

# Who is a Jew?

by: Rabbi Jeremy Rosen

Why is there such a fuss over the Israeli Supreme Court's decision to allow converts to Judaism, as defined by the Reform and Conservative movements, to qualify for Israeli citizenship under the Law of Return? It makes no sense to me at all. It is a conflation of two quite separate issues, the Civil Law of the State of Israel and the religious definition of Jewish identity.

The Law of Return was passed unanimously by the Knesset on 5 July 1950, to give anyone persecuted as a Jew, the right to come and live in Israel and acquire Israeli citizenship. It was motivated by the way the world turned its back on Jews who wanted to flee the Nazi extermination machine. The so-called civilized nations had closed the doors to Jewish refugees. Israel wanted to ensure that never again would Jews die because they had no homeland or a place that would guarantee their safety. The implication was that anyone, whom the German Nazi regime classified as Jewish for extermination, would be included within the parameters of this law. This was not a religious law. It was a humanitarian one.

In 1962, Brother Daniel, a Carmelite Monk living in Israel, asked the Supreme Court to recognize him as Jewish under the Law of Return. The court rejected his application on the grounds that conversion out constituted a rejection of Jewish identity. On the other hand, in 1970 Benny Schalit successfully sued to register his two sons as Jewish by citizenship even though his wife was not Jewish.

After the Soviets lifted the ban on Jewish emigration to Israel, in 1971 the Supreme Court extended the right of return to people with one Jewish grandparent, a person who was married to a Jew, whether or not he or she was considered religiously Jewish, as well as someone who had converted (without specifying by whom). This was to accommodate the many Russians the Soviets had labeled as Jews ethnically and not religiously. The result was that there are now hundreds of thousands of former Russian Israeli citizens, who are not technically Jewish religiously. In 1989 the Supreme Court ruled that conversions performed outside of Israel were valid for the Law of Return (regardless of whether they were Orthodox, Conservative, or Reform).

Looking at the Jews of this world nowadays, we see plainly that there are many different ways of defining, or self-recognizing as Jewish. And good luck I say. The more the merrier. But that does not prevent one from choosing how

one wants to define oneself. And for me personally, a halachic definition is the one I choose. In the Diaspora, this does not matter at all. It is personal. But in Israel, as a civil State, it does matter, civilly.

The Chief Rabbinate in Israel, as a State institution, defines a Jew solely in Orthodox Religious terms. It only recognizes orthodox conversions and refuses to recognize Reform and Conservative movements as legitimately Jewish. They have even started to annul conversions, sometimes by Orthodox rabbis, where they thought the acting rabbi was being too tolerant. And it became an issue of political turf warfare as much as bureaucracy. All of this has added uncertainty to the situation on the ground. The Neeman Commission, which was set up by the Knesset in 2005, to try to resolve the issue, got nowhere thanks to the intransigence of the Rabbinate and its political supporters. And increasing agitation by Reform and Conservative Jews for recognition within a dominant Orthodox society has added fuel to the fire and raised other issues of Jewish identity.

It was because of the failure of the rabbinate to act to recognize multi-definitions, that the Supreme Court intervened and on March 1, 2021, ruled that Reform and Conservative conversions performed in Israel are valid with regard to the Law of Return.

This should only be about civil secular law and not intended to have any religious consequences or to interfere with the right of the Chief Rabbinate to decide on matters of Jewish religious personal status. But it has had the effect of increasing the resentment in Israel towards the religious authorities in many sectors of the population. And it goes to the issue of the separation of State and Religion.

Israel today, following Ottoman law, only recognizes marriages within religious communities, be they Christian, Jewish and Muslim are State sanctioned. There is no Civil Marriage. However, Israelis can marry civilly abroad (Cyprus is a near and easy option) and are recognized as married by civil law in Israel. The problem often comes when someone wanting to get married under the Rabbinate finds that it does not accept him or her as Jewish for religious ceremonials.

The only way to resolve all of this is to scrap the stranglehold the Rabbinate has over personal status and allow what Jews all over the world actually do, which is to marry in whichever way they choose whether religious or civil, for better or for worse. Why not allow freedom of choice and status?

I have always argued against religious parties using their political clout to make demands for political gain that are imposed on the country as a whole. The politicization of religion in the long run only damages religion. Sadly, I cannot see this changing. Only a total overhaul of the political system can bring about change and this is unlikely as the history of the past seventy years has shown. I am pessimistic about change coming from above. It can only come now from grassroots dissatisfaction across the spectrum.

My opponents claim that change would open up a can of worms and further exacerbate an already fractious Jewish community. But the can is already open. Almost a quarter of nominally Jewish Israelis cannot marry other Jews. Most of them do not care. Anyway, how one lives one's life is a matter of personal choice.

The argument that this will undermine the Jewish identity of the State makes no sense. What defines the state, its ceremonies, its Jewish calendar, and the Declaration of Independence will not change. Those who want to stay or live a religious life will not be prevented from doing so any more than those who want to leave Israel altogether are being prevented. And just as in the United States, and elsewhere, being Jewish and to what extent one wishes to be bound by Jewish Law, will be a matter of choice.

It is true that assimilation in the diaspora is easier and more common. But this has not prevented those who wish to live the most intense Charedi Judaism from being in any way disadvantaged or causing their numbers to dwindle. Any more than they are by being surrounded by secular Jews in Israel. Quite the contrary, they are thriving and the antagonism of those who resent being compelled is not as bitter as it is in Israel.

I believe that simply living in a Jewish State, where the calendar and atmosphere are redolent of Jewish history and tradition, is a factor (never a guarantee) in increasing Jewish identity and making Israel the creative dynamo of Judaism it is today. All this is encouraged and facilitated by the support of a civil government with Jewish priorities and a major section of its populace with a vested interest. But to think that it is compulsion that achieves this is to mistake the process. It is consent, negotiation, compromise, and positive factors rather than negative ones that are the way forward. Compulsion never succeeds in the long run. This is the kind of spat that gives religion and politics a bad name.