

BETWEEN LAW AND REALITY: CONVERSIONS, MIXED MARRIAGES¹ AND SEPHARDIM IN BUENOS AIRES

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Resumen

El artículo analiza el impacto del decreto del Rabino Shaul Setton contra las conversiones en Buenos Aires, desde su proclamación hasta nuestros días, comparando el debate a nivel de la ley halájica con la realidad social. El debate sobre la validez halájica de las conversiones se realizó en un espacio común de askenazíes, sefardíes y alepinos que aceptaron la centralidad jurídica de los tribunales rabínicos de Eretz Israel. Sin embargo, a nivel de la realidad social, los rabinos argentinos no tenían la fuerza para imponer su autoridad. El surgimiento de la ortodoxia fortaleció la autoridad rabínica, promoviendo dos tendencias: la negación absoluta de cualquier forma de conversión, que caracteriza las comunidades de origen sirio, y la aceptación de conversiones realizadas por los tribunales rabínicos de Jerusalén, representada por la AMIA. Los rabinos conservadores y reformistas quedaron fuera del consenso ortodoxo, pero legitimizaron las conversiones a base de argumentos halájicos, respondiendo a la problemática de la nueva realidad social. La nueva ortodoxia construye una cerca alrededor de los judíos según la halajá, pero rechaza a las personas que podían ser aceptadas por leyes menos rígidas.

Oscar Juan Carlos Díaz was converted to Judaism in 1962 by the liberal rabbi Hanns Harf of the *Nueva Comunidad Israelita*. He married a Jewish woman under the *chupa* and raised his children as traditional Jews. When

1 Exogamic marriages between Jews and non Jews.

he passed away in 2005, it was only natural for his children to bury him in a Jewish cemetery, but to their amazement and grief they were turned away by the AMIA with the argument that “the only conversions valid for AMIA are those realized in Israel. Your father’s [conversion] is not valid and therefore he will not be buried in a Jewish cemetery”.²

The Diaz family published an open letter that, together with similar cases, is cited on the website of Naum Kliksberg “interfaith marriages”. This website attacks the AMIA and the Orthodox rabbis for their discriminatory policy against converts, and promotes the idea of intermarriage as part of human rights.³ Kliksberg reveals to his readers that the reason for AMIA’s refusal to bury converts rests on the “infamous prohibition” decreed by Rabbi Shaul Setton in 1927. He argues that AMIA officials – who are unfamiliar with this document and unable to explain its logic – follow it blindly.

Shaul Setton’s *takkanah* (edict) is used by Ashkenazi Orthodox rabbis in Argentina to deny the legitimacy of non-Orthodox conversions, while recognizing the authority of the Central Rabbinate in Israel to perform conversions of Argentines. At the same time, the *takkanah* is used by Syrian and Sephardic rabbis outside Argentina for a total rejection of converts from their communities. In 2006 the rabbis and lay leaders of 114 congregations, *yeshivot* and communal organizations of “Syrian and Near Eastern Sephardic communities” in the United States, publicly reaffirmed their “commitment to uphold, enforce, and promulgate the ban on conversions as declared in the original decree of 1935...”.⁴

According to the original proclamation, signed by rabbis of the Aleppan community in New York:

- 2 After long negotiations the father was finally buried in Lomas de Zamora, in the metropolitan area of Buenos Aires, in the only Ashkenazi cemetery that does not belong to AMIA.
- 3 http://www.matrimoniosmixtos.info/index.php?option=com_content&task=view&id=31&Itemid=53, accessed May 25, 2013. See also: Oscar Guindzberg, “Hoy me da vergüenza ser judío”, Nueva Sion online, 23/04/2012
- 4 “Reaffirming our Tradition: From 1935 Until Today”, a poster containing the text of the proclamation (1935) and its reaffirmation in 1946, 1984 and 2006, with the list of signatures, June 11, 2006, Brooklyn New York.

No male or female member of our community has the right to intermarry with non-Jews; this law covers conversions, which we consider to be fictitious and valueless. We further DECREE, that no future Rabbinic Court of the Community should have the right or authority to convert male or female non-Jews who seek to marry into our community. We have followed the example of the community in Argentina, which maintains a Rabbinic Ban on any of the marital arrangements enumerated above, an edict which has received the wholehearted and unqualified endorsement of the Chief Rabbinate in Israel (sic). This Responsa is discussed in detail in Dvar Shaul (sic), Yoreh Deah ...”.⁵

Eighty years after its proclamation, the *takkanah*, decreed by Rabbi Shaul Setton Dabbah, spiritual leader of the Aleppan community of Buenos Aires, is still relevant to the religious discourse of today. The objective of this article is to analyze the impact of the ban against conversions on the different communities of Buenos Aires, particularly the Sephardim⁶, comparing the official religious discourse and the real attitudes towards mixed marriages and conversions in a changing historical context.

The *halachic* and historical background

According to Jewish tradition conversion to Judaism is performed by a *Bet Din* (court) of three rabbis, through immersion and circumcision or spilling of a drop of blood,⁷ and declaration of acceptance of the commandments of Judaism. This, however, is only the ceremonial act; the main problem lies in the decision of the rabbinic authorities to accept proselytes, considering the sincerity of their motives and their commitment to observe the Jewish

- 5 The text is taken from the “free translation of the original Hebrew decree” that appears in the same poster. The Hebrew text does not refer to the “Chief Rabbinate in Israel” that did not exist in 1935, but to the “chief rabbis in the Holy City Jerusalem”. The Responsa from Argentina is called Diber Shaul.
- 6 The term Sephardim in this context refers to the four non-Ashkenazi groups of Buenos Aires – Moroccans, Aleppans, Damascenes and Ladino speakers.
- 7 For males who were circumcised prior to conversion, a tiny drop of blood is drawn as a symbol of the covenant.

law. Throughout Jewish history opinions on proselytism were influenced by the social and political circumstances that shaped relations between Jews and gentiles, but also by personal interpretations of the law by the *poskim* (decisors),⁸ whose tendencies varied between complete openness to accept converts and a total rejection of proselytes.

