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Eating from Your Neighbor’s Field

Deuteronomy gives broad permission to eat your fill from a neighbor’s vineyard and grain field, so long as you don’t gather in a vessel or cut with an implement. Famously, the disciples of Jesus gather grain on the Sabbath, earning the Pharisees’ wrath not for theft but for violating Shabbat. Commentators debate the reason for this law and whether it has any limits.

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*The Disciples Eat Wheat on the Sabbath* (detail), James Tissot (French, 1836-1902). Brooklyn Museum

Torah portion *Ki Tetze*, Deuteronomy 21:10-25:19, contains more commandments than any other *parashah*. According to one *mitzvah* tabulator*,*[1] the count is 27 positive commandments (“thou shalts”) and 47 prohibitions (“thou shalt nots”). The commandments are simply listed, one after another, with little or no thematic or verbal connection between them.[2] Without contextual clues how to interpret the law, we are left with just the plain text whose meaning is often elusive.

Eating Produce from Your Neighbor’s Field

One such unclear commandment deals with eating produce from your neighbor’s field:

דברים כג:כה כִּי תָבֹא בְּכֶרֶם רֵעֶךָ וְאָכַלְתָּ עֲנָבִים כְּנַפְשְׁךָ שָׂבְעֶךָ וְאֶל כֶּלְיְךָ לֹא תִתֵּן.

Deut 23:25 When you enter another man’s vineyard, you may eat as many grapes as you want, until you are full, but you must not put any in your vessel.

כג:כו כִּי תָבֹא בְּקָמַת רֵעֶךָ וְקָטַפְתָּ מְלִילֹת בְּיָדֶךָ וְחֶרְמֵשׁ לֹא תָנִיף עַל קָמַת רֵעֶךָ.

23:26 When you enter another man’s field of standing grain, you may pluck ears with your hand; but you must not put a sickle to your neighbor’s grain.

There are no textual problems in these two verses, no obscure words or awkward constructions. The Torah says clearly that “you” have the right to enter your neighbor’s vineyard or field of standing grain, and there “you” may eat your fill, provided that “you” do not use agricultural implements (a container, a sickle) to harvest the produce and haul it away.

As is true throughout all the laws of the Torah, the “you” of the text, that is, the person to whom the text is speaking, is the Israelite; the field that he is hereby permitted to enter belongs to “your neighbor,” that is, another Israelite.[3]

Jesus’ Disciples Plucking Grain

The Torah’s law stands behind a passage of the New Testament (Matthew 12:1-2; parallels in Mark 2 and Luke 6; trans. NRSV):

At that time Jesus went through the cornfields on the Sabbath; his disciples were hungry, and they began to pluck heads of grain and to eat. When the Pharisees saw it, they said to him, ‘Look, your disciples are doing what is not lawful to do on the Sabbath.’

The Pharisees’ objection centers on the violation of the Sabbath; they apparently believe that plucking grain comes under the forbidden rubric of harvesting. (Perhaps Jesus and his disciples felt otherwise.) But as to plucking grain in a neighbor’s field, the Pharisees have no objection and say nothing. Various commentators have noted that in the Middle East until recent times passers-by were understood to have a right, as a kind of charity, to refresh themselves by grabbing available produce.[4]

But what exactly is Deuteronomy permitting here? In what circumstances may Israelites eat their neighbors’ produce?

Raiding Your Neighbor’s Vineyard

The Torah offers no explicit limits to this law, leaving open the possibility that any person could enter a neighbor’s field at any time for any reason and eat. In fact, this interpretation of this law is put forward explicitly by Isi b. Judah in the Talmud (B. *Bava Metsi’a*92a):

דאמר רב: מצאתי מגילת סתרים בי רבי חייא, וכתוב בה: איסי בן יהודה אומר כי תבא בכרם רעך – בביאת כל אדם הכתוב מדבר.

Rav said: I found a secret scroll in the school [or: house] of R. Hiyya, and in it was written: “Isi b. Judah says: ‘When you enter your neighbor’s vineyard’ – Scripture is speaking of entering by any person.”

The secret scroll[5] gives evidence that Isi b. Judah explains the verses to mean that you have the right to raid your neighbor’s vineyard or grain field and eat your fill. Your neighbor will probably not be too happy about this, but the Torah doesn’t seem to care.

This interpretation is problematic and is called out by the same person who found it:

ואמר רב: לא שבק איסי חיי לכל בריה.

Rav said [commenting on his discovery]: “Isi does not allow anyone to make a living!”[6]

As Rav said, if Isi b. Judah is correct, it’s a wonder if any landowner’s field is left unplundered. Isi’s interpretation may suit the plain meaning of the text, but is otherwise so problematic that it is rejected by the Sages.[7] They were not alone in finding a way to limit the application of this law.

Limiting the Application of the Law

Commentators, ancient and modern, limit the application of this law based on the assumption that it cannot be granting the right to anyone and everyone to enter a neighbor’s land and eat his prize grapes—this would fundamentally interfere with a person’s right to hold private property.[8] As far as I can see four suggestions have been offered.

