



*Shemitta and Yovel*  
by David Silverberg

Parashat Behar deals mainly with the two *mitzvot* of *shemitta* and *yovel*, and other laws that stem from, or otherwise relate to, these commandments. After briefly introducing and explaining these concepts, we will present Maimonides' approach to their underlying reason and function, and contrast his position with that of other famous thinkers. In conclusion, we will explain and clarify the status of these obligations nowadays in light of the relevant passages in Maimonides' *Code*.

Without elaborating on the etymology of the word *shemitta* in detail, we will loosely translate the term to mean, "letting go" or "withdrawal." The opening verses of Parashat Behar (25:1-7) require the nationwide observance of a year of agricultural "*shemitta*" once in seven years. During this year, a farmer is forbidden from sowing, pruning and large-scale harvesting. Moreover, its produce must be made available for public consumption: "The [fruit of] the land's sabbath shall be for you to eat – you, your male and female servants, the hired and bound laborers who live with you, and your cattle and beasts in your land may eat all its yield" (25:6-7). The term *shemitta*, by which this mitzva is commonly known, is derived from the formulation used in an earlier Scriptural reference to this law, in the Book of Shemot (23:10-11): "Six years shall you sow your land and gather in its yield; but in the seventh you shall let it rest [*tishmetena*'] and lie fallow, [so that] the needy among your people eat from it, and the rest – the beasts of the field shall eat." Later in the Torah, in the Book of Devarim (15:1-2), the Torah introduces another obligation of the *shemitta* year – the remission of debts. The year of *shemitta* effectively cancels all debts, and thus creditors are forbidden from claiming owed money after *shemitta*. In halakhic literature, the agricultural laws of *shemitta* are referred to as *shemitat karka*, whereas the remission of debts on this year is termed *shemitat kesafim*.

Returning to Parashat Behar, the discussion concerning *shemitta* is followed by the laws of *yovel*, commonly known as the "jubilee" year. Every fiftieth year, or the year following every seventh *shemitta* year, a shofar is sounded throughout the Land of Israel, and the nation is to "proclaim liberty throughout the land for all its inhabitants" (25:10). More specifically, all indentured Israelite servants must be freed, and all land purchased since the previous *yovel* is returned to its original owner. In addition, the agricultural laws of *shemitta* apply once again during the *yovel* year, such that no agricultural activity is permitted during the forty-ninth and fiftieth year of every *yovel* cycle. Much of the remainder of Parashat Behar discusses how these laws of *yovel* affect the pricing of land and servants. The institution of *yovel* renders all purchases of land and servants temporary, and therefore their price must be determined based on the number of years remaining until the jubilee, at which point the purchaser loses his servant or land.

### ***Shemitta and Yovel in the Guide for the Perplexed***

In the third section of his *Guide for the Perplexed* (chapter 39), Maimonides combines all the aforementioned laws of *shemitta* and *yovel* into a single group of commandments aimed at ensuring the welfare of either the nation at large or the underprivileged population:

As to the precepts enumerated in the laws concerning *shemitta* and *yovel*, some of them imply sympathy with our fellow-men, and promote the well-being of mankind; for in reference to these precepts it is stated in the Law, "That the poor of thy people may eat" (Shemot 23:11); and besides, the land will also increase



its produce and improve when it remains fallow for some time. Other precepts of this class prescribe kindness to servants and to the poor, by renouncing all claims to debts [in the *shemitta* year], and relieving the slaves of their bondage [in the seventh year]. There are some precepts in this class that serve to secure for the people a permanent source of maintenance and support by providing that the land should remain the permanent property of its owners, and that it not be sold... In this way the property of a person remains intact for him and his heirs, and he can only enjoy the produce thereof.

According to Maimonides, *shemitat karka* – the agricultural laws of *shemitta* – are intended to allow the poor unlimited access to all the land's produce once in seven years, and to preserve the land's strength and ability to yield produce. The remission of debts likewise assists debtors who might be unable to repay their loans. The freeing of servants on the jubilee ensures that no Jew will remain permanently in the service of another, and the return of purchased lands effectively guarantees even the impoverished among the nation some possession of land to keep and pass to their heirs. Thus, all these laws combine into a single framework intended to ensure all members of the nation a modicum of financial viability. While the Torah certainly does not discourage agricultural or commercial activity, it imposes certain limits on economic competition to ensure that the needs of even the less successful are cared for.

