

נחל נובע

על סדר זרעים



Articles
and
Revision Questions
on
Mishnayot

לעילוי נשמת

יחזקאל זליג בן ישראל ע"ה

Explain two halachic differences between the above two things.

- When is *tosefet bikurim* equivalent to *bikurim*? (ג' י"א)
- Explain why *bikurim* is referred to as the *kohen's* property? (ג' י"ב)
- Explain the debate between *R' Yehuda* and *Chachamim* regarding to which *kohen* the *bikurim* must be given. (ג' י"ב)
- What is an *androginus*? (ד' י"א)
- How is an *androginus* similar to men? (ד' י"ב)
- How is an *androginus* similar to women? (ד' י"ג)
- How is an *androginus* similar to both men and women? (ד' י"ד)
- How is an *androginus* different to both men and women? (ד' י"ה)

- or *ma'aser sheni*? (ב'י:ד')
- Explain how *trumah ma'aser* is similar to *bikurim* in two ways, and similar to *trumah gedolah* in two ways. (ב'י:ה')
- *Rabban Gamliel* held that an *etrog* is similar to a fruit in three ways and similar to a vegetable in one way – explain. (ב'י:ו')
- In what way is human blood similar to animal blood, and in what way is it similar to *dam sheretz*? (ב'י:ז')
- What is a *koi* and how is it similar to a *behema*; and how is it similar to a *chaya*? (ב'י:ח' – ט')
- In what ways is a *koi* similar to a *behema*? (ב'י:י')
- In what ways is a *koi* different to both a *behema* and a *chaya*? (ב'י:י"א)
- How does one separate *bikurim*? (ג'י:א')
- Describe the process of how the *bikurim* were brought to *Yerushalaim*?
 - Where was the first stop? (ג'י:ב')
 - What did they do when they approached *Yerushalaim*? (ג'י:ג')
 - Describe the procession to temple mount. (ג'י:ד')
 - What were done with the birds that were carried in their hands? (ג'י:ה')
 - Describe what happened when they reached the *azarah*. (ג'י:ו')
- What was the decree that the *Chachamim* instituted to counter a problem that turned people away from bringing *bikurim*? (ג'י:ז')
- Wealthy people would bring their *bikurim* in one type of basket, and the poor would bring in another. What types of baskets were they and which were given to the *kohanim*? (ג'י:ח')
- Explain the debate regarding which fruit we use to “decorate” the *bikurim*? (ג'י:ט')
- Explain the meaning of these terms: (ג'י:י')
 - *Tosefet bikurim*
 - *Itur bikurim*

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Bikurim

- What are the three cases listed in the first *Mishnah* that are exempt from bringing *bikurim*? (א:א)
- What is the reason for the above ruling and what four cases were added as a result of this reason? (ב:א)
- From which fruit does one bring *bikurim*? (ג:א)
- Before which date is one not allowed to bring *bikurim*? (ד:א)
- According to the *Mishnah*, which six people can bring *bikurim* yet cannot read the *parashat bikurim*? (ה:א)
- Explain the debates regarding whether one can bring *bikurim* and read when: (ו:א)
 - One purchased two trees in his friend's field.
 - The fruit tree was chopped down.
 - The *bikurim* was brought between *Sukkot* and *Chanukah*.
- If someone separates *bikurim* then sold his field, who brings *bikurim* and can they read the *parashat bikurim*? (ז:א)
- What should one do if they separate *bikurim* and they were stolen or lost prior to being brought to *Yerushalaim*? (ח:א)
- What should one do if they brought their *bikurim* to *Yerushalaim* and they became impure? (ט:א)
- If someone brought *bikurim* from one type and then returned to *Yerushalaim* with *bikurim* from another type, what is different about the way it is brought? (י:א)
- In what case does one bring *bikurim* and read the *parashat bikurim*? (יא:א)
- Does a *choker* or *aris* bring *bikurim* and read the *parashat bikurim*? (יב:א)
- What laws are shared by *bikurim* and *trumah*, but not shared with *ma'aser sheni*? (יג:א)
- What laws are shared by *bikurim* and *ma'aser sheni*, but not shared with *trumah*? (יד:א)
- What laws are shared by *trumah* and *ma'aser sheni*, but not shared by *bikurim*? (טו:א)
- What laws are specific to *bikurim* and not shared with *trumah*

- mixed in with it? (יג: ט)
- Explain the reasoning of *R' Meir* and the *Chachamim's* opinions in the above cases. (יג: ט)
 - The *Chachamim* listed six things that do not become absolved (יג: ט); what condition is added on the six things? (יג: ט)
 - How is *safek orlah* treated in Israel, *Surya* and outside Israel? (יט: ט)
 - Does the *issur* of *chadash* apply to produce outside of Israel? (יט: ט)

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- Mishnah* that is argued in a similar manner to the previous question? (ב'י"ג)
- If leaven that was *trumah* and leaven that was *kil'ei kerem* got mixed with and together leavened the dough, yet each on their own was enough to leaven the dough, can anyone eat from the dough? (ב'י"ד)
 - Describe the case involving *tavlin* that is similar to the previous question. (ב'ט"ו)
 - Describe the case involving *notar*, *pigul* and *kodshei kodshim* that is similar to the previous question. (ב'ט"ו)
 - Who may eat from a mixture contain meat that is *chulin*, *kodshei kalim* and *kodshei kodshim* where there is enough *chulin* to annul the *kodshei kalim* or *kodshei kodshim* but not both? (ב'י"ז)
 - What must be done with clothing that has be dyed using dye that was made from *orlah*? (ג'א')
 - The *Mishnah* discussed a case where someone dyed a thread using the peel of *orlah* fruit and then wove it into a garment, yet could not identify where this thread was used in the garment. What must be done with the garment? (ג'ב')
 - What was the length of the thread that was discussed in the previous question? (ג'ב')
 - What other *issurim* share the same ruling (as the first question) for the same minimum length of the thread and which *issurim* have no minimum length? (ג'ג')
 - What must be done with food that was cooked with *orlah* peels? (ג'ד')
 - What must be done with food that was cooked with *orlah* peels that became mixed up with other cooked foods? (ג'ד')
 - What must be done with bread that was baked in an oven in which *orlah* peels were burnt? (ג'ה')
 - What must be done with bread that was baked in an oven in which *orlah* peels were burnt that then became mixed up with other bread? (ג'ה')
 - What must be done with *tiltan* that had *tiltan kil'ei kerem*

- What things become annulled in one part to 100? (ב' א':)
- What things become annulled in one part to 200? (ב' א':)
- Can *orlah* and *kil'ei kerem* combine to prohibit a mixture containing *chulin*? (ב' ב':)
- In a mixture, how can *trumah* combine with *chulin* to annulled *orlah*? (ב' ב':)
- In a mixture, how can *orlah* combine with *chulin* to annulled *kilayim*? (ב' ג':)
- What type of mixture containing *chulin* and *orlah* is never absolved irrespective of the ratio of *chulin* to *orlah*? (ב' ד':)
- What did *Dostai* testify that *Shammai* held? (ב' ה':)
- Last week we learnt that if a forbidden product adds a distinct flavour when mixed with an ordinary product it prohibits the entire mixture. When is the rule applied:
 - Only in a stringent manner? (ב' ו':)
 - In both a stringent and lenient manner? (ב' ו':)
- What is the law regarding dough, into which *chulin* leaven (enough to leaven the dough) got mixed in, followed by *trumah* leaven (enough to leaven the dough)? (ב' ח':)
- What is the law regarding dough, into which *chulin* leaven (enough to leaven the dough) got mixed in and caused it to leave, followed by *trumah* leaven (enough to leaven the dough)? (ב' ט':)
- Can different spices, each prohibited by the same prohibition, combine to prohibit a mixture? (ב' י':)
- Can the same spices, each from prohibited by different prohibitions, combine to prohibit a mixture? (ב' י':)
- What is the law regarding dough, into which *chulin* and *trumah* leaven became mixed and leavened the dough, yet each of which on their own were not enough to leaven the dough? (ב' י"א':)
- There are two opinions about the previous question. *Yo'ezer Ish HaBira* explained that *Rabban Gamliel HaZaken* held like which of the two opinions? (ב' י"ב':)
- What case relating to *tum'ah ve'tahara* is discussed in the

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Orlah

- If one planted a tree with the intention that the branches will be used in construction, is the *tree* obligated in *orlah*? (א: א')
- Were trees that were planted in Israel after *Bnei Yisrael* entered the land, yet prior to the conquest, obligated in *orlah*? (א: ב')
- Explain the debate regarding whether a tree that is planted for the needs of the public is obligated in *orlah*? (א: ב')
- Which of the following trees is obligated in *orlah*: (א: ב: א)
 - A tree planted in the public domain?
 - A tree planted by a *nochri*?
 - A tree planted on a boat?
 - A tree that grew without any human assistance?
- When is an uprooted tree not obligated in *orlah*? (Include 2 cases). (א: ג: ד')
- Explain what a *breicha* is? (א: ה')
- How does one count the years of *orlah* for a *breicha*? (א: ה')
- What is the *orlah* status of an uprooted tree whose *breicha* is still attached? (א: ה')
- When does fruit on a *breicha* detached from its parent tree become *assur*? (א: ה')
- What can one do if shoots of *orlah* and *kil'ei kerem* get mixed up with ordinary shoots? (א: ו')
- Which of the following laws apply to dry branches of a vine: (א: ז')
 - *Orlah*?
 - *Reva'i*?
 - *Nazir*?
 - *Asheira*?
- Which of the above four laws applies to grape-kernels (*chartzanim*)? (א: ח')
- According to *R' Yosi* can one plant a shoot/branch of an *orlah* tree? (א: ט')

- Which priestly gifts can be given to any *kohen*? (י:יח)
- What were the three cases where one tried to bring a particular gift and it was not accepted? (י:יח)
- Were the *bikurim* that *Ariston* brought from *Apamyia* accepted, and why?

Editors Forward

It is with the deepest sense of gratitude to *Hakadosh Baruch Hu*, that I am able to present this *sefer* – *Nachal Nove'ah* on *Seder Zeraim*.

Last *Shmini Atzeret* (5765) the most recent *Mishnah Yomit* cycle began. The program involves learning two *mishnayot* a day with the aim of completing the entire *shas mishnayot* in less than six years. Just prior to *Shmini Atzeret* David Wallis approached me and suggested that a *Mishnah Yomit shiur* should be organised in the shul (Mizrachi Melbourne). To support this program other initiatives were developed. Immediately, a weekly *Mishnah Yomit* publication was introduced to support those involved in the program. Amongst other things it contains an in-depth article relating to the week's *Mishnayot* and revision questions to aid in *chazarah*. More recently, a web-site (www.mishnahyomit.com) was built containing all archived issues, learning aids, a “chevrutah” forum and email subscription capabilities. *Baruch Hashem* we have come quite far in a short time. I must thank Daniel Karp for his hard work in developing this exceptional website.

This *sefer* contains all the articles and revision question that have been published on *sefer zeraim*. It aptly takes its name, *Nachal Noveah*, from the *Midrash* quoted in the beginning of the *Kehati Mishnayot*:

The *Torah* is compared to water. Just like water falls drop by drop and creates rivers the same is true by *Torah* – A man learns two *halachot* one day and two *halachot* the next until [the sum total of his learning] become like a gushing stream (*nachal noveah*).

This is a perfect description of the *Mishnah Yomit* program and this *sefer*. In under one year we are already celebrating the completion of the first volume (*sefer*) of *mishnayot*. Furthermore, it is due to the continual support of our writers and team that I am able to present this humble *sefer* on *sefer zeraim*.

Although most of the contributors are from *Kollel Mitzion, Beit Midrash Naftali Herc* I must also note the contributions from the following places: *Kollel Beth HaTalmud, Yeshivat Hakotel* and *Yeshivat Har Etzion*.

Finally, none of this would have been possible without the constant support and assistance from wife Anna Bankier, who also cross-edited and printed each issue.

David Bankier

wheat dough (that has not had its *challah* removed) and placed it in rice dough? (י': ג')

- If two women each had dough that was less than the minimum quantity that requires the separation of *challah*, and their dough came into contact, are they required to separate *challah*? (יא: יא)
- If one woman had two portions of dough, each less than the minimum amount, and they came into contact with one another, when is she required to separate *challah* and when is she exempt? (יא: יא)
- With which other grain can wheat combine to complete the minimum measure that obligates one to separate *challah*? (יב: יא)
- With which other grain can barley combine to complete the minimum measure that obligates one to separate *challah*? (יב: יא)
- If one had two portions of dough each less than the minimum amount and neither of which have had *challah* removed, and a third in the middle – in which two cases do the portions not combine to obligate one to separate *challah*? (יג: יא)
- Explain the debate regarding what one should do if two portions of dough, each from produce from different years and each less than the minimum amount, come into contact with one another. (יד: יא)
- Explain the debate regarding the status of *challah* removed from dough which was less than the minimum amount. (יד: יא)
- Explain the debate regarding a case where *challah* was removed from two portions of dough which were less than the minimum shiur, and then these two portions were combined together. (יה: יא)
- Explain the debate regarding whether an *aris* working in a non-Jewish field in *Surya* is required to separate *trumot* and *ma'asrot*? (יז: יא)
- What are the three geographical regions that affect the manner in which one separates *challah* and in what manner and quantity is the *challah* separated in these areas? (יח: יא)

status of that flour, and what is the status of the dough made out of the remaining flour? (ב' ה:)

- What is the minimum amount of flour used in dough that requires one to separate *challah*? (ב' ו:)
- When does bran combine with the flour to complete this minimum amount? (ב' ו:)
- How much of the dough must be separated for *challah*? (ב' ו:)
- In which two cases is the measure described in the previous question reduced? (ב' ו:)
- Explain the debate regarding whether one can separate *challah* from *tahor* to cover the requirement for *tameh* dough. (ב' ח:)
- From what point in the bread-making process does one need to separate *challah*? (ג' א:)
- Does one need to separate *challah* from dough made from *meduma* produce? (ג' ב:)
- If one has *makdish* dough and later redeemed it – in what case would they be exempt from separating *challah*? (ג' ג:)
- What is the case in *ma'asrot* that is similar to the one described in the previous question? (ג' ד:)
- If a *nochri* gave someone dough as a gift, when would they be obligated to separate *challah*? (ג' ה:)
- If someone made bread with a *nochri*, when would they be exempt from separating *challah*? (ג' ה:)
- If someone converted and already had dough, when would they be exempt from separating *challah*? (ג' ו:)
- Is one obligated to separate *challah* from dough that is made from a mixture of rice and wheat? (ג' ז:)
- What are the two options for one who has taken leaven from dough that has not had its *challah* removed and placed it in dough that has had its *challah* removed? (ג' ח:)
- What are the two cases relating to *trumot* and *ma'asrot*, cited in the *Mishnah*, that are similar to the case stated in the previous question? (ג' ט:)
- Is one obligated to separate *challah* if they took leaven from

Introduction

23/08/2005
י"ח/אב/תשס"ה

וְשִׁנַּנְתֶּם לְבַנְיֵיכֶם וְדַבַּרְתֶּם בָּם

And you shall teach them diligently to your children.

This *pasuk* provides the source for the important *Mitzvah* of *Talmud Torah*. What is the requirement of “*Limmud Torah*”? Learning alone is not enough as the Torah commanded us “וְשִׁנַּנְתֶּם”, which implies that we must repeat our learning again and again.

Even the meaning of the name “*Mishnah*” is repetition which is of course the reason that Rebbi (the editor) named it so. He wanted to express that the most important thing is the repetition. The second aspect is the discussion, or in other words “the learning”, which in Aramaic is known as “*Gemarah*.”

Why does the *passuk* focus on repetition? Why is this the basis of learning?

The *Gemarah* (Kiddushin 30a) offers the following explanation:

תנו רבנן: וְשִׁנַּנְתֶּם - שיהו דברי תורה מחודדים בפיך, שאם ישאל לך אדם דבר - אל תגמגם ותאמר לו, אלא אמור לו מיד, שנאמר: אמור לחכמה אחותי את...
...אחותי את...

Our Rabbis taught: And you shall teach them diligently [means] that the words of the Torah shall be clear cut in your mouth, so that if anyone asks you something, you should not hesitate and then answer him, but [be able to] answer him immediately, for it is said, say unto wisdom, Thou art my sister

The *Gemarah* says that it is not enough to learn, you have to know it properly. Why? Because this is the only way to feel that the “wisdom” is “our sister.” The focus of *Mitzvat Talmud Torah* is “love Torah”. I must feel that the Torah is “our” Torah, like one

of the family. To be involved until the words of the Torah shall be clear cut in your mouth.

The only way to achieve this feeling is by repetition. This is the deep significance of *Limmud Torah*, and this is the special quality of *Limmud Mishnah*.

יישר כוח

Rav Aviya Rozen

Kollel Torah Mitzion – Beit Midrash Naftali Herc

Challah

- Bread made out of which five grains is one obligated to separate *challah*? (א:א)
- What are the other (seven) laws that apply to these five grains listed in the *Mishnah*? (א:ב)
- From what things must one separate *challah* yet need not separate *ma'asrot*? (א:ג)
- From what things must one separate *ma'asrot* yet need not separate *challah*? (א:ד)
- If someone initially used ordinary dough, yet used it for *sufganim*, does *challah* need to be separated? (א:ה)
- When is one required to separate *challah* for *challot todah* and *rekikei nazir*? (א:ו)
- Is a baker required to separate *challah* if he prepares many portion of dough, each smaller than the minimum measure, to be sold separately? (א:ז)
- What is *isat kelavim* and when must one separate *challah* from it? (א:ח)
- What nine laws does *challah* share with *trumah*? (א:ט)
- If one brings one of the five grains into Israel and uses it to make dough, do they need to separate *challah*? (א:י)
- According to *R' Akiva* if one take one of the five grains from Israel to outside Israel and use it to make dough, do they need to separate *challah*? (א:יא)
- When would one be required to separate *ma'asrot* from a plant on a boat that originated from outside Israel? (א:יב)
- Can one separate *challah* when not wearing clothing? (א:יג)
- Explain the debate regarding what one should do if they are unable to bake bread in a state of purity. (א:יד)
- If one prepares a lot of dough, each being less than the minimum size that obligates one to separate *challah*, when do we say that they combine to obligate one to separate *challah*? (א:יז)
- If one separates a portion of the flour as *challah* what is the

- "וגם נתתיו"
- "לגר ליתום ולא למנה"
- "מן הבית"
- "ככל מצותך אשר צויתני"
- "לא עברתי ממצותיך"
- "ולא שכחתי"
- "לא אכלתי באוני ממנו"
- "ולא בערתי ממנו בטמא"
- "ולא נתתי ממנו למת"
- "שמעתי בקול ה' אלקי"
- "עשיתי ככל אשר צויתני"
- "השקיפה ממעון קדשך מן השמים וברך את עמך ישראל"
- "ואת האדמה אשר נתת לנו"
- "כאשר נשבעת לאבותינו ארץ זבת חלב ודבש"
- Which people are unable for doing *vidui ma'asrot* and why? (Include both opinions) (ה' י"ד)
- What five things did *Yochanan Kohen Gadol* change? (ה' ט"ו)

Brachot

The Evening *Shema*

Brachot (1:1)

David Bankier

Brachot begins by explaining that the earliest time one can recite *sh'ma* at night is *tzeit ha'kochavim* – nightfall. In some communities however, the difficulty in delaying *Ma'ariv* has forced the service to be scheduled close to *Mincha* before nightfall.¹ *Rashi* asks, if so, how can we say *sh'ma* during *Ma'ariv* when we pray early? *Rashi* therefore concludes that the obligatory evening *sh'ma* is the *sh'ma* that people recite before they go to sleep. The *Yerushalmi* further supports this position explaining that people say the *sh'ma* during *Ma'ariv* so that they read sections from the *Torah* just prior to praying the *sh'monah esrei*.²

One may ask, if someone does not fulfil the *mitzvah* of *kriyat sh'ma* during an early *Ma'ariv*, how can they recite the *brachot kriyat sh'ma*? The *Rashba* (א"י ס"א) explains that the *brachot kriyat sh'ma* are not like normal *brachot* connected to the performance of a *mitzvah*, rather they were instituted independently and placed in the *siddur* before and after the *sh'ma*.

Rabbeinu Tam argues however, that the *sh'ma* recited during *Ma'ariv* is the obligatory one. The *Chachamim* and *R' Yehuda* argue about the latest time that one can pray *Mincha*. The *Chachamim* maintain that *Mincha* can be recited till sunset. *R' Yehuda* on the other hand argues that the latest time is "*plag ha'mincha*" – 1.25 (relative) hours before nightfall. After that

¹ See the *Orach HaShulchan* (235) for an alternative explanation of the origin of this custom.

² See the *Ba'alei Tosfot* (ברכות ב. ד"ה מאימתי) a number of questions raised against this opinion.

time, one can pray *ma'ariv*. *Rabbeinu Tam* explains that praying *ma'ariv* before nightfall means that people rely on the opinion of *R' Yehuda* and since they consider it night for *ma'ariv*, it is consider night for *sh'ma* as well.

The *Rosh* however argues the *ma'ariv* and *sh'ma* are based on two different ideas. He explains that the *tefillot* were instituted to match the times when the *korbanot* were offered. One prays *shacharit* during the same period of time as the daily morning sacrifice was offered; *Mincha* when the afternoon daily sacrifice was offered, and *Ma'ariv* during the time when the different sacrificial parts were allowed to burn. The time for reciting *sh'ma* however is based on "ויבשכבך ובקומך" – the times when people wake up and go to sleep. Therefore the appropriate time for *ma'ariv* and *sh'ma* must be dealt with separately.³

The *Shulchan Aruch* therefore rules that if the *tzibur* prays *ma'ariv* before nightfall, one should recite the *sh'ma* with the *brachot* and pray with the *minyan*. After nightfall however, one should ensure that they recite the three chapters of *sh'ma* again with the intention of fulfilling the *mitzvah* of *kriyat sh'ma*. The *Mishnah B'rurah* adds, in such a case one should not rely on reciting *sh'ma* before going to sleep even if they generally recite all three chapters since one ordinarily does not intend to fulfill the *mitzvah* at that time.

³ See the *Ba'alei Tosfot* (ספ) for another explanation about how one can fulfill the *mitzvah* of *kriyat sh'ma* before nightfall.

- ק'
- מ'
- ד'
- ט'
- ת'

- If a father told his son that his *ma'aser sheni* fruit is a particular corner, yet the son finds a pile a fruit in a different corner of the room, what assumption is made about this pile of fruit? (ד':י"ב)
- What is *kerem reva'i* and why is it mentioned in this *messechet*? (ה':א')
- What substance does one use to mark out: (ה':א')
 - *Kerem reva'i*?
 - *Orlah*?
 - Graves?
- How far must one be from *Yerushalaim* such that they can bring money in place of their *orlah* to *Yerushalaim*? (ה':ב')
- Which laws that apply to *ma'aser sheni* do *Beit Shammai* and *Beit Hillel* argue about with regards to whether or not they are shared by *orlah*? (ה':ג')
- How does one redeem *orlah* produce? (ה':ד')
- How does the above process differ in the *shmittah* year? (ה':ה')
- What and when is *zman biur* for *ma'asrot*? (ה':ו')
- Explain what is involved in *biur ma'asrot*? (ה':ו')
- Explain the debate between *Beit Shammai* and *Beit Hillel* regarding the process of *biur ma'asrot* nowadays. (ה':ז')
- What did the *Beit Din* do until *R' Akiva* clarified the *halacha*? (ה':ח')
- What should one do if *zman biur* approaches and their *ma'asrot* are at a distant location? (ה':ט')
- Explain the process of *vidui ma'asrot*? (ה':י')
- The follow is the text of *vidui ma'asrot*. To what do each of the phrases refer? (ד':י-י"ג)
 - "בערתי הקודש מן הבית"
 - "נתתיו ללוי"

- How should one redeem *ma'aser sheni* produce that have been taken to a place where their value is different? (ד':א')
- If one takes *ma'aser sheni* produce from the threshing floor to the market, can he deduct that travel expenses from the (resulting) *ma'aser sheni* money? (ד':א')
- At what price does one redeem *ma'aser sheni* produce – wholesale or retail? (ד':ב')
- How many witnesses does one need when redeeming *ma'aser sheni*? (ה':ב')
- If the owner bids \$1 redeems his *ma'aser sheni* and another person bids \$1.10 – who has precedence? (ה':ג')
- How much extra must the owner add when redeeming his *ma'aser sheni*? (ה':ג')
- How can the owner avoid the above described obligation? (ה':ד')
- How can one effectively redeem *ma'aser sheni* if his money is at a different location? (ה':ה')
- What is the law regarding one that purchased *ma'aser sheni* produce from someone, yet prior to the handing over the money, the value of the produce changed? (ה':ו')
- There is a debate in the *mishnah* regarding whether one needs to explicitly designate the money that he uses to redeem *ma'aser sheni* produce. What other area of *Halacha* shares a similar debate? (ה':ז')
- If someone redeemed a \$10 worth of his *ma'aser sheni* and ate half of the produce, then travelled to an area where it was worth \$5, can he continue eating any more? (ה':ח')
- If someone finds coins lying in the street, when should he be concerned that they could be *ma'aser sheni* money? (ה':ט')
- If someone finds a vessel that had *korban* written on it, what is the *halachic* status of the vessel and what is the status of the contents? Does it matter what material the vessel is made from? (ה':י')
- If the following letters are written on the side of a vessel, what do they symbolise? (ה':יא')

Kavanah
Brachot (2:1)
Yehuda Gottlieb

The *Mishnah* in *Brachot* (2:1) states:

If one was reading the Torah and the time for Sh'ma arrived: if he concentrated with his heart he has fulfilled his obligation

The *Gemarah* in *Brachot* interprets this *Mishnah*, stating:

This implies that Mitzvot require *kavanah* (intention). [No, rather] what is the meaning of 'concentrating with his heart'? To read. But he is reading! Rather [the *Mishnah*] refers to a case where he is *koreh le'haggiah*.

What is the meaning of this answer *koreh le'haggiah*?

Rashi interprets *koreh le'haggiah* to mean an automatic reading where the reader is not aware of what he is reading. The reader is only examining the text, skimming through the Torah, and does not intend to say the *Sh'ma*. Here, a person is not *yotzei* because the act is being performed automatically.

Tosfot disagrees with *Rashi*. They state that a person is not *yotzei* in this case, not because he is not concentrating and reading automatically, but rather *koreh le'haggiah* is ineffective because it is an incorrect reading. *Tosfot* answers that the case of *koreh le'haggiah* is reading without taking into account the proper pronunciation and *nekudot* (punctuation). Therefore when the *Mishnah* is talking about having *kavanah*, it refers to a case where a person is reading the *Sh'ma* correctly.

However, both *Rashi* and *Tosfot* seem to agree, that the *kavanah* required for *Sh'ma* is the same as the *kavanah* required for any other *mitzvah*. Both *Rashi* and *Tosfot* try to explain the exception of *koreh le'haggiah* as an incomplete performance of the *mitzvah* of *Sh'ma*.

The *Rashba* however, seems to make a distinction between the *Sh'ma* and other *mitzvot*. The *Rashba* comments that the *kavanah* required in *Kriyat Sh'ma* is that of *kabbalat ol malchut shamayim* - the acceptance of the yoke of heaven. *Rashba* seems to emphasise that this kind of *kavanah* is different to that of all other *mitzvot*, because the *mitzvah* of *kriyat Sh'ma* is not only to concentrate on the words being said, but also to turn towards *Hashem* and accept Him as the *melech malchei hamlachim*. This is a required element in the recital of the *Sh'ma* going beyond just the simple *kavanah* of performing the *mitzvah*.

The *Rambam* also supports this view. In *Hilchot Kriyat Sh'ma* (2:1) the *Rambam* writes:

He who read *Sh'ma* and did not concentrate during the first verse (*Sh'ma Yisrael*) did not fulfil his obligation. As for the other verses, if he did not concentrate, he has fulfilled his obligation, even if he was reading the Torah routinely or checking sections of the text.

The implication of the *Rambam* is clear. If the reason why *koreh le'haggiah* was due to the element of automatic or incorrect reading, as *Rashi* and *Tosfot* hold, it should apply to all sections of the *Sh'ma*. The fact that the *Rambam* says that if one did not concentrate in the sections of *Sh'ma* (besides the *pasuk* of *Sh'ma* itself) he is still *yotzei b'dieved*, implies that there is something different about the first verse. It would be wrong to maintain that the *kavanah* the *Rambam* spoke of applying to the first verse was the same *kavanah* that applied to the rest of the verses because *Rambam* holds that the recital of all three sections of *Sh'ma* is a biblical obligation (*De'orayta*) - i.e. all have the same level of obligation. So what is different about the first verse according to the *Rambam*?

Rav Soloveitchik answers this question by saying that the *kiyum* of the *mitzvah* of *Sh'ma* is different for the first verse and the other verses. The Rav says like the *Rashba*, that there is an extra level of *kavanah* needed to fulfil one's obligation with regards to

the other? What if the money was in *Yerushalaim* and the fruit was outside *Yerushalaim*? (ג' טד)

- Which of the following can be taken in and out of *Yerushalaim*: (ג' טה)
 - *Ma'aser sheni* money?
 - *Ma'aser sheni* fruit?
- In what case is the ruling that when *ma'aser sheni* fruit has passed through *Yerushalaim* it must be return and cannot be redeemed? (Include all opinions) (ג' טו)
- When is a tree that is planted on the border of *Yerushalaim* considered to be inside the city? (Include both opinions) (ג' טז)
- What is the *halachic* status of the interior and roof of a chamber: (ג' טז)
 - Built in the *kodesh* and opening to a non-holy area?
 - Built in *chol* and opening to *kodesh*?
 - Built in both *kodesh* and *chol* with openings to both *kodesh* and *chol*?
- Explain the debate regarding what should be done with *ma'aser sheni* produce that has been brought into *Yerushalaim* and became *tameh*. Does it matter how the *ma'aser sheni* became *tameh*? (ג' טז)
- Explain the debate regarding whether one can redeem produce that has been purchased with *ma'aser sheni* money and has consequently become *tameh*. (ג' טז)
- What is the law regarding: (ג' י"א)
 - An animal that was purchase with *ma'aser sheni* money that died?
 - An animal that was bought with *ma'aser sheni* money, was slaughtered, and then became *tameh*?
 - A slaughtered animal that was purchased with *ma'aser sheni* money which then became *tameh*?
- When do the jugs designated to contain *ma'aser sheni* wine also receive *kedushat ma'aser sheni*? (ג' י"ב)
- What should one do if they have a number of sealed jugs of wine and wish to separate *trumah* from one of the jugs to cover all jugs? (ג' י"ג)

- Explain the debate between *Beit Shammai* and *Beit Hillel* regarding *trumah tiltan*? (ב:ג)
- With respect to which law are we stricter with *carshinei ma'aser sheni* then *carshinei trumah*? (ב:ד)
- With respect to which law is *carshinei ma'aser sheni* treated differently to other *ma'aser sheni* produce? (ב:ד)
- Explain the four different opinions regarding the treatment of *carshinei trumah*? (ב:ד)
- What is the law regarding *ma'aser sheni* and regular coins that fell and mixed when: (ב:ה)
 - The money is picked up one by one?
 - The money is picked up all at once?
- How does one remedy a situation where a *ma'aser sheni* silver coin and a regular silver coin got mixed together? (ב:ה)
- There is a debate between *Hillel* and *Shammai* regarding redeeming *ma'aser sheni* money with a particular coin – what type of coin do they argue about? (ב:ה)
- Can someone exchange his *ma'aser sheni* copper coins for silver coins? (Include the opinions of *Beit Shammai* and *Beit Hillel*) (ב:ח)
- Can one exchange a combination of *ma'aser sheni* money and fruit for *ma'aser sheni* money? (ב:ח)
- Is there any restriction on the money exchange once one reaches *Yerushalaim*? (Explain all 6 opinions) (ב:ט)
- If one reaches *Yerushalaim* and one son is *tameh* while the other is *tahor*, is there a way they can all eat together? (ב:י)
- Can one ask someone to take their *ma'aser sheni* to *Yerushalaim* on condition that the messenger will eat a share of it? (ג:א)
- Can one by *trumah* produce with *ma'aser sheni* money? (ג:ב)
- If one person has *chulin* fruit in *Yerushalaim* and another has *ma'aser sheni* money and needs the money – can the *kedushah* be transferred to the fruit? (ג:ג)
- If someone has fruit in *Yerushalaim* and *ma'aser sheni* money outside *Yerushalaim* can he transfer the *kedushah* from one to

the first verse. This level of *kavanah* is that of *kabbalat ol malchut shamayim*. The first verse - “*Sh'ma Yisrael, Hashem Elokeinu, Hashem Echad*” – contains this theme of accepting the yoke of Heaven. It is during this verse that an extra level of *kavanah* is needed. However, the rest of the verses of *Sh'ma* only need be recited with the level of universal *kavanah* that applies to all other *mitzvot*. Therefore, when the *Rambam* states that one who does not have *kavanah* during these verses is *yotzei*, the concentration he is referring to is this second, additional level of *kavanah* of accepting the yoke of heaven, which does not apply to the later verses of the *Sh'ma*.

