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**

**Shiur #51: Spirituality (6):**

**Prayer**

This *shiur* continues our search for practical applications of the fourth value of *berit Avot*, spirituality. As noted at the beginning of this section (*shiur* #46), spirituality might seem to be the province of the ritual practices of Sinaitic law, which collectively both express and sustain our deep connection to God and form the backbone of Jewish religious life. At the same time, however, some of these practices – including some of the most frequent and familiar – deliberately echo the world of our *Avot* and link us to their legacy. *Berit Avot*, perhaps, is not just an abstract concept that hovers in the background or fills in gaps in the halakhic system, but is palpably present in our everyday rituals.

This *shiur* addresses the influence of our *Avot* on prayer. The following *shiur* will explore their influence upon our recitation of the *Shema*.

**The *Avot* and Prayer**

On the one hand, daily prayer seems to be a classic example of a halakhically commanded and regulated ritual. The Rambam opens his *Hilkhot Tefilla* (Laws of Prayer) as follows:

It is a positive commandment to pray every day, as it says, "And you shall worship (*va-avadtem*) Hashem, your God” (*Shemot* 23:25). Tradition teaches that this worship is prayer, as it says, “And to worship Him with all your heart” (*Devarim* 11:13); the Sages said, “Which worship is with the heart? This is prayer.” (*Hilkhot Tefilla* 1:1)[[1]](#footnote-1)

According to the Rambam, at least, we pray because we are commanded to from Sinai. Furthermore, the extensive and detailed set of laws that govern prayer – though mostly on the Rabbinic level, even according to the Rambam – attest to prayer’s Sinaitic, legalistic character.

On the other hand, our forefathers feature prominently in *Torah She-be’al Peh*’s discussions of prayer, in at least two contexts. First, *Berakhot* 26b records a debate about the origins of our standard, daily prayers:

R. Yosi, son of R. Chanina, said: The prayers were established by the *Avot*.[[2]](#footnote-2)

R. Yehoshua ben Levi said: The prayers were established corresponding to the daily sacrifices.

The Gemara subsequently explains that our set times for prayer mimic the times of the daily sacrifices in the Temple, which means the connection between prayer and the sacrificial service is indisputable. R. Yosi, son of R. Chanina, then, must modify his position:

Rather, the prayers were established by the *Avot*, and the Sages linked them to the sacrifices.

Thus, even R. Yosi, son of R. Chanina, agrees that prayer as we know and experience it is a post-Sinai phenomenon, structured around the Temple rite. This point is critical to the halakhic formulation of prayer, which bases a number of different laws – not only the appointed times – on this association. Even if the idea of daily prayer indeed originated with our forefathers, this would seem to be a historical footnote, rather than a halakhic statement. Whatever the *Avot* did establish, it is not the basis for our practice today, just as the Rambam insists in his Commentary on the Mishna regarding all *mitzvot* practiced prior to Sinai.[[3]](#footnote-3)

Yet, as R. Joseph B. Soloveitchik notes in an essay on prayer,[[4]](#footnote-4) the Rambam incorporates the *Avot*’s ancient prayer customs into his *Mishneh Torah*! In *Hilkhot Tefilla*, the Rambam cites only prayer’s rootedness in the sacrificial system. In *Hilkhot Melakhim*, however, he finds it relevant to record our forefathers’ innovation of daily prayers:

Avraham came along and was commanded, in addition [to the Noachide laws], in circumcision, and he prayed the morning prayer (*shacharit*). Yitzchak separated tithes and added another prayer in the afternoon. Yaakov added [a prohibition against] the sciatic nerve and prayed the evening prayer (*arvit*). (*Hilkhot Melakhim* 9:1)

What, if anything, does this add to our understanding and experience of prayer that we wouldn’t otherwise appreciate?

Moreover, and more palpably, *Megilla* 17b ordains that the formal *Amida* must begin with a blessing about our *Avot*.[[5]](#footnote-5) Thus, while a Jew can shake a *lulav*, separate tithes, and don *tzitzit* without explicitly reflecting upon our early history, he or she cannot approach God without direct reference to Avraham, Yitzchak, and Yaakov. Apparently, there is a critical link between the *Avot* and prayer. Not only does the legacy of our *Avot* add something to prayer, but formal prayer is apparently impossible without it![[6]](#footnote-6)

**In the Footsteps of the *Avot***

R. Soloveitchik suggests that the passages in *Berakhot* and *Megilla* address a single quandary: What gives mere mortals the right to step before the King of kings and speak? R. Soloveitchik answers that our following in the footsteps of others is crucial both to the overall institution of daily prayers and to our immediate experience each and every time we approach God. Prayer as we know it is based, in part, on the precedent of our forefathers. Their practice of daily prayer lays the foundation for the Sages’ later institution, and their legacy is what gives the individual the right and the confidence, in real time, to step forward.

