



CHICAGO RABBINICAL COUNCIL MONTHLY SHEMITTAH NEWSLETTER

IYAR 5782 • MAY 2022

9

Kedushas Shevi'is – An Overview

by Rabbi Dovid Cohen

Administrative Rabbinical Coordinator,
cRc Kosher

Kedushas shevi'is refers to four groups of *halachos* which relate to how one must treat *shemittah* produce. Specifically, the produce should be:

1. eaten or used without wasting (לאכלה ולא להפסד),
2. kept in *Eretz Yisroel*,
3. not transacted in the typical manner, and
4. subject to the mitzvah of biur.

In this installment we will focus on one aspect of the first *halacha* – that one must not waste *shemittah* produce; other aspects of that *halacha* will be noted in future installments.

The generally accepted *halacha* is that there is no specific *mitzvah* to eat or use produce with *kedushas shevi'is*, and the only *mitzvah* is that one may not waste or ruin it. [Therefore, no *bracha* is recited when eating *shemittah* produce.] Included in this *halacha* is that there is no requirement to actively "save" the produce. Thus, you do not have to put the *shemittah* produce into the refrigerator to prevent its spoilage, and do not have to find someone to eat your food, but instead you can just allow it to rot. However, there is

Continued on page 2

Shemittah Wine

by Rabbi Yona Reiss

Av Beth Din, cRc

The sanctity (*kedushat shevi'it*) of the *shemittah* year applies to fruits based on the point in time at which they reach a certain stage of development (*chanatah*) in their growth on the tree. For certain fruits, such as grapes and olives, this occurs when the fruit has attained one-third of its eventual growth (*Mishpitei Eretz* 15:3). Thus, the wine that is harvested from the grapes that are subject to *kedushat shevi'it* is generally not produced until the year following the *shemittah* cycle (referred to as the "eighth year"), which will be the Jewish year 5783 in terms of our current calendar cycle.

We have published various articles in this newsletter regarding the arguments for and against the *heter mechirah* (sale of the land of farmers in Israel to a non-Jew, for purposes of avoiding *kedushat shevi'it* and permitting agricultural work on such land). Those who purchase wine from vineyards that have been sold pursuant to the *heter mechirah* should consult with their *halakhic* authorities as to whether they can rely upon the assumption that these wines need not be treated with *kedushat shevi'it* or whether it is best to be strict and treat them with *kedushat shevi'it* anyway based on the opinions that the *heter mechirah* should not

Continued on page 3

Kedushas Shevi'is – An Overview (continued from page 1)

a discussion in the *Acharonim* as to whether there is a prohibition against indirectly causing the produce to become ruined (*gramah* or *gram hefseid*).

Maharit is of the opinion that *gram hefseid* is permitted, while *Mikdash Dovid* is inclined to assume that *gram hefseid* is forbidden. In practice, it seems to be accepted that the letter of the law follows the lenient ruling of *Maharit* on this matter, but people attempt to be *machmir* not even to cause *gram hefseid*, as will be shown in the application discussed below.

A person who has leftover *shemittah* produce which he does not want to eat, cannot simply discard that food in the garbage, since doing so would be an example of ruining edible *shemittah* produce. In earlier generations, people would place the leftovers in a bag and then immediately put the bag into the garbage can. Seemingly, the reasoning for this practice was that so long as the food is in a bag it is not ruined by being placed in the garbage. Placing the bagged food in the garbage will merely lead to an indirect ruining of the food (when the bag eventually tears, or the food is crushed inside the garbage truck). Since *gram hefseid* is permitted, the letter of the law is that this is an effective and appropriate method of disposing of leftovers.

However, in more recent generations, people have “upgraded” how they deal with their unwanted *shemittah* produce, insofar that nowadays it is common that people store the leftovers in a “*shemittah* bin” (more on this below) until it rots. [Once the food becomes inedible it no longer has *kedushas shevi'is* and can surely be placed in the garbage.] This practice is based on a desire to follow the stricter opinion outlined above, which states that one may not even indirectly ruin *shemittah* produce; the only way to satisfy that opinion is to retain the produce until it rots, and that is done by using *shemittah* bins (a.k.a. פדוי שמיטה).

