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**Laws of Conversion and Circumcision**

**Rav David Brofsky**

**Shiur #05: The Role of Motive in Conversion (2)**

**Conversion for the Sake of Marriage**

**Introduction**

 Beginning in the middle of the 19th century, halakhic authorities discussed and grappled with the question of conversion for the sake of marriage with great intensity and urgency. In the wake of the Emancipation and rise of the Reform movement, and in response to increasing assimilation and intermarriage, many Jewish men and women requested to convert their non-Jewish spouses. Alongside numerous responsa (which we will study below), essays such as “*Ve-KehaTorah Ya’aseh*” (R. Shalom Kutna, 1897) and “*Chakor Davar*” (R. Moshe Shmuel Glasner, 1901) were dedicated to this question.

Sephardic authorities faced similar challenges in Arab countries, and as European Jews fled Europe and immigrated to the newly established State of Israel, the Israeli Rabbinate confronted Jews who arrived with their non-Jewish spouses (see *Heikhal Yitzchak*, EA 1:21; *Piskei Uziel Be-She’elot Ha-Zman* 67. R. Unterman confronted this phenomenon as well; see *Hilkhot Geirut Ve-Derekh Bitzu’an*, *Torah SheBe’al Peh* 13).

 This week, we will discuss the question of conversions performed for the sake of marriage.

**The Status of a Conversion Performed for the Sake of Marriage**

The Talmud appears to raise two concerns regarding one who converts for the sake of marriage: the conversion itself and the marriage.

As we discussed last week, the *gemara* questions whether the convert’s motivations impact upon the *beit din*’s decision to perform a conversion and whether these motivations may even undermine the validity of the conversion. The Talmud (*Yevamot* 24b) cites a debate regarding the validity of a conversion performed for “impure” motivations, concluding that “the *halakha* is in accordance with the statement of the one who says that they are all converts.”

 Although the motive to convert does not undermine that validity of the conversion, the Rambam rules that it is the *beit din*’s responsibility to investigate the convert’s motives. He writes (*Hilkhot Issurei Bi’ah* 13:14):

The proper way of performing the *mitzva* is when a male or a female prospective convert comes, we inspect his motives for conversion. Perhaps he is coming for the sake of financial gain, in order to receive a position of authority, or he desires to enter our faith because of fear. For a man, we check whether he focused his attention on a Jewish woman. For a woman, we check whether she focused her attention on a Jewish youth.

Although the *Rishonim* appear to agree that a *beit din* should preferably not convert someone whose motives are not “for the sake of Heaven,” the *Beit Yosef* (YD 268) writes that “this is dependent upon the perception of (*re’ut einei*) the *beit din*.”

**The Status of the Marriage**

 The Talmud raises another concern regarding conversions for the sake of marriage. The *mishna* (*Yevamot* 24b) appears to prohibit marriage in these cases:

One suspected by others of engaging in sexual relations with a Canaanite maidservant and she was later set free, or one suspected of relations with a gentile woman and she subsequently converted, may not marry. But if he did marry her, they [the judges of the court] do not remove her from him [i.e., they do not require him to divorce her.]

The *gemara* explains the reason for this prohibition:

If so, [why is one suspected of relations with such a woman not permitted to enter into marriage with her] *ab initio* as well? Due to the statement of R. Asi. As R. Asi said with regard to such cases: “Put away from yourself a twisted mouth, and perverse lips put far from you” (*Mishlei* 4:24).

The Talmud explains that if the couple were to marry, they would give substance to the prior suspicions.

 What "suspicion" are we concerned about? Rashi (ibid. s.v. *lo*) explains that the man must not marry this woman, even after she converts, “lest they say that the initial rumor [regarding their relationship] was true.” Rashba (ibid. s.v. *ve-akshinan*) suggests that we fear that people will think that she only converted due to their illicit relationship. The *Shulchan Arukh* (EH 11:5) codifies this law.

 Seemingly, regarding our case, if the non-Jewish woman is pregnant or if they live together or are civilly married, Rashi would not object to the conversion and subsequent marriage. However, it appears that the Rashba would still object to this relationship, as the conversion itself would be scrutinized. Elsewhere (*Teshuvot Ha-Rashba* 1:1205), he writes that it would be “*mekhu’ar*” (repulsive) for the man to marry the Canaanite slave with whom he had relations before the conversion. In any case, the Talmud appears to maintain that the conversion may be improper, and the wedding may even be prohibited.