Specifically, according to R. Soloveitchik, the *Avot* (and those who follow them) pave the way for an encounter with God that is not dominated by awe and trembling but also reflects love and intimacy. They teach us not only that prayer is possible, but also about the remarkable possibilities of prayer:

The Patriarchs, Moses and the prophets, all fell before God in supplication, conversing with Him as a man would with a friend, laying bare before Him that which was hidden in their hearts, burdening Him, as it were, with their needs. They argued with Him, even made demands. We can rely on the practice of our nation’s Patriarchs, who approached God and strove to attach themselves to Him. (“Reflections on the *Amidah*,” 150-151)

It seems that prayer strictly as a mitzva of worship, without the inspiration of the *Avot*, would have felt more dutiful and submissive, paralleling other forms of ritual worship. The *Avot* teach us that prayer can at the same time be familiar and warm, comforting and even audacious – exactly as they teach us about spirituality in general.

R. Soloveitchik repeats this theme regarding the actual prayer experience of the individual. About the very possibility of prayer, he writes:

Every individual who comes to pray grapples anew with this question, as he seeks to initiate the prayer with fearful supplication and petition: his initial, immediate reaction is expressed in paralyzing fear and shuddering dread. How is possible to set up a dialogue between man and his Creator? (154)

The opening blessing of the *Amida*, however, shows the path forward:

Abraham discovered God by observing the universe and all it contains; he was the first to stand before God. Is it possible to stand before God? Indeed it is! Abraham was the one who discovered the secret that man should not flee or hide from the presence of God as Adam did. Man can hold his ground; the creature can appear before the Creator. Abraham brought the message of prayer to the world: man may pour out his feelings before God and have a dialogue with Him. The kingdom of Heaven is filled with inexhaustible lovingkindness… God approaches man in lovingkindness and sympathy, which incorporates an element of friendship. (154)

Avraham approached God without ambivalence or reservation. Out of irrepressible love, he called out earnestly, and God responded. It is Avraham’s religious gesture, together with God’s approval and further encouragement, that animates and validates us as we seek to overcome our own hesitations and open our hearts heavenward.

Furthermore, it is through our connection to the *Avot*, and the meta-historical community that they founded, that we ask for God’s favor. R. Soloveitchik continues:

[The blessing of] *Avot* contains two elements: that of paternal lovingkindness and the appeal to historical precedent. The Jew who prays sees himself as integrated with those who have carried the burden over the generations, as connected to the past and the future like a link in one long chain. Awareness of historical continuity, strong faith in the messianic, eschatological destiny of the nation, and the experience of attachment to the generations assure the praying person that God will not reject him. The God who walked with Abraham, the God to whom Abraham prayed, the God who forged a covenant with Abraham, will not hide His face from the individual who prays, even though the latter is hapless and unworthy of standing before Him. (155)

**From “*Avot*” to “*Gevurot*”**

To summarize, *berit Avot* lays the foundation for our prayer experience in two senses:

1. Prayer emanates from the spiritual yearning, on the one hand, and intimacy, on the other, of *berit Avot*. We relate to God not as an impersonal Master of the universe but as the familiar and beloved “God of our forefathers, the God of Avraham, the God of Yitzchak, and the God of Yaakov.” Tellingly, even the opinion that disallows a convert from speaking of “our forefathers” insists that he or she still open prayer by calling out to the personal “God of the forefathers of Israel” (*Bikkurim* 1:4).[[7]](#footnote-7)
2. Through identification with the historical dimension of *berit Avot*, the individual gains access to God and His grace. The petitioner appeals to Him not out of personal merit, but as He “Who remembers the kindnesses of the *Avot* and brings redemption to their descendants.”

These two aspects, in turn, reflect two different covenantal events between God and Avraham. On the one hand, we begin prayer by echoing the closeness of *berit mila* and God’s promise therein “to be for you God, and for your progeny after you” (*Bereishit* 17:7). At the same time, the opening of our *Amida* appeals to *berit bein ha-betarim* and its everlasting pledge of salvation.

