

TWO ASPECTS OF JEWISH IDENTITY

by

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A public tumult was created not long ago in Israel when a fallen soldier of the Israel Defence Forces, a recent immigrant from the former Soviet Union, was buried at the edge of the military cemetery. His mother was a Christian, and neither she nor he had ever undergone any formal conversion ceremony. Because he was not Jewish, he was not buried among the Jewish soldiers.

No one who was offended by this decision argued that he was technically Jewish by virtue of patrilineal descent or some non-Orthodox conversion ceremony. In fact, the whole issue was argued viscerally. The young man had come to Israel to throw in his lot with the Jewish people; he fought as a Jew, was killed as a Jew, and deserved to be buried as a Jew.

To be sure, this argument resonated positively even among halakhically committed individuals, especially those who saw service in *Tsabal* (the Israeli Defence Forces) as part of their Israeli-Jewish identity. This was true despite the fact that allegiance to halakhic norms precludes accepting non-traditional definitions of Jewish identity. The nature of halakhic commitment demands subjugating personal feelings to objective halakhic requirements, but personal interrelationships can make it difficult to simply dismiss as a non-Jew someone who identifies Jewishly and either suffers as a Jew or works loyally on behalf of the Jewish community. We shall argue here that Halakha does not necessarily insist that such an individual has absolutely no Jewish identity, his or her halakhic standing as a non-Jew notwithstanding.

Some three decades ago the "Who is a Jew" debate had a very different face when Brother Daniel, a born Jew who apostatized and

entered the Christian clergy, sued the Israeli government for immediate citizenship based on the Law of Return. "Even a sinful Jew remains a Jew," he argued.

Virtually everyone cheered when the Israeli secular courts rejected his petition. Even the most secular Israeli was not prepared to grant Jewish status to a Christian monk. Yet there was an uncomfortable feeling that had the rabbinic courts had jurisdiction, they might have been forced to recognize his claim.

Arguing against this assumption, R. Aharon Lichtenstein wrote a seminal article showing that in theory Halakha allowed for the loss of Jewish identity, technical family lineage notwithstanding.¹ As people move away from traditional Jewish observance and allegiance, he noted, they increasingly lose halakhic standing as a Jew. They may be excluded from certain rituals which are generally limited to Jews, such as being counted for a minyan, and so on. Yet throughout this continuum, they remain Jews able to effect a valid marriage with other Jews. "[Yet the] important thing for us is to recognize the fatal fallacy of the notion that, *ad aeternitatem*, the crown of Jewry can never fall off, no matter how ill it is worn," wrote R. Lichtenstein.² At some point, it is possible to be so far removed from Jewry that one has no functional status at all as a Jew.

An important part of his presentation, the bulk of which we shall not attempt to summarize here, was to draw an analogy between the dual components of the uniqueness of the land of Israel and the corresponding dual attributes of Jewish identity. The land has a distinct holiness (*kedusbat Erets Yisrael*). The first hallowing of the land at the time of Joshua expired when the Jews were exiled; those *mitsvot* which depend on the sacred status of the land of Israel—tithing, for example—were not in effect during the Babylonian Exile. It was not until Ezra's return that the land regained its sacred status. What, then, was the status of the land in the intermittent period? Was it identical with that of, say, Iceland?

The answer offered by R. Lichtenstein, quoting the late Rav Joseph B. Soloveitchik, is to distinguish between *kedusbat Erets Yisrael*, the "holiness" of the land (which forces us to relate to it on a specific practical level with regard to many halakhot), and *shem Erets Yisrael*, the "name" of Israel (which simply describes it as an entity). The land might have lost

¹R. Aharon Lichtenstein, "Brother Daniel and the Jewish Fraternity," *Judaism*, 12:3 (Summer 1963), pp. 260-280. (Note also the "Communications" on the article and R. Lichtenstein's response, *Judaism*, 13:1 (Winter 1964), pp. 102-116.)

²"Brother Daniel," p. 269.

its *kedusba* (holiness) when its people went into temporary exile, but it nonetheless retained its *shem* (name).

