



Planting an Orlah Nut

This week we began *masechet Orlah*, in which we learn that one is not allowed to derive any benefit for the fruit from a tree in the first three years of its planting. We also learnt however that the prohibition specifically applies to the fruit, but not the wood of the tree. The *Mishnah* (1:9) records that *R' Yossi* taught that one is allowed to plant a branch from an *Orlah* tree, but not the nut because it is considered the fruit of that tree. We shall try to understand this *Mishnah*.

The *Bartenura* explains that *R' Yossi* would agree that if one did indeed plant the nut, then the tree that grew is nonetheless permitted. The reason is that this case would be considered *ze ve'ze gorem*. Since the resulting tree required both *assur* (the forbidden nut) and *mutar* (the permitted ground) components, it would be *mutar*.

Rashi also appears to maintain this position. The *Gemara* (*Avodah Zara* 49a) cites *R' Yehuda* that taught the following. *Rav* explains that *R' Yossi* would agree that if the seed was planted, and a branch from the tree was grafted to a regular tree, then that which grew would be *mutar*.

Rashi brings two different explanations. The first is that *Rav* is listing a number of cases, one of which is that if the seed was planted, then that which grew is *mutar* based on *ze ve'zeh gorem*. The second explanation is that it is one case, and the case is where a branch from a tree that grew from the *orlah* seed was grafted to another tree. *Rashi* however finds the second explanation difficult considering that the resulting tree should already be *mutar* due to *ze ve'ze gorem*, even before a branch was grafted to a *mutar* tree.

The *Tosfot* (s.v. *she'im*) however explain that if one planted the *orlah* nut, then the tree that grew would not be considered *ze ve'ze gorem*. The ground and nut are acting in different manners. *Ze ve'ze gorem* is only if the both the *assur* and *mutar* parts are contributing in the same way. For example, if a branch from a prohibited tree was grafted onto a

permitted one. In that case both the tree and branch contribute in the same way to produce the fruit. Consequently, the fruit would only be permitted according to *Rashi's* second explanation – if a branch from that tree was grafted to another permitted tree.¹

The *Tosfot* however continues that one might ask that we have learnt that if one planted *tevel* or *maaser sheni*, that which grows is permitted. If a tree that grows from a prohibited seed is not considered *ze ve'ze gorem*, then one would expect that that which grows should be considered *tevel*. The *Tosfot* answer that there is a difference between *orlah* and *tevel*. For *orlah*, the prohibition is against deriving any benefit – *issur hana'ah*. That which grows from a planted *issur* constitutes benefit and is therefore forbidden. For *tevel* however, the prohibition is against eating it. Consequently, there is no need to prohibit that which grows, since consuming it is not consuming the original prohibited product.

Interestingly we find the debate between *Rashi* and *Tosfot* continue in the *mefarshai Yerushalmi*. The *Yerushalmi* records a debate regarding the tree that grew from the nut. *Kahana* maintains it is permitted whereas *Chezkiya* argues it is forbidden. The *Mahara Fulda* explains that the debate is whether *ze ve'ze gorem* is permitted or forbidden. Importantly, this appears to be consistent with *Rashi's* opinion that this is a case of *ze ve'ze gorem*.

R' Chaim however explains that *Chezkiya* prohibits the tree since the nut is an *issur hana'ah*. This appears to be consistent with the *Tosfot*, that this case is not one of *ze ve'ze gorem* and the *issur hana'ah* continues to apply to that which grows from the seed. How then do we understand the opinion of *Kahana* who maintains that the tree is permitted? *R' Chaim* explains that *Kahana* maintains that since the seed disintegrates, that which grows is considered something else entirely and therefore permitted.

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¹ See volume 13 issue 44, where we discuss the *Tifferet Yaakov's* even further restricted definition of *ze ve'ze gorem* in connection to *orlah*.

Revision Questions

חלה די: ז' - י"א

- Explain the debate regarding whether an *aris* working in a non-Jewish field in *Surya* is required to separate *trumot* and *ma'asrot*? (די: ז')
- 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*? (די: ט')
- What were the three cases where one tried to bring a particular gift and it was not accepted? (די: י')
- Were the *bikurim* that *Ariston* brought from *Apamyia* accepted, and why? (די: י"א)

חלה א: א' - ט'

- If one planted a tree with the intention that the branches will be used in construction, is the *tree* obligated in *orlah*? (א: א')
- Were trees that were planted in Israel after *Bnei Yisrael* entered the land, yet prior to the conquest, obligated in *orlah*? (א: ב')
- Explain the debate regarding whether a tree that is planted for the needs of the public is obligated in *orlah*? (א: ב')
- Which of the following trees is obligated in *orlah*: (א: ב')

 - A tree planted in the public domain?
 - A tree planted by a *nochri*?
 - A tree planted on a boat?
 - A tree that grew without any human assistance?

- When is an uprooted tree not obligated in *orlah*? (Include 2 cases). (א: ג: ד')
- Explain what a *breicha* is? (א: ה')
- How does one count the years of *orlah* for a *breicha*? (א: ה')
- What is the *orlah* status of an uprooted tree whose *breicha* is still attached? (א: ה')
- When does fruit on a *breicha* detached from its parent tree become *assur*? (א: ה')
- What can one do if shoots of *orlah* and *kil'ei kerem* get mixed up with ordinary shoots? (א: ו')
- Which of the following laws apply to dry branches of a vine: (א: ז')

 - *Orlah*?
 - *Reva'i*?
 - *Nazir*?
 - *Asheira*?

- Which of the above four laws applies to grape-kernels (*chartzanim*)? (א: ח')
- According to *R' Yosi* can one plant a shoot/branch of an *orlah* tree? (א: ט')

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
16 October כ"א תשרי	17 October כ"ב תשרי	18 October כ"ג תשרי	19 October כ"ד תשרי	20 October כ"ה תשרי	21 October כ"ו תשרי	22 October כ"ז תשרי
Orlah 2:1-2	Orlah 2:3-4	Orlah 2:5-6	Orlah 2:7-8	Orlah 2:9-10	Orlah 2:11-12	Orlah 2:13-14

