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THE SABBATH OBSERVING GENTILE: HALAKHIC, HASHKAFIC AND LITURGICAL PERSPECTIVES

While the notion of commemorating the divine rest associated with primordial creation would seem to bear universal import, it is surely no coincidence that the *mitsva* of *Shabbat* was assigned solely to *Am Yisrael* and not to *Benei Noah*.¹

Moreover, not only is a gentile absolved of the obligation to observe *Shabbat*, he is actually enjoined from doing so. Hence, the talmudic dictum: “*Goy she-shavat hayav mita*”—“a gentile who rests [on the Sabbath] incurs the death penalty” (*Sanhedrin* 58b). That the *mitsva* of *Shabbat*, in particular, should be perceived in uniquely Jewish terms is evident from its designation as an *ot*—a sign—between *Ha-Kadosh Barukh Hu* and *Benei Yisrael*, as highlighted in *Parashat Ki Tisa*: “*Ki ot hi beni u-venekhem ledoro-tekhem. . . . Beni u-ven Benei Yisrael ot hi le-olam*” (*Exodus* 31:13, 17).

This motif becomes ever more apparent in aggadic sources which characterize the relationship between *Shabbat* and *Kenesset Yisrael* as an intimate and exclusive one—that of a bride and groom.² Additionally, a particularly sharp formulation of this theme appears within the *Shabbat* liturgy in the paragraph beginning “*Ve-lo netato Hashem Elokenu legoyei ha-aratsot*” recited during the *shaharit amida*.

This article will provide a comprehensive overview of numerous halakhic and *hashkafic* considerations that relate to the prohibition of “*goy she-shavat*.”³ It will also explore how this rule was adapted by one of the *Rishonim* to interpret a nebulous phrase that occurs frequently within the *Shabbat* liturgy and to elucidate various liturgical references in accord with this interpretation.

GOY SHE-SHAVAT: TOWARD ESTABLISHING HALAKHIC AND HASHKAFIC PARAMETERS

In analyzing the injunction against a gentile's Sabbath observance, numerous issues must be clarified, including:

1. What is the scriptural and philosophical basis for the prohibition?
2. At what historical juncture did the prohibition set in according to the tradition? Did it exist prior to *Mattan Torah*? Prior to the Sabbath associated with the manna? Prior to Mara, where, according to *Hazal*, *Shabbat* was first formally introduced to *Benei Yisrael*?⁴
3. Do the standards of "rest" forbidden to the non-Jew conform to the halakhic categories that regulate a Jew's observance of *Shabbat*?
4. Is a gentile forbidden to abstain from work only on the Jewish Sabbath (Saturday) or does the prohibition apply to other days of the week as well?
5. Does the motivation behind the gentile's "rest" impact upon the prohibition—i.e. is the prohibition contingent upon the non-Jew's intent to act "Jewishly" or in accord with other religious convictions? Does it apply to the mere abstention from labor for non-religious reasons—i.e. for recreational purposes?
6. Are there certain categories of non-Jews who are excluded from this prohibition? What of a *Ger Toshav* (whose formal embrace of the Noahide code grants him certain halakhic rights)? Or a *ger she-mal ve-lo taval* (a non-Jew midway through the conversion process)?

MIDRASHIC SOURCES FOR GOY SHE-SHAVAT: INFRINGEMENT ON A "SPECIAL RELATIONSHIP"

According to several midrashic sources, the prohibition for a gentile to observe *Shabbat* is based on the passage, "*beni u-ven Benei Yisrael ot hi le-olam*" (*Exodus* 31:17). By designating *Shabbat* as an everlasting sign between *Ha-Kadosh Barukh Hu* and *Benei Yisrael*, the Torah emphatically affirms that Sabbath observance should be limited to members of the Jewish faith. Thus, the *Mekhilta* to this verse explicitly states its corollary, "*beni u-ven Benei Yisrael—ve-lo beni u-ven umot ha-olam.*"⁵ Other *midrashim* draw such an inference from a verse which appears in connection with the double portion of manna that descended on Friday in honor of *Shabbat*: "*Re'u ki Hashem natan lakhem ha-Shabbat*" (*Exodus* 16:29). The term "*lakhem*" (to you), the midrash explains, specifically precludes non-Jews from the observance of *Shabbat*.⁶ The

severity of the transgression and the commensurate level of its punishment are aptly illustrated in the midrash by the image of a king and a courtesan whose intimate dialogue is abruptly interrupted by the sudden appearance of a foreign interloper. Just as such a brazen act of intrusion warrants retribution of the highest order, so too, the midrash notes, is a Sabbath observant gentile deserving of the death penalty for meddling with the special relationship that exists between *Melekh Malkhei Ha-Melakhim* and *Benei Yisrael*.⁷

It is reasonable to assume that, for the midrash, the prohibition of *goy she-shavat* refers exclusively to resting on Saturday, the Jewish Sabbath, and would not preclude a non-Jew from observing a Sabbath rest on another day of the week. This is implicit in the primary sources upon which the midrash draws to prohibit non-Jewish observance of *Shabbat*—"beni u-ven benei Yisrael" and "*natan lakhem ha-Shabbat*"—which refer specifically to the Jewish Sabbath.⁸ In addition, the parable invoked by the midrash that portrays the gentile's Sabbath observance as a form of intrusion would strongly suggest that the Sabbath being observed by the gentile is identical with that of the Jews.

Second, it would seem from the midrash that the criteria for "rest" forbidden to a non-Jew should be defined as abstention from activities whose performance would, for the Jew, constitute halakhic *hillul Shabbat*—i.e. the 39 *melakhot*. Only a halakhic Sabbath observance, one that affirms the mutual, loving relationship between the Jew and God, can be deemed a threat to that relationship when emulated by a non-Jew.

Third, the midrashic formulation further suggests that to violate this prohibition, a gentile's Sabbath observance must stem from motivation that is characteristic of the Jewish religious experience of *Shabbat*: to affirm God's creation of the universe and to foster a personal relationship with the Creator. It is precisely a Sabbath observance borne of such motivation—albeit noble and sincere—that undoubtedly represents an infringement upon the uniquely Jewish character of *Shabbat*, and is hence forbidden to a non-Jew. On the other hand, a gentile who abstains from work (*melakha*) for the sake of recreation or other innocuous reasons should not be in violation of *goy she-shavat*, inasmuch as such casual abstention from labor in no way intrudes upon the unique relationship signified by *Shabbat*. By the same token, a Sabbath observance borne of pagan religious zeal, while perhaps forbidden on grounds of *avoda zara*, should likewise not come under the ban of *goy she-shavat*, since only a "Jewish-oriented" Sabbath observance directly challenges the Jewish character of *Shabbat*.

In short, the midrash would apparently view the restriction of *goy she-shavat* as the mirror image of the Jewish imperative to observe *Shabbat*. Hence, only a Sabbath observance that parallels, in thought and deed, the Jewish observance of *Shabbat*, should be forbidden.

Finally, it is equally clear from the midrash that the prohibition of *goy she-shavat* could not have existed prior to the time that *Shabbat* was granted to *Am Yisrael*, inasmuch as the latter represents the *raison d'être* for the former.

It is interesting to note what may emerge as a subtle, yet crucial, difference between the two passages cited by the midrash to preclude Noahides from *Shabbat* observance: “*re’u ki Hashem natan lakhem ha-Shabbat*” and “*beni u-ven Benei Yisrael.*” While the latter verse, which appears in *Parashat Ki Tisa* (post *Mattan Torah*), suggests that the prohibition of *goy she-shavat* originated with *Mattan Torah*, the former verse, from *Parashat Beshalah* (pre-*Mattan Torah*), implies that it began with the *Shabbat* associated with the manna. Thus, the precise historical juncture—whether at Sinai or at Alush⁹—that imposed a formal restriction upon Noahides to engage in *shemirat Shabbat* may hinge on these two derivations.¹⁰

To summarize the midrashic perspective in light of the considerations outlined earlier:

1. The prohibition of *goy she-shavat* is derived from specific scriptural allusions that highlight the uniquely Jewish dimension of *Shabbat*. A gentile’s *Shabbat* observance constitutes infringement upon the unique relationship between *Ha-Kadosh Barukh Hu* and *Am Yisrael*.

2. The prohibition of *goy she-shavat* did not exist prior to *Mattan Torah* or, at the very least, prior to the *Shabbat* associated with the manna.

3. The standards of rest that the non-Jew must avoid are identical with those incumbent on the Jew to observe.

4. The prohibition applies only to the non-Jew’s observance of the Jewish Sabbath. Resting on a day other than Saturday is permitted.

5. The gentile is forbidden to observe a *Shabbat* rest only if he does so for the religious motives that underlie the Jewish observance of *Shabbat*.

THE TALMUDIC DERIVATION FOR GOY SHE-SHAVAT: THE IMPERATIVE TO WORK

Quite a different impression emerges from the talmudic formulation of the rule of *goy she-shavat* (*Sanhedrin* 58b) where Resh Lakish, author of

the statement, predicates it on a verse in *Parashat Noah*, “*Ve-yom va-laila lo yishbotu*” (*Genesis* 8:22). Although in a literal sense the *pasuk* refers to the cycle of seasons that were set to resume their normal course after being suspended for the duration of the *mabul*, Resh Lakish interprets it as a charge to humankind that it not interrupt the work routine by introducing a day of rest.¹¹ What makes doing so a capital offense, the *Gemara* explains, is the halakhic principle of “*azharatan zo hi mitatan*” which gives a Jewish court the legal right to administer capital punishment to gentiles who violate any of the Noahide laws.¹² Ravina then extends the scope of this prohibition to include even an ordinary Monday.¹³ The *Gemara* concludes its discussion by analyzing why this prohibition was not codified among the seven Noahide laws. The answer given is that this law differs from the others inasmuch as compliance with it necessitates positive action (*kum va-aseh*) rather than passive restraint (*shev ve-al ta’aseh*).

On the surface, the talmudic perspective of *goy she-shavat* differs radically from that of the midrash. Whereas the midrash derives the prohibition from specific verses associated with the Jewish celebration of *Shabbat*, Resh Lakish draws solely on a passage that has no direct bearing on the Jewish Sabbath. Whereas the Talmud expands the scope of the prohibition to include an ordinary Monday, the midrash apparently limits it to a gentile’s observance of the Jewish Sabbath.

