

HALOCHOSCOPE

This week's question:

Is *Tu Bishvat* a festive day, and if so, why?

The issues:

A) *Tachanun* and fasting on *Tu Bishvat*

B) *Rosh hashana le'ilan*, the new year for the tree

C) *Shnos maasros*, the cycle of tithe-years

D) *Orlah* and *revai*, the prohibition against fruits of the first three or four years

E) *Shevi'is*, the seventh year in the agricultural cycle

F) *Bikurim*, the first-fruit offering

A) *Tachanun* and fasting on *Tu Bishvat*

The fifteenth of the Jewish month *Shevat* is the beginning of a new year for certain *halachos* that apply to trees and their fruit. Most of these *halachos* apply in *Eretz Yisroel*, and some do not apply nowadays. Nonetheless, the day is commemorated by Jews everywhere. Many *minhagim*, are associated with this in modern times. The most widespread is to eat many fruits. Some eat fifteen fruits. Some study a *mishna* about a fruit and then eat it. Some specially eat five of the seven species that Israel is blessed with. Some pray for a good *esrog* in the coming year. It is customary not to recite *tachanun* on this day.

Tachanun represents penitence. On days associated with celebration it is considered intrusive of the spirit of the day to practice penitence, abstinence, and to eulogize the dead. This is based on a Scriptural requirement of joy and rejoicing on a *Yomtov*. Accordingly, on any day considered festive, one does not recite *tachanun*.

Tu Bishvat has no apparent festive connotations. Yet it is included in the list of days that one omits *tachanun*. This is based on the reason not to fix fasts on this date, because the Talmud calls it *Rosh Hashana*. On *Rosh Hashana* one does not recite *tachanun* – it is a *Yomtov*. The Talmud lists four *rosh hashanos*. [The others pertain to other issues determined by years with a *halachic* beginning and end.] Accordingly, all are treated the same way. [See *Rosh Hashana* 2a 14a-b. *Tur Sh Ar OC* 131:6 572:3, commentaries.]

B) *Rosh Hashana Le'ilan*

Crops grow all year round. Some lie dormant throughout the winter months. However, they are still considered growing. Different *halachos* apply at different stages in the growth of harvesting of the produce. There has to be a cut-off date when a crop is determined to be part of one year's crop or the following year's crop. Jewish years are counted according to Creation. The Talmud debates in which month Creation took place. In counting years, we follow the view that it took place in *Tishrei*. We should naturally use the same counting system for all of our *halachic* needs. However, many indications in the Torah show that this is not true. Nonetheless, the Creation year is used as a base-line. The turn-over point for those *halachos* that use a different date usually follow the main *Rosh*

Hashana, or are calculated close to it right before it. There are some exceptions.

The Talmud lists *rosh hashana le'ilan*, the new year for the tree, as the first of *Shevat*, according to *Bais Shamai*, the school of *Shamai*. *Bais Hillel* maintain that it is the fifteenth of *Shevat*. The Talmud does not explain what the debate is based on.

The Talmud does discuss which *halachos* are related to this classification of 'tree'. It also discusses why this *rosh hashana* occurs in *Shevat*. The main *halachic* application is *shnos maasros* [see section C]. However, the source for the deviation from the standard Jewish new year is in the *halachos* of *orlah* and *revai* [see section D]. The other applications are discussed, either by the Talmud elsewhere, or by the poskim.

This *rosh hashana* is in *Shevat* because most of the rains have already come for this Creation-calendar year. A tree nourishes by storing sap and then delivering it to the fruit. Once the majority of the rains have come, the sap is transferred to the developing fruit. Therefore, any fruit that had already bloomed before *Shevat* must have been supplied by the preceding year's rains. Any fruit that develops after *Shevat* is sustained by the current year's rains. The poskim debate the meaning of this. According to some, this means that the *Shevat* date is the date that the fruit of this year begins to develop. The other view maintains that the fruit developing from here on is retroactively considered the fruit of the Creation-calendar *Rosh Hashana*.

