

Does Maimonides Require Acceptance of Commandments for Conversion?

Joshua E. Broyde & Michael J. Broyde

Biographies: Joshua E. Broyde is a senior at Yeshiva University, where he majors in chemistry and is a first year *semikbah* student at RIETS. Michael J. Broyde received *semikbah* at RIETS, and is professor of law at Emory University and a *dayyan* in the Beth Din of America. He was the founding rabbi of the Young Israel of Toco Hills, in Atlanta. His previous contributions to Meorot include *Ethics and Warfare Revisited* (Marhesvan 2009) and *Only the Good Die Young* (Shevat 2007)

Abstract: There has been quite a bit of discussion in the academic and rabbinic communities regarding Maimonides' view of the acceptance of the commandments as a requirement for conversion. Some assume that Maimonides requires acceptance of commandments virtually no different than the Tosaphists, while others assume that Rambam does not require acceptance of commandments at all in the conversion process. This paper argues that texts in the Maimonides' *Mishnah torah* demonstrate that he indeed requires acceptance of the commandments for conversion, and that his omission of this requirement from the central discussion in *Hilchot issurai bi'ab* raises a literary, not a legal question.



Meorot 9
Tishrei 5772
© 2011

A Publication of
Yeshivat Chovevei Torah
Rabbinical School

Does Maimonides Require Acceptance of Commandments for Conversion?

Joshua E. Broyde & Michael J. Broyde

I. Introduction

Much has been written about the process of conversion in the last decade, and one of the most profound issues relating to conversion is the parameters of the obligation of a convert

to accept Jewish law as binding (in Hebrew, *qabbalat ha-mitsvot*, literally, “acceptance of the commandments”). There is a vast body of literature about the spectrum of approaches to such conversions, found in both contemporary and ancient Jewish law authorities.¹ Clearly, the

1. For more on this see Michael J. Broyde and Shmuel Kadosh “Transforming Identity: The Ritual Transition from Gentile to Jew—Structure and Meaning,” *Tradition* 42(1):84-103 (Spring 2009). There is no denying that there is indeed a dispute among *rishonim* and *aharonim* concerning the nature of *qabbalat ha-mitsvot* which focuses on the relationship between the acceptance of commandments required of converts and their subsequent observance of the commandments. That such a dispute should exist seems reasonable. In times of old, fidelity to Jewish law was culturally normative, and the notion that one could become Jewish in a society in which all observed Jewish law but the convert would not observe was certainly farfetched. In modern times, fidelity to Jewish law is not the popular *sine qua non* of Jewish identity at all, and thus the question that is asked is whether acceptance of *mitsvot* needs to be understood as identical to observance. A survey of the twentieth century *aharonim* reveals the full spectrum of possible answers to this question.

The first view is that of the *Hazon Ish* who, in *YD* 119:2, understands *qabbalat ha-mitsvot* in its theological sense. A convert must accept, the *Hazon Ish* avers, the chosen uniqueness of the Jewish people as it relates to our role in this world. In this view, conduct consistent with Jewish law is but an external measure of an internal religious orientation. The reverse is also true—refusal to obey the *mitsvot* is an indication of a lack of acceptance of the nature of the Jewish people as a whole.

The second view is that of R. Hayyim Ozer Grodzinski in *Responsa Ahi'ezer* 3:26, who avers that *qabbalat ha-mitsvot* need not be accompanied by full and complete observance, but instead needs to be accompanied by observance of significant cultural features of Orthodox Jewish life such as Shabbat, kashrut, and family purity (*taborat ha-mishpaha*). It seems R. Grodzinski could well imagine converting a person to Judaism whose intellectual fidelity to Jewish law is complete but whose observance is incomplete.

The third view is that of R. Moshe Feinstein who, in *Iggerot mosheh*, *YD* 1:157 and 1:160, argues that *qabbalat ha-mitsvot* has to be understood as requiring a genuine desire for full and complete observance. Thus a convert cannot be accepted unless his observance level is complete because anything short of that is indicative of non-acceptance of Jewish law. Of course, this view recognizes that converts, no different from anyone else, sin—sometimes out of ignorance and sometimes from temptation. But, R. Feinstein asserts, a conversion cannot be valid unless the convert sincerely intends to obey Jewish law in all its facets at the time of conversion, and that is generally measured by looking at practical levels of observance at the time of conversion.

Another notable view among the *aharonim* is that of R. David Zvi Hoffman in *Responsa Melammed le-bo'il* who, in *EH* 3:8, allowed a woman to be converted even though he knew that she intended to marry a man who was a *kohen* (with whom she was already living). R. Hoffman avers, as does R. Shmelkes (*Responsa Bet yitshaq*, *YD* 2:100), that there are situations in which a convert may be accepted even though he or she will not keep a particular matter (such as the prohibition against a *kohen* marrying a convert), so long as their acceptance of Jewish law is generally complete.

It is even possible to point to a group of *aharonim* who could be understood as saying that even when we know that *shemirat ha-mitsvot* will generally be lacking, *qabbalat ha-mitsvot* is minimally acceptable so long as there is an acceptance by the convert of the obligation to observe *mitsvot* and the recognition that the non-observance of *mitsvot* is sinful. One could read such a view into the writings of R. Uzziel, R. Shlomo Goren, and others. In fact, some in this group might even be making a more complex claim, namely that if there is a clear and directly articulated acceptance of commandments in front of the *bet din*, even if the rabbinical court knows that this acceptance of commandments is insincere, an articulated acceptance of *mitsvot* is sufficient, at least after the fact; for more on this approach see Shmuel Shilo, “Halakhic Leniency in Modern Responsa Regarding Conversion,” 22 *Israel Law Review*, 353, 353-64 (1988).

greater the expectations regarding the convert to diligently observe the commandments, the fewer successful conversions. While many might consider conversions without *mitsvot* acceptance to be minimally acceptable, doubt is raised as to their validity and has led to a torrent of halakhic questions. This article focuses on only one detail of that vast dispute, but our focus concerns the view of the most prominent Jewish law authority of the ages, and the most important issue within the conversion dispute: Did Maimonides ever permit conversions without any *qabbalat ha-mitsvot*? Moreover, if such a conversion took place, did Rambam consider it to be valid? (In

Did Maimonides permit conversions without qabbalat ha-mitsvot? If such a conversion took place, did he consider it to be valid?

terms of Jewish law, these two questions are really the same.). This is no small and unimportant matter, since if Maimonides actually did adopt this view, almost by definition it is a valid one and it would likely be adopted by others as such. If the exalted Rambam accepted this approach to conversion, is it not reasonable to expect that other decisors did so too?² Rambam's view on matters of Jewish law is not easily discarded, and must be studied and applied with respect to the greatness of his position, even when at times its exact Talmudic source is unclear. Indeed, it is important to acknowledge that there is a small group of *aharonim* who ponder the possibility that Rambam does rule that a

conversion done without *qabbalat ha-mitsvot* is not void after the fact.³ Consider for example, the view of *Melammed le-bo'il* 2:87, where Rabbi David Zvi Hoffmann considers the possibility that Rambam accepts conversion without *qabbalat ha-mitsvot* after the fact, but in the end he states that "I do not have the time now to fully consider the matter," a peculiar comment for such a learned *aharon*.⁴ So too, we have found no halakhic authority of stature before Rabbi Ben Tzion Uzziel⁵ who both rules according to Rambam and believes that Maimonides does not require acceptance of commandments. It appears that acceptance of the commandments is a central element of conversion for all these authorities.