 However, we already see during the period of the *Rishonim* that this prohibition was not strictly followed. For example, Tosafot (*Yoma* 82b, s.v. *mah*) cites Rabbeinu Tam, who permits a woman who converted out of Judaism and married a non-Jew and then repented to remain married to the non-Jewish husband after he converts to Judaism.

A well-known responsum of the Rambam (*Teshuvot Ha-Rambam*, Blau 2:211) serves as the foundation for later authorities who permit marrying a partner after conversion. The Rambam describes a case of a Jewish man who purchased a Christian slave and was intimate with her (*mityached ima*). He was asked whether the man may continue his relationship with this woman. He concludes:

As I have already decided in a number of similar cases, he should free her and marry her. And I did this based on the principle of “*takanat shavim*” [a special dispensation to encourage repentance]; and we say it is better to eat gravy [i.e. violate the minor prohibition of marrying this slave after she has been freed and converted] than to eat forbidden fat itself [violate the more severe prohibition of having relations with a maidservant]; and we relied on the principle of “it is a time to do for God by abrogating his law.” We therefore gently encourage him to marry her and set a date for him to either marry her or release her.

Although this case is not exactly parallel to the modern scenario of converting for the sake of marriage – here the man himself merely frees his slave, unlike the case of a convert, in which the *beit din* must perform the conversion – the authorities relate to this responsum as a precedent for the more lenient approach, permitting conversion and then marriage.

**Modern Approaches to Conversion for the Sake of Marriage**

In recent history, R. Shlomo Kluger (Galicia, 1785-1869), in his responsa *Tuv Ta’am Ve-Da’at* (230), responded to a query from Western Europe regarding a Jewish soldier who returned home with a non-Jewish partner. The non-Jewish woman requested to convert. R. Kluger relates that the soldier’s father attested that if she would not be permitted to convert, “he will return with her to her religion and her home.” R. Kluger ruled that it is permitted to convert this woman, as we are concerned that if we do not allow the women to convert, he will “go off to evil ways” (*tarbut ra’ah*).

R. Kluger explains that since there is no external impediment to their union, and given that the non-Jewish woman desires to convert, that is considered to be “for the sake of Heaven.” Other *Acharonim*, such as the Maharsham (6:109), and the Peri Sadeh (2:3), also define “*le-shem shamayim*” in this manner. Some *Acharonim*, including R. Meir Arik (*Imrei Yosher* 1:176) and R. Elazar Shapira (*Minchat Elazar* 3:8), reject this redefinition of “for the same of Heaven.” R. Yitzchak Ha-Levi Bamberger, in his *Yad Ha-Levi* (145), further argues that *beit din* must be convinced that the candidate has intention “for the same of Heaven.”

 R. David Zvi Hoffman (Berlin, 1843–1921), in his *Melamed Le-Ho’il*, also allows the conversion of a non-Jewish partner. In one responsum (YD 83), he writes:

In our day, it appears that she [the non-Jewish woman] may marry the Jewish man even while she is still a non-Jew, and if they do not accept her as Jewish, he will marry her in the civil courts, and furthermore, if a God-fearing rabbi does not accept her she will go to the innovators [i.e. the Reform rabbis], who accept converts without immersion and without *kabbalat mitzvot*, and then she will be converted to be a convert even though she is not Jewish. It is thus better to choose the lesser evil and to accept her, if she will promise that she will convert for the sake of Heaven and fulfill all of the *mitzvot*, especially the *mitzvot* of Shabbat, family purity, and non-kosher foods. If she can commit to these, and the husband is also warned … for without this, the damage outweighs the good.

In another responsum, regarding a non-Jewish man and a Jewish woman, he writes:

In this case, in which she has already married him according to their laws [i.e. civilly] and she has already given herself to him and she is pregnant from him, it is clear that she will marry him even if he will not convert, if so, that is indicative that he wishes [to convert] for the sake of Heaven. Furthermore, if we do not accept him, she will violate a biblical prohibition [of marrying him], and it is better to accept him than that she should be married to him in a prohibited manner … Furthermore, if she will marry the non-Jewish man, her offspring, who are halakhically considered to be Jewish, will follow the non-Jewish ways of their father and will be sinners, “and then young sheep, how have they sinned?” … However, the *beit din* should instruct the man to be careful to observe the Jewish religion, especially Shabbat and the prohibited foods. If would be preferable to receive a promise from him, instead of an oath, regarding this matter.

