



Volume 7. Issue 21

The Machlokes over Ne'evad Produce from Land Cultivated on Shvi'is

“Sadeh she'nitaivah – Beis Shamai omrim: Ein ochlin peiroseha b'Shvi'is, u'Veis Hillel Omrim: Ochlin.”

(Shvi'is 4:2)

There are numerous factors that could possibly prohibit the consumption of *Shvi'is* produce. Over the course of *Mishnah Yomit*, we have already been introduced to one example, *sefichim* (1:4) which we will return to in the ninth *perek*. In our *Mishnah* (4:2), we encounter a *machlokes* over the status of fruit that has grown from land that was worked on *Shvi'is*, which is called in the language of the *Mishnah* (6:1) *ne'evad*. *Beis Shammai* hold that it is *assur* to eat such fruit, while *Beis Hillel* permit their eating.

While we do not *paskin Halacha* directly from the *Mishnah*, if we were to do so and take this *Mishnah* in a vacuum thereby ignoring all other possible sources, it would come out that *ne'evad* is permitted, since the *Halacha* almost always follows *Beis Hillel*. For this exact reason the father of the *Tiferes Yisrael*, cited by his son (6:1), rejects an interpretation of that *Mishnah* that says that *ne'evad* is prohibited.

It would seem that there is a simple reason why we cannot conclude decisively that *ne'evad* is permitted. According to the *Yerushalmi's* explanation of our *Mishnah*, the *Mishnah* does not necessarily speak about the standard case of *ne'evad*, in which the produce grew from land worked on *Shvi'is*. The *Yerushalmi* says that there is a *machlokes* between the *rabbanim* of *Eretz Yisrael* and *Bavel* about the meaning of two key words in our *Mishnah*: “*niskatzvah*” and “*nitaivah*”. Only the latter needs to be focused on for our purposes as quoted above. The *amora'im* of *Bavel* assert that “*nitaivah*” means that ploughing was done to improve the land, which of course is forbidden. According to this interpretation, we would again be able to say that *ne'evad* is permitted as per the opinion of *Beis Hillel*.

However, the opinion of the *amora'im* of *Eretz Yisrael* is that the *Mishnah* refers to a specific period of time in which the non-Jewish government ruling over *Eretz Yisrael* decreed that a land-tax must be paid to the king. *Chazal* saw there was a need to plough, so they permitted just one *charishah* so that the fields would produce the crop

necessary to pay the king. However, to plough the fields twice, i.e. “*nitaivah*”, which would improve the quality of the field even further, was *assur*. If a field was *nitaivah* during *Shvi'is*, *chazal* fined the transgressor and ruled that it would be prohibited to plant in that field during *motzai Shvi'is*. Whether the produce produced by that field may be eaten is precisely the *machlokes* of *Beis Shammai* and *Beis Hillel*. According to this interpretation of our *Mishnah* the standard case of *ne'evad*, a case when there was no decree of a land-tax, cannot be extrapolated from this *Mishnah*. It might very well be that *Beis Hillel* only permitted the consumption of *ne'evad* in that particular case due to the nature of how the *ne'evad* came about. However, when there is no sinister land-tax that must be dealt with, perhaps even *Beis Hillel* would say that *ne'evad* is *assur*. (The *Rambam* (*Shmittah* 4:1) *paskins* that *ne'evad* is permitted. See the *Derech Emunah* there for further details and information.)

While not related to the topic of *ne'evad*, it is interesting to note that the *Bartenura* in his *peirush* on the *Mishnah* does in fact give the opinion of the *amora'im* of *Eretz Yisrael* and adds in that that the governmental pressure was a situation of *ones*, duress, leaving the Jews with no choice and thus *Chazal* permitted one *charishah*. The *Chazon Ish* (*Shvi'is* 14:2) questions this addition of the *Bartenura* and says that the *Gemara* in *Sanhedrin* (26a) clearly demonstrates that in a case of *ones* it is *mutar lechatchila* to plough. If so, there would be no reason for *Chazal* to have to permit the *charishah* from its prohibited status. Moreover, the *Chazon Ish* (*Shvi'is* 10:6) says that it cannot be that this *machlokes* of *Beis Shammai* and *Beis Hillel* is one of duress. It would seem that the *Chazon Ish* is asking that if *Klal Yisrael* had no choice but to plough in order to meet the land tax quota, how could *Beis Shammai* say that the fruit cannot be eaten?! If all of *Eretz Yisrael* had to be ploughed, then according to *Beis Shammai* there would be no permissible produce in the entire country! Thus, the *machlokes* cannot be extreme case of *ones*. The *Chazon Ish* points out that the other major *peirushim* on the *Mishnah* don't mention *ones* when explaining the *shitah* of the *amora'im* of *Eretz Yisrael*.

Zamir Pollak

Revision Questions

שביעית ג' – ד' י"י

- Can one remove a pile of small stones? (ג' י"ז)
- During which year is one forbidden from building a staircase by the side of a ravine? (ג' י"ח)
- Are there any restrictions on the construction in the year that the *Mishnah* mentions it is permissible to build the staircase? (ג' י"ח)
- What is special about *avnei katef*? (ג' י"ט)
- What are the restrictions placed on one who wishes to build a fence around his property during the *shmittah* year? (ג' י"י)
- What was the original and developed ruling regarding collecting branches from ones field during the *shmittah* year? (ד' י"א)
- It is forbidden for one to prepare the field during the *shmittah* year for the next year. Which of the forbidden activities, if performed, incur a fine prohibiting one to work the field in the following year? (ד' י"ב)
- There are two other cases where *Beit Hillel* and *Beit Shammai* argue whether a fine is incurred if someone performs a prohibited activity – what are they? (ד' י"ב)
- Can a person work on a field (as a *choker*) if the field is owned and was ploughed by a Jew during the *shmittah* year? (ד' י"ג)
- Does it make a difference if the field was owned and ploughed by a non-Jew? (ד' י"ג)
- What is the definition of *medel*? What is the definition of *machlik*? According to which opinion is there a *halachic* difference between *medel* and *machlik*? (ד' י"ד)
- What are the restrictions placed on the way one treats an olive or sycamore tree that has had some of its branches removed? (ד' י"ה)
- Explain the debate regarding the manner in which one can trim the branches of a vine. (ד' י"ו)
- What can one do in a case where a branch is cracked? (ד' י"ו)
- At what point can one eat the following fruit as a snack in the field and when can he collect them and take them home:
 - Figs? (ד' י"ז)
 - Grapes? (ד' י"ח)
 - Olives?
 - Any other fruit? (ד' י"ט)
- From when is it forbidden to cut down a fruit tree in the *shmittah* year? (Include both opinions.) (ד' י"י)
- From when is this prohibition lifted? (ד' י"י)
- Explain the debate regarding cutting down an olive during any other year. (ד' י"י)

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Friday & Shabbat

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
28 th November כ"א כסלו	29 th November כ"ב כסלו	30 th November כ"ג כסלו	1 st December כ"ד כסלו	2 nd December כ"ה כסלו	3 rd December כ"ו כסלו	4 th December כ"ז כסלו
Shviit 5:1-2	Shviit 5:3-4	Shviit 5:5-6	Shviit 5:7-8	Shviit 5:9-6:1	Shviit 6:2-3	Shviit 6:4-5

