

## The Conservative Movement and Homosexuality:

### Finding a Middle Path

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I treasure the Torah and halakhah as precious. They represent the main ways by which I know what God wants me to do. Indeed, I believe that they represent the main ways by which we know what God wants us to do. God has entered into a covenant of love with klal Yisrael, the community of the Jewish people. Together we are called to live a life of holiness. As God commands the community of Israel in the book of Leviticus, “*kedoshim tihyu*,” “you shall be holy, for I the Lord your God am holy.”

The Torah prescribes particular mitzvot, which are elaborated by the Jewish tradition. The Torah also teaches more general commands: “You shall be holy,” “Love your neighbor as yourself,” “Justice shall you pursue,” “Let you brother live with you.” As well, the Torah and the rest of the Bible relate narratives that teach Jewish values and the ideals of our tradition. The creation narratives of the Book of Genesis teach that humans are created in God’s image, from which the rabbis of the tradition derive responsibilities of *kevod haberiyot*, a phrase that could be translated as “human dignity,” or “respect for people.” Prose and poetry throughout the Bible teach the normative ideal of husband and wife joining in love, having children, and creating a Jewish family.

Usually the values of the tradition and the particular requirements of halakhah work together wonderfully. As one of many examples, the Torah commands me generally to tell my child about *yetziat Mitzrayim*, the exodus from Egypt. It relates powerful narratives of the Exodus, and enjoins a specific mitzvah to eat matzah. The Mishnah articulates the basic requirements of the seder, elaborated in the Talmud and later tradition, and Jews over the centuries have developed the haggadah as we know it. As another example, the value of each human life that is reflected in the creation narratives of Genesis becomes specified by commandments to take care of our health and to pursue healing if we are ill. The varied sources

of guidance complement one another, holistically and seamlessly.

Sometimes there appears to be tension among norms and values of the tradition, requiring greater thought and care. The tradition teaches that marriage and family are a normative ideal, but for many Jews life has not worked out that way, and this ideal may not be a realistic possibility. The tradition teaches that these Jews, like all Jews and all human beings, have intrinsic value and dignity. We in our congregations are responsible to welcome and support children and families; we are also responsible to welcome and support single Jews and those without children, and to make sure that they are not made to feel that they are second class citizens. While there is no direct conflict, remaining faithful to our various responsibilities may require sensitivity, compromise, and thought.

The challenge of fulfilling all of our Jewish responsibilities becomes more acute when it comes to gay and lesbian Jews. Science and the experience of health professionals tell us that some people are homosexual in orientation. The causes are complex and not fully understood. It is clear, however, that homosexual orientation is not simply a choice for which people freely opt, and that people with homosexual orientation generally cannot simply choose heterosexuality instead. I recall vividly when Dr. Abba Borowich, a therapist who is an Orthodox Jew and founder of the Mesorah Society for Traditional Judaism and Psychiatry, spoke to a meeting of the Committee on Jewish Law and Standards. For 30 years he worked to help homosexually oriented Orthodox Jewish men who wanted to change and to pursue heterosexual marriage. He told us he has stopped such attempts. Even when they were powerfully motivated and strongly supported by their communities, it was too difficult for many homosexual men to maintain heterosexuality. Too often, men who were married to women and had children reverted to homosexual orientation and activity. The results were disastrous for all involved.

The authorities of our tradition, who articulated many prohibitions of homosexual activity, did not appreciate what we now know about sexual orientation. The tradition assumes that all men and women are basically heterosexual, though some may also have impulses for homosexual acts. Homosexuality as we know it is different from homosexuality as understood

by our ancestors, because we understand that some people's sexual orientation is exclusively homosexual, so that they are not capable of living a heterosexual lifestyle. Traditionally, a difference such as that reflected in our new understanding of sexual orientation would be understood as an example of *shinnui ha'ittim*, a changed reality. We are challenged to discern the best way to meet our responsibilities to provide love and support for our fellow Jews who are gay and lesbian, while remaining faithful to our tradition, which includes prohibitions of homosexual activity. Traditional Judaism teaches that heterosexual marriage is a normative idea, but we now understand that some Jews are not able to live well in a heterosexual marriage.