In his article “Sephardic Approaches to Conversion” Richard Hidary analyzes rabbinical sources dealing with conversion, showing the diversity of opinions, including the lenient tradition that characterizes Sephardic rabbis. As a basis for Sephardic leniency, Hidary cites Talmudic sources that state that conversion should not be motivated by ulterior motives and converts should fulfill the commandments of the Torah, but at the same time deal with real issues, presenting many precedents for a flexible approach to conversion.⁹ Rambam (Maimonides), who codified the Jewish law in *Mishneh Torah*, confirms the basic Talmudic requirements, but he also recognizes the validity of conversions that were not performed “under ideal circumstances”. Hidary concludes that “Rambam maintains strict requirements for conversion *ab initio* but *ex post facto* requires only the technical acts of circumcision and immersion to validate the conversion”.¹⁰

According to Hidary, the laws formulated by Rambam that were later integrated into the Shulchan Aruch by Rabbi Yosef Karo have served as a legal basis for Sephardic rabbis in modern and contemporary times, whose approach was manifested in their disposition to accept converts, compromising with the constraints of reality. In contrast, he presents the case of Rabbi Shaul Setton Dabbah and his edict against conversion in Argentina as a deviation from the traditional leniency of the Sephardic *poskim*.¹¹

More than a deviation from the Sephardic lenient tradition, Setton’s religious leadership in Argentina should be seen as part of an ongoing struggle to preserve the traditions of Aleppo in an occidental secular society. Coming from a Syrian province under Ottoman rule, where Jewish secluded existence was structured by law and social tradition, he was confronted by a new reality. The Argentine constitution recognizes the freedom of faith

8 Scholars who take decisions on Jewish religious law (*halacha*).

9 Richard Hidary, “Sephardic Approaches to Conversion,” forthcoming in Orthodox Forum Proceedings. Yeshiva University.

10 Ibid.

11 Ibid.

and Jewish life had to be built on a voluntary basis. Rabbi Setton aspired to rebuild autonomous Jewish life and the revered rabbinical authority that existed in his home community, but he had to determine the boundaries that separated the Aleppan Jewish immigrants from the gentile society, and to define their relations with other Jewish groups – Ashkenazim, Ladino speaking Sephardim, Moroccans and Damascenes.

Rabbi Setton took an active part in the foundation of communal organizations that exclusively served the Aleppan Jews, but on religious legal matters he sought the support of Rabbi Aharon Goldman, the rabbi of Moisesville, acknowledging his superior religious authority. As we shall see in the next chapter, the Ashkenazi Orthodox rabbi supported his Aleppan colleague in his endeavor to preserve the tradition of his community of origin and in his struggle against changes and innovations - a phenomenon that had its origins in the relations between Aleppan and Orthodox Ashkenazi rabbis in Jerusalem.

In his study on the rabbis of Aleppo, Zvi Zohar points out that in difficult decisions, such as the ban against *Shabbat* transgressors in 1906, the Aleppan rabbis sought the support of the rabbinical courts in Jerusalem to strengthen their position. The gradual migration of rabbis from Haleb (Aleppo) converted the Aleppan *bet din* in Jerusalem into the central rabbinical authority of the *Halebis* and exposed them to the influence of the ultra-Orthodox Ashkenazi rabbis.¹²

The transition of the source of religious authority from Aleppo to Jerusalem and the subjection of the Aleppan *bet din* to ultra-Orthodox Ashkenazi decisors may be the clue not only to the relations between Rabbi Setton and Rabbi Goldman, but also to the lasting influence of the *takkanah* on Orthodox Jews in Argentina, regardless of their ethnic origin.

Rabbi Shaul Setton and the ban against conversion

Rabbi Shaul David Setton Dabbah was born in 1850 in Aram Zova (Aleppo), where he completed his rabbinical studies. According to his own

12 Zvi Zohar, *Heiru Pnei Hamizrach: Halacha Vehagut ezel Chachmei Israel Bamizrach Hatichon* (Hebrew), Hakibutz Hameuchad: Israel 2001, pp. 83-89.

official history, at the age of 26 he became a member of the rabbinical court of Aleppo, and after four years he was appointed as rabbi in Aintab, where he served for ten years. In 1891 he returned to Aleppo and founded a yeshiva that trained rabbinical students who later served in Aleppo and Jerusalem.¹³

Yaron Harel gives a different version of Setton's career, according to which he was a controversial, though charismatic, *shochet* who was involved in the intrigues behind the elections of the chief rabbis in Aleppo and was accused of non-kosher slaughtering as well as theft, cheating, bribery and impiety.¹⁴ Setton's intrigues against Rabbi Hizkia Shabtai, when he was Chief Rabbi of Aleppo, resulted in his excommunication and emigration to Argentina.¹⁵

In his Responsa, *Diber Shaul*, Setton recounts that he travelled to Buenos Aires in 1912 to visit his sons who had migrated to Argentina five years before. He was invited by the local Aleppan Jews to serve as their religious leader, and he helped them to found the synagogue and Talmud Torah *Yesod Hadat* and the burial society *Hesed shel Emet Sefaradit de Alepo*:

... when I came to my sons more than 15 years ago to that city of Buenos Aires I saw her without walls ... and deficiency produced transgression, for there was no kosher meat ... nor Talmud Torah ... and I had to work with my ten fingers, and I dedicated my time to building its fences and to constructing its walls...¹⁶

The implementation of *halachic* laws and rabbinical control in what seemed to Setton as a lawless city depended on the willingness of the Aleppan Jews to give up their unrestricted freedom and to accept the

13 Moshe David Gaon, *Iehudei Hamizrah Beeretz Israel*, Jerusalem 1938, p. 488; David Laniado, *Sefer Lakdoshim asher Baaretz*, Dvash: Jerusalem 1980, p. 116; Giora Posailov, "Introduction", Shaul David Setton, *Diber Shaul*, 2nd ed., Machon Haktav, Jerusalem 1991, 7-8; *Mundo Israelita*, 21 June 1930, 3.

14 Yaron Harel, *Bein Tchachim Lemahapecha: Minui Rabanim Rashiim Vehadachatom Bebagdad, Damesek Vechaleb, 1744-1914*, Ben Zvi Institute: Jerusalem 2007, pp. 125-26, 131, 297-298.

