

Rabbi Dov Linzer is the Rosh Yeshiva of Yeshivat Chovevei Torah Rabbinical School and the Chair of the Yeshiva's Departments of Talmud and Jewish Law.

## ON THE *MITZVOT* OF NON-JEWS: AN ANALYSIS OF *AVODAH ZARAH 2B-3A*

Rabbi Dov Linzer

### I. *THE SUGYAH*

Non-Jews are commanded to observe the seven Noahide laws.<sup>1</sup> A logical corollary of this is that they are to be rewarded for their performance of these *mitzvot*, and held liable for transgressing them.<sup>2</sup> This assumption, however, is brought into question by the *sugyah* around the statement of Rav Yosef in *Avodah Zarah 2b-3a* (paralleled in *Bava Kama 35a*):

מיד אומר להם הקב"ה: הראשונות ישמיעונו, שנא': (ישעיהו מג) וראשונות ישמיענו, שבע מצות שקיבלתם היכן קיימתם! ומגלן דלא קיימום? דתני רב יוסף: (חבוקק ג) עמד וימודד ארץ ראה ויתר גוים, מאי ראה? ראה ז' מצות שקבלו עליהן בני נח ולא קיימום, כיון שלא קיימום עמד והתירן להן. איתגורי איתגור? א"כ מצינו חוטא נשכר! אמר מר בריה דרבנא: לומר, שאף על פי שמקיימין אותן - אין מקבלין עליהם שכר.

<sup>1</sup> *Tosefta Avodah Zarah 8:4; Sanhedrin 74b*

<sup>2</sup> The idea of a world of future reward and punishment for non-Jews is consistent with the position that righteous non-Jews have a portion in the World-to-Come (*Tosefta Sanhedrin 13:2; Sanhedrin 105a*). It is *prima facie* difficult to understand how the opposing position, that even the righteous amongst the non-Jews has no share in the World-to-Come, can explain the significance of Noahide *mitzvot* for a non-Jew. The answers to this question are beyond the scope of this paper, but we can immediately suggest three possible solutions: (1) The phrase "World-to-Come" may not refer to the totality of future metaphysical reward, but only one aspect of it; (2) The primary focus of the Noahide laws might be to enforce behavior on this world and do not suggest a metaphysical religious system for non-Jews and (3) While assured no future reward, non-Jews might suffer different degrees of punishment for the degree of their transgressions. The last two approaches approximate – and even exceed – the position of Rav Yosef that we will discuss below. Nevertheless, while Rav Yosef's position is adopted in the Talmud and assumed to be normative, the harsh position denying the World-to-Come to non-Jews is never endorsed by the Talmud and Rambam (*Hilkhot Teshuvah 3:5* and *Hilkhot Melakhim 8:11*) explicitly rules against it.

Thereupon the Holy One, blessed be He, will say to them [the non-Jewish nations in the End of Days]: “Let us then consider the happenings of old,” as it is said, ‘Let them announce to us former things,’ (Isaiah 43:9) “There are seven commandments which you did accept. Did you observe them?!”

And how do we know that they did not observe them? For R. Yosef taught: “ ‘He stands and shakes the earth, He sees and makes the nations to tremble (*va’yatter*).’ (Havakuk 3:6) What did He see? He saw that the nations did not observe even the seven precepts which the sons of Noah had taken upon themselves, and seeing that they did not observe them, He stood up and released (*bitir*) them therefrom.”

Then they benefited by it! According to this it pays to be a sinner! Said Mar bar Ravina: “The release from those commands only means that even if they observed them they would not be rewarded.”<sup>3</sup>

According to Mar bar Ravina’s understanding, non-Jews now have the worst of both worlds: they are still held responsible for their transgressions, but no longer receive any reward for their fulfillment of the *mitzvot*. No explanation is given for the harshness of this decree, neither for its inherent logic nor for why all future non-Jews should suffer for the transgressions of non-Jews at one stage in history. However, the Talmud does not let this position stand, not due to any inherent problems with it, but because it contradicts a position of Rabbi Meir:

ולא? והתניא, היה רבי מאיר אומר: מנין שאפילו גוי<sup>4</sup> ועוסק בתורה שהוא ככהן גדול? תלמוד לומר: אשר יעשה אותם האדם וחי בהם (ויקרא יח), כהנים לויים וישראלים לא נאמר אלא האדם, הא למדת, שאפילו עובד כוכבים ועוסק בתורה - הרי הוא ככהן גדול! אלא לומר לך, שאין מקבלין עליהם שכר כמצווה ועושה אלא כמי שאינו מצווה ועושה, דאמר ר' חנינא: גדול המצווה ועושה יותר משאינו מצווה ועושה.

