



SHALOM HARTMAN מכון
INSTITUTE שלום הרטמן

On Modern Jewish Identities

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1. R. Mordechai Yaakov Breish, *Responsa Hefkat Ya'aqov*, Yoreh De'ah §150 1
2. R. Ben-Zion Meir Hai Uziel, *Responsa Pisqei Uziel be-She'elot ha-Zeman*, §65 3
3. Maimonides, "Letter to Ovadyah the Convert" 5
4. Avi Sagi and Zvi Zohar, *Transforming Identity: The Ritual Transformation from Gentile to Jew – Structure and Meaning*, 268-296. 9

1. R. Mordechai Yaakov Breish, *Responsa Helqat Ya'aqov, Yoreh De'ah §150*

שו"ת חלקת יעקב יורה דעה סימן קנ

לענין גרים הבאים מחמת אישות

כבוד הרב הגאון החר"ף ובקי טובא, איש האשכולות וכו' וכו' מר ר' מנחם קירשבוים
ראב"ד בפפד"מ.

אחדשה"ט.

ספרו הנשלח לי למנה, שו"ת "מנחם משיב" קבלתי לנכון ולאות תודה עיינתי בספרו,
וראיתי שהאריך בשם בסימן מ"ב להתיר לקבל גרים הבאים מחמת אישות שבאם לא
יקבלו אותם ילכו להרבנים הריפורמים שאין מדקדקים בטבילה ולא הוי גרים על פי
דין כלל, לכן התיר לקבל אותם ויהי עכ"פ גרים מדינא. ואף דמבואר בגמ' ורמב"ם
ושו"ע דצריכין לבדוק שמא בשביל אשה בא, כיון דעכ"פ בדיעבד בכל אופן הוי גר,
מוטב שיאכל בשר תמותות ואל יאכל בשר נבלות, וכל קוטב ההיתר דאל"כ ידור עמה
כך באיסור או ע"י גירות הריפורמי, ויהי נחשבים בקהל ישראל, ויטמעו בנו, והאריך
שם.

א) ואני אשתומם מאד על המראה - כי הרבנים היושבים בערי הפריצות במערב
אירופא אין יכולים לרמאות את עצמן באשר יודעים בטוב, אשר רובא דרובא גרים
כאלו, הם אשר נדבקו נפשם בישראל להתחתן ורוב הישראלים הללו הם פושעים ואין
רוצים כלל לידע מיהדות כשרות שבת נדה, כל המצות הם עליהם למעמסה, והם רק
יהודי לאומי, ויודעים בטח אשר גם הנכרית אשר למראית עין מתגיירת, לא תתנהג
כלל בשום יהדות, כיון שגם בעלה היהודי הלאומי אינו יודע כלל מזה. וא"כ באופן
כזה הדבר פשוט אצלי, אשר אף בדיעבד לא הוי כלל גירות כיון דקבלת עול מצות היא
מהדברים דמעכבים אף בדיעבד, כמבואר ברמב"ם פי"ד מאיס"ב ובשו"ע יו"ד רס"ח
דבעינן קבלת מצות בפניהם ובתוס' יבמות מ"ה ב' וברא"ש שם. ואיזה קבלת מצות
יש, אם אנו יודעים אשר הם מצחקים ומזלזלים בשבת בנדה ובכשרות... ובני"ד אנו
יודעים בטח אף בשעת גירות שאין כוונתם להתגייר לגמרי, כיון שגם החלק השני, זה
היהודי, מתלוצץ מכל ואינו רק יהודי לאומי, ומכל שכן שכלתו הנכרית הבאת
להתגייר. ואף אם נאמין לה שכוונתה אמת להיות יהודית, לכל היותר כוונתה להיות
לאומית בלי שבת נדה ושאר מצות כמו בעלה. וגירות כזו אף בדיעבד לא מהני,
כמבואר בתוספות הנ"ל כיון שלא נתגיירו לגמרי...

Regarding converts who want to convert for marital reasons

Your Honor R. Menachem Mendel Kirschenbaum of Frankfurt

This book that has been sent to me to examine, *Responsa Menahem Mashiv*, I have received it and have examined the book, and I saw that it was written at length in section 42 that one should allow the acceptance of converts who do so for marital purposes, for if not they will go to Reform rabbis, who are not exacting regarding

immersion, and then they will not be lawfully converts at all, therefore one is to permit their acceptance, so that they may be converts according to the law. And even though is it clarified by the gemara, Maimonides, and the *Shulhan Arukh* that it is necessary to check that perhaps their motivation is because of a woman, nevertheless *post facto* they are considered to be converts, it is preferable that they eat meat that as slaughtered [in a kosher fashion] than carcasses [meat slaughtered in a non-kosher fashion] and the pillar (support) of this permission is that if not he will live with her under a prohibition or through a reform conversion, and they will be counted among the congregation of Israel, and they will pollute it, ect.

1) And I am astonished by this vision – that the rabbis of western Europe are not able to deceive themselves, for they know very well that the large majority of converts are these types, those that adhered their souls to Israel in order to marry, and most of these Jews are sinners and don't want to know anything from Judaism regarding kosher, Shabbat, or *niddah*, All the commandments for them are burdens, and they are only "national" Jews. And it is surely known that the non-Jewish woman who appears to have converted, doesn't follow Jewish practices, since her "national" Jewish husband doesn't know of them at all. And if it is in this manner the matter is simple to me, that even *post facto* (*bedieved*) no conversion took place since acceptance of the yoke of commandments is one of the things that prevents it even *bedieved* (in a non-optimal situation) as is discussed by Maimonides, Ch. 14, "Laws of Forbidden Intercourse" and in the *Shulhan Arukh* Yoreh De'ah 268, and Tosfot BT Yebamot 45b and the Rosh as well there. And what is the acceptance of the commandments, if we know that they belittle and mock the Shabbat, *niddah*, and Kashrut. And regarding our subject, we know for sure that at the time of conversion, the intention is entirely not to convert, for the other partner, that is the Jew, scoff at it all and is only Jewish by nationality, and more so his fiancé the non-Jewish woman who has come to convert. And even if we should believe her that her intentions to be a Jew are pure, at most her intentions are to be a Jew by nationality without Shabbat, Nidah (laws of Jewish sexual practices) and the rest of the commandments just like her husband. And conversion like this even after the fact has no effect. As discussed by the aforementioned Tosfot, they have not completely converted.

2. R. Ben-Zion Meir Hai Uziel, *Responsa Pisqei Uziel be-She'elot ha-Zeman*, §65

שו"ת פסקי עוזיאל בשאלות הזמן סימן סה

גירות לנשי ובני ישראלים שאינם שומרי דת הרוצים לגייר נשותיהם הנוכריות עם בניהם

י"ג ניסן תשי"א לכבוד מעלת ותהלת הרב הגדול מעוז ומגדול כמוהר"ר יהודה ליאון כלפון יצ"ו רב מק"ק טיטוואן. שלום וברכה בחבה נעימה.

מכתבו מיום כ"ד טבת דנא הגיע לידי במועדו, מסבת טרדותי הרבות ותכופות התאחרה תשובתי עד האידנא ואתו הסליחה. ועתה הנני כותב חו"ד = חוות דעתי = בעזרת צור ישועתי.

בימינו אלה יש בינינו בעו"ה אנשים מבני ישראל שזדווגו עם נשים נכריות יש מהם נשואים עפ"י נמוסיהם (יש מהם שלא מרצונם הפשוט רק שהזמן גרמא דהיינו שהיו דרים בין הגוים בשעת חירום והיו במצב של סכנה והנשים ההנה הצילום אולי ממות) ויש שאינם נשואים שיש להם נכריות מיוחדות להם מרצונם ודרים עמהן כאיש ואשתו ונולדו להם בנים ורוצים לגיירם ולהכניסם לדת ישראל והבנים הזכרים יש מהם שכבר נמולו ועדיין לא טבלו. והאנשים האלה יש מהם שומרי דת כסתם יהודים שבזמן הזה, לאלה גמרנו לגייר את נשותיהם עפ"י מ"ש האחרונים ואחרון חביב מעכ"ת שליט"א בספרו משפטי - עזיאל ח"א סי' י"ד על סמך תשו' הרמב"ם ז"ל בסי' פאר הדור, וגם את בניהם. אבל יש אחרים שאינם שומרי דת שבתות וי"ט ומאכלות אסורות ומצות עשה ול"ת, ואנחנו נבוכים איך לעשות כן רוצים הם לגייר בניהם ואת נשיהם וכפי הנראה עיקר חפצם הוא לגייר את הבנים ולגבי הנשים כשאנו אומרים להם איך יתכן שהנשים תהיינה גויות לגדל בנים יהודים אז הם אומרים שגם הנשים מוכנות להתגייר ואפשר שגם הנשים ניחא להן להיות בדת אי עם בעליהם ובניהן ולא נבדלות בדת.

והנה האנשים האלה אעפ"י שאינם שומרים דת ומצוות כנ"ל מ"מ אינם פוקרים לגמרי ואינם רוצים להבדל מתוה"ק ולהחשב מחוץ לדת ח"ו ובשם ישראל יכנו ולפי הנראה חפצים הם להכניס בניהם תחת כנפי השכינה מלב ונפש.

ובכן, על מבוכה זו ישבתי לדרוש ולתור בחכמה לדעת איך לעשות עפ"י דתוה"ק וכו'.

תשובה :

...מכל האמור ומדובר תורה יוצאה שמותר ומצוה לקבל גרים וגירות אעפ"י שידוע לנו שלא יקיימו כל המצות משום שסופם יבואו לידי קיומם ומצווים אנו לפתוח להם פתח כזה ואם לא יקיימו את המצות הם ישאו את עונם ואנו נקיים.

והנני מעתיק פה מה שכתבתי בענין זה באותה שאלה עצמה : בענין קבלת גרים חדש מעכ"ת מסברא לומר שבזמן הזה שאנו רואים ויודעים והדבר מפורסם וגלוי שרובא דרובא דגרים אינן שומרים מצות התורה אפילו לזמן קצר, הלכך אין לקבל בזמן הזה וכן כתב במכתבו אלי מיום ג' שבט דנא. ואנא דאמרי אם כן נעלת דלת בפני גרים שלא

לקבל בישראל גרים כלל אפילו אם יתברר בהחלט שהוא מתגייר לשם שמים אבל מדברי רבותינו ז"ל למדנו שמצוה לקבל גרים ולהכניסם תחת כנפי השכינה לפי שהקב"ה אוהב גרים וצוה על הונאתן (יבמות ק"ט ע"ב תד"ה רעה) ואל תשיבני ממ"ש שבימי שלמה לא קבלו גרים שהרי כתבו התוס' ד"ה לא וכו' וההיא דפ"ב דשבת וכו' בטוח היה הלל בסופו לשם שמים, מדבריהם מוכח דסופו לשם שמים סגי אעפ"י שאין סופו לקיים מצות התורה, ועכ"פ בסופו לקיים סגי אעפ"י שלא יקיים סמוך לגרותו, ולפי מסקנתם זאת יוצא שגם בימי דוד ושלמה קבלו גרים שידעו בהם שסופם לשם שמים, וגדולה מזו אמרו רז"ל: לא הגלה הקב"ה את ישראל לבית האומות אלא כדי שיתוספו אליהם גרים שנאמר: וזרעתיה לי בארץ כלום אדם זורע סאה אלא להכניס כמה סאים (פסחים פ"ז). ובדורנו זה אחראית וקשה מאד נעילת דלת בפני גרים לפי שהיא פותחת שערים רחבים ודוחפת אנשים ונשים מישראל להמיר דתם ולצאת מכלל ישראל או להטמע בגוים ויש בזה משום אזהרת רז"ל: לעולם תהא שמאל דוחה וימין מקרבת (סוטה מ"ז). ואדם מישראל שנטמע או שנדחה מישראל נהפך לאויב ישראל בנפש, כמו שההיסטוריא מעידה על זה בהרבה מקרים והרבה דורות וגם אם לא נחוש ונאמר ילך החבל אחרי הדלי, מכל מקום לבניהם ודאי שאנו חייבים לקרבים לא מבעיא אם הם בני ישראלית שבניה הם ישראלים גמורים אלא אפילו אם הם בני גוייה הרי מזרע ישראל המה, ואלה הם בבחינת צאן אובדות, וירא אנכי שאם נדחה אותם לגמרי על ידי זה שלא נקבל את הוריהם לגרות נתבע לדין ויאמר עלינו: את הנדחת לא השיבותם ואת האובדת לא בקשתם (יחזקאל ל"ד) וגדולה היא תוכחה זאת מאותה התוכחה של קבלת גרים (יו"ד ס"י רס"ה סעיף י"ב) ועל כגון זה נאמר: הוי מחשב הפסד מצוה כנגד שכרה ושכר עבירה כנגד הפסדה (אבות פ"ב מ"א). מטעם זה הנני אומר מוטב לנו שלא נסור מדברי רבותינו שמסרו הלכה זאת לפי ראות עיני הדיינים שכוונתם לשם שמים.

