# Conversion to Judaism: Halakha, Hashkafa, and Historic Challenge

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The Jewish community underwent cataclysmic changes during the course of the nineteenth century. While most of world Jewry was religiously observant in 1800, a large majority were no longer devoted to halakhic tradition by 1900. Nineteenth-century Orthodox rabbinic leadership had to cope with the rise of Reform Judaism, the spread of Haskala, the breakdown of communal authority over its members, the defection of Jews from Torah and mitzvoth-and from Judaism altogether.

The dramatic erosion in religious observance led to various responses among 19th century Orthodox rabbis. Rabbi Moses Sofer (1762-1839), known as the Hatam Sofer, was recognized as the most authoritative Orthodox voice who shaped traditionalist opposition to Reform Judaism and, indeed, to all those who challenged the hegemony of halakha. He believed that deviators forfeited their right to be considered as proper Jews.[1]

He wrote: "If we had the power over them, my opinion would be to separate them from us [our borders], we should not give our daughters to their sons and their daughters should not be accepted for our sons so as not to be drawn after them. Their sect should be considered like those of Zadok and Boethus, Anan, and Saul,

they among themselves and we among ourselves." [2]

The Hatam Sofer argued forcefully for maintaining the sanctity of every law and tradition. He is famed for his aphorism "hadash assur min haTorah", by which he meant that the Torah forbids innovations i.e. reforms. His hashkafa (religious worldview) identified Jewishness with scrupulous observance of Torah and mitzvoth and acceptance of the halakhic way of life.

Although the Hatam Sofer's position was dominant, other Orthodox voices called for a more tolerant attitude toward those who veered away from the halakhic way of life. Rabbi David Zvi Hoffman (1843-1921), the leading figure in Berlin's Adass Jisroel Orthodox community, favored a "cooperative separatism" i.e. the Orthodox needed to maintain their distinctiveness, but also had to find ways of cooperating with the non-Orthodox. [3] In an earlier generation, Rabbi Yaacov Ettlinger (1798-1871) had sought to ameliorate the halakhic status of the non-observant Jew through the classification of "tinok shenishba"-comparing the non-observant Jew to a Jewish child who had been captured and raised by non-Jews and who therefore could not be held responsible for ignorance of Jewish laws and customs.[4] Thus, while the non-Orthodox masses certainly fell short of Jewish religious requirements, they should not be rejected out of hand; they simply did not know any better. This halakhic argument fostered a more sympathetic approach than that taken by Orthodox isolationists.

Both the hard-line and the more tolerant Orthodox rabbis were pious and learned Torah scholars. Both groups sought support for their views in the Talmud and halakhic literature. Why did they come to different conclusions? Their differences did not stem, I believe, from different interpretations of halakhic texts. Rather, their halakhic stances reflected different hashkafot (religious worldviews) and different evaluations of how to address the challenges that faced them. The Hatam Sofer viewed Torah-observant Jews as the "real" Jews, and the non-observant Jews as betrayers of Judaism who had to be de-legitimatized. For true Judaism to flourish, it was necessary for Orthodoxy to separate itself to the extent possible from the non-Orthodox. The spokesmen for a more conciliatory Orthodoxy focused on the principle that all Jews-religiously observant or not-are part of the Jewish people and need to see themselves as members of one peoplehood. Thus, ways had to be found to bridge the gaps between the Orthodox and the non-Orthodox.

As Orthodoxy continued to lose ground to the non-observant Jewish population, the rejectionist position gained traction within the mitzvah-centered community. The opinion hardened that strong measures were needed to insulate Torah-true

Jews from their sinful brethren, and to distinguish between those who observed the mitzvoth and those who rebelled against Torah.

As the hard-line position gained sway regarding non-Orthodox Jews, it also had a profound impact on Orthodox views relating to the acceptance of non-Jews as converts. Since Orthodox rabbis increasingly emphasized mitzvah observance as the essence of Judaism-in order to differentiate clearly between themselves and the reformers-- they came to see the conversion process as entailing a full commitment by the convert to observe all the mitzvoth. Eventually, the position arose that any conversion that took place without the convert's total mitzvah commitment-was not a valid conversion at all.

Professors Avi Sagi and Zvi Zohar, in their study of halakhic literature relating to conversion, suggested that the first halakhic authority to equate conversion with total commitment to observe mitzvoth was Rabbi Yitzchak Schmelkes-and this was not until 1876! [5] Rabbi Schmelkes wrote: "The basic principle with regard to proselytes in our times is to ensure that they truly take upon themselves to perform the central beliefs of religion, the other commandments, and the Sabbath, which is a central principle because a Sabbath desecrator is an idolater. If he undergoes conversion but does not accept upon himself to observe the Sabbath and the commandments, as mandated by religion, he is not a proselyte." He ruled: "If he undergoes conversion and accepts upon himself the yoke of the commandments, while in his heart he does not intend to perform them-it is the heart that God wants and [therefore] he has not become a proselyte."[6]

Rabbi Isaac Sassoon's research on the topic of conversion led him to the writings of Rabbi Akiva Joseph Schlesinger (d. 1922), an influential European halakhist whose views were in some ways even more extreme than those of R. Schmelkes.[7] Rabbi Schlesinger believed a proselyte should not only accept all the mitzvoth, but should adopt the appearance of [European] Orthodox Jews. "Make sure, once the checks, searches and intimidations [of the prospective converts] are done, that they take it upon themselves to be of the number of the downtrodden Jews, recognizable by their distinctive names, speech and attire; and where applicable, by tsitsith, sidelocks and beard." [8]

The views of Rabbis Schmelkes, Schlesinger and others of like mind emerged as "mainstream" Orthodox halakha up to our own day. This is true not only in the "hareidi" Orthodox world, but also in the establishment institutions of so-called modern Orthodoxy. When I was a rabbinical student at Yeshiva University (1967-70), we learned "practical halakha" from Rabbi Melech Schachter. He articulated the position of Rabbi Schmelkes as though it were absolute, uncontested halakha.

