Covenant & Conversation

NITZAVIM • נצבים

FROM THE TEACHINGS AND WRITINGS OF RABBI LORD JONATHAN SACKS זצ״ל

Jonathan Sacks
THE RABBI SACKS LEGACY

With thanks to the Schimmel Family for their generous sponsorship of Covenant & Conversation, dedicated in loving memory of Harry (Chaim) Schimmel.
"I have loved the Torah of R' Chaim Schimmel ever since I first encountered it. It strives to be not just about truth on the surface but also its connection to a deeper truth beneath. Together with Anna, his remarkable wife of 60 years, they built a life dedicated to love of family, community, and Torah. An extraordinary couple who have moved me beyond measure by the example of their lives." — Rabbi Sacks

This year's series of essays were originally written and recorded by Rabbi Sacks zt"l in 5772 (2011–2012).
These timeless messages are accompanied by a new Family Edition created to inspire intergenerational learning on the Parsha and Haftara.

Why Be Jewish?

In the last days of his life, Moses renews the covenant between God and Israel. The entire book of Devarim has been an account of the covenant – how it came about, what its terms and conditions are, why it is the core of Israel's identity as an *am kadosh* (a holy people) and so on. Now comes the moment of renewal itself, a national rededication to the terms of its existence as a holy people under the sovereignty of God Himself.

Moses, however, is careful not to limit his words to those who are actually present. About to die, he wants to ensure that no future generation can say, "Moses made a covenant with our ancestors but not with us. We didn't give our consent. We are not bound." To preclude this, he says these words:

> "It is *not with you alone* that I am making this sworn covenant, but with whoever is standing here
>
> with us today before the Lord our God, and *with whoever is not here* with us today."
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> Deut. 29:13-14

As the commentators point out, the phrase "whoever is not here" cannot refer to Israelites alive at the time who happened to be somewhere else. That condition would not have been necessary since the entire nation was assembled there. Moses can only mean "generations not yet born." The covenant bound all Jews from that day to this. As the Talmud says: we are all *mushba ve-omed meHar Sinai*, "foresworn from Sinai" (Yoma 73b, Nedarim 8a). By agreeing to be God's people, subject to God's laws, our ancestors obligated us all.

Hence one of the most fundamental facts about Judaism. Converts excepted, we do not choose to be Jews. We are born as Jews. We become legal adults, subject to the commands and responsible for our actions, at the age of twelve for girls, thirteen for boys. But we are part of the covenant from birth. A bat or bar mitzvah is not a "confirmation." It involves no voluntary acceptance of Jewish identity. That choice took place more than three thousand years ago when Moses said, "It is *not with you alone* that I am making this sworn covenant, but with … *whoever is not here* with us today," meaning all future generations, including us.

But how can this be so? Surely a fundamental principle of Judaism is that *there is no obligation without consent*. How can we be bound by an agreement to which we were not parties? How can we be subject to a covenant on the basis of a decision taken long ago and far away by our distant ancestors?

The Sages, after all, raised a similar question about the Wilderness Generation in the days of Moses who were actually there and did give their assent. The Talmud suggests that they were not entirely free to say 'No.'

> "The Holy One, blessed be He, suspended the mountain over them like a barrel and said: If you say 'Yes,' all will be well, but if you say 'No', this will be your burial-place."
>
> Shabbat 88b

On this, R. Acha bar Yaakov said: "This constitutes a fundamental challenge to the legitimacy of the covenant." The Talmud replies that even though the agreement may not have been entirely free at the time, Jews asserted their consent voluntarily in the days of Ahasuerus, as suggested by the Book of Esther.

This is not the place to discuss this particular passage, but the essential point is clear. The Sages believed with great force that an agreement must be made freely in order to be binding. Yet we did not agree to be Jews. We were, most of us, born Jews. We were not there in Moses' day when the agreement was made. We did not yet exist. How then can we be bound by the covenant?

This is not a small question. It is the question on which all others turn. How can Jewish identity be passed on from parent to child? If Jewish identity were merely racial or ethnic, we could understand it. We inherit many things from our parents – most obviously our genes. But being Jewish is not a genetic condition, it is a set of religious obligations. There is a halachic principle: *zachin le-adam shelo be-fanav*, "You can confer a *benefit* on someone else

without their knowledge or consent" Ketubot 11a). And though it is doubtless a benefit to be a Jew, it is also in some sense a liability, a restriction on our range of legitimate choices, with grave consequences if we transgress. Had we not been Jewish, we could have worked on Shabbat, eaten non-kosher food, and so on. You can confer a benefit upon someone without their consent, *but not a liability.*

In short, this is the question of questions of Jewish identity. How can we be bound by Jewish law, without our choice, merely because our ancestors agreed on our behalf?

In my book *Radical Then, Radical Now*[1] I pointed out how fascinating it is to trace exactly when and where this question was asked. Despite the fact that everything else depends on it, it was not asked often. For the most part, Jews did not ask the question, 'Why be Jewish?' The answer was obvious. My parents are Jewish. My grandparents were Jewish. So I am Jewish. Identity is something most people in most ages take for granted.

