CHAPTER SIX Towards a Contemporary Theory of Boundaries

Diversity is the defining and central feature of contemporary Jewish life. It is so pervasive that one is hard-pressed to identify anything that all those who declare membership in the Jewish people hold in common today. The absence of commonality is frequently the source of tension and discord. Nonetheless, in the contemporary context it is important to remember that diversity is in fact one of the central forces enabling and sustaining Jewish continuity.

Diversity is not merely a by-product of the multiplicity of denominations that characterize modern Judaism. These multiple approaches are symptoms of a deeper revolution, a revolution in the nature of Jewish identity. For most of Jewish history, one's identity was self-evident. People did not choose their Jewish identity, it chose them. One was born a Jew and, for the most part, one by and large died a Jew. However, in the modern context, genetic origins cease to be the determinant factor in one's identity, especially with anti-Semitism on the wane. What characterizes modernity is choice, by which I mean not simply the freedom to choose, but the opportunity to choose. Modern men and women are offered participation and membership in multiple spheres of identity, and one is required to choose where one wants to belong.

Futhermore, this choice is often between multiple identities that are expected to coexist. In the past one's identity was not only inherited but was also singular and all-encompassing. Being a Jew defined most aspects of one's life, from one's belief system, to one's values and behaviour, to one's neighbourhood, friends and socio-economic status. Modern identity, on the other hand, is more often that not, complex and limited, with one identity coexisting simultaneously with multiple others, each inhabiting only a partial space within the life of an individual, each claiming only a part of a person's loyalty. We rarely have one dominant membership commitment, but rather many, with each playing a role and taking turns to lead in different contexts. Thus, one can be a Jew, an American, a Republican or Democrat, a lawyer, a woman, etc. In the modern world one travels between these identities, focusing on some and relegating others to insignificance depending on the needs each fulfills and the joy and meaning each provides.

In the context of choice, vis-à-vis both one's identity and, more significantly, the place and significance of this identity in comparison to others, it is critical that the framework be in place to motivate and inspire that choice. That framework is diversity. It is only when Judaism offers a diverse product with multiple access points that there is a chance that different individuals with varied sensibilities and needs will find within Judaism an identity to which they both want to belong and to which they will pledge loyalty. On the other hand, when these access points are limited or under the control of a certain ideology, most Jews will opt out, failing to choose or to give to their Jewish identity a place of prominence. Diversity is that which inspires and enables the critical decision to be Jewish, and must remain so, if Jews are to continue to make this choice.

In the midst of this reality of choices, the enterprise of building and maintaining Jewish collective identity is exceptionally complex. It requires boundary policies of special sensitivity and adeptness. Too limiting a policy will overly constrain the choices that Jews can make and compel masses of Jews to locate their identity elsewhere. In addition it will feed the forces of sectarianism and provide the framework for ideologues to re-construct Jewish collective identity in terms that exclusively reflect their own affiliation and ideology. If that happens, the Jewish people as one people will cease to exist. In their stead will be a plethora of minor and insignificant denominations and interest groups, all identifying their roots in a people with a great past but with no future. At the same time, as discussed in the Introduction, a boundary policy which is too expansive and porous will not provide the Jewish people with a meaningful collective identity, and will thus undermine any motivation for choosing a Jewish identity in the first place.

In this chapter, I seek to suggest a boundary policy for the contemporary Jewish community. In so doing, I am not attempting to overcome Jewish diversity but rather to celebrate it. At the same time it is true that by its very nature, a boundary policy must have notions of intolerable deviance, so not every self-expression of Jewishness will find a place in the Jewish collective space.

