

Fundamentals of Judaism

Session

6

Mitzvot III: Modernity

Reading Assignments

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Jewish Literacy	Chapters 109, 248-255
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Hand Outs	Introduction to <i>A Guide to Jewish Religious Practice</i> "Jewish Law" from <i>Emet Ve-Emunah</i> "Converts Mourning the Death of Close Relatives" by Rabbi Joel Rembaum

Terms and Concepts

- Mitzvah
- Halakhah
- Emet
- Emunah
- Posek
- Committee on Jewish Law and Standards
- Shulkah Arukh
- Tzivui
- Shelah/She'elot
- Teshvah/Tehsuvot
- mara d'atra
- machlocot l'shem shamyim
- lo b'shamyim hee



Organ and Tissue Donation Card

RABBI JOSEPH H. PROUSER

This pamphlet was developed and then subsequently approved by the CJLS on June 12, 1996, by a vote of seventeen in favor and one abstention (17-0-1). Voting in favor: Rabbis Kassel Abelson, Ben Zion Bergman, Stephanie Dickstein, Elliot N. Dorff, Arnold M. Goodman, Susan Grossman, Judah Kogen, Vernon H. Kurtz, Alan B. Lucas, Aaron L. Mackler, Lionel E. Moses, Paul Plotkin, Avram Israel Reisner, Joel E. Rembaum, Elie Kaplan Spitz, Gordon Tucker and Gerald Zelizer. Abstaining: Rabbi Myron S. Geller.

Summary

The Rabbinical Assembly Committee on Jewish Law and Standards has ruled that one is obligated to permit postmortem transplantation of his or her organs in lifesaving medical procedures and that withholding consent for such organ donation is contrary to Jewish law.

"There is no greater K'vod ha-Met (honor to the deceased) than to bring healing to the living."
—Rabbi Isaac Klein

The Need

- Over 68,000 people are waiting for organ transplants.
- Of this number, over 2,100 are children.
- Many thousands more need donated tissues.
- Every 16 minutes a new name is added to the list.
- Typically, each day 13 patients (5,000 each year) die while waiting for their life-saving organ transplant.

The Success

- Most organ transplants are very successful, either saving lives or greatly improving the quality of life for the recipients.
- One year success rates range from 70% for livers and lungs, to over 90% for kidneys.
- Many of these recipients have had functioning transplants for over 25 years.
- Success rates continually improve as better methods to control rejection are identified.

The Process

1. Collect information about donation and transplantation.
2. Familiarize yourself with the Jewish obligation to preserve life.
3. Talk to your family about your decision.
4. Sign the attached donor card in the presence of two witnesses.
5. Carry the signed card in your purse or wallet with your identification. Include your donor status in any more comprehensive advance medical directives.

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.

that the rest of my remains are buried in a Jewish cemetery, in accordance with Jewish law and custom.”

Thank you.

Signature _____
Date _____

In keeping with the moral and religious teaching of Jewish law, and in an effort to help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. FOR PURPOSES OF TRANSPLANTATION ONLY, I donate:

_____ a) Any needed organs or tissues
_____ b) Only the following organs or tissues: _____

Limitations or special wishes, if any: _____

Signature of donor: _____

Birthdate: _____

City and State where signed: _____

Date: _____

Witness: _____

Witness: _____

Must be signed by donor and two witnesses in the presence of each other.

The Rabbinical Assembly, founded in 1901, is the international association of Conservative rabbis. The Assembly actively promotes the cause of Conservative Judaism and works unceasingly to benefit Klal Yisrael; publishes learned texts, prayerbooks and works of Jewish interest; and administers the work of the Committee on Jewish Law and Standards for the Conservative Movement.

The Rabbinical Assembly
3080 Broadway
New York, NY 10027
(212) 280-6000
Fax: (212) 749-9166
E-Mail: rabassembly@jtsa.edu



Converts Mourning the Death of Close Relatives

RABBI JOEL REMBAUM

This paper was adopted by the CJLS on June 10, 1998 by a vote of eleven in favor, five opposed and one abstained. Voting in favor: Rabbis Kassel Abelson, Elliot Dorff, Ben Zion Bergman, Shoshana Gelfand, Arnold Goodman, Judah Kogen, Aaron Mackler, Mayer Rabinowitz, Joel Rembaum, James Rosen, Gerald Zelizer. Voting against: Rabbis Baruch Frydman-Kohl, Lionel Moses, Paul Plotkin, Avram Reisner, Joel Roth. Abstaining: Rabbi Alan Lucas.

