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Jewish Perspectives on Homosexuality

In Judaism, sexual contact outside of a marriage between a man and a woman has traditionally been viewed critically, as have premarital sex, divorce, visiting prostitutes, and same-sex activities, especially between men. This negative attitude toward homosexual activity went unquestioned as the classic position of Judaism on this topic until just a few decades ago. This was perhaps due to the assumption that homosexuality was not actually a phenomenon in Judaism.¹

In Israel, Orthodox Jews threaten Gay Pride parades with open violence, and a few years ago ultra-Orthodox demonstrators even held homosexuals responsible for the war in Lebanon. Rabbi Moshe Sternbuch, head of the ultra-Orthodox Ashkenazi community Eda Haharedit in Jerusalem, remarked, “We have not achieved our goals in Lebanon, because in the Holy Land obscenity and sexual promiscuity run rampant.”² Former Israeli chief rabbi Ovadia Josef even polemicized against the “obscene filth parade of Amalekites who want to defile the Holy City.”³ Amalekites are a biblical tribe from the land of Canaan and as such are considered to be enemies of the Israelites. Violence and hate speech are commonplace in Jerusalem. In 2015, sixteen-year-old Shira Banki was stabbed to death by an ultra-Orthodox extremist at Jerusalem’s Gay Pride parade. In 2016, the city’s historic *Zion Square* was renamed *Tolerance Square* in memory of this teenage girl, who had *volunteered* at a WIZO shelter for

¹ See *Mishnah Kiddushin* 4:14; *BT Kiddushin* 82a; *Mishneh Torah, Hilkhoh Issurei Biah* 22:2. Translations of Talmud quotations taken from Soncino Talmud Online.

² N. Sela, *Haredim: J’lem Gay Parade May Lead to Another War*, “Yedioth Internet Israel News”, 18 October 2006, <https://www.ynetnews.com/articles/0,7340,L-3316776,00.html> [accessed: 15.05.2020].

³ M. Shoffman, *Ex-Chief Rabbi Attacks Gay Pride March*, “Pink News”, 18 October 2006, <https://www.pinknews.co.uk/2006/10/18/ex-chief-rabbi-attacks-gay-pride-march/> [accessed: 15.05.2020].

battered women.⁴ In March 2020, Israeli rabbi Meir Mazuz claimed that the coronavirus outbreak must be considered divine punishment for Gay Pride parades.⁵

This stands in strange contrast to the legal situation in the State of Israel, which is probably the only Middle Eastern country that does not punish homosexual activity, has established anti-discrimination laws for the workplace and the military, and has introduced a few social and financial benefits for same-sex partnerships. Judaism traditionally follows *dina de-malkhuta dina*, “the law of the land is the law,” and so at times the Jewish state must restrain Orthodox zealots and protect its homosexual citizens from their fellow citizens who use religious law to support their arguments.

When the Orthodoxy solidly maintains that everything in the Torah is the literal and binding word of God and that also the oral teachings (i.e., the Talmud) are God-given, then according to this Orthodox view, homosexual Jews live in a state of constant transgression. Here, a distinction is made between homosexual inclinations and homosexual acts. The ancient texts expressly forbid only homosexual practices, not the corresponding inclinations. Orthodox contemporaries, however, sometimes view these inclinations today as abnormal and demand medical treatment or lifelong celibacy. Familiar examples of this include scenes from the documentary film *Trembling Before G-d* by Sandi Simcha DuBowski from the year 2001. This film inspired Orthodox rabbis at the Amiel Institute in Jerusalem in 2004 to discuss for the first time a topic that had previously been taboo: How should traditionally minded rabbis deal with openly homosexual congregants who want to participate in community life despite their sexual orientation?⁶ Also discussed was a relativization of the sinfulness of homosexual practices. The conclusion was that they could not be punished more harshly than for breaking Shabbat, failure to follow dietary laws, or social misconduct.

⁴ See H. Sarisohn, P. Cidor, *Jerusalem Open House: Prevention of homophobic terror attacks lies in education*, “Jerusalem Post”, 9 August 2015, <https://www.jpost.com/in-jerusalem/jerusalem-open-houseprevention-of-homophobic-terror-attacks-lies-in-education-411355> [accessed: 15.05.2020].

⁵ *Israeli rabbi: Coronavirus outbreak is divine punishment for gay pride parades*, “Times of Israel”, 8 March 2020, <https://www.timesofisrael.com/israeli-rabbi-blames-coronavirus-outbreak-on-gay-pride-parades/> [accessed: 15.05.2020].

⁶ See A. Barkat, *Orthodox Rabbis Break Ground in Discussion on Homosexuality*, “Haaretz”, 2 January 2004, <https://www.haaretz.com/1.5256921> [accessed: 15.05.2020].

What do the biblical sources say?

The Hebrew Bible appears to take a negative stance toward homosexuality. Of interest here is that in the Jewish tradition there is no suitable concept for same-sex relationships; rather they have to be described using a whole sentence. The Torah also exclusively mentions men in this context: “Do not lie with a male as one lies with a woman; it is an abhorrence” (Leviticus 18:22). This condemnation is then formulated even more harshly two chapters later, in Leviticus 20:13. There, anyone who does this is threatened with death: “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 – and they retain the bloodguilt.”⁷ Important in this context is that the ban on same-sex activities refers to another law in the third book of Moses: “You shall keep My charge not to engage in any of the abhorrent practices that were carried on before you, and you shall not defile yourselves through them: I the Eternal am your God” (Leviticus 18:30). The Torah thus seems to hold the view that homosexuality is expressly punishable with death, and this seems connected with the emergence of the idea of the *kedushah* – the sanctification and/or segregation – of the people of Israel on the one hand and criticism of the behaviors of other peoples (i.e., the *goyim*) on the other hand, namely the Egyptians and the Canaanites. Idan Dershowitz has recently argued against this reading of the text. He holds the view that

like many ancient texts, Leviticus was created gradually over a long period and includes the words of more than one writer. Many scholars believe that the section in which Leviticus 18 appears was added by a comparatively late editor, perhaps one who worked more than a century after the oldest material in the book was composed. An earlier edition of Leviticus, then, may have been silent on the matter of sex between men... There is good evidence that an earlier version of the laws in Leviticus 18 *permitted* sex between men. In addition to having the prohibition against same-sex relations added to it, the earlier text, I believe, was revised in an attempt to obscure any implication that same-sex relations had once been permissible.⁸

