REVIEW ESSAY

Transforming Identity: The Ritual Transformation from Gentile to Jew—Structure and Meaning by Avi Sagi and Zvi Zohar

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Marc Shapiro

In 1911 R. Zvi Hirsch Grodzinski published an open letter\(^1\) to rabbis all over the world, asking them to offer their opinions on the following problem: A young man has fallen in love with a non-Jewish woman and the man’s parents are insisting that the woman convert. Yet it is obvious to all that the Gentile woman has no interest in Judaism and will not observe any of the commandments.

Grodzinski tells us that in the past he never accepted these types of converts. Yet eight years prior to this, R. Jacob David Wilovsky (Ridbaz) had been staying with him, and one such potential convert came to Grodzinski. Wilovsky at first wished to accept her. However, after Grodzinski showed him halakhic authorities who rule that \textit{ab initio} such converts should not be accepted, and that it is questionable if the conversion is valid even \textit{ex post facto}, Ridbaz agreed that one should not convert these people.\(^2\)

Knowing that Grodzinski would not convert her, the young woman who is the subject of his letter went to the local \textit{shohet}. He was more amenable and found two others to make a \textit{beit din} which then performed the conversion. Grodzinski asks, is the conversion valid \textit{ex post facto}?\(^3\)

Grodzinski was an outstanding talmudist and halakhist, some might say the most outstanding in the United States. Although he personally believed that conversions without real intention are invalid even \textit{ex post facto}, he recognized that there is ambiguity in the traditional sources on this point, which is why he wanted to hear what other rabbis thought about the issue.\(^4\)

The first one to respond was a well-respected Hungarian rabbi, R. Yechezkel Baneth.\(^5\) In his opinion, the conversion of one who has no intention of following the Torah is absolutely binding. Baneth notes that there are different positions expressed in rabbinic literature, but Maimonides rules:

\begin{quote}
A proselyte whose motives were not investigated, or was not informed of the commandments and the punishment for transgressing them, but was circumcised and immersed in the presence of three laymen, is a proselyte.\(^6\)
\end{quote}

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\(^1\) See \textit{Ha-me’asef}, 5671, vol. 2, no. 20, pp. 20a-23b.

\(^2\) Reflecting how often rabbis have been “burnt” by converts, R. Jacob Kantrowitz writes as follows (in R. Joseph Avigdor Kessler, \textit{Tif’eret yosef} [New York, 1943], p. 7):

\begin{quote}
ולפי שרע עלי מעשה הגירות בכלל, קשה עלי להרבות דברים בזה, ואך百货
\end{quote}

\(^3\) To give just one example (which is not mentioned by Grodzinski), Maimonides states that even though the wives of Solomon never intended to give up their idolatrous worship, their conversions were still valid. See \textit{Hilkhat Issurei bi’ah} 13:16-17. For a unique understanding of Maimonides’ view, see R. Ahron Soloveichik, “\textit{Be-inyan gerut}” [Regarding Conversion], in Moshe Sherman, ed., \textit{Kvod ha-Rav} (New York, 1984), pp. 20-25.

\(^4\) See R. Moses Feinstein, \textit{Iggerot mosheh}, \textit{Yoreh de’ah}, vol. 1, no. 157, which is sent to a great scholar who was in doubt about this issue (called to my attention by R. Chaim Rapoport).

\(^5\) \textit{Ha-me’asef}, 5671, vol. 2, no. 57, pp. 61b-63a, no. 73, pp. 78b-79b. Baneth was the grandson of R. Solomon Ganzfried.

\(^6\) \textit{Hilkhat Issuri bi’ah} 13:17.
Baneth sees it as obvious that there can be no acceptance of mitzvot without being informed of them (more on this later). Yet Maimonides rules that a convert who knew nothing of the mitzvot is still a valid convert. According to Baneth, this means that even if one doesn’t accept the mitzvot, as long as he goes through the proper halakhic procedure the conversion takes effect.

Baneth brings another proof for this perspective from an earlier halakhah in the Mishneh Torah. Here Maimonides states that a prospective convert who has been circumcised but not immersed, or immersed but not circumcised, is not regarded as a convert until the missing element is completed. Yet Maimonides doesn’t say anything about accepting the commandments or about the beit din determining that the commandments will be observed. “From here we see that lack of acceptance of the mitzvot and observance of the Torah do not prevent one from becoming a convert, ex post facto.” The best possible way of converting someone is set out by Maimonides, where he speaks of informing the potential convert of the commandments, yet ex post facto, even without such informing and acceptance, the conversion is still valid.

