On the Conversion of Adopted and Patrilineal Children

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Member abstaining: Rabbi David M. Feldman.

שאלה

What procedures must be followed in converting adopted and patrilineal children? May they be given the Hebrew name of the adoptive or patrilineal father?

תשובה

The need to convert a child comes before us primarily in instances of adoption and the children of Jewish fathers in mixed marriages. A number of question and problems flow from these situations. I shall try to address some of them.

On Ascertaining the Lineage of an Adoptive Child

In the case where the natural mother of the child is an out-married known to be a non-Jew, either in the case of Jewish father (patrilineal child) or that of an adoptee, there is no question that the child requires conversion; the only questions involve the rules governing that conversion. But in the case of an adopted child of unknown origin the possibility that the child might be of Jewish origin raises other more

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

severe problems. If the child is Jewish, conversion is, of course, inappropriate. Furthermore, if the child is Jewish, since the child could be a ממזר, would adoption not lead to the normalization of the status of the ממזר, leading to his/her illicit marriage with a proper בת/בן ישראל (Jewish child)? Moreover, given only that the child's status is unknown, should that child not be considered at least an אסופי (a foundling) or a שתוקי (whose father is unknown), each of whom is treated as a ספק ממזר who is unable to marry?[1] Failing that, need we be concerned that an adoptive child of Jewish parentage will come to marry a prohibited relative, not knowing his/her natural family? These considerations have led to a lively debate in Israel, where the majority of children offered for adoption are Jewish, on the very institution of adoption and its permissibility. They have been dealt with at length in a number of modern articles and responsa, including:

R. Gedaliah Felder, *Naḥalat Zvi*, vol. I p. 15ff.
R. Moshe Pindling, *Noam*, vol. IV (1961), p. 65ff.
R. Samuel Hibner, *Ha Darom*, Nissan 5720 (1960), p. 17ff.
R. Moshe Feinstein, *Iggrot Moshe, Yoreh Deah* I, 161.

All these writers accept the institution of adoption, but urge caution with regard to the personal status of the adopted child.

On the Status of a Foundling (אסופי)

For our purposes many of these questions would appear to be moot since the overwhelming majority of children available for adoption in this country are not Jewish and it should therefore be possible to dispose of any such concerns by recourse to the basic principle of uncertainty, כל דפריש מרובא פריש – a detached item is considered of the majority. But the application of the principle of majority there is in doubt. *Shulḥan Arukh*,[2] rules:

> An אסופי found in a town having both Jews and non-Jews, no matter the majority, is ruled a non-Jew based on the uncertainty, but if he espoused a Jewess she requires a *get* based on the uncertainty. If a court converted him . . . he is treated for purposes of marriage like all foundlings in Jewish towns, to wit, his conversion only serves to free him of his status as a non-Jew [but he remains a ספק ממזר, a questionable mamzer].

Beit Shmuel explains that this is based in Rambam[3] who holds that in this "we rule strictly, and not according to the majority" apparently under the countervailing principle of כל קבוע כמחצה על מחצה דמי (an item considered in place may be of the majority or of the minority). However, not all agree with Rambam. Ravad there inclines to leniency, as does the

Magid Mishnah citing a ספיקא ספסק: a double doubt. First, perhaps he was not Jewish and next, perhaps he was not a ממזר. Since the marriage of a questionable ממזר is only prohibited דרבנן (by the rabbis), one can assume the rabbinic stricture with regard to a foundling was only intended in the case of a single uncertainty. This position is cogent; moreover, as Rabbi Hibner develops in his article, an adoptee today who is given for adoption to an agency is not judged an אסופי since the law of אסופי has been limited only to cases of a child abandoned in such a way as would likely lead to his/her death.[4] Such a child is considered likely to be a ממזר – why else would a parent seek to murder his/her own child? A child given over for adoption has not been consigned to death and is therefore not treated as a questionable ממזר on that account.[5] Thus, even to those who rule with Rambam, the only uncertainty is whether the child is a gentile or a Jew and conversion should suffice in every regard.

On the Child Whose Father is Unknown (שתוקי)

There is, however, a more restrictive rule with regard to a שתוקי one whose mother is known but whose father is unknown. With regard to a שתוקי the rule is also that he may not marry due to his doubtful status.[6] The *Noda Biyhudah*[7] queries, isn't every foundling, even one not marked for death, also a שתוקי since the father is unknown? Shouldn't the restriction with regard to a שתוקי still apply? He responds that a שתוקי differs from an אסופי in that the mother is accessible and must be questioned on the child's status, likening this to an item in place wherein the principle is כל קבוע כמחצה על מחצה דמי (an item considered in place my be of the majority or of the minority). A foundling of unknown parentage, however, approaches the bench alone and may be judged simply by the applicable majority (כל דפריש מרובא פריש). This reasoning of the *Noda Biyhudah* though not universally accepted, is the most compelling justification for what is otherwise a significant inconsistency in the restrictive ruling re שתוקי and the rather dismissive ruling re אסופי. Assuming an infant of unknown parentage, the lenient ruling re אסופי would apply.[8] Furthermore there is the question of whether we need be concerned that an adoptive child will unknowingly marry a natural relative. The Talmud rules[9] in the case of a שתוקי that that is sufficiently unlikely so that it may be dismissed, notwithstanding an apparently contrary ruling on *Nazir* 12a that where one sends a messenger to find and espouse a wife and the messenger dies without indicating if he had fulfilled his contract, the man is forbidden all women lest he marry a forbidden relative. *Tosafot* there rules that this is a fine levied on him for the cavalier way he sought to marry, which fine would certainly not apply to an adoptive child. Nevertheless, this concern is raised by Rabbi

Elijah, Gaon of Vilna, in his comment to *Even Ha-ezer* 4.96, but is rejected by a substantial majority of *poskim.*[10] This concern is allowed to advance by many *poskim* who forbid artificial insemination by donor on that basis, basing themselves on a ruling by R. Isaac of Corbeil in *Sefer Mitzvot Katan.*[11] It should be noted that that concern is articulated on *Yevamot* 42a to justify a minor provision, a three month delay in marriage for a non-virgin in order to clarify the status of any potential fetus, and is expressly rejected in *Kiddushin* 73a as grounds for a prohibition of marriage. Whether it is sufficient to prohibit the major benefits of artificial insemination or adoption is itself questionable,[12] and the additional uncertainty as to whether the child is at all Jewish, therefore at all subject to those rules, is clearly enough to justify *Kiddushin's* ruling that this may be disregarded. Thus Rabbi Moshe Feinstein, who wouthis basis, permits it with a non-Jewish donor, or an anonymous donor on the basis of תרי רובי (a double majority – read his language carefully) and certainly permits such a child to marry. Similarly, though he strongly opposes blind adoption in his responsum on adoption,[13] he still recognizes that an adopted child with no knowledge whatsoever of his parentage, once properly converted to Judaism, would not be barred from marrying because מה עליו לעשות? ואזלינן בתר רובא, ("What is he to do? We go according to the major possiblity.")

