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THE *GER TOSHAV*: OBSCURING THE BOUNDARY
BETWEEN JEW AND GENTILE FROM THE RABBINIC
PERIOD UNTIL TODAY

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Dedicated to my parents, George and Chris Markley, who taught me the value of
ensuring that no one is ever made to feel like a stranger in the Jewish
community...

...and to my wife, Michele, for her endless support, encouragement, and love

DIGEST

This thesis explores the Rabbinic and Medieval conceptions of the *ger toshav*, a unique status which appears to straddle the classical categories of "Jew" and "non-Jew." Additionally, the thesis goes on to explore modern attempts to apply the *ger toshav* status to those non-Jews who, by marriage, are members of synagogues today.

Chapter One provides an introduction to the Biblical and Rabbinic uses of the phrases *ger toshav* and *ger v'toshav*. A sample case of Rabbinic ambivalence concerning the status is provided.

Chapters Two, Three, and Four explore, in detail, cases in which the *ger toshav* is treated exactly like a Gentile or idolater, exactly like an Israelite, and cases in which the status of the *ger toshav* is ambivalent in the minds of the Rabbis and *halachic* authorities.

Chapter Five responds to two potential arguments against using the *ger toshav* status in a modern context. First, many *halachic* sources note that the *ger toshav* can only exist in a time when the jubilee year is observed, and because it has fallen out of use, the *ger toshav* could not exist today. Second, some voices from Jewish history have argued that Christianity is a form of idolatry, thus precluding believing Christians from the status of *ger toshav*, which is defined as one who has rejected idolatry.

Chapter Six provides a broad overview of contemporary American Jewry, primarily through the research of Steven Cohen, Arnold Eisen, and Sylvia Barack Fishman. Following this overview, several different suggestions for reviving the *ger toshav* status today are presented.

The Afterword builds upon the picture of American Judaism presented in Chapter Six and explores the ways in which Jewish Outreach and Jewish education intersect.

CHAPTER ONE

Introduction to the Biblical and Rabbinic Conceptions of a *Ger Toshav*

OVERVIEW

Brown University Religious Studies Professor, Shaye Cohen, quips that there are two types of people in this world: those who divide the world into two kinds of people, and those who do not. The Jews, he asserts, are in the former category.¹ He is correct that throughout much of Jewish history, *halachic* definitions of identity have held sway, leaving Jews to understand that the world is, indeed, divided into a pair of distinct categories: Jews (by birth or formal conversion) and everyone else.

Following the exile from *Eretz Yisrael* in 70 CE, and arguably beginning with the first exile in 586 BCE, the Jews shaped their identity in a diaspora setting, without national power to be the sole arbiters of their personal, religious, and communal lives. No doubt, the external restrictions placed upon Jewish communities by their host cultures contributed to an “us” and “them” mentality in Jewish life. It would be a mistake, however, to assume that it was only the more powerful religious and secular societies in which Jews lived that perpetuated the notion that one is either “in” or “out” of the People Israel. Surely, this idea was reinforced by internal strictures as well.

There are likely several rationales for the Jews’ desire to maintain distinct boundaries between themselves and others. Modern psychologically-based social identity theory would cite a basic human need to fix one’s personal identity in the context of a larger social group. This school of thought ties personal self-esteem to how one

1. Cohen, Shaye, p. 1

evaluates one's "in-group" in comparison with the "out-group,"² in this case Jews versus non-Jews. It is dangerous, however, to retroactively see all of human history only through the lens of modern psychology. Certainly, there existed communal, societal, legal, and even theological motivations for maintaining a distinct dividing line between members and non-members of the Jewish community.

Evidence of such distinction can be seen throughout the *Tanakh* which regularly differentiates between the national entities of *B'nei Yisrael* (or *Am Yisrael*) and the other surrounding nations (*goyim*). It is with this nationalistic mindset that the Torah often draws lines to separate the Israelites from the seven nations that reside in *Eretz Yisrael* during the period of the Exodus, and who must, therefore, be evicted during the land's conquest. Such "in-group" "out-group" differentiation did not occur solely on the popular level in the *Tanakh*. It appears also in reference to individuals. Outsiders were called *zarim* (used primarily in the Prophetic works) or *nochrin*. These people were decidedly "other" in the legal and social frameworks of the Israelites.

By contrast, however, stands the Biblical concept of a *ger* ("stranger" or "alien"). As will be seen below, this characterization had a range of possible meanings that straddled the typical dichotomy between "in-group" and "out-group." Such a person shared a much greater proximity to the ancient Israelites -- spacially, legally, and ideologically -- than did the *nochri*. In fact, the *ger* was so intertwined with the life of the Jewish people, that the same word came to represent one who fully converted, or was naturalized, into *Am Yisrael*.

Of special interest is the unique status of the *ger toshav*, or resident alien. This

2. Tajfel, 18

outgrowth of the Biblical *ger* "...was regarded as belonging to a different and special character. He was a non-Jew who accepted some, but not all of the commandments of the Torah, as a result of which he was permitted to reside in the land of Israel and enjoy many of the privileges of citizenship."³ It will be asserted here that, in the mindset of the Rabbinic Sages and Medieval commentators, the *ger toshav* represented a blurring of the normally distinct dividing line between Jews and non-Jews that is described above.

As will be seen, beginning in Torah and extending to our present day, the status of a *ger toshav* represents a possibility to forge a middle ground between the polar extremes of "Jew" and "non-Jew." Such an application has already been used in discussing the treatment of Palestinian and Arab citizens who live amongst the Jewish residents of the modern State of Israel. In the setting of present-day American Judaism, some leaders have suggested applying the *ger toshav* status to those non-Jewish members of synagogues who have not gone through formal conversion but who clearly fall within the fold of Jewish communal life through their marriage to a Jewish spouse, their rearing of Jewish children, and often their active involvement in congregational life.

BIBLICAL TREATMENT OF THE GER TOSHAV

The notion that the *ger toshav* is a unique civil and religious status amongst the people Israel is apparent in numerous Rabbinic sources, yet it is not at all clear that the phrase indicated such a distinction in Toraic texts. On a number of occasions, the Rabbinic mind, and the subsequent Medieval commentators, retroactively attribute their later definition of the *ger toshav* to instances when the Torah uses either the word "*ger*"

3. Editorial Staff of The Encyclopedia Judaica, CD-ROM edition, "Strangers and Gentiles"

or “*toshav*.”

For example:

דברים יד:כא

לֹא-תֹאכְלוּ כָל-נֶבֶלָה לְגֵר אֲשֶׁר-בְּשַׁעְרֵיךָ תִּתְּנָהּ וְאָכְלָה אֹו מָכַר לְנֹכְרִי כִּי
עִם קְדוֹשׁ אַתָּה לַיהוָה אֱלֹהֶיךָ לֹא-תִבְשֹׁל גְּדִי בְחֵלְבֵי אִמּוֹ:

Deuteronomy 14:21
Do not eat a *neveilah* carcass. You can give it to the *ger* within your gates and he may eat it, or you can sell it to a foreigner (*nochri*) for you are a holy people to Adonai, your God. Do not boil a kid in its mother's milk.

Rashi comments on this verse saying:

לְגֵר אֲשֶׁר בְּשַׁעְרֶיךָ. גֵּר תוֹשָׁב שֶׁקִּבֵּל עָלָיו שְׁלֵא לַעֲבֹד עֲבוֹדַת אֱלִילִים
וְאוֹכֵל נֶבִילֹת:

To the *ger* within your gates: This is the *ger toshav* who takes it upon himself not to engage in the worship of other gods, and who eats *neveilot*.

Rashi, here, applies one of the Rabbinic definitions of the *ger toshav*⁴ back onto a Torah text that does not actually speak of the *ger toshav* explicitly or implicitly in its original context. Rather, the Torah speaks of the *ger* that is “within your gates.” Surely the text’s implication that this was a *ger* who was living amongst the Israelites, and the verse’s reference to these individuals’ ability to eat *neveilot* (improperly slaughtered carcasses), causes Rashi to presume that the word *ger*, alone, must be referencing the *ger toshav* status with which he is familiar.

Rashi makes a similar interpretive maneuver when commenting on these verses from Exodus:

4. *Bavli Avodah Zarah* 65a

שמות יב:מג-מה

מג ויאמר יהוה אל משה ואהרן זאת תקת הפסח כל בן נכר לא יאכל בו
מד וכל עבד איש מקנות כסף ומלתה אותו אז יאכל בו מה תושב ושכיר
לא יאכל בו

Exodus 12:43-45

Adonai said to Moses and Aaron, "This is the law of my *Pesach* offering: No foreigner (*ben nochr*) may eat it. And every slave, a man bought with money, you should circumcise him so he may eat it. A *Toshav* or hired worker may not eat it.

Rashi interprets *Toshav* as follows:

תושב זה גר תושב

Toshav. This is the *ger toshav*.

Rashi has once again applied the Rabbinic conception and definition of the *ger toshav* to a previous Biblical citation that had no overt reference to a unique religious or civil status. Rashi's motivation for doing so is equally clear in this case. He is simply repeating a Rabbinic conception of the *ger toshav* as a separate category of citizen amongst the people Israel, an opinion which he is drawing from a *midrash* on this Exodus verse.⁵

These are but two of several instances when later commentators read their inherited definition of *ger toshav* back into the Biblical text. A cyclical pattern of thinking can be seen here. Once the conception of *ger toshav* as a separate status definition arose in the Rabbinic mindset, they looked back to the Torah text for instances when either the word *ger* or *toshev* might have been referring to such a person. In so doing, they added to their own definitions of a *ger toshav*. So, for example, by taking the word "ger" by itself in the Exodus verse above, and turning it into a Rabbinic *ger toshav*, the author also added to the accepted Rabbinic definition

5. *Mechilta d'Rabbi Yishma'el*, "ה תושב ושכיר, מס' דפסחא בא פרשה טו ד"

of such a person. This is clear as, approximately 800 years later when Maimonides is codifying the laws of the *ger toshav*, he notes that one of the strictures placed on such an individual is that he may not eat of the *Pesach* sacrifice.⁶

This is not to say, however, that the words *ger toshav* never appear on their own in the Torah. As will be seen below, the Rabbis of the *Tannaitic* era had already developed their notion of a *ger toshav*, and one assumes that they must have gotten this wording from somewhere in their inherited Scriptural tradition. It simply is not at all clear that the definition of a *ger toshav* that the Rabbis would come to accept is directly drawn from the intended meaning of this word-pair in its few Pentateuchal appearances.

It should be noted here, that the phrase "גר תושב" appears only once in the Torah, in the book of Leviticus. In addition to that singular occasion, the phrase "גר ותושב," appears three times in the Pentateuch, twice in Leviticus and once in Genesis. In most cases, though not always, later commentators seem to consider *ger v'toshav* to be synonymous with *ger toshav*. The Genesis citation of the former seems to have the least to do with the eventual Rabbinic interpretation of the term being discussed in this work, so it will only be addressed briefly.

6. *Mishneh Torah, Hilchot Korban Pesach* 9:7

בראשית כג:א-ו

א ויהיו חיי שרה מאה שנה ועשרים שנה ושבע שנים שני חיי שרה:
ב ותקמת שרה בקרית ארבע הוא חברון בארץ כנען ויבא אברהם לספד
לשרה ולבכתה: ג ויקם אברהם מעל פני מתו וידבר אל-בני-חת לאמר:
ד גר-ותושב אנכי עמכם תנו לי אחוזת-קבר עמכם ואקברה מתי מלפני:
ה ויענו בני-חת את-אברהם לאמר לו: ושמענו | אדני נשיא אלהים אתה
בתוכנו במבחר קברינו קבר את-מתך איש ממנו את-קברו לא-יכלה ממנו
מקבר מתך:

Genesis 23:1-6

And Sarah's lifetime was 127 years...this was Sarah's life. Sarah died in *Kiryat Arba*, or *Hebron*, in the land of Canaan. And Abraham came to grieve for Sarah and to wail for her. Abraham got up from beside his dead, and he spoke to the children of *Chet*, saying, "I am a *ger v'toshav* amongst you. Give me a burial site among you, and I will bury my dead away from me." And the children of *Chet* answered Abraham, saying, "Hear us, my Lord. You are a prince of God among us. Bury your dead in the choicest of our burial grounds. None of us will withhold this burial place from you."

In most cases, *ger v'toshav* is treated by Rabbinic and Medieval commentators as hendiadys, a single concept made up of two nouns connected by a *vav*. This is not always so, however. Rashi's interpretation of the above lines, quoting *Midrash Rabbah*, treats the two terms separately in its search for the verse's *p'shat* (simple contextual meaning):

גר ותושב אנכי עמכם. גר מארץ אחרת, ונתישבתי עמכם. ומדרש אגדה,
אם תרצו הריני גר, ואם לאו אהיה תושב ואטלנה מן הדין, שאמר לי
הקב"ה לזרעך אתן את הארץ הזאת:

I am a *Ger V'Toshav* amongst you: A *ger* (stranger) from another land. And I have settled amongst you. The *midrash*⁷ states: "If you wish [to give me the land], behold, I am a *ger* (a stranger). And if you do not [give me the land], I will be a *toshav* (resident) and acquire it through the courts. As *HaKadosh Baruch Hu* said to me, 'I will give your descendants this land.'"

Again, this is a novel interpretation of *ger toshav* (and *ger v'toshav*) in relation to all the others that appear in later Rabbinic texts. Nowhere in the *Bavli* is

7. *Bereshit Rabbah* 58:6

this Genesis text quoted when discussing Rabbinic conceptions of a *ger toshav* in terms of religious or civil status. It is possible, however, that those who attempt an application of the *ger toshav* framework in a modern context will use this text to elevate the status. If our primary patriarch, Abraham, can attribute the title to himself, might it not lend a degree of *kavod* to the potential modern-day *geri toshav* in our midst? For now, however, it is sufficient to note that this Biblical occurrence does nothing to contribute to the Rabbinic representation of the term "*ger toshav*."

The passages in which the phrase is used in Leviticus, however, feature prominently in the Rabbis' proof texts for their own definitions of the *ger toshav*. Therefore, it is worthwhile to explore them here, at least briefly, to convey the Biblical context from which the later Sages would draw their inspiration when creating a new status amongst the Israelites.

ויקרא כה:לה-לח

לח וכי־ימוך אחיד ומטה ידו עמך והחזקת בו גר ותושב וחי עמך:
 לו אל־תקח מאתו נשך ותרבית ויראת מאלהיך וחי אחיד עמך:
 לו את־כסףך לא־תתן לו בנשך ובתרבית לא־תתן אכלה: לח אני יהוה
 אלהיכם אשר־הוצאתי אתכם מארץ מצרים לתת לכם את־ארץ כנען
 להיות לכם לאלהים:

Leviticus 25:35-38
 If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support the *ger v'toshav* and let him live among you. Do not take *neshech* or *tarbit*, but fear your God. Let your kinsman live with you. Do not give him your money as *neshech* or your food as *tarbit*. I am Adonai, your God, who took you out of the land of Egypt to give you the land of Canaan, to be your God.

Unlike the Genesis citation above which uses *ger v'toshav* in an *aggadic* textual setting, this verse is a natural springboard for the legalistic Rabbinic mind insomuch as it is *halachic* in nature. There is a *machloket* amongst different Talmudic authorities as to

whether this verse indicates that Israelites can lend money to *gerei toshav* with interest (implying that the *ger toshav* is like a Gentile) or whether they cannot (implying that the *ger toshav* is like a full Israelite in this regard). This legal argument is, perhaps, the pre-eminent example of differing Rabbinic opinions which illustrate the fluid nature of the *ger toshav*, sometimes treated like an Israelite, sometimes like a foreigner, and sometimes straddling a middle ground. For this reason, it will be addressed in greater detail below.

The final occurrence of *ger v'toshav*, and the only occurrence of *ger toshav*, appear in this verse from Leviticus:

ויקרא כה: מז-מח

**מִן וְכִי יִשְׁגֵּי יָד גֵּר וְתוֹשֵׁב עִמָּךְ וּמָדָד אֶחָיִד עִמּוֹ וְנִמְכַּר לַגֵּר תוֹשֵׁב עִמָּךְ אוֹ
לְעֶקֶר מִשְׁפַּחַת גֵּר: מִן אֲחֵרֵי נִמְכָּר גְּאֻלָּה תִּהְיֶה-לּוֹ אֶחָד מֵאֲחָיו וּגְאֻלָּנוּ:**

Leviticus 25:47-48
If a *ger v'toshav* amongst you prospers, and your kinsman is brought low (financially) and sells himself to the *ger toshav* amongst you, or to an offshoot of the *ger's* family, after he is sold he will have the right of redemption. One of his kinsmen may redeem him.

While it is possible that the phrase *ger v'toshav*, as used in the Genesis text, could actually have been intended as two separate concepts -- a "stranger" and a "resident" -- in these two Leviticus passages, the context implies that *ger toshav* and *ger v'toshav* represent a unique category. It is not at all clear how one would define such a status based on these texts. We simply know that the Israelites were required to let such a person live among them, that a *ger v'toshav* had sufficient communal clout to possess an Israelite slave, and perhaps that he was not to be charged interest on his loans.

The Rabbis, then were not without foundation in conceiving of the *ger toshav* as an individual with special or unique status in the community. Beyond that, however, it

would seem that they took a great many liberties in constructing the criteria by which one would determine who a *ger toshav* is, what obligations a *ger toshav* has to the Israelite community, and what benefits a *ger toshav* receives for abiding by such strictures.

Before moving on to discuss the Rabbinic definitions of a *ger toshav*, it is helpful to explore one more potential Biblical basis for the Rabbis' thinking. Because, as was shown above, the Rabbinic Sages and Medieval commentators frequently associated a use of the single word "*ger*" with the later model of a "*ger toshav*" it is worthwhile to note the two distinct meanings "*ger*" in the Torah.

It is clear that, most often, when the Rabbis referred to a "*ger*," unless otherwise specified, they were talking about a proselyte, a full convert into the Jewish people. Sometimes they would cement this by using the more precise phrase "*ger tzedek*" to refer to a Gentile who had gone through the necessary steps of *milah* (circumcision) and *t'villah* (ritual immersion) in order to become an Israelite in all legal and religious regards.

It is not at all apparent, however, that the term "*ger*" in the Torah had the same connotations. The Pentateuch utilizes the word *nochri* to designate a complete foreigner, one who is from a foreign land, still resides in that foreign land, and is only amongst the people Israel temporarily. The *ger*, most often translated as "stranger" or "alien," on the other hand, seems enmeshed in the life of Israelite society to a much greater degree.

The question, then, is whether the word always implied a full convert to Judaism or had some other status that placed the individual in between an Israelite and a *nochri* vis-à-vis their rights and responsibilities in the society. According to the work of George F. Moore, the meaning of the word "*ger*" evolved throughout the Biblical writings. "The

older associations of this word were civil and social. The *ger* was an alien immigrant, or the descendant of such an immigrant, resident in Israelite territory by sufferance, without any civil rights, like the [*metoikos*] in a Greek city. This is the position of the *ger* in the older Hebrew legislation and in Deuteronomy...Israelites are enjoined not to oppress these aliens, who had no legal remedy; and they are frequently presented as objects of charity.”⁸

By Foote’s analysis, the following texts would not be referring to a *ger* as a full-fledged convert to the Israelite people, but rather to an individual living amongst the Israelites who is granted certain social benefits by virtue of his immediate and ongoing proximity to the Israelites themselves.

דברים י"ט
וְאָהַבְתֶּם אֶת-הַגֵּר כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם:

Deuteronomy 10:19
You shall love the *ger* (stranger), for you were *gerim* (strangers) in the land of Egypt.

דברים כ"ד-י"ז

יִזְכָּר לֹא תִטֶּה מִשְׁפָּט גֵּר יְתוֹם וְלֹא תִחַבֵּל בְּגַד אֲלֻמְנָה: יִחַ וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּמִצְרַיִם וַיִּפְדֶּךָ יְהוָה אֱלֹהֶיךָ מִשָּׁם עַל-כֵּן אֲנֹכִי מְצֻדָּה לַעֲשׂוֹת אֶת-הַדָּבָר הַזֶּה: ס יֵט כִּי תִקְצֹר קְצִירְךָ בְּשָׂדֶךָ וּשְׂכַחְתָּ עֹמֶר בְּשָׂדֶךָ לֹא תָשׁוּב לִקְחָתוֹ לַגֵּר לַיְתוֹם וְלַאֲלֻמְנָה יְהִיָּה לָמַעַן יִבְרַכְךָ יְהוָה אֱלֹהֶיךָ בְּכָל מַעֲשֶׂה יָדֶיךָ:

Deuteronomy 24:17-19
You shall not pervert justice for the *ger* (stranger) or for the orphan. Do not take the garments of the widow as pledge. And remember that you were slaves in Egypt, and Adonai your God redeemed you from there. Therefore I command you to do this. When you cut down the harvest of your field and forget a sheaf in the field, do not return to take it. It will be for the *ger* (stranger), for the orphan, and for the widow, so that Adonai your God may bless you in all the works of your hands.

There is no indication in these passages that the *ger* has gone through any form of conversion rite, not does it seem that such a person would be obligated in the *mitzvot*

8. Foote, 328

alongside his Israelite neighbors. To the contrary, it would appear that because of this person's "otherness," he might, like the orphan and the widow, be at a societal disadvantage. The moral implication is that because of the *ger*'s potential lack of access to legal recourse and other societal systems for maintaining the well-being of its constituents, the Israelites need to make a special effort to provide for these individuals.

Later Biblical texts, such as those from the period of Persian exile, indicate greater religious commitments associated with the word *ger*. Foote describes this new form of *ger* as one "who joins [himself] to Jehovah, or to Israel as the worshippers of Jehovah."⁹ No such requirements of belief or theological obedience were mandated for the earlier *gerim* discussed in Deuteronomy. The newer definition of the word can be seen in the words of the prophet Isaiah:

<p style="text-align: right;">ישעיהו יד:</p> <p style="text-align: right;">כִּי יִרְחֹם יְהוָה אֶת־יַעֲקֹב וּבָחַר עוֹד בְּיִשְׂרָאֵל וְהִנִּיחָם עַל־אֲדָמָתָם וְנִלְוָה הָגֵר עֲלֵיהֶם וְנִסְפְּחוּ עַל־בֵּית יַעֲקֹב:</p> <p>Isaiah 14:1 For Adonai will have compassion on Jacob, and will choose Israel again, and will settle them in their land. And <i>gerim</i> will join them and attach themselves to the House of Jacob.</p>

Where previously the *ger* was to be looked upon as part of the broader community and as one who might be in need of special assistance, now the *ger* is moving towards its eventual definition as "proselyte" or "convert," seen here as fully joining the people Israel. Several of the laws regarding *gerim* in Leviticus reflect this newer inclination towards the *ger*, mandating the same religious observance for them as is required of the Israelites themselves:

9. Ibid.

ויקרא יז-טו

ח ואלהם תאמר איש איש מבית ישראל ומן הגר אשר יגור בתוכם אשר יעלה עלה אוֹזֶבַח: ט ואל־פֶּתַח אֹהֶל מוֹעֵד לֹא יביאֲנוּ לַעֲשׂוֹת אֹתוֹ לַיהוָה וְנִכְבַּת הָאִישׁ הַהוּא מֵעַמּוּי: י וְאִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל וּמִן־הַגֵּר בְּתוֹכָם אֲשֶׁר יֹאכַל כָּל־דָּם וְנָתַתִּי פָנַי בְּנַפְשׁ הָאֹכֶלֶת אֶת־הַדָּם וְהִכְרַתִּי אֹתָהּ מִקֶּרֶב עַמָּהּ: יא כִּי־נַפֵּשׁ הַבֶּשָׂר בַּדָּם הוּא וְאֲנִי נָתַתִּיו לָכֶם עַל־הַמִּזְבֵּחַ לְכַפֵּר עַל־נַפְשֹׁתֵיכֶם כִּי־הַדָּם הוּא בְּנַפֵּשׁ יִכָּפֵר: יב עַל־כֵּן אֲמַרְתִּי לִבְנֵי יִשְׂרָאֵל כָּל־נַפֵּשׁ מִכֶּם לֹא־תֹאכַל דָּם וְהַגֵּר הַגֵּר בְּתוֹכְכֶם לֹא־יֹאכַל דָּם: יג וְאִישׁ אִישׁ מִבְּנֵי יִשְׂרָאֵל וּמִן־הַגֵּר הַגֵּר בְּתוֹכָם אֲשֶׁר יֵצֵד צִיד חַיָּה אוֹ־עוֹף אֲשֶׁר יֹאכַל וְשָׁפַךְ אֶת־דָּמּוֹ וְכִסְּהוּ בְּעָפָר: יד כִּי־נַפֵּשׁ כָּל־בֶּשָׂר דָּמּוֹ בְּנַפְשׁוֹ הוּא וְאָמַר לִבְנֵי יִשְׂרָאֵל דָּם כָּל־בֶּשָׂר לֹא תֹאכְלוּ כִּי נַפֵּשׁ כָּל־בֶּשָׂר דָּמּוֹ הוּא כָּל־אֹכְלוֹ יִכָּרֵת: טו וְכָל־נַפֵּשׁ אֲשֶׁר תֹּאכַל נְבִלָה וְטִרְפָּה בְּאֶזְרָח וּבַגֵּר וּבְכֶסֶם בְּגָדָיו וּרְחָץ בַּמַּיִם וְטִמָּא עַד־הָעֶרֶב וְטָהַר:

Leviticus 17:8-15

And say to them, "Any person from the House of Israel, and every *ger* that lives amongst you that offers up an *olah* or a *zevach* sacrifice, and does not bring it to the entrance to the tent of meeting to make the sacrifice to Adonai, such a person will be cut off from his people. If any person of the House of Israel, or the *ger* who lives amongst them, eats any sort of blood, I will set my face against the person who eats the blood, and he will be cut off from the people. For the life of the beast is in its blood, and I gave it to you to make atonement for your lives on the altar. For it is blood that makes atonement for the soul. Therefore I have said to the Children of Israel: "Every person amongst you shall not eat blood, and the *ger* who lives amongst you shall not eat blood." And every person from the Children of Israel, and every *ger* who lives amongst them, that hunts down an animal or bird that is edible should drain its blood and cover it with dirt. For the live of the beast is in its blood and I have said to the Children of Israel: "Do not eat any blood for the life of every beast is in its blood. All who eat it shall be cut off." And every person that eats *neveilah* and *treifah*, both natives and the *ger*, should wash his clothes and bathe in water. He will be unclean until evening, and then he shall be clean.

Both the responsibility to Adonai, and the intimate connection with the laws that bind all of Israel, make the *ger* in these verses indistinguishable from the average Israelite in many respects. Now, as is seen in the following citation, the *ger* is held responsible for, and benefits from, both the religious and civil law of the Israelites:

ויקרא כד:כב

מִשְׁפָּט אֶחָד יִהְיֶה לָכֶם כַּגֵּר כַּאֲזָרָח יִהְיֶה כִּי אֲנִי יְהוָה אֱלֹהֵיכֶם:

Leviticus 24:22

You shall have one law for the *ger* and for the native for I am Adonai your God.

Footnote summarizes this shift in the use of the term "*ger*" as follows:

"This change in the meaning of *ger* from an *advena*¹⁰ in the Jewish territory to an *advena* in the Jewish religion is significant at once of the change in the situation of the Jews in the world after the fall of the kingdom and of the changed conception of the character and mission of their religion -- the metic¹¹ has been given to the proselyte. This change is reflected in the language. For living as a **resident alien**¹² (*ger*, in the original civil sense) in the land of Israel the verb *gur*, 'sojourn'; for conversion to Judaism and adoption into the people as well as the religion a new form was needed and created, the denominative *nitgayyer*, 'become a proselyte' (*ger* in the religious sense), with a corresponding active denominative, *gayyer*, convert some one to Judaism, make a proselyte of him."¹³

It now becomes clear why the Rabbinic mindset eventually saw the need to define two different types of *gerim*, those who are protected by civil law and for whom the Israelites were responsible in matters of charity, and those who are full-fledged religious Israelites or converts to the faith. It might be asserted that the former eventually evolved into the Rabbinic legal conception of a *ger toshav*, and the latter morphed into their definition of a *ger tzedek*, one who is now obligated in all matters of Jewish law, both civil and religious. Hence, the *ger toshav* (or *ger v'toshav*) did not have the separate status in the Torah that is reflected in later *halachic* works, and it is not entirely clear that a *ger toshav* was considered a separate entity in any respect in this period. Nevertheless, it is apparent that the term *ger* on its own did carry multiple possible meanings, one of which may have served as the foundation for the middle-of-the-road status the Rabbis would come to create. No doubt, when attempting to name the novel category of citizen they imagined to fit this new mold, the Sages looked back to the Torah text and pulled

10. Latin meaning a "stranger" or "newcomer" to a situation

11. a person who paid a fee to reside in an ancient Greek city

12. (emphasis mine)

13. Ibid., 330

from it "*ger toshav*", a stranger, but not a complete stranger -- a stranger who resides among us.

THE RABBINIC DEFINITIONS OF A GER TOSHAV

Perhaps it goes without saying that it is, in some respects, futile to speak of a specific definition for the *ger toshav* in the Rabbinic mindset. As is invariably the case in all matters, the Jewish textual tradition provides myriad differing opinions on a given subject, in this case the responsibilities of, benefits of, and the defining criteria for one who is considered a *ger toshav*. With this mindset, the entire remainder of this thesis through Chapter Five will be an attempt to establish such a broad-based definition.

In more specific terms, however, the Babylonian Talmud does offer three definitions of a *ger toshav*. These three explanations serve as the basis by which other Rabbis in the *Bavli*, and in subsequent generations, discuss this unique societal status. All three appear in Tractate *Avodah Zarah*, on page 64b.

תלמוד בבלי מסכת עבודה זרה דף סד עמוד ב
מיתיבי: איזהו גר תושב? כל שקיבל עליו בפני ג' חברים שלא לעבוד
עבודת כוכבים, דברי ר"מ; וחכ"א: כל שקיבל עליו שבע מצות שקבלו
עליהם בני נח; אחרים אומרים: אלו לא באו לכלל גר תושב, אלא איזהו
גר תושב? זה גר אוכל נבילות שקבל עליו לקיים כל מצות האמורות
בתורה חוץ מאיסור נבילות

Bavli Avodah Zarah 64b

It is taught in a Baraita: Who is a *ger toshav*? [DEFINITION #1] Anyone who accepts on himself, before three peers, that he will not commit idol worship. These are the words of Rabbi Meir. [DEFINITION #2] And the Sages say: Anyone who accepts on himself the seven commandments that the children of Noah accepted. [DEFINITION #3] Others say: these (definitions 1 and 2) do not meet the rules of *ger toshav*. Rather, who is a *ger toshav*? This is a *ger* who eats *neveilot*, and who accepts on himself to uphold all of the *mitzvot* spoken in the Torah, except for the prohibition against *neveilot*.

First, for clarity's sake, it is necessary to define what is intended by the "seven commandments that the children of Noah accepted." In Tractate Sanhedrin of the Babylonian Talmud, the Sages describe seven commandments which they believe God imparted to Noah's children after they disembarked from the ark in the book of Genesis. The Torah makes no mention of such laws being given. In the Rabbinic mindset, however, these seven laws are seen as the moral constitution by which all humankind is bound. Thus it is apparent that the Rabbis, while normally quite particularistic in their concern for the Divine legal guidelines by which Jews must live, also had an eye to the universal nature of humankind. Any person who obeys these seven laws, then, was thought to be spiritually worthy of God's kindness and of a place in the world-to-come. They need not convert to Judaism to achieve such salvation. These seven universal laws are defined as follows:

<p style="text-align: center;">תלמוד בבלי מסכת סנהדרין דף נו עמוד א</p> <p style="text-align: center;">תנו רבנן: שבע מצוות נצטוו בני נח: דינין, וברכת השם, עבודה זרה, גילוי עריות, ושפיכות דמים, וגזל, ואבר מן החי.</p> <p>Bavli, Sanhedrin 56a</p> <p>Our Sages taught that seven <i>mitzvot</i> were commanded to the children of Noah: they must establish law (courts) for themselves, and refrain from blasphemy, idolatry, forbidden sexual relations, the spilling of blood, stealing, and eating a body part from a still-living animal.</p>
--

Second, it is worth noting that the *Bavli* passage from *Avodah Zarah* is citing a *Baraita*. This indicates that the conception of a *ger toshav* with which the *Amoraim* are working found its genesis in the *Tannaitic* period. To help root us in a particular era, Rabbi Meir, to whom Definition #1 is attributed, lived in *Eretz Yisrael* between 135 and 170 CE, immediately following the Bar Kochba revolt.¹⁴

¹⁴ Steinsaltz, p. 31

Additionally, it is apparent that each definition adds responsibilities to the status of the *ger toshav*. The progression is, in some respects, perplexing as most often when a *mishnah* or *baraita* uses the phrase אחרים אומרים ("others say..."), it is thought that the following statement is actually attributable to Rabbi Meir.¹⁵ Such an assertion is questionable in the context of this *baraita* as the least restrictive and most restrictive definitions of the *ger toshav* would then have been presented by the same man. Perhaps, in this case, אחרים אומרים simply represents the minority opinion of another small group of *Tannaim*. Conversely, it is possible that Rabbi Meir was responsible for the two extreme positions, reinforcing the elasticity of the term *ger toshav*, even in one man's mind.

Regardless of its source, the third definition is largely ignored by later Rabbinic authorities in both the *Amoraic* and Medieval periods, probably due to the extraordinary strictures it places on the *ger toshav*. If such a person really did obey all of the *mitzvot* except for the prohibition against eating *neveilot*, such an individual would all but represent a full-fledged Israelite. It is not surprising that later commentators attempt to soften Definition #3 with differing interpretations of its intent. For example, the Ra'avad seeks to add other categories of observance from which the *ger toshav* is exempt. This third definition even continued to perplex *halachic* authorities in the 20th Century. Rabbi Avraham Yeshaya Karelitz, the *Chazon Ish*, commented on Definition #3, saying that the text intended only that the *ger toshav* was liable to the prohibitions (negative commandments) with the exception of eating *neveilot*. The *ger toshav* certainly was

15. Ibid., p. 91

never responsible for the positive commandments in his mind.¹⁶

Rashi's treatment of the *ger toshav* echoes the sentiment that Definition #3 is overly restrictive. His commentaries oscillate between Definition #1 and Definition #2, ignoring #3 completely. For example, in these cases, Rashi clearly aligns himself with Rabbi Meir who thought that the *ger toshav* simply abstained from idolatry:

רש"י מסכת סנהדרין דף צו עמוד ב
גר תושב - שלא קבל עליו שאר מצות, וקבל עליו שלא לעבוד עבודת כוכבים.
Rashi on Bavli, Sanhedrin 96b
Ger Toshav. He accepts upon himself not to engage in idol worship, but he does not accept the remainder of the *mitzvot* upon himself.

רש"י מסכת בבא מציעא דף קיא עמוד א
גר תושב - שקבל עליו שלא לעבוד עבודה זרה, ואוכל נבילות וטריפות.
Rashi on Bavli, Bava Metzia 111a
Ger Toshav. He accepts upon himself not to engage in idol worship, but he does eat *neveilot* and *treifot*.

