„The Alien… Shall Be to You as the Citizen" (Lev 19:34): Inclusion in and Exclusion from the religious community in Yehud

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Der Artikel untersucht die Stelle des Fremden im Alten Testament im Gegensatz zu den klassischen Quellenhypothesen von Wellhausen. Wenn sich die D und P Redaktoren, die den Pentateuch in demselben Zeitalter herausgegen haben, in ihrer Konzeption unterscheiden, hängt das davon ab, dass in der postexilischen Zeit zwei Hauptrichtungen in Bezug auf die Fremden entwickelt haben. Während für die den Akzent auf Ethnizität anlegenden D Redaktoren das Volk Israel von anderen Nationen als ein auserwähltes hervorgehoben wird, indem keine Fremden eingeschlossen werden dürfen, unterstreichen die P Redaktoren den Universalismus, insofern die Fremden in die Glaubensgemeinde eingeführt werden können. Für P und H sind die Fremden (gerim) ipso facto keine Proselyten, aber wenn sie wollen und die Beschneidung und möglicherweise andere Bundeselemente akzeptieren, dann können sie wie die Bürger angesehen werden, indem dasselbe Gesetz für den Fremden wie für die Einheimischen wirkt.

Stichwörter: die Bibel, Alten Testament, Alterität

Studying the concept of otherness in the Old Testament, the reader finds in the Hebrew text three interconnected terms, *ger* (usually translated "sojourner", "alien"), *zar* ("stranger") and *nokri* ("foreigner"). The traditionalist Old Testament scholars have interpreted especially the discrepancies in the Pentateuch laws concerning the aliens (*gerim*) as illustrating the classical assumption of the documentary sources hypothesis. In this understanding, the texts reflected the evolutionary tendency that spreads from inter-clan relations in pre-Deuteronomic period, through the nationalistic and exclusivist views of the Deuteronomists, up to the integrative positions of the Priestly Code and the Code of Holiness[1].

In 1991 Christiana van Houten dedicated a monographic study to the concept of *ger* (translated after the NRSV "alien") in which she followed basically the Wellhausian hypothesis[2]. She finds the oldest reference to the *ger* in the Book of the Covenant (Exod. 20:22 – 23:33), which offers a social law that is negatively formulated in Exod. 22:20; 23:9 dealing with the prohibition of the abuse against

[1] In the article I use the following abbreviations: D for Deuteronomic, Dtr for the allegedly Deuteronomistic literature, P for the Priestly Code and H for the Holiness Code.

[2] Christiana van Houten, *The Alien in Israelite Law*, JSOT Press, Sheffield, 1991, JSOTSupp 107. Although not with a very rigorous treatment of the redactional layers – cf. Carolyn Jo Pressler, „The Alien in Israelite Law, by Christiana van Houten. JSOTSup 107. Sheffield: JSOT Press, 1991. Pp. 200", *Journal of Biblical Literature*, 112 (1993), no. 2, p. 321-322.

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the alien, but also positively through the inclusion of the alien in the sabbatical rest (23:12). For van Houten these pre-D laws originated in the period of the Judges, i.e. before the Israelite monarchy[3]. She underlines that the alien (*ger*) is not necessarily a conquered Canaanite, but an outsider, "someone from another tribe, whether Israelite or non-Israelite"[4], as argued from Judg. 17:7 where a Levite "sojourned" (vb. *gar*) in Bethlehem of Judah. The alien would not be a self-sufficient individual, but a less fortunate person, member of a large household and depending on the charity of the patriarch (*paterfamilias*) under the protocol of hospitality, as shown by the second person singular suffix attached to the term (*gerka*)[5]. In this aspect her view coincides with other scholars', such as Bultmann who states that indeed for the pre-Deuteronomic texts, *ger* doesn't have the meaning "foreigner", but alien in comparison to the local population. In 2 Sam. 4:3 the Beerothites fled to Gittaim and live there as aliens (*garim*), but both cities lied inside the Benjaminite territory[6].

With such an understanding, van Houten surpassed the old view envisaged for example by Bertholet, for which *ger* is the foreigner that sojourns in land, in a tribe or clan, whereas *nokri* is the passing foreigner from a distant land[7]. She also went beyond another view, epitomized for example by Meek, in whose opinion, although in JE *ger* is the Hebrew immigrant in an alien land (Gen. 15:13; Exod. 2:22; 18:3), in the Book of the Covenant and D *ger* refers to "the indigenous

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[3] C. van Houten, *The Alien in Israelite Law*, p. 51.

[4] C. van Houten, *The Alien in Israelite Law*, p. 67, 62. W. Robertson Smith, *Lectures on the Religion of the Semites*, First Series: *The Fundamental Institutions*, A. and C. Black, London, 1894, pp. 75-76 presents *gerim* as "protected strangers" and defines *ger* as "a man of another tribe or district, who, coming to sojourn in a place where he was not strengthened by the presence of his own kin, put himself under the protectionof a clan or of a powerful chief". William H.C. Propp, *Exodus 19-40*, Yale University Press, New Haven / London, 2008 (reprint Doubleday, New York, 2006, AB 2A), The Anchor Yale Bible, p. 258: *ger* could be or not a non-Israelite, because the individual primary identity was tribal, not national. John I. Durham, *Exodus*, Word Books, Dallas, 1987, WBC 3, pp. 328: "a temporary dweller, a 'tourist' for a short or an extended time".

[5] C. van Houten, *The Alien in Israelite Law*, p. 58, 66. Cf. Martin Noth, *Das zweite Buch Mose: Exodus*, Vandenhoeck & Ruprecht, Göttingen, 1959, ATD 5, p. 150. Max Weber, *Gesammelte Aufsätze zur Religionssoziologie*, vol. 3, Mohr Siebeck, Tübingen, [8]1986, p. 33-35 compared *gerim* with the Greek *metoikoi* or plebeians and considered that they were artisans and merchants, but his comparison has meanwhile become obsolete. Jacob Milgrom, *Leviticus 17-22*, Yale University Press, New Haven / London, 2008 (reprint Doubleday, New York, 2000, AB 3A), The Anchor Yale Bible, p. 1494 writes that *gerim* could not own land property. But what about Abraham, who as *ger* did buy a property (*ʾaḥuzzah*)?

