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Especially during this past decade, a spirit of zealotry, of "Pinchasis," seems to have overtaken the Orthodox Jewish community—and it is devoid of the "covenant of peace" which was ultimately bestowed upon the Biblical "defender of the faith." The front pages of Yiddish publications are filled with charges of heresy and statements of sanctions leveled against various leaders of the "modern orthodox" movement, and not even a major academic institution of higher learning for women in Jerusalem was spared attack because of the allegedly heretical views disseminated by a number of its faculty members. It was not long ago that the revered Rav Moshe Feinstein was bitterly reviled for his lenient responsum regarding artificial insemination; various scholars of Yeshiva University's Bernard Revel Graduate School have been charged with *apikorsut* for allowing historical analysis to encroach upon their understanding of specific Talmudic passages. And if the lightning from the right is striking so many respected members of the Orthodox camp, we can well imagine the cynical excoriation in store for those who are identified with non-Orthodox movements. It is no wonder that the Yeshiva world must initiate a battle against Orthodox involvement in organizations with non-Orthodox representation; how else can we guard ourselves against the scourge of heresies roundabout?

I do not mean this paper to be an apologia for the Synagogue Council of America or the New York Board of Rabbis. A great deal has already been written on this issue.¹ I am much more concerned about the alacrity with which certain members of the

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Orthodox establishment exclude “dissidents” with the self-righteous cry of heretic. Such a label closes debate and bars contact, rendering the recipient of this classification unworthy of love or even of dialogue. It is my purpose to demonstrate that the term *apikoros* has virtually no place in our contemporary halakhic lexicon insofar as it serves to exclude any Jew from *Klal Yisrael* and the purview of our concern and affection. It then becomes incumbent upon those who believe they have discovered errors in the religious philosophy or halakhic decisions of another individual or group of individuals to explain their position logically and forcefully, without resorting to epithets and sanctions—and await a reasoned reply. Only in such a manner will the substance of Torah be expanded and the glory of Torah be exalted.

Those who conclude discussion with the pejorative “heretic,” will generally cite a well-known passage from Maimonides in support of their position. Maimonides, in his “Interpretation of the Mishnah, Tractate Sanhedrin, Introduction to Chapter Eleven,” presents his well-known credo of thirteen principles of faith, and concludes:

and when an individual believes in all of these essentials . . . he enters into the category of Israel and it is incumbent to love him . . . But when there becomes weakened for an individual an article of these articles, behold, he is excluded from the category and has denied an essential. He is called an apostate, an *apikoros* and a heretic, and it is incumbent upon us to hate and destroy him . . .

It is my contention that the basis for the Maimonidean doctrine of exclusion of *apikoros* is virtually impossible to discover, that an operable definition of *apikoros* is virtually impossible to articulate, and that the present day situation is such—as confirmed by halakhic authorities including Maimonides himself, the Chazon Ish and HaRav Kuk—as to render the category of *apikoros* inappropriate and ineffective.

The Mishnah which begins the eleventh chapter of the Tractate *Sanhedrin* states:

All of Israel has a share in the world to come . . . And those who have no share in the world to come (include) those who say there is no

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(concept) of the resurrection of the dead from the Torah, or the Torah is not from heaven or the *apikoros*. R. Akiba says: Even one who reads from the Apocrypha.

From the simple interpretation of the words of the Mishnah it is clear that the *apikoros* and his partners in denial may forfeit their share in the world to come, but they are not excluded from the community of Israel. Apparently Maimonides himself is not consistent on this issue, for he declares in *Mishneh Torah*: "Each one of the fourteen people we have enumerated (including *apikorsim*), even though they are (considered) of Israel, have no share in the world to come."²

Most difficult of all, however, is arriving at the proper definition of the term *apikoros*. Maimonides teaches:

These three are called *apikorsim*: one who denies prophecy and denies that any knowledge may reach the hearts of man from the Creator; one who denies the prophecy of Moses our teacher; and one who declares that the Creator does not know the deeds of man . . .³