R. Hoffman permits the conversion and enumerates what the *beit din* should expect from the convert. Interestingly, most *Acharonim* do not relate to this point.

R. Chaim Ozer Grodzinski (Vilna, 1863–1940), a leading *posek* in Eastern Europe before the Second World War, authored several important responsa regarding conversion in the modern era. Despite his overall apprehension regarding conversion and the sincerity of *kabbalat mitzvot*, he writes (*Achiezer* 3:26):

I have been asked numerous times regarding a non-Jewish woman who is civilly married to a Jew and who wishes to convert and to be married with a *chuppa* and *kiddushin*, and they express their intention to raise their children according to the Jewish religion, and they also say that if the *beit din* will not permit her to convert, her husband will renounce his religion.

After citing the responsa of R. Shlomo Kluger and the Rambam, cited above, R. Grodzinski concludes that “there is therefore room for leniency, in accordance with the view of the *beit din*, and to rely upon the ruling of R. Shlomo Kluger.” He repeats this ruling elsewhere (28) and attests that it is indeed customary to perform conversions in these circumstances.

Although it appears that many religious courts in both Eastern and Western Europe, and later in America, performed such conversions, several authorities opposed such *giyurim*. For example, R. Yitzcḥak Schmelkes (1828–1906), in his *Beit Yitzchak* (YD 2:100), writes:

Regarding whether he may convert a non-Jew who has had relations with a Jew in order that they may be married, this is not possible for two reasons. First, the *halakha* states that even if she had already converted, it is prohibited to marry her… And second, if the non-Jewish woman wishes to convert, as it for her benefit, i.e., for the sake of marriage, she should not be accepted.

Similarly, R. Shimon Greenfield (Hungary, 1860–1930), in his *Maharshag* (YD 34), argues that leniency may encourage people to be wed civilly, knowing that this may increase their chances to convert their non-Jewish spouses. Mordechai Yaakov Breisch (1896-1976), in his *Chelkat Yaakov* (YD 150), also categorically rejects conversions for the sake of marriage.

 R. Avraham Yitzchak Ha-Kohen Kook also rejects leniency in this area:

And certainly, God forbid that any *beit din* should permit a non-Jew to convert in this case, not to be wed with a *chuppa* and *kiddushin*, even after they are converted… I see no need to elaborate due to how obvious this point is.

R. Bentzion Meir Chai Uziel, however, disagrees, and passionately argues that it is necessary to perform conversions in order to save a person from having prohibited relations with a non-Jew and in order to save the children who are born to them. We will discuss his position below.

**Considerations for Leniency**

 As we demonstrated above, numerous prominent halakhic authorities articulated their justification for performing conversion for the sake of marriage. While employing halakhic arguments, their rulings are certainly in the spirit of the words of R. Yosef Karo: “This is dependent upon the perception of (*re’ut einei*) the *beit din*.” Which compelling considerations convinced the *batei din* to adopt a lenient approach?

 Some believe that the *beit din* may convert the non-Jewish spouse in order to minimize the sins of the Jewish spouse. The roots of this practice are expressed by the Rambam, who argues that it is preferable “to eat gravy [i.e. violate the minor prohibition of marrying this slave after she has been freed and converted] than to eat forbidden fat itself [violate the more severe prohibition of having relations with a maidservant].”

 Others focus on the children of the non-Jewish woman and argue that for the sake of the couple’s children, the non-Jewish mother may be converted. This reason is mentioned by R. Tzvi David Hoffman.

Finally, as we will see below, some argue that it is necessary to be lenient in order to minimize intermarriage and assimilation.

**Three Twentieth-Century Approaches**

We will now examine three noteworthy twentieth-century approaches to conversion for the sake of marriage, all in response to the increase in intermarriage. The first approach, adopted by the Syrian community, bans all conversions, even those not performed for the sake of marriage. The second approach, possibly best known as attributed to R. Uziel, reflects the previous tradition of rabbis in many Sephardic lands, who permitted conversion for the sake of marriage, even with minimal religious commitment, in response to the increased rate of intermarriage. The third approach, that of R. Moshe Feinstein, expresses deep ambivalence and apprehension regarding conversion performed for the sake of marriage, while acknowledging that this was the widespread practice of American Orthodox rabbis throughout the twentieth-century.