[6] Christoph Bultmann, *Der Fremde im antiken Juda. Eine Untersuchung zum sozialen Typenbegriff »ger« und seinem Bedeutungswandel in der alttestamentlichen Gesetzgebung*, Vandenhoeck & Ruprecht, Göttingen, 1992, FRLANT 153, p. 21-22.

[7] Alfred Bertholet, *Die Stellung der Israeliten und der Juden zu den Fremden*, Akademische Verlagsbuchhandlung von J.C.B. Mohr (Paul Siebeck), Freiburg i.B. / Leipzig, 1896, p. 2. Bertholet begins his analysis of the *ger* concept from the text in 2 Sam. 1:13 that obviously applied the term *ger* to a foreigner, being the only occurrence when *ger* appeared combined with a gentilicum (*ben ʾiš ger ʿamaleqi* "the son of a sojourner, an Amalekite").

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population of Palestine conquered by the Hebrews", which have "a position of inferiority and dependence", the best translation being therefore "resident alien"[8].

This conviction was meanwhile challenged by Ramírez Kidd, who argued that the verb *gwr* and the noun *ger* don't cover the same meaning and therefore methodologically one must separate the biblical texts about *ger* from the others where the verb appears. The verb *gwr* is generally used in respect of the Israelites who go outside their land, being so related to the idea of emigration, but the noun *ger*, especially in P, refers to the foreigners who live in Israel as immigrants, having a juridical notion[9]. Ramírez Kidd observed that the noun *ger* doesn't have a feminine form, in contrast to *zar* and *nokri*, therefore "the noun *ger* is a technical term which designates not a person but a legal status"[10]. I completely agree with Kidd regarding the category of social *terminus technicus* for *ger*, but I must take issue with the separation he proposed between *gwr* and *ger*, considering that in 22 occurrences they are interconnected (*ger haggar*, *yagur ger*), although the semantic area of the verb is wider than that of the substantive.

A more important problem remains the chronological one, as critical insights in the Book of the Covenant have pushed the date much later. L. Schwienhorst-Schönberger showed that the laws concerning the aliens from the Book of the Covenant belong to a proto-D theological layer that was supplemented later by a Dtr redactor[11]. The same dating is supported by C. Bultmann, who ascribes Exod. 22:20; 23:9 to the late nomistic Dtr redaction from the 2nd half of the 6th cent BCE[12]. Also K. Sparks postulated on the ground of the *nebelah* law that the Book of the Covenant is post-D[13]. C. Bultmann considers that 2 Sam. 1:13, the text which identified *ger* as a foreigner, belongs to a Dtr redaction[14]. Therefore the very first stage of the evolutionary process regarding the *ger* in the Hebrew Bible is put under question, nevertheless it testifies against relating the *ger* with the foreigners.

And finally a further correction was provided by Bultmann. He demonstrate convincingly that there is no evidence the *ger* stood under the protection of a patron, because after the pronominal suffix (*gerka*) fallows the addition "who is

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[8] Theophile James Meek, "The Translation of *gêr* in the Hexateuch and Its Bearing on the Documentary Hypothesis," *JBL* 49 (1930), no. 2, p. 172-173.

[9] José E. Ramírez Kidd, *Alterity and Identity in Israel: The* גר *in the Old Testament*, Walter de Gruyter, Berlin / New York, 1999, BZAW 283, p. 23-24.

[10] J.E. Ramírez Kidd, *Alterity and Identity in Israel*, pp. 28-29.

[11] Ludger Schwienhorst-Schönberger, *Das Bundesbuch (Ex 22,22 – 23,33): Studien zu seiner Entstehung und Theologie*, Walter de Gruyter, Berlin / New York, 1990 (BZAW 188), pp. 338-356. He postulated an early casuistic Law book (Ex. 21:12 – 22:16) that emerged in the 10th cent. BCE or even in the pre-monarchic period (11th cent.) and was written down and updated till the 9-8th cent. BCE (p. 271, 276).

[12] C. Bultmann, *Der Fremde im antiken Juda*, p. 168-169, 174.

[13] Kent Sparks, "A Comparative Study of the Biblical נבלה Laws", *ZAW* 110 (1998), no. 4, pp. 594-600. He argues for a completely different order: Deuteronomy – Holiness Law – Book of the Covenant – Priestly Code.

[14] C. Bultmann, *Der Fremde im antiken Juda*, p. 20. The tradition of Saul's slaughter by an Amalekite corresponds to his guilt from 1 Sam. 15 and 1 Sam. 28:17-18 (p. 21).

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within your gate" and neither in the Dtr history the status of *ger* does mirror a client-patron relation[15]. Weber's parallel *ger-metoikos* was from the sociological vantage point wrong.

The Deuteronomic (D) and Deuteronomistic (Dtr) laws

Now we can proceed to the next allegedly phase, the D/Dtr laws. In van Houten's opinion not sooner than the D law the term *ger* represented without any doubt the foreigner, the non-Israelite[16]. The D laws differentiate sharply between the foreigners (*nokri*) and the Israelites (Deut. 15:3; 23:21) letting us the opportunity to perceive "the duality of insider/outsider ethics"[17]. Van Houten brings as evidence Deut. 14:21[18] where *ger* is assimilated with the foreigner (*nokri*)[19]: "You shall not eat anything that dies of itself; you may give it to the alien (*ger*) who is within your towns, that he may eat it, or you may sell it to a foreigner (*nokri*); for you are a people holy to the Lord your God" (RSV). The text assumed that the alien is on a lower level than the widow and the orphan, because the dead animal could not be given to the impoverished Israelite. In the same time the alien is defined as needing support in contrast to the foreigners who can pay for the inedible food according to the Israelite law. As van Houten suggests, aliens "were accorded generous treatment, unlike foreigners, but they were never given the option of becoming Israelites"[20].

