YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Before Sinai: Jewish Values and Jewish Law**

**By Rav Dr. Judah Goldberg**

The htm version of this *shiur* is available at:

<http://vbm-torah.org/archive/sinai/23sinai.htm>

**Please pray for the safe return of
Yaakov Naphtali ben Rachel Devorah,
Gilad Michael ben Bat Galim,
Ayal Ben Iris Teshurah**

**Shiur #23: The Land of Israel (6): Summary: Five Dimensions of the Land of Israel**

In [*shiur* #18](http://vbm-torah.org/archive/sinai/18sinai.htm), we began to consider different conceptions of the Land of Israel, which quickly multiplied in number. After spending several *shiurim* delineating and exploring various categories, we now circle back to summarize and organize our findings. Doing so will also force us to demonstrate the necessity of each category and fill in gaps regarding the implications of each one.

**Five Dimensions of the Land of Israel**

 To review, the most obvious definition of the Land of Israel that emerges from the rabbinic literature is the land whose sanctity obligates its produce in the cluster of “*mitzvot ha-teluyot ba-aretz*.” Practically, this corresponds to the territory that was resettled by Ezra and the returnees from the Babylonian exile. In addition, we identified at least four other definitions of the Land of Israel: (1) The land that was given to the *Avot*; (2) the land that was conquered by the immigrants from Egypt; (3) the land that is broadly endowed with the Divine Presence; and (4) the land that houses the Temple and is in turn sanctified by its presence.

In the course of our analysis, we divided these categories into those that are rooted in *berit Avot* and those that emanate from *berit Sinai*. Categories #1 and #3 emerge from *berit Avot* (or more accurately, *beritot Avot*), as we traced category #1 to *berit bein ha-betarim* and category #3 to *berit mila*. Though categories #2 and #4 also build upon the foundation of *berit Avot*, as halakhic categories with broad legal implications, they draw their force primarily from *berit Sinai*.

At the same time, we also divided these categories into those with a national orientation and those with a spiritual orientation. Categories #1 and #2 relate to the Land of Israel as a national homeland for the Jewish people, whereas categories #3 and #4 relate to the Land as a place of unique Divine connection and spiritual potential.

Combining these two perspectives—the political Land as manifested in *berit Avot* and *berit Sinai* and the spiritual Land as manifested in *berit Avot* and *berit Sinai*—results in a two-by-two matrix. Appending the original “halakhic” Land whose soil is obligated in *mitzvot ha-teluyot ba-aretz*, an obviously *Sinai*-derived category that we will call “category #5,” produces the following table:[[1]](#footnote-1)

|  |  |  |
| --- | --- | --- |
|  | The political Land of Israel | The spiritual Land of Israel |
| *Berit Avot* | **#1**: The land promised to the *Avot* through *Berit bein ha-betarim* | **#3**: The “sanctity of the Divine Presence,” rooted in *berit mila* |
| *Berit Sinai* | **#2:** Laws that are contingent upon the boundaries of the immigrants from Egypt | **#4**: R. Soloveitchik’s “sanctity of the Temple” | **#5**: The Land of Israel that is obligated in *mitzvot ha-teluyot ba-aretz* |

Category #1 emerges from the core promise of *berit bein ha-betarim* that envisions a future homeland for the Jewish people. Category #2 represents the fulfillment of *berit bein ha-betarim* through the conquests of the immigrants from Egypt and defines the Jewish homeland with regard, for instance, to laws that apply only to the nation as a whole. Category #3 describes the amorphous, primordial Divine Presence that the Land of Israel enjoys, which perhaps only became specifically relevant to the Jewish experience through *berit mila*. Category #4, which necessarily builds upon #3, designates the Land of Israel as the ultimate home for God’s Temple and the place from which certain offerings to Him must originate.

