**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**THE PHILOSOPHY OF *SHEMITTA***

**By Rav Binyamin Zimmerman**

**Shiur #25: The *Melakhot* and the *Shabbaton* Spirit of the Man
and the Land**

**The Four *Melakhot***

After introducing *Parashat Behar* with the connection to Sinai, the Torah details the specific laws of *shemitta*. The focus of the passage is twofold: the restrictions on working the land during *shemitta*, and the laws regarding the produce grown during *shemitta*.

In regards to the prohibition of working the fields, a quick glance reveals that only four agricultural acts are explicitly prohibited in the Torah. However, a deeper look at the passage indicates a much broader calling for the seventh year. The Torah states:

When you come to the land which I shall give you, the land shall rest (*ve-shaveta ha-aretz*) a sabbath to God. Six years you may sow your field and six years you may prune your vineyard and gather in the produce. But in the seventh year the land shall have a sabbath of complete rest, a sabbath to God; you shall not sow your field nor prune your vineyard. You shall not reap the after-growth of your harvest nor gather the grapes of your untrimmed vines; it shall be a year of complete rest (*shenat shabbaton*) for the land. But the sabbath of the land (*shabbat ha-aretz*) shall be for you to eat, for you, and for your servant and for your maid, and for your hired servant and for the residents by your side that sojourn with you. (*Vayikra* 25:2-6)

Two of the four acts promote growth and two involve reaping produce in the normal manner. (Sowing and pruning promote growth in the fields, one for seed crops in the ground and the other for fruits in vineyards or orchards.)

Obviously, there are many agricultural activities beyond these four which make up the farmer's regimen, but they seem to be omitted. Could it be that they are actually permitted?

As we have seen, Rabbi Akiva understands a verse in *Parashat Mishpatim* (phrased as a positive command) to prohibit plowing prior to *shemitta*; presumably, plowing would certainly be prohibited during that year. However, what about all other acts? Could they really be permitted biblically?

The Talmud (*Mo’ed Katan* 3a) cites two opinions as to whether other agricultural activities are biblically prohibited during *shemitta* as well. Abbayei views the explicitly prohibited acts as general categories of prohibited farming which include other acts of promoting growth or normal harvesting. However, Rava, has a different approach:

Since pruning is a kind of sowing, and grape-gathering a kind of reaping, what law did the Merciful One desire to include by writing these [derivative acts]? To indicate that only for these derivative acts [specified in the text] is one [to be] held liable, and for [any] other [secondary process] one is not [to be] held liable.

Rava's understanding is that the Torah specifically records two primary actions (*avot*) and their derivatives (*toladot*) in the vineyard to indicate that the negative commandments of agricultural activity during *shemitta* only pertain to these specific four actions.

**The Rabbinical Restrictions**

At the same time, the Talmud there notes that a number of additional agricultural activities which share the same purpose of promoting agricultural growth are also prohibited rabbinically. The list includes watering the plants or seedlings, trimming or pruning dry branches of a tree to help it grow better, fertilizing the soil, cutting weeds, fumigating crops to kill insects, etc.

Although one might think that these rabbinic restrictions make the *shemitta* period unnecessarily burdensome when the Torah prohibits only four actions, the truth is very different. For at least three reasons, these sets of restrictions merely ensure that the spirit of the law is maintained alongside the letter of the law of *shemitta*. The reasons are the fact that these acts are permitted to be performed in situations of need, and although not included in a negative commandment explicitly prohibiting them, the Torah indicates in at least two separate ways the seventh is meant to be a year of refraining from normal agricultural processes, in order to ensure that one can devote the period for the spiritual and character growth that it allows for its adherents.

***Shabbaton***

One who reads the above notes that the Torah places a great deal of stress on the sabbatical nature of the seventh year. The root term for Shabbat is not only repeated seven times as this period is described as both a year of *shabbaton* and a *shabbat shabbaton.* What is added by this term *shabbaton*?

The Ramban discusses the use of the term *shabbaton* in the context of Shabbat and festivals in *Parashat Emor*. He notes that although there are numerous acts prohibited as *melakha* during these periods, nevertheless, the goal of these holy days is not merely to refrain from labor. He illustrates this by pointing out that one well-versed in Halakha can go about his regular weekday practices, deciding what to buy and sell, while refraining from placing an order or doing so through a non-Jew. *Shabbaton* denotes a period not of refraining from *melakha* but of ceasing one's normal activities, disconnecting from habitual labor for a day of mindfulness and purpose.

