

DECLARATION AND CONFESSION: THE CONVERT AND THE LAND

by Rabbi Yitzchak Etshalom

This week's shiur is dedicated to the memory of our dear friend Anne Samson, z"l, whose untimely and tragic passing has left the entire Los Angeles community in shock and sadness. The inspiration of her unflagging kindness, generous spirit and love for Israel and family will never be forgotten and the obligation to raise our own commitment to Klal Yisrael is now enhanced and raised in her memory. May the Samson, Katz, Rosentstein and Slifkin families be comforted among the mourners of Tziyyon and Yerushalayim.

[This week's shiur is a slight departure from our usual format - it is focused exclusively on the first 15 verses of the Parashah instead of the whole reading - and that focus has a greater Halakhic/Talmudic orientation than usual. Hope you enjoy!]

I

MIKRA BIKKURIM

The first section in this week's Parashah involves two Mitzvot - the bringing of Bikkurim (first fruits) and the "Mikra Bikkurim" (Bikkurim declaration) which _sometimes_ accompanies the gift of those fruit:

When you have come into the land that Hashem your God is giving you as an inheritance to possess, and you possess it, and settle in it, you shall take some of the first of all the fruit of the ground, which you harvest from the land that Hashem your God is giving you, and you shall put it in a basket and go to the place that Hashem your God will choose as a dwelling for His name. You shall go to the priest who is in office at that time, and say to him,

"Today I declare to Hashem your God that I have come into the land that Hashem swore to our ancestors to give us."

When the priest takes the basket from your hand and sets it down before the altar of Hashem your God, you shall make this response before Hashem your God:

"A wandering Aramean was my ancestor; he went down into Egypt and lived there as an alien, few in number, and there he became a great nation, mighty and populous. When the Egyptians treated us

harshly and afflicted us, by imposing hard labor on us, we cried to Hashem, the God of our ancestors; Hashem heard our voice and saw our affliction, our toil, and our oppression. Hashem brought us out of Egypt with a mighty hand and an outstretched arm, with a terrifying display of power, and with signs and wonders; and He brought us into this place and gave us this land, *Eretz Zavat Halav uD'vash* (a land flowing with milk and honey). So now I bring the first of the fruit of the ground that You, Hashem, have given me."

You shall set it down before Hashem your God and bow down before Hashem your God. Then you, together with the Levites and the aliens who reside among you, shall celebrate with all the bounty that Hashem your God has given to you and to your house. (D'varim 26:1-11)

There are two independent Mitzvot which seem to be mutually interdependent:

A) "you shall take some of the first of all the fruit of the ground, ... and you shall put it in a basket and go to the place" - i.e. the Mitzvah of *Hava'at Bikkurim* (bringing the Bikkurim to the Beit haMikdash)

B) "You shall go to the priest who is in office at that time, and say to him, 'Today I declare...to give us.'... you shall make this response before Hashem your God: 'A wandering Aramean...So now I bring the first of the fruit of the ground that You, Hashem, have given me.' " - i.e. the Mitzvah of *Mikra Bikkurim* (reciting the Bikkurim declaration)

Even though the presentation of the text implies a concomitant obligation, the Oral tradition maintains that it is possible to be obligated to bring Bikkurim, yet not be obligated (or even allowed) to recite Mikra Bikkurim. (The opposite option is, of course, out of the question - it is unthinkable that someone would make the declaration without having brought Bikkurim). The details of those obligated to "bring and recite", those who "bring but do not recite" and "those who do not bring at all" are delineated in the first chapter of Massechet Bikkurim.

The long and short of "those who bring but do not recite" is that any Jew who owns land in Eretz Yisra'el who has grown fruit (of the seven species) that was exclusively grown on his own land - obtained legally - is obligated to bring Bikkurim to the Beit haMikdash. Yet, if that person cannot honestly make the declaration - i.e. if any of the phrases or words of the declaration do not ring true for the declarant - he cannot recite the Mikra Bikkurim. In the third section, we will analyze an example of this "split" obligation.

II

VIDUI MA'AS'ROT

The second section of this week's Parashah, immediately following parashat Bikkurim, is commonly known as Vidui Ma'as'rot - "the confession of the tithes".

