YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**On Being Chosen:**

**A Philosophical Investigation into the Election of the Jewish People**

**Prof. Samuel Lebens**

**Shiur #04: Non-Jewish Slaves**

Back in lesson 1, I stipulated that the doctrine of our election couldn’t be allowed to slip into xenophobia, racism, or Jewish supremacism. As I summarized the point in lesson 2, my stipulation had two primary motivations. The first was that my personal ethic, as informed by my own experiences, and the collective experiences of the Jewish people over time, couldn’t countenance a racist, xenophobic, or supremacist doctrine at the heart of our religion. The second motivation stemmed from the halakhic notion that Jews are simply not allowed to embody the sort of callousness and chauvinism that would almost automatically accompany a supremacist self-appraisal. So stringent is this demand that a person who *does* embody such negative character traits is presumed, by the *halakha*, not to be Jewish.[[1]](#footnote-1)

In lessons 2 and 3, we also developed a third and, I would contend, much stronger motivation for the claim that Jewish chosenness cannot be allowed to come along with disregard for the welfare and irreducible value of non-Jews. That motivation stems from an understanding of the narrative frame of the Bible itself.

The Hebrew Bible spans a narrative chronology that starts with the creation of the world and concludes with the end of days. As depicted by this narrative arc, God’s purpose in creating the world seems to be, at least in part, to create an environment in which individual human beings can flourish, each in their unique individuality, whilst recognizing that – as social animals – even our individuality must be informed by our association with others. In addition to creating such an environment for individual human beings, it seems that God has an interest in allowing for the proliferation of different cultures, perspectives, and languages that will one day mature into a single brotherhood of man in which those differences will not be utterly obliterated but will find their own place within a greater unity. As Rabbi Samson Raphael Hirsch put it in the sixth of his *Nineteen Letters*, it was essential that, before this eventual unity under God could be founded, humanity should be scattered over the face of multiple climates and habitats, so as to promote that desired diversity. He wrote:

Mankind must be scattered, must distribute itself among all the different regions of earth in order that the most divergent and contrary faculties of the human mind may find in nature the needed opportunities of development, in order that experience become full and complete… This diversity of the earth was, by the Divine plan, intended to profoundly influence man, vainly fancying himself master of the earth, and to affect, even to their innermost characteristics, his body, his opinions, his habits, his passions, and his language. Thus should a broad and variegated experience become possible. This experience should make him worthy of God and of himself; should teach him to recognize the supreme dominion of God over nature and human life; should cause him to realize that the task of man is higher than merely to possess and to enjoy.[[2]](#footnote-2)

But this ultimate realization, which will usher in that final human unity, is not something that can be imposed. Babel is the proof of that. It is something that must emerge over time. You might think that God could click His proverbial fingers and create a perfect world in an instant, but a perfect human society isn’t really perfect if it hasn’t been built, to some extent, by *us*, in our human freedom. Accordingly, even *God* can’t impose the sort of unity we’re talking about.

It will be my contention that any workable theory of the election of the Jews must explain how the election itself *was* and *is* supposed to function as a vehicle for bringing about whatever must be learnt and achieved in order to bring humanity, collectively, to its ultimate, diversity-appreciating, unity under God.

If each and every human being, as a reflection of the image of God on earth, is of inestimable value, and if the Jewish people were elected only in order to bring about a good that would benefit all – such that the Jews were elected to *serve* humanity – then any ethic that undermines the inherent value of the human person is going to be automatically out of kilter with the doctrine of the election. Moreover, any worldview that sees more inherent worth in a Jew than in a gentile is going to be in tension with the idea that it was only for the *benefit* of the gentiles that Jews were singled out to be Jewish in the first place.

And yet, as I anticipated in lesson 2, any such understanding of the election of the Jews is going to be challenged on Biblical grounds. In its commandment to destroy the nation of Amalek,[[3]](#footnote-3) and to wipe seven nations out of the promised land,[[4]](#footnote-4) and in its stark differentiation between the treatment of Jewish and gentile slaves,[[5]](#footnote-5) is it not obvious that the Torah *does* prefer the Jewish race to others, and that the Torah *does* look upon, at least some races, as subhuman, and worthy of annihilation? My task, over the next three lessons, will be to rebut this suggestion by looking at these troubling Biblical phenomena within the context of the Bible’s own narrative frame. I shall begin, in this lesson, with the case of slavery, before turning to the nation of Amalek in lesson 5 and, in lesson 6, to the other seven nations that seem to be singled out for destruction.

Were it not for one verse in the Bible (to which I’ll come in due time), the following narrative, I think, would be very convincing.

