

Who Is a Jew?  
Reflections on History, Religion,  
and Culture

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# Who *Should* Be a Jew? Conversion in the Diaspora and in the Modern Nation-State

Michael J. Broyde and Mark Goldfeder

The problem of how to define a Jewish person is, from a historical perspective, a relatively new one, but there is a tremendous amount at stake for a variety of communities and considerations.<sup>1</sup>

Until the modern era, both Jews and gentiles alike considered someone Jewish as long as the person fit into categories defined by religious criteria and religious criteria alone. A halachic definition of membership in the Jewish people is and always has been available: according to Jewish law, a Jewish person is someone who is born of a Jewish mother or who converts according to a halachically sanctioned conversion process.<sup>2</sup> In modern nation-states, citizenship and religion are usually formally independent of one another: one can be a British, French, or American citizen and still be Jewish with no inherent contradiction. With the founding of the modern state of Israel, however, and Ben-Gurion's famous assertion that Israeli citizenship is a right "inherent in being a Jew," the conceptual question of how much religious "Jewishness" one needs in order to gain the secular benefits of citizenship has taken on new and important significance.

The argument to create a broader definition for Jewish status turns on the desire to foster a more pluralistic national perspective, weighted against finding a solution that will keep as many people as possible under one tent. Because Israel is a Jewish and a democratic state, what is at stake here is not only the purity of lineage but the practicality of laws; since the 1950 Law of Return states that every Jew has the right to immigrate to Israel and become a citizen, Jewish nationality is one way of determining Israeli citizenship, with all of its associated rights, duties, and privileges. In addition, because Israel follows the Millet or confessional community system for matrimonial and family law, with each community coming under the jurisdiction of its own religious authorities, the question of who is a Jew makes a difference for all kinds of important daily life questions. This has led to the desire to have different definitions depending on the context; one for sociological Jewry, one for ethnic Jewry, and one for religious Jewry.

Meanwhile, from an Orthodox Jewish perspective, keeping nationality and personal status determinations strictly halachic for the secular state of Israel has historically been viewed as important because such determinations define and delimit proper marriage partners, giving the attendant legitimacy

to children resulting from such unions. Any doubts or confusion in people's unequivocal halachic Jewish status (likely to happen in the event of multiple Jewish definitions) could end up dividing the community into small endogamous groups.<sup>3</sup> All of the above concerns reflect the need for a well-grounded and accepted definition of who is a Jew.<sup>4</sup>

As Orthodox Jews, we believe that halachah is both divine and eternal. While the practical applications of halachic norms sometimes change, both in response to social needs<sup>5</sup> and in recognition of new realities,<sup>6</sup> the fundamental principles very rarely change.<sup>7</sup> As such, although we recognize the pressing needs for an inclusive definition, if a workable solution to the question of who is a Jew can be found, it must conform to accepted normative halachic standards or the State of Israel will have to separate the secular definition from the Jewish law one—an unprecedented task, although one that has been considered before.<sup>8</sup> Since matrilineal descent as a phenomenon does not really present any factors that can be reexamined, the discussion of necessity turns to one of conversion as a means for widening the tent.

There are three options that immediately present themselves. The first is to change the secular law and indeed separate the state and the religious definitions of conversion. Under such a system, just as a halachically non-Jewish spouse married to a Jewish person receives Israeli benefits under the Law of Return (benefits ostensibly reserved for Jewish people), halachically non-Jewish converts could have their conversion secularly recognized and receive those same state benefits. This is already the case to a certain extent, in that a non-Orthodox convert from America is treated as fully Jewish for citizenship purposes. The reason this has not caused unrest is that those numbers are in fact quite trivial. We believe that such an approach is a poor choice for the majority of the state because when applied to the much larger numbers of halachically non-Jewish but Jewishly identified citizens already living in the country,<sup>9</sup> it will undoubtedly generate unrest and angst in Israeli civil society.

The second option is to change the Jewish law standard and adopt the minimum halachic criterion for conversion, relying in places on controversial minority opinions to craft a system that is more amicable to more people, while still maintaining some claim of fidelity to the religious tradition. We do not advocate this proposal either because the watering down of halachic norms for political opportunism does not do justice to the dignity of either the halachic process or the civil society.

