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Walking with Mitzvot

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MITZVOT HA-TELUYOT BA'ARETZ

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INTRODUCTION

Most Jews understand Judaism to be a portable religion. No matter where a Jew may be on the planet, he or she can take their Judaism with them. A Jew can pray at the North Pole just as they can pray in New York or Los Angeles. We can observe kashrut while traveling through Europe, or while eating in our own homes. We are able to help out others through the giving of charity in our own neighborhoods, or through supporting a worthwhile endeavor abroad.

Judaism is indeed a religion of time, to use Rabbi Abraham Joshua Heschel's terminology. We sanctify moments in time through the observance of mitzvot and the recitation of prayers, but Judaism is also a religion of space. A person can only fulfill the mitzvah of eating and celebrating in a sukkah if they are in fact in a sukkah. We also affix a mezuzah to our doorposts in order to signify that the space on the inside is different from the space on the outside.

The largest category of mitzvot that can only be observed in a specific place is Mitzvot ha-Teluyot ba'Aretz, commandments that are dependent on the Land of Israel. These are mitzvot that can only be observed if you are in the Land of Israel. Out of the 613 mitzvot, there are approximately twenty-five that are dependent on being in the Land of Israel.¹

These mitzvot can generally be divided up into two categories. There are mitzvot that play a social role within society, and there are mitzvot whose purpose is to either accentuate, or perhaps to create, the sanctity of the Land of Israel.

The following is a list of some of the Mitzvot ha-Teluyot ba'Aretz:

1. Leket: gleanings (Lev. 19:9-10; 23:22; Deut. 24:19-22)
2. Shikhehah: forgotten sheaf (Lev. 19:9-10; 23:22; Deut. 24:19-22)
3. Peah: corner of the field (Lev. 19:9-10; 23:22; Deut. 24:19-22)
4. Shevi'it: Sabbatical year (Exodus 23:10-11; Lev. 25:1-7; Deut. 15:1-3)
5. Ma'aser Ani: poor person's tithe (Deut. 26:12-15)
6. Bikkurim: first fruits (Exodus 23:19; 34:26; Numbers 18:13; Deut. 26:1-11)
7. Hallah: separation of dough (Numbers 15:17-21)
8. Terumah: tithes (Numbers 18:8; 11-12; 25-32; Deut. 18:4)
9. Ma'aser Rishon: the first tithe (Numbers 18:21-32)
10. Terumat Ma'aser: heave-offering of the tithe (Numbers 18:21-32)
11. Ma'aser Sheini: the second tithe (Deut. 14:22-27; 26:12-15; Lev. 27:30-31, 19:23-25)
12. Kilayim: the prohibition of the mixing of species (Lev. 19:19; Deut. 22:9-11)
13. Orlah: fruit of young trees (Lev. 19:23)
14. Hadash: the prohibition of new grain (Lev. 23:9-14)

All of these mitzvot were commanded to the Children of Israel before they entered the Land of Israel and all were to be performed there in the land. The observance of a few of these mitzvot was eventually transferred to the territory outside of the Land of Israel, but they were the exception. The majority of these mitzvot remained applicable only in the Land of Israel.

¹ There are disagreements regarding how to count the mitzvot, so there may be different opinions as to what mitzvot constitute "the 613" and which are those that are dependent on the Land of Israel. For a listing of the 613 mitzvot according to the Rambam, see http://en.wikipedia.org/wiki/613_Mitzvot



MITZVOT HA-TELUYOT BA'ARETZ

These mitzvot affected people's lives in different ways. Some helped facilitate connections between individuals and the activities of the Temple in Jerusalem and the priesthood. Others were observed by the individual in his/her own home or in his/her own fields, without any connection to the Temple and the priesthood. I will now examine a number of the Mitzvot ha-Teluyot ba'Aretz in greater depth.

LEKET, SHIKHEHAH, AND PEAH

The mitzvot of Leket, Shikhehah, and Peah are mentioned a number of times in the Torah:

And when you reap the harvest of your land, you shall not completely reap the corners of your field, neither shall you gather the gleanings of your harvest. And you shall not glean your vineyard, neither shall you gather every grape of your vineyard; you shall leave them for the poor and stranger: I am the Lord your God (Lev. 19:9-10; also see Lev. 23:22).

When you cut down your harvest in your field, and you forgot a sheaf in the field, you shall not go again to fetch it: it shall be for the stranger, for the fatherless, and for the widow: that the Lord your God may bless you in all the work of your hands. When you beat your olive tree, you shall not go over the boughs again: it shall be for the stranger, for the fatherless, and for the widow. When you gather the grapes of your vineyard, you shall not glean it afterward: it shall be for the stranger, for the fatherless, and for the widow. And you shall remember that you were a slave in the land of Egypt: therefore I command you to do this thing (Deut. 24:19-22).

