

May a Convert be a Member of a Rabbinical Court for Conversion?

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Orthodox Jews in America live in a dynamic environment that is virtually unprecedented in Jewish history. This has created new realities which halacha must contend with and provide for. Unsurprisingly, the increase in converts within the Orthodox community has borne an increased focus on the related halacha.¹ Conversely, until a century ago, conversions were relatively infrequent and thus did not demand much practical discussion.² The sparse pre-modern halachic literature on the topic reflects this reality.

Converts and their children have become an active part of the Orthodox Jewish community. Many achieve leadership roles – some learn in Yeshiva for decades and become rabbis. As a result of the increased presence of converts within the Jewish community, a new halachic question has emerged: Is it

1. See for example, Michael Broyde and Shmuel Kaddosh, "Book Review: Transforming Identity," *Tradition* Volume 42:1 Spring 2009 at pages 84-103.

2. See for example the first footnote in *Aruch HaShulchan, Yoreh Deah* 268, which makes it clear that conversions were very rare.

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permissible for a convert to serve as a member of a *bet din* when the *bet din* oversees a conversion? This is a serious topic since, as is true for any halachic matter that needs a *bet din*, an unacceptable *bet din* is hazardous for all parties involved. This is especially important with regard to conversions, due to the serious consequences associated with questionable conversions.

Part I: The Talmud's Discussion of a Convert Serving on a *Bet Din*

Classical talmudic sources address the restrictions and requirements that halacha places on a *dayan* serving on a rabbinical court. However, none of the classical sources specifically address the question of whether a convert can serve on a *bet din* that is presiding over a conversion. Rather they deal with the general qualifications necessary to serve on a rabbinical court in various types of cases. The Mishnah in Tractate *Niddah* 6:4 states the general rule that:

Anyone who is fit to judge capital cases is fit to judge monetary cases, but there are those who are fit to judge monetary cases that are not fit to judge capital cases. Anyone fit to judge is fit to be a witness, but there are those who are fit to be a witness but are not fit to judge.

This source tells us that depending on the subject matter of the case, the requirements of the *dayanim* vary. Here we are given four possible tiers of 'fitness': (1) Those who are fit to judge capital cases, monetary cases, and to be a witness; (2) Those who are fit to judge monetary cases and to be a witness; (3) Those who are only fit to be a witness; (4) Those who are not fit to judge and cannot serve as a witness. From this source we can gather that there is a hierarchy of importance based on the nature and gravity of the subject matter being adjudicated. For example, capital cases are stricter than commercial cases.

The Mishnah *Sanhedrin* (4:2) elaborates by identifying those who are fit to judge capital cases, and from this information,

the Mishnah further infers which individuals are fit to judge financial cases and which individuals may serve as witnesses. It states:

Anyone is fit to judge a monetary case, but not everyone is fit to judge a capital case; only Kohens, Levites, and Israelites who can marry into a Kohen's family.

From a simple read of this Mishnah we learn that Jewish men are unfit to judge capital cases if, had they been women, they would be ineligible to marry a Kohen. This restriction purposely identifies and excludes those individuals who are, for one reason or another, not fully qualified to sit in judgment of all cases. The Talmud reasons that the more authority one person can exercise over another, the more that person ought to be a natural member of society. According to Jewish law, individuals who can marry into a Kohen's family are more 'natural' members of Jewish society, as they can marry all members of society.

This type of distinction should not make the reader morally uncomfortable nor should one think it is an unusual distinction for any and every legal system to make. Many legal systems restrict access to high political office to people who are natural born citizens. For example the U.S. Constitution states in article II, Clause 1 that:

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President.

If one became an American citizen through "conversion" ("naturalization"), he or she cannot become the President (or the Vice President)³ of the United States. This is analogous to the Jewish legal concept that a convert cannot become a king

3. Since the Twelfth Amendment to the United States Constitution states that: "[N]o person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States" that seems a reasonable insight.

of the Jewish people.⁴

A *beraita* quoted in the *Yerushalmi*⁵ in reference to this Mishnah tells us more about who is *fit* (rather than who is unfit) to judge monetary cases: "Anyone is fit to judge a monetary case." Rabbi Yehuda says: "Even a *mamzer*."⁶ While a *mamzer* is excluded from sitting on capital cases, he is permitted to serve as a member of a *bet din* adjudicating financial cases. Rabbi Yehuda uses the term "even" because a *mamzer* is not only barred from marrying into a Kohen's family; he is also barred from marrying into any Israelite family. Yet, he is still permitted to serve on a *bet din* judging financial matters. The Talmud continues:

