

One of the most perplexing problems faced by Orthodoxy in America today is that of the "non-observant Orthodox" — that new kind of Jew who is pious by affiliation rather than practice. Rabbi Howard I. Levine, of the faculty of both Teachers Institute and Stern College for Women of Yeshiva University, here attempts to formulate a positive approach to the question in a forthright manner. Reactions to his views and further discussion of the problem will be most welcome in the pages of TRADITION. Rabbi Levine contributed "The Experience of Repentance: the Views of Maimonides and William James" to our Fall, 1958 issue of TRADITION.

THE NON-OBSERVANT ORTHODOX

One of the most momentous of the struggles that have emerged in modern Israel between secularists and religionists has been about the issue "Who Is a Jew?" On no other issue have traditional Jews shown such complete agreement, for on the answer to this question hinges the very life of our faith and our people.

American Jewry faces a related issue which will perhaps play no less crucial a role in the determination of its future. Merely amend the question to read "Who is an Orthodox Jew?" and you have before you a most critical question of practical policy confronting our Torah leadership. Inasmuch as we equate Orthodox Judaism with the true Judaism of the past and of the future, it is vital that we determine which Jews in the present are the links in the eternal chain of our existence. This spiritual community constitutes the soil and the seed which will, with adequate nurture, bear the fruit of our future existence.

It is therefore necessary that we answer the fundamental question: "Who is an Orthodox Jew?" Is an Orthodox Jew defined by his *acts* or by his *beliefs*? What is the status of the non-observant Jew who identifies himself with the Orthodox community? What is the exact

TRADITION: A Journal of Orthodox Jewish Thought

definition of an Orthodox synagogue and an Orthodox rabbi? Is separate seating or *mechitzah* the line of demarcation of Orthodoxy? When does a deviationist synagogue lose its Orthodox character?

We should not commit the fundamental error of considering the answers to these questions as being arbitrary matters of opinion. On the contrary, they are matters of fundamental *Halakhah* — Law. While these answers may not always meet with complete agreement they must be based upon the authoritative sources of Torah doctrine. *Halakhah* pertains not only to matters of ritual and worship but to people and their basic world-outlook as well.

Moreover our approach cannot be dictated by the purely utilitarian policy as to which policy is calculated to produce the greatest loyalty to Orthodox Jewish institutions. Not only is a parochial approach no substitute for the truth of Torah teaching, but we operate in the faith that in an ultimate sense the pursuit of truth is synonymous with the practical success of Orthodoxy.

In this view we approach our task. It is the aim of this article to defend the place of the non-observant Jew in the Orthodox body; that is, to show that Orthodoxy, while strongly advocating maximum observance, yet recognizes that even the non-observant who desire this identification belong to its religious community. Furthermore, it is our purpose to present the case to the non-observant Jew for his joining hands with Orthodoxy despite his close correspondence to the level of observance demanded of him by Conservative or Reform Judaism. In addition we shall endeavor to show that deviationist synagogues and rabbis within the framework of Orthodoxy should not, despite shortcomings, be excluded from our ranks at the present time.

It is our firm conviction that no greater harm could be done to our cause than the severance of these Jews and synagogues from our main body. We can hardly commit a graver error than that of categorizing non-observant Jews as "Conservative" or "Reform." It is sad enough that many Jews mistakenly call themselves by these names without realizing the implication in terms of ultimate commitment to Torah. We dare not add to this error and accelerate a process of dissolution.

It is related that Rabbi Elijah, the Gaon of Vilna, happened to be at an inn with a companion. During mealtime the two venerable rabbis sat together at one table, while at another table was seated

The Non-Observant Orthodox

another Jew who was obviously completely non-observant. He neither washed before the meal nor did he recite any blessing over his food. Yet at the conclusion of the meal the Gaon invited this Jew to join in a *mezuman* — the special blessing immediately preceding the Grace after meals, which requires a quorum of three adult males. The reply was in a tone of scoffing ridicule: "Don't you see that I am an *apikores* (disbeliever)? I have nothing to do with *Mitzvot* and Blessings." To which the Gaon answered: "That you did not wash and did not recite a Blessing and call yourself an *apikores* does not change the fact that you are a Jew. You have just finished eating; as a Jew, you are obligated to bless God. All your past transgressions cannot erase your present obligation to join in our *Mezuman*." The narrative concludes that the words of the Gaon made such a deep impression, that they ultimately brought about this man's *Teshuvah* (repentance).

The point is that every Jew, no matter what his designation, still "belongs." Torah's claim is upon all Jews. We cannot accept the resignation of any Jew from Torah life. Certainly we should not force the resignation of any Jew from the historic Jewish community by giving him a new name to hide behind.

