

# BUSINESS WEEKLY

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Restoring the Primacy of Choshen Mishpat

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## STORY LINE

by Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

## A Convert's Claim

Andrew Connor did not grow up Jewish. But in the course of his military career, his unit was served by a Jewish chaplain, Rabbi Hillel. After being seriously wounded and being close to death, Andrew had numerous opportunities to discuss the meaning of life with Rabbi Hillel.

Andrew recovered and returned to civilian life. The spark ignited by Rabbi Hillel led him to read about Judaism and have theological conversations with a Jewish coworker. He got married and settled in a largely Jewish neighborhood. Over the next few years, Andrew and his wife drew closer to Judaism and decided to convert. Rabbi Hillel connected Andrew with a Rav who was experienced in guiding potential converts. After studying for two years and participating weekly in Shabbos with a host family, Andrew and his wife were referred by the

guiding Rav to a beis din, which completed the conversion process. Andrew adopted the name Avraham; his wife, Sarah. Their young son, Thomas, who was converted with them, was renamed Yitzchak, reflecting the family's new association with Judaism. "I feel like the family of our namesakes," Avraham said, "the first Jewish family — Avraham, Sarah and Yitzchak."

Avraham and Sarah were later blessed with another son. "Let's call him Yisrael," Avraham suggested. Yaakov was born four years afterward.

Years later, Sarah passed away, leaving Avraham and their three sons. Avraham wanted his three sons to be his equal heirs. He had heard a shiur about the importance of creating a will and of the benefit to attaching documents to make the will halachically valid. He wondered, though, whether there

was any need for this, since he simply wanted his assets shared equally among his three sons.

Avraham met with Rabbi Dayan and asked him, "Now that I am survived only by my three sons, is there any halachic necessity to write a will stating that my sons share the estate equally? Wouldn't that happen anyway?"

"There certainly is a need," answered Rabbi Dayan. "In general, a person who converted is for halachic purposes considered as a newborn child," said Rabbi Dayan. "This means that halachically, he no longer has any lineage descending from his former relatives, including his biological father (Yevamos 62a)."

"What does that mean in terms of inheritance?" Avraham asked.

"Following this logic, a child who converted

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## Heated Arguments

My roommates constantly disagree about the air conditioning. Some get warm easily and prefer to have the air conditioner on, while others protest that they feel uncomfortably cold and prefer to simply open the windows.

**Q: What does halacha say about this?**

**A:** Let us first examine another common issue. If someone is disturbed by the noise

his neighbor's air conditioner makes, does he have the right to protest? Poskim debate whether neighbors have the right to prevent someone from doing something on his own property that generates disturbing noise (C.M. 156:2). However, even the Rema, who maintains that the neighbors cannot protest, agrees that someone who is ill, for whom the sound is harmful, can certainly protest (ibid.).

Moreover, even if everyone is healthy, they

may protest if the noise prevents them from sleeping at night, since in this case they are considered "ill from sleep deprivation." In the event that one person is generating noise on shared property, all authorities agree that the neighbors can object (Mordechai, B.B. 512; Knesses HaGedolah 155 B.Y. 44).

Accordingly, if someone wants to run his air conditioner at night and the noise disturbs others, they should have the right to protest. This, however, is not the case. This

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to Judaism should not inherit from his biological father," explained Rabbi Dayan. "The child is not deemed his legal son halachically. Thus, if the father remained gentile, only his other, gentile children should inherit his estate. However, the Sages instituted that the converted Jewish son also inherit his father, lest the son revert to gentile ways to procure the inheritance (C.M. 283:1)."

"What if the father also converted, like in my case?" asked Avraham. "Would his child who also converted then inherit from him?"

"In this case, there is no concern of the child reverting, so there is no need for this institution," said Rabbi Dayan. "Thus, ironically, the initial Torah law remains intact, and the converted child has no halachic claim to his father's estate. Only the children he bore after he became Jewish, who are deemed his

halachic sons, would inherit."

"So what does that mean in my case?" asked Avraham.

"Only Yisrael and Yaakov, who were born after your conversion, would have a halachic claim to your inheritance," replied Rabbi Dayan. "Yitzchak, who was born before that, has no halachic claim without a will."

"Would Yisrael, who was first-born after conversion, be considered my bechor, then?" asked Avraham. "Should he be getting a double portion?"

"No," replied Rabbi Dayan. "If a man had children before conversion, his subsequent children do not have the status of bechor (C.M. 277:9). However, if you want Yitzchak to share the estate, you should prepare an explicit will and attach the appropriate documents to make the will halachically valid. You can contact my office for help in procuring the appropriate forms."

halacha applies only for a behavior that is not essential to normal use of one's dwelling but does not apply to normal dwelling-related activities that produce noise, even if it is disruptive to someone who is ill.

For that reason, one may build a house near others even though his small children cry loudly at night. Even an ill neighbor has no right to protest and demand that he move somewhere else (Chazon Ish 13:1). Therefore, one may run his air conditioner even if it is on shared property and the noise disturbs an ill neighbor, since running an air conditioner is common practice and thus his neighbors/partners do not have the right to protest against it.

When applying these principles to your question, given the present hot weather conditions, we know that most people run their air conditioner, and those who do not

want it running do not have the right to protest. On the other hand, one may not demand that the air conditioner should run when the weather conditions do not necessitate running it (see Shevet HaLevi 8:307; 9:298). The same principles apply if there is a disagreement in a beis medrash whether to run the air conditioner or not; whatever is common practice dictates whether it should run.

It is important to note that it is always laudable whenever possible for one to forgo his rights when exercising those rights will cause someone else to suffer, especially when the question involves someone who cannot tolerate the cold. The Gemara (Bava Metzia 30b), in fact, notes that Yerushalayim was destroyed because people insisted on exercising their rights rather than forgoing them for the benefit of others.

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## Damages #35

**Q: I want to open a window facing my neighbor's window; he wants to restrain me on account of privacy rights. Who's right?**

**A:** One of the neighborly rights is that of privacy. The Sages prohibited opening a window overlooking another person's courtyard, since this limits the other person's ability to use his courtyard for personal matters (hezek re'iah). They also prohibited opening a win-

dow or door directly across from another's window or door, even if with consent, to ensure privacy. They even prohibited widening an existing window (C.M. 154:3-6; Pischei Choshen, Nezikin 14:[1]). Nowadays, the practice is not to limit this behavior, for a number of reasons. Some explain that the Sages prohibited the opening only if directly opposite, but not if slightly to the side or higher. Others note that usually there is an entrance

hall behind the door, where people generally do not engage in activities requiring privacy (Pischei Choshen, Nezikin 14:2). Additionally, in the times of Chazal, doors and windows generally remained open, unlike nowadays, when doors are usually closed and windows have shades (Emek Hamishpat, Hilchos Shecheinim #10). Even so, one must respect others' privacy and avoid looking through their windows (Rema 154:3, 7; Sma 154:14).

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