

Response to Rabbi Asher Benzion Buchman

By: MARC B. SHAPIRO

“The errors of great men . . . are more fruitful than the truths of small men.” – Nietzsche¹

It is an honor that Rabbi Asher Benzion Buchman devoted almost fifty pages to reviewing my recent book, *Studies in Maimonides and His Interpreters*. In fact, Buchman reviewed only half of the book, which makes his effort all the more remarkable. It is very rare that an author has such a close reader, and I am thankful for this, even if the reader disagrees with so much I have written and isn't able to find even one positive thing to say about the book. The issues he raises are significant, as they speak to one of the most important aspects of both Torah study and Jewish intellectual history, namely, understanding the writings of Maimonides.

It is not necessary for me to engage in a page-by-page response to Buchman, as readers can judge for themselves which approach appeals to them and which they find more reasonable. The latter point is important, for what is at issue here is how to interpret the evidence. Buchman's efforts are designed to show that the very evidence I put forth can yield different conclusions. He argues his case with much conviction and I must thank him for correcting some careless errors of mine, for pointing out a few nuances that I missed, and for causing me to think again about some of my points, which no longer appear so certain after reading his critique.

Having said this, however, I stand by my major theses. I will use this opportunity to deal with some of the points Buchman makes where I think further discussion is warranted. I will also correct some errors in how Buchman has characterized what I have written.

¹ Walter Kaufmann, ed., *The Portable Nietzsche* (New York, 1976), p. 30.

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1. Buchman, p. 114, writes that my presentation of *Perush ha-Mishnah, Orlah 2:1*, is incorrect, in that I cite “Rambam as saying that he does not recall ‘if’ there is a scriptural connection in a particular case, whereas Rambam rather says that he does not recall ‘what’ the scriptural source is.” The difference between the two formulations is quite minor, and I don’t believe that Buchman’s understanding is preferable to mine. Maimonides’ words are (in Kafih’s translation):

ואיני זוכר עתה בדברי חכמים אסמכתא שעליה הסמיכו דין זה.

2. Buchman, p. 115, states that I “mock” those who don’t interpret Maimonides’ words according to what Maimonides himself says. He later says, pp. 139 and 140, that I “ridicule” a certain approach (using this word three times), and that I cite the Chazon Ish as ridiculing similar approaches by R. Chaim Soloveitchik. He further states, p. 145, that my “real scorn is reserved for Brisk,” and that I “ridicule” Brisk (p. 146). Buchman locates this scorn and ridicule in my categorization of Brisk as “ahistorical” in its approach.

I strongly reject Buchman’s description of both my writing and that of the Chazon Ish. Readers should examine my words and determine if I have engaged in any such ridicule.² I—not to mention the Chazon Ish—have the greatest respect for all the traditional interpreters. If I suggested alternative approaches, that is all. There is no ridicule here. As for the “scorn” and “ridicule” supposedly seen in my categorizing the Brisk approach as “ahistorical,” Buchman has misunderstood. The word “ahistorical” is not necessarily pejorative. There are different ways of approaching texts and, to give an example, much of modern literary analysis (e.g., New Criticism) has been ahistorical. I suggest that the same is true of some of modern rabbinic scholarship, in particular the approach of Brisk.³

² Buchman himself, p. 149, writes of “the folly of Chasam Sofer and De-gel Reuven.”

³ And not only Brisk—see R. Nahman Greenspan, *Pilpulah shel Torah* (London, 1935), pp. xvii-xx, who elaborates on what he regards as an essential element of Torah study, namely, explaining the approach (*shitalah*) of earlier scholars in a manner that, though valid in and of itself, would have been foreign to these scholars. I sense that Buchman and many others don’t grasp this point, and assume that for an interpretation to be valuable, not to mention “true,” it has to be historically accurate in the sense that the original author intended it. In the interest of

Buchman, p. 146, quotes R. Jehiel Jacob Weinberg's letter in which he criticizes the Brisker approach. In referring to how R. Joseph B. Soloveitchik wrote about his uncle, R. Isaac Ze'ev, R. Weinberg categorizes the description as akin to how members of a *חבד* (sect) write about their leaders. Buchman translates *חבד* as "cult," which is incorrect and has a very bad connotation. Buchman then concludes: "So let's be quite clear: if we side with Rav Weinberg and Chazon Ish, the Rav is also delusional, and his Torah, I guess, would be (*chas v'shalom*) nonsense."

The only nonsense I see is this last sentence. Neither R. Weinberg nor the Chazon Ish would ever regard "Brisker Torah" as "nonsense." They had the greatest respect for R. Chaim and his achievements. Yet they also had a different approach, one that they thought was in line with Maimonides' original intent. To take their important criticisms of the Brisker approach and caricature them as Buchman has done is terribly irresponsible. Let us not forget that R. Weinberg thought that R. Chaim's interpretations were brilliant and exemplified Torah study at its highest level.⁴ In his mind, this was quite apart from whether the interpretations reflected Maimonides' original intent.⁵

Buchman writes (p. 145 n. 140): "It is quite amazing that Chazon Ish should be his [i.e., Shapiro's] ally in accusations of being ahistorical. Even traditionalists know that it is the Chazon Ish who calls for halachah to be determined ahistorically, as is clear from his *Iggros*." Buchman is mixing apples and oranges. The fact that the Chazon Ish was not generally interested in utilizing new manuscripts of the Tal-

space I will not elaborate any more on this here. In a future *Hakirah* article I hope to return to this topic, where I will cite many traditional sources to back up Greenspan's point mentioned at the beginning of this note.

⁴ In his letter to R. Mordechai Gifter, dated April 24, 1961, R. Weinberg expressed regret that he never troubled himself to make the acquaintance of R. Chaim. "Because of this I deprived myself of growth and lost something that can never be replaced."

⁵ In the Hebrew appendix to my book, I publish all relevant sections from R. Weinberg's letters. Thus, it is improper for Buchman, p. 146 n. 146, to state that in the English section of my book I "selectively" chose to quote some of what R. Weinberg said, implying that I was engaged in a form of censorship.

mud or newly printed *risbonim* has nothing to do with being ahistorical. Rather, it is related to his conception of how the halakhic tradition developed and what has been canonized. When it comes to determining halakhah, the Chazon Ish was certainly not ahistorical but strove to discover the original intent of the sources he analyzed.

Buchman writes (p. 141): “The *Briskers* are merely following the approach of their teacher—Rambam—and those trained to think this way are the most accurate interpreters of Rambam’s intent.” This is not a dispute that can be settled, and as the reader can see, my own position is in line with the Chazon Ish, R. Weinberg, and R. Kafih. They believed that R. Chaim’s approach, however brilliant, did not reflect the historical Rambam.⁶

I think it is worthwhile to cite some of what R. Aharon Lichtenstein has to say in this regard. Certainly, R. Lichtenstein is an adherent of Brisk, and sees it as the highest level of Torah study. But he is also sensitive to the historical issue of whether the explanations offered on Maimonides actually reflect the “historical Maimonides.” That is, are these answers what Maimonides had in mind, and is this a question that should even be a concern for us? He said as follows⁷:

⁶ One observer has remarked that the Chazon Ish judged R. Chaim’s interpretations of Maimonides “by the wrong criterion; he wanted to determine if they were true!” See Lawrence Kaplan, “The Hazon Ish: Haredi Critic of ‘Traditional Orthodoxy,’” in Jack Wertheimer (ed.), *The Uses of Tradition* (New York, 1992), p. 155 n. 33. By “true,” this observer meant true to original intent. Of course, one shouldn’t assume that Briskers (and this includes R. Chaim) believed that the only way to understand Maimonides was through the analytic approach. See e.g., R. Isser Zalman Meltzer’s introduction to *Even ha-Azel*, vol. 3 (*Sefer Kinyan*; called to my attention by Rabbi Aharon Rakeffet): ואם אמנם דרך החדוש שיצא מזה תועלת למעיין הוא דוקא לנתח יסודות ההלכה ולהגדיר גדריה, שכן הורה לנו אדמו”ר גאון ישראל בשיעוריו כאשר יראה המעיין בספרו המאיר עינים “חדושי רבנו חיים הלוי”, אבל לא בכל מקום אשר יקשו לנו בדברי הרמב”ם אפשר ליישב בדרך זה. הרבה פעמים יתכן שאין שם מקום להגדרות וחלוקים והבאור האמיתי יוצא מתוך עיון בהבנת הסוגיא ובבירור פירושי הראשונים וגם בזה דרושה התעמקות ועיון רב.