In the following issue of Ha-me’asef, R. Jacob Schorr’s responsum was printed, and he comes to the exact opposite conclusion. He felt that the woman, who never had any intention of observing mitzvot, is not to be regarded as a convert, even ex post facto. It is not my intention here to go into the argument in any detail. I cite this dispute only in order to show that, contrary to what many today would like us to believe, the issues we are dealing with are hardly clear-cut, and great scholars have come down on different sides of the issue.

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In fact, as Avi Sagi and Zvi Zohar note, in their challenging new book on the subject of conversion, R. Abraham Isaac Kook comes down on both sides of the issue. In one responsum he states that the only thing that matters is that the conversion be carried out properly. What someone is thinking at the time is irrelevant and cannot void the halakhic act of conversion. Yet in another responsum he takes the exact opposite position.

Sagi and Zohar analyze other important opinions on this topic, as well as a number of additional issues related to conversion. While the “stringent” views have become quite well known in the last few years, this is not the case with the “lenient” opinions, that is, those that do not make conversion contingent on complete halakhic observance. In this regard, Sagi and Zohar are particularly valuable. I too provided a number of additional “lenient” sources in a blog post.
Let me now also refer to one further important source, which is a responsum of R. Naphthali Zvi Judah Berlin. Berlin was a very important decisor. Yet in all of the heated discussions about voiding conversions and what is required for a convert in terms of qabbalat ha-mitsvot (acceptance of the commandments), no one has mentioned Berlin's responsum, which appears in Mesivit davar, vol. 5, no. 46.13 Berlin states that while it is forbidden to convert someone who does not undertake to perform the mitsvot, if such a conversion is carried out it is nevertheless valid. The reason for this is that qabbalat ha-mitsvot is not required be-di-avad (ex post facto).14

What this means is that no otherwise valid conversion can be voided, since as long as circumcision and immersion were performed in a proper fashion, the fact that in reality the convert never accepted the commandments does not affect the conversion's validity. Significantly, Berlin is referring to when there was no qabbalat ha-mitsvot whatsoever, and yet he still declares the conversion valid.15 The situation that is so common today is actually much less problematic than that dealt with by Berlin. That is because the current controversy revolves around conversions that indeed included formal qabbalat ha-mitsvot, yet questions were later raised about whether the acceptance had been authentic.


The sentiments expressed by Meskin were shared by many poskim.

For a justification of converting people even if you know that they will not observe the mitsvot, see R. Zvi Magence, “Be-inyan gerut re-gerut,” Or ba-mitsvot 38 (1991), pp. 257-258. According to R. Avraham Avidan, willingness to observe “most of the mitsvot” is sufficient to validate a conversion. See “Be-inyan gerut,” Torah she-be-al peh 32 (1991), p. 94. See also R. Ezra Battzi, Sha‘ar iyyun (Jerusalem, 2003), vol. 2 p. 433 (emphasis added):

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14. In this responsum he raises the possibility that according to the Tosafists, this principle is no longer applicable. Yet he rejects this approach and asserts that according to Alfasi and Maimonides, acceptance of the commandments is not required in order for a conversion to be valid.

15. See Sagi and Zohar, p. 215, where they cite R. Solomon Kluger who states that acceptance of the commandments is a rabbinical injunction, and that even without qabbalat ha-mitsvot the conversion is binding according to the Torah.
Throughout the conversion controversy, the issue that everyone focused on is the concept of *qabbalat ha-mitsvot* ("acceptance of the commandments"), and what this requires in order for the conversion to be valid. This is also a major theme in the book under review, since Sagi and Zohar argue that according to one approach recorded in the Talmud, what they term the "Yevamot paradigm," *qabbalat ha-mitsvot* is not a requirement at all. The Yevamot paradigm is about joining Jewish society in a kinship sense, and circumcision and immersion accomplish this, with nothing else being required. They distinguish this from the "Demai paradigm," referring to *Tosefta Demai* 2:5, \(^{16}\) which is explicit that a convert must take it upon himself to perform the mitsvot of the Torah.

The notion that there could be different views in early rabbinic literature on a matter such as this should not be surprising. Yet the novelty of Sagi and Zohar is their claim that not only is this dispute not settled in the Talmud, but the two positions can be identified, advocated by different authorities, up until the *Shulhan arukh*. They further assert that one can even identify these positions in the post-*Shulhan arukh* era.

A further significant claim of Sagi and Zohar is that the nineteenth-century R. Yitzhak Schmelkes is the first halakhic authority to hold that "acceptance of the commandments means subjective intent to perform them" (p. 234). Can it be that something that is taken for granted by pretty much all halakhic authorities today is actually a relatively recent notion? This is one of the big questions that the reader must confront in this very ambitious book. It is, to be sure, not always an easy text to follow, as there is a good deal of detailed analysis. Fortunately, the authors provide summaries, and readers do not need to grasp all of the halakhic particulars in order to understand the authors' main points.

