



Written by [Bruce Walker](#) on November 9, 2009

Bureaucratization of Religion in Britain

The New York Times on November 8 reported that the highest court of the United Kingdom was facing as a legal issue the question of who is a Jew and who is not a Jew.

The legal issue arose in the context of a 12-year-old applicant for the state supported Jewish Free School (JFS), whose father was an observant Jew. The school, applying the traditional rabbinical interpretation used by the vast majority of Jews, determined that for the applicant to be Jewish, his mother must be Jewish.



The Court of Appeal ruled against the school on the grounds that this traditional rabbinical Judaic definition of Jewishness was discriminatory. The Court reasoned that if a child who had converted to Christianity had Jewish parents, state supported Christian schools would not be allowed to refuse him admission on account of his racial origins. The British Supreme Court will hear the case and probably issue a ruling later this year.

This legal controversy underscores the complexity when government dabbles in the regulation of faith. Rabbinical Jews have long accepted as a principle of Judaism that Jewishness is transmitted by lineage: any child born of a Jewish mother is, by definition, a Jew. The child may never learn Hebrew (indeed, if the child is female, there is no requirement that the child learn Hebrew); the child may not have a Bris, although Jewish law requires this; the family may not keep Kosher, yet the child is still a Jew.

When courts determine what Jewish law must be, then religion stops being a matter of private profession or communal acceptance. Religion becomes, instead, a matter for bureaucrats and lawyers. There are different denominations of Christian state-supported schools in Britain that see big problems with this approach. Roman Catholic schools, for example, accept anyone baptized as a Christian but not an unbaptized child. This is a theologically different definition from some other branches of Christianity.

It is difficult to see where, exactly, courts would end their application of humanist egalitarianism to private definitions of faith. In the case of Jewish schools, would following the Mosaic Law, as rabbinical Jews have interpreted those laws, also be considered discriminatory? Jews, like Christians and like Moslems, believe that their rules of conduct and their definition of membership are determined by divine laws, not by the secular courts.

The problems in the case of JFS are even more perplexing. "Who is a Jew?" could open a much broader and murkier debate with no clear rules. Rabbinical Jews believe that Jewishness can only be transmitted by the mother, not by the father. Karaites, another independent branch of Judaism with ancient roots, believes that Jewishness can only be transmitted by the father, not by the mother. Will a British court rule on which of these two conflicting branches of Judaism is right, or will it simply ignore both and adopt a modern, secular approach? According to Karaites, many of the students at JFS who were granted admission because their mother was Jewish were wrongly admitted if their father was gay. The roots of the Hebrew faith stretch farther than those two branches of Judaism. Samaritans, a living



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religion with a Torah written in ancient Hebrew, also reject the matrilineal descent of rabbinical Jews.

Another problem would arise if Messianic Jews applied for admission to the JFS as Jews. Many Messianic Jews have Jewish parents on both sides; boys often have a Bar Mitzvah reading, as Jewish boys do at this rite of passage, from Torah in Hebrew before a synagogue on Shabbat. These Jews consider themselves Jewish, although historically the acceptance of Jesus as the Messiah has been held by rabbinical Jews to be incompatible with the Jewish faith.

The problem is not theology. Rabbinical Jews, who have survived centuries of persecution for the right to practice their faith as they believe, simply ask to be able to define who is a Jew the way that their ancestors had done for thousands of years. Catholics, who would require baptism before considering a pupil to be Christian, are also asking simply to be allowed to practice the historical faith of the Catholic Church.

The problem instead is the bureaucratization of religion in Britain. When judges, social scientists, and politicians gain the power to dictate to any faith what the tenets of that faith should be, then the problems that rabbinical Jews are facing in Britain today become the problems of all peoples of faith everywhere.



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