



## Deep Diving into Rabbinic Shmitta II

Selections from the Mishne Torah: Hilchot Shmittah v'Yovel, and Tosefta Shev'it

### Labor

#### Chapter 1

##### Halacha 1

It is a positive commandment to rest from performing agricultural work or work with trees in the Sabbatical year, as [Leviticus 25:2] states: "And the land will rest like a Sabbath unto God" and [Exodus 34:21] states: "You shall rest with regard to plowing and harvesting." When a person performs any labor upon the land or with trees during this year, he nullifies the observance of this positive commandment and violates a negative commandment, as [Leviticus 25:4] states: "Do not sow your field and do not trim your vineyard."

##### Halacha 2

According to Scriptural Law, a person is not liable for lashes except for [the following labors] sowing, trimming, harvesting [grain], and harvesting fruit - both from vineyards and from other trees.

##### Halacha 16

At the outset, [the Rabbis] would say: A person may gather wood, stones, and grass from his field, provided he takes the larger ones alone, so that his intent is not to clear the land, but from his colleague's field, he may take small and larger pieces. When there was an increase in the number of transgressors, i.e., people who intended to clear their fields, but would excuse themselves, saying: "We are only taking the larger pieces," they forbade a person from gathering wood and stones from his own field, [permitting this] only from a colleague's field. Even then, [the leniency was granted] only when he does not do so in order that he exchange the favor, i.e., he does not tell his colleague: "See how much of a favor I did for you, for I have cleared your field."

### Sefichim

#### Chapter 4

All produce that grows from the earth in the Sabbatical year: whether it grew from seeds that fell into the earth before the Sabbatical year, it grew from roots whose plants were harvested previously, but nevertheless grew again - in both instances [such produce] is referred to with the term safiach - or grasses and vegetables that grew on their own accord [in the Sabbatical year], is permitted to be eaten according to Scriptural Law, as [Leviticus 25:6] states: "And [the produce that grows] while the land is resting shall be yours to eat." Even when a field was plowed thoroughly in the Sabbatical year, and produce grew in it, that produce is permitted to be eaten. The statement [ibid.:] "Do not reap the aftergrowth of your harvest" means that one should not reap it in the same manner as one does every year. If one reaps it according to the ordinary manner, he is worthy of lashes. For example, he harvested the entire field, set up a grain heap, and

threshed it with cattle or harvested it for the sake of tilling the land as we explained. Instead, he should reap it little by little, beat it, and partake of it.

#### Halacha 2

According to Rabbinic decree, all the sifichim are forbidden to be eaten. Why was a decree established concerning them? Because of the transgressors, so that they could not go and sow grain, beans, and garden vegetables in one's field discretely and when they grow, partake of them, saying that they are sifichim. Therefore the Sages prohibited all the sifichim that grow in the Sabbatical year.

#### Halacha 3

Thus we have learned that the only produce of the Sabbatical year of which one may partake are fruit from trees and herbs that are not sown by most people, e.g., rue, amaranth, and the like. With regard to vegetables that most people sow in their gardens and species of grains and beans, by contrast, anything that grows from these species is forbidden according to Rabbinic decree. One who gathers them is liable for stripes for rebellious conduct.

#### Halacha 4

When sifichim grow in an underdeveloped field, a field that was plowed, a vineyard, and a field where crops had been sown, they are permitted to be eaten.

Why was the above decree not applied to these places? Because a person will not sow these fields. [He will not sow] an underdeveloped field, because no one pays attention to it. When a field has been plowed, [the owner] desires that it remain lying fallow. With regard to a vineyard, no person will cause his vineyard to become forbidden. And when a field has been sown, the aftergrowth will spoil it. Similarly, straw that grows in the Sabbatical year is permitted in all places; no decree was issued against its use.

### **Divestment**

#### **Halacha 24**

It is a positive commandment to divest oneself from everything that the land produces in the Sabbatical year, as [Exodus 23:11] states: "In the seventh [year], you shall leave it untended and unharvested."

Anyone who locks his vineyard or fences off his field in the Sabbatical year has nullified a positive commandment. This also holds true if he gathered all his produce into his home. Instead, he should leave everything ownerless. Thus everyone has equal rights in every place, as the Torah states: "And the poor of your people shall partake of it." One may bring a small amount into one's home, just as one brings from ownerless property, e.g., five jugs of oil, fifteen jugs of wine. If he takes more than that, it is permitted.