On Verifying Parentage Where Possible

These rulings raise an important caution, however. Where the adoptive agency has record of the parentage of the adoptive infant, and that record is not sealed as a matter of law, any rabbi becoming involved in the matter should satisfy him/herself regarding the status of the child and not simply rely on the uncertainties. At least according to the reasoning proposed by the *Noda Biyhudah* with regard to a שתוקי, the existence of an available source of information about the child's true status removes the child from any legal presumptions and requires the court to function only on the basis of those facts. In this age of "sunshine" laws and scientific inquiry to do less than sufficient research is unacceptable.[14]

On the Conversion of Minors

The second set of fundamental questions concerning such conversion stems from the issue of conversion of minors. Formally, conversion requires מילה (for males), טבילה, and the acceptance of mitzvot. This is a problem for the conversion of minors. Obviously, the acceptance of mitzvot depends on the consent of the convert,[15] whereas, equally

obviously, a minor is not considered capable of legally recognized informed consent. Some would therefore prefer to wait for a child's majority before performing any conversion. The normative ruling is clear, however, that conversion even of an infant is permissible under the assumption that becoming Jewish is beneficial for a child, וזכין לאדם שלא בפניו ("We decide in favor of an individual in his absence").[16] Without regard to the abstract philosophical/ theological question whether it is in all instances better for every person to be Jewish, it can nonetheless be said with some certainty of a child adopted into a Jewish home, being raised in a Jewish cohort and environment, that it is beneficial for him/ her to be inducted into the covenant rather than left as a partial outsider, never fully integrated into the family in which he/she is raised. Furthermore, the negative public policy implications of holding unconverted gentile adoptees and incorporating them in our synagogue programs and Hebrew schools until they reach the age of bar/bat mitzvah are too numerous and obvious to need extensive recitation here. Even Rabbi Moshe Feinstein who advises against such adoption so that only those who of their own free will opt for conversion should join the ranks of the Jewish people,[17] nevertheless states simply that those who do adopt minor children must convert them as minors.[18]

On the Patrilineal Jewish Home

One exception to this basic rule needs consideration, and that concerns the patrilineal Jewish home. Rav Ḥuna's dictum establishing the practice of the conversion of minors states simply that minors may be converted by a court (על דעת בית דין). Rashi, however, interpolates the legally significant comment גר קטן: אם אין לו אב, אמו הביאתו להתגייר – a minor convert: if he has no father and his mother had brought him to convert. On that basis *Shulḥan Arukh* rules:

> A non-Jewish minor – if he has a father, the court converts him. If he has no father, and comes on his own or if his mother brings him to convert, the court converts him...[19]

Thus the normative interpretation of Ḥuna's dictum is not that conversion is in the hands of the court, but rather that it is in the hands of the natural father, with the court serving *'in loco patris'* when the father is absent. (Again note Rashi on the role of the court והן נעשין לו אב – they become his father). Ritba, citing Rashi, goes a step further than the formulation in *Shulḥan Arukh* and rules that a minor coming to convert in the absence of either parent should not be converted at all. In an adoptive home this raises the question whether permission for such a conversion must be obtained from the natural parents before the court

can proceed. That concern is effectively overcome with reference to the authority vested in the adoptive parents as legal guardians. Thus Rabbi Felder[20] argues that in giving up the child for adoption the natural parent is effectively giving the adoption agency, hence also the adoptive parents, full power of attorney to act on their behalf for the benefit of the child. But even failing that, the fact of custody thrusts the adoptive parents into the role of true parents and grants them parental authority over the child. Thus the adoptive parents are effectively equivalent to the natural parents and the court may act at their behest.[21]

At the outset I had suggested that this excursus had particular relevance to the patrilineal home. On its face it appears to be a solved problem with regard to an adoptive home, but no problem whatsoever for a patrilineal home. There the father is present and it is specifically at his behest, certainly not that of the non-Jewish mother, that the court considers conversion. But it is precisely the problem of patrilineality that intercedes. Jewish law does not recognize paternity across the line of intermarriage.[22] Thus this child has a natural mother and no father, under the law. The Jewish father has no claim to bring the child before the court, except as an adoptive or custodial parent whose authority stems from the implied consent of the natural parent, in this case the mother, or from the general authority of guardianship. But here the natural parent has not relinquished her prior right to authority over the child. It follows, then, that the court may not convert a child in a patrilineal home without the consent of the non-Jewish mother. This may prove to be a significant stricture. Beyond that, the decision whether meaningful conversion can be effected for a child in a home where there is an unconverted mother who consents to the conversion but remains an active participant in another faith, therefore whether conversion should be done in such a case before the child reaches majority and opts to act on his/her Jewish identity rests in the good judgment of the court.[23]

On the Right of Renunciation

One further note on the basic structure of the conversion of a minor is necessary. Just as participation of the court is ultimately predicated on the consent of the parents of the converting child, so too is predicated on the presumption that this conversion is desirable for the convert (although as a minor the convert may not know his/her own mind). Two further constraints are therefore generally recognized by the *poskim* – that the court may not convert a child who objects[24] and that that child may renounce the conversion upon attaining majority.[25] How this right of renunciation reserved for minor converts is to be effected in practice remains troublesome. The Talmud worries that an open right of

renunciation for a lifetime leaves the convert's status unclear. Therefore the Talmud rules[26] that the right of renunciation lapses immediately after the convert attains majority if he/she fails to renounce at that time. The commentators wonder how such a renunciation is possible given that renunciation as a minor has no legal standing and the exact moment of attaining majority is inaccessible. Three options are proposed,[27] which options are not necessarily mutually exclusive. They are: a) that renunciation entails renunciation as a minor maintained without change into majority; b) that renunciation entails refusal to do any specifically Jewish activity after attaining majority; or c) that renunciation requires a moment of conscious renunciation after majority when the issue of continuing as a Jew is specifically presented. The first two options allow that in the majority of cases a child convert, having attained majority, may no longer renounce, as was the clear intention of the Gemara. They do not, however, require much by way of reasoned consent on the part of the convert. Yet they are the dominant legal opinions. The first is supported by many *Rishonim*, the second codified in *Shulḥan Arukh*.[28]

On Informed Consent

The latter option seemingly subverts the intent of the Gemara by leaving open the possibility of a whole class of adult converts who maintain a right of renunciation, if only they were never provided an opportunity to affirm or renounce the faith. For this reason it seems not to have been picked up much by the *poskim*. Nevertheless, this option alone gives weight to Rav Yosef's insistence that a child convert must retain the right of consent. Along those lines, Rabbi Solomon Luria argues persuasively that if a convert is altogether unaware of his/her conversion then the absence of renunciation and the presence of affirmative Jewish behavior have no cognitive value[29] and should not bar a later renunciation when the convert becomes aware of his/her status. Thus opens a fourth option that a converted child should be told of his/her status as a convert at an appropriate psychological moment as a minor so that the mechanisms barring renunciation which are proposed in the first two options can come into effect. This moment could be well before bar/bat mitzvah, when the tension of the event and of adolescence come into play, and presentation of the choice can be in the affirmative, asking the child to affirm his/her willingness to fulfill the wishes of his/her parents in raising him/her as a Jew. It is the opinion of the author of this paper that we should rule with Luria that consent is a requisite part of conversion, and that even in the conversion of a minor some sign of consent as an adult must be given. Therefore the rabbi should convey to the parents the importance to the conversion of informing their child of

his/her conversion and seeking his/her acquiescence at an appropriate time. Thereafter, the informed consent of the child convert may be assumed at law the moment the child attains majority in the Jewish faith. Even with regard to an adopted child, contemporary theories hold it best that the child know of his/her adoption, so no unhealthy burden is being imposed in the interests of technical propriety. Failing such notice, the child remains Jewish, but the Talmud's desire to close the loophole of renunciation in the future goes unfulfilled until such time as the convert as an adult determines his/her status and exercises a choice.