**The Syrian Edict**

Many Syrian communities observe a ban against accepting converts. This ban was first implemented by R. Shaul Setton Dabah (1850–1930) in the Syrian community of Argentina. R. Setton, originally from Aleppo, was excommunicated by R. Chizkiah Shabtei in 1912 and thereafter moved to Buenos Aires. Shortly after arriving there, R. Setton met numerous Jewish men who wished to convert their non-Jewish wives and children. He consulted with R. Aharon Ha-Levi Goldman, and Ashkenazic rabbi who served as the religious leader of Moises Ville (a village 380 miles north of Buenos Aries). R. Goldman argued that due to the minimal level of observance of Argentinian Jews, and in order to counter the increasing numbers of intermarriages, it would be best not to perform conversions.

In 1922, R. Setton issued an edict prohibiting performing conversions in Argentina. He also prohibited *mohalim* from circumcising sons born to non-Jewish mothers. R. Yaakov Meir and R. Avraham Yitzchak Ha-Kohen Kook, Chief Rabbis of the Land of Israel, supported the ban. (See <https://hebrewbooks.org/1586>.) Within a few decades, rabbis such as R. Zvi Pesach Frank and R. Yitzchak Ha-Levi Herzog discussed whether conversions performed in violation of the ban were invalid (see [*Divrei Chizkiyahu*](http://hebrewbooks.org/pdfpager.aspx?req=678&st=&pgnum=109)*,* YD 2:1). Others expressed concern, and even opposition to the ban.

In 1935, R. Jacob Kassin issued a similar ban on the Syrian community in New York. This ban was reaffirmed after World War II, when Jewish soldiers returned with non-Jewish partners, and again in 1972, 1984, and 2006. Although this ban undoubtedly preserved the Syrian Jewish community, especially in the years before there were religious day schools, it also caused and continues to cause much pain and harm to converts.

For more on this ban, see Zevulun Lieberman, “A Sephardic Ban on Converts,” *Tradition* 23:2 (1988), and Richard Hidary, “Sephardic Approaches to Conversion,” in *Conversion, Intermarriage and Jewish Identity* (Yeshiva University Press, 2015).

 **Sephardic Authorities: R. Bentzion Meir Chai Uziel and R. Ovadia Yosef**

 Numerous Sephardic authorities throughout the 19th and 20th centuries adopted a lenient approach to conversion, especially regarding non-Jewish spouses of Jewish men. For example, R. Eliyahu Chazan (Chief Rabbi of Alexandria, 1888-1908) wrote that the policy in Alexandria was to allow the non-Jewish woman to convert. R. Raphael Aharon ben Shimon, in his *Nehar Mitzrayim* (*Hilkhot Gerim*, p. 111), confirms that this was the practice in Egypt. Other Sephardic *poskim* such as the *Yisa Berakha* (EA 7) and *Peri Sadeh* (EA 7) support this policy.

R. Bentzion Meir Chai Uziel (1880–1953), first Chief Rabbi of the State of Israel, is well-known for adopting a lenient approach to this question. In one of his early responsa (*Mishpetei Uziel*, YD 1:14), written while he served as a rabbi in Salonika, he discusses converting a non-Jewish woman married to a Jewish man, as well as their children:

This non-Jewish woman is already married to a Jew, and by bringing her into the Jewish covenant, she will become close and closer to their husband’s family and his Torah … There are therefore permitted – or better, obligated – to bring them close and have then enter into the covenant of Israel’s Torah and remove the affliction of assimilation, which is an inflammatory affliction in the vineyard of the House of Israel.

He permits their subsequent marriage based upon the ruling of the Rambam, cited above.

 R. Uziel repeats this ruling numerous times, including in the context of the conversion of a non-Jewish woman who has not yet been married to the Jewish man, in order to prevent the sin of intermarriage.

 R. Uziel (ibid. EA 20) also expresses great concern for the non-Jewish children of intermarried couples:

Even the children of a non-Jewish mother are of Jewish seed (*zera Yisrael*) and are like lost sheep. I am afraid that if we reject them completely by not accepting their parents for conversion, we will be brought to judgement and it will be said of us, “Those who went astray you did not return and the lost you did not seek” (*Yechezkel* 23:4).

