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Is a Conversion Valid without *kabbalat hamitzvot*? Position of the Rambam

The status of a conversion to Judaism in which the candidate did not intend *kabbalat hamitzvot* is a subject of great importance and contemporary debate. Is such a conversion valid or not? We will examine in detail the position of the Rambam on this question. In particular, we will show that, according to the Rambam, the requirements of circumcision and immersion are very different from the requirement of *kabbalat hamitzvot*. This difference has important halakhic implications.

Before beginning the analysis of the Rambam, I wish to state that it is not my intention to decide matters of Halakhah. The present author is not the person to make halakhic pronouncements.

The Rambam's Discussion Of Conversion

The Rambam's discussion of conversion appears in Chapters 13 and 14 of *Hilchot Issurei Biah*. The Rambam begins by stating how conversions were carried out at the time of the Exodus from Egypt, when *Bnei Yisrael* were converted *en masse* before receiving the Torah. He then states (13:4) that the same procedure for conversion applies for future generations as well. Sections 13:1-3 lay out the requirements that a non-Jew must fulfill in order to convert to Judaism:

By three things does one enter the Covenant [meaning: become a Jew]: circumcision, immersion, and a sacrifice. Circumcision took place in Egypt, as the Torah states [Exod. 12:48 is quoted]. Immersion took place in the desert before the giving of the Torah, as the Torah states [Exod. 19:10 is quoted]. The sacrifice was brought, as the Torah states [Exod. 24:5 is quoted]. And the same procedures for conversion are to be followed in all subsequent generations.

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The Rambam then explains (13:5) that, in the absence of the Temple, a conversion is valid even without the sacrifice.

The Three Requirements for Conversion:

***Kabbalat Hamitzvot* not Mentioned**

A strong indication of the Rambam's position regarding *kabbalat hamitzvot* is already clear in the opening sections of Chapter 13. *If kabbalat hamitzvot* were a requirement for conversion, why are only three requirements mentioned? Why does the Rambam not list four requirements for conversion: circumcision, immersion, sacrifice, and *kabbalat hamitzvot*? Why does Chapter 13 not also include the following statement: "*kabbalat hamitzvot* took place, as the Torah states [quoting the relevant verse]," just as stated with regard to the three listed requirements. This omission is not accidental. The obvious conclusion to be drawn is that the Rambam holds that *kabbalat hamitzvot* is not one of the requirements that a candidate must fulfill for a valid conversion.

The Role of the *Beth Din*

Kabbalat hamitzvot certainly plays an important role in the conversion process according to the Rambam. However, its role is very different from that played by circumcision and immersion. This issue is discussed at the beginning of Chapter 14, where the Rambam explains in detail how the conversion process works in practice.

How are candidates accepted to become converts? When a candidate appears for conversion, the *Beth Din* examines him. If the *Beth Din* is satisfied that he does not wish to become Jewish for an ulterior motive ("*eilah*"), they question his reasons for wanting to convert to Judaism, pointing out that nowadays the people of Israel are an oppressed people who suffer because of their Jewishness. If he accepts the fate of the Jews, he is immediately accepted. The *Beth Din* informs the candidate of the fundamentals of Judaism ... and informs him of some of the *mitzvot*, but the *Beth Din* should not elaborate extensively lest they drive the candidate away.

We learn two important principles from this passage. First, *kabbalat hamitzvot* relates to the role of the *Beth Din* in the conversion process, rather than what the candidate must do. Conversion is not a do-it-yourself project. Acceptance of the candidate by a *Beth Din* is an essential feature of conversion. If a non-Jew undergoes circumcision and immersion on his own, without a *Beth Din*, and is completely

Is a Conversion Valid without *kabbalat hamitzvot*?

sincere about *kabbalat hamitzvot*, he nevertheless remains a non-Jew, as the Rambam states in 13:7. Accordingly, in Chapter 14, the Rambam discusses the grounds on which the *Beth Din* should decide whether to accept the candidate. Only if the *Beth Din* is convinced of the sincerity of the candidate's intention regarding *kabbalat hamitzvot*, should they instruct him to carry out the three requirements for conversion.

