

1

CARING FOR AN INTERMARRIED JEW BY CONVERTING HIS PARTNER

Rabbi Uzziel's Earliest Responsum on *Giyur*
(Salonica, c. 1922)

ZVI ZOHAR

Preliminary Remarks

If one imagines tradition and modernity as two poles of a continuum, Reform Judaism would be regarded by many as modern rather than as traditional. However, Reform's position on this continuum has not been static over the movement's history. Thus, three of David Ellenson's manifold research interests are halakhah, conversion to Judaism, and Sephardic rabbinical creativity in modern times. Such a characterization of a person's interests, had it been made fifty or even thirty years ago, would have been enough to indicate that the person being referred to was *not* the president of the Hebrew Union College–Jewish Institute of Religion or a leader of the Reform movement in the United States and Israel. It is hard to imagine Nelson Glueck (HUC president 1947–71) or his successor Alfred Gottschalk poring over responsa by Esiel Hildesheimer, Moshe Feinstein, or Hayim David HaLevy—let alone regarding conversation with these sources as significant for contemporary Reform Judaism. David Ellenson's ability to engage such texts meaningfully, without in any way relinquishing the forward-looking intellectual and spiritual autonomy that is the hallmark of Reform Judaism at its best, is but one indication of his inspiring ability to span broad realms of Jewish creativity and life—as well as a signifier of dynamism within the Reform movement itself. His intellectual capabilities, together with his warm and friendly personality, reflect

well upon the wisdom of those who saw fit to choose him as the intellectual and religious leader of Reform Jewry at the outset of the twenty-first century. That choice itself reflects in a most positive way the evolving nature of Reform Judaism, now able to interact in a more relaxed and balanced way with aspects of traditional Judaism against which it earlier vigorously contested.

The intersection of halakhah, conversion to Judaism, and Sephardic rabbinical creativity in modern times is itself an expression of interaction between tradition and modernity. Before modernity, intermarriage was very limited, and conversion to Judaism entailed great risks. The option of healing the social and religious anomaly created by intermarriage through inclusion of the non-Jewish partner into the community via conversion became a topos of halakhic thought primarily in the context of modernity. A leading halakhic author who devoted some twenty responsa to this issue was Rabbi Ben-Zion Meir Hai Uzziel (1880–1953), chief rabbi of Jaffa–Tel Aviv from 1912 until 1939 and subsequently chief Sephardic rabbi of Mandatory Palestine and of the State of Israel.¹

In the following pages, I conduct a close reading of Uzziel's first responsa on *giyur* (conversion to Judaism), composed during his two-year stay in Salonica in the early 1920s.²

Salonica: Halakhic Questions Regarding Intermarriage and Giyur

In 1921 Rabbi Jacob Meir (Jerusalem, 1856–1939), who had been serving as chief rabbi of Salonica for more than a decade, was elected chief Sephardi rabbi of Mandatory Palestine.³ Salonica had a large Jewish population, and under Ottoman rule had been a great center of rabbinical scholarship and creativity; Rabbi Meir was concerned for the community's future and asked Rabbi Uzziel to fill that post temporarily.⁴ Rabbi Uzziel agreed and received a two-year leave of absence from his position in Tel Aviv–Jaffa.⁵ It was in Salonica that he authored his first two responsa relating to *giyur*.⁶

As related in the *she'elah* (halakhic query) posed to Rabbi Uzziel, a Jewish man had married a non-Jewish woman in a civil ceremony, whereupon they approached the rabbinical authorities in Salonica seeking for her to become a Jew and to subsequently contract a Jewish marriage. Before 1982 civil marriage was neither possible nor recognized in Greece.⁷ It is thus apparent that the man had spent time abroad, where he met and married his spouse. They returned to his native town and sought her *giyur* there so that their union would be recognized under Greek law and so that she could become part of his family and of the Salonican Jewish community at large. As Rabbi Uzziel ex-

plained: “When she enters the covenant of Judaism, she will be drawn nearer and nearer to her husband’s family.” Rabbi Uzziel presents the case as follows: “When I was serving as rabbi of the Salonican community, I was asked with regard to a [Jewish] man who had married a non-Jewish woman. They had lived together for several years and she bore him several sons. Now she requested to undergo *giyur* and to marry him in a Jewish ceremony.” Rabbi Uzziel asked several questions:

1. May the [rabbinical] court agree to convert her, given that it stands to reason that her motivation is not for conversion *per se* but in order to marry him according to Jewish tradition?
2. May her husband marry her in a Jewish ceremony after her conversion, or is she forbidden to him because of the law concerning a person who was suspected with regard to a bondswoman or a gentile, who *a priori* may not marry her?
3. If he may marry her, is she required to separate from him for three “months of separation” before the marriage?⁸

Clearly, each subsequent question is contingent on a positive answer to the previous one. Rabbi Uzziel deals with each question separately and in detail. I shall now focus on a discussion and analysis of the content and method of his response.

May a Rabbinical Court Convert a Woman Linked to a Jewish Man?