Given that all people are created in God’s image, and given that the purpose of history is to arrive at a state of affairs in which each and every individual can flourish, as a social animal in the midst of cultural and national diversity, it is inconceivable that God was happy with the institution of slavery. Slavery, after all, subjugates and suppresses the image of God in man, and suffocates all potential for flourishing. The fact that God’s greatest discernible intervention in history, as the Bible describes things, was His miraculous liberation of a nation of slaves from the midst of an imperial “house of bondage,” is – you might think – a powerful illustration of God’s disdain for the institution of slavery.

However, God didn’t immediately act, in revealing His Torah to the Jewish people at Mount Sinai, to *irradicate* slavery altogether. Perhaps, this narrative would have it, human society, the development of its ethical sensibilities, and the global economic order, were somehow unready for such a move. Instead, God did act to *reform* the institution of slavery from within. In so doing, this story would have it, God set the wheels in motion for the ultimate abolition of this immoral institution.

For example, one could argue that the Bible’s revolutionary insistence on offering refuge to asylum-seeking slaves from overseas,[[6]](#footnote-6) was a tacit recognition that the institution, at least as practiced elsewhere, was corrupt to the core. The idea that a Jewish slave-owner simply isn’t allowed to work his or her slaves on Shabbat could also be recruited to illustrate God’s disdain for slavery.[[7]](#footnote-7) No human being is really a slave to any other, for all human beings are supposed to be subjugated only to God. By commanding us not to work our slaves on Shabbat, God was, according to this way of looking at things, communicating to us the idea that we don’t, we can’t, and ultimately shouldn’t try to, own the labor or bodies of other people. Indeed, Rabbi Shmuel Rubenstein, in his *Kadmoniot Ha-halakha*, argues that if only we were more aware of the details of slavery as it was practiced in the ancient world, we would better appreciate the extent to which the Torah’s regulations of slavery were a tacit rejection of the entire institution:

Herodotus writes that the Scythians used to blind their captive slaves so that they would work in producing butter. And there were several other such purposes for which slaves would be struck with blindness, to such an extent that putting out eyes became a symbol of slavery. Likewise, prisoners taken in war were blinded as a sign of slavery, and this was done particularly to kings and officers of the defeated army, as a sign of revenge and enslavement. For the same reason Shimshon was blinded by the Philistines (Judges 16:21), and this is apparently also the meaning of the words of Nachash the Ammonite to the men of Yavesh Gil’ad, [who said,] “By this condition I will make a covenant with you: if you all put out your right eye” (I Samuel 11:2), as if to say, “in order that you will be slaves and prisoners of war to me.” For the same reason King Tzidkiyahu was blinded by Nevukhadnetzar (II Kings 28:7), and this is also the meaning of the words of Datan and Aviram to Moshe: “Will you put out the eyes of those men?” – as if to say, “Are we considered in your eyes as slaves, prisoners of war, that you will exert your power over us and to do us whatever you wish, to drag us wherever you decide?” This arrogance on the part of the enslavers seems to have lasted until much later times, explaining even Herod’s blinding of Bava ben Buta (Tractate Baba Batra 4a).[[8]](#footnote-8)

In Biblical law, by contrast, if a slave master damages the eye of his slave, the slave is automatically emancipated.[[9]](#footnote-9) The Biblical law therefore includes a scathing social commentary on the institution of slavery as it was practiced in the rest of the world. You think you can blind these people? No. To do that will in fact set them free. Rabbi Rubenstein continues:

The Hammurabi Code stipulates: “If a slave strikes a free person on the cheek, his ear is to be cut off”; “If a slave tells his master, “You are not my master,” and it is proved that he is in fact his master, then his master is to cut off his ear.” Slaves were routinely castrated in order that thoughts of women would not interfere with their work, and eunuchs were also used to serve women… In summary, there was nothing that prevented a master from doing any of this to his slave; it seems that they would even make the slaves deaf in order that they would not talk among themselves during their work, or for other purposes. And they would strike or knock out their teeth so that they would not be able to eat much. Cicero describes how “it was common among the Romans that if a slave knew some evidence against his master, the master would cut out his tongue in order that he would not be able to testify.”[[10]](#footnote-10)

In opposition to this extreme freedom on the side of slaveowners, Torah law goes so far as to set a slave free if his or her master creates *any* bodily blemishes.[[11]](#footnote-11) The Torah looks to be endorsing the institution of slavery, but subtly, it’s telling us that our slaves don’t belong to us, and it causes us to engage in a critique of the practice as it was then known to the world.

