YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH PROJECT (VBM)

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**Laws of Conversion and Circumcision**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

By Debbi and David Sable

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In memory of David Yehuda Ben Shaul z”l (Mr. David Goldstein)

whose *shloshim* fell this week

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**Shiur #01: Introduction to the Laws of Conversion**

**INTRODUCTION**

Conversion (*giyur*) is a unique and often controversial topic for philosophical, communal, and halakhic reasons.

Philosophically, the very notion of a person undergoing a personal, spiritual, and legal transformation from a non-Jew to a Jew raises fundamental questions regarding the nature of the *kedushat Yisrael* (the sanctity of a Jew) and whether this sanctity is inborn. The somewhat radical positions of R. Yehuda Ha-Levi in his *Sefer Ha-Kuzari* and R. Shnuer Zalman of Liadi in his *Sefer Ha-Tanya* are often invoked in this context.

In addition, while the Torah emphasizes that the convert must be welcomed with open arms and treated with extra kindness and sensitivity, welcoming an "outsider" or "stranger" (*ger*) into the Jewish community has historically often been perceived as risky, and, as we shall see, the Rabbis often express their fears or ambivalence about conversion.

Of course, the community's attitude towards the convert may be a function of his or her motivation to convert. Throughout history, there were always "righteous converts" (*gerei tzedek*) who decided to abandon their previous faiths, leave their families and communities, and join the Jewish People. Often, however, especially in recent centuries, non-Jews have expressed interest in conversion as part of their intention to marry (or in wake of their marriage to) a Jew. The candidate's motivations play a significant role in the *beit din*'s decision to accept the convert.

The candidate's motivation may also be viewed within a context of communal and rabbinic policy. As greater levels of assimilation and intermarriage spread throughout the Jewish world, communities have grappled with the proper response. While rabbinic leadership in some areas embraced and converted non-Jewish spouses, others only converted those who demonstrated the highest level of commitment to religious observance.

Halakhically, aside from the candidate's reasons for converting, the convert’s willingness to accept upon himself the yoke of the Torah and *mitzvot* (*kabbalat mitzvot*) is possibly the most difficult and controversial aspect of conversion. Halakhic authorities differ as to the nature of and extent of this acceptance, often leading to radically different halakhic conclusions.

In recent years, the Orthodox community’s openness to converts and the willingness of its *batei din* to accept *gerim* has been the focus of much discussion. In the Diaspora, the Jewish community’s constant struggle with outside influences, assimilation, and intermarriage has led to different approaches and attitudes towards conversion. *Batei din* must grapple with the conversion of non-Jewish spouses and the children and grandchildren of mixed marriages who identify as Jewish but are not halakhically Jewish. In Israel, the immigration of hundreds of thousands of non-Jews from the former Soviet Union has raised a similar question in a radically different context. Is it positive and beneficial to convert Israelis who identify as Jewish, observe basic Jewish rituals, marry fellow Jewish Israelis, and who are an integral part of the Israeli Jewish community, even if they are not observant of Halakha?

For these, and many other reasons, *giyur* continues to be vigorously debated, and conversion-related discussions often reflect halakhic, philosophical, and even sociological differences within the Jewish world.

We will dedicate this year to a thorough study of the laws of *giyur*, beginning with the Torah’s attitude towards conversion, the motivation to convert, and a convert’s preparations, as well the *halakhot* relating to *mila*, *tevila*, and *kabbalat mitzvot*. We will discuss the conversion of minors and other important topics as well.

 This week, we will briefly outline the topics that we will discuss over this year.

**Motivation and Preparation for Conversion**

 After discussing whether or not accepting worthy converts is a *mitzva*, we will examine the role of the convert’s motivation. As we shall see, the candidate’s motivation to convert may influence the *beit din*’s decision to perform the conversion and may even impact the validity of the conversion itself.

The Talmud (*Yevamot* 24b) cites a debate regarding whether those who convert for the sake of marriage, or even social and financial prosperity, are considered to be Jewish. Although the Talmud rules that, once converted, “they are all considered to be [valid] converts,” the *Rishonim*, and later the *Acharonim*, discuss whether one may pursue a conversion in this case. The Rambam (*Hilkhot Issurei Biah* 13:14-18), for example, writes that the *beit din* must investigate the convert’s motives before agreeing to perform the conversion. Elsewhere (*Teshuvot* [Blau] 2:211), the Rambam lays the foundation to permitting a conversion for marriage.