The phenomenon of a non-Jew seeking to become Jewish for the sake of marriage is age-old.⁹ Rabbi Uzziel begins his halakhic discussion with the *Shulhan ‘arukh*, cites additional material from Maimonides’s *Mishneh Torah*, and notes the *Mordekhai*’s view,¹⁰ as presented in Joseph Caro’s *Beit Yosef*. All three sources instruct the court to reject a candidate for *giyur* whose motivation is utilitarian. If so, the correct response to the first question should be negative: a rabbinical court may *not* convert a woman seeking *giyur* for the sake of a Jewish man. But Rabbi Uzziel now introduces a different view, advanced by the *Tosafot*.¹¹

The *Tosafot* sought to reconcile the implications of several Talmudic sources. *BYevamot* 24b indicates that rabbis should refrain from accepting candidates whose motivations are utilitarian. However, great scholars acted otherwise: Hillel converted a man who chose Jewishness for the sole declared purpose of wearing the ornate robes of the High Priest, and Rabbi Hiyya converted

a woman who declared that she wanted to become a Jew in order to marry one of Hiyya's students.¹² The Tosafot resolved this matter by positing that it is permissible to convert a person who openly declares utilitarian motivation if the court is convinced that the convert will subsequently identify with his Jewishness "for the sake of Heaven." Citing this resolution in his magnum opus *Beit Yosef*, Rabbi Caro added: "From here we learn that all is contingent upon how it is viewed by the court." Rabbi Uzziel applies this principle to the couple in Salonica and concludes that the court may convert the woman based on their assessment of the consequences:

The conclusion with regard to our case is that this gentile woman is already married to this Jew, and by now entering into the covenant of Judaism she will be drawn nearer and nearer to the family and the Torah of her husband; and furthermore, the children already born to her and those still to be born will be fully Jewish. Thus, this resembles the cases of Hillel and of Rabbi Hiyya, as it is certain that eventually they will be fully Jewish. Or, more correctly: it is a *mitsvah* for the court to draw them near, to bring them into the covenant of Israel's Torah, and to be rid of the affliction of intermarriage that is a cancerous affliction in the vineyard of Israel.¹³

Rabbi Uzziel's conclusion is far from self-evident. In the *Beit Yosef*, Rabbi Caro accorded the court discretion; however, he did not include this rule in his *Shulhan 'arukh*. Perhaps he had retracted his earlier view on the matter. Even if he hadn't, the meaning of the clause "eventually he would be [Jewish] for the sake of Heaven [*sofo le-shem shamayim*]" was moot; some rabbis explained it to mean that the convert would become a devout Jew.¹⁴ Rabbi Uzziel, in contrast, interprets it as meaning that ultimately the convert's identification as a Jew will not be contingent on the fulfillment of his original utilitarian reason for giyur. In the case at hand, he judges that after conversion the woman will experience a gradual change of attitude due to several factors: increased closeness to her husband's family, greater closeness to Torah,¹⁵ and self-identification as the mother of Jewish children. All these will synergistically transform her identity—and, knowing this, the court not only *may* accept her for giyur but is *commanded* to do so.

This imperative derives from a general teleological consideration: Religious leaders bear responsibility for furthering the progress of the entire Jewish people, *including the sinners*, toward a more positive condition in which estranged and liminal Jews become integrated within the community. In sit-

uations of intermarriage, this can be done by transforming the non-Jewish spouses—and the couple’s children—into Jews. Therefore, if the rabbis judge that the non-Jewish spouse will ultimately internalize a noncontingent identification as a Jew, they are commanded by Torah to accept her or him for giyur.

May Her Jewish Spouse Marry Her after Her Giyur?

After determining that the non-Jewish wife should be accepted for giyur, Rabbi Uzziel moved on to the second question: Could she now marry the Jew with whom she had lived while still a gentile? *Prima facie*, this question seems strange: If we were to rule that they would not be allowed to marry each other, would she decide to convert nevertheless? Obviously not! Furthermore, Rabbi Uzziel above justified the assessment that she would ultimately remain Jewish “for the sake of Heaven” by explaining that “she will be drawn ever nearer to the family and the Torah of her husband.” Thus, her acceptance for giyur was predicated upon her remaining together with her Jewish spouse. In addition, Uzziel thinks a general policy should guide rabbis: “To get rid of the affliction of intermarriage, which is a cancerous affliction in the vineyard of Israel,” requires transforming a mixed union into a marriage between two Jews.

Clearly, the woman’s conversion and her subsequent marriage to her Jewish spouse must function as an indivisible “package deal.” What, then, led Rabbi Uzziel to suggest the possibility that their marriage after the giyur was not self-evident?

MYevamot 2:8 states that if a Jewish man is suspected of conducting an illicit relationship with a non-Jewish woman and she subsequently converts, she may marry any Jewish man—except one who had been suspected of sleeping with her, for such a union would set tongues wagging.¹⁶ It might seem to follow that if their earlier liaison was not merely “rumored” but a public fact, there would be no reason to bar their marriage.¹⁷ However, the *Tosefta* forbids their marriage after giyur when illicit relations were not rumor but certain.¹⁸ Rabbi Uzziel therefore posits the following:

We must understand the Mishnah to be taking a more radical position [than the *Tosefta*]: According to the Mishnah, even when there had been merely a rumor and the only concern is to prevent strengthening that rumor, he may not marry her [after she converted]. It thus goes without saying that if he had openly been in a relationship with her, their subsequent marriage would lead all the more to “dissembling mouths and perverse lips” with regard to his sin [and is

therefore also forbidden].¹⁹ This understanding is supported also by the words of *Nimukei Yosef*,²⁰ [which holds] that the Mishnah's term "suspected" should not be specifically construed, rather, even if he *definitely* had sex with her the law is that a priori he may not marry her. But if he [nevertheless] did so, he should not divorce her. And so too wrote Rabbi Hayyim Shabbetai—see *Yad Aharon*, first edition, comments on *Beit Yosef*, §41.²¹

After analyzing another interpretation, that of Ramban in his novellae on *bYevamot*,²² Rabbi Uzziel concludes: "It follows from the above that in the case under consideration [in Salonica], although it is known with certainty that he had intimate relations with her when she was not Jewish, and although he intends to remain married to her by renewing the marriage with hupah and kidushin [bridal canopy and marriage contract], he is a priori not permitted to do so because of [the consideration] 'Put away from thee a dissembling mouth.'"

