

"L'identité juive à l'époque modern," *La Terre sainte* (n. 604, 75/6), 314-323.

### Jewish Identity in the Modern Age

Among the most complex questions in Jewish life today are those that touch upon identity: what or who is a Jew? A Jew, according to religious, rabbinic law, is the child of a Jewish mother or someone who converts to Judaism and is recognized as a Jew by a religious court. Is the Jewish people today primarily a religious reality? It would be undoubtedly true to speak of the Jewish people as a religious reality up to the beginning of the nineteenth century. *Halakha* (Jewish religious practice)<sup>1</sup> defined Jewish identity to a very large degree. However, modernity not only shattered the unity of practice at the heart of traditional Jewish identity through the emergence of different streams of Judaism (ultra-Orthodoxy, modern Orthodoxy, Conservative Judaism, Reform Judaism, etc.) but also led many Jews to reject traditional religious practice altogether. Reform movements in Judaism introduced great diversity within the Jewish understandings of the *halakha* and created the plurality of Jewish currents that no longer agree upon *halakhic* principles. Even more importantly, many Jews began to disregard *halakha* altogether, both religious practice and the beliefs that underpinned it, as decisive for Jewish identity. Whereas one part of the Jewish people (a minority) has continued to see the *halakha* as the central cohesive element of Jewish identity, many modern Jews see *halakha* as an impediment to life in the modern world. This has led to a radical reformulation of Jewish identity where the religious element is only one part of what defines a modern Jew. Rabbi David Hartman, one the leading contemporary Jewish educators and intellectuals in Israel, explains:

One of the salient features of modern Jewry is the lack of consensus about what constitutes membership in the Jewish people. The impact of modern history on Jewish life has led to the gradual disintegration of the organizing frameworks which defined the Jewish community both internally, in terms of standards of membership, and externally, in terms of relations with the outside world (...) Are there fundamental beliefs and practices that define the community of Israel, or is the willingness to identify with Jews sufficient? The once assumed connection

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<sup>1</sup> *Halakha* (literally "walking") is the extensive and detailed code of norms that defines both the legal and the relational parameters of daily Jewish life.

between minimal faith and membership in the Jewish people can no longer be taken for granted with respect to the majority of Jews.<sup>2</sup>

Matters are not made simpler by the fact that there are no universally recognized authorities in the Jewish world. No one rabbi, community leader or current of Judaism can claim to represent all Jews or Judaism as a whole. Jews today are characterized by a bewildering diversity that defies attempts at simple definitions. This diversity is not only in the ways that religious traditions are observed but also in the ways that religious traditions might be completely ignored. Furthermore, it often seems that religion is more an element of division among Jews today than an element of cohesiveness.

Whereas there is little agreement among Jews today as to what constitutes a Jew, I suggest that two important elements in the identity of the contemporary Jew have emerged in modernity: peoplehood and history. These two elements might be even more decisive than religion in unifying Jews today. Whereas the element of *Torah* (God's Word of Law or Teaching) was at the core of identity in former times, today the concepts of 'Am (People) and Aretz (Land) have largely overshadowed *Torah*. Mordecai Kaplan, a prominent 20<sup>th</sup> century American Jewish thinker, proposed the reformulation of Judaism in modernity not so much as a religion as a civilization. According to his influential *opus*, *Judaism as a Civilization* (1934), rootedness in Jewish history and the reconstitution of the Jewish people as a nation in Palestine (he was writing before the creation of the State of Israel) were among the elements that would preserve Jewish identity:

Judaism as otherness is thus something far more comprehensive than Jewish religion. It includes that nexus of a history, literature, language, social organization, folk sanctions, standards of conduct, social and spiritual ideals, esthetic values, which in their totality form a civilization.<sup>3</sup>

Many contemporary Jews put belonging to a people and sharing a history before their religious, spiritual identity. Moreover, many Jews insist that they are defined not only by the ancient contours of Biblical Israel and the systematic formulations of Rabbinic Judaism

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<sup>2</sup> D. HARTMAN, *Israelis and the Jewish Tradition* (New Haven, Yale University Press, 2000), 12-13.

<sup>3</sup> M. KAPLAN, *Judaism as a Civilization* (1934) reedited (New York, Schocken, 1967) 178.

but also by the experiences of the past centuries, culminating in the Shoah and the creation of the State of Israel in the 20<sup>th</sup> century.

