

The Conversion Controversy in Modern Jewish Law – Lesson 5

Conversion of a Minor

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The conversion of children presents an interesting Jewish legal problem. How can a minor be inducted into the covenant when one of the requisites for conversion is acceptance of the commandments - something which a minor is legally incapable of doing. This question is even more pronounced since the Mishnah already presumes this possibility (Yevamot 11:2):

הגיורת שנתגיירו בניה עמה לא חולצין ולא מיבמין

A woman convert whose child converted along with her does perform halitza or levirate marriage.

The answer to this question is found in a sugya (Talmudic discussion) in Bavli Ketubot (11a). Our lesson this week will consist of a close reading of this sugya and the accompanying Rashi and Tosafot which will put us in touch with the major issues involved in answering this question. You will find the Talmud on accompanying sheets in Hebrew, English and in the Steinsaltz edition. I first want you to go over the Talmudic discussions with the following brief notes before we start to discuss the issues.

Notes for the Talmud Study Regarding the Conversion of Children

Sugya 1

1. The Talmud opens with a Meimra – a teaching from the Talmudic period, which states that a child can be converted on the accord of the Beit Din (Jewish court) [even though a child cannot convert of his or her own accord.
2. The Talmud takes this statement to task as superfluous since the Talmud already has a legal principle which would seemingly include the situation mentioned by Rav. This principle states that one may provide a benefit for another person provided without their knowledge.
3. This step resolves the challenge, noting what a person might think had Rav's law not have been stated.
4. The Talmud brings the Mishnah which is the basis for this discussion as a support for Rav's law. It brings the Mishnah and then explains for us how it is a support.
5. It then proceeds to explain why this Mishnah cannot be a support for Rav's statement.

Sugya 2

1. Since the beit din is obligating the child to enter into a covenant where he or she had no choice, Rav Joseph declared that when the child reaches adulthood they are able to reject the covenant which they were brought into.
2. Abaye questions from our Mishnah how it is possible for Rav Joseph to legislate a situation where a divorced child bride would receive her ketubah payment and then reject being Jewish and then still have this payment.*
3. The Talmud sets aside Abaye by saying the the ketubah payment would be give the women after she reached adulthood – so she would have had the opportunity to reject before she received the payment.
4. The Talmud again challenges that she can always reject during her adulthood as well.
5. The Talmud then modifies step 3 to accommodate the challenge in 4 by saying that the child has only a small window of time to reject the covenant and if she does not reject then, that window closes.
6. Rava now challenges Rav Joseph from a different Mishnah. Here the tradition demands a penalty payment for a woman who was raped. The courts legislated such a payment for Jewish woman. It asks how it could be possible to legislate for a minor convert to be able to renege on conversion so that the payment might go to a non-Jewish woman.*
7. The Talmud meets this challenge, like the previous discussion by saying that the payment was not paid until adulthood.
8. Again a challenge – The woman could also reject her Judaism after adulthood.
9. Like above, we resort to the window of time solution.
10. This step discusses why each of the sages (Abaye and Rava) use different challenges to Rav Joseph’s opinion.

*Just a note. Jewish law only legislated for its own subjects. This discussion must be considered in that light.

Sugya 1

1. Now that you have the basics of the passage from the Talmud under your belts, let’s look more carefully at Rav Huna’s statement. Rav Huna, a Babylonian Amora teaches that a minor can be converted by a beit din. His statement raises a number of questions.
 - By what authority do they have the capacity to receive the child into the covenant?
 - What about the child’s acceptance of the commandments?
 - Is the child a “full” convert?
2. The Talmud challenges him not on the grounds of these questions; rather it takes him to task for stating something which seems obvious because of the legal principle cited in this challenge - that one can cause another benefit without his or her consent (זכין לאדם שלא לפניו).
 - When you consider Rav Huna’s statement in light of this principle, what conclusions can you draw regarding conversion?
 - In light of this principle, what is the role of the beit din in the child’s conversion?
3. The teirutz to the kushiya in 2 also teaches us some very significant ideas concerning conversion.

- Why can't a bet din take upon itself to convert an adult (aside from the fact that an adult must accept the commandments for him or herself?)
 - What does this say about being Jewish?
 - Why is it a zchut" for a minor?
 - Why is it a "חוב" for an adult? What does that say about the sinful life?
4. Steps 4 and 5 inform us on the legal level that the beit din's role in converting a minor is more than just that of an arbiter of worthiness for entry into the Jewish religion and people since it reflects back on the situation that Rav Huna is dealing with. It asserts that Rav Huna deals with a situation where the minor presents himself for conversion. It asserts that it takes on the role of parent (as it were).
- What might this mean?
 - What does it say of the role of the parent with regard to religion for a child?

Sugya 2

1. Rav Joseph's meimra deals with the right of the child to reject what the beit din has imposed upon the child.
 - What problem does Rav Joseph come to contend with?
2. The other steps in this sugya on a legal basis come to limit the capacity of the child to reject the heritage that has been imposed on the child to a limited period.
 - From the context of the discussion, can you conjecture why the sages might feel compelled to limit the right of denial to a minimum?
 - What problems might it cause if this period was left open?

In the following two responsa, Rabbi Moshe Feinstein gives us an indication of what the difficulties might be if the door is left open after the children reach adulthood. As a consequence, he rules that the child should be informed immediately before reaching of age and then with the acceptance of Jewish adulthood (which is considered acceptance), the opportunity to reject the conversion ends. Without being informed, the door remains open, creating problems for the child in his or her future lives. He bases himself on the discussion in the second sugya.

שו"ת אגרות משה יורה דעה חלק א סימן קסא

וגם הא יהיו מוכרחין לגלות לו קודם שיעשה בן י"ג שנה שהוא בן נכרים שגירוהו דאל"כ יש לחוש שימחה כשיתודע אף כשיהיה בן עשרים ויותר ויתבטל הגרות ולכן יהיה אסור להשיאו אשה

Igrot Moshe Yoreh Deah 1:161

And it will be necessary to inform him before he reaches bar mitzvah that he was born non-Jewish and that they converted him for if this is not done there is concern that he will reject [his Jewishness] when he finds out even if he is twenty or more and his conversion will be cancelled and on account of this it will be forbidden to marry him ...

שו"ת אגרות משה יורה דעה חלק א סימן קסב

אבל מ"מ צריך להודיעו קודם בן י"ג לזכר וקודם בת י"ב לנקבה משום שרשאין אז למחות על הגרות ואז עדין הם תחת השפעת המגדלים אותם שיש לסמוך שלא ימחו עד אחר שיהיו בן י"ג ובת י"ב ואח"כ לא יוכלו שוב למחות. אבל כשלא יודיעו אותם הרי יוכלו למחות לעולם כל זמן שיתודעו. ולבד שמסתבר כן דפשוט שהא שאינה יכולה למחות אחר שגדלה שעה אחת דהוא משום דרוצית בזה וחזינן שהיה זכות ברור אבל בלא ידיעה לא חזינן מגדלותה כלום שהיא שמחה בזה,

Igrot Moshe Yoreh Deah 1:162

But in any case one should inform him before the age of 13 for a boy or 12 for a girl since they are permitted to renege on the conversion but then they are still under the influence of those who are raising them and one presumes that they will not renege until they reach that age and then afterwards they can no longer renege. But if they are not informed they can renege at any time upon finding out. And only it would seem obvious that she would not be able to renege after she grows up a single hour since she wants it and we see it as a clear merit but with being informed we do not see that her growing up indicates that she is happy with it.