What is true of the land is true of the people? Using the distinction between *shem* and *kedusba* in reconciling two apparently contradictory Talmudic texts regarding the status of an apostate, R. Lichtenstein concluded that a full and complete apostate may retain the *shem Yisrael* that he acquired at birth despite the fact that his *kedusbat Yisrael* might have expired as a result of his apostasy. On a functional level, "as [the apostate] has renounced Jewry, so Jewishness is divorced from him."⁴ But despite the fact that such an individual might have no personal standing as a Jew, *shem Yisrael* still leaves its impact: "Hence, he is [still] obligated to pursue a Torah life and, should he decide to return, he would perhaps require no new conversion."⁵

Apostates and their descendants may have lost their personal status as Jews,⁶ but, somehow, "should they return to the fold they would represent reformed prodigal children rather than fresh converts."⁷ In a sense, then, the status of full apostates and their descendants falls some way between Jew and non-Jew. On the one hand, they have no standing as Jews. For example, should they marry Jews, there is no need for a religious divorce. On the other hand, they have an obligation to reinvest their *shem Yisrael* with *kedusbat Yisrael*—and, by extension, Jews have an obligation to help them fulfill their responsibilities.

R. Lichtenstein's rich presentation allows us to understand how our gut rejection of Brother Daniel's claim of Jewishness is reconcilable with our commitment to the halakhic principle that even a Jew who sins purposes function as part of the land of Israel and for others do not (Rambam, Hilkhoret 1:4).

⁴R. Lichtenstein, "Brother Daniel," p. 268.

⁵"Brother Daniel," p. 267.

⁶R. Joseph B. Soloveitchik had quoted Rav Hayim of Brisk in the name of the Gaon of Vilna that a person who is totally assimilated to the point that he does not consider himself to be Jewish has *midioraita* lost his *kedusbat Yisrael* and is not considered Jewish. As to the question of whether a person who discovers his Jewish ancestral lineage must undergo a formal conversion or might simply "return," R. Soloveitchik quoted R. Hayim as saying it needed investigation. The Rav added that it seems to be a disagreement based on the Mishna at Sanhedrin 110b (Personal Reits *sheur* notes of Dov Erimet [unpublished], November 1, 1972).

⁷R. Lichtenstein, "Brother Daniel," p. 266.

remains a Jew. It also provokes a provisional exploration regarding other inter-relationships between *shem* and *kedusba*.⁸

Shem, the designation that one is tied to the Jewish people, persists even when *kedusba* is revoked,⁹ but a question remains as to whether it has a completely independent existence. Can *shem* be created independently or is it only a by-product of the emergence of *kedusba*?

With regard to the land of Israel, it seems clear that *shem Erets Yisrael* existed from the time of Abraham, long before Joshua's conquest endowed it with *kedusba*. The inheritance of Israel is a well-defined quantity. Abraham goes towards it; Isaac will not leave it; Jacob departs from it only after receiving God's assurance; the Jewish people know towards what they are marching.

King David had extended the borders of Israel to Syria by means of a halakhically valid conquest beyond those frontiers promised to Abraham. Yet this acquisition did not endow it with a full *kedusbat ba-arets*; in some ways it remained inferior to the rest of the land. Rambam [Maimonides] explains that David's process was faulty. His conquest should have followed the full conquest of all the land promised to Abraham. Had the correct sequence been followed, he rules, this additional land would have been identical with that of all of Israel.¹⁰ Radbaz [Rabbi David Abi-Zimra] demurs. Perhaps this additional land might enjoy the same status with respect to some specific halakhot, he writes, but certainly not with regard to full *kedusbat Erets Yisrael*, which can be established only on the land promised to Abraham.¹¹

Radbaz, then, seems to be arguing that *shem Erets Yisrael* is the soil in which *kedusbat ba-arets* takes root. Created independently through

⁸Needless to say, while the discussion in this article draws on R. Lichtenstein's presentation, no claim is being made that it is an indisputable conclusion of his position.

