

Ben Neikhar and the Character of the Korbhan Pesach

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Of all the halakhot the Torah could have featured as *the* law of the *korban Pesach*—*zot chukat haPesach*—it surprisingly settled on the exclusion of a *ben neikhar*: *zot chukat haPesach kol ben neikhar lo yokhal bo*, this is the law of the Pesach [sacrifice]: a foreign person may not eat it (Shemot 12:43).⁵ While the straightforward reading of the pasuk would interpret *ben neikhar* as a gentile, Rashi (s.v. *Kol*), following the *Mekhilta*, takes it as referring to both a gentile and a *meshumad*, an apostate.⁶ Onkelus goes further and regards the pasuk as referring exclusively to a *meshumad* (כל בר ישראל דישתמד לא ייכול ביה), as does the Rambam in *Sefer Hamitzvot* (*lav* no. 128) and *Yad Hachazakah* (*Hilkhhot Korbhan Pesach* 9:7):⁷

One who provides an olive-size portion of the korbhan Pesach or the Pesach sheni sacrifice to a Jewish idolater or to a non-Jewish resident or laborer violates a negative commandment but does not receive lashes, rather is punished with “lashes of rebellion.” When

המאכיל כזית מן הפסח בין מפסח שני למומר לע"ז, או לגר תושב או לשכיר, הרי זה עובר בלא תעשה ואינו לוקה אבל מכין אותו מכת

⁵ It is not only the formulation of *zot chukat haPesach* which is surprising, but the context as well. *Ben neikhar* introduces the enduring laws of the *korban Pesach* (Shemot 12:43-51), following the Torah's chronicle of the events of *Pesach Mizrayim*. *Zot chukat haPesach* has us anticipating a law that crystallizes the special character of the *korban*.

⁶ See the comments of the *Meshekh Chokhmah* (Shemot 12:43, s.v. *Kol*) who suggests why the pasuk could not be referring to a gentile: ואם על בן נכר עצמו, הלא אינו תחת הדת שתהא האזהרה עליו, שהדת מדבר אל ישראל, ופשוט.

⁷ The Rishonim debate how *ben neikhar* is used to denominate a *meshumad*. Rashi (Shemot 12:43; *Shabbat* 87a) explains *shenitnakhru ma'asav leaviv shebashamayim*, his actions became foreign to his Father in Heaven. The Ramban has a similar interpretation, but adds (s.v. *Kol*), שהתנכר לאמונו ולאביו שבשמים במעשיו הרעים. The Rambam writes (*Korbhan Pesach* 9:7) that *ben neikhar* means *oved el neikhar*, someone who worships a foreign deity. According to his definition, *ben neikhar* may be limited to a *meshumad la'avodah zarah*, an idolater, whereas according to Rashi's definition, it would include all *meshumadim*. See the discussion of the *Minchat Chinukh* (13:2) on this question. The Mahariy Kurkus (*Hilkhhot Korbhan Pesach* 9:7, s.v. *Hama'akhil*) contends that the *meshumad* worships this foreign deity like a child worships his father, hence *ben neikhar*.

the Torah states “ben neikhar” it refers to one who worships idols.

מרדות וכן נכר האמור בתורה זה
העובד אל נכר.

The exclusion of a *meshumad* from the Korban Pesach requires our attention as it has no parallel in any other *korban*.⁸ With regard to the laws of *akhilat kodshim* in general, the status of a *meshumad* is identical with that of a Yisrael.⁹ If anything, the law of *ben neikhar lo yokhal bo* runs contrary to halakhah’s general posture toward *meshumadim*, which recognizes their full *kedushat Yisrael* and obligates them in all mitzvot—ישראל אף על פי שחטא, a Jew who sins is nevertheless a Jew (*Sanhedrin* 44a).¹⁰ Why, then, is the *meshumad* excluded specifically from the Korban Pesach,¹¹ and why is this halakhah featured as the law of Pesach—*zot chukat haPesach*?

The *Sefer Hachinukh* (mitzvah 13) suggests, with typical aperçu, that the exclusion of the *meshumad* stems from the very essence of the *korban Pesach*.¹² Unlike other *korbanot*, the character of the *korban Pesach* was forged by its role in initiating Bnei Yisrael into the covenant of Torah and emunah on the eve of *yetziat Mitzraim*; it was through the *korban Pesach* that Bnei Yisrael, for the

⁸ See the comments of the R. Yitzchak Ze’ev Soloveitchik in *Chidushei Maran Ri”z ha-Levi, Ma’ akhalot Asurot* 2:23.

