



פרשת שופטים  
אלול תשפ"א

### HALACHOS FOR TISHREI

Use the lockdown period to get ready for the month of Tishrei and the Yomim Tovim.

Join Rabbi Yossi Moshel each morning, Monday-Thursday at 10:45am for a 25 minute shiur in the Halachos for the month of Tishrei.

Zoom ID: 782 5695 0208  
Password: 613

Preceded by a daily Gemara shiur with Rabbi Szmerling at 10:00am

### SUNDAY NIGHT PRE-ROSH HASHONA SHIUR

All men and women are invited to join a feature shiur in preparation for Rosh Hashona with Rabbi Y. Johnson

**3 Sounds, 3 Brachos**

**The inner meaning of the Shofar sounds & the Brachos of the Rosh Hashona Musaf**

Drawing on sources in Gemara, Midrash, Chassidus and the Machzor.

Sunday 8:30pm

Zoom ID: 817 0997 2837  
Password: 613

### MIVTZA CHASSIDUS

Stay tuned for details of the Elul Mivtzah Chassidus

Learning Maamarim of the Rebbe in preparation for Elul and Tishrei.

A collection of Torah thoughts produced by Kollel Menachem

אין בית המדרש בלא **חידוש** Chiddush



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## A month of love without judgement

During his lifetime, the Alter Rebbe delivered thousands of Maamarim (Chassidic discourses). From these, his grandson, the Tzemach Tzedek selected key Maamarim for each Parsha, to be published in the works Torah Or and Likutei Torah.

These Maamarim are so fundamental that they have come to be referred to as the Chassidische Parsha.

There are Maamarim for every Parsha of the Torah with the exception of Parshas Shoftim. The Alter Rebbe has a number of Maamarim on Shoftim, so why did the Tzemach Tzedek not include any?

We can understand this based on another nuanced detail. Instead of including a section of Maamarim on the theme of the month of Elul (we find separate sections for other Yomim Tovim), the Elul Maamarim are printed in the section for Parshas Reeh.

The most famous of these Maamarim is the Ani Ledodi Vedodi Li, said by the Alter Rebbe in Liozna in Elul 5557 (1797). In this Maamar, the Alter Rebbe brings the famous parable of the king in the field, to describe Hashem's presence and accessibility in this special month.

On the Yomim Noraim, Hashem is like the king in his palace, where access is limited and restricted. But during Elul, Hashem is like the king travelling through the field. Here, every individual is able to approach the king, who greets them in turn with friendliness and a smiling face.

The Rebbe notes, that this Maamar is printed on page 32 - לב, which means heart. Whether this was deliberately arranged by the Tzemach Tzedek who arranged these Maamarim for print, or incidentally by the printer, nothing is by chance.

This Maamar is the לב, the heart and essence of Likutei Torah for Sefer Devarim.

Historically, the month of Elul was a time of trepidation. People would go about their Avodah of Teshuvah with a palpable fear of the impending Day of Judgement. Elul was likened to the roar of the lion, shaking us with dread.

With this Maamar, the Alter Rebbe revolutionised the nature and Avodah of the month of Elul.

Elul is not a time of fear of Hashem's judgement. It is a time of love - as alluded to in the acronym for Elul in the verse Ani Ledodi Vedodi Li, I am to my beloved and my beloved is to me.

During this month, Hashem is accessible and close to us. He wants us to turn to Him and when we do, He showers us with love and affection, ready to hear and grant our requests.

Chassidus is called Penimius Hatorah, the inner dimension of Torah. It reveals to us the deeper perspective, the way things are in their essence.

Parshas Shoftim, which begins with the Mitzvah to appoint judges and officers in all of our gates, is always read during the month of Elul.

Judges and officers represents distinction and rank and file between Jews on different levels, some being closer to the king than others. They also represent the system of judgement and severity which comes from the attribute of Gevurah.

In the Chassidische Parsha perspective, there is no "Shoftim" in the month of Elul.

The heart (לב) and soul of the Chassidische Parsha is the message that Hashem loves each of us infinitely, equally and without distinction.

When the King is in the field, He is equally accessible to every Jew, irrespective of their spiritual level or standing. There are no judgements or punishments, only a smiling face, filled with love, waiting and helping us to turn to greet Him.

Elul is a time of "Reeh" - when the 13 Attributes of Hashem's Mercy shine in the world and we can 'see' the presence of Hashem in our lives.

Elul is still a month of Teshuvah, but a different type of Teshuvah. Not a Teshuvah driven by fear, but a return to Hashem that is positive, joyous and hopeful. Knowing of Hashem's love for us and His belief in us, is the greatest motivation to better ourselves and draw closer to Him and reciprocate that love.

With this love and with this approach, we are certain that Hashem will bless us all with a Kesiva Ve-chasima Tovah, Leshana Tovah Umesuka. A sweet year filled with blessings and goodness.

# The Weekly Halachic Analysis

## Cutting and trimming fruit trees

Rabbi Yonason Johnson

It is Biblically forbidden to cut down a fruit tree. This is the prohibition of Baal Tashchis and it is one of the 613 Mitzvos<sup>1</sup>.

The source of this Mitzvah is in Parshas Shoftim<sup>2</sup> which teaches that when the Jewish people lay siege to a city that they are warring with, they may not cut down its trees. The reason given is because we eat from these trees. In contrast, a tree that does not bear fruit, one may cut down.

Sefer Hachinuch writes that the Mitzvah is to teach us to be kind and compassionate; to love goodness and positivity and to stay away from anything destructive.

The Rambam qualifies, that the prohibition does not only apply to a siege. It applies in all circumstances. If one cuts any fruit tree in a manner of destruction, one violates this prohibition. One may also not withhold or block water from the trees so that they wither and die.