⁹Note a somewhat parallel position of R. Me'nashe Klein. He distinguishes between *kedusbat Yisrael*, which expires when one leaves a life of Torah and mitzvo, and *guf* (body of *Yisrael*), which persists by virtue of the biological fact that he is *mizera* (the seed of *Yisrael*) (*Mishneh Halakhot* 5:241, p. 334; see also 4:162 and 7:250). Interestingly, the late Chief Rabbi Benzion Uziel (*Mispatet Uziel, Euen Ha'ezet*, 19) noted that the Talmud (Megilla 25a) understands the phrase "Do not allow any of your offspring to be offered up to Molech" (Lev. 18:21) to apply to the child of a Jewish father and gentile mother. Therefore, he maintained, even though child is a non-Jew, it is *zar'o shel Yisrael* (Jewish progeny) and it is a *mizra* to convert the child even if the mother will not convert.

¹⁰Rambam, *Mishneh Torah*, Hilkhoret Terumat 1:3. Cf. Hilkhoret Melakhim 5:6.

¹¹Radbaz, Commentary to *Mishneh Torah*, Hilkhoret Terumat 1:3.

God's covenant with Abraham, it stands ready to be invested with *kedusba*. But the *kedusba* cannot fully take hold on territory not invested with *shem Yisrael*.

Rambam has not taken a totally opposite position. His point is not simply a procedural one, an argument that one must go through a fixed, ordered process before *kedusba* can be created elsewhere. Rather, he is arguing that without the capture of all of Israel, full sanctity has not yet evolved on that which had *shem Erets Yisrael* and therefore could not be extended to include Syria. Rambam and Radbaz might dispute the possibility of later extending full *kedusbat Erets Yisrael* to include that which had not originally had *shem Erets Yisrael*. But they are in agreement that the original *kedusba* could take root only in that which had already been endowed with the proper *shem*.

The analogy between land and people seems to extend here too. It seems that the status of the Jewish people before the covenant at Sinai was to have *shem Yisrael* without *kedusbat Yisrael*. The Jews certainly had identity as *benai Yisrael* while yet in Egypt; but upon their experience at Sinai they gained *kedusbat Yisrael*. The Baraita states that on leaving Egypt the Jews entered into the covenant through circumcision, immersion and ritual sacrifice.¹² But, as Tosaphot point out, those who had been circumcised from the time of Abraham "had done so to enter God's covenant and separate themselves from the other nations."¹³ Immersion was required to complete the process, but they had long before disengaged themselves from the other nations and acquired *shem Yisrael*.

A full apostate who had both *shem Yisrael* and *kedusbat Yisrael* retains the former while losing the latter through his defection from Judaism. But, even though the question was not addressed by R. Liechtenstein, we might ask if the possibility of separating *shem* from *kedusba* extends to an individual's conversion to Judaism. That is, when a non-Jew converts halakhically, does he or she acquire *shem Yisrael* first and only later acquire *kedusbat Yisrael*, or are both secured simultaneously? And, indeed, what practical halakhic difference does the answer make? The possibility of inheriting *shem* without *kedusba* is illustrated elsewhere in a *shevet* of R. Natfali Trop. Reconciling a number of positions, the details of which need not concern us here, he makes two observations.

¹²Keritur 9a, Cf. Rambam, *Hilkhot Issurei Bi'a* 13:1.

¹³Keritur 9a, s.v., *Dibbitu*. Note also Rambam [Nachmanides] to Lev. 24:10, "From the time of Abraham's entering the covenant, they were considered *Yisrael* and not gentiles (*goyim*)."