In a 1965 article, Rabbi Schachter wrote: "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." [9] When, a generation after me, my son Hayyim studied for semikha at Yeshiva University (1991-1995), his teacher of "practical rabbinics" told his students not to perform a conversion unless they were willing to bet $100,000 of their own money that the convert would be totally observant of halakha. Essentially, he was echoing the view that conversion to Judaism equals 100% commitment to observe the mitzvoth. Without such commitment by the would-be proselyte, the conversion lacks halakhic validity.

The dominance of this view has come to the general public's attention in recent rulings by Orthodox rabbinic authorities in Israel. In 2006, Rabbi Shlomo Amar-Israel's Sephardic Chief Rabbi-announced that the Israeli Chief Rabbinate would no longer accept conversions performed by Orthodox rabbis in the diaspora, unless those rabbis were on an "approved" list. Rabbi Amar made this unprecedented ruling because he-and the rabbis with whom he works-believed that diaspora rabbis were converting people who did not become religiously observant enough. In order to "raise standards" and to create "uniform standards", the Chief Rabbinate decided it would only recognize conversions performed in accordance with the strictest interpretation of kabbalat hamitzvoth (acceptance of the commandments), and only by batei din who pledged to follow the standards espoused by the Chief Rabbinate.

The Rabbinical Council of America, the largest Orthodox rabbinic group in the diaspora, fell into line with the Chief Rabbinate. It established a geirut committee to propound standards that would be found acceptable to Rabbi Amar; it essentially adopted the view that conversion equals 100% commitment to observe mitzvoth; it set up a system of regional batei din, which alone would have the power to certify conversions. Members of the RCA who do conversions outside of this framework will not have their conversions certified by the RCA.

Even more shocking than this blatant undermining of the diaspora's Orthodox rabbinate-and in many ways more horrifying-was the ruling of a beth din in Ashdod and upheld by the Rabbinic High Court in Israel. This ruling retroactively annulled the conversion of a woman who had converted fifteen years earlier in Israel under the auspices of an Orthodox beth din. The rabbinic judges found that this woman had not been religiously observant enough after her conversion. Thus, she and her children (born after her conversion) were deemed to be non-Jews. This in spite of the fact that she and her children have been living as Jews in

Israel for these past many years, and that her conversion had been performed by Israeli Orthodox rabbis!

At a time when thousands of people are seeking conversion to Judaism, the Orthodox beth din establishment is raising increased obstacles to them. Unless converts are willing to promise sincerely to keep all the mitzvoth, they will be rejected as candidates for conversion. If they have already converted, they now must fear that a beth din might invalidate their conversions retroactively if they do not maintain the proper level of religious observance. The Jewish status of thousands of halakhic converts and their children are placed under a cloud, causing immense grief to the individuals involved and to the Jewish people as a whole.

In their zeal to "raise standards", current batei din have been applying ever more stringencies. Numerous potential converts have contacted me over the past several years, with painful stories of their dealings with Orthodox batei din. A 39 year old woman, converted as an adopted baby, was told that she was not Jewish because the Orthodox rabbi overseeing her conversion had served in a mixed-seating synagogue. Shocked that her Jewish identity was challenged, she nevertheless agreed to undergo another conversion so as to be able to marry her fiancé. She was then told that she would need to enroll in the conversion program and study for two years. When she reminded the rabbis that she had lived her entire life as a Jew, that she was 39 years old, that she wished to be married soon so as to be able to have children-the rabbis responded that "their hands were tied". Although they wanted to help her, they had to follow the current guidelines. They did not want to lose their credibility in the Orthodox beth din world.

Another woman, in her early forties, had been studying for 3 years for conversion, and had demonstrated remarkable commitment to halakha. Yet, the beth din kept postponing her conversion. Why? Because the dayyanim felt the man she wished to marry was not religious enough for their standards. To be sure, he was a traditionally observant Jew. But the beth din felt he wasn't "frum" enough-so they would not convert her. That she lost 3 years of her life and may well have lost the possibility of having a baby, did not seem to concern the beth din. They were "raising standards".

A young man who wished to convert was told by the beth din that he would have to move into the Orthodox neighborhood of town and pay $5000 to cover the cost of tutors. When he explained that he came from a poor family, and he could not afford the rents in the Orthodox neighborhood nor the $5000 fee, he was told that the beth din could not help him. He went to another beth din in that city, but was

given the same terms. He then enrolled in a conversion program with a Conservative rabbi. The "raised standards" have turned this young man-and so many more like him-away from Orthodoxy altogether.

Thousands of people from the former Soviet Union live in Israel. Many have Jewish ancestry or Jewish spouses-yet they are halakhically not Jewish. These people and their children live in the Jewish State, speak Hebrew, serve in the military-yet the rabbinic establishment has not found a way to convert a large number of them. The rabbis insist that the converts become religiously observant, or at least pretend to become religiously observant for the sake of conversion. (In the latter instance, these converts could run into the problem of having their conversions invalidated at some later date by a beth din, as happened to the woman in Ashdod.) This problem festers in Israel and is the source of heated controversy. The Orthodox beth din establishment does not know how to cope with a situation involving so many thousands of people-especially since many of those wishing to convert do not intend to become fully observant of Torah and mitzvoth.

The current policies of the Orthodox rabbinic/beth din establishment are causing anguish to thousands of would-be converts and their families; are turning would-be converts away from Orthodoxy; are preventing an untold number of Jewish children from being born, due to drawn out conversion procedures for women in their 30s and early 40s; are de-legitimizing Orthodox rabbis and converts who do not subscribe to the "establishment" positions; are causing thousands of halakhic converts to fear that their and their children's halakhic status will be undermined. We must ask ourselves some serious questions:

1. Are these current policies relating to conversion absolutely required by halakha, or are there other valid views that must be considered?
2. Are current efforts to "raise standards" focusing on ritual mitzvoth, while actually "lowering standards" of mitzvoth relating to maintaining Jewish families, treating converts and potential converts with compassion, and other moral considerations?
3. If the current policies are halakhically and morally deficient, how should we be addressing the issue of conversion to Judaism?

Let us address these questions one by one:

1. Are these current policies relating to conversion absolutely required by halakha, or are there other valid views that must be considered? The answer is: these policies are not absolutely mandated by halakha, and in fact represent a "reform" of classic halakha. Other valid halakhic positions are not only available, but are preferable.