Rabbi Uzziel's analysis thus leads to the clear conclusion that whereas it was a mitzvah to convert the non-Jewish spouse, the couple could not subsequently be permitted to marry each other.

In the next section of his responsum, Rabbi Uzziel critiques the positions of two recent rabbis—Rabbi Ya'kov Elyashar and Rabbi Shmuel Matalon—each of whom had permitted a Jew to marry his non-Jewish spouse after she had converted. We shall now present and consider his discussion of each.

I saw that our pride, the Rishon le-Tsiyon Yisa Berakhah (in his book *Yisa ish, even ha-'ezer #7*)²³ was asked about such a situation and permitted her marriage to her Jewish husband after her conversion, for since she had been married to him under their [i.e. civil] law, there was no cause to require them to separate as this is a[n a posteriori] situation of "if he married her he is not required to divorce her." And he relied upon what was written by our master the HIDA in *Hayim sha'al* part 1 #49.²⁴ But in my opinion this is unreasonable; for their civil marriage is [halakhically] void and his sexual activity with her was illicit, and when we are asked to conduct a [Jewish] marriage ceremony for them, it is as if he is marrying her ab initio.

Rabbi Ya'akov Shaul Elyashar (1817–1906), known as Yisa Berakhah,²⁵ was Jerusalem's greatest rabbinical scholar during the latter decades of the nineteenth century and served as Rishon le-Tsiyon (Chief Rabbi of Jerusalem) from

1893 until his death. In 1894 he received a halakhic question from Melbourne: a Jewish man had lived in civil marriage with a non-Jewish woman, and then she underwent *giyur*. Could they now marry? In his responsum, Elyashar cited a ruling by Rabbenu Tam,²⁶ concerning a case in which a Jewish woman had converted to Christianity, married a non-Jew, and returned to Judaism, and her Christian spouse had then undergone *giyur*. Rabbenu Tam had allowed them to marry as Jews.²⁷ Elyashar wrote that HIDA had proposed the following resolution of the apparent conflict between this ruling and the *Tosefta*: when living as a Christian the woman had married her spouse in an official ceremony, and thus they had been living in a recognized legal union even before he became Jewish. Rabbenu Tam considered this an *ex post facto* situation governed by the rule “if he married her he is not required to divorce her.” Rabbi Elyashar’s conclusion with regard to the couple in Australia was that “Rabbenu Tam’s ruling should be applied to our case as they have already married each other according to their [civil] laws, and the applicable norm is that of a situation where he disregarded [the *a priori* prohibition] and married her, and thus the court need not try to separate them and he may now cohabit with her licitly [in a Jewish marriage].” Australian civil marriage was halakhically equivalent to a situation of “he [already had] married her”; ergo “he is not required to divorce her.” The rabbis in Australia should therefore conduct a Jewish marriage ceremony for the husband and his newly Jewish spouse.

Rabbi Uzziel rejects Elyashar’s conclusion and writes: “This is unreasonable; for their civil marriage is [halakhically] void.” The fact that their union was recognized by the non-Jewish legal system is of no halakhic consequence.²⁸ When such a couple applies for a Jewish marriage, they are like any other unmarried couple applying for marriage—and *ab initio* “he may not marry her.” It is worthy of note that Uzziel does not feel called upon to suggest an alternative explanation for Rabbenu Tam’s ruling and feels secure in his outright critique of Rabbis Azulai and Elyashar—each a halakhic authority of the first rank. His ground for negating their position is *reason per se*: “This is unreasonable.”

Rabbi Uzziel next relates to the position of Rabbi Shmuel Matalon.²⁹ In the late 1860s Rabbi Matalon was asked about a Jewish man who had left his Jewish wife and moved to a different city, where he lived with a non-Jewish woman.³⁰ After some time, he divorced his Jewish wife. His non-Jewish partner sought “to convert and to live with that man according to the law of our holy Torah, to marry him with *hupah* and *kidushin* and seven benedictions according to the religion of Moses and Israel. Thus he will not eat the [nonkosher]

meat of animals that died of natural causes.”³¹ In a long responsum, covering sixteen dense columns on folio-sized pages, Rabbi Matalon discussed two main halakhic issues. The first: Was it permissible to accept for conversion a woman whose choice of *giyur* was clearly affected by her living together with a Jewish man? The second: If she were to become Jewish, would it be permissible for her to marry the Jewish man with whom she had previously cohabited illicitly?

Rabbi Matalon’s detailed analysis of these two issues was based on citations from a wide range of sources that situate him as part and parcel of the cultural-religious rabbinic tradition of the Jewish communities in the heartlands of the Ottoman Empire.³² His response to the first question was that the prohibition against *giyur* for the sake of a Jewish man applies only when the woman could not become that man’s spouse unless she converted. However, in the case at hand, they were already living together openly. Her current application for *giyur* was thus not “to obtain” a Jewish man, and she could therefore be accepted.