II. The Ambiguity

What drives these *aharonim* to conclude that it is possible that Rambam does not require *qabbalat ha-mitsvot* is clear: there is an ambiguity in the words Rambam uses when he describes the rules of conversion in *Chapter 13 of Issurei bi'ab*. This section will review the various places in *Chapter 13 of Issurei bi'ab* where Rambam discusses observance of the commandments, or, according to logic, should have discussed observance of commandments, but did not.

A simple reading of Rambam makes it clear where this ambiguity comes from: In paragraph 13:1, Rambam states:

בשלשה דברים נכנסו ישראל לברית במילה וטבילה וקרבן .

Israel entered into the covenant by way of three rites: circumcision, immersion, and sacrifice.⁶

2. For an article on the importance of Rambam within Jewish law, see Isadore Twersky, "Some Reflections on the Historical Image of Maimonides: An Essay on His Unique Place in History," in Yamin Levy & Shalom Carmy, eds, *The Legacy of Maimonides: Religion, Reason and Community* (New York: Yashar Books, 2006), 1-48.

3. But, as we have noted in Brody and Kadosh, op. cit, *Bah* is not such an authority. For more on this, see Appendix A at the end of this article.

4. See for example, Rabbi Yitzchak Isaac Herzog, *Heikhal yitschaq* EH 1:13 s.v. *ve-binnei ha-rambam*; Rabbi Yekusiel Yehudah Halberstam, *Divrei yatsiv* EH 102, as well as Rabbi Yehudah Waldenberg, *Tsits eli' ezher* 15:66.

5. See *Mishpetei uzziel* YD 2: 48-55. See Appendix A for a discussion of the *Mashiv davar*, who might be an exception to this rule.

6. Translations of passages from the *Mishneh torah* generally follow the Yale Judaica Series, albeit sometimes substantially modified by the authors.

In paragraph 1, there is no indication that acceptance of the commandments is a requirement for conversion. After explaining the historical origins of both circumcision and immersion in paragraphs 2 and 3, Rambam notes in paragraph 4 that:

וכן לדורות כשירצה העכו"ם להכנס לברית ולהסתופף תחת כנפי השכינה ויקבל עליו עול תורה צריך מילה וטבילה והרצאת קרבן, ואם נקבה היא טבילה וקרבן שנאמר ככם כגר, מה אתם במילה וטבילה והרצאת קרבן אף הגר לדורות במילה וטבילה והרצאת קרבן.

Accordingly, the rule for future generations is that when a gentile wishes to enter into the covenant, to take shelter under the wings of God, and to assume the yoke of the Torah, he requires circumcision, immersion, and the offering of the proper sacrifice, while in the case of a woman there must be immersion and sacrifice only, as it is said, *as you are, so shall be the convert*; just as you have entered the covenant with circumcision, immersion, and the offering of the proper sacrifice, so shall the proselyte in future generations enter by way of circumcision, immersion, and the offering of the proper sacrifice.

Conversion to Judaism is not merely a ritual of immersion and circumcision; the convert has to accept the yoke of Torah

In this paragraph, Rambam elucidates that conversion to Judaism is not merely a ritual of immersion and circumcision, but that the convert has to both accept the yoke of Torah and the presence of the Almighty, which are phrases that sound at least related to some form of acceptance of commandments. In the next two paragraphs, Rambam considers which aspects of the ritual of conversion are not

needed for a minimally valid conversion. He states:

ומהו קרבן הגר עולת בהמה או שתי תורים או שני בני יונה ושניהם עולה, ובזמן הזה שאין שם קרבן צריך מילה וטבילה וכשיבנה בית המקדש יביא קרבן.

What constitutes the sacrifice of a proselyte? A burnt offering of an animal, or two turtledoves, or two pigeons, both of them as burnt offerings. At the present time, when sacrifices cannot be offered, he requires only circumcision and immersion, but when the Temple is rebuilt he will be required to offer up a sacrifice as well.

Thus, in paragraph 5 Rambam makes it clear that the absence of a Temple does not preclude converting converts, even though in section one he lists sacrifice as a central requirement. But this is not the case for immersion and circumcision, as he makes clear in paragraph 6. Rambam states:

גר שמל ולא טבל או טבל ולא מל אינו גר עד שימול ויטבול, וצריך לטבול בפני שלשה והואיל והדבר צריך ב"ד אין מטבילין אותו בשבת ולא ב"ט ולא בלילה ואם הטבילוהו ה"ז גר.

If a prospective proselyte is circumcised but not immersed, or vice versa, he is not considered a proselyte, until he is both circumcised and immersed. The immersion requires the presence of three witnesses, and since it must take place before a court it cannot be performed on a Sabbath, on a festival, or at night. If, however, it has already taken place, he is deemed a proselyte.

Even though one can convert without bringing the sacrifice, one cannot convert without both circumcision and immersion. If one is converted at night or on Shabbat, in violation of Jewish law, the conversion is still valid. But Rambam does not mention whether acceptance of any, all, or most of the

commandments by a potential convert is like the sacrifice, which is not necessary for a valid conversion, or like the required immersion.

The rest of paragraph 13 until paragraph 14 does not address the issue of acceptance of commandments in the conversion process at all. However, in paragraphs 14-17, Rambam addresses the issue of the acceptance of commandments, but his approach remains unclear. He states:

אל יעלה על דעתך ששמשון המושיע את ישראל או שלמה מלך ישראל שנקרא ידיד יי' נשאו נשים נכריות בגיותן, אלא סוד הדבר כך הוא, שהמצוה הנכונה כשיבא הגר או הגיורת להתגייר בודקין אחריו שמא בגלל ממון שיטול או בשביל שררה שיזכה לה או מפני הפחד בא להכנס לדת, ואם איש הוא בודקין אחריו שמא עיניו נתן באשה יהודית, ואם אשה היא בודקין שמא עיניה נתנה בבחור מבחורי ישראל, אם לא נמצא להם עילה מודיעין אותן כובד עול התורה וטורח שיש בעשייתה על עמי הארצות כדי שיפרשו, אם קבלו ולא פירשו וראו אותן שחזרו מאהבה מקבלים אותן שנאמר ותרא כי מתאמצת היא ללכת אתה ותחדל לדבר אליה.

It should not be imagined that Samson, the deliverer of Israel, or Solomon, king of Israel, who was called “the beloved of the Lord,” married gentile women while they were still unconverted. Rather, the essence of the matter is as follows: The proper procedure, when a man or a woman comes forth with the intention of becoming a proselyte, is to examine them; perchance they come to examine the faith in order to gain money, or to qualify for a position of authority, or out of apprehension. In the case of a man, perchance he has cast his eye upon an Israelite woman. In the case of a woman, it may be that she has cast her eye upon one of the men of Israel. If no such ulterior motive is found in them, they should be informed of the heavy weight of the yoke of the Torah, and how burdensome it is for gentiles to observe its precepts, in order to induce them to withdraw. If they accept the

yoke nevertheless and refuse to withdraw, and it is evidence that they have forsaken heathenism out of love for the Torah, they should be accepted, as it is said, “*And when she saw that she was steadfastly minded to go with her, she left off speaking unto her*” (Ruth 1:18).

בשביל המלכות והטובה והגדולה שהיו בה ישראל חזרו, שכל החוזר מן העכו"ם בשביל דבר מהבלי העולם אינו מגירי הצדק, ואעפ"כ היו גרים הרבה מתגיירים בימי דוד ושלמה בפני הדיוטות, והיו ב"ד הגדול חוששין להם לא דוחין אותן אחר שטבלו מכ"מ ולא מקרבין אותן עד שתראה אחריתם.

