

Not Robbers: Rashi's Opening, the Rebbe's Sichos, and the Title to the Land

A LONGER LEARNED ESSAY

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Thesis

Rashi does not open the Torah with a note on grammar. He opens it with a title defense. Quoting Rabbi Yitzchak, he asks why the Torah begins with creation rather than with the first commandment given to Israel, and he answers with Tehillim 111:6: the strength of G-d's works was declared to His people so that He might give them the heritage of the nations. Should the nations say, "You are robbers, for you seized the lands of the seven nations," Israel answers that the earth belongs to its Creator, who allotted it and re-allotted it according to His will.

The Lubavitcher Rebbe refused to leave that sentence as a slogan. In Likkutei Sichos, volume 5, on the first Rashi, he asked the question the plain reading invites and the plain reading does not answer: under both Noahide law and Jewish law, land taken in war is not stolen property. Why, then, would the nations call Israel robbers at all? His answer relocates the charge. The complaint is not the battle. It is the permanence. Israel did not merely occupy a hill country. It made the land essentially and enduringly Jewish, so that later conquest cannot turn it into someone else's land in the same way. The reply from creation is that this permanence was the point of the world from the first verse.

Two further sichos carry the same Rashi inward. Volume 20, drawing on the Tzemach Tzedek, reads the seven nations as the physical world itself, and the charge of theft as the claim that holiness has no right to annex the ordinary. Volume 10 names the same work an obligation, not a hobby: the conquest of the land is the pattern for conquering the mundane and returning it to its Owner. Classical commentators, the Slonimer Netivot Shalom, the Talmud's court before Alexander, and republican higher-law theory then sit around that center. Grant answers the external charge. Condition answers the internal temptation. Permanence, in the Rebbe's reading, is what the grant was for.

I. The Text

Rashi on Bereshit 1:1, in the Sefaria text and the Rosenbaum-Silbermann English, transmits Rabbi Yitzchak. The Torah, which is Israel's book of instruction, need only have begun at Shemot 12:2, "This month shall be for you," the first commandment addressed to Israel as a people. Why creation? Because "the strength of His works He declared to His people, to give them the heritage of the nations." If the nations say, "You are robbers, for you conquered the lands of the seven nations," Israel replies: the entire earth belongs to the Holy One; He created it and gave it to whomever was

right in His eyes. When He willed, He gave it to them; when He willed, He took it from them and gave it to us. The midrashic anchor is Yalkut Shimoni on the Torah, 187, and earlier aggadah in Bereshit Rabbah 1:2. Rashi is transmitting.

The Hebrew is sharper than the polite English. *Listim atem* (לִּסְטִים אַתֶּם) — you are brigands. The word is a legal accusation. Rashi does not soften it. He assumes the courtroom and supplies the reply.

Two further notes on the same verse belong in the frame. The world was created for the sake of Torah, called *reishit* (Mishlei 8:22), and for the sake of Israel, called *reishit* of G-d's produce (Yirmiyahu 2:3). And the name Elohim, rather than the Tetragrammaton, signals that the world was first conceived under strict justice and only then sustained by the coupling of justice with mercy. Title, purpose, and measure arrive together.

A contemporary worry is that the reply creates a chillul Hashem: if Israel says G-d permitted the seizure, has Israel made G-d a robber, against *lo tizol* and *hasagat gevul*? The cleaner reading, already available in the classical line and sharpened by the Rebbe, is that the reply denies the category. Absolute title never lay with the prior holders in perpetuity. The earth is not a lockbox of first occupancy. G-d is not licensing what He forbids. He is the Owner whose grant defines the borders of theft.

II. Likkutei Sichos, Volume 5: Why “Robbers” at All

The Rebbe's treatment of this Rashi in Likkutei Sichos, volume 5, pages 1 and following, delivered in substance as the sicha of Shabbat Bereishit 5726, begins from Rashi's own premises. Torah is instruction. Israel becomes a nation, in the sense that concerns Rashi here, through the Exodus and the giving of the Torah. Mitzvot that appear earlier — procreation, circumcision, the prohibition of the sciatic nerve — were addressed to the patriarchal house, not yet to the people standing at Sinai. Rashi's difficulty is therefore real: why open the book of Israel's law with narratives that predate Israel's national commandment?

