

Norman Lamm is President of Yeshiva University and founding editor of *Tradition*.

LOVING AND HATING JEWS AS HALAKHIC CATEGORIES

The feeling of love that is expected from every individual Jew for his people (*ahavat Yisrael*) is an existential fact that sometimes assumes mystical proportions. Associated with this love for Israel is its obverse, the injunction against hating one's fellows in his heart. And the exception is the commandment to hate the *rasha*, the evil-doer.

These are themes which stir passions and, indeed, have played a not insignificant role in the political polemics of our day, both enriching and obscuring the rhetoric of intra-Jewish dialogue.

Concomitant with these problems, and deeply intertwined with them, is that of Jewish identity, often phrased as who does and who does not belong to *kelal Yisrael*, the Jewish people.*

But these are also biblical or rabbinic commandments, and it is instructive as well as enlightening to view them more dispassionately as halakhic categories. Such a treatment, as the reader will surely notice, is not without its problems, but it is well worth the enterprise. At the very least, such an objective legal focus will make possible a modicum of calm analysis, certainly more than is otherwise likely in dealing with such fateful questions.

"Thou shalt love thy neighbor¹ as thyself" (Leviticus 19:18) is the biblical source of the commandment to love one's fellow Jews, as codified by Maimonides² and the author of *Sefer ha-Hinnukh*.³

What is the scope of this *mitzvah*? There is, according to Halakhah, a *mitzvah* to hate evil-doers and, *prima facie*, love and hate are mutually exclusive. Are, then, evil-doers outside the pale?

*This is not the same as the current "Who is a Jew?" question, which refers to one's individual identity as a Jew. Our problem is that of, as it were, citizenship in the Jewish people. This will be clarified below.

This article is an abbreviated version of a chapter of my forthcoming *Halakhot ve-Halikhhot*, especially translated and revised for this festschrift.

We will divide our consideration of the issue into two parts, dealing first with the theoretical halakhic aspects and then moving to the contemporary implications of these *halakhot*.

I. HALAKHIC ASPECTS

The Position of Hagahot Maimuniyyot

In *Hilkhot De'ot* 6:3, Maimonides writes:

It is incumbent on every one to love each individual Israelite as himself, as it is said "Thou shalt love thy neighbor as thyself." Hence, a person ought to speak in praise of his neighbor and be careful of his neighbor's property as he is careful of his own property and solicitous about his own honor. Whoever glorifies himself by humiliating another person, will have no portion in the world-to-come.

Hagahot Maimuniyyot offers the following gloss:

[One must love his neighbor] only if he is a "neighbor" with regard to belief in Torah and performance of the commandments. However, as far as a wicked person who does not accept rebuke is concerned, the *mitzvah* is to hate him, as it is written, "The fear of the Lord is to hate evil" (Proverbs 8:13). And so too, "Shall I not hate, O Lord, those who hate Thee?" (Psalms 139:21).

Writing in a similar vein, the medieval biblical exegete and Talmudist, R. Samuel ben Meir (RaSHBaM), comments on Leviticus 19:18 as follows:

"Thou shalt love thy neighbor as thyself." He is thy neighbor if he is good, but not if he is evil, as it is written, "The fear of the Lord is to hate evil."

Abraham ibn Ezra, however, seems to allow for broader parameters for the term "neighbor." He writes that the end of the verse, "I am the Lord," explains why one should love his neighbor; "I am your God who created all of you [good and bad]." Thus, love is not dependent upon the quality of the "neighbor" but rather flows from the principle of the unity of God; the same God who created both light and darkness is the one who created all humankind, both the righteous and the evil-doers.

The point of departure for the restrictive view of *Hagahot Maimuniyyot* is Maimonides' *Hilkhot Evel*, 14:1. Maimonides here writes:

The following positive commands were ordained by the Rabbis; visiting the sick; comforting the mourners; joining a funeral procession; dowering a bride;

escorting departing guests; etc. These constitute deeds of loving kindness performed in person and for which no fixed measure is prescribed. Although all these commands are only on rabbinical authority, they are implied in the precept, "Thou shalt love thy neighbor as thyself," that is: what you would have others do unto you, do unto him who is your brother in the Law and in the performance of the commandments.