15 *Ibid*, pp. 304-305.

16 "Author's Introduction", Shaul Sethon Dabbah, *Sefer Sheelot Utshuvot Diber Shaul*, Jerusalem 5688 (1927/8). Translations of citation by author, except when the name of the translator appears in the note.

rabbi's authority. Setton had to negotiate the restoration of the Aleppan traditional models, especially with modernizing lay leaders who aspired to adjust to the Argentinean way of life. In his conflicts with communal leaders Setton represented the most conservative extreme, but his religiosity and piety were not contested, and the controversies in Aleppo were not mentioned in any of the available documents from Argentina.

Setton founded the Talmud Torah of *Yesod Hadat* according to the model of the *kitab* [religious school] in his home community that imparted religious education for boys. Susana Brauner Rodgers cites the testimony of one of the students of the Talmud Torah:

I started to study at the age of four in the *kitab* that was situated in the *knis* [synagogue] of San Luis and Larrea streets with *Chacham* Shaul. At the age of ten we already read the *Gmara* [Talmud]... They translated for us into Arabic, our teachers knew better Arabic than Spanish.¹⁷

Studies in the Talmud Torah were complementary, since in Argentina primary education was compulsory. All the Jewish children studied in public schools, where classes took place also on Sabbath. Setton struggled to convince the teachers to exempt the children of the Aleppan and Damascene communities from going to school on Sabbath,¹⁸ but later had to persuade their parents to keep them at home that day. If the parents objected, he pressured them by expelling their children from the Talmud Torah, and “Thank God, today we have about 500 children, and the people of Damascus, may G-d protect them, have about 300 ... and none of them goes [to school on Shabbat]”.¹⁹

17 Susana [Brauner] Rodgers, *Los judíos de Alepo en Argentina*, Ediciones Nuevos Tiempos: Buenos Aires 2005, p. 37.

18 In 1933 (after Setton's death) Aleppan parents from the suburb Ciudadela asked the school authorities to exempt their children from studies on Sabbath, and were bitterly criticized by an Ashkenazi Jewish newspaper. *Mundo Israelita*, 25 February 1933, 10 March 1933. See also Efraim Zadoff, ‘Los judíos de Buenos Aires y la observancia del *shabat* en las escuelas’, *Judaica Latinoamericana* III, AMILAT & Magnes Press, Jerusalem, 1997, pp. 134-136.

19 Setton Dabbah, *Diber Shaul* (2nd ed.), 135. According to the figures of Susana Brauner Rodgers, *Yesod Hadat* had 350 students in 1930, *Or Torah* – of the Damascene community had 250, and *Agudat Dodim*, also of the Damascenes, had 170. Rodgers, *Los judíos de Alepo*, p. 37.

The Board of Directors of *Yesod Hadat*, introduced reforms in the Jewish school, trying to substitute the translation into Arabic with the study of Hebrew as a colloquial language. Rabbi Setton demanded to dismiss the Hebrew teacher because “the study of Hebrew is not according to the customs of our community”, but the President, Jacobo Setton, resigned in protest. The Board tried to solve the crisis by turning to “conservative eminent figures” (*eminencias conservadoras*) in Jerusalem.²⁰ The latter sided with Setton, but shortly after his death the Talmud Torah of *Yesod Hadat* adopted the method of “Hebrew in Hebrew”.²¹

The Orthodox rabbis in Jerusalem were not the only ones consulted by the lay leaders of the Aleppan community. The President of *Yesod Hadat* sent a letter to Rabbi Aharon Goldman, the foremost rabbinical authority in Argentina, asking him for his opinion on the teaching of Hebrew as a colloquial language. Goldman supported the conservative view of Setton: “Don’t change the customs of our forefathers and holy rabbis, [that have persisted] throughout the generations for two thousand years, to educate their children in reading the Holy Scriptures in the spoken language”.²²

Moshe Zemer, who wrote the most comprehensive study on the ban against conversion,²³ uses the Responsa of Rabbi Goldman as a clue to the background to the formulation of the ban on conversion.²⁴ Rabbi Aharon Halevi Goldman arrived in Argentina in 1889 on board the SS *Weser*, together with the first group of Jewish immigrants from Kamenets Podolsk who founded the first agricultural colony in Argentina – Moisesville

20 Minutes Yesod Hadat, 22 February 1928, 27 February 1928; Rodgers, *Los judíos de Alepo*, p. 38.

21 For a more detailed description of the conflict between Rabbi Setton and the President of Yesod Hadat, see: Victor A. Mirelman, *En búsqueda de una identidad: los inmigrantes judíos en Buenos Aires, 1890-1930*, Mila: Buenos Aires 1988, pp. 152-153; Efraim Zadoff, *Historia de la educación judía en Buenos Aires (1935-1957)*, Mila 1994, pp.71-72.

22 “Letter to Yaacov Setton”, Aharon Halevi Goldman, *Sheelot Utshuvot Divrei Aharon: Al Arbaa Chelkei Shulchan Aruch*, D.S. Goldman: Jerusalem 1981, p. 64.

23 Moshe Zemer, “The Rabbinic Ban on Conversion in Argentina”, *Judaism* no. 145, vol. 37 (1), (Winter 1988), pp. 84-96. For earlier studies see: Moshe Davis, “Mixed Marriages in Western Jewry”, *The Jewish Journal of Sociology*, X, no. 2 (Dec., 1968), pp. 189-191, 217-220; Mirelman, *En búsqueda*, pp. 166-171.