⁷ R. Lichtenstein’s lecture was delivered in 1984 at the Bernard Revel Graduate School of Yeshiva University. Its title is “Torat Hesed and Torat Emet: Methodological Reflections.” The passages cited here, which appear in the transcript made available after the lecture, differ

It may indeed perhaps be doubtful that in setting forth the Rambam's *shitab*... that the Rambam personally intended everything that R. Hayyim expounds by way of its explication. And yet that should not deter the exposition. The potential for the whole of R. Hayyim's book—as potential—is surely latent within the raw material of the *Yad ha-Hazakah*, although it may have taken a genius of R. Hayyim's stature to extract and elucidate it

That is all that need concern us. Perhaps we do not divine in psychological, subjective terms the Rambam's intention, but, on the other hand, neither are we studying ourselves. We are studying the texts, the concepts, the raw material to be found within the Rambam and mined therefrom. *Kol asher talmid atid le-hithadesb ne'emar al yedei Rabbenu Moshe ben Maimon*. Would the Rambam have recognized his own recast handiwork? Probably not.

[R. Lichtenstein then quotes the talmudic passage in *Menabot* 29b which describes how Moses could not fathom R. Akiva's method of expounding the Torah, and applies the lesson of this passage to Maimonides' works. He concludes:] *Hakhmei Yisrael*, too, have then their *Torat Emet*—that which is, as best as can be perceived, an accurate statement of their conscious and willed position—and their *Torat Hesed*—the increment they have contributed to the world of halakhah which can then lead its own life and be understood in its own terms, both as an independent entity and in relation to other halakhic elements.

With regard to practical halakhah, R. Lichtenstein stated:

If one indeed assumes that in learning *risbonim*, interpreting them, we can find content but not necessarily intent, this is well and good to the extent that we are simply trying to plumb the depths of Torah proper. However, the moment that, in dealing with *pesak*, we seek to invoke their authority and to insist that a particular point of view be adopted because the weight of the Rambam or the weight of the Rashba is behind it, then of course the element of intent—whether indeed this was the clearly stated and articulated position of the Rashba or the Rambam proper—becomes a far more critical and crucial consideration than when we simply are learning with excitement and passion in the confines of the *Beit Midrash*. That is a consideration which those who are concerned with *pesak* I think should bear in mind.

from what is found in the published version. See *Leaves of Faith* (Jersey City, 2003), vol. 1, ch. 3.

Finally, let us turn to the Rav, R. Joseph B. Soloveitchik. Buchman, p. 146, criticizes me for not mentioning him, whom he describes as “the greatest proponent of this mode of study [i.e., Brisk] in the history of American Jewry and perhaps its greatest proponent in the twentieth century.” Here is what the Rav said, as recorded in a student’s notes:

Mankind is changeable in its cognitive adventures, and to say that I understand Aristotle means in the tradition of Aristotle, which, of course, has been subject to change. In halacha there is a *masoret*, a tradition as to method, but if I give an interpretation to Maimonides, it does not necessarily mean that Maimonides meant just that. If measured by halachic standards it is correct. That suffices.⁸

3. What is the point of Buchman’s comment, p. 119 n. 41: “Rav Chaim Soloveitchik, shlita, known to Dr. Shapiro as Prof. Hayyim Soloveitchik”? Is it to imply that I was being disrespectful in referring to Haym Soloveitchik by the title he is known by the world over? Speaking of titles, let me also note that on p. 126 n. 70, Buchman mistakenly turns R. Kalman Kahana into a professor.

4. In my book, p. 11, I quoted Maimonides’ letter to the sages of Lunel in which he acknowledges that in old age he suffered from forgetfulness. I further wrote that, at least with regard to his later writings, Maimonides virtually invites us to answer perplexities by attributing them to forgetfulness and carelessness. Buchman states (pp. 121-122): “He does not, however, tell us why Rambam would mention such a thing in the context of explaining why there are mistakes in what he wrote in *Mishneh Torah*, which was not written in his old age. This is one of the characteristically difficult statements that is found throughout this letter that caused R. Kappach to proclaim it a forgery.”

Buchman asks a good question. Here is the passage in Maimonides’ letter (Sheilat, ed. *Iggerot ha-Rambam*, vol. 2, p. 503).

ושגיאות מי יבין, והשכחה מצויה בכל, וכל שכן בזקנים. ומפני כל אלו הסבות ראוי לחפש בדברי ולבדק אחרי, ואל יאמר הקורא בחבורי: כי מה האדם שיבוא אחרי המלך, אלא הרי הרשיתיו, ויאמר המלך יבוא.

⁸ See daattorah.blogspot.com for Dec. 16, 2008. Since this is from a student’s notes, one should not assume that it is a verbatim transcript.

As we can see, Maimonides is saying a couple of things. He first acknowledges the possibility of error and then states that everyone forgets things, particularly the elderly. Why include this if the *Mishneh Torah* was not written in his old age? I think a plausible answer is that since we know that he continued to revise his Code, it was not in his mind a work written in his earlier years. As I noted in my book, it was a continual work in progress, until the day he died. So when, as an older man, he wrote the letter to Lunel, he was speaking about the *Mishneh Torah* and himself in the present tense.

5. Buchman, p. 122 n. 53, wonders why I mention a case where Maimonides “seemingly errs” if there is a scholar who disagrees. This is hardly a criticism, especially since it is R. Yitzhak Sheilat whom I cite in support of my statement. For interested readers, here is what Sheilat, *Iggerot ha-Rambam*, vol. 1, p. 287 n. 18, writes:

ונראה כי הרמב"ם שגג בזה ושכח שהלכה זו מופיעה בשני מקומות
בספרו . . . וכבר כתב הרמב"ם לעיל (רפז, 11) שכל אדם עלול לשכח
ולטעות.

6. In my book I gave many examples of Maimonides misquoting verses from the Pentateuch and the rest of the Bible, which I attributed to Maimonides citing from memory. It is not uncommon for medieval writers or even modern ones to misquote verses for this very reason. I don't know why Buchman thinks Maimonides should be immune to this.

Buchman believes that it is more plausible to assume that Maimonides had alternate versions of these biblical texts, and this explains the misquotations. This is an untenable suggestion. To begin with, many of the misquotations are combinations of verses or Maimonides citing the wrong verse. As for the other misquotations, where only a word or two is different, in many of these cases Maimonides cites the verse accurately elsewhere, even in the same book. Furthermore, when it comes to the *Mishneh Torah* we know that he had access to the Ben Asher text, which he examined carefully with regard to the Pentateuch.⁹ We also know that the letters of the Ben

⁹ See *Sefer Torah* 8:4.

Asher text are identical to the current Yemenite text.¹⁰ Thus, it is impossible to assume that Maimonides' misquotations of the Pentateuch in the *Mishneh Torah* are due to his having had different manuscripts.

Buchman also claims that I assume that Maimonides never corrected these errors, as we have no evidence of this in any manuscripts. For argument's sake, let's assume that he did correct them. Why is this significant? I, too, point to numerous corrections that Maimonides made. Had he lived longer, he no doubt would have made more corrections, either of errors he noted or of those that were called to his attention. Yet this does not take away from my basic point that Maimonides cited texts from memory, which led to certain errors.

I agree with Buchman that there are times when mistakes come from scribes, which is why I made use of the evidence of multiple good manuscripts. While perhaps some of the errors that appear in these manuscripts can be attributed to scribes, it strains credulity to attribute a significant number of them to an erring copyist. This is quite apart from the fact that in the *Commentary on the Mishnah* and the *Guide* we have misquotations of biblical verses from Maimonides' own hand.

Buchman, p. 127, claims that the misquotations in both Maimonides and the Talmud may be purposeful, due to a halakhic issue. To this I would simply say that well over ninety percent of the verses Maimonides quotes are cited accurately. If in all these many hundreds of cases Maimonides sees no reason to purposely cite them inaccurately, it strains credulity to assume that he would do so at other times.

In my book I cited some examples where the Talmud misquotes a verse and Maimonides does the same. I assume that Maimonides cited the verse from the Talmud without actually looking it up. Buchman assumes that in these few cases there was a reason the Talmud purposely altered the verse, but not in the thousands of other times that verses are quoted in rabbinic literature. Buchman asks: "Is it possible that at times Rambam only paraphrased a pasuk to avoid

¹⁰ See *Nusah ha-Torah ba-Keter Aram Tzovab: Edut Hadashah* (Ramat Gan, 1993), pp. 67ff. In five places Ben Asher and the Yemenite text differ with regard to the proper separation of words.

the halachic problem?” Almost none of the mistakes I noted would fall into the category of a paraphrase. Even for the few that would, the problem is again obvious: If there is some requirement to paraphrase, how come Maimonides doesn’t do so the many hundreds of other times he cites verses?