The second strong evidence is Deut. 24:14, where the provenience of the poor and needy laborer (*śakir*) could be either from the "brothers" (*meʾaḥeyka*) or from the "alien that is in your land within your gates" (modified JPS). From this verse one can conclude that the alien is not "a brother" or, as van Houten pointed it out, "the law recognizes an ethnic distinction"[21]. Put in parallel with Deut. 17:15, where

[15] C. Bultmann, *Der Fremde im antiken Juda*, p. 72-73, 134.

[16] See the same approach at Morton Smith, *Palestinian Parties and Politics That Shaped the Old Testament*, Columbia University Press, New York / London, 1971, p. 178-179. Patrick D. Miller, *Israelite Religion and Biblical Theology: Collected Essays*, Sheffield Academic Press, Sheffield, 2000, JSOTSupp 267, p. 552; Georges Chawkat Moucarry, "The Alien According to the Torah", *Themelios* 14 (1988), no. 1, p. 17-20.

[17] C. van Houten, *The Alien in Israelite Law*, p. 107.

[18] In this particular law one is supposed to see an evolution: while the Book of the Covenant (Exod. 22:31) stipulated that the dead animal must be thrown to the dogs, after this Deuteronomic permissive compromise, the Holiness Law (Lev. 17:15) exclude also the alien. This should be seen as an evidence for the efforts to include the aliens into the Israelite community.

[19] Gerhard von Rad, "Das Gottesvolk im Deuteronomium", in: Rudolf Smend (ed.), Gerhard von Rad, *Gesammelte Studien zum Alten Testament*, vol. 2, Chr. Kaiser, München, 1973, TB 48, p. 53-54; J. Milgrom, *Leviticus 17-22*, p. 1494.

[20] C. van Houten, *The Alien in Israelite Law*, p. 107; cf. also p. 82: "The poor foreigner, the גר, is excluded from obeying the food laws, but included among those who receive generous treatment".

[21] C. van Houten, *The Alien in Israelite Law*, p. 94.

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the distinction for the eligibility of a king is between the brothers and the foreigners (*nokri*), it seems probable that *ger* is also assimilated with the foreigner[22].

Therefore, even if the foreigner could share some religious aspects of the Jewish life, other elements remain for him inaccessible and he is not fully integrated into the sacral community.

Another case brought to the fore by van Houten, for this time a piece of indirect evidence, was the Passover that appeared as a national feast, from which the aliens are excluded. In two other principal pilgrimages, the feast of the Weeks (Deut. 16:9-12) and the feast of the Tabernacles (16:13-15), the *ger* is for the first time in Ancient Near Eastern laws enlisted among the so-called *personae miserae*[23] together with the orphan, the widows[24] and the Levites. Now the social protection is no more negatively formulated ("you shall not wrong… or oppress") as in the Book of the Covenant, but positively suggesting a communal meal before the Lord. Nevertheless in the law concerning the Passover (Deut. 16:1-8) any reference to *ger* is absent, because, in van Houten's opinion, in the D theology the Exodus from Egypt represented the unique event that made up Israel as Yahweh's people. "Because of its nature, it is not appropriate to invite those who do not share their common history, i.e. aliens"[25].

In the Dtr law of the Sabbath (Deut. 5:12-15) the aliens appear as dependent members of the expanded family, but in the hierarchy they are the last, following even the servants and the cattle: "in it you shall not do any work, you, or your son, or your daughter, or your manservant, or your maidservant, or your ox, or your ass, or any of your cattle, or the sojourner who is within your gates" (v. 14). Van

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[22] C. Bultmann, *Der Fremde im antiken Juda*, p. 156. For him Deut. 17:15 reflects rather the situation of the 5th cent. contemporary with Nehemiah: the caution against the foreigners and against the connubial relations of the upper class to the foreigners (Neh. 6).

[23] Thomas Krapf, „Traditionsgeschichtliches zum deuteronomischen Fremdling-Waise-Witwe Gebot", *VT* 34 (1984), no. 1, p. 87-91. The expression "widow, fatherless and alien", even if it appears in Ps. 94:6; 146:9; Jer. 7:6; 22:3; Ezek. 22:7; Zech. 7:10 and Mal. 3:5 too, is specific for the Deuteronomic language. For M. Sneed these laws are an example of self-interest of the elite class to protect the resident aliens in order to benefit from their cheap labor – Mark Sneed, "Israelite Concern for the Alien, Orphan, and Widow: Altruism or Ideology", *ZAW* 111 (1999), no. 4, p. 504. He also emphasizes that these laws served the interests of priests who, unlike Neo-Babylonian cases (cf. Martha T. Roth, "The Neo-Babylonian Widow", *JCS* 43-45 (1991-1993) p. 24-25), are not obliged to support the widows. Instead they leave the job for the landed Judeans (p. 506).

[24] The orphan is not the fatherless, but a child who has lost both of his parents – cf. J. Renkema, "Does Hebrew *ytwm* Really Mean 'Fatherless'?", *VT* 45 (1995), no. 1, p. 119-122. The orphans and the widows appear in Ancient Near Eastern literature together with the poor – F. Charles Fensham, "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature", *JNES* 21 (1962), no. 2, p. 129-139.

[25] C. van Houten, *The Alien in Israelite Law*, p. 90. "When celebrating the abundant gifts received from the Lord, it is appropriate to respond with rejoicing and generosity expressed by including all members of society. However, when remembering the event by which God created the Israelites as a people separate from others, then generosity is not at the heart of the occasion. These people may still have been present, but it was not in keeping with the meaning of Passover to explicitly name them" (p. 90-91).

