How Do the Issues in the Conversion Controversy Relate to Israel?

Daniel J. Elazar

Most Israelis are quite surprised at the firestorm that has broken out among American Jewry with regard to the proposed conversion law pending before the Knesset which amends the existing law to provide that conversion to Judaism in Israel must be according to *halakhah* and performed by instruments recognized by Israel's Chief Rabbis, that is the Orthodox establishment. Since the law explicitly provides that conversions in the diaspora performed by rabbinical authorities commonly recognized in the diaspora will be accepted in Israel, which means a continuation of the present situation in which Conservative and Reform converts are recognized as Jews by the Israeli authorities, most Israelis who even think about the issue wonder what all the excitement is about. This wonder is compounded by several factors.

The change in the law, even in the most draconian form that has been proposed, has virtually no direct impact on Israelis. All along Israelis have had to be converted by the local rabbinical establishment. There are good reasons why a significant number of Israelis might want to change that or, more likely, modify the way the rabbinical establishment goes about the conversion procedure, but few if any (the exception seems to be intermarried non-Jewish olim from the United States who decide to be converted after they come to Israel) even seek conversion in Israel from non-Orthodox rabbis. It just does not seem to occur to them such a conversion that would be a "real" one.

For example, it has been suggested that some figure in the vicinity of 200,000 Russian olim are not *halakhically* Jewish, yet very few of them have presented themselves to be converted by anybody. Perhaps a few more would if Conservative and/or Reform conversions done in Israel were recognized in the state, but none of the Israelis arguing over the law except those trying to find a compromise for the sake of the diaspora are even considering such a step.

The latest reports have it that about 100 people a year present themselves in Israel to be recognized as Jews who have been converted in a non-Orthodox fashion inside or outside the country. It is true that some have difficulty getting registered but Israelis do not know that unless the case reaches the courts and hence the media. The most direct impact of the change for Israelis would be that the present practice of non-Jewish Israeli residents who are trained for conversion in Israel by non-Orthodox rabbis and then sent abroad to have the conversion made so that it will be recognized by Israel will no longer have that safety valve. Without in any respects diminishing the problem that this brings for the occasional Israeli case or in any way denigrating the pain that such people are likely to feel, human nature being what it is there are simply too few cases to stir any real interest in them on

the part of the mass of Israelis who are very dubious about Conservative and Reform Judaism in any case.

Some other aspects of current Israeli law also are problematic for some Jews. For example, a Cohen will not be able to marry a divorcee whether she is born Jewish or converted no matter how. But that is not on the agenda at this time since there seem to be few cases not resolved one way or another within the present system either by getting the previous marriage annulled in some way or by the couple going abroad to get married.

One of the major Conservative and Reform "weapons" in this fight is the threat of reducing the amount of funds raised for Israel in the United States. Considering that at the present time American Jewish fund-raising comes to less than two percent of the Israeli government annual budget, this is no threat. True, funds are raised for purposes outside of the state budget that might suffer if they did not continue to be available, but again, few of those affect the average Israeli.

There are some indirect impacts which do count and have led to efforts on the part of aware Israelis to try to find a compromise solution. Perhaps foremost among those in the sense that it is the most universal is the concern most Israeli Jews have with the unity of the Jewish people which requires continued ties between Israel and the diaspora. This is a powerful concern for all but the most extreme Israelis on both the right and the left (that is to say, Neturei Karta and Satmar on the right, or those seeking to be Israeli rather than Jews on the left) and who would like to see the present unity of the Jewish people disrupted. While some of the former may be opposed to the compromises proposed until now, they will do anything that they believe is possible to avoid being the ones to cause the rupture.

A second indirect impact is that those Israeli Jews, many of them themselves Orthodox, who are unhappy with the power of the Orthodox religious establishment, especially in its present ultra-Orthodox leanings, seem to be siding with the idea of reaching some kind of amicable compromise simply as another step in curbing what they consider to be extreme and benighted approaches to Judaism.

Finally, there are those few Israelis who sincerely believe in what might be called pluralism or liberal democracy or civil society (all three terms are used in Israel, usually incorrectly). This American-born, raised, and educated Jew now living in Israel has found very few Israelis from any part of the political spectrum who really have a sense of what those words mean, but almost all understand them as certainly meaning no officially sanctioned religious establishment. Those who hold that view are ideologically committed to opening up the system and certainly in allowing Jews of other persuasions to express themselves fully and freely as part of the legitimate Jewish community. Since these are mostly people of education and influence, their support is not insignificant.