As for the halakhic issue of writing down verses from the Bible, there are ways around this that were utilized by Maimonides. The lines he placed on top of words are clearly *sirtut*. At other times he would place dots over the words. This is noted by R. Sheilat, in the introduction to his edition of *Avot* (Maaleh Adumim, 2004), p. 12.¹¹ This source is referred to by Buchman, but Buchman does not quote the following sentence of R. Sheilat. “Maimonides quoted all the verses from memory, and at times the quotation is not exact.” Is Buchman prepared to discount R. Sheilat as just another “academic”?

7. Buchman, p. 128, deals with my assertion that Maimonides erred in *Guide* 3:40 when he said that the value of a man is sixty *shekalim*, rather than 50.¹² He states: “Obviously Rambam was approximating and had written 50 *shekalim* while 30 is approximately half of this; but an errant scribe quick to use his mathematical knowledge substituted 60 so the half should be exact. Anyone who has gotten to know Rambam, at least a little, should know that he did not make this mistake.”

Buchman is not the first to assert that what we have here is a scribal mistake.¹³ There are also other attempted solutions to this problem that don’t assume a scribal error. In my book I cited R. Kook in this regard, and let me now make reference to some other

¹¹ See also R. Kafih’s commentary to *Sefer Torah* 7:16.

¹² In my book I noted that Maimonides cites the correct amount in *Ara-
kchim ve-Haramim* 1:3, but I neglected to also refer to *Commentary on the
Mishnah, Arakchin* 2:1.

¹³ See Isaac Satanov, *Givat ha-Moreh* (Vienna, 1828), ad loc. (the first vol-
ume of this commentary is by Solomon Maimon and the latter two by
Satanov); R. Wolf Heidenheim’s note in R. Eliezer ben Nathan,
Ma’amar ha-Sekbel (Vienna, 1816), p. 52b; Isaac Baer Levinsohn, *Bikurei
Ribal* (Warsaw, 1900), pp. 65-66; Israel Yafeh in A. Y. Weisenfeld, *Hal-
ifat Mikhtavim* (Cracow, 1900), p. 75; R. Isaac Simhah Hurewitz, *Sefer ha-
Mitzvot* (Jerusalem, 1931), p. 33a; R. Barukh Halevi Epstein, *Torah
Temimah*, Lev. 27:3.

sources for those who want to explore the issue further.¹⁴ What I want to focus on, however, is Buchman's blanket statement: "Anyone who has gotten to know Rambam, at least a little, should know that he did not make this mistake." As we shall now see, some outstanding students of Rambam, who knew him very well, didn't share Buchman's assumption.

R. Joseph Kafih is described by Buchman, p. 151, as one "who spent countless hours studying every word that Rambam ever wrote." Regarding the problem we are discussing, R. Kafih writes, in his commentary to the *Guide*: *ואפשר שהיתה זו שגיאת שגרה שבעל פה*.

It is not just R. Kafih who feels this way. Another figure who knows the Rambam very well is the great R. Meir Mazuz. He states plainly that Maimonides erred in this example.¹⁵ He also describes how this error came about: Lev. 27:3 reads *מן עשרים שנה ועד בן ששים*. As he explains, Maimonides confused the two numbers quoted in the verse, and substituted sixty for fifty. Rather than having this mistake lower our estimation of Maimonides, R. Mazuz agrees with the quote of Nietzsche that I mentioned at the beginning of this article:

לא היה רבינו ז"ל ראוי לאותה טעות אלא ללמד מוסר גדול לדורות
הבאים שלא יאמין אדם לזכרונו בשום אופן עד שיפתח את הספר,
ואותיות מחכימות.

As to what troubles Buchman, namely, how Maimonides could be confused about a biblical verse, R. Mazuz cites *Talmud Torah* 1:12, where Maimonides states: "After one has become proficient and no longer needs to learn the Written Law . . . he should, at fixed times, read the Written Law and the traditional dicta . . . and should devote all his days exclusively to the study of Talmud according to his breadth of mind and maturity of intellect." In other words, Maimon-

¹⁴ See R. Dov Nahman Horowitz, *Hiddushei Bar Nahmani* (Petrokov, 1914), vol. 1 no. 5; R. Abraham Reznik in *Ha-Yebudi* (Av Elul 5696), pp. 215-216 and (Tevet 5697), pp. 66-69; R. Shmuel Toledano, *Dibur u-Maḥshavah* (Jerusalem, 2006), vol. 2, p. 220-221; R. Jonathan Simhah Blass, "'Kofer ha-Avadim' (Hilkebot Nizḳei Mamon 11:1) Sheloshim Shekalim," *Mesorah le-Yosef* 5 (2008), pp. 107-119. Michael Schwartz, in his edition of the *Guide*, makes reference to a couple of other articles.

¹⁵ *Or Torah* (Tishrei 5751), p. 13.

ides was not engaged in constantly reviewing the Bible. As such, it is understandable that he would occasionally misremember a verse. As the leading Sephardic Rosh Yeshiva in Israel, R. Mazuz falls squarely into the category of a traditional interpreter. Yet one of the themes of my book is that many “academic” interpretations can also be found among traditional interpreters.

R. Zechariah Isaiah Yolles also knew the Rambam very well. Yet in a responsum he too states that Maimonides erred in the case of *Guide* 3:40.¹⁶ As to how Maimonides could make such an error, he writes:

ומי לנו גדול מרבינו משה בר מיימוני וגם עליו אמר דהע"ה שגיאאות מי
יבין . . . מזה נראה בעליל שאף מאור עינינו מבהר קדמונינו נפל ברשת
השכחה.

Yolles gives another example of what he regards as an error by Maimonides. *Sefer Torah* 7:6 reads:

נודמנה לו בסוף השיטה תיבה בת עשר אותיות או פחות או יותר.

Yet as Yolles points out, contrary to what Maimonides writes, there is no word in the Torah with more than ten letters.¹⁷

It could be that I am mistaken in the example from *Guide* 3:40, as well as in some other examples. If so, I am in good company. The sources just cited should suffice to show that my approach in this area is not exclusively an academic perspective. It is also not the case that “anyone who has gotten to know Rambam, at least a little,” will automatically have a different outlook.

Needless to say, attributing error to Maimonides is not something one does lightly. Only when all other avenues are exhausted should it

¹⁶ *Zekher Yeshayahu* (Vilna, 1882), vol. 2, no. 28. For a Haskalah figure who also shared this belief, see Isaac Samuel Reggio, *Ha-Torah ve-ha-Philosophia* (Vienna, 1827), p. 99.

¹⁷ The one word with ten letters is ובמשארותיך, found in Ex. 7:28. Levinsohn, *Bikurei Ribal*, p. 65, claims that Maimonides had in mind the eleven letter word והאחדרפנים in Esther 9:3, since the Scroll of Esther has the same laws as a Torah scroll. Regarding this latter point, see *Hagabot Maimoniyot, Megillah* 2:11. Yet this is very far-fetched as Maimonides is speaking here specifically about the laws of a Torah scroll. (Levinsohn was unaware that there are two other biblical words with eleven letters: Ez. 16:47: וכתועבותיהן, and Ez. 20:44: וכעלילותיכם.)

even be considered. Buchman, p. 110, refers to my citation of R. Jacob Emden who pointed to a supposed mistake of Maimonides. Yet it was actually Emden who erred. This should be a lesson to us all. In order to further illustrate this, let me note that elsewhere Emden again claims to have identified a mistake (שיבוש) of Maimonides.¹⁸ As before, it is Emden who errs.¹⁹

8. Buchman, p. 129, is correct that I mistakenly listed a halakhah in *Hilkehot Talmud Torah* before a halakhah in *Hilkehot Deot*. In reality, the order should be reversed. I thank him for pointing out this error, which only shows that we all make careless mistakes.

9. Buchman, p. 134, claims that I create straw-traditionalists who are opposed to any flexibility about changing the text of the *Mishneh Torah*. Yet on the page he cites all I say is that “before the new editions of the last generation, these commentators were forced to work with faulty Maimonidean texts.” On p. 57 n. 239 I give plenty of examples of traditionalists who changed texts without any manuscript support.