⁹ This is certainly true with respect to the laws governing *akhilat kodshim* for a Yisrael. The question becomes more complicated with regard to the laws of *akhilat kodshim* for a kohen *meshumad*—does he retain aspects of his *kehunah*, or is it sufficient to treat him as an ordinary Yisrael? On this point, the Rishonim debate whether a kohen *meshumad* is qualified for *birkat kohanim*, even after he does teshuva. See Tosafot *Menachot* 109a s.v. *Lo*; *Teshuvot R. Natronai Gaon* (ed. Brody) *Orach Chaim* no. 35; Rambam, *Hilkhot Tefillah* 15:3.

On the more immediate question whether a kohen *meshumad* can eat *kodshim* and *terumah*, see the discussion of the Rishonim in *Yevamot* 71a, and *Pesachim* 96a; Tosafot, *Yevamot* 71a s.v. *Ve’ ein*; Rashbah, *Yevamot* 71a s. v. *Mumrut*; and Meiri, *Pesachim* 96a s.v. *Vezev*. The Meiri clearly did not have the *girsah* of פוסלת בתרומה in *Pesachim*.

The Mishnah at the end of *Menachot* (109a) compares a kohen *sheshimeish biveis chanya* to a kohen *ba’al mum* who is disqualified for *avodah* but qualified for *akhilat kodshim*. See Rashi, *Menachot* 109a, s.v. *Harei*, and note the Rambam’s formulation in *Biat Mikdash* 9:13 and the comment of the *Minchat Chinukh* (276:13).

¹⁰ Although the Gemara explicitly rules that a *meshumad’s kiddushin* are effective, reflecting his fundamental identity as a Jew, some Rishonim distinguish between different areas of halakhah. (1) *Ribbit* (interest): the *Yereim* (no. 156) argues that a *meshumad* is not included in mitzvot rooted in *achvah*, kinship or fraternity, and thus a Yisrael can charge a *meshumad ribbit*, as the Torah states “*achikha lo tashikh*.” Rashi (*Issur Ve’heter* no. 99) disagrees, citing *Yisrael af al piy shechata Yisrael hu*. (2) *Yerushah* (inheritance): R. Natronai Gaon (*Choshen Mishpat* no. 369) rules that a *meshumad* does not inherit his father, for he no longer stands in direct familial relation with him (*she’eino mityacheis achar aviv Yisrael*). Rosh (*Kiddushin* 1:22) disagrees on the basis of *Yisrael af al piy shechata Yisrael hu*. See the comment of the *Beit Yosef* in *Shut Avkat Rokheil* no. 90, countering the Rosh’s application of *af al piy shechata*. (3) *Yibum* (levirate marriage): some Rishonim suggest that a *meshumad* is uniquely excluded from *yibum* given its ideal of *lehakim sheim le’achiv* and *lo yimacheh shemo miyisrael*. See Ritva, *Yevamot* 22a, s.v. *Ve’achiv*, Meiri, *Yevamot* 16b, s.v. *Goy Shekideish*, and Mordekhai, *Yevamot* no. 107. (4) *Birkat Kohanim*: see the discussion in the above note. There are some Geonim who believe that one’s fundamental Jewish identity is indeed alienable, see Meiri, *Yevamot* 16b s.v. *Goy*. Others distinguished between the *meshumad* himself and his children, see *Shut Mahariy Bei Rav* no. 39 and, possibly, *Sefer Ha’Itur, Kiddushin* pg. 78a s.v. *Kuti*. Others, still, distinguished between the *meshumad’s* status as a Jew regarding *gittin vekiddushin* and mitzvot. See *Sefer Ha’Eshkol, Hilkhot Chulin* pg. 174a s.v. *Umeshumad*.

¹¹ This would also lead to the intriguing conclusion that the *meshumad* is actually commanded to bring the *korban Pesach* and yet forbidden from doing so, essentially required to violate a *mitzvat aseh* of *karet*. Of course this entails no paradox because the *meshumad* should not remain a *meshumad*.

¹² Note his remark that he neither has nor needs any source for this: ועל כיוצא בזה נאמר בתלמוד לפעמים סברא הוא ואין צריך ראייה אהרת.

very first time as a nation, demonstrated their commitment and faith in Hashem, *ad sheyishchitu eloheihem le'eineihem* (they slaughtered the gods of the Egyptians in front of their eyes):

The root of this mitzvah is what was written regarding the mitzvah of slaughtering, which is to remember the miracles of Egypt, and for this reason, it is proper that an apostate should not eat it, because we do this as a sign and remembrance that at that time we came under the wings of the Divine presence and we entered into the covenant of Torah and faith, and [therefore] it is not proper to give [the apostate] who represents the opposite view by excluding himself from the people and denying faith to eat from [the korban Pesach].

