

Behar Davar Torah – May 21, 2022

By Dan Caine

Near the beginning of our parasha, we have the following commandment: “When you will come to the land that I am giving you, then the land shall have a Sabbath for the Lord.” [Leviticus 25:1]. The parasha describes several practices of remission, of economic pause. Today, let’s consider what these practices are, what the effect of these would be if put into practice, how these practices have been implemented historically, and what we might take away from them today.

First, what are the practices that are described? The first practice is a Sabbath for the land: every seventh year, agricultural land was not to be cultivated. It is worth noting at the outset that shmita did not apply to urban land. Second, there is the jubilee, every 50th year, a reversion of agricultural land to its original owners. Third, we are commanded to redeem any of our relatives who may have indentured or enslaved themselves to non-Israelite people. The redeemed individual, in turn, must pay back the cost of the redemption over the number of years remaining to the jubilee year, if they can. And, fourth, if no one redeems them, they go free in the jubilee year.

So these are the rules. It is always fun to think about the historicity of the bible. So: were these rules ever implemented? One way to think about this is to ask how likely it is that they *could* have been implemented. Our present age, and especially the past couple of months, have clearly shown us that economists are not gods, so perhaps it should not surprise us to learn that God is not an economist.

Let’s look first at the shmita, which literally means “release.” Our parasha explains that you may not harvest or cultivate the land, but you may gather what grows there naturally. But also, you have to leave, from this natural growth, food for servants, visitors, and domestic and wild animals. Also, God promises that the land will yield enough produce in the sixth year to cover the sixth, seventh, and eighth years. Why the eighth? Because during the seventh, there was no cultivation, so there would be no harvest in the eighth year, either.

If this were implemented in a post-biblical world, where God is not so much in the picture day-to-day, even assuming you did get a bumper crop in year 6, how do you keep it from spoiling? I don’t know.

Also, since anyone may glean your crop, how do you keep the meanest SOB in the valley from gleaning it all for themselves? This issue concerned the rabbis of the Talmud as well, and they created a system of rules to provide an orderly and equitable process. For example, one was permitted only to take enough to feed oneself and one’s family. This system works perfectly -- as long as everyone is observing these rules.

There is also the issue of quantity. Presumably, the uncultivated growth would not yield as much as would be generated if the land were tended, weeded, de-bugged, and so forth. So the total available to the community would just be less. How would everyone be fed?

How about yovel, the jubilee, the reversion of agricultural land every 50th year? By the way, this is probably based on the assumption, which is spelled out in Deuteronomy, that each Israelite would be given a plot of land in Canaan. In a practical world, this would be a little bit like Groundhog Day or Russian Doll. However far you may roam, you wake up on day 1 of year 50, and you're back in your original plot of land.

The rule basically means you cannot sell your land even if you want to. In normal course, as your family grows, you might buy the neighbors' land, and the neighbors would move to new land. This cannot happen. If there are 10 years remaining to the jubilee, and you sell the land, you basically can only sell it for the equivalent of 10 years rent, and then you are back at square 1. As an aside, if all the land was originally divided up among everybody, what would happen when the population increased?

And what about the rule relating to redemption at the 50th year of enslaved Israelites? (Parenthetically, this rule does not apply to non-Israelites. One was allowed to keep non-Israelite slaves indefinitely. This may be a topic for next year's drash on Behar.) One thing to observe is that yovel applied every 50 years. It depends a bit what we are assuming about lifespan in this era, but one must ask: how many people who were enslaved in year 2 would ever be freed?

Also, there is no clear specification as to which relative is the one that is obligated to step forward. One could easily imagine relatives bickering among themselves as to which one should assume the obligation to redeem the lazy nogoodnick who indentured himself.

So, all in all, one must ask how practical it would have been to implement these commandments.

What do we know about whether and how they were actually implemented?

The answer is that, not surprisingly, and Talmudic exegesis notwithstanding, there is no historical evidence that shmita or yovel were ever followed in biblical or postbiblical times.