His response to the second question was reached after an extremely detailed analysis of the variety of ways in which halakhists had interpreted the Mishnah and the Tosefta constraining the marriage of converts who before their *giyur* had engaged in liaisons with Jewish partners. He devoted special attention to the position of Rabbenu Tam and the ways in which it had been understood by halakhic scholars. He noted that those who (unlike Tam) refused to permit the marriage of that Jewish woman to her (formerly Christian) partner did so because she had been married before her apostasy. Although her Jewish husband later divorced her, she could not marry the specific man with whom she had betrayed her husband. This consideration was not relevant to the case facing Matalon.³³ Therefore, those same rabbis would agree here with the conclusion to be drawn from Rabbenu Tam’s position as construed by HIDA: since the couple had already married before her conversion, this should be seen as an *ex post facto* situation in which the relevant maxim was: “He is not required to divorce her.”

Rabbi Matalon added that Rabbi Solomon ben Adret (Rashba) had forbidden a Jewish man who had cohabited with his female slave to marry her after she became a Jew, thus disagreeing with Rabbenu Tam.³⁴ Yet Matalon argued that this was irrelevant to the case at hand. First, Rabbi Caro in the *Shulhan ‘arukh*—and other eminent authorities—had ruled according to Rabbenu Tam. Second, Tam’s position was more lenient than that of Rashba, and “since the matter under deliberation is one of rabbinic law (*de-rabanan*), the general procedural rule for resolving which opinion to prefer is: “In matters of rabbinic

law, follow the more lenient opinion.”³⁵ Earlier, we noted that Rabbi Uzziel had rejected as “unreasonable” the attribution of any halakhic significance to civil marriage. He therefore disregarded Rabbi Matalon’s conclusion and attributed validity only to Rashba’s view forbidding a mixed couple to marry after the wife’s conversion. It thus emerges that according to Rashba, the Jewish husband of this convert may not marry her after her giyur. The upshot of Rabbi Uzziel’s analysis was, therefore, that after the non-Jewish wife of the Salonican Jew undergoes giyur, she may not marry her erstwhile partner.

Overriding Standard Halakhah

At this point, however, Uzziel introduces a surprising twist: Whereas standard halakhah indeed forbids their marriage, other considerations—specified by Maimonides—override that prohibition. Maimonides was asked about a young Jewish man who had acquired a bondwoman and was suspected of cohabiting with her. He noted that according to the Mishnah even were she to become a Jew, her erstwhile master could not marry her. However, Maimonides gave three justifications for overriding the Mishnaic rule. Uzziel writes:

Maimonides of blessed memory wrote (in *Pe'er ha-dor* #132)³⁶: Despite the [Mishnaic] rule that if a man was suspected [of intercourse] with a bondwoman and she was released and [thus] became a Jewess, *ab initio* he may not marry her. We have already ruled several times that, in such cases, he should release her and marry her. And the reason we did this is because of the enactment for the encouragement of penitents;³⁷ and we said: “He should rather eat gravy than the meat itself.”³⁸ And we relied on the words of the rabbis, may their memory be blessed: “It is time to act for the Lord: they have made void thy Torah.” (Ps. 119:126)³⁹

Thus, it is preferable in the eyes of God that the young man and his bondwoman continue their relationship in the framework of Jewish marriage—and Maimonides concludes his responsum with a directive to the local court that the young man “is to be helped to marry her, kindly and gently.”⁴⁰

Rabbi Uzziel states that the considerations that guided Maimonides also apply to such cases as the one before him in Salonica: “These precious words of his are our guide in all matters that do not involve an absolute prohibition, and such is the case with regard to him who is suspected of cohabiting with a non-Jewish woman or to him who has actually done so. For if we will not

permit her to marry him after her giyur, they will remain together forever without her converting, and their children will be mixed offspring, uprooted from Israel's soil." That is to say, if rabbis would apply the law as it stood and forbid them to marry after her conversion, she will not convert. Her Jewish partner would not abandon her, and thus they would live in a state of permanent sin. In order to encourage him to become a penitent with respect to this sin, it is right to suspend application of the original Mishnaic law in the spirit of an "enactment for the encouragement of penitents." But passive restraint is not enough: positive action is required of the rabbis, namely to conduct a Jewish wedding for the couple. Such positive action contrary to the Mishnah ("if she converted he may not marry her") is analogous to what is done when a pregnant woman is seized by a craving for nonkosher food. It does not say there that "she *may* eat the gravy" but rather "they *should feed her* the gravy." Saving the husband from the negative consequences of remaining with a non-Jewish wife merits active rabbinical participation in conducting the couple's marriage although it is forbidden by the Mishnah.

Other negative consequences to be overcome pertain to the fate of the couple's children: "Their children will be mixed offspring, uprooted from Israel's soil." Rabbi Uzziel's concern for these children is worthy of note. The Salonican couple's children were halakhically non-Jewish. How then could they be "uprooted" from an identity they never had? Even the term "*their* children" is not self-evident. According to halakhah, in any mixed marriage there is no genealogical connection between the male progenitor and the children—in other words, they are not "his," but considered the descendants of the mother alone.

In the responsum we are analyzing Rabbi Uzziel gives no explanation for his concern for ensuring the Jewishness of these children. However, in a responsum written in 1936 to Rabbi Benzion Lichtman of Beirut,⁴¹ Rabbi Uzziel explains the rationale that guided his decision in Salonica in order "to rescue the children from their gentilehood," saying, "For as long as the mother is a non-Jew, they are as she is. But now, when she will convert, her children—who are seed of Israel [*zera' yisrael*—will be converted with her. And it is certainly a benefit for these innocent souls to be rescued from assimilation, and it is a mitzvah for us to draw them near, so that those who are distant shall not be severed from us [*she-lo yidah mimenu nidah*]." Rabbi Uzziel's very first responsum on giyur thus reveals key elements of his religious worldview, elements that were to become explicit in his later writings. Rabbis bear responsibility for ensuring that the offspring of a Jewish parent will be Jews. This responsi-

bility applies also to offspring who are not halakhically Jewish. It entails that rabbis do all they can to bestow upon these children—and their non-Jewish parent—the halakhic status of Jewishness. In order to do so, the rabbis must utilize the powerful halakhic tools set forth in Maimonides’s responsum. By converting the non-Jewish spouse of the Jewish man in Salonica, together with her (and his) offspring and enabling the couple to join together in a Jewish marriage after her *giyur*, Rabbi Uzziel acted to fulfill his rabbinical responsibility with regard to prevention of their assimilation and toward the inclusion of the “seed of Israel” under the wings of the Shekhinah.

