

## סוכה מא

Only the first day of לולב is a מצוה דאורייתא (and in חוץ לארץ, the second day is considered like a דאורייתא).

It is אסור to eat from any of the newly harvested crop from the five grains until the קרבן עומר is brought on טז ניסן. Today, being that there is no בית המקדש and no קרבן חדש offered, חדש (the new grains) cannot be eaten until the 16th of ניסן is over (and outside of ארץ ישראל until the 17th of ניסן has passed). While most ראשונים hold that חדש is אסור in חוץ לארץ, the אור חיים holds that it is only an איסור דרבנן, and the ב"ח holds that produce from a non-Jew is not subject to חדש (this ב"ח is the primary reason people are lenient outside of ארץ ישראל; most opinions say one should not eat חדש even if חוץ לארץ; the שולחן שולחן writes that a בעל נפש should be מחמיר, thus implying that מעיקור הדין, he agrees with the ב"ח).

A person who is performing יבום and the יבמה is a נדה is not חייב a חטאת, as the act (of ביאה) was done with רשות. Similarly, one who carried a לולב from one רשות to another, or four אמות in רשות הרבים on the first day of סוכות that fell out on שבת is not חייב a חטאת, as the act is done with רשות.

A person must own his ארבע מינים on the first day of סוכות, and it cannot be borrowed or stolen. A person can give his ארבע מינים as a מתנה על מנת להחזיר, as this is considered to be a מתנה, and therefore, the person who is מקבל the מתנה is יוצא as it is his.

The **ארבע מינים** must be given as a **מתנה**, and **תנאי כפול** is used--if you return this to me, it is considered a **מתנה** and you can be **יוצא** with it, if you do not return it to me, then I am not giving it to you as a **מתנה** (and the person is not **יוצא**). If a person says: “it is your until you are **יוצא** then it is mine”, it is considered like lending and the person is not **יוצא**.

What is the **דין** if the **ארבע מינים** become **פסול** in the **רשות** of the person taking it as a **מתנה**? He is not **חייב** the original owner, as the **ארבע מינים** came to his hands not as a **שומר** or a **שואל** (though he is not **יוצא** as he did not fulfill the **תנאי**, i.e, that he return it to the owner).

While most **שיטות** state that a person must be **מקנה** his **ארבע מינים** to his wife and children on the first (and second) day of **סוכות** (on **מו** we will discuss the **הלכה** of being **מקנה** to a **קטן**), the **ערוך** (on **שולחנו של בעלם/אביהם** on **סומך** **בני ביתו** who are **מבטל** to their father/husband, and therefore, the whole family can use one set of **ארבע מינים** without giving it as a **מתנה**. While the **ערוך השלחן** says that in his opinion, this position is the **עיקר**, it needs to be more thought out (and he does not **למעשה** like this **פסקן**).

A person should not hold anything of value in his hands during **שמונה עשרה** that will cause him to be **טרוד** and therefore disturb his **כונה**. This includes money, **תפילין**, a child etc. A **לולב** on **סוכות** may be held as it is a **מצוה**. If a **ספר** falls in front of someone while he is davening, he may pick it up if it will hurt his concentration not to do so.

A person should not bring תפילין into the bathroom. If he is going to be משתין he can hold the תפילין in his hand. The רמ"א says this is only if he is משתין when he is sitting, as then there is no concern of drops. If he is standing, then it is אסור.

While it is אסור to sleep while wearing תפילין, a person who falls asleep with his head between his knees may sleep a שינת עראי. A person holding his תפילין may not sleep a שינת עראי if he is holding his תפילין (as he may come to drop them).

After a person finishes using his ארבע מינים in shul in the morning, it is good to bring them home to the house, to show חביבת המצות.