

him an Aliyah to the Sefer Torah. In addition, the aforesaid person, male or female, will not be allowed to purchase a seat, permanently or for the holidays, in our Congregations.

4. After death of said person, he or she is not to be buried on the cemetery of our community, known as Rodfe Zedek, regardless of financial considerations.

Seal of the Beth Din of Magen David Congregation

Chief Rabbi Jacob S. Kassir

#### REAFFIRMING OUR TRADITION

WHEREAS, throughout the history of our community, our rabbis and lay leaders have always recognized the threat of conversions and the danger of intermarriage and assimilation; and have issued warnings and proclamations concerning these evils in February 1935, in February 1946 and in May 1972.

NOW, THEREFORE, we assembled rabbis and Presidents of the congregations and organizations of the Syrian and Near Eastern Jewish communities of Greater New York and New Jersey do now and hereby reaffirm these proclamations, and pledge ourselves to uphold, enforce and promulgate these regulations. We further declare that Shabbat Shuvah of each year be designated as a day to urge our people to rededicate themselves to these principles.

IN WITNESS WHEREOF, we have caused this document to be prepared and have affixed our signatures thereto, at a special convocation held on this third day of Sivan 5744 corresponding to the 3rd day of June, 1984.

Dr. Jacob S. Kassir  
Chief Rabbi

The proclamation was signed by the rabbis and presidents of every synagogue, yeshivah, and social organization of the Sephardic Jewish communities of New York and New Jersey.

## ANOTHER HALAKHIC APPROACH TO CONVERSIONS

Marc D. Angel

In considering issues relating to the conversion of non-Jews to Judaism, Orthodox Jews tend to defend a strict policy which we term *the Halakhic approach*. Conversion for the sole purpose of marriage is highly discouraged. Conversion when the non-Jew does not intend to observe Halakhah in full is generally considered to be no conversion at all. Rabbi Melech Schachter, in a fine article on conversion, states what most Orthodox Jews believe:

Needless to say, conversion to Judaism without commitment to observance has no validity whatever, and the spuriously converted person remains in the eyes of Halakhah a non-Jew as before.<sup>1</sup>

The purpose of this article is to present another Orthodox viewpoint on conversion. The traditional stringency is not the only Halakhically valid approach available to us; on the contrary, this may be the proper time to rely on other Halakhic standards. No one will argue that conversion to Judaism for other than spiritual reasons is ideal. Certainly it should be discouraged. However, in terms of practical reality we may have to be more tolerant of such conversions.

Raphael Hayyim Saban, then the Chief Rabbi of Istanbul, wrote to Rabbi Benzion Meir Hai Uziel, the Rishon Lezion, in 1943, asking if conversion for the sake of marriage is valid.<sup>2</sup>

In his response, Rabbi Uziel opens with a quotation from the *Shulhan Arukh* (*Yoreh Deah*, 268:12) which states that we must examine a potential convert to determine if his motives for accepting Judaism are sincere. Certainly, the ideal is not to convert those

who are insincere. Then Rabbi Uziel adds that since in our generation intermarriage is common in civil courts, we are often forced to convert the non-Jewish partner in order to free the couple from the prohibition of intermarriage. We must also do so in order to spare their children who would otherwise be lost to the Jewish fold.<sup>3</sup> If we are faced with a *de facto* mixed marriage we are permitted to convert the non-Jewish spouse and the children, when applicable. If this is true when a couple is already married, it is obviously true before they have begun a forbidden marriage relationship. The conversion could offset future transgressions and religious difficulties.

Rabbi Uziel bases his opinion on a responsum of the Rambam.<sup>4</sup> The case before Maimonides dealt with a Jewish man who had a non-Jewish maid-servant. The man was suspected of having conducted himself immorally with his servant. Should the *bet din* have her removed from his house? In his answer, the Rambam states categorically that according to the law the maid should be sent out. After it learned of his wrongs, the *bet din* was obligated to exert all its power either to have the maid sent out or to have the Jewish master free and then marry her. But there is a law stating that if one is suspected of having had immoral relations with his maid and then he freed her, he may not marry her.<sup>5</sup> The Rambam said that in spite of this ruling, he has judged in such cases that the man should free and marry the maid. He justified his decision by stating that it is necessary to make things easier for repentants (*Takanat Hashavim*). He relied on the famous statement of our rabbis, "It is time to serve the Lord, go against your Torah." The Rambam closed this responsum with a significant, profoundly religious comment, "and the Lord in His mercy will forgive our sins . . ."<sup>6</sup>

The Rambam recognized that his decision is in violation of the ideal halakhic standard. However, he allowed his human insight to cope with the problem realistically, and he invoked other halakhic standards to justify himself. As a true man of reason and faith, he dealt with the situation sensibly while relying on God's mercy. God will understand the motivations for this halakhic decision and will either approve or forgive. In any case, what must be done will be done.