Further evidence that the talmudic conception of *goy she-shavat* differs from the midrashic rationale may be gleaned from the context of the Talmud’s analysis as to why the prohibition of *goy she-shavat* was not formally codified as one of the seven Noahide laws. In the next passage, R. Yohanan posits that “*goy she-osek be-Torah hayav mita*” (a non-Jew who studies Torah is liable to the death penalty),¹⁴ based on the verse, “*Torah tsiva lanu Moshe morasha kehilat Yaakov*” (*Deuteronomy* 33:4), the word “*lanu*” serving as the basis for the exclusion of non-Jews from formal Torah study. Here, too, the Talmud questions why such a prohibition was not explicitly enumerated as part of the Noahide code. Two answers are suggested, both of which incorporate the ban against a gentile’s studying Torah under an existing prohibition: either that of *gezel* (theft) or *ni’uf* (adultery).¹⁵ Inasmuch as the *Gemara*, in its analysis of *goy she-shavat*, did not subsume a gentile’s Sabbath observance under the rubric of either theft (usurping what rightfully belongs to a Jew) or adultery (conjuring with the *Shabbat* which was “betrothed” to the Jewish people)—both of which would have been quite compatible with the midrashic formulation—and opted instead for a wholly different

answer (because its compliance requires a concrete performance), it can be inferred that the Talmud interpreted this prohibition in wholly different terms than did the midrash.

Evidently, the Talmud would view a gentile's injunction against abstaining from work on the Sabbath as unrelated to, and independent of, the Jew's *mitsva* of *shemirat Shabbat*. Such is, in fact, the apparent position of Rashi who interprets Ravina's extension of the rule of *goy she-shavat* to include an ordinary weekday as indicative of a ban against the mere abstention from work even for non-religious reasons (e.g., recreation). Accordingly, the prohibition derived from "*ve-yom va-laila lo yishbotu*" establishes a blanket prohibition for a gentile to cease his daily work pattern for a full day, regardless of motivation. The rationale for the prohibition stems not from a need to protect the integrity of the Jewish Sabbath, but rather to promote the ideal of a work ethic. Rather than the prohibition of *goy she-shavat* being the outgrowth of the *mitsva* of *shemirat Shabbat* issued to the Jew, as the midrash would have it, quite the obverse is true according to the talmudic formulation. In fact, the *mitsva* for the Jew to observe *Shabbat* was intended to formally override the pre-existing natural state of affairs imposed by "*ve-yom va-laila lo yishbotu*." For the Jew, the work impulse was to be suspended for one day each week and channeled into the pursuit of introspective, spiritual values.

CONTRASTING THE TALMUDIC AND MIDRASHIC PERSPECTIVES

The distinction between the midrashic and talmudic views on *goy she-shavat* now emerges into sharper focus. According to the midrashic perspective, the prohibition derives from verses that highlight the uniquely Jewish character of *Shabbat*. By contrast, the talmudic perspective, as elucidated by Rashi, is built on a verse which is intended to promote a non-stop work ethic and is unrelated to the *mitsva* of *Shabbat* per se. These divergent perspectives impact, respectively, on the scope and parameters of the prohibition itself. Whereas according to the midrash, the gentile's prohibition would be limited to the observance of the Jewish Sabbath, the talmudic prohibition applies equally to any day of the week. Whereas the midrashic prohibition could not have existed until the Jews were instructed by God to observe the *Shabbat* laws, the talmudic injunction would have been in force even prior to that juncture. Whereas the midrashic prohibition would only apply to a non-Jew whose Sabbath

observance is fueled by spiritual and religious motives characteristic of the Jewish Sabbath, the Talmud would prohibit a gentile from abstaining from work even for recreation, or other non-religious reasons.¹⁶

**PROMOTING A WORK ETHIC: POSITIVE IDEAL
OR DETERRENT AGAINST MORAL LAPSE?**

Let us revisit the question of whether the criteria for “work” and “rest” with regard to *goy she-shavat* would conform to, or differ from, the halakhic standards of *melakha* on *Shabbat*. More specifically, would a gentile who observed a Sabbath in the halakhic sense by technically complying with all 39 categories of work, but who expended strenuous effort in the course of the day—say, carrying heavy loads within a private domain—have violated the prohibition of *goy she-shavat*? Conversely, would a non-Jew who abstained on the Sabbath from rigorous labor but transgressed one of the 39 categories of work in a manner that entailed little or no effort—say, carrying a feather from the private domain to the public domain—be in violation of this prohibition? We have already seen how, according to the midrash whose source and rationale for *goy she-shavat* is shaped by the *mitsva* of *Shabbat* granted to the Jew, the measure of *melakha* and *shevita* for both would be identical. But what of the talmudic formulation which prohibits work on any day of the week, irrespective of motives? Does the fact that “*ve-yom va-laila lo yishbotu*” prohibits even a Monday rest for the sake of recreation automatically lead us to conclude that the standards for defining “rest” are subject to popular definitions rather than halakhic ones? Or must the gentile perform one of the 39 categories of work to be in compliance rather than simply expend physical energy and strenuous effort?

It would appear that this question might depend on how one interprets the underlying rationale for the non-stop work ethic promoted by the Torah in “*ve-yom va-laila lo yishbotu*.” Arguably, it might be viewed as echoing the charge issued to the first Man and Woman, “*Mil’u et ha-arets ve-khivshuha*”—“fill the earth and subdue it” (*Genesis* 1:28). If so, one should logically assume that the “work” at issue must be of a creative variety that exhibits a sense of mastery over nature. Such a criterion would seem to mirror the conceptual underpinnings of the 39 *melakhot*, virtually all of which are an expression of creative activity in one form or another.¹⁷

Alternatively, it is conceivable that the basis for prohibiting a day's cessation from labor is of a deterrent nature. The Torah insists that universal Man be engaged in some form of physical labor each and every day as a means of preventing the moral lapses that are likely to occur when one is idle.¹⁸ Rather than echoing the mandate of "*mil'u et ha-arets ve-khivshuha*," the prohibition of *goy she-shavat* may, instead, be patterned after the "curse" bestowed upon Adam: "By the sweat of your brow shall you eat bread" (*Genesis* 3:19)—which, more than a mere curse, may be viewed as remedial in nature, prescribing a regimen of strenuous physical exertion as a corrective to man's natural temptation to sin. Just as the curse was necessitated by Man's moral lapse in eating from the Tree of Knowledge, so was the charge of "*ve-yom va-laila lo yishbotu*" generated by Man's moral descent in the aftermath of the Flood. From the perspective of deterrence, it is clear that engaging in any form of strenuous activity that conforms to the "popular" definition of work would help to achieve the desired aim.¹⁹ By contrast, the carrying of a feather from one domain to another, which requires minimal physical effort, may not suffice for this purpose.

THE QUANDARY OF THE AVOT: TO OBSERVE OR NOT TO OBSERVE?

There is a well-established rabbinic tradition that the patriarchal figures of the Torah observed many, if not all, the laws of the Torah.²⁰ However, this rabbinic tradition poses a potential problem with regard to the *mitsva* of *Shabbat*, in light of a larger debate as to whether the *Avot* possessed the halakhic status of Jews or that of *Benei Noah*.²¹ If we adopt the position that the *Avot* bore the halakhic status of *Benei Noah*, then the question arises: How were they permitted to observe the *mitsva* of *Shabbat*, given the injunction of *goy she-shavat*?²² This question, first raised by Rabbi Judah Rosens in *Parashat Derakhim*, has spawned lively discussion among latter day authorities and various answers have been proposed whose assumptions border on some of the considerations outlined above.

It should be noted that this question rests on the premise that the prohibition of *goy she-shavat* was in force at the time of the *Avot*. Thus, in light of the previous analysis, it should pose a problem only according to the talmudic derivation of "*ve-yom va-laila lo yishbotu*," but not for the midrashic perspective that sees the rule of *goy she-shavat* as emanating from the commandment of *Shabbat* issued to *Benei Yisrael*.²³

In response to this question, Rabbi Jacob Ettlinger, in his responsa *Binyan Tsiyon*, proposes a distinction between the “*melakha*” prohibited to the Jew on *Shabbat*, which is defined by the 39 formal categories of labor and the “rest” forbidden to the non-Jew which is measured by the abstention from “work” in the looser sense of physical exertion. Thus, he argues, it is quite conceivable that the *Avot* observed a halakhic *Shabbat* by refraining from all of the 39 *melakhot*, but none-theless engaged in some strenuous activity not forbidden by halakha so as to comply with “*ve-yom va-laila lo yishbotu*.”²⁴ However, as noted, the validity of this distinction may hinge on whether the rationale for “*ve-yom va-laila lo yishbotu*” dictates that a non-Jew ought to engage in creative activity that fulfills the divine imperative of “*mil’u et ha-arets ve-khivshuha*” or simply that he absorb himself in physical activity as a deterrent to moral lapse.

A different answer to the question of the *Parashat Derakhim*, one cited but rejected by R. Ettlinger, is given by Rabbi Pinhas ha-Levi Horowitz, who suggests that the time unit of “day,” during which a non-Jew may not abstain from work, is a 24 hour period from daybreak to daybreak rather than nightfall to nightfall as dictated by halakha.²⁵ Thus, by making sure to perform *melakha* on Friday afternoon and Saturday night, the *Avot* remained in literal compliance with “*ve-yom va-laila lo yishbotu*,” which, by its very wording, suggests only that a period of day followed by evening not pass idly by, rather than in reverse order. It is self-evident that this distinction, as well as R. Ettlinger’s, is only plausible within the talmudic formulation of the prohibition and not within that of the midrash. As already noted, the very question regarding the permissibility of the *Avot*’s *Shabbat* observance would pose no problem according to the midrash.²⁶

RAMBAM: GOY SHE-SHAVAT AS RELIGIOUS INNOVATION

A vastly different perspective on the talmudic formulation emerges from Rambam. Whereas Rashi views the mere abstention from labor even for non-religious motives as prohibited, Rambam specifically frames the prohibition of *goy she-shavat* in terms of its religious component. Thus, Rambam states that although a non-Jew is not enjoined from performing *mitsvot*,²⁷ the *mitsva* of *Shabbat* constitutes an exception. The rationale offered by Rambam is that such an observance is tantamount to *hiddush dat*, religious innovation. Even the resting on an ordinary Monday is prohibited according to Rambam, but only when the non-

Jew's abstention from work stems from his treating this day as a sanctified day of rest—a "Sabbath."²⁸

Rambam's view of *goy she-shavat* would seem to fall somewhere between the two perspectives outlined thus far. Unlike Rashi, Rambam does not consider the mere cessation from labor per se as grounds for a prohibition. But unlike the midrash, Rambam specifically extends the prohibition, in accordance with Ravina's comment in the *Gemara*, to encompass an ordinary weekday. Rambam requires that the cessation from labor must manifest a formal observance of sorts, although this need not occur on Saturday, the Jewish Sabbath. The guiding rationale is that of *hiddush dat*: that a non-Jew who formally observes a Sabbath rest has overstepped religious bounds and, in so doing, has blurred the distinctions between the Mosaic and Noahide codes and, by extension, between Jew and non-Jew. While a gentile's performance of *mitsvot*, as a rule, does not constitute crossing such a threshold, an observance of a day of rest—even on Monday—does.²⁹

What Rambam has done, in essence, is bridge the midrashic and talmudic formulations by reading something of the midrashic rationale into the talmudic prohibition. Thus, while a plain reading of the midrash conveys the impression that only an observance of the Jewish Sabbath, borne of "Jewish motives," would infringe upon the special relationship between *Hashem* and *Kenesset Yisrael*, Rambam, based on Ravina's comment in the Talmud, was led to view any formal Sabbath observance as "*hiddush dat*"—which equally serves to blur the proper boundaries between Jew and non-Jew. While the midrash, at face value, viewed the religious symbolism of *Shabbat* as a basis, in its own right, to preclude non-Jews from observing the Jewish Sabbath, Rambam saw it as a barometer by which to characterize any Sabbath observance on the part of a gentile as an act of religious innovation forbidden to the non-Jew.