Therefore Maimonides sees an *apikoros* as one who errs in ideological doctrine. The *amoraim* of the Talmud, however, see an *apikoros* as one who errs in practical observance:

Apikoros: Rav and R. Chaninah both say it is one who scorns a Torah scholar. R. Jochanan and R. Joshua b. Levi say it is one who scorns his friend in the presence of a Torah scholar.⁴

The Meiri attempts to explain (and thereby defend) Maimonides' "unorthodox" definition by suggesting that "through scorning a scholar one will come to scorn his words and wisdom, and will eventually deny all that we are required to believe."⁵ Aside from this forced interpretation, he complicates matters by giving his own definition of an *apikoros* as anyone who habitually and wilfully violates even one law of the Torah, which would render our finding a non-heretical Jew almost impossible in modern times. The overwhelming majority of the *Rishonim* uphold the Amoraic definition,⁶ and the *Kesef Mishnah* concludes his commentary on Maimonides saying, "We need a reason as to why our master deleted these (Amoraic) views and wrote that which

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he wrote."⁷ It seems rather plausible to suggest that Maimonides rejected the Amoraic interpretations in favor of the philosophic category "epicurean" which is the most logical and probable intent of the term.⁸ Nevertheless, the very definition of *apikoros* is open to argument; and moreover, an interpretation of a *mishnaic* word not in accordance with the views cited by the *Gemara* is eo ipso sufficient to render one an *apikoros* according to many modern day zealots.

To further illustrate the explosive potential of the charge of heresy, the very Maimonides who initially posited the exclusion from the category of Israel of one who denies any one of the thirteen principles of faith, is himself vulnerable to attack. Belief in Divine Providence is one of the aforementioned thirteen principles, and an *apikoros* has been defined in *Mishneh Torah* as one who states that the Creator does not know the deeds of man. In his philosophic *magnum opus*, *The Guide for the Perplexed*, Maimonides hedges on this notion, and insists that the degree of Divine Providence received by an individual depends upon his intellect, character and achievement. The philosophic halakhist maintains that the prophets enjoy a special providence; the rabbis and wise men come next; and a person who is ignorant and disobedient is neglected by *hashgachah* and is treated like a lower animal, being left to the government of chance.⁹ Along a similar vein, belief in the resurrection of the dead is another of the Maimonidean Principles of Faith. This doctrine is not at all mentioned in the *Guide*, and the picture of the world to come which emerges from the *Mishneh Torah* is that of a place "without bodies or forms, but only the souls of the righteous."¹⁰ The Rabad is clearly agitated by this description, and lashes out in his strictures:

The words of this man in my eyes are close to those who say that there is no resurrection of the dead for the body, only for the soul, and by the life of my head this is not the view of our Sages . . .¹¹

In sum, therefore, the precise definition of *apikoros* is embroiled in controversy, and the very authority who originally suggested that the heretic be excluded from Israel comes himself close to being attacked for questionable doctrines.

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Now that we have concluded that defining an *apikoros* is virtually an impossible task, it is nevertheless instructive to learn how the Talmud and especially the latter halakhic authorities deal with those who are somehow considered *apikorsim*. The Talmud teaches:

R. Abbahu cited to R. Jochanan: idolators and shepherds of small cattle need not be brought up (from a pit) although they must not be cast down; but *minim*, informers and apostates may be cast down and may not be brought up.¹²

Although the category of *apikoros* is not included in this list, most of the Talmudic commentaries and halakhic codifiers include it.¹³ But the *Chazon Ish* adds a path-breaking comment to the apparent mandate to destroy the *apikoros*:

In our times when we do not see open miracles and when in these acts of punishment there is no heal of the breach, this law is not operable. The very opposite is the case; it is incumbent upon us to restore (the heretics) with chains of love and to place them in a ray of light to the greatest extent possible.¹⁴

The source for this seemingly radical statement of the *Chazon Ish* is none other than the revered Tanna R. Tarfon. The Bible admonishes us to rebuke our wayward brother, and only after our instruction has been rejected have we the right to hate him¹⁵—and even “cast him down” according to the Talmudic dictum. R. Tarfon declares that even in his generation (Second Century of the Common Era) the transgressor could not be condemned, since there was no one to give adequate instruction:

R. Tarfon said: I wonder if there is in this generation any individual who can rebuke. If one says: Remove the flint from between your teeth, he (the transgressor) will say to him: Remove the beam from between your eyes.¹⁶

Hence the *Chazon Ish*, following the attitude of R. Tarfon, would consider every transgressor as acting prior to chastisement.¹⁷ In effect, we—the so-called religious representatives and teachers—must assume the brunt of the guilt, for the essential problem lies in our inability to properly direct and enlighten. This, coupled

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with the “eclipse of the Divine” and the ineffectiveness of censure in our generation, causes the *Chazon Ish* to urge us to love and not hate, teach and not reject even the heretic. *A fortiori* we must exercise proper restraint and utilize well-reasoned critiques rather than hurl questionable epithets of paltry significance when dealing with the writings and institutions of respected representatives of Orthodoxy.

And there is yet another aspect to this entire discussion. Many unabashedly non-Orthodox spokesmen, who literally trounce on many of our most hallowed precepts, are merely the products of their environments and educational institutions. Maimonides, the strictest interpreter of an isolationist policy against those who deny our basic beliefs, declares:

Once it becomes publicly known that an individual has denied the validity of the Oral Law, behold he is considered like the rest of the heretics who deny the Divinity of the Torah and the slanderers and the rebels who are not in the category of Israel. This statement applies, however, only to one who initially denies the validity of the Oral Law in his mind . . . and goes after his paltry thoughts . . . like Zadok and Boethius and all of their followers. But the children of these followers, and their children’s children, whose parents misled them—those who were born among the Karaites and were raised in their traditions—behold, they are as ones who were forced against their will . . . Therefore it is proper to bring them back in repentance and to encourage them with words of peace until they return to the complete power of Torah.¹⁸

Thus Maimonides has reinterpreted the concept of *anus* (one who has been forced to transgress against his will) to include the product of a non-Orthodox environment devoid of the opportunity to properly study and practice the tenets of traditional Judaism.¹⁹ Certainly this would include the overwhelming majority of those affiliated with Conservative and Reform congregations and even a great many of their leaders, who are increasingly coming up from the ranks of Conservative and Reform youth movements, summer camps, day schools and rabbinic seminaries. Such individuals can hardly be dismissed with the term *apikoros* and excluded from the category of Israel, despite their professions of heterodox doctrines and observances. Indeed, we have seen many of them become more and more committed as they

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continued to study and develop. And many of us have much to learn from the honesty of their search and the sincerity of their convictions.²⁰

But, it may be countered, Maimonides is speaking of those who can be classified as “children who were held captive by the Gentiles.” We are often confronted by supposed religious leaders who have received excellent Yeshiva training from completely observant backgrounds who are nevertheless perverting our tradition with their unorthodox teachings. Even in such an instance I would submit that if the individual is intellectually convinced of the correctness of his position based upon traditional sources, we are obligated to attempt to disprove his contentions, but we may not condemn him as an *apikoros*, exclude him from *Klal Yisrael*, and bar him from dialogue. Maimonides includes as one of the five he considers disbelievers (*minim*) “one who declares that there is one Master of the Universe, but that He is corporeal and of physical shape.”²¹ The Rabad argues: “Why does he consider such a person a disbeliever (*min*)? Many greater and better than he have held this opinion by reason of what they saw in the Scriptures and especially by reason of what they saw in the words of the *Aggadot*, which are apt to confuse the intelligence.”²² Although the Rabad insists that the acceptance of a corporeal deity is incorrect, one cannot charge those who believe in such a deity with heresy as long as they base their doctrine on traditional texts; honest intellectual error is not to be confused with *apikorsut*.²³

As a possible Talmudic source for this view, there is a fascinating opinion in the Talmud which would remove all culpability from one who makes a false oath because of an intellectual misconception; the concept of *anus* (against one’s will) becomes further extended to include honest error of logic and understanding:

The master says: “A man with respect to an oath,” excluding an oath (taken) against his will. What is an example of such a case? It is as in the incident of R. Kahane and R. Asi, who had been standing before Rav. One took an oath that this was the statement of Rav and the other took an oath that this was the statement of Rav.