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The book was written before the recent controversy regarding voiding of conversions, but anyone who had read the book would not have been surprised by what has been going on. That is because the authors cite examples of cancellation of conversions before the famous cases that hit the news. In fact, in some ways events have moved beyond what the authors deal with, and beyond what anyone could even have imagined a few years ago. Thus, in discussing child conversion they note that none of the talmudic sages who deal with this "require any positive act or statement by the young proselyte to validate the *giyyur* he underwent as a minor. Not only is he not required to take upon himself ‘the yoke of the commandments,’ he is not even required to express his wish to be a Jew" (p. 154). Yet we are now hearing of *batei din* with a different outlook. These *batei din* reportedly hold that when the proselyte reaching the age of majority is not observant, the conversion is invalidated.

This approach goes against what has always been the standard procedure when it comes to child conversion, that, barring an active protest upon reaching majority, the conversion remains binding. The new approach would literally deny non-Orthodox Jews the right to have their adopted children convert to Judaism. What this means in the State of Israel is that all adopted children of the non-Orthodox would be regarded as Gentile, and it is hard to imagine a greater disaster for the Jewish community than this.

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16. This *Tosefta* is quoted in *Bekhorot* 30b.
An important element of Sagi’s and Zohar’s thesis is as follows: “We hold that one cannot assume rabbinic consensus on the basic requirements of giyyur; requirements not mentioned in a text cannot be regarded as having been so ‘self-evident’ or ‘obvious’ as to require no mention” (p. 114 n. 1). Thus, when a rabbinic text does not mention anything about the need for acceptance of the commandments, it is because according to this text, there is no such necessity.

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Another central feature of the book is charting the development of conversion requirements. Rather than summarize the argument, let me quote a passage that lays it out very clearly:

[A] transformation has taken place in which “for the sake of Heaven” no longer refers to a religious state of mind or belief, but to a serious commitment to religious praxis. The fact that this transformation first occurred in late nineteenth-century Europe is understandable: at that time, alternate modes of Jewish religious praxis had emerged as well as secular lifestyles.... In this context, it seemed insufficient for a proselyte to be motivated “merely” by sincere belief; it was imperative that she identify with the one and only correct form of Judaism, an identification that could be verified not by belief but only by praxis (p. 90).

Once it can be shown that real commitment to observance of mitsvot was not a necessity for conversion until recent times, this opens the door to liberalizing conversion requirements in our own day, an important subtext of Sagi’s and Zohar’s book.

Yet Sagi and Zohar are not always convincing in their arguments. For example, they quote R. Eliezer’s opinion that if a proselyte was circumcised but did not immerse, he is Jewish.17 The authors derive from this that circumcision “is noted as the sole ritual for a male proselyte” (p. 117). However, the source under discussion doesn’t say this at all. Rather, it is speaking ex post facto, that if a convert was circumcised but did not immerse, that the conversion is still valid. The fact that immersion is also mentioned shows that as a general rule, this text does not regard circumcision as the “sole ritual.” What makes their formulation all the more surprising is that on the very next page Sagi and Zohar acknowledge that, ab initio, R. Eliezer holds that “immersion should be part of the giyyur ceremony also for men” (p. 118).

Another example of what I believe to be a misreading relates to JT Qiddushin 4:1.

One who underwent giyyur for the sake of love, either a man because of a woman or a woman because of a man, and so too those who did so for the sake of a royal table, and lion proselytes, and the proselytes of Mordecai and Esther, are not to be accepted. Rav said: The halakhah is that they are proselytes, and they are not to be rejected in the manner that [potential] proselytes are rejected ab initio. Rather, they must be accepted and kindly welcomed, since they may have become proselytes for the sake of Heaven.

Sagi and Zohar (pp. 11-12) understand both the first, anonymous, opinion and Rav to be in agreement that the conversion is valid. They interpret the first opinion’s conclusion—“are not to be accepted”—to mean that these converts should not be permitted to marry into a Jewish family. This is an incredibly farfetched reading, and I don’t know of any commentaries

17. JT Qiddushin 3:12.
that adopt it. The simple meaning of the passage is that the first opinion does not accept the conversion, even *ex post facto*.

Sagi and Zohar also claim that the final words of Rav, “since they may have become proselytes for the sake of Heaven,” do not intend “to make the validity of the *giyyur* contingent, but to stress the obligation to welcome such proselytes and accept them into the community” (p. 17 n. 16). Although Sagi and Zohar do not note this, their reading can be supported by R. Joshua Benveniste’s understanding of the text. He claims that even though these people did not convert for the sake of Heaven, perhaps later they will come to this.

