

FREQUENTLY ASKED QUESTIONS ABOUT JUDAISM AND HOMOSEXUALITY.

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As our congregation discusses the full religious enfranchisement of gay and lesbian Jews in our community, I have prepared the followed FAQ to help our community understand Judaism and homosexuality more clearly, from my perspective. For a more technical discussion of some of these issues, specifically same-sex marriage, please see the *teshuvah* (rabbinic ruling) that I have written. It can be found on the Ohav website.

Bivrahkah (With Blessing),

Rabbi Ornstein

What has Judaism traditionally said about homosexuality, and what is our current synagogue policy with respect to gay and lesbian Jews?

The Torah forbids male homosexual behavior (specifically anal intercourse) twice, and refers to it as a *toevah*, an abomination or abhorrence. (Leviticus 18:22 and 20:13). Lesbian behavior is never explicitly referred to in the Torah, but the prohibition against lesbianism is based upon the early rabbis' interpretation of biblical verses that speak about avoiding the behaviors of the ancient Egyptians and Canaanites. (Leviticus 18:3) These verses are part of *parshat ha-arayot*, the section of Leviticus that discusses forbidden sexual relations and marital unions within a family.

Currently, gay and lesbian Jews are fully included in all liturgical, educational, programmatic, and leadership activities at Ohav Shalom. Same-sex marriages are not performed in our building and Jewish same-sex couples do not receive full family memberships.

Why has the traditional prohibition been challenged within the Jewish community?

For centuries, gay and lesbian people suffered in silence knowing that they were different and that their sexual attractions were deemed unacceptable and disgusting by others. Gay and lesbian people have been abused, ostracized, and murdered for merely identifying as homosexuals in the past, (apart from engaging in homosexual behavior), and this continues today. (Anti-gay bullying among American teenagers and the higher than usual suicide rates among gay teens are two indicators that this continues to be a concern). A growing segment of our society, and a part of the Jewish community in particular, has advanced its understanding of homosexuality as an

inherent orientation of personality, rather than as an illness or a freely chosen moral aberration. Far from rejecting Judaism and its values, gay and lesbian Jews increasingly ask for a place at the table of Jewish life, including marrying, raising children and creating strong Jewish families. Our new ways of thinking about Judaism, Jewish law and homosexuality, our deepened understanding of how gay and lesbian people actually live (rather than stereotypes about them), and our desire to do what is just -and what is best for the Jewish community- contribute to the urgency of this matter.

What does Conservative Judaism say about homosexuality?

The Conservative movement began substantive discussions about Judaism and homosexuality in 1992 through deliberations of our Rabbinical Assembly's Committee on Jewish Law and Standards. (CJLS) In 2006, the CJLS approved two diametrically opposed *teshuvot* (rabbinic rulings) concerning the religious enfranchisement of gay and lesbian Jews. The first ruling upholds all of the traditional prohibitions against all homosexual behavior, male and female, while calling for continued outreach to gay and lesbian Jews. In practical terms, it forbids Conservative clergy from performing same-sex unions of any type, and it refuses gay and lesbian Jews admission to the movement's rabbinical and cantorial schools. The second ruling does away with almost all of the traditional prohibitions against homosexual behavior while continuing to emphasize strongly the importance of marriage, monogamy and ethical sexual behavior for heterosexual and gay people. In practical terms, it allows Conservative clergy to perform same-sex unions for two Jews, without giving specific guidance as to the nature of those ceremonies. It advocates the admission of qualified gay and lesbian Jews to the movement's rabbinical and cantorial schools. The equal validity of both of these papers allows Conservative institutions, clergy and congregations to choose a variety of positions within the pluralistic context of our branch of Judaism.

Since 1992, the United Synagogue of Conservative Judaism has issued a variety of statements calling for outreach to gay and lesbian Jews within Conservative synagogues and institutions.

Rabbi, what are you proposing for our congregation with regard to gay and lesbian Jews?

