

23 Iyar 5774
May 23, 2014



Rosh Hashanah
Daf 15

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Daf Notes is currently being dedicated to the neshamah of

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ESROG – LIKE A VEGETABLE AND A FRUIT

➤ Rabban Gamliel had stated that an esrog has the status of a vegetable in regards to ma’aser that it’s year is assigned to it based on when it was picked.

Rabbah bar Rav Huna states that accordingly, the New Year for the esrog should be on the first of Tishrei, just like vegetables.

The Gemora questions this from a braisa which states that if one picked esrogim prior to sunset on the fifteenth of Shevat and picked other esrogim after sunset, he may not separate terumah and ma’aser from one lot for the other since they are considered to be from two different years. If this would have occurred in the third year of the Shemitah cycle heading into the fourth year, the halachah would be that the first batch would be subject to the obligations of ma’aser rishon and ma’aser oni and the second batch would be considered from the fourth year and would be subject to the obligations of ma’aser rishon and ma’aser sheini. This braisa explicitly holds that the defining stage for an esrog is when it is picked, which is in accordance with Rabban Gamliel, and

nevertheless, the New Year is the fifteenth of Shevat and not the first of Tishrei!?

Rabbah bar Rav Huna retracts and concedes that Rabban Gamliel maintains that even though the determining stage of an esrog is the time it is picked similar to vegetables, in regards to the New Year it is like all other trees and the New Year is the first of Tishrei. (14b – 15a)

SHEVAT IS THE NEW YEAR

➤ Rabbi Yochanan asked Rabbi Yannai: When is the New Year with relevance to an esrog? He responded that it is in Shevat.

Rabbi Yochanan questioned further if he was referring to Shevat of the lunar months or of the solar season. Rabbi Yannai responded that he was referring to Shevat of the lunar months.

The Gemora continues that Shevat is the New Year for the esrog (and all trees) even in a leap year when the budding of the fruits are delayed (since the lunar year is behind the solar year). (15a)

SIXTH INTO THE SEVENTH



➤ Rabbah states that an esrog which grew in the sixth year and was picked in the seventh year is exempt from ma'aser and does not have the sanctity of Shemitah. An esrog which grew in the seventh year and was picked in the eighth year is exempt from ma'aser but does have the sanctity of Shemitah.

Abaye explains the second case by stating that Rabbah is uncertain whether an esrog's Shemitah status is dependent on the growth of the esrog or the picking. Since Shemitah is a Biblical halachah, he ruled stringently and the esrog receives Shemitah sanctity. One of the laws of Shemitah is that the produce becomes ownerless and the halachah is that hefker (something which is ownerless) is exempt from ma'aser.

Abaye questions Rabbah's first case. If he rules that the esrog does not have Shemitah sanctity, it is evident the esrog's Shemitah status is determined by the growth of the esrog and that occurred in the sixth year; why then is the esrog exempt from ma'aser?

Rabbah answers that the esrog is viewed as being ownerless (not due to Shemitah) since the owner must leave his fields available for everyone to enter and the esrogim are constantly being touched.

Rav Hamnuna disagrees with Rabbah and rules regarding an esrog which grew in the sixth year and was picked in the seventh year that it does not

have the sanctity of Shemitah; however it is subject to the laws of ma'aser.

The Gemora cites a braisa challenging both Rabbah and Rav Hamnuna's rulings. The braisa rules regarding an esrog which grew in the sixth year and was picked in the seventh year that it is exempt from ma'aser and does not have the sanctity of Shemitah. The braisa elaborates that in order for a fruit to be subject to the laws of ma'aser it must grow and be picked in the sixth year. This ruling is against Rav Hamnuna.

The braisa continues and rules regarding an esrog which grew in the seventh year and was picked in the eighth year that it is exempt from ma'aser and does have the sanctity of Shemitah. The braisa explains that in order for fruit to be subject to the laws of Shemitah it must grow and be picked in the seventh year. This ruling is against Rabbah.

The Gemora answers that there is a Tanna that Rabbah and Rav Hamnuna rely on as basis for their ruling. Avtolmos testified in the name of elders that an esrog's Shemitah status is determined solely by the time of its growth and not when it is picked. Therefore an esrog which grew in the sixth year and was picked in the seventh year does not have the sanctity of Shemitah and an esrog which grows in the seventh year does have Shemitah sanctity even if it is not picked until the eighth year. (15a – 15b)

A braisa is cited where the Sages learned that trees whose fruits grew prior to the fifteenth of Shevat

are subject to the laws of ma'aser according to the previous year. If they grew after the fifteenth of Shevat, they go according to the next year.

Rabbi Nechemya qualifies this ruling as referring to fruits that do not ripen all at once but rather over a period of time. If however, they all ripen at once like carobs and olives, they are subject to the laws of ma'aser according to the upcoming year (when they are picked) even if the fruits grew before the fifteenth of Shevat.

Rabbi Yochanan said over that it became customary for people to follow Rabbi Nechemya's viewpoint regarding carobs and they are assigned to the year in which they are picked.

Rish Lakish questioned Rabbi Yochanan from a Mishna which rules regarding fruit that ripen at once, nonetheless, they are accorded Shemitah sanctity based on when they grew and not on when they were picked. Rabbi Yochanan was quiet and did not respond.

The Gemora questions Rabbi Yochanan's reasoning for remaining silent. Perhaps the ruling is like the Mishna and nevertheless the people embraced the custom of Rabbi Nechemya.

The Gemora explains that this is not a possibility because Rabbi Yochanan could not have allowed them to continue this custom when it is not consistent with the halachah.

