The Sukka as Temporary or Permanent Dwelling: A Study in the Development of Talmudic Thought

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The sukka is defined as a dira‘ arai a 'temporary dwelling' by medieval codes. Yet this concept does not appear in the Mishna, Tosefta, halakhic midrabkim, Palestinian Talmud, nor in the first three generations of Babylonian amoraim. This term and its counterpart, dira‘ qevel 'permanent dwelling', were first introduced by Rava to explain the tannitic dispute of M. Suk. 1:1. These terms provided Rava with abstract principles with which he could simultaneously interpret that dispute along with three other disputes between the same authorities. Because of their broad scope and abstract nature, Abaye and the amora‘in used Rava's concepts to explain other disputes relating to the sukka, then introduced derivative principles, and eventually retrojected these principles to the amora‘in themselves. There results a tension between the original tannitic opinions and the principles imputed to them. The discussion impacts two important issues in critical Talmud study: the development of abstract conceptual categories and the nature of statements attributed to amora‘in by later authorities.

Medieval Jewish law and lore universally conceive of the sukka as a 'temporary dwelling', dira‘ arai. On this basis, legal codes ground various laws concerning the height and structure of the sukka. Homiletic and ethical literature adopt this conception of the sukka as a symbol for the impermanence of this world, the transient quality of life, and the fleeting nature of human existence. Whence this conception? The idea

(1) Halakhot Gedolot (ed. A. Hildesheimer; 3 vols.; Jerusalem, 1971-88), 1:327; Ibn Ghayyat, Sha’arei Simha (ed. S. Halevi; Fürth, 1861-72), 85; Rif and Rashi to B. Suk. 2a; Rashi to B. Suk. 10a; Magid Mishna to Maimonides, Mishne Torah, Laws of Sukka, 4:2; Beit Yosef and Boya‘ Hadash to Tur, O.H., 631 and 693; Beit Yosef, ibid., 628 (to Ramban to Rif, B. Suk. 2a s.v. ve‘ado); and 659; Maimonides, Mishne Torah, Laws of Sukkah, 4:2; 659:2; Mishne Berurah, idem, 608:1, 654:4, Magen Avraham, idem, 655:1; Arukh HaShulhan 628:4, 655:1, 634:1. Even the paysan Yehuda instructs that one must "leave his permanent dwelling and reside in a temporary dwelling" (Mahzor Iserkhot, ed. Goldschmidt-Frankel, Jerusalem, 1981), 248:1:11.

(2) Isaac Aboab, Menorat hama‘or, ed. Y. Horov (Jerusalem, 1961), 312; Malchim to Lev. 25:45 (based on Sifra, E. Mosef 17:10: "Future generations shall know and appreciate that I commanded the Israelites to dwell in sukkot, and should realize that this world is a guesthouse and a temporary dwelling") Keli Yoqar, ed loc.; Moses Alshikh, Torat Moshe,
is absent in all of Mishna and Tosefta Sukka, in all tannaitic midrashim, in the Palestinian Talmud (henceforth PT), and in the first three amoraic generations in the Babylonian Talmud (henceforth BT). Rava, in the fourth generation, first introduced the terms — and concepts — 'temporary dwelling' and 'permanent dwelling', and they were subsequently embraced by Abaye and the stamainain. This essay traces the evolution of these concepts from the tannaitic through the stamainain periods. The first section documents the state of the evidence in the tannaitic period and the innovative concepts Rava introduced. We will then show whence Rava derived the concepts, what motivated him, and why he rejected the explanations advanced by the earlier amoraim. The development of Rava's ideas by Abaye and the stamainain will be analyzed. Finally, we will illustrate how this legal history sheds light on several trends in the development of talmudic method.

TANNAITIC SOURCES: THE SUKKA AS REGULAR DWELLING

No source in all of Mishna-Tosefta Sukka implies that the sukka is a 'temporary dwelling', a dirat 'arai. In fact, the passages most relevant to this matter suggest the opposite! M. Suk. 2:9 teaches that the sukka on the festival has the status of the house:

A. All seven days one makes his sukka regular (qeva') and his house occasional ('arai).
B. If rains descend, when is he permitted to empty [the sukka]?
C. When the porridge will spoil.
D. They told a parable. To what is the matter similar? To a servant who came to mix a cup [of wine] for his master, and he poured out the flagon in his face.

During Sukkot one treats the sukka as his primary residence and dwells there. Only under exceptional circumstances may one return to his house. The parable offers a rationale for leaving the sukka. By sending rain and making it impossible to dwell in the sukka, God suggests


that he does not wish the "service" of those who mean to observe the divine commandment; God has poured out the flagon in their face. A baraita, B. Suk. 28b, fleshes out what the Mishna means by making his sukka 'regular':

A. "You shall live (ishesu) [in sukkot for seven days]" (Lev. 23:42) in the manner that you dwell (lhabaru).
B. On the basis of this verse, they ruled, "All seven days one makes his sukka regular (qeva') and his house occasional ('arai)."
C. How so?
D. If he had beautiful utensils, he takes them up to the sukka.
E. He eats and drinks and rejoices in the sukka, and studies in the sukka.

This baraita provides the halakhic midrash that complements the Mishna. When Lev. 23:42 commands that the Israelites 'live' (ishesu in sukkot for seven days, it means that they 'dwell' in sukkot in the same manner that they dwell in their houses throughout the year. One does so by moving the elegant furnishings of the house into the sukka, thus indicating that the sukka, not the house, serves as the primary abode. So too by performing ordinary daily activities in the sukka — eating, drinking, studying and rejoicing — demonstrates that the sukka is his residence; one makes the sukka 'regular' qeva'. The term 'arai appears in one other paragraph in the tractate: "One eats and drinks occasional ('arai) [food] outside of the sukka" (M. Suk. 2:4). Occasional snacks, but not full meals, may be eaten outside of the sukka. Just as throughout the year one normally eats meals at home, so on Sukkot one must be sure to eat in the sukka.

The point of these laws is to equate the sukka with the house. Dwelling in the sukka is not like sleeping in a makeshift shed or lean-to improvised

(4) Thus the baraita, B. Suk. 29a, explains the parable: "His master poured out the flagon on his face and said to him, 'I do not want your service.' The commentators interpret the parable in several different ways. See P. Culbertson, "Who Splashed on Whom? Textual Equivocality and Rabbinic Exegesis," Proceedings of the Tenth World Congress of Jewish Studies, Division C, Section 1 (Jerusalem, 1990), 17-24.

(5) A. Mirsky, "Perushim hanafareish ledashon haippuiyot," Sinai 37(1980):211 demonstrates that the root hifū often appears in ppyes et as a synonym for 'joy,' and collects numerous precedents from rabbinic literature. Here the meaning is not 'travel,' but 'rejoice, enjoy one's self.'

(6) The midrash itself, A. provides the basis for several laws in the Talmuds: B. Suk. 26a, 27a, 28b, 'Ar. 3b, Y. Suk. 2:19, 53a. Its source is Sifra 'Emor 17b (ed. I.H. Weiss, 1934).

(7) Cf. the baraita, B. Yom. 79b.
for shelter during a journey. Rather, occupying a sukkah is like residing in a house. The sukkah should be outfitted with fine furnishings. All normal activities are conducted there. To ensure that the sukkah obtains the status of the house the Mishna insists that meals be eaten there. Note that the terms ‘temporary dwelling’ and ‘permanent dwelling’ are not used. The Mishna speaks of how one treats the sukkah, whether as qeva’ ‘regular’ or ‘arai ‘occasional’ or ‘temporary.’ At issue is how one lives in the sukkah, not how the structure is to be built. Were we to make conclusions about structure on the basis of these sources, we might well conclude that the sukkah should, or at least could, resemble the physical appearance of a house, an appearance befitting its status. That, indeed, seems to be the conclusion of the PT and the first three amoraic generations in the BT.8

RAVA’S INTERPRETATION OF M. Suk 1:1: THE SUKKAH AS TEMPORARY OR PERMANENT DWELLING

In the fourth amoraic generation matters begin to change. Rava9 introduces the terms ‘permanent dwelling’ dirat qeva’ and ‘temporary dwelling’ dirat ‘arai.’ These terms appear in his comment to the first ruling of the tractate. M. Suk. 1:1 reads: “A sukkah which is taller than twenty cubits is invalid, and R. Yehuda [declares it] valid.” The Talmud asks, “From where [do I learn] this matter,” i.e., what is the scriptural source for this law? Rava answers as follows:

A. From here — “You shall live in sukkot for seven days” (Lev 23:42). The Torah says: All these seven days leave your permanent dwelling (dirat qeva’) and reside in a temporary dwelling (dirat ‘arai).

B. One makes his dwelling a temporary dwelling [only] up to the height of twenty cubits. Above twenty cubits, one does not make his dwelling a temporary dwelling, but only a permanent dwelling.

