YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Laws of Conversion and Circumcision**

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**Nullification of Conversion**

 The Talmud (*Yevamot* 47b), after describing the conversion process, teaches:

Once he has immersed and emerged, he is a Jewish in every sense. With regard to what *halakha* is this said? It is that if he reverts back [to behaving as a gentile, he nevertheless remains Jewish], and so if he betroths a Jewish woman, although he is considered to be an apostate Jew, his betrothal is a valid betrothal.

This passage clearly indicates that conversion is final; it is not dependent upon the behavior of the convert after his conversion. The finality of conversion has serious legal implications, such as the validity of a convert’s betrothal (*kiddushin*).

 Furthermore, as we have already seen, the *gemara* states regarding those who convert for ulterior motivations: “The law is that they are all considered to be valid converts.” Indeed, the Rambam (*Hilkhot Issurei Bi’ah* 13:16-17) invokes this principle when describing the wives of Shimshon and Shlomo. (We will discuss this passage in greater depth below.)

That said, in there are various methods through which a *beit* din may attempt to challenge and even undermine the validity of a conversion. This *shiur* will discuss these attempts and question whether and when it is possible to challenge the validity of a conversion.

**Disqualification of the *Beit Din***

 One of the ways to invalidate a conversion is to disqualify the *beit din*. There are theoretically two means of disqualifying a conversion court – by disqualifying the *dayanim* as “*resha’im*” (evildoers) or by denying their authority to convert.

 First, one may attempt to disqualify a *beit din le-giyur* by demonstrating that its judges, or at least one of them, is unfit to serve as a *dayan*, which might undermine the entire conversion. This question was recently discussed in the wake of the arrest and conviction of a well-known American rabbi, who supervised over three hundred conversions, for voyeurism. This congregational rabbi planted cameras in the showers of the local *mikveh* to view women bathing in preparation for their immersion. Did this rabbi’s behavior disqualify him to serve as a rabbinic judge and retroactively invalidate the conversions in which he participated?

 In a responsum written in response to this incident, R. Yona Reiss, Av Beth Din of the Chicago Rabbinical Council (CRC), offers a number of reasons not to disqualify this rabbi and not to invalidate his conversions retroactively (*Kanfei Yona*, 112). R. Reiss discusses which sins disqualify a person from serving as a witness or a judge, and based upon what level of proof and from which moment is he disqualified. He also raises possible distinctions between the standards for a witness and those of a judge.

 The *Shulchan Arukh* (CM 34:1) rules that “any individual who is disqualified from judging is also disqualified from testifying” (see *Nidda* 49b). Therefore, in order to determine if one is disqualified to serve as a judge, we must determine whether he is disqualified from testifying. R. Reiss notes that the Talmud (*Sanhedrin* 26b–27a) rules that one is biblically disqualified as a witness only as a result of a matter relating to “*chimud mammon*” (monetary transgressions) or for violating specific prohibitions deserving of lashes (*malkot*) or court-prescribed death (see *Shulchan Arukh*, CM 34:2). The transgressions of the rabbi in the case at hand were not deserving of lashes.

 Furthermore, although one who violates prohibitions not deserving of lashes is disqualified rabbinically from serving as a witness, we may assume that he is only considered to be disqualified after his sin has been publicly announced (see *Arukh Ha-Shulchan*, CM 7:18, citing the *Sefer Ezrat Nashim*). In this case, the conversions were performed before the public become aware of the rabbi’s transgressions.

 Finally, the *Shulchan Arukh* (ibid. 34:25) rules a person may not disqualify himself due to sin, as “a person cannot establish himself as wicked.” Although in this case the rabbi confessed to his sins, this is not sufficient to disqualify him retroactively as a witness.

 Although there may be other reasons to adopt even stricter standards for *dayanim*, R. Reiss relates that after consulting with other rabbinic authorities, this rabbi’s conversions were upheld and validated.

 In 2008, R. Avraham Sherman, the Av Beit Din of a rabbinic court in Israel, [invalidated](http://www.daat.ac.il/daat/psk/psk.asp?id=244) the conversion of a convert and called into question all of the conversions performed by the heads of the National Conversion Authority, R. Chaim Druckman and R. Yosef Avior. In addition to questioning whether these converts intended to fulfill the *mitzvot* after their conversion. R. Sherman stated that R. Druckman and his fellow rabbinic judges were unfit to serve as *dayanim* due to certain procedural transgressions, and therefore all of their conversions may be invalid. Leading rabbinic judges, such as R. Shlomo Daichovsky, disagreed, and R. Sherman’s ruling was eventually overturned.

