PRACTICAL SHMITA

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EVERY seven years, we have a special opportunity in Eretz Yisroel to fulfill the mitzvah of shmita. During this sabbatical year, agricultural fields are not worked, while fruits and vegetables become public property. According to the Sefer HaChinuch, laying the lands fallow is an affirmation that one’s sustenance is truly from the Almighty.

There are many details regarding shmita observance. This includes certain permissible allowances that one may follow, but still properly observe shmita. This article will focus on some of the more common, possible exceptions to the rule.

1) SOURCING PRODUCE FROM NON-JEWISH OWNED FIELDS. There are certain kashrus agencies that permit without shmita restrictions, produce from Arab owned fields in the West Bank. This is based on the position of the Beis Yosef that produce grown nowadays in non-Jewish owned lands in Eretz Yisroel does not contain kedushas shviis. However, the Mabit disagreed and maintained that all produce grown in Eretz Yisroel contains kedushas shviis, even from lands owned by a non-Jew. Later authorities, such as the Netziv, R’ Avraham Yitzchok HaKohen Kook, and R’ Tzvi Pesach Frank followed the Beis Yosef’s position. However, the Beis HaLevi, Rogatchover and Chazon Ish accepted the position of the Mabit. The accepted custom in Yerushalayim and most of Eretz Yisroel is to follow the opinion of the Beis Yosef. Nonetheless, the custom in Bnei Brak is to follow the opinion of the Mabit.

2) HETER MECHIRA. This entails temporarily selling Jewish owned lands to non-Jews, with produce from those fields not subject to shviis restrictions. The acceptability of this practice partially depends on the issue above, but also touches on other issues. This includes:

- Is shmita nowadays a Torah obligation or Rabbinic?
- Is it proper to avoid shmita observance by transferring ownership of Jewish owned fields?
- Is it permissible to sell lands in Eretz Yisroel to a non-Jew?
- Is such a sale valid if it does not conform to legal requirements of the governmental body?

Under dire economic conditions, R’ Avraham Yitzchok HaKohen Kook permitted heter mechira. The basic reasoning behind this position was based on the majority opinion that shmita nowadays is

KASHERING PIPES PROPERLY

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I’VE THOUGHT many times about the physics of fluid product (i.e. oil, chocolate, anything liquid) as well as water (as is used for kashering) moving through pipes. We typically kasher pipes by pumping boiling water through them. Thinking about the physics of this movement, there are a few questions that come up with this kashering procedure:

1. Does the water retain kashering temperature through to the end of the pipe run? This is obviously a bigger question with very long lines and more so with lines exposed to cooler external temperatures (like un-insulated pipes outside).

2. Does kashering water actually hit all the interior surfaces of the pipe as it is going through?

The first question is simple to solve – checking the temperature at the exit of the pipe run will easily show if sufficient temperature has been maintained for the distance. Adjusting the quantity of water to sufficiently heat, and maintain temperature, in the pipe may be necessary.

The second question is more interesting from a physics standpoint. Consider the simple system pictured here. Tank A is the supply. Liquid comes out from the bottom of the tank, runs through a pump which raises the liquid up to a transfer line which in turn empties into Tank B. Assuming the liquid regularly running through this system is hot, we would require kasher the tanks and lines if they became non-kosher or dairy to return them, respectively, to kosher or pareve status. Kashering would typically be with hot water running the same route as product took – A through the pump, up and over to B.

We all know that kashering is accomplished by all surfaces of a kli coming into contact with boiling water, not necessarily simultaneously but eventually. My question really boils down to… does boiling water ever contact the top of the pipe run.
Rabbinic and under extenuating circumstances it is permissible to transfer ownership of Jewish land to non-Jews for Jewish benefit. Although some raised an objection that legally binding property sales must be formally registered with the Israeli government, R’ Tzvi Pesach Frank maintained that not doing so would not invalidate a sale intended to avoid transgressing a prohibition. Many authorities, including the Bei HaLevi, Netziv and Chazon Ish opposed heter mechira. One of the earliest supporters of heter mechira was the posek hador, R’ Yitzchok Elchonon Spektor of Kovno, and discussions about the validity of these sales have already overlapped three centuries. Nevertheless, it is note-worthy that R’ Kook, who formally institutionalized heter mechira, required a reevaluation of the need prior to each shmita year.