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Houten concludes in the same direction that in Deuteronomy "aliens dare to be treated with generosity, to be extended hospitality, but they are not invited to become Israelites"[26].

Arguing from a different path, other scholars too believed that in D *ger* is a foreigner. D. Kellermann argues that in 1 Chr. 22:2 and 2 Chr. 2:16-17, texts which he supports as a veritable archaic tradition, the aliens (*gerim*) residing in the land of Israel worked under kings David and Solomon as burden-bearers and stonecutters. Because according to 1 Ki. 9:20-21 and the parallel text in 2 Chr. 8:7-8 king Solomon took laborers from the foreigners ("people who were left of the Hittites, the Amorites, the Perizzites, the Hivites, and the Jebusites, who were not of Israel" NRSV) Kellermann supposed that the *gerim* used by kings David and Solomon for corvée must be foreigners too[27]. His demonstration is far from certain as the old age and the plausibility of the Chronicle texts must be first ascertained[28].

Other scholars proposed that the *ger* in D is in fact the Israelite immigrant from the Northern Kingdom after the Assyrian conquest. Crüsemann observed that before D, Jeremiah and Ezekiel there was no problem with the strangers; *ger* was seldom mentioned, for example from Joshua to 2 Samuel only 4 times (Jos. 8:33.35; 20:9 [later texts]; 2 Sam. 1:13) and the verb *gwr* only 7 times (Judg. 5:17; 17:7.8.9; 19:1.16; 2 Sam. 4:3). Using the archaeological evidence depicted by Broshi[29], he thinks that the *ger* problem occurred after the fall of the northern kingdom in 722 B.C.E. through the Israelite emigrants to Judah[30]. This opinion may have some support in 2 Chr. 15:9 where "those from Ephraim, Manasseh, and Simeon who were residing as aliens (*haggarim*)". Also among the participants of the Passover under king Hezekiah there were "the resident aliens (*gerim*) who came from the land of Israel and who lived in Judah" (JPS 1985).

C. Bultmann contended rightly against this equation, because the profile of the *ger*, as the widows and the orphans, belongs to the normal image of the Judean society. For Bultmann the *ger* in D is the fellow man of the Judean monarchy, part of the *ʿam haʾareṣ* of Judah in the 7th cent. BCE., who became or was poor,

[26] C. van Houten, *The Alien in Israelite Law*, p. 101.

[27] D. Kellermann, *TDOT* 2, p. 445.

[28] The Chronist avoids the texts from 1 Ki. 5:27 about the force labor of the Israelites during Solomon and suggests instead that the king used only non-Israelites (cf. Ralph W. Klein, *1 Chronicles*, Fortress Press, Minneapolis, 2006, Hermeneia, p. 432).

[29] M. Broshi, „The Expansion of Jerusalem in the Reigns of Hezekiah and Manasseh", *IEJ* 24 (1974), no. 1, p. 21-26.

[30] Frank Crüsemann, „Das Bundesbuch – historischer Ort und institutioneller Hintergrund" in: J.A. Emerton (ed.), *Congress Volume: Jerusalem, 1986*, Brill, Leiden, 1988, VTSupp 40, p. 33-34. Cf. also Matty Cohen, „Le « ger » biblique et son statut socio-religieux", *Revue de l'histoire des religions*, 207 (1990), no. 2, p. 148. D. Kellermann, *TDOT* 2, p. 445: "When Deut. 14:29; 16:11.14; 24:17.19.20.21; 26:13; and 27:19 mention the *ger* alongside orphans and widows, presumably they have in mind fugitives from the northern kingdom, who had settled in the southern kingdom from the fall of Samaria in 722 B.C. on"

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therefore needing social assistance[31]. He provided a good argument, that the position of *ger* next to the Levites raises the question whether he might indeed be foreigner, worshipper of another god[32]. A further argument is the juxtaposing of *ger* with *ʾaḥ*, "brother", a term that initially had a familial or clan connotation as a member of the local community and that only later denoted the national membership. Therefore *ger* too must have had primarily the local meaning as *Orstfremde*[33]. The care was initially intended for the Levites, who were afflicted by the centralization law of king Josiah[34], but later is was applied to the *gerim* as well. Nevertheless he focuses too narrow on the sociological status, denying the obvious ethnic element in Deut. 14:21[35].

Van Houten also brings as evidence for the identification of *ger* with the foreigner the text of Deut. 29:10 ("the alien who is in your camp, from your wood-cutter to your water-carrier" – modified NRSV and NJB), a text reminding of the Gibeonites (Jos. 9). Therefore van Houten suggests that the aliens were vassals to the Israelites through a suzerainty treaty[36]. Nevertheless the evidence is not convincing[37], the expression "from your wood-cutter to your water-carrier" having analogies ("to the firstborn of the female slave who is behind the handmill" – Exod. 11:5 NRSV") that illustrate the low class.

K. Sparks suggested a much more complex reality around the *ger* in the D and Dtr laws. *Gerim* were of varied origin: colonists brought by Assyrians, Israelite

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[31] C. Bultmann, *Der Fremde im antiken Juda*, p. 60: "Der *ger* gehört so zur Bevölkerung der judäischen Monarchie, daß ihn keine Fremdheit von der Verehrung des Gottes Jahwe trennt. Es kann von daher nicht wahrscheinlich gemacht werden, daß er als Fremder von jenseits der Grenzen des Gottesvolkes nach Juda gekommen ist. Dagegen spiegelt sich seine soziale Lage darin wider, daß er bei den Erntefesten als unselbständige Gestalt wie Waise und Witwe von den grundbesitzenden Bauern berücksichtigt werden soll, während er bei dem nationalen Fest, das das Grundverhältnis dieser Bauern selbst zum Land vergegenwärtig, nicht genannt ist". J.E. Ramírez Kidd, *Alterity and Identity in Israel*, p. 46. Cf. also p. 73-74. Georg Steins, "»Fremde sind wir…«: Zur Wahrnehmung des Fremdseins und zur Sorge für die Fremden in alttestamentlicher Perspektive", *JCSW* 35 (1994), p. 138.