By contrast, in this case, Rashi echoes the sentiments of the Sages who see the *ger toshav* as not only refraining from idolatry but as one who abides by all seven of the Noahide laws:

רש"י מסכת עבודה זרה דף כ עמוד א
לגר אשר בשעריך - גר תושב שקבל עליו שבע מצות שנצטוו בני נח ונבילה מותרת לו ואתה מצווה להחיותו דכתיב בגר ותושב (ויקרא כה) וחי עמך.
Rashi on Bavli, Avodah Zarah 20a
To the *ger* that is within your gates: The *ger toshav* is one who accepts upon himself the seven *mitzvot* that were commanded to the children of Noah, and eating *neveilot* is permitted for him. And you are commanded to let him live amongst you, as it is written concerning the *ger v'toshav*: "he will live with you." (Leviticus 25)

In keeping with this pattern, Definition #3 will no longer be a factor in responding

16. *Avodat Kochavim* 65:6

to the question, “Who is a *ger toshav*?” While both Definitions #1 and #2 will play into the Rabbinic discussions of the *ger toshav* status, it should be noted that by the time the most widely accepted Medieval legal codes were compiled, the *ger toshav* was considered to be one who had accepted the seven Noahide commandments.¹⁷ Moving beyond, and building upon, the first two terse definitions found in *Avodah Zarah*, the remaining discussions in this chapter, and in Chapters Two through Four, will deal with specific cases in which authorities applied the unique status of *ger toshav*.

LENDING TO THE GER TOSHAV WITH INTEREST: A CASE STUDY

As was noted above, there was significant disagreement amongst *halachic* authorities as to whether or not Israelites were permitted to lend money or food to a *ger toshav* with interest. Because there is such variety of opinion, this case is paradigmatic of the others that will be discussed in later chapters: in some cases the *ger toshav* is treated like an Israelite, in some cases the *ger toshav* is considered a complete foreigner, and in other cases the *ger toshav* is treated as being “in between” these two poles. It bears repeating that it is these verses from Leviticus which are the loci of this discussion:

ויקרא כה:לה-לח

לח וכי־ימוך אחיד ומטה ידו עמך והחזקת בו גר ותושב וחי עמך:
 לו אל־תקח מאתו נשך ותרביית ויראת מאלהיך וחי אחיד עמך: לו את־כסףך
 לא־תתן לו בנשך ובתרביית לא־תתן אכלה: לח אני יהוה אלהיכם
 אשר־הוצאתי אתכם מארץ מצרים לתת לכם את־ארץ פלעו להיות לכם
 לאלהים:

Leviticus 25:35-38
 If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support the *ger v'toshav* and let him live among you. Do not take *neshech* or *tarbit*, but fear your God. Let your kinsman live with you. Do not give him your money as *neshech* or your food as *tarbit*. I am Adonai, your God, who took you out of the land of Egypt to give you the land of Canaan, to be your God.

17. *Mishneh Torah - Isurei Biah* 14:7; *Shulchan Aruch - Yoreh De'ah* 124:1

In commenting on the above verses, Ibn Ezra provides an opinion which indicates that the *ger toshav* is to be treated just like an Israelite:

אבן עזרא ויקרא פרק כה פסוק לה
גר ותושב: ואם הוא מארצך, או גר ותושב.

Ibn Ezra on Leviticus 25:35
Ger V'Toshav: This is true if he is a native of your land or if he is a *ger v'toshav*.

Ibn Ezra's terse exegesis requires some further explanation. His words support a literal reading of the Torah text. Clearly, one should not lend with interest to an Israelite, **אֶחָיְךָ**, to your "brother" or "kinsman". So too a Jew should not lend with interest to a *ger toshav*. It should be noted that Ibn Ezra goes on to connect this teaching with his commentary on verse 38. Because the Israelites were *gerim* in the land of Egypt, a reality of which we are reminded in verse 38, we should be all the more sensitive to the plight of the *ger* who lives among us. Therefore, we should refrain from charging him interest on any funds loaned to him.

The opinion that *gerei toshav* are to be treated like Israelites in this regard also appears in the Rambam's Mishneh Torah:

רמב"ם הלכות מתנות עניים פרק ז הלכה א
מצות עשה ליתן צדקה לעניים כפי מה שראוי לעני, אם היתה יד הנותן משגת, שנאמר פתוח תפתח את ידך לו ונאמר והחזקת בו גר ותושב וחי עמך ונאמר וחי אחיך עמך.

Rambam Hilchot Matanot Oniyim 10:7
 It is a positive commandment to give *tzedakah* to the poor according to what the reality is of the poor person. If he is a person without adequate means, as it is written "you shall open your hand to him"¹⁸, and it is written, "you shall support the *ger toshav* and let him live among you,"¹⁹ and it is said, "and your brother will live with you."²⁰

18. Deuteronomy 15:8

19. Leviticus 25:35

20. Leviticus 25:36

At first glance it is not eminently clear whether or not Maimonides is weighing in on the issue of charging the *ger toshav* interest. His use of proof texts, however, is telling in the context of the larger debate. At stake here is how one divides the phrases in Leviticus 25:35 and the resulting implications for the treatment of the *ger toshav*.

וְכִי־יִמָּוֶה אֲחִיד וּמָטָה יָדוֹ עִמָּךְ וְהִחְזַקְתָּ בּוֹ / גֵּר וְתוֹשָׁב וְחִי עִמָּךְ:

If one parses the verse as is depicted above, it could be read as: “If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support him. The *ger v'toshav* shall live among you.” If however, one does not place such a division there, the sentiment of the verse might be, “If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support the *ger v'toshav* and let him live among you.” It is the latter interpretation that Rambam favors in his citation above, thereby implying (as Ibn Ezra did) that in the context of this series of Leviticus verses, the *ger toshav* is included as one of the categories of people who should not be charged interest on his loans.

In contradiction to these stances, the *Mishnah* takes the opposing view on this question, asserting that one may lend to, and borrow from, a *ger toshav* with interest. The implication would thus be that a *ger toshav* is equivalent in status to a foreigner, to whom lending with interest is also permissible.

אין מקבלין צאן ברזל מישראל. מפני שהוא רבית. אבל מקבלין צאן ברזל מן הנכרים. ולווין מהן ומלוין אותן ברבית. וכן בגר תושב. מלוה ישראל מעותיו של נכרי מדעת הנכרי. אבל לא מדעת ישראל:

Mishnah Bava Metzia 5:6

One may not accept an "ironclad investment"²¹ from an Israelite, since it is interest, but one may accept an "ironclad investment" from non-Jews. Furthermore, one may borrow from them and loan to them with interest. The same is true of a *ger toshav*. An Israelite may loan the money of a *nochri* with the approval of the *nochri*, but not with the approval of an Israelite.

This *Mishnah* is repeated in the *Bavli*, *Bava Metzia* 70b-71a. It is there that the disagreement about the status of the *ger toshav* as related to interest is played out in greater detail, leaving the reader with a sense that the *ger toshav* holds something of an "in between" status, without a clean fit as Israelite or foreigner. The discussion begins:

תניא, רבי אומר: גר צדק האמור לענין מכירה, וגר תושב האמור לענין רבית איני יודע מה הוא.

Bavli Bava Metzia 71a

It is taught in a *Baraita*: Rebbe said, "The *ger tzedek* that is mentioned (in the Torah) in relation to the issue of the sale (of a slave), and the *ger toshav* that is mentioned (in the Torah) in relation to the issue of *rabit* (interest)...I do not know what these are."

It would seem that Rebbe is confused when considering how the concepts of a *ger tzedek* and *ger toshav* fit into the contexts of the respective Torah verses in which they appear. The example of the *ger toshav* to which he refers is Leviticus 25:35. His confusion is explicated further down the page:

גר תושב האמור לענין רבית, מאי היא? דכתיב +ויקרא כ"ה+ וכי ימוך אחיך ומטה ידו עמך והחזקת בו גר ותושב וחי עמך אל תקח מאתו נשך ותרבית ויראת מאלהיך וחי אחיך עמך. ורמינהי: לוין מהן ומלוין אותן ברבית, וכן בגר תושב:

Bavli Bava Metzia 71a

The *ger toshav* is mentioned in relation to the issue of *rabit* (interest). Why is this? It is written, "If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support the *ger v'toshav* and let him live among you. Do not take *neshech* or *farbit*, but fear your God. Let your kinsman live with you." (Lev. 25:35-36) Contrast this with (our *Mishnah* which says): "Furthermore, one may borrow from them and loan to them with interest. The same is true of a *ger toshav*."

21. צאן ברזל is a form of investment in which the investor not only profits, but also stipulates that his investment must be secure from any loss. Such an arrangement is considered a form of usury (ריבית). (Steinsaltz, p. 248)

Rebbe's difficulty, it would seem, is that he sees a conflict between the Torah text as interpreted by Ibn Ezra and Maimonides, and the claim of the Mishnah. The former states that we should not lend to the *ger toshav* with interest, implying that he is like an Israelite. The latter states clearly that we may borrow from and lend to a *ger toshav* with interest, suggesting that he is like a *nochri*. Another voice comes to settle Rebbe's confusion:

אמר רב נחמן בר יצחק: מי כתיב אל תקח מאתם? מאתו כתיב - מישראל.
Bavli Bava Metzia 71a
 Rav Nachman bar Yitzchak said, "Is it written 'Do not take (interest) from them'? (No!) Rather, it is written, '(Do not take interest) from him -- from an Israelite'."

Rav Nachman bar Yitzchak decides this case in favor of treating the *ger toshav* like a Gentile. He does so by noting that the Torah text does not say that we should refrain from taking interest from "them," implying both an Israelite and a *ger toshav*. Rather, the text states that we should avoid lending with interest to "him," indicating that it refers only to an Israelite and that the *ger toshav* is mentioned simply to convey our mandate to let him live among us. This reading divides the text of Leviticus 25:35 as was indicated above on page 21.

Though this particular argument was decided in favor of excluding the *ger toshav* from among the ranks of the Israelites, the conflict itself is what ought to be noted. It is clear that Ibn Ezra -- and through his citation of Leviticus 25:35, Maimonides -- favored treating the *ger toshav* as an Israelite in the question of lending money with interest. The anonymous voice of the *Mishnah* differs, asserting that the *ger toshav* is like any other Gentile in this matter. Thus, lending and borrowing with interest is permissible where the *ger toshav* is concerned. Finally, Rebbe comes to point out the apparent conflict

between his reading of Leviticus and the assertions of the *Mishnah*.

Of import here is not whether or not one may lend with interest to a *ger toshav* in our modern-day environment. It is, rather, to establish an ongoing dialogue amongst the transmitters of Jewish tradition concerning the appropriate status of a *ger toshav*. In some cases, it is apparent that such a person is to be treated as a full-fledged Israelite. In other cases, the *ger toshav* is clearly outside the Jewish fold. In still others, the text can not definitively decide...it should be noted that, while Rav Nachman bar Yitzchak ruled that the *ger toshav* ought be lent money with interest, thereby placing him amongst the ranks of the Gentiles, he also emphasized our obligation to make space for the *ger toshav* in our midst. Other arguments, positions staked out in all three of these intellectual camps and covering a broad range of issues, will be explored in the following chapters.

CHAPTER TWO

Circumstances in which the *Ger Toshav* is Considered to be Like a Gentile

OVERVIEW:

In this chapter, instances in which the *ger toshav* is treated like a Gentile will be examined. Chapters Three and Four will, respectively, consider occasions when the *ger toshav* is considered to be akin to an Israelite and times when the tradition seems ambivalent about such a person's status. In categorizing Rabbinic and Medieval uses of the term *ger toshav* in such a way, it is hoped that patterns can be seen in traditional thought and decision-making regarding this unique societal status.

When summarizing the results of these three textual groupings from a modern perspective, it could be argued that the cases in which the *ger toshav* is treated like a Gentile are all religious in nature, and those instances when the *ger toshav* is treated like an Israelite are all civil in nature. In fact, this framework will be referenced in Chapter Six when potential contemporary applications of the *ger toshav* status will be discussed. It is important to remember, however, that in the Rabbinic and Medieval eras, daily activities were not divided into the realms of "religious" and "civil" in the same way they are in the context of the modern nation-state.

The commingling of these realms can be seen in the classical interacting systems of Jewish governance. Rabbi and professor of Talmud, Aharon Lichtenstein, summarizes these structures as follows: "The halakhic state is...ruled jointly. Within it, a civil sovereign -- initially, a chief judge or monarch but conceivably an oligarchic or democratic entity as well -- coexists with the Sanhedrin (the term is of Greek origin but

the institution is biblical), a supreme ecclesiastical assembly invested with both legislative and judicial powers. The latter serves in a dual role. On the one hand, it constitutes the contemporary repository of Torah learning...On the other hand, this ecclesiastical body enjoys a measure of governmental authority parallel to that of the civil sovereign."¹ A similar commingling of the modern concepts of "civil" and "religious" is evident in *halachah* itself. Classical Jewish legislators saw the need for society to be governed by laws to keep human behavior in line. Yet, for Jews, the ostensible source of those laws, both civil and otherwise, was Torah -- a divinely-revealed text. It was not until the onset of the historical period known as modernity, that Jews in Western societies experienced a division of life's activities into the realms of the "civil" or public, and the "religious" which was now seen as a private matter. Given the inextricably intertwined realms of "religious" and "civil" in the pre-modern Jewish world, it will be helpful to abandon such categorizations for the time being and to discuss the different conceptions of the *ger toshav* in *halachic* categories that would have been familiar to the mindset of Rabbinic and Medieval commentators.

There are a number of accepted ways in which to categorize *mitzvot*. Perhaps the most often utilized is the classification of commandments into "positive," or actions to be performed, versus "negative," acts from which Jews ought to abstain. Legal obligations have also been divided into *mitzvot kallot*, those commands which are "lighter" or less important, and *mitzvot chamurot*, those which are more serious. Neither of these classifications, however, is particularly helpful in summarizing the Rabbinic and Medieval approaches to conceptualizing the *ger toshav*.

1. Lichtenstein, pp. 774-775

Two other systems of categorization, however, may prove more helpful in this regard. First, Medieval Jewish authorities sometimes divided Jewish law into *mishpatim*, laws which would be apparent even if they were not written in the Torah (e.g., not to murder, steal, slander, etc.), and *chukim*, those laws that are followed simply because they have been decreed by God (e.g., *kashrut*, *sha'atnez*, etc.). It was conjectured that the former were rational in nature while the latter had no clear logical reason for being practiced beyond their apparently Divine origin.² Alternative titles for these groupings are "*mitzvot sichliot*," those laws which can be arrived at through reason, and "*mitzvot shemiot*," those commandments which we would not know to observe without having heard them from the Torah or a later *halachic* authority.

The *halachah*-classification system which might best address the distinctions drawn in Chapters Two, Three, and Four, however, is the one which approaches each commandment with consideration for the relationships impacted by the adherence to that *mitzvah*. This system divides *mitzvot* into those which are *bein adam l'makom* (between a person and God), *bein adam l'chaveiro* (between a person and his fellow), and sometimes *bein adam l'atzmo* (between a person and himself). Such a formulation is seen already in the *Mishnah*, expressing a sentiment that is familiar to most Jews from the traditional High Holy Day liturgy.

משנה מסכת יומא פרק ח משנה ט
הכפורים מכפר עבירות שבין אדם למקום יום הכפורים מכפר עבירות שבין אדם לחבירו אין יום
הכפורים מכפר עד שירצה חברו...

Mishnah, Tractate Yoma 8:9

The Day of Atonement atones for sins that are between a person and God, but for sins between a person and his fellow, the Day of Atonement does not atone until he has appeased his fellow...

2. Kadden and Kadden, p. x

This is not yet an overt classification system for *mitzvot*, but the phrases evolved into such divisions by the Middle Ages. This can be seen clearly in Maimonides' thoughts on the *mitzvot* found in his Guide for the Perplexed: "It is known that all the commandments are divided into two groups: transgressions between man and his fellow man (*bein adam l'chaveiro*) and transgressions between man and God (*bein adam l'makom*) ...For every commandment, whether it be a prescription or a prohibition, whose purpose it is to bring about the achievement of a certain moral quality or of an opinion or the rightness of actions, which only concerns the individual himself and his becoming more perfect, is called by [the Sages a commandment dealing with the relation] between man and God, even though in reality it sometimes may affect relations between man and his fellow man."³ It is these last two classification systems which will be drawn upon most in categorizing the Rabbinic and Medieval commentators' reactions to the status of a *ger toshav*.

In this chapter, the instances in which a *ger toshav* is treated like a Gentile in the *halachic* framework will be examined. A common theme emerges when looking at these references in their totality. On the occasions when the *ger toshav* is equated with non-Israelites, foreigners, or idol worshippers, the nature of the *mitzvot* involved is *bein adam l'makom*. This does not mean, however, that the *ger toshav* is treated like a Gentile in regard to all commandments in which the primary relationship served is that between a person and God. To the contrary, as will be seen in Chapter Four, when it comes to the laws of Shabbat observance which are profoundly *bein adam l'makom*, the *halachic* authorities are torn about how to treat a *ger toshav*.

3. Guide for the Perplexed, III:35. Pines translation. Emphasis mine.

For several reasons, it is not surprising that the *ger toshav* is held to different standards when it comes to laws that are *bein adam l'makom*. First, as was noted in Chapter One, the notion of a *ger toshav* evolved from the civil usage of the Biblical term, "ger". If the *ger toshav* were held accountable for all of the same sacred obligations as the Israelites, then he would be a *ger tzedek*, a full convert to the faith. Second, it is the special relationship between the Israelites and God which makes them a "chosen" or "holy" people. Therefore, it is sensible that a distinct line be drawn in differentiating "us" from "them" in laws that pertain to the people's relation to the Divine.

As was noted above, this chapter will deal with the matters in which the *ger toshav* seems clearly differentiated from the Israelites. These fall into three specific categories: proper food possession and consumption, ritual purity, and construction of The Temple. In each of these cases, it is noteworthy that the *ger toshav* is specifically exempted from the respective Israelite practice. The implication is that because the *ger toshav* is so close to the Jewish community, without explicit release from these tasks one might assume that a *ger toshav* is similarly obligated to them. It is also worth noting that Maimonides classifies all three of these arenas (*kashrut* and proper food consumption, ritual purity, and Temple practices) as falling under the heading of *mitzvot bein adam l'makom*.⁴

DIFFERENCES IN DIETARY LAWS:

While in the modern era there are a host of explanations, theological and otherwise, which seek to justify the practice of abiding by the laws of *kashrut*, the origins

4. Guide for the Perplexed, III:35

of these practices are apparently in place to maintain the unique relationship between God and the People Israel. They would surely be considered *chukim*, or *mitzvot shemiot*, as one would be hard-pressed to arrive at all of these laws simply by using one's rational faculties. In the words of Rabbi Hayim Halevy Donin, "The faithful Jew observes the laws of *kashrut* not because he has become endeared of its specific details nor because it provides him with pleasure nor because he considers them good for his health nor because the Bible offers him clear-cut reasons, but because he regards them as Divine commandments and yields his will before the will of the Divine and to the disciplines imposed by his faith."⁵

Donin associates adherence to the laws of *kashrut* with an acceptance of God's will and law. It could be argued, of course, that the Rabbinic and Medieval textual traditions might have needed to repeatedly remind Jews of the Divine origin of these laws precisely because the people had started implementing more logical or human-based rationales in order to explain the etiology of these guidelines, just as modern Jews have. For example, Jews may have speculated that the laws of *kashrut* had to do with societal taboos or maintaining human health by avoiding unclean animals. In the end, however, the actual historical origins of these laws is not as relevant to this discussion as is the Rabbinic conception of their origins. As best can be deduced from their writings, it is clear that the Rabbinic and Medieval sages saw these laws as *mitzvot shemiot*, given directly from God to the Israelites, not as general logically deducible regulations. This is evidenced by the fact that Maimonides not only grouped them under the heading *bein adam l'makom* in his Guide for the Perplexed, stressing these laws' relationship to God,

5. Donin, p. 98

but also wrote about them under the larger heading of *Kedushah* (holiness) in his *Mishneh Torah*.

The most glaring differentiation between *geri toshav* and Israelites in this realm was already noted in Chapter One (page 4). The people Israel are strictly forbidden from eating *neveilah*, animal corpses which have died on their own. In Leviticus⁶, this term appears alongside "*tereifah*," an animal which was killed by a wild beast. *Tereifah* comes to be used narrowly to describe an animal which is diseased and thus inedible, and is eventually used more broadly to describe all foods which are not permitted to Jews according to their dietary restrictions. *Neveilah*, by contrast, evolves to include any animal which was slaughtered improperly, rendering it unfit for Jewish consumption. The assumption, it would seem, is that an animal which dies on its own or is slaughtered improperly, can not be fully drained of its blood, and Jews are expressly forbidden from consuming blood. "Rabbi Moses ben Nachman, in his commentary on Leviticus, quotes Maimonides to the effect that the Greeks drank blood in order to communicate with the demons; but he maintains that blood was prohibited because it is the very life of another creature."⁷ Whether one sees this prohibition as a means by which Jews can differentiate themselves from their Gentile neighbors, or as an act of conscious respect for God's other creatures, the rule for Israelites is straightforward.

By contrast, however, the *ger toshav* is exempt from this prohibition. This exception is first articulated in the commentaries on Deuteronomy 14:21:

6. Leviticus 17:14-16

7. Birnbaum, p. 247

דברים יד:כא

לֹא-תֹאכְלוּ כָל-נֶבֶלָה לְגֵר אֲשֶׁר-בְּשַׁעְרֵיךָ וַתִּתְּנָהּ וְאָכְלָהּ אֹם מָכַר לְנֹכְרִי כִּי
עִם קְדוּשָׁתִי אַתֶּם לַיהוָה אֱלֹהֵיךָ לֹא-תִבָּשֵׁל גְּדִי בְחֶלֶב אִמּוֹ:

Deuteronomy 14:21

Do not eat a *neveilah* carcass. You can give it to the *ger* within your gates and he may eat it, or you can sell it to a foreigner (*nochri*) for you are a holy people to Adonai, your God. Do not boil a kid in its mother's milk.

As was mentioned in Chapter One, Rashi indicates that the *ger* in this verse refers to the *ger toshav*. Before elucidating further textual support for this exemption, it should be noted that even in this case, when the *ger toshav* is so clearly distinct from the Israelites, he is still residing in a “middle-of-the-road” state between an Israelite and a complete foreigner. Unlike an Israelite, the *ger toshav* is permitted to eat *neveilah*. However, if an Israelite discovers that a slaughtered animal is *neveilah*, then he may sell it to a *nochri*, a complete foreigner, but he should give it to the *ger toshav*. The implication is that an Israelite may derive profit from the *nochri* who should purchase such meat from him, but if a *ger toshav* is to take possession of the animal, it should simply be given over to that person. Perhaps this differentiation is due simply to relative physical proximity of the *ger toshav* in relation to the Israelite population or of assumed ongoing business norms between Israelites, *gerei toshav*, and *nochrims*. At the very least, it would appear that a greater sense of kinship, or belonging within the Jewish tribe, is evident vis-à-vis the *ger toshav*.

Rashi re-asserts his stance on this matter in his response to Deuteronomy 24:14:

דברים כד:יד

לֹא-תַעֲשֶׂק שִׁכִּיר עֲנִי וְאֶבְיוֹן מֵאַחֶיךָ אֹו מִגֵּרְךָ אֲשֶׁר בְּאַרְצֶךָ בְּשַׁעְרֶיךָ:

Deuteronomy 24:14

Do not oppress a hired servant who is poor and destitute from among your brethren or from among the strangers who are in your land, within your gates.

Rashi notes:

בשעריך. זה גר תושב האוכל neveilot:

In your cities - This refers to the *ger toshav* who eats *neveilot*.

In all likelihood, Rashi is deriving this statement from *midrash Sifrei Devarim* which associates **מִגֵּרְךָ** in the above verse with the *ger tzedek* and **בְּשַׁעְרֶיךָ** with the *ger toshav*.⁸ This being so, the tradition that a *ger toshav* is specifically permitted to consume a *neveilah* carcass is datable to the *Amoraic* era.

This early association of the *ger* “who resides within your gates” in Deuteronomy 24:14 with the *ger toshav* would have contributed to the third definition of the latter found in tractate *Avodah Zarah*: “Rather, who is a *ger toshav*? This is a *ger* who eats *neveilot*, and who accepts on himself to uphold all of the *mitzvot* spoken in the Torah, except for the prohibition against *neveilot*.”⁹ In at least one circle of early *halachic* thought, the *ger toshav*'s ability to consume *neveilah* was the singular defining characteristic of such a person.

One final word on the *ger toshav*'s consumption of nonkosher food is appropriate here. In two separate locations, Ibn Ezra stipulates that, while nonkosher meat is permitted to the *ger toshav*, it must be eaten outside of the Israelite community. Like

8. ספרי דברים פסקא רעח

9. *Bavli, Avodah Zarah 64b*

Rashi, he responds to the word **בְּשַׁעְרֶיךָ** in Deuteronomy 14:21 but does so in the context of his commentary on Leviticus 17:15. Ibn Ezra raises a question about the status of the *ger toshav* vis-à-vis *neveilah* because Leviticus 17:15 appears to forbid it to such a person:

אבן עזרא ויקרא פרק יז פסוק טו

כל נפש אשר תאכל נבלה... ואם טען טוען והלא הכתוב אמר לגר אשר בשעריך תתננה ואכלה (דבר' יד, כא). התשובה, כי זה גר תושב, וכן כתוב והגר הגר בתוככם (ויקרא טז, כט) לא נעזבנו שיאכל נבלה, רק הנכרי שיבא בשערינו נתן אותה לו ויאכל אותה לחוץ:

Every person who eats *neveilah* - ...One might object, saying, "Does not Scripture say that 'you can give it (*neveilah*) to the *ger* within your gates and he may eat it'¹⁰?" The response: There (in Deuteronomy) the text refers to the *ger toshav*. And here, it is written, "And the *ger* is the *ger* amongst you (a *ger tzedek*, or convert)."¹¹ We do not allow him (a convert) to eat *neveilah*. We only give *neveilah* to the foreigner that comes within our gates. We give it to him and he eats it outside (the Israelite land).

Ibn Ezra resolves the apparent Scriptural contradiction by asserting that the *ger* to whom *neveilah* is forbidden in Leviticus is the *ger tzedek*, while the *ger* to whom it is permitted is the *ger toshav*. Of particular interest here, however, is the spacial proximity within which the *ger toshav* may or may not consume nonkosher meat, a theme he returns to in his commentary on a later verse:

אבן עזרא ויקרא פרק כ פסוק כה

לטמא - שתדעו שהוא טמא במחשבה ובדבור, וכן תשקצו מן העוף, על כן גר תושב לא יאכל טמא בארץ טהורה, כי על זה התנאי ידור בתוכנו

To render unclean - you should know, in thought and in speech, that they (nonkosher birds and beasts) are ritually impure. As it is written, "you shall consider detestable among the birds"¹². Because of this, a *ger toshav* may not eat a nonkosher species of bird within ritually pure land - it is only on this condition that he can live among us.

While these two commentaries by Ibn Ezra serve to reinforce the law which

10. Deuteronomy 14:21

11. Leviticus 16:29

12. Leviticus 11:13

permits nonkosher meat to *gerei toshav*, they also add a new element to this permissiveness. The *ger toshav* can exempt himself from the Israelite dietary laws, at least those pertaining to *neveilah* and non-kosher birds, but he may only do so outside of Israel's borders. Ibn Ezra understands that there is inherent danger in allowing those who live amongst the Jews to engage in activities that are forbidden to the majority population. Permitting some to transgress laws to which the Israelites are bound could incite the Jews to abandon the ritual practices to which they are obligated. Therefore, the permissive attitude towards the *ger toshav* regarding consumption of non-kosher meat is restricted to his meals which occur outside the walls, and presumably the sight, of the Israelite community.

The *ger toshav* is differentiated from the Jewish population in respect to other food-related matters beyond their ability to eat *neveilah*. Like common Gentiles, a *ger toshav* may be the legal owner of a Jew's *chametz* during Passover, says Maimonides:

רמב"ם הלכות חמץ ומצה פרק ד הלכה ב

הא למדת שחמץ של ישראל אם הניחו ברשותו אפילו טמון ואפילו בעיר אחרת ואפילו מופקד ביד גוים הרי זה עובר משום לא יראה ולא ימצא, וחמץ של הקדש או של גוי שהיה אצל ישראל אפילו היה עמו בבית הרי זה מותר מפני שאינו שלו, ואפילו היה של גר תושב שיד ישראל שולטת עליו אין כופין אותו להוציא החמץ מרשותו בפסח, אבל צריך לעשות מחיצה גבוהה עשרה טפחים בפני חמצו של גוי שמא יבוא להסתפק ממנו...

[From the above *halachah*] you learn that *chametz* belonging to a Jew which was left in his possession, even if it is buried, even if it is located in another city, and even if it is left in the control of a Gentile home, such *chametz* causes him to violate [the *mitzvot*]: "[*chametz*] shall not be seen"¹³ and "[*chametz*] shall not be found."¹⁴

Chametz that either was sanctified or belongs to a Gentile, and is located within a Jew's property, even if it was with him in his home -- behold, this is permitted, for [the *chametz*] does not belong to him. Even if it belonged to a *ger toshav* under the governance of the Jewish people, we need not compel him to remove the *chametz* from his property on *Pesach*. But, it is necessary to construct a partition ten handbreadths high in front of the *chametz* belonging to a Gentile, lest someone come and satisfy [his hunger] with it....

13. Exodus 13:7

14. Exodus 12:19

In this case, the *ger toshav* is treated precisely like any other foreigner. If a Jew so desires, he can keep the *chametz* of a Gentile or a *ger toshav* on his property, or even in his home, during the Passover festival. Similar to Ibn Ezra's stipulation that non-kosher meat must be consumed by *gerei toshav* outside the boundaries of Israelite settlement, it is critical here that the Jew not be able to see the *chametz* that a *ger toshav* is keeping on his property or in his home. Hence a barrier is to be erected. Again, permissiveness towards the *ger toshav* ought not lead committed Jews astray from observing the *mitzvot bein adam l'makom* which are incumbent upon them.

Finally, on similar grounds relating to Passover food, the *ger toshav* is forbidden from eating of the *korban Pesach*:

רמב"ם הלכות קרבן פסח פרק ט הלכה ז

...ואין מאכילין ממנו לנכרי אפילו גר תושב או שכיר שנאמר תשוב ושכיר לא יאכל בו.

...And do not feed any of it (the *korban Pesach*) to a foreigner (*nochri*) or even to a *ger toshav* or a servant, as it is written, "No foreigner or hired servant may eat of it."¹⁵

It is not surprising that these last two food-related boundaries that are drawn between Jew and *ger toshav* are bound up with the festival of Passover. Ra'avad comments on Maimonides' words here, noting that the reason a *ger toshav* may not eat of the *Korban Pesach* is because he is not circumcised. This explanation may serve to explicate the special place that *Pesach*-related food had in the Jewish mindset. Just as circumcision is the sign of the special *brit*, or covenant, between the Jewish people and *Adonai*, their God, so too do the foods of Passover, the unleavened bread and the *Korban Pesach*, represent a unique and intimate tie between Israel and

¹⁵. Exodus 12:45

Adonai.

In commenting on the observance of *Pesach* in the last century of the Second Temple, Frank Senn notes that in those days, "...Jews suffered under Roman oppression and messianic hope burned brightly. There was great expectation that a Mosaic deliverer or Elijah himself would come at Passover time to lead Israel in a new exodus from Graeco-Roman cultural and political domination. The ritual of Passover became luxurious, especially the elaborate ceremonies for the sacrifice of the Passover lambs in the Temple."¹⁶ Later, in early Christian circles, the figure of Jesus was substituted for the *Korban Pesach* as the ultimate symbol of Divine redemption. These Christian groups knew that the *Paschal* lamb was the marker, par excellence, of God's presence with Israel, and they considered themselves to be the true inheritors of that relationship. Like *brit milah* which ties Jews to their unique destiny, promised by God to Abraham and his descendants, the *Korban Pesach* is one of the primary ritual representations of Israel's special connection with God.

It is no wonder, therefore, that firm lines were drawn defining who might partake of the lamb...the offering which serves as a supreme religious expression of the covenant between Israel and their God. Just as the *ger toshav* is forbidden from eating the Paschal lamb, so too is he sensibly exempt from the requirement to consume only *matzah* during Passover. *Matzah*, it is widely held, came to serve as a substitute for the *Korban Pesach* after the destruction of the Temple in 70 CE rendered the Israelites unable to offer up the prescribed sacrifices.¹⁷

These *mitzvot shemiot* which serve as markers of the unique relationship

16. Bradshaw and Hoffman, p. 187

17. Ibid., pp 110-123

between a Jew and God are, thus, not applied to those with the status of *ger toshav*. One permissive act allows the *ger toshav* to eat of the *neveilot* which are forbidden to Israelites by Divine mandate. A second act of forbiddance removes the *ger toshav* from amongst those who can partake in the redemptive food of *Pesach*, thus preserving these eating habits as indicators of the unique relationship between God and God's chosen people.

DIFFERENCES IN RITUAL PURITY STANDARDS:

In the modern era, attempts have been made to provide answers from the social sciences that might explicate ancient practices of ritual purity. A striving for physical cleanliness has come to explain rituals such as bathing or the washing of hands. Likewise, the psychological drive to create taboos has been credited as the source of ancient designations of impurity. At their heart, however, these purity customs and rites do not serve to define relations *bein adam l'chaveiro*, but rather to express the status of relationship between human and Divine. Religious Studies professor, Catherine Bell, notes some of the motivations for such rituals across world cultures. "Purification is a major theme within rites of affliction, although it can be understood in a variety of ways. It can involve freeing a person from demonic possession, disease, sin, or the karmic consequences of past lives. While some purification rites focus on personal problems and faults, others attempt to remove impersonal forms of contagion that generally afflict the human condition, such as the pollution acquired by being in a crowd, traveling to a foreign country, experiencing a

death, or, as we have seen with regard to Chinese customs, a birth in the family.”¹⁸

Banishing demons, repenting for the misdeeds of past lives, absolving oneself of sin, and spiritually healing the sickness brought on by God in response to sin are all attempts to harmonize human relationship with the Divine. *Am Yisrael* has its share of tradition in this realm. “Purity is a religious ideal. It is said of the patriarch Abraham that he ate common food in purity¹⁹...Purity is one of the grades on the way to the spirit of holiness.”^{20,21} It is in this arena of personal religious purity that another boundary is drawn between the *ger toshav* and the full Israelite.

Ritual impurity is the sole focus of tractate *Nega'im* in the *Mishnah*. *Nega* is derived from the root meaning “to strike” and refers to being stricken with a plague of sorts. In the case of this tractate of the *Mishnah*, *nega* refers to types of disfiguring conditions that can afflict houses, articles of clothing, and humans. For the purposes of this discussion, it is the human ailments, often associated with leprosy, that are of interest. These are divided into three categories: “1) *negas* of the skin; 2) boils and burns; 3) *negas* of the head and beard, viz., *netek*, scalp-baldness and forehead-baldness.”²² Chapter 3 of this tractate, which focuses on the widespread contractibility of such ailments opens with these words:

משנה נגעים ג'א

הכל מטמאין בנגעים.חוץ מן הנכרים וגר תושב...

