

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH LEARNING
PROJECT

The Noahide Laws – Lesson Nine



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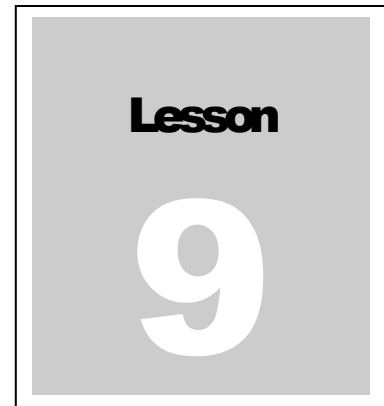
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Noahide Identity I – Ger Toshav



Introduction

The most important question to answer before getting into the practical observance of the Noahide laws is: What is a Noahide? It is a deceptively simple question because it involves a very complicated answer – an answer vital to the practical fulfillment of the Noahide laws. In the next few lessons we will examine this question in great depth. It involves the study of many apparently unrelated topics and a vast array of sources in order to get to our conclusion. **Note: Much of the material in this and the next two lessons will be advanced and is geared to those Rabbis taking this course.**

The Ger Toshav Question

The Prohibition of Non-Jewish Residence in Israel

In Deuteronomy 7:1-2, God commands to the Jewish people:

*When the Lord, your God, shall bring you into the land when you go to possess it, and shall cast out many nations before you – the Hittite, and the Girgashite, and the Amorite, and the Canaanite, and the Perizzite, and the Hivite, and the Jebusite, seven nations greater and mightier than you – and when the Lord, your God, shall deliver them up before you, you shall smite them. You shall completely destroy them. You shall make no covenant with them **nor show them favor.***

From this last verse, ...*nor show them favor*, the Talmud [Avodah Zarah 20a](#) derives a number of prohibitions, one of which is the prohibition of settling idolaters in the land of Israel. Maimonides¹ proposes Exodus 23:33 as the reason for these

¹ [Hilchos Avodas Kokhavim 10:6.](#)

injunctions:

They [idolaters] shall not dwell within your land lest they cause you to sin against Me and worship their gods.

[Maimonides](#) summarizes the [halakha](#), practice, derived by the Talmud from these verses:²

It is forbidden to sell them homes and fields in Israel. In Syria, one may sell them homes, but not fields.

One may rent them homes in Israel, provided that a neighborhood [of idolaters] is not established. Fewer than three [homes] does not constitute a neighborhood. It is, however, forbidden to rent them fields. In Syria, one may rent them fields...

...It is permitted to sell them houses and fields in the Diaspora, because it is not our land.

Even when it is permitted to rent [houses to idolaters], it is not permitted to rent to them for use as a dwelling, because they will bring idols into them, as [the Torah in Deuteronomy 7:26] states: "Do not bring an abomination into your home." It is, however, permitted to rent them homes to use as storehouses.

It is forbidden to sell them fruit, grain, or other produce while it is attached to the earth. One may sell [them] after they have been harvested or on the condition that they will be harvested, and then he must harvest them.

Why is it forbidden to sell them land or anything attached to the land? Because [the Torah in Deuteronomy 7:2] states: "Do show them favor." [Which the Talmud points out may also be read as:] "Do not give them a resting place in the land." As long as they do not have a resting place in the land, their stay will be a temporary one...

It is also forbidden to give them a present.

The [Shulchan Aruch](#) and all other codifiers rule in agreement with Maimonides that it is prohibited for idolaters to settle permanently in Israel.³ This rule however, only applies when Israel has sovereignty and authority over the non-Jews in its land.⁴

² [Hilchos Avodas Kokhavim 10:3-4.](#)

³ [Yoreh Deab 151:8.](#) While all agree that this is true for selling property to non-Jews in Israel, there is much disagreement about renting property to non-Jews even outside Israel. The custom appears to be to rely upon the lenient authorities who permit rentals to non-Jews.

⁴ [Hilchos Avodas Kokhavim 10:6.](#)

**Are Non-
Idolatrous
Gentiles
Permitted to
Reside in Israel?**

Maimonides's last statement, regarding gifts, is curious on account of the following verse:

You shall eat not eat improperly slaughtered meat – you shall give it to the ger within your gates so that he may eat it... (Deuteronomy 14:21)

This verse instructs the Jew to gift improperly slaughtered meat to a *ger*. Now, we might assume that this “*ger* within your gates” is a convert to Judaism. However, this cannot be because a convert is like a born Jew in his obligation to observe the dietary laws. If, however, this verse speaks of a non-Jew, then it must refer to a non-Jew who is not an idolater. Otherwise, how is a Jew allowed to gift the meat to the non-Jew? As we just learned, a Jew may not favor an idolater with gifts!

