

# Not by Birth Alone

Conversion to Judaism

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## CHAPTER EIGHT

### The Significance of Motivation in the Halachah of Conversion\*

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Conversion may be considered as the crossing point in the long and often tense border between Judaism and the non-Jewish world. To determine the conditions under which it may be traversed is not easy. The Torah does not speak of a process of conversion, though its frequent stipulation that we should protect and love the stranger obviously has a general bearing on what our attitude to proselytes should be. It was the rabbis who defined - and are still defining - the criteria and procedure by which one may become Jewish. In the debate as to what these should be, motivation is the key factor.

From the first, Jewish legislators understood that people may seek to become Jewish not simply because they have come to believe in the one God and in the Torah as the revelation of God's will, but for a variety of rather more mundane reasons. Possibly the earliest discussion of this issue known to us ensues from the following Mishnah (Yevamot 2:8): 'If a man is suspected [of having sexual relations] with a slave who was later freed, or with a non-Jew who was subsequently converted, he may not marry her.'

'She is, however, a convert!' observes the Talmud (Yevamot 24b). For the implication of the Mishnah is that whatever we may assume about the reason why such a woman became Jewish, a Jewess she certainly is. The problem, it appears, is not her status, but whether or not she should be allowed to marry the man in question, thus confirming ugly rumours.

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, and similarly, a man who became a proselyte for the sake of the royal board, or for the sake of joining Solomon's servants, are not proper proselytes. These are the words of Rabbi Nechemiah.

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Thus, according to Rabbi Nechemiah, those who seek to become Jewish for the sake of marriage or other worldly benefits they may obtain – favour at the king's table, or power as a royal servant – or, as the passage goes on to state, who do so out of fear as in the days of Mordechai and Esther, are not accepted as converts because their motivation is insincere. A convert who does not act for the sake of Heaven alone is not a convert at all.

But once again the Talmud offers a refutation:

Surely concerning this it was stated that Rabbi Isaac bar Shmuel bar Marta said in the name of Rav: 'The Halachah is in accordance with the opinion which maintains that they [converts in the categories referred to above] are all indeed proselytes.'

Thus according to Rav, impure or mixed motivation is not an absolute barrier to conversion and certainly does not render it null and void after the event. This conclusion is reinforced by the Tosafot who remind us ('Not in the days of David') that Hillel accepted the man who came to him saying 'convert me so that I can become High Priest' (Shabbat 31a), and that Rabbi Hiyya did likewise with the woman who came to him to be converted so that she could be married to one of his students (Menachot 44a). These decisions, note the Tosafot, were based on the inner certainty of the rabbis concerned that the candidates they accepted may have come out of impure motives but would 'ultimately come to act for the sake of Heaven', as proved to be the case.

This discussion teaches us that the existence of varying, not to say contradictory, views regarding the manner in which motive is to be regarded in the process of conversion is as old as rabbinic law itself. Indeed, basing himself on the cases cited by the Tosafot just quoted, the *Bet Yossef* (Rabbi Joseph Caro) arrived at the famous conclusion that: *hakol lefi re'ut eini Bet Din* – 'everything depends on how the Rabbinical Court perceives the matter' (Tur: Yoreh Deah 268). In other words, it is up to each Beth Din to use its discretion in assessing the quality of the motivation of the person who comes before it seeking to convert to Judaism, and the importance which should be attached to those motives.

Never has the manner in which this discretion should be exercised been the subject of so much debate as in our own day. The reasons for this are largely historical. Since emancipation, when contacts with the non-Jewish world became more widespread and ever more open, relationships leading to the desire to marry have become more and more frequent. How have rabbinical courts, faced with realities

generally far from the totally disinterested picture of the spiritual seeker who desires to convert only for the sake of Heaven, responded to the cases that have come before them?

Before turning to specific instances, it should be noted that there are certain common parameters within which virtually all courts of Jewish law operate. Thus everyone would agree that the ideal reason for seeking to become Jewish is the recognition that Judaism is a true path to God together with a wholehearted commitment to following that path as laid down in the Torah and subsequent Jewish teaching. Here is Maimonides' description of the ideal convert (*Hilchot Issurei Biah* 13:14):

The correct procedure in this Mitzvah is as follows: When a man or woman comes to be converted, one makes enquiries lest it be for the sake of money they will come to possess, power they will gain or out of fear, that they have come to seek entry into the religion. If it is a man one makes enquiries lest he has set his eye upon a Jewish woman. If it is a woman one makes enquiries lest she has set her eye upon a young man of the young men of Israel. If no such cause is found, one informs them of the weight of the yoke of the Torah and the difficulty involved in observing it for those who come from other nations, in order that they may depart. If they accept and do not depart and one can observe that they are returning out of love, then one accepts them, as the Bible said (of Naomi and Ruth): 'When she saw that [Ruth] was determined, [Naomi] stopped speaking to [i.e. discouraging] her.'