This issue was widely discussed in the 19th and 20th centuries, when it became common for a non-Jewish spouse to pursue conversion, before and even after a civil marriage. We will dedicate a *shiur* to this important question.

 In addition, the candidate’s preparation for conversion raises numerous halakhic questions. May a non-Jew fulfill the *mitzvot* (see *Avoda Zara* 2b–3a) in preparation for conversion? May a non-Jew observe Shabbat and study Torah (see *Sanhedrin* 59a)? What is the status of a non-Jew after he has been circumcised with the intention to convert? Does his status change at all?

**The Conversion Process**

**The Bird Offering and the Sprinkling of the Blood**

The Talmud (*Keritut* 9a) explains that a convert must enter the Jewish People in the same manner as our ancestors did:

R. Yehuda Ha-Nasi says: “As you are, so shall the stranger be” (*Bamidbar* 15:15), which means as your ancestors were: Just as your ancestors entered the covenant only through circumcision and immersion in a ritual bath and the sprinkling of blood on the altar, so too they may enter the covenant only through circumcision and immersion and the sprinkling of some blood, which requires at least a bird-offering.

R. Yehuda Ha-Nasi asserts that that there are three parts of the conversion process: circumcision (for males), *tevila* (immersion in a *mikveh*), and, during the time of the *Beit Ha-Mikdash*, a bird-offering, accompanied by sprinkling of its blood. Since the bird-offering is not applicable nowadays, we will summarize its laws here only briefly.

The Rambam (*Hilkhot Issurei Bi'ah* 13:5) rules, based on the *gemara*'s conclusion, that the convert must bring "a burnt-offering of an animal (*olat behema*) or two turtle-doves or two fledging doves. Both of them [the doves] must be brought as burnt-offerings (*olah*)."

 The *Rishonim* disagree as to whether the Talmud refers to sprinkling the blood on the *mizbe'ach* (*hartza'at dam*) or on the convert himself (*haza'at dam*).

The Talmud derives this obligation from an incident found at the end of *Parashat Mishpatim*, during which the Jewish People forged a covenant with God:

They entered the covenant through the sprinkling of blood (*hartza’a*), as it is written: “And he sent the young men of the children of Israel, and they sacrificed burnt-offerings and they sacrificed peace-offerings” (*Shemot* 24:5). But from where do we derive that immersion in a ritual bath was also part of the process of entering the covenant? As it is written: “And Moshe took half the blood…and sprinkled it on the people” (*Shemot* 24:6–8), and there is no sprinkling of sacrificial blood without immersion.

The *gemara* appears to suggest that the blood is sprinkled on the *mizbe’ach* (*hartza’a*). This interpretation is also found in Onkelos, as well as in the *Midrash Tanna’im LeDevarim* (*Mekhilta* 7).

 Other commentators, however, explain that the blood was actually sprinkled upon the people (Ibn Ezra, *Shemot* 24:8; *Tosafot*, *Yoma* 4a, s.v. *haza’a*; *Sefat Emet*, *Yoma*, ibid.; Rabbenu Gershon, *Keritut* 9a).

 The *mishna* (*Keritut* 8b) cites a disagreement concerning a convert who did not yet bring a bird-offering. The *mishna* discusses those who are considered to be “*mechusarei kippurim*” – i.e., those who may not eat the meat of a *korban* until they brings their required sacrifice. While the *Tanna* *Kama* lists four such individuals (a *zav*, *zava*, *yoledet*, and *metzora*), R. Eliezer ben Yaakov adds “a convert, even after he has been circumcised and has immersed in a ritual bath, until the priest sprinkles the blood of his offering on the altar on his behalf.”

 The *Rishonim* debate whether the *Tanna Kama* disagrees with R. Eliezer ben Yaakov. The Rambam (Commentary to the Mishna) and Rabbeinu Gershom explain that according to the *Tanna Kama*, once the convert has been circumcised and has immersed in a *mikveh*, he may partake of *korbanot*. Rashi, however, maintains that they do not disagree; both views in the *mishna* agree that bringing the bird-offering and performing the sprinkling of the blood are necessary to make the convert’s conversion complete.