With respect to the historical onset of the prohibition of *goy she-shavat* according to Rambam, it would seem logical that the notion of *hiddush dat*, which Rambam apparently defines as the blurring of the Noahide and Mosaic codes, could have only originated with *Mattan Torah*.³⁰ Thus, the question regarding the Sabbath observance of the *Avot* is readily resolved.

What is not readily clear, however, is whether Rambam would require the specific manifestation of "rest" to conform to halakhic standards of *melakha* in order to be dubbed "*hiddush dat*." A similar issue worth pondering is whether, for Rambam, a distinction should be made between Sabbath observance that runs from nightfall to nightfall and

Sabbath observance that runs from daybreak to daybreak. For both of these issues, a determination must be made regarding the point at which the gentile's "observance" is deemed too deviant from classic Sabbath observance to constitute religious innovation.³¹

ME'IRI: GOY SHE-SHAVAT AS A PROBLEMATIC ROLE MODEL

An interesting variation of Rambam's position is presented by Me'iri who views the prohibition of *goy she-shavat* as stemming from the danger that other individuals, thinking that the Sabbath observant gentile is actually Jewish, will be drawn after him and led astray.³² According to Me'iri, the notion of *biddush dat* introduced by Rambam does not represent a prohibition in its own right but rather a "fence" which will insure that Jews not be misled by a gentile pretender.

What seems somewhat unrealistic, however, is the likelihood of a Sabbath observance on an ordinary weekday being construed as "Jewish." Also unclear, according to Me'iri's formulation, is how closely a gentile's Sabbath observance would have to approximate that of a Jew's so as to create such an erroneous impression. Finally, it should be noted, that, according to Me'iri, the prohibition of *goy she-shavat* might perhaps be limited to the case of an individual gentile whose Sabbath observance could lead him to be construed as a Jew, but should not apply to an entire community of non-Jews who have adopted the practice of observing a day of rest on a particular weekday.³³

EXCEPTIONAL GENTILES: THE CASE OF GER TOSHAV

Let us now address two categories of non-Jews for whom the prohibition may not apply: the *Ger Toshav*³⁴ (a "resident alien" who has made a formal commitment toward the observance of certain *mitsvot*) and a *ger she-mal ve-lo taval* (a non-Jew in the midst of the conversion process who has undergone the first phase of circumcision but has yet to immerse himself in a *mikve* to complete his conversion). The precise definition of a *Ger Toshav* is the subject of a three-way tannaitic dispute.³⁵ According to one view, a *Ger Toshav* is a Noahide who takes a pledge in the presence of a learned tribunal not to worship *avoda zara*. A second view requires that he make a commitment to observe all seven Noahide laws. A third position is that the *Ger Toshav* must commit to observe all negative com-

mandments with the exception of *nevela*.³⁶ Earning the status of *Ger Toshav* brings into play a broad range of halakhic privileges, such as retaining the right of residence in the land of Israel and being granted ongoing financial support.³⁷ Our focus will be on the halakhic status of a *Ger Toshav* with respect to the obligation (or prohibition) of *shemirat Shabbat*.

The points of departure for this discussion are three verses that make explicit reference to a *ger* in connection with the Jewish observance of *Shabbat*. Two of these appear in the *Aseret ha-Dibberot* in *Yitro* and *Va-et'hanan*, where the *ger* is listed among those who are enjoined from working on *Shabbat*: “*Lo ta'aseh khol melakha . . . ve-gerkha asher bish'arekha*”—“You shall not do any work . . . and your convert within your gates” (*Exodus* 20:10 and *Deuteronomy* 5:14). The third verse, in *Parashat Mishpatim*, states: “*Ve-yinafesh ben amatkha ve-ha-ger*”—“in order that the son of your maidservant and the *Ger* may be refreshed” (*Exodus* 23:12).

Two issues must be clarified with respect to these *pesukim*: First, what type of *ger* is being referred to—a *Ger Tsedek* who has become fully Jewish or a *Ger Toshav* whose status is something less than a full-fledged Jew? Second, assuming that at least one of the above references is to a *Ger Toshav*, does the *pasuk* prohibit a *Ger Toshav* from doing his own *melakha* on *Shabbat* or is its intent simply to forbid his performing work on behalf of a Jew? As we shall see, each of these issues is the subject of specific analysis that may impact, in turn, on whether a *Ger Toshav* comes under the prohibition of *goy she-shavat*.

The Talmud (*Yevamot* 48b) interprets “*ve-gerkha asher bish'arekha*” as a reference to *Ger Tsedek* and “*ve-yinafesh ben amatkha ve-ha-ger*” as referring to *Ger Toshav*.³⁸ Rashi explains that the *Ger Toshav*'s formal commitment not to worship *avoda zara* also obligates him in *Shabbat* observance, since a Sabbath violator is equated with one who worships idols.³⁹ *Tosafot* question Rashi's view in light of the rule of *goy she-shavat* which seemingly precludes all non-Jews, including *gerei toshav*, from the observance of *Shabbat*. *Tosafot*, therefore, interpret the prohibition contained in the words “*ve-yinafesh ben amatkha ve-ha-ger*” as referring exclusively to work performed by a *Ger Toshav* on behalf of his Jewish counterpart.⁴⁰ However, with respect to personal Sabbath observance, *Tosafot* assert that the *Ger Toshav*, much as the ordinary *Ben Noah*, is required to perform work on *Shabbat*.⁴¹

In sum, Rashi and *Tosafot* are engaged in a polar debate as to whether a *Ger Toshav* is obligated to rest on the Sabbath, or conversely, whether a *Ger Toshav* is, in fact, prohibited from engaging in *Shabbat* rest. According

to Rashi, not only is the *Ger Toshav* permitted to rest on *Shabbat*, he is actually required to do so in accordance with his commitment not to worship *avoda zara*. *Tosafot*, on the other hand, stand diametrically opposed and posit that, not only is the *Ger Toshav* allowed to do work, he is actually obligated to do so, as dictated by the rule of “*goy she-shavat hayav mita*.”

STAKING OUT A MIDDLE GROUND: PERMITTED BUT NOT OBLIGATED

It is possible to suggest that even if one adopts the view of *Tosafot* with respect to a *Ger Toshav*'s not being obligated to rest on *Shabbat*, it does not necessarily follow that doing so would violate the law of *goy she-shavat*. Although technically not Jewish, the *Ger Toshav* has, nonetheless, attained a special status by virtue of his formal acceptance of certain key *mitsvot*. Hence, it may be argued that merely bearing the status of *Ger Toshav* should constitute sufficient grounds for being excluded from the prohibition of *goy she-shavat*.

The rationale for such a distinction is particularly appealing in light of the midrashic formulation that portrays the gentile's Sabbath observance in terms of an infringement of a “foreigner” upon the unique God-Israel relationship characterized by *Shabbat*. Inasmuch as a *Ger Toshav* is, undoubtedly, more of a kinsman than the ordinary Noahide by virtue of his having *formally* committed to the Noahide code, his Sabbath observance may well be tolerated, and even recompensed, albeit on the scale of *eno metsuveh ve-oseh*.⁴²

On the other hand, the basis for such a “middle position” within the talmudic formulation is far less compelling and clear-cut. For example, according to Rashi, who viewed the prohibition of *goy she-shavat* as promoting a consistent work ethic for non-Jews, it would seem that nothing less than a specific directive to rest on *Shabbat* should be needed to counter this imperative and distinguish a *Ger Toshav* from an ordinary Noahide. Hence, it follows that no middle ground should exist for the *Ger Toshav* who would either be obligated to, or prohibited from, resting on *Shabbat*.

Examining this issue according to Me'iri, it would seem that the question of whether a *Ger Toshav* should be bound by the prohibition of *goy she-shavat* might depend on whether the concern is based on the willful deception on the part of the gentile or the inadvertent misperception of the naive Jewish onlooker. If, on the one hand, the prohibition was intended to weed out non-Jewish imposters who are wont to

ensnare unsuspecting Jews and lead them astray, then such a fear would be virtually non-existent in the case of a *Ger Toshav* who has formally renounced his affiliation with idol worship and who, harboring a great respect for the teachings of the Torah,⁴³ would certainly not consciously sway impressionable Jews away from the observance of Torah and *mitsvot*. If, on the other hand, the prohibition was intended to insure that ignorant Jews might not, of their own accord, become unwittingly lax in the observance of *mitsvot* which they saw violated by an individual who they assumed was Jewish (e.g. eating *nevela*), then such a concern is equally valid in the case of a *Ger Toshav*.⁴⁴

Finally, according to Rambam, it is also somewhat unclear whether the prohibition of *goy she-shavat* should apply to a *Ger Toshav*. At the heart of this issue might be the precise nature of the problem inherent in *hiddush dat* and the specific lines that such an act serves to blur. Inasmuch as Rambam apparently differentiates between a gentile's observance of a day of rest and his random performance of a *mitsva*, labeling only the former as an expression of *hiddush dat*, it seems obvious that the very notion of *hiddush dat* is limited only to a religious observance whose very essence epitomizes the uniqueness of the Jewish faith. But which line, in fact, is blurred through an act of *hiddush dat*? Is it the line between the Mosaic and Noahide codes or between Jew and gentile? If the former, then surely the prohibition of *goy she-shavat* should apply equally to a *Ger Toshav* inasmuch as his code, like that of the ordinary Noahide, must be kept distinct from that of the Torah. However, if the stricture of *hiddush dat* serves ultimately to delineate Jew and non-Jew, then, perhaps, the *Ger Toshav* would not be bound by the prohibition of *goy she-shavat*.⁴⁵