We are commanded by the Torah to rest … even from activities that do not constitute *melakha*, rather than exerting oneself the whole day… For laborers would arise early for work and hire themselves out for these and similar jobs as during the week... None of this involves *melakha*. The Torah therefore demands *shabbaton*, a day of cessation and rest, and not a day of exertion.

We may apply this principle of *shabbaton* to *shemitta* as well. Indeed, the Ramban goes on to note that the same formulation of *shabbaton* found in *Behar* expands the prohibitions of *shemitta* just as it does on Shabbat.

The Torah prohibits laboron Shabbat through a negative commandment punishable by excision and death and prohibits exertion and toil on Shabbat through this positive mitzva [of *shabbaton*]… similarly [regarding *shemitta*, the Torah states] "There shall be a *shabbat* *shabbaton* for the land" (*Vayikra* 25:4), a sabbath of rest, that one should not plow or work the field at all…

Rav A.Y. Kook (*Kuntres* *Acharon* 7) adds that the term *shabbaton* in reference to *shemitta* will have additional halakhicramifications as well:

The fact that there is no negative commandment prohibiting any field activities other than those explicitly mentioned in the Torah… only refers to instances in which someone would perform other agricultural activities on a non-constant basis; however, if one were to work the field on a constant basis as one does every other year, only refraining from those *melakhot* which are explicitly prohibited in the Torah, one would nevertheless violate the positive mitzva of *shevita*, which is a mitzva [explicit] in the Torah.

Rav Kook explains that there is clearly a positive commandment prohibiting normal field activity, and treating *shemitta* as any other agricultural year, even if one is not planting or harvesting. This mitzva ensures one maintains the spirit and grasps the unique message of *shemitta*.

With this in mind, the rabbinical restrictions of *shemitta* can be seen in a new light, and their halakhic leniencies become readily understood. The Ramban states that the positive command of *shabbaton* is also the mandate for the Sages to delineate the types of actions that detract from the spirit of the period. This type of rabbinical ban, known as *shevut*, though not specified by the Torah, fall under the general biblical positive mitzva of maintaining Shabbat's spirit. The same model apply to the rabbinic restrictions of *shemitta* as well. All the acts prohibited by the Sages are essentially mandated by the Torah's requirement that the seventh year be a period of *shabbaton.*

But if the basis for prohibition is really biblical, why does the Torah not specify these acts among the prohibited *melakhot*? Any *melakha* explicitly prohibited by the Torah is almost never permitted, barring extreme circumstances. On the other hand, rabbinical bans only fall in the parameters of the biblical prohibition when they detract from the spirit of the period, and therefore, the latitude is much greater. *Melakhot* are prohibited acts; the rabbinic restrictions during the seventh year are acts banned for a purpose, and therefore permitted when that goal is not compromised.

**The Permitted Circumstances**

Returning to *Mo’ed Katan*, we find that these rabbinic prohibitions are likewise limited in scope, not prohibited in cases of significant financial loss. According to Rashi, these acts are allowed in extenuating circumstances, but the Ritva indicates that only acts to stimulate growth were prohibited, while other acts were never included in the rabbinic prohibitions in the first place.

*Avoda Zara* (50b) is more explicit as to the criterion for permitting these actions, stating that no prohibition applies when preventing loss: “What is the underlying difference between *zihum* (treating a tree to protect it from worms) which is permitted and *gizum* (cutting dry branches) which is prohibited?”

The Talmud answers:

*Zihum* is done to preserve the tree and is therefore permitted, whereas *gizum* is done to strengthen the tree and is therefore prohibited.

Based on this, one would be permitted to remove weeds, water plants, mow the grass, etc. whenever the field or garden would otherwise be ruined. This is because *shemitta*'s calling is to refrain from planting new items; upkeep of what already exists is permitted. Nevertheless, the halakhic authoritiesgenerally recommend limiting the permitted activities as much as possible. For example, if watering once a week is sufficient, most authorities would not allow watering twice a week. In addition, any activities that can be performed before the onset of *shemitta*, such as trimming trees, weeding, etc. should be taken care of then.

The Rambam (*Hilkhot Shemitta* 1:10) explains the rule thusly:

Why were all these activities allowed? For if he will not irrigate [the field], the land will become parched and all the plants in it will die. Since the prohibition against these activities and the like is rabbinical in origin, they did not impose their decrees in these instances. For according to biblical law, only the two primary categories and their two derivatives are prohibited, as explained.