24 Goldman, *Sheelot Utshuvot Divrei Aharon*.

(Kiryat Moshe). These famous “Jewish Gauchos” were orthodox Jews who created a unique enclave that combined Jewish traditions with Argentinean agriculture. Though secluded in a remote colony, Goldman’s erudition was universally acknowledged, and he corresponded with great rabbinic scholars throughout the world. Zemer points out the hierarchical relations that developed between the two rabbis: “he [Setton] yielded to Goldman’s superior legalistic reasoning and stronger personality. In general, Setton demonstrates almost complete dependence on Goldman in matters of *halachah*.”²⁵

Analyzing the ten year correspondence between the Aleppan and the Ashkenazi rabbis,²⁶ Zemer proves how Setton moved from his original lenient approach to conversion to a gradual acceptance of Goldman’s uncompromising views, that were based not only on *halachic* grounds but also on his opinion on Jewish life in Latin America: “In his [Goldman’s] view, the Jewish husbands of gentile women were wanton sinners who had removed themselves from Klal Yisrael.”²⁷

The ban, however, was proclaimed by Shaul Setton who took the responsibility for its formulation and diffusion. It is not clear when exactly it was announced, but it was published in 1927 in the Responsa Diber Shaul, together with the *haskamot* (approbations) of prominent rabbis, including the two chief rabbis of Eretz Israel – Yaakov Meir and Avraham Itzjak Hacoen Kook, as well as Rabbi Yehuda Leib Zirelsohn of Kishinev - one of the founders of Agudat Israel.²⁸

The text²⁹ starts with the description of the situation that motivated the proclamation of the edict:

...life in this city is exceedingly wanton, and everybody does as he pleases; ... Hence, anyone who wishes, takes an unconverted gentile woman for his wife or chooses lay persons at random and “converts” her in their presence. They now have children who are

25 Zemer, Rabbinic Ban, p. 89.

26 Mirelman notes that Shaul Setton, Aharon Halevi Goldman and Yosef Taran were the only three erudite and influential rabbis in Argentina. En búsqeda, pp. 130-131.

27 Zemer, Rabbinic Ban, p. 90. See also Setton, Diber Shaul, 2nd ed., pp. 22-24

28 For the text of the Haskamot see Diber Shaul 2nd ed., pp. 25-31.

29 Setton, Diber Shaul, Yore Dea, no. 3, 2nd ed. Pp. 24-25.

disqualified, though their Jewish father claims that they had them converted...He remains with his gentile wife, with whom he fathers children that have the same status as their mother, to be absorbed by the gentiles.³⁰

The text continues with Setton's declaration that he sent the sentence that he wrote, together with the sentence of Rabbi Goldman, to Rabbi Yosef Yedid Halevi, president of the rabbinical court of the "halebis, sons of Aram Zova in the holy city of Jerusalem". Following the ratification of the sentence by Rabbi Yedid Halevi (a long text that he couldn't publish) Setton diffused the following announcement that serves as the fundamental text of the edict:

It is forbidden to accept converts in Argentina until the end of time for several reasons which we three rabbis endorse. This must not be transgressed, for anyone that breaks a fence will be bitten by a snake. Whoever wishes to be converted should travel to Jerusalem and perchance will be accepted there by the rabbinic court.³¹

The *takkanah* was thus declared legal for eternity, but on the other hand it was restricted to the territory of Argentina, and was permitted in the judicial area ruled by the rabbinical authorities in Jerusalem who gave it universal validity.

Mixed marriages among the Sephardim in Buenos Aires

The phenomenon of mixed marriages emerged as a consequence of circumstances during the early immigration, when most of the Sephardic immigrants were single men. The disproportion between the sexes limited the marriage market. Those who could afford it travelled to their home town to look for a wife, or imported a bride through the mediation of relatives. Due to the scarcity of women, economic difficulties, distance and solitude, mixed marriages were probably inevitable. The conversion of gentile women in order to marry them reflected the desire of the husbands to remain part of their Jewish community.

30 Translation by Moshe Zemer, *The Rabbinic Ban*, p. 84.

31 *Ibid.*

The first Sephardic Jews who settled in Buenos Aires were Spanish speaking Moroccans from Tetouan and Tangier whose migration started in the mid 1870s. Some of them came to Argentina after having lived in Brazil, while others migrated directly from north western Morocco. Unlike other Jewish groups, most of them lived outside the capital, creating networks of family business in the provincial towns.³²

Diana Epstein studied the marriage models of the first generation Moroccan immigrants, by analyzing the minutes of civil weddings that were registered between 1890 and 1910 in the area of the major concentration of Moroccan Jews in Buenos Aires.³³ She reaches the conclusion that despite the image of this group as being the most assimilated, the cases that she studied show a high rate of endogamy. Epstein concludes the Moroccans tended to marry inside their group, both in terms of ethnicity and of religion, attributing this phenomenon to the impact of chain migration of the Spanish Moroccan transnational Diaspora. It remains unclear, however, whether Epstein's study is representative also of Moroccans living outside of Buenos Aires, and to what extent endogamy continued in the second generation.³⁴

The first wave of Sephardim from the Ottoman Empire started at the turn of the 20th century and continued until 1914. Most of the immigrants were young, single men coming mainly from Syria and Turkey, who worked as itinerant vendors. Some of them scattered in the provincial towns, but the majority remained in Buenos Aires. Each sub-ethnic group was identified by the town of origin, such as Izmir, Istanbul, Aleppo, Damascus and Rhodes, and tended to concentrate itself in the same neighborhood, and to create its own synagogue and charities.³⁵

The early immigrants were the spearheads of the larger wave of immigration that followed World War I which brought to Argentina spouses,

32 Mirelman, *En búsqueda*, pp. 31-36.

33 Diana Epstein, "Los judeo-marroquíes en Buenos Aires: pautas matrimoniales 1875-1910", *Estudios Interdisciplinarios de América Latina y el Caribe*, 6,1 (1995), pp. 113-133.

34 The study covered 60 minutes in quarters of San Telmo, Concepción and Monserrat in Buenos Aires.

35 Margalit Bejarano, "Sephardic Jews in Argentina" (Hebrew), *Bitfuzoth Hagola*, 85/86, Jerusalem 1978, pp.124-142.

siblings, parents and large families from their home communities, balancing the former disproportion between the sexes. The 1936 census of Buenos Aires contains data on religion, showing that the difference between males and females born in the Middle East was much lower among Jews than among non-Jews.