Anyone is fit to judge a monetary case – Who does the word "anyone" include? Rabbi Yehuda said: "It comes to include a *mamzer*." Wasn't this already taught? "Anyone who is fit to judge capital cases can judge monetary cases, but not everyone who is fit to judge monetary cases is fit to judge capital cases." The question was asked: "Who does [the word] 'anyone' include?" And Rabbi Yehuda said: "It comes to include a *mamzer*!" One of them comes to include a *mamzer* and one of them comes to include a convert. And this is necessary, for if it told us [only] "convert", we might assume that this is because he is fit to "enter the community" but for a *mamzer* we would have said no. And if it told to us [only] *mamzer*, we might assume this is because he came from Jewish parents, but for a convert, who did not come from Jewish parents, we would have said no. Hence, they are both necessary to teach that both may serve on a *bet din*.⁷

4. See Rambam *Laws of Kings* 1:4.

5. Tractate *Sanhedrin* 4:8.

6. A *mamzer* is a child resulting from a sexual relationship between two Jewish people ineligible to marry each other at the moment of conception. A *mamzer* is precluded from marrying Kohanim, Levites, and Israelites.

7. *Sanhedrin* 36b.

Here the Talmud gives us some insight as to why capital cases/warrant such strict requirements that neither a *mamzer* nor a convert is an acceptable *dayan*. From this and other talmudic sources we see that serving on a *bet din* for a financial matter entails a fundamentally different role than does a judge serving on a capital case. *Dayanim* who we might think are ineligible for positions of discretionary authority (*serarah*) are nonetheless eligible to serve on a rabbinical court for financial cases. The rationale is that in the case of a commercial dispute, the parties involved are free to settle the dispute using any agreed-upon resolution they wish and in so doing they can accept any agreed-upon judge to rule on their case.⁸ In financial cases, a monetary asset or interest is in dispute. Since individuals have complete ownership and authority over their monetary assets, disputants can accept whatever judges they wish.⁹

Financial cases stand in stark contrast to capital cases, where the accused are not free to craft any resolution or court that is to their liking.¹⁰ In fact, there is no such thing as "accepting a resolution" in a capital case. No party can agree to have himself killed as a resolution because, as opposed to financial interests, individuals do not have complete ownership and dominion over their bodies.¹¹ Capital cases entail the fullest level of adjudication in Jewish law, and thus the law reserves the authority to judge capital cases to those Jews who, among other qualifications, satisfy certain lineage requirements.¹²

8. See *Shulchan Aruch, Choshen Mishpat* 3:1.

9. This category includes a person who gives money to somebody who is not entitled to it as a matter of halacha.

10. In the Jewish tradition a person is not even the owner of his own body and thus cannot agree to have himself killed and certainly may not commit suicide.

11. Suicide, for example, is thus prohibited; see for example *Yoreh Deah* 345:1.

12. To explain this, consider the following: if a person confesses to owing another person money, his statement is adequate to enforce him to pay the

An even more restrictive rule is put forward in *Yevamot* 102a with regard to the *bet din* for *chalitza*:

As the *beraita* states in the name of Rabbi Shmuel bar Yehuda from the verse '*beyisrael*' – a *bet din* of born Jews and not a *bet din* of converts . . . Rava states that a convert may judge his fellow convert as a matter of Torah law, as it states "you shall place upon you a king chosen by God. From among your brothers you shall choose a king". "From among" means among your brothers, but a convert may judge a fellow convert. If his mother is Jewish, he can judge even a Jew. But for *chalitza*, both his mother and father must be Jewish...

The very nature of *chalitza* as a non-adjudicative hearing requires that the participating *dayanim* meet additional requirements as compared to *dayanim* presiding over commercial matters. During *chalitza*, the members of the *bet din* serve as witnesses to validate the change in a person's halachic status; here the *bet din* acts in a different role as compared with the adjudicative role a *bet din* serves in a commercial matter.