It seems, however, that these statements do not correlate with Maimonides' own views as expressed in *Hilkhot Rotze'ah*, 13:13–14. He writes in halakhah #13 (based on the principle that unloading an animal takes precedence over loading another animal in response to the *mitzvah* to minimize pain to animals):

If one encounters two animals, one crouching under its burden and the other unburdened because the owner cannot find anyone to help him load, he is obligated to unload the first to relieve the animal's suffering, and then to load the other. This rule applies only if the owners of the animals are both friends or both enemies [of the person who comes upon them]. But if one is an enemy and the other is a friend, he is obligated to load for the enemy first, in order to subdue his evil impulse.

In the next halakhah (#14), Maimonides defines "enemy":

The "enemy" mentioned in the Law (cf. Exod. 23:5) does not mean a foreign enemy but an Israelite one. How can an Israelite have an Israelite enemy when Scripture says, "Thou shalt not hate thy brother in thy heart" (Lev. 19:17)? The Sages decreed that if one all by himself sees another committing a crime and warns him against it and he does not desist, one is obligated to hate him until he repents and leaves his evil ways. Yet even if he has not yet repented and one finds him in difficulties with his burden, one is obligated to help him load and unload, and not leave him possibly to die. For the enemy might tarry because of his property and meet with danger, and the Torah is very solicitous for the lives of Israelites, whether of the wicked or of the righteous, since all Israelites acknowledge God and believe in the essentials of our religion. For it is said, "Say unto them: As I live, saith the Lord God, I have no pleasure in the death of the wicked but that the wicked turn from his way and live" (Ezek. 33:11).

If, then, one is required to be solicitous of the transgressing Israelite, why does Maimonides in *Hilkhot Evel* apparently exclude him as an object of love, restricted to "your brothers in the Law and the performance of the commandments"?

Character Building and Halakhah

At first blush, one might suggest that the moral imperative to "subdue his evil impulses" (at the end of *Hilkhot Rotze'ah*, 13:13) and to perfect one's character is the reason one must first unload the burden of one's enemy's animal before loading that of one's friend.

This moral imperative would even override the halakhic prohibition of causing animals undue pain (*tza'ar ba'alei hayyim*). Indeed, this seems to be R. Abraham Maimonides' sense of this law. The latter writes:

The verse means to say that although he is hated because of his sins, nevertheless we have to strengthen him financially because possibly he will repent or he will leave his possessions to children who are upright in their deeds. From this we learn that the purpose of this and similar *mitzvot* is not only solicitude for the property owner, but also in order to acquire for himself virtuous traits.⁴

According to this principle of R. Abraham, one may override a specific biblical law to achieve the goal of ethical and moral perfection. The students of R. Isaac Luria, centuries later, also exhibited this predilection to value the goal of moral perfection over the performance of *mitzvot*. R. Hayyim Vital held that virtue resides in the lowly soul (*ha-nefesh ha-yesodit*), whereas the drive to perform the commandments rests within the rational soul. Yet the rational soul does not have the power to perform commandments without the assistance of the bedrock soul. While individual virtues are not reckoned within the 613 biblical commandments, virtuous behavior is the necessary propaedeutic to performance of all the *mitzvot*. For him, "it is more important to avoid non-virtuous behavior than it is to perform the *mitzvot*."⁵

It is difficult, however, to accept R. Hayyim Vital's position as normative halakhic practice. R. Hayyim of Volozhin's words on this score are well known. In his work *Ru'ah Hayyim*, commenting on the Mishnah in Tractate *Avot* (1:2),⁶ he makes the remarkable comment that the three attributes of Torah, worship, and loving-kindness—the three "foundations on which the world rests"—existed as independent variables only prior to the giving of the Torah. Subsequent to the revelation at Sinai, worship and kindness became meaningless when separate from Torah. Hence, if one acts in a seemingly virtuous manner but contrary to Halakhah, he has strayed from the proper path of life and has lost his way. The TaZ⁷ offers a graphic example of this principle. Before the revelation of the Torah at Mount Sinai, one who lent money at interest performed a virtuous act; when the Torah prohibited usury, however, it redefined its moral nature as well. Lending money at interest became a vice and, as a result, any subsequent offender became eternally damned.

