The Law of Return and Messianic Jews: Who exactly is a Jew?
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Introduction

As a student of the Middle East and of Israel, I have become quite interested in Israel’s Law of Return, and particularly how it relates to small minority of Jews called “Messianic Jews”. This group seems to be a particular thorn in the side to many ultra-Orthodox leaders and governmental officials in the Ministry of Interior of Israel. These people are Jewish by descent and ethnicity and most are brought up in Jewish traditions and rites. However, they differ with the majority of religious Jews who are still waiting for the identity of the Messiah to be revealed, in that they believe Yeshua (Jesus) is the true Messiah who will return.

This paper will attempt to define the Law of Return, identify who the Messianic Jews are, what they believe, and what the problem is according to the ultra-Orthodox Jews. We will also explore certain injustices being endured by Messianic believers in Israel today, particularly by groups labeled as ‘anti-Missionaries.’

The Roots of Messianic Judaism

The very first ‘Messianic’ congregation originated in Jerusalem after Yeshua’s believed ascension to heaven. His Jewish followers, called Nazarenes, continued to follow a Jewish lifestyle, worshipping in the synagogue, and keeping the law. According to the book of Acts, they resided in Jerusalem. In this initial period following Yeshua’s death, there was no division between these Nazarenes and the Jewish community, they were simply considered another sect in Judaism. These Jewish believers lived a Torah-observant Jewish lifestyle while believing in the risen Yeshua as their Lord and Messiah. (Cohn-Sherbok 1,3)

Yeshua, himself, was raised Jewish, was Torah-observant, and spoke Hebrew. He was born to devout Jewish parents, and went up to Jerusalem for Passover every year. He was circumcised on the eighth day, kept the Biblical festivals, and regularly attended synagogue on Shabbat. Per Judaic tradition, Yeshua would have begun memorizing the Torah at the age of five, and studying Jewish commentary at age ten. At age 12, he conversed with the Sages, read scriptures at synagogue and expounded upon them. Yeshua predictably began his public ministry at age 30 (the age when Jewish men came into full “spiritual vigor” and priests began serving in the Temple.) His disciples continued their Jewish ways even after his departure. (Pryor 14)

As with other sects in Judaism, the ‘Messianic’ Jewish believers established an organizational structure including officials, a president,deacons and a precentor. Three of these individuals
formed a tribunal for judging legal cases. This local council was responsible to the higher court in Jerusalem. James, the brother of Jesus (often called “James the Just”) was regarded as the chief functionary or bishop who ruled over the Hebrew ‘Christians’ as well as other churches they subsequently founded. *(Cohn-Sherbok 3)*

Eventually, a number of Gentiles also became ‘saved’ and believers in Yeshua as well. Their status, however, was a problem: were they converts to Judaism or proselytes only obliged to keep the *Noachide laws* (laws binding on all human beings)? The council of Messianic believers met in Jerusalem, presided over by James, and concluded that God sought to receive Gentiles even though they were not considered converted to Judaism. It was agreed that James, Peter and John should minister to the Jews, and that Paul and Barnabas would go to the Gentiles, and that both Jew and Gentiles could be followers of Yeshua. *(Acts 15:23-29, 21:20-29).*

Persecution eventually came to the Jews, and the Temple was destroyed in 70 CE. Many Messianic believers fled to *Pella* in Transjordan. They continued to practice circumcision and persevered in the observance of the law. These early Jewish ‘Christians’ continued to believe that Yeshua was the divine son of Joseph and Mary, appointed to the office of Messiah because of David’s descent, and that he was confirmed at his baptism. They believed he died for the salvation of the nation, was buried and rose again from the dead, ascended into heaven, and would be returning to establish his kingdom on earth. *(Cohn-Sherbok 4)*

Up until the Bar Kochba revolt (132-135 CE), there were 13 different Jewish-Christian bishops in Jerusalem. In 133 CE, a group of Jews led by Simon Bar Kochba rebelled against Rome under Hadrian. The Jewish Christians declined to participate in the revolt, refusing to accept Bar Kochba as their messiah. After the rebellion was stopped, Jerusalem became “*Aelia Capitolina*” and all Jews, including Messianic believers, were forbidden to enter the city. Gentile Christians were permitted to stay, and so the church transitioned to having gentile bishops lead them. *(Cohn-Sherbok 5)*

