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Kiddushin Daf 38

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Daf Notes is currently being dedicated to the neshamot of

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Manna

The *Gemora* asks: The following verse is understandable according to the one who holds that the word *moshav* means “any place that you dwell”: *And they ate from the produce of the land the day after the Pesach*. They only ate from the new produce then, but beforehand, they did not eat. This is because they had to wait until the *korban omer* was brought (*on the sixteenth of Nissan, and only then would they be permitted to eat from the new produce, for the omer permits it*). However, according to the one who holds that the prohibition of eating from the new grain did not take effect until after the “possession and settlement” of the Land, why couldn’t they eat immediately upon entering *Eretz Yisroel*?

The *Gemora* answers: In truth, they could have eaten from the new crop beforehand. They didn’t because they did not need it (*for they still had the manna*). The *Gemora* explains: Moshe dies on the seventh of Adar and the manna stopped coming down. They survived from the manna that was left in their vessels until the sixteenth of Nissan.

Another *braisa* states: “*And Bnei Yisroel ate the manna for forty years*.” Did Bnei Yisroel eat the manna for forty years? There was thirty days when they did not eat it (*the first thirty days after they went out of Egypt*)! This

teaches us that the cakes that they brought out of Egypt with them tasted like manna. (37b – 38a)

Moshe’s Date of Birth and Death

Another *braisa* states: Moshe died on the seventh of Adar, and was born on the seventh of Adar. How do you know that he died on the seventh of Adar? The verse states, “*And Moshe, the servant of Hashem, died there*.” The verse also states, “*And Bnei Yisroel cried for Moshe for thirty days in the plains of Moav*.” Another verse states, “*And it was after Moshe, the servant of Hashem, died*.” Another verse states, “*Moshe, My servant, has died, and now (you Yehoshua) get up and cross (the Jordan)*.” Another verse states, “*Pass in the midst of the camp and command the people saying, ‘Prepare for yourselves food, for in three days you will cross the Jordan’*.” Another verse states, “*And the nation came up from the Jordan on the tenth of the first month (Nisan, the month before Adar)*.” If you take away thirty three days from this date (*as mentioned above, the thirty days of mourning and the three days of preparation that the verse implies took place immediately afterwards*), it emerges that Moshe died on the seventh of Adar.

How do we know that he was born on the seventh of Adar? The verse states, “*And he said to them, I am one hundred and twenty years old today, I can no longer go*”

and come.” Why does the verse make a point of stating he was one hundred and twenty “today?” This teaches that Hashem fills the years of the righteous to the exact month and day (so that they live entire years). This is as the verse says, “And the number of your days I will complete.” (38a)

Other Mitzvos

The *braisa* states: Rabbi Shimon ben Yochai says that there are three *mitzvos* (*chadash, orlah, and kelayim*) that *Bnei Yisroel* were commanded to keep upon entering *Eretz Yisroel*, and they are afterwards applicable outside of *Eretz Yisroel* as well. It is also fitting that they (*kilayim and orlah*) should apply. If *chadash* (grain grown after the first day of *pesach* that is forbidden to be eaten until after the next *pesach*) which is not permanently forbidden (for after the sixteenth of *Nissan*, it is permitted), nor is it a prohibition against benefit, and a *korban omer* permits it to be eaten, applies outside of *Eretz Yisroel* as well, certainly *kilayim* (forbidden hybrid) which is permanently forbidden, and its prohibition is a prohibition from benefit, and it does not have any way to become permissible, it should certainly be forbidden outside *Eretz Yisroel* as well! This applies to *orlah* as well in two respects (though the fruit of this tree is eventually permitted). Rabbi Elozar the son of Rabbi Shimon says: Any *mitzvos* that *Bnei Yisroel* were commanded to keep before they entered *Eretz Yisroel* apply both in *Eretz Yisroel* and outside of it. If they were only commanded to keep it when they entered *Eretz Yisroel*, it only applies in *Eretz Yisroel*. The exceptions to this rule are the cancellation of unpaid loans after *shemita* and sending servants free on *Yovel*. Those apply outside *Eretz Yisroel* as well.

The *Gemora* asks: Relinquishing loans is an obligation dependent on the person (*not the land, and therefore should obviously apply outside of Eretz Yisroel*)!?

The *Gemora* answers: It is only necessary to state this due to the following *braisa*. Rebbe says: “And this is the word of *shemita* (relinquishing), relinquish.” The verse is teaching about two types of relinquishing. One is relinquishing possession of the land, and one is relinquishing loans. When relinquishing the land is applicable, one must also relinquish loans. If it is not applicable, one does not have to relinquish loans. Why not derive that in a place where relinquishing the land applies, so must relinquishing loans apply etc.? The verse states, “For *shemita* was called to Hashem,” implying that relinquishing loans applies anywhere.

The *Gemora* asks: Sending servants free by *Yovel* is an obligation dependent on the person (*and not tied to the land*)!?

The *Gemora* answers: One might think that because the verse states, “And you will call liberty in the land,” this only applies in the Land (*Eretz Yisroel*). This is why the verse states, “It is *Yovel* (*jubilee*),” even outside of the Land. Why, then, does the verse say “in the Land?” This teaches us that whenever it applies in the Land (*Eretz Yisroel*), it applies outside of it as well. If it does not apply in the Land, it does not apply outside of it either. (38a – 38b)

Orlah Outside of Eretz Yisroel

The *Mishna* states: *Chadash* is forbidden according to Torah law everywhere. *Orlah* is forbidden everywhere on account of a *halachah*. *Kilayim* is forbidden by a Rabbinic decree.

