

As my landsman Hubert Humphrey used to say, “Before I begin speaking, I’d like to say a few words.” I need to warn you - you are either going to applaud what I have to say this evening, or you are going to think I am dead wrong. I don’t want to keep you in suspense, so let me give you the topic and conclusion of my sermon up front -- and then I’ll go back and lay out my arguments.

The topic of my sermon is “My attitude towards gay and lesbian relationships in a Jewish community and in society at large.” I will make the case that the orientation is not a sin and only one very specific male homosexual behavior violates the Torah. My conclusion is that since God created us with the capability and the need to be in partnership with another person, gay and lesbian commitment ceremonies ought to be recognized and sanctified both by Judaism and by society at large.

I am going to lay out some of my arguments for you in this sermon. Please be aware that some portions of it will refer to specific sexual acts. It is not my intention now to offend, but only to teach. Nothing I say here will immediately change or create any new policies or ceremonies within the walls of the synagogue. My goal here is to lay out where I stand on this issue, which is at the forefront of debate both in the secular and in the religious spheres of our country. Since no one, least of all me, wants me to speak for an hour laying out all of the halakhic issues and groundwork for my position, I have prepared study packets which will be available in the foyer. This will be the topic of the 4:15 study session tomorrow afternoon in the chapel.

The seed for this sermon was planted on the Shabbat before last Purim, when I gave a spirited defense of Same sects marriage - only in that context, sex was spelled S-E-C-T-S, and referred to marriages between Lubavitcher and Satmar Hasidim! It was not until 2/3 through the talk that most people began to figure out what I was talking about -- until then, I could see visible discomfort on some people’s faces.

About 6 weeks ago, I gave another talk in which I explained one key passage from Numbers (35:33-34) which implies that God will destroy any society that condones illicit sexual practices. I mentioned that however much I appreciate the passion behind the sincere Biblically based religious argument that gay unions signify the end of society, that I disagree with this point of view and have an entirely different understanding of homosexuality and the Torah.

The question came up then, quite pointedly, ‘Rabbi - what do you think about gay marriage?’ I answered then as I answered above, and promised to devote a longer sermon to it at the holidays - and here we are!

Let me begin with the basic halakhic argument, just to get it out of the way. You are all wondering how I am going to get around the clear prohibition against homosexual behavior in Leviticus 18 and 20.

וְאִתְּזָכָר לֹא תִשָּׁב מִשְׁכְּבֵי אִשָּׁה תוֹעֵבָה הוּא:

Do not lie with a male as one lies with a woman; it is an abhorrence. [Leviticus 18:22]

וְאִישׁ אֲשֶׁר יִשָּׁב אֶת־זָכָר מִשְׁכְּבֵי אִשָּׁה תוֹעֵבָה עָשׂוּ שְׁנֵיהֶם מוֹת יוּמָתוּ דְמִיָּהֶם בָּם:

If a man lies with a male as one lies with a woman, the two of them have done an abhorrent thing; they shall be put to death. ... [Leviticus 20:13]

A number of teshuvot, halakhic responses, have been proposed to address the question of

formal sanctification of homosexual relationships. I found all of them halakhically wanting, until recently -- Rabbi Simchah Roth, of Hertzuya, Israel, wrote a paper that is simple and brilliant. I find it absolutely convincing.

He argues that the phrase Mish'vei Isha, "as one lies with a woman," means precisely and only one thing: penetrative anal sex. Therefore, the main halakhic bar to sanctifying a union between two men disappears as long as they understand this boundary around their their sexual behavior. Similarly, heterosexual couples are given permission to have a sexual relationship by the marriage ceremony, as long as they understand that sex during menstruation is prohibited -- and by the way, that too is Biblically a death penalty offense.

Regarding female homosexuality, there is no biblical verse that explicitly addresses lesbian relationships. The Rabbinic prohibition is based on Leviticus 18:3:

You shall not copy the practices of the land of Egypt where you dwelt, or of the land of Canaan to which I am taking you;

כַּמַּעֲשֵׂה אֶרֶץ־מִצְרַיִם . . . לֹא תַעֲשׂוּ וּכְמַעֲשֵׂה אֶרֶץ־כְּנָעַן . . . לֹא תַעֲשׂוּ

The Rabbinic tradition understood this verse to prohibit lesbian acts. However, if the Torah wanted to prohibit female homosexuality, it certainly could have been more specific; and since there are other social reasons for taking a permissive approach to female homosexual relationships, there seems to be good reason to set aside the disapproval of the sages.

At the study session tomorrow we will discuss other halakhic arguments, but today I want to address the human factors. No matter how much some traditional Jews might deny it, halakhic change is not a purely academic ivory tower process directed only by the contents of our sacred texts. Issues are brought from the outside, and rarely come without a desired response. It's not, "is this chicken kosher" in a theoretical sense; it is "is this chicken I'm holding in my hand right now that I hope to eat for dinner this Shabbat kosher." In the halakhic process, the rabbi wants to find a way to kasher the chicken. It's easy to find a reason to say no to most halakhic questions; it takes creativity and fortitude and sometimes guts to find a reason to say yes.

I'm thinking of my friend Jeff and his partner, Marco. Jeff wrote me that they have spent a great deal of time and money drawing up appropriate legal documents to protect each other if one of them get seriously ill or dies. They want only to be able to register their relationship and receive the same rights and responsibilities as traditionally married couples. They would like the way they pay taxes and health and car insurance to reflect the fact that they have publicly committed themselves to a monogamous relationship. As Jeff wrote to me, "It's a matter of fairness and equality and being recognized for what we are: pretty much like any other couple who is in a loving and committed relationship."