We needn’t even be unduly perturbed by the fact that the laws of slavery only forbid giving a *Jewish* slave demeaning and backbreaking labor.[[12]](#footnote-12) The fact that the laws of *slavery* make this distinction doesn’t mean that it’s permitted by Jewish law *tout court* to subject a non-Jewish slave to such treatment. Such treatment of non-Jewish slaves certainly *is* forbidden; it’s just forbidden by a different section of Jewish law. As the Rambam explains, it is forbidden as a consequence of our legal obligation to imitate God, who is merciful in all His ways[[13]](#footnote-13) – also an explicit Biblical commandment.

The fact that the prohibitions that forbid demeaning treatment of Jewish and non-Jewish slaves are located in different areas of Jewish law is not an indication that one is somehow *less* forbidden than the other – nor is the fact that punishment for violating the prohibition regarding a Jew will be more severe than if one violates the prohibition regarding a gentile. Both are forbidden. The legal differences between the prohibitions (and their respective punishments if transgressed) are, instead, a reflection of the Torah’s recognition that our ethical obligations move outwards in concentric circles.

We first learn such notions as loyalty, reciprocity, love, and duty in our families; these obligations then extend to our wider community, then to our nation, and then to all of humanity. The more local the obligation, the more that obligation takes precedence over others. But that doesn’t mean that the less local obligations don’t exist. One is neither allowed to hit one’s parents nor a stranger, but the former obligation is more severe than the latter – not because your parents are more valuable, inherently, than a stranger, but as a function of your different relationships to those different people.

You might worry about an ethic that moves in these concentric circles. You might think that real ethical probity demands complete and utter impartiality. On this question, I side with the philosopher, Bernard Williams. Impartial systems of ethics, he argued, don’t make enough room for what people find most meaningful about life. As soon as you have a single deep attachment to a single friend, or family member, you run the risk of finding yourself in conflict with the demands of an impartial ethical system. As soon as you have a child for whom you care more than you do for the child of another, you find yourself condemned by such an ethic. And yet, imagine a world with no deep personal attachments. Williams writes:

There will not be enough substance or conviction in a man’s life to compel his allegiance to life itself. Life has to have substance if anything is to have sense, including adherence to the impartial system…[[14]](#footnote-14)

His idea isn’t to abandon impartiality altogether. But if life isn’t worth living, nobody will be around to obey impartial systems of ethics. Williams calls the things that give people’s lives meaning their “ground projects.” When conflicts emerge between the demands of an impartial ethical system and a person’s ground projects, the impartial system cannot always claim sovereignty. If a person’s communal commitment informs her ground projects, giving her a sense of her own identity – an identity that gives her life meaning and allows her to function as a citizen of the world, which allows her to strive toward ethical conduct – then to criticize her for that commitment is, ultimately, to threaten her ability to act in the world at all. Accordingly, we might be better off to recognize that a person’s moral obligations tend to stretch outwards to all human beings, but in concentric circles of acceptable partiality.

We must always remember, when we’re surprised by what the Torah seems to permit, that one area of the law may forbid what another area of the law permits. This will often be a result of the *halakha*’s regard for the concentric-circle structure that characterizes the nature of obligation. So, we needn’t be too hasty in concluding, from the different treatment of Jew and gentile in the laws of slavery as stated in the book of Leviticus, any essential difference in their respective moral standings from the point of view of Jewish law as a whole.

With all this data on the table, and especially in the context of the Bible’s own narrative frame, one might come to the following conclusion: God wasn’t happy with the institution of slavery. Its continued operation under Jewish law was a compromise with a time and place, but the clear intention of the Divine Legislator was to wean us off the evil institution altogether, over time.

I said above that this might be convincing were it not for one single verse. The verse in question stipulates that, although all Jewish slaves must eventually be emancipated, we are commanded never to release our gentile slaves: “one should work them forever.”[[15]](#footnote-15) They and their descendants, according to this verse, are to be subjugated eternally. Admittedly, Jewish law as understood in the Oral Torah allows for gentile slaves to be emancipated in certain situations. But generally, the law discourages this.[[16]](#footnote-16) How can that be, if the Torah’s ultimate aim is to wean us off slavery altogether?

