

Daf Hashvuah Gemara and Tosfos Rosh Hashana Daf 12
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Daf 12a

The Gemara asks: I can understand according to R' Yehoshua why the Pasuk calls it the second month (since Iyar comes after the first month, Nissan). However, why does R' Eliezer hold (that Cheshvon) is called the second month?

Tosfos is bothered by the question: why don't we say it's the second month of the year, since R' Eliezer held that the world was created in Tishrei?

Tosfos answers: although we count new years from Tishrei for that reason, however, we can't count the months from it so that we can call Cheshvon the second month, since all agree that, regarding months, Nissan is the first.

The Gemara answers: it's the second month since the judgement (on Rosh Hashana that found them guilty to bring upon them the Mabul.)

The Gemara asks: I understand according to R' Yehoshua that He changed the nature (since the springs were low at that point), but why does R' Eliezer consider it to be a change of nature (since the springs are at their pinnacle at that time? **(See the very bottom of Tosfos on 11b, that, according to his text that the springs were high at Nissan and low at Tishrei, that the text here is also the opposite, that R' Eliezer makes sense and R' Yehoshua is difficult.)**

The Gemara answers: like R' Chisda who says; they sinned with heat, so they were judged by boiling hot water, (and that was the change of nature). They sinned with heat, by doing a certain sin (of illicit relations), so they were punished with boiling hot water. It says here (by the Mabul) "the waters subsided (from the word 'Shuchu')," and it says by Achashverosh that "his anger cooled (also from the word 'Shuchu')." [So, the same as by Achashverosh, that this word connotes cooling down, so too by the Mabul, the water needed to cool since it was boiling.]

We learned: the Jewish wise men count the Mabul like R' Eliezer (from Cheshvon), but by the seasons, they calculate like R' Yehoshua (as it started in Nissan).

Tosfos is bothered by the question: since they hold like R' Yehoshua that the world was created in Nissan, as we see that they count the seasons (starting from Nissan) like R' Yehoshua, so why is he counting the Mabul from Tishrei?

Tosfos answers: it counts the years of Noach and the world's creation from Tishrei (i.e., that we count the next year by Tishrei), since the first of Tishrei is the Rosh Hashana for (many things as it's listed in our Mishna), like regarding years, Shmita and Yovel.

However, the non-Jewish wise men even count the Mabul like R' Yehoshua.

New Sugya

The Mishna says that Tishrei is the Rosh Hashana for vegetables. We learned: Tishrei is the Rosh Hashana for vegetables, Maasaros and vows (that if you vow from something for this year, you're permitted to partake in it after Rosh Hashana).

Tosfos is bothered by the question: why doesn't our Mishna list vows?

Tosfos answers: we already explained that our Mishna doesn't refer to items that stop at that time (and not begin at the time). As we explained before why our Mishna doesn't count Nissan as the Rosh Hashana regarding making a leap year (that you can't make it a leap year after Nissan comes in).

The Gemara asks: in what aspect is it considered Rosh Hashana for vegetables? The Gemara answers: regarding separating Maasar (that you can't separate from fruits that grew in one year on fruit grown another year.) The Gemara asks: if so, then this is exactly the case of Maasar. (So, why is this a separate category?) The Gemara answers: the Tanna taught us about rabbinical Maasar (on vegetables) and about Torah Maasar.

Tosfos points out: that, which it uses vegetables as the produce that its Maasar is rabbinic more than other fruits (besides olives and grapes that are written explicitly), we can deduce that all other fruits are obligated in Maasar from the Torah. This is also implied in the Yerushalmi in the beginning of Mesechta Maasaros that they learn all produce is obligated in Maasar from a Pasuk except for vegetables. From this, the Yerushalmi concludes that vegetables' (Maasar) is only rabbinic.

This is what the Yerushalmi says: The Pasuk says "take Maasar off your grain." This is a general rule (to take off Maasar) with a specific (i.e., grains), and the rule is that we don't include in the general rule to take off but what's in the specific, which is grains. How do we know you take off from beans? The Pasuk says "from the seeds of the earth" to include the seeds of garlic and berries. I might say that it also includes seeds from the 'Luf' plant, from leek, from turnips and radishes and from other seeds of your gardens that are not that edible? So, the Pasuk says "from the seed of the land" implying; but not all seeds. "The fruit of the tree" to include all fruit of the trees. I might think that this include certain not-so-edible carob, so the Pasuk says 'from the fruit of the tree,' implying, but not all the fruits of the tree. How do we know it includes vegetables? Isi b. Akiva says: Maasar on vegetables is only rabbinic.