Upon this multifaceted backdrop, we then proceed to confront God directly. The *Amida*, the quintessential encounter with God, begins with the blessing of “*Avot*” and only then continues with the blessing of “*Gevurot*,” about God’s omnipotence. Furthermore, this construct is by God’s direction, as the following *midrash* learns from His opening prophecy to Avraham:

“You shall be a blessing” (*Bereishit* 12:2) – What is this? That your blessing comes before My blessing. First, they say, “The Defender of Avraham” [the blessing of “*Avot*”], and after that, “Who resurrects the dead” [the blessing of “*Gevurot*”]. (*Tanchuma*, *Lekh Lekha*, 4; *Bereishit Rabba* 39:11)

In other words, our tradition dictates that a Jew approaches God by way of our ancestors. God is first an old family friend and second an all-powerful force, and that sequence is by His choosing and embedded in the very concept of *berit Avot*. Not only does b*erit Sinai* worship build upon the historical foundation of *berit Avot*; the experience of awe must follow the experience of love in each and every conversation that a Jew has with God.

**Ramban and the Origins of Prayer**

R. Soloveitchik’s analysis focuses upon the opinion that daily prayer is Biblically mandated but argues that the *Avot*’s precedent is nevertheless still relevant. However, according to the Ramban[[8]](#footnote-8) and others who claim that the obligation of daily prayer is only Rabbinic, there may be even more significance to the *Avot*’s legacy.

R. Asher Weiss questions the Ramban’s position: Can it really be that routine prayer is a purely Rabbinic invention, and not at all part of the Biblical outlook for a comprehensive religious life? He answers that even if prayer is not a Biblical commandment, it was always a core value, learned from our forefathers:

Certainly, prayer is the basis of cleaving, and it is impossible to draw close to the Holy One, blessed be He, without prayer. And it is incumbent upon us to pray because that is what our holy forefathers did – Avraham established *shacharit*, Yitzchak established *mincha* (the afternoon prayer), and Yaakov established *arvit* – and from them is “the source of life” (*Mishlei* 4:23).[[9]](#footnote-9)

According to R. Weiss, long before the Sages institutionalized daily prayer on the basis of the sacrifices, it already figured as a central part of Jewish practice – not as a commandment of *berit Sinai*, but as an expression, I would say, of *berit Avot* spirituality. Presumably, when Rabbinic enactment came along and turned daily prayer into a rigid obligation, it did so not in ignorance of the previous tradition but out of a desire to build upon it and create objective parameters for it. For the Ramban, too, when we pray, we do so out of both fulfillment of rabbinic decree and allegiance to the ways of our forefathers.

**Supplication vs. Worship**

The legacy of the *Avot* might be significant not only for the philosophy and text of prayer, but also for the rules by which it is executed in practice. Post-Sinaitic Jewish law has certainly added its indelible stamp to the ritual of prayer, but perhaps the *Avot*’s influence can still be felt. To assess this possibility, of course, we need to turn to the corpus of *Torah She-be’al Peh*.

In their wonderful volume *Tefilla Ke-mifgash*, R. Eli Taragin and R. Michael Rubinstein undertake an extensive analysis of two competing themes within the laws governing prayer – prayer as “*rachamei*” (supplication) and prayer as “*avoda*” (worship) – a duality already noted by R. Soloveitchik.[[10]](#footnote-10) Generally, prayer as *rachamei* is more flexible, personal, and unstructured, while prayer as *avoda* is more rigid, regulated, and objective, like the *avoda* of the Temple sacrifices. With impressive scholarship and sharp conceptual analysis, R. Taragin and R. Rubinstein document a number of cases in which either *rachamei* or *avoda* is dominant, as well as a wide range of *sugyot* in which the inherent tension between the two seems to lie at the heart of the legal discussion.