[32] C. Bultmann, *Der Fremde im antiken Juda*, p. 55.

[33] C. Bultmann, *Der Fremde im antiken Juda*, p. 79. "Da der Begriff *ʾaḥ* primär keine nationalen oder ethnischen Implikationen in dem Sinne hat, daß er von einer Konzeption der Einheit des Staatsvolkes der judäischen Monarchie her gedacht wäre, sondern auf der Ebene der konkreten lokalen Gemeinschaft liegt, führt die Unterscheidung des *ger* von *ʾaḥ* nicht auf eine Herkunft des *ger* von außerhalb Judas", p. 83.

[34] C. Bultmann, *Der Fremde im antiken Juda*, p. 52.

[35] J. Milgrom, *Leviticus 17-22*, p. 1494. He pointed out to Deut. 10:18-19, where the analogy would make sense only if *gerim* mean foreigners (p. 1495). In my opinion, the argument is not persuasive, since for example "poor" might be integrated in the context.

[36] C. van Houten, *The Alien in Israelite Law*, p. 106. D. Kellermann, *TDOT* 2, p. 445 concludes that "presumably this text has in mind the pre-Israelite Canaanite population".

[37] C. Bultmann, *Der Fremde im antiken Juda*, p. 140: "Ist die Nennung des *ger* in 29, 10 durch eine Linie (Dtn 5, 14 usw.) – Dtn 31, 12 – Jos 8, 35 – Dtn 29, 10 zu erklären, läßt sich kein Bedeutungswandel der Bezeichnung hin zu einem als Proselyt von außen neu in die Religionsgemeinschaft eintretenden Fremden nachweisen."

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refugees from the Northern Kingdom, indigenous nomads and foreigners. Thus *ger* is not an ethnic term, but a social category[38].

The Priestly Code (P) and the Holiness Code (H)

For van Houten it was the P that accomplished the integration process of the alien[39]. For the first time in three priestly texts (Exod. 12:19.48-49; Num. 9:14) the alien is mentioned at the Passover and the feast of Unleavened Bread in connection with the "native of the land" (*ʾezraḥ haʾareṣ*)[40]. In Exod. 12:43-49 five groups can be discerned: the foreigner (*ben nekar*), the slave brought with silver (*ʿebed ʾiš miqnat kesep*), the temporary resident (*tošab*) and the hired worker (*śakir*) and the *ger*. Only the slave and the *ger* can, if circumcised, participate to the Passover meal[41]. These elements appeared also in Lev. 22:10-13: the foreigner (*zar*), the temporary resident of a priest (*tošab kohen*), the hired worker (*śakir*), any soul purchase by money (*nepeš qinyan kaspo*) and the born one in the house of the priest (*yelid beyto*)[42]. From these categories only the slave and the born one in his house are allowed to eat the holy things. The disobedient of the Passover law – and *ger* is especially mentioned (Exod. 12:19) – must be cut off from the "community of Israel" (*ʿadat Yiśraʾel*) and one might deduce that the circumcised *ger* belongs indeed to the community[43]. Very important here is that the biblical author stipulated a single law for the alien as for the native: "there shall be one law (*torah ʾaḥat*) to the native (*ʾezraḥ*) and for the alien (*ger*) who resides among you" (Exod. 12:49; *mišpaṭ ʾeḥad* in Lev. 24:22 or *ḥuqqah ʾaḥat* in Num. 9:14; 15:15). According to van Houten, this law was needed because the foreigner, the slave, the temporary resident and the hired worker could live in the same house and are

[38] Kenton L. Sparks, *Ethnicity and Identity in Ancient Israel: Prolegomena to the Study of Ethnic Sentiments and Their Expression in the Hebrew Bible*, Eisenbrauns, Winona Lake, 1998, p. 240-241: "Instead of viewing the גר as a 'resident alien', which has both ethnic and national overtones, we should instead recognize it as a social classification within which one finds both Israelites and non-Israelites. Among the גרים of foreign origin we find both those who were on the social periphery of the community and were assimilated into it and those who were foreign but chose to retain an independent sense of identity. It was the former that participated in the community's religious life and the latter who, like the foreigners, consumed unclean foodstuffs".

[39] Cf. also Edward Neufeld, „The Prohibitions against Loans at Interest in Ancient Hebrew Laws", *HUCA*, 26 (1955), p. 393.

[40] C. van Houten, *The Alien in Israelite Law*, p. 132.

[41] Different from the main translations (NRSV, JPS) Cohen reads the laws in Exod. 12:48 and Num. 9:14 as if stipulating a compulsory participation of the *ger* to the Passover ("If an alien resides with you, he shall celebrate the Passover to the Lord"). In supporting this reading he gives the example of Num. 6:9. Matty Cohen, „Le « ger » biblique et son statut socio-religieux", *Revue de l'histoire des religions*, 207 (1990), no. 2, p. 155-156. But in my opinion Lev. 25:48 offers a clear case that the construction *w^{e}qatal* after וכי with *yiqtol* refers to a secondary detailed cause of the frame and is not the apodosis. In conclusion in Exod. 12:48, as well as in Num. 9:14 the participation of the *ger* is facultative and not compulsory.

[42] I think that van Houten is wrong when she considers that *ger* is designated by *zar* in Lev. 22 (p. 126). *Zar* reflects here the "foreigner" (*ben nekar*) from Exod. 12.

[43] Cf. J. Milgrom, *Leviticus 17-22*, p. 1500-1501.