We also find a similar statement in the Yerushalmi at the end of Challah. Our rabbis in the Diaspora separated Trumah and Maasar until the 'Rubim' came and nulled the practice. Who were these 'Rubim?' They were the announcers (of the lectures). R' Yehuda quoting Shmuel says: regarding Challah in Chutz L'aretz, you may eat the dough (without separating it) and separate it at the end. R' Abba quoting Shmuel says that they only worried (about taking off Trumah and Maasar) from grain, wine and oil. R' Ilay quotes Shmuel: they were only worried about taking Trumah Gedola from them. However, they weren't worried at all regarding taking off from vegetables, since Isi b. Akiva taught; Maasar on vegetables is only rabbinically obligated.

From all these, it implies; all other fruit have a Torah obligation to separate. However, this is impossible to suggest. After all, later, the Gemara will say that Maasar on carob is rabbinic. Also, in Brachos, it says that Maasar on the caper bush's fruit is rabbinic. In Pesachim it says; Maasar on spices is only rabbinic.

We even see that fruits like figs, pomegranates and dates that are listed in the Pasuk (about the seven species) “the land of wheat etc.” are exempt from Maasar, since the Torah only obligates grain, wine and olive oil. As it says in Bechoros: wine and olive oil are from the Torah and other species are only rabbinic. In Chulin it’s written: we have a Hekish between drinks that can be Kodshim and Trumah, that it can only be wine and olive oil and no other items. Therefore, it excludes date honey and apple cider. Also, we see in the beginning of Beitzta that the Tanna who taught “litters of fig cakes” (that one of them is Trumah), holds that items that are only sold by count are not Batul (nulled) even by rabbinic prohibitions (like Trumah of figs).

Tosfos is bothered by the question: it says in Yevamos, fig cakes that are mixed in other cakes, you may lift (one of them out of a hundred and permit the rest) if Trumah these days are not from the Torah, (so we don’t say that items that are sometimes counted are not Batul). However, if Trumah on figs are always rabbinic, they should have applied this leniency even if generally Trumah these days are from the Torah?

Tosfos answers: still, the rabbis enacted (Trumah on figs) to be treated the same as if they were Torah Trumah. (Therefore, we can only be lenient if the whole concept of Trumah these days are rabbinic.)

Tosfos is bothered by the question: we find many places that seem to treat fruit Trumah as if it’s from the Torah. After all, the Gemara in Makos says, regarding a Kohain the picked up a fig of Tevel (and separated everything but Trumas Maasar) and ate it, he gets one Malkos (since it’s still Tevel for the Trumas Maasar) and a non-Kohain who eats it would get two Malkos (since he ate Tevel and Trumah). We also see in Mesechtas Para that if a Trumah fig fell into the Para Aduma water (that makes it Tamai), that the one who eats it gets heavenly death (since he ate Tamai Trumah).

Tosfos answers: (the Gemara wasn’t exact to say these items), but it really only wrote it as a sign what it would be like if it was truly a Torah Trumah. Alternatively, when we say he receives Makos, it means rabbinical Makos for rebellion. When we say that he gets heavenly death, it doesn’t mean he actually gets it, but we consider him as such a wicked person as if he was punishable for death in order to bury him (when he dies) amongst the truly evil.

Tosfos is bothered by the question: it says by vows that we define ‘Dagan’ as anything that you “Midagen’ (make into piles) even beans. (So, when the Torah says that Dagan is obligated in Maasar, it should include beans.)

Tosfos answers: (That’s only regarding vows do we include beans) since that depends on what people call it.

That, which we see that the Yerushalmi says that vegetables are rabbinic (implying that all others types are from the Torah) all it means that it doesn’t even have an Asmachta from the Pasuk. Although, in Toras Kohanim and in the Sifri Darshen “the seed of the land” to include garlic, horse beans and berries. How do we know it include vegetables? The Pasuk says “all Maasar” (to include it), but since it doesn’t fit that well into the Pasuk, we don’t consider it to be a true Asmachta. Alternatively, Issi b Akiva argues with this Drasha (and holds you can’t Darshen this Pasuk to include vegetables for an Asmachta).