Consequently the court did not receive any proselytes throughout the days of David and Solomon; in the days of David, lest they should become proselytes out of apprehension, and in Solomon's time, lest they should become proselytes on account of the might, the prosperity, and the greatness, which Israel then enjoyed. For whosoever forsakes heathenism for the sake of some worldly vanity is not considered a righteous proselyte. Nevertheless, many became proselytes in the presence of laymen during the days of David and Solomon, and the Great Court was apprehensive over the validity of the conversion on that account. While the court did not repulse them after they had immersed themselves, neither did it welcome them, until such time as their subsequent conduct could be observed.

ולפי שגייר שלמה נשים ונשאן, וכן שמשון גייר ונשאן, והדבר ידוע שלא חזרו אלו אלא בשביל דבר, ולא על פי ב"ד גיירום חשבן הכתוב כאילו הן עכו"ם ובאיסורן עומדין, ועוד שהוכיח סופן על תחלתן שהן עובדות כו"ם שלהן ובנו להן במות והעלה עליו הכתוב כאילו הוא בנאן שנאמר אז יבנה שלמה במה.

Now since Solomon caused the women to become proselytes first, before marrying them—and so did Samson—and it is a known

fact that these women had become proselytes for ulterior motives; and since Samson and Solomon made them proselytes without the sanction of the court, therefore Scripture regarded them as heathens remaining in their state of prohibition. Moreover, their later actions showed the true reason for their former ones, for they continued to worship their idols and built high places for them, which is why Scripture holds Solomon responsible as though he had built them himself, as it is said, “*then did Solomon build a high place.*” (I Kings 11:7)

גר שלא בדקו אחריו או שלא הודיעוהו המצות ועונשן ומל וטבל בפני ג' הדיוטות ה"ז גר, אפילו נודע שבשביל דבר הוא מתגייר הואיל ומל וטבל יצא מכלל העכו"ם וחוששין לו עד שיתבאר צדקותו, ואפילו חזר ועבד כו"ם הרי הוא כישראל מומר שקידושיו קידושין, ומצוה להחזיר אבידתו מאחר שטבל נעשה כישראל, ולפיכך קיימו שמשון ושלמה נשותיהן ואע"פ שנגלה סודן.

A proselyte who has not undergone an examination, or was not made acquainted with the commandments and the punishment for transgressing them, but was circumcised and immersed in the presence of three laymen, is deemed a proselyte. Even if it becomes known that he had become a proselyte because of some ulterior motive, once he is circumcised and immersed, he has left the status of a heathen, but apprehension should be felt concerning him until his righteousness shall have become apparent. Even if he reverts to his previous state and worships idols, he is considered merely as a renegade Israelite; his act of betrothal remains valid, and it remains the finder's duty to return to him his lost property, for once a person immerses himself, he attains the status of an Israelite. That is why Samson and Solomon kept their wives,

even though their secret motives were revealed.

The crucial question is simple: What made these conversions valid if the converts in question subsequently worshiped idols? We are inclined to think that the correct answer is put forward by the author of *Hemdat shelomoh* and others⁷, which is that these women did a full *qabbalat ha-mitsvot* without any *boda`at ha-mitsvot* (“informing of commandments”) and that their *qabbalat ha-mitsvot* was insincere, but present. The rabbinical court of lay members did not examine the converts to see if their claims of observing Jewish law were actually true. We furthermore think that this is the best way to explain both uses of the term “*sod*” in Rambam. The “secret motives” is that these women professed belief in Jewish law and theology when in fact they had no such loyalty. It also reflects Rambam’s tight linguistic formulation, which distinguishes between *acceptance* of commandments and *informing* of commandments.

What made these conversions valid if the converts in question subsequently worshiped idols?

Furthermore, this approach is consistent with the *Bet yosef's* explanation of Rambam and diminishes the tension between Rambam's view and that of all other interpreters of Jewish law.⁸ This is also consistent with the formulation used in the next paragraph, paragraph 18, where Rambam states:

ומפני זה אמרו חכמים קשים להם גרים לישראל כנגע צרעת שרובן חוזרין בשביל

7. *Hemdat shelomoh* 30. See also *Seredei aish* 2:75.

8. This explanation is the view of the *Bet yosef*, we suspect, as he notes no tension between Rambam and Rosh on this matter.

דבר ומטעין את ישראל, וקשה הדבר לפרוש מהם אחר שנתגירו, צא ולמד מה אירע במדבר במעשה העגל ובקברות התאווה וכן רוב הנסיונות האספסוף היו בהן תחלה.

It is for this reason that the Sages have declared, 'Proselytes are as hard to bear for Israel as a scab upon the skin,' since the majority of them return⁹ for a reason and subsequently lead Israel astray, and once they become proselytes, it is a difficult matter to separate from them. An instructive example is what happened in the wilderness in the matter of the golden calf, and at Kibroth Hata'avah, as well as in most of the trials with which the children of Israel wearied God. All of these were initiated by the mixed multitude.

In this formulation Rambam emphasizes the word *hozerim* ("return"), which means that as an initial matter the converts appeared to be proper and only later did problems appear. The "problem" is that their *qabbalat ha-mitsvot* was not sincere, proven by their conduct after conversion.¹⁰

"You promised you will obey and thus you can be punished for non-obedience."

In this model Rambam requires *qabbalat ha-mitsvot* as a prerequisite for conversion, even minimally, but not *hoda'at ha-mitsvot*. Thus, as long as acceptance of commandments is

verbally recited the conversion is valid, even if it turns out that the acceptance of commandments was insincere.

Explaining the value of *qabbalat ha-mitsvot* in conversion according to Rambam is important. The talmudic rabbis frequently described the obligation of the commandments as a "yoke of heaven"¹¹ and, as ought to be clear from the use of the word yoke (a farm instrument placed on animals to guide them to work the animals do not wish to do), directives from the yoke were not always welcomed. The central purpose of acceptance of commandments is a demonstration of the fact that a person voluntarily wishes to join the Jewish people and accept Jewish law as binding. According to this approach, the "yoke of heaven"¹¹ can only be placed on a convert with his consent, and thus the purpose of the acceptance of commandments by the convert—whether he or she intends to obey Jewish law or not—is part of the intellectual structure of Jewish conversion according to Rambam: The convert has to agree to have the "yoke of heaven" placed on him or her voluntarily (and involuntary conversion is invalid as a matter of Jewish law for adults.)¹² There is an important formal legal reason for such a view in the area of conversion, namely the need to punish subsequent violations by converts: verbal acceptance of Jewish law is a precursor to punishment after violation, and Jewish law demands fair due process here. Jewish law must be able to say to converts, before punishing them for subsequent violations:

9. See *infra*, n. 10 on what "return" could mean

10. Indeed there is a deep ambiguity in this paragraph in general: does the word "*hozerim*" mean return to Judaism or mean return from Judaism to their initial faith? Rabbi Yona Reiss argues (in his excellent article, "*Binyan qabbalat gerim*," *Zevad tov* 459-466 (YU Press, 5768) that this is a reference to someone who is returning to Judaism and not away from Judaism, and the concern articulated here is that we fear that maybe the person is insincere. Indeed, Rabbi Reiss points out that Rambam uses the same terminology in 13:16 when he uses the word *hozer* to refer to the act of conversion, not their act of leaving the faith. On the other hand, we are more inclined to think that the use of the word *hozer* used here is similar to the word *hozer* used in 13:17, which is clearly a reference to leaving the faith of Judaism and not entering it.

11. This is an exceptionally common metaphor both in and outside the conversion example. See for example M *Berakhot* 2:2, BT *Berakhot* 61b; *Sifra*, *Be-bar* 5:3, *Numbers Rabbah*, *Naso* 10:14; *Tanhuma Lekh lekha* 6, s.v. *yelammedeinu rabbenu* and literally dozens of others.