Maimonides' position stands in stark contrast to the approach taken by many other writers, who view at least some of these laws as serving a theological, rather than humanitarian, purpose. Let us begin with the agricultural prohibitions of *shemitta*. The *Sefer Ha-chinukh* (84) indeed mentions the benevolence and goodwill engendered by the *shemitta* laws, which somewhat resembles Maimonides' approach, but presents this explanation as but a secondary function of this mitzva. The primary concept, he explains, involves the emphasis on the principle of *chiddush ha-olam*, God's creation of the world. Just as the weekly observance of Shabbat serves to remind us that God created the world in six days, as opposed to the Aristotelian belief that the world had always existed, so does the "year of rest," if you will, reinforce our conviction in this regard. In addition, the *Sefer Ha-chinukh* mentions the value of the *shemitta* laws in bolstering one's faith and trust in the Almighty's grace. By demanding that a person abstain from agricultural work for an entire year, the Torah trains him to place his trust in God, rather than in his own efforts and initiatives.

Rabbi Isaac Arama, author of the classic commentary, *Akeidat Yitzchak*, views these laws as "windows to open blinded eyes which are entrenched in the illusions of the time." Constant engagement in financially gainful pursuits gradually leads a person to place inordinate emphasis on the intrinsic worth of these pursuits and afford them primacy in his scale of values and ideals. The accumulation of wealth can easily become an independent objective, rather than but a means to facilitate far loftier and more meaningful achievements. The Torah thus requires one to withdraw from his agricultural work once in seven years to redirect his focus onto the more significant areas of life. In a similar vein, Ibn Ezra (Devarim 31:10-12) and Seforno (Vayikra 25:2,4) explain *shemitta* as allowing farmers the opportunity to spend a year intensively involved in more spiritual and meaningful endeavors.

All these approaches share in common the general perspective that *shemitta* serves a spiritual function, reinforcing certain religious qualities or beliefs. Maimonides, by contrast, approaches *shemitta* as essentially utilitarian in nature, aimed at alleviating the plight of the disadvantaged.

With regard to *yovel*, too, we find other explanations that view it in light of theological messages it seeks to convey. *Sefer Ha-chinuch* speaks of the necessary reminder that all land and people belong to God: the return of purchased lands and release of indentured servants sets limits on a person's sense of ownership and control, thereby engendering his humble submission to divine authority. Don Isaac Abarbanel describes the jubilee year as a commemoration of the divine revelation at Sinai, which occurred fifty days after the Exodus from Egypt. Again, Maimonides approaches the laws of the jubilee with an emphasis on the ideals of social justice and concern for the underprivileged, rather than fundamental theological beliefs and outlooks.

### "Shabbat for the Lord"

As Maimonides himself notes, his approach is supported by the Torah's brief description of *shemitta* in the Book of Shemot, as cited earlier: "Six years shall you sow your land and gather in its yield; but in the seventh you shall let it rest [*tishmetena*] and lie fallow, [so that] the needy among your people eat from it, and the rest – the beasts of the field shall eat." These verses strongly suggest that the objective of *shemitta* is for landowners to relinquish their exclusive claims to their fields so as to allow the poor open access to their produce.

However, the Torah's presentation in Parashat Behar omits any reference to a humanitarian objective. Quite to the contrary, the Torah here describes the *shemitta* year as a *Shabbat le-Hashem* – a "Sabbath to the Lord." The 19<sup>th</sup>-century Rabbi Naftali Zvi Yehuda Berlin (the "Netziv"), in his commentary, *Ha'amek Davar*, interprets this verse as specifically intended to negate Maimonides' theory that *shemitta* is intended – at least in part – to revitalize the soil. According to the *Ha'amek Davar*, the Torah emphasizes that the observance of *shemitta* must be conducted *le-Hashem* – specifically for God's honor, rather than for the nation's own agricultural well-being. Whether or not one accepts this interpretation of the verse, the description of *Shabbat le-Hashem* certainly suggests an inherently spiritual dimension to *shemitta*. Rashi, based on *Torat Kohanim*, notes that in the Ten Commandments the day of Shabbat is likewise described as a "Sabbath to the Lord." This parallel appears to point in the direction of the other writers, who understood *shemitta* as a yearlong "Shabbat" of sorts, aimed at conveying the same themes signified by the weekly Shabbat in a particularly intense form once in seven years. Indeed, the early 20<sup>th</sup>-century work *Pardes Yosef*, by Rabbi Yosef Patzanavasky, poses this difficulty against Maimonides' position.

