

# REFLECTING BACK ON SHEMITTAH

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**Hamaayan / The Torah Spring**  
**Edited by Shlomo Katz**

**Netzavim**

**Volume XV, No.46**  
**27 Elul 5761**  
**September 15, 2001**

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Today's Learning: Bava Kamma 6:6-7:1  
Orach Chaim 511:3-512:1  
Daf Yomi (Bavli): Bava Kamma 50  
Daf Yomi (Yerushalmi): Peah 16

This Shabbat is the last Shabbat of this shemittah year, and it is appropriate to stop and reflect on the lessons of the sabbatical year. Indeed, it appears that the very purpose of shemittah is that we derive certain lessons from its observance, as R' Mordechai Eliyahu shlita (former Sephardic Chief Rabbi of Israel) notes. "I have long wondered," he writes, "why the commentators devoted more effort to discovering the reasons for the mitzvah of shemittah than those of other mitzvot." He suggests the following explanation:

The gemara (Sanhedrin 39a) says: What is the reason for shemittah? Hashem said to Israel, "Plant for six years and rest for one so that you will know that the land is Mine." Rashi explains that because a person will find his sustenance even while he observes the shemittah, he will be forced to acknowledge that the land is Hashem's and that a person's "strength" does not add to, or detract from, the outcome of man's work. Since it appears that one of the very purposes of shemittah is that we derive certain lessons from its observance, it certainly makes sense that commentators devote

their energies to expanding upon those lessons. (Approbation to Ta'ama d'Shviata)

R' Avraham Yitzchak Hakohen Kook z"l (1865-1935; Ashkenazic Chief Rabbi of Palestine) writes regarding the lesson of shemittah: Man has many innate spiritual qualities which are too subtle to show in the relatively rough-and-tumble workaday world. Fortunately, he notes, Hashem gave man one day a week to unwind, one day when, freed from the rat race, his true spirituality can come to the fore. That day is Shabbat.

What Shabbat is to the individual, continues R' Kook, the shemittah is to the nation. For six years man toils to build his business, to cultivate his land, and to work his slaves. In such an environment, there is little room left in a person's thoughts for the rest of his nation, particularly the down-trodden and helpless. Then comes the shemittah - loans are forgiven, slaves are freed, and the gates of the orchards and fields, which before had been so jealously guarded, are thrown wide open for whomever comes. Stripped of competition and subjugation, both the nation and the land can show their true spirituality. (Shabbat Ha'aretz, Introduction)

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### **Some Thoughts About the Prozbol and Other Laws of Shemittah**

During the year now ending, we devoted much space to the laws of shemittah. Many pages also were devoted to the leniencies built into those laws. We observed in the course of those discussions that many of the leniencies in the laws of shemittah are possible only because the observance of shemittah is "only" a rabbinic mitzvah in our times.

Why, wonders R' Shaul Yisraeli z"l (1909-1995; Rosh Yeshiva of Yeshivat Mercaz Harav), did the Sages bother? Why did they instruct us to observe the shemittah and then devise ways to circumvent the law's requirements? For example, why did the Sages prohibit farming during shemittah in our times and then permit leniencies such as the Otzar Bet Din or the sale of the Land to be used to farm? By the same token, why did Hillel the Elder devise the prozbol to allow lenders to collect their loans after the shemittah? True, the gemara explains that Hillel was responding to the fact that people were not making loans, but instead of allowing us to use what appear to be loopholes to avoid keeping the rabbinic mitzvah of forgiving loans, why didn't the Sages simply abolish that rabbinic mitzvah altogether?

Another question: Even if selling the Land or using a prozbol is halachically permitted, R' Yisraeli writes, is it the "right" thing to do? R' Yisraeli offers two answers, one mystical and one more practical:

First, the mystical answer: Kabbalists teach that a person who does an action which the Torah prohibits sullies his soul. The Torah prohibits a Jew from working his land during the shemittah year. Working one's land during the shemittah is, to put it simply, a bad thing. Even if the prohibition does not apply technically because the laws of shemittah are not applicable today, the fact remains that it is the shemittah year and the Jewish farmer is doing an act - working his land - which is prohibited.

[Ed. note: Commentaries disagree about whether this is true. For example, if a person has no access to kosher food or he is so ill that he is permitted to eat non-kosher food, does that food sully his soul? R' Yisraeli obviously sides with the view that that which the Torah prohibited is objectively bad.]

In contrast, the Torah did not prohibit working a gentile's land during the shemittah. [This, too, is a matter of dispute. R' Yisraeli was himself a supporter of the *hetter mechirah* / the sale of the land.] Thus, if a Jew sells his land for the year - not as a legal fiction, but sincerely - he is absolutely permitted to work that land during shemittah.

The practical answer to our questions is that an important rule in halachic decision-making is to preserve the Torah-law to the extent possible. Rather than saying that a set of laws - for example, shemittah - will have no application at all if we cannot observe them on a Torah-level, it is preferable to enact a rabbinic law that preserves a memory of the mitzvah. That way, both during the era when we do not perform the mitzvah, and later, when it is time to begin performing the mitzvah again, we will remember that the mitzvah exists.