In the Torah, besides the explicit bans, there are also two stories demonstrating the rejection of male homosexuality. In the first, the story of Sodom and Gomorrah, the angels stop in to see Lot. In the evening, “they had yet to

⁷ Biblical translations from the five books of Moses are taken from W. Gunther Plaut, ed., *The Torah: A Modern Commentary*, rev. ed., © 2016 by CCAR Press.

⁸ Dershowitz, Idan (2018), <https://www.nytimes.com/2018/07/21/opinion/sunday/bible-prohibit-gay-sex.html> [accessed: 15.05.2020].

lie down when the townspeople, the people of Sodom, young and old alike, all the people, from every side, gathered around the house and called to Lot, saying ‘Where are the men who came to you tonight? Bring them out so we can have them’ (Genesis 19:4-6).

The second story is known by the title “The Concubine of Gilead” (Judges 19). In it, a man is traveling at night with a concubine, a servant, and donkeys in the land of the tribe of Benjamin and seeks a place to stay for the night. An old man from the tribe of Ephraim notices the stranger; he himself is a newcomer and offers to let him stay the night:

While they were enjoying themselves, the men of the town, a depraved lot, had gathered about the house and were pounding on the door. They called to the aged owner of the house, “Bring out the man who has come into your house, so that we can be intimate with him.” (Judges 19:22)⁹

The story ends in tragedy: the concubine is brutally murdered, and a fratricidal war breaks out between the tribes of Israel and Benjamin.

Yet, are these stories a good basis to make a case against homosexuality or is at the center of both something completely different, namely the inviolability of hospitality?

What do the post-biblical sources say?

The rabbis of the first centuries of the Common Era initially understood the same-sex relations between men forbidden in the Bible only as anal penetration.¹⁰ The Talmud tractate *Sanhedrin* 54a condemns this on penalty of death. If both parties are grown adults and the act was consensual, both must die, otherwise only the adult or rapist.¹¹

Other same-sex genital contact – regardless of whether between men or women – falls into the category of another sexual sin, masturbation (Kosman 2009, p. 155). In the oral tradition as well as in all halakhic legal decisions, the rabbis forbade homosexuality as “an abomination” for which the biblical punishment is death by stoning. “Abomination” in the rabbinical context means an act that violates any religious, moral, or social norms. The rabbis explained the biblical concept *to’evah* (abomination) as a contraction from *to’eh hu bah*,

⁹ JPS 1985 *Tanakh* translation, <https://www.sefaria.org/Judges.19.21?lang=bi&with=all&lang=2=en>.

¹⁰ *Sifra*, *Kedoshim* 9:14, cited in *Sifra de-ve Rav hu sefer Torat kohanim*, ed. J.H. Weiss, Wien 1862, fol. 92b.

¹¹ M. Maimonides, *Mishneh Torah*, *Hilkhot Issurei Biah* 1:14-15. See also Unterman 1995, p. 71.

a play on words in which the Hebrew letters for “abomination” and “to stray” (i.e., “to follow the wrong path”) are the same. This reading, “he strays, follows the wrong path,” admittedly mitigates the biblical interpretation of homosexuality as a deliberate sin. Elsewhere,¹² the Talmud explains matter-of-factly that this problem does not exist in Judaism, because there are no Jewish homosexuals; it is a sexual confusion that occurs only among *goyim* (non-Jews). The *Shulkhan Arukh*, the halakhic compendium by Joseph Karo from the sixteenth century, makes a similar statement probably for that reason: “*Israel should not be suspect in the transgression of [male] homosexual acts.*”¹³

The early religious philosophers such as Saadya Gaon (882-942) and Solomon ibn Gabirol (eleventh century) see it much differently. They also judge it much less harshly. For them, “homosexual acts are not a shocking exceptional occurrence, but rather a regrettable, unfortunately widespread violation” (Berger 2003, p. 78).¹⁴ This may well be due to their Sephardic environment. Both lived in a Muslim context. “The few Sephardic works that deal with the topic give... the impression that anyone could find themselves drawn to committing a homosexual sin” (Berger 2003, p. 82). In the Ashkenazi moral literature, on the other hand, the topic hardly ever comes up, probably because it was assumed that this was not an everyday sin. In this tradition of Central and Eastern Europe, the prevailing opinion was that affections between men were “unmanly”; homosexual acts were repugnant and perverse. Homosexual activities were often equated with pederasty between adult men and male pubescent or pubescent boys or with homosexual acts between teenage boys (Berger 2003, p. 79). In the Middle Ages, Maimonides (1135-1204) summarized his contemporaries’ attitude toward sexuality:

The sexual offenses which are punished by the *bet din* with death by stoning are intercourse between men, with animals. . . . But whosoever shuns such intimacy deserves praise.¹⁵

Traditionally, multiple reasons are given for this condemnation. First, it was established with the creation of the first humans that man would “cling to his wife” (Genesis 2:24), so that a sexual union between men appears unnatural, according to the Talmud. Second, homosexuality is deemed reprehensible because this practice excludes the procreation of children and thus violates the first commandment in the Bible: “Be fruitful and increase!” (Genesis 1:28).

