

"THE AFTERMATH OF THE 'WHO IS A JEW' CONTROVERSY"Address at the Plenary Session of the
NATIONAL JEWISH COMMUNITY RELATIONS COUNCIL

In speaking to you of this vexing problem that has so exercised the world Jewish community, I am reminded of the Viennese proverb that was prevalent during the waning days of the Austro-Hungarian empire: "the situation is hopeless but not serious." While our preoccupation with the "Who is a Jew?" issue seems to fall into that category, I am a bit more sanguine and believe that it is quite serious, but not at all hopeless--provided, that is, that leaders will exercise leadership and do so with perseverance, sensitivity, and a great deal of intelligence.

Let me begin by laying my prejudices on the table. I am an Orthodox Jew who holds that the Halakhah is minimal Judaism. Hence my answer to the question "Who is a Jew?" is quite simple and straightforward: one is who is born to a Jewish mother or who has been converted according to standard halakhic procedures. Because this is the historic definition of Jewishness, one that has served us well for at least a couple of thousand years, the onus for divisiveness as well as the burden of proof rests on those who diverge from this time-honored principle. Many years ago, even before Ben Gurion sent his famous query on the "Who is a Jew?" problem to a number of distinguished Jews, I wrote an article on the subject which was distributed in the thousands by my friends of the Lubavitch movement.

However, I also am aware of the realities of the Jewish situation, and recognize that not everything that is desirable is achievable and not all that is worthy is worth making an issue of.

Hence, I opposed the effort of the religious parties in Israel to amend the present Law of Return to read that to be permitted to enter Israel under the Law of Return, one must not only be "converted to Judaism," but "converted according to the Halakhah." This would effectively limit the benefits of the Law of Return to those converted by qualified Orthodox rabbis.

I opposed, and do now oppose, this amendment, and made this opposition known publicly, for three reasons.

The first is that I am most uncomfortable with submitting religious questions to a secular body. "Who is a Jew?" is a religious matter, not a political one, and the Knesset is a political, not a religious body. I do not want Arabs and Druzes and Communists--indeed, anyone but competent halakhic decisors--passing on such questions. As a pulpit rabbi for 25 years, I never allowed my president or board members of the synagogue to decide or even to consider halakhic questions. That was my domain, and I guarded it jealously. In my present role as a university president, I am equally zealous of the prerogatives of the faculty and the president and will not allow any board member or officer to intrude into purely academic or curricular matters. By the same reasoning, the Knesset is not the forum for defining Jewish identity. And, although Israeli democracy is of a different sort from American democracy, and it is charged with keeping a Jewish character for the Jewish state, the less the Knesset involves itself in purely religious matters the better.

Second, I fault the Orthodox advocates of the amendment on purely practical grounds. Should the amendment pass in the Knesset, it will surely be challenged in Israel's Supreme Court, and the odds are that the Court will not uphold the amendment simply because it will be at a loss to define the term "halakhic" in an era when there are so many who, rightly or wrongly, lay claim to that particular adjective.

Third, I disagree with their position because they are thinking tactically, not strategically--short-range and not long-range. Israel is a democracy, and in a democracy (indeed, even in a very limited democracy) one must appeal to the people, not to the political factions alone. This is especially true for religious and spiritual matters. And if the issue is forced through the legislature and survives the judiciary but alienates the citizenry of Israel and a good part of the Jewish community in the U.S., we will have gained nothing but a Pyrrhic victory--which we can do without.

A great rabbinic text, the Sifre, teaches us another meaning of the verse in the Shema, "thou shalt love the Lord thy God." This also means, says the Sifre, "thou shalt make the Name of the Lord beloved [by others]." As we would say in Washington during this particular administration, a "kinder and gentler" manner is ultimately more effective than coercive legislation.

So much for my disagreement with my own Orthodox group--or at least those of them who have been most vocal. But do not imagine that all the rest of the community has been innocent of all error, perfect, guiltless. Not by a long shot.

I believe that the one error in which all of us have shared equally is the exaggerated importance we have been giving to symbols.

It is a truism that symbols speak powerfully to the human imagination. Animals do not respond to symbols; humans do. It is hard to exaggerate their importance of symbols in human life and society. Yet to elevate them above life and limb, above the common weal and the health of a whole community, is to choose to live in an unreal world. That is precisely what we--all of us--have done with regard to the "Who Is a Jew" question. And it has gotten us into an unholy mess.

Years ago, I said in a public address that there were maybe six to eight people a year affected by the Law of Return. That figure has been repeated by many people, to support various points of view, without either attribution or knowledge of the fact that it was a guess of mine, no more.

I now must confess that I erred. This number is an exaggeration because if you exclude agents provocateurs--non-Orthodox converts sent to Israel by interested parties to test the Law of Return--then a more accurate number would be: one or two... The reason for this is simple. The Law of Return as amended in 1954 and 1970 contains the following sub-paragraphs:

4A. (a) The rights of a Jew under this law... are also invested in the child or grandchild of a Jew, in the spouse of a Jew and the spouse of the child or grandchild of a Jew..