12. There are modern authorities that also support this concept of a formal acceptance of Jewish law, as described by Rav Shlomo Dichovsky, "*Bitul gilyur le-mafreia*," *Tehumin* 29 (2007), 267-280.

“You promised you will obey and thus you can be punished for non-obedience”.¹³

This is fully consistent with other mandates of Jewish law. Frequently, Jewish law directs that one do things, even in a ritual context that one might not want to do, where the receiving side is God, and therefore the Jewish legal system mandates physical things that God can see or hear (so to speak). Thus, many Jewish law authorities rule that one cannot fulfill the obligation to pray merely by thinking the prayers: they must be spoken.¹⁴ The same can be said for many other Jewish law requirements where the central interaction seems to be with God and not with people: Real and concrete actions are

mandated. This is the case for many aspects of *hilkhot qorbanot* and *bet ha-behira*, which are full of recitations that, we would argue, can be insincere.¹⁵

Conversion is thus a legal process, almost like a contract, and according to Jewish law, in addition to performing the physical actions of circumcision, immersion, and sacrifice, the convert is required to enter into a legally binding agreement to accept the law and the mitzvot and to acknowledge the prospect of punishment for violations: in return for this, the convert gets the reward for mitzvot done as one who is bound to do them. That is exactly why the final colloquy with the convert-to-be in the *miqva* before

13. This is the way that American law understands the oath a new citizen has to take. (To become an American citizen, one must swear to obey the law, and that oath is binding even if one was both completely insincere and ignorant of the content of the laws. The oath is the prerequisite to American law being voluntarily binding on all non-native citizens and that is just a legal systems rule.)

14. See *Hirbur ke-dibbur, Intsiglopediyah talmudit* 10:596 in text accompanying notes 18-36.

15. An example is Rambam's *Hilkhot Bikkurim*. We doubt if the one called upon to recite the described formula has to believe in its truth to fulfill the *mitsvah* of *bikkurim*, as Rambam simply writes out the phrases that must be recited and the physical actions that must be performed in order to fulfill the commandment, with no mention of the performer's intention. As it says in 3:10:

מצות עשה להתודות במקדש על הבכורים בשעה שמביאם. מתחיל וקורא.... ואין קורין אותה אלא בלשון הקדש שנאמר וענית ואמרת בלשון הזאת.

It is a positive commandment to confess in the Temple over the first fruits at the time they are brought One begins....and one says it only in Hebrew, as it is written, “You shall answer and pronounce (it) in this language.”

Additionally, Rambam states in 3:12: הבית. הגיע להר הבית נוטל הסל על כתיפו הוא בעצמו....ומוריד הסל מעל כתיפו ואוחזו בשפתיו והכהן מניח ידו תחתיו ומניף וקורא ארמי אוכד אבי וירד מצרימה וגו' עד שגומר כל הפרשה ומניחו בצד המזבח בקרן דרומית מערבית בדרומה של קרן וישתחוה ויצא ...

One who brings the first fruits is permitted to give them to his servant or to a relative the entire way until he reaches the Temple Mount. When he arrives at the Temple Mount, he puts the basket on his shoulder himself...and takes the basket from his shoulder and holds it with his lips; the priest holds his hand under it and waves it. He then recites, “My father was a wandering Aramean, and he went down to Egypt etc. until he finishes the section. He places (it) on the side of the altar at the southern corner from the west on the south. He then bows and exits....

We have looked to see if the question of an insincere recitation is discussed in the classical literature, and we are aware of no discussions of this issue. We would make the following argument. First, if fulfillment of the obligation to recite *bikkurim* required sincere belief, the Talmud and codes would have noted that and expressed a clear view of the necessary belief. Second, there is in itself a central dispute about what the recited verses mean, and there is no clear resolution of this matter. Lastly, the fact that one must read in Hebrew even if one does not understand indicates that understanding is not important. Indeed, in 3:11, Rambam discusses the problem of what to do when a person can not read Hebrew, but neither Rambam nor the Jerusalem Talmud discusses the case of a person who reads Hebrew but does not understand or agree with what he has read, presumably because that is not important.

immersion is about reward and punishment.¹⁶ This is a “law ritual” and Jewish law needs to ensure that the convert knows what he or she is committing to.¹⁷

Jewish law needs to ensure that the convert knows what he or she is committing to

These final paragraphs in Chapter 13 of *Issurai bi'ab* have been a source of deep ambiguity and uncertainty in interpretation. Many halakhic authorities have addressed this issue, sometimes more than once, and put forward many different explanations. In one place Rabbi Moshe Feinstein posits that the converts did not drift towards idol worship until many years after the conversion¹⁸, and in two other places he advances different explanations.¹⁹ Indeed, more than a dozen explanations of this text of Rambam are advanced in the classical commentators, focusing on many different possible explanations.²⁰

16. See for example, *Shulhan arukh*, *Yoreh de'ab* 258:2.

17. This is in contrast to other areas of Jewish law where a mental reservation can invalidate the performance of a *mitsvah*. For example, a person who puts on *tefillin* with no intent to fulfill the *mitsvah* has not actually fulfilled it. See *Mishnah berurah* 31:8 for an example.

18. In *Iggerot mosheh* YD 3:108 and *Iggerot mosheh* EH 2:4, Rabbi Feinstein rules that there are two types of post-conversion apostasy, only one of which is proof of insincere conversion. If the convert becomes an apostate right after his conversion, then it is proof that the conversion occurred without *qabbalat ha-mitsvot*, rendering the conversion null and void. However if many years after the conversion occurred the convert apostatizes there is still a *chazakah* that at the time of conversion itself the convert was sincere, and thus his later apostasy only makes him a *mumar*, who will be punished as a Jew for his sins. R. Feinstein explains that Rambam holds *qabbalat ha-mitsvot* to be an essential requirement for conversion throughout Ch. 13, and that in the case of Solomon's wives, their apostasy must have occurred many years after their initial marriage to Solomon. Thus even after they became idolaters they were still considered full-fledged converts, and this is why Solomon was able to remain married to them. This *teshuvah* of R. Feinstein's qualifies which sorts of apostasy attest to insincere *qabbalat ha-mitsvot* (and hence invalid conversion). Thus R. Feinstein concludes that only apostasy that occurs right in the wake of conversion is proof of insincerity, however apostasy that occurs later on is no proof that there was insincere *qabbalat ha-mitsvot* to begin with. As a result, R. Feinstein succeeds in rebuffing those who attempt to prove from 3:16 that Rambam did not require *qabbalat ha-mitsvot* in the conversion process.

19. See *Iggerot mosheh*, EH 4:7 and 4:83 for two more explanations.

20. See for example, *Teshuvah mei-ahavah* 100, noting that this *halakhab* merely addresses the problems of sincere converts who drift away under duress; or Responsa *Bet she'arim*, YD 361, focusing on the issue of marriage as a path to conversion; or *Yaskeil avid* 3, YD 16, using this formulation to focus on judicial discretion to determine facts, particularly as it relates to avoiding intermarriages; *Hedvat ya'aqov*, YD 13, proposing that Rambam in this passage addresses the desire to accept non-ideal converts in certain cases; or Tsits eli'ezer 21:26, advancing a theory related to the prestige of the kingship as it relates to conversion. Indeed, Rav Kook in *Da'at kohen* 150 seems to agree that standing alone, this paragraph supports the view that Rambam does not require acceptance of commandments. For more on this see Appendix B, which reviews many additional *aharonim* on this topic.