Similar to *chalitza*, conversion is also a status-changing event, which could explain why many scholars conclude that conversion and *chalitza* follow the same requirements. In the case of *chalitza*, a Jew who is a convert is ineligible and even the child of a convert is ineligible to serve on the *bet din* – regardless of whether the widow having the *chalitza* done is a convert herself. Unlike financial matters wherein some talmudic sources rule that it is acceptable for a convert to judge his fellow convert, when it comes to cases involving *chalitza*, no such leniencies apply. This distinction could be understood as differentiating between cases that require the *dayanim* serving on the *bet din* to make a halachic judgment as

money, whereas if one confesses to a capital crime, he cannot be executed based on that confession.

compared with cases where the *dayanim* serve as witnesses in order to officially document what occurred.

Section II: *Rishonim* and *Shulchan Aruch* on Converts in a *Bet Din*

The *Rishonim* and *Shulchan Aruch* glean a number of coherent rules regarding the acceptability of converts¹³ serving on a *bet din* from the talmudic sources discussed earlier. Rambam writes:

A *bet din* of three, one of whom is a convert, is an invalid *bet din*, unless his mother is a born Jew...¹⁴

All are valid to judge monetary matters, even a convert, so long as his mother is a born Jew. A convert may judge his fellow convert, even if his mother is not Jewish.¹⁵

According to Maimonides (Rambam), it is only permissible for a convert¹⁶ to preside over financial cases if all the parties involved are converts. However, Rashi disagrees with the Rambam because he understands the Talmud's leniency that permits converts to judge fellow converts to extend to capital cases as well as to financial cases. Rashi posits that if the convert on trial agrees to accept a convert as a judge in capital cases, then such a *dayan* is permitted.¹⁷ Tosafot agree with the

13. For clarity's sake, it is necessary to note a linguistic peculiarity found in the sources. In the time of the Talmud, *Rishonim*, and *Shulchan Aruch*, the word *ger* was often used to denote either a non-Jew who converted to Judaism or the child of a convert. Thus while we might find the phrase "a *ger* whose mother converted" to be an oxymoron, this phrase is used repeatedly in the classical, pre-modern sources.

14. *Sanhedrin* 2:9.

15. *Sanhedrin* 11:11.

16. In this context, "convert" refers to the modern definition of a convert: only a Jew who converted to Judaism, not to his children.

17. Rashi, *Yevamot* 102a, s.v. *ger dan chavero ger*.

rule of Rambam,¹⁸ as do the Rif,¹⁹ the Rosh,²⁰ and the Tur.²¹ In the matter of *chalitza*, all authorities agree that a convert is prohibited from serving as a *dayan*.²² Even the children of converts (if both the parents are converts) may not sit as a *dayan* on *chalitza* matters.²³

The *Shulchan Aruch* summarizes the halacha in three different places, all consistent with each other. *Even HaEzer* states the following regarding a *bet din* for *chalitza*:

If one of the members of the *bet din* is found related, otherwise invalid, or a convert, the court is invalid. Even if his father is a convert and his mother a born Jew, the child is invalid to serve as a *dayan* for *chalitza* until his father and mother are born Jews. *Ramo*: Some say if his father is Jewish, he may serve.²⁴

In *Choshen Mishpat* 7:1 the *Shulchan Aruch* states:

A *bet din* of three in which one member is a convert, this court is invalid to judge born Jews, unless the convert's mother [*Ramo*: or father]²⁵ is a born Jew. A convert may judge his fellow convert, even if his mother is not a born Jew.

In *Yoreh Deah* 169:11, the last halacha found in *hilchot gerim* (laws of converts) states:

18. Tosafot, *Yevamot* 102a s.v. *ger*.

19. Rif, *Sanhedrin* 13b.

20. Rosh, *Sanhedrin* 3:10.

21. Tur, *Yoreh Deah* 269.

22. *Shulchan Aruch Even HaEzer* 169:1.

23. Ibid. There is a conceptual dispute present about the nature of this rule, with some maintaining that it is for the children of two converts that the Talmud needs the specific textual insight, and of course a convert himself is never eligible; others disagree with this interpretation.

24. *Even HaEzer* 169:1.

25. *Ramo*'s view accepts that either the father or the mother may be a born Jew.