The midrash teaches: "One must always ask himself, 'When will my deeds reach those of my forefathers'?" This includes the obligation to yearn to perform the mitzvot which our ancestors observed and we cannot observe. (Ma'amar Shemittah B'mahalach Ha'dorot, reprinted in Gaon Be'Torah U've'midot p. 259)

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"It will be when all these things come upon you - the blessing and the curse that I have presented before you - then you will take it to your heart . . . and you will return to Hashem . . ." (30:1-2)

We can understand that "the curse," the punishments that Hashem sends, may cause a person to repent, but "the blessing"? R' Yaakov Yosef Katz z"l (died 1784; a leading student of the Ba'al Shem Tov and one of the first to record the Ba'al Shem Tov's teachings) explains with a parable:

A simple peasant was caught throwing stones at a statue of the king and was brought before the king to be sentenced for his crime. The king reasoned, "If I impose a harsh sentence, he will suffer for a time and eventually die; but what will have been accomplished? Rather, I will draw him close to me and give him a place in the palace so that he will recognize my greatness and understand that his actions were wrong." So, too, Hashem's kindness can be an instrument to make a person realize the need to repent.

R' Katz continues: This is the meaning of the expressing (Tehilim 94:1), "G-d of vengeance, Hashem." The Name "Hashem" represents G-d's Attribute of Mercy and appears out of place as a reference to the "G-d of vengeance." In light of the foregoing, however, we can understand. (Quoted in Itturei Torah)

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"You will return to Hashem, Elokecha, and listen to His voice, according to everything that I command you today . . ." (30:2)

R' Shimon Sofer z"l (1821-1883; rabbi of Krakow) explains this verse based on the well-known principle that the Name "Hashem" represents G-d's Attribute of Mercy (as just mentioned above) and the Name "Elokim" represents G-d's Attribute of Justice. The Torah recommends that we "return to Hashem" - i.e., when He is still acting towards us with mercy -- before He becomes "Elokecha" (your Elokim) - i.e., before He begins acting towards us based on strict justice.

If you do this, it will be as if you have done "everything that I command you." Why? Chazal teach that when one repents out of love for Hashem, rather than out of fear of punishment, all of his misdeeds are reckoned as mitzvot. If we wait to repent until Hashem shows His Attribute of Justice, that will not count as repentance based on love. If we repent sooner, Hashem will count our misdeeds as good deeds.

R' Sofer adds: The Torah continues (verse 9), "Hashem will return to rejoice over you for good, as He rejoiced over your forefathers." Lest a ba'al teshuvah / penitent think that he cannot show his face before G-d because of his sins, the Torah assures him that, through repentance, one can rise to the level of the Patriarchs. (Michtav Sofer)

R' Yehonatan Eyebchutz z"l (1690-1764; rabbi of important communities throughout Europe and prolific author) explains the above verse as follows: When you return to Hashem at the end of days, at the time of the ultimate redemption, you will listen to His voice - you will understand sublime secrets of the Torah greater than anything you have ever heard. Do not think, however, that there will be a new Torah, that the laws of the Torah as we know them will no longer apply. No! Our obligations will continue to be "according to everything that I command you today." (Tiferet Yehonatan)

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### **Selected Laws of Shemittah (From Rambam's Mishneh Torah, Hil. Shemittah Ve'yovel, ch. 9)**

10. If one gave a loan on the condition that the shemittah not affect it, the loan is nevertheless forgiven, for no person can abolish the laws of shemittah. However, if the lender imposed a condition that the borrower not take advantage of the shemittah's amnesty, that condition is valid. The reason is that the borrower's agreement is a monetary obligation, and a person is always free to undertake monetary obligations in excess of what the Torah requires.

11-12. Credit given by a store is not forgiven, but if it was converted to a loan, it is forgiven. Wages are not forgiven, but if they were converted to a loan, they are forgiven. . . When do they become a loan? When the creditor sues. IR' Yosef Karo explains: These paragraphs refer to credit and to wages have no fixed payment date. As a result, they are in the nature of a long-term loan that has a due date

beyond the shemittah, which we have seen previously is not affected by shemittah. R' Karo concludes his explanation by noting that he does not fully understand the logic behind this halachah. (Kessef Mishneh)

[Paragraph 13 discusses the effect of the shemittah on alimony payments.]

14. If one lends against collateral, the loan is not forgiven by the shemittah to the extent that the value of the collateral equals the amount of the debt. Any portion of the loan which exceeds the value of the collateral is lost.

15. A note which has been handed over to a court for collection is not forgiven, for the verse says (Devarim 15:3), "Over what you have with your brother, you shall remit your authority." In this case, it is the court which is exercising its authority. Similarly, judgments of the court are not forgiven by shemittah. [This law is the basis for the prozbol, which is discussed in paragraphs 16-25 and was described briefly last week.]

[With this, we conclude our presentation of the laws of shemittah. In the next two issues, we will discuss selected laws of the post-shemittah year. After Sukkot, we will G-d willing reintroduce our biography feature.]

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