There are two critical prerequisites which must be in place prior to actually defining the boundary policy. The first, and in some ways most crucial is that there must exist a presumption of loyalty, by which I mean an *a priori* decision to work to ensure that one's boundary policies encompass as wide a spectrum of those who identity themselves as Jews as possible. *Af al pi shehata yisrael hu*, i.e. deviants are still Israelites, must be one's standard, not merely as a statement of irrevocable status within the sphere of basic membership, but as a commitment within the sphere of loyalty. The exemplar of such a commitment, although in too limited a fashion, is Moshe

Feinstein. The essential critique against him is that he limited his loyalty to Orthodoxy alone, whereas a constructive boundary policy must apply to all Jews. Nevertheless, he serves as a model of how one can both shape legal precedent and re-interpret deviance as tolerable when one has in place a presumption of loyalty.

To reiterate, the presumption of loyalty does not mean that everyone must by definition find themselves within the boundaries, for that will render them meaningless. Rather it means that every attempt must be made to ensure that as much as possible of the ideological, practical and denominational diversity that finds expression in Jewish life remain within one's boundaries of the tolerable. To fail to do so is to offer a boundary policy which, instead of serving to define Jewish collective identity, works to redefine it and ultimately damage it.

The second prerequisite is the decision to apply the category of intolerable deviance descriptively and not prescriptively. That which is classified as intolerable must be shaped by the living reality that is the Jewish people. One may reject certain expressions of Jewish life, but the minute that that expression is the policy or ideology of more than a small minority of Jews, that rejection must remain within the confines of tolerance or tolerable deviance. Prior to the modern period, with the exception of Maimonides, this condition was by and large religiously maintained. Even Maimonides ruled that all second generation deviants fall under the category of *tinok shenishbah*, i.e. are not held responsible for their actions, thereby effectively overruling his prescriptive tendencies as well. Maimonides was more interested in prescriptively defining the essence of Judaism than prescriptively marginalizing deviants.

A powerful model for a wide-reaching presumption of loyalty and for a commitment to descriptive marginalization is offered by the Orthodox rabbi and head of the Rabbinical Seminary of Berlin, David Zvi Hoffman (1843–1921). Hoffman was confronted with the question as to whether one can count in a *minyan* [the quorum of ten] a *mehallel Shabbat befarhesiah* who does so not merely for the sake of making a living. He rules as follows:

> The people from America are not disqualified [from being counted in a *minyan*] as a result of their violation of the Shabbat, since they are like babies who were taken captive (*tinok shenishbah*) ... Whatever the case may be, those who are lenient and count those types of people in a *minyan*, do have something on which to base their ruling. However, one who can go to another synagogue without embarrassing anyone should do so. It is self-evident that it is preferable not to base oneself on the above ruling, but rather, one should pray with upstanding Jews.

> There is, however, another basis for leniency, for in our generation one is not called a *public* violator of the Shabbat for the majority of people do so. When the majority of Israel are innocent and it is a minority who dare violate this prohibition [regarding Shabbat], then one is a *kofer* in the Torah, a brazen performer of abominations and an individual who separates himself from the community of Israel. However, given our multitude of sins, the majority breaches the barrier [and violates the Shabbat in public]. Their deficiency is the source for their correction, for the individual thinks that it is not such a significant sin and it need not be hidden. As a result his or her *public* violation is as if it was done in private. Quite to the contrary, the pious in our generation are considered as if they were separated and distinguished [from the community], while the sinners function in a manner that is considered normal.[1]

In the above ruling, David Zvi Hoffman, as distinct from Moshe Feinstein, works to remove the *mehallel Shabbat befarhesia* in general, Orthodox and non-Orthodox alike, from the status of intolerability. He applies the ruling of *tinok shenishbah* across the board and utilizes it not merely for the removal of sanctions, but as a catalyst for allowing full membership in the sphere of ritual. No fear with regards to social contact and interaction is mentioned. While preferring participation in a synagogue whose members are not Shabbat desecrators, he rules that before leaving one must ensure that one's actions do not cause others to be embarrassed. This consideration reflects a concern and care which lies at the core of the presumption of loyalty which fellows members, even those who disagree, must grant each other. Finally, basing himself on the lived reality of the Jewish people, wherein the majority of Jews are now violators of Shabbat, he eliminates the classification of the *mehallel Shabbat befarhesia* as an intolerable deviant. So large a number of people violating a law precludes the possibility that the act be classified as intolerable deviance, for such a classification is conditional on the individual in question separating himself from the community. Instead, these deviants now see themselves as the standard bearers and choose to remain inside.

