ON MODERN JEWISH IDENTITIES

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Editor's Summary
In the modern world, we have been forced to confront the issue of Peoplehood—of what it means to be part of the Jewish People—with the introduction of the concept of "Jew" into the Law of Return. The Knesset and Israeli courts have become focal points in the struggle over the establishment of modern Jewish identity, a struggle that revolves around the question of whether a commitment to *Halachah* is a necessary prerequisite for conversion to Judaism. This question has faced rabbinic authorities for centuries, as seen, for instance, in the responsa collection *Helkat Yaakov* by Rabbi Yaakov Breish. However, the radical historic change that has taken place in the character of the Jewish collective poses a difficulty to the conventional legal method involving inference from the precedents found in the halachic jurisprudence to resolve the current struggle. The traditional concept of Jewish identity has been replaced by a plurality of incommensurable notions which render the attempt to subordinate the definition of Jewish nationalism to the halachic framework both problematic and mistaken. Instead, we must affirm and embrace the modern Jewish condition as pluralistic, and revise our understanding of Jewish identity and Peoplehood accordingly.

In the modern world, we have been forced to confront the issue of Peoplehood— of what it means to be part of the Jewish People—with the introduction of the concept of "Jew" into the Law of Return. This law, which guarantees citizenship to all Jews in the State of Israel, also grants citizenship to the non-Jewish relatives of Jews, and rightly so. As long as the State of Israel is a relatively desirable immigration destination, and Jews married to non-Jews continue to throng to it, a certain gap will continue to exist between the broad definition of the Law of Return and the interest to maintain a Jewish majority in the country, which is itself the very interest that lies at the foundation of the Law of Return. The state expects the halachic authorities to close this gap by means of the conversion process, in order to enable non-Jewish immigrants that have been naturalized in Israel by virtue of the Law of Return to join the Jewish national collective. However, conversion is only possible if these authorities surrender the requirement of an a priori commitment to the observance of the commitments, which, as we shall see, is no simple matter.

In this essay, I will begin by looking at how the subject of conversion has led to some of the most telling moments in the shattering of Jewish identity and its radical plurality, as seen both in earlier halachic responsa literature

and in the contemporary discourse surrounding the Law of Return. I contend that in our own day, the traditional concept of Jewish identity been replaced by a plurality of incommensurable notions which render attempt to subordinate the definition of Jewish nationalism to the hala framework both problematic and mistaken. Instead, I will argue, we m affirm and embrace the modern Jewish condition as pluralistic, and revise understanding of Jewish identity and Peoplehood accordingly.

I. Conversion in the Responsa Literature

It is no wonder that a discussion of conversion highlights complex tensi in the self-definition of the group, since the manner in which a commur establishes the identity of its members is expressed in the ways it constru the rules that govern how members are admitted into and removed from tl community. The concepts of a community's identity are honed at its edg in its rites of passage and exclusion ceremonies, its admission demands a exclusion procedures.

In *Helkat Yaakov*, Rabbi Breish, one of the few and most importa European Halachic authorities to have survived the destruction of the Jev discusses the increasing number of cases involving converts whose motivati for conversion is their desire to marry a Jew. According to the *Halachah*, as s down in the *Mishneh Torah* and the *Shulkhan Aruch*, a rabbinical court m not convert people who seek to convert for that reason; however, if they d convert, their conversion would be considered valid after the fact.

Despite this *halachah*, certain rabbinical authorities believed that tl new historic circumstances in which the *Halachah* found itself permitted, ar even required, that such converts be accepted by the rabbinical court. A an example of support for this contention, Rabbi Breish quotes from a book b Rabbi Menahem Kirschenbaum, the Rabbi of Frankfurt:

> ...Because if they are not accepted, they will go to Reform rabbis, who are not strict about immersion in a ritual bath and they will not be converts according to the law at all, as explained in the Gemarah and in Maimonides and the Shulchan Aruch, that one must examine to see if the prospective convert has come because of a women; but in any case, after the fact, he is a convert. [...] For if this is not done, he will live with her despite the prohibition or by means of a Reform conversion, and they will be considered to be part of the Jewish community and become assimilated into it. (*Helkat Yaakov*, Section 13)

Although Rabbi Kirschenbaum was aware of the traditional prohibition agains accepting converts who are motivated by the desire to marry a Jew, he point out two substantive elements of the new historical situation of modern Jewry. In order to address them, a fundamental change in the approach to conversion

is required. The first is that an alternative to Orthodox conversion had developed—Reform conversion—and the loss of the monopoly of the Orthodox rabbinical courts on conversion required that they accept a convert of this type, lest the convert undergo a halachically invalid Reform conversion instead. The first element in the fracture in modern Jewish condition is reflected here in the fact that there is no shared agreement concerning the procedure of entry to the community, and no single denomination of Judaism managed to maintain a monopoly over entry.