The Rambam notes that the intention of the laws of *shemitta* was never that one not tend to the land at all, leaving all the crops to die. Not only would this ruin a person’s fields and possibly one’s permanent livelihood as well, but it would also destroy the beauty of the Land of Israel. *Shemitta* is a year of refraining from promoting new growth, allowing one to focus on maintaining what exists and tending to spiritual growth. The goal of the rabbinic additions is to ensure that the spirit of the law, *shabbaton*, be maintained.

***Ve-shaveta Ha-aretz***

So far we have seen how the Torah's description of the *shemitta* period as *Shabbat Ha-aretz* directly impacts the number of activities that are actually prohibited, as beyond the explicit *melakhot* the mitzva of *shabbaton* requires that one refrain from agricultural activity that will prevent all that *shemitta’*s disconnecting from one's field seeks to accomplish. However, there is another unique formulation in *Parashat Behar* which might not only radically expand the number of actions prohibited, but even call into question the nature of the prohibition.

 The Torah's formulation of the positive mitzva of agricultural rest during *shemitta* is ambiguous: is there a mitzva that man let the land rest or there is a mitzva requiring that the land itself rest? It seems to be the latter.

When you come to the land which I shall give you, the land shall rest (*ve-shaveta ha-aretz*) a sabbath to God... in the seventh year the land shall have a sabbath of complete rest, a sabbath to God… it shall be a year of complete rest for the land.

This question is not merely academic, as it has both legal and philosophicalramifications. If the land must rest, then even if man is not personally involved, there might be reason to prevent allowing plants to grow. However, the entire idea of a mitzva of rest incumbent upon the land should get one thinking: how can land fulfill such a command?

The idea of a land that rests from work is unique to *Eretz Yisrael*: only it is suitable for *mitzvot*. In contrast to other countries, *Eretz Yisrael* is not just a mass of dirt and rock. Rather, it is a living entity with a character and personality all its own. This is why biblically *Eretz Yisrael* is described as a living thing.

Rabbeinu Bachya (23:10) points out that there is a difference in the terminology concerning *shemitta* (“your land”) versus that of *yovel* (“the land”):

The Torah uses direct language when speaking about either the sabbatical day or year, whereas when speaking of the jubilee, it uses the third person, speaking in more general terms... Even the manner in which the Torah describes the abandoning of the land during *shemitta*, “you shall release it (*tishmetenna*) and let it lie fallow (*u-ntashtah*)" indicates that the land has ceased to belong to the farmer during that year. The relationship between us and the land during *shemitta* is that whereas we abandon **it, it** does not abandon us. The reason is that once again we will resume our activities upon it, demonstrating that it is ours. The same is not the case with the jubilee year, as many fields will return to owners who had previously been forced to sell them for one reason or another. It is therefore appropriate to speak of such land in the third person, i.e., not addressing a specific owner.

Rabbeinu Bachya's words indicate that although the farmer refrains from working "his" field for a year, he still will usually feel a sense of ownership over the land. The Torah's formulation recognizes man's connection to the land during *shemitta*, while at the same time restricting it and showing Who really is in control of the land.

**The Land or Man**

This balance of perspective on the land during *shemitta* needs to be properly defined. Is the land merely the object that man must refrain from working (and failure to do so is realized whenever the ground grows due to the act of man), or is the mitzva incumbent upon man, and man's obligation is to ensure that the land doesn't produce? Ibn Ezra refers to this question:

It is a mitzva upon the Jew not to allow a stranger to plant during the seventh year, the same way in which one must not let the stranger under one's control perform labor on Shabbat.

This understanding of the verse indicates that the land itself must rest, and man's obligation is to ensure that no one under his control works the land.

This question of whom the mitzva addresses, the man or the land (or both) is the subject of a dispute, partly dependent upon the proper understanding of a passage in tractate *Avoda Zara* (15a). The Talmud discusses the prohibition of *Shemot* 23:12 during the weekly Shabbat. Halakha states that beyond the prohibition to perform any of the 39 prohibited labors on Shabbat, the Jew must make sure that his animal rests as well, even if worked by a non-Jew.

The Talmud cryptically compares the mitzva of animal reston Shabbat with the mitzva of agricultural restduring *shemitta*. Tosafot Rid (and possibly Rashi as well) explain that the *laws* of *shemitta* require that a Jew’s field rest, and it is not sufficient that man refrain personally from working the land. Tosafot and others, however, explain the passage differently, without employing the radical idea that Jewish land must rest.