It did, however, become an issue during the Babylonian exile. The prophet Ezekiel says, "What is in your mind shall never happen - the thought, 'Let us be like the nations, like the tribes of the countries, and worship wood and stone'" (Ez. 20:32). This is the first reference to Jews actively seeking to abandon their identity.

It happened again in rabbinic times. We know that in the second century BCE there were Jews who Hellenised, seeking to become Greek rather than Jewish. There were others who, under Roman rule, sought to become Roman. Some even underwent an operation known as *epispasm* to reverse the effects of circumcision (in Hebrew they were known as *meshuchim*) to hide the fact that they were Jews.[2]

The third time was in Spain in the fifteenth century. That is where we find two Bible commentators, Rabbi Isaac Arama and Rabbi Isaac Abarbanel, raising precisely the question we have raised about how the covenant can bind Jews today. The reason they ask it while earlier commentators did not was that in their time – between 1391 and 1492 – there was immense pressure on Spanish Jews to convert to Christianity, and as many as a third may have done so (they were known in Hebrew as the *anusim*, in Spanish as the *conversos*, and derogatively as *marranos*, "swine"). The question "Why stay Jewish?" was real.

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[1] Jonathan Sacks, Radical Then, Radical Now, London: HarperCollins, 2000, (published in North America as A Letter in the Scroll, New York: Free Press, 2000).

[2] This is what R. Elazar of Modiin means in Mishnah Avot 3:15 when he refers to one who "nullifies the covenant of our father Abraham."

The answers given were different at different times. Ezekiel's answer was blunt: "As I live, declares the Lord, God, surely with a mighty hand and an outstretched arm and with wrath poured out I will be King over you" (Ezek. 20:33). In other words, Jews might try to escape their destiny but they would fail. Even if it were against their will, they would always be known as Jews. That, tragically, is what happened during the two great ages of assimilation, fifteenth century Spain and in Europe in the nineteenth and early twentieth centuries. In both cases, racial antisemitism persisted, and Jews continued to be persecuted.

The Sages answered the question mystically. They said that even the souls of Jews not-yet-born were present at Sinai and ratified the covenant (Exodus Rabbah 28:6). Every Jew, in other words, *did* give their consent in the days of Moses even though they had not yet been born. Demystifying this, perhaps the Sages meant that in their innermost hearts, even the most assimilated Jew knew that they were Jewish. That seems to have been the case with public figures like Heinrich Heine and Benjamin Disraeli, who lived as Christians but often wrote and thought as Jews.

The fifteenth-century Spanish commentators found this answer problematic. As Arama said, we are each of us both body and soul. How then is it sufficient to say that our soul was present at Sinai? How can the soul obligate the body? Of course the *soul* agrees to the covenant. Spiritually, to be a Jew is a privilege, and you can confer a privilege on someone without their consent. But for the body, the covenant is a burden. It involves all sorts of restrictions on physical pleasures. Therefore if the souls of future generations were present but not their bodies, this would not constitute consent.

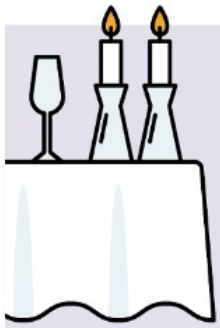
Radical Then, Radical Now is my answer to this question. But perhaps there is a simpler one. Not every obligation that binds us is one to which we have freely given our assent. There are obligations that come with birth. The classic example is a crown prince or princess. To be the heir to a throne involves a set of duties and a life of service to others. It is possible to neglect these duties. In extreme circumstances it is even possible for a monarch to abdicate. But no one can choose to become heir to a throne. That is a fate, a destiny, that comes with birth.

The people of whom God Himself said, "My child, My firstborn, Israel" (Ex. 4:22) knows itself to be royalty. That may be a privilege. It may be a burden. It is almost certainly both. It is a peculiar post-Enlightenment delusion to think that the only significant things about us are those we choose. For the truth is that we do not choose some of the most important facts

about ourselves. We did not choose to be born. We did not choose our parents. We did not choose the time and place of our birth. Yet each of these affects who we are and what we are called on to do.

We are part of a story that began long before we were born and will continue long after we are no longer here, and the question for all of us is: Will we continue the story? The hopes of a hundred generations of our ancestors rest on our willingness to do so. Deep in our collective memory the words of Moses continue to resonate. "It is not with you alone that I am making this sworn covenant, but with … *whoever is not here* with us today."

We are each a key player in this story. We can live it. We can abandon it. But it is a choice we cannot avoid, and it has immense consequences. The future of the covenant rests with us.



Around the Shabbat Table

1. Which aspects of you were pre-determined? Which aspects did you choose?
2. How do you see your role in the eternal Jewish story that began thousands of years ago?
3. Why do you think the temptation to "be like the nations" was so strong in the days of Babylon, and is it still strong today?

- These questions come from this week's **Family Edition** to Rabbi Sacks' Covenant & Conversation. For an interactive, multi-generational study, check out the full edition at https://rabbisacks.org/covenant-conversation-family-edition/nitzavim/why-be-jewish/