To sum up this situation, the support of Israelis for compromise is strictly *hassidut* in the original biblical sense of the term, namely, taking that extra step beyond the letter of the law for their covenant partners because of their concern of those covenant partners (*bnai*

brit). That is reason enough. This is especially true because, in effect, only American Jews and a few Jews in other parts of the diaspora, almost entirely English-speaking, who are affiliated with Reform congregations, even have reason to be concerned about the change in the law. Thus it is truly *ahavat hinam*, the desire to maintain Jewish unity, which motivates them.

This is all the more surprising and admirable when one considers how far apart most Israeli and most American Jews are in their understandings of Judaism.

Two Contrary Understandings of Judaism

The Chief Rabbinate and the Israeli religious establishment and, for that matter, probably an overwhelming majority of Israelis as well, regardless of their own religious practices, understand Judaism to be an overarching structure, an edifice erected over thousands of years, not simply based upon a Divine plan but constructed through the Bible, the Talmud, the great codes, and the great interpretations of those codes, as a complex but standing structure that technically never changes but is only reinterpreted in a limited way to function within changing realities. For those who believe and observe, this edifice gives them their daily, even hourly, marching orders. For those who observe less or do not observe at all except perhaps at the very margins of the edifice, the edifice still stands and they expect Jewish individuals, when they do act in religious ways, to do so within it. To steal an example from another religion, Judaism is like a great cathedral. It stands there and delivers its religious message whether many worshippers enter or not, and while there can be discussions about what are the contents of that message, the character of the edifice is unmistakable.

American non-Orthodox Jews, the vast majority in the United States see Judaism from an American religious perspective that has been shaped by the Protestant experience as a matter of personal spirituality and belief first and foremost. To them, this means that Jews must begin by personally accepting the fundamental beliefs and traditions of Judaism in some way but then are free to apply them operationally in ways that they find meaningful and satisfying even if those ways are new and non-traditional. True, Conservative Judaism accepts the existence of the edifice of Torah and *halakhah* but understands Torah more as a constitution than as a detailed code, a constitution which can and must be reinterpreted in every age according to its spirit and not merely according to the plain meaning of the text or something close to it.

Reform Judaism formally does not even accept that. For it, *halakhah* is not binding but is merely one of the sources of Jewish religious tradition to which attention should be paid. True, Reform Jews have been moving back to traditional observances for some 80 years now. Some even are calling for observance of traditions such as the laws of family purity whose observance Reform Rabbi Richard Levy, president of the CCAR, the Reform rabbinical organization, has recently suggested should be considered by Reform Jews ("The Holy Makes Us Whole"), that would surprise and gratify the most Orthodox. But

Liberal Judaism makes these issues matters of personal choice and also is prepared to allow Reform rabbis to personally choose to officiate at mixed marriages although the Reform movement as a movement has just reconfirmed its long-standing rejection of mixed marriage.

These two approaches to Judaism or religion in general not only are fundamentally opposed in their theory but have in recent decades been driven further apart in reality by the attempt of the Orthodox right to advocate even greater halakhic stringency than had been excepted in Orthodox circles in the immediate past (or perhaps ever) and the even greater emphasis on freedom of choice among the American non-Orthodox in their effort to adjust to and compete in the American religious marketplace.

Hence, we have a confrontation between, on one hand, an Orthodoxy that includes thousands of newly Orthodox coming from backgrounds in which they did not grow up within Orthodox frameworks and thereby acquired the patina of accommodation that living reality imposes on every legal system. Among them observance of the letter of the law as most stringently interpreted is an ever greater necessity. On the other hand, among the American non-Orthodox, the existence of thousands of children of Conservative and especially Reform Jews marrying non-Jews yet wanting to maintain their connections with Judaism and the Jewish community has necessitated the development of a whole series of accommodationist strategies that, at the very least, are departures from traditional Jewish norms. Both of these tendencies put extraordinary pressure on the middle groups, those who had functioned as bridgers between Orthodoxy and non-Orthodoxy over the past 200 years.