Little is known about Jewish Christians from the mid-2nd century until the rise of Islam in the 6th century, but we do know that some communities existed. In the 4th Century, Emperor Constantine converted to Christianity, which sadly led to an era of persecution of both Jewish and Jewish Christian communities. All Jewish converts to Christianity were required to desist from any Jewish practices. They were compelled to denounce Jewish people, and renounce any form of Jewish observance. *(Cohn-Sherbok 7)* The ‘nail in the coffin’ of any Jewish-Christian relationship occurred in 1542, when a pamphlet was distributed by Martin Luther. After his early missionary efforts had failed to win any Jews to Christ, he published a pamphlet “*Against the Jews and their Lies*”, and according to Luther, the Jews were “nothing more than an unwanted pestilence”. *(Cohn-Sherbok 12)*
For many centuries, there was no room, either in the church or in the Jewish synagogue or community, for Messianic Jews who wished to retain their dual identity as both Jews and believers in Yeshua. Any Jew who wanted to honor Yeshua had to leave his people, renounce Judaism completely, and join the gentile church. (Stern 74)

The modern revival of Messianic Judaism began with Christian outreaches to Jews in Holland and Germany in the 17-18th centuries, followed by the Hebrew Christian movement in the early 19th century in England. Occasional efforts were made to retain Jewish approaches to Christianity, e.g., Rabbi Isaac Lichtenstein, who preached Yeshua from the pulpit of his synagogue in Hungary in the late 1800’s, and Josef Rabinovich who founded a Messianic synagogue in Kishinev in the 1880’s. (Stern 74-75)

Today there are approximately 15,000 Messianic Jewish believers in Israel, attending many dozens of congregations. These Messianic Jews insist that by accepting Yeshua as Savior and Messiah they become ‘fulfilled’ or completed Jews. Their critics say they forfeit their Judaism because they have converted to another religion. Therefore, at the very heart of this issue lies the compelling question “Who is a Jew?”

Who is a Jew?

It is an historical fact accepted by most Hebrew scholars that after the dissolution of the United Kingdom of Israel in about 930 BCE, all descendants of Yakov (Jacob) became known as Jews. Biblically, and prior to the 2nd century CE, a person’s individual identity of Jewishness was passed from father to son, by paternal descent. Around 70 CE the establishment of one’s individual Jewish identity changed from paternal to maternal descent. This occurred after the destruction of the Temple, when the Sanhedrin was moved from Jerusalem to Yavne, and was eventually memorialized in the Mishna. (Fischer 234)

This therefore became the traditional halakhic (religious legal) answer to the question of who is a Jew: a Jew is the person born of a Jewish mother. Additionally, one who has been converted to Judaism per the Orthodox Jewish process is considered a Jew. In more recent years, Reform Judaism has added that you are Jewish if born of a Jewish father. (Cohn-Sherbok 191) Messianic Jews believe that Jewish descent alone serves as the fundamental criterion of Jewishness. In general, it is accepted that an individual is Jewish even if he or she has only one Jewish grandparent. (Cohn-Sherbok 202).

David Stern, an author and outspoken Messianic Jew encapsulates the Messianic believer’s emphatic beliefs about their Jewishness in this quote from his book entitled The Messianic Jewish Manifesto:
“There is no conflict whatsoever between being Messianic and being Jewish. Believing in Yeshua, the Jewish Messiah, is one of the most Jewish things a Jew can do. A Jewish believer in Yeshua is not faced with having to give up some Jewishness in order to be Messianic, or having to give up some of his Messianic faith to be more Jewish. (Non-messianic Jews might try to convince him of this, as might some Gentile Christians, but they would be wrong.)...We are 100% Jewish, no matter who denies it. And we are 100% Messianic, no matter who denies it. So it was for the 1st century Jewish believers, and so it must be today. This is the God-determined truth, in the face of all lies, slanders and disinformation of those who would deny us our true identity.” (Stern 24)