Talmudic Sources:

The primary sources for the laws of conversion are in the Talmud. The basic description of the conversion process is recorded in Yebamot 47a-b:
"Our rabbis taught: if at the present time a person desires to become a proselyte, he is to be addressed as follows: why do you come to be a proselyte? Do you not know that Israel at the present time is persecuted and oppressed, despised, harassed, and overcome by afflictions? If he replies, I know and yet am unworthy [but still wish to convert], he is accepted forthwith, and is given instruction in some of the minor and some of the major commandments....And as he is informed of the punishment for the transgression of the commandments, so is he informed of the reward granted for their fulfillment....He is not, however, to be persuaded or dissuaded too much. If he accepted, he is circumcised forthwith....As soon as he is healed, arrangements are made for his immediate ablution [in a mikvah]. When he comes up after his ablution, he is deemed to be an Israelite in all respects. In the case of a woman proselyte, women make her sit in the water up to her neck they two [three] learned men stand outside and give her instruction in some of the minor commandments and some of the major ones."

The candidate for conversion is first told of the dangers confronting the Jewish people in order to ascertain whether he/she is willing to be subjected to these risks as a Jew. This harks back to biblical Ruth, whose conversion declaration began with "your people will be my people," and only afterward went on with "your God will be my God."

The Talmud requires us to inform the would-be proselyte of some of the mitzvoth-not all of them. Indeed, we are not supposed to belabor the issue of mitzvoth, so as not to scare off the person who has already expressed a desire to become a member of the Jewish people. We may neither persuade nor dissuade too much. Rather, we want the person to know that our religion makes demands on us-which entail rewards and punishments. It is up to the person to decide, based on the limited information we have presented, whether or not to become Jewish.

The Talmud makes no reference to the need for the would-be proselyte to spend years studying Torah before being accepted for conversion. It makes no demand that the candidate even know what all the mitzvoth are! On the contrary, the Talmudic conversion process is fairly straightforward. Once the candidate has expressed willingness to join the Jewish people, and once he/she has been told some of the mitzvoth-he/she is accepted forthwith, without delays.

What if the candidate for conversion has ulterior motives e.g. he/she wishes to marry a Jew? In this case, the motivating factor is not purely religious (or not religious at all). Is such a conversion valid? The Talmud discusses this issue in Yebamot 24b.
"Mishnah: If a man is suspected of [intercourse]...with a heathen who subsequently became a proselyte, he must not marry her. If, however, he did marry her, they need not be separated. Gemara: This implies that she may become a proper proselyte. But against this a contradiction is raised. Both a man who became a proselyte for the sake of a woman and a woman who became a proselyte for the sake of a man...are not proper proselytes. These are the words of Rabbi Nehemiah, for Rabbi Nehemiah used to say: Neither lion-proselytes nor dream proselytes nor the proselytes of Mordecai and Esther are proper proselytes unless they become converted as at the present time...Surely concerning this it was stated that Rabbi Isaac bar Samuel bar Martha said in the name of Rab: The halakha is in accordance with the opinion of him who maintained that they are all proper proselytes."

Rabbi Nehemiah argued that conversions with ulterior motives (e.g. to marry a Jew) are not valid. Only conversions motivated by pure spiritual considerations are acceptable. However, the Talmud rejects Rabbi Nehemiah's opinion. The halakha follows Rab-conversions by those who had ulterior motives are, in fact, valid. These converts are halakhically Jewish.

Rabbi Nehemiah viewed conversion primarily as an unsullied acceptance of Judaism; thus, one whose motives were suspect would not be a suitable proselyte. Rab, though, seemed to view the conversion process as a means of bringing the non-Jew into the Jewish peoplehood. Even if the decision to become Jewish did not stem from purely religious considerations, the proselyte became a full member of the Jewish people by undergoing the conversion procedure. While this Talmudic passage is discussing a de facto situation (bedi-avad), great halakhic authorities (as we shall see later) have argued that it is appropriate to accept such converts even initially, due to the unique exigencies of the modern period.

The Talmud (Shabbat 31a) records three instances where individuals expressed the desire to convert to Judaism, and who came both to Shammai and Hillel. Since each of the three began his inquiries with improper assumptions-one accepted to follow the written Torah but not the oral Torah, one wanted to learn the entire Torah while standing on one foot, and one wanted to convert in order to become the High Priest-Shammai turned them away. Yet, Hillel accepted each of them lovingly, and through his patient and wise instruction he was able to bring them

into Judaism. The Talmud relates that these three proselytes faulted Shammai's strictness, and praised the kindness and humility of Hillel for having allowed them to come "under the wings of the Divine Presence." The point of these aggadic stories is that even if candidates come with mistaken ideas and improper motives, yet they should be received kindly. By teaching them lovingly, the hope is that they will indeed come to a proper understanding of Jewish traditions and will eventually develop pure motives for conversion.

What if a convert's knowledge of Torah and mitzvoth was seriously deficient? Could such a convert be deemed to be Jewish? The Talmud (Shabbat 68a) rules that a person, who unknowingly transgresses Sabbath laws many times, is only obligated to bring one sin offering, rather than one offering for each transgression. Rab and Shemuel, the leading sages of their generation, explained that this rule refers to "a child who was captured among non-Jews and a convert who was converted among the gentiles." Since these individuals simply did not know the Shabbat laws because they had been raised or converted among non-Jews, they could not be held responsible for all their transgressions. Here we have a case of a non-Jew who became a valid proselyte-but who did not even know the laws of Shabbat! The Talmud never questions the Jewishness of such a proselyte, nor even faintly suggests that the conversion was not valid or could be retroactively annulled. As long as the proselyte underwent the technicalities of conversion (which obviously did not include a full knowledge of mitzvoth), the proselyte was a full-fledged Jew.

One Talmudic passage is frequently quoted to prove that a proselyte must accept every mitzvah, and that a rejection of even one mitzvah disqualifies him/her from being accepted as a convert. The passage is found in Bekhorot 30b.
"Our rabbis taught ...If a heathen is prepared to accept the Torah except one religious law, we must not receive him. R. Jose son of R. Judah says: even [if the exception be] one point of the special minutiae of the Scribes' enactments."