The only major exception to descriptive marginalization, as evident in rabbinic sources, is the prescriptive marginalization of enemy deviants. It is important to reiterate that while others may find different ideologies to be tempting and seductive, this does not mark their adherents as enemy deviants. This status is reserved exclusively for those who engage in an active campaign to attack and undermine the validity and strength of others' Jewish beliefs and practices. In contemporary Jewish life the majority of those who

are guilty of such actions are those on the more traditional side who prescriptively marginalize. Liberal Judaism that fully identifies with Jewish collective life and a liberal reading of Torah does not function as enemy deviance and as such must be exempt from prescriptive marginalization.

The only group that may fail to satisfy this condition are Jews for Jesus. The majority of Jews view them as a group whose primary loyalty is to the Christian community and who are merely using the Jewish nomenclature in order to attack from within and undermine classic Jewish identity. As such, regardless of their self-professed affiliation, prescriptive marginalization may be warranted.

Once these two prerequisites are in place, it is safe to turn to the charting of the actual boundaries of Jewishness. I will divide the discussion in two, as was the case in the preceding chapters, between the definition of intolerability itself and the forms of marginalization that such a classification engenders. As seen from the previous analysis, throughout Jewish history there are only two consistently and universally adopted conditions for intolerability, which are the *meshumad lekol hatorah kullah*, i.e. one who completely rejects all of the Torah and who separates himself from the community, and the *min* as enemy deviant. While some Ammoraim expanded these conditions to include any *meshumad ledavar ehad lehakhis*, and Maimonides, for example, attempted to include heresy, these positions were not universally accepted. The Ammoraic expansion, while taking root in Jewish law, was nevertheless foreign to Tannaitic thinking, rejected by some Ammoraim and most importantly, often functionally ignored in later codifications and Responsa. In addition, while a legal case can be made for the intolerability of the *meshumad ledavar ehad lehakhis*, such a move would violate the two prerequisites outlined above. In the ideologically diverse Jewish world, everyone is a *meshumad ledavar ehad lehakhis* from someone else's perspective, creating too broad and too prescriptive an application of intolerable status. As to the Maimonidean position, it remained a minority one, rejected by the vast majority of halakhic authorities over the centuries. In its stead, the rabbinic model, in which pure heresy was not subjected to sanctions, dominated the halakhic landscape.

The *meshumad lekol hatorah kullah* and the *min* as enemy deviant create a clear and operable boundary for collective Jewish identity. An individual is classified as within the Jewish people's shared cultural space as long as he or she has some engagement and commitment to some part of Torah, identifies as a member of the Jewish people, and is not engaged in actively attacking and undermining the Jewish life and commitments of some member of the Jewish community. On the other hand, one for whom no component of the 3000–4000-year-old tradition of Jewish values and life is relevant is basically playing a different game and is outside the boundary of Jewishness.

Similarly, one for whom Jewishness is not connected to a people and who does not require any conversation and relationship with this people is in fact engaged in a different collective enterprise. In both cases marginalization is but a reflection and recognition of the status that the individual has adopted. Finally, one who sees themself as committed to some notion of Torah and to belonging to the Jewish people, but is engaged in actively attacking and undermining the Jewish life of some, may be prescriptively defined as intolerable by those being threatened. If one wants to remain within the parameters of Jewish collective identity, one needs to exhibit loyalty to the different members of that collective, a loyalty which entails ensuring that our collective space is a safe space, a space where individuals do not feel attacked or undermined. These are the boundaries of Jewishness.