The Gemora answers that Rabbi Yochanan was discussing separating ma'aser from carobs which is only a Rabbinic obligation and that is why the Sages did not protest against those who followed Rabbi Nechemya's ruling of taking the ma'aser according to the year in which they were picked. The Mishna is referring to the halachos of Shemitah, which are Biblical and therefore its Shemitah year is determined by the year in which it grew.

Reb Abba Hakohen concluded that he was uncertain if Rabbi Yochanan accepted this distinction or not. (15a – 15b)

INSIGHTS TO THE DAF

PRODUCE OF SHEMITAH IS EXEMPT FROM MA'ASER

Rashi cites a drasha from the Mechilta explaining why something that has the sanctity of Shemitah is exempt from the obligation of ma'aser.

Turei Even asks on the necessity for a special drasha pertaining to Shemitah when we already have a drasha that anything which is hefker (ownerless) is exempt from the obligation of ma'aser.

Maharit (43) answers that this would be a proof to the viewpoint of his father, the Mabit, who holds that the reason anything with the sanctity of Shemitah is deemed ownerless is not because the

owner made his entire field hefker (which is the Beis Yosef's opinion), but rather due to the decree from the Torah. The Steipler explains that something which is halachically ownerless and the owner prevents others from acquiring them is not the hefker that is exempt from ma'aser. There is a special drasha by Shemitah that even if the owner does not want his produce to be hefker, it is nonetheless exempt from ma'aser.

The Turei Even himself answers that there is a dispute in the Yerushalmi regarding one who is mafkir (render ownerless) his produce to any Jew but not to a gentile, if that is considered hefker to be exempt from ma'aser. Produce that grows during Shemitah is hefker only to a Yisroel and according to Rish Lakish would not be considered hefker. This is why there is a special drasha stating that the produce of Shemitah is exempt from the obligation of ma'aser.

The Reshash asks on the Turei Even and states that the two cases are not comparable. In the Yerushalmi's case, the hefker is not a hefker since he did not render ownerless to everyone and that is why Rish Lakish maintains that it is not hefker to become exempt from ma'aser. However regarding Shemitah, everyone would agree that the produce is hefker even if it will be only for a Jew and not for a gentile.

The Steipler answers that there would be a difference in the following case: A fruit that began to grow in the sixth year but did not grow a third until the seventh year. If something that grows

during Shemitah becomes ownerless because it grew in the seventh year (and not because of its sanctity), perhaps we can say that only the portion of the fruit that grew in the seventh year is ownerless and therefore exempt from ma'aser, however the part that grew in the sixth year would be subject to the obligation of ma'aser. We have the special drasha by Shemitah teaching us that any produce that has the sanctity of Shemitah on it will be exempt from the ma'aser obligations.

DAILY MASHAL

THE TORAH DICTATES THE LAWS OF NATURE

➤ Rabbi Yochanan asked from Rabbi Yanai as when the New Year of an esrog. His response was that it is in Shevat. Rabbi Yochanan questioned further if he was referring to Shevat of the lunar months or of the solar season. Rabbi Yanai responded that he was referring to Shevat of the lunar months. The Gemora continues that Shevat is the New Year for the esrog (and all trees) even in a leap year when the budding of the fruits are delayed (since the lunar year is behind the solar year).

The Gemora's conclusion requires further explanation. The New Year for trees should depend on Shevat of the solar year since by then, most of the winter season has passed. Why is Shevat of the lunar months the determining time for the New Year?

Tosfos states that the moon also affects the growing and the ripening of the fruits. He proves this from a verse in Devarim. Tosfos adds that the Jewish year follows the lunar cycle.

The Chasam Sofer (O”C 14) is bothered by Tosfos’ additional statement. Why should the Jewish year affect the ripening of the fruits?

There is a Gemora which is quoted l'halachah which supports the idea that the decision of Beis Din can affect reality. The Gemara in Nidda 45a states that a girl under three years old who loses her virginity, the virginity (hymen) will grow back. The Yerushalmi (Kesubos 1:2) comments that even if when she had relations she was over three years old but then the Beis Din made a leap year which in doing so made her at the time that she had relations under three years old, it will grow back. The Yerushalmi bases this on a pasuk in Tehilim. The Pnei Moshe explains the Yerushalmi and states: *מסכמת עליהן אף הטבע*. *Even nature agrees with the psak*. This is explicit that the decision changes reality. Before Beis Din declared a leap year her virginity would not have grown back, now that they declared a leap year it will grow back. This Yerushalmi is quoted l'halachah in the Rama (E”H 20:1) as well as by the Acharonim (O”C 55:9) (relating to a boy who becomes Bar Mitzva in a leap year. We see clearly that the Beis Din declaring a leap year changes reality. If they hadn't she would not be a virgin (the hymen would not grow back), since they did she is a virgin (it does grow back).

One of the commentators on the Yerushalmi (Kesubos 1:2) brings another example that Beis Din’s decision can affect reality from the Tosefta in Rosh Hashana (1:10). The Tosefta assumes that the manna did not fall on Yom Tov. The Tosefta says that how long the manna fell on erev Rosh Hashana lasted depended on the decision of Beis Din. If Beis Din made the 30th Rosh Hashana, then the manna lasted two days (the 29th and Rosh Hashana). However, if Beis Din made Rosh Hashana on the 31st, then the manna had to last a third day (29 and 30, for it didn't fall, because it could have been Yom Tov, and Rosh Hashana). Again, we see that the decision of Beis Din affected the reality of when the manna rotted away. (The Jewish Worker May 2006)

The Chasam Sofer states further that the laws of nature are subject to the Torah. Since the sap in the tree which causes the fruits to ripen has relevance to many halachos in the Torah, the laws of nature become secondary to the Torah rules and the fruits ripen in Shevat of the lunar months.