Rava provides the scriptural source for the anonymous opinion of the Mishna, which I will designate as ‘the sages,’ that twenty cubits is the maximum height of a sukkah. His statement consists of two parts. In section A he interprets Lev 23:42 to mean that a sukkah must be a temporary dwelling. The Torah has stated that one leaves a house and dwells in a sukkah for seven days. The sukkah thus serves for a brief stay. It is not like a house, where one dwells throughout the year, but a temporary shelter, where one moves in for but one week. In section B, Rava elucidates how this fact — that the sukkah is a temporary dwelling — explains the ruling of the sages; he applies his interpretation to the Mishna. Designed for limited sojourns, temporary dwellings are small and compact. “Permanent” dwellings, on the other hand, designed for year-round occupation, are tall, and reach the height of twenty cubits. A sukkah must not be taller than twenty cubits, for at this height it becomes a permanent structure, not the temporary dwelling the Torah commanded.

Both parts of Rava’s statement are problematic. Let us first focus on section B since that is what elicits Abaye’s comment. Abaye immediately points out the weakness of Rava’s explanation of the Mishna, prompting Rava to reformulate his explanation.

Abaye said to him: But if that is so, then if one made walls out of brass and placed skhakk upon them, this too should not be [a valid] sukkah.

He [Rava] said to him: This is what I meant. Up to a height of twenty cubits, since one [generally] makes his dwelling a temporary dwelling, even if he makes it a permanent dwelling, he still fulfills [his obligation to dwell in a sukkah.]

Above twenty cubits, since one makes his dwelling a permanent dwelling,11 even if he makes it a temporary dwelling, he still does not fulfill [his obligation to dwell in a sukkah.]

Abaye exposes a flaw in Rava’s reasoning. If the sukkah must be a temporary dwelling, then the entire sukkah should be so constructed. There is no good reason to focus exclusively on height. A low sukkah with solid walls should be invalid on the grounds that it is not a temporary struc-

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8 See below, p. 12. And this was the conclusion of the Karaites. Aaron b. Elijah (d. 1369) instructs: “The booth should be built in the open, and it should have the shape of a house, with a door and doorposts; walls of branches are not necessary, and bare walls of stone may be used instead. Its size should be at least sufficient for a person to sit and lie comfortably, but one may make it as large as one is able to.” (Leonard Nemoy, Karaite Anthology [New Haven: Yale University Press, 1951], 183.)

9 Here the amorah must be Rava, not Rabba, and all manuscripts concur. Although Kalmin has demonstrated that Abaye usually responds to Rabba in this manner, and despite the frequent interchange of the two names in manuscripts, in this case Rabba has already commented on the Mishna. See R. Kalmin, “Friends and Colleagues, or Barely Acquainted? Relations between Fourth-Generation Masters in the Babylonian Talmud,” HUCA 61 (1990): 135–155, and the references there.

10 “All these seven days” are missing in some manuscripts and rishonim. See Dinaqage Soferim (hereafter DQS) ad loc., n. 1.

11 MS Munich 140 reads in place of this clause: “since one does not make his dwelling a temporary dwelling.” Cf. DQS, 2, n. 7.

12 MS M reads “it is of no importance” for “he still does not fulfill.”
ture, that it is fit for year-round occupation. The sages in the Mishna, however, rule only that the sukka must not be twenty cubits tall — their concern is exclusively height. Rava responds by appealing to the general practice of building. As a general rule, temporary dwellings are built up to a height of twenty cubits. Any building within this range falls into the category of ‘temporary dwellings.’ Thus a low sukka with brass walls, while constructed solidly, is nonetheless considered a temporary dwelling. As a general rule, structures that stand twenty cubits tall are permanent. One does not build such a tall building unless he intends it to be occupied on an ongoing basis. If one happens to build a tall building in a shoddy, “temporary” fashion such that it is not technically inhabitable year round, this is irrelevant. At such a height, buildings are normally used for permanent residence, and they have this status.  

Here the question is clearly better than the answer. Rava reformulates his definition in terms of “general practice,” evaluating the status of the sukka based on how structures of comparable height are normally built, ignoring the nature of the particular sukka. But Rava begs the question, as follows: We could now ask: why focus on the general practice in relation to height? An alternative reasoning is equally plausible: temporary dwellings generally have thin walls, so any sukka with thin walls is valid (regardless of height), and any sukka with solid walls is invalid (regardless of height). The ruling in the Mishna seems arbitrary.

Section A of Rava’s statement, his interpretation of Lev 23:42, presents more formidable difficulties. What is it about the command “You shall live in sukkat for seven days” that implies the sukka is a temporary dwelling? The verse ostensibly says nothing about the nature of the sukka. It only commands that one dwell in the sukka (whatever it is) for seven days. If we substituted, for example, ‘palace’ for ‘sukka’ — “You shall live in palaces for seven days” — we would hardly conclude that a palace is a temporary dwelling. Ironically this is the very verse upon

(13) Assuming Rava really articulated the reformulation. The style and shift to Aramaic — Rava’s initial statement is in Hebrew — suggest that the stamtonai have created a hypothetical response and attributed it to Rava. In any case, the reformulation does not substantially improve Rava’s explanation.

(14) See Riba to B. Suk. 2a, s.v. rava. Some commentators interpret Rava to mean that is impossible to build a dwelling twenty cubits tall except in a permanent fashion. A tall building necessarily has solid walls and deep foundations. See Tosafot, 7b, s.v. kalbo. This interpretation is demanded by the sugya there, which, as we shall see, is not in complete accord with our sugya. Rava’s statement clearly means that one can build a sukka above twenty cubits in a temporary fashion, but it nonetheless retains the status of a permanent dwelling.

(15) The Talmud does not raise this difficulty, but the rishonim do. See n. 17.

which the baraita, cited above, bases the obligation to treat the sukka like a house, a ‘permanent dwelling’ in Rava’s terms! The best we can say for Rava is that he interprets the verse as “You shall dwell in a sukka for only seven days” and reasons that the dwelling should be fit for only a seven-day occupation. But then section B of Rava’s statement becomes much weaker, and Abaye’s question, even more difficult. If the sages interpreted the verse to require a dwelling fit for only seven days, why allow a sukka with brass walls, a dwelling clearly fit for more than a week? Bertinoro found this matter so problematic that he substituted a different prooftext for Rava in his commentary to the Mishna. Clearly Rava presupposes that the sukka is a temporary dwelling and simply substitutes this definition for the word sukka in the verse. The origin of his conception of the sukka derives from elsewhere.

Of course amoraim often disregard the simple, straightforward interpretation of tannaitic opinions, and frequently interpret verses in perplexing ways. But in this case the Babylonian Talmud presents two other explanations of the sages’ opinion and three other comments to the disagreement, all from amoraim who lived before Rava. Yet Rava rejected these explanations* and articulated a new, somewhat problematic, interpretation. There are two questions before us: what is the true source of Rava’s explanation of the sages’ opinion? On what grounds did he conclude that the sages conceive of the sukka as a temporary dwelling? Second, why did Rava find the explanations of his colleagues unsatisfactory?

(16) P. 2.

(17) Rashi, B. Suk. 2a, s.v. sh’tat yoninim, R. Hananel, ad loc. For other suggestions see Riba, ad loc., s.v. rasai; Rashi, ad loc., s.v. rasai; ‘Arakh lemmor, commentary to Rashi, ad loc., s.v. verobbi; I. Burgansky, Mezhevet sukka shel talmud batli, megorot ha-veredot ha-talmud ha-iishut (Ph.D. Dissertation: Bar-Ilan University, 1979), 57.

(18) Cf. Tosafot, ibid., s.v. hi.

(19) Bertinoro cites Deut. 16:19, “You shall keep (make) the festival of sukka for seven days.” It is theoretically possible that his Talmud had this prooftext, but we have no other witnesses, neither in manuscripts nor commentaries. More likely, Bertinoro noticed that the minhagim in the BT based on this verse pertain to the structure of the sukka; see B. Suk. 9a, 23a, 27b. On the other hand, the minhagim based on Lev. 23:42 relate to the obligation of dwelling in the sukka — including the minhag for M. Suk. 29b in which the sukka is to be treated as the primary residence! See B. Suk. 27a, 28b (twice); Pesa Yehashua, B. Suk. 2a, s.v. varav, also found it so difficult that he suggests a completely different source for Rava’s interpretation.

(20) I assume he knew the explanations. One is attributed to Rabba, Abaye’s teacher, one to R. Zera, a leading amor, and the others to Rava. Even if Rava did not know these explanations, we must ask why he explained the Mishna just the way he did, so unlike his predecessors.
The term 'arai occurs nine times in the Mishna. Apart from the two occurrences in connection with the sukka cited above, all but one relate to 'abkhlal 'arai occasional eating,' in connection with tithing.12 M. Suk. 2:4, "One eats and drinks 'arai (occasional meals) outside of the sukka," probably devolves from this usage.) In the Tosafot, 'arai occurs 31 times, 27 of which pertain to tithing.13 Our search for Rava's explanation should therefore begin in Ma'aserot.

