יב. סופר שכתב תפילין, ושוב יצא לתרבות רעה ופרק מעליו עול תורה ומצוות, כתבו הפוסקים שיש להקל להכשיר כל מה שכתב בזמן שהיה בחזקת כשרות. [ראה הלכה ברורה עמ' רמט]. ויש מחמירים בזמנים מסוימים, לדון לומר שמכבר היתה טינא בליבו. [ראה ערוך השלחן יו"ד סי' רפא ס"ט]. והכרעת ההלכה בזה כפי ראות עיני המורה. [פסקי תשובות סי' לב אות לה]

יג. סופר סת"ם שנתגלה על ידי עדות וראיות שהרשיע ומכר תפילין חסירי פרשיות, כל מה שכתב אחר רשעתו יש לפסול אותו, אבל מה שכתב קודם חטאתו, אין לפסול, ויעמוד על חזקתו (וכדעת המקילים בסעיף הקודם).

ואם נתגלה אחר כך רעתו שהיה פסלן מקדמותו, כגון שפתח אחד תפילין שכתב, ומצאן ריקים או שכתובים למחצה, הרי שאז כל התפילין והמזוזות שכתב בינתים, פסולות. [קול יעקב יו"ד סי' רפא ס"ק יח]

יד. הבעלי תשובה שבזמנינו, שקיבלו עליהם עול תורה ויראת שמים בשלימות, רשאים לכתחילה להיות סופרים, ואין שום פגם לקנות מהם ספרי תורה תפילין ומזוזות. [פסקי תשובות שם, בשם שו"ת שבט הקהתי ח"ג סי' כד]

Day 81

Scribe who becomes nonobservant

12) If a scribe becomes a nonobservant Jew, all the sacred parchments that he wrote before his change of lifestyle are still considered kosher. Some *Poskim* ruled that if there were telltale signs of the scribe's behavior that in hindsight show that he already harbored thoughts of such a change long before he changed publicly, we must suspect that the parchments he wrote during that time are not kosher. Each such case must be judged on an individual basis.

Scribe who sells nonkosher tefillin

13) If a scribe is caught selling "kosher sets" of tefillin that contained no parchments, he is disqualified from engaging in this profession. In fact, any parchments that he wrote after having committed such a fraud are nonkosher. All those that he wrote before he committed his first incident of fraud, however, are still considered kosher. The halakha assumes that he remained honest until the day his new character was discovered.

If someone who purchased tefillin from this scribe years earlier has the tefillin inspected and discovers that this fraud had been perpetrated on him as well, then all the tefillin parchments and mezuzot written by that scribe since the time of this person's original purchase are nonkosher.

The newly observant

14) People who at one time were nonobservant but have since repented and become fully Torah-observant Jews are permitted to become scribes to write tefillin parchments, mezuzot, and Torah scrolls. Their past behavior does not disqualify them in the least.

טו. ממזר פסול לכתוב ספר תורה, אבל כשר לכתוב תפילין ומזוזות. [משנ"ב ס"ק יא, קול יעקב סי' לט ס"ק יד, סי' רפא ס"ק יט]

טז. גר כשר לכתיבת סת"ם. ואם חזר לדתו מחמת יראה, שלא יהרוגוהו, לא יצא מכלל ישראל על ידי זה, כיון שהיה באונס. וכן דעת מרן השלחן ערוך. **ויש חולקים.** [ראה ש"ע סי' לט ס"ג]. [ראה מג"א ומשנ"ב ס"ק יא, וקול יעקב ס"ק כג]

יז. תפילין שכתבם אפיקורוס, ישרפו. [ש"ע סי' לט ס"ד]. וכן כתב הרמב"ם (יסודי התורה פ"ו ה"ח) אפיקורוס ישראל שכתב ספר תורה, שורפין אותו עם האזכרות שבו, מפני שאינו מאמין בקדושת השם ולא

A *mamzer*

15) A *mamzer* is qualified to write tefillin parchments and mezuzot, but he is not qualified to write a Torah scroll.[305]

A convert

16) A convert is qualified to write Torah scrolls, tefillin parchments, and mezuzot. The *Shulhan Arukh* ruled that a convert who reverts to his original religion because he fears that he otherwise will be executed is still considered a kosher Jew since he was forced to take this step. Other *Poskim* disagreed.[306]

An *apikoros*

17) If tefillin parchments are written by someone known to be an *apikoros*, they must be burned up completely. Rambam ruled (*Hilkhot Yesode Hatorah* 6:8) that if a Jewish person who is an *apikoros* wrote a Torah scroll, the entire scroll including

305. The *Mordekhi*, cited in the *Bet Yosef* (*Y.D.* 281:4), stated that according to *Masekhet Soferim* a *mamzer* is not qualified to write a Torah scroll, explaining that he cannot possibly have the proper intentions when he writes the verse (*Devarim* 23:3): "לֹא יָבֹא מַמְזֵר בִּקְהַל ה' – A *mamzer* may not marry into God's people." Even if he claims that he had the correct intentions, we must assume that he did not. Based on this, the *Shulhan Arukh* (*Y.D.* 281:4) ruled that some *Poskim* disqualify a Torah scroll written by a *mamzer*. The Rama (*Darkhe Moshe O.H.* 39, cited by the *Magen Avraham* 39:9) added that there is no problem with a *mamzer* writing tefillin parchments or mezuzot.