Is my friend Jeff threatening the institution of marriage? Some have raised the objection that religious legitimization of homosexual relationships will undermine normative marriage; and the strength of the community is dependent upon persuading its members to define their self-interest in terms of responsibility for others, starting with spouse and children; and therefore the religious community has a vested interest in getting people to deal with their sexuality in a manner that is supportive of family and children, that is, being heterosexual.

Ab initio, I find it to be absurd to contend that men and woman who would otherwise have married heterosexually and had children would enter same sex relationships instead. Will gay marriage undermine the structure of family? What a paradox that so many homosexual unions

are demanding the right to create families modeled on a traditional model at the same time as such a high percentage of heterosexual couples are divorcing and a growing number are choosing to have children without benefit of a civil or religious sanction to their relationship.

In fact there are examples of the legitimization of homosexual families around the world, and there is no evidence that heterosexuals are abandoning family and children as a result. Scientifically-based studies that have been endorsed by the American Academy of Pediatrics and other respected medical institutions in the US have looked at children raised by gay parents and found them to be equally adjusted and “normal” as those raised by heterosexual couples.

Remember that we are all created in the image of God. “How many chromosomes does God have?” asked Danny Siegel. The answer - 46 and 47, because those with Down’s syndrome are also created in God’s image. Who is more like God, or whom does God love more - heterosexuals or homosexuals? The answer - God created both and love all human beings equally. What makes a person gay? Whether it is genetics, hormones, or a blend of both, the evidence is suggestive if not conclusive. Homosexuality has been recognized, based on clinical evidence, not to be a treatable mental illness. It seems that long before puberty a person’s sexual orientation is programmed. Gay, lesbian or heterosexual, all are created in the image of God.

You might ask, are people who commit adultery, incest or bestiality, all of which are also prohibited by the Bible, are they not also created in the image of God? If we sanctify homosexual relationships, should we not also permit and sanctify those other relationships within Torah?

Adultery is different, because adulterers have a permitted sexual outlet. Forbidding adultery is like forbidding cheeseburgers. As good as they might taste, there is a lot of other permitted tasty food to eat. Following the cheeseburger analogy, forbidding all homosexual behavior is, to a gay or lesbian individual, akin to saying that all food is prohibited. There is no reason that sanctifying homosexual relationships would be a compelling reason to dismantle the Torah prohibitions against adultery or other relationships between more than two people.

Incest and bestiality are recognized psychiatric disorders, and involve the exploitation of a third party who or which is generally incapable of giving informed consent. Halakha, whose norms and standards reflect the healthy human psyche, is not an all or nothing proposition. It can sanctify gay and lesbian relationships without dismantling all of the prohibitions in Leviticus 18.

There are compelling moral and medical reasons for re-examining the traditional halakhic attitude towards homosexuality. If we believe that promiscuous sex is immoral, then it is our obligation to create a positive framework for the public affirmation of monogamy. Our tradition understands that monogamy is healthier for individuals, couples, and society. In the words of Rabbi Elliot Dorff:

“After all is said and done, marriage is not just a license to have sex together with a given person. It is also an announcement before family and friends that you are going to take responsibility for each other I think everybody understands that when they get married ..., this is not going to be just a series of sex acts together. It is also living life together, sharing its joys and the pains as well as the ongoing, regular moments of life, and growing old together ...”

I have read studies suggesting that married people live longer, healthier, and happier lives.

The Biblical comment, לֹא־טוֹב הָיִיתָ הָאָדָם לְבַדּוֹ, “it is not for a person to be alone,” understands that companionship is a critical part of fully living out our potential as human beings.

We also have a positive obligation to take care of our health and to enable others to do so as well. To uphold a system that by its nature does not distinguish between healthy monogamous relationships and unhealthy promiscuous sex is to place a stumbling blocks before the blind. The most effective way to avoid AIDS and other sexually transmitted diseases is either to avoid sex entirely - not a satisfying or realistic long term solution - or to restrict oneself to a monogamous relationship. Consequently, we have a very clear medical reason to try to get gays and lesbians within our community to be monogamous.

So, Rabbi, what are you suggesting that we at Ahavas Israel do?

First of all, realize that at the moment, we are fully open to the membership and participation of gays and lesbians in our community. Our family membership category has been renamed a “household membership.” Right now, if a gay or lesbian couple applied for membership, as long as they were both Jewish, I believe that they would be accepted as they are.

Second, we do not discriminate against gays or lesbians in our religious and congregational life. We encourage participation and leadership in committees, teaching in the religious school, and accepting honors at religious services.

At the moment, my professional organization of Conservative Rabbis’ Committee on Jewish Law and Standards is discussing a number of teshuvot regarding homosexuality in Jewish life. Unless and until they accept one of them, I will not perform a commitment ceremony. Subsequently, I would be willing to marry two Jewish men or two Jewish women. However, questions such as may one use our facilities for such a ceremony, hold an *aufruf* in our services, or publicize such ceremonies in our bulletins or announcements must be answered not only by me but also by the congregation. What I am suggesting that you do is come to the study session tomorrow and spend another hour with me studying the issue. At such a time as the Rabbinical Assembly formally approves commitment ceremonies, I will propose further meetings of appropriate Committees and Boards to make a formal decision on Ahavas Israel’s response.

I will conclude with a few words from Rabbi Shmuley Boteach, responding to comments by Dr. Laura:

“Religious people should ... reverse the discriminatory policy which says that homosexuality is an aberration marked by God for special censure. Like heterosexual men and women, gays are God’s children, capable of bringing light and love to a planet whose darkness is caused not only by sin but also misguided judgmentalism.”

Rabbi Boteach is an Orthodox Rabbi who is not in favor of commitment ceremonies. I would hope that each and every one of us here today could at the very least hear his words, and respond, “Amen.”