The *Ger Toshav*

From this verse and many others we see that the Torah anticipates the presence of non-idolatrous gentiles in Israel, referring such an individual as a *ger toshav*:

- Exodus 12:43-45 – *This is the decree of the Passover offering... a resident [toshav] and a hired laborer may not eat of it.*
- Lev. 25:6 – *The land's yield of the sabbatical year shall be yours to eat, yours... and the residents' [toshav] who sojourns [ger] among you.*
- Lev. 25:35 – *...you shall strengthen him, the convert or the resident [toshav].*
- Lev. 25:40 – *Like a laborer or a resident [toshav] he shall be with you, until the jubilee year he shall work with you.*
- Lev. 25:45 – *...also, from among the children of the residents [toshav] who dwell [ger] with you...*
- Lev. 25:47 – *If the means of a sojourner [ger] who resides [toshav] among you...*
- Num. 35:15 – *For the children of Israel, the convert, and the resident [toshav] among them...*

The term *ger*, from the Hebrew root *gar*, meaning “to sojourn,” refers to an alien, a stranger, or an immigrant. *Toshav* means “reside.” A *ger toshav* is, therefore, a resident alien: a non-Jew who resides in the land of Israel among the Jewish people.

The Benefits of a *Ger Toshav*

A survey of the [Midrashic](#), [Mishnaic](#), [Talmudic](#), and [halakhic](#) literature reveals that the *ger toshav*, though not Jewish, enjoys many of the benefits reserved for Jews who live in Israel. However, the *ger toshav* is also bound by many of the same restrictions that apply to idolaters.

Let's first examine the residency of a *ger toshav*. Unlike an idolater, a *ger toshav* is allowed to settle, even permanently, in Israel. However, his dwelling there is subject to a number of conditions:

- The *ger toshav* must be settled in a place where he can make a living or practice his trade.⁵
- A *ger toshav* was not permitted to live near the borders of Israel, but only well into the interior.⁶
- A Jew may sell land in Israel to a *ger toshav*.⁷
- Once settled, the Jews may not force a *ger toshav* to move from one place to another.⁸ It is, however, permitted to relocate him if the move is of substantial benefit to him.⁹
- A *ger toshav* may not reside in Jerusalem.¹⁰

The Jewish community is commanded with a general obligation (derived from Leviticus 25:35) to sustain a *ger toshav*. Such is not the case with idolaters. The

⁵ [Sifrei](#) to Deuteronomy 23:17. See also [Maseches Geirim](#) 3:4, by way of implication.

⁶ [Sifrei](#) to Deuteronomy 23:17; [Maseches Geirim](#) 3:4.

⁷ [Sefer HaChinuch](#) 94.

⁸ [Sifrei](#) *ibid*.

⁹ [Malbim](#) to Deuteronomy 23:17; [Sifrei](#) *ibid*.

¹⁰ [Tosefta](#) *Negaim* 6; Maimonides, [Hilchos Beis HaBechira](#) 7:14. However, [Sifrei](#) to Deuteronomy 23:17 and [Hagabos Raavad](#) to [Hilchos Issurei Biab](#) 14:8 hold that a *ger toshav* may not live within the boundaries of any established city. Maimonides and [Tosefta](#), though, only prohibit the dwelling of a *ger toshav* within Jerusalem, making no mention of any restriction upon living anywhere else. If Maimonides agreed with the [Raavad](#), then why would Maimonides need to single out a prohibition against living in Jerusalem? It appears, therefore, that Maimonides does not acknowledge a general prohibition against residing in cities. See [Maggid Mishneh](#) to Maimonides, [Issurei Biab](#) 14:8. See also [Zayis Raanan](#) and [Zera Avraham](#) *ibid*.

