

HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

221 - CONVERSION - PART 3

MILA, TEVILA, KORBAN AND KABBALAT HAMITZVOT

OU ISRAEL CENTER - SUMMER 2021

- In Parts 1 & 2 we looked at some of the halachic and hashkafic underpinning of conversion.
- We need to look briefly in this shiur at some of the halachic requirements for mila, tevila and korban¹.
- We then turn to the two most controversial questions in the conversion debate - (i) to what extent does the convert have to be observant in Torah and mitzvot, and how could non-observance affect the validity of the conversion? and (ii) to what extent do other motivations for conversion, eg marriage, prevent the conversion from proceeding?

A] THE 4 HALACHIC REQUIREMENTS FOR CONVERSION

- We saw in the previous shiur that there are four stages to conversion: brit mila, tevila, korban and acceptance of the mitzvot.

1.	<p>א בשלשה דברים נכנסו ישראל לברית. במילה וטבילה וקרבן. ב מילה היתה במצרים שנאמר (שמות יב:ח) וְכַל עֶרְלָא לֹא יֹאכַל בּוֹ. מִלֵּא אוֹתָם מִשֶּׁה רַבְּנוּ שֶׁכֵּלֶם בְּטִלוּ בְרִית מִילָה בְּמִצְרַיִם חוּץ מִשְׁבֵּט לְוִי וְעַל זֶה נֶאֱמַר (דברים לג:ט) וּבְרִיתְךָ יִנְצְרוּ. ג וטבילה היתה במדבר קודם מתן תורה שנאמר (שמות יט:י) וְקִדְשְׁתֶּם הַיּוֹם וּמָחָר וְכַבֵּסוּ שְׂמַלְתֶּם. וְקָרְבַן שֶׁנֶּאֱמַר (שמות כד:ה) וַיִּשְׁלַח אֶת נַעֲרֵי בְנֵי יִשְׂרָאֵל וַיַּעֲלוּ עֹלֹת, עַל יְדֵי כָּל יִשְׂרָאֵל הַקָּרִיבִים. ד וכן לדורות פשיטת העפוי"ם להכניס לברית ולהסתופף תחת כנפי השכינה ויקבל עליו על תורה צריד מילה וטבילה והרצאת קרבן. ואם נקבה היא טבילה וקרבן שנאמר (במדבר טו:טו) כָּכֶם כָּגֵר. מָה אַתֶּם בְּמִילָה וְטַבִּילָה וְהִרְצַאת קָרְבַן אִף הַגֵּר לְדוֹרוֹת בְּמִילָה וְטַבִּילָה וְהִרְצַאת קָרְבַן. ה ומהו קרבן הגר? עולת בהמה או שתי תורים או שני בני יונה ושניהם עולה. ובזמן הזה שאין שם קרבן צריד מילה וטבילה וכשיבנה בית המקדש יביא קרבן.</p>
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רמב"ם הלכות איסורי ביאה פרק יג

The Rambam explains where each of these stages happened as part of the process of receiving the Torah at Sinai²:

- Mila took place in Egypt in preparation for the korban Pesach. This mila appears to have served as a circumcision for conversion and not only to eat the korban Pesach³.
- Tevila took place many weeks later⁴ in the run-up to Matan Torah, where the people are told to 'sanctify themselves and wash their clothes.'⁵
- Korban is described in the account of Matan Torah in parashat Mishpatim. The first-born bring olah offerings on behalf of the Jewish people⁶.
- Kabbalat HaMitzvot is presented by the Rambam, not as one of the mechanics of conversion, but as a fundamental pre-condition. He does not bring a source from Matan Torah, although the multiple declarations of the people⁷ - 'na'ase' and 'na'ase venishma' are clear indications of their acceptance of the Torah.

1. In the preparation of this part of the shiur, the on-line shiurim of my friend and neighbor R. David Brofsky have been extremely helpful - see <https://etzion.org.il/en/series/laws-conversion-and-circumcision-2>

2. The Meshech Chochma learns that the principle דמי כקטן שנוולד דמי - that a convert is like a new-born child, is also learnt from the Sinai experience. After Sinai the people were told to go back to their families, even though some of them may have been married to relatives who were now prohibited to them by the Torah! This was permitted because they were all now considered newly born.

3. See Part 2 as to role of the korban Pesach in the process of conversion. There are opinions that if a ger were to bring a korban Pesach this would be a good substitute for the regular korban ha'ger.

4. We will see below if this prolonged status of mila without tevila has any implications for contemporary conversion.

5. The Gemara (Yevamot 46b) questions whether this could simply be laundering the clothes (the expression *kibus begadim* is used in Chumash both for ritual purification (eg Vayikra 15:7) and for physical laundering (eg Vayikra 13:54). It therefore presents an ancient halachic tradition (*gemiri*) that any sprinkling for purification (such as the mei chatat of the para aduma) must be accompanied by tevila.

6. In the case of Matan Torah, the people may have had actual had the blood from these offerings sprinkled on them. The verses may alternatively indicate a regular sprinkling of blood on the altar on behalf of the people.

7. Nevertheless, Chazal identify an element of coercion at Matan Torah in the famous agadata (Shabbat 88a) that God held the mountain over their heads to force their acceptance.

B] KORBAN

- As we saw above in the Rambam, the convert had to bring an animal or two birds⁸ - all as olot⁹.

2. אלא מעתה, האידנא דליכא קרבן לא נקבל גרים! אמר רב אחא בר יעקב: (במדבר טו:יד) וְקִיְיָגוּר אֲתֶלְמַסְךָ גֵר אֹן אֲשֶׁר־בְּתוֹכְכֶם [לְדֹרֹתֵיכֶם]. ת"ר: גר בזמן הזה צריך שיפריש רובע לקינו. אר"ש: כבר נמנה עליו רבן יוחנן בן זכאי ובטלה, מפני התקלה. אמר רב אידי בר גרשום אמר רב אדא בר אהבה: הלכה כר"ש.

כריתות ט.

The Gemara asks how we can accept converts today, now that they are not able to bring a korban. The answer lays in the wording of the verse, which includes acceptance of gerim for all generations. Initially, following the churban, the halacha required converts to set aside money for the korban so that it could be used immediately when the Mikdash is rebuilt. However, R. Yochanan ben Zakai abolished this, in case the hekdesch money was mistakenly used for other purposes.