BI'UR HALAKHA: THE "SHABBAT-COMMITTED" GER TOSHAV

In concluding our discussion of a *Ger Toshav*'s Sabbath observance, it is worth noting the striking position of the Hafets Hayyim's *Bi'ur Halakha*, who constructs a scenario in which a *Ger Toshav* might be allowed, and even obligated in, personal Sabbath observance, even according to the view of *Tosafot*. In elucidating a comment of the *Magen Avraham*, which makes passing reference to the case of a Noahide who commits to observing the prohibitions incumbent upon an *eved*, the *Bi'ur Halakha* suggests, in novel fashion, that upon his initial "conversion," a *Ger Toshav* may commit to any number of *mitsvot*,

starting from the minimum seven incumbent upon a Noahide up to, but not including, the entire range of *mitsvot* incumbent upon a Jew. Hence, the institution of *Ger Toshav*, according to the *Bi'ur Halakha*, rather than representing a monolithic standard of commitment to a defined set of *mitsvot*, actually allows for a wide range of possible “contracts” which would be generated by the initial commitment. Applying these principles to the realm of Sabbath observance, the *Bi'ur Halakha* argues that while the conventional *Ger Toshav* would be barred from resting on *Shabbat*, one whose initiation included a commitment to the *mitsva* of *Shabbat* would be specifically obligated to do just that.⁴⁶

GER SHE-MAL VE-LO TAVAL: THE CASE OF THE “HALF PROSELYTE”

A final issue to consider is the case of a male candidate for *gerut* who has taken the first step of undergoing a *berit mila*, but who has yet to immerse in the *mikve*. From the standpoint of obligation in *mitsvot*, the normative halakha is that prior to immersion no obligations have set in.⁴⁷ On the other hand, what is the status of such a “half *ger*” vis-à-vis *Shabbat*? Specifically, would he be prohibited from resting on *Shabbat* inasmuch as he still retains a status of a “*goy*” until the completion of the conversion process? Or is the fact that he has already undergone *mila* for the sake of *gerut* sufficient to permit him—or perhaps even obligate him—to observe *Shabbat*?

On this issue there emerges no clear consensus, but the fault lines of disagreement were starkly revealed in the wake of a particular episode that occurred in Jerusalem in the year 5608 (1848). In that instance, the local *bet din* ruled that the “half convert” would have no alternative but to violate the *Shabbat*. At the behest of the rabbinic court, the individual in question was urged to write his name on the Sabbath.⁴⁸ The halakhic ruling of the *bet din* sent shock waves throughout the rabbinic world and unleashed a flurry of responsa literature in support and in critique of the halakhic decision.⁴⁹

On one side of the issue, Rabbi Jehoseph Schwartz in *Divrei Yosef*, cites the language of a midrash which strongly implies that the sole barrier to a non-Jew observing *Shabbat* is the fact that he lacks a *berit mila*—“*goy she-shamar et ha-Shabbat ad she-lo kibbel alav et ha-mila hayav mita*” (*Devarim Rabba* 1:18).⁵⁰ Thus, R. Schwartz maintains that a *ger she-mal ve-lo taval* should indeed be obligated in *Shabbat* observance inasmuch as the symbols of *mila* and *Shabbat* are inextricably

linked; hence, one who bears the *ot* of *mila* is, by extension, obligated to bear the sign of *Shabbat* as well. Other authorities, while not going so far as to obligate the half *ger* in Sabbath observance, argue that one who is actively in the midst of the conversion process should, at the very least, be released from the strictures of *goy she-shavat*.⁵¹

On the other side of the issue, Rabbi Asher Lemel, the judge on the Jerusalem *bet din* who was instrumental in its decision, rose in staunch defense of his own ruling by rejecting the inference from the midrash inasmuch as “one may not draw halakhic conclusions from aggadic sources” (*Yerushalmi Pe’ea* 2:4). Furthermore, he argued that since the halakha clearly dictates that the *gerut* process is incomplete prior to *tevila*, the midrash must be alluding to a non-Jew who had, in fact, undergone not only *mila* but *tevila* as well.⁵² Consequently, R. Lemel dismisses the logic of exempting a non-Jew in the midst of the conversion process from the prohibition of resting on *Shabbat*, inasmuch as he has yet to attain his Jewishness. R. Lemel penned his reasoning to Rabbi Yakov Ettlinger who published it in the journal *Shomer Tsiyon ha-Ne’eman*, of which he was editor. In his own responsa, *Binyan Tsiyon*, R. Ettlinger is inclined to rule leniently, noting that of all the *batei din* that he consulted, none had ever ordered an individual to violate *Shabbat* while in the intermediate state of conversion. R. Ettlinger buttressed his lenient ruling by arguing that once the prospective *ger* has undergone *mila* he has already, in a sense, left the status of a *Ben Noah*, although he has yet to become fully Jewish.⁵³

In closing, it should be noted that, like that of *Ger Toshav*, the status of the *ger she-mal ve-lo taval* vis-à-vis Sabbath observance may be greatly influenced by the disparate sources and rationales which underlie the prohibition of *goy she-shavat*. According to the midrashic approach which frames the prohibition in terms of a non-Jew’s “intrusion” upon the Jewish relationship with God, there is certainly room to argue that the half *ger*, even if technically still non-Jewish, should certainly be permitted, if not obligated, in Sabbath observance, inasmuch as his particular observance comes in the context of embracing the Jewish faith, and hence, might not be construed as an infringement on the special Jewish relationship with God symbolized by *Shabbat*. On the other hand, according to Rashi’s interpretation of the talmudic formulation, it should more readily follow that so long as the conversion has not been completed, the restriction remains in place. According to *Me’iri*, logic would seem to dictate that no prohibition should apply since the risk of such a person being a dangerous model during this short interim period is virtually non-exis-

tent. Finally, according to Rambam's formulation of *hiddush dat*, it is unclear whether the *ger she-mal ve-lo taval* should be exempted. This issue, like that of *Ger Toshav*, might depend on how one interprets the precise problem of *hiddush dat* and whether it is intended to preserve the boundaries between the Mosaic and Noahide codes or between Jew and gentile. If the former, then perhaps no exception should be made for the *ger she-mal ve-lo taval*;⁵⁴ if the latter, then perhaps the rationale of *hiddush dat* need not apply for such an individual. The issue is, at best, elusive.

RABBENU YEHUDA BEN YAKAR: LITURGICAL APPLICATIONS OF GOY SHE-SHAVAT

One of the most comprehensive commentaries to the *siddur* from the medieval period is “*Perush ha-Tefilot ve-ha-Berakhot*” authored by Rabbenu Yehuda ben Yakar, a teacher of Ramban's.⁵⁵ In this seminal work, Rabbenu Yehuda makes frequent reference to the dictum of “*goy she-shavat hayav mita*” in connection with *Shabbat*'s designation as *nahala*, a heritage or inheritance. While such an association can be found in the works of several other *Rishonim* as well, Rabbenu Yehuda develops this theme systematically at various junctures throughout his work, drawing heavily on scriptural and midrashic sources to elucidate and sharpen this equation. Taken together, his comments offer a unique perspective on the subject of *goy she-shavat* while simultaneously illuminating numerous passages of the *Shabbat* liturgy. The picture that emerges represents a valuable contribution to the annals of *mahshevet Yisrael* as well as to Jewish liturgy.

Liturgical References to *Shabbat* as *Nahala*

Since the framework for Rabbenu Yehuda's approach to *goy she-shavat* is the *Shabbat* liturgy, it would be helpful to cite, by way of background, some of the relevant passages commented upon by Rabbenu Yehuda.

1. “*Ve-Shabbat kodsho be'ahava u-ve-ratson hinhilanu . . . ve-Shabbat kodshekha be-ahava u-ve-ratson hinhaltanu*”—“And His holy *Shabbat* did he give us with love and favor as a heritage. . . . And your holy *Shabbat* did you give us with love and favor as a heritage” (*Kiddush* for *Shabbat* eve).

2. “*Ve-hanhilenu Hashem Elohenu be-ahava u-ve-ratson Shabbat kodshekha*”—“O Hashem, our God, with love and favor grant us your holy Sabbath as a heritage” (*Shabbat Amida*).⁵⁶

3. “*Ha-manhil menuha le-amo Yisrael bi-kedushato beyom Shabbat kodesh*”—“Who gives a heritage (*nahala*) of contentment to His people, Israel, in His Holiness on the holy Sabbath day (*Shabbat* morning liturgy).⁵⁷

4. “*Ve-lo netato Hashem Eloheinu le-goyei ha-aratsot, ve-lo hinhalto malkenu le-ovdei pesilim, ve-gam bi-menuhato lo yishkenu arelim, ki le-yisrael amkha netato be-abava le-zera Yaakov asher bam baharta*”—“You did not give it, Hashem, our God, to the nations of the lands, nor did you make it the inheritance, our king, of the worshipers of graven idols. And in its contentment those who are not circumcised shall not abide—for to Israel, your people, have you given it in love, to the seed of Jacob, whom you have chosen” (*Shaharit Amida of Shabbat*).

The recurring theme of *nahala* within the *Shabbat* liturgy requires elucidation.⁵⁸ In what sense is the Sabbath deemed an inheritance? Which scriptural passages serve as linguistic antecedents for this classification? What is the connection between the appellation of *nahala* with respect to *Shabbat* and the latter’s alternate classification as a *mattana* (gift)? Do these dual references represent a hierarchic scheme or do they reflect parallel ideas? In particular, what is the basis for the changing expressions in citation no. 4: “You did not *give it*, Hashem, our God, to the nations of the lands, nor did you *make it the inheritance*, our king, of the worshipers of graven idols”? Similarly unclear in the aforementioned prayer is the parallel shift from “nations of the lands” (*goyei ha-aratsot*) to “the worshipers of graven idols” (*ovedei pesilim*). Finally, what is the significance of the phrase that immediately follows: “And in its contentment those who are not circumcised shall not abide” (“*Ve-gam bi-mnuhato lo yishkenu arelim*”)?⁵⁹

The *Shabbat Nahala*: Biblical Sources for *Shabbat*’s Exclusivity

As noted, Rabbenu Yehuda ben Yakar posits that the classification of *Shabbat* as *nahala* is inextricably linked to the talmudic dictum, “*Goy she-shavat hayav mita*,” whose underlying rationale stems from the charge that a Sabbath observing gentile has usurped the unique heritage of the Jewish people. In bequeathing the Sabbath to the Jew as an inheritance, God assigned to it an exclusivity that precludes non-Jews from sharing in it.

In light of our previous discussion of the *hashkafic* underpinnings of the rule of *goy she-shavat*, it is evident that Rabbenu Yehuda’s perspective is most compatible with the midrashic theme that characterizes this offense as an intrusion on the unique relationship between *Ha-Kadosh*

Barukh Hu and *Kenesset Yisrael*. However, Rabbenu Yehuda expands considerably the implications of the midrashic approach by using the simile of “*nahala*” to develop myriad scriptural and liturgical associations.