The term used for the stage of development considered the beginning of the 'fruit' is *chanatah*. This is when the petals of the blossoms fall off, leaving behind the seedbox. At this point, the seedbox, which is the fruit, is seen as an independent entity. The question is: this date does not seem to have a Scriptural source! The *halachos* that are applied based on this *rosh hashana* are mostly Scriptural. Furthermore, assuming that the date is based on *chanatah*, rather than a calendar date, the stage of *chanatah* does not seem to have a Scriptural source! In general, rains and the rising of the sap follow a solar agricultural cycle. The Talmud poses a question: is this the *Shevat* of the months, the lunar calendar? Or is this the *Shevat* of the seasons, thirty days after the winter solstice, that occurs at the solar, *Teves*? The Talmud answers that it is lunar *Shevat*. The poskim explain, a Scriptural reference indicates that the lunar cycle has some influence on fruit. Also, anything that bears on Jewish practice would be linked to a lunar calendar. This second answer implies that the issue is not merely part of agricultural timing. It is also connected to a spiritual timing system. [See Rosh Hashana 2a 10a 14a 15a, commentaries.]

C) *Shenos maasros*

Two issues relate to the *maasros* years. Firstly, one may not tithe a mixture of crops from two years. If a crop seems to overlap the two years, it must be separated according to some criteria to determine in which year it is included. Second, the second of the tithes varies according to the seven year cycle. In the first, second, fourth and fifth years it is *maaser shaini*, a tithe taken by the owner to be eaten in *Yerushalayim*. It may also be redeemed, its sanctity being transferred to coinage spent on food in *Yerushalayim*. In the third and sixth years, the second tithe is *maaser ani*, given to the poor. The dividing point is the same as the dividing point between new and old crops.

The Talmud first determines when a crop has its new year. Then it derives from *pesukim* that different crops are considered part of one year's crop or the next based on production stages or development of their growth. Basically, grains and olives are measured

according to a third of their growth. Leafy vegetables are measured according to the time they are picked. There are various other criteria for legumes or seed vegetables. Tree produce is measured by *chanatah*. The new year for vegetables is *Rosh Hashanah*. The new year for tree fruits is *Tu B'shevat* (according to *Bais Hillel*).

Bread grains, wine and oil must be tithed Scripturally. Other tree fruits are the subject of debate by the poskim. Basically all cultivated produce must be tithed, at least Rabbinically. [See Rosh Hashanah 12a-15a, Poskim. Tur Sh Ar YD 331, commentaries.]

D) *Orlah and revai*

For the first three years after a tree is planted, its fruit is forbidden to eat or to benefit from. The fruit of the fourth year is sanctified. It must be taken to *Yerushalayim* to be eaten there or it may be redeemed in the same manner as *maaser shaini*. Outside *Eretz Yisroel*, *orlah* applies, with one major leniency. It is only forbidden if it is known to be *orlah*. It is permitted in cases of doubt. *Revai* applies in *Eretz Yisroel*. Outside *Eretz Yisroel*, it is debated by the poskim. We follow the view that it applies to grape-vines only. These *halachos* apply to many types of grafts and layers as well. Thus, though it is unusual for a newly planted tree to produce a viable crop in its early years, *orlah* might also apply to healthy trees, if they fall into these categories.

The three years could be counted from the date of the planting. However, the Torah indicates that the years should be calendar years, beginning on *Rosh Hashanah*. Furthermore, the tree needs some time to root before the first year may be counted. Nonetheless, the Torah also indicates that the first year need not be complete, but part of it may count as year one. The Talmud debates how much of the year is needed to be considered one year, as well as how long the rooting takes. We follow the view that one complete month is needed before *Rosh Hashanah*, plus two weeks for the rooting.

Accordingly, after forty-four days plus two full years, the fruit should no longer be considered *orlah*. Fruit already on the tree when the third *Rosh Hashanah* comes around is forbidden as fruit of the third year. This would include any fruit that had *chanatah* before the third *Rosh Hashanah*. The Torah indicates that in addition, some fruit of the fourth year is forbidden, some of the time. It is from this teaching that we derive the concept of *Tu B'shevat* Scripturally. Since not all fruit is forbidden, it is assumed that what has *chanatah* before *Tu B'shevat* is forbidden, and what has *chanatah* after *Tu B'shevat* is permitted. The poskim agree that this stringency does not apply all the time. Trees planted too late in the year to count their first partial year before *Rosh Hashanah*, count three full calendar years. These trees' fruit that blooms after their fourth *Rosh Hashanah* is permitted. They debate whether the leniency is modified for trees that are planted much earlier in the year; that is, whether these trees may rely on anniversary or *Tu B'shevat* years. [See Rosh Hashanah 9b-10a, Poskim. Tur Sh Ar YD 294:esp. 4-5, commentaries.]