The third option is to craft a middle ground; that is, to find a precedent-ed, normative solution that effects the maximum amount of change in society

with the minimum amount of change to the status quo. While such a solution may not be able to solve every problem, an answer that stays within the system escapes the harsh bite-back that any proposed radical change would inevitably face. We believe that the benefit of maintaining a status quo that has, for better or for worse, managed to last for sixty-five years is quite a substantial gain in a country as delicately balanced as Israel. We believe that such a middle ground exists, in the doctrine of the "minor convert."

There are two central Talmudic sources that address the process of conversion, one a Tosefta in *Demai*<sup>10</sup> and the other a discussion in *Yevamot*.<sup>11</sup> The two are somewhat different in character, with *Demai* focusing on substance and *Yevamot* focusing on form. While *Demai* requires the convert's substantive acceptance of the commandments [*kabbalat hamitzvot*],<sup>12</sup> *Yevamot*, with its intricate procedural discussion of circumcision and immersion, does not mention this aspect of the conversion process at all. The *Shulhan Arukh*,<sup>13</sup> following the *Tur*, sews these two Talmudic paradigms together, promoting the well-known and accepted tripartite standard for conversion in our times; circumcision (for men), immersion, and acceptance of the commandments.<sup>14</sup> While there is a dispute (based on the two above-mentioned sources) amongst the early commentators regarding which stages of conversion must be done before the rabbinic court, most if not all agree that all three components are at least required in some form for a conversion to be considered valid.

The problem with conversion in modern-day Israel is not about immersion. In fact, it's not even about circumcision; for the half of the population that would even need to undergo the procedure, a one-time surgical proceeding with deep cultural significance and possible health benefits is not a terrible amount to ask as a price for long-term national and religious acceptance. The struggle lies in the third component, the requirement that a convert accept the commandments and the corresponding commitments of Jewish law. Practically speaking, if we tried to convert everyone according to halachah, which could in theory solve the problem, what exactly is the relationship between the acceptance of commandments required of a convert and his or her subsequent lack of actual mitzvah observance? How much acceptance does one need, and does violative ex post facto behavior retroactively annul or undo the conversion?

The answer to these questions is a complex, nuanced dispute amongst the *Rishonim* and *Acharonim*. Particularly important to us are the views of several modern-day *poskim*, who, like us, lived and operated in a world where fidelity to Jewish law was neither necessarily culturally normative nor the popular sine qua non of Jewish identity. While in the past these questions were not

examined in as much depth, as it would have been unthinkable for a member of the Jewish community (especially a newly opted-in one) not to follow the commandments, mostly because following the commandments was part and parcel of the definition of being a member of the community, the reality on the ground has led some to examine the possibility that the traditional understanding of “acceptance of mitzvot” required of a convert; that is, complete halachic observance, might not be the minimum requirement.

Our quest begins with Maimonides’s understanding of the process of conversion. In “The Laws of Forbidden Relationships,” Maimonides describes it as follows:

And so in [all] future generations, when a non-Jew wishes to enter the covenant and to come under the wings of the *Shechinah* [Divine Presence], and will accept upon himself the yoke of Torah, he must then go through the process of *milah* [circumcision] and *tevilah* [immersion].<sup>15</sup>

And he continues a few paragraphs later:

A convert whose motives were not investigated or was not informed of the commandments but was circumcised and immersed in the presence of three laymen, is a proselyte. Even if it becomes known that he became a convert for some ulterior motive, he has exited from the Gentile collective, because he was circumcised and immersed.<sup>16</sup>

While the first description clearly represents the ideal conversion and includes an acceptance of the commandments, some have argued that the subsequent halachah waives the requirement for commitment, at least after the fact.<sup>17</sup>

The Magid Mishna writes that it is simply not essential, while Rabbi Shlomo Kluger notes that accepting the commandments “is only a means [*machshir*] . . . if he [the convert] was circumcised and immersed for the sake of conversion, even if he didn’t first accept the commandments, he is a convert according to Torah law with certainty; accepting the commandments first is only rabbinical.”<sup>18</sup> Ben-Zion Meir Hai Uziel, who was the Sephardi Chief Rabbi of the British Mandate from 1939 to 1948, and of Israel from 1948 to 1954, goes even further. He writes:

From here it explicitly follows that we do not require of him to observe the commandments and the court need not even know that he will observe them. For were this not true, converts would never be accepted, for who can guarantee that this non-Jew will be faithful to all the commandments of the Torah? We inform him about some of the commandments so that he may abandon [the conversion], if he so desires, and so that he not be able to say later that had he known, he would never have converted. This is the ideal, but after the fact, the failure to inform him

does not invalidate [the conversion]. We learn from all that has been stated that accepting the observance of the commandments is not an indispensable requirement for conversion, even in the ideal.<sup>19</sup>

While it is true that this is a minority opinion—and the vast majority of Jewish law authorities rule that Jewish law requires acceptance of commandment—and it is also true that at first glance the idea of conversion without accepting the commandments seems somewhat radical, it is quite possible that instead of a dispute in the laws of conversion, what we are seeing reflected in this discussion is a debate about the duality of Jewish identity; that is, is Judaism a nation based upon community or covenant? For Maimonides, whose nationalistic tendencies lead him to envision and codify the rules for a rebuilt Israel and a resurgent autonomous Jewish nation, the idea of Jewish peoplehood turning on national identity is not so farfetched. For the *Tur* and *Shulhan Arukh*, writing in a Diaspora setting and mindset for Diaspora Jewry, no such vision was readily available. They choose not to codify laws for an imagined future state.

Following the Baalei Tosafot,<sup>20</sup> and Nachmanides,<sup>21</sup> who insist on an acceptance of the commandments, the only Judaism they know is one that does not have a homeland; as such, the only thing that makes people Jewish is their acceptance of Jewish law. The conversion process by necessity is less a citizenship ritual than it is a theological initiation. To use an American immigration analogy, in the melting pot that is our country, with no real distinctive nationality other than the laws we have created, what completes the naturalization for a new member is passing a test on the legal fundamentals and taking the Oath of Allegiance in front of a judge. Accepting the commandments (in front of a court) is just that: a basic measure of fidelity to the greater Jewish mission.

For the Baalei Tosafot, living in a world where the Jew is not allowed nationalistic expression, conversion can consist only of one coming *tachas kanfei haShechina* [under the wings of the Divine Presence], and affiliating with the likeminded observant community—it is a religion and not a nationality.<sup>22</sup> Until today normative halachic practice has generally followed this view (as described in the *Shulhan Arukh*), requiring the religious commitment. Still, if this approach were true and the difference between the two opinions is a question of how one affiliates as Jewish, then the only time in history it might make sense to rely on Maimonides would be in the modern state of Israel, where the dream and vision of a restored *Kahal Yisrael* [community of Israel] has been fulfilled. Unlike anywhere else in the world, one can be nationalistically Jewish, identifiably part of the *am hanivchar* [chosen nation], without accepting the commandments.

An opinion along this line of thinking can be found in the writing (and indeed in the actions) of former Chief Rabbi Shlomo Goren. In accordance with the statement in *Mesekhet Geirim* 4:3, "Beloved is the Land of Israel, for it is receptive to converts," Rabbi Goren felt that the changed historic reality in the refounding of the state led to a change in the way prospective converts should be dealt with in the land of Israel. Rabbi Goren believed that in Israel, where conversion entails national as well as religious identification, even if converts do not have the proper intentions at the time of their conversion, nevertheless they automatically fall into the category of those for whom it can be said, "their end will be for the sake of heaven."<sup>23</sup>

Residence in the state of Israel was a decisive factor in allowing prospective converts to be accepted into the Jewish fold, even when it appeared unlikely that they would observe the commandments, because the decision to live in the Jewish state was the decision to be part of Jewish destiny. It was a decision in which Jewish identity would be reinforced for the convert and their descendants not by Jewish practice but by Jewish surroundings. The strength of his conviction on this matter, and on the difference between Israel and everywhere else, was borne out in the fact that during his tenure as chief rabbi, certificates of conversion stated that these conversions were valid only in the state of Israel, and not in the Diaspora.<sup>24</sup>

Even if we do not take this radical approach—that Jewish national identity can entirely take the place of Jewish observance—at the very least, Rabbi Uziel<sup>25</sup> and Rabbi Goren can be understood as saying that even when we know that actual observance will generally be lacking, the requirement of acceptance is minimally acceptable so long as there is an acknowledgement and acceptance by the convert of the theoretical obligation to observe mitzvot and the recognition that the nonobservance of mitzvot is sinful. In fact, some in this group might even be making a more complex claim; namely, that a clear and direct articulated acceptance of commandments in front of the *beit din* is sufficient after the fact, even if the rabbinical court knows that this acceptance of commandments is insincere.<sup>26</sup> In our immigration analogy, an oath or a contract can be binding even if the person taking it was actually insincere or ignorant.