We recognize only one Torah, one Judaism, and one historic Jewish community. We cannot recognize the legitimacy of the division of American Judaism into three branches. Moreover, this division, at least, from the viewpoint of the layman, is not a genuine ideological one. Many lay people, in calling themselves "Reform" or "Conservative," are merely describing a certain level of observance and are not indicating a denial of basic Jewish belief in Torah. To the extent that such is the case, we have not three branches of Judaism, but three variations of one type of Judaism, which might be rephrased as Orthodox-Orthodox, Conservative-Orthodox, and Reform-Orthodox. Only to the extent that genuine difference in ideology exists do we see a defection from the ranks of Orthodoxy. The vast bulk of American Jewry is guilty of no such defection. By and large Orthodoxy speaks to all Jews for all Jews.

Let us, however, disregard entirely the matter of numbers in order to clarify the basic Orthodox position in the Jewish community. The prophets of Israel never spoke in the name of the majority position of the Jewish people — yet they were more truly representative of the genuine Jewish community than any other leaders of their day.

TRADITION: A Journal of Orthodox Jewish Thought

They represented the true and inviolable claims of the historic Jewish Torah community. Similarly, Orthodoxy does not represent a clearly delineated group with its own special interests. Our claim is not on the basis of a voting bloc — certainly not that of a minority group asking for the protection of its rights within the Jewish people. Our claim is in the name of the true character of the Jewish people, in the name of our Torah. We do not ask all Jewish organizations to observe *Shabbat* and *Kashrut* in their public functions out of consideration for their Orthodox members and their sensibilities. Even if an organization does not have a single observant Jew our claim is just as insistent. *Kelal Yisrael*, that collective conscience of the historic Jewish community which has taken upon itself the yoke of the Divine imperative, always constitutes the one and only true Jewish majority. Orthodoxy views itself as the heir of historic Judaism rather than as a faction within Judaism or as a spokesman for a particular type of synagogue architecture.

It is true that were Orthodoxy to constitute itself a separatist group it might enjoy many short-range benefits. It could build its ranks firm and strong. It could to a large degree shut out the disturbance of an outside world. It would not need to dissipate its energies on behalf of outside groups. It could be narrow and single-minded, unchallenged and unyielding. It could, under those conditions, feel self-righteous and superior and live up to the role of its self-image.

It is not at all surprising that a small minority within Orthodoxy has succumbed to this temptation. But this can never be the genuine position of Orthodoxy because it is not consistent with the truth of Judaism. Our Torah is one. Our people is one. No devout wish or strategy can efface that reality. Neither the narrow institutional interests of Conservative and Reform Judaism nor the parochialism of minority elements within Orthodoxy can sustain the myth of the division of Judaism into branches. Judaism, in any ultimate sense, cannot abide denominationalism.

An exceptionally clear and authoritative decision on this matter is rendered by the eminent talmudist Rabbi Naphtali Tzevi Yehuda Berlin, *Rosh Yeshivah* of the renowned Volozhiner Yeshivah that flourished in the past century, in his collection of responsa.¹ In this responsum, the *Netziv* (as he is called) expresses his difference of

1. *Meshiv Davar* I:44.

The Non-Observant Orthodox

opinion with the position stated in a periodical issued by German Orthodox Jews that Judaism can be split into three divisions and that Orthodoxy should separate itself from the non-observant elements in Jewish life and thereby strengthen its position. The *Netziv* differs sharply with this point of view and presents the following arguments against Orthodox separation:

"This advice is as fatal as a sword wound in the body of our nation," he warns. First, a sharp line of demarcation between the observant and the non-observant will not only separate the Orthodox from other groups, but it will also divide Orthodox against Orthodox. An atmosphere of excessive suspicion and zeal will prevail and any deviation whatever in practice or custom will cause the doer to be branded a heretic — and to be treated accordingly. There is no end to the harm that will be caused even to pious Orthodox Jews once the attitude of exclusion reigns.

Secondly, we Jews in the Diaspora vitally need the unity of our people in order to protect our group existence. Only when the Jews are all united will we succeed in withstanding the onslaughts of hostility to the Jews from the outside world.

Thirdly, separation is against human nature. We see the tremendous attraction of non-Jewish society for the Jews, which results in inter-marriage and assimilation, and which can be resisted only by great conscious effort. How much more so would it be unnatural to expect one Jew to be estranged from his brothers. Human nature will never allow it.