This passage seems to go against the previously-mentioned Talmudic passages, which clearly do not require the proselyte to know and commit to observe every mitzvah, let alone each point of special minutiae of the Scribes' enactments. Neither Rambam nor the Shulhan Arukh cite this passage as authoritative halakha in regard to the conversion process. Indeed, Rambam (Hilkhot Issurei Biah 14:8) does not believe this passage is discussing a righteous proselyte at all! Rather, it is referring to a resident alien (ger toshav).

Even if we were to apply this passage to righteous proselytes (although neither Rambam nor the Shulhan Arukh did so!), it could still be understood in light of the

other Talmudic passages cited earlier. Rabbi Hayyim Ozer Grodzinski explained: we are supposed to inform the would-be proselyte of the mitzvoth. As long as the candidate gives general assent to accept the mitzvoth, that is sufficient. If the would-be proselyte specifically rejects a particular mitzvah, only then should he/she not be accepted. "But in the case of one who accepts all the mitzvoth, while his intention is to transgress for his own pleasure [le-tei-avon] this is not a deficiency in the law of kabbalat ha-mitzvoth." [10] Rabbi Benzion Uziel ruled: "If a convert accepts the Torah and the rewards and punishments of the commandments but continues to behave in the way he was accustomed before conversion, he is a sinning convert, but we do not hesitate to accept him because of this." [11] In other words, what is required is a general statement from the proselyte indicating an acceptance of mitzvoth. It is not incumbent upon us to probe too deeply, nor to receive a promise that each and every mitzvah will be fulfilled without exception. As long as the candidate for conversion does not make a formal declaration rejecting a particular halakha, that is sufficient as kabbalat hamitzvoth.

Rambams' Rulings:

In describing the procedure for accepting converts, Rambam basically follows the protocol recorded in Yebamot 47a-b. However, he adds the requirement of informing the candidate of the basic principles of our faith i.e. the unity of God, the prohibition of idolatry (Hilkhot Issurei Biah 14:2). Rambam, like the Talmud, indicates that we inform the candidate of some of the mitzvoth and some of the rewards and punishments-but we do not overly prolong this nor give too many details "lest we cause him anxiety and thereby turn him from the good path to the bad path." We are supposed to draw him to conversion with goodwill and soft words.

Rambam does not require-or expect-that would-be converts be given thorough instruction in Torah and mitzvoth. This is reflected in Rambam's discussion of the hakhel commandment, when the people of Israel gathered in Jerusalem once in seven years to hear the king read from the Torah. Men, women and children were to attend this event-even those who could not understand the Torah reading. Rambam seems to take it for granted that proselytes were among those who would not understand the Torah reading. "As for proselytes who do not know the Torah, they must make ready their heart and give ear attentively to listen in awe and reverence and trembling joy, as on the day when the Torah was given on Sinai" (Hilkhot Hagigah, 3:6).

Rambam noted that potential converts should be examined to see if they have ulterior motives. (Hilkhot Issurei Biah 13:14-16.) In the days of King David and King Solomon, the beth din did not accept proselytes since it was assumed that non-Jews came for personal gain rather than religious reasons. Nonetheless, Rambam writes, numerous converts were made in the days of David and Solomon through "hedyotot", ad hoc batei din of non-experts that were not the official batei din of the land. Such converts were neither pushed away nor brought close until it was seen how they turned out i.e. were they really serious in their desire to be Jewish? Having said this, though, Rambam instructs us not to believe that Samson or Solomon married non-Jewish women. Rather, their "non-Jewish" wives were actually converted by the courts of "hedyotot", so that they were in fact Jewish. Yet, we know that these wives did not convert from religious motivations. We also know that they continued to worship idols after their conversions. Wouldn't this be a clear indication that their conversions were not valid? Isn't it obvious that they turned out to be idolaters rather than Jews?

The Rambam (Hilkhot Issurei Biah 13:17) rules: "A proselyte who was not examined [as to his motives] or who was not informed of the mitzvoth and their punishments, and he was circumcised and immersed in the presence of three laymen-is a proselyte. Even if it is known that he converted for some ulterior motive, once he has been circumcised and immersed he has left the status of being a non-Jew and we suspect him until his righteousness is clarified. Even if he recanted and worshipped idols, he is [considered] a Jewish apostate; if he betroths a Jewish woman according to halakha, they are betrothed; and an article he lost must be returned to him as to any other Jew. Having immersed, he is a Jew."

According to Rambam, a person who undergoes the technical procedures of conversion (circumcision and immersion for a man, immersion for a woman) in the presence of a beth din (even one made up of laymen) is a valid convert. Even if the motives for conversion were dubious, and even if the convert reverted to idolatry, the conversion remains valid. We may not want this person to marry into our family. We may suspect his/her sincerity and uprightness of character: but he/she is Jewish all the same. This explains why the wives of Samson and Solomon, idolatrous though they were, were nevertheless Jews and were married to their husbands as Jews.[12]

The Talmud, Rambam and Shulhan Arukh provided a general framework for the acceptance of converts, but did not give a detailed list of guidelines. These classic halakhic sources recognized that each conversion case is unique, and each must

be evaluated by those overseeing the conversions. In the Talmud's words, ein ledayan ela ma she-einav ro-ot. Each judge must take responsibility for the cases that come before him, based on his own evaluation. Classic halakha eschewed "uniform standards" in the area of conversion, leaving it up to the individuals in charge to use their own judgment in dealing with each would-be proselyte.

The Talmud, Rambam and Shulhan Arukh 1) do not demand nor expect a candidate for conversion to learn all the mitzvoth prior to conversion; 2) do not demand nor expect a candidate for conversion to promise to observe all the mitzvoth in specific detail; 3) do not demand an extended period of study before conversion; 4) do not equate conversion with a total acceptance to observe Torah and mitzvoth, but rather see conversion as a way for a non-Jew to become a member of the Jewish people ; [13] 5) do recognize the validity of conversions even when the convert came with ulterior motives, even when the convert was ignorant of basic laws of Judaism; 6) do not allow for the retroactive annulment of a conversion, even when the convert continued to worship idols after converting to Judaism.

Since the classic halakhic sources allow so much leeway in the acceptance of converts, why have important 19th and 20th century halakhic authorities adopted stringent positions that are so antithetical to these sources? Indeed, why has the stringent view become so prevalent within Orthodoxy?