One could perhaps even read this chapter so that sections fourteen through seventeen stand for the proposition that the women converted by Solomon and Samson never underwent any *qabbalat ha-mitsvot* and that a conversion is valid even without *qabbalat ha-mitsvot* as long as immersion takes place, as Rabbi Hoffmann speculated in *Melamed Leboil*. This is highlighted by the fact that Rambam never mentioned that *qabbalat ha-mitsvot* is always essential.

Were these texts of Rambam the *only* words on this topic, one would have to concede many plausible understandings of Jewish law according to Rambam, including that *no* acceptance of commandments is required.

III. Resolving this Ambiguity

As in all cases of ambiguity, the central way to resolve the ambiguity is by looking at other places where the same author addresses this identical issue. It is our view that from the many other instances where Rambam addresses issues of conversion, it is clear that he requires *qabbalat ha-mitsvot* before a

conversion is valid. We are aware of at least nine such places, and this article will explain how, given these texts, it is impossible to argue that Rambam did not require *qabbalat ha-mitsvot*. The ambiguity in Chapter 13 related to acceptance of commandments is clarified in reference to other such formulations in Rambam.

Indeed, in both the prior chapter (which addresses converting slaves) and the ensuing chapter (which addresses accepting resident aliens), Rambam seems to make it clear that *qabbalat ha-mitsvot* is a necessary component of conversion. Rambam writes in 12:17 of *Issurei bi'ah*:

כל העכו"ם כולם כשיתגיירו ויקבלו עליהן
כל המצות שבתורה והעבדים כשיתחררו
הרי הן כישראל לכל דבר שנאמר הקהל
חוקה אחת יהיה לכם ומותרין להכנס בקהל
י"י מיד.

All heathens without exception, once they become proselytes and accept all the commandments enjoined in the Torah, and all slaves, once they are manumitted, are regarded as Israelite in every respect, as it is said, *As for the congregation, there shall be one statute both for you and for the stranger* (Num. 15:15), and they may enter the congregation of the Lord immediately.

Even though a freed slave automatically became a Jew (in contrast to a regular convert), he does not have to accept the *mitsvot*. Why? Rambam himself explains in 13:12:

כשיתחרר העבד צריך טבילה אחרת בפני
שלשה ביום שבו תיגמר גירותו ויהיה
כישראל, ואין צריך לקבל עליו מצות
ולהודיעו עיקרי הדת שכבר הודיעוהו כשטבל
לשם עבדות

After a slave is manumitted, he must have another immersion in the presence of three witnesses and in the daytime, whereby he becomes a full proselyte and attains the status of an Israelite. He need not,

however, declare that he assumes the commandments, and it is unnecessary at that time to acquaint him with the principles of the faith, since they had already been made known to him at the time of his immersion for the purpose of bondage.

Thus, the general need for *qabbalat ha-mitsvot* is proven in two separate ways from these two paragraphs. First, Rambam's statement in 12:17 seems to be quite clear—non-Jews who “convert and accept upon themselves all of the commandments” are to be considered Jews. By implication, those who do not accept the commandments are not Jews. Furthermore, by saying that a freed slave does not have to accept the commandments because he already accepted them when he became a slave, Rambam demonstrates that this is an actual requirement for conversion. Otherwise, Rambam would have simply noted that a freed slave need not accept the commandments because it is unnecessary.

Another example is found in *Issurei bi'ah* 14:8, where Rambam's formulation can only be understood as requiring *qabbalat ha-mitsvot* as part of conversion. He states:

ואין מקבלין גר תושב אלא בזמן שהיובל
נוהג, אבל בזמן הזה אפילו קיבל עליו כל
התורה כולה חוץ מדקדוק אחד אין מקבלין
אותו

A resident stranger (*ger toshav*) may be accepted only during such times as the law of the Jubilee (*yovel*) in is force. In contemporary times, however, even if the resident stranger accepts the entire Torah, but with the exception of one particular, he may not be received.

One can only accept a *ger toshav* when the *yovel* is practiced; absent *yovel* one cannot accept a *ger toshav* no matter how observant he is. What then is the purpose of the second clause beginning with the words “in contemporary times”? Rambam must be

discussing a gentile who wants to be a *ger toshav*, but discovered that he cannot join as such since there is no *yovel*. He then can only become a regular convert. Rambam rules that even if a potential convert accepts the whole Torah except one detail we do not accept him as a regular convert. From here we see that acceptance of commandments is needed.²¹

Rambam rules that if a potential convert accepts the whole Torah except one detail, we do not accept him

Yet a third place where Rambam makes it clear that acceptance of commandments is required for conversion is in *Issurei bi'ah* 14:9. Rambam states:

העבד הנלקח מן העכו"ם אין אומרין לו מה ראית שבאת, אלא אומרים לו רצונך שתכנס לכלל עבדי ישראל ותהיה מן הכשרים או לא, אם רצה מודיעין לו עיקרי הדת ומקצת מצות קלות וחמורות ועונשן ושכרן כמו שמודיעין את הגר ומטבילין אותו כגר, ומודיעין אותו כשהוא במים, ואם לא רצה לקבל מגלגלין עליו כל שנים עשר חדש ומוכרו לעכו"ם ואסור לקיימו יותר על כן, ואם התנה עליו מתחלה שלא ימול ולא יטבול אלא יהיה גר תושב מותר לקיימו בעבודתו כשהוא גר תושב ואין מקיימין עבד כזה אלא בזמן היובל.

One should not say to a slave acquired from a heathen, "Why do you come?" etc., but rather, "Is it your desire to enter into the full status of a slave of Israel, so that you might become one of the worthy

slaves, or is it not?" If he answers affirmatively, he should be made acquainted with the principles of the faith and some of the less and the more weighty commandments, with their reward and punishment, as in the case of a proselyte, and he should be immersed in the same way as a proselyte. He should be informed of all this again while he is still in the water. If he is unwilling to accept this, the master may bear with him for up to twelve months, and should sell him to a heathen, it being forbidden to retain him longer than that. If, however, the slave had made a prior condition that he should not be circumcised or immersed, but should become a resident stranger, he may be kept in service as a resident stranger. A slave such as this may be kept, however, only at such time as the law of the Jubilee is in force.

Rambam rules that to become a gentile slave, one must be told what the *mitsvot* are and one must accept them. Without acceptance, one cannot even become a gentile slave. It is virtually impossible to imagine that according to Rambam, Jewish law requires acceptance of *mitsvot* by a slave, but not for a convert.

In addition to these four clear examples found in *Issurei bi'ah* itself, Rambam makes his attitude towards *qabbalat ha-mitsvot* clear in other places in the *Mishneh torah*. He writes in *Hilkehot shabbat*, 20:14:

עבד ואמה שאנו מצווין על שביתתן הם עבדים שملו וטבולו לשם עבדות וקיבלו מצות שהעבדים חייבין בהן

21. Rambam cannot be speaking about accepting him as a *ger toshav*, as he already told us that such couldn't be done until *yovel*. We recognize that, standing alone, the proof from *ger toshav* is not necessarily persuasive; a *ger toshav* does not have to accept all of the 613 *mitsvot*; essentially seven would suffice. Rambam may be saying that even if he accepted more than seven, up to 612 (for if it were 613 obviously there would be no point in being a *ger toshav*, since he would be a regular convert) we would not be prepared to accept him as a *ger toshav* since we don't accept the category of *ger toshav*. In current times, if his purpose were to convert to Judaism outright, then maybe we would accept him, maybe we wouldn't, but that point is not necessarily addressed by Rambam in this particular source. The argument becomes stronger, however, given the totality of the sources.

