

bride-to-be. If I failed, I would, with many misgivings, convert him.

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Unprovable Claims to Conversion

A man aged forty-five has been married for several months. His wife is seeking an annulment of their marriage on the grounds that he misrepresented himself as a Jew at the time of the marriage. The man claims to be a Jew and has considered himself a Jew all his life. His mother was born a non-Jewess. His father, now eighty, states that his wife (the man's mother) was converted by a Reform rabbi before their marriage. He can find no record of it. To add to the difficulty, the mother, now deceased, was buried in a non-Jewish cemetery. The son (who is now being sued for annulment) was circumcised at a Brith Mila, was Bar Mitzvah, and married by a Conservative rabbi. He was reared as a Jew and considers himself a Jew. He is contesting the annulment on the grounds that if he does not, he will be indicating that he does not believe himself to be a Jew. Is the man to be considered a Jew or not, as far as Jewish law is concerned? (From Rabbi Selig Salkowitz, Reform Temple of Fair Lawn, Fair Lawn, New Jersey)

The problem is complicated. There are a number of crucial elements involved. The woman, who declares herself to be Orthodox, has evidently been instructed to contest the validity of the conversion of her husband's mother by a Reform rabbi. If that conversion is invalid, her husband is the son of a Gentile and has misrepresented himself as a Jew. Therefore, the first important question is the validity of a Reform conversion.

It might be too much to expect a strictly Orthodox rabbi to acknowledge the validity of any Reform ceremony which varies from the norm laid down in the Shulchan Aruch. A Reform conversion certainly does not conform to that norm. The fact that we may instruct the candidate for conversion much more thoroughly in Jewish beliefs and history than any Orthodox rabbi would instruct her would be immaterial in the face of the fact that we generally omit the *ceremonial* requirement of sending her to the ritual bath (*mikveh*). It is the ritual that matters to the Orthodox rabbi and not whatever intellectual and moral preparation we may give her. While, therefore, the absence of the ritual bath prevents the Orthodox rabbi from acknowledging the validity of our conversion, the courts have no right to question it and to assume that there is only *one* authentic form of Judaism and that is Orthodoxy. With regard to our ceremonial disagreement with Orthodoxy, there is nothing for decent people to do but endure it, and learn somehow to achieve mutual respect. So the question of the wife's refusal to acknowledge the authenticity of Reform conversion cannot be discussed with her. It can only be discussed in the courts, if necessary.

It is not only the Reform conversion which is here brushed aside; it is also the acceptance of the boy as a Jew by the Conservative rabbi which is here deemed irrelevant. The boy was circumcised as a Jew, was Bar Mitzvah, lived as a Jew. What objection is there, then, to considering him

a Jew? It can only be that an Orthodox rabbi, rejecting the validity of the mother's conversion, considers this boy to be a Gentile, and therefore in addition to being circumcised, he should have been sent to the *mikveh*. It would be on this basis only that the boy's Jewishness could be denied. Again, it is the omission of a ceremonial which weighs more than the boy's Jewish education, Bar Mitzvah, and his whole life as a Jew.

However, there is another question which involves a complicated problem in Jewish law. This problem revolves around the fact that the man's father, now very old, can adduce no proofs that his wife was converted, as he claims she was. Such unprovable claims to conversion have evoked considerable discussion in the Talmud and in the Codes. The chief source of the laws involved is the Talmud in b. Yevamoth 47a, and then the Tur and the Shulchan Aruch in Yore Deah 268 : 10 and 11. The various subdivisions of the problem are these: (a) a man claims to have been converted before a certain Jewish court; (b) a man claims to have been converted privately, not before a court; (c) a man was assumed to be a Jew but now he himself has raised a question and says he has been a Gentile but has been converted; (d) a man was assumed to be a Gentile but claims that he has been converted.

These various situations arouse different reactions in the minds of the legal authorities. In general, their answer is that the man claiming to have been converted, let us say privately (without the technical requirements which the court would demand), has a right to cast doubt upon his own Jewishness by raising this question, but he has no right to cast doubt upon the Jewish status of his children. That is to say, before he may now marry another Jewess he would need to take a ritual bath (assuming that he is already circumcised), but, since at the time that he makes the statement he is not surely Jewish, he is not eligible to

testify in a Jewish court against his children. The children are of unquestioned Jewish status.

There is some difference in the answers for each of the various categories mentioned above. But in general the tendency of the law is increasingly to accept a man's statement if he says he has been converted. Thus Asher ben Yehiel in the "Piskey Harosh" 4 : 34, 35, sums up the law to his time when he says: if a man claims that he was converted before a certain court, he must bring proof (since a court's actions are susceptible of proof), but all the proof that is needed is merely for people to say, "We have heard that he was converted." Further, if a man says he was converted privately, he has to take the ritual bath before marrying a Jewess, but his sons are held to be Jewish. To Tur, Yore Deah 368, Joel Sirkes (Bach) says: "At all events, it is our custom to believe the man's claims and even to marry him to a Jewess." Then Joel Sirkes proceeds to explain away partially the objections of Maimonides against believing the man. Joel Sirkes' statement is cited with approval by Sabbetai Cohen (Shach, to Shulchan Aruch, Yore Deah 368 : 10 and 11). Sirkes to the Tur also quotes the well-known legal authority Moses, of Coucy, in his "S'Mag," who says: "This occurs every day. Strangers come (and claim to be Jews). We do not bother to investigate. We drink wine with them and eat meat from their slaughtering." This general tendency of the law to accept the claim of a man that he is a Jew is reflected in a recent responsum by Isaac ben Aryeh Rudnik ("S'de Yitzchok," London, 1961). The case with which he deals is that of a soldier who came to England from overseas, who claimed to be a Jew, married a Jewess; then his wife left him and lived with another man. Rabbi Rudnik decides that the marriage to the soldier who said he was a Jew is valid enough as Jewish marriage to require a Jewish divorce (*get*).

Of course, all this discussion involves the claimed conversion of a *man*. Our case here involves a woman whose conversion to Judaism is disputed. Nevertheless, the Shulchan Aruch understands that the above laws apply equally to man and woman. It cites the Talmudic law as follows (Yore Deah 268 : 10): "If a Gentile man or a Gentile woman come and say, 'I have been converted' . . . ," and so forth. The spirit of the law is clear. It reveals a growing tendency to accept the claim of a person or a family to be Jewish. Furthermore, there is an overriding presumption in all such claims that families are assumed to be kosher (Jewish and legitimate) unless, of course, there is strong ground for doubt. This principle is stated in the Talmud (b. Kiddushin 76b).

Therefore, aside from Orthodox refusal to accept any conversion other than their own, a refusal which it is futile to debate, the overwhelming tendency of Jewish law in matters of unprovable claims for conversion is to accept the claim and to consider the person a Jew.

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Circumcision and Naming of Orphan

A father died before the circumcision of his boy. The question was asked: How should the child be named in Hebrew, as the son of his father or the son of his