¹² BT *Kiddushin* 82a.

¹³ J. Karo, *Shulkhan Aruch, Even Ha-Ezer* 24:1.

¹⁴ Translated by the author. On homoerotic poetry in the Jewish Middle Ages, see Roth 1982, pp. 20-51. See also Greenberg 2004, pp. 115ff.

¹⁵ M. Maimonides, *Mishneh Torah, Hilkhot Issurei Biah* 1:4.

On this, the Mishnah states succinctly, “A man shall not abstain from procreation unless he already has children.”¹⁶ The Jewish traditional literature abolishes any sexual act, whether practiced alone or with others, in which semen is wasted, which is assigned to procreation.¹⁷ Moreover, homosexuality is forbidden in the Jewish tradition because it destroys the normal, intact family when the homosexual man leaves his wife and children in order to associate with a man.¹⁸ It should be noted here that it was never a matter of criminally persecuting homosexuality, nor was a death penalty ever announced. Instead, it was a radical description of homosexual acts as morally unacceptable.

Female homosexuality

Lesbian relationships are not mentioned in the Hebrew Bible. They appear for the first time in the Talmud and in rabbinical commentary from the period of the Mishnah, which now extends the biblical prohibition in Leviticus 18 and 20 expressly to lesbian acts. Lacking a biblical concept for lesbian love, Leviticus 18:3 is instead used to refer to the immorality in Egypt and Canaan, which also includes the sexual love between women; Israel is not permitted to imitate these practices (Unterman 1995, p. 71).

The Talmud admittedly does not view sexual acts between women as an “abomination” (there is no waste of semen and no penetration), but rather as a lewd action *peritsuta*.¹⁹ Although these relationships are also condemned, it is noteworthy that the rejection of lesbian relationships is less forceful.²⁰ This may be because the physical act is less conspicuous and no semen is wasted. The medieval *Tosafot*, additions to the Talmud, summarize it in any case as something loathsome (Elaine Chapnick 2019). Maimonides in his legal works therefore assigns lesbian acts a punishment of flogging.²¹

Hermeneutical key

The historical-critical reading of the Hebrew Bible that took hold after the Enlightenment outside of Orthodoxy allowed the harsh biblical prohibitions

¹⁶ Mishna, Yevamot VI, 6.

¹⁷ BT *Niddah* 13b. See also Berger 2003, pp. 59-77.

¹⁸ *Tosafot* and *Peirush ha-Rosh* on *Sanhedrin* 58a. See also Solomon 1995, p. 77.

¹⁹ BT *Shabbat* 65a-b.

²⁰ BT *Yevamot* 76a. See also Kosman 2009, p. 157; and Sarah 1995, p. 98f.

²¹ M. Maimonides, *Mishneh Torah, Hilkhoh Issurei Biah* 21:8. See J. Karo, *Shulkhan Aruch, Even Ha-Ezer* 20:2.

to be viewed through their historical contexts. Just as the transgression of the Sodomites was mostly a violation of guests' right to hospitality, the references to the customs of the Egyptians and Canaanites are perhaps hints at the practice of male temple prostitution there, from which the people of Israel should clearly distance themselves to preserve their sanctity. And must one not see all people, even homosexuals, in the light of the superordinate biblical decree that every man and woman are created in the image and likeness of God (Genesis 1:27)? Already the rabbinical teacher Ben Azzai of antiquity emphasized that this God-likeness was the central proposition of the Torah, through which all other laws must be interpreted.²²

Besides the rejection of homosexuality, we can also find sources with the opposite view in the traditional literature. One now widespread reading is to detect homoerotic motifs in texts of the Hebrew Bible. For instance, the relationship between David and Jonathan (1 Samuel 18:1-16; 19:1-7; 20; 31:1-7; 2 Samuel 1) is today often interpreted as a love relationship.²³ This is also true for the relationship between two rabbis in the Talmudic period, Rabbi Yohanan and Reish Lakish.²⁴ In Jewish religious poetry, homoerotic references have repeatedly surfaced over the centuries, such as in the love poems by Yehuda Halevi and Moshe ibn Ezra in eleventh-century Spain. Therefore, the decisive question has to do with the alterability of religious legal positions in Judaism.

According to the Jewish understanding, Moses received not only the Torah in the sense of the Hebrew Bible (i.e., the "written Torah") from God during the revelation at Sinai, but also the "oral Torah." The latter is alone the key to fully understanding the written Torah. The oral Torah was, like its name suggests, passed down orally over many generations and was ultimately recorded in the rabbinical literature. The dual Torah contains the law revealed by God, with its moral and ritual components. The structure of these laws is the product of a perpetual discourse that adjusts decisions to suit new situations in other ages and thus allows both change and continuity.

This alterability can be seen especially in the Talmudic period, during which halakhic principles were the subject of lively discussion and critical examination. Customs that were no longer feasible were successfully discarded through rabbis' special readings, as well as through a process of interpretation in which the literal sense of the Torah text was given other meanings.

In Judaism, we assume that the will of God continually unfolds and can be reinterpreted differently than in the past. This concept of revelation allows for a relativization of the written Torah through the corrections of the oral Torah

²² See *Sifra*, *Kedoshim* 4:12.

²³ Greenberg 2004, p. 99f.

²⁴ BT Bava Metzia 84 a; see Greenberg 2004 p. 106 f.

