

Our ישיבה had the opportunity to learn מסכת סוכה this year. As we learned and analyzed מסכת סוכה, we explored commentaries that gave us a full understanding of the סוגיה. Sometimes, two תנאים had a dispute because they understood a word in a פסוק differently, and sometimes two ראשונים had a dispute due to their slightly different understanding of a statement in the גמרא or due to contrasting two different passages. The students compared the various approaches and opinions and in the end came to a new level of understanding, an understanding we would not have achieved without fulfilling "ולשנותה" on both levels, through deeper analysis as well as through repetition and review. This work is the fruit of the Beit Midrash Program's intense learning over the course of the year. Each student wrote one essay summarizing an aspect of a סוגיה we learned as a shiur or a personal הבורה he delivered to the shiur.

The title of the ספר is "מסורת עקיבא" for two reasons. First, it is named after our ישיבה עקיבא: ישיבת עקיבא. However, the meaning of the name runs deeper. In the third chapter of פרקי אבות, רבי עקיבא teaches us: "מסורת" "מסורת - סייג לתורה" - tradition is the fence to preserve תורה. The root of the word מסורת is מסר, pass down; the תורה שבעל פה which משה received from ה' at סיני and passed down through all the generations is our way of ensuring that the תורה is preserved for eternity. רבי עקיבא is the תנא that learned הלכות from the crowns above each letter, ensuring that all the הלכות that are part of the תורה שבעל פה would be preserved by being rooted in the תורה שבכתב. Thus, רבי עקיבא is the pivotal תנא in the preservation of the תורה שבעל פה and our מסורה.

Our students, ברוך ה', are the next link in preserving and passing along the מסורה which began at סיני, הר סיני, passed through רבי עקיבא, and continues to be passed down to this day. Seeing our students' commitment to תורה learning and desire to fully understand the teachings of those that came before us displays their unyielding connection to Jewish tradition. May ה' continue to guide them through their journeys of growing in learning and dedication to

Jewish observance, as they become the next leaders of the Jewish community.

There are a number of people I would like to thank for their involvement in both the publication of our first "מסורת עקיבא" as well as advancing the תורה learning that takes place in our ישיבה:

Rabbi Noam Stein, High School Principal, for developing the Beit Midrash Program, initiating the idea of publishing a תורה journal, and promoting תורה learning both within our ישיבה and in the broader community. May this be just one part of the תורה learning initiatives that begin at עקיבא.

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Most importantly, I want to thank my dear תלמידים, the authors themselves, for their insightful questions and answers during our learning, and for their commitment to writing and revising to bring this work to fruition.

Asher Nemes  
ב' ניסן תשע"ו

## העוסק במצוה פטור מן המצוה

### A Person Involved in One מצוה is Exempt from Another (דף כ"ה.) Alex Fischer (11<sup>th</sup> Grade)

The משנה says that those who are on their way to do a מצוה, sick people and their helpers, and people having snacks are exempt from the סוכה.

The גמרא asks from where we know that people travelling to perform a מצוה are exempt from sitting in the סוכה and it quotes a פסוק from שמע "ודברת במ שבבתך בביתך ובלכתך בדרך": שמע the mitzvah of reciting שמע when you are sitting in your house, to exclude if you are already busy with a mitzvah, and you have to say שמע when you are on your way unless you are a groom getting married. רש"י says that three examples of those sent to do a מצוה are people going to visit their rabbi, people redeeming a captive, and people learning תורה.

רש"י also says those people are exempt from סוכה even when they are resting or camped. If they are traveling during the day, they are exempt even at night because they are occupied with the מצוה. This can be taken to mean that even if one can do both מצוות, one is פטור from doing the second מצוה.

תוספות asks: If a person has the opportunity to do both, why is he still פטור? They quote a case of a person returning a lost object. A person who is returning something to his friend is considered a paid watchman because he does not have to give charity while he is watching the object. The money he saves from not giving charity is considered his payment. If a person swore not to get benefit from his friend, is he allowed to be that person's watchman of his property? The גמרא in נדרים מסכת נדרים says yes because it is not common for someone to ask the person for charity in the exact second when he is returning the property. תוספות asks: If he is always exempt from giving charity

while he has the lost object, can't he just hold on to the object and always be exempt from giving charity? In that case, it would be common for someone to ask him for money, which would mean he is definitely getting benefit, and violating his oath. תוספות concludes that he is only exempt when he is actually busy with the mitzvah of returning the lost item. This plays out practically in the case of a person who found a lost object because he is probably not busy dealing with the lost object, such as feeding an animal, at the exact moment that someone asks for money. If it is not common, he is not violating his oath and can be a watchman for his friend. Furthermore, תוספות brings this back to the case of a סוכה because if looking for a סוכה interferes with your mitzvah and will prevent you from doing your first מצוה, you don't have to find a סוכה. This can possibly be understood to mean that if doing the second מצוה will detract in any way from your first מצוה, we view it as one cannot do both מצוות, in which case you are פטור from the second מצוה.

The ר"ן takes the middle ground between רש"י and תוספות saying that if you can do both, you are not required to do the second; however, you are allowed to do the second one but only if it does not prevent you from doing the first one. The ר"ן in fact encourages doing the second one since "מהיות טוב אל תקרי רע" -if you can do good, don't be labeled as bad. The אור זרוע says we can't weigh מצוות since we don't know the intrinsic value of each מצוה, so you can't leave one מצוה even for a (seemingly) more important מצוה. The אור זרוע also says that if you are not actively involved in the מצוה, you have to do the second מצוה. But the ר"ן disagrees, saying that even though we can't weigh מצוות, you can do the second מצוה if it doesn't interfere. To be clear, the מצוה is not a חיוב but can be done if you want.

## מצוה בליל ראשון של סוכות

The מצוה of Eating in the סוכה on the First Night

(דף כ"ז.)

Noam Klugerman (12<sup>th</sup> Grade)

The משנה on דף כ"ז. states that רבי אליעזר says you are obligated to eat 14 meals in the סוכה, one each day and one each night. חכמים disagree, saying that there is no set number of required meals except on the first night of יום טוב when one is obligated to eat in the סוכה.