From these verses it is clear that the underlying foundation of these mitzvot is the advancement of social justice within society and care for the less fortunate. This obligation is based upon the memory of the Egyptian bondage, "And you shall remember that you were a slave in the land of Egypt: therefore I command you to do this thing."

The commandments of Leket, Shikhehah, and Peah were integrally connected to the economic life of Ancient Israel. The central economic activity of society, agriculture, was not only a vehicle for personal enrichment, but also for the strengthening of the "have nots" within society.

The Mishnah, an early third-century code of Jewish law, contains detailed descriptions of how a farmer is to calculate the proper amount of Peah to be left in the corner of the field. These amounts were the minimum amount of charity required, for the very first teaching in the tractate lists Peah as a commandment that theoretically has no limits.

There are also discussions about what qualifies as Leket or Shikhehah. These instructions gave structure and concreteness to the biblical commandments. Rabbinic law recognized that no matter how important an ethical obligation may be, once it becomes part of a larger system there is a greater chance that it will be observed and fulfilled.

SABBATICAL YEAR

Teachings about the Sabbatical Year, Shemittah, appear a number of times in the Torah.

For six years you shall sow your land, and shall gather its fruits. But in the seventh year you shall let it rest and lie still so that the poor of your people may eat, and what they leave the beasts of the field shall eat. You shall do the same thing to your vineyard and your olive grove (Exodus 23:10-11).

The Lord spoke to Moses on Mount Sinai: Speak to the Children of Israel and say to them: When you enter the land that I give to you, the land shall observe a sabbath of the Lord. Six years you may sow your field



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and six years you may prune your vineyard and gather in the yield. But in the seventh year the land shall have a sabbath of complete rest, a sabbath of the Lord: you shall not sow your field or prune your vineyard. You shall not reap the after growth of your harvest or gather the grapes of your untrimmed vines; it shall be a year of complete rest for the land. But you may eat whatever the land during its sabbath will produce — you, your male and female slaves, the hired and bound laborers who live with you, and your cattle and the beasts in your land may eat all its yield (Lev. 25:1-7).

At the end of every seven years you shall make a release. And this is the manner of the release: Every creditor that lends unto his neighbor shall release it; he shall not exact it of his neighbor, or of his brother; because it is called the Lord's release. Of a foreigner you may exact it again: but that which is yours with your brother your hand shall release; However there shall be no poor among you; for the Lord shall greatly bless you in the land which the Lord your God gives you for an inheritance to possess it (Deut. 15:1-4).

The Shemittah commandment addresses a number of different aspects of the lives of the Israelites. In an agricultural-based society it serves as a year of rest, a Sabbath, both for the land and for those working the land. The purpose of this Sabbath was “so that the poor of your people may eat.”

The Sabbatical Year forced the Israelites to remember that the land and its fruits were for everyone, man and beast alike. Just as once every seven days we are reminded of God's role in the creation of the world, so too every seven years we are reminded of his dominion over the earth and all that it produces.

The description of the Sabbatical Year found in Deuteronomy expands the scope of the commandment. No longer is the commandment of release limited to the land, but it also includes all business dealings. During the seventh year all loans that people have contracted are no longer valid.

The extension of the Sabbatical Year obligations to business dealings led to one of the most well-known legal innovations in Jewish history, the *prosbul*. Hillel the Elder saw that the people were refraining from contracting loans in the time period leading up to the Sabbatical Year because they didn't want the loan to be cancelled during that year (see Babylonian Talmud, Gittin 36a-37a). The *prosbul* transferred the loan to a court, thus preventing the loan from being released during the Sabbatical Year.

The *prosbul* illustrates one of the great challenges of Jewish law in general, and specifically of Mitzvot ha-Teluyot ba'Aretz. The law presents us with religious and moral demands that are often hard to live by. Talmudic literature contains stories about people who struggled to observe the Sabbatical Year, both in letter and in spirit. For many of them there was no easy solution.

MITZVOT HA-TELUYOT BA'ARETZ IN MODERN ISRAEL

With the beginning of the Zionist settlement in the Land of Israel at the end of the 19th century, the observance of Mitzvot ha-Teluyot ba'Aretz started to receive greater attention. I will focus on two groups of mitzvot whose observance is dependent on the Land, tithes and the Sabbatical Year.

Without a Temple, what is the possible role of the taking of tithes? Even though there is no Temple, are priests still eligible to receive the tithes? Is there even an obligation to separate tithes when the Temple is no longer standing?

