YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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

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**Shiur #14: Jewish Peoplehood (7): Incomplete Conversions – Part Two**

 In the last *shiur*, we began to explore various examples of converts who participate fully in only one of the two covenants that govern Jewish identity. In addition to the Rambam’s exclusion of Canaanite slaves from *berit Avot*, which we analyzed in [*shiur* #12](https://etzion.org.il/en/halakha/studies-halakha/philosophy-halakha/jewish-peoplehood-5-there-back-door-judaism-2), we noted in the last *shiur* that he seems to similarly exclude converts from Amon, Mo’av, Mitzrayim and Edom from *berit Avot*. In each of these cases, the convert is obligated in *mitzvot* but does not fully join the Jewish nation, as evidenced by his inability to marry a Jew. In addition, the Rif and the Ramban mention procedural issues that might impede absorption into *berit Avot*.

 This *shiur* will focus upon the Netinim, a converted group that seems to live at the fringe of the Jewish nation. The nature of their exclusion, as well as its rationale, can help us further understand the dynamic between *berit Avot* and *berit Sinai* in conversion.

**Netinim (Gibeonites)**

Aside from the nations of Amon, Mo’av, Mitzrayim and Edom, are there any other groups who are forbidden to marry into the mainstream Jewish population even after conversion? Rava expresses uncertainty about this in *Yevamot* 76a. Regarding the Torah’s prohibition on intermarriage with the seven Canaanite nations (*Devarim* 7:3), Rava at first presumes that the prohibition only applies prior to conversion, then reverses himself and asserts that the prohibition is actually directed against Canaanite converts.

 Commentators mostly relate to these two possibilities in the context of the Netinim. Netinim are the descendants of the Gibeonites, a Canaanite population that tricked Yehoshua into forming a peace treaty and whom he subsequently converted and committed to servitude (thus the name “Netinim,” derived from *Yehoshua* 9:27[[1]](#footnote-1)). On the one hand, multiple *mishnayot* pair Netinim with *mamzerim* (bastards; see, for instance, *Makkot* 13a), implying that the prohibition against marrying Netinim is similarly Biblical, in accordance with Rava’s conclusion. On the other hand, *Yevamot* 78b states that King David distanced the Netinim, suggesting that marriage is permitted according to Biblical law, in accordance with Rava’s initial proposition.

 Rashi and the Rambam (*Hilkhot Issurei Bi’a* 12:22) follow the simple reading of *Yevamot* 78b and rule that Netinim are only rabbinically prohibited. Rabbeinu Tam, on the other hand, is persuaded by the *mishnayot* to conclude that a Biblical prohibition persists even after conversion (*Sefer Ha-yashar* 48; *Tosafot* *Yevamot* 79a, *Ketubot* 29a). Each side, then, must neutralize the contradictory sources.

The Ra’avad (*Katuv Sham,* *Yevamot,* 24b in Alfasi) suggests a novel interpretation that validates both Biblical and rabbinic prohibitions. He claims that the original, collective Gibeonite conversion was undertaken out of fear of the ongoing Israelite conquest and was therefore defective. Though, as the Ramban adds, “they were all converts,” they remained Biblically prohibited to marry Jews. Subsequent, private conversion could theoretically complete the initial conversion and permit marriage, but King David outlawed this second-stage conversion for the Netinim forever.[[2]](#footnote-2) Offering a twist on the Ra’avad’s general approach, the Ramban suggests that perhaps only first-generation Canaanite converts, at any time, are Biblically prohibited, but subsequent generations are Biblically permitted but were prohibited by King David.

Each of these interpretations adds a different dimension to our understanding of the interplay between *berit Avot* and *berit Sinai* in the context of conversion:

***Rabbeinu Tam and Ramban***

According to Rabbeinu Tam, Netinim join Moabites and Amonites as yet another group who may not marry into the mainstream Jewish community.[[3]](#footnote-3) Similarly, the Ramban would compare Netinim to Egyptians and Edomites, whose descendants eventually are allowed to marry Jews. The reason for this prohibition is unclear. When Rava first stated that “Do not marry with them” (*Devarim* 7:3) applies only prior to conversion, he explained that the concern is “perhaps he will beget a child who will go and worship idolatry” (*Yevamot* 76a). However, according to his conclusion, “deviation [from following] God is not relevant [to the prohibition], for [the prohibition] relates to their converted state,” in which idolatry is presumably no longer an issue (*Tosafot* *Yevamot* 23a; also see Ramban *Kiddushin* 68b).