In the meantime, they are regarded as valid converts despite their intention at the time of conversion. Yet this reading is very difficult to put into the words of the text. After all, Rav explains that the conversion is valid because perhaps they really did convert for the sake of Heaven. Yet this raises its own problem, since how could Rav say this when the Talmud explicitly tells us that the people did not convert for the proper reasons? In fact, in the parallel text, BT *Yevamot* 24b, the explanation that perhaps they converted for the sake of Heaven is lacking from Rav’s statement. What this presumably means is that it is not part of Rav’s original teaching but is an addition of a later amora seeking to explain how Rav could validate a conversion that was done for inappropriate reasons.

R. Gedaliah Felder explains Rav’s opinion to be that although the court should not have converted such people originally, once the conversion is carried out we act on the assumption that the convert had at least some small intention for the sake of heaven. Even R. Eliezer Berkovits, whose liberal position on conversion is well known, concludes that Rav’s opinion means that “perhaps they converted properly and we must draw them close.”

Both Felder and Berkovits assume, and I think correctly, that the only reason the conversions are recognized *ex post facto* is due to the assumption that there was at least some element of proper intention on the part of the converts. This stands in opposition to Sagi’s and Zohar’s claim that Rav’s opinion assumes “that the motivations of a proselyte are inconsequential as far as the *ex post facto* validity of a *giyyur* is concerned” (p. 11).

Let me note another example where Sagi and Zohar are off-target. The passage in the Jerusalem Talmud mentioned above is parallel to a passage in BT *Yevamot* 24b: “R. Nehemiah used to say: Lion proselytes, dream proselytes, and the proselytes of Mordecai and Esther are not considered proselytes . . . . R. Isaac b. Samuel b. Marta said in the name of Rav: The halakhah is in accordance with the opinion of him who maintains that they were all proper proselytes.” There are some differences between the traditions quoted in the Jerusalem and the Babylonian Talmud. (One such difference was noted above.) Sagi and Zohar see great significance in the fact that the BT *Yevamot* text says that lion proselytes etc. “are not considered proselytes,” while JT *Qiddushin* says that “they are not to be accepted.” As mentioned above, Sagi and Zohar understand

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18. *Sedeh yeshabu`a* (Constantinople, 1754), ad loc.
“not to be accepted” to mean that we do not intermarry with them. Yet this is most unlikely, and as noted by R. Joshua Benveniste,21 the first, anonymous, opinion in JT Qiddushin is in fact identical to the opinion of R. Nehemiah quoted in BT Yevamot.

As for the word “accepted,” this is used in many other places in the Talmud, and as far as I can tell, it never means what Sagi and Zohar claim it means here. In fact, right after offering their interpretation they quote another passage in BT Yevamot 24b: “No proselytes will be accepted in Messianic times.” This means exactly what it says, and there is no reason to assume anything different elsewhere. And what about Tosefta Demai 2:5, which is so central to this book? The Tosefta reads: “A proselyte who took upon himself all matters of Torah, excepting one thing, they don’t accept him.” In all these cases “accept” means “accept for conversion,” not “accept for marriage.”

Despite these reservations, I would also like to defend the authors from some recent criticism. Michael J. Broyde and Shmuel Kadosh have recently reviewed this book and were extremely critical, seeing it as without any merit.22 I agree that many of Broyde’s and Kadosh’s points are valid. For example, while Sagi and Zohar refer to the different approaches of the texts in Yevamot and Tosefta Demai, and how these different approaches continued in the post-talmudic period, I think that Broyde and Kadosh are correct that such a supposed major disagreement between sugyot would have been noted by the earlier authorities. Since they do not, it implies that, contrary to Sagi and Zohar, they do not see the two texts in tension. I think it is best to assume that the rishonim viewed Yevamot and Tosefta Demai not as contradictory texts, but as texts with different emphases that could be harmonized in some way. For example, one could argue that the Tosefta Demai text, which insists on acceptance of all the mitzvot before being converted, is only speaking le-khatilah (ab initio).

Would Broyde and Kadosh have been so dismissive of Sagi’s and Zohar’s understanding if they knew the good company they were in?

Yet I also think that Broyde and Kadosh have gone overboard in some their criticisms. To give one example, they criticize the authors for stating that R. Joel Sirkes (known as the Bah) holds that according to Maimonides, ex post facto a conversion is valid even without acceptance of mitzvot.23 I do not wish to enter into the dispute per se, other than stating that while the reading of the Bah put forward by Broyde and Kadosh can be defended, it too is not without difficulties. Yet Broyde and Kadosh make it appear that Sagi and Zohar have made an egregious blunder in their understanding of the Bah.

