YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

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In loving memory of Rabbi Dr. Barrett (Chaim Dov) Broyde ztz"l

הוֹלֵךְ תָּמִים וּפֹעֵל צֶדֶק וְדֹבֵר אֱמֶת בִּלְבָבוֹ

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**Shiur #05: 18 May, 1965**

**“Our Man in Damascus”**

**Eli Cohen, Israel’s Greatest Spy**

Eli Cohen was born in 1924 in [Alexandria](https://en.wikipedia.org/wiki/Alexandria), Egypt. He was involved in the Zionist movement there and made *aliya* in 1957. In Israel, the Mossad recognized his great potential and recruited him. The Mossad created for him a new false identity as a Syrian businessman who was returning home after living in Argentina. He received the name Kamel Amin Thaabet. Part of the training process included learning Muslim prayers and religious customs.[[1]](#footnote-1) After living for some time in Buenos Aires, he arrived in [Damascus](https://en.wikipedia.org/wiki/Damascus) in February 1962.

Eli became a well-known figure in the high society of Damascus. He made contacts with the elite of the Syrian community, including ministers, businessmen and highly-placed officials. “Thaabet” was a wealthy nationalist who hosted parties rich in alcohol and women, and was generous with both loans and advice.[[2]](#footnote-2) At these parties, Eli, who would feign intoxication, was able to gather important information.

Eli Cohen provided an extensive range of intelligence data to the Israeli Army over a period of four years (1961-1965). He sent intelligence to Israel by radio, secret letters and occasionally in person.

The intelligence he provided played a major role in Israel’s victory in the Six-Day War. While visiting the [Golan Heights](https://en.wikipedia.org/wiki/Golan_Heights), he collected intelligence on the Syrian fortifications. Feigning sympathy for the soldiers exposed to the sun, he had trees planted at every position. The trees later on were used as markers by the Israeli military and enabled Israel to capture the Golan Heights with relative ease.

On 24 January, the Syrian security services broke into Cohen's apartment and arrested him. It is not clear who revealed his true identity and how.

After a trial before a [military tribunal](https://en.wikipedia.org/wiki/Military_tribunal), he was found guilty of espionage and sentenced to death. He was said to have been repeatedly tortured. Israel staged an international campaign for clemency, hoping to persuade the Syrians not to execute him. Despite international appeals to commute the death sentence, the sentence was upheld.

On 18 May, 1965, Cohen was publicly hanged in Al [Marjeh Square](https://en.wikipedia.org/wiki/Marjeh_Square) in Damascus.

On the day of his execution, Eli Cohen's last wish, to see a rabbi, was respected by the prison authorities.

What is perhaps most amazing about Eli Cohen is that he was genuinely liked, even loved, by so many of the top Syrian leaders. He was never suspected of being a spy until the very end.

To this very day, the Syrian authorities refuse to release his body.

**Can a Jew Appear as a Non-Jew?**

Taking on the fictitious identity of a non-Jew involves halakhic questions. Rav Yosef Karo brings down the following law:

It is prohibited for a Jew to claim that he is an idolater even if this is for saving one’s life. However, it is permitted to dress as an idolater to escape persecution.[[3]](#footnote-3)

The Rema ad loc. comments on this and adds:

Even though it is prohibited for a Jew to claim that he is an idolater, it is permitted to trick the non-Jew into thinking that he is one. This is only permitted at times when one is in grave danger.

Accordingly, Rav Shlomo Goren[[4]](#footnote-4) wonders: under what halakhic premises can the Israeli secret services send spies who take on the identity of non-Jews? In Muslim countries, Israeli spies are required to be faithful religious Muslims. They must pray and act in accordance with all Muslim laws. They must be able to convince their acquaintances that they are who they claim to be: genuine Muslims. They must take upon themselves the Muslim faith.

Normally one could claim that all Jewish laws are suspended in the case of *pikuach nefesh* (lives in danger). However it is a well-known law that even in order to save one’s life, one may not worship idols. The source for this law is in the Gemara:[[5]](#footnote-5)

It was decided in the house of Nitza in Lod that regarding every prohibition of the Torah, if a man is commanded, “Transgress and suffer not death,” he may transgress and not suffer death, excepting idolatry (*avoda zara*), sexual offenses (*gilui arayot*) and murder.