Postscript: Ellenson and Uzziel

As David Ellenson has cogently argued, even were rabbis willing to convert all the non-Jewish spouses of Jewish men or women, this would not suffice per se as a response to intermarriage and its consequences. Many intermarried Jews, and their spouses and children, are currently uninterested in conversion and have at best an ambivalent attitude toward the Jewish aspect of their identity. Rather, Ellenson (and Kerry Olitzky) go on to say:

Outreach, not conversion, is the best strategy to draw people, born Jewish or not, from the periphery into a revitalized Jewish community. If we can create an open Jewish community through effective outreach—a community that is welcoming, embracing and meaningful—then people will want to join our ranks. . . . Our community has to demonstrate—through experience—why living a Jewish life will add meaning to their lives and the lives of their children. We must be prepared to do this, and we must do so in a spirit that Rabbi Zvi Hirsch Kalischer articulated in the 19th century when he labeled children born of gentile mothers and Jewish fathers as holy offspring. He argued that the community should do everything in its power to facilitate the entry of such children into the Jewish community.⁴²

Rabbi Uzziel’s characterization of such children as “seed of Israel” resonates closely with Rabbi Kalischer’s view. Both set forth the concept of a particular human collective characterized by a core that consists of persons who are halakhically Jews (*Yisrael*) and a penumbra consisting of persons of Jewish origin (*zera’ Yisrael / zera’ kodesh*). Those in the penumbra are “estranged” (or “far off”)—*nidahim*. It is the responsibility of the Jewish leadership—specifically, of rabbis—to prevent the total severance of these persons from the Jewish people

“so that those who are distant shall not be severed from us [*she-lo yidah mimenu nidah*].”⁴³ Rabbis are bound to extend themselves to the utmost so as to (re)include these persons within the core community of *Yisrael*. Since the core community comprises all persons who are halakhically Jews, a sine qua non for (re)inclusion within that community is *giyur*.

At this point, I believe, a difference in nuance between two viewpoints may be perceived. Rabbis Ellenson and Olitzky hold that membership in the Jewish community is significant because it adds vital meaning to a person’s life. Individuals will be motivated to join that community if they have come to appreciate and acknowledge that meaning. To arrive at such appreciation and acknowledgment, one must experience it directly. Personal participation in the life of a vibrant Jewish community is therefore the path of entry into Jewishness. That is, *de facto* membership in the community, by active involvement in religious activities such as synagogue and home rituals as well as Jewish education and learning, should precede *de jure* inclusion via conversion.

If one were to apply here a historical-cultural methodology as favored by David Ellenson in many of his works,⁴⁴ one might read this position as situated within contemporary American religious reality. A major 2007 survey of religion in America described the United States as “a very competitive religious marketplace. . . . Constant movement characterizes the American religious marketplace, as every major religious group is simultaneously gaining and losing adherents.”⁴⁵ The extent of such movement is great: “More than one-quarter of American adults (28 percent) have left the faith in which they were raised in favor of another religion—or no religion at all.” A Jewish think-tank declared that this was a positive phenomenon: “Church-switching reflects the vigorous good health of American religion.”⁴⁶ In this reality, religious affiliation is increasingly based not on birth and ethnic origin, but is rather a personal choice founded on individual conviction and existential preference—that is, on the perceived merits of the various religions. Under such circumstances, conversion to Judaism will be the outcome of individuals’ positive regard for the Jewish religion and of their positive experiences of participation in religious activities within the Jewish community. This is precisely what Ellenson and Olitzky posit: “If we can create an open Jewish community through effective outreach—a community that is welcoming, embracing and meaningful—then people will want to join our ranks.”

Uzziel and Kalischer, however, were not situated within a society embracing the “Marketplace of Religions” cultural model. Rather, they were working

under another paradigm, according to which Jews are first and foremost not a religion, but an extended kinship group. The primary mode of affiliation with this group is thus, naturally, by birth. Membership in this group entails rights and duties. The rights include, among others, the right to benefit from the support and goodwill of other members, to marry a member of the group, and to enjoy a special covenantal relationship with God. The duties mirror the rights: extending support and goodwill to other Jews, marrying within the group, and following the way of life outlined in the covenant, that is, Judaism. However, while membership entails duties, it is not contingent on their fulfillment: as in other families, a person born into the family remains kin, however inappropriately they conduct themselves. Given the kinship paradigm of membership, *giyur* is best understood as a rite through which a person originally born as a non-Jew becomes kin. Having done so, their Jewishness is as irrevocable as that of any other member.⁴⁷

