



## Workers' Rights and Keviyut Le'Maaser

Once produce ripens, one can eat from that food in a snack fashion. If however, they want to eat in a more fixed manner, they would be required to first separate *terumot* and *maaserot*. This continues to be the case until the food is brought home or, if one wishes to sell the food, once it reaches *gmar melacaha* – completion of the required work. We have learnt this week, that there are other things that the *Chachamim* added that are “*koveah*” – other moments or actions because of which one must separate *maaserot* prior to any manner of consumption. One of these is a *kinyan* – acquisition.

*R' Chaim* (*Biur Halacha Maaserot* 5:9) cites the *Ramban* who explains that the reason why a *kinyan* was added is because one treats something that they pay for differently and with a greater sense of *keviyut* – more substantially.

The *Mishnah* (2:7) discusses the case of a worker, who the *Torah* permits to eat from the food with which he is working. The *Mishnah* teaches that even if the worker stipulated as part of the work agreement to eat from that food, it would not change anything. Since the *Torah* grants him that right, it is not considered an acquisition, and the worker can eat from the food without separating *maaserot*. The *Mishnah* continues however that if the worker stipulates that his family eat from the food alongside him, or that his son eats “*bischari*” (for my wage) then, while he can eat, *maaserot* would need to be separated first for his family. The *Bartenura* explains that with respect to his son, the stipulation would be considered a business transaction and thus be *koveah*.

Interestingly, the *Yerushalmi* asks that the fact that the *Torah* grants the worker the right to eat food that did not belong to him should itself be considered a transaction. Why then is the worker able to eat from the food without separating *maaserot*? The *Yerushalmi* explains that the *Torah* explicitly exempts the worker. The *Yerushalmi* later explains that this is based on the *pasuk*: “When you come into the vineyard of your fellow, you may eat grapes as in your desire (*kenafshecha*)...” (*Devarim* 23:25). The word *nafshecha*

implies that just as you can eat from the food without separating *maaserot* so can the worker. The *Gemara* (*Bava Metzia* 88b) explains that this reference is an *asmachta*, which the *Chachamim* associated with their rabbinic law, considering that a *kinyan* itself is only *koveah* rabbinically. Consequently, with respect to this law the *Chachamim* considered the worker like the owner.

One detail worth addressing in our *Mishnah* is what the stipulation that his son will eat “*bischari*” means? *Rashi* (*Bava Metzia* 92b) explains that he is stipulating that his son will eat as part of his wage. The worker however can still eat due to his biblical right.

The *Tosfot* however find this explanation difficult. The reason is that the *Gemara* brings this case to try and address a more fundamental question. When the worker eats, is he eating what is considered his property or from “*shamayim*”? In other words, is that which he eats considered an addition to his wage that the *Torah* grants him? Or is it a considered like a gift, granted only to him by the *Torah*? The *Gemara* assumes that that the case in our *Mishnah* can resolve this question. If it granted to him alone as a gift, then we can understand that he alone does not need to separate *maaserot*. If the food is considered the property of the worker, then he should be able to give it to his son, without requiring any separation of *maaserot*. The *Gemara* answers that one could explain that even though it would not be considered a transaction, it nevertheless has the appearance of one and the *Chachamim* ruled stringently.

The *Tosfot* reason that according to *Rashi*'s explanation, that it is part of a separate agreement that the son can eat as part of his wages, the case is not relevant to the question of the status of the food the worker is allowed to eat while he works. Also, according to *Rashi*'s understanding, the agreement does not only have the appearance of a transaction – it is one! Consequently, the *Tosfot* explains that “*bischari*” means that he negotiates that whatever he would eat by *Torah* law, he will instead give to his son.

**Revision Questions**

מעשרות א' ה' – ג' ד'

- To what does the *Mishnah* refer when it asks for the definition of the “*goren*” for *ma’asrot*? (א' ה')
- When is the *goren* for:
  - Pumpkins?
  - Vegetables? (ה' א')
  - Grain? (ר' 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*: (ג' ב')
  - 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 *trumah gedolah* separated from it prior to the produce’s *g’mar Melacha*. (ד' ב')
- Regarding the previous question, what product is the exception within the *Chachamim*’s opinion? (ד' ב')
- If someone buys fruit from someone while they were picking them from the tree, does he need to separate *ma’asrot*? (ה' ב')
- If someone buys fruit while they are still connected to the tree, does he need to separate *ma’asrot* before eating the fruit: (ו' ב')
  - 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? (ז' ב')
- If a field worker is working with one type of fruit can he: (ח' ב')
  - 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? (ט' א')
- When can a general field worker (not involved in working directly with fruit) eat fruit with out separating *ma’asrot*? (2 cases) (י' ב')
- When can a general field worker (working directly with fruit) eat fruit with out separating *ma’asrot*? (י' ג')
- When can one who finds dried figs in the street, eat them without separating *ma’asrot*? (י' ד')

**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            |
|---------------------|---------------------|---------------------|--------------------|---------------------|---------------------|---------------------|
| 14 August<br>י"ז אב | 15 August<br>י"ח אב | 16 August<br>י"ט אב | 17 August<br>כ' אב | 18 August<br>כ"א אב | 19 August<br>כ"ב אב | 20 August<br>כ"ג אב |
| Maaserot 3:3-4      | Maaserot 3:5-6      | Maaserot 3:7-8      | Maaserot 3:9-10    | Maaserot 4:1-2      | Maaserot 4:3-4      | Maaserot 4:5-6      |