As a matter of judging, a convert is valid to judge monetary matters only if his mother is Jewish. But if his mother is not Jewish, he is not allowed to judge a Jew; but his fellow convert he may judge. However, he may not sit on a *chalitza* matter even if the woman doing *chalitza* is a convert, until both the mother and father are of Jewish lineage.

In sum, a convert may only sit as a judge on financial cases if all parties to the case are converts. The only area of halacha still unclear is the acceptability of one whose mother is a convert and father is a born Jew, which the *Shulchan Aruch* and *Ramo* argue about, and which remains a contemporary dispute. All subsequent restatements of Jewish law have accepted these rules that limit converts to judging monetary matters with the consent of the parties.²⁶

Part III: May a Convert Serve on a *Bet Din* for a Conversion?

There is no discussion in the classical, pre-modern sources, as to whether a convert may sit on a *bet din* for conversions. To the best of my knowledge, the first authority to address this issue is Rabbi Shlomo Kluger (1783 - 1869). In his commentary on *Yoreh Deah*, he states:

On the question of whether a convert can serve on a *bet din* to accept converts: It is true that according to Rashi in *Yevamot* 102a, a convert can judge his fellow convert on capital matters and it is obvious according to this view that he can sit on a *bet din* to accept converts as well. But according to Tosafot, who argue there and rule that on capital matters he [a convert] cannot judge... Thus, according to Tosafot's view, it appears that a convert can

26. See *Aruch HaShulchan CM* 7:1-5 as well as *Kovetz HaPoskim* on *Choshen Mishpat* 7:1.

not sit on a *bet din* for conversion.²⁷

Rabbi Kluger contends that a rabbinical court for conversion should follow the same standards as a rabbinical court for capital matters, as opposed to the standards for financial matters. Since normative halacha excludes converts from serving on capital cases,²⁸ Rabbi Kluger posits that a convert may not sit on a conversion case either.

Rabbi Akiva Eiger further advances the classic explanation as to why capital cases are likened to conversions – serving as a *dayan* in both capital cases and in conversion cases are forms of *serarah* (authority), in which a convert cannot participate; similarly, being a king, which is another form of *serarah*, is something that a convert cannot do. Rabbi Akiva Eiger writes:

Rambam writes in chapter one, paragraph four, of the *Law of Kings*, that one may not appoint a convert as king until his mother is a born Jew. Not only is kingship restricted, but even all positions of authority within the Jewish community [are restricted to non-converts] and even the manager of the water well who distributes water to farmers [are restricted to non-converts]; and even more so [converts are restricted from serving as] judges or local presidents even after many generations.²⁹

Responsa *Bemareh Habazak*, a multi-volume collection of questions and short answers with annotations prepared by the *Eretz Hemdah* Institute under the leadership of Rabbi Shaul Yisraeli (1910-1995) also takes Rabbi Kluger's view.³⁰ Additionally, Rabbi Yisraeli notes that such a conversion [in which a convert sat on the *bet din*] is valid *bede'eved* (post factum), based on the possibility that Rashi is correct, or the

27. *Yoreh Deah* 269:3 and *Responsa Tuv Tam Vedat* (Volume 6 page 595).

28. See *Tur Yoreh Deah* 268.

29. *Yoreh Deah*: 269:1.

30. *Bemareh Habazak* 3:82 (at page 136). (This volume is the last one where every *teshuva* published was approved by Rav Shaul Yisraeli).

view that a conversion is valid with just one *dayan* rather than three.³¹

A second approach, adopted by Rabbi Shalom Yosef Elyashiv (b. 1910), argues that a conversion is most analogous to *chalitza* because they both require that the *bet din* witness and record what is happening rather than adjudicate a dispute. Since converts are unquestionably prohibited from serving on a *bet din* presiding over a *chalitza*, it follows that converts are also prohibited from sitting on conversion panels. Moreover, just like a *chalitza* is invalid, even after the fact, if a convert was participating on the panel,³² so too a conversion is invalid even after the fact if a convert sat on the panel. Rabbi Elyashiv states:

Tosafot in *Ketubot* (44b s.v. *veama*) write that even though a convert cannot be a judge, nonetheless he can judge converts; this is the halacha. From this it appears that for matters of conversion [which require three *dayanim*] a convert is invalid as a *dayan* since the central part of accepting converts is similar to judging Jews, as the judgment is about converts entering the Jewish community, and one who is judging the Jewish community is like one who is judging Jews.³³

