Implications of the Current Conversion Crisis

View PDF



Rabbi Alan Yuter is Rabbi of B'nai Israel, the Orthodox congregation of downtown Baltimore.

1. A recent conversion case

Recently, a Hareidi rabbinical court in Monsey, NY, required that a family (which includes a parent who converted to Judaism) commit to educate their children in a Hareidi school, un-enroll their children in the modern Orthodox school, and leave the community with which they affiliate. The Hareidi rabbinical court did not even contact the modern Orthodox community, school, or rabbinate to fact find regarding the family. The modern Orthodox school feels rejected, dejected, angry, and is in a quandary as how to respond. A suggested response is to disallow and to reject the conversions of the offending rabbinical court

2. What are kosher conversion standards?

The threshold of conversion observance standards and requirements is a dicey issue, both sociologically and halakhically. If the convert, in the presence of a court of three observant laymen, accepts the commandments, i.e., Judaism as a divinely ordained system, that person is Jewish. From this perspective, retaliation against the Monsey rabbinical court by "invalidating" their actions [heftsa] is wrong for several reasons:
•the court has a right to its standards
•vengeance is forbidden by Torah law
•unless it can be determined that the Monsey ultra-Orthodox rabbinical court violated, knowingly and with malice, the statutes of known, settled Oral Torah law, their converts are Jewish and punitive reciprocity cannot be sanctioned.
•We do not issue Jewish religious rulings "from the gut," in response to a slight or as retaliation, when innocent, third parties are unintended victims.

The convert to Judaism stands again at Sinai, re-enacting the Sinai Torah pact, by accepting the Torah as a system. Both Moses b. Amram and R. Moses b. Maimon realized that the Torah/book/document/heftsa was committed to writing just before the former Moses died. The case of the yefat to'ar, the captive war bride who converts after a month, demonstrates this Biblical doctrine. This war bride was given a month to mourn her former life before she converted and became an Israelite wife. Kabbalat ha-Mitsvot does not mean that the candidate agrees to follow every law according to every possible opinion; it means accepting Judaism as a system. In his responsum, Pe'er haDor 132, based upon bBaba Kama 66b, Hilkhot Gezela ve-Aveida 1:5 and 2:2, 6, 8, Maimonides prefers an inadequate conversion in which the formal technical requirements are observed to an intermarriage.

Rabbi Isaac Schmelkes [Bes Yitzkhok, Yoreh Deah 100] rules, against all precedent, that the subsequent non-observance of a convert nullifies a conversion, even after the fact, and disqualifies the Jewishness of that person's progeny, and their marriages, should the convert be a woman. Ironically, the nullification of marriages to solve the aguna problem is rejected by this version of Orthodoxy. To compound the irony, marriage nullification does enjoy some precedent in Talmudic literature and was advocated by two modern Orthodox gedolim, Rabbi Menachem Elon and one of my personal rabbinic heroes, Rabbi Meir S. Feldblum, zatsa"l. In an oral communication, Rabbi Shelomo Risken learnedly and lovingly also called for adopting this approach, of nullifying marriages, to solve the aguna problem.

The difference between these two Orthodoxies, one parochial and one cosmopolitan, is in the orientation to the sacred canon and to the received culture. If marriages are declared to be invalid because conversions are invalidated by invoking R. Schmelkes' reformation of Jewish law, parochial Orthodoxy, like the cosmopolitan Orthodoxy, is willing to nullify marriages and create the taint mamzereut/legal illegitimacy. The two Orthodoxies differ in their agenda. While both Orthodox Judaisms are using radical methods, the ideologies underlying the shared radicalism are themselves radically divergent. Parochial Orthodoxy wants Judaism to be exclusive and will de-authorize the law to attain its ends, while cosmopolitan Orthodoxy seeks to be inclusive, using the letter of Torah law as its welcoming guide, to use Rabbi Daniel Sperber's wise, apt idiom, to make Judaism "user friendly."

