

## **D'var Torah – Acharay Mot / Kedoshim 5769**

**May 2, 2009**

*By Rabbi Maurice Harris*

This week the state senates in Maine and New Hampshire passed bills that would legalize gay marriage in their states. The Houses of Representatives in both states will now get a chance to vote on the bills, and it's possible that two more states will join the small but growing number that are making marriage equality the law. The US House of Representatives just passed the Matthew Shepard Act, which seeks to add sexual orientation and gender identity into the federal hate crimes law. It now goes to the Senate.

Also in the headlines: as some of you may be aware on March 22nd, 2009 two young men from Washington were attacked on the beach in Seaside, Oregon where they were beaten unconscious. One of the victims of the assault told the news: "All of the sudden, someone asked if we were gay, called us 'fags,' then started punching us." Oregon House Joint Memorial 22 has just been introduced in response. The purpose of this bill is to condemn the act of violence against Sam Deal and Kevin Petterson that took place and to bring together a unified voice from the Oregon Legislature asking Congress and the President of the United States to pass a comprehensive hate crimes bill, the Matthew Sheppard Act, in the next few weeks.

This week for the first time in a nationwide survey, more Americans say they support gay marriage (49%) than oppose it (46%), according to the latest Washington Post/ABC poll. That 49% supporting gay marriage, in fact, is a significant jump from 2004, when the Post/ABC poll found just 32% in favor.

These are developments that Rabbi Yitzhak, myself, and our Board of Directors welcome, and they echo TBI's commitment to the core values of the Community of Welcoming Congregations, the CWC, a regional interfaith network of congregations who welcome people across the spectrum of sexual orientation. TBI has been a member congregation of the CWC for several years now.

This Shabbat, with our double parashah of Acharey-Mot / Kedoshim, we read from the two chapters of the Book of Leviticus that present us with a condemnation of homosexual sexual intercourse between men – or, as millions around the world understand these verses – a blanket condemnation of homosexuality in general. Leviticus 18:22 reads, *V'et zachar lo tishkav meeshkivey eeshah – to-ehvah hu*. Speaking to a presumed male listener, the commandment reads, "Do not lie with a man in the manner of lying with a woman – it is an abomination." Two chapters later the same prohibition is restated, only this time the Torah adds that the penalty for this offense is death.

In the groundbreaking book, Twice Blessed: On Being Lesbian or Gay and Jewish, one of my professors in Rabbinical School, Rabbi Rebecca Alpert writes of a Jewish lesbian couple who were caught unawares by the public recitation of the verse in Leviticus 18 on Yom Kippur. Both women were seeking to feel whole, as Jews and as gay women. The encounter with the public proclamation, even though it specifically only mentions male homosexual activity, was shattering for them. Rabbi Alpert writes that whether a Jew treats the words of the Torah as the immutable word of God, or whether they take an utterly secular and historical approach, they are still words of power that have the power to shape attitudes and even offer cover for acts of violence. There's no running away from Torah if a person wants to be part of Jewish life, and that means there's no running away from Leviticus 18:22. All this got me to thinking...

Perhaps there's something off in the way so many people in the Jewish and Christian communities have isolated this verse, and the one in Leviticus 20, and have poured such inflexible thinking onto it. I have to wonder if the present-day problem of fear of homosexuality – homophobia – has led us as a society to stop using the kinds of interpretive strategies that we routinely use to draw wisdom from the Bible without attempting to replicate ancient Biblical society in the here and now. For example, why would it make sense to look at Leviticus, chapter 18, verse 22 apart from the rest of the Torah's laws and stories on the nature of marriage and sex? When we look at the terms of accepted sexual and marital relations during Torah times, here's what we find – a very different kind of society entirely with a radically different definition of marriage.

What was marriage in Torah times? Men could marry multiple women and have concubines, or semi-wives with fewer rights. For a man to sleep with these various women did not constitute adultery. As long as it wasn't for idolatrous purposes, there is no direct prohibition on men patronizing female prostitutes or having sexual relations with women who aren't their wives or concubines. Marriage did not need to be based on love – we don't really see that become the norm until the last few hundred years of human history! Marriage involved a man extending economic protection and commitment to a woman, and divorce included economic protections for women. Women had less economic agency overall than they do now, and they tended to move from the economic umbrella of their father's house to their husband's house. Think about this one – in Torah times, people in early puberty or adolescence could marry. Finally, marrying someone prohibited by tribe or by parents was severely discouraged and generally prohibited.