Rabbi Nachum Rabinovitch agreed with the basic narrative I’ve described. The institution of slavery had to remain intact, he wrote, because “under the conditions that prevailed then, it was impossible to completely abolish it.”[[17]](#footnote-17)Having come to that conclusion, he then had to wrestle with the problem I’ve raised. Why, if this narrative is true, does the Torah forbid us from emancipating our gentile slaves? This is how he sought to solve the problem:

As part of its elevation of the slave’s status, the Torah saw fit to make *mitzvot* [i.e., Jewish law] obligatory for him and to bring him, in certain respects, under the wings of the Divine Presence. This, however, creates a more acute problem. On one hand, it is unconscionable that a slave who has already had a taste of the *mitzvot* would be allowed to return to idolatry. It is therefore forbidden to sell him to a non-Jew, and certainly to restore him to his non-Jewish status. On the other hand, entering the covenant of Israel requires voluntary acceptance of the *mitzvot*. If an act of the owner frees the slave, there is no voluntary acceptance. There is also the concern that he would revert to his deviant ways. Furthermore, even if the slave were to proclaim day and night that he desires to become a righteous convert, it is presumably his desire for freedom speaking, not his willingness to serve God.

The emancipation of a large number of slaves who would then become part of the Jewish people, without a way to confirm the sincerity of their expressed desire to become righteous converts, would fundamentally alter the character of Jewish society. Thus, the acceptance of the institution of slavery by the halakhic system generates a paradox: despite the Torah’s reservations about slavery, it creates a scenario whereby, at first glance, there is no lawful possibility of emancipation, for any act of emancipation is coercive by definition, and entry into Judaism by means of coercion is unthinkable. [[18]](#footnote-18)

In other words, when the Torah was first revealed, we couldn’t free our slaves, because of the following dilemma:

1. God wants slaves to be freed.
2. Ancient Israel was surrounded by a culture of rampant paganism. We cannot allow a slave to return to that culture. Accordingly, non-Jewish slaves must be converted to Judaism upon their emancipation.

To motivate this claim, note that:

* 1. there were no other monotheistic religions, at that time, for slaves to “return to;” and
	2. we are talking about a time period in which the Jewish people were actively trying to establish a new culture, based on ethical monotheism, in a sea of human-sacrificing paganism. The threat of this new Jewish culture not taking root and, therefore, of the Jewish people descending into the surrounding cultural milieu, was a real and present danger. Large numbers of citizens couldn’t be admitted into the midst of this new enterprise if we couldn’t be sure that they would embrace the Jewish system of values. And where else would they go, upon emancipation, if they weren’t permitted to live among us?
1. Either a slave asks to be freed or doesn’t ask to be freed (there is no third option).
2. If the slave didn’t ask to be freed, then their conversion will have been involuntary.
3. If the slave did ask to be freed, and converted, we have reason to fear that the slave wanted freedom but didn’t necessarily want to embrace the Jewish religion, and thus their conversion will have been insincere.
4. It follows from (c), (d), and (e) that an emancipated slave will always have been converted either involuntarily or (likely) insincerely.
5. We cannot invite conversions that are involuntary or (likely) insincere.
6. It follows from (f) and (g) that we cannot invite the conversions of emancipated slaves.
7. It follows from (b) and (h) that we cannot free our gentile slaves.

The paradox of Jewish law, according to Rabbi Rabinovitch, is that both (a) and (i) are true. God wants us to free our slaves but cannot allow it. In a sense, then, we must be grateful to history for ensuring that, over time, Jews would no longer be in the position to own any slaves, and so we are no longer caught between the horns of this fateful dilemma.

As a person of faith, and believing as I do in the tenets of Orthodox Judaism, I have no problem with the idea that Jewish law, and the ethics that underlie that law, as these things have come to be understood through the eyes of the oral tradition, might differ wildly from the ways in which the original audience of the Hebrew Bible would likely have understood them. The Talmud tells us not to entertain the notion that the Bible really mandates the amputation of an arm, in punishment for maiming the arm of another. According to the Talmud, this was a figure of speech, and the law only ever had monetary compensation in mind.[[19]](#footnote-19) Be that as it may, I have little difficulty accepting that this Talmudic insistence would have been surprising to ancient audiences, who may not naturally have read the verses as the Rabbis would instruct us. That prospect doesn’t bother me. We are not Karites. We don’t look to Scripture for guidance without first projecting its teachings through the prism of the Oral tradition.

Accordingly, I can imagine somebody reading Rabbi Rabinovitch’s account of the obligation not to free our gentile slaves, and saying that it sounds very *post hoc*. It sounds very much like an *ex post facto* justification of something whose original intent was clearly very different. And, in response to such criticisms, I myself am not opposed to responses of the following variety: “Admittedly, the verses in question *do* seem to express an ethic according to which gentile slaves are never to be freed, and Rabbi Rabinovitch’s *ex post facto* justification of those verses *does* depart heavily from how they must have been understood for generations; nevertheless, I can rest assured that, as a conduit of the Oral Torah, as it develops over time, Rabbi Rabinovitch was revealing God’s actual intention for the text; an intention that was only ascertainable once humanity had progressed further than they had in ancient times.” Again: I’m not opposed to such lines of argument. But in this particular instance, I think we can say something stronger.

