

## Parameters and Limits of Communal Unity from the Perspective of Jewish Law

*Rabbi J. David Bleich*

Among the most pressing needs of the Jewish community in this country — and even more so in Israel — is the need for adequate communication between the various diverse sectors of which it is comprised. Absence of common cause directed toward common concerns, frequent misunderstandings and even acrimonious disputes between ideologically divergent factions of the community are directly attributable to simple lack of communication. The transcendent mandate of *ahavat Yisra'el* and our sacred obligation to reach out to every Jew with concern and love require that we actively seek areas of ongoing contact and cooperation. Unity within the community is clearly desired by all for reasons which are both ideological and pragmatic in nature.

Unity, not unlike mother love and apple pie, receives the approbation of one and all. Why, then, is the very quest for unity likely to be so divisive? The answer is to be found in the agenda of many — but not all — of the exponents of this utopian ideal.

*Tafasta merubah lo tafasta* — one's reach ought not to exceed

---

---

*Rosh Yeshiva, Rabbi Isaac Elchanan Theological Seminary  
Professor of Law, Benjamin N. Cardozo School of Law,  
Yeshiva University*

one's grasp. There are matters regarding which persons of diverse *Weltanschauungen* can neither agree nor cooperate — and indeed no one who espouses the concept of religious, moral or intellectual pluralism should anticipate either cooperation or agreement in such matters. One to whom the taking of fetal life is anathema cannot be expected to endow an abortion clinic. A pacifist can hardly be expected to participate in war games. A Marxist is an unlikely candidate for the position of Vice-President in Charge of Reducing Workers' Wages. The Jewish community is hardly monolithic, monoprax or monodox. No responsible call for unity has ever been predicated upon a platform calling for the setting aside of all differences. Rather, it has consisted of a call for (1) agreement to respect differences which do indeed exist; and (2) the forging of bonds of cooperation between various sectors within the Jewish community in order to promote goals and ideals to which we are all committed.

Were the agenda to consist of the second item exclusively, the goal would not be unattainable; certainly, there would exist no impediment rooted in principle or ideology. Problems arise with regard to the first item which is — not improperly — regarded by many as a necessary condition for the achievement of the second. Agreement to respect differences which do indeed exist may mean one of two things. Minimally, respect connotes awareness and concomitant abjuration of antagonistic words and deeds. On a different level, respect also entails acceptance. Acceptance is quite different from toleration. Linguistically, "toleration" is a term used to describe a mode of thought and behavior vis-a-vis that which is the subject of disdain. Individuals, each of whom professes to possess absolute truth, may indulge one another and one another's beliefs simply because there exists no other viable *modus vivendi*. The alternative is mutual abnegation and mutual destruction. Since the negative effects of the alternative are contrary to the self-interest of each of the parties there emerges reciprocal agreement to exercise restraint in interpersonal and intramural relationships.

Acceptance differs from toleration in that acceptance requires the legitimization of pluralism, i.e., acceptance requires not only sensitivity to the fact that others have differing viewpoints and

ideologies but also tacit affirmation that espousal of those views and ideologies is endowed with equal validity. This form of acceptance and respect is hardly unknown to Judaism. The dictum *elu va-elū divrei Elokim hayyim* certainly implies transcendental legitimacy for conflicting views even though protagonists engaged in the *milhamta shel Torah* do not and dare not give quarter to conflicting positions. Ravad,<sup>1</sup> followed by Duran<sup>2</sup> and Albo,<sup>3</sup> was willing to accord precisely the same type of legitimacy even to certain contradictory propositions each purporting to express theological truth.

Nevertheless, it is the attempt on the part of some to require conferral of legitimacy upon their ideologies and practices as a condition of unity which has made attainment of this goal impossible. It is the fear that cooperation within certain frameworks will constitute *de facto* acceptance and legitimization which creates an insurmountable barrier to unity in the eyes of that sector of our community which is dedicated to uncompromising adherence to the traditional teachings and practices of Judaism.