Moving even further back from the radical edge toward the more generally accepted opinion that we do need a real *kabbalat hamitzot*, there is still some room to talk about what exactly that looks like in practice. Rabbi Hayyim Ozer Grodzinski, for one,<sup>27</sup> was of the opinion that *kabbalat hamitzvot* need not be accompanied by full and complete observance, but instead needs to be accompanied by observance of significant cultural features of Orthodox

Jewish life (such as Shabbat, kashrut, and family purity [*taharat ha-mishpaha*]). It seems R. Grodzinski could well imagine converting a person to Judaism whose intellectual fidelity to Jewish law is complete but whose observance is not.<sup>28</sup>

The Chazon Ish<sup>29</sup> understands the “acceptance of the commandments” in its theological rather than its practical sense; a convert must accept the chosen uniqueness of the Jewish people as it relates to our role in this world. Actions, however, are still very important even if not determinative, since conduct consistent with Jewish law is an external measure of an internal religious orientation, while refusal to obey the mitzvot is an indication of a lack of acceptance of the nature of the Jewish people as a whole.

The most widely accepted view is still that of Rabbi Moshe Feinstein,<sup>30</sup> who conservatively argues that *kabbalat hamitsvot* has to be understood as requiring a genuine desire for full and complete observance. Anything short of that level of commitment is indicative of a fraudulent acceptance. Of course, this view recognizes that converts, no different from anyone else, will most likely end up sinning—sometimes out of ignorance and sometimes from temptation. But, R. Feinstein asserts, a conversion cannot be valid unless at the time of the conversion the convert sincerely intends to obey Jewish law in all of its facets, as the convert understands it at that moment.

While it is possible that many of the people living in Israel, where holidays like Passover, Sukkot, and even Shabbat are part of the cultural milieu and where Judaism is the underlying state religion, could fall into the categories proposed by Rabbi Grodzinski, and certainly by Rabbi Goren, one would be hard pressed to persuade the general Orthodox community that for sake of national unity we should adopt a nontraditional standard. The above-mentioned opinions therefore, while nice in theory, have not proven to be effective in the difficult struggle to find a uniting way through the complex problem of establishing a broader Jewish identity.

But maybe there is another entry point, accepting of all and that all can accept.

Unlike the conversion of an adult (which certainly does require at least some level of *kabbalat hamitsvot* by the convert according to normative views of Jewish law), the conversion of a minor certainly does not require acceptance of mitzvot, but may be done with the consent of the rabbinical court—*al da'at beit din*.<sup>31</sup> While the exact parameters of what this means is subject to significant dispute, Rav Moshe Feinstein—the very same almost universally accepted decisor whose view of adult conversion is the strictest—actually posits the most liberal view of the requirement in this area. He maintains

that since from a theological perspective it is always better for the child to be Jewish, the *beit din* is allowed to act for the unknowing child for his or her benefit at the time of the conversion and accept the yoke of Judaism for them on their behalf. Thus, all children, when brought before the *beit din* at a young age, are eligible for conversion, even if they will not be religious when they become adults.

The idea behind Rabbi Feinstein's view—the conceptual difference regarding children and the reason why the *beit din* cannot just convert even fully grown adults for their own good—can be understood as follows. While it is true that every person is theologically better off being Jewish, conversion to Judaism generally does require acceptance of mitzvot, and most people, even if they wanted to be Jewish at some level, are not in fact prepared to accept that level of commitment. The vast majority of people, therefore, are not eligible for conversion, and indeed the sinning associated with violating Jewish law that would inevitably occur if such a person were to become Jewish would in fact make conversion impossible for the majority of society, since they can not fulfill the basic requirements of observance. Minors, however, cannot sin so long as they are minors, and so at the time of their conversion they only stand to benefit from being Jewish.

