

## THE CONVERT AS NEWBORN

Martin S. Cohen

In the course of my work as a senior editor for the ten-volume series of essays on Jewish prayer and thought being published over the last and coming few years by New Paradigm Matrix Publishing in New York under the Mesorah Matrix imprint, I had occasion to edit an essay by Rabbi Catharine Clark, a colleague who serves a congregation in western Ontario, in which she muses thoughtfully and movingly about the feelings the specific *nusah* of the *ha-mavdil* blessing (which serves as the anchor of the Havdalah ceremony at the end of Shabbat) stirs up in her when she contemplates it not solely as an observant Jewish woman and as a rabbi, but as someone who approaches them also as a *giyoret*, as someone originally not of the House of Israel who chose as an adult to embrace Jewishness and Judaism.<sup>1</sup> I won't rehearse her argument here, although I recommend the essay to all as a sensitive study in liturgical responsiveness, but would like instead to expatiate upon the feelings in myself that that essay stirred up.

The notion that a convert to Judaism becomes a Jew in every meaningful sense of the word is both a commonplace assertion within the Jewish world today and also a basic principle in our classical sources relating to proselytes. The Torah itself sums up the concept pithily in just two words at Numbers 15:15: *kakhem ka-geir*

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<sup>1</sup> Catharine Clark, "Who Are We Separating from Whom: Havdalah and the (Multigenerational) Interfaith Family," in *Havdalah*, eds. David Birnbaum and Martin S. Cohen (New York: New Paradigm Matrix, 2016), pp. 149-160, available online at <http://www.mesorahmatrix.com/havdalah/> (accessed on July 31, 2017). Rabbi Clark has specifically permitted me to write about her background in this essay.

("[the law] that applies to you shall apply also to the convert").<sup>2</sup> And that being the case, Rambam (Maimonides, 1135-1204, Spain and North Africa) sounds almost as though he is merely stating the obvious when he observes *en passant* at the end of the twentieth chapter of *Hilkhot Shabbat* in the *Mishneh Torah* that "a *geir tzedek* is (legally speaking) the same as a (born) Jew in every way."<sup>3</sup> Indeed, the term *geir tzedek* itself ("a righteous convert") is used in classical Jewish literature to distinguish such an individual from the other kind of *geir* – the *geir toshav* who, living in the Land of Israel (and, in a time of Jewish hegemony, not wanting to face execution) accepts the seven Noahide commandments upon him or herself.<sup>4</sup> Such a *geir* is specifically *not* like a born Jew in every (halakhic) way – in truth, such a person is hardly halakhically "like" a Jew at all – but the *geir tzedek* (that is, the proselyte who, acting out of principled conviction, chooses to embrace the faith of Israel and to jump through the

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<sup>2</sup> The text then goes on to state the principle even more unequivocally: "One *torah* and one law shall it be for you and for the *geir* who dwells in your midst" (Numbers 15:16). The word *geir*, which in the context of Scripture loosely references the stranger, *i.e.*, any non-Israelite, dwelling amidst the Israelite nation, came to reference proselytes specifically and is used that way throughout rabbinic literature and throughout this essay. *Cf.* the more narrowly construed passage at Exodus 12:49, where the same principle, using almost exactly the same language, is applied specifically to the laws governing the paschal offering.

<sup>3</sup> MT *Hilkhot Shabbat* 20:14 and *cf.* *Hilkhot Melakhim U-milhemoteihem* 8:10, where the author specifically references Numbers 15:16.