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members of the household and the legislation arose in response to this situation[44]. Other scholars considered that in these integrative views of P and H, the alien was deemed as a true "proselyte"[45]. Bultmann, who avoided the term "proselyte", suggests that the new meaning for *ger* hinges on the change of the category "Israel" in the post-exilic times from the territorial state to a community of faith[46].

The *nebelah* law in H (Lev. 17:15) is completely different from the D in forbidding the consumption of the *nebelah* by the alien as well as by the native. Van Houten concluded that "by not distinguishing between the alien and native, as was done in Deut. 14:21, the law includes the alien in the cultic community"[47].

In Lev. 19:34, the verse chosen in the title of my paper ("the alien who resides with you shall be to you as the citizen among you") the identification includes a moral meaning: "you shall love the alien as yourself"[48].

But for other scholars this integration of the *ger* in P and H is not evident. Ramírez Kidd suggests that in H (Lev. 17-26) *ger* is not included among the addressees. There is a difference between *ger* and people of Israel, as demonstrated by the expressions "the alien among you" (Lev. 17:8.10.12.13; 18:26) and "the alien in Israel" (Lev. 20:2; 22:18). Moreover a distinction is made between the alien and the house of Israel (Lev. 17:8.10; 22:18) or the sons of Israel (Lev. 17:13; 20:2)[49]. The alien is not addressed directly through the laws in H, but the prescriptions are addressed to the Israelite on behalf of the alien (cf. Lev. 19:9-10.33.34; 23:22). Ramírez Kidd concludes: "The purpose of the laws concerned with the preservation of holiness is not the integration of the *ger*. The presence of the *ger* here is secondary"[50]. J. Milgrom also disputes the integration of *ger* into the community illustrated in Exod. 12:48. For him, although *ger* was equal with the citizen according to the civil law (Lev. 24:22; Num. 35:15), according to the religious law *ger* must obey only the prohibitive, not the performative commands[51]. The alien is included as the member of the people of Israel in laws covering the

[44] C. van Houten, *The Alien in Israelite Law*, p. 126-127.

[45] A. Bertholet, *Die Stellung der Israeliten und der Juden zu den Fremden*, p. 178. T.J. Meek, „The Translation of *gêr* in the Hexateuch", p. 174. M. Smith, *Palestinian Parties*, p. 178-182. Frank Crüsemann, *Die Tora: Theologie und Sozialgeschichte des alttestamentlichen Gesetzes*, Chr. Kaiser, München, 1992, p. 359. D. Kellermann, *TDOT* 2, p. 447: in the old priestly strata (Lev. 1-7) *ger* is not mentioned, but in the late strata he is fully integrated as proselyte. Van Houten uses the term "proselyte" only regarding Lev. 25 and mitigates the observation with "it is possible" (C. van Houten, *The Alien in Israelite Law*, p. 131).

[46] C. Bultmann, *Der Fremde im antiken Juda*, p. 200-201 (especially n. 127).

[47] C. van Houten, *The Alien in Israelite Law*, p. 148.

[48] Hermann Spieckermann, *Gottes Liebe zu Israel: Studien zur Theologie des Alten Testaments*, Mohr Siebeck, Tübingen, 2004, FAT 33, p. 88.

[49] J.E. Ramírez Kidd, *Alterity and Identity in Israel*, p. 53.

[50] J.E. Ramírez Kidd, *Alterity and Identity in Israel*, p. 59.

[51] Jacob Milgrom, *Numbers*, The Jewish Publication Society, Philadelphia / New York, 1990, The JPS Torah Commentary, p. 399; J. Milgrom, *Leviticus 17-22*, p. 1496. The exceptions were that *ger* was allowed to slaughter his animal profanely, like game, without offering it as sacrifice at the altar (p. 1497-1498).

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blasphemy (Lev. 24:10-23), murder and slaughter of animals (Lev. 17:1-16; 24:21-22), uncleanness through touching a dead body (Num. 9:6-14), Sabbath (Num. 15:32-36), inheritance (Num. 27:1-11; 36:1-12). According to Ramírez Kidd "this does not necessarily mean that such prescriptions were part of a global policy for the integration of the *ger*. These were rather ad-hoc measures created by the pressure of the circumstances, in a time in which the concern for cultic purity was particularly important"[52]. J. Milgrom considers that the texts about one law for *ger* and for the citizen "applies only to the case given in the context; it is not to be taken as a generalization"[53].

I assume their observations are correct, but their conclusion inadequate. It is correct that the priestly literature developed a dynamic conception about holiness, in contrast with D that epitomized a static one. While a personal sin cannot offend the holiness according to D, in P's view the sin defiles the land of Israel and affects even the divine presence[54]. Indeed *ger* is not *ipso facto* a member of the community, but, a reality ignored by Milgrom and Ramírez Kidd[55], he *can* be integrated if he wants to and nothing can stop him. Other texts (see below) refer to this possibility with the verb *nilwah* "join". Nevertheless Milgrom and Ramírez Kidd gave the opportunity to define more accurate the status of *ger* in P and H: not proselyte or convert[56], but would-be proselyte.

Bultmann deemed the text from Lev. 19:9-10.33-34 as being primary a case similar with *ger* as a social protégé, but in the later expansions he assumed that the *ger* was given a sacral right equal to the *ʾezraḥ*[57]. The foreigner can enjoy through circumcision the same law as the native, a solid proof that now *ger* is a non-Israelite[58]. Very evident for Bultmann is Lev. 25:47-48, dated in the 5th cent. BCE during the Nehemiah's reform, a singular text in the Old Testament where *ger* is

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[52] J.E. Ramírez Kidd, *Alterity and Identity in Israel*, p. 55.

[53] J. Milgrom, *Numbers*, p. 399; J. Milgrom, *Leviticus 17-22*, p. 1496.

[54] Eyal Regev, "Priestly Dynamic Holiness and Deuteronomic Static Holiness", *VT* 51 (2001), no. 2, p. 243-261; J. Milgrom, *Numbers*, p. 399; J. Milgrom, *Leviticus 17-22*, p. 1497.