The גמרא asks why רבי אליעזר thinks the way he does. The answer is that one should live in the סוכה like he lives in his house, and since one would normally eat one meal in the day and one meal at night at home, he must do so in the סוכה, too. The גמרא then asks what is the reasoning for the חכמים' opinion. The answer is just like in one's home, one only eats if one wants to, so too with living in the סוכה, one eats by choice. Why then is he obligated to eat in the סוכה the first night? The גמרא answers because we have a גזירה שוה, a textual connection between פסח and סוכות, since תורה states they are both on the 15<sup>th</sup> of the month. Regarding פסח, the תורה says "בערב תאכלו מצות", we must eat מצות on the first night of פסח. Connecting סוכות to פסח teaches us we must also eat in the סוכה on the first night of סוכות.

תוספות clarifies what the גמרא means when it says that after the first night, if one wants one can eat and if one wants one doesn't have to eat. Based on this, תוספות says there is no obligation to eat on יום טוב, and except for the first night, one is allowed to not eat. A practical outcome from this point, תוספות says is a case where someone forgot to mention ויבא on יום טוב in ברכת המזון. He does not need to repeat ברכת המזון since he didn't need to eat the meal anyway. The problem with this approach is that the גמרא in מ"ט: says that on ראש חדש a person has the option to eat or not to eat, in which case a person would not need to repeat ברכת המזון

for forgetting יעלה ויבא. On יום טוב and שבת, however, the גמרא says "לא סגי דלא אכיל", it is not sufficient to not eat; i.e. a person must eat. If a person must eat, ברכת המזון would need to be repeated, which goes against תוספות's point that a person does not need to eat on יום טוב after the first night. תוספות answers its own question by saying it is only talking about the first nights of פסח and סוכות when a person must eat a meal. On the rest of יום טוב, as long as a person doesn't fast, they can eat snacks and fulfill the גמרא ברכות that a person must eat on יום טוב.

תוספות in מסכת ברכות answers this question from a completely different direction. תוספות there says the גמרא in ברכות which requires you to eat on יום טוב is talking about the מצוה of eating a meal on יום טוב. The גמרא in סוכה is adding an additional obligation of eating מצה on the first night of פסח and in the סוכה on the first night of סוכות. They present a different answer than the תוספות in סוכה did since the גמרא says on ראש חדש you don't need to eat, but we know you cannot fast on ראש חדש. תוספות proves that choosing to eat on ראש חדש means you can choose to have a meal. On יום טוב, which is one step higher and you must eat, you must have a meal. The נפקא מינה between the two מצוות, eating because of יום טוב or because of סוכות, is if it's raining. If it is raining and you have to eat inside your house, you would fulfill the מצוה of יום טוב but not the added מצוה of eating in the סוכה. When it stops raining, you would have to go out and eat bread in the סוכה to fulfill the additional mitzvah unique to the first night of סוכות only. On the rest of יום טוב, you would not have to go outside and eat after it stops raining.

The ר"ן quotes both opinions of תוספות and disagrees with the תוספות in מסכת סוכה. He disagrees because there is no reason to assume that the גמרא in ברכות only means the first night of יום טוב when the גמרא says you have to eat a meal on שבת and יום טוב. Therefore, the ר"ן holds like the תוספות in ברכות: there are two separate obligations on the first night. The ר"ן extends תוספות's נפקא מינה to פסח. If you only eat מצה עשירה, egg matzah, on the first night, you fulfilled your obligation to eat a meal on יום טוב but not your obligation to eat מצה

at the סדר. On the first night of Pesach, the מצוה is to eat לחם עוני, poor man's bread, which is defined as being only flour and water. The מצוה גזירה שוה teaches us that on סוכות, we need to do what we are obligated to do in a סוכה. Since more than an egg amount of bread requires a סוכה and a person is allowed to eat less than that outside the סוכה, a person would need to eat more than an egg amount of bread in the סוכה on the first night. However, if it rains, the ר"ן says a person would not need to eat in the סוכה, even on the first night, since this is not the way a person dwells in his סוכה.

The ר"א in ברכות says that according to רבי יהודה you have to eat because of שמחת יום טוב and the epitome of eating is eating bread. When the גמרא סוכה says you do not have to eat, that just means you do not have to eat because of סוכות. The other מצוה of שמחת יום טוב requires you to at least have bread. The ר"א until here holds like the ר"ן and the תוספות in ברכות. If it was raining, even outside of the סוכה, says the ר"א, one would be obligated to eat bread because of יום טוב, but the first night is different. Specifically on the first night there is an obligation that even when it is raining you are obligated to eat a כזית in the סוכה, which we learn from פסח. Since on פסח, a person must eat a כזית of מצה at the סדר and there are no exceptions, so too on the first night of סוכות, a person must eat a כזית of bread in the סוכה and there are no exceptions, not even if it's raining.

Is the mitzvah on the first night a מצוה of eating or a מצוה of living in the סוכה? The ר"א seems to hold that it is a mitzvah of eating and the ר"ן seems to hold that it is a mitzvah of living in the סוכה. If the ר"א holds that it's a מצוה to eat, that is why he says one must eat even in the rain, but he only needs to eat a כזית, since that is the measurement of eating. On the other hand, if the ר"ן holds it's part of the obligation to live in the סוכה, it follows all the rules of living in the סוכה. If a person is suffering in the rain, he doesn't have to eat in the סוכה, and if a person eats less than an egg of bread, he doesn't have to eat it in the סוכה. On the first night of סוכות, a person must be in the סוכה, meaning, he must eat an egg's-worth of bread in the סוכה,

but not if he wouldn't eat in that situation, meaning it is raining and uncomfortable.

## להקביל פני רבו ברגל

### To Greet One's Teacher on a Festival (דף כ"ז:)

Uri Lorkis (11<sup>th</sup> Grade)

The גמרא in 'ב' עמוד כ"ז discussed the מצוה of greeting one's rebbe. In a previous סוגיה, this מצוה was referenced as a proof that even a מצוה that is דרבנן, rabbinic in origin, that is being actively done, one is exempt from doing other מצוות. This implies that this מצוה is דרבנן. There's a story that occurred where רבי אלעאי went to greet his rebbe, רבי אליעזר, on יום טוב. When רבי אלעאי got there, his rebbe asked him why he was there. He shouldn't have come, רבי אליעזר said, as he praised people who are lazy on יום טוב and don't greet their rebbe, even if they are lazy all year round. The מצוה of יום טוב, he said, is "ושמחת אתה וביתך", to be happy with your wife and family, as opposed to traveling to greet one's rebbe.

