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**Masekhet Shevi'it**

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**Shiur #18: Export of Shemitta Fruits to Chutz La-aretz**

**By Rav Moshe Taragin**

The mishna in Shvi'it (6:5) prohibits the export of shemitta fruits from Eretz Yisrael to chutz la-aretz. Though the mishna does not describe the reason for this prohibition, a related gemara in Pesachim might shed light on the issur. The gemara in Pesachim (52b) discusses the halakha of biur Shvi'it, that once a certain type of produce is no longer readily available in the fields it must be removed from the silos. What happens if shemitta fruit is transported to chutz la-aretz - how is biur performed? According to Rebbi Shimon Ben Elazar, the ceremony of biur only can occur in Eretz Yisrael. Therefore, the fruits must be returned to Eretz Yisrael for the performance of biur. The Tana Kama argues and allows biur to be executed in chutz la-aretz; hence, the fruits need not be returned. It is reasonable to suggest that the issur to remove these fruits from Eretz Yisrael, (cited in our mishna in Shvi'it) to begin with relates to Rebbi Shimon ben Elazar's concern. Since biur can be performed only in Eretz Yisrael the fruits should not be exported, as they may not be returned for biur. If, be'di'eved, the fruits were removed, they should ideally be returned for biur, as Rebbi Shimon claims in the beraita in Pesachim. This position is adopted by the Rash and the Rosh in their commentaries to the mishna in Shvi'it.

This approach – though logical – poses one very central question: why did Rebbi Shimon ben Elazar not quote the mishna in Shvi'it? If his halakha applies only in be'di'eved situations, in which the mishna in Shvi'it was violated, he should have begun by citing that mishna (the primary issur) and subsequently describing the return of these fruits for biur if they were exported. Conceivably, the mishna and Rebbi Shimon ben Elazar pose unrelated issues, and Rebbe Shimon therefore did not invoke the mishna's halakha.

The Ra'avad, in his commentary to Torat Kohanim, offers an alternate understanding of this export issur. He cites the Sifra which suggests that shemitta fruit may be eaten only in Eretz Yisrael. The Ra'avad explains that eating outside of Israel might cause improper eating behavior. As discussed in the previous shiurim, kedushat Shvi'it mandates certain forms of uses. In Eretz Yisrael, where most fruit possesses kedushat Shvi'it, it is more likely that these rules will be obeyed. In chutz la-aretz, however, exported Shvi'it fruit will likely become confused with non-kedusha fruit and the laws of kedushat Shvi'it will be violated. Thus, exporting fruits indirectly leads to the abuse of their kedusha status. [Shiur #15](http://etzion.org.il/en/shiur-15-wasting-shemitta-produce) questioned whether indirectly causing the loss of shemitta fruit is forbidden, and discussed the ramifications of this question regarding the issue of throwing shemitta leftovers in the garbage can. From this Ra'avad it appears that indeed this is forbidden, at least at a de-rabbanan level. Similar sentiments are expressed by the Yerei'im in siman 155, who reads the aforementioned Sifra literally - Be-artzecha: in your land you should eat but not outside your land. Evidently, he believes that there exists an absolute prohibition to eat the fruit outside of Eretz Yisrael. Exporting these fruits would then inhibit eating, and causing fruits not to be eaten is considered wasting them and forbidden.

A third approach toward this halakha is provided by Rabenu Shlomo Sirilio (one of the Gedolim expelled from Spain during the Inquisition), who wrote a commentary on the Yerushalmi to massekhet Shvi'it. There are certain materials which must be eaten in particular locations due to their resident kedusha, korbanot being the most common example. In fact, even when kodshim must be burnt (for example, if some disqualification occurred), it must be burnt in the area of the Mikdash. Similarly, shemitta fruit due to their inherent kedusha - must be retained in Eretz Yisrael where they are eaten or disposed of after the moment of biur arrives. This explanation is a powerful statement about the nature of kedushat Shvi'it. It would seem to be objective and absolute (see [shiur #14](http://etzion.org.il/en/shiur-14-simultaneous-benefit-and-consumption)) in that it obligates halakhot which are in no way related to the manner of use. They must be kept in Eretz Yisrael even though they will be benefited from in the exact same manner if they are exported.

Tosafot in Pesachim imply an approach somewhat similar to Rebbi Shimon Sirilio's. They question the gemara in Pesachim which describes Rav Safra carrying Shemitta wine with him to chutz la-aretz. They answer that Rav Safra exported for business purposes (the type which are permissible during Shemitta) and this is allowed. The mishna in Shvi'it, which prohibited exporting, referred to removing shemitta fruit for eating. Tosafot agree with Rebbi Shimon Sirilio that the source of the prohibition to export is that the fruit must be eaten in Eretz Yisrael, the natural location of kedusha. Tosafot disagree, though, by allowing the owner to define certain fruit as earmarked for business and hence excluded from this prohibition.