While Uzziel and Kalischer would certainly prefer that a person's decision in favor of *giyur* be based on, and motivated by, deep appreciation of Torah and of Jewish life, such subjective identification does not seem to them a *necessary* precondition for accepting a person into the group. Especially in situations of boundary ambiguity (such as couples or families in which only one partner or parent is currently Jewish), the prime consideration should be to extend support and goodwill to the Jewish partner and to resolve the ambiguity by including the non-Jewish partner (and the couple's children) within the kinship group. In other words, Uzziel and Kalischer attach significance to membership in the core community of Yisrael even if this is not subjectively experienced as adding vital meaning to a person's life, and even if the choice to become a Jew was motivated by seemingly mundane considerations. Once a person is within the core community, she or he is in the company of all other Jews, many of whom are themselves far from perfect in their awareness of the vitality and meaningfulness of Jewish life. Now unequivocally part of Yisrael, the convert can—together with his or her sisters and brothers in the kinship group—progress toward ever-increasing comprehension of what being Jewish means and entails. And even if the convert does not progress at all, she or he has undergone the crucial transformation from “outsider” to “insider” that creates the foundation for his or her children or grandchildren to achieve great things. As Kalischer wrote, there is a real “possibility that great leaders of Israel will spring from among them.”

Returning now to David Ellenson, if the only justification for Jewish affiliation is because it adds vital meaning to an individual's life, why should he (or

any Jew) advocate outreach? Why should the Jewish community per se try to influence the individual choices of non-Jews by making Jewishness meaningful and attractive? As I understand it, David Ellenson here—as in many other realms—is personally and existentially at the convergence of the two viewpoints outlined above. Resonating deeply with the kinship paradigm of Jewishness, as reflected in his admiration for Kalischer, it is precisely out of concern for the future of that group that he advocates outreach. Given a culture in which there is a “marketplace of religions,” he realizes that the kinship group may not remain viable if it does not adapt to the fluid reality of American religious life by openly manifesting its most attractive and meaningful aspects both to Jews by birth and to others. And given Ellenson’s deep and serious acquaintance with the treasures of Jewish creativity throughout the ages, as well as his own lifelong experience, there is no doubt in his mind that Judaism is indeed replete with attraction and meaning. As a leader of Reform Judaism in these complex times, Ellenson is doing his utmost to enable the group’s members (and their families) to live in the light of those treasures—and thus to enjoy the fullest blessings of membership in the ancient but constantly renewing covenantal kinship community of Yisrael.

Notes

1. I analyze and discuss these responsa in my recent book *Ve-lo yidah mimenu nidah* (Jerusalem, 5773/2012).
2. *Mishpetei ‘Uzziel*, vol. 1, Yoreh de’ah, responsum 14; also included in *Piskei ‘Uzziel* (1977). As such, it is briefly referred to in David Ellenson and Daniel Gordis, *Pledges of Jewish Allegiance: Conversion, Law, and Policymaking in Nineteenth- and Twentieth-Century Orthodox Responsa* (Stanford, Calif., 2012), 130. The first part of this article presents main points of the very detailed analysis of this responsum in chapter 1 of my book cited above; the second part of this article, comparing the strategy of Uzziel (and Kalischer) to that of Ellenson (and Olitzky) is completely new.
3. On Rabbi Meir’s career up to this point see David Ashkenazi, “From Jerusalem to Saloniki: Rabbi Jacob Meir’s Leadership as ‘Haham Bashi’ in Jerusalem and Grand Rabbi in Saloniki” [in Hebrew] (PhD diss., Bar Ilan, 2008).
4. An excellent work on Salonica under Ottoman and then Greek rule is Mark Mazower, *Salonica, City of Ghosts* (London, 2004). Salonica had been conquered by Greece in 1912. The transfer to Greek Christian rule after more than four centuries in a Muslim milieu was not easy for the city’s Jews, and the difficulties of the war years, compounded by a great fire in 1917 that devastated the Jewish neighborhood, had a powerfully negative effect upon the community. Rabbi Meir’s sense of concern was therefore well grounded.
5. On his activities in Salonica and his continued relationship with that community after his return to Israel, see Yitzchak Kerem, “Rabbi Uzziel as Chief Rabbi of