There is a disagreement in rabbinic opinion whether in the absence of a Temple the obligation to separate tithes has a biblical or rabbinic status, but there is little disagreement that today some level of obligation still exists. Despite the existence of an obligation, the absence of a Temple affects what happens to the tithes. When the Temple was standing, the priests would eat some of the tithes while others were given to the either the Levites or the poor.



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There are two other factors besides the absence of a Temple that prevent either a priest or a levite living today from eating one of the tithes. The first factor is the presumed impurity of priests, along with all other Jews, that prevents them from eating tithes. The second factor is that there is some doubt about the reliability of the status of all priests and levites alive today.

Today's practice is that some of the tithes are taken, not eaten, but disposed of in a respectable manner. The Ma'aser Sheini, the second tithe, is redeemed and the holiness of the tithe is transferred to a coin that acquires a level of holiness. The only tithe that is still observed in a similar fashion to the way that it was observed when the Temple existed, is the Ma'aser Ani, the poor person's tithe. One is obligated to either give the produce itself to a poor person, or to donate the monetary equivalent of the produce to a poor person or to a specific charity.

The development of the Land and the economic independence of the Jewish state were central tenets of the Zionist movement, so the observance of the Sabbatical Year posed a number of challenges. How was the Sabbatical Year to be observed if thousands of people depended on working the Land for their livelihood, and much of the country depended on its fruits for food? As with many commandments, numerous solutions have been employed.

A popular solution has been to sell agricultural land to a non-Jew for the duration of the Sabbatical Year. Since non-Jews aren't commanded to observe the Sabbatical Year, then Jews would be able to work land owned by a non-Jew. Another solution is to understand the prohibition of working the land during the Sabbatical Year to only have the status of a pious act, not a commandment. Since it is only a pious act, then if there is a pressing economic need, a Jewish farmer is permitted to work the land. Still others understand the prohibition to be biblical in nature, rejecting the above solutions, and they only buy their produce from non-Jews during the Sabbatical Year.

MITZVOT HA-TELUYOT BA'ARETZ IN A NON-AGRICULTURAL SOCIETY

Much of the above discussion is relevant for a society in which agriculture plays a central role, but what about a modern industrial society? What are the vehicles for implementing social justice in a society in which people are more familiar with the Internet and Facebook than plows and fertilizer? How are residents of urban centers supposed to gain an appreciation of the holiness of the Land of Israel when most of the time they are walking on concrete or driving in cars or buses?

It is this disconnect that has been the impetus for numerous attempts that are trying to both return to the aspects of social justice that are integrally connected to some of the Mitzvot ha-Teluyot ba'Aretz, along with an emphasis on the importance of reviving the connection between the modern individual to both the Land of Israel and the earth in general. They are trying to make the Sabbatical Year and similar mitzvot once again a force for social change and a heightened level of holiness, thus returning to the message that is contained in the Torah itself.



MITZVOT HA-TELUYOT BA'ARETZ – TEXT 1

תלמוד בבלי מסכת קידושין, דף לו עמוד ב- דף לו עמוד א
מתני'. כל מצוה שהיא תלויה בארץ - אינה נוהגת אלא בארץ, ושאינה תלויה בארץ
- נוהגת בין בארץ בין בחוצה לארץ, חוץ מן הערלה וכלאים; ר"א אומר: אף החדש.
גמ'. מאי תלויה, ומאי שאינה תלויה? אילימא תלויה - דכתיב בה ביאה, ושאינה
תלויה - דלא כתיב בה ביאה, והרי תפילין ופטר חמור דכתיב בהן ביאה, ונוהגין בין
בארץ בין בח"ל! אמר רב יהודה, ה"ק: כל מצוה שהיא חובת הגוף - נוהגת בין
בארץ בין בח"ל, חובת קרקע - אינה נוהגת אלא בארץ.

BABYLONIAN TALMUD, KIDDUSHIN 36b-37a

Mishnah: Every mitzvah that is dependent on the Land [of Israel] is only observed in the Land [of Israel], and any mitzvah that is not dependent on the the Land [of Israel] is observed both inside of the Land [of Israel] and outside of the Land [of Israel], except for orlah and kilayim. Rabbi Eliezer says: Even [the prohibition] of hadash.

Gemara: What is the meaning of “dependent” [on the Land of Israel] and “not dependent” [on the Land of Israel]? If we say: “dependent” refers to those [commandments] where “coming [into the Land]” is written, and “not dependent” refers to those where “coming [into the Land]” is not written, but, look, [the commandments of] tefillin and the [redemption of] the firstborn of a donkey – about which “coming” is written – they are observed both inside and outside of the Land! Rav Yehudah said: This is its meaning: every commandment that is a personal obligation is observed both inside and outside of the Land, but something that is an obligation of the soil is only observed inside the Land.