*Tosafot* do not offer an alternative rationale for singling out the Canaanite nations. Speculatively, we can suggest that these nations pose a demographic threat to Jewish settlement in the Land of Israel. In contrast to marriage with unreformed pagans, which threatens the integrity of the Jewish religion, an influx of Canaanite converts into Jewish families endangers the distinct national identity of the Jewish people in the Land of Israel. In other words, Netinim and other Canaanites, like all of humanity, may join the theological majesty of *berit Sinai*, but they are not invited into the national existence that emerges from *berit Avot.*

Furthermore, the exclusion of Canaanites from *berit Avot* might be ideological, not merely practical. While *berit Avot* can absorb foreigners of nearly any background, the natives of Canaan are the antagonists in the story of Jewish destiny from its beginnings in *Sefer Bereishit* and therefore can never fully join it.[[4]](#footnote-4)

The *nafka minah* (practical ramification) between these two formulations might be the duration of the prohibition. If the concern with absorbing Canaanite converts into Jewish peoplehood is mainly practical, then we could understand how their children, who are further removed from their ethnic origins, pose less of a threat. This logic leads to the Ramban’s position, which allows second-generation Canaanites to marry Jews. If, however, the foundations of *Sefer Bereishit* fundamentally exclude the descendants of Canaan from Jewish destiny, then even subsequent generations will remain forever forbidden, as Rabbeinu Tam maintains.

***Ra’avad and Me’iri***

 In contrast, in explaining the Ra’avad’s opinion, the Ramban writes that the original conversion of Netinim does not permit them to marry Jews because “they are still attached to idolatry, and it will not be forgotten from their mouths.” For the Ra’avad, the threat that the Canaanites pose is specifically a theological one, and for this they are excluded from Jewish marriage.

On the one hand, this explanation blurs the distinction between *berit Avot* interestsand *berit Sinai* concerns. On the other hand, the Ra’avad provides perhaps the strongest example yet of incomplete conversion. As with an Amonite or a Moabite, we could have suggested that the conversion of the Netinim is comprehensive but that a separate prohibition on marrying Jews applies. The Ra’avad, however, must believe that **the prohibition on Jewish marriage itself reflects a deficiency in the Netinim’s conversion**, for otherwise, what could a repeat conversion accomplish? The Me’iri makes this point even more plainly: “The Netinim… they are the descendants of the Gibeonites, who converted by way of deception, and [the Jews] **left them**”—close to their original state—“to not consider them complete converts with regard to marriage, but they are obligated in the 613 *mitzvot*” (commentary on *Ketubot* 29a). The Ra’avad, then, reinforces the concept of incomplete conversion that R. Soloveitchik identified in the Rambam (discussed in the last *shiur*).

***Rashi and Rambam***

 On the one hand, Rashi and the Rambam believe that, as converts, Netinim are permitted to marry Jews according to Biblical law, in which case Netinim ostensibly have nothing to teach us about *berit Avot* and *berit Sinai*. Nevertheless, their interpretation of King David’s decree forbidding marriage can be instructive:

He said, “There are three marks of [the Jewish] nation: They are compassionate, they are bashful and they are beneficent.” “Compassionate,” as it says, “And He will grant you mercy and show mercy to you and multiply you” (*Devarim* 13:18); “bashful,” as it says, “In order that awe of Him be upon your faces” (*Shemot* 20:16); “beneficent,” as it says, **“In order that he may command his children and his household…” (*Bereishit* 18:19)**. “[Only] those who have these three marks are fit to cling to [the Jewish] nation.”[[5]](#footnote-5) (*Yevamot* 79a)

What are these qualities that King David describes? For the most part, they are the signature features of *berit Avot*, as demonstrated by the verses that the *Gemara* cites![[6]](#footnote-6) In other words, King David specifically forbade marriage with a population whom he found to be woefully lacking in the ethical virtues upon which *berit Avot* is built. Post-conversion, the Netinim are genuinely Jewish, but their total alienation from the core values that undergird Jewish peoplehood renders them unable to marry into our nation.