From this perspective, category #5, which most conventional references to “the Land of Israel” probably have in mind, suddenly seems fairly narrow. To recall, the *Kaftor Va-ferach* is even reluctant to use the term “sanctity” with regard to this aspect of the Land of Israel, even though the simple reading of many rabbinic texts suggests that it is appropriate. At most, category #5 assigns sanctity to the soil of the Land, which obligates its produce in numerous *mitzvot*, such as *teruma*, tithes and the like. Exactly what the relationship is between this sanctity and the other categories—especially since the territories involved are not identical—requires further elucidation.[[2]](#footnote-2)

**Does the “Land of the *Avot*” Matter?**

 In contrast to category #5, which is the most legally concrete category but ultimately the least intuitive, category #1—the land promised to the *Avot*—seems to be the most straightforward yet is also the most legally elusive. We can easily point to practical ramifications of all the other categories—of the conquests by the immigrants of Egypt, of the land of the Divine Presence, of the land of the Temple and of sanctified soil—but does the “land of the *Avot*” carry any specific lasting significance?

 Riding on this question is the very legitimacy of the category itself. Classically, the difference between pure mental gymnastics and genuine halakhic analysis is the ability to ground proposed ideas in concrete legal implications. Moreover, in this case we have specific reason to be skeptical, in light of the framework developed by R. Yoel Bin-Nun that we cited in [*shiur* #21](http://vbm-torah.org/archive/sinai/21sinai.htm) (“‘*Ha-aretz*’ *Ve*-‘*Eretz Kena’an’* *Ba-Torah*,” *Pirkei Ha-Avot,* 29-71). According to R. Bin-Nun, whereas the spiritual Land of Israel lies within specific borders, the boundaries of the political Land of Israel are not based on geography at all, but solely upon history.[[3]](#footnote-3) As such, R. Bin-Nun would presumably reject category #1, the land of the *Avot*, as a lasting, independent concept, but rather fold it into category #2, the conquered land that *berit bein ha-betarim* anticipates (p. 44-45).[[4]](#footnote-4) Furthermore, any references to the “Land of Canaan” or definite, limited boundaries necessarily refer to category #3.

 In contrast, I am suggesting that the boundaries of the *Avot* are significant from both the national (category #1) and spiritual (category #3) perspectives, even if the national vision of *berit Avot* also imagines a larger territory that will be broadened by historical circumstances (category #2). Following a distinction we quoted earlier, perhaps category #1 relates to the actual territory inhabited, or even acquired, by Avraham (“Rise and walk in the land, its length and its width” [*Bereishit* 13:17]).[[5]](#footnote-5) Category #2, on the other hand, emerges from the forward-looking *berit bein ha-betarim*, which anticipates a historical process that will culminate in conquest (“And the fourth generation will return here” [*Bereishit* 15:16]). But can we prove through halakhic sources that such a distinction is relevant?

**The Land of *Berit Avot*: Of the *Avot* or of the Divine Presence?**

 There are several laws which seem to reference the more limited boundaries of the original “Land of Canaan” that was promised to the *Avot*. However, with regard to each instance, we need to consider **which aspect of *berit Avot*** the particular law reflects—the national/political aspect (category #1) or the spiritual aspect (category #3). If these laws are merely further applications of God’s unique presence in the Land of Israel, then they do not help prove that category #1 is anything more than a historical footnote.

1. ***Inheritance by Priests and Levites in the Land of Israel***

 Regarding the prohibition against priests and Levites receiving a share of land or bounty that is conquered by the Jewish army, the Rambam writes:

It seems to me that this is only said about the land over which a covenant was forged with Avraham, with Yitzchak and with Yaakov, and their children inherited it, and it was distributed to them. But [with regard to] all other lands that a Jewish king conquers, priests and Levites—[regarding] those lands and their bounty—are equivalent to all other Jews. (*Hilkhot Shemita Ve-yovel* 13:11)[[6]](#footnote-6)

Why are the boundaries of the “Land of the Avot” so crucial specifically with regard to inheritance by priests and Levites? We can perhaps offer two different explanations, based on categories #1 and #3, respectively. On the one hand, we might suggest that this law articulates the Torah’s ideal social structure for a Jewish state, in which the laity works the land while spiritual figures mainly teach and inspire (see 13:12). Perhaps the Torah only insists upon this rigid structure within the original Jewish homeland but is more flexible with regard to additional territories.

