YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Laws of Conversion and Circumcision (3)**

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In memory of Rebbetzin Miriam Wise, Miriam bat Yitzhak and Rivkah,
by the Wise and Etshalom Families.
9 Tevet. Yehi Zikhra Barukh

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***Kabbalat Mitzvot* (3)**

**Contemporary Approaches to Kabbalat Mitzvot (1)**

Last week, we deepened out discussion of *kabbalat* *mitzvot*, focusing on the position of the *Shulchan Arukh*. In YD 268:3, the *Shulchan Arukh* cites the position of Tosafot, which maintains that the *kabbalat mitzvot* must be performed in the presence of three *dayanim*. However, in 268:12 he writes that if “a court…did not inform him of the reward for *mitzvot* and the punishment [for the failure to observe them] and he circumcised himself and immersed in the presence of three ordinary people, he is a convert,” implying that even if the convert is not informed of the *mitzvot*, the conversion is valid.

 We noted that the *Acharonim* offer different explanations of the Rambam, each representing a different understanding of *kabbalat mitzvot* – whether as a procedural/legal requirement, a ritual act or condition, or the broader context and definition of the conversion. However, the more practical matters of defining *kabbalat mitzvot*, what the convert is expected to observe, and whether a convert who does not observe the *mitzvot* after his conversion has invalidated his *giyur* are not necessarily dependent upon these understandings.

 This week we will begin our discussion of contemporary approaches to conversion in general, and *kabbalat mitzvot* in particular.

**Conversion in the Modern Era**

 Despite the halakhic discussion found in the *Rishonim*, Rambam, *Shulchan Arukh,* and its commentaries, early authorities did not elaborate upon the practical aspects of conversion or, more specifically, *kabbalat mitzvot*. This is due to several reasons.

 In the pre-modern era, although there were numerous incidents of apostacy, there were very few conversions to Judaism. In many regions, it was even illegal for Jews to accept non-Jewish converts. Furthermore, the few who did convert – and there are records of conversions in both Ashkenazic and Sephardic lands – most likely simply assimilated into the local Jewish community. Since Jewish communities were overall relatively observant, the convert accepted the religious norms of the community, even without any formal education.

 In the modern era, in the wake of the emancipation in Western Europe, and later in Eastern Europe and in Mediterranean regions, Jews were permitted and even encouraged to become full members of their non-Jewish societies, leading to assimilation and intermarriage. In some cases, a Jewish man wished to convert his spouse and his non-Jewish children. The responsa literature regarding conversion relates primarily to these cases. (In addition to the numerous responsa we will study, see, for example, essays such as “[*U-KeTorah Ya’aseh*](https://hebrewbooks.org/5778)” [R. Shalom Kutna, 1897] and “[*Chakor Davar*](https://hebrewbooks.org/32464)” [R. Moshe Shmuel Glasner, 1901], which were dedicated to this question.) Similarly, the Israeli Rabbinate confronted the situation of Jews who arrived with their non-Jewish spouses immediately after World War II (see *Heikhal Yitzchak*, EA 1:21; *Piskei Uziel Be-She’elot Ha-Zman* 67, and R. Unterman’s “*Hilkhot Geirut Ve-Derekh Bitzu’an*,” in *Torah SheBe’al Peh* 13).

 The *posekim* relate to two halakhically separate yet inseparable questions: May one convert for the sake of marriage, and what level of religious observance does the *beit din* expect from the potential convert? Beyond the halakhic analysis and practical conclusion, the literature also reveals different responses and solutions to the growing phenomenon of intermarriage.

**Conversion for the Sake of Marriage**

 In previous *shiurim*, we discussed the role of “motive” in conversion. The Talmud ([*Yevamot* 24b](https://www.sefaria.org/Yevamot.24b?lang=he-en&utm_source=etzion.org.il&utm_medium=sefaria_linker)) cites a debate regarding the validity of a conversion performed for “impure” motivations. R. Nechemia maintains that conversions performed for personal benefit, as well as those that were coerced, are invalid (see also *Masekhet Gerim* 1:4). The *gemara* rules in accordance with the Rabbis, who opine that if one converted for ulterior motives, the conversion is still valid. Apparently, the Talmud concludes that even one whose primary motivation to convert is “not for the sake of Heaven” may wholeheartedly desire to be Jewish and fulfill the *mitzvot*.