The second change, which has also been present since the nineteenth century, involves the fact that the couple also has the option of sanctioning their union with a civil marriage outside the Jewish or Christian community, even without conversion. In the view of Rabbi Kirschenbaum and other rabbinical authorities, the presence of other conversion or marriage options required the rabbinical courts to deviate from the accepted normative *Halachah*, because refusal to do so would lead to intermarriage and to the assimilation of non-Jews into the Jewish community. Jews since the Emancipation have entered neutral modern space. They became participants in the civic realm, which allowed them to form a family—the most central human bond—with non Jews and with themselves, outside the church or the synagogue. They have acquired a new identity, neither Jewish nor Christian. They have become citizens of the modern centralized state. Spinoza's bold choice to live neither as a Jew nor as a Christian, but to reside in the neutral civic space has become a possible norm for modern Jews at large. Inhabiting this neutral realm fostered the creation of the hyphenated new identity German-Jewish French-Jewish etc. It added an immense complexity and richness to Jewish identity, and naturally it left its marks on the establishment of entry procedure into this new identity.

Rabbi Breish, who vehemently opposes this approach, adds a third and more central element in the historic changes in modern Jewish identity, the element that in his view tips the scale in the opposite direction:

> "And I am very amazed at the sight—because the rabbis living in the promiscuous cities of Western Europe must not delude themselves, because they know full well that the vast majority of converts are those who have joined their fate to that of the Jewish people in order to marry, and most of these Jews are transgressors who do not want to know about Judaism.—Kashrut, Shabbat, the laws of family purity—all the commandments are an unnecessary burden to them, and they are merely Jews of nationality. They know very well that the non-Jewish woman who is ostensibly converting will not behave in accordance with Jewish law, because her Jewish-national husband does not know anything about Jewish law either, and if this is the case, the matter is simple enough for me, that even after the fact, this conversion should not be considered valid, because the acceptance of the commitment to observe the commandments is one of the matters that can impede conversion, even after the fact. (*Helkat Yaakov*, Section 13),

Rabbi Breish underscores another modern turning point in the meaning conversion in light of a deep transformation in the modern Jew. The collecti that the convert is joining is not the same Jewish collective as it was kno throughout Jewish history. The convert is joining a new national Jewish ident that has nothing to do with the Torah or the commandments. While the ri of passage resembles the traditional ceremony at least externally—there a proper circumcision and immersion in the ritual bath—this convert is joini a community that *Halachah* does not view as the normative continuation the Jewish People. Rabbi Breish is fully aware that this convert will not obser the commandments, not only as an assumption based on the motivation f conversion, but also because of his or her frank assessment of the natior and secular nature of the community that the convert is joining. The option f a new national Jewish identity created in the nineteenth century, which do not view the Torah and its commandments as the formative component Jewish collective identity, radically changes the perception of conversion an in Rabbi Breish's view, moves it in the direction of greater rather than less stringency. From this time on, rabbis must investigate the nature of the Jewi collective that the prospective convert plans to join through the conversion ri of passage.

Rabbi Breish bases his forceful opposition to this type of conversion c the argument that the commitment to observe commandments is a necessa condition of conversion. However, despite the authoritative and confident tor that accompanies Rabbi Breish's arguments throughout his response, we kno that this issue was the subject of intense controversy that began even durir the Middle Ages and has continued up until the modern rabbinical ruling: Rabbi Uziel, for example, ruled that the lack of commitment to the observanc of the commandments is not an impediment to conversion, and that convert should be accepted even if the rabbinical court is convinced that they will nc in fact be observant. As he put it in the following extended discussion on th subject:

> "From everything that has been stated, we learn that the condition of observance of the commandments does not impede conversion, even before the fact."

And, further on, he writes:

> "We are commanded to accept all male and female converts, even if we know that they will not observe all the commandments, because ultimately they may come to observe them and we are commanded to open such a window for them, and if they do not observe the commandments, they are responsible for their sins, and we are innocent" (*Piskei Uziel Bish'elot Hazman*, Section 68).