 Interestingly, in his *Mishneh Torah* (*Hilkhot Mechussarei Kapara* 1:2), the Rambam changes his view:

When a convert becomes circumcised, but has not brought his sacrifice, although he is forbidden to partake of sacrificial food until he brings his sacrifice, he is not considered as one requiring atonement. **It is merely that failing to bring his sacrifice prevents him from being a complete convert and being from the full-fledged members of the Jewish People.** Accordingly, he may not partake of sacrificial foods, because he has not become a full-fledged member of the Jewish People. Once he brings his sacrifice and becomes a full-fledged member of the Jewish People, he may partake of sacrificial foods in the evening.

The Rambam maintains that until the convert brings his *korban*, he may not partake of *korbanot* and may not marry a Jewish person.

The *Avnei Nezer* (YD 344) asserts that the *Rishonim* disagree as to whether the convert may marry a Jewish person before bringing his bird-offering. He explains that according the Rambam (and others), during the time of the *Beit Ha-Mikdash*, the conversion is not complete until the bird offering is brought.

 Nowadays, in the unfortunate absence of the *Beit Ha-Mikdash*, can a non-Jew convert without bringing the required *korban*? The Talmud (*Keritut* 9a) explains:

If that is so [that these three rituals are required by Torah law for a convert to enter the congregation, then now, in our time], when there are no offerings, we not should have the ability to accept converts? R. Acha bar Yaakov responded that the verse states: “And if a stranger sojourn with you, or whosoever may be among you, throughout your generations” (*Bamidbar* 15:14).

Since the verse describes the presence of converts "throughout your generations," it must be possible to accept converts even after the destruction of the *Beit Ha-Mikdash*.

 Is the convert, therefore, completely exempt from bringing the bird-offering? The Talmud continues:

With regard to the offerings of a convert, the Sages taught: A convert in the present time is required to set aside a quarter of a dinar for his bird nest [so that when the *Beit Ha-Mikdash* is rebuilt, he can purchase the offering with this money]. R. Shimon says: Rabban Yochanan ben Zakkai already assembled a panel of Sages who voted and nullified this ordinance, due to a potential mishap [as if one would inadvertently use such money, he would be liable for the misuse of consecrated property]. R. Idi bar Gershom says that R. Adda bar Ahava says: The *halakha* is in accordance with the opinion of R. Shimon.

The *gemara* concludes what while initially a convert was expected to set aside enough money to purchase a bird-offering when the *Beit Ha-Mikdash* is rebuilt, this practice was nullified due to the concern that the convert might use this money, which is designated for a *korban*, for another purpose. Interestingly, the *Tosafot Yeshanim* (*Keritut* 9a) explain that only a convert was initially expected to set aside money to bring a *korban*, as the *korban* of a convert permits him to marry a Jewish person.

 The Rambam (*Hilkhot Issurei Bi’ah* 13:5) rules that although circumcision and immersion suffice nowadays for conversion, when the *Beit Ha-Mikdash* is rebuilt, the convert must brink a bird-offering.

***Brit Mila***

 As noted above, the Talmud teaches that a non-Jewish male must be circumcised before he can convert. There are numerous circumcision-related discussions unique to the laws of conversion.

 Must the circumcision be performed in the presence of a *beit din*? Can it be performed under local or general anesthesia? What if the non-Jew was surgically circumcised before the conversion? May he still convert? The *poskim* discuss whether (and how) one may draw blood from the convert (*hatafat dam*) in lieu of being circumcised in such a case. What if a child was circumcised by a *mohel*, for the sake of the *mitzva*? Must he undergo a *hatafat dam* before being converted?

Finally, is it possibly to forgo the requirement of circumcision? While one does who not have a penis is obviously not required to be circumcised and may convert, what about a person who may not be circumcised due to serious, even life-threatening health concerns, such as blood-clotting disorders, diabetes, or health complications?

***Tevila***

 The Talmud teaches that the convert must immerse himself in a *mikveh* before completing the conversion. May this *tevila* be performed before the circumcision? Must this *tevila* be performed in from of a *beit din*? When is the blessing reciting over this immersion, being that the candidate is not yet Jewish before immersing in the *mikveh*? Is it proper to recite the *Shehechiyanu* blessing upon immersing?