R. Taragin and R. Rubinstein, though, take their analysis one step further. They suggest that the *rachamei*/*avoda* dichotomy might itself reflect and be rooted in the Gemara’s *Avot*/sacrifices dichotomy that we discussed earlier. Here, too, they are developing a point noted briefly by R. Soloveitchik, who writes that prayer as “conversation” is “rooted in the institution of the *Avot*.”[[11]](#footnote-11) To the extent that the Sages embrace *both* root sources of praying, R. Taragin and R. Rubinstein argue that the dual themes of *rachamei* and *avoda* are both firmly entrenched in the Jewish conception of prayer.[[12]](#footnote-12)

R. Taragin and R. Rubinstein are careful to note that prayer as *rachamei* and prayer “established by the *Avot*” might not be synonymous; still, the overlapping themes, in their minds, are impossible to ignore. Consistently, they argue, prayer as *rachamei* encourages the individual to open up to God and pushes the boundaries of what is possible. For example, it is given as the reason that one can make up a missed prayer after its designated time (*Berakhot* 26a); that one can pray in any language (*Sota* 33a); and that women must pray, even though prayer falls into the category of time-bound obligations, from which women are usually exempt (*Berakhot* 20b).

But these very ideas of spontaneous conversation and unrestrained yearning are exactly the qualities that we associate with the spirituality of the *Avot*! They called out to God not out of submissive duty when the clock demanded it, but out of inner need and desire, as well as responsiveness to the changing mood of the hour. R. Taragin and R. Rubinstein write:

Both the prayers of the *Avot* and prayer of *rachamei* emanate from the soul of the individual; both are characterized by the natural need of a person to pour out his speech before his Master – speech that is spontaneous and natural. Just as the *Avot* were not commanded to pray, but nonetheless “went out to talk in the field” (*Bereishit* 24:63),[[13]](#footnote-13) so too is a request for mercy (*rachamim*) always possible. The prayers of the *Avot* are personal and intimate prayers, and the proof is that the prayer of each *Av* is presented [in Torah] in a different form. (*Tefilla Ke-mifgash*, pp. 308-309)

***Arvit*: Law or Value?**

Does the *Avot*’s institution of prayer have concrete ramifications for our own, post-Sinaitic world? Perhaps. One case in which scholars invoke the *Avot*’s precedent is in discussing the status of the *arvit* prayer. The Gemara cites a Tannaitic dispute whether *arvit* is “*chova*” (obligatory) or “*reshut*” (voluntary; *Berakhot* 27b, *Yoma* 87b). What underlies this debate? The Penei Yehoshua (*Berakhot* 26b), along with several other authorities,[[14]](#footnote-14) suggests it may align with the later argument regarding whether prayer was established by the *Avot* or in commemoration of the sacrifices. If prayer mirrors the sacrifices, then *arvit* may have a lower status than the other prayers, as there was no dedicated sacrifice offered at night. But if the *Avot* established the prayers, then Yaakov’s *arvit* should be no different in obligation than Avraham’s *shacharit* or Yitzchak’s *mincha*.

As the Penei Yehoshua acknowledges, however, neither the Gemara nor its primary commentators imply this alignment.[[15]](#footnote-15) Tosafot, for example, reference Yaakov in discussing the status of *arvit*, but not in order to argue that *arvit* should be obligatory. Rather, Tosafot only contend that “*reshut*” cannot genuinely mean optional:

Know, as our forefather Yaakov established it, he did not establish it for naught! (*Yoma* 87b; *Shabbat* 9b).

In other words, Yaakov’s practice continues to exert influence, but not in the way the Penei Yehoshua suggests. Apparently, R. Yosi, son of R. Chanina – who attributes prayer to the *Avot* – can also maintain that *arvit* is *reshut*, even though it was initiated by Yaakov.

But why should *arvit* be any different from *shacharit* and *mincha*, according to R. Yosi, son of R. Chanina? The Ritva’s explanation of his position is instructive:

“The *Avot* established the [prayers], and the Sages linked them to the sacrifices”: Meaning, the *Avot* certainly established them, *but we were not obligated to recite them in light of that*; and the Sages came along and linked them to the sacrifices, so that they would be obligatory.

In other words, daily prayer was a value for the *Avot*, not a law. They set an example for their progeny but did not formally obligate them. The Sages, on the other hand, codified daily prayer as part of the rigid halakhic system.

*Arvit*, then, is not an exception but the rule for *Avot*-inspired prayer. *Shacharit* and *mincha* started out as values but later became absolute obligations because of their correspondence to the daily sacrifices. Regarding *arvit*, the Gemara presents a debate: Rabban Gamliel believes that *arvit*, too, takes on obligatory status because of its correspondence to the parts of the sacrifices that were consumed on the altar at night. R. Yehoshua, on the other hand, believes that the nighttime rituals are insufficient to render *arvit* just as obligatory as *shacharit* and *mincha*. Therefore, *arvit* maintains its original status, from Yaakov’s practice, as *reshut*. Nevertheless, according to Tosafot, it should only be skipped in extenuating circumstances.