As Zvi Zohar and Avi Sagi have demonstrated extensively in their book abou conversion, this question was the subject of controversy among Halachi

authorities in the Middle Ages, and the position that the lack of commitment to observance should be an impediment to conversion is a minority opinion that developed in Ashkenaz.[1]

The conceptual significance of this controversy over the nature of conversion and its implications for the perception of Jewish identity has been formulated by a contemporary Halachic authority, Rabbi Jacob Fink, in the following manner: Those who maintain that the commitment to observance is not a necessary component of conversion view the conversion ceremony as a ritual of rebirth into the Jewish ethnic community. The obligation of the convert to observe the commandments is derived from the fact of his joining the Jewish People. Those who maintain that the commitment to observance is an essential component of conversion hold just the opposite: The commitment to the commandments is not the result of the convert becoming Jewish, but rather it is that which turns him into a Jew. The convert joins the Jewish People because he or she has accepted the commitment to observance of the Torah as part of the conversion process itself. In fact, this perception of conversion is based on the fact that the Jewish People itself became a unique community not because it ethnically belonged to the Jewish race. Rather, the Jewish People was constituted by virtue of its entrance into the covenant at Sinai, which involves the acceptance of the commandments. Conversion is no more than a ritual reenactment of the giving of the Torah at Sinai. Thus, the dispute over the question of the formative status of the acceptance of the commandments makes it possible to identify the inner tension regarding the relations between the Jewish collective and the acceptance of the Torah.[2]

II. The Modern Controversy: Who Is A Jew

Must someone take on all the commandments in order to be considered a Jew? At stake is the very concept of "Jewishness" and the meaning of belonging to the Jewish people, as our modern reality has made all too apparent. The introduction of the concept of "Jew" into the Law of Return and the citizen-registration ordinance has forced the Israeli court in a number of cases to confront the definition of Jewishness, thereby turning the Knesset and the Israeli courts into focal points in the struggle over the establishment of modern Jewish identity. A new border control point has been added to the existing border stations of *Halachah* and the rabbinical courts on the line between the Jew and the non-Jew—the Knesset and the Israeli Supreme Court.

1 Zvi Zohar and Avi Sagi, *Conversion and Jewish Identity*, Jerusalem, 1995.
2 Yaakov Fink, Yahadut veGerut (Judaism and Conversion) in *Noam*, 14, 1971, p. 17. See also Zvi Zohar and Avi Sagi, op. cit., Chapter 13.

Each of the joining contexts—conversion and Israeli naturalizatic presents intrinsic difficulties of its own. Conversion is a complex hala category, the clarification of which underscores deep-rooted internal tensi within Halachah itself concerning the perception of Jewish identity. Recei citizenship as a Jew by virtue of the Law of Return is also a way of joining, it too can involve considerable difficulty for the definition of national belonc and immigration policies. However, beyond the intrinsic difficulties posed each of these two contexts, the attempt to create an overlap between th in the wake of ideological or political pressure has brought to the surface crisis of identity of the modern Jew, the internal contradictions in that iden and the convoluted relations between religion and nationality and subsequer between religion and state that arose in the late nineteenth century.

This crisis of identity was manifested in a few of the court's decisions c cerning who is a Jew, the most visible of which was the Shalit case. Binyar Shalit, who married a non-Jewish woman, demanded that the state register children as Jews in the nationality section of their identity cards. The stren of Shalit's argument did not stem only from his subjective consciousness, l also from the story of his life and that of his wife and the expected fate of children: they joined their fate to that of the Jewish collective, and they rais and educated their children among Jews.

The case of Shalit, like so many others, demonstrates that the alternati nationalist definition of the concept of halachic belonging is not the subjecti consciousness of the individual, but rather the individual's willingness participate in the fate of the community while viewing himself as a memt of that community. It is a conception based on the idea of solidarity with t nation's predicament as the constitutive element of its identity. Nationalis is an extension of the concept of fraternity for the members of a sinc group, whether the empiric source of the group is shared or not. The pla of consciousness comes to replace a shared ethnicity, which usually do not exist. But consciousness is not enough. An awareness of fraternity is n fraternity; fraternity is a way of behaving.

Despite the overlap that indeed exists between the two joining track the most outstanding sign of the crisis in defining identity is reflected the fact that in the most prominent case brought before the Israeli cour The Shalit case, The court ruled in a manner that was different from wh it believed *Halachah* would have decided. According to the court's ruling Shalit's children were to be registered as Jews, notwithstanding the *Halacha* that would define them as non-Jews. An examination of these judgment reflects the rise of a new category of identity, and a radical historic change i the character of Jewish collective identity.

