

YESHIVAT HAR ETZION
VIRTUAL BEIT MIDRASH PROJECT(VBM)

TALMUDIC METHODOLOGY
By: Rav Moshe Taragin

THE PROCESS OF GEIRUT

The theme of geirut is central to the yom tov of Shavuot. The moment of matan Torah was marked by a national conversion punctuated by the acceptance of mitzvot through the declaration, "na'aseh ve-nishma." To this end we read Megillat Ruth because it chronicles, among other things, the righteous conversion of Ruth. Ruth's conversion is indeed the earliest record of a sincere conversion (in contrast with the Giv'onim whose conversion in Sefer Yehoshua was motivated by less than sincere motives). This article will explore several aspects of the halakhic process of geirut.

The gemara in Keritut (9a) derives the process of geirut from the manner in which our ancestors converted at Har Sinai. The gemara states that the model for entering a berit (the historical covenant between the Jewish people and Ha-kadosh Barukh Hu culminating in matan Torah) is mila (circumcision), tevila (immersion in a mikva), and hartza'at damim (a korban). These three exercises were performed by our forefathers prior to, or during, the events at Har Sinai (there is some disagreement between Rashi and the Ramban regarding whether the korban was offered before Har Sinai, in parashat Yitro, or after, in parashat Mishpatim). Given this precedent, the process of geirut has crystallized as a three-staged process. As we have seen in the past, whenever multiple steps are necessary to effect one desired halakhic state, the interrelationship and degree of meshing among those steps must be carefully scrutinized. The context of this article does not allow a full amplification of all three factors. Being that the actual korban is not me'akev, i.e., its absence does not hinder the process - when there is no beit ha-mikdash we suspend this requirement entirely - we can safely assume that the heart of geirut lies in the mila and tevila. What is the relationship between these two components?

(NOTE: This article also does not address the role of kabbalat ha-mitzvot; obviously, sincere acceptance of Torah and mitzvot is essential for complete geirut. This article explores only the physical constituents of geirut.

Our initial question revolves around the relationship between mila and tevila. Are they equal partners combining to effect the geirut, or do we assign greater weight to one of the factors and view the other as merely ancillary? If the latter is the case, which factor is dominant and which subsidiary? Generally, the simplest way to analyze this case is by examining the issue of sequence. Does it matter which of the two is performed first? If we discover the necessity of a certain order, we might suggest that

mila and tevila are not merely a combination of two separate factors, producing one result. Were that truly the case, the order of their performance would be immaterial.

The gemara in Yevamot (47b) relates that after performing mila, the ger (convert) is given time to recover from this minor surgery before concluding his conversion with tevila. This statement prompts the Rishonim to ask, why cannot the tevila be performed prior to the mila so that immediately afterwards, the ger might be considered a Jew? The Ramban in Yevamot offers an answer with a practical slant: We schedule mila first to ferret out counterfeit geirim. Were tevila to be the first step, many would start the process without being fully committed. In this respect mila acts as a deterrent. However, Ramban admits that since this is only a practical consideration, were a ger to immerse first and perform mila afterward, his conversion would be perfectly valid. In his view, there is no mandatory sequence of mila and tevila.

In contrast to the Ramban, the Rashba suggests that the order is essential. According to the Rashba, the ESSENCE of geirut is actually the tevila. The mila is merely a preparatory stage for the tevila and is intended to remove "areilut" (the state of having a foreskin) - a state which impedes the tevila. The two are not independent factors; rather the mila readies the person physically so that the tevila can have the desired effect. As such, one who performs tevila prior to mila has performed a meaningless conversion. As an "arel," his tevila is invalid; after mila, however, he is primed to undergo tevila which will confer upon him the status of a Jew.

SUMMARY:

We have studied two divergent views regarding the interrelationship between mila and tevila. According to the Rashba, the tevila is the principal factor and the mila is auxiliary, preparing the person for a proper tevila. Hence, the mila must precede the tevila. In contrast, one might view the two as working independently and combining to instill kedushat Yisrael. If so, the particular order of their performance would not be crucial.

To inspect this issue we might examine, among other things, the exact FORM of mila which is necessary. If mila is a full-fledged participant in the process, a high standard might be required for it. If it merely serves to remove the areilut in preparation for tevila (which ITSELF effects the entire geirut), we might suffice with minimal mila. Of course, the most blatant example is that of a ger who has already been circumcised as a Gentile. Would he require an additional mila (hatafat dam berit - removing a drop of blood) during his geirut? This issue is debated by Beit Shammai and Beit Hillel in the gemara (Shabbat 135, according to the interpretation of Rav Shimon ben Elazar). Possibly, their machloket revolves around our very question. If mila is an active participant in effecting the geirut it must be performed as part of EVERY conversion. If the ger already has been circumcised prior to his conversion, a substitute mila must be implemented - i.e., hatafat dam berit. If, however, mila's role is simply to remove areilut prior to tevila, it might be superfluous in the case of the Gentile who is not technically an

arel due to his previous circumcision. (Of course, we might have to question whether areilut is for our purposes a purely physical condition or also a halakhic one. How do we define a non-Jew who has been circumcised? Even though he is certainly an arel regarding the eating of the korban pesach, is he also necessarily an arel regarding the efficacy of tevila?)

A similar question might involve mila which was not performed in the context of the mitzva. The aforementioned gemara in Keritot mentions that our ancestors were circumcised prior to matan Torah. This is consistent with the fact that they did not receive mila in Mizrayim. What about the benei Levi who were allowed to perform mila in Mizrayim - did they require hatafat dam berit as part of their geirut at Har Sinai? An act of mila had been performed, true, but not as a part of their conversion. The Ramban in Yevamot (46a) claims that they did not have to perform hatafat dam berit since they were not areilim; they performed mila and did so under the rubric of a mitzva (so that they are not physical areilim nor are they halakhic areilim). Possibly, this supports the Rashba's position that mila merely removes the areilut so that the tevila can be valid. In contrast, the Rambam (quoted by the Ramban) maintains that benei Levi WERE required to perform hatafat dam berit. Mila, then, is not merely a prefatory stage for tevila; rather it is one of the pivotal components of geirut. Either mila or a substitute must be performed as part of every process of conversion.