שאלה

How should converts to Judaism mourn the death of close relatives who are not Jewish?¹

תשובה

In recent years Jewish communities have welcomed into their midst ever increasing numbers of גרים, "converts to Judaism." Given the demographic trends of American Jewry there is every reason to assume that this process will continue for the foreseeable future.

Among the halakhic issues that arise as a result of the heightened rate of conversion to Judaism are questions that touch on the relationship between a Jew-by-choice and his or her natural, non-Jewish family. In earlier centuries this matter was at best marginal. The Jewish community was separated physically, emotionally and spiritually from the Gentile world. From the third century C. E. conversion to Judaism was an insignificant phenomenon, and when such a conversion did take place a radical separation between the גר, "convert to Judaism," and his or her natural family ensued. In many instances in pre-modern times גרים had to flee their original areas of settlement for fear of retribution on the part of the local non-Jewish religious authorities.²

Relations Between גרים and Their Non-Jewish Relatives

As uncommon as they were, relationships between גרים and their non-Jewish families have been discussed in the halakhic sources for many centuries.³ From one halakhic point of view גרים ought not to have any legal ties or obligations to their Gentile parents because, according to Talmudic tradition, גר שנתגייר כקטן, "a proselyte who converted is like a new-born infant."⁴ This means it is as if גרים are created anew upon conversion, and all links to their natural parents have been severed. The Talmud's discussions in which the principle of גר שנתגייר, "a proselyte who converted," is cited revolve around the following questions: May a גר marry close non-Jewish relatives without violating the prohibition against incest? May גרים testify in cases involving their non-Jewish relatives? Does a גר fulfill the obligation of "be fruitful and multiply" through children born to him prior to his conversion? With respect to the laws of primogeniture, does the first Jewish son born to a גר after conversion displace a true first-born son born to the גר prior to conversion? May freed and converted slaves who are brothers marry each other's wives from prior to their conversion?

As Rabbi Etan Shikli has noted⁵ the strong tendency in these cases is to set aside the principle of גר שנתגייר in the face of mitigating circumstances which demand other ethical or rational considerations. Thus, for example, regarding the possibility of permitting what otherwise would be considered incestuous relations between גרים and their non-Jewish relatives, Rav Nahman rules against permitting such relations, שלא יאמרו, באין מקדושה חמורה לקדושה קלה, "that it should not be said of the proselytes that they come from a higher degree of sanctity to a lesser degree of sanctity." That is, it should not be said that as non-Jews they would have been forbidden to engage in such unions, while as Jews they would have been permitted.⁶

Rabbi Maurice Lamm has discussed the broader issue of גרים incorporating the full spectrum of Jewish mourning practices when grieving over the loss of non-Jewish parents. In evaluating Rabbi Lamm's opinion, one can see a change in emphasis in his more recent writing where he becomes more supportive of a גר observing the full bereavement ritual. In an earlier work, *The Jewish Way in Death and Mourning*, Rabbi Lamm notes that there is no obligation on גרים to mourn non-Jewish parents in the "prescribed Jewish manner." While גרים are expected to show respect for their parents, they are religiously removed from them. He holds that grief should be expressed in a "Jewish way." While allowing for the possibility that a גר may say קדיש, echoing Rabbi Walkin, he suggests that the recitation of a psalm or the study of a portion of Torah in honor of the Gentile parent would be preferable. "The decision to do either rests with the bereaved." In this book Rabbi Lamm believes that a distinction should be made between a Jew and a non-Jew. Likewise, shiva procedures preferably should not be observed fully, as with a Jewish parent. Some may conclude that the parent was indeed a Jew. "The converted Jew should not feel that his emotions of grief must be restrained because of the religious difference. It is only the religious observance which is at issue. Indeed, those mourners who are converts should be shown special kindness during this period."²²

A decided shift in emphasis can be seen in these selections from Rabbi Lamm's more recent work, *Becoming a Jew*:

It must be emphasized that the mourning practices should be Jewish observances and decidedly not those of the convert's former religion. Not only respect for parents is important, but also self-respect to express feelings in a way most appropriate to the mourner's life and philosophy. The convert may perform all those mourning observances as do born Jews for their parents. They may serve as pallbearers, bury the dead at their cemetery, fill in their graves, and observe the seven-day (*shiv'ah*) and thirty-day (*sheloshim*) mourning periods. Some authorities, however, say that the full observance of *shivah* and *sheloshim* and the full twelve-month period of mourning is not appropriate.

