

# CAN ORTHODOXY SHARE THE PUBLIC SQUARE?

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*This essay analyzes whether Orthodoxy must perceive competing streams of Judaism as illegitimate in order to remain Orthodox and whether or not the public square in Israel can be re-configured so as to make it possible for competing ideological groupings to work together.*

*Because of its acceptance of “Maimonidean” — strictly dogmatic — conceptions of what it means to be a Jew contemporary Orthodoxy refuses to cooperate with non-Orthodoxy, holds that it cannot do anything that might be construed as recognizing the Jewish legitimacy of non-Orthodoxy, and thinks that it cannot in good conscience share the public square with other streams in Judaism.*

*This essay sketches a way in which Orthodox Jews can relate to non-Orthodox Jews and their understandings of Judaism which lets go of the language of “legitimate vs. heretical” without, at the same time, adopting a pluralist position which sees all (or almost all) expressions of Judaism as equally acceptable.*

Spokespersons for Orthodox Jews in the Jewish world generally, but in Israel, in particular, are often seen as arrogating to themselves the right to determine how others live their lives.<sup>1</sup> In Israel this includes not only questions concerning what foods may be eaten, and when and where they may be eaten, what stores can be open on which days of the week, who may sing at the inaugu-

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ration of the country's president and who may dance at the jubilee celebration, but also who may marry whom and under what conditions.

To the extent that this perception of the situation is true (and reality, of course, is much more nuanced than TV, radio, and newspapers would have one believe), it reflects, I think, the Orthodox perception that Judaism is theologically monolithic and that Orthodox Judaism has a patent on Jewish legitimacy.

It also reflects the fact that Israel is a society composed of highly ideological minorities, each of which thinks it is persecuted by the majority. Each of these minorities thinks that it has the right to demand that the public sphere be defined in terms congenial to it, that competing definitions of what the public sphere should look like are in some sense illegitimate, and that if its definition is not adopted, tragedy will result.<sup>2</sup> In this context, Orthodox demands to shape the *reshut ha-rabbim*, the public sphere, are by no means unique.

Orthodoxy feels constrained to demand control of the public sphere in Israel to one degree or another.<sup>3</sup> Part of the reason for this is the perception of competing streams of Judaism as illegitimate. It is this claim that I would like to examine here. Before doing so, however, I would like to make some comments about reconfiguring the public square in Israel so as to make it possible for competing ideological groupings to work together.

### **Reconfiguring the Public Square in Israel**

It seems to me that one way to avoid the disintegration which threatens Jewish society in Israel is to come to an understanding whereby each ideological minority comes to realize that it cannot define the public sphere only according to its lights; it affirms that the other groups are wrong, but not therefore heretical; and it agrees to continue the debate for the heart and soul of Israel in terms which do not put the "other" outside the pale. In order for this to come about it must be accepted that a Jew is, first, a human being, second, a member of the Jewish people, and only third, a believer in the Torah of Israel (as each group interprets the Torah).

This is the order in which we become aware of our identity; it is also the order in which these stages are presented in the Torah:

1. All human beings were created.
2. The Jewish people, through covenants with God, established a special relationship with the Creator of all.
3. The descendents of the Patriarchs stood at Sinai and converted to Judaism.<sup>4</sup>

Indirect expression of this tri-partite approach may be found in Mishnah Avot III.14:

[R. Akiva] used to say: beloved is man in that he was created in the image [of God]. [It is a mark of] superabundant love [that] it was made known to him that he had been created in the image [of God], as it is said: “for in the image of God made he man.” Beloved are Israel in that they were called children of the All-Present. [It was a mark of] superabundant love [that] it was made known to them that they were called children of the All-Present, as it is said: “ye are children of the lord your God.” Beloved are Israel in that a desirable instrument [the Torah] was given to them. [It was a mark of] superabundant love [that] it was made known to them that the desirable instrument, wherewith the world had been created, was given to them, as it is said: “for I give you good doctrine forsake not my teaching.”<sup>5</sup>

This text speaks, first, of the creation of all humanity, second, of the establishment of a special relationship between God and the Jewish people, and third, of the giving of the Torah.

According to the view being urged here, we are faced with three concentric circles, the third and largest, humanity, encompassing the second, the Jewish people, which in turns encompasses the third and smallest, those people whose lives are governed by the Jewish religion in its various guises. While some religious Jews may have problems with the first circle, almost all of them admit, as religious Jews, that the second circle is significant. What I am calling for here is the realization that the Jewish state was created by and for the second circle. All Jews, no matter how bitterly they are divided by questions concerning the third circle, can and often do find commonalities in the second circle.