However, the גמרא challenges this from a statement of רבי יצחק who proves that a person is obligated to travel to greet his rebbe on יום טוב, from the famous incident of אלישע הנביא and the אשה השונמית, the woman from Shunam. When her son died and she was going to אלישע to complain to him that her son died, her husband asked her, "מדוע" "את הולכת אליו היום לא חדש ולא שבת" - why are you going to him, today is not a new moon, a reference to festivals which are based on the moon, nor is today Shabbat;" on both one would be obligated to greet his rebbe. The גמרא resolves that when רבי אלעאי went to greet his teacher, he went and returned on the same day, so he was able to fulfill both מצוות. He was able to do that because it's all about how one views the mitzvah of ושמחת.

Does this mean one should be with his family all day, or that he merely has to make them happy by buying them יום טוב gifts? Based on the גמרא that a woman is פטור from a positive מצוה that has a time constraint, she still is obligated in the מצוה because of her husband. The explanation for this is that a man who lives without a woman lives without שמחה. The only way a man can fully complete his מצוה

is to be happy with his wife. That is her role in the relationship: to help the husband fulfill his מצוה. This is similar to the מצוה of פרו ורבו, where her role is to assist her husband in fulfilling his מצוה but she is not personally obligated. In this case, it would mean to make your wife and family happy by buying gifts; therefore, it is possible that a person could fulfill the מצוה right away and have the opportunity to do other מצוות. In saying that, then in this scenario he was not actively doing one מצוה because his מצוה of שמחה with his family would be completed before he went to do the מצוה of greeting his rebbe, so going was the right thing to do.



even after the fact. This is evident in the first פרק where the רבנן maintain that it is a מצוה to tie the לולב, based on the פסוק of “זה אלי” and “ואנורה” but even if somebody doesn't even tie it together, the לולב is still כשר.

The original ideas we have been discussing of “הידור מצוה” have been coming from a מחלוקת between תוספות and רש”י as to why a person is not able to fulfill the מצוה of לולב if it is “יבש” or “dried out.” The לולב must be “הדר” or “beautiful” to actually glorify the מצוה. But what does it actually mean to “glorify the מצוה?” Does it mean that one must only use a beautiful item for a מצוה? Or that the מצוה must be great so that many people know that someone is “glorifying” it?

The גמרא in כ”א: discusses the three different levels of lighting the נרות הנוכה. The ברייתא begins by saying that the מצוה of lighting the נרות הנוכה is for a man to light one candle for his house each night. The second level of נרות הנוכה is called מהדרין (people who beautify the מצוה), where a man will light one candle for every member of his household. The final level of נרות הנוכה is labeled מן המהדרין (people who exceedingly beautify the מצוה), where they light a number of candles corresponding to the night. According to בית שמאי, eight candles are lit on the first night and one candle less for each following night. According to בית הלל, one candle is lit on the first night and another one is added on each subsequent night.

These ideas from מסכת שבת seem very simple, but they are not clearly explained within the context of the גמרא. There is a מחלוקת between תוספות and the רמב”ם regarding this issue. Who is the person lighting the נרות הנוכה? Is it the father of the household for the entire house, or is it each and every person lighting his or her own חנוכיה?

תוספות explains that בית הלל and בית שמאי are only talking about doing the מצוה when a person is lighting one set of נרות for his entire household. Clearly תוספות understands that there would be more of a “הידור מצוה” in this circumstance, because anyone can see when he is

adding or subtracting candles based on what day it is. According to תוספות, it would not be clear how many nights of חנוכה there are when someone lights a candle for each person in the household; somebody outside would not know what night it is without knowing how many people live in the house.

But the רמב"ם disagrees with the second statement of תוספות because according to the רמב"ם, the מצוה of נרות חנוכה is to light based on the number of people in a household. This statement in הלכות חנוכה פרק ה' הלכה א' of the רמב"ם creates a fundamental dispute between the two opinions. When the רמב"ם uses the words "והמהדר יותר" "further glorify," he essentially creates his own definition of what "הדר" means in the מצוה. The second הלכה of the רמב"ם explains exactly how to "glorify" the מצוה. He says if there are 10 people within the household, you light 10 candles the first night, 20 the second, 30 the third, until we reach 80 on the last night. Essentially, the father fulfills the מצוה by lighting for everyone, even if it is not completely clear what day it is and how many people there are.

The basis of the entire מחלוקת comes down to one of the רמב"ם's crucial points. What the רמב"ם seems to be saying is that הידור מצוה must be within the framework of the מצוה itself, while you're in the act of doing it. Once the מצוה is done, you can no longer enhance it by doing something else. That is why the father must light the candles to fulfill the מצוה. Once he stops lighting, the מצוה is over and one can no longer fulfill the מצוה. However, תוספות says that הידור מצוה can be performed by enhancing and embellishing the מצוה, so even if each person in a family lights his or her own candles, they have still fulfilled the מצוה.

Another example where a person cannot go back and enhance a מצוה through הידור מצוה once the מצוה was completed comes from the רמב"ם's commentary on הלכות מילה. The משנה in דף קל"ג. in משנה א' speaks about the הלכות of ברית מילה. The משנה begins by saying, "One may do all needs of מילה - cutting the foreskin, pulling back the skin that covers the end, sucking out the blood, and

putting on a bandage and cumin.” The גמרא seems to be bothered by this statement of, “One may do all needs of מילה on שבת” because what else would be included that is not already allowed? A ברייתא is brought to answer that on שבת, during the circumcision, the מוהל may cut any of the עורלה whether it is מעכב (something that will invalidate the מילה) or not. Once the circumcision is complete and the מוהל realizes that he missed part of the עורלה that is מעכב, he can go back to complete the מילה. However, if all he missed is something that does not affect the validity of the מילה, he may not go back and cut that part.

The רמב"ם discusses this הלכה not in the context of a ברית מילה on שבת but a ברית מילה during the week. The רמב"ם says there are parts of the ברית מילה that must be taken off or else the מילה is considered invalid. Once the circumcision is preformed and the מוהל realizes that he hasn't cut off everything, if it a part that is not מעכב, he cannot go back and cut off that extra skin. Cutting it at that point would have no impact on the מצוה that was performed. The רמב"ם here is showing how once a מצוה is performed, one cannot go back and attempt to enhance it because the מצוה is now considered over. Only during the time of performing the מצוה can you attempt to enhance it any way you can.