– that is, through interpretive interventions – which builds a bridge between rational insight and the revealed text. The various denominations within Judaism differ in the extent to which they allow these interpretive interventions in modern times. Yet, this interpretive flexibility is the basis for the entire body of rabbinical literature. That is the conclusion that we draw to some extent about Moses, when he visited the house where Rabbi Akiba gave instruction:

Rab Judah said in the name of Rab, When Moses ascended on high he found the Holy One, blessed be He, engaged in affixing coronets to the letters. Said Moses, “Lord of the Universe, who stays Thy hand?” He answered, “There will arise a man, at the end of many generations, Akiba b. Joseph by name, who will expound upon each tittle heaps and heaps of laws.” “Lord of the Universe,” said Moses, “permit me to see him.” He replied, “Turn thee round.” Moses went and sat down behind eight rows [and listened to the discourses upon the law]. Not being able to follow their arguments he was ill at ease, but when they came to a certain subject and the disciples said to the master “Whence do you know it?” and the latter replied “It is a law given unto Moses at Sinai” he was comforted.²⁵

Here we find the position that the revelation at Sinai established only an initial framework. This framework then unfolds from generation to generation around the interpretations of the scholars and is enriched, even modified or relativized. According to this view, human reason plays a large role in understanding what God demands of humans. A further example is the following instructional text:

We learnt elsewhere: If he cut it into separate tiles, placing sand between each tile: R. Eliezer declared it clean, and the Sages declared it unclean; and this was the oven of ‘Aknai. Why [the oven of] ‘Aknai? – Said Rab Judah in Samuel’s name: [It means] that they encompassed it with arguments as a snake, and proved it unclean. It has been taught: On that day R. Eliezer brought forward every imaginable argument, but they did not accept them. Said he to them: “If the *halalchah* agrees with me, let this carob-tree prove it!” Thereupon the carob-tree was torn a hundred cubits out of its place – others affirm, four hundred cubits. “No proof can be brought from a carob-tree,” they retorted. Again he said to them: “If the *halachah* agrees with me, let the stream of water prove it!” Whereupon the stream of water flowed backwards – “No proof can be brought from a stream of water,” they rejoined. Again he urged: “If the *halachah* agrees with me, let the walls of the schoolhouse prove it,” whereupon the walls inclined to fall. But R. Joshua rebuked them, saying: “When scholars are engaged in a halachic dispute, what have ye to interfere?” Hence they did not fall, in honour of R. Joshua, nor did they resume the upright, in honour of R. Eliezer; and they are still standing thus inclined.

²⁵ BT *Menachot* 29b.

Again he said to them: “If the *halachah* agrees with me, let it be proved from Heaven!” Whereupon a Heavenly Voice cried out: “Why do ye dispute with R. Eliezer, seeing that in all matters the *halachah* agrees with him!” But R. Joshua arose and exclaimed: “It is not in heaven.” What did he mean by this? – Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because Thou hast long since written in the Torah at Mount Sinai, After the majority must one incline. R. Nathan met Elijah and asked him: What did the Holy One, Blessed be He, do in that hour? – He laughed [with joy], he replied, saying, “My sons have defeated Me, My sons have defeated Me.”²⁶

Rabbi Eliezer tries here unsuccessfully to convince his rabbi colleagues of the correctness of his halakhic position. Because he does not succeed, he turns to miracles to substantiate the correctness of his interpretation. And finally, he appeals to heaven itself to assist him and the truth, as he sees it. Yet, the opposing side references the principle of majority decision and even rejects all the transcendental interventions in the development of the interpretation. On earth, the hermeneutic task is incumbent upon us; the insight will not come from heaven.

Much has changed since “Stonewall” – Contemporary Views

Scientific knowledge since the 1950s and especially the clearer visibility of Jewish gays and lesbians have led to a shift in the perception of homosexuality in mainstream Judaism.²⁷

Reform (Progressive)²⁸ as well as Conservative (Masorti)²⁹ Judaism, along with the small movement of Reconstructing Judaism³⁰ and non-partisan Jews make up about 87 percent of the Jewish community in the United States. They

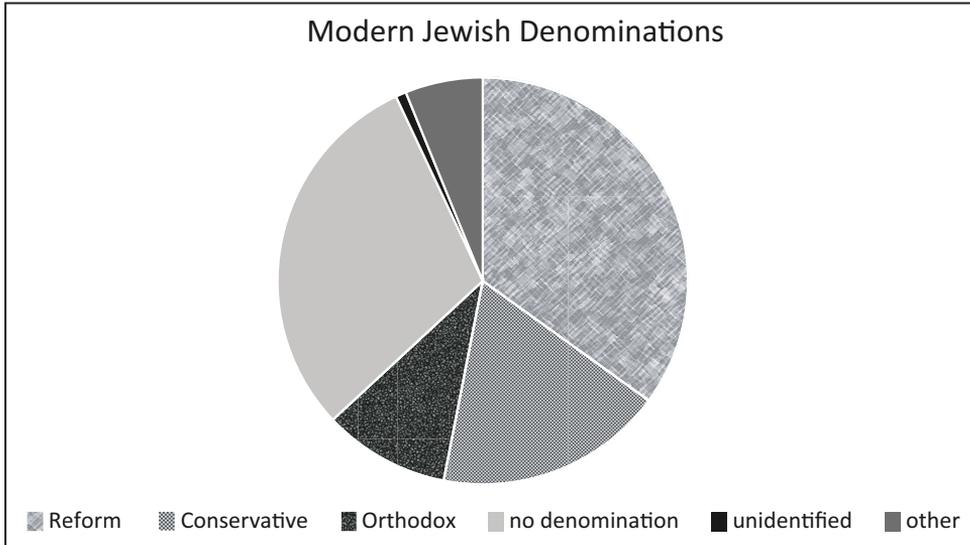
²⁶ BT *Bava Metzia* 59ab.

