



# *The Hakuk Edition* **English Topics on the Daf**

*Dedicated l'refuah sheleima for Yaakov ben Victoria*

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## **Yevamos Daf 86**

### Ezra's Decree About Maaser Rishon

On our daf we learn about the knass Ezra levied on the leviim when they were negligent in returning to Eretz Yisroel at the beginning of the Second Beis Hamikdash.

What exactly was the knass? Are the Rabbis allowed to declare an annulment of a mitzvah from the Torah? What should be done today – some authorities hold that maaser should be distributed to the correct recipients?

The Leviim were fined – but to what degree? Tosfos says it depends who you're discussing. R' Akiva is of the opinion that maaser should be given only to Leviim, not Kohanim. The knass, then, was to allow even Kohanim to take. R' Elazar ben Azarya holds that Kohanim were always allowed to take maaser, so that could not be the new knass. Rather, Ezra took it away completely from the Leviim and turned it over to the Kohanim.

The Meiri, however, objects to this notion. In the fascinating episode the Gemara records, R' Akiva prevented R' Elazar from accessing the maaser, but only to assert his opinion about the nature of maaser. R' Akiva would have allowed him to take it as per the knass, though. So, everyone agrees the knass was to remove it from the Leviim. Who should get it is subject of the debate in the Gemara – either the poor, or all Kohanim, to consume during

their tumah days. In another place the Meiri says that if one cannot find a Kohen to give it to, he should give it to a Levi.

An intriguing opinion is the Ritva's (in Kesubos 26a). Since R' Akiva maintains that the Torah granted maaser only to Leviim and not Kohanim, how could Ezra dictate that it should be given to the wrong people? Thus, R' Akiva does not agree that there was a knass! This seems very hard to fit with the Gemara, though – R' Akiva himself spoke in terms of the knass? In Derech Emunah, Rav Chaim Kanievsky shlit"a suggests that the Ritva did not have that part of the Gemara...

Another picture emerges when we look in the Rambam (Hilchos Maaser 1:4). He writes, "Ezra fined the Leviim in his time, to not receive maaser, since they did not ascend to Yerushalayim with him." He learns the whole Gemara as a temporary knass to that generation! This fits with the numerous places in Chazal which mention giving maaser to Leviim. The obvious question, though, is that the Tannaim and Amoraim discussed the knass, many hundreds of years later? Kessef Mishnah offers that Ezra punished the Leviim of his time more harshly and completely deprived them of the maaser. In future generations, however, the knass was mitigated to allow Kohanim to take maaser, but Leviim were permitted as well.

In his Beis Yosef (Y.D. 331) he adds more explanation. As mentioned, R' Akiva holds that Kohanim should not really receive maaser. It is logical, therefore, that Ezra would not have decreed to give it to Kohanim forever. Rather, the knass was only temporary. And although our Gemara has R' Akiva admitting to the veracity of the knass, he may have just been speaking in R' Elazar's terms (lidvarav).

A parallel topic, the subject of discussion in many seforim, is how could Ezra annul a mitzvah from the Torah? Particularly, the Gemara at the end of our Maseches concludes that Chazal could enact a prohibition which would amount to a passive disregard for a mitzvah, even one from the Torah. However, emphasizes the Taz, they do not have the power to forbid anything that the Torah explicitly permits. (He explains many things with this rule – see Taz Y.D. 117:1, O.C. 588:5, C.M. 2.) Chazal will never instruct us to contradict anything written in the Torah.

If so, we have a very big question here, according to R' Akiva: The Torah says to give maaser to Leviim, so how could Ezra say to give it to Kohanim?

We mentioned some possible resolutions for this – either R' Akiva doesn't agree that there was any knass, or, like the Rambam, it was only temporary.

Perhaps we can explain by highlighting a dispute between Rambam and Ramban. Rambam defines the mitzvah of maaser as, "To separate maaser rishon and give it to Leviim." The Ramban (in Hasagos) objects to this language and proves that they are two distinct mitzvos: to separate it and to give it. According to the Rambam, at least, if one were to separate maaser properly he has already fulfilled half the mitzvah. Thus, even if he then gives it to a Kohen, he has not disobeyed the Torah's

mitzvah entirely. Perhaps that is how Ezra's decree was formulated, according to R' Akiva.

The Minchas Chinuch (Mitzvah 396) answers that by the time of the Second Beis Hamikdash, terumos and maasros were only midirabonon. Many Rishonim hold this way, based on the Gemara that "only when all of Klal Yisroel is in Eretz Yisroel" do they apply midioraisa. Since maaser was not incumbent upon them from the Torah, Ezra was authorized to change its laws. When the Third Beis Hamikdash will be built, adds the Minchas Chinuch, maasros will certainly be restored to their original setup, since we will not have authority to modify it.

The Shulchan Aruch (Y.D. 331:19) paskens that we give maaser to Leviim, in line with the Rambam that the knass was only temporary. The Bach adds that it is indeed advisable, since this way it will satisfy more opinions (like Tosfos, that it may be given to Leviim). But the Rema inserts the opinion of the Tur, that it may also be given to Kohanim. Rav Chaim Kanievsky points out the opinion that there never was a knass, so it is certainly preferable to give it to Leviim.