 Throughout history, female converts immersed in the presence of a *beit din*, all the while adhering to the highest standards of modesty. In recent years, however, halakhic authorities have discussed whether a woman may immerse while wearing a robe and whether she may even immerse in the presence of women, and not in the presence of a *beit din* made up of three men.

***Beit Din***

The Talmud (*Yevamot* 47a) teaches that a conversion must take place in from of a *beit din* of three. What is the role of the *beit din* in the conversion process, and which parts of the process (i.e. *mila*, *tevila*, and *kabbalat mitzvot*) must be performed in front of the *beit din*?

***Kabbalat Mitzvot***

 As mentioned above, *kabbalat mitzvot* is possibly the most challenging aspect of conversion. The Talmud (*Yevamot* 4a) describes how the *beit din* questions the conversion candidate and informs him of the *mitzvot* and their reward (and punishment).

 The *Acharonim* grapple with the following question: To what extent is the conversion candidate expected to live a completely observant lifestyle? On the one hand, the Talmud implies in numerous places that the convert has minimal knowledge. For example, the *gemara* (*Yevamot* 47a) describes the responsibility of the *beit din*:

The judges of the court inform him of some of the lenient *mitzvot* and some of the stringent *mitzvot*, and they inform him of the sin of neglecting the *mitzva* to allow the poor to take gleanings, forgotten sheaves, and produce in the corner of one’s field, and about the poor man’s tithe. And they inform him of the punishment for transgressing the *mitzvot*, as follows: They say to him: Be aware that before you came to this status and converted, had you eaten forbidden fat, you would not be punished by *karet*, and had you profaned Shabbat, you would not be punished by stoning, since these prohibitions do not apply to gentiles. But now, once converted, if you have eaten forbidden fat you are punished by *karet*, and if you have profaned Shabbat, you are punished by stoning.

This passage does not imply that the convert has extensive knowledge of the *mitzvot*. Furthermore, the *gemara* (*Shabbat* 68a) even discusses a case of a person who converted “among the non-Jews” and was never informed of the *mitzva* of Shabbat.

 On the other hand, the *gemara* (*Bekhorot* 30b) teaches that a *beit din* should not convert a person who accepts “all of the Torah, except for one [commandment].”

 This question has become an issue that divides different *batei din* around the world. We will devote several *shiurim* to tracing the foundations of the requirement of *kabbalat ha-mitzvot* and how different *Acharonim* understood these sources.

**Conversion of Minors (*Giyur Ketanim*)**

 The parents of a minor (i.e., a boy under the age of thirteen or a girl under the age of twelve) may also convert their child. However, as the Talmud (*Ketubot* 11a) teaches, since the child does not have the knowledge and awareness to accept upon himself the yoke of the Torah and *mitzvot*, the conversion is “*al* *da’at beit din*” (by the knowledge of *beit din*).

 The Talmud explains that the *beit din* employs the principle of “*zakhin lo le-adam she-lo befanav*” – one can perform a positive act on someone’s behalf without his knowledge. The *Rishonim* attempt to define the mechanism through which the *beit din* converts the minor and whether conversion of a minor is of biblical or rabbinic origin.

 The *gemara* adds that “when the child matures, he may protest.” This is understood to mean that the child may reject his conversion as a minor. Once again, the commentators discuss when this protest may occur and how to understand the entire notion of the conversion of a minor if he can undermine the conversion through his protest when he matures.

 The *Acharonim* discuss whether a child who will grow up in a non-religious home may be converted, as it is questionable whether converting a child who will not be raised to observe the *mitzvot* is considered to be to his benefit. This question is extremely relevant in Israel and abroad and impacts whether and when a *beit din* may convert the child of an intermarried couple (i.e., when the mother is not Jewish), adopted children, and, more recently, children conceived through various medical methods and those carried by a surrogate mother. We will attempt to clarify the basic principles and discuss the contemporary debates surrounding these questions.

In addition to the topics discussed above, we will discuss *halakhot* that may be relevant specifically to a convert after his or her conversion, including the ethnic identity of the convert (Ashkenaz or Sepharad), laws of prayer, marriage, etc.

Next week, we will discuss the Torah’s attitude towards conversion and the convert.