1. Land-locked field

Jeffrey Tigay writes, “Apparently fields and vineyards were laid out in such a way that people often had to pass through those belonging to others. This was not considered trespass.” To reach your field you have no choice but to pass through a neighbor’s; in this situation the Torah permits you to snack as you go along.

2. On the Road

In his paraphrase of this law in the *Jewish Antiquities,*Josephus adds several details. Here is the translation of my late teacher Louis H. Feldman:[9]

Nor, when autumn fruit is full ripe should you prevent those walking on the road from touching it, but allow them to fill themselves as if from their own, whether they happen to be natives or strangers, rejoicing at allowing them to partake of the fruits of the season; but let it not be permitted to them to carry anything away.

Josephus says that the permission to eat of the fruit (not just grapes) is extended to those who are “walking on the road.”[10] This is not exactly what the Torah says, which speaks of “you” entering a vineyard or a grain field. Perhaps Josephus was inspired by Plato who, in his *Laws*, says that a visitor “walking along the road” is to be allowed to partake of ripe fruit that can be readily consumed.[11] If the forager stays on the road, then the question of trespass does not arise.

3. Charity and Magnanimity

Josephus also seems to understand this law as a charity requirement. He writes in the next paragraph (again as translated by Louis Feldman):[12]

Let not the vine-strippers [i.e. the laborers] bar those who encounter them from eating from what they are carrying to the winepresses, for it would be unjust to begrudge the good things that, in accordance with God’s will, have come for our sustenance to those who desire to partake of them, when the season is at its height and is hastening to pass away.

Produce ultimately comes from God, and we do not have the right to begrudge others their share of God’s bounty. This is the theology behind much of the Torah’s legislation regarding support for the poor. The Torah commands a landowner to leave certain crops for the poor, to leave the land unharvested every seventh year, to give of his produce to the Levite, etc.[13]

The Torah assumes that God, like many a king in the ancient Near East, is the only real landowner. An Israelite landowner does not own his land so much as he leases it from God, the real landowner. Consequently God can command his leaseholder how to dispose of his crops. In the laws under discussion here he commands the Israelite landowner to allow the poor free entrance to his fields and access to produce that can be eaten on the spot.[14]

In this interpretation, Deuteronomy 23:25-26 is unique; these are the only verses in the Torah directed to the poor, not the landowner. The poor are not to abuse the kindness of strangers. The poor may enjoy the largesse that others are commanded to give them, but they are to observe certain constraints.[15]

4. Laborers

Another possibility is that the text speaks not of any and all passersby, but only of laborers hired by the landowner who have the right to eat of the produce on which they are working. The Sages connect this interpretation with the customary requirement that a landowner must feed his day-laborers. Whether this requirement prompted this interpretation of the verse, or whether this interpretation of the verse spawned the requirement, is a chicken and egg question, which I cannot answer.

The Sages support this interpretation by observing that the verse seems to suggest that the one permitted to partake of the produce has entered the field holding a bag (*keli*) and/or a sickle – what passerby walks around with a bag and a sickle? The Sages thus deduce that these are agricultural workers, who are allowed by Torah law to eat of whatever comes to hand, although they may not store up food to take home. The Sages deduce various fine points in the law from the details given in the verse: thus, that the produce must be from the earth (not, say, cheese or meat), must be ready to be eaten (not unripe), and not yet harvested.[16]

Analogy to Muzzling an Ox

The principle that an agricultural laborer is entitled to eat of the produce on which he is working is either confirmed or denied by the Sages on the basis of yet another verse in *Parashat Ki Tetze*:

דברים כה:ד לֹא תַחְסֹם שׁוֹר בְּדִישׁוֹ.

Deut 25:4 You shall not muzzle an ox when it is threshing.

The Mishnah (*Bava Metsi’a* 7:2-3, see *B. Bava Metsi’a* 91b) implicitly compares the human laborer to the ox[17]; if the human laborer works like an ox, he is entitled to eat of the produce like an ox:

היה עושה בידיו אבל לא ברגליו, ברגליו אבל לא בידיו, אפילו בכתיפו – הרי זה אוכל.

If a laborer works with his hands but not with his feet, with his feet but not with his hands – even if he works [only] with his shoulders,[18] nevertheless he may eat [of the produce].

רבי יוסי ברבי יהודה אומר: עד שיעשה בידיו וברגליו.

R. Yosi b. Judah says: “[He may eat] only if he works with his hands and feet.”

For R. Yosi b. Judah, the equivalence of a human and an animal laborer is so complete that the human laborer can eat of the produce he is working on only if he resembles an ox, that is, only if he is working with hands and feet! This would imply that a human laborer, like an ox, may not be muzzled, either literally or figuratively, while threshing.

But *halakhah*does not follow this *Mishnah*. Although agricultural workers are entitled to partake of the produce on which they are working, in accordance with Deuteronomy 23:25-26, a landowner may muzzle them in a figurative sense, that is, to stipulate with them in advance that they are not to eat anything.[19]

Interpretation Left to the Interpreters

To what does Deuteronomy 23:25-26 refer? The right of all passers-by to enter a landowner’s field with or without permission and eat their fill? The right of the owners of land-locked fields to snack on their way to work on their property? The right of passersby to stay on the road and eat what they can reach? The obligation of a landowner to allow the poor to enter his fields without hindrance but who then are obligated not to abuse his largesse? Or the right of farm laborers to eat of the produce on which they are working? These deceptively simple verses can sustain any of these interpretations, and perhaps yet others.