STUDY QUESTIONS

- When the Mishnah says that a commandment is dependent on the Land of Israel, do you think that is this because the borders of the Land of Israel create a sacred space or is it because there is an intrinsic holiness to the ground itself?
- Why would orlah (prohibition of benefit from fruits of a tree's first three years), kilayim (forbidden mixtures, including that of wool and linen) and hadash (prohibition of eating new grain until after the omer offering), which are dependent on the Land, apply even outside of the Land?
- What is the Gemara's question on the Mishnah? How does it answer its question?
- According to these texts, is there a difference between a personal and a communal commandment? If so, what is it?



MITZVOT HA-TELUYOT BA'ARETZ – TEXT 2

משנה מסכת כלים פרק א משנה ו
עשר קדושות הן. ארץ ישראל מקודשת מכל הארצות. ומה היא קדושתה?
שמביאים ממנה העומר והבכורים ושתי הלחם, מה שאין מביאים כן מכל הארצות.

MISHNAH KEILIM 1:6

There are ten different levels of holiness. The Land of Israel is holier than all of the other lands. And what is [the essence] of its holiness? It is that from it they bring the omer, the first fruits, and the two loaves [that are in the Temple], and these are not brought from any other land.

STUDY QUESTIONS

- According to our Mishnah, what does it mean for a land to be holy?
- How does the Land of Israel become holy?
- If the Land of Israel achieves holiness in the way described by our Mishnah, what does this mean for Jews today who are outside of Israel? Do you think that this or a similar holiness can be achieved in other ways and in other places? How?



MITZVOT HA-TELUYOT BA'ARETZ – TEXT 3

MAIMONIDES, GUIDE FOR THE PERPLEXED, BOOK 3 CHAPTER 39

The reciting of a certain portion of the Law when the bikkurim/first fruits are brought to the Temple, tends also to create humility. For he who brings the first fruits takes the basket upon his shoulders and proclaims the kindness and goodness of God. This ceremony teaches man that it is essential in the service of God to remember the times of trouble and the history of past distress, in days of comfort. The Law lays stress on this duty in several places; comp. “And you shall remember that you have been a slave” (Deut. 5:15). For it is to be feared that those who become great in riches and comfort might, as is generally the case, fall into the vices of insolence and haughtiness, and abandon all good principles. Compare “Lest you eat and be full...and your heart be lifted up and you forget the Lord” (Deut. 8:12-14)... On account of this fear the Law commanded us to read each year a certain portion before the Lord and his glory, when we offer the first fruit. You know how much the Law insists that we shall always remember the plagues that have befallen the Egyptians; compare “That you may remember the day when you left the land of Egypt all the days of your life” (Deut. 16:3); “That you may tell in the ears of your son what things I have wrought in Egypt” (Ex. 10:2). Such a law was necessary in order to perpetuate the memory of the departure from Egypt; because such events verify prophecy and the doctrine of reward and punishment. The benefit of every commandment that serves to keep certain miracles in remembrance, or to perpetuate true faith, is therefore obvious...

As to the precepts enumerated in the laws concerning the year of release and the jubilee (shemittah ve-yohel) 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 your people may eat” (Ex. 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 claims to debts [in the year of release] 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 could not be sold: “And the land shall not be sold beyond reclaim” (Lev. 25:23). In this way the property of a person remains intact for him and his heirs...

STUDY QUESTIONS

- According to Maimonides, are mitzvot ha-teluyot ba'aretz more for people or for God?
- Look closely at the full text of Leviticus 25:23. How does this verse inform your understanding of mitzvot in general, and of mitzvot ha-teluyot ba'aretz in particular?
- Maimonides attempted to explain the reason behind every single commandment. What can this tell us about Maimonides' understanding of the role of mitzvot in our lives? Do you agree with Maimonides' understanding?



MITZVOT HA-TELUYOT BA'ARETZ – TEXT 4

משנה מסכת שביעית פרק ו

[א] שלש ארצות לשביעית כל שהחזיקו עולי בבל מארץ ישראל ועד כזיב לא נאכל ולא נעבד וכל שהחזיקו עולי מצרים מכזיב ועד הנהר ועד אמנה נאכל אבל לא נעבד מן הנהר ומאמנה ולפנים נאכל ונעבד. [ד] מאימתי מותר אדם ליקח ירק במוצאי שביעית משיעשה כיוצא בו עשה הבכיר הותר האפיל... [ו] אין מביאין תרומה מחוצה לארץ לארץ אר"ש שמעתי בפירוש שמביאין מסוריא ואין מביאין מחוצה לארץ.