The tendency of halachic authorities when dealing with modern problem such as the case of Shalit is to refer to the precedents that appear in th rabbinic literature and rulings of the Middle Ages. Rabbi Breish and his opponen

on this matter, Rabbi Uziel, like many other halachic authorities that debated the issue, use their extensive erudition to find evidence and proof for their opposing positions from the ramified halachic literature at their disposal, most of which predates the nineteenth century. That is also the tendency exhibited by Zvi Zohar and Avi Sagi, who systematically explored the various schools of thought. Zohar and Sagi concluded that the golden mean in conversion does not require a priori commitment to the observance of commandments on the part of the convert as a necessary component of conversion, and that the obligation to observe the commandments is the result of having joined the Jewish People, rather than its formative element.

However, it appears to me that on this question, the radical historic change that took place in the character of the Jewish collective poses a difficulty to the conventional legal method, involving the use of inference from the precedents found in the halachic jurisprudence to resolve a current problem. The profound change that occurred with the rise of the national-identity alternative presented the traditional conversion ceremony with a serious problem, especially concerning the importance of the commitment to observance of the commandments. After all, just as Rabbi Breish contended, the collective that the convert is joining is fundamentally different from everything *Halachah* had known before in the normative Jewish community.

By analogy from the philosophy of science, contemporary halachic authorities are working within a situation of a paradigm shift. The proper halachic procedure to deal with a new problem must be based on the understanding that the relevant components that justify the application of the precedential norms are still present. However, if the paradigm has changed, the very same components that once seemed relevant now take on a completely different meaning.

The clearest sign that a paradigm shift has taken place on the issue of conversion is that each of the positions of the Middle Ages regarding whether a commitment to the commandments is a necessary component of conversion can be applied in the opposite sense in the modern situation. The halachic authorities of the Middle Ages who held that the lack acceptance of commandments does not impede conversion believed this because in the historical conditions in which they lived and worked, joining the Jewish community automatically implied the acceptance of a commitment to observance. In the modern conditions of the growth of a national identity, which offers those joining the option of an alternative Jewish identity that is not dependent on the observance of the Torah, the willingness to convert does not necessarily imply a commitment to observance, and therefore, these authorities would likely also take the position that an *a priori* commitment to observance is required.

A similar claim may be made in the opposite direction. The medieval halachic authorities who held that lack of an *a priori* commitment to the commandments

impedes conversion took this view because in the historical conditions in whi they lived and worked, a convert that did not fully commit to the observance the Torah could not in fact be a part of the Jewish community—because the was no Jewish community whose way of life was not lived in accordance wi the Torah and its commandments. On the other hand, the modern situati makes it possible to join a concrete Jewish community without acceptan of the commandments. Therefore, it is entirely possible that the very san authority that held in the Middle Ages that the lack of commitment to the Tora was an impediment to conversion would exempt today's converts from th condition, in the context of the Jewish reality after the rise of nationalism.

The modern crisis on the question of Jewish identity, as it is reflected the conversion rite of passage, puts *Halachah* into a position in which its stai dard tool—inference from halachic precedent—is no longer applicable. Th attempt to bring evidence from precedents from the Middle Ages is problemat because it assumes a continuity that does not in effect exist. The rise of Jewis nationalism brought in its wake a different perception of the identity of th members of the Jewish community, and accordingly, a new approach to th manner in which members may join and leave the Jewish collective. We w not be able to begin to solve the modern crisis unless we inquire deeper int the nature of the plurality of modern Jewish identity and its meaning.

III. A New Jewish Identity

An examination of the complex issue of membership reveals two conceptior of identity which can be termed as the covenantal and the national: one base identity on a life of standing before God as obligated, and the other base such identity on solidarity. Yet, analysis of the modern Jewish condition reveal a third conception, no less powerful then the others, which resonates ver deeply in modern Jewish life. I refer to the cosmopolitan identity of being a Jew To be a Jew in this approach is to emphasize the power of particular identit in shaping moral rules and political privileges. A Jew exhibits his or her ow Jewishness in his compassion towards the vulnerable, and in its principle stanc for universal political and moral values. This form of being a Jew, expresse in the notion of *tikkun olam*, is rooted in the Jewish historical condition c vulnerability and marginality. The capacity to adopt the cosmopolitan poin of view stems from that unique stance of the Jew in the margins of societ occupying simultaneously the position of an insider and an outsider. Th particular moral and intellectual sensibility that informs Jewishness is rooted a well in this approach in a religious tradition that has to be abandoned, given th cosmopolitan stance, and yet it plays a nourishing role for this modern form o identity. Freud, one of the greatest voices of such an approach, expressed thi view of the Jews in the following manner:

> "In a new transport of moral asceticism the Jews imposed on themselves constantly increasing instinctual renunciation, and thereby reached—at least in doctrine and precepts—ethical heights that had remained inaccessible to the other peoples of antiquity. Many Jews regard these aspirations as the second main characteristic, and the second great achievement, of their religion." (*Moses and Monotheism*, page 173)

The cosmopolitan identity is in itself paradoxical: to be a Jew is to stand against the discriminating force of particular identities, among them the particular identity of being a Jew. It is a concept of identity that questions in an ongoing way its own identity. For its own continuity it therefore needs the other parties of Jewish identity, which are committed to reproduce Jewish particularism to the next generation in different forms. Yet it is important to stress that the cosmopolitan Jew is not one who, assimilated and happened to adopt universal values and a cosmopolitan identity. The cosmopolitan Jew assumes this moral and political position as a *Jew* and that particular stance creates the tension we are highlighting. And so, in light of the fact that for many modern Jews the expression of being Jewish is to adopt the universal standpoint, such a stance should be taken as a third powerful option of modern Jewish identity.

Traditionally the cosmopolitan element was connected to the left, from the Jewish Bund to the contemporary American Jew who, "earns like an Episcopalian and votes like a Porto Rican." Yet the universal calling is not limited to such political conviction. One of the most interesting and intriguing shifts in contemporary Jewish life is the impact and presence of such sensibility in right-wing politics, through the work of Leo Strauss and the place of Jews in the Neo-Conservative ideology and movement. The Jewish cosmopolitan elite is therefore diverse in its stance; nevertheless, it engages its different cosmopolitan universal vocation as a deep expression of being a Jew.

In its questioning particular identities, there is no wonder that the cosmopolitan Jewish identity altogether rejected Jewish Nationalism as a movement that would harm the most cherished and valuable aspect of being a Jew. Such a point of view is expressed in the positions of George Steiner, the most eloquent spokesman for such a stance in contemporary Jewish life. Though the cosmopolitan identity is not in the main stream of Jewish life itself, it produced figures who had an immense impact on general Western culture outside of Jewish life, from Freud to Derrida and to Woody Allen. These figures saw their Jewishness expressed in that sensibility and stance.

The plurality of modern Jewish identity is thus deep and radical, and its basic structure provides three different orientations of what it is to be a Jew. It also, provides a thoroughly diverse reading of the Jewish past. The covenantal identity interprets Jewish history as a stage in which the covenantal relational drama is played out. Israel, which bears witness to God's presence in the world, is driven between the poles of exile and return. Jewish Nationalism

sees that same past in completely different terms, analyzing exile as a sta of dependency and political and spiritual disaster, and viewing attachment that past as the hallmark of solidarity and identity. Jewish cosmopolitanis interprets the history of exile as the tragic condition that inspires Jewi political sensibility. Exile is the breeding ground for the Jew as a social criti occupying the condition of the one who is not imbedded within the orde yet it is close enough to recognize it for what it is, and to impact its directic through moral and political ideals.

We do have what can be called pure samples of these options amor leading individuals and some communities. A. B. Yehoshua exhibits in his ide logical writings a pure sample of the national identity; R. Joel Moshe Taitelbou witnessed in his life the pure covenantal identity; and Géorge Steiner expresse a pure cosmopolitan Jew. Each rejects the other's alternative as a kind a looming threat to what Jewishness ought to be, and each is personal alienated from the identity options posed by his rivals. Yet, many moder Jews do not reside in purity in either of these alternatives. For these Jew the condition of pluralism is not merely a description of the radical diversity Jewish modern identity in its modern historical form. The plurality resides i their own soul. They, as Jews, are a complex hybrid of identities. They carry i their own soul the fractures of modern Jewish identity and its burdens.

The following introspective thought experiment can be offered to clarif that peculiar condition of hybridity. I see myself as a covenantal religious Jew and I wonder what will happen to my identity as a Jew if "God forbid" I wer to lose all my faith in the religion of Israel. Even more so I will grow hostil to it and perceive it to be a distorted and perverse form of life. I don't thin that coming to that understanding would put an end to my affiliation as a Jew I am a product of modern Jewish nationalism, and my political and historica solidarity with the Jewish People is not solely dependent upon my covenanta convictions.