Answer

From everything that has been discussed it is permitted and a commandment to accept converts, even though it is known to us that they will not fulfill the all of the commandments, since the end result will come through their fulfillment, and we are commanded to open for them this opening, and if they do not fulfill the commandments, they will carry their sins and we will fulfill them.

And behold, I will copy here what I wrote on this subject regarding the question itself: regarding the acceptance of converts, the honorable sage asserted from reason saying that these days when we see and know and it is well known that most converts do not observe the commandments of the Torah even for a short time, therefore no converts should be accepted these days, and so it was written in the letter to me from the 3 of Shvat. And I say regarding this, if so you have locked the doors before converts so that Israel will not accept converts at all even if we ascertain that the conversion was entirely for the sake of Heaven. But from the words of the sages, we learn that it is a mitzvah to accept converts and to bring under the canopy of God's presence since God loves converts and he commanded a prohibition against misleading them. And don't answer me from what is taught that in the days of Solomon they did not accept

converts for the Tospahot note that Hillel was certain that it would be for the sake of Heaven. And from their words it is enough that in the end that it will be for the sake of Heaven even if in the end they do not observe the commandments of the Torah. In any case, in the end they will observe is sufficient even if at the time of the conversion, he does not observe. And according to that conclusion, even in the days of David and Solomon, they accepted converts for they knew that in the end it would be for the sake of Heaven. And greater than this, the sages say: God did not exile Israel to the house of the nations except in order to collect for themselves converts, as it says: 'And I will sow her in the land as My own' (Hosea 2:25) – Does a man plant a seah except in order to harvest a number of seah? And in our generation, closing the door to conversion is very bad since the doors are wide open for men and women to change their religion and leave the Jewish people or become more among the nations (assimilate) and this is implied in the warning of the sages: One should push away with one's right hand and bring closer with one's left hand. And a Jew who assimilates and is rejected by the Jewish people turns into an enemy of the Jews, as history testifies in many cases through the generations. Even if we do not care [to ameliorate the condition of the fathers who sinned by marrying Gentile women] and say, 'let the rope follow the bucket', we should certainly seek to draw them closer for the sake of their children. This is clear, with regard to children of a Jewish woman [living with a Gentile], for such children are fully Jewish. And it is also the case even with regard to children of a Gentile woman [who married a Jew] - for they are of the seed of Israel, and they are as lost sheep. And I fear that if we reject the children completely, by refusing to accept their parents for *giyyur*, we will be summoned to answer [before God] and it will be said about us: 'nor have you brought back the strayed, nor have you sought that which was lost' . (Ezek. 34.4)

3. Maimonides, "Letter to Ovadyah the Convert"

הגיע אלינו שאלות מרנא ורבנא עובדיה המשכיל המבין גר הצדק, ישלם יי פעלו, ותהי משכרתו שלימה מעם יי אלהי ישראל אשר בא לחסות תחת כנפיו.

שאלת על עסקי הברכות והתפילות, בינך לבין עצמך או אם תתפלל בצבור, היש לך לומר 'אלהינו ואלהי אבותינו ויאשר קדשנו במצותיו וצונו ויאשר הבדילנו ויאשר בחר בנו ושהנחלת את אבותינו ושהוצאתנו מארץ מצרים' וישעשה נסים לאבותינו וכל כיוצא באלה הענינים.

יש לך לומר הכל כתקנם ואל תשנה דבר אלא כמו שיתפלל ויברך כל אזרח מישראל כך ראוי לך לברך ולהתפלל בין שהתפללת יחידי בין שהיית שליח צבור. ועיקר הדבר שאברהם אבינו הוא שלמד כל העם והשכילם, והודיעם דת האמת וייחודו של הקב"ה, ובעט בע"ז והפר עבודתה, והכניס רבים תחת כנפי השכינה, ולמדם והורם וצוה בניו ובני ביתו אחריו לשמור דרך ה', כמו שכתוב בתורה: "כי ידעתיו למען אשר יצוה את בניו ואת אחריו ושמרו דרך ה' וגו'" (בראשית י"ח, י"ט). לפיכך כל מי שיתגייר עד סוף כל הדורות וכל המיוחד שמו של הקב"ה כמו שהוא כתוב בתורה תלמידו של

אברהם אבינו ע"ה ובני ביתו הם כולם, והוא החזיר אותם למוטב, כשם שהחזיר את אנשי דורו בפיו ובלמודו, כך החזיר כל העתידים להתגייר בצואתו שצוה את בניו ואת בני ביתו אחריו. נמצא אברהם אבינו ע"ה הוא אב לזרעו הכשרים ההולכים בדרכיו, ואב לתלמידיו, וכל גר שיתגייר.

לפיכך יש לך לאמר 'אלהינו ואלהי אבותינו' שאברהם ע"ה הוא אביך ויש לך לומר 'שהנחלת את אבותינו' שלאברהם נתנה הארץ שנאמר "קום התהלך בארץ לארכה ולרחבה כי לך אתננה" (בראשית י"ג י"ז, א"ן). אבל 'שהוצאתנו ממצרים' או 'שעשית נסים לאבותינו', אם רצית לשנות ולומר 'שהוצאת את ישראל ממצרים' ו'שעשית נסים עם ישראל' - אמור, ואם לא שנית אין בכך הפסד כלום, מאחר שנכנסת תחת כנפי השכינה ונלוית אליו אין כאן הפרש בינינו ובינך. וכל הנסים שנעשו כאלו לנו ולך נעשו. הרי הוא אומר בישעיה: "ואל יאמר בן הנכר הנלוה אל ה' לאמר הבדל הבדילני /יבדילני/ ה' מעל עמו וגו' " (ישעיה נ"ו ג'), אין שום הפרש כלל בינינו ובינך לכל דבר. ודאי יש לך לברך 'אשר בחר בנו' ו'אשר נתן לנו' ו'אשר הנחילנו' ו'אשר הבדילנו'. שכבר בחר בך הבורא יתעלה והבדילך מן האומות ונתן לך התורה שהתורה לנו ולגרים שנאמר: "הקהל חוקה אחת לכם ולגר הגר חוקת עולם לדורותיכם ככם כגר יהיה לפני ה'. תורה אחת ומשפט אחד יהיה לכם ולגר הגר אתכם" (במד' ט"ו ט"ו).

ודע כי אבותינו שיצאו ממצרים רובם עובדי ע"ה היו במצרים, נתערבו בגוים ולמדו מעשיהם עד ששלח הקב"ה משה רבינו ע"ה רבן של כל הנביאים, והבדילנו מן העמים, והכניסנו תחת כנפי השכינה, לנו ולכל הגרים, ושם לכולנו חוקה אחת. ואל יהא יחוסך קל בעיניך, אם אנו מתיחסים לאברהם יצחק ויעקב אתה מתיחס למי שאמר והיה העולם. וכך מפורש בישעיה: "זה יאמר לה' אני וזה יקרא בשם יעקב וגו'" (ישעיה מ"ד ה').

וכל מה שאמרנו לך בעניין הברכות שלא תשנה דבר – ראה לזה ממסכת בכורים. תמן תנין: "הגר מביא ואינו קורא, שאינו יכול לומר: 'אשר נשבע ה' °' לאבותינו לחת לנו'. כשהוא מתפלל בפני עצמו אומר: 'אלהי אבות ישראל, ' וכשהוא מתפלל בבית הכנסת אומר: 'אלהי אבותיכם'. " זהו סתם משנה, והיא לר' מאיר, ואינה הלכה, אלא כמו שנתפרש בירושלמי. תמן אמרינן: "תני בשם ר' יהודה: גר עצמו מביא וקורא. מאי טעמיה 'כי אב המון גוים נתתיך', לשעבר היית אב לארם, מכאן ואילך אתה אב לכל הכריות. ר' יהושע בן לוי אמר: הלכה כר' יהודה. אתא עובדא קמיה דר' אבהו והורה כר' יהודה הנה נתברר לך שיש לך לומר אשר נשבע ה' לאבותינו לתת לנו. ושאברהם אב לך ולנו ולכל הצדיקים הנלווים אליו ללכת בדרכיו, והוא הדין לשאר הברכות והתפלות שלא תשנה כלום.

I have received the queries of our teacher and Rabbi Ovadyah, the knowledgeable and understanding righteous convert. May the Lord reward your deeds, may you have a full recompense from the Lord, the God of Israel, under whose wings you have sought refuge. Your question regards matters of blessings and prayers, in private or public: Should you say "our God and the God of our fathers," "who has sanctified us through his commandments," "who has separated us," "who has chosen us," "who has given our fathers an inheritance," "who has taken us out of the land of Egypt," "who has performed miracles for our fathers," and all similar things?

Answer: You should say them all in the prescribed manner; do not change a thing. Rather, just like any native Israelite [*ezrah be-yisrael*] prays and blesses, so too you ought to bless and pray, whether you pray in private or pray as a reader in public. The root of the matter is that it was Abraham our father who educated all the people and enlightened them. He informed them of the true way and the unity of the Holy One, blessed be He, rejected idolatry and obstructed its worship, and brought many under the wings of the *shekhinah*, teaching and educating them. He instructed his sons and the members of his household after him to keep the way of the Lord, as written in the Torah: "For I have singled him out, that he may instruct his children and his posterity to keep the way of the Lord, etc." (Gen. 18: 19).

Therefore, all who convert through the generations, and all who [affirm] the unity of the Holy One, blessed be He, as written in the Torah, are disciples of Abraham our father and members of his household, all of whom he brought back to the good. Just as he [Abraham] brought back the people of his generation through his words and teaching, so too has he brought back all future converts by means of the instruction [he imparted] to "his children and his posterity" after him. It follows, therefore, that Abraham our father is a father to his upright [*kesherim*] seed who follow his ways, and a father to his disciples, namely, every future convert.

You should therefore say "our God and the God of our fathers," for Abraham is your father. And you should say "who has given our fathers an inheritance," for the land was given to Abraham, as written: "Up, walk about the land, through its length and its breadth, for I give it to you" (Gen. 13 :17). However, [concerning statements such as] "Who has taken us out of the land of Egypt;" "You who have performed miracles for our fathers," if you wish to change them and say "who has taken Israel out of Egypt" and "performed miracles for Israel," you may do so. But if you change nothing, there is no harm in it. Since you have entered under the wings of the *shekhinah* and joined God, no difference exists between us and you. All the miracles were performed, as it were, for us and for you. Is it not stated in Isaiah (56: 3 [§3]): "Let not the foreigner say, Who has attached himself to the Lord, 'The Lord will keep me apart from His people'? There is no difference whatsoever between us and you. You must certainly bless "One who has chosen us and has given us, and has set us apart." For the Holy One, blessed be He, has chosen you and set you apart from the nations [*umot*], and given you the Torah. For the Torah was given to us and the converts, as written: "As you do, so shall it be done by the rest of the congregation. There shall be one law for you and for the resident stranger [*ger*]; it shall be a law for all time, throughout the ages. You and the stranger shall be alike before the Lord; the same ritual [*torah*] and the same rule [*mishpat*] shall apply to you and to the stranger who resides among you" (Num. 15:15-16).