Sefer Hachinukh mitzvah 13

משרשי מצוה זו, מה שכתוב בשחיטתו, לזכר ניסי מצרים, ועל כן ראוי שלא יאכל בו משומד, אחר שאנו עושין אותו לאות ולזכרון שבאנו באותו הזמן לחסות תחת כנפי השכינה ונכנסנו בברית התורה והאמונה, אין ראוי שנאכיל ממנו למי שהוא הפך מזה שיצא מן הכלל וכפר באמונה.
ספר החינוך מצוה יג

Given the character of the *korban Pesach* as the expression of that *brit ha-Torah v'ha'emunah*, to then include a *meshumad*, who rebuts the core of Jewish values and repudiates the covenant of Torah and mitzvot, would be to undermine its very character. He who denies the values embodied in the *korban Pesach* cannot partake in its consumption. Thus, it is the *korban Pesach*—and only the *korban Pesach*—that proscribes the *meshumad's* participation.

To better understand the character of the *korban Pesach* and its special exclusion of the *meshumad*, we must turn to analyze the nature of the mitzvah of *kol ben neikhar lo yokhal bo*. The straightforward reading of the pasuk suggests that the mitzvah is incumbent upon the *meshumad*: the Torah addresses him directly and forbids him from ingesting the *korban Pesach*. This indeed is the ruling of the *Sefer Mitzvot Gadol* (*lav* no. 353), who codified the *lav* as “*shelo yokhal meshumad baPesach*, an apostate should not eat the *korban Pesach*.”¹³

However, the Rambam, both in *Sefer Hamitzvot* (*lav* no. 128) and *Yad Hachazakah* (9:7), abandons this straightforward interpretation and formulates the mitzvah as directed to the Yisrael,¹⁴ prohibiting *him* from serving the Pesach to a *meshumad*:

The 128th mitzvah prohibits us from feeding the korban Pesach to a Jew who became an apostate.

והמצוה הקכ"ח היא שהזהירנו מהאכיל הפסח לישראל שנשתמד.

The novelty of the Rambam's position is twofold. First, the Rambam maintains that the injunction of *ben neikhar* falls on the Yisrael, contrary to the straightforward implication of the pasuk. Indeed, the *Minchat Chinukh* (13:3) is so astonished by the Rambam's position that he concludes that the Rambam must be working off some source unbeknownst to us: אך ודאי מצא הר"ם דין זה באיזה מקום ואנחנו לא נדע¹⁵ Second, according to the Rambam, the mitzvah of *ben*

¹³ See the Rambam's similar formulation in his *Koteret* to *Hilkhot Korban Pesach* no. 9, in contrast to the position of the Rambam discussed below. See below, note 12, for a possible resolution.

¹⁴ Yisrael throughout this article is meant to denominate a devout Yisrael, in contradistinction to a *meshumad*. Technically, given the stance of *Yisrael af al piy shechata Yisrael hu*, the term creates an inaccurate contrast. It would be more precise, though less economical, to preface every 'Yisrael' with 'a devout.'

¹⁵ The *Kesef Mishneh* (*Korban Pesach* 9:6) suggests that the Rambam felt it inconceivable that the Torah would direct itself to *meshumadim* who deny its authority, and so it could only be addressing a Yisrael. (See the *Meshekh Chokhmah's* parallel comment with respect to gentiles, cited above, note 2.) This, however, is an extremely difficult

neikhar does not apply at all to the *meshumad* himself; no injunction prohibits a *meshumad* from eating the *korban Pesach*, only for a Yisrael to serve him. This ruling perturbed the *Minchat Chinukh* so deeply that he refused to acknowledge it as the Rambam's authentic position; after all, contends the *Minchat Chinukh*, if the *meshumad* himself is not prohibited from eating the Pesach, what sense does it make for the Torah to prohibit a Yisrael from serving him? Instead, the *Minchat Chinukh* maintains, what the Rambam really holds is that since the Yisrael is prohibited from feeding the *meshumad* then, *a fortiori*, the *meshumad* himself must be prohibited from consuming it. The prohibition on the Yisrael is only sensible given the antecedent, unstated prohibition on the *meshumad*. The latter prohibition is so readily deducible from the former that the Rambam felt it unnecessary, and unworthy, of mention.

This argument of the *Minchat Chinukh*, though lucid and clever, is hardly satisfactory. The Rambam's crisp language, both in *Yad Hachazakah* and *Sefer Hamitzvot*, is distinctly unambiguous that the mitzvah falls exclusively on the Yisrael, and it is difficult to contend that the Rambam meant the contrary of what he wrote.¹⁶ Why, then, did the Rambam abandon the straightforward meaning of the pasuk, and what motivated his novel interpretation of *ben neikhar*? To answer these questions, let us turn to another anomaly in the Rambam's codification of *kol ben neikhar lo yokhal bo*.

