

למודי משה

ראה - גליון ע"ז

“This is the matter of *shemitta*: every creditor that lends to his neighbour shall release it; he shall not demand payment of debts from his neighbour or brother, because it is *shemitta* for Hashem ” (*Devorim* 15:2). השָׁמֵר לָךְ פֶּן יְהִיֶּה דָבָר עִם לְבַבְךָ בְּלִיעַל לְאֹמֵר קִרְבָּה שְׁנֵת הַשְּׁבִיעַ שְׁנַת הַשְּׁמִטָּה וְרָעָה עֵינֶיךָ בְּאֶחִיךָ הָאָבִיוֹן וְלֹא תִתֵּן לוֹ וְקָרָא עָלֶיךָ אֵל ה' וְהָיָה בְךָ דָבָר עִם לְבַבְךָ בְּלִיעַל לְאֹמֵר קִרְבָּה שְׁנֵת הַשְּׁבִיעַ שְׁנַת הַשְּׁמִטָּה וְרָעָה עֵינֶיךָ בְּאֶחִיךָ הָאָבִיוֹן וְלֹא תִתֵּן לוֹ וְקָרָא עָלֶיךָ אֵל ה' וְהָיָה בְךָ חֲטָא - “Guard yourself, lest there be in your heart a lawless thought, thinking that the seventh year, the year of *shemitta*, is approaching, and you look selfishly upon your needy brother and do not lend him anything, and he cries out to Hashem against you, and it is considered a sin on your part” (*Devorim* 15:9).

Insights into Halachah

Shemittas kesofim and the *pruzbul*:

Since it is nearing Rosh Hashanah and the *shemittah* year is about to be upon us, and in this week's *sedra* we find the halachah of *shemittas kesofim*, this week we will discuss about *shemittas kesofim* and about the *takonah* of the *pruzbul*. The Torah enumerates the importance of observing *shemitta*, not working the land on the seventh year, several times, stressing its significance. That there are agricultural prohibitions and produce restrictions in letting the land lie fallow is known to most. Yet, there is another important aspect of *shemitta* observance, and that is the cancelling of debts.

In this week's *sedra* we have two *pasukim* (see above). The first *pasuk* teaches that all loans between Jews are cancelled by the Torah. This is known as *shemittas kesofim*. The second *pasuk* adds another dimension to this rule and teaches that one transgresses a prohibition if he refuses to lend to a fellow Jew before *shemitta* due to fear of his debts being cancelled.

The reason behind *shemittas kesofim*

The *Sefer Ha'Chinuch* (477), explains that this obligation serves to develop within a person the quality of “*vatronus*,” meaning, the willingness to occasionally forego on what is rightfully his. It is proper for an individual to be willing to accept compromises for the sake of peaceful relations with his peers, rather than always insisting on receiving all that he strictly deserves. The Torah sought to help train a person in this regard by commanding him to forego on debts that he otherwise is perfectly entitled to collect.

The *din* of *shemittas kesofim* also helps to reinforce one's belief that everything he has really belongs to Hashem. The fact that Hashem can command him to relinquish money owed to him serves as a reminder that Hashem exercises absolute control over all his assets, and that he is not the true owner over that which he considers his property.

The *Sefer Ha'Chinuch* also explains that *shemittas kesofim* helps distance a person from theft. When a person realizes that he is forbidden to take from others even money that is legally owed to him, he will be reminded that he certainly has no right to take that which legally belongs to others.

The *Akeidas Yitzchak* suggests a different explanation, namely, that the Torah seeks to break a person's natural addiction to the pursuit of wealth. In order to remind a person that life is not about accumulating money, the Torah requires him once in seven years to make this great sacrifice of foregoing on money owed to him. This will hopefully weaken a person's natural desire for wealth.

The *pruzbul*

Although the Torah warns explicitly against refusing to lend before *shemitta* due to the fear of debts being cancelled, this is exactly what happened. The rich started to refuse to loan to their poorer brethren out of fear of not being paid back. The Mishnah in *Gittin* (34b) teaches us that Hillel HaZokein instituted the device of *pruzbul* to help out the poor. *Pruzbul* is an abbreviation of the words *pruz buli buti* – meaning, institution for rich and poor people. In other words, it allowed the poor to benefit from loans from the wealthy, who would not be afraid that their loans would be automatically cancelled in the *shemitta* year and it helped the rich not be in violation of the Torah.