My *teshuva* proposes that Ohav Shalom should complete its move towards full religious enfranchisement of gay and lesbian Jews that we began in 1998. This would mean that two Jews seeking to be married in a same-sex ceremony at the synagogue by our rabbinic leadership could do so. I am also proposing that a Jewish same-sex couple seeking couples' or family membership should be granted family membership. I base

all of my proposals upon the more permissive ruling approved by the Committee on Jewish Law and Standards mentioned above.

If Judaism officially legitimizes homosexual behavior, won't this lead to permission for people to engage in any kind of forbidden sexual behavior?

No. Should Judaism forbid violating Shabbat to save a life, out of fear that a person would violate Shabbat regularly? Should Judaism forbid the use of reproductive medical technologies that can help couples fulfill the *mitzvah* of having children, out of fear that these innovations will be abused for the purposes of eugenics, in attempts to play God? Should we never apply new scientific knowledge about the line between life and death when dealing with people who are dying, out of fear that doctors and nurses might abuse them to murder people? Ethically and religiously sensitive people recognize that many life situations are not painted in black and white, and that our religious laws and wisdom often have to be applied with great subtlety and creativity as we encounter new and difficult human realities. Simply saying "no" in response to a new medical, moral, or psychological challenge because of worries about slippery slopes may appear noble and morally courageous, and at times it is. However, at other times, it is moral cowardice to make people suffer for no other purpose than concern for the traditional status quo, especially when other ways exist to protect traditional values and life.

Gay and lesbian Jews have a different sexual orientation from heterosexual Jews. In expressing that sexual orientation in the context of family and marital relationship, they are clearly not seeking to promote promiscuity and a lack of sexual commitment. Further, it is wrong to assume that an adult seeking a same-sex relationship with another unrelated adult will be led to engage in sexually abusive, predatory, or unethical behavior towards children or adults. Normalizing loving same-sex relationships does not detract from the sanctity of Jewish ethics, it extends them to an entire population of people who have been excluded from them, and makes them as responsible for living up to them as heterosexuals. Further, as mentioned above, the consensus of contemporary psychological research is that homosexuality is neither an illness nor a willful attempt to abuse or denigrate others through sexuality. It is not the same as a disorder of sexual behavior that destroys its victims. Human sexual impulses are extremely powerful, and they can be easily abused or perverted. However, as a religious community, we are sophisticated and morally centered enough to protect against such abuses while also responding compassionately and realistically to the variations in sexual orientation created by God.

As a Conservative congregation, we are formally committed to *Halakhah*, Jewish law. How can you reconcile our commitment to *Halakhah* with such a radical change in

Jewish practice? Has *Halakhah* made other major changes in the past, or is this current change unprecedented?

One motto of Conservative Judaism is "Tradition and Change." A reverent but critical analysis of Jewish law and its history reveals that evolutionary development of Jewish legal practice has always been part of tradition, even as past practice and precedent continue to anchor and stabilize our behavior as a community. Using the time honored, religiously sanctioned methods of halakhic debate, Torah interpretation, and decision making, our rabbinic sages developed the law when it was necessary for the sake of Judaism and the Jewish people. This has included arriving at radical conclusions that rabbinic scholars would often couch in the language of tradition and precedent. At times, a firm commitment to *Halakhah* is best fulfilled through changes in Jewish practice.

Halakhah has made other major changes in the past. Some examples of this include reinterpreting the verses in Deuteronomy, ch. 21 that demand the death penalty for stubborn and rebellious children so that the law could never be followed (*Mishnah*, Tractate *Sanhedrin*, ch. 8); removing the exclusive power granted by the Torah to an ex-husband to issue his ex-wife a *get* (Jewish divorce) and placing that power in the hands of the court when he refuses to give her the *get* (Babylonian *Talmud*, Tractates *Bava Batra* 48b, and *Gittin* 32-33); relaxing the rigorous, Torah based rules about judges' qualifications for cases involving loans and debts so that lenders will not be deterred from giving loans, thus preventing poverty and economic stagnation (BT Tractate *Sanhedrin*, 2b-3a); Hillel The Elder's legal fiction of *Prozbul*, which allows a court to assume a person's debt repayment during the sabbatical year when the Torah requires all debts to be forgiven. By assuming the debt, the court maintains the law of the Torah by not asking the lender to go after the loan in those years, yet prevents lenders from not lending to poor debtors by assuring that loans will always be repaid by the court itself (*Mishnah*, Tractate *Sheviit*, ch. 10:1-3; using the principle of *K'vod HaBriot* (preserving human dignity,) which can overturn rabbinic laws, edicts and stringencies in order to preserve human dignity (BT, Tractate *Brakhot* 19a-b); circumventing the prohibition against lending money on interest to a fellow Jew through various legal instruments, when transitioning to a credit based economy; (BT, Tractate *Bava Metzia*, ch. 5).