### **Commerce**

## **Chapter 5**

### Halacha 1

We may not use the produce of the Sabbatical year for commercial activity.<sup>1</sup> If one desires to sell a small amount<sup>2</sup> of the produce of the Sabbatical year, he may. The money he receives [in return] has the same status as the produce of the Sabbatical year. He should use it to purchase food and eat that food according to the restrictions of the holiness of the Sabbatical year. The produce that was sold retains the holiness it possessed previously.

### Halacha 2

[In the Sabbatical year,] one should not reap vegetables from a field and sell them, nor should one charge a fee for dyeing with shells [from produce] of the Sabbatical year, because this is using the produce of the Sabbatical year for commercial activity. If one reaped vegetables to partake of them and some were left over, he may sell the remainder. The proceeds are considered as the produce of the Sabbatical year. Similarly, if a person reaped vegetables for himself and his son or grandson took some of them and sold them, [the sale] is permitted<sup>10</sup> and the proceeds are considered as the produce of the Sabbatical year.

### Halacha 3

When the produce of the Sabbatical year is sold, it should not be sold by measure, nor by weight, nor by number, so that it will not appear that one is selling produce in the Sabbatical year. Instead, one should sell a small amount by estimation to make it known that [the produce] is ownerless. And the proceeds of the sale should be used to purchase other food.

## **Biur**

## **Chapter 6**

### Halacha 1

We may only partake of the produce of the Sabbatical year as long as that species is found in the field. [This is derived from Leviticus 25:7]: "For the animal and the beast in your land will be all the produce to eat." [Implied is that] as long as a beast [can be] eating from this species in the field, one may eat from [what he has collected] at home. When there is no longer any [of that species] for the beast to eat in the field, one is obligated to remove that species from his home. This is the obligation of biur which applies to the produce of the Sabbatical year.

### Halacha 2

What is implied? If a person has dried figs at home, he may partake of them as long as there are figs on the trees in the field. When there are no longer figs in the field, it is forbidden for him to partake of the figs he has at home and he must instead remove them.

### Halacha 3

If he had a large amount of produce, he should distribute a quantity that can be eaten in three meals to every person [he desires]. It is forbidden - both for the rich and the poor -

to partake of it after the time of biyur. If he is not able to find people to eat at the time of biyur, he should burn it with fire or cast it into Mediterranean Sea, or destroy it through any other means.

Halacha 7

Just as one must remove the produce of the Sabbatical year, so too, one must remove the money [received in exchange for it]. What is implied? One sold pomegranates of the Sabbatical year and used the money received in return for them [to purchase] food. When there are no longer any pomegranates on the trees in the field, but he remains in possession of the money he received for selling them, he is obligated to remove it from his possession.

## **Tools**

### **Chapter 8**

Halacha 2

These are the utensils which a craftsman is not permitted to sell in the Sabbatical year to someone who is suspect [to violate the laws of] the Sabbatical year: a plow and all of its accessories, a yoke [for a team of oxen], a winnowing fork, and a mattock. This is the general principle: Any [utensil] that is exclusively used for a type of work that is forbidden in the Sabbatical year is forbidden to be sold to a person suspect [to violate the laws of] the Sabbatical year. [If it is used for] a type of work that may be forbidden or which might be permitted, it is permitted to be sold to a person suspect [to violate the laws of] the Sabbatical year.

## **Otzar Beit Din**

### **Tosefta Shevi'it - 8:1-4**

Initially, agents of the court would sit at the gates of the city. Everyone who brought fruits in his hand would have the fruits removed and be given enough food for three meals in exchange. The rest would be entered into the storehouse.

When it came time for dates, the agents of the court would hire workers to gather them together, make them into cakes and enter them into the storehouse in the city. When it came time for grapes, agents of the court would hire workers, squeeze the grapes, press them, enter them into jugs and place them in the storehouses of the city. When it came time for olives, agents of the court would hire workers to prepare and press them in the oil press and enter the oil into jugs and place them in the city storehouses. These products would be distributed erev shabbat, every person according to his house.

After the time of "Biur" passed the poor may eat but not the wealthy, said Rabbi Yehuda. Rabbi Yosi said that both poor and wealthy may eat after the biur. Rabbi shimon says that wealthy may eat from the storehouse after the biur.