As to the question of whether a Jewish mourner should recite the *Kaddish* prayer for gentile parents, former Sephardic Chief Rabbi Ovadiah Yosef urges converts to do so. Whether, in fact, every other rabbi would rule in the same manner is questionable. But there is no doubt that, if the convert mourner wishes to recite the *Kaddish*, he should be encouraged to do so....

However, understandably, the *Halakhah* could not require the convert to respect his parents and formally practice mourning rites. Only the relationship could determine the obligation. Psychological insights available today incline us to encourage the convert to express his mourning. It is a way of living and growing through a situation which, if not handled well, might be postponed for half a lifetime and affect virtually every experience of separation that may occur in the future.²³

As we have seen, even in earlier periods when relationships between גרים and their natural parents usually were severed, rabbinic authorities did set aside the principle of גר שנתגייר when warranted by special circumstances. Today, when the norm is for גרים to maintain ties to their Gentile parents, how much more so should this principle be set aside as we deal with the matter of how גרים are to mourn the loss of their non-Jewish relatives. Today, when a parent or close relative of a גר dies the pain of the grief often is unaffected by the fact that a conversion to Judaism has taken place. The child loves and respects the parent much as he or she did prior to the conversion. Rabbi Yohanan's notion, דהא הוו ליה, "indeed, he had them,"²⁴ applies here with regard to the existential reality of these feelings. As a consequence, the גר will need a method for managing his or her grief. Inasmuch as the גר is now a Jew, he or she ought to be directed to the full scope of the

Special Circumstances

There can be no question that situations will arise with regard to a גר mourning the loss of a non-Jewish relative that a born Jew would not encounter with the death of a Jewish relative. In such cases the rabbi of the גר, as מרא דאתרא, the “local halakhic authority,” will have to evaluate the situation and rule accordingly. Adjustments in the traditional bereavement practices may have to be made, but always within the context of a mandatory structure of mourning. Jewish tradition already has built in such adjustments. For example: if a person of modest means will suffer financial loss as a result of sitting shiv’ah for the full seven day period, he or she may go to work on the third day.²⁸ In this case a pressing need is taken into consideration and a modification in what otherwise is an obligation (sitting shiv’ah for the full seven days) is allowed. Likewise, during the year of formal bereavement following the death of a parent, a mourner may attend a wedding dinner as long as he or she has a responsibility at that dinner that requires their presence.²⁹ Similarly, the rabbi should evaluate the situation of the גר and allow for adjustments in the mourning rituals when necessary.

Here are some examples of the more common questions that can arise regarding special circumstances and some recommended adjustments in the traditional practices that rabbis can make:

1. What does a גר do regarding preparation for and participation in a non-Jewish funeral? If there are other non-Jewish family members who are assuming responsibility for the funeral arrangements, the גר need not be involved. If appropriate, the גר can ask that the funeral not be delayed too long. The גר may attend the funeral and may give a eulogy or read an appropriate reading (a psalm, for example). The גר may not read any liturgy or text that is taken from the sacred literature of another faith (“The Lord’s Prayer,” for example) or that expresses the beliefs of another faith or answer “amen” to any non-Jewish prayers. Similarly, he or she may not participate in a personal way in any non-Jewish ritual (taking communion, for example). If the גר is responsible for the disposition of the remains of a relative, he or she should see to it that the relative is buried in a manner that befits the relative’s religious affiliation. The גר may serve as a casket bearer for his or her relative. As in the case study noted above, if the גר can get the family’s approval to lower and bury the casket, this should be done. If the family feels strongly that this ought not to be done, however, the גר should not press the issue.

2. How should a גר observe shiv’ah if he or she is staying with non-Jewish relatives? The גר should return to his or her own home as soon as possible after the funeral to begin traditional shiv’ah observance. If the גר feels obligated to stay with relatives for a period of time after the funeral (to be with a grieving parent, for example), he or she should stay at home and observe all the personal aspects of shiv’ah (not bathing, not wearing leather shoes, not watching television, etc.) If there is a Jewish community nearby and if the family members are not offended, the גר should try to arrange for a מנין at the home. If this is not feasible, the גר should attend services at a synagogue so קדיש can be recited.

