

Summary: Parashat Shoftim

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What is a Jew? Part 7

We perhaps best demonstrate our full acceptance of people into our lives when we allow them to serve in positions of power over us and to penetrate our most intimate circles. A person can be warmly welcomed into a family, a people, a country, a religion and still kept somewhat at bay if these privileges are denied him or her. When the United States Constitution specifies that a naturalized citizen may not serve as the President, this is an implicit statement about the place of the immigrant more broadly. Immigrants themselves are not 100% completely American and can only hope to fully integrate their *children* into their chosen homeland. Put more softly, the process of naturalization is drawn out and cannot open all doors in one generation alone. While the new immigrant may have all the rights of a citizen, the absence of certain privileges—like the ability to run for President—is an implicit value statement that being born on United States soil or to U.S. citizen parents is meaningful. It helps define place of birth and lineage as critical elements of an unalloyed American identity and status.

So it goes with conversion as well. When we encounter sources that do *not* treat the convert identically to the native-born Jew, we should see not only potential discrimination against the convert, but also statements regarding the essence of what it is to be Jewish. Limitations on the convert may be minor, even vestigial, but they still always signal an incomplete process and may even hint, in an echo of an earlier biblical model, at a residual notion that conversion is somewhat implausible to begin with.

Last week we looked at how we encourage and allow the convert to talk about Jewish history in our liturgy. This week we turn to questions of power and intimacy. Can a convert to Judaism serve in all the same leadership positions that are open to native-born Jews? Can a convert marry all Jews?

The Torah itself, in this week's *parashah*, already indicates that leading the Israelite nation is not open to all: "Appoint, appoint over yourself a king, whom the Lord your God will choose. From among your brothers you shall appoint a king over yourself: You may not place over yourself a foreign man who is not your brother." Though the Israelites are given some agency in

choosing a king—provided he comes with God’s approval—they may not, under any circumstances, hire a foreigner to fill this position. One of the most powerful ways that the group’s identity is defined is by reserving the position of ultimate leadership for the main members of the group. The נכרי, the foreigner, lies outside this inner circle. While he can potentially be welcomed into many other areas of Israelite life, this position of power is off limits to him. One can read these verses narrowly as only referring to the monarchy, but one can also read them broadly, as a kind of archetype for Jewish leadership more generally. The Tannaim choose the second path (in Midrash Tannaim Devarim 17:15), asserting both that the biblical restriction applies to all meaningful positions of leadership, and, crucially for our purposes here, assumes that the term נכרי/non-Jew includes the (Rabbinically defined) גר, the convert to Judaism, thus rendering the convert unfit to be selected as a king or for any position of authority in the Jewish community.

Of course, the precise nature of this ruling is unclear, particularly: What counts as a position of authority? Talmud Bavli Kiddushin 76b suggests that a convert or a patrilineal descendant of converts is not fit to become a local mayor unless he is or can trace his ancestry back to a matrilineal-born Jew; Mishnah Sanhedrin 4:2 declares that converts are unfit for judging capital cases, but fit to judge civil ones; while Rava in Yevamot 101b-102a says that a convert’s ability to judge depends on who is being judged—he can judge other converts but not born Jews. How does the ability to judge interact with being a mayor? How does one put all of this evidence together?

R. Moshe Feinstein (Iggeret Moshe Yoreh Deah IV:26) rules leniently in this regard, allowing the law to live on in theory while highly restricting it in practice, claiming that important roles such as being a *rosh yeshiva* are not the positions of authority the earlier sources are arguing about, understanding them more as a job, obviously open to anyone.

Whether one follows this path or resists it, it should be clear that questions of leadership by converts are important proxies for thinking about the definition of the Jewish community. Let us turn now to cases involving marriage, which move these questions from the boardroom to the bedroom.

One of the central consequences of converting to Judaism is being permitted, according to rabbinic law, to marry a Jew. But we can also detect how complete the notion of conversion is by carefully examining marriage laws and seeing if they operate the same for converts as for

native-born Jews. Again, if we discover that converts are subject to different restrictions on whom they may marry than other Jews, we can detect a more ethnic conception of Jewishness at work. These converts have become Jews but don't really erase their separate ethnic past. The more these past differences are erased and leave no mark on the convert's marital eligibility, the more we are working with a religious conception of what it means to be Jewish.