3. The Rabbi Amsalem Case

A Sephardic Rabbi and MK Rabbi Hayyim Amsalem (Shas) asked for relaxed conversion standards for men who have served and risked their lives in the Israeli army. This position is strikingly similar to the position of R. Obadia Yosef, Yabi'a 'Omer 8 YD 24, 33-34, who cites and endorses Maimonides' Pe'er ha-Dor, 132, cited above. It strains credulity that R. Schmelkes' reform, that kosher conversions may be retroactively nullified if the candidate proves to be insufficiently observant, has the standing to override Maimonides' ruling. By appealing to zera Yisrael, R. Amsalem's position is grounded in the Maimonidean Pe'er ha-Dor case cited above. If these ethnic but not halakhic Jews are prepared to die for the State of Israel, the lenient precedents suffice to allow them to make the adjustment to live in the State of Israel. Rabbi Amsalem's standards are:

•sanctifying the wine on Shabbat
•fasting on Yom Kippur
•observing the holidays
•keeping a Kosher for Passover home

4. The Hareidi critique of Rabbi Amsalem and its implications

In the "Lithuanian" or so-called "intellectual," non-Hassidic version of Hareidi Judaism's newspaper, Yated Neeman, it is reported that "Rabbis and rabbinical judges expressed their disgust with MK Haim Amsalem's impetuous and blasphemous declaration to apply leniencies when converting goyim from the former Soviet Union who serve in the IDF." Rabbi Nahum Eisenstein, taken to be an expert in conversions who is loyal to the Ashkenazi Hareidi rabbinic elite, claimed that Rabbi Amsalem's remarks were [1] controversial statements, [2] a "publicity stunt" and [3] designed to advance his personal career. Furthermore, "unnamed rabbis and rabbinical judges ... [said] that Amsalem's comments were
•"a mockery of Halakha handed down from generation to generation that conversion necessitates full adherence to an Orthodox lifestyle."
•"Amsalem has caused incalculable damage to the Orthodox position on conversions," said Eisenstein, who helped write the Yated article.
•"He [Rabbi Amsalem] gives the impression that our demand that every convert must accept the yoke of mitzvot is nothing but an unnecessary stringency.
•By saying those things while at the same calling himself rabbi, he is cheapening the rabbinical institution. "He is worse than a Conservative Jew."

From the above comments we learn the following lessons regarding the actual tenets of Hareidi religion:

1. Being controversial is improper. Following this rule, most Orthodox leaders may not take positions unless they are cleared and endorsed. Note well that every biblical hero, from Moses to Daniel, was controversial.
2. It is fitting and appropriate to negatively interpret and then demean the unstated intentions of a political opponent. In Judaism, we must first demonstrate and not proclaim error, and we may not demean ourselves inadvertently by demeaning others intentionally.
3. It is proper to declare that R. Amsalem, who is denied his rabbinic honorific by the editorial, is an implicit unbeliever who modifies God's word, which he does not accept, for personal, pecuniary, careerist motives. In historical Judaism, only God and His designated prophets are endowed with the Spiritus Sanctum/Holy Spirit/Ruah ha-Kodesh whereby one human may divine the inner thoughts of another human
4. When criticizing others who are ideologically challenged, one may do so with anonymity in order to spare oneself accountability, reprisal, or responsibility. According to Shulhan Arukh Hoshen Mishpat 34, one is not religiously suspect unless one violates an explicit norm of the halakhic system, and does so knowing that the act is wrong. Therefore, disagreeing with R. Schmelkes' 19th century innovation is not only not sinful, it would to this reviewers' view be mandatory.
5. God's revealed covenant is defined not as the norm of the canonical Oral and Written Torah library, but as the culture and lifestyle that the right reverend rabbis robustly revere. This position seems to undermine the Sinaitic covenant in three ways:
a. It confuses the "Tradition" of mimetic culture, which is convention, with the "Tradition" that is canon, ending with Rabina and Rab Ashi,
b. It imputes virtual infallibility and divine approval for whatever Jews do. Leviticus 4 and Horayyot 2-3 seem to suggest that God has a more precise benchmark for Jewish normativity.
c. The position taken, what de facto is normative in Hareidi society, is de jure binding on all Israel, echoes the Catholic Israel approach of Solomon Schechter and the "Peoplehood" doctrine of the Reconstructionist founder, Mordecai Kaplan.
6. Since Rabbi Amsalem disagrees with the theologically correct rabbis who are "Orthodox," i.e., in exclusive possession of theologically correct doctrine, he is [a] not Orthodox and [b] may not be accorded the rabbinic honorific, which is reserved for really Orthodox rabbis. Since Rabbi Amsalem is observant of Jewish law, which most but not all Conservative rabbis are not, he is worse, more dangerous, and more threatening than Conservative rabbis, because he frontally challenges the Hareidi claim to political hegemony over the Jewish people.
7. Challenging the Hareidi consensus causes "incalculable damage to the [sic, my