The *Netziv* goes on to offer an alternative solution to the problem of Orthodox survival. The spread of Torah learning in all quarters is the only answer. Torah should be taught even *shelo li-shemah*, even if the motives for its study are not of the highest religious order, of "learning for its own sake." He adds "if not in his own life time, at least his children will come to realize the higher ideal," citing a statement of the Talmud.² Even if Torah must be taught in combination with secular studies we should gladly do so, rather than drive away our youth from our midst. It is preferable that secular studies be conducted under religious auspices and in a religious atmosphere than have our youth leave our fold completely. (A prophetic statement of the effectiveness of the Yeshivah movement in America!) The study of Torah will also diminish con-

2. *Sanhedrin* 105b.

troversy amidst our people and join all Jews together in a closer bond.

Thus we see that the policy of separatism is foreign to authentic Jewish teaching as articulated by the *Netziv*. Orthodoxy cannot separate itself as a group and divorce itself from other groups in Jewish life. A distinction, however, must be made at this point. There is a difference between *relatedness* and *inclusiveness*. Orthodoxy *relates* itself to all Jews, is concerned for the totality of the Jewish people, and aspires to *include* all Jews in the future. It does not, however, at the present *include* all Jews. Were this the case Orthodoxy would be amorphous and its designation a meaningless term. It cannot possibly accomplish its purposes without some form and structure.

We therefore turn now to the question: which Jews are actually, and not potentially, part of the Orthodox community? On what grounds can the non-observant Jew belong to Orthodoxy? If his level of observance does not disqualify him for membership in this community, how can Orthodox belief, alone, accomplish this identification in view of our knowledge that Judaism is primarily a religion of *Mitzvot Maasiyot* (practical observances) and not a religion of dogma?

Happily we have available a most authoritative source — the Mishnah, which upon proper interpretation offers a solution to our problem. It is the unqualified view of the Mishnah, that it is Jewish *belief* above all that determines the membership or belonging of an individual in the Jewish spiritual community called *Kelal Yisrael*. By the latter phrase is meant a community not necessarily identical with the Jewish people in its totality. It is a community to which is attached a special state of spiritual grace which the Mishnah describes by telling us that all in it have a share in the world-to-come — notwithstanding the serious breaches of observance of such individuals as may comprise this group. Thus we read in the Mishnah³: “All Israelites have a share in the world-to-come as, it is written, ‘And your people are all righteous, they shall possess the land for ever, the shoot of my planting, the work of my hands, in whom I glorify.’ The following, however, have no share in the world-to-come: He who says that resurrection of the dead is not the teaching of the Torah, that the Torah is not from Heaven, and the heretic.”

3. *Sanhedrin* 11:1.

The Non-Observant Orthodox

Maimonides, in his commentary on the Mishnah, states clearly the implication of this doctrine:

"When a person believes in all of the fundamental Jewish doctrines. . . . he is part of *Kelal Yisrael* and we are commanded to love him, have mercy upon him, to fulfill all of the commandments based on love and brotherhood which God bade us observe in relation to our fellow Jews. No matter what sins this individual may have committed, because of sinful appetite and base passion, though he will be duly punished for his transgression, he nevertheless has a share in the world-to-come. . . . But if an individual renounces his belief in these foundations of Judaism he is no longer part of *Kelal Yisrael* — he has denied the fundamentals and is considered as a heretic and *apikores*. . . ."

Upon careful analysis we see that Maimonides in his explanation resolves an apparent contradiction in the Mishnah. The Mishnah first states without qualification that all Israelites have a share in the world-to-come. The Mishnah immediately afterwards seemingly modifies the initial broad, all-inclusive statement by saying "the following have no share in the world-to-come." Maimonides solves this problem by pointing out that it is the clear implication of the Mishnah that disbelievers are not part of *Kelal Yisrael*; hence the first statement in the Mishnah, "All Israelites have a share in the world-to-come," stands without qualification. We have here then, in the Mishnah, not only a statement as to who has a share in the world-to-come but also an exact definition as to who is part of *Kelal Yisrael* — the Jewish spiritual community.

There emerges from the study of the Mishnah yet another significant point. The saving power does not pertain to belief in dogma as such, but to one's attachment to the Jewish people — *Kelal Yisrael*. Righteousness and blessing are the qualities that adhere to the Jewish people as such, and by being included in *Kelal Yisrael*, one partakes of these qualities by virtue of his membership in the larger body. However, belief, in itself, has no power to save. It is only the means whereby we maintain our true attachment to *Kelal Yisrael* — which in turn is the source of spiritual blessing. R. Menachem Meiri in his comment on the Mishnah emphasizes this point: "In order to teach us that an idolator, or an atheist, or anyone guilty of sin with regard to the foundations of Judaism and religion does not have a share in the world-to-come, the Mishnah adduces its proof from the

TRADITION: A Journal of Orthodox Jewish Thought

verse 'And your people are all righteous'; that is to say, that *insofar as one shares in these beliefs he is still part of the Jewish people* and he is thus not entirely excluded from the category of the righteous despite his many individual sins."