But do they not receive reward? Is it not taught: R. Meir used to say, “Whence do we know that even a non-Jew who studies the Torah is equal to a High Priest? From the following verse: ‘Ye shall therefore keep My statutes and My ordinances which, if a man do, he shall live by them.’ (Leviticus 18:5). It does not say ‘If a Priest, Levite, or Israelite do, he shall live by them,’ but ‘a man’; here, then, you can learn that even a non-Jew who studies the Torah is equal to a High Priest!”

<sup>3</sup> Translations of Talmud text largely follow Soncino, with some adaptations.

<sup>4</sup> The term *oved kokhavim* found in the printed Vilna shas is a later emendation. The original term is either *goy* as attested to in *Dikdukei Sofrim*, *ad. Loc.*, or *nokhri*, as appears in the parallel *sugyah* in *Bava Kamma* 38a and *Sanhedrin* 59a.

What is meant, then, [by Mar bar Ravina] is that they are rewarded not as greatly as one who does a thing which he is commanded to do, but as one who does a thing which he is not commanded to do. For, R. Hanina said: He who is commanded and does is greater than he who is not commanded and does.

The two statements are reconciled by modifying Mar bar Ravina's position to allow that non-Jews receive at least partial reward for their fulfillment of their *mitzvot*. While this answer does not seem to fully accommodate R. Meir's position that a non-Jew can become like the High Priest, which would seem inconceivable if he is always considered on the lower level of 'one who is not commanded and does,' the Talmud is satisfied with this answer, and it is with this that the current *sugyah* ends.

Rabbi Meir's position appears again in the *sugyah* in *Sanhedrin* (59a), this time in conflict with a position of Rabbi Yohanan:

ואמר רבי יוחנן: נכרי שעוסק בתורה חייב מיתה, שנאמר תורה צוה לנו משה מורשה - לנו מורשה ולא להם. מיתבי, היה רבי מאיר אומר: מניין שאפילו נכרי ועוסק בתורה שהוא ככהן גדול - שנאמר אשר יעשה אתם האדם וחי בהם, כהנים לויים וישראלים לא נאמר, אלא האדם. הא למדת: שאפילו נכרי ועוסק בתורה הרי הוא ככהן גדול! - התם בשבע מצות דידהו.

R. Yohanan said: "A non-Jew who studies the Torah deserves death, for it is written, "Moses commanded us a law for an inheritance"—it is our inheritance, not theirs . . ." An objection is raised: R. Meir used to say, "Whence do we know that even a heathen who studies the Torah is as a High Priest? From the following verse: 'Ye shall therefore keep My statutes and My ordinances which, if a man do, he shall live by them.' (Leviticus 18:5). It does not say 'If a Priest, Levite, or Israelite do, he shall live by them,' but 'a man'; here, then, you can learn that even a non-Jew who studies the Torah is equal to a High Priest!"

That [study of Torah] refers to their own seven laws.

Rather than assume that the two opinions conflict, the Gemara chooses to reconcile them by further limiting Rabbi Meir's opinion. A non-Jew's study of Torah is only of value—nay, only permitted!—when such Torah study is relevant to his seven Noahide laws.

The result of the two Talmudic discussions, then, is that non-Jews nowadays are still held responsible for their transgressions, but receive only partial reward for their fulfillment of the seven Noahide *mitzvot*. They are rewarded for their Torah learning, but only insofar as this is related to their Noahide *mitzvot*, and such merit is likewise only partial at best. In short, we are left with quite a low estimation of the religious worth of the Noahide *mitzvot* and Torah learning of non-Jews.

