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CONVERSION IN JEWISH LAW

INTRODUCTION

Attitudes towards conversion is one of the most crucial issues confronting Judaism today. The Jewish community in America has been irrevocably bifurcated since Orthodox rabbis will not perform a marriage between a "natural" Jew (one born to a Jewish mother or converted in accordance with Jewish law) and one "converted" by a Conservative or Reform rabbi not in strict accordance with Halakhah, Jewish law. The "Who is a Jew" controversy in Israel has bitterly divided the religious parties and has caused untold animosity between the religious and non-religious camps. The secularists agonizingly cry: Is the Russian emigre married to a Christian, who has risked life and limb to leave the "Communist paradise" and re-establish historic ties in Israel, to be told that his children are not Jews and cannot be married in a religious ceremony? Is the Israeli kibbutznic who was born to Christian parents but who has placed her destiny with Israel's future and who has worked and fought for Israel's development to be denied the status of a Jew merely because she did not undergo some *pro forma* rite of acceptance? And the religionist staunchly responds: We must maintain the sanctity of Israel! Our faith commitment is based upon a precise legal system which has been responsible for the preservation of our people these three thousand years. We dare not compromise our halakhic standards.

And even within the Orthodox camp there is a good deal of ferment over the exact meaning of "conversion in accordance with Jewish law." The "lightning" conversion of Helen Seidman,

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chaverah of an irreligious kibbutz and married to a *Kohen*, which was arranged by Rav Shlomo Goren, the then Chief Chaplain of the Israeli Armed Forces and presently Ashkenazic Chief Rabbi of Israel, caused a storm of controversy throughout Israel and the Diaspora.¹ In an article in *TRADITION* (Spring 1971) by J. David Bleich entitled, "The Conversion Crisis: A Halakhic Analysis," the author asserts on the basis of numerous responsa that

all authorities agree that an application for conversion may justifiably be entertained only if the *Bet Din* is satisfied that upon conversion the candidate will become a God-fearing Jew and will scrupulously observe the commandments of the Torah . . . Where it is evident that the candidate will be non-observant, the conversion is null and void despite the candidate's oral declaration of acceptance of the yoke of *mitzvot*.²

And in the recent Langer controversy, Rav Goren suggests in a published responsum that a convert who does not live in accord with Jewish law but reverts to his original practices thereby nullifies the act of conversion.^{2a} But two issues later in *TRADITION* (Winter-Spring 1972) Marc D. Angel wrote "Another Halakhic Approach to Conversions," in which he asserts in the name of Rav Uziel, former *Rishon Lezion*, that

there is no requirement to ask the non-Jew actually to observe the *mitzvot*. We do not require his assurance that he will be an observant Jew . . .³

And at a recent Mizrachi forum a popular Orthodox Rabbi, in an attempt to empathize with the plight of the Israeli secularists, queried:

Should not conversion by fire be at least as acceptable to Jewish tradition as conversion by water?⁴

I shall attempt in this essay to clearly outline the halakhic requirements for conversion as they are expressed in the Talmud, Rishonim and the codes. Then we shall have the necessary basis to understand the various attitudes cited in the responsa and

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hopefully begin to chart the most sensible approach to conversion for our own times.

I

Prima facie, the Talmudic sources would seem to indicate that circumcision for males and ritual immersion for males and females are the necessary prerequisites for conversion without even a mention of acceptance of commandments. It is written in the Talmud:

Whether he had performed ritual ablution but had not been circumcised or whether he had been circumcised but had not performed the prescribed ritual ablution, he is not a proper proselyte, unless he has been circumcised and has also performed the prescribed ritual ablution.⁵

The Talmud continues along this vein:

R. Oshaia b. Hiyya taught that there came before him a proselyte who had been circumcised but had not performed the ablution. He told him, "Wait here until tomorrow when we shall arrange for your ablution." From this incident three rulings may be deduced. It may be inferred that the initiation of a proselyte requires the presence of three men; and it may be inferred that a man is not a proper proselyte unless he had been circumcised and had also performed the prescribed ablution; and it may also be inferred that the ablution of a proselyte may not take place during the night.⁶

To be sure, the Talmud does describe a procedure of informing the would-be convert of the sacrifices entailed in becoming a Jew:

Our Rabbis taught: If at the present time a man desires to become a proselyte, he is to be addressed as follows: "What reason have you for desiring to become a proselyte; do you not know that Israel at the present time is persecuted and oppressed, despised, harassed and overcome by afflictions?" If he replies, "I know and yet am unworthy," he is accepted forthwith, and is given instruction in some of the minor and some of the major commandments; and several of the more stringent commandments. And as he is informed of the punishment for the transgression of the commandments, so is he

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informed of the reward granted for their fulfillment. He is not, however, to be persuaded or dissuaded too much. If he accepted, he is circumcised forthwith. As soon as he is healed arrangements are made for his immediate ablution, when two learned men must stand by his side and acquaint him with some of the minor commandments and with some of the major ones. When he comes up after his ablution he is deemed to be an Israelite in all respects.⁷

Apparently, therefore, it is the task of the Jewish court about to accept the proselyte to inform him of the difficulties of Jewish destiny as well as of the particulars of some of the commandments. Nevertheless, the great codifier Maimonides, while he clearly expresses the initial necessity of investigating the would-be convert to ascertain his sincerity as well as of informing the would-be convert of the substance of the yoke of Torah,⁸ concludes:

A proselyte, after whom the *Bet Din* did not investigate or to whom they did not inform the particulars of the commandments and their punishments, but who was circumcised and ritually immersed before three common judges, is considered a convert. And even if they discover that it was for some ulterior motive that he converted, since he was circumcised and ritually immersed he has left the category of Gentile . . . And even if he returns (to his former ways) and serves idols he is considered an apostate Jew whose marriage is a marriage.⁹

At least according to this authority, it would seem that conversion is — if only *post facto* — a *pro-forma* ritual of circumcision and ritual immersion which takes effect even without the judges having informed the would-be proselyte of the particulars of his Jewish status. This is the basis of the responsum of Rav Uziel, and this might lead us to believe that acceptance of commandments is a desirable but not necessary constituent of conversion.

II

I must strongly disagree with the conclusion, and a more intensive study of the sources will demonstrate that the acceptance of commandments is a far more integral part of conversion than

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might appear. The Talmud, in a totally different context from the general discussion of conversion, quotes a *beraita*:

Our Rabbis taught . . . If a heathen is prepared to accept the Torah except one religious law, we must not receive him (as an Israelite).¹⁰

Following the discussion of circumcision and ritual ablution, the Talmud contrasts the laws of a proselyte and an emancipated slave. The acceptance of the yoke of commandments may apply only to a proselyte, argues the Talmud, apparently assuming the acceptance of commandments as a basic element of conversion.^{10a} It is apparently on this basis that the *Baalei Tosafot* go so far as to state that although the ritual immersion of the convert may not require the presence of three judges, the acceptance of the commandments — even *post facto* — does require their presence.¹¹ This is especially significant since the context of the Talmud upon which *Tosafot* was commenting had not so much as mentioned the term “acceptance of commandments.” And Rav Yosef Karo, the author of the authoritative *Yoreh Deah*, bases his decision upon this principle:

All matters pertaining to the convert, whether it be informing him of the commandments for their acceptance, circumcision or ritual immersion, must be performed in the presence of three qualified judges and during the day. However, this is only necessary initially. *Post facto*, if he were circumcised or ritually immersed before two judges or at night — and even if the immersion were not for the sake of conversion (but, for example, had been because of ritual purity) — the individual is a convert and may marry an Israelite. (This is with the) exception of the acceptance of commandments which prevents conversion if it does not take place in the presence of three (qualified judges) and by day.¹²

Both the *Schach* and *Taz* explain this insistence of the *Yoreh Deah* on three qualified judges for the acceptance of the commandments on the principle that: “This is the essence of the matter (of conversion) and its first step.”

III

I would submit that even according to Maimonides the ac-

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ceptance of commandments is a necessary prerequisite for conversion. As mentioned previously, Maimonides insists that initially the would-be convert must be carefully investigated and informed of the various obligations incumbent upon him as a Jew. And even if *post facto* the informing of the individual commandments does not disqualify the conversion, the lack of general acceptance of commandments certainly would. Indeed, Maimonides never mentions the acceptance of commandments as a necessary prerequisite for conversion. It is rather the *very definition* of conversion, the statement of purpose, the matrix from which circumcision and ritual immersion must follow.