Know that our fathers, [the generation] of the Exodus, were mostly idolaters while in Egypt; they had "mingled with the nations [*goyim*] and learned their ways" (Ps. 106:35). Then the Holy One, blessed be He, sent Moses our master, and master of all prophets, and separated us from the peoples [*amim*]. and brought us under the wings of the *shekhinah-us* and all converts-giving us all one statute. Do not belittle your lineage. For if ours is traced to Abraham, Isaac, and Jacob, yours is traced to He who spoke and [thereby] the world appeared. It is expressly written in Isaiah: "One shall say, 'I am the Lord's,' another shall use the name of 'Jacob'" (44: 5)-the convert "shall say 'I am the Lord's,'" and the Israelite "shall use the name of 'Jacob.' "

[Maimonides cites here Mishnah Bikkurim I :4, which seems to contravene his position. He goes on, however, to quote JT Bikkurim 64a, which rules against the mishnah.]

I have thus [provided] you with clear [proof] that you should say "which the Lord swore unto our fathers to give us." And that Abraham is a father to us, and to all the righteous, who attach themselves to the Lord to follow His ways. And this ruling applies to all the other blessings and prayers- that is, that you should not change anything.

Jewishness as a 'fact' of birth

According to halakhah, a person's Jewishness is an unalterable fact. A Jew who renounces Judaism or who joins another religion remains a Jew nevertheless, in the eyes of halakhah. Moreover, if a Jewess joined another faith, and then conceived and gave birth, her offspring, and all subsequent generations through the female line, are Jews.¹ In other words, being a Jew is not at all dependent upon personal consciousness or commitment, i.e. whether a person regards herself as Jewish or observes the Jewish religion.²

Indeed, the converse is also true: if a non-Jew personally acknowledges the Sinaitic revelation and observes the Jewish religion, he is not thereby considered a Jew according to halakhah.³ It is thus apparent that the halakhic criterion for Jewishness is one of matrilineal kinship: any person whose mother was Jewish is once and for all a Jew.

Following this logic, it would appear reasonable to assume that any person whose mother was not Jewish is once and for all a Gentile, i.e. *giyyur* should be impossible. But it is possible. Therefore, *giyyur* is revealed as a process through which a person not born to a Jewish mother becomes a member of the Jewish kinship. The leading question of this chapter may now be rephrased: How is it possible for a person whose mother is non-Jewish to become a Jew? How is it possible that a process whose source is in an individual's personal volition and whose expression is formal leads to membership in a kinship-based community?

As we saw in this book, two main avenues of response to these questions are found in the halakhic tradition in the alternate paradigms of Demai and of Yevamot. By defining what transforms a Gentile into a Jew, each paradigm implicitly defines the *eidōs* of Jewishness. According to the Demai paradigm, the essence of Jewishness is commitment to the commandments. A reasonable explanation for this might be that *giyyur* is an event in which the proselyte joins the Sinaitic covenant between Israel and God, in which Israel committed itself to carry out God's commandments. Having joined that covenant, the proselyte is regarded as a member of the Israelite people. Just as a person born to a Jewish mother cannot revoke the covenant and abandon his Jewishness, so too a proselyte cannot revoke his *giyyur*.⁴

According to the Yevamot paradigm, *giyyur* is a ritual process

analogous to birth into the Jewish kinship. Just as biological birth to a Jewish mother is irrevocable, so too is ritual birth into the kinship irrevocable. Just as biological birth as a Jew entails commitment to the Sinaitic covenant, so too does ritual 'birth' entail such commitment. Thus, while under the Demai paradigm covenantal commitment entails membership in the Jewish people, under the Yevamot paradigm membership acquired via 'birth' entails commitment to the covenant.⁵

Giyyur as commitment to Judaism

According to this view, the *eidos* of *giyyur* is joining the Jewish religion. The term 'religion' is polysemic. It can signify praxis and it can signify disposition, belief and faith. In Demai, the proselyte's commitment is to praxis. It is a formal, public commitment, and no attention is paid to her subjective intent or belief. When the Tosafists and subsequent mediaeval halakhists evoke aspects of this model, requiring 'acceptance of commandments' in the presence of a court, they continue the Demai legacy in the focus on the normative aspects of Jewishness and in the formal, public aspect of the proselyte's act.⁶

In Chapters 13 and 14 we saw that in modern times, new variants of the Demai paradigm emerged. These variants indicated that the formal process of *giyyur* is valid only if it reflects an inner subjective state. Some halakhists posit this as a distinction between 'the performance of *giyyur*' and 'the essence of *giyyur*'.⁷ According to this distinction, circumcision and immersion are defined as 'the performance of *giyyur*', namely, formal-technical acts required for *giyyur*. Acceptance of the commandments, however, is defined as 'the very essence of *giyyur*, because without acceptance of the Torah and the commandments, it is as if he has not undertaken to become a Jew and, if this is the case, there was no *giyyur*'.⁸

The implication of this position is twofold: on the one hand, circumcision and immersion undergo a devaluation and, on the other hand, acceptance of the commandments is now defined as a crucial internal religious event rather than as a formal requirement. If *giyyur* requires that the proselyte take on the ideal characteristics of the Jewish collective, then this variant of Demai expresses the perception that the identity of the Jewish collective is constituted by Torah and the commandments. The halakhic result is, as Rabbi Isaac Schmelkes writes: 'If he [a proselyte] undergoes *giyyur*, and does not accept upon himself to observe the Sabbath and the commandments as required – he is not a proselyte.'⁹ According to this approach, a person's desire to belong to the Jewish people is of no halakhic significance if unaccompanied by a personal commitment to lead a life of observance.

As we saw in Chapter 13, another variant that emerged in modern times emphasized the subjective, dispositional aspects of the requirement that the proselyte accept the commandments. Mere intention to follow Jewish religious praxis is no longer enough. Rather, such commitment must stem from belief in major theological dogmas of Judaism:

Giyyur applies only to a person who deeply believes that God, through his prophet, commanded laws and ordinances to the people of Israel and separated them from all nations . . . But, if he does not believe all this, and undertakes to behave according to the laws of the Torah . . . this is not acceptance of *giyyur* [*qabalat gerut*].¹⁰

A great distance exists between this twentieth-century position and the Talmudic paradigm of Demai. This distance was created by the devaluation of the intrinsic worth of praxis per se, and the valuation of subjective components of religiosity. At the end of this trajectory, an interesting similarity emerges between this Jewish view and Lutheran notions of *sole fide*. While not going so far as Luther in rejection of the religious meaning of praxis, the new Jewish position upholds the view that *fide* is the sole source of the religious meaning of praxis. This stress on faith leads to parallels with the Christian-Protestant concept of conversion to Christianity, as explicated for example by A. D. Nock in his well-known work *Conversion*.¹¹ Both these Christian and Jewish views claim that 'conversion' is first and foremost a psychological act, in which a person's religious mind-state changes deeply and she recognizes the truth of her new religion. For Protestant Christianity this recognition finds expression in adoption of Christian faith, while for the above-mentioned halakhists it is expressed in adoption of the belief structure justifying halakhic praxis.

Indeed, in more recent research it is claimed that 'conversion is essentially theological and spiritual'.¹² According to this conception, if applied *mutatis mutandis* to Judaism, a radical change in a person's belief-system and subjective identity are the necessary and constitutive core of *giyyur*.¹³

The positing of subjective-normative commitment to Judaism as the *eidos* of *giyyur* can explain how a proselyte becomes obligated to Torah and commandments. As we saw above, however, membership in the Jewish people is not by commitment but by birth. According to the Demai paradigm, a proselyte is a member of the Jewish people even if he fails to observe commandments. Thus, a conceptual problem arises: how can *giyyur qua* religious commitment lead to unconditional membership in the Jewish people?

Most halakhic authors fail to relate to this problem – perhaps because they accept the Yevamot paradigm under which this problem does not arise, as we shall see below. A solution to the problem this question poses for the Demai paradigm may be found in a text written by Rabbi Mordekhai Jaffe,¹⁴ who links commitment to re-birth in the following manner:

The rabbis said: It is reasonable that a proselyte who undergoes *giyyur* and accepts upon himself the yoke of Torah and commandments, and the yoke of the Kingdom of Heaven, most certainly has been imbued with a heavenly spirit, a new spirit, a holy spirit, a new soul, and has become a different person. He is as one who is created and born on that day.¹⁵

To the best of our knowledge this view is not found in Tannaitic or Amoraic sources, but is derived from a passage in the Zohar.¹⁶ It seems that Rabbi Jaffe generalizes this Zoharic statement with regard to all person who undergo *giyyur*.

According to this model, membership of a proselyte in the Jewish kinship is a result of heavenly grace. By virtue of acceptance of God's yoke, the proselyte becomes the recipient of a new, holy spirit and soul. On the assumption that one's soul is the ground of one's persona, the new soul creates the proselyte anew as a new person. This coming into existence of a new person is a virtual [re]birth – obviously, re-birth as a Jew. Having been [re]born as a Jew, the proselyte is a member of the Jewish kinship. The proselyte's membership is thus the result of a metaphysical event, made possible by human–Divine synergy. Fulfilment of the halakhic directives governing *giyyur* is not enough, unless complemented by transcendent intervention.

The reliance upon such intervention to explain the nature of a proselyte's 'birth' as a Jew reflects the deep problematic involved in the attempt to ground kinship identity in subjective–normative commitment. In the next part of this chapter, we present an alternate conceptual framework of the relation between *giyyur* and birth, as reflected in the Yevamot paradigm.

Giyyur as birth into the Jewish kinship

The characterization of *giyyur* as birth is explicitly formulated in the Talmudic saying: 'A proselyte who has undergone *giyyur* is as a newborn child.'¹⁷ This Talmudic dictum is not considered merely as a metaphor. Rather it has powerful halakhic consequences, among them:

1. All the proselyte's kinship ties prior to the *giyyur* are regarded as

dissolved from the moment of *giyyur*. A direct result of this is that if several members of a Gentile family underwent *giyyur*, they were allowed by Torah law to marry one another: the [biological] father might marry his daughter, the mother her son, a brother his sister, and so forth. It should be noted that such marriages have been forbidden by rabbinic enactment.¹⁸

2. If a father and son both underwent *giyyur*, the son does not inherit from his father upon the latter's death.¹⁹
3. While according to halakhah the testimony of relatives is not acceptable in court, persons who were related prior to *giyyur* may testify in court on behalf of each other.²⁰

The radical implications of these laws can hardly be overemphasized, for they subvert the most basic foundations of social order and of morality by upsetting family ties ostensibly grounded in biological reality. Clearly on this view, *giyyur* is a reconfiguration of human reality, which negates biological kinship in favour of an acquired kinship identity presented as a new birth.²¹

Post-Talmudic sources retain this perception of *giyyur* as a quasi-biological event. Thus, for instance, in thirteenth-century Spain we find the following text:

Question: Is it possible to grant a loan with interest to a Jew who has left the faith? Inform me of your view on this.