We learn from all of these sources that the fundamental concept of "הידור מצוה" is very essential in the action of doing a מצוה. One cannot merely go back to a מצוה to make it "הדר," because once the action of the מצוה is complete, you cannot enhance it anymore.

## מצוה הבאה בעבירה

### (דף כ"ט:ל') Performed Through Sin מצוה A

Jason Jubas (11<sup>th</sup> Grade)

When the תורה states the מצוה of לולב, it says, "ולקחתם לכם ביום הראשון," and you will take for yourselves on the first day. The Biblical מצוה is to take the ארבעת המינים on the first day, and מדרבנן, the מצוה was extended to take them during the rest of יום טוב as a way of remembering the way they shook לולב in the בית המקדש. In the בית המקדש, they would shake לולב all 7 days of סוכות as the פסוק ends "לולב that is stolen or dried out is פסול." The משנה on ט: says דף כ"ט: that is stolen or dried out is פסול. Since the two are connected, and we know that a dried-out לולב is פסול on all days, the גמרא teaches that this refers to the first and second days of יום טוב (the second days means any day after the first day, during which the מצוה is only מדרבנן). We understand that a dried-out לולב is invalid on all of the days because the לולב is required to be beautiful on all the days. When the לולב is dried out, the לולב is obviously not beautiful. A stolen לולב on the first day is invalid because the תורה requires a לולב to be לכם, which means "for you." This proves that the לולב has to belong to you. If you are sharing a לולב, someone else needs to borrow a לולב, or you steal a לולב, you cannot simply use it for the מצוה because it does not belong to you. This פסוק of requiring the לולב to belong to you is written regarding the first day, so the גמרא asks what about a stolen לולב on the second day? Why is it not כשר? According to רבי יוחנן, he says it is מצוה הבאה בעבירה, a מצוה that comes through a sin. His proof is "והבאתם גזול ואת הפסח ואת החולה ... הארצה אותה מידכם אמר ה'" which means "Does God want you to bring the stolen, damaged, and sick animal as a קרבן?" By listing the stolen with the damaged, we can prove that since a damaged item cannot be repaired so neither can the stolen. As a result, you cannot use a stolen animal for a קרבן regardless of יאוש, when an owner gives up hope of finding his object. For example, if you lose your laptop and you look really hard all day for it and cannot find it, by next week you will have no hope of getting it back. However, why can't a person bring the קרבן

after the owner has יאוש that it was stolen? The גמרא teaches us that it is still invalid due to מצוה הבאה בעבירה. Thus, you cannot use a stolen לולב on the later days either.

משום תוספות דבור המתחיל משום is of the opinion that מצוה הבאה בעבירה is of Biblical origin, and proves it from the פסוק of "אדם כי יקריב מכם", when a person will sacrifice from themselves. The תוספות tries to determine when we apply the concept of מצוה הבאה בעבירה. The תוספות then quotes a גמרא later in the chapter which discusses why a לולב של אשירה ועיר נדחת, one that was worshipped or belonged to a city of idol worshippers, not כשר? We learn it from the concept of כותי מכתת שעוריה, which means something that needs to be destroyed is already viewed as destroyed. Since a לולב needs to be of specific dimensions, by being viewed as destroyed, it has no measurement. תוספות is bothered by why we don't invalidate it through מצוה הבאה בעבירה. The תוספות concludes that to invalidate through מצוה הבאה בעבירה, the עבירה has to lead to you fulfilling the מצוה. In this case of עבודה זרה, the עבירה does not allow for the מצוה because the עבירה was done regardless of the מצוה. However, for a stolen לולב, the עבירה is the only way you can fulfill the מצוה.

However, שמאול allows using a stolen לולב on the later days of טוב of סוכות. The reason behind this is because we allow a borrowed לולב on the later days of טוב; therefore, שמאול allows a stolen לולב on the later days of טוב. There are a few possible explanations for שמאול's opinion. The first possibility is that he does not believe in מצוה הבאה בעבירה. תוספות says that since לולב on the later days is דרבנן, we do not apply מצוה הבאה בעבירה. This can be understood in one of two ways. The first understanding is that we do not apply מצוה הבאה בעבירה מצוות דרבנן. The second reason is since we know that שאול, borrowed, is permissible on the later days, we see that ownership is not necessary on the second days. If this is true, then גזול is okay because one could just as well have borrowed it so we do not apply מצוה הבאה בעבירה.

The Gemara on Choshen Mishpat 37b has an argument whether a thief who sits in a stolen room is liable for theft. According to Rabbi Eliezer, he uses the word לך from the Pasuk of "הג' חג' פסוק" to prove that it has to be yours, so a thief who sits in a stolen room is liable. Rava says that all of the Jews can sit in one room, which implies that obviously a thief who sits in a stolen room is not liable. They only invalidate a thief who sits in a stolen room. The Gemara asks why do we learn a thief who sits in a stolen room is liable from Pasukim and not from the concept of a thief who sits in a stolen room? The Gemara concludes that a thief who sits in a stolen room is a concept and it cannot invalidate a thief who sits in a stolen room.

These two cases seem to contradict each other because one says that a thief who sits in a stolen room is liable, and the other says that a thief who sits in a stolen room is not liable. One way of resolving this contradiction is by focusing on the difference between these two cases. The case of a thief who sits in a stolen room is to sit inside the room, so you are not actually using the object that you stole. You are simply using the space and shade inside of the room. On the other hand, the case of a thief who shakes the room is to shake the room, which is an action that you must do with the object that you stole. We apply the concept of a thief who sits in a stolen room when we do an action with the object that involved the theft, in this case the room, but not to the room, because you didn't steal the shade.

There are many other cases that do not involve a thief who sits in a stolen room even though they appear to be an action with the object. Two of these cases are brought in the Talmud Yerushalmi. The first case is a thief who hears a stolen object. A person who heard from a thief that is stolen fulfills his requirement of a thief. We do not apply the concept of a thief who sits in a stolen room because the action is not enabling the listener's requirement. The requirement of a thief is to hear it, not to use it. Therefore, it is similar to the case of a thief who sits in a stolen room where you are not using the object. Another case is if a mourner tears after losing a relative. The Talmud Yerushalmi says that the person fulfills his requirement to tear. We do not apply the concept of a thief who sits in a stolen room even though you did a sin of tearing on a relative because the sin is not relevant to you doing the requirement. This is similar to the case of using a stolen object. In both cases, the action does not enable you to fulfill the requirement.