Table 1: Proportion between males and females
among Jews and Arab immigrants³⁶

| country | Total | Total | Catholic | Catholic | Jews | Jews | Moslem | Moslem |
|-------------------|-------|--------|----------|----------|-------|--------|--------|--------|
| | male | female | male | female | male | female | male | female |
| Syria and Lebanon | 7,705 | 4,260 | 2,842 | 1,535 | 1,844 | 1,564 | 1,197 | 143 |
| Turkey | 5,062 | 3,436 | 1,600 | 893 | 1,519 | 1,459 | 432 | 45 |
| Palestine | 345 | 234 | 62 | 26 | 212 | 176 | 19 | - |
| Morocco | 187 | 154 | 34 | 35 | 109 | 86 | 1 | - |

The growing opportunity of finding Sephardic Jewish wives women was an important element in strengthening endogamy. According to a demographic study on the Ladino speaking community of Buenos Aires conducted in 1968, 5% of the male members had a non-Jewish wife. While most men aged over 60 were married to Sephardic women, some of the early immigrants, mainly of the lower classes, married non-Jews.³⁷

This growing opportunity to marry Jewish women during the 1920s may have decreased the number of mixed marriages and thus the demand for conversion, but the ban of Shaul Setton created a new situation requiring new responses. The rabbinical authorities who had legalized the ban from abroad had to offer a solution to the conversions performed before the proclamation of the ban, and the local religious institutions had to

36 República Argentina, Municipalidad de Buenos Aires, Cuarto Censo General 1936, Buenos Aires 1939, Tomo III, pp.315-22.

37 Eduardo I. Rogovsky, Elías Widuczynski, Fanny E. de Winograd, Demographic Study of the Spanish Speaking Sephardic Community, American Jewish Committee, Buenos Aires 1969, mimeographed, pp. 59-60.

consider the measures for its implementation. The legal level, however, was disconnected from the reality of most Argentinean Jews who were not religiously observant and ignored the rabbis' authority. The impact of the ban during the 1930s was quite limited.

The impact of the ban in the 1930s

The acceptance of the ban on conversion by the orthodox organizations in Argentina was a long and gradual process, because of the atmosphere of religious freedom, the objection to Setton's proclamation on halachic grounds, the identification of the ban with the Aleppan community and the presence of converted women whose legal status was not clear. The impact of the ban should be examined in two levels: the social reality of the Jewish communities and the legal approach of the religious leadership.

The first Jewish organization in Buenos Aires, the *Congregación Israelita de la República Argentina* (CIRA), that was founded by Jews from central and western Europe in 1862, was the first to perform conversions. Rabbi Samuel Halphon, who served as its spiritual leader between 1906 and 1930, manifested his liberal approach in response to a request of a man who wished to convert to Judaism: "It is possible to receive in our religion every Goy (stranger) under the condition of bloodletting or circumcision."³⁸ Halphon converted Christian women who married Jewish men if they declared that they were acting on their own free will and were committed to educate their children as Jews.³⁹

Many Jewish men, however, were married to gentile women who had not converted. The only measure that Jewish organizations could use to pressure their members against mixed marriages was by denying them burial in a Jewish cemetery. Among the Sephardim, each sub-ethnic group had its own cemetery, while the Chevra Kedusha (later to become AMIA) had an unofficial monopoly over the burial of Ashkenazim. Mirelman describes the debates during the 1920s on the right of Jewish men who were married

38 Sociedad Comunidad Israelita Sefaradí, Minutes, 18 April 1920, 2 May 1920, Central Archive for the History of the Jewish People (CAHJP).

39 Mirelman, En búsqueda, p. 165.

to Christian women to be members of the Chevra Kedusha and to be buried in its cemetery. The question was resolved in 1930 with the decision that the criterion to be accepted as a member of the Ashkenazi burial society was to contract a Jewish religious wedding.⁴⁰ In his study on the history of the Chevra Kedusha, Zvi Schechner points out that the *ketubah* (wedding certificate) served as evidence of conversion, which means that the Ashkenazi burial society recognized the validity of conversions and ignored the *takkanah*. Moreover, Schechner doubts the validity of the conversions, arguing that in the reality of the 1930s the rabbis had very little influence and the certificates supplied by religious functionaries were unreliable.⁴¹

It is difficult to determine the extent to which the different Sephardic sectors were prepared to implement the *takkanah*. In 1934 the *hazan* of the Turkish Jewish community was accused of performing the wedding of a mixed couple. The board accepted his explanation that the bride had adopted the Jewish faith from childhood, and that the wedding was according to the *halacha*, without questioning the legitimacy of the conversion.⁴²

In the case of the *Congregación Israelita Latina*, founded by Moroccan Jews in 1891, secularization created an opposition to rabbinical authority. In a defamatory leaflet, published in 1929 against the nomination of Rabbi Shabtay Djaen as chief Sephardic rabbi of Buenos Aires, Benjamín Benzaquén wrote:

What is our objective in having a Rabbi? ... Shall we have enough willpower to respect the religious orders that the same religion imposes on us, and that will be imposed by the chief rabbi? Shall we close our shops on Shabbat and refrain from smoking? Shall we organize weddings, circumcisions and *Tefilim* (*bar mitzvah*) with *Seudot Mitzva* (commanded meals), without mixtures prohibited by our religion? ⁴³

40 Ibid, 163-65.

41 Zvi Schechner, *Bidrachim Lo Makbilot: Hashvaat Toldot Hahitargenut Hakehilitit Bayahadut shel Mexico Veargentina, 1930-53*, MA Thesis, The Institute of Contemporary Jewry, The Hebrew University of Jerusalem 1978, pp. 26-28.

42 Sociedad Comunidad Israelita Sefaradí, Minutes, 12 August 1934, CAHJP.

43 Benjamín Benzaquén, *La colectividad israelita sefaradi de Buenos Aires no debe permitir que se exploten más sus sentimientos religiosos*, Buenos Aires 1929, 2.