In *Hilkhot Korban Pesach* (9:7) the Rambam rules that there is no punishment of *malkot*, lashes, for the violation of *ben neikhar*, but offers no explanation why. The *Kesef Mishnah* (s.v. *U-ven Neikhar*) suggests that only prohibitions stated explicitly in the Torah are punishable with *malkot*, not those derived from *derashot*. Since the wording of the pasuk never explicitly refers to the Yisrael serving the *meshumad*—the pasuk says *lo yokhal* (do not eat) and the Rambam reinterprets it as *lo ya'akhil* (do not serve)—transgression of the *lav* cannot be penalized by *malkot*.¹⁷ The Meiri (*Yevamot* 71a, s.v. *Ben Neikhar*) and the *Sefer Hachinukh* (no. 13), however, offer a different rationale. They adduce the general principle of *ein lokin al lav sh'ein bo ma'aseh*, only action-oriented transgressions incur *malkot*. As *ben neikhar* is not action oriented, *malkot* are not warranted. But this line of reasoning is truly astonishing. If the prohibition of *ben neikhar* involves the act of serving the *meshumad*, in what sense is it not an action oriented *lav*; is not serving itself an action?¹⁸

argument to accept. As the *Minchat Chinukh* notes, since the *meshumad* has the status of a Jew and is commanded in all mitzvot, should he want to do teshuva, he would be obligated to receive *malkot* for his violation. Regardless of whether he will listen to the commandment while he is a *meshumad*, the Torah should have to mention that he is liable for such a transgression should he ever want to return to the Jewish community.

¹⁶ Although, we can reconcile the *Minchat Chinukh's* contention with the Rambam by maintaining that the *meshumad* violates *ben neikhar*, not on account of eating the Pesach, but for serving it to a *meshumad*, i.e. himself. Since he retains his status as a Yisrael- ישראל הוא - he is obligated to not serve a *meshumad*. He violates *betorat ma'akhil* and not *betorat okheil*.

¹⁷ The suggestion of the *Kesef Mishneh* has to be assessed against other instances where there is *malkot* even though the prohibition is not explicit in the Torah. See the *Priy Megadim's* discussion in *Orach Chaim, Mishbitzot Zahav* 343:1; see the Rambam's own ruling in *Hilkhot Kelaim* 10:31, regarding *malbish et chavero kilaim*, and the *Kesef Mishneh's* comments there (s.v. *Hamalbish*) which seem to contradict his comments in *Hilkhot Korban Pesach*; see as well the Rambam's ruling in *Aveilut* 3:5 and the *Lechem Mishneh's* comments there. In both of these instances the Rambam rules that there is *malkot*, even though the prohibition is not explicated in the Torah. See the *Minchat Chinukh* 13:7.

¹⁸ Mahariy Kurkus (*Korban Pesach* 9:7 s.v. *U'mikol Makom*) was similarly troubled by this question, prompting his suggestion that since there are scenarios where the *meshumad* may not actually eat the Pesach and hence no

The answer lies in how the mitzvah of *ben neikhar* frames the character of the *korban Pesach*. Through obligating a Yisrael to exclude a *meshumad*, the Torah accents the themes of faith and commitment as the essence of the *korban Pesach*; part of a Yisrael's mitzvah of *achilat haPesach* is his cognizance of its character, which the Torah incorporates through the mitzvah of *ben neikhar*. The crux of the *lav* of *ben neikhar* lies not in the act of serving the *meshumad*, but in how his participation would cast a shadow over the themes of the Pesach. Though technically the *lav* is transgressed via an act, the act *per se* is not the violation, and therefore does not constitute a *lav she'yeish bo ma'aseh*; the violation is the subversion of the motif of the Pesach. Thus, the Torah felicitously singles out *kol ben neikhar lo yochal bo* as *the law of the Pesach – zot chukat haPesach*—for it is the exclusion of the *meshumad* which frames the essential theme of the *korban Pesach*.¹⁹

Why the Rambam abandoned the straightforward interpretation of the pasuk is now readily apparent. The mitzvah of *ben neikhar* could have been interpreted in one of two ways: either as *ma'akhalot asurot*, a prohibited food substance to the *meshumad*, like *treif* food to a Yisrael, or as a *kiyum*, a component, in the mitzvah of *akhilat korban Pesach*. If the *korban Pesach* was *ma'akhalot asurot* to the *meshumad*, then it would be a *lav sheyeish bo ma'aseh* and warrant *malkot*, as the transgression would be immanent in the act of consumption. Moreover, it would be nonsensical for the prohibition to fall exclusively on the Yisrael, as indeed the *Minchat Chinukh* contended. But the Rambam understood that the *korban Pesach* is not *ma'akhalot asurot* to the *meshumad*, as is evident from his ruling on *malkot*. Therefore, *ben neikhar* must be a *kiyum* in the mitzvah of *akhilat Korban Pesach*; the Yisrael's obligation to exclude a *meshumad* brings the theme of the *korban Pesach* into focus as a necessary component of his mitzvah of *akhilah*. Consequently, the mitzvah of *ben neikhar* is incumbent upon the Yisrael—and *only* on the Yisrael.