The first establishes that

... even those who would require conversion of a child born to a Jewish mother and non-Jewish father do not do so because they consider the child to be a complete non-Jew. Because in truth the child is a Jew, but one who lacks *kedusbat Yisrael*. . . . Conversion is necessary to invest the child with *kedusbat Yisrael*. And it would seem that this conversion does not require consciousness, because the child is obligated to come under the wings of the Shekhina because he is already a Jew. . . . [And, after the conversion, it remains related to the mother despite the fact that normally a convert is like a "newborn" without relatives] as the child was a Jew because his mother was a Jew and he has *yibus* [genealogical relationship] to her."¹⁴

The second deals with the status of a child born to a woman who had converted to Judaism while pregnant. The child requires no immersion, its mother's immersion during her own conversion sufficing for both. A male child requires circumcision. Given the halakhic impossibility of acquiring something of value (in this case Jewish status) for an embryo and the view that an embryo might have independent status from its mother thus requiring its own conversion, Rambam [Nachmanides] argued the possibility that the newborn child might not have Jewish status, and the circumcision might be unnecessary to complete his conversion (rather than simply because he is a Jewish male).

Yet male twins born in such a situation are considered brothers after the circumcision, contradicting the general principle that converts lose their relationship to those who were relatives before the conversion. Nevertheless, maintains R. Trop, this fact would not necessarily contradict the position that the circumcision was for the sake of conversion. Even according to that position, he asserted,

... the child would be Jewish as its mother is Jewish, although it lacks *kedusbat Yisrael*; it thus requires [both] circumcision and immersion to be a full Jew. . . . If its mother converted while pregnant, the embryo is also converted to a full Jew, albeit one requiring [completion of the] conversion

¹⁴R. Natfali Trop, *Hidushei Hagra'at Hasalem Al Sidrei Nashim-Nitztein* (Jerusalem: Orysoh, 5749 [1989]), no. 28 (regarding Ke'ubot 11a), p. 18. R. Trop seems to be suggesting that *kedusbat Yisrael* is inherited from the father—that it is lacking in this child—and *shem Yisrael* from the mother. This suggestion requires further investigation. What concerns us here is the theoretical possibility of a child being born with *shem Yisrael* but lacking *kedusbat Yisrael*. Note also the relevance of this source regarding the question of the status of an embryo transplanted from a non-Jewish mother to a Jewish host mother: R. Zelman Nechemia Goldberg, "Yihus Amahut beHashatala Ubar beRechem shel Aheret," *Tebunah*, vol. 5 (Alon Shevir, Israel: Zomer, 5744 [1984]), pp. 255f.

to grant it *kedushat Yisrael*. [And, after such a conversion, the child retains its former relationships.]

We have here, then, an interesting theoretical possibility: a person who has inherited a Jewish status of some sort but who nonetheless lacks *kedushat Yisrael*.

Interestingly, there is a clear halakhic construct supporting an argument that, at least on some levels, halakhic Jewish identity is attained in stages. *Mal velo ta'aval* (a would-be convert who was circumcised but who had not yet been immersed in a proper *mikveh*) is halakhically not a Jew. Should he marry a Jewish woman, no religious divorce is required. As Rashba [Rabbi Shlomo ben Adret] notes, it is the immersion which allows him "*likbanes* (to enter into) *be'kedusbat Yisrael*."¹⁵

Yet the Gemara had noted that an extra word in the biblical text is needed to exclude the permissibility of a *mal velo ta'aval* eating the paschal sacrifice. Rashba suggested that at first glance such an explicit exclusion was superfluous, as a *mal velo ta'aval* is a non-Jew who is already excluded. Yet, he continues, it really is needed because without this restriction one could have argued for allowing his participation, as

... inasmuch as [a *mal velo ta'aval*] was circumcised *leshem Yabadi* (for the purpose of becoming a Jew), even though his conversion is not yet completed, he has already started [the procedure] and has entered the Jewish religion to some extent (*nibnas ketsat be'at yebudh*), needing only immersion [to complete the process].¹⁶

R. Yaakov Kaminitzsky explains:

[Rashba] did not indicate what type of Judaism he acquired. Based on Ramban [to Genesis 17:4], we could have argued that inasmuch as Abraham had left the other nations on the basis of his circumcision and thereby became Jewish, then—because Passover is basically a national and state holiday—anyone who had *sheim Yisrael* could celebrate the holiday with us. Therefore the text had to tell us that he must be a full Jew, that is [one who has been] circumcised and immersed.¹⁷

R. Eliezer Yehuda Waldenberg likewise notes that "we have a new category regarding the actual status of one who is *mal velo ta'aval*. He is *sui*

¹⁵Rashba, Commentary to Yevamot 47b.

