



Conversion and the Unity of the Jewish People: In the thought of R. Eliezer Berkovits ז"ל Rahel Berkovits

The Problem: Conversion and the Decline of the Oral Law pp. 91-92

How to convert to Judaism is not a halachic problem. It is all stated clearly in the *Shulhan Aruch*. The problem is that in this case the prescribed laws on conversion are in conflict with another important principle of Judaism, that of preserving the unity of Israel, the idea of *kneset yisrael*, through the obligation of *ahavat yisrael*, the love for the people of Israel. Only when we understand this have we raised the halachic question. For, indeed, such is the classical halachic "problem": That the strict adherence to one law is in conflict with the strict adherence to another obligatory principle of Judaism. In the case at hand, any Orthodox Jew has the right to say that for him, the importance of the laws of conversion are so vital that for their sake he will push aside all the important obligations regarding the ideal of unity of Israel and love of Israel. But where does he find the authoritative basis for his decision? In the *Shulhan Aruch* in the section on conversion? Certainly not. There he will find all the rules on how to convert

a non-Jew. What he will not find there is the answer to our problem of halacha, i.e., in view of the importance of the idea of the unity of Israel and all that it involves. For Judaism according to the Tora, what should be our attitude to a vast number of fellow Jews who do not observe the laws of conversion as we do? Where, then, will he find the answer to his question—in which book, in which code? In no book, in no code. He must make this decision by himself, in his own Jewish conscience. But how so? He will accept the authoritative validity of the law on conversion, and at the same time he will acknowledge the importance of the unity and love of Israel; he will then seek resolution of the conflict from within the comprehensive ethos of Judaism, from what Judaism is about in its totality, according to his understanding and commitment. Moreover, this is an understanding and commitment which has grown into a measure of maturity as the result of the dedicated study of the classical sources of Judaism and of adherence to a way of life inseparable from it. This is not a purely subjective decision; but just because of the subjective element involved in it, it will be a truly halachic solution to a genuinely halachic problem. ‏

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One of the most serious problems of our day is the widespread ideological fragmentation within the Jewish people. The religious ideologies are numerous. Yet Judaism in its very essence is not sectarian but the way of life of a people. Indeed, it can be fully realized only by a people. To work for Jewish unity in the spirit of *Ahabat Yisrael*, love for every Jew, in the interest of *K'lal Yisrael*, the reality of the totality of the Jewish people, is an urgent demand of Torah-realization. It is to be regretted that Halakha, as it is understood today, rather than contributing its share to the striving for Jewish unity, only deepens and fortifies the fragmentation.



The Task- Working with Other Denominations: Not in Heaven p.107

It is our conviction that Halakha has to be stretched to its limits in order to further Jewish unity and to better mutual understanding. In the Orthodox camp there are certain psychological impediments that have to be overcome. It is time that Orthodox rabbis face without dogmatism the issue of their relationship to rabbis of the non-Orthodox denominations. Judged in the light of the real situation, it is just not true that the latter, because of their Conservative or Reform interpretation of Judaism, are incapable of *Yirat Shamayim*. To insist that this is so is a prejudice; it is insisting on an untruth that, as such, is a violation of important biblical commandments. There are quite a few among Conservative and Reform rabbis who are sincere believers in Judaism.

Nor should one take it for granted that belonging to the Orthodox group automatically bestows upon one the precious treasure of *Yirat Shamayim*. It is true that some of the practices and teachings of non-Orthodox rabbis represent a violation of the laws of the Torah as they are understood by the Orthodox interpretation. But it is not true that they interpret and practice as they do because they mean to perform an act of heresy or rebellion against Judaism. On the contrary, many among them work to preserve, to enrich, to serve Judaism and the Jewish people no less than the best among their Orthodox colleagues. From the point of view of their ideological position, their intention may be no less *L'shem Shamayim*, for the sake of heaven, than that of Orthodox Jews.