- Salonica and His Subsequent Links with the Community,” in *Rabbi Uzziel and His Contemporaries*, ed. Z. Zohar, 166–89 [in Hebrew] (Jerusalem, 2009).
6. *Mishpetei ‘Uzziel*, vol. 1, Yoreh de’ah, responsa 13 and 14; these deal with different aspects of the same case. In number 14 the question is raised whether a Jewish man’s non-Jewish wife may be converted to Judaism and then celebrate a Jewish marriage with him. In responsum number 13 the question is: Given that she may be accepted for conversion, how should her immersion for giyur be accomplished, seeing that there was no possibility for men (i.e. the conversion “court”) to accompany her to the mikveh? *Mishpetei ‘Uzziel* was arranged in accordance with the order of topics in the *Shulhan ‘Arukh*, and thus responsum 14 was placed after responsum 13.
 7. See Charalambos K. Papastathis, “Greece: A Faithful Orthodox Christian State,” *Religion and the Secular State*, ed. J. Martinez-Torrón and W. C. Durham Jr., 339–75 (Provo, Utah, 2010) (online at www.iclrs.org/content/blurp/files/Greece.2.pdf [accessed December 30, 2013]). The relevant legal acts that enabled civil marriage were: Law 1250/1982 on Civil Marriage; Presidential Decree 391/1982 regulating civil marriage issues; and Act 1329/1983 on the modernization of family law.
 8. *Mishpetei ‘Uzziel*, vol. 1, Yoreh de’ah, responsum 14. All further quotations are from this source, unless otherwise indicated. All translations are mine.
 9. For a survey and analysis of halakhic positions from antiquity to the present regarding conversion for nonreligious reasons, see: Avi Sagi and Zvi Zohar, *Transforming Identity* (London, 2007), 9–103.
 10. Mordekhai ben Hillel Hacohen (c. 1250–98) was a leading Ashkenazic halakhic scholar. His position is discussed in Sagi and Zohar, *Transforming Identity*, 19–21.
 11. Tosafot on *bYevamot* 24 s.v. *lo bi’mei David*.
 12. *bShabbat* 31a; *bMenahot* 44a.
 13. This paragraph is quoted in Ellenson and Gordis, *Pledges of Jewish Allegiance*, 130–31.
 14. Thus, Rabbi Yitzchak Schmelkes (1828–1905) allowed a court to convert a person whose current motivation was utilitarian only if the court is convinced that “subsequently he will be God-fearing” (Responsa *Beit Yitshak*, 2, Yore de’ah, responsum 100, §4).
 15. It should be noted that he does not speak of her becoming God-fearing or observant of specific commandments.
 16. In *bYevamot* 24b Rabbi Assi cites Prov. 4:24: “Put away from thee a dissembling mouth, and perverse lips put far from thee.” He derives from these verses a guideline for Jewish communal authorities: they should prevent community members from acting in a way that will raise gossip. Specifically, if we were to allow this man to marry the convert with whom he had been suspected of having had an illicit relationship, this would lead to gossip. Therefore, the marriage should be prevented.
 17. That is, their subsequent marriage would not strengthen any rumor, as their earlier relationship had been public knowledge. If so, the Mishnah’s restriction would not apply and the couple in Salonica, whose relationship had been overt, could marry after her conversion.
 18. *tYevamot* 4.6: “If a non-Jew . . . cohabited with a Jewish woman, then, even if the non-Jew underwent giyur . . . he may not marry her.”
 19. According to this interpretation, the Mishnah accepts the Tosefta’s position and extends it to include cases in which the liaison had merely been suspected. Logically, another possibility exists: that the two sources disagree, with the Tosefta

forbidding the subsequent marriage only if the earlier relationship had been *explicit* and the Mishnah forbidding such marriage only if the relationship had been merely *suspected*. If so, we would rule according to the Mishnah (whose authority outranks that of the Tosefta) and there would be no bar to the marriage of the couple in Salonica.

20. *Nimukei Yosef* is a commentary on the Talmud and on the rulings of Rabbi Yitshak Alfasi (1013–1103) authored by Rabbi Yosef Haviva of fifteenth-century Spain.
21. *Yad Aharon*, vol. 1 (Istanbul, 1756), by Rabbi Aaron Alfandari (Izmir c. 1700–Hebron 1774) is a compendium of comments and glosses on the major fourteenth-century code *Arba'ah turim* and on Rabbi Joseph Caro's composition *Beit Yosef*. In the section cited by Uzziel, Alfandari focuses among other things on the compatibility (or lack thereof) between the Mishnah and the Tosefta. He quotes Rabbi Hayyim Shabbetai (1551–1647) as determining that the Mishnah accepts the Tosefta's position and expands on it.
22. Ramban is the acronym of Moses Nahmanides (Spain 1194–Jerusalem 1270).
23. Rabbi Ya'akov Shaul Elyashar (see below).
24. HIDA—Hayim Yosef David Azulai (1724–1806)—was one of the greatest Jewish scholars of the eighteenth century. In *Hayim sha'al* (vol. 1, responsum 49) he discusses the case of a non-Jewish man who had engaged in a relationship with a married Jewish woman. Then two developments occurred: Her (Jewish) husband divorced her and her non-Jewish paramour underwent giyur. Rabbi Azulai was asked if she could now marry him.
25. In Psalm 24:5 the words *yisa berakhah* relate to the Heavenly blessing conferred upon the righteous person who is worthy to ascend God's mountain. This was applied to Rabbi Elyashar as a righteous and worthy rabbinical leader of Jerusalem's Jewish community.
26. The great twelfth-century Ashkenazi scholar Ya'akov ben Meir.
27. HIDA notes that this ruling is cited in *Terumat ha-deshen* no. 219 and by the Tosafot (*Yoma* 82b, *Sanhedrin* 74b, and *Ketubot* 3b).
28. In a later responsum, dated 1947, Rabbi Uzziel expresses a different, positive view of Rabbi Elyashar's position. See *Mishpetei 'Uzziel*, mahadurah tinyana, vol. 2, *Yore de'ah*, #58.
29. One of Salonica's leading rabbis in the latter part of the nineteenth century, Rabbi Matalon passed away in 1891. See Yitzhak Emmanuel, *Matsevat Saloniki* (Jerusalem, 1968), 2:852–53.
30. The time framework of this responsum may be deduced from the fact that he quotes “the recently published” *Nediv lev*, vol. 2, referencing the author as alive. The second volume of *Nediv lev* was published in 1866 and its author, Rabbi Hayyim David Hazan, died in 1869. Thus, Matalon's responsum was written between those two dates.
31. 'Avodat ha-Shem, fol. 47b. The words “Thus he will not eat the [nonkosher] flesh of animals who died of natural causes” allude to the Talmudic explanation for the Torah's permitting an Israelite warrior to marry a non-Israelite captive of war: “The Torah took the evil inclination into account—better that Israel should eat the flesh of animals who had been on the verge of death when [properly] slaughtered rather than eat the flesh of animals who died of natural causes” (*bKiddushin* 21b). This is an allegorical formulation of the principle of preferring the lesser evil.

