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**

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**Shiur #22: The Land of Israel (5): The Land of Israel as a Place of Divine Presence – Part 2**

In the [previous *shiur*](http://vbm-torah.org/archive/sinai/21sinai.htm), we discerned two different ways of relating to “God’s Presence” in the Land of Israel:

1. Through *berit Avot*, to the Divine Presence as a primordial, spiritual force which defies human scrutiny;
2. Through *berit Sinai*, to the Divine Presence as a discrete halakhic concept with specific legal ramifications.

This *shiur* will elaborate further upon the latter concept.

**“His Servants Ask Each Other, ‘Where is the Place of His Honor?’”**

 We can perhaps further nuance our understanding of the Land of Israel as a place of unique Divine Presence by examining the end of *Sefer Bamidbar*.[[1]](#footnote-1) Chapter 35 instructs the Jewish people to designate “cities of refuge” for murderers, three on each side of the Jordan, and subsequently specifies many laws about adjudicating both intended and unintended deaths. The chapter, in a sense, has two closings (see Ramban on 35:33). First, the Torah states that these laws apply “in all of your inhabitations” (35:29), which the *Sifrei* explains means “in the Land and outside of the Land.”

However, the Torah then adds that ignoring these laws has specific consequences in the Land of Israel: “You shall not condemn the Land which you are in… and you shall not defile the Land in which you reside, in whose midst I dwell, for I, God, dwell among *Benei Yisrael*” (35:33-34). On this the *Sifrei* comments, “This tells you that that the spillage of blood defiles the land and drives away the Divine Presence, and because of the spillage of blood, the Temple is destroyed.”

 The implication is that murder can be prosecuted anywhere (see 35:30-31), but how it is handled in the Land of Israel is particularly significant. Therefore, we must designate cities of refuge in the Land of Israel for even an accidental killer.[[2]](#footnote-2) This is further suggested by 35:32, which warns us against accepting a ransom that would allow an accidental killer to not “run away to his city of refuge, to [instead] return to dwell in the Land.” The following verses (33-34), which mention “the Land” four times, echo the previous verse. In other words, the cities of refuge cleanse the Land of any trace of killing, accidental or malicious, thus protecting its suitability as a dwelling place for the Divine Presence.[[3]](#footnote-3)

 Against this backdrop, we can ask: What about murder on the eastern bank of the Jordan? Does this also drive away the Divine Presence? On the one hand, the Tashbetz (3:200) clearly excluded this area from his delineation of the “sanctity of the Divine Presence;” and yet the Torah repeatedly appropriates half of the cities of refuge to it. More, the Torah’s only explicit discussion of a future expansion of the Land of Israel comes to instruct us to add three more cities of refuge.[[4]](#footnote-4)

 We can suggest four possible responses to this question:

1. The Divine Presence inhabits the eastern bank of the Jordan as well, and therefore cities of refuge are necessary to atone for murders there. However, as the Tashbetz notes, multiple sources indicate that the eastern bank of the Jordan is not privy to the Divine Presence. First and foremost is the message that the tribes of the mainland send to the tribes across the Jordan: “If the land of your inheritance is impure,[[5]](#footnote-5) cross to **the land of God’s inheritance, where God’s sanctuary dwells**” (*Yehoshua* 22:19). The Sages are even more explicit: “The Land of Canaan is more sanctified than the eastern bank of the Jordan, [for] the Land of Canaan is fit for the House of the Divine Presence, and the eastern bank of the Jordan is not fit for the House of the Divine Presence” (*Bamidbar Rabba* 7:8).[[6]](#footnote-6)
2. The Divine Presence does not inhabit the eastern bank of the Jordan. However, the “Divine Presence” of which *Bamidbar* 35:34 speaks is not that aspect that is tied to the Land per se, rather, that which is diffusely attached to the Jewish people wherever they may be, even in exile. Indeed, the *Sifrei* continues: “Rabbi Natan says: ‘Beloved are [the people of] Israel, for in every place to which they are exiled, the Divine Presence is with them.’” The problem with this interpretation is that it contradicts the plain meaning of the verses, which, as the Ramban notes, stress the unique status of the Land of Israel. Furthermore, the *Sifrei* connects 35:34 to other verses that specifically speak of the Divine Presence that inhabits the Temple. As the Netziv observes in his commentary (*Eimek Ha-Netziv*), the *Sifrei* is demonstrating concentric circles of God’s ever-widening presence, starting with the Sanctuary (*Vayikra* 15:31, 16:16) and culminating with the entire Land of Israel. Thus *Bamidbar* 35:34, rather than referring to a more ethereal concept of Divine Presence, instead emerges as a compelling proof for R. Soloveitchik’s assertion that the entire Land of Israel bears a degree of the “sanctity of the Temple.”
3. The Torah designates cities of refuge on either side of the Jordan, but their significance is not the same in each territory. On the western bank, they atone for the Divine Presence that resides in the Land, but on the eastern bank, they function solely as part of the penitentiary system, or at most atone for the Divine Presence that lives with the people, even outside of the Land of Israel. This understanding is conceivable, but it is not my impression from the verses. The Torah contrasts the bounded mitzva of the cities of refuge, which only applies in the Land of Israel, with the universality of the laws of murder,[[7]](#footnote-7) but it never suggests an internal distinction within the six cities.[[8]](#footnote-8)
4. Perhaps we can differentiate between two concepts of “Divine Presence,” already hinted at in the Torah’s command to the Jewish people to build a sanctuary: “And you shall make for Me a sanctuary, and I will dwell **in their midst**” (*Shemot* 25:8). Technically, the Divine Presence resides inside a building, but at the same time that building sits at the center of a broader encampment. Applying this concept to the Land of Israel, perhaps we ought to differentiate between the “place” of God’s dwelling and the “encampment” in which this very place can exist. Unquestionably, the **location** of the Divine Presence is in the narrow Land of Israel, west of the Jordan. The **population** amongst whom it dwells, however, might be the entire “*kahal*,” which includes the inhabitants of the greater “political” Land of Israel.