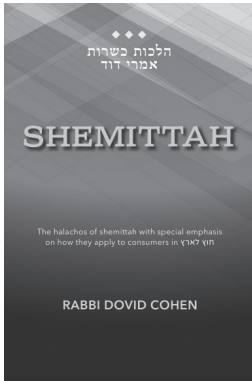
A *shemittah* bin is a small container in which people place leftover *shemittah* produce until it rots and can be discarded. However, an issue is that one cannot place *shemittah* produce into a bin that already

contains other food since the older food might make the (new) food less edible, either through mixing incompatible foods (e.g., oranges into vegetable soup) or because the older food has already started spoiling. Accordingly, one bin will not suffice, and the person should therefore have multiple bins so that each set of leftovers can be placed in the “right” bin (or a new bin) and left there until it spoils. Most people find that too onerous and therefore the common method used is to have two *shemittah* bins; on Day #1 food is put into Bin A with a tissue placed between different food items; on Day #2 they use Bin B in a similar manner; on Day #3 the contents of Bin A are put into a bag and placed

into a garbage can and that bin is used for Day #3's leftovers; and on Day #4 the same is done for Bin B. Although this is not a simple procedure – nor is it perfect – it is, in fact, the common method in which people treat *shemittah* leftovers nowadays.

Another example of *gram hefseid* is when one feeds *shemittah* produce to a child. Feeding a child is a permitted use of *shemittah* produce and is inherently permitted despite the fact that doing so may well lead to the child wasting or ruining the food. The adult is only indirectly causing the *gram hefseid* of the produce, and therefore the letter of the law is that it would be permitted. Nonetheless, one should not feed the food to the child if he or she is old enough to be obligated in the *mitzvah* of *chinuch* (training children to perform *mitzvos*), since at that age the child is forbidden from ruining the food.





A comprehensive treatment on the subject of *shemittah* is available in the recently released *sefer, Shemittah*, by Rabbi Cohen.

For more information on the *sefer*, please visit ShopcRc.org.

Shemittah Wine (continued from page 1)

be relied upon. It is generally the practice of major kashrut organizations in America not to rely upon the *heter mechirah*, especially since local consumers have many other sources of food and don't have the same pressing need to rely upon such leniencies.

However, independent of the question of whether to rely upon the *heter mechirah*, there are owners of Israeli vineyards who very pointedly do not sell their land, but admirably choose to fulfill the *mitzvot* associated with the *shemittah* year by harvesting their *shemittah* grapes in accordance with the system of *Otzar Bet Din*. The *Otzar Bet Din* system, which is based on a *Tosefta* (*Shevi'it* 8:1), enables farmers to cultivate the fruits on their land based on being agents of the *Bet Din* as opposed to private owners working the land. Such wines will generally denote that they are from *Otzar Bet Din*. Furthermore, such wines occasionally make their way to stores in America. Thus, it is vital for the American kosher consumer to be familiar with the rules that apply to any such wines that are endowed with *kedushat shevi'it* (although it is case that some hold that such wines do not maintain *kedushat shevi'it* after the time of *biyur*, as discussed *infra*, this is not the commonly accepted view).

Any such wines that are subject to *kedushat shevi'it* are subject to several restrictions. First, since the Torah specifies that *shemittah* produce must be לאכלה (*Vayikra* 25:6) – for eating in accordance with its normative use, and not להפסד – for destruction (see *Pesachim* 52b), this means that a consumer of any such wine would have to be careful not to waste any of the wine or even to use it for any purpose other than drinking (see Rambam, *Shemittah v'Yovel* 5:2-3, *Derech Emunah* 5:5). Thus, if such wine is used for *kiddush*, all the wine needs to be drunk, and one could not pour out any leftover. Additionally, if such wine is used for *Havdalah*, it would be impermissible to overflow the wine beyond the rim of the cup of *Havdalah*, or to use any of the wine for the purpose of extinguishing the *Havdalah* candle or for placing in one's eyes at the conclusion of *Havdalah* as a *segulah* (auspicious sign), since these practices do not constitute the normative fashion of enjoying wine.

Second, there is a prohibition of removing *shemittah* produce from the land of Israel (see *Mishnah Shevi'it* 6:5, although some are lenient after *biyur* has been

performed, as described *infra*), other than a small amount that may be necessary to sustain a person during his or her return trip (*Derech Emunah* 5:95). Thus, if one is in Israel and comes across a very fine *Otzar Bet Din* wine, it would be forbidden to pack up a case of that wine and transport it to America to share with family and friends. Furthermore, even after such wine has made its way to America, it is forbidden to transport it from one location to a different location (see Rambam, *Shemittah v'Yovel* 7:12; Chazon Ish, *Shevi'it* 13:4). However, even after such wine has been impermissibly imported from Israel or moved around from place to place within the country, it may still be consumed.



Third, we also learn from the word לאכלה that *shemittah* produce may only be used for consumption and not for the purpose of commerce (*Avodah Zarah* 62a). In recognition of this principle, the *Otzar Bet Din* system is set up to ensure that consumers only pay for the out-of-pocket costs that go into the production of the wine (see *Mishpitei Eretz* 13:4), but not the higher price that is normally charged for the wine itself. However, when the wines are sold in general grocery stores in America, these safeguards are not in place. Additionally,

since the money that is spent on *shemittah* produce receives the same sanctity as the *shemittah* produce itself, one must be careful not to pay money for such wine to a merchant who will not treat the money with the requisite sanctity (although some rule that this concern does not apply to non-Jewish merchants, see *Shemittah K'Hilchotah Livnei Chutz La'aretz*, p. 64, n. 167 recording the various views).

