Another Halakhic Approach to Conversions

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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 Halakha 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 Halakha a non-Jew as before." [1]

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.[2] 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.[3] 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 the 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.[4] 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, bet din was obligated to exert all its power either to have the maid sent out or to have the Jewish master free her 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.[5] The Rambam said that in spite of this ruling, he has judged in such cases that the man should free her 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 . . ."[6]

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.[7] 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 to risk an increase of 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.[8] On the contrary, by coming to Halakhic authorities the couple display 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.[9]

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 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 heart 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?[lO]

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.[11]

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.[12]

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.[13] 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.[14]

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.[15] 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.[16]

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 fial analysis, we must put our faith in human reason and compassion, and, certainly, we must put our faith in God (*Vehu Rahum 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, 5724, 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 Uzie1 also relies on this Rambam.

[5.] See T.B. Yebamot, 24b. *Hanit’an al hashifha venishtahrerah eino yakhol lisa’enah le-khathila* .

[6.] *ufasaknu kakh mipenei takanat hashavim, ve’amarnu mutav sheyokhal rotav velo shuman atsmo. Vesamakhnu al omram z”l eit la’asot laShem heferu toratekha, veyakhhol lisa’ena, ve-ha-keil berahamav yekhaper avoneinu ka’asher diber lanu ve-asirah kol bedilayyikh.*

[7.] T .B. Kiddushin, 21b. *mutav sheyokhal benei yisrael basar temutot shehutot ve’al yokhelu basar neveilot temutot*

T.B. Shabbat, 3lb. *darash Ulla mai dikhtiv al tirsha harbeh, mi she'akhal shum vereiho nodef yokhal od shum?*

[8.] Rabbi Uziel says that the concept of *hal'itehu lerasha veyamut* (T.B. Baba Kama, 69a) does not apply here.

[9.] T.B. Yebamot, 24b. The question is: is a person who converts for im~ i:J' a real convert? The conclusion is that he is. *Halakha kedivrei ha'omer kulam gerim hem.*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.] *mikol ha'amur lamadnu she'ein tenai kiyum hamitzvot me'akev et hageirut afilu lekhathilah.* See the Shulhan Arukh, Y.D. 268, 2 and 12.

[14.] *mikol ha'amur umdubar torah yotse'ah shemutar umitsvah lekabel geirim vegiyorot af al pi she-yadua lanu shelo yekayemu kol hamitsvot mishum shesofam yavo'u lidei kiyumam. Umetsuvim anu liftoah lahem petah kazeh. ve'im lo yekayemu et hamitsvot hem yis'u et avonam ve'anu nekiyim.*

[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 .I, Yoreh Deah, No. 14; *Mishpetei Uziel*. Vol. 2. Even Ha-Ezer.