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Toras Aish

Thoughts From Across the Torah Spectrum

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Covenant & Conversation

In the last days of his life Moses renews the covenant between G-d 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 kind of national referendum as it were.

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 G-d, and with whoever is not here with us today." (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 cannot be since the entire nation was assembled there. It 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 me-har Sinai, foresworn from Sinai (Yoma 73b, Nedarim 8a). By agreeing to be G-d's people, subject to G-d's laws, our ancestors obligated us.

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 identity 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 free 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?

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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 an halakhic principle, zakhin le-adam shelo be-fanav: "You can confer a benefit on someone else without their knowledge or consent." 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. Had we not been Jewish, we could have worked on Shabbat, eaten non-kosher food, and so on. You can confer a benefit, but not a liability, on someone without their consent.

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 (published in America as A Letter in the Scroll) 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 meshukhim) to hide the fact that they were Jews. (This is what R. Elazar of Modiin means when he refers to one who "nullifies the covenant of our father Abraham", Avot 3:15.)

The third time was in Spain in the fifteenth century. That is where we find two Bible commentators, R. Isaac Arama and R. 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.

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

The sages answered the question mystically. They said, 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 his or her consent in the days of Moses even though they had not yet been born. Demystifying this, perhaps the sages meant that in his or her innermost heart even the most assimilated Jew knew that he or she was still a Jew. That seems to have been the case with 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. 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 possible for even a king

to abdicate. But no one chooses to be royal. That is a fate, a destiny, that comes with birth.

The people of whom G-d 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 may be 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 some of the most important facts about us, we did not choose. 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 part of that 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.

RABBI SHLOMO RISKIN

Shabbat Shalom

"I call heaven and earth to witness against you this day, that I have set before you life and death, the blessing and the curse: therefore choose life" (Deut. 30:19).

What does it mean to choose life? Is life then ours to choose? The Torah should have written to "choose good," which I would understand because good seems within my control. But life and death? Go tell the children in a cancer ward to choose life! How many young people receive harsh decrees from heaven? So what does it mean to "choose life"? A person can choose life! As Sigmund Freud taught, built into the human psyche is not only a passion for life, but also a passion for death, not only a will to create, but also a will to destroy - and sometimes even to self-destruct.

The first thing one must do is to avoid the lure of death. Despite the awareness of danger in certain lifestyles - indiscriminate sex, excessive alcohol, drugs etc - many pursue thrills until the last chill, when it's too late. Good and evil are abstractions; a genius in the art of rationalization only requires one hour to totally confuse himself and others about their moral foundations. But life and death are not abstractions. People who overdose on drugs or alcohol are real. And when the Torah says "choose life," it means avoid a lifestyle, or fanatical religion, which promotes death rather than life.

A second, less dramatic way, of choosing life is by not wasting time; hours spent in front of the TV, at best watching people running in pursuit of a ball and at worst inviting violence and pornography into our homes. We don't need an accountant to inform us that the hours soon become days, weeks, even months. The simple act of shutting off most programs on TV and opening a worthwhile book is an example of choosing life. In modern Hebrew, the term for going out and having a good time is levalot - which is derived from bilui, a word which actually means to wear something out, to turn a usable garment into an outworn rag. In modern Hebrew slang, the expression lisrof zman, to burn time, is equivalent to the Americanism "to kill time," all pointing to the inherent destruction in improper time management.

You can commit suicide in one moment. Or you can commit suicide in a lifetime of wasted moments. The number of years a person is given is not under their control, but what we do with the moments G-d has given us, is. If we choose not to waste these precious moments, we have "chosen life."

And there is yet a third way to choose life, in the larger sense of the word - not just life as the avoidance of death, but life in its fullest meaning.

An older version of the Targum (Aramaic translation of the Bible) on the verse, "...Not by bread alone does the human being live, but by that which proceeds from G-d's mouth does the human being live" (Deut. 8:3), is revealing. It translates, "Not on bread alone does the human being exist (mitkayem) but on what proceeds from G-d's mouth does the human being live (hayei)." Bread gives us kiyum - existence, the ability to stand on our feet, to work, to survive. But that which emanates from G-d's mouth provides life with meaning, purpose, participation in eternity.