The first three chapters of Mishna and first two of Tosafot Ma'aserot discuss when produce becomes subject to tithing obligations. The general principle is that until produce is brought into the house the obligation to tithe does not take hold.14 Accordingly, before bringing the produce home, one may eat an 'occasional meal' 'abkhlal 'arai, a snack, but not a 'fixed meal' 'abkhlal qeva. Once the produce reaches the house, the obligation to tithe sets in and nothing further may be eaten. The house is said to qova for tithes. Note that the opposition of 'arai and qeva underlies these laws, reminiscent of Rava's distinction between dirai 'arai and dirai qeva.

A house renders produce subject to tithing obligations. M. Ma. 3:5-7 considers whether bringing produce inside other areas and structures also causes the same obligations. M. 3:5-6 considers courtyards, rooftops, doors, porticoes, and balconies. M. 3:7 continues as follows:

A. Tent-like huts (srifin) and guard-huts (beuranim) and summer huts ('alnga'aot) are exempt [from rendering produce liable to tithes.]

B. A sukka of Genosar, even though it has millstones and chickens, is exempt [from rendering produce liable to tithes.]

C. A potter's sukka: The inner sukka renders liable [produce brought therein with respect to its tithes], and the outer sukka is exempt [from rendering produce liable to tithes.]

D. R. Yose says: Any [dwelling] that does not serve as a summer

(21) The term is used once in M. Kil. 9:3, "There is no 'arai for kilayim." The commentators disagree on exactly what this means; see Maimonides and Albeck ad loc. Cf. B. Men. 4:14. Actually the term 'arai is used far more often than this, for throughout M. Ma. 1-3 'olkhim, 'eating,' means 'olkhim 'arai 'eating occasional meal.'

(22) The other four: T. Hul. 6:10 rules "One who covers the blood must cover with his hand, and may not cover with his foot, since one does not perform the commandments 'arai (= in an offhand manner.)" In T. Kerim B.Q. 2:5, B.M. 3:14 (twice), the term describes objects used 'arai (= occasionally) as utensils in connection with purity laws.

(23) B. M. 87b-88a. However, if the produce is to be sold, the obligation to tithe becomes operative even out in a field (M. Ma. 1:5.)

(24) As for the precise meaning of these structures, see M. Jaffe, Mishnah's Theology of Tithing: A Study of Tractate Ma'aserot (Chico: Scholars Press 1981), 194, nn. 33-5.

dwelling and a winter dwelling is exempt (from rendering produce liable to tithes.)

E. The festival sukka on the festival — R. Yehuda declare that it renders liable [produce brought therein with respect to tithes.]

F. And the sages declare exempt [produce brought therein with respect to tithes.]

The first clause (A) rules that tent-like structures, unlike a house, do not render produce brought inside liable to tithing. B expands the idea to include the sukka that surround the Sea of Galilee, even though these sukka contain major utensils and animals. Such contents indicate the sukka functions as a dwelling for an ongoing period of time; the owner has outfitted the sukka with the tools necessary to grind wheat, and has brought his poultry along as well, presumably to eat or raise for sale. Nevertheless, the sukka does not have the status of the house. As made clear in the subsequent clauses of the Mishna, the reason is that these sukka do not function as a dwelling in the same manner as a house, for they are not used throughout the year.26 At C, the inner sukka of the potter renders food liable because the potter dwells there. The outer sukka, where the potter displays his wares and stores his tools,27 does not function as a dwelling, and hence does not render food liable. R. Yose (D) expresses the principle that governs these rulings. A dwelling that is not used year-round does not have the status of a house, and does not render produce liable to tithes.28 What counts is how the structure functions, whether it is used as a dwelling throughout the year.

This brings us to E-F. R. Yehuda rules that the festival sukka renders produce liable during the festival. The Torah commands that one live in a sukka for seven days. Hence the sukka serves as a "regular" dwelling during this time. The idea is exactly that of M. 2:9: "All seven days one makes his sukka regular (qeva)" and his house occasional ("arai." During the festival the sukka displaces the house, hence it acquires the status.

(25) Some versions read "or" for "and." See J. Epstein, Maos levushah homishna = MLH; Tel Aviv, 1964, 106.

(25) Thus Maimonides and Berinoro claim the sukka is only used during the fruit season. Albeck comments that they were occupied "for most of the year.

(26) Berinoro, Albeck, ad loc. Cf. B. Suk. 7b and Rash. s.v. sheni.

(27) Most commentaries, however, interpret R. Yose to disagree with C. He holds that even the inner sukka of the potter is exempt because it is not used throughout the year. But there is no need to posit a disagreement; R. Yose simply offers a general principle governing the three previous cases. Cf. Jaffe, Tithing, 111. Our argument, however, is not affected by this issue. According to the traditional explanation, R. Yose and the sages agree that only dwellings used year-round render produce liable to tithes. The only disagreement is whether or not the potter occupies the inner hut throughout the year.
of a house, and renders produce liable to tithing. The sages reject this idea. They compare the sukka to the structures of A-B which are not occupied year-round, hence they perceive no equivalence between the sukka and a house. The operative principle for both R. Yehuda and the sages is function. For R. Yehuda, the Torah dictated that the sukka functions as a 'regular' dwelling on Sukkot. For the sages, the sukka functions as a temporary dwelling, occupied only for seven days of the year.

That this interpretation of the principle of the Mishna is correct emerges from T. Ma. 2:20, which comments on the Mishna as follows.

A. Synagogues and study-houses: if they contain a dwelling place (beit dina), one does not eat occasional (‘eruwa) meals therein.

B. And if not, one eats occasional [meals] therein.

C. Feed-sheds and granaries*9 which are in the field: those made for storage — one eats occasional [meals] within them.


Determinative is the function of the structure. If the synagogue, study-house, feed-shed or granary serves as a dwelling place, it has the status of a house, and renders food liable to tithes. If no one lives inside, the structures are not given this status. The actual structure of the dwellings is irrelevant: it does not matter whether the synagogue or granary stands ten stories tall and has walls of concrete; if it does not function as a regular dwelling, the produce is not liable to tithes.

Thus we have found a disagreement between the sages and R. Yehuda concerning the status of the festival sukka on Sukkot. Before we return to Rava's interpretation of M. Suk. 1:1, we must examine a related debate, T. Eruv. 5:5:

The festival sukka: R. Yehuda declares that it is obligated [to share in the] ‘eruwa and to have a mezuzah, and the sages exempt.*30

*(9) TK, 1:991.

*(9) The version of this baraita of the Erfurt manuscript reconstructed by Lieberman reads: “The festival sukka on the festival: R. Yehuda declares that it is obligated to share in the ‘eruwa and have a mezuzah” (TK, 5:950). This version emphasizes that the debate concerns the sukka during the course of the festival, as did M. Ma. 3:7. The version of the baraita cited in Sefer hashammei (Ginzet rishonim: maschbet sukka, ed. M. Hirschler [Jerusalem, 1986], 125) reads: “The festival sukka on the festival, R. Yehuda obligates it to have a mezuzah, and the sages exempt. And so R. Yehuda obligated the sukka in ‘eruwa and tithes.” This version too stresses that the debate centers on the festival sukka during the festival. See too Y. Suk. 1:1, 52a, which seems to preserve a different version of the baraita.

*(31) On the baraita, see Halivi, Mesapot. 4:11, n. 2; Epstein, MLH, 885.

*(32) See M. ‘Eruv. 8:4-5 and especially the baraita, B. ‘Eruv. 72b. In the baraita R. Yehuda disagrees with the sages’ ruling that the owners of various types of sheds must participate in the ‘eruwa. R. Yehuda rules, “Only a dwelling place prohibits.” Function again is paramount consideration. However, R. Yehuda seems to agree with the sages that a gate-house, portico or gallery never has this status, regardless of whether one dwells there or not (M. ‘Eruv. 8:4). See Tosafot, B. ‘Eruv 72b, s.v. ki; Meiri, Beit Habeira, ad loc., 980; Kambam, MT, Hilhhot Eruvin, 8:4. On the mezuzah, see the baraita of B. Suk. 8b, T. Yoma 1:1, B. Yoma 10a-11a.
tival sukka the status of a house; the sages consistently categorize the sukka with structures that lack this status. Rava noted another debate about the sukka in M. Suk. 1:1: the sages limit the height of the sukka to twenty cubits, while R. Yehuda sets no limit. So Rava attempted to explain the one in terms of the other. He interpreted the debate over the height of the sukka according to the same principle which governed the other debates: whether the sukka has the status of a house or not. Rava expresses the idea of possessing the status of a house with the terms dirai arai 'a temporary dwelling' and dirai qeva 'a permanent dwelling.' A 'temporary dwelling' does not have the status of a house, a 'permanent dwelling' does. The sages consider the sukka a temporary dwelling, hence they rule the sukka may not be twenty cubits high; R. Yehuda considers the sukka a permanent dwelling, hence the sukka may stand taller than twenty cubits.