Ideally, these three concentric circles should govern our priorities in establishing the nature of our society:

1. We must meet our obligations as members of the human community.
2. We must protect the interests of the Jews as a people having a distinct culture of their own; it is this second sphere or circle which should dominate our thinking

about the public square in the Jewish state. All Jews are legitimate players in this square, and nothing should be done which makes it impossible for all of them to play an active role. All groupings in society must agree to get less than each optimally demands, and to give more than each would like, to the others.

3. Believers in, and practitioners of, Judaism the religion must realize that they are a subset of the Jewish people, by and for whom the Jewish state was created, and have no right to determine the nature of public life in it; they have every right to seek to influence that life, but no right to determine it, and no right to say who is legitimate and who is not.

Is it possible for Orthodoxy to subscribe to the above three ideals? In the rest of this essay I will propose a way in which Orthodoxy can reconceive itself which would make it possible for it to recognize the legitimacy of other groupings within Judaism in the second circle, while still firmly insisting on the exclusive correctness of its view of the nature of the third circle.

### **“Maimonideanism”**

Orthodox self-perception in the modern world reflects its unselfconscious acceptance of part of the Maimonidean legacy. Maimonides instituted a far-reaching innovation in Judaism, turning it from a unique phenomenon — a chosen people whose special relationship with God found expression in a body of practices — to an ecclesiastical community, a church of true believers.<sup>6</sup>

Maimonides was the first Jewish authority to institute a set of dogmas for Judaism, his well-known Thirteen Principles.<sup>7</sup> At the end of his presentation of the principles, he makes the following striking claim:

When all these foundations are perfectly understood and believed in by a person he enters the community of Israel and one is obligated to love and pity him and to act towards him in all the ways in which the Creator has commanded that one should act towards his brother, with love and fraternity. Even were he to commit every possible transgression, because of lust and because of being overpowered by the evil inclination, he will be punished according to his rebelliousness, but he has a portion [of the world to

come]; he is one of the sinners of Israel. But if a man doubts any of these foundations, he leaves the community [of Israel], denies the fundamental, and is called a sectarian, *epikoros*, and one who “cuts among the plantings.” One is required to hate him and destroy him. About such a person it was said, “Do I not hate them, O Lord, who hate thee?” (Psalms 139: 21).

There are a number of unprecedented claims made in this passage. These include:

- Maimonides defines a Jew in terms of his or her acceptance of the principles: “When all these foundations are perfectly understood and believed in by a person he enters the community of Israel.”
- Maimonides offers a theological answer to the question, “who is a Jew?” and takes it seriously, as is evidenced by the fact that he immediately attaches to the acceptance of his principles the halakhic rights which Jews may demand of their fellows — to be treated with love, pity, and fraternity, and by the further fact that he here makes one’s portion in the world to come — i.e., one’s personal salvation — dependent upon the acceptance of the thirteen principles.
- Maimonides makes admittance to the world to come conditional solely on the acceptance of his principles, explicitly divorcing *halakhic* obedience from the equation (“even were he to commit every possible transgression”).
- Maimonides, here, makes unambiguous, conscious acceptance of the principles not only a *necessary* condition for being a Jew and enjoying a share in the world to come, but also a *sufficient* condition. In other words, in order to be counted as part of Israel, it is necessary that one accept the principles; that is also *enough*.<sup>8</sup>
- If one simply casts doubt upon any of the principles (i.e., does not overtly deny them), one excludes oneself from the people of Israel. Such an individual must be hated and destroyed and loses his or her share in the world to come.<sup>9</sup>
- Maimonides makes absolutely no provision for the possibility of inadvertence (*shegagah*) playing an exculpatory role when it comes to doubting or denying principles of faith. Even if one denies a principle of faith because one thinks mistakenly that one is following the teaching of

the Torah, one has excluded oneself from the Jewish community and lost one's share in the world to come.<sup>10</sup>

- Maimonides presents his thirteen principles as dogmas in the strictest sense of the term. They are laid down as beliefs taught by the Torah, the highest ecclesiastical authority in Judaism, acceptance of which is a necessary (and sufficient) condition for being considered a part of the House of Israel, and acceptance of which is a necessary (and sufficient) condition for attaining a share in the world to come.