One area in which this is apparent is in the biblical sources for the Sabbath’s exclusive nature. Whereas the midrash derives the rule of *goy she-shavat* from “*beni u-ven Benei Yisrael ot hi le-olam*”—“Between Me and the children of Israel it is a sign forever” (*Exodus* 31:17), Rabbenu Yehuda, consistent with his conceptualization of *Shabbat* as an inheritance, views this idea as emanating not merely from the above expression but also from its larger context, which repeatedly describes the Sabbath in trans-generational terms: “*le-dorotam*”—for their generations; “*berit olam*”—an eternal covenant; “*ot hi le-olam*”—“it is a sign forever.”⁶⁰ In this vein, Rabbenu Yehuda suggests that the lead word “*ve-shamru*” refers not merely to the technical observance of the laws of *Shabbat* but, more broadly, to a commitment toward the preservation of the *Shabbat* inheritance.⁶¹

Rabbenu Yehuda finds further scriptural support for *Shabbat*’s designation as *nahala* from the verse: “*Ki lo batem ad ata el ha-menuha ve-el ha-nahala*”—“For you will not yet have come to the resting place or to the heritage [that Hashem, your God, gives you]” (*Deuteronomy* 12:9). By juxtaposing the terms *menuha* (rest) and *nahala* (inheritance), the Torah apparently establishes a thematic link between the two concepts, suggesting, in effect, that the spirit of the latter characterizes the former. Consequently, if *Shabbat* is the quintessential *yom menuha* then it must also assume the mantle of *nahala*.⁶²

A third source offered by Rabbenu Yehuda for classifying *Shabbat* as an inheritance is based on a midrashic comment which affirms that one who studies Torah for its own sake (*lishma*) will ultimately merit the inheritance of Jacob, as it states: “*Ve-ha’akhaltikha nahalat Yaakov avikha* (*Isaiah* 58:14).⁶³ Rabbenu Yehuda notes that the above passage from *Isaiah* is also cited by the Talmud (*Shabbat* 118b) in connection with one who delights in the *Shabbat*; hence, it can be inferred that *Shabbat* and Torah share the identical title of *nahala*.⁶⁴

The Issue of a Gentile’s *Yom Tov* Observance

Rabbenu Yehuda’s linking the rule of “*goy she-shavat hayav mita*” with *Shabbat*’s designation as *nahala* leads him to consider the implications of a gentile’s observance of *Yom Tov*. In his analysis of the *Yom Tov kiddush* which refers to God’s granting the various Holidays to the Jew as a heritage—“*u-mo’adei kodshekha be-simcha u-ve-sason binhaltanu*”⁶⁵—

Rabbenu Yehuda questions why the various *Yamim Tovim* should bear the designation of *nahala*, since the section of “*ve-shamru*” which serves as the primary source for the *nahala* concept seemingly refers to the Sabbath and not to holidays. His response is that the rule of “*goy she-shavat hayav mita*” is also predicated on the verse “*Ve-yom va-laila lo yishbotu*,” thus implying that the ban against gentiles should extend to all days whose observance demands an abstention from normal work.⁶⁶ Furthermore, he notes that the equation between “*menuha*” and “*nahala*” derived from “*el ha-menuha ve-el ha-nahala*” suggests similarly that holidays which are, after all, days of rest, should consequently be designated “*nahala*.”⁶⁷

It is apparent that Rabbenu Yehuda’s assumption that a non-Jew is enjoined from the observance of *Yom Tov* is prompted by his reading the rule of *goy she-shavat* into the liturgical references of *Shabbat* as “*nahala*.” Faced with the *Yom Tov* liturgy that speaks in terms of “*nahala*,” Rabbenu Yehuda proceeds to justify what he regarded as a foregone conclusion. By contrast, a reading of the midrashic sources in and of themselves might well lead one to conclude that the rule of *goy she-shavat* should be limited to the Sabbath and not apply to the Jewish holidays.

It would be worth exploring the ramifications of this question for the various other approaches to *goy she-shavat* outlined earlier. In examining the view of Rashi which forbids a gentile’s full-day cessation from labor, regardless of motive, we have analyzed whether the “rest” prohibited to the non-Jew should be measured by halakhic standards (i.e. abstention from the 39 *melakhot*) or characterized in popular terms through refraining from arduous physical labor, and have conjectured that this issue might hinge on two competing rationales for the Torah’s “work ethic”—either as a means of furthering *yishuvo shel olam* or alternatively, as a deterrent to moral lapse. We may now propose that the question at hand regarding a gentile’s *Yom Tov* observance would likewise be impacted by the nature and scope of the *Shabbat* prohibition. If the “rest” forbidden by the Torah is to be measured by halakhic standards and is designed to insure daily creative expression, it should follow that a gentile’s halakhic observance of *Yom Tov* (in which various *melakhot* are, indeed, suspended for the sake of food preparation) would pose no problem whatsoever provided that the non-Jew engage in *meleket okhel nefesh*. However, if the Torah mandates that a gentile engage daily in strenuous physical activity as a means to avert moral lapse, then abstaining from such activity on *Yom Tov* would indeed be forbidden.

Turning to Rambam, who frames the rule of *goy she-shavat* in terms of *biddush dat*, it would seem intuitive to extend this principle to include *Yom Tov*, which, like *Shabbat*, is a hallmark of Jewish religious observance. Such a conclusion would also seem to be supported by the language of Rambam.⁶⁸

Finally, within the perspective of Me'iri that interprets the rule of *goy she-shavat* as a protective measure to insure that unsuspecting Jews not mistake the Sabbath observant gentile for a bona fide Jew and be led astray, there seems to be no logical basis to differentiate between Sabbath and Holiday observance. In fact, Me'iri indicates matter-of-factly that the rule of *goy she-shavat* applies equally to a non-Jew who observes *Yom Tov*.⁶⁹

Shabbat's Evolution from *Mattana* to *Nahala*

Rabbenu Yehuda also addresses the historical origin of the prohibition of *goy she-shavat*. Commenting on the dual terminology of "*mattana*" and "*nahala*," Rabbenu Yehuda views the latter, with its connotation of exclusivity, as transcending and evolving from the former.⁷⁰ Thus, he explains that the presentation of *Shabbat* to *Benei Yisrael* entailed two distinct phases. When granted to the Jewish nation in Alush in connection with the manna, *Shabbat* symbolized merely a *mattana* as implicit in the language of the *pasuk*: "*Re'u ki Hashem natan lakhem ha-Shabbat*"—"See that Hashem has given you the *Shabbat*." Hence, at this juncture, *Shabbat* was no different from other *mitsvot* that did not preclude observances by non-Jews under the rubric of "*eno metsuveh ve-oseh*." Only with *Mattan Torah* did *Shabbat* attain the status of *nahala* as reflected in the paragraph of "*ve-shamru*."⁷¹

"*Ve-lo Netato, Ve-lo Hinhalto*"—Differing Levels of Exclusion

The status of a *Ger Toshav* vis-à-vis Sabbath observance is dealt with by Rabbenu Yehuda in a penetrating analysis of the "*ve-lo netato*" paragraph within the *shaharit amida*. Here, the shift in language—from "*ve-lo netato*" to "*ve-lo hinhalto*" and from "*goyei ha-aratsot*" to "*ovedei pesilim*"—provides Rabbenu Yehuda with fertile basis for establishing a "compromise" halakhic position vis-à-vis the *Ger Toshav*'s *Shabbat* observance. If the phrase "*ovedei pesilim*" refers to idolaters who have not renounced their ties to *avoda zara*, the parallel term "*goyei ha-aratsot*" may well allude to *Gerei Toshav*—gentiles who, by virtue of their formal commitment not to worship *avoda zara* are granted the halakhic

right to reside in the land of Israel.⁷² The juxtaposition of “*ve-lo netato*” with “*goyei ha-aratsot*” would therefore imply that the exclusion of *Gerei Toshav* relates only to the fact that they lack a specific commandment to observe the *Shabbat*, thus implying that a *Ger Toshav* who observed *Shabbat* would indeed receive recompense on the scale of an *eno metsuveh ve-oseh*. Not so the *ovedei pesilim*—worshippers of graven images—whose exclusion from Sabbath observance is rooted in *Shabbat’s nahala* status. For idol worshippers, *Shabbat* observance is an infringement on the unique Jewish inheritance and consequently carries with it the death penalty.⁷³

It should be noted that this compromise view, which tolerates, but does not mandate, a *Ger Toshav’s Shabbat* observance, is inconsistent with the views of both Rashi and *Tosafot* outlined earlier. For Rashi, a *Ger Toshav* is positively mandated to observe the *Shabbat*; for *Tosafot*, he is absolutely forbidden to do so.

“*Ve-gam Bi-menuhato Lo Yishkenu Arelim*”

Having established the halakhic permissibility of the *Ger Toshav* to observe the Sabbath from the linguistic subtleties inherent in the phrases “*ve-lo netato*” and “*ve-lo hinhalto*,” it would be appealing to interpret the phraseology of “*vegam bi-menuhato lo yishkenu arelim*” in support of the view that a prospective proselyte who has already undergone circumcision but has not yet immersed is not banned from Sabbath observance. As noted, this issue is the subject of great controversy among latter-day authorities.

Interestingly enough, Rabbenu Yehuda chooses to interpret the reference to “*arelim*” in figurative, rather than literal, terms. Thus, he explains that it refers to “*arelei Yisrael*”—sinful Jews with uncircumcised hearts—who lose the privilege of experiencing the spirituality of the Sabbath rest.⁷⁴

CONCLUSION

We have presented multiple perspectives on the rule of “*goy she-shavat hayav mita*” and analyzed the commonalities and differences among the various approaches as they relate to a range of halakhic and *hashkafic* issues. In addition, we have explored the unique contribution made by one of the *Rishonim* toward understanding this rule in a manner that sheds fresh light on the *Shabbat* liturgy, and we have examined the

interface between the implications of his formulation and the approaches outlined earlier.

This article makes no presumptions *halakha le-ma'aseh* regarding the various halakhic parameters discussed. Its intent is to arouse interest, stimulate discussion, and hopefully, add somewhat to the repository of information available on this fascinating but rather esoteric topic.