Material subsistence is existence; spiritual and intellectual engagement in improving self and society is life. Bread is existence; Shabbat and compassion are life. Food, clothing and shelter are necessities, but they are necessities for existence. Humans require an objective which goes beyond existence. As Victor Frankel, noted psychologist-philosopher and founder of logotherapy, discovered in the concentration camps, the most important drive within humans is not the will for pleasure or even the will for power, but the will for meaning. Those who had a higher meaning, who were involved in helping others survive, in calculating in their heads different mathematical or philosophical problems or in preserving and copying segments from the prayer books or the Bible from memory stood a better chance of surviving the horrendous living conditions of the concentration camps. This search for purpose beyond one's own physical survival, this quest for self-transcendence and reaching out for the infinite, is what comes forth from G-d's mouth and it is what the Targum refers to as "life."

The search for pleasure is linked to the body, and since the body is finite, the fruits of the search are also finite. The Torah is immortal and infinite. An individual home is destructible; the Land of Israel for the people of Israel is eternal. Materialistic goods are existence; Torah and Israel are life. The keeping of the commandments and the inheritance of the Land of Israel are in themselves involvement with eternity, participating in eternity. This is the real meaning of the Biblical command: Choose life!

RABBI BEREL WEIN

Wein Online

The title of this week's parsha says everything that needs to be said about the Jewish story, nation and people. After forty years of war, rebellion, strife, great accomplishment, Divine revelation, miracles, defeats, Torah study, and personal and national tragedies and heartbreak, Moshe remarks, almost incredulously, that atem nitzavim - you are erect and still standing proud and mighty.

Rabbi Moshe ben Nachman (Ramban), in his famous thirteenth century debate with the apostate Jew Pablo Christiani, told King James of Aragon that the greatest proof of Jewish uniqueness is that the Jews have survived as a people and a faith over all of these many centuries in spite of its being "a sole and small lamb amongst seventy wolves."

I had a neighbor of mine in the United States who was a Holocaust survivor. She spoke to me often and told me that she wished to return to her hometown in Poland to revisit her house and the surroundings of her shattered youth. She finally did so and when she returned I inquired of her as to how the trip and visit played out. She told me that she was able to find her house, still intact and even familiar to her. Her former Polish neighbor, a girl that she knew and played with when they were both children, now inhabited the house. She said that the Polish woman immediately recognized her even though more than four decades had passed since they last saw each other. The Polish neighbor exclaimed: "Bella, you are still alive!?"

Much of the world then wanted to be rid of the "Jewish problem" once and for all. There are many malevolent nations and people around today that still want to solve the "Jewish problem." But somehow Bella is still alive.

All of the predictions regarding the long story of the Jewish people that are recorded for us here in the book of Dvarim have come to pass in all of their grandeur and in all of their horror. Tradition has it that Rabbi Eliyahu Kramer, the Gaon of Vilna, stated that all of Jewish history, past, present and future is recorded for us in this book of Dvarim.

Certainly the Holocaust fits eerily and almost perfectly in the descriptions of Jewish pain and suffering recorded in last week's parsha of Ki Tavo. The search for G-d, for meaning in one's life, for transcendent values and ideals that will somehow give justification to one's efforts and life's toils, is really the hallmark of our world today, especially the Western world.

This angst and soul-searching, the chaos and loneliness of human existence, the inscrutability of G-d's guiding hand, so to speak, in human affairs, are all poignantly recorded for us in this week's parsha. Humans search for certainty in a very uncertain world. Many Jews, buffeted by ignorance, amnesia and false ideals, still somehow seek their identity and heritage and the road to spiritual fulfillment. We are a generation that wrestles with our own angels, the good ones and the better ones. But we are all still present here to do so. And that is the greatest wonder of all.

