



Volume 1. Issue 8.

## Hefker Le'aniyim

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 *Shmitah*.

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 *Shmitah* 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.

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 *Pe'ah* 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 *Pe'ah* 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 *Pe'ah* is exempt due to another *passuk*.

Returning to the theme of the *massechet*, 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 *Shmitah* 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.

Yaron Gottlieb

## Revision Questions

פאה ה' א' – ו' י'

- What is the law regarding:
  - A pile of produce placed in a location from which *leket* has not yet been collected? (ה' א')
  - 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' ב')
- Explain the debate regarding watering one field prior to *leket* being collected. (ה' ג')
- 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' ד')
- 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' ה')
- 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' ה')
- If a poor owner sells his field to another poor person can either of them now take the *matanot ani'im*? (ה' ו')
- Can a person hire someone a worker on the condition that his son collects the fallen ears of corn after him? (ו' ה')
- What *pasuk* does the *Mishnah* cite when describing one who prevents the poor from collecting *leket* as stealing? (ו' ה')
- If either the owner of the field or a worker (but not both) forgot sheafs in the field is it considered *shichecha*? (ו' ז')
- If a poor person hid a sheaf from the owner causing him to leave it behind, is it *shichecha*? (ו' ז')
- Is it considered *shichecha* if someone forgot a sheaf when: (ו' ח')
  - Collecting them to make other sheaf structures?
  - Collecting them to make piles?
  - Transferring the sheaves directly to the threshing floor?
  - Transferring the sheaves from piles to the threshing floor?
- Explain the debate regarding *hefker le'aniyim*? (ו' ט')
- Explain the debate regarding a forgotten sheaf that:
  - is much larger than all the other sheafs. (ו' ט')
  - is placed in a very specific location. (ו' י')
- In which specific cases would *Beit Hillel* agree that a forgotten sheaf is not considered *shichecha*? (ו' י')
- What is considered *roshei shurot*? (ו' 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? (ו' 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? (ו' י')

## Local Shiurim

### Sunday -Thursday

Between mincha & ma'ariv

Mizrachi Shul  
David Bankier

9:50pm (after ma'ariv)

Beit Midrash -  
Naftali Herc  
Yehuda Gottlieb

### Friday & Shabbat

10 minutes before mincha

Mizrachi Shul

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## Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
28 <sup>th</sup> Nov. ט"ו כסלו	29 <sup>th</sup> Nov. ט"ז כסלו	30 <sup>th</sup> Nov. י"ז כסלו	1 <sup>st</sup> Dec. י"ח כסלו	2 <sup>nd</sup> Dec. י"ט כסלו	3 <sup>rd</sup> Dec. כ' כסלו	4 <sup>th</sup> Dec. כ"א כסלו
Peah 6: 7-8	Peah 6: 9-10	Peah 6:11-7:1	Peah 7: 2-3	Peah 7: 4-5	Peah 7: 6-7	Peah 7:8-8:1