The male and female slaves whose Sabbath rest we are required to ensure are slaves who have been circumcised and ritually immersed in their capacity as slaves and have undertaken to observe the commandments incumbent upon slaves.

This paragraph again demonstrates that a slave must accept the mitzvot. It is untenable to argue that a slave needs *qabbalat ha-mitsvot* and a gentile does not.

Another example can be found in *Hilkebot melakhim* 8:10, where Rambam states:

משה רבינו לא הנחיל התורה והמצות אלא לישראל, שנאמר מורשה קהלת יעקב, ולכל הרוצה להתגייר משאר האומות, שנאמר ככם כגר, אבל מי שלא רצה אין כופין אותו לקבל תורה ומצות.

Moses our teacher did not grant Torah and the commandments except to the Jews as it states 'in inheritance to the community of Jacob' and anyone who wants to convert from other nations as it states 'like you like the convert', but one who does not want to convert, we do not force him to accept Torah and mitzvot.

It is untenable to argue that a slave needs qabbalat ha-mitsvot and a gentile does not

The phrase "but one who does not want to convert...we do not force to accept the Torah and *mitsvot*" seems out of place. If Rambam holds that accepting the mitzvot is unnecessary for conversion, he should have written "but one who does not want to (convert) we do not force to convert." This formulation of the rule only makes sense if one assumes that accepting the mitzvot is a central component of conversion and therefore Rambam feels safe interchanging the phrase "conversion" with "accepting the mitzvot." If acceptance of the commandments is not a necessary precondition for

conversion, the recitation of Rambam in this section is incoherent.

This theme is repeated again in *Hilkebot melakhim* 10:9, where Rambam states:

...אלא או יהיה גר צדק ויקבל כל המצות, או יעמוד בתורתו ולא יוסיף ולא יגרע, ואם עסק בתורה, או שבת, או חדש דבר, מכין אותו ועונשין אותו, ומודיעין אותו שהוא חייב מיתה על זה אבל אינו נהרג.

...Either one can be a righteous convert and accept all the commandments, or stay with his rules neither adding nor subtracting. If he studies Torah or observes the Sabbath or innovates any matter, we whip him and punish him and we inform him that he is liable to be killed but we do not kill him.

In this section again, the words "accept all the commandments" are superfluous unless it is meant to tell us that accepting the *mitsvot* is a necessary component of conversion.

In addition to these texts of Rambam we have two other formulations which, though not persuasive if taken alone, seem to imply that the only proper way to read Rambam is to insist that he maintains that *qabbalat ha-mitsvot* is required for conversion. The first formulation appears in *Hilkebot shebagot* 7:2:

כלל גדול אמרו בשבת כל השוכה עיקר שבת ושכח שנצטוו ישראל על השבת, או שנשבה והוא קטן לבין העכו"ם או נתגייר קטן והוא בין העכו"ם אף על פי שעשה מלאכות הרבה בשבתות הרבה אינו חייב אלא חטאת אחת שהכל שגגה אחת היא

A general rule is said concerning Sabbath laws, anyone who forgets the existence of the Sabbath or forgets that the Jews were commanded about the Sabbath, or is kidnapped as a minor among the gentiles, or converted as a minor among the gentiles, even though he does many prohibited acts, over

many Sabbaths, he is only liable for one sacrifice since it is all one act of forgetting.

The second one is *Hilkebot issurei bi'ah* 13:4:

אם לא נמצא להם עילה מודיעין אותן כובד
עול התורה וטורח שיש בעשייתה על עמי
הארצות כדי שיפרשו, אם קבלו ולא פירשו
וראו אותן שחזרו מאהבה מקבלים אותן
שנאמר ותרא כי מתאמצת היא ללכת אתה
ותחדל לדבר אליה .

If no such ulterior motive is found in them, they should be informed of the heavy weight of the yoke of the Torah, and how burdensome it is for gentiles to observe its precepts, in order to induce them to withdraw. If they accept the yoke nevertheless and refuse to withdraw, and it is evident that they have forsaken heathenism out of love for the Torah, they should be accepted, as it is said, *And when she saw that she was steadfastly minded to go with her, she left off speaking unto her* (Ruth 1:18)."

In the matter discussed in *Hilkebot shegagot* 7:2, the Talmud (*Shabbat* 67b-68a) does not limit its rule that a convert need not know about the commandments to a minor, yet Rambam himself limits the case to a minor convert because it is inconceivable to him that an adult could ever convert to Judaism without the knowledge and acceptance that the Sabbath is binding—and thus Rambam insists that the case involves a child. If acceptance of the commandment is not required, then there is no need to change the talmudic formulation. So too, in the second example, the phrase “if they accept” implies that accepting “the yoke of the Torah” must be done prior to conversion.

What we have shown from these examples is enough to resolve the ambiguity in Rambam’s original formulation. In at least seven places (twice in the context of a converting slave,

once in the context of accepting resident aliens, once in the context of Shabbat laws, once in the context of messianic rules, once in the end of the law of kings, and once by implication in the laws of accidental violations, and once by implication in the laws of conversion itself²²) Rambam links acceptance of commandments with the conversion process so as to make it clear that one cannot convert to Judaism without

It is inconceivable to Rambam that an adult could convert to Judaism without the knowledge and acceptance that the Sabbath is binding

acceptance of *mitsvot*. That, of course, does not mean that according to Rambam one must observe the commandments, which is a separate topic worthy of its own discussion, but rather one must pledge to obey and observe them.

IV. Conclusion

Rambam’s central chapter dealing with conversion contains an ambiguity that is never clarified (although it is clarified in the *Tosafot* and the *Shulhan arukh*), i.e. that acceptance of the commandments is a vital and necessary part of conversion, equal in importance to the process of immersion. In this article we have shown many other places where Rambam discusses areas of Jewish law that are logically connected to or is about the conversion process—from the laws of slavery to the laws of resident aliens and messianic times where Rambam makes it clear through his technical formulations that acceptance of the commandments is required for conversion.²² We contend that there is no other consistent explanation uniting these many disparate sources within Rambam’s texts.

22. See *Hilkebot issurei bi'ah* 12:17, 13:4 and 14:8-9, *Hilkebot shabbat* 20:14, *Hilkebot melakhim* 8:10 & 10:9, *Hilkebot shegagot* 7:2

One last question remains: Why doesn't Rambam explicitly state in Chapter 13 of *Hilkebot issurei bi'ab* that acceptance of commandments is needed? Stylistically, this is the most logical place to say so, since the entire chapter is devoted to other requirements prior to conversion. We have no answer and leave it to future students of Rambam to answer the following perplexing stylistic question: Given that Rambam very clearly maintains that *qabbalat ha-mitsvot* is necessary for a valid conversion, why does he not record that ruling in Chapter 13 rather than in Chapters 12 and 14?

Considering that in both Chapters 12 and 14 of *Issurei bi'ab*, as well as in numerous other places in the *Mishneh torah*, Rambam clearly rules that *qabbalat ha-mitsvot* is required for conversion, this question is not powerful enough to cast doubt on what Rambam thinks Jewish law mandates. Rambam's view that *qabbalat ha-mitsvot* is a necessary part of the conversion

process supports his idea that converting to Judaism is a legal action as opposed to a religious one. When one accepts the mitzvot upon himself, he is joining the system of laws that Judaism represents. As is the case in most legal systems, one cannot be rejected from Judaism for not adhering to the laws, but one cannot become a Jew without accepting the laws. Conversion, therefore, is a legal process in which one is required to accept the construct of Jewish law. It is also notable that this view negates the opinion of many *rishonim*.

