



Thinning out Vines

The *Mishnah* (6:5) records a debate regarding one who wishes to thin out vines. The farmer's intention is to remove some bunches to allow more room for others to develop. *R' Yehuda* maintains that one is allowed to remove any clusters, including those that may "belong" to the *aniyim* (poor). This refers to *olelot*, which are badly develop clusters that ordinarily must be left for the poor.¹ *R' Meir* however disagrees arguing that the owner must not remove any of the *olelot*. We shall try and understand this debate.

The *Bartenura* explains that the debate is based on how we understand the *aniyim's* share or claim in the field. *R' Yehuda* understands that the *aniyim* have the status of a *shutaf* – partner. Since in the case of a partnership, one can operate on behalf of both parties, here he can remove both the clusters belonging to the owner and the *aniyim*. *R' Meir* however understands that the *aniyim* have the status of a *koneh* – purchaser. That being the case, the farmer must not touch the property that belongs to the *aniyim*.

The *Tifferet Yisrael* finds this explanation for *R' Yehuda* difficult. He maintains that we cannot compare our case with a normal partnership. In our case, it is clear which bunches belong to the owner and which belong to the *aniyim*; the owner has no "share" in the *olelot*.

The *Tifferet Yisrael* therefore explains that *R' Yehuda* reasons that the owner is allowed to thin out areas of *olelot* since it will benefit the poor - it will result in the adjacent *olelot* developing better. Consequently, it is considered like "*me'shiv aveida*" – returning a lost item. *R' Meir* however disagrees since some people might instead prefer a greater abundance of poorly developed grapes. Consequently, the owner has no right to thin any *olelot*.

The *Mishnah Rishona* also has a similar difficulty with the *Bartenura's* explanation. He therefore explains that *R' Yehuda* and *R' Meir* do not apply the laws of a *shituf* and *koneh* to the *aniyim*, but rather based on logically reasoning simply compare the *aniyim* to those two models. In other words, *R' Yehuda* understands that the owner and the *aniyim* have equal rights and are therefore compared to case of partners. Even though the cases are not equal, since the *aniyim's* share is already effectively allocated, *R' Yehuda* understands that the *Torah* did not give over the *olelot* in the

case where it causes a loss to the owner. *R' Meir* however understands that the position of the *aniyim* is stronger than the owner. It is comparable to the case of a purchaser, where one sells with an "*ayin yafa*" and the seller must provide to the purchaser even if he incurs a loss.

The *Tosfot* (*Moed Katan* 4b) however provide a very different answer. He explains that *R' Yehuda* allows the owner to thin the *olelot* since the prohibition of taking *olelot* is only at the time of harvest. This is based on the *pasuk* (*Devarim* 24:21): "When you harvest your vineyard, you shall not glean (*te'olel*) after you...". It would appear that the debate then is whether the *olelot* belong to the poor prior to the beginning of harvest.

According to this understanding, the later *Mishnah* (7:8) provides a difficulty. The *Mishnah* teaches that if one sanctifies his field after the *olelot* have already developed then those *olelot* may still be taken by the *aniyim*. If we understand that the *olelot* do not belong to the *aniyim* prior to harvest, what prevents the owner from sanctifying them.

The *Tosfot Yom Tov* (7:8) explains that while the *halacha* is like *R' Akiva* (see 7:7) that the *aniyim* cannot take *olelot* prior to harvest, nevertheless once the *olelot* appear the owner has no share in them. With this understanding let us return to the *Tosfot*. We suggested that they understood that according to *R' Yehuda* the *olelot* do not belong to the *aniyim* prior to harvest. The *Tosfot* however do not say that. They explain that there is no prohibition of taking *olelot* prior to harvest. Therefore, we may suggest that there are two considerations: one is financial, who does it belong to; and the other is the prohibition of taking *olelot*. The *Tosfot* are teaching that once the *olelot* develop even though the owner has no share in them, the prohibition of taking them does not yet apply. Consequently, we only need to deal with the financial considerations and there may be reasons as we suggested earlier, that justify the owner trimming the *olelot*. If, however the *Torah* prohibition already existed then the financial justifications alone would not be enough. What would *R' Meir* maintain according to the *Tosfot*? They do not explain. However, they could either understand that the prohibition already exists or that he disagrees with the financial justifications as above.

Yisrael Bankier

¹ We learnt (6:4) that this refers to clusters that lack shoulders (the smaller clusters at the top of the bunch) and also lack the droop (the grapes towards the end of the stem).

Revision Questions

פאה ו: ט' – ח: ג'

- Do standing and cut wheat or onions and garlic combine to the measure that exempts them from *shichecha*? Include *R' Yosi's* opinion. (ט': ו')
- Produce that have particular uses are exempt from *shichecha* – what are these uses? (י': ו')
- Explain the debate regarding whether produce that grows underground are exempt from *shichecha*? (י': ו')
- Does *shichecha* apply to produce forgotten by a blind person, or produce that was cut at night? (יא': ו')
- What is the effect of making the following condition: I am reaping my field on the condition that I will take anything I forget? (יא': ו')
- What three qualities of an olive tree would exempt it from the law of *shichecha*? (יא': ו')
- Explain the opinion of *R' Yosi* with regards to *shichecha* and olive trees. (יא': ו')
- Explain the law of *sata'im* by olive trees? [Note: this *mishnah* is understood differently by the *Rishonim*] (יב': ו')
- Explain the debate regarding when olives left in the tree are considered *shichecha*? (יב': ו')
- What is *peret*? (יג': ו')
- Can someone place a basket under the vine when picking grapes? (יג': ו')
- What is *olelot*? (יד': ו')
- Explain the debate regarding the restrictions on where one can prune his vine? (יד': ו')
- What is *kerem reva'i*? To what other law is it similar? (יד': ו')
- *Beit Shammai* and *Beit Hillel* argue whether a number of laws also apply to *kerem reva'i* – what are they? (יד': ו')
- What is the law regarding a vineyard that contains only clusters of *olelot*? (יז': ו')
- If someone sanctifies their vineyard, are the poor still able to take *olelot*? (יח': ו')
- What type of vines are *aris* and *rogliyot* and when does *shichecha* apply? (יח': ו')
- When are the general public allowed to take: (יח': ו')
- *Leket*?
- *Peret* and *olelot*?
- *Matanot ani'im* from olive trees?
- When does one believe a poor person (*am ha'aretz*) who claims the produces he is selling is *leket*, *peah*, *shichecha*, *ma'aser ani*? Why is this important? (יח': ו')
- Does one believe a *levi* who claims he is selling *ma'aser rishon*? (יח': ו')
- With respect to the first question – does it make a difference what he is trying to sell? (יג': ח')

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
29 May כ"א אייר	30 May כ"ב אייר	31 May כ"ג אייר	1 June כ"ד אייר	2 June כ"ה אייר	3 June כ"ו אייר	4 June כ"ז אייר
Peah 8:4-5	Peah 8:6-7	Peah 8:8-9	Damai 1:1-2	Damai 1:3-4	Damai 2:1-2	Damai 2:3-4