One possible answer has already been suggested. The Orthodox rabbinate has been vastly influenced by the rise of Reform and Conservative Judaism and by the increasing number of Jews who have defected from the halakhic way of life. In seeing Orthodoxy as a bastion of Torah-true Judaism, Orthodox sages have insisted on policies that clearly distinguish between "us" and "them". "We" are the ones who demand scrupulous observance of halakha. "They" are the ones who have betrayed Torah tradition by undermining mitzvah observance. This attitude carries into the area of acceptance of converts. "We" only want converts who will be like us-truly dedicated to Torah and mitzvoth. "We" don't want to create more non-observant Jews in our communities.[14]

Another possible answer is that some in the Orthodox community have a mystical view of Jewishness that deems it quite difficult for a non-Jew to become Jewish. Rabbi Abraham Isaac Kook, for example, believed that the act of conversion requires the convert to join the soul of Kenesset Yisrael, a metaphysical representation of the congregation of Israel. This can be accomplished only through a total acceptance of the mitzvoth-since mitzvoth are the essence of the Jewish soul. This is not an easy transition, according to Rabbi Kook, since Jewish

souls and non-Jewish souls are ontologically different. For a non-Jew to transform his soul into a Jewish soul requires a tremendous connection to Torah and mitzvoth.[15] Without belaboring the point, Rabbi Kook's line of thinking can be used to buttress feelings of Jewish "superiority" as well as latent xenophobic tendencies.

Yet, when all is said and done, the Talmud, Rambam, Shulhan Arukh and a host of great halakhic authorities do not espouse the stringent, restrictive views relating to conversion. How do proponents of the currently dominant views justify veering from the classic halakhic texts?

One approach has been to cite 19th and 20th century halakhic authorities who insist on the stringent, restrictive views relating to acceptance of converts. Since these "gedolim" have issued such rulings, we are obligated to follow them. If they veered from or reinterpreted the primary halakhic sources, they had good grounds for doing so. This approach does not attempt to see those stringent rulings in historical context, as the reaction to anti-halakhic tendencies in the Jewish community. It does not consider whether those 19th and early 20th century responses are appropriate for our current situation. Moreover, it chooses not to accept the more inclusive and compassionate views of other great modern halakhists who dissented from the stringent views in various ways [16]. Indeed, the more tolerant opinions are far more in line with classic halakhic sources than are the restrictive views espoused by various 19th and 20th century rabbis.

The stringent view insists that kabbalat hamitzvoth entails total commitment to observe all mitzvoth in every detail, and that conversions lacking such commitment are not valid. It already has been demonstrated that these views are not mandated by-and are not even compatible with-- the rulings of the Talmud, Rambam and Shulhan Arukh. Yet, the proponents of the restrictive view are so convinced of their position, they cannot imagine that classic halakhic sources disagree with them.

I discussed the Rambam's ruling (Hilkhot Issurei Biah 13:17) with a prominent dayyan in Israel. The Rambam states unequivocally that a proselyte who was circumcised and immersed in the presence of three laymen is a proselyte. Even if the conversion was with ulterior motives and even if the convert subsequently worshipped idols-he is still to be considered as an apostate Jew. If he betroths a Jewish woman according to halakha, the betrothal is valid i.e. he is a Jew. Rambam does not allow for retroactive annulment of the conversion. Rambam does not invalidate the conversion of a person with imperfect motives, even one who worshipped idols after the conversion.

The dayyan answered: Rambam was speaking of a proselyte who had studied Torah and mitzvoth in advance of being circumcised and immersed. That proselyte fully accepted all the mitzvoth to the last detail before immersing in the mikvah. Then, after coming out of the mikvah he had a change of heart and went to worship idols. But if this proselyte had not known the mitzvoth nor accepted sincerely to observe all the mitzvoth originally, then the conversion would not have been valid. I asked the dayyan: if Rambam meant what you say he meant, why didn't he say so? Rambam was quite careful with his use of language, and could easily have presented the scenario as you described. But he did not do so! His language manifestly indicates that he was not operating with your assumptions, but had a quite different view of conversion. The dayyan answered: the Rambam could not have meant anything other than what I explained.

This, of course, is circular reasoning. The dayyan began with the axiom that conversion equals total commitment to observe all mitzvoth. If Rambam said something in opposition to that axiom, then Rambam needs to be re-interpreted- regardless of how far-fetched the interpretation is and how untrue it is to Rambam's own language.

Other rabbis have offered similar responses based on circular reasoning. When I have pointed out that the Talmud, Rambam and Shulhan Arukh do not define kabbalat hamitzvoth as a total commitment to observe all mitzvoth in detail (but rather as a general acceptance of mitzvoth), proponents of the current stringent view have retorted: The Talmud, Rambam and Shulhan Arukh did not have to spell things out, since they assumed that a convert would observe all the mitzvoth. It was so obvious to them, they didn't even have to state this. Yet, the fact is that the Talmud, Rambam and Shulhan Arukh specifically described the conversion process, and stated that the would-be proselyte should be informed only of some of the major and minor mitzvoth. The Talmud discusses the case of a proselyte who did not even know the laws of Shabbat. Rambam and Shulhan Arukh did not invalidate the conversion of a proselyte who later worshipped idols. If the Talmud, Rambam and Shulhan Arukh accepted the "standards" of Rabbi Schmelkes and others, they would have said so clearly. We must take their words in their context as they were intended. It is not appropriate to read one's own views into the texts.

2. Let us now turn to the second question: Are current efforts to "raise standards" focusing on ritual mitzvoth, while actually "lowering standards" of mitzvoth relating to maintaining Jewish families, treating converts and potential converts with compassion, and other moral considerations?

In the guise of "raising standards", the contemporary Orthodox world has stressed-almost exclusively-the details of Shabbat and holiday observances, kashruth, prayer, and mikvah. A candidate for conversion who is not ready to give a detailed commitment to these ritual mitzvoth has little chance of being accepted for giyyur.