Someone who has fruit from shevi'it when the hour for biur arrived distributes the fruits to neighbors and relatives and people he knows. He then goes out and places the fruits on his doorstep and says "my brothers from the house of Israel, anyone who needs may

come and take." He then returns and enters back into his house and eats until the are gone.

## Use of Produce

### Chapter 6

The produce of the Sabbatical year is designated for the sake of eating, drinking, smearing oneself [with oil], kindling lamps, and dyeing. According to the Oral Tradition, we learned that the word *tihiyeh* implies that it may be used even for kindling lamps, and dyeing.

What is meant by [the license to use the produce of the Sabbatical year] for eating and drinking? One should eat those foods that are normally eaten and drink the beverages that are normally drunk, as is the law with regard to *terumah* and the second tithe.

He should not change the natural function of produce as he does not with regard to *terumah* and the second tithe, i.e., something that is normally eaten raw should not be eaten cooked. Something that is normally eaten cooked should not be eaten raw. For this reason, animal fodder should not be cooked, nor should one press himself to eat a cooked dish that has spoiled or bread that has become moldy, as he does not eat such foods that are *terumah* or the second tithe.

#### Halacha 11

A great principle was stated with regard to the produce of the Sabbatical year: Whatever is distinguished as being for human consumption, e.g., wheat, figs, grapes, and the like, should not be used as a compress or a bandage, even for a person, as implied by the phrase: "yours to eat," i.e., whatever is distinguished as being for you, should be used as food and not for medicinal purposes. Anything that is not distinguished as being for human consumption, e.g., soft thorns and brambles, may be used as a compress for a person, but not for an animal.

If it is not distinguished as being for either of the above purposes - e.g., *za'ater*, oregano, and thyme, [the ruling depends] on the person's intent. If he thought to use it as kindling wood, it is considered as kindling wood. If he intended that it be used as food [for humans], it is considered as produce.

If it is distinguished as being for both of the above purposes, we treat it with both the stringencies incumbent on food for humans - and compresses are not made with it - and those incumbent on animal fodder - that they may not be cooked.

## Seasonality?

### Chapter 7 - Halacha 1

We may only partake of the produce of the Sabbatical year as long as that species is found in the field. [This is derived from Leviticus 25:7]: "For the animal and the beast in

your land will be all the produce to eat." [Implied is that] as long as a beast [can be] eating from this species in the field, one may eat from [what he has collected] at home. When there is no longer any [of that species] for the beast to eat in the field, one is obligated to remove that species from his home. This is the obligation of *biyur* which applies to the produce of the Sabbatical year.

### **Halacha 2**

What is implied? If a person has dried figs at home, he may partake of them as long as there are figs on the trees in the field. When there are no longer figs in the field, it is forbidden for him to partake of the figs he has at home and he must instead remove them.

### **What about those who don't keep Shmitta?**

Just as it is forbidden to work the land in the Sabbatical year, so too, it is forbidden to reinforce the hands of the Jews who do till it or to sell them farming tools, for it is forbidden to strengthen the hands of transgressors.

These are the utensils which a craftsman is not permitted to sell in the Sabbatical year to someone who is suspect [to violate the laws of] the Sabbatical year: a plow and all of its accessories, a yoke [for a team of oxen], a winnowing fork, and a mattock. This is the general principle: Any [utensil] that is exclusively used for a type of work that is forbidden in the Sabbatical year is forbidden to be sold to a person suspect [to violate the laws of] the Sabbatical year. [If it is used for] a type of work that may be forbidden or which might be permitted, it is permitted to be sold to a person suspect [to violate the laws of] the Sabbatical year.

Similarly, a woman may lend a sifter, a sieve, a mill, and an oven to a friend who is suspect [to violate the prohibitions of the Sabbatical year], but she may not sift or grind with her.

We may encourage the gentiles [working] in the Sabbatical year, but only verbally. For example, if one sees one plowing or sowing, he should tell him: "Be strong," "Be successful," or the like, because they are not commanded to let the land rest. One may not physically assist them. It is permitted to remove honey from a beehive with them and one may enter a sharecropping agreement with them for land whose ground was broken [in the Sabbatical year], for they are not obligated to observe [these restrictions]. [Hence,] they are not penalized [for their violation].