As the reader can see, the word giyyur does not appear in the Bah. This version comes from the standard edition of the Tosefta. The Makhon Yerushalayim edition substitutes הביא for הביא. (I follow R. Yehudah Herzl Henkin, “Al af she-niglab sodah,” Ha-are’eh, July 6, 2008, in assuming that הביא should be read as le-sham, a form used often by the Bah and which is no different than הביא.)

The following is how the second part of the sentence appears in Sagi’s and Zohar’s earlier Hebrew version of their book (Giyyur ve-zehut yehudit [Jerusalem, 1997], p. 104 n. 28):

If one assumes, as do Broyde and Kadosh, that the bracketed word should be מזות, only the Makhon Yerushalayim edition would have been based on this sugya.

22. Tradition 42 (Summer 2009), pp. 84-103.
23. Ibid., p. 88-89. See Bah, Yoreh de’ah 268, s.v. a-le-inyan. There is a problem with the way Sagi and Zohar quote the Bah, in that they make it seem as if there is no ambiguity in his opinion (p. 170): “Our master Maimonides wrote that ... ולש לסתות מצות. Our master Maimonides wrote that the giyyur is valid even if it was totally lacking in intent to accept the commandments.” Yet the words of the Bah are as follows:

בשלא יماذا intimacy, a form used often by the Bah and which is no different than הביא.
Fairness requires pointing out that if Sagi and Zohar are mistaken in their understanding of the *Bab*, they are in good company. No less a figure than R. Ovadia Yosef states the exact same thing, namely, that according to the *Bab*, Maimonides does not require acceptance of the commandments for a conversion to be valid. This position is also shared by R. Solomon Lipsitz, R. Solomon Drimer, R. Moshe Yonah Zweig, R. Bezalel Zolti, R. Elijah Schlesinger, R. Shilo Raphael, R. Shear Yashuv Cohen, R. Yaakov Rosenthal, R. Yitzhak Rabag, R. Yaakov Ariel, and R. Pinhas Toledano, R. Elijah Abergel, R. Shlomo Dichovskiy, R. Yehudah Herzl Henkin, R. Moshe Tsuriel, R. Binyamin Riemer, and Menachem Finkelstein.

Would Broyde and Kadosh have been so dismissive of Sagi’s and Zohar’s understanding if they knew the good company they were in? Despite the fact that I acknowledge that the reading of Broyde and Kadosh appears to be viable, I must also state that with two exceptions, I have not found their understanding in any traditional source, and as mentioned above, it too has difficulties. In
fact, virtually all sources that discuss the Bah assume, without any discussion needed, that the reading adopted by Sagi and Zohar is the correct one. Confronted with such a mass of great rabbinic figures who read the Bah in the very same way Sagi and Zohar read it, the typical reader, and I include myself in this category, should feel confident in assuming that in this example, at least, it is Sagi and Zohar, not Broyde and Kadosh, who get it right.

I also think that one can challenge a fundamental point made by Broyde and Kadosh in their critique. They assume that there is a distinction between hoda`at ha-mitzvot, which is informing the potential convert of the commandments, and qabbalat ha-mitzvot, which means acceptance of the commandments. This logical distinction is crucial for their argument and it makes a good deal of sense. This distinction has also been made by a number of aharonim.

The problem, however, is that there is no evidence that the rishonim referred to by Sagi and Zohar shared this assumption. As far as I can tell, none of the rishonim make a distinction between boda`at ha-mitzvot and qabbalat ha-mitzvot; rather, they use boda`at ha-mitzvot as a form of shorthand to also include qabbalat ha-mitzvot. This leads me to conclude that when the rishonim speak about a convert who was never informed of the commandments, and that ex post facto the conversion is still valid, this means that the convert never accepted the mitzvot.

Broyde and Kadosh make it seem that Sagi and Zohar have committed a terrible blunder, and that their identification of boda`at ha-mitzvot and qabbalat ha-mitzvot is almost a child’s mistake. Yet the truth is that Sagi’s and Zohar’s understanding is taken for granted by numerous traditional commentators and