All may be rendered impure by *negaim*, everyone except *nochrim* and the *ger toshav*.

In his commentary on this *Mishnah*, Ovadiah Bertinoro notes that the ability

18. Bell, p. 118

19. *Bavli, Bava Metzia 87a*

20. *Bavli, Avodah Zarah 20b*

21. Editorial Staff of *The Encyclopedia Judaica*, CD-ROM edition, “Purity and Impurity, Ritual”

22. Kehati, p. 1

to contract *negaim* extends even to children, presumably in the Jewish community. Only foreigners are exempted from the impurity that accompanies these skin ailments. What, then, is to be made of this dividing line between Israelites and non-Israelites?

To respond to this question, it is necessary to look at the potential implications of being rendered impure. As it turns out, "[t]he laws of impurity and purity have no relevant consequences of any substance except for priests and the affairs of the Temple and its hallowed things."²³ Rambam affirms this in his *Mishneh Torah*:

רמב"ם הלכות טומאת אוכלין פרק טו הלכה ח

כל הכתוב בתורה ובדברי קבלה מהלכות הטומאות והטהרות אינו אלא לענין מקדש וקדשיו ותרומות ומעשר שני בלבד, שהרי הזהיר את הטמאין מליכנס למקדש או לאכול קודש או תרומה ומעשר בטומאה אבל החולין אין בהן איסור כלל, אלא מותר לאכול חולין טמאין ולשתות משקין טמאים...וכן מותר לאדם ליגע בכל הטומאות ולהתטמא בהן, שהרי הזהיר הכתוב את בני אהרן ואת הנזיר מהתטמא במת מכלל שכל העם מותרין, ושאר כהנים ונזירים מותרין להתטמא בשאר טומאות חוץ מטמא מת.

All that is written in the Torah, and the words of the Rabbinic tradition from the laws of impurity and purity, concerns only the Temple and its Holy vessels, and to the *Terumah* offering and the *Ma'aser Sheni* offering alone. The rules exist to warn those who are impure not to enter the Temple or eat sanctified foods or *Terumah* or *Ma'aser* while they are impure. But common [food] is not forbidden at all. On the contrary, it is permitted for someone to eat ordinary food which is impure and to drink beverages that are impure...Similarly, it is permitted for a person to touch all items that are impure and to become impure because of them. Behold, Scripture only warns the Children of Aaron and the Nazarite from contracting impurity from contact with the dead, thus implying that it is permitted for everyone else. And even for priests and Nazarites, it is permitted to become impure in all the other ways, just not from contact with the dead.

Like eating from the *Korban Pesach*, trying to maintain one's purity within the Israelite community was a *mitzvah shemiah* of the highest order. Its status as such is so apparent that David Lau, Chief Rabbi of Modi'in, used it as his example in

23. Editorial Staff of *The Encyclopedia Judaica*, CD-ROM edition, "Purity and Impurity, Ritual"

defining the term "*mitzvot shemiot*": "...the laws pertaining to ritual impurity are different [from those which we could be expected to understand through our own feelings and logic]; the only reason we observe them is because of the commandment give to us by the Almighty. All the laws of *tum'a*, ritual impurity, are in the category of *mitzvot shemiot*. There is no obvious or logical reason why one who comes in contact with a dead body should be considered as defiled."²⁴

Ritual purity was a symbol of such proximate connection to the Divine that only the Priests and Nazarites needed to regularly concern themselves with this status. While any Israelite is subject to contracting impurity, it is only in the holiest of religious sites, and when eating or handling the most sanctified items in the *Beit HaMikdash* that one's purity status made any difference whatsoever. "The state of impurity [was] considered hateful to God, and man [was] to take care in order not to find himself thus excluded from His divine presence (cf. Leviticus 11:43-47)."²⁵

It makes sense, then, that the religious tradition of the Israelite people would seek to draw lines between those who were capable of standing in direct relation to God (those who could thus contract impurity) and those who were outside that spiritual fold. Maimonides thus reiterates the teaching from *Mishnah Nega'im* above:

רמב"ם הלכות טומאת צרעת פרק ט הלכה א

הכל מתטמאין בנגעים אפילו קטן בן יומו והעבדים אבל לא עכו"ם ולא גר תושב, והכל כשירין לראות את הנגעים, וכל הנגעים אדם רואה אותן חוץ מנגעי עצמו.

All can become impure from *negaim*, even a young one and slaves, but not idol worshippers and not the *ger toshav*. All are qualified to examine the *negaim*. And a person may only examine *negaim* that is not his own *negaim*.

24. Lau

25. Ibid.

Even in dismissing the *ger toshav* from the in-group, which is able to have contact with holy food and vessels and may thus contract ritual impurity, the tradition simultaneously elevates the *ger toshav* above a normal foreigner. Why else would it be necessary to make specific mention of this unique status in the *Mishnah*? The *Tannaim* must have been concerned that simply exempting *nochrin* from the laws of purity would not have been sufficient because some might assume that the *ger toshav*, being closer to the people Israel than the *nochrin*, would possess the ability to contract impurity, and by association, to handle sacred objects in holy places. The threat of this assumption was sufficient to warrant the *ger toshav*'s special appearance in this case. The prohibition from handling articles related to The Temple service relates directly to the final religious category of *mitzvot bein adam l'makom* from which the *ger toshav* is expressly prohibited.

PROHIBITION FROM CONTRIBUTING TO THE TEMPLE:

Given the above exemption from the laws of purity, and the lack of obligation to fulfill the *mitzvot* of ritual sacrifices, it was likely presumed that the *ger toshav* would not find himself in The Temple on a regular basis. However, this would not preclude such a person from contributing financially to the Temple's construction or maintenance. Therefore, specific law needed to be created to make the dividing line between the *ger toshav* and the *Beit HaMikdash* a clear one:

רמב"ם הלכות שקלים פרק ז הלכה ח
 ...וגוי שהתנדב מעות לדברים האלו או שהתנדב לעשות עמהם בחנם אין מקבלין
 ממנו ואפילו גר תושב, שנאמר +עזרא ד'+ לא לכם ולנו לבנות בית לאלהינו ונאמר
 +נחמיה ב'+ ולכם אין חלק וצדקה וזכרון בירושלם.

A Gentile who volunteers money for these purposes [making improvements to The Temple] or who volunteers to participate in the work, do not accept his offer...this is also true of a *ger toshav*. As it is written: "It is not for you, with us, to build the House of Our God,"²⁶ and it is also said, "You do not have a portion, justice, or a memorial in Jerusalem."²⁷

Why the need to single out the *ger toshav* in this case? Would it not have been obvious that the project of financing and constructing the primary House of God would be solely undertaken by Israelites? In his *Kessef Mishneh*, Joseph Caro responds to these questions. He asserts that Maimonides derived this law from the story of the Samaritans who offered to help Zerubabel in constructing the *Bayit Sheni*. They were not idol worshippers, like *gerei toshav*, and yet their offer was declined. Therefore, we learn that only those who have both rejected idolatry and accepted God's entire law, may contribute to the building of the People Israel's most sacred worship space and the House of God.

It would seem, then, that the three religious categories from which *gerei toshav* are excluded could be united under one larger heading. When it comes to those *mitzvot bein adam l'makom* which concretize the immediate connection between God and the chosen people Israel, the tradition makes a clear differentiation between the Jew and the *ger toshav*. The word *tameh*, which was used to describe the impurity to which *gerei toshav* are not subject, is similarly used to describe certain types of animals which are not *kosher* for Israelite consumption. Likewise, the entire system of purity was one that directly impacted only those who had immediate contact with the Temple and its appurtenances. Thus, it appears that whether exempting the *ger toshav* from rules of *kashrut*, purity, or contribution to the Temple

26. Ezra 4:3

27. Nehemiah 2:20

service, the overarching message is the same: The *ger toshav* is potentially so intertwined in the life of the Jewish people that it is necessary to draw distinct boundaries between such a person and the Israelites, whose relationship *l'makom* is set apart as unique. These borders are necessary, lest there be little or no distinction between one who has accepted all of the *mitzvot* and one who has taken on only those seven commanded to Noah's sons. It is complete acceptance of God's laws -- inexplicable *mitzvot shemiot* in addition to *mitzvot sichliot*, *mitzvot bein adam l'chaveiro* and *mitzvot bein adam l'makom* -- which differentiates a Jew from the rest of the world, the *ger toshav* included.

CHAPTER THREE

Circumstances in which the *Ger Toshav* is Considered to be Like an Israelite

OVERVIEW:

Just as Chapter Two explored situations in which the *ger toshav* is treated as if he were a Gentile, this chapter seeks to address instances when Israelites are to treat the *ger toshav* as if he is a fellow Jew. Following the destruction of the Second Temple, and their exile from the land of Israel in 70 CE, Jews have lived as minority populations amongst non-Jews. This resulted in various degrees of interaction between Jews and their neighbors. Jews strove to interact socially and economically with their surrounding neighbors, so it is not surprising that two of the fundamental ways in which Jews related to Gentiles were sexual and financial. It is in these arenas that the *ger toshav* is rendered more akin to a full-fledged Israelite than to a non-Jew.

It should be noted that Maimonides only explicitly placed three and a half categories of *mitzvot* under the heading of *bein adam l'chaveiro* in his Guide for the Perplexed. He saw all others as more directly pertaining to the maintenance of the relationship between humans and God. The categories of *mitzvot* (as divided into the fourteen books of the *Mishneh Torah*) to which he attributed the title *bein adam l'chaveiro* are: some of the *mitzvot* concerning moral qualities in *Sefer HaMadah*, criminal and tort laws in *Sefer Nezikim*, laws relating to kings, judges, and the Sanhedrin in *Sefer Shofetim*, and finally, the laws related to business, acquisitions, the marketplace, and civil law in *Sefer Kinyan* and *Sefer Mishpatim*. *Sefer Nezikim* includes the laws surrounding Jewish obligation to preserve a life or one whose life is threatened (*Hilchot*

Shemirat HaNefesh). As will be seen below, maintaining the physical well-being of the *ger toshav* is one of the Jew's obligations towards people of such status, at least in the opinion of Ramban. This, then, could be ascribed the title of *bein adam l'chaveiro*.

On the other hand, the laws related to forbidden sexual unions and marriage in the *Mishneh Torah* are found in *Sefer Nashim* (the Book of Women) and *Sefer Kedushah* (the Book of Holiness), not two of the books given the explicit heading of *bein adam l'chaveiro* by Rambam. Nevertheless, it could be argued that the act of marriage, which is so interconnected with the sexual act (*bi'ah* being one of the three ways to effect *erusin*), has a distinct relationship with the laws found in *Sefer Kinyan* (the Book of Acquisitions) as the marriage ceremony itself is based on the act of *kinyan*, the groom giving the bride something of value as the formal acquisition of his bride in marriage. *Sefer Kinyan* is, indeed, one of the books deemed to be *bein adam l'chaveiro* by Maimonides.

Rambam had his own reasons for ascribing the title *bein adam l'chaveiro* to only a relatively small grouping of the *mitzvot*, asserting that all the others were, at their core, *bein adam l'makom*. However, even he admits that many of the *mitzvot bein adam l'makom* appear on the surface to be describing inter-human relationships. It is reasonable to conclude that others in his era saw both the need to care for the welfare of the non-Jew and the possibility of sexual relations or marriage with Gentiles as matters of interpersonal, rather than theological, import. As contrasted with the Talmudic era which generally favored moderate to severe separation between Jews and non-Jews, in the Medieval era, "Economic—and, as a result, a measure of social—contact with non-Jews was an inevitable necessity. Hence, in daily life, many of the talmudic restrictions in this

area simply became dead letters. Taking this fact into cognizance, R. Menahem Meiri could write: 'In our times, no one observes these practices, neither gaon, rabbi, sage, pietist, nor pseudo-pietist' (*Bet ha-Behirah*, Av. Zar. introd.).¹ Certainly, the modern era follows and expands upon the Medieval attitudes articulated above. Most contemporary Jews would certainly classify Jewish regulations dictating both the need to care for the livelihood of non-Jews, and the act of sexual intercourse with Gentiles, as matters that are patently *bein adam l'chaveiro*.

SEXUAL RELATIONS OF THE GER TOSHAV:

It is not surprising that *geri toshav* and Israelites are both bound by the same laws prohibiting certain sexual relations. As was seen in Chapter One, refraining from forbidden sexual relations is one of the seven Noahide laws² to which the *ger toshav* is obligated, at least according to Definition #2 in *Bavli Avodah Zarah* 64b. There is no separate set of prohibited sexual relations outlined for the *B'nei Noach*, so one is left to assume that all of humankind is bound by the same sexual prohibitions to which Jews must adhere.

Rashi makes this point clear in his commentary on *Sanhedrin* 56a.

וגלוי עריות - כולן חוץ מנערה המאורסה, כדכתיב (בראשית כ) גבי אבימלך הנך מת על האשה אשר לקחת והיא בעולת בעל, בעולת בעל - יש להם, נערה המאורסה - אין להם.

Prohibited sexual relations - All of them (that are incumbent upon the Israelites are also mandated for the Noahites) except for relations with a betrothed *na'arah*. As it is written³ concerning Abimelech, "You are like a dead man, because of the woman you have taken...she is a married woman." A married woman - the laws hold for her. A betrothed *na'arah* - the laws do not hold for her.

1. Friedman

2. *Bavli, Sanhedrin* 56a

3. Genesis 20:3

So, it would seem that a person who is adhering to the Noahide laws is responsible to refrain from all of the sexual relations prohibited to an Israelite, with the exception of having relations with a young woman who is betrothed but has not yet had intercourse with her husband. Such a case implies that a couple has completed the *erusin* portion of the marriage but not yet the *nissuin* segment. In the Talmudic era, the marriage was effected through two distinct ceremonies. The first, *erusin*, or *kiddushin*, was marked by the granting of *kinyan* from groom to bride, the utterance of the marriage formula, and the recitation of the blessings over wine and the marriage act. After this ceremony, the woman is pledged to the man, but their marriage is not yet complete. The second ceremony, *nissuin*, took place at a later date and involved the bride coming to the groom's house and cohabiting with him, thus establishing their complete marital obligations to one another.⁴ The sexual prohibitions of the Noahite described above would, of course, include the *ger toshav*, if one is adhering to Definition #2 for such a status.

It follows logically, then, that Ibn Ezra sees fit to specify that *gerei toshav* are not simply responsible to uphold the laws of sexual prohibitions, but they are subject to the same punishments as Israelites when these rules are violated. His assertion comes as a comment to Leviticus 20:1.

וַיִּדְבֹר יְהוָה אֶל-מֹשֶׁה לֵאמֹר:

And Adonai spoke to Moses, saying:

It is somewhat shocking that this verse warranted comment at all given the fact that this phrase appears in the Torah some seventy times. Ultimately, Ibn Ezra does not

4. Posner

see profound meaning in this verse alone, but rather in its placement. He is primarily concerned with what precedes these words, what follows them, and how the two sections are related to one another. Ibn Ezra writes:

(א) וטעם וידבר ה' אל משה לאמר בעבור כי אלה המצות חיוב על כל ישראל, ואין גר עמם, על כן כתוב בתחלה אל כל עדת ישראל (ויקרא יט, ב). ועתה יחל להזכיר עונש הזנות על כל מי שהוא דר בא"י אזרח או גר תושב.

This is the point of, "And Adonai spoke to Moses, saying:" -- These *mitzvot* which precede this are incumbent upon all of Israel, but not the *ger* who is amongst them. Because of this it is written at the beginning, "...to all the congregation of Israel"⁵ And now, the text begins to describe the punishment for adultery (sexual crimes) that are incumbent upon all who live in *Eretz Yisrael*, the native or the *ger toshav*.

This, of course, begs the question, "Which *mitzvot* precede this laconic verse?" Ibn Ezra is clearly aware that Chapter 19 of Leviticus, which leads up to this verse, is the central set of ethical and ritual laws found in Leviticus' Holiness Code. This succinct summation of the responsibilities of the people Israel to one another, and to their God, represents the non-negotiable elements of a Jewish life lived *b'tzelem Elohim*. Chapter 19 begins, "And Adonai spoke to Moses, saying, 'Speak to all the congregation of the children of Israel and say to them, "You shall be holy, for I Adonai your God, am holy."'" The overarching message is straightforward: these are the laws that set you apart as a people sanctified before God. These are the critical precepts that one must uphold to maintain that special and unique status. Included amongst these regulations is that one should not wrong the גֵּר בְּאַרְצְכֶם⁶ the *ger* who lives in your land. The Israelites are instructed to love הַגֵּר הַגֵּר אֹתְכֶם, the *ger* who resides with you, and to treat such a person as if he were one born to the Jewish people.⁷

5. Leviticus 19:2

6. Leviticus 19:33

7. Leviticus 19:34

Perhaps it is this textual conflation of Israelite and the *ger* living amongst the Israelites that prompts Ibn Ezra's clarification above. It is debatable whether the use of *ger* in these verses of Leviticus 19 falls into the category of Biblical usage that would eventually evolve into a *ger tzedek* in the Rabbinic mind (those fully obligated to all of Israelite law), or into the category that would become the *ger toshav* (based largely on similarities in civil law alone). It would seem that Ibn Ezra favors the latter and therefore needs to explicate how the preceding chapter differs from the one which follows. If he presumed the former, he would have had no need to make the clarification that he did in his commentary. His explanation here could not simply be due to the fact that Chapter 20 deals with sexual prohibitions which are incumbent upon the *ger toshav* for he makes no similar introductory comment to Chapter 18 which deals with similar sexual interdictions.

Not surprisingly, Ibn Ezra is protective of the Holiness Code's central verses found in Chapter 19. He clarifies immediately that those are for the People Israel alone, but he knows that there is a textual difficulty for which he must account. Even though Leviticus 19:33-34 make it clear that the *ger* is to be intimately enmeshed in the Israelite community, he does not want all of that chapter's *mitzvot* to apply to the *ger toshav* because these verses are the core which defines what it means to be part of the elect Children of Israel. On the other hand, Chapter 20, which deals with forbidden sexual relations, does apply to the *ger toshav*, which is known because such a person obeys the Noahide laws, thus binding them to these prohibitions. The textual difficulty, given that ideological backdrop is this: both chapters begin with the words, וַיְדַבֵּר יְהוָה אֶל־מֹשֶׁה, לֵאמֹר: "And Adonai spoke to Moses, saying..." How then can he distinguish the two

sections of text?

He pins his ideological stance on the fact that Leviticus 19:2 follows this introductory phrase with the words, **דַּבֵּר אֶל-כָּל-עֵדוּת בְּנֵי-יִשְׂרָאֵל**, "speak to all the congregation of the Children of Israel." Leviticus 20:2, by contrast, reads, **וְאֶל-בְּנֵי יִשְׂרָאֵל תֹּאמַר אִישׁ אִישׁ מִבְּנֵי יִשְׂרָאֵל וּמִן-הַגֵּר | הַנֶּהְרָה בְּיִשְׂרָאֵל**, "and you shall say to the Children of Israel, 'Any person from the Children of Israel or from among the *ger* who lives in Israel...'" By highlighting the variant phrases which follow the identical introductory words of both chapters, Ibn Ezra is able to clearly establish that the sexual prohibitions are incumbent upon the *ger toshav* but the preceding Holiness Code is not.

A similar correspondence of legal status between Israelite and *ger toshav* is found in *Hilchot Issurei Bi'ah*, the section of Maimonides' *Mishneh Torah* which deals specifically with prohibited sexual relations. Rambam is responding to the Biblical story of Pinchas, a zealot who slayed an Israelite named Zimri for publicly fornicating with a Gentile woman. A series of *halachot* sprung up around this incident, including one that permits a zealot, under certain circumstances, to follow Pinchas' model and slay an Israelite man, and his Gentile sexual partner, for committing such licentious acts in public.

It would seem, however, that the rules differ if the non-Israelite partner is a *ger toshav*:

רמב"ם הלכות איסורי ביאה פרק יב הלכה ה'

...והבא על בת גר תושב אין הקנאין פוגעים בו אבל מכין אותו מכת מרדות.

...An Israelite who comes (to have sexual relations with) the daughter of a *ger toshav* (who is, thus, herself a *gioret toshav*), the zealots may not strike him. But they can give him lashings as a punishment.

Though clearly not a desirable act, public sexual intercourse between an Israelite and a *ger toshav* has a different set of guidelines than the same act with an ordinary Gentile. The latter is punishable by death, the former simply by lashings. Perhaps the differentiation could be attributable to the need to maintain congenial economic relations with the Israelites' *ger toshav* neighbors. Similarly, the ruling could have been an attempt to limit the number of situations in which a capital punishment was warranted. Regardless, it is noteworthy that, not only is the *ger toshav* bound to all of the same sexual prohibitions as the Israelites, but the possibility of sexual relations between Israelites and the *geri toshav* who lived amongst them seems to have been a realistic possibility in Rambam's mind.

As was discussed above, Maimonides would have categorized these laws of forbidden sexual relations as *mitzvot bein adam l'makom*. Perhaps Rambam was influenced by teachings that God is present in the sexual union of two people, actively contributing to the creation of each child.⁸ Similar teachings came to their zenith in the mystical work of the Zohar which equates earthly sexuality with uniting disparate aspects of the God-head in heaven. One passage reads, "The Divine Presence rests on the marital bed when both male and female are united in love and holiness...After the destruction of the Jerusalem Temple, the bedroom in each home was considered as an aspect of the once glorious and sanctified Holy of Holies."⁹

Such teachings notwithstanding, the day-to-day *halachot* which govern sexual practices amongst the Israelites are at least to a large degree, *bein adam l'chaveiro* in nature. It is clear that there is a Divine element to the sexual act in the traditional Jewish

8. *Bavli, Nidah* 31a

9. Westheimer and Mark, p. 6

mindset. Yet, unlike laws of ritual purity, handling of Temple appurtenances, or avoiding the commingling of threads at God's behest, there is a significant element of the rules governing appropriate sexual relations that clearly intends to provide structure in the relationships between human beings. While it would be disingenuous to categorize sexual relationships as purely *bein adam l'chaveiro* in a Jewish context, with no Divine element whatsoever, it would be equally difficult to assert that these laws make no attempt to structure the romantic or marital relationship between the sexual partners themselves.

FINANCIAL AND PHYSICAL WELL-BEING:

דברים כד:יז-יט

וְלֹא תִטֶּה מִשְׁפָּט גֵּר יְתוֹם וְלֹא תִחַבֵּל בְּגֵד אִלְמָנָה: יח וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּמִצְרָיִם וַיִּפְדֶּךָ יְיָ אֱלֹהֶיךָ מִשָּׁם עַל-כֵּן אֶנְכִּי מִצְוֶה לַעֲשׂוֹת אֶת-חֻדְבְּרָה הַזֶּה: ט יֵט כִּי תִקְצֹר קִצִּירְךָ בַּשָּׂדֶה וְשָׂכַחְתָּ עֹמֶר בַּשָּׂדֶה לֹא תָשׁוּב לִקְחָתוֹ לַגֵּר לַיְתוֹם וְלַאִלְמָנָה יִהְיֶה לָמְעַן יִבְרַכְךָ יְיָ אֱלֹהֶיךָ בְּכָל מַעֲשֶׂה יָדֶיךָ:

Deuteronomy 24:17-19

You shall not pervert justice for the **ger** (stranger) or for the orphan. Do not take the garments of the widow as pledge. And remember that you were slaves in Egypt, and Adonai your God redeemed you from there. Therefore I command you to do this. When you cut down the harvest of your field and forget a sheaf in the field, do not return to take it. It will be for the **ger** (stranger), for the orphan, and for the widow, so that Adonai your God may bless you in all the works of your hands.

As was discussed in Chapter One, these verses from Deuteronomy, and others like them, serve as the foundation for the civil definition of a *ger* in the Biblical writings. It is these texts that would eventually evolve, in the Rabbinic mind, into the status of *ger toshav*. Here, the *ger* is grouped with the widow and the orphan, population cohorts who are likely to be disadvantaged socially. There is an increased possibility that these individuals will be incapable of supporting themselves financially and may, thus, end up

in the precarious position of being unable to survive even amongst fellow citizens of their larger society. For this reason, the Torah repeatedly groups widow, orphan, and stranger together, demanding that the Israelites take special care to provide for them. In this respect, then, the *ger toshav* is held as being on a completely equal footing with the Jewish widow and the Jewish orphan. All are uniformly worthy of ongoing assistance.

One need not only intuit the relationship between the Biblical *ger* cited above and its later incarnation, the *ger toshav*. The specific requirement to provide financial assistance to a *ger toshav*, just as one would for a fellow Israelite, is found in Leviticus 25:35-36:

לֹא וְכִי־יִמָּוֶד אָחִיךָ וּמָטָה יָדוֹ עִמָּךְ וְהִחֲזַקְתָּ בּוֹ גֵר וְתוֹשֵׁב וְחֵי עִמָּךְ: לֹא אֶל־תִּקַּח מֵאִתּוֹ נֶשֶׁךְ וְתַרְבִּית וְיִרְאַת מַאֲלֵהֶיךָ וְחֵי אָחִיךָ עִמָּךְ
 If your brother (kinsman), should fall low (fall on hard financial times), and he falls under your control (financially), you shall support the *ger v'toshav* and let him live among you. Do not take *neshech* or *tarbit*, but fear your God. Let your brother (kinsman) live with you.

The simple contextual meaning of these verses was discussed in Chapter One. Ramban's commentary on them, however, further cements Israelite social responsibility for this unique status-group in the land.

רמב"ן ויקרא פרק כה פסוק לה
 וטעם וחי אחיך עמך - שיחיה עמך, והיא מצות עשה להחיותו, שממנה נצטוינו על פקוח נפש במצות עשה. ומכאן אמרו (תו"כ פרשה ה ג) וחי אחיך עמך...
 ...ואונקלוס עשה "גר ותושב וחי עמך" הכל מן המצוה, ידור ויתישב וחי עמך, אבל על דעת רבותינו בגמרא (ב"מ עא א), והחזקת בו ובגר ותושב, וחי כל אחד מהם עמך:
That your brother (kinsman) may live with you: That he will live with you. And it is a positive *mitzvah* to allow him to live with you. It is from this that we are commanded regarding *pikuach nefesh* (saving a life) by means of a positive commandment. And from this it is said, "That your brother (kinsman) may life with you."...
 ...Onkelos translated "*ger v'toshav v'chai imach*," as one of the positive commandments meaning "he will reside, and settle, and live with you." But according to the thinking of our Rabbis in the *Gemara*¹⁰, (if your brother becomes poor) you should uphold him and the *ger toshav* as well, so that both of them can live with you.

10. *Bava Metzia* 71a

The Jewish community, then, ought to extend the same degree and quality of aid to a *ger toshav* that they would to one of their own kinsman. It could be argued that the word *תושב* here is expounded purposefully to allude to its dual meanings. Not only must the Jews care for the *ger toshav* as if he was a member of their own people, but each Jew ought to treat the resident alien with the same concern afforded his or her own brother.

Also stressed here is a generous interpretation of the phrase "live with you." It is not the Israelites' responsibility simply to allow the *ger toshav* to exist in their midst. Rather, if such a person should fall on difficult times, it is the responsibility of the Jewish community to support him in such a way that allows him to fully live amongst them, as a viable member of Israelite society. No such explicit accommodation is granted here to the average Gentile. Jewish attitudes towards philanthropy often tend towards a "charity begins with one's own" philosophy.

Maimonides makes clear in his *Mishneh Torah* that one should first care for those who are needy within his own family, beginning with those living in his home and then those who live elsewhere.¹¹ Interestingly, he derives these rules from the same passage in *Bava Metzia* upon which Ramban is commenting above. After one's own relatives, one should be concerned with the poor of his neighborhood, then his town, and then the general needy population.¹² Given the geographic and societal makeup of many ancient and medieval Jewish populations, it could be inferred from this that other Jews end up receiving priority in one's giving as they are the people most likely to be living in direct proximity to the Jews following these laws. It is perhaps because of this geographic

11. *Hilchot Matanot Aniyim*, 7:13

12. Amsel, p. 288

proximity, or alternatively because of their greater integration into the Jewish population, that *geri toshav* are explicitly included within the charitable fold for the purposes of their financial maintenance.

Of course, similar to the prohibited sexual relations discussed above, the *mitzvot* pertaining to the giving of *tzedakah* are, essentially, *bein adam l'chaveiro*. Just as caring for the needs of widows and orphans, and guaranteeing them special consideration under the law, are matters of maintaining civil equality, so too is this the case for the *ger toshav*. There is a *bein adam l'makom* valence to these instructions, to be sure, as it is God Who commands the Israelites to care for the *ger* just as they ought provide for the widow and the orphan. Nevertheless, these are not *mitzvot shemiot* implemented solely for the sake of pleasing God and enhancing the relationship between Israel and God.

That is why it is fascinating to read Ramban's critique of Rambam's *Sefer HaMitzvot* concerning the *mitzvah* of allowing the *ger toshav* to live among us. In remarking on the Leviticus verse above, Ramban makes clear that the *ger toshav* is surely deserving of all the same civil benefits as other disenfranchised populations that live in Israelite society. In his commentary on *Sefer HaMitzvot*, however, Ramban straddles the line between realms of *mitzvot bein adam l'chaveiro* and *mitzvot bein adam l'makom* when discussing the responsibilities of Jews towards the *ger toshav*.

השגות הרמב"ן לספר המצוות שכחת העשין ד"ה מצוה יו

מצוה יו שנצטוינו להחיות גר תושב להציל לו מרעתו שאם היה טובע בנהר או נפל עליו הגל שבכל כחנו נטרח בהצלתו ואם היה חולה נתעסק ברפואתו וכל שכן מאחינו ישראל או גר צדק שאנו מחוייבים לו בכל אלה והוא בהם פקוח נפש שדוחה שבת...

Mitzvah י is that we are commanded to let the *ger toshav* live (among us), to save him from evil that befalls him. If he is drowning in a river or a wave crashes on him, with all our strength we take great pains to rescue him. And if he is sick, we busy ourselves with his healing. And every neighbor, with an Israelite or a *ger tzedek*, all of us are obligated to him (the *ger toshav*) in all of these. And he is amongst those for whom *pikuach nefesh* cancels Shabbat...

In the lines that follow these, Ramban continues to draw upon Toraitic and Talmudic passages as proof texts for these statements, creating a clear parallel between the *ger toshav* and the kinsman who is a naturalized Israelite or Jew by birth. The conclusions that Ramban reaches constitute one pole of the attitudinal spectrum of Jewish authorities when considering the *ger toshav*. He is extremely generous towards the resident alien, transcending the realm of *mitzvot bein adam l'chaveiro* which might dictate a more universal amicability towards one's neighbor. The responsibilities of the Jew towards the *ger toshav* are now akin to those that govern relations with fellow Jews, even permitting the transgression of *mitzvot* which are clearly *bein adam l'makom*.

First, in Ramban's opinion, Jews are responsible not only to provide for the *ger toshav* financially, but to safeguard him from all varieties of harm that might befall him, including natural accidents. Furthermore, if the *ger toshav* falls ill, Jews are responsible to care for him and to nurse him towards healing. Most striking, however, is the assertion that for the sake of saving a *ger toshav's* life, a Jew is not just permitted, but obligated, to violate the laws of Shabbat as necessary.

The generosity of Ramban's teachings causes the reader to wonder why he took such a liberal stance with regard to the *ger toshav*. A number of answers are possible. When tremendous controversy around Maimonides' philosophical works arose in the early 13th Century, Ramban made every attempt to bridge the ideological gap that

separated the two sides of this internal Jewish debate.¹³ While he was not ultimately successful, being overshadowed by the extremists on both sides, one might conjecture that it was Ramban's nature to take such centrist positions for the sake of peace amongst otherwise disparate groups. Such an assertion could account for his liberal stance towards the *ger toshav*, which he may have seen as a bridge between Jew and non-Jew. It is similarly possible to connect Ramban's openness to his own persecution in the wake of the Barcelona disputations of 1263, but it is likely that he had completed his *hassagot* to Rambam's *Sefer HaMitzvot* before that time. Furthermore, as these *hassagot* were meant to defend the work of Shimon Kayyara against the Maimonides' own critiques, it is possible that the opinions expressed are not even Ramban's own. Perhaps they simply represent a refutation of Maimonides' conclusions. Ultimately, the impetus for Ramban's decisions is not entirely clear, but given the chronological limitations of the second possibility, and the unlikelihood that Ramban would have expressed an opinion with which he had no affinity, the first explanation -- that Ramban favored bridging gaps between Jewish and non-Jewish populations -- is preferred.

In Chapter Two several significant religious obligations were seen to be off limits to the *ger toshav*, drawing a clear distinction between these people and full-fledged Jews by birth or conversion. In this chapter a number of rulings indicate a lack of differentiation between the *gerei toshav* and the Israelites amongst whom they reside. Ramban's commentary on *Sefer HaMitzvot*, is most magnanimous towards the *ger toshav* both regarding *mitzvot bein adam l'chaveiro* and *mitzvot bein adam l'makom*. This latter realm, specifically as it relates to the laws of Shabbat, will continue to be

13. Kaplan

discussed in Chapter Four as there is no unanimity of opinion amongst the *halachists* concerning the obligations and privileges of *gerei toshav* vis-à-vis the Sabbath. As will be seen, this ambivalence of legal opinion holds true for a number of other *halachic* categories as well.

CHAPTER FOUR

Ambivalent Circumstances in which the *Ger Toshav* Straddles the Line Between Jew and Non-Jew

OVERVIEW:

Chapters Two and Three outlined specific instances in which Jewish law treats the *ger toshav* like a Gentile or like an Israelite, respectively. As was seen, occasions on which a clear dividing line was drawn between Jews and *gerei toshav* tended to occur when the *mitzvot* being discussed were eminently *bein adam l'makom* in nature. Conversely, the *mitzvot* which made little or no differentiation between the *ger toshav* and the average Israelite were, at least outwardly, *bein adam l'chaveiro*. The arenas of Jewish life to be discussed in this chapter will straddle both of these categories. This is not surprising given that in each of these cases, there is a degree of ambivalence in the tradition about the obligations or entitlements of the *ger toshav*.

The matters that will be examined in Chapter Four are: prompt payment of an employee who is a *ger toshav*, the *ger toshav's* access to ancient cities of refuge and the *ger toshav's* punishment (execution or exile) for committing murder, a Jew's ability to drink or benefit from the wine of a *ger toshav*, and finally, the multiple and varied attitudes towards a *ger toshav* vis-à-vis Shabbat. In sum total these examples will indicate that the classical Jewish binary division of the world into "Jew" and "non-Jew" does not fully depict the range of outlooks that exists in the *halachic* tradition. The *ger toshav* apparently serves as a middle ground between these poles.

