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The Obligation of Jews to Seek Observance of Noahide Laws by Gentiles: A Theoretical Review¹

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When one sees a Noahide sinning, if one can correct him, one should, since God sent Jonah to Nineveh to return them to his path.

—Sefer Hasidim (Wistinetzki edition [Frankfurt, 1924], Section 1124)

INTRODUCTION

This paper will address the scope of *halakhah's* mandate upon Jews to enforce the seven Noahide commandments, as well as any other rules

¹Rabbi Howard Jachter commented on a version of this article, and his comments were appreciated. For excellent works surveying issues concerning Noahide law generally, see Rabbi J. David Bleich, "Mishpat Mavet be-Dinei Benei No'ah," *Jubilee Volume in Honor of Moreinu Hagaon Rabbi Joseph B. Soloveitchik*, eds., S. Yisrachi, N. Lamm, and Y. Rafael (Jerusalem: Mosad Ha-Rav Kook, 1984), 1; 193–208; Rabbi J. David Bleich, "Hasqarat Poshei'a Yehudi Shebarah

Jewish law mandates that gentiles should keep.² It will do so from a purely theoretical perspective, without any attempt to apply the rules devel-

le-Eretz Yisrael," *Or Ha-Mizrah* 35 (5747):247-269; Nahum Rakover, "Jewish Law and the Noahide Obligation to Preserve Social Order," *Cardozo Law Review* 12 (1991):1073-1136; Nachum Rakover, "*Ha-Mishpat ke-Erekh Universal: Dinim bi-Benei No'ah*" 15-57 (5748); *Entziklopedyah Talmudit*, "*Ben No'ah*" 3:348-362; Aaron Lichtenstein, *The Seven Laws of Noah*, 2d ed. (New York: Rabbi Jacob Joseph School, 1986). (As a general matter, I have tried to provide citations to both English and Hebrew versions of works, when both exist, for the convenience of some readers.)

I do not address the merits of alternative rationales for enforcing the Noahide commandments, such as, for example, to teach and direct the Jewish community. In a famous story, often recounted, Rabbi Yisra'el Salanter favored the translation of the Talmud into German and its introduction in the curricula of German universities; when asked to explain his support, he replied that if the gentiles thought Talmud study is important, maybe the Jews would study it also! For a detailed discussion of this issue, see Dov Katz, *Tenu'at Ha-Musar* (Tel Aviv, 1945-56) 1:22-25 and Rabbi J. David Bleich, *Contemporary Halakhic Problems* (New York: Ktav, 1983), 319-320. So, too, that rationale could be advanced to support enforcement of the seven commandments. See also the postscript for more on this issue.

The term "Noahide" is used in the rabbinic literature to denote anyone who is not Jewish. See generally Rashi, *Nedarim* 31a and R. Aaron Kirschenbaum, "The Covenant with Noahides Compared to the Sinai Covenant" *Dinei Israel* 6 (5735): 31-48. More specifically, as noted by Ritva, *Makkot* 9a, "Noahide" denotes a gentile who keeps the Noahide commandments, "*ger toshav*" denotes a gentile who formally accepts the commandments, and "gentile" denotes one who has done neither. An *eved kena'ani* ("Canaanite slave") is generally not thought to be a Noahide; see Rashi, *Sanhedrin* 58b. See also Rabbenu Gershom, *Keritut* 9b and *Me'iri* 48a, both of whom appear to classify a *ger toshav* as a partial convert; see also Rabbi Howard Jachter, "*Kedushat Yisra'el la-Hatzain*" *Beit Yitzhak* 24 (5742): 425-428.

²As noted by *Sefer ha-Hinukh* 416, although classically referred to as "seven" commandments in the Talmudic literature (see *Tosefta* A.Z. 9:4 and *Sanhedrin* 56a), these commandments include far more than seven obligations. As noted in *The Seven Laws of Noah* supra note 1, at 90-91, these seven commandments correspond to nearly 60 of the 613 *mitzvot* given to the Jews, or one in four of those obligations practical since the destruction of the Temple and exile from the Land. Even the Talmud readily acknowledges this fact; see *Hullin* 92a. In

oped to America in the 1990s or any other particular (factual) setting.³ Rather, the purpose of this article is to determine which options concerning enforcement are halakhically *acceptable*. In the field of "Jewish public policy," the first question that must be asked is which (if any) of the theoretical options are prohibited by Jewish law. After that question is answered, one can consider which of the remaining options most closely accomplishes whatever Jewish goal is sought.⁴

Part 1 of this article outlines what are the Noahide commandments, and identifies their place in a halakhic system. Part 2 discusses the obligation of both Jews and Noahides under the rubric of the commandment called *dinim* (literally: "laws" or "justice"). Part 3 reviews the various opinions on the obligation of Jews to enforce the Noahide commandments. Part 4 considers not only whether enforcement must be sought, but whether in situations where enforcement is not possible, Jewish law mandates Jews to seek to persuade Noahides to obey their commandments. It considers also whether—when persuasion fails—Jewish law,

my opinion, there is a dispute on how to understand this talmudic section. Are the thirty obligations mentioned there explanations and elaborations on the seven, or are they additional commandments not included in the seven? Rabbi Menahem Azaria Mifano, *Asara Ma'amrot, Ma'amar Hoker Din* 3:21 clearly understands them as mere explanations. On the other hand, Shmuel ben Hofni Ga'on seems to understand them as additional commandments; see his commentary on Gen. 34:12; see also Jerusalem Talmud, *Avodah Zarah* 2:1, which states "These thirty commandments Noahides will accept upon themselves in the future." This distinction leads to some very practical differences; see Rabbi J. David Bleich, "Divine Unity in Maimonides, the Tosafists and Meiri," in *Neoplatonism and Jewish Thought*, ed. Lenn E. Goodman (1992), 237–254; he uses the opinion of Shmuel ben Hofni to explain an insight of Me'iri which has practical ramifications.

³As with any specific halakhic ruling, but even more so in this one, that application requires evaluation of the impact on society at large. Thus, there might be no halakhic obligation to seek enforcement when it is clear that there is no possibility of success (however defined) or that profound harm would befall the Jewish community if enforcement was sought; for more on this, see postscript. For a discussion of this issue in the context of enforcement of Jewish law within a Jewish community, see *Tehumin* 7:107–144 (articles by Rav Moshe Malka, Rav Yitzhak Zilberstein, Rav Simha Kook, and Rav Yisra'el Rosen).

⁴For more on this issue, see postscript.

at the minimum, requires that one may not assist a gentile in violating the Noahide commandments.

THE NOAHIDE LAWS

Preliminary Issues

Before one can explore the obligation upon Jews to enforce Noahide law, it is necessary to determine if Jewish law accepts that these commandments are still binding on Noahides. The Talmud recounts, as one possible resolution of an unrelated tort law problem, that "God observed the gentiles of the land—What did He see? He saw that the seven commandments He gave the Noahides were not observed and thus He permitted these seven commandments to them."⁵ Based on this assertion, Bah,⁶ Rabbi Hayyim Abulafia,⁷ *Penei Yehoshu'a*,⁸ Maharit⁹ (and perhaps *Hatam Sofer*¹⁰ and a version of *Tosafot*¹¹) all indicate that gentiles are no longer legally obligated even to keep the Noahide commandments and those who do keep them would be in the status of one "not obligated and observing."¹² This can perhaps be inferred from the comments of Rashi,

⁵*Bava Kamma* 38a. For a use of this talmudic text in a different context, see Responsa of Rabbi Hildesheimer, *Yoreh De'ah* 259.

⁶*Haggahot ha-Bah*, *Hagigah* 13a. The reference in Bah to *Ein Ya'akov* is to the version of *Tosafot* printed in *Ein Ya'akov* on *Hagigah* 13a. See also *Responsa Rama Mefano* 30.

⁷*Sefer Etz Haim*, beginning of Gen. 37, quoting Maharash Algazi from *Ahavat Olam*.

⁸*Responsa Penei Yehoshua*, *Yoreh De'ah* 1:3 and *Even Ha'ezer* 2:43.

⁹Quoted in *Makrai Kodesh* 63a. For a discussion of the opinions of Rabbi Haim Abulafia, *Penei Yehoshua* and Maharit, see *Yabi'a Omer*, *Yoreh De'ah* 3:17(10).

¹⁰Commentary on *Orah Hayyim* 39; but see *Hatam Sofer Hoshen Mishpat* 185, where he indicates that he does not, in fact, accept this theory as correct.

¹¹*Tosafot* on *Hagigah* 13a quoted in *Ein Ya'akov* on *Hagigah* 13a. I have no explanation for the differences between the *Tosafot* on *Hagigah* 13a in *Ein Ya'akov* and the version of *Tosafot* in all of the various talmudic sources. The version of *Tosafot* found in *Ein Ya'akov* is not found in the other alternative versions of *Tosafot* commonly consulted.

¹²See *Kiddushin* 29b–30b for a discussion of this status.

as well.¹³ As noted in *Penei Yehoshu'a*, if these commandments are no longer binding on Noahides, the problems associated with assisting a violation or not encouraging observance would greatly decrease. And, indeed, *Penei Yehoshu'a* rules that the only thing that would still be prohibited would be actually enticing them to do something that Noahides cannot do without the assistance of a Jew.¹⁴

Most authorities reject this insight and accept that the Noahide commandments are fully binding.¹⁵ They argue that it is difficult to accept that all of the talmudic discussions concerning Noahide law are predicated on the *unstated assumption of the abrogation of the Noahide obligation* or even the abrogation of the biblical obligation.¹⁶ Indeed, this position appears to be rejected by every single one of the early authorities (*rishonim*) who codified the Noahide laws¹⁷ and the numerous later authorities (*aharonim*) who did so.¹⁸ It is safe to state that Jewish law treats

¹³*Avodah Zarah* 6a.

¹⁴He understands even this only as a rabbinic prohibition; but see page 129–134 of this article, which indicates that it is normally considered a biblical prohibition.

¹⁵*Responsa Beit Yehuda Yoreh De'ah* 17; *Sedei Hemed* 6:26:22 (in the name of numerous authorities); *Yabi'a Omer Yoreh De'ah* 2:17(10); *Yad Eliyahu* 48 and many others.

¹⁶Whether there could be any Noahide obligation based on a rabbinic commandment is subject to some debate; see *Sedei Hemed* 2:32–33. To me, it would seem logical that there can be no rabbinic obligation on gentiles to keep the Noahide laws, as there is no obligation on gentiles to keep rabbinic rules. That does not, however, mean that there can be no rabbinic decrees ever governing Noahides; see *ibid.* However, the central obligation to observe cannot be rabbinic; Rashi, *Sanhedrin* 58b (*ve-likelal yisra'el lo ba*) clearly indicates that a rabbinic decree cannot govern one who is not Jewish. This issue is perhaps related to the question of whether Noahides must follow majority rule. Compare *Peri Megadim, Yoreh De'ah, Sha'ar Ha-Ta'aroret* 1:1(3) with *Noda Be-Yehudah, Tinyana, Even ha-Ezer* 42 with *Hatam Sofer, Yoreh De'ah* 70 and *Maharam Shick, Orach Hayyim* 104.

¹⁷See e.g., Maimonides, *Kings* chapters 7–9 and various other *rishonim* discussed in parts II–V of this article who refer to the seven commandments in a way which indicates that they are biblical in origin.

¹⁸See e.g., *Arukh ha-Shulhan he-Atid Kings* 78 and the numerous *aharonim* cited in parts II–V of this article, all of whom discuss the issue of Noahide obligation assuming that it is biblical in nature.

the Noahide laws as binding.¹⁹ Indeed, there are numerous discussions within the *Shulhan Arukh* and its commentaries, which simply assume that the Noahide laws are fully binding.²⁰

A second preliminary issue is whether the unintentional violation of one of the Noahide commandments leads to legal culpability in Jewish law. Based on a statement of Maimonides,²¹ *Minhat Hinukh* rules: "When is it prohibited to hand a Noahide something forbidden to him? This is only when he knows that it is prohibited; but when he does not know that it is prohibited, there is no prohibition, since in this case there is complete unintentionality (lit: *shégagah gemurah*) and a Noahide violates no rule when his violation is completely unintentional."²² If this *Minhat*

¹⁹I am inclined to read the authorities cited in notes 6 to 10 (and the related Talmudic text) as perhaps standing for a lesser proposition: Noahides are only obligated to obey the seven commandments based on logic or natural law, and they are released from adhering to them solely because of a divine revelation. This perhaps can be implied from Tosafot, *Hagigah* 13a (which seems to indicate that observance of the seven commandments is possible independent of the study of Torah), Rabbeinu Nissim Ga'on in his introduction to Talmud (printed as the preface to *Berakhot*) (which discusses the obligations upon all people to obey logical rules) and Maimonides, *Kings* 8:11 (which discusses whether Noahides who rationally observe the commandments are acting meritoriously assuming the text is changed from *ve-lo* to *ela*, as indicated by Maharam Alshikh). Supporting this alternative reading of Maimonides, Rakover, "Jewish Law and the Noahide Obligation to Preserve Social Order," *Cardozo Law Review* 12 (1991):1073-1136, fn 28, states in part: "The reading, 'of their wise men,' (*'ela mehakhmeihem'*) is to be found only in manuscripts and not in printed editions of Maimonides' Code. The same reading may be found at Y. ben Moshe, Introduction to *Ma'aseh ha-efod* (1403) (Rabbi Yitzhak ben Moshe is also known as Profiat Duran halevi of Catalonia); and at Y. ben R. Shem Tov, *Kevod Elokim* 29:1 (1556). See also Z. Hayyot, [1 Kol Sifrei Maharatz Hayyot 61], at 66; Maharatz Hayyot, 2 Kol Sifrei Maharatz Hayyot 1035 . . . ; A. Kook, *Iggeret Re-iyah*, *Iggeret* no. 89, 100."