## II. PARTICULARISM AND UNIVERSALISM

The Gemara, in arriving at its conclusion, has leveled out the differences between the different opinions—in particular, between that of Rabbi Meir on the one hand, and those of R. Yohanan and Mar bar Ravina on the other hand. However, if we look at Rabbi Meir's opinion in isolation and in its original location, a completely different picture takes shape. Rabbi Meir's opinion is quoted in full in the Sifra on Leviticus 18:5, there attributed to Rabbi Yirmiyah:

"אשר יעשה אותם." היה רבי ירמיה אומר אתה אומר מנין אפילו גוי ועושה את התורה הרי הוא ככ"ג תלמוד לומר "אשר יעשה אותם האדם וחי בהם," וכן הוא אומר "וזאת תורת הכהנים והלוויים וישראל" לא נאמר כאן אלא "וזאת תורת האדם ה' אלהים" וכן הוא אומר "פתחו שערים ויבא כהנים ולויים וישראלים" לא נאמר אלא "ויבא גוי צדיק שומר אמונים" וכן הוא אומר "זה השער לה' כהנים לויים וישראלים" לא נאמר אלא "צדיקים יבאו בו" וכן הוא אומר "רננו כהנים לויים וישראלים" לא נאמר כאן אלא "רננו צדיקים בה" וכן הוא אומר "הטיבה ה' לכהנים לויים וישראלים" לא נאמר כאן אלא "הטיבה ה' לטובים" הא אפי' גוי ועושה את התורה הרי הוא ככהן גדול.<sup>5</sup>

“[You shall observe My edicts and laws] that a man shall do [and live by them]” (Leviticus 18:5). Rabbi Yirmiyah says: From where do we know that even a non-Jew who observes the Torah is like a High Priest? The verse teaches, “that a *man* shall do them and live by them.”

Similarly, it does not say, “And this is the Torah . . . of Priests, Levites and Israelites’ but rather it says, “And this is the Torah of *man*, O Lord God” (Sam II, 7:19).

Similarly it does not say, “Open up ye gates . . . that Priests, Levites, and Israelites may enter’ but rather it states, “that *the righteous nation* (*goy*) who keeps the faith may enter” (Isaiah 26:2).

Similarly, it does not say, “This is the gate of God . . . and let the Priests, Levites, and Israelites enter therein’ but rather it states, “and let the *righteous* enter therein” (Ps. 118:20).

Similarly, it does not say, “Rejoice . . . Priests, Levites, and Israelites’ but rather it states, “Rejoice *the righteous* in God.” (Ps. 33:1).

<sup>5</sup> See Tosafot (*Sanhedrin* 59a, s.v. *Ela*) who notes that some texts of the Gemara *Sanhedrin* have this statement in the name of R. Yirmiyah. Similarly, *Dikdukei Sofrim* on *Bava Kama* 38a, records a text from *Aggadat haTalmud* that has ‘R. Yirmiyah’ instead of ‘R. Meir.’

Similarly, it does not say, “God does good . . .” ‘to the Priests, Levites, and Israelites” but rather it states, “God does good to *those who are good.*” (Ps. 125:4).

From this we learn that even a non-Jew who observes the Torah, behold he is like a High Priest.

This passage differs from that in the Talmud in two striking ways. The first is its length and the boldness of its position. It is clear that Rabbi Yirmiyah is not merely engaging in straightforward exegesis based on the Torah’s use of the term *adam* in one verse. The quote of verse after verse, at times expounding on the word *adam*, at times on the word *tzaddik*, at times on the word *goy*, and at times on the word *tovim* make it clear that a larger theory is behind this exegesis.

The fact that this passage is more theologically-driven than verse-driven is made clear from the quote from Isaiah 26:2. We are told that “Open the gates, that the righteous nation (*goy emunim*) which keeps the truth may enter in” refers to non-Jews. From its Biblical context this is clearly not the case. As the previous verse makes clear, the referent here is Israel: “On that day shall this song be sung in the land of Judah; We have a strong city; salvation will God appoint for walls and bulwarks.” Although the contextual meaning is clear, Rabbi Yirmiyah seizes on the word *goy*, “nation,” and interprets it to refer to the non-Jew. It seems inescapable that Rabbi Yirmiyah has an inclusive theology, one that unhesitatingly recognizes that even a non-Jew can live a life of religious merit as much as any Jew, and he finds verse after verse that—with some creative reading—can prove his point.<sup>6</sup>

