

declares outright that it is forbidden to tread upon graves but immediately weakens the firmness of the prohibition by explaining it as follows: "It is because some say that it is forbidden to have any benefit from the grave." But then he adds that if it is necessary to walk on graves to get to the grave that is needed, then the walking is permitted.

So, too, Greenwald in his **Kol Bo** (p. 179 bottom) says definitely that there is no actual prohibition against walking on the graves except that since it would be disrespectful to the dead, it should be avoided.

But it is noteworthy that Jehiel Epstein in **Arukh Ha-Shulhan**, Yoreh Deah 346:11, says plainly: "I am astonished at those who prohibit a 'benefit'."

From all this tentative prohibition, we may draw the following conclusion: Walking on the graves is permitted if it is for a worthwhile errand or even if it is a temporary, chance crossing of the grave. What would be prohibited (according to the spirit of the law) would be regularly using the cemetery as a shortcut and walking across the graves simply to save ourselves a little walking distance.

A HORROR OF CIRCUMCISION

QUESTION:

An aging adult Gentile is eager to be converted but has an unreasoning horror of circumcision and refuses to undergo the operation. May he be accepted as a proselyte? (Asked by a number of enquirers.)

ANSWER:

From the point of view of Reform Jewish practice, there is no question that this man may be accepted as a proselyte. The Central

Conference has long ago decided that in training proselytes, we emphasize the educational and spiritual preparation and do not insist on the two rituals, circumcision and mikveh. But this rule of ours now meets with increasing difficulties. A convert of ours would have difficulty in Israel to be accepted as a Jew with full rights of immigration (the Law of Return). Moreover, in some cities the three religious groupings have agreed to conduct conversions according to the halakhah and, therefore, in such communities, this candidate cannot be accepted as a proselyte.

However, even from the Orthodox standpoint, there is a possibility that he might be accepted. If, for example, a psychiatrist proves that this man's aversion to the operation is emotionally extreme and it may amount to an insane obsession, then the man may be considered a **shotah** (an unbalanced person) who is not obligated to fulfill the commandments. This principle is stated frequently in the law, as for example Maimonides (**Yad** Hil. Melakhim 10:2) who says of **shotim**, "They are not under the commandment" (**ein bnei mitzvah**).

But the question then is as follows: Is a man with one obsession (a monomaniac) to be deemed a **shotah** and therefore free of the commandments? This question brings us to a basic and new problem in the **halakhah**, namely, how will the historic **halakhah** come to terms with the new sciences of Psychiatry and Psychoanalysis? In the light of modern discoveries in the human psyche, can the **halakhah** expand and enrich the understanding of **shotah**?

The **Talmud** gives a sort of definition (or description) of the **shotah**. In Hagigah 3b, we read: Who is a **shotah**? (To which question Rashi says: Who is therefore free of the commandments?) He who goes out at night alone; who spends the night in the cemetery, and who tears his garments. On the next page there is added: Who is a **shotah**? He

who destroys what is given him. Rashi is aware that these apparently trivial aberrations would seem hardly sufficient to free a man from all obligations to the commandments. Therefore, he expands the statements. For example, the man in question stays in the cemetery because he plans to communicate with evil spirits and demons, etc. In other words, these trivial-seeming statements mean much more than they seem to say. The same understanding of these descriptions of the **shotah** is held by Joseph Caro (**Bet Yosef** to **Shulhan Arukh** Even Ho-ezer 121 (under the paragraph beginning **simanei**). He says that these descriptions are meant to be merely **dugmah**, types or examples.

Therefore, in a modern psychiatric development of the **halakhah**, it would not be difficult to understand "that he who goes out alone" may well include a deeply introverted anti-social person. Or "he who destroys what is given him" may well refer to a madly destructive person. But these developments of the talmudic definitions remain in the future as the **halakhah** will take into consideration the discoveries of the new mental sciences. In these new **halakhic** studies which are now beginning, it is quite conceivable that the proselyte candidate in question may be considered a **shotah** and free from the commandments. But that is for the future, yet we may well hope that in these days of increasing tensions, the development of these studies will not wait "till Elijah will come and solve all difficulties."

As for the non-Orthodox rabbis, they can in this specific case be content with R. Joshua's opinion in (Yebamot 46a) that even if he was not circumcised, he is a fully pledged proselyte.

ADDENDUM

An analogous responsum to the theme discussed here is found in the responsa Aaron Kisselov (**Tishberei Yam**, 15) in Harbin, Manchuria. The question came to him from Rabbi Nathan Alefsky in Irkutsk, Siberia. A Gentile man desires to be converted to Judaism, but the doctors say that the circumcision would be a danger to his health. May he be converted without being circumcised? This, then, is not a question of psychological danger, but of physical danger.

The Rabbi in Irkutsk suggests that it might be permitted to convert him on the basis of the law in **Shulhan Arukh** Yoreh Deah 260, which states that a person who is mutilated and, therefore, cannot be circumcised, may nevertheless be converted by the bathing in the **mikveh** alone. However, Rabbi Kisselov rejects this argument. He says that what is stated in the **Shulhan Arukh** is no true analogy in this case. A mutilated man lacking the organ, of course cannot be circumcised, but this would-be proselyte can be circumcised although the doctors say it would be dangerous to his health. Now, the law states that a priest who is not circumcised because of health danger involved in the circumcision must therefore be kept away from participating in the Temple service. This law is based upon Ezekiel 44:9, which states that a priest who is uncircumcised may not participate in the Temple ritual. The **Tosfot** (**Zevahim** 22a) explains how it could happen that a priest could not be circumcised. That would happen if, earlier, his brothers died because of circumcision. In that case, he need not be circumcised because of the danger to his health. Nevertheless, not being circumcised, he cannot fully participate as a functioning priest.

So even though it is a danger to the health of this would be

proselyte to be circumcised, he cannot be considered a full convert as he is.

Then, Kisselov says that anyhow these converts nowadays are not sincerely devoted to Judaism but want to be converted because of marriage. And so such conversion not being sincere should be avoided anyhow. This last statement would indicate that it might be possible to argue that such a man to whom circumcision is dangerous might possibly be accepted without it, but that it is better to avoid such dubious conversions and decide in the negative.

A GENTILE PRISONER AND THE NAZIRITE VOW

QUESTION:

A Gentile prisoner in the penitentiary wishes to take upon himself the Biblical Nazirite vow and has asked the Rabbi, who is a Chaplain in the penitentiary, to induct him into Naziriteship. May the Rabbi do so? (Asked by Rabbi Daniel M. Lowy, Wheeling, W. Va.)

ANSWER:

The Nazirite vow is based upon Scripture (Numbers 6:1 ff.). It vows a complete abstention from wine, from contact with dead bodies and from cutting the hair. Naziriteship can be taken to last for a period of seven days or for thirty days or even to last for a lifetime (as with Samson). If this is to be a lifetime vow, it is of course questionable whether the warden of the penitentiary would permit a convict to let his hair grow long and never cut it again. But this, of course, is not the direct concern of our question.

There are many reasons why the Rabbi may not induct the