One key piece of evidence of the incompleteness of conversion can be found in the laws surrounding marriage into priestly families. As I argued around leadership, restrictions around marrying into an elite are implicit statements of holding a more generally marginal status in the broader society. The more restricted a female convert is around marrying a *kohen*, the more she is implicitly told that she has *mostly* joined the Jewish people, but not entirely, as her different ethnic background remains front and center. The more those restrictions fall, the more we implicitly say that there is nothing about being a Jew that fundamentally has to do with who your parents are. This interaction between *kohanim* and converts is especially instructive: *Kohanim* and converts represent polar, incompatible opposites when we think about the essence of Jewishness. The priesthood symbolizes and preserves Judaism's most potent repository of bloodline, an unbroken chain of male DNA that purports to go back to Aharon the priest himself. It represents, in extreme form, that part of Judaism that is all about peoplehood, about genealogy, about ancestors. That sort of lineal sanctity provides a deeply stabilizing center for a society that might otherwise be overrun by the vagaries of history. The ability to trace genealogy back to antiquity can give an entire people a sense of authenticity and eternity that few, if any, other social groupings can. For many, the royal family in the United Kingdom serves this same function until today. The convert, by contrast, represents Judaism's boldest foray into the forsaking of bloodline. Converts are the bearers of a form of the covenant that in no way devolves upon them from birth. They parade for all to see the possibility of entering into direct relationship with God through Judaism despite lacking the ancestry that would have conferred this upon them automatically. Put in other terms, *kohanim* stand for the power of being non-negotiably part of a clan, a tribe, a family. Converts stand for the leveraging of contingency and choice to create powerful, mission-driven religious commitments. The notion that a convert should not marry a *kohen* reflects a concern that permitting this runs the risk of fraying—if not erasing—that *kohen's* ties to Aharon and the unbreakable bond with history that they represent. Therefore it is not surprising that various authorities in Mishnah Kiddushin 4:6-7 and Talmud

Bavli Kiddushin 78a-b maintain a restriction regarding the marriages of *kohanim* and converts and their descendants.

That said, in the Talmud there, we also see a formal rejection of ethnicity as an overwhelming factor. The Amoraim that take a stand on the ruling either rule like R. Yose, the strongest proponent of loosening the ethnic restrictions in that *mishnah*, or rule a more restrictive view in public while, in private, endorsing R. Yose's view after the fact, once the *kohen* and the descendant of converts are already married.

This is a wonderful example of the unresolved tension around ethnicity and religion continuing to play out through the boundary case of converts. The results are messy and unclear because the core problem is complex. If the biblical Israelite is an unavoidably ethnic figure, Rabbinic sources surely depart from this in their definition of the Jew. But they never abandon the ethnic element of Jewishness entirely. It is the delicate dance between these two models that continues to define our understanding of what a Jew is until today.

As we end this series on defining Jewishness, I want to offer some brief closing thoughts on what this all might mean for us today. I argued at the beginning of this series that our ongoing struggle with how to define Jewishness is due to the antiquity of the Jewish people. Forged in a world where ethnicity and religion were largely fused and inseparable, the Jewish people passed through the revolution of the Hellenistic empire and its creation of a multi-ethnic civilization. Since then, we have been trying to sort out our response to the implicit question posed to us: Which are you? An ethnicity or a religion?

Each of these models comes with significant benefits and limitations. Ethnic models grant a certain degree of stability and self-evident definition. They avoid heresy hunting and can be broadly inclusive of all members of the group, even those exhibiting religiously deviant behavior. But ethnic models are also somewhere between grudgingly accepting of newcomers to displaying outright hostility to them and have a hard time articulating a mission or purpose beyond parochial survival. What is gained through peoplehood can easily be squandered through a self-serving myopia that loses sight of God's vision for humanity. Religious models allow for clearer definitions in this regard and are quite adaptable to welcoming those who are inspired by the cause and way of life and who wish to join. By not judging people by their origins, they allow Jewishness to take new forms as needed. But religious models encourage a quest for ideological purity and allow for even the closest family members to turn on one another. What a

religious model gains in its embrace of converts it must be prepared to lose in its loss of apostates. Each can promote peace and harmony and each can be deployed to inflict violence on the other.