Whom do these boundaries include and whom do they exclude? On an empirical level, every one of the major Jewish denominations and ideologies, be it Orthodox, Conservative, Reform, Reconstructionist, Renewal or Secular, all fall or can fall within the parameters of the Jewish collective space. That is not to say that everyone must assimilate the differences between them under the category of pluralism or even tolerance, but if one classifies one of the above as deviant, then it must be as tolerable deviant. The only two possible exceptions lie at the two opposite extremes, each of which is worthy of consideration.

There are segments of Orthodoxy, such as the ultra-Orthodox anti-Zionist Neturei Karta sect, for example, who despite their obvious commitment to Torah, adopt isolationist and anti-Israeli policies of such extreme measures as to in essence advocate a break with the Jewish people as we know it, with those of their own persuasion serving as the new people of Israel. While Neturei Karta is the radical example, much of *haredi* or ultra-Orthodoxy exhibit similar, though less extreme, tendencies and need to be on guard less they cross over the line. Furthermore, the policies of some segments of Orthodoxy, especially in Israel, to actively attack and undermine the religious rights of non-Orthodox Judaism would constitute an act of enemy deviance and could justify prescriptive marginalization on the part of the liberal wing of Judaism.

The other group that may, in some contexts, be labelled as intolerably deviant is the secular Israeli. In most cases a secular ideology, while not placing the worship of God or ritual at the centre of its Judaism, nevertheless remains firmly Jewish. With their commitment to the value language of the Jewish tradition coupled with a deep dedication to collective Jewish identity, secular Jews are clearly insiders. However, this connection may be undermined in certain extreme cases. Unless its value agenda is connected through study and engagement with Torah to the larger Jewish tradition, it can, as we see in Israel, engender individuals who do not view the Jewish

tradition as in any way a part of their lives, and who may opt for an Israeli, as distinct from a Jewish, identity. In such cases, intolerable deviant status will only be the descriptive response to the status that they have adopted for themselves.

One increasingly prevalent area where the above-demarcated boundaries are of extreme significance is in the classification of individuals who intermarry with a spouse from a different faith community. For much of Jewish history, intermarriage both signified and was perceived as entailing the decision to become in essence a *meshumad lekol hatorah kullah*. We saw this, for example, with the daughter of Bilgah in Tannaic times. However, as intermarriage rates outside of Israel approach and even surpass fifty per cent, the mere numbers and relative percentage of individuals engaging in the act by definition preclude it from being allocated an intolerable classification. One can read the above-quoted words of David Zvi Hoffman as if they were written for precisely this reality. 'Quite to the contrary, the pious in our generation are considered as if they were separated and distinguished [from the community] while the sinners function in a manner that is considered normal'.

In addition, on the basis of the above analysis, the significant factor in determining the status of intermarriage cannot be the act itself, but rather the connection to Torah and the Jewish people which it implies. In this, the intermarried must be regarded similarly to the *mehallel Shabbat befarhesia*. The latter served as the paradigm of intolerability for approximately the last 2000 years; yet, as seen above, the status of these individuals was changed to that of tolerable deviant in light of the fact that the desecration of the Shabbat ceased to imply either a complete rejection of Torah or a separation from the Jewish people. One of the more interesting features of contemporary intermarriage is that this is often similarly the case. Ever-increasing numbers of intermarried couples are maintaining their Jewish communal identity, belonging to Jewish synagogues and institutions and giving their children Jewish educations. The critical factors for intolerability in the case of intermarriage are the decision of the Jewish partner as to his or her personal and familial identity. Obviously, when the Jewish spouse adopts the non-Jewish partner's identity, be it Christian, Muslim, or even secular humanist, the fact remains that the act of intermarriage thus signifies a transition moment out of one's Jewish identity and, as such, is to be descriptively classified as intolerable. However, when the intermarriage act is in fact only (in the Hatam Sofer's sense of 'only') an expression of one's choice as to one's partner and not of one's personal religious and collective identity, the classification of intolerability is not warranted. While one can claim that such a distinction is impossible, the fact remains that precisely such a claim was made in the past with regard to the *mehallel Shabbat befarhesia*. Modernity

and the choices it has engendered have created complex realities which we must take into account in our boundary policies.