NOTES

1. In actuality, the tension between the universal and particularistic dimensions of *Shabbat* would seem to be reflected in the discrepancy between the two accounts of *Shabbat* in the *aseret ha-dibrot* (*Exodus* 20:11 and *Deuteronomy* 5:15). See Ramban to *Deuteronomy* 5:15.
2. See, for example, *Bereshit Rabba* 11:9.
3. For an excellent survey of this issue, see J. Harlop's "*ha-Shabbat ve-Umot ha-Olam*" in *Shematin* no.129-130, *Shana* 34, *Nisan-Av* 5757, pp. 51-71. See also my "*Be-Inyan Goy She-shavat*" in *Sefer Zikaron Ketonet Yosef* (Memorial Volume for Rabbi Joseph Wanefsky, Yeshiva University, 2002), pp. 77-91. For a historical perspective, see A. Weiss's "*Shevitat Akum*" in *Bar-Ilan Annual* 1 (1963), pp. 143-148. See also *Toldot Menahem* (biography of R. Nahum Horodna) by Y.D. Miller (3rd ed. Jerusalem, 5710), p. 88.
4. *Hazal* identify *Shabbat* as one of the *mitsvot* that *Benei Yisrael* were commanded to observe in *Mara*; see *Rashi* to *Deut.* 5:12 based on *Shabbat* 87b. See, however, Ramban to *Exodus* 15:25 who posits that the selected portions of Torah presented at *Mara* were not yet binding at that juncture. I shall analyze Ramban's position at length in the forthcoming edition of *Or Hamizrah*.
5. See, however, *Betsa* 16a, which interprets this as a reference to a particular quality associated with *Shabbat* observance: either reward in the afterlife or the *nesbama yetera* that is experienced on *Shabbat*.
6. See *Midrash Lekah Tov* to this *pasuk* as well as *Shemot Rabba* 25:6.
7. *Shemot Rabba* 25:16 and *Devarim Rabba* 1:18. Interestingly, the latter midrash appears to link the Noahide's crime to the fact that he has yet to adopt the *mitsva* of *mila*. See later discussion regarding a prospective proselyte in mid-process.
8. Although *Shemot Rabba* does, in fact, make reference to the verse "*ve-yom va-laila lo yishbotu*," the midrash would seem to be guided primarily by the inference drawn from "*beni u-ven Benei Yisrael*" and its *hashkafic* implications, as suggested in the parable of the king and courtesan. Thus, the midrash must have interpreted the derivation of "*ve-yom va-laila lo yishbotu*" as consistent with this rationale as well. Accordingly, there is no reference made in the midrash to Ravina's statement which extends the prohibition to a non-Jew observing *Shabbat* on a Monday or Tuesday.
9. *Hazal* identify *Alush* as the precise location where the manna began to fall. See *Bereshit Rabba* 48:12 and *Shemot Rabba* 25:5.
10. This issue will be revisited later in this paper in the context of the liturgical

applications of the rule of *goy she-shavat* and the comments of Rabbenu Yehuda ben Yakar.

11. While this derivation may, at first glance, seem far removed from the literal sense of the *pasuk*, it may be suggested that both the *peshat* and the *derash* emphasize the importance of preserving (from here onward) the natural order which existed at the time of creation. This relates both to the cycle of seasons as well as to Man's imperative to work—as implied by the mandate of “*mil'u et ha-arets ve-khivshuha*” (*Genesis* 1:28) as well as “*be-ze'at apekha tokhal lehem*” (*Genesis* 3:19). For further elaboration, see E. Adler, *op. cit.* p. 87.
12. According to most *Rishonim*, the capital punishment associated with a Sabbath observing Noahide is no different than that meted out for the violation of any of the seven Noahide laws. However, according to Rambam (*Hilkhot Melakhim* 10:9), this transgression (as well as that which forbids a non-Jew to engage in Torah study) differs from the classic Noahide laws in that the *bet din* would merely inform the Noahide offender that his conduct is deserving of the death penalty but would not exercise its legal powers to mete out the sentence. For a brief review of some of the various explanations for Rambam's position, see Harlop, *op. cit.* pp. 69-71. See also E. Adler, *op. cit.*, p. 82. Also noteworthy is the novel view of R. Eliahu Henkin in *Teshuvot Ivra*, vol. 2, pp. 230-231 that even the punishment for a gentile's violation of the seven Noahide laws is up to the discretion of the Jewish court and need not be implemented in the form of the death sentence. The principle of *azharatan zo hi mitatan*, according to R. Henkin, simply authorizes the Jewish court to administer extra-legal punishment—even of the capital variety—on a regular basis, but at its own discretion.
13. In some versions of the text, Ravina's comment was prompted by the query of “*peshita*”—isn't it obvious that there exists such a prohibition?. Rashi censors this version inasmuch as Resh Lakish's halakha is based on a novel interpretation of the words “*ve-yom va-laila lo yishbotu*,” which far exceeds its simple meaning. It is possible, however, that the question of *peshita* was predicated on the fact that a gentile's observance of the Jewish Sabbath should be forbidden in accordance with the various midrashic sources. See *Yad Ramah* which suggests something along these lines. See also Harlop, *op. cit.* p. 57.
14. For a comprehensive analysis of this subject from the perspective of intellectual history, see Isaac Mann's survey in *Gesher*, vol. 8 (1981), pp. 122-173. For a halakhic treatment as it relates to contemporary society, see *Seridei Esh*, vol. 2 no. 93.
15. The two answers hinge, respectively, on the rendering of the word “*morasha*” which can mean either “inheritance” (the Torah is an inheritance of *Benei Yisrael*) or “betrothed” (“*me'orasa*”—the Torah is betrothed to *Benei Yisrael*). According to the former definition, a non-Jew who engages in Torah study is guilty of *gezel* for infringing on the monetary rights of the Jewish people who hold legal title to Torah (analogous to the notion of copyright infringement). According to the latter definition, a non-Jew who studies Torah is guilty of committing adultery with a betrothed damsel—since the Torah is deemed as being betrothed to the Jewish people.

16. It is also distinctly possible that the talmudic formulation does not negate the midrashic approach but simply builds on it. Hence, it may be argued that the principle of *goy she-shavat* entails two distinct dimensions: first, it forbids a gentile from engaging in halakhic Sabbath observance on the Jewish Sabbath; second, it forbids him from interrupting his normal work routine for any day of the week, regardless of motives, in such a manner that he remains inactive for a period of an entire day. This possibility is worth exploring further. See also Harlop, *op. cit.* p. 57.
17. It is, of course, possible to differentiate between *melakhot* such as *harisha* and *zeri'a*, whose performances contribute concretely to *yishuvo shel olam*, and others such as *ketiva* or *hotsa'a*. Such a distinction is, in fact, advanced by R. Jehoseph Schwartz in his Responsa *Divrei Yosef*, no. 24 (Jerusalem, 5622), cited in *Yad Shelomo* (New York, 5747, p. 19), and by Harlop, *op. cit.* (pp. 60-61). However, on an abstract conceptual level, it is equally clear that all of the 39 *melakhot* represent creative activity and exemplify a sense of mastery over the physical world. In this respect, all of the 39 *melakhot* would fall under the heading of "*ve-khivshuba*."
18. See *Torah Temima* to *Bereshit* 8:22, no.17 who offers a rationale along these lines for the prohibition of *goy she-shavat*. Interestingly, Netsiv in *Ha'amek Davar* and Rabbi Zalman Sorotskin in *Ozna'im Le-Torah* extract such an idea from the earlier part of the verse. They explain that the natural agriculture cycle that necessitated man's year-round working of the ground, together with the intermittent climactic changes, would serve to weaken man physically, thus preventing him from lapsing into sin. Also noteworthy is that man's propensity to sin is expressly asserted in the previous verse, which states, "*ki yetser lev ha-adam ra mi-ne'urav*." If so, the underlying rationale for *goy she-shavat* blends contextually well within this verse. A similar case can be made regarding the alternate *hashkafic* rationale noted below; see E. Adler, *op. cit.*, pp. 87-88.
19. This rationale seems to be implied by the *mishna* in *Avot* (2:2) that advocates a balance of Torah study and labor—intellectual and physical energy—as a means of averting sin. Hence, the Jew who is obligated to study Torah is less vulnerable to the deleterious spiritual effects of a day of rest. The gentile, on the other hand, who is prohibited from studying Torah (*Sanhedrin* 59a) must compensate by engaging in work on a consistent basis.
20. *Mishna Kidushin* 4:14, *Yoma* 28b. There are also several midrashic references to Jacob and Joseph specifically observing Shabbat—see *Bereshit Rabba* 79:7 and 92:4.
21. For a lengthy treatment of this subject, see *Parashat Derakhim, Derush Rishon; Hemdat Yisrael* (R. Don Plocki), *Kuntres Ner Mitsva; Bet ha-Otsar* (R. Joseph Engel), *Ma'arekhet Alef*.
22. *Parashat Derakhim*, *ibid.*
23. This resolution is suggested by R. Yosef Engel in *Bet ha-Otsar, op. cit.*
24. *Responsa Binyan Tsiyon*, vol. 1, no.126. One might raise an objection to this proposed answer in light of the comments of Ramban to *Leviticus* 23:24 which interpret the imperative of "*shabbaton*" as prohibiting activities which serve to diminish the unique character of the day. If so, even

- strenuous activity not covered by the 39 *melakhot*—e.g., the carrying of heavy furniture within a private domain—may still be biblically prohibited on *Shabbat* on these grounds. This point is, indeed, raised by R. Joshua Tsvi Mikhel Shapira in his *Responsa Tsits ha-Kodesh*, vol. 1 no. 34 (p. 59b).
25. *Panim Yafot al ha-Torah*, to *Genesis* 8:22.
 26. Numerous other resolutions were proposed to this question. See, for example, *Teshuvot Maharam Shik, Orah Hayyim* no. 145 in the name of *Hatam Sofer*. For a lengthy analysis of the various answers, see J. David Bleich's *Contemporary Halakhic Problems*, vol. 4 (New York, 1995), pp. 156-170. Parenthetically, a similar question might be raised regarding a midrashic tradition that the Jews in Egypt were granted a Sabbath rest as a result of Moses' interceding on their behalf with Pharaoh, see *Shemot Rabba* 1:28.
 27. A simple reading of Rambam's language here as well as in *Perush ha-Mishnayot* to *Terumot* 3:9 would suggest that a non-Jew who performs *mitsvot* receives reward on the scale of "*eno metsuveh ve-oseh*." A similar position is taken by Me'iri in his comments to *Sanhedrin* 58b-59a. See, however, *Iggerot Moshe, Yoreh De'a*, vol. 2, no. 7 for a contrary perspective and a reinterpretation of the language of Rambam. See also *Hazon Ish* to *Shevi'it* 24:4.
 28. Rambam, *Hilkhot Melakhim* 10:9-10. Although Radvaz seems to interpret Rashi's position as consistent with that of Rambam, a simple reading of Rashi appears to indicate otherwise.
 29. It might be argued that the consistent performance of any *mitsva* on the part of a non-Jew might likewise constitute *hiddush dat* and that Rambam's tolerance of such ritual observance should be limited to performances of a casual and irregular nature. (See *Iggerot Moshe*, loc. cit.) By contrast, Rambam singles out Sabbath observance as *hiddush dat* in order to prohibit such observance even on a one-time basis. Perhaps the reason for this can be attributed to *Shabbat's* unique designation as an *ot* between *Hashem* and *Benei Yisrael*. Accordingly, Rambam's inclusion of Torah study in the framework of *hiddush dat* would suggest that it, too, because of the uniqueness of *talmud Torah*, is forbidden even on a casual basis. (See E. Adler, *op. cit.*, p. 80.) But if so, one wonders why no blanket prohibition exists with respect to such *mitsvot* as *mila* or *tefilin* that also bear the designation of *ot*. In fact, Rambam apparently maintains that it is permitted for a gentile to perform the mitzvah of *mila* even not for the sake of *gerut*—see *Yad, Hilkhot Mila* 3:7. See also *Responsa Har Tsevi, Yoreh De'a*, no. 215.
 30. Although it is plausible that the mere adoption of an additional religious doctrine is itself a form of *hiddush dat* (akin to the notion of *bal tosif*), the wording of Rambam would strongly suggest that *hiddush dat*, in this instance, should be defined as the blurring of boundaries between the Noahide and Mosaic codes.
 31. While arguably any form of religious expression might be classified as *hiddush dat*, Rambam's language would seem to suggest that it is only the gentile's usurping of a Jewish mode of worship that is forbidden. That the religious observance of a Sabbath even on a weekday comes under this ban is because the very notion of a Sabbath rest has Jewish associations. For fur-