Hence, the improvement of ethical qualities and the attainment of a moral character, important as they are, may not override the formal Halakhah. How, then, can we formulate Maimonides' position—that the suppression of one's evil impulses overrides the

injunction against causing pain to animals—in strictly halakhic terms?

Love and Hatred

One must, I believe, subsume the moral act of subduing one's evil impulses under the formal rubric of a *mitzvah*. If this act is categorized as a technical *mitzvah*, one can understand why it overrides the prohibition of causing undue pain to animals. That *mitzvah* is none other than the commandment to love one's fellow man. But if so, we must also reckon with the obligation to hate evil-doers. How can this positive *mitzvah* of love override two other *mitzvot* (in this case, the prohibition against inflicting needless pain upon animals and the obligation to hate evil-doers)? Even if the commandments to love one's neighbor and to hate evil-doers neutralize each other, there remains the prohibition of causing undue pain to animals. How, then, may one load the burden of his enemy, the evil-doer, before unloading for his friend, and thereby allow the animal of his friend to suffer pain?

We can suggest the following formulation. The positive commandment to love one's neighbor (which, in this case, is to load his enemy's donkey first) overrides only the prohibition of causing unnecessary pain to animals. It does not override the *mitzvah* to hate evil-doers (which *mitzvah*, however, does not diminish the imperative to help the evil-doer's animal). Analyzing the matter further, we can posit the following reconstruction of both the rejected hypothesis and the conclusion of the germane talmudic passage which forms the basis for Maimonides' ruling.⁸ Originally, the Talmud thought that when one is faced with the live option of unloading one's friend's animal or loading one's enemy's animal, one should pursue the first option for two reasons. First, the prohibition against causing unnecessary pain to animals (in this case, delaying the act of unloading the friend's animal) dictates that one should immediately perform the act of unloading. Second, the *mitzvah* to hate evil-doers should require that one should first attend to the animal of one's friend (i.e., an observant Jew). But when the Talmud concludes that the goal of subduing one's evil inclination (i.e., the formal *mitzvah* of loving one's neighbor which applies to everyone) mandates that one help his enemy first, this *mitzvah* overrides the prohibition of causing undue pain to animals. Although the *mitzvah* to hate evil-doers remains in full force, it is irrelevant to the imperative at hand—to subdue the evil inclination. We thus remain with two commandments: to love and hate the very same person.

But how is it possible for the Torah to command to love someone and, at the same time, to hate the same person? One may

offer two explanations for this apparent conundrum. First, the law to “love” one’s neighbor is purely functional, restricted to the practical sphere, and makes no demands upon one’s emotions. Contrariwise, hatred of evil-doers is a *mitzvah* which focuses upon one’s psychological attitude only. Nahmanides, in his commentary to Leviticus 19:18, writes:

This is an expression by way of overstatement, for a human heart is not able to accept a command to love one’s neighbor as oneself . . . Rather the commandment of the Torah means that one is to love one’s fellow being *in all matters* as one loves *all good* for oneself.

The Torah could not demand, according to Nahmanides, that one emotionally bestow the same degree of love that he feels for himself upon others. Rather, the verse means that one must *act lovingly* to one’s fellow; he must conduct himself *as if* he loved him. In this vein Nahmanides explains why the preposition “*et*” is used.⁹ According to this distinction between the *mitzvah* of love and the *mitzvah* of hate, it is understandable for Maimonides to rule that one simultaneously hate someone attitudinally but perform acts of love toward him as a practical matter.

This analysis, however, cannot suffice for our reconstruction of Maimonides’ position, for he clearly rejects a dichotomy between the nature of the *mitzvot* of love and hatred. According to Maimonides, the *mitzvah* to love one’s neighbor includes one’s emotional orientation towards him.