Rava's Categories: Motivations and Implications

It is crucial to note that Rava makes a significant — and somewhat problematic — conceptual shift when he subsumes M. Suk. 1:1 and the other debates under the same principle: the physical dimensions of the sukka are irrelevant to the debates over the eruv, mezuzah, and tithing. Those debates derive from issues of function and time. The sages rule that a sukka is not dwelled in year-round, hence it does not render produce liable for tithes. It makes no difference whether the sukka is big or small, tall or short, wide or narrow. The largest sukka in the world is still a 'temporary dwelling' because it is not occupied throughout the year — it does not function as a dwelling. And so for R. Yehuda. It does not matter how tall or short the sukka; on the festival, the Torah obligates one to make the sukka his residence, so it is a 'permanent dwelling'; it obligates for tithes, and must share in the eruv. Rava's application to M. Suk. 1:1 introduces a secondary idea. The dispute now is not whether the sukka functions as a dwelling, but whether the sukka resembles a typical dwelling, i.e., a house. 'Temporary' and 'permanent' dwellings are not temporal-functional concepts, but physical-structural notions. Rava has turned the debate between R. Yehuda and the sages back to the structure of the sukka itself. The locus of permanence and temporariness shifts from the occupant to the sukka. The question is not whether one dwells in the sukka (of whatever size and shape) for a limited or extended time. The question is whether the sukka is fit for limited or extended sojourns. Thus the meaning of the term qeva shifts from 'regular' (a 'regular' dwelling) in tannaitic sources, describing how one treats the structure, to 'permanent,' relating to the structure itself. Likewise arai shifts from 'occasional' — an 'occasional' dwelling is inhabited infrequently — to 'temporary,' that is, the structure will stand for only a limited period.

Let me phrase this issue another way. The three disputes between R. Yehuda and the sages had no implication on the structure of the sukka itself. A sukka is a sukka is a sukka; the question is only what bearing the sukka has on food brought therein, the other residents of the courtyard, or the obligation to affix a mezuzah. For Rava, a sukka is not always a sukka — it must now resemble a sukka. Its structure must be low, weak or flimsy, not fit for extended residence — a dirai arai. Here Rava invents the concept of the sukka as temporary dwelling as it came to be known in Jewish tradition. Prior to Rava, no such notion existed.

(35) This is not to say that it is impossible to interpret those three debates in terms of the structure of the sukka. Certainly Rava would insist that the two issues are inextricably connected: the sages do not give the sukka the status of a house because it does not resemble the structure of a house: its walls are thin, its roof permeable, and its height limited. People do not inhabit the sukka year-round because it is typically a small dwelling. And if one does choose to inhabit the sukka, it does not affect the sukka's status any more than if one chose to live in a barrel. There is no way to prove absolutely that this interpretation is wrong and the one outlined above is correct. But this interpretation is certainly not demanded by the sources. And it forces us to make the assumption that all dwellings the Mishna exempts from tithing, mezuzah, and eruv are of limited size, an assumption by no means necessary. By Rava's razor, then, Rava's interpretation is not to be preferred. Moreover, no amora prior to Rava interpreted the Mishna in this way. On the contrary, their explanations tend to limit the Mishnaic debate such that the sages allow subh of taller than twenty cubits in most situations (see below)! More importantly, Rava's explanation suffers from the difficulty raised by Abaye. If temporariness and permanence are to be structural-physical concepts, if the sukha does not have the status of a house because it does not resemble a house, why focus exclusively on height? Why not limit the thickness of the walls and the width and breadth as well? If we understand that Rava is applying a principle derived from three other disputes to a case where it is inappropriate, we understand the source of the difficulty.

The true source of the twenty cubit limit is obscure. The beam for an alley-entry is also limited to twenty cubits in M. Eruv. 1:1: 'If the beam above the alley-entry is higher than twenty cubits he must lower it.' R. Yehuda says: He need not.' Here too R. Yehuda permits the beam exceed a height of twenty cubits. The parallel between these height limits is noted in the first suga of both the BT and PT (B. Suk. 22a; B. Eruv. 22a; Y. Suk. 1:1, 61a. Eruv. 1:1, 18b) and the PT suggests (but then rejects) that both the sages and R. Yehuda ground both rulings according to the same reasoning (פסוק שאמר עריה בעשרים אין מקדש ישר עשרה). These sources (B. Eruv. 22a; Y. Suk. 1:1, 61a; Y. Eruv. 1:1, 18b) initially connect the twenty cubit height of the beam to the height of the Holy of Holies (היכנסו) in M. Mid. 411, although both Talmuds reject this explanation (and both attribute the tradition to Rav.) Yet in T. Eruv. 1:1 we find the explicit statement: 'If the beam above the alley-entry exceeds a height of twenty cubits, more than the entrance of the heikel, he must reduce this.' If the twenty cubit limit on the height of the sukka is indeed related to the law of the alley-entry, the height of the heikel may be the ultimate source. See,
This investigation uncovers more than the source of Rava’s explanation; it reveals the motivating factor as well. His explanation simultaneously accounts for four disputes between R. Yehuda and the sages. He provides a systematization of laws pertaining to four independent legal realms. Common considerations govern the laws of the ‘eruv, mezuzah, tithing, and the maximal height of the sukkah. Thus Rava’s explanation exposes (or imposes) the underlying unity of several rulings and the interconnectedness of the fields of law. To some extent this trend has roots in the tannaitic period itself. T. ‘Eruv. 5:5 combined the disputes over the ‘eruv and the mezuzah, suggesting that common ideas govern both debates; the baraita as formulated in B. Yoma 10a added tithing to these two. So the composer of that baraita perceived a similarity between the tithing debate and the other two. Rava now includes a fourth. The drive toward systematization and harmonization influenced Rava to explain the dispute in terms of the categories ‘temporary dwelling’ and ‘permanent dwelling.’ Laws are not seen as idiosyncratic rulings dependent upon the particular considerations of the issue at hand (the nature of the ‘eruv, sukkah, tithes, etc.), but upon broadly applicable principles and abstract concepts.

The development of abstract concepts makes Rava’s interpretation possible. I said above that at the tannaitic level, a sukkah is a sukkah is a sukkah, while for Rava, a sukkah is not always a sukkah. There is more at stake here than a glib formulation. A sukkah is not always a sukkah because it may not measure up to the abstract idea of a sukkah. The terms that Rava introduces, ‘temporary dwelling’ and ‘permanent dwelling’, are abstract concepts. They do not refer to any ‘thing in this world,’ but to archetypal ideas. A sukkah which does not conform to the characteristics of the concept of a ‘temporary dwelling’ is not a sukkah. Likewise a house that lacks the essential attributes of a ‘permanent dwelling’ is not a house. The abstraction is crucial to Rava for it allows him to define the essential characteristics of his concepts and thereby to bring different considerations into play. He can select from numerous aspects potentially relevant to defining the abstract concept of ‘temporary dwellings.’ These include maximum dimensions (height, area), soundness of the construction (thickness of walls, depth of foundations, building materials), design (number of walls, triangular or circular), length of occupancy, function (intended for sleeping, shelter, storage) as well as legal status (‘eruv, mezuzah, tithing, parapet, transmission of impurity). The abstract concepts make it possible to create relationships between any and all of these characteristics. (We will see below that this is exactly what Abaye did.) Rava selected height as an essential attribute of a temporary dwelling. He was then able to discern (create) a relationship between rulings about the ‘eruv, mezuzah, and tithes, on the one hand, and a maximum height, on the other, by claiming that all are essential attributes of the abstract concept ‘temporary dwelling.’

Rava’s explanation accounts for the opinions of both R. Yehuda and the sages. Although his statement in this sugya focuses only on the source and reasoning of the sages, R. Yehuda’s reasoning emerges crystal clear. The sages consider the sukkah a ‘temporary dwelling’, while R. Yehuda, who disputes their ruling, considers the sukkah a ‘permanent dwelling’; elsewhere Rava spells this out explicitly. That Rava explains both opinions results both from his desire to relate this dispute to the other disputes between R. Yehuda and the sages and from the abstract categories he introduces. He proposes a fundamental conceptual disagreement as the basis of the four-fold debate, and thereby explains both opinions. In contrast, none of the other amoraic comments to the sugya shed light on R. Yehuda’s reasoning. Their explanations are as follows:

1) Rabba explained the sages’ ruling in terms of the awareness of being in a sukkah: “up to twenty cubits one knows that he dwells in a sukkah; above twenty cubits one does not know that he dwells in a sukkah because his eye does not notice [the roofing].”