Hence it follows that an individual who believes and observes but does not identify himself with *Kelal Yisrael* has no share in the world-to-come. The Talmud⁴ explicitly lists, together with the disbelievers previously mentioned, "those who separate themselves from the ways of the community." Maimonides⁵ explains this category as follows: "He who separates himself from the ways of the community, even though he has committed no transgression, but remains apart from the Jewish people and does not perform *Mitzvot* in their midst and does not share in their sorrow or join in their fasts, but follows his own way as if he were a stranger and not one of them, has no share in the world-to-come."

The intimate connection between one's attachment to the Jewish people and the Jewish religion is of the very essence of Judaism. It is, one might say, the most basic concept of Judaism — the concept of Covenant. Even more so than the Torah or the *Mitzvot*, it is the Covenant (*Berit*) which relates the Jewish people to God. The particularly Jewish relationship of man to God is not Man — God nor even Man — Torah — God but is Man — Israel — Torah — God. Israel on many occasions in its history has entered into a covenant with God to keep the Torah; we, as part of Israel, therefore have a share in Torah and are thereby related to God.

The Covenant relationship is the central reality of Jewish history because it is the Covenant which simultaneously defines and establishes our relationship to God and Torah. We are the people of God only by virtue of the *Berit*, as the Scriptures state (Exodus 19:5): "Now therefore if you will hearken unto My voice indeed and keep My covenant, then you shall be Mine own treasure from among all people; for all the earth is Mine and you shall be unto Me a kingdom of priests and a holy nation." The implication of this teaching is that a Jew approaches God and Torah first through attachment to his people. Thus we find that the formula in marriage is *Harei at mekudeshet li ke'dat Mosheh ve'Yisrael*, "Behold thou art betrothed unto me in accordance with the *Law of Moses and Israel*." It does not

4. *Rosh Ha-shanah* 17a.

5. *Hil. Teshuvah* 3:11.

The Non-Observant Orthodox

suffice that the marriage is contracted on the basis of the laws of the Torah — it must also be based on the consent of *Kelal Yisrael* as a living entity. Hence we find that if a woman violates *dat yehudit*, the Jewish traditions of modesty, though she has not violated explicit Torah Law, there are grounds for divorce. Similarly we find that in certain cases extraordinary powers are granted to the extant Torah authorities to nullify a marriage because, as the Talmud teaches, "Every person marrying does so with the understanding that his act meets with the consent of the Rabbis."⁶

It should be understood that the authority of the Rabbis here derives from their position as the articulate spokesmen of the conscience of *Kelal Yisrael* — the living Jewish spiritual community.

It follows then that our attachment to Torah is a twofold one. The Torah contains not only the commandments of God to us, but it also contains the historical record of our reiterated agreement as a people to live by these laws. Not only at Sinai but also at *Ohel Moed*, the Tent of the Meeting, after the Tabernacle was erected, and at the plains of Moab before entering the land of Israel, did the entire Jewish people bind themselves and their children to keep the Torah.⁷

So too in the times of King Josiah (6th century B.C.E.) was the Torah reaffirmed as the constitution of the Jewish people. Even again in the times of Ezra and Nehemiah (5th century B.C.E.) was allegiance pledged anew by the leaders of Jewry to abide by the Torah.

Consequently the Torah is not only the religion of the Jewish people — it is its legal constitution. The Covenant is by its very nature a legal relationship. It is basically a form of contractual agreement between God and the Jewish people with the Torah as the instrument of this contract. To deny the validity of the Torah is tantamount to destroying the covenantal relationship between God and Israel because the Torah is the very contract of this agreement. The first requirement of a Jew is to give allegiance to the Torah and to recognize its validity even as the first requirement of a citizen is to give his allegiance to the Constitution and to recognize its authority. Violating any specific law is a wrong but does not constitute treason, whereas denying the validity of the constitution is clearly an act of treason, resulting in a loss of citizenship. Similarly, a Jew who violates individual command-

6. *Ketubot* 3a.

7. *Sotah* 37b.

TRADITION: A Journal of Orthodox Jewish Thought

ments remains in *Kelal Yisrael*, whereas a Jew who denies the total validity of Torah is guilty of an act of treason resulting in his severance from *Kelal Yisrael*.