3. ארבעה מחוסרי כפורים אלו הן מחוסרי כפורים: הזב, והזבה, והיולדת, והמצורע. רבי אליעזר בן יעקב אומר גר מחוסר כפרה עד שיזרק עליו הדם

משנה מסכת כריתות פרק ב משנה א

As part of the tahara process, certain people are halachically classified as 'mechusar kappara'. This means that they have done everything required for them to become tahor (eg mikve and waiting for sunset) except for bringing the required korban. The classic examples, cited here by the Tana Kama are zav, zava, yoledet and metzora. These forms of tuma require a korban in order to fully remove them¹⁰ and, until that korban is brought, the individual may not eat kodashim ie sacrificial foods¹¹. R. Eliezer ben Yaakov adds the case of a ger who has not brought his korban.

- What is the status of a convert who has not brought a korban? Is he/she a part convert or a full convert with an obligation to bring a korban. Based on the above, it appears that, according to R. Eliezer ben Yaakov, the ger is equivalent to other mechusrei kapara - a Jew who is not permitted to eat kodashim.

4. גר שמל וטבל ועדיין לא הביא קרבנו, אף על פי שהוא אסור לאכול בקדשים עד שיביא קרבנו אינו ממחוסרי כפרה. **שקרבנו עכבו להיות גר גמור ולהיות ככל כשרי ישראל**. ומפני זה אינו אוכל בקדשים שעדיין לא נעשה ככשרי ישראל. וכיון שיביא קרבנו ויעשה ישראל כשר אוכל בקדשים.

רמב"ם הלכות מחוסרי כפרה פרק א

The Rambam rules¹² that the ger who has not yet brought a korban may not eat kodashim, but NOT because they are mechusar kapara, rather because he/she is not yet a full convert! Apparently, the convert is part Jewish and part not!¹³

5. **גר מחוסר כפרה - ותנא קמא סבר, גר כיון שמל ועבל מותר לאכול בקדשים, ואין קרבן מעכבו אלא מלצוא בקהל, הלכך לא חשיב ליה בכלל מחוסרי כפרה.**

ר' עובדיה מברטנורא מסכת כריתות פרק ב משנה א

R. Ovadia MiBartenura understands that the Tana Kama DOES permit a ger to eat kodashim before bring the korban, but he/she may not marry a Jew! Some understand this to be the position of the Rambam too.

- Thus a person may be Jewish for some purposes but not for others - eg korbanot or ishut¹⁴.
- Practically speaking, the poskim understand that the requirement for korban (and restrictions until it was brought) are only relevant when the Beit HaMikdash is standing. Today, there is only a requirement for mila, tevila and accepting the mitzvot.

C] MILA**C1] MAL V'LO TAVAL**

- As we saw above, the mila of the Jewish people in Egypt took effect not only as a mila to eat the korban Pesach, but also a mila for conversion.

8. This is not dependant on the wealth of the convert, as with a korban oleh veyored, but appears to be a matter of choice for the convert.

9. Some Acharonim point out that the Rambam in Ma'aseh Korbanot implies that a ger may also bring an olah and a shelamim.

10. Most types of tuma do NOT require a korban to remove them - eg met, neveila, sheretz, nida, keri.

11. A Cohen who is mechusar kappara may however eat teruma.

12. He rules like the Tana Kama that the ger is not mechusar kapara. This is actually different to how the Rambam explains the Mishna in his Commentary on the Mishna.

13. The Meshech Chochma explains that if such a person brings a korban olah, it is considered to be that of a non-Jew which will not be accompanied by wine nesachim.

14. There is also a question of whether a sexual relationship with such a person would prevent a woman from marrying a Cohen.

6. גר שמל ולא טבל או טבל ולא מל אינו גר עד שימול ויטבול. וצריך לטבול בפני שלשה ...

מב"ם הלכות איסורי ביאה פרק יג הלכה ו

The halacha¹⁵ is that BOTH mila and tevila¹⁶ are essential to become Jewish. Mila alone will not make a man Jewish.

- As such, a convert who had mila but not yet tevila will NOT be Jewish. But is he still non-Jewish!?

7. ואמר ריש לקיש: נכרי ששבת - חייב מיתה, שנאמר (בראשית ח:כב) וַיִּיָּמָן וְלִילָהּ לֹא יִשְׁבְּתוּ. ואמר מר: אזהרה שלהן זו היא מיתתן. אמר רבינא: אפילו שני בשבת.

סנהדרין נח:

Chazal state that a non-Jew is not permitted to keep halachic Shabbat (on Saturday or any other day), and (as with other mitzvot incumbent on Bnei Noach) they are liable to the death penalty if they breach this law and do keep Shabbat¹⁷.

- In Jerusalem in Adar II 1848. a non-Jew¹⁸ was circumcised on a Tuesday with the intention to immerse and complete his conversion, but he was unable to do tevila before Shabbat. Although he was still recovering from the circumcision and was unwell on Shabbat, he refused to ask a non-Jew to light a fire for him. R. Asher Lemel (who was substituting for the Chief Rabbi of the Ashkenazi community, R. Shmuel Salant, while he was abroad) ruled that not only was there no prohibition of asking a non-Jew to light a fire, but this convert MUST light the fire, as he was not yet permitted to observe Shabbat! Although he did not light the fire, the non-Jew was required sign his name on Shabbat in the presence of the community.
- The next day, the rabbanim of Jerusalem criticized R. Lemel's ruling, arguing that after a non-Jew accepts upon himself the mitzvot and is circumcised, he may not be Jewish yet, but he is no longer non-Jewish and he may observe Shabbat.
- The question was sent to R. Shmuel Salant, who was visiting R. Yitzchak Meir Alter, the first Gerer Rebbe, in Warsaw. Both R. Salant and the Gerer Rebbe rejected R. Lemel's ruling and permitted the conversion candidate after mila, to observe Shabbat. R. Lemel authored a responsum defending his position, which spurred extensive rabbinic discussion.
- The matter was referred to R. Yaakov Ettlinger (1798–1871), who also ruled in a teshuva (Binyan Tzion 91) that this person was no longer a non-Jew and may observe Shabbat¹⁹. One of his proofs is that the Jewish people underwent mila in Egypt, were then given the mitzva of Shabbat at Mara, and only later performed tevila before receiving the Torah at Sinai.
- R. Shmuel Salant went further and quoted the Rashba (Yevamot 71a) who explains that, while a non-Jew who has been circumcised but has not yet immersed is not yet Jewish, 'he has begun to enter into the Jewish religion (*nichnas ketzat le-dat ha-Yehudi*), as he only needs to immerse [to complete the conversion]'. R. Salant argued that the person is now 'somewhat Jewish' and he may therefore observe the Shabbat.
- There is a similar debate as to whether wine poured by such a person between mila and tevila is permitted or not²⁰.