PROMPT PAYMENT OF THE GER TOSHAV

In the Babylonian Talmud, Raba considers which questions each of us will be asked when we arrive for judgment in the world to come. The first on his list is, נשאת? Maimonides brings the discussion of business ethics back into *olam ha'zeh* when he lists the qualities that are necessary to consider oneself a *talmid chacham*, the very archetype of a Torah-knowledgeable person. Amongst the necessary traits is that such a person must be fair and honest in his business interactions.² In addition to keeping one's weights and measures properly balanced, and being trustworthy in one's bookkeeping, the *halachic* tradition insists upon adherence to rules concerning the prompt payment of one's employees. The *ger toshav* receives special mention as these laws are being outlined.

The later Rabbinic strictures surrounding this topic stem from the following verses found in Deuteronomy and Leviticus:

דברים כד-טו

יֵד לֹא-תַעֲשֶׂק שָׂכִיר עֲנִי וְאֶבְיֹן מֵאַחֲיָד אוֹ מִגֵּרָךְ אֲשֶׁר בְּאַרְצֶךָ בְּשַׁעְרֶיךָ: טו בְּיוֹמוֹ תִּתֶּן שָׂכָרוֹ וְלֹא-תָבוֹא עָלָיו הַשֶּׁמֶשׁ כִּי עֲנִי הוּא וְאֶלָּיו הוּא נֶשֶׂא אֶת-נַפְשׁוֹ וְלֹא-יִקְרָא עָלֶיךָ אֶל-יְהוָה וְהָיָה בְּךָ חַטָּא:

Deuteronomy 24:14-15

14 Do not oppress a needy laborer or poor man from amongst your fellows or from amongst the strangers that reside within your land, within your gates. 15 On that day, give him his wages, before the sun sets, for he is poor and his very life is borne by it [his wages], lest he call out to Adonai against you, and sin will be incurred against you.

ויקרא יט:יג

לֹא-תַעֲשֶׂק אֶת-רֵעֶךָ וְלֹא תִגְזֹל לֹא-תִלְכֵּן פְּעֻלַּת שָׂכִיר אֶתְּךָ עַד-בֹּקֶר:

Leviticus 19:13

Do not oppress your friend, and do not steal. Do not keep the wages of a laborer with you until morning.

1. *Shabbat* 31a

2. *Hilchot De'ot* 5:13

In its typical fashion, the *Mishnah* raises questions about the intent of the laws stated above. To whom do they apply, and in what circumstances?

משנה בבא מציעא ט:יב

אחד שכר אדם ואחד שכר בהמה ואחד שכר כלים יש בו משום (דברים כד) ביומו תתן שכרו. ויש בו משום (ויקרא יט) לא תלין פעולת שכיר אתך עד בוקר. אימתו בזמן שתבעו. לא תבעו. אינו עובר עליו. המחזהו אצל חנוני או אצל שולחני. אינו עובר עליו... גר תושב יש בו משום ביומו תתן שכרו. ואין בו משום לא תלין פעולת שכיר אתך עד בוקר:

Mishnah Bava Metzia 9:12

One wage is paid for a person, one wage is paid for a beast, and one wage is paid for [rented] tools. This is because it is written, "On that day, give him his wages."³ And it is also written, "Do not keep the wages of a laborer with you until morning."⁴ When [should this payment happen]? When [the worker] claims [his payment.] If [the laborer] does not claim [his wages, the employer] does not transgress [the law.] If [the employer] gave [the laborer] an order to a shopkeeper or to a money changer (for equivalent payment), he does not transgress [the law]...

...The *ger toshav* is included because of "On that day, give him his wages"³ and is not included because of "Do not keep the wages of the laborer with you until morning."⁴

It can be conjectured that the rules of prompt payment outlined in this *mishnah* are intended for situations in which both the employer and the laborer are Jews. Were that not the case, there would be no need to specify a difference in law for the *ger toshav*. More likely, however, the *Tannaim* noticed a slight linguistic difference in the two Biblical texts being cited and found it necessary to account for this difference. One may presume that the inclusion of the *ger toshav* in these laws was somehow implied by the Scripture and, thus, needed to be clarified by the Rabbis.

The inclusion of the *ger toshav* in some of the rules that govern prompt payment of employees, and the exclusion of such a person in other cases, is supported by this outlook. In the Deuteronomy passage above, the instruction to give the employee his

3. Deuteronomy 24:15

4. Leviticus 19:13

wages "that day" is preceded by a command to refrain from oppressing the needy employee in your midst, whether from your own people or "from amongst the strangers who reside amongst you within your gates." On the other hand, the verse from Leviticus which is used to inform the *mishnah's* instructions begins with the phrase, "Do not oppress רֵעֶךָ," your friend, or neighbor. It appears, then, that the *mishnah's* decision to apply some of these laws to the *ger toshav*, which was seen as the *ger* referred to in Deuteronomy 24:15, and to exclude the *ger toshav* from others, had to do with which laws were derived from the Deuteronomy verses, and which from the Leviticus verse.

The *mishnah's* conclusion reflects this fact, "The *ger toshav* is included because of 'On that day, give him his wages'³ and is not included because of 'Do not keep the wages of the laborer with you until morning.'⁴" The practical legal ramifications of this differentiation are that a *ger toshav* who labors for a Jew overnight is to be paid the next morning, "on that day," as Deuteronomy instructs. However, a Jew who employs a *ger toshav* for day labor is allowed to keep his employee's wages overnight if he desires as he is not bound by the Leviticus 19 commandment. That is incumbent upon him only when the Jew employs his neighbor, a term seen as excluding the *ger toshav* in spite of his relative proximity to the Jewish population.

The *gemara* confirms these conclusions in a lengthy discursive that tries to sort through the variant regulations that are incumbent upon an employer, or a renter of animals and utensils, depending on whether the labor took place during the day or overnight.⁵ The complete discussion is too verbose to be included in its entirety here, but

5. *Bava Metzia* 111b

one of its details is noteworthy. As Rashi points out⁶, the *Tanna Kamma*, whose voice is heard in one of the *baraitot* discussed in the *gemara*, believes that all the same rules apply to the *ger toshav* as to any other Jewish worker.

The *ger toshav*, it would seem, is straddling the line between Jew and non-Jew where prompt payment of laborers is concerned. While the law deals specifically with relations between Jewish employers and Jewish laborers, and says nothing of Gentiles who seem completely out of the picture, the *ger toshav* is specifically mentioned. Furthermore, the same exact rules which apply to Jewish night workers hold sway when employing *gerei toshav* as well. In that respect, the *ger toshav* and Jew are on equal footing. Conversely, however, the *ger toshav* who is a day laborer is treated like a Gentile inasmuch as none of the safeguards providing for his prompt payment are incumbent upon his employer. Finally, even that differentiation is met with refutation by at least one source in a *baraita* that is later brought into the debate by the *Amoraim*.

These *mitzvot bein adam l'chaveiro* which govern the prompt payment realm of Jewish business ethics, are, in their totality, somewhat ambivalent about the place of the *ger toshav* in the system which they construct. It is important to consider the fact that the laws which treat the *ger toshav* like a Gentile in this case are all derived from a Leviticus verse that is once again found in the Holiness Code of Chapter 19. As has been noted in previous chapters, the Holiness Code outlines the terms that maintain a unique relationship between the people Israel and God. Thus, even though many of the *mitzvot* contained therein are concerned with matters that are *bein adam l'chaveiro*, the theme of the section in its entirety is, in broad terms, the perpetuation of the relationship

6. Rashi's commentary on *Bava Metzia* 111b "קשיא גר תושב"

bein adam l'makom within *Am Yisrael*. It could be argued then, that even within this subsection of laws concerning prompt payment of employees, the dividing line between treating the *ger toshav* like a Jew or like a Gentile once again falls on the split between those laws that are *bein adam l'chaveiro* (as derived from Deuteronomy 24:14-15) and those which are *bein adam l'makom* (in the Holiness Code of Leviticus 19).

THE GER TOSHAV AND THE CITIES OF REFUGE

Chapter 35 of the book of Numbers consists entirely of God's instructions to the Israelites concerning the ways in which they ought to deal with those citizens who have committed murder or manslaughter. These verses appear in the midst of that discussion:

במדבר לה-טו

יג והערים אשר תתנו שש-ערי מקלט תהינה לכם: יד את | שלש הערים תתנו מעבר לירדן ואת שלש הערים תתנו בארץ כנעו ערי מקלט תהינה: טו לבני ישראל ולגר ולתושב בתוכם תהינה שש-הערים האלה למקלט לנוס שמה כל-מכה-נפש בשגגה:

Numbers 35:13-15

13 There shall be six cities to which you give the status: "city of refuge." **14** Three of these cities should be to the west of the Jordan, and three of these cities of refuge should be in the land of Canaan. **15** For the Children of Israel, and for the *ger*, and for the *toshav* amongst you, these six cities shall be a refuge to all who have struck out life (killed) in error.

In the case of intentional killing, a killer is liable for that crime with his own life. The family of the deceased have every right to pursue the killer and to take his life, thus fulfilling the Deuteronomic statute of liability in committing violent acts: an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot⁷, and by logical extension...a life for a life. If the assailant has killed by accident, however, he may flee to one of these six cities of refuge. While he resides in that city, until his case can be heard by the

7. Deuteronomy 19:21

designated court, the family of the deceased may not take vengeance upon him. Such a system helps to avoid vigilante justice that circumvents the rights of the accused and prevents him from receiving an appropriate trial.

A cursory reading of the above verses from Numbers 35 makes clear why the *Tannaim* saw fit to consider the nature of the *ger toshav* vis-à-vis these cities of refuge. The cities of refuge are specifically designated for use by the Children of Israel, the *ger*, and the *tohav*. Interestingly, however, the Sages had a different set of standards for the *ger toshav* when he was the victim of an accidental killing in spite of the relatively clear sentiment that the rules thereof held sway over the Israelite and the *ger* alike.

משנה מכות ב:ג

האב גולה על ידי הבן. והבן גולה על ידי האב. הכל גולין על ידי ישראל. וישראל גולין על ידיהן. חוץ מעל ידי גר תושב. וגר תושב אינו גולה אלא על ידי גר תושב. הסומא אינו גולה. דברי רבי יהודה. רבי מאיר אומר גולה. השונא אינו גולה. רבי יוסי בר יהודה אומר השונא נהרג. מפני שהוא כמועד. רבי שמעון אומר יש שונא גולה ויש שונא שאינו גולה. זה הכלל. כל שהוא יכול לומר לדעת הרג. אינו גולה. ושלא לדעת הרג. הרי זה גולה:

Mishnah Makkot 2:3

The father is exiled on account of the son. The son is exiled on account of the father. All are exiled on account of a Jew. And a Jew is exiled on their account. All except on account of the *ger toshav*. And the *ger toshav* is not exiled except on account of another *ger toshav*. The blind man is not exiled. These are the words of Rabbi Yehudah. Rabbi Meir says he is exiled. An enemy is not exiled. Rabbi Yose bar Yehudah says the enemy is killed because he is like one who is habitual [in his sin and has been forewarned.] Rabbi Shimon says "Some enemies are exiled, and some enemies are not exiled." This is the general rule: if one can say that he knew [what he was doing when he killed] then he is not exiled [but killed]. If he did not kill intentionally, behold, he is exiled.

At first glance it is not apparent what type of exile is being discussed in the above passage. One might momentarily conclude that the *Tannaim* are here debating whether, in each of the illustrative circumstances, a killer is to be executed or exiled from the Israelite land and people entirely. In *Mishnah* 4 of this chapter, however, the Rabbis

make clear what type of exile they are discussing here.

"לְחֵיכֶן נֹדֵדִין, לְעָרֵי מְקֻלָּט. לְשֵׁלֶשׁ שְׂבָעֶכָּר הַיַּרְדֵּן וּלְשֵׁלֶשׁ שְׂבָאָרֶץ כְּנָעַן, שְׁנֵאָמַר

(בַּמִּדְבָּר לֵחַ) אֵת שְׁלֹשׁ הָעָרִים תִּתְּנוּ מֵעֶכָּר לַיַּרְדֵּן וְאֵת שְׁלֹשׁ הָעָרִים תִּתְּנוּ בְּאֶרֶץ

כְּנָעַן וְגו'."

"To where are they exiled? To the cities of refuge. To the three that are to the west of the Jordan and to the three that are in the land of Canaan. As it is said, 'Three of these cities should be to the west of the Jordan, and three of these cities of refuge should be in the land of Canaan.'⁸

Thus, the conversation in *Makkot* 2:3 is about different situations in which the appropriate fate of a killer is potentially doubtful. A close reading of the previous two *mishnayot* makes clear that the *Tannaim* differentiate between three different types of unintentional killing, which each warrants its own punishment. In the first scenario, the accused has killed in complete error, but he should have taken greater care to avoid the accident. In this case, he must be exiled to a city of refuge. In the second possible situation, the killer's error is such that the accidental death was almost inevitable. In such a scenario, he does not even need to be exiled as he has done so little wrong. If the family of the deceased should kill him, they are held liable for murder. In the final case, the accused has killed in error but his actions border on having been intended, perhaps having committed the crime out of flagrant negligence. In this situation, he is not exiled because the cities of refuge would provide no safety for him, his crime having been akin to an intentional killing.

8. Numbers 35:14

Of interest in this context is the status of the *ger toshav* in respect to the cities of refuge and the different possible repercussions of exile or execution that might be assigned when the *ger toshav* kills or is killed. First our *mishnah* makes clear that if a father accidentally kills his son, or vice versa, the killer is exiled to one of the cities of refuge. It then goes on to state that an Israelite is exiled for accidentally killing anyone (“all”), and the same is true in reverse. The *Amoraim* clearly questioned who “all” was in this case, and they respond in the *gemara*.

בבלי מכות ח"ב

הכל גולין על ידי ישראל וכו'. הכל גולין על ידי ישראל לאיתווי מאי? לאיתווי עבד וכותי. תנינא להא דת"ר: עבד וכותי גולה ולוקה ע"י ישראל, וישראל גולה ולוקה ע"י כותי ועבד.

Bavli Makkot 8b

[citing the *Mishnah*:] *All are exiled on account of a Jew...* What is included in ‘all’ are exiled on account of a Jew? A slave and a Cuthite are included. We learn [here] what our Rabbis taught: A slave or a Cuthite are exiled and flogged on account [of killing] a Jew, and an Jew is exiled and flogged on account [of killing] a Cuthite or a slave.

This sets the stage for our *mishnah*’s statement of primary interest. While a Jew is exiled on account of killing “all,” including a Canaanite slave or a Cuthite, he is not exiled for killing a *ger toshav*. The most likely source for this differentiation is Deuteronomy 19:5 which gives an example of the type of inadvertent killing that would render one eligible for flight to the cities of refuge. This verse reads, “A man comes with his fellow (רעהו) to the forest to cut wood. As his hand swings the axe to cut down a tree, the axe head flies off and hits the other so he dies. The killer may flee to one of the cities [of refuge] and live.” It is argued that “רעהו” indicates a fellow Israelite, and excludes a *ger toshav*, thus a Jew is not exiled on account of killing a *ger toshav*. Since the *ger toshav* would be one step removed from a full-fledged Israelite, it can be

assumed that the Israelite in such a situation avoids exile not because he will instead be executed, but rather because he is undeserving of being removed from the community at all.

A variant reading of the above text also exists which reads חוץ מגר תושב, instead of חוץ מעל ידי גר תושב. This version appears in the *gemara* and is expounded upon by Rashi who interprets it to be a response to the first half of the *mishnah's* sentence such that it would now read, "All are exiled on account of a Jew...except for a *ger toshav*." Rashi understands this to mean that the *ger toshav* is executed for unintentionally killing a Jew, unlike all others who are permitted exile for their inadvertent crimes.

All later commentators agree on the meaning of the last phrase of this *mishnah*, that a *ger toshav* is to be exiled to a city of refuge when he has accidentally killed another *ger toshav*. His access to the *arei miklat* is guaranteed in Numbers 35:15, cited at the beginning of this section: "For the Children of Israel, and for the *ger*, and for the *toshev* amongst you, these six cities shall be a refuge to all who have struck out life (killed) in error."

There is already a fair amount of ambivalence towards the *ger toshav* displayed in this *mishnah* and the commentaries on it. In one rendering, Jews are not exiled for killing a *ger toshav*. In a second interpretation, *geri toshav* are executed for killing a Jew. And finally, a clear distinction is drawn between Jews and *geri toshav* when the *mishnah* indicates that the *arei miklat* are not available to this population if they kill a Jew, but they are open to a *ger toshav* who kills another of similar status. The apparent ambiguity about how to deal with the *ger toshav* in regard to these laws is only heightened in the *gemara's* discussion and its related commentaries. It would seem that

the *Amoraim* participating in this debate recognized the potential confusion created by the above *mishnah* and addressed their questions directly:

בבלי מכות ט:א

חוץ מעל ידי גר תושב וכו'. אלם גר תושב עובד כוכבים הוא, אימא סיפא: גר תושב גולה ע"י גר תושב אמר רב כהן

Bavli Makkot 9a

"All except on account of the *ger toshav*..." - Therefore the *ger toshav* is an idolater. But the last clause [of the *mishnah*] says that a *ger toshav* is exiled on account of [killing] another *ger toshav*.

The implication of the first half of the *mishnah* is that the *ger toshav* is not an Israelite but rather an idolater. Only Jews have access to the cities of refuge in fleeing from the *goel hadam*, the family member of the accidentally killed who is seeking blood revenge on the slayer. Idol worshippers and other non-Jews are not permitted to avail themselves of the *arei miklat*. Yet, if the the *ger toshav* is an idol worshipper, or non-Jew, then why does the *mishnah*'s concluding statement indicate that he is permitted to enter the cities of refuge if he has inadvertently killed a fellow *ger toshav*? The following debate ensues to clarify the point:

בבלי מכות ט"א

אמר רב כהנא, לא קשיא: כאן בגר תושב שהרג גר תושב, כאן בגר תושב שהרג ישראל. איכא דרמי קראי אהדדי, (כתוב: **במדבר ל"ה**) לבני ישראל ולגר ולתושב בתוכם תהיינה שש הערים, וכתוב: **במדבר ל"ה**) והיו לכם הערים למקלט, לכם - ולא לגרים. אמר רב כהנא, ל"ק: כאן בגר תושב שהרג ישראל, כאן בגר תושב שהרג גר תושב. ורמינהי: לפיכך, גר ועובד כוכבים שהרגו - נהרגין קתני גר דומיא דעובד כוכבים, מה עובד כוכבים - לא שנה דקטל בר מיניה ולא שנה דקטל דלאו בר מיניה נהרג, אף גר - לא שנה דקטל בר מיניה ולא שנה דקטל דלאו בר מיניה נהרג. אמר רב חסדא, ל"ק: כאן שהרגו דרך ירידה, כאן שהרגו דרך עלייה דרך ירידה דישאל גלי - איהו נמי סגי ליה בגלות, דרך עלייה דישאל פטור - הוא נהרג.

Bavli Makkot 9a

Rav Kahana said: This is no difficulty. The latter statement [of the *mishnah*] is regarding an incident in which a *ger toshav* kills another *ger toshav* while the other case discusses a time when a *ger toshav* kills a Jew. Some [also thought this] by comparing two verses to one another. As it is written: "For the Children of Israel, and for the *ger*, and for the *toshav* amongst you, these six cities..."⁹ And it is also written: "And there will be for you cities of refuge..."¹⁰ **For you** - for you and not for *gerim*. Rav Kahana says that there is no difficulty. In one case a *ger toshav* kills a Jew, and in the other case, a *ger toshav* kills another *ger toshav*.

They noted a contradiction to this [from a *baraita*]: "Therefore, a *ger* and an idol-worshipper who killed are executed." The *baraita* teaches the law of the *ger* with that of the idol-worshipper (implying they have the same rules). It does not matter whether an idolater killed one of his own kind, so too does it not matter for the *ger* -- either way he is executed.

Rav Chisda said: There is no difficulty. In one case (in which the *ger toshav* is exiled for killing another *ger toshav*) he killed him with a downward motion. In the other case (the *baraita*) he killed with an upward motion. If killing with a downward motion results in exile for a Jew, then exile is appropriate for him (the *ger toshav*) as well. [If he killed with] an upward motion, a Jew is exempt [from exile] - and he (the *ger toshav*) is executed.

Rava said to him (Rav Chisda): Is this not *kal v'chomer*? If a Jew is exiled for a downward motion, he (the *ger toshav*) should be exiled also. If a Jew killed with an upward motion and is thus exempt (from exile and execution), how can he (the *ger toshav*) be killed?

It is important to discern the larger implications concerning Rabbinic attitudes towards the *ger toshav* which might be culled from this dense series of arguments. In the first passage, Biblical texts are brought to support each of the claims made by the *mishnah*. In one such Scriptural passage, it would appear that the cities of refuge are

9. Numbers 35:15

10. Numbers 35:12

equally available to a Jew and a *ger* alike. In a second verse, the wording would imply that the *arei miklat* are intended only "for you," meaning the Israelites. Rav Kahana harmonizes these two stances by saying that in the first case, a *ger toshav* has killed another *ger toshav* and thus may access these cities, and in the latter, the *ger toshav* has killed an Israelite and is denied such refuge. The implication would be a different set of standards depending on whose blood is shed, with a stricter law for the slaying of a Jew. In colloquial terms, a Jew's blood is redder than a *ger toshav*'s.

A *baraita* is then introduced to challenge one aspect of these conclusions. In this *baraita*, a *ger* and an idol-worshipper seem to be equated in the penalty they ought to receive for committing an inadvertent homicide. The *Amoraim* who put forth this opinion are comfortable ignoring the fact that it is discussing a *ger*, not specifically a *ger toshav*. They seem to equate the two here. The assertion being made in this argument is that the *ger toshav* should not be exiled to a city of refuge, even for accidentally killing a fellow *ger toshav*, because he is equivalent in status to an idol worshipper who clearly has no access to the *arei miklat*.

Rav Chisda refutes this claim and tries to uphold the implied law of the *mishnah* by harmonizing its apparent contradiction with this *baraita*. He does so by reintroducing two different types of accidental killing, one with a downward motion (lowering something from above) versus one with an upward motion. Earlier in Tractate *Makkot* (7a-b), a *mishnah* teaches that someone is exiled for killing while making a downward motion, but is not exiled if he moved in an upward motion. The rationale is that if someone is lowering objects (e.g., throwing stones off a roof, or lowering a bucket of materials), then he should be able to foresee the possibility of injuring another. The

killing, in this case, would still be accidental, but because it might have been avoided more readily than other accidents, the person should be exiled for his inadvertent crime. By contrast, if someone is ascending a ladder or drawing a bucket upwards and the rope breaks, actions that consist of an upward motion, then he is not exiled. In the three categories of error and punishment discussed above, this would fall under the heading of "almost completely unforeseeable" and so he is not even punished with exile. If the *goel hadam* kills him, then the *goel hadam* is guilty of murder.

Rav Chisda's point of view is kinder to the *ger toshav* than the preceding *baraita*, but is still problematic for such a person. His opinion equates the *ger toshav* with a Jew in some cases. If exile is available to a Jew, then it is available to the *ger toshav* as well. If, however, exile is not a viable option, while the Jew is simply not exiled and is left to go about his business, the *ger toshav* is executed as there is no other way to punish him for his crime, however inadvertent.

This line of thinking makes little sense to Rava who comes with the final word on this question. He agrees with Rav Chisda's first point. If a Jew is exiled for killing with a downward motion than a *ger toshav* should also have access to the cities of refuge in such a case. But, *kal v'chomer*, when the crime is even more accidental in the case of an upward motion, should the *ger toshav* not receive a lighter punishment rather than execution, the harshest possible penalty? Rava seems to conclude, then, that the *ger toshav* is akin to a Jew in both regards. If exile applies to one, it applies to the other, and if exile does not apply then both should be set free. Both Rabbis agree that in the latter case of an upward motion, both the *ger toshav* and the Jew should not be exiled. The difference of opinion stems from Rav Chisda's assumption that for the *ger toshav* no

exile means execution while for the Jew it means no punishment at all. Rava, on the other hand, does not draw any such distinction between a *ger toshav* and a Jew here. He favors no punishment for both the *ger toshav* and the Israelite.

This, then, is a prime example of Rabbinic ambivalence towards the *ger toshav*. At the beginning of the *gemara*, the text states clearly in response to the *mishnah* that, "...the *ger toshav* is an idolater." By the end of this passage, however, the *ger toshav* is on an equal footing with any Jew vis-à-vis punishments for accidental killings and access to the *arei miklat*. Though there is disagreement and ambiguity about the status of the *ger toshav* throughout these texts, it is, perhaps not surprising that the ultimate conclusion equated the *ger toshav* with an Israelite. These laws are, after all, eminently *bein adam l'chaveiro*. Their placement in Rambam's legal code is telling in this respect. He locates these *mitzvot* under the heading, *Hilchot Rotze'ach U'shmirat Nefesh* (the laws of killing and maintaining life). This is a subsection of *Sefer Nezikim*, which is one of the handful of sections which he expressly labeled as containing *mitzvot bein adam l'chaveiro* in his Guide for the Perplexed (III:35).

RULES SURROUNDING THE WINE OF A GER TOSHAV:

In its attempt to avoid an association with idol worship, the Rabbinic tradition crafted a series of *halachot* which dictated the ways in which Jews could and could not be associated with the wine of Gentiles. The Rabbis were aware that, like in Jewish ritual, idolaters often used wine as libations to the foreign gods they worshipped. Wine which idolaters had specifically consecrated for such a purpose was known as *יין נסך*, or libation wine. The *Shulchan Aruch* makes clear the Jewish prohibitions concerning

yayin nesech:

לא יהא ישראל משמש ומוזג לעובד כוכבים בין נסך. וכן אסור להיות תורגמן
לעובד כוכבים למכור יין נסך. וכן אסור ליתן יין בכלי ביד עובד כוכבים המכריו
להטעימו, שכיון שנגע בו העובד כוכבים נעשה יין נסך...

A Jew should not come into contact with or mix *yayin nesech* for an idolater. And thus it is forbidden to be a translator (or broker) for an idolater in his selling of *yayin nesech*. And thus, it is forbidden to give wine in a vessel to an idolatrous seller to taste it. It is because an idolater touches it that it becomes *yayin nesech*...

Related to the above prohibitions, Jews are also forbidden from having any contact with, or benefit from, wine which is bottled by non-Jews even for non-sacramental purposes, or **סתם יינם**. This is a Rabbinic extension of the law in order to provide a fence around the Torah, so to speak, ensuring that Jews will in no way be contaminated by the idolatrous nature of Gentile wine. In addition to concern for *marit ayin*, that it might appear as though a Jew were drinking wine consecrated to other gods, the Rabbis also worried that drinking the wine of non-Jews could lead to sexual relations and intermarriage with the idolaters. A *mishnah* in *Avodah Zarah* 35b lists a number of items which, when they belong to a non-Jew, are forbidden for use by Jews in some, but not all, situations. The *gemara's* commentary questions, particularly, the rationale for forbidding contact with a Gentile's oil, wine, and bread. It would seem that there is a close association between sharing these primary food items with Gentiles and feeling close enough with such people that it would seem appropriate to marry their daughters:

בבלי עבודה זרה ל"ב

גופא, אמר באלי אמר אבימי נותאה משמיה דרב: פיתן ושמנן, יינן ובנותיהן, כולן משמונה עשר דבר הן. בנותיהן מאי היא? אמר רב נחמן בר יצחק: גזרו על בנותיהן נידות מעריסות... בנותיהן - דאורייתא היא, דכתיב: (דברים ז) לא תתחתן בם

Bavli Avodah Zarah 36b

The above text stated - Bali said that Avimi the Nabatean said in Rav's name: the bread, the oil, and the wine [of Gentiles] and their daughters are all part of these eighteen items. What does he mean by "their daughters?" Rabbi Nachman bar Yitzchak said: The decree concerning the daughters is that they are *niddot* (in a state of ritual impurity and thus unavailable for sexual intercourse) from their cradles...[The fact that] their daughters [are forbidden] is from the Torah, as it is written: Do not marry them.¹¹

This serves as the backdrop for the Rabbinic discussion concerning the place of a *ger toshav* in this system. It is clear that once wine is handled by an idolater, or Gentile, then it is no longer fit for Jewish use. Of interest, here, is whether or not the *ger toshav* is permitted access to Jewish wine and vice versa. This topic is addressed in tractate *Avodah Zarah* immediately following the three definitions of a *ger toshav* discussed in Chapter One. A *baraita* is introduced which provides further laws concerning a *ger toshav*, amongst them, his handling of wine:

בבלי עבודה זרה ס"ד:ב

מייחדין אצלו יין, ואין מפקדין אצלו יין ואפ"י בעיר שרובה ישראל, אבל מייחדין אצלו יין ואפ"י בעיר שרובה עובדי כוכבים, שמנו כיינו. שמנו כיינו ס"ד? שמן מי קא הוי יין נסך? אלא יינו כשמנו...רבן שמעון אומר: יינו יין נסך, ואמרי לה: מותר בשתייה;

Bavli Avodah Zarah 64b

BARAITA: We can leave [the *ger toshav*] alone with [our] wine. Though, we cannot entrust wine with him, even in a city whose majority is Jewish. But we can leave him alone with wine, and even in a city with a majority of non-Jews.

His oil is like his wine.

GEMARA: Can this really enter your mind that his oil is like his wine?!? Is oil used like libation wine? Rather, his wine is like his oil...

BARAITA: ...Raban Shimon says: His wine is *yayin nesech*. And others say [that Raban Shimon said]: It is permitted for drinking.

11. Deuteronomy 7:7

It appears that there are occasions on which Jews can leave their wine with a *ger toshav* and other times when they may not. Jews are permitted to *מייחדין*, to leave the *ger toshav* alone with wine, but not to *מפקידין*, to entrust the wine to him. Rashi is helpful in differentiating between these two terms and in setting the scene for what is being discussed here. The example he brings is that of a Jewish shopkeeper who needs to leave the store for a short while. He could not leave an idolater alone with open wine as that person could handle the wine, making it *nesech*. A *ger toshav*, on the other hand, who does not worship idols by definition, would not be handling the wine for such purposes and could thus, not make it unfit for Jewish use. The short time away is important to note here. If the Jew were gone for a longer period of time, the *ger toshav* could, conceivably, switch the barrel of Jewish wine with a barrel of his own, which is unfit for Jewish consumption.

Before analyzing the rest of the *gemara* passage, it is important to note that two matters are at stake concerning wine that has been made or handled by a *ger toshav*. First, can a Jew derive benefit, or profit, from trading in that wine? Second, can a Jew actually consume the non-Jew's wine himself? The *halachic* tradition set up far more stringencies around the latter question. Different issues are tied up in each prohibition. When Jews are forbidden to benefit from the sale of non-Jews' wine, it is because that substance might have been used as a libation for a foreign god, and Jews should not be supporting idol worship financially. By contrast, when Jews are prohibited from consuming foreign goods, it is often because, as noted above, doing so could lead to excessive fraternization with the "other," including even sexual relations and marriage.

The *gemara* goes on to question the *baraita*'s statement that a *ger toshav*'s oil is like his wine. Oil is not used in libations to other gods. Therefore, it is permitted for a Jew to benefit from a non-Jew's oil, but not to consume it. This makes little sense to the *Tanna* crafting this passage. It is assumed, until this point, that a *ger toshav*'s wine is forbidden for both Jewish benefit and consumption. However, this could not be the case. Rather than making the rules for his oil more strict to match those of his wine, it makes more sense to loosen the stringencies placed on the *ger toshav*'s wine to match those of his oil. Because, by definition, the *ger toshav* does not worship idols, it is impossible that he has used his wine as libations to a foreign god. Therefore, both his wine and oil should be permitted for Jewish benefit, but not for consumption.

The *gemara* concludes with two opposing viewpoints, both attributed to Raban Shimon. In the first, Shimon is thought to have ruled that all wine touched by a *ger toshav* is *nesech*, or wholly impure for Jews to touch, benefit from, or consume. Rashi speculates that this version of Raban Shimon's opinion is driven by the fact that a *ger toshav*, not bound by all 613 *mitzvot*, is not likely to be sufficiently careful to ensure that his wine is not touched by idol worshippers. On the other hand, Raban Shimon's second possible opinion is at the opposite extreme. This time he is thought to have said that a Jew can not only benefit from the wine of a *ger toshav*, but he can consume it as well!

This second opinion is echoed in the *Shulchan Aruch*, Joseph Caro's comprehensive *halachic* code, which still holds sway in many Jewish communities to this day. There it is written:

שולחן ערוך יורה דעה סימן קכח סעיף א

עובד כוכבים שנתייחד עם היין, אפילו ברשותינו, אפילו שעה מועטת, אסור בהנאה. אבל מי שנודע לנו שאינו עובד עבודת כוכבים, מותר ליחד יין אצלו, ברשותינו, לזמן מועט, כגון כדי שילך כדי מיל או יותר, אפילו בעיר שכולה עובדי כוכבים, ואפילו הודיעו שהוא מפליג. אבל אין מפקידין אצלו יין בביתו, ואפילו בביתנו אסור, אם הוא לזמן מרובה. ואם עבר והפקיד, אסור בשתייה.

Shulchan Aruch, Yorei De'ah, 128:1

An idolater that is left alone with wine, even in our domain, even for a short time, it is forbidden for benefit. But one who is known to us to not worship idols, it is permitted to leave wine with him, in our domain, for a short time, as for instance in order to walk as much as a mile or more away. Even in a city where everyone worships idols, and even if he announces that he is departing. But we do not entrust wine to him in his house, and even in our own house it is forbidden if we are gone a long time. And if one breaches the law and entrusts wine to an idolater, it is forbidden to drink.

In his mid-17th Century gloss on the *Shulchan Aruch*, Rabbi Shabbetai Kohen (or “Schach”) added his own thoughts about non-idolaters. He wrote: “**One who does not worship idols** - For example, a *ger toshav* or Muslims according to the *Tur*, *Rashba*, and *Rambam*. And Section 5 is precise about this - that which is touched by the *ger toshav* is permitted for consumption.”

Given the evolution of *halachic* thinking on this matter, it is fascinating that in the midst of this *baraita*, in between the discussion of a *ger toshav*'s oil and Raban Shimon's rulings, the *Tanna Kamma* plainly states that, “Regarding all other matters [besides wine], the *ger toshav* is like an idol worshipper.” Rashi adds his commentary to these words, noting that “because the *ger toshav* is not circumcised, he is suspect in all Torah matters.” Yet, it is equally clear, if not so pointedly worded, that in many respects the *ger toshav* is treated precisely like an Israelite. The ambiguity is profound.

Within the original *baraita* itself, one can find a range of opinions from “the *ger toshav* is in almost all respects just like a Gentile,” to “his wine is fit for Jewish benefit

but not consumption,” to “his wine is permitted for both Jewish benefit and consumption.” The later commentators and *halachic* authorities split similarly on the matter of a *ger toshav* and an Israelite sharing wine. For example, *Rashba* believes a Jew’s wine which has been touched directly by a *ger toshav* is unfit for Jewish consumption, while the *Tosafot* and the *Rosh* consider this wine perfectly fit for a Jew to drink.