<sup>4</sup> *Cf.* MT *Hilkhot Melakhim U-milhemoteihem* 8:9 regarding the obligation to slay Gentiles under Jewish hegemony in the Land of Israel who decline to accept the Noahide commandments. Just recently, there have been efforts in some rabbinic circles, including the Israeli Chief Rabbinate, to revive the concept of *geir toshav* and to restore the status as a viable one for non-Jews eager to have a place within the greater House of Israel but without formally converting to Judaism; see, *e.g.*, Amichai Lau-Lavie's *Joy: A Proposal*, available at [http://amichai.me/wp-content/uploads/2017/06/Welcome\\_Book\\_2017.pdf](http://amichai.me/wp-content/uploads/2017/06/Welcome_Book_2017.pdf) (accessed on June 30, 2017), and particularly the chapter entitled "Ger Toshav: The Rabbinic Resident Alien" (pp. 17-22).

various ritual hoops required for formal conversion), *that* kind of *geir*, so Rambam, is henceforth to be indistinguishable from the born Jew in terms of the way he or she is treated or considered halakhically.

And it is precisely that principle of *kakhem ka-geir* that runs up against a different halakhic principle, the one that requires that the proselyte be considered “as a newborn child,” which latter notion is specifically *not* taken in a poetic or lyrical sense to denote spiritual rebirth as a newly-minted member of the House of Israel, but rather in a quasi-scientific way that treats the convert to Judaism as reborn in every meaningful way *other* than the historical...and thus without any family at all since he or she has been born, or rather re-born, into the world without any legally meaningful relation to anyone at all to whom that same person was related by blood or by marriage in his or her previous iteration as a non-Jew.<sup>5</sup>

This principle is repeated several times in the Talmud and was taken literally and seriously to an extent that will strike most moderns as somewhere between slightly absurd and seriously bizarre.

In Tractate Bekhorot, for example, we find two *amoraim*<sup>6</sup>, Rabbi Yoḥanan and Resh Lakish, debating whether a convert to Judaism does or doesn't have the ability to summon up the extra progenitorial power that makes a man's firstborn son his heir in a different way than his other offspring precisely because, upon converting, even his reproductive mojo is reset to zero “because he [upon converting] becomes as a newly born child.”<sup>7</sup> (Resh Lakish,

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<sup>5</sup> The rituals of conversion—emerging naked from the waters of the *mikveh*, followed for men by circumcision—are suggestive of rebirth in their own right.

<sup>6</sup> *Amoraim* (plural of *amora*), scholars of the rabbinic tradition in the period immediately following the compilation of the Mishnah, stand in contrast to *tannaim* (plural of *tanna*), the circle of scholars from among whose teachings the Mishnah was compiled circa 220 C.E..

<sup>7</sup> B. (=Babylonian Talmud) Bekhorot 47a. At Deuteronomy 21:17, the Torah specifically justifies the obligation of granting a double share of a deceased father's estate to his firstborn son by explaining that, “because such a one was [brought into being through the] first [flowering of his father's progenitorial] strength, [the perquisites

more formally Rabbi Shimon ben Lakish, supports this position, which is opposed by the more rational Rabbi Yoḥanan.) And this, the Talmud itself observes, was only part of a wider debate regarding an even odder question, or a possibly even odder one: whether the obligation to propagate, itself a Torah commandment, can be deemed to have been fulfilled retroactively, so to speak, by a male convert—the obligation to be fruitful and multiply was understood by at least some of the rabbis of classical times to devolve upon men only—by a male *geir* who became a father before completing his conversion to Judaism.<sup>8</sup> There too, Rabbi Yoḥanan reasonably notes that such an individual has fathered children and has thus fulfilled the commandment, whereas Resh Lakish, again referencing the notion that the convert is legally “like a newborn child,” deems such a man not to have fulfilled his obligations under the law merely because he became a father before his rebirth as a Jew.<sup>9</sup>

This principle surfaces as well in a discussion in Tractate Yevamot that focuses on the question of anterior siblinghood in the context of conversion. Rabbi Naḥman, unwilling to look away from the fact that two men born of the same mother cannot rationally be understood other than as each other’s sibling, declares that the court cannot take testimony from them both in just the same way that the court cannot accept testimony from any two brothers.<sup>10</sup> Still, bowing slightly to the principle of converts being considered as though they

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that accrue to a firstborn son through] the law regarding primogeniture accrue [naturally] to him.”