²⁰See, for example, Rama, *Orah Hayyim* 156:1; *Shulhan Arukh Yoreh De'ah* 169; *Even Ha-Ezer* 5:14 (and comments of *Helkat Mehokek*). Many such citations could be brought.

²¹See *Kings* 10:1, which states "a Noahide who unintentionally violates one of the *mitzvot* is excused from them all."

²²*Kometz ha-Minhah* 232 (reprinted as part of the text in the new *Minhat Hinukh* 232).

Hinukh is correct, a case could be made that Noahides are, in fact, *better served* by not teaching them laws.²³

Many authorities disagree with the *Minhat Hinukh* and limit the permissive ruling to a situation where the Noahide recognizes the category of activity as prohibited, but merely does not recognize this particular action as in violation.²⁴ However, when the Noahide does not recognize the whole category of activity as prohibited, his actions still rise to the level of legal culpability.²⁵ Others simply reject the whole insight of the *Minhat Hinukh* and base their view on an explicit passage in the *Tosafot*,²⁶ which appears to do the same.²⁷ These authorities rule that Noahides are always obligated to obey the law and culpability is thus always present. Thus, it is well established that gentiles benefit from being taught the Noahide laws.

The Content of Noahide Laws

Having established that the Noahide commandments are binding on gentiles, and that lack of knowledge does not excuse obligation, it is necessary to explore what the commandments are. The Talmud²⁸ lists

²³See also *Peri Megadim Orah Hayyim* 443:5 and 444:6, which is argued with by *Derishah Yoreh De'ah* 297(1-2).

²⁴For example, it would be permissible for a Noahide to eat a piece of flesh from a living animal in a situation where he did not know that this meat comes from a living animal, but knows that if it had, he would not be allowed to eat it.

²⁵For example, it would be prohibited for a Noahide to eat a piece of flesh from a living animal in a situation where he knows that this meat comes from a living animal, but is unaware that this flesh is prohibited.

²⁶See *Tosafot, Bava Kamma* 79a.

²⁷See *Aveni Melu'im Even ha-Ezer* 5; *Sedei Hemed* 5:26:13; *Terumat Ha-Deshen* 299; *Arukh ha-Shulhan Yoreh De'ah* 62:6; *Responso Rav Betzalel Ashkenazi* 3 (in the name of Radvaz also).

²⁸*Sanhedrin* 56a. Indeed, the source for these laws plays a role in their interpretation. As noted by Rama, responsum 10 (to be discussed *infra*): if the sources for these rules are biblical verses directed at Adam or Noah, they are to be interpreted independently of the subsequent revelation at Sinai. Rama states: "It is recounted in *Sanhedrin* 56b. Rabbi Yohanan states that the seven Noahide laws were given based on the verse 'God commanded Adam stating: from all the trees in the garden you may eat' [Gen. 2:16]. "Va-yetzav" is the source for

seven categories of prohibition: idol worship, taking God's name in vain, murder, prohibited sexual activity, theft, eating flesh from a living animal, and the obligation to enforce laws. These seven commandments are generalities that contain within them many specifications—for example, the single categorical prohibition of sexual promiscuity includes both adultery and the various forms of incest.²⁹ As has been noted already, these Noahide laws encompass nearly 60 of the 613 biblical commandments incumbent on Jews, which is nearly one in four of those biblical commandments generally applicable in post-Temple times.³⁰ What might sometimes make the practical application of the Noahide laws difficult is the frequently wide divergence of opinion found within the various Jewish authorities concerning details of many Noahide laws. A simple example illustrates this.

The Jerusalem Talmud recounts that there is no formal divorce according to Noahide law.³¹ The *rishonim* understand this in three completely different ways. Some claim that this means that divorce is legally impossible for a gentile and once married there is no way to end the marriage.³² For others, the talmudic passage means that there is no formal process of divorce, and either spouse can end the marriage by simply leaving the family unit.³³ Still other authorities insist that,

dinim since it states . . . "Elokim" is the source for *birkhat ha-Shem*, since it states. . . . Contrary to this is the opinion of Rabbi Yitzhak who states that "*Va-yetzav*" is the source for the prohibition of idol worship; "Elokim" is the source for the *dinim*. . . ." Rama continues: "Rabbi Yohanan, who learns *dinim* from '*Va-yetzav*,' understands that Noahide law obligates only observing the customs of the community and judging people. . . . However, Rabbi Yitzhak has a completely different approach and he learns *dinim* from 'Elokim' as a *gezerah shaveh* from the verse 'and the litigant shall approach the judge ("Elokim")' [Ex. 20:3]. He rules that Noahide laws are the same as those laws commanded to the Jews at Sinai, and thus he learns them from a verse announced at Sinai."

²⁹According to Shmuel ben Hofni, 30 specific commandments are included; see generally appendix to *Entziklopedyah Talmudit* 3:394–396 and *supra* note 2.

³⁰See Lichtenstein, *The Seven Laws of Noah*, 90–91.

³¹Jerusalem Talmud *Kiddushin* 1:1; see generally *Kings* 2:16.

³²See *Hiddushei ha-Ran Sanhedrin* 58b; see also *Penei Yehoshua*, *Kiddushin* 13b, which insists that this applies even after the death of the spouse.

³³Maimonides, *Ishut* 1:1–2 and *Kings* 9:8.

in Noahide law, a man may never divorce his wife—but she may divorce him at will.³⁴ Similar disputes touch many core areas of Noahide law, leaving the resolution of many cases very difficult to determine.³⁵ Before one seeks to apply the details of Noahide law to issues in current society, then, it is necessary to determine what precisely is the Noahide obligation.³⁶

However, disputes about the details should not be allowed to undermine the clarity of the general principles. The application of Noahide law to many general areas is relatively clear. Homosexuality is forbidden,³⁷ as are adultery³⁸ and bestiality.³⁹ Murder is prohibited, and subsumed in the prohibition of murder is abortion.⁴⁰ So, too, most forms of theft are prohibited, as is eating the flesh of a living animal.⁴¹ Indeed, the general Noahide laws share a common base of “ethics,” which most religious peoples would share.⁴²

³⁴Opinion of Rabbi Yohanan, *Bereshit Rabbah* 18:5; see also commentary of Rashi on *id.* for an elaboration on this.

³⁵For example, the nature of the monotheistic obligation and its application to contemporary religions; see *Entziklopedyah Talmudit*, supra note 1, at 350–351 or the obligation of *dinim* discussed in part III; whether Noahides are prohibited to perform castrations or grow *kelayim*; *Entziklopedyah Talmudit*, supra note 1, at 356–357, and many others.

³⁶This paper is not the place to address the details of the Noahide laws. For such an analysis, see Lichtenstein, *The Laws of Noah*, supra note 1.

³⁷*Entziklopedyah Talmudit*, supra note 1, at 353–354.

³⁸*Entziklopedyah Talmudit*, supra note 1, at 353–354.

³⁹*Entziklopedyah Talmudit*, supra note 1, at 354.

⁴⁰*Entziklopedyah Talmudit*, supra note 1, at page 351. As noted by Rabbi Waldenberg, *Tzitz Eliezer* 9:51 (page 239), what flows from this assertion is that if a Jewish woman is permitted to have an abortion according to Jewish law, it is preferable that the doctor performing the abortion be Jewish and not a Noahide.

⁴¹*Entziklopedyah Talmudit*, supra note 1, at pages 354–55.

⁴²However, many things that are considered general wrongs by both Jewish law and the general Western legal codes, are not considered violations of the Noahide code. For example, various forms of incest considered wrong by most Western legal systems and Jewish law are permitted in the Noahide code; see *Entziklopedyah Talmudit*, supra note 1, at 351–2.

THE OBLIGATION OF "LAWS" OR "JUSTICE"⁴³

The final commandment in the Noahide code is *dinim*, commonly translated as "laws" or "justice." Two vastly different interpretations of this commandment are found among the early authorities. Maimonides rules that the obligations of *dinim* require only that the enumerated Noahide laws be enforced in practice. "How are [Noahides] obligated by *dinim*? They must create courts and appoint judges in every province to enforce these six commandments . . . for this reason the inhabitants of Shekhem [the city] were liable to be killed⁴⁴ since Shekhem [the person] stole⁴⁵ [Dinah], and the inhabitants saw and knew this and did nothing."⁴⁶ According to Maimonides, it is logical to assume that other types of regulations that society might make are subsumed under the rubric of either "laws of the land" or "laws of the king." Their binding authority is quite different.⁴⁷

Nahmanides argues with this formulation and understands the obligations of *dinim* to be much broader. It not only encompasses the obligations of society to enforce rules, but also obligates society to create general rules of law governing such cases as fraud, overcharging, repayment of debts, and the like.⁴⁸ Within the opinion of Nahmanides, there is a secondary dispute as to which substantive laws Noahides are supposed to adopt. Rama, writing in his responsa,⁴⁹ states that according to Nahman-

⁴³For an excellent review of the Noahide commandment of *dinim*, see Rakover, *supra* note 1 (both articles).

⁴⁴See Gen. 34.

⁴⁵As to why Maimonides uses the word "stole" see *Sanhedrin* 55a and Hatam Sofer *Yoreh De'ah* 19.

⁴⁶*Kings* 10:14.

⁴⁷See generally *Teshuvot Hakhmei Provence* 48, which clearly distinguishes between regulations based on the Noahide laws and regulations based on the law of the land or the law of the king. For more on this distinction, see Arnold Enker, "Aspects of Interaction Between the Torah Law, the King's Law, and the Noahide Law in Jewish Criminal Law," *Cardozo Law Review* 12 (1991) 1137-1156.

⁴⁸Commentary of Nahmanides on Gen. 34:14.

⁴⁹Responsa of Rama 10. His ruling is also accepted by Hatam Sofer *Hoshen Mishpat* 91 and R. Ya'akov Linderbaum (R. Yaakov mi-Lisa), *Responsa Nahalat Ya'akov* 2:3.

ides, in those areas of *dinim* where gentiles are supposed to create laws, they are obligated to incorporate Jewish law into Noahide law unless it is clear contextually that it is inappropriate. Most authorities reject this interpretation and accept either Maimonides' ruling or that, according to Nahmanides, those rules created under the rubric of *dinim* need be only generally fair and not identical to Jewish law.⁵⁰ I cannot find even a single *rishon* who explicitly accepts the ruling of Rama, and one can find many who explicitly disagree.⁵¹

The dispute concerning the nature of the commandment called *dinim* is extremely relevant in explaining the obligation of Jews to provide guidance and seek enforcement of the Noahide laws. It seems to me that Maimonides accepts that the biblical commandment of *dinim* (or some Noahide cognate of it) compels enforcement by all—Jews as well as gentiles—of these seven laws, perhaps because Jews, too, are bound by them.⁵² In his explanation of the laws of *dinim*, he does not limit them to

⁵⁰See Rabbi Y. Elhanan Spector, *Nahal Yitzhak Hoshen Mishpat* 91; R. Abraham Isaiah Karelitz, *Hazon Ish al Hilkhhot Melakhim* 10:10 and *Bava Kamma* 10:3; R. Isser Zalman Meltzer, *Even ha-Azel, Hovel u-Mazzik* 8:5; R. Yehiel Mikhael Epstein, *Arukh Ha-Shulhan he'Atid, Law of Kings* 79:15; R. Naftali Tzvi Yehudah Berlin, *Ha-amek She'alah* 2:3; R. Abraham Kook, *Etz Hadar* 38, 184; R. Tzvi Pesah Frank, *Har Tzvi, Orah Hayyim II, Kuntres Mili de-Berakhot* 2:1; R. Ovadia Yosef, *Yehaveh Da'at* 4:65; R. Yitzhak Ya'akov Weiss, *Minhat Yitzhak* 4:52:3. For a more complete analysis of this issue see N. Rakover, "Jewish Law . . ." (n. 1 above) 1098–1118, and app. 1 and 2.