If this indeed is the Rambam's position, we must reassess another contention of the *Minchat Chinukh*. According to R. Avahu's view in *Pesachim* (21b), any food substance prohibited for consumption—any *ma'akhalot asurot*—formulated in the Torah as “*lo yokhal*,” “*lo tokhal*” or “*lo tokhlu*,” is accompanied by an attendant *issur hana'ah*, prohibiting any derivative benefit from the substance. On this basis, the *Minchat Chinukh* (13:6) argues that, since the *lav* of *ben neikhar* is formulated as *lo yokhal*, the *meshumad* is prohibited from both eating and deriving any benefit from the Pesach. However, in light of our analysis of the Rambam's position on *ben neikhar*, this would not be the case. For according to the Rambam, the *korban Pesach* is not *ma'akhalot asurot*

violation of *ben neikhar*, the handing over of the meat itself cannot constitute a *ma'aseh aveirah*. The *Minchat Chinukh* (13:9), however, finds this line of reasoning flawed, since it leaves unanswered the case where the Yisrael actually feeds the *meshumad* by placing the meat directly in his mouth—*tachav lo bibeis habelialah*. The Mabit in *Kiryat Sefer* (*Hilkhos Korban Pesach* 9) clearly didn't accept any of these approaches, as he in fact ruled that there is *malkot* for violating *ben neikhar*.

¹⁹ For a similar example see the Rambam's ruling in *Hilkhos Gezeilah* 1:9 של כל החומד עבדו או אמתו או ביתו וכליו או חבירו או כל דבר שאפשר לו שיקנהו ממנו והכביד עליו ברעים והפציר בו עד שלקחו ממנו ... ואין לוקין על לאו זה מפני שאין בו חמדה—Anyone who covets the servant, maidservant, house or utensils of one's friend or any other item that can be acquired and makes that friend uncomfortable by using pressure to procure the item from him ... one does not receive lashes for this prohibition because there is no action. One does not violate the prohibition until one has procured the item that one coveted. The Rambam writes that *lo tachmod* is a *lav she'ein bo ma'aseh* and, in the very same breath, that an action is necessary to violate it. While it needs an action, the crux of the *issur* is not inherent to the action. See my treatment of *Lo Tachmod* in *Beit Yitzchak* vol. 19.

to the *meshumad*. The *meshumad*'s exclusion is, instead, a dimension of the Yisrael's mitzvah of *akhilat korban Pesach*, framing the Yisrael's obligation and the Yisrael's fulfillment. Since the *korban Pesach* never attains the status of *ma'akhalot asurot*, there is no place for an accompanying *issur hana'ah*. Consequently, it would be permissible for a Yisrael to allow a *meshumad* to derive *hana'ah* from the *Pesach*.²⁰

This special character of the *korban Pesach*, discerned through the halakhah of *kol ben neikhar lo yokhal bo*, is affirmed, and buttressed, by the Rambam's treatment of the *psul arel li-Pesach*, the disqualification of the uncircumcised from the *korban Pesach*. For other disqualifications, such as the *onein*, someone whose relative died but has yet to be buried, the Rambam (no. 151) codifies one broad mitzvah, encompassing all of *kodshim* (sacrifices); he did not feel it necessary to count a separate mitzvah of *psul onein* for the *korban Pesach*, as it would be redundant to do so. And yet, as R. Yitzchak Ze'ev Soloveitchik notes (*Ma'akhalot Asurot* 2:23), with respect to the disqualification of *arel*, the Rambam counts a special *lav* for the *korban Pesach* (no. 127) in addition to the general *lav* for all *kodshim* (no. 135).²¹

Why did the Rambam count a special *lav* for *arel li-Pesach* and not for *aninut li-Pesach*; why not subsume the *psul arel li-Pesach* within the *lav* of *arel li-kodshim*, as he did for *aninut*? The answer lies, yet again, in the special character of the *korban Pesach*. In addition to its status as a regular *korban*,²² the *korban Pesach* has the distinction of marking Bnei Yisrael's embrace of the covenant of Torah and mitzvot; what a *brit milah* marks for the individual—*lehakhniso lebrito shel Avraham Avinu* (entering into the covenant of Avraham)—the *korban Pesach* marks for the *tzibur*. As such, the *kedushat Yisrael* of an individual, the *brit milah*, becomes a *sine qua non* for the *korban* that celebrates the *kedushat Yisrael* of the nation; an *arel*, therefore, cannot participate in the *korban Pesach*. Unlike the *psul onein*, which is a disqualification invariable to all the *kodshim*, the *psul arel* is uniquely at variance with the *korban Pesach* and fundamentally in tension with its inherent character, aptly warranting a *lav* of its own.²³