RABBI AVI WEISS

Shabbat Forshpeis

The portion Nitzavim, is replete with urgings to return to G-d. A term which jumps from the text, is one describing G-d's hope that we, the Jewish people, would hearken to His voice "li-shmoah be-kolo." (Deuteronomy 30:20) The word kol, voice, resonates with deep meaning.

The key to understanding a Biblical word is to assess its meaning the first time it appears in the Torah. Kol first presents itself in the Garden of Eden's story, where the Torah states that Adam and Eve heard the voice of the Lord. (Genesis 3:8) Kol is, therefore, not a surface voice, rather it is the voice of G-d. An important reminder to all of us that even as we busily prepare ourselves for the observance of Rosh Hashanah and Yom Kippur, that we not forget that the ultimate goal of these days - is to reconnect with G-d, to feel His presence, to hear His voice.

Kol also prominently appears in the Revelation story. Once again, the Torah states that the Jews heard the voice of G-d. (Exodus 19:19) This time, however, the voice of G-d was a call to commit to Torah practice as revealed at Sinai. Kol here speaks to the voice of G-d as expressed through observing G-d's laws, an idea worth remembering on Rosh Hashanah/Yom Kippur.

And, of course, Kol is found again in the prophetic descriptions of the Messianic era. (Isaiah 40:3) In the liturgy we echo this prophecy with the words, Kol me-vaser, the voice that announces the coming of the Messiah. Thus, Kol, especially during this time of year, speaks to the challenge of not only hearing the voice of G-d and His commandments, but of harnessing the energy of these messages into

repairing the world-the Messianic period - the time when G-d's voice will be heard by all.

These three different messages of kol are echoed in the mitzvah of shofar. Shofar is the call that reenacts the moment of creation. Shofar is the call that brings us back to Sinai when the Torah was given. And shofar is the call that will ring out when the Messiah comes.

It ought be noted that the blessing preceding the shofar ritual does not state "to blow the shofar (li-tkoah)" it rather reads, "to listen (li-shmoah)" to the shofar. Yet, it goes one step further. The blessing teaches us to go beyond, to listen to the inner voice of G-d, His law and the yearning for redemption. It does this by declaring that we "listen to the voice, the kol, of the shofar." If only.

RABBI DOVID SIEGEL

Haftorah

This week's haftorah marks the climax of a seven week series of reflection on Jewish redemption. In this final presentation, Hashem announces His personal return to the Jewish people. Now that every other dimension of redemption is in place, the time has finally arrived for Hashem to rest His Divine Presence amongst His people. Eretz Yisroel has been revived,Yerushalayim has been rebuilt, the exiles have returned en masse, but the ultimate objective has yet to be seen. In response to this, the prophet Yeshaya quotes the Jewish people saying, "I will be gladdened by Hashem, My soul will rejoice over My G-d." (61,10) Chazal in Yalkut Shimoni (505) view the Jewish people's response to be specifically related to the return of Hashem to Yerushalayim. The Jewish people respond to all the magnificent prophecies of their glorious future and proclaim that their true source of happiness is but one, the return of Hashem to His beloved people. They sorely long for the privilege of sensing the presence of Hashem amongst them and feeling the closeness and love He has for His people. They resolve that they will be gladdened and happy only through His return to them.

The prophet continues and describes the proportions of this return and the extent of Hashem's cherished relationship. "No longer will you be referred to as forsaken because about you it shall be proclaimed, 'My desire is in you'." (62, 4) Hashem pledges to fully identify with His people and to display His true desire in them. His relationship with them will be so encompassing and evident that a newly gained identity will be conveyed upon the Jewish people, "Hashem's desirable one". But a worry crosses the minds of the Jewish nation concerning the nature of their forthcoming relationship. After all, weren't they previously associated with Hashem in similar proportions before being rejected by Him? If so, they reason that although Hashem will truly return to them it will only feel to them like a remarriage. Their long awaited association will have a nostalgic air to it and won't bring them the true happiness they seek.