It is possible, however, to make the case that the intolerability of intermarriage be contingent on a more subtle distinction beyond the one offered. Instead of simply assessing the intent of the Jewish partner, one might take into account also the couple's joint intent for their family. Obviously, if the non-Jewish spouse adopts a Jewish identity, even without a formal conversion process, on an ideological level the marriage ceases to be an *inter* marriage. However, even if such an affiliation does not occur, the couple may decide that the formal religion of the family and the identity of the children will be exclusively Jewish. Here, too, the intermarriage may be classified as tolerable. It is precisely when such a decision is present at the outset that the Jewish partner is making the necessary reaffirmation as to the place of Judaism and Jewish collective identity in his or her life, a status which was brought into question by the act of intermarriage itself. On the other hand, to claim to want to remain an insider but to not want such a status for one's children is viewed as internally contradictory, and as indicative of a subtle transformation in one's chosen identity outside Judaism and the Jewish people. To claim that as a parent one has decided not to take a stand and to 'let the children decide for themselves' would involve intermarriage of an intolerable form.

When it comes to intermarriage there are two possible statuses: tolerable and intolerable. We must learn to distinguish between the two and direct our responses accordingly. Once it is understood that intermarriage is not inherently intolerable, it will strengthen our resolve to ensure that when it does occur, we do everything within our power to direct it towards a tolerable course. Such resolve involves the redoubling of our efforts at 'in-reach' towards intermarried couples and their non-Jewish spouses, and the broadening of our membership and welcoming policies in our synagogues, schools, camps and community centres. Above all, it is crucial that we remember that intermarriage, while not necessarily tolerable diversity, need not be intolerable. It no longer has to signify the end of one's Jewish identity and commitments, and it requires that we as a community respond accordingly.

One area of much contention and debate is whether rabbis should be involved in any way in the intermarriage ceremony. Given the fact that it no longer necessarily constitutes an act of intolerable deviance, coupled with our collective responsibility to work to ensure that the intermarried maintain their ties to parts of Jewish law and the community, do rabbis have a responsibility to officiate at intermarriages of the tolerable deviant nature, in order to affect this outcome and to further keep the Jewish channels of communication open? The answer to this question is not simple, nor, I

believe, self-evident; and those rabbis who do choose to officiate are clearly not themselves intolerable deviants. At issue is whether in our boundary policies we are able to not merely maintain the distinction between tolerable and intolerable deviance, but between tolerable deviance and tolerable diversity. There are forms of behaviour, as we have seen throughout this book, which encompass a wide spectrum of our society and which do not entail any act of self-separation and identity transformation. This does not, however, mean that this behaviour is to be viewed as positive and embraced as one of the expressions of our shared collective identity. Intermarriage poses a grave threat to the continuity and vitality of the Jewish identity of the future generations of our community, as we have yet to succeed in creating educational and communal mechanisms which ensure that all intermarriages be of the tolerable form. When that happens, the status of intermarriage may move from deviance to tolerable diversity, as was the case in the Bible. Until that time, however, we need to not only reach out to the intermarried but also to educate and advocate as to its dangers and challenges.