***Egla Arufa***

 We can perhaps buttress this last idea by examining the laws of the beheaded calf (*egla arufa*), which the Torah states only apply in the Land of Israel (*Devarim* 21:1). From the specific wording of that verse, the *Sifrei* derives that the practice of *egla arufa* is also mandated in the territory east of the Jordan. On this point the Tashbetz comments:

It seems that because of this did the Torah need to [specifically] include *egla arufa* for “across the Jordan”: For you should not say that because the Divine Presence is not there, and *egla arufa* is intended only to atone for the [shed] blood that contaminates the Land and drives away the Divine Presence, that therefore you should not be obligated in *egla arufa* [on the eastern bank of the Jordan]—this is what [the wording of the verse] teaches us [to reject]. (3:200)

The Tashbetz carefully explains what we might have initially presumed – that the need to atone for innocent blood exists only in the land of the Divine Presence. Which part of this argument, then, does the *Sifrei*’s inclusion of the eastern bank of the Jordan undermine?

 One possibility is that *egla arufa* is in fact not connected to the Divine Presence and its intolerance of murder, and therefore the restriction of *egla arufa* to the Land of Israel, including both sides of the Jordan, is for unrelated reasons. The Tashbetz, however, takes a different approach: “For in any case [the eastern bank of the Jordan] is part of the Land of Israel, and the Torah established for it cities of refuge, so that we should not come to have [unatoned[[9]](#footnote-9)] spilled innocent blood—which is not true for ‘outside the Land.’” The Tashbetz compares *egla arufa* to the cities of refuge, which certainly exist on the eastern bank of the Jordan, in that both are responses to murder in the Land of Israel.[[10]](#footnote-10) However, whereas the cities of refuge play a dual role in both atoning for murder and functionally protecting an accused or accidental killer, the *egla arufa* ritual is purely a form of atonement (see *Devarim* 21:8). Their common denominator is that they both atone for the sin of murder; but then “the question returns to its place”—why do they apply outside of the land of the Divine Presence?

I believe that our previous suggestion can answer this question. While the Divine Presence technically inhabits only the historical Land of Canaan, the people in whose midst it dwells is the “*kahal*” that is defined by the political boundaries of the Land of Israel. This population requires atonement so that God’s presence can “dwell with them in the midst of their impurities” (*Vayikra* 16:16), even though the actual dwelling place is more restricted.

**The Land, the People and the Divine Presence**

Finally, we can perhaps find a hint to our dual understanding of the Divine Presence in the Land of Israel in the closing verse of *Bamidbar* 35: “And you shall not defile the Land in which you reside, in whose midst I dwell (*shokhein be-tokhah*), for I, God, dwell in the midst (*shokhein be-tokh*) of *Benei Yisrael*” (35:34). In this verse, the phrase “*shokhein be-tokh*” appears twice: once with regard to the Land, and once with regard to the people of Israel. The *Sifrei Zuta* comments:

Rabbi Nehorai said: “‘For I, God, dwell’—[even] in exile? Thus it says ‘in the Land’; or [even] ‘in the Land’ and you are in exile? Thus it says ‘in the midst of *Benei Yisrael*’—at a time when people are in the Land and not when they are outside the Land.”

