

**“Who is a Jew?”: Identity, Peoplehood, and Conversion**  
**Nineteenth Century Sources**  
**VBM Lecture – January 23, 2020**  
**David Ellenson**

**I. Rabbi Jacob Ettlinger (1798-1871), *Binyan Tziyon*, #149**

There is reason to assess favorably those rabbis who *a priori* (*l’chathilah*) rule leniently on this matter in our country and who permit a Jewish man to marry a non-Jewish woman even though I personally am not comfortable with this ruling. Indeed, I was already asked about this and I forbade it for there is a prohibition against accepting a female convert once it is known to us that she is converting for the sake of marriage. Nevertheless, one can still justify those who are lenient [in such a case] as they base themselves on what the *Beit Yosef* wrote on *Yoreh De’ah* 268, where he cited the *Shakh*, who cited the principle that “if, in the judgment of the rabbinic court, the convert will, in the end, come for the sake of heaven, accept him even though now he comes for an ulterior purpose.” He justified this by citing case of Hillel who received a convert who converted on the condition that he be made High Priest, even though, [as I said], I am not comfortable even with this.

**II. Rabbi Esriel Hildeshimer, *She’elot u’teshuvot*, Y.D. #234**

**Question:** In the community of Saarbruecken a young Jewish woman was impregnated by a non-Jewish man. She gave birth and the baby died. Now the girl has written her father and told him that she will not leave this gentile man. Rather, she says she will marry him, or she threatens to commit suicide or change her religion. However, the father says he will not grant her permission to marry this gentile (because the young woman is 19 and needs the permission of her father to marry civilly) unless this seducer converts to Judaism. And this gentile wants with all his heart to do what is asked of him.

And I absolutely refused to perform this deed, for besides what is written in the Shulchan Aruch, Y.D., 268:12, I said, God forbid that I accept a gentile like this [into Judaism], for without a doubt even after he converts he would violate all the prohibitions of the Torah. For this gentile is a tanner who works for his gentile master. It is certain that even after [he would convert] that he would violate the Sabbath and holidays, for on account of our many sins in the city of Saarbruecken, very few [Jews] are Sabbath-observers (for the Sabbath is market day).

And now the prayer leader of [the synagogue in] Saarbruecken has told me that the father of the young girl has told him that if I do not receive the man as a convert, then [the father] will go with the man to a mohel and after his circumcision, [the father] will give the man his daughter. I also heard that “one of the new rabbis – *ehad meiharabbanim hamithadashim*” actually accepted a convert like this without checking and examining his motives as required by Jewish law. The father of the young girl also promised that if I will accept the man as a convert that he will accept upon himself the yoke of all the major and minor commandments and he will fulfill [all the demands] of the entire Torah. However, if I do not accept him, the father will do as stated above.

Your student,

Jacob Hollander

**Answer:** Your query is among the most difficult questions of our age. Truly, it appears to me that [the answer] depends upon discretion (*shikul ha-da'at*) and there is no way that an incontrovertible judgment on it can be rendered (Hildesheimer then cites a number of sources that indicate that “not all transgressions are equal,” i.e., that discretion is needed because no clear judgment can be made and thus the rabbinic judge will, in effect, have to choose among a number of imperfect options). Therefore, in this case we know clearly that the convert will maintain their previous ways and will violate the Sabbath and act as all the lawless do who throw over the yoke of Torah [in matters] both major and minor, despising and making light of the Tradition. Therefore, the rabbinic court that converts him will be culpable for all that he will do [subsequent to his conversion] and we know full well that his deeds are preceded by his thoughts. Certainly, we are obligated to stand firm on the foundation [of the Law] and distance ourselves from [performing such a conversion]. And if the father of the young woman goes to another “rabbi” who converts him it is like drawing a hair out of milk. Is not a conversion conducted without circumcision or immersion null and void? Who will tell us what we should do? Rather, we should save our own souls and not permit a Jewish girl -- when it is not impossible that she might yet marry a kosher Jew or where at least there is some possibility that this will occur – to a “gentile” who will [behave no differently] in his converted state than he did in his gentile state. Therefore, I will play, God forbid, no part [in such a conversion].

### **III. Rabbi David Zvi Hoffmann (1843-1921), *Melammed L'ho'il* *Yoreh Deah* #85**

Regarding the question of the accepting a female convert who wishes to marry a Jewish man – I have already ruled previously [on this matter], citing the principle articulated by the *Shakh*, “Everything depends upon the judgment of the rabbinic court.” See the *Beit Yitzhak* Y.D. 2:100. And in our day, it is possible for a Jewish man to marry a gentile woman even if she remains in her gentile state since, if we do not accept her [as a convert], the Jew will marry her in a civil ceremony. In addition, if an Orthodox rabbi does not accept her [as a convert], she will go to one of the new rabbis (*He-hadashim*, i.e., Reform or Liberal) who accept female converts without immersion by a *beit din* and without *kabbalat mitzvot* (acceptance of the yoke of the commandments), and she will then be thought a Jew even though she remains a gentile. Consequently, it is better to keep the evil to a minimum and accept her as a convert if she promises that she is converting for the sake of heaven and that she will fulfill all the commandments, in particular, *Shabbat*, family purity (*niddah*), and *kashrut* (*ma'a'chalot asurot* – forbidden foods). She should take a pledge of honor on this and the court should warn her husband that he should not marry her unless he knows that she will fulfill all these [commandments]. For, if [she fails to do this], the damage will be greater than the gain. For example, if he has intercourse with a gentile menstruant, he is punished by excision (*kareit*) only by [the laws of] rabbinic tradition (*kabbalah*). However, if she converts and he has intercourse [with his Jewish wife who is a menstruant], then he is punished by excision by dint of Torah law. And if the husband testifies after this warning that his wife is converting for the sake of heaven, then it is permissible to accept her as described

above. And if it is possible to examine other persons who are not affected by the matter, and [they testify] that she wishes to convert in truth and with a whole heart, how wonderful!