3) SOURCING PRODUCE FROM EVER HAYARDEN. There are agencies that permit produce from certain areas of Eretz Yisroel that are considered part of the Jordan Valley, which may not have been inhabited when Ezra returned from the Babylonian exile. These areas could be viewed differently and considered outside the normative borders of Eretz Yisroel where land related precepts apply fully. The Mincbush Titzadok writes that since shmita nowadays and land related mitzvos immediately outside normative Eretz Yisroel boundaries are both rabbinic obligations, one can permit produce from areas that may have not been inhabited at the return of the Babylonian exile. However, the Chazon Idi maintained that the Jordan Valley has the same status of any other area in Eretz Yisroel.

4) OTZAR BEIS DIN. This involves a beis din acting on behalf of the community by appointing agents during shmita to harvest and distribute produce from Jewish owned fields. This practice was supported by the Chazon Idi and is based on a tosefta that is quoted by the Ramban. Unlike heter mechira, Otzar Beis Din is not a transfer of field ownership. To the contrary, all the shmita restrictions with the harvesting, distribution, and usage of shviis produce apply. Otzar Beis Din produce cannot be sold through regular retail channels and contain kedushas shviis.

5) MATZA MENUTAK. There are two separate discussions whether: 1) produce grown indoors and 2) produce grown in bins are subject to shmita restrictions. There is basis to assume that shmita restrictions only apply to fruits and vegetables grown in an open field and/or directly in the ground. Consequently, several authorities permitted a situation where both conditions exist. This is practically relevant to greenhouse vegetables that are grown in bins placed in the ground. Nevertheless, some oppose this leniency on the assumption that these two exceptions are only intended for irregular growing conditions. However, this would not apply to greenhouse growing that is considered a normal agricultural practice.

Fruits and vegetables containing kedushas shviis are subject to certain limitations. For example, they may be eaten, but they may not be sold or wasted. They may also not be brought outside of Eretz Yisroel. This is especially relevant with esrogim, although according to some opinions there are leniencies with restrictions. It is therefore incumbent to realize that with each of the above situations, there are practical differences how certain fruits and vegetables should be handled. Typically, either the package or store’s kosher certificate should state whether the produce comes from a source where any of these situations would apply.

1 84
2 Avkas Rachel 24
3 Shul HaMa’ari 1:21
4 Mosher Davar 2:56, Kuntrus Hashmita
5 Har Tzi Zeraim 2:39
6 3:1
7 Te’achnas Panosch Haschadaso Ben 94
8 Shviis 20
9 Midrats Kohanim 58, 63, 68
10 Har Tzi Zeraim 2:49
11 Ibid 4
12 Shviis 24
13 Sefer Hashmita p. 67
14 8:94-95
15 Slorin 3:25, 32
16 Slorin 11, 12
17 Slorin 8:1,2
18 Bamidbar 25:7
19 Yeruhalmi Orlah 1:2
20 Sefer Hashmita, p. 15, Chazon Idi Shviis 264
21 Sefer Hashmita, p. 16, Even Yisroel 8:74,
22 Chazon Idi Shviis 2:206, Chut Shani Shviis
23 Shut Shani Shviis 79, Derech Emunah Shviis 1:106
24 Chut Shani Shviis p. 283

PIPPES

nig horizontally and then down into B (the red section of the diagram before the arrow)? It we think about this logically, the pump is going to be pushing liquid up the vertical riser pipe and that section of pipe is certainly going to be filled with liquid since gravity is pulling the liquid down and the pump is being used to overcome the force of gravity. But once liquid reaches the top, gravity acts to exert force on the water to stay at the bottom, or lowest point, of the cross (horizontal) part of the line. As water reaches the top of the riser, the pulses of liquid being pushed out by the pump should flow by the path of least resistance, dissipating across the horizontal pipe and then dropping down into tank B (assuming there are no blockages or restrictions to the pipe diameter). As soon as the first liquid reaches the top of the riser it will encounter no further gravitational resistance and be able to flow much faster along the horizontal pipe. That would mean that the top of the cross member pipe would not be touched by liquid or kashering water.