ספר קבוץ הערות וסרמן in his רב אלחנן וסרמן deals with a case of a person having a child through a forbidden relationship. Did the man fulfill the מצוה of having children? He says that he did because the action of the עבירה is separate from the מצוה. The עבירה in this case is the forbidden relationship, while the מצוה is having children. We only apply מצוה הבאה בעבירה when the מצוה is the action being performed and it comes through the עבירה, not a later reaction to the עבירה. He compares it to a case of a ברית מילה that was done on שבת, but not the eighth day (A ברית מילה may only be performed on שבת if it is the eighth day). In this case, the person fulfills his מצוה of ברית מילה and it is not מצוה הבאה בעבירה because the מצוה is not to do the ברית מילה, rather the מצוה is to be circumcised. Since the מצוה is not the action but rather the result, his violation of שבת is not the מצוה but only leading to the מצוה.

In conclusion, the ר"ן follows רבי יוחנן that a לולב that is stolen is פסול on the second days because of מצוה הבאה בעבירה. He follows רבי יוחנן for two reasons. The first is because the רי"ף quotes the משנה without any comments, meaning that גזול is פסול all of the days. The second reason is that whenever we have an argument between רבי יוחנן and רבי שמואל, we always follow רבי יוחנן.

רמב"ם disagrees and follows the opinion of שמואל that a stolen לולב is כשר on the second days. One possible explanation why the רמב"ם follows this approach is because רמב"ם says that the מצוה of לולב on the first day of יום טוב is different than the מצוה on the second days of יום טוב. On the first day we have a commandment to shake the לולב. In the בית המקדש, they would shake the לולב all seven days, not as a מצוה of shaking, but as a מצוה of achieving שמחתם לפני ה' אלקיכם שבעת ימים, rejoicing before ה'. The לולב is just a way to be joyous. Therefore, it does not matter if the לולב is stolen or not because the מצוה is שמחתם. This is similar to the cases of לישב and לשמוע שופר because the מצוה is שמחתם. This is similar to the cases of מצוה הבאה בעבירה because the object is just a way to achieve something else.

## אונכרי

### Merchants (דף כ"ט.ל.)

Yossi Nadel (10<sup>th</sup> grade)

The topic starts with a statement from רב הונא to the אונכרי, merchants. רב הונא tells the merchants that when they go to idol worshippers to purchase הדסים for סוכות, they should not cut the הדסים from the ground. The first reason the גמרא gives for this statement is that in general, idol worshippers would steal land but ground cannot be stolen; by cutting the הדסים, the merchants would be the ones stealing the הדסים. The גמרא goes on to explain that there must be one of three שינויים, changes, in order to be able to use the הדסים. According to רש"י, the owners had יאוש, gave up on the הדסים, and were stolen by the idol worshippers, therefore, the אונכרי were not stealing the הדסים because they were already acquired by the idol worshippers through יאוש. If the אונכרי cut and sell the הדסים to other Jews, a שינוי רשות, a change in possession, coupled with יאוש would allow it to be acceptable; however, if the אונכרי want to use the הדסים themselves, then there is no שינוי רשות to allow them to use it. The גמרא asks that perhaps there is a שינוי מעשה, a change in action, in this case because by tying the הדס with the other species you are physically changing the הדס. The גמרא rejects that assumption in two ways. First, since a הדס may not need to be tied, it is not considered an integral change to the object. Second, the גמרא says that even if the הדס must be tied, since in this case the הדס can be untied from the four species, there is no permanent change. The גמרא then asks: Why can't the אונכרי cut it themselves because there is a שינוי השם, a change in its name. At first, says the גמרא, the הדס was called an אסא, but now it is called a הושענא. This too is rejected since we say that the הדס was always called a הושענא, so there is not any real change in name. רש"י explains why we need a שינוי and gives two possible answers. The first answer is even though the הדס is not stolen, you still need the הדס to belong to you on the first day, so you need to acquire the הדס with יאוש and a שינוי. The second answer רש"י gives

is you will not be able to use the הדס due to מצוה הבאה בעבירה, a מצוה you are able to perform because you did a sin. Therefore, רש"י says, you have the שינוי in order to cancel out מצוה הבאה בעבירה. As a side point, the פני יהושע points out an obvious answer to רש"י's question with a question of his own: Why don't we say רב הונא is telling the אוונכרי not to cut the הדסים simply because he doesn't want them to commit the sin of stealing? He answers that רב הונא is creating a חומרא, a stringency, so that if the הדס happens to be stolen, there will be a שינוי if the אוונכרי do not cut it, and the new owner of the הדס will still fulfill the mitzvah of four species.

The קהילות יעקב, the Steipler Gaon, brings up a problem in רש"י's understanding of the גמרא pointed out by the מהרש"א. The מהרש"א asks why does the שינוי help and answers that you must acquire the הדס through a שינוי. If you acquire it through יאוש, you will be acquiring it at שעת הגזילה, the time of the theft, and there will still be the problem of מצוה הבאה בעבירה. The Steipler then questions the מהרש"א. According to רש"י, the idol worshippers had already acquired the הדס through the יאוש of the original owners, and according to the מהרש"א, you also acquire the הדס through the שינוי. The Steipler asks why we need both a שינוי and יאוש if you acquire the הדס through each of these individually? You can't acquire something twice! The Steipler answers that by having a שינוי you are acquiring a new object. He reasons that when you make a שינוי, you have created פנים חדשות, a new face, and as a result, a new object. You are not acquiring one object twice; you are acquiring two different objects. Since you acquired a new object, there is no מצוה הבאה בעבירה.

According to תוספות, on the other hand, you need both יאוש and a שינוי to acquire an object. With that reasoning, we won't have the problem of the Steipler of acquiring one object twice. Furthermore, according to תוספות, the sin and מצוה have to happen בבת אחת, at the same time, for מצוה הבאה בעבירה to be a problem. תוספות gives the example of one who steals an animal for a קרבן, a sacrifice. If you steal an animal that was not yet sanctified, when you sanctify it, you are stealing and acquiring the object at the same time. This would be מצוה הבאה בעבירה.