There are several assumptions underlining Rabbi Feinstein's position. Obviously, the first is the supposition that the rabbinical court need only determine whether the conversion is of benefit to this child at this very moment in time, without pondering into the uncertainties or even probabilities of the child's religious future. This view, which does seem to be consistent with the general parameters of the rules of *zakhin le-adam she-lo be-fanav*,<sup>32</sup> is not particularly problematic.

As we noted above, despite the fact that in general there is a three-step process for conversion, when one of the factors cannot occur the procedure is allowed to go forward with only the remaining and applicable parts. Since a minor child is not considered to have the intellectual capacity to make life-altering decisions on his or her own behalf, the requirement for acceptance of commandments is of necessity waived during their conversion and the *beit din* can do it for them. This, too, is at first glance uncontroversial, and yet no less than four views have emerged on whether and when a rabbinical court ought to consent to act for the minor.

The first is the view of former Chief Rabbi Rav Kook.<sup>33</sup> He explains that a *beit din* ought not to convert a child to Judaism unless it is fairly certain that the child will grow up to be religious; the consent of the rabbinical court to

allow a conversion to go through is, in this view, a direct place-filler or substitute for the assumed consent of the child, and no rational person would ever consent to be converted and become subject to the law unless they actually expected to be observant. The second school of thought is that of R. Hayyim Ozer Grodzinski, who also advises not to perform such conversions unless the child will grow up to be religious, but recognizes that there will be situations where a conversion can still be validly done even if the children will not grow up observant.<sup>34</sup>

The third view is the initial stance taken by Rabbi Moshe Feinstein, which permits conversions for minors *al daat beit din* when the child will attend an Orthodox day school, since in such a case, and with such exposure, it is at least likely that the child will be somewhat religious.<sup>35</sup> The final view is the concluding view of Rabbi Feinstein, which we quoted, in which he avers that it is always better for a person who is not obligated in mitzvot to be Jewish, and thus the conversion of any minor child would be valid.<sup>36</sup> It should be noted that Rabbi Joseph B. Soloveitchik adopted a view that reaches the same conclusion as the more liberal view of R. Feinstein, albeit with a completely different mechanism. Rabbi Soloveitchik is of the belief that the authoritarian principle of *kibush* would allow for parents (and the *beit din* acting on their request) to convert a child without asking and rear him or her in their own faith.<sup>37</sup>

What is fascinating about the *ger katan* is the fact that it also represents an in-between point in regard to the dispute mentioned above; that is, the dual nature of Jewish identity. It is generally assumed that when the minor attains majority and the accompanying capacity, he must be told of his conversion and has the ability to renounce his Judaism completely. This is the opinion of the Rashba, citing the Baalei Tosafot.<sup>38</sup> However, when Maimonides records the law of a minor convert, he makes no mention of telling him.<sup>39</sup> Perhaps this is because for Tosafot, the conversion cannot really be complete until the new adult accepts his religious responsibility and ensuing affiliation. For Maimonides, however, even a child can be part of a nation, with or without capacity. The *Kahal* includes all men, women, and children, the righteous and the sinners alike.<sup>40</sup> For both though, at least during the period before majority, the theory is the same: the children are Jewish because they are part of something greater than themselves, and childhood is all about being swept along for the ride.

Despite the fact that there are many who feel differently, as mentioned, the weighty view of Rabbi Feinstein, combined with the other above-mentioned viewpoints that require a lower threshold for acceptance of the

commandments in general, as well as the view that in Israel national identity is at least a mitigating factor, all lead us to recommend the practice of converting minors as a method for balancing practical ideals in Israeli society within a strong halachic framework. If we were to accept and follow Rabbi Feinstein's more permissive stance on child conversion, a large aspect of the problem of "who is a Jew" would quickly fall away. The regular conversion of minors into Judaism would create, after the passage of but one or two generations, a society in which all those who think they are Jewish, actually are.<sup>41</sup> All children of parents who identify as Jewish and who wish to have their children raised as Jewish (even if the parents themselves are not halachically Jewish) would simply have their children converted to Judaism by a *ger katan* program. Perhaps, if we wanted to be extra strict and follow the first opinion of Rabbi Feinstein, these parents would be expected to send their children to the *mamlakhti dati* [religious public] day school system. Of course, even if the children did not attend a Jewish school, we would have the later opinion of Rabbi Feinstein and the opinion of Rabbis Uziel and Goren to rely on. Over the course of a generation, this type of program could potentially solve the identity crisis in Israel, resulting in a more unified, while still halachic, Jewish family.