⁵¹Most authorities do not accept Nahmanides' opinion; see e.g., Maimonides, *Kings* 10:10; R. Yom Tov Ashvealli (Ritva), *Responsa* 14 (quoted in *Beit Yosef Hoshen Mishpat* 66:18); Tosafot, *Erwin* 62a ("Ben No'ah"). The comments of Albo are also worth citing: "One finds that although Torah law and Noahide law differ in the details, the principles used are the same, since they derive from the same source. Moreover, the two systems exist concurrently; while Jews have Torah law, the other peoples abide by the Noahide code" (*Sefer ha-Ikkarim* 1:25).

⁵²Maimonides asserts in his commentary on the Mishnah (*Hullin* 7:6) that the reason why these seven commandments are obligatory is that God commanded these seven laws as part of the divine revelation at Sinai. Based on this, the Ba'al Haturim notes that 620 commandments were revealed at Sinai, which he remarks is hinted at by the 620 letters in the Ten Commandments. Interestingly, *Mahzor Vitri* notes that only 606 commandments were given to the Jews

Noahides only. Writing much more recently, Rabbi Yosef Engel,⁵³ Rabbi Me'ir Simhah Devinsk, Rabbi Yehiel Ya'akov Weinberg, Rabbi Shlomo Zalman Auerbach,⁵⁴ and Rabbi Moshe Feinstein⁵⁵ all seem to indicate that there is some residual jurisdictional impact upon Jews from their Noahide obligation. For example, Rabbi Me'ir Simhah says that if a Jewish child who is not yet a bar or bat mitzvah (and thus not an adult according to Jewish law) comprehends the nature of right and wrong,⁵⁶ he or she⁵⁷ is obligated according to Torah law in the Noahide commandments; according to Noahide law, he or she is an adult.⁵⁸ In a similar

at Sinai, because the Jews were already commanded in the Noahide laws prior to that; this is also noted by Gera (R. Elijah Gaon) as derived from the word "rut," whose value is 606, which Gera asserts is the additional commandments that Ruth became obligated in. See also Maimonides, *Sefer ha-Mitzvot*, *aseh* 176–177. For a general discussion of the Noahide laws and the counting of commandments, see Naomi Cohen, "Taryag and the Noahide Commandments," *Journal of Jewish Studies*, 43, 1 (Spring 1992): 46–57.

⁵³See Rabbi Yosef Engel, *Beit Otzar Ma'arekhet* 1–1:7, 9. "The seven Noahide commandments are still obligatory to Jews, and their authority derives from their pre-Sinai obligation. The Torah . . . merely added to Noahide laws . . ."

⁵⁴Rabbi Pinhas Hayyim Schienman, "Teshuvah be-Inyan Yeladim mefaggerim le-Gabbei Hinukh u-Mitzvot," *Moriah* 11:9–10 (1982):51–65. (This article contains an appendix written by Rabbi S. Z. Auerbach.)

⁵⁵*Iggerot Moshe, Yoreh De'ah* 1:6. Rabbi Feinstein there discusses whether one who is legally excused from observance of commandments generally because of blindness (according to one opinion) is nonetheless obligated in the Noahide laws.

⁵⁶Is a *bar de'ah* (understands right and wrong).

⁵⁷Although this goes almost without saying, there is no general difference in level of obligation in Noahide law between men and women; see *Entziklopedyah Talmudit*, supra note 1, at page 348.

⁵⁸Or *Same'ah*, *Isurei Biyah* 3:2. This presupposes the correctness of the *Minhat Hinukh's* famous assertion (*Minhat Hinukh* 190; also found in Hatam Sofer, *Yoreh De'ah* 317) that Noahides become adults—and thus obligated in obedience of the law—not when they reach any particular age, but when they reach intellectual maturity. It is likely that the correctness of this assertion is itself in dispute between Rosh and Rashi; compare *Teshuvot Ha-Rosh* 16:1 and Rashi commenting on *Pirkei Avot* 5:21. See also *Yabi'a Omer, Yoreh De'ah* 2:17.

See also *Sefer ha-Mikaneh* 1:8(5) which states "for violations of the seven commandments Jews certainly are to be punished . . ." Perhaps similar senti-

vein, Rabbi Weinberg states that a marriage between two Jews that is technically invalid according to Jewish law could still be valid as a Noahide marriage.⁵⁹

The opposite claim could be made according to Nahmanides (as interpreted by those who disagree with Rama). Because the obligation to create *dinim* includes in it other obligations clearly not applicable to Jews (such as the creation of a general civil or secular law system governing all except Jews), Nahmanides could not accept a Jewish obligation to participate in *dinim*.⁶⁰ This is not to say that Jews need not obey *dinim* or other aspects of the Noahide code, according to Nahmanides. It is clear that several authorities find some connection between the obligation of *dinim* and the halakhic mandate of *dina de-malkhuta dina*, the obligation of Jews to obey the secular law.⁶¹ If Noahides are obligated in the creation of general secular law and not only the enforcement of these six specified commandments, it would seem logical that Jews, too, must obey these *dinim*, at least in interactions with Noahides.⁶² But a crucial observation must be made. Merely because Jewish law rules that one is obligated to obey Noahide law does

ments are expressed by Rav Kook when he states "in our time, when Torah is not upheld . . . still it seems that the principles of fairness applied by force of Torah law of *dinim* to Noahides applies, because we are no worse than they" (*Etz Hadar* 42).

⁵⁹*Seridei Eish* 3:22; Rabbi Menasheh Klein, *Mishneh Halakhot* 9:278, also agrees with this.

⁶⁰I have found no authority who explicitly notes this in the name of Nahmanides. However, it would appear logical to this author that there is no obligation to participate in the creation of a legal system that is not binding on one who creates it. Other factors, such as *lifnei iver* or its analogues, would be in place according to Nahmanides to prevent Jews from enticing Noahides to violate; indeed, even *dina de-malkhuta* might be such a rule.

⁶¹See Rashi, *Gittin* 9b, and Rabbi Bleich, "Jewish Law and the State's . . ." 856.

⁶²See for example, Rashi, commenting on *Gittin* 9b. Rabbi Isser Zalman Meltzer, *Even Ha-azel, Nizkei Mamon* 8:5 freely mixes as near synonyms the terms *dina de-malkhuta*, *din melek*, *din benei No'ah metzuveh al ha-dinim* in a discussion about why a Jew must return property lost by another when it is required by secular law and not *halakha*. See also Rabbi Me'ir Dan Plotzki, *Hemdat Yisra'el, Ner Mitzvah* 72 *mitzvah* 288. See also the discussion on pp. 134ff, below, of the position of Rabbi Menahem Mendel Schneerson on this issue.

not mean that one is necessarily obligated to assist in its enforcement.⁶³ The two are not necessarily interrelated.⁶⁴

According to Hazon Ish, Jewish law requires respect for Noahide legal pronouncements even when the Noahide judges themselves do not fully observe Noahide law.⁶⁵ Hazon Ish was asked about the obligation

⁶³This article does not address one very significant issue—the scope of a gentile's obligation (both as an individual and as a society) to enforce Noahide law. As is clear from Maimonides' formulation (cited in text accompanying note 46), gentiles are obligated not only in formulating a legal system, but also in actually enforcing it; after all, the inhabitants of Shekhem were punished because they declined to enforce the law. On the other hand, as noted by many authorities (see sources cited in notes 90, 158 and more generally the sources cited in notes 90 to 99) it is clear that Noahides need not punish all violations with death. Indeed, a claim can be made that a Noahide system of law fulfills its mandate as a system of justice (*dinim*) even if it were to occasionally decline to punish criminally a clear violation of Noahide law (such as theft of a nickel). So too, it is reasonable to suppose that Maimonides's formulation of the difference between the obligations of an individual to enforce law and the obligation of society to enforce law (see *Rotze'ah* 1:5) has some place in the Noahide system also. This is even more apparent according to the approach of Nahmanides, which incorporates vast amounts of general law into Noahide law. Clearly, not every violation of this general law requires death or even criminal punishment. On the other hand, it is reasonable to assert that the Noahide obligation is not fulfilled merely by legislative action without any enforcement activity. What is missing from this discussion is the halakhic parameters of the discretion, and that task shall be left to another time.

⁶⁴This was first noted in a different context by Rabbi Bleich, *supra* note 61, at 856, who was commenting on the permissibility to assist in the punishment of criminals.

Nevertheless, one point requires clarification. Punishment of malfeasors may be a royal prerogative. That, however, does not establish an obligation [for Jews] to assist the king in exercising that prerogative. . . . Reason demands that a murderer be brought to justice and punished. Reason similarly demands that punishment be carried out only in accordance with legal procedures and only by duly constituted authorities, because the alternative would similarly lead to a breakdown of the social order. Just as reason forbids a person to take the law into his own hands, it also mandates that there be no interference with the administration of justice by properly constituted authorities.

⁶⁵Something that would be completely unacceptable in a Jewish court, where complete observance is mandated for service as a judge; see generally, *Hoshen Mishpat* 35–37 for a list of disqualifications.

to accept legal pronouncements from a Noahide court that does not generally observe (or enforce) all of the seven commandments but “observes the law concerning sanctity of life and theft of property.” He replied that if they are enforcing even a section of the Noahide laws properly, it is halakhically necessary to respect those pronouncements.⁶⁶ Respect does not necessarily mean, however, that full participation is mandatory.

In sum, there certainly is an obligation upon Noahides—at the minimum—to create a legal system designed to enforce Noahide law. Jews

⁶⁶Hazon Ish, *Bava Kamma* 10:15.

A similar situation is also discussed in *halakhah*: Does Jewish law recognize the right of the Noahide government to punish Jewish violators of the Noahide code? Two distinctly different approaches have been taken by the authorities on the permissibility of a Jew aiding the secular government in criminally punishing Jews; for an excellent analysis of this issue, see Rabbi J. David Bleich, “*Hasgarat Poshei’a . . .*” The dispute revolves around the proper understanding of *Bava Metzia* 83b–84a which states in part:

R. Eleazar son of R. Simeon met a police officer. R. Eleazar said to him, “How can you detect the thieves . . . ? Perhaps you take the innocent and leave behind the guilty.” The officer replied “And what shall I do? It is the king’s command.” [R. Eleazar then advised this policeman how to determine who was a thief and who was not] . . . A report was heard in the royal court. They said, “Let the reader of the letter become the messenger.” R. Eleazar son of R. Simeon was brought to the court and he proceeded to apprehend thieves. R. Joshua son of Karhah, sent word to him, “Vinegar, son of wine! How long will you deliver the people of our God for slaughter?” R. Eleazar sent the reply, “I eradicate thorns from the vineyard.” R. Joshua responded, “Let the owner of the vineyard come and eradicate his thorns.”

Rabbi Eliezer was rebuked for assisting the government in the prosecution of criminals, thus indicating that this conduct is not proper or at least the subject of a dispute between Rabbi Eleazar and Rabbi Joshua.

Several commentaries advance an explanation for this reprimand which changes its focus. Rabbi Yom Tov Ashvelli (Ritva quoted in *Shitah Mekubetzet* on *id.*) states that even Rabbi Joshua admits that it is only scholars and rabbis of the caliber of Rabbi Eliezer and Rabbi Yishmael who should not assist the government as prosecutors or police officers—and even for these individuals such conduct was not prohibited, but only frowned upon. Many authorities agree with this explanation; see Ran, commenting on *Sanhedrin* 46a; Rabbi Shimon ben Adret, *Teshuvot Rashba* 3:29; Rabbi J. Karo, *Beit Yosef*, *Hoshen Mishpat* 388; Taz, *Yoreh De’ah* 157:7–8; R. Tzvi Hirsh Eisenstadt, *Darkhei Teshuva*, commenting on *Yoreh De’ah* 157:1; R. Me’ir Simha Midevinsk, *Or Same’ah*, *Kings* 3:10; R.

have an obligation to recognize and respect this system, even if it is incomplete in its observance of Noahide law. According to many, there is a residual impact of Noahide law in Jewish law.⁶⁷

Moshe Shick, *Teshuvot Maharam Shick, Yoreh De'ah* 50. According to this analysis, it is only the pious who should not engage in this type of work as it is undignified for scholars also to be government agents—but all others may, since the secular government has “jurisdiction” over Jewish violators of its laws. Additionally, Rashi, commenting on the Talmud, seems to argue that any action which the secular government may take within the scope of the rule of *dina demalkhuta dina* (the law of the land is the law) which is binding on Jews, the government may enforce; See e.g. Rashi commenting on *Gittin* 9b (“*dinim*”). Keeping law and order is unquestionably one such function. A proof to this proposition can perhaps be found in Rabbi Feinstein’s decision allowing one to be a tax auditor for the government in a situation where the audit might result in the criminal prosecution of Jews for evading taxes; *Iggerot Moshe, Hoshen Mishpat* 1:92.

