Ellenson, David Harry

Retroactive annulment of a conversion: a survey of representative halakhic sources

Conversion to Judaism in Jewish Law (1994) 49-66

conversion converts: Halakhah


000136581
The issue of retroactive annulment of a conversion is one that has increasingly commanded the attention of halakhic authorities in recent years. In the early 1970's, the government of Israel was almost toppled as a result of this matter. Two children - Hanokh and Miriam - born to Chava and Otto Langer in 1945 and 1947 were declared to be mamzerim by the Rabbinical court of Tel Aviv in 1955 when it was discovered that Mrs. Langer had previously been married to an Avraham Borokovsky, who was said to have converted to Judaism in Warsaw. As the Borokovskys separated without obtaining a get, Mrs. Borokovsky had no right, according to Jewish law, to remarry. As a result of her failure to disclose this information to the officiating rabbi at the time of her marriage to Otto Langer, the rabbi performed the ceremony. The children born of her subsequent union were therefore illegitimate and, consequently, forbidden by the law from marrying other "kosher Jews."

When one of the children, Hanokh, on May 3, 1966, applied for a marriage license, he was refused permission on the grounds of his illegitimacy. After six years of appeals, Rabbi Shlomo Goren, serving as a head of a rabbinic court whose other members remained unidentified, resolved the problem of mamzerut for the Langer children by declaring that Mr. Borokovsky's conversion to Judaism was, in fact, "null and void," as a result, among other reasons, of his failure to observe Jewish law faithfully subsequent to his presumed conversion. As Jewish law does not recognize the possibility of legal betrothal between a Jew and a non-Jew, Mrs. Langer's first marriage to Mr. Borokovsky was no longer seen as valid. The impediment to her marriage to Mr. Langer no longer existed and the stigma of mamzerut, with its attendant disabilities, was now removed from Miriam and Hanokh. The Langer children could now be married in Israel. As the Bet Din o...
stated on November 19, 1972, "We have decided on 13 Kislev, 5733, to permit Hanokh and Miriam Langer, the brother and sister, to enter into the congregation of God and [they are eligible] to marry any Jew according to the religion of Moses and Israel."44

The decision was hailed by many for the desired result it achieved. After all, as Rabbi Goren himself explained in the introduction to his decision, "[Hanokh and Miriam Langer's] distress touched my heart deeply. I decided to investigate their bitter fate."5 Indeed, only the most hard-hearted individual would not have empathized with the plight of the Langer children. Nor could anyone in Israel or abroad fail to celebrate their newly-won freedom to marry. Nevertheless, as commentators such as Amnon Rubenstein, the Dean of Tel Aviv University Law School, pointed out in an op-ed piece in HaAretz in the week following the decision, Rabbi Goren's ruling brought to public consciousness the possibility that a conversion could be retroactively annulled on the basis of a convert's failure to observe Jewish law fully subsequent to the conversion.

Nor have such cases of retroactive annulment been confined to Israeli rabbis. In recent years the Law Committee of the Rabbinical Assembly had to confront this problem, as a Palestinian Muslim couple feigned a sincere interest in Judaism and actually underwent conversion with a Conservative rabbi in order to obtain rights as Jews in Israel under the Law of Return. After entering Israel as Jews, their true motivations emerged, much to the embarrassment of the rabbi who conducted these conversions to Judaism. The rabbi then asked the Law Committee if these conversions could be nullified. Rabbi Steve Saltzman, then of Greensboro, North Carolina, authored the responsum, "Nullification of a Conversion," for the Law Committee, and held that as their "intentions were dishonest and fraudulent ab initio," it was

"acceptable to argue [that] there was no conversion." Only in a case as unusual as this, R. Saltzman implied, was such a conclusion warranted. Even then, Rabbi Morris Shapiro dissented, concluding, "how dare we nullify the conversion of two Arabs."50

Both these cases are admittedly unusual and more than a bit sensational. More common is another tendency, as we shall see, that has emerged in recent years concerning the matter of retroactive annulment of conversion. A number of Orthodox legal authorities in both Israel and the Diaspora have declared as "null and void" conversions involving non-observant people who enter the community of Israel for the sake of marriage to a Jew. The issue addressed in this paper is neither simply theoretical nor exotic. It analyses and describes a matter that is of genuine concern to the practical life of our people.