C2] WHERE MILA IS NOT POSSIBLE

- There are a number of scenarios where mila is not possible, including - (i) the non-Jew was already circumcised previously for medical reasons; (ii) the non-Jew was born without an orla²¹; (iii) the non-Jew had been fully castrated; (iv) the non-Jew was a hemophiliac and the operation could be life-threatening. (v) the conversion candidate was raised as Jewish and had a religious brit mila as a baby.

8. גר שנכנס לקהל ישראל, חייב מילה תחילה. ואם מל כשהיה עובד כוכבים (או שגולד מכויל) צריך להטיף ממנו דם ברית ואין מברכין עליו.

שולחן ערוך יורה דעה הלכות גרים סימן רסח סעיף א

Where the non-Jew was previously circumcised for medical reasons, or was born without an orla, the Shulchan Aruch rules²² that the mila is replaced by a hatafat dam brit - the drawing²³ of a tiny amount of blood. No beracha is made²⁴.

15. See also Shulchan Aruch YD 268:2.

16. The Gemara requires that the tevila be performed in front of a Beit Din, but does not specify as to whether mila also has this requirement. Although the Rambam appears to require only tevila before the Beit Din, other Rishonim also require mila before a Beit Din. The halacha (Shulchan Aruch 268:3) is that ALL aspects of the conversion must ideally take place before a Beit Din.

17. It is therefore standard for a conversion candidate to be asked to break Shabbat by doing a melacha in a private manner. We hosted a conversion candidate in our home in London for 6 months or so. The young woman who was converting had actually been born into a non-observant Jewish family and she later became a Ba'alat Teshuva, only to find out that she was technically non-Jewish due to a conversion issue concerning her mother. The young woman had a fairly rapid conversion process, since it was clear that she wanted to observe mitzvot and to be part of the Jewish people. However, having become Shomer Shabbat previously, she could not bring herself to break Shabbat in any way. I was advised by the London Beit Din that she could keep Shabbat completely. Since the halachic day for a non-Jew begins and ends at sunrise, not sunset, the non-Jewish Shabbat runs from Saturday morning to Sunday morning. So when she made havdala on Motzei Shabbat, she was effectively breaking 'her' Shabbat.

18. The non-Jew was in fact Warder Cresson, an American Quaker who had come to Jerusalem to convert to Judaism. After his conversion, he returned to the United States for a short time, after which he returned to Jerusalem and married Rachel Moledano. He died in 1865 and was buried on Har Ha-Zeitim. See Appendix and also <https://www.jewishvirtuallibrary.org/warder-cresson> and https://en.wikipedia.org/wiki/Warder_Cresson#cite_note-4.

19. See also Shu't Radvaz 3:479.

20. See Shulchan Aruch YD 124:2 who prohibits it and the Shach who understands that the Rema permits it.

21. This is a medical condition known as aposthia.

22. This psak follows the Rambam (Hil Mila 1:7). Note that some Rishonim (Ba'al HaMeor (Shabbat 53b) and Rabbeinu Chananel (quoted by Tosafot ibid)) rule that a hatafat dam brit is not required if the convert was previously circumcised. Some understand Rabbeinu Chananel to mean that a conversion cannot be done in this case.

23. Or even a scratch which reddens the area.

24. According to some Rishonim a beracha is made - 'al hatafat dam brit' (Shu't Rashba 1:329).

9. ואם נכרת הגיד, אין מילתו מעכבת מלהתגייר וסגי ליה בטבילה.

שולחן ערוך יורה דעה הלכות גרים סימן רסח סעיף א

If the convert has been fully castrated and mila is not possible, the halacha is that tevila alone will suffice.

- What about the case of a hemophiliac conversion candidate for whom mila would be life-threatening²⁵? In the case of a Jewish baby, the child may be exempted from the mitzva of mila²⁶.
- There is however a machloket as to whether the baby remains an 'arel' and is prohibited from eating teruma (Rashi) or is not considered an 'arel' and may eat teruma (Rabbeinu Tam).
- In our case of conversion, if a man who may not have mila for medical reasons is still considered to be an arel, then conversion is impossible. While brit for a Jewish baby is a mitzva, it does not establish whether or not the baby is Jewish. However, conversion is IMPOSSIBLE if the person remains an arel. They simply cannot become Jewish. Alternatively, if a man who may not be circumcised for medical reasons is NOT considered to be an arel, conversion may be possible with tevila only (as in the case of castration).
- Most poskim²⁷ rule that, in this case, conversion is impossible. A small minority of poskim permit the conversion through tevila alone²⁸.
- What is the halacha if the conversion candidate received a brit mila as a child on the assumption that he was Jewish? Does it matter what the intention of the mohel was at the time - 'leshem mitzvat mila', 'leshem yahadut', 'leshem giyur'? Should a mohel performing a mila on a baby have an extra kavana *leshem giyur* if he suspects that the baby may not be halachically Jewish?

10. וּלְלֵוִי אָמַר תְּמִידָהּ וְאוֹרֵיךְ לְאִישׁ חֲסִידֶךָ אֲשֶׁר נָסִיתוֹ בְּמִטָּה תְּרִיבָהוּ עַל-מִי מְרִיבָה: הָאֱמֹר לְאָבִיו וּלְאִמּוֹ לֹא רָאִיתִיו וְאֶת-אֶחָיו לֹא הִזִּיר וְאֶת-בָּנָיו לֹא יָדַע כִּי שָׁמְרוּ אֶמְרֹתֶיךָ וּבְרִיתֶיךָ יִנְצְרוּ.