In *Sefer ha-Mitzvot* (ed. Kapah, #206), Maimonides writes:

By this injunction we are commanded that we are to love one another even as we love ourselves, and that a man’s love and compassion for his brother in faith shall be like his love and compassion for himself, in respect of his money, his person, and whatever he possesses and desires. Whatever I wish for myself, I am to wish the like for him; and whatever I do not wish for myself or for my friends, I am not to wish the like for him. This injunction is contained in His words (exalted be He), “thou shalt love thy neighbor as thyself.”

He reiterates this view in *Hilkhot De’ot* 6:3 and in *Hilkhot Evel* 14:1, both of which we cited above.

In sum, Nahmanides perceives the essence of the *mitzvah* of love and the means of its implementation to lie in the practical sphere. Maimonides, however, holds that while the means of implementation are functional or practical in nature, the *essence* of the commandment, which defines its fulfillment, is emotional, a feeling of love. This feeling, and not the act per se, constitutes the essence of the fulfillment of this *mitzvah*. Our original question then, remains: How can Maimonides conceive of simultaneous *mitzvah* of love and hatred, both on the emotional level?

Maimonides believes, in my view, that it is psychologically and therefore legally possible to maintain a position of ambivalence.¹⁰ Halakhah can demand that one both love and hate the same person. Hence, one must love even the evil-doer, even while one is also halakhically required to hate him.¹¹

MaHaRaM Schick points out that the Torah formulated the *mitzvah* of love with the term “neighbor,” not the usual “brother.” He believes that this demonstrates that one must love even those who are not God-fearers. In support, he cites the talmudic statement (*Sanhedrin* 52a) that the *mitzvah* of neighborly love obligates us to choose an “easy death” for those condemned to die by the Sanhedrin. There certainly can be no greater evil-doer than one who merited the death penalty, yet we are commanded to love him. One of the early medieval halakhic authorities, R. Meir Abulafia, in his commentary *Yad RaMaH* to *Sanhedrin* 52b, deduces the same principle from the Hebrew spelling of the term that connotes neighbor. “Neighbor” includes, he writes, even the evil among the Jews. Indeed, the word for “neighbor” and the word for “bad” are spelled identically in Hebrew (*r’a*).

“Your Brother in Torah and Mitzvot”

However, it yet remains for us to reconcile our analysis of the aforementioned passage—in opposition to the interpretation of *Hagahot Maimuniyyot*—with his remarks in *Hilkhot Evel* which limit the *mitzvah* to love one’s fellow Jew to the Jew who is “your brother in Torah and *mitzvot*.” Are not the latter the very source of *Hagahot Maimuniyyot*?

This key phrase must be understood not in terms of actual observance, which is the literal sense in which it was read by *Hagahot Maimuniyyot*, but as a metaphor for those who are *obligated* to study Torah and observe *mitzvot*, i.e., Jews. Interestingly, the Yemenite manuscript of Maimonides’ *Hilkhot De’ot* substitutes “children of the covenant” for Israelite.¹² We suggest that “your brother in Torah and *mitzvot*” is another such honorific synonym; it only excludes non-Jews, and is not meant to limit the *mitzvah* to those who are totally observant Jews.

The literalist reading of the phrase “your brother in Torah and *mitzvot*” presents insuperable difficulties. Where does one draw the line? If one who is inadequately observant of *mitzvot* is excluded, what of one who does not satisfy the criterion of the first half of the phrase, i.e., one who is not a scholar and cannot study Torah, and is therefore not “your brother in Torah?” Moreover, everyone has

sinned at one time or another in his life (“For there is not a righteous man upon earth who doeth good and sinneth not”—Eccl. 78:20). In face of a *reductio ad absurdum* that would impose massive limitations upon the scope of the *mitzvah* and effectively make it inoperative, it is preferable to interpret the phrase “your brother in Torah and *mitzvot*” in the manner we have here suggested.

Different Classifications of Evil-doers

We cannot complete our analysis of Maimonides’ position without referring to his concluding remarks in *Hilkhot Rotze’ah*:

The Torah is very solicitous for the lives of Israelites, whether of the wicked or of the righteous, since they acknowledge God and believe in the essentials of our religion.