Rav Kook illustrates the significance of this question thusly:

Some say that even if a non-Jew works in a Jew’s field, the Jew is considered to be violating the commandment of the land’s sabbath… since the Torah associated the sabbath with the land, as is stated, **“**The land shall rest a sabbath to God.**”** Whether it is a Jew or a non-Jew who labors to cultivate the land, therefore, does not matter… Others, meanwhile, take the position that one may allow his land to be cultivated by a non-Jew.

If one could imagine that the mitzva is not only incumbent upon one's own personal soil but even that of others (and maybe even non-Jews), then the entire basis for permitting the agricultural development of land when sold to non-Jews would be voided, as one must make sure that even non-Jews do not work the soil of the land of Israel during *shemitta*.

The Minchat Chinnukh points out a number of practical ramifications for this question: Is it permissible to plant prior to *shemitta* if the seeds will take root during *shemitta*? May one hire non-Jewish workers to cultivate a field during *shemitta*? Is one permitted to use a pre-programmed watering system?

An interesting ramification of this debate was discussed not so long ago when the idea arose of planting through a *gerama* device, a mechanism which splits the result from the individual’s action by employing a separate microprocessor.

Although the Arukh Ha-shulchan (He-atid, 19:6) allow for *melakha* performed through *gerama* during *shemitta*, Rav Tzvi Pesach Frank (*Har Tzvi, Zera’im* II, 32–34) prohibits it, because this violates the land’s sabbath:

Even if you say that *gerama* is not included in the negative commandment [of “you shall not sow”] because the Torah forbids [only] the act of planting, and here he is merely the indirect cause [of planting], one can still claim that it violates the positive commandment of “*ve-shaveta ha-aretz*,” even though it is only the indirect cause [of planting]… For one is required to ensure that his field rests, so that even if he is only the indirect cause of his land being worked… he has not fulfilled the positive commandment of “*ve-shaveta ha-aretz*.”

However, both understandings may be true, as may emerge from an apparent contradiction in the Rambam's formulation of this mitzva. In his introduction to *Hilkhot* *Shemitta,* he formulates the mitzva:

The land should rest during the seventh year from its *melakha.*

In the laws, however, he states (*ibid*. 1:1):

There is a positive commandment to rest from working the land and working the trees during the seventh year, as it says: "*Ve-shaveta ha-aretz…”*

The simplest explanation of the Rambam’s view is that both ideas are indeed correct. The Rambam in his introduction often formulates the nature of a particular mitzva. The mitzva is in fact that the land rest; however, that mitzva is accomplished by man ensuring that no work is done in the field. In essence, *shemitta* calls for a partnership between man and the land.

Interestingly, *Parashat Behar* indicates that all the negative *mitzvot* (not to sow, prune, etc.), clearly focus on people's obligations, and it is only with regard to the positive mitzva that the Torah focuses on the land.

In truth, there is a similar question that is applicable to almost all aspects of *shemitta*, and that is whether the laws described in the Torah are expressions of the situation that is supposed to exist or the Torah is instructing man what he must do. In [Lesson #19](http://etzion.org.il/en/shiur-19-tishmetenna-u-ntashtah-%E2%80%93-relinquishing-ownership-produce) we discussed a similar question in reference to the obligation of *hefker*, releasing ownership of the produce of one's field, during *shemitta*. There are two common understandings provided of the *hefker* obligation, which might be dependent on whether the obligation is *afkata de-gavra*, a mitzva that falls upon each person to actively declare his *shemitta* produce ownerless, or *afkata de-malka*, requiring one to actively recognize that God has repudiated all private ownership of produce during *shemitta*. A similar question is asked regarding the agricultural *shemitta* of financial *shemitta*: does the Torah cancel the rights of collection for all loans no matter whether the lender is interested or not, or is it the obligation of a lender to cancel the loan?

Despite the similarity to other questions, in this case there is definitely an added aspect to the possible obligation upon the land. *Shabbat ha-aretz* defines what may be done to the land and also demands that man ensure that the land rests and recognize its unique character. *Shemitta* is not only *Shabbat ha-aretz* but also a period with a unique spirit, a *shabbaton* which can uplift man. Beyond its unique prohibited actions, *shemitta* allows one to take a bird's-eye view, refraining from promoting growth and expressing ownership over one's lot in order to connect with God and reshape one's life according to the messages we have seen in the past.