The narrative frame of the Bible itself never allowed for the notion that slavery could be the Divinely desired lot of any human being. It is not a state of being that the Bible aspires for any person to suffer. The ultimate goal for humanity, according to the messianic denouement of the Biblical narrative, is a state of affairs in which “each person shall sit under its own vine and fig tree.”[[20]](#footnote-20) This isn’t a vision that’s restricted to Jewish families, or to affluent families. It explicitly applies to *every* family. People under the yoke of slavery don’t have their own vines or fig trees. People languishing under the yoke of slavery were never part of the ultimate vision of the Bible for the human race.[[21]](#footnote-21) Indeed, when Isaiah describes the eschatological mission of the Jewish people, he doesn’t merely say we are to be a light unto the nations, but he adds that we are “to open blind eyes, to bring out the prisoners from the dungeon, and them that sit in darkness out of the prison-house.”[[22]](#footnote-22) Are we to think that slavery will survive once we’ve succeeded in releasing all of the bound?

That’s why the laws of slavery were so deliberately calibrated to contain a critique of the institution itself. That’s why no Jewish slave master could work a slave on the Shabbat. It’s why the Biblical Kingdom of Israel was commanded to be a refuge for asylum seeking escapees from the subjugation of slavery elsewhere.

Accordingly, Rabbi Rabinovitch’s reading of the laws, according to which we were only commanded to keep our slaves because we found ourselves, in that time and place, in something of a sociological bind, is far from *ad hoc* or *post hoc*. Had the Torah been revealed to us in different circumstances, such that paganism wasn’t so rife, it surely would have allowed or even encouraged us to free our slaves. Indeed, had the Torah been revealed today, we must assume that it wouldn’t have allowed us to have any slaves to begin with. All of this is in deep harmony with the whole narrative frame of the Bible, in which the laws of slavery are found. Even before we apply the lens of the Oral Torah, a holistic appreciation of the narrative frame of the Bible doesn’t allow for the notion that any human being, of whatever race or creed, should, when society is properly ordered, be subjected to the indignity of slavery.

1. *Mishneh Torah, Hilkhot Issurei Bia* 19:17. [↑](#footnote-ref-1)
2. As translated, from the original German, by Bernard Drachman in 1899, available on www.sefaria.org. [↑](#footnote-ref-2)
3. Exodus 17:14. [↑](#footnote-ref-3)
4. Deuteronomy 7:1-3. [↑](#footnote-ref-4)
5. Leviticus 25:46. [↑](#footnote-ref-5)
6. Deuteronomy 23:15-16. [↑](#footnote-ref-6)
7. Exodus 20:10. [↑](#footnote-ref-7)
8. *Kadmoniot Ha-Halakha*, chapter 22. [↑](#footnote-ref-8)
9. Exodus 21:27. [↑](#footnote-ref-9)
10. *Kadmoniot Ha-Halakha*, chapter 22. [↑](#footnote-ref-10)
11. The Rabbis saw this as a natural extrapolation of Exodus 21:27, as the Rambam explains in *Mishneh Torah, Hilkhot Avadim* 5:4. [↑](#footnote-ref-11)
12. Which can be inferred from the fact that Leviticus 25:43 is speaking, in context, only of Jewish slaves. [↑](#footnote-ref-12)
13. *Mishneh Torah, Hilkhot Avadim* 9:8. [↑](#footnote-ref-13)
14. Bernard Williams, “Persons, Character, and Morality,” in A. Rorty (ed.), *The Identities of Persons* (Berkeley CA: University of California Press, 1976). Subsequently reprinted in his book, *Moral Luck* (Cambridge: Cambridge University Press, 1982). [↑](#footnote-ref-14)
15. Leviticus 25:46. [↑](#footnote-ref-15)
16. See *Hilkhot Avadim* 9:6. [↑](#footnote-ref-16)
17. Rabbi Nachum Rabinovitch, *Pathways to their Hearts: Torah Perspectives on the Individual* (Jerusalem: Maggid Books and Me’aliyot Press, 2023), p. 42. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. Tractate Baba Kama 83b. [↑](#footnote-ref-19)
20. Zecharia 3:10 and Micha 4:4. [↑](#footnote-ref-20)
21. Note that Joel’s talk of slaves becoming prophets is before the great and awesome day of God (Joel 3:2-4); thus, this is consistent with my contention that in the real end of days, there will be no slaves. [↑](#footnote-ref-21)
22. Isaiah 42:6-7. [↑](#footnote-ref-22)