



Handling Outdoor Potted Plants

Non perforated and perforated pots

According to halacha, there is a difference between an *atzitz nakuv* (perforated pots) and an *atzitz sheino nakuv* (non-perforated pots). An *atzitz sheino nakuv* is a pot that is completely sealed both on the bottom and on the sides. An *atzitz nakuv* is a pot that has holes (even of the smallest size) on the bottom or side (see *Mishpitei Eretz* 8:5). Halachic authorities debate the status of perforated and non-perforated pots, as they relate to *shemitah*. Rav Yechiel Michel Tukachinsky (*Sefer Hashemitah* p.15) raised the possibility that *shemitah* prohibitions might only apply to produce planted in the ground rather than potted plants. Nevertheless, all authorities including Rav Tukachinsky himself ruled that potted plants and trees are obligated in the laws of *shemitah* as well (see *Chut Shani* 1:6).

The nature of the obligation

It is accepted among all authorities that plants in non-perforated pots are only Rabbinically obligated in the laws of

shemitah, since the soil sealed in the pot is not actually connected to the ground (*Chazon Ish* 22:1). Regarding perforated pots, there is a dispute regarding the nature of the prohibition. Rav Shlomo Zalman Auerbach (*Minchat Shlomo* 40) maintained that during *shemitah*, the prohibition of sowing and cultivating plants in perforated pots is only Rabbinic in nature. The reason being that since the soil inside the pot is not actually in the ground, the prohibition is Rabbinic. Based on his opinion, the Biblical prohibition applies only to soil in the ground. The *Chazon Ish* (20:5) and others firmly disagreed with Rav Shlomo Zalman Auerbach, citing different sources to prove that sowing and cultivating in a perforated pot is a Biblical prohibition.

Practical applications from the dispute

This dispute has numerous halachic applications. For example, vegetables, grains and legumes that grew on their own or that were intentionally planted during *shemitah* are prohibited for consumption. This prohibition is called *issur sefichin*. Rav Shlomo Zalman, based on the ruling above, states that anything grown in perforated pots is not included in the decree of

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sefichin, since our Sages would not apply an additional Rabbinic decree to a prohibition which is already Rabbinic in nature. However, according to the *Chazon Ish* there is no difference between that status of soil in a perforated pot and soil in the ground, such that the decree of *sefichin* would apply.

Another application raised by Rav Shlomo Zalman is in regards to renting an apartment to someone who does not honor *shemita*. Rav Shlomo Zalman writes that a real estate owner need not be concerned about renting his apartment to a non-religious tenant who will plant and cultivate in perforated pots during *shemita*. Since the prohibition is Rabbinic, the owner has no responsibility for actions done by the tenant. According to the opinion of *Chazon Ish* that the prohibition is Biblical, however, the owner of the apartment would need to make sure that the tenants are not sowing or cultivating in perforated pots on his property.

It would seem that in both cases there is room to be lenient, like the rulings of Rav Shlomo Zalman Auerbach.

In summary:

- *Shemita* laws apply to trees and plants found outdoors in both perforated and non-perforated pots.
- Rav Shlomo Zalman Auerbach holds that the *shemita* laws in regards to perforated and non-perforated pots

are Rabbinic in nature, and one may rely on his ruling.

- There is no decree of *sefichin* on produce grown in perforated pots.
- An apartment owner may rent to non-religious tenants during *shemita* even though he is aware that they will plant or cultivate in perforated pots. ■

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