

*Whether one is an Israelite or a Gentile, a man or a woman, a slave or maidservant, whoever does a mitzvah is rewarded for it. Yalkut Shimoni Lekh Lekha 76*

## **The Status of Non-Jews in Jewish Law and Lore Today**

### **Rabbi Reuven Hammer**

*This teshuvah was unanimously approved on April 21, 2016 (19-0-0). Voting in Favor: Rabbis Kassel Abelson, Pamela Barmash, Miriam Berkowitz, Noah Bickart, David Booth, Elliot Dorff, Baruch Frydman-Kohl, Reuven Hammer, Joshua Heller, Jeremy Kalmanofsky, Jane Kanarek, Gail Labovitz, Amy Levin, Jonathan Lubliner, Daniel Nevins, Micah Peltz, Paul Plotkin, Elie Spitz, and Jay Stein.*

**Questions:** What is the status of Gentiles in Jewish Law today?<sup>1</sup> How should we deal with statements in traditional Jewish literature that are negative or discriminatory regarding non-Jews?

### **1 Background**

The Torah teaches the equality of all human beings created in the image of God and is positive toward non-Israelites. Rabbinic literature similarly contains numerous positive statements about Gentiles. Nevertheless it cannot be denied that there are passages in rabbinic literature, kabbalah and medieval philosophical works that depict Gentiles in negative terms, as inferior to Jews and sometimes even as less than human. Many of these negative statements and depictions can be explained as normal reactions to the exceedingly cruel treatment of Jews by non-Jews, be it the Roman Empire, the Church or others. Some, however, go far beyond that, positing an exclusivist theology.

Dealing with discriminatory laws and negative texts when teaching our tradition to youth and adults can be problematic, to say nothing of how we deal with them when interacting with Gentiles. This has become particularly acute in the Diaspora today where Jews are in constant contact with Gentiles and enjoy equal rights and equal status. At a time when other religious groups, such as the Catholic Church, are re-examining their attitudes towards Jews and making changes in their dogmas to eliminate negative doctrines, we can hardly do less.

Unfortunately in Israel an extremely serious situation has arisen in recent times because of the publication of radical books such as *Baruch HaGever* and *Torat HaMelekh*,<sup>2</sup> books lauded by a small number of well-known extremist rabbis in which non-Jews are depicted as being of a lesser species than Jews and in which slaying Arabs, including young children, is deemed permissible and even commanded. The so-called Halakhic positions of these rabbis have influenced fanatical groups of extremists and have led to acts of destruction, injury and death. In addition, as such studies as the recent Pew survey have shown, a large proportion of the Israel public holds negative opinions in regards to the Arab population, opinions that are voiced by some governmental figures as well.

For the first time in thousands of years, a Jewish State governs the lives of non-Jews. Jews constitute the majority and must deal with the status of the non-Jewish minority. Even though Jewish Law is not the civil law of Israel, it is influential and has been used by State appointed rabbis to make determinations about the rights of non-Jews that are discriminatory such as forbidding renting of rooms to Arab students. Even the Chief Sephardi Rabbi has made public statements questioning the right of Gentiles to live in the Land of Israel. Such negative teachings have led to halakhic decisions condoning violence. The

*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.*

result has been discrimination and violence against non-Jews and destruction of Gentile houses of worship, both Christian and Muslim, when extremists take it upon themselves to translate what they perceive to be Jewish law into violent action. The situation has become even more complicated due to the politicization of this entire matter in the State of Israel where it has become part and parcel of the Arab-Israeli conflict. Inevitably these matters become public knowledge in the Diaspora as well and may have a negative effect on Jewish-Gentile relations. It is therefore imperative that we deal with these matters and rule on them for the worldwide Jewish community. What was once a theoretical problem or a merely a matter of embarrassment has now become a practical matter of great importance.

This is not the first time that such a situation has arisen. In 5747 (1987) negative pronouncements about Arabs by some Israeli rabbis which cast a negative light on Judaism prompted the head of the Law Committee of the Rabbinical Assembly of Israel, Rabbi Tuvia Friedman z"l, to issue a responsum entitled "Is Judaism by its Nature Racist?"<sup>3</sup> The responsum, which contended that Judaism is not racist, had the agreement of all the members of the Committee including this writer. It should also be noted that certain aspects of Jewish-non-Jewish relations have been dealt with in previous teshuvot of the CJLS.<sup>4</sup>

This problem had also occurred earlier in America. In 1921 Jacob Z. Lauterbach published a highly apologetic yet well-documented essay on "The Attitude of the Jew Toward the Non-Jew" in order to supply American Reform rabbis with material to counter the claims of anti-Semites in America that Judaism is filled with sayings and laws that discriminate against and demonstrate hatred of Gentiles.<sup>5</sup> He contended that, "...the casual saying of one teacher...uttered at one particular time, under peculiar conditions and with a special purpose, is represented as being the authoritative opinion of Judaism... (186)." After examining all the traditional sources from the Bible through the 19<sup>th</sup> century, in conclusion he quoted Hillel's famous statement "What is hateful to you do not do unto others... (Shabbat 31a)" and says, "...it is our sacred religious duty to be honest, considerate, friendly, and helpful to any human being of whatever race or creed... (223)."

Let it be stated clearly that the norm of our basic classical sources does not fall to the level of racism. Nevertheless they do contain negative statements that cannot be ignored. As Jacob Katz wisely pointed out, the Jewish tradition is "full of inconsistencies" in this matter and selectivity has always been practiced. "One sentence was therefore often repeated; another was perhaps tacitly disregarded."<sup>6</sup>

If we are not to descend to the level of simple apologetics, it will be necessary to deal honestly with the sources, to admit that different attitudes existed over the course of the development of Judaism and to candidly criticize and reject certain parts of the tradition while embracing others as representing the Judaism we wish to promulgate and which we believe represent the true core of Jewish belief beginning with the Torah itself. Our movement is uniquely qualified to understand that both laws and concepts change in accord with differing times and conditions and that not everything said and taught in the name of Judaism need be defended. Indeed it is our responsibility to define what is appropriate for us in our time basing it upon those teachings within the tradition that represent the highest ideals of Judaism.

## ***II Discussion***

### ***1. Depiction of Non-Jews in Scripture***

Dealing with these questions requires taking into account the general attitude toward Gentiles in the Torah and other Biblical books, since this forms the foundation of all subsequent Jewish thinking and practice, even if they sometimes departed from it. Laws are not divorced from the general concepts and beliefs of the group. On the contrary, they reflect them and are often created because of these beliefs.

*The Torah's attitude toward non-Israelites is overwhelmingly positive and is based on the concept that all human beings are created in the image of the Divine.* The verses of the Torah that form the very basis of its attitude toward humanity as a whole are found in the stories of the creation of human beings, of Adam and Eve, the ancestors of both Israelites and Gentiles. These verses clearly differentiate between humans and other creatures by designating humans as the only living beings that are created in the image of God and by depicting the creation of humans as the pinnacle of creation (Gen.5:1-2). The idea of 'the image' becomes the rationale for forbidding the taking of human life. "Whoever sheds the blood of man, by man shall his blood be shed, for in His image did God make man (Gen. 9:6)." Later Rabbinic Judaism recognized this clearly in the famous midrash connecting the 1<sup>st</sup> and 6<sup>th</sup> of the Ten Commandments. On one tablet was written: "I am the Lord your God." Opposite it on the second tablet was written "You shall not murder," teaching us that if one sheds human blood it is as though one has diminished the Divine image (Mekhilta BaHodesh 8 ii 226). In the Biblical story of creation no differentiation is made among groups of human beings. All are descended from the primal human pair and share the Divine image.

Since there is a basic equality among all humans, all being descended from the same human pair and created in the Divine image, it is not surprising that many non-Israelites are depicted in Biblical books as moral and God-fearing. The Torah depicts many non-Israelites in a positive way, Noah is a righteous man (Gen.6:8-9), Malkizedek (Gen.14:18-21) and Jethro (Exodus 18) are both depicted as respected religious leaders. Other parts of Scripture also have positive depictions – the book of Jonah is replete with them, as are Job and Ruth. In Jonah the non-Jewish sailors are termed "God-fearing" (1:16), and the pagan king of Nineveh calls on his people to abandon their evil ways (3:8). Job, not an Israelite, is called "blameless and upright; he feared God and shunned evil (1:1)." It may be that the Torah believed that monotheism or monolatry was the common belief of all humanity which only later adopted idolatry, or at least that there were those among the nations that worshipped one God. In any case all humans are of one and the same stock and species. That some are depicted as evil does not diminish their humanity. After all Israelites are also frequently depicted as sinners worthy of destruction. When Moabites or Ammonites are not permitted into the congregation of the Lord, it is not because of racial inferiority but because of their deeds - immoral conduct (Deut.23:4-7). <sup>7</sup>

### ***2. Israel and the nations***

In what way then, are Israelites differentiated from others? The Torah begins with the most universal theme of all – the creation of the world and of humankind by the One God (Gen.1:1-2:4). It concludes with the most particular of all – the word 'Israel (Deut.34:12)." The opening chapters are concerned with all humankind and with such questions as 'How was the world created?' 'Who created it?' 'What is the role of humans in the world?' 'How did evil arise?' But on another level, all of this is only a prologue to and an explanation of the particular role that Israel plays in the world and the covenantal relationship

that God established with that nation, the descendants of Abraham through Isaac and Jacob. The narrative of the Torah tells that after the creation, God is disappointed with the actions of humankind, a disappointment based on human misconduct in the relations between human beings. The world is filled with violence rather than with justice and peace. Therefore God destroys everything and everyone, keeping alive only Noah and his family who will start afresh. However the story repeats itself after the flood, but this time God does not destroy all humans. Rather God seeks someone who is loyal to God's ways, someone who is righteous. That person is Abraham and therefore God makes a covenant with Abraham, promising to make his progeny into a great nation that will have its home in the Land of Canaan. Abraham was expected to walk before God and be blameless – *t'mimim* (Gen. 17:1-2). As the book of Nehemiah put it, "Finding his (Abraham) heart true to God, You made a covenant with him... (9:8)." On this basis Abraham's descendants become God's chosen people. The final step in this process is the Covenant at Sinai in which they take upon themselves the task of being God's holy people, a priestly people who will therefore be devoted to and minister to the one true God and demonstrate God's ways to the entire world (Ex.19:5).

However the story does not end so simply, because this people too disappoints God and is threatened with extinction. At one point God declares the intention of destroying them and making a new chosen people from the family of Moses. However Moses refuses this and dissuades God (Num.14:11-20). Just as God decided never to destroy humanity again, so too God will not destroy Israel, although Israel will be punished and disciplined. Thus Israel remains the chosen people, a people that will be held accountable for its part in the covenant of Sinai, being punished, even exiled, when they break it, but never to be totally destroyed or relieved of its position. In a sense the position of Israel among the nations is the same as the position of the priesthood – the *Kohanim* – among the Israelites. Singled out for a task, required to observe commands that others need not observe, but not inherently superior to them. This idea of chosenness could lead to a concept of innate superiority, but that is not the case within Scripture.

Regarding the other nations, Israel is not depicted as superior to them nor is it to rule over them (Deut.9:4-6). As a matter of fact Moses makes it clear that the possession of the Land of Canaan "is not because of your rectitude...but because of their wickedness...and in order to fulfill the oath that the Lord made to your ancestors..." In a remarkable passage Moses then goes on to detail Israel's lack of virtue, its stiff-neckedness and its frequent rebelliousness (Deuteronomy 9:6-24). How does this fit in with the selection of Israel as God's treasured people, a kingdom of priests (Ex. 19:5-6), God's 'first born son' (Ex.4:22)? This status gives Israel both privileges and responsibilities, but it does not imply racial superiority.

Whatever one may think about the concept of the chosen people in the Bible, it is clear that it does not imply racial superiority of Israelites over others. All human beings are judged on the basis of their deeds and held responsible for breaches of morality, i.e. wickedness, but not for idolatry or worship of other gods. Idolatry is a sin for Israel alone.

