Traditional Innovation: Guest Blog by Dr. Chaim Trachtman

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Rabbi David Bashevkin, recognized as one of the brightest and most talented 36 under the age of 36, was the scholar-in-residence recently at my synagogue. He was very smart, lively, engaging, and obviously hooked into the zeitgeist. I predict that he will always be highlighted among the X individuals under the age of X. His last talk on Shabbat afternoon focused on what he described as the difference between kohanim and gerim, priests and converts. The point of departure was the infamous Gemara in Kiddushin (70b) in which Rav Chelbo states that for the Jewish community, dealing with converts is as difficult as if the collective society had leprosy. This xenophobic view is troubling on many levels and flies in the face of multiple admonitions in the Torah to protect converts, orphans, and widows. Rabbi Bashevkin pieced together an array of sources to address and disarm this unsettling text. His thesis was that there has been a perennial tug-of-war between priests and converts on how to preserve Jewish identity and practice over time. Priests, whose job was to serve in the sanctuary, represent the religious forces that want to preserve the tradition intact. They want to keep Judaism pristine to ensure that the religion is unwavering and recognizable to all Jews regardless of time and place. Priests are the traditionalists who guard against change that could destabilize the Jewish system of law and practice. In contrast, converts, who enter the covenant by choice and who view Judaism through a completely different lens, are the ones who introduce innovation into Judaism. Their energy and enthusiasm are the catalysts for creative change. Rabbi Bashevkin has articulated these ideas more fully in an essay in his book, B’Rogez Rachem Tizkor.

In a follow-up virtual conversation with Rabbi Bashevkin, I originally expressed the idea that converts are not innovators. I claimed that those who become members of the Jewish community by choice are more likely to be committed to a solidly traditional view of Judaism. It is this aspect, the comprehensive guide for living from the spiritual to the mundane, that attracted them to Judaism in the first place. On thinking it over, I suggest that converts are not alone in this regard. I do not think that anyone can be truly innovative within a life committed to observance of halakha.

Halakhic maximalists believe that everything that has been and ever will be learned and legislated was transmitted to Moshe as part of the revelation on Mount Sinai. For them, the answer is straightforward. In agreement with Plato’s view in the Meno, learning is not the discovery of something new but the recovery of something that was known before but has been forgotten.
But what about thinkers like the Rambam who see Torah given to Moshe as the trunk of a tree. For them, the activity of Rabbis throughout the ages represents elaborating new branches based on their analysis of a situation using valid methods of logical inference. Although they consider the process legitimate, does this represent genuine innovation?

Innovation means to introduce something or an idea that has never been considered before. Thomas Kuhn in his famous and over-quoted book, The Structure of Scientific Revolutions, describes the process in which an innovative idea emerges. People, whether or not they are scientists, operate within a paradigm, a given set of a priori notions about the world around them and how it works. They will continue to function under the rubric of these ideas as long as the processing of their observations aligns with their lived experience. However, discrepancies gradually creep into the picture that cannot easily be explained away, gaps between predicted and empirical data. These inconsistencies accumulate over time and create uneasiness and doubt about the validity of the accepted worldview. At the point when the disconnect between theory and reality becomes intolerably large, there will be a paradigm shift in the way of thinking, a completely novel way of viewing the world that yields a better alignment between the model of the world and how it actually works. The classic example is Copernicus’ replacement of an Earth-centered solar system with heliocentric one that places the sun in the center of our planetary system. Others include Darwin reimagining the origins of man, Einstein replacing Newtonian physics with his revolutionary view of space, time, and gravity, the Greek idea of democracy, Avraham’s unprecedented idea that the world was created and managed by a single omnipotent god and not a pantheon of flawed human-like characters.

To be sure, there is genius among those working within the prevailing paradigm. It would also be an unwarranted exaggeration to view a Kuhnian paradigm shift as an absolute break with the past. No idea emerges in a vacuum or completely ruptures previous patterns of thought. Paradigm shifts are connected to the contributions of people who worked before the innovators come onto the scene. Kepler’s elliptical orbits preceded Copernicus, Lyell’s geological layers grounded Darwin’s evolution, and Michaelson and Morley’s experiment anticipated Einstein’s warped universe. However, genuine scientific innovation represents the discovery of a new theory about the world that essentially replaces rather than modifies the accepted working model. Existing knowledge is transformed into to an unprecedented and new way of explaining the world and natural phenomena. History records the valuable work done by men and women in all fields. But it gives special recognition to the unique contribution of genuine innovators.