The Moroccan community remained without a rabbi, conversions continued to be performed by the *chazanim* and the converted women and their families were not excluded from the community. In 1936 a group of 67 members and 65 non-affiliated Moroccan Jews submitted a petition to the Board with the request to prohibit further conversions:

The signers, in view of the extraordinary importance that the problem of assimilation of the constituents of our community is acquiring daily, and considering: that even if we ignore the religious precepts that prohibit and restrict to very narrow limits the conversion of persons of other faiths, there are secular reasons. ...⁴⁴

The secular reasons included doubts on the veracity of the conversion and lessons from the fate of German Jewry, where assimilation ended in anti-Semitic persecutions. The petition ends with two proposals that were approved by the board of directors after a long discussion:

1. From now on it will be categorically prohibited to the first *chazan* or any other salaried employee of this organization [...] to practice conversions or to bless matrimonies of converted persons...
2. In the future, any member who will practice conversions, who will marry a converted or a person of another religion, or who as head of a family will give his consent, will be marked as causing the dissolution and discredit of the organization ...⁴⁵

This document reflects the revival of Jewish identity that was motivated by the impact of the atrocities of the Nazi regime, but also the assimilation that characterized the Moroccans. The ban against conversion was ignored by that community and is not even mentioned in the petition.

The communities that officially adopted the *takkanah* were the Aleppans, Damascenes and Ladino speakers, although we do not know the extent to which they followed it. Zemer quotes the Responsa of Rabbi Hizqia Shabtai that “certain self proclaimed sages rose up, broke a fence and converted on

44 Congregación Israelita Latina, Minutes, 23 January 1936.

45 Ibid, 28 January 1936.

their own authority”.⁴⁶ In addition to the persistence of conversions, the religious leadership had to solve the problems of the pre-ban conversions.

In 1929 *Hesed Schel Emeth Sefaradit de Alepo* sold a part of its cemetery in Ciudadela to the Ladino speaking Jews.⁴⁷ A year later, the two communal organizations signed a contract, based on the new legal situation caused by the implementation of the ban:

It was agreed to recognize as Jews the fathers and sons or daughters, with the exception of the ladies, that for them, ... the same association [Hesed Schel Emeth] decided to form a *bet din* in order to solve these cases, and always proceeding according to the book edited by His Eminence, the Chief Rabbi Mr. Shaul Setton Dabbah, may he rest in peace.⁴⁸

The problem, however, was not resolved. In 1932 a board member of the Ladino speaking community requested the foundation of a *bet din* “that will resolve all the cases of weddings and circumcisions of mixed families that exist in our community, for having married strangers many years ago”.⁴⁹

The complicated *halachic* problem required the intervention of rabbis from abroad. The legal status of the converted women and of their children was addressed by prominent rabbis of Jerusalem. Despite the divergence of opinions,⁵⁰ they all backed the *takkanah*, but they tried to find a way to legalize the pre-ban conversions. Rabbi Hizkia Shabtai, then President of the Sephardic Rabbinical Court of Jerusalem, visited Buenos Aires in 1929 and again in 1937. He suggested reconverting the women and children through an emissary who would represent the rabbis of Jerusalem:

46 Zemer, *Rabbinic Ban*, p. 93.

47 The Sociedad Comunidad Israelita Sefaradí de Buenos Aires was founded by Jews from Turkey, but it gave burial services to the Jews of Rhodes and Balkan countries, becoming the communal organization of the Ladino speakers.

48 Sociedad Comunidad Israelita Sefaradí, Minutes, 18 December 1930, CAHJP.

49 Sociedad Comunidad Israelita Sefaradí de Buenos Aires, 27 November 1932.

50 The halachic debate that followed the ban is detailed in a seminar paper by Ariel Zlatkin, “The ban on conversion in Argentina: its influence on other jewish communities, halachic debates around it and its validity in our time. (Hebrew), The Hebrew University of Jerusalem, 2010. See also Hidary, *Sephardic Approaches*, Mirelman, En búsqueda, pp. 170-171.

...to obligate those who wish to convert to come here to Jerusalem is something that the community cannot endure, therefore, since it depends on the rabbis of Jerusalem and especially the chief rabbis, my heart says that they should ... appoint a special delegate to travel to Buenos Aires....⁵¹

During his two visits to Buenos Aires, Rabbi Shabtai was asked by the board of *Bnei Emet*, the burial society of the Damascene community, to confirm publicly and in writing the validity of the *takkanah*,⁵² probably to sustain their position against the community leaders that demanded its abrogation. An echo of the controversy in the Damascene community appears in a letter sent by Rabbi Yaacov Mizrahi of *Or Torah* to the President of the Aleppan burial society:

During the last weeks there were disturbances in the community because of the conversion. We may say that men who emerged from among us instigated all the communities in their conspiracies and poisoned the atmosphere against what we did with the permission of the rabbinical court of Jerusalem.⁵³

In 1938 the *takkanah* was published again with the *haskamot* of the chief rabbis of Eretz Israel – Itzhak Halevi Herzog and Yaacov Meir, and several other prominent members of rabbinical courts in Jerusalem and in Aleppo.⁵⁴ The publication of approbations of Setton's edict "to prohibit the acceptance of converts in Argentina" supported by illustrious names, shows that the *takkanah* was not universally accepted.

A religious revival

The 1930s and 1940s were a period of religious decline in all the Sephardic communities of Buenos Aires that was manifested in the lack of rabbis

51 Hizkia Shabtai Yehoshua, *Sefer Divrei Hizkiahu*, Jerusalem 5712 (1952), Vol. II, Yoreh Dea, pp. 9-10.

52 Ibid, p. 1.

53 Yaacov Mizrahi, , Moshe Amar (ed.), *Orot Hamagreb*, Lod, 1994, p. 303.

54 *Haskamot Nesiei Harabanut Harashit Leeretz israel...Buenos Aires 1938.*

among the Moroccans and Ladino speakers, and the subjugation of the rabbis to the communal leaders in the Syrian sector.⁵⁵

The early 1950s were marked by a religious revival that was connected with the appointment of permanent rabbis in each of the four Sephardic sectors. The new rabbis had to cope with the existing laxity and to reconfirm the validity of the ban against conversions. In an interview with Rabbi Saadia Ben-Zaquén, conducted by Haim Avni in 1977, the Moroccan rabbi admitted that his community does not exclude mixed families, but claimed that there is a popular repudiation of inter-marriage: “excommunication does not exist ... it doesn’t exist officially, as a consequence of a norm or a law ...but it exists in a tacit and natural way for the quality of preservation of Judaism”.⁵⁶

While Rabbi Ben-Zaquén adjusted himself to the reality in his community, Rabbi Itzhak Chehebar of the Aleppan community struggled to impose the rabbinical authority with all its vigor, as described in the introduction to his Responsa: “Argentina was lacking and devoid of Torah, religious education and kashrut. There was no proper rabbinate. He (Chehebar) encountered a desert and with patience and intelligence transformed this country and changed its track in history”.⁵⁷

Rabbi Chehebar exercised *halachic* control with no compromises. His biography, published after his death by his congregation, recounts a case of a high official of the police who tried to pressure the rabbi to bury a converted person.⁵⁸ Chehebar answered that the religious freedom of his congregation was recognized by the Argentinean government, and that the communal organization is totally free to impose its laws in weddings and burials.⁵⁹

55 The problem of rabbinical leadership in the Aleppan community was studied by Susana Brauner Rodgers, “La Comunidad alepina en Buenos Aires: de la ortodoxia religiosa a la apertura y de la apertura a la ortodoxia religiosa, 1930-1953”, E.I.A.L., 11, no. 1, pp. 45-64.