[A word of introduction: Produce grown in the Land is liable for certain Halakhic taxation. In order:

- a) T'rumah (approx. 1/50) must be separated - that belongs to the Kohen and must be given to a member of that family.
- b) Ma'aser (lit. "a tenth" - 1/10 of what's left after T'rumah is taken) is then separated and designated as a gift for the Levi.
- b') T'rumat Ma'aser (1/10 of the Ma'aser) is taken by the Levi and given to the Kohen.
- c) Ma'aser Sheni (lit. "second tenth" - 1/10 of what's left after T'rumah and Ma'aser are taken). This is taken to Yerushalayim and is used for celebration with family and friends. In case it cannot be taken there, it's "holy status" is transferred to coins of that value (plus 1/5) and those coins are taken to Yerushalayim, where they are spent on food and drink with which to celebrate.
- c') Ma'aser 'Ani (lit. "poor-man's tenth" - 1/10th of what's left after T'rumah and Ma'aser are taken). This is given to the poor wherever they are.

Note that c) and c') seem to overlap. Keep in mind that the Land works on a seven-year cycle known as the "Sh'mittah cycle". For years 1,2,4 and 5 of the cycle, Ma'aser Sheni is taken. For years 3 and 6, Ma'aser 'Ani is taken in its stead.

The Torah obligates us, in this Parashah, to "clean out our house" on Erev Pesach of the third year and to make sure that all tithes we owe are paid up, after which we make a declaration/confession relating to those tithes.]

The Torah tells us: When you have finished paying all the tithe of your produce in the third year (which is the year of the tithe), giving it to the Levites, the aliens, the orphans, and the widows, so that they may eat their fill within your towns, then you shall say before Hashem your God:

"I have removed the sacred portion from the house, and I have given it to the Levites, the resident aliens, the orphans, and the widows, in accordance with Your entire commandment that You commanded me; I have neither transgressed nor forgotten any of Your commandments: I have not eaten of it while in mourning; I have not removed any of it while I was unclean; and I have not offered any of it to the dead. I have obeyed Hashem my God, doing just as You commanded me. Look down from Your holy habitation, from heaven, and bless Your people Israel and the ground that You have given us, as You swore to our ancestors *Eretz Zavat Halav uD'vash*." (D'varim 26:12-15)

Note that here, just like in Parashat Bikkurim, there is a Mitzvah to give the fruit to its appropriate recipient (the poor, the Levi etc.) and a separate Mitzvah to make a declaration regarding that fruit.

III

QUESTIONS OF STYLE AND LOCATION

I would like to pose two questions about these selections - followed by a third.

1) Why is Mikra Bikkurim exclusively praise and thanks - with no mention of Halakhic restrictions and obligations - whereas the exact opposite is the tone of Vidui Ma'as'rot?

2) As we have noted several times in our earlier shiurim in Sefer D'varim, the Sefer is divided into three sections:

- a) Historic Recounting (Chapters 1-11)
- b) Law Compendium (Chapters 12-26)
- c) Re-Covenanting (Chapters 27-33).

Why were these two selections placed at the very end of the Law Compendium?

THE THIRD QUESTION

As noted above, there are some people who are in the class of "bringing Bikkurim but not making the declaration" (*M'vi'in v'lo Korin*) - and, as noted, this would be because the wording of the declaration does not apply in their case.

An example of this set is the convert, as the Mishnah states: There are some who bring [Bikkurim] and recite [Mikra Bikkurim], some who bring and do not recite and some who do not bring at all... These bring but do not recite: The convert, because he cannot say: "the land which Hashem swore to our fathers to give to us." (Bikkurim 1:1,4).

As the Mishnah understands, the words which actually form the preface to Mikra Bikkurim, "Today I declare to Hashem your God that I have come into the land that Hashem swore to our ancestors to give us.", exclude the convert due to genealogical considerations. The patriarchs to whom God promised the Land are not, technically speaking, his ancestors; for that reason, although he may own land in Eretz Yisra'el and be obligated to bring Bikkurim, he cannot honestly state the declaration.

This Mishnah is followed by a Halakhah in the same spirit, to wit: When a convert prays, he says: "our God and God of the fathers of Israel" and, if he is leading the service, he says: "our God and God of _your_ fathers" (instead of the familiar "God of our fathers").