And so for generations when a gentile wishes to enter into the covenant, to be encompassed by the wings of the Divine Presence and to accept upon himself the yoke of Torah, he requires circumcision and ritual immersion . . .¹³

And so Maimonides affirms the aforementioned Talmudic statement that "even if an individual accepted upon himself the entire Torah with the exception of one detail, he may not be accepted for conversion,"¹⁴ since the acceptance of commandments in principle is the very essence of the conversion procedure.

Perhaps this may be analogous to commandments such as the recitation of the *Shema* or rejoicing during the Festival. In each case there are certain mechanical performances clearly prescribed by Jewish law: The recitation of certain paragraphs at specific times each day for the one, the eating of meat and drinking of wine for the other (*maasei mitzvah*). But without the commitment of the acceptance of the yoke of the heavenly kingdom accompanying the mouthing of the halakhically ordained words of the *Shema*, without the internal feelings of joy which are to be expressed by the eating and drinking unique to the Festival, the commandments cannot be considered fulfilled (*Kiyum Hamitzvah*). Similarly circumcision and ritual immersion without the concomitant acceptance of commandments become meaningless mechanical performances and are to no avail as far as conversion is concerned.¹⁵ In sum therefore, Maimonides may *post facto* accept a conversion which lacked the informing of commandments (*hodaat hamitzvot*), but he would

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not accept a conversion which lacked the acceptance of commandments (*kabbalat hamitzvot*).¹⁶

IV

I cannot accept an essential distinction between the acceptance of commandments and the observance of commandments. It is self-understood that no Jewish court can guarantee future actions of the convert. Nevertheless it is to be expected that the expressed acceptance of commandments implies the willingness on the part of the convert to live in accordance with the scrupulous observance of these commandments for the rest of his life. Unlike Christianity, Judaism has never recognized a faith commitment apart from its tangible expression in deed. Whether or not there actually exists a commandment to believe in God is questioned by the various Biblical commentaries,¹⁷ whereas the entire halakhic process bespeaks an emphasis upon proper observance as the necessary expression of sincere faith. The convert who accepts the commandments is expected to observe them.¹⁸

Were the acceptance and subsequent observance of commandments not an inextricable aspect of conversion, the status of the proselyte who converted with ulterior motives would never have been questioned by the Talmud. Although we conclude that *post facto* all those who converted for ulterior motives are valid converts,¹⁹ Hillel and R. Chiya accepted such converts initially because, explains the *Baalei Tosafot*, "they knew that ultimately they would be complete proselytes."²⁰ There is therefore a degree of latitude accorded the individual court to decide as to the ultimate sincerity of the specific convert²¹ — sincerity as to his halakhic observance.

There is one more Halakhah which demonstrates the close relationship between conversion and acceptance and observance of commandments. The Talmud teaches that a minor may be converted by the consent of a Jewish court, in whose presence he is circumcised and ritually immersed:

Rabbi Joseph says: When he comes of majority age, he may reject (the conversion). But once he has attained the age of majority for

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one hour and does not reject (the conversion), he may no longer reject it.²²

Apparently the one element lacking in the conversion of the minor was the acceptance of the commandments, since this cannot be performed for a minor (as can ritual immersion and circumcision), but must be attested to by an adult. Hence Rabbi Joseph gives him the option of rejecting the conversion upon his achievement of majority status. Interestingly enough, the *Rosh* interprets Rabbi Joseph as follows:

R. Joseph says: When he comes of majority age he may reject (the conversion) *before we saw him observing the religion of Judaism*. But on the day he achieves majority and we saw him fulfilling the commandments, he can no longer reject the conversion.²³

The *Yoreh Deah* cites the halakhah in accordance with the interpretation of the *Rosh*.²⁴ Hence we clearly see the necessity of acceptance of commandments and an insightful equation of acceptance of commandments and observance of commandments. The observance *ipso facto* testifies as to the acceptance, and the conversion thereby becomes validated and can never again be denied.²⁵ Therefore whereas it may not be necessary to inform the would-be convert of every detailed aspect of the Jewish life-style, a general acceptance of commandments is a necessary prerequisite for conversion.

