

Elchanan Adler holds the Eva, Morris, and Jack Rubin Chair of Talmud at the Rabbi Isaac Elchanan Theological Seminary, Yeshiva University, and was recently appointed co-editor of *Or Hamizrah*.

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 *hiddush 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 *mitzva*, 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