emphasis] position" on conversions. The Hareidi position on conversions is not the historical position of Judaism on conversions. Abraham Sherman, the Hareidi ideologue who defamed R. Haim Druckman, conceded as much in a lecture at Mosad Harav Kook. R. Sherman pointed out that there were two opposing views in Jewish thought to converting non-Jews to Judaism. One approach sees conversion as a very positive act that should be encouraged because it brings people closer to the true monotheistic faith. However, R. Sherman argues that for the unity of the Jewish people, all should defer to the Hareidi rabbinic elite. Therefore, by his own words, Judaism's normativity is found not in canonical, normative books [heftsa] accepted by all Israel, but rather by canonical, normative people [gavra] who claim authority over all Israel.
8. Failure to defer to the divinely inspired intuition of canonical people is controversial, dangerous, and ultimately, for parochial Orthodoxy, heretical.

5. What is at stake in this Contentious Conversation?

At stake in this conversation is the nature of Orthodox Judaism and who has the right to speak as an authentic Orthodox Jewish leader. Hareidi Judaism preaches that we must not only avoid slander, motsi shem ra, false negative speech, but we must also avoid lashon ha-ra, negative speech that is true. By regarding opposition as heretical, for stigmatizing ideological opponents as outside the pale of Jewish Orthodoxy, the protection of Jewish law does not accrue to deviant religionists while objections to Hareidi positions on textual and theological grounds is objectionable "bashing," because as R. Sherman declared, all Israel must defer to his elite rabbis so that this elite may confer legitimacy upon them. Thus, in Hareidi Orthodoxy, "Tradition" is not a sacred library or even what our parents practiced; like the Magisterium of the Roman Church the self-selected elite, with inspired intuition, will selectively cite and apply the literary canon of Israel as it alone reads the canon. A philological reading of Judaism is heretical not because it denies God's voice, but because its findings and the readings of sacred texts that philology provides denies any elite the right to explicitly and exclusively appropriate God's voice, to determine, on instrumental grounds, which halakhic rules may be referenced [only high extra-halakhic conversion standards] and which rules may be suppressed [that conversions may not be nullified because of non-observance].

6. What is at stake in this contentious conversation?

According to Jewish law, the binding rules of Judaism are recorded in the Talmud. Post-Talmudic authority is reflected authority, providing windows and insights regarding Israel's covenantal obligation. By conceding that there have historically

been two competing orientations to conversion to Judaism, R. Sherman denies the Judaism of the statute ultimate normativity. Rather, God's will is located in the social vision and inspired intuition of his own preferred rabbinic elite. They are empowered to defame dissenters, outlaw alternatives, and to declare without documented demonstration what devoted Jews ought to be doing.