Part of the argument for change in how Judaism should approach this subject is based upon current scientific findings about homosexuality as an orientation. However, scientific knowledge often changes, while the laws of the Torah are supposed to be eternal. Can science legitimately determine Jewish law and religious practice?

The current consensus of scientists and psychologists is that homosexuality is an indelible, irrevocable part of personality that does not make a person any less or more

capable of healthy relationships than someone who is heterosexual. (See Dr. Judith Glassgold's appendix that she prepared for our movement's Rabbinical Assembly. It can be found on the synagogue website.) Further, claims that psychotherapy can "change" someone who is constitutionally homosexual to a heterosexual have been discredited as ineffective and dangerous.

Science cannot determine Jewish law and practice, only the Torah and its rabbinic interpreters can do that. However, science can inform us about the world and change how we understand it. In turn, it can also inform how we interpret and apply the Torah's eternal laws. Thus, for example, knowing that homosexuality is an inherent part of personality compels us to shift our understanding of gay and lesbian people, their needs, suffering, and capacities for creating stable marriages and families. We recognize that it is intellectually and religiously wrong to condemn them for freely choosing to violate Torah law and countermand nature, and to demand of them lifelong celibacy. As a result of this new information and thinking, the rabbinate of the Conservative movement now distinguishes between the very narrow prohibitions of the Torah (specifically, anal intercourse), which still apply, and the additional prohibitions against all homosexual expressions of intimacy and love established by the rabbis over the last two millennia. We base this distinction upon the ancient rabbinic principle of *k'vod habriot*: the prevention of violations of human dignity takes precedence over rabbinical laws that have been established beyond the Torah's laws. Further, *Halakhah* has a well established principle of *shinnui ha-ittim*: the recognition that our rulings may change in response to changed realities (or perceptions of changed reality) in nature or society.

Were scientific consensus to change radically on this subject, would our more liberal halakhic/religious perspective on homosexuality have to change? Perhaps, but given the solid knowledge that we possess about homosexuality, this possibility is so theoretical as to be irrelevant to the current debate.

How is your proposal different from a secular argument calling for civil rights and equality for same-sex couples? What makes it a religious argument?

Clearly, the debate about homosexuality in all religious communities has been stimulated by our exposure to gay and lesbian people as they have entered society more openly and pressed harder for equality and full civil rights. Is the proposal to extend full religious equality to gay and lesbian Jews therefore no more than a civil rights argument dressed in religious language? No, I believe that it is more than that. Though Jewish law and civil law share overlapping concerns about protecting the rights

and dignity of human beings, the concerns and process of Jewish law are different. American civil law is predicated upon the idea of the rights of the individual within a civil society; Jewish law is predicated upon the idea that all members of the Jewish people are obligated to create a holy community that testifies to God's presence, through the observance of the Torah's laws. Denying gay and lesbian Jews the opportunity to observe the Jewish values of marriage, child rearing and family detracts from the Jewish people's ability to live fully as a holy community. Further, our call for equality and civil rights for gay and lesbian people (and all people) is motivated by the distinctive Jewish values of treating all people as created in God's image and loving one's neighbor as oneself. These concerns and values form the basis for an authentically Jewish religious argument about homosexuality. Further, the process by which religious Jewish communities discuss this issue is different from how it is discussed in the secular world or in civil law. Our religious discussion is founded upon thoughtful, tradition-based study of Jewish legal sources and their values. The fact that Jewish religious leaders may reach the same conclusions as secular thinkers about the enfranchisement of gay and lesbian people does not mean that they arrived at those conclusions in the same way or for the same reasons. Nor does it mean that just because secular thinkers arrive at any given conclusion about any matter, Halakhah and Jewish religion need to accept that conclusion as well. *Halakhah* can be progressive without being a mouthpiece for secular values or what some would call political correctness.