The second approach rejects the opinion of Rabbi Eleazar, and states that Rabbi Joshua, who rebuked Rabbi Eleazar, represents the normative opinion which prohibits this conduct; this approach can be found in Meiri, *Bava Metzia* 83b and can be implied from Maimonides, *Hilkhot Rotze'ah* 2:4 and *Tosafot, Sanhedrin* 20b; R. Moshe Sofer, Hatam Sofer *Likkutim* responsum no. 14. If Rabbi Joshua’s opinion is the one accepted by Jewish law, then the only time it would be permitted to assist the secular government in criminal prosecutions is when the criminal poses a threat to the community through his conduct. This is based upon the rules of *rodef* (pursuer); see R. Shimon Duran, *Tashbetz* 3:168 and Rabbi Isserless, (Rama), *Hoshen Mishpat* 388:12. Obviously where the criminal poses a threat to the community through his conduct, it is proper to apprise the secular authorities of his activities; see e.g., R. Shmuel Demidina, *Responsa Maharashdam, Hoshen Mishpat* 55:6; Rabbi Moshe Sternbuch, *Teshuvot ve-Hanhagot* 1:850. This threat need not be limited to the possibility that the criminal will actually harm another, but includes such factors as the possibility that in response to a Jew being apprehended committing a crime, other Jews will be injured or anti-semitism will be promoted; see Rama commenting on *Shulhan Arukh, Hoshen Mishpat* 388:12, 425:1. According to this approach it is only when there is a likelihood that the lack of punishment of this criminal will lead to other crimes, that the secular authorities should be informed. One authority has argued that on a functional level there is no difference between the two approaches because disobedience of the law generally will surely lead to anarchy and crime, and thus all significant violations of the law can be punished

THE OBLIGATION TO TEACH OR JUDGE NOAHIDES

Maimonides states: "Moses, our teacher, only willed Torah and *mitzvot* to the Jewish people, since it states 'An inheritance to the community of Jacob.'⁶⁸ . . . One [who is not Jewish] who does not wish to, we do not compel to accept Jewish law. So too, *Moses our teacher was commanded by God to compel the commandments to the Noahides. All who do not accept are killed. One who accepts them [voluntarily] is called a ger toshav* [literally: resident alien] . . ."⁶⁹ So, too, Maimonides says: "A Jewish court [*beit din*] is obligated to appoint judges for *geri toshav* [literally: resident aliens] to judge them in order that the world not be destroyed. If the Jewish court wishes to appoint judges from within their midst, it may; if it wishes to appoint judges from the Jews, it may."⁷⁰ Finally, Maimonides rules: "One who takes an adult slave from an idol worshiper, and the slave does not wish to be circumcised one may delay up to twelve months

under the pursuer rationale. Rabbi Tzvi Hirsch Hayyot (Maharatz Hayyot), *Torat Nevi'im*, chap. 7. For more on this, see Michael J. Broyde, *The Pursuit of Justice and Jewish Law* (Yeshiva University Press, 1996).

⁶⁷Perhaps among the most significant impacts is whether Noahides are valid witnesses as a matter of biblical law or not; for more on this, see "Goy," *Entziklopedyah Talmudit* 5:337-343.

⁶⁸Deut. 33:4.

⁶⁹Maimonides, *Kings* 8:10. In explaining the source for this ruling of Maimonides, Rabbi Karo states in *Kesef Mishnah*, *Milah* 1:6 that "Rabbeinu learned this rule from what is stated in *Sanhedrin* 57a"; see also *Yevamot* 48a. The dispute between Maimonides and others revolve around the talmudic statement (*Sanhedrin* 57a) that "on seven commandments Noahides are killed." Maimonides understands this as not limited to judaical punishment in a court of 23 when the Sanhedrin is functioning (as is required to execute a Jew for a violation) but includes "extra-judaical" activity. Those who argue (see section 2) limit this statement to judicially sanctioned executions.

⁷⁰Maimonides, *Kings* 10:11. As noted by Radvaz, commenting on *Kings* 10:14, *le-ha-tehillah* (*ab initio*) it is preferable that Noahides serve as judges on their own tribunals. It is only *be-diaved* (after the fact) that Jews should seek such roles. I would suggest that the rationale for that assertion is that it is generally better that a *mitzvah* be done by the principal and not through an agent. In this case the *mitzvah* is *dinim*, the Noahide is the principal, and the Jew is the agent. It is worth noting that Maimonides explicitly adopts a universalistic formulation of the obligation to love our Maker in his *Sefer ha-Mitzvot*, Aseh 3.

... If one agreed concerning this slave with his previous owner not to circumcise him, it is permitted to keep the slave uncircumcised; however, the slave must keep the seven commandments obligatory on Noahides and if not, he is killed immediately."⁷¹

This article will address three basic issues that flow from the formulation of Maimonides. They are: (1) Is there an obligation upon each individual Jew to coerce compliance? Or is the obligation only on *beit din*? And if so, which court? Or perhaps classical *halakhah* rejects this ruling of Maimonides.⁷² (2) When a Noahide violates these rules no matter what posture Jews take, may Jews assist in the sin? Or, at the least, must a Jew decline to assist in a violation of Noahide laws? (3) Is there an obligation to induce or persuade a Noahide to comply with the Noahide laws, or even to teach Noahides about their obligations? Or, if there is an obligation, is it limited to the obligation to coerce? The answer to each of these three interrelated questions is in dispute, and each of these disputes is central to many of the issues raised in this paper.

The Obligation to Compel Observance

Maimonides' Approach

A simple reading of the rules of Maimonides would indicate that Jews or Jewish courts are obligated in (at the minimum) coercing Noahides to observe their laws. This is not the only way, however, to interpret Maimonides' statements. Maharatz Hayyot, in his responsa,⁷³ seems to adopt a formulation of Maimonides' ruling, which makes this law a mere historical recounting of facts. He states (quoting the Rashbash⁷⁴):

⁷¹Maimonides, *Milah* 1:6. Ravad notes "Nowadays we cannot kill a person." See pp. 124ff, below, for a discussion of Ravad's assertion.

⁷²It is clear that, once a person is actually a full *ger toshav* (resident alien), there is an obligation to judge that person (at least in Israel). Most likely, no such people exist in the United States. This paper will limit its discussion to Noahides. For a discussion of who is a *ger toshav*, see Rabbi Berel Wein, *Hikrei Halakhot* 5-45 (Mossad Harav Kook, 5748) and *Arukh Ha-shulhan, He'atid Yovel* 49.

⁷³Responsa 2.

⁷⁴Rabbi Shlomo Ben Shimon Duran (Rashbash) 543.

Sanhedrin 56b recounts that the Jews were commanded in ten commandments at Marah;⁷⁵ these ten commandments were the seven laws of Noah, the Sabbath laws, *dinim*, and respect for one's parents. Why did the Jews need to be commanded again [on the seven Noahide laws], because Jews were already commanded from the time of Adam and Noah . . . Because we conclude that commandments that were given prior to Sinai to Noahides, and not repeated at Sinai, are obligatory only for Jews, the seven commandments had to be repeated at Sinai to obligate Noahides.⁷⁶ Based on this Rashbash, the assertion of Maimonides that "Moses, our teacher, willed only Torah and *mitzvot* to the Jewish people, because it states 'An inheritance to the community of Jacob.'" . . .⁷⁷ and his assertion that "Moses our teacher was commanded by God to compel the commandments obligatory to the children of Noah" appears logical. Why was Moses also the messenger to the rest of the world to compel observance of the seven commandments? Perhaps they are obligated by Adam or Noah? Rather, we see that Moses being commanded at Marah on the seven Noahide commandments, even though gentiles were already commanded, was done to make Noahides obligated in the *mitzvot* even now.

Thus, according to Maharatz Hayyot, there is no obligation for any specific Jew, in any circumstance, to compel observance by a Noahide. Maimonides is merely explaining the jurisprudential basis for the obligation of Noahides to their seven commandments—absent Moses' re-commandment at Sinai, only Jews would have been obligated in Noahide law. The most that one could claim, according to Maharatz Hayyot, is that perhaps Moses himself was obligated to compel observance of the Noahide laws; Jews currently are not—neither in the context of a *beit din* nor in the context of any specific individual. Maharatz Hayyot would then limit Maimonides' rule obligating Jews to establish courts and appoint judges to those Noahides who formally accept the obligations of a *ger toshav* (resident alien), who live in the Jewish community, and who

⁷⁵See "Dinim" *Entziklopedyah Talmudit* 7:396–397 for a discussion of this issue.

⁷⁶The general rule is that commandments apparently directed to all that are recounted in the Bible prior to revelation at Sinai are binding only on Jews; commandments that are listed twice in the Bible, once before revelation and once after are binding on all. See generally *Entziklopedyah Talmudit*, 3:359–360.

⁷⁷Ellipses are by Maharatz Hayyot.

are dependent on it for law and order "lest the world be destroyed."⁷⁸ In the diaspora, certainly, there are few communities of Noahides like that;⁷⁹ if there were, and they could not see fit to enforce the law themselves, a Jew should guide them.⁸⁰ Similar claims that Maimonides' rules do not create a practical, legal obligation can be found in *Arukh Ha-Shulhan*,⁸¹ the writings of Rabbi Yehuda Gershuni,⁸² Rabbi Sha'ul Yisra'eli,⁸³ and

⁷⁸Maimonides, *Kings* 10:11.

⁷⁹Although some Noahide communities do exist. See e.g., "Ex-Christians Drawn to Noah's Law," *San Jose Mercury News*, Saturday January 26, 1991, p. 11D. The article reads in part:

Some are former Christian clergymen who no longer consider themselves Christians. They use many Jewish practices, but don't convert to Judaism. About 250 of them met in Athens, Tenn., recently, reports Ecumenical Press Service. James D. Tabor, member of an advisory council, says members tend to be "disenfranchised former Christians" who "do not denounce belief in Jesus" but the "most they would say is that he was a great teacher." Tabor says members want to identify with the "ethical monotheism" of Judaism without converting to it. He says they uphold the "laws of Noah," such as those against idolatry, blasphemy, bloodshed, sexual sins and theft.

It is worth noting that these communities do seek rabbinic guidance; see "Tennessee Church Studies Judaism," *Sun Sentinel*, 31 May 1991: 5E, discussing involvement of a local Orthodox rabbi.

⁸⁰Whether this is obligatory depends on issues discussed in this paper and the additional issue of whether these communities have the status of *ger toshav* communities or merely Noahide ones. This is a classical dispute among Maimonides, Ravad, and many others. For a lengthy discourse on many details of *ger toshav*, see Wein, *Hikrei Halakhot* 9-46 and particularly pages 44-46, which discuss whether this status can currently exist.

⁸¹*Yoreh De'ah* 267:12-13. For more on the context in which *Arukh ha-Shulhan* is speaking, see *infra*, text accompanying notes 99 to 106. There is some tension between the remarks found in *Arukh ha-Shulhan*, *he-Atid Yovel* 49:1-3, *Kings* 78:10-11 and *Yoreh De'ah* 367:12-13. I would be inclined to assume that the remarks found in *Arukh ha-Shulhan*, *he-Atid* are not intended for current practical use, and while that is not stated explicitly in them, that flows logically from the nature of the work generally. (Although even that rule is not without exception, as *terumah* and *ma'aser* rules are found in *he-Atid*, notwithstanding their clear relevance even in my life.)

⁸²Rabbi Yehudah Gershuni (*Mishpetei Melukhah*, 2d ed., 454-455) also understands Maimonides' rule so as to impose no real obligation. He understands

Rabbi Menahem Mendel Kasher,⁸⁴ the author of *Torah Sheleimah*, all of whom assert that the opinion of Maimonides itself is to be understood as limited to *yemot ha-mashiah* (or perhaps less ideally, full Jewish law in Israel).

All of these explanations of Maimonides' ruling are difficult, however, and the simple understanding of Maimonides is that (at the least) a person who is capable of forcing compliance, must. Although Rabbi Karo does limit the application of Maimonides somewhat, he clearly understands that Maimonides requires compulsion whenever possible, even by an individual.⁸⁵ This is similarly understood to be the opinion of

the force of the relevant rules as designed to *limit* what a Jewish court can do, and not to expand on it. He understands Maimonides as ruling that Noahides are commanded from Moses only in these seven laws; a Jewish court, though might think that it can impose on Noahides additional obligations or portions of the remaining 613 commandments, cannot. He argues that Maimonides' statement ("So, too, Moses our teacher was commanded by God to compel [only] the commandments obligatory to the children of Noah") should be understood as a limitation on that power. The same, he states, is true for the second example ("A Jewish court is obligated to appoint judges to *ger toshav* (resident alien) to judge them *for these laws . . .*"). This interpretation is quite novel and original to him.