 Alternatively, perhaps the uniqueness of the land of the *Avot* with regard to priests and Levites lies not in their exclusion from inheriting land, but in the alternative privilege that they enjoy. Consistently, the Torah explains that the tribe of Levi does not need a share in the land because “God is its lot” (*Devarim* 10:9, 18:2).[[7]](#footnote-7) Perhaps this substitution is only conceivable in the place where God is most present. Only in the land of the Divine Presence can priests and Levites literally take part in God, in lieu of portions of land. Outside of that territory, however, they are not restricted from sharing in the spoils of war, for God is not as “available” there.[[8]](#footnote-8)

1. ***Conquering Territories Outside of the Land of Canaan***

As we noted in an earlier *shiur*, the Rambam’s definition of the “Land of Israel” at the beginning of *Hilkhot Terumot*includes any land that was conquered by a “Jewish king or judge or prophet, with the consent of the majority of Jews” (1:2). Why, then, did the Syrian lands conquered by King David not gain full status? The Rambam explains:

Because he conquered them prior to conquering the entire Land of Israel; instead, some of the seven [Canaanite] nations remained. But had he taken hold of the **entire Land of Canaan, according to its boundaries**, first, and afterwards conquered other lands, his conquests would have all been like the Land of Israel in every way (1:3).[[9]](#footnote-9)

According to the Rambam, an expansive Land of Israel must build upon the core of the Land of Canaan. This law, too, can be explained in two different ways. On the one hand, we might invoke category #1—the land promised to the *Avot* as the Jewish homeland—in explaining why external conquests must follow the full conquest of the Land of Canaan. While *berit Avot* allows for an expanded, political Land of Israel, its legitimacy stems from its rootedness in the original territory that Avraham himself traversed. Only when the entire region between the Mediterranean and the Jordan has been vanquished can further conquests be seen as a continuation of Jewish destiny, rather than as a private venture.[[10]](#footnote-10)

 On the other hand, we might relate this law as well to the Land’s spiritual status (category #3), rather than to its national significance. If we earlier described two separate conceptions of the Land in *Sefer Bereishit*—one of *berit bein ha-betarim* and one of *berit mila*—perhaps this law fuses the two together. Only after the Divinely endowed heartland has reached its destiny can its spirit overflow to adjacent lands. The expansive, political Land of Israel must be anchored in the circumscribed, spiritual one.

***3. Entering the Land***

In four places[[11]](#footnote-11) the *Sifra* comments: “‘When you enter’: Perhaps [this means] from when they entered [the area] across the Jordan? Therefore, it says, ‘To the Land’—to the Unique Land.” Commentators disagree about what the *Sifra* is teaching. R. Yosef (Mahari) Korkos suggests that these particular laws may only apply within the restrictive territory of the Land of Israel that lies west of the Jordan River.[[12]](#footnote-12) The Medieval commentary on the *Sifra* attributed to R. Shimshon of Sens, however, contends that the *Sifra* is not describing the areas that are subject to these obligations, but the **trigger** for these obligations (*Behar*, *Parasha* 1).[[13]](#footnote-13) These laws will eventually apply to Jewish territory on both sides of the Jordan, but only after the Jewish people reach the “Unique Land,” on its western bank.

 In other contexts, this point is even more explicit. Though aspects of *orla*, *chadash* and *kil’ayim* may apply even outside the Land of Israel, the prohibitions did not apply anywhere until the Jews reached the Land (see *Kiddushin* 38a).[[14]](#footnote-14)

 What significance did the act of crossing the Jordan River have for the Jews? To me, it seems difficult to relate this point to category #3—the land of the Divine Presence. More likely, I think, the significance of crossing the Jordan lay in the Jewish people reaching its national destination, as foreseen by *berit Avot*—in other words, the land of category #1. Even though *berit* *Avot* may anticipate an expansive Land that reaches “from the river of Egypt to the great river, the Euphrates river” (*Bereishit* 15:18), it still attributes particular significance to the more limited land that the *Avot* themselves inhabited. Only when the Jewish nation arrives on that soil has “When you arrive in the Land” been fulfilled.