This approach, that treats the thick culture of Hareidi society as if it were the essence of canonical Judaism, actually and ironically approximates the secular religion of Mordecai M. Kaplan, as noted above. For Kaplan, the "Jewish people" define Judaism and not the canonical text sacred library, which for Kaplan carries "a voice but not a veto." For R. Sherman, only the living textual charismatic, saintly person/gavra super rabbi, or godol, is authorized to read, parse, apply the canonical document/heftsa. Although the Torah was given to all Israel, its access is mediated by an unmediated elite. Like the Roman Catholic Magisterium, Hareidi "tradition," the living thick culture of the community as defined by divine right leaders, supersedes the revealed religious canon. Ironically, Hareidi religion appropriates a page from Conservative Judaism's political/theological playbook by affirming, against God's original Torah that is subject to neither addition nor to subtraction, [Deuteronomy 4:2] a doctrine of "continuous legal revelation," that is formally outlawed by the Oral Torah in the Ochnai oven narrative of bBava Metsia 59b.

Slandering a sage is a very serious offense according to Jewish law. Rabbi Joseph B. Soloveitchik was slandered by Nison Wolpin of the currently defunct Agudist Jewish Observer. R. Hillel Goldberg has slandered Rabbi Saul Lieberman; R. Abraham Sherman slandered Rabbi Drukman, and the late R. Elya Svei slandered Rabbi Norman Lamm of Yeshiva University. The unwillingness-or absence of nerve-of cosmopolitan Orthodoxy's rabbinate to defend the dignity of its own teachers brings the neutral observer as well as the parochial Orthodox to conclude that cosmopolitan Orthodoxy has more respect-or fear- of Hareidi intimidation than it own sense of what God expects of them. When commenting to a cosmopolitan/modern Orthodox dayyan, or rabbinical judge, that exempting yeshiva young men and Hareidi Orthodox women from Israeli military service, is improper-even though Rabbi Solomon Lorincz reported that his own mentor, Rabbi Abraham Karelitz, ruled that advocating a conscription of Hareidi youth renders the offending culprit a disqualified witness, the Jewish legal designation of an evil person, I was warned by this profoundly learned, exquisitely fine, and socially astute sage, "don't go there," i.e., avoid this issue like the blow of the plague. But the Talmud, Sota 44b, requires a military conscription during a defensive war, and without the breastplate oracle, the Urim and Tumim and the

Supreme Court of halakhic Israel, sadly in recess until the fallen Davidic Temple is restored, all wars in Israel are defensive so that the situation demands universal conscription of yeshiva men and Orthodox women. Unless there is a renewed Supreme Court convened to override the Talmud, authentically Orthodox Jews who believe that God authored the Torah will defer to the sages of the Talmud and not to Rabbi Karelitz. Hareidi leaders have a right to disagree with Rabbis Soloveitchik, Lieberman, Drukman and Lamm if they wish, but they must do so in refined, textually argued, respectful demonstration of what they believe God's recorded voice is saying.

7. What should be done in light of current realities?

The Rabbinical Council of America must accept the conversions of all duly vetted and accepted members. It should defend the validity of all conversions performed by its members, and not buckle under to Hareidi pressures. Moreover, as a Zionist as well as Orthodox body, it must affirm the obligation of military service for any rabbi in Israel who earns a state rabbinic salary. Hareidi rabbis who refuse to serve in the Israel Defense Forces should not be eligible for employment by the State of Israel.

This article began with a problem created by a Hareidi bet din in Monsey. The question is: how is the Modern Orthodox community to respond? We must make clear that any Bet Din that knowingly violates Jewish law by insulting sages, by forbidding required military service in Israel, and demanding that its rabbis require deference and privilege-such a Bet Din does not meet the standard for piety and probity. The rulings of such a Bet Din should be disregarded by our community. If particular individuals choose to follow their rulings, that is their business. But we should encourage people to bring their issues to proper Modern Orthodox rabbinic leadership and proper batei din that adhere faithfully to our Torah texts and traditions.