

## Support of Non-Biological Children in Jewish Law

J. David Bleich\*

### ABSTRACT

Adoption as a legal institution is unknown in Jewish law. Suppression of parental identity, as generally occurs in closed adoption, is banned “lest the earth become filled with licentiousness” (Leviticus 19:29). Rabbinic tradition interprets that verse as expressing concern regarding the possibility of a future incestuous marriage. Nevertheless, raising an orphan in one’s home is regarded as highly meritorious. However, binding obligations of support and maintenance can be undertaken only by means of contract. Such a contract in favor of a stepchild may be verbal if entered into at the time of marriage. Otherwise, a formal *kinyan*, i.e., one of a limited number of acts specified by statute, must be performed as a means of signifying seriousness of intent.

Although in Jewish law adoption *per se* does not give rise to a new legal relationship, adoption proceedings may generate contractual obligations. A petition for adoption may be construed as an instrument impliedly generating financial obligations conditioned upon approval by the court. If so, the petition may be regarded as a promissory instrument that itself serves as a *kinyan* in establishing a contractual obligation.

Moreover, in Jewish law, a pledge to charity is regarded as an actual conveyance rather than as a mere promise. Since, generally, adoptees are destitute, if the “promise” to adopt a child is construed as a promise of support, a further act of *kinyan* may be unnecessary. Thus, even without recognition of adoption as a legal institution, adoption proceedings may result in a valid contract establishing an enforceable right to support.

\*Professor of Law, Benjamin N. Cardozo School of Law; Herbert and Florence Tenzer Professor of Jewish Law and Ethics, Yeshiva University; Professor of Talmud and Director of the Postgraduate Institute for Jurisprudence and FamilyLaw, Rabbi Isaac Elchanan Theological Seminary.