One contemporary Jewish thinker, Emil Fackenheim, has suggested that a Jew today is inescapably defined by the experience of the Shoah:

A Jew today is one who, except for an historical accident – Hitler’s loss of the war – would have either been murdered or never been born.<sup>4</sup>

The provocative character of this definition of who is a Jew implies that Jewish identity has been imposed on the Jew by a hostile world. Zionism, the ideology of Jewish nationalism that led to the declaration of the State of Israel, has attempted to counter this extraneous imposition of identity in more positive terms and it has also left an indelible mark on many Jews in the period after the Shoah. Abraham Joshua Heschel, American Jewish philosopher and social activist, wrote shortly after the 1967 War:

The State of Israel is not only a place of refuge for the survivors of the Holocaust, but also a tabernacle for the rebirth of faith and justice, for the renewal of souls, for the cultivation of knowledge of the words of the divine (...) The land presents a perception which seeks an identity in us. Suddenly we sense coherence in history, a bridge that spans the ages.<sup>5</sup>

Heschel’s terms are clearly religious and spiritual. However, Shlomo Avineri, one of the State of Israel’s most important political philosophers, has underlined that Zionism constituted a revolution for Jewish identity:

Zionism was the most fundamental revolution in Jewish life. It substituted a secular self identity of the Jews as a nation for the traditional and Orthodox self-identity in religious terms. It changed a passive, quietistic and pious hope of the return to Zion into an effective social force, moving millions of people to Israel. It

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<sup>4</sup> E. FACKENHEIM, *To Mend the World* (New York, Schocken, 1982) 295.

<sup>5</sup> A.J. HESCHEL, *Israel an Echo of Eternity* (New York, Farrar, Straus and Giroux, 1967), 122.

transformed a language relegated to mere religious usage into a modern, secular mode of discourse of a nation-state.<sup>6</sup>

Israel was established in 1948 as “a Jewish state” and its *Declaration of Independence* explicitly states that it is “open for Jewish immigration and the Ingathering of the Exiles”. One of the first laws enacted by the State, in July 1950, the *Law of Return*, facilitated the immigration of Jews from all over the world to Israel. These immigrant Jews (referred to as “*olim*” – those who were ascending) were accorded immediate citizenship in the new state. The then Prime Minister, David Ben Gurion, introduced the law, explaining:

This law lays down not that the State accords the right of settlement to Jews abroad but that this right is inherent in every Jew by virtue of his being a Jew if it be his will to take part in the settling of the land. This right preceded the State of Israel, it is that which built the State<sup>7</sup>.

In the six decades that have followed the promulgation of the law, the question has been repeatedly posed: "Who is a Jew?". In March 1958, the then Minister of Interior Israel Bar Yehudah published instructions that directed the state apparatus to recognize “a person who claims in good faith to be Jewish, with no further questions asked”. The ensuing political debate finally led to the upholding of the primacy of the Jewish religion in questions of personal status including the question of who belonged to the Jewish people.

In Israel, citizens are registered according to national identity (*le'om*) and “Israeli” is not among the possibilities. Jews are registered as Jews, Arabs as Arabs and there are, according to a recent count, 133 other possible registrations. Most of the non-Jewish immigrants to Israel in recent years are registered as Russians, Ukrainians, etc. or without nationality. Does Israeli law base its definition of Jewishness on Jewish religious law? If so, which current of contemporary Judaism defines the contours of what is a Jew or who can become a Jew? In a series of legal cases the Law of Return was debated and amended throughout the decades that followed its promulgation.

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<sup>6</sup> S. AVINERI, *The Making of Modern Zionism* (New York, Harper Books, 1981), 13.

<sup>7</sup> Cited in “Law of Return,” *ENCYCLOPAEDIA JUDAICA*, Vol. 10, 1486.

The original Law of Return defined a Jew as the offspring of a Jewish mother. An important amendment, legislated in 1970, extended the category of those eligible to receive immediate citizenship to include Jews, their children, their grandchildren, their spouses and the spouses of their children and grandchildren. However, Jews who had explicitly converted to another religion were excluded from those who had the right to immediate citizenship<sup>8</sup>. This clearly contradicted Jewish religious law, which gives no legitimacy or recognition to the rites of other religions that might make a Jew a Christian, a Muslim or a member of any other religion. What about Jews who had never converted to another religion but practiced rituals or held beliefs that were supposedly incompatible with the Jewish religion?<sup>9</sup> And what about non-Jews who converted to Judaism?<sup>10</sup> What about Jewish men married to non-Jewish women who sought to have their children recognized as Jewish?<sup>11</sup> What about those claiming to be Jewish but unable to produce any documentation to bear out this identity?<sup>12</sup> Recently, there has also been much discussion in the Jewish and Israeli press about the descendants of Jews who were pressured into converting out of the faith. Are their descendants to be considered Jews and eligible, thus, for Israeli citizenship?<sup>13</sup> The complexity of Jewish identity and the criteria for Israeli citizenship have not yet been fully unraveled.