In order to sidestep these concerns regarding commerce with *shemittah* produce, it is advisable: (a) not to purchase *shemittah* wine from a Jewish merchant who is selling the wine in the normal manner of commerce, because one is then facilitating a violation of Jewish law on the part of the Jewish merchant, and (b) even when purchasing from a non-Jewish vendor, one should not pay in cash but only with a credit card or the like, in which case there will be no transfer of the *kedushat shevi'it* onto money that is in the hands of the merchant (see *Mishpitei Eretz* 12:10). Similarly, Jewish merchants who sell *Otzar Bet*

Continued on page 4

Shemittah Wine (continued from page 3)

Din wine must be careful only to charge for cost and not to make any profit from the transaction.

Fourth, there is an obligation of *biyur* – relinquishing ownership of *shemittah* produce at the point in time in which the produce is no longer available “to the beasts of the field” (*Pesachim* 52b, based on *Vayikra* 25:5-7), which is equivalent to the point in time in which the grapes that produce the wine are no longer being harvested from the vineyards (see *Shemittah K’Hilchotah* supra, p. 50, n. 121). In terms of grapes or wine, the time of *biyur* generally occurs immediately prior to (or at the arrival of) Pesach of the eighth year (5783 for our purposes). *Biyur* requires that if one is in possession of *shemittah* wine at such time, such wine should be brought out of one’s house and placed in a public area such as the sidewalk in front of one’s house in the presence of three men, at which time the owner of the wine should declare the wine to be “hefker” – ownerless and available for anyone to take (see *Yerushalmi Shevi’it* 9:4). After a brief period of waiting, if nobody has taken the wine (including the three men who heard the declaration), the owner may bring the wine back into his/her possession (see *Penei Moshe* id.). Some authorities are of the opinion that *shemittah* produce may even be transported from Israel to the diaspora following *biyur*, and that they are no longer subject to *kedushat shevi’it* at this point. However, the prevalent view is not in accordance with this opinion (see *Shemittah K’Hilchotah* p. 70).

If someone first receives the wine with *kedushat shevi’it* following the time of *biyur*, there are at least three different approaches regarding what one should do. According to one opinion, the person may do *biyur* at that point in time since that person is not at fault (see *Shemittah K’Hilchotah*, p. 52). According to a second opinion, the wine is forbidden, but the person can retain the amount of wine that would

be necessary for three meals per member of his household (based on *Mishnah Shevi’it* 9:8). Finally, according to a third opinion (based on the Rambam, *Shemittah v’Yovel* 7:3), since it is too late for *biyur*, the person is not allowed to receive benefit from the wine altogether, and it must be destroyed (although even according to this view, an amount could have been set aside for three meals per member of the household at the time of *biyur* itself).

However, in this regard, there is often an advantage if the wine in question is *Otzar Bet Din* wine, since the *Otzar Bet Din* providers generally hold the wine in their storage until after Pesach of the eighth year. In such a case, the rule (based on the opinion of the Ramban, *Vayikra* 25:7) is that no *biyur* is necessary for such wine since the *Bet Din* as an entity was not obligated in *biyur* when the time for *biyur* technically arrived (see Chazon Ish, *Shevi’it* 11:7). Accordingly, when a purchaser of the wine acquires that wine afterwards, there is never an obligation of *biyur*. Nonetheless, the purchaser must be careful to treat the wine with all the laws of *kedushat shevi’it*, even if the wine is only consumed years later.

Although the easiest approach towards dealing with these issues is to avoid purchasing *shemittah* wine, nonetheless there are occasions when a well-meaning guest will present as a gift a bottle of kosher wine that has *kedushat shevi’it*, such as a wine that has the *Otzar Bet Din* label upon it. When this happens, it is important for recipients of such wine to be armed with a knowledge of these halachot in order to have informed conversations with their *halakhic* authorities so as to make appropriate decisions about the best use of the wine in their possession in a fashion that observes the laws of *shemittah* optimally and treats the wine with the requisite *kedushat shevi’it*.



WE WOULD LIKE TO HEAR FROM YOU!

If you have any comments or questions, please send them to office@crcweb.org.
To access previous issues of the Shemittah Newsletter, see
crcbethdin.org/crc-shemittah-series-5782



2701 W. Howard Street, Chicago, IL 60645
773.465.3900 | office@crcweb.org | www.crcweb.org

Rabbi Shaanan Gelman, President | HaRav Yona Reiss, Av Beth Din
Rabbi Levi Mostofsky, Executive Director | Rabbi Sholem Fishbane, Kashruth Administrator