

Immigration and the biblical law of the stranger

## **In Torah, the stranger appears as a guest to be welcomed, not a problem to be solved.**

by [Mark W. Hamilton](#) in the [June 5, 2019](#) issue



A Honduran woman and her two children waiting to ask for asylum from Border Patrol agents in McAllen, Texas. Getty Images.

Biblical texts repeatedly take up the question of the dignity of migrants and of what others owe them as fellow human beings. Israelite authors were fascinated with the drama of movement, and Israel's legal texts exhibit a long-term, multifaceted concern for non-Israelites within the larger community. While these laws differ in some details, they all reflect a single-minded commitment to ensure the well-being of the migrants living alongside the host community and sharing in its most crucial commitments.

The oldest law collection in the Bible seems to be the Covenant Code in Exodus 20 and Deuteronomy 5, which other biblical law collections comment on, amplify, and at times modify. These laws work for harmony in an agrarian society of small villages lacking a central authority. As in other law collections in the Bible, this code

makes no effort at being systematic. The text ignores many possible topics, and the processes for deciding cases and punishment of criminals go unexplained, probably because the methods of judging cases at the village level had gone on adequately for generations.

In spite of the spotty coverage of topics, this collection of laws twice refers to the responsibility of the Israelite community for the *ger*—the “migrant” or “alien” (the word is related to the verb *gur*, “to sojourn as a migrant”). In the first instance, the prohibition of idolatry leads to instructions about vulnerable people: the law insists that “you should not oppress the *ger* nor abuse that person, for you were *gerim* in Egypt’s land. Nor should you oppress a widow or an orphan. If you oppress such a person, when they cry out to me [in prayer], I will certainly answer them, and I will be infuriated and kill you at sword point. Then your wives will be widows and your children orphans” (Exod. 22:21–24).

As in other texts, the law links three different classes of people into what we might call the triad of the vulnerable. The *ger*, like the widow and the orphan, lacks the kind of family support that can protect an individual from mistreatment. The migrant flies about without a safety net. Without social support, these persons must rely even more heavily than usual on the social structures outside, or larger than, the family.

Ordinarily biblical law either prescribes a penalty that the judicial system must carry out, or it spells out no punishment at all, relying on long-standing custom to carry the day. This law, however, takes neither approach but insists simply that abuse of the vulnerable will meet punishment from an angry God, who will personally assume the role of family avenger of wrong. “I will be infuriated and kill you at sword point,” though marvelously unambiguous, stands out as an unusual statement in Israelite law or its Near Eastern parallels (such as the Code of Hammurabi). Usually, ancient texts think of God supporting law in general rather than individual rules. But here God intervenes directly to implement a law. For this text, then, mistreatment of the migrant, the widow, and the orphan differs in kind from other crimes precisely because these people lack reliable social defenses.

The Covenant Code also contains another law about the *ger*. Following a series of prohibitions of bribery and influence peddling, Exodus 23:9 insists “you shall not oppress a *ger* because you know the *ger*’s life since you were *gerim* in Egypt’s land.” It then transitions into rules about proper uses of time (for fallowing land and

observing religious holidays). It does not specify the meaning of *oppress*, though in the context it must have something to do, at a minimum, with abuses of the court system that deprive the migrant of rights in favor of other parties to lawsuits. In other words, the migrant has rights in law more or less identical to those of Israelites. Neither judges nor the populace at large may circumvent those rights.

The curious thing about this law, however, is the warrant. Israelites should avoid abusing the *ger* not primarily out of fear of divine punishment (as in the law a few lines earlier), but because of empathy for the migrant's vulnerability. Whereas the law in Exodus 22 draws upon the experience of warfare as an expression of divine wrath ("at sword point," "widows," "orphans"), the law in Exodus 23 appeals to the better angels of Israel's nature.

True, the latter law implies a threat: countries that oppress migrants can pay a heavy price when Yahweh gets involved. Yet compassion for the suffering of others motivates better than simple terror. Also, a reminder of the past forces the audience to consider a possible future for themselves: we could become like the Egyptians if we act as they did. We would then be not the beneficiaries of the exodus, but the villains against which the drama must replay itself.

An additional point: the laws of the Covenant Code do not clarify the origins of the *ger*. In some cases, since ancient societies did not conceive of citizenship as we do and often thought more of one's home village or tribe than participation in an entire nation, the law may cover both migrants from outside Israel and those who reside far from home but nevertheless are Israelite. The laws do not make such a fine distinction, though undoubtedly most *gerim* were non-Israelites.

Exodus insists that abuse of the migrant will be punished by God.