On the one hand, we see from Tosafot that the *Avot*’s institution of prayer still matters in practical terms. On the other hand, it becomes clear, in hindsight, why the Penei Yehoshua’s conjecture could not be correct. *Berit Avot speaks in terms of values, while berit Sinai speaks in terms of laws.* Consequently, prayer as initiated by the *Avot* could only constitute a *reshut*, while the Sages’ integration of the daily prayer routine into *berit Sinai* establishes at least some prayers as *chova*. Likewise, R. Soloveitchik notes, the Rambam only records the *Avot*’s practice of prayer in *Hilkhot Melakhim*, but not in *Hilkhot Tefilla* – “The Laws of Prayer” – as law cannot emanate from the ways of the *Avot*.[[16]](#footnote-16)

But that doesn’t mean that whether one prays *arvit* or not is arbitrary! Through the prism of law, *arvit* may indeed be classified as *reshut*, but as a reflection of *Avot*-inspired spirituality, it is a time-honored practice that cannot easily be dismissed. As an expression of a value, *arvit* contains inherent flexibility that gives way before other competing factors. But in a vacuum – “Know, as our forefather Yaakov established it, he did not establish it for naught!”

***Avot* in the *Acharonim***

The *Avot*’s precedent regarding daily prayer also appears in later Rabbinic literature in order to explain flexibility in the timing of prayer. First, R. Shlomo of Chelm (1716-1781) addresses the latest time that one may recite *shacharit*. Though the Rambam rules like R. Yehuda, who states that *shacharit* ought to be recited during the first four hours of the day (which is when the morning sacrifice was offered; see *Berakhot* 26b-27a), the Rambam adds that *shacharit* may nevertheless be recited until midday. The basis and nature of this expanded time frame is unclear. R. Shlomo suggests:

The correct interpretation is that the *Avot* certainly established the prayers, as our teacher [the Rambam] wrote at the beginning of the ninth chapter of *Hilkhot Melakhim*, and the heart of the *Avot*’s institution was “evening, morning, and afternoon” (*Tehillim* 55:18).… However, the Sages linked [the prayers] to the sacrifices, as *Berakhot* 26b concludes, and therefore we hold like R. Yehuda – until four hours.

*Ex post facto*, one has not fulfilled the obligation of prayer in its appointed time – that is, the time of the Sage’s institution – after four hours; but he has fulfilled the obligation of the *Avot*’s institution until midday. (*Mirkevet Ha-mishneh*, *Hilkhot Tefilla* 3:1)

According to R. Shlomo, the prayers of the *Avot* and prayer in commemoration of the sacrifices have different time frames. The timing of prayer as *avoda* is more restrictive, while that of the *Avot*’s prayers is more inclusive. One who recites *shacharit* after four hours is not commemorating the morning sacrifice but is nevertheless emulating Avraham, for whom the entire “morning” was eligible for prayer.[[17]](#footnote-17)

Second, R. Meir Simcha Ha-Cohen of Dvinsk (1843-1926) anticipates R. Taragin and R. Rubinstein’s argument and directly links the *Avot*/sacrifice debate to a case in which the Gemara contrasts prayer as “*rachamei*” with prayer as a substitute for sacrifice. In light of the rule that a missed *shacharit* prayer can be made up by reciting *mincha* twice, the Gemara wonders if the same would be true about a missed *mincha*:

It was asked of them: One who forgot to pray *mincha*, should he pray *arvit* twice?... [Should we say that] here, prayer is in place of sacrifice – and since the day has passed, the sacrifice is lost – or perhaps, because prayer is “*rachamei*,” any time one wants, he may pray? (*Berakhot* 26a)

R. Meir Simcha suggests that this question ought to depend on the *Avot*/sacrifices dichotomy:

It seems that [the ability to make up *mincha*] is only if we say that “the *Avot* established the prayers,” and therefore one would need to pray the following day because of the prayers of the *Avot*; but if we say that “the prayers were established corresponding to the daily sacrifices,” then “the day has passed, the sacrifice is lost.” (*Or Same’ach*, *Hilkhot Tefilla* 3:9(

Like R. Shlomo of Chelm, R. Meir Simcha presumes that *Avot*-based prayer is more flexible and can therefore be made up even after the transition to a new day. Were our prayers rooted only in the Temple service, there could be no makeup for a missed *mincha* – but the Rambam, R. Meir Simcha also notes, cites both the *Avot* and the sacrifices as the basis for daily prayer. This is why we are able to make up a missed *mincha* prayer in practice: Even though the sacrifice cannot be recouped, prayer of the *Avot* – or, in the words of the Gemara here, “*rachamei*” – is nonetheless possible.