Halacha is remarkably tolerant, nay, accepting, but only within certain rather clearly defined parameters. Those parameters involve matters of dogma primarily. To be sure, there are numerous controversies regarding various articles of faith which have never been resolved in a definitive manner. For the most part, such controversies pertain solely to matters of belief and have little, if any, impact upon how Jews comport themselves. It is presumably for this reason that adjudication between diverse doctrines concerning the nature of Providence or the unfolding of eschatological events was not deemed imperative. However, acceptance of Torah as the revealed word of G-d and acknowledgment of its immutable nature are matters which are both unclouded by controversy in traditional Jewish teaching and which are also of profound significance with regard to virtually every aspect of Jewish life. These principles are fundamental to an

---

1. *Hilkhot Teshuvah* 3:7.

2. *Magen Avot*, chaps. 8-9.

3. *Sefer ha-Ikkarim*, Book I, chap. 2.

axiological system which serves to define the intrinsic nature of Judaism. The distinction between the practices of Ashkenazim and Sephardim, of Hasidim and Mitnagdim, could be accommodated by normative Judaism and ultimately find acceptance rather than mere toleration. Sadducees, Samaritans and Karaites could, at most, anticipate toleration by rabbinic Judaism. The halachic differences between oriental and western Jews and even the theological differences between Hasidim and Mitnagdim could be accommodated within a single axiological system. The differences between Sadducees and Pharisees, between Karaites and Rabbanites, between Samaritans and Jews could not be accommodated precisely because of the renunciation of the Oral Law, in whole or in part, by these sectarian groups. Indeed, an ideological system based upon acceptance of the revealed and immutable nature of both the Written and the Oral Law could not accommodate such diversity without committing the fallacy of self-contradiction.

The fact that certain contemporary sectarians may reject these axioms or reinterpret them in a manner which makes it possible for them to claim equal or even exclusive authenticity for their beliefs is entirely irrelevant. The Sadducees proclaimed the Pharisees to be charlatans; the Karaites taught that Rabbanites had falsified the *mesorah*; the Samaritans asserted that Jews had emended the Pentateuch to serve their own purposes. In each case we are confronted with two conflicting axiological systems which cannot concede one another's validity. Rabbinic Judaism finds itself in an entirely analogous position at present.

Judaism has always distinguished between those who transgress and those who renounce. Transgression is to be deplored, but transgression does not place the transgressor beyond the pale of believers. Renunciation — even without actual transgression — is a matter of an entirely different magnitude. Even misrepresentation of Halacha is equated in Jewish teaching with falsification of the Torah and hence with denial of the divine nature of the content of revelation.

This position is eloquently expressed in R. Shlomoh Luria's analysis of a narrative recorded in *Baba Kamma* 38a. The Gemara

reports that the Romans sent two officials to the Sages in the Land of Israel to study Torah. The officials expressed satisfaction with what they learned with the exception of one aspect of tort liability in which Jewish law seems to manifest prejudice against non-Jews (viz., the Jewish owner of an ox which gores an ox belonging to a non-Jew is not liable for damages, while the non-Jewish owner of an ox which gores an ox belonging to a Jew must make restitution). Despite their discomfiture with this legal provision, the officials promised that they would not divulge this aspect of Jewish law to the governmental authorities in Rome. R. Shlomoh Luria, *Yam shel Shlomoh*, *Baba Kamma* 4:9, raises an obvious question. Imparting this information to the Roman officials could easily have had catastrophic consequences for the entire Jewish people. There was, after all, no guarantee that the officials would be kindly disposed and would not deliver a full report to the government in Rome. Why, then, did the Sages not misrepresent the law by telling the Roman emissaries either that, in the case in question, both a Jew and a non-Jew would be culpable for damages, or that neither would be culpable? *Yam shel Shlomoh* responds by declaring that Torah may not be falsified even in the face of danger; falsification of even a single detail is tantamount to renunciation of the Torah in its entirety.