Despite claims to the contrary,<sup>11</sup> Maimonides has no textual sources from rabbinic literature on which to base these striking innovations in Jewish self-understanding.<sup>12</sup>

Maimonides' attempt to put Judaism on a firm theological footing is part of a larger project of his, and also part of his response to the challenges of his day. These matters need not detain us here, but their consequences certainly must. Jews who differ on theological matters are heretics. Heresy may not be countenanced; Maimonides goes so far as to call for the non-judicial, vigilante-style murder of heretics if this can be accomplished.<sup>13</sup>

### Contemporary Orthodox Use of Maimonides

For a variety of reasons, Orthodox rabbinic authorities in the late nineteenth and early twentieth centuries were loathe to apply the full rigor of the law to contemporary heretics and sought for ways to mitigate the harshness of Maimonides' teachings. This they found in his treatment of Karaites. The founders of Karaism were indeed heretics in the full meaning of the term, Maimonides affirms, but their descendents cannot be held responsible for their theological deviations, since they are like Jewish children captured by heathens and raised by them. Such *tinokot she-nishbu*, as they are called, cannot be held responsible for their sins.<sup>14</sup> Faced with the choice between seeing non-Orthodox Jews as theological heretics or as theological children, almost all Orthodox rabbis chose the latter option.<sup>15</sup>

However much we may approve of the fact that almost all contemporary rabbis forbid the killing of heretical Jews, it must be realized that in the eyes of Orthodoxy these Jews still remain guilty of heresy, guilty that is, but, as is often said in US courts, "with an explanation." The "explanation" (that they are "babes captured by heathens") allows Orthodox Jews to carry on rela-

tions with these heretics as individuals, but certainly does not allow Orthodox Jews to relate to them as in any sense legitimate, as worthy of respect as Jews. J. David Bleich faces the issue squarely:

Compromise is entirely out of the question with regard to any of the fundamentals of our faith. It is for this reason that in seeking the unity of *Klal Yisrael* [the community of Israel], in reaching out with “calm patience” to draw back our separated brethren with “words of peace,” one must carefully distinguish between conduct that is directed toward individual fellow Jews and conduct that is directed towards institutions, movements, or streams, lest we be drawn into a situation involving intellectual compromise or into legitimization, either actual or perceived, of alien ideology.<sup>16</sup>

“Alien ideologies” may in nowise be legitimized.

Contemporary Orthodoxy knows of no other way to relate to non-Orthodox Jews and non-Orthodox streams in Judaism. Is it any wonder that Orthodoxy refuses to cooperate with non-Orthodoxy, that Orthodoxy cannot do anything that might be construed as recognizing the Jewish legitimacy of non-Orthodoxy, that Israeli Orthodoxy thinks that it cannot in good conscience share the public square with other streams in Judaism?<sup>17</sup>

### **Orthodoxy Without “Maimonideanism”**

Is this “Maimonidean” approach the only way in which contemporary Orthodoxy can relate to non-Orthodoxy?<sup>18</sup> I would like to argue that it is not. I now want to sketch a way in which Orthodox Jews can relate to non-Orthodox Jews and their understandings of Judaism which lets go of the language of “legitimate vs. heretical” without, at the same time, adopting a pluralist position which sees all (or almost all) expressions of Judaism as equally acceptable. Labeling non-Orthodox Jews and interpretations of Judaism as heretical is too exclusive, while true pluralism is too inclusive. Is there some middle ground which would allow Orthodox Jews to “eat” the cake of Jewish unity while still “having” the cake of adherence to the doctrine of Torah from Sinai? In other words, can I arrive at a position of tolerant respect for non-Orthodox Jews and Judaisms without being forced to adopt a position of relativistic approval of them? I think that I can.

In brief, I want to show that one can defend the essential elements of what is now called Orthodox Judaism (the expression

of *emunah* (faith) in God through obedience to the commandments), without being forced to read out of the community as heretics Jews who question, reject, or are simply unaware of certain elements of Jewish theology. My approach is actually traditional, even though it will probably be seen as radical by those whose thinking has been conditioned by what might be called the “pseudo-Maimonideanism” of post-Haskalah Orthodoxy.

I should like to make very clear here that I am urging neither tolerance nor pluralism. By “pluralism” I mean a view which considers the relevant alternatives equally correct, equally acceptable. In our context that would mean a position which holds Orthodoxy, Conservatism, and Reform to be equally valid, equally legitimate, expressions of Judaism. Each position has its own unique and important value. By “tolerance” I mean a view which basically does not recognize the value, legitimacy, or validity of the opposed opinions, but is willing to “tolerate” or “suffer” them for a variety of possible reasons. As I often tell students who disagree with me, “Israel is a democracy; you have the right to be wrong.” That is an expression of tolerance, not of pluralism.<sup>19</sup>

Orthodoxy cannot be pluralist: it cannot see Orthodox, Conservative, and Reform Judaism as equally valid, equally correct, expressions of Judaism in our age.<sup>20</sup> But my position is more than simple tolerance, since I am not at all interested in seeking out the “tolerable” mistakes of non-Orthodox Jews, in order to show how liberal and long-suffering I am in that I am willing to put up with these mistakes. My whole point here is to urge that pluralism and tolerance are answers to the wrong, “Maimonidean,” question. If we frame our questions differently, we will not be forced to choose between tolerance and pluralism (not to mention, intolerance, what appears to be the most popular choice these days, in *all* camps). The question we should be asking is, “Now that we are all Jews, what can we do *together* to further enhance the future of the Jewish people?”