Rashi's answer is the title. The narratives are there as proof to the nations. The Rebbe then asks the question that makes the proof sharper. According to both Noahide law and Jewish law, land acquired by military conquest is not stolen property. He points to the ruling preserved in the Alter Rebbe's Shulchan Aruch, Orach Chaim 649:10. The nations could not, on their own legal premises or on Israel's, call conquest as such robbery. A charge of *listim* that meant only “you won a war” would not survive the first hearing.

The complaint must therefore be something else. The nations object that Israel transformed the land into a permanently and essentially Jewish land, precluding any later nation from identifying it as its own in the same way. Even if the land is conquered again, it remains the Land of Israel. Exile becomes, on this complaint, a temporary interruption of a possession that has changed category. That, the Rebbe says, is the robbery they allege: not the taking, but the irreversible consecration.

The reply is then read with new force. “The whole earth belongs to G-d. He created it and granted it to whomever was fit in His eyes. It was His will that they should have it, and by His will He took it from them and gave it to us.” Permanent acquisition was intended from the moment of creation. Prior possession by the seven nations was real, and temporary, and part of the plan. The delay narrated in the covenant between the pieces — the exile before the inheritance — is not an embarrassment to the title. It is how the title was scheduled. From the first verse, the world was made so that a non-Jewish land could become the holy land.

This reading does three kinds of work. It takes the legal objection seriously instead of shouting over it. It explains why creation, and not only the patriarchal promises, is the required preface: the permanence has to be older than the conquest. And it refuses the picture in which Israel is a squatter who hopes the prior residents will forget. The deed is not occupation. The deed is an intention announced before there were occupants.

Chaim Miller’s English presentation, “A Jewish Land for the Rest of Time,” is an adaptation of this sicha, not a transcript. The legal hinge and the permanence thesis are the Rebbe’s.

III. Likkutei Sichos, Volume 20: The Inner Nations

Volume 20, pages 1–4, reads the same Rashi from the wording. Rashi does not say the earlier narratives should have been omitted. He says the Torah should have *begun* at “this month shall be for you.” The portions from creation until the Exodus belong in the book. They need not have stood at the gate. If their only function were an answer to the nations, one might still have opened with the first commandment and placed the proof later. The opening itself must be doing work for Israel, not only for the courtroom.

The Tzemach Tzedek supplies the inner map. The conquest of the seven nations is the figure for the Jew’s service inside the physical world. When ordinary life is put to a sacred use, the land of the seven nations is being conquered for holiness. The complaint of the nations — and of the “nations” inside a person, the worldly outlook that keeps a secular reserve — is that the physical belongs to them. To expand the boundary of holiness into eating, work, craft, and politics is piracy. Serve G-d where He issued an explicit command, and leave the rest to its rightful owners.

Creation is the answer to that complaint as well. Everything derives from G-d, and He gave it to whomever found favor before Him. What stood outside holiness before the service stood there in order to be reclaimed. The object was not stolen from the mundane. It was waiting to be returned. The same sentence that answers a geopolitical indictment answers an ascetic one. Holiness is not a trespasser in the world G-d made.

The two sichos do not cancel each other. Volume 5 keeps the land a real land. Volume 20 refuses to let the real land become the only register. A reading that spiritualizes the title until no map remains has not read volume 5. A reading that nationalizes the title until the inner work disappears has not read volume 20.

IV. Likkutei Sichos, Volume 10: Obligation, Not Capacity

Volume 10, pages 1–6, published in English adaptation as “Conquistadors,” presses the same figure one step further. The spiritual service called the conquest of the land is the taking of material and mundane matters — the part of the world that does not already contain an explicit mitzvah — and transfiguring them into a vessel. Because creation intended this, physicality is a fit receptacle. The consequence is obligation. Jews have not only the capacity to conquer the “lands of the seven nations” and turn them into a land of Israel. They have the duty.