It would appear that *Yam shel Shlomoh's* position is reflected in the well-known narrative related by the Gemara, *Gittin* 56a. Bar Kamtza determined to betray the Jewish people to the Roman Emperor:

He went and said to the emperor. The Jews are rebelling against you. He said, How can I tell? He said to him: Send them an offering and see whether they will offer it [on the altar]. So he sent with him a fine calf. While on the way he made a blemish on its upper lip, or as some say on the white of its eye, in a place where we [Jews] count it as a blemish but they do not. The Rabbis were inclined to offer it in order not to offend the Government. Said R. Zechariah b. Abkulas to them: People will say that blemished

animals are offered on the altar. They then proposed to kill [Bar Kamtza] so that he could not go and inform against them, but R. Zechariah b. Abkulas said to them: People will say one who makes a blemish on consecrated animals is to be put to death. R. Johanan thereupon remarked: Through the forbearance [*anvatnuto*] of R. Zechariah b. Abkulas our house has been destroyed, our Temple burnt and we ourselves exiled from our land.

It is popularly assumed that the Gemara, in describing *anvatnuto* of R. Zechariah ben Abkulas, is censuring him for misplaced humility and lack of initiative. This understanding is reflected in a note in the Soncino translation (page 225, note 2), which renders this term as "humility." Yet Rashi renders the term "*anvatnuto*" as "*savlanuto*," which must be translated as "his forbearance" or "his patience." Forbearance is a matter quite different from humility and does not seem to warrant censure. The Gemara's categorization of R. Zechariah's action is thus a statement of fact and is not a criticism.

The reaction of the Sages was quite predictable. The prohibition against offering an animal with a blemish may certainly be ignored in order to preserve life. Bar Kamtza, who instigated the Roman Emperor, was certainly in the category of a *rodef*, an aggressor who causes the death of innocent victims through his actions. Causing the death of the messenger who had made a blemish in the animal would certainly have been permitted as an act of self-defense. But R. Zechariah ben Abkulas did not respond in the obvious, intuitive manner of his colleagues. His concern was not with any single infraction of Jewish law. He was concerned lest "people will say that blemished animals may be offered on the altar" and lest "people say that one who makes a blemish on consecrated animals is to be put to death." The overriding concern was that the act might not be perceived as an *ad hoc* emergency measure designed to prevent loss of innocent lives, but that it might be misinterpreted as normative Halacha. Falsification of Halacha, opined R. Zechariah b. Abkulas, is not permissible even in face of the threat of death, destruction of the Temple, and exile

of the Jewish people. Perversion of the *mesorah*, even with regard to a single halacha, is tantamount to denial of the Sinaitic revelation.

## II

Religious issues which contribute to divisiveness within our community must be seen against this backdrop. This is not to say that these issues must remain divisive. They are divisive only because the solutions demand conferral of equal legitimacy upon conflicting ideologies. Toleration, if not acceptance, is certainly within the realm of possibility provided that the protagonists are willing to accept neutral pragmatic solutions and do not insist upon scoring points on behalf of denominational interests.

An analysis of some of these issues — and why it is that they are destined to remain divisive — is in order. Among the most divisive issues in the United States is the *issur* against membership in the Synagogue Council of America and the New York Board of Rabbis promulgated by a group of eleven leading *Roshei Yeshivah* in 1956.

The question of participation in such umbrella groups has often been portrayed as identical to that of *Austritt*, a matter that became the subject of controversy between Rabbi Samson Raphael Hirsch and Rabbi Seligman Baer Bamberger. Hirsch demanded that the members of his community resign from the Frankfurt *kehillah* which was dominated by Reform elements; Bamberger counseled against so divisive a step. However, the issue in the Synagogue Council and the New York Board of Rabbis dispute is not parallel to that involved in the Hirsch-Bamberger controversy. There are no grounds for assuming that even those who did not favor *Austritt* a century ago would approve participation in rabbinical and synagogal umbrella organizations. On the basis of the voluminous material written by the protagonists in the latter controversy it is clear that a paramount issue was the fear of possible negative influence which might be exercised by the members of the larger and more powerful group. Although Hirsch regarded secession to be mandated on ideological grounds, for many, the primary fear was that with the passage of time religious commitment and observance of the Orthodox might become diminished.