The Gemara asks: why doesn’t the Braisa list the Torah Maasar first? The Gemara answers: since the

rabbinical enactments are so dear to them, they listed them first.

Tosfos asks: in the first Perek of Pe'ah, it lists what's obligated in Pe'ah and starts "a type of berry and carob." We see that the only items obligated from the Torah are olives and grapes, as the Gemara in Chulin brings from P'sukim. We say there; four Halachos we said by a vineyard and two were said by trees, i.e., olive trees. However, why is the rabbinic items written first? If you say because the rabbinic fruit are dear, then they should have listed grapes and olives last. After all, we see in the beginning of Yevamos (if the only Ervah written explicitly is a wife's sister, and we list the Drasha ones first since they're dear), you should have listed a sister's wife last. However, in the Mishna by Pe'ah, the Torah obligated trees were taught skipping around (i.e., not written together) and are in the middle of the list.

Tosfos answers: the Mishna by Pe'ah is only explaining which trees are harvested at one time. Therefore, it wasn't particular to list them in order. Alternatively, it lists the fruit in the order that, the later it's listed, is not as harvested together as the earlier ones (which is a bigger Chidush that they're obligated. After all), Pe'ah is only applicable with produce that's harvested together. Therefore, the format of the Mishna is; not only (is this tree obligated), but even this one.

The Gemara asks: why didn't our Mishna list both types of Maasar? (After all, it only lists vegetables.) The Gemara answers: it lists the rabbinical Maasar, and we should know that, of course, the Torah Maasar is included.

The Gemara asks: let it write 'Maasar' (in the singular, and not 'Maasaros' in the plural)? The Gemara answers: it refers to two types of Maasar, Maasar Behaima and Maasar of grains.

Tosfos says that this is like R' Shimon who says the Rosh Hashana for Maasar Behaima is the first of Tishrei. Tosfos asks: why didn't the Gemara explain that it means Maasar Rishon and Maasar Sheini and Maasar Ani? After all, in Mesechtas Maasaros and earlier in the Mesechta, regarding Baal T'achar, it's written 'Maasaros,' and it's also written "B'chor and Maasar" that refers to Maasar Behaima. (So, then, the 'Maasaros' must be Rishon and Sheni).

Another question: why does the Gemara ask first on the word Maasaros why it's in the plural? It should ask on vegetables first since it's listed in the Braisa first and only then lists Maasaros.

Tosfos answers: the Gemara is not asking on the Braisa, but on our Mishna that only lists vegetables that's rabbinic. Why didn't it just say Maasaros that would infer all types of Maasar whether it's grain or vegetables? On that, the Gemara answers: if it would just list Maasaros I would assume that it means both Maasar Behaima and Maasar on grain, which would be that the Mishna had written an unnamed statement like R' Shimon. Then, the Gemara asks why does the Mishna use the word 'vegetables' in the plural? It's true that the Gemara could have asked why the Mishna lists "Shmitos and Yovelos" which are also in the plural, but it only asked on what it could find and answer to.

The Gemara asks: let it write 'vegetable' (in the singular, and not 'vegetables' in the plural)? The Gemara answers: it refers to two types of vegetables; those that are bound and those that don't get bound. As we learned: a vegetable that gets bound (has its process finished, and you can't eat from it even in a temporary manner without separating Maasar) when it's bound.

Tosfos explains: that it will be considered like it was made into a pile regarding Maasar (not

to eat it even in a temporary manner). However, regarding what's considered as an older or younger crop, (i.e., from this year or last), depends on when it's harvested.