¹⁶Rashba, Commentary to Yevamot 71a.

¹⁷R. Yaakov Kaminitzsky, *Emet leYakov al haTorah* (New York, 5746 [1986]), commentary to Genesis 17:4, p. 61.

¹⁸¹⁸ An admittedly surprising decision of *Dovev Metsbartm*¹⁹ *genets* illustrates how profound a change in the convert is brought on by the initiation of the conversion process. He notes (quoting R. Hai Gaon) that a non-Jewish male has no *yibnus* with any children he might father with a Jewish woman; that is, he cannot establish a halakhic lineage relationship with these children. Thus, the child of a Jewish mother and a gentile father is Jewish because the child has *yibnus* to the Jewish mother but not to the gentile father. (The child of a gentile mother and Jewish father is non-Jewish despite the fact that his father has *yibnus* because of a *gezeitat bakatuv*, an explicit biblical ruling.²⁰)

But, he continued, the child of a Jewish mother and a gentile father who is *mal velo ta'aval* should be considered a *non-Jew*! While the father is still unquestionably a non-Jew, the initiation of the halakhic process has transformed him into a person who can establish *yibnus*. His standing remains that of a gentile and it is that status which he is now able to transfer to his child. (Presumably, the son has the same status as the father and would require only immersion to complete the conversion process. Circumcision would then be required because of the child's Jewish status.) The *mal velo ta'aval* would have attained some of the "existential qualities" of a Jew, if you will, without having obtained Jewish status.

In any event, we see that in some way the *mal velo ta'aval* acquires a degree of Jewish national identity without yet becoming a Jew. We can describe the situation as his having secured *sheim Yisrael* but not *kedusbat Yisrael*. Notwithstanding the fact that from a practical halakhic perspective we may not count him in a minyan or recognize his marriage to a Jewish woman, we—with the clear acquiescence of Halakha—in some ways recognize him as "one of ours" even before the additional formalities are completed. Thus, R. Waldenberg endorsed drawing on this comment of Rashba to allow treating a sick *mal velo ta'aval* on Shabbat as if he were a Jew.²¹ and R. Kaminitzsky noted that we might be able to include the *mal*

¹⁸R. Eliezer Yehuda Waldenberg, *Responsa Tsits Eliezer*, volume 10, responsuum no. 25, p. 108, column 1. (An apparent printer's error results in the source being mistakenly listed as Rashba to Shabbat 71a.)

¹⁹R. Dov Berish Weidenfeld (the Tschebiner Rav), *Responsa Dovev Metsbartm*, (Jerusalem, 5743 [1983]), part 1, responsuum no. 7, pp. 8-10. This position is disputed by R. Meshulam Koth, *Responsa Kol Mevaser* (Jerusalem: Mosad Hakav Kook, 1972), part 1, responsa no. 23, pp. 73-78.

²⁰Kidushin 68b; Yevamot 17a.

²¹R. Eliezer Yehuda Waldenberg, column 2.

added before *birkbai bamazon*, the "Grace" after meals, even though he is not yet fully Jewish.²² It is from eating the paschal sacrifice that he is excluded by the Gemara, not necessarily everything else.

Shem Yisrael, it would seem, is acquired at the time of circumcision; yet before Sinai the women too had clearly acquired *shem Yisrael*. One might therefore argue that it is not the circumcision itself that confers *shem*, but the commitment that leads one to the circumcision. Consider, for example, the fact that a gentile may not observe Shabbat; indeed, to do so is to commit a capital offense. "The Sabbath is 'between Me and the children of Israel' (Exodus 31:13)," explains the Midrash Rabbah.²³ "Therefore, a gentile who comes and intrudes between them [by observing the Sabbath] before *accepting* circumcision deserves the death penalty."