The prophet responds and reveals to them the indescribable proportions of their new relationship. Yeshaya says, "Hashem will rejoice over you like a groom over His bride." (62, 5) The Radak explains that Hashem's return to the Jewish people will possess all the freshness and novelty of a groom to his bride. Their relationship represents the epitome of happiness and appreciation as they begin forging their eternal bond with love and respect. In this same manner, Hashem's newly founded relationship with His people will possess similar qualities. It will be so complete and perfect that it won't leave room for reflections upon their past. The happiness and fulfillment that they will experience will be so encompassing that it will feel like a fresh start, a relationship never experienced before. The Radak adds an indescribable dimension to this relationship and explains that this sense of newness will actually continue forever. Instead of becoming stale and stagnant, their relationship with Hashem will always be one of growth and development and will constantly bring them to greater heights. Each newly gained level of closeness will be so precious and dear to them that it will be regarded as a completely new relationship replete with all of its sensation and appreciation.

But the most impressive factor of all is that the above description is not only our feelings towards Hashem but is, in truth, Hashem's feelings towards us. The prophet says that Hashem Himself will forever rejoice over us with the sensation of a groom over His newly acquired bride. From this we discover that Hashem's feelings towards His people are literally boundless. Even after all the straying we have done, Hashem still desires to unite with us in the proportions described above. He desires to erase the past and establish a perfectly new relationship, so perfect and new that it will continuously produce the heightened emotions of a bride and groom for eternity.

These emotions are, in truth the hidden message behind the tefillin which we don each day. As we wrap the tefillin strap around our finger we recite special passages expressing our betrothal to Hashem. This experience represents our placing the wedding ring of Hashem on our finger, portraying our perfect relationship with Him. But our Chazal (see Brochos 6a) inform us that Hashem also wears tefillin. In proof of this they cite a passage in this week's haftorah which states, "Hashem swears by His right and by the strength of His arm." (62, 8) Chazal explain that the words,"the strength of His arm" refer to the tefillin worn on the left arm. The Maharsha expounds upon this concept and explains that Hashem actually binds Himself to the Jewish people. Hashem's tefillin, like ours, represent

devotion and commitment, His commitment to His beloved people. Hashem cherishes His relationship with us and as an expression of His commitment to us, He also wears a betrothal band. Eventually our boundless love for Hashem will find its expression together with Hashem's boundless love for us and together we will enjoy this indescribable relationship forever and forever.

MACHON ZOMET

Shabbat B'Shabbato

by Rabbi Mordechai Greenberg
Rosh Yeshiva, Kerem B'Yavne

Some people refuse to see our era as "the beginning of the redemption," since we have been exiled from our land because of our sins, and they feel that there is no way that we can be redeemed unless we repent. This is the subject of a dispute that appears in the tractate of Sanhedrin 97b. Rabbi Eliezer says, "If Yisrael repent they will be redeemed, but if not they will not be redeemed." Rabbi Yehoshua disagrees. At the end of their argument, "Rabbi Eliezer was silent." The early and the later commentaries agreed that Rabbi Eliezer's reaction was a sign that he accepted Rabbi Yehoshua's opinion. This corresponds to what was written by the Ramban in the Torah portion of Haazinu: "This epic poem does not mention any condition related to repentance and service of G-d." Similarly, the Or Hachaim writes in the portion of Behar: "The end of the exile will come even if Yisrael are completely evil, G-d forbid."

When we look at the events of recent generations, we may be amazed to see how accurately they parallel the predictions of the Torah and the prophets. The prophecies of Yechezkel are about repentance and redemption. The process will begin with ingathering of the exiles: "And I will take you out of the other nations and I will gather you from all the lands, and I will bring you to your land" [36:24]. Only at a later stage will there be a process of repentance: "And I will sprinkle pure water over you... And I will give you a new heart... And I will make it so that you do My laws... And you will be a nation for Me and I will be your G-d" [36:25-28].