32. He cites, among others, the following works: *Kise rahamim* (authored by HIDA); Responsa *Maharhash* (Hayyim Shabbetai, Salonica, 1557–1647); *Mishneh la-melekh* (Yehuda Rosanes, Istanbul, 1657–1727); *Zer'a emet* (Ishmael ben Avraham haCohen, Modena, 1723–1811); *Erekh ha-shulhan* (Yitshak Tayeb, Tunis, 1786–1828), *Sha'ar ha-melekh* (Yitzchak Nunez Belmonte, Izmir, eighteenth–nineteenth centuries); *Higre lev* (Rafael Yosef Hazan, Izmir 1741–Jerusalem 1822); *Tosefet yom ha-kipurim* (Moshe ben Haviv, Salonica 1654–Jerusalem 1696); *Shoreshe ha-yam* (Rafael Yitshak Mayo, Izmir, d. 1810); *Admat kodesh* (Nissim Mizrahi, Jerusalem, d. 1749); *Hayim ve-shalom* (Hayyim Palache, Izmir, 1788–1868); *Erekh lehem* (Ya'akov Castro, Cairo, 1525–1610).
33. In the case discussed by Matalon, the betrayer was not the wife but the husband. According to classic halakhah, polygamy is a lesser sin than polyandry. Thus, a married woman who has sex with another man faces much greater sanctions than does a married man who has sex with an unmarried woman.
34. Rashba, Spain, 1235–1310.
35. *'Avodat ha-Shem*, fol. 50a. Rabbi Matalon added to this a general policy consideration: “Due to our many sins, the current generation is lesser than previous ones, and there are many individuals who refuse to follow the instructions of rabbis. There is thus reason for concern that if we do not permit him to marry her after her giyur, he will distance himself even more from Judaism [and continue to cohabit with her outside of wedlock]. Therefore, we should be lenient even though doing so requires us to act in a slightly prohibited way. For it is best that he should eat the flesh of animals who had been on the verge of death when [properly] slaughtered, rather than eat the flesh of animals who died of natural causes” (ibid., 50d). These words resonate with the problem as presented to Matalon (above). A similar consideration had been applied by Maimonides—and was adopted by Uzziel (see below).
36. A collection of responsa by Maimonides printed in Amsterdam, 1765. Our translation here follows the superior text of this responsum, published in vol. 2 of the scientific edition of Maimonides’ responsa, ed. Joseph Blau (Jerusalem, 1960), 374–75. The differences between the two editions do not affect the content of the points noted by Uzziel.
37. The rabbis struck a balance between a thief’s desire to repent and his psychological inability to return the stolen article itself, as required by Torah. Their enactment allowed him to retain possession of the article itself, returning only its *value* (cf. *mGittin* 5.5; *bGittin* 55a). Similarly, Maimonides rules that the Jew living with the bondswoman should be allowed to mend his ways without breaking up the relationship (as required by the Mishnah) by marrying her after she becomes a Jew.
38. A *beraita* in *bYoma* 82a discusses the case of a pregnant woman suddenly overwhelmed by a craving for nonkosher meat. Since eating nonkosher gravy is a less severe transgression than eating forbidden meat, “they should feed her the gravy.” Similarly, given the worse option (that the young man would continue the relationship “as is”), the less negative option should be chosen: having him free her and then marry her, *pace* the Mishnah.
39. The plain meaning of that verse is: For God’s sake, strong action must be taken against those who void the Torah. However, the rabbinic-midrashic reading—powerfully stated in *mBerakhot* 9.5—is: In order to act for the Lord, it is sometimes proper to void the Torah, i.e., in certain situations the religiously correct path of

action is to directly transgress an injunction of Torah so as to attain a result that God would consider preferable.

40. Blau edition, 375.
41. Born in the Ukraine (1892), Rabbi Lichtman studied in Lithuanian yeshivot and was ordained by Rabbi Isser Zalman Meltzer. In the 1920s he made aliyah to mandatory Palestine, then moved to Beirut (1932). In 1936 he was serving there as a *dayan* (rabbinical judge). Rabbi Uzziel's responsum to Rabbi Lichtman, dated 29 Tevet 5696 [= January 24, 1936], was discovered in the Tel Aviv Municipal archives by Dr. Naama Sat and included in her PhD dissertation: "Rabbi Uzziel's Halakhic Rulings on Matters of Family Law" [in Hebrew] (Bar Ilan University, 2008), appended after 307. I discuss the correspondence between Lichtman and Uzziel in *Ve-lo yidah mimenu nidah*, chap. 3.
42. David Ellenson and Kerry Olitzky, "Conversion Is Not an Outreach Strategy," *Forward Newspaper Online: Forward Forum*, May 12, 2006, <http://forward.com/articles/1396/conversion-is-not-an-outreach-strategy/> (accessed January 23, 2014).
43. Uzziel, responsum to Lichtman.
44. Including major parts of his outstanding recent book on giyur, co-authored with Daniel Gordis, *Pledges of Jewish Allegiance*.
45. *U.S. Religious Landscape Survey*, conducted by the Pew Forum on Religion and Public Life, <http://religions.pewforum.org/reports> (accessed January 2, 2014). The survey is based on interviews with more than 35,000 residents of the United States age eighteen and over, conducted in 2007.
46. Rodney Stark and Gary Tobin, "Competition and the American Religious Marketplace," *Institute for Jewish and Community Research*, March 2008, www.jewishresearch.org/v2/2008/articles/demography/03_08.htm (accessed January 2, 2014).
47. On this and other aspects of giyur/conversion, see Sagi and Zohar, *Transforming Identity*.