The role of Israel as God's chosen people is expanded in prophetic writings. The prophet Amos attempted to describe the relationship of God to Israel and to the nations in two seemingly contradictory statements. On the one hand, "You alone have I singled out of all the families of the earth – that is why I will call you to account for all your iniquities (Amos 3:2)." On the other, "To Me, O Israelites, you are just like the Ethiopians – declares the Lord. True, I brought Israel up from the land of

Egypt, but also the Philistines from Caphtor and the Arameans from Kir (Amos 9:7).” In other words, the Lord is the God of all nations and cares for them all – not only Israel - even if they do not worship the Lord as does Israel. At the same time Amos recognizes that God’s relationship to Israel is unique in that only Israel entered into an exclusive covenant with God at Sinai. Israelites were the first to attain that closeness, but not the last. In prophetic literature the doctrine is taught that the time will come when all nations will learn what Israel knows and teaches about God and, while not becoming Israelites, will worship the one God and thus become God’s people as well. “In that day, Israel shall be a third partner with Egypt and Assyria as a blessing on earth, for the Lord of Hosts will bless them, saying, ‘Blessed be My people Egypt, My handiwork Assyria and My very own Israel (Isaiah 19:24-25. See also Zechariah 14:9 and Isaiah 66:18, 49:6).”

### **3. The Gentile in Legal passages of the Torah**

Two categories of non-Israelites are referred to in the Torah, the foreigner –*nokhri* – and the dweller or stranger - *ger*. The *ger* in the Torah is not a proselyte, but rather a non-Israelite who has left his/her home and come to dwell permanently in the Land of Canaan. There are different degrees of integration into society for the *ger*, including the possibility of becoming an actual part of the community of Israel. The *nokhri*, on the other hand, is found in Canaan only temporarily, usually for business and trading purposes – “...foreigners who come from distant lands... (Deut. 29:21).” The *nokhri* cannot become a king (Deut.17:15), the laws of the Seventh year and the Jubilee do not apply to him (Deut.15:3). Meat that is ritually unfit may be sold to him for food (Deut.17:15). He may be charged interest (Deut.23:21). These rules do not fall in the category of racial discrimination but can be understood as simply applying different regulations for those outside of the society, who are not part of it and live according to a different set of civil laws.<sup>8</sup> Such laws are common in all societies throughout history. Since the term *nokhri* (foreigner) is used in all these instances rather than *ger*, it indicates that these laws did not apply to all non-Israelites but specifically to someone who did not live in the community connected to it.

The non-Israelite foreigner could also become a slave. Israelite slavery was outlawed on the basis of the fact that Israelites belong specifically to God, they are God's 'slaves' and therefore cannot be enslaved to anyone else (Lev.25:42). The so-called Hebrew slave – *eved ivri* - was actually an indentured servant and nothing more (Exodus 21:2, Lev.25:35-43), heavily protected against misuse by the laws of the Torah. Lev.25:44-46 makes it clear that others, termed *eved kena’ani*, could be enslaved. Even their slavery was somewhat mitigated in that a runaway slave could not be returned to its master (Deut.23:16-17), assuming that this verse refers to all slaves and not only a Hebrew one. It is not always clear who is referred to when the Torah uses the term *eved* without specifying ‘Hebrew.’ Ex.22:26-27, for example, which allows a slave to go free when injured in certain ways, was considered by the Sages to refer to an *eved kena’ani* (Kid.24a). Is the non-Israelite slave included in the commandment that your slave is not to work on the seventh day (Ex.20:10, Deut.5:14) or in the idea that the slave is to rejoice with you on your festival (Deut.16:14)? It seems possible.

Slavery is so abhorrent to us that it seems inconceivable that the Torah with its assertion of human equality, its sensitivity to the needs of the stranger and the poor, to justice and righteousness, would countenance the enslaving of anyone, even non-Israelite foreigners. Yet it should be remembered that slavery was taken for granted and considered normative throughout the ancient world at that time and indeed was outlawed in England, Russia and the United States only within the last few hundred years. As

late as the American Civil War Jews in the Confederacy could defend slavery and even own slaves without feeling that their religion forbade it.<sup>9</sup>

The *ger*, the resident alien, on the other hand, who could not be enslaved, is the subject of continual concern in all the Biblical codes and is treated consistently with care, concern and respect. The *ger* is singled out to make certain that, although not an Israelite by birth, not part of any tribe and therefore likely to be landless, he will be treated fairly. The Torah constantly speaks of the fact that the *ger* must be treated well and that in most if not all instances, the law is the same for the *ger* as for the Israelite. The Torah gives the reason for mandating good treatment for the *ger*. It constantly repeats the fact the since we ourselves were *gerim* – resident aliens – in Egypt and were mistreated there, we should empathize with *gerim* in our own land and treat them well (Ex.22:20). Individuals who are not Israelites are welcome to live among them and are accorded basic rights. Similarly strangers' rights are protected and they are permitted to live with and even join the people of Israel as well. Therefore there is nothing racial about the distinctions. The *ger* was permitted to bring offerings (Lev.22:18). When there were other laws concerning rituals – such as the Pesah lamb that was not to be eaten by a non-Israelite (Ex. 12:43) - again a *nokhri* is specified.

In Exodus, which contains the first codex of Biblical Law, Exodus 21:1-22:33, Israelites are told not to wrong or oppress a *ger* (20:20 and 23:9). In the holiness code of Leviticus we are told again not to wrong the *ger* and that he is to be “as one of your citizens; you shall love him as yourself (Lev.19:33-34).” He has rights to gleanings (19:10, 23:22). Deuteronomy more than any other book deals with the *ger*. In Deut.1:16 the command is that you must “decide justly between any man and a fellow Israelite or stranger.” This is repeated in Deut.24:17. In 10:17-19 we are commanded to befriend the *ger* and provide him with food and clothing. Deut.24:14 explicitly forbids abusing a needy person “whether a fellow countryman or a stranger – *ger*.” Deut. 24:17 forbids subverting “the rights of the stranger – *ger*.” Deut. 24:19-21 permits the *ger* to take the produce from the fields and vineyards that are given to the poor. 26:11 commands us to share our bounty with the *ger*. Within the Land of Canaan, then, which was the locus of Israelite society at that time, there were three major categories of human beings: Israelites, *gerim* and *nokhrim*. Israelites were what we would today term citizens, *gerim* were resident aliens with almost complete rights. *Nokhrim* were temporary residents with less rights because they were not part of the society. None were discriminated against because of some innate inferiority. The lack of racial discrimination is demonstrated by the fact that in Deuteronomy 23:8-9 Israelites are commanded not to abhor Edomites, who were enemies, because they were kinsmen but, even more, not to abhor Egyptians “for you were a stranger in their land.” They could even become part of “the congregation of the Lord.”

There are specific laws regarding the Canaanite nations, such as “They shall not dwell in your land,” (Ex.23:33), and even calling for their destruction (Deut. 20:17), but the reason is stated there as well – “lest they cause you to sin against Me (ibid).” One was not permitted to marry one’s daughter or son to them (Deut.7:3). They were to be destroyed “lest they lead you into doing all the abhorrent things that they have done for their gods... (Deut. 20:18).” Deut.7:16 instructs Israel to “destroy all the peoples that the Lord your God delivers to you, showing them no pity. And you shall not worship their gods for that would be a snare to you.” Although in the Talmud this is cited as a proof that destroying or taking booty from the heathen is prohibited except in time of war whereas “this is not so in time of peace when they are not delivered to you (B.K. 113b),” obviously the Biblical verse is not a general command concerning either killing or robbing of all enemies but referred specifically of the Canaanite nations they fought in

order to attain possession of the Land of Canaan. These and similar laws referred only to the Canaanites and not to other non-Israelites who were permitted to live there. Laws of warfare against other groups are different.<sup>10</sup> Whatever we may think about these laws concerning the seven nations, it is obvious that they were restricted to them alone at that particular time and that the permission to destroy them was not racially motivated and could never be used as a reason to similarly eliminate any group today, whether in the land or outside of it.

Since the *ger* seems to have been so well integrated that he/she could be seen as a quasi- Israelite, what does the Torah have to say about the treatment of non-Israelites anywhere in the world? Were the laws in the Torah- especially the Ten Commandments and other laws against such things as stealing, hatred, revenge, etc. intended only to apply to how one treats fellow-Israelites or were they intended to relate to all human beings- *ger* and *nokhri* alike? In other words were Israelites expected to treat all human beings fairly and were all Gentiles also expected to follow the moral commands of the Torah as well? In general the laws of the Torah are directed specifically to Israel. Moses speaks to Israel, not to the entire world. Only the laws commanding procreation and mastery of the world (Gen.1:28 and repeated in Gen.9:1-2), permission to eat all animals (Gen.9:3), the prohibition of "flesh with its life-blood (Gen.9:4)," and the command against shedding human blood (Gen.9:5-6) are specifically commanded to all of humanity. Nevertheless the stories of Cain and Abel, of the generation of the flood and of the cities of Sodom and Gemorrah all make it obvious that all humanity is expected to follow basic laws of morality and decency and this would include how Israelites treat Gentiles as well.

Although, as we shall see, at a later time Rabbinic interpretations tended to see any reference to *re'ehu* – 'your fellow' as meaning "your fellow Israelite," therefore excluding the Gentile, this does not seem to have been the original intent of the Torah. Certainly the negatives in the Ten Commandments have the ring of universality. The very fact that the Torah mentions specific things which do or do not apply to the foreigner would seem to indicate that in all other matters he/she is to be treated on an equal basis with the Israelite. If at the time of Noah all human beings were expected to follow basic morality, certainly after Sinai Israelites and non-Israelites alike would be expected to do the same.

As Louis Finkelstein wrote, the laws of the Torah are based on the concept that "the community of Israel as a composite servant of God has the same obligations as other peoples to see that its constituents deal justly with one another..."<sup>11</sup> The laws of the Torah then deal with the relations of Israelites to other Israelites. Nevertheless, as Finkelstein continues, "the rights [Jewish civil law] established against Israelites belonged to all human beings with whom they had contact (198)." Since it is obvious in the Torah that all humans were expected to live according to moral norms, a concept that rabbinic Judaism expanded by teaching the seven commandments of the children of Noah, no idolatry, no murder, no theft, no adultery, no blasphemy, no flesh from a living animal, having just laws and an effective system of justice,<sup>12</sup> Israelites could have been expected to do no less.

#### **4. Attitudes toward Gentiles in Rabbinic Literature**

##### **a. Human Equality**

The concept of human equality taught by the Torah provides the foundation for rabbinic Judaism's attitude toward humanity. Based upon the Torah's story of the creation of Adam the Sages taught, "Only

one human being was created in the world...in order to create harmony among humans so that one cannot say to another, 'My father is greater than your father... (Sanhedrin 4:4).'" Furthermore only one human being was created in order to teach that "if one destroys one person it is accounted to him as if he had destroyed an entire world and if one sustains one life it is accounted to him as if he had sustained an entire world (Sanhedrin 4:6)." Although in many printed texts this statement reads "one Israelite person," thus excluding Gentiles, Ephraim Urbach has convincingly demonstrated that this is not the original reading and that the rabbis were teaching the value of *every* human life, Jew and Gentile alike.<sup>13</sup> Placing these statements in the context of an official warning to witnesses in trials of capital crimes indicates strongly that this was one of the foundations of rabbinic belief. Indeed this is as close as one can come to an official formulation of rabbinic doctrine.

This same concept of the equality of all human beings was expressed in Ben Azzai's assertion that the verse "This is the record of Adam's line – When God created man, He made him in the likeness of God (Gen.5:1)" is the most important general rule of the Torah (Sifra Kedoshim 4, 89b ed.Weiss). "Love all human beings," not only Jews (Avot 1:12), was part of Hillel's teaching, while his compatriot Shammai also taught "Receive every person – *kol adam*- with a cheerful countenance (Avot 1:15)" (even though anecdotes show that he did not always practice what he preached).