Jewish community is prohibited from providing medical treatment or even saving the life of an idolater.¹¹

“Sustaining” a *ger toshav* includes the following:

- The Jews are commanded to sustain the *ger toshav* and to ensure his welfare in the same way they would for a fellow Jew.¹² For example: if he is in danger we must do whatever possible to save him.¹³ So too, he must be supported with charity, if needed.¹⁴
- Since Jews are commanded to ensure his welfare, they may even provide the *ger toshav* with free medical care if necessary.¹⁵
- A Jew may, even on Shabbos, assist a *ger toshav* in giving birth.¹⁶
- Jews may give gifts to a *ger toshav*.¹⁷
- Jews may go beyond the minimal social graces required for peace when interacting with a *ger toshav*. This is not the case with idolaters, for whom we may only show the minimal degree of courtesy needed to maintain peace and civility. A *ger toshav*, though, may be treated with the same etiquette, kindness, and grace afforded to other Jews.¹⁸

¹¹ Maimonides, [Hilchos Avodas Kochavim 10:1-2](#). Maimonides qualifies this ruling, writing that Jews may offer an idolater medical treatment if denial of it would disrupt the peace. However, a Jew may only do so for fee and not for free.

¹² [Pesachim 21b](#); [Avodah Zara 65a](#); Maimonides, [Hilchos Zekhiyah UMatana 3:11](#) and [Hilchos Melakhim 10:12](#).

¹³ [Ramban](#) in his gloss to the [Sefer HaMitzvos, Mitvah Aseh 16](#).

¹⁴ Maimonides, [Hilchos Matnas Anyim 7:1](#).

¹⁵ Maimonides, [Hilchos Avodas Kochavim 10:2](#).

¹⁶ Maimonides, [Hilchos Shabbos 2:12](#). However, we may not violate the Shabbos to do so.

¹⁷ [Pesachim 21b](#); [Avodah Zara 65a](#); Maimonides, [Hilchos Avodas Kochavim 10:4](#); [Tur, Choshen Mishpat 249](#).

¹⁸ [Gittin 62a](#).

The Torah also commands the Jews in a number of *mitzvos* ensuring the *ger toshav* a degree of equanimity in civil and monetary law.¹⁹ These *mitzvos* also guarantee specific protections for the earned wages of a *ger toshav*.²⁰

There is also an obligation for the Jews to establish courts to adjudicate disputes between *ger toshav* according to their Noahide laws.²¹

From the Jewish perspective, the *ger toshav*, since he does not worship idols, is not subject to laws based upon concerns for idolatry. For example, we do not accept an oath from a regular non-Jew because he will likely swear in the name of his false deity. However, we may accept an oath from a *ger toshav*.²² The wine of idolaters, because it is of religious significance to them, is prohibited for both benefit and consumption. However the wine of a *ger toshav* is only prohibited for consumption.²³ It should be noted that there are a few other instances in Torah law, unrelated to idolatry, in which a *ger toshav* is regarded differently than an idolater.²⁴

In every other respect, though, a *ger toshav* is treated like an idolater.²⁵ In a number of instances in which we might have thought otherwise, the sources make certain to reinforce this point:

- A Jew may lend to a *ger toshav* on interest.²⁶
- A Jew who must sell himself into servitude may only sell himself to another Jew or to a convert. He may not serve a *ger toshav*.²⁷

¹⁹ *Maseches Gerim* 3:2; [Yerushalmi Yevamos 8:1](#); *Sifrei* Deuteronomy 23:17.

²⁰ *Sifrei* Deuteronomy 24:14; *Maseches Geirim* 3:3; *Yerushalmi Yevamos* 8:1; [Bava Metzja 111b](#); Maimonides, [Hilchos S'kbirus 11:1](#).

²¹ See Maimonides, [Hilchos Melakhim 10:11](#). The [Radbaz](#) ad loc. notes that the Jewish obligation is only when the *ger toshav* have not established their own courts.

²² Exodus 23:13; *Tosafos Kesubos* 94a.

²³ This prohibition of consumption is part of many dietary restrictions aimed at limiting social interaction between Jews and non-Jews. Maimonides, [Hilchos Maachalos Asuros 11:7](#); *Shulchan Aruch, Yoreh Deab* 124:2.

²⁴ See, for example Maimonides, [Hilchos Rotzeach 5:3-4](#) on the exile of a *ger toshav* who unintentionally kills another *ger toshav* or an indentured servant.

²⁵ [Avodah Zarah 64b](#).

²⁶ *Mishnah, Bava Metzja* 70b and *Talmud, Bava Metzja* 71a; Maimonides, [Hilchos Melaveh Ve-Loveh 5:1](#).