 On the one hand, the Netinim’s isolation, according to Rashi and the Rambam, is rabbinic in origin. However, we can ask: Is there a Biblical precedent for this rabbinic decree? Does the Torah ever outlaw marriage with a population, even after conversion, because they do not share the ethical qualities that characterize Avraham and his progeny? Amon and Mo’av, of course!

As the Torah states:

An Amonite or a Moabite shall not enter the Congregation of God **. . .** because they did not meet you with bread and with water on the way, when you came forth out of Egypt; and because they hired Bil’am ben Be’or from Petor Aram Naharayim to curse you. (*Devarim* 23:4-5)

In *Parashat Vayera*, Avraham feeds strangers and prays for the immoral city of Sedom. Amon and Mo’av, descendants of Avraham’s nephew, Lot, betray these values by denying help to the vulnerable and gratuitously cursing them.[[7]](#footnote-7) How could they possibly join a covenant whose founding vision is “that he may command his children and his household after him, that they may keep the way of God to do righteousness and justice” (*Bereishit* 18:19)?

With this we come full circle to our starting point (in the [last *shiur*](https://etzion.org.il/en/halakha/studies-halakha/philosophy-halakha/jewish-peoplehood-6-incomplete-conversions-1))—the Rambam’s suggestion that members of Amon and Mo’av are incompletely received as converts. Jewish faith and observance are available to them, but they have no place within the people whose national identity is inseparable from Avraham’s ethical tradition. Their exclusion from mainstream Jewish marriage is not an isolated prohibition but the most concrete ramification of their exclusion from *berit Avot* generally. At the rabbinic level, King David recognized the same callousness among the Netinim and similarly excluded them from marrying into the mainstream population and participating in *berit Avot*.

**Summary and Conclusion: Is Mass Social Conversion Possible?**

Following R. Soloveitchik, this *shiur* and the previous one have used exclusion from marriage as a marker for incomplete conversion. We have examined multiple examples of converts who must fully observe halakhaand seem to join *berit Sinai* in every way yet are kept at a distance from Jewish peoplehood. While some are held back merely by procedural issues—for example, the absence of a *beit din* at the time of immersion—others are formally excluded by halakha, either because they threaten the ethical values or demographic integrity of the Jewish people, or because the sincerity of their faith is doubtful.

 At one level, the very phenomenon of incomplete conversion lends further support to R. Soloveitchik’s recognition of two separate covenants involved in conversion. Beyond that, I believe that our analysis provides critical perspective on suggested approaches to conversion today. In light of the demographic threat posed by an influx of immigrants to Israel who are not halakhically Jewish, calls for modified conversions that downplay *berit Sinai* have surfaced. As many of these individuals proudly identify with the Jewish State and its fortunes but do not want to practice normative Judaism, perhaps a way can be found to integrate them through *berit Avot* without fully addressing *berit Sinai*, thereby legitimizing their marriages to Jews and ensuring the Jewishness of their offspring.[[8]](#footnote-8)

 The analysis presented in this *shiur* and the last, though, leaves me skeptical. The presumption of these voices is that *berit Avot* is more readily accessible than the daunting slopes of the figurative Mt. Sinai, of which we can say, “Who can climb God’s mountain, and who can stand in the place of His holiness?” (*Tehillim* 24:3). But the examples we have cited suggest just the opposite! While *berit Sinai* is open to any earnest, seeking soul, Jewish lawcarefully guards *berit Avot*, specifically with regard to the very issue that these commentators seek to resolve—the ability to marry a Jew.

Conventional wisdom holds that acceptance of *mitzvot* is a problematic hurdle that blocks an otherwise clear and easy path towards Jewish citizenship. The lesson of Canaanite slaves (according to the Rambam), Amonites, Moabites, Netinim and others, though, is that being counted among the progeny of Avraham is an extraordinary privilege that even the most pious of converts may not be granted.