The *Gemora* asks: What does it mean that *orlah* is from a *halachah*?

Rav Yehudah says in the name of Shmuel: It was taken upon as a law by the people outside *Eretz Yisroel*.

Ulla says in the name of Rabbi Yochanan: It is a *halachah* passed down to Moshe at Sinai.

Ulla asked Rav Yehudah: According to me that I say that there is a *halachah l'Moshe mi'Sinai* that *orlah* is forbidden outside of *Eretz Yisroel*, it is understandable why there is a distinction between uncertain *orlah* and uncertain *kilayim* (and why the ruling is stricter with respect to *orlah* than it is with *kilayim*). For we learned in a *Mishna*: Uncertain *orlah* (we are not sure if the tree is more than years old) in *Eretz Yisroel* is forbidden (based on the principle of whenever there is a doubt with respect to a Biblical law, we rule stringently). If this occurred in Syria (which is not regarded as *Eretz Yisroel* proper, for it was a conquest by an individual, Dovid, and that does not attain a status of *Eretz Yisroel*), it is permitted. If it grew outside *Eretz Yisroel* (further away than Syria), one is permitted to go down and purchase these fruits from a gentile, provided that he does not see the non-Jew picking the fruits from the *orlah* tree.

However, with respect to *kilayim*, we learned in a *Mishna*: If there is a vineyard which has vegetables growing in it and someone is selling vegetables outside it, in *Eretz Yisroel* it is forbidden to buy them (based on the principle of whenever there is a doubt with respect to a Biblical law, we rule stringently). If this occurred in Syria, it is permitted. If it grew outside *Eretz Yisroel* (further away than Syria), one is permitted to go down and have the gentile pick the forbidden vegetables for him, provided that he does not pick them himself. [This distinction, Ulla understands, for he maintains that

orlah is Biblically forbidden outside *Eretz Yisroel*, whereas *kilayim* is not.]

But, Ulla asks: According to you (Rav Yehudah), the *Mishna* should either state that in both cases (*orlah* and *kilayim*), one is permitted to go down and purchase these fruits from a gentile, or he should state that in both cases, one is permitted to go down and have the gentile pick the forbidden vegetables for him!?

The *Gemora* answers: Shmuel told Rav Anan: The *Mishna* should be emended to say one of those two options.

Mar the son of Rabbana taught the *Mishna* in the lenient manner. (38b – 39a)

DAILY MASHAL

Hashem sits and completes the years of *tzaddikim*

According to our *daf* Moshe Rabbeinu passed away on his birthday, 7 Adar, for “Hashem sits and completes the years of *tzadikim*.” Some *Rishonim* contend that Moshe Rabbeinu passed away on Shabbos at Minchah time, and therefore we say “*Tzidkascha tzedek*” after Minchah on Shabbos as an expression of *tziduk hadin* [that we accept the harsher manifestations of Hashem’s justice]. According to other opinions, however, since Moshe wrote thirteen *sifrei Torah* on the day he passed away, it could not possibly have been on a Shabbos (Tosefos Menachos 31a, s.v. *mikan*).

During which Adar did Moshe Rabbeinu pass away?

Some people observe a custom of fasting on the day of Moshe Rabbeinu’s death (*Shulchan Aruch*, Orach Chaim 580:2), particularly members of the *Chevra*



Kadisha. But during which Adar was Moshe *niftar*? According to some opinions he died during a leap year in the first month of Adar.

The *Ya'avetz*, however, uses our *sugya* to prove that his death was the month of Adar immediately preceding Pesach.

Our *sugya* tells us that the manna stopped falling on the day of Moshe's *petirah*, and for the next 38 days *Bnei Yisrael* ate from the manna remaining in their vessels until they entered Eretz Yisrael and ate its fruits on the 16th of Nisan. Therefore Moshe could not have passed away during the first month of Adar, since then there would have been 68 days between the date of his *petirah* and the 16th of Nisan (see *She'elas Yaavetz* I §117 and *Siddur Ya'avetz* and *Responsa Chasam Sofer*, Orach Chaim §163). The *Mishnah Brurah* writes that the accepted custom is to fast during the first month of Adar (*ibid*, S.K. 15).

The *Panim Meiros* discusses this question at length, analyzing both sides of the dispute (II §174). One of his proofs is based on the statement in our *sugya* that "Hashem completes the years of *tzaddikim*." If we say that 2 Elul is already considered the beginning of his second year of marriage, why was Moshe Rabbeinu *niftar* on 7 Adar? Reason dictates that he should have passed away on 6 Adar. Apparently 6 Adar is still considered part of the previous year. Nevertheless the *Panim Meiros* decided that the inheritance should be left to the husband since the matter is not clear-cut, and without a solid ruling the estate should not be taken away from the husband once it is already in his hands.

INSIGHTS TO THE DAF

Inheritance of a woman who died on her first anniversary:

The following case was brought before R. Meir Eisenstat *zt'l*, the author of the *Panim Meiros*: A woman died tragically on 2 Elul 5491, exactly 2 one year after the day of her wedding, which took place on 2 Elul 5490. Following her demise a bitter dispute broke out between the widower and his late wife's relatives. They claimed that according to the *takanah* instituted by Rabbeinu Tam and the French Chachamim, a widower cannot inherit his wife's estate within a year of their wedding (see Remo Even HaEzer 52:4). Meanwhile the husband countered that at the end of the 1st of Elul 5491 they had been married for an entire year.