



The Male Rabbinic Court in the Immersion of a Female Convert

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Summary Position

The role of the male rabbinic court in the conversion of a female must be situated in the broader question of the rabbinic court in conversion. The Talmud (Bavli, Yevamot 47b) already recognized the importance of the need for modesty in the process, and I hope to increase our commitment to that value. This summary will serve to outline the main points of a longer teshuva.

There is complex debate among the Medieval commentators regarding the status of a conversion in which the immersion was not witnessed at all by the rabbinic court. Rabbi Yosef Karo summarizes both position in his *Shulchan Aruch* (Yoreh Deah 268:3). The first perspective that he quotes is the Ashkenazik position of Tosafot (Yevamot 45b, *s.v. mi lo tavla*) and Rabbeinu Asher (Yevamot 4:31) that after the fact such a conversion is kosher, even if not ideal. The second position that he quotes is that of Rambam (Hil. Issurei Biah 13:9) and Rif (Yevamot 15a) in which case such a person would not be permitted to marry into the Jewish community without another immersion.

According to the classic rules of *psak* Rav Yosef Karo, when presenting a debate in this manner, means to decide in accordance with the first position. Therefore, we have an unusual instance in which Rabbi Yosef Karo rejected the position of Rambam and Rif in favor of Rosh and Tosafot (see also Shach 268:8 and Bach 268 *s.v. v'chol inyanav*).

There are several modern Poskim who rely on this position in different cases. Rav Uziel (Mishpitei Uziel, Yoreh Deah 1:13) deals with a case in which the community Mikveh is located in the non-Jewish bath house. Since it was difficult to imagine the male rabbinic court entering a public bath house, Rav Uziel said that it was permissible for three women to oversee the immersion and report back to the court. Rav Uziel was focused on the appropriate behavior of the members of the rabbinic court, something that we need to keep in mind.

There is no doubt that if a woman expresses discomfort with being witnessed by the male rabbinic court that an emergency situation (*sha'at ha-dechak*) has been created and we may rely on less than ideal (*bi-di'eved*) Halakhik positions. Since the *Shulchan Aruch* accepts these approaches, there is ample support to rely on Tosafot and Rosh and not demand that the immersion be witnessed.

In addition, Rav Moshe Feinstein in a foundational Responsa in 1974 (Igrot Moshe, Yoreh Deah vol. 3, #112) deals with a case in which there was not enough room and only one member of the male rabbinic court was able to witness the immersion. He goes on to outline a core concept in Jewish Law that when the rabbinic court hears something or knows something with certainty, it is as if they witnessed



that event. Rav Moshe wrote the following, “שלכן בטבילה שצריך הגר לפני ב"ד סגי בשמיעת הטבילה לכו"ע”, *For in the context of immersion which requires the presence of a rabbinic court, hearing is sufficient according to all positions.*”

Rav Moshe’s claim is that as long as the rabbinic court has full knowledge of the immersion, all Halakhik decisors must accept the validity of this conversion (including Rambam and Rif). This is the way that Rav Moshe Klein in his *Mishnat ha-Ger* (See Siman 45 and Chapter 5:23-24, note 45) explains this core response of Rav Moshe Feinstein.

Rav Moshe’s logic is compelling and can be applied to our case by allowing the door to be closed, or open just a crack, as long as sound can travel. The advantage of Rav Moshe’s position is that he makes his claim for all decisors and says that it works even from the outset (*mi-l’chatchila*). If modern rabbinic courts are not prepared to rely on Rav Moshe from the outset, we must be prepared to accept the decision of the *Shulchan Aruch* and rely on the position that the court need not witness the immersion.

The current practices of some rabbinic courts is embarrassing. There are some who enter the room with the Mikvah water and do not allow the woman to cover up with a robe. This is simply unacceptable. The presence of the men in the room with the Mikvah waters is simply not required according to the *Shulchan Aruch* and Rav Moshe Feinstein. Given the importance of the value of modesty in our community, it is time for all male rabbis involved in conversion to show our shared commitment to this core value - both from our own perspective, as well as taking into consideration the feelings of the potential converts.

Since there is no requirement to enter the room, it should therefore be the policy of all conversion courts to stand outside the door. Some may choose to leave the door open enough to see the back of the convert’s head while she immerses in a robe; others may leave the door open just a crack or closed entirely and insure that sound can reach them.

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