However, the critical challenge faced by the distinction between tolerable deviance and tolerable diversity is to maintain it not only intellectually but socially. In some cases, especially when the deviance is so predominant, the community ceases to ascribe to it any deviant stigma, and the attempt to maintain the distinction is not only ineffective but irrelevant. As the Rabbis in the Talmud have taught, just as it is a *mitzvah* to say that which will be heard, so it is a *mitzvah* not to say that which will not be heard.[2] The responsibility of rabbis is to be heard and to use their voices to positively influence and shape the depth and commitment of people's Jewish lives. In this capacity it is of critical significance for them to maintain the boundary between tolerable deviance and tolerable diversity, yet at the same time to acknowledge those cases where the distinction has been rendered mute. Such an acknowledgement is not merely important to ensure that religious leaders remain relevant and are not fighting yesterday's battles, but to ensure that they direct their efforts at that which can be achieved and where their limited resources can positively effect the future identity of the Jewish people. Whether intermarriage has crossed this line or not is a question of judgment. What is clear is that if current trends continue, it will not remain a question for long. At that point, rabbis of the different denominations will not be able to live vicariously off the decisions of some Reform rabbis, publicly criticizing them while privately recognizing that in the case of a tolerable intermarriage, the rabbi's participation has merit. We will need to recognize that the boundary has changed and incorporate policies that enable us to respond accordingly. Whether this involves

officiating in a *kiddushin* or creating a new form of marriage ceremony will need to be determined. What is clear is that silence will not serve our end.

The second dimension of a contemporary boundary policy pertains to the process of marginalization. The significance of this dimension is relatively minor when there is a consensus as to the definition of the intolerable. In such a case, the vast majority of Jews perceive each other predominantly through the categories of pluralism, tolerable diversity or tolerable deviance and, as such, are immune to the effects of marginalization. In the modern context of extreme diversity and debate, where, as we have seen, a mutual commitment of loyalty is often missing, where there may be a willingness to marginalize prescriptively, and there is no consensus as to the definition of the intolerable, a controlled policy of marginalization can serve as a last-resort safety net for Jewish collective survival. Thus, even if we reject the above-outlined boundary policy and instead classify each other as intolerable deviants, but agree to limit the implications of intolerability, we can still establish a functional system of coexistence. As is evident from the above rabbinic and mediaeval analysis, the preponderance of halakhic precedent supports and in fact requires just such a policy. This policy, I believe, must be founded on two central principles.

The first is to carefully maintain the distinctions between the different spheres of marginalization fastidiously maintained by the rabbis. By this I mean, in particular, the distinction between sanctions which affect the sphere of ritual and those which impact on the sphere of loyalty. As seen above, with the exception of the enemy deviant *min* and the subsequent forms of marginalization which result from the rule of 'keep yourself far from her', the vast majority of sanctions directed towards the *meshumad lekol hatorah kullah* are in the sphere of ritual. The one major exception is the law of *moridin ve-lo ma-alin*, which in the modern political context has no practical manifestation in the sphere of loyalty. Even Moshe Feinstein, who uses the law extensively, does so only with regards to the validity of the intolerable deviant's testimony, an issue which predominantly bears on the sphere of ritual.

Where the Hatam Sofer and Moshe Feinstein went wrong, I believe, and deviated from halakhic precedent, is in the application of sanctions intended to be directed exclusively against the *min* as enemy deviant and in using them on deviants who are either more accurately classified as *meshumadim* or *mumarim*, or who are not enemy deviants. Were Moshe Feinstein, for example, to limit the marginalization of Reform and Conservative Jews to the sphere of ritual, the fact that he classified the majority of Jews as intolerable would have been tolerable in itself. Given our ideological differences, it is eminently plausible to argue that we should not pray together. The joke about two Jews on an abandoned island creating

three synagogues, one to which each goes, one that each individually will not attend, and one that they both together reject, may in fact be the prescribed response to the ideological debates engendered by modernity. We can agree not to pray together, and even not to allow each other a place or role in our respective synagogues, but we nevertheless can live with and care for each other when it comes to all other affairs. A community which doesn't pray together can still stay together. Sectarianism can be avoided even when fellow members marginalize each other in the sphere of ritual so long as they maintain each other's status in the sphere of loyalty. It is only with regard to the latter, wherein social contact is forbidden, non-ritual institutional cooperation is banned and mutual concern and assistance is outlawed, that the community ceases to be a singular collective entity. When such polices are applied to a majority of members, the social fabric is destroyed. As a result, the first order of the contemporary marginalization policy is to recognize that while one may classify others and even many others as intolerable deviants, if they are not enemy deviants, the sanctions must be limited to the sphere of ritual. The bifurcated state of world Jewry is not served by innovative use of sanctions in the sphere of loyalty but rather by returning it to its traditional, limited role.