When they came before Rav they established his statement in accordance with one of them. The other said to him: “I have therefore sworn falsely.” (Rav) replied to him: “Your heart forced you.”²⁴

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Hence even according to the definition of Maimonides we might make a logical distinction between those who deny a basic religious dogma as a result of the desire to behave in an unfettered fashion or to destroy the Jewish community (a wilful *apikoros*, in effect) and those who deny as a result of intellectual conviction. Real intent can only be determined by God; our position vis a vis these individuals dare not be offhand rejection and isolation. Much the opposite: it is our obligation to articulate our position as forcefully as possible and thereby convince them of the error of their thoughts. They are to be seen as intellectual *anusim*.

Rav Abraham Isaac HaKohen Kuk even suggests the category of an emotional *anus*, an individual who is “forced” away from Judaism due to the overwhelming secular climate of the times. In one of his most far-reaching responsa, he comforts a father who is distraught over the apostasy of his son:

Yes, my dear friend, I understand well the sadness of your heart. But if you should concur with the majority of the scholars that it is seemly at this time to reject utterly those children who have swerved from the paths of Torah and faith because of the tumultuous current of the age, I must explicitly and emphatically declare that this is not the method which God desires. Just as the (*Baalei*) *Tosafot* in Tractate Sanhedrin (26b) maintain that it is logical not to invalidate one suspected of sexual immorality from giving testimony because he is considered an *onus*—since his instincts overwhelmed him—and the (*Baalei*) *Tosafot* in Tractate Gittin (41b) maintain that since a maid servant enticed him to immorality he is considered as having acted against his will, in a similar fashion (is to be judged) the “evil maid servant” of the current of the age . . . who entices many of our youngsters with all of her wiles to commit adultery with her. They act completely against their will and far be it from us to judge a transgression which one is forced to commit (*onus*) in the same manner as we judge a premeditated, willful transgression.

And Rav Kuk concludes that one who rejects aspects of Jewish tradition due to intellectual error can be more easily brought back to complete faith and repentance—if we only convince him intellectually of the correctness of our position.²⁵ The challenge then becomes ours to articulate our position and forge our lifestyle in a manner which will inspire the errant to return; this

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can only be brought about if our doors are opened wide and our arms are outstretched in love and understanding. Apparently, the utilization of the opprobrium *apikoros* to silence debate and exclude Jews from within our midst is not in accord with many halakhic opinions.

And on the most pragmatic level, the use of epithets and the levelling of sanctions are counter-productive. In an open society whose leadership is university-trained, such words and actions are tantamount to an admission of intolerant mindlessness at worst and religious insecurity at best. Our standards must be taken from the *Chazon Ish*, who is apparently concerned with the effect of our tactics when he admonishes: "in these times . . . when in these acts of punishment there is no heal of the breach, the law is not operable."

Finally, the Orthodox Jewish community must own up to the fact that the real enemy is not the heretical Jew but the ignorant Jew; our battle must be waged not against *apikorsut* but against assimilation. The apocryphal story is told of the European *shtetl* Jew who would badger the Rav with heretical questions for an hour after *havdalah* each Saturday night. "If this is your opinion, why do you persist on coming to shul every Sabbath?" ultimately asked the exasperated Rav. Came the response: "An *apikoros* I am; a *goy* I'm not." Unfortunately the contemporary Jewish scene consists of a majority of "Yiddishe goyim" who have no relationship whatsoever with any synagogue, not even for *Yizkor* services on *Yom Kippur*. Due to our low birth-rate and high assimilation rate—according to the latest University of Maryland statistic, the percentage of intermarriage on campus is 48%—the American Jewish community is literally halving itself.²⁶ We dare not waste our precious resources and energy in the kind of intra-religious strife which will only encourage the assimilationist to justify his defection. We must galvanize all of our forces to create Torah institutions, to articulate Torah ideology, to produce Torah leaders, to build Torah communities. If we but convey and not condemn, develop and not destroy, with God's help we shall not merely survive, we shall prevail.