<sup>6</sup> The idea that a Tanna might start with a position and read it back into a verse, rather than derive his position from the verse, has already been articulated by Ramban regarding the hermeneutics of a *gezeira shava*. See Ramban, *Critique of Rambam’s Sefer haMitzvot*, Principle 2, s.v. *Aval yesh im hamidot ha’elu tenaim*. For a discussion of contemporary scholarship on this topic, see Jay Harris, “Modern Students of Midrash Halakha”, in *The Uses of Tradition*, ed. Jack Wertheimer, pp. 261-277, for further discussion (although I strongly disagree with his characterization both of Rambam’s and of Ramban’s positions). For theological *derashot* such as these, it is even easier to assume that the theology might be driving the *derashah*, and not the other way around.

This approach would also address the question raised in the Rishonim of whether non-Jews are included in the phrase *adam*. Both Rashi (*Sanhedrin* 59a, s.v. *ha’adam*) and Tosafot Rid (*Avodah Zarah* 3a, *mahadura kamma*, s.v. *haya*) assert that this is a debate between R. Meir, who reads this term inclusively, and Rabbi Shimeon (*Yevamot* 61a) who reads it in an exclusive fashion. Tosafot (*Avodah Zarah* 3a, s.v. *Kohanim*, and *Sanhedrin* 549a, s.v. *Ela*) quotes Rabbeinu Tam who famously distinguished between *adam* and *ha’adam*. What emerges from our preceding analysis is that even R. Yirmiyah/R. Meir does not adopt a strict exegetical methodology in determining the scope of the word “*adam*.” Rather, all verses that contain terms that can be read to support his position will be read as such.

Once we realize that Rabbi Yirmiyah's point of departure is his fundamental egalitarianism, we can appreciate another aspect of this passage, the comparison of the non-Jew to High Priest. This comparison seems directed at overturning the normal hierarchies present in the halakhic system. As the Mishnah (*Horiyot* 3:8) states:

A Priest takes precedence over a Levite, a Levite over an Israelite, an Israelite over a *mamzer*, a *mamzer* over a *netin*, a *netin* over a proselyte, and a proselyte over an emancipated slave.

In such a hierarchy, the non-Jew is of such little consequence he is not even mentioned. It is with this assumed background<sup>7</sup> that R. Yirmiyah states that even a non-Jew, who is at the very bottom of the hierarchy, can equal the High Priest, the one at the very top of the hierarchy, if he observes the Torah.

As if to underscore this point, the Sifra makes the constant refrain that "the verse does not say Priests, Levites, and Israelites . . ." This point seems, on the face of it, absurd. Of course the verse does not use that phrase; no verse in the entire Tanakh employs such a phrase! The point here then is not exegetical. Rather, Rabbi Yirmiyah's point is that we should learn from these verses that it is not the hierarchy that matters. When all is said and done, what matters is not whether a person is a Priest, a Levite, or an Israelite, what matters is if he or she is "righteous," is one who "keeps the faith" and a "good person."

R. Yirmiyah's statement presents us with two contrasting themes in Judaism. On the one hand, Judaism is a strongly hierarchical religion: one that distinguishes between Jew and non-Jew, and amongst Jews, between Priest, Levite, and Israelite. And on the other hand, the Torah clearly states that all people were created in the image of God, that God entered into a covenant with Noah, and, according to the prophets, that the nations will fully recognize God in the End of Days.

How are we to resolve this tension between hierarchy and universalism? Some Jewish thinkers come down strongly on the side of particularism and hierarchy, asserting that after Abraham, or after Sinai, God has largely given up on non-Jews. According to some, non-Jews have a lesser soul. According to others, any religious achievement of non-Jews is necessarily of lesser value. The latter attitude is certainly the upshot of the *sugyah* from *Avodah Zarah* that is under analysis and it is reflected in a terse statement of Radvaz. Commenting on Rambam's ruling that a non-Jew who observes the seven Noahide commandments has a portion in the World-to-Come, Radvaz states that "this portion is not in Gan Eden, for an uncircumcised person cannot enter there."<sup>8</sup>

<sup>7</sup> I am not taking a position on whether the Mishnah in *Horiyot* predated R. Yirmiyah. Regardless of this point, it is fair to assume that the general hierarchal ranking attested to here was taken for granted.