Accordingly, so eminent an authority as R. Chaim Ozer Grodzinski<sup>4</sup> was prompted to declare that Hirsch and Bamberger were in conflict, not over a matter of Halacha, but over an assessment of socio-religious realia and that, therefore, the question is one which admits of diverse answers in different locales and at different times. The European *kehillah* system was primarily ethnic in nature; religious groups within the *kehillah* were, in some cities, permitted to conduct their own affairs in an autonomous manner. Under such circumstances membership in the central *kehillah*, it was argued, did not imply endorsement of the activities of organizations and institutions subsidised by the *kehillah*. Even opponents of *Austritt* refused to sanction such participation when those conditions did not obtain. Indeed, it is often forgotten that Bamberger himself demanded *Austritt* in Carlsruhe, Vienna, Wiesbaden, and indeed in Frankfurt as well, at a time when the autonomy of Orthodox institutions was as yet not guaranteed.<sup>5</sup>

In contrast, the issue in the United States is not that of possible negative influence but of legitimization. Organizations such as the Synagogue Council of America and the New York Board of Rabbis are, by their very nature, religious organizations; their *raison d'être* is to enable diverse religious groups to speak with a common voice. It is precisely a union of synagogal bodies *qua* synagogue bodies and/or clergymen *qua* rabbis which confers, or appears to confer, legitimacy and recognition of equal ideological validity.

And it is precisely for this reason that men of goodwill would not find this obstacle to be insurmountable. It would be entirely possible for the Synagogue Council of America to coopt a number of secular Jewish organizations, to engage in a *shinuy ha-shem* and to emerge as an organization doing exactly what it does at present but without any implication of mutual recognition of doctrinal legitimacy. The New York Board of Rabbis would find a similar expedient a bit more difficult but by no means impossible.

4. *Ahi'ezer: Kovetz Iggerot*, ed. Aron Sorasky (Bnei Brak, 5730), I, no. 150.

5. See R. Simchah Bamberger, *Teshuvot Zekher Simchah*, no. 130



On the Israeli scene, *giyur ke-halachah*, the most emotion-laden of problems, is the easiest to resolve. The Law of Return of 26 Tammuz, 5710<sup>6</sup> confers automatic Israeli citizenship upon certain classes of people. Other persons are by no means excluded from Israeli citizenship. They must, however, undergo a naturalization process. The provisions of the Law of Return, as they apply to naturally-born Jews, pose no problem whatsoever. However, since the Law of Return confers citizenship in a like manner upon converts to Judaism a problem arises with regard to conversions performed under non-Orthodox auspices.

Halachic Judaism can never sanction conversion in the absence either of ideological sincerity or of unreserved acceptance of the "yoke of the commandments." Thus no candidate may be accepted for conversion in the absence of a firm commitment to *shmirat ha-mitzvot*. Sincerity of purpose in face of obvious ulterior motivation can be determined only by a competent *Bet Din* on a case-by-case basis.

Moreover, halacha recognizes the validity of a conversion only if performed in the presence of a qualified *Bet Din*. The qualifications for serving on a *Bet Din* are carefully spelled out by halacha. Conversion, even when accompanied by circumcision, immersion in a *mikveh*, as well as acceptance of the "yoke of the commandments," is null and void unless performed in the presence of a qualified *Bet Din*.

A number of proposals have been advanced in an attempt to satisfy the desires and aspirations of the Conservative and Reform movements without doing violence to the principles of the Orthodox. The crux of these proposals is that all conversions be recognized as valid, regardless of the auspices under which performed, provided that the halachic requirements of immersion and circumcision are properly carried out. Conservative and Reform groups would undertake scrupulously to adhere to these halachic requirements.

Alas, such proposals, well-meaning as they may be, are unacceptable because they ignore one crucial factor: conversion to

---

6. *Sefer ha-Hukkim*, no. 51, 21 Tammuz 5710, p. 159.

