Addendum II on:
May a Conversion Obtained Through Deceit be Annulled?

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In this paper I will advance a halakhic reason as to why Joshua did not nullify the Gibeonite conversion. Let me submit that even though conversion requires a Bet-Din of three, its function is to judge that it was done k’halakha rather than to accept (even though the Talmud uses the term “acceptance” מַכְבַּל). Therefore, the concept of nullification does not apply. In other words, the Bet-Din may not say: “should we have known his or her origin we would not have accepted him or her.” For the Bet-Din does not convert, but merely ascertains. That explains Joshua’s dilemma.

The Bet-Din Does not Convert It Ascertains

Let me cite the sources I believe support this position.

In Yevamot 45b we learn:

The servant of Rabbi Hiyya bar Ammi immersed a gentile girl to be his wife. Rav Yosef say: I can validate both her and her daughter. Her in accord with Rav Assi’s dictum: “Has she not immersed after her periods?”

Rashi: יכילぬ לאנסזר הב ליהיה גוררת גמוריה ואצ”פ שלשת טבולת לשם גורית.

Tosafot (s.v. Mi) asks: Does not conversion require a Bet-Din of three? Two answers are given: (1) The requirement of a Bet-Din is for קבלת המצות (acceptance of the commandments) only. (2) יש מפרשים רכיבי יידע – there are those who say that public knowledge that she had immersed is considered as if they were there.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.
Tosafot here is quite clear that the function of the Bet-Din is that of knowing.

The Rif asks the same question as Tosafot:

וכי הואNichum ve’Enayim nirchav bim atzam v’efer shelsho nei’? K’hil’ah v’halachah hayo’
ולכשא הוא דרב אסי ורביניו הוא’il halakho’ shelchah hayo’.
uckets v’hachlato hayo’.
וזאיל טאבל לשון קרין וכרו: איה דרבNichum ve’Enayim nirchav bim atzam v’efer shelsho nei’?
ולכשא הוא דרב אסי ורביניו הוא’il halakho’ shelchah hayo’.

If you ask about Rabbi Yohanan’s dictum that a convert requires three [people], which we understand is the halakha – Ravi Assi and Rabbi Yehoshua ben Levi’s dictum that we do not find [an unattested convert’s] son invalid since he immersed after his sexual emissions is after the fact whereas Rabbi Yohanan’s requirement is ab initio – that we don’t treat him as a convert, do not allow him to marry a Jewish woman, until he immersed before three.

Note, the Rif does not say befor a court of three.

The Magid Mishnah is of the opinion that the Rambam is in accord with the Rif. The Magid Mishnah quotes the Halakhot Gedolo, expressing the same analysis as the Rif.

In Halakhot Gedolot they said of these matters... And their words resemble the words of Maimonides Hilkhot Issurei Bi’ah.

In Yevamot 24b we learn:

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There will be no proselytization at the time of the Messiah. Similarly, they did not accept converts in the time of David.

Tosafot asks:

This problematic in light of what we say concerning the Gibeonites, that 150,000 converts were added to Israel. One could sy that they converted on their own, as [in the days of] Mordekhai and Esther.

Tosafot’s answer: requires elucidation!
In *Yevamot* 47a we learn.

י״ר יוהודא נר סנתגייר בּכ֯רָה הוא והר בצן לְפָנֵי עַצָּמָיו גְּר.

Says Rav Yehudah: A convert in court is a [valid] convert. Privately he is not a [valid] convert.

I suggest that *Tosafot* is in accord with the ruling of the Rambam: *(Hikhot Issurei Biya 13:15)*

לְפִיכַךְ לֶא כֵּבלָא בִּית דָּוִד גְּרֵים כָּל יֵיּ דְּרֵי וְשַׁלְמָה ... וּאֵפִּיצִּיֶּה יֵיּ גְּרֵי הָרוֹבָּה

The courts did not accept converts in the time of Daivd and Solomon, nevertheless there were many converts in those days before laymen.

There is a disagreement between the *Magid Mishnah* and the *Kesef Mishnah* as to the meaning (before laymen). The *Magid Mishnah* holds it to mean before a *Bet-Din* of הרימורים (laymen). The *Kesef Mishnah* maintains:

אָלֶא שָׁם כֵּבלָא אָחָתוֹ גְּרֵי הָרוּמִיתָה שָׁאָטָנָה בְּכֶרֶד הָרְיִים (הַלָּכֹת אֱיסָרִי)

If they were accepted as converts by laymen who do not constitute a court, they are converts.

In 13:17 the Rambam rules:

גְּרִיָּה בָּדַּק אֱחָתוֹ אוֹ שָׁם הָרוּמִיתָה שָׁאָטָנָה בְּכֶרֶד וּשְׁלַמְּהָ קִדְּרָשָׁנָה

A convert who was not checked out thoroughly, or whom they did not advise of the commandments and the punishments, but was circumcised and immersed before three laymen – he is a convert. Even were he to revert to idolatry, he is like a Jewish apostate whose marriages are valid. That is why Samson and Solomon kept their wives even after their privacy was compromised.

The Rambam is quite explicit here: *( даже מָשְׂנָלָה סְדָרִי ) (even though their privacy was compromised).
CONCLUSION

We may now conclude that the covenant Joshua made with the Gibeonites was a political alliance. And, therefore, the Radak rightly asks why didn’t he nullify it. The conversion was done על ידי עצמן (on their own).

Should we accept Rabbi Moshe Feinstein’s ruling:

ואף אם אמר בכלショップ הלומד את אנך תՕי שיאמרו麦克בל עליה באמה עני
כלוה.

Even if he said that he accepts the commandments but we can attest that he does not truly do so, it is invalid.

Then we would have to question many of our conversions.