The same would be true the other way around. I imagine a case in whicl I came to realize that the project of modern Jewish nationalism reache a dead end—that this modern project actually endangers the Jewish Peopl by gathering them into a fragile and sieged nation state. Even more, I migh come to believe that Jewish nationalism distorted the valuable aspects o being a Jew and that it brought upon the Jewish People a moral catastrophe I don't think that in, such a case, I would lose my identification as a Jew My Jewish identity is not exclusively channeled through Jewish nationalism I can rely solely on *Torah* and *Mitzvot* for being a Jew.

I will go further with such a scenario. I imagine a situation in which bott of these options—the covenantal and the national—crumble ideologically anc personally for me. I cut my bond with both covenantal and National Jewist identity and I adopt an alienated view from them. I can still find mysel identifying as a Jew within the cosmopolitan calling. It is independent of the

other alternatives, and can stand for me as a rich and powerful conception of being a Jew that resonates and continues in its own manner the Jewish past. This thought experiment is not a wild counterfactual; it might as well reflect actual steps in a complicated personal biography. I know some people who have gone through such a journey of shifting Jewish identities, though each of them did it in different sequence. Such a thought experiment points to the following implication: the radical plurality of modern Jewish identities might reside simultaneously in a one individual when such an individual finds himself to be a product of the complex strands of Jewish modern identity. We as Jews are not only parties to this or that version of the modern Jewish identity; some of us carry this struggle inwardly.

My argument concerning modern Jewish identity is that it reached a condition of incommensurability, in the sense that this term was introduced by Isaiah Berlin in his work on pluralism. Incommensurability implies two features. The first emerges in cases when options are incommensurate and therefore there is no shared scale in which we can measure and create a hierarchy of values among them. The second feature of incommensurability is the assertion that in conditions of pluralism of this sort there is no way to integrate and synthesized the conflicted options in one form of life. We can either fulfill one of them or compromise between them; we cannot fully materialize both of them simultaneously.

In the case of modern Jewish identity, both features apply.

Each of the modern Jewish alternatives cannot be assessed or valued against the other on a shared scale. All of them established convincing realities into their own and they produced and their best a challenging models. I can say even more so, that our Jewish world on the whole will be diminished without these options. The second feature is more important for the purpose of our discussion. There is no way in which all of them can be fully materialize in one system. It is far better to stay in such condition of partial and conflicting plurality then to attempt to achieve a higher all encompassing illusionary synthesis. Such attempts do not reach genuine synthesis; what they actually perform is merely a distorted reduction of one world to the other. In order to highlight the point let us go back to the membership and then to its larger identity and ideological concerns.

IV. Confronting the Crisis

For complex and comprehensible reasons, there has been a systematic attempt to create an overlap between the different methods of joining the Jewish community. On the one hand, the Jewish nation-state wants to use and adapt traditional conversion to make it into a rite of passage into Jewish nationalism; and on the other, heavy pressure is exerted on the state from the religious

establishment to make the demands for citizenship by virtue of the Lav Return compatible with the halachic conditions of belonging to and joining Jewish People. I believe that, given the rift, the continuing attempt by t sides of this dispute to place the two joining tracks on an even footing r have even more serious repercussions than the rift itself.

In the wake of the judgment in the case of Shalit, the Knesset pas an amendment to the Law of Return that provides a detailed explanatio the term 'Jew.' A Jew as defined by the Knesset is someone who is b to a Jewish mother or who has converted. This amendment, which brou the halachic definition of membership closer to the civil manner of joir by virtue of the Law of Return, did not completely close the gap because nature of the conversion process still remained open. Cases involving Refc and Conservative conversions, to which the Orthodox objected, regul appeared before the court and the court accepted them as valid, based on fact that the legislature had not narrowly defined the meaning of conversion response to the court's rulings, additional pressure was brought to bear on Israeli political system to define the conversion process by law in accorda with halachah, and thereby complete the identification between Jewishness the purpose of the Law of Return and the halachic definition of Jewishness it is understood by Orthodoxy.

I believe that the attempt to subordinate the definition of Jewish nationali to the halachic framework is problematic and mistaken. There are two reas for my objection to this tendency. One is related to the broader relations betwe religion and state, and the second relates to the perception of belonging tha derived from Jewish nationalism and the role of the State of Israel.