The gemara in Yevamot (71a) raises an additional question. Can the mila of a ger be performed at night? The basis for this question is the fact that the normal mitzva of mila can only be performed during the day. If the role of the mila were merely to remove areilut leading up to tevila, one would have no reason whatsoever to consider a nighttime mila invalid. If, however, the mila is an integrated aspect of the process of geirut, one can indeed question the status of nighttime mila. (The question remains an open one if one chooses to view mila in the latter fashion. The fact that the standard mitzva of mila is invalid at night does not necessarily imply that mila as a component of geirut is similarly restricted. However, the very possibility of voiding nighttime mila seems plausible only if we consider mila an integral aspect of geirut.)

The gemara in Yevamot (46b) claims that tevila must be performed during the day. Since conversion is considered a "judgment" and requires a beit din, it is subject to the standard rule that beit din only functions during the day (ein danin ba-laila). Tosafot question this halakha. If the mila was already performed during the day why cannot the conclusion of conversion - the tevila - be performed at night? After all, the principle of "gomrin din be-leilav" allows any judgment which began during the day to be concluded at night. Accordingly, question Tosafot, if mila constitutes the first stage of the process and tevila its conclusion, the latter procedure should be valid at night. Evidently, Tosafot disagree with the Rashba and view the mila as the inception of the ACTUAL geirut process. According to the Rashba the question is immaterial, since mila is not really a part of the conversion process - it is merely preparatory.

An interesting gemara in Yevamot (71a) discusses those who may eat of the korban pesach. According to one opinion a special pasuk in parashat Bo, "Toshav ve-

sakhir lo yokhal bo" (Shemot 12:45) excludes a ger who had mila but no tevila from eating a korban pesach. The Rashba questions the need for such a limud. After all, we already know that geirut is not complete until both mila and tevila have been executed. Hence, a ger who has been circumcised without tevila is no different from a non-Jew (who was explicitly excluded by the Torah earlier, in verse 3). The Rashba answers that without our pasuk we might have thought that a ger who has completed mila, even without having performed tevila, "has partially begun to join the Jewish religion and should be allowed to partake of the korban pesach." Evidently, even according to the Rashba, we might have entertained the hava amina (initial supposition) that mila DOES represent an initial phase of geirut.

Now, according to the Rashba an intriguing question remains. After the pasuk specifically excludes this "partial ger" (who has been circumcised but has not performed tevila) from korban pesach, what can we determine about his status? Does the pasuk, by excluding him, completely negate our hava amina? Does it certify that mila is merely a preliminary and hence he IS NOT EVEN A PARTIAL GER and that is why he cannot partake of the pessach? Is the entire purpose of the pasuk to dispel such speculations and confirm the Rashba's view regarding the dynamics of geirut? Or can we suggest that, even in the maskana (conclusion), mila does represent a fundamental component of geirut, but the pasuk goes out of its way to inform us that, despite this partial status, korban pesach may only be eaten by a complete Jew. Apparently, this opinion in Yevamot (certainly in the hava amina and possibly even in the maskana) adopts a position which is contrary to the Rashba's vision of geirut.

METHODOLOGICAL POINTS:

1. As stated above, any time two factors combine to produce one halakhic effect, their interrelationship must be examined. Are they working in combination as two equals or does one serve as auxiliary to the other? If there does exist an unequal relationship, which is the essence (ikkar) and which the subordinate (tafel)?
2. Nafka minot (practical differences which arise from an either/or question) which help to resolve this issue include the question of sequence and the standard required of each factor. The more ancillary something is, the less strict the standard might be.
3. Whenever a hava amina is introduced it is predicated upon two premises: Firstly, about the nature of a halakha and secondly, about how this nature influences a halakhic ramification. In rejecting the hava amina the gemara might be redefining the nature of the halakha as something other than was assumed. Alternatively, the gemara might be maintaining the nature as is, but denying that such a nature determines the particular ramification. Particularly so in the case of a pasuk, the Torah might be deliberately dismissing a particular implication even though its essence might theoretically warrant such a halakha. Essentially, it is important to study hava aminot because the premises raised are not always completely rejected in the maskana.

BE SURE TO VISIT THE "VIRTUAL CITY OF JERUSALEM"
WWW.VIRTUAL.CO.IL

VISIT YHE'S WEB SITE: [HTTP://WWW.ETZION.ORG.IL](http://www.etzion.org.il)

To subscribe send e-mail to: LISTPROC@JER1.CO.IL: subject:(leave blank or type word 'subscription'), on first line of text type: sub YHE-METHO <your full name> .

To participate in a weekly discussion group on this shiur moderated by the instructor, please subscribe to YHE-METH.D as described above. For direct questions or comments to Rav Moshe Taragin, please send email to MT@JER1.CO.IL .

Copyright (c) 1996 Yeshivat Har Etzion. All rights reserved.

SHIURIM MAY BE DEDICATED TO VARIOUS OCCASIONS - YAHRZEITS, SEMACHOT, BIRTHDAYS, ETC. PLEASE E-MAIL YHE@JER1.CO.IL FOR AN APPLICATION.

YESHIVAT HAR ETZION
VIRTUAL BEIT MIDRASH
ALON SHEVUT, GUSH ETZION 90433
E-MAIL: YHE@JER1.CO.IL or OFFICE@ETZION.ORG.IL