The *pruzbul* states "I, the lender, am giving to you Judges, so-and-so, so-and-so, and so-and-so, all of my debts so that I can collect it at any time". With this document, one's loans aren't broken.

The *pruzbul* entails handing one's debts over to *Beis Din* or appointing *Beis Din* to collect on his behalf. The actual *shemitta* prohibition is that a lender may not pressure a borrower to pay him back. This does not preclude *Beis Din*'s being able to collect on his behalf.

Hillel's institution of *pruzbul* is considered so incredible that the Mishnah describes it as a '*tikkun haolam*' (loosely translated as 'World Saving').

Does the *Beis Din* need to be present

There is a question whether the *Beis Din* has to be present when one writes a *pruzbul*. This depends on two readings of a Yerushalmi (*Sheviis* 10:2), brought by Rav Chaim Kanievsky in his *pirush*. To fulfill the maximum number of opinions, some nowadays write two *pruzbul*s when the one writing the *pruzbul* is unable to appear before a *Beis Din* of real judges knowledgeable in monetary law.

One *pruzbul* has the names of a *Beis Din* of great judges who are not present, satisfying the opinion that one needs a great *Beis Din*, but not the opinion that one needs to literally stand in front of the *Beis Din*. The second *pruzbul* contains a *Beis Din* of three regular men, which does not fulfill the requirement of being the greatest *Beis Din* of the generation, but does fulfill the requirement of being in front of the *Beis Din*. Many rely on the Rema and write a *pruzbul* in front of three regular men.

Nowadays

The Ramban and Baal Hatur maintain that nowadays *shemittas kesofim* is still *de'O'raisa*.

The Rambam (*Hilchos Shemittah Veyovel* 9:2) and *Shulchan Aruch* (*Choshen Mishpot* 67:1) *pasken* that *shemittas kesofim* nowadays is only *midrabanan*. They explain that *shemittas kesofim* applies only when *yovel* applies. *Yovel*, in turn, applies only when the majority of the Jewish People live in Eretz Yisrael. Hence, *shemittas kesofim* applies only when the majority of the Jewish People live in Eretz Yisrael.

The Rema (*Choshen Mishpot* 67:1) brings a *minhag* amongst Ashkenazic Jews not to practice *shemittas kesofim*. This reflects the opinion of the Raavad who holds that observance of *shemittas kesofim* today is not obligatory but merely a pious act.

However, the vast majority of *poskim* rule that in our time it is nevertheless a mitzvah *de'rabonon*. This is due to the fact that we no longer have *yovel*. Therefore, *shemittas kesofim* is no longer *de'O'raisa*, but rather *de'rabonon*. *Shemittas kesofim* is different to *shemittas karka'os* [*shemittah* of the Land], and the halachah is that it applies in *chutz la'aretz* just as much as in Eretz Yisrael.

The Tur relates that his father, the Rosh, screamed at those who did business as usual without writing a *pruzbul*. In fact, many later authorities, including the Levush, Bach, Rav Yonason Eibeshutz, *Shulchan Aruch HaRav*, Chasam Sofer, *Shlah*, *Kitzur Shulchan Aruch*, *Ben Ish Chai* and the *Aruch HaShulchan*, all stressed *shemittas kesofim*'s significance, even nowadays, in *chutz la'aretz*, as well as the importance of making sure to write a *pruzbul*.

When should one write a *pruzbul*, before *shemitta* or after?

Regarding *shemittas kesofim* the Torah writes: *מִקֵּץ שִׁבְעַת שָׁנִים תַּעֲשֶׂה שְׁמִטָּה* – "At the end of every seven years you shall make a release" (*Devorim* 15:1). The Gemara in *Erachin* (28b) explains that this is referring to the end of *shemitta*.

