

ization, but not Mishnah and Talmud unless they accept Rabbinic teachings. Otherwise, having studied [the Rabbis'] teachings, they will ridicule and deride them, since one who does not believe in those who have received the traditions will not accept their teachings. Rather, their purpose in studying [these teachings] is solely to engage in provocations and refutations, as is evident from the works of Anan and others of their literati.

Still, regarding the issue of *mamzer*, I disagree with [Rabbi Samson], for their betrothal is [performed] without qualified witnesses; the solution [regarding their personal status] derives from the negative [ruling regarding their religious standing].

Commentary. The "Rehabilitation" of the Karaites

Maimonides finds a way, in both his *Mishneh Torah* and responsa, to "overlook" the deviance of the Karaites, suspend the sanctions against them, and allow for coexistence and social interaction between the followers of rabbinic Judaism and those who, from the rabbinic perspective, are heretics and delinquents, rejecting one of the central tenets of Judaism. In doing this, Maimonides does not merely solve a dilemma facing the Jewish community of his era but creates a model for mutual accommodation in ours as well.

From the nineteenth century on, world Jewry has been a community that has lost its shared collective identity. While disagreements were always a feature of Jewish life and law, today's Jewish denominations do not disagree in the manner of Hillel and Shammai; rather, they disagree about the essence of Judaism, sometimes with one group, in particular the orthodox, insisting on the deviance of the others. The central question is not whether pluralism is possible; it obviously isn't so long as the "others" are perceived as heretics and delinquents. The question is whether some measure of tolerance is possible, a measure sufficient to enable a collective Jewish life. Given this climate, it is worth reconsidering Maimonides' treatment of the Karaites.

Maimonides' position can best be explicated by distinguishing between tolerable and intolerable deviance. Toleration requires that the presence of deviant beliefs and practices not determine the status and treatment of the individual whose beliefs and practices are so classified. Although a

particular practice, say, is classified as a sin, the individual remains a member in good standing and is not subject to sanctions and marginalization. In cases of intolerable deviance, by contrast, individuals themselves are classified as deviant and subjected to various sanctions. In both instances the practice is defined as deviant. The question is how one responds, legally and socially, to the practitioner.

In respect of the content of their heresy and delinquency, Karaites and Sadducees are identical: both reject the authority of the Oral Law. Despite this similarity, Maimonides classifies only the Sadducees as intolerable. "As soon as it is made public that [a person] has repudiated the Oral Law, he is cast into the pit and not rescued from it . . . He is placed on a par with heretics . . . all of whom are ruled out of the community of Israel. No witnesses or previous warnings or judges are required. Whoever puts any of them to death fulfills a great precept, for he removes a stumbling block" (MT Laws of Rebels 3:2 [§16]). Karaites, on the other hand, are classified by Maimonides, both in the *Mishneh Torah* and in his responsa, as tolerable, which has the effect of removing all sanctions, permitting regular social intercourse, and requiring that "efforts should be made to bring them back in repentance, to draw them near by friendly relations so that they may return to the strength-giving source, i.e., the Torah" (MT Laws of Rebels 3:2).

Maimonides achieves the rehabilitation of the Karaites in two distinct ways. The first, in the *Mishneh Torah*, is to apply the legal category of "a child taken captive" to all contemporary Karaites (Laws of Rebels 3:3). This establishes the distinction between a deviant act and its perpetrator. As a child taken captive, an individual is not considered responsible for the choices he or she makes, and consequently, although the act may be deplorable, the individual is called an *anoos*, "someone acting under coercion." Now, in the Talmud, the phrase "a child taken captive" refers literally to people seized in their childhood by gentiles and brought up without any knowledge of Jewish law nor, possibly, of their identity as Jews. Maimonides expands this category to include all those whose deviant behavior is not founded on "independent" ideological conviction, but rather has been shaped by their upbringing. In this manner, all adherents to deviant communities, from the second generation on, including all Karaites in Maimonides' time, become tolerable.

In his responsum, Maimonides adopts a different strategy, which doesn't depend on the nonresponsibility of contemporary Karaites. Rather, the rehabilitation is achieved by viewing Karaites from the perspective of the broader goals of the Jewish religion and the participation of Karaites in achieving these goals. This shifts the focus from their rejection of the Oral Law to their monotheistic faith. Heretical beliefs regarding the status of the Oral Law are marginal when compared to true faith in God and the rejection of idolatry.

These two methods of rehabilitation, while they achieve similar results, are significantly different, and the differences affect the extent and consequences of their application today. The category of "a child taken captive" is relatively easy to use. It can be applied in a broad manner, as was done by Rabbi Karelitz, the "Hazon Ish" (§38), to encompass all deviants in the modern era. The argument found in the responsum, on the other hand, requires a will to focus on that dimension of a deviant's Jewish life and faith that expresses piety and religious fidelity and to define it as having greater weight than the heresy or delinquency in question. Where that will is absent, no form of argument can sway one to greater tolerance.

Evidence of the centrality of a prior willingness to find foundations for accommodation can be found in the responsa of Rabbi Samson and Samuel ibn Hakim (§§18–19). The former has already decided that Karaites are intolerable deviants and does everything in his hermeneutical power to marginalize them and even to exclude them from the community. For example, his move, later attacked by Ibn Hakim, to equate the violation of holidays to the denial of the Torah is in clear contradiction to Rabbinic efforts to limit the number of laws whose violation makes one an intolerable deviant. Nowhere in Rabbinic literature are the holiday laws included in this number. Rabbi Samson is clearly not afraid of innovation. He is an exemplary innovative scholar. But he has no willingness to accommodate; his innovations and daring interpretations serve only to widen the gap between himself and those with whom he disagrees.

Ibn Hakim, on the other hand, while clearly rejecting the ideology of the Karaites, seeks to limit the degree of separation from them. He reads Karaite divorce contracts and searches for ways of including them within the sphere of *halakhah* as he understands it. He develops notions of minimal

standards (a *get* in accordance with biblical law) and on this basis removes from Karaites the stigma of *mamzerim*, a stigma that would necessitate the demarcation of two entirely separate communities. The difference between Samson and Ibn Hakim is not in their interpretive strategies nor in their assessment of Karaite heresy and delinquency. The difference is in the presence or absence of a willingness to find and build bridges for coexistence.

There is another difference between Maimonides' first and second methods of accommodation. The first defines the deviant as a "child," that is, someone who is not responsible for his or her choices. The method of the responsum, by contrast, treats the deviant as an adult and recognizes that the deviant is faithful to an alternative ideology. Consequently, a self-respecting heretic can accept this recognition as the beginning of a process of mutual accommodation. The heretic will have difficulty, however, accepting the classification of "a child taken captive." This latter category will therefore function primarily as an internal tool of the halakhic system, serving to limit the application of sanctions against certain heretics and apostates. The argument found in Maimonides' responsum can serve, however, as a model for a degree of social accommodation and acceptance.

One final point about accommodation arises out of Maimonides' responsum. The first condition he stipulates for redefining Rabbanite attitudes toward Karaites is that the latter must stop their verbal attacks on the rabbis. For his part, Maimonides' responsum is an example of a parallel forbearance: instead of speaking about the Karaites as heretics, he refers to them as pious monotheists. Groups whose members view the "others" with disdain and animosity, as heretics, delinquents, and apostates, will never be able to begin a process of mutual accommodation and tolerance. Developing a culture of public discourse is the critical stage in the building of a shared community under conditions of radical difference. Such a culture will not diminish the severity of the disagreements. It may, however, enable us to concentrate on what we hold in common, and thus establish foundations on which to build a collective life.

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