

# Same-Sex Attraction and Halakhah

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**שאלה:** How should rabbis and institutions in Conservative Judaism deal with people in our communities who are sexually attracted to members of the same sex?

**תשובה:** In our society and in our communities, people who have been labeled homosexual have suffered much pain and injustice. For much of the last half of the twentieth century, those who found themselves feeling sexual attraction toward members of the same sex were given the message that there was something very wrong with them. Many went into psychoanalysis or other forms of psychotherapy seeking a cure, but many did not find a cure, but rather further torment and pronounced feelings of self-loathing. Many have committed suicide. These people felt the need to hide their feelings of same-sex attraction (SSA) from their parents, other close family members and friends in fear that should those feelings be discovered (and even more so, if those feelings found expression in behavior which was discovered or disclosed), they would be rejected and disowned by those who were nearest and dearest to them. Teenagers sometimes ended up on the street when parents kicked them out of the house after discovering their homosexuality. Someone who became known as a homosexual would face severe discrimination. Those who were discovered to be homosexual often lost their jobs and/or their housing, and were subject to harrassment by officers of the law, as well as by others. Some six hundred people have been murdered in the United States for no other reason than that they appeared to be homosexual.<sup>1</sup> In order to avoid the risks of rejection, discrimination, and violent

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1. I am indebted to Mr. Bernard Goldberg of Sacramento, CA for providing me with this figure in sharing his concerns with me regarding this issue. I also gratefully acknowledge the help of a number of people in the research for and editing of this teshuvah. Sarah Weis, Rachel Steinbach, and Shoshana Smolin students at the Solomon Schechter Regional High School in Teaneck, NJ served as research interns in a program established by Rhonda Rosenheck, principal, and supervised by Rebecca Lieberman during the summer of 2004. I thank them for their help in locating sources in the Social Science literature and for finding resources on the web. I thank Bill Siemers, Arthur Goldberg, Elaine Berk and Dr. Neil Whitehead for locating and sending me much material from the scientific and psychological literature, some of it difficult to find. I also thank Bill and Neil for their help with statistical analysis of some of the data. Students, colleagues and teachers too numerous to mention read earlier drafts of this teshuvah and gave helpful comments. I am particularly grateful to Dr. Nicholas Cummings and Dr. Rogers Wright for sharing their time and clinical expertise with me and for reviewing the scientific and counseling sections in the body of the teshuvah for accuracy, to David Benkof for generously sharing his time and knowledge regarding the gay community, its history and literature, and to Dr. Baruch Schwartz for spending much time giving me an overview on research regarding homosexuality in the ancient Near East, for answering my questions regarding the structure of the Holiness code and the place of Leviticus 18:22 in it, and for reading an early draft of the teshuvah and giving helpful comments. The opinions expressed in this

attack, most people who felt same-sex attraction or engaged in same-sex acts lived "in the closet," keeping their "deep dark secret" from everyone. Some entered marriages with unsuspecting partners in order to cover up their secret, often causing great pain (and sometimes severe health risk) to the spouse and family upheaval if the secret was discovered.

This level of pain was and is intolerable. Nothing can justify the way we have treated homosexuals in our society. While the level of pain inflicted has decreased in recent years due to the increasing acceptance of homosexuals in Western societies and acceptance of the need to respect their civil rights, the level of pain remains great.

Recognizing that the pain has been inflicted by people who believed same-gender sexual relationships to be wrong because of the biblical prohibition in Leviticus 18 (and by the pervasive assumptions of a social order organized around that principle), and recognizing that attempts to remove the pain by removing the persistent strong inclination of some people to engage in same-sex sexual activities through psychoanalysis were frequently unsuccessful, often doing more harm than good, many recommend that we remove the pain by removing the prohibition and sanctifying monogamous same-sex relationships as marriages or their equivalent. I am opposed to these proposed steps for two reasons: 1) These steps cannot be halakhically justified; and 2) a careful evaluation of what is currently known about same-sex attraction and behavior leads to the conclusion that, in all foreseeable likelihood, these steps would cause more harm to more people than the good they might do for some people.