A Prayer for Learning

Brachot (4:2)

Yoni Fisher

The *Mishnah* in *Brachot* (4:2) relates how *R' Nechunya ben Hukana* used to recite a prayer when he entered a Beit Midrash. The *Gemara* in *Brachot* (29b) elucidates the complete prayer. Contained in the prayer is *R' Nechunya's* plea that *Hashem* should help him “avoid an incorrect ruling that would make [his] peers joyous...And that they should not err that [he] should be happy”.

This prayer begs two questions: Firstly, how could *R' Nechunya's* friends rejoice at his mistakes? They were accomplished scholars who were fearful of misrepresenting *Halacha*. Would not such action be totally inappropriate for such great rabbis? Secondly, the *Tiferet Yisrael* asks why *R' Nechunya* did not first pray that his friends should not err? The order of his prayer seems selfish in that he was primarily concerned that he should not make a mistake. Perhaps it would have been more appropriate for a person of such high moral standard to first pray for his peers.

The *Maharsha* punctuates the prayer in a different way thereby answering the first problem. He reads the prayer as saying, “May I not slip up, and may my friends be happy because of me.” He interprets the two phrases as separate pleas. *R' Nechunya* is first praying for *Hashem's* guidance in decision making and then he prays that his *Torah* teachings be of a high standard that will enlighten his peers thus making them happy. The *Beit Yosef* adds that the other sages would rejoice because *Torah* study brings genuine happiness to those who delve into it.

The *Tiferet Yisrael* answers the second question by explaining that we must read the wording of the prayer such that the word “not” not only applies to the first plea regarding ruling, but also to the second plea against laughing, i.e. “There shouldn't

Ma'aser Sheni

- What activities are forbidden to perform with *ma'aser sheni*? (א:א)
- What trade relate activities are forbidden to be performed with:
 - *Ma'aser behema*?
 - *B'chor behema*? (ב:א)
- If a *behema* was purchased with *ma'aser sheni* (in *Yerushalaim*) for use as a *korban shlamim* does the hide have the sanctity of *ma'aser sheni*? (ג:א)
- Regarding the previous question, does it matter if the value of the hide is greater than the value of the meat? (ג:א)
- If a *chaya* was purchased with *ma'aser sheni* (in *Yerushalaim*) for use as a *korban shlamim* does the hide have the sanctity of *ma'aser sheni*? (ד:א)
- If one purchased a sealed barrel of wine with *ma'aser sheni* in a place where wine is ordinarily sold without a container, does the barrel have the sanctity of *ma'aser sheni*? (ד:א)
- What is the law regarding one that purchased water or salt with *ma'aser sheni* money? (ה:א)
- What is the law regarding one that purchases fruit with *ma'aser sheni* money outside *Yerushalaim*? Does it make a difference if the purchase was *be'shogeg* or *be'meizid*? (ה:א)
- What is the law regarding one that purchases an animal with *ma'aser sheni* money outside *Yerushalaim*? Does it make a difference if the purchase was *be'shogeg* or *be'meizid*? (ו:א)
- What must one do if they purchased land with *ma'aser sheni* money? (ו:א)
- Can one purchase a *korban chatat* with *ma'aser sheni* money? (ז:א)
- What must one use *ma'aser sheni* money to purchase? (ז:ב)
- Explain the debate regarding using *ma'aser sheni* oil for rubbing on skin? (ז:ב)
- When can *ma'aser sheni tiltan* be eaten? (ח:ב)

- Someone uproots a shoot to replant it in another field and in the process carries it through a *chatzer*.
- One purchase fruit while it was still connected to the tree.
- One picked fruit to give it to his friend as a present.
- Does one need to separate *ma'asrot* from radish that has been picked for the replanting? (ה'י:ב'י)
- Once fruit have reached the stage of *onat ma'asrot* is there any restriction on their sale? (ה'י:ג'י)
- If someone purchased *zagim* and then extracted its juice, what must be separated? (ה'י:ד'י)
- What are the different opinions regarding when, during a vegetables growth, a Jew can buy fruit from a non-Jew in *Surya* such that the Jew will not be required to separate *ma'asrot*? (ה'י:ה'י)
- What is *temed* and when must one separate *ma'asrot* from it? (ה'י:ו'י)
- Does one need to separate *ma'asrot* from grain found in ant holes? (ה'י:ז'י)
- What vegetables are exempt from separating *ma'asrot* and why? (ה'י:ח'י)

be...happiness amongst my friends (because of my failure).” Consequently, *R' Nechunya* really did pray for his friends first.

However, the *Tiferet Yisrael* maintains that one should only pray for another person first in matters of physical wellbeing, however, regarding spiritual matters it is proper for one to first pray for oneself. For example, if two people have the opportunity to perform a positive commandment, it makes no sense for one to say that, out of brotherly love, he will not perform the mitzvah and leave it to his friend. Even a son need not act in such a manner towards his father despite the many other sacrifices that a son must make. Furthermore regarding a negative commandment, we learn in *Messechet Shabbat* (4a) that a person may not sin to enable his friend to do a *mitzvah*. If this is the case, why did *R' Nechunya* put himself in a position conducive to sinning to save his peers from being in that position?

We can bring at least three answers.

1. According to *Tosfot Yom Tov*, *R' Nechunya's* peers included his rabbi. He therefore felt it inappropriate to eagerly pray that his rabbi should not make a mistake because suspecting such an event appears disrespectful. However inserting it after a plea recognising his frailty may have been more appropriate.
2. Since *R' Nechunya* was more conscious of the danger that he may feel joyous at the stumbling of his friends, he felt a greater need to pray for his friends.
3. The *Tiferet Yisrael* answers this question by citing *Bava Kama* (92a) that teaches that a person who prays for others has his own prayers answered first! Therefore we find that *R' Nechunya* did selflessly pray for his peers first. However, this selflessness made him worthy of having his own prayers given first priority.

Rabbotai Nevarech

Brachot (7:1)
Mark Steiner

In his commentary on the *Mishnah*, *Rambam* explains that the *Mishnayot* are ordered logically. In this vein, after discussing *Brachot Rishona* (blessings before eating food) the next topic is *Birkat Ha'mazon* (the blessing after eating bread).

The first *Mishnah* of the seventh chapter begins:

Three people that ate (together) as one are obligated to 'lezamen'...

The *Gemara* (*Brachot*, 45a) asks (and answers) the following question:

Where does this come from (Rashi: That three people are suited to bless together)? Rav Assi says because of the verse "Declare the greatness of Hashem with me, let us exalt his name together (Tehillim 34:4)". Rabi Avahu says it's from here "When I call out the name of Hashem, ascribe greatness to our God (Devarim 32:3)."

Rashi explains how the first verse teaches that a *zimun* requires three people:

This is three. One calls out 'Declare the greatness' to two others. There must be at least two others because the verb 'declare' is written in plural form.

The word 'lezamen' comes from the root *zaman* which means to invite (i.e. to invite others to bless *Hashem*), and the second *Mishnah* of *Perek Shvi'i* details how this is done. Even though today the text of the *zimun* is well defined, the *Gemara* (*Brachot*, 46a) asks where the actual *zimun* goes until:

Until where is the blessing of the *zimun*? Rav Nachman says until "nevarech" (i.e. the end of what we know today as the precursor of *zimun* to *Birkat Ha'mazon*) and Rav Sheshet says until "hazan" (i.e. the end of the first blessing)

- If a fig tree is growing in a *chatzer* (that is ordinarily *kove'ah*) can one eat from its fruit without separating *ma'asrot*? (י"ג: י"ח)
- What are the two opinions regarding the way one can eat grapes from a vine planted in a *chatzer* without separating *ma'asrot*? (י"ג: י"ט)
- How can one eat fruit from a fig tree without separating *ma'asrot* if: (י"ג: י"ז)
 - The tree is planted in the field, yet its branches hang over into the *chatzer*.
 - The tree is planted in the *chatzer*, yet its branches hang over into the field.
- If a tree is planted on the border of Israel, yet its branches hang over the border what do is used to determine with one must separate *ma'asrot* from its fruit – the branches or the roots? (י"ג: י"ז)
- If a tree is planted on the border of Jerusalem, yet its branches hang over the border what do is used to determine whether one can redeem the *ma'aser sheni* – the branches or the roots? (י"ג: י"ז)
- What are the six things that are *kove'ah*?
- Which of the following processes are *kove'ah*: (י"ד: י"א)
 - Pickling?
 - Cooking?
 - Burying (in ripe produce)?
- When is squeezing olives *kove'ah*? (י"ד: י"א)
- Explain the debate regarding the status of fruit that have been set aside for *Shabbat*. (י"ד: י"ב)
- When is salting *kove'ah* for olives? (Include both opinions) (י"ד: י"ג)
- Explain the three-way debate regarding whether diluting wine is *kove'ah*? (י"ד: י"ד)
- Why is the intended purpose for planting coriander important? (י"ד: י"ה)
- What are *tmarot* and in what context are they raised in the *Mishnah*? (י"ד: י"ו)
- Which of the following is *kove'ah*? (י"ד: י"ז)

trumah gedolah separated from it prior to the produce's *g'mar Melacha*. (ב"ד: ט)

- Regarding the previous question, what product is the exception within the *Chachamim's* opinion? (ב"ד: ט)
- If someone buys fruit from someone while they were picking them from the tree, does he need to separate *ma'asrot*? (ב"ה: ט)
- If someone buys fruit while they are still connected to the tree, does he need to separate *ma'asrot* before eating the fruit: (ב"ו: ט)
 - If he did not specify which fruit he would be taking?
 - If he specified the fruit he was buying?
- Under what condition is a field worker (employee) required to separate *ma'asrot* prior to eating the fruit? (ב"ז: ט)
- If a field worker is working with one type of fruit can he: (ב"ח: ט)
 - Eat from another type without separating *ma'asrot*?
 - Exchange it with a worker working with another type of fruit and eat it without separating *ma'asrot*?
- Can anyone eat from figs (without separating *ma'asrot*) that have been carried through the courtyard of a house and place in area set aside for drying? Under what circumstances can the workers eat these figs? (ב"ט: ט)
- When can a general field worker (not involved in working directly with fruit) eat fruit with out separating *ma'asrot*? (2 cases) (ב"י: ט)
- When can a general field worker (working directly with fruit) eat fruit with out separating *ma'asrot*? (ב"י: ט)
- When can one who finds dried figs in the street, eat them without separating *ma'asrot*? (ב"י: ט)
- What type of *chatzer* is *kove'ah*? (include all opinions) (ב"י: ט)
- Are roofs *kove'ah*? (ב"י: ט)
- Is a porch *kove'ah*? (ב"י: ט)
- Which of the following are *kove'ah*? (ב"י: ט)
 - Guard's hut in a field.
 - A potter's hut.
 - *Sukkah*.

Rabbeinu Asher discusses this *Gemarah* at length trying to understand the case being considered:

...And it is difficult to understand like Rav Sheshet because everyone says the Bracha of Hazan...consequently Hazan is not part of the Zimun, and it seems that the question "until where" is asking until where does one have to wait before resuming eating if he has stopped in order to answer the zimun...

Two scenarios must be clarified – firstly until when does one have to pause his eating to answer to a *zimun*, and secondly, until where does the '*Mezamen*' have to continue out loud.

On the first question the *Shulchan Aruch* writes (*Orach Chayim* 200:2):

One only has to pause until "Baruch Sheachalnu Mishelo" (i.e. the end of what we know today as the precursor of zimun to Birkat Ha'mazon) and then he should return and finish his meal without saying another blessing before.

On this, the *Rama* comments:

There are those that say (he should wait) until the *Mezamen* says "*Hazan Et Hakol*", and this is what we are accustomed to doing."

The *Mishnah Berurah* explains that the *Rama's* position is based on *Rabbeinu Asher's* opinion cited above.

With regards to the second question as to where should the *Mezamen* continue out loud the *Rambam* (*Hilchot Brachot*, 5:3) writes:

And after (the blessing of the zimun is finished) he (the *Mezamen* says "*Baruch Ata Hashem...Hazan Et Haolam Kulo Betuvo...*" until he finishes all four blessings and they (the other people that made up the zimun) answer Amen after each blessing."

According to the *Rambam*, the *Mezamen* should be able to say all the blessings out aloud, and when everyone else answers *amen*

they would have fulfilled their obligation through him. Nevertheless, today it is considered too difficult for the *Mezamen* to have the correct intentions to fulfil everyone else's obligation, and for everyone else to concentrate on having their obligation fulfilled through the *Mezamen* for such a long time. With this in mind it is suggested the *Mezamen* still continues aloud until the end of the fourth blessing, but that everyone else says the blessings along with him quietly and makes an attempt to finish each of the blessings before the *Mezamen* so they can then answer Amen at the end of each of his blessings (*Shulchan Aruch*, 183:7 & *Mishnah Berurah* ibid, 27-28). At the very least, the *Mishnah Berurah* writes that the first *bracha* should be recited aloud by the *Mezamen* as everyone reads along with him silently.

Ma'asrot

- What are the three defining characteristic of produces from which *ma'asrot* must be separated? (א: א)
- What is the second general rule that is mentioned in this *Mishnah*? (א: א)
- At what point in time in the growth of the following products is one obligated to separate *ma'asrot*:
 - Figs and grapes?
 - Dates?
 - Pomegranates? (ב: א)
 - Carobs?
 - Olives? (ג: א)
 - Pumpkins and watermelons?
 - Apples? (ד: א)
- To what does the *Mishnah* refer when it asks for the definition of the “*goren*” for *ma'asrot*? (ה: א)
- When is the *goren* for:
 - Pumpkins?
 - Vegetables? (ה: א)
 - Grain? (ו: א)
 - Oil?
 - Wine? (ז: א)
 - Pressed figs? (ח: א)
- If an *Am Ha'Aretz* gave someone fruit as a gift and he takes them home, when does he treat the produce as definite *tevel* and when does he treat it as *demai*? (ב: א)
- Explain the debate regarding the status of a shop keepers shop. (ב: ב)
- Explain the debates regarding the point in time during a traders journey that his produce become obligated to remove *ma'asrot*: (ב: ג)
 - If the seller is taking his stock to sell in another city.
 - If the seller is an ordinary travelling salesman.
- Explain the debate regard the status of produce that has had

- also exceptions? (ג: א"י)
- Can a non-*kohen* get benefit from the stalks of *trumah* dates? (ד: א"י)
 - What indicates whether a seed for a *trumah* fruit is permissible for a non-*kohen*? (ה: א"י)
 - What *kohen*-specific food other than *trumah* shares the above described law? (ה: א"י)
 - Does one need to take special precautions when cleaning out a store room that contained *trumah* produce with the intention of replacing it with *chulin*? (ו: א"י)
 - Does one need to take special precautions when cleaning out a barrel that contained *trumah* oil with the intention of replacing it with *chulin*? (ו: א"י)
 - What is the minimum size of *trumah ma'aser* of *demai* that one has give to a *kohen*? (ז: א"י)
 - What is the law regarding *trumah ma'aser* of *demai* that is smaller than this amount? (ז: א"י)
 - Which *trumah* food can a *kohen* feed to his animals? (ט: א"י)
 - When can a *Yisrael* who rents a *kohen's* animal feed it *trumah* and when can a *kohen* that rents a *Yisrael's* animal feed it *trumah*? (ט: א"י)
 - Explain the debate regarding lighting *shemen sreifa* at a mourner's house or at a *simcha*? (י: א"י)
 - In which other cases can a non-*kohen* light *shemen sreifa*? (י: א"י)

Time to Act for Hashem

Brachot (9:5)
Yaron Gottlieb

The story of *Eliyahu* at *Har Carmel* (*Melachim* I 18:1-39) appears difficult. There *Eliyahu*, in his confrontation with the prophets of *Ba'al*, constructs an alter and offers a sacrifice. After the construction of the *Beit Ha'Mikdash* however, it was forbidden to build an alter outside the Temple. *Chazal* use this as a classical case of a *Hora' at Sha'ah* (a temporary annulment of a mitzvah).

Mishnah Brachot ends with the *pasuk* from *Tehillim* (119: 126), "It is the time to act for Hashem when they nullify the Torah." *Rabbi Natan* swaps the two halves of the *pasuk* to produce the statement: "You shall nullify the Torah when it comes time to act for Hashem." The *Bartenura* explains that there are times when one nullifies the words of the *Torah* in order to do something in Hashem's name. There are times where we can do something that appears *assur* in order to achieve the higher goal of *Avodat Hashem*.

This principle seems strange and can be easily misinterpreted to reach illegitimate conclusions. A careful investigation into the application of the *pasuk* is therefore necessary. It is also odd that the principle warrants the nullification of a Torah precept (with very real *halachic* ramifications) based on an *asmachta* that almost contradicts the simple meaning of the *pasuk*.

The *Gemara* in *Temurah* (14b) uses this principle as the justification for writing down the Oral Torah. The *Gemara* there brings a *beraitah* telling the following story:

Rabbi Yochanan and *Reish Lakish* would delve into the books of *Agadata* on Shabbat. [They justified the recording of these *Agadatot* using the following *pasuk*] 'When it comes time to do for Hashem then nullify the Torah.' It would be better that the

[mitzvah in the Torah] was uprooted than the Torah being forgotten from Yisrael.

Rashi comments on this point that “when the action is done in the name of *Kedushat Hashem* it is positive to nullify the Torah...” Based on this it would seem that when the leaders of the generation recognise a need, this principle is the vehicle through which the desperate change can be enacted.

The *Rambam* in *Hilchot Sanhedrin* (24: 4) brings this down as a *Halacha* applicable when the nation has sovereignty over Israel under the Sanhedrin.

There are times where *Beit Din* can whip those who are not liable for whipping, and to kill those that are not liable for death, and would not transgress the law of the *Torah* but would rather be protecting the *Torah*... And there was a case where *Shimon ben Shetach* killed 80 people in one day in *Ashkelon*, and there was not an exhaustive investigation or warnings or clear testimony, but rather it was a *Hora'at Sha'ah* based on what he saw.

The need for great rabbis of a generation to have sensitivity for the circumstances they find themselves in is therefore evident.

The parameters set out for the *halachic* use of this concept was partly set out by Rav Yechiel Ya'acov Weinberg in his book the *Sridei Eish*. In *Even HaEzer* (78) he states:

Of course the power in this respect is given only to *Chazal* to decide when it is the ‘time to do’ and what we are permitted to ‘nullify’ and this is not passed to every individual to decide his own actions...

Finally *Rashi's* explains that the statement of ‘nullifying the Torah’ is clearly not a permanent nullification, but is rather a one-off event to save the tradition before things return to the state of the ideal.

onion was cooked with anything else? (י:א)

- Can a non-*kohen* drink water after *trumah* barley has soaked and tainted it? (י:ב)
- Explain the debate regarding the status of fresh bread that was placed on the mouth of a barrel of *trumah* wine? (י:ג)
- What is the law regarding bread that was cooked in an oven that had *trumah* cumin burnt in it? (י:ד)
- If *tiltan* is mixed with *chulin* wine, when determining whether it is *noten ta'am*, when does one consider the seed alone, and when does one consider both the seed and the branches? (י:ה)
- How should one treat *tiltan* that is: (י:ו)
 - *Kil'ei kerem*?
 - *Tevel*?
- In what case would it be permissible for a non-*kohen* to eat *chulin* olives that have been pickled with *trumah* olives? (י:ז)
- Explain the debate regarding a pickled mixture of kosher and non-kosher fish? (י:ח)
- What is the status of brine from non-kosher *chagavim*? (י:ט)
- What is the general rule regard pickled mixtures of *trumah* and *chulin* vegetables? (י:י)
- Which foods do the following *Tana'im* treat stringently and why: (י:יא)
 - *R' Yosi*?
 - *R' Shimon*?
 - *R' Yehuda*?
 - *R' Yochanan ben Nuri*?
- What is special about eggs? (י:יב)
- Which *trumah* products are forbidden to be mixed in fish brine and which are permissible? (י:יג)
- Explain the debate regarding the status of fruit juices made from *trumah* fruit? (י:יד)
- Can fruit juices become *tameh*? (י:טו)
- In general one cannot change the form of *trumah* produce (eg, in to a juice or jam) – what are the two exceptions? (י:טז)
- In which other (four) areas of *halacha* are these two things

- One can find *tahor* jugs at the cost of allowing most of the contents to leak into the bottom level. (ח: ט)
- Explain the debate regarding a barrel of *trumah* that is cracked and leaking where:
 - One only has *tameh* jugs available. (ח: י)
 - One can find *tahor* jugs at the cost of allowing most of the contents to leak into the bottom level. (ח: י)
- Explain the debate where a *nochri* threatens to contaminate all the loaves of *trumah* bread if he is not given one loaf to contaminate. (ח: י"א)
- What is law regarding *goyim* who threaten to defile a group of women if one woman is not handed over? (ח: י"ב)
- What is the law regarding one who plants *trumah*: (ט: י"א)
 - Accidentally?
 - Deliberately?
- Regarding the previous question, does the law differ after the plant has grown one third of its height? (ט: י"א)
- What is special about produce that grows from planted *trumah* with respect to:
 - *Leket, peah* and *shichecha*? (ט: י"ב)
 - *Ma'asrot* and *ma'aser ani*? (ט: י"ג)
 - The method in which one threshes the produces? (ט: י"ג)
- What is the status of: (ט: י"ד)
 - *Gidulei, gidulei trumah*?
 - *Gidulei tevel*? (Also ט: י"ד)
 - *Gidulei hekdesch*?
- What is the law regarding a mixture of patches where 1 patch is *trumah* and 150 are *chulin* where: (ט: י"ה)
 - The planted seed degrades?
 - The planted seed endures?
- What is the law regarding replanted *tameh trumah* seedlings? When can a *kohen* eat from its fruit? (ט: י"ו)
- What is the law regarding a mixture of *trumah* onions and *chulin* lentils that are cooked together? (ט: י"ז)
- Concerning the previous question, does the law differ if the

Peah

Reward for *Mitzvot*

Peah (1:1)
Adam Korbl

The following are things whose profits one enjoys in this world while the capital is given to them in the world to come: parental respect, acts of kindness, bringing about peace between one person and another - and the study of Torah is equal to them all.

Peah 1:1

There is a principal in the *Gemara* that there is no reward in this world for the fulfilment of a *Mitzvah* (*Kiddushin* 39b). The above *Mishnah* seems to directly contradict that principal. What unique element links these acts together and elevates them beyond the realm of this fundamental notion?

A story is told of some students of the Chofetz Chaim who approached their Rebbe. They were very poor and had come to offer a desperate solution. "We are willing to forego on a small amount of the reward for our *Mitzvot* in the next world. Let Hashem give some reward in this world to alleviate our difficult predicament."

The Chofetz Chaim answered them with a parable. When one is buying an \$8 item, one would be expected to receive change for a \$10 bill. For a \$7 item, one could break a \$20. To give a \$50 bill to pay for a \$2 item would raise an eyebrow. A \$100 bill for a 50 cent item one would probably be refused. Imagine trying to use a \$10,000,000 check to pay for a piece of chewing-gum. No finite currency could possibly suffice for the eternal reward of *Mitzvot* – an act of connection between man and *Hashem*.

If this is true, how is it that our *Mishnah* lists several acts for which there exists a reward in this world? It is possible to suggest the following solution. Every *mitzvah* has two basic components

to it: the *Mitzvah* act, and the impact and repercussions of the *Mitzvah* performance. The act is raw and physical. It is performed with a body of flesh and bones that in many ways is no more than that of a monkey. Yet, using this G-d given tool, like throwing a pebble into a lake that creates rings of concentric circles that seem to ripple forever, the source is completely finite and yet the repercussions are infinite.

Despite this, there is no reward even for the physical act itself, because since the act is divinely ordained even the physical act is elevated to a level that is beyond world payment. This being true, the question remains: why are these acts singled out for payment in this world?

Upon closer analysis, one finds that all the *Mitzvot* listed seem to be *bein adam l'chaveiro* – relating to interpersonal relationships – except, of course, for Talmud Torah which is beyond the scope of all the others combined. One could ask, why is it that mere acts of kindness or respect are worthy of such great reward? Don't most civilized human beings and even members of the animal kingdom treat each other with kindness, dignity and respect? Even the secular world, based on Judaic tradition, has set up systems of conflict resolution. Why then are these interpersonal *Mitzvot* so special? Furthermore, what is the relationship between these interpersonal *Mitzvot* and *Talmud Torah*? The answer is that the only reason that these *Mitzvot bein adam l'chaveiro* are unique is because “*Talmud Torah k'neged kulam*”. Talmud Torah is not merely an additional item on a list of acts destined for earthly reward that happens to have a greater value than the others. Torah is the *ratzon Hashem*, the will of G-d that becomes actualised through the performance of *Mitzvot*. Torah is what qualifies and shapes the interpersonal *Mitzvot*, more so than other *Mitzvot* that are only performed because of Divine will. It is only the learning of *Torah* that can infuse and transform these everyday acts from mundane expressions of kindness, respect and conflict resolution, into bursts of G-dliness that literally illuminate the world.

status of all three piles? (י: ז)

- Part of one pile got mixed with one pile of *chulin* and part of the other pile got mixed with another pile of *chulin*? (י: ז)
- Both piles got mixed with one pile of *chulin*? (י: ז)
- Someone one planted some of the seeds from one pile – what is the status of the second pile? (י: ז)
- Someone planted some of one pile, and another person planted some of the other pile? (י: ז)
- One person planted seeds from both piles? (י: ז)
- Explain the debate regarding a slave of a *kohen* who is eating *trumah* and is notified that his master has passed away. (יא: ח)
- What are the two other *trumah* related cases that are treated in a similar manner to the previous question? (יא: ח)
- Explain the debate between *R' Eliezer* and *R' Yehoshua* regarding the case described in the previous questions where the *kohen* has the *trumah* in his mouth. (יב: ח)
- In what cases does *R' Eliezer* agree with *R' Yehoshua*? (יב: ח)
- This debate between *R' Eliezer* and *R' Yehoshua* carries over to other area of *halacha* – which two cases are described in the *mishnah*? (יג: ח)
- What are the three liquids that become forbidden if they are left uncovered and why? (יד: ח)
- Explain the debate regarding the amount of water that can become forbidden as a result of being uncovered? (יד: ח)
- What other foods can become forbidden for the same reason that some liquids can be become forbidden if left uncovered? (יד: ח)
- Explain the debate regarding *mashmeret ya'yin*? (יז: ח)
- What should one do with a barrel of *trumah* wine if there is a doubt as to its purity? (Include all three opinions) (יח: ח)
- Explain the debate/ruling regarding a multilayer wine press where the top level contains *trumah*, the bottom level contains *tameh chulin* and the top level cracks and is beginning to leak towards the bottom level where:
 - One only has *tameh* jugs available. (יט: ח)

- Explain the debate regarding an *Israel* who fed his workers *trumah*? (י:ג)
- What is the law regarding: (י:ד)
 - One who stole *trumah* but did not eat it?
 - One who stole *trumah* and ate it?
 - One who stole *trumat hekdesh* and ate it?
- Explain the debate between *R' Meir* and the *Chachamim* regarding which produce may be used to recompense the *Kohen*. List the produce that *R' Meir* prohibits? (י:ה)
- Explain how *R' Eliezer* and *R' Akiva* each understand the *pasuk*: (י:ו)

”וַיִּתֵּן לַכֹּהֵן אֶת הַקֹּדֶשׁ” (ויקרא כ”ב:י”ד)
- To what law is the previous question related? (י:ו)
- What are two differences between the way one must recompense a *kohen* if he ate *trumah be’shogeg* and if he ate *trumah be’mizid*? (י:ז)
- What is the law regarding a *bat-kohen* that marries an *yisrael* and then eats *trumah*? (י:ח)
- Explain the debate regarding a *bat-kohen* who marries one of the *p’sulim*? (י:ח)
- What are the three other cases listed where the one that eats *trumah* only pay the *keren* and not the *chomesh*? (י:ט)
- When can the *kohen* exempt one from payment after they have eaten *trumah*? (י:ט)
- What is the law regarding two piles, one of *chulin* and one of *trumah* where:
 - *Trumah* fell into one of the two piles? (י:י)
 - One is not sure which pile is *trumah* and which pile is *chulin* and:
- One person ate from one pile – what is the status of the second pile? (י:י)
- One person ate from one pile, and another person ate from the other? (י:י)
- One person ate from both piles? (י:י)
- Part of one of the pile got mixed up with *chulin* – what is the

Acquiring *Peah* for a Poor Person

Peah (4:9)
David Bankier

The *Mishnah* (*Peah* 4:9) states:

Whoever cuts *peah* and says “this is for such-and-such a poor person”, *R' Eliezer* says, he has acquired it for him. The *Chachamim* say, he must give it to the first poor man he meets.

The *Gemarah* (*Bavli*, *Gittin* 11b, and *Bava Metzia* 9b) explains that the *Mishnah* is referring to a case where a wealthy person is trying to take *peah* for a poor person. *R' Eliezer* argues that one can apply the legal principle of “*migo*” (literally meaning “since”) twice. In other words, firstly, since the wealthy person can instantly become poor by renouncing ownership of his property and be able to take *peah*, the *peah* is considered appropriate for him. Secondly, now that the *peah* is appropriate for him, since he can acquire it for himself, he can acquire it for another poor person. The *Chachamim* however argue a *migo* can only be applied once.

The *Gemarah* continues, that everyone agrees that a poor person can acquire *peah* for another, because in that situation only one *migo* would apply. In other words, since this poor person can acquire the *peah* for himself, he can also acquire it for his friend.

Rashi (*B.M.* 9b) explains that the *Gemarah* refers to a wealthy person other than the owner of the field. If however the owner of the field tried to acquire *peah* for someone else, even if he was poor, the *migo* would not apply. *Rashi* appears to argue that since the owner is commanded to leave *peah* for the poor, one can no longer say “since he can acquire it for himself...”

The *Tosfot* (see *Ritva B.M.* 9b) however argue that once the owner has renounced ownership of the field the commandment to leave

peah no longer applies. How does one then explain *Rashi's* opinion?

When clarifying *Rashi*, the *Ritva* explains that it is a *Torah* decree (*gzeirat ha'katuv*) that even if he annuls his property the *issur* still applies. *Tosfot R' Akiva Eiger* explains further that the obligation to leave *peah* is affective at the time of harvest, and since at that point he owns the field, the *peah* become *assur* to the owner forever.

The *Gra"ch* (*stencil 2, p 139*) explains that there are two issues involved in this case. The first is a monetary issue of property rights, i.e. that only a poor person can take *peah*. The owner however also has a further prohibition of not taking *peah* for himself. A *migo*, he explains, can only be applied in monetary issues and not for *issurim*. For this reason *Rashi* argues that the *Gemarah* cannot be referring to the owner of the field.

Rabbeinu Kreskas (*G. 11b*) provides support for *Rashi* explaining that in the case of a poor owner, two *migos* would still be required. One that since he can renounce ownership of his field, the *peah* is appropriate for him, and the second that since he can acquire it for himself he can acquire it for others.

The *Gemarah Yerushalmi* however specifically states that the *Mishnah* is referring to a wealthy owner. Furthermore other *Rishonim* argue that the *Gemarah* (cited above) does not exclude the owner of the field (*Rambam Matanot Ani'im 2:1, Tosfot Rosh B.M., Rashi Gittin 11b*). How does one then respond to *Rabbeinu Kreskas' proof*?

Rabbeinu Kreskas explains a different, single *migo* is being applied: since the poor owner can acquire other poor gifts, he can acquire the *peah* for another poor person. The *Shittah Mekubetzet* however argues that this is an unwarranted extension of the *migo* rule and that it cannot be applied *me'inyan le'inyan*.