E) *Shevi'is*

Produce grown during *shevi'is*, the seventh year in the agricultural cycle, has sanctity and must be treated differently than regular fruit. Scripturally, it is also exempt from most tithes. The Talmud says that fruit is determined according to its *chanatah*. This seems to indicate that the beginning of the fruit year for *shevi'is* is *Tu B'shevat*. However, according to many poskim, *shevi'is* always begins at *Rosh Hashanah*. *Chanatah* applies to what blooms on or after *Rosh Hashanah*. [See Rambam Shmita 4:9, commentaries.]

F) *Bikurim*

Bikurim is a *mitzvah* that applies to the first produce of the seven special species about which *Eretz Yisroel* is praised: wheat, barley, grapes-vines, figs, pomegranates, olives and dates. It is separated and taken to the *Bais Hamikdash* with much ceremony, given to the *kohain*, put through a process of waving and placing before the altar and then eaten by the *kohain*. It is separated every year from the fresh crop. For fruit trees the fresh crop is determined by *chanatah* after *Tu Bishevat*. It is separated by checking the produce to see which fruit has *bikur*, started to grow and develop. In the earliest stage of development, the first fruit to bloom is marked by tying a reed around it. When it is fully grown, it is brought to the *Bais Hamikdash*. *Bikur* seems to be the point of *chanatah*. This might be the source for using *chanatah* as the determining moment, which in turn is the reason for using *Tu Bishevat* as the new year. [See Shir Hashirim 2:13, commentaries. Yerushalmi *Bikurim* 1:6, Rambam *Bikurim* 2:7, commentaries.]

We have not yet explained the reasoning behind the debate between *Bais Shamai* and *Bais Hillel*. Some say that they disagree on when the rains generally fall. They might also disagree on a general rule that a month cannot be split between two 'years'. [See Pnai Yehoshua, Rosh Hashanah 14a.] Perhaps we may suggest the following. *Bikurim* is the first of the land-based *mitzvos* of the year. Going out into the field to see the newly blooming fruit and tying the reed around it is an exciting *mitzvah*. The *mitzvah* of *bikurim* is associated with joy and merriment, as mandated Scripturally. [See Ki Savo 26:11.] Therefore, this day, the new year for trees, would indeed be a festive day. *Bais Shamai* associates the festivities with the first of the month, a *rosh hashanah* rather than a *regel*, or *Yomtov*. [See Rosh Hashanah 8a.] *Bais Hillel* associates it with the fifteenth. The main *Yomim Tovim* occur on the fifteenth. One reason for this is that there is more light on these days, due to the full moon. [See Maharal, Or Chadash p. 209.] The month of *Shevat* is the point in the solar or agricultural year, and the timing is based on the rains and the sap. However, both opinions maintain that this is a Jewish calendar holiday, governed by the lunar cycle. Thus, rather than being a practical point in time, the date is chosen based on the joy and festivity of the *mitzvah* of *bikurim*.

On the Parsha ... *This is my G-d, and I will beautify Him, the G-d of my forefathers and I will exalt Him .. [15:2]* We derive the concept of *hidur mitzvah*, the obligation to beautify the performance of a *mitzvah* or the item used for it, from this verse. [Shabbos 103a] This is not a command of Hashem, but rather a praise by Israel. Why is it used to derive an obligation? Perhaps we can understand this better by citing the opposite. It is forbidden to use something sub-standard in the performance of *mitzvos*, based on the verse 'offer that, if you please, to your governor, see if he accepts it!' [Malachi 1:8] In its context, this prophecy is critical of the attitude of the Jews of the time. While they performed the *mitzvos*, it was in a grudging manner, using sub-standard offerings. *Hidur mitzvah* is not a simple adornment added on, but demonstrates an attitude to the basic *mitzvah*. For one cannot beautify G-d, but by beautifying the *mitzvah* one shows his excitement about it. The essence of the festivity of *Tu Bishevat* is the excitement about even the very first opportunity to fulfill *bikurim*.

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