56 Interview with Saadia Ben Zaken by Haim Avni, (112)23, Institute of Contemporary Jewry (ICJ).

57 Itzhak Chehebar, Responsa Itzhak Yeranen, Buenos Aires 1992, biographical introduction (n.p.).

58 The case is not very clear, it says that there was evidence of transgression related to mixed marriages.

59 *Rabbi Itzhak Chehebar: un visionario*, Congregación Sefaradí de Enseñanza, Culto y Beneficencia: Buenos Aires 1995, p. 109.

In 1958 the burial society of the Aleppans amended its bylaws, redefining the conditions for being buried in the community's cemetery:

A person who is not a direct descendant of Jewish parents will not be able to be buried in the society's cemetery. The same is applicable to persons who are not married with spouses of the same origin. These requirements are not valid for those persons who were members in the period before the approbation of these statutes.⁶⁰

Aleppans, like Damscenes and Ladino speakers had a special lot in their cemetery for persons who had been married to non-Jews. The community did not exclude past transgressors, but started to build a new fence for the future. In order to avoid mixed marriages of their members, the burial organizations of the Syrians decreed in their bylaws that only married men would be admitted as new members.

The presence of ordained rabbis in all the four Sephardic organizations had an impact on the imposition of strict regulations and on the coordination between the different rabbinates. Rabbi Aharon Angel, from Alexandria, was appointed in 1958 as a rabbi of the Ladino speaking community. According to a personal interview, up to his arrival there was no rabbinical authority and no control on religious officials, and "every person who wished to perform a wedding was free to do so". Rabbi Angel started to investigate the couples who wanted to get married, and if he found out that the mother or grandmother was not Jewish according to the *halacha*, refused to perform the wedding, arousing the opposition of all the community. In time, however, he was able to convince the Board to accept his rules.⁶¹ Yet, these rules were valid only for persons ready to get married according to the strict Jewish law. Others turned to Conservative or Reform synagogues, which did not follow the *takkanah*. According to Rabbi Angel: "there are places that accept them for marriage, whether they have converted or not. They find rabbis who do it, but here, in this synagogue it is forbidden. ... When there is a fault in the family they don't even come to ask, they know in advance that it is not possible to arrange

60 Asociación Israelita Sefardi Argentina de Beneficencia (Antes "Hesed Schel Emeth Sefaradit"), *Estatutos*, Aprobados por el superior gobierno de la nación, Buenos Aires 1958, Artículo. 34.

61 Interview with Rabbi Aharon Angel by author, Buenos Aires 1988, ICJ.

a wedding or a Bar-Mitzva. All the synagogues request certificates from one another to make sure that it is *kedat Moshe veisrael*.⁶²

The agreement among synagogues was affirmed by Rabbi Itzhak Chehebar, in a personal interview conducted in 1988. He explained that no one is allowed to get married without a certificate from the rabbinate, and members of other communities need the approbation of their community's rabbi. "The rabbis of Buenos Aires have an agreement that it is forbidden to convert, and whoever wishes to convert is sent to Israel". With these words Itzhak Chehebar affirmed the original *takkanah* of Shaul Setton leaving the door open for a conversion in Jerusalem.⁶³ He added, however, that only orthodox persons who wish to convert their future spouse are sent to Israel, because a person who is not observant of the law will not influence his wife to observe.

The religious revival in the Sephardic communities was echoed also among the Ashkenazim, although the history of Orthodox Judaism in Argentina has still to be studied. From the few works that were published it is difficult to determine when exactly the AMIA (formerly the Chevra Kedusha) adopted officially the edict against conversions in Argentina.

The immigration of Jewish refugees during the Shoa brought a few liberal rabbis to Argentina, who were prepared to perform conversions, disregarding the ban. On the other hand, the arrival of orthodox refugees had effect on the foundation of the religious parties which had an impact on the establishment of the AMIA rabbinate. Schechner notes that in 1947 the AMIA board agreed to preserve "the traditional precepts of the Jewish rite" by performing religious burial services in order to guarantee "the purity of *kever israel* (Israelite grave) as a common denominator of all the Jews".⁶⁴ He does not mention, however, the policy of the organization with regard to the burial of converts.

In a study on proselytism in Argentina, the conservative rabbi, Dr. Abraham Skorka, brings evidence on conversions performed by the orthodox rabbis of the AMIA during the 1940s. He also refers to a few cases of conversions performed in the 1950s that received the approval

62 Ibid.

63 Interview with Rabbi Itzhak Chehebar by author, Buenos Aires 1988, ICJ.

64 Schechner, In *non-Parallel Ways*, pp. 71-72; Silvia Schenkolewski-Kroll, *Hatnua Hatzionit Vehamiflagot Hatzioniot BeArgentina, 1948-1935*, Magnes; Jerusalem 1996, p. 293.

of orthodox rabbis, reaching the conclusion that: “the edict was not fully preserved even by those who supported it”.⁶⁵

Argentinean rabbis who were confronted by real cases, especially of children whose mothers had been converted, started to look for new *halachic* solutions. Zlatkin reviews part of the vast literature on the edict, reaching the conclusion that the decisors looked for ways to circumvent the edict without abrogating it: “when the ban became a fact, and converts were not widely accepted, it seemed that the breach was blocked...then started the search on ways to ease, evade or abolish the ban”.⁶⁶