Nor do they distinguish among poor and nonpoor migrants, much less legal and illegal migrants, since those categories did not exist in ancient Israel. In an agrarian society of small landholdings that stayed in families over many generations, the potential for growing wealth remained limited for most people, migrant or not. Many migrants would have remained poor. Some scholars have attempted to describe the *gerim* as a social underclass, more or less like the noncitizen metics of ancient Athens or even a sort of *Lumpenproletariat*, the poorest of the poor. However, just as widows could sometimes prosper and orphans could inherit a fortune, at least a few migrants may have enjoyed some measure of financial success as merchants or

soldiers. Yet by and large, the three groups of vulnerable people—widow, orphan, and *ger*—lacked the natural protection of family connections and thus faced potential discrimination and abuse. They could easily lose their property to fraudsters and bullies. Hence the laws against such behaviors.

The later law collections of the Pentateuch draw on the Covenant Code for some of their basic orientations, often expanding or modifying the older laws to fit new circumstances or previously unconsidered problems. The laws for migrants were no exception.

Most notably, the book of Deuteronomy refers to the *ger* no fewer than 21 times, in each with the aim of protecting their rights. The book consists of a legal collection (chaps. 12–26) inside an envelope of moral exhortation (chaps. 1–11, 29–33), with a smaller law code in chapter 27, blessings and curses in chapter 28, and the final scene of the Pentateuch, the death of Moses, in chapter 34. That is, the book combines several types of material in a complex whole. So it is helpful to look at the work's component parts to understand its overall viewpoint.

The legal code proper refers to the *ger* 14 times, in a variety of contexts. Consider these examples. First, the food laws prohibit Israelites from consuming an animal that has died on its own (in part to maintain ritual purity) but allows a *ger* to do so (Deut. 14:21). That law also introduces a third category, the *nokri*, a foreigner who has not settled among Israelites but either passes through or maintains a separate existence disconnected socially from them. To that person, one may *sell* a corpse, whereas the *ger* may receive it gratis. The gift may seem dubious to modern Americans with our regular meat supply, but to ancient people, matters would undoubtedly have appeared differently.

Second, the law of the tithe insists that several people who do not own their own land must share in the communal meal. These include the Levite (for Deuteronomy, those who cannot officiate at the temple in Jerusalem but live in the villages), the widow, the orphan, and the *ger* (Deut. 14:29). Again, these migrants live alongside other members of the Israelite community.

Third, the laws regarding festivals make provision for non-Israelites. The rules for Shavuot or Pentecost invite the *gerim* to participate fully in the larger community's ritual celebrating the crops growing in their fields. So Deuteronomy 16:11 sets the tone for the festival by insisting that "you shall rejoice before Yahweh your

God—you, and your son, your daughter, your male servant, your female servant, the Levite in your gates, the *ger*, the orphan, the widow among you—in the place where Yahweh your God will choose to make his name dwell.”

Likewise, Deuteronomy 16:14 extends that same list of celebrants to the festival of Sukkot or Tabernacles, which occurs in the fall and commemorates the migration through the wilderness after the exodus. When these people can celebrate in Jerusalem itself (“the place where Yahweh your God will choose to make his name dwell”), they can join the larger community in celebrating (“rejoice”) God’s goodness to them. Israel does not merely tolerate the presence of these people without an immediate family connection but invites them into a joyful life together.

Fourth, Deuteronomy 23:3–8 states rules limiting the participation of some foreigners in certain religious activities. Moabites and Ammonites, some of Israel’s nearest neighbors, ought not enter the community’s assembly for worship “unto the tenth generation” because of their ancestors’ brutal treatment of the Israelites as they migrated from Egypt to Canaan. On the other hand, the law demands that “you shall not abominate an Egyptian because you were a *ger* in their land” and concludes that Egyptian children born of the third generation may enter Yahweh’s assembly.

Perhaps the most interesting point here is the contrast between the Ammonites and Moabites, on the one hand, and the Egyptians, on the other. All of these groups had abused Israel’s ancestors. In the latter case, Egyptian heritage disqualified one only for three generations “because you were a *ger* in their land.” In other words, the victimization in the wilderness surpassed in horror the experience of slavery in Egypt. The brutality of bondage came from a society accustomed to such behavior, locked into its own fear and passion for power. The brutality in the wilderness from Ammon and Moab lacked even that justification.

However one reads this law, it does not prohibit intermarriage even with the three named groups. It does not limit children from other relationships with foreigners in any way. And so even at its most restrictive, Israelite law shows keen awareness of the risks of xenophobia and seeks to limit its effects.

