

SERVE HASHEM "HIS" WAY

by Shlomo Katz

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

Reeh: Serve Hashem "His" Way

**Volume XV, No. 42
19 Menachem Av 5761
August 18, 2001**

Today's Learning:

Kiddushin 4:1-2 Orach Chaim 498:4-6

Daf Yomi (Bavli): Bava Kamma 22

Daf Yomi (Yerushalmi): Berachot 56

The Torah commands in this week's parashah (12:29-13:1): "When Hashem, your G-d, will cut down the nations where you come, to drive them away before you . . . beware for yourself lest you be attracted after them . . . and lest you seek out their gods, saying, 'How did these nations worship their gods, and even I will do the same?' . . . The entire word that I commanded you, that you shall observe to do; you shall not add to it and you shall not subtract from it." The commandment not to add to or subtract from the mitzvot was already stated in Parashat Va'etchanan two weeks ago. Why is it repeated here?

R' Isaac Sher z"l (Slobodka Rosh Yeshiva; died 1952) explains: The first time that this commandment appears, it prohibits us from inventing new mitzvot [unless they are clearly labeled as rabbinic enactments and not Torah-ordained commandments]. For example, one may not add a fifth species to the Four Species taken on Sukkot. When this prohibition appears here, it commands us not to mix foreign thoughts into our service of Hashem. Do not say, "How did these nations worship their gods, and even I will do the same?" This does not refer to worshiping their gods; it prohibits learning

from them how to worship _our_ G-d.

To take an extreme example: a person who has committed a terrible sin may feel such pangs of regret that he would sacrifice everything he has, even his children, to achieve atonement. And, in fact, there were gentile nations of old that did offer their children as sacrifices. However, that is not what Hashem seeks from us. All He desires is that we follow His Torah the way He taught it to us. (Lekket Sichot Mussar Vol. I, p.375)

"You shall not cook a kid in its mother's milk." (14:21)

This identical prohibition appears three times in the Torah: here, in Parashat Mishpatim (Shmot 23:19), and in Parashat Ki Tissa (Shmot 34:26). The midrash states: "One occurrence is for its context, one is for the Torah, and one is for ma'aser." What does this enigmatic midrash mean?

R' Yaakov Yokel Ettlinger z"l (1798-1871; author of Aruch La'ner) explains: The Rishonim/medieval sages offer three reasons for the prohibition of eating meat and milk together. [Ed. note: It should be noted that some authorities consider this to be a chok/a decree of Hashem whose reason we are not privy to.] Rambam writes that we do not eat meat and milk together in order to distance ourselves from idolators. Others write that eating meat and milk together dulls the intellect. Finally, some state that it is cruel to mix an animal and its own food together.

R' Ettlinger explains further: Each occurrence of the prohibition relates to one of these reasons. When this prohibition appears in Parashat Mishpatim, it is followed by the verse, "Behold! I am sending an angel before you to protect you." When Hashem did this, he placed us at risk of committing idolatry, for the very origin of idolatry was the desire to honor Hashem by honoring His servants. The Torah therefore says, "You shall not cook a kid in its mother's milk." Distance yourself from idolatry! (This is the occurrence of the prohibition which is "for its context.")

The second occurrence is mentioned immediately after the giving of the second luchot and is "for the Torah." In other words, we are commanded not to mix meat and milk because it dulls the intellect and will lessen our ability to study Torah. Finally, the third occurrence precedes the commandment to give ma'aser/tithes (a form of charity) and therefore is "for ma'aser." We are commanded not to eat meat and milk together lest it cause us to be cruel and not give charity. (Minchat Ani)

"Beware lest there be a lawless thought in your heart, saying, 'The seventh year approaches, the shemittah/remission year,' and you will look malevolently upon your destitute brother and refuse to give him - then he may appeal against you to Hashem, and it will be a sin against you." (15:9)

R' Akiva Eiger z"l (1761-1837; leading Polish posek) writes: The gemara (Bava Batra 10a) relates that the Roman general Turnus Rufus asked the Talmudic sage Rabbi Akiva, "If, as you claim, your G-d loves the poor, why doesn't He support them?"

Rabbi Akiva answered, "He is giving the rest of us the opportunity to avoid gehinom [by supporting the poor]."

Turnus Rufus retorted, "To the contrary, for this you deserve gehinom. If a king imprisons his servant and starves him, and another servant sneaks in and feeds him, does the latter not incur the death penalty?"

"That is the wrong analogy," Rabbi Akiva answered. "If a king imprisons his own son and starves him, and a servant sneaks in and feeds the king's son, does the latter not earn a great reward from the king? We are called 'children of Hashem,' as it is written (Devarim 14:1), 'You are children to Hashem'."

Turnus Rufus responded, "When you do G-d's will, you are called His children. When you do not do His will, you are called his servants."