What is their halakhic status? Since they do not violate the law with the knowledge or the intention of violating, but on the contrary with the conviction—however mistaken from the Orthodox point of view—of practicing a valid form of Judaism, they are not to be considered *Mumrim l'Hakhs*, apostates out of spite, nor even *Mumrim l'Teabon*, apostates of convenience. From the halakhic point of view, they are *To'im*, mistaken.⁴¹ This reference to non-Orthodox rabbis as *To'im*, as erring ones, should not be taken as a form of condescension. We are attempting to define their status from the point of view of Halakha. I fully realize that non-Orthodox interpreters of Judaism may similarly refer to the Orthodox interpretation as *Ta'ut*, a mistake. Ideological differences should not be watered down, but neither should they destroy the respect that we owe each other, nor should they erode our sense of responsibility to work for unity in Israel to the ultimate limit that our ideological positions permit.



Crisis and Faith p.122-125

The *din*, the law, regarding conversion is really very simple. For a conversion in accordance with the *din*, there has to be *kabbalat mitzvot*, the acceptance of the commandments of the Torah; in the case of a male convert there has to be circumcision, and for both men and women there has to be *tevilah*, immersion in the ritual bath. The requirements of the law in this matter are clear. There is no problem there. The problem, of course, is that while there is the *din* as stated in the Talmud and crystallized in the codes, there are also a great many Jews who either do not accept the Talmud as the ultimate authority for their own religious conscience, or who give to the law regarding conversion an interpretation which differs widely from the one given to it by Orthodox Judaism. The real question, therefore, is not what does the *Shulhan Arukh* say about conversion; that is well known. The question is what to do about all the Jews who do not accept the Orthodox view in this matter. It makes little sense to argue that since the unity of the Jewish people is at stake, all Jews must accept the Orthodox viewpoint. It makes no sense at all; not because the question of conversion is not *that* important. It is of vital importance to us all. We are dealing here with the very essence of the nature and meaning of Jewishness. It makes no sense because in this way we shall not safeguard the unity of the Jewish people. On the contrary, the gap widens and the essential nature of being a Jew becomes more and more diluted for more and more Jews. One might, perhaps, retort: 'We are not concerned with the practical consequences. Here is the law; we insist that it be adhered to.' But would this still be a halakhic position? Is it indeed so, that authentic *halakhah* is free of meaningful practical considerations?

Apart from the practical considerations, there is also a moral question to be considered. By insisting that in matters of conversion the Orthodox view must prevail exclusively, we have, of course, stated that our rather numerous non-Orthodox brothers and sisters have to be excluded from having any say in such a vital issue as what it means to be a Jew. Do we have the moral right to make such demands? It is true that we maintain that Torah is *min hashamayim*, revealed to the Jewish people by God and, therefore, the law regarding conversion has divine authority. I, too, believe that, together with all Orthodox Jews. Nevertheless, I cannot overlook the fact that, no matter how strongly I believe it, it is still only my personal belief. And if there are tens of thousands of us who so believe, the faith in *Torah min hashamayim* will still remain *our* faith. No matter how convincing our reasons and our proofs for this faith may be for us, they will still be no more than reasons and proofs for *us*; enough for me, clear and convincing, like the brilliance of a clear and cool morning, yet inseparable from my subjectivity. It is true that our opinion in this matter of conversion is identical with that of the *Gedolei Torah*,

the great Torah scholars of our generation. But, again, this, too, is our recognition of their greatness. If we should be mistaken, if the great Torah scholars themselves should be mistaken, then the greatness of the *Gedolim* itself would be wanting and of little consequence. But, of course, we are right, our faith is true, and the greatness of the "great ones" is unquestionable. Indeed—so *we* believe. That Torah is *min hashamayim* so I believe; but I cannot help recognizing that the fact that I so believe does not make my belief a faith *min hashamayim*. The Torah is *min hashamayim*; my faith that it is so is not. Neither is my interpretation of the meaning and consequences of that faith *min hashamayim*. If so, how can we deny to Conservative and Reform rabbis and scholars the right to their interpretations? Of course, we Orthodox are the only Torah-true Jews. But no matter how much we insist on this, it will, nevertheless, remain our own subjective insistence. Could not, then, our non-Orthodox brothers and sisters turn to us and say with equal right, since our interpretation of Torah and Judaism is mistaken, that we do not represent Torah-true Judaism and that only theirs is the Torah-true way?