SUMMARY

We have seen that the principle, גר שנתגייר כקטן שנוולד דמי, was often set aside in Talmudic discussions of the relationship of גרים to their non-Jewish relatives. We have also seen that there are halakhic authorities who would consider the recitation of the קדיש appropriate or even mandatory for a גר who is mourning the death of a non-Jewish parent. Considering these points and Rabbi Maurice Lamm’s most recent opinions regarding גרים mourning Gentile relatives, the answer to the question, “How should converts to Judaism mourn the death of close relatives who are not Jewish?” should be: Converts to Judaism are required to follow regular Jewish bereavement practices when mourning the death of non-Jewish parents and close relatives, just as born Jews would for Jewish family members. To do less would be to deny גרים the full benefit of the structured Jewish mourning procedures and would leave converts with the sense that Judaism establishes a double standard in evaluating people’s feelings of grief. To do less would encourage גרים to supplement their mourning rituals with customs derived from other religious traditions. Seeing גרים observing modified mourning rituals would reinforce the tendency in born Jews to do less than what is required in grieving over the

27. Isaac Klein, *A Guide to Jewish Religious Practice* (New York: The Jewish Theological Seminary and Ktav, 1979), p. 270, citing Talmud Bavli Sanhedrin 46b.

28 Klein, *Guide*, pp. 288-9.

29 Lamm, *Death and Morning*, p. 182.



EMET VE-EMUNAH

אמת ומוטת

HALAKHAH (JEWISH LAW)

The Indispensability of Halakha

Halakha consists of the norms taught by the Jewish tradition, how one is to live as a Jew. Most Jewish norms are embodied in the laws of the Bible and their rabbinic interpretation and expansion over the centuries, but some take the form of customs, and others are derived from the ethical ideals which inform the laws and customs and extend beyond them (*lifnim m'shurat hadin*). Since each age requires new interpretations and applications of the received norms, Halakha is an ongoing process. It is thus both an ancient tradition, rooted in the experience and texts of our ancestors, and a contemporary way of life, giving value, shape, and direction to our lives.

For many Conservative Jews, Halakha is indispensable first and foremost because it is what the Jewish community understands God's will to be. Moreover, it is a concrete expression of our ongoing encounter with God: This divine element of Jewish law is understood in varying ways within the Conservative community, but however it is understood, it is for many the primary rationale for obeying Halakha, the reason that undergirds all the rest.

Other considerations, however, complement the theological basis for Halakha. It is a means of identifying and preserving the Jewish people and its traditions. It trains and sharpens the moral conscience of individuals and society by presenting cases for consideration and teaching Jews how to think about them morally. It establishes minimal standards of behavior and gives ideals concrete expression. In addition to shaping the content of moral standards in these ways, Halakha helps to motivate obedience to them — not as in generations past, through legal enforcement (except in some measure, in Israel) — but by establishing a set of goals which has both divine and social authority. Halakha thus establishes a structure of rules to govern human interactions.

STATEMENT OF PRINCIPLES OF CONSERVATIVE JUDAISM

The Jewish Theological Seminary of America
The Rabbinical Assembly
United Synagogue of America
Women's League for Conservative Judaism
Federation of Jewish Men's Clubs

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must adjust what is on the books to be in line with actual practice if the law is to be taken seriously as a guide to conduct. New technological, social, economic, or political realities sometimes require legal action. Some changes in law are designed to improve the material conditions of the Jewish people or society at large. The goal of others is to foster better relations among Jews or between Jews and the larger community. In some cases changes are necessary to prevent or remove injustice, while in others they constitute a positive program to enhance the quality of Jewish life by elevating its moral standards or deepening its piety.

We affirm that the halakhic process has striven to embody the highest moral principles. Where changing conditions produce what seem to be immoral consequences and human anguish, varying approaches exist within our community to rectify the situation. Where it is deemed possible and desirable to solve the problem through the existing halakhic norms, we prefer to use them. If not, some within the Conservative community are prepared to amend the existing law by means of a formal procedure of legislation (*takkanah*). Some are willing to make a change only when they find it justified by sources in the halakhic literature. All of us, however, are committed to the indispensability of Halakhah for authentic Jewish living.