***4. Laws That Are Not Contingent on Category #5***

 Most soil-based *mitzvot* (“*chovot karka*”; see *Kiddushin* 37a), such as *teruma*, tithes and the sabbatical year, did not apply until the fourteen-year process of conquering and dividing the Land of Israel was completed. However, the Sages note a few exceptions. For instance, the Mishna states: “When our forefathers arrived in the Land, what they found already planted was exempt [from *orla*]. [That which gentiles[[15]](#footnote-15) subsequently] planted, even prior to [the Jews’] conquering, is obligated [in the laws of *orla*]” (*Orla* 1:2).[[16]](#footnote-16)

 We can ask: Where exactly did the laws of *orla* apply during this initial phase? While laws that are a function of category #5 apply specifically to areas that have been conquered and sanctified, the territory subject to the laws of *orla* must be defined independent of any conquest. Presumably, the solution is category #1—the Land of Israel as originally conceived in *Sefer Bereishit* (and later specified in *Bamidbar* 34:1-12).[[17]](#footnote-17) As soon as the Jewish people crossed the Jordan, the primordial Land of Israel became obligated in *orla*,[[18]](#footnote-18) even though its boundaries are irrelevant for most other “*mitzvot ha-teluyot ba-aretz.*”

**Conclusion: Spirituality and National Identity through the Land of Israel**

 At the beginning of this series, we enumerated four primary values of *berit Avot*: (1) Jewish peoplehood, (2) the Land of Israel, (3) pursuit of the ethical life and (4) yearning for Divine connection. At this point, we can further refine the relevance of the Land of Israel to *berit Avot*. **In addition to serving as our national homeland from the dawn of Jewish identity (value #2), the Land of Israel also constitutes the focal point of Jewish spiritual experience (value #4)**.[[19]](#footnote-19) Moreover, as we have continuously stressed, *berit Sinai* further refines and concretizes each of these values without supplanting the raw power and mandate of the original covenant. While *berit Sinai* spawns concepts such as the “title” of the Land of Israel and the “sanctity of the Temple,” those concepts do not fully capture the sense of walking in Avraham’s footsteps or of communing with God that Jews have always sought in the land of their forefathers.

 Most importantly, in the Land of Israel the primordial values of national identity and spiritual purpose merge. Beyond simply counting five different dimensions of the Land of Israel, we have looked, and will continue to look, for points of overlap and connection. In the previous [*shiur*](http://vbm-torah.org/archive/sinai/22sinai.htm), we observed the intertwining of the Land as a place of Divine Presence (category #4) with the Land as the crucible for Jewish national consciousness (category #2). In this *shiur*, one explanation we offered for the need to conquer the mainland of Canaan before venturing out further was to anchor an expansive, political Land of Israel (category #2) in the demarcated land of the Divine Presence (category #3). Following this particular line of thought yields a reciprocal relationship: God’s presence must sit at the center of the Jewish homeland, while at the same time Jewish national presence in the land is a prerequisite for God’s dwelling within it.

 Only through the fusion of *berit* *Avot* and *berit* *Sinai*, on the one hand, and of a national vision with a spiritual vision, on the other, can the Jewish experience in the Land of Israel reach its zenith:

They will inhabit the land that I gave to My servant Ya’akov,[[20]](#footnote-20) that your forefathers inhabited; and they will inhabit it—they, and their children, and their children’s children forever… and I will place My Temple in their midst forever, and My Presence will be upon them, and I will be their God, and they will be My people. (*Yechezkel* 37:25:27)

**For Further Thought:**

1. Does Syria have the sanctity of the Land of Israel (category #5) on either a Biblical or a rabbinic level? Does it carry the “title” of the Land of Israel (category #2)? See *Gittin* 8a and *Shi’urei Ha-Rav Yosef Dov Ha-Levi Soloveitchik zt”l, Mi-pi Ha-shemu’a* there.

2. In note #8 above, we cited several commentators who contend that the downgrading of Syria’s status is not related to a mistake on King David’s part, but rather to a principle that no additional lands can be sanctified until the entire Land of Canaan has been conquered. If so, how was the eastern bank of the Jordan sanctified? See the various responses in the sources cited above.