V

The modern issue of "Who is a Jew" is fraught with implications for the future of our people. The real issue at stake is not "Who is a Jew?" but "What is a Jew?". It is fashionable in this Age of Anxiety to undergo an identity crisis, and unfortunately Judaism is involved in that same crisis. For the majority of Americans, religion is at most a once-a-week sentiment but more generally a dose of morality for the children with a family dinner a few times a year to mark the major holidays. "*Vie se christelt sich, so yidelt sich*," and so the pediatric Hebrew School, the nostalgic High Holy Days, the gastronomic seder and the

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U.J.A. bagels-and-lox breakfast have become the hallmark of American Jewry. If you add a little Zionism and a number of fund-raising dinners each year, you have the total picture of what Judaism means to the majority of affiliated Jews. With this backdrop it is no wonder that ten lectures devoted to Jewish History and Culture with a signed certificate and name-giving ceremony can make any WASP into a HASP (Hebrew Anglo-Saxon Protestant) within a few short months.

The existence of the State of Israel compounds the problem, since most Israelis are so intoxicated with being *like* the other nations, (perhaps understandably so after a 2,000 year-long diaspora and four difficult wars for existence), that they have forgotten our ideal to be "a light unto the other nations." Feelings of Israeli nationalism run high, and the deepest Jewish goal tends to be identified with the needs of the Israeli nation. *Klal Yisrael* and *Medinat Yisrael* have become a singular entity. It therefore seems imperative that any individual merging his destiny with the Jewish State be entitled to call himself Jew and to wear that appellation with pride, no matter what rituals he may or may not have undergone.

Jewish history viewed with religious perspective would deny both the sentimental and the nationalistic view of Jewish identity. We first became a nation at Sinai, and, as Rabbenu Saadia Gaon so aptly wrote: "We exist as a nation only by virtue of our Torah." We have managed to survive as a people for two thousand years, albeit with great difficulties, without a homeland, but we cannot survive for four generations without Torah adherence. Judaism does have a unique message for the world, but that message cannot be expressed in pious platitudes about the Judeo-Christian tradition of the Golden Rule. Judaism is based upon commitment, an often sacrificial and always profound commitment to a legal system which endows every step of life (*halakhah*) with direction (Torah) and transcendence. Our ethical and moral *weltanschauung* is expressed in terms of Sabbath, Festivals *kashrut*, and ritual purity. We strive to create a kingdom of priests and a holy nation which will ultimately serve as a model for the entire world to follow. Since the stirring Biblical epic of the sacrifice of Isaac, the ideal of the Jew has been

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not to die for Judaism but rather to live by the direction of our faith. It is a commitment to this total way of life which has preserved Judaism through the ages, and it is the kind of commitment which must be asked of any individual who wishes to join our ranks. Circumcision and ritual immersion are the formal acts by which the would-be convert demonstrates his willingness to sacrifice himself in life and to become symbolically reborn into a new faith community; the acceptance of commandments is the very essence of his conversion.

VI

There are, however, two concerns which must be discussed. Many Orthodox rabbis are often unsympathetic and even harsh with the would-be convert who seeks guidance. Undoubtedly we have certain standards, and these standards must be maintained. Nevertheless, if one comes to be purified, we — in the spirit of *imitatio dei* — must be ready to offer assistance. There are authorities who subsume the acceptance of the proselyte under the Biblical command of “Thou shalt love the stranger,”²⁶ and one authority even insists that it is included in “Thou shalt love the Lord thy God with all thy heart” — cause Him to be beloved by all the creatures (of the world) as (did) Abraham our father.²⁷ And the Talmud goes so far as to state that Amalek, the arch enemy of Israel, was a descendant of Timna, who had been rejected for conversion by our patriarchs. Had she but been accepted at the proper time, the entire subsequent history of Israel would have been radically different. . . . I would recommend that a special Institute for Proselytes be established, preferably under the auspices of the Rabbinical Council of America, to provide a proper course of study as well as practical guidance in the observance of commandments for the would-be convert. It has been my practical experience that many young people have become genuinely attracted to authentic Jewish life, and even those who may initially approach our door for the sake of marriage will quickly become righteous proselytes under the proper tutelage. In the cases where a potential marriage partner is the initial cause of interest, it is imperative that the Jew as

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well as the Gentile attend the institute together. I would insist upon the Jew's commitment to accept the commandments along with the convert's. A proper court of three Rabbis would, of course, judge each instance to ascertain the sincerity of the applicant in accord with the decision of the codes.²⁹ In the absence of such an Institute for Proselytes we are causing countless individuals to turn to invalid forms of conversion for themselves and their loved ones which results in heartbreak and irretrievable loss to our people.

