

The first parasha of the sidra Ki Tavo is devoted to the ceremony of the bringing of the first fruits, the Bikurim and the declaration at the moment of the formal offering: מקרא ביכורים. It is accomplished each year, the year of Shemitah excluded, during the summer period, between Atseret and Hag, the Talmudic designations of Shavuot and Sukkot.

Rashi wrote on the last sentence ending the passage of מקרא ביכורים, on the passuk

ושמחת בכל הטוב אשר נתן לך השם אלכיד ולביתך אתה והלוי והגר אשר בקרבך

He wrote

והגר אשר בקרבך: מביא ואינו קורא שאינו יכול לומר לאבותינו.

These words of Rashi are exactly the words of the gemara Makot 19a. These words are based on The Stam Mishna Bikkurim (I; 4), which says: הגר מביא ואינו קורא שאינו אילו מביאין ולא קוארין, יכול לומר אשר נשבע ה' לאבותינו לתת לנו

Rabbeinu Tam shares the same opinion in Baba Batra 81a in Tossafot: בד"ה למעוטי אדמת עכו"ם. He adds that גר אינו קורא ולכן אינו יכול להיות שליח ציבור אבותינו

The subject under discussion appears thus to have much broader consequences than the מקרא שליח ציבור, it concerns the text of the siddur of the גר and the possibility for him to act as שליח ציבור.

We note that Rambam rules in contradiction with the Stam Mishna of Bikkurim and the Talmud Babli Makkot, Rashi and R. Tam. Indeed he rules in Hilkhos Bikkurim, גר מביא וקורא, the גר brings bikurim and reads the prescribed reading detailed in the beginning of our sidra, and beginning with the quotation

הגדתי היום לשם אלכיד כי באתי אל הארץ אשר נשבע השם לאבותינו לתת לנו.

The second parasha of our sidra is devoted to the ceremony of the confession of the tithes or וידוי מעשר. It is performed in the afternoon of the 7th day of Pessah of the 4th year and the seventh year, both following the 3rd and the 6th year, when we deduce מעשר עני. Rashi writes on passuk יב: יב. Maskil le David, an important supercommentary on Rashi rises the difficulty and corrects: בע"פ לא קאי אלא על הביעור. Now in the Mishna Ma'asser sheni (V; 14) about וידוי מעשר the Stam Mishna rules that גרים אינם מתוודים because they have no part in the land of Israel and therefore they cannot pronounce at the end of the confession the sentence:

ואת האדמה אשר נתתה לנו

Here Rambam rules like the Stam Mishna that the Ger does not pronounce the וידוי מעשר.

We see thus that both laws refer to a similar subject and follow the same logic and therefore we understand easily why Rashi and R. Tam ruled on the same way in both cases but Rambam, made a fundamental difference between these two situations and he ruled that the גר pronounces the reading of the Bikkurim but does not make the confession of the tithes. This position seems contradictory and it is difficult to understand. This issue is certainly what is called a difficult Rambam, whenever we note an internal apparent contradiction. Here Rabad remained silent on this issue but many rabbis from the 16th century onwards until nowadays raised the issue.

Apparently the first to deal with the subject was Radvaz who devoted to this subject his responsa 1584 in helek 5 of his responsa in addition to his commentary ad locum. He explained that in Ma'asser Sheni Rambam ruled like the Stam Mishna because there is no contradictory opinion but in Bikurim he ruled like Rabbi Yehuda in a Braïta mentioned in Talmud Yerushalmi Bikkurim 3b (Vilna Edition) according which גר מביא וקורא: The text of the Yerushalmi is the following

תני בשם רבי יהודה גר מביא וקורא, מה טעם? כי אב המון גוים נתתיך. רבי יהושע בן לוי אמר הלכה כרבי יהודה. אתא עובדא קומי דרבי אבהו והורי כרבי יהודה.