In a stirring essay Rabbi Aharon Lichtenstein praises the profound spiritual quest of many converts, comparing them favourably to the possibly habituated attitude of some of the rabbis who form the Beth Din that receives them: 'In his heart, burning fire; in theirs, perhaps dimming embers.'<sup>1</sup>

At the opposite extreme from this exalted ideal, it is evident that no Beth Din can allow itself to be put into the position of making Jewish law the servant of whatever conduct those who come before it may have indulged in or intend to follow.

Between these two extremes the Beth Din is left to exercise its discretion. As may readily be imagined, in the task of mediating between social realities and the ideal standards of Jewish law, there has been no one accepted solution. Thus, from the Talmud onwards there never has been such a thing as 'the Jewish view' or even in our day 'the orthodox view' on conversion. In his remarkable essay 'Halachah and ulterior motives', Mark Washovsky has shown that there is always an interplay between the reference to sources and the recognition of

practical circumstances in the manner in which different authorities reach and justify their positions on this issue.<sup>2</sup>

A key responsum for all those subsequent authorities who are lenient in their decisions is the pragmatic answer of Maimonides to an enquiry concerning the position of a man who brought a beautiful servant girl into the house where he lived with his father's wife and her three daughters. Amidst domestic strife, the family accused him of having sexual relations with the girl. What should the Rabbinic Court do?

Maimonides replies that the Court should exert its influence to make the man send the girl away, or else free her and marry her (freeing her would confer upon her indubitable Jewish status). He notes that he gives this ruling in spite of the law that one suspected of having relations with his servant girl who is then released, or a non-Jewish woman who is then converted, may not marry her *ab initio*, *mipnei takkanat hashavim* - 'in order to facilitate the repentance of sinners', and because it is preferable that a minor infraction be incurred in permitting a marriage forbidden *ab initio* rather than the major sin of living with a non-Jewish woman. In this he relies on the saying of the Sages: 'It is time to act for the Lord, they have broken Your Torah', and, he concludes, 'May God in His high places forgive our sins as He has said to us: "I will remove all your dross . . ."'.<sup>3</sup>

Maimonides thus prefers to contravene a stricture of rabbinic law than to allow a situation to persist which is in clear violation of Torah law and Jewish ethics. He appears to assume that the court will not be successful in its first approach, that is in trying to persuade the man to send the girl away, and one may therefore infer that he is guided by the view that a Beth Din has to make certain compromises in order to practise the art of the possible. The alternative would be the flagrant flouting of rabbinic authority.

Many centuries later Rabbi David Tzvi Hoffmann (d. 1921) was asked a question concerning a Jewish girl who had contracted a civil marriage to a non-Jewish man and was now pregnant with his child.<sup>4</sup> Was it permitted to convert the man?

In his reply Rabbi Hoffmann notes that since his partner will clearly remain married to him at all events, his desire to become Jewish cannot be said to be motivated by considerations of marriage and may therefore be considered to be *Leshem Shamayim* - 'for the sake of Heaven'. Furthermore, he argues, since if he is not accepted for conversion she will be in breach of Torah law as a result of her marriage to a non-Jewish man, it is better to accept him and put an end to his major transgression. He offers the additional justification for

such a course of action by the Beth Din on the grounds that the children, who are Jewish by birth, will be attracted to follow the ways of their father. He should therefore be converted and adjured to follow in the paths of Judaism, most particularly with regard to Shabbat and Kashrut. In this way the children will not be lost to Judaism.

Perhaps the most remarkable feature of this responsum is Rabbi Hoffmann's observation - which does not originate with him<sup>5</sup> - that the man may be considered to be motivated for the sake of Heaven - rather than marriage - because in the existing social climate it would be perfectly possible for him to remain married to the woman without undergoing conversion. His relationship with her cannot therefore be considered the motive for seeking to become Jewish. This argument could be applied all the more in our day where intermarriage, if not widely approved of, is certainly widely practised and, *de facto*, condoned.