The commitment to convert does not change the gentile into a Jew; that requires circumcision and immersion. But the *acceptance* is sufficient for removing him from the category of intruder between God and His people. This would be because, as Taz codifies it, "accepting *mitsvat badavaar*" and its beginning; circumcision and immersion is the completion of the process."²⁴

There are two dimensions to the conversion process: identifying with both the historical fate of the Jewish people and its religious destiny—*brit goral* and *brit yet-ud*, respectively, in R. Soloveitchik's formulation.²⁵ Circumcision represents accepting the *brit* (covenant) of the *goral* (historical fate) of the Jewish people; immersion the acceptance of its *yet-ud* (destiny).²⁶ But the identification with Israel's historical fate actually occurs immediately *preceding* circumcision, when the would-be convert

appears before the *beit din*:

If at the present time one desires to become a convert, he is to be addressed as follows: "What reason have you for desiring to become a convert? Do you not know that Israel at the present time is persecuted, oppressed, despised, harassed and overcome by afflictions?" If he replies, "I know and yet am unworthy," he is accepted immediately and is given instruction in some of the major and some of the minor commandments [and basic philosophical issues]. If he accepts them he is circumcised *immediately* [and then later immersed].²⁷

The term "*mal velo taava*" is used to describe such individuals because as a practical matter a male candidate's circumcision follows *immediately* after his acceptance by the *beit din*. But this does not affect the ruling in a well-known case of a woman who had accepted Torah and *mitsvat* but died before being immersed in a *mikveh*. "Despite this, they made shrouds and a casket for her, the *bazan* of the synagogue [eulogized her], and she was buried among the Jewish graves."²⁸ Without further comment, *Kol Bo al Aveilut* extends the same ruling to a parallel situation of a man who died after publicly accepting Judaism but before being circumcised, and even seems to suggest that it is sufficient that he simply be public knowledge that "he has accepted the Jewish faith in his heart and with his lips, and that he has repudiated his former faith."²⁹

... it is not the immersion which makes [the convert] into a Jew. . . . Rather, we must say that the law is that since he has already been made into a Jew [by accepting *mitsvat*], he must undergo immersion [in a *mikveh*] and circumcision as Jews. It is not the immersion which makes him into a Jew.

²⁷Yevamot 47a-b. See also Rambam, *Hilbot Issurei Bi-a*, 14:1-5, and *Shulhan Arukh*, Yoreh Deah 268:2.

²⁸Abraham I. Gaijano, *Responsa Tseror bakeseif* (Salonika, 1756), Yoreh Deah, responsa no. 18. This ruling is quoted in R. Daniel Tirani, *Ikaret Dinim* (Sudilkay, 1835), part one, Orah Hayim, no. 40 (where the words "eulogized her" are added). R. Hayim Elazar Shapira, the Munkatcher Rebbe, argues that "reason cannot tolerate [a *mal velo taava*] being buried in a gentile cemetery," but leaves open the question of how close he can be buried to the other Jewish graves in the Jewish cemetery. (*Responsa Minhat Elazar* [Brooklyn, NY: Gross Brothers, 5734 [1974]], part three, responsa no. 8, p. 7.) *Tseror bakeseif* and *Ikaret Dinim* note no restriction on the location of the grave in the Jewish cemetery.

²⁹R. Yuku'el Yehuda Greenwald, *Kol Bo al Aveilut* (New York: Feldheim, 1965), volume 1, p. 190, n. 21. This is not to suggest that the final conversion could be attained without the judicial presence of a competent *beit din*, but rather raises the possibility of being able to attain *shem Yisrael* without a formal appearance before a rabbinic court.

²²R. Kamincisky, *Emet LeYaakov*.

²³Midrash Rabbah to Deut. 1:21 (in some editions, 1:18).

²⁴David Halevi, *Turei Zabav* (Taz) Commentary to *Shulhan Arukh*, Yoreh Deah 268:3, n. 9. The whole conversion process is a judicial event, necessitating that it be conducted only in daytime. But, *bedavaad* (*post factum*), the immersion can be performed at night, if [Rabbenu Asher] had quoted a similar wording in the name of R. Meir in his commentary to Yevamot (chapter 5, n. 31).