Answer: In a *Responsum*, Nahmanides noted that it is permitted to lend money with interest to an apostate Jew . . . But if he dies, he [his corpse] does indeed defile the surrounding space, since his betrothal is valid, his divorce is valid, and his wife is forbidden to others until he divorces her. And even if a proselyte reverts to his prior ways, the law regards him as one of the seed of Israel, as we find in Yevamot.²²

This concise *Responsum* states that the norms the Torah prescribes for the relationships between Jews can be divided into two types: the first type includes norms that cease to apply if the person forsakes Judaism for another religion. Norms of the second type are not contingent on behaviour and, therefore, are never abrogated. These norms reflect a Jew's non-contingent membership in the Jewish collective. All such norms, e.g. betrothal, divorce, and the defilement caused by the dead, share a common denominator in that they refer to the physical identity of the member of the collective. The *Responsum* states that the same rule applies to a proselyte and to a Jew by birth with regard to both types of obligations, because the proselyte is considered as the seed of Israel.

Another mediaeval sage who explicates a similar perception of *giyyur* as

birth is Rabbi Israel Isserlein.²³ In his treatise *Terumat ha-Deshen*,²⁴ Isserlein discusses forbidden sexual relationships and mentions a well-known halakhic law whereby if a married woman had an adulterous relationship and thereafter was widowed, she may not marry the man with whom she conducted that illicit relationship. He rules that a similar prohibition applies if a man had an (illicit)²⁵ sexual relationship with his wife's unmarried sister and then 'his wife died'.

Isserlein proceeds to state that this rule does not apply if a (Jewish) married woman had sexual relationships with a Gentile, and she was then widowed and the Gentile became a Jew. He writes that in such a case the woman would be allowed to marry the proselyte even if she had intercourse with him when he was a Gentile. He explains this distinction as follows:

We should differentiate the case of the wife's sister from that of the Gentile proselyte. Concerning the wife's sister, it is appropriate that she should be forbidden to her lover even 'if his wife died'. Concerning the Gentile, however, it is inappropriate to say so [that a Jewess is forbidden to marry her erstwhile Gentile lover], because after he undergoes *giyyur*, he is a different *physis*.²⁶

According to Isserlein, if the Jewess and the proselyte decide to marry, she is not marrying the same man with whom she previously had intercourse and, consequently, there are no grounds for forbidding the marriage. This is thus a highly realistic characterization of *giyyur* as birth, not as a metaphor of spiritual transformation but as a new physical identity.

Taking a realistic approach to *giyyur* as birth, Rabbi Eliezer Waldenberg²⁷ proposes that *giyyur* can be viewed as a process analogous to biological birth in several significant dimensions: 'One who has been circumcised and has not immersed could be defined as similar to a foetus about to be born.'²⁸ As we shall see below, this analysis of *giyyur* as a process of birth enables Waldenberg to solve a practical halakhic question and rule that, just as one desecrates the Sabbath to save the life of an unborn foetus, so should one desecrate the Sabbath to save a person whose life is endangered in the midst of the *giyyur* process, having been circumcised but not immersed.

Indeed, Waldenberg reflects a prevalent approach in halakhic literature, holding that the stages in the halakhic *giyyur* ceremony represent a process of transition, which begins with the detachment from a previous identity and ends with birth into a new identity. We develop this issue in the following section.

Giyyur as transition from one identity to another

As we have seen in the course of this book, the procedure of *giyyur* comprises (according to the Yevamot paradigm) two rituals: circumcision and immersion. All authorities agree that immersion is the decisive stage of becoming a Jew. This presumption underlies not only the explanations given to immersion itself but also the explanations given to the previous stages of the process. Our analysis will therefore open with a discussion of the meaning of immersion within the *giyyur* ceremony.

Immersion in the *giyyur* ceremony

According to the Yevamot paradigm, immersion is the decisive ritual that transforms a Gentile into a Jew: 'Once he has immersed and come up, he is like a Jew in every respect.' The Talmud (Yevamot 47b) explains the Baraita as meaning that even if a proselyte later relapses into his non-Jewish ways, his Judaism cannot be revoked. In Chapter 6, we discussed Talmudic understanding of immersion for *giyyur*. We noted,²⁹ that in the context of *giyyur* immersion is a mimetic act, symbolizing entry 'under the wings of *shekhinah*'. Based upon analysis of Rabbi Joshua's stress on immersion, we wrote that on this view immersion is the ritual expression of a female paradigm, basic to the *giyyur* of both women and men. We also suggested that emergence of this new paradigm should be understood as linked to another transformation that occurred in rabbinic culture during late antiquity: the switch from a patrilineal to a matrilineal determination of membership in the Jewish collective.

In post-Talmudic literature, from the Geonim onward, we find explicit reference to the meaning of immersion. In a Geonic *Responsum*, the author explains why a repentant apostate is not required to immerse, as opposed to a proselyte who is indeed so required:

He [an apostate Jew seeking to repent] is not a proselyte, who is required to immerse. A proselyte [immerses] to elevate him from Gentilehood, because his conception and birth were not in holiness. Whereas in this case, he [the repentant apostate] is a child of Israel, whose conception and birth were in holiness, and he does not need immersion.³⁰

Identification of immersion as birth is the implicit ground of the text's argument; immersion is portrayed as changing the identity that was determined by the proselyte's biological birth, and as characterizing him as 'conceived and born in holiness'.

A striking instance of identification of proselyte immersion with birth

as a Jew is provided by the highly regarded first printed edition of Maimonides' *Mishneh Torah*.³¹

A proselyte who enters the Congregation of Israel (*Kahal Yisrael*) is first required to be circumcised [before immersion]. But if he was circumcised while still a Gentile, he should undergo Covenantal blood-letting on the eighth day after his *giyyur*. Similarly, a [Jewish] infant who was born circumcised should undergo Covenantal blood-letting on the eighth day.³²

This source relates to the case of a Gentile applying for *giyyur*. Maimonides states that he must undergo circumcision before entering the Jewish community. However, if when he applied for *giyyur* his foreskin had already been surgically removed in a non-halakhic context, he skips the stage of circumcision and becomes a Jew through immersion. Now according to this source, he is a new-born Jew. As such, his status is similar to that of an infant newly born to a Jewish mother who at birth was without a foreskin: he is required to undergo covenantal blood-letting on the eighth day after birth. This determination with regard to a foreskin-less proselyte thus assumes that a proselyte's birth *qua* Jew is effected by immersion.³³

Explicit characterization of immersion as the phase of 'birth' in the *giyyur* ritual was stressed in modern times by Rabbi Gedalya Felder,³⁴ who writes: 'Through immersion he becomes a new creature, as a newborn child; as one whose body has been renewed, he will also be renewed in his actions.'³⁵

This interpretation of the meaning of immersion for *giyyur* places it in a different category from that of other immersions found in halakhic literature, whose function is purificatory. We here disagree with Gedalyah Alon who rejects this differentiation and holds that the immersion of proselytes was intended to purify them from the impurity ascribed by rabbinic tradition to all Gentiles. He argues as follows:

It is not specifically stated in the teaching of the Tannaim that this immersion [for *giyyur*] serves to purify the proselyte from his Gentile uncleanness, and they derived this halakhah by analogy with Israel's entry into the Divine Covenant in the Wilderness. However, it was not the analogy that brought about this immersion, but the practice and the halakhah that caused the analogy to be made and ritual immersion . . . to be ascribed to the early fathers of the nation for the purpose of their entering the covenant.

Since it is unlikely that the immersion of the proselytes was primarily similar to the baptism of repentance of John the Baptist

or that mentioned in the Sibylline Oracles, a symbolic act for sanctifying the spirit, or a token of the acceptance of a new religion, after the manner of baptism among Christians, we can only interpret this lustration according to its simple significance, namely: that like all other halakhic immersions its purpose is also to purify the proselyte from uncleanness, to wit, the defilement due to Gentile status.³⁶

Analysis of this paragraph reveals that Alon finds no rabbinic source stating that proselyte immersion is purificatory. Alon clearly states why he decides to attribute to the rabbis who institute immersion a reason that they ignore: were he to accept what the rabbis themselves say on the matter, their views would be too similar to Christianity for Alon to stomach.

However, Alon's position seems to us totally unconvincing. Firstly, because the rabbis themselves make no mention of purification in the context of *giyyur* – although nothing prevented them from doing so, had they thought it relevant. Secondly, purity in rabbinic Judaism is always contingent: all pure persons or objects are susceptible to ritual contamination. If a proselyte's immersion is purificatory, his subsequent purity will always be contingent – as will be his Jewishness. But such contingency is expressly rejected by all rabbinic sources, as we have seen. Thirdly, the *a priori* aversion of Alon to any possible similarity between proselyte immersion and baptism as practised by others living in the first-century Land of Israel is methodologically untenable. Indeed, John the Baptist was not a Christian, but a Jew. A more reasonable assumption would be that his views were affected by understandings of immersion prevalent in Jewish circles at that time. Moreover, many Christian scholars hold that Christian baptism derived, at least to a significant degree, from the Jewish *giyyur* ritual, and not vice versa.³⁷ Finally, Alon totally ignores the identification of *giyyur* as birth, so basic in halakhic sources. On these grounds, the perception of the immersion for *giyyur* as different in purpose from all other immersions appears definitely preferable.

Although the laws of immersion are the same for purification and for *giyyur*, the purpose of the proselyte's immersion is not to extricate him from impurity. Indeed, in this context it should be noted that Rashi, the great traditional interpreter of the Talmud, expressly states with regard to a proselyte that 'his immersion is not because of impurity and purity, as are other immersions'.³⁸

The characterization of immersion as birth into Jewishness also explains, *inter alia*, the determination by classic halakhic sources that the court's presence is required during immersion and not during circumci-

sion³⁹. Since the court represents the Jewish people who the proselyte is joining by this new birth, the birth should take place under their auspices.

As we summed up in Chapter 6, immersion existed in the cultural-religious code of Judaism in late antiquity as a symbol for acquiring purity and holiness, and for coming into the presence of God. However, it was the resonance of immersion with the universal human symbolism of birth that enabled it to become the central symbolic element of *giyyur* once Jewish membership became matrilineal. Thus, a former Gentile who immerses in water for the sake of *giyyur* is transformed and recreated. Emerging from the waters of *mikveh*, he is newly-born, as an infant emerging from a mother's womb – a Jewish mother's womb.

Circumcision in the *giyyur* ceremony

If immersion effects the proselyte's re-birth, what is the *eidos* of circumcision in the process of turning a person born as a Gentile into a person born as a Jew? Some sages explain circumcision as initiating the transition from Gentilehood to Judaism, perceiving it as the proselyte's detachment from his Gentile identity. As Rabbi David ibn Abi Zimra (Radbaz)⁴⁰ writes, the effect of circumcision is that the proselyte 'has been detached from the collective of the heathens (*klal akum*)'.⁴¹ According to Radbaz, circumcision separates the candidate for *giyyur* from his primordial ties to the non-Jewish collective. As a result, his Gentile identity no longer exists.

The realization that circumcision is the stage of separation from the proselyte's previous identity entails the conclusion that the sequence of the *giyyur* ceremony – first circumcision and later immersion – is meaningful. Separation from Gentilehood must come first, and only then is entrance into a new identity possible, by means of immersion.