## NOTES

<sup>1</sup> See generally, Michael J. Broyde and Shmuel Kadosh, "Transforming Identity: The Ritual Transition from Gentile to Jew—Structure and Meaning," *Tradition* 42:1 (2009): 84–103.

<sup>2</sup> *Kiddushin* 66b, *Shulchan Aruch*, *Even Haezer* 4:19.

<sup>3</sup> The "Who is a Jew" debate can also affect entire communities: the native Karaites and both the *Bene Yisrael* (India), and *Falasha* (Ethiopia) groups that have immigrated in large numbers to Israel have all faced this question in one form or another. Several chapters in this volume discuss these and other groups.

<sup>4</sup> It should be noted that halachah is not always the limiting factor; in the famous Brother Daniel case (*Rufeisen v Minister of the Interior*, [1962] 16 PD 2428) a Polish Jew who had been born to a Jewish mother and after the Holocaust had converted and become a Christian monk applied for immigration under the Law of Return. He claimed that although he was not Jewish religiously, he was still a Jew in the national sense. Despite the fact that he was halachically Jewish, the minister of the interior rejected his application based on the Government Ordinance 20/7/58, which holds that only a person who declares in good faith that he is Jewish and does not belong to another faith may be registered as such. The Supreme Court affirmed this decision.

<sup>5</sup> See BT *Gittin*, 36a, and the institution of the *pruzbul*.

<sup>6</sup> See BT *Yoma* 86b, and the institution of prayer as a sacrificial surrogate.

<sup>7</sup> Perhaps the best example of a fundamental change in principle is the shift in family law attributed to the ban of Rabbeinu Gershom in the Middle Ages, by which Judaism

moved decisively away from both polygamy and unilateral divorce. In doing so, it went so far as to permit things that had otherwise been prohibited, such as remaining married to a barren wife. See Mark Goldfeder, "The Story of Jewish Polygamy," *Columbia Journal of Gender and Law* 22:2 (2013).

<sup>8</sup> See Steven V. Mazie, *Israel's Higher Law: Religion and Liberal Democracy in the Jewish State* (Washington, DC: Lexington Books, 2006).

<sup>9</sup> Roughly four percent of the population. See Ludmilla Oigenblick, "Problems of Mixed Families Israel: Results of a Sociological Survey Conducted by the Association for the Rights of Mixed Families in Summer 2008," [http://www.il.boell.org/downloads/Mixed\\_families\\_booklet.pdf](http://www.il.boell.org/downloads/Mixed_families_booklet.pdf).

<sup>10</sup> 2:4–5.

<sup>11</sup> 46a–48a.

<sup>12</sup> A convert who accepted upon himself all matters of Torah, excepting one thing, should not be accepted [by the *beit din*]. R. Jose son of R. Judah says: this includes even a small matter enacted by the scribes. See also BT *Bekhorot* 30b.

<sup>13</sup> *Yoreh Deah* 268.

<sup>14</sup> Note that when one factor is impossible, such as in the case of a woman, that factor is not required. The truth is that there is also the requirement for a convert to bring a sacrificial offering, but in a Temple-less era that too is waived.

<sup>15</sup> *Mishneh Torah*, "Laws of Forbidden Relationships," 13:4–5.

<sup>16</sup> *Ibid.*, 13:17.

<sup>17</sup> See *Bet Meir*, Responsum 12; see also Bach, *Yoreh Deah* 268; *Shut Melamed LeHoil* 2:87; *Heikhal Yitzhak Even HaEzer* 1:13; *Divrei Yatziv Even HaEzer* 102; *Tzitz Eliezer* 15:66.