Buchman, p. 135, criticizes me as follows: “Suggesting changes has always been a common traditionalist option, and Dr. Shapiro’s limitation of so doing to texts supported by a manuscript is not reasonable.” Here there is a basic difference between my outlook and that of Buchman. In my opinion, one is best served in this area with a conservative approach. There are many examples of scholars suggesting emendations without manuscript support that are without merit. There are also times when brilliant emendations are later confirmed by manuscripts, so there is no hard and fast rule. Yet suggesting an alternate reading should always be a last resort, if at all.

10. Buchman, p. 134 n. 107, states that he could not find the Radbaz I cite on p. 71 n. 289. As I indicated, it is in vol. 7 no. 25 (p. 11a). The Radbaz writes:

והוי יודע שאפי' אם תרצה לומר שהתשובה ההיא חלוקה על הפסק על
התשובה יש לנו לסמוך שהיא הלכה למעשה.

¹⁸ Note to *Shemoneh Perakim*, ch. 8 n. 1.

¹⁹ In fact, the error is so egregious that a hagiographer might be inclined to attribute it to a “mistaken student.” See R. Alter Hilvitz, “Mi-Beurei ha-Rambam le-Mikraot,” *Sinai* 33 (1953), p. 249.

11. Buchman writes (p. 144): “[I]t is perhaps a lack of sufficient sensitivity to the nature of *Mishneh Torah* that causes academics to see contradictions between *teshuvos* and *Mishneh Torah* where there are none.” As an example he refers to what I identified as a contradiction, namely, Maimonides’ statement in *Sefer Torah* 10:1, that one cannot publicly read from a Sefer Torah that is *pasul*. In his responsum, ed. Blau no. 294, Maimonides says that one may do so even with a berakhah. Buchman quotes the *Kesef Mishneh*’s explanation of this contradiction.

I do not believe that the *Kesef Mishneh*’s explanation can be harmonized with the words of Maimonides in his responsum. According to the responsum, if you don’t have a kosher Sefer Torah you can make a blessing on a non-kosher Torah. This does not appear to be what Maimonides holds in the *Mishneh Torah*.

Yet let us assume for the sake of argument that *Kesef Mishneh* is correct. Does this justify Buchman’s assertion that anyone who reads the *Mishneh Torah* differently than the *Kesef Mishneh* is lacking “serious sensitivity”? The Rashba, quoted by the *Kesef Mishneh*, was one of those who saw a real contradiction here, and he posited that Maimonides changed his mind. The same opinion was expressed by the fifteenth-century Yemenite scholar R. Saadiah ben David Adani.²⁰ Buchman may prefer the *Kesef Mishneh*’s approach, but I don’t see why that should bind me or anyone else.

R. Kafih also saw a contradiction in that unlike the *Mishneh Torah*, the responsum permits a blessing on a *pasul* Sefer Torah if that is all you have. This is a very different circumstance than that of one who in the middle of the obligatory reading or afterwards finds that the Torah is *pasul*. Faced with this contradiction, R. Kafih concludes (Commentary to *Hilkhot Sefer Torah* 10:1):

וברור כי למעשה אין לסמוך על תשובה זו, אלא כפשט דבריו כחבורו
[צ"ל בחבורו].

In fact, we don’t merely have a contradiction between the *Mishneh Torah* and responsum no. 294. This responsum is also contradicted by two other responsa, nos. 162 and 266. The *Kesef Mishneh* was unaware

²⁰ See R. Yitzhak Ratsabi, ed. *Piskei Maharitz* (Bnei Brak, 1981), vol. 2, p. 473.

of these two responsa, and I believe that these latter sources show that his interpretation of the *Mishneh Torah* is incorrect. What we are left with, therefore, is what the Rashba assumed, namely, a contradiction between an early responsum and the later *Mishneh Torah*. The Rashba didn't know about these other two responsa, but he would have seen them as proving his point that Maimonides abandoned his earlier position. After considering the evidence, R. David Yosef²¹ writes:

ותשובה זו היא חיזוק לדברי הרשב"א שרבינו חזר בו בזה . . . וכל התירוצים שתירצו המפרשים שהובאו שם, נדחים מפי מה שכתב רבינו עצמו כאן בתשובה, כי מה שהבאנו שם בשם מרן הכסף משנה, שתירץ לחלק בין לכתחלה ובין דיעבד, מתשובה זו משמע שאין לחלק כן, דאם כן היה לו לרבינו לכתוב חילוק זה, דהיינו דוקא לכתחלה, ולא לסתום דבריו בין בחיבורו ובין בשתי תשובות.

Buchman is entitled to disagree with R. Yosef. However, I don't think he can continue to say that the *Kesef Mishneh* provides the only proper explanation and those who don't see it lack "sufficient sensitivity to the nature of *Mishneh Torah*." Certainly, he would agree that Rashba, R. Saadiah ben David, R. Kafih, and R. Yosef have that sensitivity, even if I do not.

12. Buchman is correct, p. 144, that R. Meir Simḥah and the Rogochover would use the *Guide* to explain difficulties in the *Mishneh Torah*. Yet this doesn't change the fact that they were unusual in this regard, and most traditional commentators did not make use of all of Maimonides' writings when dealing with the *Mishneh Torah*. Here is an example: There is a wide-ranging dispute as to whether Maimonides holds that *tza'ar baalei hayyim* is a Torah prohibition or a rabbinic one. As far as I know, only R. Meir Simḥah, *Or Sameah*, *Shabbat* 25:26, cites *Guide* 3:17 where Maimonides adopts the view that it is a Torah prohibition.²² This appears to conflict with what Maimonides implies in the *Mishneh Torah*, and R. Meir Simḥah offers a solution.

²¹ Ed. Maimonides, *Pe'er ha-Dor* (Jerusalem, 1984), p. 217.

²² Maimonides also advocates this position in his *Commentary on the Mishnah*, *Betzah* 3:4.

13. Buchman, p. 149 n. 153, questions how reliable R. Moshe Sternbuch is in reporting a teaching of R. Chaim Soloveitchik. In this case, R. Sternbuch tells us that he is citing the notes of R. Michel Shurkin, which presumably means that the information comes from R. Joseph B. Soloveitchik.

14. Buchman, p. 149, notes that the language of *Penei Yehoshua* that I quote differs from what he found. I was surprised to find that this is so. I cited from the Bar Ilan database, which uses a 1998 edition of the *Penei Yehoshua*. This edition has material that is not found in the standard photo-offsets of the original European printing.

15. Finally, let us now turn to the responsa to the sages of Lunel. There is no need to rehash the arguments here. Let me just repeat that the academic community and the traditionalist community are in agreement that the responsa are authentic. Since there is no “smoking gun” in the responsa, I believe that it is a fool’s errand to argue that Maimonides couldn’t have written them. We have too many examples where people assumed that an author couldn’t have written something, only to find certain proof to the contrary. What could be more certain than that Maimonides’ contemporaries knew these responsa and Maimonides’ son cites them?

Nevertheless, anything is possible. If Buchman, following the lead of R. Kafih, is able to cast doubt on these responsa, it would be a great scholarly achievement. There are plenty of texts that were once regarded as authentic, and now are thought, or even known, to be otherwise. It is also true that traditionalists have always found these responsa the most problematic written by Maimonides. Here, for example, is what R. Ḥayyim Ben Attar²³ says about one of them:

שאלה ותשובה זו לית נגר דיפרקינה כי מלבד דהתשובה מוסתרת מפסקי
הרמב"ם עוד לה דמוסתרת רישא לסיפא.

²³ *Rishon le-Tziyon* (Constantinople, 1750), *Berakhot* 12a. Another source I neglected to note in my book is *Kesef Mishneh*, *Keriat Shema* 1:8, where after discussing at length one of the responsa to Lunel, R. Joseph Karo concludes: אין מקום לתשו' זו . . . ולכן אני אומר כי השאלה הזו גם תשובתה: דבריהם סתומים והתומים. (Chaim Landerer called this to my attention.)

However, it is incorrect for Buchman, pp. 151-152, to state that R. Kafih's view that the responsa to Lunel are forgeries "is backed by Rav Chaim Brisker, the Gra, [and] the Chasam Sofer." I referred to all of these figures in my book and none of them thought that the responsa are forgeries. On the contrary, they regarded them as authentic responsa, albeit ones that were not reflective of Maimonides' greatness.

