



שבת הארץ

בס"ד

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10

Kedushas Shevi'is, Hefker, and Biur

by Rabbi Dovid Cohen

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The previous installment delineated the four basic *halachos* associated with food which has *kedushas shevi'is*, and the coming installment will provide more details on how one may and may not use such food. This installment details which items have *kedushas shevi'is*. The most basic principle of *kedushas shevi'is* is that it applies to any item which grows from the ground, and which is commonly used for eating (by humans and animals) or certain other permitted uses. [In previous installments we discussed determining which year's produce has *kedushas shevi'is* (Issue #1) and which areas are inside the *halachic* borders of *Eretz Yisroel* and subject to the *halachos* of *shemittah* (Issue #2.) Thus, since, for example, apples and alfalfa are commonly eaten by humans and animals respectively, apples and alfalfa which grow during *shemittah* have *kedushas shevi'is*. Some examples of items which do not have *kedushas shevi'is* are (a) salt and beef, because they do not grow from the ground, (b) mushrooms, as they too are considered as not growing from the ground as relates to these *halachos*, (c) lumber and cotton, because although

Continued on page 2

Supporting the Farmers

by Rabbi Yisroel Langer

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In *Tehillim* (103:20) it says

ברכו ה' מלאכיו גבורי כח עשי דברו לשמוע בקול דברו.
The *pasuk* mentions the mighty warriors who fulfill the word of Hashem. Who exactly are these mighty warriors that the *pasuk* is referring to? The *Medrash (Tanchuma Vayikra siman 1)* says that it is referring to the farmers who keep the laws of *shemittah*. How difficult it is for a farmer who year after year works his field, takes care of it and then is told to leave his field to lay fallow. The farmer has a family to support and feed, yet he abandons his field in accordance with the will of Hashem. All this takes great strength, and he is therefore labeled a "mighty warrior."

Continued on page 3

לזכות רפואה שלימה בעבור מרים דישראל בת גאלדא

they grow from the ground they are not eaten (or used in other appropriate manners), and (d) foods which are no longer edible.

On a deeper level, the *Gemara* teaches that one may use *shemittah* produce in any manner similar to eating in that the food's destruction/consumption occurs simultaneously with the benefit one has from it (הנאתו וביעורו שוה), and it provides a benefit, like eating, which most people appreciate (שוה לכל נפש). In turn, those items which meet these criteria (הנאתו וביעורו שוה, שוה לכל נפש), are the ones which have *kedushas shevi'is*.

The first of those principles, הנאתו וביעורו שוה, is the reason why wood used for cooking does not have *kedushas shevi'is*; the wood is first burned into charcoal (i.e., destroyed) before the person puts his food into the oven (i.e., the benefit), such that its use is not similar enough to "eating" to qualify. Similarly, *shemittah* produce may not be used for medicinal purposes (e.g., as an ointment) because only people who are ill have benefit from such uses, and that use is therefore not considered to be שוה לכל נפש.

In deciding whether a given food is suitable for animals, there is a question as to how one assesses that status for people who live in large cities where there are no animals. Should they consider those foods to be "edible" (and have *kedushas shevi'is*) since there are theoretical food-uses for these items? Or should they use the subjective standard that in their location these foods are considered garbage (since there is no livestock in the city) such that they can be discarded immediately?

There are conflicting statements from *Chazon Ish* on this matter, and it appears that in practice he ruled that one should adopt the strict approach. Accordingly, he wrote that pits or peels which are only suitable for animals should be treated with *kedushas shevi'is* by city dwellers and not discarded until they rot to the point that even animals will not eat them.

Poskim divide flowers into four groups as relates to *kedushas shevi'is*: (Please see Rabbi Langer's article in Issue 6 for a longer discussion about flowers.)

1. Edible herbs surely have *kedushas shevi'is*. [*Eretz Yisroel* is a significant exporter of herbs.]
2. Flowers specifically sold for their fragrance (e.g., freesia, stock, orchids, baby's breath) are the

subject of a *safek* in *Yerushalmi*, and *Chazon Ish* says that one should be *machmir* on this issue. [In the United States these would likely only be found at upscale florists.]

3. It is assumed that standard flowers which have an incidental fragrance are not included in the *safek* of *Yerushalmi* and do not have *kedushas shevi'is*.
4. All agree that flowers which have no fragrance at all do not have *kedushas shevi'is*.

One last issue to note is that there is a fundamental difference of opinion between *Beis Yosef* and *Mabit* as to the status of produce which grows in *Eretz Yisroel* in the field of a non-Jew. The former held that such produce does not have *kedushas shevi'is* and the latter argued that it does. The custom in *Yerushalayim* and most communities is to accept the lenient opinion, while in *B'nei Brak* and some other areas they follow *Chazon Ish* who defended and promoted the strict position.

Hefker

During *shemittah*, produce that grows is ownerless (*hefker*) and anyone may take it. That *halacha* is recorded in *Rambam, Hil. Shemittah V'Yovel* 4:24, and in his commentary, *Derech Emunah*, R. Chaim Kanievsky *zt"l* discusses the following relevant questions and issues:

- Is the food "automatically" *hefker* or only once the person chooses to follow the *halacha*?
- Does the *halacha* consider the produce of a non-Jew's field *hefker*? [If it is (and even if the non-Jew does not respect that *halacha*), the produce will be excused from *terumah* and *ma'aser*.]
- One may stop non-Jews and animals from taking the *hefker* produce. In addition, people who will ruin the trees or field (both of which are not *hefker*), children who will waste the fruit instead of eating it, and people who want to enter for purposes other than taking the produce, may be prevented from entering the field.
- One must leave the door or entranceway to the field open, but it is questionable whether that must be

Continued on page 4

Supporting the Farmers (continued from page 1)

As a reward for his unbelievable *mesiras nefesh*, the Torah promises the farmer much reward and blessing. His crops will be extra bountiful in the other years, and in the long run, he will gain both physically and spiritually.