We should begin from the assumption that Jews are one community, one family, divided by disputes. A healthy family can survive disputes: the areas of disagreement are not glossed over, they are acknowledged, but areas of agreement, of shared concern, shared past, shared future, are emphasized, and arenas are sought in which all can work together. God made a covenant with the Jewish people. That people has been traditionally defined as *Klal Yisrael*. I want to urge that we start with that notion of Israel as basic. Let us move the discussion of Jewish authenticity from the realm of dogma, where Maimonides pushed it, back to the realm of public behavior, where it traditionally belongs.<sup>21</sup> In effect, I am

calling for an inversion of the Mendelssohnian dictum, urging one to be a Jew in the street and, if unavoidable, an *Epikoros* at home.<sup>22</sup>

To be more precise, the position I am urging here calls for us to expend less effort on determining whether or not our fellow Jews are heretical, and expend more effort on working *with* our fellow Jews on matters of mutual concern, and working *on* our fellow Jews to make their behavior accord more with traditional norms. Technical *halakhic* matters aside, I think that we should let God worry about who the “kosher” Jews are, and who gets into heaven, while we worry about trying to get Jews to become more Jewish here in this world. Giving up the “Maimondean” category of “heresy” would allow Orthodoxy to relate to other streams of Judaism in ways impossible today.

### Torah and Truth

My position, I fear, is easily misunderstood. I am not proposing adopting a Mendelssohnian “orthopraxy.” I certainly do not deny that the Torah teaches truths about God, the universe, and our place in that universe; my argument concerns the Jewish status of those truths. It is expected that Jews will accept them; traditionally, no great store is set by defining them in a carefully worked out and systematic fashion. Yeshayahu Leibowitz is a good example of an Orthodox thinker who preaches a version of Mendelssohnian Judaism, writing for example, “Judaism was embodied not in an abstract set of beliefs attained by many who had never heard of Abraham or of the Mosaic Torah, but in the Torah and Mizvoth.”<sup>23</sup> As proposed by Leibowitz, this is clearly false. Reducing Judaism to a complex of behavioral norms rubs against the grain of the tradition as much as does reducing Judaism to a series of dogmatic statements. Both are exaggerations and both misrepresent the nature of classical Judaism.

The Torah has important things to teach on an intellectual plane. These include the affirmation of God’s existence and unity, the rejection of idolatry in all its forms, and ideas concerning the purpose of human and natural existence. That the Torah teaches truth does not mean that these truths are expressed in an explicit, detailed, systematic fashion. Nor does it mean that correct and self-conscious affirmation of these truths in all their specificity is the *sine qua non* of being Jewish.<sup>24</sup>

One of the reasons it is important to take note of this is that we cannot otherwise appreciate the contribution of Maimonides to

Judaism. Maimonides' position that truth is objective and must be accepted whatever its source, and his willingness to understand the Torah, such that it cannot conflict with the teachings, of reason are two aspects of his thought that make it possible for many people today to remain faithful to Torah and Judaism without feeling that they must turn off their brains. These teachings concerning Judaism only make sense if we insist that the Torah addresses the intellect and not just the limbs.

This can be expressed in another way: Maimonides' attempt to place Judaism on a firm dogmatic footing may have reflected, as I have argued elsewhere,<sup>25</sup> particular historical stimuli; but it also reflects an intellectual orientation to the nature of religious faith which many find attractive, even indispensable.

But if the Torah contains the truth, why not command its acceptance, or at the very least, teach it in a very clear and unambiguous fashion? The reason is that for Bible and Talmud the translation of ultimate truth into clearly defined and manageable statements was less a pressing need than it was for Maimonides. Let me put this as follows: Maimonides and the Talmud agree that God's truth is embodied in the Torah. The Talmud finds pressing the need to determine the practical, this-worldly consequences of that truth, while Maimonides, in addition, finds it necessary to determine the specific, cognitive content of that truth. On one level, Maimonides is clearly right: Judaism does teach truth; but, on the other hand, his insistence on expressing that truth in specific teachings is an innovation in Judaism.