The Law of Return

The State of Israel was formed, fought for and won in 1948. Two years later, one of the first bills passed by the new State was the Law of Return, to encourage Jews world-wide to make aliyah to the place founded for their safety and freedom. The following encouragement to immigrate to Israel comes directly from the ‘Declaration of the Establishment of the State of Israel’, May 14, 1948:

THE STATE OF ISRAEL will be open for Jewish immigration and for the Ingathering of exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations. (emphases mine) (Fischer p xviii)

The halakhic definition of Jewishness is not necessarily the same as that of the Law of Return. For the purposes of immigration and for the Law of Return, a Jew was initially defined as “anyone born to a Jewish mother or converted to Judaism”. It seemed that Messianic Jews, or a Jew of any religion, should be included in this definition. (Alexander 175)

In 1962, the High Court of Justice ruled against Daniel Rufeyson, a Jewish Carmelite Monk who tried to make aliyah, calling himself a Jew by nationality and a Roman Catholic by religion. The Court determined that even though “Brother Daniel” had a Jewish mother and was thus ‘halakhically’ Jewish, nevertheless, the secular State of Israel was not bound by this, and could make its own determination of who is a Jew for the purposes of its Law of Return. The Court made use of something they called the “man-on-the-street” criterion, meaning: if a man on the street (namely, Daniel, with his brown monk’s robe and cross around his neck) would not be recognized as Jewish on the street to other people, then he isn’t Jewish. (Alexander 175)
Brother Daniel had declared “My religion is Catholic but my ethnic origin is and always will be Jewish. I have no other nationality. If I am not a Jew, what am I? I did not accept Christianity to leave my people. It added to my Judaism, I feel as a Jew.” In the end, the result was a 2-1 decision against Brother Daniel on the basis he had “severed” himself from his “historic past” by converting to Christianity. However, out of compassion for his earlier heroic rescuing of Jews during the war, he was granted the lesser status of “permanent residency” and was able to live out the rest of his years in Israel. (Fischer 130)

In 1970 the Court allowed Benjamin Shalit (a non-Messianic Jew) to register his son as a Jew, even though his wife (the son’s mother) was Gentile. This provoked a governmental crisis – the law changed, to accommodate both this case and Brother Daniel’s. An amendment was added with this phrase (concerning the definition of a Jew): “who is not a member of another religion and did not voluntarily change his religion”. Additionally, this amendment 4A (a) to the Law of Return passed in 1970 stated: “The rights of a Jew under this law...are also vested in a child and a grandchild of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.” (Izenberg, JP 2008)

This amendment brought both good news and bad news to Jews seeking citizenship. The good news was that any Jew with as little Jewish ethnic heritage as one grandparent on either side of their family could become, at the very least, a “permanent resident” (if this person was a fourth-generation Jew) or more often a full-fledged citizen (if this person was a second- or third-generation Jew). The bad news was that any Jew, irrespective of ethnicity, who had “changed his religion”, was no longer considered to be a Jew and therefore was not entitled to enjoy the benefits of the Law of Return. (Fischer 111)

Another important case in the late 1970’s was the Dorflinger case. Esther Dorflinger was born to a Jewish mother, and claimed she had definitely not changed her religion, but had come to know Yeshua as her Jewish Messiah. She had been baptized, but said it was not into a church, but into the “body of Messiah”. In 1978 the Court ruled against her. It was proven that she had been baptized “into a church” and her name was on the membership roll. The Court maintained that no Jew can believe Jesus is God or that God is a trinity. (Alexander 175-176)

In another well-known case in 1986, Gary and Shirley Beresford came from South Africa and Zimbabwe to make aliyah, but were refused citizenship by the Ministry of Interior because of their Messianic faith. They took their case to court, and a long heartbreaking battle ensued to determine what their status would be. (Alexander 176)