Set beside volume 5, this blocks a quietist use of the title. The grant is not a relic to be admired from exile as proof that one need not act. The same will that allotted the land allots the work of making ordinary life capable of holiness. Set beside the halakhic line, it also blocks a triumphalist use. The duty is to consecrate, not to despise. A conquest that does not produce justice, *ger*, and the limits of Vayikra 25 has taken the metaphor and dropped the statute.

V. Other Commentary Around the Same Rashi

The Talmud is earlier than all of these sichos and already knows the lawsuit. Sanhedrin 91a brings the people of Africa, who claim Canaan as their forefather, before Alexander of Macedon. They cite Bamidbar 34:2: the land is called Canaan. Geviha ben Pesisa answers from Bereshit 9:25: Canaan is a slave of slaves to his brothers. They ask for three days, find no answer, and flee, leaving their fields sown. The same page answers an Egyptian claim for the silver and gold of the Exodus with a demand for centuries of unpaid wages. The method is constant. The advocate does not deny the verse cited against him. He insists the book be read whole.

Geviha’s reply is not Rashi’s. Geviha stays inside Noah’s family drama. Rashi goes to creation. The Rebbe’s volume 5 is closer to Rashi than to Geviha, and it explains why a family-status argument would not have been enough for the opening of the Torah. The charge that survives the law of conquest is a charge about category, and only the Owner of the world can answer a charge about category.

Yerushalmi Shevi’it 6:1 remembers Joshua’s three proclamations: leave, make peace, or fight. The Gergashites leave for Africa. Rashi cites the core of this on Shemot 33:2, which is why some lists count six nations rather than seven. The tradition is a partial evacuation, not a blank land. Procopius, in the sixth century, reports two pillars at Tigisis in Numidia whose Phoenician inscription named Joshua “the robber.” The indictment is older than Rashi, and it was already being argued from both sides.

Bereshit Rabbah 1:2, the older form of the same teaching, preserves another reply alongside it: Israel can say the land was already held by theft, for the Caphtorim destroyed the Avvim and settled in their place (Devarim 2:23). That answer concedes the logic of prior possession and then impeaches the prior possessors. Rashi does not take that road. He does not win by proving the Canaanites were themselves robbers. He denies that first occupancy exhausts title.

Ramban reads the grant as one that survives exile: settling the land is a standing commandment, binding in every generation (Ramban on Bamidbar 33:53, and his glosses to Sefer HaMitzvot, positive commandment 4). Maharal and Rav Kook place the particular grant inside a universal vocation: the land is the vessel, not the idol. The Slonimer Rebbe, in Netivot Shalom on this same Rashi, draws the line toward faith. The claim is not the claim of the stronger battalion. It is the claim of a people who answer from the first verse, that the world has an Owner. Strength without that faith is the very picture the nations are painting. Faith without the legal and historical ledger is the picture a sermon can paint and a court will not accept.

The chillul Hashem worry belongs with these, not against them. If the reply is heard as “G-d told us to steal,” the nations have won a different case. Volume 5 is the best available guard. Because conquest as such is not theft, and because the alleged wrong is a transformation G-d intended from creation, the reply does not depict G-d as a brigand. It depicts Him as the Owner who assigns, recalls, and assigns again.

VI. Academic and Legal Frames

Historical-critical scholarship often files Rashi’s opening as homily. Creation is an ancient prologue; the promises are later strata; the conquest narratives are not transcripts. That method can clarify editing. It cannot adjudicate a living title, because the dispute is about the normative force of a received canon. The fair point is narrow: midrash is not a land registry. The unfair leap is from “this is midrash” to “therefore there is no claim.”

Settler-colonial theory is the modern dialect of *listim atem*. It has descriptive uses for certain early Zionist rhetoric, for purchases under Ottoman and Mandate law, and for post-1967 policy. It fails as a total account. Jewish presence is not an eighteenth-century implant. Continuity runs through the Second Temple, the Mishnah’s land-centered system, Byzantine and early Muslim centuries, and the communities of Jerusalem, Hebron, Safed, and Tiberias. A theory that must reclassify the oldest continuous claimant as the settler has inverted its own categories. The Rebbe’s permanence thesis is almost the thing the theory finds intolerable: that the land remains Jewish in category even when Jews do not hold the deeds. One may dispute the theology. One may not pretend the theology is a recent invention.