<sup>8</sup> On *Hilkhot Melakhim* 8:11 (Frankel edition, from manuscripts).

It is also possible to come down on the side of universalism. One can understand that the concept of chosenness, and all the hierarchies that it entails, does not imply an ontological or metaphysical difference between Jew and non-Jew, but implies only that different roles have been assigned to these two groups. This role differentiation may not be an intrinsic good, but only a necessary means to arrive at the full realization of God's plan. I have long understood that implicit in the Adam-Noah-Abraham narrative is the story of a slow shift by God towards the recognition that the divine objective of creation could only be achieved through the (temporary) means of chosenness. Dr. David Berger recently articulated just this thought in a recent article:

Though the choice of Abraham and his descendants represents a short-term narrowing of God's focus, it seems highly improbable that it represents a permanent abandonment of the great aim of creation implied in all that went before. Rather, it is God's way of taking a longer, slower, surer path to the achievement of his universal objective. The messianic dream in its broadest and most inclusive version is implicit at the moment of creation—this, I think, is the meaning of the rabbinic vision of the pre-existing soul of the Messiah— as well as at the election of the father of Israel, who is also the father of a multitude of nations.<sup>9</sup>

If the hierarchies of Judaism are only instrumental, then no individual—Jew or non-Jew—would have more innate religious worth than any other. The only question to be asked is whether the Jew's additional responsibility to perform 613 *mitzvot*, rather than seven, affords him or her the opportunity for greater religious achievement than is available to the non-Jew. It seems reasonable that a Jew's added responsibility, sacrifice and observance should be considered of greater religious value than the comparatively easier life of an observant Noahide. Thus, many of those who come down on the side of universalism, would still be inclined to side to some degree with Radvaz, that—all other things being equal—some difference will exist between Jew and non-Jew in the future world.

I believe that R. Yirmiyah had a different understanding. If the entire difference between Jew and non-Jew is that the former are commanded in more *mitzvot*, then a non-Jew who chooses to perform those *mitzvot* could be as great as any Jew, even as great as the High Priest. This understanding requires bracketing R. Hanina's position that one who is commanded and performs is greater than one who is not commanded and performs, but inasmuch as this

---

<sup>9</sup> "Jews, Gentiles, and Egalitarianism," soon to be published by the Orthodox Forum. I thank Dr. Berger for making this article available to me.

position was not taken as a given even in the time of the Amoraim (cf. *Kiddushin* 31a),<sup>10</sup> such bracketing presents no problem to R. Yirmiyah.

### III. OBSERVING AND LEARNING TORAH

It is perhaps difficult to accept the idea that a non-Jew's performance of *mitzvot* should be given so much weight. Are not many of the *mitzvot* only meaningful within a Jewish context? It is instructive in this regard to see the fate of a similar position that was held by Rambam. Rambam in *Mishneh Torah* (*Hilkhot Milah* 3:7) hints at the idea that a non-Jew could do even the highly particularistic *mitzvah* of *milah* and receive reward. His statement is somewhat ambiguous and was interpreted otherwise by some Ahronim. Rabbi Moshe Feinstein, on the other hand, recognized the possibility that Rambam might be giving value to the non-Noahide *mitzvot* of a non-Jew, but rejected this reading as totally untenable because he found it theologically objectionable:

אבל בשמירת שבת ויו"ט והנחת תפילין וציצית וסוכה ולולב ושופר ואכילת כשרות  
וזהירה משעטנז וכדומה אין להם שום שכר ע"ז דאין שייכין כלל למצות אלו כיון  
דליתנהו בקבלת התורה ואינם מצות לדידהו כלל כדכתבתי שם. ואף דהדבר הזה  
מוכרח בסברא נראה מוכרח כן מרמב"ם...