From this verse the *Sifrei Zuta* learns that the Divine Presence requires the confluence of people and Land together: God simultaneously inhabits a place and dwells among a people.[[11]](#footnote-11) Perhaps we can suggest that the boundaries that define each are not identical. The place is, narrowly, the Temple, and broadly, the land of the Temple. The people are the collective Jewish nation, which assumes its national identity within the expansive political borders of the Land of Israel, conquered territories east of the Jordan included.

If this understanding is valid, then we have an important point of contact between the Land of Israel as a place of the Divine Presence and the Land of Israel as a national homeland. As the Divine Presence resides not only in a land but among a people, these two concepts of the Land merge. The land of the Divine Presence is necessarily situated inside the broader national homeland of the people of Israel. Only when the Jewish people fully assume their national identity within their Land can the Divine Presence reach its full splendor on Earth, in the Land and in their midst.

**For Further Thought:**

1. The eastern bank of the Jordan is a classic test case for almost any inquiry into the nature and identity of the Land of Israel (akin to the pervasive role of the half-slave, half-emancipated person in the *Minchat Chinukh*). Though we only discussed its status regarding the Divine Presence in this *shiur*, other relevant questions include:

* Is the eastern bank of the Jordan Biblically obligated in soil-based *mitzvot*, such as *teruma* and tithes? The consensus of twentieth-century authorities, based on the Talmudic literature and the positions of the *Rishonim*, is that it is. See, for instance, *Chazon Ish*, *Zerai’m, Shevi’it* 3:25 and *Likkutim* 10:1-2, *Kehillot Yaakov*, *Shevi’it* 12 and *Ma’adanei Eretz Terumot* 1:2:3, 1:3:2.
* Does the eastern bank of the Jordan carry the “title” of the Land of Israel? On the one hand, R. Soloveitchik points to the practice of *egla arufa* in the territory east of the Jordan—codified by the Rambam (*Hilkhot Rotzei’ach U-shmirat Ha-nefesh* 10:1)—as evidence that this area, too, has the “title” of the Land of Israel (*Iggerot Ha-Grid Ha-Levi*, beginning of *Hilkhot Melakhim*, 2; see [*shiur* #18](http://vbm-torah.org/archive/sinai/18sinai.htm)). As the title of the Land of Israel depends solely upon the conquests of the immigrants of Egypt, the lands that they conquered east of the Jordan should qualify as well. On the other hand, the Rambam makes no mention of the eastern bank of the Jordan when he specifies “the boundaries of the immigrants of Egypt” (*Hilkhot Terumot* 1:6-7). In another context he separately mentions the area “across the Jordan” and the “Land of Israel that the immigrants from Egypt settled” (*Hilkhot Shemita Ve-yovel* 4:28), which suggests that the former is not included in the latter. Can we reconcile these texts?
* When the Talmud deduces that only Jews living “from Levo Chamat to the river of Egypt” (*Melakhim* I 8:65)—the boundaries of the Land of Canaan—are designated as “*kahal*” (*Horayot* 3a; see Rambam *Hilkhot Shegagot* 13:2), does this include Jews living east of the Jordan?[[12]](#footnote-12)
* In [*shiur* #18](http://vbm-torah.org/archive/sinai/18sinai.htm), we cited R. Soloveitchik’s argument, based on the Mishna’s list of ten levels of sanctity in the Land of Israel (*Keilim* 1:6), that the need to bring the *omer* offering from the Land reflects the Land’s “sanctity of the Temple.” But from which part of the Land may the *omer* offering be brought? Rashi (*Sanhedrin* 11b and *Menachot* 83b) includes the eastern bank of the Jordan, while the Ran (*Nedarim* 22a) excludes it.[[13]](#footnote-13) Furthermore, other Tannaitic sources present a variant list of the ten levels of sanctity. While *Keilim* 1:6 is vague about the boundaries from within which the *omer* can be brought, *Bamidbar Rabba* 7:8 and *Sifrei Zuta Naso* 5:2 imply that the western and eastern banks of the Jordan are equivalent in this regard. See *Ambuha De-Sifrei* there, as well as R. Menachem Ziemba’s *Kuntres* *Otzar Ha-Sifrei* in the same volume.
* Rabbi Yoshiya’s opinion in *Bava Batra* 117a is that those who entered the Land of Israel with Yehoshua technically inherited their shares of land from the previous generation, with significant ramifications for the actual distribution of land (see [shiur #19](http://vbm-torah.org/archive/sinai/19sinai.htm)). Did the distribution of lands east of the Jordan to the tribes of Reuven, Gad and Menashe operate differently? Also see Seforno on *Bamidbar* 34:2 regarding the apportionment of lands east of the Jordan.