That said, it was the sense of the clear majority of the CJLS that opening the door to renunciation of Judaism against the will of the parents by a child being raised Jewish with any form of presentation is fraught with danger and undesirable. Given that the majority of *poskim* accept that renunciation is barred after any Jewish act upon majority, even where the convert was unaware of his/her status, no notice is necessary or to be recommended.[30]

On Conversion Procedures

Given that the basics for a child conversion are in order, the next questions deal with the procedures appropriate to the situation. A male convert needs to be circumcised like any male infant, though with some variation in the blessings. The blessing recited before circumcision of a convert is: בא״י אמ״ה אקב״ו למול את גרים.

The blessing להכניסו בבריתו של אברהם אבינו (“... To enter him into the covenant of Abraham”) is not recited after the circumcision, since whereas it is a mitzvah to circumcise converts, there exists no mitzvah to create converts. After the circumcision is completed an alternative version of the blessing כורת הברית is recited over a cup of wine, as follows:

> בא״י אמ״ה אקב״ו למול את הגרים ולהטיף מהם דם ברית שאלמלא דם בריתלא נתקיימו שמים וארץ שנאמר אם לא ברותי יומם ולילה חוקות שמים וארץ לא שמתי. בא״י כורת הברית.[31]
>
> Blessed are you... who commanded us to circumcise converts, to draw the blood of the covenant for if it were not for the blood of the covenant, the heavens and the earth would not exist, as it is written, If it were not for my covenant, I would not have made day and night, nor the laws of heaven and earth.

This circumcision should optimally be done as a clearly delineated first step in the process of conversion – therefore before a בית דין of three (who need not be מומחים – certified experts). Failing that, it is sufficient to have two witnesses signed on the certificate of circumcision which will

be presented to the בית דין supervising the immersion and finalizing the conversion. This serves as official testimony which then places the circumcision under the aegis of the supervising בית דין. Since most מוהלים operate as independents contracting directly with the parents, it is important to advise one's local מוהלים that you require two valid witnesses (the מוהל may, of course, be one) on the certificate of circumcision when the circumcision is for the purpose of conversion. Nonetheless, בדיעבד (after the fact) a certificate of circumcision with only the signature of the מוהל, or with invalid witnesses, can be accepted since the fact of the circumcision is susceptible to verification and אנן סהדי (we are witnesses) that it took place as reported. Needless to say, we should not encourage such laxity.[32]

On Circumcision

Two questions may arise concerning this circumcision. First, in the case of the child of a Jewish father and non-Jewish mother, is it appropriate to perform the circumcision on the eighth day, as if it were a standard circumcision of a Jewish child? Second, in the event that the parents proceeded with an eighth day circumcision in the belief that it was a standard circumcision לשם מצוה (for ritual purposes) and therefore without the intent that it be part of the process of conversion and without the special blessings, does the child require הטפת דם (drawing a drop of blood) as would a child who was hospital circumcised without intent to fulfill any mitzvah? These questions have been dealt with well by Rabbi Isaac Klein in his *Responsa and Halakhic Studies*,[33] and the relevant law cited. I rehearse the issues here only briefly. On the first question there are in fact many *poskim* who rule in the negative, fearing that a child so circumcised will come to be seen as a Jew without completing conversion.[34] It is clear, however, that their basic concern is for a circumcision taken outside the context of a conversionary process. I also suspect that most of those writers wrote their opinions under the assumption that one did not immerse infants, therefore that there would of necessity be a very long period between circumcision and conversion and no guarantee of intent to complete the process given at the time of circumcision was thought likely to be sufficient in fact with regard to the much later date of any potential immersion. Today, while some time must of course be left for the healing of the circumcision, we have no compunctions about immersing even the tiniest infants, and indeed, that is often recommended over the immersion of older children who have had time to develop fear of water. Given parents who are committed to the proper completion of the conversion process, but who are strongly motivated to share in the symbolism of the eighth day, there is no reason

to deny that desire. If the circumcision is undertaken under the supervision of a rabbi who has undertaken supervision of conversion of the infant and the proper notation made on the certificate of circumcision (preferably with a proximate immersion planned), there are no longer cogent grounds for prohibiting the conversionary circumcision on that day. It should, however, be clear to all participants that this circumcision is done לשם גרות (for the purpose of conversion), with the appropriate blessings said, and in no circumstances may such an eighth day circumcision, which has no standing at law, be done on Shabbat.[35]

That said, where a child comes before the court for conversion already circumcised, and the circumcision was done by a proper מוהל on the understanding that this was a Jewish child, the question remains whether הטפת דם (drawing a drop of blood) is required. This question is, in essence, a legal toss-up. Where a child is circumcised without religious intent we clearly require הטפת דם (drawing a drop of blood). But, in this case, is the religious intent sufficient to be considered a valid Jewish circumcision, or is it invalidated by the mistaken intent? Is specific intent to convert necessary, as the special blessings might indicate? Rabbi Klein cites sufficient legal opinion that circumcision whether for a Jew or a convert is a single mitzvah, and, when done לשם מצוה (for ritual purposes), needs nothing more.[36] We can therefore release the converting child who was previously circumcised as a Jew from the procedure of הטפת דם.

On Immersion

Finally, both a male and a female child require immersion in a kosher מוקה before a בית דין of three. Since the child is a minor, unable to say the blessing על הטבילה ("concerning immersion") and since that blessing is in the domain of the convert him/herself (which is the reason that standard practice is reversed with the blessing said after performance), some suggest that no blessing is said. Others argue an analogy to the blessing למול את הגרים ("to circumcise converts"). If proper procedure in receipt of a convert merits a blessing, here, too, the blessing should be said. I have found no guidance on this question in the literature and have seen both practices. Although the standard ruling is ספק ברכות להקל (to be lenient when there is a doubt that a blessing is required), that is, that one does not recite a blessing that is not clearly ordained, I lean toward the recitation of the blessing על הטבילה ("for immersion") by the parent who immerses the child before the immersion. After immersion the parents may recite שהחיינו ("...who has enabled us to reach this occasion").[37]

On the Naming of the Converted Child

Following circumcision it is usual to name the baby. With regard to a child being circumcised for conversion, however, the question arises whether it is appropriate to give the Jewish name at the circumcision or only after the immersion which completes the conversion. Here the determination is somewhat less bound by law. The standard naming paragraph 'או"א קיים את הילד הזה' ("... sustain this child") is not a formal blessing, so no question of inappropriate blessing comes up. Still, the fact that conversion is as yet incomplete is a compelling reason on its face to delay the granting of a Jewish name until after the immersion. The same would be true of a girl born to a Jewish father and non-Jewish mother, that a naming at a synagogue *aliyah* would best be deferred until after the child's immersion whereupon the Hebrew name could be given immediately then repeated in synagogue if desired. In particular, in light of the concern of many *poskim* about the passing off of a child as Jewish who has not completed conversion, and in light of the very real problem this is in our communities, the withholding of the granting of a Hebrew name until after immersion can serve as a tool to symbolize the importance of the completion of conversion. Nevertheless, it must be said that sufficient precedent exists for granting a Hebrew name at the time of circumcision. Rabbi Felder indicates that naming is done for a convert at the time of circumcision[38] and he cites precedent for that procedure against those who would defer.[39] R. Feinstein suggests that delay is preferable, but allows that "if the parents would be embarrassed and do not want to defer" the naming may be done immediately.[40] Feinstein does not allow the synagogue naming of a girl before her immersion, however, probably because no action toward conversion whatsoever has been taken in her case. (He also notes that it is unnecessary after, since she should be named upon immersion but Felder[41] (p. 148) assumes a synagogue naming nonetheless.) Once the embarrassment of the parents becomes a factor, however, even this line cannot stand, since the naming is a procedure not bound by clear legal form (which is true of the מי שברך "May He who blessed..." said in the synagogue as well). This matter must be left in the discretion of the officiating rabbi, but it must be stressed that in the street and congregation determination of whether a person is Jewish or not still often comes down to hearsay and 'indicia,' of which a synagogue naming, certainly, and even a home ceremony such as circumcision with the formal granting of a Hebrew name are strong evidence. Prudence suggests that it is wise to hold out for the more rigorous procedure and not grant Hebrew names until conversion is complete.[42]