In responding to the challenge of Judaism and homosexuality, there are many points on which Conservative Jews broadly agree. Halakhah is obligatory for Jews. Our sexual lives and activities must conform not only to standards of ethics, but also those of holiness. We are responsible to recognize the human dignity of all people, and to welcome all Jews, regardless of their marital status or their sexual orientation, in our congregations. As articulated by Rabbi Joel Roth in his 1992 paper that prohibited all homosexual activity, "I find it unacceptable for the community to be more severe and intolerant in its reactions to the [halakhically] illegal act of homosexual behavior (which is not chosen in any conventional sense) than it is to the illegal acts of *hillul Shabbat* or intermarriage (which are freely chosen)."

When we try to move beyond this broad consensus, different guideposts appear to point in different directions, and so there are differences regarding the best policy for the Conservative movement. Some of my colleagues, for good Jewish reasons, insist that we must maintain all traditional prohibitions against all homosexual activity. The Torah (in Leviticus 18:22 and 20:13) clearly prohibits male homosexual activity. Halakhic tradition through the centuries consistently prohibits both male and female homosexual activity. Because of what we now know about sexual orientation, these colleagues recognize that their understanding of Jewish law would prohibit all sexual activity for some Jews throughout their lives. Accordingly, Rabbi Roth, for example, gives this ruling "with anguish, tears, and a heavy heart." But, given the strength of halakhic precedent, these colleagues judge that an absolute prohibition of all

homosexual activity should be maintained.

Other colleagues, for good Jewish reasons, claim that we should accept and celebrate diverse expressions of human sexuality (provided that they are not immoral). The passages from Leviticus, which are usually interpreted to prohibit male homosexual activity generally, may in fact only prohibit incestuous homosexual acts, as other passages in these chapters prohibit incestuous heterosexual acts. Most importantly, we know that God is compassionate. Rulings that would prohibit all sexual activity for some people throughout their lives cannot be accurate perceptions of the will of our compassionate God. Judaism should accept homosexuality and heterosexuality as equally legitimate variations of human sexuality.

While I respect all my colleagues and their sincere convictions, I believe that neither of these paths responds adequately to all of our Jewish responsibilities. I am indebted to a colleague who called my attention to Talmudic discussion of what to do when different Jewish norms appear to conflict. The Talmud in *Berakhot* 19b proclaims, *Gadol kevod haberiyot shedocheh lo ta'aseh shebaTorah*, "Great is respect for people, for it overrides a negative precept of the Torah." While the phrase seems to say that concerns of respect for people simply trump any prohibition that is found in the Torah, *mid'oraita*, the rabbis of the Talmud tend to apply this value only to override mitzvot that are rabbinic, *mid'rabbanan*. For example, the Talmud considers the case of a kohein who is accompanying a mourner on the return from the funeral. If the mourner walks in a field through which the kohein is prohibited from walking according to rabbinic law, but not the Torah, the kohein may nevertheless accompany the mourner. Similarly, Rabbi Elazar bar Tzadok, who was a kohein, said that he used to travel over graves in order to greet a king. The Talmud explains that such actions were acceptable because the coffins were constructed so that travelling across the graves would violate rabbinic, but not Toraitic, prohibitions.

If we want to follow this Talmudic precedent, we would have to discern exactly which actions are prohibited by the Torah, and which are prohibited rabbinically. While the matter is disputed, I believe that the strongest evidence supports those Conservative and Orthodox rabbis

who specify the activity prohibited by the Torah as anal intercourse between men. This topic is not widely discussed, partly because many of us would shy away from discussing anal intercourse in polite company, but also because rabbinic rules prohibit all sorts of homosexual activity. Generally, a rabbinic prohibition would be decisive. It is only when we understand the significance of traditional restrictions in light of human dignity, given our new scientific knowledge, that the nature of the prohibition becomes important.

I believe that heterosexual marriage is the Jewish ideal, and that those Jews who are capable of living a heterosexual lifestyle should follow our tradition's sexual norms. However, I am persuaded that for those Jews who are not capable of living and loving as heterosexuals, rabbinic restrictions should be relaxed, though the Torah's prohibition against anal intercourse between males should be maintained. Together, we as Conservative Jews face daunting challenges as we seek to discern the best path for Jewish law and for our Jewish community. I hope and pray that whatever we do as individuals and as a community, our actions be done *leshem Shamayim*, for the sake of Heaven. May our actions be guided by love of God, reverence for the Torah, and respect for people, *kevod haberiyot*.

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I am indebted to all of my colleagues on the Committee on Jewish Law and Standards, in particular to Rabbis Elliot N. Dorff, Daniel S. Nevins, and Avram I. Reisner, who have helped to shape my understanding of this topic, and from whose writings I have borrowed. Responsibility for the views expressed remains my own.

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