However, if you steal an animal that has already been sanctified, the sin and the mitzvah are not happening at the same time, and therefore, there is no מצוה הבאה בעבירה.

## סוכה גזולה

A Stolen סוכה (דף ל.)

Alter Klausner (12<sup>th</sup> Grade)

After discussing a stolen לולב, the גמרא turns to discuss a stolen סוכה. The גמרא introduces a ברייתא that says a stolen סוכה or a סוכה that was built in רשות הרבים, the public domain, is invalid according to רבי אליעזר but is valid according to חכמים.

רב נחמן comes and explains their argument. He says this case is really a case where you kicked your friend out of his סוכה. According to רבי אליעזר, land can be stolen, so the סוכה would be considered a stolen סוכה and thus invalid because the תורה says, "הג הסוכות תעשה לך." The תורה is teaching us the סוכה must belong you to, meaning it cannot be stolen. Even if you can't steal land and it remains the property of the owner, he holds that a borrowed סוכה is also invalid. רבי אליעזר says a borrowed סוכה is invalid because of the same פסוק "הג הסוכות תעשה לך." He understands the פסוק very literally to mean the סוכה has to be yours. According to the חכמים who say that land cannot be stolen, it would be considered a borrowed סוכה. The חכמים say that a borrowed סוכה is valid because of the "כל האזרה בישראל ישבו בסוכות" which teaches us that all Jews theoretically can live in one סוכה, thus a person can sit in a סוכה which he doesn't own.

The גמרא brings another case of a stolen סוכה. If a man stole wood and made a סוכה from it, everyone agrees that the owner cannot claim back the wood, only its value, so the robber would be יוצא with that סוכה. The thief only needs to repay the value of the wood because of תקנת מריש, a rabbinic concept which says if you changed the item you stole, you only pay back the value of the stolen item instead of returning the actual item. It was instituted as a way of encouraging the thief to pay it back what he stole by not burdening the thief to take apart what he stole. Essentially, the thief acquires the wood, so it is now his סוכה. The גמרא brings a story to illustrate this point. An

elderly woman came to רב נחמן and said that a group of prominent rabbis were sitting in a סוכה built from wood stolen from her, but רב נחמן ignored her. Later, he told his students that she was only entitled to the value of the wood.

רבנא concludes the סוגיה by saying a beam that was stolen and built into a סוכה doesn't need to be returned, only the value needs to be repaid because of תקנת מריש. The גמרא asks isn't that obvious, why would wood be different than a beam? The גמרא answers maybe you would think that because wood is more common than a beam, you could return its value, but since a beam is uncommon, you need to return it. This only applies during סוכות; after סוכות you need to return the beam unless it is cemented in. Both of these are considered a permanent changes (the מצוה makes the building be viewed as permanent) so you don't return the actual object.

Since the "הג הסוכות תעשה לך" פסוק implies that a stolen סוכה is invalid, רש"י asks what case of a stolen סוכה do חכמים agree is פסול. In both cases of the גמרא the סוכה either becomes the thief's property (case of stealing wood) or is considered a borrowed סוכה (case of kicking your friend out). When is a סוכה actually stolen and invalid? רש"י answers they agree in a case of a portable סוכה, such as on the back of a wagon. Since it is not on land, we can't bring in the concept that land can't be stolen, which would make the סוכה be considered a borrowed סוכה. Since the thief didn't build it, there is no שינוי because the object hasn't changed, so we don't apply תקנת מריש. Therefore, this סוכה on a wagon is what the תורה would label as סוכה גזולה and invalid.

תוספות starts out summarizing this idea of רש"י. תוספות disagrees by saying רש"י didn't have to bring a new case that חכמים say the סוכה is פסול. The case of stealing wood and building a סוכה is still פסול because the wood is stolen. מדאורייתא, the סוכה is valid due to תקנת מריש, but on a Biblical level, the פסוק which invalidates stolen סוכות would still apply, so this kind of סוכה could be what the פסוק is referring to.

The ר"ן asks: if this סוכה is מדאורייתא פסול, how could תקנת מריש, which is a rabbinic concept, come and make it valid. Usually, we see that חכמים come and are stricter than what the תורה requires but here, we see the opposite: the תורה says the סוכה is not okay and מדרבנן, we say it is okay. He answers that it is valid because of the concept of הפקר בית דין הפקר, the ability of court to make anything ownerless and transfer ownership to another person. The rabbis are not going against דאורייתא when they say the סוכה is okay; they are saying that when the thief has to pay back the value he stole instead of returning the wood, the wood now belongs to the thief. If the wood belongs to the thief, the סוכה is kosher. We see the power of a court being able to declare ownership affects not only whose money it is but also extends to any case that may come about based on whose money it is, in this case declaring the סוכה is no longer considered stolen and may be used to fulfill the מצוה.

## בל תוסיף

Not Adding on to a מצוה (דף ל"א.)

Nati Faber (12<sup>th</sup> Grade)

There is a famous argument between רבי יהודה and רבנן about whether or not the ארבעת המינים, the four species that are shaken together on סוכות, are required to be bundled, i.e. tied together, or not. רבי יהודה holds that they must, while רבנן hold that is not required.

The גמרא asks why רבי יהודה holds that the ארבעת המינים must be tied together with its own species. The גמרא rejects that potential answer because of "הדר," the ארבעת המינים must have a certain beauty to them. The גמרא rejects that answer because of a statement of רבא which says a לולב may be tied with ivy or bark of the palm tree. The ivy and bark of a לולב tree are not very beautiful and would not qualify as "הדר," so clearly, the requirement to bundle a לולב is not an issue of הדר. The גמרא quotes a new statement of רבי יהודה saying that the ארבעת המינים must be tied together and if one were to bring in another מין, another species, there would now be five species.