Classical Sources and Rulings

The classical source in rabbinic literature describing the laws, procedures, and attitudes governing conversion is found in Yevamot 47b. There, in the sentences relevant to our concerns, it states, "If he accepted [the yoke of the commandments], he is circumcised forthwith. '... As soon as he is healed, arrangements are made for his immediate ablation'. 'When he comes up after his ablation, he is deemed to be an Israelite in all respects.' In respect of what practical issue? In that if he retracted and then betrothed the daughter of an Israelite, he is regarded as a non-conforming Israelite and his betrothal is valid."

The point that emerges here is that once an individual has converted to Judaism, that individual is deemed a Jew regardless of his or her subsequent conduct. Tosefta Demai 2:4, puts it succinctly and clearly. The Tosefta states, "A proselyte who accepted all the teachings of Torah, though he is suspected of ignoring one religious law, or even the entire Torah, is considered an apostate."
DAVID ELLENSON

Professor Saul Lieberman, commenting on the meaning of this statement, observed, "That is to say, even if he transgressed the entire Torah, his [status of] Jewishness is not removed." The Talmud, in Bekhorot 30b, repeats the statement of the Tosefta and asserts, as did Yevamot, that even if the proselyte betroths a woman after his relapse into non-Jewish ways, "his betrothal is valid - v'qidushav qidushin," and his wife must receive a divorce before she is permitted to remarry.

The notion that a conversion, once performed, is valid and cannot be revoked, is reaffirmed in Yevamot 24b. There Rabbi Nehemiah states that when conversions are performed for an ulterior motive, the persons involved "are not proselytes - Einan gerim." However, in the name of Rav, the gemara quickly contends, "The halakhah is in accordance with the opinion of him who maintained that they are all [proper] proselytes."

Particularly noteworthy is that all these positions were embodied in rabbinic decisions and codified by later rabbinic authorities as law. In the Middle Ages, a responsum of Rabbi Yehudai, eighth century Gaon of Sura, tells of a converted slave who returned to "his gentile state." Now he wanted to be a Jew once again. Rabbi Yehudai was asked to rule on this man's current status. Was he a Jew, or was he a gentile-in which case hatafat dam brit would have to be drawn from him? Rabbi Yehudai unequivocally ruled that despite his apostasy, the man "does not return to his original uncircumcised state - eino hozar l'areilato harishonah." Rather, in accordance with Talmudic law, he is "an apostate Jew - Yisrael m'shumad." As such, no drop of blood need be drawn from him. His status as a Jew is unchangeable.8

Maimonides, in his Mishneh Torah, Hilkhot Issurei Bi'ah 13:17, indicates that even if an individual reverts to his gentile state, he is akin to an "apostate Jew" and "his betrothal is valid." The Shulhan Arukh, Yoreh Deah 268:2, issues the same ruling.

Furthermore, in Yoreh Deah 268:12, these rulings are further established as normative Jewish law. Caro states, "...[If the proselyte] was circumcised and immersed before three common people, behold he is a convert even if it is known that he converted for an ulterior motive. Since he was circumcised and immersed, he has departed from the gentile community ..., and even if he reverted and served idols, behold he is now an apostate Jew whose betrothal is valid."

On the basis of these sources, retroactive annulment of a conversion would appear to be an impossibility in Jewish law. Conversion to Judaism, regardless of motive or subsequent behavior, appears to be an irreversible status. This view is reinforced by statements found in both the Mishneh Torah and the Shulhan Arukh concerning the conversion of infants to Judaism. While both codes indicate that an infant who is ritually immersed under the agency of a rabbinic court has the right - when he or she reaches the age of majority - to protest and thereby legally reject their Jewish status, should he or she fail to do so, then in the words of Maimonides, Hilkhot Mohalim 10:3, "he forfeits [his right] to do so again - shuv eino yakol limhot." He is "a righteous proselyte." Moreover, commentators upon the Shulhan Arukh, Yoreh Deah 268:8, add that even should such a convert later apostatize, "the law is that he is considered an apostate Jew - Dino k'yisrael mumar," not a gentile.