2. In this *shiur*, we related to the Divine Presence in three different ways:

1. The Divine Presence as residing within a technical, delimited location—whether the Temple narrowly or the entire historical Land of Canaan;
2. The Divine Presence as dwelling in the midst of a broad population—whether the encampment in the desert or the collective Jewish nation that inhabits the territory that carries the title of the Land of Israel;
3. The Divine Presence as an ever-present sanctifier of the Jewish people, including in exile.

Is this third category a *berit Avot* concept or a *berit Sinai* concept? Note that the Sages first learn this idea from Yaakov’s exile to Egypt, about which God tells him, “I will descend with you to Egypt” (*Bereishit* 46:4).[[14]](#footnote-14)

3. Yom Kippur atones for defilement (*tum’a*) that drives away the Divine Presence. Historically, Moshe’s plea on the tenth of Tishrei that followed the sin of the Golden Calf was that “God should please go in our midst” (*Shemot* 34:9)—a request that the Divine Presence should return to the Jewish people.[[15]](#footnote-15) Perpetually, on Yom Kippur the high priest sprinkles the blood of sin-offerings all around the Temple in order to “atone for the Sanctuary for the defilements of *Benei Yisrael…* and so shall he do to the Tent of Meeting **that dwells with them in the midst of their impurities**” (*Vayikra* 16:16).

For which forms of defilement do these sin-offerings atone? On the one hand, the *Gemara* (*Shavuot* 7b) notes that the Torah mentions defilement as a consequence of murder (as described in *Bamidbar* 35:34), idol worship and forbidden relationships. However, the *Gemara* concludes that the sin-offerings only atone for the literal defilement of the Temple by individuals who either entered the Temple or ate from its offerings in a contaminated state. All other sins can only be expiated by the “scapegoat” that is sent to the wilderness (see *Vayikra* 16:21-22 and *Shavuot* 2b).

 In other words, the *Gemara* is distinguishing between defilement of a place—the Temple—and defilement of the people. In order to maintain the Divine Presence in our midst, Yom Kippur must atone for each separately, as a different verse suggests: “And [the high priest] shall atone for the holiest Sanctuary and for the Tent of Meeting and for the altar **shall he atone**; and for the priests and the entire nation **shall he atone**” (*Vayikra* 16:33). The verse splits the day’s atonement into two, each corresponding to a different part of the Yom Kippur service (see *Yoma* 61a). Perhaps the sin-offerings restore the Temple’s fitness to house the Divine Presence, while the scapegoat ritual refreshes the people’s ability to enjoy God’s presence among them.[[16]](#footnote-16)

4. Two further questions about Yom Kippur:

* There is a third source of atonement on Yom Kippur: “Yom Kippur itself,” even in the absence of the Yom Kippur offerings (Rambam *Hilkhot Teshuva* 1:3). Is this atonement, too, related to the Divine Presence, and if so, to what aspect?
* *Megilla* 31a prescribes *Vayikra* 18, which deals with forbidden relationships and the defilement they cause, as the Torah reading for *mincha* of Yom Kippur. Can the *Gemara*’s discussion in *Shavuot* 7b shed further light upon this unusual choice?

