**The Cases of Brother Daniel and Benjamin Shalit**

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1. **Law of Return:** Every Jew has the right to come to this country as an oleh.
2. **Talmud, Sanhedrin 44a )Recall debate from last week)**

"Israel has sinned." Rabbi Abba bar Zavda said: Even if he sins – he is Israel.

1. **Ruth 1:16**

But Ruth said, “Do not urge me to leave you or to return from following you. For where you go I will go, and where you lodge I will lodge. Your people shall be my people, and your G-d my G-d.

1. **Talmud, Yevamot 47a**

Our Rabbis taught: If at the present time a man desires to become a proselyte, he is to be addressed as follows: 'What reason have you for desiring to become a proselyte; do you not know that Israel at the present time are persecuted and oppressed, despised, harassed and overcome by afflictions'? If he replies, 'I know and yet am unworthy', he is accepted forthwith, and is given instruction in some of the minor and some of the major commandments.

1. **Justice Cohn’s Decision in *Shalit*,** The Concept of "Religion" in the Supreme Court of Israel Aaron R. Petty

"[I]t is immaterial whether by virtue of instructions or directives he received from the Minister of the Interior, or out of his abundant knowledge of the law or his erudition in the Talmud and the Poskim, the registration officer knows (or thinks he knows) with certainty what is or is not the 'nationality' of the person concerned." Cohn, in accordance with views on subjective identity he expressed in Rufeisen, held that "the notification of the Jewish 'nationality' of the petitioners' children was given bona fide since the petitioners believe with perfect faith that their children's nationality is Jewish, and the contrary directives of the Minister of the Interior certainly cannot bind them."

1. **Boundaries of Belonging in Israel: Conversion in Israel’s Law of Return, by Tiffany Pransky**

Justice Silberg eloquently posed the question in more personal terms, asking whether the petitioner, whom he called Brother Daniel (instead of Father Daniel), can "be denied the burning desire of his life to be completely identified with the people which he loves and to become a citizen of the land of his dreams, not as a stranger . . .but as a Jew coming home?" … Justice Silberg's answer to this question was a clear and resounding yes. Yes, he could be denied. Justice Silberg concluded that the one thing all Jews across the "spiritual rainbow" in Israel share is that they "don't cut themselves off from the historic past nor deny their ancestral heritage," which Brother Daniel had done by converting to Christianity…" …. By the act of conversion, Brother Daniel left the Jewish people. Citing the founding fathers of Zionism… Justice Landau also concluded that a Jew who changes his religion "cuts himself off from the national past of his people and ceases thereby to be a Jew in the national sense to which the Law of Return gives expression." Thus, he disagreed with Brother Daniel's claim that his religious views did not affect his national belonging. By changing his religion, "he has erected a barrier between himself and his brother Jews”… This, he claimed, is the "feeling of the overwhelming majority of the Jews of today."

1. **Maimonides, Responsum 293 to Ovadiah the Ger**

The essence is that Avraham taught the nation and gave them insight and informed them of the true religion and the oneness of Gd, and he rejected idolatry and destroyed its service and brought many beneath the wings of the *Shechinah*, and he taught them and guided them and instructed his sons and household after him to guard the path of Gd… Therefore, anyone who converts, to the end of the generations, and any who unify the Name of Gd as it is recorded in Torah, is a student of Avraham Avinu, and they are all part of his household, and he brought them to the good. Just as he brought those of his generation with his speech and teaching, so he brought all who will convert, with his command to his children and his household after him. So Avraham is the father for his kosher children who walk in his ways, and the father for his students, and any who come to convert…

1. **Solomon Freehof, Modern Reform Responsa #28**

…conversion to Judaism is meant to go further than conversion, for example, to Christianity. It is possible for the Christian church to convert thousands of Hindus, Congolese, or Chinese to Christianity, and these converts become simply members of the same religion. But in Judaism the convert is described as newborn child. He is, as it were, reborn into the Jewish family. You might say that at least symbolically he not only is a member of the Jewish religion, but becomes also a part of the Jewish people. That is why Maimonides told Obadiah the Proselyte that in his prayers he may without hesitation say: “Our G-d and G-d of out fathers,” because even if he has no Jewish father in the generation immediately behind him, Abraham is now his father. His is a member of the family.