The analogy of Torah and constitution warrants further development. A constitution cannot exist without a recognized judicial body to interpret it. It would be meaningless for a person to say "I uphold the integrity of the constitution but I do not recognize the right of the courts to interpret it. I shall follow another interpretation." So too a Jew cannot say "I believe in the Torah but I do not recognize the right of one recognized central rabbinic body to interpret it. I shall follow another interpretation." Either one believes in the Torah and *one* valid judicial body that can interpret it or one's allegiance to Torah becomes meaningless. Nachmanides, in commenting on the biblical verse (Deut. 17:11) "Thou shalt not turn aside from the sentence which they shall declare unto you, to the right hand nor to the left," remarks: "Rashi quotes the talmudic teaching 'even if they declare the right to be the left and the left to be the right!' This means that even if you in your heart are convinced that the Court is wrong and their error is as clear to you as the difference between your right hand and left hand, you should nevertheless follow the direction of the Court. . . . You should say: thus has God given me the *Mitzvot* that I should fulfill them as the Sanhedrin directs and in accordance with their understanding — *though they err*. The need for this command is exceedingly great. For the Written Torah is amenable to many interpretations and unanimity cannot be easily achieved. Thus controversy would prevail and the one Torah would split up into many Torahs. Therefore it is God's will that we follow the Torah as interpreted by the authority of the Sanhedrin. . . . Moreover we have reason to have faith that they are teaching that 'the right is the right.'"

We may derive from the above the important truth that even above the principles of reason and conscience stands the principle of the validity of Torah and its due judicial process of interpretation. Obviously this teaching applies not only to the Sanhedrin but to the central religious authority that exists in all ages. The Talmud in its entirety has been recognized by *Kelal Yisrael* as such an authority.

In applying this criterion of belief (rather than one of practice) to the American Jewish community we have every reason to be encouraged. Studies of religious attitudes in America reveal a remark-

The Non-Observant Orthodox

able record of belief in God and in the Bible.

"What do Americans believe? Most emphatically they believe in God, 97 percent according to one survey, 96 percent according to another, 95 percent according to a third."⁸ "They believe in prayer: about 90 percent say they pray on various occasions. They hold the Bible to be an inspired book, the word of God. 86 percent regard it as divinely inspired, the word of God; a survey conducted by the British weekly gives the figures for Americans who regard the Bible as divinely inspired as 86.5 percent."⁹

One may legitimately conclude that the non-observant Jew in America is in quite a different category from the once non-observant Jew in Europe. Whereas in the latter case non-observance was very often associated with an outright rejection of religion and with a materialistic ideology, the non-observant Jew of America is by no means characterized by blatant atheism and materialism.

It can be argued, as indeed it has been, that this commitment of belief is quite superficial when we compare performance in deed to profession of belief. As Herberg writes, "Yet it is only too evident that the religiousness characteristic of America today is very often a religiousness without religion, a religiousness with almost any kind of content or none, a way of sociability or belonging rather than a way of re-orienting life to God."¹⁰

Granting his place in the vast twilight zone between true belief and disbelief, we nevertheless maintain that the American Jew is by and large ranged on the side of Jewish belief and is not to be excluded on that ground from genuine religious affiliation with *Kelal Yisrael*. Here we must draw an essential distinction in our definition of the obligation to believe as required by Judaism. It can be defined positively or negatively. In its positive sense, belief entails complete awareness, absence of doubt, and decisive conviction. It is in this sense that the thirteen principles of faith were formulated by Maimonides and are recited daily by many worshippers. In its negative sense, however, it is merely non-denial — tacit acceptance with the possibility of intermittent doubt and weakness of conviction. There is a great difference between the two approaches.

If we accept the negative approach, our community of believers

8. Will Herberg, *Protestant, Catholic and Jew*, p. 85.

9. *Ibid.*, p. 105 note 6.

10. *Ibid.*, p. 276.

will include the numerous persons who are in the neutral zone between belief and disbelief, those lacking in positive faith but who yet are not heretics and disbelievers.

Significantly, the Mishnah of Sanhedrin does not require belief in the sense of positive avowal but only condemns the denial of fundamental Jewish doctrines. It was the innovation of Maimonides to expand and put in positive form the doctrinal teachings of the Mishnah. Classical Judaism, however, has contented itself with the negative formulation, for it maintains, as we explained before, that the avowal of belief in itself cannot endow one with saving grace. The way of blessedness for the individual lies in his attachment to *Kelal Yisrael*. This attachment itself is the true beginning of the road to ultimate faith, which is a long and arduous one. It is one thing to say "I believe the Torah is Divine" and quite another to learn its contents carefully, practice its precepts, and thereby gain strength of conviction. One can begin his attainment of faith by assent to the doctrine that God controls all events in the universe, but will only free himself from wordly concern and worries after a long process of growth in religious maturity. Assent to belief and the gaining of real conviction are two stages of one protracted process. The requirement of Judaism is that a person begin on the road to faith by not severing himself from Torah ideals. Attachment to *Kelal Yisrael* and its living experiences will accomplish the rest.