Yet, aren't there other important considerations that need to be factored into the conversion process?
Rabbi Benzion Uziel (1880-1953), late Sephardic Chief Rabbi of Israel, saw himself as being very stringent in applying the prohibitions against intermarriage. Therefore, he believed that rabbis must do everything in their power to prevent intermarriage situations. When a Jew and non-Jew were intending to marry each other, or already were married to each other, Rabbi Uziel urged that rabbis convert the non-Jewish partner to Judaism. He made this ruling even when it was expected that the couple would not be observant of all the mitzvoth. He ruled that performing such conversions was not only permitted, but was a mitzvah! [17] He wrote: "From all that has been stated and discussed, the ruling follows that it is permissible and a mitzvah to accept male and female converts even if it is known to us that they will not observe all the mitzvoth, because in the end they will come to fulfill them. We are commanded to make this kind of opening for them; and if they do not fulfill the mitzvoth, they will bear their own iniquities, and we are innocent."

Rabbi Uziel was deeply concerned about the fate of children born to a Jewish father and a non-Jewish mother. Such children, although of Jewish stock (zera yisrael), are in fact not halakhically Jewish. Children raised in such intermarriages will be lost to the Jewish people entirely. Thus, it is obligatory for rabbis to convert the non-Jewish mother in order to keep the children in the Jewish fold. Rabbi Uziel noted: "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 who were driven away, and those who were lost you did not seek.' (Yehezkel 34:4)."

In another responsum, Rabbi Uziel wrote: "I admit without embarrassment that my heart is filled with trembling for every Jewish soul that is assimilated among the non-Jews. I feel in myself a duty and mitzvah to open a door to repentance and to save [Jews] from assimilation by [invoking] arguments for leniency. This is the way of Torah, in my humble opinion, and this is what I saw and received from my parents and teachers."[18]

Certainly Rabbi Uziel would have liked all Jews-born Jews and converted Jews-to live fully religious lives devoted to Torah and mitzvoth. But since we live in an imperfect world, we need to make halakhic judgments based on the realities we face. Since intermarriage is a great sin and leads to the loss of children to the Jewish people, Rabbi Uziel deemed these concerns to outweigh considerations about how religiously observant the converts would be. Surely, candidates for conversion should be taught some of the major and some of the minor mitzvoth, and should come to feel as members of the Jewish people. But if they lived as non-observant Jews, this is their sin-not ours. By preventing intermarriage situations, we can hope that these couples and their children will be part of the Jewish people, and will ultimately come closer to our Torah traditions. If, however, we turn such converts away, we allow intermarriages to persist, and we undermine the possibility of keeping children of such marriages within the Jewish people.

Other halakhic authorities have raised considerations that warrant leniencies in the area of conversion. If we fear that by not converting a non-Jewish partner, the Jewish partner to the intermarriage (or potential intermarriage) will estrange himself/herself from the Jewish community-we should convert the non-Jewish partner. If we reject them, such couples could be married by civil authorities or by non-Orthodox rabbis. If they were turning to Orthodox rabbis for the conversion, this itself is an indication that they preferred to be part of the traditionalist Jewish community. If we reject them, we may run the risk of having them live outside the Jewish community, or even of having the Jewish partner convert to the religion of the spouse.[19]

The late Ashkenazic Chief Rabbi I. Y. Unterman raised yet another concern. In discussing the appropriate rabbinic attitude toward immigrants to Israel from Russia during the early 1970s-among whom were many intermarried couples-Rabbi Unterman advocated that rabbis demonstrate compassion and kindness. These immigrants should not be made to feel that the rabbis view them unfavorably. If conversions took place when the immigrants had not intended fully to live according to the mitzvoth, one should not condemn such conversions lest the public conclude that the rabbis are intransigent when it comes to dealing with conversions.[20] Rabbi Unterman was not happy about conversions of this type; but he judged it better not to raise public opposition to them.

Rabbi Zehariah HaCohen (b. 1898) was a sage born in Yemen, who immigrated to Israel and became Rabbi in Nehalal. He dealt with the issue of non-Jewish immigrants to Israel who were married to Jews, and who were not living a strictly

religious lifestyle. Should such people be accepted for conversion? Among his concerns, Rabbi HaCohen worried about consequences of not converting these intermarried people. How would they become integrated properly into Jewish Israeli society? What would be the status of their children? He wrote: "We cannot demand that the proselyte observe all the 613 precepts at a time when most of those who are resettling him are themselves far from observing this number or even part of it.... How can we demand the proselyte to observe the Sabbath and the dietary laws etc? Such would be saying: do as I say, but not as I do!" Rabbi HaCohen believed that conversions should be performed for the non-Jewish spouses. The hope was that children of these marriages would learn more about Judaism in school, and that they would influence their parents to become more observant religiously.[21]

Rabbi Moshe HaCohen, born in Jerba, immigrated to Israel in the 1950s and became a dayyan in the rabbinical court in Teverya. He, too, was concerned about the many Jewish immigrants to Israel who had non-Jewish spouses. These couples and their children needed to be integrated into Israeli society as Jews. Yet, many of them resided in places where religious laws were not observed-they ate forbidden foods, desecrated the Sabbath etc. Even after conversion, there was little likelihood that these converts would be religiously observant. Should they be converted anyway? Rabbi HaCohen ruled that they indeed should be converted. He explained that kabbalat hamitzvoth "does not mean that [the convert] must commit himself to observe all the commandments. Rather, it means that he accepts all the commandments of the Torah in the sense that, if he transgresses, he will be liable for such punishment as he deserves....And if so, we do not care if at the time he accepts the mitzvoth he intends to transgress a particular commandment and accept the punishment. This is not considered a flaw in his acceptance of the commandments."[22]

We see, then, that conversion entails a broader range of considerations than simply whether the would-be convert will observe ritual law to the last detail. While we surely would like all born Jews and all converts to be fully observant of mitzvoth, conversions may be halakhically sanctioned even when our ideal hopes are not likely to be realized.