Of course, an Orthodox Jew might say: I don't care what *they* maintain. I have my own convictions and I shall not depart from the laws regarding conversion in the *Shulhan Arukh kehkut hasa'arah*, not as much as the breadth of a hair. Indeed, one does have the right to such a decision. But, for the sake of intellectual honesty, one should have a proper understanding of the meaning of such a decision. In a sense, in its ultimate consequences, this would be a decision to secede from community with non-Orthodox Jews or to exclude them from community with us. Or, to say the least, it would be a decision regarding the rights and status of our non-Orthodox brothers and sisters within the community of Israel. However, if this is fully understood, we will have to concede that this is no longer a question purely of conversion, but of the importance of the unity of the Jewish people, the idea of *Klal Yisrael*, in relationship to the laws of conversion.



A Suggested Platform of Unity on Conversion According to Halakha p.11

Probably the most difficult aspect of the platform of unity is the requirement that orthodox rabbis recognize non-orthodox rabbis as qualified to form their own *beit din* for the purposes of conversion. It is probably here where the highest measure of boldness in the exercise of *halakha* is demanded.

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3) The most challenging part of the mutual recognition which is required by this platform of unity falls to the conscience of orthodox rabbis, whether they are able to accept conservative and reform colleagues as possessed of sufficient *bedi'avad* to enable them to act as *beit din*? Don't they follow practices which from the orthodox point of view are considered *she'at hadhak*?

Crisis and Faith p.127-128

We have our own views on what constitutes genuine conversion and you have yours. We disagree on this point. We shall not force our view on you as you will not force yours on us. But insofar as we are both part of *Knesset Yisrael* and desire to have our place of responsibility within it, we do have in common our concern for the preservation of *Klal Yisrael* and are equally motivated by *Ahavat Yisrael*. Therefore, in this matter of conversion your problem is very similar to ours. It is not really a question of how to admit a non-Jew into Judaism. It is a "halakhic" problem for you no less than for us, i.e., how to resolve the conflict between your requirements for conversion and your commitment to the reality of *Klal Yisrael*. We know well what your *lekhathilah* position on conversion is. But since this is a case of *et hazorekh* and *she'at hadhak*, what would be your *bedi'avad* position in view of the need for Jewish unity and for the sake of your love for your fellow Jews? In view of the need and the urgency dictated by our understanding of Judaism's call for *Ahavat Yisrael* and the safeguarding of the unity of the community of Israel in our relationship to you, we are, *bedi'avad*, willing to forego the demand for full adherence to the requirements for conversion as we accept it for our own conduct. How far can you go in allowing your obligation to preserve unity and commitment to a common destiny to control and modify your requirements for conversion?

I disagree with Reform Jews as to what these requirements ought to be. As to Conservative Judaism, I understand from some of its leading spokesmen that the majority of Conservative rabbis do adhere to the laws of conversion as stated in the *Shulhan Arukh*, though I assume that the Orthodox interpretation as to what constitutes *kabbalat hamitzvot*, the acceptance of the commandments, may differ from theirs. But notwithstanding the disagreements, I do have sufficient respect for the leading rabbinical and scholarly personalities in both the Conservative and Reform groups to know that, in moral responsibility, they could not, and would not, refuse to respond positively to such an approach on the part of those who came to them in the name of *halakhah*. At least, instead of shouting at each other we might start talking to each other.



Halakhic Reasoning: Not in Heaven p.109-111

Though sincerity of motivation is required *l'kh'thilah*, if one accepts Judaism for reasons of marriage or for some other ulterior motive, he is accepted as a Jew.⁴³ Of course, even in such cases, there has to be formal acceptance of Judaism.

More important, however, is the qualification that the "sincerity of motivation" is not to be interpreted strictly. There is the story of the gentile who came to Hillel to be converted on condition that he would be appointed a high priest.⁴⁴ Or the case of the woman who asked Rabbi Heeya to be converted in order to be able to marry one of his disciples.⁴⁵ Both were converted. The generally accepted explanation is the one given by *Tosafot* that both rabbis were sure that the gentile involved would ultimately, after the actual conversion, practice Judaism *L'shem Shamayim*, for the sake of heaven. In other words, the sincerity of these converts was not judged purely on the ground of their momentary, consciously realized motivation, but on what was expected to be the outcome in the future. This is a matter to be evaluated in the light of the character of the people and the specific situation in which they decide to convert.