The late Chief Rabbi of Israel, Rabbi Kook, of blessed memory, makes this entire point explicit in a letter to a disciple. "Though it is a certain prohibition and a festering sore for one to even cast a doubt concerning the truth of the content of our perfect Faith, nevertheless we do not find our Sages adjudging such individuals as atheists or *apikorsim*. Only one who definitely denies, that is, who decides that the very opposite of our faith is true, is included in this category. A categoric denial cannot possibly emanate from any Israelite who is not outright sinful and consciously distorting the truth. For the most that irreligion can do is to sow doubt in people of weak conviction. Therefore, one who arrogantly denies without mental reservations is sinful beyond question. This is clear: whoever is aware that even extreme irreligion, if it is honest, can at most stake itself in a position of doubt, and this only as a result of absence of knowledge, weakness of sensibility, and want of guidance — will certainly on due reflection of this, become more perfect in his own faith and more

The Non-Observant Orthodox

richly endowed with true piety. The more such an individual will attach himself to men of learning, to true seekers after God, the more will he progress in his attainment of a firm faith that will be rooted in knowledge and wisdom."¹¹

One might add that unquestionably doubt is no excuse for breach of observance. He who violates *Shabbat* or *Kashrut* because of weakness of faith is no longer in a position of doubt. He has reached the existential decision to divorce religion from his life. He bet his life against the premise of religion, as Pascal has expressed it in his famous wager. No human being can persist in a state of perpetual doubt. The human psyche could not abide the burden of continuous indecision. The person who ceases to observe the *Mitzvot* on ideological grounds has clutched at a position of certainty. It is only the person who observes, though weak in conviction, who can be considered as an individual in doubt. This latter type, R. Kook explains, can transcend his state of doubt in his attachment to Torah personalities, and thereby deepen and strengthen his faith.

A further point ought be made at this juncture. The division of ethics and religion is a secular distinction. Authentic Judaism recognizes no essential difference between ritual and ethics — all are commandments of the same God. Consequently, we should not disregard the ethical observances of the "non-observant" Jew. He too is observant, to an appreciable degree, in his fulfillment of such *Mitzvot* as honoring one's parents, honest behavior, and the giving of charity. Being part of *Kelal Yisrael*, his deeds take on the aspect of Jewish religious observances: *Mitzvot*. We have no right to conclude that because he is negligent in the observance of basic ritual *Mitzvot* and is primarily keeping only the ethical laws of civilized living, that these observances are accountable to him *qua* universal human being, not *qua* Jew. On the contrary, our Sages have always viewed such ethical behavior as being peculiarly Jewish. "For I have known him [Abraham] to the end that he may command his children and his household after him that they may keep the way of the Lord to do righteousness and justice." (Gen. 18:19).

The Talmud¹² teaches: "The people of this nation have three characteristic traits: they are merciful, modest in behavior, and readily perform acts of lovingkindness."

11. *Igrot R'Iyah*, Vol. I, p. 20.

12. *Yebamot* 79.

It is a striking phenomenon in Judaism that the Prophets berated the Jewish people mainly for their ethical misdeeds, rather than for neglect of ritual observances of our religion. Reform Judaism, together with Christianity, unfortunately draws from this the erroneous conclusion that ethics and social justice are the essential content of prophetic religion and that the prophets were opposed to ritual observances. The refutation of the Reform position should not lead us to commit the opposite fallacy of reducing religion primarily to ritual. Judah Halevi gives us the correct evaluation of the relationship that exists between the ritual and ethical commandments: "The rational laws (i.e. ethics), being the basis and the preamble of the divine law (i.e. ritual), precede it in character and time and are indispensable to the administration of every human society. Even a gang of robbers must have a kind of justice among them if their confederacy is to last. When Israel's disloyalty had come to such a pass that they disregarded rational and social principles . . . but held fast to the sacrificial worship and other divine (i.e. ritual laws) . . . it was told to them 'Would you might observe those laws which rule the smallest and meanest community, such as refer to injustice, good actions and recognition of God's bounty.' For the divine law cannot become complete till the social and rational laws are perfected."¹³

It would therefore be improper to ignore a person's ethical observance in our evaluation of his Jewishness. On the contrary, such persons should be made to feel that in their ethical behavior they are fulfilling basic Jewish *Mitzvot* which culminate in the fulfillment of the sacred ritual observances of Judaism.

Above all our approach to the non-observant Jew must be based on a fundamental Jewish outlook which can be called our faith in faith. By this we mean that we have unshakeable faith in the native Jewish endowment of the capacity for faith.