The editor of this volume then added the following note:
"And I asked Rabbi Elyashiv if it voids the conversion even

31. *Mordechai* in *Yevamot* 36 cites the view of Rabbi Yehuda ben Yom Tov and Rabbenu Simcha that conversion needs but a single *dayan* and Tosafot (*Kiddushin* 62b s.v. *ger*) ponder such a possibility, albeit conclude that such is not to be followed *lehalacha*. Nearly all the *Rishonim* accept Tosafot's view. So, too, a small group of *Rishonim* adopt Rashi's view that a *ger* can sit on death penalty cases involving a convert (see *Bach, Choshen Mishpat* 7, who cites Rabbenu Yerucham as adopting Rashi's view).

32. This is true even if the woman doing *chalitza* explicitly accepts a convert as a member of the panel.

33. See Rabbi Shalom Yosef Elyashiv, *Hearot Lemasechet Kiddushin*, page 436.

after the fact if one of the *dayanim* was a convert and he said, in his view, 'yes'.³⁴

A decision issued by the rabbinical court in Jerusalem over a decade ago supports Rabbi Elyashiv's opinion.³⁵ The decision concluded that conversions and *chalitza* are similar in that they both serve to change the halachic status of the person as opposed to adjudicating a matter; therefore, the rabbinical court involved must be the same for both. This view suggests that the issue has nothing to do with whether a convert may serve on a *bet din* in general – rather it reasons that the members of a *bet din* for a conversion or *chalitza* serve as the gate keepers of an individual's new halachic status, and this role is inappropriate for a convert. Rabbi Hershel Schachter indicates a preference for this view as well.³⁶

The third view, adopted by Rabbi Gedalya Felder (1921-1991),³⁷ proposes that the role played by a rabbinical court in a conversion is most similar to the role of a *bet din* in a financial court case. He understands the convert-in-waiting to be close enough to an actual convert, and thus the individual who is in the process of converting may accept another convert as a *dayan* in his case. It is considered no different than any other case in which it is valid for a convert to judge a fellow convert, such as financial disputes. Rabbi Felder states:

From what we have explained, one could say that we rule that a convert may judge his fellow convert and according to Rashi, even capital matters . . . It is ruled in *Shulchan*

34. Id.

35. See *Dinnai Mamonot Uberurai Yuchsin*, 7:416.

36. See Rabbi Hershel Schachter, "Bedin Ger Dan Chavero Ger" *Kol Zvi* 5762, 294-301 at page 299. Rabbi Schachter quotes this view in the name of *Shalmei Shmuel* 45 of Rabbi Shmuel Lev Yulov.

37. *Nachalat Tzvi* 1:226-227; note, this *teshuva* is only found in the second edition of this work and not the first. But see Rabbi Chanoch Henoch Cohen, "Be-inyan Ger Ha'im mutar letzorfo l'dayan Bevet din Shel Shelosha be-Kabbalat Ger", *Shana beShanah* 5752, 259-265.

Aruch (*Yoreh Deah* 269:11; *Choshen Mishpat* 7:1) that on financial matters a convert can judge other converts. And conversion is called 'judgment' and based on that, we need three judges, and conversion is no different from financial matters. I found a responsum on this matter in *Responsa She'arit Yisrael* from the great Rabbi Israel Zev Mintzberg (*Yoreh Deah* 22) who contemplated this matter concisely and ruled that a convert may sit on a *bet din* to accept faithful converts, and [the convert can] be involved in every matter related to conversion.

In this view, conversions are analogous to monetary cases involving only converts, where it is agreed that a convert is permitted to judge another convert. Support for this opinion, albeit *bede'eved*, can be found in the views of the *Responsa Bet Mordechai* 1:81 and in the *Aderet's Maneh Eliyahu* 8 as well as Dayan Grosnas' *Lev Aryeh* 21. As a reasonable proof to this view, one could add that during a discussion concerning which parts of a conversion may take place at night, both the *Shach* and the *Taz* in *Yoreh Deah* 268:9 seem to analogize the rabbinical court for conversion to the rabbinical court for financial matters, at least *bede'eved*.