VII

The second issue of concern is the treatment of the proselyte by the Jewish community. The Talmud teaches that Torah is not a biological inheritance, and there are those who maintain that there are forty-six Biblical injunctions against anyone who behaves improperly towards a convert.³⁰ Indeed, the Book of Ruth, which is read on the Festival of Torah, *Shevuot*, conveys as its primary message the irrelevance of genealogy for true Jewish leadership. Ruth was born a Moabite woman, and Moab had originally been conceived as a result of the heinous act of incest between Lot and his daughter. Boaz descended from Perez, the result of a forbidden relationship between Yehudah and his daughter-in-law Tamar. But as long as halakhah permits Boaz and Ruth to wed, they become the progenitors of no less a personage than King David, psalmist of the Lord, architect of Jerusalem, progenitor of the Messiah.

The Book of Ruth attempts to instruct the Jewish people to accept the sincere proselyte with sensitivity and compassion. Even after her conversion, Ruth is regarded by the Bethlemites as a Moabite woman,³¹ and so she is regarded at best with disdain and at worst with contempt. Ruth even regards herself as a stranger as a result of the Israelite treatment, and she therefore responds to Boaz's kindness with:

Why have I found favor in thy sight, that thou shouldst take cognizance of me, seeing I am a foreigner?³²

Boaz expresses the proper attitude towards the convert in his

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response, strongly reminiscent of God's initial command to the very first proselyte, Abraham our Father:

It hath fully been told me . . . how thou hast left thy father and thy mother, and the land of thy nativity, and art come unto a people that thou knowest not heretofore.³³ The Lord recompense thy work, and be thy reward complete from the Lord, the God of Israel, under whose wings thou art come to take refuge.³⁴

The proof that Ruth is to be regarded as a genuine Jewess lies in the affirmation of the obligation of the next of kin to marry her and thereby *preserve* the seed of her deceased husband. It is as a reminder of his obligation that Naomi sends Ruth to visit Boaz at the threshing floor. The nearest kinsman agrees to redeem the sold fields of the family of Elimelech, but refuses to marry Ruth "lest I destroy mine own inheritance." He apparently still regards the convert as a stranger, and cohabiting with her would produce not a preservation of seed but a destruction of seed, an eternal impurity in the biology of his family. Boaz understands the validity of the true conversion, views Judaism as transcending biology alone, weds Ruth and is worthy of becoming the grandfather of the Messiah. Indeed, it is the vision of the Messianic Age that the entire world will unite to learn Torah, convert to the Jewish doctrine and live in peace and amity.³⁵

And as Boaz teaches with what compassion we must accept the convert, Ruth teaches the formula for acceptance of commandments. Her statement of faith to the religious Naomi includes commitment to action as well as to ideals, allegiance to God as well as to nation, commitment to live as a Jew as well as to die as one:

for whither thou goest, I will go and where thou lodgest, I will lodge; thy nation shall be my nation and thy God my God; where thou diest will I die, and there will I be buried . . .³⁶

NOTES

1. Unfortunately, Rav Goren has not yet penned a responsum explaining his action. A feature article which appeared in the week-end supplement of

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Hatzofeh, 15 Sivan 5730, purports to present his major halakhic considerations, but this can hardly be considered authoritative.

2. *TRADITION*, Volume 11, No. 4, Spring 1971, pp. 16-42.

2a. Goren, *Pesak Hadin Re: Inyan Ha'ack Vhaachot*, Jerusalem 5733, p. 137ff.

3. *TRADITION*, Volume 12, No. 3-4, Winter-Spring 1972, pp. 107-113.