In this week's Torah portion even greater detail appears. The process will consist of strengthening the settlements in Eretz Yisrael, a moderate stage of repentance, more building in the land, repentance again, and so on, in repeated sequence. "And your G-d will bring your captives back and will have mercy on you, and He will once again gather you from among the nations... And your G-d will bring you to the land of which your ancestors took possession... And your G-d will circumcise your heart... And your G-d will put all of these curses on your enemies and on those who hate you... And you will repent and listen to the voice of G-d... And G-d will provide you with abundance in all your works... for you will listen to the voice of G-d... for you will return to your G-d with all your heart and all your soul." [Devarim 30:3-10].

However, as opposed to the prophecy of Yechezkel, which begins with the return of the exiles, this week's portion begins with repentance: "And it will be, when all of these things come to pass over you... you will return to your G-d" [30:1]. This seems to imply that repentance precedes the redemption. But a careful analysis of the words of the Torah can explain this. At first the Torah tells us, "You will return up to G-d" ("ad") [30:2]. In the end, it is written, "For you will return to G-d" ("el") [30:10].

The sages explained the difference between the two verses. To return "up to G-d" means to return in a partial way, out of fear and not purely in G-d's name. To return "to G-d" means repentance out of love, dedicated completely to G-d's name. And that is what Rabbi Yehoshua said to Rabbi Eliezer in Sanhedrin, quoted above: It is true that the people will not be redeemed if they do not repent, but the Holy One, Blessed be He, will put them under the authority of a harsh king like Haman, and they will then repent. The author of the book "Eim Habanim Semeicha" writes that people will start to return to the land after great suffering and will give up their lives for the land, and that this is the ultimate repentance. The soul of the people yearns to return to its original source, since everybody who lives in Eretz Yisrael can be considered as one who has a G-d. Thus, the two phrases "You will return to G-d" and "He will return and gather you from among the nations" are one and the same thing.

Here is what Rav Avraham Yitzchak Kook wrote in Orot Hateshuva: "The willing awakening of the nation to return to its land and to its essence... truly contains a ray of the light repentance... and this is expressed in perfectly clear language by the concepts, 'You will return up to your G-d' and 'You will return to your G-d'."

RABBI DOV KRAMER

Taking a Closer Look

"And you will return (i.e. repent), and you will listen to G-d's voice, and you will do all of His commandments" (D'varim 30:8). Many positive things have been said about "t'shuva," returning to G-d after having strayed. One of the most powerful and widely known statements in Rabbinic literature teaches us that "in the place those who have repented are standing, the completely righteous do not stand" (B'rachos 34b, Sanhedrin 99a), clearly implying that one who has sinned and repented is on a higher level than one who has never sinned and therefore never needed to repent. This seems counterintuitive; how could someone who never sinned be on a lower level than someone who was too weak to withstand sin? Even if

the sinner recovered by repenting, isn't that just compensating for the original moment of weakness?

Before discussing some of the approaches that deal with this issue, it is important to note that the Talmud presents this statement as one opinion (Rav Avahu's), one that disagrees with the first opinion cited (Rav Yochanan's), which states that the reward for the completely righteous is indescribable (as opposed to the reward for those who have repented, which is described by the Prophets). However, the Vilna Gaon (B'rachos 34b) says that despite the Talmud presenting these opinions as conflicting, both are true, each describing a different aspect or scenario. (He uses this to explain how Rambam can quote both sides of a similar "dispute" the Talmud mentioned prior to this one. This can also explain how Rambam follows Rav Avahu's opinion if the normal halachic process would dictate that we follow Rav Yochanan's.) There are therefore two ways to approach our issue; either by explaining how sinning and repenting puts one on a higher level, or by explaining which aspect or scenario this concept refers to. However, a straightforward reading of the Talmud indicates that Rav Avahu and Rav Yochanan argue, with Rav Avahu's perspective being that those who have sinned and repented are on a higher level than those who never sinned in the first place.