[View Footnotes](https://www.thetorah.com/article/eating-from-your-neighbors-field)

This is a revised version of a *devar Torah*delivered at Congregation Sha’arei Tefillah in Newton MA, on Shabbat *parashat* *Ki tetze* 5773 on the occasion of the *yahrzeit*of my friend Michael Hammer z”l. I should like to acknowledge my debt to Jeffrey Tigay who, in the notes to the JPS edition of Deuteronomy, collects a wealth of material; see Jeffrey Tigay, *The JPS Torah Commentary: Deuteronomy* (Jewish Publication Society 2003) 219-220. Torah translations are those of the JPS version as presented in the online Jewish Study Bible; all other translations are mine unless otherwise noted.

1. The *Sefer HaHinuch.*
2. Commentators medieval and modern have tried to make sense of the grouping and sequence of the laws of Deuteronomy; the question remains open. Occasionally the logic of the grouping is evident; thus in this *parashah* 22:13-23:2 (or perhaps 23:9) is a block of material on marriage.
3. The word *re’ekha*appears three times in the span of these two verses; the first two are translated “another man” in the JPS translation, while the third is translated “your neighbor.” I don’t know why the translation does not use “your neighbor” consistently. The *Sifrei* on these verses deduces from the word *re’ekha*that this law does not apply to a field owned by gentiles (*aherim*). See *Sifrei* Deuteronomy 266-267 pp. 286-287 ed. Finkelstein. Josephus says (see below) that the foragers in the field can be either Israelites or foreigners. The word *re’ekha*has attracted the most attention for its precise nuance in the commandment *You shall love your neighbor as yourself* (Leviticus 19:17).
4. Tigay, *Deuteronomy*p. 219 note 101.
5. What this secret scroll was, apparently a set of private notes for private study, is a fascinating question that is not our problem here.
6. Lit. “Isi has not left a living (or livelihood) for any person.”
7. M. *Ma’aserot*3:4 assumes that these verses do not apply to “any person.”
8. Peter C. Craigie writes, “It is unlikely that the verses imply that whenever a man is hungry he simply *goes* to the nearest vineyard or field for a meal, then returns home.” See Craigie, *The Book of Deuteronomy* (Grand Rapids: Eerdmans, 1976; NICOT) 304 n. 29.
9. Flavius Josephus*, Judean Antiquities* 1-4, translation and commentary by Louis H. Feldman (vol. 3 of the Brill Josephus, ed. Steve Mason; Leiden: Brill 2000) book 4 paragraph 234. The book is more familiarly known as the *Jewish Antiquities*.
10. Ibn Ezra knows this interpretation and attributes it to “deniers,” those who deny rabbinic tradition.
11. Plato, *Laws* 8.845a-845d (available online through the Perseus data base).
12. *Jewish (Judean) Antiquities* 4.235.
13. Deuteronomy 14:28-29; 24:19-22; 25.4; Exodus 23:10-11; Leviticus 19:9-10.
14. 4Q159 Ordinances may be a paraphrase of our passage; it contains the phrase *ve eyn lo*, “he has nothing,” which suggests that our law is to be understood as a charitable regulation. Unfortunately the text is very fragmentary and contains no verbal echoes of our passage. See *The Dead Sea Scrolls Reader*second edition ed. Donald Parry and Emanuel Tov (Brill: Leiden/Boston 2014) vol. 1 p. 320-321. An image of the text is available at <http://www.deadseascrolls.org.il/explore-the-archive/image/B-370899>.
15. Perhaps this will illustrate Boaz’s extraordinary kindness with Ruth in that he gives her produce to take home to Naomi.
16. *Sifrei* Deuteronomy *ad loc*.
17. So does Paul; see 1 Corinthians 9:9; cf. 1 Timothy 5:18. Josephus too seems to elide the distinction between an ox and a human laborer. “Do not muzzle the mouths of oxen when they thresh the ears of corn on the threshing floor, for it is not right to bar from the fruit those who joined in the work and who have exerted themselves with regard to its production.” *Jewish (Judean) Antiquities*4.233. Note that Josephus, like the rabbinic sages, juxtaposes the muzzling of oxen (paragraph 233) to the foraging of wayfarers (paragraphs 234-235).
18. On the translation of כתיפו as “shoulders” (plural), see my “Sabbath Law and Mishnah Shabbat in Origen *De Principiis,” Jewish Studies Quarterly* 17 (2010) 1-30, at 27 n. 65.
19. See *Encyclopedia Talmudica*(*Entsyklopedia Talmudit*) vol. 16 s.v. חסימה, section 8 (accessed via the Bar-Ilan database). Rabbinic law actually has conflicting attitudes toward the question of the landowner’s obligations towards feeding his workers. The conflicting tendencies are evident in M.*Bava Metsi’a* 7:1-2, 4-5.