2) R. Zera explained in terms of considerations of shade: “up to twenty cubits one sits in the shade of the sukkah [i.e., the sukkah]; above twenty cubits one does not sit in the shade of the sukkah, but in the shade of the walls.”

3) R. Yoshia, citing Rav, claimed the debate in the Mishnah only

The sugya focuses exclusively on the sages’ source and reasoning because the other amoraim relate only to their side of the disagreement. See below.

Rashi comments to R. Yehuda’s ruling in the Mishnah, “Their disagreement is explained in the gemara.” Several Rishonim object that this is untrue, for the sugya never explicitly analyzes R. Yehuda’s reasoning. As Arukh Lenei points out, Rashi has Rava’s statement in mind.

B. Yoma 10a: see below n. 49.
applied to a sukka in which the walls did not reach the skhakh. If the walls did reach the skhakh, the sages would permit a taller sukka.

4a) Rav Huna, citing Rav, claimed the debate in the Mishna only applied to a sukka that was four by four cubits. In a larger sukka, the sages would permit the sukka to stand taller than twenty cubits.

4b) Rav Hanan b. Abba, citing Rav, claimed the debate in the Mishna only applied to a sukka that could not contain one’s head, table, and the greater part of the body. The sages would permit a larger sukka to stand taller than twenty cubits.

The comments of Rabba and R. Zera explain the position of the sages, not that of R. Yehuda. All we can say is that R. Yehuda disagreed with the sages. He thought that one is still conscious of the sukka even when it stands taller than twenty cubits. Or he thought that the skhakh provided shade even when the walls are twenty cubits high. Or we can say that he disagrees with the midrash upon which Rabba and R. Zera base their claims. There is nothing inherently wrong with either approach, but they lack the neatness of the fundamental conceptual dispute Rava offers. The three opinions attributed to Rav offer no reason for the opinions of either the sages or R. Yehuda. Note that these explanations do not introduce abstract concepts. While Rabba and R. Zera appeal to principles (e.g., one must be conscious of being in the sukka), neither relates these principles to conceptual categories.

Irrationally, all these opinions limit the debate between R. Yehuda and the sages. In most cases these amoraim hold that the sages deem sukhat above twenty cubits valid. Any sukka with walls that reach the roofing is valid for Rabban, for then one is conscious of the roofing.” The same holds for R. Yosha. For R. Zera, a sukka with low walls may stand taller than twenty cubits, since the shade comes exclusively from the roofing. For Rav Huna and Rav Hanna b. Rabba any sukka larger than the minimum sizes specified are valid even above twenty cubits. Clearly none of these amoraim thought the sukka had to be a ‘temporary’ dwelling in the structural-physical sense. Nor did the PT, where all but one of these opinions are reflected, but Rava’s is unknown. Rava developed the concepts of ‘permanent’ and ‘temporary’ dwellings through his search for relationships between different areas of law. But the history of these categories only began with Rava; afterwards, they took on a life of their own.

Abaye’s Reformulation of Rava’s Interpretation

The development of Rava’s categories of permanent and temporary dwellings provides a fascinating account of how exegesis, conceptualization, and attribution change over time. It will help us both to understand further Rava’s motivations in providing his new explanation and to discern certain trends in the evolution of talmudic thought.

The baraita on B. Suk. 23a contains a dispute between Rabban Gamaliel and R. Akiba concerning a sukka fashioned on a ship. Rabban Gamaliel rules the sukka invalid while R. Akiba rules that it is valid. Abaye restricts the disagreement to a sukka strong enough to stand in a wind that typically blows on land, but not strong enough to stand in a wind typical of the sea. He then comments:

Rabban Gamaliel holds that a sukka must be a permanent dwelling (sukka dirat qera’ ba’ainan), and since it is not able to stand in a wind typical of the sea, it counts as nothing.

R. Akiba holds that a sukka must be a temporary dwelling (sukka dirat qera’ ba’ainan), and since it can stand in a wind typical of land, it is valid.

Abaye has adopted Rava’s categories and utilized them to explain the debate of the baraita. He coordinates Rabban Gamaliel with R. Yehuda of M. Suk. 1:1, and R. Akiba with the sages. However, he makes a subtle yet revolutionary conceptual shift. In the Mishna, R. Yehuda only rules that the sukka may be taller than twenty cubits. He does not hold that it must be taller. For Rava it suffices that R. Yehuda holds that the

(44) See DQS to B. Suk. 2b, n. 2.
(45) B. Suk. 22b. The opinions of R. Yosha, R. Zera, and Rav Hanan b. Rabba appear in Y. Suk. 1:1, 3rd, with minor variations in the attributions.
(47) The same coordinates two of these opinions with the explanations of Rabban and R. Zera, probably because it wanted to supply reasons for their opinions.
(48) See B. Suk. 2b.
(49) The roofing rests on beams or poles that extend up from the walls.
sukkah may be a permanent dwelling. Certainly a temporary dwelling is a valid sukka too. This is not enough for Abaye: Rabban Gamaliel deems invalid the sukka on the ship, which Abaye claims is a temporary dwelling. That is, Rabban Gamaliel rules that the sukka cannot be a temporary dwelling, that it must be a permanent dwelling. Based on Rava’s categorization, R. Gamaliel should permit both temporary and permanent dwellings, and hence permit the sukka, even though it cannot stand up to a powerful gust. But that is not how the baraita reads. In order to apply the categories to the baraita, Abaye is forced to reformulate

he cannot reconcile R. Yehuda permitting a temporary dwelling with Abaye’s interpretations. Thus the rishonim who interpret Rava’s language in a straightforward fashion reason that R. Yehuda permits both temporary and permanent dwellings. Those who explain Rava in light of Abaye are forced to the conclusion that R. Yehuda requires a permanent dwelling. Cf. Tosafot, 70, s.v. kiluha and Maharsha, ad loc., who also grapple with the problem of reconciling Rava with Abaye. See also Halivi, Megilat, 4:12 and n. 5. Halivi points out that R. Yehuda must deem a temporary dwelling valid as a sukka, for he rules that the sukka obligates tithes only on the festival. If the sukka is a permanent dwelling, then throughout the year produce brought into the sukka should immediately become obligated.

(48) To phrase this point another way: Rava explains that the sages require a temporary dwelling because of their midrash on Lev. 23:42. R. Yehuda rejects the midrash. For him, Scripture puts no constraint on the sukka, hence it may be permanent or temporary.

(49) Rava’s formulation avoids the problem because he only mentions that the sages conceive of the sukka as a temporary dwelling, and thus set the maximal height at twenty cubits. In that sense he makes no assertion about R. Yehuda. In terms of his categories, unlike Abaye, Rava could say that R. Yehuda permits both a permanent and temporary dwelling. Or Rava could say that the sukka on the festival is by definition a permanent dwelling for R. Yehuda, that is, the festival makes the sukka permanent, irrespective of its appearance. This, we have suggested, is the correct interpretation of R. Yehuda’s thought (albeit only in the cases we surveyed above). Actually this is exactly what Rava says in B. Yoma 10a-b. There the issue is a contradiction between two rulings of R. Yehuda. He exempts the parshahin chamber from having a mezuzah, although the high priest dwelled there for seven days, while he obligates the festival sukka, in which people also dwell for seven days. Rava explains that different reasons govern the two cases. He says, “R. Yehuda follows his reason, as he has said, ‘a sukka is a permanent dwelling.’” That is, the sukka on the festival is by definition a permanent dwelling, although it may not resemble one. Hence it requires a mezuzah. This is the reading of MSS Munich 6, London (British Museum 400; Harl. 5568), Oxford 966; Vatican 134, and of S. Zvi Asheri (ed. Haim Dimitrovsky [New York, The Jewish Theological Seminary, 1979], 1147). Printed versions and even MS JTS Rab 18a read “a sukka must be a permanent dwelling” just as Abaye asserts in our sugya and in several other sugyot to be discussed below. This version of Rava in Yoma has been influenced by these sugyot. Cf. Halivi, Megilat, 4:12. Halivi was unaware of the version preserved in the manuscripts. He suggested that originally Rava had ruled that the sukka was obligated to have a mezuzah because the festival makes it permanent. Later “they the tanna changed” Rava’s formulation because of the influences mentioned. This was a brilliant reconstruction, and all we need add is that there was really no change to Rava’s statement, except by sloppy printers and copyists.

the original dispute. For Abaye, Rabban Gamaliel, following R. Yehuda, rules that the sukka cannot be a temporary dwelling, that “a sukka must be a permanent dwelling (sukkat dirat qova’ ba’eman).” Abaye has therefore made two moves. First, he adopts the temporary-permanent categories to explain the debate over the sukka on the ship. This is by no means the only possible way to explain the debate. Ship travel is governed by many idiosyncratic considerations that could well determine the validity of a sukka. In fact, Abaye’s explanation is decidedly implausible. He must first limit the debate to a sukka that stands in a wind atypical of land but typical of the sea before he can introduce the explanation. Why offer such a forced interpretation of the baraita? Apparently Abaye deemed it extremely important to explain the baraita in terms of conceptual categories. He wanted the debate over the minor legal point to be framed in terms of an abstract conceptual disagreement. He therefore restricted the debate such that the temporary-permanent division could be applied. Moreover, it was not enough to discern new principles or to introduce novel conceptual schemes. Abaye felt it important to explain different laws with the same overarching concepts. He was motivated not only because he thought of law in terms of abstract concepts, but because he desired to understand two separate debates based on identical conceptual categories.