However, those that don't get bound, it's from the time you fill up the utensil (you're collecting them in). **Tosfos says: the end of the Mishna says that, if he doesn't fill up the utensil, it gets this status when he harvested all that he needed.**

Daf 12b

They learned: if you harvest vegetables on Erev Rosh Hashana before sunset and then harvest them after sunset (**Tosfos quotes the Yerushalmi that it's harvested through a non-Jew (since a Jew is forbidden to gather on Yom Tov)**), you can't take Trumah and Maasar off from one to the other. After all, you can't separate Trumah and Maasar from the old on the young (from last year's produce on this year's) and vice versa. If it's the second year (of the Shmita cycle) coming into the third year, on the ones harvested (Erev Rosh Hashana) during the second year, he separates Maasar Rishon and Maasar Sheini. On the ones harvested (on Rosh Hashana) during the third year, he separates Maasar Rishon and Maasar Ani.

The Gemara asks: how do we know this? R' Yehoshua b. Levi Darshans; "when you finish taking off all your Maasar from your grain in the third year, the year of Maasar." (This is said in the singular), the year that only has one Maasar. The Gemara inquires: how is this? Is it that there is Maasar Rishon and Maasar Ani (and it only has one of the original Maasars), but Maasar Sheini is cancelled? Or is it that Maasar Rishon is also canceled (since the one Maasar is Maasar Ani)?

The Gemara answers: the Pasuk says "you should say to the Leviyim; when you take the Maasar which I gave you from them in their inheritance." We have a Hekish between Maasar and inheritance. Just as inheritance doesn't stop, so too, Maasar Rishon never stops.

We have a Braisa similar to this. R' Yehuda says; The Pasuk says "when you finish taking off all your Maasar from your grain in the third year etc." It's a year that only has one Maasar, i.e., that you have Maasar Rishon and Maasar Ani, but Maasar Sheini is canceled. Perhaps Maasar Rishon is also canceled? So, the Pasuk says "when the Levi comes," which connotes you give him no matter when he comes (even in the third year). R' Elazar b. Yaakov says that we don't need that Pasuk, since the Pasuk anyhow says; "you should say to the Leviyim; when you take the Maasar which I gave you from them in their inheritance." We have a Hekish between Maasar and inheritance. Just as inheritance doesn't stop, so too, Maasar Rishon never stops.

New Sugya

The Braisa lists vows as one of the items that its Rosh Hashana is Tishrei. We learned: if someone vows from having pleasure from his friend for a year, you need to wait twelve months exactly to the day to have pleasure from him. If he says "for this year," even if he only said it on the twenty-ninth of Elul, the year is over (the next day) on the first of Tishrei. This is true even according to those who hold that one day in a year can't be counted as a year. (Since vows goes after intent) and he intended to pain himself somewhat, and he received it. The Gemara asks: perhaps Nissan should be the Rosh Hashana? The Gemara answers: we follow the way people speak regarding vows, (and people call Tishrei the beginning of next year).

New Sugya

We learned: fenugreek follows (the year) when it 'sprouts' and grains and olives from when they grow a third. What does it mean by 'sprouting?' when it sprouts seeds.

Tosfos quotes Rashi who explains: the seed sprouts within the fenugreek. However, this is not what's implied from the Yerushalmi in Maasaros. After all, it says there; when the Mishna says that the seeds sprout, how can you test it? R' Shmuel b. Nachmaini in the name of R' Yonason says that you take as many seeds that you can grab within your three middle fingers and throw them in a basin of water. If most of them sink, it's obligated in Maasar. If they don't sink, they're exempt. R' Yona asks: if so, you should obligate the sinking ones and exempt the floating ones. Rather, you obligate those seeds that are mostly submerged in the water. Therefore, it seems what obligates by sprouting seeds, that it's ripened enough that, if you would uproot them and plant the seeds in another area, it would sprout.

We said; 'Tevuah' (Rashi-grains and wines) and olives, from when they grow a third.

Tosfos quotes Rashi: that grains and wine are called 'Tevuah' as it says "the 'Tevuah' of grain" and "the 'Tevuah' of the 'Yekev' (wine-pit)." However, Tosfos says it can't be. For one thing, it could include oil too, since it's also included in "the 'Tevuah' of the 'Yekev,'" (since they also are kept in such pits). Also, we see that grapes have a different measurement (to be obligated in Maasar), as it says that grapes and 'Biyushin,' when they can see the pits from the outside. 'Biyushin' are a type of grape, and are called so like the Pasuk in Yeshaya that says (the grapes) became 'Bushim' (inferior). Although there are some who have the text there read "the 'Biyushim' grapes" however, the Yerushalmi's text is "grapes and Biyushim, when they can see the pits from the outside," and R' Yassa qualifies; when people call it 'Biyush.'