That the *korban Pesach* on the communal plane mirrors the *brit milah* on the individual plane is manifest in the suggestion of the *Mekhilta*:

<p>[The verse states] "If a convert shall live in your midst and offers a <i>Pesach</i> offering to Hashem," I might think that as soon as someone converts, he offers a <i>Pesach</i> sacrifice immediately, therefore the verse states, "he shall</p>	<p>וכי יגור אתך גר ועשה פסח לה', שומע אני כיון שנתגייר יעשה פסח מיד ת"ל והיה</p>
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²⁰ It goes without saying that it would be permissible for the *meshumad* himself to derive benefit.

²¹ See also the Rambam's formulation in *Peirush Hamishnayot*, *Yevamot* 8:1. His language there assumes that the disqualification of *arel* for *korban Pesach* is distinct from the general disqualification for *kodshim* and *terumah*.

²² See our discussion below whether this formulation isn't too imprecise, as the *korban Pesach* may not have a generic *sheim korban* at all.

²³ This would explain many of the the subtle indications that the *korban Pesach*, though owned and brought as a *korban yachid*, has elements of a *korban tzibur*, since the motif of the *Pesach* is the *tzibur*'s embrace of the *brit Torah uMitzvot*. See, for example, the Gemara in *Zevachim* (13a), that the *korban Pesach* is considered *yeshnah betzibur*, and the special halakhah that it must be brought *bikenufya*, in a group (*Yoma* 51a). *Tosafot Harosh* (*Shabbat* 4a s.v. *Vechi*) contends that the *korban Pesach* has the status of *aseh derabim* with respect to the halakha of *chatei kidei sheyizkeh chaverkha*. See, as well, the Rambam's classification of the *korban Pesach* in a class of its own as a *korban yachid ki'ein tzibur* (*Peirush Hamishnayot*, Introduction to *Kodshim*, s.v. *Ve-hasug Harevi'i*).

be like a resident of the land.” Just as a resident [offers the sacrifice] on the fourteenth, so too, a convert [offers the sacrifice] on the fourteenth.

Mekhilta, Bo Parsha 15

כאזרה הארץ מה אזרה ב"ד
אף גר ב"ד.
מכילתא, בא, פרשה טו

According to the suggestion of the *Mekhilta*, a *ger* must bring a *korban Pesach* as an essential component of his conversion process.²⁴ What has the *korban Pesach* to do with conversion? Latent in the *Mekhilta*'s reasoning is the notion that the *korban Pesach*, like *milah*, is an essential *rites de passage* for entering the *brit* of Torah and mitzvot, not just for Bnei Yisrael on the eve of *yetziat Mitzraim* but for all generations. Surely it is no coincidence that the only two *mitzvot aseh sheyeish bahem kareit* (positive commandments that are punishable by being cut off) are the *brit milah* and the *korban Pesach*. As the Midrash put it, it was in the merit of these two *damim*, *dam Pesach* and *dam milah*, that Bnei Yisrael were redeemed from Egypt:

What did the Holy One Blessed be He see to protect [the Jewish people] with blood? In order to remind them of the blood of the circumcision of Avraham. The Jewish people were saved from Egypt with two bloods, the blood of the *korban Pesach* and the blood of circumcision as it states “And I say to you, in your blood, you will live, in your blood, you will live,” the blood of the *korban Pesach* and the blood of circumcision.

Shemot Rabah 17

מה ראה הקב"ה להגן עליהם
בדם כדי לזכור להם דם מילת
אברהם, ובב' דמים ניצולו
ישראל ממצרים בדם פסח ובדם
מילה, שנא' (יחזקאל טז) ואומר
לך בדמך חיי ואומר לך בדמך
חיי, בדם פסח ובדם מילה.
שמות רבה יז

This intrinsic relationship between the *korban Pesach* and *brit milah* also lies at the heart of an otherwise perplexing commentary of the *Targum Yonatan* (Shemot 12:13):

The blood of the *korban Pesach* and circumcision will be combined for you to place on the homes that you dwell in and I will see the merit of the blood and have mercy on you and the Angel of Death will not harm you, as I have given him permission to kill in the Land of Egypt.