There are numerous rabbinic sayings (as well as halakhic decisions) advocating fair and just treatment of non-Jews and making no differentiation between Jews and Gentiles based on race or nationality. "God said to Moses, 'Do I show favoritism to anyone? Whether one is an Israelite or a Gentile, a man or a woman, a slave or maidservant, whoever does a mitzvah receives a reward for it (Yalkut Shimoni Lekh Lekha 76).'" Friedman (45) quotes a similar saying from Seder Eliyahu Rabba 6, "I call heaven and earth to witness: The Spirit of Holiness rests upon each person according to the deed that each does, whether that person is an Israelite or a Gentile, a man or a woman, a slave or a maidservant." The Babylonian Amora Abaye said, "One should always strive to be on good terms with his brethren, his relatives and all humans, even the heathen in the street..." It was said of Yohanan ben Zakkai (an earlier Tanna) that no one was ever the first to exchange a greeting with him, even a heathen in the street (Ber.17a). Regarding the precept "You shall rise before the aged (Lev.19:32)," the Talmud records that Rabbi Yohanan would rise before non-Jewish aged, saying, "How many troubles have passed over these!" Raba, on the other hand, would not, "but he showed them respect (Kid.33a)." Rabbi Meir taught, "How do we know that if a non-Jew occupies himself with the learning of Torah, he is equal to the High Priest? It says, '...which if a person does so he shall live in them... (Lev.18:5).' It does not say 'priests, Levites and Israelites' but 'a person (B.K. 38a).'"

The relationship of God to Jews and non-Jews is described in a statement attributed to Rabbi Akiva in Avot 3:18 :

Beloved is the human being in that he was created in the image. Even greater love was shown to them in that it was made known to them that humans were created in the image, as it is said, "In the image of God was the human made (Gen.9:6)." Beloved are [the people of] Israel for they are called the children of God. Even greater love was shown to Israel in that it was made known to them that they are called God's children as it is said, "You are the children of the Lord your God (Deut.14:1)."



According to Akiva, then, all human beings are beloved of God. All are created in the image of God. Israel, however, has a special, close relationship to God. This was his understanding of chosenness. Akiva was no less a hater of Rome than his student Shimon bar Yohai, and with good reason, yet he did not let this justified disdain for Rome distort his understanding of God's love for all humanity.

The famous ancient prayer Aleinu formulates this relationship by depicting Israel as privileged to have been those who recognized the One God while others were worshipping things of no worth, but it then posits the time when the nations too will recognize God. The medieval piyut *Vaye-etayu* has a similar depiction of a time when all humankind will recognize and worship the one true God. Both of these are based upon the teachings of the prophets as well as concepts found in the Torah.

### ***b. Negative attitudes***

Although these positive statements are certainly representative of many rabbinic authorities, there are other teachings that contradict them. How then are we to understand the negative attitudes toward non-Jews that are also to be found in rabbinic material and in later layers of Jewish law and lore? It is well known that there are laws in the Mishnah and the Talmud as well as in Medieval Codes that differentiate between Jews and Gentiles and single out non-Jews for special treatment. Some of these laws simply delineate what parts of Jewish religious practices are restricted to Jews alone. Others may be seen as safeguards against idolatry, intermarriage and assimilation. Yet there are also laws that are discriminatory and contradict our concepts of justice and fairness, therefore presenting us with a serious dilemma.

### ***c. Historical factors***

Many negative statements reflect the intense suffering of Jews under foreign rule, Greek and Roman. The various anti-Jewish measures, such as the Roman Hadrianic decrees in the second century C.E., are reflected in many negative statements. For example: "God showed the nations of the world how dear the children of Israel were to Him in that He Himself went before them so that the nations would treat them with respect. It is not enough that they do not treat them with respect, they even put them to death in all sorts of cruel and strange ways (Mekhilta Beshallah i 186)."

Extreme statements are attributed to Rabbi Shimon bar Yochai, who was famous for his hatred of the Romans. Living through the horrific events of the Bar Kokhba revolt and its aftermath, he is quoted as saying, "The most worthy of the Gentiles should be slain הכשר שבגוים הרוג (Y. Kid. 60c 4:11)."<sup>14</sup> See also Sofrim 15:10. As Katz noted, "Whatever its meaning may be, it certainly does not imply permission to shed Gentile blood."<sup>15</sup> Lauterbach pointed out that this and similar sayings in rabbinic literature belong to the genre of "exaggerated statements (213)."<sup>16</sup> Shimon Bar Yohai's words are indeed found in a compendium of what are clearly exaggerated sayings including, "The most worthy of doctors belongs in Gehenom." Nevertheless exaggerated or not, words have power, and statements such as these which reflect a specific situation can lead to dangerous results if they are taught as "words of Torah," as is too often the case. Instead it is important to explain the background of such utterances and to specifically reject them as a legitimate position within Judaism today.

This same Shimon bar Yohai is the author of a notorious and dangerous interpretation of Ezekiel 34:31 – "For you, My flock, flock that I tend, are men - *adam atem* ..." Shimon bar Yohai taught "You are called *adam* but the idolaters are *not* called *adam* (Yebamot 61a, Baba Metzia 114b)." Although this statement

is made in the ritual context of declaring that “the graves of Gentiles do not defile,” its effect has been to lay the groundwork for declaring non-Jews to be less than human, what Brill has termed “demonization.”<sup>17</sup> One who is not *adam* was not created in the Divine Image and is therefore less than human. During the Middle Ages this concept was developed and taught in literature that was widely disseminated in ways that led in modern times to dire consequences.

It is obvious, then, that Rabbinic literature is not all of a piece. It is a vast collection of writings gathered from hundreds of years of teachings by myriads of sages. By its very nature, then, it includes a variety of opinions on all subjects. Unlike legal matters in which decisions had to be made, contradictory ideas could and did exist side by side. It is not surprising, therefore, to encounter sayings and stories in this vast collection that contradict one another, including those that depict the non-Jew in an unfavorable light. *Honesty demands that we confront all of these opinions and make a decision as to which represent the beliefs we wish to encourage and which we oppose, which best represent the values taught in the Torah which we consider to be divine and which do not.*

#### **4. Attitudes towards Gentiles in Medieval Literature**

In the middle ages Jews often had to deal with accusations against Judaism by representatives of the Church complaining of laws in the Talmud that discriminated against Gentiles as well as misrepresentations of Jewish law by accusers, some of whom were apostates. Such was the case, for example, in the famous 1240 disputation in Paris between Rabbi Yehiel of Paris and an apostate Jew.<sup>18</sup>

There were clearly two approaches in medieval times to the question of the chosenness of the Jewish People. The general opinion among Ashkenazim and some Sefardim echoes the Torah’s words and those of the Rabbinic Sages: the Jews were chosen not because of their own merits, but because of the merits of their ancestors. The purpose of chosenness was so that they would accept the Torah and perform the mitzvot and thus serve God and set an example for others. The Italian philosopher Ovadiah Seforno (1470-1550) shared this view. “Humanity as a whole is more precious to Me than the lower forms of existence, since man is the central figure in creation...However, the difference between (Jews and non-Jews) in the hierarchy of the universe is that although...the righteous of the nations are precious to Me without a doubt, ‘you shall be a kingdom of priests to Me.’ This is your distinction.”<sup>19</sup> Jews are not endowed with a special soul or innate superiority, only with a special task.

The other view posited something inherently superior in the Jew as opposed to the Gentile.<sup>20</sup> Influenced by mystical thinking, and clearly building upon the Talmudic statement that only Israelites are called “human” (Yebamot 61a, Baba Metzia 114b), this view stressed totally different ideas that are not to be found in Scripture’s simple meaning, although it was attributed to Scripture in various interpretation by prominent commentators. The idea that there is something inherently different about the Jew and the non-Jew, that there is a distinct Jewish soul as opposed to a non-Jewish soul, became wide spread in kabbalistic works and was popularized through the writings of the great Spanish poet and polemicist Yehuda HaLevi (c.1075-1140). Unlike Ashkenazim, who took the Biblical account of Israel’s chosenness at face value, HaLevi evolved “a theory of innate predisposition, which designated the Jewish nation as the future bearer of the Divine Revelation.”<sup>21</sup> HaLevi in his popular work *Kuzari* speaks of Adam as having had a perfect soul, which was then passed on through a remarkable series of individuals – including Shem and then Abraham, Isaac, Jacob and all of his 12 sons and then to all Israel. They were

different from ordinary men and some even attained to prophecy, which is yet a higher degree of soul. "The sons of Jacob were, however, distinguished from other people by godly qualities, which made them, so to speak, an angelic caste."<sup>22</sup> That is why the Torah was given to Israel and not to other nations. Although non-Jews can become wise and pious, they cannot become equal to Jews or become prophets. Israel is the heart among the nations.<sup>23</sup> HaLevi goes so far as to say "Any Gentile who joins us sincerely shares our good fortune, but he is not equal to us...for we are the pick of mankind."<sup>24</sup> HaLevi believed that the entire people of Israel received the soul of Adam. No other humans did.<sup>25</sup> The Zohar (Beshallah, 168a, Mishpatim 95b) subsequently taught that if a Gentile became a proselyte, he received a new soul from heaven, but even that soul was not equal to that of the born Jew. The Zohar became a primary source of these concepts of Jewish inherent superiority over other humans. In the Zohar Rabbi Elazar teaches that "the soul of other nations ... comes from those impure aspects of the left, defiling them and anyone approaching them."<sup>26</sup> It taught that Israel was the most beloved of all the nations and also popularized the idea that the sin of the golden calf was caused not by the Israelites but by the "mixed multitude" that left Egypt with them. Were it not for that, the Israelites themselves would have become angelic beings, immortal. It clearly holds that the other nations are of an inferior moral nature.<sup>27</sup> A later philosopher, Rabbi Judah Loeb of Prague, the Maharal (1525-1609), followed that trend, believed that Jews were of a superior religious and moral capacity, the only ones to be called 'man.' There was an innate difference between Jews and all others, an inborn racial quality which made Jews superior to others.<sup>28</sup>

This concept of chosenness, radically different from the Torah's view, was influential in many circles, including mystics and Hassidut. As Alan Brill demonstrates, Isaac Luria (d.1572) developed a much more elaborate theory concerning souls in which Gentiles "are the same stuff as the evil and rupture at the beginning of creation."<sup>29</sup> Much later all of this became a basic teaching of some Hassidic sects in the 18<sup>th</sup> century, especially through the teachings of the Tanya, the writings of Shneur Zalman of Liadi, the founder of the Lubavitch sect:

*We have learned (Niddah, end of ch. 3) "An oath is administered to him: 'Be righteous and be not wicked; and even if the whole world judging you by your actions tells you that you are righteous, regard yourself as wicked.'" For in the [case of the] Jew, this soul of kelipah is derived from the kelipah called "nogah", which also contains good; [This kelipah] is from the esoteric "Tree of Knowledge" [which is comprised] of good and evil.*

*The souls of the nations of the world, however, emanate from the other, unclean kelipot which contain no good whatever, as is written in Etz Chayim, Portal 49, ch. 3, that all the good that the nations do, is done out of selfish motives. So the Gemara comments on the verse, "The kindness of the nations is sin" — that all the charity and kindness done by the nations of the world is only for their self-glorification...*

*The second, uniquely Jewish, soul is truly "a part of God above," as it is written "And He blew into his nostrils a soul of life"; "You blew it into me." It is written in the Zohar, "He who blows, blows from within him," that is to say, from his inwardness and his innermost being. For it is of his inward and innermost vitality that a man emits through blowing with force. So, too, allegorically speaking, have Jewish souls risen in the [Divine] thought.*

תניא בסוף פרק ג' דנדה: משביעים אותו הי צדיק ואל תהי רשע, ואפילו כל העולם כולו אומרים לך צדיק אתה היה בעיניך כרשע כי בישראל נפש זו דקליפה היא מקליפת נוגה, שיש בה גם כן טוב והיא מסוד עץ הדעת טוב ורע

מה שאין כן נפשות אומות העולם הן משאר קליפות טמאות שאין בהן טוב כלל כמו שכתוב בעץ חיים שער מ"ט פרק ג': וכל טיבו דעבדין האומות לגרמייהו עבדין וכדאיתא בגמרא על פסוק: וחסד לאומים חטאת — שכל צדקה וחסד שאומות העולם עושין אינן אלא להתייהר כו'

ונפש השנית בישראל היא חלק אלוה-ה ממעל ממש כמו שכתוב: ויפח באפיו נשמת חיים ואתה נפחת בי וכמו שכתוב בזוהר: מאן דנפח מתוכיה נפח, פירוש מתוכיותו ומפנימיותו שתוכיות ופנימיות החיות שבאדם מוציא בנפיתו בכח כך על דרך משל נשמות ישראל עלו במחשבה.<sup>30</sup>

Thus, according to the Tanya's author, the Jew possesses two souls, a divine soul, which no other group has, and an animal soul which all humans have. However even the animal soul of the Jew originates in the *Kelipat nogah* in which good and evil are mixed, while the soul of the non-Jew derives from impure *kelipot* which are totally evil.<sup>31</sup>

This view continued to be influential in Hassidic circles. Rabbi Zadok HaKohen of Lublin (1823-1900), for example, taught that "You are called 'men' and not the other nations...they are like animals in the form of men...in comparison to Israel even now they are in the category of animals..."<sup>32</sup> A similar view is reflected even in non-mystical literature such as the Tosafot's comment to Ketubot 3b where pagans are compared to animals.