The Talmud (Baba Metsia 59b) states that one who causes anguish to a proselyte thereby transgresses 36 commandments; some say, 46 commandments. Those who cast doubt on halakhically valid conversions are thereby guilty of a multitude of sins. Those who foster the stringent views, without allowing for other perfectly valid halakhic positions, are not only causing anguish to proselytes and their

families; they are also casting aspersions on all those halakhic sages who disagree with them. The rabbi in Ashdod who retroactively annulled the conversion of a woman who had been converted by an Orthodox beth din-was not just undermining the Jewish status of this woman and her children. He rejected the possibility that any legitimate rabbis could have an opinion other than his. He believed that conversion must entail absolute commitment to observe all mitzvoth-and that lacking such commitment and observance, the conversion is not valid. Thus, rabbis who relied on the far more tolerant views of the Talmud, Rambam, Shulhan Arukh, Rabbi Hayyim Ozer Grodzinski, Rabbi Uziel, Rabbi David Zvi Hoffman etc.-all such rabbis were themselves invalidated! The dayyan of Ashdod could not have been blunter: "These ‘courts' permit 100 percent gentiles to marry into the Jewish people, and they cause many people to sin terribly. And they have turned conversions into a joke. The judges [who take the more lenient view] are nothing less than blasphemers and evil-doers. And since the judges are criminals, none of the conversions they perform should be recognized." [23] This statement-so arrogant in self-righteousness and so narrow in its religious worldview-characterizes what is worst in the contemporary Orthodox beth din establishment. In one fell swoop, it throws converts and their families into turmoil about their Jewish identities, and also undermines the credibility of any rabbis who would disagree with the restrictive views on the topic of conversion. If we are looking for religious leadership among Orthodox rabbis, we should not be looking to this dayyan in Ashdod, nor to any other rabbis who foster this halakhically and morally repugnant attitude.

Regrettably, the Orthodox beth din establishment functions with the assumptions expressed by the rabbi in Ashdod. Their "raised standards" measure the potential convert on the basis of commitment to observe ritual mitzvoth, without factoring in the broader issues that dramatically affect the lives of individuals, couples, children, the Jewish community at large, the State of Israel. They establish "standards" and then refuse to accept the conversions of those upstanding and learned Orthodox rabbis who have more tolerant, compassionate and inclusive views. This underlies the decision of Israel's Chief Rabbis not to accept conversions performed by Orthodox rabbis of the diaspora, except for those on a very limited approved list-approved because they accept the dictates of the Chief Rabbinate on the topic of conversion. This underlies the decision of the Rabbinical Council of America to certify only those conversions done by its own hand-picked dayyanim, and not to certify conversions performed by the vast majority of its own members-fine Orthodox rabbis.

The scandal of the current beth din establishment position is that it actually invalidates (or casts into doubt) halakhic conversions performed by Orthodox rabbis who follow the teachings of Talmud, Rambam, Shulhan Arukh and a host of halakhic authorities who adhere to those teachings. Thus, halakhic converts and their children are told that they are not Jewish, or that their Jewishness is questionable. This is an egregious example of oppressing gerim-innui ha-ger.

The beth din establishment claims that they adopt the stringent views in order to "raise standards". As has been pointed out, stringency in the areas of ritual observance leads to "lowering standards" in the areas of intermarriage prevention; it leads to a loss of children to families and to the Jewish people; it leads to weakening the Jewish fabric of Jewish communities in the diaspora and in the State of Israel; it leads potential converts to give up on Orthodoxy-or to become alienated from Judaism altogether; it increases the number of transgressions of oppressing proselytes.

Another claim is that it is necessary to maintain "uniform standards" in conversion policy. The call for "uniform standards' is a code phrase, meaning that all Orthodox rabbis should adopt the most stringent positions. Yet, halakhic literature itself does not present a uniform standard. Various legitimate and valid views are available. To restrict options to a "uniform standard" is false to halakha. Rabbi Haim David Halevy, late Sephardic Chief Rabbi of Tel Aviv, has pointed out that the halakha has purposely left latitude for each rabbi to deal with the particular circumstances of each potential convert. Ein ledayyan ela mah she-einav ro-ot, each judge must evaluate each situation according to his own best judgment. He needs to factor in many considerations, and may sometimes feel the need to be stringent and sometimes to be lenient. Whether and when to perform conversions "was left to each judge and leader of his generation to decide according to what his own eyes see, whether toward leniency or strictness." [24] If individual rabbis feel they need to adopt stringent opinions, that is their own decision to make. But such rabbis have no right to impose their views on all other rabbis. They have no right to call into question the halakhic Jewishness of converts who were converted by Orthodox rabbis who, in fact, are following classic halakhic guidelines.

The need of the hour is for Orthodox rabbis to deal with conversions with a "full halakhic toolbox". We need to draw on the range of halakhic options in order to address the specific circumstances of each giyyur, and to confront the larger issues facing the Jewish people and the State of Israel.

Surely, we must take our responsibility seriously. We must teach prospective converts in a spirit of respect and kindness; we must do our best to bring them to an appreciation of Torah and mitzvoth; we must help them to strive to become fine members of the Jewish people. We must oppose unequivocally "shotgun" conversions that make a mockery of giyyur; rather, we must engage each convert in a serious, life-transforming process. This process is filled with challenges, with emotional highs and lows. Not every candidate for conversion will or should be accepted. While our general attitude must be inclusive, there are cases where we feel we must say no. Each case is unique; each prospective candidate presents a different set of issues; each rabbi must weigh carefully how to deal with each situation.

3. Let us now address the third question: If the current policies are halakhically and morally deficient, how should we be addressing the issue of conversion to Judaism?

Here are some suggestions:

1. Orthodox rabbis must raise their voices to oppose the current restrictive policies of the establishment Orthodox batei din. They must express outrage at the mistreatment of potential converts and the abuse of halakhic converts whose Jewish credentials are being cast into doubt. If we do not resist the current misguided policies, we thereby become accomplices.
2. The Orthodox public must insist that its day schools, yeshivoth and synagogues teach a range of valid halakhic opinions on the topic of giyyur (as well as on so many other topics!). If we are supporting institutions that foster an erroneous halakhic position on giyyur, then we are accomplices.
3. Orthodox rabbis must insist that every proselyte converted by Orthodox rabbis is a full Jew in the eyes of halakha, in the eyes of God, and in the eyes of the Jewish community. No proselyte should be black-balled, whether in Israel or the diaspora, because the current beth din establishment refuses to endorse the conversion.
4. The Orthodox public must be vigilant that its schools and other institutions accept all halakhic converts with love and compassion.
5. Orthodox rabbis must make it clear that they view candidates for conversion, as well as converts, as deserving of our respect and affection. We must have a compassionate, inclusive attitude, and must take into consideration the circumstances that brought these people to us in the first place.
6. The Orthodox public must support those rabbis who foster legitimate diversity within halakha; must support those institutions that fight for a righteous,

compassionate and inclusive Orthodoxy; must have the moral courage to stand up against the injustices and cruelties perpetrated in the guise of "raising standards" and creating "uniform standards".