The permanency and immutability of the convert's status as a Jew can be seen in the rulings of leading contemporary respondents. Representative of them are the decisions of Rav Kook, the Chief Rabbi of Palestine during the period of the British Mandate. In one responsum, Rav Kook dealt with the case of a presumed convert who had reverted to his original faith. While there was no actual document attesting to his conversion, R. Kuk basing himself upon Yoreh Deah 268.10 and Hilkhot Issurei Bi'ah 13:9, stated that if there was evidence that this man had once
conducted himself in the ways of Israel there is the "presumption-hazaqah" that he is a Jew. Moreover, even if such a person later apostatized, "the law is that he is like any non-observant Jew, even after the apostasy - Hahamarah." Clearly, subsequent conduct, no matter how distasteful from the viewpoint of Judaism, could not annul a conversion.9

R. Kook's commitment to this position is evident in another responsum he wrote concerning the irreversibility of conversion. In this case, R. Kook speaks of a woman who married a particularly nasty man who had converted to Judaism. This man converted only in order to marry this Jewish woman. However, he was never observant. Moreover, he mistreated his wife and subsequently, after abandoning her, chose a gentile woman. His mean-spiritedness and lack of sincerity were further reflected in his refusal to issue his Jewish wife a get. Her local rabbis wanted to alleviate her pain as an agunah by "retroactively annulling the conversion - al y'dei bitul hagerut l'mafre-a." However, R. Kook, despite his stated sympathies for the Jewish woman, refused to authorize an annulment of the conversion. While he was most sorry that a convert like this had ever been accepted into Judaism, his status as a Jew could not be undone. The law, in R. Kook's view, was clear.10

In light of our survey of the sources, R. Kook's position - however sympathetic one might be to the plight of this abandoned Jewish wife - seems incontrovertible from the standpoint of Jewish law. A conversion, once performed, can seemingly not be annulled, regardless of motive or behavior. The justification for a different stance on this issue, and the reasoning and conditions that support it, are the focus of the next section of this paper.

Grounds and Factors Supporting Annulment

In the early twentieth century, Rabbi Nathan Wiedenfeld of Galicia, on the basis of a statement attributed to Rabbi Meier in Bekhorot 30a - "A convert who is suspected of ignoring one religious law is suspected of ignoring the entire Torah," avers that a convert's non-observance of Jewish law after the conversion rituals have been complete constitutes an annulment of the conversion. A sincere affirmation of qabbalat ol mitzvot, the acceptance of the yoke of the commandments, is a necessary prerequisite for a valid conversion. The convert's subsequent failure to obey the prescriptions of Jewish law indicates that the convert was probably insincere when he initially pledged loyalty to "the yoke of the commandments." Later non-observance by the convert permits a rabbinic authority, R. Wiedenfeld states, to infer that he intentionally was absent during the act of qabbalat ol mitzvot. The act of affirmation, in the case of such a convert, is a deception. This judgment of initial insincerity on the basis of later actions had its source, R. Wiedenfeld claims, in a passage in the Rambam, who writes in Hilkhot Issurei Bi'ah 13:16, that when a convert reverts to idol-worship, "his ultimate actions demonstrates his initial insincerity - hahi-ah sofon al tehilaton." Consequently, "the conversion," R. Wiedenfeld maintains, "is retroactively annulled - batel hagerut l'mafre-a." Sincere "acceptance of the yoke of the commandments" as displayed through subsequent observance is a prerequisite, in this view, for a valid conversion. Without it, the convert, regardless of the rites he has undergone, has never become a member of the Jewish people. For the first time in this discussion, the notion of intention is introduced as a consideration of primary importance in determining the legitimacy of the conversion.11