On the Hebrew Name

The remaining question is that of the Hebrew name itself. Standardly, we have been taught to name a convert פלוני בן אברהם אבינו ("son of Abraham our ancestor"). That custom is assumed in a ruling with regard to a גט (divorce document) for a convert in *Shulḥan Arukh*, *Even Haezer* 129.20 and with regard to being called to the Torah in Isserles' gloss to *Oraḥ Ḥayyim* 139.3. Another custom, to give every convert the personal name of אברהם (Abraham) or שרה (Sarah) is not standard, though it has a source in the *Zohar* and certain commentaries.[43] Yet even the standard custom is simply that, as evidenced by many historical converts who did not carry the name בן אברהם (son of Abraham). Thus, in *Yevamot* 101b the *amora* Rav Samuel son of Judah reports about himself: ואנא גר אנא ("I am a convert"), yet he is named בר יהודה (son of Judah), as Rashi explains it, after his natural father who converted together with him.[44] Similarly, among many converts working in the early Jewish printing trades we find alongside Jacob son of Abraham and Moses son of Abraham the names of Jacob son of Gedalya, Moses son of Gedalya and Moses son of Jacob.[45]

The adoption of a young child into a Jewish family, even more the conversion of a child born in a patrilineal home, recommend themselves as occasions to stray from the custom standard with regard to an adult convert who comes before the court as an independent and is properly designated בן אברהם אבינו (son of Abraham our ancestor) in favor of a name that indicates the child's place in the family. Is such a name legitimate given the potential for the confusing of the true status of the child thereby?

As noted above, precedent exists in the case of Rav Samuel son of Judah for giving the child, though a convert, the name of his natural father (the case of the patrilineal home). Since it is unlikely that all the converted tradesmen noted above converted with their father, it appears that precedent for granting the name of an adoptive father exists as well. Indeed, even where the natural father is Jewish, so that a child could properly carry his natural father's name, there is precedent and legal opinion favoring the use of the name of the adoptive father.

Here, an article by Rabbi Mordecai Hacohen in *Torah She B'al Peh*[46] entitled אימוץ ילדים לפי ההלכה (*Adoption of Children According to Halakhic Principles*) provides the fullest marshaling of sources. In *Megillah* 13a the sages offer the dictum כל המגדל יתום ויתומה בתוך ביתו מעלה עליו הכתוב כאילו ילד ("If one raises an orphan the tradition considers him a parent.") This is based on Biblical verses with regard to Pharaoh's daughter and Moses, Mordecai and Esther, and Naomi and Ruth's son; in each case the latter is called the child of the former, the

nurturant parent. Aggadic, and not solid, yet this source yields halakhic ramifications in Isserles to *Oraḥ Ḥayyim* 42.15 who rules that references to "father" and "son" by adoptive kin in contracts is acceptable. All this refers only to the honorific "father" and might not apply to a concrete name. Closer is the example of Abaye who was raised by his uncle Rabbah bar Naḥmani and is known as Naḥmani. Yet not close enough. Finally it is necessary to seek concrete halakhic practice on this matter in yet another piece of *aggadah*. *Shmot Rabbah* 46.5 has God castigate Israel for referring to Him as "father" thus slighting Abraham, Isaac and Jacob. Israel responds with a parable.

משל ליתומה שהיתה מתגדלת אצל אפוטרופוס. והיה אדם טוב ונאמן. גדלה ושמרה כראוי בקש להשיאה עלה הלבלר לכתוב הכתובה. אמר לה: מה שמך? אמרה: פלנית, אמר לה: ומה שם אביך? התחילה שותקת, אמר לה: אפוטרופוס שלה: למה את שותקת? אמרה לו: מפני שאיני יודעת לי אב אלא אותך. שהמגדל נקרא אב ולא המוליד.

A parable: An orphan girl was raised by a guardian. He was a good and trustworthy man who raised her and protected her, as appropriate. He sought to give her in marriage. The scribe came to write her ketubah. He asked her: What is your name? She said: Thus-and-so. He asked her: And what is your father's name? She was silent. Her guardian asked: Why do you not speak? She said: because I know no father but you. The one who raised a person is called her father, not the one who bore her.

Even for a name on a ketubah, the principle of adoptive parenthood was seen to apply.

With regard to the granting of a Hebrew name to an adoptee for purposes of an *aliyah* to the Torah, this clearly became accepted practice. Hacohen cites a responsum by the *Ḥatam Sofer*[47] that indicates that despite some opposition that he encountered he sees that as common practice מה כל הרעש אם המתגדל עלה לתורה בשם המגדל אורחא דמלתא הני הוא ("Why the fuss, if an adopted child was called to the Torah with the name of his adoptive parent. It is common practice") and rulings to that effect by Rabbi Yosef Teomim in *Hapardes*[48] and reported in the name of the former Chief Rabbi of Israel, Rabbi Isser Yehudah Untermann.

On Matters of כהונה and Legal Documents

Rabbi Hacohen hesitates to apply the logic of his cases either to an *aliyah* or to a כתובה out of twin fears that the use of an adoptive father's name in either situation may lead to the use of that name on a גט, which

may make the document invalid, or lead to the acceptance of the adoptee as a כהן where the adoptive father is one, leading to transgressions in the matter of ברכת כהנים (Priestly Benediction) and פדיון הבן (redemption of the first born). He concludes that the legal opinions before him must apply only where the natural father was unknown. The conclusion is untenable since that stipulation is unmentioned in the rulings before him and since in the case of an adoptee of unknown parentage the same concerns would apply. Are these concerns probative, so that we should subscribe to a more restrictive ruling?

That the adoptive child does not become a כהן by virtue of adoption into the family of a כהן is plain. Therefore, the adoptive child should not receive those honors reserved for the כהן. Must that affect his/her name? Rabbi Felder, who agrees that an adoptee may take the adoptive father's name,[49] suggests not to do so where the adoptive father is a כהן. Yet there seems to be no substantive ground for this restriction. In the case of a כהן who marries a divorcee, a forbidden marriage but one which is valid and which many of our colleagues perform, the child has the status of a חלל and is regarded as a non – כהן in every respect,[50] yet such a child will certainly be known by his/her father's name. The diligence needed to deter the inappropriate arrogation of the status of a כהן by his natural son is, if anything, greater than the diligence necessary to deter an adoptee. No special legislation in this regard seems necessary. However, it would appear seemly that in referring to himself, and in receiving *aliyot* as an Israelite, such a child should refer to himself as simply פלוני בן פלוני (so and so son of so and so) and not פלוני בן פלוני הכהן (so and so son of so and so the כהן) even though the designation could be seen as associated with the name of the father and not that of the son.

