

DARCHAI NOAM - דרכי נועם

“Its ways are ways of pleasantness”

(Mishlei 3:17)

Parashat Ki Tavo
September 2023 / Elul 5783

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How can the Parasha help us grow this week?

Ki Tavo – What is Viduy Maaser and why don't we do it today?

In this week's Parasha of Ki Tavo, we start with the mitzvah of Bikkurim (the mitzvah of the first fruits that were brought to Yerushalayim) and then we read about a mitzvah known as Viduy Ma'aser (Confession of the tithes). The Torah explains:

“When you have finished tithing all the tithes of your produce in the third year, the year of the tithe, you shall give them to the Levi, the stranger, the orphan and the widow so that they can eat until they are satisfied in your cities. Then you shall say before Hashem your God, “I have removed the holy portion from the house, and I have also given it to the Levi, the stranger, the orphan and the widow according to all of your mitzvot that you commanded me; I have not transgressed your mitzvot, nor have I forgotten them.... Look down from your Holy dwelling, from the heavens, and bless Your people Israel, and the land which You have given us, as You swore to our forefathers, a land flowing with milk and honey.” (Devarim 26:12-15)

There are some mitzvot that are dependent on the land of Israel, they are known as Mitzvot Hateluyot B'Aretz¹. Included in this group are the laws of terumot and ma'asrot. It is forbidden to consume produce that grows in Israel until the various tithes have been separated. First, a portion must be separated for the Kohanim. This is known as terumah gedola and must be eaten by the Kohanim in a state of ritual purity. Then, the first tithe (maaser rishon) is separated. This is given to the Levim. The Kohanim and Leviim were not given ancestral fields in the land of Israel. Rather, they devoted themselves to running the Bet Hamikdash and taking responsibility for the spiritual health of the nation. In return, these gifts helped them to be supported financially. After separating the first tithe, one must separate an additional tithe, known as maaser sheni during the first two years of the seven-year agricultural cycle. This tithe can be consumed by the owner, but only in Jerusalem and only in a state of ritual purity. In the third year, the second tithe is known as maaser ani and it is given to the poor instead of being consumed by the owner in Jerusalem. This three-year cycle repeats itself in years four to six. The seventh year is the shemittah year, when produce becomes ownerless and no tithes are separated. [Note that in a few weeks' time, on Rosh Hashanah, we will commence year two of the current seven-year cycle.]

Rav Samson Raphael Hirsch explains that the requirement to separate terumot and ma'asrot is a constant reminder that our produce does not really belong to us. It is rather all a gift from Hashem. Therefore, before we are permitted to freely enjoy the produce, we must follow Hashem's instructions and separate the various tithes and gifts.

While these laws only apply in the land of Israel,² they are also relevant to those who live outside the land of Israel. Produce that is exported from Israel must have reliable kashrut certification to confirm that it has been tithed correctly. Otherwise, the produce would be forbidden.³

At the end of every three-year mini cycle, we are obligated to declare before Hashem that we have fulfilled these mitzvot of terumot and ma'asrot properly. The Rambam⁴ teaches us that one must firstly make sure that all agricultural gifts have been allocated appropriately. The declaration is then made on the afternoon of the last day of Pesach in the 4th and 7th years of the cycle (i.e., the Pesach following each of the three-year mini cycles). All maaser sheni produce must be consumed before the declaration. Therefore, the declaration was delayed until the afternoon of the last day of

¹ In truth, this is not an accurate translation. One of the Mitzvot Hateluyot B'Aretz is Orlah, however Orlah also applies outside of the land of Israel (albeit the halachot are slightly different). A deeper understanding of the term “Mitzvot Hateluyot B'Aretz” is beyond the scope of this article.

² Note that the Rabbis instituted a requirement to separate terumot and ma'asrot in other lands that were close to Israel (Moav, Edom, Suria and also Bavel).

³ It is possible to rectify the produce by separating the tithes before consumption, but the procedure is complex, and one needs to know what they are doing. A Rabbi should be consulted.

⁴ Hilchot Maaser Sheni 11:3-4.