The extreme ambivalence amongst authorities in this case could, of course, be due to different attitudes towards Gentiles that varied with history, geography, and an author’s own personal narrative. It could be argued, however, that uncertainty on this matter was exacerbated by the fact that the *halachot* being discussed are both *bein adam l’chaveiro* and *bein adam l’makom*. The ability to benefit from non-Jewish wine is entirely based on a strict refusal to support the worship of foreign gods in any way. In so doing, Jews honor their special relationship with the one God. Rambam emphasizes this aspect of these laws by writing about them in *Sefer Kedushah*, his book of laws related to holiness. On the other hand, these *halachot* are largely about human business interactions. Furthermore, the prohibition against consuming foreign wine has everything to do with how integrated or isolated the Jewish population is in relation to their Gentile neighbors.

Of special interest in this case is that fact that there is debate both about those laws that mediate the relationship *bein adam l’chaveiro* and people’s connection *bein adam l’makom*. Both in regard to consuming the *ger toshav*’s wine and benefiting from that wine, there are arguments on both sides of the spectrum. Of greatest import in this case, however, is the fact that over time, it seems that the *halachic* trend was towards

leniency in this matter. As was seen, in the 17th Century, the lines between *ger toshav* and Jew were quite blurred, but the distinctions between *ger toshav* and idolater were crystal clear. Jews were still, at that point, forbidden to have anything to do with the wine of idolaters, but the wine of a *ger toshav* was potentially useable both for benefit and consumption. If one only read these texts on Jews, *geri toshav*, and wine, one might conclude that the *ger toshav* was much more akin to a Jew than to a Gentile, in spite of the debate that surrounds this issue.

THE GER TOSHAV AND SHABBAT OBSERVANCE:

Every Friday evening, Jews around the world welcome *Shabbat* with the words that constitute the holy day's etiology. "The heaven and the earth were finished, and all their array. On the seventh day God finished the work that He had been doing, and He ceased on the seventh day from all the work that He had done. And God blessed the seventh day and declared it holy, because on it God ceased from all the work of creation that He had done."¹² God later commands that the People Israel must remember and keep this day holy each week. They should do this by emulating God's rest on the seventh day, abstaining from prescribed forms of labor. In the Rabbinic era, in particular, *Shabbat* became one of the central tenets of Jewish faith and ritual practice, existing as an affirmation that God created this world. Jews showed their abiding and unique connection to God by patterning their behavior on the seventh day after God's own.

Given the central and prominent place of *Shabbat* in the life of Jews, it is sensible that myriad laws and regulations were adopted to ensure its proper observance. An entire

12. Genesis 2:1-3, JPS translation

tractate of the *Mishnah* is dedicated to this subject, and the weight which the Rabbis placed on *Shabbat* is evident in their writings. For example:

שמות רבה (וילנא) פרשה כה

א"ר לוי אם משמרים ישראל את השבת כראוי אפילו יום אחד בן דוד בא, למה
שהיא שקולה כנגד כל המצות

Shemot Rabbah, 25:12

Rabbi Levi said, "If Israel kept *Shabbat* properly for even one day, the Messiah would come. Why? Because the importance of *Shabbat* equals that of all the other *mitzvot* combined.

מכילתא דרבי ישמעאל כי תשא - מס' דשבתא פרשה א

מגיד שהשבת מוספת קדושה לישראל, מה לפלוני חנותו נעולה, שהוא משמר את
השבת, מה לפלוני בטל ממלאכתו, שהוא משמר את השבת, [ולא עוד אלא כל מי
שמשמר את השבת], מעיד למי שאמר והיה העולם, שברא את עולמו בששה ימים
ונח ביום השביעי

Mechilta d'Rabbi Yishma'el - Ki Tissa, Parashah 1

It is said that *Shabbat* increases Israel's holiness. Why does *Ploni* lock up his store? He is keeping the Sabbath. Why does *Ploni* refrain from labor? He is keeping the Sabbath. [And only one who keeps the Sabbath is increased in holiness.] He testifies to the existence of the One who spoke the world into being, that created His world in six days and rested on the seventh.

These are just two Rabbinic thoughts of many on this topic, but they convey a sense of the pivotal role *Shabbat* plays in Jewish life. Its proper adherence is the path to Messianic redemption, and its regulations are highly particularistic. Its rules consist of *mitzvot shemiot* which, like the laws of *kashrut*, for example, serve to distinguish the people Israel from their non-Jewish neighbors. The laws of *Shabbat* are for Jews. By refraining from work and sanctifying the seventh day as holy, Jews elevate the ordinary to the realm of the Divine and pay homage to the God with whom they are covenanted for eternity. This is why it is surprising that many of the *mitzvot Shabbat* are extended to, or at least account for, the *ger toshav*. The ways in which the Rabbinic tradition dealt with the *ger toshav* in relation to *Shabbat* will be addressed in four subsections below.

Is the *Ger Toshav* Entitled to Rest on *Shabbat*?

The response to this first question is straightforward and is based upon two

Biblical texts:

שמות כג:יב

שֵׁשֶׁת יָמִים תַּעֲשֶׂה מַעֲשֶׂיךָ וּבַיּוֹם הַשְּׁבִיעִי תִשְׁבֹּת לַמַּעַן יָנוּחַ שׁוֹרְךָ וַחֲמֹרְךָ וְיִנְכָּשׁ
בֶּן-אִמְתֶּךָ וְהַגֵּר:

Exodus 23:12

For six days you will work and on the seventh day you shall cease your labors so that your ox and your ass may rest, and the child of your maidservant and the *ger* will be refreshed.

דברים ה:יד

וּבַיּוֹם הַשְּׁבִיעִי שָׁבֹת לַיהוָה אֱלֹהֶיךָ לֹא-תַעֲשֶׂה כָל-מְלָאכָה אַתָּה | וּבִנְךָ-וּבִתֶּךָ
וְעַבְדְּךָ-וַאֲמִתֶּךָ וְשׁוֹרְךָ וַחֲמֹרְךָ וְכָל-בְּהֶמְתֶּךָ וְגֵרְךָ אֲשֶׁר בְּשַׁעְרֶיךָ לַמַּעַן יָנוּחַ עַבְדְּךָ
וַאֲמִתֶּךָ כָּמוֹךָ:

Deuteronomy 5:14

The seventh day is a Sabbath to Adonai, your God. Do not do any work...you and your son and daughter, and your male and female servants, and your ox and your ass, and all of your cattle, and your *ger* who dwells within your gates, so that your male and female servant can rest as you do.

Following the pattern of many texts discussed previously, when the *ger* is included in such a litany, the Rabbis often want to clarify which type of *ger* is intended. At first glance, it would make little sense to interpret the *ger* in the Exodus text to mean a *ger tzedek*. Such a person would have become fully naturalized into the Jewish people and would, of course, be required to rest on that day. The intended meaning of *ger* is clarified further by the parallel text in Deuteronomy which specifically describes this *ger* as the one which resides “within your gates.” This is often interpreted to refer to the *ger toshav*. With this in mind, the *baraita* which is brought in the *Bavli* to rule on this matter is unusual:

תלמוד בבלי מסכת יבמות דף מח עמוד ב

והגר - זה גר תושב, אתה אומר: זה גר תושב, או אינו אלא גר צדק? כשהוא אומר:
וגרך אשר בשעריך - הרי גר צדק אמור, הא מה אני מקיים והגר? זה גר תושב.

Babylonian Talmud, Tractate Yevamot 48:b

"...and the *ger*..."¹³ - This is the *ger toshav*. You say that this is the *ger toshav* or is it only a *ger tzedek*? When it says, "and your *ger* who dwells within your gates,"¹⁴ this is the *ger tzedek*. What, then, is the subject of "and the *ger*"? This is the *ger toshav*.

Contrary to what might be logically deduced, the *Tanna* associates the *ger tzedek* with the phrase "who dwells within your gates" and assigns *ger toshav* status to the parallel verse which simply refers to the *ger*. Regardless, the ruling put forth by this *baraita* is that the *ger toshav* is entitled to rest on *Shabbat* just as the Jew and his family are.

This ruling does not, however, make it clear whether the *ger toshav* is simply permitted to rest if he so desires or if he is equally obligated to abstain from *melachot* like a Jew is. This question receives a broad range of responses and will be the topic of the next subsection.

Can a Ger Toshav Perform Melachot on Shabbat if He so Desires?

Rashi must have noted the ambiguity in the former *baraita* regarding this question, as his commentary provides his opinion on the matter.

רש"י מסכת יבמות דף מח עמוד ב

גר תושב - שקבל עליו שלא לעבוד עבודת כוכבים ואוכל נבלות והזהירו הכתוב על השבת דמחלל את השבת כעובד עבודת כוכבים.

Rashi on Babylonian Talmud, Tractate Yevamot 48:b

Ger Toshav - This is one who receives upon himself the obligation to refrain from idolatry, and he eats *neveilot*. And the text warns him regarding *Shabbat* that one who violates *Shabbat* is like an idol worshipper.

13. Exodus 23:12

14. Deuteronomy 5:14

As was noted in Chapter One, the broadest definition of a *ger toshav* is simply “one who refrains from idolatry.” The other two definitions include that minimum requirement within them. The one character trait of a *ger toshav* which holds true across the board, then, is the fact that such a person actively avoids idol worship. Rashi’s logic takes this into account. In his opinion, violating *Shabbat* by performing *melachot* is akin to idol worship. This is reasonable given the fact that *Shabbat* is an ongoing temporal sign of God’s divine act of creating the world. To transgress the laws of *Shabbat* would indicate a disregard for the obligation to recognize God as the One Creator. Doing so is akin to idolatry, and the *ger toshav* has sworn to refrain from idolatry. Therefore, Rashi believes that the law is directed at the *ger toshav* and obligates him to refrain from all of the same *melachot* as any Israelite must on the Sabbath.

Rashi represents one end of a spectrum in this discussion. The center of this continuum is represented by a tripartite *baraita* from Tractate *Kereitot*. In the three teachings presented here, the *ger toshav* has greater license to do as he pleases on the Sabbath just so long as he does not impact on a Jew’s observance of the *mitzvot Shabbat*.

תלמוד בבלי מסכת כריתות דף ט עמוד א

דת"ר: גר תושב מותר לעשות מלאכה בשבת לעצמו כישראל בחולו של מועד; ר"ע אומר: כישראל בי"ט; ר' יוסי אומר: גר תושב עושה בשבת לעצמו כישראל בחול

Babylonian Talmud, Tractate Kereitot 9:a

The Rabbis taught in a *baraita*: A *ger toshav* is permitted to perform *melachah* on *Shabbat* for himself, like a Jew can during *chol ha-mo'ed*. Rabbi Akiva said: like a Jew on *yom tov*. Rabbi Yose said: a *ger toshav* can do for himself on *Shabbat* just like a Jew during any regular day.

The overarching theme of all three statements presented in this text is that the *ger toshav* may perform *melachot* on *Shabbat* so long as they are solely for himself and a Jew does not benefit from, or participate in, his work in any way. To capture the subtleties of

what is implied by the three different statements, one must know the laws of labor on *chol ha-mo'ed* (the intermediate days of a festival) and on a *yom tov*. On the former, a Jew can only perform work if by doing so he will avoid experiencing a loss in his business.¹⁵ On a *yom tov*, a Jew may only prepare food to sustain himself throughout the day.¹⁶ An anonymous *Tanna* and Rabbi Akiva thought, respectively, that these were the guidelines which applied to a *ger toshav* on *Shabbat*. These two viewpoints are more restrictive of the *ger toshav*'s Sabbath behavior, and thus, they create greater isonomy between *gerei toshav* and Jews. The final opinion, that of Rabbi Yose, is the most permissive, allowing the *ger toshav* to violate whatever *Shabbat* prohibition he pleases just so long as doing so will not impact the observance of a Jew. This final statement draws a much clearer dividing line between Jew and *ger toshav*. While no definitive conclusion is conveyed in the *Bavli* about which of these opinions should be held as law, it is worth noting that a parallel, though not identical, passage appears in the *Yerushalmi*. That version states clearly that the law is according to the third sentiment that a *ger toshav* may behave on *Shabbat* like a Jew does on any regular day of the year.¹⁷

It is interesting that in the above spectrum of opinion concerning a *ger toshav*'s *Shabbat* observance, one potential extreme position is not represented. Rashi's stance, that a *ger toshav* is obligated to abide by all of *Shabbat*'s *melachah* prohibitions, stands at one pole on this range of thinking. It is conceivable, given the very particularistic nature of *Shabbat* and its laws, that the other extreme might have been, "The *ger toshav* is just like a Gentile or idol worshipper on *Shabbat*. *Shabbat* has nothing to do with

15. *Bavli*, *Moed Katan* 10b

16. *Bavli*, *Beitzah* 28a

17. *Yerushalmi*, *Yevamot* 8:1

him.” That stance, however, is missing from this spectrum. Continuing to blur the line between Jew and non-Jew, the most radical opinion presented, and the one which evidently becomes law, is that on *Shabbat*, the *ger toshav* may behave like a Jew does on every other day of the year. Even in excluding *gerei toshav* from the *halachot* of *Shabbat*, Rabbi Yose defines their behavior in terms that relate them to Jews rather than Gentiles.

Can a Ger Toshav Contribute to an Eruv?

Unlike in the previous case, one finds an extreme dissociative stance towards the *ger toshav* when it comes to his ability to participate in creating an *eruv*. The laws surrounding an *eruv* are complex, but a summary is necessary to understand this Rabbinic discussion. *Halachah* prohibits carrying objects from a private to a public domain on *Shabbat*. When multiple homes open up onto a shared courtyard, the courtyard is considered private property. Yet, in an attempt to build a fence around the law, the Rabbis forbade carrying between the homes via the courtyard on *Shabbat* for fear that it would lead to carrying in the public domain.

For the sake of easing the burden that might be caused by these regulations, two legal fictions were created. First, it was possible for all the households sharing the courtyard to create an *eruv* by collecting a portion of bread from each household and storing the collected food at one of the homes. In so doing, all of the homes, and the courtyard which connected them, became like a single domain, thus allowing people to carry between one house and another during *Shabbat*. This transaction needed to be completed before the onset of the Sabbath.

If the *eruv* was not created by sunset on Friday afternoon, it was too late. It was not possible to collect the bread during *Shabbat*. This situation would, in effect, render the courtyard unusable for carrying, even by those who had contributed to the *eruv* because the courtyard would have at least two owners -- those who contributed to the *eruv* and those who did not. In order to remedy this potentially difficult situation, the Jewish homeowners who did not contribute to the *eruv* before *Shabbat* could, even during the Sabbath, officially relinquish their rights to the courtyard for the remainder of the day. In so doing, they do not join in the common property of the *eruv*, but neither do they prevent the others from carrying in the courtyard which is now part of their larger collective domain.

It was mentioned above, that in the midst of a *baraita's* discussion of a *ger toshav's* wine, the *Tanna* states that, "Regarding all other matters [besides wine], the *ger toshav* is like an idol worshipper."¹⁸ It is not clear what is meant here by "all other matters." An anonymous voice from the *gemara* suggests that this statement indicates that a *ger toshav* can nullify an idol, just like idol worshippers can. A second opinion is proposed by Rav Nachman bar Yitzchak who says, "No -- to cede rights and relinquish rights." It is impossible for a non-Jew to participate in forming an *eruv*, either by contributing to it before *Shabbat* or by "relinquishing" his claim to the courtyard during *Shabbat*.¹⁹ Rashi indicates one potential loophole in the rules:

רש"י מסכת עבודה זרה דף סד עמוד ב
 ליתן רשות - שאינו יכול ליתן רשותו לישראל אלא כ שכר ממנו מערב שבת.
Rashi on Babylonian Talmud, Tractate Avodah Zarah 64:b
 [The *ger toshav*] cannot cede his rights to a Jew, unless the Jew rents it from him before *Shabbat*.

18. *Bavli, Avodah Zarah* 64b

19. *Bavli, Eruvin* 62a

In this scenario, the *ger toshav* is clearly more comparable to an idol worshipper than to a Jew. He is not able to participate in creating an *eruv*, Jewish communal space for *Shabbat*. At best he can rent his portion of the courtyard to the others, symbolically losing his stake in their *Shabbat* activities. This clear divide between *ger toshav* and Jew might have been instituted for the sake of maintaining *Shabbat*'s particularistic quality. Though, as was seen above, there exist several instances in which the Rabbis felt comfortable including the *ger toshav* in their *Shabbat* framework.

In all likelihood, then, this law was instituted in order to deter Jews from living in such close proximity to non-Jews, *gerei toshav* included. Rashi's assertion that the *ger toshav* is always suspect because he is not circumcised may reflect the mindset that led to this *halachic* decree. Some authorities, it would seem, were comfortable with the *gerei toshav* living amongst the Jewish community out of necessity but were wary of the Jews becoming too close to them. In his compilation of *Hilchot Eruvin*, Rambam goes so far as to say that sharing a courtyard with non-Jews is like sharing it with cattle!²⁰ Perhaps, knowing that the *ger toshav* was free to transgress any of the *melachot* during *Shabbat*, the Sages subtly discouraged their followers from living in such close proximity for fear that Jews would be tempted to follow suit and violate the Sabbath. At the very least, they would be more enticed to transgress if they were regularly watching their neighbors do so. This logic would parallel that which required the *ger toshav* to eat his *neveilot* carcasses outside of the Jewish domain so as not to unnecessarily incite Jews to do the same.

20. *Hilchot Eruvin* 2:9

May a Jew Violate *Shabbat* for the Sake of a *Ger Toshav*?

It was already noted in Chapter Three that, according to Ramban's commentary on *Sefer HaMitzvot*, for the sake of saving a *ger toshav*'s life, a Jew is obligated to violate the rules of *Shabbat*. Ordinarily, canceling the laws of *Shabbat* for the sake of *pikuach nefesh* is only applicable if one is attempting to save the life of a fellow Jew. As was also discussed in Chapter Three, this particular ruling by Ramban is, perhaps, the most generous towards the *ger toshav* in all of the related literature. If the ruling that *pikuach nefesh* for a *ger toshav* cancels the laws of *Shabbat* appeared only in that context, one might attribute it to Ramban's apparently positive predisposition towards this group of people. However, a similar, though not identical, sentiment appears in Ramban's writing as well. This is noteworthy since he was not nearly as generous with the status of *ger toshav* as Ramban seems to have been.

רמב"ם הלכות שבת פרק ב הלכה יב

אין מילדין את הגויה בשבת ואפ' בשכר ואין חוששין לאיבה ואע"פ שאין שם חילול, אבל מילדין את בת גר תושב מפני שאנו מצווין להחיותו ואין מחללין עליה את השבת.

Mishneh Torah, Hilchot Shabbat 2:12

We do not deliver a Gentile woman's baby on *Shabbat*, even if she pays. We are not concerned that this might cause animosity. [This rule applies] even when it does not involve desecrating *Shabbat*. But we do deliver the baby of a *ger toshav* because we are commanded to "cause [the *ger toshav*] to live." But we should not violate *Shabbat* for the sake of this act.

While Maimonides is not willing to go as far as Ramban on this matter, he does draw a distinct line between a *ger toshav* and an ordinary Gentile. Though, in his thinking, Jews are not allowed to violate *Shabbat* to help deliver the baby of a *ger toshav*, we should aide in the delivery on the Sabbath so long as we can do so without violating the prescribed *melachot*. While not a full-fledged Jew, the *ger toshav* does receive

favorable treatment in this scenario.

Halachic attitudes towards the *ger toshav's* relationship with *Shabbat* in their totality form an excellent example of the middle-ground position the *ger toshav* holds between the typical polar categories of "Jew" and "non-Jew." Like a Jew, the *ger toshav* is entitled to rest on the seventh day, and according to Rashi, he is required to abstain from performing *melachot*, just like a Jew. Raban Shimon's opinion, which becomes law, holds that the *ger toshav* may behave on *Shabbat* like a Jew would on any day of *chol*. When it comes to taking part in creating Jewish communal space for the Sabbath, however, the *ger toshav's* involvement is strictly prohibited. Ramban holds that a Jew is exempt from the laws of *Shabbat* if a *ger toshav's* life is at stake. On a related matter, delivering a *ger toshav's* child on *Shabbat*, Rambam rules that the laws of *Shabbat* may not be breached. However, unlike the Gentile woman whose request for assistance should be ignored entirely, a Jew should lend a hand in the delivery of a *ger toshav's* child. Like a microcosm of Chapters Two, Three, and Four, the *ger toshav* is experienced as akin to a Jew, akin to an idolater, and as one who straddles the two categories, all in an effort to explain the rules that govern his behavior, and that of Jews around him, on the Sabbath.

CONCLUSION

Taken as a whole, one could look at all of the textual examples in Chapters Two, Three, and Four and surmise that there has simply been great ambivalence in the Jewish legal tradition concerning the status of the *ger toshav*. That conclusion would be accurate but would not tell the whole story. More striking, and with more profound

implications for renewing thought on this unique status today, is the possibility that the *ger toshav* has existed as a middle ground between Jew and non-Jew. Perhaps the metaphor of a two-sided coin, that a person is either Jew or Gentile with no in between, is not the most appropriate way to envision the question of status. By contrast, one could imagine the people of the world not as falling into one of two clearly distinct camps but rather as having different degrees of association and integration with *Am Yisrael*.

Deriving his unique standing from the *halachic* tradition itself, the *ger toshav* might hold a middle ground position between the two classic categories of "Jew" and "Gentile." He is neither fully naturalized into the Jewish people like the *ger tzedek*, nor is he completely removed from Israelite law and practice, as is the Gentile. To the contrary, the *ger toshav* is potentially enmeshed in numerous facets of Jewish life. In exchange for his taking on the seven Noahide laws, most notably abstinence from idolatry, the *ger toshav* receives many benefits in the public sphere that are typically afforded only to Jews. In particular, he is most likely to be treated as a Jew when the *mitzvot* involved are *bein adam l'chaveiro*, dictating appropriate behavior between individuals. The *ger toshav* is, on the other hand, often kept at arm's length from Jewish ritual and practice when its intent is to foster the covenantal relationship *bein b'nei Yisrael l'makom*, between the Children of Israel and God. Understanding this *halachic* background, one can begin to conceive of ways in which the status of *ger toshav* might be revived and implemented in present day Jewish life.

CHAPTER FIVE

Obstacles to Modern Usage of the *Ger Toshav* Status

OVERVIEW:

Before investigating the ways in which the unique *ger toshav* status might be implemented in present-day North American synagogues, it is necessary to address two potential *halachic* obstacles to doing so. First, many sources¹ which refer to the *ger toshav* make note that such a status was only in effect when the jubilee year (*yovel*) was being observed in the Jewish calendrical cycle. The *yovel* has not been practiced since at least 586 BCE when the First Temple was destroyed.² Therefore, the reinstitution of the *ger toshav* status would be a profound and radical shift in Jewish practice, essentially reviving a dead institution. Of course, such a drastic reversal to ancient law would not be unheard of in our era when the Sabbatical observance has returned to practice in the newly reconstituted land of Israel, and ancient adherence to patrilineal descent has been restored in the Reform and Reconstructionist Movements.

Furthermore, the primary impetus for bringing the *ger toshav* back to the fore in modern times is as a means to address the role of non-Jewish members of liberal synagogues. This will be discussed at length in Chapter Six. However, the vast majority of those non-Jewish congregants were raised in, or currently continue to practice, some variation of the Christian faith. From the time of the *Tannaim* until today, a debate has taken place in the Jewish world concerning whether or not Christianity is a form of idolatry, as it seemed to have divided the single God into three parts, one of them being

1. *Bavli Arachin* 29a, *Mishneh Torah Isurei Biah* 14:8, *Mishneh Torah Shemittah v'Yovel* 10:9

2. *Mishneh Torah Shemittah v'Yovel* 10:5

human. If Christianity's triune deity is considered polytheistic, and thus idolatrous, then such a believing Christian could not count as a *ger toshav*, whose most basic characteristic is abstinence from idol worship. Both of these issues need to be considered before proceeding to examine the efficacy of potential modern conceptions of a *ger toshav*. One who wanted to controvert modern application of the term *ger toshav* could certainly make valid *halachic* arguments grounded in the Jubilee and idolatry matters mentioned above. However, despite the formidable obstacles, the *ger toshav* status merits serious consideration if only because it may offer an authentic Jewish response to a modern problem.

THE YOVEL:

In Chapter 25 of Leviticus, God instructs Moses and the people that special rules will govern their use of the Promised Land once they arrive there and conquer its current inhabitants. It is clear that a special relationship is to be fostered between the Israelites and the land of Israel, one which will be lived out through ritualized practices that convey the people's profound respect and love for *Ha'aretz*. Specifically, God instructs that the people are to observe a *shemittah* year. For six years they will farm the land and in the seventh, they will allow it to lie fallow. When seven of these sabbatical cycles are complete, a special celebration is to be held:

ויקרא כה-ח-יב

ח וספרת לך שבע שבתות שנים שבע שנים שבע פעמים וחזו לך זמל שבע שבתות השנים תשע וארבעים שנה: ט והעברת שופר תרועה בחדש השבעי בעשור לחדש ביום הכפרים תעבירו שופר בכל-ארצכם: י וקדשתם את שנת החמשים שנה וקראתם דרור בארץ לכל-ישביה יובל הוא תהיה לכם ושבתם איש אל-אחוזו ואיש אל-משפחתו תשבו: יא יובל הוא שנת החמשים שנה תהיה לכם לא תזרעו ולא תקצרו את-ספיחיה ולא תבצרו את-זרניה: יב כי יובל הוא קדש תהיה לכם מן-השדה תאכלו את-תבואתה:

Leviticus 25:8-12

⁸You shall count off seven weeks of years—seven times seven years—so that the period of seven weeks of years gives you a total of forty-nine years. ⁹Then you shall sound the horn loud; in the seventh month, on the tenth day of the month—the Day of Atonement—you shall have the horn sounded throughout your land ¹⁰and you shall hallow the fiftieth year. You shall proclaim release throughout the land for all its inhabitants. It shall be a jubilee for you: each of you shall return to his holding and each of you shall return to his family. ¹¹That fiftieth year shall be a jubilee for you: you shall not sow, neither shall you reap the aftergrowth or harvest the untrimmed vines, ¹²for it is a jubilee. It shall be holy to you: you may only eat the growth direct from the field.³

There are several possible ways to account for this mandate. There already existed a psycho-spiritual link between the people Israel and the number seven. On the seventh day *Shabbat* was observed each week as a remembrance of God's world-creation process. It would be sensible to pay extra homage to God by structuring the annual cycle in a way that reflected the themes of rest and God-praise that are inherent in this weekly observance. In so doing, not just one day, but an entire year is dedicated to the service of God.

Modern agriculturists note that this system constitutes sound farming technique as well. Just as humans and animals need to rest on the Sabbath, so too does the land need time off from cultivation in order to maintain the qualities which make it fertile. Without such a respite, the land would soon cease to give forth crops. The motivation for these decrees, then, may have been pragmatic in nature.

A third possibility stems from the Leviticus verses immediately following those above. There God makes clear that when the *yovel* arrives, all land should revert to its original owners. All possessions must be returned and all slaves must be freed. God's purpose in undoing these human business transactions and claims to property ownership

3. JPS Translation

is stated overtly. "Do not sell the land in perpetuity for the land is mine and you are *gerim* and *toshavim* with me. And in all the land that you hold, you must redeem the land."⁴ The intended message is apparent. The people Israel ought not think that they came to possess this land on their own, nor should they believe that they are, ultimately, in control of it. The land belongs to God, who is allowing the Israelites to live there, as was promised to their forefather, Abraham. The system of release prescribed for the Jubilee year serves as a very real reminder of God's ongoing mastery over the world.

There is some debate as to whether or not the *shemitah* can be observed without the *yovel* and vice versa. Rashi acknowledges this ongoing debate in his commentary on Tractate *Gittin* 36a. In the modern era when the Jewish people has returned to its homeland for the first time in two millennia, some Jews have revived the observance of the seventh year as a sabbatical while others argue against this practice on *halachic* grounds. It is worth noting that, observing the *shemitah* has resumed while the intellectual debate around the practice rages on. It is possible that, similarly, some might choose to renew the *ger toshav* status as a contemporary manifestation of ancient tradition even while debate on the matter continues within the community. While the *shemitah* practice and debate continues, the Jubilee has not returned. The explanation for this can be found in the writings of Maimonides:

רמב"ם הלכות שמיטה ויובל פרק י הלכה ה
 אבל כל הגאונים אמרו שמסורת היא בידיהם איש מפי איש שלא מנו באותן
 השבעים שנה שבין חרבן בית ראשון ובנין בית שני אלא שמטות בלבד בלא יובל,
 וכן משחרב באחרונה לא מנו שנת החמשים אלא שבע שבע בלבד מתחלת שנת
 החרבן וכן עולה בגמרא ע"ז חשבון זה שהוא קבלה.

4. Leviticus 25:23-24

Mishneh Torah, Hilchot Shemitah v'Yovel 10:5

But all the *geonim* say that the tradition which came into their hands by word of mouth is that they only counted the seven years (*shemitah*) between the destruction of the First Temple and the building of the Second Temple...the *shemitah* alone, not the *yovel*. Therefore from the destruction of the latter, one does not count the fifty years, rather only the seven. Seven alone beginning with the year of the destruction. Therefore it is said in the *gemara*, *Avodah Zarah*, that this is the calculation he has inherited.

רמב"ם הלכות שמיטה ויובל פרק י הלכה ח

משגלה שבט ראובן ושבט גד וחצי שבט מנשה בטלו היובלות שנאמר וקראתם דרור בארץ לכל יושביה בזמן שכל יושביה עליה, והוא שלא יהיו מעורבין שבט בשבט אלא כולין /כולן/ יושבים כתקנן, בזמן שהיובל [נוהג בארץ] נוהג בחו"ל שנאמר יובל היא בכ"מ בין בפני הבית בין שלא בפני הבית.

Mishneh Torah, Hilchot Shemitah v'Yovel 10:8

From the time of the exile of the tribe of Reuven and the tribe of Gad and half the tribe of Menasseh, the *yovel* was abolished, as it is written, "You shall proclaim release throughout the land for all its inhabitants" in the time when all of its inhabitants are there. And those who were not intermingled in these tribes all lived normally. In the time that the *yovel* was practiced in the land, it was also practiced outside the land, as it is said, "It is a *yovel* in every place either in the presence of the Temple or not in the presence of the Temple." (variation on *Kiddushin* 38b)

Several characteristics of the *yovel* are revealed in these passages. It can be observed both inside and outside of the land. However, there are a number of limitations on the times at which one may count the fifty years. In *Halachah* 5 we learn that after the destruction of the First Temple in 586 BCE, the seven-year cycle continued to be counted, but the Jubilee counting ceased. It ceased again after the destruction of the Second Temple implying that, at least in some cursory manner, it was being observed in the period of the *Bayit Sheni*. All of this, however, is a moot point given the information in *Halachah* 8. Once the very first exile of northern tribes occurred, Tiglat Pilezer's (king of Assyria) expulsion of the tribes of Reuven, Gad, and half of Menasseh in approximately 735 BCE, the Jubilee was no longer counted. The logic for such a rule is sound. The Leviticus 25 passage which commands observance of the jubilee states that

the people should “proclaim release throughout the land for all its inhabitants” when the *yovel* occurs. However, if two and a half tribes worth of residents have been exiled, then one cannot make such a proclamation for all the inhabitants.

Therefore, the *yovel* has not been a regular part of the Jewish ritual cycle since at least 70 CE, if not 586 BCE, or perhaps even 735 BCE. All of this is relevant to the discussion of the *ger toshav* because many authorities claim that one can only officially hold that status during a time in which the *yovel* is being observed.

תלמוד בבלי מסכת ערכין דף כט עמוד א
ר"ש בן אלעזר אומר: אין גר תושב נוהג אלא בזמן שהיובל נוהג
Bavli, Aruchin 29:a
Rabbi Shimon ben Eleazar said: there is no convention of *ger toshav* except in the time that the *yovel* is practiced.

Given this Talmudic tradition, one could argue that it is impossible to conceive of someone as a *ger toshav* in the present day because the *yovel* is clearly not in effect. While this is certainly a valid point of view, several counter points are possible.

First, in his brief discussion of this passage from *Aruchin*, Harvard Professor of the History of Religion, George Moore, points out that it is possible that the above lines of *gemara* refer only to the specific situation being discussed there.⁵ If this is so, then they ought not be taken more broadly to prohibit the *ger toshav* from existing in any historical period that does not observe the *yovel*.

The Leviticus text itself provides another refutation of the stance conveyed in Tractate *Aruchin*. The following text was also presented in a different context in Chapter One, above. It too is found in Leviticus 25 and follows on the heels of the jubilee

5. Moore, p. 340

discussion introduced at the beginning of this section.

ויקרא כה:מו-נה

מו וְכִי תֵשִׁיג יָד גֵּר וְתוֹשֵׁב עִמָּךְ וּמִן אֶחָיֶךָ עָמּוֹ וְנִמְכָּר לְגֵר תוֹשֵׁב עִמָּךְ אוֹ לְעֶקֶר
מִשְׁפַּחַת גֵּר: מִן אֶחָדֵי נִמְכָּר גֵּאֻלָּה תְּהִיָּה לוֹ אֶחָד מֵאֶחָיו יִגְאֻלֵּנוּ: מִט אוֹ-דָדוֹ אוֹ
בֶן-דָּדוֹ יִגְאֻלֵּנוּ אוֹ-מִשְׁאֵר בָּשָׂרוֹ מִמִּשְׁפַּחְתּוֹ יִגְאֻלֵּנוּ אוֹ-הַשִּׁינָה יָדוֹ וְנִגְאֹל: וְחָשַׁב
עִם-קֹנָהוּ מִשְׁנֵת הַמִּנְכָּרוֹ לוֹ עַד שְׁנַת הַיָּבֵל וְהָיָה כְּסֹף מִמִּכְרוֹ בְּמִסְפַּר שָׁנִים כִּימֵי שְׁכִיר
יְהִיָּה עָמּוֹ: נֹא אִם-עוֹד רַבּוֹת בְּשָׁנִים לִפְיָהוּ יָשִׁיב גֵּאֻלָּתוֹ מִכְּסֹף מִקְנָתוֹ: נֹב וְאִם-מְעַט
נִשְׂאָר בְּשָׁנִים עַד-שְׁנַת הַיָּבֵל וְחָשַׁב לוֹ כְּפִי שָׁנָיו יָשִׁיב אֶת-גֵּאֻלָּתוֹ: נֹב כְּשֹׁכֵר שָׁנָה בְּשָׁנָה
יְהִיָּה עָמּוֹ לֹא-יִרְדְּנוּ בְּפָרֶךְ לַעֲיִינֶךָ: נֹב וְאִם-לֹא יִגְאֹל בְּאֵלָה וְיִצֵּא בְּשְׁנַת הַיָּבֵל הוּא וּבָנָיו
עָמּוֹ: [מִפְטִיר] נֹה כִּי-לִי בְנֵי-יִשְׂרָאֵל עֲבָדִים עָבְדִי הֵם אֲשֶׁר-הוֹצֵאתִי אוֹתָם מֵאֶרֶץ
מִצְרַיִם אֲנִי יְהוָה אֱלֹהֵיכֶם:

Leviticus 25:47-55

47If a resident alien among you has prospered, and your kinsman being in straits, comes under his authority and gives himself over to the resident alien among you, or to an offshoot of an alien's family, 48he shall have the right of redemption even after he has given himself over. One of his kinsmen shall redeem him, 49or his uncle or his uncle's son shall redeem him, or anyone of his family who is of his own flesh shall redeem him; or, if he prospers, he may redeem himself. 50He shall compute with his purchaser the total from the year he gave himself over to him until the jubilee year; the price of his sale shall be applied to the number of years, as though it were for a term as a hired laborer under the other's authority. 51If many years remain, he shall pay back for his redemption in proportion to his purchase price; 52and if few years remain until the jubilee year, he shall so compute: he shall make payment for his redemption according to the years involved. 53He shall be under his authority as a laborer hired by the year; he shall not rule ruthlessly over him in your sight. 54If he has not been redeemed in any of those ways, he and his children with him shall go free in the jubilee year. 55For it is to Me that the Israelites are servants: they are My servants, whom I freed from the land of Egypt, I the Lord your God.⁶

It is possible, according to Torah law, for a *ger toshav* to attain a position of wealth. In such a circumstance, it is conceivable that an Israelite who falls upon hard times will sell himself to the *ger toshav* as a slave. When that happens, the Israelite's family should do everything in their power to redeem him from servitude. If, however, that is not possible, the *yovel* ensures that he will eventually be released. Perhaps, this is the primary reason that the *ger toshav*'s existence hinged upon the *yovel* in the first place. The existence of the jubilee ensured that he could not gain permanent mastery over an Israelite. Given that the entire institution of human servitude no longer holds in any

6. JPS Translation

modern Western nation, that need not be a concern in reconsidering the *ger toshav* status.