But regarding Sabbath and Yom Tov observance, and laying *tefillin*, and wearing *tzitzit*, and *sukkah*, and *lulav*, and *shofar*, and eating kosher food, and not wearing *shatnez*, and all similar matters, a non-Jew would receive no reward for such observance, because non-Jews are totally excluded from these *mitzvot*, since they did not receive the Torah, and these are not in any means considered *mitzvot* for them, as I wrote earlier. And even though this point is self-evidently true, it can also be demonstrated from Rambam's writings. . . . (*Igrot Moshe, Yoreh Deah, 2:7*)

Rambam's position on the matter, however, is relatively clear in his Commentary to the Mishnah (*Terumot* 3:9) and is explicit in his responsum on the matter:

<sup>10</sup> "R. Joseph [who was blind] said: Originally, I thought, that if anyone would tell me that the *halakhah* agrees with R. Judah, that a blind person is exempt from the *mitzvot*, I would make a banquet for the Rabbis, seeing that I am not obliged, yet fulfill them. Now, however, that I have heard R. Hanina's dictum that he who is commanded and fulfils [the command] is greater than he who fulfils it though not commanded; on the contrary, if anyone should tell me that the *halakhah* does not agree with R. Judah, I would make a banquet for the Rabbis."

מותר לישראל למול לגוי אם רוצה הגוי לכרות הערלה ולהסירה, לפי שכל מצוה שהגוי עושה נותנין לו עליה שכר, אבל אינו כמי שהוא מצווה ועושה, ובלבד שיעשנה כשהוא מודה בנבואת משה רבינו, המצווה זאת מפי אלהים יתעלה, ומאמין בזה, ולא שיעשנה (לסבה) אחרת...

It is permitted for a Jew to circumcise a non-Jew if the non-Jew wants to remove the foreskin, because any *mitzvah* that a non-Jew performs, he is given reward, however he is not like one who is commanded and performs. All of this is only if he performs the *mitzvah* in a context where he accepts the prophecy of Moshe our Teacher, who has received this command from God, and he believes this, and is not performing due to other motivations. . . .<sup>11</sup>

The only difference between Rambam's position and that of R. Yirmiyah is this: for Rambam, one who is not commanded and performs receives less reward, in accordance with the Talmud's discussion on this matter, while for R. Yirmiyah such a person would receive equal (or perhaps greater?) reward. This latter position is an eminently reasonable one, and would allow for R. Yirmiyah's conclusion that a non-Jew who performs *mitzvot* is like the High Priest.<sup>12</sup>

Recognizing the difficulty that Ahronim had in coming to terms with the idea of a non-Jew's performance of *mitzvot*—even in its more attenuated form as it appears in Rambam—allows us to appreciate the second significant way in which the Talmud departs from the quote from the Sifra. For the Talmud the issue is not a non-Jew who is *oseh et haTorah*, who performs the *mitzvot* of the Torah, but one who is *osek baTorah*, who studies Torah.

The Talmud, it seems, was not ready to accept the religious significance of a non-Jew performing Jewish *mitzvot*. These, as Rav Moshe Feinstein argues, can only be of religious value for the Jew. The one *mitzvah* that the Talmud is prepared to accept as relevant for the non-Jew is that of Torah study. The particular *mitzvot ma'asivot*, practical *mitzvot*, are unique to the Jewish context and experience, but Torah, as Divine revelation, represents ultimate truth, and its study has universal significance.

There is perhaps an additional reason why the Talmud understands Rabbi Yirmiyah/Rabbi Meir's comments to be limited to Torah study. As Tosafot comments (*Avodah Zarah* 3a, s.v. *Harei*):

The phrase "High Priest" is being used here because the verse states "It

<sup>11</sup> Rambam, Responsum 148. That Rambam actually recognized the value of a non-Jew's performance of the particularistic *mitzvot*, including *milah*, was already recognized by Rav Tzvi Pesach Frank (*Shut Har Tzvi, Yoreh Deah*, 215).

<sup>12</sup> There is no need for R. Yirmiyah/R. Meir's position to be consistent with that of R. Yohanan (Sanhedrin 59a) that a non-Jew who keeps the Sabbath is liable for the death penalty. It is the same R. Yohanan who states that a non-Jew is liable for death for studying Torah, which is also against the original position of R. Yirmiyah/R. Meir.

(Torah) is dearer than pearls (*peninim*)” (Prov. 3:15), and we expound this to mean that one who studies Torah is greater than the High Priest who goes into the innermost sanctum (*lifnei velifnim*). This is stated regarding giving precedence to a *mamzer* who is a Torah scholar over a High Priest who is an ignoramus. However, when it comes to a non-Jew (who studies Torah), he is only *as* great as a High Priest.

