The following is from an article by Adam Kirsch a written for Tablet Magazine, an Online Jewish magazine that calls itself A New Read on Jewish Life. Its cool, its hip, and we should all be reading Tablet.

Adam writes about this week's Daf Yomi – the daily practice of studying a page of Talmud on a 7 year cycle. The page Adam was studying was from Tractate Pesachim and it raised the issue are modern, liberal progressive Jews creating a a new Jewishness or just abandoning the real kind?

He began with a question, "Are we all Cutheans now?" The following is Adam's answer to that questions, the words are his, but the sentiments and questions we share.

The Cutheans are what the rabbis of the Talmud called the people usually known as Samaritans. According to tradition, when the Kingdom of Israel was destroyed by the Assyrians in 722 BCE, the Ten Lost Tribes went into exile and were replaced by a new population imported from what is now Iraq. These people, the Samaritans, followed the local faith and adopted Judaism but gave it their own twist, which included denying the centrality of the Jerusalem Temple and, later, the authority of the rabbis as well. For these reasons, the Samaritans were despised and distrusted by the ancient Jews, which is why the parable of the "Good Samaritan," in the New Testament (Christina Bible), had such force. (In that story, a priest and a Levite pass by an injured man on the road without helping him, while a hated Samaritan stops and helps.)

Obviously, progressive Jews today are not descended from the Samaritans, who still exist, in a tiny community of fewer than 1,000 people in Israel. But in matters of Jewish law, the Talmud showed this week, we might well be regarded as Cutheans by the rabbis, since the Cutheans were a people notorious for their laxity in obeying the law. This point came up in Chapter 4 of Tractate Pesachim, in which the subject of discussion broadens from Passover itself to the larger question of **whether and when local religious customs should be obeyed?**

The chapter begins with a Passover-related example in the Mishnah. "In a place where [the people] follow the custom to perform work on Erev Pesach until midday, one may perform work. In a place where they follow the custom not to perform work, one may not perform work." According to rabbinic law, it's required to stop working on the afternoon of the day before a holiday (or Shabbat) begins, in order to guard against infringing on the holiday. (This kind of extra stringency is what Pirkei Avot means when it counsels, "Make a fence around the Torah.")

In this mishnah, no one is challenging that rule. Rather, the only debate is about whether a Jewish community can enact an extra-extra-stringency, which would prohibit work not just on the afternoon of the day before a holiday, but even in the morning. The rabbis decide that, in this case, local custom prevails: "A person should not deviate from the local custom because of the conflict that could otherwise

ensue." The Mishnah goes on to make clear, however, that the rule is meant to err on the side of stringency, not of leniency. Thus, if you start the day before Passover in a town that forbids work, and then you go to a town that allows work, you must continue not to work, since "we impose on him the stringencies of the place from which he has departed and the stringencies of the place to which he has gone."

This raises the interesting question of what to do about a community that follows an extra-stringent custom that is, in fact, halachically incorrect. Which should prevail, the local rule or the rabbinic law? This case comes up in Pesachim 50b, where we hear about the people of Chozai, who made a habit of tithing their rice crop to the priests. This is not actually required, because—as we saw a few weeks ago with regard to matzo—rice is not one of the five species of grain (wheat, barley, oats, spelt, and rye) that have to be tithed. For this reason, Rav Yosef advised that a stranger should go to Chozai and publicly eat some of the rice that had been set aside for the priests, as a demonstration that rice could not actually be tithed.

But wait, Abaye replies. Isn't there a rule that we should always endorse the more stringent practice, and isn't tithing rice an example of an extra-stringent application of the law? "In the case of permitted matters that others are accustomed to treat as a prohibition," a baraita teaches, "you are not allowed to rule them permitted." Once a community takes a ritual burden on itself, it can never lay that burden down again.

We hear about such a case with the people of Beishan, a village near the great city of Tyre. During a prosperous time, the Beishanites had made it a custom not to go to Tyre to buy and sell on the day before Shabbat, lest they end up forgetting their Shabbat preparations. Later, when the village was poorer, they felt they could no longer afford to miss a day of business, and they asked Rabbi Yochanan whether they could start doing business on Friday again. But Yochanan said no: "Your fathers have already accepted this custom upon themselves," he ruled, and it's forbidden to go from a stringent custom to a more lenient one.

In the case of Chozai, then, why does Yosef want them to abandon the practice of tithing rice? It is here that the Cutheans come in. The original rule about not revoking a community practice, Yosef says, was not meant to apply to all Jews; it was only meant for Cutheans, because they have so little knowledge of the law that it would be dangerous to encourage any further laxity. But Abaye replies that, in this case, the people of Chozai, though Jews, should be treated like Cutheans, "because they will confuse the matter." Tell them to stop tithing rice, that is, and they may go too far and stop tithing grains altogether.

All this made me wonder, as I have many times before in reading the Talmud, what the rabbis would make of the situation of North-American Jewry today. No one can say that North-America lacks rabbis to point out the correct halakhah. But the vast majority of Jews—unaffiliated, Reform, and even Conservative—have effectively cast off rabbinic guidance and have decided to invent their own Jewish customs. Some keep kosher at home but eat in non-kosher restaurants; some attend Shabbat

services, but get there by driving to synagogue. The compromises of North-American Jewish life are legion.

Would these customs earn the rabbis' respect, since they are the established practice of the majority? Or would we seem to them like Cutheans, who have lost the knowledge of the law and need to be treated with extra strictness? If, as I suspect, it's the latter, perhaps we could respond, as the Cutheans would have, that our Jewishness is not a defective version of the rabbis' but an original creation with its own integrity. But then the rabbis could point out that the Cutheans have all but disappeared, along with the Karaites and all the other Jewish schismatic sects, while rabbinic Judaism remains. It's impossible to read the Talmud as a modern American Jew, especially a secular one like me, and not wonder whether that argument trumps all the rest.