There is no reason to assume that such insight into the future development of a convert's relationship to Judaism is granted only to a Hillel or a Rabbi Heeya. And indeed the *Beit Yosef* derives from these stories the principle that "everything depends on the judgment of the court," or their appreciation of where this kind of conversion for some ulterior motive will ultimately lead.⁴⁶ What these stories and the interpretation placed on them mean is that there is no hard-and-fast rule in these matters. At times, it is proper to discourage initially; at others, one should be helpful right at the outset. Indeed, the Talmud tells the story of Timna, the concubine of Eliphaz the son of Esau, who wanted to be converted but was rejected by Abraham, Isaac, and Jacob. The result was that Amalek, the classical enemy of the Jews, was her offspring. Why did this happen? Answers the Talmud: "They should not have pushed her away."⁴⁷

Kabbalat Mitsvot is a *conditio sine qua non*. There can be no conversion without it. But nowhere is it spelled out clearly what is meant by the "acceptance of commandments." The very term is rather vague. Quite clearly it does not



mean the acceptance of all the commandments of the Torah. That the *Beth Din*, as the Talmud states, has to make known to the convert “some of the lighter *Mitsvot* and some of the more difficult ones” proves that it is not even necessary to make known to him all the commandments, which, of course, would be extremely difficult from a practical point of view. But the term “some of the commandments” is also extremely vague. Which commandments? How many of them? Some of them are mentioned in the Talmud.⁴⁸ But on the whole, once again the judgment is left to the court.

Does *Kabbalat Mitsvot*, then, mean the acceptance of the commandments which are made known to the would-be convert?

It is not difficult to show that *Kabbalat Mitsvot* is not identical with “some of the lighter *Mitsvot* and some of the more difficult ones” that the court should make known to the convert. *Kabbalat Mitsvot*, “the acceptance of commandments,” is a condition that cannot be waived. Yet Maimonides rules that if a court of laymen (*Hedyotot*) neglected to make known to the convert “some of the lighter and some of the more difficult commandments,” the conversion is valid and binding if he was circumcised and immersed in the *Mikveh*.⁴⁹ But there must have been *Kabbalat Mitsvot*. The *Shulhan Arukh* too brings the rule that *Kabbalat Mitsvot* is essential; nevertheless he also quotes the above decision of Maimonides.⁵⁰ The other halakhic authorities agree with this ruling.

It would seem to us—and it is possible to show support for this idea in the talmudic sources—that the abjuring of a former religion, the acceptance of faith in the One God of Israel, and the joining of the Jewish people are, of necessity, essential in the intention of becoming a convert and are to be so understood by all who are moved to convert.

But even in its form of making known to the convert some of the *Mitsvot*, relatively little is, and can be, made known of the entire complex teaching of Judaism and of the life demanded by it. Since *Kabbalat Mitsvot* alone suffices *b'd'ibbad* and is realized by the abjuring of the former faith, the acceptance of faith in the One God of Israel, and circumcision and immersion, it is obviously only a beginning. At this stage the convert cannot have an adequate knowledge of his new faith; he cannot fully realize all the implications of his decision. He has only a general idea of what it means to be a Jew and the willingness to be one. To paraphrase the words of the Book of Ezra, conversion is separating oneself away from the old faith, joining the Jewish people in order to seek out the God of Israel. In fact, every conversion is similar to that administered by Hillel. An introduction is provided to what is meant by being a Jew. The “rest”—and that is the greatest part of being a Jew, and is probably limitless—is “explanation.” Go and learn and find out.



