

# PARSHAS BEHAR

*by Rabbi Dr. Meir Tamari*

When Moshe descended from Har Sinai with the Luchot he had to interrupt the teaching of the Torah he received, because of the Israel's sin with the Eigel. Then, after their teshuva, it was necessary to teach the laws of kedusha so that they would separate themselves from everything impure and immoral. So we have the parshiot of the Mishkan, Kohanim and their laws of kedusha, and the laws for the kedusha of Israel of kashrut, tumah and tahara, of sexual relations and of social kedusha. Now he could continue with his teaching. That is why here the laws of Shmittah and Yovel their details are introduced by "And the Lord spoke to Moses at Har Sinai". There is no need as Ibn Ezra and others have done, to explain "Behar Sinai" of our Sedra as an example of 'ain mukdam u meuchar baTorah'.

The Rambam teaches that the reasoning underlying Shmittah and Yovel, is the need to give the soil a rest through lying fallow, otherwise it would become impoverished. This is incorrect as may be seen from the fact that on the 6th year of the cycle we were promised that the land would give a yield equal to that of 3 years; surely a very taxing blessing. Furthermore, the punishment for its non-observance tells us he was wrong. If the Rambam was correct then the punishment should have been poverty and hunger. Whereas Yermiyahu prophesied exile for 70 years as the punishment for the 70 Shmittot not observed by Israel. We can see 3 ways of understanding the Shmittah and Yovel: [This discussion will be continued next week in our parshah on Bechukosai.] There were 2 acts of mercy that Hashem did in His world; one in that He created everything in a fashion that every thing should grow and develop according to its nature and the second is the Torah that He gave to Israel in order that they should thereby achieve spiritual completion. Therefore, He commanded us that we should make of the work of the land and of the years a memorial of both these things.

[1]. The Shmittah of the land is a memorial to the Shabbat of Bereishit, bearing witness to His Merciful Creation; every seventh year corresponding to the seven days of that creation. Just as Israel rests from work on Shabbat in imitation of His rest so will the land, just as the world behaved according to its nature [Abarbanel alone of all our commentators sees the technological changes that Mankind introduced after Gan Eiden as perversions], so in Shmittah we eat the produce that grows of its own. Indeed the 7 names that the Torah has for Shmittah bears witness to this, eg. Shabbat Haâaretz. Then 7 Shmittot and we have Yovel. However, regarding Yovel we do not find mention of Shabbat and this is because that year does not come to remind us of the Creation but of Matan Torah. Just as we count 49 days from the Exodus till Matan Torah of the 50th day, so we count 49 years to Yovel; just as there was a shofar at Sinai so there is the shofar of Yovel. Yovel is kadosh to Hashem and so

we were commanded 3 acts of kedusha: the freeing of all indentured servants, not to plant and not to harvest even though that had already applied to the 49th year [shmittah], and the return of each mans inheritance. These are 3 acts of freedom- freedom of servitude, freedom from the enslavement to wealth creation and the freedom associated with the individual's ownership of property; all corresponding to the freedom of the individuals at Matan Torah gained through their being slaves of G-d. Yovel is announced on Yom Kippur, that is Rosh Hashanah for shmittot and yovelot, corresponding to the creation according to Rabbi Yishmael. Furthermore, just as we are forgiven our sins on this day, so too one should forgive his debtors, his bondsmen and those whose land he acquired [even morally and legally]. There is also the injunction against Ona'ah in connection with Yovel. " When you make a sale or make a purchase [of land] you may not oppress one another. According to the number of crop years after the Yovel shall you buy [or sell] it. According to the greater number of years shall you increase the price [or decrease] it. For the number of years he is selling [or buying]. Each of you shall not oppress his fellow and you shall fear your G-d' (Vayikrah, 25:14-17). These verses tell us that there is nothing morally wrong with buying or selling land, only that all such sales are actually not real sales since, as the Torah here says, all the land belongs to Hashem. So in Yovel all sales terminate and the land reverts to the original owners. What is being sold is the produce of the land, and its price is determined by the number of years still to come till Yovel.. Any transaction that deviates from that yardstick is subject to Ona'ah, whether of the buyer or of the seller.

[Ona'ah is usually translated as price fraud but it is more correct to talk of price oppression by exploiting the other parties ignorance or his need. Where full disclosure is made, there is no ona'ah].

Our Sages taught that we should learn from Ona'ah that the rich man should not take advantage of the poor man's inability to wait for changed conditions or his difficult position that force him to sell. Furthermore, this law has the fear of G-d written in the same verses; to teach that Hashem lifts up the poor and casts down the wealthy; this should cause the rich to rethink his actions. [All things that are known only to the person himself, like lifnei iver, cursing the deaf, ribit that is dependent on the agreement he makes, have veyareita mi Elokecha written after them. That is also, in the final analysis, the major protection against our white collar crimes that are always done, as we think in secret].

I [Abarbanel] do not consider Ona'ah to be a mitzvah or a negative injunction. Rather, it is a promise that if we obey G-d's commandments regarding buying and selling then, by the addition in the Torah of 'Ani Hashem' to that verse, we are assured that there will be no ona'ah. [This is akin to The Kotskerâs saying that Kedoshim Tiheyu is an assurance that mortal humans can be holy because G-d is Holy].

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