²⁷ Pew Research Center: Survey of U.S. Jews, 20 February until 13 June, 2013. Based on the net Jewish adult population of 5.3 Million (both Jews by religion and Jews of no religion).

²⁸ See, e.g.: resolution of the Women for Reform Judaism, 25th Biennial Assembly 1965 and 1991: “Homosexuality”; resolution from the 45th general assembly of the Union of American Hebrew Congregations 1977: “Human Rights of Homosexuals”; resolution of the Central Conference of American Rabbis on the 88th annual assembly 1977: “Rights of Homosexuals”; resolution of the National Federation of Temple Youth 1983: “Homosexuality,” and 1991: “Homosexuality”; resolution from the 59th general assembly of the Union of American Hebrew Congregations 1987: “Support for Inclusion of Lesbian and Gay Jews”; resolution from the 60th general assembly of the Union of American Hebrew Congregations 1989: “Gay and Lesbian Jews”; statement at the American Conference of Cantors 1991: “Homosexuality in the Cantorate.” Documented in Address, Kushner, and Mitelman 2007.

²⁹ Dorff 2012, pp. 657-672.

³⁰ <https://www.reconstructingjudaism.org/cause/lgbtq> [accessed: 15.05.2020].



have long since formally withdrawn their objections to homosexuality and share the statement made by three Conservative rabbis: “At the present time, it is almost universally accepted in the scientific community that homosexuality occurs naturally in a given percentage of the population, is neither a sickness nor a personal choice and is irreversible.”³¹

After the “Stonewall Riots” of 1969, homosexual Jews began to form their own synagogues: Beth Chayim Chadashim (BCC) was founded in 1972 in Los Angeles, Congregation Beit Simchat Torah (CBST) in 1973 in New York. By the end of the 1970s, a whole network of gay Jewish community members had formed in the United States, as a sanctuary and a way to reconcile gay and Jewish identities. A positive self-conception of Jewish homosexuals was expressed in the Balka and Rose’s 1989 anthology *Twice Blessed: On Being Lesbian or Gay and Jewish*; the idea of being “twice blessed” is proof of this increased self-confidence. The development could not be stopped. From 650 members in 2008, CBST now has over 5,000 people who join them for the High Holidays. The congregation of the influential Rabbi Sharon Kleinbaum is one of the largest synagogues in North America. Yet, forty years later, CBST still faces new challenges.³²

³¹ Rabbis M.S. Geller, R.E. Fine, D.J. Fine, *The Halakhah of Same-Sex Relations in a New Context*, documented in: Homolka 2009, p. 259.

³² See M. Ingall, *CBST, the World’s Largest LGBT Synagogue, Gets a New Home*, “Tablet”, 1 April 2016, <https://www.tabletmag.com/sections/news/articles/cbst-the-worlds-largest-lgbt-synagogue-gets-a-new-home> [accessed: 15.05.2020].

Reform, Reconstructionist, and Conservative synagogues and even, in isolated cases, modern Orthodox congregations have opened their doors wide to gays and lesbians over the years. Gay synagogues are by far not the only option for homosexual Jews. While gay synagogues such as those in Cleveland or Atlanta are open to heterosexual members or have merged with neighboring congregations, congregations throughout the country have introduced a clear policy of diversity and actively recruit gay members.³³

In *Jewish Living: A Guide to Contemporary Reform Practice*, then chair of the Responsa Committee of the Central Conference of American Rabbis, Rabbi Mark Washofsky of Hebrew Union College–Jewish Institute of Religion, Cincinnati, summarizes the Reform position as follows:

The Reform movement has committed itself unequivocally in support of full legal and social equality for homosexuals in our communities. This means that gays and lesbians should be protected from all forms of discrimination by government, business, and other agencies in terms of employment, housing, and every other aspect of economic life. Homosexuals must be guaranteed the freedom to make decisions regarding their personal lives free from outside political interference. Gay and lesbian couples should be afforded the rights and benefits, both legal and economic, of civil marriage. We in the Reform movement, too, call for equal opportunity for homosexuals within our own professional ranks. We reject, in particular, any suggestion that a candidate's homosexuality be used as a bar to deny automatically his or her entry into the rabbinate. (Washofsky 2001, p. 320)

Non-Orthodox Judaism and the ordination of homosexuals

It was a long road in Reform and Conservative Judaism to allowing openly homosexual Jews to be ordained. By the 1990s, the ordination of homosexual rabbis in Reform Judaism became the norm. In 1985 at the Reconstructionist Rabbinical College in Wyncote, Pennsylvania, Deborah Brin was the first openly lesbian rabbi ordained in the United States; in the United Kingdom, *Elizabeth Tikvah Sarah* followed in 1989, ordained by the Progressive Leo Baeck College in London. In the same year, Rabbi Alexander M. Schindler,

³³ Jay Michaelson, founder of Nehirim, an organization for gay Jewish spirituality, assesses the current situation thus: "There are some people for whom living their Jewish identity is linked to their queer identity, but for others, 2013 isn't 1983. Most synagogues, outside of the Orthodox world, are welcoming, or at least won't slam the door in their faces. The LGBT synagogues that used to be the default option for gay people no longer are." Cited in: . Lemberger, *Gay Synagogues' Uncertain Future: As Mainstream Acceptance Grows – along with Membership – Gay Congregations Face Unexpected Questions*, "Tablet", 11 March 2013, <http://www.tabletmag.com/jewish-life-and-religion/126512/gay-synagogues-uncertain-future> [accessed: 15.05.2020].