Second, Abaye modifies Rava’s explanation of R. Yehuda’s conception of the sukka as a permanent dwelling. Abaye reasons that if R. Yehuda holds the sukka is a permanent dwelling, as Rava implies, then it should be permanent in all respects. This is essentially the difficulty Abaye sets before Rava on B. Suk. 2a: why focus exclusively on height? Despite Rava’s attempted answer (or because of its weakness), Abaye pushes this principle to its logical conclusion. A permanent dwelling must be permanent. This means that it must be able to stand in serious winds and not blow over at the first high wind. Note the development from the tannaitic stratum to Rava and then to Abaye. To the functional definition of dwellings reflected in the tannaitic debates over the sukka and the laws of eruv, mezuzah, and tithing, Rava introduced a physical-structural issue pertaining to the height of the sukka. Now Abaye takes

(50) For example, the debate could be whether a sukka that moves is valid.

(51) The baraita does mention a mishap in which Rabban Gamaliel built a sukka on the ship and then the wind blew it away. But Abaye’s limitation of the debate to such an elusive wind is completely forced.

(52) Rava was Abaye’s younger contemporary (A. Hyman, Toledot tannaim ve’amoraim [reprint: Jerusalem, 1987], 1046–7). Here, however, Abaye has adopted the categories introduced by Rava.
the physical-structural notion of ‘a permanent dwelling’ that Rava propounds and introduces the element of stability. The sukka, a permanent dwelling, must stand firm. In so doing, however, Abaye creates an abyss between this abstract conception and the Mishna upon which it is based. R. Yehuda finds himself in the unenviable position of having his own ruling revamped by the conceptual underpinnings attributed to him. According to Abaye, R. Yehuda should not allow a sukka under twenty cubits. If Rava’s approach suffers from a logical inconsistency (why focus on height), Abaye’s suffers from an exegetical impossibility — R. Yehuda’s ruling in M. Suk. 1:1 cannot be understood according to its simple explanation (pshat). Conceptual thought supplants exegetical rigor. Abaye prefers to find unity underlying disparate rulings at the price of complete dissonance with the simple explanation of a mishna.

This penchant for conceptual unity emerges clearly from Abaye’s statement on B. Suk. 7b:

Abaye said: Rabbi [Yehuda the Patriarch], and R. Yoshia, and R. Yehuda and R. Shimon, and Rabban Gamaliel, and the House of Shammai and R. Eliezer and the “Others” — all hold that (kulho sevira labu) a sukka must be a permanent dwelling.

Abaye then lists the rulings to which he refers. Here Abaye explicitly attributes to R. Yehuda the ruling that the sukka must be a permanent dwelling. He also coordinates the positions of R. Yehuda and Rabban Gamaliel, as was implied in his comment to the baraita on 23a. With

(55) Abaye would have to explain the mishna as follows: R. Yehuda also rules that a sukka under twenty cubits is invalid. The mishna, however, is framed from the point of view of the sages, and mentions the case of a twenty-cubit-sukka because at that point the sages declare the sukka invalid. The (talmudic term is נছיל) suga. Cf. Meiri, Beit Habelira to Suk. 2a, p. 4. The rishonim struggle with Abaye vis-à-vis M. Suk. 1:1. See Tosafot, B. Suk. 7b, s.v. kulho.

(54) Or the stem. The phrase, “R. Yoshia — that which we just said,” referring to the previous suga, implies that the compiler (the stem) makes the statement. But the stem may have substituted this phrase where Abaye actually cited the baraita mentioning R. Yoshia. The stem elected to place Abaye’s statement after the suga discussing R. Yoshia, so there was no need to repeat that baraita. In certain other places where Abaye makes statements with this form (x.y.z all think . . . [kulho sevira labu]), it is clearly not Abaye who cites the sources. See B. Hag. 6a and Halivi, Mesopot. 4:579–81; B. Qid. 62b, and Halivi, 1:691. And see S. Friedman, “Pereq ha’tisha rabba bebashr,” Meḥäravim u-meharetot, ed. H. Dinitrovski (Jerusalem, 1977), 393–4; on a related stammatic expansion of a statement of R. Nahman b. Isaac. The rishonim are bothered by the fact that Abaye seems to disagree with Rava on 2a, by raising that question, but then adopts Rava’s explanation on 7b. Perhaps Abaye only objects that Rava limits the notion of permanence to height! He agrees with Rava that R. Yehuda conceives of the sukka as a permanent dwelling, but feels that this should apply in all respects, as Rabban Gamaliel rules here.

this statement he takes the process even farther, lining up R. Yehuda and R. Gamaliel with five other tannaim and claiming that all require the sukka to be a permanent dwelling. But this interpretation of the tannaitic positions is forced. For example, the House of Shamai rules that a sukka must be large enough to contain one’s head, greater part of the body, and table — a measure that amounts to seven square handbreadths. This hardly amounts to a demand for a permanent dwelling any more than the opposing ruling of the House of Hillel amounts to the demand for a temporary dwelling. For the House of Hillel requires that the sukka contain the head and greater part of the body, differing from their opponents over the one-handbreadth-wide table. R. Eliezer forbids a sukka shaped like a tent or a lean-to. His reason has nothing to do with the conception of a permanent dwelling, but rather, as the Mishna itself spells out, because a tent-shaped sukka “has no roof.” It is significant that, except for the cases of Rabban Gamaliel and R. Yehuda the Patriarch, the direct talmudic discussions of these tannaitic positions completely ignore Abaye’s explanation.

Sensitive to these difficulties the rishonim explain that Abaye did not mean that all these tannaim agree in every respect. He only meant that each of the opinions listed requires the sukka to be ‘more permanent’ in some respect than the disputing opinion. Systematization of this sort only brings together a common factor, but does not imply the rulings are identical. Nonetheless, whether that common factor — permanence — was relevant to the tannaim themselves is highly doubtful. Abaye, however, wished to explain every tannaitic debate related to the structure of the sukka on the basis of the permanent-temporary distinction. He wished to group tannaim together, to unify diverse rulings under one conceptual scheme. An acute need for systematization and

(55) B. Suk. 7a, 16a, Rashi, 4a, s.v. ‘al pnu.
(56) M. Suk. 4:8. And see B. Suk. 3b. The stem implies there that both the House of Hillel and the House of Shammay hold that the sukka is a temporary dwelling, while R. Yehuda holds that it is a permanent dwelling.
(57) Most commentators explain R. Eliezer’s ruling based on a principle invoked in the direct discussion of that mishna, B. Suk. 19b. They disregard the reason Abaye attributes to him here. See e.g., Rif, ad loc.
(58) B. Suk. 23a and 3a.
(59) Tosafot, Suk. 7b, s.v. kulho. A compilation of views of the rishonim on the use of kulho sevira labo can be found in Sefer ha’erets, ed. S. and Y. Sofer (Jerusalem, 1949), 299–300.
(60) The same inaccuracy occurs in other cases where Abaye coordinates tannaitic positions. He means to group them along common lines, not assert that they held the identical position. Cf. Tosafot, B.B. 78b, s.v. kulho, Tosafot, Yev. 51b, s.v. kulho; Halivi, Mesopot. 1:691 to Qid. 62b.
for discerning principled systems of thought behind the individual tannaic rulings motivated Abaye. Rava had interpreted all debates between R. Yehuda and the sages pertaining to the sukkah with two abstract concepts; Abaye does the same for disparate opinions of different tannaim pertaining to the structure of the sukkah.

Stammaic Extensions of Abaye’s Reformulation

The final stage of the development of Rava’s principle takes place in the stammaic period. In M. Suk. 2:1 R. Yehuda rules that one may sleep under a bed in the sukkah; the sages rule one may not, and R. Shimon cites a ma’ase to support the sages’ position. Following a long sugya in which several amora’im offer explanations for R. Yehuda’s position, the stam adds:

If you wish, I could explain: R. Yehuda follows his reason, as he said, “a sukkah must be a permanent dwelling.” A bed is a temporary tent and the sukkah is a permanent tent, and temporary tents do not annul permanent tents.