- *Tameh, meduma* produce?
- *Tahor, meduma* produce?
- A mixture of *trumah* and *ma'aser rishon*?
- A mixture of *trumah* and *ma'aser sheni*?
- What should one do if:
 - One part *tameh trumah* becomes mixed in with one hundred parts *chulin*? (Include both opinions) (ה'י: ב'י)
 - One part *tahor trumah* becomes mixed in with one hundred parts *chulin tameh*? (ה'י: ג'י)
 - One part *tameh trumah* becomes mixed in with one hundred parts *trumah tahor*? (ה'י: ד'י)
- Explain the debate regarding *trumah* that was separated from a mixture of 100 parts *chulin*, 1 part *trumah*, which then became mixed with *chulin*. (ה'י: ה'י)
- Explain the debate regarding a portion of *meduma* produce that becomes mixed with *chulin*. (ה'י: ו'י)
- What are the two other areas of *Halacha* where the *Chachamim's* approach is similar to theirs taken in the previous question? (ה'י: ז'י)
- What is the law regarding a particular pile of *chulin* that repeatedly has had *trumah* (less than 1/100th of its size) mixed into it, and subsequently *trumah* removed? (ה'י: ח'י)
- What is the law regarding a pile of *chulin* that had two pieces of *trumah* (1/100th of the size of the pile) fall into it one after the other? (ה'י: ט'י)
- What is the law regarding a mixture of *chulin* and *trumah* that has been processed and as a result, its volume has changed? (ה'י: י"א)
- If the ratio of *chulin* to *trumah* in a mixture was less than 100 to 1, and more *chulin* fell into the mixture such that the ratio increase to being more than 100 to 1, what is the status of this mixture? (ה'י: י"ב)
- What is the law regarding a non-Kohen that ate *trumah* by mistake? (ה'י: י"ג)
- What is the law regarding a *bat Israel* that ate *trumah* by mistake, and then married a *Kohen*? (ה'י: י"ד)

gedolah, but is unsure how much the owner wished to separate, can he still separate *trumah gedolah*? (ד: ד')

- What is the upper limit on the size of *trumah gedolah* if one wishes to separate more than the recommended *shiur*? (Include all three opinions) (ה: ד')
- What are the three times when the volumes of the baskets are measure?
- What is the preferential order of how one should measure the baskets (from the following options)? (ד: ו')

 - Number of items it contains,
 - Precise weight,
 - Weight of items it contains.

- If *trumah* becomes mixed with *chulin* produce, how many parts of *chulin* for every part of *trumah* is required such that the *trumah* is considered annulled? (ד: ו')
- Regarding the previous question, what is the status of the mixture if there is not enough *chulin*? (ד: ו')
- If, for example, the *chulin* produce are different colours, can they still combine to annul the *trumah*? (Include the three opinions) (ד: ח-ט')
- The previous case was an example where R' *Eliezer* ruled stringently, while R' *Yosi* ruled leniently – describe the case where R' *Eliezer* rule leniently and R' *Yosi* ruled stringently. (ד: ו')
- Explain the debate regarding a case where *trumah* falls on top of a pile, and the entire top section is consequently removed. (ד: י"א')
- If *trumah* fell and got mixed up with *chulin*, yet one is unsure which of the two piles the *trumah* fell into – can the two piles combined to annul the *trumah* if the piles are in two separate houses? (ד: י"ב')
- What did R' *Akiva* rule in the case where a bundle of 50-50 *chulin-trumah* became mixed with fifty bundles of *chulin*? (ד: י"ג')
- Define what is meant by the term *meduma*? (ה: א')
- What must be done with: (ה: א')

The *Ritva* however explains that the poor owner can in fact acquire his own *peah*. Being poor, he can acquire any *peah*. Since however he is the owner of the field there is a *Torah* obligation that he must now give it to a poor person. Consequently the single *migo* would be phrased as follows: since the poor owner can acquire the *peah* to give to someone else, he can acquire it for another poor person directly.

Hefker Le'Aniyim

Peah (6:1)

Yaron Gottlieb

The first *Mishnah* in the sixth *perek* of *Peah* discusses an additional legal issue - the laws of renouncement of ownership (*hefker*). It seems that everyone agrees that these laws are derived from *mitzvot* connected to the land. *Beit Shammai* claims that it can be learned from the laws of the *matanot ani'im*, and so one can direct the renouncement of ownership selectively, towards a particular group of people – the poor. *Beit Hillel* however rules that the renouncement must be universal and be considered ownerless for everyone, since they learn the laws of *hefker* from *Shmittah*.

The opinion of *Beit Hillel* is brought down as *halacha* in both the *Rambam* in *Hilchot Nedarim* (2:15) as well as in the *Tur* (*Choshen Mishpat* 273:5). The *Rambam* writes that “one who renounces his ownership for the poor but not for the rich has not renounced his property until he renounces it to all - [like property] in the *Shmittah* year.”

The idea of renouncement of ownership of the field is significantly more important than simply deciding whether the property is ownerless. The problem grows in halachic proportions since any produce that is *hefker* is not liable for *ma'asrot*. Furthermore, when discussing the opinion *Beit Hillel*, the *Rash* (in his commentary on the *Mishnah*) explains that any attempt to make the field *hefker* is null and void unless it is *hefker* for everybody. In other words, in a case where the field is renounced only for a percentage of the population it would remain in the owner's possession and anyone who takes it would be considered a thief.

- What is the law regarding a case where two partners separate *trumah* separately, one after the other? (Include all three opinions) (יג: ג)
- The opinion of *R' Akiva* described in the previous question only applies in a specific case – what is it? (יד: ג)
- If the owner gave someone permission to separate *trumah*, yet renounces the permission just prior to the person separating *trumah*, what is the law regarding the separated *trumah*? (יד: ג)
- What is the law regarding a case where one proclaims that the *trumot* and *ma'asrot* for a particular batch is contained within the batch? (יה: ג)
- What is the law if one separates: (יז: ג)
 - *Trumah* before *bikurim*?
 - *Ma'aser Rishon* before *Trumah*?
 - *Ma'aser Sheni* before *Ma'aser Rishon*?
- What is the source that the above orderings are mistakes? (יח: ג)
- What is the law regarding one who intends to separate *trumah* yet called it *ma'aser* by mistake? (יח: ג)
- What is the law regarding the *trumah* that a non-Jew separated from his own produce? (יט: ג)
- What is the law regarding a pile from which part of the intended *trumah gedolah* had been removed: (יא: ד)
 - Once the *ma'asrot* have been removed?
 - With respect to other *tevel* produce?
- What is the law regarding a case where only a portion of the *ma'aser rishon* and *ma'aser ani* has been given – can one eat part of the remaining produce? (יב: ד)
- What are the three different sizes of *trumah gedolah*? (יג: ד)
- What is the law regarding one who separates the minimal amount of *trumah* and then decides to add more produce? (יג: ד)
- What is different about the way one can separate additional produce for *trumah* if they did not initially separate enough? (יג: ד)
- If someone was elected as a *shaliach* to separate *trumah*

- Describe the cases mentioned regarding cakes of dried figs, where one can act in the manner described in the previous question, and where one cannot. (א: ב)
- What is the law regarding one who separates *trumah gedolah* from *tameh* produce for *tahor* produce? (Include the opinion of *R' Yehudah*) (ב: ב)
- What other case shares the above described law? (ב: ב)
- What is law regarding one who:
 - *Tovels* his *keilim* on *Shabbat*?
 - Cooks on *Shabbat*?
 - Plants on *Shabbat*?
 - Plants during the *Shmittah* year?
 Include the rulings for both *shogeg* and *meizid*. (ג: ב)
- Ideally one should not separate *trumah* from one species for another. What is the law if someone nevertheless does so? (ד: ב)
- Ideally, how should one select which produce shall be *trumah* where: (ד: ב)
 - There is a *kohen* present?
 - There is no *kohen* present?
- If one has the choice, which of the following should one choose to be *trumah*:
 - A small complete onion or half a larger onion? (ה: ב)
 - Olives that will be used for making oil or olives that will be used for pickling? (ו: ב)
 - Normal or cooked wine? (ז: ב)
- What is the general rule described in the *mishnah* regarding the way one selects his *trumah*? (ז: ב)
- What should one do in the case where one finds that the wine he separated for *trumah* has become vinegar, yet he is unsure whether it changed prior to separating *trumah*? (ח: א)
- In a case of *safek trumah* where another *safek trumah* is separated, what is the law if: (ט: ב)
 - One of the *safek trumot* became mixed up with one pile of *chulin* and the other *safek trumah* with another?
 - Both of the *safek trumot* fell into the same pile of *chulin*?

The *Orach HaShulchan* takes this theme one step further based on the *Yerushalmi*. What is the logic behind the renouncement to one proportion of the population? Also, is it possible for *hefker* to work for different divisions of the population, which do not use financial status? In the *Yerushalmi* *Rabbi Yochanan* suggests that renouncement for only Jews or only humans is acceptable, while *Reish Lakish* seems to hold that these conditions as similarly unacceptable. The *Rambam* omits any laws connected to this, and thus seems to side with *Reish Lakish* against the general rule of the *Gemara* that the *halacha* usually follow *Rabbi Yochanan*.

A final important point comes from the *Tosfot* who recognise the fact that *Peah* is exempt from the gifts to the *Levi'im*, but dispels any notion that this may link it to *Beit Shammai's* opinion stating (*Bava Kama* 28a) that “the reason that *Peah* is exempt from *ma'asrot* is not due to the laws of *Hefker*”. They bring our *Mishnah* as proof of this point, and argue that *Peah* is exempt due to another *pasuk*.

Returning to the theme of the *messechet*, it would seem that as far as *halacha* is concerned we do not consider presents to the poor as being *hefker* rather a different subset of other unrelated laws, while the nullification of the *Shmittah* is a classic case of *hefker* with all the ramifications associated with it. This would imply that according to *Beit Hillel*, the owner of the field still exerts a small amount of control over the presents for the poor.

Matanot Ani'im - Free for All

Peah (8:1)
David Bankier

The first *Mishnah* in the eighth and final *perek* teaches that once the poor have stopped taking the *matanot ani'im*, anyone can take the gifts, irrespective of their financial status. The *Mishnah* provides the indicators of when this happens for the different *matanot ani'im*. What halachic mechanism enables these *matanot ani'im* to be taken by anybody?

The *Rambam* writes as follows (*Matanot Ani'im* 1:10):

It states by the gifts of the poor, “to the poor and the proselyte shall you leave them” [to imply] the entire time they request them [it must be left for them]. As soon as the poor stop asking and searching for them, the gifts are permitted to everybody. [Why?] Because they are not sanctified like *trumah*, and we are not required to give the poor its value because it does not write “give”, rather it writes “leave”. Furthermore there is no *mitzvah* to leave it for the animals and birds, only to the poor and there are none.

It appears that the source of this law is a *gzeirat ha'katuv* – a *pasuk* from the *Torah*. The position runs into difficulty as the *Gemarah* (*Bava Metzia* 21b) seems to suggest a different, more general reason. There the *Gemarah* bases this law on *yi'ush*. In other words, everyone can take the *matanot ani'im* because the poor have resigned ownership.⁴

⁴ The *Gemarah* raises this case in the context of a debate whether *yi'ush shelo mi'da'at* is considered *yi'ush*. In other word, if when someone finds out about the object (eg, that they lost) they would instantly resign ownership, is ownership already considered resigned? Initially, the *Gemarah* thinks that this is an example of such a case, since we assume *yi'ush* for all poor people, including those outside the city that have no knowledge about the status of the field. It rejects this as a proof, claiming that those outside the city resigned ownership from the outset as they assumed the local poor people would collect the gifts.

Trumot

- Which five people are unable to separate *trumah* and why? (י"א: י"א)
- In general, what is implied by the term *cheresh*? (י"ב: י"א)
- Explain the debate between *R' Yehuda* and *R' Yosi* regarding the minimum age of one who can separate *trumah*? (י"ג: י"א)
- If someone has wine and grapes which are both *tevel* can one separate *trumah* from the grapes alone, or does he have to do it for both the wine a grapes? (י"ד: י"א)
- What is the law regarding the separated *trumah* in the previous question? (י"ד: י"א)
- Can one separate *trumah* from: (י"ה: י"א)
 - *Leket, peah* or *shichecha* for regular *tevel* produce?
 - Ownerless produces for *tevel* produce?
 - Produce that does not require *trumot* to be separate for *tevel* produce?
 - *Tevel* produce for produce that does not require *trumot* to be separated?
- What are the three other cases listed in the *Mishnah* that share the same laws as described in the previous question? (י"ה: י"א)
- Which five people should ideally not separate *trumah*, yet if they did, that which was separated is indeed *trumah*? (י"ו: י"א)
- In what manner should one separate *trumah gedolah*? (י"ז: י"א)
- What is the law regarding one who separates *trumah* from olives that will be used for producing oil for *tevel* oil? (י"ח: י"א)
- Can one separate *trumah* from olives that will be pickled for *tevel* oil? (י"ט: י"א)
- What is the law regarding the previous case, if after the person separates *trumah*, he decides to use the remaining olives to produce oil? (י"ט: י"א)
- What is the general rule outlined in the last *Mishnah* of the first *perek*? (י"י: י"א)
- Can one separate from *tahor* produce for *tameh* produce? (י"י: י"א)

- Are wages due to employees cancelled at the end of *shmittah*? (י'א: י')
- Are payments due to court ruling cancelled at the end of *shmittah*? (י'ב: י')
- What was the name of the initiative instituted by *Hillel* (based on the previous question) and why was it instituted? (י'ג: י')
- Explain in further detail *Hillel's* initiative and how it is implemented? (י'ד: י')
- When is it problematic if a loan contract has the wrong date – if it is early or late? (י'ה: י')
- When is it problematic if a *pruzbul* has the wrong date – if it is early or late? (י'ה: י')
- How many *pruzbuls* are required if: (י'ה: י)
 - Five people loan to one person?
 - One person loans to five different people?
- What is necessary in order that a *pruzbul* can be written (aside from the writing implements)?
- According to *R' Eliezer*, what is special about the status of a beehive? In what other areas of *Halacha* is this fact important? (י'ו: י')
- If someone insists on paying back a loan after *Shmittah* after the lender has informed him that the debt is cancelled, can the lender accept the money? (י'ז: י')
- What other case is comparable to the case mentioned in the previous question? (י'ח: י')
- What is the *Chachamim's* attitude to one that pays back a debt after *Shmittah*? (י'ט: י')
- What other two cases mentioned in the *Mishnah* elicit the same response from the *Chachamim*? (י'ט: י')

Surely *yi'ush* alone would be enough to allow others to take the *matanot ani'im* (see *Rashi Ta'anit* 6b). Furthermore, the *Rambam* in the next *Halacha* also appears to use *yi'ush* as a measure of when the *matanot ani'im* are available to everyone. Why then does the *Rambam* need a *pasuk*?

The *Rav z"l* gives two different responses to this question (*Igrot HaGri"d Matanot Ani'im* 1:10). He begins by explaining that the exposition from the *pasuk* the *Rambam* uses (i.e. “to the poor and the proselyte shall you leave them” and not to animals and birds) comes from another *Gemarah* (*Chulin* 134b) where *Levi* planted produce in an area where there were no poor people to collect the gifts. *Rav Sheshet* applied this exposition in this context. The *Rav* therefore explains that the *pasuk* teaches that when there are no poor people at all, there is no *mitzvah* to leave the *matanot ani'im*. The case in *Bava Metzia* however is where there were poor people, and they have stopped coming. Consequently, the *mitzvah* of leaving the gifts was initiated and the gifts have already become property of the poor. In this case, one needs *yi'ush* to enable anyone else to take the gifts.

The *Rav* bases his second answer on another *Gemarah* (*Bava Kama* 94a) which discusses *R' Yishmael's* opinion regarding *peah* flour that was used to make bread. The *Gemarah* concludes that in general *R' Yishmael* holds that changing the form of an object (*shinui*) acquires the object, meaning that if the flour, eg, was stolen, he would need to return the value of the flour not the bread. In this case however *peah* is separated from the bread itself which is learnt from the superfluous word “you shall leave” included in the *p'sukim*. One should note that the *Rambam* rules according to this *Gemarah* (*Gzeila Ve'Aveida* 2:1, *Matanot Ani'im* 1:2). The *Rav* explains that this law teaches that the *matanot ani'im* are unique because the transfer to the poor people's ownership is not a one-off event, but can happen

continually. Consequently, in our case, *yi'ush* alone is not enough to prevent it from becoming poor property once again. *Rambam* therefore required the *pasuk* to enable the *matanot ani'im* to prevent it from becoming poor property once again after *yi'ush*.

A final idea may be proposed. In the past few articles it has been suggested that *matanot ani'im* is much more than just an issue of ownership. There is also the biblical obligation of leaving these portions for the poor. Just like the *Gra"ch* (see issue 7) suggests that *migo* can only be applied in monetary issues and not for *issurim*, perhaps here as well, *yi'ush* can only solve the monetary component. Perhaps this is why the *Rambam* also required a *pasuk* to teach that once the poor have stopped collecting the *matanot ani'im* the *issur* is also removed.

- What are the names of the three major areas? (ט: ב')
- Why are the definitions of these areas important? (ט: ג')
- Into how many areas does *R' Shimon* divide Israel? (ט: ג')
- What is different about the way olives and dates are treated with respect to the laws of *biur*? (ט: ג')
- Explain the debate regarding whether the law of *biur* comes into effect, if all that remains is guarded produce. (ט: ד')
- What are *t'fichim*, *duphra* and *sitvaniot*? Does the law of *biur* come into effect if only these things remain in the field? (ט: ד')
- If someone has a preserve with three different vegetables and the *zman biur* has begun for one of these vegetables, what should one do with the preserve? (Include all four opinions.) (ט: ה')
- Until when can one gather: (ט: ו')
- Moist greens?
- Dry greens?
- Moist leaves?
- Dry leaves?
- Until when does one rent a house if he rented it “until the rains”? (ט: ו')
- Until when can the poor enter a field to collect *peah*, *leket* and *shichecha*? (ט: ו')
- When can one burn straw and stubble of the *Shmittah* year? (ט: ו')
- What does one do at the time of *biur* with his *shmittah* fruit? (ט: ח')
- Explain the debate regarding who can redeem the fruit once it has been removed. (ט: ח')
- Explain the debate regarding what one should do if they inherited a large amount of *shmittah* produce. (ט: ט')
- Does one need to separate *challah* from *shmittah* bread? (ט: ט')
- Are loans that are formed in a written contract cancelled at the end of the *shmittah* year? (י: א')
- Are the debts due to purchases made on credit cancelled at the end of *shmittah*? (י: א')

- Which kitchen utensils can one lend their neighbour if they are suspected of keep Shmittah fruit after *zman biur*? ('ט: 'ה)
- How does the above law differ if the neighbour is an *asheet am ha'aretz*? ('ט: 'ה)
- What are the “Three Areas” in Israel that have distinctive *halachic* status during the *Shmittah* year and how do the laws of *Shmittah* differ between these areas? ('א: 'ו)
- How do the laws of *Shmittah* differ in Surya and why? ('ב: 'ו)
- The leaves of onions that were grown in the sixth year but were left in the ground during the *Shmittah* are used to determine whether they have *kedushat shvi'it* – what are the two opinions about this indication? ('ג: 'ו)
- Explain the debate regarding when one can purchase vegetables *motzei shvi'it*? ('ד: 'ו)
- Can one take *Shmittah* fruit outside Israel? Can they take them to Surya? ('ה: 'ו)
- Does one bring his *trumah* from outside Israel to Israel? Can he bring it from Surya to Israel? ('ו: 'ו)
- What are the two criteria used to determine whether a particular fruit has *kedushat shvi'it* and *zman biur*? ('א: 'ו)
- What is the law regarding fruit that satisfies only one of these criteria? ('ב: 'ו)
- When is one permitted to use *Shmittah* produce for dyes? ('ג: 'ו)
- What things (other than *Shmittah* produce) is one forbidden to trade with? ('ג: 'ו)
- Can one sell from what is left over from *Shmittah* fruit? ('ג: 'ו)
- Under what condition could one sell: ('ד: 'ו)
 - A *b'chor ba'al mum*?
 - Non-kosher animals?
- What is the difference between the branches and leaves of the *eilah*, *batnah* and *atadim* with respect to the laws of *Shmittah*? ('ה: 'ו)
- Into how many areas is Israel divided for the laws of *biur*? ('ב: 'ט)

Demai

Selling *Trumat Ma'aser*

Ben-Zion Hain

According to the *Gemarah* in *Sotah* (48a), *Yochanan Kohen Gadol* saw that although all of the farmers were adhering to the laws of *trumah gedolah* (1/50th of the total produce that went to the *Kohanim*), only some were adhering completely to all of the laws relating to *trumot* and *ma'asrot*. He therefore declared that all produce sold by unlearned farmers (*amei ha'aretz*) be known as *demai* and decreed that anyone who buys *demai* must give *trumot* and *ma'asrot* in case these laws were not followed.

However, due to the fact that this was a stringency, as a large number of *amei ha'aretz* did follow the laws correctly, *Yochanan Kohen Gadol* instituted the following amendment to the laws. In order to minimise the economic impact of his decree on the buyer, only *trumot ma'aser* (1/10th of *ma'aser rishon* which was given by the *Levi* to the *Kohen*) and *ma'aser Sheni* (which is eaten by the buyer in *Yerushalaim*) were taken from the *demai*. The rest of *ma'aser rishon* and all of *ma'aser ani* were not taken due to the principle in monetary law, “the burden of proof rests on the plaintiff”. Therefore the *Levi'im* and the poor must be able to prove that the *am ha'aretz* did not correctly tithe the produce – a task that is almost impossible.

Why doesn't this principle - “the burden of proof rests on the plaintiff” - also apply to the *trumot ma'aser* that was given to the *Kohanim*?

Ma'aser rishon and *ma'aser ani* are not intrinsically forbidden to non-*Levi'im*. However, the owner of the produce may not eat them because this would constitute theft as the Torah awarded them to the *Levi'im* and the poor as it says in *Devarim* (26:13) “and I have also given it [the *ma'aser*] to the *Levi* and to the

stranger, the orphan and the widow”. As such, the questionable status of *ma’aser rishon* and *ma’aser ani* of *demai* is defined by the principles of monetary law and as stated above, “the burden of proof rests on the plaintiff”.

Trumat ma’aser, however, is forbidden to all except a *Kohen*. Therefore, the status of *trumat ma’aser* separated from *demai* is defined by the principles of prohibitory law. Accordingly, as Rashi states, it is forbidden to the buyer unless he can prove that the grower already separated *trumat ma’aser*.

However, the law of *trumat ma’aser* actually contains elements of monetary law as well as prohibitory law. Although the fact that a non-*Kohen* is forbidden to eat *trumat ma’aser* is a matter of prohibitory law, it is given to the *Kohen* free of charge because the Torah awarded it to the *Kohanim* – a matter of monetary law. This being the case, why must the buyer **give** the *trumat ma’aser* to the *Kohen* in the case of *demai*? Although the buyer may not eat the *trumat ma’aser* himself, since the *Kohen* cannot prove that the *am ha’aretz* did not tithe the produce, it remains in the possession of the buyer. He could then conceivably sell it to the *Kohen* that was the “highest bidder”. Why must it be given to the *Kohen* free of charge?

Rashi explains that *Yochanan Kohen Gadol* was concerned that if the buyer retained the *trumat ma’aser* while waiting for a buyer, he would come to eat it. This view is further emphasised in *Tosfot* in *Yoma* (9a) who says that the *trumat ma’aser* is only a small portion and it may only be bought by a limited number of people (*Kohanim*) and would therefore take a long time to sell if it would be sold at all. Since the penalty for eating *trumat ma’aser* is Heavenly decreed death, there is good cause to be stringent. It is for this reason that the *trumat ma’aser* must be removed as quickly as possible from the buyer’s possession and may not be sold.

- What can one do in a case where a branch is cracked? (ד' ג')
- At what point can one eat the following fruit as a snack in the field and when can he collect them and take them home:
 - Figs? (ד' ג')
 - Grapes? (ד' ח')
 - Olives?
 - Any other fruit? (ד' ט')
- From when is it forbidden to cut down a fruit tree in the *shmittah* year? (Include both opinions.) (ד' י')
- From when is this prohibition lifted? (ד' י')
- Explain the debate regarding cutting down an olive during any other year. (ד' י')
- Which fruit has their *kedushat shvi'it* applying in a year other than the *shmittah* year? (ה' א')
- *R' Yehudah* includes an additional fruit – what is it? (ה' א')
- What restrictions are place on one who stores his *lof* underground? (ה' ב')
- Explain the debate regarding *lof* that was planted in the sixth year, and grew throughout the *shmittah* year into the eighth year. What is the point that stands behind this debate? (ה' ג')
- Explain the debate regarding the manner in which one can remove vegetables that were stored in the ground in the sixth year, during the *shmittah* year. (ה' ד')
- Explain the debate regarding when in the eighth year one can purchase *lof*. (ה' ה')
- What field tools can be sold during the *shmittah* year and what tools are forbidden to be sold? (ה' ו')
- What are the restrictions placed on a potter during the *Shmittah* year? (ה' ז')
- Which of the following are forbidden to do during the *Shmittah* year: (ה' ח')
 - Sell a cow that is ordinarily used for ploughing.
 - Sell fruit, at the time when that fruit is being planted.
 - Use a tool used to measure the quantity of cut produce.
 - Exchange money with one who employs labourers.

- Concerning the previous question, does it make a difference if the person removing the stones is not the owner of the field? (יג: יג)
- Can one remove a pile of small stones? (יג: יג)
- During which year is one forbidden from building a staircase by the side of a ravine? (יח: יג)
- Are there any restrictions on the construction in the year that the *mishnah* mentions it is permissible to build the staircase? (יח: יג)
- What is special about *avnei katef*? (יט: יג)
- What are the restrictions placed on one who wishes to build a fence around his property during the *shmittah* year? (יז: יג)
- What was the original and developed ruling regarding collecting branches from one's field during the *shmittah* year? (יא: יד)
- It is forbidden for one to prepare the field during the *shmittah* year for the next year. Which of the forbidden activities, if performed, incur a fine prohibiting one to work the field in the following year? (יב: יד)
- There are two other cases where *Beit Hillel* and *Beit Shammai* argue whether a fine is incurred if someone performs a prohibited activity – what are they? (יב: יד)
- Can a person work on a field (as a *choker*) if the field is owned and was ploughed by a Jew during the *shmittah* year? (יג: יד)
- Does it make a difference if the field was owned and ploughed by a non-Jew? (יג: יד)
- What is the definition of *medel*? What is the definition of *machlik*? According to which opinion is there a halachic difference between *medel* and *machlik*? (יז: יד)
- What are the restrictions placed on the way one treats an olive or sycamore tree that has had some of its branches removed? (יח: יד)
- Explain the debate regarding the manner in which one can trim the branches of a vine. (יג: יד)

Demai and Ma'aser Ani

Demai (4:3)

Yehuda Gottlieb

The *Tana'im* of the *mishnah* in *Messechet Demai* (4:3) have an argument on whether an *Am Ha'aretz* is suspect on *Ma'aser Ani* (Tithe of the Poor).

R' Eliezer is of the opinion that a person does not have to declare a name to the *Ma'aser Ani* of something that is *Demai*, while the *Chachamim* state that a man must declare the *Ma'aser Ani* of *Demai*.

The *Talmud Bavli* in *Messechet Makkot* states that the reason for the argument is that *R' Eliezer* holds that since there is no prohibition against eating the *Ma'aser Ani*, an *Am Ha'aretz* will separate these tithes from their food (yet not give it to an *Ani*). However, they would not separate *Ma'aser Rishon*, because they do not want to have the *chiyuv* of having to give *Trumat Ma'aser* (which is punishable by death), or *Ma'aser Sheni*, because they did not want to make the extra effort of having to take the food up to *Yerushalaim*. The *Chachamim* hold on the other hand, that when a person accepts *Demai*, he would have to separate *Ma'aser Ani* because the *Am Ha'aretz* will not make the effort to separate it.

It seems that the answer of the *Chachamim* makes more sense. Obviously, an *Am Ha'aretz* who would not make an effort to separate *Ma'aser Rishon* and *Sheni* would also not make an effort when it comes to *Ma'aser Ani*. Why would *R' Eliezer* say that an *Ani* would separate the *Ma'aser Ani* from their food, and yet not give it to an *Ani*?

The *Gemara* in *Ketubot* states that the reason that *R' Eliezer* does not suspect that an *Am Ha'aretz* would not take *Ma'aser Ani* from

his food is because an *Am Ha'aretz* is able to declare himself a poor person by making all his possessions *hefker* and then effectively be able to keep his own *Ma'aser Ani*. Therefore, since he will take it anyway, we do not suspect that he will not separate these tithes. The *Chachamim* on the other hand, do suspect that he will not separate these tithes because they hold that an *Am Ha'aretz* would fear that someone else could take all of his possessions while they are *hefker*.

The *Meiri* asks an interesting question on *R' Eliezer*. Since *R' Eliezer* is not suspect of *Demai* with regards to *Ma'aser Ani*, there would be a question on the validity of his statement, as there is a *Gemara* in *Messechet Sotah* that states that the only thing that an *Am Ha'aretz* would separate would be *Trumah Gedolah*. How can this *Gemara* be reconciled with the view of *R' Eliezer*?

The *Meiri* answers, that indeed the *Gemara* in *Sotah* is referring to the tithes that *Am Ha'aretz* would take *be'zrizut* (zealously). However, it does not mean that they never separate *Ma'aser Ani*; rather, they would take their time in separating it, as they knew its punishment was not as stringent as that of *Trumah*. Therefore, the statement of *R' Eliezer* could still be valid.

However, the *Rambam* rules in *Hilchot Ma'aser* (9:5) that the *Halacha* does not follow *R' Eliezer*, and that we would suspect an *Am Ha'aretz* of not taking *Ma'aser Ani*, and we would have to separate it from *Demai*.

- When is the latest time that one can plant a new tree prior to *shmittah*? (ב' ג')
- What is the law regard one that plants after this time? (ג' ג')
- What is exceptional about the grain listed in *mishnah* 7 and why is this important for the laws of *ma'asrot* and *shmittah*? (ב' ג')
- What other foods are added to the above group by other *Tana'im*? (ח' ב')
- What is special about the cut off time for onions that don't produce seeds and Egyptian beans? How does the law differ if the products were planted in a field that receive enough rain water? (ט' ב')
- What determines whether pumpkins that are intended to be used for replanting, are *kedushat shvi'it*? (י' ב')
- Explain the debater regarding watering a *sde lavan*. (י' ב')
- From when is one allowed to create compost piles in his field during the *shmittah* year? Why is it prohibited prior to that point in time? (יא' ג')
- What is the limit on the size and number of these compost piles? (יב' ג')
- Explain the debate regarding: (יג' ג')
 - The manner in which one can increase the number of piles.
 - Whether one can create on large pile.
 - Whether one can remove their rubbish bit-by-bit.
- Can one station his flock in a field during the *shmittah* considering that it will inadvertently lead to fertilising his field? If so are there limitations placed on the area that can be used? (יד' ג')
- If one requires stones (eg, for building) can he take the stones from his field during the *shmittah* year? (טו' ג')
- In what manner can one remove the stones of a fence from his field: (טז' ג')
 - If the size of the stone requires two people to carry them?
 - If the stones are small?

Shvi'it

- What is the latest time that one can plough a *sde ilan* the year before the *shmittah* year (*erev shvi'it*) (א:א)
- What is the definition of a *sde ilan*? (ב:א)
- How does one determine whether a field containing non-fruit bearing trees is defined as a *sde ilan*? Why is this important? (ג:א)
- Is the above definition used when there are ten or more trees in a *beit se'ah*? (ד:א)
- Explain the debate between the *Tana Kama* and *R' Yishmael* regarding what is learnt from the following *pasuk*: (א:ד)
"ששת ימים תעבד וביום השביעי תשבת בחריש ומקציר" (שמות ל"ד: כ"א)
- Can trees owned by different people combine to define the area as a *sde ilan*? (ה:א)
- When is the latest time that one can plough a field containing young trees?
- During this time how large an area is one allowed to plough?
- Does it make a difference how the trees are arranged? (ו:א)
- Which other vegetable combines with young trees to enable an entire *beit se'ah* to be ploughed? (ז:א)
- Explain the debate regarding the time period when a tree is defined as a young tree? (ח:א)
- What is the latest time *erev shvi'it* that one can:
 - Plough a field of grain? (א:ב)
 - Fertilise their field?
 - Prune?
 - Water a field that does not get enough rain water? (ב:ב)
 - Remove stones? (ג:ב)
 - Water his trees?
 - Insulate or repair his trees? (ד:ב)
- Explain the debate regarding placing oil on unripe figs prior to, and after the *shmittah* year? (ה:ב)

Trusting the Baker

Demai (5:1)

Amitai Marmor

Trans. Mark Steiner

At the beginning of the fifth *perek* of *Messechet Demai* it becomes clear that one is required to view produce as *Demai* in the case of a *Nachtom*, i.e. in the case where one purchases bread from a baker.