3. We noted above that *orla* has a different relationship with the Land of Israel than other soil-based *mitzvot* with respect to the points in history at which various obligations began*.* Are there other ramifications? See *Malbushei Yom Tov* 2, “*Kuntres Chovat Karka*,” 2, 17.

4. Could the Land of Israel also have a unique connection to value #3 of *berit Avot*—pursuit of kindness and justice? See *mori ve-rabbi* R. Aharon Lichtenstein, “*Tzedaka Ba-Aretz Uv-chutz La-Aretz*,” *Minchat Aviv*, 107-116.

**Questions or Comments?**

Please email me directly with your feedback at judahlgoldberg@gmail.com!

1. In [shiur #19](http://vbm-torah.org/archive/sinai/19sinai.htm), we related the “title” of the Land of Israel, defined by the boundaries of the immigrants from Egypt (category #2), to *berit Avot* and the sanctity of the Land (category #5) to *berit Sinai*. The more nuanced suggestion I present here is that both may actually be post-Sinai concepts (though I concede some uncertainty with regard to category #2). Even so, category #2 is building directly upon the groundwork of *berit Avot*, whereas category #5 is not. [↑](#footnote-ref-1)
2. Rashi *Bava Metzia* 89a links the obligation to tithe to the establishment of a *mishkan* in the Land of Israel, thus explaining why the mitzva was not practiced until fourteen years after the Jewish people’s arrival in the Land. Elsewhere (*Ketubot* 25a, *Nidda* 47a), however, Rashi provides alternative explanations. [↑](#footnote-ref-2)
3. R. Bin-Nun learns this, in part, from the Torah’s statement that “Every place on which your foot treads shall be yours” (*Devarim* 11:24; p. 44-45n). However, see *Sifrei* and Ramban there, as well as Ramban on *Gittin* 7b. [↑](#footnote-ref-3)
4. According to R. Bin-Nun, category #5 is apparently also synonymous with category #2 (p. 47). [↑](#footnote-ref-4)
5. See [*shiur* #19](http://vbm-torah.org/archive/sinai/19sinai.htm), including n. 18. This territory is presumably the same as that described in *Bamidbar* 34:1-12 (also see note #16 below). Thus categories 1, 3 and 4 all pertain to the same territory (the historic Land of Canaan), whereas categories 2 and 5 can include more or less, depending on the circumstances (see [*shiur* #18](http://vbm-torah.org/archive/sinai/18sinai.htm) and [*shiur* #19](http://vbm-torah.org/archive/sinai/19sinai.htm), n. 18). [↑](#footnote-ref-5)
6. Regarding the Rambam’s position, see *Sifrei* on *Devarim* 18:2 and *Sifri Zuta Bamidbar* 18:20. Also see Rashi *Devarim* 18:2 and Ramban *Shemot* 13:5. [↑](#footnote-ref-6)
7. Also see *Bamidbar* 18:20 and Rambam *Hilkhot Shemita Ve-yovel* 13:12. [↑](#footnote-ref-7)
8. A possible *nafka mina* (practical difference) between these two explanations is the territories that belonged to the Keini, Kadmoni and Kenizi tribes, which are included in *berit bein ha-betarim* but lie outside of the spiritually endowed “Land of Canaan.” Based on the Rambam’s wording, R. Chaim Kanievsky (*Derekh Emuna* 13:51) presumes that priests and Levites would be similarly restricted from receiving portions of those territories. If however, we link their exclusion to the Divine Presence, perhaps the restriction would not apply there. [↑](#footnote-ref-8)
9. Also see *Hilkhot Melakhim* 5:6. In his commentary on the Mishna (*Demai* 6:11), the Rambam cites the *Sifrei* (*Devarim* 11:24), which ties Syria’s status to David’s inappropriate conquering of it prior to completing the conquest of the Land of Canaan: “David did not follow the Torah. The Torah said, ‘After you conquer the Land of Israel, you are permitted to conquer [territories] outside the Land.’ But he did not do such.” The simple reading of the *Sifrei* suggests that the incomplete status of Syria is a consequence of wrongdoing. As some commentators (*Ma’adanei Eretz Terumot* 1:3:1 and *Kehillot Ya’akov Shevi’it* 12:3; see also Responsa Maharitatz 216) note, however, such a prohibition does not appear explicitly in *Mishneh Torah*, nor does the Rambam there relate the status of Syria to a violation on David’s part. Rather, the requirement that an expanded Land of Israel be rooted in the more restricted one seems to be a fundamental rule about the Land’s status, independent of “right and wrong.”