Since the “man-on-the-street” criterion was still being used to prevent their citizenship, the Beresford’s legal help arranged for the “Dahaf Survey of Israeli Jewish Public Opinion Concerning Messianic Jewish Aliyah.” This was research using a sample of 1,189 Israeli people,
78% of whom said a Jewish person who is faithful to the State of Israel, keeps Jewish tradition, and believes in Yeshua (but has not been baptized into a church) has the right to make aliya. 61% of them agreed that any Jew who believes in Jesus should be allowed to make aliya. This evidence was brought to court to prove that the ‘man-on-the-street opinions’ as supposed by the Court were not valid. No longer could it be said that Israelis on the street could not accept a Messianic Jew as a Jew for the purposes of the Law of Return. (Alexander 177-178) However, the Dahaf public opinion poll was essentially dismissed as not applicable for law, having “marginal significance”. In the final court decision by Justice Elon, it was determined that any Jew who believes in Yeshua in any shape or form or any Messianic Jew is part of a different religion and has decided to willfully change his own religion. (Fischer 131) The Beresfords were thus deported, and not much changed for Messianic Jews trying to openly immigrate to their ancestral homeland for the next 20 years. (Cohn-Sherbok 184)

Later interpretation of the Amendment of 1970 eventually became the ‘loophole’ that allowed Messianic Jews born to solely Jewish fathers to come in. Whereas it was assumed that those born to Jewish mothers were themselves Jewish, and therefore had changed their religion as a Jew, those born to Jewish fathers were not considered born into Judaism. (Izenberg, JP 2008) This new twist on eligibility, according to Attorney Calev Myers, a Messianic Jewish attorney who specializes in immigration cases, created an “absurd situation...in which Messianic Jews have to prove they are not Jewish in order to make aliya” (Wagner, JP 2008)

In 2008, in this precedent-setting ruling, the High Court decided that Messianic Jews are entitled to Israeli citizenship according to the Law of Return only if their father is Jewish. According to Myers, 12 Messianic Jews petitioned the High Court after the Ministry of Interior refused to register them as new immigrants in accordance with the Law of Return. Myers also stated they had received letters stating they would not receive citizenship because they allegedly engaged in ‘missionary activity.’ (Izenberg, JP 2008) They were represented by attorneys Yehuda Raveh and Calev Myers, who argued they were eligible for new immigrant status and citizenship because they were the offspring of their fathers who were Jewish, and not because they were Jewish according to the definition of “who is a Jew” in the Law of Return. (Izenberg, JP 2008)

Totally disagreeing with these rulings, Rabbi Shlomo Aviner, head of Ataret Yerushalayim Yeshiva, and a leading Zionist leader said “The Law of Return as envisioned by David Ben-Gurion was originally created to ensure that if you are Jewish enough to die in Auschwitz you are Jewish enough to be granted Israeli citizenship. But that is no longer true.” He believes Messianic Jews should not be considered Jews, because they are of another religion and considered ‘proselytizers.’ (Wagner, JP 2008)
Israel still seems to face a lack of judicial precedent when presented with legal battles concerning citizenship. There is no law against a person’s private conviction, but the Law of Return (as interpreted by the Israeli Supreme Court) does not recognize those Messianic Jews who have inarguable Jewish ethnicity as being Jewish on the sole basis of their belief in Yeshua as Messiah and denies them the opportunity to acquire citizenship. In fact, this law does not recognize anybody as Jewish if they have changed their religion: Hindus, Buddhists, Taoists, Muslims, Baha’i, etc. However this provision seems to have only been selectively enforced against Messianic Jews applying for citizenship, and not to Jews of other religions. (*Fischer p xii*)

**Messianic Jews in the Unpromised Land**

Despite the years of roadblocks to citizenship that remain to this day, obviously there remain some 15,000 Messianic Jews in the land who got here somehow. Perhaps it was through conversion after already being a citizen, or perhaps through not admitting their belief in Yeshua when making aliyah, (and not getting found out), or through legal loopholes or court hearings.