The *Yerushalmi* on this *Mishnah* brings an immediate problem, reminding us that we learnt in the first *perek* that there is no obligation of separating *Demai* from bread.

It seems though as if this problem is easily solved as done by the *Rash*, who claims that we can differentiate between the separations of an *Am Ha'aretz*, to that of a *Chaver*. I.e. we can say that in our case in the fifth *Perek* we are accepting the bread from an *Am Ha'aretz*, and therefore it has to be separated again, whereas in the first *Perek* it is discussing the case where a *Chaver* separated the *Demai*, and therefore it does not have to be repeated, as we know he adheres to all the commandments of the *Torah* and can in turn be trusted to have acted appropriately. Despite this seemingly simple answer, many commentaries have a problem with this because it seems apparent elsewhere that even *Amei Ha'aretz* are not considered suspicious with regards to this issue, and therefore can be trusted.

In the *Yerushalmi* there is a difference of opinion brought between *R' Elazar* and *R' Yochanan*. *R' Yochanan* explains that in our case the person's actions are not done in accordance to all the laws of ritual purity, but in the first *perek* they are. I.e. In the first *perek* the *Nachtom* is concerned that his bread should be edible also by *Kohanim*, and therefore he was careful to separate out all the *trumot* and *ma'asrot*. The *Pnei Moshe* in the *Yerushalmi* explains that the same *Nachtom* was requested by a

Chaver that he should take out all the necessary separations for him, and therefore it can all be trusted.

In our *Mishnah* though we are talking about a *Nachtom* who does not share the same concerns, and therefore the ingredients that he uses are not necessarily suitable for use by *Kohanim*, and he has no intention to sell his products to *Kohanim*. In turn, someone who buys from him must separate the necessary donations himself.

According to *R' Elazar* it's clear that the case is one where the *Nachtom* is reliable with regards to purity etc., but one who buys from him still has to separate. This is because in the first *perek* the *Nachtom* sells in small amounts, and is therefore required to separate himself. In the fifth *perek* though we are dealing with a *Nachtom* that sells produce in large amounts and therefore is exempt from taking out the requirements himself, and therefore when one buys it from him, the obligation rests still upon the buyer. It appears that the *Rambam* holds like *R' Yochanan* since he mentions "that he separated in purity" and all commentators explain this statement in accordance to the opinion of *R' Yochanan*. On the other hand, many of the commentaries on the *Mishnah* hold like *R' Elazar*.

Of course, there is a practical implication between the two. For example, according to *R' Yochanan* it doesn't matter in which fashion, with regards to size or prices, the *Nachtom* sells. Even if he was to be selling large amounts, *R' Yochanan* would force the *Nachtom* to take out the separations if he was selling it to *Kohanim*.

According to *R' Elazar*, we rely on all the *Nachtomim* that they only sell that which is pure, and this has great implications with regards to places that are populated by *Kohanim* which must be extremely weary of all these issues. Of course, there are other practical implications between the two. In any case, according to *Kehati*, the *Halacha* follows *R' Elazar*.

- Can wool be used to form the edge of a linen material? (ט: ט)
- Can one make a belt of a strip of linen and wool, separated by leather? (ט: ט)
- Is it a prohibited to wear a linen garment that has wool connected to it with a single stitch? (י: ט)
- Who many passes of a needle (stitches) are need, such that one material is considered fixed to the other for *hilchot Shabbat*? (י: ט)

- Does the prohibition of *kil'ei behema* apply to a horse and an animal which is a product of *kil'ei behema* whose mother was a horse? (ד: ח)
- If one cannot identify the parentage of mules, can they be used together for working in the field? (ה: ח)
- Into what category do the following animals fit?
 - Hedgehog?
 - *Chuldat HaSna'im*? (ה: ח)
 - Dog?
 - Pig?
 - Elephant and monkey? (ו: ח)
- Does one transgress the prohibition of *kil'ei behema* if a human being and an ox are used together to pull a wagon? (ו: ח)
- Which two fabrics when combined constitute the prohibition of *kil'ei begadim*? What two other laws relate specifically to these two fabrics? (ז: ט)
- When is it a problem to have a mattress made with linen and wool? (ז: ט)
- Does one transgress *kil'ei begadim* if the prohibited garment is worn on top of ten other layers of clothing? (ז: ט)
- Explain the debate regarding handtowels made from *shatnez*? (ח: ט)
- Do the laws of *kil'ei begadim* apply to death shrouds? Why? (ח: ט)
- When can *shatnez* saddles be problematic? (ח: ט)
- Can a seller of fabrics hang his *shatnez* garments over his shoulder when sampling his products? (ח: ט)
- Can a tailor rest *shatnez* garments on his lap while mending the garment? (ח: ט)
- What do the *tznuyim* do in the above two cases? (ח: ט)
- What three necessary processes are hinted to be the word “*shatnez*”? (ח: ט) What does *R' Shimon* learn from this word? (ח: ט)
- Are felted materials problematic? (ח: ט)

The Nature of *Demai*

Demai (5:1)

Adam Korbl

Produce bought from an *Am ha'Aretz* (an unlearned Jew who is lax in his Torah-observance) is referred to as *Demai* (“Da Mai?” roughly translates as “what is its status?”). *Ma'aser Rishon*, *Terumat Ma'aser*, and *Ma'aser Sheni* must be separated from this produce since a minority of *Amei ha'Aretz* cannot be trusted to have separated them before selling it. *Trumah Gedolah*, however, because of its stringency is presumed to have been separated.

This *din* of *Demai* that obligates one to be separate *Ma'aser Rishon*, *Trumat Ma'aser*, and *Ma'aser Sheni* requires deeper analysis. Usually we apply the *Torah* principle of following the majority and we are not concerned with what a minority of people may or may not do. Why is it that with regards to *Demai*, *Chazal* seem to be concerned with the minority of *Amei Ha'Aretz* that did not separate and therefore classify the produce of every *Am Ha'aretz* as being *b'safek*, in doubt?

The *Achronim* attempted to formulate the exact nature of the *chiyuv* of separating fruit of *Demai*. Reb Elchonon Wasserman in his *Kobetz Ha'aros* (75:6) suggests that there are two possible ways we can understand the nature of *demai*:

1. On a biblical level we can assume that most *amei ha'aterz* separate all *trumot* and *ma'asrot* and are not concerned that perhaps the purchased produce is of the minority of *amei ha'aretz* who do not separate. However, on a rabbinic level we are concerned that perhaps this produce did in fact come from that minority who are not careful to be separate and therefore the produce is classified as being in a doubtful state.
2. On a rabbinic level, we are not concerned that the produce stems from the minority, however, the Rabbis created a

new *chiyuv* of *hafrashas peiros demai* that requires one to be separate *Ma'aser Rishon*, *Trumat Ma'aser*, and *Ma'aser Sheni*.

This *chakira* is a classic way of attempting to grapple with the nature of rabbinic decrees. Chazal were concerned with the possibility that a Jew would consume produce that may still require separation. The question then becomes – when Chazal created *takanat Demai*, did they integrate their reasoning into the *takanah* itself (as described in possibility ‘a’), or did their reasoning merely act as the impetus for the creation of the new *chiyuv* (as described in ‘b’).

The following *Mishnah* seems to indicate that the first possible rationale for the *takanah* of *demai* holds true. The *Mishnah* (*Demai* 5:11) states:

If one separates (gifts) from one food that is Demai on behalf of another food that is Demai...It is Trumah, however, one must go back and separate again (on the other food).

If we assume, like the second possible explanation, that *Chazal* created a new *chiyuv* of *hafrashas peiros Demai*, why then would the *Mishnah* require one to repeat the *hafrasha*? The person already fulfilled their obligation of *hafrashas peiros demai*. If however, on the other hand, *Demai* is based on the concern for the possibility that the *peiros* have not undergone *hafrasha*, as described in the first explanation of *Reb Elchonon*, then one can understand the need to repeat the *hafrasha*.

- How much earth must cover a sunken shoot such that seeds can be planted over it? When is one allowed to plant seeds if less than this amount covers the vine-shoot? (א: ו)
- If someone is *mavrich* from three vines in a row, when does one regard all six vines as a *kerem*? (ב: ו)
- What is the law regarding planting near a dried-up vine? (ב: ו)
- What are the four cases listed in the *mishnah* where it is forbidden to plant in the area, yet if one does, the grain is not prohibited due to *kil'ei kerem*? (ג: ו)
- Explain the debate regard causing *kil'ei kerem* with one's vine in his friend's field? (ד: ו)
- What was the ruling of *R' Akiva* in the case where someone caused *kil'ei kerem* in their field during the *shmittah* year? (ה: ו)
- What should one do if their property, having been forcefully seized, was returned to them with *kil'ei kerem* during *chol ha'moed*? (ו: ו)
- What should one do if the wind blew his vines such that they bent over other produce? (ז: ו)
- If grain is within a vineyard during which period of time (include the start and finish times) of the growth of both plants do they become *assur be'hana'ah*? In other words, what is the *onat ha'kiddush*? (ז: ו)
- When is it forbidden to place a pot-plant containing a vegetable in a vineyard? (ח: ו)
- Explain the basic differences between *kil'ei kerem*, *kil'ei zeraim*, *kil'ei begadim* and *kil'ei behema*? (א: ח)
- What is the scope of the law when the Torah forbids using an ox and donkey to plough together – does it also apply to other animals? (ב: ח)
- What is the punishment for *kil'ei behema*? (ג: ח)
- Would a passenger in a wagon being pulled by two different animals also transgress this prohibition? (ג: ח)
- Can one tie a horse to the side a wagon that is being pulled by two oxen? (ד: ח)

- What are the four cases the *Mishnah* lists of unintentional planting and why is this important? (ה' א')
- Is one allowed to leave thorns growing in his vineyard? (ה' ח')
- Explain what is meant by the term *aris*? How much space must be left from vines planted in this manner, and from where is the spacing measured? (א' א')
- If the side of a mountain is divided in to levels (like a staircase) and an *aris* is constructed on one of the levels, how much space must be left between that vine and produce that will be planted on the next level? (ב' א')
- Do two rows of vines planted on bordering levels combined to define the area as a vineyard? (ב' ב')
- If someone is growing vines on a lattice frame, can they plant other produce under the frame that is not yet covered by the vine? What is the law if someone does plant grain that that area? (ג' א')
- Does that same ruling (as the previous question) apply if the person uses a fruit tree in place of the lattice frame? (ד' א')
- What is the ruling (with respect to the previous question) if a person used a non-fruit bearing tree in place of the lattice frame? (Explain the debate regarding what is considered an *ilan s'arak* with respect to this law.) (ה' א')
- How large must a breach be in an *aris* such that grain can be planted in the gap? (ו' א')
- Explain what is meant by the *mishnah* when it says the following:
 "עריס שהוא יוצא מן הכותל מתוך הקרן וכלה"
 And what is the ruling in such as case? (Note different opinions in the *Rishonim*) (ז' א')
- When is one allowed to plant underneath the reed extending out from an *aris*? (ח' א')
- The *mishnah* list three forms of extension under which one is not allow to plant other produces – what are they? (ט' א')
- Explain what is meant by the term *mavrich*? (א' א')

Kilayim

The Reasoning behind *Mitzvot*

Ben-Zion Hain

The 613 commandments that are in the Torah can be broken down into a number of different categories (many of which overlap). Positive and negative, between man and G-d and between man and his fellow man, those we understand and those that we do not, and many others. The name given to the final category, those commandments that we struggle to understand, are most commonly known as “*chukkim*” and the most common example of a “*chok*” is the *Parah Adumah* – the red heifer. A further example is that of *Kilayim*.

Messechet Kilayim is the fourth *messechet* of *Seder Zeraim*, and deals with the prohibited creation of new breeds of plants and animals as well as the mixing of existing materials such as wool and linen (*Shatnez*).

The laws of *Kilayim* are derived from the following *pasuk* in *Vayikra* (19:19): “You shall observe My decrees [Chukkim]: you shall not mate your animal into another species, you shall not plant your field with mixed seed; and a garment that is a mixture of combined materials shall not come upon you”. *Rashi* immediately writes in his commentary on this *pasuk* that “they are the decrees of the King and there is no point attempting to explain them”. Just like we do not understand the reasoning behind the *Parah Adumah*, so too, we don’t understand the reasoning behind the laws of *Kilayim* and it was for this reason that the Torah introduces these laws using the word “*chok*” - a term used for that which is unexplainable to human logic.

However, not all commentators agree with *Rashi* on this point. *Ramban*, in his commentary on this *pasuk*, states very clearly that there is a logical and understandable reason for the laws of

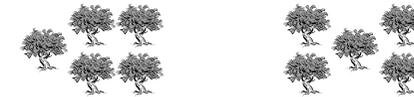
Kilayim and that they definitely do not fall into the category of “unexplainable”. *Ramban* explains that the reason *Hashem* commanded us to observe the laws of *Kilayim* is that anyone who attempts to create a new species of plant or animal by joining two existing species together is clearly denying the fact that *Hashem* created and completed the world in seven days. For if everything was complete, why would man have to seemingly “help” G-d by creating new species of plants or animals?

Furthermore, *Ramban* also offers an explanation as to why the word “*chok*” appears in the *pasuk*. It is not coming to teach us that the law is unexplainable (as *Rashi* did) but rather that the violation of these laws are a violation of the laws of nature and you should therefore “observe” the decrees/laws of nature set down by *Hashem* by adhering to the laws of *Kilayim*.

A further explanation is offered by the *Sefer HaChinnuch* (whose author is unknown) in his commentary to the 244th commandment – the prohibition of mating two animals of different species. The Torah states at the end of the sixth day of creation that *Hashem* “saw everything that He had made, and behold, it was very good” (*Bereshit* 1:31) According to the *Sefer HaChinnuch*, everything created by *Hashem* has a purpose and each creation is perfectly suited to its purpose. If someone were to change one of the creations by mixing it with another species, the new species would therefore lack the original perfection achieved by G-d.

This idea is expanded upon in his commentary to the 62nd commandment – not to allow a sorcerer to live. Not only does the creation of a new species destroy the purpose of that species and cancel the good that it would have provided to humankind, but the result of the creation of a new species is the nullification of the power of both the angels of the original species. This idea is based on a *Midrash* in *Bereshit Rabbah* (10:7) that says: “you will not find a blade of grass below [on earth] which does not have a celestial being above that bids it, Grow!” The creation of a new species not only destroys the angels appointed over the two

- Which of the following vine configurations would define the region as a vineyard? (ד: יג)

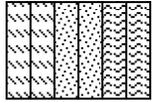


(a)

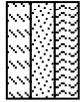
(b)

- If two rows of grapes were divided by a fence, when is the regions still defined as a vineyard? (ד: יג)
- How wide must the spacing be between two rows of vines so that the region is not defined as a vineyard? (ד: ח)
- How wide must the spacing be between each row of vines in a field that has many rows of vines so that the region is not defined as a vineyard? (Include both opinions) (ד: ט)
- If a field contains vines that have been planted haphazardly, can it still be defined as a vineyard? (ה: א)
- What is the minimum spacing between rows of vines such that the area can be defined as a vineyard? (ה: ב)
- Can grain be planted in a hole in the vineyard that is used for pressing wine? (ה: ג)
- When can a watchmen's hut in a vineyard not be used for planting grain? (ה: ג)
- How can one plant a single vine and grain within the same ditch? (ה: ד)
- Can one plant produce inside a house surrounded by vines? (ה: ד)
- How many vines are made *assur* if a vegetable is planted in the centre of vineyard, whose spacing between each of the vines is: (ה: ה)
 - 4 *amot*?
 - 5 *amot*?
 - 6 *amot*?
 - 7 *amot*?
- If someone finds a vegetable growing in his vineyard, does he need to remove it immediately? If not, when does leaving it become problematic? (ה: ו)

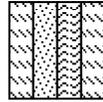
- What must someone do if they planted the maximum number for different vegetables in the 8 by 8 area and the patch reduced in size? (גי: ב') (ג')
- How much space must be left between two regions of different vegetables? (גי: ג')
- Which of the following field structures is permissible/forbidden? (גי: ד')



(a)



(b)



(c)

- In what situation can two different species be planted in the same hole without any space separating them? (גי: ה')
- Explain the debate regarding inserting rows of pumpkins into a field of onions? (גי: ו')
- What spacing must be left between: (גי: ז')
 - A pumpkin planted in a vegetable field?
 - A row of pumpkins planted in a vegetable field? (both opinions)
- What is *karachat hakerem* and what is its minimum size? (Include both opinions) (גי: ח')
- What is *machol hakerem* and what is its minimum size? (Include both opinions) (גי: ט'-ב')
- How does R' Yehudah define *machol hakerem*? (גי: י')
- How high must a fence be to be considered an adequate division? (גי: יא')
- How large can a breach in the fence be without rendering it unusable as a continuous division? (גי: יב')
- How many minor breaches can a fence have without rendering it unusable as a continuous division? If there are too many breaches, can one plant next to the existing fence? (גי: יג')
- How many vines are needed to define the region as a vineyard (include both opinions) and why is this important? (גי: יד')

original species but fails to create a new angel for the new hybrid species.

Finally, although it would seem from the above explanations that man is forbidden to make even the smallest improvement to his quality of life, it should be noted that the laws of *Kilayim* are limited to specific matters. They do not limit the infinite number of combinations that are so much a part of modern life. To the contrary, man is duty bound to improve the world and in a sense, “complete” the work of creation.

Kil'ei Hakerem

Kilayim (1:9) Yehuda Gottlieb

The *Mishnah* in *Messechet Kilayim* (1:9) states:

Planting wheat and barley seeds together (simultaneously) - this (act) constitutes *kilayim*. *Rabbi Yehudah* says - it is not *kilayim*, unless two seeds of wheat are planted together with barley, **or** two seeds of barley planted together with wheat, **or** there is wheat, barley and grape seed planted simultaneously.

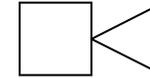
There is an incident that occurs in the *Gemara* (*Kiddushin* 39a) that mentions this law:

Rav Chanan and *Rav Anan* were walking along a road... they saw (another) man sowing wheat and barley among grapevines. *Rav Anan* said to *Rav Chanan*- “Come Master, excommunicate him (for violating the laws of *Kilayim*)⁵.” *Rav Chanan* replied “You are not enlightened (educated) - do we not hold like *R’ Yoshiya* who states (that one is not obligated) ...until he plants wheat, barley and grape seed simultaneously?”

In this *Gemara*, *R’ Yoshiya* holds that the biblical prohibition of planting *kilayim* in a vineyard - *kil’ei hakerem* - in *Eretz Yisrael* refers specifically to the simultaneous planting of a grape seed and two other species of seed in the same place (as in our *Mishnah*). Therefore this person described in the *Gemara* who planted wheat and barley seeds near existing grapevines was not in violation of the laws of *kil’ei hakerem*, and this is the reason for *R’ Chanan’s* harsh answer to *Rav Anan* in the *Gemara*.

⁵ [Ed. note:] This incident occurred outside Israel. One must be aware that in *chutz la’aretz*, there is no prohibition of *kil’ei zeraim* but there is a rabbinic prohibition of *kil’ei hakerem* which mirrors the biblical prohibition of *kil’ei hakerem* in Israel. Consequently, *kil’ei hakerem* is the only issue addressed in the story and *Rav Anan* wanted to excommunicate the farmer for transgressing this rabbinic prohibition.

- What is different about the way we treat *kanbus* and *lof* with regards to *kilayim*? (ב' ח')⁵
- What distance must a farmer leave between strips of different produce to avoid the problem of *kilayim*? (ב' ח')⁶
- Is it permissible to have the following field formation of two different types of grain? (ב' ז')⁷



- If someone has a wheat field, and his neighbour has a barley field, can he plant a barley field in between their two fields? (ב' ז')⁸
- If both he and his neighbour had wheat fields, can he plant a strip of anything in between the two fields? Why? (ב' ז')⁹
- Is there a difference if both fields contain the same vegetables? (ב' ח')¹⁰
- What things divide a field such that different seeds can be planted on either side without a concern for *kilayim*? (ב' ח')¹¹
- How does one go about planting a field “like patchwork”? Explain the debate regarding planting multiple patches of the same seed. (ב' ט')¹²
- Are the following things included when measuring out the space when creating a patchwork field: Graves? Holes? Rocks? (ב' י')¹³
- How much space must one leave between: (ב' י')¹⁴
 - Two different fields of grain?
 - Two different vegetable fields?
 - A vegetable and grain field?
- Is it a problem if someone plants two different grains, with the required spacing in between to the different regions, yet the produce grew (bent) and overlapped each other? (ב' י"א)¹⁵
- What is a maximum number of difference vegetable patches that can be planted in an area: (ב' י"א)¹⁶
 - 6 *amot* by 6 *amot*?
 - 8 *amot* by 8 *amot*?
- Does the above ruling also apply for grain? (ב' י"ב)¹⁷

Kilayim

- The first *Mishnah* list pairs of produce – would they be considered *kilayim* if planted together? (א:א)
- The second and third *Mishnayot* lists pairs of vegetables – are they considered *kilayim*? (ב:ג-א)
- What pairs of similar things are listed in the next *mishnah* and what is the *kilayim* related concern? (ד:א)
- The next *Mishnah* returns to listing pairs of vegetables – are they considered *kilayim*? (ה:א)
- What pairs of similar things are listed in the next *mishnah* and what is the *kilayim* related concern? (hint: this time it does not refer to plants) (ו:א)
- Explain the debate regarding grafting vegetables and trees. (ז:א)
- Can someone place a vine in a watermelon if his intentions are that the vine draws water from the watermelon? (ח:א)
- What are the four concerns that the *mishnah* addresses when burying bundles of radishes at the base of a vine? (ט:א)
- Explain the debate regarding planting a single wheat seed and a single barley seed together? (י:א)
- At what ratio of two grains that ordinarily cannot be planted together, does the prohibition of *kilayim* not become an issue? (יא:ב)
- Explain the debate regarding what one can do if the above permissible proportion is not met. (יב:א)
- Does the above described measure hold for a mixture of more than two types of grain? (יג:ב)
- Does the above described measure hold for a mixture including garden seeds? (יד:ב)
- What should someone do if they have initially planted wheat seeds and wants to now grow barley? What if the wheat had already begun to grow? (טו:ב)
- How does one go about converting a vineyard to a field producing grain? (טז:ב)

The ruling in this case is also brought by the *Rambam*, when he explains that the *Issur* of *kil'ei hakerem* only applies when two seeds are planted simultaneously with grape seed, whereas planting one seed (of grain) with a grape seed would be permissible. The *Rambam* in *Hilchot Kilayim* (1:6) states:

“It is permissible to plant a seed (eg. wheat or barley) and a seed of a tree or vine together”.

Since the *Rambam* does not distinguish between a seed of a tree and a vine (grape seed) it appears that it is permissible.

This form of *kilayim* only occurs in a case where two seeds and a grape seed are planted together- in such a case one would be in violation of the prohibition of *kil'ei hakerem*. However, if only one seed was planted with a grape seed one would not be in violation of this prohibition.

The reason behind this is because of the *pasuk* in *Devarim* (22:9) which states: “And your vineyard should not be sowed with *kilayim*”. Some *Tana'im* interpret this *pasuk* to mean, that there should not be *kilayim* (i.e. two seeds) that are mixed with the vineyard (grape seed). Therefore, if there was only one seed that was planted with the grape seed, that would not be *kil'ei hakerem* in accordance with the interpretation of the *pasuk*, and one would not have transgressed the prohibition of *kilayim*.

This explains why one would not be obligated in *kil'ei hakerem*; however, there is also a prohibition of *kil'ei zeraim* (mixing of seeds). Why would one not be *obligated* for mixing the seed of a tree or vine (i.e. grape seed) with a seed of another species?

The *Rambam* answers that it is permitted to mix seeds of different trees together. According to the *Rambam*, a tree is not considered with other grains and does not come under the prohibition of *kil'ei zeraim*, and therefore it is permissible to mix a seed of a tree (seeming to include even a grape seed) with a grain seed.

Levud
Kilayim (4:3)
David Bankier

In this *messechet* many rabbinic laws have been studied that restrict the manner in which different produce may be planted so that it will not appear that the owner of the field is engaged in *kil'ei zeraim* or *kil'ei kerem*. In other words, even though there is no biblical prohibition against planting different species next to each other, the primary motivation for these rabbinic restrictions has been countering possible suspicion of transgression – *ma'arat ayin* (eg, 3:5). One *Mishnah* (4:3) included the leniency that if a field contained a fence that divided between grapes and grain, each could be planted next to the fence without the ordinarily required empty space.

The definition of a continuous wall is important in the laws of *Shabbat (eruv)* and *sukkah*. The *Mishnah* (4:4) goes one step further adopting further leniencies from these halachic categories: A partition of (unconnected standing) reeds – if between reed and reed be less than three handbreadths (*t'fachim*) sufficient for a kid to enter, it counts as a valid partition (- this principle is known as *levud*). A fence that is breached up to a space of ten cubits is considered as an entrance; if it be more than this, planting opposite the breach is forbidden. If breaches be made therein, if what remains standing exceeds what is broken down it is permitted but if what is broken down exceeds what remains standing then opposite the broken down parts is forbidden.

Interestingly, even though the primary concern is *ma'arat ayin*, since a fence with multiple breaches⁶ is considered a complete fence in other halachic area, an imaginary line is drawn

⁶ Provided they are each less than ten *amot* and in total less than a majority of the length of fence.

should he do? Does he act differently if the dates were *demai*? (יג: יא)

- What is the ruling if someone has two baskets of *tevel* produce and says: (יג: יא)
 - “The *ma'asrot* of the first basket shall be in the second basket”?
 - “The *ma'asrot* of this one shall be in the other, and the other's in this one”?
 - “The *ma'asrot* of each shall be in the each other's basket”?
- What should one do if he has a mixture of: (יג: יא)
 - 100 parts *tevel* and 100 parts *chulin*?
 - 100 parts *tevel* and 100 parts *ma'aser rishon*?
 - 100 parts *chulin* and 100 parts *ma'aser rishon*?
 - 100 parts *tevel* and 90 parts *ma'aser rishon*?
 - 90 parts *tevel* and 80 parts *ma'aser rishon*?
- What should one do if when separating *ma'aser rishon* from barrels of wine, he is unaware of his intention when saying: (יג: יא)
 - The outer row shall be *ma'aser*?
 - Half the outer row shall be *ma'aser*?
 - A row shall be *ma'aser*?
 - Half a row shall be *ma'aser*?
 - One barrel shall be *ma'aser*?

- What is the law regarding the ma'asrot from produce collected by an aris *Yisrael* from a field belonging to a *kohen* or *levi*? (י:ד)
- Does the previous law differ when the aris is collecting olives and making oil? (י:ה)
- Explain the debate between *Beit Shammai* and *Beit Hillel* regarding the restriction on the sale of olives. (י:ו)
- What must one do when sharing a wine press with someone who is not believed with respect to separating *ma'asrot*? (י:ז)
- In what situation is one allowed to join in partnership or joint-*arisut* with someone who is not believed with respect to separating ma'asrot? (י:ח)
- Does the previous law differ if the two parties inherited a property? (י:ט)
- How should a *ger* and *goi* divide the inherited possessions? (י:י)
- If an *am ha'aretz* selling fruit in *Surya* admits that the fruit is from Israel yet claim that tithes have been taken, is he believed? Why? (י:יא)
- Explain the issue raised regarding a *chaver* who buys produce for himself and an *am ha'aretz*. (י:יב)
- Can one separate *trumot* and *ma'asrot* from *demai* on *Shabbat*? What can a *chaver* do if he accepts an invitation to eat at an *am ha'aretz's* house on *Shabbat*? (י:יג)
- Continuing from the previous question, provided that the *chaver* makes the necessary "preparation" what must he do before, e.g., drinking wine at the meal? (י:יד)
- What must an employee do before eating food provided by his *am ha'aretz* employer (3 opinions)? (י:טו)
- If someone purchases wine from a *Kuti* and does not have time to separate *trumot* and *ma'asrot* before *Shabbat* what can they do during *bein ha'shmashot* (between sunset and nightfall)? (י:טז)
- If one has dates that are *tevel* at home, and is unable to get home and separate *trumot* and *ma'asrot* before *Shabbat* what

connecting the standing fence and one can even plant grapes and grain each on either side of the breach.⁷

How does one understand the first law of the *Mishnah - levud*? The *Tana* simply wrote that provided that the space between each of the reeds is less than three *t'fachim* then the fence is valid. Accepting that the fence is valid how does one treat the empty spaces between the reeds? *Rashi* (*Eiruvim* 16a) explaining the *Gemarah* that considers this reed fence, writes that even if the sum total of the space between the reeds adds up to a majority of the perimeter of the fence, the fence is still valid. Unlike small breaches which are viewed as permissible empty spaces or openings, *Rashi* explains that the principle of *levud* enables the reeds and spaces between them to be viewed as if they are one continuous standing section of fence.

A priori, there are two ways one could understand how *levud* enables one to see the fence as a continuous section. One could simply ignore the empty space and imagine it did not exist. Alternatively view the space as being filled in. *Rashi* (*Shabbat* 97a) writes that the *levud* is the basis for the rule that if a raised area in a public domain is less than three *t'fachim* high, it is annulled and considered part of the public domain. At first glance this would appear that *levud* enables one to ignore this difference in height. Nevertheless, one could still suggest that *levud* is being used to smooth (or fill) the difference in height of the two regions such that it is considered continuous.

⁷ One should note that in *hilchot Shabbat*, if the breaches exceed the standing fence that the fence is ineffective at defining the area as a private domain, and one cannot carry inside that area, even next to the fence. With *kil'ei kerem*, one does not need to define the area as a domain; instead they simply require a division. Therefore if the breaches exceed the standing fences then one can still plant on either side of the parts of the fence that are still standing provided that they are at least four *t'fachim* long (see *Eiruvim* 16a).

The principle of *levud* is also used when validating a *sukkah* wall that is hanging less than three *t'fachim* above the ground. *Rashi* (*Shabbat* 97a) states explicitly that the empty region is considered to be filled in. Furthermore the *Ran* (*Sukkah* 4a) agrees with this assertion, claiming that if one was to imagine that the space did not exist, then the *levud* could not be used to complete the height of a small (ten *t'fachim*) *sukkah*.