Furthermore, unless one utilized the strictest Rabbinic definition of a *ger toshav*, one which envisions such a person abiding by all of the 613 *mitzvot* except for the prohibition against *neveilot*, the safeguard against permanent Israelite servitude would have been faulty even in ancient times. The *ger toshav*, as popularly conceived by the Sages, was bound only by the seven Noahide laws and would have been under no obligation to release his Israelite servant at the time of *yovel*.

In Rambam's *Mishneh Torah* one can scarcely find a reference to the *ger toshav* that is not immediately followed by an explicit reminder that the *ger toshav* can only be accepted in the time of the jubilee. This seems to have been a major issue, as far as he was concerned. However, some later commentators on his work shed light on the cause of Rambam's seemingly relentless obsession with this point. In *Hilchot Issurei Biah* 14:8 Maimonides states his case clearly: "*Gerei toshav* are accepted only during the time when the *yovel* is observed. In the present time, even if a non-Jew agreed to take on the entire Torah with the exception of one small point, we do not accept him." In response to a similar statement in *Hilchot Avodat Kochavim* the *Kessef Mishneh* answers that Maimonides could not possibly be worried about such a person leading an Israelite to sin for he would clearly be leading an ethical life. In that case, Rambam's concern must be with the fact that there is no sanctioned court to officially confer *ger toshav* status on an eligible candidate. This rationale should likewise not prevent us from reconsidering the *ger toshav* in the modern era. *B'tei din* are convened regularly to officially welcome *gerei tzedek* into the Jewish people. So too could this be done for *gerei toshav*, if so desired. Additionally, in the present day one need not necessarily consider *ger toshav* an

officially binding and court-bestowed status, as Rambam conceives of it, in order for the concept to contribute to Jewish life.

Finally, one might argue that the *ger toshav* was a status that the Israelites could only afford to officially recognize during the period when the jubilee was observed. The Temple was standing, a sovereign Israelite kingdom was in power, and with the exception of the occasional invading foreign military, the people were secure and able to live by their law, in their land. All of the sages seen above, from the *Tannaim* to the *Mishneh Torah's* commentators, all lived in post-exilic, pre-modern diaspora communities. While some of them, like Maimonides, achieved great success as Jews living in vastly non-Jewish cultures, all of them were very cognizant of the precarious situation in which diaspora Jewry often found itself. At the whim of a ruling power, the Jews could be economically sanctioned, socially outcast, or even become the victims of mass violence and murder.

This insecure position might have led these scholars to conclude that Jews should be wary of allowing anyone outside the fold to gain undue access or entree into the community. This too, however, should not dissuade present-day Jews from reconsidering the concept of a *ger-toshav*. While still an overwhelming minority worldwide, the Jewish people is finally, for all intents and purposes, secure again after 2,000 years. The land of Israel has been reclaimed and, while often under threat from neighbors, has proven itself to be a strong and independent modern state. Additionally, Jews in North America have achieved untold success educationally, professionally, financially, and even socially. If anything, the primary battle of American Jewry today is with maintaining Jewish identity because they have come to fit in so well. As in the time when the *yovel* was observed,

the people Israel is once again in a place of relative safety and security. Having blended so well with the rest of the Western world, it may be possible, or even necessary, to once again conceive of a middle ground in the dichotomy between Jew and non-Jew.

ARE CHRISTIANS IDOLATERS?:

There are several possible ways in which some contemporary, liberal, North American rabbis are considering reviving the status of *ger toshav*. All of them, in one way or another, are addressing the question of how best to welcome and integrate the non-Jewish members of synagogue communities. With an intermarriage rate that has hovered around 50% for the past two decades, the Jewish community that affiliates with synagogues often finds that a sizeable percentage of congregational members are not Jews, the unconverted spouses of Jews who have chosen to participate in temple life. The questions that this phenomenon raises in a congregation, and the ways in which the *ger toshav* status might help to respond, will be discussed at length in Chapter Six. Suffice it to say, in the present context, that some have suggested assigning the title of *ger toshav* to certain members of the non-Jewish synagogue population.

Just as the question of the *yovel* challenged present-day use of the term *ger toshav*, so too some Jewish authorities might argue against calling a Christian synagogue member a *ger toshav* on the grounds that Christianity's theological trinity is akin to idolatry. This, of course, is the one characteristic that is, by definition, completely incompatible with the status of *ger toshav*. As a majority of non-Jewish synagogue members were raised in, or potentially still practice, the Christian tradition, the question of Christianity's relationship to idolatry must be considered from classical Jewish

perspectives. The Jewish textual tradition has had quite a bit to say on the matter over the past two millennia, but for the purposes of this discussion, a summary of the viewpoints will suffice.

In the 4th Century CE, the Palestinian Rabbis were already responding to, and polemicizing against, the burgeoning Christian theology. In some cases, the Rabbis needed to fend off Christian attempts to co-opt Jewish sources for their trinitarian God image. For example,

“the Jerusalem Talmud, Berachot 9:1, reports that Christians claimed that the three Hebrew names for God, *El*, *Elohim*, and *YHVH*, demonstrated that the Hebrew Bible reflected a triune conception of the Godhead. Rabbi Simlai rebutted the notion, asserting that these terms all referred to the one God, and that the employment of three names to signal the one God was analogous to how persons might employ the terms ‘King, Emperor, Augustus’ to refer to the single ruler of Rome.”⁷

In other circumstances, the Rabbis of the *Yerushalmi* went on the offensive in discrediting the Christian view of God, with Jesus as messiah:

תלמוד ירושלמי מסכת תענית פרק ב הלכה א

אמר רבי אבהו אם יאמר לך אדם אל אני מכיב הוא בן אדם אני סופו לתהות בו
שאני עולה לשמים ההוא אמר ולא יקימנה

Yerushalmi, Ta'anit 2:1

Rabbi Abahu said: If a man should say to you, “I am God,” he is lying. If he says, “Son of man, am I,” in the end he will regret it. “I will ascend up to heaven” -- he (Jesus) said it and did not fulfill it.

These two examples of 4th Century Palestinian Rabbinic thought represent both a defense of their own textual and theological traditions and an outward attack on Christian doctrine. As time progressed, particularly in Medieval Europe, Christianity challenged Judaism, not just in terms of its divergent and contrary theism, but often threatened Jewish legal autonomy, finances, and in some cases even Jewish lives. It is no surprise,

7. Ellenson, p. 71

then, that the Rabbinic debate over Christianity's validity and status raged fiercer in this period, both within the Jewish community and in polemical debates between the sister faiths. Of course, within Jewish legal and philosophical circles, attitudes towards Christianity differed markedly, often depending upon one's geography and historical time period. If one lived under Muslim rule and found their government more hospitable than Christian control had been, then one might take a more hostile stance towards Christianity. Conversely, a figure who was living in relative harmony with Christian neighbors, or whose community had a strong relationship with the Christian king or governor, might take a very different view.

The internal Jewish debate that centered particularly around the question of the trinity as idolatry was epitomized by the stances of Maimonides and Rabbi Menachem ben Solomon Meiri (1249-1316), of Provence. Maimonides was very open to interaction with, and acceptance of, differing religious doctrines, achieving great success as a physician and philosopher in the Muslim cities of Fez, Morocco, and later in Fostat, Egypt. His Jewish philosophy, generally speaking, is known to be heavily influenced by his surrounding Muslim thinkers. He was even willing to allow Muslim religious practices to impact Jewish ritual. Influenced by his neighbors' worship settings, he called (successfully) for greater decorum in Jewish prayer and (unsuccessfully) for Jews to remove their shoes upon entering prayer spaces. Rambam is similarly open minded about accepting converts into Judaism. In his Letter to Ovadiah, a convert to the faith, Maimonides cites Numbers 15:15 ("One law should hold for both for you the congregation, and also for the stranger that sojourns with you") as the proof text for his ruling that there is absolutely no difference between a Jew born into the People Israel and

one who converts in. In this respect, he sees the boundary between Jew and non-Jew as permeable when welcoming *gerim* into the Jewish community. His take on Christianity itself, as will be seen below, is somewhat mixed by comparison.

On a positive note, Rambam sees Christians, along with Muslims and Jews, as playing a role in the coming of the Messiah and in the ultimate redemption of the world. In broad terms, this may be evidenced by his ordering of the *Mishneh Torah's Hilchot Melachim U'Milchamoteichem*. Chapters Eight and Nine describe, in detail, the commandments to which Gentiles are obligated. Immediately following those instructions, Chapters Ten and Eleven describe the coming of the Messiah. In his commentary on this section of the *Mishneh Torah*, Rabbi Eliyahu Touger suggests that this sequencing is significant.⁸ Perhaps, he conjectures, the coming of the Messiah is contingent upon the achievement of the previous two chapters' commandments. Maimonides expresses this sentiment more explicitly in Chapter Eleven:

רמב"ם הלכות מלכים פרק יא הלכה ד

אבל מחשבות בורא עולם אין כח באדם להשיגם כי לא דרכינו דרכיו ולא מחשבותינו מחשבותיו. וכל הדברים האלו של ישוע הנצרי ושל זה הישמעאלי שעמד אחריו אינן אלא לישר דרך למלך המשיח ולתקן את העולם כולו לעבוד את ה' ביחד. שנ' כי אז אהפוך אל עמים שפה ברורה לקרוא כולם בשם ה' ולעבדו שכם אחד.

Mishneh Torah, Hilchot Melachim U'milchamoteichem 11:4

But the thoughts of the Creator of the world are not within the strength of man to comprehend. For our ways are not His ways, and our thoughts are not His thoughts. And all these words/deeds of Jesus of Nazareth, and of this Ishmaelite (Muhammad) who came after him, only serve to straighten the path towards the coming of the Messiah and the repair of the entire world, that all will serve Adonai together. As it is written: "For then I will cause all of the people to speak clearly, everyone will call Adonai by name, and will worship Him as one." (Zephaniah 3:9)

While it is heartening that Rambam sees the three monotheistic faiths as sharing a

8. Touger, p. 581

common destiny in repairing and redeeming the world, this by no means paints a complete picture of his attitudes towards his Christian brothers and sisters. In fact, the sentences that immediately precede those presented above, outline in great detail the innumerable wrongs and traumas suffered by Jews at the hands of the Christians. Furthermore, he may envision a time when all three of these religions are united in their monotheistic goals, but this view is somewhat at odds with his outlook on Christian theology, which he sees as more akin to idolatry than to the Jews' conception of Adonai.

רמב"ם הלכות עבודת כוכבים פרק ט הלכה ד

כנענים עובדי כו"ם הם ויום ראשון הוא יום אידם, לפיכך אסור לתת ולשאת עמם בארץ ישראל יום חמישי ויום ששי שבכל שבת ושבת ואין צריך לומר יום ראשון עצמו שהוא אסור בכל מקום, וכן נוהגין עמם בכל אידיהם.

Mishneh Torah, Hilchot Avodat Kochavim 9:4

Canaanites are idolaters. Their festival day is Sunday. Therefore it is forbidden to do business with them in *Eretz Yisrael* on Thursday and Friday every single week. And I do not even need to mention that Sunday itself is forbidden for dealings with them in every place. And similarly, practicing with them on all of their festivals (is forbidden).

Taken from the section of his *Mishneh Torah* which deals specifically with idol worship, this passage is not, at first glance, directly related to Christians. However, modern scholarship has determined otherwise. First, Maimonides believed that Canaanites no longer exist,⁹ so this must be a reference to some other group. Second, alternative manuscripts of the *Mishneh Torah* have revealed that the use of the word "Canaanites" here was the work of Jewish censors who sought to avoid trouble with Christian authorities. These variant versions of Maimonides' work reveal that either the word "Christians" or the word "Romans" (implying Christians) originally started this *halachah*. Hence, while Christians may have a role in Messianic redemption in his

9. *Sefer HaMitzvot, Mitzvah Aseh* 186

thinking, their religious practices and doctrines are, in Maimonides' estimation, idolatrous.

Meiri, on the other hand, takes a very positive outlook on Christianity. Jacob Katz attributes this more universalistic and accepting nature to his background as a rationalist and philosopher.¹⁰ He parted ways with his teacher, Solomon ben Abraham Adret, when the latter tried to excommunicate any Jew who read philosophical works during the Maimonidean controversy.¹¹ While Meiri championed the cause of open intellectual dialogue during this period, and even referred to Maimonides by the nickname "the greatest of authors," he seems to have distanced himself from Rambam on the question of Christianity as idolatry. In fact, he took a stance towards the other monotheistic faiths which was novel in his day but which may have served as a forerunner to other, more tolerant, viewpoints in the future.

Jacob Katz outlines the unique nature of Meiri's thinking vis-à-vis Christianity in his work Exclusiveness and Tolerance. First, it is clear that Meiri sought to differentiate between the idolaters who lived in Rabbinic times and the Gentiles who were his contemporaries. He coined two different phrases for those respective groups. Those who lived in his age were called, "*ummot ha-gedurot b'darkei hadatot*" (nations fenced in/restrained by the ways of religion), and those from the days of the Sages, nations not fenced in by the ways of religions.¹² He reinforces this historical difference in circumstances by stating, "We have already explained that all these things were said at the time [i.e. that of the talmudic sages] when those Gentiles were cleaving to their

10. Katz, p. 114

11. Ta-shma

12. *Beit Ha-Bechirah on Avodah Zarah*, ed. A. Schreiber, 1944, pp. 46, 591

idolatry, but now idolatry has disappeared from most places..."¹³ While the Rabbinic tradition had, essentially, lumped all non-Jews together as idolatrous, Meiri does not consider idolatry, in its classical form, to persist to his day. Christianity, then, could not fall under that older Rabbinic conception.

To the contrary, in fact, he saw Christians, and Muslims along with them, as being much more akin to Jews than to the Rabbinic notion of idolaters. He notes that the *ummot ha-gedurot b'darkei hadatot* "believe in God's existence, His unity, and power, although they misconceive some points according to our belief."¹⁴ While Meiri's extraordinarily positive disposition towards Christians was unheard of in his era, his system of thinking may prove a good model for modern Jews who strive to balance the voices of their tradition with the realities of the world in which they live.

A word should be said on how Meiri arrived at the categorization he used for his Gentile contemporaries. Because, as was mentioned above, he was of the rationalist school of philosophers, he believed that some of what religion offered was revelatory, but that some other teachings could be arrived at through intellectual reason. In this respect he echoes Maimonides. Meiri recognized the possibility that religious communities outside of the people Israel could conceivably arrive at many of the religious truths that he held sacred simply by using their rational intellects. Among these were the legal and moral institutions established by other religions which helped to keep order in society. As far as he was concerned, they were elemental parts of his own faith but could be deduced without any particular prophetic revelation. Therefore, it was conceivable that other religious groups could cohere around such doctrines and be valid alternative faiths.

13. Katz, p. 116

14. *Beit Ha-Bechirah on Gittin* (ed. K. Schlesinger, 1943), p. 246 - translation by Katz

In fact, he seems impressed by Christians' ability to create legal systems that governed society by ethical means. This is why his title for this category of people in his day was "nations fenced in by the ways of religion." They had seemingly religious laws that reigned in their potentially bad behavior to create social and moral order. Add to this his belief that Christians worship the exact same Godhead as Jews do, and it is clear that these people could not possibly compare to his conception of idolaters in the Talmudic era, whom he assumed to be the most immoral and debauched of human beings.

Once he had established this categorical differentiation between the *ummot ha-gedurot b'darkei hadatot* of his own day and the idolaters of the Rabbinic period, he was able to use this *halachic* concept in a variety of circumstances. Throughout the Middle Ages, a number of early Rabbinic decrees proved difficult for contemporary *halachists* to reconcile. In these cases, the Sages had instituted laws that were clearly intended to put a social distance between Jews and their Gentile neighbors. However, when circumstances with the surrounding cultures and faiths changed over the centuries, Jews would often choose to ignore the old Rabbinic edicts for the sake of their current social standing or business transactions. The *halachic* authorities in their day would then need to find case-by-case rationales to explain why the *Amoraic* laws no longer applied, since their people were not following them, anyway. Meiri did the same, but his technique differed radically. Once he conceived of the *halachic* category of *ummot ha-gedurot b'darkei hadatot*, he could apply that in a wide variety of situations without needing to change law on a case-by-case basis. Katz provides several examples of this (all translations are his).

The Talmud makes clear that Jews may not make gifts to Gentiles. Of course,

over time this became common practice as Jews and non-Jews interacted regularly, establishing both personal friendships and business relationships. Other *halachists* needed to explain this new trend by creating an exception to the old Rabbinic *halachah* if the Gentile were a good friend.¹⁵ Meiri, on the other hand, responds to this dilemma by saying: "But in so far as we have to deal with *ummot ha-gedurot b'darkei hadatot* and which believe in the Godhead, there is no doubt that, even if he [the Gentile] is not a friend, it is not only permitted, but even meritorious to do so."¹⁶ In response to the *Mishnaic* teaching that Jews ought not rent their home to a Gentile, Meiri writes, "This prohibition applies fundamentally only to those idolaters who kept idols in their house, and sacrificed to them there."¹⁷ Similarly, the *Mishnah* forbids leaving animals in the care of Gentiles who might commit unethical sexual acts with them. Meiri responds, "It has been already stated that these things were said concerning periods when there existed nations of idolaters, and they were contaminated in their deeds and tainted in their dispositions...but other nations, which are *ummot ha-gedurot b'darkei hadatot* and which are free from such blemishes of character -- on the contrary, they even punish such deeds -- are, without doubt, exempt from this prohibition."¹⁸

Meiri's conception of ancient idolatrous nations is so horrific that one wonders if he created such a depraved image for the sake of bolstering his contemporary category of *ummot ha-gedurot b'darkei hadatot*. Regardless of his motives, the result of Meiri's theory is clear. By so demonizing ancient idolaters, he has created a middle-ground position which can be occupied by his contemporary non-Jewish (primarily Christian)

15. *Tosafot*, *Avodah Zarah* 20a

16. *Beit Ha-Bechirah* on *Avodah Zarah*, ed. A. Schreiber, 1944, p. 46

17. *Ibid.*, p. 48

18. *Ibid.*, pg. 53

neighbors. In so doing, he draws a closer connection between the Christian population and his own, an association which was, no doubt, being lived out in the day-to-day lives of both groups anyhow. He simply gave it *halachic* sanction.

The trend which Meiri began came to be the *halachic* norm in the subsequent generations. In his article, "A Jewish View of a Christian God," David Ellenson outlines several such instances. For example, in the 18th Century Yehuda Ashkenazi gave Meiri's position on Christianity "normative Jewish legal status" in his *Be'er Heitev*, a commentary on Caro's *Shulchan Aruch*.¹⁹ At the same time in Central Europe, Jacob Emden broke new ground by granting Christians a critical role in repairing the world and a place in the resulting world-to-come. In referring to Islam and Christianity, he wrote: "Every assembly that is for the sake of Heaven will in the end be established...Their assembly is also for the sake of Heaven, to make Godliness known among the nations, to speak of Him in distant places."²⁰ Finally, Ellenson notes that these *halachic* developments allowed Rabbi Marcus Horovitz of Frankfurt (1844-1910) to go so far as to say that Jews were not only able to, but obligated to, donate money towards the building of a Christian church. Not only were Christians not idolaters in his eyes, but they worshipped the very same "Maker of Heaven and Earth" and similarly strove towards God's desires for the world. Jews, therefore, owed them support.²¹

This entire trend towards bridging the gap between Jews and their Christian neighbors began with the innovations of Meiri. His rationales for reshaping the *halachah* in his day appear very similar to the ways in which some are considering the use of *ger*

19. Ellenson, pg. 74

20. Ibid.

21. Ibid., pg. 75

toshav in the present day. In fact, Katz notes the parallels between Meiri's efforts and this ancient status. Reflecting on Meiri's work, he writes, "The conception of an intermediate type, standing between Jews and idolaters, was not entirely novel. Talmudic literature contains the notion of a *ger toshav*...This term, apparently, reflects the historical reality of the situation at the beginning of the era of the Second Temple; and the literary tradition may have facilitated the formulation of Ha-Meiri's term."²² Meiri did not feel comfortable applying the term *ger toshav* to his Christian contemporaries because of associations the phrase carried with it. Nevertheless, it makes sense that this ancient category may have served as his inspiration in striving to create a differentiation between classical Jewish views of Gentiles, and the non-Jews with whom he and his community regularly interacted in their own day. Perhaps a renewed form of that ancient status will likewise help modern Jews to reflect on, and re-imagine, the realities of Jewish and Christian coexistence in the present historical period.

22. Katz, pg. 121

CHAPTER SIX

The Present North American Jewish Community and

Potential Applications of the *Ger Toshav* Status

INTRODUCTION:

Rabbi Solomon B. Freehof spent many years serving as the Chair of the Central Conference of American Rabbis' Responsa Committee. As the movement's foremost expert on such literature, he published seven volumes of Responsa during his lifetime. In 1988, just two years before his death, Freehof reflected on the evolving nature of the questions which he had received during his tenure on the committee.¹ He noticed, first, that certain categories of questions had entirely disappeared from Reform discourse; questions regarding business relations and transactions, or women's regular immersion in the *mikveh* were two such subjects. In the increasingly open and tolerant North American setting, ritual purity was no longer on the agenda, and the guidelines for business transactions were dictated by Wall Street norms, not by Rabbinic edict.

Additionally, Freehof discovered a new trend in questions being posed, a topical shift which he considered to be unfathomable in previous eras of Jewish discourse. Of the roughly 800 unanswered questions he received during his Chairmanship, about 100 of them dealt with the newly evolving relationship between Jews and Gentiles. In previous generations, if a Jew married a Gentile it was not likely that the Jewish spouse would remain involved in synagogue life, either choosing to withdraw or being pushed out by the community. By 1988, however, it was already commonplace, at least in liberal

1. Freehof, 1988

streams of North American Judaism, that the intermarried couple would not only affiliate with a synagogue, but the non-Jewish spouse would become actively involved in the congregation. In a matter-of-fact tone, Freehof conveys that this trend raised many questions in the civil realms of synagogue life. For example, "Should a Gentile spouse be allowed to vote on budgetary matters at the congregational meeting?"

However, Freehof was shocked to discover that the themes of these questions flowed over into the *religious*² life of the synagogue as well. For example, on a number of occasions he was asked, "May a Gentile wife, on the Friday night before the Bar Mitzvah of the family, light the Sabbath lights before the Ark?" Similarly, "May an unconverted Gentile husband, at the Bar Mitzvah of his Jewish wife's son, be permitted to open the Ark and take out the Torah, or be called to the Torah to recite the blessing?" These questions extended into other life cycle periods as well: "May a Christian be buried in a Jewish cemetery? May a Jew, if his Gentile wife demands it, be buried in the Christian cemetery, and may the rabbi conduct the funeral service there?"³ Struggling with the ultimate meaning of these queries and their significance for the future of North American Jewry, Freehof offers his own predictive assessment:

"The new questions cited above indicate the new and constant contact that has developed between Jewish citizens and Gentile citizens and have affected the character of Jewish life, secular and religious. The traditional self-seclusion is the natural setting for our traditional Jewish Orthodoxy, but the modern world, with its close contact between people, calls for different religious attitudes and procedures...
...There have been periods of cultural flowering in the past, but never before has the outer environment become so interwoven with our life...
...The difficult task facing all modern forms of Judaism can be stated as follows: **How to maintain the blessed uniqueness of our faith in the modern neighborly environment?**"⁴

2. Emphasis is Freehof's

3. Ibid., p. 21

4. Ibid., pp 22-23 (emphasis mine)

Freehof did not know it at the time, but the questions he posed in this conclusion would, to a large degree, frame Jewish communal discussion and debate in the United States for the next two decades. Just two years after this article was published, and in the year of Freehof's death, the data of the 1990 National Jewish Population Survey (NJPS) were compiled. The results of this survey indicated a rate of Jewish intermarriage that ranged between 47% and 52%, depending on one's preferred means of analysis. While most people had sensed that these figures were increasing over the preceding decades, many were shocked by the numbers and what they might imply about Judaism's future. If the questions upon which Freehof reflected in 1988 indicated a tension of Jewish identity created by occasional instances of intermarriage, what would be the consequences of a full half of the population marrying outside the faith? In the wake of the 1990 NJPS, the North American Jewish agenda became one of Jewish continuity -- how to, in Freehof's words, "maintain the blessed uniqueness of our faith in the modern neighborly environment." In one way or another, many (if not most) of the community initiatives which have been implemented since the early 1990's have sought to respond to this question.

In 2001, the results of a new National Jewish Population Survey indicated that rates of intermarriage had plateaued, persisting at around 50%. As such, the topic of Jewish continuity still looms large on the minds of communal leadership and individual families. While much of the dialogue is still speculative, trying to predict what these trends will mean in future decades and centuries, those involved in the discussion have a great deal more evidence over which to deliberate than they did in 1990. This chapter will present a broad overview of the current North American Jewish gestalt, drawing

primarily on the research of sociologists Sylvia Barack Fishman, Steven Cohen, and Arnold Eisen. This section will focus on the formation of Jewish identity in contemporary North America and on the impact of interfaith marriage in individual families and in the Jewish community writ large. As clergy, educators, and communal leaders struggle over appropriate responses to these new realities, some have suggested reintroducing the ancient category of *ger toshav* as a means of conceptualizing those Gentiles who are so intimately enmeshed in contemporary Jewish life. A sampling of these proposals will be presented.

NORTH AMERICAN JEWRY IN THE TWENTY-FIRST CENTURY:

The Jewish attitudes, dispositions, practices, beliefs, and affiliations of North American Jews all exist on a vast spectrum. Individuals are influenced in all of these realms by their family of origin, childhood and adolescent experiences, communal expectations, clergy and teacher involvement (or lack thereof), and of course, by the broader American ethos in which their Jewish identity is formed. With the largest population of Jews in the world, exceeding even Israel by over 45,000⁵, the future of the American Jewish community is of particular importance to those who are concerned about the long-term continuity and strength of *Am Yisrael*. In their 2000 work, The Jew Within, Steven Cohen and Arnold Eisen attempt to paint a portrait of North American Jewry at the turn of the century by conducting in-depth interviews with a cross-section of the population. For the purposes of this work, a summary of their findings which pertain

5. According to the "Jewish People Policy Planning Institute Annual Assessment 2005 Executive Report" (put out by the JPPPI, a subsidiary of the Jewish Agency in Israel) which indicates that the 2005 Jewish population in the U.S. was 5,280,000 and in Israel was 5,235,000.

most directly to the boundaries between Jews and non-Jews will be discussed.

Cohen and Eisen focused their research on Jews living outside of the Orthodox world. Their subjects, then, might have some communal affiliation in one of the liberal movements or might fall into the category of "unaffiliated." While the 2000-2001 NJPS indicates growth in America's Orthodox Jewish community, the factors which influence these Jews' decisions differ radically from their non-Orthodox counterparts, and the nature of their relationship with modern secular culture greatly limits the degree to which the surrounding society impacts on long-term Jewish identity. Additionally, it should be noted that Cohen and Eisen focused their efforts on "moderately affiliated Jews," who fit neither into the "core group" of American Jewry (20% of the population) who are very active in Jewish life nor into the 20% who are completely uninvolved in institutional Jewish life.⁶ Whenever the results of Cohen and Eisen's study are cited below, it should be remembered that their data reflect only the 60% of American Jewry that falls between those two poles.

Among the Jewish population that Cohen and Eisen studied, American values were not only dominant in subjects' world views, but many interviewees had subsumed these into their Jewish frames of reference. American values had become Jewish values. This finding is consonant with Sylvia Barack Fishman's assertion that we are experiencing a coalescence of Jewish and American values into a new amalgam of the two.⁷

For example, the ability to avail oneself of many different options, and to choose the one which best fits an individual's lifestyle, has become sacrosanct amongst many

6. Cohen and Eisen, p. 5

7. Fishman (2001), p. 83

American Jews. This is reflected in a Reform creed popularized by its North American Federation of Temple Youth (NFTY) youth movement, where each person is entitled and encouraged to make his or her own "choice through knowledge" when it comes to Jewish observance and practice. Cohen and Eisen found that most American Jews "need to make a great many choices concerning Jewish belief and practice along the way."⁸ This creates a Judaism that is, in many respects, tailor-made for each individual. Every Jew, then, constructs a Judaism in which that person's needs are primary. It is no surprise that Cohen and Eisen titled the second chapter of their book, "The Sovereign Self," reflecting typical North American Jewish attitudes towards communal responsibility. In this chapter, they note that:

"We rarely met individuals who said they came to Jewish commitment (which we shall label their 'Judaism,' regardless of the presence or absence of strictly 'religious' content) because of particular beliefs in God or revelation or the chosenness of Israel. Nor did we meet many individuals who expressed their Jewish commitment primarily by performing a fixed set of behaviors. What matters to the Jews we interviewed, rather, are powerful individual memories and experiences, the personal stories in which these figure, the personal journeys that they mark, and the people who share the most meaningful moments on these journeys with them -- primarily the members of their families."⁹

Such attitudes differ markedly from those expressed by their ancestors in the pre-modern period, and even by their grandparents earlier in the modern era. Cohen and Eisen explore, in broad strokes, some of the attitudinal differences which marked these epochs, and they are worth reviewing here so as to better understand the antecedents which led to today's American Jewish condition. As was noted at the beginning of Chapter One, in the pre-modern period, Jews were likely to experience themselves as essentially different from non-Jews. This was reflected in Jewish rituals, sacred texts,

8. Cohen and Eisen, p. 14

9. Ibid., p. 16

and liturgies, all of which emphasized, to varying degrees, the differences between *Am Yisrael* and others. The classical *Aleinu* prayer is paradigmatic of this predisposition: "We are obligated to praise the Master of all, to render greatness upon the One Who Formed all Creation, Who did not make us like the other nations of the world and did not place us amongst the other families of the land, Who did not create our part (in the world) like theirs nor our lot like all their portions."

This attitude, and its corresponding rituals and beliefs, changed dramatically for many Jews in the era post-Emancipation. Where Jewish communities had been largely segregated, new political, economic, and social opportunities were now available to them so long as they were able to assimilate themselves (to varying degrees) into the larger secular society. "Historians of the period have demonstrated that Emancipation entailed a contractual *quid pro quo*, not always left unspoken, in which Jews agreed to sacrifice exclusivity in return for civil rights and economic opportunities."¹⁰ Ritual practices which created dividing lines between Jew and non-Jew began to fall by the wayside. Shabbat observance, which prevented business with Gentiles on Saturdays, waned, as did the particularistic eating habits of *kashrut*. These barriers to integration were ceded in favor of the opportunity to become full-fledged members of the host culture, with all the benefits derived therefrom. With these changes came the possibility of separating out one's religion from one's nationality. This also created the now taken-for-granted division of one's day-to-day activities into the civil and the religious, two modern categories which came to describe disparate aspects of life that were heretofore largely indistinguishable from one another.

10. Ibid., p. 30

This potential rupture of the classical Jewish psyche played itself out in the most profound ways in the United States. Though anti-semitism is not unknown to American history, the United States has provided unparalleled opportunities for Jews to achieve and thereby, integrate into the broader culture. Cohen and Eisen focus specifically on the second generation of American Jews, European immigrants' children who came of age between 1925 and 1950. Citing the work of sociologists Charles Liebman and Marshall Sklare, Cohen and Eisen note that this generation was marked by profound ambivalence about their seemingly conflicting goals: to fully integrate into American society on the one hand, and to maintain Jewish distinctiveness on the other. For many in this era, a nostalgic connection to one's ethnic Jewish character trumped religious notions of their people's chosenness.

"The claim to election made little sense in the absence of belief in a revealed covenant. Two centuries of experience with modernity had long since eroded belief by many Jews (and many Gentiles) in a God active enough in history to choose any people, and undemocratic enough to choose only one. Shorn of its theological base, chosenness seemed ethnic chauvinism, pure and simple. Jews were not comfortable with that, for obvious reasons. Yet if one abandoned the claim to election, what reason was there for continued apartness?"¹¹

And yet, Jews were not yet fully accepted or integrated into all arenas of American life. Lingering insecurities, surely enhanced by the effects of the Holocaust, yielded an American Jewish community which was succeeding academically and economically by the 1960's, but which also maintained a focus inward. "Jews continued to choose other Jews almost exclusively as friends," and "[t]he rate of intermarriage remained in or close to single digits."¹² Jonathan Woocher points out that in this period, which saw the move to suburban synagogues and the building of Federation systems,

11. Ibid., p. 32

12. Ibid., p. 34

Jewish leadership clung to its newly burgeoning "civil religion." To this generation, Jewish peoplehood was primary, but it was expressed in forms completely consistent with American values. Cohen and Eisen summarize the foundational beliefs of this civil Judaism: "that one could be a good Jew and a good American; that the separation of church and state was essential; that Jews were one people and could not permit denominational differences to divide them; that while theology was somewhat irrelevant, ensuring Jewish survival was central; that Jewish rituals were valuable, but individuals must be free to observe them or not as they chose; that every Jew was obliged to work for the survival of Israel."¹³ As will be seen, the American Jews interviewed by Cohen and Eisen in the late 1990's already differed markedly from their parents' generation described above.

