

## Handout 5c

### **The Rufeisen Verdict**

After much careful consideration in the Rufeisen case, the *Israeli High Court ruled against Brother Daniel and denied his request to immigrate to Israel based on the Law of Return*. Even though he became a naturalized citizen of Israel in later years, this was not because he was Jewish. Excerpts from both the Majority decision, as well as the Minority decision disagreeing with the Majority, appear below. Let's read and discuss them carefully.

#### FROM THE MAJORITY OPINION:

“From the outset of this most unusual case I have been faced with a great psychological difficulty. Paradoxically enough this is due to the deep sympathy and great sense of obligation which as Jews we feel for Oswald Rufeisen. He is a man who during the dark years of the Holocaust in Europe risked his life times without number in rescuing his brother Jews by daring feats of courage...can he be denied the burning desire of his life to be completely identified with the people which he loves and to become a citizen of the land of his dreams, not as a stranger coming from without but as a Jew returning home?...I have reached the conclusion that what Brother Daniel is asking us to do is to erase the historical and sanctified significance of the term “Jew” and to deny all the spiritual values for which our people gave their lives in different periods of our long dispersion. To grant his request would dim the luster and darken the glory of the martyrs of the Middle Ages...the Law of Return is a secular law...and we must interpret its terms according to their ordinary meaning...the term “Jew” must be interpreted in the sense that it is understood by Jews...there is one thing that is shared by all Jews who live in Israel and that is that we do not cut ourselves off from our historic past nor deny our ancestral heritage. We continue to drink from the original fountains...whether he is religious, non-religious, or anti-religious, the Jew living in Israel is bound, willingly or unwillingly, by an umbilical cord to historical Judaism from which he draws his language and idiom, whose festivals are his own to celebrate, and whose great thinkers and spiritual heroes nourish his natural pride.”

1) *Based on the excerpts above, what are some of the reasons cited by the Court for denying Broth Daniel the right to immigrate under the Law of Return?*

2) *How does the Court interpret the meaning of the term “Jew?”*

FROM THE MINORITY OPINION:

“At the gates of the homeland which ‘the State will open wide to every Jew,’ the petitioner now knocks and declares: ‘I am a Jew, let me in.’ And the Minister of the Interior, who is charged with implementing the Law of Return, refuses to listen because of the gown that the petitioner wears as a Catholic priest, the cross that hangs from his neck, and his self-declaration that his creed is that of the Gentiles. Had he folded his gown, hidden his cross and concealed his creed, the gates would have been opened wide without protest. But he chose to come as he is, openly and without guile, and he finds the gates locked...It is difficult not to recall those Jews who, loyal to their ancestral faith, donned the outward garb of the Christian religion so that they might continue to dwell in the lands beloved to them and harvest the fruit of their toils. How loudly they cried: “We are Christians, open up the gates.” But had they revealed their true selves, their devotion to the religion of Israel, all gates would have been closed before them...a person who declares in good faith that he is a Jew and desires to settle in Israel should be allowed to do so irrespective of any objective assessment of the situation.”

3) *According to the minority, why doesn't Brother Daniel's conversion to Christianity matter?*

4) *Is the comparison to crypto-Jews valid in this case? Why or why not?*