MISHNAH SHEVI'IT, 6:1,4, 6

1 The Land of Israel is divided into three different areas when it comes to the Sabbatical Year. [Fruit] from the territory occupied by those who came up from Babylonia, i.e. from the Land of Israel until Keziv, may not be eaten nor may [its soil] be worked. [Fruit] from the territory occupied by those who came up from Egypt, i.e. from Keziv until the river and Amonah, may be eaten but [its soil] may not be worked. From the river until Amonah and inward, its produce may be eaten and [its soil] cultivated... **4** When the Sabbatical Year is ending, at what point may a person purchase vegetables? From when the same type of vegetable begins to ripen. When fruit ripens quickly [in one place], it may also be purchased where it ripens slowly... **6** Tithes may not be brought from outside of the Land of Israel into the Land of Israel. Rabbi Shimon said: I have heard it explicitly said that we may bring from Syria, but we may not bring from outside of the Land of Israel.

STUDY QUESTIONS

- Why was the Land of Israel divided into different areas?
- What was the relationship between these different areas?
- How are we to understand the law regarding tithes brought from outside of the Land of Israel into the Land of Israel?
- Why might Syria seem to have an in-between status? What might this say about mitzvot and how they apply inside and outside of the Land of Israel? Do your answers to these questions give you more insight into your own relationship to these mitzvot?



MITZVOT HA-TELUYOT BA'ARETZ – TEXT FOR GROUP STUDY

ספר החינוך מצווה פד, מצות שמטת הקרקעות ומשרשי המתצווה לקבוע בלבנו, ולצייר ציור חזק במחשבתנו, עניין חידוש העולם, "כי ששת ימים עשה ה' את השמים ואת הארץ" וביום השביעי שלא ברא דבר הכתיב מנוחה על עצמו. ולמען הסיר ולעקור ולשרש מרעיונו דבר הקדמות אשר יאמינו הכופרים בתורה, ובו יהרסו כל פינותיה ויפרצו חומותיה, באה חובה עלינו להוציא כל זמנינו יום יום ושנה שנה על דבר זה: למנות שש שנים ולשבות בשביעית, ובכן לא יתפרד העניין לעולם מבין עינינו תמיד, והוא כעניין שאנו מוציאים ימי השבוע בששת ימי עבודה ויום מנוחה. ולכן ציוה, ברוך הוא, להפקיר כל מה שתוציא הארץ בשנה זו, מלבד השביתה בה, כדי שיזכור האדם כי הארץ שמוציאה אליו הפירות בכל שנה ושנה, לא בכוחה וסגולתה תוציא אותם, כי יש אדון עליה ועל אדוניה, וכשהוא חפץ הוא מצווה אליו להפקירם.

SEFER HA-HINUKH (ANONYMOUS WORK ON THE COMMANDMENTS, PROBABLY LATE 13TH C.), COMMANDMENT 84, THE SABBATICAL YEAR

The root of the mitzvah is to establish in our hearts, and to draw a powerful image in our thoughts of the concept of the birth of the world as something new: "For in six days God made the heavens and the Earth" (Ex. 20:11), and on the seventh day when he didn't create anything he had "rest" written about himself. The mitzvah is in order to remove and uproot from our thoughts the eternity of the world, something that the deniers of the Torah believe in... We are obligated to constantly repeat this matter: to count six years and to rest during the seventh. As a result, the subject will never leave our thoughts, and this is similar to what we find regarding the days of the week, six days of work and one day of rest. He therefore commanded, the Blessed One, in addition to letting the land lay fallow, to make ownerless every thing that grows from the earth during this year, in order that a person should remember that the land brings forth its fruits year after year. This doesn't happen because of the strength of human beings or their planning, but there is a ruler over [the Land] and over its masters, and when he desires he commands that it lie fallow.

STUDY QUESTIONS

- What is the relationship between the Sabbatical year and the weekly Sabbath?
- What is the connection between memory and the Sabbatical year?
- How is the Sabbatical year supposed to influence our understanding of the relationship between ourselves and God? Can it have this influence on us outside of the Land of Israel as well? If yes, how? If no, are there ways we can reinterpret it, in order to achieve the same influence on our understanding?
- After reading the essay and the study texts, how do you feel about the topic of mitzvot ha-teluyot ba'aretz in relation to your lived experience of the mitzvot? How can these mitzvot inform and enrich your Jewish life?





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