[55] Although Ramírez Kidd, *Alterity and Identity in Israel*, p. 68-69 recognized that in H the integration of non-Jewish persons are taken for granted.

[56] Jacob Milgrom, "Religious Conversion and the Revolt Model for the Formation of Israel", *JBL* 101 (1982), no. 2, p. 169-176; J. Milgrom, *Numbers*, p. 401; J. Milgrom, *Leviticus 17-22*, p. 1499. He accepts the status of would-be proselyte only for the foreigners in Trito-Isaiah (56:6) (p. 1499), but later, although he stated that in biblical times there was no conversion due to the ethnical category of thinking, Milgrom contradicts himself accepting that in Is. 14:1 and Ezek. 47:22-23 "total assimilation is apparently envisioned" (p. 1500). He considers the circumcision of *ger* from Exod. 12 not an entry into the community, but "the first step – a giant one – on the road to conversion" (p. 1500). Another step is the exilic redactor of H, contemporary with Ezekiel according to Milgrom, who assumes in one of the *karet* laws incumbent to *ger* too that the disobedient would be cut off from the "community of Israel" (Exod. 12:19). Milgrom reckons with the "inclusion of *ger*, at least in theory, among the people of Israel" (p. 1500) and so "the movement toward conversion was under way" (p. 1501).

[57] C. Bultmann, *Der Fremde im antiken Juda*, p. 178.

[58] C. Bultmann, *Der Fremde im antiken Juda*, p. 202. "Die Beschneidungsforderung zeigt, daß es sich bei diesem Typus des *ger* um einen ursprünglichen Nichtisraeliten handelt".

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beyond any doubt a foreigner[59]. For him Isa. 14:1 is not a comparable case with Lev. 19, because *ger* is there about to join the Israelite community.

But three passages bear enormous weight on the problem of the integration of the non-Israelite into the faith community. The *ger* (Isa. 14:1)[60], *ben nekar* (Isa. 56:3.6)[61] and the nations (*goyyim* – cf. Zech. 2:15)[62] could join (*nilwah*) the people of Israel and Yahweh, which correspond with the program of Ezek. 47:22-23 of integrating *gerim* into the tribes of Israel through land possession (in juxtaposition with the native, *ʾezraḥ*, just as in P)[63]. The novelty of this approach is underlined

[59] C. Bultmann, *Der Fremde im antiken Juda*, p. 190. "Anders als in den Texten des 7. und 6. Jahrhunderts bezeichnet das Wort *ger* hier den Typus eines nichtisraelitischen Fremden, von dem sich die Gemeinschaft nach außen abzugrenzen sucht und der seinerseits keinen Anschluß an die Religionsgemeinschaft anstrebt. In der Sprache des Gesetzes über Jahwes Land (v. 23a) repräsentiert hier der *ger* die Bevölkerungsanteile in den Provinzen auf dem Boden der ehemaligen Monarchien Israel und Juda, von denen sich die Religionsgemeinschaft sonst als von den umgebenden (oder den früheren) Völkern (גוים) abgrenzt. Die Verwendung der Bezeichnung *ger* in diesem Sinn ist singulär im AT".

[60] Hans Wildberger, *Jesaja*, vol. 2: *Jesaja 13-27*, Neukirchener, Neurkirchen-Vluyn, 1978, BKAT X/2, p. 526: "die Aufnahme in das soziale Gefüge Israels, was zugleich Anschluß an die Jahwegemeinde bedeutet"; Joseph Blenkinsopp, *Isaiah 1-39*, Yale University Press, New Haven / London, 2008 (reprint Doubleday, New York, 2000, AB 19), The Anchor Yale Bible, p. 282 – here *gerim* are post-exilic proselytes; Gary Smith, *Isaiah 1-39*, Broadman & Holman, Nashville, 2007, NAC 15A, p. 307 – "these foreigners will convert and become part of God's people". For a 6th cent. BCE dating also – Marvin A. Sweeney, *Isaiah 1-39*, Eerdmans, Grand Rapids / Cambridge UK, 1996, FOTL 16, p. 234-235.

[61] Joseph Blenkinsopp, *Isaiah 56-66*, Yale University Press, New Haven / London, 2008 (reprint Doubleday, New York, 2003, AB 19), The Anchor Yale Bible, pp. 136-137: they are "non-Israelites who have embraced the cult of YHWH" (p. 136). C. van Houten, *The Alien in Israelite Law*, pp. 116-117: "These references indicate that in the exilic restoration community the possibility existed of non-Israelites (as defined by those who had been in exile) becoming incorporated into the people of God". C. Bultmann, *Der Fremde im antiken Juda*, p. 210: In 1 Ki. 8:41-43 the situation is hypothetical for a foreigner (*nokri*) who came to the Jerusalem temple from abroad, but in Isa. 56:1-8 the foreigner (*ben-nokri*) comes in fact to Jerusalem after that he initially had become member of the religious community (*nilwa ʾel YHWH*). The demands that must be accomplished by the foreigner were the Sabbath keeping and the obeisance to the "covenant" (*berit*) that could be understood according to Bultmann as a reference to circumcision (cf. Gen. 17:10). John N. Oswalt, *The Book of Isaiah: Chapters 40-66*, Eerdmans, Grand Rapids / Cambridge UK, 1998, NICOT, pp. 459-460; John D.W. Watts, *Isaiah 34-66*, revised edition, Nelson Reference, Nashville, 2005, WBC 25, p. 821 consider that the verb *šaret* implies even a temple service accomplished by the foreigners. Watts also uses the term "proselytes".