ויהי דם נכסת פסחא וגזרת מהולתא מערב
לכון למעבד מניה את על בתיא דאתון שרין
תמן ואחמי ית זכות דמא ואיחוס עליכון ולא
ישלוט בכון מלאך מותא דאתיהב ליה רשותא
למחבלא במקטלי בארעא דמצרים.

According to the *Targum*, Bnei Yisrael were commanded to mix the blood of the *milah* with the blood of the *korban Pesach* and spread the mixture on the *mashkof* and *mezuzot*. While the symbolism of mixing the *dam milah* with the *dam Pesach* speaks for itself, it poses somewhat of a halakhic challenge. As R. Yechiel Mikhel Feinstein notes (*Chidushei haGrim*, Shemot 12:13), the position of the Chakhamim in the Gemara, *Zevachim* (77b; Rambam *Psulei Hamukdashim* 2:22) is “*dam mevateil dam*”: if foreign *dam* mixes with the *dam* of a *korban*, the *dam hakorban* is disqualified and unfit for sprinkling on the *Mizbe'ach*. How, then, could Bnei Yisrael have mixed the *dam korban Pesach* together with the *dam milah*? If, however, the *dam milah* and *dam korban Pesach* constitute a single, unified theme, one integrated *kiyum*, the question dissipates; rather than interfering destructively with one another—*mevateil ze et zeh*—the *dam milah* and *korban Pesach* are harmonized in constructive consonance, like the crest of one wave riding atop another.

²⁴ Even according to the conclusion of the *Mekhilta*—that a convert only brings the Pesach on the 14th of Nisan—the implication is that it is still a component of his conversion process.

The distinctive nature of the *korban Pesach* is evident in the laws of *machshavah shelo lishmah bikodshim*, invalidating intentions during the sacrifice of *korbanot*. As the first Mishnah in *Zevachim* states (2a), when a *korban* is brought *shelo lishmah*, with the intention of bringing it as a different *korban*, the halakha renders it *kasher velo alah leba'alim lesheim chovah*, the *korban* is valid and fit for consumption, but the owner does not fulfill his obligation; he is required to bring another one in its stead. Only two exceptions break this rule: the *korban chatat* and *korban Pesach*; a *machshavah shelo lishmah* renders them entirely invalid. Why are the *chatat* and *Pesach* singled out? Whereas the rationale for *chatat* is readily discernible—its identity is inextricably intertwined with the sin for which it comes to atone, and thus, the moment it loses its ability to be *mekhapeir*, it loses its status as a *korban*—the rationale for the *Pesach shelo lishmah* is not at all apparent.²⁵

While the *Pesach* and *chatat* share the same *psul shelo lishmah*, the Rambam introduces a subtle and telling distinction. A *chatat* is invalid only if it is slaughtered with the intention for it to be a different *korban* (for example, *chatat lesheim shlamim*); if, however, it is slaughtered with the intention of *chulin*, of bringing a non-*hekdes* animal, the *chatat* remains kosher.²⁶ Yet, when it comes to the *korban Pesach* (*Psulei Hamukdashim* 15:11), the Rambam rules, without any source in the Gemara, that even the intention of *chulin* renders it *pasul*.²⁷ The *korban Pesach* emerges, then, as more sensitive to *machshavah shelo lishmah* than the *chatat*. What accounts for this discrepancy?²⁸

The Meiri in *Pesachim* (59b s.v. *Hashelishit*) suggests, albeit a bit cryptically, that the Rambam's source lies in the Torah's characterization of *Pesach* as "*Pesach L'Hashem*." While the Meiri doesn't elaborate, what he had in mind, perhaps, is that the *korban Pesach* is in a class of its own. Whereas every other *korban* has two *sheimos*, two dimensions, a generic status as a *korban* and a particular designation, the *korban Pesach* is defined exclusively by its particular designation as *Pesach L'Hashem*. Therefore, when a *korban* is brought *shelo lishmah*, although it can no longer count for its particular *sheim*, it can default onto its generic status as a *korban* and will be *kasher velo alah leba'alim lesheim chovah*. The *korban Pesach*, however, has no generic *sheim korban* to fall back upon; it is either a *Pesach* or nothing at all.

This special status of the *korban Pesach* is implicit in the Torah's presentation of *korbanot*: Every other *korban* is articulated in Sefer Vayikra, where the Torah delineates the general laws of *korbanot*—but not the *Pesach*; it has the distinction of being a *korban* of Sefer Shemot, independent and distinct from the general category of *korbanot*. Consequently, the *Pesach* has no generic *sheim korban* to default upon, and thus, even *machshavah lesheim chulin* renders it entirely *pasul*.

The uniqueness of the *korban Pesach* may account for another intriguing halakhah. The Mishnah in *Pesachim* (50a) records a prohibition against doing *melachah* on Erev *Pesach* after *chatzot* (midday). The Gemara there (50b) observes that this halakhah of Erev *Pesach* is distinct from, and more severe than, the general prohibition of *melachah* on Erev Shabbat and other holidays.