Our congregation is inclusive of people who violate other laws of the Torah such as keeping kosher and Shabbat, without saying that these violations are now legitimated behavior. Why treat homosexual behavior any differently? Why not be kind to, and inclusive of, gay and lesbian Jews without changing the rules of Judaism?

This is actually an argument that is gaining popularity in the modern Orthodox community, as it struggles to balance the authority of Jewish tradition with new perspectives on the humanity of gay and lesbian Jews. In an attempt to "downgrade" the severity with which traditional Jewish sources have treated homosexuality as open abomination of God's will and the natural, divinely ordained order of nature, some Orthodox thinkers and writers now frequently argue that we should not treat homosexuals any differently than any fellow Jew who violates any ritual commandment of the Torah: as equals who happen to not follow a law of Judaism. As admirable an attempt at being compassionate as this argument is, its logic compares apples with oranges in a way that unwittingly demeans gay and lesbian Jews. Rabbi Steven Greenberg is the first openly gay Orthodox rabbi. In his celebrated book, Wrestling With God And Men, he tells the story of one of his former teachers who argued that, "...a gay Orthodox rabbi is an absurdity as inconceivable as an Orthodox rabbi who eats cheeseburgers on Yom Kippur." Greenberg then writes that, "...while commitment to

halakhic norms is central to the definition of Orthodoxy, the rabbi's comparison was absurd. Human sexuality is not a gastronomic whim, and lifelong intimacy is not a cheeseburger. Nobody jumps off a bridge because he or she is deprived of cheeseburgers. No one sinks into clinical depression or submits to electroshock therapy for the sake of a ham sandwich." As Rabbi Greenberg later explains, this kind of a comparison reflects a "gross misunderstanding of human sexual expression as mere bodily gratification." (Greenberg, p. 12) I would only add to Rabbi Greenberg's critique that people in our society are not abused and demeaned for not practicing Kashrut or Shabbat. Gay and lesbian people continue to be persecuted merely for being gay.

How much more so would we Conservative Jews argue against the above comparison by Rabbi Greenberg's former teacher. We believe firmly that the Torah is God's will reflected through the prisms (and at times, limitations) of human thought, language, and historical position. We hold that, as a community, Judaism can and must be reinterpreted when new moral and religious realities challenge us. This does not at all mean that every reality takes precedence over the wisdom and demands of Torah. (God forbid). The Torah teaches us values that help us to sanctify and civilize our impulses, and that militate against the rampant individualism and materialism of our own time. However, when an entire segment of our community suffers unnecessarily for being created by God as they are, we need to do much better than compare them to people who freely choose to violate a ritual law of the Torah.

Ultimately, will this change in policy be good for Congregation Ohav Shalom?

Yes. It will allow us to offer the traditional blessings and obligations of marriage and family to members and future members who are gay and lesbian, thus strengthening the Jewish community and its values. It will place us in a position of moral and halakhic leadership in the Jewish community, and it will afford us a new opportunity to express our Jewish religious commitments and beliefs at their finest. There is always the possibility that our full religious enfranchisement of gay and lesbian Jews will be used by members of the wider Jewish community to demonize us, by claiming that we are a community that does not adhere to Jewish tradition. But, so what? Though political savvy is always important in dealing with the community, doesn't the Torah command us to do what is right? Our synagogue is responsible for treating our fellow Jews and fellow citizens who do not agree with us in a respectful manner. (We are certainly responsible for promoting an environment of respect for differences of opinion within our congregation, as well!) But we are not responsible for changing the minds of every Jew in the wider Jewish community. We must stay focused on learning Torah in the way that we do and applying it to the real lives and concerns of those who are part of the Ohav family.