

“זה ספר תולדות האדם: היחס ללא יהודים ביהדות המסורתית” עיון בתשובתו של הרב ראובן המר

The full text of the responsum:

<https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/hammer-non-jews-law-lore.pdf>

Just a few weeks ago, Rabbi Yosef Elitzur, co-author of *Torat HaMelech*, a “halachic” book that explained why it is sometimes permissible to kill non-Jews, was arrested and charged with incitement toward violence. The arrest has reignited interest in the question of how Jewish law instructs us to relate to non-Jews in the 21st century, as Jewish tradition includes many positive as well as negative statements about non-Jews. This study session will look at the thought process behind Rabbi Reuven Hammer’s 2016 responsum questioning how we are to relate to non-Jews in Jewish law.

Hammer presents today’s challenge in his introduction:

For the first time in thousands of years, a Jewish State governs the lives of non-Jews. Jews constitute the majority and must deal with the status of the non-Jewish minority. Even though Jewish Law is not the civil law of Israel, it is influential and has been used by State appointed rabbis to make determinations about the rights of non-Jews that are discriminatory such as forbidding renting of rooms to Arab students. Even the Chief Sephardi Rabbi has made public statements questioning the right of Gentiles to live in the Land of Israel. Such negative teachings have led to halakhic decisions condoning violence....It is therefore imperative that we deal with these matters and rule on them for the worldwide Jewish community. What was once a theoretical problem or a merely a matter of embarrassment has now become a practical matter of great importance.

(Hammer pp. 1-2)

Theoretical Questions for Discussion before Looking at the Sources:

- 1) What are/should be the boundaries for distinguishing between Jews and non-Jews according to Jewish law? (Should non-Jews be counted a minyan? Should we be drinking wine with non-Jews? Eating at their houses? Marrying them? Should we be allowed to break shabbat to save their lives?)
- 2) What are the values that should guide us in developing a nuanced approach toward distinguishing between Jews and non-Jews?
- 3) Should there be a difference between practical Jewish attitudes toward Jews and non-Jews in the Diaspora, particularly in democratic countries where Jews have equality, and in Israel?

We will now look at some various attitudes--positive, negative, and more ambivalent--toward non-Jews in order to see the complexity of the issue in our tradition. These sources should be read with an eye to the question, “Is there such a thing as a singular Jewish attitude toward Non-Jews”?

Attitudes of Jewish Sources toward Non-Jews through the Ages:

Positive Attitudes

- 1) The Mishnah in Sanhedrin teaches two important lessons from the story of Genesis, expanding on the notion that all humans are created in the Divine Image (ספר בראשית, Sanhedrin 4:5)

לפיכך נברא אדם יחידי בעולם, ללמד שכל המאבד נפש אחת, מעלים עליו כאילו איבד עולם מלא; וכל המקיים נפש אחת, מעלים עליו כאילו קיים עולם מלא. ומפני שלום הבריות, שלא יאמר אדם לחברו, אבא גדול מאביך.

The first person was created alone in order to teach that whoever destroys one life, it is as if he has destroyed an entire world; whoever saves one life, it is as if he has saved an entire world. Furthermore, to promote peace amongst humanity, so that no person can say, “My ancestors are greater than yours.”

- 2) Many places in the Torah instruct the Israelites to treat non-Israelites amongst them in the same manner as they treat their own, such as Exodus 22:20.

וְגַר לֹא-תוֹנֶה, וְלֹא תִלְחָצֶנּוּ: כִּי-גֵרִים הֵייתֶם, בְּאֶרֶץ מִצְרָיִם.

Do not wrong or oppress the stranger, for you were strangers in Egypt.

Mixed Attitudes

- 3) Commandment to completely destroy Canaanite cities is a result of their practices (Deut:20:16-18)

רַק, מִעַרֵי הָעַמִּים הָאֵלֶּה, אֲשֶׁר הִ' אֶל-לִהְיֶה, נָתַן לָךְ נִחְלָה--לֹא תַחֲיֶה, כָּל-נַשְׁמָה. כִּי-הָחֵרַם תַּחֲרִימם, הַחַתִּי וְהָאֱמֹרִי הַכְּנַעֲנִי וְהַפְּרִזִּי, הַחִוִּי, וְהַיְבוּסִי--כַּאֲשֶׁר צִוֶּךָ, הִ' אֶל-לִהְיֶה. לְמַעַן, אֲשֶׁר לֹא-יִלְמְדוּ אֶתְכֶם לַעֲשׂוֹת, כָּל תּוֹעֵבוֹתֵם, אֲשֶׁר עָשׂוּ לֵאלֹהֵיהֶם; וְחָטְאתֶם, לַה' אֶל-לִהְיֶכֶם.