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<sup>8</sup> Part of the background to this amendment is the case of Brother Daniel Rufeisen, a Polish Jew converted to Christianity, who became a Carmelite monk. Arriving in Israel in 1959, he was refused immediate citizenship because he was a Catholic despite his insistence that he considered himself Jewish in terms of nationality. He appealed to the Israeli High Court of Justice, which in 1962 ruled that for the purposes of the Law of Return, Brother Daniel could not be considered a Jew. The subsequent amendment to the Law stated that someone who had converted to another religion could not be considered a Jew for the purposes of the Law of Return.

<sup>9</sup> Notably, this is the issue with Jewish believers in Jesus, calling themselves “Messianic Jews” or “Jews for Jesus”. The Israeli High Court ruled against Eileen Dorflinger (in 1978), the Beresfords (1989 and 1992), and other families seeking Israeli citizenship under the Law of Return. The Court claimed they were in fact Christians although they insisted that their belief in Jesus did not constitute a Christian identity.

<sup>10</sup> Conversions to Judaism performed by non-Orthodox rabbis in Israel are not recognized in Israel. Conversions by non-Orthodox rabbis outside of Israel are recognized though. In a recent High Court decision in Israel (March 2005), Israeli residents who go overseas to be converted are recognized as Jewish by the State of Israel.

<sup>11</sup> Major Benjamin Shalit appealed to the High Court in order to have his children by his non-Jewish wife recognized as Jewish by the State. The decision of the Court was circumvented by the Knesset (Parliament) that passed a law in 1969 insisting on Jewish identity only by matrilineal descent.

<sup>12</sup> This is a problem in those countries where there has been no organized Jewish community life. For example, the Jews in the USSR, who for generations lived under Communist rule and mostly did not marry in religious ceremonies, circumcise their children or perform any other type of Jewish ritual.

<sup>13</sup> For example, the Ethiopians known as Falasha-Mura, converted to Christianity decades ago and now claim that this conversion was under duress, are seeking to immigrate to Israel. Likewise, Jewish ethnographers have supposedly identified pockets of descendants of Marranos, Jews converted under duress during the Inquisition in Spain in the 14<sup>th</sup> and 15<sup>th</sup> centuries.

These complexities have been simmering just under the surface in the State of Israel since its foundation. In fact, there have always been non-Jews among the Jewish immigrants to Israel (non-Jewish spouses, children or other close relatives), however little attention was paid to them in the past and they tended to assimilate themselves into the secular Israeli population. There is an identifiable tension in Israeli immigration politics between the desire to preserve traditional Jewish identity and the perceived need to seek new immigrants who can be identified as Jewish in order to assert a Jewish demographic majority with regard to the Arabs in the State of Israel. Whereas US and West European Jews seem to be satisfied to remain where they were and most Jews from Arab countries had already moved to Israel by the end of the 1950s, the USSR has been looked on as offering great potential for finding new Jewish immigrants. However, this has also meant a great challenge to defining Jewish identity.

One of the ways in which the State of Israel celebrates its Independence Day is by publishing the official statistics of Israel's population. This year, 2009, the Israeli Central Bureau of Statistics announced that Israel's population had reached over 7.4 million. 20.2% of the population was made up of Arabs, which does not include the Palestinian Arab residents of the West Bank and Gaza Strip<sup>14</sup>. 320 000 (4.3%) are defined as "Others", being "new immigrants who are not registered as Jews by the Ministry of the Interior". According to official statistics, Israelis are identified primarily as either Jews or non-Jews. Until 1995, the non-Jews were almost all Arabs (Muslims, Christians and Druze). In the 1990s, as Israel witnessed the arrival of about 1 million immigrants from the countries of the ex-Soviet Union, these two neat demographic categories of Jews and non-Jews no longer reflected the complexity of Israeli society. To all intents and purposes, a new category of Israeli citizen was created: the non-Jewish Jew: an Israeli who lives as a Jew (within Hebrew-speaking Jewish society) but is not recognized as a Jew by the Jewish religious authorities in the State of Israel. Less than 10% of these "Others" are explicitly registered as Christians whereas more than 90% have no declared religious identity. Of these 320 000 "non-Jewish Jews", 78% are of Russian origin, 3% are of Ethiopian origin and 2% are of Rumanian origin. These figures do not include the tens of thousands of foreign workers, registered as residing in Israel, whose children are fast becoming part of the non-Jewish

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<sup>14</sup> The statistics do include East Jerusalem and the Golan Heights which have been annexed to the State of Israel as well as Israeli settlers who live in the rest of the territories occupied in the 1967 War.

Jewish population too, speaking Hebrew, learning in Israel Jewish schools and coming to regard themselves as Israelis.

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