Lithuanian Rabbi Chaim Ozer Grodzinski (Ahiezer), 1863-1939, makes the identical point and also maintains that a failure to wholeheartedly accept "the yoke of the commandments" retroactively annuls a conversion. The proselyte, at the moment of
conversion, is required to accept "the Torah and commandments ... with a whole heart - b'lev shalem." If it is obvious to the rabbinic court that an individual will not fully observe Jewish law, then it is equally clear that the prospective convert's affirmation is a deceitful one. "If this is so," Rabbi Ozer writes, "this assumption indicates that he did not accept the yoke of the commandments with a pure heart." Consequently, the conversion, regardless of the other rites performed by the would-be convert under the supervision of a rabbinic court, is invalid.12

R. Abraham Dov Baer Kahane Shapiro of Kovno, a colleague of R. Ozer, took note of Ahiezer's ruling and observed that in the twentieth century nearly all persons who convert do so for purposes of intermarriage. It is apparent, Kahane maintained, that virtually none of these persons, regardless of the promises they make to a rabbinic court, will become observant Jews. R. Kahane was sensitive to the thrust of the Talmudic sources and codes cited in the first part of this paper. Should the individual have undergone circumcision and immersion, and pledged to observe the commandments before a rabbinic court, it would seem, according to the halakhah, that the person would now be a Jew whose conversion could not be retroactively annulled. R. Kahane based this latter assumption on the commentaries of the Ritba and Nimuquei Yosef on Yevamot 24b. These authorities asserted that even if the proselyte's pledge of fidelity to the commandments was insincere, the social reality of the pre-modern Jewish community was such that the assumption could be made that the individual would be an observant Jew despite his own proclivities and tastes. The content of his promise would be fulfilled despite his lack of intention and this, these rishonim ruled, was sufficient to affirm the validity of the conversion.

Rabbi Kahane made due note of this ruling and noted that Jewish law held that these persons, once they had converted, permanently enjoyed the status of Jews. However, he continued, "I fear that this [law] is not applicable in our day." In an earlier period, the social situation of the Jews was such that if a proselyte "did not conduct himself as a Jew and punctiliously observe the commandments," a Jewish woman would not live with him "nor would the Jewish community absorb him." In our day such is not the case. Most Jews are non-observant and no conditions exist that allow one to assume that such a convert will be observant. The category of societal "coercion" that allowed the Ritba and Nimuquei Yosef to adopt their position no longer obtains in the contemporary period.13

R. Kahane's reasoning here is fascinating and it reflects the impact that social realia often have upon the content and practice of Jewish law. As R. Joel Roth, Dean of the Rabbinical School at the Jewish Theological Seminary has observed, there are many instances in the history of halakah where an "original sociological reality" provides an "underlying assumption" for a particular halakhic norm. "The norm," writes R. Roth, "continued to be justifiable" so long as the reality remained unchanged. However, "when a changed social reality vitiated this assumption, the new sociological reality permitted the historical sources of the original norm to become legally relevant and to influence the determination of the law."14

Roth's observation illuminates R. Kahane's ruling in this instance. Kahane, it should be emphasized, has contended that proper intention was crucial, in the eyes of every legal authority, to the legality of the conversion process. It was only the reality of social and religious conditions under which the Jewish people previously lived that permitted earlier generations of rabbis to overlook the purity of a convert's motive and to assert with confidence that a convert would fulfill the conditions of his promise to observe the commandments regardless of his intentions. While this was not ideal, it was sufficient for the rabbis to rule that a conversion could not be retroactively annulled. As such conditions no longer exist in the
world of twentieth century Jewry, the force of the Ritba's ruling no longer is in effect.

