From Exclusion to Hierarchy: Orthodoxy and the Nonobservant Jew in Historical Perspective

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Over the last three centuries non-observance of ritual law evolved into the predominant Jewish lifestyle. For those Orthodox Jews in the minority who remained committed to the practice of the *halakhah*, this "modern" situation elicited acute tensions that revolved around the nature of their relationship to those who did not share their religious values. How did Orthodox Jews deal with the reality of an ever-increasing non-observant Jewish population? What types of boundaries did they create in order to differentiate themselves? To what degree was a sense of "connectedness" or solidarity among the various components of modern Jewish society still promoted?
My book, *Exclusion and Hierarchy: Orthodoxy, Nonobservance, and the Emergence of Modern Jewish Identity* (Philadelphia: University of Pennsylvania Press, 2005), addresses these issues from historical and sociological perspectives. The study suggests that during the nineteenth century German Orthodoxy in particular developed a new approach to Jewish identity and the structure of modern Jewish society. While nonobservant Jews were perceived as having moved beyond the boundaries of authentic Judaism, simultaneously the concept of Jewish solidarity and collective identity was not completely rejected. This was a sharp departure from pre-modern exclusionary attitudes and indicates the specific needs of the Orthodox as a minority group within the predominantly nonobservant German-Jewish population.

The existence of Jews who deviated from normative halakhic practice is not, in and of itself, an exclusive reality of modern society. Rabbinic literature is replete with examples that show that like any society, there were always individual Jews who succeeded in living on the periphery. But be it individuals or groups, in traditional Jewish society there was no question regarding the fact that normative Judaism was defined by allegiance to the *halakhah*. Certainly those who succeeded in diverging from this norm knew they had greatly weakened their connection to the Jewish community, if not having severed it completely. The autonomous Jewish community had the power to excommunicate such deviants, although this measure was rarely used against individuals as the alternative was losing them to the open arms of the church. But the threat itself of *herem* (excommunication) was often enough to prevent most potential deserters from taking drastic action.

Regarding those groups who staked claims to clearer understandings of God's word, such as the Karaites, and the Sabbateans, the Jewish community was generally less obliging. The weight of the entire population was thrown against them with the intention of destroying them as a collective body. When that was no longer possible, harsh measures were passed to reinforce boundaries between the followers of the deviant approach and those loyal to the pre-dominant halakhic tradition.

The initial sign that changes had begun to take place in the makeup of European Jewish society in the eighteenth century was the increase in the number of individuals who chose not to observe basic Jewish laws, such as Sabbath and dietary restrictions. This was, at first, a small group that deviated from accepted Jewish norms primarily due to the economic and political opportunities that came along with an increasingly accepting social environment. Only later were fresh ideologies and religious movements put forward that lent theological or philosophical legitimacy to the new types of behaviors. As the doors of society swung open wider for the Jews, nonobservance increased to the point where there seemed to be little possibility of reversing this phenomenon. Indeed, by the mid-nineteenth century, nonobservant Jews made up the majority of many major German locales as well as other large communities in Western Europe, while the numbers continued to increase steadily in rural areas and throughout Hungary and Southern Europe. Similarly, in Eastern Europe, despite the many strongholds of Hasidism and traditional life, the last decades of the nineteenth century certainly saw non-observance become a regular fixture—if by no means the norm—in most Jewish communities. North African and Asian Jews of Sephardic origin were also influenced by modernization, although for the most part the process and character differed from that experienced by their European brethren.

The gradual way by which nonobservance became a legitimate form of Jewish identity for many Jews, can be described as the "normativization of deviance." That is, acts that were previously considered to be the antithesis of Jewish lifestyle became accepted and even preferred options for vast numbers of fully identifying Jews. This new reality was bound to have its effects on those who maintained allegiance to traditional practice. For families, the rejection by its members of the values of the home could be devastating, and at the very least, certainly raised questions as to how to adjust to such a situation. In addition, Jewish communal solidarity as well as public religious life had always been predicated on the uniformity of practice by its members.

Following the functional approach to deviance, a sociological paradigm first developed in the works of Emile Durkheim, I suggest that Orthodoxy's efforts over the last few centuries to define the halakhic and social status of its non-observant brethren, to a great degree, was a means by which it sought to come to grips with its own identity.

The traditional rabbinical and communal leadership responded to modern deviants as the phenomenon developed. At the start, the only tools at their disposal were those that had been accepted as the time-honored ways to punish sinners. As deviance spread, however, and the realization that this was not just a passing fad was acknowledged, the responses too evolved. Were the halakhic and social categories as well as the disciplinary tools that had served previous generations still applicable in these novel times? Could new approaches be formulated that would take into account the current environment while ensuring allegiance to traditional Jewish values? Hovering above the various responses to these questions, an overarching issue was being confronted by the representatives of Orthodoxy: what was the meaning of Jewish identity in a modern, heterogeneous Jewish world?