Thus, the Vilna Gaon was able to say that Maimonides' original formulation was correct, rather than what he wrote in his responsum to Lunel. The Hatam Sofer is reported to have said that, unlike the *Mishneh Torah*, the responsa to Lunel (and the *Guide*²⁴) were not written with *ruah ha-kodesh*. We are also told that R. Chaim Soloveitchik did not "like" these responsa. But all this is far removed from saying that they are forgeries. I am certain that had these figures seen evidence that the responsa to Lunel are not authentic, they would have latched onto it. It would have confirmed their suspicion that in these responsa "Rambam was no longer Rambam." Yet this never happened. ❧

²⁴ Regarding the *Guide*, see *Hatam Sofer: Derashot* (Jerusalem, 1989), vol. 2, p. 398a, where he refers to something Maimonides says in this book as הבל.

Response to Prof. Marc B. Shapiro

By: ASHER BENZION BUCHMAN

The most crucial issue that Dr. Shapiro raises in his response is his meaning in referring to the “Brisker” mode of study as “ahistorical,” and we look forward to his elaboration on the subject in a future *Hakirah* article. But for the present he “strongly rejects” my characterization of the position he presents as “ridicule,” and says that “Readers should examine my words and determine if I have engaged in any such ridicule.” While Dr. Shapiro uses only respectful language in his book, the fact that he labels the “Brisker” method the “hagiographic approach” is sufficient reason for me to consider his opinions “ridicule.” In this very response he clarifies his position by noting (footnote 6): “One observer has remarked that the Chazon Ish judged R. Chaim’s interpretations of Maimonides ‘by the wrong criterion; he wanted to determine if they were true!’” I consider the “observer’s” statement ridicule and am surprised at Dr. Shapiro’s apparent approval.

I also believe that a glance at the on-line reviews of “Maimonides and His Interpreters” suggests that most of his readers understood “ahistorical” along the lines that I did, and hence viewed it as a devaluation of “*lomdus*” as well as a claim that *Mishneh Torah* is not a work of great depth that demands the formulation of abstract principles in order to be properly understood.

One scholar titles his review “Maimonides: The Unmasking of a Godol (Sage),” and begins his essay with “Marc Shapiro’s latest volume contributes further to what might be considered a series of works that together constitute a programmatic assault on the ahistorical non-text-critical traditionalist rabbinic approach to its own intellectual legacy.” In a later paragraph he continues: “Shapiro demonstrates in the first essay, ‘Principles of Interpretation in Maimonidean Halakha,’ that what is often engaged in as the most noble of rabbinic endeavors, to resolve a problematic Maimonidean passage (in the pervasive Yiddish colloquial of the yeshivah, *tsu farentferen a shverer*

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rambam), can be simply an exercise in futility once human error, oversight, and reformulation are taken into account.”¹ Other reviewers express similar sentiments.²

While Dr. Shapiro’s language is not disrespectful, the message his readers gather is that the methodology used in “*lomdus*” is absurd. If his evaluation is correct, then indeed ridicule is called for. I never meant to criticize Dr. Shapiro for his tone, merely for the inaccuracy of his position.³

¹ James Diamond, *H-Reviews*, H-Judaic (December, 2008). See <<http://www.h-net.org/reviews/showrev.php?id=23048>>.

² On the *Tradition Seforim* blog the review by Dan Rabinowitz is titled “Forgetfulness and Other Human Errors.” The reviewer ends his description of the relevant part of his essay as follows:

“...although the Rambam concedes regarding a law in *Yad* that he erred, the Gra says that the Rambam was erring in saying he erred. The Gra explains that the original law in *Yad* is indeed contrary to the Rambam’s own position... The Gra’s position is somewhat tenuous, aside from the obvious issue of ignoring the statement of the original author, as ‘a number of *achronim*... provided what they believed to be better proofs for Maimonides’ decisions than he himself was able to supply” but it has been shown “that the *abaronim* who adopted this approach erred in almost every example.”

See <<http://seforim.traditiononline.org/index.cfm/2008/7/8/Forgetfulness--Other-Human-Errors-a-New-Monography-by-Marc-Shapr>>.

On the *Hirhurim* blog, R. Gil Student writes: “Essentially, this section is an extended argument against the approach of “*lomdus*” that is so prevalent in yeshivas.” The reviewer concludes that he found the book “extremely uncomfortable to me as a yeshiva product.” See <<http://hirhurim.blogspot.com/2008/07/lomdus-reexamined.html>>.

In *Kol Hamevaser: The Jewish Thought Magazine of the Yeshiva University Student Body*, vol. 2, issue 2, November 4, 2008, p. 15, the reviewer explains that Dr. Shapiro’s “perpetual mission [is] to expose what are in his eyes the manifold intellectual infelicities of traditional scholars” where “we are obligated to... employ even the most farfetched casuistry to rescue Rambam from error and if we fail it is we who are at fault.” See <<http://www.kolhamevaser.com/wp-content/uploads/2008/11/second-issue-politics-and-leadership-reduced.pdf>>.

³ But Dr. Shapiro is wrong when he claims that I use disrespectful language in referring to the “folly” of two *gedolim*. If he looks at the state-

Another central point of Dr. Shapiro's response is that he does align himself with a school of traditionalists. Indeed, in my essay, I also noted this, and my review was entitled a "hagiographer's review" because it is that school's part that I am taking against Dr. Shapiro's school. Traditional members of that school may very well have had great respect for Rav Chaim, but they did not believe that his method of study was correct. Just as Raavad may very well have had great respect for Rambam, still he refers to his position as *הבלי* in many a case. Though Ramban certainly held Rambam in great esteem, he felt that basic parts of his *hashkefah* and halachic methodology were seriously flawed. Opponents of the "Brisker" school have expressed their disdain in strong terms and there is no reason to not acknowledge this; and again, if they are correct, their displeasure is warranted. On the other hand, many "Briskers" have a similar disdain for the methodology of the other school,⁴ and the justification for this dis-

ment again, I'm sure he will realize that this is a sarcastic statement referring to what those of Dr. Shapiro's school must think—although most do not say it explicitly—of those who insist that the answer the Rambam gives in a *teshuvah* should be ignored. Also, Dr. Shapiro misinterprets me in thinking that I am accusing him of disrespect with regard to Rav Chaim Soloveitchik/Prof. Haym Soloveitchik. I always refer to him in the way his *talmidim* did forty years ago. Should I not note how he is now referred to in the academic world, very few readers would know to whom I am referring. Still, there is a note of whimsy in that reference, for Rav Chaim's *shiur* seemed to be an effort to incorporate the best of academia into the world of *lomdus* rather the reverse, which most academic scholars seem to propose.

⁴ Dr. Shapiro quotes some outstanding *talmidei chachamim* saying things that I claim would not be said by people who really knew Rambam, to prove that I am wrong on that point. However, one central point I believe I had made in my review is that one needs to be what Dr. Shapiro would consider a hagiographic "Brisker" to really know Rambam, and it is from that vantage point that I am speaking. With regard to Rav Kappach saying that "perhaps" Rambam made a mistake, that of course Rambam could not have made—well we can only say "Even Homer nods," and my attribution of this error to Rav Kappach is nothing compared to Dr. Shapiro's referring to his position (which I only echoed) that *Teshuvos Chachmei Lunel* are a forgery as showing a "lack of sophistication in dealing with Maimonides."

dain is an important element missing from Dr. Shapiro's book.⁵

Of course, the Rav, ז"ל, the ultimate "Brisker," would often explain that Brisk is concerned only with truth. It is for this reason that "Briskers," the Rav included, are often found to be practicing a *halachah* differently than others. על למוד על מנת לעשות is a primary principle. I think just about all his *talmidim* would agree that what went on in *shiur* was an attempt to understand what Tosfos, Rambam, and the Gemara meant—original intent. One quote from a student's notebook cannot serve to cast doubt on this. But the quote does seem accurate and gives a definition of "ahistorical" that even I can understand. Since we are all a product of our environment and think within the idioms of our language⁶ and are influenced by the conceptualizations within which we were raised, "it does not necessarily mean that Maimonides meant **just that**. If measured by halachic standards it is correct, that suffices." Indeed it suffices if our understanding matches sufficiently so that we would decide the *halachah* exactly as Rambam would. In this light, I must note that this runs contrary to what Dr. Shapiro believes is a proper dichotomy between *halachah* and Talmudic analysis. One who splits the two is being "ahistorical" in a pejorative way according to a "Brisker."