<sup>8</sup> The rabbis understood the injunction issued by God to Adam and Eve ordering them to be fruitful and to multiply (Genesis 1:28, *cf.* the way this precise phrase is used similar with respect to the obligation of Noah’s descendants at Genesis 9:1 and 7) to constitute a Torah-commandment regarding the obligation to reproduce. *Cf.* the brief debate a M. (=Mishnah) Yevamot 7:6 regarding the crucial question of whether this commandment applies to all or solely to men, a debate taken up by later rabbis as recorded at B. Yevamot 65b. And *cf.* also the definitive statement by Rambam at MT Hilkhot Ishut 15:2: Men, but not women, are commanded to reproduce.

<sup>9</sup> This whole passage appears the other way ‘round, *i.e.*, with the argument about inheritance being brought to bear to buttress each rabbi’s opinion about the issue of reproduction at B. Yevamot 62a.

<sup>10</sup> B. Yevamot 22a.

were born anew through the process of conversion, Rabbi Naḥman considers that, should such a pair somehow manage actually to give testimony in court, it could *ex post facto* be considered valid. On the one hand, testimony given by two half-brothers with a common father who have both converted can be accepted *a priori*.<sup>11</sup> On the other hand, Amemar was of the opinion that the notion that converts are legally to be taken as newborns was powerful enough even to make it possible for half-brothers with a common mother to be permitted from the start to offer testimony in court.

In a truly fascinating discussion, also preserved in the Babylonian Talmud in Tractate Yevamot, *tannaim* are heard to discuss the fascinating question of why converts to Judaism suffer at all if they are truly in God's eyes as newborn babies who have obviously not sinned in their very brief pasts and who could therefore not have committed any sins to suffer *for*. One sage, Rabbi Ḥananiah, the son of Rabbi Shimon ben Gamliel, opines that it must have to do with their earlier dereliction of the seven so-called Noahide commandments that the Torah supposes to be the common obligation of all humankind and not merely the House of Israel.<sup>12</sup> Rabbi Yosei finds that theory to contradict the notion that converts are as newborns and so proposes a more practical reason to explain the suffering of proselytes: that, by virtue of being newcomers to the covenant that binds Israel and God, they simply do not possess the requisite knowledge to observe the law sufficiently punctiliously and so suffer because of the many technical errors in observance they

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<sup>11</sup> The idea seems to be rooted in the notion that the nature of the human reproductive process means that individuals can only be sure of their mothers' identities, not their fathers', and is surely not meant to be flattering to Gentiles or to their sexual mores. Cf. Rashi *ad locum*, *s.v. m'idin l'khat'hilah*.

<sup>12</sup> The oldest formulation of the seven commandments in this category is in the Tosefta, at T. Avodah Zarah 9:4, and all are based on Genesis 9:4-6. The commandments are to establish a legal code, not to curse God, not to worship idols, not to behave in a sexually immoral way, not to murder, not to steal, and not to eat the flesh of an animal's limb that has been torn from its body without the animal being slaughtered first. The specific question of which of these commandments was originally given to Adam and Eve is a matter of lively rabbinic debate.

naturally end up making as a result. A third *tanna*, Abba Ḥanan, finding it unlikely that God would punish people for the unavoidable ineptitude any newcomer would almost inevitably bring to the world of ritual observance, takes an attitudinal approach and suggests that converts to Judaism pay the price incurred by all who obey the commandments primarily because they are afraid of incurring God's wrath and not out of a sense of deep love for God and for God's law.<sup>13</sup> And, finally, a fourth voice is heard to suggest that converts who suffer are those who pointlessly delayed their formal conversion to Judaism.<sup>14</sup>