 The Rambam (*Hilkhot Issurei Bi’ah* 13:14) rules that it is the *beit din*’s responsibility to investigate a convert’s motives. But despite the reluctance to accept those who convert for the sake of marriage, during the period of the *Rishonim* this prohibition was not strictly followed. For example, Tosafot (*Yoma* 82b, s.v. *mah*) cite 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.

 Similarly, 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*). The Rambam was asked whether the man may continue his relationship with this woman. He concludes:

As we have already ruled numerous times, he should release her and then marry her, and we do this in order to motivate him to repent (*takanat ha-shavim*), as “it is better to eat [prohibited] sauce and not the fat itself.” And we rely upon the rabbis, who said, “It is time for the Lord to act, for your law has been broken” ([*Tehillim* 119:126](https://www.sefaria.org/Psalms.119.126?lang=he-en&utm_source=etzion.org.il&utm_medium=sefaria_linker)).

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.

 In recent history, numerous prominent halakhic authorities justified performing conversions for the sake of marriage. While employing halakhic arguments, their rulings are certainly in the spirit of the words of R. Yosef Karo (*Beit Yosef*, YD 268): “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, cited above, 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. Finally, some argue that it is necessary to be lenient in order to minimize intermarriage and assimilation.

 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*).

 Furthermore, R. Kluger explains that since they are able to be married even without the conversion, 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), similarly 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 (*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*, 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* who answer his question 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. We will address them in depth next week. 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. R. 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. This appears to be the position of numerous other Sephardic authorities and was the custom in the North African/Mediterranean region. We will discuss his position below.

 In a previous *shiur*, we presented various approaches from twentieth-century authorities, including R. Uziel and R. Moshe Feinstein, as well as the ban on all conversions observed in Syrian Jewish communities.

***Kabbalat Mitzvot* – What is Expected from the Convert**

 Although the *Rishonim* discuss the role of *kabbalat ha-mitzvot* in the conversion process, as we discussed in previous *shiurim*, they do not elaborate upon the extent of the convert’s knowledge, nor do they discuss the depth and scope of his commitment to observe the *mitzvot*. As we noted previously, until the 16th-17th century, the commentaries did not even discuss whether a convert may study Torah in preparation of his conversion (*Maharsha*, *Shabbat* 31a; see also *Meiri*, *Sanhedrin* 59).

 Regarding Talmudic sources, we already learned that the Talmud (*Yevamot* 47a) describes how the *beit din* “informs” the convert of certain *mitzvot*. Aside from that, there are other, seemingly contradictory sources that may indicate the scope and depth of the convert’s *kabbalat ha-mitzvot*.

 On the one hand, the Talmud (*Shabbat* 31a) relates:

The Sages taught: There was an incident involving one gentile who came before Shammai. The gentile said to Shammai: How many Torahs do you have? He said to him: Two – the Written Torah and the Oral Torah. The gentile said to him: With regard to the Written Torah, I believe you, but with regard to the Oral Torah, I do not believe you. Convert me on condition that you will teach me only the Written Torah. Shammai scolded him and cast him out with reprimand. The same gentile came before Hillel, who converted him [and began teaching him Torah].…

There was another incident involving one gentile who came before Shammai and said to Shammai: Convert me on condition that you teach me the entire Torah while I am standing on one foot. Shammai pushed him away with the builder’s cubit in his hand. The same gentile came before Hillel. He converted him and said to him: That which is hateful to you do not do to another; that is the entire Torah, and the rest is its interpretation. Go study.

There was another incident involving one gentile…who came before Shammai and said to him: Convert me on condition that you install me as High Priest. Shammai pushed him with the builder’s cubit in his hand. He came before Hillel; he converted him.

Eventually, the three converts gathered together in one place, and they said: Shammai’s impatience sought to drive us from the world; Hillel’s patience brought us beneath the wings of the Divine Presence.