Since רבי יהודה seems to not require a לולב to be הדר, the גמרא inquires what is his opinion on whether or not an אתרוג must be הדר. The reason for this inquiry is we learn הדר from the תורה's description of an אתרוג as "פרי עץ הדר," the fruit of a beautiful tree, so it would seem even if one does not hold a לולב must be הדר, perhaps an אתרוג would need to be. The גמרא quotes a statement saying that just like one may not take a species away from the ארבעת המינים, so too one cannot add. If someone cannot find an אתרוג, they cannot replace it with a different fruit. However, the גמרא quotes רבי יהודה who said that in big cities, they would pass down their ארבעת המינים from generation to generation. Surely, after years of being passed down, these species would be dried out and the גמרא earlier said that ארבעת המינים that dried out are פסול because they are not הדר. It would seem that רבי יהודה would hold that none of the ארבעת המינים must be הדר. The גמרא

rejects this as a proof because it was an extreme measure taken in big cities because it was too difficult to get ארבעת המינים. The גמרא reaffirms that רבי יהודה holds that the ארבעת המינים do not need to be הדר but clarifies his opinion to mean that an אתרוג must be הדר.

מר, an anonymous character in the גמרא, addresses the statement of “just like one may not take a species away from the ארבעת המינים, so too one cannot add,” and asks isn’t this obvious; adding would be in violation of תוסף, the restriction to add a מצוה or add to an existing מצוה. The גמרא answers that because רבי יהודה holds that the ארבעת המינים must be bundled together, perhaps, had one taken a fifth species outside of the bundle one could say “This one (the ארבעת המינים bundle) is one entity, and this one (the fifth species) is a separate entity.” The גמרא comes to teach us that you cannot add.

The זקן פ"ה עמוד ב' says we are more strict about a זקן, a rebellious elder, who contradicts a law that was expounded upon by the חכמים than one who contradicts a law explicit in the תורה. For example, if he says that there is no מצוה of תפילין, he is not punishable by death because it is clear there is a מצוה of תפילין in the תורה. However, if he says there are five פרשיות in תפילין, he is punishable by death because the number of פרשיות in תפילין are הלכה למשה מסיני, a מצוה or detail of a מצוה we only know based on the תורה שבעל פה, the oral law. רבי אליעזר explains the משנה to say a זקן ממרא is only liable for contradicting a מצוה if its source is explicit in the תורה but its details are הלכה למשה מסיני. רבי יהודה, the same תנא as the גמרא, holds that the only מצוה that fits רבי אליעזר’s qualifications is תפילין. The גמרא asks why רבי אליעזר doesn’t also fit רבי אליעזר’s qualifications because its source is explicit in the תורה, its details are learned through תורה שבעל פה, and if one adds another species, the מצוה is invalid. The גמרא answers that if we hold that the ארבעת המינים do not need to be bundled, like רבנן, holding the extra species at the same time does not accomplish anything. On the other hand, if we hold that the ארבעת המינים must be bundled, like רבי יהודה, bundling the fifth species with the others invalidate the מצוה from the start.

תוספות asks a question on the concept of letting the four species stand as one entity and the fifth species stand as a separate entity. It is very easy to say for רבי יהודה who holds that the four species must be bundled, that if a fifth species is bundled with the other four one cannot say that the extra species is separate from the rest. However, for רבנן who hold that the four species do not need to be bundled, it is very difficult to reject this reasoning. תוספות then quotes the גמרא in סנהדרין and says that if we add a fifth species the מצוה is invalid, but if we do not require a bundle, then adding the fifth species does not do anything. The גמרא in סנהדרין seems to suggest that we do accept the rationale of letting the fifth species stand separate from the rest.

תוספות suggests maybe we only bring this rationale within רבי יהודה's opinion to say a fifth species is not bundled with the rest. However, it could be argued that this does help us with רבנן. If someone bundles the four species with something that is not one of the four species, he did not add to the מצוה according to רבנן. The four species must be held in the way they grow, and tying a plant is not holding it in the way it grows, so it is not part of the מצוה. However, since רבי יהודה requires bundling the four species together, he would say tying with a fifth species is adding to the מצוה. We would not apply the rule of being held the way it grows, as that is the way it should be. However, even רבי יהודה would hold that if one is holding a fifth species the way it grows but outside the bundle, it is considered adding. תוספות answers that according to רבנן or according to רבי יהודה, when a fifth species is outside of the bundle, it is a violation of the prohibition of תוספת but they did not invalidate the מצוה, as the גמרא in סנהדרין speaks about. However if one were to bundle the additional species with the rest, the מצוה would be invalid.

## שומע כעונה

### Listening is Like Responding (דף ל"ה.-ל"ה)

Asher Stein (11<sup>th</sup> grade)

The משנה states that if a woman, slave, or minor says a prayer, such as הלל, on behalf of a man, he must repeat everything they say in order to fulfill the מצוה. If another man, however, says it on his behalf, he may merely respond "הללוקה" instead of reciting the entire תפילה.

The גמרא then proceeds to enumerate many ideas and laws that we can derive from the way in which we daven הלל. The final idea derived is שומע כעונה which is learned from the process of the שליח saying ברוך הבא and the congregation continuing with בשם ה'. It is possible for שומע כעונה to be learned from this because we clearly see that even though the צבור does not say the words ברוך הבא they are יוצא as if they said it since they responded בשם ה'. The גמרא goes further to say that if one hears but does not respond, he is still יוצא through שומע כעונה and proves it from a פסוק about המלך פסוק. The פסוק says that יאשיהו read from a ספר תורה, when in fact he did not read it himself rather it was read to him, thus proving that if one listens but does not say something himself, he is still יוצא.

רש"י expands on this גמרא by explaining we can learn from this that if a person does not know the words of the תפילה he can listen with כוונה and be יוצא. To further explain שומע כעונה רש"י specifically emphasizes a case in which one is in the midst of עשרה when the חזן arrives at קדושה. In this circumstance, according to רש"י, one should pause and listen to קדושה, then continue his personal תפילה after קדושה. In that case, according to רש"י, he would fulfill hearing קדושה because of שומע כעונה.

תוספות on this גמרא seems to have a practical disagreement with רש"י's assertion, but תוספות's argument is also regarding the fundamentals of שומע כעונה. תוספות brings the כ"א עמוד ב' to prove that if one believes the חזן will arrive at קדושה while he is in the midst of

שמונה עשרה, he should wait until after the חזן completes קדושה to commence his תפילה. Why, תוספות asks, can he not start עשרה and pause when the חזן arrives at קדושה? Based on this, תוספות says if a person is in the middle of עשרה and hears קדושה, he must continue davening and may not stop to listen to קדושה. This is contradictory to what רש"י said previously: According to רש"י, if you are in the midst of עשרה you may pause to listen to the קדושה. Through this practical difference of opinion, we can glean an important difference in the fundamental understanding of שומע כעונה according to both רש"י and תוספות.