- IV. **Rabbi Tzvi Hirsch Kalischer (1795-1874) of Thorn, in *Responsa of Rabbi Esriel Hildesheimer, Yoreh De'ah #229***, responded to a halakhic decision issued by Rabbi Bernard Illowy of New Orleans in 1864. Rabbi Illowy had ruled that sons born to a gentile mother and Jewish father should not be circumcised by a *mohel* lest they mistakenly be identified as Jews. Seeking support for his stance, Illowy wrote to *Der Israelit* and asked the European Orthodox rabbinate to express its opinion on this issue. Several rabbis commented upon it and all, including Hildesheimer, supported Illowy's position. Kalischer, however, dissented from their opinions and stated that it was a "*mitzvah* to circumcise such children." Here are selections from his responsum: And now that we have demonstrated that it is both permissible and a mitsva to circumcise a gentile [prior to this, Kalischer has argued that it is a mitsva to circumcise a gentile even if not for the sake of conversion], I will present a logical argument {relevant to this case} which common sense would also dictate. It is as follows. All the inhabitants of the world are the work of the Creator, may He be blessed. One God created us all. Though He favored Israel by the giving of the Torah, He, in His mercy, actually desired to give it to all the world. As the Sages said (Avoda Zara 2b) about Scripture, "The Lord came forth from Sinai and rose from Seir unto them, He shined forth from Mt. Paran" (Deut. 33:2). It was only when the Blessed One saw that there was a base spirit within the nations that prevented them from receiving the Torah that He gave it to Israel alone. However, it is written, "For all the world is mine and you will be to Me a kingdom of priests" (Exodus 19:5-6). Truly the whole earth is mine, and I want to grant merit to all who dwell therein, even though the light of Torah has not penetrated them. Therefore, you [Jews] will be like priests to all the inhabitants of the world; for, by your coming near to Me, the nations, too, will see the light. In truth, this has already taken place. For the Holy Torah serves as the foundation for the faithful of all nations, and the events that have befallen Israel serve as the foundation for their faith. ... Yet, the Blessed One still wished to grant the fullest merit to all His creatures. As they did not accept the Torah, He undoubtedly was expressing an open-ended hope that anyone who wished to convert and take refuge in the inheritance of the Lord would do so and thereby merit the infinite light, like Onkelos, Shemaya, Abtalyon, and others. Therefore, when a non-Jew comes to incline his heart to enter into the Community of Israel. ... And if we do not circumcise him [in a case where he is a baby] we abrogate his choice because he will not easily subject himself to the pain of circumcision when he is an adult. By circumcising him [as a child] we will be removing an iron barrier from before him ...

And if with regard to a child born of two gentile parents the law is such that this action does not constitute a sin, but rather a mitsva-then it is all the more so in reference to a boy whose father is a Jew. You should not refrain from circumcising him as we are commanded to grant him the opportunity to be circumcised immediately at the directive of his father. Thus, when he grows up, he will quickly be able to perform the will of his father by ritually immersing himself according to the Jewish law of conversion ... **However, if we do not circumcise him, we are pushing him away with both hands from the Community of Israel ...**

Moreover, in regard to this matter, we not only grant merit to the son who now has the free option to make himself holy. But we also grant much merit to the father. For when this sinner inclines his heart to repent, how will his repentance be received if he raises his children as non-

Jews? ... If, however, we respect his good will in this instance--to circumcise his male children--then he, along with his children, will easily repent and we will have extended them a hand in their repentance, And even if, God forbid, he [the father] does not truly repent, he is, in any event, acting properly in this matter, as he wants firmly to establish his children in the Jewish faith by circumcising them, Without a doubt, when they grow up they can receive immersion through the agency of a Beit Din ... **And with children such as these, there is sometimes the possibility that great leaders of Israel will arise from among them ...**

And as for the fear that he [the child] will not learn the Jewish faith in the house of a gentile woman, ... at a time like this there are many who do not conduct themselves according to Jewish law in their eating of non-kosher meat and pig, Nevertheless [and even though this may be the case here, we should circumcise the son with joy, For we should not make one matter contingent upon the other in areas where we are unable to prevent [transgressions]. But we do relate one matter to another in a case where we are able to grant merit. **For, God forbid, we should not push him away. In regard to this, it is fitting to say that even sinners in Israel sometimes perform mitsvot** that are as numerous as the seeds in a pomegranate. And thus it is demonstrated from the proofs I have brought above that even if the mother should remain a gentile, the son should be immersed [and thus converted] under the supervision of a Beit Din.