Judaism is valid only if performed in the presence of a qualified *Bet Din*. In both the United States and in Israel — as in most countries — a judge cannot sit on the bench without first being sworn to uphold the laws of the land. In the absence of such a commitment his judicial decisions are legally meaningless — regardless of whether or not they reflect the law correctly. Jewish law does not require an oath — other than the one sworn by each of us at Mount Sinai — but it does state clear requirements for holding judicial office. One need not necessarily be an ordained rabbi in order to serve on a *Bet Din* for purposes of accepting a convert, but one must be committed to the acceptance of Torah — both the Written and Oral Law — *in its entirety*. One who refuses to accept the divinity and binding authority of even the most minor detail of halacha is, *ipso facto*, disqualified. Long before the Law of Return became a controversial issue, it was the stated opinion of halachic authorities that ideological adherents of Reform and Conservatism fall into this category. One of the foremost rabbinic scholars of our generation, R. Moses Feinstein, has written in at least six different responsa which appear in his *Iggerot Mosheh* that all who identify themselves as non-Orthodox clergy must be considered to be in this category.<sup>8</sup>

For this reason, no serious halachist can be receptive to any proposal which would provide for inclusion of non-Orthodox clergymen as participants in the statutory three-member *Bet Din* required for conversion. However, proposals have been advanced in some quarters calling for the establishment of a *Bet Din* composed of at least three qualified Orthodox rabbis with additional participants drawn from non-Orthodox groups. Such proposals are designed to provide the appearance of participation without providing a substantive role for non-Orthodox members of such a body. This proposal, it has been argued, should be

---

7. See, for example, Jakob J. Petuchowski, "Plural Models within the Halachah," *Judaism*, vol. 19, no. 2 (Winter 1970), 77-89.

8. See *Iggerot Mosheh*, *Even ha-Ezer*, I, no. 135; *Even ha-Ezer*, II, no. 17; *Even ha-Ezer*, III, no. 3; *Yoreh De'ah*, I, no. 160; *Yoreh De'ah*, II, no. 125; *Yoreh De'ah*, III, no. 77. See also *Iggerot Mosheh*, *Even ha-Ezer*, I, nos. 76-77 and 82, sec. 11; and *Yoreh De'ah*, II, nos. 100 and 132.

acceptable to all. The concern of Orthodox Jews that validity of the conversion not be compromised by the absence of a qualified *Bet Din* is obviated by assuring that three participants are fully qualified. In effect, the Orthodox members — and the Orthodox members alone — would constitute the *Bet Din*. Other participants are entirely superfluous and hence, it is argued, from the vantage point of halacha they should be viewed as observers whose presence is non-participatory and hence entirely innocuous. Non-Orthodox sectors of the community would be able to ignore this salient consideration and to claim participation of their representatives as full-fledged members of the *Bet Din*.

In point of fact, there does exist a halachic analogue which provides a paradigmatic distinction between participatory and non-participatory members of a *Bet Din*. *Halitzah*, which provides for release from the obligations of levirate marriage, must be performed in the presence of a *Bet Din*. The *Bet Din* for *halitzah* is not composed of the usual three-man complement but consists of five persons. However, the additional two members of this body play no substantive role whatsoever. Since they are assigned no function other than that fulfilled by their mere presence, they are known in rabbinic parlance as "*die shtume dayyanim*," i.e., "the mute judges." The proposed *Bet Din* for conversion would be entirely similar to the *Bet Din* recognized by halacha for purposes of *halitzah*. Non-Orthodox participants would in fact be "*shtume dayyanim*."

Establishment of a *Bet Din* of this nature is not acceptable to large sectors of the Orthodox community for reasons which, not surprisingly, find expression in the regulations governing the composition of the five-member *Bet Din* required for purposes of *halitzah*.

Although *halitzah*, in order to be efficacious, must be performed in the presence of a *Bet Din*, there is nothing intrinsic to that ritual which requires a five-member judicial body. The basic requirement for the presence of a *Bet Din* could be discharged by a three-man body; the enlarged bench is required solely for purposes of publicization of the ritual — either to assure that the woman's status be known to the public at large so that she will not

subsequently marry a *kohen*, or in order that prospective suitors be aware that there is no longer an impediment to seeking her hand. The unusual presence of additional members, even though they are assigned no participatory function, serves to publicize the proceedings.