דברים לג,ח,ט

In the beracha of Moshe to the tribe of Levi, he praised them for 'guarding the covenant'.²⁹

11. שְׁחַתְּמֶם בְּרִית הַלְוִי (מלאכי ב-ח) לפי שהיה שבטו של לוי נמולים, שנאמר כִּי שָׁמְרוּ אֶמְרֹתֶיךָ וּבְרִיתֶיךָ יִנְצְרוּ. אמר להם הקדוש ברוך הוא חייכם אף על פי שאברהם התחיל במילה איני קורא אותה אלא על שמכם שנאמר וְאֶתְּם סִרְתֶּם מִן-הַדָּרֶךְ הַכְּשֻׁלְתֶּם רַבִּים בְּתוֹרָה) שְׁחַתְּמֶם בְּרִית הַלְוִי. ברית אברהם אינו אומר אלא ברית הלוי לפי שהיו נמולים נקרא על שמם.

ילקוט שמעוני מלאכי רמו תקפט

The Midrash understands that the special merit of Levi is that they performed mila when other tribes did not.

12. וּבְרִיתֶיךָ יִנְצְרוּ - צרית מילה. שאותם שנולדו צמדצר של ישראל לא מלו את צניכס וכס היו מולין ומלין את צניכס.

רש"י דברים לג:ט

Rashi understands³⁰ that this refers to mila during the 40 years in the desert, which only the tribe of Levi observed.³¹

13. ב מילה היתה במצרים שְׁנֵאָמַר (שמות יב:ח) וְכָל עַרְל לֹא יֵאָכֵל בּוֹ. מל אותם משה רבנו שְׁפַלְמֶם בְּטִלוּ בְרִית מִלָּה בְּמִצְרַיִם חוּץ מִשְׁבֵּט לְוִי וְעַל זֶה נֶאֱמַר (דברים לג:ט) וּבְרִיתֶיךָ יִנְצְרוּ.

רמב"ם הלכות איסורי ביאה פרק יג

As we saw above, the Rambam has a different understanding of this midrash - that the tribe of Levi kept the mitzva of mila in Egypt, even before they were given the mitzva by Moshe prior to korban Pesach.

- Based on this Rambam, many Rishonim³² understand that the tribe of Levi did NOT require an extra *hatafat dam brit* when the rest of the people were circumcised before korban Pesach.

25. There are now laser treatments which may be suitable to circumcise a hemophiliac but it is questionable whether this will qualify halachically as mila - see Minchat Yitzchak 8:89; Nishmat Avraham, vol. 5, p. 86; and Shevet Ha-Levi 9:212. Alternatively, the application of clotting factor concentrates may be sufficient to lower the medical risk.

26. Shulchan Aruch 263:2 rules that if two previous brothers died, the third brother is exempted from brit mila. Now the condition can be diagnosed in advance, this may be a medical justification for exemption from brit mila.

27. In the early 20th century, R. Yechiel Yaakov Weinberg sent this question to a number of leading rabbis in Eastern Europe and Eretz Yisrael. R. Avraham Yitzchak Ha-Kohen Kook (Da'at Kohen, YD 150), and R. Chaim Ozer Grodzinski both ruled that the non-Jew may not be converted. In his own response (Seridei Esh 2:67-68), R. Weinberg insists that one who cannot be circumcised may not be equated with one whose was castrated. R. Tzvi Pesach Frank (Har Tzvi 2:220) and the Tzitz Eliezer (14:92) agree.

28. See Minchat Solet 2:6 and Derech Pikudekha, Mila 29.

29. The classic commentators understand the pshat of this verse in difference ways: they did not worship the Golden Calf (Abaranel); they did not worship idols in Egypt (Midrash HaGadol); they kept the covenant of the priesthood (Chizkuni); they kept the covenant of the Torah in general (Ralbag).

30. Based on Sifrei Bamidbar 67.

31. See Yehoshua 5:5. One of the difficulties with this pshat is that the people did not perform mila in the desert because of the danger involved if they had to move the camp. The commentary Baer Besade on Rashi explains that performing mila in the desert did not present serious medical risk due to protective presence of the Clouds of Glory. Nevertheless, most of the Jewish people did not want to take that risk. The tribe of Levi did take that risk on the basis of 'shomer mitzva lo yeida davar ra' and 'shomer petaim Hashem', for which they were praised.

32. See Ramban, Rashba and Ritva on Yevamot 46b.

• Based on that understanding, many poskim³³ learn that where a baby underwent a mila *leshem mitzvat mila*, but then turns out not to be Jewish, that mila WILL serve as the mila for later conversion³⁴. Other poskim³⁵ disagree with the fundamental proof on the basis that Levi performed their mila as an obligation derived from the mitzva given to Avraham, while a non-Jewish baby has NO mitzva or obligation to perform brit mila³⁶.

D] TEVILA

• In the case of the Jewish people at Sinai, the mila comes before the tevila. This is also the order specified in the Gemara (Yevamot 46a) that we saw in the previous shiur. Many Rishonim³⁷ understand that this order is essential³⁸. Others disagree³⁹.

14. טבל קודם שחל – מועיל, דזיענדזד הוי טבילה. (צ"י צשס הרמב"ן וכ"כ המ"מ פי"ד מהל' א"צ) וי"א דל"א הוי טבילה (נ"י פרק החולץ צשס כר"א"ה).

שולחן ערוך יורה דעה הלכות גרים סימן רסח סעיף א

The Rema brings both views. In practice, the Shach rules that someone who did tevila first should undergo another tevila after the brit.

E] ACCEPTANCE OF MITZVOT

• In today's world, it is well know that gerut has been made very difficult for many people. Batei Din often require years of preparation and learning before approving a conversion. The two main concerns which drive this approach are :

- We need to be satisfied that the candidate has accepted upon themselves a life of commitment to Torah and mitzvot.
- We need to be satisfied that the candidate is not converting because of an ulterior motive - eg to marry a Jew.