(b) It is immaterial whether the Jew by virtue of whom the right is claimed under clause (a) is or is not still alive and whether he did or did not immigrate to the country.

Now consider this: Aliyah from the U.S. is way down. A disproportionate percentage of American Olim are Orthodox. The overwhelming majority of the few converts who choose to go on Aliyah are married to Jews or have some Jewish blood. Only a miniscule amount of potential Olim are Gentiles not converted according Halakhah who are not married to Jews and who have no Jewish ancestry whatever. It is that miniscule number about whom, in practice, the whole controversy has been raging. I believe there can not be more than one or two such people in the course of a year. And even if they are barred from taking advantage of the Law of Return, they most certainly can enter as immigrants under the Naturalization Law as can anyone else.

We are thus locked in a terrible battle over an issue that is highly charged symbolically but has virtually no counterpart in reality. I am therefore convinced that we are in the grips of a mass neurosis. How else but in psychologically clinical terms can one describe a situation in which a battle over symbols reaches such a feverish pitch that it overwhelms all else, and that it seems that we have all taken leave of our senses?

On the one side, a perfectly legitimate argument--unarguable from a halakhic point of view--is pressed with obsessive passion, beyond all reason, insisting that the halakhic definition of Jewishness must be inserted in the secular Israeli Law of Return to be passed by the Knesset. Years ago, as I mentioned, I wrote an article strongly advocating the Orthodox view, i.e., the halakhic definition. But I do not believe that every good idea is worth sacrificing every other good idea, certainly that of life and welfare, for it. Not every mitzvah requires martyrdom. At a time when a new administration is taking over the reins of government in the United States; when the Israeli government is paralyzed; when the Intifada threatens the safety and security of the State of Israel; when the people must decide the issue of the territories and evaluate new moves on the Arab side--at a time of this sort the insistence upon diverting our attention from all these life-and-death concerns to deal with a purely symbolic issue--the affirmation of the Halakhah versus non-halakhic tendencies--is simply not rational; it is an obsession, and we can ill afford irrationality to guide our public policy.

On the other side, the situation is at least equally distressing. A mere obsession is no more frightening than the mass hysteria that has been released over the self-same symbolic issue. I question whether so many prominent Jewish "leaders" manned the ramparts on behalf of any other Jewish cause, or travelled to Israel in such large numbers, or

expended so much raw energy, either in 1948 or 1967 or 1973, as they have in the Great Imbroglia of 1988. Even if the threats to withhold financial assistance from Israel, to desist from offering political support for the State, and to punish the U.J.A. and Bonds for Israel, will have been proven to be empty threats or expressions of nervous exaggeration, they are a terrible revelation, almost an apocalyptic disclosure of how truly tenuous is the connection to Israel of so much of American Jewish leadership. And all this tumult over what?--over the perceived snub to American non-Orthodox rabbis. Granted that such a snub or delegitimation hurts and humiliates. I genuinely sympathize with the reaction. But is the harm so great and the damage so terrible that it is worth abandoning Israel for the sake of this injured dignity of the non-Orthodox rabbinate or for the sake of one or ten or fifteen potential olim?

In 1949, the late Gov. Herbert Lehman addressed a large gathering for either Bonds or UJA. Then, many American Jews were distressed because of the Socialist government in Israel, and so they distanced themselves from it. Lehman stepped back from the podium and said: "I too am not enamored of the idea of a Socialist government for Israel. BUT LADIES & GENTLEMEN, FOR HEAVEN'S SAKE, IS THAT A REASON FOR ABANDONING THE JEWISH STATE"? That question is as relevant now as it was then, and it is directed to Lubavitch and to Yeshiva University and to the non-Orthodox rabbinate and to the CJF and to NCJRC.

In great and brooding sadness I maintain that we who presume to be leaders have failed. We have allowed the passions of our constitutencies free play, and they have clouded our own clear thinking and turned us into the followers of our followers. Now, in this calm after the storm, it is proper for each of us to say al het, "we have sinned," we acknowledge that we have submitted to overstatement, to ugly and dangerous sentiments. The collective reaction which

leadership has described as "visceral" was certainly not cerebral; it means that we have begun to think with our bellies and glands, not with our heads and brains.

Maybe that is the kind of leadership that our followers expect of us. But surely, they deserve better of us.

What can we--all of us--do now to make amends, to salvage what is left of Jewish unity and build on it? I suggest five do's and don't's.

First, no more verbal terrorism! Let us cool the rhetoric and try for civil discourse no matter what the provocation. Let there be no more talk of the non-Orthodox as "goyyim" or willful religious subversives. Let there be no more talk of the Orthodox as the initiators of disunity or as Khomeinis or as benighted Neanderthals or as "ultra"-Orthodox or as fanatics (although there assuredly are some such on the lunatic fringe). Let us be aware of differences within each movement--even within the Haredi camp.