But for R. Shimon, who said that a sukkah must be a permanent dwelling, here temporary tents do annul permanent tents? (since he rules that one may not sleep under the bed.)

They disagree over this matter. The one (R. Shimon) thinks that temporary tents do annul permanent tents. The other (R. Yehuda) thinks that temporary tents do not annul permanent tents. (But they agree that the sukkah is a permanent tent.) (B. Suk. 21b)

R. Yehuda and R. Shimon said a sukkah must be a permanent dwelling? R. Yehuda never said this — Rava and Abaye asserted that this was R. Yehuda’s reasoning. Moreover, as we saw above, Rava originally

claimed that R. Yehuda permitted a sukkah to be a permanent dwelling; he did not require it. Now R. Yehuda is made to say that he himself requires it. Thus the stam follows Abaye’s formulation of Rava’s categories. Necessarily so, for according to the Mishna, R. Yehuda permits one to sleep under a bed in any sukkah. But his purported reasoning — that the bed (a temporary tent) does not annul the sukkah (a permanent tent) — only obtains if the sukkah is in fact a permanent dwelling. More problematic is the attribution to R. Shimon; he certainly never made this statement — Abaye only asserted on yb that he agreed with R. Yehuda. The stam puts in the mouths of R. Yehuda and R. Shimon the abstract concepts with which the amora’im explained his opinion. It appears that this explanation of R. Yehuda and the entire permanent-temporary dwelling distinction became so ingrained in talmudic thought by the stammaic period that the actual words could be attributed to R. Yehuda himself.

The stammaic comment displays a further step toward abstraction. A derivative principle is introduced — “temporary tents do not annul permanent tents” — to explain R. Yehuda’s ruling that one may sleep under a bed. This principle is not amoraic; it is used by the stam only here and at B. Suk. 11a (see below). Yet the formulation of the principle clearly builds on the amoraic categorization of permanent and temporary dwellings. The derivative principle is formulated in highly abstract terms. Now the bed is considered to form a tent-space and to fall under the category of a temporary “tent.” Thus “tent” does not refer to a structure built in a certain way in which one lodges, but pertains to any object that creates a space. So too the sukkah is not called a per-

(64) Note that this attribution raises the same problem when juxtaposed with Rava’s original explanation as did Abaye’s explanation of the beis. B. Suk. 23a. Since R. Yehuda permits temporary dwellings as well, in those cases the bed (a temporary tent) should “annul” the sukkah (a permanent tent). R. Yehuda should not rule absolutely that it is always permitted to sleep under a bed. Again we can explain, however, that the sukkah is by definition a permanent tent for R. Yehuda. See n. 49.

(65) MS Oxford 2677 reads that R. Shimon “held” rather than “said” (see above, n. 66).

(66) Lieberman, TK, 5:352 (and cf. 846), observes that there is no mention of “R. Yehuda’s position (shiiv)” that a temporary tent does not annul a permanent tent in the PT. Indeed, the entire notion of ‘temporary’ and ‘permanent’ dwellings and tents is unknown to the PT, and this derivative principle is a product of the BT stam.

(67) It also builds on the amoraic discussion of the permissibility of constructing and adding to a ‘temporary tent’ on the Sabbath and festivals. See B. Shab. 125b, Erav. 472.

(68) As appears regularly in Mishna-Tosefta Ohalos. On the development of the abstract concept of the “tent,” see Gad Ben-Ami Scharfri “The Tent = The House of Study,” Tarbiz 38 (1968), 97–88 [Hebrew]. He points out: “This is an abstract concept, like other halakhic terms, and retains but one characteristic of those that characterize real tents;
permanent dwelling but a permanent tent in order that it can be categorized under the abstract notion of a “tent.” Thus we have a subtle shift from the amoraic categorization of the sukka as a permanent or temporary “dwelling,” where dwelling meant dwelling, to the stammatic categorization of the sukka as permanent or temporary “tent,” where tent does not mean tent. Not only are these concepts abstract but the way in which the principle considers the relationships between the concepts — that one type of tent “annuls” another type — is highly abstract. Consider an alternative, non-abstract formulation: if one sleeps under the bed, he is no longer directly under the skhakh of the sukka.

The derivative principle allows the stam to relate R. Yehuda’s ruling of M. Suk. 2:1 to R. Yehuda’s ruling of M. Suk 1:1. R. Yehuda rules that a sukka may (must?) be more than twenty cubits tall because he considers it a permanent dwelling. R. Yehuda rules here that one may sleep under a bed in a sukka because 1) he considers the sukka a permanent dwelling (tent), and 2) temporary tents do not annul permanent tents. To make this connection the stam must introduce the derivative principle and its abstract notion of the relationship between temporary and permanent spaces. Only in this way can a ruling about the space under the bed be related to a ruling about the structure of the sukka. We witness one more step in the systematization of tannaitic thought. Abaye systematized different tannaitic rulings about the structure of the sukka based on the conception of the sukka as a permanent dwelling. Now the stam systematizes a ruling of R. Yehuda pertaining to a completely different law — the obligation to sleep in the sukka — with his ruling about the height of the sukka.72

The final stage appears in the only other occurrence of the derivative principle, B. Suk. 11a. There the stam attributes the idea to R. Yehuda himself: “[Rabbb h. Rav Huna follows] R. Yehuda who said temporary tents do not annul permanent tents.” Here both the statement that a sukka must be a permanent dwelling and the derivative principle are placed in the mouth of R. Yehuda.

We are now in a better position to understand the motivation and appeal behind Rava’s interpretation. Unlike the explanations of his colleagues, Rava’s explanation could be applied to other laws of the sukka. Not only did it offer a coherent explanation for four separate debates between R. Yehuda and the sages, it could also explain a whole series of tannaitic disputes concerning the structure of the sukka. Debates over the number of walls, the nature of the walls, the area, the firmness of the structure, and the configuration of the roof could all be subsumed under this rubric. Rava, to the best of our knowledge, did not make these connections.73 But they are implicit in his categories, and his colleague Abaye fleshed them out.

The potential for such wide application devolves from the novel character of Rava’s interpretation. Rava proposed what no prior amora had formulated: two abstract conceptions of the sukka. He did not simply explain the reason for Mishna’s law (e.g., one must be conscious that one is in the sukka), but he explained the law in terms of an overall conceptual scheme: the sukka is a temporary dwelling. He did not focus exclusively on the opinion of the sages but simultaneously accounted for R. Yehuda’s minority opinion with a parallel conceptual category. This conceptual scheme allowed for connections to be made to other laws relating to the structure of the sukka. This systematization was a growing trend in late amoraic and stammatic thought. Abstract principles and conceptual categories were considered the essence of law. The later amoraim and stamaim utilized such structures to understand the basis of specific laws and to systematize disparate rulings. Rava’s explanation is an example of this trend, and for this reason it was adopted and adapted by Abaye and the stamaim.

**Summary and Conclusions**

At this point, a summary of the development we have traced is in order:

1) In tannaitic sources R. Yehuda and the sages debate whether the festival sukka has the status of a house in relation to the laws of the ‘eruv, mezuzah, and tithes. The primary consideration is whether the sukka functions as a house or not.

2) Rava formulated this debate in terms of whether the sukka is considered a “permanent dwelling” (R. Yehuda), or a “temporary dwelling” (the sages). Using these novel categories, he explained the dispute of M. Suk. 1:1 in which R. Yehuda rules that

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72 Some rishonim take this process even further, explaining R. Yehuda’s ruling in M. Suk. 2:2 on this basis. See e.g. Rashi, B. Suk. 2:1b, s.v. `rebbe yehuda. The Talmud, however, does not invoke the category of “permanent dwelling” in the discussion of that mishna. Cf. Ritba, ad loc., who points out that this was not R. Yehuda’s reason here.

73 Rava, B. Suk. 21b, offers an explanation why R. Yehuda rules that one may sleep under a bed in the sukka that is not based on the concept of the sukka as temporary or permanent dwelling. The stam applies Rava’s categories; he himself does not.
a sukka may stand twenty cubits high and the sages rule that it may not. This explanation introduced a physical-structural component into the idea of ‘permanent’ or ‘temporary’ dwellings.

3) Abaye applied Rava’s categories to other tannaic debates about the structure and appearance of the sukka. He introduced further physical-structural considerations into the concept of a ‘permanent dwelling.’ By doing so, Abaye was able to subsume disparate tannaic rulings under the same conceptual framework. The systematization distorted the original ruling of R. Yehuda. According to Abaye, R. Yehuda rules that a sukka must be a permanent dwelling. This violates the simple explanation of the debate of M. Suk. 1:1.