The Problem Emerges and Grows

When Israel was founded fifty years ago, it inherited the Orthodox rabbinical establishment that had in part existed in the land since the Ottoman conquest in 1517 and in part had been reorganized under the British Mandate in 1927. While many Israeli Jews prided themselves on having become secular, almost none had adopted Reform or Conservatism. Indeed, the only Reform Jews were a few refugees from 1930's Germany who had brought German Reform with them and had two congregations, one in Jerusalem and one in Haifa. There were no Conservative congregations since the Jeshurun Synagogue, which had been established in the 1920s with half an eye to becoming a Conservative congregation at a time when the distance between Conservative and Orthodox Judaism was minimal, had long since been absorbed into standard Israeli modern Orthodoxy.

For the first thirty years of Jewish statehood, there were few problems of defining who is a Jew. They either involved groups of Jewish olim such as the Bene Israel of India who did not fall fully within *halakhic* Judaism as understood in Europe, or individuals such as DeShalit (who wanted his children registered as Jews although his wife was non-Jewish) and Brother Daniel (a Jewish convert to Catholicism) who sought to gain status as Jews,

even though they violated certain basic Jewish norms accepted by virtually all Jews in Israel, not only those required *halakhicly.* The Bene Israel were recognized as Jews and Brother Daniel was not, even by the secular Israeli Supreme Court. Otherwise problems were few and far between. In no case did any group come forward and ask for recognition as an alternative form of Judaism.

American Jews were busy building up their own Conservative and Reform movements as part of their final steps toward full integration Americans. Either they were not interested in introducing their movements into Israel or, while recognizing the utility of those movements for their own situation in America, did not view them as "authentic Judaism" and hence saw no good purpose being served by having them introduced into the Jewish state. The few efforts that were made failed because movements resting on voluntary funding could not attract enough people willing to support such efforts in Israel.

It was only after the Six-Day War that small but meaningful groups of Conservative and Reform Jews settled in Israel as olim and established congregations and local institutions, partly for themselves and partly to establish a movement presence in Israel. The Reform movement, which was beginning to make a greater international effort at that time, even established its international headquarters in Jerusalem. The issue of who could perform weddings and conduct conversions began to emerge but it was still possible to deal with those issues in informal ways without confrontations. The Chief Rabbinate granted selective permission to the more *halakhically* learned Conservative rabbis to perform weddings in Israel and others found ways to work jointly with recognized Orthodox rabbis, since officiating was not the halakhic problem but witnessing. Non-Orthodox converts to Judaism generally were converted before coming to Israel or in a few cases were sent abroad to complete formal conversion after studying in Israel, but the numbers were so small that the issue was a minimal one. Most important, aliya from the West continued to be very small, even if more vocal than in the past.

It was only two decades later with the arrival of the mass aliya from the Soviet Union and then former Soviet Union, which included many half-Jews who claimed to be Jews but could not meet the *halakhic* criteria, that the issue became a real one for Israel as well as the diaspora. At the same time, Reform and Conservative pressure for recognition was stepped up. In the interim, American Conservative Judaism had moved further away from traditional *halakhic* interpretation to develop more radical interpretations which they still claimed to be within *halakhah*, including empowering women for all or virtually all roles in Jewish life and allowing practices that Orthodoxy had ruled were not *halakhically* permitted on Sabbaths and holidays. It was this newly aggressive Reform and Conservative Judaism which confronted an equally new fervently Orthodox militant stance. Hence today's problems arose in force to plague us all. No matter that the actual number of cases affected was small, even minuscule, matters of deep religious principle were involved on both sides. Beyond that, the issue also brought real pain to American Jews who wanted to live in Israel and to be accepted by it as they are.

In many respects, the issue had come down to who was a rabbi. The problem of who is a Jew could be solved in various ways by the Israeli religious establishment if it chose to

do so, but the demand of Reform and Conservative rabbis for recognition was a whole different issue. Not only that, but this demand was being used in non-Orthodox pulpits throughout the United States to build up a case against the Israeli religious establishment, which was not difficult for them to do, given the American perception of religion as a personal matter and of radical separation of church and state. The Jews, as a non-Christian minority in Christian America, had embraced the latter position wholeheartedly, one might even say religiously.