Fifth, a cluster of laws protecting migrants and other workers appears in Deuteronomy 24:14–22. In a progressive bit of legislation, the text enjoins employers:

You shall not mistreat the poor or needy employee, whether one of your brothers [i.e., a fellow Israelite] or your migrant in your land, in your gates [i.e., city limits]. Pay them their wages each day. Don't let the sun set, because that person is poor and life itself may depend on it. Don't let him call out to Yahweh against you, for that would be a sin for you.

The parents should not die for something the children have done, nor children die for something the parents have done. Each person should die for his or her own sin.

Do not stretch out the case of the *ger* or orphan, and do not take the widow's clothing as collateral. Rather, you should remember that you were a servant in Egypt, yet Yahweh your God redeemed you from there. Therefore, I am commanding you to do this thing.

When you harvest your field, and you miss a bundle of grain in the field, don't return to collect it. Leave it for the *ger*, orphan, or widow so that Yahweh your God will bless you in all your activities.

When you pick your olive groves, don't pick them clean. Leave some for the *ger*, the orphan, and the widow. Remember that you were a servant in Egypt's land. Therefore I am commanding you to do this thing.

These laws presuppose that private ownership of property does not entitle the owner to ignore social obligations. Hoarding, blocking access to one's land, and ignoring the plight of others are forbidden because Israel's core identity as a people liberated them from just such sharp divisions between the haves and the have-nots. Practical concerns for the survival of vulnerable people take precedence over any excess profits that more thorough exploitation of resources might make possible.

These laws assume that the *gerim*, like widows and orphans, lack strong family connections and thus a secure place in the economic system. They are poor day laborers and so need legal protection. Exploiting them betrays Israel's story as a liberated people and invites divine anger. The warning "Don't let them call out to Yahweh against you" reminds the reader that prayer for help from oppression, so common in the book of Psalms and other parts of the Bible, draws Yahweh's attention because Yahweh has committed to maintaining justice among human beings, irrespective of their origins or social relationships.

Sixth, Deuteronomy's law code concludes with instructions about offerings and tithes, which the people should share with each other and God freely and joyfully. The gaggle of participants that appeared at festivals in Deuteronomy 16:11 appears again in Deuteronomy 26:11-13, where the migrants and others once more share in the bounty of the community as it celebrates its life together under God.

The homiletical framework around these groups of laws in Deuteronomy 12-26 also refers to the legal status of migrants. A parade of the texts perhaps illustrates the depth of Deuteronomy's commitment to their protection:

I [i.e., Moses] commanded your judges at that time, "Listen to both sides of a dispute among your brothers and judge fairly between each one and his brothers or his *ger*." (Deut. 1:16)

For Yahweh your God is a God of Gods and Lord of Lords, the great and mighty and awe-inspiring God who does not show favoritism or take a bribe, the one doing justice for the orphan and widow, and loving the *ger* to give that person food and clothing. So you should love the *ger* since you were *gerim* in Egypt's land. (Deut. 10:17-19)

All of you are standing before Yahweh your God . . . your babies, your wives, and your *ger*. (Deut. 29:9-10)

Assemble the people, the men, women, babies, and your *ger* in your gates so they may listen and learn and honor Yahweh your God and pay close attention to all the words of this Torah. (Deut. 31:12)

In each case, the *gerim* join native-born Israelites in the community's religious, economic, and social life.

Deuteronomy focuses on the values and justifications for the values ("you were migrants in Egypt") and moves to specific laws that minimize abusive employment practices and reframe the relationship between native Israelite and resident alien as one of mutual support and trust. Often the text speaks of "your *ger*," parallel to "your wife" or "your Levite," as a label of personal attachment. Whatever the precise relationship between the Israelite as host and the *ger* as guest, whether one of economic dependence or partnership, Israelites bear a responsibility because of their history as a liberated people. Exploiting the migrant betrays Israel's core story

and exposes the betrayer to divine judgment. Yahweh chairs the court of last resort, and Yahweh's justice works implacably.

Other biblical texts expand on these directions. But these are sufficient to show that Israelite law trends in the direction of openness toward migrants and away from a narrow, self-protective vision of Israel as a community. The migrant does not appear in law as a problem but as a welcome guest that, if anything, gives the redeemed people opportunity to demonstrate their gratitude to Yahweh for the exodus and to each other their commitment to generous, ethical lives.

The sort of legalism so common in modern debates about migrants—"Well, they broke the law, didn't they?"—has no place in Torah itself. Rather, Israelite law operates on the assumption that the law must serve to protect the vulnerable from the strong, as well as to call upon the strong themselves to mature in their attitudes toward others.

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