In the two major centers of Jewish life today, it is quite easy to detect two very different responses at work. In Israel, Jewishness unquestionably hovers closer to the ethnic pole of our constructed spectrum. The Zionist narrative is largely one of a people, not a religion, returning to its homeland and building a society for itself despite various oppositional forces and nations. While religious debates flare in modern Israel, there is no question that the dominant identity lines are drawn between Jews and Arabs, where Jewishness is conceived not primarily as a religious grouping, but largely an ethnic one. Israeli society has little interest in or compassion for converts, other than a few advocates who work hard to alter the status quo. In Israel, with its reasonably robust birthrate, Jews are mostly made the old-fashioned way: they are born. And for most Israeli Jews, this is just fine. Despite the lack of consensus around religious practice, to understate things considerably, most Israelis simply don't care if it is near impossible to navigate the state's bureaucracy as a convert. The convert is a curiosity, perhaps an admirable one, but one on the fringes of the Jewish experience, one that certainly cannot narrate in first person possessive the historical events that launched Zionism and continue to shape it. With time, that may change, but the ethnic anchor of Israeli Judaism is undeniable. That leads to a clear sense of solidarity among Jews in Israel, but Israeli society also needs a clearer sense of the purpose of being Jewish and what the message is to the broader world.

Things are dramatically different in the United States. In some ways, American Judaism's biggest challenge is that it wants it both ways: to cherry pick the ethnic and religious elements of Jewishness that are most comfortable and most in tune with external morés. American Jews love being ethnic in all sorts of ways: They don't want to be judged in or out based on their practice, they like the notion that a child born to a Jew is unquestionably a Jew irrespective of belief or connection to *mitzvot*, and they generally like the kind of religious freedom and agnosticism that is enabled by ethnic group definitions. In short, they love the ways in which being Jewish can be thought of as being part of a family. They also love being religious. In an increasingly post-ethnic society, they resist placing much if any emphasis on origins and love to encourage personal journeys towards truth and meaning. With high intermarriage rates and an increasing cloudiness around Jewish ethnicity in the United States, American Jews are finding it more

tenable to define Jews on a voluntaristic basis rather than grounded in bloodline. The dream for many contemporary American Jews is to define a Jewishness that you can be automatically born into, that has no non-negotiable behavioral expectations—including whom one marries—and that welcomes anyone to join Judaism and become a full and equal member of the community.

The problem is, as I have argued throughout this series, that this is entirely incoherent and unsustainable. Adopting either an ethnic or a religious frame has consequences in all kinds of directions. You can't really declare that someone born a Jew can never lose that identity while avoiding any hierarchy between the native-born and the convert. You can't really welcome the convert with open arms based on an embrace of the Jewish religion and maintain a studied agnosticism on any kind of religious standards for Jewish life. Either American Judaism will come to terms with this dilemma or large swaths of it will simply devolve into incoherence or irrelevance. Given the contemporary demographic trends, it seems that the kind of ethnically dominant model at work in Israel is out of reach. Given current ideological trends in American society at large, it is hard to imagine this even being desirable for most. That means that the future of a vibrant and self-sustaining American Judaism almost certainly rests on a clearer embrace of a religious model. That will bring the benefits of seeing converts as paradigms, not exceptions, but it will also require a tougher stomach for articulating expectations for religious behavior and giving communities meaningful religious definition. And even if this succeeds, it is likely to deepen the divide between American and Israeli Jews, who will increasingly be responding to Alexander the Great's challenge to us from two different poles of the spectrum of Jewishness. In some ideal world, this divide would have a stereophonic effect that would enrich our understanding of the covenant and God's relationship with the Jewish people. In practice, it may generate a good deal of discord and make it even harder for these two communities to understand one another.

Perhaps the best counsel is to remember that the question of defining the ethnic-religious character of Jewishness can never truly be resolved. We can tend towards one pole or another, but, so long as we are true to where we came from, we will never be able to shake either of these modes entirely. That muddled mix stems from having forged a covenant with God in the ancient world, as an ethnic clan, a covenant that imprinted a revolutionary vision for the world on the soul of an earthly people. History's wheel will continue to turn, and we will undoubtedly continue to confront changing circumstances that will rebalance our identity equations over and

over. Perhaps our task is to embrace the messiness, have the courage to respond faithfully to our past and the conditions of the present, while maintaining the humility to know that an eternal covenant is meant to take us into an unknown future as well.