In the Tanya and other such writings this belief does not automatically lead to permission to harm or even kill non-Jews, any more than it does in Yehuda HaLevi, but in our time some have drawn that conclusion and used these teachings as a justification for far reaching and dangerous doctrines. As *Torat HaMelekh* demonstrates (see below), this concept continues to be influential and harmful in certain Hassidic circles today. It has been pointed out that although the Tanya is a basic text of Habad, the late Lubavitcher Rebbe (1902-1994) did not relate to those sections of the text and on the contrary tried to reach out to Gentiles as well as to Jews, hoping to "elevate the nations of the world."<sup>33</sup> Nevertheless the negative attitude toward conversion demonstrated by Habad is influenced by the concept that the "Jewish soul" is different and higher than the soul of non-Jews. Furthermore it is not accidental that the extremist views found in *Torat HaMelekh*, explicitly teaching that non-Jews are inferior beings, are the work of Habad rabbis.

In view of the fact that the 20<sup>th</sup> century was the time when Jews in particular suffered and were murdered as a result of doctrines of racial superiority and racial inferiority carried to extremes by Nazi doctrine, we must be especially careful regarding anything that can lend credence to such beliefs. Nothing demonstrates the dangers inherent in such beliefs better than the history of the Holocaust. If there is any lesson that the Shoah can teach us it is that any doctrine that reflects belief in racial superiority or inferiority is evil, no matter who teaches it.

## **5. The Non-Jew in Rabbinic and post-Rabbinic Halakhah**

### **a. Rabbinic Law**

The problematics of the status of non-Jews in Jewish Law has long been recognized. It was described in an anecdotal account in the Jerusalem Talmud concerning two high ranking civil officials sent in the 1<sup>st</sup> century C.E. by the Romans to the academy of Rabban Gamliel II to "learn Torah." They must have spent some considerable time there since they learned "Scripture, Mishnah, Talmud, Laws and Legends." At the end they revealed themselves to him and said, "Your Torah is lovely and praiseworthy except for two things: An Israelite woman may not help a non-Jewish woman give birth, but a non-Jewish woman

may help a Jewish woman give birth; a Jewish woman may not serve as a wet-nurse for the child of a non-Jewish woman, but a non-Jewish woman may be a wet nurse for the child of a Jewish woman if given permission. It is not permitted to steal from a Jew but it is permitted to steal from a non-Jew.” Rabban Gamliel immediately decreed that it is forbidden to steal from a non-Jew because of desecration of God’s Name (Y.B.K. 4:3. See also Sifre D. 344 and B.K. 38a). Legendary or not, it is important to note that this story indicates that since early times prominent religious authorities took it upon themselves to cancel discriminatory laws in our tradition when they called Judaism into question.

In this case the law under question concerned *gezel hagoy* – stealing from a non-Jew – a law that was discussed intensively by the Sages. There was more than one way in which some authorities allowed one to steal from or cheat a non-Jew. In the 1<sup>st</sup> century C.E. in the land of Israel when rabbinic law was in formation, there was a great deal of interaction between Jews and non-Jews, since many non-Jews lived in the province of Judea. Often they would come to a rabbinic court to settle a financial dispute. Sifre D.16 records that Rabbi Ishmael interpreted the verse “Hear the causes between your brethren and judge righteously” (Deut.1:16) to mean that judging righteously applied only to your fellow Jew – i.e. “your brethren.” Therefore in the case of a Jew and non-Jew he would always rule in favor of the Jew regardless of whether they chose to be judged according to the rules of Israel or those of the nations. Rabban Shimon ben Gamliel, on the other hand said that one must rule according to whichever system the litigants agree upon and follow that law. The Talmud records (B.K. 113a) that Rabbi Akiva objected to R. Ishmael’s method – “We do not act in such a crooked fashion because of *Kiddush HaShem* - desecration of God’s Name.” Furthermore, Akiva taught that the Torah itself is the source of the rule that robbing a non-Jew is forbidden, as demonstrated in Lev.25:48 where we are not permitted to cheat a non-Jew even when redeeming an Israelite slave! Thus in Akiva’s view the prohibition is not rabbinic and derives not only from the fear that the slur causes upon Judaism and God but actually stems from the Torah. In Hullin 94a the rabbis taught that it is forbidden to deceive a Gentile when selling him anything. The Tosefta (B.K.10:15) is quite severe in this matter: One who steals from a non-Jew is required to return it to the non-Jew. Stealing from a non-Jew is worse than stealing from a Jew...because of desecration of God’s Name.

In Finkelstein’s words, “Thus theft from a pagan was a worse crime than theft from a fellow Jew, for stealing from a pagan added to the actual wrong also the sin of profanation of the Divine Name by bringing His law into disrepute. Jewish courts were commanded to protect the rights of heathen owners of Jewish slaves, just as they had to protect the rights of the slaves against their masters.”<sup>34</sup>

Rabbinic Law in the Mishnah and Talmud does not follow the Torah’s clear distinction between the *ger* and the *nokhri*. By that time *Ger* was generally understood to refer to a convert. *Ger toshav* was a special category as defined by the Sages, but was theoretical in that the law of *ger toshav* no longer applied and it is doubtful if in Biblical times these later rabbinic laws had existed. The *ger toshav* was defined in A.Z. 84b as “one who takes upon himself before three *haverim* (observant Jews) not to worship idols, so says Rabbi Meir. The Sages teach: One who takes upon himself the seven Noahide laws.” Any non-Jew who took it upon himself not to worship idols was considered a *ger toshav* and could live in the land of Israel (A.Z. 65a). “Even though the law of *ger toshav* no longer applies at a time when the Jubilee year is not observed (Arakhin 29a), we act as if it did apply and treat one who is not an idolater according to those regulations. He can live in the Land of Israel and must be treated fairly and with kindness.”<sup>35</sup> All of this, of course, was merely theoretical since non-Jews lived in the land together

with Jews at that time. Jews were in frequent contact with non-Jews and had no power over them, even in Judea.

Regarding non-Jews living elsewhere, Rabbi Yohanan went as far as to say “The Gentiles outside the land (of Canaan) are not idolaters; they only continue the customs of their ancestors (Hullin 13b).” This distinction was often quoted by later authorities in the Middle Ages as the basis for their more liberal attitude toward their Gentile neighbors.

As the Roman investigators quoted above pointed out to Rabban Gamliel II, rabbinic law contains laws that distinguish between Jews and non-Jews and also has laws that discriminate against the latter, including many instances that the Roman investigators did not mention. One well known problem is the question of whether or not the commandment “You shall not murder” applies to killing non-Jews, in which case all the laws regarding the punishment for murder would also apply. The problem arises because the word “his neighbor” – *re’ehu* – appears in such verses as Ex.21:14 “When a man schemes against his neighbor – *re’ehu* – and kills him treacherously, you shall take him from My very altar to be put to death.” As a general rule the Sages understood that *re’ehu* refers to your fellow Israelite and therefore excludes the Gentile. Because of that he does not have the same protection as the Jew. This is stated in Mekhilta Nezikin 4 (iii 37). See also Sifre D. 181. The comment that follows in the Mekhilta, however, nullifies this. It contends that anytime there was a law given before the Sinai revelation – such as Gen.9:6 forbidding human bloodshed – the laws after Sinai were intended to be stricter, not more lenient, therefore although the Sages taught that in such a case one is free from judgment by the human court, the judgment is given over to Heaven. Therefore a Jew is forbidden to kill a non-Jew just as he/she is forbidden to kill a fellow Jew. There is no distinction in the prohibition against murder. None of this implies that one is exempt if killing a non-Jew nor that the non-Jew is less human than the Jew. As Guttman puts it, they “cannot be prosecuted by law, however from a religious point of view, [they] are just as condemnable as those who can be prosecuted by law (15).”<sup>36</sup> It cannot be denied, however, that exempting the murder of a Gentile by a Jew from human justice is a serious matter. Obviously this was theoretical at the time it was promulgated since Jewish courts could not then decree capital punishment, but the assumption would have been that that would be the case once Jewish authority would be restored in the future.

Again on the negative side, the Mishnah and the Talmud both voice the suspicion that non-Jews would seek to harm Jews and are therefore suspect regarding their treatment of Jews. Because of that one must be cautious about being alone with them. One should not take a non-Jewish wet nurse. As the anecdote cited earlier mentioned, the Mishnah and the discussion in the Talmud record that an Israelite woman should not act as a midwife to a heathen “because she would be delivering a child for idolatry” (AZ 26a). However R.Yosef the Amora permits it “so as to avoid ill feeling,” another example of changing discriminatory laws because of the negative consequences. A.Z. 2:1 and A.Z. 22a 25b list circumstances when one should avoid non-Jews because of suspicion of immorality or of murderous intent: no cattle should be placed in their inns, a woman should not be alone with them, nor should a man. Rabbi Meir held that a non-Jew was not allowed to circumcise a Jew “because he is liable to take his life” while the sages would permit it if there was a Jew standing with him. Rabbi Meir did not accept that because “he may find a way to let the knife slip and thereby make him sterile (A.Z.26b).” See also T. A.Z. 3:2-7 for elaboration on these ideas, including the phrase “They are suspect for murder.” One does not know how serious these suspicions were and how seriously the precautions were really taken, although there is reason to believe that they may not have been entirely baseless. As we shall see, in medieval times

authorities declared that all of these precautions applied only to idolaters and not to the non-Jews of their era.

There are other Rabbinic laws regarding relations to non-Jews both financially and otherwise based, on the interpretation of *re'ehu* – his fellow - as referring only to your fellow Israelite, thus excluding the non-Israelite. An extreme case is the Mishnah's ruling that if the ox of an Israelite gores that of a Canaanite, there is no liability, whereas if the ox of a Canaanite gores that of an Israelite compensation must be made in full. (BK37b). [Canaanite is used here in the sense of non-Jew since actual Canaanites did not exist. Similarly they speak of a Canaanite slave simply in the sense of a non-Israelite.] This distinction is based on Ex.21:35 which speaks of "the ox of his neighbor – *re'ehu*." The Talmudic discussion points out the inconsistency of this, for if the verse is speaking of Israelites alone, there would be no reason why the Israelite should receive compensation from the non-Jew. If ever there were a clear case of discrimination against non-Jews this would be it. The discussion resolves this quandary by saying that the reason the non-Jew must pay compensation is that when God saw that the nations did not observe the seven laws of Noah requiring justice, "He declared them to be outside the protection of the civil law of Israel." They base this on an interpretation of Hab.3:6– "He permitted (the money) of the nations (BK 38a)." In other words the nations had been specifically declared to be outside the normal rules of the community because they themselves did not observe the rules of equity and justice they had been commanded. Therefore the same laws of monetary justice did not apply to them. This concept is a wide ranging one with serious implications for the status of Gentiles according to Jewish law. It is certainly unacceptable today by any concept of equity, but even in earlier times it came under question. Since in the Talmudic text the Mishnah here mentions not strangers – *nokhrim* or *goyim* – but 'Canaanites,' some later interpreters took advantage of this and said that this rule excluding non-Jews applied only to the Canaanite nations – who no longer existed at that time. Therefore it was a law with no practical application to anyone. Furthermore, as we shall see below, in medieval times the Meiri ruled this would not apply to those who are followers of a non-idolatrous religion, which included all Christians and Muslims.

