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חירות ואחריות

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"Taking Responsibility for Torah"

THE VALUE OF LIP SERVICE

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A cynical old salesmanship saw says that "Sincerity is everything. Once you can fake that . . .".

We learn in this week's parshah that the Torah is not distant from us. Rather, "the matter is near to you, very – in your mouth and in your heart, to do/make it". Why does the mouth matter, and not just the heart? Is there any value in having Torah *only* in one's mouth, and not (yet) in one's heart?

Kiddushin 49b tells the story of a very contemporary-sounding court case. A man planning on aliyah sells his home in galut. But his plan falls through, and so he wants to reverse the sale. Rava rules that if no explicit condition was put on the sale, it cannot be reversed, since "Words in the heart are not words." All that matters is what comes out of your mouth.

How does Rava know this? The gemara first suggests that he derives it from two cases of "coerced consent". Sacrifices and divorces must each be given willingly, yet the courts can use force until the sinner or husband say they are willing. Doesn't this prove that sincerity is unnecessary? No, the gemara answers. There is a presumption that people desire atonement, or to listen to the words of the Sages. Coercion in these cases does not cause people to say things that they don't mean; it enables them to say something they truly mean.

This may seem like insincere legal legerdemain. Obviously he doesn't truly mean it, or he would have said it without being coerced to! To understand how this can make psychological sense, we need to turn to a related discussion on Bava Batra 47-48.

Rav Huna there says that if a person is coerced into selling something at a fair price, the sale is valid. Why should this be so? The gemara first proposes that many sales are coerced in the sense that the seller would rather keep the

object, but needs the money. It concludes that this is not a valid source, since perhaps one cannot derive a case of coercion-by-others from a case of coercion-by-circumstances. The cases of sacrifice and divorces are then proposed and rejected on the same grounds as above. The gemara concludes that Rav Huna's position is simply grounded in *sevara*, or practical reason.

What is Rav Huna's *sevara*? He believes that human beings prefer to have it all, and we trade goods only because necessity forces us to. There is rarely if ever in human affairs an act that is absolutely autonomous. Therefore, so long as a person gets what we believe he would acknowledge is fair value, the law regards trades as willing, regardless of whether we "wanted" to sell. "אגב אונסיה גמר ומקני" = As a result of his being compelled, he made up his mind to effect the transfer". So too in the case of divorce, once the law determines that a person is getting "fair value" for surrendering their marital rights, they are considered to be acting willingly. (The same would be true regarding marriage, except that the Rabbis stepped in to nullify what they considered to be an immoral outcome.)

We have come a long way from "All that matters is what comes out of your mouth". It seems that the law does not in fact accept insincerity; it just has a lower standard of willing than is commonly understood. Indeed, the end of the sugya in Kiddushin makes clear that when there is absolute certainty about a person's intent, and that intent was evident to the other party, sales are reversible even if no explicit condition was made.

With this understanding in hand, we can return to our opening question: Is there any value in having Torah *only* in one's mouth, and not in one's heart? We will approach that question though an analysis of conversion.

A beraita on Yevamot 24b cites Rabbi Nechemyah as declaring that converts who are motivated by a human relationship, or by the hope of riches or position, or fear of

Jewish power, are invalid. Rabbi Yitzchak bar Shmuel bar Marta declares, however, that the halakhah is against Rabbi Nechemyah, and all such converts are validly converted. Ritva asks: Why should insincere conversions be valid? His response deliberately evokes Rav Huna's rationale: "אגב וקבלו = as a result of their being compelled, they made up their minds to accept".

It seems clear that what insincere converts accept is the yoke of the mitzvot; but why are they under compulsion? The connection to Rav Huna tells us that they see this as a transaction. In order to obtain the spouse/position/security they desire, they must accept the responsibility of the mitzvot. So they are sincere enough.

In Ritva's account, lip service to Torah apparently has no value. It is only because we believe that they meant their acceptance of mitzvot that we legitimate their conversions. Ultimately it's the heart that counts.

Rav Chaim Ozer Grodzinski (Achiezer 3:26) makes this position explicit:

According to Rabbi Nechemyah, a convert for the sake of marriage is not a convert, because even though his mouth says that his intention is to convert, and "words in the heart are not words", there is absolute certainty that his intention for the sake of marriage, and when there is absolute certainty because "these are words that are in the heart of every person" - they are words. According to this, wherever it is not obvious to the whole world that his intention is for the sake of marriage, and there is room to doubt that perhaps he converted wholeheartedly, the rule should be like every other case of non-absolute certainty, meaning that words in the heart are not words, as Ketzerot HaChoshen wrote, (and therefore Rabbi Nechemyah should accept them)!?

But we can say that for Rabbi Nechemyah, conversion is different than other transactions, because the essence of the acceptance of mitzvot and of conversion is "words in the heart", and so long as he has not converted wholeheartedly, he is not a convert, and even where there is no certainty that his intention was for the sake of marriage or for some other purpose, if he in fact intended for some other purpose, he is not a convert, since "his heart is not with Him".

However, according to the halakhah (rejecting Rabbi Nechemyah) that "They are all converts", it is explained in the rishonim, and Ritva in the name of Ramban, that the reason for this matter is that since they converted and accepted (the mitzvot) upon themselves, there is a legal presumption that "As a result of their being compelled, they

made up their minds to accept". The straightforward understanding appears to be that even though there is absolute certainty that his intention is for the sake of marriage, nonetheless because of the compulsion of desire he makes up his mind to "effect the transfer", and accepted the conversion wholeheartedly, so there is certainty that he made up his mind and accepted the conversion wholeheartedly.

Rav Chaim Ozer concludes that if our legal certainty about their intent is factually incorrect, and they actually did not "make up their minds to accept the mitzvot", then their conversion is factually invalid (although legally we have no way of knowing this). He goes so far as to distinguish conversion from other transactions. In financial issues, and perhaps even with regard to sacrifices and divorce, "words in the heart are not words" even if the spoken words are false. But with regard to Torah, only the heart matters.

However, R. A. Y. Kook in one responsum suggests a radically different approach. In response to a rabbi who sought to release a woman from a marriage by invalidating her husband's conversion, he writes:

It is obvious that our default is to presume that he is a convert immediately after he is circumcised and immerses and accepts the mitzvot with his mouth. Indeed, Scripture writes (Tehillim 78:36) regarding our ancestors that "They seduced Him with their mouth (at Sinai), but their hearts were not with him", and the midrashim say that their hearts were turned to idolatry, and the idol of Mikhab was with them, but nonetheless, since they accepted (the Torah) with their mouths, the conversion (of the entire Jewish people) was completed.

For Rav Kook, it seems that Jewish history began with lip service.

The approach of the High Holidays properly leads to an emphasis on inner depth and authenticity. We resonate with Rav Chaim Ozer's claim that only the heart matters with regard to Torah. But perhaps Rav Kook teaches that this should be true only for ourselves, not for others. The lip service – and chesed, and tzedakah, and other maasei mitzvot - of the Orthoprax and Social Orthodox members of our community may be the truest recreation of Sinai, and attempts to ferret out ideological insincerity ultimately strike at our own legitimacy.