Secondly, just as the distinction between the spheres of ritual and loyalty must be maintained, so too must great care be taken to avoid marginalization within the sphere of basic membership. By this I do not merely mean the formal adoption of the rule of *af al pi she-hata yisrael hu* with its subsequent recognition of all intolerable deviant marriages. I mean, rather, that it is necessary to ensure that even when sanctions are directed within the sphere of loyalty, great care be taken not to create so extreme a marginalization as to effectively and practically construct a *de facto* outsider status. In fact, it is precisely because it is so universally assumed that one cannot lose one's status within the sphere of basic membership that we often allow ourselves to direct virulent attacks and marginalization policies against each other, finding support and self-congratulation in the claim that 'I am not saying that they are not Jews'. It is important to remember that a functional outsider is socially indistinguishable from a theoretical one, with both creating an irreparable social rift. If indeed *af al pi she-hata yisrael hu*, this must determine, as stated above, a commitment of loyalty towards each other on an ongoing basis, and not in merely accepting the relatively trivial legal validity of each other's marriages.

Finally, the last feature of the contemporary boundary policy is a commitment to use the various halakhic vehicles that enable mutual accommodation, such as Maimonides' notion of the *tinok shenishbah* outlined above. Here too, Moshe Feinstein serves as example both for what needs to and can be done, as well as that which must be avoided. His

utilization of categories such as *nasseh lahem ke-heter* or *shogegim* with regard to Orthodox deviants is a model of how to maximize halakhic precedent to ensure the maintenance of ongoing contact. On the other hand, his efforts to minimize and get around the implications of the status of *tinok shenishbah* when it comes to Conservative or Reform Jews serve as an opposite illustration of a policy which must be avoided.

The notion of *tinok shenishbah* does not entail respect for the difference in question; quite to the contrary, it rejects its value and only tolerates the individual by classifying him as not responsible for his decision. In the contemporary context, however, this is not a weakness but a strength. Any attempt to create Jewish social cohesion by demanding that we assimilate our differences through the prism of pluralism is destined to fail, for it does not give sufficient credence to the depth of the ideological debate among the various Jewish denominations and ideologies. We see each other as deviants, and the relevant question is whether we can tolerate each other or not. In this context a category such as *tinok shenishbah* is exactly what is prescribed. It allows individuals to be honest to their value judgments and commitments but still gives them the halakhic foundation for setting aside their marginalization policies. In the reality which is the contemporary Jewish community, while more pluralism may also be required, anything that engenders some measure of coexistence, even if it is a tense one, is of significant value nonetheless.

In summary, the modern boundary policy proposed in this book is built on a set of key features. Its implementation must be preceded by an *a priori* presumption of loyalty to the various and diverse members of one's society, as well as a decision to institute this policy in a descriptive (as distinct from prescriptive) manner. The actual boundary must be constructed by a notion of the intolerable which is limited exclusively to one who rejects all of Torah and completely separates himself from the community, the operative terms being 'all' and 'completely'. In the absence of this, the only other intolerable deviant is one who is an enemy deviant, actively working to undermine the religious life of other Jews. Marginalization of intolerable deviants, with the exception of enemy deviants, must be limited to the sphere of ritual. Care must be given to ensure that if one does sanction within the sphere of loyalty, it is not done to such a degree as to affect the sphere of basic membership and thus create functional outsiders. Finally, there must be a commitment wherever possible to utilize those halakhic vehicles which can create possibilities for mutual co-existence.