The *Sifte Kohen* (*Y.D.* 281:8) challenged the *Mordekhi's* explanation for this ruling. It might be that a *mamzer* cannot have the proper intentions when writing that particular verse, but there should be nothing wrong with him writing any other part of the Torah scroll. Therefore, the *Sifte Kohen* explained that a *mamzer* is not qualified to write a Torah scroll since he is disqualified from serving as an agent for the community to perform a mitzvah. Furthermore, just like a woman cannot write a Torah scroll since she is exempt from many of its mitzvot, and a child cannot write one since he is exempt from all the mitzvot, so too a convert or *mamzer* cannot write one since they are exempt from a number of mitzvot. Therefore, a *mamzer* cannot write any part of a Torah scroll.

The *Aharonim* debated whether a *mamzer* can write tefillin parchments. The *She'erit Kenesset Hagedola*, *Eliya Rabba*, *Nehar Shalom* ruled that he cannot, while the *Peri Megadim* and *Birke Yosef* ruled that he can. See the discussions in *Petah Hadevir* (*Siman* 55), *Sede Hemed* (responsa *Or Li* #1), and responsa *Tzitz Eliezer* (Vol. XIV, #19). In practice, the *Mishna Berura* and *Kol Yaakov* ruled that a *mamzer* is kosher to write tefillin parchments and mezuzot, but not to write a Torah scroll.

306. The *Shulhan Arukh* based his lenient ruling on a passage in the Talmud (*Gittin* 45b). the *Magen Avraham*, cited in the *Mishna Berura* (39:11) disagreed, based on the fact that neither Rabbenu Yitzhak Alfasi nor Rambam cited this passage as the halakha. The *Magen Avraham* ruled quite stringently in this issue, insisting that this convert is disqualified if he no longer wears tefillin, even if he continues to perform other mitzvot when in hiding. Harav Eliyahu of Vilna (*Bi'ur Hagra*) concurred with this stringent ruling.

The *Kol Yaakov* (39:23) ruled that one may rely on the *Shulhan Arukh* only when one has no other choice, but the *Halakha Berura* (page 253) ruled that we may follow the leniency of the *Shulhan Arukh*, especially in light of the new discovery that many *Rishonim* (*Teshuvot Hage'onim*, Rabbenu Meir Halevi, Ritb"a, Rabbenu Menahem Hame'iri, Ri'a"z, Rabbenu Yeruham) also ruled leniently.

כתבו לשמו, אלא שהוא מעלה בדעתו שזה כשאר הדברים, והואיל ודעתו כן לא נתקדש השם, ומצוה לשורפו כדי שלא להניח שם לאפיקורוסים ולא למעשיהם.

ולמעשה, יש אומרים שיש לגונזם ולא לשורפם. [קול יעקב ס"ק כח]. ויש אומרים שלהלכה העיקר כסתם השלחן ערוך לשורפם. [הלכה ברורה עמ' רנח]

יח. מין, הוא יהודי או גוי האדוקים בעבודה זרה. וכן יהודי המאמין בישו הנוצרי, הרי הוא בכלל מין, ואם כתב ספר תורה צריך לשורפו. [ראה הלכה ברורה עמ' רנח עפ"ד הריטב"א ועוד]

יט. יש אומרים שאף ספר תורה שכתבו אפיקורוס שכופר בעיקר ואינו מאמין בתורה מן השמים, כגון "ראבי"ה" רפורמי, טעון שריפה, ואין לחוש לשריפת שם ה' שבספר תורה, כיון שאינו כותבו לשם קדושה כלל. [הל"ב שם, עפמ"ש בשו"ת אגרות משה או"ח ח"ב סי' נ]

God's Names must be burnt completely. This is because this person believes that a Torah scroll is no more sacred than any other book, and he does not believe that God's Name has any sanctity. Therefore, he did not write the Names for the sake of their sanctity, the Names appearing in the scroll that he has written have no sanctity. As such, it is a mitzvah to burn the scroll so that the deeds of an *apikoros* will not be perpetuated. [Rambam (*Hilkhot Teshuva* 3:8) defined *apikoros* as: 1) anyone who denies that God ever communicates with people in the form of prophecy; 2) anyone who denies the uniquely exalted status of Moshe Rabbenu's prophecy; and 3) anyone who does not believe that God is aware of people's actions.]

In practice, some *Poskim* ruled that we are to follow these instructions literally, while others ruled that such scrolls must be deposited in *geniza* so that they are never used, but they are not to be burned.[307]

A devout Christian

18) A Torah scroll written by a Jew or non-Jew who is considered a *min*, meaning that he is a devout idolater, must be burned. This includes a Jew who believes in the Christian "Messiah."

Reform rabbis

19) According to some *Poskim*, a Torah scroll written by someone who does not believe that the Torah is divine, such as a Reform rabbi, must be burned completely despite the fact that God's Names are written in the scroll. Such a person does not write the Names with any sacred intentions.

307. The *Shulhan Arukh* cited both opinions, but ruled that they are to be burned. The *Kol Yaakov* (39:25) ruled that since there are two opinions and several *Aharonim* ruled not to burn them, it is best not to take action, and therefore they should be deposited in *geniza* as they are. The *Halakha Berura* (page 258), however, insisted that we follow the *Shulhan Arukh's* ruling.