The former Sephardi Chief Rabbi of Israel, Ben Zion Meir Hai Uzziel, wrote and responded widely on the subject of conversion. In a reply to the Chief Rabbi of Istanbul he summarized his position in the following terms:

In our generation, where the sin of intermarriage is widespread, we are obliged to convert many men and women to save them from the sin of marrying out, and to save their children who would otherwise be lost to Israel.

In this he relies on the responsum of Maimonides referred to above. He briefly entertains the opposite view, noting that there are circumstances in which we are counselled to leave the wicked to perish in their sins, but then notes that this does not apply here because 'the Jewess or Jew does not want to do that which is forbidden but, on the contrary, wishes to preserve themselves from so doing'.

From the case of the person who has already married out, he proceeds to that of the man or woman who seeks to convert in order to contact a marriage to a Jewish partner. This, he argues, is a case of *Mikol sheken* - 'all the more so' - and he cites the ruling of the Talmud in the name of Rav that even if we know that a person has undergone the procedure of conversion for reasons other than the sake of Heaven 'they are all indeed converts', a ruling accepted by the Tur (Yoreh Deah 268), and Maimonides. This being so, he concludes, we are permitted to perform conversions of this admittedly less than ideal kind

in order to save a Jew or Jewess from this severe prohibition which is an infectious plague in the house of Israel and liable to bring about the destruction of our people . . . Therefore, it is better to convert them so

as to save them from this prohibition and their children from being lost, than to leave them in mixed marriages. [This applies] wherever the dayyanim see that there is no counsel and no way of keeping them from this prohibition by means of influence or reproof. This matter is delivered to the judgement of the dayyanim, as our master the *Bet Yossef*, may his memory be for a blessing, has written and so long as we direct our hearts to Heaven, then may the Merciful One grant atonement.<sup>6</sup>

The choice of authorities from whom I have cited is not an impartial one, nor is it intended to be. However, by way of balance, it has to be noted that precisely the argument advanced by Rabbis David Tzvi Hoffmann and Ben Zion Meir Hai Uzziel can be used to lead to the very opposite of their conclusions. For it is also possible to reason that the readiness of a rabbinical court to accommodate itself, albeit reluctantly, to the reality of intermarriage provides it with a back-handed sanction. If, on the contrary, a Beth Din were to refuse outright to accept cases of conversion where marriage is at all a factor, would that not be a deterrent and hence in the long term a far more effective response to the dangers threatening the Jewish people as a result of widespread out-marriage?

This was the reasoning behind the statement issued by the Brooklyn Beth Din of the Syrian Sephardic community in 1935, following a similar declaration by that community in Argentina. After deploring the prevailing conditions in which so many youth have left the Jewish community, the Proclamation continues as follows:

We have therefore bestirred ourselves to build and establish an iron wall to protect our identity and religious integrity ... We, the undersigned rabbis ... do hereby decree, with the authority of our Holy Torah, that no male or female member of the community has the right to intermarry with non-Jews; this law covers conversions, which we consider to be fictitious and valueless. We further decree that no future rabbinic court of the community should have the right or authority to convert male or female non-Jews who seek to marry into our community.<sup>7</sup>

Thus the debate goes on. Motivation is, of course, only one of the areas in which different rabbis and rabbinical courts hold different positions. The prospective convert will find that different *Battei Din* may not only take varying views of their motives but also have different requirements in terms of learning and seek to engender and prove commitment in greatly divergent ways. This holds true within the

'orthodox' world itself, let alone in the Jewish community as a whole.

Faced with this complex situation what approach should the Masorti Beth Din adopt? There are four guiding principles by which our policy may be defined. At this point, however, the reservation must be repeated, that motivation is only one of the factors which has to be taken into account. Ultimately it is the most important, but it cannot be considered in isolation from the commitment to the acceptance and observance of the practice of Judaism.

The first point concerns the question of initial motivation. It should be recalled that Jewish law follows the statement of Rav in the Talmudic passage that those who convert for reasons of marriage are indeed converts. So long as they undergo the due processes required by halachah their status as Jews is clear.

The second point is about commitment. No discussion of motivation can ultimately make sense without reference to its corollary, dedication. A Beth Din is right to set standards in the matter of conversion. As every rabbi and every person who has genuinely chosen to become Jewish will affirm, the adoption of a new religion, people and culture is a great and difficult undertaking. A person who is not open to learning and willing to make commitments, who finds little value in Torah and its observance, cannot be lifted across the challenges he or she is not willing to confront. There are and should be expectations which the proselyte must satisfy. But, as will shortly be argued, it will be incomparably easier for the convert to meet them if those who represent the Jewish community to him or her are helpful and supportive rather than dismissive and severe.