⁸³*Amud Yemini* 12:1:12. Rabbi Yisraeli posits that Maimonides cannot possibly mean that there is a general obligation to compel observance of the Noahide laws everywhere in the world as "where do we see that in the writing of the Sages." Rather he argues that Maimonides' rule must be limited to the Land of Israel itself, where there is a halakhic imperative to prevent violations of the Noahide law. Thus according to him, Maimonides' rule is inapplicable in the diaspora.

⁸⁴*Torah Sheleimah* 17:220. The most fascinating explanation for the opinion of Maimonides is found in *Responsa Maharam Shick*, where he avers that the primary motivation for this ruling is that if Noahides are allowed to sin unpunished, impropriety will occur in the Jewish community also; Maharam Shick, *Orah Hayyim* 144. Indeed, Maharam Shick indicates that the basis for this rule is that society cannot stand if the justice system cannot regulate a portion of the community. Similar insights are made by Rabbi Bleich in "*Hasgarat Poshei'a . . .*," supra note 1. See also postscript.

⁸⁵*Kesef Mishnah*, Milah 1:6. Similar sentiments as to the opinion of Maimonides can be found in *Lehem Mishnah* commenting on *Avoda Zarah* 10:1.

Maimonides in *Tzafnat Pane'ah*, in its lengthy discussion on this topic.⁸⁶ A ruling similar to Maimonides' is found in *Hinukh* 192: "The rule is as follows: In all that the nations are commanded, any time they are under our jurisdiction, it is incumbent upon us to judge them when they violate the commandments."

The Approach of Ravad, Nahmanides, Tosafot, and so on

Many *rishonim* simply disagree with the opinion of Maimonides, ruling that there is no obligation upon an individual Jew to impose Noahide rules on gentiles. Included in this group are at least Ravad, Nahmanides, Tosafot, and perhaps Rashi and Rashba. Ravad, in disagreeing with the ruling of Maimonides that a slave who refuses to accept one of the seven commandments ought to be killed, states that⁸⁷ "the slave should be sold. We may not, now, kill a person." Although one could understand this assertion as merely practical,⁸⁸ it is more likely that Ravad is limiting the juridical power of the Jewish community in punishing Noahides for violations of the Noahide code.⁸⁹ Under this analysis, it would, according to Ravad, take an authorized *beit din* of 23 functioning when the Sanhedrin is legally empowered to impose capital punishment, to kill for violations of the Noahide code.⁹⁰ Ravad disagrees with Maimonides,

⁸⁶Rabbi Joseph Rosen, *Tzafnat Pane'ah*, Maimonides, *Milah* 1:6.

⁸⁷Maimonides, *Milah* 1:6.

⁸⁸As *Kesef Mishnah* does; see *Kesef Mishnah*, *Milah* 1:6.

⁸⁹For an understanding of why that approach is "more likely," see *Tzafnat Pane'ah* on *Milah* 1:6, Rabbi Aharon Soloveitchik, "On Noahides," *Beit Yitzhak* 19 (5747): 335–338 and Rabbi J. David Bleich, "Mishpat Mavet . . ."

⁹⁰See Rabbi Aharon Soloveitchik, "On Noahides," *supra* note 89. Of course, a person who violates the Noahide laws and thus poses a danger to others could be killed using the pursuer rationale; indeed, even a Jew could be punished under that rationale. However, a violation of the purely theological components of the Noahide law cannot result in punishment according to this rationale. So, too, it is likely that Jewish law recognizes as proper a Noahide law that provides a sanction for violations other than the death penalty. Noahide law is authorized even to execute. It is not, however, obligated to execute for all violations. See generally, Rabbi Aharon Soloveitchik cited above and Rabbi Bleich, "Mishpat Mavet . . ." (n. 1 above). See also *Helkat Yo'av Tinyana* 14. In particular this must flow logically from the opinion of Nahmanides that *dinim* incorporates the obligation to create a system of financial law.

therefore, and at least limits the obligation of Jews to impose law on Noahides to situations that do not now (and will not in the pre-messianic era) exist.

Proof that this is the approach of Ravad can be derived from his ruling in *Laws of Kings* 6:1, which allows the subjugation of Noahides to a Jewish nation in wartime without the imposition of observance of the Noahide commandments, as Maimonides requires.⁹¹ This would make the positions of Maimonides and Ravad, in their writings in *Mila* and *Kings* consistent on this issue.

Similarly, Nahmanides agrees with Ravad and does not require the imposition of the Noahide commandments as part of a negotiated peace between Israel and its Noahide neighbors.⁹² He indicates that the military goals alone determine whether peace terms are acceptable. According to Nahmanides, Jewish law would compel the "victor" to accept peace terms that include all of the victors' demands except the imposition of Noahide law on the defeated society; Maimonides would reject that rule and permit war in those circumstances purely to impose these laws on a gentile society. This indicates that Nahmanides, too, does not require the imposition of Noahide law by a Jewish government.⁹³

Tosafot⁹⁴ also concur with the rulings of Ravad and Nahmanides and deny that there is any obligation upon even a Jewish government to impose the Noahide commandments on nations under their control.⁹⁵ No systemic obligation is present. Rashi, too, sides with Ravad on this issue.⁹⁶ So does Rashba, in his responsa.⁹⁷ "A similar approach is

⁹¹See Comments of Ravad on *Kings* 6:1 and *Isurei Bi'ah* 12:7-8.

⁹²Commentary of Nahmanides on Deut. 20:(1) and (11). Although Nahmanides does mention subsequent adoption of Noahide laws by these nations, it is in the context of self-incorporation of these rules by these nations and not through compulsion.

⁹³Except, as noted above, upon those who are *geri toshav*.

⁹⁴Tosafot, "*ve'lo moridin*," *Avodah Zarah* 26b. This can also be reinforced from the assertion of Tosafot, *Shabbat* 3a that there is no obligation to separate Noahides from sin. For more on this, see 129ff below.

⁹⁵For a general discussion of this, see R. Yehudah Gershuni, *Mishpetei Melukhah*, 165-167.

⁹⁶Commenting on Deut. 20:1, 11 which cites only the obligation of taxation, and deletes the obligation of observance of the Noahide commandments. This is also in harmony with Rashi's opinion (*Yevamot* 48a), which does not appear to require observance of Noahide laws by Noahide slaves of Jews. This too is

found in *Haggahot Ashrei*: "A Noahide, even though he violates the seven Noahide commandments, and his warning is his execution and he does not need formal witnesses and warning, nonetheless every moment prior to his conviction in *beit din*, he is not liable for the death penalty and it is prohibited to kill him."⁹⁸ This source clearly disagrees with the opinion of Maimonides discussed above and limits the obligation of a *beit din* to punish Noahides. Indeed, it would seem logical that the *beit din* needed for this punishment is the same type of *beit din* needed to execute Jews, which has not been extant since prior to the destruction of the Second Temple.⁹⁹ This approach would make the comments of *Haggahot Ashrei* identical to those of Ravad. Even if this opinion is not accepted, and any regular *beit din* can function in this role, it is clear that no obligation is imposed upon individual Jews to punish Noahides for violations.

In the two areas where this issue is codified into the *halakhah*, the obligation for Jews to compel observance by Noahides is clearly left out. In the laws relating to keeping slaves, there is an intricate discussion of the rules relating to the circumstances in which a Jew may keep a gentile slave who does not undergo (partial) conversion. This matter is fraught with disagreement beyond the scope of this paper.¹⁰⁰ However, one thing is clear: *Tur*, *Rama*,¹⁰¹ and the classical commentaries on

consistent with Rashi's broad conception of *dina de-malkhuta* noted in *Gittin* 9b (see notes 61 to 63). Merely because there is an obligation to obey does not mean that there is an obligation to assist in enforcement. It is logical to infer that that concept is present in Noahide law also according to those who accept Nahmanides' general framework; see Nahmanides on Gen. 34:11.

⁹⁷Responsa of Rashba 1:59; see also comments of Rashba to *Yevamot* 48b. In this responsa Rashba discusses at some length the status of slaves that do not observe Noahide law without giving any indication that ownership of these slaves is prohibited, thus indicating agreement with Ravad (for reasons that will become apparent once the next paragraph is read).

⁹⁸*Haggahot Ashrei*, *Avodah Zarah* 64b. This source was referred to me by Rabbi Yehudah Herzel Henkin of Jerusalem, in his comments on a draft of this paper.

⁹⁹See note 89 and sources cited therein.

¹⁰⁰See generally *Arukh ha-Shulhan*, *Yoreh De'ah* 267 for a review of this area.

¹⁰¹The opinion of *Shulhan Arukh* itself is unclear. In *Yoreh De'ah* 276:4 Rabbi Karo appears to simply disallow any temporary slavery absent circumcision, and thus he does not even discuss the imposition of Noahide law. In *Beit Yosef* 267, R. Karo appears to accept the approach of Maimonides. However, in *Bede*

*Shulhan Arukh*¹⁰² do not quote the obligation to impose Noahide law upon gentiles living—either as a conditional slave¹⁰³ or as an employee—in the house of a Jew (and over whom presumably one could have considerable influence).¹⁰⁴ This is true even though the whole area is generally subject to codification.¹⁰⁵ *Tur* and *Rama* do quote and agree with the various other assertions of Maimonides found in *Milah* 1:6, but they

ha-Bayyit (on *id.*) he appears to retract this ruling and condition this whole issue on the presence of a *ger toshav* (resident alien), something which is impossible currently, in the opinion of R. Karo. Thus, the situation appears to be that *Kesef Mishnah* and *Beit Yosef* rule in accordance with Maimonides that these rules are applicable currently, whereas *Bedek ha-Bayyit* rules that (at the least) Maimonides' opinion is inapplicable currently or the *halakhah* is not in accordance with Maimonides. *Shulhan Arukh* is unclear. See generally *Hikrei Lev* 2:53 and *Sedei Hemed* 9:16 for a discussion of these types of situations in the writings of Rabbi Karo. Particularly given the discussion found in text accompanying notes 107 to 116, one is inclined to understand *Shulhan Arukh* as in agreement with *Rama*.

¹⁰²Maimonides and *Rama* are both discussing a simple relevant case: May one employ household help that violates one of the Noahide commandments, or must one terminate the help? This issue is relevant even in the 1990s. *Rama* and the latter authorities indicate that there is no obligation upon a Jewish employer to compel observance of the Noahide laws by employees. It is difficult to assert that *Rama* left this law out as there was nothing they could do to compel observance because certainly, even in those times, one had the right to fire employees/slaves, if not more than that. Rather, *Rama* thought that there was no halakhic obligation to compel Noahides to observe the Noahide commandments.

¹⁰³A slave acquired with the explicit condition that conversion not be done and whom Maimonides explicitly required to observe the Noahide laws. See *Milah* 1:6 for a description of this status.

¹⁰⁴Given the secular law relating to servitude, indentured servants, and slaves found in Europe before the Emancipation, it is difficult to claim that Jewish law declined to address this issue because it was irrelevant. On the contrary, it was quite relevant, and employees/owners had considerable latitude in regulating the conduct of employees/slaves even in issues unrelated to their work; see generally Jonathan Bush, "Free to Enslave: The Foundations of Colonial American Slave Law," *Yale Journal of Law and the Humanities* vol. 5, (1993): 417–70, pp. 417–23.

¹⁰⁵Unlike those rules found in *Kings* 8–11.

do not cite this one. Indeed, the notes to Rama clearly indicate that he accepts the rulings of Ravad on this matter.¹⁰⁶ The fact that Maimonides quotes an obligation to compel observance by Noahide slaves, which is deleted by the later authorities, is indicative that his opinion is not considered binding according to *halakhah*.¹⁰⁷

So, too, when discussing the obligation to save gentiles who do not observe the Noahide laws from life-threatening dangers, both *Tur* and *Shulhan Arukh*¹⁰⁸ indicate that there is no obligation to punish violators of Noahide rules. For example, *Beit Yosef*¹⁰⁹ states that there is no obligation (*mitzvah*) to kill gentiles who do not obey the Noahide laws; similar sentiments can be found in *Tur*,¹¹⁰ *Bah*,¹¹¹ and *Derisha*.¹¹² (Maimonides, in the sources cited above, clearly rejects this.) Rama, in *Darkhei Moshe he-Arukh* adopts this posture also.¹¹³ *Shulhan Arukh* explicitly incorporates it.¹¹⁴ So, too, Shakh states "There is no obligation [*mitzvah*] to kill gentiles even if they violate the Noahide laws"¹¹⁵

¹⁰⁶*Shulhan Arukh, Yoreh De'ah* 267:4. The notes to Rama were not written by Rama. A close read of *Iggerot Moshe, Yoreh De'ah* 3:103 (particularly the second-to-last paragraph) indicates that Rabbi Feinstein agrees with Rama on this issue.