- How does one “fix” demai bread purchased from a baker? (ה' א:)
- How does one separate *trumah gedolah* and *trumah ma'aser* from *tevel* at once? (ה' ב:)
- Explain the debate regarding separating the tithes from one demai loaf for other demai loaves:
 - Purchased from a baker? (ה' ג:)
 - Purchased from a retailer? (ה' ד:)
- What is special about the way produce belonging to or purchased from an *ani* must be tithed? (ה' ה:)
- Can one tithe from one group of produce for another if they were purchased at different times from
 - The same wholesaler? (ה' ו:)
 - A private owner (*ba'al ha'bait*) selling from home? (ה' ז:)
 - A *ba'al ha'bait* selling at the market (NB: two cases)? (ה' ח:)
- If someone purchased *tevel* from two different people can he tithe from one for the other? (ה' ט:)
- Can one tithe from produce belonging to a non-Jew for produce that belong to a Jew? Belong to *Kuti* for a Jew? (ה' י:)
- What is the status of produce that has grown in a pot that has a hole in the bottom (*atzitz nakuv*)? (ה' יא:)
- What is the law if someone tithes: (ה' יב: א)
 - From demai for other demai produce?
 - From demai for *tevel* produce?
 - From *tevel* for demai produce?
- What is an *aris*? What is a *choker*? (ה' יב: ב)
- What must an *aris* and *choker* do before giving the produce to the owner of the field? (ה' יב: ג)
- What is the difference in the responsibilities of a *choker* in the field belonging to an *Yisrael* and a *Nochri*? (ה' יב: ד)
- Explain the debate regarding a *kohen* or *levi* who is an *aris*? (ה' יב: ה)
- What is the law regarding *ma'aser sheni* from produce collected by an *aris* who lives outside Jerusalem from a field belonging to a *Yerushalmi*? (ה' יב: ו)

- Can someone give someone else *demai* food as a gift if they notify them that it is *demai*? (יג: ג)
- What is law regarding tithed wheat given to a *kuti*, *am ha'aretz* and *nochri*: (יד: ג)
 - For grinding?
 - As a collateral? (Explain the debate in this case)
- Explain the debate regarding giving un-tithed produce to an inn-keeper for safe keeping? (יד: ג)
- According to *R' Yehudah* what precautionary measures must one take when giving wheat to his mother-in-law to make bread? (יג: ג)
- If someone forgot to separate *trumot* and *ma'asrot* from *demai* and it is now *Shabbat* what can they do? Does the ruling change on *motzei Shabbat*? (יד: ד)
- What can one do if *trumot ma'aser* separated from *demai* gets mixed up with the original produce? (יד: ד)
- When do the *Chachamim* allow you to trust the *am ha'aretz*'s claim that his produce has been tithed? (יד: ב)
- Explain the debated between *R' Eliezer* and the *Chachamim* regarding the separating *ma'aser ani*? (יג: ד)
- On *Shabbat* can someone separate food that have been called *trumot ma'aser* or *ma'aser ani* prior to *Shabbat*? (יד: ד)
- If someone sends an *am ha'aretz* to buy food, when can he believe the messenger that he bought it from a seller of *tithed* produce? (יד: י)
- If someone is visiting a foreign city, how can he determine who is a *ne'eman*? (יג: ד)
- If the visitor went to person A under the advice of person B, and asked person A which local seller is careful about the laws of *chadash* and the response was person B – can he be trusted? (יג: ד)
- If two travelling salesman enter a city and one says that his produce is *chadash* and his friend's is *yashan* while the other salesman says that his friend's produce has been tithed while his own has not – can they be trusted? (יג: ד)

Kilayim in the Heart of the Kerem

Kilayim (5:5)
Pinchos Chalk

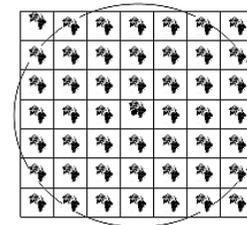
The *Mishnah* in *Kilayim* (5:5) says:

“If someone plants a vegetable in a vineyard or [sees it growing and] leaves it, 45 vines around the vegetable become prohibited. When is this so, if the vines are planted either 4 *amot* (cubits) apart or 5 *amot* apart. However if they were planted 6 *amot* apart or 7 *amot* apart then only the vines that are within a radius of 16 *amot* become prohibited. We consider a circle and we do not square off [the area].”

The reason that we take a radius of 16 *amot* from the vegetable is because 16 *amot* is the maximum amount of space that you can have between vines in a vineyard and still say that the vines form a vineyard. If the space between the vines is greater than this then they are considered as individual vines. As the *Mishnah* (4:9) says:

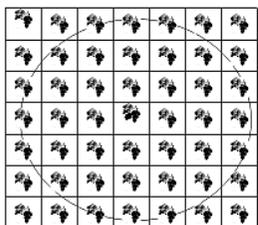
“If someone plants his vineyard with a spacing of more than 16 *amot* he is allowed to plant other seeds in between.”
Subsequently any vine that is growing within 16 *amot* of the vegetable is considered to be growing together with the vegetable and is prohibited.

In a case where the vines are planted 4 *amot* apart the *Mishnah* is simple to understand. Consider the following diagram:



You have 49 vines in a grid of 7 × 7. Each vine is four *amot* apart. There is a vegetable growing in the centre of the grid and a circle of 16 *amot* radius is drawn around the vegetable. The circle includes all the vines except the 4 corner ones, $49 - 4 = 45$.

The *Mishnah* is more difficult to understand in the case where the vines are planted 5 *amot* apart as in the following diagram:



In this case there are three vines at every corner that are not included in the 16 amah line. $49 - (3 \times 4) = 37$. Only 37 vines should become prohibited, why does the *Mishnah* say that 45 become forbidden?

The *Rambam* answers this question by explaining that not only do vines that are within the circle become forbidden but also any vine that is within 4 *amot* of the circle becomes forbidden. This is because the area around each vine is cultivated for 4 *amot* in order for the vine to grow properly. If the circle intercepts the 4 *amah* area around the vine then the vine is considered to be growing together with the vegetable and becomes forbidden. Therefore effectively you have to consider a circle with a 20 *amah* radius. This includes all the vines in the grid except for the four corners, giving you 45 vines.

The *Rambam* is difficult to understand. If you always extend the 16 *amah* circle by 4 *amot*, because you are concerned not only about the vines that are within the circle but also about the vines that are within 4 *amot* of the circle, then why does this not also apply in the case of the vineyard that is planted at a spacing of 4 *amot*? Why do you not even consider vines that are exactly on the perimeter of the circle? Because of this question the *Rambam's* explanation of the *Mishnah* is rejected by the *Kesef Mishnah* and the *Rosh*.

I would like to suggest the following answer:

If a vineyard is planted at a spacing of 4 *amot* then the vines are not considered independently. They do not have individual significance. Each vine is considered only as a part of the overall vineyard. This is for two reasons.

1. Each vine shares its 4 *amot* (*kedei avodat hakerem*) with a number of other vines.
2. 4 *amot* was the typical spacing for a vineyard.

Demai

- What foods were the *Chachamim* lenient towards with respect to *demai*? (א: א')
- How is *ma'aser sheni* separated from *demai* different from regular *ma'aser sheni*? (ב: א')
- If someone purchases produce from an *am ha'aretz* for particular uses they may not be treated as *demai* – what are they? (ג: א')
- What other things purchased from an *am ha'aretz* are not considered *demai*? (ג: א')
- What may *demai* be used for that *tevel* may not? (ד: א')
- What other laws are more lenient in *demai* than *tevel*? (ד: א')
- What foods does *demai* apply to beyond *ch'ziv*? (ה: א')
- What does an *am ha'aretz* need to do to become *ne'eman*? (ו: ב')
- What is the difference between someone who is *ne'eman* and a *chaver*? (ו: ב')
- How does one become a *chaver*? What further restriction's does *R' Yehuda* add? (ז: ב')
- What must a baker remove from his bread made from produce purchased from an *am ha'aretz*? (ז: ב')
- What type of produce sold are excluded from the law of *demai* and why? (ח: ב')
- What does *R' Meir* add to the rule described in the previous question? (ח: ב')
- Which two groups of people may be given *demai* to eat? (ט: ג')
- Explain the debate between *Beit Shammai* and the *Chachamim* regarding a *gabbai tz'daka* and *demai*? (ט: ג')
- What three things does the *mishnah* direct one to do to prevent others from eating food from which *trumot* and *ma'asrot* have not been taken? [hint: lightening the load, returning produce and storing food] (י: ב-ג')

- With respect to vegetables – when do we believe the poor person? (ד: ח)
- When distributing *ma'aser ani* to the poor directly from the threshing floor, what is the minimum quantity that one must give each poor person? (give the general rule) (ה: ח)
- What should one do if he does not have that amount to give to everyone? (ו: ח)
- What does the *gabbai tz'daka* provide for a poor person: (ז: ח)
 - Travelling through the city?
 - Staying overnight?
 - Staying for over Shabbat?
- What is the financial status of one who can take from the *tamchui? Kuppah?* (ח: ח)
- What is the financial status of one who can take the *matanot ani'im*? How do pledges, *ketubah* and property enter into the calculations? (ט: ח)
- Regarding the previous question, does it make a difference if someone had less than that amount but was trading and supporting himself on that sum of money? (י: ח)
- What does the *Mishnah* say about one who:
 - Takes the *tz'daka* when he does not need to?
 - Does not take *tz'daka* when he needs to?
 - Judges truthfully?
 - Accepts bribes?
 - Pretends to be disabled?

Therefore when you draw the circle around the vegetable that is growing in the centre of the vineyard, the circle is drawn precisely, cutting a swathe through the vineyard. Any vine that falls within the circle is prohibited because this area of the vineyard becomes a prohibited *kilayim* area. Any vine that is outside of the area is not within the problematic area of the vineyard and is permitted.

If, however, the vines are planted at a spacing of 5 *amot*, each vine has its own individual cultivated area surrounding it. Therefore each vine is considered individually to see whether it is within the 16 *amah* proximity of the vegetable. If the vegetable is within 16 *amot* of the vine's individually cultivated space, then the vine is considered to be growing together with the vegetable and is *assur* because of *kilayim*.

What's yours is yours

Kilayim (7:4)

David Bankier

The *Mishnah* (7:4) states:

If one allows his vine to grow over the grain crop of his neighbour, he forfeits it (it must be burnt) and he is responsible for it (i.e., liable for the damage caused). *R' Yosi* and *R' Shimon* say “one cannot render forfeit something that does not belong to him.”

The above debate requires further explanation. At first glance the opinion of *R' Yosi* and *R' Shimon* appears somewhat difficult, as in general one can make the property of his friend *assur*. The *Rishonim* therefore explain that *R' Yosi* and *R' Shimon* maintain that this case is an exception to the rule.

Some explain that the exception is built on a *pasuk*. The *Tosfot Yeshanim* (*Yevamot* 83b) uses the following *pasuk* to explain that one only has the ability to cause the prohibition to take affect on his own field:

”שדך לא תזרע כלאים”

The *Bartenura* argues similarly from the following *pasuk* (*Devarim* 24):

”לא תזרע כרמך כלאים”

The debate in the *Mishnah* is therefore understood as being connected to an understanding of the *p'sukim*.

The *Tosfot* (*Yevamot* 83a) however cite the following *Mishnah* (5:6):

If someone sees vegetables in his vineyard and says, “When I come to them I will remove them – this is allowed; “When I come back I will pluck them” – if they increased by one two-hundredth, it is forbidden.

- What three qualities of an olive tree would exempt it from the law of *shichecha*? (א: ז)
- Explain the opinion of *R' Yosi* with regards to *shichecha* and olive trees. (א: ז)
- Explain the law of *sata'im* by olive trees? [Note: this *mishnah* is understood differently by the *Rishonim*] (ב: ז)
- Explain the debate regarding when olives left in the tree are considered *shichecha*? (ב: ז)
- What is *peret*? (ג: ז)
- Can someone place a basket under the vine when picking grapes? (ג: ז)
- What is *olelot*? (ד: ז)
- Explain the debate regarding the restrictions on where one can prune his vine? (ה: ז)
- What is *kerem reva'i*? To what other law is it similar? (ו: ז)
- *Beit Shammai* and *Beit Hillel* argue whether a number of laws also apply to *kerem reva'i* – what are they? (ו: ז)
- What is the law regarding a vineyard that contains only clusters of *olelot*? (ז: ז)
- If someone sanctifies their vineyard, are the poor still able to take *olelot*? (ח: ז)
- What type of vines are *aris* and *rogliyot* and when does *shichecha* apply? (ח: ז)
- When are the general public allowed to take: (א: ח)
 - *Leket*?
 - *Peret* and *olelot*?
- *Matanot ani'im* from olive trees?
- When does one believe a poor person (*am ha'aretz*) who claims the produces he is selling is *leket*, *peah*, *shichecha*, *ma'aser ani*? Why is this important? (ב: ח)
- Does one believe a *levi* who claims he is selling *ma'aser rishon*? (ב: ח)
- With respect to the first question – does it make a difference what he is trying to sell? (ג: ח)

- Transferring the sheaves from piles to the threshing floor?
- Explain the debate regarding *hefker le'aniyim*? (י'א: י')
- Explain the debate regarding a forgotten sheaf that:
 - Is much larger than all the other sheafs. (י'א: י')
 - Is placed in a very specific location. (י'ב: י')
- In which specific cases would *Beit Hillel* agree that a forgotten sheaf is not considered *shichecha*? (י'ג: י')
- What is considered *roshei shurot*? (י'ד: י')
- What is the maximum number of forgotten sheaves that would be considered *shichecha*? (Include both opinions) What other *matanot ani'im* share this law? (י'ה: י')
- What is the limit on the size of a sheaf for it to be considered *shichecha*? Explain the debate regard two forgotten sheaves that add up to this size? (י'ו: י')
- What is the limit on the size of forgotten standing wheat for it to be considered *shichecha*? Is there a difference if there is an unusually small yield in the forgotten area? (י'ז: י')
- How much standing wheat is required to save nearby forgotten standing wheat or sheaves from becoming *shichecha*? (י'ח: י')
- Can sheaves save forgotten standing wheat or sheaves from becoming *shichecha*? (י'ח: י')
- Do standing and cut wheat or onions and garlic combine to the measure that exempts them from *shichecha*? Include *R' Yosi's* opinion. (י'ט: י')
- Produce that have particular uses are exempt from *shichecha* – what are these uses? (י'י: י')
- Explain the debate regarding whether produce that grows underground are exempt from *shichecha*? (י'י: י')
- Does *shichecha* apply to produce forgotten by a blind person, or produce that was cut at night? (י'י"א: י')
- What is the effect of making the following condition: I am reaping my field on the condition that I will take anything I forget? (י'י"א: י')

They continue, explaining that *R' Yosi* and *R' Shimon* maintain that this prohibition is different, in that it depends on the thought of the field's owner (*machshava*). Consequently without the consent of the owner, someone else cannot cause the prohibition to take effect on his field.

According to the *Tosfot*, how would they understand the position of the *Tana Kama*? It is very difficult to say that this *machshava* can be provided by another source. One could suggest that in the case here, since the person is performing an action by bending his vine over the field of his neighbour, no *machshava* is required. Consequently the prohibition can take effect on someone else's property like any other case. The *Tana Kama* may be arguing that *machshava* is only significant when there is no identifiable action (*ma'aseh*) like in the case of *m'kayem* cited by the *Tosfot*.

According to *R' Yosi* and *R' Shimon*, even though the friend's produce is not effected, what is law regarding the vine? The *Yerushalmi* (7:3) analyses this issue in further detail. *R' Yochanan* maintains that benefit from the vine is indeed prohibited, while *R' Elazar* argues that just as the object that prohibits (referring to the produce) does not become *assur*, so to the vine, which usually would become prohibited in regular case, does not become *assur*.

R' Elazar does not view the vine and produce as two equal ingredients that are prohibited to come together (like milk and meat). Rather he views the produce as the object that acts upon the vine prohibiting them both. Interestingly, the *Gemarah* continues explaining that if someone directed his neighbour's vines over his own produce, then *R' Elazar* would agree with *R' Yochanan* that even though the neighbour's vine is unaffected, the produce becomes *assur*.

One should note from the above discussion that both agree that at some point, prohibition against deriving benefit from the produce (*issur hana'ah*) that has resulted from *kil'ei kerem* can be partially applied. A final open question may therefore be asked: Is this

partial *issur hana'ah* resulting from a transgression of *kil'ei kerem*? Consequently, even though the *issur hana'ah* can only be partially applied, someone may still completely transgress *kil'ei kerem*. Alternatively, is *kil'ei kerem* inherently connected to a resulting complete *issur hana'ah* such that where the *issur* is only partially applied, the prohibition cannot be violated? Accordingly the partial prohibition would be the result of an externally applied rabbinic fine (*knas*).

These questions could underpin the debate between *R' Yochanan* and *R' Elazar*. *R' Yochanan* may also agree that the produce is defined as the object causing the prohibition and consequently no prohibition has been violated, yet the partial *issur hana'ah* is a rabbinic enactment. *R' Elazar* however argues that if the produce is unaffected, no prohibition is breached. Yet only once the produce becomes prohibited, even though the vine cannot be affected, the prohibition is still transgressed and as much that can be made *assur* (i.e., the produce) becomes *assur*.

- A case where the wind has scatter the collected produce over an area from which *leket* has not been collected? (ה'א:)
- A case where one ear of corn which is *leket* gets mixed up in a pile of corn? (ה'ב:)
- When would a single standing ear of corn belong to the owner of the field and when would it belong to the poor? (ה'ג:)
- Explain the debate regarding watering one field prior to *leket* being collected. (ה'ד:)
- If a wealthy person who during his travels ran out of money and was forced to eat from *leket*, *shichecha*, *peah* or *ma'aser ani* what should he do when gets home? (Explain the debate) (ה'ה:)
- What must be done to enable the owner of a field to exchange regular produce with a poor person's produce (which were *matanot ani'im*)? (ה'ו:)
- If a poor person is hired to reap a field, what are the two cases where may he take *leket*, *shichecha* and *peah*? Which of the two cases can he take *ma'aser ani*? (ה'ז:)
- If a poor owner sells his field to another poor person can either of them now take the *matanot ani'im*? (ה'ח:)
- Can a person hire someone a worker on the condition that his son collects the fallen ears of corn after him? (ה'ט:)
- What *pasuk* does the *Mishnah* cite when describing one who prevents the poor from collecting *leket* as stealing? (ה'י:)
- If either the owner of the field or a worker (but not both) forgot sheafs in the field is it considered *shichecha*? (ה'יא:)
- If a poor person hid a sheaf from the owner causing him to leave it behind, is it *shichecha*? (ה'יב:)
- Is it considered *shichecha* if someone forgot a sheaf when: (ה'יג:)
- Collecting them to make other sheaf structures?
- Collecting them to make piles?
- Transferring the sheaves directly to the threshing floor?

- What would the law be if in the former case, a majority of the poor requested that the owner distribute the produce (and visa versa)? (ד' א: ב-י)
- What is the law regarding a poor person who tries to conceal some of the standing *peah* so that he can take it? (ד' ג: י)
- Are there any restrictions on how the *peah* can be cut by the poor? If so, what are they and why? (ד' ד: י)
- What are the three times of the day when *peah* is given? (ד' ה: י)
- Explain the debate between *Rabban Gamliel* and *R' Akiva* regarding why these times were established. (ד' ו: י)
- What was different about how *Beit Namer* left *peah*? (ד' ז: י)
- Is a non-Jew who converts to Judaism after harvesting his field obligated to leave *peah*, *leket* or *shichecha*? (ד' ח: י)
- In what situation would someone who sanctified their field and then redeemed it from *hekdesh* be exempt from leaving *peah*? (ד' ט: י)
- In what situation would someone who sanctified their fruit and then redeemed it from *hekdesh* be exempt from taking *ma'asrot*? (ד' י: י)
- Explain the debate about whether a wealthy person can be *zoche peah* for a poor person. (ד' יא: י)
- When is one exempt from taking *ma'asrot* from the *leket*, *shichecha* and *peah* of a non-Jew? (ד' יב: י)
- What is *leket* (be specific)? Explain the debate about *rosh ha'yad* and *rosh ha'magal*. (ד' יג: י)
- Is it *leket* if the owner drops the produce as a result of being pricked by a thorn? (ד' יד: י)
- When does produce found in ant holes belong to the owner? When does it belong to the poor (and how much)? (ד' טו: י)
- What is the law regarding:
 - A pile of produce placed in a location from which *leket* has not yet been collected? (ד' טז: י)

Adnei Ha'Sadeh

Kilayim (8:5)

Ben-Zion Hain

The eighth *perek* of *Messechet Kilayim* talks about the types of animals that can and cannot work together in the field due to the *issur* of *Kilayim*. For example, a mule whose mother is a horse may not work with a mule whose mother is a donkey. Yet two mules that both had donkeys for mothers may work together. During this chapter, a wide range of animals are discussed including animals which are no longer found in *Eretz Yisrael* such as elephants and monkeys (see 8:6).

However, no creature is as interesting as the “*Adnei Ha'Sadeh*” that is mentioned in *perek 8 Mishnah 5*. According to the *Tana Kama*, an *Adnei Ha'Sadeh* is considered an animal in every respect, yet *R' Yosi* argues that it has the same laws as a human, with regard to *tum'ah* and *taharah*. But what is an *Adnei Ha'Sadeh*?

The *Tiferet Yisrael* offers the simplest answer. He claims that an *Adnei Ha'Sadeh* is an orangutan, which, as we know, has many characteristics that are similar to humans. However, the *Talmud Yerushalmi (Messechet Kilayim 8:4)* claims that an *Adnei Ha'Sadeh* is some type of wild man who lives in the forests or mountains. It is at this point that the answers start to become more magical and mysterious.

The *Rambam* in his *Perush Hamishnayot (Kilayim 8:5)* explains that an *Adnei Ha'Sadeh* is a creature that talks constantly even though its speech is unintelligible, and talks similar to a human. The *Rambam* finishes his explanation by adding that much is written about this creature in ‘books’.

Some of these ‘books’ may include the explanation of the *Bartenura* who explains that the *Adnei Ha’Sadeh* is an animal whose features are similar to that of humans yet it is connected to the ground by an umbilical cord through which it draws nutrients. Its real name is “*Yaduah*” and it is a fearsome creature that devours any other creature that comes too close. The *Bartenura* concludes by advising us that the best way to hunt this animal is to shoot arrows directly at the cord – its life source – and once this is damaged, the *Yaduah* will die immediately.

This explanation is somewhat puzzling. If the *Yaduah* is so dangerous, why would anyone risk trying to hunt it? The answer to this lies in *Rashi*’s explanation to *Vayikra* 19:31: “Do not turn to any medium (*Ovot*) or *Yidoni*”. *Rashi* explains that a *Yidoni* gained a supernatural ability to see into the future by inserting a bone of the *Yaduah* into their mouths and either the bone would talk (*Rashi*) or the bone would give them the ability to talk (*Tiferet Yisrael, Rambam*). Another feature of this bone is that according to the *Ra’avad*, you can insert this bone into the mouth of a dead person and conduct a conversation with that person. It is these magical and mysterious features that clearly make the *Yaduah* a very sought after prize.

After evaluating a number of different options as to what is an *Adnei Ha’Sadeh*, it might now be possible to better understand the reasoning behind the views of the *Tana Kama* and *R’ Yosi* with regard to this creature’s *halachic* status as a man or a beast. The *Tana Kama* would agree with the explanation of the *Tiferet Yisrael* and others who claim that the *Adnei Ha’Sadeh* is much closer to apes and monkeys than humans and therefore has the *din* of an animal. Whereas *R’ Yosi* would agree with the view of the *Yerushalmi* that it is a wild man and therefore would have the same *din* as a human with regard to *Tum’ah* and *Taharah*

- How much *peah* must be left and who must leave it, in the following cases: (ב' ח: ז')
 - Bandits reaped half the field then the owner reaped the remaining half.
 - The owner reaped half then sold half.
 - The owner reaped half and sanctified the rest. Someone then redeem that portion.
- Explain the debate about beds of grain amongst olive trees. (ג' א: ז')
- What has happened to a field that is described as *menamer*? Explain the debate about such a field. (ג' ב: ז')
- Does one need to leave separate *peot* when picking some produce for sale and keeping the rest for other purposes? (ג' ג: ז')
- What is the difference between *medel* and *machlik* and what is the difference with respect to *peah*? (ג' ד: ז')
- Explain the two arguments regarding onions and *peah*. (ג' ה: ז')
- What is the law regarding inheritors and people who purchase trees in partnership? When do they leave *peah* together and when do they leave *peah* independently? (ג' ו: ז')
- What is the law regarding someone who purchased trees laden with fruit with the respect to leaving *peah*? (ג' ז: ז')
- What are the different opinions of the minimum size of a field that has the obligation of *peah*? (ג' ח: ז')
- What are laws are still applicable (aside from *peah* according to *R’ Akiva*) even for the smallest possible sized field (*kol she’hu*)? (ג' ט: ז')
- There are three cases listed in the *Mishnayot* where if a person gives his entire property to someone there is a significant *halachic* difference if he excluded a small section of his property from the gift. What are these three cases? (ג' י: ז')
- When is *peah* left connected to the ground for the poor to take and when is the owner require to cut and distribute the produce to the poor? (ג' יא: ז')

Peah

- Which *mitzvot* have no fixed measure? (א:א)
- What is the minimum proportion of a field that one must set aside for *peah*? What are the three criteria that one uses to determine how much more to leave beyond this minimal amount? (ב:א)
- Explain the three-way debate regarding where in the field one must leave *peah*? (ג:א)
- What are the characteristics of a field that has the obligation of leaving *peah*? (ד:א)
- Name the fruit trees that have all the above characteristics. (ה:א)
- Until when is *peah* exempt from *trumot* and *ma'asrot*? What are the five laws brought that have the same cut-off point? (ו:א)
- What are the seven things that divide a field such that each side is independently obligated to leave *peah*? (ז:א)
- According to *R' Yehudah* how wide must an irrigation channel be in order that it divides a field? (ח:א)
- Under what conditions is a hill not considered a halachic division? (ט:א)
- What is considered a halachic division in the case of trees? (י:א)
How do carob trees differ from the above ruling? (יא:א)
- Are the following cases defined as a single field or two: (יב:א)
 - A field that contains one type of produce but is harvested at different times.
 - A field that contains two types of produce and is harvested at the same time.
 - A field containing two species of wheat harvested, at the same time, And at two different times.
- What is the source of this law? (יג:א)
- What are the four cases where a cut produce is exempt from leaving *peah*? (יד:א)

Prohibition of Field Work

Ha'Rav Aharon Lichtenstein
From "Daf Keshet" 20 [Ed. Trans.]

Shmittah is mentioned in a number of places in the *Torah*. The most fundamental is in *Parashat Behar*, where some of the concepts relating to *Shmittah* are detailed. One of the central ideas is the prohibition of working the field. The *pasuk* mentions two types of forbidden actions.

1. "שדך לא תזרע וכרמך לא תזמר" – actions where the aim is to generate growth of the produce.
2. "את ספיח קצירך לא תקצור ואת ענבי נזירך לא תבצר" – gathering produces in the ordinary manner.

Which actions are biblically prohibited? There are three possibilities:

- a. Only those mentioned – planting and reaping – are forbidden. Any other actions whose aim is to generate growth would only be rabbinically prohibited.
- b. There is a difference between planting and reaping and the other actions. Planting and reaping would be defined as *avot melachot*, while other actions whose purpose is to generate growth would be prohibited as *toladot*.
- c. Planting and reaping are merely examples of prohibited actions that fall under the general prohibitions of:
"שבת שבתון יהיה לארץ"

In the heading to *hilchot shmittah ve'yovel*, the *Rambam* defines the prohibition as follows: "(It is prohibited) to work the land in this year (*shmittah*)". This definition appears to agree with option (c), consequently working the land at all would be punishable with lashes. The *Rambam* (*Hilchot Shmittah* 1:2) however writes: One only receives lashes if they perform planting, pruning, reaping and gathering... pruning is part of planting, and gathering is part of reaping. Why then did the *Torah* mention them? To teach that only

on these two *toladot* does one get lashes, while one does not receive lashes for performing any of the other *toladot*.

It appears that only four action are biblically prohibited – two as *avot* and two as *toladot*. This possibility seems to fit option (a), and that all the remaining prohibited work would be rabbinically prohibited.

Is there an additional *issur a'se* (prohibition inferred from a positive commandment) that relates to working the land during *shmittah*? There are two way to understand and *issur a'se*:

1. Other than adding an extra *mitzvat a'se*, the scope of the prohibition remains unchanged.
2. The *a'se* extends the scope of the prohibition.

If one assumes that the following *pasuk*: "שש שנים תזרע שדך" constitutes an *issur a'se*, one could assume that no additional activities become prohibited. In other words, those activities that have been prohibited due to negative commandment are once again prohibited due to the *a'se*. If however the *issur a'se* is learnt from "והשביעית תשמטנה ונטשתה", then it makes sense that it expands upon the base prohibition. *Rashi* explains that "השביעית" refers to ploughing and planting, while "ונטשתה" refers to fertilising and hoeing. From here it is clear that *Rashi* adds, as part of the *issur a'se*, activities that were not included by the original prohibition. The *Ramban* however argues that no additional activities are prohibition from this *pasuk*.

In *Parashat Behar* one finds the concept of "שבת לה". What is the significance of this concept? There are three possibilities:

1. The scope of the prohibition is unchanged, yet there is an additional *a'se*.
2. Quantitatively, the number of prohibited activities has increased. With respect to *Shabbat* and *Mo'ed*, the *Ramban* explains that "Shabbaton" constitutes a biblical prohibition against weekday activities. The *Chachamim* were consequently given the authority to decide exactly which activities would be prohibited. One can assume that according

- Give some examples of a *t'fillat shav*. (ט: גי)
- Explain the debate about the number of *brachot* one recites when entering and exiting a walled city. (ט: די)
- What (four things) does the *mishnah* learn from the following *pasuk*: (ט: ה')
- "ואהבת את ה' א' בכל לבבך ובל נפשך ובכל מאורך"
- What (seven things) should one refrain from doing in the *Beit ha'Mikdash*? (ט: ה')
- What extra phrase was added to *brachot* in the *Beit ha'Mikdash*? (ט: ה')

- When can two separate groups eating in the same house join together in a *zimun*? (ד: ו')
- Explain the debate between *Beit Shammai* and *Beit Hillel* regarding:
 - *Kiddush* on *leil Shabbat* (א: ח')
 - Washing hands and drinking wine (ב: ח')
 - The placement of a hand-towel (ג: ח')
 - Washing hands and sweeping up (ד: ח')
- Explain the debate between *Beit Shammai (B"Sh)* and *Beit Hillel (B"H)* regarding *havdalah*. (ה: ח')
- What three things are forbidden to use as *besamim* or *ner* for *havdalah*? (ו: ח')
- Explain the debate between *B"Sh* and *B"H* regarding one who has forgotten to say *birkat ha'mazon* and finds themselves in a different location from where they ate. (ז: ח')
- What is the maximum time that someone can wait before *benching*? (ח: ח')
- Explain the debate between *B"Sh* and *B"H* regarding drinking wine and *benching*. (ט: ח')
- Can someone answer *amen* to a *bracha* if they only heard the end of the *bracha*? Is there a difference who said the *bracha*? (י: ח')
- List all the debates between *B"Sh* and *B"H* listed in the eighth *perek*.
- What *bracha* does one make on:
 - Seeing a place where miracle occurred for the benefit of *Israel*? (יא: ט')
 - Seeing a place (in *Israel*) where idol worship was removed? (יב: ט')
 - Comets, earthquake, lightning, thunder and storms? (יג: ט')
 - Mountains, hills, seas, rivers and deserts? Explain the debate regarding the "great ocean". (יד: ט')
 - Rain and good news? (טו: ט')
 - Bad news? (טז: ט')
 - Building a new house and buying new utensils? (יז: ט')

to the *Ramban* here the concept to "שבתון לה" would prohibit typical field work, which would also be left to the *Chachamim* to determine. Accordingly, fertilise and hoeing would not be prohibited as a result of "תשמטנה ונטשתה" but rather by the *Chachamim* including them in the definition of "שבת לה"'

3. "שבת לה" adds an extra *kiyum* (fulfilment) of *Shabbaton*. By simply refraining from work, one fulfils the *mitzvah* of "שבתון לה"'. A similar case is found in *Hilchot Yom Tov* (1:2):

Anyone who rest from *melechet avodah*... fulfils a *mitzvah a'se* as it says "Shabbaton", in other words, rest!

Even though the *Rambam* does not explicitly write this by *shmittah* it makes sense that if one does refrains from any field work, he fulfils this positive command of *shvifah*.

Amirah L'Akum during Shmittah

Shvi'it (3:1)

Yehudah Gottlieb

The *Mishnah* in *Shviit* (3:1) states:

From when can one take out the manure (*zevel*) to the dung-heaps?
From the time that the workers have finished working - this is the opinion of *R' Meir*. *R' Yehudah* says when the moisture has dried up. *R' Yosi* says when it has hardened.

The *Mishnah Rishona* comments on this *Mishnah* stating that the language seems to indicate that the prohibition for taking out the *zevel* during *Shmittah* would apply only to a Jew. A Jew however, would be allowed to appoint a non-Jew to be his *shaliach* to take the *zevel* out to the field.

The *Mishnah Rishona's* stance seems very strange. After all, the *Minchat Chinnuch* states that a person is commanded to rest his field during *Shviit*. How so?

There is a *pasuk* in *Vayikra* (25:4) which states: “(in the Seventh year) your field you shall not sow and your vineyard you shall not prune”. From this *pasuk*, we derive that there are certain actions which are prohibited during the seventh year. However, there are two more *p'sukim* outlining the *chiyuv* of the seventh year:

- (1) “A resting year for the land” (*Vayikra* 25:5)
- (2) “And the land shall observe a Shabbat rest for Hashem” (*Vayikra* 25:2)

These two *p'sukim* seem to give the land during the *Shmittah* year, the same law that applies to animals and *keilim* on *Shabbos*⁸. Therefore, there are two aspects of the *Shmittah* year, not only

⁸ It is forbidden to use the animal of a Jew to do *Melacha* on *Shabbos* (*Shvitat Behema*). According to *Beit Shammai* this prohibition extends to the *Keilim* of a Jew as well (See *Messechet Shabbos* 18a).