In support of the Rambam's approach, Rabbi Uziel cites several Talmudic sources which reflect the same attitude.<sup>7</sup> It is better to

choose the lesser of two evils, even when the choice is not ideal. It is better to stop adding fuel to evil now, rather than risk an increase in transgression.

Based on this attitude, Rabbi Uziel says that when an intermarried couple comes to a *bet din* seeking the conversion of the non-Jewish partner, we must allow such a conversion. We may not take the haughty position that these are wicked people who deserve to suffer the fate of transgressors.<sup>8</sup> On the contrary, by coming to halakhic authorities the couple displays a desire to avoid transgression. They do not want to reject the Torah but want to be included in the Jewish community.

As was stated earlier, if we are permitted to convert one who is already married to a Jewish mate, we may certainly convert one who wishes to marry a Jewish partner in the future. Even if we know that the main and perhaps only reason for the conversion is marriage, yet when all is said and done such a conversion is still halakhically valid.<sup>9</sup>

But Rabbi Uziel considers such conversions not only to be permissible, but actually morally required. Rabbis are not only allowed to convert a non-Jew for the purposes of marriage, but are urged not to step away from the positive responsibility to do so. In support of this idea, Rabbi Uziel referred to the strict chastisements of the prophet Malachi against those who married out of the faith.

Judah has dealt treacherously, and an abomination is committed in Israel and in Jerusalem; for Judah has profaned the holiness of the Lord which He loves and has married the daughter of a strange god. May the Lord cut off to the man that does this . . . (Malachi, 2:11-12).

In view of the stringent prohibition of marrying a *bat el nehar* Rabbi Uziel argues that it is better to convert the non-Jewish partner so that the Jewish partner could be spared from this severe transgression. Such conversion is also better for the children who would be born to the couple since they could now be considered legally as Jews. Considering the alternatives of conversion or intermarriage, Rabbi Uziel ruled in favor of conversion.

Rabbi Uziel, however, qualifies his opinion in that he feels that the judges should do everything they can to break off the projected marriage and resort to conversion only when it is clear that the

couple definitely will not be dissuaded. The judges should direct their hearts to God when they perform the conversion, and "the merciful God will forgive."

In 1951, Rabbi Uziel received a question from Yehudah Leon Calfon, a rabbi in Tetuan. The problem involved was: may we convert the non-Jewish wife and children of a Jewish man when he is not observant and does not sincerely intend to have his family be observant? If a Jew observes the *mitzvot* like the average Jew of his time (*kistam Yehudim bazeman hazeh*), then there would be no problem since we could rely upon the responsum of the Rambam. But what about the Jew who does not observe *Shabbat*, *Yom-Tov*, *Kashrut*, etc. Shall we prohibit the conversions or shall we say that since the Jew still wants to be included in the Torah community—albeit to a limited extent—we may convert his non-Jewish wife and children?<sup>10</sup>

Following a preliminary discussion, Rabbi Uziel comes to grips with this serious problem. He refers to our standard procedure when a non-Jew comes to convert. We teach him the principles of Judaism—unity of God, prohibition of idol worship. We inform him of some of the easy and difficult *mitzvot*, as well as some of the rewards and punishments. We do not teach him everything. The Shakh comments that we do not tell the would-be convert all the technicalities and stringencies because we might scare him away. If he is really sincere about his wish to convert, it would be wrong to frighten him out of his desire.<sup>11</sup>

From this standard procedure, we see that there is no requirement to ask the non-Jew actually to observe the *mitzvot*. We do not require his assurances that he will be an observant Jew. If we did, we could never have any converts, because no *bet din* can guarantee absolutely that the convert will keep all the *mitzvot*. The reason we tell the non-Jew some of the *mitzvot* is to give him an idea of what is involved in becoming an observant Jew. That way, he may have the option to change his mind about conversion. If, however, he converts and does not observe, he is considered as a Jew who transgresses.

Moreover, the procedure of informing the non-Jew about basic beliefs and *mitzvot* is required initially. However, if we did not follow the procedure and we converted the non-Jew anyway (circumcision and ritual immersion), the conversion is valid notwithstanding.<sup>12</sup>

Rabbi Uziel remarks that if a non-Jew gives us no indication that he expects to observe the *mitzvot*, we may still convert him even initially.<sup>13</sup> It is not only permitted to accept converts on this basis, but it is also a *mitzvah* upon us to do so. We, of course, hope that they will observe and we should encourage them to keep the *mitzvot*. But if they do not, they are still halakhically considered to be Jews.<sup>14</sup>

There is an argument that since the vast majority of converts today do not observe the *mitzvot* even for a short time, we should not accept converts at all. To this Rabbi Uziel replies that it is a *mitzvah* to accept converts.<sup>15</sup> Furthermore, it is dangerous to forbid conversion since it will force the Jewish partners of inter-faith marriages either to convert to the other religion or to become defiled by the improper relationship. Those who have been rejected from the people of Israel have historically been our worst enemies. We also have an obligation to the children of these marriages. After all, they are of Jewish stock (*Mizera Yisrael!*) even if their mother is not Jewish. They are lost sheep whom we must reclaim for our people.