Halakha does not work this way. All change has to be grounded and connected to the accepted corpus of law. One cannot replace one ruling with something completely new. The advocates for any modification, no matter how radical it may seem, will always work to prove that it is justified within the confines of existing law. A few examples will suffice. When Hillel appeared out of nowhere to answer the question about sacrificing the korban Pesach on Shabbat, he did not claim that his solution was a novel insight. Instead, he attributed it to a tradition he had learned from others. When he instituted the prozbul to sustain economic activity during the shemitah year, his contemporaries challenged him and asked how he had the temerity to abrogate a law that was clearly articulated in the Torah. The rabbis in Masechet Gittin then go to great lengths to prove that the power to make Hillel’s change was always there -- hefker bait din hefker -- and available for him to rely on when he introduced his financial procedure. During the Middle Ages, business deals surrounding the purchase and sale of wine needed to be conducted with non-Jews. This was a vital component of the commercial activity of Jews living in medieval Ashkenaz. But handling this wine violated the prohibition of stam yanam. In response to this real-life question, Rabbeinu Tam and his colleagues did not create a new category of the Other or categorize wine as a different beverage. Instead, they recalibrated the law to conform with what was happening around them.
The prohibition against eating food prepared by Gentiles or bread that they had baked became a real problem for Jews who were spending most of their working hours engaged in financial activities and were no longer as connected to agricultural work as they had been in the past. The Tosafists who responded to these needs did not view themselves as creating new law but reinterpreting the codes in a way that responded to vital communal needs.

Current advocates for increased participation of women in Orthodox service including leading portions of the tefilla and receiving aliyot do not say that their ideas are unprecedented. Instead, they review the halakhic literature and Rabbinic rulings from the past and argue that that there is a legal justification and existing historical data to support their inclusive proposals. The failure of modern decisors to adequately address the problem of agunot arises from an inability to find a convincing link to the existing halakhic corpus that would enable enactment of a new ruling that would pass muster and be accepted universally. This same shortcoming manifests in the response to many other questions surrounding women’s involvement in Jewish life including ordination, recitation of kaddish, and communal leadership roles.

Some might claim that political Zionism, or Hasidut, or the emergence of denominational movements within Judaism in the 19th century are paradigm shifts. However, I would assert that the proponents of each of these movements still tried to find a connection to antecedents and were confident that they were more faithful to the tradition. This would be especially true for the “Orthodox” communities that actively withdrew from those seeking to lessen the obligation to laws that were seen as outdated and restrictive. One exception might be the movement from Torah she bichtav to Torah she beal peh and codification of the law that affected both observance of the law and religious experience. This is buttressed by evidence that how what we learn and how we interact is different in oral versus written traditions. In this case, political and sociological exigencies mandated a dramatic and unprecedented shift to a written format to ensure the continuity of the tradition. This may be the exception that supports my assertion that innovation does not mean the same thing in worlds of halakha and science.

The common thread in all of these cases and in the vast volume of the responsa literature is a capacity to adapt the halakha, to address exigent circumstances and respond to prevailing conditions for the individual or community. This flexibility, which is intrinsic to the halakha, is indispensable and it is a testament to the creativity of the poskim and enduring vibrancy of halakha. But the adaptation occurs within the tradition and is not the introduction of innovation in Jewish practice. In contrast to the examples that Kuhn gave, in which the progression of science towards truth occurs along a linear trajectory with periodic, upward discontinuous displacement of the line in paradigm shifts, halakha is a circle that encompasses truth. It is a capacious circle that can expand by moving the circumference outward. But the contents of halakha are always within and oriented to the boundary conditions.

There is a meta-historical dimension that is relevant to this analysis of priests and converts. In an essay written in 1916 entitled, ‘Halacha and Aggadah,” Chaim Nachman Bialik countered the prevailing idea that these two literary activities are separate and distinct. Instead, he argues that they are mutually reinforcing approaches to Judaism that interact to organize a meaningful way of life. Aggadah captures the lived experience and aspirations of a people which is then codified within the halakha. The law then generates a psychological and visceral response which is expressed in Aggadic form which leads to modification of the halakha. Actual experience leads to modification of the halakha which impacts on how people live which again leads to adaptive change in the legal code. It is a feedback loop, spiraling forward through time. According to Bialik, it is this unending cyclical motion within the tradition but not the introduction of totally new ideas that characterizes and sustains the timeless tradition of Judaism.
To repeat, I do not think that converts are innovators. But they should not feel badly or consider themselves marginalized on that account. None of us can truly innovate within the predefined limits of the halakha. Jewish law is a dynamic system but one that is always linked to what is already on the books. In our complex world with many divergent communities and no central halakhic authority, there is considerable room for argument about where the boundary of the circle lies, whether there is a need for a specific adaptation, how far to push the circle, and the strength of the connection of the proposed adaptation to the past. Despite all these concerns, a dynamic system like the halakha cannot sidestep the questions raised by groups like converts or women. It cannot escape the need for adaptation and incorporation of changes into the halakha in what I would call traditional innovation. The end result is a viable innovative tradition.

Circling back to the original question, what then should we think of converts? They are models of adaptability with their rejection of their past lives and embrace of Judaism and its values. They provide fresh insight, stimulate reassessment of prevailing practices, and bring welcome energy to established Jewish groups and communities. Converts are the Aggadah that stimulates the priestly Halakha to be more responsive and grow. But their activities are not paradigm shifting innovations and I do not think converts intend them to be. As the Gemara says, converts inspire all Jews to feel more, be more committed, and more observant of the law. That is more of a contribution than you could ask of anyone born Jewish.