¹⁰⁷Further proof that Jewish law did not perceive an obligation to compel observance by Noahides (absent messianic times) can be found on pp. 129ff below, where once again, the approach of Maimonides is a minority opinion.

¹⁰⁸*Tur* and *Shulhan Arukh, Yoreh De'ah* 158:1. Portions of this can be found in repetition in *Hoshen Mishpat* 425.

¹⁰⁹*Yoreh De'ah* 158 s.v. "mi-kol makom ravinehu." For more on this, see the uncensored version of *Beit Yosef, Hoshen Mishpat* 425, which has recently been incorporated into various editions of the *Tur* (and is found in the new *Makhon ha-Tur*).

¹¹⁰*Yoreh De'ah* 158:1 (new *Tur* numbers).

¹¹¹*Yoreh De'ah* 158 s.v. "mi-kol makom ravinehu."

¹¹²*Yoreh De'ah* 158:1. Similar sentiments can be found in *Sema, Hoshen Mishpat* 425:15–19 in his attempts to distinguish gentiles from heretics.

¹¹³*Yoreh De'ah* 158 s.v. "ein moridin." For a long discussion of this topic which reinforces this understanding of the *halakhah*, see the commentary of *Arukh Meshar* on *Darkhei Moshe*.

¹¹⁴*Shulhan Arukh* 158:1.

¹¹⁵Shakh, *Yoreh De'ah* 158:2. It is worth noting that he cites Yam Shel Shlomo's commentary on *Sema, mitzvah* 48 as in agreement with that. *Nekudat Hakesef* is equally clear on this issue.

and *Taz* agrees with this assertion.¹¹⁶ This ruling—not mandating the punishment of gentiles for violating Noahide law—stands in clear contrast to the assertion in *Shulhan Arukh* encouraging and certainly permitting the punishment (and even killing) of one who (is Jewish and) defiantly rebels against Jewish law; this principle holds in the abstract, though definitely not in practice.¹¹⁷ *It is thus clear that Shulhan Arukh and the other various commentaries rule (contrary to Maimonides' assertion) that gentiles need not be punished by Jews for violating Noahide law according to Jewish law.*¹¹⁸ There is no obligation or duty to compel observance of Noahide law by gentiles.

On the other hand, even those authorities who reject the obligation could accept the assertion of *Sefer Hasidim*:¹¹⁹ it is a meritorious thing to do, which imitates God's conduct towards the Noahides at Nineveh. Absent other factors, it is laudatory to instruct a Noahide of his obligations, both for reasons mentioned by Rabbi Yehuda he-Hasid, for those mentioned by Maimonides in *Kings* 10:11 and for those discussed in the postscript.

Although Maimonides is relatively clear that, when possible, Jews must impose Noahide law, one could reasonably conclude that most of the *rishonim* and codifiers disagree with that conclusion, asserting that there is no obligation for any individual Jew to compel a Noahide to cease violating the Noahide commandments or asserting that the obligation is limited to messianic times or to resident aliens.

When a Noahide Will Certainly Violate the Law, May Jews Assist in the Violation?

When the gentile will nonetheless perform an action that violates the Noahide code, no matter what a Jew or the Jewish tradition says or does, is there an obligation to withdraw from the situation? If there is an obligation to separate a Noahide from sin—as mandated by a broad reading of *Kings* 8:10 and *Milah* 1:6—one certainly may not assist him in sin.

¹¹⁶*Taz*, *Yoreh De'ah* 158:1. For a discussion of this issue, see *Responsa Beit Yehudah*, *Yoreh De'ah* 4.

¹¹⁷*Yoreh De'ah* 158:2.

¹¹⁸See also, for a recent reformulation, Rabbi Yitzhak Blau, *Pituhei Hoshen* 5:2(18).

¹¹⁹Quote at the opening of this article.

Pesahim 22b quotes the following statement of R. Natan: "R. Natan said from where do we know that one may not extend a cup of wine to a *nazir* nor a limb of a live animal to a *ben Noah*? The source is from the verse 'before a blind person thou shall not put a stumbling block.'" Thus, it is clear that one may not enable a Noahide to sin. If no violation could or would take place without the assistance of a Jew¹²⁰ it is a biblical violation of *lifnei ivver* for a Jew to assist a Noahide in violating his law.

But *Avodah Zarah* 6b quotes R. Natan's statement and limits its application to an instance of *terei ibra de-nahara* (literally "two sides of a river"). Only when the Noahide is on one side of a river and the flesh of a living animal is on the other side, so that he cannot obtain it on his own, is the one who extends it to him in violation of *lifnei ivver*. On the other hand, if the Noahide and the flesh are on the same side of the river (*had ibra de-nahara*), so that he could procure the meat on his own, the person who gives it to him is not in violation of *lifnei ivver*. The assumption is that the prohibition will be violated in any case; assistance does not enable the sin.

This discussion relates only to the biblical prohibition called "*lifnei ivver*." But is there a rabbinic prohibition on assisting a Noahide to violate his seven commandments even when he can violate them independently of the helper? This issue is a crucial one, for it addresses whether there is a general obligation to separate a Noahide from sin. It is impossible to accept Maimonides' opinion that Jews must compel observance of the Noahide laws and simultaneously rule that one need not separate a Noahide from sin.¹²¹

¹²⁰The *Mishneh le-Melekh* (*malveh ve-loveh* 4:2) states (perhaps reflecting his understanding of the Maimonides) that in order for the action to become permissible according to Torah law, it has to be doable by a gentile, or a person otherwise not obligated in this commandment of *lifnei ivver* generally, rather than be able to be done by any person. The *Mishneh le-Melekh*'s approach is based upon his understanding of *Tosafot* (*Hagigah* 13a, *ein moserin*) that *had ibra de-nahara* ("one side of the river") means when the principal can do it on his own or through the assistance of a non-Jew. This makes sense only within the conceptual framework of *Tosafot* and the *Ran* (which will be explained below), as it seems irrelevant that others can aid in the prohibited act if they too are obligated not to do so.

¹²¹The reverse (which is not the contra-positive) is not true. See the discussion relating to the opinion of *Ran*, *infra*.

Two schools of thought exist. The first position is taken by Tosafot, *Mordekhai*, Rama, and Shakh. Each accepts that when one is not in a "two-sides-of-the-river" situation, there is no prohibition associated with assisting a Noahide who sins.¹²² Rama states that there are those who rule that it is prohibited to sell Noahides supplies used for their idol worship only when others will not supply them; however, when others can supply them, there is no prohibition. He concludes by adding, "The tradition is in accordance with this opinion; pious people [literally: spiritual people] should conduct themselves in accordance with the stricter opinion." Shakh states this even more clearly: "In my humble opinion, all authorities agree with the opinion of Tosafot and *Mordekhai* that it is permissible to aid a Noahide . . .¹²³ [All those] who argue are discussing the case of a Jew whom one is obligated to separate from sin . . . This is not the case for a Noahide . . . whom we are not obligated to separate from sin."¹²⁴ This ruling has a significant impact on the issue of the Jew's obligation to prevent a Noahide from violating his seven commandments. Essentially, this school of thought accepts that once one cannot *actually prevent* the violation from occurring, there is no obligation to dissuade or convince a Noahide from violating the law. *Indeed, one may actively assist him by providing him with things that he could otherwise acquire on his own.*

This approach—which rules that there is no obligation to prevent sinning by a Noahide or convince a Noahide to cease sinning—is accepted by nearly all authorities, including *Magen Avraham*,¹²⁵ *Gra*,¹²⁶

¹²²Tosafot, *Avodah Zarah* 6b, s.v. "minayin"; *Mordekhai*, *Avodah Zarah* 6b; Rama, *Yoreh De'ah* 151:4; Shakh, *Yoreh De'ah* 151:6.

¹²³The ellipses in this paragraph all refer to the case of a *mumar*, apostate, and assisting him in sin. That topic is beyond the scope of this paper; for more about it, see Michael Broyde and David Hertzberg, "Enabling a Jew to Sin: The Parameters," *Journal of Halacha and Contemporary Society* N. 19 (1990):7–32.

¹²⁴Shakh, *Yoreh De'ah* 151:6.

¹²⁵*Orah Hayyim* 347:4. *Magen Avraham* rules that it is prohibited to assist an unobservant Jew to sin even when he can do it without assistance; however, he clearly permits one to assist a Noahide in sinning.

¹²⁶*Yoreh De'ah* 151:8. *Gra* rules that it is prohibited to assist an unobservant Jew to sin even when he can do it without assistance; however, he clearly permits one to assist a Noahide in sinning.

Levush,¹²⁷ *Beit Shmu'el*,¹²⁸ *Mahatzit ha-Shekel*,¹²⁹ *Dagul Merevavah*,¹³⁰ and *Birkei Yosef*.¹³¹ It is important to realize that several authorities reach the conclusion that it is permitted to assist a Noahide but prohibited to assist an unobservant Jew. This is based on their observation that there is no obligation to separate a Noahide from sinning.¹³² (The precise rationale to distinguish between an unobservant Jew and a Noahide is beyond the scope of this paper.)¹³³

Although I have found no authority explicitly attempt to harmonize these rulings with Maimonides' ruling cited above,¹³⁴ one could easily do so by limiting Maimonides' ruling to a situation where one could literally compel observance of the law, which would then make the situation a "two-side-of-the-river" case. That would argue that the word "to compel" (*lakof*) used by Maimonides should be limited to just that situation.¹³⁵ Equally interesting, many of those *rishonim* who clearly argue with Maimonides concerning the obligation to enforce Noahide law discussed in section III, also clearly aver that there is no obligation to separate a Noahide from sin.¹³⁶ Their position, too, is consistent. This author would note that any authority who rules that a Jew may assist a Noahide in a violation of the Noahide

¹²⁷*Yoreh De'ah* 151:3.

¹²⁸*Even Ha'ezer* 5:18.

¹²⁹*Orah Hayyim* 163:2.

¹³⁰*Yoreh De'ah* 151.

¹³¹*Yoreh De'ah* 151. Rabbi Feinstein, *Iggerot Moshe* 3:90 states that this is obvious, "proper and true."

¹³²Also, the harmonization of apparently inconsistent talmudic texts using this Noahide/*mumar* distinction to separate the various cases; see comments of Gra and *Magen Avraham* cited in notes 125 and 126.

¹³³For a discussion of that issue, see Broyde and Hertzberg "Enabling a Jew . . .", (n. 123).

¹³⁴It is worth noting that Shatih (*Yoreh De'ah* 151:6), in his list of authorities who he thinks agree with his assertion that there is no obligation to separate a Noahide from sin, leaves out Maimonides.

¹³⁵Rabbi Menahem Mendel Schneerson unambiguously rejects this reading of Maimonides and accepts that Maimonides means that one should do anything in one's power, to encourage or compel observance. For more on his position, see pp. 134ff below.

¹³⁶Thus, for example, *Tosafot*, *Shabbat* 3a clearly indicates that to be his rule, as does Nahmanides, cited by Ran in *Avodah Zarah* 7a.

rules (when the Noahide can do the violation without the Jew's assistance) *must* rule that there is no obligation upon any particular Jew to convince a Noahide to obey the commandments.¹³⁷

The second position is taken by Rabbeinu Nisim ("Ran"). Ran states that there is a separate rabbinic prohibition, called *mesaye'a yedei overai aveirah* (literally: "aiding the hand of those who sin") to assist a person—Jew or Noahide—in sin even in situations where the person can do the sin without the help of another.¹³⁸ Though many authorities accept the opinion of the Ran concerning a Jew who is generally not observant,¹³⁹ as noted above, this opinion essentially is rejected in Jewish law¹⁴⁰ concerning a Noahide—the classical exception being *Tashbetz*, which rules that it is halakhically prohibited to assist a Noahide in sin, because Jews are obligated to separate Noahides from sin.¹⁴¹

¹³⁷This is analogous to the tension between the obligation of *tokhahah* (rebuke) to an unobservant Jew and the permissibility to assist him in sin (according to *Shakh* and *Dagul Merevavah*). As noted by many, once one is permitted to assist a Jew in sin it is logical to assume that there is no obligation also to rebuke him.

¹³⁸See Ran, *Avodah Zarah* 6b (1a in Rif pages). This author finds very difficult the assertion of *Shakh* that even Ran would agree that even for a Noahide there is no obligation to restrain him from sin, as Ran explicitly asserts this rabbinic obligation in the case of a Noahide. Most likely *Shakh* is referring to the opinion of *Nahmanides* cited in Ran, Rif pages 7a. This opinion of *Nahmanides* is consistent with the opinion of *Nahmanides* cited on page 125 above. *Tosafot*, too, are consistent on this issue.