These beautiful stories clearly imply that Hillel converted these non-Jews without any knowledge or education regarding the *mitzvot*. Tosafot (*Shabbat* 21a and *Yevamot* 24b) explain that Hillel was confident that these converts would come to accept the *mitzvot*. The *Beit Yosef* (YD 268) derives from here that the decision whether or not to convert a non-Jew “is dependent upon the perception of (*re’ut einei*) the *beit din*.”

 Similarly, the Talmud (*Shabbat* 68b) discusses the case of a “convert who converted among the gentiles.” This convert, the *gemara* explains, is completely unaware of the laws of Shabbat. This passage also implies that a *beit din* may convert a non-Jew with little or no knowledge of Jewish law.

 On the other hand, the Talmud (*Bekhorot* 30b; see also Tosefta, *Demai* 2:5) teaches:

A gentile who comes to convert and takes upon himself to accept the words of Torah except for one matter is not accepted as a convert. R. Yosei, son of R. Yehuda, says: Even if he refuses to accept one detail of rabbinic law [he is not accepted].

This passage implies that the convert is expected to accept the entire Torah upon himself, included rabbinic laws, without exception. Some (see Tosafot, above) explain that despite this passage, if the judges are confident that the convert will eventually observe the entire Torah, he may be converted. Others, as we shall see, suggest that this passage offers guidance to the *beit din*; however, even if the convert did not intend to accept the entire Torah, the conversion is valid. Yet others explain that that this passage teaches that one who explicitly rejects certain laws may not be converted; however, it he accepts them but realizes that he may be unable to fulfill them, his conversion is valid. We will discuss these views below.

 The *Acharonim* who discuss *kabbalat mitzvot* must navigate these important Talmudic sources. We will now discuss a handful of contemporary approaches.

**R. Benzion Meir Chai Uziel and Other Sephardic Authorities**

 R. Benzion Meir Chai Uziel (1880-1953), who served as the Chief Rabbi of Tel Aviv-Jaffa (1911-1939), Salonika (1921-1923), Mandatory Palestine (1939-1948), and the State of Israel (1948-1953), authored close to three-dozen responsa on the topic of conversion. Before we explore R. Uziel’s approach to *kabbalat mitzvot*, we must first understand the context within which R. Uziel ruled and his overall approach to conversion.

 Like his Eastern and Western European contemporaries, R. Uziel was confronted with the rising phenomenon of intermarriage within the Sephardic Jewish world, even among traditional (*mesorati*) families. On the one hand, R. Uziel emphasizes that “a Jewish woman who marries a non-Jew has betrayed her people and has shown contempt for this Biblical prohibition,” and he concludes that “there is no greater desecration of God’s name than this” (*Mishpetei Uziel*, 3 OC 6). On the other hand, R. Uziel expresses great concern that intermarriage is “a cancerous growth which threatens to destroy the Jewish People” (ibid. 7:18).

 R. Uziel notes that in the time of Ezra, the Jewish People also faced the phenomenon of intermarriage:

And when these were completed, the chiefs approached me, saying, "The people of Israel, the priests, and the Levites were not separated from the peoples of the lands, like the abominations of the Canaanites, the Hittites, the Perizzites, the Jebusites, the Ammonites, the Moabites, the Egyptians, and the Amorites. For they have taken of their daughters for themselves and for their sons, and the holy seed has become mingled with the peoples of the lands, and the hand of the chiefs and the deputies was first in this treachery.” (*Ezra* 9:2-3)

In response to hearing this, Ezra relates: “I rent my garment and my robe, and I tore the hair of my head and my beard, and I sat bewildered” (ibid. 4). Ezra then demands that the Jewish men separate from their non-Jewish wives (ibid. 10:10-11). R. Uziel comments that although this might be the ideal policy (ibid.), this strategy is currently impossible to implement. He therefore concludes, out of concern for the Jewish men and their children who will be lost to the Jewish People, that “we are obligated to side with option of their conversion” (ibid. YD 2:65).

 Aside from the question of whether a *beit din* may accept one who converts for the sake of marriage, which we discussed above, R. Uziel was well aware that converting non-Jewish spouses would most often entail compromising on a full commitment to religious observance.