The Talmud Yerushalmi, in a rare "intrusion", overrules the author of that Mishnah, as follows:

"It was taught in the name of R. Yehuda: The convert himself brings and recites. What is his reason? '...for the father of a multitude of nations have I made you' (said to Avraham in explaining his name change - B'resheet 17:5) [meaning:] Until now, you were the father of Aram, from now on, you are the father of all nations (for an explanation, see the quote from Rambam's Mishneh Torah below). R. Yehoshua ben Levi said: The Halakha follows R. Yehuda." (JT Bikkurim 1:4)

This is indeed how Rambam rules. Here is the relevant ruling from the Mishneh Torah: "The convert brings and recites, since it was said to Avraham: '...the father of a multitude of nations have I made

you,' Avraham is the father of the entire world that comes under the wings of the Shekhinah. And Avraham was the first to receive [God's] oath that his children will inherit the Land." (MT Bikkurim 4:3)

So far, so good. Although the wording of the verse seems to exclude the convert, the retroactive inclusion of the convert in the family of Avraham serves to allow him to refer to the Patriarchs as " _our_ fathers", both in prayer and in the Mikra Bikkurim.

The problem begins when we examine the parallel Halakhah regarding Vidui Ma'as'rot. Here is the statement of the Mishnah:

" '...as You swore to our ancestors - a land flowing with milk and honey.' Based on this source, the Rabbis said: Yisra'el...recite the confession, but not converts...because they do not have a portion in the Land." (Ma'aser Sheni 5:14)

Until this point, we would not be surprised, considering the ruling of the Mishnah in Bikkurim. Our surprise begins, however, when we look at the relevant Halakhah in Rambam's code:

"Yisra'el and mamzerim recite the confession, but not converts or freed slaves, because they do not have a portion in the Land, as the verse says: '...and the Land which You gave to us...' " (MT Ma'aser Sheni vNeta' R'vai 11:17)

Our third question is, therefore:

3) Why is the convert included in Mikra Bikkurim - but excluded from Vidui Ma'as'rot?

(R. Moshe Soloveitchik zt"l addressed this question in an article included in "Kovetz Hiddushei Torah" compiled by his son, Rav Yosef Dov Soloveitchik zt"l. This shiur uses his question as a starting point but takes a different approach - grounded in P'shuto Shel Mikra - to solve the problem. The interested reader is strongly encouraged to read R. Moshe's resolution.)

IV

ERETZ ZAVAT HALAV UD'VASH

Before addressing these questions, I would like to point out an anomaly in the last line of Vidui Ma'as'rot:

"Look down from Your holy habitation, from heaven, and bless Your people Israel and the ground that You have given us, as You swore to our ancestors *Eretz Zavat Halav uD'vash*."

We generally assume, in any reference to God's promise to our ancestors (especially as regards the gift/inheritance of the Land) that those ancestors to whom the text refers as our Patriarchs, Avraham, Yitzchak and Ya'akov. That assumption does not hold up very well in this particular instance - if we check through all of the promises, oaths and covenants in B'resheet, nowhere is the

Land described as "flowing with milk and honey". The first reference to the Land with that well-known adjective is in Sh'mot 3:17, when God charges Mosheh Rabbenu with his mission to the elders of Yisra'el. What, then, are we to make of this phrasing in Vidui Ma'as'rot?

Ramban, in his commentary to D'varim 26:15, addresses this question and suggests two answers:

"Now, do not find it difficult here that in the oaths made to the patriarchs, "A Land flowing with milk and honey" is not mentioned.

(1) Since at that time the Land was a Land flowing with milk and honey, [it would have been redundant to describe it explicitly. Therefore it was as if] He swore to them about a Land flowing with milk and honey.

(2) Or it may be that "unto our fathers" [here does not mean the patriarchs] but those who came forth from Egypt, for it was to them that it was said: "unto a Land flowing with milk and honey"...

Ramban, in his second answer, provides the starting point for us to answer our third question.

V

TWO DIMENSIONS OF KEDUSHAH

The Ramban, in the commentary quoted above, alludes to the notion that besides the covenant with the Patriarchs (B'rit Avot), there was a later promise, given to the generation of the Exodus (and, by extension, to the generation that entered the Land - see our shiur at

<http://www.torah.org/advanced/mikra/5757/dv/dt.57.5.01.html> where we discussed the connection and association between the two) - known as "B'rit Yotz'ei Mitzrayim". The Land was not only promised to Avraham and to his seed - for which purpose Avraham himself walked the length and breadth of the Land as a form of acquisition (see B'resheet 13:17 and BT Bava Batra 100a in the name of R. Eliezer). The Land was also promised to the generation of the Exodus - a promise that was first pronounced at the onset of Mosheh's mission.

This "doubled promise", however, seems a bit superfluous; if we were already given the Land by virtue of the promise to the Patriarchs, what need is there for a further, second promise?

The answer to this lies in an understanding of the basic dialectic which underscores several areas of Halakhah relating to "Kedushah".

