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Ma’aser Ani

The *Mishna* had stated: If she says, “*Konam* that I will not derive pleasure from people,” he is not able to revoke the *neder*. And she is permitted to benefit from *leket*, *shich’chah* and *pe’ah*. (She is obtaining the produce from a state of ownerlessness, and it is, therefore, not regarded as if they are benefiting her.)

The *Gemora* notes that the *Mishna* did not mention that she is permitted in *ma’aser ani* (a tenth of one’s produce that he gives to the poor in the third and sixth years of the *Shemitah* cycle). The *Gemora* asks: But in a *braisa* it was taught that she may take *ma’aser ani*?

Rav Yosef answers: This is not a difficulty. The *braisa* is in accordance with Rabbi Eliezer’s opinion and the *Mishna* is in accordance with the *Chachamim*.

For we learned in the following *Mishna*: Rabbi Eliezer said: One is not required to designate by name *ma’aser ani* of *demai* (produce purchased from an *am ha’aretz*; since we are uncertain if *ma’aser* was separated, one is obligated to separate *ma’aser rishon* from it, but he is not required to give it to the *Levi* because that would be a monetary question (since there are no prohibitions regarding its consumption), and those issues are decided by using

the principle of “the one attempting to extract payment from the other bears the burden of proof”; *ma’aser sheini* (in the first, second, fourth and fifth years of the *Shemitah* cycle) must be separated and eaten in *Yerushalayim*). The *Chachamim*, however, say: One is required to designate by name *ma’aser ani* of *demai*, but he is not required to separate it.

The Ra”n Elucidated

[The *Chachamim* maintain that if the *am ha’aretz* definitely did not separate *ma’aser ani* (even if *terumah* and the other *ma’asros* were separated), it would be regarded as *tevel* (untithed produce), and hence prohibited for consumption under the penalty of death. He, therefore, is required to designate by name *ma’aser ani* in a case of uncertainty, but he is not required to physically separate it and give it to the poor person.]

The *Gemora* explains the dispute as follows: According to the *Chachamim*, who maintain that the produce in question is regarded as *tevel* until *ma’aser ani* has been designated in it, they hold that the owner has the “benefit of gratitude” (*tovas hana’ah*) to distribute the *ma’aser ani* to the poor. And since the owner has the “benefit of gratitude,” one who is prohibited because of a *neder* to derive pleasure from his fellow may not accept *ma’aser ani*

from him. However, according to Rabbi Eliezer, who rules that one is not required to designate by name *ma'aser ani* of *demai*, he holds that the produce in question (*and certainly produce that ma'aser ani was not taken from*) is not regarded as *tevel* until *ma'aser ani* has been designated in it. And since this *ma'aser* does not render the produce *tevel* (*if it was not designated*), the owner does not have the "benefit of gratitude." Therefore, one who is prohibited because of a *neder* to derive pleasure from his fellow may accept *ma'aser ani* from him. (*This is why the braisa rules that the woman is permitted to take ma'aser ani, but the Mishna, which is following the Chachamim's opinion, rules that she may not take ma'aser ani.*)

Abaye said to Rav Yosef: Everyone holds that the produce in question (*and certainly produce that ma'aser ani was not taken from*) is not regarded as *tevel* until *ma'aser ani* has been designated in it, but they disagree regarding the following issue: Rabbi Eliezer holds that an *am ha'aretz* was not suspected of not separating *ma'aser ani* from his produce. For if he desired, he (*after separating the ma'aser ani*) would be able to declare all of his property *hefker* (*ownerless*), which would make him a pauper. He would then be permitted himself to take the *ma'aser ani*. Using this method, he would not suffer any loss (*for after seizing the ma'aser ani for himself, he would reclaim the property*). The *Chachamim* disagree, for they hold that one would not declare his property to be *hefker* because they would be scared that another person will seize the property (*before they have a chance to reclaim it*). Therefore, an *am ha'aretz* was suspected of not separating *ma'aser ani*.

Rava offers a different answer to the contradiction between the *Mishna* and the *braisa*: The *Mishna* is discussing a case where the *ma'aser ani* is being given to the poor people in the owner's house (*during the winter, when the grains left in the granary could get ruined*), regarding which the Torah writes "giving" (*and therefore, the owner has the "benefit of gratitude"; he may choose to give it to the pauper of his choice*), and therefore, it would be prohibited for the woman to accept *ma'aser ani* (*for it would be regarded as benefiting from him*). The *braisa* is discussing a case where the *ma'aser ani* is being given to the poor people in the granary (*at the time of the harvest*), regarding which the Torah writes "leave it" (*and therefore, the owner does not have the "benefit of gratitude"; he cannot choose to give it to the pauper of his choice*), and if the woman would be permitted to accept *ma'aser ani* (*for it would not be regarded as benefiting from him*). (84a – 84b)