 Some disqualify the conversion of certain rabbinic courts by claiming that they do not have the authority to convert. Orthodox *batei din* have always opposed conversions performed by Reform rabbis. In general, *poskim* assumed that a Reform *beit* *din* did not perform a proper conversion and the conversion did not entail a proper *kabbalat ha-mitzvot* (see *Achiezer* 3:26). At times, *poskim* viewed these conversions as “possibly valid,” due to doubt (R. Herzog in *Pesakim U-Ketavim*, YD 4, p. 300, citing R. Etlinger; see also *Seridei Eish* 3:100).

 R. Moshe Feinstein (*Iggerot Moshe*, YD 1:160) adds an additional concern. He argues:

Also, a *beit din* of Conservatives [i.e., Conservative rabbis] are disqualified as a *beit din*,as they deny many of the tenets of faith and violate many prohibitions … We can attest that anyone known as a “Conservative” can be assumed to violate numerous prohibitions and to hold heretical views regarding many of the tenets [of faith]… And it is therefore clear that a conversion performed by Conservative rabbis is invalid.

R. Feinstein does not disqualify these conversions due to lack of proper procedure, but rather due to the very identity of the judges. (See also *Iggerot Moshe*, EH 3:4.)

 R. Yaakov Ariel (*Techumin* 17, “*Tokepo shel Giyur Reformi*”) offers a different reason to disqualify Reform and Conservative conversions. He notes that according to many authorities, conversions nowadays are performed in accordance with the principle of “*shelichutayhu avdinan*” – i.e., the *batei din* act as agents of the original rabbinic courts, who were fully authorized (*musmachim*) as rabbinic judges. By definition, Reform and Conservative courts cannot be considered to be acting as agents of earlier courts.

**The Inner Intention of the Convert**

 As we mentioned in a previous *shiur*, while many *poskim* maintain that the validity of the conversion is based upon of the decision of the *beit din* and/or whether the convert fulfilled all parts of the conversion process, some explain that the validity of the conversion is dependent upon the inner sincerity of the convert during the *kabbalat ha-mitzvot*.

 For example, R. Yitzcḥak Schmelkes, in his *Beit Yitzchak* (YD 2:100), writes:

In any event they must accept the *mitzvot*with a genuine heart. **This is not the case when a person converts only on the outside, but his heart is not with him to maintain observance of the *mitzvot****,* and we know that he intends even afterwards to have relations with a menstruant woman, to profane the Sabbath, and to eat non-kosher food. His conversion is not valid, and the idea that "thoughts of the heart are of no consequence" does not apply… **This is not the case where a proselyte converts and accepts upon himself the yoke of *mitzvot*. If in his heart he has no intention to observe them, the Merciful One seeks the heart, and the conversion is invalid**.

R. Chaim Ozer Grodzinski (*Achi’ezer* 3:26) fundamentally agrees with this approach, as does R. Moshe Feinstein (*Iggerot Moshe* YD 1:157), who writes:

Regarding the matter about which you were in doubt, whether a proselyte who failed to accept the *mitzvot* is regarded as a proselyte – it is clear and simple that he is not at all a proselyte, even *bedi'eved*, and so ruled my father and master *ztz"l*, in actual practice… Even if he states that he accepts the *mitzvot*, if we are witnesses [*anan sahadi*]that he is not truly accepting [the *mitzvot*], it is nothing. The case of conversion for the sake of marriage that is valid *bedi'eved* is where for the sake of marriage he truly accepts upon himself the *mitzvot*.

R. Feinstein repeats this numerous times (see also *Iggerot Moshe*, YD 3:106).

 R. Avraham Yitzchak Ha-Kohen Kook (Da’at Kohen 153), as well as R. Yitzchak Isaac Herzog (*Mazkeret*, 18), disagree. R. Kook writes:

As long as he properly articulated an acceptance [of the *mitzvot*], it appears that we are not concerned with matters of the heart, which are not considered to be significant, and therefore even if Eliyahu would come and tells us that what was in his heart differed from what he said, we are not concerned with matters of the heart.

R. Kook clearly maintains that once the convert has accepted the *mitzvot* in the presence of the *beit din*, the conversion is valid and irreversible.

 Dr. Menachem Finkelstein (*Ha-Giyur – Halakha U-Ma’aseh*, pp. 344–353) relates to three attempts in responsa literature to invalidate a conversion. In one case, R. Masoud Chai ben Shimon, who later served at the Chief Rabbi of Egypt (1921–1925), along with Chief Ashkenazic Rabbi of Egypt, R. Aharon Mendel Ha-Kohen, authored *teshuvot* in which they wished to invalidate the conversion of convert in order to permit his wife to remarry. Despite evidence indicating that the man never really intended to change his faith, R. Kook, as mentioned above, rejected their argument and ruled that the woman may not remarry without first receiving a *get* (bill of divorce). In the end, she received a *get* and the conversion was not invalidated. (Their *teshuvot* may be found in *Teshuvot Yad Re’em* 2:10-11.)