In A.Z. 21b there is a discussion of the Mishnah concerning letting or selling houses and fields to idolaters in the Land of Israel. There is a difference of opinion between Rabbi Meir who forbids it and Rabbi Yosi who permits letting houses. The Mishnah bases R. Meir's opinion on the fact that a heathen would then bring idols into the building. The ruling, according to this, is not based on racial grounds but as a measure against idolatrous influence on Jews. The Talmud also offers different reasons. As for fields, this is based on the verse Ex.23:33 that idolaters shall not dwell there lest they lead you into idolatry (Git.45a). Of course the realia was different. Many idolaters lived in Judea, whole cities of them, as well as in places where they mixed with Jews. The Talmud itself comes to the conclusion that if they forswear idolatry there is no problem in selling them houses or fields since Deut.23:17 teaches that an escaped non-Jewish slave – an idolater by definition - *may* dwell in the land - and Rashi, the medieval exegete, also interprets the Exodus verse to refer only to the seven Canaanite nations.<sup>37</sup>

A brief mention found in the Jerusalem Talmud concerns the law that if one is told to kill someone else or be killed, one must allow oneself to be killed rather than kill another. Concerning this "Rabbi Hanina says: We have learned: It is forbidden for a non-Jew [to kill] a Jew. It is permitted for a Jew [to kill] a non-Jew (Y. Shabbat 14d, 14:4)." In view of the fact that, as we have seen above, the Sages had decreed that it was forbidden for a Jew to kill a non-Jew just as it was forbidden to kill a Jew or more so, it is difficult to see how this could possibly have been accepted as the law.<sup>38</sup>

Even if there were sages who were not convinced that the Torah itself specifically forbade these things regarding the non-Jew (killing, stealing etc.), and regardless of the idea that “God permitted the money of the Gentiles,” these sages remedied the situation by applying the concepts of “the ways of peace” (*Darkhei Shalom*) and “*Kiddush HaShem*” to relations between Jews and non-Jews. Thus, as we have seen, Rabban Gamliel II decreed that stealing from a non-Jew is worse than stealing from a Jew because in addition to the sin of stealing, it also causes *Hillul HaShem*. In this way they effectively ruled that all the basic civil laws of the Torah *do* apply to one’s relations with non-Jews, if not *d’oraita* then at least *d’rabbanan*.

In a similar vein, the Talmud records the view of R. Shimon the Hasid that although robbing a non-Jew is prohibited, one may retain an article lost by him. Rab explained this on the basis of the fact that the Biblical verse says “...you must take it back to your brother (Deut.22:1).” This means that you must return it to your brother but not to a non-Jew since he is not your brother (B.K. 113b). The discussion that follows cites R. Pinhas ben Yair who teaches that if *Hillul HaShem* is involved, even keeping a lost item is not permitted. *When teaching such passages as these in rabbinic literature it is important to stress this fact and not to leave the impression that traditional literature was unaware of the problematic nature of discrimination against Gentiles.*

There is the famous story of Shimon ben Shetah whose disciples went to buy him an ass. They bought one from an Arab, and they rejoiced when they found that there was a precious jewel attached to the animal. Shimon asked them, “Does the owner know of it?” When they said “no,” he told them to give it back to the Arab. They argued with him that there was a law that “if you find something belonging to a non-Jew you may keep it.” Shimon said, “Do you think I am a barbarian? I purchased an ass. I did not purchase a precious jewel. I would rather hear the Arab say, ‘Blessed is the God of the Jews’ than to possess all the riches of the world.” They returned the jewel to the Arab who proclaimed, ‘Blessed is the Lord, the God of Shimon ben Shetah! (Y.B.M. 2:5. Deut.R. Ekev 3:3).”

On the other hand, the complexity of the rabbinic attitude toward the non-Jew – the heathen – is seen in Shmuel’s words that it is permissible to benefit from a non-Jew’s mistake. He once bought a golden bowl from a heathen who thought it was copper. Several other such instances are then cited of Sages who took advantage of a non-Jew (B.K. 113b).

It is interesting that although the Torah specifically permitted taking interest from a *nokhri*, in the Talmudic era, although not forbidden, it was considered by Rabbi Ishmael ben Rabbi Yose to be wrong. He based this on the words in Psalm 15 describing the person worthy to dwell on God’s holy mountain as one, “...who has not lent money on interest... (Ps.15:5).” If one took interest from a non-Jew, he would not fit into that category (Makkot 24a). Abravanel takes the same position in his commentary to Deut. 23:21.

Regarding slavery, the Talmud states that laws of Hebrew slavery were not in force after the destruction of the Temple when the laws of the Jubilee are not practiced (Kid.69a, Git.65a, Sifra Behar to Lev.25:10). Slavery of non-Jews, however, continued after that. It is mentioned often in rabbinic literature, the most well-known example being Tabi, the slave of Rabban Gamliel II (Yoma 87a). Later on Maimonides devotes chapters to slavery and attempts to soften the rules concerning the non-Jewish slave. Based on Lev.25:43 he remarks that although one is not to act ruthlessly toward a Jewish slave, one may do so toward a non-Jewish slave. Nevertheless, he adds, “...the quality of mercy and the ways of wisdom teach that one should be merciful and pursue righteousness and not act unjustly toward his slave or work



hardship on him. Rather he should give him all kinds of food and drink... (Hilkhot Avadim 9:8).” At times there may be a difference between the strict law and extra-legal ethical behavior which is no less important in determining how a Jew should act. As Shimon ben Shetah had said, “Do you think I am a barbarian?”

We have no hard evidence as to when slavery ceased to be practiced among Jews. Certainly in the 19<sup>th</sup> century no one followed Jewish laws of slavery, even though there may never have been an official statement outlawing it. There were Jews in the Confederacy who saw nothing wrong in owning slaves. Nevertheless in his *Arukh HaShulhan* Rabbi Yehiel Epstein (1829-1908) wrote, “The laws of slavery were followed in ancient times, but now the laws of slavery are not in force at all, for there are no slaves in our communities” (*Yoreh Deah Avadim 267*).<sup>39</sup>

Just as the idea of *Hillul HaShem* was introduced by the Sages in order to cancel laws that were seen as discriminatory against non-Jews, so the concept of “the ways of peace” was used to rule that treatment of the non-Jew had to be equal to that of the Jew in matters of *tzedakah* and *hesed*: We support non-Jewish poor along with the poor of Israel, and visit the non-Jewish sick along with the sick of Israel, and bury the non-Jewish dead along with the dead of Israel because of the ways of peace (*Gittin 61a*).

According to R. Josef “The ways of peace” is not merely a rabbinic injunction. It derives from the verse – “Its ways are ways of pleasantness and all its paths are peace (*Prov.3:17*)” which is taken to refer to the Torah. “The whole Torah is for the purpose of maintaining peace (*Gittin 59b*).” In addition the Sages cited *Ps.145:9* – “The Lord is good to all and His mercy is upon all His works” as a basis for this.

*Seder Eliyahu Rabba 26* commenting on the verse “and you shall love the Lord your God,” states:

Make the Name of Heaven beloved by human beings. Do this by the way in which you conduct your business in the market place with others so that they will say, ‘Fortunate is so-and-so who has studied Torah! See how pleasant are his deeds, how lovely his ways! Let us too learn Torah and teach it to our children...’ Thus it has been said, ‘One should distance himself from stealing from Jews and non-Jews, from anyone in the market. For if one begins by stealing from non-Jews he will eventually steal from Jews as well...if he spills the blood of a non-Jew eventually he will shed that of a Jew as well. The Torah was not given for that but in order to sanctify His great Name...’ ‘And you shall proclaim My greatness among the nations (*Isaiah 66:19*).’

We therefore have the strange situation in the early centuries of the common era of Jews being commanded to act righteously toward non-Jews in order to sanctify God’s name- and Jews being told to perform acts of kindness and righteousness toward them “because of the ways of peace” – while on the other hand immoral acts were ascribed to non-Jews. There were suspicions about their intentions and trustworthiness and advice to keep away from them both because of that and also so as not to be tempted to idolatry. Laws were formulated that in effect discriminate against non-Jews and were upheld by prominent Sages such as Rabbi Ishmael and Rabbi Meir while at the same time equally prominent Sages, including Rabban Gamliel and Rabbi Akiva, were nullifying them in the name of *Kiddush HaShem* and *Darkhei Shalom*. As we shall see, the medieval codes followed that practice as well and also stressed the additional concept that all laws concerning non-Jews applied only to pagans while contemporary Gentiles were not considered idolaters.

## ***b. Medieval Law***

The relations between Jews and non-Jews in medieval times in Europe were very different from those in the Rabbinic period. Jews were not only in exile, but were a small minority dependent for their very existence upon the good will of Christian rulers. Ashkenazim were dependent upon close ties with Christians for their livelihood. Living as a minority in Christian countries, the conditions were completely different and therefore the Talmudic laws separating Jews from non-Jews in commerce, such as forbidding doing business on pagan holidays, were ignored. The poskim and commentators all found different ways of justifying this. Rabbenu Gershom (10<sup>th</sup> century Germany), for example, declared that technically the iconography of the Christians was not the same as the idolatry that had been practiced in the Land of Israel. Times had changed and conditions had changed. On the other hand, laws that separated Jews and non-Jews on a social basis and served as a fence against assimilation – differential laws – were still observed.<sup>40</sup> Rashi, on the other hand, made no differentiation between Christianity and idolatry, but later commentators did.<sup>41</sup>

During this period an important innovation was created by Menahem ben Solomon of Provence (1249-1316), known as the Meiri, which has remained influential until today. He coined the phrase “האומות בדת הגדורות” – nations who are bound by religious-law- and ruled that all statements in the Mishnah, Talmud and other rabbinic works referring to non-Jews in a negative way did not apply to Gentiles of his day who are not idolaters but follow religious and ethical norms, even if the religion they practice is far from what Judaism teaches. He declared that all laws in which a non-Jew is in some way discriminated against applied only to “those who are not ruled by proper manners and religions and who do not respect the seven commandments of the Noahides (B.K. 37b).” See also the Meiri to A.Z. 26a where he says that statements claiming that they are all suspected of spilling blood and so forth only applied to ancient nations and not to those today (See also A.Z. 10b and Shita Mekubetzet to B.K. 113, Lemberg 1876 94a). Because of the different conditions of life in which Jews depended on commerce with Christians for their very livelihood, these laws had already ceased to be observed, but the Meiri was the first authority to justify this on the basis of this far reaching new principle.<sup>42</sup>

In his comment to Sanh.57b (Bet HaBehira 226-227) he seems to suggest that if one kills anyone who follows the Noahide laws that person *could* be tried in a court.<sup>43</sup> “If one intends to kill ...a non-Jew and kills a Jew instead...he is not liable (Sanh.9:2),” had been understood as meaning that one is not liable for killing a non-Jew, but the discussion in Sanh.79a implies that this was not intended as a statement concerning liability for the death of a Gentile but rather a question of not being liable for killing someone when that specific person was not the intended victim.<sup>44</sup> Similarly while rescuing someone from a pit on Shabbat is permitted for Jews, but not for idolaters, for payment one may do it “so as to avoid ill feeling (ibid).” The Talmud includes certain Jews as well – owners of small cattle and apostates in that category (A.Z.26b). The Meiri states that all of this was true in ancient times, but in our days one *must* rescue them.