15. כשבא להתגייר אומרים לו: מה ראית שבאת להתגייר? אי אתה יודע שישראל בזמן הזה דחופים סחופים ומטורפים, ויסורים באים עליהם. אם אמר: יודע אני ואיני כדאי להתחבר עמהם, מקבלין אותו מיד. ומודיעים אותו עיקרי הדת שהוא יחוד ה' ואיסור עבודת כוכבים, ומאריכין עמו בדבר זה. ומודיעים אותו מקצת מצות קלות ומקצת מצות חמורות, ומודיעים אותו מקצת עונשין של מצות ואין מרבין עליו ואין מדקדקין עליו. וכשם שמודיעים אותו עונשין של מצות כך מודיעים אותו שכרן של מצות, ומודיעים אותו שבעשיית מצות אלו יזכה לחיי העוה"ב, ושאינן שום צדיק גמור אלא בעל החכמה שעושה מצות אלו ויודעם. ואומרים לו: הוי יודע שהעולם הבא אינו צפון אלא לצדיקים, והם ישראל. וזה שתראה ישראל בצער בעולם הזה, טובה היא צפונה להם שאינם יכולים לקבל רוב טובה בעוה"ז כעובדי כוכבים ומאריכין בדבר זה כדי לחבבן. אם קבל, מלין אותו מיד. וממתיינים לו עד שיתרפא רפואה שלימה ואח"כ מטבילין אותו טבילה הוגנת בלא חציצה. (וי"א שיגלה שערותיו ויטול לפני ידיו ורגליו קודם טבילה). ושלשה (תלמידי חכמים) עומדים על גביו ומודיעים אותו מקצת מצות קלות ומקצת מצות חמורות פעם שנייה, והוא עומד במים. ואם היתה אשה, נשים מושיבות אותה במים עד צוארה, והדיינים מבחוץ, ומודיעין אותה מקצת מצות קלות וחמורות, והיא יושבת במים ואח"כ טובלת בפניהם. והם מחזירים פניהם ויוצאין, כדי שלא יראו אותה כשתעלה מהמים. ויברך על הטבילה אחר שיעלה מן המים, וכיון שטבל הרי הוא כישראל. שאם חזר לסורו הרי הוא כישראל מומר שאם קדש קדושי קדושיין.

שולחן ערוך יורה דעה הלכות גרים סימן רסח סעיף ב

The Shulchan Aruch sets out the procedure for accepting a convert. In terms of kabbalat hamitzvot, certain things are clear. (i) We must teach them the fundamentals of Jewish faith⁴⁰ (i) We must teach them a selection of mitzvot, but not all of them. There is no requirement per se for an extended period of study before conversion ; (iii) On the one hand, we are testing the candidate to verify their commitment to joining the Jewish people, but we do not push so hard that they abandon their intention to convert; (iv) Once the candidate has converted, they are fully Jewish. Even if they later abandon the observance of Torah, their conversion is not annulled. They are like any other Jew who has ceased to observe mitzvot.

33. R. Yechezkel Abramsky, then head of the London Beit in an article published in HaPardes (21:3). R. Avraham Ever Hirschowitz sent this question to R. Naftali Herman Adler (1839-1911), Chief Rabbi of the British Empire, and R. Shmuel Salant (1816-1909), the Ashkenazic Chief Rabbi of Jerusalem. He includes their answers in his Beit Avraham (p. 49). R. Adler relates that "our custom here [in London] is that if a Jewish person circumcises his son from a non-Jewish woman, since his Jewish father enters him into the covenant of Avraham Avinu for the sake of the mitzva, we do not extract a drop of blood when he is older [and completes his conversion]." R. Salant, in a teshuva written in 1893, also rules that way This is also the psak of R. Tzvi Pesach Frank (Har Tzvi YD 219), the Rogatchover Gaon (Tzafnat Paneach Hilchot Mila 3:7), R. David Tzvi Hoffman Shu't Melamed Le-Ho'il YD 82) and R. Ovadia Yosef (Shu't Yabia Omer YD 10:27).

34. This psak assumes that a mila for conversion performed without the supervision of a Beit Din is nevertheless valid bedieved.

35. R. Ben Zion Notelovitz (HaPardes 21:5), R. Mordechai Pinchas Teitz (ibid), R. Yosef Shlomo Elyashiv (Moriah 18, vol. 1, p. 205), Sefer Nehar Mitzrayim (Hilchot Gerim), Minchat Yitzchak (1:36). R. Moshe Feinstein rules (Igrot Moshe YD 2:128) that the child must undergo a hatafat dam brit in the presence of a beit din, but elsewhere (YD 3:105) rules that one may be lenient in extenuating circumstances.

36. On the question of a circumcision performed by a non-observant or non-Jewish doctor see

<https://etzion.org.il/en/halakha/yoreh-deah/circumcision/brit-mila-convert-3-common-questions-regarding-milat-ha-ger>

37. Rambam (Hilchot Issurei Biah 14:5), Rashba and Ritva Yevamot 46a.

38. The tevila is the final step in conversion - without the mila it is akin to going to the mikve while still holding the sheretz!

39. The Ramban points out that there are cases where we do the tevila first and then the mila, such as a with a pregnant woman who converts. The tevila for the baby is in utero and the mila is after birth.

40. This wording is not in the Gemara, but was introduced by the Rambam. As is well know, he strongly emphasizes the correct understanding of the Ikrei HaDat, sometimes even more than the observance of mitzvot.

- There has been significant criticism from some in the Orthodox world concerning the way that this aspect of conversion has been applied in practice in recent decades, especially in Israel⁴¹.
- In particular, there have been concerns at the some decisions by the Chief Rabbinate in Israel, later followed by other Rabbinical bodies around the world, not to accept the conversions of some Batei Din in chutz leAretz.
- Other concerns relate to the manner in which candidates are deterred by some Batei Din and, even after having studied for years, are told that they may not yet convert. Some cases include single women in their late 30s and 40s for whom delay may prevent them ever having a family.
- Other concerns relate to the difficulties facing some olim in Israel, in particular from the Former Soviet Union, who wish to convert but are not likely to live a fully observant life as Jews. On the one hand, their commitment to the Jewish people is often unquestionable - their move to Israel may have been at significant personal cost; they fight in the IDF; they often have Jewish spouses and children. On the other hand, their lack of interest in mitzva observance appears to undermine their candidacy for conversion. Pseudo, non-halachic conversions are not a solution. But this leaves tens of thousands of non-Jews living in Israel as Jews, whose children are likely to want to marry Jews. This is itself a major concern.
- There has been very great concern at the delegitimization by some senior Rabbanim of the special Conversion Courts set up in Israel, including personal delegitimization of its head, R. Chaim Drukman.
- A famous and controversial case concerns the 1991 conversion by R. Drukman's Conversion Court of a Danish woman who had moved to Israel and subsequently married a Jewish man in an Orthodox ceremony and had three children. Upon her divorce in 2007, the local Beit Din in Ashdod found that, although she lived a traditional lifestyle, she did not keep Shabbat or observe the halachot of Taharat HaMishpacha. They ruled that, since she was not mitzva observant, her conversion had been invalid from the start, and that she and her children were non-Jews. This was appealed to the Beit Din Hagadol in Jerusalem. Two of the dayanim - R. Shlomo Deichovsky and R. Ezra Bar-Shalom - took the position that the Ashdod Beit Din was incorrect. The third dayan - R. Avraham Sherman - supported the Ashdod decision. However, rather than accepting the majority ruling, Rabbi Sherman recused himself, preventing the ruling from being given. He then formed another Beit Din which not only upheld the ruling in Ashdod and agreed with the annulment of the conversion, but also personally attacked and disqualified R. Drukman and the other dayanim on his Conversion Court, alleging that they had not followed the accepted halachic position that full acceptance of all mitzvot is essential for any conversion. Rabbi Sherman has also attacked the Giyur Kehalacha Conversion Courts of R. Nachum Rabinowitz.⁴²
- Rabbi Sherman may be a controversial and outspoken figure in the Rabbanut⁴³, but these issues are extremely delicate to judge. On the one hand there is the obligation of special sensitivity and love for the convert⁴⁴. On the other hand, there is an enormous personal responsibility for a dayan who permits a conversion.