Several other authorities take the same position and offer the same rationale for it as R. Kahane. Representative of them are Rabbis Yaakov Breisch (1895-1976) of Switzerland, Isaac Halevi Herzog (1888-1859) of Israel, and Moshe Feinstein (1895-1986) of the United States. In one responsum, R. Breisch contended that the Jewish partners in most cases of intermarriage were themselves "siners - poshim." As a result, R. Breisch maintained that it was a virtual certainty that their non-Jewish spouses, even when they affirmed an acceptance of the commandments, would be non-observant. Basing himself upon passages in both the Shulhan Arukh, Yoreh Deah 268, and Maimonides, Hilkhot Issurei Biah 13, R. Breisch held that a failure to accept the yoke of the commandments in sincerity annuls a conversion. In instances such as these, where a would-be proselyte intends to marry a non-observant Jew, what possibility is there that such a person's affirmation is genuine? "We know with certainty," R. Breisch writes, "that their intention is not to convert completely," for their prospective marriage partner, "the Jew scoffs at all [the law] and is only a secular-national Jew. ...[Thus], even if we believe her and acknowledge that her intention is to be a Jew, her intention is essentially to be a 'secular-national' one, without [observance] of the Sabbath, niddah, or other commandments, like her husband. A conversion such as this, even a posteriori, is not legal." Only an observable fulfillment of the commandments subsequent to conversion can clarify the convert's true intent and establish her identity and status as a legitimate Jew, "a righteous proselyte." Quoting Maimonides and several other talmudic sources and rabbinic authorities, R. Breisch states that only when we see that their righteousness is evident, do we affirm the validity of a conversion. Failure to accept the commandments as evidenced through non-fulfillment of the mitzvot "annuls a conversion even a postfactum." The conditions of the modern world indicate that most so-called proselytes fall into this category. Their conversions, even when conducted by an Orthodox Bet Din with circumcision and immersion, are invalid.15

R. Herzog, in one responsum, dealt with the issue of a gentile woman who desired to convert and was already married civilly to a Jew. R. Herzog was asked whether it was permissible to convert this woman to Judaism. He began by noting that Maimonides, in the twelfth century, had permitted this on the grounds that "it is better that one should taste the skim of the forbidden than its essence." In other words, such conversions do not represent a halakhic ideal. However, the Rambeer, in effect, was stating that there was room for leniency here and, as a matter of social policy for the community, it was probably wise to adopt the lenient precedent and allow it to guide the ruling in this instance. R. Herzog took due note of this citation. Nevertheless, he dismissed it as inapplicable in the contemporary setting. In the past, Jews were not sinners. "But in our days, to our great sorrow, ... many sinners among the people Israel are leaders of the community even leaders of the nation ...." What does it mean, in such an era as ours, for a gentile to pledge that he or she accepts the commandments of Judaism? Why should they observe the mitzvot," R. Herzog queried, "when so many Jews do not observe?" The validity of their pledge to accept the commandments must perforce be in doubt, "as the reason for their conversion is, [in most instances], externally [motivated]." While R. Herzog, in this case, dealt with the issue of conversion ab initio, not post factum, the direction of his thought parallels that of R. Breisch and others cited in this section. The sociological conditions of the present age lead him to a particular application and understanding of Jewish law as the one he deems appropriate in the contemporary setting.16

In another instance, R. Herzog ruled directly on the issue under consideration in this paper - retroactive annulment of a conversion. He cites the Ritba on Yevamot 24b, and notes that even when a convert was insincere in acceptance of the yoke of the
commandments, the conversion was still considered valid. This was because "in those days a Jew who did not observe the Torah would suffer much [shame in the sight] of his brothers. ... In our days," stated R. Herzog, echoing a theme present in his other writing, "it is possible to transgress all parts of the Torah dealing with the commandments between persons and God, and [still] be a leader, a great prince of Israel ..." The notion of "coercion" that emerged from the social conditions of a bygone era and which permitted the Ritba and the Nimuqi Yosef to assert that the would-be proselyte's conversion was valid, even though his intention was deceitful and insincere, no longer applied. Even the Ritba would assert, in light of the state of contemporary Jewry, "that all conversions in our day fall into a category of doubt." The social reality of modern day western Jewry, where freedom and license have led to a disturbing diminution in traditional Jewish commitment and practice, has made the category of "coercion" inoperable at the present. The failure of converts to fulfill the conditions of their promise to observe the commandments demands that these so-called conversions be annulled retroactively in the modern world.