 In a second case, R. Yitzchak Yaakov Weiss (*Minchat Yitzchak* 1:121-222) considered invalidating a conversion in order to permit a woman to remarry. However, after considering the objections of R. Dov Berish Weidenfeld, the Tshebiner Rav and author of the *Dovev Meisharim* (3:59), R. Weiss changed his mind and ruled that the woman must receive a *get*. R. Weiss concludes that although he objects to the practice of *batei din* who accept such converts,

After they valid (kosher) *batei din* accept them, we must say that they properly checked the concerts at the time and saw that they whole-heartedly accepted upon themselves [the *mitzvot*]; even though we see that afterwards they do not observe that which they accepted upon themselves, we assume that they certainly changed their mind and they have the status of a *Yisrael mumar* [i.e., a Jew who sins].

Therefore, R. Weiss also refused to uproot the status of one who has converted.

 The third case became known as the “Brother and Sister Controversy.” In around 1923, Chava Ginsberg, a young Polish girl, ran away from the home of her religious family with a significantly older, non-Jewish man named Bolik Borokovsky. Chava’s parents, through bribes and threats, apparently convinced Borokovsky to convert to Judaism. After his reported conversion, Chava and Bolik (now Avraham) married according to Jewish law. In 1933, they moved to Israel. The couple separated in 1942. Chava married Otto Langer two years later, and together they had two children, Chanokh and Miriam. Borokovsky gave Chava a *get* in 1951. After Otto Langer died in 1955, Chava applied to the Tel Aviv Beit Din to remarry. Upon realizing that she had married Otto Langer before divorcing Borokovsky, the *beit din* ruled that her two children were considered to have been born out of an adulterous relationship and were therefore considered to be *mamzerim*. When Chanokh was informed in 1966 by the Tel Aviv *beit din* that he was not permitted to be married, a national controversy ensued.

 R. Shlomo Goren, Chief Rabbi of Tel Aviv, intervened and [ruled](https://marriage-il.com/%D7%A9%D7%9C%D7%9E%D7%94-%D7%92%D7%95%D7%A8%D7%9F-%D7%94%D7%90%D7%97-%D7%95%D7%94%D7%90%D7%97%D7%95%D7%AA-19-12-1972/) that the children were not to be considered *mamzerim*. He firmly believed that Borkovsky never really converted, but in case that he did, since his conversion was insincere, the conversion was never valid. R. Yosef Shalom Elyashiv objected and resigned from his position in the Rabbinic Court in protest, and prominent rabbinic figures, including R. Eliezer Menachem Shach and R. Yisrael Yaakov Kanievsky (the “Steipler”), issued a public statement protesting the “uprooting of the Jewish status of one who was established to have been a convert by turning him into a non-Jew.”

 Other *poskim*, such as R. Yechezkel Bannet ([*Ha-Me’Asef* 17, vol. 2, p. 57](https://hebrewbooks.org/pdfpager.aspx?req=12918&st=&pgnum=296)), R. Isser Yehuda Unterman (*Shevet Mi-Yehuda*, vol. 5, p. 377), and more recently R. Shlomo Daichovsky (*Techumin* 29, “*Bitul Giyur Le-Mafre’a*”), affirm that a conversion cannot be invalidated. R. Daichovsky argues that even the *Achi’ezer* and the *Dvar Avraham* would not support invalidating a conversion after the fact. (See also R. Naftali Tzvi Yehuda Berlin [*Netziv*], *Meshiv Davar* 5:46.)

**Conversion for the Sake of Marriage**

 Does the convert’s behavior after his conversion threaten the validity of his conversion? As we discussed previously,the *gemara* clearly states that conversion performed “for the sake of marriage” is still valid. However, there is some confusion regarding the Rambam’s position. Regarding those who convert for personal gain, he writes (*Hilkhot Issurei Bi’ah* 13:15):

For this reason, the court did not accept converts throughout the reign of David and Shlomo. In David's time, [they feared] that they sought to convert because of fear, and in Shlomo’s time, [they feared] that they were motivated by the sovereignty, prosperity, and eminence which Israel enjoyed. [They refrained from accepting such converts, because] a gentile who seeks to convert because of the vanities of this [material] world is not a righteous convert (*ger tzedek*).