ביורורים בדיני גירות כתב עת סיני עז 1975 עמוד 36

ניתן ללמוד נקודה חשובה נוספת ממעשה הגר שבא לפני הלל (שבת שם), שהרי אותו הגר היה מוכן לקבל על עצמו חורה שבכתב אבל לא תורה שבע"פ ובכ"ז גיירו הלל, והדבר תמוה, שהרי הלכה פסוקה היא (בכורות ל ב) שעכו"ם המוכן לקבל על עצמו כל התורה כולה חוץ מדבר אחד אין מקבלין אותו. וא"כ איך גייר הלל אותו העכו"ם שלא קבל על עצמו כל התורה שבעל פה. ליישב קושיא זו מתכוון רש"י (שבת שם, ד"ה גייריה) שפירש: „וסמך על חכמתו שסופו שירגלנו לקבל עליו. דלא דמיא הא לחוץ מדבר אחד, שלא היה כופר בתורה שבע"פ אלא שלא היה מאמין שהיא מפי הגבורה והלל הובטח שאחר שילמדנו יסמוך עליו“. והנה מדברי רש"י נוכל להסיק שני דברים, כי מה שלמדנו שהבא להתגייר ולא קיבל על עצמו כל התורה כולה שאין מקבלין אותו, היינו דוקא אם מתנה את תנאו דרך כפירה. ועוד שכופר לא מקרי אלא רק מי שיודע שאינו מצוה מפי הגבורה נתנה ומ"מ אינו רוצה לקבלה ואילו באופן אחר אינו נקרא כופר כלל.

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One could perhaps make the following suggestion. It is true that the laws of conversion do prescribe that a non-Jew be accepted into Judaism only if he is willing to accept all the commandments of the Tora in all sincerity, and if he is circumcised and immersed in a properly prepared ritual bath. However, it is also established that if this were not the case, but a person converted without the religious responsibilities having been explained to him, even if he or she undertook this step for the sake of marrying a Jew or for any other ulterior reason, even if the conversion had taken place in the presence of three laymen, ignorant of the laws and teachings of Judaism, the conversion is still valid. Of course, this is allowed only *bedi'avad*, after the event of conversion has taken place. But as a rule, from the start of the conversion process, it is not permissible. On the other hand, there exists a general principle of halacha that all cases of severe need or urgency are to be treated as if they were *bedi'avad*, after the fact. In other words, what normally would be admissible only post factum, under the pressure of circumstances, is allowed from the start. Now, I do not hesitate to say that the preservation of the unity of Israel and the practice of love of Israel are matters of utmost urgency. With this understanding of the problem, I might well think that a compromise with our non-Orthodox brethren was possible.



A Suggested Platform of Unity on Conversion According to Halakha pp. 9-11

PART II. A PLATFORM OF UNITY

This analysis of the meaning and the principles of conversion, as been undertaken with the intention of creating a platform on the basis of which rabbis of differing religious ideologies, notwithstanding their theological or religious differences, may be able to recognize the conversions administered by each of them, and consider the creation of such a platform of unity an essential demand of the hour. It is important to stem the drifting into further fragmentation and confrontation within the various theological groupings within the Jewish people. At a time when the Jewish people is surrounded by so many enemies, to work towards greater unity is an imperative demand of survival. But independently of the specific quality of the present hour, at all times it is a basic requirement of the Torah that Jews should foster *חֶבְרֻת אֱבָרָה* in a spirit of *חֶבְרֻת אֱמֶת* in the interest of *חֶבְרֻת אֱלֹהִים*. This is incumbent on every Jew, insofar as he is a Jew, independently of any specific ideological orientation.

The recognition of the paramount importance of *אֱמוּנָה*, imbued with *חֶבְרֻת אֱמֶת*, for the sake of *חֶבְרֻת אֱלֹהִים* is the basis of the platform of unity suggested here.

We believe that what is suggested here is valid halachically, especially if one bears in mind the well-established halachic principle that *תְּחִלָּתָא אִשְׁתֵּי וְאַחֲרָיִךְ אֵלֶיךָ* is considered *אֲרֵיבֵיבֵי* situation and whatever is acceptable *אֲרֵיבֵיבֵי* may be acted upon even initially.

I.