Similarly, there appears to be insufficient ground to forbid the taking of the name of the adoptive father out of fear of errors on a גט. While an error in the name on a גט invalidates it,[51] even an error in the father's name,[52] and it would be possible to include no father's name on the גט as is done when the father is unknown,[53] still the name by which a person is legitimately known is the name sought for a גט and even an invalidating error in the name as cited in *Even Ha-ezer* 129.14 is ruled valid by Isserles there if the person was so known popularly (in error) or was so called to the Torah. Therefore, if we are satisfied that the adoptive father's name is the appropriate one to use, and the child is so known, the גט would be valid, particularly where no other Hebrew name was ever applied to the child. This ruling that a גט using the name of the adoptive father is valid, is acceptable to Rabbi Felder who finds it stated explicitly in *Sefer Ibn Meir* with the approval of the author of *Arukh Hashulḥan* and of a former chief rabbi of Tel Aviv-Yafo, Rabbi Yosef Tzvi Halevi.[54]

One further possible objection to the use of the name of the adoptive father lies in the possibility that the adopted child, no longer knowing his/her natural family, will unknowingly enter into incestuous relations with some member of his natural family. This is simply too distant a concern to require any specific legal remedy[55] and we have already indicated that for these reasons it behooves any rabbi involved to ascertain that as much is known to him/her and to the adoptive parents of the background of the adoptee as is possible. In the unlikely event of the adoptee dating his/her natural siblings, the adoptive parents would thus be in a position to preclude any further activity.

Naming After Patrilineal and Adoptive Family

Thus far it appears that it is proper and precedented for an adoptive child to be known by the name of his/her adoptive parents. The discussion, so far, has addressed a Jewish adoptive child. Does the need to indicate the conversionary status of a converted child place any other extraordinary bar to the adoption of the name of the adoptive, or in the case of a patrilineal household, the natural father? With regard to the custom to designate a convert as בן אברהם אבינו (son of Abraham our ancestor), it has already been noted that this is customary and that that custom derives primarily from the situation of an adult convert who has no adoptive father. It might be argued that if a Jewish adoptee who has a natural father may nevertheless use the name of his/her adoptive father, על אחת כמה וכמה how much more so should a convert, who has no other available father figure be allowed to do so. The emotional demands of the adoptive house and the real natural affinity in a patrilineal house seem to require it.

The concern about incest raised momentarily about a Jewish adoptee has no place here, for the convert is effectively without family. The concerns about usurpation of the role of a כהן in such a household are no more compelling for a convert than for another adoptee. While there are some laws that distinguish a convert from a native born Jew (e.g. a convert may not be king), none are operative or require extraordinary zealousness. If we do, in fact, apprise the child of his/her status before reaching majority, this builds in a further measure of security that no convert will unknowingly seek the kingship in contravention of the הלכה. Only with regard to the marriage of a converted girl to a כהן is there any apparent liability to the convert which might lead to an error at law. Here, too, the potential error is well covered by other provisions in the law. Though it is a matter of extensive debate, we would rule that given the conditions prevalent today, a child converted before the age of three years should be considered acceptable to a כהן.[56] Thus it is preferable for

this reason, as well, to convert female adoptees as early as possible. But even for an adoptee converted after the age of three years, the fact that the parents and the child both know her status, and that that status is one of the required entries on her כתובה, makes concern over her patronymic superfluous. It is sufficient to expect the convert to be cognizant of his/her status and call attention to it when necessary, as did Rav Samuel son of Judah.

There are then no significant bars to naming a converted child after his/her adoptive or patrilineal family. This is the ruling arrived at by Rabbi Klein in his responsum and by Rabbi Feinstein in his,[57] although Rabbi Felder differs.[58] This ruling has already established a significant history in the annals of the Law Committee of the Rabbinical Assembly, having been given in correspondence by Rabbi Michael Higger (5/31/51), Rabbi Marshall Meyer (2/27/57), Rabbi Jules Harlow (12/31/63),[59] Rabbi Ben Zion Bokser (3/17/64), and Rabbi Israel Silverman (12/14/65) and it was formally recorded in summaries on adoption prepared by Rabbi Philip Sigal in April 1958 and Rabbi Sidney Steiman in February 1960.[60]

CONCLUSIONS

ON THE CONVERSION OF ADOPTED AND PATRILINEAL CHILDREN:

Legal Abstract – קיצור פסקים

On Ascertaining the Lineage of an Adoptive Child

a) A child of non-Jewish parentage adopted into a Jewish home requires conversion to Judaism.

b) If an adopted child is of Jewish parentage, conversion is not appropriate; however there are a number of potential lineage-derived complications with regard to the child's future marriage. The rabbi must therefore ascertain the parentage of the adoptive child in so far as that is possible under the law.

c) An adoptive child whose parentage is unknown or legally closed may be converted relying on the preponderant majority of non-Jews without any further concerns owing to his/her unknown parentage.

On Conversion of Minors

d) When adopting a child as a minor, the child should be converted as a minor.

e) The court may not convert a child in a patrilineal home without the consent of the non-Jewish mother. Whether to perform the conversion of

a minor into a home with a non-Jewish mother who is herself unwilling to convert is a matter which rests upon the best judgment of the court.
f) The court may not convert a minor who objects.

On the Right of Renunciation

g) Never having given consent, the child may renounce his/her conversion upon attaining majority. (5, but see n.8) That right of renunciation lapses when the child attains majority and continues to live as a Jew. (5-7, CJLS) This author believes that right remains open if the minor did not know that he/she was a convert – consequently, that minor converts should be notified of their status at an appropriate psychological moment well before their bar/bat mitzvah.

On Conversion Procedures

h) A male convert needs to be circumcised, with the blessing למול את הגרים ("to circumcise converts"). The blessing להכניסו בבריתו של אברהם אבינו ("to enter him in the convenant of Abraham") is not recited. An alternative version of the blessing כורת הברית ("Establishing the covenant") is recited, see within.
i) Circumcision for conversion should optimally be performed before a בית דין of three. Failing that, our מוהלים should be instructed to sign two witnesses on the certificate of circumcision. בדיעבד (after the fact), however, a single witness or invalid witnesses may be accepted since the facts are easily verified.

On Circumcision

j) Circumcision for the child of a Jewish father may be performed on the eighth day, though it has the status of a conversionary circumcision. Therefore, the appropriate blessings should be said and the nature of the circumcision marked on the certificate of circumcision. Such a conversionary circumcision may in no case be performed on Shabbat.
k) Immersion and the completion of the conversion should not be delayed inordinately after a circumcision for the purpose of conversion.
l) A child who comes before the court for conversion already circumcised: if the circumcision was done improperly or without intent to fulfill the mitzvah, we require הטפת דם (drawing a drop of blood); if the circumcision was done by a proper מוהל on the understanding that this was a Jewish child (viz. not לשם גרות for conversion). הטפת דם (drawing a drop of blood) is not necessary since a proper circumcision was done לשם מצוה (for the sake of a mitzvah).

On Immersion

m) Both males and females require immersion in a kosher מקוה before a בית דין of three to complete conversion.
n) Whether the parents should recite the blessing על הטבילה (concerning immersions) before the immersion and שהחיינו either before or after the immersion are unsettled points of law. This author recommends the recitation by the parents of על הטבילה (concerning immersions) before the immersion and שהחיינו after.