Is this perception shared by halakhic authorities? Early Ashkenazi tradition holds that the sequence is crucial; therefore changes in this order hinder *giyyur*. In his halakhic handbook *Klalei Milah*,⁴² Gershom ben Jacob writes:

[H]e is never considered a proselyte until he is circumcised and has immersed: circumcision first, followed by immersion. Once, in Mainz, a proselyte immersed and was then circumcised, and all the sages of Mainz required another immersion, as we hold that circumcision must be first.⁴³

This source testifies to halakhic praxis in twelfth-century Ashkenaz. The view that if circumcision did not precede immersion the *giyyur* is invalid was also accepted in Provence, as reflected in the following report with regard to the rabbis of Lunel:

First circumcision and then immersion, but vice-versa – not. He should immerse after the circumcision. And this was what was indeed required in the event in Lunel, as we heard from Abba Mari and his colleagues, of blessed memory, who demanded [of a proselyte who had immersed and then circumcised] that he immerse [again] after circumcision.⁴⁴

Moving from Ashkenaz and Provence to Spain, we find an interesting controversy surrounding this issue, in the course of which basic principles governing the relationship between circumcision and immersion are explicated. Nahmanides holds that while, *ab initio*, circumcision should indeed precede *giyyur*, nevertheless:

if he first immersed and was circumcised later he is a proselyte, regardless of whether the sequence was circumcision and immersion, or immersion and circumcision.⁴⁵

Nahmanides' disciples, however, disagree with their teacher's view on this question. Thus, his disciple Rabbi Shlomo ben Adret (Rashba) writes:

I hold, however, that circumcision must precede immersion [and if not] – this is a hindrance [to the validity of a *giyyur*] . . . [S]ince immersion contains the core of *giyyur*, involving exit from Gentile impurity and entrance into the sanctity of Israel, it should come at the end.⁴⁶

Rashba's argument is based on the view that immersion is the crucial ritual constituting *giyyur*. Circumcision is merely a precondition to immersion – but a necessary one. Rashba proceeds to draw an analogy between the sequence of stages in the *giyyur* ceremony and the order of ritual acts enabling Jews to use tableware purchased second-hand from a Gentile. Just as the tableware should first be scalded in boiling water and then immersed, so in *giyyur*, circumcision must precede immersion. Rashba thus compares the Gentile's circumcision to the scalding activity, which eradicates all traces of non-kosher food from the tableware and returns it to a 'neutral' state. Only then can immersion make it fit for use with kosher food. The analogy to *giyyur*, then, is that circumcision removes the Gentile aspect of the proselyte's identity and places him in a 'neutral' state. Only then can immersion bestow upon him 'the sanctity of Israel'.

Notwithstanding this argument, Rashba does not categorically deny Nahmanides' position, and admits that a *giyyur* in which immersion preceded circumcision might be valid *ex post facto*. However, his colleague Rabbi Aaron Halevi,⁴⁷ who was also a disciple of Nahmanides, rules

unequivocally that 'if immersion preceded circumcision, he [the proselyte] must immerse again'.⁴⁸

Rabbi Yomtov Ishbili (Ritba), a disciple of both Rashba and Halevi, supports Halevi and writes:

When he is uncircumcised, immersion is not efficacious. Rather he is as a person who immerses while holding an impure creature in his hand. As proof, consider that if one buys from idolaters utensils that must be immersed and scalded in boiling water, the scalding comes first. And although regarding these utensils the procedure is efficacious even if immersion was performed first, here it is different, since the impurity of the foreskin is absolute impurity.⁴⁹

According to this approach, the foreskin itself is such a distinctive symbol of a Gentile identity that without its removal it is impossible to enter Jewish identity. This analysis thus shows that despite the similarity between the proselyte's circumcision and the circumcision of a Jewish newborn, they differ in principle because the latter is a Jew even without circumcision, and his circumcision is meant to symbolize his entrance into the covenant of Abraham. By contrast, the proselyte's circumcision is intended to detach him from his Gentile identity.⁵⁰

Another perspective on circumcision as the first stage in progression from Gentilehood to Jew is suggested by Rabbi Yitzhak Rabinovitch.⁵¹ He agrees that *giyyur* is a process that must begin with circumcision. He explains that removal of the foreskin separates the proselyte from the general category of Gentile, and includes him in 'the holiness of the seed of Abraham', the state that the entire people of Israel were in before the Sinaitic Theophany:

The reason that we require circumcision of a proselyte is that our forefathers made the transition from 'Noachides' to the holiness of Israel in stages. First, they acquired the holiness of the seed of Abraham [by circumcision], and from that holiness they later reached the holiness of Israel [by immersion] . . . he is required to circumcise before becoming a Jew, so as to be in the state of holiness that Israel was in before the Sinaitic Theophany.⁵²

On this view, circumcision of a proselyte is not merely removal of an obstacle to becoming a Jew, but effects entry into a special category of persons, 'the seed of Abraham'. However, not all those who are of the seed of Abraham participate in the Sinaitic covenant. After circumcision, the proselyte has progressed in his transition from Gentile to Jew, but not yet reached his goal. As we shall see in the following section, the status of a

proselyte who is circumcised but did not yet immerse is characterized as a special interim state, betwixt and between Gentile and Jew.

From circumcision to immersion – an interim stage

The Baraita in Yevamot 47 posits a time lapse between circumcision and immersion, as required for healing after circumcision: ‘Once he has healed, we immerse him immediately.’ If circumcision is the detachment from Gentile identity and immersion is the entrance into Jewish identity, an obvious question is how to define the proselyte’s identity during the time between circumcision and immersion.

It seems clear that at this stage, the proselyte is no longer a ‘Gentile’, since he has already been circumcised, but he is not a Jew either since he has not yet immersed. This issue is addressed in several halakhic sources. When asked to define the status of a proselyte who was been circumcised but not yet immersed, Rabbi David ibn Abi Zimra (Radbaz)⁵³ writes:

Regarding his participation in all matters of holiness, and whether we consider his betrothal as valid, it is obvious he is not as a Jew in any way . . . rather, he has been detached from the collective of the heathens (*klal ‘akum*) . . . but he has not yet entered the Jewish collective (*klal Yisrael*), until he immerses.⁵⁴

According to Radbaz, circumcision separates the candidate for *giyyur* from his primordial ties to the non-Jewish collective. As a result, his Gentile identity no longer exists – but he has not attained Jewish identity. Rather he is in a liminal state, betwixt and between.⁵⁵

The status of a proselyte during the period between circumcision and immersion was at the focus of a heated debate in nineteenth-century Jerusalem. In 1848, a Gentile originating from Morocco was accepted for *giyyur* by the Ashkenazi Rabbinic Court of Jerusalem and circumcised for the purpose of *giyyur*. The following Shabbat, while the proselyte was still healing from the circumcision, one of the court’s members, Rabbi Asher Lemel, informed him that since he was still a Gentile he was forbidden to observe Shabbat.⁵⁶ Rabbi Lemel ruled that the proselyte was obligated to desecrate the Shabbat, and forced him to write – an act whose performance on Shabbat is forbidden by halakhah. All the Sephardic and Ashkenazic rabbis of Jerusalem were incensed by Lemel’s behaviour, and wanted to censure him. Rabbi Joseph Schwartz wrote a detailed *Responsum* arguing that a proselyte in such an interim state should be regarded halakhically as in a double bind. He is forbidden to perform acts that a Jew is forbidden to perform. However, Jews must continue to regard him as a Gentile until after his immersion.⁵⁷

Rabbi Lemel refused to concede his mistake, and sought the support of a leading European halakhic authority, Rabbi Jacob Ettlinger.⁵⁸ Lemel explained that the person in question was forbidden to observe Shabbat:

[because] 'he is not a proselyte – until he both circumcises and immerses' (Yevamot 46a) . . . and as long as he has not immersed he is not a proselyte, and he is still a Noahide . . . Why, then, is he released from the commandment [incumbent upon Noahides] 'day and night [they] shall not cease' [Gen. 8.22]⁵⁹ that is incumbent upon him?⁶⁰

Lemel did not acknowledge an interim state: since not yet a Jew, the circumcised person was still a Gentile. In his *Responsum*, Ettlinger writes that in all places where proselytes were accepted, they were never instructed to desecrate the Shabbath after circumcision. Lemel's argument seemed valid at first sight, but:

On further scrutiny, however, I realized that the law supports the custom. Logic actually appears to indicate it would be unreasonable to do otherwise, given that the proselyte's circumcision is called *berit* [covenant]⁶¹ . . . and the Sabbath is also called a 'covenant' (Shabbat 132) – how, then, can we say that, after he has entered one covenant, he should be obligated to transgress the other covenant that the Holy One, Blessed-be-He, contracted with the people of Israel, who abide by his commandments? Therefore, in my humble opinion, it appears that, although he has not become a full-fledged member of the people of Israel until he immerses, nevertheless, once he entered the covenant of circumcision he was separated from the 'Noahides' . . . Hence, also this person who was circumcised but not yet immersed is like one who entered the covenant, and is thereby separate from the other nations, and therefore he is no longer bound by the commandment to the Noahides 'day and night [they] shall not cease.'⁶²

Like Radbaz, Ettlinger also rules that a proselyte who was circumcised but not yet immersed is in an interim situation, different from the status of a 'Noahide' but not identical to the status of a Jew.⁶³ A similar situation is discussed by Rabbi Shalom Moshe Hai Gaguin:⁶⁴ two Christian men from Aleppo came to Jerusalem in order to become proselytes. Should they observe Shabbat during the period between circumcision and immersion? Rabbi Gaguin answers, basing himself on the *Responsum* of Radbaz, that they were neither Gentiles nor Jews and therefore:

If they did not observe Shabbat, we are not required to punish them, for they have not yet entered the Jewish collective (*Klal Yisrael*). However, if they did observe Shabbat, it is clear and simple that we should not punish them, for they have exited the Gentile collective from the moment they circumcised and accepted the commandments.⁶⁵

Schwartz, Ettliger and Gaguin recognize that a person who was circumcised but did not yet immerse is in a liminal state. He is clearly different from Gentiles, but not a Jew. Each rabbi attempts to characterize the nature of this unusual interim situation. Rabbi Schwartz rules that he is both Gentile and Jew. From his own perspective, he has become detached from his Gentile identity, and thus is forbidden to transgress the rules of halakhah. From the perspective of the Jewish community, he is not a Jew and therefore all prohibitions that they apply to Gentiles apply also to him. The liminal stage is thus one of halakhic over-determination. Gaguin holds a diametrically opposite view. Since this person is neither Gentile nor Jew, he is not obligated by any set of norms.

The three stages of the giyyur process

A complete characterization of all stages of the *giyyur* process, fully aware of it as a transition from one identity to another and clearly identifying an interim stage, appears in the writings of Rabbi Joseph Engel:⁶⁶

For a person to become a proselyte, two acts are required: removal of Gentilehood, and reception of Jewishness. And there is an interim reality between these two, as the Talmud writes (Sanhedrin 58b): 'He has been detached from the collective of the heathens (*klal 'akum*), but he has not yet entered the Jewish collective (*klal Yisrael*).' And this is the significance of the circumcision and immersion of a proselyte, namely, the detachment of the foreskin removes Gentilehood, and the immersion bestows Jewishness.⁶⁷

In his book *Beit Otsar*, Engel develops this analysis in greater detail. First, he substantiates the determination that an interim situation, whereby an individual is neither Jew nor Gentile, is logically possible:

It is also logically obvious that not everyone who is not a Gentile is necessarily and automatically a Jew. A person created according to the *Sefer Yetsirah* is neither Gentile nor Jew.⁶⁸

According to the Talmud,⁶⁹ it is possible for a mystical adept to create a human being by employing esoteric knowledge found in the ancient tract of *Sefer Yetsirah*. Rabbi Engel holds it to be self-evident that having no biological ancestry, such a person belongs to no human collective – and is thus neither Gentile nor Jew. His acknowledgement of this possibility enables him to analyse *giyyur* as a process:

Giyyur, therefore, requires in any event two acts: removal of Gentilehood and reception of Jewishness, since there is an interim reality between them. By becoming a ‘non-Gentile’ he has not yet thereby become a ‘Jew’.⁷⁰

An additional conclusion that follows from this is that circumcision must precede immersion:

Detaching the foreskin removes the abomination of Gentilehood, and immersion bestows holiness (as explained in the books of wisdom) and consecrates him to be a Jew. That is why circumcision precedes immersion. He cannot receive Jewishness as long as his Gentilehood is not removed, since it is impossible for Gentilehood and Jewishness to co-exist.⁷¹

Rabbi Eliezer Waldenberg also accepts this analysis of the *giyyur* process. Relying on Radbaz, he considers the status of a proselyte who was circumcised but has not immersed:

[Radbaz provides] a new definition for determining the essential status of a person who was circumcised but has not [yet] immersed, namely: he is a *sui generis* creature, who has exited Gentilehood but has not yet entered the Jewish collective . . . According to Radbaz, a person who was circumcised but has not yet immersed, resembles a foetus about to be born . . . and, indeed we say [of *giyyur*] that a ‘A proselyte who has undergone *giyyur* is as a newborn child.’⁷²

Our analysis of the above sources reveals that *giyyur* is a process. Before the process begins, the person applying for *giyyur* is a Gentile. Circumcision removes his Gentile identity and as a result, he enters an interim situation: he is not a Gentile, but he is not a Jew either. Immersion removes him from this interim reality and constitutes him as a Jew. These three stages are symbolized in the language of the sources by three natural categories: circumcision, which erases the previous identity, is linked to death – ‘separating from the foreskin is as separating from the grave’⁷³; the interim situation is identified with pregnancy; and immersion with birth.