On financial matters, the Meiri does not simply rely on *Hillul HaShem* as a reason to be fair to Gentiles. He goes much further, “They (non-Jews of the current time) are like complete Israelites concerning these matters of loss, mistake and all other matters (page 330 of Bet HaBehirah to B.K.).” Other medieval works take this same position. See Sefer Hasidim 1252 ed. Wistinetzki, Berlin 1891, Lazuot, Kaftor veFerah Amsterdam 1709 30, Rambam Yad Gezela 1:2, Shulhan Ar. Hoshen Mishpat 359:1 on not stealing or cheating non-Jews.<sup>45</sup>

As we have already seen, others before the Meiri had also stated that some of these laws were no longer applicable in their time for various reasons, including *Hillul HaShem* and *Darkhei Shalom* which were already applied in Talmudic times. The rulings of the Meiri basically reflected the realities of his day rather than breaking new ground and changing Jewish Law. For example, he did permit taking interest from the non-Jew since this was also the rabbinic rule concerning the *ger toshav*.<sup>46</sup> Nevertheless, his constant use of this rubric and his generally favorable statements about non-Jews set an important tone for Jewish-Gentile discourse and relationships. For the Meiri the Gentiles of his day were not idolaters and were the equivalent of the Biblical *ger toshav* as interpreted by the Sages – not yet an Israelite, but in a close relationship and therefore one who can be included in the laws of the Torah. The main difference between the two is that the rabbis required a *ger toshav* to take a formal oath and the current non-Jew has no such requirement.<sup>47</sup> In rabbinic law the *ger toshav* – was considered to be one who had renounced idolatry so any non-Jew who was not an idolater had to be treated in that way and was considered to be almost an Israelite.<sup>48</sup> When later medieval authorities compared the non-Jews of their time to the *ger toshav* they therefore ruled that they too must be treated in this way.

It therefore became a general accepted axiom that Gentiles were to be treated well, either because not doing so would have its consequences and bring trouble for the Jews, i.e. *Darkhei Shalom*, or because of *Hillul HaShem*. Sometimes it was also because of the importance of improving the character of the Jew himself. For example Rabbi Sevi Ashkenazi wrote: Robbery of a Gentile is forbidden even apart from *Hillul HaShem* because a man should keep aloof from ugly deeds and the like, and should eat and drink his own food, not accustoming himself to theft and robbery. We are commanded not to perform ugly acts...not for the sake of the object of the act, but for ourselves, who do these things; that we may acquire with our minds true notions and honest virtues, that will be to our merit and benefit.<sup>49</sup>

Turning to the Jews in Islamic lands, Maimonides ruled that when the rabbinic reference is to a *goy* it means someone who practices paganism (Ma'akhalot Asurot 11:8). Maimonides then specifically excludes Islam from the definition of paganism (there 11:7) and he cites this as the opinion of "all the Geonim." He also taught that Jews are to follow the merciful attributes of God in their dealings with Gentiles because "His mercies are on all His creations (Hilkhhot Avadim 9:8)." And yet in his legal decisions he continues to make differentiations between Jews and Gentiles if the Gentiles are idolaters. A glaring example is his ruling that "with regard to a Gentile idolater with whom we are not at war, a Jewish shepherd of small livestock, and the like...we should not try to cause their deaths. It is, however, forbidden to save their lives if they are threatened. For example, if such a person fell into the sea, one should not rescue him. It is stated, 'Do not stand idly by while your brother is at stake (Lev.19:16).' This does not apply with regard to such individuals, because they are not 'your brothers (Hilchot Mamrim, 3:11).'" Maimonides, unlike HaLevi, does not consider non-Jews to be racially inferior or less human, but, similarly to many of the rabbinical teachers, believes that if the Torah specifies 'your brother' or 'your fellow' it is referring specifically only to Jews and furthermore only to Jews who are in good standing. However all this becomes theoretical since for Maimonides the Muslims amongst whom he lived were not pagans.

In general, then, the medieval rabbinic codes speak about either the *nokhri* or the *goy* meaning simply the non-Jew wherever that person lives, be it in Israel or in the Diaspora. Tosafot to A.Z.2a states that none of the rules against non-Jews applied in Europe now because they are not idolaters.<sup>50</sup> For the Meiri Christians are also not to be considered idolaters. *Following these rulings, any assertions concerning*

*non-Jews found in the Mishnah or Talmud are not applicable to the non-Jews among whom we live today. We do not hold that either Christianity or Islam is paganism, even though neither is identical with our beliefs and indeed often contradict them.*

### **c. Differential Laws and Discriminatory Laws**

The laws, both Biblical and rabbinic, which set non-Jews apart from Jews, can be categorized as either differential or discriminatory. By “differential laws” we mean those laws that exclude non-Jews in ways that reflect common usage in all legal systems distinguishing between members of the group (or citizens of the nation) and non-members. Members and citizens commonly have some privileges that others do not enjoy. In Biblical law these are few in number. They include the law that Israelites (Jews) cannot be charged interest while others can and the law the only an Israelite can become a monarch. The law allowing for non-Israelites to become slaves while Israelites may not, originally may have been seen to be such an enactment since slavery was an accepted part of all societies, but certainly today cannot be countenanced since all slavery would be considered in any modern society as immoral.

Another category of differential laws are those that determine in what way non-Jews may or may not participate in religious ceremonies such as the Passover sacrifice or worship in the Temple. Similar laws regarding non-Jewish participation in synagogue services are under discussion even today. Every religious group has similar regulations on such matters and it is legitimate for certain ceremonies to be open only to those who are members of that religious group.

Yet a third group of differential laws would be those intended for the preservation of the group and the prevention of assimilation. This would include such laws as observance of kashrut, laws against intermarriage as well as the many laws found in the Talmud concerning *avodah zarah* – pagan worship which are found extensively in the Mishnah and Talmud known by that name. Such laws are not intrinsically discriminatory and must be judged individually as to their validity today. It is also important to remember that these laws concerned idolaters and therefore have no application to other non-idolatrous religions that exist today.

Since its beginning, in opposition to some other groups that departed from Orthodoxy, our movement has championed observances that preserve our distinctiveness and contribute to our continued existence. This is indicated even by its various names, Positive-historical, Conservative, Masorti [Traditional]. Therefore we view observances such as kashrut, which serves many positive purposes, as well delineated in the pamphlet [The Jewish Dietary Laws](#) by Rabbi Samuel Dresner and Rabbi Seymour Siegel, to be vital to Judaism. The prohibition of intermarriage is of great importance, not for preserving any ‘racial purity’ or discriminating against non-Jews, but for preserving the Jewish family and assuring the continued growth of the Jewish People. Our complete acceptance of converts as equal to born Jews indicates that we do not base our Judaism on either genetic or racial grounds.

Practices that were valid in keeping Jews from contact with idolaters, especially at the times of their holy days, and other items such as *bishul akum* (food cooked by non-Jews) and the prohibition of *stam yenam* (wine produced by non-Jews), while not intrinsically discriminatory, no longer serve any purpose. These measures were originally concerning idolaters, while we live in societies whose inhabitants are not so categorized. As previously indicated in the 1985 Teshuvah on wine written by Rabbi Elliot N. Dorff, today such prohibitions serve no purpose, are not effective in preventing intermarriage and indeed can be seen as promoting negative feelings toward non-Jews.

Our movement continues to believe in integration into society and not in ghettoization. Our attitude toward non-Jews today is positive and we do not aspire to be a “people that lives apart,” but we do desire to be an *am segulah* and to preserve our identity as a covenanted people. We believe that Judaism has contributed to humanity and continues to have vital ideas that are valuable. As those who were born Jews or have chosen to become part of the Jewish People and its heritage, we see Judaism as an essential part of our lives. We are not willing to see it disappear after such a long and powerful history. Therefore anything that contributes to our distinctiveness and to the continuation of the existence of the Jewish People without cutting us off from the rest of humanity is essential and must be preserved.

On the other hand, the problematic laws that have been discussed here are discriminatory laws. Such laws treat non-Jews differently from Jews in ethical and civil matters and can be seen as departing from the Torah’s basic principle of the common humanity of all human beings. Examples would be not rescuing a non-Jew on the Sabbath in ways that would be permitted for a Jew or any of the instances in which a law was said to apply only to *re’ekha* – “your fellow” – which rabbinical authorities contended meant only your fellow Jew. It was this type of law that Rabban Gamliel II declared null and void and that others nullified because of *Hillul HaShem* – desecration of God’s name – and *Darkhei Shalom* – the ways of peace.

Another group of discriminatory laws would be those practices enacted during the Roman period because of the suspicion of immoral conduct on the part of pagans – not allowing Jews to be alone with them, not allowing them to perform certain operations and so forth. These laws should also be nullified under the ruling that non-Jews today are not to be considered pagans and are therefore not under similar suspicion.

*Judging according to the Torah’s basic concept, validated by rabbinic values and the concept that all humans are equally created in the Divine image, differential laws are not intrinsically invalid while discriminatory laws violate that principle.*

## **6. Current Approaches**

Since the emancipation the attitude toward Gentiles in western lands changed radically. As Jews were accepted as citizens with equal rights, Jews reciprocated by attempting to break down barriers between themselves and non-Jews. Obviously the ways in which this was done differed from one group of Jews to another, but the positive attitude toward Gentiles in Western Europe was so generally accepted by the late 1800s that, as Katz has written, “Even learned Jews sincerely maintained that Judaism had always taught universalistic ethics only.”<sup>51</sup> Prominent authorities such as Rabbi Samson Raphael Hirsh took it for granted that “Love your neighbor” applied to Gentiles. Both he and Rabbi Joseph Hertz in the Biblical commentaries go out of their way to stress Judaism’s universality.

In the early days of the settlement of Jews in the Land of Israel the same tendency could be found. Rabbi David Rosen gathered information concerning the attitude of early Chief Rabbis of Israel and found that Rabbi Avraham Yitzhak Kook followed the rulings of the Meiri, declaring that Muslims and Christians cannot be considered pagans and ruling that they were to be granted full civil rights in a Jewish State. Chief Rabbi Isaac Halevy Herzog reiterated this as did Rabbi Isser Yehudah Unterman, the third Chief Rabbi.<sup>52</sup> Unfortunately this was not true in more recent times when such authorities as Rabbi Tzvi Yehudah Kook and others took positions that were discriminatory toward Arabs. In certain religious

Zionist circles conditions of life in Israel, the enmity between Jews and Arabs, including terrorist activities taking thousands of Jewish lives, as well as the teachings by some Moslem religious leaders that Jews were inhuman devils, helped to revive a general attitude of hatred toward Arabs. An increasingly negative attitude arose against both Islam and Christianity, seeing them as idolatrous religions that had no part in the Land of Israel. Although for the general public these feelings may have been influenced more by political considerations than religious ones, statistics have shown that negative feelings toward Arabs are greater in the religious public than in the secular. All too often radical rabbinical authorities added fuel to the fire by voicing opinions that discriminate against non-Jews, including feelings that non-Jews were intrinsically inferior.

The most extreme example of anti-Gentile rulings is the book known as *Torat HaMelekh*, mentioned earlier, whose chief concern is the question of the permissibility of killing non-Jews. *Torat HaMelekh* is designated by its authors as a book dealing with “Laws of life and death concerning Jews and Non-Jews.” In order to understand it one must first read the introductory endorsement by Rabbi Yitzhak Ginzburg whose ideas and works, according to the authors themselves, are the basis for their volume. Ginzburg, a Habad Rebbe of considerable influence in the Israeli religious-extreme right, is a Kabbalist who, in his introductory statement, writes that his basic beliefs are:

- a. Israel must conquer the entire Land and subjugate all non-Jews who live there;
- b. The people of Israel preceded the creation, the Torah and even the thought of creating the world;
- c. Non-Jews are inferior to Jews.<sup>53</sup>

The book itself utilizes rabbinic sources to espouse these ideas but views them through the glass of mystical doctrines such as the Zohar, combined with extremist right-wing Israeli whole-land-of-Israel politics. It devotes an entire chapter to the subject of “The Jewish Soul vs. the Soul of the Goy,” (146-180) declaring the inherent superiority of Jews over non-Jews and assuming that wherever the halakhic sources single out non-Jews for special treatment it is *because* of their inferiority to Jews, although the sources themselves never say that. That chapter seeks out places in which non-Jews are differentiated from Jews in classic rabbinic literature and in the work of Maimonides and other medieval figures. It cites many of the discriminatory sources that have been discussed earlier in this Teshuvah but largely ignores the fact that these were confined to idolaters or negated for reasons already explained. It begins by showing that the killing of a non-Jew by a Jew is not punishable by death at the hands of a human court, even though it is forbidden and punishable by Heaven. When commanded to kill another or be killed, a Jew may not kill another Jew but may kill a non-Jew. One may violate the Sabbath in order to save the life of a Jew but not the life of a non-Jew. The authors cite the ruling of the Meiri that none of these rules apply to non-Jews who are no longer to be considered pagans (189), but negate this by claiming that today, when Israel is in a state of war with the Arabs, the Meiri’s decision does not apply and therefore all of these laws *are* applicable. All Arabs are all to be considered as those who are coming to kill a Jew – a *rodef* - and if one is attacking you, you may kill that person first. They apply this ruling to every Arab and specifically include young children who Jews are permitted to kill since when they grow up they will kill Jews (205). This also includes infants because of the certainty that they will either participate in injuring Jews or aid in doing so when they grow up (206-7). Furthermore it is a special merit to kill children since that is the best revenge there is (220). They teach that the life of a Gentile is forfeit whenever killing him might save a Jew.