On the Naming of a Converted Child

o) Precedent exists for giving the converting child a Hebrew name at circumcision, for a boy, and by extension one could also justify a synagogue or home naming for a converting daughter shortly after birth and well before the conversion is completed. However, this is likely to serve in the future as an indication of the Jewishness of the child, even though the conversion may never have been completed. Prudence suggests, therefore, that the granting of a Hebrew name be withheld until the immersion. The naming may be repeated in a synagogue מי שברך ("May God who blessed") if desired.
p) An adopted child may use the patronymic and matronymic of his adoptive parents, and, if a convert, need not use בן/בת אברהם אבינו (son/daughter of Abraham our ancestor).

On Matters of כהונה and Legal Documents

q) Use of the adoptive father's name as the child's Hebrew patronymic carries no practical liabilities in terms of the validity of that name for an *aliyah* or for documents such as a כתובה or גט. The child is not, however, a כהן or לוי by virtue of adoption into such a family. He/she should not receive the honors reserved for כהנים and לויים and should leave out of his/her name reference to his/her father as הכהן or הלוי.
q) *Obiter dictum*: A female child converted before the age of three years should be considered acceptable in marriage to a כהן. Thus it is much preferred to convert female adoptees before they reach that age.
r) When naming a child at immersion, no naming ritual is necessary. The conversion documents which include the Hebrew name suffice for this purpose. Nevertheless, some might wish a ceremonial presentation of the Hebrew name. Several suggested naming formulae for a child convert are offered herein. (n. 11)
s) The child of a Jewish mother and non-Jewish father is Jewish and requires no conversion. It is best that such a child use his/her mother's

name in lieu of the patronymic, like the *amora* מרי בר רחל (Mari son of Rachel). Another suggestion, use of the maternal grandfather's name, is less desirable. (n. 12)

NOTES

1. Kid. 73a, Sh.A., E.H. 4.
2. E.H. 4.33
3. Issurei Biah 15.25-26
4. Sh.A., E.H. 4.31.
5. With regard to South American children up for adoption, who may indeed be abandoned, therefore fitting the rigorous definition of an אסופי (foundling), it may be said that these are generally peasant children from a social stratum that includes no Jews, so that the possibility that they may be ממזרים may be overridden by the existence of תרי רובי – a double majority: most of their town and most of their "type." (See *Be'er Hetev* 44 to E.H. 4.33 and see E.H. 6.17-18.) The same would be true of Korean children, there being no measurable Jewish Korean population.
6. E. H. 4.26.
7. E. H. 7.
8. Those with Rambam who permit an אסופי to marry based on a presumption established by the child not having been consigned to death, rather than on a basis of רוב (majority) or ספק ספיקא (double doubt) explain this leniency as against the restrictive rule re שתוקי otherwise. Rabbi Solomon Kluger *Haelef Lekha Sh'lomo* 15 explains that when the mother cast off her child, taking care for its protection, she indicated thereby that it was not a ממזר, erasing our doubt. However, a mother who has not cast off her child has taken no action to indicate the status of the child, so our doubt remains. By this counterintuitive reasoning, even should we know an adoptive child's natural mother the ruling re שתוקי could not apply. But the reasoning is debatable. If ממזרות is so bad it would lead a woman to cast her child out to die, then wouldn't her keeping the child testify to its legitimacy even better than the care with which it is abandoned? We are returned to the question, why not apply the restrictive rule of שתוקי to a child of unknown parentage? Still, there is no need to seek greater חומרא (stringency), here, than anyone proposes. All of these are attempted justifications of the Talmud's law as it stands. The greater cogency resides with the explanation of the *Noda Biyhudah*, though that explanation is based on the leniency against Rambam.
9. Kid. 73a.
10. See *Arukh Hashulḥan*, E.H. 4.57-58.

11. *Turei Zahav*, Y.D. 195.7; Feinstein, E. H. I 71 and 10; R. Eliezer Waldenberg, *Tzitz Eliezer*, III, 27.2.

12. See position of Birkhei Yosef as cited by Waldenberg.

13. Iggrot Moshe Y.D. I, 161.

14. Rabbi Hibner, in an extensive analysis of these questions, deals with a few more permutations. Rabbi Meir Halevy Abulafia (רמ"ה) cited in Tur, *Even Haezer* 2, adds a further stricture that marriage should be prevented for any Jew whose lineage is not fully known until it can be ascertained. Rashi so indicates (Ket. 24a, 25b s.v. להשיאו אשה), though *Tosafot* there disagrees, as do other *rishonim*. This debate carries through to later authorities, with Beit Shmuel (Sh.A. E.H. 2.3) demanding proof of lineage and *Shaar Hamelekh* (to Rambam, Issurei Biah 20.5) rejecting that demand. The fact that a foundling not consigned to death may marry, however, argues strongly against this excessive stricture, as noted by Rabbi Solomon Kluger *Haelef Lekha Sh'lomo* and common practice (until very recently in certain self-selecting circles of the super-pietists) has been to accept the חזקת כשרות (presumption of validity) of every Jew, and we standardly so rule with the exception of the issue of patrilineage and conversion about which CJLS has demanded greater investigation (*Proceedings of the Committee of Jewish Law and Standards*, 1980-1985, pp. 87ff.)

Hibner also discusses the question whether likelihood of trans-gression of the prohibition of יחוד between the adoptive child and his/her adoptive parent is sufficient cause to prohibit adoption. On its face the situation in an adoptive home is no different from that in any home and there can be no grounds to prohibit here, but see his lengthy discussion.

However, where records are sealed by law, it is sufficient to function under the operant presumptions.

15. I effectively equate קבלת עול מצות (receipt of the commandments) here, with informed consent. In an article in *Tradition* magazine, Vol. 22, 4, winter 1987 (pp. 1-17, "The Conversion of children Born to Gentile Mothers and Jewish Fathers"), R. J. Simcha Cohen attempts to split the concept of קבלת עול מצות (receipt of the commandments) from that of consent, predicated on an assumption of some later *poskim* that קבלת עול מצות requires a promise of full and faithful practice rather than simple consent to convert into the faith. Cohen properly refutes that restrictive view in the case of a minor convert and finds that the court's approval as not to guarantee ensuing observance, but he leaves that standard in place as regards an adult convert of whom קבלת עול מצות is required.

The split appears unnecessary. It is clear to me that the basic law of conversion which requires only that a potential convert be advised of מקצת מצות קלות ומקצת מצות חמורות – a few simple commandments and a

few serious ones (Y.D. 168.2) and permits the convert's immediate assent and circumcision or immersion only envisions general informed consent and not a major attempt to prove perfect long-term fidelity in practice. It is assumed by the halakhah that the concept of informed consent described here, which goes under the title קבלת עול מצות, is of consent to function within the Jewish religious community according to its ways, and not simply consent to be registered on paper as Jewish, which does not constitute consent but is rather a form of fraud.

16. Ket. 11a.
17. *Iggrot Moshe*, Y.D. I, #162.
18. Ibid 161.
19. Y.D. 268.7.
20. Gedaliah Felder, נחלת צבי, p. 19.
21. With regard to the many South American children put up for adoption in this country the presumption of the intent of the parents to grant control of their children to a custodial agent is questionable since in at least some, and perhaps most, of these cases these are abandoned children who were not given up for adoption per se. In its stead we may accept a presumption that it is the will of the parents to rescue their child from the affliction of a situation of war, sufficient to accept any condition of that salvation. Failing that, the fact of guardianship alone, in the absence of any contesting claim on the part of the natural parents, confers on the adoptive parents the obligation to proceed with full authority with regard to the child in determining his/her best interests.
22. The single simplest interpretation of the matrilineal rule in Jewish law is that Jewish Law so thoroughly and radically rejects the notion of intermarriage that it asserts that a child cannot be sired in intermarriage. Thus, a child born of such a union has one, and only one, parent – the apparent parent, the mother. This is not a feature of the difficulty of ascertaining the father; much law exists as to how a court may make such a determination (Sh.A., E.H. 4.25ff). In *Yevamot* 98a Rava states this expressly:

> מר רבא: הא דאמור רבנן אין אב למצרי, לא תימא משום דשטופי בזימה, דלא ידיע (רש"י: אבוה מנו), אבל ידיע חיישינן, אלא אפילו דידיע נמי לא חיישינן

Rava says: Regarding the rabbinic saying 'An Egyptian has no father', you should not think that this is because they are sunk in depravity and don't know (Rashi: who their father is), but were they to know we would need to take it into account. Rather, even though they know, we do not take it into account.