Nevertheless, there were many people who converted in the presence of ordinary people during the era of David and Shlomo. The *Sanhedrin* would view them with skepticism. Since they immersed themselves, they would not reject them, but they would not draw them close until they saw what the outcome would be.

The Rambam distinguishes between a “*ger tzedek*,” i.e., one who converts for the sake of Heaven, and those who convert for other reasons.

 In addition, the Rambam writes that regarding those who convert for other reasons, “the *Sanhedrin* would view them with skepticism. Since they immersed themselves, they would not reject them, but they would not draw them close until they saw what the outcome would be.” What is the significance of not “draw[ing] them close until they saw what the outcome would be”?

 Similarly, the Rambam (ibid. 17) describes a case in which a *beit din* did not carefully investigate the convert’s motives:

When a court did not check a [potential] convert’s background and did not inform him of the *mitzvot* and the punishment for [the failure to observe] the *mitzvot*, and he circumcised himself and immersed in the presence of three ordinary people, he is a convert. Even if it is discovered that he converted for an ulterior motive, since he circumcised himself and converted, he has departed from the category of gentiles and we view him with skepticism until his righteousness is revealed.

Even if afterwards, he [the convert] worships false deities, he is like an apostate Jew. If he betroths [a woman], the betrothal is valid, and it is a *mitzva* to return his lost object. For since he immersed himself, he became a Jew. For this reason, Shimshon and Shlomo maintained their wives even though their inner feelings were revealed.

Here too the Rambam writes that “we view him with skepticism until his righteousness is revealed.”

 This question is especially significant because the *Shulchan Arukh* (YD 268:12) cites this Rambam.

R. Yosef Rosen, in his *Tzafenat Pe’ane’ach* (Rambam, ibid. 13:14), writes that if one converts for the sake of marriage and afterwards worships *avoda zara*, “his conversion is retroactively invalidated.” He maintains that according the Rambam, one’s future behavior may actually invalidate the conversion.

Although this is certainly a minority view, others maintain that the Rambam does not necessarily affirm the Jewishness of every convert immediately after his conversion. For example, R. Meir Arik (1855–1925), in his *Imrei Yosher* (176), writes that the Rambam agrees with the *Hagahot Mordekhai* (*Yevamot* 110), who maintains that the *halakha* that “all agree with the statement on the one who says that they are all converts” applies only afterwards, “when we see that their behavior is consistent [with the Torah], even if they initially converted for the sake of marriage.” In other words, the conversion is dependent upon the convert’s future behavior. He implies that until “his righteousness is revealed,” he has the status of a “*safek* *ger*” – we are unsure whether the conversion is valid

Others similarly suggest that according to the Rambam, one who converts for motives other than “for the sake of Heaven” may be considered to be a “*safek ger.*” For example, R. Chaim Ozer Grodzinski (1863–1940), in his *Achiezer* (3:26:3), distinguishes between a “true *ger*” and a “legal *ger*.” He maintains that while the *halakha* is in accordance with those who say that those who convert for other reasons are considered to be converts, that is because there is a “*chazaka*” (a presumption) that they wholeheartedly accepted upon themselves the *mitzvot*. However, if he did not sincerely accept upon himself the *mitzvot*, the conversion is invalid. Therefore, R. Grodzinski suggests, the Rambam writes that when a convert’s motives were not examined, he is viewed as a “*safek ger*” until his “righteousness is revealed.” R. Moshe Feinstein (*Iggerot* *Moshe*, YD 3:108) accepts this interpretation as well and argues that if the convert was observant for some time, the conversion is valid, but if he was not observant “for even one hour” (EH 4:78), the conversion is not valid.

 However, most *Acharonim* (*Da’at* *Kohen* 153; R. Herzog, *Mazkeret* 8:13) maintain that even according to the Rambam, the conversion is not conditional or viewed as a doubt; rather, the convert is completely Jewish upon completing the conversion process. The Rambam, however, maintains that until this convert whose motives were not properly investigated proves his intention to fulfill the *mitzvot*, he should be monitored and not brought closer to the Jewish community.

**Conclusion**

 It appears that the overwhelming majority of *poskim* affirm the finality of conversion, either because they maintain that that the validity of the conversion is dependent upon the *beit din*’s decision or the fulfillment of the stages of conversion, or because the inner thoughts of the convert are either irrelevant or almost impossible to verify. The recent attempts to challenge the validity of those who were converted by proper *batei din* are both halakhically problematic and well as extremely painful for the converts themselves, regarding whom we are commanded not to pressure or cause emotional distress.