According to Raymond Fischer, author of *Israel My Inheritance*, and himself a Messianic Jewish believer:

> “Today in the state of Israel, there is a tiny minority of …believing Jews, scattered in some one hundred twenty mostly small home congregations, who have been forced to endure continued, often physical, violence at the hands of some of the most radical of their ultra-Orthodox Jewish brethren. They are still regularly cursed in the modern state’s synagogues while being aggressively discriminated against by the religiously controlled government that seeks to find a legitimate way to take away their citizenship and expel them from the Land of their biblical inheritance.” (*Fischer 14*)

For some reason, the Messianic believers in the southern part of Israel seem to have been particularly hard hit with persecution. An article in the Jerusalem Post from September 2011 reports that an anonymous group was distributing flyers with personal details of those in the community who believe Yeshua is the Messiah, in the town of Mevaseret-Zion. The personal details included photographs and addresses delivered to hundreds of households in the town of 30,000 residents. There are only 30 families or so in Mevaseret-Zion who are Messianic. The nearby Yad Hashmona community is home to 30 more families which, while honoring many Jewish traditions, also believe that Yeshua is Messiah. (*Eglash, JP 2011*)

There are laws in Israel against proselytizing or forcing individuals to join religions, but also legislation protecting freedom of religion and practices, which should serve to offer balance. (*Eglash, JP 2011*) Some people believe it is illegal in Israel to evangelize or tell Jews about Yeshua, but it technically is not. A law was passed in 1977 against bribing someone to change his status, as officially recorded on his identity card, from one religion to another, and there is
also a law against proselytizing minors. *(Stern 224)* However, missionary activity of any type in Israel is heavily frowned upon, and proselytizing in public is considered illegal. Michael Oren, Israeli ambassador to the U.S. has stated to Americans that “the Christian churches that are active and there are a great number of them -- have an agreement with the Israeli government that they can enjoy complete religious freedom, but that they should refrain from proselytizing.” *(Wooding, Ji 2012)*

**Anti-Missionaries**

‘Anti-missionaries’ in Israel, generally radical ultra-Orthodox groups, have taken it upon themselves to monitor, control, discourage and report any evangelization of Jews. They have a particular disdain for Messianic Jews, whom they feel have completely betrayed their religious heritage and have no right to exist in Israel and worship as they desire.

In 2008, a horrific act of terror against a Messianic Jewish pastor’s family occurred in Ariel, when 15-year-old Ami Ortiz opened a booby-trapped gift basket sent to his family. The explosion severed two toes, damaged his hearing and harmed a promising basketball career. To the Ortiz family the motive of the anti-missionary attackers was clear and simple: The Ortizes are Jews who believe that Jesus is the Messiah. Many instances of violence have plagued other believers, and Israel's minority community of Messianic Jews throughout the land often complain of threats, harassment and disappointing police indifference. *(USA Today 2008)*

*Yad L’Achim*, literally “a Hand for Brothers”. Is the most well-known and radical anti-missionary and ultra-Orthodox organization. In February, 2011 *Yad L’Achim* organized a massive demonstration in Ashdod against the local Messianic congregation. Over 1000 ultra-Orthodox Jews gathered in front of the congregation; their tirade included calling them “soul-hunters”, and comparing them to Hitler and the Nazis. *(JIJ 2011)* Simultaneously, public support has been strong for religious freedom and many Israeli citizens have denounced *Yad L’Achim’s* behavior. The same month, *Yad L’Achim* staged another demonstration down in the Negev, in Arad. 200 Ultra-Orthodox Jews protested at the home of Messianic Jews, accusing them of kidnapping Jewish children and baptizing them into Christianity. Again, many neighbors and supporters in turn accused the protestors of bigotry and racism. *(JIJ 2011)*

One particular congregation in the northern Negev, founded in the late 1990’s has been the target of almost perpetual harassment and physical attack by local ultra-Orthodox groups. Many mornings, as many as 50 black garbed ultra-Orthodox extremists assembled outside the pastor’s home, where they taunted, screamed anti-Yeshua commentary, and threatened violence upon anyone who dared to enter or leave this residence. Simultaneously, another group carried on a similar daily harassment over a period of years against a young widow and
her three children who attended a local Messianic congregation and who lived in a small house elsewhere in the city. *(Fischer 134)*