An example of this policy was the letter of Rabbi Yehoshua Menachem Ehrenberg from Tel Aviv to Rabbi David Kahana, former chief rabbi of the Israeli air force, who was appointed in 1966 as chief rabbi of the AMIA. Ehrenberg suggested nominating the Israeli rabbi as an agent of the High Rabbinic Court in Jerusalem.⁶⁷ Several Argentinean Jews were thus converted in Buenos Aires through the written authorization of the Chief Rabbinate in Jerusalem. In 1976, however, when Rabbi Shlomo Ben-Hamu succeeded David Kahana the ban was restored in its restrictive interpretation – rejecting conversions even if they were performed in Jerusalem. Zlatkin observes that the Jewish communities in Argentina tended to interpret the *takkanah* as a general instruction not to get involved in the performance of conversions. Using his experience as rabbi of the Sephardic community in Uruguay he adds:

Today there is a sort of agreement between the communities in Latin America not to deal with conversions. It's not an official agreement, but it became a custom. Probably under the influence of Rabbi Ben Hamu of Argentina many rabbis are acting in different ways: some send those who deserve to be converted to Israel ... others prepare and teach the proselytes all they need, but the conversion itself is performed somewhere else, and this is what we did in our Sephardic community of Uruguay, and in the two other large (orthodox) communities.⁶⁸

65 Abraham Skorka, “Comments of the prohibition to accept converts in Argentina”, unpublished manuscript. I would like to thank Dr. Skorka for sharing with me his study and for the permission to use it.

66 Zlatkin, The ban on conversion, p. 19.

67 Zemer, Rabbinic Ban, pp. 94-95.

68 Ibid. Zlatkin's observation is supported by a questionnaire received from Rabbi Mordejai Cortez from Uruguay.

The ban and the Conservative Movement

The emergence of the Conservative movement and the establishment of the *Seminario Rabínico Latinoamericano* by Rabbi Marshall Meyer created an alternative for persons seeking conversions. The Conservative rabbis reject the *takkanah*, but are not recognized by the Chief Rabbinate of Israel which serves as the source of religious authority for the orthodox rabbis in Argentina.

Sebastien Tank-Storper analyzes the instrumentality of the ban in the competition between the Orthodox and the Conservative movements. While the Orthodox tries to keep its religious monopoly, the Conservative uses proselytism to increase its ranks and to gain national legitimacy.⁶⁹

In 1980 the bi-weekly *La Luz* organized a round table on conversions, inviting the Orthodox Rabbi Saadia Ben-Zaquén of the Moroccan community and the Conservative Rabbi Mario Ablin of the Congregación Israelita (CIRA).⁷⁰ The opinions of both rabbis coincided in their great preoccupation in view of the growing rate of inter-marriage and assimilation, and in the narrow space that should be left open for conversions. Referring to the *takkanah* of Shaul Setthon, however, Ablin criticized the geographical principle, maintaining that “We should not refer to Argentina as a territory, but rather to the personality of the person wishing to convert. The examination has to be personal and individual; the convert should live ... as an observant Jew and demonstrate his sincerity”.

Saadia Ben-Zaquén considered the *takkanah* as “totally valid for our country”. He praised rabbi Setton for his vision: “because the same problems that pressed our community when the *takkanah* was decreed exist today. All the reasons that we give for not accepting the *guer* (proselyte) are the same foreseen by the *takkanah*”.

Despite their different opinion with respect to the ban, both rabbis concluded that the best solution for a convert would be to settle in Israel. Ablin emphasized that only in the spiritual center of the Jewish people could

69 Sebastien Tank-Storper, “La conversion prohibée: mariages mixtes et politiques de conversion dans le champ religieux juif argentin”, *Archives de sciences sociales des religions*, 50e Année, No. 131/132 (Jul. - Dec., 2005), pp. 137-39.

70 “Proselitismo judío ¿Por qué sí? ¿Por qué no?”, *La Luz* 1268, 24 de octubre de 1980, pp. 16-19.

the convert experience real sentiments towards Judaism. The geographical boundaries of Jerusalem, as center of rabbinic authority, are thus substituted by a Zionist option.

Since the 1980s there has been a growing polarization between sectors that perform conversions or inter-marry without conversion and ultra-orthodox sectors who go to extremes. The latter surround themselves by new boundaries, interpreting the *takkanah* as a total rejection of conversions, and excluding the option of conversions by orthodox rabbis in Jerusalem.

Conclusion

Since the 1930s, the debate on the ban on conversion in Argentina took place on two different, and often conflicting, levels: *halachic* law and social reality. From the time of Setton, the debate on the validity of his *takkanah* has taken place among a shared space of *halachic* decisors which crosses ethnic boundaries between Ashkenazim, Sephardim and Aleppans, but depends on the centrality of Jerusalem. Serving as the source of halachic authority, the jurisdiction of the chief rabbis of Eretz Israel crossed geographic boundaries. Its main problem, however, was that Argentina in the 1930s and 1940s lacked powerful rabbinical leadership that could impose the ban, and in reality, the great majority of the Jews ignored it.

Since the late 1940s all the Jewish communal organizations, Ashkenazi and Sephardic, have experienced a religious revival that strengthened the authority of local rabbis who could support the implementation of the ban on conversion by their institutions. Two trends evolved: one was uncompromising, denying any form of conversion; the other more moderate, accepting proselytes converted by the rabbinical court of Jerusalem. The main legal problem, however, arose with the emergence of the Conservative movement and the foundation of the *Seminario Rabínico Latinoamericano* which rejected the ban on *halachic* grounds. The Conservative and Reform rabbis remain outside the consensus of Orthodoxy, but they respond to the problems created in the social reality by legitimizing conversions, using well founded *halachic* arguments.

Seen from a historical perspective, the *takkanah* failed to fulfill its main objective which was to erect a fence against mixed marriages and assimilation. The ban was primarily implemented in the cemetery, not under the *chupa*. The new Orthodoxy that exists today in Argentina and other Latin American countries, creates an impassable fence around the *halachically* Jewish core, but leaves outside persons who could be accepted by less rigid interpretation of the laws of proselytism.