Citizenship in the people of Avraham is a precious commodity indeed that perhaps deserves more respect than it currently garners. According it such may lead us to reformulate the exact question we want to ask regarding the proper response to contemporary demographics in Israel. Can we identify minority opinions that seem to dispense with acceptance of *mitzvot* as one of the technical criteria for the conversion process? Perhaps. But can we find a conceptual basis in *Chazal* for the assimilation of large populations into Jewish nationhood without concomitant, active involvement in *berit Sinai*? So far, I have not.

**What Kind of *Pesak*?**

Beyond supporting a particular stance on conversion, what I am arguing for here is an expansive, conceptual approach to halakhic inquiry. Questions of profound, sweeping consequence, I would suggest, cannot be answered simply by narrow readings of the most directly relevant texts. Rather, the answers need to be pursued within the context of a deeper inquiry into the halakhic foundations of the subject under discussion. Conversion, for example, has discrete chapters in the Rambam and *Shulchan Arukh* that are dedicated to its laws, but at the same time touches on core, overarching issues that define what it means to be a Jew. Thus, an overly narrow focus upon the technical process of conversion as formulated by various scholars may miss a broader perspective that a more comprehensive analysis can reveal.

While R. Soloveitchik’s reading of any particular line in the Rambam may not be decisive, his general approach to conversion, I believe, convincingly emerges from his characteristic, penetrating analysis of the full range of conversion phenomena that appear in *Chazal*, from the clichéd to the truly esoteric. This represents halakhic thinking at its best.[[9]](#footnote-9) I have tried to complement R. Soloveitchik’s analysis with my own observations, culled from diverse *sugyot*, and I hope that my expansion of his dual-covenant construct can provide even greater perspective on the nature of Jewish conversion and other topics.

To my mind, the method is more important than any specific conclusion, and I invite alternative approaches that similarly reflect the range of material that informs R. Soloveitchik’s position. The core of his legacy, I believe, is not a particular halakhic stance, but the charge to learn deeply, broadly and sophisticatedly—for our tradition deserves nothing less.

**For Further Thought:**

1. Literature on Jewish conversion has proliferated in recent years, in light of the challenges that the current demographics in Israel present. For a recent, enlightening discussion that echoes many of the points raised in the last several *shiurim*, see *mori ve-rabbi* R. Mosheh Lichtenstein, “*Ger o Toshav*,” *Daf Kesher*, [issues #1145-1146](http://gush.net/dk/5768/1145mamar1.html) (Tamuz 5768 [2008]) and his subsequent exchange with R. Cha`im Iram in issues #1149-1150 (Elul 5768 [2008]; all available at http://gush.net/dk//5768/5768indx.html). R. Iram follows R. Shaul Yisraeli in placing entrance into the nation at the center of conversion. R. Lichtenstein, in contrast, adopts the dual model of his grandfather R. Soloveitchik and therefore labels R. Iram’s approach “reductionist.”

2. Another “fringe” population that we did not discuss is the Samaritans, known to *Chazal* as Kuttim. The Sages disagree about whether the Kutim were “true converts” or converted only out of fear (see *Kiddushin* 75b); in the latter case, the legitimacy of their conversion is questioned. Me’iri (*Ketubot* 29a) presents a novel interpretation of the latter position. He claims that they remain prohibited for Jews to marry, but they are nevertheless obligated to observe the *mitzvot* (also see R. Mosheh Lichtenstein, *Daf Kesher*, [issue #1149](http://gush.net/dk/5768/1149maamar6.html)). How does this compare to the Me’iri’s position regarding the Netinim? Is this another example of a split between *berit Avot* and *berit Sinai*? Could a subsequent, private conversion fully naturalize a Kuttite?

3. R. Soloveitchik notes other examples of possible incomplete conversions in which the convert may not marry a Jew (see *Iggerot Ha-Grid Ha-Levi*, *Hilkhot* *Issurei Bi’a* 14:1; *Reshimot Shi’urei Maran Ha-Grid Ha-Levi*, *Yevamot*, 488-492, 507; *Shi’urei Ha-Grid al Masekhet Keritut*, 170-174):

* A convert in the time of the Temple who has not yet offered a sacrifice – see *Shita Mekuvetzet* to *Keritut* 8b (“omissions,” #3) and supplementary *Tosafot* 9a;
* A convert who is already circumcised at the time of conversion – see Ramban *Shabbat* 135a in the name of Rabbeinu Chananel;
* One who has converted for ulterior motives – see Rambam *Issurei Bi’a* 13:16, who explains that because the wives of Shlomo and Shimshon did not convert with pure intentions, “Scripture treated them as if they were gentiles and remained forbidden” (also see *Meginei Shlomo Ketubot 29a*; however, note the Rambam’s formulation in 13:17: “Therefore Shimshon and Shlomo maintained their wives, even though their secret was revealed”).

