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Sukka 30

Intro

Today we will בע"ה learn לסי סוכה of מסי סוכה Some of the topics we will learn about include the following:

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Why a stolen לולב is invalid, and when it is invalid.

How Hashem feels about thieves

How acquisitions can occur with stolen property

Some of the key terms and concepts we will learn about include:

עבירה - A מצוה that comes through an עבירה - A עבירה מצוה הבאה עבירה. If the fulfillment of a מצוה is accomplished by first doing an עבירה, the is invalid.

יאוש - abandonment. A victim of theft or someone who lost something will eventually give up hope of finding his lost or stolen object, and at that point, the item becomes technically unowned and can be acquired by someone else.

לכם משלכם - The פסוק says לכם the four species should be taken for yourselves. This means they should be from that which belongs to you.

קרקע אינה נגולת - Land cannot be stolen. The laws of theft do not apply to land, and יאוש does not apply to the land itself. Land always remains the original owner's property

שינוי הרשות - a change in ownership. When a movable item changes hands, it affects a new ownership if the original owners had יאוש

WHY a stolen בלל is invalid, and WHEN?

How Hashem feels about THIEVES?

How acquisitions can occur with STOLEN property?



קרקע אינה נגזלת שינוי הרשות







שינוי מעשה - If a thief makes a physical change to the stolen item, this is a valid method to change ownership. He does not have to return the original object. He would only have to pay back the

שינוי השם - A change in title. If an object is called something different because of some change to the object, it is another valid method for the thief to acquire ownership, and only be required to pay back the value.

דלולב אין צריך אגד - The four species do not need to be bound together. There is a discussion later whether the four species have to be bound together or not.









So let's review...

On the previous Daf בן יוחי בי שמעון בר יוחנן משום ר' שמעון בר explained that - a stolen Lulav is Posul on the first day of Sukkos, because it is not

- it's not yours -

And, it is also Posul on subsequent days - when there is no requirement of לכם - because of

מצוה הבאה בעבירה,

A מצוה that came about through an עבירה.



The גמרא goes on to explain how we know that מצוה הבאה בעבירה, is not acceptable.

The פסוק says regarding Korbonos;

והבאתם גזול ואת הפסח ואת החולה,

You bring animals that are stolen, crippled, or sick.

גזול דומיא דפסח

מה פסח לית ליה תקנתא

- אף גזול לית ליה תקנתא

A stolen animal is permanently invalid just like a crippled animal.

לא שנא לפני יאוש

ולא שנא לאחר יאוש

The Gemara explains;

Before יאוש', it is Posul because

אדם כי יקריב מכם אמר רחמנא

ולאו דידיה הוא

A Korban must be yours, and the stolen animal is not מכם.

And even after יְאוש - the animal remains forbidden as a קרבן, because of

- מצוה הבאה בעבירה

Even though it is מכם -

Generally, after יאוש - which means abandonment, the owner gives up hope of ever finding it - the object in question is considered to have no owner, and can be claimed by someone else.

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וא"ר יוחנן משום ר' שמעון בן יוחי The Posuk says; כי אני ה' אוהב משפט שונא גזל בעולה

> For I Hashem love justice, and hate robbery in a קרבן עולה. This is like a king who was travelling through his country, and came upon a toll booth. He told his attendants to pay the toll, even though the entire country belongs to him. He said, let all travelers learn from me, and not avoid the toll.

רש"י explains that similarly, Hashem says, though the עולה completely mine, and even before it was a קרבן it was also mine, I hate a קרבן that became yours through robbery. ,ממני ילמדו בני ויבריחו עצמן מן הגזל

My children shall learn from Me, and distance themselves from

Similarly, Hashem says, though the עולה is completely mine, even before it was a קרבן, I hate a קרבן that became yours through ROBBERY!

כי אני ה' אוהב משפט

Like a king who told his attendants to pay the toll, even though the entire country belongs to him

Let all travelers learn from me, and not avoid the toll

The גמרא then quotes רבי אמי who agrees with that יבש פסול מפני שאין הדר גזול פסול משום דהוה ליה מצוה הבאה בעבירה

- ופליגא דר' יצחק

This opinion disagrees with ר' יצחק, who taught in the name of

לא שנו אלא ביום טוב ראשון

אבל ביום טוב שני

מתוך שיוצא בשאול

יוצא נמי בגזול.

A stolen פסול is only פסול on the first day - and so too, a borrowed Lulav - because of לכם. But on the remaining days, it is equal to a borrowed לולב. and כשר - with which one can fulfill his obligation, because there is no requirement of לכם.

He does not hold that מצוה הבאה בעבירה disqualifies the Lulav.









The Gemara clarifies that according to R' Yitzchok, the Mishnah of לולב הגזול must be speaking of the first day. If so, why did the Mishnah not include שאול, which is also Posul on the first day, because of כלכם?



The Gemara answers that we do not need the משנה to tell us that is invalid.

דלאו דידיה הוא, because it is clearly not his. However, we might have thought that אז is valid, because generally, victims of theft have אוש, and therefore, the stolen לולב would be considered the thief's property –

לן משמע לן – Therefore, the משנה teaches us otherwise – that לולב לולב.

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The גמרא next relates a ruling of Rav Huna: אמר להו רב הונא להנהו אוונכרי Rav Huna told the myrtle merchants, who purchased הדסים from עובדי כוכבים, idol-worshippers,









let the עובדי כוכבים cut down the הדסים, and the Jewish merchants should not do it themselves. Since the עובדי כוכבים steal land from Jews, and this land could belong to Jews, if the merchants would cut the twigs themselves, they would be stealing from the Jews, because קרקע אינה נגזלת, land cannot be stolen, and it still belongs to the original Jewish owners, and the one who cuts them is stealing the הדסים directly from the Jews.

However, if the מובדי כוכבים cut them, they have done the stealing, and we assume that the original owners had איאיש, therefore.

יאוש בעלים בידייהו דידהו

The יאוש took place while in the hands of the עובדי כוכבים, ושינוי הרשות בידייכו –

And when the עובדי כוכבים then sell them to the Jewish merchants, the change in ownership makes it theirs to resell for the מצוה.

The גמרא clarifies further that we cannot say that even if the merchants cut the הדסים, the יאוש takes place in their hands, and the שינוי הרשות would be when they resell them, and the buyers take possession, because this would not help for the הדסים of the merchants' own use.

Let the

עובדי כוכבים

JEWISH merchants

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Since עובדי כוכבים

Steal land from Jews,

and קרקע אינה נגזלת

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The אמרא asks further that the merchants could acquire the הדסים through שינוי מעשה, the physical change of actually binding the הדסים together with the other species.

There are two answers given. Either הונא holds אולב אין צריך אגד together שניין, the species don't need to be bound together - Or even if he holds לולב צריך אגד, the species do need to be bound,

שינוי החוזר לברייתו לא שמיה שינוי

This sort of change which can be reversed is not significant enough to cause a change in ownership.

The merchants could acquire the ישינוי מעשה through שינוי מעשה?

Binding them with the other species!

Either און בריך אגד שינוי החוזר לברייתו
לא שמיה שינוי









The גמרא makes another attempt at an alternate method of acquisition, and says that שינוי השם, a change in title, should cause a change in ownership.

דמעיקרא הוה ליה אסא

והשתא הושענא

Initially, this twig was called a myrtle branch, and now, once it's bound with the other species, it is called גמרא. The גמרא concludes

מעיקרא נמי לאסא הושענא קרו ליה,

Even before it was bound, people call the myrtle הושענא.





