



Orlah and Wood Revisited

One is not allowed eat fruit from a tree during its first three years after planting. This prohibition is called *orlah* and is learnt from the *pasuk*, “When you shall come to the land and you shall plant any food tree (*etz ma’achal*), you shall treat its fruit as forbidden, for three years they shall be forbidden to you” (*Vayikra* 19:23).

In the first *Mishnah* we learn that if one planted a tree to act as a fence or for its wood, then the prohibition of *orlah* does not apply.

The *Bartenura* explains that since the *Torah* specifically stated “any *etz ma’achal*” we learn that only trees planted for its fruit fall under the prohibition of *orlah*. Last cycle (Volume 7, Issue 42) we discussed the question of whether *orlah* applied to a tree planted for the purpose a *mitzvah*, e.g. a *lulav*. In this issue however, we will analyse the source of the exemption that is the focus of the *Mishnah*.

The *Chidushei Mahariach* questions how the *etz maachal* could be the source of this law. “Food tree” could simply be referring to the type of tree and not its intended purpose. Had the *pasuk* stated “any tree for eating” then it would have been simpler to understand. He suggests that perhaps the source of the law is the preceding word “*kol*” – all or any. On a closer reading this word is superfluous. He suggests that perhaps the word “*kol*” should not be understood as any food tree, but rather to mean the entire food tree. In other words, the entire intention of the tree was for consumption.¹

Another understanding can be found in the *Chazon Ish*. The *Chazon Ish* explains that the exemption of the

Mishnah would apply even if one also wanted to eat from its fruit. The *Chazon Ish* explains that his appears to be the understanding of the *Bartenura* and *Rosh*. He continues that this is only if the main intention was for its wood. He continues that this is even though the act of planting is not what exempts the tree. We find that if one changes his mind at a later point then the prohibition of *orlah* would apply (see Vol. 7 Iss. 42). Nevertheless, since the tree at this point is maintained as either a fence or for producing wood it is not call an *etz maachal*. We find that its ongoing intended use defines the tree.

One might ask, how can one cut beams from a fruit tree if there is a prohibition against cutting down fruit trees – *baal tashchit*. The *Mahariach* cites the *Yerushalmi* that appears to disagree with our *Mishnah* as it does not cite the use of the tree for beams as one of the alternate uses. He suggests that since there exists this prohibition of *baal tashchit*, “*batla daato*” – his intentions are disregarded. How then do we understand our *Mishnah*?

The *Mahariach* suggest that perhaps the case is where the value of the wood is greater than the value of the fruit. In such circumstances the prohibition against cutting down the fruit tree does not exist. The *Chazon Ish* suggest other possibilities which would avoid violating this prohibition. For example, either the intention was to prune the branches in a manner that would not destroy the tree. Alternatively, one’s intention was only to cut the wood once the tree dried out. The *Mahariach* adds one more case. He suggests that perhaps if one’s intention when planting the fruit tree was for its wood then there is no prohibition of “*baal tashchit*”.

Yisrael Bankier

¹ The *Mahariach* admits that the we learn in the next *Mishnah* a different law is learnt from the word “*kol*”. There we learn that even if a *Nochri* plants the tree, the law of *orlah* applies. In that context, the word *kol* is understood to mean “any”. Nevertheless, he suggest that the word *kol* could imply both these laws.

One question that may be asked is how *R’ Yossi* derives his position according to this understanding. *R’ Yossi* maintains that even if one intends that the inner half of the tree be for food while the outer half

acts as a fence, then *orlah* would only apply to the inner half. In that case the “entire” tree is not intended for consumption yet *orlah* applies partially.

A simple solution is that it is indeed learnt from the word *kol* but with the consistent meaning of “any”. In other words, anything intending for eating is under that prohibition of *orlah*, excluding anything else that is not.

Revision Questions

חלה ג' טי' – ד' י"א

- 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' טי')
- Is one obligated to separate *challah* if they took leaven from wheat dough (that has not had its *challah* removed) and placed it in rice dough? (י' יי')
- 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*? (א' 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? (א' יא')
- With which other grain can wheat combine to complete the minimum measure that obligates one to separate *challah*? (ד' בי')
- With which other grain can barley combine to complete the minimum measure that obligates one to separate *challah*? (ד' בי')
- 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*? (ד' ג')
- 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. (ד' ד')
- Explain the debate regarding the status of *challah* removed from dough which was less than the minimum amount. (ד' ד')
- 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. (ד' ה')
- Explain the debate regarding whether an *aris* working in a non-Jewish field in *Surya* is required to separate *trumot* and *ma'asrot*? (ד' ו')
- 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? (ד' ח')
- Which priestly gifts can be given to any *kohen*? (ד' ט')
- What were the three cases where one tried to bring a particular gift and it was not accepted? (ד' י')
- Were the *bikurim* that *Ariston* brought from *Apamya* accepted, and why? (ד' י"א)

ערלה א' א'

- If one planted a tree with the intention that the branches will be used in construction, is the *tree* obligated in *orlah*? (א' יא')

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
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Melbourne, Australia

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
8 January י' טבת	9 January י"א טבת	10 January י"ב טבת	11 January י"ג טבת	12 January י"ד טבת	13 January ט"ו טבת	14 January ט"ז טבת
Chalah 3:9-10	Chalah 4:1-2	Chalah 4:3-4	Chalah 4:5-6	Chalah 4:7-8	Chalah 4:9-10	Chalah 4:11 - Orlah 1:1