**Is Islam *Avoda Zara*?**

Rav Goren explains that the *heter* (allowance) is based on the *pesak halakha* of the Rambam that Muslims are not considered idolaters. He refers to the Rambam’s letter to Ovadya *Ha-ger* (the convert)[[6]](#footnote-6):

These Ishmaelites [i.e., Muslims] are not idolaters at all. [Idolatry] has been eradicated from their mouths and hearts. They unify God without question… Likewise all contemporary Muslims, including women and children, have eradicated idolatrous beliefs; their errors and foolishness are manifest in other matters… In respect of the unity of God, they are in no error at all.

This ruling of the Rambam appears again in a discussion regarding the *heter* to derive benefit from wine of a Muslim. The law of *yayin nesekh* (wine used for idol worship) prohibits Jews from drinking wine of idolaters as well as deriving benefit from it. If the non-Jew is not halakhically categorized as an idolater, then one may derive benefit.

Similarly, concerning any non-Jew who does not serve idols, such as the Ishmaelites (Muslims), though their wine may not be drunk, it is permitted to benefit from it. So have all the Geonim ruled. We may derive no benefit, however, from the wine of idolaters.[[7]](#footnote-7)

Rav Ovadya Yosef, basing himself on Rambam’s opinion, permits Jews to walk into a mosque.

Regarding Jewish soldiers who requested from the prince to give them a place to pray, and he gave them a mosque, are they permitted to pray there? He (Rabbi Isaac Elchanan, *Ein Yitzchak OC* 11) answered that since it is clear in the Tur (*YD* 124) in the name of Geonim, Rambam and Rashba, that the Ishmaelites are not idolatrous, and so writes the Rema (*YD* 146:5), we may easily permit praying there.[[8]](#footnote-8)

It is therefore understandable why the Rambam believes that one does not have to give up their life in a situation in which they are faced with the choice to convert to Islam or die:

One who preferred to suffer martyrdom in order not to pronounce the Mohammedan confession has done nobly and well and his reward is great before the Lord. He may be regarded as supremely virtuous as he was willing to surrender his life for the sanctifications of the name of God, blessed be He. Should one, however inquire of me: “Shall I be slain or pronounce the Mohammedan confession?” my answer would be: “Utter the formula and live.”[[9]](#footnote-9)

However, even though most Poskim agree with the Rambam that the Muslim faith is not *avoda zara,[[10]](#footnote-10)* not all agree with his conclusion that conversion to Islam overrides a life-threatening situation.

Rabbi David ibn Zimra (Radbaz, 1479-1589) disagrees with Rambam’s position and argues that Jews must give up their lives rather than be forced to convert to Islam. His rationale is based on the argument that if one gives his agreement to Muhammad’s prophetic mission, this is the equivalent of denying the validity of Torah.[[11]](#footnote-11)

**Marrying a Non-Jew**

However, Rav Goren argues there is another halakhic issue that arises. In order to maintain their false identity, spies might be required to “sleep with the enemy”. An older bachelor, for example, in the Muslim world might arouse suspicions; therefore, it might be necessary to arrange a fictitious marriage. Here the matter is *gilui arayot*, another mitzva which must be kept at all costs, even if the alternative is death.

How far can a spy carry on with his deception? Is he permitted to marry a non-Jewish woman to convince his acquaintances that he is one of them?[[12]](#footnote-12)

Rav Goren debates this question and quotes Rabbeinu Tam(1100-1171), who holds that the famous principle of *gilui arayot* overriding *pikuach nefesh* is only true when both the people involved are Jewish. However, if one is a non-Jew, the Jew is permitted to have relations to save a life.[[13]](#footnote-13)

However, claims Rav Goren, there is an additional issue to address. The Torah prohibits marrying non-Jewish women:

You shall not intermarry with them; you shall not give your daughter to his son, and you shall not take his daughter for your son.[[14]](#footnote-14)

This law theoretically should be suspended in our case. Although this is a *lo ta’aseh*, the rule is simple. *Pikuach nefesh* takes precedent over all *mitzvot*, except the three mentioned above. However, explains the Rambam, this prohibition is different and unique:

Although this transgression is not punishable by execution by the court, it should not be regarded lightly, for it leads to a detriment that has no parallel among all the other forbidden sexual relations. For a child conceived from any other forbidden sexual union is [the father's] son with regard to all matters and is considered a member of the Jewish people, even if he is a *mamzer*. A son conceived by a non-Jewish woman, by contrast, is not considered his son.[[15]](#footnote-15)

This matter causes one to cling to the non-Jewish nations from whom the Holy One, blessed be He, has separated us, and to turn away from following God and to betray Him.

Rav Goren suggests that this idea, mentioned in the Rambam, may be a reason for the prohibition of intermarriage to exist even in life-threatening situations. Therefore, he suggests an alternative source.

***Pikuach Nefesh* of the Jewish People**

The Gemara discusses the actions of Yael, who kills the Canaanite general Sisera and helps win the war (*Shoftim* 4). The understanding of the Gemara is that Yael seduces Sisera in order to kill him. Even though Yael commits a transgression, the Talmud justifies her actions:

A transgression performed with good intention is greater than a mitzva which is performed for an ulterior motive, as it is written (*Shoftim* 5:24), “Blessed above women shall Yael be, the wife of Chever the Kenite; above women in the tent shall she be blessed.” Who are the “women in the tent”? Sara, Rivka, Rachel and Leia.

Rabbi Yochanan said: That villain had sex seven times on that occasion, as it says, “Between her legs, he sunk, he fell, he lay…” (ibid. v. 27).[[16]](#footnote-16)

The Gemara justifies Yael’s actions even though she commits an *aveira* of *gilui arayot*. The explanation, claims Rav Goren, is that Yael saves the Jewish people rather than just herself. When the Gemara argues that one must give up their life when faced with *gilui arayot,* it is referring to saving the lives of individuals. When the entire body of the Jewish people is in danger, one is permitted to violate all prohibitions of the Torah.[[17]](#footnote-17)

Installing a spy in enemy countries, argues Rav Goren, is considered an act of *pikuach nefesh* for the entire Jewish people. Therefore, it is permissible for a Jew to violate Halakha even if *gilui arayot* is involved.

1. Yeshayahu Ben Porat and Uri Dan, *Ha-meragel She-ba Mi-Yisrael: Parashat* *Eli Cohen,* p.48 [↑](#footnote-ref-1)
2. Supra p.119. [↑](#footnote-ref-2)
3. *Shulchan Arukh, YD* 157:2. [↑](#footnote-ref-3)
4. *Mishnat Ha-Medina*, pp.140-144. [↑](#footnote-ref-4)
5. *Sanhedrin* 74a. [↑](#footnote-ref-5)
6. *Teshuvot Ha-Rambam*, #448. [↑](#footnote-ref-6)
7. *Mishneh Torah*, *Hilkhot Ma’akhalot Asurot* 11:7. [↑](#footnote-ref-7)
8. *Yabia Omer YD* 7:12. [↑](#footnote-ref-8)
9. Rambam, *Iggeret Ha-shmad.* [↑](#footnote-ref-9)
10. See Marc Shapiro, “Islam and the Halakha,” [*Judaism*](http://humwww.ucsc.edu/judaism/judaism.html) (Summer 1993) [↑](#footnote-ref-10)
11. Radbaz, Vol.4, 92; Vol. 5, 40. [↑](#footnote-ref-11)
12. For a lengthy article regarding this question, see Rav Ari Shvat, *Techumin,* Vol. 30, pp. 68-81. [↑](#footnote-ref-12)
13. Tosafot, *Ketubot* 3b, *Ve-lidrosh*. [↑](#footnote-ref-13)
14. *Devarim* 7:3. [↑](#footnote-ref-14)
15. *Hilkhot Issurei Bia* 11:5-7. [↑](#footnote-ref-15)
16. *Nazir* 23b. [↑](#footnote-ref-16)
17. This idea is mentioned by Rav Menachem Meiri. See his commentary on *Sanhedrin* 74b. [↑](#footnote-ref-17)