Other texts turn to more practical matters. If a convert is "as a newborn child," does that mean that a brother and sister who convert to Judaism may marry even despite the Torah's unequivocal prohibition of such a union precisely because, reborn as Jews, they are specifically *not* deemed to be each other's siblings any longer? Specifically, the debate concerns the rabbinic notion of "secondary degrees" of incest, relationships the rabbis added to the list of prohibited sexual partners that the Torah enumerates in Leviticus 18 and 20.<sup>15</sup> The discussion is set into a bit of a narrative: it happened one day that Rava once asked Rav Naḥman about a Palestinian sage who had recently come east and who reported on a discussion back home relating specifically to question of whether those second-degree incest prohibitions apply to converts as well as to native-born Jews. But the report itself is more interesting than its narrative setting: the law, it seems, taking proselytes to be newly born at the moment of conversion, does not apply incest laws to converts at all, but the rabbis imposed such strictures on them anyway lest it be

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<sup>13</sup> The irony inherent in the notion that God punishes converts because their observance is prompted by the fear of punishment appears to go unnoticed in the talmudic text. Rashi specifically mentions the fear of hellfire, *cf.* his remark *ad locum*, *s.v. mi-yirah*.

<sup>14</sup> This last opinion seems so unlikely that the talmudic text pauses for a moment to cite an amoraic effort to justify it with reference to Ruth's alacrity in converting to Judaism and the apparent corollary notion that delay is, at least after the fact, thus a punishable offense.

<sup>15</sup> *Cf.* the debate recorded at B. Yevamot 21a regarding the question of whether these secondary degrees of incest were rabbinic accretions to the law or actual Torah laws hinted at, but not explicitly stated, in the Law itself.

perceived from the outside that people who embrace Judaism have chosen a religion that requires a lesser degree of holiness – by which term the text here means to denote refined sexual behavior – than the culture they have formally left required of them. And this notion became codified in law, as in Rambam’s unambiguous formulation:

A Gentile who converts to Judaism and a manumitted slave are considered as newborn children and any relatives they had before their conversion or while they were still enslaved are no longer considered in the category of family members. Therefore, even if all parties concerned convert to Judaism, the laws of incest do not apply to any of them. According to Torah law, therefore, it is permitted for a convert to marry his mother or his maternal half-sister, but the sages themselves forbade these unions lest converts [be prompted to] say, “We have abandoned a more stringent level of holiness for a more lenient one, for yesterday [i.e., before our conversion] such-a-one was forbidden to us but is now permitted.”<sup>16</sup> A male convert who has sexual relations with his Gentile mother or sister who has remained a Gentile is [therefore] contravening the general prohibition of having sexual relations with Gentile women [only].<sup>17</sup>

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<sup>16</sup> Note how Rambam has read the talmudic passage to imagine the rabbis worrying about converts to Judaism thinking this themselves, whereas the passage in the Talmud itself appears to feature the rabbis worrying about how this will look to outsiders.

<sup>17</sup> MT Hilkhot Issurei Bi-ah 14:11-12. Under the Noahide commandments, incestuous relations are forbidden to Gentiles. Therefore, if a Gentle family (or part of one) converts to Judaism, the rabbis were worried that the impression might be created that unions that were forbidden to those individuals before conversion (*i.e.*, because they involved intercourse with forbidden relatives) have now become permitted (*i.e.*, because converts are taken legally as newborns). If only one family member converts, then relations with still-Gentile relatives are forbidden under the general

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The halakhah is often at its most creative when it deals with situations in which two legitimate halakhic principles cannot be simultaneously affirmed, thus creating a situation in which one must give way to the other. Mostly, these have to do with obligations that devolve on individuals simultaneously but which cannot actually be *done* simultaneously. Of laws in this category, there is no end: which of the two benedictions that together constitute “Kiddush” on Friday evening should be recited first, whether to don the *t’fillah shel yad* first or the *t’fillah shel rosh*, what the correct way is to order the four blessings of the Havdalah ceremony, whether to eat the flesh of the paschal offering or the *matzah* or the *maror* first on Erev Pesach, how to organize the various blessings said upon entering a *sukkah* on the first night of the *ḥag* for a festive meal, etc. Other examples are weightier in terms of their import, yet here too there are surprises: the principle that the obligation to save a human life overrides the regulations relating to Sabbath rest will strike most moderns as fairly self-evident, the decision to permit those same Sabbath laws to be set aside so that the fixed sacrificial service in the Temple could unfold unimpeded on Shabbat slightly less so.<sup>18</sup>