²⁷ [Maimonides, Hilchos Avadim 1:3](#).

- The *shemitta* year²⁸ does not cancel the debts²⁹ of a *ger toshav*.³⁰
- If a Jew sells his indentured servant to a *ger toshav*, the Jew is forced to buy him back, even if at an exorbitant price, and to grant him his freedom.³¹
- Biblically, a *ger toshav* is like a non-Jew with regard to the laws of *tzaraas* – he does not become impure.³² However, there are a number of rabbinic decrees creating exceptions for a *ger toshav*.³³
- A *ger toshav* may not partake of the Passover sacrifice.³⁴
- Jews may not accept funds from a *ger toshav* for the rebuilding or upkeep of the Temple complex.³⁵
- Jews have no commandment to correct or rebuke a *ger toshav*.³⁶

²⁸ The seventh, sabbatical year of the seven-year agricultural and tithing cycle. See Exodus 23:10-11.

²⁹ Cancellation of debts is an effect of the *shemitta* year. See Deuteronomy 15:1 – 3.

³⁰ *Sifrei* Deuteronomy 15:3.

³¹ *Gittin* 44a; Maimonides, *Hilchos Avadim* 8:5; *Shulchan Aruch* YD 267:80.

³² Mishnah, *Negaim* 3:1; Maimonides, *Hilchos Tumas Tzaraas* 9:1.

³³ For example, they are decreed Rabbinically impure for the *tzaraas* of houses and garments. See the Rash to *Negaim* 3:1; *Rosh*, Raav, to *Gittin* *ibid.*; *Tos. Yom Tov* *Gittin* 3:1 and 11:1; *Mishnah LeMelech Tumas Tzaraas* 14:11. A *ger toshav* is also equal to a non-Jew with regard to the *Ziva* impurity. See *Tosefta Zavim* 2.

³⁴ *Mechilta*, Exodus 12:45; Maimonides, *Hilchos Korban Pesach* 9:7 (see Raavad and Kesef Mishnah as well); *Sefer HaChinuch* 14; *Minchas Chinuch* 13:2; *Sefer Mitzvos HaGadol*, Lav 354.

³⁵ Maimonides, *Hilchos Shekalim* 4:8 from Ezra 4:3 and Nechemiah 2:20.

³⁶ Rashi to *Sanbedrin* 75a. This is difficult considering that Maimonides holds of an obligation to compel observance of the Noahide laws (*Hilchos Melakhim* 8:10-11). It may be that this obligation is only in force until the non-Jew has accepted the seven laws. After that point, he is liable for his own observance of them.

How Does a Non-Jew Become a Ger Toshav?

The Talmud in [Avodah Zarah 64b](#) records a three-way dispute as to how a gentile becomes a *ger toshav*:

- [Rabbi Meir](#) – A *ger toshav* is a non-Jew who has, before three Torah Scholars, accepted upon himself to not worship idols.
- *Chachomim* (the majority of sages) – a *ger toshav* is a non-Jew who, before three Torah Scholars, accepts upon himself to observe the seven Noahide laws.
- *Acherim* (the others) – A *ger toshav* is a non-Jew who has accepted all of the commandments of the Torah save one: the prohibition of eating *neveilos*, meat that has not been properly slaughtered according to Torah law.

Multiple opinions may be acceptable in matters of history or homiletics,³⁷ yet we can only accept a single idea as binding in matters of practice.³⁸ One of the many rules for deciding *halakhab*, practice, is that the opinion of the majority is decisive.³⁹ The *Chachomim*, being the majority, are therefore the *halakhab*, practice.⁴⁰

As expected, all later scholars⁴¹ decide the *halakhab*, practice, in accordance with the *Chachomim*: a *ger toshav* is a non-Jew who has accepted, before three scholars, the observance of the seven Noahide laws. One scholar, however, Rashi, is inconsistent in his definition of a *ger toshav*. In a number of places⁴² Rashi appears to define *ger toshav* using Rabbi Meir's criteria.⁴³ Strangely, though, Rashi rules like the *Chachomim* in [Avodah Zarah 24b](#). What then does Rashi actually hold? Scholars have taken the position that Rashi must hold like the *Chachomim*. After all, the idea that Rashi would deviate from the basic tenets of Talmudic interpretation is

³⁷ See Maimonides's [Perush HaMishnayos](#) to *Sotah* 3:5, *Sanbedrin* 10:3, and *Shevuos* 1:4. See also *Tosafos* to *Yoma* 5b, *Chagigah* 6b, and *Sanbedrin* 15b. See also [Maharitz Chayes](#) to *Yevamos* 86b.