Incidentally, this is the reason why a Reform conversion is invalid—not because the circumcision or immersion were performed improperly or the candidate did not intend *kabbalat hamitzvot*, but because the Reform *Beth Din* is invalid. A valid *Beth Din* consists of men who view the Torah as divine and fulfill its *mitzvot*; these principles are not accepted by Reform Jews. As the Rambam (and everyone else) rules, without a valid *Beth Din*, there cannot be a valid conversion.

The second principle we learn from this passage is that the Rambam does not require the candidate to declare his or her intent to fulfill the *mitzvot*. The candidate's intention regarding *kabbalat hamitzvot* is a matter to be assessed by the *Beth Din* through an interview with the candidate. It is not a requirement that the candidate must carry out for his conversion, as are immersion and circumcision. Indeed, nowhere in Chapters 13 and 14 does the Rambam require the candidate to make a statement along the lines: "I, John Goy, hereby declare that it is my intention after my conversion to fulfill the *mitzvot* of the Torah that are incumbent upon me."

A key term in the quoted passage is the phrase "ulterior motive" (*eilah*). It is our thesis, to be justified presently, that by the words "ulterior motive," the Rambam means that the candidate does not intend *kabbalat hamitzvot*. Thus, the Rambam discusses two possible scenarios: either the candidate does intend *kabbalat hamitzvot* or he/she wants to become Jewish only for some ulterior motive (*eilah*) (having a Jewish girl/boyfriend, getting a job with Jews, liking Jewish ambience) but he/she does not intend *kabbalat hamitzvot*. The Rambam rules that it is the task of the *Beth Din* to assess which scenario applies, and to accept candidates who are in the former category but to reject candidates who fall into the latter category. As stated in 13:4: "When a non-Jew wishes to enter the Covenant [meaning: become Jewish] and to stand in the Divine Presence, and to accept the yoke of the Torah, he is required to undergo circumcision, immersion, and bring a sacrifice."

The *Beth Din* interviews the candidate to assess whether he or she indeed "wishes to stand in the Divine Presence, and to accept the yoke of the Torah." Only if this is the case, should the *Beth Din* instruct the candidate to proceed with "circumcision, immersion, and bringing a sacrifice," which are the acts required for conversion.

What if the *Beth Din* Did not Do its Job?

As quoted above from the Rambam, the task of the *Beth Din* is twofold: (i) to assess the candidate's sincerity regarding *kabbalat hamitzvot* and (ii) to inform the candidate of his obligations as a Jew. Now we come to a most important passage in the Rambam. What if the *Beth Din* did not do its job? What if the *Beth Din* accepted a candidate for conversion without assessing his sincerity and/or without informing him of the *mitzvot*, and the candidate then underwent the requirements for conversion under the auspices of the *Beth Din*. What is the status of such a conversion?

The Rambam's answer to this question, which is the very essence of this article, is given in the latter part of Chapter 13. Before quoting the relevant sections, it should be emphasized that nothing written elsewhere by the Rambam sheds any light on this question. In all other sections, the Rambam discusses the proper way for the *Beth Din* to act. The ruling of the Rambam in the event that the *Beth Din* did not act properly is given only in 13:17, viz:

A candidate whose sincerity was not assessed [by the *Beth Din*] or who was not informed [by the *Beth Din*] of his obligations as a Jew, if he underwent circumcision and immersion before the *Beth Din*, his conversion is valid. Even (*afilu*) if it were known [to the *Beth Din*] that he converted for an ulterior motive [meaning: there was no *kabbalat hamitzvot*], since he underwent circumcision and immersion, he is no longer a non-Jew ... and even (*afilu*) if he continues to worship idols, he is like any other transgressing Jew; one may marry such a person and it is an obligation to return his lost articles, since he has become a Jew.

The expression "one may marry such a person and it is an obligation to return his lost articles" emphasizes that the conversion was indeed valid and the idol worshipper has become a Jew, since it is forbidden to marry a non-Jew and there is no obligation to return the lost articles of a non-Jew.

Note the progression of seriousness in the negligence of the *Beth Din*. In the first case, "the *Beth Din* did not assess the candidate." Maybe there was *kabbalat hamitzvot* and maybe not; the *Beth Din* does not know. Nevertheless, the conversion is valid. The second case is even worse. "Even (*afilu*) if it were known" to the *Beth Din* that there was no *kabbalat hamitzvot*, nevertheless, the conversion is valid. The third case is the worst of all. "Even (*afilu*) if he continues to worship idols," which is the most blatant expression possible of not accepting Torah and *mitzvot*; nevertheless, the conversion is valid. The candidate has become a Jew whom one is permitted to marry and whose lost articles must be returned to him.