It is simply a matter of the impossibility of such a union, as Rava continues to explain: שמע מינה אפקורי אפקרי רחמנא לזרעיה – one must conclude that God nullified his seed. The analogy would be to the

crossbreeding of different species which is always barren. Far fetched as this may seem on its face, the analogy is explicit in the well-known exegesis to *Breishit* 22.5: ואתם לכם פה עם החמור – עם הדומה לחמור – "You, stay here with the mule" – with the one who is like a mule which is used to teach that a slave cannot validly marry (Kid. 68a) nor do the children relate to their slave father (Yev. 62a). Rava concludes with a verse from Ezekiel (23.20): דכתיב: בשר חמורים בשרם וזרמת סוסים זרמתם – as it is written: "Their flesh is like the flesh of mules and there issue like the issue of horses.

Rabbenu Tam treats this analogy literally in suggesting that adultery with a non-Jew should be free of the death penalty, as reported in *Tosafot, Sanhedrin* 74b (s.v. והא אסתר). *Tosafot* rejects this reasoning, agreeing nonetheless that זרעיה דכותי הוא דאפקריה רחמנא לענין חיים – it is the seed of a gentile that God has nullified, as far as life-giving is concerned, but his intercourse is not nullified. This terminology, rather than the bestial analogy, is subsequently reported as the basis of the matrilineal rule in the comments of Rabbi Elijah Gaon of Vilna (*Even Ha-ezer* 4.7, and see Pitḥei T'shuvah and Otzar haPoskim there).

In a seminal article in the *AJS Review* (Vol. X, 1, Spring 1985, pp. 19-53, "The Origins of The Matrilineal Principle in Rabbinic Law") Dr. Shaye J. D. Cohen establishes the sources behind the Mishnaic ruling concerning the offspring of questionable marriages (*Mishnah Kiddushin* 3.12), and points to a source in Roman law. That Mishnah, though standardly seen as the classic locus of the principle of matrilineality, does not precisely state that principle, nor focus upon it. The organizing principles of that Mishnah differ altogether. Moreover, that Mishnah and its cohort do not represent the ultimate shape of the matrilineal principle at all, in that they define the offspring of a Jewish mother by a non-Jewish father as a ממזר, whereas ultimately the law is that said offspring is a legitimate unflawed Jew. Thus to properly identify the sources of the Mishnaic version of matrilineality may not suffice in order to properly identify the source of the law as codified in law and practice.

The *amoraim* engage in a huge battle of assertion with regard to the outcome of this legal issue. On *Yevamot* 44b-45b three dicta representing eight *amoraim* rule the offspring a ממזר while at least five, representing ten *amoraim* rule the offspring legitimate. The only logic applied, offered by the *amora* Rabbi Yaakov, explains both sides in terms of an analysis which is a reflection of the categories of the Mishnah in *Kiddushin* inverted to consider the marriageability of the man rather than the woman as the Mishnah has it. It is not compelling. (Dr. Cohen notes that the Talmud's counter-argument to the Mishnah's rule "is difficult to understand" and that "the dynamics of this debate remain to be

investigated") (notes 45, 51). The side of the debate favoring the normative Tannaitic rule of the Mishnah did not need any countervailing theory to support its position, but the opposition which prevailed must certainly have had an independent theory to justify the abandonment of the Tannaitic norm. To me it appears likely that the *midrashim* and dicta supporting the notion that cross-fertilization of a Jew and a non-Jew is null represent that other theory.

Rava speaks of the nullification of the sperm of a non-Jew, which leaves open the possibility that the offspring of a Jewish father and non-Jewish mother might yet be considered son to his father, contrary to the matrilineal rule. That that is not the case is derived from verses on *Kiddushin* 68a/b which appear far removed from the cross-breeding analogy. There is nonetheless some indication that this analogy was in fact at the heart of the original amoraic thinking there, too. The Mishnah sets out that the child of a slave-woman or non-Jewess by a Jew has the mother's status. The Talmud asks why and Rav Ḥuna offers the cross-breeding analogy as the solution. All that follows, with all the additional verses, is presented in the later voice of the anonymous gemara, limiting the use of Ḥuna's dictum and providing other texts. It is not unlikely that Ḥuna's dictum stood alone as the Babylonian amoraic explanation of the principle of matrilineality, providing the other side of the cross-breeding analogy described so colorfully by Rava in *Yevamot*.

23. See Felder, נחלת צבי, pp. 73- 76.
24. *Bayit Ḥadash*, Y.D. 268, s.v. נכרי; *Siftei Kohen*, Y.D. 268.16.
25. Ket. 11a; Y.D. 268.7.
26. Ket. 11a.
27. *Shita Mekubetzet* to Ket. 11a, *Arukh HaShulḥan*, Y.D. 268.13.
28. Y.D. 268.8.
29. *Yam Shel Shlomo* on Ket. 11a, cited by Felder, p. 25.
30. The tendency of some *poskim* to foreclose the right of renunciation expressly reserved for the child convert by Rav Yosef extends even further. Some held that the right of renunciation does not apply at all to a child who converted together with a parent, others to any child convert brought for conversion by a parent (*Piṭḥei Teshuvah* 268.8, Felder, p. 26). This latter position, if accepted and applied to adoptive as well as natural parents in line with the argument herein, would foreclose completely the right of renunciation, which is the convert's ultimate right of consent, in virtually all cases. Conversely, it would strongly affirm the authority of the parents in the disposition of their minor children. The views of the majority of the CJLS might be consonant with such a position, however at no point did the committee consider this option.

31. Sh.A., Y.D. 268.5 with Turei Zahav; Feinstein 161.0
32. Sh.A., Y.D. 268.3 with *Shakh*, *B'er Heiteiv* 7 and *Dagul meRevava*, there; and see Tos. Yev. 45b, s.v. מי לא טבלה.
33. #13, pp. 94-104.
34. Actually, more extreme statements, in the first instance, prohibit such a circumcision altogether, effectively prohibiting the conversion of such children, out of this fear of producing pseudo-Jews. This does not follow at all, however, from the precedents in the talmudic passage and the primary codes. See the article by Rabbi Cohen, Felder p. 10 and Klein p.100.
35. Sh.A., Y.D. 266.13. The Rabbinical Assembly has actually preferred eighth day circumcisions for conversion of an infant where possible (*Adoption* [Summary], Rabbi Phillip Sigal, Feb. 1958).
36. This ruling is made by Rabbi David Tzvi Hoffmann's *Melamed Lehoil*, #82; Rabbi Feinstein, Y.D. I, #158 (the number is misprinted in Klein); R. Felder, p. 76.
37. The question of the recitation of שהחינו at various momentous life events is a much discussed issue of the propriety of such new uses of the blessing versus the notion of ברכה לבטלה (an uncalled for blessing).