**The Current Situation**

The Jerusalem Institute of Justice (JIJ) is an organization that was formed to promote justice on many levels for the State of Israel. They have taken a particular interest in Messianic Jews who are struggling to attain or hold onto their citizenship, and/or who are being harassed or discriminated against. I approached JIJ to inquire about the status of the Law of Return as it relates to Messianic Jews today in 2012, and also concerning the anti-missionary activity against them. From a recent email interview I conducted with a legal representative from the Jerusalem Institute of Justice (JIJ), who requests to remain unnamed, the following questions were asked and responded to:

1. Has there been any change in the status of Messianic Jews as related to the Law of Return since 2008, when it became possible for citizenship not based on being Jewish yourself, but by having a Jewish father?
   
   *No there have not been any changes. Although this is the court precedent, the MOI (Ministry of Interior) still illegally discriminates and denies many Messianic Jews (with Jewish roots solely on father’s side) from making citizenship. We take these to court and have won all such cases so far.*

2. Are Messianic Jews with Jewish mothers still being denied citizenship?
   
   *Yes.*

3. Have there been any new legal developments or precedent-setting exceptions or cases (concerning Messianic Jews making aliyah) since 2008?
   
   *No.*

4. I read on JIJ’s website where a couple years ago you petitioned the Attorney General for Yad L’Achim to be outlawed in Israel and declared a terrorist organization. Did anything ever come of that?
   
   *The Attorney General responded that we did not raise sufficient evidence to justify outlawing the organization as an "anti-Democratic" association. He said that if we gather additional substantive evidence, we can approach him again.*

5. Are they still harassing Messianic Jews to the extent I am reading about through 2010? (I had never heard the term anti-Missionary before I came here, am interested in how they get away with this).
   
   *Yes. They attend Messianic congregations undercover, gather "intel", share the data with ultra-orthodox clerks in the MOI to have Messianic Jews black-listed and denied*
**Rights; they stalk, harass, intimidate, and at times carry out vandalism and arson against Messianic Jewish houses of worship.**

**Conclusion**

I find the legal quandary that many Jewish believers in Yeshua find themselves in, related to Israeli citizenship, to be particularly disturbing. The United Nations Universal Declaration of Human Rights states in part that “Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance. “ (Fischer 182) Here, international law per the UN forbids revoking the citizenship of a person or group of people based on racial, ethnic, religious or political grounds.

It seems the State of Israel’s interpretation of the Law of Return as amended in 1970 is not in keeping with either the founding principles implicitly guaranteed in the 1948 Declaration of the Establishment of the State of Israel, nor in those of the United Nations Universal Declaration of Human Rights, upon which the State of Israel was founded with the inherent granting of all such guaranteed rights to the entirety of its citizens.

The question of ‘who is a Jew?’ has indeed become convoluted and contradictory between the halakhic definition and the Law of Return’s definition. It seems clear that the amendment to the Law of Return that occurred in 1970 should be revisited, and that perhaps the legal question of Jewishness should be streamlined with the traditional religious description. There also should be legislation against the activities of anti-Missionary organizations which obviously infringe upon the religious freedom and rights of many Messianic Jews in Israel.

It is further interesting and troubling that the complaints of injustice only seems to come from believers in Yeshua, and not those Jews who have converted to any other religions. It also seems ironic, in a modern democratic State, that such a small minority of radical ultra-Orthodox Jews would be so apparently influential in the Ministry of Interior, and so threatening to the religious freedoms of those law-abiding and loyal-to-Israel Jews who desire to live in the land of their forefathers, and who just so happen to believe in Yeshua as Messiah.

From an American perspective, and in complete respect of Israel’s right to be a Jewish state, I cannot comprehend how allowing small numbers of ethnically Jewish believers in Yeshua to become citizens threatens Israel’s integrity as a Jewish State. It is hoped that the ludicrousness of this issue concerning the right to make aliyah as it affects Messianic Jews will soon be highlighted in the Israeli government. Appropriate changes must be made which ensure that Messianic believers have the same rights as the myriad of all other Jews who simply desire to live out their days as productive citizens in their ancestral homeland of Israel.
Bibliography


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