¹³⁹Among the commentaries, see *Magen Avraham*, *Orah Hayyim* 347:4 and *Gra*, *Yoreh De'ah* 151:8. Among the responsa, see R. Yaakov Ettliger, *Binyan Zion* 1:15; R. Naftali Tzvi Yehudah Berlin, *Meshiv Davar* 2:32, R. Aharon Kotler, *Mishnat Rav Aharon* 1:6.

¹⁴⁰See sources cited in notes 125 to 131. Perhaps one could claim that the opinion is accepted by Rabbi Karo himself writing in *Yoreh De'ah* 151:1, although as noted by Rabbi Ovadiah Yosef (*Yabi'a Omer*, *Orah Hayyim* 2:15[8–9]) this is difficult to prove.

¹⁴¹*Tashbetz* 3:133. It is worth noting that even Rabbi Ovadia Yosef cites no later authorities in agreement with *Tashbetz* on this issue. He too perceives him as standing alone; *Yabi'a Omer* *Orah Hayyim* 2:15(2–10). Perhaps a claim could be made that *Tosafot Yom Tov*, *Pirkei Avot* 3:14 agrees with *Tashbetz* (see post-script). This author is more inclined to read his remarks in the same light as those of *Sefer Hasidim* cited at the opening of this article and also note 146.

According to Ran's approach, Maimonides' ruling, cited above, could be understood in two different ways. When a Jew could compel observance of the law, that would be a biblical obligation. When compulsion would not work, there would be a rabbinic obligation at least not to assist. This position is neutral on the proper understanding of Kings 8:10 (which appears to compel observance), as even if there is no obligation to compel observance, one could readily imagine the Sages prohibiting actual assistance in a violation, even if there were no obligation to deter the sin. If one accepts Maimonides in Kings 8:10, one must at the minimum accept Ran's rule.

Maimonides, himself, however appears to be completely consistent. He rules that one may never aid a person—Jew or Noahide—who is attempting to violate the law even if, when one declines to aid him, another will do so. This is true whether or not the next person who aids him is also obligated to observe the law. Thus, his position rejects the approach taken in *Avodah Zarah* 6b and makes no distinction between one or two sides of the river.¹⁴² Maimonides' position is completely consistent: he prohibits assisting another in sin in all situations and compels both Jews and Noahides actively to prevent others from violating Noahide law.¹⁴³

The Responsa of Rabbi Menahem Mendel Schneerson

When a Jew contemplates violating Jewish law, there is an obligation upon Jews not only to prevent him from violating the law (physically, if necessary and possible). But there are also obligations to teach him or

¹⁴²Maimonides would maintain that the statements by R. Natan in *Avodah Zarah* 6b represent only R. Natan's opinion, and are not accepted by most of the Amora'im; to support this he would cite the fact that this limitation on R. Natan is not quoted in the Talmud in any other place. Although Maimonides does not say so explicitly, this position can be inferred from several of his comments. First, in *Sefer ha-Mitzvot*, negative commandment 299, Maimonides does not limit the scope of the prohibition of *lifnei ivver* to situations where others cannot help. Secondly, he never quotes this limitation in any of the instances he deals with *lifnei ivver* in his primary work, the *Mishneh Torah*. In addition, this understanding of Maimonides is found in *Minhat Hinukh*, Negative Commandment 232:3, and *Melamed Leho'il* 1:34.

¹⁴³See also *Havot Ya'ir* 137, who appears to adopt the opinion of Maimonides.

her about the law and to induce or persuade compliance.¹⁴⁴ Indeed, in a post-Emancipation society, limiting Jewish sinning is rarely done with coercion; it is typically done through persuasion and teaching. In my opinion, as noted above, the *halakhah* as generally understood by most authorities rules that there is no obligation to persuade and teach Noahides about the Noahide law. None of the classical commandments designed to deter sinning by Jews (except the biblical prohibition of *lifnei iver*, which was discussed previously)¹⁴⁵ is generally thought applicable to Noahides. Thus, there is no obligation of *tokhaha* (to rebuke) a Noahide who sins,¹⁴⁶ there is no notion of *arevut* (cooperative activity) that compels collective responsibility,¹⁴⁷ and no obligation to separate a Noahide from sin.

One modern responsum stands out as advocating an approach completely different from that generally accepted by Jewish law. The strongest case that a Jew is obligated to teach and persuade gentiles to keep the seven commandments is found in the writings of Rabbi Menahem Mendel Schneerson of Lubavitch, in one of his classical responsa.¹⁴⁸ After

¹⁴⁴For a general discussion of the parameters of this obligation, see R. Yehuda Moreal, *Be-Derekh Tovim* 124–129 and Moshe Weinberger, *Jewish Outreach: Halakhic Perspectives* (New York: Ktav, 19).

¹⁴⁵In general, *lifnei iver* is a different type of obligation, since it discusses assisting or enabling sin, which logic would indicate is more restricted than merely not preventing sin. Thus, the fact that one is under no obligation to teach a person that murder is wrong, does not mean that one can sell the person a gun to commit a murder or provide directions to the victim's house.

¹⁴⁶See generally *Sanhedrin* 75a and Rashi (excluding even a resident alien). It has been claimed that Rashi, according to an alternative version not found in our text, maintains that there is an obligation of rebuke applicable to a Jew when a Noahide sins. See *Minhat Yitzhak* 4:79(4), who relates this to the sources cited in note 1. This author would be more inclined to understand the ruling of *Sefer Hasidim* as imposing an extra-halakhic moral duty; but see notes of Rabbi Meir Arik to *Sefer Hasidim* which cross-references this to Maimonides, *Kings* 8:10.

¹⁴⁷For a lengthy discussion of this issue, see Aaron Kirshenbaum, "Covenant with Noahides Compared with Covenant at Sinai," *Dinei Yisra'el* 6 (1974):31–48, n. 37 (Hebrew).

¹⁴⁸Rabbi Menahem Mendel Schneerson "Sheva Mitzvot Shel Benei No'ah," *Ha-Paredes* 59:9 7–11 (5745). This responsum has been reprinted in a number of places; see e.g. *Responsa Shavit* 7:1. For Rabbi Stern's reply, see *Responsa Shavit* 8:3 (asserting that Maimonides' ruling is limited to enforcing acceptance,

quoting Maimonides, *Kings* 8:10 discussed in part 1, Rabbi Schneerson states:

It is obvious that this obligation [found in Maimonides, *Kings* 8:10] is not limited only to a Jewish court, since this commandment is unrelated to the presence of a *ger toshav* (resident alien), and thus what is the need of a *beit din*. . . . Thus, this obligation is in place in all eras, even the present, when no *ger toshav* can be accepted and it is obligatory on all individuals who can work towards this goal. So, too, this commandment is not limited to using force—where, in a situation we cannot use force, we could be excused from our obligation—since the essence of the obligation is to do all that is in our power to ensure that the seven Noahide commandments are kept; if such can be done through force, or through other means of pleasantness and peace, which means to explain [to Noahides] that they should accept the wishes of God who commanded them in this rules. This is obviously what is intended by Maimonides. . . .

In *Responsa Tashbetz* (3:133) it states that even in a case where there is no prohibition of *lifenei iver*, such as two sides of the river, still it is prohibited to assist Noahides who wish to sin, since “we are obligated to separate them from sin.” In reality, we have no source for the obligation to separate a Noahide from sin, if it is not derived from the remarks of Maimonides discussed above [*Kings* 8:10] that we are obligated to coerce them into accepting commandments, and thus, of course, we may not assist them in violating them.

Rabbi Schneerson concludes by stating:

From all of the above, it is clear that anyone who has in his ability to influence, in any way, a Noahide to keep the seven commandments, the obligation rests on him to do so, since that was commanded to Moses our teacher. Certainly, one who has connections with Noahides in areas of commerce and the like, it is proper for him to sustain the connection in order to convince and explain to that person, in a way that will reach that person’s heart that God commanded Noahides to keep the seven commandments. . . .¹⁴⁹

rather than observance). In this author’s opinion, Rabbi Stern’s distinction is difficult to accept as Maimonides, in the three sources cited above, appears to be speaking about observance as well as acceptance. Any other reading leaves Maimonides internally inconsistent and not based logically on the Talmudic source found in *Sanhedrin* 57a, as *Kesef Mishnah* states he is.

¹⁴⁹However, even Rabbi Schneerson concedes that the obligation to induce compliance is limited to situations where “no financial loss is caused, even the loss of future profits.” This limitation is itself a little difficult, as halakhah does not recognize “loss of profit” generally as a claim.

In my review of the literature, the weight of halakhic authority is contrary to this analysis, although it certainly is morally laudatory (all other things being equal) to convince Noahides to keep and observe the Noahide laws. Three proofs can be adduced, indicating that the ruling of Rabbi Schneerson is not accepted by most authorities.¹⁵⁰ First, as he himself notes, his position assumes that there is an obligation to separate a Noahide from sin. As noted in detail previously, nearly all authorities reject that assertion. Second, it assumes the halakhic correctness of the opinion of Maimonides concerning the general obligation to compel observance by Noahides; this author suspects that the normative *halakhah* is codified in favor of those who disagree with Maimonides and thus rejects the rulings found in Maimonides, *Kings* 8:10.¹⁵¹ Finally, it assumes that even within the position of Maimonides, the obligation to compel observance includes the obligation to persuade. No support is advanced for that proposition, and one could easily assert by analogy that merely because compulsion is mandatory (when possible) to prevent a violation, persuasion need not also be mandatory.¹⁵² In addition, proof that there is no obligation upon any individual Jew to teach Noahides their laws can be found in the many responsa that *permit* the teaching of Noahides about their laws: these many responsa all *permit* this activity—but none rules it *obligatory* or *compulsory*.¹⁵³

In addition, I believe that systemic jurisprudential concerns within *halakhah* for reciprocity (which are constantly present and which are

¹⁵⁰Of course, Rabbi Schneerson—himself a preeminent authority of Jewish law—is quite within his purview to argue with the overwhelming weight of authorities.

¹⁵¹See pp. 124ff above.

¹⁵²For example, in the area of *lifnei ivver*, if one's actions are needed to allow another to sin, there is a biblical prohibition in doing the activity; that is analogous to compulsion. On the other hand, if the sinner can sin without assistance, it is at best a rabbinic violation to assist the sinner; it might even be permissible. That would be analogous to persuasion.

¹⁵³See, for example, *Melamed Leho'il*, *Yoreh De'ah* 77; *Yabi'a Omer*, *Yoreh De'ah* 17; *Seridei Eish* 2:92; *Teshuvot Maharil* 199 and *Zekan Aharon* 2:71. For a survey of this issue, see Rabbi Bleich, "Teaching Torah to non-Jews," *Contemporary Halakhic Problems*, 2:315–316. Even Maimonides, who permits the teaching of Scripture to Christians based on the rationale that they accept the divinity of the Bible, merely rules that one *may* teach them the proper commandments, and not that one *must*; *Teshuvot ha-Rambam* 1:149 (Blau).

beyond the scope of this paper) mandate a symmetry of obligation between Noahide and Jew. Jewish law certainly does not compel Noahides to enforce their legal system on Jews and certainly does not authorize Noahides to punish Jews for violations of Jewish law.¹⁵⁴ To impose a non-reciprocal obligation upon Jews would violate jurisprudential norms found in Jewish law, where systemic obligations to act for the benefit of others are typically imposed only when those others would be obligated to do the same were the situation reversed. Noahides are not obligated to enforce Jewish law; Jews are thus not obligated to enforce Noahide law.¹⁵⁵

CONCLUSION

This article started by reviewing the halakhic obligation of gentiles to obey the Noahide commandments and concluded that notwithstanding a minority opinion to the contrary, *halakhah* accepts that gentiles are obligated to keep the Noahide laws, and they are responsible even for unintentional violations. So, too, *halakhah* recognizes that gentiles are obligated to create a system of laws designed to—at the minimum¹⁵⁶—enforce the Noahide laws and punish Noahide¹⁵⁷ violators.¹⁵⁸ This article then continued by noting that Maimonides believes Jews as well as Noahides are obligated to enforce the Noahide laws; but many authorities, early and late, including Rama, reject this rule of Maimonides and

¹⁵⁴See generally Rashbatz, 1:158–162, 59–61. See also Shmuel Shiloh, *Dina de-Malkhuta Dina* (Jerusalem: Magnes Press, 1974) 422–32.

¹⁵⁵This idea is a paper in and of itself; see Michael Broyde and Michael Hecht, “The Gentile and Returning Lost Property According to Jewish Law: A Theory of Reciprocity” forthcoming in the *Jewish Law Annual*.