Giyyur as a rite of passage

The Yevamot paradigm thus presents a halakhic model of *giyyur* as a ritual process in which a person's physical identity is remade. This model does not posit the subjective theological and/or spiritual transformation of the proselyte as the core of *giyyur*. Rather, the ritual of *giyyur* is posited as an 'objective' ontological transformation of the individual's *physis*, and a radical repositioning of that person in a totally new kinship matrix. On this view, spiritual re-orientation should follow upon this change of kinship, for all persons born as Jews should recognize the obligatory force of the Sinaitic covenant.

How should one explain the difference between this halakhic model of *giyyur* and the model explicated in recent academic writing on the phenomenon of conversion, mentioned above?⁷⁴ Most probably, this difference should be seen as stemming from contrasting paradigms of community. Christianity and Islam are confessional communities, constituted by commitment to certain beliefs and practices. Therefore, joining these communities entails first and foremost subjective commitment flowing from psycho-spiritual transformation. Jewishness, in contrast, is constituted by kinship; a person's beliefs or practices do not determine whether or not she is a Jew. Appropriately, joining the Jewish community involves first and foremost a transformation of the kinship matrix through symbolic 'bodily' re-birth.

Rather than comparing *giyyur* with conversion as in Christianity and Islam, a more fruitful comparative perspective can be obtained by viewing it through the perspective of the structure of rites of passage, as analysed by Van Gennep, Eliade and Turner.⁷⁵ Typically, a rite of passage consists of three stages, which Van Gennep dubbed: pre-liminal, liminal, and post-liminal. In the pre-liminal stage, the individual is divested of his extant identity; in the post-liminal phase he is invested with a new identity. During the liminal phase, he is 'betwixt and between', 'neither here nor there'. As we have seen, the major halakhic tradition portrays *giyyur* as consisting of three stages:

- a) Erasure of Gentilehood – through circumcision;
- b) Interim identity – neither Gentile nor Jew;
- c) Birth into Jewishness – through immersion.

According to our analysis of the *giyyur* process according to the Yevamot paradigm, circumcision parallels the pre-liminal stage of detachment from a previous identity – 'the removal of Gentilehood'. Immersion signifies the post-liminal entrance into the circle of the new identity – 'reception of Jewishness'. The interim stage between circumcision and immersion is the

liminal stage – in which the proselyte ‘has emerged from Gentilehood, but has not yet entered the collective of Israel’.⁷⁶ According to the Yevamot paradigm, the nature of *giyyur* as a rite of passage from Gentilehood to Jewishness is quite obvious.

Several differences between *giyyur* and a rite of passage should be noted. In a typical rite of passage, the liminal stage is particularly important: crucial ritual activities, which might not be allowed in other circumstances, take place at this stage. Furthermore, the person is exposed to unique dangers at this stage because she lacks the protection of a stable, social-religious framework. In *giyyur*, by contrast, this interim stage is of no intrinsic importance. Another difference concerns the level of exposure: rites of passage may take place in the presence of a sizeable public, whereas *giyyur* is a ceremony performed in seclusion.⁷⁷

Despite these differences, the characterization of *giyyur* as a rite of passage is clear and obvious. The similarity between rites of passage found in other cultures and the Yevamot paradigm of *giyyur* reflects general cultural patterns shared by many human societies. Halakhah does not contradict these basic patterns. Rather, it formulates them within its own cultural language, in accord with the general Talmudic dictum *dibra Torah ki-leshon bnei adam* – ‘the Torah spoke in the language of human beings’.⁷⁸

Birth into the Jewish collective and commitment to Torah

If *giyyur* is essentially a rebirth into the Jewish kinship group, it follows that the proselyte’s relation to the commandments is the same as that of any other Jew. According to both Biblical and rabbinic sources, any member of the Jewish collective is obligated by the Sinaitic covenant to fulfil the norms of Torah. This obligation is incumbent upon each individual irrespective of his personal preferences. The same, therefore, applies to a proselyte. This has been explicitly stated by several scholars over the generations. Rabbi Nathan bar Joseph,⁷⁹ a disciple of Nahmanides, writes:

A person who undergoes *giyyur* is immediately bound by all the prohibitions listed in the Torah, without having willingly prohibited them upon himself. Rather, because of the general rule that everyone who is a Jew is forbidden whatever the Torah prohibits and obligated by all its positive commandments.⁸⁰

According to Rabbi Nathan, *giyyur* is not at all contingent upon the proselyte’s personal commitment to praxis. *Giyyur* transforms a Gentile into a Jew. One major consequence of his having become a Jew is, that all the Torah’s laws are now incumbent on him, as they are on every other Jew.

Rabbi Nathan holds this to be the consensual halakhic perception of *giyyur*, and obvious to the point of being self-evident.

Rabbi Moses ben Joseph Mitrani⁸¹ also takes for granted that *giyyur* creates the obligation of obedience to the Torah. This understanding of *giyyur* provides him, as it does Rabbi Nathan, with a basis for drawing conclusions regarding another halakhic issue. He was asked whether communal ordinances apply to a person who settled in the community after the legislation of these ordinances. He writes:

Concerning the power apparently invested in a community to bind by their ordinances those who join them only subsequently. This is so if a community in one city, or several communities in one city, made an ordinance, and declared it binding upon themselves and all those who join them. Any person who later comes to live in that city is willy-nilly bound by this ordinance, if he chooses to live in that city. I find an allusion to this in what is written in the Scroll [of Esther] 'the Jews ordained, and took upon themselves . . . and upon all who join themselves to them, that they should unfailingly keep these two days [of the Purim holiday] . . .' [Est. 9.27]. And Rashi explains ['all who join themselves to them'] as referring to future proselytes. Because all the Jews had already obligated themselves, as is written: 'And Mordechai wrote these things, and sent letters to all the Jews . . . to obligate themselves' [*lekayyem 'aleihem*] [Est. 9.20-21]; and it is written that indeed 'the Jews ordained, and took upon themselves, and upon their seed, and upon all who join themselves to them' – the only ones 'who joined themselves to them' are the proselytes. And because they underwent *giyyur*, they are obligated by the whole Torah and even by rabbinic law. Hence, in our case, when they make an ordinance in a city regarding their seed and all who join themselves to them – this refers to those who will join them, i.e. who will come to live with them in that city. They [the newcomers] will be bound by the ordinance even against their will, because they want to live in that city.⁸²

A Gentile who chooses *giyyur* is like a person who chooses to settle in a particular community. Since he has chosen to reside amongst them, he is thereby obligated to obey their laws, even against his will. Therefore, even if a Gentile at the time of his *giyyur* intended not to observe the commandments, the obligation to do so applies to him even against his will.

Several twentieth-century halakhists also suggest clear formulations of this approach. Rabbi Saul Israeli⁸³ writes:

The crucial element in *giyyur* is ... joining the Jewish collective (*Klal Yisrael*), and that is why three are required, to constitute a court and accept him with his agreement ... the entire content of *giyyur* is joining the Jewish people ... therefore, when a Gentile from an alien people joins the Jewish people, he is thereby included, *ipso facto*, with the recipients of the Torah at the Sinaitic Theophany, just as a Jewish child is obligated by virtue of that Theophany ... Because, as a member of the people of Israel, he is obligated by the commandments, as all other Jews are. This seems to be explicitly stated in Ruth, from which we learn some of the details about the order of *giyyur*. This is what she said: 'your people are my people, and your God my God' [Ruth 1.16]. That is to say: by becoming part of the people of Israel, the God of Israel becomes her God! This is the foundation of *giyyur*, and the rest is interpretation, go and learn.⁸⁴

Rabbi Shlomo Goren⁸⁵ articulates a similar position:

Fundamentally, every *giyyur* is the joining of a proselyte to the Jewish people ... because, according to halakhah, only a person who belongs to the Jewish people is obligated to observe the commandments. Someone who does not belong to the Jewish people is a Noahide, and is bound only by the seven Noahide laws ... because the Torah was given only to the Jewish people and not to any other, and even if they [Noahides] observe the commandments they do not become members of the Jewish people. Only he who goes through the entire process of joining the Jewish people becomes bound by the commandments. Thus, we are bound by the commandments as a result of being Jews, and we are not Jews because we observe the commandments.⁸⁶

This position is the exact opposite of the Demai paradigm as interpreted radically in modern times. According to those radical modern interpretations, commitment to observe the commandments is the crux of *giyyur*. A Gentile can be transformed into a Jew by certain formal procedures (circumcision and immersion) but the efficacy of those procedures depends entirely upon normative commitment. In contrast, the Yevamot paradigm as analysed in this chapter presents a very different order of entailment. Via *giyyur*, the proselyte joins the people of Israel, and her obligation to observe the commandments results from her Jewishness – as is the case with any other Jew.

Halakhic tradition holds that a Jew is never required to undertake a voluntary commitment to observe the commandments in order to be

considered bound by them, because a Jew is perceived as bound by the commandments by the very fact of having been born a Jew. The underlying logic of this approach is that the Sinaitic covenant was a mutual commitment between God and the entire people of Israel, rather than between God and the individuals constituting the people at the historic moment when the covenant was made. The force of the covenant does not derive from any particular characteristic of the collective's essence, but rather from the fundamental legal notion whereby a commitment undertaken by a corporate body will also obligate members of this body in the future. A person born to a Jewish mother is considered a member of the Jewish people. Since the entire people is committed by the covenant to observe the Torah, therefore she too, as someone born into the people, is thereby committed to observe the mode of life that accords with the covenant.⁸⁷

Membership in the community of Israel is not only a sufficient condition to be bound by the commandments, but also a necessary one. Maimonides states that any human being who performs a commandment of Torah because he acknowledges Moses' prophecy will be rewarded for that performance. Nevertheless, obligation to observe the commandments is incumbent only on Jews. In a *Responsum*, he writes:

A Gentile is rewarded for every commandment he performs, but he is not as one who is commanded and obeys. This is on condition that, when he performs the commandment, he does so because he acknowledges the prophecy of Moses, who commanded that performance in the name of God, may He be exalted.⁸⁸

A Gentile's voluntary commitment to perform commandments, even if anchored in a full religious recognition of the Torah of Moses, does not make the commandments incumbent on him. Only members of the Jewish people are commanded to observe the Torah. Hence, even if a proselyte or a Jew by birth chooses to observe the commandments because of deep personal religious conviction, it is not that conviction that creates the duty to live in accordance with the commandments. Rather, he is bound to observe the commandments by virtue of his membership in the Jewish people.

The fact that both Jews and proselytes derive their obligation to observe the commandments from the same source is explicitly formulated in a Talmudic source.⁸⁹ The Talmud cites a Tannaitic text stating that the obligations following from the Sinaitic covenant apply not only to those who were present there, but also to 'the generations to follow and to proselytes who will become Jews in the future'.