44. One other error made by Broyde and Kadosh is their statement that until the writings of R. Uziel, “there is not a single halakhic authority who states that kabbalat ha-mitzvot is not necessary” (p. 96). First of all, many believe, in opposition to Hemdat shelomo, that there are rishonim who hold that ex post facto, qabbalat ha-mitzvot is not necessary. See also the responsa of R. Naphthali Zvi Judah Berlin mentioned at the beginning of this review. Secondly, R. Uziel never said that qabbalat ha-mitzvot is not necessary. Let us not forget, the Shulhan arukh, Yoreh de`ah 268:2-3, lists this as a requirement. Rather, he understands qabbalat ha-mitzvot to mean that the convert accepts that the commandments are binding and that he will be punished for transgressions. Yet it does not mean that he agrees to actually fulfill the mitzvot. Alternatively, R. Uziel suggests that qabbalat ha-mitzvot is demonstrated by immersion. This latter point is not unique to R. Uziel, as it was previously stated by Lipshitz, Hemdat shelomo, Yoreh de`ah nos. 29-30 (the following quotes are found on pp. 77b and 79a):

ולשלם כללה המצות זא דמשכבי, רק דזה נכלל בטבילת גירות, דכיון שטבל עצמו להיות גר ולהכנס בדת ישראל, ממילא הוי קבלת המצות.

דכיון דטבלה לשם גירות הוי ממילא קבלת המצות כיון דאין צריך הודעת המצות.

Avidan, “Be-inyan gerut,” p. 82, connects Lipshitz’s view with the lenient opinions on conversion of R. Solomon Kluger and R. Hayyim Ozer Grodzinski. See also Sagi and Zohar, pp. 208ff. Posner’s viewpoint in this matter appears to be no different than Lipschitz’s. See She’elot u-tehuvot beit me’ir (Jerusalem, 1995), no. 12 (p. 72):

לשלם המצות זא דמשכבי הוי טבילה שלמטראצי לועה מילא קבלת המצות זא דמשכבי הוי טבילה שלמטראצי.
In describing the conversion ceremony in Hilkhot Issurei bi'ah 14:6, Maimonides never uses the language of qabbalah, only boda’ah, which shows that boda’ah ha-mitsvot also incorporates qabbalat ha-mitsvot. According to R. Hayyim Amsalem, R. Solomon Lipshutz (1765-1839) is actually the first to distinguish between boda’ah ha-mitsvot and qabbalat ha-mitsvot. Amsalem asserts that this is definitely not the understanding of those rishonim who refuse to invalidate a conversion for lack of qabbalat ha-mitsvot. For them, lack of boda’ah ha-mitsvot means that there is no qabbalat ha-mitsvot. In other words, according to these rishonim, ex post facto there is no necessity for qabbalat ha-mitsvot at the time of conversion.

R. Joseph Karo, Shulhan arukh, Yoreh de’ah 268:3, speaks of the two concepts, boda’ah ha-mitsvot and qabbalat ha-mitsvot, as one (לודוים הנצחה לכולל). He also states that if the acceptance of mitsvot does not take place the conversion is invalid, even ex post facto. There is another type of boda’ah ha-mitsvot, and that is spoken of in Yoreh de’ah 268:12. Here Karo writes that if you don’t inform the convert of the reward and punishment for the mitsvot (שהיiciel ההודעה ושום נחלה), the conversion is still valid. Yet this is very different from the simple boda’ah ha-mitsvot which informs the convert of the existence of the mitsvot, and without which, according to many, there can be no qabbalat ha-mitsvot.

It is commonly stated that Karo’s formulation in Yoreh de’ah 268:12 repeats what Maimonides states in Issurei bi’ah 13:17. Yet this is not entirely correct, as Karo makes a subtle change. Maimonides writes that if you don’t inform the potential convert of the commandments and the punishments for lack of observance (…אלה והרשות המצות ונענש), the conversion is still valid. Maimonides is speaking of two separate things, 1: Informing the potential convert of the commandments, and 2: Informing him of

45. For R. Moses Isserles, see Darkhei mosheh, Yoreh de’ah 268:1, and the explanation of his position in Rosenthal, “Be-hilkhot gerut,” p. 28, and Avidan, “Be-inyan gerut,” p. 78. See also Finkelstein, Conversion, p. 182 n. 66. For some other examples of those who identify boda’ah ha-mitsvot and qabbalat ha-mitsvot, see R. Aaron Sasson, Torat emet (Venice, 1626), no. 20 (who independently of the Balag concludes that according to Maimonides a conversion is valid even without qabbalat ha-mitsvot):

R. Meir Posner, She’eilot u-teshuvot beit me’ir, no. 12:

ר”ט וית את הודעת המצוות על ידו של“To declare to the convert without inviting him to..." a previous n. 92.