Resolving the Present Issue: The Real Choices

The issue of relations among Orthodox, Conservative, and Reform Jews requires a clever step or set of steps to square that circle, an even more difficult task. Within the reorganized Jewish Agency it was possible for Orthodox, Conservative, and Reform Jews to sit together, to work on common programs, and even to support each other's institutions without untoward difficulties because they did not have to recognize each other religiously. Fortunately, since the very beginnings of the Jewish people, the Jewish polity has recognized a separation of domains into those of Torah, of civil rule (in Hebrew, *malkhut*), and of the priesthood (in Hebrew, *kehunah*). All three have their own halakhic and historic legitimacy, so what could not be done within the domains of Torah and *kehunah* because of differences in religious understanding could be smoothed over in the domain of civil rule by representatives of the same groups. That is what we did. Now, however, the challenge has come in the other two domains over the issue of who is a rabbi and what interpretations of Torah are religiously legitimate.

Here is where the Neeman Committee's solution is so ingenious and important, precisely because it appears to square the circle to everyone's advantage in some ways and to everyone's disadvantage in others. The Israeli rabbinical establishment will have to give up its exclusiveness by accepting Reform and Conservative involvement in common operational matters such as training for conversion, performance of marriages, and handling the provision of religious services to the Israeli Jewish population. At the same time, by having a majority in every body making decisions in those areas, they will keep control and be able to honestly claim that the decisions are *halakhic* from their standpoint and based on their standards.

The Reform and Conservative movements and their rabbis will win a measure of recognition as partners in the Jewish religious enterprise, something that has been totally denied to them as movements in Israel in the past, but they will in turn have to accept the ultimate Orthodox power in determining what is *halakhah* in these matters. Orthodox Jews should be very pleased with this because it will bring Reform Judaism back to the recognition of the binding character of *halakhah*, at least in Israel, an achievement of no small proportions if their interest is honestly religious and not merely a question of who has political power. A step in this direction recently was visible at the recent UAHC biennial in Dallas, Texas.

In fact, I would argue that the compromise should not only be agreed to for Israel but for the rest of the world as well, thereby creating a basic and halakhic uniformity for issues such as conversion and marriage. That would be a great achievement, especially if in doing so we also recognize that we do live in a world of plural expression. There is no getting around that, not only with regard to Jews and non-Jews but within the Jewish people itself.

Nor should anyone make the mistake of thinking that the alternative will be the preservation of the present status quo. Professor Aharon Barak, President of Israel's Supreme Court, wisely has attempted to keep the court out of this issue and to press the political authorities in Israel to work out a decision through negotiation and compromise. He well understands two things: A court decision of any kind has to be a clear yes or no decision and does not allow room for compromise. Israel as a democratic state, especially under the Basic Laws enacted in 1992 providing for the protection of individual rights, makes the character of the decision almost inevitable. The Orthodox religious establishment will lose its monopoly and the door will be opened for recognition of Reform and Conservative Judaism and their religious leaders independently of any Orthodox framework to do whatever their movements do. Hence, the Orthodox community does not have a real choice between keeping the non-Orthodox out or not, but only a choice between bringing the non-Orthodox into their framework by expanding the framework or allowing them full leeway to do what they will.

By the same token, the Reform and Conservative may win such a victory in the Israel Supreme Court but it would be a pyrrhic victory for them as well as for the Orthodox because of the religious conflicts that would intensify as a result of it. I like to think that this understanding is why there has been a reluctance on both sides to cross the brink, but sooner or later we must bite the bullet and that time has now come. The Neeman Committee has provided us with an elegant way to do so. It would behoove all Jews to embrace that way for the maintenance of Jewish solidarity which is so necessary for a small and still in many ways embattled minority in this world.

A Final Word

Over the past century or perhaps century and a half the Jewish world has gone through tremendous upheavals, population movements, and reconstitution, leading to the establishment of the State of Israel as a Jewish and democratic state and the Jewish community in the United States, probably the freest, most prosperous diaspora Jewish community in history. Together the Jews in both communities plus those in other diaspora communities have successfully undertaken enormous tasks of rescue, relief, rehabilitation, and reconstitution which have enabled Jews to reverse two millennia of loss and persecution raised to unprecedented heights by the Holocaust. We are now at the edge of completion of the great tasks of the past century. It would be nothing less than a tragedy if the successful completion of those tasks caused the Jewish people to founder

and split apart on the shoals of what should be our greatest bond and our greatest glory -- Judaism.