The *eidos* of *giyyur* is birth. A person who was previously a Gentile is regarded, after *giyyur*, as having been reborn as a Jew and is irrevocably Jewish as is any person born to a Jewish mother.

Epilogue: giyyur and Jewish identity

In the introduction to this book we argued that understanding the halakhic process of *giyyur* has direct implications for understanding the nature of the Jewish collective. If the meaning of that process is joining the Jewish religion in the sense of a commitment to observe the Torah and the commandments, then the Torah and the commandments are regarded as the constitutive elements of the collective. On this view, the identity of the Jewish people is thus determined by commitment to Torah.

By contrast, if the *giyyur* process is one in which a former Gentile joins the Jewish kinship collective, then halakhah itself regards the Jewish collective as a 'natural-primordial' entity, constituted by kinship.

As we saw in this work, analysis of the corpus of halakhic literature on the subject of *giyyur* reveals that both options can be found in the halakhic tradition. The Demai paradigm views the meaning of *giyyur* as a transition from a previous religion to the Jewish religion and, correspondingly, perceives the commitment to observance as the very core of *giyyur* – although after *giyyur* the proselyte will remain a Jew, however he behaves. The Yevamot paradigm views *giyyur* as a transition from a Gentile identity to a Jewish kinship identity and, correspondingly, circumcision and immersion are perceived as the very core of *giyyur* – with obligation to observe the commandments being but a consequence of the Jewish kinship identity that the proselyte has acquired.

While both options exist, it is clear that mainstream halakhic tradition over the millennia identifies circumcision and immersion as constitutive of *giyyur*. Furthermore, most of the halakhists who also require acceptance of the commandments as a condition of *giyyur* do not interpret this demand as a performative commitment. Thus, most halakhists from earliest times to the present regard *giyyur* as a transition from one kinship identity to another – and both the Yevamot and the Demai paradigms explicitly state that *giyyur* is as irrevocable as birth to a Jewish mother.

Acknowledging the non-contingent status of membership in the Jewish collective as a kinship entity can be the basis for developing a sense of shared destiny and responsibility toward every member of the collective, regardless of their level of observance.⁹⁰ It seems that such a perception of shared kinship underlies the policy of many halakhists in modern times to accept the Gentile party in a mixed marriage for *giyyur*, citing considerations of responsibility and commitment toward the Jewish (sinful) spouse and his

descendants.⁹¹ By contrast, halakhists who define Jewish solidarity on the basis of observance see no reason to accept a secular Jew's Gentile spouse for *giyyur*. On this second view, faithful Jews need feel no concern with regard to the fate of the secular intermarried Jew himself, since they are obligated only towards those members of the collective who realize its essential identity, namely those Jews who are committed to observe the Torah and the commandments.⁹² Attributing intrinsic value to Jewish kinship has direct implications for halakhic policy regarding persons who will not be religiously observant after their *giyyur*. On this view, it makes perfect sense to speak of a person becoming a Jew and 'entering under the wings of the *Shekhinah*' even if she does not plan to lead a religious life. However, if Jewishness is nothing but observance, then what reason could there be for enabling a secular Gentile to undergo *giyyur*? Without sincere commitment to observance, her Jewishness would be devoid of all meaning and significance.

The general conclusion of this work is that one network of meaning embraces *giyyur* and Jewish identity – and that network is interpreted under two very different paradigms. According to one paradigm that we named the Demai paradigm, to be a Jew means to belong to a normative-religious community, and *giyyur* is the process by which a non-Jew joins that community. According to the other paradigm that we called the Yevamot paradigm, to be a Jew means to belong to a specific human kinship constituted by ties of birth. Appropriately, *giyyur* is the way by which a non-Jew is born into the Jewish kinship.

As we saw in the chapters of this book, the Yevamot paradigm has been dominant throughout the history of halakhic discourse. Even those halakhists who advocated the Demai paradigm regarded *giyyur* as irrevocable and irreversible; in this respect, membership in the (religious) community was effectively similar to membership in the Jewish kinship.

However, towards the end of the nineteenth century, a radical view began to develop among certain East European halakhic scholars. First, they declared allegiance to the Demai paradigm. Second, they transformed its meaning from a formal act to an inner, subjective commitment. Finally, towards the end of the twentieth century, the inner logic of this transformation led certain rabbis to a total undermining of the classic Demai paradigm, indeed – of the basic nature of *giyyur* as understood by all halakhic authorities over the ages. Instead of *giyyur* constituting an unconditional transformation of identity, it was declared to be an eternally contingent status, subject to revocation whenever a proselyte might fail to conform to expected religious behaviour.

These radical changes reflect a new position with regard to the meaning of Jewish identity. On this view, only those who are fully

committed to observance are authentic Jews.⁹³ All others have, at best, peripheral significance in the eyes of halakhah. The totally contingent status of proselytes is but an extreme expression of the radical devaluation of all Jews lacking unconditional devotion to halakhah.

The Yevamot paradigm and the Demai paradigm may be seen as two poles constituting the field of discourse with regard to the nature of Jewish identity. The Demai paradigm represents the normative aspect of traditional Jewishness, while the Yevamot paradigm reflects the primordial, unconditional kinship aspect of Jewish being. When the meaning and essence of Jewish identity became moot or contested, the tension between these two poles becomes more explicit and powerful.

Our book is an attempt to provide an account of the historical interplay of these two paradigms of Jewish identity, as reflected in the unfolding of halakhic discourse with regard to *giyyur*.

Notes

- 1 Cf. Rabbi Joseph Caro, *Shulchan 'Arukh* Even ha-'Ezer, 44.9. See also Solomon ben Shim'on Duran (Algiers, 1400–1467), *Responsa* (Jerusalem, P'er, 1968), #89.
- 2 This determination of a person's Jewishness is a formal determination that says nothing about a person's religious (and social) standing in the community. As we show in our book A. Sagi and Z. Zohar, *Circles of Jewish Identity* (Hebrew) (Tel Aviv, HaKibbutz HaMeuchad Press, 2000), a religiously deviant Jew can be functionally excluded from privileges of community membership.
- 3 See below, at n. 85. As we noted in Chapter 5, a reasonable reading of Tosefta Demai is that a Gentile who in the presence of three commits himself to observe the commandments becomes a Jew. We therefore emphasized the word 'personally' to indicate that even according to the above interpretation of Demai, a purely personal commitment cannot change one's status and identity.
- 4 See Chapter 5 above.
- 5 These alternatives were concisely formulated by Rabbi Jacob Fink (Poland, Argentina and Israel, twentieth century): 'What is a proselyte? Is he someone who becomes a Jew, and consequently is obligated to observe the Jewish religion? Or, to the contrary, is he someone who commits himself to observe the Jewish religion, and consequently becomes a Jew?' (Jacob Fink, 'Judaism and *giyyur*' (Hebrew), *Noam*, 14 (1971) 10–21, p. 17).
- 6 See Chapter 9 above.
- 7 On this distinction, see Bezalel Zolty, 'Be-Dinei Kabbalat Gerim' [On the Laws of Accepting Proselytes], *Torah She-B'al-Peh* 13 (1971), 33–50; She'ar-Yashuv Cohen, 'Ger she-Hazar le-Suro ve-Eino Shomer Mitzvot' [A Proselyte Who Retracted and Does not Observe the Commandments], *Torah She-B'al-Peh* 29, (1988), 33–43; *Piskei Din Shel Bati Hadin Ha-Rabbaniyyim B'Israel* [Rabbinical Decisions], Vol. 10, 1966. pp. 173 ff., (the views of Rabbis Zimbalist and Daichovski.)

- 8 Zolty, 'Be-Dinei Kabbalat Gerim', p. 39.
- 9 Y. Y. Schmelkes, *Responsa Beit Yitzhak*, #100, §9 and §13. Rabbi Ya'akov Breisch writes in a similar vein: 'Even if we were to believe that she [the woman proselyte] is genuinely intent on becoming a Jew, at most she intends to be a Jew by nationality without observing the Sabbath, the laws of family purity and the other commandments, like her husband [the secular Jew]. Such a *giyyur* is invalid even *ex post facto*' (M. Y. Breisch, *Responsa Helkat Ya'acov*, Jerusalem, 1951, Part 1, #13: 1).
- 10 Rabbi Avraham Isaiah Karelitz, *Hazon Ish* on Yoreh Deah (Jerusalem, 1942), 119: 2.
- 11 Arthur Darby Nock, *Conversion* (Oxford, Oxford University Press, 1933).
- 12 Lewis R. Rambo, *Understanding Religious Conversion* (New Haven, Yale University, Press 1993), p. 10.
- 13 See also M. Heirich, 'Change of Heart: A Test of Some Widely Held Theories about Religious Conversion', *American Journal of Sociology*, 83.3 (1977), 653–80; R. Travisano, 'Alternation and Conversion on Qualitatively Different Transformations', in G. P. Stone and H. A. Farberman (eds), *Social Psychology Through Symbolic Interaction* (Waltham, Ginn-Blaisdell, 1970), pp. 594–606; G. K. Nelson, *Cults, New Religions and Religious Creativity* (London, Routledge & Kegan Paul, 1987), Ch. 9 and *passim*.
- 14 1530–1612, active in several central European communities.
- 15 Jaffe, Mordekhai, *Levush 'Ateret Zahav* (Jerusalem, 1968), #269, 1.
- 16 The passage is written with regard to Hever the Qenite, descended from Jethro, who 'severed himself from Qayin' (c.f. Judges 4.11). The Zohar (BaMidbar, Naso, 1219) relates that this person detached himself from the people of Qayin [= Cain] to whom he originally belonged, cleaved to God, and devoted himself to Torah. By virtue of this, a heavenly holy spirit was drawn upon him – as is the case for any person (Jew or Gentile) who cleaves to Torah. Indeed, the opposite is true for any person who chooses deviance; whether Jew or Gentile, he thereby cleaves to the realm of impurity, that is the realm of Cain.
- 17 Yevamot 22a, and parallel texts.
- 18 See *Mishneh Torah, Laws of Forbidden Intercourse*, 14.11 and ff.
- 19 See *Mishneh Torah, Laws of Original Acquisition and Gifts* 1.6.
- 20 See *Mishneh Torah, Laws of Evidence* 13.2.
- 21 The negation of Gentile kinship ties does not entail kinship ties with any specific Jewish lineage or family. Therefore in legal situations normally involving kinship, the proselyte is at a disadvantage compared to other Jews. For example, if a proselyte dies without having fathered children after his *giyyur*, he is considered to have no natural heirs.
- 22 Shlomo ben Abraham Aderet, *Responsa of Rashba ascribed to Nahmanides*, #224. The reference is to the Talmudic text in Yevamot 47b:
Once he has immersed and come up, he is like a Jew in every respect –
What is the implication of this statement? [The implication is], that if the proselyte reverts [to a Gentile life], and performs a ceremony of

kiddushin [halakhic betrothal] with a Jewish woman, we regard him as an apostate Jew, and the *kiddushin* are valid.