¹⁵⁶Perhaps even to create a general legal system, according to Nahmanides.

¹⁵⁷See note 66.

¹⁵⁸It is important to note that the overwhelming consensus of halakhic scholars is that there is no obligation upon Noahides to execute every violator of the law. Within the rubric of *dinim* is the right to create a hierarchical system of law, which invokes punishments other than death for violations; See Rabbi Bleich, in *Mishpat Maveti* (n. 1), and Rabbi Aaron Soloveitchik, “On Noahides,” *Beit Yitzhak* 19 (5747):335.

deny that there is a halakhic obligation on individual Jews to compel Noahides to observe their laws. Indeed, Rabbi J. David Bleich states unequivocally: "Jews as individuals are not required to secure compliance with the Noahide Code on the part of non-Jews."¹⁵⁹

Finally, this article noted that whether there is (or is not) a halakhic obligation to enforce the Noahide laws, it is nonetheless still biblically prohibited to enable a Noahide to violate the Noahide laws (without a Jew's¹⁶⁰ assistance, the law would not be violated). In a situation where the Noahide is able to violate the law without the assistance of any Jew, however, nearly all authorities rule that there is no obligation to prevent a Noahide from sinning, and one may thus even assist the Noahide in sin. Clearly then, classical *halakhah* does not compel a Jew to persuade or entice a Noahide to observe the law. Rama rules that one may assist, but pious people should abstain from this activity. Shakh indicates that even pious people need not abstain from this activity. Rama's assertion that pious people should abstain from this activity can be supported both as a minority opinion within *halakhah* and as the ethical direction of *Sefer Hasidim* with which I began.

POSTSCRIPT

It is the conclusion of this paper that *halakhah* sees no technical obligation in most situations—even as it is morally laudatory—to ensure that Noahides obey their laws. Two observations must be made.

First, as with all issues, the outer parameters of that which is halakhically permissible do not establish that which is morally laudatory (or perhaps even halakhically encouraged). According to *Pirkei Avot*: "[Rabbi Akiva] used to say, Humanity is precious since people were created in God's image." The remarks of *Tosafot Yom Tov* are also relevant. "Rabbi Akiva is speaking about the value of all people . . . He wished to benefit all people including Noahides . . . Rabbi Akiva seeks to elevate all inhabitants of the world . . ."

¹⁵⁹Rabbi J. David Bleich, "Teaching Torah to non-Jews" *Contemporary Halakhic Problems* 2:338.

¹⁶⁰Or perhaps even any fellow Jew. See note 120.

Consider also the remarks of Rabbi Yehuda ha-Hasid, with which this paper opened.¹⁶¹ Indeed, Rabbi Joseph B. Soloveitchik continues the theme of *Sefer Hasidim*, concerning Nineveh, when he states:

There may be an additional reason for Jonah's association with Yom Kippur . . . Nineveh was the capital city of pagan Assyria . . . It was a country which would later, under Sennacherib in 722 B.C.E. besiege Jerusalem and exile the ten tribes. Yet God's compassion embraces all of humanity . . . It is, therefore characteristic of the universal embrace of our faith that as the shadows of dusk descend on Yom Kippur . . . the Jew is alerted . . . that all of humanity are God's children. We need to restate the universal dimension of our faith, especially when we are sorely persecuted and are apt to regard the world in purely confrontational terms.¹⁶²

In a similar vein are the remarks of the *Kuzari*, which indicates that the moral relationship of the Jews to the nations of the world is similar to that of the heart to the rest of the body.¹⁶³ Thus, there are many theological or halakhic reasons why it might be proper to teach Noahide laws generally. In fact, a claim can be made that *halakhah* obligates a truthful response to an honest query from a Noahide concerning his obligation under the Noahide code.¹⁶⁴

¹⁶¹"When one sees a Noahide sinning, if one can correct him, one should, since God sent Jonah to Nineveh to return them to his path"; *Sefer Hasidim*, Section 1124.

¹⁶²*Reflections of the Rav*, Volume 2: *Man of Faith in the Modern World* (adaptations of the lectures of Rabbi Joseph B. Soloveitchik by Abraham Besdin) (New York: Ktav, 1989), 142–144.

¹⁶³*Kuzari*, 2:36; see also *Kuzari* 1:47 and 1:57 for similar insights. It is based on this *Kuzari* that Rabbi Yaakov Kamenetsky indicated that Torah Umesorah should close its various *yeshivot* on the day of President John F. Kennedy's funeral in 1963. (After citing the *Kuzari*, he stated "it is the role of the Jews to teach morality to the nations, and thus, whenever some terrible wrong occurs, we should feel implicated for not having completed our mission;") Yonason Rosenblum, *Reb Yaakov* (New York: Mesurah, 1993), 182–183. Rabbi Howard Jachter pointed out this source to this author. Similar thoughts can also be found in *Moreh Nevukhim* 3:51 concerning the role of the Jewish forefathers.

¹⁶⁴Support for this proposition can be found in Seforno, commenting on Ex. 19:6, which clearly indicates that Jews must answer these questions from

Second, this paper has left unexplored many other rationales for seeking enforcement of Noahide law. The words of Maharam Schick should be quoted: "[I]t appears that any situation that involves judging violators, even if they are Noahides, is a Jewish people's concern, for others will learn from any wrong done in public and will follow suit and, in the least, the sight of evil is harmful to the soul. Thus, it is our concern. In any case, it is inconceivable that any person living among the residents of a given city be beyond the jurisdiction of the court."¹⁶⁵ Rabbi Bleich puts it a little differently.

Noahides. See generally comments of Maimonides, *Ma'aseh Korbanot* 19:16 and Meiri 59a. Rabbi Bleich states:

It seems to this writer that while there exists no obligation to volunteer information (although it may well be laudable to do so), there is an obligation to respond to requests for information. Jews are commanded to disseminate Torah as widely as possible among their fellow Jews, but there is no obligation to seize the initiative in teaching the Seven Commandments to Noahides. Nevertheless, when information or advice is solicited there is a definite obligation to respond. When a non-Jew takes the initiative in posing a query, the Jew must respond to the best of his ability. (Rabbi J. David Bleich, *Contemporary Halakhic Problems* 2:339)

Limiting the obligation to respond to sincere solicitations relating to personal conduct (as Rabbi Bleich apparently intended), this can also perhaps be inferred from *Peri Megadim*, *Orah Hayyim* 443:5 and 444:6, whose assertion as to the obligation to remove passive obstacles might rise to the level of a "one side of the river" case when a particular Jew is asked by a Noahide what his law requires of him. This raises the question of whether *lifnei ivver* can be violated through passivity; for more on that see "Enabling Jews to Sin," supra note 123.

¹⁶⁵Maharam Shick, *Orah Hayyim* 144. An example of this can also be found in the letter of Rav Moshe Feinstein sent to the New York State governor favoring the implementation of the death penalty for certain crimes; *Iggerot Moshe*, *Hoshen Mishpat* 2:68. So too, the mandate of *tikkun olam* might provide some direction; see generally R. Nissim, *Derashot ha-Ran*, 11 (which uses the term *tikkun siddur ha-medini* to refer to Noahide activity). For a brief discussion of this issue, see Suzanne Last Stone, "Sinaitic and Noahide Law: Legal Pluralism in Jewish Law," 12 (1990) *Cardozo Law Review*: 1157-1214. On the use of *tikkun olam*, it is also important to examine the way that term is used by Maimonides, in *Kings* 11:4 in the uncensored versions of his text (for example, see *Rambam le-Am*). This issue is quite crucial, as Maimonides' image of *tikkun olam* seems to be directed at the reason for religions other than Judaism; see also *Responsa Kol Mevasser* 1:47 and *Heikhal Yitzhak Orah Hayyim* 38.

Despite the absence of a specific *obligation* to influence non-Jews to abide by the provisions of the Noahide Code, the attempt to do so is entirely legitimate. Apart from our universal concern, fear lest "the world become corrupt," as Maimonides puts it, it is also very much a matter of Jewish concern and self-interest. Disintegration of the moral fabric of society affects everyone. Particularly in our age we cannot insulate ourselves against the pervasive cultural forces which mold human conduct. Jews have every interest in promoting a positive moral climate.¹⁶⁶

Additionally, there is the issue of *hillul ha-Shem*, desecration of God's name. It is possible that there could be situations where public institutional silence by Jewish groups as to the propriety of a particular activity by government or other groups, particularly when other religious groups are protesting this activity as immoral, could lead to desecrations of God's name. On the other hand, the more clearly known it is that governmental policy is areligious in nature and that Jewish law imposes no obligation on Jews to protest, the less serious an issue this becomes.

Finally, there is the philosophical mandate to be a "light unto the nations of the world." As noted by Radak commenting on the words "*le-or goyim*" (Is. 42:6), "because of the influence of the Jews, the gentiles will observe the seven commandments and follow the right path." While this concept is beyond the scope of this paper, and deserves one of its own, a brief review of the use of the term "light unto the nations" indicates that it is normally used to mean that the Jews should behave in an exemplary manner such that gentiles will wish to imitate Jews, and not as a mandate to proselytize observance. This is exemplified by Is. 60:3; for examples of that in rabbinic literature, see *Bava Batra* 75a; *Midrash Rabbah Ester* 7:11; *Midrash BeReshit* 59:7 and *Midrash Tehilim* (Bubar) 36:6. For a sample of its use in the responsa literature, see *Tzitz Eliezer* 10:1 (74); *Yavetz* 1:168 and particularly *Hatam Sofer* 6:84; see also responsa of *Rosh* 4:40 which is also cited in *Tur, Orah Hayyim* 59. None of these authorities uses the citation in a legal context to direct Jewish participation in gentile activities—all of the citations are homiletical (*Maharit, Even Ha'ezer* 2:18 does appear to use it in a legal context concerning a Jewish dispute; however upon further examination one sees that not to be so). This concept plays yet a more prominent note in kabbalistic literature; see *Sefer Resisei Laylah*, section 57 s.v. "*techlat*" and "*ve-zehu*." For a defense of this beacon-like (i.e., Jews behave properly and this illuminates the world) understanding of the verse as the proper understanding of the literal meaning of the Bible itself, see Harry Orlinsky, "A Light unto the Nations: A Problem in Biblical Theology," *Seventy-Fifth Anniversary Volume of the Jewish Quarterly Review* eds., Abraham A. Neuman and Solomon Zeitlin (Philadelphia: Dropsie College, 1943 [1967]), 409–428. For an indication as to

There might be many practical reasons why it is a wise idea to teach vigorously the Noahide Code, or parts of it,¹⁶⁷ to gentiles.

On the other hand, the apparent absence of a general halakhic obligation upon Jews to increase observance of the Noahide code by gentiles allows for a balancing of Jewish interests to occur. The possibility that there might be circumstances where the unfettered teaching of the Noahide code in the United States, where distinctions based on religious affiliation may not be governmentally defended, could be deleterious to the observance of *halakhah* by Jews is not to be dismissed.¹⁶⁸ So, too, the possibility that a clearly Jewish attempt to seek enforcement of Noahide laws could result in vast antagonism and backlash toward Judaism from those groups whose conduct is categorically prohibited by Noahide law is not to be dismissed.¹⁶⁹ Long-term damage to broad Jewish interests might occur.

All of the concerns—on both sides of the issue—are real. How to weigh the likelihood of each scenario and its consequences is beyond the scope of this paper. Perhaps it varies from issue to issue and case to case—although once it is established that no technical halakhic obligation is present, a broad variety of realpolitik factors comes into play, each attempting to evaluate what will be in the long term best interest of the Jewish people. These political factors are much less relevant when technical halakhic prohibitions are on the line, but are certainly significant when discussing the advisability of undertaking discretionary conduct.

why Radak might use both the phrase “observe the seven commandments” and the phrase “follow the right path,” see *Iggerot Moshe, Yoreh De'ah* 2:130 who indicates that the two are separate concepts.

¹⁶⁶Rabbi J. David Bleich, “Teaching Torah to non-Jews” *Contemporary Halakhic Problems* 2:339. See also material cited in note 164.

¹⁶⁷Rabbi Yehudah Gershuni, *Kol Tzofayikh*, 2d ed., where he discusses the possibility of selective teaching of the Noahide laws (unnumbered pages in the back of the book, seven pages after numbering ends).

¹⁶⁸For example, the promulgation of an abortion law in the United States, consistent only with the Noahide code, would cause situations to arise where *halakhah's* mandates could not be fulfilled.

¹⁶⁹For a discussion of such a case, see this author's “Bullets that Kill on the Rebound: Discrimination against Homosexuals and Orthodox Public Policy,” *Jewish Action* 54:1 (Fall 1993):52, 74–78 and the reply to it by Rabbis Goldberg, Stolper and Angel in *Jewish Action* 54, 1 (1993):53, 80–82.