Maimonides does not address the Torah's description of *shemitta* as a "sabbath to the Lord," but we might venture to suggest that this description refers to *shemitta*'s method of occurrence, rather than essential purpose. Without addressing Maimonides' approach, Rabbi Meir Simcha Ha-kohen, in his *Meshekh Chokhma*, interprets "*shabbat le-Hashem*" as intended to compare *shemitta* with the weekly Shabbat in terms of its unconditional and transcendent mode of occurrence. No individual or group of individuals plays any role in determining the onset of Shabbat; it takes effect as the sun sets Friday afternoon, regardless of any human proclamation or decision. In this respect, Shabbat differs from *Yamim Tovim* (festivals), which occur on specific calendar dates. Since the Sanhedrin (supreme rabbinic court) is charged with declaring the beginning of a new month (based on the sighting of the new moon), it plays a crucial role in determining the occurrence of the festivals. By describing *shemitta* as a "sabbath to the Lord," the *Meshekh Chokhma* suggests, the Torah indicates that *shemitta* belongs to the "Shabbat" category; its laws take effect independent of any human involvement. Thus, the term *shabbat le-Hashem* refers not to the purpose of *shemitta*, but rather to its purely divine implementation, which does not depend at all on any decision made by man.



Interestingly, the *Meshekh Chokhma* distinguishes in this regard between *shemitta* and *yovel*, in light of a halakha codified by Maimonides, subjecting the application of the *yovel* laws to various conditions. In *Hilkhot Shemita Ve-yovel* (10:13), Maimonides writes, based on the Talmud (Rosh Hashanah 9b), that the agricultural prohibitions take effect during the jubilee year only if *Benei Yisrael* abide by *yovel's* other laws – the sounding of the shofar and the release of indentured servants. The *Meshekh Chokhma* detects within these conditions a fundamental distinction between *shemitta* and *yovel* corresponding to the basic difference described above between Shabbat and Yom Tov. Unlike *shemitta*, which, like Shabbat, occurs independent of human action, *yovel* – like Yom Tov – requires the active participation of *Benei Yisrael* in order to take effect. The *Meshekh Chokhma* finds an indication to this effect in the Torah itself, which commands, "You shall sanctify the fiftieth year" (25:10). This imperative appears to entail not merely observance of the jubilee laws, but also active involvement in the jubilee year's attainment of its unique status.

In any event, the *Meshekh Chokhma's* interpretation of *shabbat le-Hashem* effectively renders this expression irrelevant as far as our discussion is concerned. It in no way reflects the underlying purpose of *shemitta*, but rather describes God's exclusive and independent role in determining its application. Hence, it poses no difficulty with regard to Maimonides' view, that the *shemitta* laws are intended for the welfare of society, rather than to reinforce theological beliefs or spiritual qualities.

### Other Difficulties

We find in earlier sources other challenges raised against Maimonides' position. Abarbanel and *Akeidat Yitzchak* assail Maimonides' theory that the *shemitta* laws improve the ground's capacity for production. Later in the Book of Vayikra (chapter 26), the Torah presents a graphic description of the calamities that God warns will befall *Benei Yisrael* for their neglect of the commandments, culminating with their banishment from their land. Particular emphasis is placed in this context on the neglect of the *shemitta* laws: "Then shall the land make up its sabbatical years throughout the time that it is desolate and you are in your enemies' land; then shall the land rest and make up its sabbatical years" (26:34; see also verses 35, 43). Why, Abarbanel and *Akeidat Yitzchak* ask, does God punish the nation's neglect of *shemitta* so severely? If, as Maimonides asserts, the soil becomes unproductive as a result of incessant cultivation, then punishment for violating these laws should be direct and automatic: the land should cease producing its yield.