R. Elijah ben Hayyim, She’eilot u-teshuvot r. Eliyahu ben Hayyim (Jerusalem, 1960), vol. 2 no. 92 (second no. 92):

משמעו מדריכות אחר עד הקבלה מצוות

R. Shlomo Drimer, Beit shalomoh, Orakh hayyim, no. 113:

וראהتناولות של ספרה של השורשת המצות alcanç מתכלה בראות שנכתי, ויהי בהכרך המקNSDate.png

R. Yitzhak Talbag, “Qabbalat mitsvot be-gerut,” p. 67:

יחד באלהلندا והdıון על המצות המצות מתחדש, את ממיד coût חודש בחרין. בתוכו מתכלה מבית העונש

R. Shalom Yifrahi, Minhat shalom: Ketublot (Beneti Berag, 2002), pp. 94, 95:

אמר ראשינו הרב אחדאואל שכתב ושלד: המצות של פרשת ויקרא היא דהוהי היא מכלה של אדם alma מהרי ס博士学位 האוקיון האוקיון אוקיון בחרין. ואתו של ההודעה...

See also R. David Zvi Hoffmann, Melammed lehbo’il (New York, 1954), vol. 2, no. 87:

ראו רכיב המצות את ידו יותר המצות


47. Hemdat shalomoh, Yoreh de’ah, nos. 29-30.

48. Or Torah (Talmudic 5768), pp. 840-841. Abergel, Dibrot eliyahu, vol. 7, no. 59, writing to Amsalem, expresses complete agreement with his position.

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the punishment for transgressing them. Karo reformulates the halakhah so that only one thing is being referred to, namely, the reward and punishment associated with the commandments. Why did he alter Maimonides’ formulation? I think it is clear that he understood Maimonides’ words שלא הודיעוהו המצות to mean that lack of acceptance of the commandments does not invalidate a conversion ex post facto. Since he disagreed with this (as stated in Yoreh de’ah 268:3), he changed Maimonides’ language.50

Sagi and Zohar deserve credit for attempting to tackle an issue that is of vast practical significance in modern times.

All that has been said so far does not mean that any rishonim repudiated the Demai text, which states that a convert cannot reject any mitsvot. There is a difference between conversion without acceptance of mitsvot, which some rishonim validate ex post facto, and conversion while explicitly rejecting the binding nature of mitsvot. Sagi and Zohar have provided no evidence that any rishonim believed that the latter case, too, would be a valid conversion.

There are a few other points I would like to clarify.

1. Sagi and Zohar write: “Facing a rash of intermarriages in the 1920’s, the rabbinical leadership of the Syrian Jewish community in Argentina resolved in 1927 to totally forbid gyyur” (p. 87). Sagi and Zohar then state that this enactment was adopted in 1935 by the rabbis of the Syrian Jewish community in Brooklyn, and later by other Syrian communities.

What is not often realized is that the Argentine decree did not entirely forbid conversion. Rather, it stated that there were to be no conversions carried out in Argentina. This was done to prevent Jews from getting romantically involved with non-Jews on the assumption that if they chose to get married the non-Jewish partner could get a quick conversion.51 Yet the Argentine decree did not close the door entirely. It allowed that anyone who wanted to convert could go to Jerusalem where “perhaps they will accept them,” as put by R. Saul Sithon, the one responsible for the decree.52

In Jerusalem the conversion would be carried out by the leading beit din (sometimes identified

49. Sagi and Zohar, p. 201, and also Brody and Kadosh, p. 93, translate these words as follows: “[If they] did not inform him of the commandments and the punishment for transgressing them.” This is incorrect. Karo does not refer to two separate things, namely, 1: Inform the potential convert of the commandments and the punishment for transgressing them. This is incorrect. Karo does not refer to two separate things, namely, 1: Inform the potential convert of the commandments and the punishment for transgressing them. Karo is speaking of one thing, and one thing only, namely, informing the convert of the reward and punishment to be received for following or transgressing the commandments. Thus, Brody and Kadosh, p. 93, are also mistaken when they claim that in this paragraph the Shulhan arukh waives notification of the commandments, but not acceptance, as this paragraph has nothing to do with either of these things. I must also express disapproval with the way Brody and Kadosh discuss Sagi’s and Zohar’s analysis of the Shulhan arukh (p. 93). They make it seem that Sagi and Zohar have come up with a fraudulent “internal contradiction” in the Shulhan arukh, and then point out their supposed error. In truth, as Sagi and Zohar state, it is not only they who see a tension between the two halakhot, but also R. Meir Posner and R. Shlomo Lipschitz, both of whom attempt to explain the difficulty. Many other traditional scholars have also attempted to explain what they see as an apparent contradiction. Therefore, I don’t see how it is possible to criticize Sagi and Zohar for discussing a point that was raised by so many earlier traditional scholars.

50. After coming to this conclusion, I found that Rosenthal, “Be-hilkhot gerut,” pp. 28-29, says the same thing. Alternatively, some have claimed that Karo’s reformulation of Maimonides’ words is what he understood Maimonides to be saying. But this interpretation is extremely unlikely as the reformulation ignores Maimonides’ explicit words that a proselyte who was not informed about the commandments is still a valid convert.