### Exceptions

The Rishonim and Acharonim record a number of circumstances where it is permissible to cut down a fruit tree. These include;

If the tree is causing damage to other trees of better quality<sup>3</sup> or to an adjacent field.

If the wood of the tree is more valuable than its fruit and one requires the wood<sup>4</sup>.

The Ta"z<sup>5</sup> writes that the same applies if one wants to build a house and needs the site of the tree. There are those who argue with this opinion of the Ta"z<sup>6</sup>. The Alter Rebbe<sup>7</sup> brings the ruling of the Ta"z as Halacha.

Some Acharonim<sup>8</sup> qualify that this leniency only applies when there is a significant need such as where the house is too small to be liveable. Merely extending a house for comfort or aesthetics would not warrant any leniency.

Aruch Hashulchan<sup>9</sup> adds that one may cut down a fruit tree that is darkening their windows<sup>10</sup>.

The basis for leniency in these cases, is because where the benefit or need is worth more than the tree, it is not considered as act of mere destruction.

### Sakana

The Gemara records Rabbi Chanina as saying that his son Shivchas died prematurely be-

cause he cut down a fig tree prematurely. This was Middah Kneged Middah; he cut down the tree prematurely so he too was cut down before his time.

The Poskim discuss whether this Sakana only applies when one cuts down a tree in a forbidden manner. Some Poskim argue that the Sakana applies even when cutting down the tree for one of the reasons discussed above. They argue that it is difficult to say that Rabbi Chanina's son would have cut down a tree in a forbidden manner<sup>11</sup>.

Others write that there is no Sakana when done in a permitted manner, but one must be certain that the benefit is greater than the value of the tree<sup>12</sup>.

The Alter Rebbe<sup>13</sup> clearly writes that the Sakana does not apply when the tree is cut down in permissible circumstances.

The Chasam Sofer<sup>14</sup> writes that even in circumstances where it is halachically permissible to cut down the tree, we should adopt the practise recorded in Sheilas Yaavetz – do uproot the tree with the soil intact at its base and replant it in another location.

Since we are dealing with a matter of Sakana, we apply the principle *Chamira Sakanta Meisura*<sup>15</sup>, that we are even stricter in matters of Sakana than other Torah prohibitions. Therefore, most Poskim are cautious and adopt the stricter approach<sup>16</sup> unless there are other additional factors.

There is a letter from the Rebbe<sup>17</sup> addressed to someone who had ruled leniently and something untoward had happened. The Rebbe writes that despite the Alter Rebbe's lenient ruling, they should be cautious, since the Tzavaah of Rabbi Yehuda Hachassid<sup>18</sup> writes that there is always Sakanah and they have experienced something untoward in the past<sup>19</sup>.

### Cutting by a non-Jew

Sheilas Yaavetz writes that in a questionable case, one should have a non-Jew cut down the tree. In this case, the danger does not apply. Kaf Hachaim<sup>20</sup> writes that it is always better to have a non-Jew cut down the tree, even when permitted.

Other Poskim<sup>21</sup> go further and write that the tree should be sold to the non-Jew with a proper Kinyan and the non-Jew should uproot the tree.

### What about trimming the trees?

Some Poskim<sup>22</sup> understand that the prohibition only applies to completely destroying or uprooting the tree. Trimming or breaking off branches is not a problem. Other Poskim<sup>23</sup> disagree and maintain the prohibition applies to cutting branches as well.

Accepted practise is to be stringent, especially as this is a matter of Sakana as well.

It is permissible to trim a fruit tree to promote growth or for the tree's benefit.

### For the purpose of a Mitzvah

Many Poskim<sup>24</sup> are lenient where the tree is being trimmed for the purpose of a Mitzvah. This includes where the branches are overhanging a Sukkah, or to use as Schach where no other branches are available. This is especially so when one is only trimming small, soft branches. Even then, it is preferable for a non-Jew to cut the branches<sup>25</sup>.

This may be limited to absolute Mitzvos and one cannot extrapolate to other situations. This may include decorating the Sukkah or decorating the Shule on Shavuot.

Due to the fact that this Halacha involves Sakanah, one should always contact a competent Halachic authority for practical direction.

May we be Zoche to the coming of Moshiach when even non-fruit bearing trees will give fruit once again.

1. Mitzvas Lo Saaseh 57
2. Devarim 20:19-20
3. Rambam Melachim 6:8, Sefer Hachinuch Mitzvah 529
4. Bava Kamma 91b, Rambam Hilchos Melachim 6:8
5. Ta"z YD 116:6, based on Rosh
6. See Be'er Heitev
7. Shemiras guf vnefesh ubaal tashchis 15
8. See Chavos Yair 195, Shvus Yaakov 1:159, Yabia Omer 5 YD 12
9. YD 116:13
10. If the situation can be remedied by trimming the tree, one may not cut down the tree and should merely trim the branches (Kaf Hachaim 116:85).
11. Sheilas Yaavetz volume 1 Siman 76
12. Chasam Sofer YD 102
13. Shemiras guf vnefesh ubaal tashchis 16
14. YD 102
15. Chullin 10a
16. See Shevet Halevi 5:95
17. Igros Kodesh 7 page 264
18. Siman 53
19. This response may be limited to this particular case where something untoward had previously occurred.
20. YD 116:84
21. Beis Shlomo 1:191
22. Mishneh Lemelech Isurei Mizbeich 7:3, Sheilas Yaavetz 1:76
23. Be'er Sheva quoted in Mishneh Lemelech ibid. Beis Yitzchak 1:144 writes that this may be a Biblical violation.
24. See Pischei Teshuvos Sukkah 629:12 who references Divrei Chaim 2 YD 59 and others.
25. Teshuvos Vehanhagos 1:376