



Volume 1. Issue 9.

Free for All

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.¹

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 weeks 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.

David Bankier

¹ The *Gemarah* raises this case in the context of a debate whether *yi'ush shlo mi'da'at* is considered *yi'ush*. In other words, 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.

Revision Questions

פאה ו' – ח' – א'

- 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? (ו': י)
- How much standing wheat is required to save nearby forgotten standing wheat or sheaves from becoming *shichecha*? (ח': י)
- Can sheaves save forgotten standing wheat or sheaves from becoming *shichecha*? (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. (ט': י)
- Produce that have particular uses are exempt from *shichecha* – what are these uses? (י': י)
- Explain the debate regarding whether produce that grows underground are exempt from *shichecha*? (י': י)
- Does *shichecha* apply to produce forgotten by a blind person, or produce that was cut at night? (יא': 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? (יא': י)
- What three qualities of an olive tree would exempt it from the law of *shichecha*? (יא': י)
- Explain the opinion of *R' Yosi* with regards to *shichecha* and olive trees. (יא': י)
- Explain the law of *sata'im* by olive trees? [Note: this *mishnah* is understood differently by the *Rishonim*] (יב': י)
- Explain the debate regarding when olives left in the tree are considered *shichecha*? (יב': י)
- What is *peret*? (יג': י)
- Can someone place a basket under the vine when picking grapes? (יג': י)
- What is *olelot*? (יד': י)
- Explain the debate regarding the restrictions on where one can prune his vine? (יד': י)
- What is *kerem reva'i*? To what other law is it similar? (יד': י)
- *Beit Shammai* and *Beit Hillel* argue whether a number of laws also apply to *kerem reva'i* – what are they? (יד': י)
- What is the law regarding a vineyard that contains only clusters of *olelot*? (יד': י)
- If someone sanctifies their vineyard, are the poor still able to take *olelot*? (יד': י)
- What type of vines are *aris* and *rogliyot* and when does *shichecha* apply? (יד': י)
- When are the general public allowed to take: (טו': י)
 - *leket*?
 - *peret* and *olelot*?
 - *Matanot ani'im* from olive trees?

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 |
|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|-----------------------------------|-----------------------------------|
| 5 th Dec. כ"ב כסלו | 6 th Dec. כ"ג כסלו | 7 th Dec. כ"ד כסלו | 8 th Dec. כ"ה כסלו | 9 th Dec. כ"ו כסלו | 10 th Dec. כ"ז כסלו | 11 th Dec. כ"ח כסלו |
| Peah 8: 2-3 | Peah 8: 4-5 | Peah 8:6-7 | Peah 8: 8-9 | Demai 1: 1-2 | Demai 1: 3-4 | Demai 2: 1-2 |