 Parenthetically, if there is indeed an obligation to conquer the entire “Land of Canaan” before embarking on further conquests, then it might constitute yet another consequence of category #1. However, the *Sifrei* relates such an obligation to the need to cleanse the Land of Israel of idolatry, which more likely reflects category #3 (the Land as a place of Divine presence). [↑](#footnote-ref-9)
10. In the words of *Chazal*, “*kibbush yachid*” (*Gittin* 8b). [↑](#footnote-ref-10)
11. *Metzora*, *Parasha* 5, regarding the leprosy of houses; *Kedoshim*, *Parasha* 3, regarding *orla*; *Emor*, *Parasha* 10, regarding the *omer* offering; and *Behar*, *Parasha* 1, regarding the sabbatical year. [↑](#footnote-ref-11)
12. Commentary on Rambam *Hilkhot Shemita Ve-yovel* 4:28. Also see *Birkei Yosef*, *Orach Chayyim* 489:3. [↑](#footnote-ref-12)
13. Also see *Chazon Ish*, *Zera’im*, *Likkutim* 10:1-2, *Kehillot Ya’akov Shevi’it* 12:6-7 and *Ma’adanei Eretz Terumot* 1:3:2. [↑](#footnote-ref-13)
14. Rashi gives a practical reason: “For in the desert they didn’t plant seeds or harvest or plant trees.” The Chazon Ish (*Orla* 1:11-12), however, adduces from *Menachot* 84a that the entrance of the Jews into the Land of Israel triggered these prohibitions on a fundamental level. [↑](#footnote-ref-14)
15. See *Sifra* *Kedoshim*, *Parasha* 3. [↑](#footnote-ref-15)
16. Regarding the applicability of *chadash* and *challa* immediately upon arrival in the Land, see *Kiddushin* 37b and *Yerushalmi Challa* 2:1. [↑](#footnote-ref-16)
17. Rashi (34:2) explains that the Torah specified the boundaries of the Land of Israel “to tell you that from these borders and inwards the *mitzvot* [of the Land] apply.” R. Elchanan Wasserman challenges that “*mitzvot ha-teluyot ba-aretz*” depend only on actual conquest, whether inside or outside of these borders; so what do these boundaries add (*Kovetz He’arot* 62:3)? In response, we can suggest that Rashi might be referring only to the subset of *mitzvot* that applied even prior to conquest. [↑](#footnote-ref-17)
18. I presume, following the Chazon Ish (*Orla* 1:14-15) and R. Chaim Kanievsky (*Derekh Emuna*, *Ma’aser Sheini* 10:70), that the mishna refers to trees planted in areas not necessarily under Jewish control. Also see *Malbushei Yom Tov* 2, *“Kuntres Chovat Karka*,” 2 and *Shoshanim Le-David* on *Orla* 1:2 (quoted in *Tosafot Anshei Shem*). The Chazon Ish similarly asserts that the entire land was immediately obligated in *challa* upon the Jews’ arrival in the Land; however, see *Kovetz He’arot* 62:3. Also see *Yerushalmi Challa* 2:1 with regard to *chadash*. [↑](#footnote-ref-18)
19. See Ramban on *Bereishit* 26:5 and *Vayikra* 18:25. Also see R. Joseph B. Soloveitchik, *The Rav Speaks: Five Addresses on Israel, History, and the Jewish People*, 139-145. [↑](#footnote-ref-19)
20. See Rashi’s commentary on the verse; also see *Shabbat* 118a. [↑](#footnote-ref-20)