The characterization of contemporary American Jewry put forth by Cohen and Eisen has much to say about the place of intermarriage and the evolving meanings of "Jewish identity." Their research indicates that today's Jews differ from their parents in that many of their close friends are not Jewish. Because of this, at least in part, they are much more likely to marry outside the faith. Even those that do happen to marry Jews note that they might have done otherwise had their life circumstances been different. While their parents likely worried, at least to some degree, about their children marrying Jews, today's Jewish adults "enjoy such thorough acceptance by Gentile friends, co-workers, and in-laws that they have come to terms with the real possibility that their children may marry non-Jews."¹⁴

Much of the civil Judaism that this generation's parents held dear still remains,

13. Ibid.

14. Ibid., pg. 35

but certainly not all of it. Their distaste for denominational distinctions is even greater than their parents'. Their connection to Israel is far weaker than the previous generation's. Additionally, current American Jewry has an interest in God, but the God they seek is a personal One, not One whose laws and teachings are intended to bind the entire Jewish People together. In fact, the obligation to, and concern with, peoplehood has waned significantly. The newest generation of adult Jews "want to be Jewish because of what it means to them personally -- not because of obligations to the Jewish group."¹⁵ The result is that those aspects of Jewish life that are driven by ethnic identification are waning. This reality is having a detrimental impact on the institutions of American Judaism which, traditionally, have been driven by a sense of ethnic belonging to a particular people: the Federations, Jewish Community Centers, and United Jewish Appeal, for example.

While Jewish continuity has been at the forefront of American Jewry's agenda for quite some time now, it is not at all clear that it will retain that position. If it does, the terms which frame the discussion must likely change from a conversation primarily centered around peoplehood to one that reckons with the individual's Jewish experience. For these postmodern Jews, as Cohen and Eisen dub them, "Jewish survival is not in and of itself sacred...Jewish life, in the private spaces of self and family, *is* held sacred -- it is that which they most deeply value."¹⁶ Their primary Jewish concerns are as follows:

- *"Personal meaning as the arbiter of their Jewish involvement:* Their Judaism is personalist (to use Liebman's coinage): focused on the self and its fulfillment rather than directed outward to the group. It is voluntarist in the extreme: assuming the rightful freedom of each individual to make his or her own Jewish decisions...
- *Jewish meaning is not only personal but constructed, one experience at a time:* Judaism more and more is enacted in private space and time...[O]ne need not take on

15. Ibid.

16. Ibid.

any rituals with which one is uncomfortable, or associate with anyone who will challenge the Jewish choices one has made, however idiosyncratic those might be...

- *Many Jews combine great concern for issues of spirituality and meaning with severely diminished interest in the organizational life of the Jewish community:* There is far less concern with the master narrative of the Jewish people and far more concern for family and personal narratives...
- *Identity is far more fluid than ever before:* Every stage of life may bring a different degree of connection to their Judaism...Life is fluid in other senses as well. The boundaries dividing Jews from non-Jews have come to seem less essential, because they have been, in the experience of our subjects, less fixed and of less consequence. Fully two-thirds of our survey participants agreed that 'my being Jewish doesn't make me any different from other Americans.'¹⁷

It is clear now why Cohen and Eisen chose the title The Jew Within for the book which summarizes these findings. One can also see how these postmodern Jewish attitudes can wreak havoc on classical notions of what it means to be a Jew or a Gentile, what it means to be "in" versus "out." As these boundaries become increasingly porous, the potential usefulness of the classical concept of a *ger toshav*, one whose status reflects just such a blurring of the division lines, increases significantly. It should be noted, however, that the American Jewish population described by Cohen and Eisen has not lost all sense of differentiation. In fact, some degree of "tribalism" remains but only in faint approximations of its previous forms.

This particularism has taken on new criteria for differentiation that reflect the American values which these Jews hold as primary. When questioned about what it means to be Jewish, Cohen and Eisen's respondents answered that, by and large, "they are Jews because they are Jews, period; Jewish identity in their view remains intact, irrespective of non-observance or non-Jewish marriage partners, and is transmitted automatically to children even if the latter receive no education whatever in Jewish

17. Ibid., pp. 36-38

history or tradition. Having one Jewish parent in the home...is sufficient to guarantee the Jewishness of a couple's offspring, and the Jewishness of *their* descendants, barring actual conversion to another faith, is likewise guaranteed forevermore."¹⁸ Clearly, these are novel means for defining Jewish particularity.

Cohen and Eisen break traditional Jewish particularism into three fundamental assumptions: Jews are familiar with one another (one can go to any Jewish community and feel at home), Jews are inherently responsible for one another (echoing the Rabbinic teaching that *kol Yisrael aravim zeh b'zeh*), and that all Gentiles, by their nature, dislike Jews. Their research indicates that all of these assumptions have softened dramatically over the past 200 years, and yet all remain in one form or another. Many of their interviewees did find comfort in the fact that they can walk into a synagogue anywhere in the world and have some familiarity with the worship. Despite universalist tendencies, many respondents indicated that Jews do have an obligation to support other Jews, several recalling efforts to save Jews in the former Soviet Union or in Ethiopia. Finally, while few had actually experienced anti-semitism themselves, many had some dormant concern that anti-Jewish sentiments might again arise in the world, and even per chance in America.

Additionally, the United States has seen a recent resurgence of popularity in ethnic and religious particularity, and Jews have sensed that social trend. Many more, then, especially those who are at least moderately involved in Jewish communal life, are willing to accentuate those aspects of their lives which make them uniquely Jewish. These sentiments were borne out in a number of Cohen and Eisen's survey results:

18. Ibid., p. 102

- 94% agreed that “Jews are my people, the people of my ancestors.”
- 90% agreed that “Being Jewish connects me with my family’s past.”
- 96% said they were “proud to be a Jew.”
- In ranking the importance of various items, 84% ranked “The Jewish People” as very or extremely important.
- 94% agreed with the statement, “Jews have had an especially rich history, one with special meaning for our lives today.”¹⁹

Even with the recent trends towards particularism, however, American Jews are celebrating their unique group identity with a fair amount of uncertainty and trepidation. Especially when it comes to the question of intermarriage, these feelings of Jewish “familialism” take a back seat to the universalist ethic of openness and the personalist prerogatives of autonomy and choice. For some, an impending marriage outside the faith serves as the impetus for exploring one’s own personal connection to Judaism. However, the Jewish birthright assumed above, one which necessitates no formal Jewish practice or education, allows many to feel certain that Jewishness can be passed on regardless of a spouse’s faith and practice in the home. Furthermore, many assumed a complete inability to effectively pass a religious faith along to children who would be raised in a fully open society and who would simply have to make their own choices about religion later in life. For this subset of respondents, autonomy always trumped any form of particularism.

For others in Cohen and Eisen’s research, intermarriage was acceptable (most considered it inevitable), but when it came to passing Judaism on to the next generation, the boundary lines between Jew and non-Jew had to be redrawn anew. Their children’s

19. Ibid., pp. 114-115

Jewish identity was non-negotiable, even if their life's partner need not be "in the tribe." This cohort will be of particular interest in relation to potential applications of the *ger toshav* status. In fact, a fascinating differentiation was made by those who saw no need to marry within the faith but did feel a drive to raise a Jewish family. Their attitude is summarized by Cohen and Eisen as follows: "Ethnicity -- 'cultural stuff' -- can be learned. Universal values can be practiced whether or not one remains a member of the tribe. Religion -- 'the faith' -- seems to demand less permeable boundaries."²⁰ The *ger toshav* status will, perhaps, be of particular interest to Jews with this outlook because of its similar distinguishing markers. Boundaries between Jew and non-Jew are blurred for *mitzvot bein adam l'chaveiro*, including the cultural and ethical norms of the community. Conversely, when it comes to *mitzvot bein adam l'makom* which are more "religious" in nature, the wall between Jew and *ger toshav* stands tall. This will be addressed again below.

A MORE FOCUSED LOOK AT INTER-MARRIED FAMILIES:

Cohen and Eisen's research is a useful tool in gaining a birds-eye-view of the American Jewish landscape and the competing universalist, particularist, and autonomous forces that pull at Jews' hearts and minds. This sets the stage for introducing the work of Sylvia Barack Fishman which deals specifically with mixed-married families, and their decisions concerning Jewish identity. Her research serves to bring the intra-familial boundary lines between Jew and non-Jew into sharper focus. Fishman's study explored the lives and decisions of intermarried couples, and her findings were published by the

20. Ibid., p. 131

American Jewish Committee in 2001 under the title, "Jewish and Something Else: A Study of Mixed-Married Families." She too utilized the research technique of extensive interviewing and listening to personal narratives in order to gather her data.

Before getting into the specifics of her findings, however, the issue of Jewish continuity should once again be put on the table. Fishman is also doing her research in response to questions about American Judaism's potential longevity in the wake of the 1990 NJPS and is concerned with discovering the factors that will most likely produce a new generation of connected and committed Jews. Of course, there is some debate over what constitutes such a person. Is it religious observance, synagogue affiliation, ethnic connection, or some combination thereof? For many years "Jewishness" was measured by overt indicators related to ritual practice (holiday celebration, keeping *kosher*, attending synagogue, etc.) and organizational affiliation whether in a synagogue, Jewish Community Center, or other Jewish institution. This mode of thinking, in the 1990 NJPS for example, led researchers to categorize American Jews as either "core," performing a lot of these activities, or "marginal," observing fewer *mitzvot*.

Because, as has been seen above, North American Jews live out their Judaism in such a variety of ways, some researchers are already reframing their visions of what counts as Jewish behavior, and following that, what is meant by passing their "Jewishness" on to the next generation. For example, in her 1999 research performed for UJA-Federation of New York, Bethamie Horowitz developed three separate indices of Jewish identity. The first is a "Ritual and Religious Activity" metric which measures the types of classical observances described above. In addition, however, she also measured "Cultural-Communal Activity," (e.g., having Jewish articles or art in one's home, reading

Jewish magazines, or attending synagogue), and "Subjective Jewish Centrality" which included surrounding oneself with Jewish friends or feeling a connection to the Jewish people.²¹

Regardless of how one assesses what it means to be a Jew, a handful of indicators seem to be critical in predicting one's effectiveness in passing Judaism on to a new generation of Jews in America. As Fishman notes in the conclusion to her study, those factors include sustained childhood Jewish education in formal or informal settings, a "Jewishly connected home" which makes clear the possibility for lived Judaism in a family setting, and Jewish friendship groups. Additionally, other researchers point to the value of Jewish camping, summer and semester-long Israel programs, and connections with Jewish clergy and role models as critical components of fostering Jewish identity in a new generation. In the context of considering modern applications of the *ger toshav* status, however, the primary focus here is on the homes of interfaith families and those home settings which are most likely to produce Jewish children.

This is where Sylvia Barack Fishman concentrated her efforts in the 2000 study. She broke Jewish families down into three categories: inmarried, mixed-married, and conversionary in which the non-Jewish spouse had converted to Judaism at some point before her interview with them, though not necessarily before marriage. The first and third categories were, almost invariably, raising their children exclusively as Jews: celebrating Jewish holidays, providing exclusively Jewish education, and creating a wholly Jewish home. Fishman, therefore, oversampled the mixed-marriage couples in her research as those were of primary interest to her. How many of them were

21. Horowitz, 2003

consciously incorporating Judaism into their home lives, and how successful were these couples at transmitting a Jewish identity to their children when they chose to do so?

These intermarried couples also broke down into three categories: those who were attempting to raise their children exclusively as Jews, those who were raising their children in two faiths simultaneously, and those who were bringing up their children with no religious practices or affiliations. Her findings are extensive, but a brief summary of pertinent highlights is presented here:

- Jewish women, married to non-Jewish men, were much more successful in maintaining religious and social ties with the Jewish community, raising their children Jewishly, and infusing Jewish celebrations and activities into their homes than were their Jewish male counterparts who married non-Jewish women (p. 2)
- The vast majority of mixed-married households incorporate at least some Christian observances into their family life, and their children often regard themselves as the recipients of two religious birthrights. (p. 2) This is true even in households that describe themselves as raising the children only as Jews. (p. 4) This differs markedly from families in which the non-Jewish parent converts. (p. 4)
- Amongst the mixed-marriage households surveyed, two-thirds celebrate Christmas in their homes. (p. 6)
- Rates of Jewish education were much lower in interfaith homes than in in-married or conversionary homes. (p. 7)
- Jewish spouses in mixed-marriage homes which raised their children "exclusively as Jews" tended to be very strict about maintaining religious boundaries at first. Over time, their desire to be fair and balanced towards their spouse's religious practices and beliefs often led them to allow more and more non-Jewish practices to filter into the home. (p. 9)
- Those non-Jewish spouses who went through conversion had only positive memories of their journey to Judaism and the welcome they received by clergy and family alike. Conversely, those spouses who had chosen not to convert to Judaism had very negative attitudes towards, and memories of, those who had asked them to go through such a process. (p. 9) In mixed-marriage homes, two-thirds of Gentile spouses had never considered conversion while the other third had thought about it but abandoned the idea. (p. 28) Many saw conversion as a betrayal of some core piece of their own identity. In spite of the fact that they saw themselves as, by and large, Jewish, they did not want to go through the formal conversion process. (p. 29)
- Over time, non-Jewish spouses who had agreed to raise their children as Jews began to resent the loss of their holiday celebrations in the home. Furthermore, many of these parents were upset by their children's celebration of holidays that were not their own, and their children's learning a faith and language (Hebrew) that they did not share. This resentment often resulted in a renegotiating of the previously agreed upon

decision to raise the children exclusively as Jews. (p. 9-10)

- Questions about a child's dual religious identity were most likely to come to the surface at times of holiday observances, at the age when formal religious training typically begins and parents have to decide upon institutional affiliations, and at major life cycle events. (pp. 25-26)
- Non-Jewish spouses often supported efforts to raise children as Jews, driving children to religious school, facilitating Hanukkah observances, and so on. Many had positive associations with Jewish culture, rituals, and emphasis on family. Conversely, however, many of these same Gentile spouses resented what they perceived as Jewish elitism in their desire to remain "separate" from the rest of society, even if they had never been made to feel like an outsider in any way. (p. 27)
- Many mixed-married couples were, themselves, deeply ambivalent about organized religion, and several parents expressed excitement about a time in their children's lives when they could finally share their own misgivings about religion. (p. 28) Ambivalence towards religion was especially pronounced in those families that had decided to raise the children in two faiths. (p. 38)
- Most respondents did not associate their home practices, either Jewish or non-Jewish, with the religious credentials of the officiant at their wedding. (p. 31) However, in a different study, Fishman found that the first congregational rabbi to interact with the couple after marriage had great potential to impact their decisions.²²
- In mixed-marriage couples, decisions about whether or not to affiliate with a synagogue were often tied to how welcoming the community was towards the non-Jewish spouse. (p. 33)

It was abundantly clear from Cohen and Eisen's work that for American Jews, maintaining Jewish identity in oneself, and passing it on to one's children, can be formidable challenges even within in-married families. Sylvia Barack Fishman's efforts illustrate how much more difficult such a task can be in intermarried, non-conversionary couples.

All of these findings reflect the realities of non-orthodox North American Jewry today. As such, they are necessary prerequisites to better understanding and evaluating the proposed reintroduction of the *ger toshav* status into contemporary Jewish life. It would seem that the desire to label non-Jews in our midst as *gerei toshav* serves two potential purposes. First, as clergy members in the Reform and Reconstructionist

22. Cited by Steven Cohen in a lecture to CCAR members present at the URJ Biennial on November 19, 2005

Movements each try to arrive at their own stance regarding their willingness to officiate at inter-faith marriage ceremonies, some believe that the notion of a *ger toshav* will be helpful in determining their response to any given couple. Second, given the proliferation of interfaith marriages, and the resultant increase in non-Jewish synagogue members, some community leaders are looking to the classical *ger toshav* status to help determine which synagogue roles are appropriate for non-Jews and which are not. Each of these suggestions will be evaluated in greater detail below.

THE GER TOSHAV AND INTERFAITH OFFICIATION:

In Orthodox Jewish settings, marrying outside the faith is still grounds for social, if not physical, exile from one's community. Certainly, no Orthodox rabbi is officiating at such an event. In the Conservative Movement, the Rabbinical Assembly forbids its members from standing under the *huppah* at an interfaith wedding ceremony. Doing so can result in expulsion from that rabbinical union. In the United States' largest Jewish denomination, however, Reform clergy are left to consult the tradition, the evolving contemporary realities, and their own consciences, in deciding whether or not to officiate at the marriage of a couple with only one Jewish spouse. The same holds true in the Reconstructionist Movement and for those rabbis who are ordained in non-denominational, non-Orthodox, settings. Given the American Jewish situation described by Cohen, Eisen, and Fishman, it is no wonder that many of these liberal rabbis engage in an ongoing struggle regarding this issue.

As Fishman notes in her study, "From the Jewish [point of view], boundaries between Jew and non-Jew have blurred, and in recent years American Jewish resistance

to intermarriage has been replaced by the view that intermarriage is normative."²³ This appears to be as true in the liberal rabbinate as it is amongst Jewish laity. At one time, many rabbis felt that if they refused to participate in inter-faith wedding ceremonies they could stem the tide of intermarriage. Most no longer entertain that notion. Of course, many Reform clergy continue to refrain from officiating at such events for a variety of reasons. To name a few: some believe that interfaith officiation sends the wrong message about the Jewish wedding ceremony and the role of a rabbi; some believe that the wording of the traditional Jewish ceremony prohibits its use in such situations; others fear being stigmatized by colleagues for implicitly condoning the creation of interfaith homes; and still others simply do not feel that they can comfortably and authentically participate in creating these marriages.

Unlike the Rabbinical Assembly of the Conservative Movement which provides such strong guidelines on this matter, the the Reform Movement's Central Conference of American Rabbis (CCAR) has, officially, taken a more passive stance. The Conference's last official statement to their members about the issue of interfaith officiation was adopted in a 1973 resolution which reads as follows:

23. Fishman, p. 12

OFFICIATION AT MIXED MARRIAGES

Adopted at the Convention of the Central Conference of American Rabbis 1973

The Central Conference of American Rabbis, recalling its stand adopted in 1909 that mixed marriage is contrary to the Jewish tradition and should be discouraged, now declared its opposition to participation by its members in any ceremony which solemnizes a mixed marriage.

The Central Conference of American Rabbis recognizes that historically its members have held and continue to hold divergent interpretations of Jewish tradition.

In order to keep open every channel to Judaism and K'lal Yisrael for those who have already entered into mixed marriage, the CCAR calls upon its members:

1. to assist fully in educating children of such mixed marriage as Jews;
2. to provide the opportunity for conversion of the non-Jewish spouse, and
3. to encourage a creative and consistent cultivation of involvement in the Jewish community and the synagogue.

Well over thirty years later, no further statement has been produced by the CCAR to provide guidance or support to its members in struggling with this question. One need only glance at the evolution of American Jewry outlined by Cohen and Eisen to understand that the realities of that community have changed markedly since 1973, and even more so from 1909 when this position was originally adopted. No doubt, this resolution has set a tone that persists throughout much of the Movement's clergy today. Amongst those who choose not to officiate at mixed-marriage ceremonies, the message sent to couples, though nuanced and varied by each rabbi, is often, "I cannot officiate at the wedding itself, but the synagogue will be delighted to welcome you with open arms once you are married." The above resolution expresses, essentially, the same sentiment.

Yet, in a period of Jewish history when the multicultural ethos of American life

has created much more permeable boundaries between Jew and non-Jew²⁴, it is surprising that the CCAR has not yet officially and publicly readdressed this question. This issue is, without doubt, one that would ignite impassioned stances on both sides of the table. Perhaps because of this potential divisiveness, the Conference has not yet held public forum discussions to debate the matter. They have, however, assembled an ad hoc committee of members to research this question and to propose thoughtful and creative suggestions for Reform rabbis at the onset of the 21st Century. It should be noted that the committee consists of rabbis who are both for and against rabbinic officiation at such ceremonies.

This committee has been chaired by Rabbi Jerome Davidson of Temple Beth El in Great Neck, New York. He recently communicated the preliminary findings of his task force at a CCAR Conference and shared that his group had been researching the classical Jewish notion of a *ger toshav* in an attempt to grapple with the contemporary realities in Reform synagogues. While certainly not true of every couple in which a Jew is marrying a non-Jew, Rabbi Davidson points out that in many cases, the non-Jewish spouse echoes many of the criteria of the Rabbinically-conceived *ger toshav*. This person is often not actively practicing another faith, thereby ruling out the possibility of idolatry no matter one's stance on the idolatrous nature of other major religions. Furthermore, the non-Jewish spouse is likely to be living by many of the ethical norms of Jewish life, certainly those basics outlined in the Noahide laws.

In many cases, the non-Jewish partner also intends to be an active participant in creating a Jewish home for his or her family. Therefore, while not officially converting

24. Fishman (2001), p. 16

into the faith, such a person is framing his or her cultural and religious spheres in Jewish terms, just as the ancient *ger toshav* did, having his life's guidelines dictated by Jewish, rather than secular law. In his November 2005 Biennial address, Rabbi Eric Yoffie, President of the Union for Reform Judaism, publicly recognized a non-Jewish spouse who was playing a major part in raising the next generation of Jews in her family. He reflected on the critical responsibilities that these Gentile spouses often take on in the project of Jewish continuity, saying, "These spouses are heroes -- yes, heroes -- of Jewish life. While maintaining some measure of attachment to their own traditions, and sometimes continuing to practice their religion, they take on responsibilities that, by any reasonable calculation, belong to the Jewish spouse. And very often they do all of this without recognition from either their Jewish family or their synagogue." He then introduced one such woman to the assembly and continued, "Our obligation is to extend our appreciation with a full embrace to Helen and to others like her. One way to express our thanks is with a formal ceremony of recognition...Whatever approach we choose, surely we can agree on the need for every Reform congregation to recognize these remarkable individuals."

Some rabbis have chosen to do so with a ceremony of *brit ger toshav*. For example, Rabbi Myron Kinberg of the Reconstructionist Movement decided to utilize the *ger toshav* status within his congregation. He did so as a means of welcoming non-Jewish members, setting forth expectations for their participation in creating a Jewish home, and inviting them to take part in the life of the Jewish community. Additionally, after many years of refusing to officiate at interfaith wedding ceremonies, Rabbi Kinberg created a *brit nisuin*, a marriage covenant ceremony specifically for

wedding a Jew to a *ger toshav*. The text of both can be seen in Appendix A. Prominent Israeli politician, Yossi Beilin, has suggested instituting a "secular conversion" in that country by which such converts would join "the Jewish people, which is not necessarily based on the Jewish religion."²⁵ If one examines the language of Rabbi Kinberg's *brit ger toshav* ceremony, and where he has drawn the line between a *ger toshav* and a fully naturalized Jew, one might see his efforts as an American counterpart to Beilin's vision.

In a Reform setting, Rabbi Adam Fisher, the Rabbi Emeritus of Temple Isaiah in Stony Brook, New York, took many people through a similarly formal *ger toshav* ceremony as a prerequisite to his officiation at their wedding ceremonies. It is not entirely clear what type of long term impact such a ritual has on the newly proclaimed *ger toshav*. In speaking with one of Rabbi Fisher's *gerei toshav*, it was clear that she saw that initial ceremony in primarily pragmatic terms. It allowed Rabbi Fisher to officiate at her wedding, which was important to her husband's family. The ceremony of becoming a *gioret toshav* was not, in and of itself, recalled as a particularly influential moment. However, she and her husband both felt far more welcome at Temple Isaiah than they had at his parents' Conservative synagogue. Additionally, during her years as a *gioret toshav*, she recalls feeling a pronounced obligation to maintain the commitments she had taken on in that ceremony, which was held at a Friday evening Shabbat service. She has since converted to Judaism, and sees that moment of complete entry into the Jewish people as truly transformative in nature. One cannot extrapolate broad-based conclusions from this single narrative, but in this case, there was a sense that the *ger toshav* status

25. Fishman (2001), p. 86

acted as a catalyst for later desire to undergo full conversion and to complete the journey she had begun before her wedding.

Of course, a potential argument against both of the above-mentioned systems is Rambam's contention, mentioned in Chapter Five, that the *ger toshav* status cannot be officially declared when there is no *beit din* in place to oversee that process. Particularly because Rabbis Kinberg and Fisher appear to be making status determination on their own, without even the benefit of a *beit din* as would be convened for conversion, this could be a valid argument. In a modern liberal Jewish setting, however, that *halachic* argument may hold little weight when compared with the community's realities and needs.

On the other hand, Rabbi Davidson is using similar constructs for determining who might be considered a *ger toshav*, but unlike Rabbis Kinberg and Fisher, he is not holding a formal ceremony to enact that status in any official way. Rather, he is using the concept of a *ger toshav* primarily to determine which wedding ceremonies he is comfortable participating in and which he is not. Loosely stated, his criteria for accepting a non-Jew as a *ger toshav* are:

- The person cannot be actively practicing another faith. Though he or she may have been raised in another religion, they have since departed from it.
- Judaism can be the only religion the couple intends to practice in their home.
- The non-Jewish spouse has agreed to raise and educate the children fully as Jews and with no other religious education.
- The non-Jewish spouse has to be willing to consider conversion in the future. If the person has already ruled that possibility out and is unwilling to even think about it, he

or she does not qualify.

If the non-Jewish spouse meets all of these criteria, Rabbi Davidson would consider the person to be a *ger toshav* and would then move forward in preparing the couple for marriage through a series of educational and pastoral sessions. He does not, however, declare the person to have officially taken on the status of *ger toshav* at any point in this process. Rather, the term serves to help him conceive of and implement his own professional and ethical guidelines in working with interfaith couples.

The criteria that Rabbi Davidson has devised make sense given the picture of mixed-married couples put forth by Fishman combined with the Jewish community's goals for long term Jewish continuity. While two-thirds of interfaith families celebrate Christmas in the home, the standards for *ger toshav* presented here would preclude that possibility, requiring the non-Jewish spouse to refrain from actively practicing another faith. While rates of Jewish education tend to be much lower in mixed-marriage households, Rabbi Davidson requires a commitment to Jewish education for the children. Though two-thirds of non-Jewish spouses in mixed-marriages typically never even consider conversion, taking on this unofficial *ger toshav* status would necessitate an introduction to that possibility. Additionally, Rabbi Davidson references the research of Bethamie Horowitz which points to two critical factors in fostering Jewish identity: relationships and experiences. If he is able to foster a lasting relationship with such a couple, and provide them with a meaningful series of Jewish experiences on their path to *huppah*, he might strengthen the connection of the Jewish partner while cementing the commitment of the would-be *ger toshav*.

In many respects, the rabbinic uses of *ger toshav* described above have not

dissolved the line between Jew and non-Jew. Rather, when it comes to interfaith officiation, they have shifted the demarcation boundary from only accepting the marriage of two Jews (defined as being born to a Jewish mother or having converted in) to receiving couples even when one of the betrothed has made some public commitment to the Jewish people, even if not opting to fully join that people.

For Rabbi Davidson, and others like him, the primary concern is creating Jewish homes. In an age when one may be technically Jewish by birth, but is only actively Jewish by choice, more and more Jewish clergy and educators are concentrating their efforts on helping Jews, and would-be Jews, to choose Judaism. Many liberal rabbis are willing to officiate at same-sex commitment or wedding ceremonies, in spite of the traditional *halachic* prohibition against such an action. They often do so because they see their participation as facilitating the creation of a Jewish home that might produce strongly identified Jewish adults and children. Likewise, when the non-Jewish partner in a couple meets Rabbi Davidson's criteria for a *ger toshav*, a similar possibility exists. Increasingly, rabbis fear pushing that potentially Jewish family away at such a liminal and formative moment in their lives.

Of course, there is no unanimity of opinion on the guidelines and criteria suggested above, and there is certainly no widespread agreement amongst liberal leaders and clergy about whether or not to officiate at the wedding of a Jew and a non-Jew. Similarly, while everyone understands that the existential reality of North American Jewry has changed significantly in the past twenty years, a wide range of opinion exists concerning how *Am Yisrael* should respond. In the conclusion to her study, Sylvia Barack Fishman states, "American Jewish leaders frequently engage in lively discussions

about appropriate communal responses to the increase in mixed marriage. These responses can be divided into two broad categories: (1) arguments that the community should emphasize inclusiveness and outreach, on one hand, and (2) arguments that the community should emphasize the internal intensification of Jewish identity, on the other."²⁶

She goes on to note that, as American and Jewish values have coalesced, a distinctly American Judaism has taken shape. Within the parameters of that system, the American Jewish value of inclusiveness is primary. Because of this, any theory of addressing the current rate of intermarriage which emphasizes inclusiveness and outreach is likely to entice a great number of adherents. The systems of thought which Rabbis Davidson, Kinberg, and Fisher have proposed and implemented certainly fall into this camp as they try to widen the Jewish tent to include the maximum number of potentially Jewish souls.

It is noteworthy, however, that Fishman herself endorses the other line of thinking which stresses the need for strengthening identity amongst Jews rather than intensifying outreach to would-be affiliates. She attributes the popularity of the inclusiveness and outreach system to the fact that it avoids both "boundary maintenance" and "judgmentalism,"²⁷ which are perceived as not being politically correct in the American ethic. It is the Jewish identity-building process of "inreach," however, which she favors as most promising for ensuring American Jewish continuity into the future. This approach stresses intensified Jewish education, both formal and informal, which would

26. Fishman (2001), p. 83

27. Ibid., p. 87

lead towards increased adherence to “authentic historical Judaism.”²⁸ She recognizes the difficulty involved in determining who would define “authentic” and what criteria those people would use in making such decisions. Fishman also acknowledges the loss to Jewish population numbers that would take place if the community focuses on boundaries over inclusion.

She, like Rabbi Yoffie in his 2005 Biennial address, also emphasizes the need to encourage non-Jewish spouses in mixed-marriage couples towards conversion as her data indicate that conversionary households experience far less difficulty in passing Jewish life on to a new generation than do intermarried households. Of course, in that very same sermon, Rabbi Yoffie also expressed the need to formally honor those non-Jewish members of our communities who are dedicating themselves to the creation of Jewish homes. One might read Rabbi Yoffie’s two statements as ambivalence on his community’s best course of action. If that is the case, Rabbi Yoffie’s sentiments pale in comparison to the ambivalence which is experienced by the American Jewish community as a whole when it comes to the question of how best to address the question of Jewish continuity. Conversely, one might read Rabbi Yoffie’s statements as an attempt to look at individual family situations with greater nuance and sensitivity while still making clear that the Reform Movement’s ideal is conversion of the non-Jewish spouse.

It could be argued, then, that Sylvia Barack Fishman’s dichotomous system of inclusivity versus inreach is misleading. Perhaps Rabbi Yoffie, and others within his movement, sees both of these as appropriate responses to current realities, without a need to choose one exclusively over the other. If the CCAR’s ad hoc committee on interfaith

28. Ibid., p. 88

officiation continues along its current path, the ancient concept of a *ger toshav* may be reintroduced as part of that movement's solution.

It is worth noting, that the discussions of reintroducing the *ger toshav* status in order to address concerns over intermarriage are not entirely isolated to the Reform and Reconstructionist Movements. Orthodox Rabbi, Steve Greenberg has suggested the very same. Lamenting the preponderance of conversions to Judaism that lack wholehearted commitment, Greenberg recommends creating a category in between Jew and Gentile, specifically revitalizing the status of *ger toshav*. While supporting efforts that promote strengthened Jewish identity before marriage -- in the hopes that inmarried or conversionary couples will be formed -- he also recommends that Jewish communities shift their attention from mixed marriages to mixed homes by creating Gentiles who are committed to living among the Jews. Unlike Rabbi Davidson, for whom active participation in another faith would eliminate the possibility of being deemed a *ger toshav*, Rabbi Greenberg says of such individuals: "Adoption of the *ger toshav* status would provide a means of sustaining their own faith while still being wonderful parents to Jewish kids...It is time that we provide a place for the non-Jew in our families in much the same way that the *ger toshav*, or alien resident, was given a place in ancient Judea."²⁹ On the one hand, Rabbi Greenberg is writing for CLAL, an organization committed to promoting openness and Jewish pluralism. On the other hand, however, he is an Orthodox Jew, committed to the *halachah*, who sees room in the tradition, and the contemporary demand, for reviving this status.

29. Greenberg, Steve

DETERMINING APPROPRIATE ROLES FOR NON-JEWS IN THE SYNAGOGUE:

The question of where to draw boundary lines vis-à-vis rabbinic officiation at interfaith wedding ceremonies is often just the first of many instances in which a mixed-marriage couple will need to confront such borders. If the Jewish community is successful in drawing the couple into synagogue life after their wedding, or more likely at the onset of school age for their first child, they may once again face questions about religious status. For good reason, synagogues throughout the liberal movements in America are trying to determine which roles in synagogue life are appropriate for their non-Jewish members and which are not.

Once again, the most fertile ground for this debate is in Reform synagogues. In Conservative, and of course Orthodox communities, these guidelines are dictated by *halachic* standards which draw sharp distinctions between Jews and Gentiles. By contrast, the Union for Reform Judaism has already published two editions of a congregational resource book entitled, Defining the Role of the Non-Jew in the Synagogue. While working on the “inreach” model of strengthening Jewish identity amongst practicing Jews, the Reform Movement has also made a name for itself as the denomination which is supremely committed to creating welcoming environments for intermarried families. The result is that all Reform congregations have some members who are not Jewish. During a lecture delivered to CCAR members present at the URJ Biennial on November 19, 2005, Steven Cohen stated that, on average, 35% of the families in Reform congregations are intermarried. Of course, depending on congregational size and geographic location that number might be much higher.

As the synagogue continues to be the primary home of Jewish religious and

spiritual life in America, some boundaries are clearly necessary in order to maintain a modicum of distinctiveness from the practices of other religious groups. Of course, in communities that embrace the values of openness, welcoming, and inclusion, it is supremely difficult draw such borders. Often the attempt to erect boundaries, without broad-based involvement and buy-in from synagogue members, results in ongoing communal debates. For this reason, the URJ encourages each congregation to go through the challenging, and hopefully rewarding, process of determining communal policies about where the boundaries between Jew and non-Jew are drawn. This is a sampling of the questions with which synagogues are likely to struggle:

- Can non-Jews teach in the religious school?
- Can non-Jews hold positions on synagogue committees? On the synagogue board?
- Can a non-Jew serve as synagogue president?
- Can a non-Jew participate in the ceremony of passing the Torah to his or her child during the *Bar/Bat Mitzvah* service?
- Can a non-Jew recite blessings at a public service, knowing that many of them include the words *אֲשֶׁר קִדְּשָׁנוּ בְּמִצְוֹתָיו, וְצִוָּנוּ*, blessing God who sanctified us through God's commandments, and commanded us?
- Similarly, can a non-Jew be called to the Torah for an *aliyah*, the blessing which states, *אֲשֶׁר בָּחַר בָּנוּ מִכָּל הָעַמִּים, וְנָתַן לָנוּ אֶת תּוֹרָתוֹ*, that God chose us from among all the peoples of the earth, and gave us the Torah.