The practical case שליה ציבור which was submitted to Rabbi Abbahu in about 300 of the common era could of course not be a problem of מקרא ביכורים but it was certainly, as explained by Rash, Rabbi Shimshon of Sens, in his commentary on Mishna Bikkurim, a question asked by a גר about the text הנוסח of his prayer or about the possibility for him to be שליח ציבור

Thus, according to this Yerushalmi, although guerim are not the juridical heirs of Avraham and were not among those who apportioned the land of Israel, they are among the spiritual heirs of Avraham and they can say אבותינו. Rambam writes in Hilkhot Bikkurim chap 4 halakha 3: הגר מביא וקורא שנאמר לאברהם אב המון גוים נתתיך הרי

הוא אב כל העולם כולו שנכנסין תחת כנפי השכינה.

The explanation given by Radvaz is certainly correct and it is indeed very similar to the justification given by Rambam himself in the responsum that Rambam wrote to R. Ovadia the guer. Now you could object: but how can the גר say: אבי? whether we understand this quotation like Onkelos and Rashi or according to Ibn Ezra, this quotation refers to Ya'akov ! There are 2 answers: 1. The answer of Ramban (in his hidushim on Bava Batra 81a):

שלושה אבות העולם היו כאברהם

This explanation is also valid for other quotations like: אלוקי אבותינו, אלוקי אברהם, יצחק יעקב

But in the specific case of Arami oved avi, I propose a better solution. See Rashbam ad locum. He understands that we speak about Abraham.

But this does not give us an answer to another question: why did Rambam rule like the Yerushalmi against the Babli?

Mishneh le Melekh raised the issue remained on וצריך עיון .

I propose four answers: 1. Rabbi Yehoshua ben Levi, a Palestinian Amora of the first generation, a colleague of Rabbi Hanina rules like Rabbi Judah.

2. Rabbi Abbahu, one of the great pupils of Rabbi Johanan, ruled, halakhah le Ma'asseh like Rabbi Judah. These 2 answers are inherent in text of Yerushalmi.

3. Rabbi Malakhi ha_kohen, the Rabad of Livorno in the middle of the 18th century, wrote in Yad Malakhi, that Rambam rules like Yerushalmi, when it proposes a טעם יפה, a nice argument as it is indeed the case that Abraham is the father of all the gerim.

4. And finally, I propose you a fourth reason: Rambam could not accept a ruling which would create a second category of "inferior Jews" unable to use the common liturgy and act as shaliah Tsibur.

As it appears clearly from Rambam's responsum to Rabbi Ovadia the guer, the complete belonging of the guer to the Jewish people is for Rambam a fundamental moral and spiritual element of Judaism as we find in the Torah different similar verses as: תורה אחת ומשפט אחד יהיה and ואל יאמר בן הנכר הנלוה אל השם לאמר: הבדל. 3:56 Isaiah and in the prophet and in Ketuvim (megilat Ruth): עמך עמי ואלוקיך אלוקי: and יבדילני השם מעל עמו

Thus for Rambam it is essential that the guerim could join spiritually and physically to the people of Israel and be able to use the same liturgy, to refer to the same ancestors and even to feel as if they went out of Egypt. Similarly Rambam expressed in Sefer ha Mitsvot, mitsvat Asse 207 about the love of guerim, the big love that we must have for Guerim. In addition to the mitsvah לא תונו איש we have והאבתם את הגר and in addition to the Mitsvah לא תונו איש we have the mitsvah לא תונה. Thus when it comes to Guer Tsedek, because he entered our Torah we have now two mitsvot asse and two mitsvot lo ta'asse. For Rambam, the ruling of Babli and Rabbenu Tam would have catastrophic consequences on the integration of the guerim. Three times a day he would be recalled that he is not a fully-fledged Jew.

We understand now the deeper reason why Rambam ruled according to the Yerushalmi against the Bavli. Note that R. Shimshon of Sens, the great tossafist ruled in the Mishnah Bikkurim like Rambam against Rabbeinu Tam, his teacher in his youth.