1. Conversion must be sincere; it has to be undertaken out of conviction.

Sincerity and conviction should not and need not be adjudged dogmatically on their actual strength at the time of conversion; but ^{הַחֲבֵרָה} should bear in mind the measure of the likelihood that the adherence to Judaism on the part of the would-be convert may, in the course of time, deepen and gain in commitment and dedication or, possibly, weaken and dissolve. (See Part I, par. 2, To 1)

2. There has to be *אֱמוּנָה אֱמֶת* in all cases, meaning:

a) the convert has to abjure radically and forever his previous faith and religion;

b) he has to make his own the faith in the One God of Israel, i.e., the One God who not only created heaven and earth, but the One Creator who concluded a covenant with the people of Israel and revealed to them His Torah.

c) he enters into complete unity and full identification with the historic and living people of Israel;



d) a male convert has to undergo circumcision; and all converts have to undergo immersion in a *מיצה*
(See Part I, par 2, to 2)

3. *אין אמת*, we have shown that this is an extremely vague concept. (See Part I/2/4).

We suggest that there be a meaningful minimum introduction into Judaism; its details to be worked out by the group of rabbis, or their representatives, who are willing to accept the suggested platform of unity.

Each member of the group is entitled to go beyond the minimum introduction.

Each member of the group impress on the convert that no matter how much he learns about Judaism, it is only a beginning and *אין אמת* (See Part I/2/2)

Each member of the group obligates himself to teach only what is demanded by Judaism, but never tell a convert that any *אין אמת*, which is acknowledged by any member, need not be observed. Especially here, the implementation of the principle of *אין אמת* is essential.

Halakhic Imperative: Conversion and the Decline of the Oral Law p.101

This means that the transformation of the Oral Tora into a text was due to political history. It was an unavoidable violation of the essence of halacha when the spoken word was forced into the straitjacket of a written mold. It was no one's fault; nevertheless, it was a spiritual calamity of the first magnitude. Orthodoxy is, in a sense, halacha in a straitjacket. Having had to transform the Oral Tora into a new written one, we have become Karaites of this new Written Tora, forced upon us by external circumstances. It was part of the spiritual tragedy of the exile that exactly what halacha in its original vitality and wisdom intended to protect us from has happened. In a sense, we have become Karaites. God can no longer rejoice over his "defeat" by his children. It is a condition we have had to accept. It is the price we have paid for the preservation of our identity and Jewish survival.

Today, however, we are faced with unprecedented new challenges, problems of a true halachic nature, which require solutions in the true halachic spirit. This is true in the free societies in which Jews live, but it is compellingly manifest in the State of Israel. When some leading rabbinical authorities there maintain that halacha can solve all of the problems that may be raised for Judaism in a modern state, they are right and they are wrong. They are right, for halacha in its original strength could solve all such problems. Yet they are wrong. Halacha in its present state cannot fulfill that function.



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As in the past, because it was a time to act for God, shackles had to be placed on the Oral Tora in violation of God's command, so now the hour has come when the need to act for God places upon us the responsibility to free the Oral Tora from its shackles, in obedience to God's original command. There are risks involved in such an undertaking. Because of it we need not less but more fear of heaven. But possibly most of all, we need more love of all Israel, to illuminate our love of Tora. And to pray to God for his guidance. \

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CONCLUSION

I fully appreciate that from a purely practical point of view there is little hope that at this stage the suggestion for the platform of unity suggested here will be acceptable to the generality of the established denominations among us.

I believe, however, that an important step towards a greater unity will be made, should a significant number of rabbis of all denominations be able to accept the suggested platform of unity.

After a great deal of heart-searching and to the best of my knowledge, I have stated what I consider to be halachically possible and necessary and what thus becomes an inescapable halachic responsibility.

Writings on Conversion:

- *A Suggested Platform of Unity on Conversion According to Halakha* (Unpublished 1974)
- *Conversion According to Halakha What Is It?* Judaism 23:4, Fall 1974 (Reprinted in **Crisis and Faith**, Chapter 8, 1976)
- *Conversion and the Decline of the Oral Law*, 1974 (Reprinted in **Essential Essays on Judaism**, 2002)
- 1975 בירורים בדיני גירות, כתב עת סיני עז
- **Not in Heaven**, Chapter 7 Halakha in Our Time, 1983