And here we have an example that is, I think, clearly in its own category: since the principle of *kakhem ka-geir* (i.e., that precisely the same set of laws must apply to the convert *and* to the native-born Jewish soul) cannot be given the force of law if the law also maintains that a convert is *k’katan she-nolad* (i.e., to be legally considered as a newborn child, and therefore specifically *not* as a native-born Jew), one must always or sometimes override the other. That, ultimately, is what the tannaitic and talmudic sages cited above are really discussing: whether conversion should be deemed

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prohibition of Jewish-Gentile intercourse but apparently not under the laws that prohibit incestuous relations.

<sup>18</sup> The obligation to save a human life overrides the Sabbath law: MT Hilkhhot Shabbat 2:1, based on B. Shabbat 151b; the obligation to maintain the sacrificial ritual in the Temple overrides the laws of Shabbat: MT Hilkhhot Bi-at Ha-mikdash 4:9-10, based on the discussion at B. Yoma 50a.



permanently to eradicate any legal distinctions between Jews-by-birth and Jews-by-choice, or whether converts must exist, legally at least, in their own category because, unlike born Jews, they are considered to have no past, no relations, and no personal history.<sup>19</sup>

Nor is this an inconsequential matter related to laws of incest that few are tempted to break: the estate of a convert who dies without producing Jewish children is considered ownerless property which may legally be seized by anyone at all.<sup>20</sup> The reasoning behind such a rule should be obvious: there is a very well-worked-out pecking order in terms of who inherits the estate of an individual who dies intestate which is deemed to apply to every Jewish soul because, in Rambam's words, no matter how distant they may be, "there simply is no such thing as a Jew who has no relatives," but the convert to Judaism who has not produced a Jewish family and who has no personal history that reaches back to before the decision to convert actually *does* have no relatives and therefore exists fully outside that pecking order.<sup>21</sup> The convert who fails to marry and produce children is therefore imagined to exist, yes, as a Jew, but as one wholly without close or even distant family relations. It was this sense of the convert's totally alienation from his or her past that stuck most prominently in Rabbi Clark's craw as she unraveled her

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<sup>19</sup> Nor was the debate limited to talmudic times as demonstrated very ably by Rabbi Joel Rembaum in his 1998 responsum "Converts Mourning the Death of Close Relatives" for the Committee on Jewish Law Standards of the Rabbinical Assembly, accessed at [https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/rembaum\\_convert.pdf](https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/rembaum_convert.pdf) on July 8, 2017. The formal designation of the responsum is YD 374:5.1998.

<sup>20</sup> MT Hilkhhot Zekhiyah U-mattanah 1:6, based on M. Bava Batra 3:3 and several talmudic passages, e.g., B. Gittin 39a and Bava Batra 52b and 53b.

<sup>21</sup> The pecking order is spelled out in detail by Rambam at MT Hilkhhot Naḥalot 1:1-13, based on the talmudic elaboration of M. Bava Batra 8. The comment *ein l'kha adam mi-yisrael she-ein lo yor'shin* ("there is no such thing as a Jewish individual who has no heirs") is at Hilkhhot Naḥalot 1:3. I had the opportunity to discuss these laws and their implications at length in my chapter on inheritance law in *The Observant Life: The Wisdom of Conservative Judaism for Contemporary Jews* (New York: Rabbinical Assembly, 2012), pp. 590-605.

own feelings about liturgical passages that praise God for creating the kind of ironclad boundary between Israel and the nations that are embodied in the legal passages cited above.