It might well be that the basic dispute here is about whether the *bet din* plays an adjudicative or observational role in a conversion case. In a *chalitza*, a man or woman does not need permission from the judges to perform *chalitza*: the role of the *dayanim* is merely observational, and the process runs because of the action taken by the parties involved. The *dayanim* are only needed to witness the halachic status change, and they do not make a judgment on the merits of the case. In a commercial dispute or a death penalty adjudication, the judges serve a much more central role because they decide the case on its merits. In order to complete their job in a commercial or capital dispute, the *dayanim* must engage in the discretionary act of judgment and adjudication. The logical question follows: Into which of these categories does

conversion fit?³⁸

Section IV: Conclusion and Determining the Normative Halachic Practice

The modern sources put forth three views as to whether a convert may sit on a conversion panel; each view presents a unique reasoning supporting its conclusion.

- Rabbi Kluger posits that a conversion is more serious than financial matters and thus, just because a person is qualified to hear financial cases, he is not necessarily fit to serve on a conversion panel. The rationale for this reflects the seriousness with which Jewish law views a convert's entrance into the Jewish nation. Conversions are matters of the soul, quite literally, and therefore analogous to capital cases, which are also matters of the soul.

- Rabbi Felder disagrees with Rabbi Kluger's logic; he understands conversions to be analogous to financial cases involving only converts. He therefore concludes that since converts may serve on financial cases involving converts, they are also eligible to be *dayanim* in conversion cases.

- On the other hand, Rabbi Elyashiv conceptualizes conversions in a completely different manner: As conversion is an individual's entry into the Jewish people, it is a status-changing event of great magnitude. Therefore, the case most closely resembles that of *chalitza*, which is also a status-changing event. Rabbi Elyashiv concludes that a fully-authorized *bet din* is needed in both *chalitza* and conversion cases.

The basis of this dispute can perhaps be found in the *Shach*³⁹

38. A corollary of this might well be the question of whether a *bet din* for conversion can decline to convert someone as a matter of discretion when he or she is completely ready to convert, merely because the *dayanim* wish not to convert this person.

39. *Yoreh Deah* 268:9.

where the *Shach* ponders two competing understandings regarding the nature of conversions. The *Shach* writes:

Acceptance of mitzvot not in front of a panel of three rabbis is invalid even after the fact, as is the opinion of Tosafot and the Rosh that acceptance of commandments is like the opening of a court case, which, as explained in *Choshen Mishpat* Chapter 5 needs to be during the day. But immersion and circumcision is like the conclusion of a court case that, as is explained there, can be finished at night. This matter is a little bit difficult since the Ramo writes, in *Choshen Mishpat* 5:2, that there are those who say that if they proceed and judge at night their judgment is valid. If that is so, according to this view certainly even the acceptance of commandments is valid after the fact at night, and the Ramo should not have been silent here. It is possible that specifically only for money matters, Ramo contemplated as correct the view that court proceedings at night are valid since on money matters a court can freely transfer property. This is similarly stated in *Bach* in *Choshen Mishpat* 5, who notes that for matters of *chalitza* we are strict and invalidate a *chalitza* that was done at night. Nonetheless, for money matters we rely on the view cited by the Ramo. *In this case, conversion is like chalitza.*⁴⁰

The *Shach* contends that there are two ways to understand the conversion ritual, and thus there are at least two different ways to construct a rabbinical court to oversee it. Each of these two constructions imposes significantly different requirements.

One can view a court for a conversion to be on the same level as a court for financial cases. Since the requirements regarding who may sit on a *bet din* for financial cases are more lenient than the requirements for judging capital cases or

40. *Id.* (emphasis added).

witnessing *chalitza*, it follows that a convert can serve on a *bet din* for conversion, just as he may serve on a financial case.

The other view within the *Shach* suggests that one should view a court for conversion like a regular court, but without any of the leniencies customarily found in financial adjudication; this produces a rabbinical court whose members are held to the standards of a court for *chalitza*. If that is the case, then a convert cannot serve on such a *bet din*.

Since this dispute is without clear precedent, it is certainly wise to err on the side of caution and mandate that only born Jews serve as *dayanim* in cases of conversion. Given that there are eminent *poskim* who consider such conversions invalid, even after the fact, it would be a disservice to any potential convert (as well as to the Jewish community) to intentionally staff a conversion panel with such a rabbinical judge, especially since there are abundant competent and technically qualified rabbis available.