- 23 Austria, fifteenth century.
- 24 I. Isserlein, *Terumat ha-Deshen* (Tel Aviv, Steiner, 1958), Part 2, *Pesakim u-Khtavim*, #29.
- 25 The Torah proscribes a sexual relationship between a married man and his wife's sister (Lev. 18.18). However, if he becomes a widower, it is permissible for him to develop a relationship with the sister of his (now deceased) wife.
- 26 I. Isserlein, *Terumat ha-Deshen*, Part 2, *Pesakim u-Khtavim*, #29. In the original text: *gufa aharina hu*.
- 27 Israel, 1915–2006.
- 28 E. Y. Waldenberg, *Responsa Tsits Eliezer* (Jerusalem, Mossad HaRav Kook, 1970), Part X, #25, ch. 2, p. 108.
- 29 pp. 121ff.
- 30 *She'arei Tseddek* (*Geonic Responsa*) (Salonika, Nissim Hayyim Moda'I, 1792), Part 3, Section 6, #8, and compare also *Responsa Rashba*, Part 5, #66. Compare also the following *Responsum* by 'Amram Gaon:
- He [the repentant apostate] is not a proselyte, who is required to immerse. Because the proselyte comes from unqualified seed and his conception and birth were not in holiness, and must therefore immerse. And even a proselyte, who was circumcised and immersed and then relapsed to Gentilehood, does not require immersion if he later returns [to Judaism], since we say [in Tractate Yevamot with regard to a proselyte] 'Once he has immersed and come up, he is like a Jew in every respect.' (*She'arei Tseddek*, Part 3, Section 6, #11)
- Amram Gaon's proof seems to rely on *petitio principis*: he seeks to prove something with regard to the status of an apostate Jew by citing a statement that equates the status of a lapsed proselyte with that of an apostate Jew. To make sense of his argument, he should be understood as focusing on the Talmudic stress upon the unconditional irrevocability of immersion. Once immersion has occurred it will never be required again. If this is so with regard to a proselyte, argues Amram Gaon, all the more so with regard to a person born to a Jewish mother. The powerful analogy between immersion and birth thus emerges with great clarity from this source.
- 31 Rome, 1480.
- 32 Maimonides, *Mishneh Torah* (Rome 1480; facsimile edition Jerusalem, Mossad HaRav Kook, 1955), *Laws of Circumcision*, Ch. 1.7.
- 33 It should be noted that when outlining the ceremony of *giyyur* elsewhere in *Mishneh Torah*, Maimonides requires covenantal blood-letting of a foreskin-less Gentile as a preliminary to immersion (cf. *Laws of Forbidden Intercourse* 14.5). Also, later editions of *Mishneh Torah* have different wording in the *Laws of Circumcision* than does the Rome edition. However, the structure of the Rome edition text is logically clear and consistent, and may well reflect Maimonides' thinking at the time he wrote the second book of his code.
- 34 North America, twentieth century.

- 35 Rabbi Gedalya Felder, *Responsa She'eilat Yeshurun* (New York, Balshan, 1964), Part 1, #33.
- 36 Gedalyahu Alon, *Jews, Judaism and the Classical World* (Jerusalem, The Magnes Press, 1977), p. 172.
- 37 See for example Richard P. McBrien, *Catholicism* (San Francisco, Harper, 1994), pp. 802–22.
- 38 Rashi, Yevamot 47b., s.v. *Sham Ger ve-'eved meshuhrrar tovelim*.
- 39 See Chapter 6, 7, 8, 10 and 11 above.
- 40 Spain, Egypt and Safed, 1479–1573.
- 41 Radbaz (David ibn abi Zimra), *Responsa Radbaz* (Jerusalem, 1972), Part 3, #479 [917].
- 42 Jacob Glassberg (ed.), *Zikhron Berit LaRishonim* (Cracow, 1892), Part 2, including Rabbi Gershom bar Ya'akov HaGozer, *Dinei Milah uPri'ah veGerim*.
- 43 *Ibid.*, p. 133. See our discussion of his halakhic positions in Chapter 9 above.
- 44 *Tosephot Had mi-Qamaei*, Yevamot 46a, s.v. *Amar Shmuel*. This comment by the Tosafists appears in all standard printed versions of the Talmud.
- 45 Nahmanides, *Hiddushim al haShas* (Jerusalem, Or Olam, 1964), Yevamot 47b, s.v. *nitrape*.
- 46 Rashba, *Talmudic Novellae* (Jerusalem, 1975), Yevamot 47b, s.v. *nitrape*.
- 47 Spain, thirteenth century.
- 48 Cited in *Nimuke Yosef*, Yevamot, Chapter 4, s.v. *tanu rabbanan*.
- 49 Y. T. Ishbili, *Hiddushei ha-Ritba le-Masekhet Yevamot*, ed. R. A. Yefhen (Jerusalem, 1992), Yevamot, ch. 4, s.v. *shihui mitsva*.
- 50 Clearly, this construction of the significance of circumcision in the *giyyur* process does not and cannot apply to women proselytes. It should be noted in this context, that in Chapter 8 (pp. 159–62) we discussed at length an aspect of the *giyyur* ritual that was current from Geonic times until the fourteenth century, i.e. the shaving of the proselyte's hair and the paring of the proselyte's nails. As we explained in that chapter, the ritual of shaving the proselyte's body should be understood as detachment from a previous reality that is described as a reality of 'death'. This shaving, prescribed for the leper and included in the purification of the Levites and in *giyyur*, strongly resembles the meaning of circumcision in *giyyur* as we analysed it above – detachment from a previous negative identity as a preparation for entering a new holy existence.

The study of halakhic sources thus shows that there is a ritual parallel to the proselyte's circumcision – shaving bodily hair (and paring the nails). In some of the sources, this parallel pertains to both women and men. Yet, this ritual is more deeply rooted in regard to female proselytes, since it draws from the biblical model of the beautiful captive, as explained in rabbinical literature and in Nahmanides' commentary. Halakhic tradition, then, presents a model of female *giyyur* parallel to the basic structure of detachment from a previous identity and entrance into a new one. In male *giyyur*, this structure is actualized through circumcision, followed by immersion; in female *giyyur*, through shaving the head (and paring the nails), followed by immersion. Since the male *giyyur* ceremony is the paradigm, however, it is not surprising that the female parallel was not

preserved to a similar extent in halakhic tradition. Hence, circumcision is indeed a necessary condition of male *giyyur*, but this is not the case concerning the shaving of a woman proselyte's hair.

- 51 Rabbi and Rosh Yeshiva of Ponovezh (Lithuania), d. 1919.
- 52 Yitzhak Ya'akov Rabinowitz, *Zekher Yitzhak* (Jerusalem, Machon Yerushalayyim, 1990), section 31, p. 136.
- 53 Spain, Egypt and Safed, 1479–1573.
- 54 Radbaz (David ibn abi Zimra), *Responsa Radbaz*, Part 3, #479 [917]
- 55 We elaborate upon this below.
- 56 There is a Talmudic dictum that 'A Gentile who observes the Shabbat is liable for death' (Sanhedrin 58b).
- 57 Hebrew: *Yesh lo humrei yisrael ve-humrei goi*. See Rabbi Joseph Schwartz, *Diverci Joseph* (Jerusalem, Israel Bak, 1861), Vol. 3, #24.
- 58 Germany, 1798–1871.
- 59 In Sanhedrin 58b, this verse is midrashically applied to the ongoing activities of Gentiles and interpreted as obligating them not to cease from their toil.
- 60 Lemel's position is quoted in Rabbi Ettlinger's *Responsum* to him. Cf. Y. Ettlinger, *Responsa Binyan Zion* (Jerusalem, D'var Yerushalayyim, 1989), Vol. 1, #91.
- 61 Cf. Shabbat 137b.
- 62 Y. Ettlinger, *Responsa Binyan Zion* Vol. 1, #91.
- 63 It is nevertheless worth noting that in his view, circumcision is not merely a removal of Gentilehood, as appears from the Radbaz commentary, but also includes a positive dimension of 'covenant', which is not identical to the covenant of Torah and commandments between God and Israel.
- 64 Jerusalem, d. 1883.
- 65 Shalom Moshe Hai Gaguin, *Samah Nefesh* (Jerusalem, Levi, 1903), 14b.
- 66 Poland, 1859–1920.
- 67 Rabbi Joseph Engel, *Hosen Yosef* (New York, Feldheim, 1945), p. 34.
- 68 Rabbi Joseph Engel, *Beth Otsar*, Part 2 (Pieterkov, Kronenberg & Rosengarten, 1908), p. 19.
- 69 Sanhedrin 65b.
- 70 *Ibid.*
- 71 Engel succinctly repeats this analysis in *Gilyonei ha-Shas* (Jerusalem, HaMossad Le'Iddud Limudei HaTorah, 1997), Yevamot 46a, *s.v. ein ger ad she-yimol ve-yitbol*.
- 72 E. Y. Waldenberg, *Responsa Tsits Eliezer*, Part 10, #28.
- 73 Mishnah Pesahim 8.8, and parallels.
- 74 See nn. 11–13, above.
- 75 See: A. van Gennep, *The Rites of Passage* (Chicago, Routledge & Kegan Paul, 1961); Victor Turner, *Dramas, Fields and Metaphors, Symbolic Action in Human Society* (Ithaca, Cornell University Press, 1974); Mircea Eliade, *Rites and Symbols of Initiation: The Mysteries of Birth and Rebirth* (New York, Harper and Row, 1975).
- 76 Citations are from the passage by Engel quoted above.

- 77 This difference, however, might be less significant than the previous one, given that the court may be considered a representative of the entire Jewish people (c.f. Chapter 9).
- 78 See, for example, Brachot 31b.
- 79 Spain, thirteenth century.
- 80 B. Ashkenazi, *Shitah Mekubetset*, Nedarim 17a.
- 81 Salonika, 1500 – Safed, 1580.
- 82 M. b. J. Mitrani, *Responsa ha-Mabit* (Jerusalem, 1974), Part 1, #337.
- 83 1909–1995 (Israel).
- 84 Rabbi Saul Israeli, ‘Ger she-Nitgayyer ke-Katan she-Nolad: Tokhno uMuvano’, *Torah she-b’Al Pe* 29 (1988), 22–8, pp. 25–6.
- 85 Rabbi Goren (1917–1994) was Chief Rabbi of Israel during the years 1973–1983.
- 86 Rabbi Shlomo Goren, ‘Acceptance of a Proselyte Who Rejects Membership in the Jewish People’ (*Kefira b’Am Yisrael le-’Inyanei Giyyur*), *Shana b’Shana* (1983), 149–56, p. 150. See also Rabbi Eliyahu Bakshi-Doron, *Responsa Binyan Av* (Jerusalem, 1982), part 1, #22.
- 87 Cf. Maimonides, *Igrot ha-Rambam* (Epistles of Maimonides), Y. Shilat, ed., (Jerusalem, 1987), Vol. 1, p. 214.
- 88 See Shlomo ben Abraham Aderet, *Responsa ha-Rashba attributed to Nahmanides* (Jerusalem, 1990), #288, stating that the source of the obligation regarding observance of the Torah is ‘majority acceptance’. For a detailed discussion of this issue see Rabbi Judah ‘Ayash, *Responsa Beth Yehudah* (Livorno, 1746), Hoshen Mishpat, 1. And compare Rabbi Haim Hirschensohn, *Eleh Divrei haBrit*, Part I (Jerusalem, 1926), pp. 73–5, part 2 (Jerusalem, 1928) pp 120–2. And see the analysis of Hirschensohn’s position by David Zohar, *Jewish Commitment in a Modern World: Rabbi Hayyim Hirschensohn and his attitude towards Modernity* (Hebrew) (Tel Aviv and Jerusalem, Shalom Hartman Institute, 2003), pp. 169–76.
- 89 Shvu’ot 39a.
- 90 Compare Rabbi Joseph Dov Soloveitchik, ‘Kol Dodi Dofek’, in Bernard H. Rosenberg and Fred Heuman, *Theological and Halakhic Reflections on the Holocaust* (New Jersey, Ktav, 1992), pp. 81–9.
- 91 See Chapters 3 and 4 above.
- 92 See Chapter 4 above.
- 93 For an analysis of this position see Avi Sagi and Zvi Zohar, *Circles of Jewish Identity* (Hebrew) (Tel-Aviv, Hakibbutz haMeuchad Press, 2000), pp. 161–9. And compare the implications of the final clause of the Zoharic position (above, note 16) underlying Rabbi Jaffe’s explanation of *giyyur*.