



Kilayim by Thieves

The *Mishnah* (7:6) taught that if bandits seized a vineyard, planted grain, and then eventually abandoned it, the original owner must remove *kilayim*, even if the first opportunity is during *chol ha'moed*.

Normally, one is not allowed to perform field work during *chol ha'moed*. One exception is if obtaining would result in a financial loss¹ - *davar ha'aved*. The *Bartenura* explains that one might think that this case is not considered a *davar ha'aved* since, as we have learnt, *ein adam oser davar sheino shelo*. The fact that the thugs planted wheat in the vineyard would not make the vineyard *assur* since the vineyard did not belong to them. Nonetheless, the *Chachamim* permitted him to remove the *kilayim* to avoid the appearance that this individual is maintaining *kilayim* in his vineyard.

The *Bartenura* provides another explanation. The concern is that the produce might grow by more than one two hundredth and that would make the vineyard *assur*. Despite the fact that the owner did not plant the grain, it is nonetheless prohibited to maintain the *kilayim* in his vineyard. Since allowing it to grow one two-hundredth would make the vineyard *assur*, it is considered a *davar ha'aved* and removing it on *chol ha'moed* would be permitted. Consequently, if one is concerned that it might grow that much, one can remove it during *chol ha'moed*.²

The *Mishnah Rishona* analyses both these explanations. Recall that according to the first understating the concern is the appearance of *kilayim* – *marit ayin*. Were it not for that, even if the grain grew one two-hundredth, it would not be considered maintaining *kilayim*. That is because the prohibition of performing work during *chol ha'moed* is what

would be preventing him from removing it. One might ask that if we allowed him to remove the grain, there would be an equal concern of *marit ayin* in the other direction – it might appear as if he is doing field work on *chol ha'moed*. Nevertheless, since the prohibition of *kilei kerem* is more extreme, the *Chachamim* ruled that the appearance of maintaining *kilayim* is a concern that must be addressed. The *Mishnah Rishona* stresses that according to this explanation the owner is obligated to remove the grain on *chol ha'moed*.

According to the second understanding however, since the *Bartenura* opens with “if one is concerned that it might grow...”, it would seem that during *chol ha'moed* the owner is not obligated to remove the grain if it will not grow that much. The continuation of the *Mishnah* then appears to difficult since it discusses how much more than the standard rate one must pay workers for it to be removed. The ruling implies one is obligated to do so. Another difficulty is if it is simply a question of *davar ha'aved* then it is obvious that one can remove it during *chol ha'moed*. Why would the *Mishnah* need to teach that “even on *chol ha'moed*” it must be removed? Finally, as we explained in the first explanation, if the prohibition of performing work on *chol ha'moed* is preventing him for removing the *kilayim*, then it should not be considered as if he is maintaining *kilayim* and should not even be *assur*.³

The *Mishnah Rishona* therefore prefers the first explanation, that even if one knows that it will not grow enough to present a problem, the *Chachamim* required that it must be removed during *chol ha'moed*.

Yisrael Bankier

¹ This is not to be confused with the opportunity to profit which is not permitted.

² The *Rosh* appears to provide an intermediate explanation. One must remove the grain due to *marit ayin* if it will not grow one two-hundredth. If, however it will, one would certainly be allowed to do so since it would constitute a *davar ha'aved* since it would become *assur* due to maintaining *kilayim*.

³ The *Chazon Ish* (4:12) cites the next *Mishnah* to support this. We learn that if branches from a vine were blown in a way that they then overhang produce, and some *ones* preventing him from pulling them back, it is not considered maintaining *kilayim*.

Revision Questions

כלאים ו' ד' – ו' ח:

- Does that same ruling (as the previous question) apply if the person uses a fruit tree in place of the lattice frame? (ו' ד')
- 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' rak* with respect to this law.) (ו' ה')
- How large must a breach be in an *aris* such that grain can be planted in the gap? (ו' ו')
- 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*) (ו' ו')
- When is one allowed to plant underneath the reed extending out from an *aris*? (ו' ח')
- The *mishnah* list three forms of extension under which one is not allow to plant other produces – what are they? (ו' ט')
- Explain what is meant by the term *mavrich*? (ו' י')
- 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? (ו' י')
- If someone is *mavrich* from three vines in a row, when does one regard all six vines as a *kerem*? (ו' יב')
- What is the law regarding planting near a dried-up vine? (ו' יג')
- 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*? (ו' יד')
- Explain the debate regard causing *kil'ei kerem* with one's vine in his friend's field? (ו' טו')
- What was the ruling of *R' Akiva* in the case where someone caused *kil'ei kerem* in their field during the *shmittah* year? (ו' טז')
- What should one do if their property, having been forcefully seized, was returned to them with *kil'ei kerem* during *chol ha' moed*? (ו' יז')
- What should one do if the wind blew his vines such that they bent over other produce? (ו' יח')
- 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*? (ו' יט')
- When is it forbidden to place a pot-plant containing a vegetable in a vineyard? (ו' כ')

Shiurim

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Reuven Spolter
mishnah.co

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm

APPS

Mishnah Yomit
mishnahyomit.com

All Mishnah
Orthodox Union

Mishna Yomi
Our Somayach, South Africa

Kehati

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
24 April כ"ג ניסן	25 April כ"ד ניסן	26 April כ"ה ניסן	27 April כ"ו ניסן	28 April כ"ז ניסן	29 April כ"ח ניסן	30 April כ"ט ניסן
Kilayim 8:1-2	Kilayim 8:3-4	Kilayim 8:5-6	Kilayim 9:1-2	Kilayim 9:3-4	Kilayim 9:5-6	Kilayim 9:7-8