The Wives of Shlomo and Shimshon

The Rambam introduces his discussion of conversion in the absence of *kabbalat hamitzvot* by analyzing the status of the (originally non-Jewish) wives of Shlomo and Shimshon. The Rambam dismisses the possibility that Shlomo and Shimshon married non-Jewish women, since, in the Bible, these exalted persons are called, respectively, “beloved of God” and “savior of Israel.” It is obvious to the Rambam that these women converted before marriage. But how did these conversions come about? It is clear that these idol-worshipping women never intended *kabbalat hamitzvot* (13:16): “It is known that these women converted only for an ulterior motive [meaning: without *kabbalat hamitzvot*] ... and furthermore their subsequent behavior [of continued idol worship] proves their initial intent [of no *kabbalat hamitzvot*].”

The Rambam explains (13:17, quoted above) that the conversions were valid even without *kabbalat hamitzvot*, because the *Beth Din* of Shlomo and the *Beth Din* of Shimshon accepted these women as converts. This is all that is required. Thus, the women whom Shlomo and Shimshon married had indeed become Jews.

The Rambam writes (13:14) that “the proper procedure” is for the *Beth Din* to interview each candidate to examine his/her intention regarding *kabbalat hamitzvot* and his/her motivation for wishing to become Jewish, and to inform the candidate of the seriousness of this step. Only after receiving satisfactory responses, should the *Beth Din* accept the candidate for conversion.

But none of this was done by the *Batei Din* of Shlomo and Shimshon (13:16): “It is known that these women converted only for an ulterior motive [meaning: without *kabbalat hamitzvot*] ... and furthermore their subsequent behavior [of continued idol worship] proves their initial intention [no *kabbalat hamitzvot*].” In view of this, why were their conversions valid? The Rambam explains (13:14, 17): “The secret of the matter is the following. ... A candidate whose sincerity was not assessed [by the *Beth Din*] or who was not informed [by the *Beth Din*] of his obligations as a Jew, if he underwent circumcision and immersion before the *Beth Din*, his conversion is valid.” The conversions were valid because these women underwent immersion under the auspices of a *Beth Din*. This ruling of the Rambam regarding *kabbalat hamitzvot* thus explains the Jewishness of the wives of Shlomo and Shimshon.

The validity of the conversion of the wives of Shlomo and Shimshon shows two things. As stated above, it shows that a conversion is valid even in the absence of *kabbalat hamitzvot*. It also demonstrates something else, namely, that *kabbalat hamitzvot* is not a requirement to be carried out by the candidate. The candidate is

not required to declare that he or she intends *kabbalat hamitzvot*. It is quite obvious that Shlomo and Shimshon did not require their future wives to make such a declaration (“I, daughter of Pharaoh, hereby declare that”...), knowing that such a declaration would be an outright lie. Moreover, the Rambam never mentions the need for such a declaration on the part of the candidate.

Meaning of “Ulterior Motive” (“*Eilah*”)

The final point to discuss is my contention that when the Rambam writes that the candidate has an “ulterior motive” (“*eilah*”) for wanting to become Jewish, he means that there was no *kabbalat hamitzvot*. There are several reasons for this interpretation.

First, if “ulterior motive” does not mean a lack of *kabbalat hamitzvot*, then *kabbalat hamitzvot* is never mentioned at all by the Rambam in his description (13:14 and 14:1) of what the *Beth Din* is supposed to investigate regarding the candidate. It is inconceivable that the Rambam would fail to state in 13:14 that the *Beth Din* should assess whether or not the candidate intends *kabbalat hamitzvot*.

Second, in describing the negligence of the *Beth Din* (13:17), the Rambam presents a progression of increasing seriousness: “even (*afilu*) if it were known to the *Beth Din* that the candidate wishes to become Jewish for an ulterior motive,” and even worse, “even (*afilu*) if the candidate continued to worship idols.” This progression makes sense only if “ulterior motive” means a lack of *kabbalat hamitzvot*. The former case is then a lack of *kabbalat hamitzvot* and the latter case is the blatant transgression of the most basic *mitzvah*, which is even worse, and hence the word “*afilu*” is appropriate. However, if “ulterior motive” does not mean lack of *kabbalat hamitzvot*, why does he introduce the latter case with “*afilu*”? There is no connection between a candidate’s continued idol worship and his having a Jewish girlfriend.