16. ג בדבר הגירות הנעשה בזמננו.

מ"מ לאותו סוג גרים אשר כמעט בטוחים שאינם חושבים כלל לקיים ולשמור מצוות ד', זכרון דא נלענ"ד שכל המסייעים לגירות כזו, אף אם הם עושים לחשוב שהם גרים גמורים, אפי"ה גם לשטתם המגיירים אותם עוזרים בלאו של לפני עור וגוי. שהרי כל דבר הנעשה נגד רצון ד' קרוי מכשול, וכידוע שאסור להושיט אבר מן החי אפי' לזן נח, והוא מפני שעבירה קרויה מכשול. ונוהג לאו זה בין בישראל ובין בצנכרי. וגם דבר זה סביר הוא דאין לחלק כלל בין מקרב יין לזיר או זיר לזין. ונמצא דמה שגר כזה חילל שבת ואכל נבלה לפני שהתגייר - לא היה צדק שום עבירה ולא נעשה כלל שום מכשול. ואילו עכשו כשהוא ממשיך ללכת בדרך זו גם להבא, הרי כל מעשיו נהפכים לפוקה ומכשול. וכיון שכל זה נעשה רק מפני הגירות - נמצא שכל המגיירים והמסייעים לכך הו"ל כגדול המחטיאו, ועוזרים בלאו של לפני עור לא תתן מכשול.

ש"ת מנחת שלמה חלק א סימן לה

R. Shlomo Zalman Auerbach explains that encouraging conversion is an enormous responsibility. If the newly converted Jew fails to keep mitzvot, those who facilitated the conversion may be liable for the Torah prohibition of 'lifnei iver' - to causing someone else to sin. This mitzva includes a halachic responsibility to non-Jews too!

- There is also the macro-hashkafic question of the individual versus the klal perspective. Should the halachic issue of conversion be analyzed in the context of its impact on the individual convert, as it has in the past in the Diaspora? Or is the reality in Israel now quite different - with millions of Jews living together in a Jewish society which must be guided and protected in the decades ahead.
- In Part 4 we will look be'H in depth at this question and examine the issue of observance and motivation in contemporary conversion.

41. See for instance the following articles in Hakira Journal: *On the Psak Concerning Israeli Conversions*, R. Yehuda Henkin - Hakira 7 p6 (<https://hakirah.org/Vol%207%20Henkin.pdf>) *Conversion to Judaism: Halakha, Hashkafa, and Historic Challenge* R. Marc Angel, Hakira 7 p25 (<https://hakirah.org/Vol%207%20Angel.pdf>), *Response to "Conversion to Judaism"*, R. Eliezer Ben Porat, Hakira 8 p7 (<https://hakirah.org/Vol%208%20Ben%20Porat2.pdf>), *Response to Rabbi Eliezer Ben Porat*, R. Marc Angel, Hakira 8 p7 (<https://hakirah.org/Vol%208%20Angel.pdf>).

42. <https://www.giyur.org.il/en/about-giyur-khalacha/>. The Rabbanim of this organization include R. Haim Amsalem, R. Re'em HaCohen, R. Shlomo Riskin and R. David Stav.

43. On the 2007 case and R. Sherman's rulings see *Contemporary Ashkenazi Pesak regarding the Invalidation of Conversion*, R. Yosef Zvi Rimon, Tradition Journal, Summer 2013 Issue 46.2 - <https://traditiononline.org/contemporary-ashkenazi-pesak-regarding-the-invalidation-of-conversion/>.

44. As to whether this applies also to the conversion candidate see *Loving the Convert Prior to a Completed Conversion*: R. Michael J Broyde and R. Benjamin J Samuels, Hakira 28 p40 <https://hakirah.org/vol28Broyde.pdf>.

APPENDIX: THE REMARKABLE STORY OF WARDER CRESSON

Rabbi Jacob Ettlinger and Warder Cresson by Yirmiya Milevsky (<https://seforimblog.com/2014/02/rabbi-jacob-ettlinger-and-warder-cresson/>)

Rabbi Jacob Ettlinger (1798 – 1871) was a German rabbi and author, and one of the great leaders of Orthodox Judaism. He was born in Karlsruhe and died in Altona. He studied under Rabbi Abraham Bing in Würzburg, where he also attended the university. Because of his well-known greatness as a Torah scholar, questions were sent to him from across the globe. The following question relates to a story that occurred in Jerusalem. According to Jewish Law, there is a list of activities that are prohibited on the Jewish Sabbath. Although resting on the Sabbath is one of the most important commandments for a Jew, the Talmud tells us that a Gentile is actually forbidden from resting on the Sabbath, and must perform one of the “prohibited” actions to be considered a righteous gentile. The following is the question presented to Rabbi Ettlinger with regard to this issue.