The point I am trying to make here comes out in the well-known talmudic story concerning the oven of Akhnai (Bava Mezia 59b). The Sages debated whether a particular kind of oven could become ritually impure. The text says:

On that day R. Eliezer brought all the answers in the world [to support his position] but they were not accepted. He said to them: "If the *halakhah* accords with my opinion, let this carob tree prove it!" The carob tree uprooted itself and moved 100 amot [c. 50 yards] — some say, it was 400 amot. The [other] rabbis said to him: "One does not bring a proof from a carob tree." He continued, saying "If the *halakhah* accords with my opinion, let this aqueduct prove it!" The water thereupon flowed backwards. They said to him: "One does not bring a proof from an aqueduct." He continued, saying, "If the *halakhah* accords with my opinion, let the walls of this house of study prove it!" The walls of the house of study thereupon began to fall inward. Rabbi Joshua reproved them [the walls]: "By what right do you interfere when Sages battle each other over *halakhah*?" The walls did not fall [all the way]

out of respect for R. Joshua and did not stand upright [again] out of respect for R. Eliezer. To this day, they stand at an angle. He then said to them, "If the *halakhah* accords with my opinion, let it be proved by Heaven!" A voice from Heaven [immediately] spoke forth: "How do you disagree with R. Eliezer, when the *halakhah* accords with his opinion in every place?" R. Joshua then stood upon his legs and said, "It is not in Heaven!" [Deut 30:12]. [The Talmud then asks,] "What is the significance of *It is not in Heaven?*" R. Jeremiah answered, "Since the Torah was given at Mt. Sinai we pay no attention to voices from Heaven [in determining *halakhah*] since You [i.e., God, the source of heavenly voices] have already written in the Torah at Mt. Sinai, 'turn aside after a multitude' [Exodus 23:2]." R. Nathan met Elijah and said to him, "What did the Holy One, blessed be He, do when this happened?" Elijah replied: "He smiled and said, 'My children have defeated me! My children have defeated me!'"

Much can be (and has been) said about this fascinating passage.<sup>26</sup> Here it will suffice to quote an insightful comment of David Kraemer's: "Of course, we must assume that if the heavenly voice supported R. Eliezer's view, his view must have been closer to the 'truth.' Nevertheless, his truth is rejected, and the view of the sages, though objectively in error, is affirmed."<sup>27</sup> Judaism teaches truth, and that fact must never be forgotten. But the ultimate truth taught by the Torah need not necessarily be understood in its detailed specificity for us to live in the world in a decent fashion; while there is one objective "truth," the Talmud is interested in arriving at a *halakhic* determination, rather than at a determinate understanding of the final truth. We can safely put off determining the exact truth until "the earth be full of the knowledge of the Lord, as the waters cover the sea" (Isaiah 11:9); but in the meantime we must know how to live.<sup>28</sup>

The talmudic position makes it possible for Jews to reach ever greater understandings of the truth taught by the Torah, and allows them to express that truth in language appropriate to each age. Had Judaism adopted a Maimonidean, as opposed to a talmudic, understanding of the nature of our relation to the truth taught by the Torah, we would be forced to express our vision of the Universe in terms of the Neoplatonized Aristotelianism adopted by Maimonides. Our situation would be similar to that of Lubavitcher hasidim, who feel constrained to accept Maimonides' description of the physical universe as "Torah from heaven," or to that of those Catholics who accept Thomism as normative and authoritative. But "the Torah is not in heaven" — it must be lived in this world, while the absolute truth which it embodies remains

“from heaven,” a constant challenge to our understanding, a constant critique of our tendency to intellectual complacency. The talmudic position, as hinted at in the story of the oven of Akhnai, allows Judaism to live and breathe in today’s world as much as in yesterday’s; Maimonides’ position (as held especially by today’s Maimonideans, if not necessarily by Maimonides himself) would have kept us chained to medieval conceptions of the cosmos.

It is on this understanding of truth that Maimonides says, “For only truth pleases Him, may He be exalted, and only that which is false angers Him.”<sup>29</sup> This is clearly not the position of the Talmud in the story of the oven of Akhnai! Surely, God is pleased by (intellectual) truth, but is even more pleased, as it were, by right behavior. This is the entire burden of my argument in this essay.

But, it may be asked, if I agree that Judaism teaches truth, why am I unwilling to admit that untruth is heresy? The reason is simply stated. Heresy is the opposite of truth only in a narrowly theological context. Usually, when we think that someone has become persuaded of untruth, we say that such a person is *mistaken*, not a heretic. Orthodoxy can maintain that Judaism teaches truth, and that it understands that truth more completely than competing versions of Judaism. In the eyes of Orthodoxy those competing versions are wrong and mistaken. Calling them heretical is simply not helpful and is, furthermore, foreign to the historical tradition of Judaism as it developed *until Maimonides*.

