

AN EXTREMELY BRIEF SUMMARY OF RABBI ORNSTEIN'S RESPONSUM ON GAY AND LESBIAN COUPLES AND FAMILIES AT CONGREGATION OHAV SHALOM.

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December 2010//5771.

SHEELOT (Halakhic Questions): May Jewish same-sex marriage ceremonies be held at COS and be officiated by its clergy? May full family memberships be offered to Jewish same-sex couples?

Since 2006, our movement has permitted Conservative rabbis and cantors to celebrate publicly the unions of Jewish same-sex couples. It has also allowed the rabbinical and cantorial schools of the movement to admit qualified gay and lesbian students. The movement adopted two diametrically opposed rabbinic responsa on these questions (one in favor of full enfranchisement and one opposed); therefore, all congregations, arms, and clergy of Conservative Judaism also have the option to not extend full religious enfranchisement to gay and lesbian Jews. Since 1998 I have publicly advocated for the full religious enfranchisement of gay and lesbian Jews at COS and in the Conservative movement. In 2006, I officiated at a same-sex marriage ceremony for two Jewish men, outside of the synagogue. Since then, I have received inquiries with regards to same-sex marriages and family memberships within the congregation. My responsum is not merely an attempt to answer these inquiries, but to advocate for our moving toward full religious enfranchisement for gay and lesbian Jews.

In my paper, I present summaries of both very long and complex *teshuvot*, (rabbinic rulings) on the "gay and lesbian" issue, along with my assessment of each of them.

First, I present the two verses of the Torah that forbid (male) homosexual behavior. They are the basis for the long standing prohibition against all homosexual behavior within Judaism:

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

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—their bloodguilt is upon them. (Leviticus 20:13)

The prohibition against female homosexual behavior is based upon interpretations of Leviticus 18:3:

You shall not copy the practices (of idolatry and immorality) of the land of Egypt where you dwelt, or of the land of Canaan to which I am taking you; nor shall you follow their laws.

The Position Of Rabbi Joel Roth. (His Restatement of His Position From Deliberations In 1992)

- Attempts to reinterpret the meaning of the above verses so that they no longer are understood to refer to all (male) homosexual activity, are questionable at best.
- These reinterpretations are, in any case, not sufficiently compelling to overturn 2 millenia of rabbinic interpretation and prohibitions against homosexual behavior.
- Arguments for overturning these precedents based upon scientific information about homosexuality are also not sufficiently compelling to overturn precedence.
- Rabbi Roth's more prohibitive ruling is based upon his reading of the verses in Leviticus, his concern for the integrity of precedent and rabbinic authority, and his concern for the integrity of the traditional family.

Why Rabbi Ornstein Respectfully Disagrees With Rabbi Roth's Position: Conservative Judaism has demonstrated that, while the weight of precedent is of tremendous importance, Halakhic decision making gives significant weight to new information – scientific or otherwise- that helps us to understand people's real lives. Also, not all of Rabbi Roth's claims about textual interpretation and Jewish values concerning homosexuality are unassailable. Finally, Rabbi Roth believes that God is commanding life long celibacy for gay and lesbian Jews, and that this is God's command that must be followed. The results of his position are cruel, morally unproductive and, frankly, un-Jewish, even though I do not believe that his intent is to be cruel or hurtful.

The Position of Rabbi Elliot Dorff. (His Restatement Of His Position From 1992 And 1998.)

- The position of Rabbi Roth (and others) about the almost unassailable weight of Halakhic precedent is not correct. Halakhah is decided on the basis of precedent, text interpretation, *and* the weighing of new information about the world as well as competing values within Judaism.
- The Torah, in Leviticus, specifically prohibits anal intercourse between men, and nothing more. All other prohibitions against male homosexual behavior are later rabbinic interpretations.
- The rabbis of the Talmud developed a concept known as k'vod habriot, the obligation to honor the dignity of other human beings, which includes the prohibition against dishonoring them. This principle is so powerful that it can overturn other rabbinic rules. (It cannot overturn an actual rule of God's Torah.)
- We now know enough about homosexuality and about the suffering of gay and lesbian people at the hands of society to recognize that excluding them from society (both Jewish and general) is a violation of k'vod habriot.

--We also now recognize that gay and lesbian Jews can and want to form lasting marriages and families committed to Judaism, something that the Jewish people desperately needs. They just need to do these things in gay and lesbian relationships.

--Therefore, though we cannot overturn the basic Torah prohibition referred to above, all rabbinic restrictions against gay and lesbian behavior in committed, loving relationships should be overturned.

Why Rabbi Ornstein Respectfully Agrees With Rabbi Dorff's Position: It is simply a more creative, expansive and compassionate reading of Halakhah for dealing with unprecedented information about the nature of homosexuality and about real people, than is Rabbi Roth's position. Based upon our new understanding of the realities of gay and lesbian Jews, Rabbi Dorff is calling for them --no less and no more than heterosexuals-- to marry, have families, perpetuate Judaism, and behave within specific moral bounds *as gay and lesbian Jews*. The weaknesses of Rabbi Dorff's arguments include: the fact that he himself admits how much a radical departure from tradition his position is; the possible "Pandora's Box" effect of permitting one thing, thus allowing people to do whatever they want sexually; the illogic of his assumption that telling two gay men to refrain from a particular form of sexual expression would ever be realistically adhered to. Since this is a brief summary paper, I cannot explain in detail why these weaknesses fail to reverse my support for Rabbi Dorff's rulings. Please see my full responsum, pp. 13-17.

Conclusions.

--Same-sex marriages should take place at and be officiated by the rabbinic leadership of COS.

--Family memberships should be offered to Jewish same-sex couples and families. (Subject to the final decisions of the Membership Committee and the Board of Trustees.)

-- The Ohav clergy will make the final decisions about the specific nature of Jewish same-sex marriage ceremonies.

--A Jewish same-sex couple will be required to be civilly married before we can officiate at their Jewish marriage ceremony.

