

## PARASHAT RE'EH

### Shemitta of Loans and Shemitta of the Land

By Rav Elhanan Samet

#### I. IS THERE A CONNECTION BETWEEN THE TWO FORMS OF SHEMITTA?

"At the end of seven years you shall make a Shemitta (release). And this is the manner of the release: every creditor who has lent to his neighbor shall release it; he shall not demand it of his neighbor or of his brother, because he has declared a Shemitta unto God. You may demand it of a gentile, but that which is between you and your brother you shall release." (Devarim 15:1-3)

Is this Shemitta concerning monetary matters related to the Shemitta of land that occurs in the seventh year? A dual connection would seem immediately apparent from the text. Firstly, both of these mitzvot apply during the seventh year of every Shemitta cycle. Secondly, the same root "sh-m-t" (release) is used by the Torah in both places:

"Six years shall you sow your land and gather its produce. And the seventh you shall release it (tishmetena) and let it lie fallow, that the poor of your nation may eat..." (Shemot 23:10-11)

The concern for the poor also serves as the reason for both mitzvot, as is clear from the above verse (concerning Shemitta of the land) and as explained at length in our parasha (concerning Shemitta of monetary debts):

"If there should be among you a poor person from among your brethren... you shall not harden your heart nor shut your hand from your poor brother... Guard yourself lest you have an uncharitable thought in your heart, saying: 'The seventh year, the Shemitta year, approaches' – such that your eye is evil towards your poor brother..." (15:7, 15:9)

An additional hint at the connection between the Shemitta of monetary matters and shemittat karkaot (Shemitta of the land) is to be found in Sefer Vayikra: in our parasha we read, "because he has declared a Shemitta UNTO GOD" (15:2), while in Vayikra 25 the seventh year (in connection with the Shemitta of the land) is twice called "Shabbat UNTO GOD."

But none of this is sufficient to prove a qualitative connection between the two mitzvot: there are other mitzvot that are related to the seven-year Shemitta cycle, such as the relinquishing of the tithes (bi'ur ma'asrot) which occurs "at the end of three years" (14:28-29), and also the mitzva of "hak'hel" (gathering of the entire nation), which occurs "at the end of seven years, at the time of the Shemitta year" (Devarim 31:10).

The root "sh-m-t" occurs only in connection with the two mitzvot under discussion, but it would seem that it refers to two different objects. Likewise, concern for the poor and the impoverished serves as the reason for several other mitzvot in the Torah.

A number of fundamental differences would seem to point to a lack of connection between the two mitzvot:

- i. The mitzva of Shemitta concerning monetary matters is not related to or dependent on the land, but rather an obligation that pertains to the individual and applies whether he is in Eretz Yisrael or elsewhere.
- ii. According to halakha, Shemitta of money does not apply at exactly the same time as Shemitta of the land: the latter applies throughout the seventh year, while the former applies at a specific point in time – the conclusion of the seventh year. Thus Chazal understood the indication of timing in the verse, "at the END of seven years." In any event, the practical significance of Shemitta of debts is actually felt during the eighth year (which is the first year of the next seven-year cycle).

This difference concerns not only the timing of the two mitzvot, but also their fundamentally different character: in one, the individual is prevented from engaging in any agricultural work, like a sort of "day of Shabbat" that lasts an entire year – "Shabbat of the land." The other involves a comprehensive cancellation of all debts among Am Yisrael, occurring at one specific moment every seven years. The cancellation of debts would seem to belong more logically in the Yovel (Jubilee) year, when slaves are freed and fields return to their original owners. Nevertheless, the Torah sees fit to command the cancellation of debts every seven years (while the Yovel year contains no such command, other than insofar as it is the "eighth" year, at the beginning of which debts are canceled because of the seventh year which precedes it), while slaves and fields are freed only once in fifty years.

## II. IS SHEMITTA OF LOANS DEPENDENT ON YOVEL OR ON SHEMITTA OF THE LAND?

Indeed, according to the Rambam and certain other Rishonim, the mitzva of shemittat kesafim (Shemitta pertaining to monetary matters) is related to Yovel:

"The mitzva of shemittat kesafim is required by the Torah in the seventh year only at a time when the Yovel is observed, for Yovel too involves the Shemitta of land since the land returns to its owners with no monetary exchange... but according to our Sages shemittat kesafim applies in our time regardless, even though the Yovel is not observed, in order that the custom of canceling debts not be forgotten from Israel." (Laws of Shemitta and Yovel 9:2-3)

The source for the Rambam's ruling is to be found in a famous beraita (Gittin 36a):

"We learn: Rabbi said, 'This is the manner of the release: he shall release...' – the Torah is speaking of two separate shemittot. One is the Shemitta of the land, and the other is the Shemitta pertaining to monetary matters. At the time when you release the land, you also release debts. At a time when you do not release the land, you do not cancel debts."

The Rambam understand the phrase "release land" as meaning "returning the land to its owners with no monetary exchange." In other words, he takes the phrase in a non-literal manner as indicating Yovel rather than shemittat karkaot.