The Sifri elucidates that this is similar to the mitzvah of *hakhel*, which is exclusively observed at the end of every *shemitta* cycle - which means the eighth year, where similar wording is used. So too, concludes the Sifri, *shemittas kesofim* only wipes out loans at the end of the *shemitta* year. This is how the *Shulchan Aruch* (*Choshen Mishpot* 67:30) *pasakens*: *אין שביעית משמטת כספים אלא בסופו* – "*Shemittas kesofim* only takes place at the end of *shemittah*". Therefore, the strict halachah is that a *pruzbul* must be written at the conclusion of the *shemitta* year, prior to the onset of the eighth year. The *Beis Yosef* (*Choshen Mishpot* 67:32) writes that: *וכן המנהג פשוט בארץ ישראל* - "this is the *minhag poshut* in Eretz Yisrael and its environs, to write a *pruzbul* on *erev* Rosh Hashanah of *motzei sheviis*".

The Rosh (*Gittin* 4:18 and 20) however quotes a *Tosefta* that maintains that a *pruzbul* should be written before the *shemitta* year, not at the end. He explains, that although *shemittas kesofim* takes effect only at the end of the *shemitta* year, nevertheless the prohibition of '*lo yigos*', not demanding the lent money during *shemitta*, already applies from the start of the *shemitta* year. Therefore, he maintains that a *pruzbul* should be written prior to the onset of *shemitta*. Several *Rishonim* agreed with this approach. However, it has since been proven that the version of the *Tosefta* the Rosh quoted had an incorrect *girsas* [textual mistake].

The *girsas* of the *Tosefta* the Rosh brings is a mistake

The *Beis Yosef* brings a *Teshuvos Ramban* (98) who proves that the Rosh and Baal Hatur had an incorrect *girsas* in the *Tosefta*.

The Hagoas HaGra on that *Tosefta* (*Sheviis* 8:11,3) also amends the *Tosefta*'s text to read that the proper time to write a *pruzbul* is on *erev* Rosh Hashanah of *motzei sheviis*; and not *erev* Rosh Hashanah of *sheviis*.

The Ketzos HaChoshen (67:1) points out that if the Rosh's *shittah* holds true, then there is an apparent contradiction in his *shittah* here and in *Shu"t HaRosh* (77:4); the Ketzos therefore concludes that the Rosh's opinion is '*tzorich iyun*' [needs looking into].

Rabbi Simcha Zissel Ziv, the illustrious Alter of Kelm. One day on the way into the Yeshiva, Rav Ziv called Reb Yehuda Laib over to the side and pointed to the white powder that covered the sleeve of his jacket. Rabbi Chasman took this observation to be a clear moralistic evaluation.

“Rabbi Ziv is pointing out that the flour is becoming part of me. If it is already all over my garments, and it is still with me when I leave my store, then it has become too much a part of me.”

With that, he made a personal decision that changed his life completely. He returned home, and figured out together with his wife that the amount of their current assets would more than cover any outstanding debts and allow them to sustain themselves. They sold the business, and Rabbi Chasman enrolled full-time at the Volozhiner Yeshiva, eventually emerging the great luminary whom we all revere.

Some of us like meat: whether it is the actual beef or the proverbial materialistic affairs in which we indulge. And that's OK to a point. After all, we are only human. But the Torah tells us to be careful to separate the *nefesh* – soul, from the meat. The holy from the mundane. It wants us to understand that other than the quest for the prime rib, which we wish to consume, there are more noble pursuits that should consume us. Therefore, the Torah tells us to clearly delineate the difference and tells us that although we may indulge in worldly pleasure, we should be careful not to allow the *nefesh* to become devoured with the meat. Thus, it clearly commands, “Do not eat the *nefesh* with the meat.” A good meal is totally permissible. It even lifts the spirit. However, materialistic indulgences as such should surely never become our obsession or sole desire. For then, it will become part of our *nefesh*. It will become tantamount to our soul desire.

2) כִּי פָתַח תִּפְתַּח אֶת יָדְךָ לּוֹ וְהֶעֱבַט מֵעֲבִיטָנוּ דֵּי מַחְסָרוֹ אֲשֶׁר יִחְסֵר לוֹ – “Rather, you must open your hand and lend him sufficient for whatever he needs” (*Devarim* 15:8). The Torah warns us to have compassion upon the poor. The Gemara in *Bava Basra* (10a) records that a wicked Roman nobleman named Turnus Rufus asked Rebbe Akiva, “If your G-d cares for poor people so much, why doesn't He provide for them?” Rebbe Akiva answered that G-d allows them to remain poor to provide us the merit of giving them *tzedakah*.