³⁸ See [Avodah Zara 7a](#); Yerushalmi, *Sanbedrin* 4:2; *Sofrim* 16:5; [Rif](#), *Sanbedrin* 12b; [Rosh](#), *Sanbedrin* 4:6; *Mevo HaTalmud*. See also [Tur](#), *Choshen Mishpat* 25; Shach, *Choshen Mishpat* 25:9; *Teshuvos Rashba* 1230.

³⁹ See [Chullin 11a](#).

⁴⁰ See Shmuel HaNagid *Mevo HaTalmud*.

⁴¹ See notes below.

⁴² I.e. [Avodah Zarah 64b](#), *Sanbedrin* 96b, *Yevamos* 48b.

⁴³ It should be pointed out that [Rabbeinu Gershon](#) to *Kerisus* 9b appears to define a *ger toshav* similarly to Rashi and Rabbi Meir. Nevertheless, his opinion, like Rashi's, is not accepted as *halakhab*.

unthinkable. The difficulty lies in explaining the occasions in which Rashi appears to follow Rabbi Meir.

Many great scholars have tried to unravel Rashi, yet no single approach has succeeded.⁴⁴ The most famous explanation of Rashi is that of the *Beer Sheva*.⁴⁵ He explains that *Avodah Zarah 64b* (the aforementioned source of the three opinions as to the criteria for a *ger toshav*) is part of a larger Talmudic conversation about when Jews are obligated to support a non-Jew who lives among them within Israel.⁴⁶

According to the *Beer Sheva*, Rashi agrees with the *Chachomim* only with regard to providing support to a *ger toshav*. However, the *Beer Sheva* explains that Rashi follows Rabbi Meir's opinion for all other matters affecting the *ger toshav*.

The *Beer Sheva*'s explanation works well for many instances where Rashi appears to espouse Rabbi Meir. However, it is contradicted by Rashi's comments to *Arakhin 29a*. There, Rashi seems to apply Rabbi Meir's criteria even for the sake of defining a *ger toshav* for communal support.⁴⁷

Maimonides,⁴⁸ the *Arbav Turim*,⁴⁹ and the *Shulchan Aruch*⁵⁰ all record the position of the *Chachomim* as conclusive: to become a *ger toshav* a non-Jew must accept the seven Noahide laws upon himself before a *beis din*, a tribunal of three qualified scholars.

⁴⁴ See [VeShav HaKohen 37](#). In a well-known responsum, the *Veshav HaKohen* cites these many attempts in an admirable effort to find consistency in Rashi. He is unable to do so, however, and concludes that Rashi requires further study.

⁴⁵ *Beer Sheva* to Sanhedrin 96b. *Beer Sheva* is a commentary on the Talmud in the style of *Tosafos*. Authored by Rabbi Yissaschar Ber Eulenberg (1550-1623), chief justice of the rabbinic court of Gorizia, Italy.

⁴⁶ [Avodah Zarah 64b – 65a](#). Although this passage quotes Rabbi Meir's opinion, the view of Rav Yehudah brought therein is nevertheless pertinent.

⁴⁷ For other attempts at resolving Rashi's understanding of the criteria for a *ger toshav*, see the responsa *VeShav HaKohen 37* and [Margolios HaYam ad loc](#). See also [Rabbi Yaakov Kaminetzky's BeInyan Ger Toshav in Sefer HaZikaron LeZekher Moreinu veRabbeinu ha-Gaon R. Rafael Boruch Sorotzkin](#), pp. 198-200. See also [Rabbi Moshe Shternbuch](#) in *Edut*, No. 6 (Adat II 5749), p. 30.

⁴⁸ [Hilchos Melachim 8:10-11](#), [Hilchos Avodas Kokhavim 10:6](#), [Hilchos Issurei Biab 14:8](#), and [Hilchos Shabbos 20:14](#).

⁴⁹ *Yoreh Deab 124* – see [Bais Yosef ad loc](#).

⁵⁰ *Yoreh Deab 124:2*.