Tosafot points us to the second part of the Mishnah in *Horiyot* that was quoted above. The end of the Mishnah there reads:

This order of precedence applies only when all these were in other respects equal. If the *mamzer*, however, was a scholar and the High Priest an ignoramus, the learned *mamzer* takes precedence over the ignorant High Priest.

In other words, for the Rabbis it is mastery of Torah that has within it the potential to propel someone to the head of the hierarchy. Torah study is the great equalizer for rabbinic Judaism. If a *mamzer* can be greater than a High Priest on account of his Torah study, then perhaps a non-Jew can at least be as great.

For the Talmud, then, it is only through the study of Torah, with its universal significance and its ability to upturn the traditional hierarchy, that a non-Jew could be considered to be like the High Priest.

Of course, as the *sugyah* continues, this statement even as it has been somewhat transformed is not allowed to stand. Rather, to reconcile it with R. Yohanan’s position the significance—even the permissibility—of Torah study of a non-Jew is limited to the study of the seven Noahide laws, and, to reconcile it with Mar bar Rabina’s position the value of such study is only as one “who is not commanded and performs.” By now it is clear how far this is from the original sense of R. Yirmiyah/R. Meir’s position.

As we mentioned earlier, the difficulty with this reconciliation is obvious even from within the *sugyah* itself, for if a non-Jew’s merit is only of the lesser category of one who “is not commanded yet performs,” how can he be considered like a “High Priest”? This question is dealt with by some of the Rishonim. Some Rishonim seem to have had the text “behold he is like an Israelite,”<sup>13</sup> in clear opposition to the text and the context of the Sifra. Rishonim who had the standard text “behold he is like a High Priest,” either leave the problem unanswered,<sup>14</sup> or explain that this term is meant as an exaggeration.<sup>15</sup>

<sup>13</sup> Rabbeinu Chananel (*Avodah Zarah* 3a), Tosafot Rid (*Avodah Zarah*, 3a, *mahadurah kamma*, s.v. *Hayah*) and Meiri (*Avodah Zarah* 3a).

<sup>14</sup> Rashba (*Bava Kama* 38a), s.v. *Afilu*.

<sup>15</sup> Tosafot Rid, *Avodah Zara*, 3a, *mahadurah tinyana*, s.v. *Harei*, Ra’ah, *Bava Kamma*, 38a as quoted in Shita Mikubetzet, s.v. *Harei*, and Meiri, *Sanbedrin* 59a. It seems that Tosafot Rid and Meiri at times dealt with a text that read “like an Israelite” and at times with texts that read “like a High Priest.”

None of these answers is fully satisfactory. What is clear is that the Talmud, to reconcile R. Yirmiyah/R. Meir's position with those of the Amoraim, has altered it significantly. A position that was originally a powerful voice of a universalistic ethos, is now read to only give some partial credit to a non-Jew who stays within his circumscribed field of religious activity.

#### IV. "HE STOOD UP AND RELEASED THEM THEREFROM"

Before concluding our analysis, it is worth returning to the statement of R. Yosef (*Avodah Zarah* 2b) that once God saw that the non-Jews were not keeping the Noahide commandments, they were released from them. Although Mar bar Rabina interprets this to mean that they do not receive (full) reward even if they perform them, it is possible to take R. Yosef's statement at face value. That is, perhaps R. Yosef is saying that it is unfair to hold non-Jews to the standard of the Noahide laws in a world where they do not perceive themselves to be so commanded. For all intents and purposes, non-Jews are now "released" from their *mitzvot*.