Legal history is more precise. Ottoman registries, the Mandate, the 1947 partition recommendation, the 1948 war after rejection, the 1949 lines, 1967, and Oslo are different facts. None is identical to Rashi’s sentence. Together they make a layered title: ancestral and textual continuity, purchase, defensive war, disputed administration. International law’s preference for effective control does not erase older claims, and it does not convert a *sicha* into a treaty.

Opposing syntheses, including Rashid Khalidi’s, assemble a real ledger of dispossession and rule. Equal measures grants the ledger and refuses the totalization. The Rebbe’s distinction helps here. A particular field can be wrongfully taken without the polity being robbery as such. Navot’s vineyard is inside the same canon as the first Rashi.

VII. Republican Theory Beside the Sichos

Eric Nelson's *The Hebrew Republic* shows sixteenth- and seventeenth-century Hebraists reading the Bible, often through rabbinic and Maimonidean channels, as a constitution. Yovel became an argument against perpetual accumulation. The Western republican tradition already knew Hebrew land law as higher law: title under G-d, limited by sabbatical and jubilee, resistant to royal absolutism and to oligarchic lockup. Nelson's readers sometimes mistook the Sanhedrin for a civil parliament. Borrowing is not identity. The useful point survives.

Philip Pettit's non-domination cuts both ways. A commonwealth that can be extinguished at the will of rejectionists, or at the will of a court of opinion that applies "settler" only to Jews, lives under domination. A population under indefinite rule without a political horizon also lives under a domination the covenantal line must not sanctify. Non-domination is not a brief for the robbers charge. It is a discipline on what permanence permits after permanence is granted. The Rebbe's permanence is categorical, not a license for arbitrary rule.

Daniel Elazar's covenantal polity is the bridge. Covenant is neither a contract of equals nor an edict. Bereshit 15 is unilateral promise. Bereshit 17 adds the costly sign and the demand to be *tamim*. Devarim adds blessing and curse. Volume 5 is the external clause of that grammar. Volume 20 is the internal clause. Volume 10 is the duty that keeps the grammar from becoming a museum piece.

VIII. What the Comment, and the Sichos, Do Not License

The comment does not license contempt. The same Torah narrates the *ger*, the limits of war, and the prophets' rebuke of Israelite land-grabbing. A title defense that cannot say "this field was stolen" when an Israelite steals it has betrayed the title.

The comment does not decide every border, security zone, or concession. It establishes the legitimacy of Jewish political return and the incoherence of the claim that the polity is robbery as such. It does not dictate the 1967 lines or the status of a given outpost. Confusing deed with policy is how a sicha becomes a factional instrument.

The comment does not require a theocratic civil code. Volume 20's sanctification of the ordinary is compatible with a democratic state that holds the land as the historic home of the Jewish people and protects minorities under equal law. Higher law is moral architecture, not clerical monopoly.

The opposing misuse is symmetrical. To disqualify only Jewish theological title, while accepting every other storied national title, is not secularism. It is a special disability. Volume 5 answers that disability without requiring the listener to become a Hasid. It requires the listener to notice that the charge of theft, on the accuser's own law of conquest, does not mean what the slogan thinks it means.

IX. Synthesis

Rashi begins at the beginning because the beginning is the answer. The Rebbe's volume 5 says what the answer is answering: not the fact of victory, but the fact that the land was made Jewish in a way later swords do not undo. Volume 20 says the same answer governs the inner world: the ordinary is not the nations' reserve. Volume 10 says the work is obligatory. Geviha, the Girgashites, Procopius, Ramban, Maharal, Rav Kook, and the Netivot Shalom stand around that center as earlier court, partial evacuation, opposing inscription, grant that survives exile, vessel and vocation, and faith in the Owner.

The reply is short. The earth belongs to its Maker. He allotted it, and He allotted it again, and He allotted it as a permanent consecration. The work of a living polity is longer. It is to hold that consecration without becoming the robber the nations name, and without surrendering it to a charge that long predates the modern state and will not be satisfied by any border that leaves the people intact.

The sentence does not close the argument. It refuses to let the argument begin from the assumption that the people in the dock have no deed, and no account of why the deed speaks of permanence.

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