Obviously, these aren't the terms of marriage and sexual relations we find normative in today's American society. In our era, marriage, and sexual activity, is understood to be for mutually consenting adults. Marriage is based on love and mutual commitments. Polygamy isn't accepted, nor are concubines. In today's society, we generally frown on men patronizing prostitutes. By our definition today, a man married to a woman, who then sleeps with another woman, is considered to have committed adultery. Today marriage involves economic responsibilities that go both ways and vary from couple to

couple. Courts will award the lesser-earning spouse payments from the higher-earning spouse in divorce. Marriage during the teen years is now frowned upon, and is forbidden for people in early puberty. And finally, marrying someone outside one's tribe, or contrary to one's parents' preferences, happens as often as not in the Jewish community and in American society at large. Half or more of all our love stories and romantic movies are about lovers whom others are trying to keep apart. "Maria – I've just met a girl named Maria!" "Fish gotta swim and birds gotta fly, I gotta love one man till I die. Can't stop lovin' that man of mine." And so on...

Somehow, over the many centuries since biblical times, we Jews and Christians in Western societies managed to go through a massive evolution in our understanding of marriage. And all the while, we've maintained our relationship with the Bible without refusing to continue evolving. In fact, our society gawks in horror at the handful of splinter religious groups that maintain Biblical norms for marriage – like polygamy and marrying young pre-teens to older men. Our whole sense of the purpose and meaning of marriage has changed massively, and with the exception of the question of the genders of the partners involved in the relationship, we've managed to stay connected to our Bible and still grow in ways that are informed by many different values and beliefs, including other sacred truths presented to us in other parts of the Bible. As so many in the forefront of the movement for gay equality in religious communities have pointed out, Genesis teaches that each of us carries within us an imprint of the Divine. Each of us was created as a reflection of God, and that includes our hearts and their yearnings to love and express our sexuality with another.

So what would a new Jewish sexual ethics look like if we followed the same pattern we've tended to follow – the pattern of evolving and yet staying connected to Torah – and if we didn't find ourselves tripping up over this one dimension of that larger complex of issues that is marriage and sexual partnering? Are there general notions we can learn from Leviticus' discussion of sexual boundaries that we can translate to our world today? I think there are.

For starters, Leviticus is heavily focused on the idea of holiness – that we have it within us, and that we have been gifted with the power to create holiness or to diminish it. Leviticus 18 gives us the wisdom that sexual behavior can increase or decrease holiness. Its laws that prohibit various forms of incestuous relationships speak to the value that what we do sexually has effects on others – sometimes whole networks of others – and that there is an effect on our inner well-being as well (as expressed by holiness). The fact that how we marry and how we define responsible, respectful, and joyful sexuality in 2009 is very different than it was in 1000 BCE is a given. The fact that the Torah is speaking to a society whose normal way of doing things included polygamy, slavery, and a deeply patriarchal framework is also a given. We seem to understand that when we read Leviticus 20 verse 9: *If anyone insults either father or mother, that person shall be put to death.* We aren't having a societal crisis over the fact that we don't function in that paradigm today regarding parent-child relations. Yet we're still stuck around

Leviticus 20 verse 13: *if a man lies with a male as one lies with a woman ... they shall be put to death.* But if we release that homophobic clenching, that fear that has come down to us through the ages based on ignorance and confusion, we can find the place where Leviticus can offer us something helpful and translate that into our own context. What I find helpful is the reminder to be holy in sexual expression – to recognize the goodness that is there as well as the potential to do harm to self and others, and to apply those values to the questions we face today about how to promote a healthy sexual ethics for these times.

By associating sexuality with holiness, Leviticus points us in a direction that transcends the specifics of its system of polygamous and patriarchal marriages. Listen to the Jewish theologian, Judith Plaskow, as she talks about sexuality:

Insofar as sexuality is ... an aspect of the life energy that enables us to connect with others in creativity and joy, sexuality is profoundly connected to spirituality, indeed is inseparable from it. Sexuality is that part of us through which we reach out to other persons and to God, expressing the need for relationship, for the sharing of self and of meaning. When we touch that place in our lives where sexuality and spirituality come together, we touch our wholeness and the fullness of our power, and at the same time our connection with a power larger than ourselves.