As a congregational rabbi approaching the fortieth anniversary of his ordination, I have supervised scores of conversions and participated in hundreds. Each of the men and women I have taught and tried to nurture along to a wholehearted conversion to Judaism and Jewishness left something behind. Some, of course, came from fully or at least largely secular backgrounds. Others had childhoods or adolescences that featured deep involvement in the spiritual lives of other faiths. Still others came with a deep sense of membership in an ethnic or tribal group. They were, obviously, all different people with different backgrounds and different experiences as children, adolescents, or adults. Some, in fact, were older people who had, not years or decades, but *scores* of years of involvement in a different faith or of engagement with a different ethnicity. Yet all were united by their willingness to seek shelter beneath the wide wings of the Shekhinah and to seek spiritual communion with God through the medium of Jewish observance and participation in Jewish life. And, no less profoundly, each had parents, most had siblings, some had children. None was *really* “as a newborn child” after conversion, nor—at least in my opinion—should they have been encouraged consider it virtuous or even reasonable to think of themselves that way.

The heritage of Jewish ideas bequeathed to us from antiquity needs always to be evaluated in terms of the ideas that serve as its foundational underpinnings and remolded to suit the ethical and moral standards of our own day. It is not only impractical and heartless to encourage converts to feel wholly disconnected from their parents or other Gentile relations, but actually counterproductive: which modern soul would ever hold in esteem a spiritual system that considers it virtuous for a pious person to abandon elderly parents or close relatives in need?

I close with a vignette. Many years ago, a woman I helped to convert to Judaism asked me if I would visit her mother in the hospital where she was recovering from a serious heart attack. I agreed, went, met the mother, and struck up a long, interesting, very satisfying relationship with an intelligent, witty, extremely insightful woman who appeared genuinely to enjoy talking with me about my

religion and hers, and who eventually developed a great fondness for my own father's best Jewish jokes. Years later, the mother died and the daughter, my congregant, asked if I would speak at her funeral. I was flattered to have been asked, but unsure how to respond. Eventually, after taking counsel with some older colleagues, I decided that I would deliver this lovely woman's eulogy, but only if it could be worked out how I might appear at the funeral without looking standoffish or unfriendly, let alone rude, by not participating in any non-Jewish rituals or prayers. This was accomplished easily – the minister was so delighted at being relieved of the responsibility to eulogize someone he barely knew that he agreed basically to every one of my suggestions – and the funeral unfolded in just the dignified way for which Mrs. C. would have wished. As we left the cemetery – the funeral was conducted at graveside – I helped my congregant morph from being the daughter of a deceased Anglican to seeing herself as a Jewish woman whose mother had passed away; she was fully in Jewish mode by the time we got to her home, her commitment to a traditional *shiva* and a full eleven months' worth of Kaddish not only embraced but subsequently honored.

For tradition to be vibrant and meaningful, it can never lead to deeds or stances that we ourselves consider immoral, cruel, or inconsonant with the values we claim to hold. In this case, holding tight to tradition would have required me to encourage my congregant to renounce what we both knew to constitute the natural filial obligation children do and should show to loving parents, an obligation even more acutely reasonable to shoulder in the case of a mother who strongly supported her daughter's decision to embrace Judaism as a Jew-by-choice.<sup>22</sup> To be truly faithful to tradition means being prepared to move on...and willingly to allow the heritage of traditional Judaism to morph forward, generation by generation, into an ever-finer iteration of its former self so that all who embrace it as their way of life will seem, not merely obedient, but also kind, virtuous, caring, and good.

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<sup>22</sup> This was Rabbi Rembaum's conclusion as well in the responsum referenced above and approved by the Committee on Jewish Law and Standards on June 10, 1998. Nonetheless, the vote was not unanimous, with eleven committee members in favor, five opposed, and one choosing to abstain.

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