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Rosh Hashanah Daf 15

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

### **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 Baraisa: Rabbi Shimon ben Elozar says: 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, for we may not separate terumah and ma’aser either from the new crop for the old crop, or from the old crop for the new one. If this would have occurred in the third year of the Shemittah cycle heading into the fourth year, the halachah would be that the esrogim picked in the third year [i.e., the first batch picked before sunset] would be subject to the obligations of ma’aser rishon and ma’aser oni and the esrogim picked in the fourth year would be subject to the obligations of ma’aser rishon and ma’aser sheini. [This Baraisa explicitly holds that the defining stage for an esrog is when it is picked.] Who is the one who holds that follow the time which the esrog was picked? It is Rabban Gamliel, and nevertheless, the New Year is the fifteenth of Shevat and not the first of Tishrei!?

[Rabbah bar Rav Huna retracts] rather, if it was stated, it is this which was stated: Rabbah bar Rav Huna said: 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. (14b2 – 15a1)

### **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.

Rava inquired of Rav Nachman, and some say that is was Rabbi Yochanan from Rabbi Yannai: What is the law if it was a leap year? He replied: We follow the pattern of most years.<sup>1</sup> (15a1)

### **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 is exempt from the law of removal.<sup>2</sup> An esrog which grew in the seventh year and was picked in the eighth year is exempt from ma’aser but does have the law of removal.

<sup>1</sup> 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).

<sup>2</sup> It does not have the sanctity of Shemittah.

Abaye explains the second case by stating that Rabbah is uncertain whether an esrog's Shemittah status is dependent on the growth of the esrog or the picking. Since Shemittah is a Biblical halachah, he ruled stringently and the esrog receives Shemittah sanctity. One of the laws of Shemittah 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 the law of removal, it is evident the esrog's Shemittah status is determined by the growth of the esrog and that occurred in the sixth year; if so, it should be obligated in ma'aser?

Rabbah answers that the esrog is viewed as being ownerless (not due to Shemittah) 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 – it is in all ways regarded as one of the sixth year (and it is subject to the laws of ma'aser), and one which grew in the seventh year and was picked in the eighth year – it is in all ways regarded as one of the seventh year (and it is exempt from the laws of ma'aser)

The Gemora cites a Baraisa challenging both Rabbah and Rav Hamnuna's rulings. The Baraisa 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 is exempt from the law of removal. The Baraisa 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. The Baraisa 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 is exempt from the law of removal. The Baraisa explains that in order for fruit to be subject to the laws of Shemittah it must grow and be picked in the seventh year. The first ruling is against Rav Hamnuna, and the second ruling is against both Rabbah and Rav Hamnuna!?

The Gemora answers that this is a matter of a Tannaic dispute, for it was taught in a Baraisa: Rabbi Yosi said: Avtolmos testified in the name of five elders that an esrog's status is determined by its picking in the matter of ma'aser. Our teachers, however, took a vote in Usha and decided that it is determined by its picking for purposes both of ma'aser and of Shemittah. How does Shemittah come to be mentioned here? —It is as if there is an omission in the statement, which should read as follows: [Avtolmus testified that] an esrog's status is determined by its picking for purposes of ma'aser and by its blossoming for purposes of Shemittah. Our teachers, however, took a vote in Usha and decided that it is determined by its picking for purposes both of ma'aser and of Shemittah. (15a1 – 15b1)

It has been stated: Rabbi Yochanan and Rish Lakish both lay down that an esrog which blossoms in the sixth year and ripens in the seventh year is always reckoned as belonging to the sixth year.

When Ravin came [from Eretz Yisroel], he said in the name of Rabbi Yochanan: An esrog which blossomed in the sixth year and ripened in the seventh, even though [at the beginning of the seventh] it was no bigger than an olive and it subsequently became as big as a loaf, can render one guilty of breaking the rule of tevel. (15b1 – 15b2)

It was taught in a Baraisa: The Sages learned that trees whose fruits emerged prior to the fifteenth of Shevat are subject to the laws of ma'aser according to the previous year. If they emerged after the fifteenth of Shevat, they go according to the next year. Rabbi Nechemyah qualifies this ruling as referring to a tree that produces two broods in a year. [the Gemara interjects:] Two broods, do you say? — He should say, as it were two broods. But, regarding a tree that produces one brood a year (i.e., they all ripen at once), like date-palms, olive trees, and carob trees, they are subject to the laws of ma'aser according to the upcoming year (when they are picked) even if the fruits emerged before the fifteenth of Shevat.

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

Rish Lakish questioned Rabbi Yochanan from a Mishnah which rules regarding white figs (fruit that ripen at once) - their Shemittah year is the second year [of the cycle] because [after blossoming] their fruit takes three years to grow.<sup>3</sup> Rabbi Yochanan was quiet and did not respond.

[The Gemora questions Rabbi Yochanan's reasoning for remaining silent.] Rabbi Abba the Kohen said to Rabbi Yosi: Why did he not answer? He could have said to him, I give the view of Rabbi Nechemyah, and you bring against me the view of the Rabbis! — [He could not have answered him thus], because Rish Lakish could have retorted: Do you abandon the Rabbis and follow Rabbi Nechemyah? — But he could have said to him, I speak to you of the general custom, and you speak to me of a prohibition? — [He could not answer thus], because he could have said to him: Where a prohibition applies, even if there is a general custom, do we allow it? — But he could have said to him: I speak to you of the ma'aser of carobs, which is Rabbinical, and you speak to me of the Shemittah, which is Biblical! — The truth is, said Rabbi Abba the Kohen, I wonder whether Rish Lakish put this question. - Whether he put this question? But we are distinctly told that he did so! — What Rabbi Abba should say is, whether he [Rabbi Yochanan] accepted the response or not. (15b2 – 15b3)

#### INSIGHTS TO THE DAF

#### PRODUCE OF SHEMITTAH IS EXEMPT FROM MA'ASER

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

<sup>3</sup> They are accorded Shemittah sanctity based on when they grew and not on when they were picked.

Turei Even asks on the necessity for a special drasha pertaining to Shemittah 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 Shemittah 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 Shemittah 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 Shemittah 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 Shemittah 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 Shemittah, 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 Shemittah 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 Shemittah teaching us that any produce that has the sanctity of Shemittah 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: אף הטבע מנסבמת עליהן. *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.