The Vilna Gaon (ibid) suggests that Rav Avahu is only referring to someone who was completely righteous and would have never sinned, if not that he was caused to sin by heavenly decree-so that he could have the opportunity to fulfill the mitzvah of repenting. The person who wouldn't have sinned (on his own) but was able to repent is on a higher level than someone who never sinned because the latter never fulfilled the mitzvah of repenting. The implication is that someone who sinned on his own and repented is not on a higher level than someone who never sinned (even though he never fulfilled the mitzvah of repenting either), a concept that needs explanation if full repentance makes it as if the person never sinned in the first place. If Rav Avahu is referring to someone who has completed the "t'shuva process," and is therefore once again considered completely righteous, that person certainly has an advantage over those who are completely righteous but never fulfilled the mitzvah of repenting. However, "being able to stand where the completely righteous cannot" implies not just having an advantage, but being on a different plane. After all, if the only difference is fulfilling the mitzvah of "returning to G-d," why is this mitzvah singled out? Wouldn't it also be true that "in the place where those who've fulfilled the mitzvah of chasing away the mother bird (before taking its young) stand, those who've never fulfilled it can't?" Wouldn't there be a different level for anyone who's done more mizvos than others? Why is doing "T'shuva" singled out?

Sefer HaYashar (the one attributed to Rabbeinu Tam, Gate 10), suggests three different approaches to explain how one who sinned and repented can be in a place than someone who never sinned isn't. First of all, being in a different place doesn't necessarily mean it's a better place or a higher level, just different. Secondly, G-d has to treat those who repented better than those who never sinned so that they won't go back to sinning, just as a teacher treats a troublemaker more carefully than other students. Not that they deserve to be treated better; they are treated better for practical reasons. His third approach (which he prefers) is that the contrast is not between sinners who repented and righteous people, but between righteous people who never sinned and righteous people who had a temporary slip-up and corrected themselves. However, he doesn't explain why the righteous person who sinned and repented is on a higher level than the righteous person who never slipped. The problem is the same, just to a different degree; how can someone who had to repent because he messed up be considered better than someone who never messed up in the first place?

Bais Yosef quotes an approach based on the concept (Yuma 86b) the sins of one who has repented out of "love" for G-d (as opposed to out of fear of the consequences of the sin) become merits. Since it is much easier to sin than to gather merits by doing mitzvos, someone who repented (out of "love") ends up with more merits than someone whose merits were obtained only by doing mitzvos. However, this only addresses the mechanics of how it works (the record-keeping aspect), not the concept itself. The same question would apply to the mechanics as well-why would a sin turn into a merit after repentance, with the net result being that sinning and repenting is better than never sinning at all? Must a relationship have ups-and-downs to be a strong one? Can't a strong relationship be maintained by always doing the right thing without having to first cause a strain in the relationship to make it stronger by repairing it? Besides, this approach assumes that sins come more easily, and therefore more frequently, than mitzvos. This might be true for many, if not most, but is it true for the "completely righteous" as well? Aren't there many people who spend much of their day learning Torah? The notion that there is a sizable enough group who have sinned so frequently that when these sins are turned into merits they outpace the amount of mitzvos done by the completely righteous seems a bit far fetched.

The Ben Ish Chai (Ben Y'hoyada on B'rachos), in his first approach, says that (in the next world) an announcement is made before reward is given out regarding which mitzvah this particular reward is for. This also applies to the reward given for the sins that became merits after repentance, with the sin that became a merit being announced. Since making this announcement will be embarrassing if those who never sinned hear it, the completely righteous cannot "stand" where those who have repented are, meaning while those announcements are made. I'm not sure why

these announcements are only embarrassing if made before those who never sinned rather than before anyone who didn't commit that particular sin (even if they committed other sins); it is possible that the Ben Ish Chai understands Rav Avahu's statement to be referring to each particular sin rather than sinning in general, but he doesn't specify this, and it isn't implied in Rav Avahu's wording.