“Here in Jerusalem on Tuesday the twenty third day of the month of Adar Sheni of the year (5)608, a non Jew came from Morocco and was circumcised for the sake of conversion, and accepted all the mitzvot. On the following Shabbat, he had not fully recovered from the circumcision and thus not entered the Mikvah (ritual bath to finalize the conversion). A rabbi was informed that the convert is very careful in his observance of the Sabbath. However another rabbi claimed that due to the fact that he did not yet enter the Mikvah he must not observe the Sabbath and must perform one of the prohibited acts. It was late in the day and the convert was told what he must do. Consequently he violated the Sabbath by writing a few letters. After the Sabbath when the Rabbis in town heard of the ruling they disagreed claiming that after circumcision he is considered a Jew and must not violate the Sabbath.” (Responsa Binyan Tzion 91)

While reading about this out of the ordinary situation, that produce a vast amount of Halachic literature, a question may arise in our minds: What brought this Moroccan to Jerusalem and what prevented him from converting in his homeland where a very significant Jewish population and rabbinic court was present?

Some time ago I came across an article by Frank Fox, entitled “Quaker, Shaker, Rabbi: Warder Cresson, the Story of a Philadelphia Mystic.” Pennsylvania Magazine of History and Biography 95, no. 2 (April 1971): 147-194 Philadelphia. (Unless otherwise indicated all information and quotes are from the article.) The narrative follows the unorthodox journey of Cresson.

Born in 1798 and grew up following the habits of the Quaker elders, Warder displayed a mind immersed in Scriptures. In 1829, Cresson wrote a condemnation on the “Babylon” of Pennsylvania, attacking wealth and social distinction. “It will certainly be admitted,” he began, “that all the misery and troubles that afflict the human family arise aspiring from ...selfishness.” The lack of true religion, he wrote, a faith that ought to be expressed through self-denial and universal love, had brought about tyrannies and caused slavery and bloodshed.

Cresson became familiar with a Jewish leader in Philadelphia, Rabbi Isaac Leeser, a pioneer of the Jewish pulpit in the United States. Leeser, the minister of Congregation Mikveh Israel since 1829, was using his pulpit to educate and to revive the deteriorating communal and religious organizations.

Another contemporary, whose views affected Cresson, was Mordecai M. Noah, who addressed Christian and Jewish audiences in New York and Philadelphia in the early 1840s and urged a return to Zion as the only solution to the Jewish problem of persecution. In 1825, he attempted to establish “Ararat”, a city of refuge for the Jewish people on Grand Island in the Niagara River.

In 1844, Cresson decided to go to Washington and to apply for the position of the first American Consul to Jerusalem, and by May 17, was officially notified of his appointment. His appointment was rescinded within a short time. Nevertheless Cresson made his way to Jerusalem.

After his arrival Cresson wrote critically of the high salaries paid to the missionaries who lived “in the very best houses, bought most splendid Arabian horses and dressed in the most luxurious and stylish manner.” As for their practical work, he wrote that, “To further their imposing and enterprising object they built a church which has cost them more than \$150,000; then a hospital and Dispensary, sent physicians from England, set up an institution of Industry and also a college and schools, all to entrap and instruct the poor, dirty, oily, greasy, starving Jews and to tempt and provide them with good livings, fine English clothing, upon the only one condition that they will give their names and use all their influence to support and promote the interest of their Society for introducing and establishing Sawdust instead of Good Old Cheese, amongst the poor Jews in Jerusalem and Palestine.” According to Cresson, the missionaries failed to get a single Jew to apostatize.

In 1847, Cresson began writing, “The Key of David the True Messiah”, in which he began his journey towards Judaism. Finally, after denying the divinity of Jesus, Cresson was ready for the final step of his spiritual journey. He writes, “I remained in Jerusalem in my former faith until the 28th day of March, 1848,” he wrote, “when I became fully satisfied that I could never obtain Strength and Rest, but by doing as Ruth did, and saying to her Mother-in-Law, or Naomi, ‘Entreat me not to leave thee for whither thou goest I will go’... In short, upon the 28th day of March, 1848, I was circumcised, entered the Holy Covenant and became a Jew.”

Cresson - or Michael Boaz Yisrael ben Avraham - returned to the United States for a few years. Upon his return to Jerusalem in 1852 he married a Sephardic woman named Rachel Moledano. Cresson died in 1865 and was buried on Mount Olives.

Many aspects of his life are quite intriguing and fascinating. However one detail provides the answer for the mystery regarding the “Moroccan” convert in Rabbi Jacob Ettlinger’s response. Cresson identifies the date of his conversion, the 28th of March 1848 – the day Warder Cresson became Michael Boaz Yisrael – which corresponds to the 23rd of Adar Sheini in the Jewish year (5)608. In other words, the conversions occurred on the same day! The response indicates that conversions in Jerusalem were pretty unusual, ... making it difficult to believe that there were two conversions on that specific day. Consequently, I believe that the non Jew in Rabbi Jacob Ettlinger’s response did not come from Morocco but rather from America. In Hebrew, the spelling of America can be easily mistaken for Morocco (מאראקא). Cresson indeed came to Jerusalem “for the sake of conversion”.

From *Jerusalem, The Biography*, Simon Sebag Montefiore, pp352-354

352

JERUSALEM

ical evangelical, learned fluent Hebrew and the widely spoken Ladino. On one hand, they aggressively protected the Jews, who were brutally oppressed in Jerusalem. Yet at the same time his pushy mission provoked violent Jewish resistance. When he converted a boy called Mendel Digness, he caused mayhem as "the Jews climbed over the terraces and made great disturbances." Finn called the rabbis "fanatics," but back in Britain, the powerful Montefiore, hearing that the Jews were being harassed, sent a Jewish doctor and pharmacy to Jerusalem to foil the Jews Society, which in turn founded a hospital on the edge of the Jewish Quarter.

In 1847, a Christian Arab boy attacked a Jewish youth who threw back a pebble which grazed the Arab boy's foot. The Greek Orthodox traditionally the most anti-Semitic community, quickly backed by the Muslim mufti and qadi, accused the Jews of procuring Christian blood to bake the Passover biscuits: the blood libel had come to Jerusalem, but the sultan's ban, granted to Montefiore after the Damascus affair, proved decisive.¹⁰

Meanwhile the consuls were joined by perhaps the most extraordinary diplomat in American history. "I doubt," observed William Thackeray, the English author of *Vanity Fair*, who was visiting Jerusalem, "that any government has received or appointed so queer an ambassador."