- Explain the debate between *R' Yehudah* and the *Chachamim* about which food has preference when there are many different types of food to choose from? (י:ד')
- True or false? (י:ה')

 - A *bracha* on wine before the meal also covers the wine drunk after the meal.
 - A *bracha* on the *parperet* before the meal also covers the *parperet* after the meal. (What is *parperet*?)
 - A *bracha* on bread also covers the *parperet* eaten during the meal.
 - A *bracha* on the *parperet* also covers bread.

- Under what conditions can one person be *motzi* another for *birkat nehenin*? What are the two exceptions to this rule? (י:ו')
- Complete this general principle: (י:ז')

” _____ — _____ — _____, עיקר ועמו טפלה,

- Describe a case when bread is considered *t'fillah*? (י:ז')
- Explain the debate about the *bracha* one recites after eating dates, grapes or pomegranates. (י:ח')
- After eating what does *R' Akiva* say that one should recite *birkat ha'mazon*? (י:ח')
- Explain the debate about the *bracha* one recites before drinking water? (י:ח')
- After eating what food can one join in a *zimun*? Eating what food would exclude someone from a *zimun*? (י:ט')
- Which people cannot be part of a *zimun*? (י:ב')
- Explain the debate about how much someone must eat before they can be part of a *zimun*. (י:ב')
- According to the *mishnah* what does one say for a *zimun* of 3? 4? 10? 11? Explain the debate about what one should say for a *zimun* of 100, 101, 1000, 1001, 10000 and 10001? (י:ג')
- Which of the following group sizes can divide into two groups to bench separately: 3, 4, 5, 6, 8, 10, 15 and 20? (י:ד')

- What are the three opinions regarding what to say when praying the *sh'monah esrei*? (ד':ג')
- Who said "העושה תפלתו קבע אין תפלתו תחנונים" (ד':ד')
- What should one do if it is time to pray but they find themselves in a dangerous place? (ד':ד')
- What should one do if they are riding a donkey and it is time to pray? (List the three different scenarios.) (ד':ה')
- What are the three other cases listed with a similar ruling to the previous question? (ד':ו')
- Explain the debate regarding *t'fillat mussaf*? (ד':ו')
- What was different about how the חסידים ראשונים prayed and why? (ה':א')
- What are the two cases brought to illustrate the point that one should be completely focused while praying? (ה':א')
- Where and what are the additions to *sh'monah esrei*? Explain the argument about the placement of *havdalah* in the *sh'monah esrei*? (ה':ב')
- What are the three expressions which the congregation must prevent a *chazzan* from saying? (ה':ג')
- Does a *chazzan* respond with *amen* to the *birkat kohanim*? (ה':ד')
- If a *chazzan* is the only *kohen* in the shul and it is time for *birkat kohanim* what should he do? (ה':ד')
- What was special about the *tefillot* of *R' Channinah ben Dosa*? (ה':ה')
- What *bracha* should one make on: (א':ו')
 - Fruit?
 - Wine?
 - Bread?
 - Vegetables (include both opinions)?
- In which cases does one fulfil his obligation of reciting a *bracha* even if he said the wrong *bracha*? (ו':ב')
- For which foods does one recite a *shehakol*? (ו':ג')

against doing any prohibited work on the field during *Shmittah*, but also there is a positive commandment to lie the field fallow (make it 'rest')⁹.

Consequently, how can the *Mishnah Rishona* state that it is permissible for a non-Jew to take out the *zevel* in the field belonging to the Jew in the *Shmittah* year? Does this not constitute a violation by the Jew of the positive mitzvah of *Shvitat Karkah*?

The *Mishnah Rishona* brings a number of alternative answers to this question. However, all these answers are based on the fact that moving *zevel* to the field is only a problem on *Shviit* due to *Maarit Ayin*. The *Rabbanan* were worried that people would see a person moving *zevel* to their field during *Shviit* which would appear as though the person was fertilizing his field and assume that they could go and work their own land (even though it was the 7th year). Therefore, they decreed that moving this *zevel* to the land would be *assur* during *Shviit*.

Therefore, why is a Jew able to send a non-Jew to do this for him on *Shmittah*? What is the difference between this and the din of *Amirah L'Akum* that applies on *Shabbos*?

The *Mishnah Rishona* explains that this is different because:

- (a) In this case (moving the *zevel*) the three piles of *zevel* are spread out over the field (as the *Mishnah* goes on to explain in *Mishnah* 2), therefore, it is recognizable as rubbish (*zevel*) rather than actual working or using the land. Therefore, it is not a violation of *Shvita*.

⁹ A further proof to this fact can be found in the Gemara (*Avodah Zarah* 15b) where there is a *machloket Beit Hillel* and *Beit Shammai* over whether a person is able to sell their land during (or just before) *Shviit*. *Beit Hillel* holds that one is permitted to sell his land provided that it is laid fallow by the buyer. *Beit Shammai* holds that it is forbidden to sell the land in case the buyer will work on the land during *Shviit*. However, according to both these opinions the din of *Shvitat Karkah* (resting of the land) applies.

(b) The case of sending an *akum* (non-Jew) to be a *shaliach* for oneself on *Shviit* is not as strict as that of *Shabbos*. On *Shabbos*, we would be worried about someone seeing a non-Jew doing a *Melacha* for us (*Maarit Ayin*) but we are not as worried during *Shmittah*. This is because we are not as *machmir* as to forbid sending a non-Jew to do the work for you, when dealing with a Rabbinic *gezeirah* (as opposed to the *Amirah L'Akum* where the activity performed is biblically prohibited for a Jew).

- Reading *sh'ma* without hearing the words.
- Not being precise with the pronunciation of the words.
- Reading the *p'sukim* out of order.
- If someone made a mistake.
- What is ruling regarding an employee working in a tree with regards to reading *sh'ma* and *t'fillah*? (ד: ב)
- Until when is a groom exempt from reciting *sh'ma*? (ה: ב)
- What are the three cases where *Rabban Gamliel* acted against the ruling of the *mishnah*? What was his justification in each of these cases? (ה-ו: ב)
- What was the name of *Rabban Gamliel's* slave? (ו: ב)
- Can a groom be *machmir* and recite *sh'ma* on his wedding night? (ח: ב)
- What three *mitzvoth* are close relatives of the deceased exempt from prior to the burial? What is the law regarding those carrying the coffin and others attending the funeral? (א: ג)
- What is the law regarding the obligation of *sh'ma* for people attending a funeral as the mourners pass by them after the burial? (ב: ג)
- What are the *mitzvot* that women, slaves and minors are exempt from listed in the *mishnah* and why? What are the listed *mitzvot* that they are obligated to perform? (ג: ג)
- What is the debate regarding a *ba'al kerit* regarding *sh'ma* and *birkat ha'mazon*? [To which *takanah* does this debate (and the next three *Mishnayot*) refer?] (ד: ג)
- If someone was in the *mikvah* close to *netz ha'chamah* what should they do with regards to *sh'ma*? What if the water was filthy? (ה-ו: ג)
- Explain the debate about a *zav* that also becomes a *ba'al kerit*? What are the other cases included in this debate? (ו-ז: ג)
- Explain the debate about the starting and finishing times for all the *tefillot*? (א: ד)
- What is the nature of *R' Nechunya ben Hukana's* *tefillot* recited when entering and exiting the *beit midrash*? (ב: ד)

Brachot

- When is the starting time for *kriyat sh'ma* at night? (א:א)
- What are the three opinions regarding the latest time that one can recite *sh'ma* at night? (א:א)
- For what *mitzvah*, other than *kriyat sh'ma*, did the *Chachamim* bring forward the latest time that one can perform the *mitzvah* “to prevent one from transgressing”? (א:א)
- What are the two opinions regarding the starting time for *kriyat sh'ma* in the morning? (ב:א)
- What are the two opinions regarding the latest time that one can recite *sh'ma* in the morning? (ב:א)
- If the time for reading *sh'ma* in the morning has passed (but the *zman t'fillah* has not been completed) can one read *sh'ma* with the *brachot kriyat sh'ma*? (ב:א)
- Explain the debate surrounding the halachic significance of “ובשכבך ובקומך”? (ג:א)
- Which *tana* put himself in danger to recite *sh'ma* in the manner held by *Beit Shammai*? (ג:א)
- How many *brachot* does one recite before and after *kriyat sh'ma* in the morning and at night? (ד:א)
- Is there a *mitzvah* of remembering *yetziyat mitzrayim* at night? If so, how is it fulfilled? (ה:א)
- Explain the debate between *Ben Zoma* and the *Chachamim* about the *pasuk*: “למען תזכר את יום צאתך ממצרים כל ימי חייך” (דברים ט"ז:ג) (ה:א)
- If someone happens to be reading the chapter of *sh'ma* from the *Torah* during *zman kriyat sh'ma* do they fulfill the *mitzvah* of *kriyat sh'ma*? (ב:א)
- Explain the debate between *R' Meir* and *R' Yehuda* about permissible interrupt during and in between the chapters of *sh'ma*? (א:ב)
- To what does *בין הפרקים* refer? (ב:ב)
- Explain the ordering of the chapters of *kriyat sh'ma*? (ב:ב)
- Explain the debate or ruling in the following cases: (ג:ב)

The Sanctity of Shmittah Fruit

Shvi'it (4: 7-10)
Ohad Fixler

Fruit that grows during the *Shmittah* year have an added quality called *kedushat shvi'it*. The *Chachamim* learn this idea from the following *pasuk*:

”והייתה שבת הארץ לכם לאכלה”

They explain that during the *Shmittah* year the land is given to us for eating (“לאכלה”) and not for wasting. Consequently there is a prohibition against wasting the *shmittah* food. The fundamental details of this law are found in the *mishnayot* in the eight *perek* in connection to the prohibition against selling *shmittah* fruit or using them for medicinal purposes. We however met some *mishnayot* that relate to this law:

1. *Perek 4, mishnayot 7-9* refer to the time after which one can eat *shmittah* fruit. Before that time the fruit are not ripe enough and it is considered as if one has wasted them.
2. *Perek 4, Mishnah 10* refers to the prohibition against cutting down a fruit tree as it will effectively destroy the fruit which is on the tree.

What does it mean that the *shmittah* fruit have “*kedushah*”? Does it solely mean that there is a prohibition against wasting this fruit, or is there something special about these fruit? Most of the *Rishonim* explain the *kedushah* is expressed only in the prohibition against wasting it. The *Ramban* (on the *Sefer HaMitzvot*) however understands that there is a positive *mitzvah* to eat the *shmittah* fruit. Consequently when one eats *shmittah* fruit he fulfills a positive *mitzvah* due to the *kedushah* present in the fruit.

Support for the *Ramban*'s opinion may be found in the *Yerushalmi* (8:2):

One is commanded to eat that which is edible excluding stale bread or vegetables or cooked food that has rotted.

The *Yerushalmi* writes that one is not obligated to eat food that has *kedushat shvi'it* but has been ruined. This implies that we are in fact obligated to eat *shmittah* fruit that is edible (see the *Megillat Esther* on the *Ramban*). According to the *Ramban* there are two ways to understand the nature of this *mitzvah*:

1. There is a *mitzvah* to find *shmittah* fruit and eat it, much like the obligation to eat *matzah* on *Pesach*.
2. The *mitzvah* does not obligate a person; rather it is connected to the object itself. If someone has *shmittah* fruit there is a *mitzvah* to eat it as apposed to waste it, yet one is not required to go out and find *shmittah* fruit if he has none.

In contrast to the *Ramban*, the *Rambam* does not count eating *shmittah* fruit as one of the 613 *mitzvot*. Their argument begins in understanding the *pasuk*:

”והייתה שבת הארץ לכם לאכלה”

Is this *pasuk* a commandment, or does it simply give us the permission to eat *shmittah* fruit? There are two ways to understand the debate between the *Rambam* and *Ramban*.

1. The first two *mitzvot* that the *Ramban* believes that the *Rambam* forgot to include, are the *mitzvot* of eating *bikurim* and *ma'aser sheni* in *Yerushalaim* and eating *trumah* in purity. Perhaps this is merely an extension of that debate. In other words, aside from including negative *mitzvot* that relate to the improper manner of eating something, the *Ramban* also includes the positive *mitzvah* when it is eaten in the proper manner. The *Rambam* on the other hand, only counts the negative *mitzvah*, while the proper manner of eating is implied rather than commanded.
2. The debate is specifically focused on the understanding of *kedushat shvi'it* (see the *Megillat Esther*). One can suggest that the *Ramban* understands that there are two elements to *Shmittah* – the prohibition against work and a special sanctity connected with the fruit. Just as *Shabbat* has both a prohibition against work and the positive *mitzvot* of *kavod ve'oneg*, *Shmittah* also has an extra dimension of *kedushah* on the fruit. The *Rambam* on the other hand, understands that the

Revision Questions

them to the *Mikdash*” and third “To read (the *parashah* from the Torah)”.

Another example of this split are the cases discussed in past issues where people were halachically unable to read the *parashah*. The main reason given why they are still commanded to bring *bikurim* while unable to read the *parashah*, is because bringing *bikurim* demonstrates that the person recognizes that his new crop comes from *Hashem*, and it was His grace that allowed the fruit to grow. However, as mentioned previously, the public declaration of “this land that Hashem has given me” is not true for this person.

Some commentators reason that these people should still be allowed to read the *parashah* when bringing the *bikurim*. They reason that in other areas, *Chazal* have obligated or at least allowed a woman to make *brachot* on *Mitzvot* from which they are exempt e.g. shaking of the *Lulav* and reading *Hallel*. Even though the text of the *bracha* contains the words “*Asher Kiddishanu beMitzvotav*” (that You have made me Holy with your *Mitzvot*) and a woman is not obligated on the same level as men if at all, they are still allowed to make this declaration. This is because they are all in the general grouping of people of Am Yisrael. Nevertheless even these commentators that allow these people to read the *parashah*, would still agree that these are two different *mitzvot*.

Therefore, the reason why the Rabbis were able to stop everyone from reading the *parashah* themselves is because they are two separate *mitzvot*. The reading of the *parashah* is to awaken people to the truth about the lowly roots of the Jewish people and how far they have come. So hearing the section even without reading it themselves will still have this effect. However the personal bringing of the fruit, the walk to Jerusalem is something that every farmer needs to do themselves so that they can reflect on the Goodness of Hashem. (Another example is the *mitzvah* of *tefillin*, however we will P”YH deal with that in *Menachot*.)

significance of *shmittah* is the renouncement of ownership of one’s possessions. Consequently his fruit becomes ownerless and everyone must eat them simply because the fruit are forbidden for any other use. There is no inherent sanctity in the fruit; rather the *Torah* was concerned that everyone would eat the fruit so that the owners would understand the *Hashem* is the true owner of the land.

Hunting Mistakes

Shvi'it (7:3)
Yoni Fisher

The *Mishnah* in *Shviit* (7:3) discusses the prohibition of using fruits of the seventh year for trade purposes. Tangentially it brings other items which, because of their sanctity or impurity may not be used for trade. However, the next *Mishnah* (7:4) states that a hunter may trade impure animals if he did not intentionally hunt them. This point is disputed by *R' Yehuda* and the Sages - *R' Yehuda* holds that “a person who is not a hunter also has the same leniency”; the sages disagree. There are numerous opinions about the point of disagreement. The *Talmud Yerushalmi* explains that the sages are lenient with the hunter because he must pay a ‘hunting tax’ to the government and therefore, to offset his financial pressure he is given a special dispensation allowing him to keep the animal. Therefore, the sages do not let a normal person trade such animals if he accidentally trapped them, because they do not pay a hunting tax. *R' Yehuda*, however, permits a normal person to sell an impure animal provided he does not do so on a regular basis in order to make a living.

In his commentary on this *Mishnah*, *Rambam* says the *Halacha* follows *R' Yehuda*, however, *Tosfot Yom Tov* and *Kehati* point to the *Rambam* in *hilchot Ma'achalot Assurot* (8:17) where *Rambam* seems to hold like the sages.

The *Lechem Mishnah* claims that *Rambam* understands the opinion of the sages and *R' Yehuda* in a different manner to other commentaries and therefore his statement is not contradictory.

The *Nodah B'Yehuda* (*yoreh de'ah* question/answer 63) offers a different interpretation of the *Rambam*. He says that the *Rambam* is not quoting the opinion of the sages, rather, when he mentions a hunter he does not mean exclusively a hunter and not a normal

'Mitzvat' or 'Mitzvot' Bikurim

Bikurim (3:7)
Natan Rickman

The third *perek* discussed the process of bringing *bikurim* to the Temple in Jerusalem. The sixth *Mishnah* lists the verses read by one bringing the *Bikurim* known as the *parashat bikurim*. An interesting development in the law pertaining to the reading of this *parashah* is described in the seventh *Mishnah*. It relates that at first those that could read would and those that were physically unable would have the *Kohanim* read to them and they would respond. The *Mishnah* then relates that those who were unable to read stopped coming to the *Beit Ha'Mikdash* since they were embarrassed. The Rabbi's therefore instituted that the *kohen* would read for everybody. This enactment demonstrates the love that the Rabbis have for the people, as they were willing to innovate within the boundaries of Torah law to accommodate those that has not been educated.

How were the *Rabbis* able to innovate in such a manner whereby they removed the requirement to read from those who were able? The answer to this question may be found by first determining whether the *mitzvah* of bringing *bikurim* is one *mitzvah* with two parts - that of bringing the fruit and of reading the *parashah* - or it is really two *mitzvot*.

The *Gemara* in *Gittin* (47b) brings a *Tanaic* statement “[Discussing a case where] one who sells his field for the fruit only, *Reish Lakish* says that the purchaser must bring *bikurim* but cannot read the *parashah*, *Rebbi Yochanan* says that he can bring and read the *parashah*”. It appears that they both view the bringing *bikurim* and the reading the *parashah* as two separate obligations. When listing the *mitzvot* in *hilchot bikurim*, the *Rambam* lists the first *mitzvah* as “To separate *bikurim* and bring

opinion in the *Mishnah* and the stated in the *Yerushalmi* affects those from the tribe of *Menashe* living in the trans-Jordan. According to *R' Yosi Ha'Glili* they would also be excluded. The reason being is that the derivation excludes the entire region as it is not "a land flowing with milk and honey." According to the opinion quoted in the *Yerushalmi*, the entire tribe of *Menashe* would still be able to bring *bikurim*. The derivation excluded the area of those people that took land – the area of the tribes of *Reuven* and *Gad*. Half the tribe of *Menashe* however, did not take that share; *Moshe* gave it to them.

Ha'Emek Davar (*Bamidbar* 32:33; *Devarim* 3:16) explains further: The tribe of *Menashe* did not request any land on the trans-Jordan like *Reuven* and *Gad*. *Moshe* recognised that if the region was inhabited by *Reuven* and *Gad* alone, it would be significantly weak in *Torah*. He therefore recognised the need to plant amongst them *Torah* giants to enlighten them. He therefore requested that half of the tribe of *Menashe* would live in the area, and gave them that land. *Ha'Emek Davar* explains that this presented an enduring lesson for *Am Israel* of the importance of living a place of *Torah* for Jewish survival.

The *Rambam* (*Hilchot Bikurim* 2:1) rules that requirement to bring *bikurim* from the trans-Jordan is rabbinic. Two important points come from this ruling. The first is that the exclusion (on a biblical level) applies to the entire region. This appears to follow the opinion of our *Mishnah*. The second point, raised by *Kesef Mishnah* is that ordinarily the *halacha* would have accorded with the opinion of the *Chachamim*. Consequently, the *Rambam* understood that the apparent debate between the *Chachamim* and *R' Yosi Ha'Glili* was on a rabbinic level and that all agree that the residents of the trans-Jordan are exempt from bringing *bikurim*.

person, but is rather citing the usual application of this *Halacha*, i.e. there is a far greater chance that a hunter will chance upon an animal forbidden in trade than a normal person, simply because he is occupied throughout the day in trapping animals.

There is another fascinating point brought down in the *mishnah* 4 and 5. *Tosfot Yom Tov* asks (also discussed in *Pesachim* 23, 24 and in *Moed Katan*) why the interpreters of the *Mishnah* imply the rulings are rabbinic when in fact there is a biblical source to the prohibition. Even more problematic is the question posed by the *Tosfot Yom Tov* on 7:4 - how could the sages have permitted hunters to trade animals regarding which the Torah forbids trade? It is difficult to understand how the sages can institute a rabbinic law that overrides a biblical prohibition?

In short, *Rashi* and other *Rishonim* in *Pesachim* answer the first question explaining that in several cases the Torah made a general prohibition but also gave the rabbis authority to derive more detailed individual prohibitions through proper exegesis. *Tosfot Yom Tov* answers his second question by explaining that the rabbis even have the right to limit a prohibition to certain circumstances and rule that in certain cases – like when hunters have to pay tax – the prohibition would not apply.

Mishloach Manot with *Shmittah* Fruit

Nadav Willner
[Trans. Mark Steiner]

Be'ezrat Hash-m over the coming days, on *Erev Purim*, we will finish *Messechet Shvi'it*. The question of whether one can send *Mishloach Manot* containing *Shvi'it* fruit ties these two occurrences together. Regarding this question there are two issues to be dealt with:

1. The prohibition of paying off a debt with *Shvi'it* money.
2. Man's ownership status of *Shvi'it* fruit.

These ideas are based on an article written by Ha'Rav Shlomo Levi of *Yeshivat Har Etzion*.

1. The Prohibition of Paying Off a Debt with *Shvi'it* Money

We learnt in the *Mishnah*:

לקח ממנו סתם לא ישלם לו מדמי שביעית שאין פורעין חוב מדמי שביעית

The *Mishnah* establishes the prohibition of taking from a baker and paying him later with *Shvi'it* money; based on the prohibition of paying off a debt with *Shvi'it* money. The source of the prohibition is established since paying of one's debt appears like a type of business, and as we saw in earlier *Mishnayot*, there is a *Torah* prohibition against dealing with *Shvi'it* fruit (*Shvi'it* 7:3).

One may ask: to what extent do we see *Mishloach Manot* as the payment of a debt? According to *the Mishnat Yosef* (1, 27) and *Shevet HaLevi* (7, 183) it is forbidden to fulfil the obligation of *Mishloach Manot* with *Shvi'it* fruit because they see the commandment of *Mishloach Manot* as an obligation placed upon the person, and one would consequently be fulfilling his obligation using *Shvi'it* fruit. Contrary to this, the *Minchat Yitzchak* and Rav Shlomo Zalman Aurebach hold that there is no special 'obligation', rather a fulfilment of a commandment and it is therefore permitted.

This argument depends on the understanding of two issues:

Bikurim of *Reuven* and *Gad*

Bikurim (1:8)
David Bankier

The previous article discussed whether a convert can read the *parashat bikurim* when he brings his *bikurim*. The opinion brought in the *Mishnah* held that a convert was unable to read the *parashah* as the portion that read "the land that you promised to our fathers" was not applicable to him.¹ The *Rambam* was also quoted in the previous article who, based on another *Tanaic* opinion in the *Yerushalmi*, ruled that there was no difference between a convert and born Jew. He reasoned that *Avraham* was known as the 'father of many nations', which would include the convert.

Other cases are raised relating to people that were unable to read the *parashat bikurim*. *R' Yosi Ha'Glili* (1:8) appears to argue against *Chachamim* maintaining that those living in the trans-Jordan area cannot even bring *bikurim*. This area was conquered from *Sichon* and *Og* and given to the tribes of *Reuven*, *Gad* and half of the tribe of *Menashe*, before *Bnei Israel* entered the land. He reasoned as follows: The *parashah* contains the following verse:

He brought us to this area, giving us this land, a land flowing with milk and honey (*Devarim* 26:8)

Since however, the trans-Jordan is not an area "flowing with milk and honey" the area is excluded from the laws of *bikurim*.

The *Yerushalmi* brings another *Tanaic* opinion who gives a different reason why those living in the trans-Jordan cannot bring *bikurim*. The *parashah* contains reference to the land "which You gave me" implying that it only refers to land which was given. *Reuven* and *Gad*, explains the *Yerushalmi*, took the land of their own accord. They are consequently unable to bring *bikurim*.

One may ask what difference does it make where the exclusion is derived? The *Yerushalmi* explains that the difference between the

explains that a *ger* as apposed to a *goy* can perform a complete acquisition such that he can remove the *kedushah*, yet in the process also generates a new *kedushah*. This new *chiyuv* to separate *trumot u'ma'asrot* stems from his acquisition and that he too has a share in the land being from the seed of *Avraham*. Since he has the ability for this full acquisition, he may bring *bikurim* and read the *parashah*.

Rav Feinstein does not contradict the *Rambam* rather he simply understands that there is a need to explain how the acquisition works. For a born Jew, the source of the *kedushah* stems from the original acquisition of those that entered land (*olei mitzrayim* or *olei bavel*). A convert however generates this *kedushah* himself.

1. Prohibition of Trade – Those that allow it understand that 'trade' occurs when there is clear giving and taking, and therefore there is no issue with *Mishloach Manot* because one does not receive something in return. Those that forbid it understand that trade is gaining benefit from the value of the fruit, not from the fruit itself - something that occurs with *Mishloach Manot*.
2. *Mishloach Manot* – Those that allow it understand that in essence the commandment is one of giving to another, out of friendship and closeness, and therefore just as we can say *Kiddush* on *Shvi'it* wine, so too we can send *Shvi'it* fruit to others. Those that forbid the use of *Shvi'it* fruit hold that the essence of the commandment is in the money that I am giving someone else to be used for the *seuda*, and if so, it has already been established that one is forbidden to use *Shvi'it* fruit in order to fulfil a monetary obligation.

2. Ownership of Shvi'it Fruit

The *Shelah* writes that one cannot give *Mishloach Manot* or *Matanot L'Evyonim* from money that has the status of *Ma'aser*, rather one should give from one's own personal money. This is also brought down by the *Magen Avraham* (OH, 694, 1). Those that forbid fulfilling *Mishloach Manot* from *Shvi'it* fruits argue that *Mishloach Manot* is an actual obligation, and just as the *Shelah* says we should not give money from *Ma'aser*, the same should also hold for giving *Mishloach Manot* from *Shvi'it*. They maintain that *Shvi'it* money does not actually belong to man, rather to *Hash-m*.

Nevertheless, those in favour hold that *Shvi'it* fruit is totally in the possession of man, and they bring a proof from *Rambam* who rules that one can marry a woman with *Shvi'it* fruit. Therefore, according to them there should be no comparison between *Ma'aser* money which has the status of *gavoah*, and *Shvi'it* fruit which belongs completely to man and can be used for *Mishloach Manot*.

Halachic Conclusion

- Essentially, there is a discussion between the halachic authorities as to whether or not *Mishloach Manot* can be fulfilled with *Shvi'it Fruit*, and according to Ha'Rav Shlomo Levi, since *Shvi'it* is of *rabbinic* origin we can be lenient and allow it.

If a man has already sent two packages to two people, each extra package that he sends is out of choice but not required, and it is therefore definitely not fulfilling any obligation, and is allowed by everyone. On the other hand, if someone is giving *Mishloach Manot* to someone that sent to him, most opinions forbid the use of *Shvi'it* fruit because it is very similar to the fulfilment of one's obligation (as he is returning something).

Despite this explanation, one must explain why the *Rambam* appears to rule against the *Mishnah* and *Gemarah*.

There is a famous letter of the *Rambam's* (*Tshuvot HaRambam* 293) written to *R' Ovadya* the convert in which he discusses matters relating to converts and in particular, this issue. In the response, the *Rambam* explains that there is no practical halachic difference between a convert and a born Jew. Similarly, when praying, a convert uses the same text and says "our G-d and G-d of our fathers" by virtue of the fact that we are all the sons of *Avraham* who spread the faith in *Hashem* throughout the world.

At the end of the response the *Rambam* cites the *Yerushalmi* (*Bikurim* 1:4) as the source of his ruling:

It was taught in the name of *R' Yehudah*: the convert brings [*bikurim*] and reads [the *parashah*]. Why? [Since it is written] "I have placed you as the father of many nations" – in the past you were the father of *Aram* and from now on are the father of all the nations. *R' Yehoshua ben Levi* said: the *halacha* is according to *R' Yehudah*. A case came before *R' Avahu* and was ruled like *R' Yehudah*.

From this *Gemarah* we see that our *Mishnah* resembles the opinion of *R' Meir*. *R' Yehudah* however argues that there is no difference between a born Jew and a convert. From the *Rambam's* responsa we find a two levelled explanation of his ruling in the *Mishnah Torah*.

1. The source is from the *Yerushalmi*
2. The ruling stems from a philosophic position that there is no difference between a convert and a born Jew.

A different slant is found in the responsa of Rav Moshe Feinstein (*Igrot Moshe* 2:112). Rav Feinstein explain that when a *goy* purchases land from a Jew in Israel, he does not have the ability to remove the sanctity from that land, i.e. one is still obligated to remove *trumot u'ma'asrot* from its produce. Rav Feinstein

A Convert and *Bikurim*

Bikurim (1:4)

Ohad Fixler

[Ed. Trans.]

The first *Mishnah* in *Bikurim* states that there are different categories of people that relate to bringing *bikurim*. These categories depend on two details: Who can bring *bikurim* and of those who can bring *bikurim*, who can read the *parashat bikurim*. In the fourth *Mishnah* we find a list of people that can bring *bikurim* but cannot read the *parashah*:

The people bring but do not read: The convert brings but does not read since he cannot say “[the land] which *Hashem* promised our forefathers to give us.”

The *Mishnah* writes that even though the convert can bring the *bikurim* he cannot read the *parashah* as it has contents that does not appear to apply to him. Since the convert was not part of *Am Yisrael* during the period when they left Egypt, saying these *p’sukim* would be lying.

The *Gemarah* (*Makkot* 19a) mentions this same ruling in the name of *Rav Ashi*. The *Rambam* however rules in contrast to this *Mishnah* and *Gemarah*. The *Rambam* in the *Mishnah Torah* (*Bikurim* 4:3) writes that a convert can bring *bikurim* and read the *parashat bikurim* since the land, in the first instance, was promised to *Avraham* who was known as ‘the father of many nations’ (*‘av hamon goi’im*) and consequently the father of converts as well.

Another *halachic* ramification that comes out of this analysis is the question of whether a *kohen* and *levi* can read the *parashat bikurim* as they do not technically have a share in the land. The *Rambam* explains that since the land was promised to *Avraham*, the *kohen* and *levi* can also read the *parashah*.

David Bankier

The tenth *perek* discusses the way *shmittah* cancels debts (*Hashmatat Kesafim*). This law is derived from the following positive and negative commandments (*Devarim* 2:15):

The idea of the *shmittah* year is that every creditor shall **remit any debit** owed by his neighbour, and **one shall not claim** from his neighbour or brother...

The *Rambam* (*Shmittah Ve’yovel* 9:6) extends the discussion into the area of *shvu’ot* (vows):

Shmittah absolves *shvu’ot*... [This is true when] considering *shvu’ot dayanim* since if the person admits [to owning the money] *Shmittah* absolves [the debt]. However, *shvu’ot* taken by guards or partners and the like, since if one admits he is required to pay, the *shvuah* would also not be absolved.

This ruling is based on a *Tosefta* that explains that in case where the underlying monetary obligation would be absolved by *shmittah* the associated *shvuah* is also cancelled by *shmittah*. The *Ra’avad* explain that latter part of the ruling is based on the *Mishnah* (10:2) that explains that fines due to a violator, seducer and slanderer (who are required to pay their victims) and other judicial rulings directed by *beit din* are not absolved. The *Gra”ch* poses the question: Is the *Ra’avad* merely producing a source for the *Rambam*’s ruling or does his commentary have more significance?

In order to first develop a better understanding of the *Rambam*’s position it is important to see what he writes in the following *halacha* (9:8):

If throughout *Shmittah* one denies having borrowed money and then admits to borrowing the money after *Shmittah*... the debt is not absolved.

The *Rava’ad* argues however this is only true if *Beit Din* has already exempted the person from paying the debt based on a

(false) *shvu'ah*. If this was not the case, we have seen that *Shmittah* absolves the required *shvuah*; *shmittah* would absolve the debt. Why does the *Rambam* not make this distinction explicit?