The Alter of Kelm questions Rebbe Akiva's explanation. Although the mitzvah of giving *tzedakah* is certainly a great one, aren't there enough other *mitzvos* that we can do? What is so unique and special about giving *tzedakah*, and why must the poor suffer to enable us to specifically perform this mitzvah?

The Alter explains that the mitzvah of *tzedakah* serves an irreplaceable function. Although one fulfils the technical letter of the law by distributing *tzedakah* to those in need, in order to perform this mitzvah at its highest level a person must do more than this. It isn't sufficient to give *tzedakah* simply because Hashem commanded us to do so and we want to perform His will. A person dispersing *tzedakah* should feel the pain and plight of the poor as if it were his very own. Just as a person who feels his own hunger naturally responds by feeding himself, so too should we strive to identify with the pauper's anguish to the point that we would be moved to assist him even if we weren't obligated to do so.

Rabbi Eliyahu Chaim Meisels, the Rav of Lodz in Poland, was renowned for his concern for the poor and downtrodden. On one fierce winter day, he knocked on the door of a wealthy, but stingy, man in his town to solicit a donation. After exchanging greetings, the man gestured that Rabbi Meisels should enter, but he remained outside and began his appeal. The rich man was puzzled by the rabbi's behaviour, but he attempted to listen out of respect. After a few minutes he grew so cold that he was unable to continue. He interrupted the rabbi and begged him to come inside.

The sagacious rabbi explained, “I am here to collect money for a family which can't even afford to build a fire on a day like today. If we enter your warm home, you won't be able to relate to their suffering. Only by discussing their plight here at your door are you able to understand the magnitude of their pain.” Appreciating both the rabbi's wisdom as well as the extent of the family's anguish, the miser gave a generous donation.

It is difficult for most of us to relate to the daily suffering that many unfortunately know. Now that we understand that empathizing with their plights is an integral part of giving *tzedakah*, we should try our utmost, whether by volunteering at a soup kitchen or by walking through the park on a bitter winter night, to work on personally experiencing and feeling their pain. Our desire to generously assist them will naturally follow, and in so doing, we will be helping not only the poor but also ourselves.

3) Rav Schwab (*Mayan Beis HaShoeva*) has a wonderful *pshat* on the *pasuk* in this week's *sedra* עֲשֶׂה תְּעַשֶׂה – “You shall surely separate a tenth” (14:22), from which Chazal learn in *maseches Shabbos* (119a), עֲשֶׂה בְּשִׁבְלִי שֶׁתִּתְעַשֶׂה – “give *maaser* so that you become rich”. He says that the *pshat* in the *pasuk* may not be the way we understand it simply, that give money and suddenly Hashem is going to give you money. While that is certainly the simple *pshat*, Rav Schwab gives us a much more meaningful insight.

The Mishnah says in *Pirkei Avos* (4:1): אִיזוּהוּ הוּא עֹשֶׂה שִׂמְחָה בְּחֵלְקוֹ – “Who is wealthy, one who is happy with his lot”. There is an *ashirus* [wealth] of being happy with what you have. The Gemara in *Nedarim* (38a) says that a *Novi* has to be wealthy, עֹשֶׂה וְעֹשֶׂה עַל גְּבוּרַתוֹ אֲלֵא עַל גְּבוּרַתוֹ שְׂכִינְתוֹ אֵלֶּיךָ – “R' Yochanan says, Hashem only rests his Shechinah on one who is strong, wealthy, wise and humble”. The Rambam says, wealth is accomplished by being שִׂמְחָה בְּחֵלְקוֹ. Not every *Novi* will necessarily have physical wealth.

Similarly says Rav Schwab, when you give *tzedakah* you will become happier, you will become *someach b'chelko*.

Not magically, not incredibly, not through a *mofes* [miracle], not through a *segula*. But it is human nature. When you are a giving person then you are *someach b'chelko*, then you tend to be happy with what you have. A person who is a giving person has that *teva*, that nature to be a happier person.