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NOTES

1. See the excellent article by S. Spero, "Orthodoxy vis a vis the General Community — Does Participation Imply Recognition?", *TRADITION*, Winter 1966.
2. Maimonides, *Mishneh Torah, Hilkhot Teshuvah*, 3, 14.
3. *Ibid.*, 3, 8.
4. B. T. *Sanhedrin* 99b.
5. Meiri, *Bet HaBechirah* to Tractate Sanhedrin, p. 258.
6. The Arukh, Rashi on Sanhedrin 99b and *Hagabot Maimuniot* on Maimonides, *Mishneh Torah, Hilkhot Teshuvah* 3, 14.
7. *Kesef Mishneh* on Maimonides; *ibid.*
8. An interesting Tannaitic proof to Maimonides' contention is the Mishnah *Avot* 2, 14. "R. Elazar says: Be diligent in your study of Torah and know what to answer an *apikoros*." Apparently the "*apikoros*" is presenting philosophic contentions which must be countered.
9. Maimonides, *Guide to the Perplexed*, Division III, Chapters 17, 18. Huzik, *A History of Medieval Jewish Philosophy*, p. 242.
10. Maimonides, *Mishneh Torah, Hilkhot Teshuvah* 8, 2.
11. Rabad, *Strictures* on *ibid.* Maimonides subsequently wrote a "Letter on the Resurrection of the Dead" to clear up the controversy.
12. B. T. *Avodah Zarah* 26a, 26b. See Buchler, *Am Haaretz HaGalili*, p. 131 note 43, who points out that the Tosefta cited by the Talmud is dealing with the lost object of the *min* (which is to be cast down), and not the *min* himself.
13. Maimonides, *Mishneh Torah, Hilkhot Avodat Kokhavim* 10, 1 and *Hilkhot Rotzeach* 4, 10, Rav Alfasi and the *Rosh* to B. T. *Avodah Zarah* 26b and *Shulchan Arukh, Yoreh Deah* 158, 2. The *Tur* does not mention *apikoros*. The *Mishneh Torah* and the *Yoreh Deah* substitute *apikorsim* for *minim*, and Rav Alfasi and the *Rosh* include both categories. One may possibly conjecture that the initial group mentions those who endanger the existence of Israel as a separate people viz. *minim* (Jewish priests of idolatry or Jews who became Christians), informers and apostates. Because of the censorship, *minim* raised problems with the Gentile world, and *apikorsim* were probably substituted.
14. *Chazon Ish* to *Shulchan Arukh, Yoreh Deah* 13, 16.
15. Leviticus 19:17.
16. B. T. *Erkin* 16b. I am indebted to Rav Moshe Besdin for having pointed out this source.
17. *Chazon Ish* to *Shulchan Arukh, Yoreh Deah* 13, 28.
18. Maimonides, *Mishneh Torah, Hilkhot Mamrim*, 3, 2-3.
19. Cf. my article, "Reaching out to the Non-Committed," *Jewish Life*, October '72.
20. "Stirrings in Reform Judaism," *Jewish Observer*, Vol. 1, No. 8. I would urge the skeptical reader to visit the *Bet Kafe* which meets in the Brotherhood Synagogue in Manhattan, or the New York Chavurah and speak to the young participants about the genesis of their religious development and the present nature of their commitment.

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21. Maimonides, *Mishneh Torah, Hilkhot Teshuvah*, 3, 7.
22. Rabad, Strictures on *ibid.*
23. So explains R. Joseph Albo, *Sefer Ha-Ikkarim*, Book 1, Chapter 2, translated by Husik, JPS 1946, p. 54.
24. B. T. *Shevuot* 26a.
25. R. A. I. Kuk, *Igrot Ha Rayh*, Vol. I, Responsum 138.
26. In 1930, the American Jewish community represented 3.7% of the national population; in 1974 we represented 2.9% and it is estimated that by the year 2000 we will represent 1.6%.