The authors of *Torat HaMelekh* make an attempt to apply the law of *rodef* to all Arabs. They also use passages from classical Biblical commentaries that describe events at the time of the original conquest of Canaan in which children were killed, as justification for this, even though these passages are confined to specific events concerning the Canaanite nations and were never used in Jewish law as a general justification for such killing (207). They further justify the indiscriminate killing of non-Jewish (specifically Arab) civilians in time of war on the basis of their belief that there is a “preference for Jewish lives over non-Jewish lives (198).” In so doing they ignore all the statements quoted above concerning forbidding killing or harming a non-Jew either as a command of the Torah or at the very least as an injunction against *Hillul HaShem*. In self-defense it is permitted to kill anyone who is intending to kill you, Jew or non-Jew. However *din rodef* applies only to one who is actively pursuing another with the intention of killing them.

The conclusion that you may kill an Arab child, even an infant, because “it is clear that they will injure us when then grow up (*Torat HaMelekh* 206)” has no basis in Jewish Law or ethics. It certainly contradicts the midrash found in Genesis Rabbah 43 to Exodus 21:18, “...for God has heeded the cry of the boy *where he is*: Rabbi Simon said, ‘The ministering angels arose and said to the Master of the universe, “Here is a person dying of thirst who in the future will slay your children and for him you are raising up a well?!” He said to them, “What is his status now?” They replied, “He is righteous.” God said to them, “I do not judge a person other than according to his present status - *where he is*.””

The rulings found in *Torat HaMelekh* are a distortion of traditional Jewish beliefs which do not consider Jews to be superior to non-Jews, do not claim that the Jewish soul is superior to that of the non-Jew and would never claim that all Arabs can be killed because they are all “pursuers.” These beliefs are clearly based on teachings from the Zohar and the Tanya, which in turn were influenced by earlier sayings such as those of Shimon bar Yochai, while ignoring the myriad other teachings that emphasize the equality of all human beings and require fair treatment of the non-Jew.

This explosive combination of mysticism and extremism has resulted in the conclusion that all Arabs may be killed because they are all in a state of war with Israel (191) and that the law of *rodef* applies to them all, leading to dire consequences, even the killing of Arabs, including youth and children.

Other Israeli rabbinic leaders however, most notably the late Rabbi Aharon Lichtenstein, spoke out against these ideas and against rulings such as prohibiting renting apartments to Arabs as “completely false.” Recently a group of prominent Israeli Orthodox rabbis issued a statement published on December 3rd 2015 on the website of the Center for Jewish-Christian Understanding and Cooperation (CJCUC) in Israel entitled “To Do the Will of Our Father in Heaven: Toward a Partnership between Jews and Christians” calling for cooperation between Jews and Christians to address the moral and religious challenges of our times.<sup>54</sup> Much more needs to be done along those lines to counter the fanaticism that has raised its ugly head and to re-emphasize the positive teachings that play such an important role in Judaism.

As Alan Brill concluded in his study of Judaism’s attitude toward other religions, “Now we have to choose not to dwell alone and move beyond seeing ourselves as victims. We need to return to engaging the world...We have to reexamine the role of collective memory, family ties, and liturgy in our holding on to hatred.”<sup>55</sup>

*The conclusions of this Teshuvah specifically reject the teachings of such works as Torat HaMelekh, as well as any ancient rabbinic statements or teachings of mystical tomes of a similar nature, and declare our belief that all humans share a common ancestry and are equally created in the divine image. Living in an interconnected world when enlightened religious leaders of all faiths are seeking ways of reconciliation, we as Jews, whether living in the diaspora with equal rights, or in Israel where we have the responsibility of caring for the rights of our fellow citizens of minority groups, cannot allow ourselves to be influenced by teachings that disseminate hatred and disdain for human beings of whatever nation or faith. Echoing Shimon ben Shetah, it is vital that we not become barbarians. Rather, following the rulings of Rabban Gamliel, Rabbi Akiva and the later teachings of the Meiri and others, we declare that all rules discriminating against Gentiles in matters of a civil nature and moral actions are no longer to be considered authoritative in Judaism not only because of the harm they cause to the image of Judaism and to relations with non-Jews, but because they are intrinsically immoral and deter us from attaining the honest virtues to which we aspire as Jews.*

### **III Piskei Din**

#### **A. Jewish Law**

1. It is a positive commandment – *mitzvat ase-* to treat non-Jews lovingly and to perform acts of *tzedakah* and *gemilut hasadim* for Gentiles. Rulings teaching that a Jew may kill an Arab child, even an infant, because “it is clear that they will injure us when then grow up (Torat HaMelekh 206)” are distortions of Jewish Law and are invalid. These and other such rulings found in works such as Torat HaMelakh contradict traditional Jewish belief that does not consider Jews to be superior to non-Jews, does not claim that the Jewish soul is superior to that of the non-Jew, or that all Arabs can be killed because they are all pursuers.
2. Following the example of Rabban Gamliel II and invoking the principles of *Kiddush HaShem* and *Darkei Shalom*, we declare that any rulings concerning matters of financial or civil law in the Mishnah and Talmud that discriminate against Gentiles are not to be considered official operative Jewish Law in our day. In accord with the teachings of the Meiri we further rule that any such laws were time bound, referring specifically to pagans of any early time and therefore do not apply to non-Jews in our era. We consider such laws to be in violation of our highest moral values and impede us from attaining higher moral virtues, as Rabbi Sevi Ashkenazi indicated. Thus in regard to such matters as permission to violate the Sabbath for purposes of saving lives, the Jew and the Gentile are to be treated alike. Similarly killing, stealing and other moral and ethical offences prohibited by the Torah and Jewish Law apply to both Jews and non-Jews. It is forbidden to murder, rob, cheat, deceive or otherwise harm a non-Jew. Only those rulings regarding ritual differences between Jews and non-Jews and laws that effectively contribute to continued Jewish existence such as the prohibition of intermarriage remain in effect while laws intended to keep Jews from contact with idolaters such as *bishul akum* and the prohibition of *stam yanom* are no longer valid.



## **B. Jewish Lore**

1. Many negative statements in rabbinic literature concerning non-Jews may be understood as reflections of the situations of persecution and hatred on the part of the nations that ruled over Jews either in Judea or in the Diaspora in ancient times. They express the personal feelings of certain religious leaders and are not official pronouncements of Jewish belief.
2. The basic concepts of Judaism that we expound and espouse judge both Jews and non-Jews on the basis of their actions and words and do not consider Gentiles inherently evil. All human beings are to be seen as descendants of the same primal parents and all are children of the One God, created in the Divine Image. We affirm the midrashic statement that God treats all equally, "Whether one is an Israelite or a Gentile, a man or a woman, a slave or maidservant, whoever does a mitzvah receives a reward for it." We specifically reject the ideas found in Jewish writings, be they ancient, medieval or modern, that consider Jews to be inherently superior to Gentiles or that the soul of non-Jews is somehow inferior to that of Jews. The belief in the superiority of Jews (or Jewish souls) over non-Jews contradicts the basic laws or teachings of the Torah and of Rabbinic Judaism as found in the Mishna, Talmud, and Tannaitic Midrashim. These concepts are contrary to the Torah's basic teaching that all human beings are created in the Divine Image and should not be considered part of accepted Jewish belief.

In view of the fact that the 20<sup>th</sup> century was the time when Jews in particular suffered and were murdered as a result of doctrines of racial superiority and racial inferiority, we must be especially careful regarding anything that can lend credence to such beliefs. Furthermore we have seen that these teachings lend legitimacy to and lead to conduct in which Jews harm non-Jews and their property and even to the shedding of blood. There is no greater *Hillul HaShem* than this. It is therefore incumbent upon the leaders of Judaism to eschew any such doctrines and reaffirm the Torah's basic belief in the inherent equality of humankind created in the Divine Image.

The former Chief Rabbi of the British United Synagogue, Jonathan Sacks, wrote that the one belief more than any other that is responsible for the slaughter of so many is that "those who do not share my faith – or my race or my ideology – do not share my humanity... [they] are less than fully human....From it...ultimately came the Holocaust."<sup>56</sup> What is true for others is true for Judaism as well. Any belief within Judaism that those who are not of our group are less than fully human will inevitably lead to acts of violence and even the taking of life by extremists who believe that they are acting in the name of the God of Israel. For this reason, if for no other, we reject such beliefs as legitimate teachings of Judaism.

3. We call upon Jewish educators to convey these positive values in their teachings and to clarify these issues when teaching problematic texts in our literature. It is important that when discriminatory passages are studied by either youth or adults they not be left with the impression that these represent present day Judaism or are valid parts of current Jewish Law.

## **Appendix**

In view of the length of this Teshuvah a summary is appended here for clarification.

## **Summary**

On the issue of the place of non-Jews – i.e. Gentiles – in Jewish law and Jewish thought, there is no question but that contradictory concepts exist and that various historical eras present differing pictures: inclusive and exclusive, positive and negative, laudatory and condemnatory. It must be emphasized, however, that the Torah itself and Biblical writing in general posit the basic equality of all humankind and demonstrate God’s love of all human beings while also recognizing a special role for Israel as a “kingdom of priests.” Israelites are seen as having a special relationship to God since they are given the task of being God’s specific servants, God’s priests. Their task is to serve as examples of God’s ways of mercy and justice. This does not imply racial superiority, as the prophets, especially Isaiah and Amos, make clear. Israelites, even though chosen as God’s own people for this purpose, are nevertheless described as stiff-necked and prone to sinning, for which they will be punished. The same is true of humanity in general. The religious beliefs and practices of pagans, especially those of the Canaanite tribes, are viewed as false and illegitimate. Within the Land of Canaan they were to be eliminated, although there is no such command for the elimination of pagans in the world as a whole.

At the same time it also taken for granted that there were some Gentiles who worshipped the One true God (such as Malkizedek and Job). The prophet Isaiah even places Cyrus on the level of a redeemer – even though his religious practices were certainly not those of Jews. The Psalms call upon “those who revere YHVH” to praise and worship God. Similarly there is a prophetic vision of the time when all humans will come to do so and will be placed on a par with Israelites. At the time of Ezra non-Jewish spouses were seen as a threat, under the same laws as prevailed regarding not marrying Canaanites. The lack of any formal conversion process exacerbated that situation. Some scholars believe that many of the books of wisdom literature found in the Writings originated at that time as a protest against Ezra’s decrees. The Aleinu prayer, which probably originated in Hellenistic times as the basic credo and expression of Jewish belief, makes the Jewish attitude very clear – “They bow down to nothingness and emptiness while we prostrate ourselves before the King of Kings, the Holy One blessed is He” while expressing the hope that eventually all humankind will recognize the One God.

Based on the Torah’s teaching that all humans are created in the Divine Image and the fact that the experience of Egyptian bondage should teach us not to mistreat the stranger, the Torah’s legislation is sensitive to the needs of the non-Israelite. The basic ethical norms of the Torah apply to all, Israelites and non-Israelites. The non-Israelite who is a foreigner is distinguished from the Israelite only in very specific laws in which differentiations are made in any society between the rights of citizens and non-citizens. Under Torah law, non-Israelites are generally treated fairly and equitably. In ritual matters there is a similar differentiation preventing non-Israelites from participating in certain rites such as the Passover sacrifice. Nevertheless in rabbinic times certain offerings to the Temple by gentiles were deemed acceptable. The non-Israelite who dwells in the Land of Israel is entitled to the basic rights of the Israelite and is singled out for special care.