It is worth explaining more fully the rationale behind being strict on a practical level in such a case (in all but the rarest cases). This stringency reflects a general halachic-process issue, which is easily overlooked. As discussed, there is a dispute about the validity of a conversion in which a convert was a member of the *bet din*. It is very difficult to resolve this dispute, since very few classical sources discuss this particular issue, and a practical consensus has not developed in modern times. Some permit a convert to sit on a conversion panel even *lechatchela (ab initio)* while others invalidate such a conversion even *bede'aved*.

So what is a typical *bet din* supposed to do? In an ideal halachic world, the answer would be that each *bet din* should determine which *posek* they should follow ("*aseh lecha rav*") and the *bet din* should consult its own regular *poskim*. The problem with this approach is if that becomes the actual practice, then those who are lenient on this matter produce converts who are still gentiles according to those who are

strict. Consider, for example, a hypothetical *bet din* for conversion, which is staffed exclusively by students of Rabbi Felder. Rabbi Felder certainly was an eminent and respected *posek*. If they follow the rule of *aseh lecha rav*, this *bet din* ought to permit converts to sit on such a conversion panel, because that is Rabbi Felder's reasonable understanding of the halacha. Yet, if this hypothetical *bet din* in fact does such conversions under this rule, they know full well that another hypothetical *bet din*, staffed by students of Rabbi Elyashiv (also an eminent *posek*) would still consider such converts to be gentiles. This result is certainly bad for the general Jewish community, and further it is unfair to the convert at hand. This is true even for a *bet din* that is absolutely certain itself that converts may serve on a conversion panel (as their *posek* told them so directly).

In this sense, conversion matters ought to follow the rule found in Jewish divorces: a *bet din* strives as a matter of normative practice to issue *gitten* that are valid according to all views: it is only in cases where a *get* cannot be issued consistent with such a standard that any lower standard should be employed.⁴¹ Similarly, a *bet din* for conversion should only consist of individuals that are valid *dayanim* according to the strictest halachic interpretation, unless no other valid *dayanim* are present and a conversion has to be performed (a very rare case). If the *bet din* relies on the strictest rules when there is no reason not to, they can be sure that the *gitten* and conversions that they preside over will be valid and respected within the entire Jewish community as opposed to only being accepted within a smaller segment of the population.

41. See *Rivash* 399 and *Yabia Omer, Even HaEzer* 6:6(3); see also *Taz, Even HaEzer* 17:15 who notes that in time of urgent need (such as a case of *igun*) the consensus rule is not followed. Precisely because there are virtually no cases where only a convert can sit on a panel for conversion, such ought to never happen, just as a *get* need never be given that any significant group of *poskim* think is invalid (other than in cases where that is the only way to give the *get*).

Converts and the Jewish community as a whole are ill served by having a conversion that others will not accept (especially if they can have a conversion accepted by all with no additional effort).

We should be blessed to live in a time where all conversions are for the sake of heaven and all conversions are handled by conversion panels qualified to do so.

Vaccination in Jewish Law

Rabbi Alfred Cohen

Introduction

It is a well-known axiom of Jewish thought that guarding and preserving one's health is a mitzvah, as the Torah commands: "*venishmartem me'od lenafshoteichem.*"¹ Not only is it a mitzvah for the patient to seek relief but also for the doctor to heal. Commenting on the biblical verse *verapo yerapeh* (the doctor shall heal) (*Shemot* 21:19), the Talmud notes:² "From here [we see] that permission is given to the doctor to heal."³

Jewish law includes prevention of disease within the purview of the doctor's mandate to heal (see further in this article). One of the major innovations in this regard in the past few generations has been the development of vaccines, which generally bestow long-term immunity against specific

1. *Devarim* 4:15.

2. *Berachot* 70a, *Bava Kamma* 85a.

3. This counters any putative argument that since disease comes about through Divine decree, it would be sacrilegious to try to find a cure. See Rashi and Tosafot, *Bava Kamma* 85a. Tosafot (see *Moshav Zekeinim* to *Shemot* 21:19) clarify that one might have thought, since the biblical verse is discussing a case where one person wounded another, that the only time resort to a doctor is permitted is when the sickness came about via human agency. Therefore it is necessary to add that even in heaven-sent illness, healing should be pursued.

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