Two simple clarifications of Maimonides' comments could perhaps resolve this difficulty. For one thing, Maimonides does not warn of any catastrophic consequences of continuous cultivation without periodic cessation. He rather writes, "the land will also increase its produce and improve when it remains fallow for some time." A sabbatical recess will enhance and increase production, but is not indispensable for agricultural success. But perhaps more importantly, Abarbanel and *Akeidat Yitzchak* cite Maimonides' theory out of context, as if he had presented the agricultural concern as the sole basis underlying the *shemitta* laws. Maimonides clearly invokes this theory as part of a broader approach to *shemitta* as serving to promote "sympathy for our fellow-men" and "the well-being of mankind." In a word, these laws involve the farmer's concern for the greater good, which includes taking measures to preserve the soil's productive capacity. Therefore, one who violates these laws displays a lack of concern for the nation's well being, and this transgression, when occurring on a large scale, perhaps does, indeed, render the nation worthy of exile.



We might suggest another, somewhat more creative, reading of Maimonides' remarks, one which would resolve yet another, perhaps more compelling, difficulty raised regarding his position. If the agricultural laws of *shemitta* serve to assist the disadvantaged by granting them an equal share of the nation's produce, then why would the Torah forbid sowing, planting and industrial harvesting during the *shemitta* year? During this year, the poor are afforded a unique opportunity to collect and partake of the land's produce; seemingly, then, farmers should be encouraged to increase production in any way possible, to maximize the benefit made available to the disadvantaged population by this rare opportunity of collective ownership over land.

It was this question, perhaps, that Maimonides seeks to implicitly answer through his brief remark regarding the agricultural advantages of a sabbatical year of inactivity. Anticipating this challenge, Maimonides comments that periodically letting the land lie fallow in any event enhances production, and the Torah therefore combined into a single year the unlimited accessibility to all produce and the soil's yearlong rest. Once the Torah saw it appropriate to require the farmer to relinquish ownership once in seven years to share his produce with the poor, it took into account as well the needs of the soil and instructed the farmer to discontinue agricultural work altogether during this year.

Rabbi Aharon Lichtenstein suggested a different explanation for why, according to Maimonides, the Torah forbade cultivation despite the unlimited accessibility to the land's produce granted to the poor during the *shemitta* year. Perhaps, Rabbi Lichtenstein claimed, the Torah here concerns itself with not only the economic plight of the underprivileged, but also with the emotional and social condition generally associated with financial hardship. Not only must the wealthy landowner relinquish exclusive rights to his produce, but he must also step down from his status as landowner. The *shemitta* year is to be a year of equality, of the obliteration of socioeconomic classes and scales. To that end, the Torah ordained that nobody own land during this period, and thus forbade all agricultural activity normally performed by a land's owner. In this way, the poor not only enjoy unlimited access to grain, but also no longer feel inferior to their wealthier kinsmen.

### ***Shemitta* and *Yovel* Nowadays**

In *Hilkhot Shemitta Ve-yovel* (4:25), Maimonides writes explicitly that the obligations of *shemitta* apply regardless of the presence of the *Beit Ha-mikdash* (Temple); these laws remain in force even after the Temple's destruction. Rabbi Yosef Karo, in his classic commentary to Maimonides' *Code*, *Kessef Mishneh*, takes this ruling to mean that the Torah obligations of *shemitta* are in effect even nowadays. On this basis, the *Kessef Mishneh* questions Maimonides' ruling later, in chapter 10, amidst his discussion of the laws of *yovel*. Based on Talmudic sources, Maimonides codifies the condition that the majority of the Jewish people live in *Eretz Yisrael* arranged by tribe; only under such circumstances does the obligation of *yovel* take effect. Maimonides then proceeds to list numerous other laws – including those of the *shemitta* year – that depend on the applicability of *yovel*, and thus do not take effect when conditions do not allow for the obligation of the *yovel* laws. He concludes (10:9), "but at times when *yovel* does not apply, none of these [laws] apply, with the exception of the seventh [year, *shemitta*,] in the Land [of Israel] and the cancellation of debts everywhere, [which apply] *mi-divreihem* [by force of rabbinic enactment]." In other words, even when circumstances render the jubilee year inapplicable, the laws of *shemitta* are practiced by force of rabbinic enactment. The Torah obligation of *shemitta* does not apply, since it hinges on the applicability of *yovel*, but the Sages



nevertheless required a commemorative observance of *shemitat karka* – the agricultural *shemitta* laws – in the Land of Israel, and *shemitat kesafim* – the remission of debts – in all locations.

Seemingly, the *Kessef Mishneh* asks, this ruling directly contradicts Maimonides' earlier ruling extending the Torah obligation of *shemitta* to the post-Temple era. How can he now relegate contemporary observance of *shemitta* to the level of a commemorative, rabbinically ordained practice, if the Torah obligation exists even in the absence of the *Beit Ha-mikdash*?

