

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH LEARNING
PROJECT

The Noahide Laws – Lesson Ten



**Written by Rabbi Avraham Chaim
Bloomenstiel**

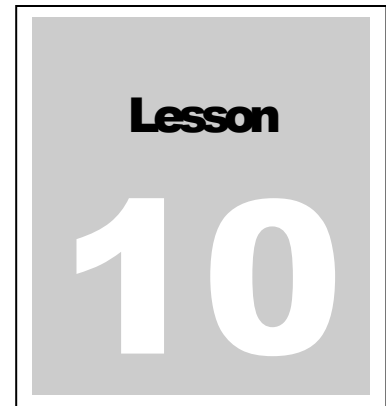
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Outline of This Lesson:

- 1. Does Ger Toshav Apply Today**
- 2. A 20th Century Problem**

Noahide Identity II *Ger Toshav Today*



When Does the *Ger Toshav* Status Apply?

The Talmud¹ notes a similarity of language between the verses describing an indentured servant and a *Ger Toshav*:

- Indentured Servant: Deuteronomy 15:16 – *In the event that he says to you: “I will not leave you,” because he loves your household and **because it is a benefit to him...***²
- *Ger toshav*: Deuteronomy 23:17 – *He shall dwell with you in your midst, in whichever place he will choose from your cities **because it is a benefit to him...***

This similarity of language, called a *gezeira shava*³ in the system of Talmudic interpretation, indicates that the two concepts share similarities. In this case, the law of the *ger toshav* is similar to the law of freeing an indentured servant: it only

¹ [Arakhin 29a](#).

² In the [Jubilee](#) year all indentured servants were freed. This verse speaks of a servant who rejects freedom, wishing instead to remain with his master. See note 55, below.

³ *Gezeira shava*, an “equivalent decree” is one of the methods of scriptural exegesis revealed along with the Torah at Sinai.

applies when the [Jubilee](#) cycle⁴ is in full observance. Maimonides codifies this qualification as law⁵ and it is accepted as such by all later authorities. Since full observance of the Jubilee year ceased around 600 BCE,⁶ no *ger toshav* have been accepted by Israel since that time. Of course, this means that acceptance of *ger toshav* is not possible in our times, as Maimonides writes:

*Even if a non-Jew comes and accepts upon himself the entire Torah with the exception of but a minor detail, we still do not accept him [as a ger toshav],*⁷

and,

*A ger toshav may only be accepted in a time when the Jubilee year is in full observance. When the Jubilee year is not in full observance, we can only accept full converts.*⁸

A 20th Century Problem: Non-Jewish Residence in Israel

What is meant by “we do not accept them?” This is an extremely important question and one that has immediate relevance. As we saw above, idolaters are prohibited from residing in Israel. However, this prohibition only applies when the Jews have rulership over Israel and the non-Jews therein. It appears that this criterion is based on political sovereignty, and not on any redemptive qualifications such as the end of the exile or rebuilding of the temple. Given the establishment of the state of Israel, the prohibition of non-Jewish residency must again be in force.

However, we have no Jubilee observance and, therefore, cannot grant *ger toshav* status. If this is the case, then how can any non-Jews reside in Israel? Must not they be forcibly removed?

⁴ The Jubilee cycle is the 50 year agricultural and legal cycle observed during ancient times. It is no longer observed in our times (see note 53). In the 50th year, the Jubilee year, all indentured servants were freed. See Leviticus 25:39 – 40.

⁵ [Hilchos Issurei Biah 14:8](#).

⁶ See Maimonides, [Hilchos Shemitta 10:8](#). The Jubilee year is only observed when the tribes are dwelling in their territories. With the exile of Gad and half of Manasseh in about 600 BCE, observance of the cycle ceased.

⁷ [Hilchos Issurei Biah ibid](#).

⁸ [Hilchos Avodas Kocharim 10:6](#).

To answer this question, we must take a very close look at the identity of a *ger toshav*. Becoming a *ger toshav* has three broad effects on a non-Jew:⁹

- 1) He is granted permission to reside in Israel,
- 2) He becomes entitled to support from the Jewish community, and
- 3) He is treated differently from an idolater with regards to many laws.¹⁰

A basic reading of Maimonides's statement of the laws pertaining to a *ger toshav* implies that acceptance of the seven Noahide laws before a *beis din* is needed to convey all three effects. However, according to Maimonides's chief disputant, the [Raavad](#),¹¹ things are not so simple:

This [the Maimonides's] interpretation is closed and sealed, failing to explain what is meant by "we do not accept ger toshav unless the Jubilee year is observed," nor what is to be done with the mitzvos of a ger toshav... Rather, these are the mitzvos that are not in affect when the Jubilee is not observed (some of them create leniency for him [the non-Jew], and some create stringency): When the Jubilee is not observed, he [the non-Jew] may even reside within cities [in Israel]... this is the leniency. We have no obligation to support him – this is the stringency.

According to the *Raavad*, the inability of the courts to accept a *ger toshav* in our times is only for the purpose of obligating the Jewish community to sustain the *ger toshav*.¹² It appears that, even without acceptance of the Noahide laws before a *beis din*, a gentile may nevertheless live in Israel provided that he keeps the Noahide laws. This is also the understanding of *Tosafos*,¹³ the [Rashba](#),¹⁴ and the *Kesef Mishnah*.¹⁵ The *Kesef Mishnah* explains, however, that a careful reading of Maimonides reveals that Maimonides would even agree with the *Raavad*: that

⁹ It may be argued that there are more effects than these three. Listing them all, however, is more an exercise in taxonomy than one relevant to this discussion. For the sake of brevity, I have chosen to represent the identity of the *ger toshav* using these three broad effects. The point is that the identity of a *ger toshav* includes many facets which are, to a degree, independent of each other.