At the 2014 IFT show, I sought out the engineers from the Murzan Company. Murzan specializes in designing piping and pump systems for food plants. I discussed my thoughts with them, and they confirmed that my suspicions are correct – with the cross pipe in the diagram being level and not restricted in any way it will never be filled with liquid unless the viscosity of the liquid being pumped is extremely high and therefore not free flowing. In the case of water, oil or similar liquids the horizontal pipe will never be filled. They said that it might be possible to oversize a pump to force more liquid through at a very high flow rate, but they thought that even then the runoff across the span of the horizontal pipe would still result in that pipe never being filled. The larger the diameter of the pipe, the more profound this effect would likely be.

It goes without saying that if the cross pipe has a downward slope at all, the effect would be even more magnified and even less depth of water would be observed in the pipe. If the pipe was not hung level, but the end was at least one pipe diameter higher than the origin, the pipe would indeed fill. Or, if there was a restriction on the end of the pipe such as a partially open valve or a reduction of diameter (from larger pipe to smaller) the cross member could also fill since there would be back resistance and the pump may be able to push more liquid into the cross pipe than is free-flowing out.

I asked the engineers if there was a way to detect this effect, for example if a magnetic thermometer was coupled to the very top of the pipe and another to the bottom, could we see a temperature differential that would indicate the top of the pipe was not in contact with liquid inside? They said that the metal of the pipe is too conductive and there would be no discernible difference in the temperatures.

This last point may have a bearing on the question in terms of halacha – if liquid doesn’t fill the pipe, perhaps we could say that our kashering which also doesn’t fill the pipe is adequate since the kashering water
CHANAN LACH B’LACH

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THE Mordechai (Chulin 687) writes that we do not say Chaticha na’ases neveila regarding sha’ar issurim lach ‘b’lach. Only when a chaticha (solid) absorbs issur, do we say that because of its chashivus, the entire mass is transformed into issur. But if liquid heter and issur are combined, the issur will remain proportional. The Ra’avad also agrees that we do not say CHaNaN lach ‘b’lach, but for a slightly different reason. When issur is absorbed in a solid, it will not be absorbed and expelled uniformly; therefore once issur is absorbed the chaticha remains assur forever. However when liquids are combined, they form a homogenous mixture. The Rema (Y.D. 92:4) says that one may rely on the opinion of the Mordechai and Ra’avad in cases of hefsed mirubah. One should contact the office before making any decisions regarding what is considered a hefsed mirubah.

SAFEK
Pri Migadim (Kellalim B’hora’as Issur V’heter s.k. 6) writes that whenever Rema permits something b’hefsed mirubah and there are additional sefaros to be maikel, then one can be maikel even when it is not a hefsed mirubah. Maharshar (6:91) and V’yane Yosef (Y.D. 37) write this explicitly regarding CHaNaN lach ‘b’lach.

LACH ‘B’LACH B’ISSUR D’RABBANAN
Igeros Moshe (Y.D. II:36) writes that there is room to be maikel not to say CHaNaN by an issur d’rabbanan lach ‘b’lach. However, he cautions against relying on this heter unless there is a tziruf. Likewise, the policy of the OU has been to use this only as a tziruf, or in cases of shas badachak.

DAIRY
Regarding chalav akum lach ‘b’lach, the OU does not say CHaNaN. This is because, in addition to the sevaros of Rav Moshe zt”l, that we do not say CHaNaN lach ‘b’lach b’issurim d’rabbanan, there is an additional tzad kula here as well. Pri Migadim (S.D. 97:1) proves that regarding chalav akum, we do not say CHaNaN lach ‘b’lach. He explains that this is because regarding CHaNaN, we are also mitzurat those pasekim that held that chalav akum is b’teila b’vay, and because chalav tamei is not common. This is even without taking into account modern-day sevaros of pikuach ha’menshalah, as discussed by Igeros Moshe (Y.D. 1:47) and Chazon Ish (Y.D. 41:4)

MARGARINE
Rebbi Akiva Eiger (commentary on Shach 92:14) points out that there is a halachic difference between the position of Mordechai and that of Ra’avad, regarding a solid that absorbed issur and subsequently melted into a batter. According to Mordechai, once the chaticha became assur, it will remain that way forever, even if it eventually melts. However, according to Ra’avad, once the solid melts, it becomes evenly dispersed, so this will revert back to lach ‘b’lach, which is nisur b’hefsed mirubah.