Do not allow anyone to remain alive from the cities of the Canaanite nations, so that they cannot teach you their ways and their abominations and so you will not sin against God.

- 4) Jews are special because of their covenant with God, but all of humanity is special in God's eyes

Humanity as a whole is more precious to Me than the lower forms of existence, since man is the central figure in creation...However, the difference between (Jews and non-Jews) in the hierarchy of the universe is that although...the righteous of the nations are precious to Me without a doubt, 'you shall be a kingdom of priests to Me.' This is your distinction. (Hammer's summary of Seforno's commentary to Exodus 18:5-6)

Negative Attitudes

- 5) Rabbi Shimon Bar Yochai expounded a verse in Ezekiel to claim that Jews are "adam" but non-Jews are not. While Bar Yochai explicitly made this statement in order to make a claim that non-Jewish corpses do not impurify, the statement has been repeated in later literature as a general claim.
- אתם קרויין אדם ואין העובדי כוכבים קרויין אדם (יבמות סא ע"א, בבא מציעאה קיד ע"ב)
- 6) Jewish law frequently distinguished between Jews and non-Jews, even permitting stealing from non-Jews. This was done as a result of the common phrase רעה appearing in the prohibitions against theft (and even against murder), which was predominantly understood in Talmudic times as referring only to fellow Jews.

The Following is an example of how Rabbi Hammer resolves the disparity of how Jews and non-Jews are treated in economic laws.

(T)he nations had been specifically declared to be outside the normal rules of the community because they themselves did not observe the rules of equity and justice they had been commanded. Therefore the same laws of monetary justice did not apply to them. This concept is a wide ranging one with serious implications for the status of Gentiles according to Jewish law. It is certainly unacceptable today by any concept of equity, but even in earlier times it came under question. Since in the Talmudic text the Mishnah here mentions not strangers – nokhrim or goyim – but 'Canaanites,' some later interpreters took advantage of this and said that this rule excluding non-Jews applied only to the Canaanite nations – who no longer existed at that time. Therefore it was a law with no practical application to anyone. Furthermore...in medieval times the Meiri ruled this would not apply to those who are followers of a non-idolatrous religion, which included all Christians and Muslims. (Hammer p. 15)

Question: Can we justify past statements that are anathema to us today as the result of historical sources? How do we decide what our current attitudes should be?

Hammer's Conclusion:

The basic concepts of Judaism that we expound and espouse judge both Jews and non-Jews on the basis of their actions and words and do not consider Gentiles inherently evil. All human beings are to be seen as descendants of the same primal parents and all are children of the One God, created in the Divine Image. We affirm the midrashic statement that God treats all equally, "Whether one is an Israelite or a Gentile, a man or a woman, a slave or maidservant, whoever does a mitzvah receives a reward for it." We specifically reject the ideas found in Jewish writings, be they ancient, medieval or modern, that consider Jews to be inherently superior to Gentiles or that the soul of non-Jews is somehow inferior to that of Jews. The belief in the superiority of Jews (or Jewish souls) over non-Jews contradicts the basic laws or teachings of the Torah and of Rabbinic Judaism as found in the Mishna, Talmud, and Tannaitic Midrashim. These concepts are contrary to the Torah's basic teaching that all human beings are created in the Divine Image and should not be considered part of accepted Jewish belief.

In view of the fact that the 20th century was the time when Jews in particular suffered and were murdered as a result of doctrines of racial superiority and racial inferiority, we must be especially careful regarding anything that can lend credence to such beliefs. Furthermore we have seen that these teachings lend legitimacy to and lead to conduct in which Jews harm non-Jews and their property and even to the shedding of blood. There is no greater Hillul HaShem than this. It is therefore incumbent upon the leaders of Judaism to eschew any such doctrines and reaffirm the Torah's basic belief in the inherent equality of humankind created in the Divine Image.