¹⁰ As we shall see, it is possible that 3 and 1 are really one in the same.

¹¹ [Hilchos Issurei Biah 14:8](#).

¹² This is similar to the *Beer Sheva*'s attempt to explain Rashi's inconsistencies in defining a *ger toshav*.

¹³ To *Avoda Zarah 65a*.

¹⁴ Responsa I: 182.

¹⁵ [Hilchos Avodas Kochavim 10:6](#).

acceptance before a *beis din* is only needed for the sake of entitling the non-Jews to support. It is not needed to allow a non-Jew to live in Israel.¹⁶

Therefore, when the authorities conclude that we do not accept *ger toshav* in our times, it means that a *ger toshav* cannot today bind the Jewish community to support and protect him in Israel.

Yet, if acceptance before a *beis din* is only needed to qualify one for communal support, then why does a *ger toshav* receive the other two benefits – of residency and as a non-idolater?

The answer is that these two factors (which are actually one-in-the-same) are automatic consequences of the non-Jew's rejection of idolatry. They are not a result of his acceptance of the Noahide laws before a *beis din*. Recall that the purpose of prohibiting non-Jewish residency in Israel was:

*They [idolaters] shall not dwell within your land lest they cause you to sin against Me and worship their gods.*¹⁷

If a non-idolatrous gentile wishes to live in Israel, there is no danger of him corrupting the faith of the Jewish populace. Therefore, the prohibition against his residency should not apply.

Put succinctly: every *ger toshav* may be a non-idolatrous resident, but every non-idolatrous resident is not necessarily a *ger toshav*.

The majority of authorities¹⁸ who have tackled the question of non-Jewish residency in the modern state of Israel have relied upon this interpretation of *ger*

¹⁶ See [Tzafnas Paneach](#) to *Hilchos Issurei Biah* 14; See also *Rashba's Toras HaBayis; Bais Yosef* to YD 124.

¹⁷ Exodus 23:33. See *Hilchos Avodas Kochavim* *ibid*.

¹⁸ *Sheelas Shlomo* II:433 who cites this as the opinion of [Rav Tzvi Yehudah Kook](#) as well; [Mishpat Kohen](#) 61; [Mishnas HaMedinah](#) p. 65; [Siach Nachum](#) 93. This opinion is relied upon by most authorities who have weighed the issue. A number of other permissive factors have been offered as well. For example, Rav A. I. Kook in *Iggros Ra'ayah* 89 (as well as *Mishpat Kohen* 58) and [Rav I. Herzog](#) in *Shut Heichal Yitzchak* EH 1:12 (and in *Techumim* II, p. 172) cite the [Meiri](#) (to *Bava Kama* 113a and *Yoma* 84b) that the prohibition against non-Jewish residence does not apply to civilized people; indeed they have an automatic, collective status of *ger toshav*. This opinion is problematic for at least four reasons. First, is that the *halakhab* prohibiting non-Jewish residency is intended to protect the integrity of Jewish faith and practice (as per Exodus 23:33 – see Maimonides, *Hilchos Avodas Kochavim* 10:6). If so, then why should we be concerned as to whether or not the non-Jew is uncivilized? The second issue is that the Meiri's views on the *halakbic* status of non-Jews are unique and controversial. They have very little precedent or acceptance in Torah literature. The third problem is with the general use of the Meiri as a *halakbic* source. Shortly after the completion of his commentary in the late 13th century, almost all of his manuscripts were lost. They remained undiscovered until the 1920's. Having been outside the stream of *halakbic* debate and development

toshav (that a non-Jew only need to not worship idols)¹⁹ to permit the residency of non-Jews in Israel.²⁰

We must keep in mind that the necessity for deciding, in practice, the exact definition of *ger toshav* has only become pertinent since the establishment of the state of Israel. Prior to this time, Torah scholars offered many possible understandings of the *ger toshav* (as we shall soon see).

for so long, never having been seen by the *Tur*, *Shulchan Aruch*, *Shach*, *Taz*, etc., the acceptability of his opinions as *halakhically* dispositive is difficult. Fourth, the Meiri's position is in the severe minority and is contradicted by both earlier and later authorities. See *HaPardes* 26, pp. 7-13. [Rabbi Menachem Kasher](#), *HaTekufah HaGedolah* Ch. 13, proposes an alternative reason to permit non-Jewish settlement in Israel: that the prohibition of non-Jewish residency does not apply today because Jewish rulership of the land is not complete. According to R. Kasher, it seems that non-Jewish residency is only a problem once the messianic redemption has occurred. However, R. Kasher alone espouses this view and it is not quoted or entertained by later scholars.

¹⁹ Of course, this position requires an examination of the monotheistic statuses of both Christianity and Islam. Islam is relatively easy to deal with. However, defining Christianity's monotheistic status is no easy task. It appears that the burden of this determination is what drove some of the minority of the *halakhic* opinions on non-Jewish residency to rely upon the Meiri. By doing so, one avoids the question of Christianity's status altogether. For the purposes of residency, however, most of the authorities mentioned in note 69 find enough doubt as to the overall communal status of Christianity to allow Christians to reside as non-idolaters.

²⁰ However, what about the restrictions that dictate where a *ger toshav* may reside? Since the residence of a non-Jew is dependent on his rejection of idolatry, then all of those restrictions should apply equally to contemporary non-idolatrous gentiles. The current circumstances of Israel, though, are not comparable to those of ancient times. For example, the holiness of the cities and of Jerusalem is not as it once was. Therefore, non-Jewish residence in these places may be allowed. For further elaboration, see again the sources in note 69.