4. Rabbi Yitzchak Greenberg, Mizrahi Fellowship Meeting, May 4, Fifth Avenue Synagogue.

5. B.T. *Yevamot* 46a.

6. *Ibid.*, 46b.

7. *Ibid.*, 47a.

8. *Mishneh Torah, Hilkhoh Issurei Biah* 13:14-15.

9. *Ibid.*, 17.

10. B.T. *Bekhorot* 30b.

10a. B.T. *Yevamot* 47b.

11. *Ibid.*, 45b *Tosafot* ד"ה מי לא טבלה and also vide *Ramban* in his *Novellae* on *Yevamot* who comments on the statement of Rav Asi "Did she not bathe for the purpose of her menstruation," and insists upon acceptance of commandments.

12. *Yoreh Deah*, 268, 3. Vide *Iggerot Mosheh, Yoreh Deah*, 157, "Concerning the question as to whether a convert who has not accepted the commandments is considered a convert, it is simple and clear that he is not a convert at all even post fasto . . ."

13. Maimonides, *Mishneh Torah, Hilkhoh Issurei Biah*, 13, 4.

14. *Ibid.*, 14, 8.

15. This has nothing to do with the general disagreement amongst halakhic authorities as to whether or not the commandments require internal commitment, or *Kavannah*. The essence of the commandments here mentioned is their internal commitment, as explained by Rabbenu Yonah in B.T. *Berakhot*.

16. Cf. *Encyclopedia Talmudit*, Vol. 6, p. 431, note 80 where a similar distinction is suggested. Even the fact that Maimonides does not insist upon the informing of commandments for conversion *post facto* is not so clear. The *Yoreh Deah* re-words the *Mishneh Torah* as follows: "And if they did not investigate (the would-be convert as to his sincerity) or they did not inform him of the reward of the commandments and their punishments . . . he is still a convert (*Yoreh Deah*, 268, 13)." And perhaps this is an interpretation of the words of Maimonides himself: "A convert who they did not investigate or they did not inform of the commandments and their punishments . . ." but an informing of the contents of the commandments must take place. In any case, Maimonides does mention the acceptance of commandments as a procedure apart from the informing of commandments: "When the gentile is freed he requires another ritual immersion . . . but he does not require the acceptance of the commandments or to be informed the essentials of the religion." (*Mishneh Torah, Hilkhoh, Issurei Biah*, 13, 12).

17. Vide Commentaries to Exodus 20:2, especially *Ramban* and *Ibn Ezra*, as well as *Ramban, Sefer Hamitzvot, Mitzvot Aseh I*, and *Abarbanel, Rosh Eman-*

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ah.

18. Cf. R. Chaim Ozer Grodzenski, *Achiezer* III, No. 26, sec. 4, and the discussion of that responsum by J. David Bleich, "The Conversion Crisis," *TRADITION*, Vol. 11, no. 4, Spring 1971, pp. 24-26.

19. B.T. *Yevamot*.

20. *Ibid.*, 109b, *Tosafot*.

21. *Yoreh Deah*, 268, 12 *Vide Shach* 23, "From Hillel it is to be learned that everything depends upon the evaluation of the court."

22. B.T. *Ketubot* 11a.

23. Rosh, *ad locum*.

24. *Yoreh Deah* 268, 7, 8.

25. It is interesting that Ritbah, quoted by the Shitah Mekubetset to B.T. *Ketuvot* 11a, asks about the lack of informing the minor as to the content of the commandments and concludes that since the minor cannot be properly informed, the conversion is still valid. The informing may not be necessary, but the acceptance certainly is.

26. Deuteronomy 6:5; *Sefer Hamitzvot* of R. Saadia Gaon, Positive Commandment 19.

27. R. I. Perlo, interpretation to *Sefer Hamitzvot* of R. Saadia Gaon, *Ibid.*

28. B.T. *Sanhedrin* 99b and B.T. *Yevamot* 109b, *Tosafot* ד"ה רעה.

29. See note 21.

30. *Vide Encyclopedia Talmudit*, Vol. 6, p. 278, note 406.

31. Ruth 2:6.

32. *Ibid.*, 2:10.

33. Cf. Genesis 12:1.

34. Ruth 2:11, 12.

35. Isaiah 2:2-4.

36. Ruth 1:16, 17.