The Midrash teaches us that when Moses lost confidence in the success of his mission to save the Jewish people from bondage and complained of his flock "But they will not believe me," he was censured for lack of faith in the faith of the Jewish people. "They are believers and children of believers." *Emunah* (Faith) is the natural endowment of the Jewish people. As Maimonides writes in his letter of encouragement to the Jews of Yemen, "Our Creator, blessed be He, has long ago assured — just as a man reassures his fellow, and certain-

13. *Ktab al Khazari* 2:48, based on trans. Hirschfeld, p. 111.

The Non-Observant Orthodox

ly His reassurances will suffice us — that all who were present at Mt. Sinai will have faith in the prophecy of Moses and in the prophecy of his successors, they who were present and their children and their children's children to all generations. For thus said He, 'And also in you shall they always trust.'"

This approach to our people is basic. It is God Who gives man faith and sustains him in faith. It is God Who has chosen Israel and not Israel which has chosen itself. It is God Who has implanted in the Jewish people its faith in Torah and prophecy. This faith is not the precious possession of the few to be guarded from the insensibilities of the many. All Jews are given this most precious of all spiritual gifts which Judah Halevi calls *ha-inyan ha-elohi*, the Divine influence.

Furthermore, a Jew has faith not as a result of his will. He believes though sometimes he may not wish to believe, even though his belief frustrates the free expression of his will and desires. Jewish *emunah* is, as R. Schneur Zalman of Lodi expresses it in his classic *Tanya*, "beyond the range of taste or intellect." Only in this fashion, he points out, can we explain the ready martyrdom for the sake of the Unity of God's Name, even of Jews who up to the last moment flagrantly violated the most fundamental Jewish observances. Morality is a matter of free will — belief is not. The individual is free either to act or not to act in accordance with faith in Torah. He is not, however, existentially free to believe or not to believe. When the test of final commitment to belief in God comes, the Jew is not free to ignore his innermost faith. There is a dormant power of true faith in the soul of every Jew. It is, in the language of the *Tanya*, "the natural love of God, in the Divine Soul, that is found in *Kelal Yisrael*."

It is fitting therefore that we welcome the non-observant Jew with greater faith in his faith. We dare not exclude such Jews from our ranks. They are in every sense *our* Jews — part and parcel of the historic Jewish religious community.

As long as a Jew maintains his tie with the Jewish people and the Torah, though he be not fully observant, he is our brother and compatriot. The doors of his soul are open to receive inspiration. There is hope that his children will receive a more intensive Torah education and will be more observant than the parents. Experience in our *Yeshivot* and Day Schools abundantly proves that this can and does frequently happen. People who desire more Judaism for their chil-

TRADITION: A Journal of Orthodox Jewish Thought

dren than they embody in their own lives are the kind of Jews of whom we can be proud. It requires courage of a parent to give his child this extra measure of education. It requires courage of a Jew to join an Orthodox synagogue though he is not observant by Orthodox standards. He at least keeps open the channel of communication to the higher ideals of Torah. He does not merely seek approval of his way of life which he might well find in non-Orthodox synagogues. He seeks the truth of Torah — though it is not always pleasing and approving. He therefore deserves true Orthodox fellowship and encouragement.

At this point another serious objection may be raised with regard to the inclusion of the non-observant in our religious community. One might argue: is it not true that disbelief can express itself in action as well as in words? Does not the Torah expressly say that the Sabbath is a sign of the Covenant between God and Israel?

Wherefore the children of Israel shall keep the Sabbath, to observe the Sabbath throughout their generations, for a perpetual covenant. It is a sign between Me and the children of Israel for ever; for in six days the Lord made heaven and earth, and on the seventh day He ceased from work and rested. (Ex. 31:16,17)

Hence, as our Rabbis teach us, a person who brazenly desecrates the Sabbath thereby excludes himself from *Kelal Yisrael*.

Admittedly this is a very difficult and delicate problem — one with which the rabbinic leaders of our era have been grappling. The entire matter hinges on the qualification "brazenly." It appears that this characterization does not apply to Jews who, though guilty of Sabbath desecration in public, are unaware of the gravity of their offense as a result of inadequate Jewish training and knowledge. It also would not include a Jew who is aware of the gravity of the Sabbath and in view of this attempts to keep *Shabbat*, at least to some degree, and feels remorseful for his lack of fuller observance. Rabbinic Judaism does not condone breach of observance even under these conditions but yet is extremely reluctant to exclude such Jews from *Kelal Yisrael*. Thus, Rabbi Jacob Ettlinger, one of the outstanding rabbinic authorities of recent times, writes:

With regard to desecrators of the Sabbath in our day, it is difficult for me to decide as to their status. The plague is so widespread that many individuals are not aware of the seriousness of their offense. Some individuals recite their Sabbath prayers and say the

The Non-Observant Orthodox

Kiddush, and then proceed to commit biblical and rabbinic prohibitions of labor...