Given the profound disagreements between the Jewish communities a movements concerning the nature and character of Jewish culture, the r of the state is not to adjudicate among them, but rather to enable all for of Jewish culture to flourish and thrive alongside one another, as long each grants the others a similar right. In this respect, the State of Israel a national home because it enables Jews to live as free people in their la and express their culture in both the private and public realm. Any attempt "Judaize" the country by means of religious legislation would undermine th feeling of a home and the sense of belonging felt by Jews that take a differe and opposing view.

This is especially true for the Law of Return, which is the most outstandi expression of the fact that Israel is the state of the Jewish People. Isra cannot at the same time and with the same law tell Jews of the Diaspor on the one hand, that Israel is their home, and on the other hand determi that it denies the legitimacy of the spiritual leadership of the Reform a Conservative communities. I view this as the clear interest not only of th state but also of *Halachah*. A commandment that is carried out because th legislator compels people to do so lacks any religious significance, and it is n

the role of the legislator to determine what *Halachah* is and who has converted in accordance with *Halachah*. It could be stated this way: *In the increasingly intense conditions of the dispute over Jewish culture, the State of Israel cannot simultaneously be a state of the Jews and a Jewish state*.

As stated earlier, the legislator and the court should not have to be the ones to decide on the abstract question of "Who is a Jew." It would in any case be too pretentious, highly charged, and impossible to do so. In my view, the most incisive comments on this subject were made by Justice Zussman in the Shalit judgment: "It is a mistake to ask: Who is a Jew? The multiplicity of meanings of the term makes it impossible to answer this question. One may ask: Who is a Jew for the purpose of a particular law" (*ibid.*, page 512.)

The State and its authorities deal with the question of who is a Jew for the purpose of the Law of Return, the context of which is citizenship in a nation state. Israeli citizenship is not identical to Jewishness. Israel is required as a democratic country to grant the status of full and equal citizenship to non-Jews living and born in it. The advantage granted to Jews in the Law of Return, which defines the State of Israel as the state of the Jewish People, is not intended to create a complete and overlapping identity between Jewishness according to the halachic definition and Jewishness for the purpose of the Law of Return.

Jewishness for the Law of Return is related to the definition of the State of Israel as a nation-state—that is, in its solidarity with Jews and Jews with it. Shared fate is not determined in accordance with halachic definitions of Jewishness. Among other things, it is dependent on the way in which the surrounding society relates to a particular individual. That is why a person who is persecuted as a Jew, even if he or she is not halachically Jewish, should be viewed as a Jew for the purpose of the Law of Return—because the very essence of this law is that the State of Israel is also a place of refuge and asylum. If the State of Israel had existed during the time of the Nazi regime in Germany, the definition of the Jewishness of those entitled to citizenship according to the Law of Return would have had to be identical to the definition of Jewishness according to the Nuremberg race laws. The same goes for joining, the test of which is not subjective in my opinion, and should consist of the willingness to share the fate of the Jewish People and to belong to one of the existing Jewish cultures.[3] I similarly object to the attempt to reduce the traditional conversion ceremony to a rite marking the joining of a modern national collective, and I object to the attempt to characterize the joining of the Jewish nationality by virtue of the Law of Return in terms that are identical to *Halachah*. The former approach will ultimately undermine *Halachah* and the latter, the State.

[3] If the use of the appellation 'Jew' for those joining that are not viewed as Jews by halachic authorities proves problematic, they may be called 'members of the Jewish People', in accordance with the proposal made by Ruth Gavison and Yaakov Meidan.

As I see it, the value of the institution of conversion lies in the very f that it undermines the perception of membership in the Jewish commur as based on ethnic affiliation. Instead of trying to imbue conversion w the character of a ritualistic rebirth into the Jewish ethnos, the institut of conversion must confer a different meaning to membership in the Jew community. The convert shares the status of a born Jew because, as Maimoni explained, he or she has undergone the same path taken by Abraham, the fi convert, and because by committing himself to the commandments, he or s is reenacting the collective ritual of entering into the Sinai covenant.[4] Fr the fact that conversion is possible, we learn that the entire Jewish People in fact a community of converts. The descendants of Jews, including thc of converts, are viewed as Jews not because of their ethnic affiliation, l because of the obligation their forefathers accepted to enter into the coven at Sinai, which in the eyes of the *Halachah*, binds them as well. Insisting a component of acceptance of *Mitzvot* as constitutive to conversion is op to diverse interpretations and it is therefore flexible. In its most stringe form it demand acceptance to live according to the *Shulchan Aruch*, a yet a converting court can insist on the acceptance of one central *Mitzv* in which the convert obligates himself to perform as a Jew such as *Shabt* or *Tzedakah*. The debate concerning conversion ought to concentrate on t adequate concept of *kabbalat mitzvot* from a broader notion to a narrow or rather than succumb to the pressure of the secular government to give it altogether.