The non-participatory nature of the additional two members is reflected in the seating arrangements employed. According to some authorities, the two additional members are assigned seats opposite the three members who constitute the *Bet Din* proper; others maintain that it is the practice for the additional members not to be seated opposite the three-man panel but at the side of the bench or row of seats occupied by the three-member *Bet Din*.

Logically, since the additional two members are not participants in the *Bet Din*, there is no intrinsic reason why they must be qualified to serve as judges. For example, Jewish law provides that members of a *Bet Din* may not be related to each other or to those appearing before them. This restriction clearly applies to the three persons sitting together as the *Bet Din* for *halitzah*. But does it apply to the two non-participating members who are coopted solely for purposes of publicization? This issue is the subject of controversy among early authorities. Ritva, cited by *Nemukei Yosef*, *Yevamot* 101a, maintains that restrictions governing qualifications of members of a *Bet Din* do not apply to these additional two members. *Nemukei Yosef* further infers from the phraseology employed by Rambam, *Hilkhot Yivum ve-Halitzah* 4:6, that the latter disagrees and rules that all five should be required to satisfy the identical requirements; *Tur Shulchan Aruch*, *Even ha-Ezer* 169, and Ramo, *Even ha-Ezer* 169:3 espouse the position of Rambam.

The analysis of this controversy presented by *Bet Shmu'el*, *Even ha-Ezer* 169:4, is quite instructive. *Bet Shmu'el* notes that *Shulchan Aruch* and Ramo record divergent practices regarding seating arrangements for the additional two members: *Shulchan Aruch* 169, *Seder Halitzah*, sec. 12, records the earlier practice which provides for the two coopted members to be seated opposite the first three; Ramo announces the modified practice of adjacent sitting at the side.

*Bet Shmu'el* proceeds to explain that when the additional two members sit opposite the *Bet Din* it is apparent to all that the coopted individuals are in fact not members of the bench; hence authorities who propose opposite seating for the coopted participants would find no reason for them to meet the qualifications established for fullfledged participants. However, explains *Bet Shmu'el*, an onlooker finding a seating arrangement such as that described by Ramo might well be unable to discern the essential distinction between the two groups. Accordingly, were unqualified persons permitted to occupy the two additional seats on the five-man panel, the uninformed bystander might conclude that the same relaxation of requirements applies to all members of the *Bet Din*. In order to prevent such error, concludes *Bet Shmu'el*, even the two non-participating members of the *Bet Din* must meet the requirements for participatory members of the *Bet Din*. Accordingly, declares *Bet Shmu'el*, those authorities whose practice did not require separate seating required that all five participants be fully qualified. Thus Ramo, for example, adopts an entirely consistent position with regard to both matters.

It is thus evident that all who are perceived by the public as members of a *Bet Din* must be qualified for service on that body even though, in actuality, they are not members of the *Bet Din*. Surely, the same principle applies to a *Bet Din* which sits for purposes of accepting converts to Judaism. Halacha forbids even the appearance of participation in such a judicial body by any person not fully qualified for actual participation.

Participation of non-Orthodox clergymen in such bodies even as non-participatory "*shtume dayyanim*" is cause for even more serious concern since it serves to legitimize the credentials of such participants and of the ideologies they represent. The considerations giving rise to opposition to joint participation in umbrella bodies such as the Synagogue Council of America and the New York Board of Rabbis certainly apply with even greater cogency and force to establishment of a common *Bet Din* for purposes of acceptance of converts.

There is nothing in this position which should be a cause for animus directed against the Orthodox rabbinate. The Orthodox

posture on this matter is based upon objective criteria of Jewish law and in no way reflects political, partisan or personal considerations. Those who differ ideologically may disagree, and even deplore, this position; but intellectual honesty should compel them to recognize that it is a sincerely held view which is the product of a firm commitment to halacha in all its guises.