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That's what I try to take from Leviticus. The invitation to raise sexuality to holiness is the invitation Judith Plaskow has described – to touch that place in our lives where sexuality and spirituality come together. She also writes about how legendary is the “power of sexuality to overturn rules and threaten boundaries.”<sup>2</sup> It's one of the oldest stories known to humanity – and generally we like the happy endings when love conquers all.

Plaskow also asks this marvelous question: “can we affirm our sexuality as the gift it is, making it sacred not by cordoning off pieces of it, but by increasing our awareness of the ways in which it connects us to all things?”<sup>3</sup> Again, take away the specific rules in Leviticus that speak to a society whose whole system of marriage and sexuality was vastly different from ours, and you're left with the core message of seeing and seeking the sacred in sexuality. Judith Plaskow urges the Jewish community towards a new sexual ethics that embodies this ideal. She offers as a starting point for those ethics “the exercise of respect, responsibility and honesty as basic values in any sexual connection.”

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I'll close with one last longer passage from Plaskow's writing:

The question of the morality of homosexuality becomes one not of Jewish law, or the right to privacy, or freedom of choice, but a question of the affirmation of the value to the individual and society of each of us being able to find that place within ourselves where sexuality and spirituality come together. It is possible that some or many of us who are gay could choose to lead heterosexual lives for the sake of conformity to Jewish law or wider societal pressures and values. But this choice would then be a violation of the deeper vision offered by the Jewish tradition that sexuality can be a medium for the experience and reunification of God. Although historically, this vision has been expressed entirely in heterosexual terms, the reality is that for some Jews, it has been realized in relationships with both men and women, while for others it is realized only in relationships between members of the same sex. ... [By honoring the sacred in gay relationships] we honor sexuality as an aspect of our life energy and power that connects us with God as the sustaining source of energy and power in the universe.<sup>5</sup>

There's been a growing recognition over the past 25 years in the Jewish community that authentic, respectful, caring, loving relationships – gay or straight – bring *kedushah*, holiness, into the world. That's why the Renewal, Reform, Reconstructionist, and quite recently the Conservative movements have all adopted policies of welcoming and affirmation of gays and lesbians and of recognizing the *kedushah* in their relationships. A small but growing number of Orthodox Jews are doing the same.

Many times over in Judaism there has been a growing recognition of a truth that has emerged, and our laws and beliefs have found ways to acknowledge those new insights. To name a few examples: The Torah requires that every seventh year financial loans between Jews be forgiven. The Torah also forbids a Jew to refuse to loan money to another Jew in the period just before the seventh year, which lenders would be tempted to do since they would most likely not get their money back. When economic conditions under ancient Roman domination led to an economic disaster for Jews, it became apparent that problems getting loans – the stagnation of the credit market – were reaching disastrous levels for the well-being of the Jewish community. (Does this remind you of any current news stories?) The great sage, Hillel, developed a legal somersault in Jewish law, called the Prosbul, that essentially permitted Jews to loan each other money and still collect the loans despite the arrival of the seventh year of loan forgiveness. Another example to share: the Torah also requires the death penalty for a large number of offenses. The ancient rabbis essentially did away with the death penalty through legal maneuvers that made it impossible to implement. The Torah permits polygamy. During the Middle Ages, rabbis responded to changing values around the nature of marriage and issued rabbinic decrees – *takkanot*, in Hebrew – that did away with polygamy. Traditional Jewish law only allows a man to initiate a divorce in a heterosexual marriage. Our friends in the Conservative movement developed a legal mechanism called the Lieberman clause that allows a woman to initiate divorce.

I believe that gay marriage is one of the big issues Judaism is facing now that asks us to follow the same trajectory that we've followed regarding these issues I just listed. We became aware of an emerging sense of new truth, and we found a way to integrate that insight into our tradition. I am proud of the progress that large parts of the Jewish community have made on the issues of gay equality and gay marriage, and I hope that the American public as a whole catches up with us a bit. May we continue to grow in our ability to recognize and honor *kedushah* in our relationships. *Shabbat shalom*.

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<sup>1</sup> All citations from Judith Plaskow are taken from "Toward a New Theology of Sexuality," Twice Blessed: On Being Lesbian or Gay and Jewish, edited by Christie Balka and Andy Rose, pp. 141 – 151. © 1989 Beacon Press.

<sup>2</sup> *ibid.*

<sup>3</sup> *ibid*

<sup>4</sup> *ibid*

<sup>5</sup> *ibid*