**Questions or Comments?**

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

1. Notably, the *Sifrei* and *Sifrei Zuta* both end their commentaries on *Sefer Bamidbar* with Chapter 35. While this might be mere coincidence, it might alternatively suggest that Chapter 36 is an appendix of sorts and that Chapter 35 constitutes at least one “ending” to the *sefer*. [↑](#footnote-ref-1)
2. Also see *Sifrei Zuta* on 35:29: “‘In all of your inhabitations,’ [including] outside of the Land. Perhaps even cities of refuge should be in force in the Land and outside of the Land? Thus it says ‘these’ (35:29). Jewish courts should be in force in the Land and outside of the Land, but cities of refuge are only in force in the Land.” [↑](#footnote-ref-2)
3. According to the Ramban, “You shall not defile the Land” (35:34) adds a further dimension to the previous prohibitions regarding murder and the acceptance of ransom: “The Torah goes on to further warn that we should not do this evil in the Chosen Land in whose midst God dwells, that the defilement should not cause the departure of the Divine Presence from it” (Glosses to the Rambam’s *Sefer Ha-mitzvot*, *shoresh* 5). [↑](#footnote-ref-3)
4. *Devarim* 19:8-9; see Rambam *Hilkhot* *Shemita Ve-yovel* 13:1, *Hilkhot Rotzei’ach U-shmirat Ha-nefesh* 8:4 and *Hilkhot Melakhim* 11:2. [↑](#footnote-ref-4)
5. See Rashi: “For God did not choose to invest it with His Presence.” [↑](#footnote-ref-5)
6. Also see Ramban on *Bamidbar* 21:21. [↑](#footnote-ref-6)
7. See note #2 above. [↑](#footnote-ref-7)
8. Regarding this suggestion, see *Kessef Mishneh* and *Ma’aseh Rokei’ach* on *Hilkhot Rotzei’ach U-shmirat Ha-nefesh* 8:1. Regarding the Rambam’s own formulation there, compare to *Sefer Ha-mitzvot,* positive commandment #176 and *Hilkhot Rotzei’ach U-shmirat Ha-nefesh* 10:1. Even if we reject a distinction between two different roles for the cities of refuge with regard to the cities on either side of the Jordan, perhaps it can be relevant in a different context. The *Sifrei* (*Bamidbar* 35:13) learns that a city of refuge protects even a murderer who runs to it from the Diaspora (see Rabbeinu Hillel and Netziv, as well as Tashbetz [3:200]; however, see *Kessef Mishneh* above). In such a case, perhaps the city only functionally affords refuge to the murderer but does not atone for the murder. [↑](#footnote-ref-8)
9. I presume this is the Tashbetz’s intention, even though this point is not explicit in his wording. [↑](#footnote-ref-9)
10. Also see *Sifrei* on *Bamidbar* 35:33 and *Ketubot* 37b, which connect *egla arufa* to that verse. [↑](#footnote-ref-10)
11. Also see *Yoma* 9b, where Reish Lakish blames the limited Divine Presence of the Second Temple upon the lack of Jewish return from Babylonia. Also see *Yevamot* 64a (discussed earlier in [*shiur* #6](http://www.vbm-torah.org/archive/sinai/06sinai.htm)). [↑](#footnote-ref-11)
12. The *Tanakh* repeatedly refers to the entire population of the Land of Israel as the people inhabiting either “from Dan to Be’er Sheva” (*Shmuel* I 3:20, *Shmuel* II 3:10, 17:11, 24:2,15 and *Melakhim* I 5:5) or from Levo Chamat to the Egyptian border (see *Melakhim* I 8:65, *Amos* 6:14, *Divrei Ha-yamim* I 13:5 and *Divrei Ha-yamim* II 7:8). Only once does the text also refer to the inhabitants of the eastern bank of the Jordan: “The entire congregation gathered, as one person, [coming] from Dan to Be’er Sheva, **and [from] the Land of Gil’ad** [east of the Jordan]” (*Shoftim* 20:1). While this one instance could represent a historical exception, more likely the inhabitants of Gil’ad are implicitly included in all the other verses as well. The *Navi* only specifies the inhabitants of the eastern bank of the Jordan because one particular city of Gil’ad—Yavesh Gil’ad—notably did not joint that gathering (see 21:8-9). I thank my teacher R. Menachem Leibtag for this insight. [↑](#footnote-ref-12)
13. However, see *Chiddushei Ha-Ran Rosh Ha-shana* 13a. [↑](#footnote-ref-13)
14. *Mechilta Beshalach*, *Masekhta De-shira* 3; also see *Mechilta Bo*, *Masekhta De-pischa* 14 and *Sifrei* on *Bamibdar* 35:34. Regarding the first category of Divine Presence, the Ramban depicts the Divine Presence’s inhabiting of the Tabernacle as a **return** to what existed for the *Avot*, “that the Divine secret was upon their tents” (Introduction to *Shemot*; see *Iyov* 29:4). The Sages, however, portray this event as a new phenomenon that surpassed what the *Avot* had achieved and had not existed since Gan Eden, the original “camp of the Divine Presence” (*Bamidbar Rabba Nasso* 13:2). Furthermore, perhaps this form of Divine presence specifically requires the sanctity of *berit Sinai*, at least in our post-Eden world (also see [*shiur* #21](http://vbm-torah.org/archive/sinai/21sinai.htm), note #2). [↑](#footnote-ref-14)
15. See *Shemot* 32:34 and 33:1-16. Regarding the date, see *Ta’anit* 30b. [↑](#footnote-ref-15)
16. On the one hand, these two forms of atonement are very different from one another, as the Ramban (*Vayikra* 16:21) emphasizes. At the same time, they are inextricably linked, as demonstrated by the lottery of the two goats (see 16:7-10 and *Yoma* 62a) and the dual role of the high priest’s bull according to Rabbi Shimon (*Shavuot* 2b). [↑](#footnote-ref-16)