How do these cases of incomplete conversion compare to the examples cited above? Do they share anything in common, or do they represent different phenomena?

**Questions or Comments?**

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

1. See Rashi *Ketubot* 29a. [↑](#footnote-ref-1)
2. In a variation, Meiri *Ketubot* 29a suggests that perhaps secondary conversion is still possible, but King David rabbinically forbade marriage with these full converts. [↑](#footnote-ref-2)
3. According to *Tosafot* (*Yevamot* 79b), the parallelism between “Do not marry with them” (*Devarim* 7:3) regarding Netinim and “An Amonite or a Moabite shall not enter the Congregation of God” (*Devarim* 23:4) is complete, in that they are both communal, rather than personal, prohibitions. Therefore, a convert may marry a Natin, just as she may marry an Amonite or Moabite. [↑](#footnote-ref-3)
4. See *Bereishit* 12:6, 15:16, 24:3 and 28:6; also see [*shiur* #3](https://etzion.org.il/en/halakha/studies-halakha/philosophy-halakha/components-berit-avot). The Ramban traces this rivalry back to Noach’s pronouncements to his children, in which Canaan is made forever subservient to the descendants of Shem (commentary on *Bereishit* 9:26). [↑](#footnote-ref-4)
5. The *Yerushalmi*’s version (*Kiddushin* 4:1) ends more explicitly: “And these [Gibeonites], they do not have any of [these marks]. Immediately, he took action and distanced them, as it says, ‘And the Gibeonites are not from *Benei Yisrael*’ (*Shmuel* II 21:2).” [↑](#footnote-ref-5)
6. Regarding *Bereishit* 18:19, see *shiurim* [#3](https://etzion.org.il/en/halakha/studies-halakha/philosophy-halakha/components-berit-avot) and [#7](https://etzion.org.il/en/halakha/studies-halakha/philosophy-halakha/independence-berit-avot-and-its-interaction-berit-0). Regarding *Devarim* 13:18, see *Beitza* 32b; also see Rambam *Hilkhot Avadim* 9:8 and *Hilkhot Matenot Aniyyim* 10:2. [↑](#footnote-ref-6)
7. As the Ramban (verse 5) notes, these moral failings do not exist in a vacuum but are judged against the specific backdrop of *Parshiyot Lekh Lekha* and *Vayera*:  “It seems to me that Scripture distanced these two brothers, who were the recipients of *chesed* from Avraham, as he had saved their father and mother from slaughter and captivity, and in his merit, God extracted them from the upheaval [of Sedom]. [Amon and Mo’av] should have reciprocated kindness to the Jews, but instead they responded with malice.” [↑](#footnote-ref-7)
8. See, for instance, R. Dr. Yehuda Brandes, “*Polemus Ha-giyyur Ha-mitchadesh*,” *Akdamot* 21 (*Elul* 5768 [2008]), 83-95 (available at http://www.bmj.org.il/userfiles/akdamot/21/Brandes.pdf). About conversion, R. Dr. Brandes writes, “The other position believes that acceptance of *mitzvot* with regard to joining the religious community is not an absolute requirement. **The critical action of conversion is not religious transformation but joining the Jewish nation; ‘Your people are my people’ comes before ‘Your God is my God’** (*Rut* 1:16)” (90). For a summary of similar suggestions, see David Ellenson and Daniel Gordis, *Pledges of Jewish Allegiance: Conversion, Law, and Policymaking in Nineteenth- and Twentieth-Century Orthodox Responsa*, 151-157. [↑](#footnote-ref-8)
9. For a similar example, see R. Soloveitchik’s responsum on the drafting of Orthodox rabbis into the American armed forces during the Korean War in *Community, Covenant and Commitment: Selected Letters and Communications*, 23-60. [↑](#footnote-ref-9)