²⁵ See Tosafot, *Nazir* 28b s.v. *Kivsei*.

²⁶ See the Rambam's formulation in *Psulei Hamukdashim* 15:4.

²⁷ See *Kesef Mishneh* and *Mishneh Limelech*, *Psulei haMukdashim* 15:11 s.v. *haPesach*.

²⁸ See the suggestion of the *Or Sameach*, *Psulei haMukdashim* 15:11, that the *korban Pesach* shares a greater affinity with *chulin*, as its focus is on the *akhilah*.

On those other occasions it is merely a matter of *siman berachah* (not an auspicious time to do work) and unenforceable; on Erev Pesach, however, the prohibition is enforceable through excommunication. The Rishonim debate why Erev Pesach is singled out. Rashi (*Pesachim* 50a s.v. *Shelo*) accounts for it as a special concern lest one be too preoccupied in his labors and forget to destroy his chameitz, bake his matzah, or slaughter his Pesach. Tosafot (s.v. *Makom*) demurs and cites the Yerushalmi which contends that Erev Pesach is special because it is the time of the *korban Pesach*, quite apart from any concern of preoccupation and distraction.

The Rambam (*Yom Tov* 8:17-18) adopts the position of the Yerushalmi and attributes the *issur melachah* to the *moed* of the *korban Pesach*, literally the holiday of bringing the Pesach; he goes so far as to compare Erev Pesach with Chol Hamoed and points to the additional obligation to bring a *korban chagigah* on Erev Pesach, the *chagigat yud daled*, as evidence for this quasi yom tov status. Unlike Tosafot, who understood the *chagigat yud daled* as merely a component of, or a *kiyum* in, the mitzvah of *achilat korban Pesach al hasova*, eating the *korban Pesach* while satiated,²⁹ the Rambam understood it as the *korban chagigah* that celebrates the holiday of the *korban Pesach*.³⁰ All *chagim* have a *korban chagigah*, and so Yud Daled Nisan has one as well. It is the special stature of the *korban Pesach* which transforms the day of Erev Pesach into a yom tov.

This yom tov status of Erev Pesach as the *chag* of the *korban Pesach* is latent in the psukim of *Parshat ha-Moadim*. The very first “*moed*” inaugurating the *Parshah*, and immediately following the Torah’s introduction “*eleh mo’adei Hashem*,” is Erev Pesach, the *moed* of the *korban Pesach* (*Vayikra* 23:5): 'בהודש הראשון בארבעה עשר לחדש בין הערבים פסח לה'. On this basis, the Gra maintains (*Yoreh Deah* 399:9) that Erev Pesach has the status of a separate yom tov with respect to *Hilchot Aveilut*.³¹

The unique halakhot of the *korban Pesach*—the exclusion of the *ben neikhar* as an obligation upon the Yisrael; the enumeration of a special *psul arel* for Pesach; the fundamental relationship between *dam milah* and *dam Pesach*; the disqualification of a *Pesach shelo lishmah*; and the transformation of Erev Pesach into a yom tov that celebrates the *korban Pesach*—underscore the special character of the *korban Pesach*, and the powerful, nuanced themes of *kedushat Yisrael* and *Chag HaPesach*. *Zot chukat haPesach: kol ben neikhar lo yokhal bo*.

²⁹ See Tosafot, *Pesachim* 70a s.v. *Lav* השובע על הפסח כדי שיאכל באה אלא כדי שיאכל הפסח על השובע על הפסח.

³⁰ The nature of the *chagigat yud daled* is intimately connected with the question of when it should, or could, be brought: before or after the *tamid* of *bein ha'arbayim*. See the lengthy discussion of the *Mishneh Limelech*, *Klei Hamikdash* 6:9 s.v. *Shuv*.

³¹ See the parallel comments of the Netziv (*Vayikra* 23:5): גם זה העת נקרא יום מועד, שהרי בזמן הבאת קרבן אסור, והוא מקרא קודש להלל שבשעת פסח, במלאכה, this time period is called a festival because when the *korban [Pesach]* was brought, labor was prohibited, and it is a festival for the purpose of reciting Hallel while the sacrifice is being offered. Rabbenu Chananel (*Pesachim* 98a s.v. *Rav Ashi*) also maintains that Erev Pesach is a yom tov on account of the *korban Pesach* and points to the recitation of Hallel as proof: רב אשי אמר לעולם דמת אהר הצות ולא חל עליו אנינות דהא משעת הפסח כיום טוב חשוב שאומר בו הלל, לפיכך לא חל עליו אנינות.