WARDER CRESSON, U.S. CONSUL:
THE AMERICAN HOLY STRANGER

On 4 October 1844, Warder Cresson arrived in Jerusalem as the U.S. consul-general of Syria and Jerusalem—his chief qualification for the job being his certainty that the Second Coming was due in 1847. Cresson took the consular hauteur of his European colleagues to a new level: he galloped around Jerusalem in a "cloud of dust" surrounded by "a little American army" who belonged in a "troop of knights and paladins" from a Walter Scott novel—"a party of armed and glittering horsemen led by an Arab followed by two Janissaries with silver maces shining in the sun."

At his interview with the pasha, Cresson explained that he had arrived for the coming Apocalypse and the return of the Jews. A Philadelphia landowner, child of rich Quakers, Cresson had spent twenty years spinning from one apocalyptic cult to another: after writing his first manifesto, *Jerusalem, the Centre of the Joy of the Whole World*, and abandoning his wife and six children, Cresson persuaded Secretary of State John Calhoun to appoint him consul: "I left everything near and dear to me on earth in pursuit of truth." The U.S. president John Tyler was soon informed by his diplomats that his first Jerusalem consul was a "religious

EMPIRE

353

maniac and madman," but Cresson was already in Jerusalem. And he was not alone in his apocalyptic views: he was an American of his time.

The American Constitution was secular, carefully not mentioning Christ and separating state and faith, yet on the Great Seal, the Founding Fathers, Thomas Jefferson and Ben Franklin, had depicted the Children of Israel led by cloud and fire towards the Promised Land. Cresson personified how that cloud and fire were attracting many Americans to Jerusalem. Indeed the separation of Church and state liberated American faith and generated a blossoming of new sects and fresh millennial prophecies.

The early Americans, inheriting the Hebraist fervour of the English Puritans, had enjoyed a Great Awakening of religious joy. Now, in the first half of the nineteenth century, a Second Awakening was driven by the evangelical energy of the frontier. In 1776, some 10 percent of Americans were churchgoers; by 1815, it was a quarter; by 1914, it was half. Their passionate Protestantism was American in character—gritty, exuberant and swash-buckling. At its heart was the belief that a person could save himself and accelerate the Second Coming by righteous action and heartfelt joy. America was itself a mission disguised as a nation, blessed by God, not unlike the way Shaftesbury and the English evangelicals saw the British empire.

In little wooden churches in one-horse mining towns, farmsteads on boundless prairies and gleaming new industrial cities, the preachers in the New Promised Land of America cited the literal biblical revelations of the Old. "In no country," wrote Dr. Edward Robinson, an evangelical academic who became the founder of biblical archaeology in Jerusalem, "are the Scriptures better known." The first American missionaries believed that the Native Americans were the Lost Tribes of Israel and that every Christian must perform acts of righteousness in Jerusalem and help the Return and Restoration of the Jews: "I really wish the Jews again in Judaea an independent nation," wrote the second U.S. president John Adams. In 1819, two young missionaries in Boston prepared to put this into action: "Every eye is fixed on Jerusalem," preached Levi Parsons in Boston, "indeed the centre of the world." Their congregation wept as Pliny Fisk announced: "I go bound in spirit to Jerusalem." They made it there but their early deaths in the East did not discourage others because "Jerusalem," insisted William Thomson, the American missionary whose wife died there during the revolt of 1834, "is the common property of the whole Christian world."

Consul Cresson had ridden the wave of this flowering of prophecies: he had been a Shaker, a Millerite, a Mormon and a Campbellite before a local rabbi in Pennsylvania convinced him that "salvation was of the

354

JERUSALEM

Jews" whose return would bring the Second Coming.* One of the first to arrive in Jerusalem was Harriet Livermore. Daughter and granddaughter of New England congressmen, she set off in 1837, after years preaching to the Sioux and Cheyenne tribes that they were the Lost Tribes of Israel who should accompany her back to Zion. She rented rooms on Mount Zion to prepare her sect, the Pilgrim Strangers, for the Apocalypse that she expected in 1847—but it did not come and she ended up begging in Jerusalem's streets. At the same time, Joseph Smith, prophet of the new revelation of Latter Day Saints—the Mormons—sent his Apostle to Jerusalem: he built an altar on the Olivet to prepare "to restore Israel with Jerusalem as capital."

By the time Cresson became the U.S. consul, a growing number of American evangelists were visiting Jerusalem to prepare for the End Days. The U.S. government eventually dismissed him, but he continued defiantly to issue visas of protection to Jews for several years and then, changing his name to Michael Boaz Israel, converted to Judaism. For his long-abandoned wife this was a revelation too far. She sued to have Cresson declared insane, citing his pistol-waving, street-haranguing, financial incompetence, cultic eclecticism, plans to rebuild the Jewish Temple and sexual deviance. He sailed back from Jerusalem for the Inquisition of Lunacy in Philadelphia, a cause célèbre, for Mrs. Cresson was challenging the constitutional right of American citizens to believe whatever they wished: the essence of Jeffersonian liberty.

At the trial Cresson was found to be insane, but he appealed and was awarded a retrial. Mrs. Cresson had to "deny either her Saviour or her Husband" while he had to deny "either the One, Only God or My Wife." The wife lost the second case, confirming American freedom of worship, and Cresson returned to Jerusalem. He created a Jewish model farm near the city, studied the Torah, divorced his American wife and married a Jewess, all the while completing his book *The Key of David*. He was honoured by local Jews as "the American Holy Stranger." On his death he was buried in the Jewish cemetery on the Mount of Olives. Jerusalem was now so overrun by apocalyptic Americans that the

* William Miller was one of the most popular of these new American prophets. An ex-army officer from Massachusetts, he calculated that Christ would come again in Jerusalem in 1843, 100,000 Americans became Millerites. He converted the assertion in Daniel 8:14 that the "sanctuary would be cleansed" in "two thousand and three hundred days" into years by claiming that a prophetic day was really a year. Hence starting in 497 BC, which Miller believed was the date of Persian King Artaxerxes's order to restore the Temple, he arrived at 1843. When nothing happened that year, he suggested 1844. The Millerite successor churches, the Seventh Day Adventists and the Jehovah's Witnesses, still number fourteen million members worldwide.