The case of membership is a sample of a larger issue of identity. Accepti the incommensurable condition of Jewish plurality of notions of ident means an attempt to overcome two common responses to this conditic The first is rejection, in which the different parties to the dispute reject t legitimacy of the other. Affirming the modern Jewish condition as pluralis implies a sense of humility in regard to this problem. No side in the deba is in a position to invalidate the legitimacy and genuineness of each of the modern Jewish identities. The adoption of the pluralistic stance is magnifi when we realize that the crisis in modern Jewish identity does not merely ma the partitions between communities. Sometimes they are currents flowi within the same individual.

The second response to the modern rift is the attempt to create a supr synthesis in which each position reduces the other as part of its overall schem Such attempts were made by devotees of each of the three modern Jewi identities. In the covenantal stream the most clear and influential scheme wa offered by Rabbi Kook, who viewed nationalism as a component of the gre historic movement of Messianic advancement. The same reductive proje

[4] See Yitzhak Sheilat, *Iggrot HaRambam* (Maimonides' Responsa), Responsum to Ovadia tl Convert, Mossad Harav Kook, 1987, Vol. 1, pp. 233–235.

can be found as a common feature in the thought of central figures of the national camp concerning the covenantal identity. Ahad Ha'am's statement, "more than Israel kept the Shabbat, the Shabbat kept Israel" is a slogan of that approach, in which covenantal identity is assigned a role of keeping the Jews together as nation and the historic significance of religion is interpreted as an instrument for national survival. But the reduction of Judaism's great tradition to national culture harms both nationalism and religion; it violates the sense of the integrity and self definition of past and present Jewish life.

In confronting the shattering of a common Jewish identity in the modern era we are faced with three powerful contenders to what it is to be a Jew. Upon introspection, some of us might realize that the modern Jew is a complex hybrid, a product of conflicting conceptions that inhabit his or her soul. It will be both wise and honest to recognize the plurality and incommensurability of this condition and to embrace it.

THE JEWISH PEOPLE AND THE ISRAELI NATION

SHMUEL TRIGANO

Editor's summary
Shmuel Trigano examines the tensions between Jewish Peoplehood and Jewish nationh through a historical overview, from the Emancipation to the creation and developn of the modern State of Israel. He demonstrates that the Emancipation was n unconditional where Jews were concerned—the acceptance of Jews into the body p was contingent upon their renunciation of their status as a collective. Zionism, the Jewish movement to claim political sovereignty for all Jews, represents an attemp mend this fault and to incorporate into political modernity the Jewish People who v not accepted as part of their nations of origin.Yet, today, the State is gripped by tens between the Jewish People and the Israeli nation, categories which do not overlap e with one another. As more of the Jewish world continues to be concentrated in Israel are faced with the ever-more pressing question of the continuity of the Jewish Pe within the State of Israel, where Jews are still accompanied by the conscience of E that characterized their long history of dispersal. If *Golah* may finish, *Galut* as a moo relationship to wordliness cannot end.

European Jewry, and in particular present-day French Jewry, of whom thr quarters are Jews from North Africa, know, perhaps better than anywhere e and with an instinctive knowledge, what is implied in the present concept "Jewish People." Indeed, they live in a political framework that still bears mark of the "Emancipation." Extensively studied by American Jewish historia the political "contract" that it involves still remains largely misunderstoo And yet it is this **contract** that is significant as far as the "Jewish People' concerned, an entity that certainly is the product of social imagination, l also, *and more significantly*, of history and politics. The status of a people necessarily political, which means that it stands at the level of the relatic with other peoples and communities. Accordingly, the attainment of civil rigl by Jews in the 18th and 19th centuries in Western Europe, at the dawn democracy, was based on a separation between the individuals from Jew origin and their Jewish political and *cultural* identity.

As such, as this chapter will demonstrate, the experience of Emancipati is instructive in terms of our understanding of the tensions between peopleho and nationhood in the modern State of Israel.