The *Kessef Mishneh* resolves this difficulty by suggesting a somewhat strained reading to the later passage. He suggests that when Maimonides describes the contemporary observance of *shemitta* as a rabbinic enactment, he refers only to *shemitat kesafim* – the remission of debts. The agricultural laws, however, apply at the level of Torah obligation even nowadays, as Maimonides ruled earlier, in chapter 4.

Most other scholars, however, suggest a far simpler and more compelling reading of Maimonides' rulings. The *Kessef Mishneh*, rather astonishingly, appears to have confused two different conditions: the presence of the Temple, and the presence of the majority of the Jewish people in *Eretz Yisrael*. In chapter 4, Maimonides explicitly establishes that the Torah obligation of *shemitta* does not depend on the Temple. In chapter 10, he writes that the *shemitta* obligation does depend on a different factor – the applicability of *yovel*, which is itself a function of the Jewish people's predominant presence in their homeland. These two factors are not identical. Maimonides himself (10:8) writes that *yovel* became inapplicable once the Transjordanian Israelite tribes of Reuven, Gad and Menashe were exiled by the Assyrian Empire, which occurred well before the destruction of the First Temple. The disruption of the proper settlement of *Eretz Yisrael* by the twelve tribes cancels *yovel* – and, by extension, *shemitta* – even if the Temple stands. Conversely, the laws of *shemitta* and *yovel* would remain intact if the tribes of Israel reside in their land, even if the Temple lay in ruins.

Thus, when Maimonides asserts that *shemitta* nowadays applies only by force of rabbinic enactment, he does so because *shemitta* depends upon the presence of the majority of Israel in its land, not because of the absence of a Temple in Jerusalem.

### **The State of Israel and *Heter Mekhira***

Ever since the process of the Jewish people's return to Zion began, a little over a century ago, the practical implications of the *shemitta* laws has constituted one of the most controversial halakhic issues confronting the Jewish population in Israel. Observant pioneering farmers appealed to the rabbinic leadership for guidance given the threat of economic ruin posed by their cessation of agricultural activity for an entire year. Some authorities, including the Chief Rabbi of Palestine under the British mandate, Rabbi Avraham Yitzchak Kook, allowed implementing a system commonly known as *heter mekhira*, whereby agricultural lands are formally sold to a gentile during the *shemitta* year. Although the halakhic sources leave room for some question as to whether such a sale cancels the *shemitta* prohibitions with regard to the sold property, the lower stature of contemporary *shemitta* – as a rabbinically mandated obligation – allows room for flexibility, particularly given the grave economic threat involved. In addition, one view among the Medieval authorities, that of Rabbenu Zerachya Halevi (more commonly known as the *Ba'al Ha-maor*), claims that *shemitta* nowadays does not apply at all, even on the level of rabbinic enactment. According to some authorities, the gravity of the situation allows us to rely on this minority position.

Others, however, vehemently opposed the *heter mekhira*. Rabbi Yaakov David Willowsky of Tzefat strongly rejected this system and vigorously campaigned against Rabbi Kook's ruling.



Later, during the early years of the modern State of Israel, Rabbi Avraham Yeshaya Karelitz, known as the *Chazon Ish*, widely recognized as the leader of the Ashkenazic ultra-Orthodox community in Israel, likewise opposed the *heter mekhira*. This issue continues to divide halakhically observant Jews in Israel to this very day. While many feel that current conditions render practical *shemitta* observance impractical, others argue that the halakhic arguments on behalf of *heter mekhira* are simply too tenuous to accept.

In any event, the ideals underlying *shemitta* and *yovel*, as understood by Maimonides, most certainly continue to apply in modern times. We might say that these institutions represent the Torah's approach to balancing the practical benefits of free enterprise with the ideal of sympathy and sensitivity to the underprivileged. *Shemitta* and *yovel* may be perceived as a built-in system intended to limit cutthroat economic competition and see to it that the less fortunate are sustained. Moreover, as we have seen, it guarantees that at least once in seven years, a sense of equality is established between all members of society, thereby reminding us that economic status does not determine a person's intrinsic worth, and that ultimately, we are all but guests of God's earth, sharing the grain and produce that He generously provides to all mankind.