<sup>18</sup> *Shut Tuw Taam VaDaat Telitaah* 2:111. Support for such an opinion can also be found in BT *Keritot* 9a, which states that "Our forefathers entered the covenant [at Sinai] via circumcision, immersion, and sprinkling of the blood [of the sacrifice]"—without mention of *kabalat mitzvot*. See Yehuda Henkin, "On the Psak Concerning Israeli Conversions," *Hakirah* 7 (2009): 19–23.

<sup>19</sup> *Piskei Uzi'el*, no. 65.

<sup>20</sup> BT *Yevamot* 45b.

<sup>21</sup> Chiddushim on *Yevamot*.

<sup>22</sup> The difference in approach plays out on other levels too. For Maimonides, conversion is a communal experience, the visible joining of a nation, and once one converts he prays like any other member of the nation; i.e., he says our God, and the God of our fathers. For Tosafot, however, the conversion process is personal and internal, so the convert cannot necessarily say things like "the God of our (collective) fathers," when in some sense that is not true.

<sup>23</sup> See J. David Bleich, *Contemporary Halakhic Problems* (vol. 4; Hoboken: Ktav, 1995), 293. In practice, Rabbi Goren used this reasoning to convert a woman living on a secular Israeli kibbutz (the famous Helen Seidman case) and a few years later to invalidate the Diaspora-based conversion of a man who had never undertaken to observe Jewish law (the famous "Langer siblings" case).

<sup>24</sup> See Shlomo Goren, *Mishnat HaMedinah*, "Conversion in the Land of Israel and in the Diaspora." (Jerusalem, 1999).

<sup>25</sup> See *Mishpetei Uzziel* YD 2:48–55.

<sup>26</sup> That seems to be the view of the Gra commenting on YD 269:12.

<sup>27</sup> Responsa Ahiezer 3:26.

<sup>28</sup> See also Rabbi David Zvi Hoffman (Responsa *Melamed le-Ho'il* EH 3:8), and R. Shmelkes (Responsa *Bet Yitshak*, YD 2:100), who hold that there are situations in which a convert may be accepted even though he or she will not keep a particular matter (such as the prohibition against a *kohen* marrying a convert), so long as their acceptance of Jewish law is generally complete.

<sup>29</sup> YD, 119:2.

<sup>30</sup> *Iggerot Moshe*, YD 1:157 and 1:160.

<sup>31</sup> *Shulhan Arukh*, YD 268:7.

<sup>32</sup> For more on this issue, see “Zakhin le-adam she-lo be-fanav,” *Encyclopedia Talmudit* 12:135–197.

<sup>33</sup> *Dat Kohen Milah ve-Gerut* 147–48. A similar view is taken by R. Elyashiv in *Kovets Teshuvot* YD 2:55.

<sup>34</sup> See Ahiezer 3:28.

<sup>35</sup> R. Ovadiah Yosef indicates agreement with this first view of *Iggerot Moshe* in his *Yabi'a Omer* EH 2:3 and 2:4.

<sup>36</sup> For both of these views, see *Iggerot Moshe* EH 4:26 (3) and see also *Iggerot Moshe* YD 1:158.

<sup>37</sup> He bases this view on Rambam, *Mishneh Torah Hilkhot Avadim* 8:20. See R. Joseph B. Soloveitchik, *Community, Covenant and Commitment: Selected Letters and Communications* (New York: Ktav, 2005), 21–22.

<sup>38</sup> To BT *Ketubot* 11a.

<sup>39</sup> *Hilchot Issurei Biah* 13:7. In *Hilchos Melachim* 10:3 he writes that if the minor does protest, he still does not go back to being a full-fledged gentile, but rather becomes a *ger toshav*, a Noahide-law-abiding resident.

<sup>40</sup> The same distinction probably explains why Maimonides omits the category of “a non-Jew that converted amongst non-Jews” (and is forced to reinterpret the passage in BT *Shabbat* 68a) while Tosafot can readily explain it.

<sup>41</sup> The proposal in this section has already been noted in print by R. Jack Simcha Cohen, *Intermarriage and Conversion: A Halakhic Solution* (Hoboken: Ktav, 1987)—note, as well, the approbation of R. Moshe Feinstein in this work. Of course this would not solve every problem; adults may need conversion too. Still, as noted above, it would solve most of the problems, with nominal costs.