Second, let us desist from intimidation of any kind. For American Jews to threaten Israel is the height of effrontery. What moral right do we American Jews have to wag our fingers and preach at Israel when tourism by German goyyim is greater than that of American Jews, and when the Jews of America dropped whatever tourism they did have and ran at the first sight of the Intifada much faster than did these same Germans? This rejection of intimidation must extend as well to what has become known as "Orthodox bashing," whether as revenge against Orthodox institutions or making some Orthodox professionals feel mighty insecure and uncomfortable, as if they were outsiders to their own agencies.

Third, let's keep our disagreements private, in the family. I am amused, but more often frightened, by the vast sense of self-confidence in the position of American Jewry by some of

our spokesmen who feel that we are impervious to harm even if we wash our dirty laundry on the op-ed pages of the N.Y. Times or the Washington Post. I love America and am as proud of the role of America in Jewish history as is anyone else--but I do not believe it helpful to our exposed position in the world to air our arguments in public and involve non-Jewish congressmen in the campaign to pressure Israel on our behalf and against Israel or other Jews. What a horrendous thing to do! Imagine if Lubavitch brought some fundamentalist Christian friends to pressure Israel for the amendment to the Law of Return, and some hot-heads of the opposition brought their Gentile Congressman to press Israel against the amendment--do we then argue that my Goy is bigger than your Goy? Is there no thought to be given to Jewish dignity?

Fourth, encourage the religious groups to swallow their pride and try to work out some common solutions, even if only in a very restricted way. Such solutions must be: (a) not abhorrent to the most basic and inviolate principles of any group; (b) not disrespectful of the integrity and dignity of any group; (c) not harmful to the social fabric of the Jewish people. When I say "encourage," I mean just that--do not be pushy or intrusive, just gently encouraging. Let me tell you that discussions amongst the various groups are just beginning to take shape, and because they are still in a very, very delicate phase, the best advice is to do nothing for a while--and even later, walk on egg-shells. Also, please do not assume that "pluralism" is a magic potion or an incantation that, if repeated often enough, can make all problems go away and the opposition disappear. "Pluralism" means different things to different people, and what has become a civic dogma of many American Jews today is, in some of its versions, anathema to some sectors of our people who see it as nothing more than an invitation to a nihilistic relativism, reducing religious decisions to matters of taste and style rather than to transcendent principles.

Finally, take the long view of our problems; this is a prescription for hope and optimism, although not for relaxation. History has a peevish, mischievous, sneaky, yet delightful way of upsetting all our calculations. Every once in a while it digs into its bag of tricks and throws curve-balls at us: delicious ironies, surprising paradoxes, astonishing dialectics. One of those is at work right now, and that is that certain kinds of disunity lead to greater unity. In the camp of Haredi or Right-Wing Orthodoxy, for instance, there is a serious cleavage between Lubavitch and most other Hasidic groups, who support the amendment, and the Lithuanian Yeshivot who do not. In the non-Orthodox groups I detect a note of regret by those of statesman caliber at the overreaction against the advocates of the amendment, at the overblown emphasis given to this purely symbolic issue, and at the temporary loss of proportion that prevailed. With a little help, and even more self-restraint, the issue will find its solution.

However, I regret to tell you that there are even greater and more ominous problems on the horizon that are far more threatening to our unity as a people than the "Who Is a Jew" issue. But they must await the successful disposition of this problem, and the lessons we learn from it. Otherwise, the situation will only get worse.

We are now less than a month away from the holiday of Purim, so let me quote from the Book of Esther, the "Megillah," the infamous anti-Semitic charge against our people by Haman: ישנו עם אחד מפוזר ומפורד בין העמים בכל מדינות המלך ודתיהם שונות מכל עם ואת דתי המלך אינם עושים. "There is one people that is dispersed and divided amongst all the nations in all the realm of the King, and their laws are different from those of all other peoples and they do not obey the laws of the King." Was he right?

He was wrong in saying that this differentness leads to disloyalty to the King. But he was right in his analysis. We are both מפוזר ומפורד, dispersed and divided; geographically scattered, having failed to concentrate, then as now, on the need to populate the Jewish homeland, and we are deeply and bitterly divided and disunited. But note something that Haman saw and which some of us fail to see: DESPITE ALL -- we are עם אחד, "one people"! We Jews are a contentious and stubborn lot, but--often despite ourselves--we are "one people."

If our deliberations can help in any way to elevate that principle of עם אחד, "one people," above both our self-destructive tendencies to being dispersed and divided, we will be deserving of celebrating this coming Purim with joy and gladness instead of the sense of regret and brooding defeat that has been our lot these last many months.

It is high time that we deserved and enjoyed that sweet taste of high achievement for our people and ourselves.