It is further important to realize that even though classical Judaism does not understand the nature of *emunah* (faith) as Maimonides does,<sup>30</sup> and therefore places little value and emphasis on precise theological formulations, there are limits to what one can affirm or deny and still remain within the Jewish community. Note my terminology here: there are limits to what one can affirm or deny and still remain within the Jewish *community*. Denying the unity of God, for example, or that the Torah is of divine origin in some significant sense, or affirming that the Messiah has already come, are claims which place one outside of the historical community of Israel. This is not to say that such persons are technically heretics (nor is it to say that they are not) — that is not the issue here — but it is to say that they have placed themselves beyond the broadest limits of historical Jewish communal consensus. How to respond to such people is a question which is best decided on an ad hoc basis. It is also a question which cannot be answered in one fashion for all of us. The Israeli Supreme Court faced with a Brother Daniel gives one sort of answer, a parent faced with a rebellious child another sort. Similarly, when faced with such problems, rabbis should match their responses to the

problems, without being forced to decide in advance that all persons of a certain type are either heretics or babes captured by heathens.

If Orthodoxy could free itself of its “Maimonideanism,” which forces it to see all non-Orthodox Jews as either heretics (and hence evil), or as babes captured by heathens (and hence ultimately ignorant, silly, or stupid), it could relate to such Jews as people no less sincere (if mistaken from an Orthodox perspective) in their commitment to Torah and the future of the Jewish people. It could then work with them in the public square (the second of the three concentric circles discussed above) without belittling them or pretending to ignore them.<sup>31</sup>

### Notes

1. Orthodoxy is not monolithic, but for the purposes of this essay the internal divisions within it are almost entirely irrelevant.
2. A good example of this phenomenon is the way in which the various sides in Israel’s ideological wars use code words to delegitimize each other. Thus, the Likud party calls itself “the national camp,” implying that the left is not patriotic. The left calls itself the “peace camp,” implying that the right does not seek peace. A right-wing prime minister, seeking to curry favor with one of the religious camps, whispers in the ear of a prominent rabbi, “leftists have forgotten what it means to be Jewish.” Figures on the left use the words “sane” and “enlightened” as a way of identifying themselves and their supporters, implying that people on the right are insane and obscurantist. All parties to Israel’s national debate are sure that they alone are the true Zionists.
3. There are very few Orthodox Jews who support (as I do) the total separation of synagogue (not culture) from the state. The most moderate are willing to give up all laws enforcing religious norms save those dealing with personal status, while the most extreme call for the imposition of Jewish law in every possible sphere.
4. In presenting the matter in this way I follow Maimonides who was very clear that the Jews (i.e., the descendants of Abraham) converted to Judaism at Sinai. See “Laws of Forbidden Intercourse,” XIII.1-4, and the discussion in Menachem Kellner, *Maimonides on Judaism and the Jewish People* (Albany: SUNY Press, 1991), pp. 52-53.
5. I quote the translation of the Soncino Talmud.
6. I will indicate briefly here the grounds which support this claim. The full argument may be found in my *Must a Jew Believe Anything?* (London: Littman Library of Jewish Civilization, 1999). Much of the last section of this essay is drawn from that book.

7. For texts and discussion, see Menachem Kellner, *Dogma in Medieval Jewish Thought: From Maimonides to Abravanel* (Oxford: Oxford University Press, 1986), pp. 10-65.
8. If we take Maimonides at his word here, one need not do anything further. For an example of someone who does take Maimonides at his word, see Steven Schwarzschild, "J.-P. Sartre as Jew," *Modern Judaism*, 3 (1983):39-73; reprinted in M. Kellner, ed., *The Pursuit of the Ideal: Jewish Writings of Steven Schwarzschild* (Albany: SUNY Press, 1990), pp. 161-184. For an argument to the effect that Maimonides meant this situation to obtain in the messianic era (but not before it), see Menachem Kellner, "A Suggestion Concerning Rambam's Thirteen Principles and the Status of Gentiles in the Messianic Era," M. Ayali, ed., *Tura: Oranim Studies in Jewish Thought — Simon Greenberg Jubilee Volume* (Tel Aviv: Hakibbutz Hameuhad, 1988), pp. 249-260 (Hebrew).
9. For Maimonides, a Jew who fails to accept the Thirteen Principles has certainly excluded himself or herself from the world to come (or, more precisely, has failed to do that which makes it possible to enter the world to come). But such a person, according to Maimonides, has also excluded oneself from *klal Yisrael*, "the generality of Israel." Is such a person a Jew? I think that the only answer possible to this question for Maimonides is that such a person is obligated to fulfill all the obligations which devolve upon those of Jewish descent (i.e., the *mitzvot* commandments of the Torah) but will receive none of the rewards which follow from that status, be they in the world to come, or in this world (in the sense that the obligations upon other Jews to love, cherish, succor, their fellow Jews do not obtain with such a person). In a *halakhic* sense, the person remains a Jew (*halakhah*, like the mafia, does not recognize the possibility of retirement) but in no other sense. They are indeed Jewish, I think that Maimonides would be forced to say, but only "on a technicality." Norman Lamm raises this very issue forcefully: "If we take [Maimonides] literally, we reach the astonishing conclusion that he who observes *mitzvot* but has not reflected upon their theological basis would also be excluded from the Children of Israel." See Lamm's "Loving and Hating Jews as *Halakhic* Categories," *Tradition*, 24(1989):98-122, 115, based upon the author's "Love of Israel and Hatred of Evildoers," in his *Halakhot vehalikhhot* (Jerusalem: Mossad ha-Rav Kook, 1990), pp. 149-159 (Hebrew). I think we have to take Maimonides literally, but the consequence is exclusion from the world to come, not exclusion from the Jewish people in this world.
10. For support of this interpretation of Maimonides, see Rabbi Abraham ben David (Rabad) of Posquieres' famous gloss on "Laws of Repentance," III.6-7, where Rabad rejects Maimonides' claim that one who attributes corporeality to God is a *min* (sectarian), and has no share in the world to come. Rabad queries: "Why has he [Maimonides] called such a person a sectarian? There are many people

