



Volume 13. Issue 5

## Hefker and Peah

This week we began the second *masechet* – *masechet Peah*. While the *masechet* deals with the various gifts for the poor, the *Mishnah* begins with discussing the gift after which the *masechet* is named. The *Torah* states (*Vayikra* 19:9): “When you reap the harvest of your land, you shall not complete your reaping to the corner (*peah*) of the field...”. From here we learn the obligation to leave some uncut produce for the poor.

The *Mishnah* (1:4) provides a general rule regarding to which food the obligation of leaving *peah* applies. One of the five requirements is that the food is “*nishmar*” – literally, protected. The *Bartenura* explains that this requirement excludes a field that is *hefker* – ownerless.

One might ask, is it not obvious? If it is ownerless then who should the obligation apply to? If the *Mishnah* is teaching that even when one claims ownership of that field that has produce, he is exempt from leaving *Peah* then we have a problem. The *Beraita* cited in *Bava Kama* (28a) explains that if one relinquishes ownership of his field, then reclaims it the next day, he is nonetheless obligated to leave *Peah*. *Rashi* explains, citing the later *Gemara* (94a) that *Peah* along with the other gifts for the poor is different (to *maaser*), since the *pasuk* includes a second and superfluous instruction: “you shall leave it”. What then is the *Mishnah* teaching us?

Due the strength of this question, the *Raavad* understands that exemption discussed in our *Mishnah* is not referring to when a field is *hefker*, but rather species of food that are ordinarily *hefker*.

The *Tifferet Yisrael* (*Boaz* 4) however preempts this question and explains that if someone else other than the original owner claimed ownership of the field then it would be exempt. This is indeed the opinion of *Rashi* and the *Rambam*. What is the difference between who claims the field, and what is the function of the additional “you shall leave” cited above?

*Rashi* (*ibid*) explains that the *pasuk* excludes *hefker* of this nature, where the owner reclaims it. In other words, it

appears that a higher standard of *hefker* is required and, even though it was *hefker*, the reclamation makes the original *hefker* below the standard. If someone else claims the field, the original *hefker* remains strong enough to exempt the new owner from leaving *peah*.<sup>1</sup>

Interestingly the *Meiri* explains that really there is no difference between the owner and anyone else and on a biblical level and the crop would be exempt. Nevertheless, the requirement on the original owner who reclaims the field is a rabbinic. This is either to prevent those that seek to exempt themselves of this obligation or because of the suspicion it might raise where others see the original owner harvesting his entire field without leaving *peah*.

The *Rash* however understands (based on the *Yerushalmi*) that it depends on when one claims the produce<sup>1</sup> or field (and it does not matter who). If it was when the produce was still attached to the ground, then the obligation to leave *peah* still applies. The exemption of our *Mishnah* is only if one harvested a *hefker* field and only after that (re)claimed ownership of the cut produce.

The *Chazon Yechezkel* (*Tosefta Peah* 2:4) explains that the debate between the *Rash* and *Rambam* is based on where we learn the exemption of *peah* from a *hefker* field. The *Rash* understands that the exemption is based on the *pasuk* cited in the beginning of this article. Since the *pasuk* states “*sadcha*” – your field – one learns that the obligation only applies to a field that has an owner. The exemption is not with the field, but rather based on a technicality - the lack of an owner. If however at the time of harvest there is an owner, then the obligation applies.<sup>2</sup>

The *Rambam* in his commentary to the *Mishnah* however explains that the exemption is based on the word “you shall leave” (also cited above). The *Bartenura* explains that this excludes a field that is already “left” or abandoned. This is a law that applies to the field itself. Since it was an abandoned field at some point, even though it was claimed by someone, it remains exempt from leaving *peah*.<sup>3</sup>

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<sup>1</sup> The *Ri* (*Tosfot, Temurah* 6a) provides a different distinction. If the original owner reclaims the land then indeed the obligation to leave *peah* would apply. If however he only reclaimed the produce, but not the land, then it would not. A more details discussion of this position is unfortunately beyond the scope of this article.

<sup>2</sup> The *Chazon Yechezkel* points to *mishnayot* (2:8, 4:7) that we will learn, that are based on a similar principle.

<sup>3</sup> See *Rambam, Matanot Aniyim* 2:1 that appears to learn the exemption from *sadcha*.

**Revision Questions**

ברכות ח' ז' – ט' ה'

- Explain the debate between *B" S* and *B" H* regarding one who has forgotten to say *birkat ha' mazon* and finds themselves in a different location from where they ate. (ח' ז')
- What is the maximum time that someone can wait before *benching*? (ח' ז')
- Explain the debate between *B" S* and *B" H* regarding drinking wine and *benching*. (ח' ז')
- Can someone answer *amen* to a *bracha* if they only heard the end of the *bracha*? Is there a difference who said the *bracha*? (ח' ז')
- List all the debates between *B" S* and *B" H* listed in the eighth *perek*.
- What *bracha* does one make on:
  - Seeing a place where miracle occurred for the benefit of *Israel*? (ט' ז')
  - Seeing a place (in *Israel*) where idol worship was removed? (ט' ז')
  - Comets, earthquake, lightning, thunder and storms? (ט' ז')
  - Mountains, hills, seas, rivers and deserts? Explain the debate regarding the "great ocean". (ט' ז')
  - Rain and good news? (ט' ז')
  - Bad news? (ט' ז')
  - Building a new house and buying new utensils? (ט' ז')
- Give some examples of a *t'fillat shav*. (ט' ז')
- Explain the debate about the number of *brachot* one recites when entering and exiting a walled city. (ט' ז')
- What (four things) does the *mishnah* learn from the following *pasuk*: (ט' ז')  
"ואהבת את ה' א' בכל לבבך וכל נפשך וכל מאודך"
- What (seven things) should one refrain from doing in the *Beit ha' Mikdash*? (ט' ז')
- What extra phrase was added to *brachot* in the *Beit ha' Mikdash*? (ט' ז')

פאה א' – ב' א'

- Which *mitzvot* have no fixed measure? (א' א')
- What is the minimum proportion of a field that one must set aside for *peah*? What are the three criteria that one uses to determine how much more to leave beyond this minimal amount? (ב' א')
- Explain the three-way debate regarding where in the field one must leave *peah*? (א' א')
- What are the characteristics of a field that has the obligation of leaving *peah*? (א' א')
- Name the fruit trees that have all the above characteristics. (ה' א')
- Until when is *peah* exempt from *trumot* and *ma'asrot*? What are the five laws brought that have the same cut-off point? (א' א')
- What are the seven things that divide a field such that each side is independently obligated to leave *peah*? (ב' א')

**Melbourne, Australia**

**Sunday -Thursday**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

**Friday & Shabbat**  
10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

**Efrat, Israel**  
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**Sunday -Thursday**  
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9:00am  
Kollel Magen Avraham  
Reemon Neighbourhood

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
24 April ט"ז ניסן	25 April י"ז ניסן	26 April י"ח ניסן	27 April י"ט ניסן	28 April כ' ניסן	29 April כ"א ניסן	30 April כ"ב ניסן
Berachot 8:7-8	Berachot 9:1-2	Berachot 9:3-4	Berachot 9:5 - <b>Peah 1:1</b>	Peah 1:2-3	Peah 1:4-5	Peah 1:6-2:1