How should we consider kosher margarine that contains chalav stam (10%) that is melted into a batter, and the dairy component will be less than shishim? Is margarine considered a chaticha, or since it melts, should it be viewed as lach ‘b’lach, and not require kasher- ing (as per Pri Migadim). Ray Belsky has said that in this case, one could rely on the Ra’avad. Especially since in this case, the margarine started out as a liquid, so even according to Mordechai it is not clear that he would view this as having chashivus of a chaticha. If the margarine contained animal fat, and it was a situation of hefsed mirubah, one should contact the office.

COLD MIXTURES
Taz (Y.D. 92:15) says that Maharshar held that one could only be lenient for lach ‘b’lash when the mixture is cold, but if the items were cooked then the ordinary rules of CHaNaN would apply. However, Pri Migadim shows that Rema was lenient both by cooked and by cold, to consider this CHaNaN lach ‘b’lach and be maikel b’hefsed mirubah.

PIECES MIXED IN COLD THAT CAN BE REMOVED
If two cold liquids that do not mix, such as oil and wine, are combined together, we do not say CHaNaN, since there is no transfer of ta’am and it can be separated. Likewise, if cold solids of issur are mixed into a cold liquid, since the solids can be removed, we would not say CHaNaN.

A salad dressing factory produces a bacon flavored dressing that contains slightly less than 2% real bacon bits. The process is all cold. Although the bacon is not batei b’shishim, still in this case, we do not say CHaNaN, since everything is cold, and the bacon pieces can be separated and removed from the dressing. The equipment is cleaned with at least 300 gallons of plain hot water (no caustic) at about 140-145˚F. Does this cleaning make the equipment non-kosher? Although it is estimated that approximately 12 gallons of dressing remain in the lines, less than ¼ gallon of this dressing is bacon bits. In this case, the wash water would be about 1200 times more than the bacon bits, so the bacon bits would be batel in the hot water and will not assur the tanks.

DRY BLENDING OF VARIOUS POWDERS
Mishnah Berurah (447:32 and 453:17) paskens that kemach b’kemach (mixtures of powders) is considered a complete mixture similar to lach ‘b’lach. The Pri Migadim (M.Z. 447:19) says that the rules of CHaNaN lach ‘b’lach would apply to mixtures of flour as well. Therefore, if chomeitz flour is mixed with Pesach flour and is not batei b’shishim, then after the fourth hour on erev Pesach, the entire mixture becomes neveila. Even if more Pesach flour would get mixed in, the chomeitz flour would no longer become batel. However, Pri Migadim is referring to two identical powders, which cannot be separated. However in practice, when we are dealing with dry blends of various powders, the powders will have different sizes and densities, and theoretically it would be possible to centrifuge apart the various powders. Since this mixture can be undone, we do not say CHaNaN. Even if one is not certain if the powders can be separated, we are lenient, since there are pasekim who do not consider powders to be lach ‘b’lach, and when there are additional sefaros, as noted above, one may be maikel.

EXAMPLE: A company adds a stabilizer to their yogurt that contains a blend of various powders including gelatin. The gelatin is 14% of the blend (by weight). The stabilizer is added to the yogurt at 5%. Because we do not say CHaNaN on this mixture of powders, the issur will be less than shishim (.7%) in the yogurt, and even after converting from weight into volume, the gelatin will still be batel. Therefore, there will be no need to kasher the kettle.

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1. See Noda B’Tehuda Tinyana Y.D. 50 that perhaps one can be maikel not to say CHaNaN, if the mixture was liquid and later congealed.
2. See also Shach 134:16 that we say CHaNaN even lach ‘b’lach cold.
3. See Pleis Y.D. 109:1
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