For example, the firstborn of the flock and herd is sanctified (Sh'mot 13:2) - yet, there is a Mitzvah to declare the holiness of a B'khor (D'varim 15:19). R. Yehudah haNassi teaches that even though the B'khor is "sanctified from the womb" (i.e. from its birth), nevertheless, it is a Mitzvah to sanctify it (BT N'darim 13a). Why is there a Mitzvah to sanctify something which is already holy?

Similarly, even though Shabbat is already holy from sunset, there is a Mitzvah to declare its sanctity

via Kiddush (and to declare the end of its sanctity via Havdalah, even though Shabbat is already over; see MT Shabbat 29:1 for an interesting insight into the relationship between Havdalah and Kiddush). Again, why is there a Mitzvah to declare Shabbat to be holy?

It seems that the Torah is interested in having us participate in the process of Kedushah, such that instead of playing the role of passive recipients, beneficiaries and observers of that which is holy - we can claim a stake and feel a sense of active participation in that process.

This perspective intensifies when we examine the topic of the sanctity of Eretz Yisra'el - and our claim to the Land.

Although the Land was promised to our forefathers - and certainly had a "special quality" to it from that point on (if not earlier), it was not yet Halakhically considered "Eretz Yisra'el". That only took place - vis-a-vis the various obligations which obtain only in the Land - when the B'nei Yisra'el, under the leadership of Yehoshua and organized into camps, tribes and ancestral homes, came into the Land (when some obligations "kicked in") - and conquered it (the rest of those obligations came into force).

Unlike the sanctity of the B'khor or Shabbat, where the level of sanctity is not enhanced via the individual's declaration (but that declaration does allow the individual to participate in the process of sanctification after a fashion), the sanctity of Eretz Yisra'el was dependent on two independent factors. First, there had to be a Divine promise, a gift from God, of the Land. Secondly, those heirs who stood to conquer and settle that Land had to fulfill an act of sanctification - via conquest.

[Note that although the same principle applies to the sanctity of Yerushalayim - that the place of the Mikdash became sanctified through human action - the nature of that sanctification was significantly distinct from the sanctification of the Land. That is the reason that when the Land was conquered by the Assyrians and later by the Babylonians, the sanctity became nullified - but the sanctity of Yerushalayim remained. Rambam's explanation is for this distinction will serve us well:

"Why do I maintain that regarding the [sanctity of the] Mikdash and Yerushalayim 'The first sanctification was valid for the future', yet regarding the sanctity of the rest of the Land of Yisra'el...it was not sanctified for the future? Because the sanctity of the Mikdash and of Yerushalayim is on account of the Shekhinah - and the Shekhinah is never nullified...however, the obligation of the Land with regards to Sh'mittah and tithes is only on account of the National Conquest; once the Land was taken from their hand, the Conquest was rendered null and void." (MT Beit haB'hira 6:16)]

To recap: In several areas of Halakhah, we have discovered that there are two dimensions of Kedushah: Passive Kedushah (it is sanctified before we approach it) and Active Kedushah (our role in sanctification). Although the Land was promised to our forefathers, the generation of the Exodus (through their children), faced with a fait accompli, nevertheless played an active role in sanctifying the Land and completing the process of that gift.

This is why the Ramban refers to a second oath regarding the Land - because the generation of the Exodus was charted to complete an active part of the fulfillment of that Divine promise.

VI

TWO LEVELS OF INCLUSION

We can now return to the problem of the convert. Although someone who converts becomes a (retroactive) descendant of Avraham - he is not considered a member of any particular tribe (which would, of course, be impossible). In other words, as much as the call "you shall be a father of multitudes" allows the convert in to the nation as a whole, he cannot be considered a member of a particular grouping within the nation.

That being the case, the convert shares, along with all of the B'nei Yisra'el, a membership in the "seed of Avraham" who are destined to inherit the Land. As such, he can claim a piece of the Land (besides being able to call the Patriarchs "our fathers") in the most general way.

On the other hand, he cannot claim a piece of the Yehoshuan inheritance, divided by lottery and by conquest among the nine and a half inheriting tribes.

When we look at the text of the Mikra Bikkurim, we note that the declarant refers to the Land as "a land flowing of milk and honey" - not in the context of the Divine promise, rather as a real-life description of the good Land. This is not the case with Vidui Ma'as'rot, where the phrase is mentioned in the context of the oath.

Following Ramban, we can make the following distinction: Mikra Bikkurim is a celebration and thanksgiving for the fulfillment of the Divine promise to Avraham, Yitzchak and Ya'akov to give their children the good Land (which, practically speaking, flows with milk and honey). That is why the convert can participate in this declaration - he is as much a part of the inheritance of Avraham as is any member of the B'nei Yisra'el.