We find it surprising to claim that Rambam did not require *qabbalat ha-mitsvot*, in the face of very clear evidence within the *Mishneh torah* that Rambam did impose such a requirement. The approach that seeks to prove that Rambam did not require *qabbalat ha-mitsvot* argues this based on a minor stylistic difficulty and seeks to turn it into a legal rule. We contend that that approach is erroneous.

Appendix A: Does the *Bah* Accept That Rambam Does Not Require *Qabbalat ha-mitsvot*?

As one of us has noted,²³ we believe that it is not correct to place *Bah* on the list of authorities who accepted that Rambam did not require acceptance of commandments. While at first glance, whether the *Bah* adopted this explanation of Rambam or not seems unimportant, in truth, the *Bah* is a central and important decisor, and if he adopted this view as the proper understanding of Rambam, it would add considerable weight and heft to this view. Indeed, there are no authorities in the league of the *Bah* who considered this the proper way to understand Rambam. *Bah* states (*Bah*, YD 268, s.v. *ve-kol inyanav*) the following:

ולענין הלכה נראה דאעפ"י דהרמב"ן סבירא ליה דטבילה בלילה מעכבת וכן כתב נמוקי יוסף (טו ב דבור ראשון) משום דטבילה הוה ליה תחלת דין הנה הרי"ף והרמב"ם והסמ"ג לפי פירושינו כולם תופסים דלילה אינו מעכב ובזה אין התוספות והרא"ש חולקים עליהם אבל אם לא היו שלשה בטבילה מעכב וכהרי"ף והרמב"ם והסמ"ג דפשטא דסוגיא הכי משמע דטבילה גופה בעינן שלשה וכן הוא לפי תירוץ הראשון דמהר"ם ודלא כדעת התוספות ותירוץ אחרון דמהר"ם וכשהיו שלשה בטבילה אע"פ דכתב הרמב"ם (פי"ג הי"ז) דכשר אע"פ שלא היתה לשם קבלת מצות כל עיקר מיהו התוספות והרא"ש חולקין ע"ז דקבלת המצות ודאי מעכבת והכי נקטינן דאין משיאין אותו אשה עד דיקבל עליו המצות בפני שלשה.

As to the normative Jewish law, it appears that even though Ramban rules that immersion at night is invalid, and this is recounted as well in the *Nimmuqei yosef*, since immersion is the beginning of the judicial process. However, Rif and Rambam and the *Semag*, as we have explained them, all accept that immersion at nighttime is not prohibited. On this matter, neither *Tosafot* nor *Rosh* disagree with them. But if there were not three [judges] present for immersion, it is invalid as Rif and Rambam and the *Semag* simply

understand the Talmudic rule that immersion requires three [judges]. This is also true according to the first answer provided by Maharam and unlike the view of *Tosafot* and the second answer given by Maharam. And when three [judges] are present for immersion, even though Rambam tells us (13:17) that it is valid, even though it was not for the sake of acceptance of commandments at all, nonetheless *Tosafot* and *Rosh* disagree with this and rule that acceptance of the commandments is needed. And this is what we rule, that one cannot marry a woman until she accepts the commandments in front of three.

If one reads only the *Bah*'s quotation of Rambam, one might claim that the *Bah* understood Rambam as never requiring *qabbalat ha-mitsvot*. But when one studies this passage in its entirety, a different picture emerges. In this section, the *Bah* discusses the dispute between the Tosafists and Rambam about the central judicial ritual of conversion. *Tosafot* posited that the central judicial ritual in conversion is *qabbalat ha-mitsvot*, which must take place in front of a *bet din*, whereas circumcision and immersion need not take place before a rabbinical court. Rambam, on the other hand, posited that immersion in a *miqvah* (and perhaps circumcision for a man) is the central judicial framework for conversion and it is these rituals that must take place in front of a *bet din*. According to this view, *qabbalat ha-mitsvot* is merely a prerequisite for a valid conversion, which is then consummated before a rabbinical court.

When read in its totality, it is clear that the *Bah* was merely claiming that at the time of immersion, the immersion need not be for the sake of *qabbalat ha-mitsvot*. *Bah* certainly did not say with any clarity that a conversion can take place in the total absence of *qabbalat ha-mitsvot* and still be valid. Rather, the *Bah* required acceptance of the *mitsvot* at the some point, just not immersion for that purpose.

23. In Broyde and Kadosh, *supra* note 1

Furthermore, the *Bah* himself makes clear elsewhere that *qabbalat ha-mitsvot* is required for the conversion of slaves. In the previous chapter (*Yorab de`ab* 267), which deals with acquiring slaves, the *Bah* repeatedly and contrasts a slave, who does not require *qabbalat ha-mitsvot* in his view, with a convert, who does. Nowhere does the *Bah* indicate that a significant contingent of the prominent *rishonim* (namely, Rambam, Rif, and *Semag*)

disagree with this position and do not require *qabbalat ha-mitsvot* for converts, either.

To us, the most compelling observation is that such a fundamental point of Jewish law related to conversion would not have been presented by *Bah* as a throw-away line in a tangential discussion. Indeed, no one argues the *Bah* himself accepts this view of Rambam as the normative Jewish law.²⁴

24. We are aware of the observation of Professor Marc Shapiro (*Me'orot*, September 2010, "Review Essay" at pages 8-9 on line at <http://www.yctora.org/content/view/662/10/>) that, in fact, many eminent halakhic authorities have read the *Bah* exactly as supporting the understanding of Rambam that we reject. Based on our understanding of Rambam, we are not persuaded that Shapiro's observation is correct. While Shapiro cites close to two dozen *poseqim* who seem to be reading the *Bah* as accepting that Rambam rules conversion can take place without acceptance of *mitsvot*, none of them accepted that this understanding of the *halakhab* is in fact correct; either in that they ruled that Rambam's view is rejected, or that *Bah*'s view of Rambam is rejected or both. Perhaps the value of such citations to the *Bah* is minimal as a matter of law, even if important for the historical record. Halakhic authorities often cite contrary views, in order inform the reader that there is a view they are rejecting, without genuinely considering its validity, even within its own context. Like "*pilpul*" on the views of Shammai, once a view is rejected, it is rarely subject to detailed analysis. The citation of the minority understanding of a dissenting view is closer to a "straw man" than a precedent, even though as a central commentator, the *Bah*'s view is to be considered even when rejected. Once one accepts that even the *Shulhan arukh* rejected the view of Rambam that *qabbalat ha-mitsvot* does not require a *bet din*, we suspect that the view of Rambam ceased being subject to serious halakhic analysis with rigor, since even followers of Rambam generally—led by Rabbi Joseph Karo—had rejected his approach on this topic and adopted the view of *Tosafot*, which requires a rabbinical court of three for acceptance of commandments, even post facto (*be-di`avad*). We do not believe that there is a single well-known halakhic authority living before the 19th century who thought that the *Bah*'s view that Rambam did not require acceptance of *mitsvot* is to be followed as normative Jewish law.

Shapiro's citation of *Mashiv davar* 5:46 in this same article may be an over-read. One could easily claim that the Netsiv was saying that an incomplete *qabbalat mitsvot* is valid after the fact, rather than that no acceptance of *mitsvot* is needed. For that reason, in the paragraph of that responsum beginning *ve-ammam*, the question is regarding someone: *שלא קיבל כל המצות*, and in the paragraph beginning '*aval*' states *עול מצות כדן*, meaning, "He did not accept commandments properly." So too, the proof-text that Netsiv cited (a statement by Hillel at B'T *Shabbat* 31a) involves someone who was willing to do a partial *qabbalat mitsvot* (accepting biblical commandments, not accepting rabbinic commandments) reinforces this reading. Nevertheless, Netsiv's final caveat (*eino barur le-halakhab*) is itself unclear and may mean that he accepts the view of *Tosafot*.