- ther elaboration, see E. Adler, *op. cit.*, pp. 81, 85. See, however, the perspective of G. Blidstein in "Maimonides and Me'iri on the Legitimacy of Non-Judaic Religion" (in *Scholars and Scholarship in Jewish History*, Yeshiva University Press, 1990, pp. 27-35) that non-Jewish forms of worship would qualify as *hiddush dat* according to the Maimonidean formulation.
32. *Bet Ha-Behira* to *Sanhedrin* 58b, ed. A. Sofer (Jerusalem, 1965), p. 229. Me'iri applies the same logic to a related ban against a gentile studying Torah discussed in *Sanhedrin* 59a.
 33. This point is raised by Harlop, *op. cit.*, p. 58.
 34. In accordance with Rambam's ruling (*Issurei Bi'a* 14:8) that a *Ger Toshav* may only be formally accepted during the time that the laws of the Jubilee year are in effect, this discussion would seem to be purely academic. However, according to certain authorities, the status of *Ger Toshav* may, in fact, exist today with respect to certain laws. Such a position was adopted by Rabbi A.I. Kook to justify the *heter mekhira* during the *shemita* year by rebutting the argument that to sell land in Israel to Arabs posed a violation of *Lo Tebanem*, which forbids giving away land in Israel to a gentile; see *Mishpat Kohen*, no. 63. For a synopsis of the respective positions on this issue, see D. Leor's "*Ger Toshav ve-Hagdarato be-Dorenu*" in *Tsofia*, vol. 2, pp. 77-80 and H. Adler's "*Be-Inyan Ger Toshav*" in *le-Torah ve-Hora'a*" (5762), pp. 153-157. Whether lenient standards for a modern-day *Ger Toshav* would also apply with regard to the prohibition of *goy she-shavat* is a point worth researching further.
 35. *Avoda Zara* 64b.
 36. Interestingly, Me'iri cites an opinion that *nevela* is paradigmatic of all negative commandments that are not in the category of *hayyavei keritut* or *hayyavei mitot bet din*.
 37. For an overview of the various laws pertaining to *Ger Toshav* see *Encyclopedia Talmudit*, vol. 6, pp. 289-303.
 38. See, however, Ramban (*Exodus* 20:10) who interprets "*ve-gerkha asher bi-sh'arekha*" as referring to *Ger Toshav*. For an analysis of why the Torah needed to issue a separate prohibition for a *Ger Tsedek* (who is completely Jewish) to work on *Shabbat*, see *Perush Rabbenu ha-Rosh al ha-Torah* and *Emet le-Ya'akov* (R. Yaakov Kaminetski) to 20:10.
 39. Although ordinary Noahides are also prohibited from worshiping *avoda zara*, it would seem that the commitment of a *Ger Toshav* imposes upon him a higher standard of observance. Thus, *Peri Megadim* (*Orah Hayyim* 304:6) states that a *Ger Toshav*, unlike a Noahide, is prohibited in *shittuf*—the belief in a trinity. See also *Gilyonei ha-Shas* (R. Joseph Engel) to *Avoda Zara* 64b and *Binyan Halakha* (R. Chaim Zimmerman) to *Hilkhot Mila* who classify *Ger Toshav* as quasi-Jewish with respect to select *mitsvot*. Accordingly, a *Ger Toshav's* commitment not to worship *avoda zara* might also entail a restriction against working on *Shabbat*.
 40. Whether this prohibition is limited to a *Ger Toshav* who is otherwise employed for the Jew is a matter of some disagreement. See *Hiddushei ha-Rashba* to *Yevamot* 48b and *Maggid Mishne* to *Hilkhot Shabbat* 20:14.
 41. The respective positions of *Rashi* and *Tosafot* regarding whether a *Ger Toshav* is bound by an obligation to be *shomer Shabbat* might seemingly be

traced to a tannaitic dispute cited in *Keritut* 9a. However, an examination of the views outlined there reveals that even those who obligate a *Ger Toshav* to rest on *Shabbat*, would, nevertheless, hold him to a less rigorous standard of observance than that of an ordinary Jew. Thus, according to the *Tanna Kamma*, a *Ger Toshav* is permitted to engage in those *melakhot* that a Jew may perform on *Hol ha-Mo'ed* (i.e. *melekheth davar ha-aved*), while according to R. Akiva, a *Ger Toshav*'s standards of prohibited labor are comparable to those of a Jew on *Yom Tov*—thus exempting *melekheth okhel nefesh*. R. Yosi and R. Shimon, on the other hand, maintain that a *Ger Toshav* is completely free to perform *melakha* on *Shabbat* in the same manner that a Jew may work during the week. Hence, it may be suggested that Rashi's explanation of the talmudic passage in *Yevamot* accords well with both the view of the *Tanna Kamma* and of R. Akiva, while *Tosafot*'s interpretation follows the mainstream view of R. Yosi and R. Shimon who permit a *Ger Toshav* to engage in all forms of work, but might, nonetheless, prohibit that same work when performed on behalf of a Jew. With regard to the *Ger Toshav*'s personal labor, *Tosafot* consequently maintain that he is not only allowed, but also compelled, to perform work on the *Shabbat*, based on the rule of "*goy she-shavat hayav mita.*" See *Arukh le-Ner* to *Yevamot* 48b. Interestingly, the *Mekhilta* on this verse explicitly equates the *Ger Toshav*'s prohibition to work on the Sabbath with that of a Jew's on *Yom Tov*, in accord with the view of R. Akiva.

42. However, the specific reference in *Devarim Rabba* (1:18) to a gentile "who has not yet accepted *mila*" would seemingly also exclude a *Ger Toshav* who, according to most views, is uncircumcised. (For a discussion of this issue, see *Ridvaz* to *Yerushalmi Yevamot* 8:1 and *Mishne le-Melekh* to *Hilkhot Melakhim* 10:7.) See also my later analysis regarding the *ger she-mal ve-lo taval*.
43. This is particularly true in light of the position of Rambam in *Hilkhot Melakhim* 8:11 who defines a *Ger Toshav*'s commitment as predicated on the Mosaic code rather than on moral instinct.
44. A close reading of Me'iri's language seems to substantiate this latter interpretation.
45. Rambam's language would seem to imply that the prohibition applies equally to a *Ger Toshav*. For a different interpretation of Rambam that posits a distinction between pagan and monotheistic gentiles, see *She'elot u-Teshuvot Rabbi Azriel Hildesheimer, Yoreh De'a*, vol. 1, no. 230 and N. Lamm's "*Kiyyum Mitsvot Al Yedei Goyim Lefi ha-Rambam*" in *Bet Yosef Shaul*, vol. 3 (Yeshiva University, 1989), pp. 63-67, reprinted in *Halakhot ve-Halikhot* (Jerusalem, 1990), pp. 176-179. The possibility that a *Ger Toshav* is permitted, but not obligated, to engage in *Shabbat* rest will be revisited further on in this essay.
46. *Bi'ur Halakha* to *Orah Hayyim* 304, s.v., *eno yehudi gamur*.
47. *Rambam, Issurei Bi'a* 13:6, *Shulhan Arukh, Yoreh De'a* 268:2, based on *Yevamot* 46b.
48. A brief and fascinating account of the particulars of the story appeared in the Haredi weekly *Yated Ne'eman, Parushat Vayakhel-Pekudei*, 5758. My thanks to Rabbi Zevulun Charlop for bringing this article to my attention.

49. Much of the literature was compiled in *Yad Shelomo*, *op. cit.* pp. 1-27. See also *Tsits ha-Kodesh*, vol. 1, no. 34. For an extensive treatment of this topic as well as the larger issue of *goy she-shavat*, see J. David Bleich's *Contemporary Halakbic Problems*, vol. 4, pp. 145-170. See also Harlop, *op. cit.*, pp. 66-69.
50. *Divrei Yosef*, no. 24, cited in *Yad Shelomo*, *ibid.*, pp. 16-20.
51. See further the position of R. Ettlinger. Interestingly, a parallel issue arises with regard to whether to apply the prohibition of teaching Torah to a non-Jew (see *Sanhedrin* 59a and *Hagiga* 13a) to one who is in the process of conversion. See *She'elot u-Teshuvot Rabbi Akiva Eger*, vol. 1, no. 41 and other sources cited in *Yad Shelomo*, *ibid.*, pp. 7-8.
52. For the full text of R. Lemel's defense, see *Yad Shelomo*, *ibid.*, pp. 2-12. For excerpts of the response, see also Harlop, *op. cit.* p. 67.
53. *Responsa Binyan Tsiyon* vol. 1, no. 91. See also Harlop, *ibid.*, p. 68, who notes that the view is also held by Radvaz (vol. 3, no.479) and echoed in a work, *Same'ah Nefesh* (Shalom Moses Gagin, d. 1883). Also noteworthy is the view of R. Shemuel Salant who requires a *ger she-mal ve-lo taval* to observe the Shabbat based on the position that the conversion process, once completed, takes effect retroactively; see *Yad Shelomo*, *ibid.*, p. 15 and Bleich, p. 154. For an elaboration on this position and an interesting overview of the larger controversy regarding *ger she-mal ve-lo taval*, see Z. Harlop's, "Be-Inyan Ger she-Mal ve-Lo Taval le-Inyan Shabbat" in *Kol Tsevi*, vol. 4 (Yeshiva University, 5762), pp. 269-293. See also *Tosafot Yeshanim* to *Yevamot* 48b, which seems to entertain the novel position that a prospective proselyte with clear intentions to fulfill his commitment is permitted to observe the Sabbath even prior to undergoing *mila*. (See Bleich, p. 152.) For a most interesting and original approach to justify lifting the ban on Sabbath observance for both a *ger she-mal ve-lo taval* as well as a *Ger Toshav*, see *Hemdut Yisrael*, *op. cit.*, cited by Bleich, pp. 160-161 and by Harlop, pp. 61-62.
54. However, according to R. Ettlinger's position that through circumcision, the prospective proselyte, while not fully Jewish, has transcended the rank of *Ben Noah*, one might plausibly argue that *hiddush dat* no longer applies at this interim juncture since even Moasaic/Noahide boundaries are no longer contravened.
55. Published from manuscript in Jerusalem, 5739, with an introduction and annotations by Shemuel Yerushalmi. For an analysis of this commentary, see "A Study of Judah Ben Jakar and his Manuscript Commentary to the Prayers," by Walter Orenstein (DHL, Bernard Revel Graduate School, Yeshiva University, 1970, unpublished).
56. Concluding paragraph of the *berakha* of *kedushat ha-yom*. This expression is virtually identical with the one found in the *kiddush* but is constructed here as a petition.
57. This is found in the paragraph beginning "Le-el asher shavat" inserted just after the "El Adon" hymn within the *berakha* of *Yotser ha-Me'orot*.
58. Interestingly, many aggadic statements in *Hazal* also speak of *Shabbat* in terms of *nahala*. See, for example, *Shabbat* 118a: "Kol ha-me'aneg et ha-Shabbat notnin lo nahala beli metsarim" ("One who delights in the Sabbath will receive a boundless inheritance"). As a proof-text, the Talmud