**Conclusion**

As these examples reflect, the legacy of the *Avot* does not merely establish precedent for prayer but continues to shape both the halakhic contours of prayer and our lived experience of it. More broadly, every time that R. Taragin and R. Rubinstein trace a halakhic phenomenon to prayer as *rachamei* – such as the ability to add extra *Amidot* (pp. 324-329), or to recite the *Amida* within a wider timeframe (pp. 338-349), or to insert personal requests into the fixed text (pp. 369-375), or the inability of one who is capable of praying to dispense of his or her obligation by listening to the cantor’s public recitation[[18]](#footnote-18) (p. 380) – they are arguably pointing to the continued relevance of *berit Avot* to our daily worship.

Moreover, the law’s exquisite balance of these features with the rigid, objective requirements of prayer as *avoda* offers a stunning example of the integration of *berit Avot* and *berit Sinai*. And in this sense, one of our most routine practices becomes a window into the Jewish spiritual experience overall. To fuse the yearning of Avraham’s early morning encounters with the weight of standing before the Almighty; the naturalness of Yitzchak’s conversation “in the field” with the formality of the Temple worship; the fervency of Yaakov’s nighttime pleas with the specifications of institutionalized ritual; the love and the warmth of *Sefer Bereishit* with the awe and trembling of Sinai – this is exactly the challenge and opportunity with which our multifaceted tradition confronts us.

**For Further Thought:**

1. **The Time for Mincha**

According to *Yoma* 28b, Avraham also prayed in the afternoon, immediately after midday. However, in the Temple, the afternoon sacrifice was never offered until at least half an hour past midday. To what degree does this reflect the difference between the lone, spiritual worshipper and the regulated, universalized practice of Sinaitic law? If one prays the *mincha* prayer immediately after midday, as Avraham did, must he or she pray again? May one do so on purpose? See *Sefer Ha-yashar Le-Rabbeinu Tam*, 308, as well as the commentaries on *Shulchan Arukh* OC 234.

1. **Prayer According to the Rambam**

R. Shlomo of Chelm, R. Meir Simcha, and R. Soloveitchik all point to the Rambam’s mention of the *Avot*’s prayer practices in *Hilkhot Melakhim* as evidence that he embraces a dual approach to prayer. However, this assertion requires further consideration:

In *Hilkhot Tefilla*, at least, the Rambam consistently emphasizes prayer as a substitute for sacrifice, hewing closely to the rulings of the Rif. As R. Taragin and R. Rubinstein note (pp. 313-314, 318), in each of the places that the Gemara provides *rachamei* as the explanation for a phenomenon, the Rif omits it. Additionally, while others base the possibility of extra, voluntary prayers (*tefillot* *nedava*) on the flexible nature of prayer as *rachamei*,[[19]](#footnote-19) both the Rif (*Berakhot* 13a in Alfasi) and the Rambam (*Hilkhot Tefilla* 1:10) base the possibility of *tefillat nedava* on the precedent of voluntary sacrifices (pp. 325-326).[[20]](#footnote-20) The Rif cites the *baraita* that supports R. Yehoshua ben Levi, but not the one that supports R. Yosi, son of R. Chanina (18a in Alfasi). The Rambam (ibid. 3:2-3) also states that *mincha* should optimally be delayed until the time at which the afternoon sacrifice was typically offered, even though Avraham prayed his afternoon prayer at midday (*Yoma* 28b).[[21]](#footnote-21)

* 1. Is it possible that the Rambam relegates mention of the *Avot*’s prayers to *Hilkhot Melakhim* because he rules like R. Yehoshua ben Levi and not like R. Yosi, son of R. Chanina? As R. Raphael Yom Tov Lippman Halperin notes, R. Yehoshua ben Levi can agree that the *Avot* prayed daily but still contend that "the prayers were established corresponding to the daily sacrifices,” as he will maintain that the *Avot’*s practice has no bearing upon Jewish law (*Teshuvot Oneg Yom Tov*, 76). Notably, the Rambam does not even use the terminology of “established” (*tikkein*) in *Hilkhot Melakhim*; he merely notes that Avraham “prayed *shacharit*,” Yitzchak “added another prayer,” and Yaakov “prayed *arvit*.”[[22]](#footnote-22) Perhaps this intentionally reflects R. Yehoshua ben Levi’s position and not that of R. Yosi, son of R. Chanina?

