

## Conversion? What Conversion?

The Freehof Blog, November 30, 2015

Another day, another outrage from the *haredi* rabbinate. This time, it's a decision by a Jerusalem *beit din* (rabbinical court) annulling a conversion to Judaism which took place over thirty years ago. The conversion, in other words, legally never happened. You can read the details [here](#) (and [here, in Hebrew](#)). One of the more sordid of these is that the head of the *beit din*, Rabbi Hayyim Yehudah Rabinowitz (that's him in the middle of the picture), is currently embroiled in charges of [corruption](#) surrounding his [conduct of the court](#).

The decision involves a woman who converted in 1983 under the supervision of Rabbi Shlomo Goren, a former Chief Rabbi of Israel. You'd think that would have settled any question of her Jewishness. But when the woman's daughter, born in 1984, applied for her wedding license in 2012, the *beit din* initiated an investigation into her Jewish status. It found that her mother's conversion was invalid from its inception... which means that despite having lived as a Jewish citizen of the Jewish state (the government recognized her conversion) for three decades, the mother in the eyes of the *halakhah* has *never* been a Jew... which means that her daughter, despite having lived *all* her life as a Jewish citizen of the Jewish state and having served in the IDF, is also not a Jew. And given that the daughter now has a child of her own, the attack upon the family's Jewish status has reached into a third generation. Oh, and by the way, since the daughter is considered a non-Jew by the *beit din*, her application for a wedding - a *huppah* - under rabbinic auspices was denied.

Perhaps you're wondering how the *halakhah* can permit the annulment of a conversion administered by a competent rabbinic court.[1] Don't we read in the codes that once a person has gone through the rites of conversion s/he takes on a *permanent* Jewish identity, remaining a Jew from now on, no matter what?[2] The Jerusalem court would respond that this woman converted in 1983 under false pretenses: her subsequent nonobservant (i.e., non-Orthodox) lifestyle indicates that she never truly "accepted the *mitzvot*," a requirement for conversion. Therefore, since her conversion process was invalid from the start, she never *was* a Jew... and so her daughter is not a Jew... and her granddaughter is not a Jew.

The *beit din*'s position, as we have [written](#), reflects a long-standing consensus interpretation of the *halakhah* among Orthodox rabbis. The problem, as that post suggests, is that the consensus interpretation is not necessarily correct and, for that matter, quite likely wrong. The text[3] cited as the basis for the requirement that the convert (*ger* or *giyoret*) "accept the *mitzvot*" doesn't say that she or he must promise to uphold *all* of them, nor does it give any indication that the failure to observe this or that commandment - or, indeed, many commandments - is grounds for annulling the conversion retroactively. And, the post notes, a movement of Orthodox rabbis in Israel has abandoned the consensus interpretation in favor of a reading of the *halakhah* that regards a conversion as valid even though the *ger/giyoret* does *not* live an Orthodox lifestyle after assuming Jewish status. For its part, however, the Jerusalem *beit din* has chosen to follow the stricter consensus position.

I use the word "chosen" advisedly. The rabbis who annulled the conversion of this woman after thirty years undoubtedly believe that their decision reflects the correct interpretation of Jewish law. The fact, however, is that there exists more than one plausible interpretation of the texts on this question, so that any *beit din* that rules on a case like this must necessarily *choose* between the alternatives. In *this* case, the Jerusalem court has chosen the narrow alternative, the one that defines "conversion" as the acceptance of an Orthodox lifestyle.[4] Had the *dayanim* (judges) of that court been motivated in the slightest by considerations of justice and compassion for this innocent family, they might have adopted the other reading, which holds that the convert's stated desire to accept the religion of Israel is sufficient for conversion even though she or he does not decide to live as an Orthodox Jew.

The case has been appealed;[5] perhaps the story will have a happy ending. In the meantime, let us call it what it is: a family tragedy that did not have to happen. A family that has lived for thirty years secure in its Jewish identity wakes up one day to discover that identity stripped away from them by three rabbis who have *chosen* to do so. Let the story remind us that it doesn't have to be this way. Let it remind us of the commitment that guides our work at the Freehof Institute: the *halakhah* is not necessarily what what the contemporary Orthodox consensus says it is, let alone what the three gentlemen who composed this particular *beit din* say it is. The *halakhah*, as expressed in the texts and sources of our tradition, is capable of interpretations and applications that do not insult our commitments to equity and compassion but that, on the contrary, uphold them. What is at stake, therefore, is nothing less than the very reputation of the Torah of Israel, a Torah that commands us to do justice and mercy even though some who presume to speak in its name do not always realize those goals when they interpret its texts.

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[1] We're overlooking here the tangential but no-less-interesting question of whether a "competent" *beit din* can be composed of non-Orthodox rabbis. Orthodox opinion, of course, would say no. But In this instance, the *beit din* was convened by a former chief rabbi, so that its "competence" ought not to be challenged by other Orthodox rabbis. But then, Rabbi Shlomo Goren was a controversial figure in his day, and a number of his actions and rulings met with deep opposition from the *haredi* community. Could the decision of the Jerusalem court overturning the conversion have been motivated, even in the slightest, by considerations of politics? Perish the thought...

[2] *Shulhan Arukh Yore De`ah* 268:12 - ואם לא בדקו אחריו או שלא הודיעוהו שכר המצות ועונשו, ומל - וטבל בפני ג' הדיוטות, הרי זה גר... ואפילו חזר ועבד עבודת כוכבים, הרי הוא ישראל מומר וקידושו קידושין "no matter what" here is a pretty extreme example: "even should (the proselyte) revert to his former religion" and reject Judaism outright, he is considered an apostate *Jew* - a *bad Jew*, yes, but a Jew nonetheless - and not a Gentile. However nonobservant her lifestyle, nobody claims that the woman who converted back in 1983 ever renounced Judaism in favor of some other religion.

[3] *B. Y'vamot* 47a-b.

[4] To say nothing of the other choice it made, namely the decision to investigate the mother's Jewish lifestyle, whether in fact she observed "all" the *mitzvot* following her conversion in 1983. The judges were not constrained to investigate that question; they *chose* to do so.

[5] There are *courts of appeal* in the halakhic system? Well, the answer is "no" and "yes." "No," in the sense that appellate courts are unknown in the Talmud and in the major codes, but "yes" in that such an institution has existed in Israel since the period of the British mandate. The establishment of a rabbinic court of appeals is a major innovation in halakhic practice, one of those events that testifies to the possibility of (dare we say it?) change in Jewish law. But that's a story for another time.