52. Dibber sha’ul (Jerusalem, 1991), Yoreh de’ah, no. 3.
as the “beit din ha-gadol”).53 In an era before airplanes, anyone willing to undertake such a journey showed that he or she was serious about converting. After such a conversion in the Holy Land, the convert would indeed be accepted in the Argentine community.54

2. On p. 241, the authors refer to R. Abraham Dov Ber Kahana Shapiro of Kovno as “Ultra-Orthodox.” I understand the desire to label him as such, because his view of conversion and qabbalat ha-mitsvot is very stringent. Yet the truth is that Shapiro was the closest thing to a Modern Orthodox leader in Lithuania. To be sure, he was not like the typical German rabbi, but he supported secular studies and gave his backing to schools that had a Torah im derekh erets curriculum. It is not for naught that many in the yeshiva world regarded this great paseq and rabbinic leader as a quasi-maskil.55

3. In order to show “a striking instance of identification of proselyte immersion with birth of a Jew,” Sagi and Zohar, p. 275, cite “the highly regarded first edition” of the Mishneh torah, Hilkhot milah 1:7, which states that a non-Jew who converts while already circumcised should undergo covenantal blood-letting on the eighth day after his conversion. This is a nice theory, but unfortunately the evidence is lacking, as there is no question that the words “on the eighth day after his giyyur” are mistaken. They do not appear in any of the best manuscripts, and this includes the Yemenite manuscripts and the Huntington manuscript that has Maimonides’ attestation.

4. Sagi and Zohar cite the view of R. Moses Hakohen that “acceptance of the commandments” does not signify intent to actually fulfill them. Rather, it means “that he accepts all the commandments of the Torah in the sense that, if he transgresses, he will be liable for such punishment as he deserves” (p. 230). As summarized by the authors, this means that proselytes are required to acknowledge that “the Torah’s framework of reward and punishment will apply to them as it does to all Jews.”

Sagi and Zohar see this as an opinion that is very valuable in our day, as a way of countering the increasing stringencies in matters of conversion. Yet I wonder where Hakohen’s view leaves the typical non-observant convert. Hakohen is speaking about someone who doesn’t observe mitsvot but recognizes that he will receive punishment for this lack of observance. Are there really any such converts? Isn’t the typical non-observant convert one

53. See R. Abraham Isaac Kook, Da’at kohen, no. 154; Shabtai, Divrei ha-ziqiyahu, Yoreh de’ah, no. 1; and the 1938 letters from the Sephardic beit din of Jerusalem and the Allepo Beit Din of Jerusalem in Sithon, Dibber sha’ul, introduction, pp. 17, 19.

54. Despite the current practice in the Syrian community, the original 1935 Brooklyn decree mentions nothing about conversions carried out not for the sake of marriage. The 1946 decree reads: “Our community will never accept any converts, male or female, for marriage.” The implication seems to be that, as with the Argentine decree, a convert would be accepted if the conversion was done for spiritual reasons. See the text of the decrees in Sarina Roffé, “An Analysis of Brooklyn’s Rabbinical Takana Prohibiting Syrian and Near Eastern Jews from Marrying Converts,” (unpublished MA thesis, Touro College, 2006), appendix. See also ibid., pp. 27 n. 43, 37.

55. With regard to Shapiro, the authors write that he agreed that “if a court did accept an inappropriate candidate and he did undergo giyyur, he thereby became fully Jewish and his giyyur cannot be invalidated ex post facto” (p. 243). I have no idea where they get this assumption, which although true with regard to R. Isser Yehudah Unterman (whom they cite) and also other decisors, is never stated by Shapiro. Rather, Shapiro writes that he is not sure what the halakhah is with regard to one who converted while fully intending to violate commandments le-te’avon (that is, out of desire rather than out of principle). See Devar avraham (Jerusalem, 1969), vol. 3, no. 28.
who rejects this basic point? That is, the non-observant convert does *not* believe that he will receive divine punishment for violating the commandments. Since that is the case, it does not seem that Hakohen’s position has any applicability to the current conversion controversy.

I have by no means exhausted all that can be said about Sagi’s and Zohar’s fascinating book. While it is true that some of their readings can be challenged, they deserve a great deal of credit for attempting to tackle an issue that is not merely of scholarly interest, but also of vast practical significance in modern times. We are faced with a situation where the Jewishness of thousands of converts is being challenged, and most people have no clue as to what the basic issues are. For those who wish to understand what all the fighting is about, *Transforming Identity* is a great place to start.