In general my experience has been that we are rather liberal in the use of שהחינו which seems to me fully justified. In this case there exists precedent for reciting שהחינו at conversion in that name of Radbaz, in *Pitḥei Teshuvah* to Sh.A., Y.D. 268.1.

The choice exercised herein to recommend that שהחינו be recited after immersion rather than the standard procedure of עובר לעשיה – (reciting a blessing immediately before performing an action) is predicated on the notion that the occasion for reciting שהחינו here is the parents' joy at the completion of the conversion, not the immersion or conversion itself. Some members of CJLS nevertheless clearly preferred that שהחינו be recited before immersion.

38. Felder, נחלת צבי, p. 54.
39. Ibid p. 225.
40. *Iggrot Moshe*, Y.D. I, #161.
41. נחלת צבי, p. 148
42. Rabbi Feinstein proposes a revised text of the naming when said at the circumcision of a converting infant in order to hint at the fact that the conversion is not yet complete (and in order to delete references to the child having been born of his parents). As follows:

או"א קיים את הילד הזה. ויקרא שמו... זה הקטון... יהיה ויכנס לטבילה לקדושת ישראל ולתורה ולחופה ולמעשים טובים.

> Our God and god of our ancestors, protect this child, and may he be named . . . this infant . . . shall grow great. He shall be immersed into the holiness of Israel and gain the benefits of Torah, of marriage and of good deeds.

This is, as far as I can tell, a construct of his and could be varied to taste. Thus, I would include the phrase אביו ולאמו by his father and mother in the first line, there is not reason to deny that appellation to the adoptive parents, and perhaps the third and fourth verses, זכר לעולם בריתו "he remembered his covenant" and וימל אברהם "Abraham circumcised". To be fair, Rabbi Feinstein may himself include some verses, having presented only a summary of the significant changes in his responsum.

Rabbi Felder, who likewise supports naming a convert at circumcision, cites Rabbi Feinstein's naming text and another, in the name of Rabbi Yaakov Chazan of London (p.225) which would read: כן יכנס לתורה לחופה ולמעשים טובים ולמצות so may he gain the benefits of Torah, of marriage, of good deeds and of mitzvot and yet another (p.46) in the name of Rabbi Gershon haGozer.

> או"א קיים את האיש הזה בתורת אל ובמצוותיו ויקרא שמו ישראל . . . ישמח בתורה וליגל במצוות. הודו לד' כי לעולם חסדו . . . בן אברהם גדול יהיה. כן יכנס בתורת אל ובמצוותיו ובמעשים טובים.

> Our god and God of our ancestors, protect this man with God's Torah and commandments, and may he be named, as a Jew . . . , may he be happy in the torah and rejoice in mitzvot. Praise God, for God is good. God's love endures forever. This man, descendant of Abraham, shall be great, may he gain the benefits of God's Torah and commandments and of good deeds.

If the practice recommended here is followed, however, there is no need for naming formulae for semi-converts. At the time of immersion it is proper, and sufficient for purposes of naming, to include the Hebrew name in the court document certifying the completion of conversion. A version of such a document for an adult convert can be found in the *R.A. Rabbi's Manual* on pages 79-80, and for child converts in an appendix to this paper. If desired, a naming ritual may be done as well. The form proposed in the R.A. manual (pp. 74-75) is that of a מי שברך. As noted, this is not a matter of law, and the מי שברך in form will serve, yet the choice is odd, in that that form has its natural venue around the reading of the Torah, and not in home ceremonies. Rabbi Felder (p. 46) brings a lovely version of a naming to be said after the immersion in the name of the *N'har Mitzrayim*.

או״א הצלח נא להגר הזה הנקרא שמו בישראל... משוך עליו חסדך. וכשם שזכית אותו להסתופף ולחסות תחת כנפיך. כן תטע בלבו אהבתך ויאתך ותפתח לבו בתורתיך ותדריכהו בנתיב מצוותך ולעשות רצונן למען ימצא חן בעונוך. אמן. כן יהי רצון.

Our god and God of our ancestors, may this convert prosper, whose Jewish name will be... Spread your grace over him and as You have allowed him to take shelter under Your wings, so may You plant in his heart love and fear of You and so may You open his heart with Your Torah and lead him in the path of Your commandments and of doing Your will, so that he finds favor before You. Amen. So may it be your will.

Clearly, the text of such namings is susceptible to the full range of our liturgical creativity.

43. Felder, נחלת צבי, p. 224.

44. But cf. *Tosafot Yeshanim* which concludes based on a *pilpul* of the *Tosafot* that his mother was Jewish. That would cast doubt on his being a real convert (despite his explicit words), thereby removing him from the category of one who should be בן אברהם (ben Avraham) to one who should use his mother's name, like the *amora* Mari bar Raḥel (Yev. 45b, B.B. 149a), but would nonetheless not justify his gaining his patronymic. That, in any case, must be seen as indicative of the taking of the name of the father-in-fact, although arguably this could be seen as a special feature of converting simultaneously with his father.

The child of a Jewish mother and non-Jewish father is in need of no conversion and is thus properly outside the purview of this paper. However, the question of what to name that child comes up often and deserves mention in passing. I believe it best that such a child should use his/her matronymic in place of the patronymic, based on the model mentioned above of the *amora* Mari bar Raḥel.

This suggestion is endorsed by R. E. Waldenberg in an addendum to a responsum (*Tzitz Eliezer* 4.9) based on a comment by the *Noda Biyhudah* in his commentary *Dagul meRavava* to Sh.A., E.H. 129.9, and by Rabbi Isaac Klein, *GJRP*, p. 447 in the name of the RALA archives. The other operant suggestion is to use grandfather – thus Rabbi Felder (*Naḥalat Zvi* p. 122-125) based on a usage re an apostate mentioned by Isserles (Sh.A., O.H. 139.9). In an egalitarian age the obvious preference would be for the former, and the latter has all the problems that are raised by the *Beit Shmuel* on *Even haEzer* 129.9 and by Isserles there, 129.10.

45. Israel Ben-Ze'ev (*Koma*), *Gerim v'Giyyur Ba'avar uvaHoveh* (Jerusalem 5722), p. 96, n.3.

46. Vol. III (1960/61), pp. 65-84.

47. *Even Haezer* I, 76.

48. *Nissan* 1950.
49. *Yesodei Yeshurun II*, 188-191.
50. For the laws in detail, see *Encyclopedia Talmudit*, XVI, 2ff.
51. Sh.A., E.H. 129.3.
52. Sh.A., E.H. 129.10.
53. Sh.A., E.H. 129.9.
54. Felder, *Yesodei Yeshurun*, II, 190-191.
55. *Noda Biyhudah*, E.H. 7; above, pp. 2-3.
56. For detail of this debate, see *Encyclopedia Talmudit*, VI, p.21ff.
57. *Iggrot Moshe*, Y.D. I, #p.161.
58. *Yesodei Yeshurun* 191-192, *Naḥalat Zvi* 31-35.
59. Rabbi Meyer permits naming for the adoptive father, provided the adoptive father is not a כהן or לוי. If he is, he advises בן אברהם (ben Avraham). Rabbi Harlow, however, advises that in the case of a כהן that the child may be named for the adoptive father, but should be called to the Torah "without the designation כהן."
60. Rabbi Steiman's summary was not prepared for the CJLS, but rather for the Committee on Marriage and the Family of the Rabbinical Assembly.