Rabbinic writings upheld the Torah’s principle that all humans are created in the Divine image and that all stem from the same primal couple so that racial inferiority or superiority do not exist. Nevertheless, often reflecting the feelings of oppression and even hatred of the conquering power, there are places where these writings display open hostility to Rome and to paganism and Gentiles in general, voicing varying approaches to the treatment of Gentiles. Whereas some authorities countenance favoritism toward Jews, others are strict in demanding justice for all. Many halakhic decisions in the literature of

that time seem to exclude Gentiles from inclusion in laws of the Torah based on a strict interpretation of words such as “your fellow,” “your brother” which are taken to exclude non-Jews. Rabbinic Law reflects the realities of a later time when Jews suffered under foreign rule and the anti-Jewish decrees of the Romans. Therefore it includes a feeling of distrust of pagans as well as a desire to keep Jews away from pagan influence.

Nevertheless the Tannaim themselves ruled that non-Jews came under the rulings of morality that were found within the covenant of the Seven Noahide Commandments and decreed— in the name of such prominent authorities as Rabban Gamliel II and Rabbi Akiva – that mistreatment of the non-Jew was forbidden and even more serious than mistreatment of a Jew because of *Hillul HaShem*. Thus they annulled discriminatory laws and decreed that the rules of civil law applied to all humans because of *Hillul HaShem*. The Tannaim further ruled that non-Jews were to benefit from *tzedakah* and *gemilut hasadim* because of the principle of *Darkhei Shalom*. These rules applied to pagans, that being the status of non-Jews at that time with few exceptions. Akiva went further and claimed that some matters such as proper judgment and the prohibition of theft were actually based on verses of the Torah.

In the Middle Ages, a new situation arises in which Jews are living not in pagan environments but as a minority among Moslems or Christians. Are these religions to be considered idolatrous or monotheistic? Although discriminated against, Jews are very much involved in society in general and in national and international commerce. The result is a new approach in which these religions are given a legitimate status, even though not acknowledged as being the equivalent of Judaism nor as accepting the truth of all their teachings. As a result, any non-ritual laws excluding non-Jews were considered to be referring exclusively to paganism that had existed and did not apply in this new era to the non-Jews with whom Jews were coming in contact.

Medieval authorities, most prominently Menachem HaMeiri, preferred not to rely solely on the concepts of *Hillul HaShem* and *Darkhei Shalom*, but to declare that all negative rulings concerning non-Jews were referring only to the pagans of their time and were not applicable to non-Jews now who came under the influence of religion and ethical teaching. Maimonides similarly stated that these rules applied only to pagans. Because the conditions of Diaspora living were so different and Jews depended upon non-Jews to such a large extent, many Talmudic laws that would have interfered with commerce were declared non-operative.

Although the question of the exact status of other monotheistic religions is beyond the scope of this teshuvah, it is important to state that within our Movement, both Christianity and Islam are considered to be legitimate expressions of monotheism. In the words of the Meiri, they are “האומות הגדורות בדת” – nations who are bound by ethics and religious-law. Just as Isaiah had predicted the time when other nations – Egypt and Assyria – would also have a special relationship with the One God along with Israel, each in its own unique fashion (Isaiah 19:24-25 ), so too the other monotheistic religions, Christianity and Islam, each have their individual relationship to God as does Judaism.

Another contrary approach that flourished in some writings of the Middle Ages and in Kabbalistic literature declared that the Jewish soul was superior to the souls of others and sometimes went so far as to say that only Jews could be called human. This approach was emphasized in certain Hassidic literature such as the Tanya, a basic work of Habad. In modern times it has been promulgated in extreme right-wing circles in Israel in a book entitled *Torat HaMelekh*. These teachings have served as the ideological basis for religious rulings discriminating against Arabs and for acts of violence.

The conclusions of this Teshuvah specifically reject these teachings, as well as any rabbinic statements of a similar nature and declare our belief that all humans share a common ancestry and are equally created in the divine image. Following the rulings of Rabban Gamliel, Rabbi Akiva and the later teachings of the Meiri, we declare that all rules discriminating against Gentiles in matters of a civil nature and moral actions are no longer to be considered authoritative in Judaism not only because of the harm they cause to the image of Judaism and to relations with non-Jews, but because they are intrinsically immoral and deter us from attaining the honest virtues to which we aspire.

In view of the fact that the 20<sup>th</sup> century was the time when Jews in particular suffered and were murdered in the Shoah as a result of doctrines of racial superiority and racial inferiority, we must be especially careful regarding anything that can lend credence to such beliefs. Furthermore we have seen that these teachings lend legitimacy to and lead to conduct in which Jews harm non-Jews and their property and even to the shedding of blood. There is no greater *Hillul HaShem* than this. It is therefore incumbent upon the leaders of Judaism to eschew any such doctrines and reaffirm the Torah's basic belief in the inherent equality of humankind created in the Divine Image.

---

<sup>1</sup> This Teshuvah deals with non-Jews, not with Judaism's attitude toward other religions. On that question see Alan Brill's comprehensive discussion in his book Judaism and Other Religions: Models of Understanding, Palgrave, New York, 2010. I am grateful to Daniel Nevins for bringing this to my attention.

<sup>2</sup> Yitzhak Shapira, Yosef Elitzur, Torah Hamelekh, Machon HaTorani Al Yad Yeshivat Od Yosef Hai, Lev HaShomron, 5770

<sup>3</sup> The Rabbinical Assembly of Israel Law Committee Responsa Vol. 2, 5747, Jerusalem, 43-51.

<sup>4</sup> See Elliot Dorff, On the Use of All Wines, Kassel Abelson and Loel M. Weiss, Buriel of a Non Jewish Spouse and Children, Mayer Rabinowitz and Avram Reisner Tevilat Kelim, Elliot Dorff, Use of Synagogue by Christian Groups.

<sup>5</sup> "The Attitude of the Jew Toward the Non-Jew," CCAR 1921 186-233

<sup>6</sup> Katz, *ibid*, xii-xiii.

<sup>7</sup> See Reuven Hammer, The Torah Revolution, Jewish Lights, Woodstock, Vermont, 2011, 72-83.

<sup>8</sup> See Michael Guttman, "The Term 'Foreigner' Historically Considered, HUCA iii, 8.

<sup>9</sup> On slavery see R. Hammer "The Impact of the Exodus on Jewish Law" in Exodus in the Jewish Experience, eds. Barmash and Nelson, Lexington Books, New York, 2015, 115-122

<sup>10</sup> See JPS Deuteronomy, J. Tigay, 470-472.

<sup>11</sup> L. Finkelstein in Aspects of Human Equality, Harper and Brothers 1956, 196

<sup>12</sup> Tos. A.Z. 8:4, Sifre D. 343:4

<sup>13</sup> E.E. Urbach, Kol HaMekayem Nefesh Ahat – Tarbiz 40, 1971, 268-284.

<sup>14</sup> Tosafot in A.Z.26b adds the words "during warfare."

<sup>15</sup> Katz, *ibid*, 108, note 1

<sup>16</sup> J. Lauterbach, "The Attitude..."

<sup>17</sup> Alan Brill, Judaism and Other Religions: Models of Understanding, 24. See Soncino Baba Mezia 651 note 7 for an unsuccessful apologetic interpretation of this statement – "...only, of course, from the point of view of ritual defilement....it is simply a Talmudic idiom denoting 'inhuman'... (!)."

<sup>18</sup> See Jacob Katz, Exclusiveness and Tolerance: Studies in Jewish-Gentile Relations in Medieval and Modern Times, Behrman House, New York, 1961, page 106ff.

<sup>19</sup> Commentary on the Bible, Mosad HaRav Kook 1980, Exodus 19:5-6; Deuteronomy 33:3. See Brill *ibid* 93ff.

<sup>20</sup> See Y. Katz, Bein Yehudim l'Goyim (Hebrew) Jerusalem 1960

<sup>21</sup> Katz Exclusiveness 14

- 
- <sup>22</sup> Kuzari I:103. See Brill, 66.
- <sup>23</sup> See Isaac Husik, A History of Medieval Jewish Philosophy, JPS 1948, 162ff- AlChazari I 99ff, 53ff.
- <sup>24</sup> 3 Jewish Philosophers, Hans Lewy and Isaak Heinemann, JPS 1960, 35.
- <sup>25</sup> Ibid 45-47.
- <sup>26</sup> Daniel Matt The Zohar I 47a, 252
- <sup>27</sup> See Be-Shallah 2:45a-b, Matt edition, (Stanford University Press) II 210-213.
- <sup>28</sup> Katz ibid 140-1, 146.
- <sup>29</sup> See Brill ibid 164-5
- <sup>30</sup> The Tanya of Rabbi Schneur Zalman of Liadi, Elucidated By Rabbi Yosef Wineberg. Translated from Yiddish by Rabbi Levy Wineberg and Rabbi Sholom B. Wineberg. Edited by Uri Kaploun. Published and copyright by Kehot Publication Society.
- <sup>31</sup> Alan Silver, Jews, Myth and History, Traubador Publishers, Leicester UK, 2008, 242.
- <sup>32</sup> Sefer Machshevot harutz; Poked Akarim 19. See Brill, 160.
- <sup>33</sup> Sichos in English 35, Tzav 5747 75-6, See Brill 171-2.
- <sup>34</sup> Finkelstein, Aspects of Human Equality, 198
- <sup>35</sup> See Encyclopedia Talmudit 6, 303.
- <sup>36</sup> Guttman, "The Term 'Foreigner'..."
- <sup>37</sup> See Friedman, "Is Judaism Racist," 47.
- <sup>38</sup> The authors of Torat HaMelekh do accept it and add that "this is because the Jew is more precious to God than the non-Jew." They also make certain to emphasize that in Maimonides whenever he uses the words "*nefesh ehat b'yisrael*" it is in order to limit the rule to Jews alone (157-9).
- <sup>39</sup> See Cathrine Hezser, Jewish Slavery In Antiquity, Oxford: Oxford University Press, 2005.
- <sup>40</sup> A full discussion of this is beyond the scope of this Teshuvah but can be found in Y. Katz, Bein Yehudim I'Goyim (Hebrew) Jerusalem 1960. See especially 25-46.
- <sup>41</sup> Katz, ibid 24, 29
- <sup>42</sup> Katz ibid 125
- <sup>43</sup> Yaakov Blidstein, "Yahaso shel R. Menachen Meiri I'nokhri – bein apalogentica I'hafnamah," Tzion 1986, 158-9.
- <sup>44</sup> See Guttman who sees this as part of the trend of not wanting to utilize capital punishment as Akiva who contended that he would never have had anyone executed (17).
- <sup>45</sup> See Lauterbach ibid notes 48, 50 for additional references to Medieval works.
- <sup>46</sup> Blidstein ibid 162
- <sup>47</sup> Blidstein ibid 158-9
- <sup>48</sup> See Y.Yebamot 8:1 and A.Z. 64b for the rules and regulations concerning the *ger toshav*. See also R. Hammer "The Impact of the Exodus on Halakhah (Jewish Law) in Exodus In The Jewish Experience, ed. Pamela Barmash and W. David Nelson, Lexington Books, New York, 2016, 111-146 on the meaning of *ger, nokhri, and ger toshav* in the Torah and Rabbinic literature.
- <sup>49</sup> Responsa 26. Translation Jacob Katz, 159
- <sup>50</sup> See Friedman ibid 47
- <sup>51</sup> Katz ibid 198
- <sup>52</sup> Jerusalem Post Nov.12, 2015
- <sup>53</sup> Torah HaMelekh, unpagged introduction by Yitzhak Ginzberg.
- <sup>54</sup> I am indebted to Elliot Dorff for bringing this to my attention.
- <sup>55</sup> Brill, ibid 230.
- <sup>56</sup> The Dignity of Difference, London: Continuum, 2002, 45-46.