Such a position needs to be assessed in conjunction with the debate in the Talmud (*Makkot* 9a) whether a non-Jew who believes that murder is not prohibited by the Noahide laws and commits murder is to be held liable or not. Rava, who holds that he is liable, states that this is so because "he should have learned but did not do so." One can question whether such an expectation is reasonable in a society where non-Jews have no reason to think that they are under any religious obligation whatsoever from a Jewish perspective and most probably could not be persuaded of this fact. Such a situation, I believe, is more similar to *tinok shenishbah*, an infant taken captive, than to *omer muttar*, one who is simply uninformed about the particulars of his obligations. A *tinok shenishbah* is not held liable for any of his actions and inasmuch as the concept of *tinok shenishbah* is used today to discount the transgressions of non-observant Jews, it seems reasonable that this concept can be extended to non-observant Noahides as well. This, or something close to this, might be the thrust of R. Yosef's statement.<sup>16</sup>

Let me be clear. I do not mean to suggest that non-Jews would not be held *ethically* responsible for acts of murder, stealing, and the like. The question here is, rather, whether they can be held *religiously* responsible. Is the specific *religious* system that has been revealed through the Noahide *commandments* one to which they can continue to be held accountable. R. Yosef, I believe, says that they cannot.

<sup>16</sup> It should be noted that the *drashot* based on the verse "He sees and makes the nations tremble" that are found in the *midrashei halakhah* and *midrashei aggaddah* are uniformly negative. See, for example, *Mekhilta deRebbe Yishmael* on Exodus 20:2, and *Vayikra Rabbah* 13:2. Nevertheless, there is no reason that R. Yosef could not have adopted a more positive, or forgiving, read of this verse.

Such a reading of R. Yosef's position runs counter to its interpretation in the Talmud. Nevertheless, and somewhat surprisingly, a number of Ahronim, and perhaps even one Tosafot, take R. Yosef's statement on its face value, and apparently reject the interpretation of Mar bar Rabina.<sup>17</sup> One Aharon even goes so far to state: "It is an astonishment that Rambam rules that non-Jews are liable death for transgressing their obligations, for behold, God has already released them therefrom!"<sup>18</sup> According to these Ahronim, as a matter of practical *halakhah*, non-Jews are not held liable today for their transgressions against the Noahide commandments, in accordance with the simple meaning of R. Yosef's statement.

## V. CONCLUSION

The conclusion of the Talmudic *sugyah* from *Avodah Zarah* was that non-Jews are held liable for their transgressions and only receive partial reward for their *mitzvot*. Putting together the original statement of R. Yirmiyah/R. Meir and what is perhaps the original meaning of R. Yosef's statement, we are presented with a diametrically opposed conclusion. To wit, non-Jews are not to be held responsible for their transgressions nowadays, but if they choose to connect to the Jewish religion and perform its *mitzvot* as non-Jews, their reward will be as great as that of any Jew!

What emerges from the preceding analysis is not only a fuller appreciation of R. Yosef's and R. Yirmiyah/R. Meir's positions. There is in addition the recovery of important voices within the Jewish tradition that articulate an ethos that is particularly resonant with the ethical sentiments of many Jews today.

Many observant Jews today are ethically conflicted by the inequitable treatment between Jews and non-Jews that is found within *halakhah*. The halakhic work for addressing these inequities is already being done by important *posekim*. In this halakhic endeavor the recovery of such original positions as we have done is largely irrelevant, inasmuch as *halakhah* follows the interpretation that the *Gemara* gives to the statements of the Tana'im and Amora'im. Nevertheless, many committed Jews are often left feeling that even when halakhic solutions are being found, they run counter to the ethos of the system, and are to some degree disingenuous and lacking in integrity. "Should we be bending the *halakhah* to conform to our modern notions of egalitarianism?" is a reasonable question to ask and a hard one to answer. An honest answer requires finding within the Talmud voices that articulate those same values that are driving us.<sup>19</sup>

<sup>17</sup> See Rav Ovadia Yosef, *Shu"t Yabia Omer*, vol. 2, *Yoreh Deah*, no. 15, subsection 10, who cites these positions.

<sup>18</sup> Maharit, as quoted in *Mikra'ei Kodesh* (R. Hayyim Abulafia), on *Bava Kamma* 35a.

---

If such voices truly exist, we can maintain our fidelity not just to the forms of the system, but to its values as well. The halakhic import of R. Yirmiyah/R. Meir's statement has to be dealt with in the context in which the Gemara interpreted it, but there is no denying the universalistic religious ethos that was held by R. Yirmiyah/R. Meir. Now is the time when such voices must be heard.

---

<sup>19</sup> It seems to me that even liberal positions found in the Rishonim, such as those of Meiri, need to be consistent with the ethos of the Talmud.