In suggesting that the *Avot*’s institution of prayer has more latitude in timing than prayer as a substitute for sacrifice, R. Shlomo of Chelm alludes to a verse that is cited by the Gemara (*Berakhot* 31a), as well as by the Rambam in *Hilkhot Tefilla*. The Rambam writes:

And so did they establish that a person should pray one prayer at night, for the limbs of the afternoon sacrifice continued to be consumed all night long… **like that which it says, “evening and morning and afternoon I speak and murmur, and He heard my voice”** (*Tehillim* 55:18). (*Hilkhot Tefilla* 1:6)

In other words, even in the context of *Hilkhot Tefilla*, the three daily prayers are not based on the Temple rites alone, but also on an aspiration articulated by King David.[[23]](#footnote-23) Could this verse reflect the spirit of *Avot*/*rachamei*? Consider *Midrash Tehillim* on this verse:

R. Shmuel said: From here that a person needs to pray three prayers each day. And who established them? The *Avot* of the world established them…

**David said: Since the *Avot* established them, so too I** – “evening and morning and afternoon I speak.”[[24]](#footnote-24)

In that case, could one argue that this aspect of prayer indeed finds representation within the Rambam’s *Hilkhot Tefilla*?

The same *baraita* in *Berakhot* 31a that quotes King David begins by stating that one should not exceed three prayers a day, which is clearly at odds with the idea of *tefillat nedava* (see *Berakhot* 21a). If we would like to see both sources as relating to a *rachamei* aspect of prayer, how can they be reconciled? See, for instance, Rabbeinu Yona (12b and 22b in Alfasi), as well as *Midrash Tanchuma* (*Chayei Sara*, 5 and *Mikeitz*, 9).

According to R. Soloveitchik, the Rambam deliberately omitted the *Avot* from *Hilkhot Tefilla* because their precedent cannot form the basis of post-Sinaitic legal obligation, just as the Rambam writes in his Commentary on the Mishna (see *shiur* #6). If so, can prayer that is outside of the Sages’ sacrifice-based framework – e.g., *shacharit* after four hours, or a “makeup” prayer for a missed *mincha* – be technically obligatory? See, for instance, Rambam, *Hilkhot Tefilla* 3:1; Rashba, *Berakhot* 21a and Responsa 1:91; and *Ma’amar Mordechai* 107:2.

1. **The Blessing of “*Avot*” and *Berit Bein Ha-betarim***

This *shiur* suggested that the blessing of *Avot* reflects, in part, *berit bein ha-betarim*. How does the language of this blessing mirror that of *Bereishit* 14-15?

1. **Prayer as *Rachamei***
2. Can we point to other examples of prayer that represent pure *rachamei*, inasmuch as they do not correspond to any sacrifice? Consider:
   1. *Ne’ila* (see *Yerushalmi Berakhot* 4:1 and Rambam, *Hilkhot Tefilla* 1:7);
   2. Prayers that accompanied the sacrifices in the Temple, including an “extra,” midday prayer, according to the Rambam (see *Hilkhot Kelei Ha-Mikdash* 6:4-5);
   3. The 24-blessing *Amida* of a fast day, which, according to the Ba’al Ha-ma’or,was recited as an additional prayer (*Berakhot* 1b in Alfasi).