- greater than, and superior to him, who adhere to such a belief on the basis of what they have seen in verses of Scripture, and even more in the aggadot which corrupt right opinion about religious matters." For discussion of this passage, see Menachem Kellner, "What is Heresy?," in N. Samuelson, ed., *Studies in Jewish Philosophy* (Lanham, MD: University Press of America, 1987), pp. 191-214.
11. J. David Bleich in particular has urged the claim that Maimonides simply gives explicit expression to fundamental aspects of rabbinic thought. See "Orthodoxy and the Non-Orthodox: Prospects of Unity," in Jonathan Sacks, ed., *Orthodoxy Confronts Modernity* (Hoboken, NJ: Ktav, 1991), pp. 97-108; "Reply," *Tradition*, 30 (1996):100-102; and *With Perfect Faith: The Foundations of Jewish Belief* (New York: Ktav, 1983), pp. 1-5. For my critique of Bleich's position, see *Must a Jew Believe Anything?*, pp. 99-104.
  12. Maimonides thought he had such a source, Mishnah Sanhedrin X.1. For a detailed argument to the effect that Maimonides was reading systematic, dogmatic theology *into* that text, not *out* of it, see *Must a Jew Believe Anything?*, chapters 4-5.
  13. See "Laws of the Murderer," IV.10 and "Laws of the Rebellious Elder," III.2.
  14. On Maimonides on Karaites, see Ya'akov Blidstein, "Maimonides' Attitude Towards Karaites," *Tehumin*, 8(1988):501-510 (Hebrew); and Daniel J. Lasker, "The Influence of Karaism on Maimonides," *Sefunot*, 5(1991):145-161 (Hebrew).
  15. For discussion, see Samuel Morel, "The Halachic Status of Non-Halachic Jews," *Judaism*, 18(1969):448-457; Yehudah Amital, "Rebuking a Fellow Jew: Theory and Practice," Jacob J. Schacter, ed., *Jewish Tradition and the Nontraditional Jew* (Northvale, NJ: Jason Aronson, 1992), pp. 119-138; Judith Bleich, "Rabbinic Responses to Nonobservance in the Modern Era," Jacob J. Schacter, ed., *Jewish Tradition and the Nontraditional Jew* (Northvale, NJ: Jason Aronson, 1992), pp. 37-116; Jacob Chinitz, "Reb Moshe and the Conservatives," *Conservative Judaism*, 41(1989):5-15; Joseph Grunblatt, "Confronting Disbelievers," *Tradition*, 23(1987):33-39; Norman Lamm's above cited "Loving and Hating Jews as Halakhic Categories"; and Allan Nadler, "Piety and Politics: The Case of the Satmar Rebbe," *Judaism*, 31(1982):135-152.
  16. See J. David Bleich, "Orthodoxy and the Non-Orthodox: Prospects of Unity," pp. 97-108.
  17. While it is well-known that Orthodoxy, by and large, relates more easily to thorough-going secularists than to other streams of religious Judaism, that does not mean that secularists have any Jewish legitimacy in Orthodox eyes.
  18. I put the word "Maimonidean" in quotation marks since I am not sure that Maimonides himself would hold this position in today's world; it is also the case that few of today's "Maimonideans" could probably satisfy his stringent requirements for Jewish legitimacy (demanding, as it does, a high level of philosophical literacy).