In an emotional passage, Rabbi Uziel writes:

And I fear that if we push them [the children] away completely by not accepting their parents for conversion, we shall be brought to judgment and they shall say to us: "You did not bring back those that were driven away, and those who were lost you did not seek" (Ezekiel, 34:4).

This chastisement is far more severe than the chastisement of accepting converts who in all likelihood will not be observant Jews.<sup>16</sup>

From these responsa it is clear that Rabbi Uziel offers a Halakhic perspective which reflects a profoundly sympathetic and understanding spirit. Recognizing the practical realities of our world, it is essential that halakhic authorities courageously respond to the needs. Ours must not be a haughty and elite attitude towards would-be converts. We have a moral obligation to convert those who seek conversion, not only for their sakes but for the sakes of their children. Of course, we must make every effort to teach them the Torah and to encourage their adherence to the *mitzvot*. But in the final analysis, we must put our faith in human

reason and compassion, and, certainly, we must put our faith in God (*Vehu Rachum Yekhaper . . .*).

## NOTES

1. *Jewish Life*, May-June, 1965 p. 7. See also p. 11, under the heading, "Commitment to Total Observance."
2. *Mishpetei Uziel*, Jerusalem, 1964, No. 18.
3. See Rabbi Schachter, *op. cit.*, p. 13.
4. *Pe'er Hador*, Amsterdam, 1765, No. 132. See also *Mishpetei Uziel*, *op. cit.*, No. 21, where Rabbi Uziel also relies on this Rambam.
5. See T.B. *Yebamot*, 24b.
6. הגמון על השפחה ונשתחררה אינו יכול ליטעה לכהחילה. אומרם ה"ל עת לעשת לך".  
T.B. *Kiddushin*, 21b.  
T.B. *Shabbat*, 31b.  
8. Rabbi Uziel says that the concept of *ruma* (T.B. *Baba Kama*, 69a) does not apply here.
9. T.B. *Yebamot*, 24b. The question is: is a person who converts for a real convert? The conclusion is that he is. הלכה כדברי ואומר כולם גרים הם. This is brought down in the codes. See for example, the *Mishneh Torah* of Maimonides, *Hilkhot Isurei Biah*, 13:17; and the *Tur*, *Yoreh Deah*, 268.
10. *Mishpetei Uziel*, *op. cit.*, No. 20.
11. *Yoreh Deah*, 268, *Se-if katan*, 5.
12. See the *Shakh*, *Se-if katan*, 3.
13. מכל האמור ומדובר תורה יוצאה שמתה ומצוה לקבל גרים וגירות אע"פ שידע לנו שלא יקיימו כל המצוות. משום שסופם יבואו ליד קיומם ומצווים אנו לפתח להם פתח כזה ואם לא יקיימו את המצוות הם יטאו את עינם ואנו נקיים.
14. מכל האמור ומדובר תורה יוצאה שמתה ומצוה לקבל גרים וגירות אע"פ שידע לנו שלא יקיימו כל המצוות. משום שסופם יבואו ליד קיומם ומצווים אנו לפתח להם פתח כזה ואם לא יקיימו את המצוות הם יטאו את עינם ואנו נקיים.
15. T.B. *Yebamot*, 109b, *Tosafot*, "Ra-ah."
16. For other of Rabbi Uziel's responsa on conversion see, *Mishpetei Uziel*, *op. cit.*, No. 22; *Mishpetei Uziel*, Vol. 1, *Yoreh Deah*, No. 14; *Mishpetei Uziel*, Vol. 2, *Eben Ha Ezer*, No. 25.

## CONVERSION IN JEWISH LAW

Shlomo Riskin

## INTRODUCTION

Attitudes towards conversion is one of the most crucial issues confronting Judaism today. The Jewish community in America has been irrevocably bifurcated since Orthodox rabbis will not perform a marriage between a "natural" Jew (one born to a Jewish mother or converted in accordance with Jewish law) and one "converted" by a Conservative or Reform rabbi not in strict accordance with Halakah, Jewish law. The "Who is a Jew" controversy in Israel has bitterly divided the religious parties and has caused untold animosity between the religious and non-religious camps. The secularists agonizingly cry: Is the Russian emigre married to a Christian, who has risked life and limb to leave the "Communist paradise" and re-establish historic ties in Israel, to be told that his children are not Jews and cannot be married in a religious ceremony? Is the Israeli kibbutznik who was born to Christian parents but who has placed her destiny with Israel's future and who has worked and fought for Israel's development to be denied the status of a Jew merely because she did not undergo some *pro forma* rite of acceptance? And the religionist staunchly responds: We must maintain the sanctity of Israel! Our faith commitment is based upon a precise legal system which has been responsible for the preservation of our people these three thousand years. We dare not compromise our halakhic standards.

And even within the Orthodox camp there is a good deal of ferment over the exact meaning of "conversion in accordance with Jewish law." The "lightning" conversion of Helen Seidman,