Rashi, however, understands this beraita differently:

"'At a time when you do not release the land' – such as in our time, when the sanctity of the land is canceled – 'you do not cancel debts' – even though the cancellation of debts is an obligation on the individual, and is not dependent on the land, we learn from the comparison [to shemittat karkaot] that it does not apply today."

Thus, Rashi perceives a connection between the release of the land (letting it lie fallow) IN THE SEVENTH YEAR – which, in his opinion, no longer applies following the destruction of the Temple since the sanctity of the land is canceled – and the release of debts. It seems that our parasha concentrates only on one new law concerning the Shemitta year – a law not mentioned previously in the Torah. But this new law is ultimately one of the laws of the Shemitta year, and therefore its heading in the parasha hints to the fact that when the Shemitta year is not actually observed, then this law of canceling debts is likewise not observed, since this detail is bound up with the entirety of the Shemitta laws, even though it is an obligation that pertains to the individual.

This perception forces us to return to our consideration of the connection between shemittat kesafim and shemittat karkaot in the seventh year, since a qualitative connection is indeed hinted at here.

III. WHY DOES SHEMITTA OF LOANS OCCUR AT THE TIME OF SHEMITTA OF THE LAND?

The clarification of this connection draws our attention to the fact that the Torah is addressing an agricultural nation. If a loan is taken by someone who works the land, how and when must it be returned? Obviously, when he reaps his harvest and gathers his crops. In other words, only at the end of the agricultural year or, at any rate, only during its second half, will the farmer be able to repay the loan. But what happens to the Israelite farmer who from working the land during the seventh year? He reaches the end of this year without having reaped any harvest – how, then, will he repay his debt?!

Shemittat kesafim at the CONCLUSION of the seventh year is therefore an inevitable consequence of the laws of letting the land lie fallow throughout the entire seventh year. The problem repaying debts is a problem that actually relates to the eighth year, since the borrowing farmer has no harvest from which he is able to return the loan. At the beginning of the seventh year no such problem exists, since the harvest of the sixth year is still available to the farmer and he can use that for repaying a debt. (During the course of the seventh year itself, it seems, the poor and the wealthy were nourished alike from the produce that grew in everyone's fields, for these were declared "hefker," ownerless, as the verse teaches, "that the poor of your nation may eat...")

Thus we can understand the date for shemittat kesafim – it occurs at the transition from the seventh year to the eighth. We can also understand the dependence of shemittat kesafim on the Shemitta of the land, even though the latter is an obligation on the individual that is not in itself dependent on the land. When the Shemitta of the land is not observed, there is no need for this protection for a borrowing farmer, for during the seventh year he will be sowing and reaping as usual, and will therefore be able to repay his debts.

Does this qualitative connection (in which the Shemitta of the land in the seventh year represents a REASON for shemittat kesafim that comes at its conclusion) have any substantiation in the text? Rabbeinu Yosef Bekhor Shor, a medieval Ashkenazi biblical commentator, finds explicit expression for the connection between the two shemittot further on in the parasha, where the reason for shemittat kesafim is given as follows: "He shall not demand it of his neighbor or of his brother, FOR HE HAS DECLARED A SHEMITTA UNTO GOD." Who is the subject of the latter phrase? R. Yosef Bekhor Shor explains that the subject is the same as that mentioned in the previous verse - the debtor's neighbor and brother:

"For he – HIS BROTHER – has declared a Shemitta – of his FIELDS – for the sake of heaven, and THEREFORE HE HAS NO MEANS TO REPAY THE DEBT!"

In other words, the creditor shall not demand repayment because THE DEBTOR has declared shemitta. Bekhor Shor interprets the continuation of the text accordingly:

"'You may demand it of a gentile' – for a gentile is sowing and reaping and gathering (as usual) AND IS ABLE TO REPAY. But your brother did not plough or sow or reap, and so how can he repay?"

#### IV. CANCELLATION OF DEBT OR POSTPONEMENT OF REPAYMENT?

This connection between Shemitta of the land in the seventh year which represents the reason, and shemittat kesafim at the end of that year which represents the result, gives rise to the following difficulty: why is there a need for complete cancellation of the debt at the end of the seventh year? The reason for the debtor's inability to repay his debt – the fact that he has refrained from all agricultural activity during the seventh year – is a temporary one, and it is entirely possible that when he comes to reap his harvest and gather his crops during the second half of the eighth year, he will recover financially and will in fact be able to repay his debt. From the point of view of the reason for shemittat kesafim, it would be sufficient for the Torah to mandate a postponement of repayment until such time as the debtor is able to earn again.