19. The term "pluralist" is often used to mean "diverse." But "pluralism" is a value term, "diversity" a description of a state of affairs. A truly pluralist approach insists that each stream of Judaism is equally legitimate, equally normative, equally authoritative, equally the correct manifestation of God's Torah in today's world.
20. Spokespersons for Conservative, Reform, and Reconstructionist Judaism often maintain that their movements are pluralist while Orthodoxy is not. I do not think that is true: most Conservative and Reform rabbis reject as illegitimate the same sex marriages celebrated by some Reconstructionist rabbis; most Conservative, Reform, and Reconstructionist rabbis reject as illegitimate the intermarriages solemnized by some of their colleagues. Few Conservative rabbis recognize the authenticity and legitimacy of the Reform decision in favor of patrilinear descent and few, if any, non-Orthodox rabbis accept as legitimate Orthodox treatment of women (through the laws of *agunah*) or of bastards (through the laws of *mamzer*). Adherence to these laws is usually rejected as immoral, not as "acceptable for you but not for me." For a good example of a non-pluralist approach by the Provost of the (Conservative) Jewish Theological Seminary of America, see Jack Wertheimer, "Judaism Without Limits," *Commentary* (July 1997):24-27.
21. Chapter 2 of *Must a Jew Believe Anything?* is devoted to arguing that while rabbinic Judaism was concerned to root out sectarianism (deviant religious *behavior*), it had very little interest in searching out heresy (deviant religious *thought*). The point is very well put by Sid Leiman:

Books written in Hebrew and ascribed to the biblical period which challenged *central halakhic* teachings of the rabbis were *ipso facto* excluded from the biblical canon. Thus, the book of Jubilees, which is predicated upon a calendar at variance with the rabbinic calendar, could not be considered a serious candidate for inclusion in the biblical canon...books which challenged central theological teachings of the rabbis, while problematic, were not necessarily excluded from the biblical canon. Ecclesiastes is a case in point. Its seemingly antinomian, pessimistic, and often contradictory sentiments left the rabbis nonplussed. Despite the theological problems it created for the rabbis, Ecclesiastes retained its position in the biblical canon precisely because it did not challenge central *halakhic* practices in any substantive way.

See Sid Z. Leiman, "Inspiration and Canonicity: Reflections on the Formation of the Biblical Canon," E.P. Sanders, et al., eds., *Jewish and Christian Self-Definition* (London: SCM, 1981), pp. 56-63, 62.

22. Moses Mendelssohn (1729-1786) is reported to have urged his disciples to act like Jews at home, and like Germans in the street. He sought to move Judaism from the public to the private domain. That

is certainly not what I am trying to do here. I am, however, trying to move the issue of theological orthodoxy from the public to the private realm.

23. Yeshayahu Leibowitz, *Judaism, Human Values, and the Jewish State* (Cambridge: Harvard University Press, 1992), p. 5. Leibowitz propounds a strict form of "orthopraxy," stridently denying that Judaism has any "orthodoxy" whatsoever. For my reservations concerning Leibowitz, see my review of his book, *New York Times Book Review*, July 19, 1992, p. 7, and my "Torah and Science in Modern Jewish Thought: Steven Schwarzschild vs. Yeshayahu Leibowitz," Gad Freudenthal, ed., *Hommage a Charles Touati* (in press).
24. With respect to the ever-present need to relearn and re-internalize the truths actually taught by the Torah, I refer the reader to Kenneth Seeskin's important *No Other Gods: The Modern Struggle Against Idolatry* (New York: Behrman House, 1995). As Seeskin elegantly shows, idolatry is alive and well, thriving in some really unexpected places, and few are immune to its allure. The teachings of the Torah need not be systematized, dogmatized and made into a rigid orthodoxy for them to be normative, important and applicable to our lives.
25. *Dogma in Medieval Jewish Thought*, pp. 34-49.
26. See Izhak Englard, "Majority Decision vs Individual Truth: The Interpretations of the 'Oven of Achnai' Aggdah," *Tradition*, 15 (1975):137-152; and Menachem Fisch, *Rational Rabbis: Science and Talmudic Culture* (Bloomington: Indiana University Press, 1997), pp. 51-111.
27. David Kraemer, *The Mind of the Talmud: An Intellectual History of the Bavli* (New York: Oxford University Press, 1990), p. 122.
28. Maimonides uses the verse from Isaiah to close his messianic discussion at the very end of the *Mishneh Torah*; my use of it, therefore, is not coincidental. In the pre-messianic era we can only approximate the truth.
29. *Guide of the Perplexed* II.48; in the translation of Shlomo Pines (Chicago: University of Chicago Press, 1963), p. 409.
30. Torah and Talmud understand faith primarily in terms of relationship; Maimonides, in terms of assent to propositions. For explication and defense of this claim, see chapter 2 of *Must a Jew Believe Anything?*
31. My thanks to Jolene Kellner for her many penetrating comments on earlier drafts of this essay.