R' Eiger adds: This is what our verse means: When it comes time to support the poor, do not have a lawless thought. Do not maintain that the poor do not deserve to be supported because they are lawless. If you do that, it will be a sin against you, and you will be convicting yourself as well, for you will be suggesting that we are not Hashem's children, but only His servants. (Mi'drushei Ve'chiddushei Rabbi Akiva Eiger)

"You shall observe the month of springtime and perform the Pesach offering for Hashem . . ." (16:1)

"Then you shall observe the festival of Shavuot for Hashem . . . You shall rejoice before Hashem . . ." (16:10-11)

"You shall make the festival of Sukkot . . . You shall rejoice on your festival . . . and you will be completely joyous." (16:13-15)

In these verses, we find mention of the three pilgrimage festivals: Pesach, Shavuot and Sukkot. In connection with the first, there is no mention of simchah / joy. In connection with the second, joy is mentioned once. Finally, in connection with the third holiday, it is mentioned two more times. Why?

R' Yitzchak Karo z"l (1458-1535; uncle of R' Yosef Karo) explains: The Mishnah teaches that we are judged four times each year. On Pesach, we are judged with regard to the grain harvest. On Shavuot, we are judged vis-a-vis the fruit harvest. On Rosh Hashanah, we are judged personally. Finally, on Sukkot, we are judged with regard to rain.

When Pesach comes, we have all four judgments ahead of us, so there is no mention of rejoicing. When Shavuot arrives, one day of judgment (Pesach) is behind us, so we rejoice once. When Sukkot

comes, two more judgments have passed, so we feel two more measures of rejoicing. Hence the expressions of joy in the verses. (Toldot Yitzchak)

Shemittah Observance Today

[We have noted repeatedly that when discussing how lenient one can be with the laws of shemittah, one must first ascertain whether shemittah observance today is a Torah-ordained obligation or only a rabbinically-ordained mitzvah. We now address this subject, whose source is in this week's parashah.]

We read in this week's parashah (15:2), "This is the matter of the shemittah / remission: Shamot/every creditor shall remit . . ." In context, this verse teaches that there is a mitzvah to forgive loans after the shemittah year. However, based on the repetition "shemittah, Shamot," the sage of the Mishnah, Rabbi Yehuda Hanassi (or simply Rabbi), taught as follows (Gittin 36a):

This verse speaks of two shemitot [plural of shemittah]: the shemittah of land and the shemittah of loans. At a time when the shemittah of land applies, the shemittah of loans applies. At a time when the shemittah of land does not apply, the shemittah of loans does not apply.

It is clear from this statement that according to Rabbi, there is a time when the "shemittah of land" ("shemittat karka'ot") does not apply. From other sources we learn that that time is when the yovel/jubilee year also does not apply, i.e., when the majority of Jews live outside of Eretz Yisrael.

Does the halachah follow Rabbi's view? Also, what did Rabbi mean by the "shemittah of land"? Did he mean that the prohibition on working the Land does not apply at certain times, or did he mean only that the mitzvah of returning purchased land to its hereditary owner at the yovel does not apply in our days? [The word "shemittah" literally means "abandonment." Thus, the "shemittah of land" can refer to abandoning _farming_ the land or abandoning _owning_ the land.]

Our primary source for agricultural laws, Rambam's Mishneh Torah, does not contain a clear ruling. However, Rambam does write (Hil. Shemittah Ve'yovel 4:25), "Shemittah applies whether the Bet Hamikdash is standing or is not standing." Based on this and other sources, R' Yosef Karo z"l (1488-1575; author of the Shulchan Aruch) concludes that Rambam does rule in accordance with the view of Rabbi that the shemittah of the land does not apply at all times; however, Rambam interprets Rabbi's statement to refer to the mitzvah of returning land at the yovel. Thus, the prohibition on working the land during the shemittah remains in full force according to Rambam. (Kessef Mishneh 4:25. This view is accepted by many poskim.)

Others disagree with R' Karo's interpretation. For one thing, Rambam states only that the mitzvah of shemittah is independent of the Bet Hamikdash, which is not the same issue that Rabbi was addressing. Furthermore, Rambam writes (Hil. Melachim 11:1) that when Mashiach comes "we will

observe the shemittah and yovel in accordance with all of the laws written in the Torah." Might this imply that the mitzvah of shemittah does not apply according to Torah-law today, as suggested by R' Yitzchak Isaac Halevi Herzog z"l (1889-1959; Ashkenazic Chief Rabbi of Israel) and others? Also, Rambam writes (Hil. Bet Ha'bechirah 6:16) that shemittah applies "as we have explained in the laws of Terumah." Is Rambam perhaps referring to his statement in the laws of Terumah that that mitzvah does not apply according to Torah-law when the majority of Jews are in exile (implying that the same is true of shemittah)?

Other Rishonim/medieval authorities clearly state that the prohibition on working the land does not apply today according to Torah-law. This is also the clear view of the Talmud Yerushalmi and the majority of halachic authorities. While most authorities seem to agree that the shemittah nevertheless applies pursuant to rabbinic decree, some Rishonim (including Ra'avad, Meiri and Razah) hold that shemittah does not apply at all in our times. According to Razah (R' Zerachiah Halevi z"l), the seventh year is not shemittah unless the Sanhedrin declares it so. Since we have no Sanhedrin, we have no shemittah, according to this view. (Sources: R' Herzog, Pesakim U'ketavim: She'eilot U'teshuvot Be'mitzvot Ha'teluyot B'aretz No. 49; R' Shlomo Yosef Zevin z"l, L'Ohr Ha'halachah pp. 106-111)

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