The statement of my Rebbe, Rav Lichtenstein, is also along the lines of the Rav, and certainly is far removed from the idea of validating explanations that are a function of misunderstanding what the Rambam said. Those of us who have studied by Rav Lichtenstein know that his constant focus has always been the intent of the *Risbon*—clarifying the details of opposing positions and understanding the underlying conceptualizations that cause them to differ. But at times, even a student is able to have a valuable insight based on the position of a *Risbon*, that is in fact his own *chiddush*, but Rav Lichtenstein explains that while the insight is worth developing, one must be careful to distinguish between the intent of the *Risbon* and the content of his position when dealing with extracting the *halachah*. Perhaps

⁵ Thus when Dr. Shapiro quotes traditionalists who support his position, it is not relevant as a rejoinder to my arguments. All that is relevant is who is correct.

⁶ See Prof. Faur's essay in this volume.

Rav Lichtenstein can be called upon to clarify his exact meaning when Dr. Shapiro writes his essay.⁷

As for the rest of Dr. Shapiro's criticisms of my criticisms, I agree with his basic assertion that "readers can judge for themselves" who is correct between us, and I would urge those interested in the correct assumptions to be made in studying Rambam to look back at Dr. Shapiro's book, at what I wrote in my essay, and at Dr. Shapiro's response to make their judgments. I would ask that they take special care in reading what I wrote with regard to the supposed errors Rambam made in *pesukim*, since I do not believe that Dr. Shapiro properly presents the many arguments that I made in this regard. Three points I will reemphasize is that: 1) Rambam may have generally refrained from writing more than three words of a *pasuk* consecutively, resorting to abbreviation of words and *pesukim*—and hence when scribes expanded them, this led to many cases of error,⁸ 2) Though Rambam used the Aleppo Codex to write his *Sefer Torah*, the scribes who copied *Mishneh Torah* may have used other texts as their sources—and without standardization, it is likely that they would be prone to correct what they perceived as errant quotes of *pesukim*, and 3) Though Rambam used the Aleppo Codex to write his *Sefer Torah*, he may still have debated with himself whether certain *pesukim* should perhaps have a variant reading. As Rambam reevaluated his Talmudic analysis throughout his life, he probably reevaluated this as well.⁹

⁷ Indeed, when Rav Lichtenstein printed this essay the words "probably not" were removed.

⁸ This is not because of the *halachah* of *sirtut* but related to other sources referred to in the essay. The fact that most *pesukim* are written correctly by the scribes only shows that the scribes normally expanded correctly.

⁹ An example of another place where a careful reading is called for is with regard to Rambam's position to making a *berachah* when reading from a *chumash*. I did not say that reading the *halachah* in *Mishneh Torah* as saying that a *berachah* is not made, shows an insensitivity to reading *Mishneh Torah*. What I said is that seeing a contradiction between a *teshuvah* and *Mishneh Torah* in this case shows "a lack of sufficient sensitivity to the nature of *Mishneh Torah*." The language in *Mishneh Torah* is sometimes purposely vague. In this case the language there commits fully to neither position. This is so, since Rambam feels that the Talmud itself was not fully clear on the issue. In the *teshuvah* he answers to what he believes the Talmud meant. Further, I would suggest the readers check the two *teshuvos* that Dr. Shapiro quotes to confirm his position. The

Finally, when I wrote that Rav Kappach's position that *Teshuvos L'Chachmei Lunel* are a forgery "is backed by Rav Chaim Brisker, the Gra, [and] the Chasam Sofer," my intent was not that they necessarily felt they were forgeries, but rather that they knew that what was written in some of the *teshuvos* is not consistent with Rambam's statements in *Mishneh Torah*. This is further support to Rav Kappach's position. The proof that these *teshuvos* are forgeries comes from an analysis of the relevant *halachos* in *Mishneh Torah* and the *teshuvos* themselves. Those who argue so vociferously for their authenticity have not done this. ❧

first certainly does not confirm his position and the second could be debated as well.

Response to Rabbi Marc D. Angel's Article on Gerut

By: ELIEZER BEN PORAT

Rabbi Marc Angel's article, "Conversion to Judaism" (*Hakirah*, vol. 7), contains halachic misrepresentations, and slights the positions put forth by great Torah sages such as Rabbi Yitzchak Schmelkes regarding "new stringent" conversion standards. I would like to review some of the classic sources so that it is clear to the reader what is indeed ancient and what is new in this sacred matter of *gerut*.

The author puts forth the opinion that the conversion process is first and foremost "a means of bringing the non-Jew into the Jewish peoplehood." He repeatedly states that the ancient sources "do not equate conversion with a total acceptance to observe Torah and *mitzvot*, but rather see conversion as a way for a non-Jew to become a member of the Jewish people."

He contends that R. Schmelkes was the innovator of new stringent standards of *gerut* by ordaining—for the first time, in 1876—that the convert must accept upon himself a total commitment to observe *mitzvot*, and, furthermore, that without such commitment by the prospective convert, the conversion lacks halachic validity. The author was upset to learn that in Yeshiva University, in a course on practical rabbinics, the "Schmelkes position" is taught as uncontested *halachah*. Let us explore this fundamental question: is "*kabbalat ha-mitzvot*"—that is, a total commitment to observe Torah and *mitzvot*—the cornerstone of *gerut*? Or is conversion mainly a process of becoming part of the Jewish people in a national sense, *mitzvah* observance serving merely as "added value?"

The Talmud (*Yevamot* 47b) describes the conversation between Ruth, the archetypical convert, and her mother-in-law, Naomi. In response to Naomi's informing Ruth that "we are commanded to observe *taryag* (613) *mitzvot*," Ruth replies, "Your nation is my

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nation.” The Talmud hereby teaches us that Jewish peoplehood is defined by the observance and practice of *taryag* (613) *mitzvot*, and, hence, that becoming Jewish signifies the convert’s commitment to fulfill all of the *mitzvot*. Converting to Judaism is not merely an act of cultural and national association. This Talmudic passage is not merely of aggadic nature and is referred to by the *Biur HaGra Yoreh Deah* (268:6) as a halachic source. The author quotes Rabbi Shlomo Goren, who maintains that a prospective convert who accepts all the *mitzvot*, but who does not commit to become part of the Jewish people, is not a *ger*. We know this to be true, as we learn from the Haggadah in reference to the wicked son: “Since he excludes himself from the community, he denies an important principle of faith.” This does not, however, imply that the converse is also true. Merely belonging to the community, without a commitment to the observance of Torah and *mitzvot*, is not considered becoming part of the Jewish nation. “Your nation is my nation” necessarily involves the observance and fulfillment of *taryag mitzvot*.

The Rambam teaches (*Hilchot Issurei Biab* 13:4–5), “And so in [all] future generations, when a non-Jew wishes to enter the covenant and to come under the wings of the *Shechinah* (Divine Presence), and will accept upon himself the yoke of Torah, he must then go through the process of *milah* (circumcision) and *tevilah* (immersion).” Rambam states here, in his precise and carefully chosen words, that *milah* and *tevilah* are integral components of the **process** of conversion. However, the spiritual quest of the prospective convert, manifested by his wish to enter into the covenant, to be under the wings of the *Shechinah* and to accept upon himself the yoke of Torah, is the **essence** of the *gerut* itself.

Similarly, the *Shulchan Aruch* (*Yoreh Deah* 268:3) presents *kabbalat ha-mitzvot* (acceptance of the *mitzvot*) as essential in order for the *gerut* to be valid. If, for example, *kabbalat ha-mitzvot* was not done in front of a *beit din*, by day, and with three *dayanim*, the *gerut* is not considered valid. Rabbi David HaLevi Segal (1586–1667), in his *Turei Zahav* (“*Taz*”) (268:9), quotes *Rabbeinu Asher* (1250–1327) (“*Rosh*”) that *kabbalat ha-mitzvot* is “*guf badavar v’hatchalato*”—the essence of the matter and its initiation.

The author quotes the Rambam (*Hilchot Issurei Biab* 13:17): “A proselyte who was not examined [as to his motives] or who was not informed of the *mitzvot* and their punishments, and he was circumcised and immersed in the presence of three laymen—is a

proselyte.” This, in the author’s opinion, proves that conversion without commitment to observe all *mitzvot* is nevertheless valid. However, Rabbi J. B. Soloveitchik, in his essay *Kol Dodi Dofek*, note 22, quotes from his father “that to suggest Rambam meant that a convert who did not intend to observe *mitzvot* is nevertheless a *ger*, is to undermine the entire concept of *gerut* and the essence of the sanctity of Israel, which manifests itself in our obligation to observe the *mitzvot* of Hashem.”