According to רש"י, it would seem that שומע כעונה allows you to be יוצא the מצוה but it is only like you listened and is not considered as if you spoke. That is why רש"י asserts that you may pause in the midst of עשרה to listen, and be יוצא with, the חזן's קדושה. Stopping and listening to קדושה would not constitute a הפסק, an interruption, as you are not considered as actually saying it. On the other hand, by listening, you are merely fulfilling your obligation. תוספות would believe that שומע כעונה is regarded as if you spoke the words yourself, which is why תוספות claims you may not pause in the midst of עשרה to be יוצא with the חזן's קדושה. Speaking in the midst of עשרה would constitute a הפסק and would invalidate your עשרה.

## עובר לעשייתן

### Reciting a Blessing Before Doing a מצוה (דף ל"ט). Tal Ershler (11<sup>th</sup> Grade)

The משנה in 'א' עמוד א' says that if one is in a community where they repeat a פסוק הלל, he should do as they do and if a person is in a place where they make a ברכה הלל, he should do as they do as well. The גמרא on 'א' עמוד א' quotes אב"י who says the משנה was referring to the ברכה that follows הלל. We know this because the ברכה preceding הלל is obligatory as it is a ברכה on the מצוה, and שמואל says that there is a requirement to make a ברכה before performing a מצוה. שמואל uses the language "עובר לעשייתן," which means immediately before.

תוספות dealing with the idea of עובר לעשייתן says that if a ברכה is made too far in advance of the action, it is a ברכה לבטלה, a ברכה recited in vain, and the ברכה needs to be made again because it is too far removed from the action. The source of this is the מצוה of תפילין. The גמרא says that we make the ברכה between the time we put the תפילין on our arm and the time we tighten it. Based on this we see that the ברכה cannot be too far removed from the action, but cannot be made after. Based on this, תוספות tries to figure out when we should make the ברכה on לולב. We can't make the ברכה on לולב before we pick it up because the ברכה would be too far removed from the מצוה. The ברכה would be made too late if we make the ברכה after we already pick up the לולב since the גמרא says that once a person picks up the לולב, he has fulfilled the מצוה. תוספות comes up with possible situations so a person can say the ברכה before fulfilling the מצוה without being too far removed from the action.

תוספות presents a situation where we make the ברכה on לולב between the time we pick up the לולב and the time we pick up the אתרוג; since we are not יוצא the מצוה until we pick up all four species, a person has not fulfilled the מצוה but is still involved in it. Another scenario offered by תוספות is to flip the אתרוג upside down and then make the

פסוק "עצי שיטים עומדים" ברכה. This possibility is learned from the "trees standing upright," written regarding the building of the משכן; just like these beams needed to be standing upright, so too for any מצוה performed with natural-growing plants, the plants need to be standing in the way that they grew.

Although the גמרא in מסכת ראש השנה says "מצוות אין צריכות כוונה" do not require intention, תוספות says that if one does not want to be מצוה, he cannot be forced to fulfill it against his will. Here too, if a person picks up his four species with intention to not fulfill the מצוה, תוספות says he can make the ברכה at that time. Since the object is in his hand, the action is not separated from the ברכה, while at the same time, the ברכה is being said עובר לעשייתן. A theoretical answer that is later rejected is that we make the ברכה for לולב between the time we pick it up and the time we shake it, similar to נטילת ידים, washing our hands, where we make the ברכה between the time we wash our hands and dry them. The rule by נטילת ידים is we are not permitted to eat with wet hands, to avoid wetting our food, so therefore a person does not fulfill the מצוה of נטילת ידים until his or her hands are dry. תוספות rejects this answer because shaking is not part of the מצוה and once we pick up the לולב, we are יוצא the מצוה. In the end, תוספות concedes that perhaps we should make the ברכה after we are יוצא the מצוה of לולב.

This last opinion in fact is the opinion of the רמב"ם. In הלכות ברכות א"א, פרק י"א, the רמב"ם discusses when we make a ברכה using the terminology "ל" and when we use "על". In הלכה ט"ו, he says that if you pick up the לולב first, you make the ברכה "על נטילת לולב" because we already fulfilled the מצוה, but if we make the ברכה before we fulfill the מצוה, we would make the ברכה "ליטול לולב". The general rule the רמב"ם establishes is if the ברכה is said before doing the מצוה, the ברכה is "ל" and if the ברכה is said after the מצוה, we say "על".

There are a few exceptions to this rule, such as נטילת ידים and שחיטה where we say "על" even though the ברכה is recited before we perform the מצוה. In נטילת ידים, we wash our hands, make the ברכה, and then

dry our hands. In שחיטה, we make the ברכה and then do the מצוה. Another exception the גמרא asks about is the ברכה for a מילה; we say "על המילה" even though it is said before the circumcision. We conclude that we say "על המילה" because the father does not actually circumcise the son himself; it is usually the מוהל who performs the act. If the father were to circumcise his son, he may say "לימול" instead of "על המילה."

There is a dispute as to when a person should recite the blessing on immersing in a מקוה. The גמרא in מסכת פסחים דף ז' says we recite the ברכה "על הטבילה" and recite the ברכה after immersing since a person cannot make the ברכה before immersing. תוספות quotes a dispute who this refers to. One opinion says this refers to a convert immersing before his conversion; since he is not yet Jewish, he cannot say the ברכה before immersing. However, for all other forms of immersion, the person may recite the ברכה before immersing. רבינו יצחק, one of the בעלי תוספות, says we allow all people to recite the ברכה after immersing; since a convert cannot recite the ברכה before, we will not distinguish between different forms of immersions. תוספות adds that immersing may also be different; since a person may hesitate immersing due to the cleanliness of the water, he should not recite the ברכה until after immersing.

The ריטב"א discusses why we say a ברכה before performing a מצוה. Logically, it makes sense to not say a ברכה on a מצוה since we are doing the מצוה and we are thinking of ה' the entire time we do the מצוה. The ריטב"א says we need ברכות מצוה and they are extremely important because we need to put our minds in the right place before we do a מצוה. We need to think about what we are doing before we do it to make sure we have the right mindset for the מצוה that we are about to do.