²⁵Joseph B. Soloveitchik, "Kol Dodi Dolek," in Pinchas Peli, ed., *Besod bayabid vebayabad* (Jerusalem: Oron, 5736 [1976]), pp. 331-400.

²⁶"Kol Dodi Dolek," pp. 384f.

but because now that he must take upon himself the *mitsvat*, he must now observe the *mitsva* of immersion. And the fact that he was made into a Jew is of no avail if he doesn't immerse or circumcise himself, as a Jew must observe *mitsvat* and he would be a Jew without *mitsvat*. Thus, if he did not circumcise himself or immerse, he would not be a Jew. It follows that he is obligated in immersion because of the fact that he is a Jew.³⁰

The convert cannot attain *kedusbat Yisrael* without a commitment to *mitsvat*. (After all, we recite in every *berakba* "asher *kedasbanu bemitsvotav* [Who granted us *kedusba* through His *mitsvot*.]) But a complete identification with the historical destiny of the Jewish people might well bring candidates for conversion what we have termed *shem Yisrael* even before they would be able to function as a Jew in, say, contacting a halakhic marriage. And, in attaining this status, they may have already acquired the obligation to observe Shabbat³¹ and the obligation to complete their conversions.³²

The specific details of the halakhot of such incomplete converts are not our concern here. We certainly extend to them greater consideration than we would an apostate who also has only *shem Yisrael*. Halakah takes note of process too, and people moving away from the Jewish community are not to be equated with incomplete converts moving towards a life of Torah. How to treat the latter when they are seriously ill on Shabbat, where to bury them when they die, whether they can or should observe Shabbat, whether their handling wine renders it ritually unfit, whether a formal appearance before a *beit din* is required to establish this status, whether they are obligated to complete their conversion, and so on all require an individual halakhic analysis—just as a political decision on extending to them benefits of the Israeli Law of Return would require a public policy debate.

But—to cite a current concern as a telling example—there is no contradiction between a halakhic position that maintains that, say, Ethiopian Beta Israel might require a full halakhic conversion and yet insists that the Jewish community and its State have an obligation to save

³⁰R. Shlomo Polachek, *Hidushei binyan meMetsibet*, Yehuda Leib Goldberg, ed., (Haifa: Makhon leHeker Kivvei haKrambam, 5749 [1989]), section 12, pp. 41f.

³¹For a summary of the celebrated debate concerning whether a *mal velo laval* may or should observe Shabbat, see J. David Bleich, "Observance of *Shabbat* by a Prospective Proselyte and by a *Ger sheMal velo Taval*," *Tradition*, 25:3 (Spring 1991), pp. 46–62.

³²Note, in addition to R. Polchek's comments, R. Trop's above comment that a Jewish child born without *kedusbat Yisrael* is obligated to complete the conversion.

them and bring them to Israel. "Even if they are not Jews according to *din* [halakhic law]," writes the late R. Moshe Feinsein, "nevertheless, inasmuch as they consider themselves to be Jews and sacrifice themselves because of their Jewishness, one is obligated to save them."³³ We have here, one might argue, a simple definition of *shem Yisrael*: publicly considering oneself to be Jewish to the exclusion of any other community, and sacrificing oneself because of one's assumed Jewishness.

Jews who totally renounce their identification with the Jewish community forfeit their *kedusbat Yisrael* while retaining their *shem Yisrael*. And gentiles who identify fully with the Jewish community and its destiny to the exclusion of other religious communities might acquire *shem Yisrael* before they have completed the full process which grants *kedusbat Yisrael*. Such individuals have no personal functional halakhic standing as Jews; their marriage to a Jew would require no religious divorce. Nonetheless, they have definite legitimate claims on the Jewish community, although, as we said, establishing the limits of those claims is not our practical undertaking here.

It is in this category of *shem Yisrael*, I suspect, that we should search for a reconciliation of a halakhic commitment that demands full halakhic conversion and our gut reaction that we identify with specific individuals who lived and identified as Jews despite halakhic deficiencies in their Jewish status. But this tentative exploration requires further investigation.