R. Uziel encourages the conversion of non-Jewish spouses in order to counter intermarriage, and their children out of concern for “*zera Yisrael*.”

 Of course, in order to perform these conversions, R. Uziel implements an extremely liberal definition of *kabbalat ha-mitzvot*, “even when we know that they will not fulfill all of the commandments” (ibid. YD 2:58), which we will discuss in future *shiurim*.

R. Ovadia Yosef, Chief Rabbi of Israel from 1973–1983, appears to have adopted this approach as well. In one responsum (*Yabi’a Omer* 8:24), he permits the conversion of a non-Jewish spouse, even if the *beit din* doubts the woman’s true motives. In a speech delivered to a Knesset committee (November 16, 1976, cited in full in R. Chaim Amsalem’s *Zera Yisrael*), R. Yosef stated:

[While] some Ashkenazic rabbi are stringent in this matter … there are many who are lenient. At the head of them is R. Shlomo Kluger from Galicia … and so write the rabbis of Egypt R. Eliyahu Chazan and R. Yosef Mesas, and others. R. Uziel in his book, *Mishpetei Uziel*, also permitted … In practice, most of the rabbinic judges of Israel today accept this change, and therefore even when they know the woman comes to convert for marriage, they accept her.

R. Yosef recounted that he personally decided on tens of conversion cases each year.

 For further reading, see Professor Zvi Zohar, “*Ve-Lo Yidach Mimenu Nidach*” (2012), and Richard Hiddary (above), who trace the tradition of Sephardic approaches to conversion.

**R. Moshe Feinstein**

 R. Moshe Feinstein (1895–1986) was regarded by many as the supreme halakhic authority during the mid to late 20th century. R. Feinstein grappled with many of the developments and challenges of the modern era. Harel Gordin, in his recent book, “*Rav Moshe Feinstein: Hanhaga Hilkhatit Be-Olam Mishtaneh*” (2017), traces R. Moshe’s responses and approaches to many social, societal, scientific, and historical changes.

 The increasing rate of assimilation that R. Moshe witnessed in Russia, and later in America, appears to have made R. Moshe suspicious of sincerity of many converts and of their ability to commit to the full observance of Torah and *mitzvot*. He describes how in Russia, his father insisted that the *beit din* be convinced of the convert’s intention to keep the *mitzvot*. Regarding conversion for the sake of marriage, he writes: “A convert for the sake of marriage whose conversion is valid is a convert who truly accepted upon himself the *mitzvot*; that is clear and self-understood” (*Iggerot* *Moshe*, YD 1:157).

 In numerous places, R. Moshe criticizes those *batei din* that regularly accept converts for the sake of marriage. He says that although he withholds judgement (“*eini omer ba-zeh elum lekhvod Torato …. ein li lomar bazeh issurin*”), “I am not comfortable with this, and neither was my father, the *gaon*” (YD 3:106). He acknowledges the pressure local rabbis face to convert the spouses of their congregants, and even affirms that according to the Rambam, “[to convert] for the sake of marriage is not clearly prohibited, as a *beit din* of *heyotot* would accept them, as it states in the Rambam (see Rambam, *Issurei Bi’ah* 13:17)” (*Iggerot Moshe*,EH 2:4).

 However, when the *beit din* is convinced that the convert wholeheartedly accepts upon himself the *mitzvot*, even if he is not aware of all of the *mitzvot* or if we estimate that he will be unable to fulfill all of the *mitzvot*, we will accept him to the Jewish People (ibid. YD 1:159).

It is appropriate to conclude with the words of R. Yisrael Rosen (1941-2017), director of the Zomet institute for the interface of Halakha and technology and founder of the office for conversion to Judaism in the Chief Rabbinate of Israel. He wrote (*Akdamot* 24):

Conversion for the sake of marriage and for the sake of family and for a social and national identity have always been the primary motivations for conversion, including... Ruth the Moabite, and possibly even Yitro, the father-in-law of Moshe. I estimate that approximately 90% of conversions since Har Sinai have been “for the sake of” (primarily for marriage), and even so, they were accepted, if they were performed properly and honestly.

However, aside from the motivation to convert, the halakhic authorities discussed the requirements and process of conversion, including the scope and depth of “*kabbalat mitzvot*.” We will discuss those questions in future *shiurim*.