How beautiful it is that we have organizations such as *Keren Hashviis* that raise funds to help out the families of these farmers during the year of *shemittah*. Some have questioned the need for such organizations, as doesn't the Torah promise blessing and reward for the farmers? Why are my funds necessary?

Perhaps we can answer this question with the following story. Vladimir Chavkin was a Jewish professor who lived in Russia between the years of 1860 and 1930. He became wealthy and famous for inventing vaccines that stopped the spread of cholera and the bubonic plague. Although he did not grow up as an observant Jew, he became a *baal teshuva* in his later years. When he passed away in 1930 at the age of 70, he bequeathed all his money to support the *yeshivos*. Those who were responsible for distributing the money had a dilemma. Should they simply distribute all the money to the various *yeshivos* or perhaps invest the money and create a company? This way the *yeshivos* would be able to prosper from the income being generated by the business for many years to come. They brought their question to the *Gadol Hador*, Reb Chaim Ozer zt"l. Reb Chaim responded that the *yeshivos* are likened to the *aron* in the *mishkan*. *Chazal* tell us that the *aron*

was נושא את נושאינו - it carried those who were carrying it. The same is true with the *yeshivos*. Although it

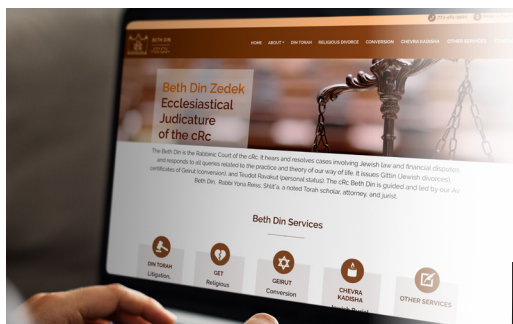


may appear as those who donate money to *yeshivos* are supporting the *yeshivos*, the reality is that the *yeshivos* are "supporting" those who donate to them. We don't have to figure out how the *yeshivos* will manage in years to come; Hashem will take care of that. Right now, since we have money to fund *yeshivos* that are in need, all that money should be distributed immediately.

They followed the wisdom of Reb Chaim Ozer. In the end, the Bolsheviks came and took over all the companies in Russia. Had they not listened, all the money would have gone to waste.

Let us return to our question as to why my funds are necessary in helping the *shemittah*-observant farmers. Of course, Hashem will help and bless these farmers regardless of whether you contribute. Perhaps Hashem wants to give us an opportunity to be included in the *beracha* promised to those who observe *shemittah*. When we contribute financially, giving whatever we could towards helping the farmers observe *shemittah*, then we too will be recipients of all the *beracha* and reward that Hashem has in store.

For more information on supporting the farmers, please see Rabbi Cohen's article in issue 6 and Rabbi Raccah's article in issue 8.



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Kedushas Shevi'is • Hefker • Biur (continued from page 2)

for 24 hours a day, 7 days a week, or whether it can be restricted to specific times.

- The mitzvah to make the produce *hefker* applies specifically to the owner of the field, and there is a question as to how much outsiders can compensate the owner for taking "his" produce.
- Everyone – including wealthy people – can take from the *hefker* produce, but there is a *machlokes* as to how much each person can take at a time.

- Rambam argues that all food – other than 3-meals worth per person in the family – must be destroyed on the respective day of *biur*.
- Ra'avad says that there are two forms of *biur*, an earlier one (when the food is unavailable in the cities) which is as Ramban says, and a later one (when the food is not available in the fields) where the *mitzvah* is as described by Rambam.

On this matter, *Ashkenazic Poskim* generally follow Ramban's position.

Once *biur* is performed, anyone – including the original owner – may take possession of the food and eat or use it as before. If one did not perform *biur* at the correct time, the food becomes forbidden and must be destroyed.

It is generally accepted that formal *biur* is not required for *Otzar Beis Din* produce; the *Beis Din* is holding the produce for "everyone" and that is equivalent to declaring it *hefker*. Therefore, for *shemittah* wine, when Pesach of the 8th year arrives – the time of *biur* for wine – all *Otzar Beis Din* wine will essentially have "had" *biur*.

There is a difference of opinion whether produce retains *kedushas shevi'is* after *biur* was performed, and that *machlokes* directly impacts wine produced with *Otzar Beis Din*. One *Rav HaMachshir* adopts the lenient approach to this issue. Therefore, once Pesach of the 8th year passes, he allows the wine to be exported, sold on the open market, and sold to people who will likely not treat it with *kedushas shevi'is*. All of those are things which are forbidden for wine with *kedushas shevi'is* but he rules that they no longer have *kedushas shevi'is*.

Biur

Shemittah produce may be taken and eaten by anyone (הפקר), but there comes a point when that right becomes somewhat restricted, as follows. Once there is no more of a specific type of *shemittah* produce (e.g. grapes, figs) left in the field for animals to eat, the mitzvah of *biur* (described below) must be performed. *Chazal* inform us of the time when *biur* must be performed for certain foods, such as dates (Purim), olives (Shevuos), and grapes (Pesach) (all in the 8th year), and Rabbinic groups in Israel produce lists for those and other types of produce. Anyone who is in *Eretz Yisroel* should consult with those "lists" so he will know when to perform *biur*.

There are three opinions as to what the *mitzvah* of *biur* entails:

- Ramban is of the opinion that *biur* merely requires the person to declare the food *hefker* (ownerless) on the given day, after which he can take 3-meals worth per person in the family. [If he fails to fulfill this requirement the food becomes forbidden.]



WE WOULD LIKE TO HEAR FROM YOU!

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