The point of these remarks, of course, is a drastic distinction between different types of evil-doers. Perhaps our previous contentions hold only for the evil-doer who still believes in the fundamentals of the Jewish faith, i.e., one who transgresses but not because of lack of faith.

Of course, the distinctive literary character of Maimonides’ concluding words to all his fourteen books of *Mishneh Torah* is well known. In the light of this tendency to stylistic flourish, it is conceivable that the word “they” does not refer to specific Jews, whether observant or non-observant of Halakhah, but pertains, rather, to Jews as a whole. All Jews, even sinners, are regarded by the Jewish tradition “as full of *mitzvot* as a pomegranate”; and *all* Jews collectively constitute the people of Israel which in its ideal state is pure and holy. Hence, all Jews are included in the group of those who “acknowledge God and believe in the essentials of our religion” and are therefore deserving of compassion. The *mitzvah* to love one’s fellow Jew applies to all.

Support for our contention may be found in the law, formulated by Maimonides in *Hilkhot Avodah Zarah* 5:4, that the commandment to love one’s fellow Jew does not apply to one who attempts to persuade his neighbor to worship idols.

The execution of the enticer devolves upon the one he attempted to entice, as it is said, “Thy hand shall be first upon him to put him to death” (Deut. 13:10). The latter is forbidden to love the enticer, as it is said, “Thou shalt not consent unto him” (Deut. 13:9). Since, in reference to an enemy, it is said, “Thou shalt surely help with him” (Ex. 23:5), it might be supposed that this person (the enticer) should also be helped. It is therefore said, “Nor hearken unto him” (*ibid.* 13:9).

The source for this law is the *Sifre* (*Piska* 89):

“Thou shalt not consent unto him” (13:9): Because of what is said elsewhere, thou shalt “love thy neighbor as thyself” (Lev. 19:18), you might think you must love this one too; hence the verse says, “Thou shalt not consent unto him, nor hearken unto him.”

(Parenthetically, Maimonides’ use of this passage in the *Sifre*—defining “thou shalt not consent” as “thou shalt not love”—in his formulation of the law of loading and unloading in *Hilkhot Rotze’ah*, may also lend credence to our contention that the commandment to “subdue his evil impulse” is that of neighborly love.) If the *Sifre* is viewed as presenting the only exception to the universal rule to love one’s neighbor, then it follows that all other evil-doers, even those who deny the fundamentals of Jewish belief, do fall under the scope of this law. Even with regard to such people, one must adopt a simultaneous posture of love and hate.¹³ Barring the lone exception of the “persuader” to idolatry, the *mitzvah* to love one’s fellow Jew is absolute.

However, Maimonides, in his *Commentary to the Mishnah*, after enumerating his formulation of the thirteen principles of Judaism, does indeed distinguish between different classes of evil-doers. He writes:

When a man believes in all these fundamental principles and his faith is thus clarified, he is then part of that “Israel” whom we are to love, pity, and treat, as God commanded, with love and fellowship. Even if a Jew should commit every possible sin, out of lust or mastery by his lower nature, he will be punished for his sins but will still have a share in the world-to-come. He is one of the “sinners in Israel.” But if a man hesitates about any one of these fundamental principles, he has removed himself from the Jewish community. He is an atheist, a heretic, an unbeliever who “cuts among the plantings.” We are commanded to hate him and to destroy him. Of him it is said: “Shall I not hate, O Lord, those who hate Thee?” (Psalms 139:21).¹⁴

Thus, Maimonides might accept that the commandment to love one’s neighbor applies to one who sins out of moral weakness but still subscribes to the thirteen fundamentals of Jewish belief, but he excludes the Jewish heretic from the fellowship of Israel.