While the above guidelines are intended to serve as a comprehensive policy, they are at the same time modular in the sense that even if there is no agreement as to the proposed definition of the intolerable, an agreement on

marginalization policies will suffice. Furthermore, even if there is no consensus on the latter, a commitment to utilize notions such as *tinok shenishbah* wherever possible will also serve enable the continuity of Jewish collective life.

As stated above, diversity is not something to fear but rather a reality which must be embraced. Its preponderance in the Jewish communal context requires that instead of building our collective identity on that which we share, we build it through the erection of boundaries and the instituting of marginalization policies which demarcate the lines that those who are Jews do not cross. The complexity of our reality must be matched by the complexity of our boundary policies. Jewish collective life demands and indeed is dependent on the development of ever-increasing levels of sophistication on this issue, so that we neither attempt to function without a boundary policy, nor to erect one in the wrong place, nor marginalize incorrectly so as to further divide and undermine our collective enterprise.

Jewish collective life will not survive without a shared boundary policy. At the same time, however, I do not believe that it alone will suffice, especially if the agreement is limited to constrict or even suspend marginalization. In addition to its boundaries, a community's shared collective space requires also some things that the various members share in common. As a people with a history which is over 3000 years old, we did not merely survive as a result of shared boundaries, but also by virtue of some shared beliefs and practices. In the Bible, it was primarily ethnicity that was shared. With the onset of the common era, commonality was increasingly expressed in certain agreed principles of faith and halakhic behavior. Such agreement has been lost in the modern era and it is my belief that without a concentrated effort to re-identify some features that all who declare themselves to be Jews actively share, Jewish collective life will remain in peril. While anti-Semitism and crises may at times serve as a stop-gap measure, creating a semblance of shared purpose, it is neither worthy of our people nor increasingly, I hope, sufficiently active, to existentially effect people's identity choices.

In our sectarian reality, it is difficult to imagine both what such a commonality will be or even how to go about thinking about it. The complexity of the issue warrants a work of it own. It is a worthy goal, however, to remember Maimonides' Responsa regarding the Karaites. Despite his clear rejection of their ideology and approach to Jewish life, things which on their own warrant intolerable deviant status, Maimonides maintained their status in the sphere of loyalty. He does not do so by classifying them as *tinok shenishbah*, as was the case in his halakhic codification. Rather, in the Karaites' case, he identifies their belief in the oneness of God as an essential principle, which for Maimonides is

sufficiently powerful to serve as a counterweight to their deviance. In doing so, Maimonides takes two courageous steps. The first entails a choice to assess the deviant member from a broader perspective. It is not that Karaite ideology ceases to be intolerable, but that Maimonides is able to put this intolerability in the perspective of a complete picture in which the heresy and delinquency are positioned together with those aspects of Karaite ideology which he respects. One can choose to see what is deviant or to focus on what is shared. Maimonides here chooses to focus on the latter. The second step is Maimonides' recognition that the fact that the Karaites are intolerable deviants does not mean that everything they do is intolerable. The ability to recognize complexity and to refrain from portraying the other in simple and simplistic categories is the essence of the Maimonidean move. Because one is a heretic it does not follow that everything by definition that comes out of one's mouth will be heresy.

A measure of Maimonides' courage would serve us well today. Were we able to step back from the issues that divide us and concentrate on those areas of value that certainly exist in the other, were we able to see our denominational counterparts in the broader context that is their Jewish life and cease to focus merely on that which we reject, we could begin the process of identifying our common foundations. While there is much that we renounce in the other, there may be much that we can also appreciate. We must, however, make the decision to look. It is possible that this decision must be the first expression of our mutual presumption of loyalty – not a loyalty to try not to exclude, nor a loyalty to refrain from radical marginalization, but a loyalty which allows ourselves to dare to find features in the other which we respect.

Notes

1 *Melamed Le-ho-il* Part 1.29.
2 BT Tractate Yevamot 65b.