4) Following Abaye, the stamnaim applied Rava’s categories to a ruling of R. Yehuda that has nothing to do with structure — the question of sleeping under a bed in the sukka. They introduced a highly abstract derivative principle to relate the two rulings. They quoted R. Yehuda as saying that a sukka must be a permanent dwelling.

5) The stamnaim attributed the derivative principle to R. Yehuda himself.

This example of legal and conceptual development has several important implications. First, we have witnessed the process by which legal principles came to be attributed to tannaim. The trend toward abstract legal thought, the assumption that conceptual categories form the basis of particular legal rulings, leads the amoraim and stamnaim to retroject their principles to the tannaim. That is how law works, thought the stamnaim, hence that is how the tannaim must have thought, and must have articulated their positions as well.

On the amoraic level, a number of significant developments are evident. In the fourth generation we see an increasing trend toward the systematization of tannaic thought. Rava probably eschewed the in-

(74) This phenomenon deserves further study. Abaye has a particular penchant for systematizing the rulings of tannaim under general categories. The form kalho seviv laho (“all hold...”) used by Abaye in our suga occurs 14 independent times in the BT. Eleven are attributed to Abaye; two of the remaining three to R. Yohanan. (In Ned. 10a, Abaye uses a similar expression, kalho sha’al laho ha’em they all follow the same system”) Thus this form, and perhaps the entire tendency, predominates in the thought of Abaye or his school. However, other terms that also serve to group disparate tannaic (and occasionally amoraic) opinions along common lines occur in both Talmuds. Quite common is the form “x and y said the same thing [arwru davor ‘bhood]” or “x, y, and z said the same thing” (Kassorovsky, Osar leshon hayruchalim [Jerusalem, 1979], 1:185-6; Osar leshon hitsehad [Jerusalem, 1954-82], 1:376). In almost all of these cases the common principle remains unstated. Clearly the amorai asserting the connection had some such principle in mind. As opposed to the kalho seviv laho usage where the principle is always stated, here we are left to reconstruct the unifying idea. Certain amoraim have a predilection for making these connections: in PT of the approximately 26 cases where an amorai uses this term, 12 are attributed to R. Yohanan. (These totals discount paralel sugyot.) In the BT of about 30 (29 amorais) occurrences, R. Yohanan appears 10 times, Raba 5, and Abaye 6. Interestingly, in many of these cases, Abaye, Rava or Raba questions or rejects the claim that the tannaim “said the same thing.” See Shab. 77a, Eruv. 86b, Suk. 56a, Yev. 56b, Ned. 73b, where Abaye raises objections to the systematization. There are several other terms in both Talmuds which serve to group tannaic rulings, e.g. “x [rules] like y” (ploni keploni umar, Yev. 93a). Detailed studies are required on each of these points.

(75) See n. 20.


(77) David Kramer, Stylistic Characteristics of Amorai Literature (Ph.D. Dissertation, The Jewish Theological Seminary of America, 1984), 109-136, 330-333 notes a significant shift in the quantity of apodictic statements and argumentatortion production in the traditions of Abaye and Rava. The proportion of apodictic comments is less than in previous generations; the proportion of argumentation greater. While Kramer is most concerned with literary forms, his work suggests that fourth generation concerns are somewhat different. What needs to be studied further is the content of amoraiic statements. Is there more abstract thought and conceptual categories in their traditions? See too his The Mind of the Talmud, 37-39. And see Epstein, MLH, 369 on the innovative terminology and approach to the Mishna of Rava and Abaye, and the observations of Abraham Weiss, Hithchat ha’talmud be’talmudato (New York, 1943). 14-23.

(78) See Jaffe, Meshaver, 15-19.
ions but do not propound abstract concepts. Rava and Abaye introduce conceptual categories from which there devolve various principles and, in turn, other particular laws. Structures are classified under the categories of temporary or permanent dwellings. The abstract concepts generate a series of principles, e.g., "temporary structures have limited dimensions" or "permanent structures have a roof and walls." These principles then explain earlier individual rulings, e.g., "a sukkah may not be taller than twenty cubits," or "a tent-like sukkah is invalid." Governed by the same principle, the specific rulings appear to flow from a coherent system. The essential components of law, for them, are the abstract categories that facilitate the systematization of diverse rulings.

In the stamaitic period both trends develop further. Highly abstract concepts come to expression, as do principles that govern the relationships of abstract concepts. The principle "permanent tents do not annul temporary tents" considers the relationship between two abstract concepts, the "temporary tent" and the "permanent tent." Again this development is related to a deeper search for unity among disparate rulings. By means of the new principle two ostensibly unrelated laws emerge as inherently related. Thus the shift to abstraction raises new questions and new problems. It paves the way for complex discussions of the relationship between independent legal realms.

But all this comes at a price. Broad abstract categories, designed to embrace several legal rulings, may not suit each individual item in a completely appropriate fashion. By formulating a specific ruling in terms of conceptual categories the ruling may lose its integrity. The categories take on a life of their own and gradually displace the particular laws they initially served to explain. Systematization may become a force unto itself, finding order and unity where it might not truly be. Thus Rava's conceptual categories do not fully suit the ruling of the sages; if they hold the sukkah is a temporary dwelling, they should restrict more than the height. The fit is not tight. Abaye applies the categories to a series of other rulings. He frames the specific interests in terms that do not do justice to the issue: the House of Shammai, who rule that the head, greater part of body, and table must be in the sukkah, are not really concerned with permanence. Assimilated into a conceptual rubric, however, permanence appears to be their concern. At a certain point, rulings attributed to R. Yehuda himself no longer reflect his ideas accurately.79

79 This "distortion" process continued in post-talmudic times. The conception of the sukkah as a 'temporary dwelling' ultimately gained such acceptance that certain medieval authorities reformulated tannaitic sources under its influence. Thus Halakhah Gedolot, 3:327

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This example is one of many scattered throughout the Talmud in which abstract principles are attributed to stamaitaic. A comprehensive study of these cases is needed. Let me just point out that in certain cases the principle seems to accurately embody the tannaitic position, while in other cases, as in our study, there is some tension. For example, M. Naz. 1:3 reads, "[If one said]: I abstain (na'iri) from grape-stones or from grape-skins or from shaving or from impurity — he becomes a [full] na'iri, and all rules of being a na'iri apply to him." In B. Ned. 4a, the stam formulates this opinion as "if he abstains from grape-stones he becomes a na'iri with respect to all." In B. Naz. 11b we find: "...for the sages who say 'even if he only abstained from one of them, he becomes a [full] na'iri.'"80 Both these formulations accurately and elegantly capture the principle of M. Naz. 1:2. If one abstains from any of the Nazirite restrictions, he must follow all Nazirite prohibitions. And yet the sages did not really "say" what the stam asserts they said. A second example: Shammai Friedman points out that in B. Yev. 92b and in several other places, the stam asserts "R. Akiba said, 'qiddushin with those who are subject [on intercourse] to the penalties of a negative commandment are invalid' (vayikra 13:4)."81 But no such authentic tannaitic or amoraic source exists. In tannaitic sources, R. Akiba only rules that qiddushin in specific cases are invalid, such as one who betroths his previously divorced wife (who has since married another man).82 Based on his individual rulings in this and related manners, the stam concluded that R. Akiba held that all such qiddushin are invalid, and attributed that...
position to him. These examples could be multiplied, and each presents a fruitful area for research. 59

Further work is needed to clarify each of the points raised in this study. We have in this one example what I suspect to be a paradigmatic case of the development of Babylonian talmudic thought. Here too there lies one main difference between the BT and the PT: Palestinian talmudic activity ceased at about the time of Abaye and Rava and missed the full development of conceptual categories and abstract legal thought. 60

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59 E.g. B.B.M. 33b, "And even for R. Meir who said, 'one may sell an object that does not yet exist [מַצִּיעָה יַעֲבוֹר, יַעֲבוֹר טָכְתוֹ]'." See S. Albeck, "Duver shele bo le'dadam," Sinai 74(1973)19. Albeck points out that this formulation appears neither in tannaitic sources nor in the PT. B. Git. 21b attributes the principle, "the signatures of the witnesses make [the get] effective" to R. Meir and the principle "the witnesses to delivery make [the get] effective to R. Elazar." B. Cohen, "Note sur la loi juive de divorce," REJ 92(1932)101–2, notes that these principles do not appear in tannaitic sources. In B. B.Q. 46a, R. Yehuda in the name of Shmuel claims that Symmachos held, "Money, the ownership of which cannot be decided, must be equally divided" (משנין הכסף במשנין חיליין). This formulation does not appear in tannaitic sources. See Friedman, op. cit., 587 n. 44 for further references.

60 (*) I wish to thank Professors David Weiss Halivni, Richard Kalmin, and Eliezer Diamond for their insightful comments. Numerous improvements are due to their suggestions.