The aforementioned *Sifre* stands in stark opposition to Maimonides’ position just cited. One may deduce from it that one must even love his neighbor who is a heretic; the only exception is the “enticer.” Apparently, however, the heretic is in many respects worse than one who persuades others to idolatry. True, when Maimonides writes (in Chapter 2 of *Hilkhot Avodah Zarah*) that with regard to many *halakhot*, the heretic and the *apikores* are no different from one who incessantly worships idols, and he does not mention as well

that the *mitzvah* to love one's fellow man does not apply to the heretic, this supports our previous contention that only the persuader to idolatry is not subject to the *mitzvah* to love one's fellow man. However, we cannot escape the conclusion that Maimonides' own words on the heretic in his *Commentary to the Mishnah* militate against our interpretation of his position in the *Mishneh Torah*.

In truth, Maimonides holds that the heretic does not only lose his share in the world-to-come; he is removed from the class of those fellow Jews whom one is commanded to love and, indeed, he is not considered part of the Jewish people.* With regard to the principle of the resurrection of the dead, Maimonides writes:

The resurrection of the dead is one of the cardinal principles established by Moses our Teacher. A person who does not believe in this principle has no real religion and no connection with the Jewish people.

In *Mishneh Torah, Hilkhot Rotze'ah*, 4:10, he writes:

It was at one time deemed meritorious to kill apostates—by this are meant Israelites who worship idols or who provocatively do other sinful things, for even one who provocatively eats carrion or wears clothes made of mingled stuffs is deemed an apostate—and heretics, who deny the authenticity of the Torah or of prophecy. If one had the power to slay them publicly by the sword, he would do so. If not, one would plot against them in such a way as to bring about their death. Thus, if a person saw that such a one had fallen into a well containing a ladder, he would remove the ladder, giving the excuse that he wanted it to get his son down from the roof, and would bring it back afterward, and do similar acts.

These words are consistent with his opinion in his *Commentary to the Mishnah*, cited above. R. Menahem Ha-Meiri, in his commentary on this Mishnah in tractate *Sanhedrin*, also writes in the same vein: "Since he believes what is proper for one to believe, and is thus included among the people (Hebrew: *'am*), his many sins do not exclude him from the class of virtuous people . . ." Meiri seems to agree with this limited classification of the term "people of Israel."

Although Maimonides' position is clear, there do seem to be inherent difficulties with it, especially with his equation of those who will receive no share in the world-to-come with those who are not part of "Israel."

For one thing, why did the Mishnah itself not adopt the Maimonidean formulation and write, "All of Israel has a share in the world-to-come . . . and these are not included in Israel . . ."? Perhaps the Mishnah did not want to reach this extreme conclusion and only stated the fact that these people, while remaining part of Israel, do

**Kelal Yisrael*, lit., "the category of 'Israel.'" This is the original meaning of the term so often used today.

not possess a share in the world-to-come; while those who do maintain Judaism's cardinal beliefs will merit a share in the world-to-come.

Another difficulty: In *Avot de-Rabbi Natan*, we find the following remark:

Seven have no share in the world-to-come, to wit: Scribes, elementary teachers, (even) the best of physicians, judges in their native cities, diviners, ministers of the court, and butchers.

Later in the same chapter, still others of such type are added to this category. Now, this presented a problem for the Tosafists. In their commentary to *Sotah 5b* (s.v. *kol*), they ask why the Mishnah in *Sanhedrin* did not mention the many others who do not possess a share in the world-to-come according to various views in the Talmud, such as: the haughty;¹⁵ those who die outside the Land of Israel;¹⁶ the ignorant, if they do not at least help support Torah scholars;¹⁷ those who lend money at interest, etc. (in addition to the seven enumerated in *Avot de-Rabbi Natan*). Certainly it is unthinkable that these people would not be counted as belonging to *kelal Yisrael*, yet their exclusion is the inevitable result of Maimonides' exclusion from the fellowship of Israel of those who are assumed to have forfeited their share in the world-to-come.

Moreover, when Maimonides lists the twenty-four categories of sinners who will not receive a share in the world-to-come, he mentions those who violate the prohibition of *leshon ha-ra*, gossip or tale-bearing. The Talmud states that no one can escape the "dust" of *leshon ha-ra* even for one day.¹⁸ According to Maimonides' own rules, few indeed would merit a share in the world-to-come, while the overwhelming majority would be considered hateful, undeserving of our love, and meriting severe oppression. This would seem to contradict the plain sense of the Mishnah which states that everyone (implying only a few exceptions) will merit a share in the next world.