Finally, if by “ulterior motive,” the Rambam intends only its literal meaning, what is wrong with having an ulterior motive? If one becomes attracted to Judaism because of a Jewish girlfriend, but the candidate sincerely intends to cast his lot with Judaism, to accept the Torah and fulfill its *mitzvot*, and to be a devoted member of *Klal Yisrael*, what is the problem? Why should such a person be rejected as a convert just because he has a Jewish girlfriend? Indeed, almost all converts begin their journey to Torah because of an ulterior motive, such as the wonderful Shabbat ambience experienced with a Jewish family, or the good influence of a Jewish girl/boyfriend, or the shallowness they feel in their present religion. Such ulterior motives commonly form the basis for the candidate’s sincere desire to convert. If the

candidate intends to fulfill the *mitzvot*, why should his or her ulterior motive be a stumbling block? Very few candidates for conversion wish to become Jewish for purely theological or intellectual reasons.

For all these reasons, the correct interpretation of the Rambam's words "ulterior motive" must be the absence of *kabbalat hamitzvot*.

Dissenting Voices

Dissenting voices have recently been heard. It has been claimed that, according to the Rambam, a conversion without *kabbalat hamitzvot* is invalid even if the circumcision and immersion were performed under the auspices of a *Beth Din*. I will discuss a widely quoted article that takes this position, by Rav Shlomo Dichovsky¹ of the *Beth Din Hagadol* in Jerusalem and Director of the Rabbinical Court. Since the analysis of Rav Dichovsky is representative of articles that take this position,² it is valuable to discuss his article in some detail. For convenience, the discussion will be presented as a series of points.

Point A. Rav Dichovsky begins his discussion with the following statement: "The ruling of the *Shulhan Arukh* is clear: without *kabbalat hamitzvot*, the conversion is invalid, as the *Shulhan Arukh* rules unequivocally in Yoreh Deah 268:3."

Comment on A: As we shall later discuss, the words of the *Shulhan Arukh* lend themselves to a different interpretation, with a different ruling.

Point B. Rav Dichovsky then states that the Rambam and the *Shulhan Arukh* agree regarding the necessity of *kabbalat hamitzvot*. Since the *Shulhan Arukh* holds that *kabbalat hamitzvot* is essential for conversion, Rav Dichovsky concludes that the Rambam must also hold this position.

Comment on B: Since the words of the *Shulhan Arukh* (YD 268) are virtually identical with the words of the Rambam (*Hilchot Issurei Biah*, Chapter 13) regarding conversion, Rav Dichovsky correctly concludes that they must have the same position regarding *kabbalat hamitzvot*. However, the question at hand is the nature of this position.

Point C. Rav Dichovsky mentions a difficulty with his analysis, writing: "The words of the Rambam seem to imply that a valid conversion does not require *kabbalat hamitzvot* on the part of the candidate. ... The words of the Rambam seem

1 *T'chumin* 29 (2009): 267-79.

2 For a comprehensive survey of the literature, see Rav Haim Amselm, *Makor Yisrael* (Jerusalem, 2010).

to imply that it is the task of the *Beth Din* to assess whether the candidate intends *kabbalat hamitzvot* and to reject candidates who do not, but the lack of *kabbalat hamitzvot* on the part of the candidate does not invalidate the conversion.”

Rav Dichovsky also mentions the fact that it seems as if the Rambam brought the example of the wives of Shlomo and Shimshon to prove that lack of *kabbalat hamitzvot* does not invalidate the conversion. Therefore, Rav Dichovsky proposes that what the Rambam really intended was that these idol-worshipping women did, in fact, accept *kabbalat hamitzvot* at the time of their conversion and, therefore, that their conversions were valid. Only later did these women abandon *kabbalat hamitzvot* and revert back to idol worship.

Comment on C: There is no mention in the Rambam that there had been *kabbalat hamitzvot* at any time or in any form on the part of these idol-worshipping women. Moreover, the Rambam emphasizes this point by writing of these women: “their subsequent behavior (continued idol worship) proves their initial intention (no *kabbalat hamitzvot*).”