At a time when many thousands of people have converted to Judaism, and many thousands more wish to do so, the Orthodox rabbinate needs to project a framework for giyyur that is halakhically sound and ethically responsible. The challenges of the 19th century, that generated the restrictive views of the Hatam Sofer, R. Yitzchak Schmelkes and others, are different from the challenges our community is facing today. We live at a time when a sovereign Jewish State exists and must absorb hundreds of thousands of individuals who are not halakhically Jewish. We live at a time when intermarriage rates in the diaspora are at an astronomical level and show no signs of declining. We live at a time when thousands of people would be willing to turn to Orthodox rabbis for halakhic conversion-if only we presented a halakhic framework for giyyur that is meaningful, accessible, and respectful to the needs and concerns of the proselytes themselves. Local Orthodox rabbis, using their own knowledge of each case on a personal basis, are far better equipped to deal with the challenges of giyyur today than rabbinic bureaucracies.

The halakha provides leeway and multiple views about the nature of the conversion process. Halakhic Judaism should not be constricted to only one halakhic view, and certainly not to the most rigid and restrictive view. It must be recognized that different legitimate halakhic positions are available just as there are different legitimate hashkafic opinions. At this period of historic challenge, the Orthodox rabbinate can either rise to greatness or shrink into self-righteous isolationism. Thus far, the rabbinic/beth din establishment has chosen the latter course. It is not too late to turn things around. The honor of God, Torah and the Jewish people are at stake.

[1] See Adam Ferziger’s book, Exclusion and Hierarchy: Orthodoxy, Nonobservance, and the Emergence of Modern Jewish Identity, University of Pennsylvania Press, Philadelphia, 2005, pp. 61f.

[2] quoted by Ferziger, p. 73.

[3] See Ferziger, pp. 152f.

[4] Binyan Zion ha-Hadashot, no. 23. <!--[if !supportFootnotes]-->

[5] Avi Sagi and Zvi Zohar, Transforming Identity, Continuum Press, London and New York, 2007, pp. 234f. See their original Hebrew edition of this book, Giyyur

ve-Zehut Yehudit, Shalom Hartman Institute and Mosad Bialik, Jerusalem, 1997.

[6] Yitzchak Schmelkes, Beit Yitzchak, Y.D. 100.

[7] See Isaac Sassoon, “The Proselyte Who Comes”, in the Articles section of www.jewishideas.org.

[8] Akiva Joseph Schlesinger, Lev Ha-Ivri, Kitvei R. Akiva Yosef Schlesinger, Jerusalem, 1989, vol. 2, pp. 291-2.

[9] See his article in Jewish Life Magazine, May-June 1965, p. 7. See also p. 11 under the heading “commitment to total observance.”

[10] Ahiezer, vol. 3, no. 26, sec. 4.

[11] Mishpetei Uziel, vol. 2, Y.D. 58. See also R. Shelomo Zalman b. Isaac, Hemdat Shelomo, Warsaw 1876, Y.D. 29, where he indicates that kabbalat ha-mitzvoth is accomplished in a general way, by the proselyte’s entering the mikvah with the desire to become Jewish and to adopt the Jewish religion.

[12] See also Shulhan Arukh, Y.D. 268:12, where R. Yosef Karo also rules that a person who fulfilled the technical requirements of circumcision and immersion—even if the process lacked examination of motives and indication of rewards and punishments of the mitzvoth—is a valid convert. Even if he/she subsequently worshipped idols, he/she is to be considered a Jewish apostate—but a Jew nevertheless.

[13] See Rabbi Shlomo Goren’s responsum in Shanah be-Shanah, 5743, pp. 149-156, where he rejects the possibility of conversion for a non-Jew who accepted all the mitzvoth but who did not accept to be part of the Jewish people.

[14] For a discussion of the rigidity that set into halakha as a reaction to the rise of Reform, see Daniel Sperber, Darka shel Halakha, Reuven Mass Publishers, Jerusalem,2007, pp. 102ff.

[15] Orot, Jerusalem, 5745, p. 156. See the article by Rabbi Yoel Bin-Nun, “Nationalism, Humanity and Kenesset Yisrael,” in The World of Rav Kook’s Thought” Avi Chai Foundation, New York, 1991, pp. 210f.

[16] Shmuel Shilo, “Halakhic Leniency in Modern Responsa Regarding Conversion,” Israel Law Review, vol. 22, 1988, pp. 353 ff, cites the lenient views of Rabbis Shlomo Kluger, Shlomo Yehuda of Sighet, Shalom Shvadron, David Zvi Hoffman, Haim Ozer Grodzinski, Yehiel Weinberg, Benzion Uziel, Isser Yehuda

Unterman and Ovadia Yosef.

[17] See Mishpetei Uziel, E.H., Jerusalem, 5724, nos. 18, 20, 22. For a discussion of R. Uziel's views on conversion, see my book, Loving Truth and Peace: The Grand Religious Worldview of Rabbi Benzion Uziel, Jason Aronson, Northvale, 1999, chapter 7.

[18] Mishpetei Uziel, 5698, no. 26.

[19] These concerns are raised in the following sources: R. Shlomo Kluger, Tuv Ta'am Ve'da'at, vol. 1, no. 230; R. Shalom Shvadron, Responsa Maharsham, vol. 6, Y.d. 109; R. David Zvi Hoffman, Melamed leHo-il, Y.D. 85.

[20] Rabbi Unterman discusses this issue in "The Laws of Conversion and their Practical Application," Noam, vol. 1, 1971.

[21] Cited in Baruch Litvin, Jewish Identity, New York, 1965, p. 62.

[22] Cited by Sagi and Zohar, Transforming Identity, p. 230.

[23] As quoted in the Jerusalem Post, May 18, 2007.

[24] Asei Lekha Rav, vol. 1, no. 23.