The new Orthodox attitude toward nonobservance that emerged, particularly from the second half of the 19th century, was predicated upon what I have termed a "hierarchical relationship". This analysis draws on the dichotomy established by British anthropologist Mary Douglas that distinguishes between enclavist and hierarchical societies. Enclaves are closely related to sects in that they work

primarily on the boundary between in and out. They try to limit the differences between those who are loyal to the group, while focusing on that which unites them in opposition to the outsiders. There were certainly groups within Orthodoxy who could be fully considered "sects". I contend, however, that these are extreme examples that demonstrate the potential length to which Jewish groups could go in the quest for survival in what most saw as a virulently hostile environment. Most Orthodox sectors cultivated attitudes more closely situated within a hierarchical approach. That is, simultaneously their relationship to the non-observant expressed two seemingly opposite intentions. They were at once constantly creating boundaries in order to preserve their own unique identity and sense of group solidarity, while at the same time finding ways to allow for the "deviants" to remain within the fold. A perception evolved within Orthodoxy that accepted the idea that all Jews were part of a greater whole. By contrast to the "egalitarian" nature of the enclave, however, an internal distinction was forged between those who behaved properly and professed traditional beliefs, who were of preferred status, and those who deviated from these tenets.

Within the realities of the modern world there were clear advantages for the Orthodox in adopting such a multi-tier construction of Jewish society. On a practical level it served two needs. It enabled the Orthodox to protest and deride the views and lifestyles that were becoming prevalent among the majority of the Jews, and to which they were absolutely opposed. This, in turn, engendered a process of strengthened group identity among the Orthodox adherents. But the hierarchical relationship also derived from a realistic appraisal of how modern Jewish society differed from its traditional predecessors. It represented a realization that in a world in which deviance had become normative and even dominant, an absolutely exclusionary approach was untenable. Room had to be made within their Orthodox outlook for those who identified as Jews despite having abandoned traditional Jewish practice, without legitimizing their actions.

The hierarchical stance was also advantageous from an ideological perspective. If Orthodoxy was to abandon all the halakhic and communally accepted precedents from previous generations regarding sanctions against deviants, its claim to be the direct link to traditional Judaism of the past could have been called into question. On the other hand, traditional Judaism had also nurtured the concept of Jewish solidarity as one of its foundations. While the public Sabbath desecrator could be classified in the same category as an idolater, the theme of "An Israelite, even if he has sinned, remains an Israelite" was also an accepted principle. Indeed, the realities of modern society made differentiation between "good" and "bad" Jews more necessary for Orthodox group cohesion, but they also proved that it was a less accurate barometer of Jewish identity. Thus, the tensions between the exclusivist and inclusivist trends within Judaism became a focal point of Orthodox discussion. By expressing a view that saw the Jewish people both as a whole and as individual parts with a clear perception of who stood at the top of the pyramid, the hierarchical approach enabled Orthodoxy to remain loyal to Judaism's exclusionary tradition without ignoring its inclusionary one.

A consideration of the development of Orthodox approaches to non-observant Jews in major modern Jewish centers of the twentieth century supports the contention that the hierarchical approach to Jewish identity eventually became the dominant Orthodox vehicle for interfacing with nonobservant Jews throughout the Jewish world. Of course a multitude of opinions were put forth by assorted Orthodox factions in response to the local contexts in which they lived and numerous other external factors. Some placed greater emphasis on maintaining the gradations, while others invested their efforts in trying to be as inclusive as possible. The former, then, can be identified as veering close to an enclavist attitude, even as few plunged full-force into such an existence. By the same token, despite the concerted efforts of certain authorities and ideological groups to judge the non-observant generously, there are no examples, at least until the late twentieth century, in which Orthodoxy expressed anything that can be interpreted as pluralism.

The job of the historian is to identify and describe historical events, personalities, trends and phenomena. Once the reader is convinced of the rigorousness and value of the author's analysis, however, he/she is invited to consider the significance of the discussion for understanding contemporary realities. For those—like myself—who are troubled by the negativity that often characterizes the relationship between Orthodox and non-observant Jews, the explication of the hierarchical model may serve as a helpful tool in understanding the current dynamic. Is the hierarchical relationship simply one that enables the Orthodox Jew to find a balance between exclusivism and solidarity that he/she can live with? Or, under today's realities, does its primarily lead to the perpetuation of a sense of superiority on the part of the Orthodox that actually exacerbates internal Jewish animosity? If the latter is the case, it may be time for creative individuals within the Orthodox community to devote their energies toward promoting new approaches to Jewish collective identity that are devoid of these characteristics.

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