as president of the Union of American Hebrew Congregations, stated in his “Biennial Keynote Address” in New Orleans:

We who were beaten in the streets of Berlin cannot turn away from the plague of gay bashing. We who were Marranos in Madrid, who clung to the closet of assimilation and conversion in order to live without molestation, we cannot deny the demand for gay and lesbian visibility. (quoted in Eger 2001, p. 183)

In 1990, the Hebrew Union College–Jewish Institute of Religion permitted openly homosexual students to the rabbinate, and the professional association for rabbis with the most members worldwide, the Central Conference of American Rabbis, passed a resolution to welcome homosexual rabbis and promised to strengthen and support them in their vocation (see Address, Kushner, and Mitelman 2007, pp. 259-264). After that, further development happened quickly: Elliot Kukla was ordained in 2006 as the first transgender rabbi by Hebrew Union College–Jewish Institute of Religion in the United States, followed in 2010 by the ordination of transgender rabbi Reuben Zellman.

In December 2006, the Committee on Jewish Law and Standards of Conservative Judaism made the religious legal decision that practicing homosexual Jews would be allowed in the rabbinate. Conservative Judaism thus opened the doors of the rabbinate to gays and lesbians around the world. The result was that the Ziegler School of Rabbinic Studies in Los Angeles and New York’s Jewish Theological Seminary, the two most important educational centers for Conservative rabbis, allowed gay and lesbian students to enroll in the spring of 2007.³⁴ In 2011, Rachel Isaacs was ordained as a Conservative rabbi, having been accepted five years earlier as a lesbian student to the Jewish Theological Seminary in New York. In Potsdam (Germany), the Progressive Abraham Geiger College has admitted homosexual candidates since its founding in 1999 and the Conservative Zacharias Frankel College did so since its founding in 2013.

Life partnerships and Jewish religious marriages

The question as to the form of religiously officiated life partnerships for Jewish lesbians and gays was and is hotly debated in Europe, somewhat similar to the Protestant churches; bear in mind here that the sociocultural environment in Europe is different than in the United States. The debate is centered

³⁴ *Conservative Seminary Moves to Allow Gay and Lesbian Students*, “Jewish Telegraphic Agency”, 27 March 2007, <http://www.jta.org/2007/03/27/archive/conservative-seminary-moves-to-allow-gay-and-lesbian-students#ixzz2ZcYOHP3Y> [accessed: 15.05.2020].

around two questions: (1) Should the state legalize same-sex marriages and thus provide homosexual couples with the same legal framework as heterosexual spouses? (2) Should rabbis officiate at religious same-sex marriages? If yes, can these ceremonies be considered *kiddushin* and thus have the same status according to religious law as heterosexual Jewish marriages?

a) The position of the Orthodoxy

The Union of Orthodox Jewish Congregations of America (OU) has publicly rejected both civil and Jewish religious same-sex marriages. A declaration from 20 December 1999 on the decision by the Supreme Court of the state of Vermont recognizing same-sex partnerships reveals its position:

While the Orthodox Jewish community in no way condones discrimination against individuals on the basis of their private conduct, we believe that America's moral values and traditions, of which traditional Judaism is a fountainhead, clearly assert that the unique status of marriage is reserved for the sacred union of a man and a woman in a loving relationship.³⁵

In 2007, a joint declaration by four national Orthodox Jewish organizations on the regulation regarding marriage between homosexuals in the state of New York affirmed this position:

We oppose the redefinition of the bedrock relationship of the human family. We approach this issue through the prism of the Jewish religious tradition, which forbids homosexual acts, and sanctions only the union of a man and a woman in matrimony. The institution of marriage is central to the formation of a healthy society and the raising of children. It is our sincere conviction that discarding the historical definition of marriage would pose a severe danger to society in a variety of ways. Thus, we are compelled to protest the proposed redefinition of marriage for the State of New York. Moreover, we are deeply concerned that, should any such redefinition occur, citizens of New York who are members of traditional communities like ours will incur moral opprobrium and may risk legal sanction if they refuse to transgress their beliefs. That prospect is chilling, and should be unacceptable. Society's mores may shift and crumble but eternal verities exist. One is marriage. Its sanctity must be recognized and its integrity preserved.³⁶

³⁵ Quoted in *OU Deeply Troubled by Vermont Ruling for Same-Sex Couple Recognition*, Orthodox Union Advocacy Center, 20 December 1999, https://advocacy.ou.org/ou_deeply_troubled_by_vermont_ruling_for_same_sex_couple_recognition/ [accessed: 15.05.2020].

³⁶ Statement of 20 June 2007 by the Agudath Israel of America, the National Council of Young Israel, the Rabbinical Council of America, and the Union of Orthodox Jewish Congregations

Even though no larger Orthodox institution has publicly approved of same-sex marriage, it is nevertheless noteworthy that there are some Orthodox voices calling for a reinterpretation of the halakhah to achieve more acceptance for homosexuality. Rabbi Steven Greenberg, a graduate of New York's Yeshiva University, is one of them. In 2004, Greenberg published a book on this topic in the United States, *Wrestling with God & Men: Homosexuality in the Jewish Tradition*, which received the Koret Jewish Book Award for Philosophy and Thought in 2005 and appeared in the summer of 2013 in Israel in Hebrew as well.³⁷ Steven Greenberg states on same-sex civil marriage:

Under Orthodox Jewish law as it currently stands, same-sex marriage is not permitted. The religious rites of kiddushin can only be enacted between two Jews, one male and the other female. While the rejection of homosexual relations is still normative in most Orthodox communities, halachists are beginning to include in their deliberations the testimony of gay people who wish to remain faithful to the tradition. New halachic strategies, I believe, will, in time, appear under these changing social conditions... Same-sex marriage, like marriage generally, is a conservative institution expressing lifelong commitment, caring, love and support. It is fundamentally not about rights, but about duties. Central to Orthodox Jewish teaching is the importance of family. The rejection of gay coupling is hardly an expression of family values. Indeed, it is just the opposite. It is surely in the interest of families to support such unions that glue us all together by the force of our loving commitments to each other. While it is true that procreation is one of the intents of marriage in our society, same-sex marriages would not prevent such endeavors any more than heterosexual marriages require them. Surely we would not claim that sterile couples or couples who choose not to produce children are not “really” married. Under Jewish law such couples might not be fulfilling the duty to reproduce, but that would have no bearing upon the legitimacy of their marriage. Moreover, adoption and surrogacy offer to gay couples the same potential as they do to heterosexual couples unable to reproduce.³⁷

b) The position of Reform, Liberal and Progressive Judaism

Reform Judaism committed itself early on to supporting the introduction of civil marriage for homosexuals. The question of Jewish religious marriages

of America, in: *Joint Statement by Four Orthodox Jewish Organizations on NYS Gay Marriage Legislation*, Orthodox Union Advocacy Center, https://advocacy.ou.org/joint_statement_by_four_national_orthodox_jewish_organizations_on_nys_gay_m/ [accessed: 15.05.2020]. See also D. Karpel, *And God Created Gays: The First Openly Gay Orthodox Rabbi Talks about Coming Out, Pain, and Parenthood*, “Haaretz”, 1 June 2013, <https://www.haaretz.com/.premium-and-god-created-gays-the-rabbi-said-1.5271358> [accessed: 15.05.2020].

³⁷ S. Greenberg, *Same-Sex Civil Marriage*, CLAL on Culture Archive, <https://protected.hostcentric.com/clal/coc38.html> [accessed: 15.05.2020].

of gays and lesbians has long remained controversial, however (see Washofsky 2001, pp. 320-324).³⁹ The decision finally came in March 2000 during the 111th Annual Convention of the Central Conference of American Rabbis in Greensboro, North Carolina. The resolution “Same Gender Officiation” states:

We do hereby resolve that the relationship of a Jewish, same gender couple is worthy of affirmation through appropriate Jewish ritual, and further resolved, that we recognize the diversity of opinions within our ranks on this issue. We support the decision of those who choose to officiate at rituals of union for same-sex couples, and we support the decision of those who do not. (Address, Kushner, and Mitelman 2007, p. 330)

The resolution avoided the term *kiddushin* and left open the question of the exact liturgical form. During the discussion of the resolution, in the plenary session it was asked what these partnerships should be called. Then president of the CCAR, Rabbi Charles Kroloff, answered, “Weddings – *kiddushin*” (cited in Eger 2001, p. 188).

The Liberal and Reform Jewish communities in the United Kingdom have not only offered significant political support for the introduction of same-sex civil marriages. In December 2005, a ceremony for the blessing of same-sex couples was presented by Liberal Judaism UK, called *brit ahava*, or “covenant of love.” In 2010, Liberal Judaism threw its weight behind an amendment to the Equality Bill to allow same-sex civil partnership ceremonies to take place in synagogues. Since same-sex marriage became legal in the United Kingdom in March 2014, the Liberal and Reform movements have been conducting same-sex marriage ceremonies within Judaism. The law of England, Scotland, and Wales permits marriage between two persons of either gender but stipulates that when a couple wishes to be married under Jewish auspices, both partners must be Jewish. Liberal Judaism requires both to be members of the Liberal synagogue under the auspices of which the ceremony will be carried out.³⁸

On 6 May 2007, the national assembly of the South African Union for Progressive Judaism in Durban granted equal rights to the religious weddings of homosexual and heterosexual couples. Their chairman, Steve Lurie, commented, “The decision came after long discussions, in the spirit of the values of Progressive Judaism: to be open to all Jews, regardless of gender, sexual orientation or ethnic background.”³⁹

³⁸ See *Marriage and Blessings*, Liberal Judaism, <https://www.liberaljudaism.org/lifecycle/marriage/> [accessed: 15.05.2020].

³⁹ *SAUPJ Landmark Decision to Allow Same Sex Marriages*, South African Union for Progressive Judaism, 20 March 2013, <https://saupj.org.za/2013/03/landmark-decision-to-allow-same-sex-marriages/> [accessed: 15.05.2020].

Is the endorsement of religious marriages for same-sex couples by liberal and Conservative rabbis actually the breakthrough here? Perhaps. But it is not the end of the discussion. When in May of 2013 a resolution was set to be passed in Jerusalem at the general assembly of the World Union for Progressive Judaism that all liberal Jewish communities should introduce religious marriages for partners of the same gender, opposition was raised by voices from France and Russia. Their reasoning was that the topic was too controversial and could possibly cost them their members and their public image.