[62] Carol L. Meyers / Eric M. Meyers, *Haggai, Zechariah 1-8*, Yale University Press, New Haven / London, 2008 (reprint Doubleday, New York, 1987, AB 25B), The Anchor Yale Bible, p. 168-169: "the foreign nations will be equivalent to Israel in their status before God" (p. 169); George L. Klein, *Zechariah*, Broadman & Holman, Nashville, 2008, NAC 21B, p. 125-127; Mark Boda, *Haggai, Zechariah*, Zondervan, Grand Rapids, 2004, NIVAC, p. 238.

[63] Walther Zimmerli, *Ezekiel 2: A Commentary on the Book of the Prophet Ezekiel, Chapters 25-48*, transl. J.D. Martin, Fortress Press, Philadelphia, 1983, Hermeneia, p. 532; Leslie C. Allen, *Ezekiel 20-48*, Word Books, Dallas, 1990, WBC 29, p. 281. Daniel I. Block, *The Book of Ezekiel: Chapters 25-48*, Eerdmans, Grand Rapids / Cambridge UK, 1998, NICOT, p. 717 refers to these as "proselytes".

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by the fact that Isa. 56:6 abrogates one law of the Pentateuch, namely Deut. 23:3, the only case of law abolition in the Hebrew Bible, based on the new revelation of Trito-Isaiah[64].

The Proposal

According to the recent research the Pentateuch acquired its present form during the Persian period. It is therefore stringent to understand the term *ger* against this background. The Wellhausian sources are no longer accepted by scholars and instead the Pentateuch is considered to be composed rather as a compromise work between D and P redactors[65]. Therefore I propose not a diachronic research about *ger* in the Pentateuch, but a synchronic approach.

There were some attempts to identify the *gerim* in the post-exilic period. For J.G. Vink the *gerim* are the elite class in Samaria and P strove to integrate them into the Israelite community formed by *ʾezraḥim*[66]. Discussing Lev. 25:47 van Houten assumes "it is possible that the aliens are the Judeans who remained in the land, and were not considered true Israelites by the returnees. If that is the case, then the 'aliens' might well consider themselves 'Israelites', while the returnees would not"[67]. On the contrary P. Grelot identified *ʾezraḥ* with the Jew from Samaria or Judah who must obey the law of the land and *ger* with the Jew from the diaspora in the Persian Empire who live under the law of the land where he resides[68]. Closer to my proposal, H. Cazelles suggested that *ger* is the Jew returned from the Babylonian exile, while *ʾezraḥ* represents the Samarian[69]. In fact Cazelles has brought considerable support for the identification of the *gerim* with the returnees (1 Chr. 16:19; 2 Chr 15:9; Ezr 1:4), but overlooked as well as C. Bultmann Gen. 23:4 and implicitly the importance of Abraham's identification with a *ger*.

In Gen. 23:4 Abraham introduced himself as *ger* and *tošab* and in Gen. 15:13 also his descendants will be *gerim* in a land that is not theirs, a reality that points out to the interesting assumption that the Abraham's migration from Babylonia (Ur of the Chaldeans) served as a model for the returnees from the Babylonian exile

[64] Herbert Donner, "Jesaja LVI 1-7: Ein Abrogationsfall innerhalb des Kanons – Implicationen und Konsequenzen", in: J.A. Emerton (ed.), *Congress Volume. Salamanca. 1983*, E.J. Brill, Leiden, 1985, p. 81-95.

[65] Erhard Blum, *Studien zum Komposition des Pentateuch*, de Gruyter, Berlin / New York, 1990, BZAW 189, p. 357-358; Rainer Albertz, *Religionsgeschichte Israels in alttestamentlicher Zeit*, vol. 2: *Vom Exil bis zu den Makkabäern*, Vandenhoeck & Rupprecht, Göttingen, 1992, ATD.E 8/2, p. 501; Ernst Axel Knauf, „Does «Deuteronomistic Historiography» (DtrH) Exist?", in: Albert de Pury, Thomas Römer / Jean-Daniel Macchi (ed.), *Israel Constructs Its History: Deuteronomistic Historiography in Recent Research*, Sheffield Academic Press, Sheffield, 2000, JSOTSupp 306, p. 393.

[66] J.G. Vink, „The Date and Origin of the Priestly Code in the Old Testament", Pieter Arie Hendrik De Boer (ed.), *Oudtestamentische Studiën*, vol. 15, Brill, Leiden, 1969, p. 63.

[67] C. van Houten, *The Alien in Israelite Law*, p. 130.

[68] P. Grelot, „La dernière étape de la rédaction sacerdotale", *VT* 6 (1956), no. 2, p. 177-178.

[69] Henri Cazelles, „La mission d'Esdras", *Vetus Testamentum*, 4 (1954), no. 2, p. 128-131.

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into the Persian province of Yehud (Judah) . Also in Lam. 4:15 and Ezek. 20:38 the sojourn in the exile is defined with the verb *gwr* and in Lev. 25:23; 1 Chr. 29:15 the Israelite are *gerim* and *tošabim* before Yahweh (cf. Ps. 39:13 for an individual).

The contemporary D and P redactors of the Pentateuch have left their theological traces in the approaches of the *ger* problem. For the D scribes the ethnicity issue outweighed the tendency towards inclusion and *ger* might not became a member of the community, but for the universalistic P scribes *ger* can be accepted into the *qahal* with a special ritual (the circumcision and possibly other covenant rituals). P also used ambiguity regarding this ancient social term. Denoting in the same time the Judean returnees from Babylonia and the outsiders, non-Israelites who are not familiar with the circumcision, but who wanted to be integrated into the community, P redactors wanted to maintain a balance between the two poles. *Ger* is everybody, because the first patriarch was a *ger* too. So the outsiders, if they are referred to as *gerim*, are not inferior to the exiles or to the citizens. This shift in the semantic sphere of the word *ger* and the intended ambiguity are part of the ideology proposed by the universalistic party in the Persian Yehud, the P scribes, in contrast with the D scribes, whose conception were continued by the exclusivist views of Ezra and Nehemiah.

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