Rambam’s opinion, says R. Soloveitchik, is that acceptance of *mitzvot* is not a special act requiring a *beit din*, like *tevilah*. Rather, it is an essential prerequisite of *gerut*. It is understood that *gerut* is done for the sake of fulfillment and observance of *mitzvot*. Therefore, if we know that the convert is ready to accept, upon immersing, the yoke of Torah and *mitzvot*, then even though there was no formal act on the part of the *beit din* of *hashmaat ha-mitzvot* (informing the convert about his obligation to observe and fulfill all the *mitzvot*) at the time of the *tevilah*, the *tevilah* is nevertheless effective. This is because we assume that the convert intends to live a life of sanctity, the life of a righteous Jew. [A similar explanation is found in *Chemdat Shlomo Yoreh Deah* 29:22 and 30:10, by Rabbi Shlomo Zalman Lipschitz (1765–1839)]. This understanding of Rambam is not “circular reasoning,” as the author posits. It is based on the fundamental concept that the essence of Jewish peoplehood is the connection to G-d through the observance of Torah and *mitzvot* and is supported by Rambam’s own words (*Issurei Biah* 13: 4–5), as quoted above. See also Rambam, *Hilchot Issurei Biah* 12:17 and *Hilchot Melachim* 10:9 where he speaks clearly about “*kabbalat kol ha-mitzvot*” (acceptance of **all** *mitzvot*), as the definition of *gerut*.

It is difficult to understand the author’s intention when he says that “the Talmud, Rambam and *Shulchan Aruch* do not define *kabbalat ha-mitzvot* as a total commitment to observe all *mitzvot* in detail (but rather as a general acceptance of *mitzvot*).” What is the meaning of a “general acceptance of *mitzvot*” without attention to detail? The practice of *batei din* is to instruct the convert before the *tevilah* to make the following declaration: “I accept upon myself to observe and fulfill all the *mitzvot* of the Torah and all the *mitzvot* which were taught to us by the Sages, and all the righteous customs of the Jewish people, those that are already known to me and those that are not yet known to me.” The convert is not expected to know all the *mitzvot* at the time of the *tevilah*, but he is expected to express his total commitment

to observe and fulfill all *mitzvot*, in all their detail. Are the details of the *mitzvot* not part of the fulfillment and observance of the *mitzvot*?

The Talmud (*Yevamot* 24b) quotes R. Nechemiah, who is of the opinion that conversions with ulterior motives (e.g., converting with the intent to marry a Jew) are not valid. The Talmud concludes with the opinion of Rav who states that the *halachah* is that, *b'dieved*, once performed, such conversions are valid regardless of motivation. The author explains that Rav “seemed to view the conversion process as a means of bringing the non-Jew into the Jewish peoplehood.” In different words, becoming Jewish is a matter of national identity, while the commitment to observe Torah and *mitzvot* is merely a requirement *l'chatchilah*. The author seems not to have consulted the early commentators on the above-mentioned passage. The Ritva and the Nimukei Yosef explain that Rav means that the prospective convert recognizes that his goal to become Jewish can be achieved only by committing to observe Torah and *mitzvot*, and hence accepts whatever is incumbent upon him to become a member of the Jewish faith. It is clear from the Ritva and the Nimukei Yosef that if deep in his heart the convert is lacking that inner commitment to observe Torah and *mitzvot*, the conversion is rendered invalid. (This is also the opinion of the Mordechai, *Yevamot* 4:110). It appears that the author has conflated the issue of motive for conversion with the sincerity of *kabbalat ha-mitzvot*.

The opinion of R. Chaim Ozer Grodzenski regarding *kabbalat ha-mitzvot* is misrepresented in the author's presentation. R. Chaim Ozer (3, 26) concurs with the opinion that lack of inner commitment with regard to performance of *mitzvot* nullifies the *gerut*. He supports his position by quoting the very same Rambam the author quotes, but drawing the opposite conclusion. Rambam (*Issurei Biah* 13:17) speaks of “a convert who has not been investigated, and has been circumcised and has immersed himself in the presence of three ignorant persons; [he] is considered a *ger*, even if it be known that he has converted for an ulterior motive.” Rambam concludes that “he is accorded doubtful status until his righteousness becomes clear.” R. Chaim Ozer understands that this doubtful status arises from the fact that conversion is a matter of the intent of the heart. In R. Chaim Ozer's opinion, a total *kabbalat ha-mitzvot b'lev*—in the heart—is essential to the validity of *gerut*. Therefore, until the convert's sincere intent to accept Torah and *mitzvot* at the time of the *gerut* is clarified, we are in doubt about his status.

Rabbi A. I. Kook also did not escape the critical pen of the author. Rav Kook explains that *kabbalat ha-mitzvot* is necessary for the prospective convert “to join the soul of Knesset Yisrael... since *mitzvot* are the essence of the Jewish soul.” The author may not like this reasoning, but it is important to understand that Rav Kook’s argument did not precede and motivate the *halachah* which views *kabbalat ha-mitzvot* as a *sine qua non* of *gerut*. Rather, Rav Kook’s mystical reasoning was offered as an explanation and clarification of the ancient, halachic norm.

There are other halachic issues in Rabbi Angel’s article that I feel need to be addressed, but a full treatment extends beyond the limitation of a letter to the editor. But let me conclude with a sad personal observation. I am familiar with a North American rabbi who believed that it was virtuous to accept converts into the Jewish community even without their total commitment to observe Torah and *mitzvot*. He also did not mandate that prospective converts be given thorough instruction in Torah and *mitzvot*. He processed thousands of converts; the vast majority of whom do not even send their children to a Jewish school to be educated as Jews and, needless to say, have nothing to do with any type of observance of *mitzvot*. It is painful to watch the confusion, the assimilation, and the dilution of Jewish identity which was created and continues to be spawned as a result of these conversions. This does not bring any *nachat* to Hashem or to *Klal Yisrael*. ❧

Response to Rabbi Eliezer Ben Porat

By: MARC D. ANGEL

I thank Rabbi Ben Porat for taking the time and trouble to offer his critique of my article. Before responding to his specific comments, I ask readers to go to the primary sources—*Talmud*, *Rambam*, *Shulhan Arukh*—and study them directly. You need not rely on what I say nor on what Rabbi Ben Porat says: you need to rely on the sources themselves. Most Orthodox Jews (including me) were taught to believe that conversion is valid only if the would-be proselyte comes with pure spiritual motives and if he/she will be observing all the mitzvot upon conversion. Because we have been taught in this way, it is difficult to examine the sources without bringing these assumptions into play. Yet, we cannot arrive at the truth unless we put aside our preconceived notions, and see what the texts themselves tell us.

We must also keep in mind what the halakha *prefers*, and what the halakha *allows*. Obviously, the halakha prefers ideal converts who are motivated by pure love of God and Torah, and who fully desire to live a life of Torah and mitzvot. Yet, the halakha allows conversions of individuals who do not fulfill the ideal qualifications. The classic halakhic sources provide significant leeway in determining what constitutes a valid conversion.

Rabbi Ben Porat takes issue with my assertion that Rabbi Yitzhak Schmelkes, in the latter 19th century, was the first important *posek* to equate conversion with 100% commitment to observe all mitzvot. I take no credit for this discovery. I based this assertion on the research of Dr. Avi Sagi and Dr. Zvi Zohar who have written extensively on the topic of *giyyur*. They examined halakhic sources from Talmudic through modern times, and they found that Rabbi

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Schmelkes was the first significant *posek* to invalidate a conversion if the convert did not intend to keep all the mitzvot after conversion. (Please see their book, *Giyur ve-Zebut Yehudit*; or the English version, *Transforming Identity*.) Thus, until the latter part of the 19th century, the view of Rabbi Schmelkes (which is now dominant within Orthodoxy) was not accepted as halakha by the Talmud, Gaonim, Rishonim or Aharonim. In my article, I offered some observations on the historical factors that may have led to the adoption of new stringencies in the 19th century. Dr. Sagi and Dr. Zohar describe the view of Rabbi Schmelkes as a “direct reaction to the social-religious changes affecting the Jewish people in modernity,” and as “a new, original approach” that is not evident in the classic halakhic sources.

Rabbi Ben Porat quotes an aggadic passage in *Yevamot* 47b that seemingly indicates that Ruth had accepted all 613 mitzvot upon conversion. He states that since the GRA cited this passage in a halakhic commentary, the source must be a halakhic (rather than aggadic) text. I ask readers to go to the text itself; you will find that it is a lovely, aggadic passage. It is not a halakhic source, even if great halakhists may quote it to bolster a particular viewpoint. The indisputable halakhic source is in *Yevamot* 47a-b, where the requirement is to inform would-be converts of some of the minor and some of the major commandments. There is no reference whatsoever to teaching them 613 mitzvot, or of even informing them that there are 613 mitzvot.

