

### Parshas Shelach 5771

#### IN THE DESERT

Towards the end of this week's *parshah*, the Torah relates an unfortunate incident whereby an individual transgresses a Sabbath prohibition and is subsequently executed. The event is preceded by a curious introductory statement:

וַיְהִי בְּנֵי יִשְׂרָאֵל בְּמִדְבָּר וַיִּמְצְאוּ אִישׁ מִקְשָׁשׁ עֲצִים בְּיוֹם הַשַּׁבָּת.

“B’nei Yisrael were in the desert, and they found a man who was gathering wood on the Sabbath day” (*Bamidbar 15:32*).

Recall that the name of the volume we are currently in the midst of is *Bamidbar* (“In the Desert”). The entire narrative up until this point is that the Jews are in the desert. In this *parshah* itself, the decree has already been issued that they are to wander in this desert for a forty-year period. Isn’t it obvious, asks the Malbim, that B’nei Yisrael were in the desert when this incident took place? Why was it necessary to restate their location?

#### THE APPROACH OF THE SHA’AGAS ARYEH

The Maharil Diskin reports that this question was actually addressed by an earlier sage – the renowned Sha’agas Aryeh – who explained that this verse carries important *halachic* significance. Exactly which of the thirty-nine forbidden types of labor was violated by the wood-gatherer is the subject of a discussion in the Gemara (*Shabbos 96b*). One opinion states that he carried the wood in a public domain.

Classifying this area as a public domain, however, is no simple matter. According to an earlier Gemara (*ibid. 6b*), the desert was only considered a public domain when the Jewish people resided there. Nowadays, it remains uninhabited, and it has reverted to a non-public entity. As such, one who would carry in the desert today would not be in violation of a

Biblical prohibition. This accounts for the verse’s reiteration of their location. It was only because “B’nei Yisrael were in the desert” that the wood-gatherer’s actions constituted a capital crime; had they not been there, he would not have been liable for execution.

The Maharil Diskin points out, though, that this explanation satisfies only that opinion which identifies the violation as carrying. The Gemara (*ibid. 96b*) cites other possibilities, such as “uprooting.” How would this other opinion explain the seemingly unnecessary mention of the verse that the Jews were (still) in the desert? Cutting or uprooting plants is a forbidden labor in any type of domain!

#### FLIMSY FOLIAGE

Before arriving at the answer, the Maharil Diskin raises another issue: what kind of trees or shrubs was the wood-gatherer able to find in the first place? After all, they were in a barren desert! He surmises that the vegetation must have come from the accompanying Clouds of Glory, which provided a great service for the Jewish people. As the Midrash *Tanchuma* describes, when the Jews set up camp, the clouds would moisten the soil. Abundant fruit trees and produce would soon sprout forth (only to shrivel up and vanish when the journey resumed). It appears that the gatherer reaped his findings from this bounty.

But the matter does not end here. The temporary nature of this greenery presents a further problem for the issue of the wood-gatherer’s violation. As we shall soon see, this idea may not be so well “grounded.”

Speaking of matters which should be obvious from their titles, the Mishnah in *Shevuos* (“Oaths”) discusses the various laws regarding oaths. For example, certain entities – such as *karka* (stationary items, including those attached to the ground) – do not fall under the purview of oath-taking

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when they are adjudicated. The Mishnah (6:6) discusses an exception:

רבי מאיר אומר, יש דברים שהן בקרקע ואינן בקרקע... עשר גפנים קטנות מסרתי לך, והלה אומר אינן אלא חמש, רבי מאיר מחנב שבועה.

“R’ Meir says: There are items that do grow from the ground, but are not (*halachically*) treated like *karka* (i.e., the exemption from oath-taking which normally applies to ground-items would not be in force in the following case): One litigant states, ‘I supplied you with ten vines laden with fruit,’ and the other responds, ‘No, there were only five.’ (In such a scenario,) R’ Meir requires an oath to be taken.”

The reason the usual *karka*-exemption does not apply here, explains the Gemara (*ibid.* 43a), is because of another key principle: העומד ליבצר קבצור דמי (that which stands ready to be removed is already considered removed). As we are dealing with grapes that stand ready to be picked, they are

viewed (in the *halachic* sense) as *already separated from the vine*. For this reason, R’ Meir does not regard them as “items attached to the ground,” rendering them ineligible for the usual *karka*-exemption from oaths.

This would seem to affect the scenario of the wood-gatherer, as well. Since he harvested wood from this miraculous temporary oasis – which was standing to vanish as soon as the Jews would move on – this vegetation would seem to be considered *already detached*. As such, the violation of uprooting on the Sabbath would seemingly not apply in this case.

The Maharil Diskin demonstrates that the situation in the desert was different, because of one significant factor: the Jews’ encampments were established, as the verse states (*Bamidbar* 9:23), “By the word of Hashem.” True, the vegetation which sprouted in response to their camping was only temporary in nature; but having been established with the full force of “the directive of Hashem,” the camp was bestowed with a measure of permanence (*cf. Eruvin* 55b).

This notion accounts for the verse’s introductory comment that the episode of the wood-gatherer took place “when B’nei Yisrael were in the desert.” The verse refers to the special nature of the Jews’ traversing through the desert – namely, that it was undertaken “by the word of Hashem.” As such, the wood-gatherer would be guilty of the capital crime of violating the Sabbath, even according to the opinion that he didn’t carry the wood, but merely uprooted it. Despite the temporary nature of the vegetation, the magnitude of the “directive of Hashem” conferred permanent status on the camp and its attendant greenery.

The phenomenon mentioned above is but one of the unusual and remarkable services supplied to the Jews in their desert sojourn. In the upcoming weeks, we will focus more closely on a number of these “Wonders of the Desert.”

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