This list is by no means exhaustive, but it does represent the questions with which congregations are most likely to wrestle as they attempt to define themselves. There are

no simple answers to these queries, and as such, many synagogues are looking to the Jewish tradition to help them arrive at thoughtful and principled responses. It is here that a renewed look at the status of a *ger toshav* may prove helpful. Additionally, it is interesting to note that many congregations' have intuitively responded to the above questions in a manner that is similar to the system used by the Rabbis and Medievalists to determine when the *ger toshav* is treated like a Jew and when like a Gentile. In many congregations, those *mitzvot* which are *bein adam l'chaveiro*, the civil guidelines and practices in modern parlance, are open to all members, Jews and non-Jews alike. Conversely, where lines are drawn to exclude non-Jews from participation, it is almost invariably in the realm of *mitzvot bein adam l'makom*, or those more religious aspects of synagogue life, such as reciting particularistic blessings, passing the Torah to one's child during *bar* or *bat mitzvah*, or have an *aliyah l'Torah*.

Implementing the *ger toshav* status to wrestle with these questions is by no means an entirely novel concept within the Reform Movement. In 1977 the CCAR Responsa Committee responded to a question about whether or not a Gentile man, who essentially lived as a Jew and was married to a Jewish woman, could join the synagogue in his own right. Walter Jacob answered on behalf of the committee:

"This Gentile would be considered a *ger toshav*, or a follower of the Noahide laws, but of course, we could not consider him to be a *ger tzedek*, or a convert to Judaism. Christians and Muslims, as monotheists, have been classified as *gerei toshav* since the Middle Ages (Meir of Rothenburg Responsa #386; *Yad Hil. M'lakhim* 8.11, *Shulhan Arukh Yoreh Deah* 148.2, etc.) rather than idolaters. The status of a *ger toshav* is rather clear. A *ger toshav* is considered equal to a Jew in all legal matters, but he has no status in connection with ritual obligations, for they are not incumbent upon him. He would, therefore, not be considered part of the quota for a *minyan* or for *m'zuman*, nor could he lead a worship service, etc. (*Shulhan Arukh Orah Hayim* 199.4)."

Jacob goes on to state that such a person could not, himself, belong to the synagogue as membership would entitle him to participate fully in a series of ritual activities with which he should not be involved. In 1983, the question of reinstating the *ger toshav* status was posed directly to the Responsa Committee. Rabbi G. Raitskin wrote, "Should we reinstitute the ancient category of semiproselyte known in the Talmudic literature as *yirei adonai*, *ger toshav* and *ger shaar*? Would this be a way of solving the problem of non-Jewish spouse whose Jewish husband or wife belong to our congregations while they, as non-Jews with a considerable interest in Judaism, have either no status or a status which has not been properly and clearly defined? Would this ancient Talmudic category help us with our modern problems? What kind of status should be granted to such an individual?"

This question was posed in the same year in which the CCAR adopted patrilineal descent as a legitimate mode of transmitting Jewish status, a decision surely made in response to the ever-shifting realities of interfaith families. Nevertheless, the response to Rabbi Raitskin's question was a resounding, "No." For a number of reasons, including the term's disuse after the Rabbinic era, the Responsa Committee ruled that applying the title of *ger toshav* to modern-day Christian neighbors would not effectively change their status in the least. As such, it made no sense to revive the term.

The responsum concluded with this statement: "Membership in our congregation is limited to Jews and Jewish families. A non-Jewish partner is welcome to the fellowship of the congregation and is encouraged to participate in all of its activities; however, the non-Jewish spouse may not serve on the Board, hold office, become chairman of any committee or have the privilege of voting at congregational or committee meetings."³⁰

Another responsum by the committee issued in the previous year, also dealing with the question of synagogue status for mixed-marriage couples expressed a similar sentiment. In regard to the non-Jewish spouse, they wrote, "Full membership in the congregation would also imply the ability to become a member of the Board of Trustees and an officer of the congregation. This could very likely lead to an absurd condition in which a Jewish congregation would have a non-Jewish officer whose knowledge of the workings of the synagogue would be gained only from the practical organizational experience but without any Jewish background."³¹ One wonders whether or not the response to Rabbi Raiskin's question might have been different today, when the "absurd condition" cited above has surely become a reality in many places.

Approaching the matter from a different angle, it is possible that contemporary synagogues could engage Rabbinic and Medieval sources directly as part of their process

30. Jacob, 1987, responsum #162

31. Jacob, 1983, pp. 215-216

of defining the role of non-Jews in their midst. In fact, the URJ's Defining the Role of the Non-Jew in the Synagogue suggests they do just that. Twenty-three years have passed since the CCAR Responsa Committee ruled that reinstituting the *ger toshav* status was inadvisable. Not only have conditions in American Jewry, and in Reform synagogues, changed dramatically since then, but the CCAR's ad hoc committee on interfaith officiation is moving towards a revival of the term.

The textual cases presented in Chapters One through Four provide a host of references for congregational leadership to study together. From these sessions, they might draw their own conclusions about the usefulness of *ger toshav* as a means of framing the role of the non-Jew in synagogue life today. One possible conclusion is that those aspects of Jewish life which are religious in nature, those obligations which constitute maintenance of the relationship between the People Israel and God, should be off limits to those who have not fully entered the faith by one of the traditional means (birth or conversion). While, conversely, those aspects of synagogue life that foster relationships *bein adam l'chaveiro* might be made open, welcoming, and engaging for *gerei toshav* in the community.

Such policies, rooted in classical Jewish texts, might serve both strategies for ensuring Jewish continuity proposed by Sylvia Barack Fishman. On the one hand, those

amongst the synagogue leadership who went through such a process of study and debate would surely experience a strengthened understanding of their own textual tradition and its views of Jews and non-Jews. The more members of the synagogue community touched by this inreach, by this process of considering what defines and differentiates this sacred Jewish community from its neighbors, the greater the likelihood that their own sense of Jewish identity will be renewed and reinvigorated. Simultaneously, such a process can make abundantly clear to potential *gerei toshav* in the synagogue's midst that the community's doors, arms, and hearts are open to their presence and participation in the *kehillah*. This need not, necessarily, require their conversion to Judaism, though that possibility ought to be suggested as well. It does, however, invite them to make a commitment to creating a Jewish home, raising Jewish children, and supporting the Jewish community.

Across time, through Jewish history, there has been a dialectic between those who argued for very restrictive boundaries between Jew and non-Jew and those who favored more permeable borders. This is not a debate that is limited to the modern period. Challenging the status quo of the Jewish People, even the laws and guidelines which specifically demarcate the limits of that community, is itself part of the Jewish tradition that ought to be passed on. This internal debate is healthy and, in most cases, is

motivated by good will for the sake of both *Am Yisrael* and God. Particularly as Reform Jews, a community which draws its name from the process of reshaping what is rather than inventing anew, there is a communal obligation to continue thinking creatively about these matters in a manner that is informed by the tradition. It appears that, for thousands of years now, there has existed some understanding amongst communal leaders that Judaism is not entirely an "either-or" proposition. By drawing upon the status of *ger toshav* which the tradition has provided, contemporary American Jewry might discover more positive ways by which to relate to those in their midst who are neither wholly "inside" nor entirely "outside" of the Jewish communities to which they often contribute so freely.

AFTERWORD

Interfaith Families and Jewish Education

"...[A]ll Jewish communal professionals -- especially educators -- must think of themselves as outreach workers and come together to make some fundamental changes.

Right now, the community pushes away more people than it welcomes in."

- Paul Golin, Associate Executive Director of the Jewish Outreach Institute

As has been noted previously, the leadership of American Jewry has spent a great deal of time considering appropriate responses to the question, "How can we insure Jewish continuity in future generations given our current demographic realities?" Of course, answers to this question exist on a spectrum. At one end, some would suggest drawing clear lines around the Jewish community, plainly demarcating its religious and cultural borders. Those who would like to fully opt into some form of traditional Jewish life can do so, and the job of Jewish professionals is to draw all towards that end.¹ The other pole in the debate, often represented by the work of the Jewish Outreach Institute, advocates for lowering barriers to entry into the Jewish community as much as possible, even when that means abandoning traditional notions of who is "in" and who is "out" of the Jewish People. It seems that across this spectrum, however, all agree that Jewish education has a critical role to play in the process.

This yields two significant questions. First, what impact might Jewish education have on fostering Jewish identity in those who, for whatever reason, find themselves on the margins of American Jewish life? Second, how do increasing numbers of interfaith families impact on the Jewish educational institutions (e.g. synagogues, camps, Israel

1. See Marvin Schick

programs, etc.) with which they come into contact? It seems that a great deal more research has been done on the first question, so that topic will be addressed first. Additionally, it should be noted that volumes could be written on the intersection between Jewish outreach work and Jewish education. In this context, these questions can only be given a terse overview.

WHAT ROLE DOES EDUCATION PLAY IN MAINTAINING JEWISH CONTINUITY?

The National Jewish Population Survey of 2000-2001 (NJPS 2000-01) tried to create measures of Jewish continuity by which it could compare the Jewish involvement of both inmarried and intermarried families. Their results echo the findings of Cohen, Eisen, and Fishman presented in the previous chapter. To the degree to which holiday and Shabbat observance, and surrounding oneself with Jewish friends, are indicative of the strength of one's Jewish identity, the following figures are telling²:

	Inmarried	Intermarried
Hold/Attend Passover Seder	85%	41%
Light Shabbat Candles	39%	5%
Half or more of close friends are Jewish	76%	24%

Similarly, Jewish life has traditionally needed to be lived out in community. Jewish worship requires a *minyan* of ten individuals. Text study is encouraged in *chevrutah* pairs or in small groups. Jewish culture is transmitted at community events,

2. NJPS 2000-01

drama performances, films, and meals, and the needs of world Jewry are attended to through specifically Jewish communal philanthropy. For these reasons, another modern measure of the health of any given Jewish community is the voluntary affiliation rate with the Jewish organizations and institutions that provide both a social framework and opportunities for developing one's Jewish identity. Here too, the NJPS 2000-01 demarcates differences between the inmarried and the intermarried populations:

	Inmarried	Intermarried
Belong to Synagogue	59%	15%
Belong to JCC	29%	6%
Give to Federation	41%	9%

Whenever one considers statistics like those above, the critical question is, "What do these numbers mean?" Of course, responses vary among different Jewish leaders and institutions when reflecting on the above figures. Many, however, have concluded that Jewish identity tends to be stronger, and thus the likelihood of Jewish continuity greater, when Jews marry within the faith than when they marry outside of it. Thus, one critical question to be considered here is, "Can Jewish education prevent inter-faith marriages in the first place?" While nobody considers it a panacea for all the woes of contemporary American Jewry, Jewish education during childhood appears to have a role in encouraging inmarriage later in life. The NJPS 2000-2001 reports that among those who attended Jewish day school or yeshiva, only 7% married outside the faith. This is contrasted with those who attended a part-time Jewish school which met more than once a week (23% inter-married), those who attended a part-time Jewish school that met once a week (29% inter-married) and those who had no formal Jewish education (43%

inter-married).

One could easily interpret these figures as proof that the more Jewish education one receives, the more likely it is that one will marry another Jew, thus dramatically increasing the probability of raising a new generation of Jewish children. Of course, it is also probable that the amount of time and resources which parents dedicated to their children's Jewish educations were reflective of the family's degree of commitment to Jewish life in general. Therefore, amongst those with more active Jewish learning in their past, it may not have been the education alone which fostered a sense that marrying within the faith was a significant value to be upheld.

Jonathan Woocher has also addressed the question, "Can Jewish education prevent intermarriage?" His answer is a "qualified 'yes'." Woocher writes, "There is evidence that better, more intensive, more holistic Jewish education can have a positive impact on the formation of a strong Jewish identity. The stronger one's Jewish identity, the less likely one is to feel comfortable with a marriage partner who is not Jewish, or who is not prepared to become one."³ He is careful to note, however, that Jewish education alone is not likely to stem the tide of interfaith marriage in America. Similarly, Woocher warns Jewish educators against making intermarriage prevention the focus of their work. Giving Jews the tools by which they might lead meaningful and connected Jewish lives ought to be the impetus for the educational endeavor, and any impact that work has on marriage statistics is of ancillary, not primary, importance.

In addition to recognizing that Jewish education as a child may impact one's choice of a spouse later in life, many Jewish communities have discovered that a child's

3. Woocher, p. 12

formal Jewish education can have an impact on his or her parents' engagement in Jewish life. Every Jewish educator with whom I discussed the intersection of Jewish education and Jewish outreach to interfaith families spoke about occasions on which children's religious school, camp, or Israel experiences had been brought home and passed on to parents. Rather than conveying tradition in the more customary fashion, from parent to child, more and more Jewish educators are recognizing the possibility of teaching the parents through their children. This realization, combined with a recognition that well-meaning parents felt ill-equipped to participate meaningfully in their children's Jewish learning, led to an explosion of Jewish family education programs and professionals in the last two decades.

Surely, this overview is too brief to convey a full picture of the effect that Jewish education might have on interfaith families. Nevertheless, it will suffice to set the stage for the second critical question at hand.

HOW DO INTERFAITH FAMILIES IMPACT JEWISH EDUCATION?

It seems obvious that the demographic shifts in American Jewry over the last thirty years must have an influence on the educational philosophy, goals, and curricula of the synagogues, schools, and institutions which provide the education. Whereas a religious school teacher was once able to assume, with relative surety, that all of his students were *halachically* Jewish and were being raised in wholly Jewish homes, today's teacher might find that her classroom includes: children born to two Jewish parents, children who are Jews by patrilineal descent, children who have one Jewish parent and a second who actively practices another faith, children who are being raised in two faiths

simultaneously, and children whose only connection to their Judaism is through grandparents who insist upon formal religious schooling.⁴ One imagines that this reality-shift would have a dramatic impact on how Jewish education is conceived of and implemented, yet surprisingly little is written on the topic. What has been written seems to exist on a similar spectrum of thought to the one mentioned above, with one pole calling for changes in Jewish education to make it more particularistic (Judaism is different and one is either “in” or “out”) and communal (emphasizing obligations to the People Israel) and another pole which demands that Jewish education evolve to emphasize the aspects of Judaism which are universally accepting (Jews widen their tent to welcome all) and personalized (each potential student should be met where he or she is and led on a personal journey).

Marvin Schick, President of the Rabbi Jacob Joseph School and publisher of the Journal of Halacha and Contemporary Society, stands towards the former position. In looking at the contemporary American Jewish situation, he sees a strong connection between outreach work to interfaith families and Jewish education. When considering the role of education in drawing multi-faith and marginally affiliated families towards Judaism, he writes, “Because of the weakened state of American Jewry, with assimilation dominant even among many Jews of commitment who are also Jews at risk, those [educational] activities or experiences which seek to transform the lives of participants in

4. Though not the immediate topic at hand here, it is worth noting that this classroom may also contain: children of single-parent homes, adopted children, black children, Asian children, Latino children, children whose parents are gay, lesbian, bisexual, or transgender. Any of the above may challenge the traditional notion that Jewish family consists of a male and a female parent, both of Ashkenazic Jewish descent, with white skin, and other specific physical characteristics. Ideally, teachers and educators should receive outreach training that would help to broaden their horizons of who is “Jewish” to include all of these students.

the direction of traditional observances and beliefs are far more likely to produce positive outcomes.”⁵ He therefore advocates for educational curricula which will draw hard lines, and promote only strict traditional practices. He also dissuades against hinging Jewish education on teaching Jewish culture. Rather, he writes, “Jewish education must be seen and experienced in religious terms, in terms of a socialization function which molds children in the direction of traditional practices and beliefs.”⁶

Moving along this spectrum, one finds the opinion of Rabbi Jerome Epstein, the Executive Vice President of The United Synagogue of Conservative Judaism. In an article written in December of 2005, he calls for the Conservative Movement to shift from *keruv* (welcoming interfaith families) to *edud*, an attitude which would more actively encourage conversion amongst non-Jewish spouses in interfaith families. Rabbi Epstein sees this as a novel concept for his movement and does not seem aware that Rabbi Eric Yoffie, President of The Union for Reform Judaism, had renewed his predecessor Rabbi Alexander Schindler’s call for that same attitude in his Biennial address just one month earlier.

Nevertheless, the educational message that Epstein encourages for the new program of *edud* is one which asserts that, “being Jewish is being different. If a Jewish family is not special or distinguished from a non-Jewish family, what difference does it really make if the person or the family is Jewish or not? *Edud* must foster appreciation of the richness of Jewish living and the distinctiveness of Jewish values. For decades, we sought to demonstrate the similarities between Jews and non-Jews. Our challenge today is to teach about the ways in which we are different.” While he does not emphasize the

5. Schick, p. 15

6. Ibid., p. 19

need to promote traditional Jewish practice and belief to the same degree that Schick does, his message is similar. The essence is that Jewish communities must educate in such a way that makes opting into membership in the exclusive People Israel so appealing that one could not choose otherwise.

The Reform Movement is also concerned about where to erect borders between Jew and non-Jew in educational settings, and it would seem that responses range dramatically from one congregation to another. I had the opportunity to question a number of rabbis about the impact of interfaith families on their synagogue's educational programs during The Union for Reform Judaism Biennial in November of 2005. The anecdotal evidence would seem to suggest that the most dramatic impact on synagogue educational systems has taken place in geographic areas where the intermarriage rates are the highest. In response to the statement, "Tell me about how the increase in interfaith families has impacted on your synagogue's educational programs," rabbis from the Northeast, where intermarriage rates tend to be comparatively lower, spoke of minor administrative inconveniences. For example, one rabbi thought quite a bit before he could come up with a response, eventually noting that they once scheduled a family education program on Easter Sunday which later needed to be rescheduled because so many families had plans with non-Jewish relatives that day.

Conversely, a rabbi from a congregation in the South (where intermarriage rates tend to be higher) proudly shared that her synagogue's entire adult education program has been revolutionized by the preponderance of intermarried families in her community. With a mindset that echoes the *edud* suggested by Rabbi Epstein above, this Reform synagogue has created "ladders of learning" for adults which encourage a continuous

climbing towards deeper learning, and a simultaneous strengthening of one's Jewish identity. The steps on the ladder, from bottom to top, include: a brief Taste of Judaism course, a lengthier Introduction to Judaism class, conversion classes, adult *b'nei mitzvah* classes, achievement of a certificate in Torah, a scholar's institute of advanced Jewish study, and finally the opportunity for learners to become teachers of Torah themselves. This rabbi attributes the entire structuring of this system to the needs of the large non-Jewish population within the synagogue. Of course, Jews by birth and by choice who belong to the temple are also greatly benefiting from this series of adult education programs and are, themselves, being drawn into richer participation in Jewish life. It should be noted that this synagogue employs an Interfaith and Outreach Coordinator who plays a significant role in administering and maintaining this intricate educational system in conjunction with the clergy and education staff.

While educational responses to interfaith families certainly vary from congregation to congregation in the Reform Movement, the URJ also makes educational policy suggestions on a North American level. For example, at the 2005 URJ Biennial, Rabbi Eric Yoffie called for a recommitment to the 1995 URJ resolution which urges member synagogues to deny religious school admission to potential students who are simultaneously receiving formal education in another faith. The full text of the 1995 resolution can be seen in Appendix B. In it, the URJ (then UAHC) suggests that synagogues establish such rules in writing and then make them very public to congregants and potential religious school families. Additional suggestions for educators working with interfaith families can be found in the Union's Defining the Role of the

Non-Jew in the Synagogue resource book. These include⁷: publishing the synagogue enrollment policy in the school handbook, asking about family religious make-up in registration forms, discussing school goals and guidelines during in-take interviews with new families, training lay people to conduct such interviews, and running a variety of school and adult programs to address the Jewish educational issues that are unique to interfaith families.

Theoretically, adherence to these policies would decrease the possibility that Reform religious school teachers would have to field regular questions about Christmas, Easter, and the life of Jesus, topics which few are prepared to speak on in detail. Of course, the URJ clearly felt the need to revisit this resolution on the tenth anniversary of its original adoption because so many of its member congregations have no public written bylaws on this question, instead operating on a "don't ask don't tell" policy when it comes to admitting new students to their schools. Many synagogues, particularly those with small Jewish populations and high rates of intermarriage, feel that drawing such clear boundaries would alienate too many potential students and families.

Interestingly, it is precisely such lowering of potential barriers to Jewish education and involvement which is advocated by the Jewish Outreach Institute. In many respects, this organization's suggestions for reforming Jewish education are not only the most liberal in their boundary erosion but also the most novel and challenging as well. In his article entitled, "Every Jewish Educator is an Outreach Worker," Paul Golin, the Assistant Executive Director of the Jewish Outreach Institute, makes a number of suggestions for ways in which Jewish education ought to better address the needs of the

7. Sacher and Greenwood, pp. 215-216

interfaith families.

First, he notes that about 30% of intermarried families raise their children exclusively as Jews and about 30% raise their children in another faith entirely. The remaining 40% in the middle are either bringing up their children in two faiths or with no specific religious identity. He sees this middle group as a great untapped potential. In fact, he advocates for trying to get just half of that 40% to raise their children exclusively as Jews, yielding a full half of intermarried families that would then be raising Jewish children. Doing so, he asserts, would actually spell increased Jewish population numbers in America over time rather than the decline that is forecasted by most sociologists who study American Jewry. In order to achieve this goal, Golin calls for "open access to our educational programs and institutions" for all of these families. Clearly, this flies in the face of the Reform Movement's stance on refusing religious school enrollment to children receiving active education in another faith. A sizeable segment of the 40% that Golin seeks to target is currently involved in raising their children in two faiths, which in many congregations, precludes their involvement in religious school education.

Golin also notes that the same techniques used to draw intermarried families into Jewish life would likely appeal to the unaffiliated Jewish population that exists in America, thus achieving two goals with one broad stroke. He points out that the unaffiliated make up the single largest segment of the Jewish population, a fact borne out by the 2000-01 NJPS which described 28% of the Jewish population as highly affiliated, 28% as moderately affiliated, and a striking 44% of Jews as entirely unaffiliated with organized American Jewry.

Acknowledging that the Jewish Outreach Institute exists at one end of the

ideological spectrum, catering largely to the intermarried and unaffiliated Jewish populations in America, Golin argues that the group's methods -- "inclusion, non-judgmental attitudes, and a willingness to serve all who are genuinely interested"⁸ -- are potentially valuable across denominational and philosophical lines. To achieve these meta-goals, he suggests a number of strategies.

First, bridges ought to be built between Jewish institutions and programs in order to help move people towards the center of Jewish life. He rightly points out that stepping inside of a synagogue can be a daunting and intimidating step for many intermarried families. Organizational partnerships amongst a variety of Jewish professionals might make entry into the process of Jewish learning a more reasonable and achievable option for interfaith couples and their children. The programs which Golin holds up as the most successful models of this approach are "easy to participate in; do not involve any prerequisite knowledge for participation; require no further commitment; are advertised in the secular media; are held in comfortable, open settings; and attract a diverse crowd by being welcoming to all who would participate."⁹ Professionals affiliated with more mainstream Jewish institutions, like synagogues, ought to be on hand at these non-judgmental, "easily entered" programmatic opportunities which often take place in familiar, secular, relaxing settings. Through professionals' presence, and their active outreach efforts there, it may be possible to draw newcomers into more significant opportunities for Jewish education and practice.

In working towards the goal of creating initial pathways to Jewish life which exist outside of the classical synagogue setting, the Jewish Outreach Institute has initiated a

8. Golin, p. 29

9. Ibid., p. 30

new program entitled "Mother's Circle." Its website¹⁰ reads:

"Mothers Circle is an opportunity to connect and engage with women just like you, who are raising Jewish families, and are themselves of a number of different faiths and heritages. Mothers Circle offers an array of exciting opportunities for FREE:

- The Mothers Circle: The Course, a year-long educational and experiential program empowering women to find ways to bring Judaism to their homes. (Free childcare provided)
- 1 on 1 discussions with our local rabbis, who will be your personal guides to accessing Judaism in your own way
- Fun family get-togethers after community events
- Dynamic drop-in informative programs throughout town, throughout the year
- Invitations to Interfaith model Passover Seders and Shabbats

Join Mothers Circle and meet women just like you, and accept our heart-felt thanks for being a welcome part of the Jewish community!"

In many respects, The Mothers Circle initiative epitomizes the outreach philosophy of "meeting people where they are at" in their own lives. Everything about the programmatic message bespeaks a welcome, nurturing, and considerate environment. It would behoove congregational clergy and educators to volunteer to serve as resources to such programs, building inter-institutional bridges, and providing pathways for newcomers to move from the experience of welcome to more committed involvement and Jewish identity building.

Golin likewise suggests that every community professional, including administrative staff, educators, and teachers in a synagogue setting, ought to be trained in outreach skills. Every point of contact between an interfaith family and a Jewish institution is an opportunity to draw Jews, and potential Jews, into communal life. In the educational setting, if teachers and staff members (often those with first and primary contact) are not equipped to have meaningful, welcoming, and encouraging discussions with their students' parents, then opportunities are missed for both the *keruv* and the *edud*

10. <http://www.themotherscircle.org/>

that Epstein describes.

Additionally, the Jewish Outreach Institute advocates for lifting “the perception that all intermarriages are inherently bad”¹¹ which permeates much of Jewish culture. Golin writes about what he calls “successful Jewish intermarriages” which appear very similar to the ones described by Rabbi Davidson in Chapter Six. In such couples, the non-Jewish spouse (or *ger toshav* in Rabbi Davidson’s parlance), who frequently receives support neither from the Jewish spouse nor the Jewish community, often plays the primary role in providing the children’s Jewish education. Echoing Rabbi Yoffie’s sentiments in his November 2005 Biennial address, Golin notes that it is only logical to honor and support these individuals who are helping to create a new generation of Jews.

In order to do so, Golin encourages communities to train their teachers, staff, clergy, and laity to avoid using phrases like, “You don’t look Jewish,” “That’s not a Jewish name,” or “Jews don’t do _____.”¹² Such sentiments, and others like them, only serve to reinforce the message that the Jewish community does not actually welcome interfaith couples, potential converts, and even *gerei tzedek* who have completed their conversion processes. How can the Jewish community demand the temporal, financial, and spiritual support of would-be newcomers, when the subtle (or not-so-subtle) and continuous message is one only of separation and rejection?

The efforts and methods of the Jewish Outreach Institute challenge Jewish educators to reconsider their own practices and philosophies. To be sure, local communal discussion and debate around the questions raised here will be a necessary and healthy step on the way to responding educationally to the current American Jewish

11. Ibid.

12. Ibid.

situation. To that end, Appendix C contains a list of questions that religious school committees ought to consider, in consultation with synagogue education professionals and clergy, when plotting their own strategies for locating the nexus of Jewish outreach efforts and Jewish education.

In Chapter One, it was established that the Jewish worldview, historically, breaks people down into two simple categories: Jews and non-Jews. One is either "in the tribe" or is not. In response to this outlook, Golin writes, "It is no longer 'us against them' for the Jewish community. The 'them' in that equation are now sitting around our *seder* tables, marrying our children, and loving us. The walls between 'us and them,' both physically and metaphysically, have been torn down by our free and open society. The Jewish community must absorb that change and rebuild based on a new paradigm."¹³ Perhaps the classical notion of a *ger toshav*, a would-be outsider who comes to live amongst the Jews, will come to be a component of that new paradigm.

13. Ibid.

APPENDIX A

Rabbi Myron Kinberg's *Brit Ger Toshav* and *Brit Nisuin* Ceremonies

Taken from

<http://www.ritualwell.org/lifecycles/intimacypartnering/weddingscommitmentceremonies/sitefolder.2005-06-07.6879878744/31GerToshav.xml>

***Brit Ger Toshav* (Covenant of a Resident Stranger)**

I, _____ of my own free will without coercion or without being in conflict with any other personal religious orientation, wish to become a ger toshav of the Jewish People. I understand that the privileges, obligations and commitments of a ger toshav are the following:

1. to be a non Jewish member of the Jewish community, unreservedly committed to the perpetuation of Judaism in my personal home life.
2. to be able to participate equally in all aspects of Jewish life and traditions as would a Jewish person except that I may not formally represent Jewish people in the performance of a religious practice, hold office in the Jewish community, nor be a voting member of the Jewish community.
3. to maintain a purely Jewish home environment without the influences of other religious traditions in the home.
4. to raise any children I may have as Jews and to bring them into the covenant Jewish peoplehood according to Jewish tradition and to help educate them in the formation of their Jewish identity.
5. to participate actively in the Jewish life of my home and community.
6. to learn about Jewish life and traditions so that I may participate actively in my Jewish home and communal life.
7. to be bound to this covenant as long as my home life and/or children live within the influence of the Jewish community.

Ger Toshav _____

Witness _____

Witness _____

Brit Nisuin (Covenant of Marriage)

On the _____ day of the week, the _____ day of _____ since the creation of the world as we reckon time here in _____, the Bride _____ daughter of _____ and the groom _____ son of _____ promised to sanctify their relationship as husband and wife. They have come under the hupah in order to establish a Jewish home according to the traditions of Moses and Israel. To insure the sanctity of their relationship will be linked to the sanctity of Judaism and the Jewish people in their home and communal life, the _____, _____ has vowed to become a ger toshav, as defined by the attached Covenant of Ger Toshav.

Therefore, the groom and bride have also promised each other to strive throughout their lives to achieve an openness which will enable them to share their thoughts, their feelings, and their experiences, to be sensitive at all times to each other's needs; to attain mutual intellectual, emotional, physical, and spiritual fulfillment and to work for the perpetuation of Judaism and of the Jewish People in their home, in their family life, and in their communal endeavors.

This marriage has been authorized also by the civil authorities of _____. It is valid and binding.

Witness _____ Bride _____

Witness _____ Groom _____

Rabbi _____

APPENDIX B

UAHC Resolution:

Enrollment Policies in Reform Religious Schools

Adopted by the General Assembly
November 30 - December 3, 1995 Atlanta

Background: The Reform religious school is a primary pathway for outreach to interfaith families, inviting them into an active Jewish community and giving them the tools to make Jewish choices. As Reform Jews, we welcome interfaith families and encourage them to affirm the Jewish identification of their children through covenant and naming ceremonies, consecration, Torah study in our religious schools, Bar/Bat Mitzvah and confirmation. These are mitzvot that affirm "a positive and exclusive Jewish identity" for a child with one Jewish parent that are enumerated by the CCAR in its declaration on patrilineal descent (1983).

We recognize that enrollment of children in a Jewish religious school is a complex decision that interfaith parents do not undertake lightly. It can have profound implications for the children, the couple and the household they have created and can entail significant sacrifice, particularly for the parent who is not Jewish. We respect the desire and acknowledge the challenge for interfaith parents to impart knowledge and appreciation of the heritage of both parents to their children, while giving them a singular and firm religious foundation on which to grow. Further, we know that such a decision can and often does lead the whole family to a deepened connection with the synagogue at many levels, not only the school. When a family grows and feels enriched by living as Jews, the Jewish community too is blessed.

Admission to Reform religious school of children whose parents have decided to raise and educate them as Jews is fully consistent with the mission of our schools, which, broadly stated, is to teach Judaism as a faith that is lived, and to enable students to develop a strong, positive Jewish identity that is acted on in relation to God, Torah and Israel.

However, experience tells us that some interfaith couples who seek to enroll their children in Reform religious schools are not raising and educating their children exclusively as Jews. They may wish to educate their children in both Judaism and another religion with the idea that at a later time the children will decide which religion is right for them. Or they may choose to identify and educate their children as "both."

This is a path that we as committed Reform Jews cannot support. First, it is contrary to our understanding of Outreach which, while deeply respecting other religions, offers a way into Judaism as a distinctive and precious way of life and faith. Second, it is theologically inconsistent for a person to identify as both Jewish and Christian (or as an adherent of any other religion). Indeed, it is the long-standing policy of the Commission on Reform Jewish Outreach to encourage interfaith couples to choose a single religious identification for their children. Third, psychologically placing the burden of such an

impossible decision on children may imperil their healthy spiritual development. Finally, the goal of parents to educate children in both Judaism and another religion is incongruent with the mission of Reform religious schools as articulated above. Without diminishing rights of parents in determining the religious education of their children, our Reform religious schools must nevertheless, insist on fulfilling the purpose of making committed adult Jews out of Jewish children.

THEREFORE, the Union of American Hebrew Congregations resolves to:

1. Encourage congregations to take the following steps:

a. Establish a clearly articulated policy that offers enrollment in Reform religious schools and day schools only to children who are not receiving formal religious education in any other religion;

b. Develop clear and sensitive procedures for communicating the goals of the school and enrollment policy to all parents, particularly interfaith parents; and

c. Provide and strengthen programs for interfaith couples who are seeking a religious path for their families, encouraging them to explore Judaism. We call for the expansion of Outreach program, such as alternative family education programs, holiday celebrations and worship services, Introduction to Judaism classes, "Stepping Stones," "Taste of Judaism," and interfaith couple's workshops; and

2. Call on the UAHC-CCAR Commission on Reform Jewish Outreach together with the UAHC-CCAR-NATE Commission on Education to develop and provide models for setting policy and examples of policy, and to encourage congregations to offer appropriate programming to open the way for interfaith couples and their children to choose Judaism.

APPENDIX C

Questions for Synagogue Religious School/Education Committees to Consider Regarding Educational Strategies for Interfaith Families

NOTE: Responses to these questions should be informed by the synagogue's and the school's mission statements. Those documents should provide a basic outline of the educational *raison d'être* that will drive the discussions below.

- ☆ Do we know the religious make-ups of the families in our school?
 - If not, do we want to?
 - How would we gather that information?
 - Can a system be put in place to gather that information from new incoming families?
- ☆ What do we see as the dividing line between Jew and non-Jew? To what extent do we educate that Jews are a people "separate and apart" from others? To what extent do we educate towards comfort and integration with the larger society?
 - How does our responses play themselves out in our school?
 - Are we clear about where our boundaries are?
 - How do we communicate those borders to members and potential members?
 - Is our faculty clear on where and how we draw these lines?
- ☆ What personal biases do we each have concerning interfaith/marginalized families?
- ☆ How can an explicitly particularistic Jewish education still avoid alienating those with family members of different faiths?
- ☆ Do we want to emphasize religious observance as a primary educational goal? Familiarity with Jewish culture? Both?
 - Should topics like Jewish holidays be taught with an emphasis on religion or culture? (JOI has found that many American Jews see holiday observance as cultural rather than religious.)
- ☆ What are the specific educational needs of various interfaith family members?
 - Of the Jewish parent?
 - Of the non-Jewish parent?
 - Of the children?
 - Of the grandparents?
- ☆ In what ways can family education models help to achieve our goals?
- ☆ Does it further our goals to separate out interfaith families for their own programs or to design educational modules that meet the needs of all our families? Should we/can we do both?
- ☆ How do we train our teachers with appropriate outreach skills?
 - Does more need to be done in this realm?
 - Where can we find time and money to make this happen?
- ☆ Is the language of our school handbook and synagogue policy statements both clear and welcoming?
- ☆ Are there other Jewish institutions with whom it would be beneficial to partner in order to achieve our shared goals?
 - If so, who?
 - What might such a mutually-beneficial partnership look like?

- ✧ Are there subtle ways in which we inadvertently marginalize segments of our population based on:
 - Skin color?
 - Sexuality?
 - Interfaith family background?
- ✧ Does our adult education system include clear and logical steps towards deeper learning, commitment, and opportunity for Jewish growth for both the Jewish and non-Jewish seekers in our community?

ADD YOUR OWN QUESTIONS HERE:

[illegible]

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