Let us explore the answer to this via two verses which are subject to differing interpretation:

"And this is the manner of the release: every creditor who has lent to his neighbor shall release it (shamot kol ba'al masheh yado asher yasheh be-re'ehu); he shall not demand it of his neighbor... But that which is between you and your brother you shall release." (15:2-3)

These are difficult verses from the point of view of composition analysis. According to the "te'amim" (punctuation/cantillation) and vowing, the word "masheh" is linked to "yado," meaning that every creditor should release "masheh-yado," i.e. his loan. It is therefore possible to understand (although this is not the only possible interpretation) that the creditor is commanded to relinquish the loan or to forgive it.

But Rashi does not understand verse 2 thus. He connects the word "masheh" not the following word but to the previous lone, rendering the meaning, "Every creditor should release his hand." (This interpretation does in fact contradict the punctuation of the verse.) The significance of Rashi's interpretation is that the command "release" refers to the HAND of the creditor, i.e. he should not lift his hand and demand repayment of the debt. This does not imply cancellation of the debt, but rather the act of collecting the loan is prohibited. It should be remembered, however, that nothing has been said concerning the time period during which the act of collecting is being forbidden.

Let us summarize Rashi's approach. According to his understanding of the beraita mentioned above, shemittat kesafim is connected to the Shemitta of land in the seventh year, and this connection testifies to a different understanding of shemittat kesafim. It means not a complete cancellation of debt, which is a category of the laws of Yovel, but rather an easing up on the farmer who observed the laws of the "Shabbat of the land" and is therefore unable to return his debt at the end of the seventh year or at the beginning of the eighth. According to this perception there is no need for a law comprehensively canceling debts. Indeed, from Rashi's explanation it appears possible that shemittat kesafim refers not to a cancellation of the debt,

but rather to the prohibition of collecting it, which applies to the creditor. This prohibition applies from the moment when the seventh year ends – "at the end of seven years" - and it continues throughout the eighth. Until which point?

## V. THE SEFER YEREIM'S NOVEL UNDERSTANDING

R. Eliezer of Metz, a student of Rabbeinu Tam, writes as follows in the old edition of his work on the mitzvot, "Sefer Ha-Yere'im:"

"It appears to me that Shemitta does not mean a forgiving (of loans). Rather, the Holy One commands that one 'let lie' – i.e., to leave it alone, not to demand it, UNTIL HE RETURNS IT OF HIS OWN ACCORD, as it is written, 'let it lie' and 'he shall not demand it.' For whenever the Torah uses the word 'Shemitta' it means to 'leave alone,' not to relinquish altogether. As it is written [regarding the land], 'And the seventh year it shall be left and lie fallow' – meaning, you shall leave it alone.

Thus a loan always has the condition that the debtor not keep him (the creditor) waiting forever for repayment from his storehouse. If he does so, then he is termed an 'evil debtor,' as in the verse, 'The evil debtor does not pay back' (Tehillim 37:21)."

According to the above view, the postponement of the repayment of the loan begins, obviously, at the end of the seventh year, as set down in the halakha, and continues UNTIL THE DEBTOR REPAYS THE DEBT OF HIS OWN ACCORD. When does this occur? From the legal point of view, the debtor must repay his loan the moment he has available assets (money, produce). But after the end of the seventh year, the creditor cannot force him in this regard, since the loan has passed the "critical moment" from which time the creditor is forbidden to collect. However, from a moral point of view, if the debtor fails to return the loan when it is possible for him to do so, he is a sinner and is termed an "evil debtor."

The difficulty in this interpretation lies in the creditor's inability to force the debtor to return the loan. But attention should be paid to the fact that a debtor who has the means to repay and fails to do so is generally unable to hide this fact. Therefore the moral requirement that he not show ingratitude and be counted in the category of "evil debtors" creates social pressure which in turn leads to a reasonable chance of having the loan repaid.

Although this innovative teaching does not appear in the later edition of Sefer Ha-Yere'im (he seems to have changed his mind), we may still adopt it and defend it. There are several points which recommend the Yere'im's original interpretation, among which are:

i. This teaching fits in with Rashi's interpretation both of the Talmud (his explanation of the beraita of Rabbi on Gittin 36a, as well his interpretation of the words of Rabba – Gittin 37b) and of the verse in our parasha, "Every creditor who has lent to his neighbor shall release it."

ii. This explanation also sits well with the literal meaning of the mishnayot at the end of Massekhet Shevi'it, dealing with repayment of loans which have continued beyond the seventh year, and the explanations of the Amoraim in the Talmud Yerushalmi and Bavli on these mishnayot. If the end of the seventh year indeed cancels debts altogether, it is hard to understand these mishnayot. (See also the mishna commentary Mishna Rishona, who for this reason arrived at the Yere'im's novel conclusion.) It would seem that just as different views are prevalent among the Rishonim with regard to the mitzva of shemittat kesafim, likewise different perceptions may be detected in the Talmudic sources.

iii. This innovation also suits the literal meaning of the text, as the Yere'im himself asserts. It was based on the literal meaning of the text that the Yere'im arrived at his teaching, and the teaching remains valid at this level (i.e. peshuto shel Mikra but not practical halakha) even if its author later went back on it.

(Translated by Kaeren Fish)

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