The *Gra"ch* explains the *Ra'avad* maintains that even though the source for absolving *shvu'ot* is biblical (see *Shvu'ot* 49a) it is clear that this only applies to *shvu'ot* that are of monetary significance. Consequently, the *passuk* teaches that both the *shvuah* and debt are connected and *shmittah* cancels both.

The *Rambam* however must understand that one can separate the debt and the associated *shvu'ah*. While the need for the *shvuah* is indeed absolved, the debt remains. The *Gra"ch* explains that in this case, as the person has denied borrowing any money the positive commandment of “remit any debt” cannot be applied. Nevertheless the prohibition of “you shall not claim” can be activated on those elements that the lender can claim, i.e. the *shvuah*, even though the loan remains unaffected.

Returning to the original question, the *Gemarah* (*Gittin* 18a) explains our *Mishnah* (10:2) in further detail that once the violator or seducer has been obligated to pay, *Shmittah* can absolve the amount due. The reason being that once the person becomes obligated to pay the fine or damages, the money due is considered like a loan. This could perhaps pose a problem for the *Rambam* since as a soon *beit din* obligates someone to take an oath it should be treated like the case of the violator in that the underlying monetary obligation be viewed as a loan, and the *shvuah* would consequently be absolved. The *Gra"ch* explains the obligation to make a *shvuah* should only be viewed in this manner when the person has been obligated to pay or has admitted to owing a portion of the claimed loan. If however the person is only obligated to make a *shvu'ah* then the underlying monetary obligation would not be considered a loan.

mixture not matter how small the quantity (see *Avodah Zarah* 66a). This appears to be the case in our *Mishnayot*: if the forbidden ingredient causes the *min be'mino* mixture to leaven, then the entire mixture is prohibit irrespective of the quantity of this forbidden ingredient. Conversely, in *min be'she'eino mino* mixture, one first determines whether the flavour of the prohibited ingredient is recognisable. This difference is logical as in a *min be'she'eino mino* mixture one needs to redefine the status of the mixture – one does this according to its taste. Yet, for a *min be'mino* mixture, this “test” is not feasible.

One should note that the *Halacha* in *kashrut* is that in a *min be'mino* mixture, the forbidden ingredient is absolved if it is in the minority (*Shulchan Aruch* 98). A *min be'mino* mixture is simpler to permit in this area than a *min be'she'eino mino* mixture which, even though is biblical absolved in a majority, the *Chachamim* require the forbidden ingredient to be outweighed sixty parts to one.

The *Gemarah* (*Menachot* 22a) brings a debate between the *Tana'im* about whether the forbidden ingredient becomes annulled in a *min be'mino* mixture. If blood is mixed with wine, the sole criterion is whether the blood is recognizable in the mixture. But what if the two ingredients are the same product, for example regular blood and *hekdesh* blood? How does one determine whether one of the bloods absolves the other? *R' Yehudah* maintains that blood never absolves blood and a forbidden product in a *min be'mino* mixture is never absolved. Conversely, the *Chachamim* maintain that one imagines that the regular bloods is water and determines whether or not the forbidden blood would be noticeable in such a mixture.

What is the logic behind *R' Yehudah's* opinion? It appears that according to *R' Yehudah* as soon as the forbidden ingredient is added, the entire mixture is assumed forbidden. One can only annul the prohibited ingredient if the flavour of the permissible ingredient annuls the flavour of the forbidden ingredient. In a *min be'mino* mixture however, both products have the same flavour. Consequently, one is left with a mixture containing a prohibited ingredient.

If so, how does one understand the opinion of the *Chachamim*? They understand that in order for the prohibited ingredient to prohibit the mixture it must have an effect on the overall mixture. Therefore if there is no qualitative (*ta'am*) or quantitative (*rov*) effect then it is annulled on a biblical level.

To summarise, the approach of the *Chachamim* is the reverse of *R' Yehudah*. *R' Yehudah* begins by prohibiting the mixture and only then determines whether the forbidden ingredient is annulled. Conversely, the *Chachamim* begin by permitting the mixture unless there is a substantial reason to prohibit it.

This debate appears in a number of other *Gemarot* (*Avodah Zara* 73b, *Pesachim* 29b) and one finds that when not dealing with *kashrut*, a prohibited ingredient can prohibit a *min be'mino*

This therefore explains our original question. The *Ra'avad*, who maintains that *shvuah* and underlying monetary obligation are inextricably linked, views vows required by *shomrim* like the fines placed on violator and seducer. In other words once *beit din* obligates one to make a *shvu'ah* then the underlying monetary obligation becomes a loan. Consequently once the *shvuah* is absolved so is the *obligation*. The *Rambam* however, sees the case of *shvuat shomrim* as different to fines placed on the violator and slanderer. In other words, even after *beit din* obligates the *shomer* to make a *shvuah*, the underlying monetary obligation is not accessible and consequently not considered a loan - the *shvu'ah* is therefore not cancelled.

Trumot

Shlichut in Trumot

Trumot (1:1)

David Bankier

[Based on a shiur by Rav Moshe Taragin]

Messechet Trumot opens with a list of five people who cannot separate *trumah*. Amongst them is “one who separates *trumah* that does not belong to him”. *Kehati* explains that one cannot separate someone else’s *trumah* without the owner’s permission. If the owner however, elects this person as a *shaliach* (messenger) then he can separate *trumah* for the owner. This is learnt from the *pasuk*: “And you shall also take *trumot Hashem*” (*Bamidbar* 18:28). *Kehati*’s claim is supported as the concept of *shlichut* and is discussed in further detail later in the *messechet* (4:4).

Shlichut in other domains is understood as being more than just granting permission for another to perform a particular act. The *Ktzot* (195:2) explains that the *Rishonim* debated whether to consider a *shaliach* as merely acting for the sender or actually replacing him giving the *shaliach* more independence. One may ask whether the “*shlichut*” required in *trumot* is the same as in other areas.

The *Mishnah* in *Nedarim* writes that if someone vows against deriving benefit from someone, that person can still separate *trumah* for him. The *Gemarah* (36b) explain that due to the *neder* the person cannot act as a *shaliach*. Nevertheless, the *Gemarah* continues, this person (the *mudar*) can still separate *trumah* in a situation where the owner publicly declared that anyone can separate *trumot* for him. Consequently, it appears that *shlichut* is not required and the owner’s permission alone would suffice. Nevertheless the *Gemarah* in *Kiddushin* seems to suggest that genuine *shlichut* for *trumah* is learnt from the *pasuk* (like *Kehati* described). How does one reconcile these two sources?

Mixtures – *Min Be’mino*

Orlah (2: 6-7)

Ohad Fixler

[Ed. Trans.]

After something forbidden mixes with something permissible, one must define the status of this new mixture – is it forbidden or permissible? To establish the identity of this mixture, the *Chachamim* provided a number of parameters which one must clarify: What constitutes a majority of the mixture? Is the flavour of the prohibited ingredient identifiable? Is the prohibited ingredient special?

Before one can determine the status of the mixture one must first differentiate between two types of mixtures:

1. *Min be’mino* – where both the forbidden and permissible ingredients are of the same type, for example, *trumah* wheat mixing with *chulin* wheat.
2. *Min be’she’eino Mino* – where the forbidden and permissible ingredients are different products, for example, *trumah* wheat mixing with *chulin* rice.

The *Mishnayot* in the second *perek* (6-7) establish differences between these two types of mixtures. The *Mishnah* deals with a case where the prohibited ingredient is particularly potent. For example, when this ingredient is mixed with the dough it causes it to leaven. In this case a *min be’mino* mixture is always prohibited while in a *min be’she’eino mino* mixture, if the permissible ingredient outweighs the forbidden ingredient one-hundred parts to one, then the mixture is permissible.

Why is there a difference between these two categories? Why is *min be’mino* treated more stringently?

Other commentators explain that the *orlah* comes to teach us a moral lesson. By fulfilling the mitzvah of *orlah* we are training ourselves in patience and self-control; both of which are virtuous qualities that are vital for the proper fulfilment of numerous *mitzvot* and are essential parts of life.

Finally, the *Sefer HaChinnuch* writes, in his explanation of *neta reva'i* (commandment 247), that after harvesting such beautiful fruits a person will be “stirred to praise the Eternal L-rd”. Furthermore, when Hashem sees that we dedicate first fruits of a new tree to Him, “the grace of Hashem and His blessing will rest upon us and our fruits will be blessed for Hashem delights in good for His human beings.”

The *Sefer HaChinnuch* adds that due to the fact that a person is not only commanded to go to Jerusalem three times a year but also bring his first fruits, fruits of the fourth year, *ma'aser sheni* foods and animal tithes to Jerusalem, he will either make his home or the home of some of his children in that location. Therefore since Jerusalem is where the instructors of Torah and the main core of wisdom are found, he or his children will dedicate their lives to the study of Torah. We see from here that according to the *Sefer HaChinnuch*, the ultimate message of *orlah* is to focus on Jerusalem and learn *Torah*.

There are three different approaches. The *Tosfot* (Gittin 66a) explains that in the case described in *Nedarim* the person is still acting as a *shaliach*. By the owner publicly announcing and not directly approaching the *mudar*, he is not considered to be benefiting from the person ensuring that the vow is not compromised.

The *Rashba* admits that the case described in *Nedarim* does not require *shlichut*. Nevertheless, he maintains that the case is an exception since the *mudar* is a separating *trumah* from his own produce to act as *trumah* for the other person's produce. Consequently, he has the power to render his own produce as *trumah*. *Shlichut* however is still required when separating *trumah* from the owner's produce for the owner's produce.

Finally the *Ramban* (Gittin 66a) argues that *shlichut* is not required for separating *trumah* (like the original suggestion). The original question therefore resurfaces – how does one treat the *Gemarah* in *Kiddushin*?

Rav M. Taragin writes that the *Gemarah* proves that *shlichut* applies to *trumot* from the *Mishnah* 4:4 (cited earlier). Yet, earlier *Mishnah* 3:4 makes reference to the ability of one separating for another:

When do we say that [a partner cannot separate for the other]?

When they didn't speak, but if he gives permission to a member of his household... they can separate *trumah*.

Why does the *Gemarah* not make reference to this earlier *Mishnah* as the source for *shlichut*?

Rav Taragin explains that the *Ramban* could hold that there are two independent paths that one can take in order to separate *trumah* for another. The first path is when the owner simply agrees or gives permission. This path is the one described in *Nedarim* and in *Mishnah* 3:4. The second is if the person is made a *shaliach*. Here the *shaliach* takes the place of the owner and can

operate with more independence. This path is described in *Mishnah* 4:4 (quoted in *Kidushin*) where the *Mishnah* rules that if the *shaliach* is unaware of the amount the owner wishes to separate, he may assume the normal amount. This level of independence can only be justified if the person has been made a *shaliach*.

Orlah

The Message of Orlah

Ben-Zion Hain

Messechet Orlah, which we began last Sunday, deals predominantly with the laws pertaining to fruit that grew in the first three years since a tree was planted. The word “*orlah*” means sealed up or closed off and fruits that have the *din* of *orlah* must be destroyed as it is forbidden derive any benefit from them. This is learnt from a *pasuk* in *Vayikra* (19:23): “three years it shall be forbidden to you; it shall not be eaten”.

However, fruit does not automatically become permitted in the fourth year¹. Although the laws of *orlah* only deal with the fruit that grows in the first three years, any fruit that grows in the fourth year fruit is called *neta reva'i* – the fruit of the fourth year – and, like *ma'aser sheni*, must be taken to Jerusalem and eaten there.

Many opinions have been offered as to what the reason is for the commandments of *orlah* and *neta reva'i*. The *Ramban*, in his commentary on the *Torah* (*Vayikra* 19:23) writes that the reason can be attributed to the simple agricultural nature of new fruit trees. According to the *Ramban*, most new fruit trees will not produce any fruit at all until the fourth year. However, what would happen if a fruit tree did in-fact produce some fruit?

The answer to this question is two fold. Firstly, we bring the fruit of the fourth year (*neta reva'i*) to Jerusalem in order to bring honour to Hashem and any fruit that grows beforehand is substandard and of poor quality – not the type of food that would bring honour to Hashem. Furthermore, the *Ramban* adds that a health consideration is behind this *mitzvah*. The fruit that grows in the first three years is harmful to the body and therefore must not be eaten.

of) this liquid. From here one may apply this principle to all other *halachic* matters..."

Thus we see from the *Torah* equates water infused with the taste of wine with wine itself - that taste is equivalent to food matter. It must be noted that although scientifically the process of steeping involves the transfer of actual particles from the grapes to the water, since these particles are not visible they are regarded as "taste" rather than food matter in *halachic* terms.

The *Gemara* however presents this teaching only in the name of the Sages. *Rabbi Akiva* disagrees on the Biblical source for TKI. He cites the *pasuk* in *Bamidbar* 31:23 as the Biblical Source. This *pasuk* deals with the purification for *kashrut* purposes of metallic vessels taken by Bnei Yisrael as spoils following their victory against the Midianites: "everything that comes into the fire - you shall pass through the fire and it will be purified..." The *pasuk* teaches that *Bnei Yisrael* were commanded to purify the vessels in the manner in which they were used by their Midianite owners. For example, those vessels (such as grills) which would have absorbed the taste of the Midianite food over a fire had to be purged through fire. This was needed to ensure that the food that Bnei Yisrael would cook using these vessels would not become tainted by the non-kosher flavours which had been absorbed from the use by their former Midianite owners. According to *Rabbi Akiva*, this is the source for TKI from the *Torah*.

Notwithstanding this Tanaic dispute, this issue is subject to much further discussion. Due to further complications with regards to the appropriate use of the hermeneutical principles of the *Torah* and the strength of the linkages between the aforementioned exegeses and their source-*p'sukim*, the notion of taste being equivalent to food matter may in many cases, according to some opinions, be of Rabbinic legislation. The quantity from which taste is regarded as significant in a mixture is a further point of *halachic* controversy.

Machshava in Trumot

Trumot (3:8)
Avigdor Einat
[Ed. Trans.]

The *Mishnah* in *Messechet Trumah* (3:8) writes:

If someone intends to say: "trumah" and says "ma'aser", "ma'aser" but says "trumah", "olah" but says "shlamim", "shlamim" but says "olah", "I will not enter this house" but mentions another house, "I will not benefit from this" yet says something else – his words have no effect until his words and heart (i.e. intentions) are in agreement"

In other words, if someone intends to call that which he separated as *ma'aser*, yet mistakenly says "this is *trumah*", his words have no *halachic* significance. Our *Mishnah* expands this idea from the area of *trumot u'ma'asrot* to *kodshim* and *nedarim* as they are also areas where a prohibition is created through a verbal proclamation. The *Mishnah* leaves us with a simple explanation that "his words have no effect until his words and heart are in agreement." In other words, one's words are insignificant unless they are married with matching intentions.

This law is also brought in *Gemarah Pesachim* (73a) and there *Tosfot* mention a well known rule: "matters of the heart are insignificant" (eg, *Kiddushin* 49b). To explain this apparent difficulty the *Tosfot* therefore differentiate between two types of cases. The first, where "matters of the heart are insignificant" are where the person speaks with certainty, yet thinks something else. In our case however, the person really wanted to say one thing, but made a verbal mistake. Here, the mouth alone could not obligate someone to do something what they did not intend.

Another question raised by the *Rishonim* is whether one need make a verbal proclamation at all, when separating *trumah*. It appears from a number of places in the *Gemarah* that verbal

proclamations are not required and one can designate *trumah* with thought alone. In other words the requirement that “his words and mouth be in agreement” is necessary here only because his words have contradicted his thoughts. Yet in reality, there is no requirement for a verbal proclamation. One such source for this law comes from *Gemarah Shvu’ot* (26b): “From where do we know [that it is enough] if someone simply resolves in his heart? The Torah states ‘*kol nediv libo*’ (*Shmot* 35:22).” There the *Gemarah* proves that by *trumah* and *kodshim*, intention alone can create the desired effect. (See also *Gittin* 31a.) The *Rishonim* also bring a strong proof from the *Mishnah* (1:6) which included a mute person as one who should ideally not separate *trumah*, but if he did, the separated produce is indeed *trumah*!

The *Rambam* combined these two laws together (*Hilchot Trumot* 4:16):

If someone intends to say “*trumah*” and says “*ma’aser*”, “*ma’aser*” but says “*trumah*” – his words have no effect until his words and heart (i.e. intentions) are in agreement. Someone who separates *trumah* designating it mentally making no verbal proclamation, has indeed [successfully] separated *trumah*...”

The *Minchat Chinnuch* (*mitzvah* 397) however writes that the *Rambam* and *Tosfot* in practice argue whether thought alone is sufficient or whether a physical separation of the *trumah* is also required. *Rashi* and *Tosfot* have explicitly stated *trumah* can be designated with a verbal proclamation alone (see *Pesachim*). Conversely, the *Minchat Chinnuch* argues that the *Rambam* also requires a physical separation. This is because the *Rambam* appeared to focus on one point - “no verbal proclamation” – as being the difference in the final case implying that physical separation is still required. [NB: it appears that the *Kesef Mishnah* did not understand the *Rambam* in the manner.]

Ta’am Ke’ikar Challah (3:7) Noam Greenberger

“One who makes dough from wheat flour and rice flour, if it bears the taste of wheat it is liable for *challah* (i.e. a portion of it must be separated and given to a *kohen*) and a person may use it to fulfil his obligation (of eating *matza*) on Pesach...”
(*Challah* 3:7)

The *Rosh* (an early Talmudic commentator), when commenting on *Gemara Zevachim* (78a-b), cites the reasoning for the ruling in this *mishnah* as being related to the principle of *ta’am ke’ikar* (“The taste of a particular food is akin to the food itself”). Thus, since the aforementioned dough mixture possesses the taste of wheat it is considered to be wholly made of wheat for the purposes of *challah* and *matza*.

The question that must be addressed is where does the *Mishnah* and/or *halacha* derive the principle of *ta’am ke’ikar*. We will examine one piece of *Gemara* which provides some relevant background to the issue, recognising that its conclusions may not be final and that in its entirety this is a far larger matter with a number of variable factors.

The *Gemara* in *Pesachim* (44a-44b) cites a *Beraitah* (*Tanaic* teaching) which derives the principle of *ta’am ke’ikar* (TKI) from the Torah. The *pasuk* quoted is *Bamidbar* 6:3 which relates to the specific prohibitions affecting a *Nazir*.

“From new or aged wine shall he abstain, and he shall not drink vinegar of wine or vinegar of aged wine; anything in which grapes have been steeped he shall not drink, and fresh and dried grapes he shall not eat.” (Artscroll translation).

Reads the *beraitah*: “‘Anything in which grapes have been steeped’ comes to make the taste of an edible object akin to the object itself; if grapes were steeped in water and the water gains the taste of wine, the *Nazir* would be liable for drinking (a *kezayit*

from produce brought into *Israel* only rabbinic and not biblical (like *challah*)?

The *Gra"Ch* explains that the derivation from the *pasuk* (“*shamah*”) is indeed shared by *challah* and *ma'asrot*. The principle derived is that the location is important when the dough or produce reaches the state where one needs to separate *challah* or *ma'asrot*. If at the point the dough or produce is inside *Israel*, only then is one obligated to separate *challah* and *ma'asrot*. *Ma'asrot* differs from *challah* in that there are two stages that are essential to generate this *chiyuv* – for produce, reaching a third of its development and the completion of work. Both these phases must occur in *Israel* for the produce to be biblically obligated to separate *ma'asrot*. Therefore, granted that the completion of work for imported produce may occur inside *Israel*, since it reached a third of its development outside *Israel*, the obligation to separate *ma'asrot* is only rabbinic.

The *Gra"Ch* continues by adding a further distinction between *challah* and *ma'asrot*. The difference lies in how their respective obligations are initiated. For *challah* the obligation occurs at the point that the dough is rolled, therefore the sole consideration is whether or not we have bread. For *trumot* however the obligation stems from the fact that the produce has grown. Completion of work is merely a technical barrier preventing the obligation from being fully expressed.

This can be used to answer the above question about the *Rambam's* ruling. For *challah* the sole consideration is where the dough has been rolled; where the flour grew is not important. However for *ma'asrot* since the growth of the produce affects the obligation, the obligation to separate produce imported from outside *Israel* is only rabbinic. According to this explanation the first answer is not needed since whenever produce draws substance from land outside *Israel*, it is exempt from separating *ma'asrot* on a biblical level.

Estimation in *Trumot*

Trumot (4:3)
Shmuli Wenig

Some of the *mishnayot* in the fourth *perek* deal with how much *trumah* must be given to the *Kohanim*. The third *Mishnah* in *perek* 4 says that a generous person will give one fortieth of his produce to the *Kohen*, whilst a miser will donate one sixtieth and someone in between these two extremes will give one fiftieth. What is interesting is that although the *Mishnah* gives exact values for how much *trumah* should be given, when it comes to actually separating the *trumah* from the rest of the produce, the law is to estimate rather than to actually measure the exact amount of *trumah* given. The reason for this is that even though the *Chachamim* provided a measure for the size of *trumah gedolah*, the *Torah* itself does not provide a *shiur*. Instead it writes “your *trumah* shall be reckoned (*va'nechshav*)” (*Bamidbar* 18:27).

As is stated in *perek* 1, *Mishnah* 7, “One does not give *trumah* by measure, or by weight, or by number.” However, the *Mishnah* goes on to explain that one can take *trumah* from produce that has already been measured, weighed or counted, making it possible for someone to donate close to the exact amounts mentioned earlier. In the case of *trumah*, there appears to be a clear distinction between estimating and calculating. While the produce as a whole may be calculated, the *trumah* itself may only be estimated.

We find a similar concept our *mishnayot*. The *Mishnah* (4:6) explains that there are three times during the agricultural cycle when we measure the capacity of fruit baskets to determine how much produce to donate based on their volume. For example if the basket's capacity is one hundred figs, we would donate two figs. These three agricultural periods relate to the ripening seasons

of various fruits. Fruits that ripen earlier tend to be larger, so therefore a basket will hold fewer fruits. Whereas fruits which ripen later and tend to be smaller and more dried out.

Our *Mishnah* is usually interpreted in the context of the *mishnayot* preceding it. Many commentators, such as *Melechet Shlomo* and *Tiferet Yisrael*, explain that this *Mishnah*, like the ones before it, deals with *trumah gedolah* and teaches us that even though we are only supposed to estimate (not calculate) the amount of *trumah* we need to give, we must nevertheless determine the amount of available produce in order to be able to donate the amount that *Chazal* instructed us to donate. In this sense, while the exact volume of the produce is known, and the ideal amount of *trumah* can be calculated, we do not measure out this amount but estimate it when actually separating the *trumah*.

However, *Rambam* explains the *Mishnah* differently. *Rambam* defines the “basket” mentioned in the *Mishnah* as being the basket in which one measures *ma’asrot* (a tenth of the produce which is given to the Levi) and thus our *Mishnah* is not dealing with *trumah gedolah* which is an estimated donation, but rather with *trumot ma’aser*. *Trumat ma’aser* is given to the *Kohen* and comprises one tenth of the *ma’aser* that the *Levi* receives. *Trumat ma’aser* has a fixed amount that is mentioned in the torah – “*Ma’aser min hama’aser*” – “a tenth of a tenth” – and therefore the *Levi* does not estimate the amount of *trumot ma’aser* given, rather he gives an exact amount. It is with this in mind that *Rambam* explains our *Mishnah*. *Rambam* believes that because *Trumah gedolah* is a donation that is only ever estimated, it is not possible that our *Mishnah*, which discusses calculating the volume of a basket, is talking about *trumah gedolah*. Therefore the basket in our *Mishnah* must be the basket in which we measure *trumot ma’aser* so that in every season we can give the exact amount required.

Importing and Exporting Produce

Challah (2:1)
David Bankier

During the study of *messechet challah* similarities have been drawn between *challah* and *trumot u’ma’asrot*. A *halacha* brought down by the *Rambam* differentiates between *challah* and *ma’asrot*. The analysis of this difference reveals a lot about the nature of these *mitzvot*.

The *Mishnah* mentioned that if someone imported one of the five grains to Israel, they would be required to separate *challah* from the resulting dough. (This is learnt from the following *pasuk* that discusses the obligation of separating *challah*: “...when you come to the Land that I bring you there (*shamah*)” (*Bamidbar* 15:18).) If however one takes one of the five grains from Israel and kneads it outside Israel, whether or not he is obligated to separate *challah* is debated by the *Tana'im*. *R’ Eliezer* argues that one is obligated to separate *challah* while *R’ Akiva* argues that he is exempt (deriving this from the above quoted *pasuk*).

When discussing the obligation of *challah* in such scenarios the *Rambam* (*Trumot* 1:22) rules according *R’ Akiva* in the above stated *Mishnah*. When discussing *ma’asrot* he rules that, like *challah*, produce exported from Israel are exempt from separating *ma’asrot*. Yet the *Rambam* continues, if one brought produce from outside *Israel* to *Israel* and only there reached *chiyuv ma’asrot*, then the obligation to remove *ma’asrot* is only rabbinic. This differs from *challah*, where the obligation in the comparable case is biblical.

The exemption from separating *challah* and *ma’asrot* from produce that has been taken out of Israel implies that *Rambam* is learning the exemption of *trumot* from the same source as the exemption from *challah* (“*shamah*”). The *Kesef Mishnah* therefore asks, if so, why is the obligation to separate *ma’asrot*

One of the most common cases found in *Chazal* of this instituted mitzvah was that of *zecher le'Miskdash*, a remembrance of the Temple that stood in Jerusalem.

Rav Soloveitchik זצ"ל, explained that there are two focuses when remembering the Temple. The first is keeping the memory that the Temple was destroyed and that we are in exile in the forefront of our minds. This is expressed for example, by the *halacha* that a *chatan* puts ash on his head under the *chuppah*, a space is left in the house undecorated and the fast days. These were all instituted for the memory of the destruction of the *Beit Ha'Mikdash*.

The second is the remembering the glory of that which the Temple represented and the beauty of the House. As the Gemarah states, 'whoever did not see the Temple has never seen a beautiful building in their life'. This is expressed in the *mitzvah* of *lulav*. According to the *Torah* the *lulav* is only taken on the first day of *Sukkot* outside the Temple while it is taken everyday inside the Temple. Therefore after the destruction the *Rabbis* instituted that we should take the four species all the days of the *chag*.

However, in the case of *Challah*, *Chazal* were restricted in the creation of the remembrance. They were unable to create a rabbinic copy of the *Torah* obligation, as the *Torah* obligation was centred on one being in a spiritual state of purity. As mentioned above we are all in a state of spiritual impurity as there is no longer the *para aduma*. Therefore the *Rabbis* obligated us to separate the dough, make a bracha and then burn the bread. This is therefore seen as a remembrance of the original *Torah* obligation and a solemn *zecher le'mikdash*.

Mixtures of *Kodesh*

Trumot (5)

Yehuda Gottlieb

The fifth *perek* of *Messechet Trumot* addresses the issue of *meduma*. The *din* of *meduma*, as presented in *Messechet Trumot* refers solely to mixtures of *trumah* and *chulin*. However, the *Gemara* (*Chagigah* 25b) speaks about a case where there may be *meduma* by *kodesh*.

The *Mishnah* in *Chagigah* states that an *Am ha'Aretz* is trusted with regard to the *taharah* of barrels of wine and oil that are *meduma*, not only during the season of pressing but even seventy days before it. The *Gemara* asks - what are the contents of these *meduma* barrels for which an *Am ha'Aretz* is trusted? Does the *Mishnah* refer to a mixture of *chulin* and *trumah* or a mixture of *chulin* and *kodesh*? The *Gemara* explains that it cannot be talking about *meduma* of *kodesh*, because there is no such thing as *meduma* for *kodesh*! Yet the *Gemarah* cannot accept that it is referring to *trumah* as an *Am ha'Aretz* is not trusted with protecting barrels of *trumah* from impurity. The *Gemara* answers that the *Mishnah* refers to a case where the *Am ha'Aretz* prepared his *tevel* in order to take *nesachim* (*kodesh*) from it, in which case he protects it from *tum'ah* more carefully, just like he can be trusted to protect actual *kodesh* from becoming *tamei*.

The *Gemara's* question seems to be that the term *meduma* is never used for anything except for *trumah* mixed into *chulin*. It does not refer to *kodesh* mixed with something, and therefore the term, when used by the *Mishnah*, must refer to *trumah* mixed with *chulin*, and not to *kodesh*.

If this is the *Gemara's* question, what does the *Gemara* mean when it answers that the *Am ha'Aretz* designated part of the contents of the barrel to be brought as *nesachim*? How can the *kodesh* that is mixed into the barrel be called *meduma*?

Rashi explains that the *Gemara's* answer (that the *Am ha'Aretz* planned to separate *kodesh* from the barrel), is referring to a case where the contents of the barrel are *chulin*, *trumah*, and *kodesh*. Why does *Rashi* mention that the barrel has *trumah* mixed into it? After all, the simple explanation of the *Gemara* has nothing to do with *trumah*; the *Gemara* is looking for a case of *chulin* and *kodesh* mixed together, and not for *trumah* mixed in with it. Granted that the *Gemarah* explains that the produce is *tevel*, yet *meduma* is a term used to refer to a mixture of originally separated *trumah* and *chulin* and is not interchangeable with the term *tevel*.

The *Tosfot Rid* explains that *Rashi* apparently understood the question of the *Gemara* differently. According to *Rashi*, the *Gemara* was asking how the Mishnah can call *kodesh* mixed with *chulin*, "*meduma*," when the only item of *issur* that is called "*meduma*" refers to *trumah* mixed with something else.

The *Gemara* answers that since it is *tevel* it is as if *trumah* is also mixed into this mixture of *chulin* and *kodesh*, and that is why the entire mixture is called "*Meduma*." The *Am ha'Aretz* sets aside his *tevel* in order to separate *kodesh* from it to be used for *nesachim*. It is called "*Meduma*" because it still contains *trumah* that has not yet been separated from the *tevel*. The *Am ha'Aretz* guards the entire mixture because it has *kodesh* designated in it.

Why, though, should the Mishnah mention *meduma* and say that there is *trumah* mixed in with the *tevel*, if the *trumah* has nothing to do with why the *Am ha'Aretz* is guarding the barrel from *tum'ah* (he apparently guards it because it contains *kodesh*, and not because it contains *trumah*)? The answer is that the *Am ha'Aretz* is trusted only if he intended to separate *kodesh* from the produce at the very start of its production, from the time that it was harvested. Therefore, the *Mishnah* calls it "*meduma* or *tevel* with *trumah* still in it, to show that it has been guarded from the beginning of its production.

Challah

Introduction to *Challah*

Natan Rickman

One of the *mitzvot* that the *Bnei Yisrael* was given when they entered the Land of Israel was to separate part of the dough and give it to the *Kohanim*. This *mitzvah* was known as "Challah". The obligation only applied to bread made out of the five grains listed in the first *Mishnah* of *Messechet Challah*. When suggesting a "hint" to the reason of this *mitzvah* the *Sefer HaChinnuch* explains that since bread is the most basic food, the *Torah* wanted to give us *Mitzvot* that would aid in imbuing holiness into one of the most common actions of man - baking bread. This transforms the bread from providing solely for the body into food for the body **and** soul. Furthermore it seamlessly provides the *Kohanim* with food enabling them to be totally focused on the Temple service.

The *mitzvah* of *Challah* is only a *Torah* obligation within the borders of Israel, and must be eaten by a *kohen* in a state of spiritual purity. However, since today we are spiritually impure, without a *Beit Ha'Mikdash* and are missing *Kohanim* able to prove their lineage back to *Aharon*, we are unable to fulfil this *mitzvah* in its completeness. Nevertheless *Chazal* did institute a rabbinic requirement in order that we should not forget the *Torah* obligation. Therefore today we separate the dough and burn it.

Chazal throughout the *Gemara* and in later times often instituted laws and rules in order that they act as some type of reminder. For example *lulav* for all seven days of *Sukkot*, *sfirat ha'omer*, *marror* on seder night, and *shmittah*. *Chazal* used two different types of *zechira* the first was that the remembrance was a 'carbon copy' of the original *mitzvah* and the second was a simple reminder meaning any action would suffice.

Beit Ha'Mikdash standing. The second is the practical status of the land of Israel at that moment. If the majority of world Jewry is not living within its borders the land-dependent *Mitzvot* do not apply at that time.

Interestingly it is believed that in the next generation the majority of world Jewry will be living in the Israel, which will bring about a 'new' *Halachic* reality that has not been for over 2000 years.