 In a well-known responsum written in 1951, R. Uziel responds to a question posed by R. Yehuda Leon Halfon (ibid. 7:20). R. Halfon describes how in his city, Tetuan (Morocco), there are Jews who are married to non-Jewish women and have children. These Jews “do not observe the laws of the Shabbat and Festivals, prohibited foods, and [do not observe] the positive and negative commandments,” however, they do not wish to separate from the Torah and to be considered to be outside of the religion.” He asked whether their non-Jewish wives and their children may be converted.

 R. Uziel forcefully argues that R. Halfon, may, and should, convert the non-Jewish spouses and their children:

Not only if they are children of a Jewish mother whose children are Jews, but even if they are children of a non-Jewish mother, behold they 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).

 Regarding *kabbalat mitzvot*, R. Uziel deduces from the Talmud’s description of the conversion process – i.e., that the convert is informed of some of the mitzvot, the reward and punishment associated with the commandments, and that the court “does not overwhelm him and they are not exacting with him [about the details of the *mitzvot*]” – that “[the *beit din*] does not require the convert to fulfill the *mitzvot*.” R. Uziel further asserts:

The court does not need to know that he will fulfill that *mitzvot*, for if that were not the case, no converts would ever be accepted in Israel, for who can guarantee that this non-Jew will be trustworthy regarding all *mitzvot* of the Torah?

He concludes:

It is permissible and it is a *mitzva* to accept male and female converts, even though it is known to us that they will not fulfill all of the *mitzvot*, because eventually they will fulfill them and we must offer them this opening, and if they do not fulfill the *mitzvot*, they will bear their sins and we are free [of responsibility].

This approach appears throughout R. Uziel’s responsa.

 R. Uziel appears to maintain that although *kabbalat mitzvot* is undoubtedly an integral part of the conversion process and the convert must accept to fulfill all of the *mitzvot*, when the *beit din* is convinced that it is in the best interest of the family and of the Jewish People to convert the non-Jewish spouse, they are not concerned with whether or not the convert will actually observe the commandments.

 This overall lenient approach to conversion was shared by other Sephardic decisors, such as R. Eliyahu Chazan (Egypt, d. 1908) in his *Neve Shalom* (*Minhagei No Amon*, YD, *Dinei Gerim* 2), who writes:

Many have transgressed and have been trapped [in relationships] with the daughters of non-Jews, and after days and years they are overtaken by a pure spirit and they request to convert their wives. And some of them already have boys and girls and they wish to convert them as well. This have already happened many times in this city, and the rabbis who preceded me acted and converted them and married them with a *ketuba* and *kiddushin*, and I was compelled to do the same. Certainly, these rabbis relied upon what the Rambam wrote in his responsum… and so much more so in this time of freedom and liberty, which, due to our many sins, cause the destruction of all religions.

R. Refael Aharon ben Shimon (Egypt, d. 1928), in his *Nahar Mitzrayim* (*Hilkhot Gerim*, p. 111), writes regarding a similar case: “We look the other way.” Similarly, R. Moshe HaKohen (*Ve-Heshiv Moshe*, YD 51) writes: “Even if at the time of his acceptance of the *mitzvot* he intends to transgress some of them, nevertheless he accepted that if he transgresses he will be punished, and he is a valid convert.” R. Yosef Messas (Morocco, Haifa, d. 1974) attests that it is customary “in the Western cities, including the cities of Algeria and Tunis,” to accept “anyone who comes to convert” (*Mayim Kedoshim*, YD 108; see also *Otzar Ha-Mikhtavim* 765). R. Chaim David Ha-Levi, former Chief Rabbi of Tel Aviv, also suggests adopting this approach (*Aseh Lekha Rav* 3:29). (See also R. Ovadia Hedaya, *Yaskil Avdi*, YD 16; and R. Chaim Amsalem, *Sefer Rei’ach Nicho’ach,* regarding R. Yachia Benharroche [Morocco, d. 2000].)

 It appears that these authorities believe that the validity of the *giyur* is dependent upon following the proper procedure and the *beit din*’s decision to accept the convert. As we shall see next week, other *Acharonim* maintain that the validity of the conversion may depend upon the scope and sincerity of the convert’s *kabbalat ha-mitzvot*.

 Next week we will present the approaches of other contemporary *posekim*.