On the other hand, the Vidui Ma'as'rot focuses on the oath given to the generation of the Exodus - an oath which includes the description of "flowing with milk and honey". That is why a convert cannot make this declaration - because, no matter how much retroactive imagination we employ, we cannot "plug him in" to a particular camp, tribe and ancestral home that he should be considered part of the conquest and division of the Land under Yehoshua.

This distinction helps us answer the first two questions we asked:

These two sections are the final sections in the Law Compendium because they demonstrate the dialectical relationship we have towards the Land - on the one hand, the Land is already ours, already special and already (in some sense) a sanctified place. On the other hand, the sanctification process is in our hands to complete. Since the entire Sefer D'varim was Mosheh's charge to the

generation about to enter the Land, it was imperative that they understand the dual nature of our relationship to that Land - the Avrahamic legacy and the Sinaitic covenant.

This also explains why Mikra Bikkurim is exclusively a matter of praise, whereas Vidui Ma'as'rot focuses on the Halakhic details and restrictions of Ma'as'rot. Mikra Bikkurim, being a thanksgiving and celebration of the fulfillment of the Avrahamic promise, is simply an opportunity for praise. Vidui Ma'as'rot, on the other hand, is focused on the fulfillment of our role in that sanctification, which demands proper action - the subject of that Vidui.

This also explains one further distinction. Mikra Bikkurim takes place in the "place where God chooses to place His Name" (i.e. the Beit haMikdash), whereas Vidui Ma'as'rot takes place at home. Mikra Bikkurim is geared to that aspect of our relationship to the Land in which all of 'Am Yisra'el is "equal" and has no divisions by tribes or families. The only place where this can reasonably take place is in the place where God places His Name - the central locus of worship which belongs to all tribes.

Vidui Ma'as'rot is about our role in the conquest and sanctification of the Land - as specific members of specific tribes and families - and, as such, takes place in our own homes.

VII

VIDUI MA'AS'ROT - WHY THE "CONFESSION"?

Although we have already answered the questions we originally proposed, there are two ideas relating to the texts we analyzed that are worth sharing.

S'forno (in his commentary to D'varim 26), comments on the nature of Vidui Ma'as'rot. He wonders why there is a "confession" (trans. of "Vidui") when apportioning the tithes to all of their proper recipients.

S'forno answers (and this answer works quite well with our analysis) that the "confession" relates to the entire reason for tithes and why they must be taken out of the house. Originally, the first born of each family were to be the "Priests"; this is the meaning of the sanctification of the first born during the Exodus. Had that remained status quo, no one would have had to take any tithes out of their houses; they would have just given them to their own first-born children. Since the behavior of the first-born (of the non-Levi tribes) at the incident of the golden calf caused God to remove their special status and transfer it to the Levites, we now have to remove the tithes from our houses and give them to the proper recipients. This is, according to S'forno, the reason for the confession - it is an extended confession for the sin of the golden calf. (This supports our analysis in that it focuses the Vidui Ma'as'rot on the generation and events of the Exodus).

VIII

POSTSCRIPT

One further and final note: The statement from the Yerushalmi which creates a genealogical fiction and declares all converts to be children of Avraham has its echoes in common practice. When someone converts and comes under the wings of the Shekhinah, he becomes known as "Ben Avraham Avinu" (for purposes of an Aliyah etc.).

We could ask the question - why are "born-Jews" known as "B'nei Yisra'el" or "Beit Ya'akov"; yet "Jews by choice" (converts) are called "B'nei Avraham"?

If we examine Avraham's life (something we are surely going to do in detail in a couple of months), we see that his entire life was made up of isolation, turning his back on family and on everything he knew. Ya'akov, on the other hand, had the fortune of being born into the tradition of father and grandfather, which it was his job to absorb and maintain.

This is a crucial distinction between those of us fortunate enough to be born as B'nei Yisra'el - we are indeed followers of Ya'akov, who must absorb our ancestral tradition. Those who have the unique blessing to voluntarily come under the wings of the Divine Presence and convert are truly children of Avraham. They have turned their back on everything familiar, family, customs, faith and tradition - to embrace the Truth. Someone who has taken this bold step is surely a child of Avraham.

Text Copyright © 2013 by Rabbi Yitzchak Etshalom and **Torah.org**. The author is Educational Coordinator of the Jewish Studies Institute of the Yeshiva of Los Angeles.