Rambam states (*Issurei Biah* 13:17): “A proselyte who was not examined [as to his motives] or who was not informed of the mitzvot and their punishments, and he was circumcised and immersed in the presence of three laymen—is a proselyte. Even if it is known that he converted for some ulterior motive, once he has been circumcised and immersed he has left the status of being a non-Jew and we suspect him until his righteousness is clarified. Even if he recanted and worshipped idols, he is [considered] a Jewish apostate; if he betroths a Jewish woman according to halakha, they are betrothed; and an article he lost must be returned to him as to any other Jew. Having immersed, he is a Jew.” Rambam is quite clear that a conversion is valid even under very imperfect conditions: the convert wasn’t informed of the mitzvot; had an ulterior motive; later recanted and worshipped idols. Even in such circumstances, the convert is deemed to be a Jew, as long as he was circumcised and immersed in the mikvah. Rabbi Ben Porat offers an interpretation by Rabbi Soloveitchik

which attempts to explain Rambam's words in another way. Readers may decide whether or not Rabbi Soloveitchik's interpretation is a halakhically correct understanding of the Rambam. Yet, even those who accept R. Soloveitchik's interpretation should recognize that it surely is not *the only* valid reading of the Rambam. Indeed, it would seem that the Rambam's words should be taken just as he stated them, without external interpretations. This is substantiated by the fact that Rambam went to great lengths to justify the conversions of the wives of Samson and Solomon, who were idolaters even after their conversions but who were nonetheless considered to be Jewish.

Rabbi Ben Porat cites Rambam, *Hilkehot Melakhim* 10:9, to "prove" that Rambam believed that conversion entails a commitment to keep all the mitzvot. Interestingly, the source cited by Rabbi Ben Porat does not deal with the case of a *ger tsedek* at all. Rather, it deals with the prohibition of a non-Jew to observe mitzvot beyond the seven Noahide commandments. The fear is that if a non-Jew observes some mitzvot, this may lead to confusion among real Jews and may even lead to the formation of a new sect or religion. Rambam rules that non-Jews should either become full proselytes and "accept all the mitzvot", or remain with the seven Noahide commandments—but they should not be allowed to keep mitzvot selectively. The Rambam's formulation clearly deals with non-Jews who are not interested in accepting the entire Torah, but who wish to remain as non-Jews and yet observe Shabbat or other Jewish mitzvot. He insists on a distinct demarcation between Jews and non-Jews. To underscore his point, he indicates that non-Jews must either become full Jews by conversion and acceptance of all (not just selective) mitzvot; or they must stick to the seven mitzvot of the Noahides. When Rambam specifically elaborates the halakhot of conversion to Judaism, he does not use this formulation. The fact that he pointedly does not say "accept all the mitzvot" in the laws of conversion is significant. As we have seen, he makes unequivocal rulings accepting the validity of conversions that were much lacking in the proselyte's "acceptance of all the mitzvot".

When the halakha requires "*kabbalat ha-mitzvot*", what exactly does this mean? Rabbi Ben Porat, following the view of Rabbi Schmelkes and others, believes that this means that the convert agrees to observe all the mitzvot upon conversion; lacking this commitment, the conversion is not valid. It follows that no *beth din* should convert an individual unless it is very certain that the would-

be proselyte is thoroughly taught all the mitzvot and that he/she fully intends to observe them. This view is not supported by the classic halakhic sources. Rather, these sources instruct us to inform would-be proselytes of some of the minor and some of the major mitzvot—not all of them. The Talmud, *Shabbat* 31a, speaks of a convert who did not even know the laws of Shabbat, and yet was considered a valid convert.

It would appear from the *Talmud*, *Rambam*, *Shulhan Arukh* and many *posekim*, that *kabbalat ha-mitzvot* entails a general acceptance on the part of the convert to come under the laws of Judaism. If a would-be convert says: I do not believe that God gave the Torah and mitzvot, then he/she is to be rejected. But if he/she says: I accept that God gave us the Torah and mitzvot, then this constitutes acceptance of mitzvot—even if the would-be proselyte does not know all the mitzvot, and even if there is likelihood that he/she will not observe all the mitzvot. This view is in consonance with the classic (pre-19th century) halakhic sources and has been upheld by modern *posekim* as well, as I pointed out in my article. When I referred to the opinion of Rabbi Chaim Ozer Grodzenski, I referred specifically to his statement: “but one who accepts upon himself all the mitzvot, but has in mind to violate them for his own pleasure (*la-avor le-tei-avor*), this does not constitute a lack in the law of *kabbalat ha-mitzvot*” (*Abiezer*, vol. 3, no. 26, sec. 4). While Rabbi Grodzenski surely preferred that converts know and observe all mitzvot, he presented a framework for validating the “*kabbalat ha-mitzvot*” of one who intended not to observe all the mitzvot.

We may all agree that it would be ideal for converts to come to Judaism with pure spiritual motives and with total commitment to keep all the mitzvot. But we do not live in an ideal world. Thousands of potential converts want to become Jewish in order to marry Jewish spouses; or in order to become part of the Jewish people in Israel; or in order to reclaim their own Jewish roots i.e., they have Jewish ancestry but are not halakhically Jewish. At a time when the Orthodox rabbinate should be leading the way in helping such individuals enter the Jewish fold and create Jewish families, the Orthodox establishment has been moving in the opposite direction. It has created ever more bureaucratic procedures and has adopted ever more stringencies not required by halakha. It has confused what the halakha *prefers* with what the halakha *allows*. At this critical juncture, we should be striving to offer great and meaningful halakhic leadership

with a full halakhic toolbox; we should not bind ourselves to latter day stringencies and interpretations that cause so much grief and suffering to so many would-be converts and their loved ones.

Rabbi Ben Porat complains about a rabbi who has “processed thousands of converts,” the vast majority of whom have “nothing to do with any type of observance of mitzvot.” I do not know of such an Orthodox rabbi, and have no way of evaluating the religious level of converts he may have “processed.” Rabbi Ben Porat assures us, though, that “this does not bring any *nachat* to Hashem or to *Klal Yisrael*.” I am not sure how Rabbi Ben Porat knows with certainty what brings *nachat* to Hashem. I am also not sure how he can speak with certainty about what brings *nachat* to *Klal Yisrael*. While I offer no defense for the rabbi accused by Rabbi Ben Porat, I do suggest that the opposite extreme—that of turning away converts and making it very difficult to be accepted as a convert—is halakhically and morally repugnant. The midrashic account of Timna tells us that she was turned away by our Avot, and this led to her later giving birth to Amalek. This is a midrashic reminder that turning away potential converts may also carry very negative consequences which bring no *nachat* to Hashem or *Klal Yisrael*.

I have received numerous calls, emails and letters from would-be converts who have described the indignities they have suffered during their conversion processes. Conversions have been delayed; more and more *humrot* have been added; conversions have been denied or postponed for reasons not mandated by halakha; batei din have behaved with callousness. The cries of these would-be converts are a bitter indictment of the current policies of the Orthodox rabbinic establishment. It is hard to imagine that these cries bring *nachat* to Hashem or *Klal Yisrael*. Quite the contrary.

The *Talmud*, *Rambam* and *Shulhan Arukh* could easily have said: conversions to Judaism are not valid unless the would-be proselyte comes with no ulterior motives, studies Judaism for years, accepts the obligation to fulfill all the mitzvot upon conversion; and that if such criteria are not met, then the conversion is not valid. The *Talmud*, *Rambam* and *Shulhan Arukh* did not say these things! Again, I ask readers not to take my word for this. Please go to *Yevamot* 47a-b; *Yevamot* 24b; *Shabbat* 31a; *Rambam*, *Issurei Biyah*, 13 and 14; *Shulhan Arukh* Y.D. 268. Please also reread my article which appeared in *Hakirah*, vol. 7, winter 2009, and look up the references I cited of

modern *posekim* who offer an intellectually compelling, compassionate and inclusive approach to conversion.

Let me close this response with lines from my article: “Halakhic Judaism should not be constricted to only one halakhic view, and certainly not to the most rigid and restrictive view... At this period of historic challenge, the Orthodox rabbinate can either rise to greatness or shrink into self-righteous isolationism. Thus far, the rabbinic/beth din establishment has chosen the latter course. It is not too late to turn things around. The honor of God, Torah, and the Jewish people are at stake.” 