R. Moshe Feinstein, in his Iggerot Moshe, dealt with this issue in several responsa. One will suffice to illustrate his position. In this case, R. Feinstein speaks to the general state of conversion in the United States. Aware that most conversions in the United States are conducted under non-Orthodox auspices, R. Feinstein notes that conversions performed by a Conservative rabbinic court are, by definition, invalid. The rabbis who sit on such a court do not even qualify as "common people," who, as we have seen, are permitted to constitute a valid rabbinic court for purposes of conversion. All Conservative conversions are "null and void." There is no issue of "retroactive annulment" involved here.

R. Feinstein continues by asserting that even if a conversion is conducted by an Orthodox rabbinical court, where one can legitimately assume that circumcision (or hatafat dam brit) and immersion were properly carried out, subsequent non-observance of the commandments annuls the conversion. "The essence of conversion," R. Feinstein maintained, is sincere acceptance of the yoke of the commandments. In the case of converts who later disobey Jewish law, "it is obvious, even though he orally affirmed his acceptance of the commandments, that he possessed mental reservations." While one might contend that the would-be convert's intent at the moment of acceptance would be sufficient to establish true intent, Rabbi Feinstein rejected this as unacceptable. For such a person to be presumed a Jew, he would have to perform the commandments. Yet, in this case, he never did so. His promises and affirmations before the rabbinic court were simply "empty talk designed to deceive the rabbinic court. Since he did not [sincerely] accept the commandment, he is not a proselyte and his betrothal is nothing."

These responsa reflect the dramatic impact the modern world has had upon the application of the halakhah in this area for many halakhic authorities. Yet, as in many other areas of the halakhah, there is hardly unanimous agreement among rabbinic authorities as to the appropriateness of this application. The paper will conclude by noting two prominent dissenters from this trend: Rabbi Isser Yehuda Unterman, Rabbi Herzog's successor as Chief Ashkenazic Rabbi of Israel, and Rabbi Ben-Zion Meir Uziel (1880-1953), the first Chief Sephardic Rabbi of the Jewish State.

Final Considerations

Rabbi Unterman, in an article on the laws of conversion and their application, dealt specifically with the question of a potential convert who the rabbinic court knows is most unlikely to observe the commandments. Like the rabbis mentioned in the previous section, there is a context for his confronting the issue. In Rabbi Unterman's case, it is the arrival on Israeli shores of a vast body of intermarried Russian immigrants who are unfamiliar with Judaism
and its practices. The question was not merely a theoretical one. It was of great urgency for him and the community and State of Israel.

Returning to the sources cited at the outset of this paper, Rabbi Unterman, like R. Kook, contended that a proper acceptance of the commandments is effectuated when the convert, at the moment of conversion, "accepts upon himself with no mental reservations, the observance of the commandments." Employing Maimonides as a warrant, R. Unterman states, "If a convert later transgresses the commandments, this does not legally impair his conversion." A convert, immediately after his immersion, is a Jew and if he subsequently violates Jewish law, he is simply a "sinful Jew." Like Rav Kook, R. Unterman ruled that the betrothal of such a Jew is valid, "for after immersion, he is a Jew in every respect." In other words, retroactive annulment of a conversion conducted properly before a qualified rabbinic court is unthinkable. If one, \textit{a posteriori}, "has already converted, it is impossible to annul it."

Furthermore, R. Unterman believed that it was undesirable to do so. In this age, even where it is as unlikely as the miracle of "the splitting of the Red Sea" that most converts will be observant, "we are certainly obliged to take pity on the integrity of the family and look at its predicament from the viewpoint of our holy Torah ... the rabbinate should do nothing to distance Jews from participation in the Jewish community, particularly when the halakhah contains lenient precedents that allow the entry of such persons into the Jewish people. Certainly, retroactive annulment of conversion would be an unwise policy for the community to adopt in our age."

R. Uziel, in his responsa, addressed the matter of retroactive annulment of conversion directly. Relying upon the sources referred to at the beginning of this paper, he stated succinctly, "Even if they were not proselytized before a proper rabbinic court, they are proselytes fit for marriage. Their marriage is valid even if they reverted [to their non-Jewish faith]. There is no authority to annul their conversion and marriage and to turn them into non-Jews, not them, and even less, their children." R. Uziel's, as well as R. Unterman's, position on this matter was certainly informed by his view that "we do not," as he wrote elsewhere, "want to lock the door before proselytes." Indeed, it is a commandment, he stated, "to bring them near and to enter them into the covenant of the Torah of Israel."