Rabbeinu Yona (Avos 3:16) quotes a Midrash that says one who never sins is better off than one who sinned and was forgiven. In order to reconcile this with Rav Avahu's statement, he suggest that the intent is not that those who have repented are on a higher level, but that they must be in a different "place," as they must avoid things that are really permitted in order not to lapse back into sinning, while those who are completely righteous do not require such "fence building." The Ben Ish Chai's second approach comes from the opposite end, suggesting that since full repentance requires being in the exact same situation without sinning, one who is attempting to repent is allowed to put himself into that situation (something not everyone agrees with), while someone who never sinned is not allowed to risk being tempted to sin. Interestingly, Chidushay Gaonim (Sanhedrin 99a) quotes Rabbeinu Yonah as saying the same thing. Further on, Chidushay Gaonim provides a similar approach; during the "t'shuva process," the sinner must take things at a healthy pace, which often includes still doing something that is wrong until he is ready to overcome that as well. For example, someone who brought offerings to false deities might start worshipping G-d without being able to limit his offerings to the Temple. Even though bringing offerings on a "bamah," an unsanctioned altar, is a sin, it could be a necessary step in this person's repentance. Therefore, "in a place that those who are repenting (as opposed to those who have already repented) are standing," still doing some things that are wrong until they are ready to move past them as well, "those who are completely righteous cannot stand," i.e. they are not allowed to do anything wrong, even temporarily.

Rabbi Yehonasan Eibshitz (B'rachos 34b) suggests that Rav Avahu's statement doesn't refer to the level each are on, but to the access they are given to/by G-d. Since there are "prosecutors" in heaven that would try to prevent the sinner from accessing G-d, He "provides them a tunnel underneath His throne of glory," whereby they can repent. This "secret passageway," which mirrors the "closed" southern Temple gate, is reserved for those repenting, and is a "place" that the completely righteous do not have access to.

Rambam (Hilchos T'shuva 7:4) explains Rav Avahu's statement as follows: "Their level is greater than the level of those who never ever sinned because they conquer/subdue their inclination more." Does Rambam simply mean that since it is more difficult to recover from sin than it is to avoid sinning in the first place, someone who repents and no longer sins has accomplished more, and is therefore considered to be on a higher level? That once someone has succumbed to sin it and it becomes harder not to repeat it, abandoning sinful ways is a greater accomplishment than not sinning in the first place? Even though it might be harder to re-attain a level of spirituality than it is to maintain it in the first place, this "extra work" only becomes necessary because of the original mistake. How could someone who caused himself to need to work harder to become "completely righteous" be considered on a higher level than someone who was strong enough to stay "completely righteous" all along?

The assumption underlying this question is that the starting point was the same for both the penitent and the non-sinner. However, it is next to impossible for two people to have the same background, upbringing, temperment, and the same amount of temptation for the same things. Is it easier for an FFB or a BT to keep Shabbos? At this point, it might be the same for both, but it certainly didn't start out that way; it was a much more difficult for the person who didn't grow up keeping Shabbos to get to the point that doing so is second nature than it is for the person whose family was observant since childhood. (Not that there aren't temptations for FFBs, and for each "issue" it is harder for one person to be completely righteous than it is for another.) I would therefore suggest that Rav Avahu is referring to people who ended up in a similar place, but didn't start there; his point is that it's not just where you are, but how you got there. Not sinning is wonderful, and it is better to refrain from sinning and not need to repent than it is to sin and need to repent. But if one person got there by overcoming an obstacle that he didn't cause and the other person got there without having to overcome any obstacles, the person who overcame the obstacle has accomplished more. As R' Yehoshua Ibn Shu'aib puts it (in his D'rasha on Nitzavim-Vayeilech, baruch she'kivanti), "the reward for someone who has to subdue his inclination, which is a hard-fought war, is greater than for someone whose inclination is at peace with him by nature and does not need to fight against it and subdue it." If two people didn't start from the same place but ended up there, the one who had to fight harder to get there has acheived much more.