- cites the passage in *Isaiah* (58:14): “*Ve-ha’akhaltikha nahalat Yaakov avikha*,” which appears just after an exhortation regarding *oneg Shabbat*.
59. For one interpretation of this seemingly redundant phrase, see *Hiddushei ha-Griz Al Tanakh mi-Pi ha-Shemu’a* (Jerusalem 5746, p. 82), who explains that not only are gentiles excluded from the formal observance of the *Shabbat* laws, they are also precluded from experiencing *Shabbat*’s “*menuha*” component, which represents a spiritual creation in and of itself as alluded to in the midrash cited by Rashi to *Genesis* 2:2.
60. See *Perush ha-Tefilot ve-ha-Berakhot* p. 90. (All page references cited are from the first section of the work.) The association of the “*ve-shamru*” *pesukim* with *Shabbat*’s *nahala* status may be the basis for the selection of these verses in the *Shabbat shaharit amida* (rather than “*Vayekhulu*” or *pesukim* from the *Aseret ha-Dibberot*) inasmuch as the theme of Jewish exclusivity serves as a natural thematic bridge to the subsequent paragraph of “*ve-lo netato*.” (See the commentary *Iyyun Tefilah* cited in *Siddur Otsar ha-Tefilot* which suggests such an explanation.) In addition, the juxtaposition of these verses with the previous paragraph of *Yismah Moshe* that speaks of Moshe’s receiving of the Torah may allude to the fact that both *Shabbat* and Torah are deemed an inheritance. Interestingly, Rabbenu Yehuda elsewhere suggests that the paragraph of “*ve-shamru*” was inserted just before beginning the Friday night *amida* so as to emphasize *Shabbat*’s designation as *nahala* prior to reciting the petition of “*ve-hanhilenu*” within the *amida* (p. 104).
61. *Ibid.*, “*Kivan she-amar le-dorotam havi Shabbat lanu le-shamro ke-she’ar nahalot*.”
62. *Ibid.*, pp. 106, 134.
63. *Midrash Tanhuma* to *Deuteronomy* 33:4 commenting on the words “*morasha kehilat Ya’akov*”—[The Torah is] “the inheritance of the congregation of Jacob.”
64. *Perush ha-Tefilot ve-ha-Berakhot*, p. 91. Rabbenu Yehuda adds that Torah’s classification as *nahala* stems from the fact that through the merit of Torah one will inherit *Erets Yisrael*, the *nahalat Yaakov*. While there is an apparent omission of words in the text, it would seem that the author’s intent is to extend this same association for *Shabbat* as well. Indeed, Rabbenu Yehuda elsewhere (p. 117) explicitly links the inheritance of *Shabbat* with that of *Erets Yisrael*. Regarding the relationship between the *nahala* status afforded *Shabbat* and other entities which bear similar status, Rabbenu Yehuda wonders why *Shabbat* is omitted from the list cited by the *Mekhilta* to *Exodus* 15:17 which mentions four entities that are classified as *nahala*: *Har ha-Kodesh*, Torah, *Yisrael* and *Erets Yisrael*. His answer is that the *nahala* designations of the four entities mentioned in the *Mekhilta* are explicit in scripture whereas *Shabbat*’s status as *nahala* is only alluded to. Why, in fact, the Torah does not explicitly label *Shabbat* as a *nahala* may be based on *Hazal*’s observation (*Betsa* 16a) that certain mystical aspects of *Shabbat* were deliberately shrouded in secrecy. Undoubtedly, this notion carries kabbalistic implications that go beyond the scope of this paper.
65. Another expression of “*nahala* terminology” in connection to *Yom Tov* appears in the *ve-Todi’enu* prayer inserted in a *Yom Tov amida* that coin-

- cides with *Motsa'ei Shabbat*: “*ve-tanbilenu zemani sason.*” See the comments of Rabbenu Yehuda b. Yakar there (p. 130).
66. Ibid, p. 34.
67. Indeed, biblical and talmudic commentaries frequently note that the appellation “*Shabbat*” might equally refer to the Holidays (“*Yom Tov nami ikri Shabbat*”). See, for example, Rashi to *Betsa* 2b.
68. Rambam first refers to a gentile who “rests” on a weekday and then extrapolates by way of “*kal va-homer*” to the case of his establishing a “*mo'ed*” for himself. This would suggest that infusing a day with a festive holiday spirit poses an even more egregious violation of *goy she-shavat*. Although we have earlier suggested that Rambam’s position relies also on the midrashic sources whose rationale seems to be more applicable to *Shabbat*, it is possible that Rambam interpreted the midrashic references as allusions to *Yamim Tovim* as well. Hence, the festive component of holidays may contribute to viewing *Yamim Tovim* as an even greater form of *hiddush dat*.
69. *Bet ha-Behira*, *op. cit.*
70. It is noteworthy that while Rabbenu Yehuda b. Yakar views the concept of *nahala* as being more expansive than that of *mattana*, a contrary approach is taken by R. Shalom Noah Brozofsky, the late Slonimer Rebbe, in his work *Netivot Shalom* (Jerusalem 1989, vol. 2, pp. 58-61), in which he assigns greater significance to a *mattana* since it, unlike a *nahala*, is generally accompanied by the benevolent spirit (*ayin yafah*) of the giver and serves to create an emotional bond between giver and recipient. Likewise, a *mattana* is often precipitated by the fact that the recipient did something to curry the giver’s favor; hence, the gift serves as a gesture of reciprocity that reinforces the sense of good will between the parties. Accordingly, the Slonimer explains that *Shabbat* observance can exist on the dual levels of *nahala* and *mattana*. The lower level of inheritance is achieved through the technical observance of the *Shabbat* laws and does not require any prior initiative on the part of the Sabbath observer to engender a warm spirit of reciprocity. A *Shabbat* experienced on this level does not serve to deepen the overall relationship between the Jew and his Maker. However, when a Jew makes an effort to anticipate the Sabbath and views it as a means of bonding with God, his observance of *Shabbat* becomes likened to a *mattana*. Such a *Shabbat* experience is accompanied by great spiritual pleasure. Based on the above, the Slonimer explains the phraseology of “*ve-lo netato*” in the *Shabbat amida*. The “*goyei ha-aratsot*” are those who are immersed in earthly pleasures and who are therefore incapable of tasting the beauty of *Shabbat* implied by its being a *mattana*. Notwithstanding their limitations, the experience of *Shabbat* as *nahala* is still available to them. By contrast, the *ovdei pesilim*—those who worship their physical selves—are deprived of the experience of *nahala* as well. To the Jewish nation, however, *Shabbat* was given as a gift of love in a warm spirit of benevolence—*netato be-ahava*. One difficulty with the Slonimer’s approach is the expression in the *kiddush*, “*be’ahava u-ve-ratson binhaltanu*,” which associates *nahala* with the theme of love and favor. For an alternative interpretation of *Shabbat*’s classification as *nahala*, see *Peri Tsaddik* to *Beresheet*, no. 10.

71. *Perush ha-Tefilot ve-ha-Berakhot*, p. 104. An apparent contradiction to linking *Shabbat's* attainment of its *nahala* status with *Mattan Torah* is the language of *Pirkei de-Rabbi Eliezer* (chapter 18) cited by Rabbenu Yehuda (p. 105) which highlights *Shabbat's nahala* character in connection with the Jews' being given the *Shabbat* prior to *Mattan Torah*: "*Kakh Ha-Kadosh Barukh Hu yom berakha u-kedusha she-haya lefanav lo ratsa le-hanhila ela le-Yisrael, she-harei ke-she-yats'u Yisrael mi-Mitsra'im ad she-lo natan lahem ha-Torah bin'hilam ha-Shabbat.*" Parenthetically, the association of the term "*natan*" with the *Shabbat* of the manna may explain the use of the term "*natan*" in the *Dayyenu* hymn recited at the Passover seder, in the stanza which refers to the *Shabbat*: "*Ilu he'ekhilanu et ha-man ve-lo natan lanu et ha-Shabbat dayyenu.*" See also *Sefat Emet, Beshalah* (5643), who suggests that it was in connection with the Manna that the *Shabbat* was transformed into what *Hazal* refer to as a *mattana tova*. A similar insight is attributed to R. Yitshak Zev Soloveitchik in *Haggada le-Bet Levi* (p. 179).
72. The formal renouncement of idol worship forms the core component of the *Ger Toshav's* commitment according to all opinions. According to one view, he must also formally commit to all seven Noahide laws while a third position requires that he accept all of the negative commandments with the exception of *nevela*.
73. *Perush ha-Tefilot ve-ha-Berakhot*, p. 106.
74. What remains unclear according to Rabbenu Yehuda is why the *nusah* reverts subsequently to an expression of "*mattana*"—"le-amkha Yisrael netato be-ahava." Similarly, the *minha amida* also employs the term *mattana* rather than *nahala*—"yom menuha u-kedusha le-amkha natata." Interestingly, Rabbenu Yehuda b. Yakar writes at one juncture (pp. 131-132): "*Ve-khen le-khal mattana shel kayama kari nahala ve-yerusha*"—"And similarly, any gift of permanence is called an inheritance." It is conceivable, then, that these select references to *mattana* might best be rendered "*mattana shel kayama*," which is therefore synonymous with *nahala*.