Therefore, Tosfos is bothered: why don't we say grapes become obligated when it grows a third like by grains and olives from this Pasuk that's brought? Also, how do they know the amount of all other fruits recorded in Mesechta Maasaros (like by the figs, grapes, pomegranate and many others that are listed there) that it's the amount listed there? However, if it wasn't for grapes, I wouldn't find it too difficult, since they're not obligated in Maasaros from the Torah (so the rabbis could arbitrarily pick an amount when they're obligated). However, grapes are obligated from the Torah, as the Pasuk says "wine and oil."

Tosfos answers: all the amounts listed there is a sign that they grew a third. The reason they didn't write "when it grows a third" like it says by grain and olives, since they could find for all of them a sign that they grew a third except for grains and olives. This is also implied by the Yerushalmi that wrote about the Mishna that says; "fenugreek when it sprouts;" R' Zeira explains; since the Pasuk says "you should take Maasar of all the Tevuah of your seeds," you need seed that you can plant and it will sprout. This comes to exclude if it's less than a third grown that won't sprout. Rabbi says that liquid squeezed from grapes and olives that didn't grow a third don't make food susceptible to Tumah (when they come in contact with these liquids. After all, it doesn't have the status of wine and olive oil if the fruit doesn't have the status of a grape and olive.)

Tosfos asks: how can we extrapolate the Halacha of Massar from the Halachos of Shmita in this regard? After all, regarding Shmita, all fruits that grow on trees follow the year they're formed, which includes the grape. As we say later, the fruit that grow on trees follow its forming, the vegetable follows its harvesting, and grain and olives follow when they grew a third. Still, regarding Maasar, all those fruit that grow on trees have a different amount to obligate, as it says in Mesechta Maasaros.

Tosfos answers: it fits in well, since all those amounts are the amount when they're usable,

and beforehand, they're not a product. However, grains and olives are useful even before it grows a third. As we see, that the 'Afiknin' is oil from olives that didn't grow a third and it's useful to (rub on skin) and it makes hair fall out and shines the skin. We also see in Pesachim: the dough of butchers (that they put on top of cooking pots to absorb bad smells) are made from grains that didn't grow a third. Therefore, it makes sense that the Gemara asks explicitly on them how do we know they follow a third growth (and not by other fruit) since they're useful even before a third grown. They bring a proof from Shmita that we say there that we don't follow it until it grows a third, of course by Maasar you also need to wait to that time. After all, by other trees, we follow from they're formation by Shmita, and by Maasar you need to wait until it grows bigger, like the amount listed by them.

How do we know this? R' Yochanan said that he heard in the name of R' Yossi Haglili; since the Pasuk says "from the end of seven years, at Sukkos of the year of Shmita." Why is Sukkos called the Shmita year? After all, (since it ended the seventh year by Rosh Hashana), it's the eighth year. Rather, it teaches us that all grain that grows a third during Shmita before Rosh Hashana, you need to treat it like the seventh-year fruit on the eighth year.

Tosfos asks: earlier, we learned that you need to add onto Shmita from the Pasuk "rest from the plowing and harvesting," which refers to harvesting of the seventh-year fruit after Shmita, and Rashi explains it refers to what grew a third on Shmita, that you need to treat it like Shmita fruit on the eighth year.

Tosfos answers: if it's only from this Pasuk that you need to treat it like Shmita fruit on the eighth year, I would only say that you treat the fruit to have the holiness of Shmita that it's forbidden to do business, and you need to do Biur (not eat it anymore after a certain time), and all other Halachos that pertain to Shmita fruit. However, I might permit plowing, harvesting and pruning those fruit, since all prohibitions of working the field can't apply after Shmita leaves, even if it helps fruits that formed on Shmita, therefore, we need this Pasuk (to forbid harvesting). This fits well that we Darshen from this Pasuk to make an addition to Shmita. After all, (if it was only from our Pasuk that teaches that the fruit is forbidden), why would we consider it adding onto Shmita just because Shmita fruit is forbidden on the eighth year? (Once they're forbidden, they would always remain forbidden forever.)