A *Kohen* Who Discovers of His Roots

Trumot (8:1)
Noam Greenberger

“If [a *kohen*] was standing and sacrificing on the altar, and it became known that he was the son of a divorced woman or a *halutzah*- *R. Eliezer* says, all the sacrifices which he offered on the altar are invalid. But *R. Yehoshua* declares them valid.”
(*Trumot* 8:1)

The first argument here is over the status that *halacha* attributes to the *korbanot* of a *kohen* who was proven to be the son of a divorcee and/or “*chalutzah*” (i.e. a woman who did not marry her late husband’s brother following his passing, where their marriage had not brought forth any children). Such a *kohen* is ineligible to perform the services of a *kohen* in the *Beit Ha'Mikdash*.

On an objective plane this “*kohen*” was never eligible to perform the services of a *kohen* in the *Beit Ha'Mikdash*, and consequently there is room to say that none of the *korbanot* which he brought were valid. *This is the view of R. Eliezer.*

On the other hand, the *korbanot* brought by such a “*kohen*” were brought at a time when this person and the society around him wholeheartedly believed that he was a *kohen*. It is thus possible that this artificial former reality retains the *halachic* validity it enjoyed before the new evidence of the *kohen*’s background came to light. This would mean that all the *korbanot* brought by the *kohen* before the realization of his true background retain their *halachic* weight even after the *kohen* has been dethroned. *This is the view of R. Yehoshua.*

The *halacha*, as Kehati notes, is in accordance with *R. Yehoshua*. The *Gemara* in Tractate *Pesachim* 72b cites the *pasuk* (*Devarim* 33:11), which relates to the tribe of Levi from which the *kohanim* emerged, as being the source for *R. Yehoshua*’s ruling:

“Bless, L-RD, his resources, and accept the work of his hands”
The *Gemara* in *Kiddushin* (66b) explains the exposition of the text to be as follows:

The father of *Shmuel* explains [*R' Yehoshua's* source is from the *pasuk*]: “Bless, L-RD, his resources (חילו), and accept the work of his hands” – implying that even the profane (חיליני) are accepted.

In essence the *Gemara* learns out from this *pasuk* that even the *korbanot* of a *kohen* who is unfit to perform in the *Beit Ha'Mikdash* are not invalidated post facto.

However, the *Gemara* in Tractate *Makkot* (11b) raises the possibility of two understandings of the reasoning behind *R. Yehoshua's* opinion.

The first understanding presented is that even once the *kohen* becomes aware of his true background it is as if he is “dead” regarding the *kehuna* (priesthood). This implies that the *kohen's* former status as a *kohen* was “alive” and thus the *korbanot* he brought were valid.

The second understanding brought by the *Gemara* asserts that the status of the *kehuna* of the *kohen* in question following his enlightenment is “nullified.” The implication here is that the *kohen* is retroactively disqualified from performing services in the *Beit Ha'Mikdash*. According to this view the only reason that the *korbanot* (as opposed to other special duties) of this *kohen* are still considered valid is because of the special teaching learnt from the *pasuk* cited earlier. Fundamentally, this view proposes that the *kohen* in question was never a recognised *kohen*.

The *Rambam* seemingly rules according to the second understanding presented (*Hilchot Beit Ha'Mikdash* 6:10):

A *kohen* that works and is found to be a *challal*, the work he performed in the past is *kosher* and he cannot perform any further *Avodah*. If he however does do any *Avodah* it is not profane as the *pasuk* states: “Bless, LORD, his resources, and

There is a dispute among the commentators as how to understand the actions of *Rebbi Eliezer*. *Rashi* explains that he thought that the original *kedushah* was forever lasting. Therefore he asked the poor to bring the food to *Yerushalaim* to eat it there. However the disciples explained that even though there might still be a level of *kedushah* within the city, there was no need to beautify the city as it was in ruins and being controlled by non-Jews.

Tosfot offers another explanation that even if we hold that the *kedushah* is not eternal, one is still not allowed to leave the fruit to spoil. *Rebbi Eliezer* had the further complication that he lived too near to be allowed to redeem the *kedushah* onto a coin. Consequently, it had to be taken to *Yerushalaim*. Other things that would not ruin however should be left until the Temple would be rebuilt (since they were unaware that this exile would last over 2000 years!)

The *Rambam* in *Hilchot Ma'aser Sheni* (2:2) writes, “It is an expression of *chasidut* to redeem the fruit nowadays as they did in the times of the Temple”. The *Rambam* here appears to follow the opinion that the *kedushah* is not forever. However the *Rambam* in *Hilchot Beit haBechira* (6:14-15) explains that the area that was made *Kadosh* by King Shlomo which was the *Kedushah* of the Temple courtyard and that of *Yerushalaim*, lasts forever. Therefore one can eat *kodshim* and *kodshim kalim* in their correct places even without the Temple.

Many have noted that the *Rambam* seems to contradict himself. On the one hand he rules in *Ma'aser Sheni* that it is only an “act of righteousness” to redeem the fruit, which would imply that the holiness of *Yerushalaim* has either ceased or at least is at a different level. Yet, in *Beit haBechira* the *Rambam* writes that the level of holiness is not dependent on the Temple standing.

According to *Rav Kapach* tzl the *Rambam* is explaining two ideas. The first is that *Yerushalaim* remains in its complete state of *Kedushah* i.e. the ability to eat *Ma'aser Sheni* even without the

Kidusha Rishona
Ma'aser Sheni (5:2)
Natan Rickman

The second *Mishnah* of the fifth *perek* discusses the distance that one must be from *Yerushalaim* such that they can transfer the *kedushah* of *kerem reva'i* produce to money. The intention is that after redeeming the *kerem reva'i*, one then takes this money to *Yerushalaim* and purchases fruit there.

The question arises of what does one do today with the fruit that has grown in Israel - is one still bound by these laws? This is discussed in the *Gemarah* (*Beitzah* 5a), which records an episode where *Rebbi Eliezer*, who lived to the east of Lod after the destruction of the second Temple, wanted to give the fruit to the poor people of his town to eat in *Yerushalaim*. His students questioned him and asked 'nowadays there is no longer an obligation to take fruit [to *Yerushalaim*]'.

To fully understand the statement of the disciples, we must first understand the following idea. When the *Bnei Yisrael* first conquered and settled the land of Israel, the final stage of the fourteen year process was marked with the consecration of the land. Rabbi Joseph B Soloveitchik tzl once explained that within the world of *Halacha* holiness is always something that man imbues into an object. Nothing is holy without man expressing the *kedushah* within it. Therefore, once the Jewish people had settled the land they were able to reveal the *kedushah* of the land. However, once the Jewish people were exiled and the first Temple was destroyed according to some commentators the *kedushah* left, as they believe that the *kedushah* is only expressed when the people are in their land. However, when the people can back after the seventy years of exile they were able to re-imbue the land with a new *kedushah*.

accept the work of his hands" – implying that even the profane are accepted.

The *Tosfot Anshei Shem* writes that the *Rambam* rules that while an ineligible *kohen* (who is aware of this) may not work in the *Beit Ha'Mikdash*, if he does so, his work is not invalidated. This cannot follow the first understanding of *R. Yehoshua's* opinion stated earlier as a "dead" *kohen* cannot perform work in the *Beit Ha'Mikdash*. Rather the *Rambam* prefers the second understanding that this *kohen* is retroactively nullified from being a recognised *kohen*, yet nonetheless his work in the *Beit Ha'Mikdash* still has validity and is accepted. Hence, he quotes the *pasuk* from which this special law is learnt out.

Kedoshim Tehiyu

Trumot (8: 11-12)

Yaron Gottlieb

The *Mishnah* in *Terumot* (8:11-12) brings two cases which are similar in their logic, and yet have slightly different outcomes. The *Mishnah* (11) deals with a case of a non-Jew who threatens to make an entire pile of *trumah* bread *tameh* if he is not given one loaf to make *tameh*. A dispute arises between *Rabbi Yehoshua* and *Rabbi Eliezer* whether one should allow all the loaves to become *tameh*, or leave one aside for him to make *tameh*.

The next *Mishnah* states “and so too with women, [in a case where] non-Jews say: give us one of you to defile and if not we will defile all of you, they should all become defiled rather than give them one soul from Yisrael.”

The *Yerushalmi*, as well as the *Rambam* raise a third case where non-Jews surround a city and demand one person’s life otherwise all the people in the city will be killed. In such a case one may not give over anyone in the city. The situation is qualified to state that if they are requesting someone who is liable for death, he may be handed over (although this is not the ruling with regards to the women).

Tosfot Yom Tov here points us to a *Mishnah* in *Ohalot* (perek 7) where the life of the mother is not saved if the baby has already exited the womb, since we “do not push off one soul for another soul”. Each soul of every Jew is significant and there is no way of objectively choosing between them.

Taking these points we have to understand the common thread between the three cases that causes us to lump these decisions into one group. Once something becomes *trumah* (and even more so when the object is a human being) it ceases to be normal and

inflate. If however, everyone brings *ma’aser sheni* fruit and money with them, this concern will be offset.

Secondly, it is desirable that people regularly visit the nation’s spiritual centre. The fixed measure of *ma’aser sheni* forced people to regularly come. The obligatory stay would clearly have the benefit of strengthening the spirituality of those guests.

It appears that this last reason is just as valid today with *Yerushalaim* and *Yisrael* being the spiritual centre. Consequently today, even without *ma’aser sheni*, there is importance in visiting these places. In a similar manner, it is important to visit *shuls* and *batei midrash* which to a certain extent take the place of the *Beit Ha’Mikdash* in our time.

What then is the aim of *trumah*? Rav Aharon Lichtenstein explains that *trumah* is one of a select few things described as “*reishit*” (first). The idea represented by this group is that one should ‘give’ the first portion to *Hashem* prior to sitting down and eating. Consequently, *trumah* does not serve a practical or financial purpose, but rather an educational one.

There are other laws that are understandable after this distinction. An *Israel* can eat *ma’aser rishon* once the *Levi* has received it; after all, it is his property. *Trumah* (as well as *bikurim* and *trumat ma’aser*) on the other hand is *kadosh* and a non-kohen cannot eat it.

How does one then understand *ma’aser sheni*? On the one hand it appears that it should be amongst those things that are ‘given’ to *Hashem*, yet on the other hand it has a fixed amount - 10% - suggesting that it is similar to those “practical” gifts.

The answer may be found in the laws learnt in the third and fourth *perakim*. There we find the law that if the owner redeems his *ma’aser sheni* produce he must add one fifth of its value. Many have understood this requirement as a guarantee that the owner will not undervalue the produce when redeeming it. There therefore appears to be a practical interest that enough money will be used to redeem the produce. Return to the original question – what is the reason for this practical interest?

If one looks at the *p’sukim* found in *parashat Re’eh* (*Devarim* 12) it appears that the entire aim of *ma’aser sheni* is that people have festive meals around *Yerushalaim*. So again, why the ‘pragmatic’ detail in the laws?

There are two points:

Firstly, there are economic considerations. During the three festivals when everyone comes to *Yerushalaim* there is a valid concern that there will be a short fall of food and the prices will

raises itself to become a significant object in its own right and different from all ordinary things. The fact that it becomes important in its own right means that it is not possible to pick between each one since each one is important. This holds true for human beings as well as objects that have been sanctified to *Hashem*.

This, however still does not explain the differences between the rulings, although with some simple logical deduction used by the *Kesef Mishnah* it becomes clear. Once *trumah* becomes tameh it can never return to its tahor status and therefore, according to *Rabbi Yehoshua*, can only be placed before the non-Jew but not given directly to him. We cannot select a particular woman since despite that fact if she were defiled she can still continue to live a virtuous life, we have no right to decide which one is the ‘most worthy’ of being sent out to the non-Jews (under normal circumstances, see the *Kesef Mishnah* for exceptions). Finally, when dealing with matters of life and death, the decision is final and consequently comparable to the case of *trumah*. Yet, we are also dealing with humans, and therefore some of the stringencies of the second case must be adopted. Nevertheless, extending the principles set out in the second case one can understand why the *Rambam* ruled that one can hand over a person that is sentenced to death.

The significance that exists in every one of us and in every object, whether it be land or a holy object, is one that sets us apart for a special goal. While we may not know what direction this will take us we must continue in the path that makes us unique, as is written in *parashat Kedoshim Tehiyu* – “You shall be holy for I, God am holy”.

Reichei Lav Milta

Trumot (10:3)
David Bankier

In *Messechet Avodah Zarah* (66b) there is a debate regarding whether a *Yisrael* can smell non-Jewish wine. *Abaye* forbids it as he equates smelling the wine with drinking it; while *Rava* permits it as he maintains that there is no substance in fragrance (*reichei lav milta*). The *Gemarah* attempts to link this debate with the following *Mishnah* (10:3):

If one removed hot bread from an oven and put it over the mouth of a jar of *trumah* wine - *R' Meir* forbids it [to be eaten by a non-kohen], but *R' Yehudah* permits it. *R' Yosi* permits it if it is wheat [bread], but forbids it if it is barley [bread] as barley is more absorbent.

The *Gemarah* in *Messechet Pesachim* (76a) tries to link another debate to this *Mishnah*. There the *Gemarah* discusses the status of *kosher* meat that has been cooked in an oven with non-kosher meat (*neveilah*). *Rav* maintains that the mixture of the smells cause the meat to become *assur*. *Levi* argues however, that the *kosher* meat remains *kosher* as there is no substance to smells.

Rashi (*Pesachim* 76b) equates the cases brought in *Avodah Zarah* and *Pesachim*. In other words, in both cases, the argument is simply related to the status of smells. *Abaye* and *Rav* hold that the smells are significant, while *Rava* and *Levi* hold that *reichei lav milta*. He further explains that whenever there is a debate between *Rava* and *Abaye* the *Halacha* always accords to the opinion of *Rava* (except for the few known exceptions). Consequently, in the above cases the *Halacha* would be like *Rava*, and by extension *Levi*.

The *Ba'alei Tosfot* have two problems with *Rashi's* understanding. Firstly, *Rava* elsewhere does appear to consider smells seriously. In *Pesachim*, *Rava* ruled that fish that was cooked in the same

The Essence of *Ma'aser Sheni*

Aharon Novogrodski
[Ed. Trans.]

The *Mishnayot* studied contain an assortment of laws relating to *ma'aser sheni*. The question that will be dealt with in this article is whether something can be learnt about the nature of *ma'aser sheni* from these laws.

Fundamentally, when dealing with the nature of *trumot* and *ma'asrot* they must first be divided into two categories – *trumot* and *ma'asrot*. This basic division is found in the *Torah* in *Parashat Korach* (*Bamidbar* 18: 8-21) where it discusses the commandment to separate *trumot* and *ma'asrot*:

Hashem announced to *Aharon*: I have given you responsibility for My elevated gifts. I am thus giving you all the sacred gifts of the Israelites as part of your anointment... The dedicated portion of oil, wine and grain that must initially be presented to *Hashem* is now given to you... To the descendants of *Levi*, I am now giving all the tithes in Israel as an inheritance. This is in exchange for their work, the service that they perform in the Communion Tent.

The *p'sukim* appear to indicate that the *ma'aser* is effectively the payment for the *levi'im's* work. When discussing *trumah* on the other hand, despite the fact that the *Kohanim* also 'work' in the *Beit ha'Mikdash*, the *trumah* is not described as a payment.

Differences in the prescribed quantities of *trumot* and *ma'asrot* also reflect the above described distinction. For *ma'aser* a pragmatic instruction is given as to the required quantity – 10%. Conversely, the *Torah* does not provide a measure for *trumah* and (on a biblical level) one can give as much or as little as they desire.

There is a law that outside of Jerusalem only certain conversions of *ma'aser sheni* money may be performed. *Ma'aser Sheni* copper coins may be exchanged for silver coins but silver coins may not be exchanged for copper coins – silver coins may not even be exchanged for other denominations of silver. The *Shnot Eliyahu* therefore explains that really *Beit Shammai* are more stringent because they hold a person can only exchange copper to silver if he has the exact denomination whereas *Beit Hillel* permit changing half denominations i.e. Half a *sela* of copper and half a *sela* of silver may be exchanged for a whole silver *sela*.

Alternatively *Tosfot* in *Bava Metzia* (45a) and the *Rash* explain that there was a concern that the copper coins would go mouldy or deteriorate. In this sense *Beit Shammai* are more stringent in that they require as many copper coins to be exchanged for the more durable silver coins as possible, whereas, *Beit Hillel* are less concerned and thus permits even a smaller amount to be exchanged.

oven as meat cannot be eaten with food containing milk. Secondly, if the cases in *Avodah Zarah* and *Pesachim* were truly equivalent then they would have been mentioned in the same place.

The *Ba'alei Tosfot* continue to explain that in truth *Abaye* could agree with the opinion of *Levi*. In *Avodah Zarah* *Abaye* prohibits smelling the wine; since the person is directly benefiting from the smell of the wine it is as if he is drinking it. In *Pesachim* however, the smell is entering into another object (the other meat) and *Abaye* there may agree with *Levi* that the smell is not significant. Similarly *Rava* could agree with *Rav* in *Pesachim* yet maintain that there is more room to be lenient in the case in *Avodah Zarah* as the potent smell is somewhat damaging as it enters his body. They therefore conclude that the *Halacha* is like *Rav* in *Pesachim* and *Rava* in *Avodah Zarah*. (See the *Tosfot* for a more complete explanation of how they understand the *Halacha*.)

The *Ramban* (*Avodah Zarah* 76b) agrees with *Rashi* and equates the cases in the two *gemarot* and responds to the first of *Tosfot's* questions. He explains that the reason why *Rava* prohibits eating the fish that was cooked alongside meat with food containing milk is not connected to his position on the status of smells. *Rava's* stringent ruling in this case is a result of a rabbinic decree (a *gezeirah*). He explains that there are two reasons for this stringency. Firstly, unlike the other case above, since anyone can readily smell the meat and milk it would appear as though one is eating meat and milk together. In the other cases, the smell of the prohibited product is not recognised as being prohibited by a third party without them being informed of the true source of the smell. Secondly, in general the *Rabbanim* were stricter with the issue related to meat and milk as they were readily abused.

[NB: this is merely a “snapshot” of the issue. See the cited sources for a more thorough understanding of this topic.]

Ma'asrot

Introduction to *Ma'asrot*

Aharon Novogrodski
[Ed. Trans.]

“The following is a general rule regarding *ma'asrot*: anything that is (i) food, (ii) stored (*nishmar*) (iii) grows from the ground must have *ma'asrot* separated” (Ma'asrot 1:1)

The *Mishnah* at the beginning of this *messechet* deals with the definition of food that must have *ma'asrot* removed. The *Mishnah* simply lists the three above stated characteristics. The *Gemarah* explains the requirement that food be “stored” comes to exclude ownerless fruit (*hefker*). Throughout the *messechet* however, more essential characteristics are revealed, eg, the food must be owned by a Jew and not be *hekdesh*.

It appears that the source of this additional exemption stems from an understanding of the obligation separating *trumot* and *ma'asrot*. In general there are two types of obligations presented by *mitzvot* that are connected to the land. The first is that the *mitzvah* is connected to the produce itself, eg, *kilayim* or *orlah*. The second is that the obligation rests on the owner. This *messechet* appears to follow the second way. Consequently, in the case where the produce is owned by a non-Jew or it is *hekdesh*, it makes sense that *ma'asrot* need not be separated as there is no “owner” to obligate.

One may ask: why was only the exemption of *hefker* listed in our *Mishnah*? How is this different from the other exceptions?

To answer this question, a further law must be discussed in order to highlight the differences between the exemption of *hefker* and the other exemptions.

Currency Conversion

Ma'aser Sheni (2:8)
Yoni Fisher

The *Mishnah* in *Ma'aser Sheni* (2:8) brings an argument between *Beit Hillel* and *Beit Shammai* regarding how to convert money to sums that are tradeable in Jerusalem when it is time to make that pilgrimage and eat the *ma'aser sheni* produce there. *Beit Shammai* says that one may convert as many copper coins to the less cumbersome silver *sela* denominations as he wants, whereas *Beit Hillel* contends one may trade a maximum of half of one's bronze to silver *selas*.

R' Kehati explains that *Beit Hillel* is concerned that the rush of people changing silver in Jerusalem for produce or smaller sums of money will inflate the exchange rate so that silver will be worth less than the amount originally converted. This would consequently diminish the value of *ma'aser sheni* because a person could not afford to purchase the same quality or quantity of produce as he originally redeemed

This debate is unusual because *Beit Hillel* are usually more lenient than *Beit Shammai* and here they appear to be ruling more stringently. Thus this explanation is problematic because in *messechet Eduyot* the *Gemara* goes through the rare examples where *Beit Shammai* are more lenient than *Beit Hillel* and this *Mishnah* is not mentioned amongst them.

This question prompts various commentators to offer other interpretations of the *Mishnah*. *R' Kehati* brings the following two alternatives.

The *Rashba* disagrees with the explanation of *Rashi*, and instead views the *shtar* in the case of the Gemara as a *shtar kinyan* (contract of acquisition). The *Rashba* states that the reason that this *shtar* does not affect the redemption of *Ma'aser Sheni* or *Hekdesh* is because it only affects the **acquisition** of the produce and not the actual **redemption**.¹²

The *Sefer HaMakneh* differs in his understanding of *Rashi's* opinion. He holds that *Rashi*, like the *Rashba*, is also describing a *shtar kinyan*. According to this opinion - there is a problem, for if *Rashi* is describing a *shtar* that is only needed to affect acquisition, why does he include the detailing the money to be given over? As a *shtar kinyan* (contract of acquisition) the reference to the monetary amount is superfluous!

In order to answer this question, *R' Chaim Brisker* introduces a novel idea (*chiddush*) which changes the normative perception of the process of redemption of *Ma'aser Sheni* and *Hekdesh*. *R' Chaim* states that in order to affect redemption, one must have both a *kinyan and* a monetary amount with which the produce can be redeemed. Similarly, it is not enough to only redeem *Ma'aser Sheni* or *Hekdesh* on money; one must do a *kinyan* as well. Therefore, the question can be answered - if we understand that *Rashi* is talking about a *shtar kinyan*, we must say that the reason that an amount must be detailed is because that is how the redemption process occurs – one must make a *kinyan and* use money to redeem one's *Ma'aser Sheni* or *Hekdesh*.

¹² The *Rashba* also maintains that the monetary amount that one is redeeming must also be detailed. However, that fact is external to the actual body of the *shtar*, which is to be used, in his opinion, to affect an acquisition.

The *Mishnayot* in the beginning of the *messechet* discusses the time in the fruit's development when the obligation to remove *ma'asrot* begin. It mentions three stages:

1. A third of its growth – from this point onwards one can separate *ma'asrot*, yet on a biblical level it is not considered *tevel*.
2. Smoothing of the pile (End of work) – After the completion of work, there is a rabbinic obligation to separate *trumot* and *ma'asrot*. Even a light snack is prohibited. (There is a debate about its status on a biblical level – see *Bava Metzia* 88b).
3. Entering the house – According to most opinions, this stage is where the biblical obligation of separating *ma'asrot* begins.

One may ask, what happens if the ownership changes between any of these periods? The *Gemarah* (*Bava Kama* 94a) rules that the obligation to separate *trumot* and *ma'asrot* remains, as long as in the end they belong to a Jew. If, however, they become ownerless at any point the *Gemarah* explains they are exempt - even if they were owned by a Jew at all of the points in time mentioned above.

How does one explain the different rulings? If the produce is owned by a non-Jew or is *hekdesh* there is only one problem – one does not have anyone to obligate to separate the *trumot* and *ma'asrot*. Conversely, with *hekdesh* there is not only a problem of lack of ownership, there is also a problem with the produce itself. Perhaps one of the requirements, that the produce be “stored”, is a requirement on the produce itself that it can never be ownerless.

Returning to the *Mishnah*, one can now understand why *hefker* is included while *hekdesh* or non-Jewish ownership is not. The *Mishnah* is not dealing with the laws of ownership, which is discussed later in the *messechet*. It is rather dealing with which objects are obligated. *Hefker*, as has been explained, is not simply an ownership issue, rather it is a flaw in the produce itself.

Shabbat and Chatzer in Ma'asrot

Ma'asrot (3:1)
David Bankier

Since beginning the *messechet* it has been learnt that once food has reached a particular stage in its development one can no longer consume it in a fixed manner before separating *ma'asrot* – e.g. for grain, this stage is when it is a third grown (1:2-4). One can however eat the food as a light snack until he takes this food into his house. After this point one is obligated to separate *ma'asrot* prior to consuming the food (1:5). Three other activities or events can also change the status of the produce in this manner.¹⁰ They include selling the produce, taking the produce into one's courtyard (“*chatzer*” 3:1) and Shabbos (*Trumot* 8:3). The final change in status is referred to as “*kove'ah*”. We have already seen that if one intends to sell the produce, since it could be sold at any moment, its status changes after the last process is complete – “*negmerah melachot*” – e.g. smoothing the pile (1:6-8, 2:1).

We have also learnt that a *chatzer* is only *kove'ah* for produce that is completely processed (3:1). The *Gemarah* (*Beitzah* 34b) however ask whether *Shabbos* shares that same character as a *chatzer* or whether it is also *kove'ah* from products that are incompletely processed. *Rav Nachman* explains that *Shabbos* does indeed *kove'ah* for any produce whether or not its processes are complete – a position which is proven to be consistent with *R' Eliezer*.

The *Gemarah* continues and clarifies the opinion of *R' Eliezer* explaining that if someone was eating a snack and it become *Shabbos* he cannot complete the snack during *Shabbos* without separating *ma'asrot*. Nevertheless, he can continue the snack after *Shabbos*.

¹⁰ According to the *Tosfot Ha'Rid* these are all rabbinic enactments.

Ma'aser Sheni

Redemption of *Ma'aser Sheni*
Yehuda Gottlieb

In the *p'sukim* that detail the *chiyuv* of *Ma'aser Sheni* the *Torah* states:

If the road will be too long for you, so that you will not be able to carry it...then you may exchange it for money...and go to the place that *Hashem*, your G-d, will choose. (*Devarim* 14:24-25)

These *p'sukim* describe the *pidyon* (redemption) process of *Ma'aser Sheni* produce. The *p'sukim* indicate that only money can be used to redeem *Ma'aser Sheni*.

This view is supported by the *Gemara* in *Messechet Kiddushin* (5a). The *Gemara* seems to indicate, through a *kal vachomer* that in all cases money has a more stringent side than a *shtar* in the laws of *kiddushin* due to the fact that it is *only* through money that *Hekdesh* and *Ma'aser Sheni* are redeemed. *Rashi* comments on this *Gemara* that if a *shtar* was written out to the *Gizbar* of the *Beit Ha'Mikdash*, detailing the money that will be used for redemption, then the *Ma'aser Sheni* or *Hekdesh* would not be redeemed, due to the fact that **only** money can affect redemption due to a *Gzeirat Ha'katuv*.

It seems to be clear from his explanation that *Rashi* views that this *shtar* as described in the *Gemara*, is a *Shtar Hitchayvut* (contract that implies a future obligation). This future obligation is that one must, at a certain point in time, pay a certain amount of money-however- at present he is not giving over any money. This must be the case, for otherwise, we would be able to view the contract as if it was worth money (comparable to a cheque -which is viewed as if it is money).

find refuge. With respect to *ma'aser sheni*, *Rashi* maintains that the *Gemarah* returns to an earlier assumption, that the branches add extra stringencies. In other words if the branches are located outside *Yerushalaim*, none of its *ma'aser sheni* can be eaten until they are brought inside. Similarly, if the branches are located in *Yerushalaim*, none of the *ma'aser sheni* can be redeemed with money. Interestingly *Rashi* appears to maintain that ordinarily, the tree's location is determined by its trunk. *Arei miklat* and *ma'aser sheni* are exceptional cases resulting from added stringencies.

The *Ramban* however states that *Rav Ashi* means that the trunk's status is also determined by the branches in a stringent manner. In other words, whether the trunk or branches are located inside the city, the trunk provides refuge. Yet if the branches are outside, they do not provide refuge. This appears to maintain an earlier argument, that the status of trees by *arei miklat* is unique as the law is connected to the "dwellings" of the city. Consequently, since the branches are more suitable for "dwelling" they bear more *halachic* significance.

Finally the *Mishnah Achronah* explains the difference in our *Mishnah* in another way. By *trumot* and *ma'asrot* and walled cities we are judging the branches or the fruit. Since they draw sustenance from the roots, the roots or truck determine the location. By *ma'aser sheni* and *arei miklat*, we are interested in the person or fruit under the branches, therefore the branches can be considered independently (following the opinion of the *Chachamim*).

What is the logic behind the difference in the way *Shabbos* and a *chatzer* is *kove'ah*? The *Gemarah* brought the following *pasuk* when explaining that *Shabbos* is also *kove'ah* for incomplete goods:

"... and call the Shabbat delight (*oneg*)"
(*Isaiah* 28:13).

Rashi explains that since the consumption of food is referred to as *oneg* they can never be defined as a snack.

Using *Rashi's* explanation, one could explain that a *chatzer* is similar to a house in that it represents the point after which the food, the object, is now defined as definitely *tevel*. Yet in the case of a *chatzer* this object must be ready for the transition, i.e. all its processes complete. *Shabbos* on the other hand does not cause a change in the status of the food, rather it alters the relationship that one has with food during the day. On *Shabbos* no consumption can be defined as a snack which means that *ma'asrot* must be removed prior to consumption. After *Shabbos*, nothing has affectively changed with the product; therefore one can eat the product as a snack.¹¹

One can identify this understanding from the words of the *Rambam*. The *Rambam* specifically rules like *R' Eliezer* (*Ma'asrot* 5:23) where he writes that if someone is eating food as a snack and *Shabbos* comes in "he must not complete" – referring to the person eating the food. However when discussing a *chatzer*, the *Rambam* writes that "once the produce enters the courtyard it is *nikve'uh*".

The *Gemarah* however concludes with a statement from *R' Yochanan* that *Shabbos*, *chatzer*, sales and [separation of] *trumah*

¹¹ Note: this is provided that one did not set aside the food specifically for consumption on *Shabbos*. (See *Rashi Beitzah* (34b), *Ma'asrot* 4:1). In such a case, since the food has been set aside for a fixed meal, the status of the object changes.

are only *kove'ah* for products whose processes are complete. This conclusion, which effectively equates *Shabbos* and *chatzer*, led the *Tosfot* and *Ba'al Hameor* to argue that the *Gemarah* rules against the opinion of *R' Eliezer*. How then does *Rashi* and *Rambam* rule like *R' Eliezer*?

The *Rashba* writes that the closing statement means that *Shabbos* does not permanently *kove'ah* and the produce may be eaten after *Shabbos*. Nevertheless one could not eat this produce during *Shabbos* – consistent with the opinion of *R' Eliezer*.

One can still ask, how does one explain how the final statement seemed to equate *Shabbos* and *chatzer*? One could suggest that they are indeed the same in that neither has an affect on the object to change its status if its processes are incomplete. Nevertheless, *Shabbos* is still different that it negates the possibility of eating the food in the form of a snack.

Trees and Branches

Ma'asrot (3:10)

David Bankier

The *Mishnah* (3:10) discussed the status of a tree planted on the border of two *halachic* domains. In some instances the location of the entire tree was determined by the tree's trunk while in other cases the branches determine the tree's location. According to the basic understanding of the *Mishnah*, for *ma'asrot* and *ma'aser sheni* the branches determine whether the tree is considered as being located in a *chatzer* or in *Yerushalaim*. Similarly, if the branches of the tree are inside the *tchum* of an *ir miklat*, the accidental murderer can find refuge in the tree. However, when determining if a tree is growing in Israel (obligating the separation of *ma'asrot*) or in a walled city, the trunk determines the tree's location.

The *Gemarah* (*Makkot* 12a) discusses this issue in more detail referring to the cases of *ma'aser sheni* and *arei miklat* specifically. The *Gemarah* quickly establishes that our *Mishnah* represents the opinion of *R' Yehudah*. The *Chachamim* however rule, by *ma'aser sheni* that the tree can be divided and the legal status of each part is determined by its physical location. The opinion of *R' Yehudah* however, was analysed further.

The *Gemarah* concludes with the opinion of *Rav Ashi*, who explains that we do not determine the location by the branches alone, but rather that we “also” consider the branches. The *Rishonim* differ in their understanding of *Rav Ashi's* explanation. It is this discussion that sheds some light on the differences in our *Mishnah's* rulings.

Rashi explains that this statement refers to the case of *arei miklat* and we are consequently ruling stringently. In other words, as long as any part of the tree is located in the city, the murderer may