

Rabbi Daniel Nevins
CJLS Sivan 5783 / June 2023

Concurring Opinion to Rabbi Miriam T. Spitzer, “Giving a Get to a Meshumedet”

This paper was submitted, in June 2023, as a concurrence on “Giving a Get to a Meshumedet” by Rabbi Miriam T. Spitzer. Dissenting and Concurring papers are not official positions of the CJLS.

I appreciate the scholarly and sensitive response of our colleague Rabbi Miriam Spitzer to the case of a woman who converted to Judaism in the context of her marriage to a Jewish man, and then, following their civil divorce, discontinued her Jewish identification. Under the established principle, *Yisrael she’hatah, Yisrael hu* (“once a Jew, always a Jew”), this woman requires a Jewish bill of divorce (*gett*), and if unwilling to participate in the process, may be gifted with a “beneficial divorce” (*gett zikkui*) since it is only to her disadvantage to be considered married by halakhic authority following her civil divorce.¹

I fully agree with Rabbi Spitzer’s conclusions in a scenario in which the former wife has been contacted by the rabbinic court and has refused to participate in receiving a *gett*, and even declared herself no longer to be Jewish. For this reason I voted in favor of her responsum. However, I can imagine complicating factors which deserve consideration by rabbis addressing this sensitive situation:

Rabbi Spitzer says that there is no requirement to receive permission from the woman before issuing a *gett zikkui*. Perhaps this is halakhically so, but I think there is nevertheless a pastoral requirement for the court to make a sensitive effort to contact the woman, to explain the situation, and to offer her the choice to participate now, and if not, then to know that the court will act on her behalf in executing the *gett* and will hold her certificate of release for some time should she later decide to claim her property. Such an offer respects her agency and treats her as a member of the Jewish community, even if in the context of her divorce she is currently estranged from that

¹ The theoretical advantage of being entitled to financial support promised in the *ketubah* such as *mezonot* is mooted by the priority of the financial stipulations of the civil divorce settlement. The disadvantage derives from her status as married to one person according to halakhah though she is divorced and perhaps even remarried according to civil law.

community. And should this woman one day seek to remarry another Jew, she would need to access her certificate of release.

Rabbi Spitzer describes a woman who no longer practices Judaism, using the traditional pejorative term, *meshumedet*, translated as “apostate,” but literally, “destroyed person.” I know that this overtone is not her intention, but would I prefer use of a more neutral term to describe this woman, perhaps *menukeret* (“alienated”) or *meruheket* (“distanced”). In some cases such a person might harbor ambivalent feelings towards their Jewish identity. Perhaps they were sincere in their conversion to Judaism, but in the painful context of divorce their Jewish identity might have become dormant. Some converts to and from Christianity might claim both religious identities simultaneously. Indeed, Judaism might agree with that assessment.² Surely some such women still consider themselves to be at least partially Jewish, and would be saddened or even offended to learn that the rabbinic court had not even attempted to solicit their participation in the Jewish divorce. Without engaging her in conversation, we cannot be certain of her perspective, nor can we offer her support in a painful period of her life.

Does our movement have an official definition of apostasy now? Many of our people are diverse in religious background and heterodox in their beliefs and practices. It is not only converts who can be deemed apostates, after all. What about a woman whose mother is Jewish, father Catholic, and who participates in “all the holidays,” without ever verbalizing their personal theology? A significant number of people would fit this profile, and so it would be helpful to have greater clarity about what is meant by *meshumad/meshumedet* if we are going to treat them so differently.

Rabbi Spitzer studiously avoids reference to offspring, but in some such cases the divorced woman may also be the mother of children born after her conversion to Judaism. In other words, she will still be the mother of halakhically Jewish children. For their sake as well, I think it important for the rabbinic court to take the additional steps, awkward as they might be, to communicate respectfully and completely with this woman on the assumption that she may continue to value the Jewish status of her divorce, whether for her own sake, or for that of her children.

² That is, she is still halakhically Jewish as previously explained, but her practice of another religion affects her standing in the Jewish community.

Finally, the CJLS has correctly been working in the opposite direction to maximize the agency and participation of women in the traditional Jewish divorce process, which is deeply non egalitarian. *Gett zikkui* is the polar opposite of this trend and so I feel we ought to require that the woman has been contacted and has refused to participate before taking this drastic step.

I offer this concurrence with full respect for Rabbi Spitzer's scholarship and authority, having voted in favor of her responsum, with the hopes that my concurrence may be helpful for rabbis faced with this difficult pastoral and halakhic situation.