Appendix B: Approaches Taken by *Aharonim* to the Ambiguous Formulation of Rambam in *Hilkhos Issurai Bi'ah*, End Chapter 13

The ambiguous paragraphs at the end of Chapter 13 have been subject to numerous interpretations, almost all of which rule that Rambam requires *qabbalat ha-mitsvot* for conversion to take place. However the ambiguity in these paragraphs is so pronounced that even those who agree with the conclusion that Rambam requires *qabbalat ha-mitsvot* for conversion to be valid arrived at that result in different ways. Other than the sources mentioned in the body and notes of the article itself, what follows is a brief survey of the ways *aharonim* have interpreted Rambam, all arriving at the similar conclusion that Rambam does in fact see *qabbalat ha-mitsvot* as a *sine qua non* of the conversion process, but with very different explanations of the basic problem, i.e. If Rambam requires *qabbalat ha-mitsvot*, why does he not say so explicitly?

There are a few ways various *aharonim* have resolved this dilemma. Rabbi Joseph B. Soloveitchik (*Qol dodi dofeq* note 22), explains that the reason Rambam does not state explicitly the need for *qabbalat ha-mitsvot* is that in Chapter 13, Rambam limited himself to discussing official ceremonial acts of the rabbinical court. Since *qabbalat ha-mitsvot* is an inner confirmation the convert must make in his heart, it would not have been pertinent to mention this in a chapter dealing only with the outer, procedural acts required for conversion.

Similar explanations are offered by several other *aharonim*. Rabbi Natan Gestetner (*Lehorot natan* 13:71) and R. Amar²⁵ both claim Rambam required *qabbalat ha-mitsvot* from the text of *Issurei bi'ah* 12:17. Like R. Soloveitchik, they explain Rambam's silence in Chapter 13 by noting that the chapter is a list of ceremonial proceedings, in which this requirement would be out of place.

Chief Rabbi Isaac Halevi Herzog, (*Heikhal yits'haq* 1:13) and R. Chaim Ozer Grodzinski (*Teshuvot ahi'ezer* 3:26) argue that Rambam's silence when it comes to *qabbalat ha-mitsvot* is not so much a result of Chapter 13's procedural context, but an acknowledgement that *qabbalat ha-mitsvot* is really implied in the conversion process itself (and therefore not in need of separate mention). Both *poseqim* claim that the ambiguity is due to the fact that the process of undergoing conversion (i.e., immersion and circumcision) is, *ipso facto*, a proof that the convert has done *qabbalat ha-mitsvot* in his heart. *Heikhal yits'haq* (1:13) stated that *when one immerses, it is as though he has done qabbalat ha-mitsvot before the entire world*. Because the whole world knows the reason he is converting is to become a Jew, it's as though the whole world witnesses his *qabbalat ha-mitsvot*.

R. Herzog reasoned that because Rambam saw conversion and *qabbalat ha-mitsvot* as synonymous, there is no need to perform the separate, distinct act of *qabbalat ha-mitsvot* or to mention it. Similarly, R. Grodzinski (*Teshuvot ahi'ezer* 3:26) stated that the conversion process is so onerous and difficult that everyone who goes through it is presumed to have done it with a full heart. Similarly, Rabbi Bentzion Zholti in "On the Laws of Accepting Proselytes," (*Torah she-be-al-peh* 13, 1971, pp. 37-38) explained that since *qabbalat ha-mitsvot* is not an act in the process of conversion, but the essence of conversion itself, no mention of it is needed.

What all the above explanations have in common is their attempt to explain why Rambam's silence in Chapter 13 does not allow for actual omission of *qabbalat ha-mitsvot*. All the foregoing *aharonim* reason through how, despite his silence, Rambam certainly rules that the convert must have done *qabbalat ha-mitsvot* for the conversion to be valid.

A second, common approach among *aharonim* is to explain that the need for *qabbalat ha-mitsvot* is in fact mentioned by Rambam

25. R. Shlomo Amar, *Shema shelomoh* 6 YD 12

himself, and one only need read his words the right way to see it. R. Herzog (1:13) speculated that the words of *Issurei bi'ab* 13:4 clearly mention *qabbalat ha-mitsvot* as a prerequisite for the convert. *Hemdat shelomoh*²⁶ similarly believed Rambam's comment, "he who converts privately is not a convert," alludes to the necessity for *qabbalat ha-mitsvot*. *Maggid mishneh* inferred from *Issurei bi'ab* 14:2 that Rambam requires *qabbalat ha-mitsvot*. In 14:2, Rambam states that the first thing the rabbinical court must do is "inform" the convert of Judaism's "fundamental principles of faith." Although Rambam seemed to have innovated the requirement for this ritual, *Maggid mishneh* contended that the reason he did this is because belief is what lies at the heart of the conversion process. Essentially, this is *Maggid mishneh's* proof-text that Rambam saw *qabbalat ha-mitsvot* as essential to the conversion process.

Third, there are *aharonim* who inferred Rambam's requirement for *qabbalat ha-mitsvot* from *Issurei bi'ab* 13:15, where he stated with regard to those who convert with ulterior motives, "we have misgivings [about them], until their righteousness becomes apparent." Rabbi Shlomo Goren interpreted Rambam's statement "we have misgivings" to mean that if a convert does not abide by Jewish law, his conversion is ex-post facto declared invalid.

The invalidation results from the fact that apostasy is seen as an indication that the original *qabbalat ha-mitsvot* was insincere, and conversion

without *qabbalat ha-mitsvot* is invalid²⁷; R. Goren named a number of *poseqim* whom he relied upon, including but not limited to *Arnei tsedeg*, EH 27; *Lekha shelomoh*, EH no. 29; *Ve-beeshiv mosheb*, YD no. 51; *Yad re'em* 2:11.

Others view Rambam's statement "we have misgivings" more leniently. Instead of ruling that one who apostatizes has his conversion revoked, the following sources state that for one who apostatizes post-conversion, the status of his conversion is cast in doubt: *Ahi'ezer*, 3:26; *Iggerot mosheb* YD 3:106; and *Heikhal yitshaq* EH 1:20. Although the punishment applied to the apostate here is less severe, the message is the same as above: actions that impeach the sincerity of one's initial *qabbalat ha-mitsvot* affect the status of the convert. As *Ahi'ezer* explained, the reason he is "cast in doubt" and not rejected outright is because in Jewish law when it comes to issues of *heter v'issur* (ritual permission and prohibition), one follows the majority. Insofar as the majority of converts who later became apostates were sincere at the time of conversion, *Ahi'ezer* ruled that each apostate convert ought to be treated as though he is in the minority. As a result, *an apostate is not excommunicated; his status as a Jew is not nullified. He is simply "cast in doubt."*²⁸

Finally, many other *aharonim* believed Rambam required *qabbalat ha-mitsvot* for conversion as well, although they seemed untroubled by the ambiguity posed by Chapter 13 and do not address it.²⁹

26. Shlomo Zalman Lifshitz, *Hemdat shleomoh* 30.

27. See Shlomo Goren, *Ruling Regarding the Brother and the Sister* (Jerusalem, 1973) (Hebrew).

28. For further on the meaning of "cast in doubt," see *Da'at kohen* 153 and *Minhat eleazar* 4:64.

29. See, for example, R. Shlomo Zalman Auerbach (Responso *Minhat shelomoh* 1:35) and *Devar avraham* (3:28).