Our dedication to Halakhah flows from our deep awareness of the divine element and the positive values inherent in it. Every effort is made to conserve and enhance it. When changes are necessary, they are made with the express goal of insuring that Halakhah remains an effective, viable, and moral guide for our lives.

Authority for Making Decisions in Halakhah

The Conservative method for arriving at halakhic decisions reflects our interest in pluralism and also exhibits the trait characteristic of Conservative Judaism, the melding of the traditional with the modern. The rich tradition which we possess depends upon the scholarship, integrity, and piety of our leadership and laity. For religious guidance, the Conservative movement looks to the scholars of the Jewish Theological Seminary of America and other institutions of higher learning.

The United Synagogue of America, the Women's League for Conservative Judaism, and the Federation of Jewish Men's Clubs represent the human resources of laypeople of our community.

Authority for religious practice in each congregation resides in its rabbi (its *mar'a d'atra*). It derives from the rabbi's training in the Jewish tradition attested by his or her ordination as a rabbi, and by the fact the congregation has chosen that rabbi to be its religious guide. In making decisions, rabbis may consult the Committee on Jewish Law and Standards, consisting of representatives of the Rabbinical Assembly, the Jewish Theological Seminary of America, and the United Synagogue of America. The Committee on Jewish Law and Standards issues rulings shaping the practice of the Conservative community. Parameters set by that Committee and at Rabbinical Assembly conventions govern all of the rabbis of the Rabbinical Assembly, but within those bounds there are variations of practice recognized as both legitimate and, in many cases, contributory to the richness of Jewish life. In this way the Conservative community preserves the traditional interactions between individual rabbis in their communities and the larger, central authority of the movement in making decisions in Jewish law. At the same time, Conservative Judaism responds to the needs of individual Jews and congregations. This assures us a clear sense of identity together with a vibrant, healthy pluralism.

INTRODUCTION

shrined in its codes of religious law, and these codes were more effective than any other force in uniting the Jewish people.

Today we must reaffirm that these norms have an important place in Jewish life, and must stress that while Conservative Judaism has its own approach to the development of Halakhah, it stands firmly on the ground of normative Judaism, patterned on accepted laws and standards.

I. Introduction

Judaism rises and falls in accordance with the degree to which Halakhah permeates and penetrates the life of the Jewish people. Despite the occasional successes scored by secular Judaism, and the apparent growth in some branches of Judaism that do not maintain Halakhah, the lasting quality of Judaism and the Jewish people is intimately tied up with the observance of Mitzvot Masiyot, the religious practices that characterize Jewish life and give it the dimension of holiness.

Contrary to the conception current in certain groups, Conservative Judaism has continued in this tradition and has emphasized the validity and necessity of normative Judaism, the Halakhah which regulates our conduct.

Says Dr. Louis Finkelstein: "Judaism is a way of life that endeavors to transform virtually every human action into a means of communion with God. Through this communion with God, the Jew is enabled to make his contribution to the establishment of the Kingdom of God and the brotherhood of man on earth" (*The Jews*, p. 1739).

This corresponds to the talmudic statement: "Which is a short passage in Scripture upon which all the principles of the Torah depend? It is: 'In all thy ways acknowledge God, and He will direct thy paths' [Prov. 3:6]" (B. Ber. 63a).

Halakhah, or normative Judaism, is the primary expression of the Jew's relation to God, and the one authentic path to Jewish existence. Normative Judaism expressed itself not in a creed but in a program of conduct. While we no longer deny that Judaism has a theology, we still maintain that the unique character of Jewish life, the factor responsible for the endurance of the Jewish people, the ingredient that gave holiness to its existence, is the mitzvot, the performance of the religious commandments. Without these, beliefs and opinions are abstract and hollow, and touch life very tenuously.

The soul of the Jewish people revealed itself in its religious way of life; it found its expression in a life lived according to Halakhah.

Jewish life will find its *tiqum*, its salvation, when it continues to live in this tradition. When Jewish life was at its best, fullest, and profoundest (see Heschel, *The Earth Is the Lord's*), its life was *sustained* by the norms en-

A Guide to Jewish Religious Practice

by RABBI ISAAC KLEIN
Supplement by Rabbi Joel Roth

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