1. See also *Mekhilta de-Rabbi Shimon bar Yochai* and *Sifrei*, respectively, on the aforementioned verses, as well as *Sefer Ha-mitzvot*, Positive Commandment #5. [↑](#footnote-ref-1)
2. See also *Midrash Mishlei* 22:28. [↑](#footnote-ref-2)
3. See *shiur* #6. [↑](#footnote-ref-3)
4. “Reflections on the *Amidah*,” *Worship of the Heart*, pp. 144-182. [↑](#footnote-ref-4)
5. R. Elazar of Worms (author of the *Roke’ach*) links these two elements in his commentary on the *Amida* (printed in *Siddur Torat Chayim*): The *Amida* begins with the *Avot* because they instituted prayer. [↑](#footnote-ref-5)
6. See also the *Yerushalmi*’s suggestion (*Berakhot* 4:3) that the eighteen blessings of the *Amida* correspond to the eighteen times that Avraham, Yitzchak, and Yaakov are mentioned together in the Torah. [↑](#footnote-ref-6)
7. See *shiur* #8. [↑](#footnote-ref-7)
8. Gloss to the Rambam’s *Sefer Ha-mitzvot*, Positive Commandment #5. Notably, the Ramban agrees that prayer in times of acute crisis is a Biblical obligation, as R. Soloveitchik observes (149). [↑](#footnote-ref-8)
9. Available [here](https://beinenu.com/sites/default/files/alonim/148_06_79.pdf). R. Weiss further compares prayer to another duty that might be more of a value than a law: “Like prayer according to the Ramban, so too is settling the Land of Israel according to the Rambam” (see *shiur* #26). [↑](#footnote-ref-9)
10. *Shiurim Le-zekher Abba Mari, z”l*, Vol. 2 (Mosad Ha-Rav Kook, 2002), pp. 35-36, 232-233. [↑](#footnote-ref-10)
11. Ibid., p. 232. [↑](#footnote-ref-11)
12. *Tefilla Ke-mifgash*, p. 310. See also Ha-Rav Baruch Gigi, “*Avot U-temidim: Shtei Ma’arkhot Ha-tefilla*,” in *Beit Tefillati: Al Ha-tefilla U-vrakhot* (Har Etzion, 2022), pp. 183-211. [↑](#footnote-ref-12)
13. See *Berakhot* 26b. [↑](#footnote-ref-13)
14. The same logic is suggested by R. Yitzchak Zeckel Etthausen(*Or Lo Be-Tziyyon, Berakhot* 27b), R. Moshe Margalit (*Mareh Ha-panim*, *Yerushalmi Berakhot* 4:1), and R. Yaakov Bruchin of Karlin (*Teshuvot Mishkenot Yaakov* O.C. 89), as noted by R. Yisrael Eisenstein (*Amudei Yerushalayim*, *Yerushalmi* ibid.). [↑](#footnote-ref-14)
15. The Penei Yehoshua ultimately offers his own explanation for why Yaakov’s *arvit* is “*reshut.*” [↑](#footnote-ref-15)
16. *Shiurim Le-zekher Abba Mari*, *z”l*, Vol. 2, p. 220. See also Maharatz Chajes on *Berakhot* 26b. [↑](#footnote-ref-16)
17. However, see *Berakhot* 27a. [↑](#footnote-ref-17)
18. See also *Yerushalmi Berakhot* 3:3 and *Chiddushei Ha-Ran*, *Chullin* 106a. [↑](#footnote-ref-18)
19. See, for instance, Rashba, *Berakhot* 21a in the name of “Gaon” (as well as on 26a), and Ra’avad’s gloss to the Rambam. Furthermore, Rabbeinu Yona, R. Aharon Ha-Levi (Ra’ah), and *Piskei Ha-Rid* all specifically reject the Rif’s singular focus on sacrifices. [↑](#footnote-ref-19)
20. See also *Teshuvot Ha-Rif*, 320 and R. Soloveitchik, *Shiurim Le-zekher Abba Mari, z”l*,Vol. 2, p. 35. [↑](#footnote-ref-20)
21. Contrast with *Teshuvot Ha-Rosh* 4:9. [↑](#footnote-ref-21)
22. See also R. Soloveitchik, ibid., 220. The *Yerushalmi*, however, does not speak at all about the institution of prayer, but rather asks from where did the Sages “learn the three prayers” (*Berakhot* 4:1). [↑](#footnote-ref-22)
23. See also Maharsha on *Berakhot* 31a regarding Daniel. [↑](#footnote-ref-23)
24. See also *Midrash Tanchuma*, *Ki Tissa*, 23. However, see the *Yerushalmi* (ibid.), where an opinion that the three daily prayers correlate to “the three times that the day changes” is separate from the opinion that the prayers are based on the *Avot*. [↑](#footnote-ref-24)