Rav Dichovsky interprets these words of the Rambam in the following way: “When the Rambam refers to the wives’ ‘initial intention,’ the Rambam does not mean the wives’ intention at the time of the conversion, but rather their intention some time after their conversion.”

According to Rav Dichovsky’s interpretation of the Rambam’s words, there would have been no purpose for the Rambam to mention the conversion of the wives of Shlomo and Shimshon. If these women really had a sincere *kabbalat hamitzvot* at the time of their conversion (as Rav Dichovsky states), why should there have been any doubt regarding their Jewishness? A Jew does not lose his Jewishness by ceasing to fulfill *mitzvot*. Moreover, this ruling is certainly not any “secret,” as the Rambam refers to this case (“סוד הדבר הוא כך”).

However, if one understands the Rambam as I have explained in this article (that these idol-worshipping women never intended *kabbalat hamitzvot* at any time or in any form) and nevertheless their conversions were valid, then this is indeed a big *hiddush*, worthy of the appellation “secret.” And, no less important, the Rambam’s words “initial intention” can be understood according to their simple meaning, without any interpretation.

Point D. Rav Dichovsky brings several quotes from the Rambam stating that non-Jewish slaves do not require *kabbalat hamitzvot* to become Jewish because they had already accepted *mitzvot* to become non-Jewish slaves. Therefore, Rav Dichovsky concludes, “according to the Rambam, *kabbalat hamitzvot* is required for conversion.”

Comment on D: In all these quotes, the Rambam is discussing a case in which the *Beth Din* acted properly. The Rambam clearly states that the *Beth Din* is supposed to accept for conversion only a candidate who intends *kabbalat hamitzvot*.

The ruling of the Rambam in the event that the *Beth Din* did not act properly and accepted a candidate for conversion without *kabbalat hamitzvot* is given only in 13:17. Nothing written elsewhere by the Rambam sheds any light on the status of a conversion without *kabbalat hamitzvot*.

Point E. Rav Dichovsky begins his analysis by stating that the *Shulhan Arukh* rules that lack of *kabbalat hamitzvot* invalidates a conversion. He bases his statement on the following passage of the *Shulhan Arukh* (268:3):

All matters concerning the candidate must take place before a *Beth Din* of three and in the daytime. But, after the fact, if circumcision and immersion were performed before a *Beth Din* of two and at nighttime, the circumcision and immersion are valid ... except for *kabbalat hamitzvot* for which there is invalidation if not performed before a *Beth Din* of three and in the daytime.

Rav Dichovsky states that, in this passage, the *Shulhan Arukh* rules that the conversion is invalid if *kabbalat hamitzvot* was not performed before a *Beth Din* of three and in the daytime. Therefore, if there was no *kabbalat hamitzvot* at all, then the conversion must surely be invalid.

Comment on E. When the *Shulhan Arukh* rules that assessing the intentions of the candidate regarding *kabbalat hamitzvot* must be performed by a *Beth Din* of three and in the daytime, otherwise there is invalidation, the “invalidation” refers to *kabbalat hamitzvot* and not to the conversion itself. This becomes clear on reading the entire passage, which begins with a discussion of the required quorum of the *Beth Din* for circumcision and immersion and then contrasts this with the required quorum for *kabbalat hamitzvot*.

The ruling of the *Shulhan Arukh* regarding the validity of a conversion in the complete absence of *kabbalat hamitzvot* is given in 268:12, where the ruling of the *Shulhan Arukh* follows the ruling of the Rambam (13:17) word for word, viz: “A candidate whose sincerity was not assessed [by the *Beth Din*] or who was not informed [by the *Beth Din*] of his obligations as a Jew ... if he underwent circumcision and immersion before the *Beth Din*, his conversion is valid.”

Both the *Shulhan Arukh* and the Rambam state that the *Beth Din* is supposed to interview the candidate to assess his intentions regarding *kabbalat hamitzvot*. Moreover, if this interview was conducted at night or by a *Beth Din* of two, then, according to the *Shulhan Arukh*, the interview was invalid and should be repeated

Nathan Aviezer

by a *Beth Din* of three and in the daytime. Nevertheless, following the Rambam, the *Shulhan Arukh* rules (268:12) that if the *Beth Din* acted improperly and never conducted such an interview at all, the conversion is nevertheless valid and the candidate becomes a Jew after circumcision and immersion.