Rav Chaim Kanievsky in *Derech Sicha* says a similar thing. He brings that his father said that not every time it says wealth does it mean that you are wealthy with money. The Steipler would point to his *seforim* that were accepted in the world and said that is his wealth. He was a *sandek* many times. A *sandek* has a promise of wealth and he would say this is my wealth. There are other types of wealth.

4) The *Haftorah* for this week's *sedra* is the third of the seven *Haftorahs* read after Tisha B'Av that contain messages of comfort, and it begins: עָנִיָּה וְצָרָה לֹא נִחְמָה הִנֵּה אֲנִי מְרִבִּיץ בַּפֶּה אֲבִנֶיךָ וְיִסְדֶּתִיךָ בַּסַּפִּירִים. וְשָׂמֵתִי כְּדָד שְׂמֵשְׁתִּיךָ וְשָׁעֲרֶיךָ לְאַבְנֵי אֶקֶדָה וְכָל גְּבוּלְךָ לְאַבְנֵי חַפְזִי – "Afflicted, storm-tossed one, who has not been consoled: Behold, I will set down gems as your floor stones and lay your foundation with sapphires. I will make your windows of rubies and your gates of garnets, and your entire boundary of precious stones" (Yeshaya 54:11-12). Hashem informs us that after all the affliction and travails that we have endured, He will comfort us by placing valuable stones and precious gems in our foundations, floors, and windows.

The Gemara in *Bava Basra* (75a) records that upon hearing Rav Yochanan expound upon this topic, one of his *talmidim* wondered how it is possible for Hashem to find pearls and gems large enough to create walls and windows. The Gemara concludes that this *talmid* was killed as punishment for his disbelief in the words of *Chaza*. The *Haftorah's* message of consolation and the related story recounted in the Gemara are difficult to understand. What is the significance of buildings made of valuable jewels, and what was the underlying cause of the *talmid's* scepticism?

In his *sefer Iyun Tefillah* (pg. 364-5), Rav Shimon Schwab discusses the nature of these precious stones, and he explains that each gem is a Jewish prayer for Moshiach and the ultimate redemption. Every time that we beseech Hashem to rescue us from this bitter *galus*, our *tefillos* add to the rubies and sapphires of the eventual rebuilding of Yerushalayim.

Similarly, at the end of *Parshas Mishpotim*, the Torah records (*Shemos* 24:9-10) that Hashem appeared at Har Sinai with sapphire brickwork under His feet. What were these sapphires? The *tefillos* of the Jewish people for redemption from Mitzrayim. When Rav Yochanan's *talmid* heard this idea, he incredulously wondered how it is possible that our *tefillos* possess the ability to rebuild the *Beis HaMikdash*, and it was for the grave, unforgivable offense of questioning the potency of heartfelt Jewish *tefillos* that he was deserving of the death penalty.

On a deeper level, Rav Yisroel Reisman adds that these supposedly "precious" stones – rubies, sapphires, and pearls – actually possess no inherent worth. Intrinsicly, they are all useless rocks. The only reason that they are prized and desirable is that we have mentally decided to ascribe value to them because many people enjoy wearing them as jewellery.

The concept of *tefillah* works similarly. Merely uttering words does not have the ability to change anything; the power of *tefillah* comes from the mental concentration and fervour that we invest in our pleas. Therefore, Hashem approaches the storm-tossed and seemingly inconsolable Jewish nation and informs them that He will personally console them through promises of ruby windows.

How does this message cheer us up? Is our yearning for Moshiach due to our desire for ruby windows? Rav Reisman explains, the consolation is the knowledge that every *tefillah* and every sigh that we utter in *golus* has value and ascends to Heaven, where they are transformed into precious stones that come together to form the foundation and structure of the ultimate rebuilding of Yerushalayim, may it be speedily in our days.

Boruch Hashem my Tishrei Kuntros is now available to be picked in Eretz Yisroel from Mem Gimmel 24, Knisa 2, Dira 3. Hopefully will soon be available in England.



The above *gilyon* was written by Moshe Harris, please consult a Rov for final ruling. For sponsorship, dedications or for any *ha'oras* or to receive this *gilyon* weekly please email me at limudaymoshe@gmail.com or call/text me on +447724840086 (UK) or 0585242543 (Eretz Yisrael)

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