Conclusion

As Rabbi Moshe Zemer has pointed out in his article, "Authority and Criteria of Liberal Halakhah," there are several principles that characterize a liberal approach to Halakhah. Among them are the notions that the Halakhah is pluralistic, that the ethical is the essence of the Halakhah, and that we, as liberal Jews, bear a "responsibility to the Covenant Community." That the Halakhah is pluralistic is amply borne out by the sources examined in this paper. Different stances concerning the possibility of retroactively annulling a conversion are certainly evident in the sources and authorities that have been examined. As liberal Jews, we need not adopt an approach on this issue that Rabbi Gunther Plaut has described as one in which "we begin with the Tradition and ask: how does it treat this sheelah. We then proceed to ask: What is there in our Liberal tradition that would have us disagree?" In this instance, we need not dissent from the Tradition. The traditional Halakhah is sufficiently broad and pluralistic to encompass a liberal position on the matter.

That position, in light of R. Zemer's notion that a liberal Halakhah should both embody the ethical and reflect responsibility to the entire Covenantal Community, ought to be one that is consonant with the position put forth in the rabbinic sources cited.
in the first section of this paper, as well as the sentiments expressed by halakhic authorities such as Rabbis Kook, Unterman, and Uziel. They are surely more suitable as guides for our own policies in these matters than are the prescriptions advanced by halakhists such as Rabbis Ozer and Wiedenfeld. As R. Elliot Dorff, our Conservative colleague, and Arthur Dorsett, Professor of Law at the University of California at Los Angeles, have observed: "Emphasis on intention can cause more problems than it solves. Part of that problem is evidentiary: How does one prove an actor’s intention? ... Intention is a slippery concept, for often our intentions are unclear, inconsistent, or misguided."25

To take the position adopted by the rabbis discussed and analyzed in the middle section of this paper would mean that no conversion could ever be fully established as legally valid. It would lead converts to never feel fully at home, fully confident of their status as Jews, for who could predict that no challenge to their Jewishness, no matter how obvant they were, would be forthcoming. As Rabbi Saltzman has phrased it, "No convert would ever feel safe from the prying eyes of those who are looking for any excuse to void [a] conversion."26 Furthermore, our age is marked by a denominationally-divided Jewish community where even rabbis within a specific branch of Judaism have radically different orientations towards and judgments concerning what constitutes "authentic Judaism." Any attempt to establish a single standard of qabbalat ol mitzvot, and to assert that proselytes who fail to fulfill that standard are not to be considered Jews, would mire the Jewish people in a morass of division and strife from which we could never be extricated.

Our movement would do well to follow the lead of the preponderance of talmudic sources on this issue for the reasons just stated. Retroactive annulment of conversion - except in the most extreme instances of fraud such as the case that came before the Law Committee of the Rabbinical Assembly - is a mine-field we

ought to avoid on both pragmatic and moral-religious grounds. It will not serve a diverse and pluralistic Jewish people well in our day. Indeed, we should heed the sentiments of the late Rabbi Isaac Klein, who, on a parallel matter, observed so eloquently, "[In regard to the acceptance of conversion], we should not be overscrupulous. To follow the ways of peace and for the betterment of the world, we should ... not cause division in the House of Israel."27

Notes
2. Ibid., p. 32.
3. Ibid., pp. 150-152.
5. Ibid., p. 8.
6. I would like to thank my colleague and friend, Rabbi Elliot Dorff, for sharing Rabbi Saltzman’s responsum, as well as Rabbi Shapiro’s dissent, with me. They will be published in the near future. The quotations here are taken from p. 10 of R. Saltzman’s typescript and p. 3 of Rabbi Shapiro’s.
7. Saul Lieberman, Tosefta Kifeshuta, p. 69.
10. Ibid., #14.
11. Hazon Nahum, #90.


16. *Heikal Yitzhaq, Even HaEzer* 1, #20.


22. Ibid., #14.