Now the reason that a Sabbath desecrator is considered a heretic is only because it is tantamount to denial of the act of creation by the Creator. However, these people acknowledge these beliefs in their prayers and in their recitation of the *Kiddush*. Certainly their children, raised in such an environment and therefore unaware of the laws of Sabbath observance, are similar in their status to the Sadducees who, though they desecrate the Sabbath, are not considered as heretics because they are merely "continuing the ways of their fathers." They are like innocent children brought up by non-Jews (and are therefore not considered sinners), as it is stated in the *Shulchan Arukh*, *Orach Chayim* sec. 365.¹⁴

Herein we see how true Orthodoxy strives towards the goal of greater inclusiveness. Without sacrificing its principles in any way, it is able to view with tolerant understanding those who neglect fundamental observances due to extraneous circumstances, and does not exclude them from the ranks of *Yisrael*.

Our treatment of the subject would not be complete without at least a brief consideration of the problem of Orthodox congregations and rabbis who are guilty of deviations from the Halakhah in their seating arrangements or in other matters. Surely this is a very serious question of Orthodox policy — but the matter of basic policy is beyond the range of this article. One observation will suffice. Any individual or group within Orthodoxy has the right to question the propriety and wisdom of such deviationist practices. However, no individual or group has the right to declare these congregations and rabbis non-Orthodox. As long as an Orthodox Yeshivah or Orthodox congregational body or Orthodox rabbinic organization sponsors such a rabbi and congregation, they remain within the Orthodox fold. One may argue policy, one may differ, any segment within Orthodoxy can bind itself to a stricter standpoint, but no one can exclude the more liberal elements from the Orthodox community.

Our problems are numerous and complex. This is all the more reason for us to maintain a warranted degree of stability in our organizational set-up. This stability can only exist if there is a fundamental respect for the integrity of the Jewish Orthodox community in its totality despite our internal differences.

American Jewry stands at the crossroads. A bold challenge confronts us. Shall we be uncompromising purists and consign the non-

14. Responsa *Binyan Tziyon* 2:23.

observant Jew or congregation to camps divorced from *Kelal Yisrael*? Or shall we make every effort to retain the unfortunately too numerous group of the non-observant within the fold? We might well follow the example of the Talmud which, when faced with a similar alternative, chose the latter course.

In early talmudic times, there were many restrictive laws directed against the reliability of the *Am Ha-aretz*, the uneducated farmer, who out of ignorance and laxity of observance was not to be trusted in matters of ritual purity, in giving testimony, and in the fulfillment of other religious practices. Yet when the need arose, we find that the Talmud adopted a more lenient viewpoint towards the members of this group, a viewpoint later accepted as normative law. Thus we read in the Talmud: "Rabbi Yose said: Why is everybody held as trustworthy during the entire year (not only in holiday seasons) with regard to their observance of the laws of ritual purity of wine and oil? In order that such an individual should not break off from the community and build a *bamah* (an altar on a high place) by himself. R. Pappa said: In accordance with whose view do we now accept the reliability of the testimony of the *Am Ha-aretz*? It is in accordance with the view of R. Yose."¹⁵

We see here how our talmudic Sages were willing, in certain cases, to forego the strict interpretation of the Law in order to prevent the trend towards sectarianism. How much more so should we be willing to foster an attitude of closeness and friendship where no change of the Law is involved.

Josephus records¹⁶ that in the division of Pharisees and Sadducees the masses of Jewish people felt closer in spirit to the Pharisees, our spiritual ancestors. They admired their integrity, their simplicity of taste, and the true friendship and mutual respect that existed in their ranks. It was because of its closeness to the masses of Jewry that Phariseeism ultimately triumphed. Would that we be worthy of fulfilling a similar role in our generation.

There is a wisdom above and beyond our individual grasp, a wisdom taught by faith in the eternity and indestructibility of the Jewish spirit and its bearers. Somehow we must recapture the Prophetic scope, the ability, when necessary, to be a severe critic of Jewish

15. *Chagigah* 22a. and v. *Tosafot*, *ad loc.*

16. *Antiquities* xiii.10, xviii.1.

The Non-Observant Orthodox

society and yet to remain indissolubly linked with it, and to be utterly convinced that this society will be redeemed. Even more so than its quantity of belief and practice, the distinguishing feature of Orthodoxy has always been its quality of belief, its irrepressible determination to serve the God of our fathers in truth. If we but reignite the quality of true Jewish belief in Torah, which lies dormant in every Jewish soul, surely this belief will bring in its wake the renewal of Jewish observance in all its manifestations.