1. **Rabbi Aharon Lichtenstein, Leaves of Faith Vol. 2, pg. 64**

The solution to the dilemma lies in the clear realization that we are dealing with two types of apostates. The term employed in Scriptures to refer to an apostate is *ben nekhar*, an alien, and the essence of apostasy is indeed estrangement and dissociation. This alienation may take two forms, however. There is, first, an apostasy of action, a *ben nekhar* described by the phrase*…* "one whose actions have become alien to his Father in Heaven."… There is, however, a second *ben nekhar*. There is an apostasy not of action but of person, an estrangement manifested not merely by the commission of various sins but by the complete severance of personal bonds with Jewry; by total alienation from the Jewish people and its history as a spiritual and physical community; and finally, by thorough assimilation into the mainstream of Gentile society.

1. **Rabbi Aharon Lichtenstein, Leaves of Faith Vol. 2, on Christianity**

The idolatrous *meshumad*… would ordinarily have been a devotee of one of the numerous pagan deities whose worship flourished in the Near East during the early centuries of the Christian era. As such, he might have participated in certain rites… However, he would not have considered this attachment exclusive, nor would he have been expected to… With Christianity, however, the case is radically different. From the outset, it has been, like its parent, sharply exclusive…

1. **Ibid, on the “increased prominence of ‘Who is a Jew?’” in the age of the State of Israel**

As long as the Jew was in the Galut, continually bludgeoned and harassed, he generally had neither the leisure nor the inclination to define himself.… With the advent of the state, however, the situation has changed somewhat. With Innocent III, Chmielnicki, and Hitler no longer on one’s back, it suddenly became easier to forget both that one was Jewish and what Jewishness meant. On the one hand, the maintenance of Jewish consciousness became a problem. And on the other, the task of determining “Who is a Jew?” became a much more pressing need.

1. **Ibid on “Who is a Jew”**

The moment we ask whether, halakhically, a meshumad is considered a Jew, we realize that the question – and the larger one of “Who is a Jew?” – admits of no simple answer. A meshumad – of what type? A Jew – for what purpose?

1. **Ibid, on “How to understand Apostates?”**

Let us ask ourselves a simple question: Are these estranged figures truly full-fledged Gentiles with no vestige of Jewishness whatsoever? Or, to be more specific: Theoretically, ought they to be acting as Jews, or are they, like true Gentiles, wholly relieved from any responsibility for a Torah discipline, so that they are absolved – not because of duress and incapacity but as non-Jews – from any guilt for their failure to maintain it? Or again, suppose that one of these lost souls, or one of their descendants, should subsequently want to “convert” to Judaism. Even if he, and everyone else, were totally ignorant of his Jewish origins, would he – again, theoretically – remain a full-fledged Gentile until he had undergone the regular process of conversion? Instinctively, I think, we feel that these aliens are not simply like Russian Cossacks or Mexican mestizos. We feel that halakhic obligations are relevant to them, and that, should they return to the fold, they would represent reformed prodigal children rather than fresh converts. What of their total alienation and their loss of personal status, however?... *[Comparison to sanctity of Israel*] As an epithet, the term “Jew” remains applicable to any individual who was ever endowed with Jewish status – even to a meshumad. Hence, he is obligated to pursue a Torah life, and should he decide to return, he would perhaps require no new conversion. However, if we ask whether a meshumad has anything of…personal status of a Jew, the answer is a ringing no. He remains a Jew without Jewishness. What he retains is simply the descriptive epithet: shem Yisrael. Of kedushat Yisrael, however – of the sacredness of the Jewish personality, that which essentially constitutes being a Jew – he is bereft…As he has renounced Jewry, so Jewishness is divorced from him…**Even then, his physical roots in the community are sufficient to make him liable for all obligations and to keep the door open for his return.**

1. **Shulchan Aruch Yoreh Deah 159:2**

One may lend to a *mumar* for interest, but one may not borrow from him for interest. Rama: Some are also strict regarding lending to him; it is good to be strict, if one can avoid it.

1. **Rambam, Mishneh Torah, Hilchot Maaseh haKorbanot 3:2, 3:4**

2: We accept only burnt offerings from *akum*. We do not accept any offering from a Jew who is a *mumar* for idolatry, or who descerates Shabbat publicly. Even the burnt offering we would accept from non-Jews, we won't accept from this *mumar*…