The third point evolves from a synthesis of the earlier two. It requires a reconsideration of what we mean by motivation. In the discussion so far it has been assumed that a prospective proselyte's motive may be defined as the cause that has led him or her to seek to convert to Judaism.

The vast majority of the debate on this subject in the sources has been conducted according to this presumption. But it may be an unhelpful one. It would probably be better to describe the initial cause that brings a non-Jew to consider becoming Jewish as the catalyst. The term motivation could then be reserved for his or her attitude to Judaism, encompassing the willingness to learn and the depth of commitment to the process of doing so. This will, furthermore, develop during the process of study and observance of Jewish practice which should precede the rituals of conversion. To draw for a moment on my personal experience, I cannot but be aware that of the people who come to speak to me about conversion, almost all because they

have found a Jewish partner, there are many who are deeply committed to engaging in the study and living of Judaism. The catalyst is the same, but not the motivation. There is nothing novel about making this distinction. It is surely implied in the statement of the *Bet Yossef* referred to above that in cases of conversion 'everything depends on how the rabbinical court perceives the matter'.

The fourth point is a refinement of the third. In very few situations in life does motivation remain static; it evolves. Two factors influence this evolution; other people and further knowledge. For change is rarely dependent on the person alone but generally also reflects the encouragement, support, vitality and commitment of those whom he or she encounters in the activity concerned. This is surely the case with regard to conversion to Judaism.

At this point motive ceases to be the concern of the convert alone and becomes in addition a product of his or her interaction with the Jewish community and its representatives. If a person meets with kindness and understanding - which does not mean the waiving of requirements - he or she will respond with greater interest. This is surely the lesson of Hillel's conduct in the famous case of the man who wanted to become Jewish in order to be High Priest. Hillel knew how to affect that person's motivation.

In our day some of the most negatively motivated people are those who have been subjected to bullying; initial interest, for example, is frozen by the prolonged hostility of the Jewish family who at once require that a prospective member convert but deter them from so doing by presenting a negative and often hypocritical image of Jewish living. Of course, the responsibility for their attitude ultimately remains with the converts, but it is unjust to blame them entirely for, or label them forever with, the views with which they began.

The second factor in the evolution of motivation is increased knowledge and understanding. I have seen a number of people change deeply in their feelings about belief, observance and Jewish learning over the course of time. This, of course, applies as much to Jews by birth as it does to Jews by choice. Indeed, we should bear in mind the classic principle that *mitoch shelo lishmah ba lishmah* - 'from doing things out of impure motives one arrives at doing them for pure motives'. Although this statement refers specifically to the performance of the commandments, the attitude it expresses is as relevant to conversion as it is to the giving of charity or the performance of any other religious act.

I do not believe that a Beth Din would compromise itself, neither in its answerability towards Jewish law nor in its responsibility towards

Jewish history, by acting in accordance with the above considerations. It should be recalled that to reject unnecessarily may well be worse than to accept too readily.

As the chief rabbi of Tel Aviv, Haim David Halevi, notes in this context, quoting a Midrash which puts the words in God's mouth: 'If you distance those who are distant, you will end up by distancing those who are near.'<sup>8</sup>

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## Notes

1 Rabbi Aharon Lichtenstein, 'On conversion', translated and republished in E. Feldman and J.B. Wolowelsky (eds), *The Conversion Crisis*, Rabbinical Council of America, 1990, p. 11.

2 Mark Washofsky, 'Halakhah and ulterior motives: Rabbinic discretion and the law of conversion' in W. Jacob and M. Zemer (eds), *Conversion to Judaism in Jewish Law*, Rodef Shalom Press, Tel Aviv/Pittsburgh, 1994.

3 Pe'er Hador 132.

4 Melamed Leho'il part 2 no. 83.

5 See the responsum of Rabbi Shlomo Kluger: Tuv Ta'am Veda'at 230.

6 Rabbi Ben Zion Meir Hai Uzziel, 'Dinei Gerut' in *Torah Shebe 'al Pea 29*, Mosad Harav Kook 5748, pp. 117-18.

7 S.Z. Lieberman: 'A Sephardic ban on converts' in *The Conversion Crisis*, pp. 50-1.

8 Rabbi Haim David Halevi, *Aseh Lecha Rav*, vol. 3, Tel Aviv 5739, p. 119.