Pesach so that the people could continue to enjoy their maaser sheni produce throughout the festival of Pesach while they were in Jerusalem.⁵

The declaration is known as viduy maaser. It may be recited in any language. Ideally, each person would make the declaration individually, but it is permitted for one person to recite it out loud and for the others to fulfill their obligation by listening.⁶

In the times of the Bet Hamikdash, people would go to Jerusalem and recite the viduy maaser. They would declare that they have fulfilled their obligations, separated all of the required terumot and ma'asrot and delivered them to their proper destinations. The text for the viduy appears in our parasha - Devarim 26:12-15.⁷

Today, in the absence of the Bet Hamikdash and without the ability to purify ourselves, we are not able to give terumot and ma'asrot completely as we should. Kohanim may not eat terumah due to being ritually impure and we cannot eat ma'aser sheni for the same reason. Additionally, according to many opinions, terumot and ma'asrot today are only required on a rabbinical level, since the majority of the Jewish People still do not live in the Land of Israel. Therefore, the mitzvah of reciting maaser viduy is not performed these days.

The Aderet⁸ wonders why the Shulchan Aruch (which relates to mitzvot that are relevant today) includes six seifim⁹ related to this mitzva of viduy maaser if it is not practiced today. He argues that this is evidence that we are in fact obligated to recite viduy maaser even today. We still separate terumot and ma'asrot and we can't help the fact that we are tamei. Therefore, we are doing whatever we can to fulfill the mitzvot of terumot and ma'asrot in the best way possible under the circumstances and this should be sufficient to require us to recite viduy maaser.

Though common custom does not follow the Aderet, it is praiseworthy to read the relevant verses in remembrance of the Bet Hamikdash and the time we could perform the mitzvot of terumot and ma'asrot properly. The commentators write that even those who don't personally perform the mitzvot related to terumot and ma'asrot (because it is done on their behalf, or because they always buy produce that is already tithed) should nevertheless read the viduy maaser.

Therefore, there is a practice in some shuls to read these verses on the seventh day of Pesach in years four and seven. The verses are read in public either before or after mincha. The reading is done from a chumash or from a sefer Torah (but without a bracha). Ideally, each person should read the verses himself. The viduy can also be read outside of Israel on the seventh or eighth day of Pesach.

A question remains that we need to consider. Why is this declaration called "Viduy"? Viduy means confession. As the Yamim Noraim approach, we will start to focus very closely on the concept of viduy. When we recite viduy we confess our sins. Why is this mitzva of viduy maaser referred to as viduy, when we are declaring that we did something right?

Some commentators suggest that by reciting viduy maaser we are confessing to the sin of the golden calf. If not for this sin, the firstborns would be doing the job of the Kohanim and they would be receiving the tithes. Therefore, the fact that we need to give gifts to the Kohanim and Leviim is a reminder of that sin.

Other explanations are given. For example, Rav Yosef Soloveitchik zt"l explains that the viduy of maaser and the viduy of teshuva represent two sides of the same coin. The basis of every confession is that a person expresses the recognition that they are guilty of a sin and undertakes not to repeat this error. If however a person believes that they are not capable of improving their behaviour, then his confession is empty and without meaning. Only when we believe that we are capable of doing better is our confession meaningful. This is precisely the function of viduy maaser — to express that I did everything I was commanded to do and that I did it correctly. And because I am capable of doing things correctly, I can sincerely regret my actions when I fail to do so. Just as I am able to acknowledge when I act appropriately, so too I am able to acknowledge when I act inappropriately. Therefore, the maaser declaration is called viduy because it enables and gives meaning to the viduy of teshuva.

Let's try something this week:

1. Remember that the life we are living is very 'b'dieved', it is far from ideal. We cannot keep many of Hashem's mitzvot while we remain in exile. It is up to us to turn things around and return the world to the way it should be.
2. Remember that one of the main steps of teshuva is viduy – confession. And that requires us to recognise and admit our failings.
3. When we reflect on our behaviour, we should try to acknowledge, even to ourselves, whether that behaviour was appropriate or not. This will give us practice for sincere viduy during the Yamim Noraim.

Shabbat Shalom, Rabbi Ledder

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⁵ This is the halacha quoted by the Shulchan Aruch (Orach Chaim 331:141) and is in accordance with the Rambam. Rashi and others maintain that the declaration was made on the first day of Pesach.

⁶ Shulchan Aruch Orach Chaim 331:143.

⁷ Part of which is quoted above in English.

⁸ Rabbi Eliyahu David Rabinowitz-Teomim (11 June 1843—10 March 1905), a Lithuanian rabbi in the 19th century who served as the Rabbi of Mir and led the Ashkenazi community in Jerusalem. He was the father-in-law of Rav Kook.

⁹ 'Seifim' are sub-sections.