Nevertheless, a solution does exist. The objection is based upon implicit State recognition of the validity of such conversions, not upon conferral of citizenship *per se*. Since no one has ever argued that non-Jews should not be granted citizenship by the State of Israel, there could hardly be an objection to bestowing citizenship upon a person who remains a gentile because of an invalid conversion procedure. The solution is as obvious as it is simple: restrict the Law of Return to naturally-born Jews and allow converts to apply for naturalization in the usual manner. Non-Jews affirming loyalty to the State are granted naturalization as a matter of course at the discretion of the Minister of the Interior in accordance with sec. 5 of the Nationality Law of 5712.<sup>9</sup> Surely, no one will object if State officials, without in any way passing on matters of halacha, use objective judgment in considering even technically invalid conversion as evidence of an applicant's sincere desire to identify with the aspirations and common destiny of the citizens of the State of Israel.<sup>10</sup> It must be remembered that the present law provides that economic and social benefits associated with citizenship are automatically conferred upon even non-Jewish spouses and children of Jews claiming citizenship under the Law of Return as amended on 2 Adar II 5730.<sup>11</sup> The relevant section states:

The rights of a Jew under this Law and the rights of

---

9. *Sefer ha-Hukkim*, no. 95, 13 Nisan 5712, p. 146.

10. There is even a biblical precedent for treating naturally-born Jews and proselytes differently in terms of their relationship to *Eretz Yisra'el*: A convert has no claim to *yerushat ha-aretz*. Similarly, it is not at all anomalous to accept the claim of a Jew to citizenship automatically but to subject the bona fides of a convert to at least cursory scrutiny via the naturalization process.

11. *Sefer ha-Hukkim*, no. 586, 11 Adar II 5730, p. 34.

an *oleh* under the Nationality Law, (5712-1952), as well as the rights of an *oleh* under any other enactment, are also vested in a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.

No demurrer has been heard with regard to these provisions of the law.

Unity requires neither legitimization nor acceptance, but it does require tolerance. Tolerance, without which co-existence becomes impossible, at times demands that ideological issues be skirted rather than solved. Removal of the "Who is a Jew?" issue from the political agenda would serve as an ideological victory for no one, but would constitute a definite victory for the cause of unity.

Recognition of non-Orthodox clergymen and the question of solemnization of marriages proscribed by halacha are problems which do not readily lend themselves to a facile solution. The State of Israel has, in effect, preserved the millet system which granted autonomy to each religious community in matters of marriage and divorce. The Samaritans and the Karaites have been granted recognition as autonomous religious communities. In effect, such autonomy implies recognition of the beliefs espoused by these groups as sufficiently different from those of Judaism as to constitute separate religious faith-communities. Orthodox Judaism cannot recognize other trends as legitimate expressions of Judaism. This, however, does not prevent the State of Israel from extending recognition to such groups as distinct and autonomous faith-communities. If the goal is to secure redress of grievances and civil liberties such a procedure would produce the desired effect. If, however, the goal is recognition of the legitimacy of those trends as different but nevertheless authentic expressions of Judaism, recognition as distinct faith-communities would be counterproductive.

Most significantly, a solution of this nature is antithetical to the fostering of unity. The danger of a new Karaite schism born of

rejection of matrimonial law, as was the original Karaite schism, is a very real one. Conferment of autonomy in matters of marriage and divorce upon non-Orthodox groups can only hasten the process. The threat to genealogical purity which existed in only an incipient form in the early days of the Reform movement prompted personages such as R. Moses Sofer<sup>12</sup> and, much later, R. Chaim Ozer Grodzinski<sup>13</sup> to propose a call for such a schism. Orthodox Judaism has made its stand very clear. It is regretfully willing to accept schism rather than enter into ideological compromise. The ball is in the other court. Others must ask themselves: Does there exist any ideologically compelling reason which requires them to destroy Jewish unity? Assuming a negative answer to this query, the sole remaining question to be asked is: Is a measure of denominational pride an unreasonable price to pay for preservation of some vestige of communal unity?

---

12. *Teshuvot Hatam Sofer*, VI, no. 89.

13. *Ahi'ezer: Kovetz Iggerot*, I, no. 150.