How did observant Jews in Palestine avoid such a clear commandment? We got off to a good start with creative interpretation of the introductory phrase, which is, "when you come to the land that I am giving you." So the requirement was held to apply *only* to land in Palestine, and guess where Jews lived? Overwhelmingly, *not* in Palestine. So, even to observant Jews, shmita was not an issue until Jews returned to Palestine in the 1880s. When Jews in Palestine were confronted with the obligation to observe shmita, what did they do? They created a workaround. Called "heter mekhira," or sale permit, it enabled the land to be sold to an Arab for the shmita year, after which it reverted to the observant Jew.

This workaround was created by a Russian rabbi named Rabbi Yitzchak Elchanan Spektor in 1888. It was advocated for by Rav Kook in 1909, but in Rav Kook's formulation, the workaround was to be reserved only for extreme circumstances. But it has been put into regular practice, and it has been extended one way or another until today.

Other workarounds have been devised as well. You can feed yourself during the shmita year by buying only from Arabs. Also, it was determined that hydroponic plants and plants grown in greenhouses, where the plants do not touch the ground are exempt from this rule. Also, agriculture from the Arava desert was considered exempt.

So, even among the observant, it is mostly not being observed.

As to yovel or the redemption of kinsmen, I have not found any evidence of either of these being observed in practice at any time. This failure did not prevent the inspiring Torah text commanding yovel -- "proclaim liberty throughout the land" -- from being used as an inscription on a certain bell that rang in the Pennsylvania State House in the late 1700's and periodically thereafter until it cracked in the 1800's.

So if the rules of shmita and yovel were impractical and never implemented, what value or resonance can they have for us today?

To explore that question, let's begin by looking at the Torah's explicit explanation for the rules.

As is the case with many commandments, one of the reasons seems to be so that God will be able to see that we are obeying, and we can see God's mastery over nature, because the sixth year crop will last for 3 years. These rationales may not be so meaningful for us today. Fortunately, there are other rationales.

With respect to shmita, it reflects an understanding that agricultural land is God's. We may live upon it. We may cultivate it. But we can never own it, because it belongs to God. This understanding of our relationship to land is the same that of the Native Americans, whose conception of land ownership the first European settlers so thoroughly ignored. If we have this notion in mind -- that the land is God's, not ours -- might that affect how we approach strip mining, mining for precious metals, and drilling for fossil fuels? Might it affect our approach to imposing monoculture on farmland?

There is also clearly a notion at work in the Torah regarding rescue of the fallen and the indebted, and preserving their dignity. Might this teaching about shmita and remission of debts have something to say about our treatment of homeless people and people struggling under, for example, medical debt? Or even student debt?

With respect to yovel, there is a notion that we are responsible for those in our families: our immediate families and our larger families. Might that affect how we respond to our kinsman in need?

With respect to shabbat, Shimta, and yovel, we can take the idea that there are smaller cycles and larger cycles. There are smaller events and larger events. There is observing Shabbat each week, and there is doing the right thing in the large moments of your life. Both are important, and perhaps the one helps with the other.

If our modern era has brought us nothing else, it has brought us renewed fervency of literal observance. According to an article last month [April 23, 2022] in Times of Israel, there are actually 3500 families in Israel who are observing the shmita year.

Let's look at one such family. Doron Toweg of Moshav Azaria, which was once the largest supplier of eggplants to Strauss, injected poison into his irrigation lines in 2014, to observe literally the shmita year. And he did it again this year. How is he managing? The family is supported by an organization called Keren Hashviis, which supports farmers who are observing shmita.

The Toweg family says that it is good that the land rests. And, also, it is good for them to tighten their belts, to consume less, and think harder before buying anything. And also, as Ilana Toweg says, "It's about getting proportions and remembering what's important in life...You stop the rat race and suddenly you have time to focus on the spiritual and time to spend with your family."

That, too, does not sound like a bad idea at all.

Shabbat shalom