Maimonides, it appears, was aware of this difficulty. In *Hilkhot Teshuvah*, 3:24–3:25, he states:

There are transgressions less grave than those mentioned, concerning which, however, the Sages said that whoever habitually commits them will have no portion in the world-to-come. One should therefore avoid and beware of such transgressions. They are: one who gives another a nickname, etc.

If Maimonides felt that these people are not part of Israel, even as they do not merit a share in the world-to-come, why does he not spell out the consequences of those who violate these comparatively "light" sins? If he believed that these people do not merit a share in

the world-to-come but are still considered a part of *kelal Yisrael*, as opposed to those enumerated in the Mishnah in *Sanhedrin*, he certainly should have made that distinction explicit. Does he take this latter view for granted in the *Mishneh Torah*?

Even more difficult for the Maimonidean assumption is the opinion of R. Akiva (*Sanhedrin* 108a, 110b) that the “generation of the desert,” i.e., Moses’ contemporaries who worshipped the golden calf, have no share in the world-to-come. Now, if that implies the loss of status as Jews, how did the Jewish people continue?

Thirdly, when Maimonides in *Hilkhot Teshuvah*, Chapter 3, classifies those who will not receive a share in the world-to-come, he does not include the remark that these people are not counted as part of Israel.¹⁹

Finally, the Maimonidean equation of “no share in the world-to-come” with exclusion from *kelal Yisrael* is upset by the famous teaching of the Tosefta (*Sanhedrin*, chapter XI) that the pious Gentiles (*hasidei umot ha-olam*) have a share in the world-to-come. Maimonides codifies this in *Hilkhot Melakhim* 8:11. Hence, if non-Jews have a share in the world-to-come, it follows that the right to such eternal bliss is not a sure sign of one’s status as a Jew.

In the final analysis, we must accept the stark truth that Rabbi Moses ben Maimon differentiated between different degrees of “wickedness” in his *Commentary to the Mishnah*. One who does not accept the fundamentals of Jewish belief excludes himself from the class of individuals the Halakhah tells us to love and, in addition, is excluded from *kelal Yisrael*, the fellowship of the people of Israel. It is possible, however, that with regard to the equation of those who forfeit their share in eternal life with those who lose their status as Jews, he changed his mind when he later wrote his immortal code, *Mishneh Torah*.

(It is, at first, quite astonishing that Maimonides takes such a hard line on orthodox adherence to the Thirteen Principles. Any deviation results not only in the loss of eternal life, but of membership in *kelal Yisrael*. However, upon reflection, this is not at all surprising. Systems which hold that the acme of Judaism is attained in formulating correct ideas and true notions about God, as opposed to proper conduct, will consider any divergence from such correct opinions to be severe violations of the integrity of the faith. Since Maimonides is the supreme rationalist, who holds that metaphysics is beyond Halakhah, and that the loftiest goal is the forming of correct concepts about the Deity, it is in the area of ideas and theory that the test of faith takes place. It is in that realm, rather than in behavior, that one stands or falls as a Jew.)

II. CONTEMPORARY IMPLICATIONS

The halakhic implications of the issue we have been discussing are of great import to the Jewish community today. Are we, in fact, commanded to exclude all those who reject the fundamentals of Jewish belief from the *mitzvah* of love and from membership in *kelal Yisrael*? If indeed this is what we are bidden to do, the ramifications are nothing short of cataclysmic. But if one is not sure that the Halakhah is indeed such, but decides to act toward Jews who have abandoned the creed of Judaism as if they were enemies, he is not being *maḥmir* (adopting the stringent view); he is illicitly being *meikil* (adopting the lenient view) on the *mitzvah* of the love of neighbor, a *mitzvah* which involves potential defamation of God's Name, "Thou shalt love thy neighbor as thyself—I am the Lord," and a commandment which Hillel, in a famous passage (*Shabbat* 31a), considered the fundamental principle of Judaism even in its negative formulation.