During this general assembly, Rabbi Mark Winer stood up and called for the upholding of progressive principles: progressive Jews should not make ethical decisions depending on opinion polls. Sixty years ago, he reasoned, he and his colleagues had demonstrated in the streets to bring an end to racial segregation in the United States. Fifty years ago they had protested against the Vietnam War. Now, it was a virtually prophetic mission, here in Jerusalem in March 2013, to defend the essence of Judaism: the divine likeness of all human beings. Everything else was moral desertion. – The resolution was passed.⁴⁰

c) The position of Conservative Judaism (Masorti)

Conservative Judaism has grappled with questions of homosexuality since the 1980s. In 1992, the Committee on Jewish Law and Standards (CJLS) of the Rabbinical Assembly still affirmed the traditional ban on homosexual behavior, the blessing of homosexual partnerships, and the ordination of openly homosexual rabbis. These bans, however, led increasingly to internal controversy. In 2006, the CJLS changed its position and paved the way for significant changes in the Conservative movement's stance toward homosexuality. In December 2006, the CJLS passed with thirteen of twenty-five votes a responsum composed by Rabbis Elliot N. Dorff, Daniel Nevins, and Avram Reisner that lifted most of the bans concerning homosexual behavior and cleared the way for the ordination of openly gay and lesbian rabbis and for homosexual partnerships:

This responsum does not provide *kiddushin* for same-sex couples. Nonetheless, we consider stable, committed, Jewish relationships to be as necessary and beneficial for homosexuals and their families as they are for heterosexuals. Promiscuity is not acceptable for either homosexual or heterosexual relationships. Such rela-

⁴⁰ See resolution 8 by the World Union for Progressive Judaism from 1 May 2013, in: *WUPJ International Assembly Meeting, May 1st, 2013 – Jerusalem, Israel, Suggested Resolutions*, <http://aleph.org.au/wordpress/wp-content/uploads/2013/07/20130501-WUPJ-International-Assembly-Meeting-Jerusalem-Suggested-Resolutions.pdf> [accessed: 15.05.2020].

tionships should be conducted in consonance with the values set out in the RA pastoral letter on intimate relationships, “This Is My Beloved, This Is My Friend: A Rabbinic Letter on Human Intimacy.” The celebration of such a union is appropriate. (cited in Homolka 2009, pp. 109-110)

The responsum upheld the biblical ban on anal sex between men, an offense for which traditionally the basic law *yehareg ve'al ya'avor* (“sooner die than violate [the law]”) holds.

Rabbis Myron S. Geller, Robert E. Fine, and David J. Fine expressed in writing a broader opinion and called for a complete lifting of the restrictions on homosexual behavior and for unequivocal recognition of homosexual religious partnerships: “In our view, the Torah prohibitions of same-gender male or female sexual relations as abhorrent acts are not consistent with current knowledge” (cited in Homolka 2009, p. 262). They expressed that the value standards formulated in the Jewish scriptures are an expression of Jewish ideals at a certain place and time. Viewed thus, the halakhah could and would need to be continually revised to do justice to the changing values and social circumstances. In the case of homosexuality, a far-reaching change in the assessment of biblical and rabbinical decisions would be appropriate. Different religious legal positions now allow individual Conservative rabbis, congregations, and rabbinical seminaries to choose which decisions they would like to follow: whether they want to uphold the traditional ban on homosexual behavior or permit homosexual partnerships and lesbian and gay rabbis. In practice, however, Conservative Judaism around the world has accepted the conclusions of the religious legal opinion of Dorff, Nevins, and Reisner quickly and on a broad scale. In October 2014, UK Masorti Judaism began to allow same-sex ceremonies.⁴¹

Conclusion

In their religious legal assessment of same-sex relationships, the three rabbis Geller, Fine, and Fine characterized the halakhah as a religious judicial system rooted in history that should reflect the values, ethics, and situation of the Jewish people at all times:

We agree that the text of the Torah is unchangeable, but the meaning that the text holds, that is, its halakhic meaning, is explained by the rabbis... We fully under-

⁴¹ See L. Hoare, *Balancing Tradition and Modernity, UK Masorti Judaism Allows Same-Sex Ceremonies*, eJewish Philanthropy, 24 November 2014, <https://ejewishphilanthropy.com/balancing-tradition-and-modernity-uk-masorti-judaism-allows-same-sex-ceremonies/> [accessed: 15.05.2020].

stand that a change in the understanding of the Torah's halakhic meaning is a major change in precedented rabbinic law... We believe, however, that in this case the change in historical circumstance [of homosexuality] is adequate to justify a change in the halakhah. (cited in Homolka 2009, p. 263)

One may say, therefore, that all non-Orthodox denominations of Judaism consider the Torah therefore as divinely inspired, but not unchangeable. With that, the wide majority of Judaism represents the position that the Torah is witness to a formative experience. The religious message is transmitted from generation to generation and requires revision each time. Its sanctity consists in that to which it bears witness, not the way in which it depicts something. It is the obligation of every generation to arrive at new decisions and in so doing to draw on current insights.

In this essay, I have tried to show the variety of existing assessments on the topic of homosexuality in Judaism. Above all, I wanted to highlight the results of a long process of opinion formation: A majority of Jewish community members and a majority of Israeli citizens today accept homosexual acts and partnerships. They have approved of the ordination of homosexual rabbis and see no difficulty in granting a same-sex couple the opportunity to sanctify their shared life.

ŻYDOWSKIE SPOJRZENIE NA HOMOSEKSUALIZM

Streszczenie

W tym eseju zamierzam przedstawić przegląd różnych opinii na temat homoseksualizmu istniejących w judaizmie. Chcę pokazać rezultaty długiego procesu kształtowania się poglądów na tę kwestię. Większość członków społeczności żydowskiej oraz większość obywateli izraelskich akceptuje dziś akty homoseksualne i związki partnerskie. Osoby homoseksualne wyświęcane są na rabinów, a pary osób tej samej płci mają możliwość uświęcenia wspólnego życia.

Słowa kluczowe: Judaizm i homoseksualizm, małżeństwa jedнопłciowe, rabin-gej, rabin-lesbijka, halacha, prawo małżeńskie, płć

Keywords: Judaism and homosexuality, same-sex marriage, gay rabbis, lesbian rabbis. halakhah, marital law, gender

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