Our analysis will show that there are four cogent reasons for concluding that the *mitzvah* to love one's fellow Jew applies to virtually all Jews today, even those who do not believe in the basic tenets of Judaism. Recent halakhic authorities (*aḥaronim*) have already proposed two reasons, which we shall here cite, and we shall assert two other reasons for this decision as well.

A. The Prevailing *Zeitgeist* as a Form of "Coercion"

How do we classify one who does not accept the fundamentals of Jewish belief (whether Maimonides' Thirteen Principles or the various other dogmatologies proposed by other medieval Jewish authorities) if his dissension issues neither out of his personal philosophical conviction nor out of spite, but simply because of mindless conformity to the prevailing norms and values of the ubiquitous secular culture? In other circumstances, had he been nurtured by a loving family committed to Torah, and educated by competent and religiously inspired teachers, he might well have grown up firm in his commitment to God, Torah, and the Jewish tradition. Can we not claim for such people the halakhic status of "children who were taken away into captivity amongst the heathen" that the Talmud categorizes as *ones* (coerced transgressors) and, hence, exonerated from willful heresy, and included amongst those we are commanded to love?

Rabbi Abraham Isaac ha-Kohen Kook maintained that the category of the sinner by coercion applies as well to the realm of faith and beliefs. He writes:

Just as the Tosafists remark in *Sanhedrin* 26b (s.v. *he-ḥashud*) that someone who is suspected of an act of sexual immorality because he was seized by

passion is not disqualified as a witness because “his passion coerced him” and, by the same token, the Tosafists in *Gittin* 41b (s.v. *kofin*) write that seduction by a maid-servant is considered a form of coercion, we may say that the *Zeitgeist* acts as an evil intellectual temptress who seduces the young men of the age with her charm and her sorcery. They are truly “coerced,” and God forbid that we judge them as willful heretics.²⁰

Once we grant that in matters of faith as in the realm of sexual misconduct, extenuating circumstances do exist along with the consequent halakhic categories of lack of intention, coercion, and ignorance of the law, we must proceed then to investigate carefully every case of a person to whom we would deny the biblical mandate of love, making sure that he willfully rejected Judaism because of his free personal decision rather than his seduction by the overwhelming might of the cognitive majority in his environment.²¹ The *mitzvah* to love one’s fellow is, as R. Akiba is quoted in *Sifra* to Leviticus (19:18), a *kelal gadol* or fundamental principle of the Torah.

Hence, we dare not, in our paganized generation, glibly assume that any particular person is not a “child who has been taken captive among the heathen” and is thus excluded from the circle of those we are commanded to love and from the fraternity of Israel. Moreover, not only is it wrong to condemn whole sections of the Jewish people to this status but, given the intellectual climate in which we live—its pervasive secularism, hedonism, agnosticism, and materialism—each individual Jew who has strayed from Torah must be presumed to be “coerced” and thus not regarded as a willful heretic or *apikores*. “And it shall be forgiven all the congregation of the children of Israel . . . seeing that all the people were in ignorance” (Numbers 15:36).

Rabbi Abraham Isaiah Karelitz, “Hazon Ish,” arrived at the same conclusion. His words deserve close attention:

It seems that the law that we drop (into a well i.e., kill) an *apikores* (heretic) only existed in an epoch when divine Providence was perceived by all as self-evident, as in those times when overt miracles were abundant and the Heavenly Voice (*bat kol*) was heard, and when the righteous men of the generation were under the specific Providence that was visible to all. The heretics of that day were particularly spiteful in their rejection (of Torah) and pursuit of hedonistic values and amorality. Then, the eradication of wicked people was a way to protect the world, for everyone knew that the waywardness of the generation brought destruction upon the world: pestilence, war, and famine. However, in a time when God’s Providence is hidden and when the masses have lost faith, the act of eradicating unbelievers does not correct a breach in the world; on the contrary, it creates a larger breach, for it will appear to others as nothing more than wanton destruction and violence, God forbid. Since [the purpose of the law of dropping into the well] is meant to repair, this law does not apply when it fails to repair. We must instead woo back [those who have strayed] with love and enable them to stand upright with the strength of Torah insofar as we can.²²