As Joel Roth has clearly demonstrated in his responsum for this committee in 1992<sup>2</sup>, the legal sources of our tradition<sup>3</sup>, from the verses in Leviticus through the classical Rabbinic sources and their Medieval commentaries and codifications, prohibit (albeit at various levels of severity) all sexual acts between members of the same sex irrespective of the relational context. These sources are unambiguous and undisputed within the tradition. However, it is not enough to repeat the clear answer to the narrow question regarding the impermissibility of same-sex sexual relations "with a heavy heart and tearful eyes."<sup>4</sup>

All too often, because we are a Law Committee, we focus on legal solutions to problems exclusively, even when other remedies might be equally or more available, practical and/or effective. This syndrome has had two deleterious effects: a) we often fail to consider solutions to the problems we confront which might address the problem more effectively with fewer undesired consequences because those solutions do not involve adjusting the law; b) When we believe a legal solution is not possible, we often feel that we have done all that we can do and leave the problem inadequately addressed. Certainly as a Committee on Law and Standards, we have the authority (and responsibility) to recommend educating our constituency to change harmful attitudes and their expression in our communities and institutions, including in the way specific policies are formulated, explained and enforced. We can also recommend specific programs to provide support for Conservative Jews who feel same-sex attractions while

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teshuvah, of course, are my own.

2. Joel Roth, "Homosexuality," in *Responsa 1991–2000: The Committee on Jewish Law and Standards of the Conservative Movement*, Kassel Abelson and David J. Fine (New York: The Rabbinical Assembly, 2002), 613–75. The few disagreements I have with Rabbi Roth's presentation should be apparent in my treatment of the subject below.

3. not to mention the aggadic sources which support this legal evaluation.

4. Roth, "Homosexuality," p. 671.

encouraging them to live up to the highest ideals of Conservative Judaism to the best of their abilities.

In previous versions of this teshuvah, I have devoted much space to presenting reasons substantiating the need to maintain the prohibitions against same-sex sexual relations—reasons which even those who do not agree with the positivist approach to halakhah in this case should take seriously. Since this lengthy detailed presentation based on data gleaned from studies in many disciplines detracted from the attention which should be placed on the important practical issues which this responsum addresses, I have removed it from the body of this teshuvah and will submit it separately as an addendum to the teshuvah. The addendum should be seen as an independent exhortation to members of the committee, and eventually to readers at large, to maintain the prohibitions. This responsum starts from the assumption that what has always been prohibited must remain prohibited, upholding the ideal that sexual relations can be sanctified only in the marriage of a man and a woman, and addresses the important issues of identifying and alleviating to the greatest extent possible the pain and injustices which those who feel SSA have suffered in our communities and our movement. As such, it stands independent of any reasoning to substantiate the need to maintain the prohibitions. (A vote for this responsum is a vote for its body only, not for any reasoning presented in the addendum.)

Before directly addressing the question posed at the beginning of this teshuvah, it is important to clarify a number of matters which tend to cloud any discussion of issues related to homosexuality. Much of what people tend to believe about homosexuality is based on surface perceptions and assumptions which have assumed the proportions of widely accepted truths in large segments of our society and our community. However, these perceptions and assumptions are at best hypotheses based on little evidence, and in many cases, they are so overwhelmingly contradicted by scientific evidence that they must be considered myths or untruths. We thus need to separate myth from fact and point out some of the complexities involved before turning our attention to our question.

### **Myths and Facts**

The intolerable, unjustified treatment of homosexuals in our society has been based on a myth which was widely believed up until a few decades ago. That myth is no longer accepted by the majority of our society, but a significant proportion of people appear to subscribe to this myth, and gay activists and their supporters tend to presume that anyone who disagrees with their agenda is subscribing to this discredited myth. We label this myth

Myth #1: Feelings of sexual attraction or desire toward the same sex indicates a serious moral failing on the part of the person who has these feelings.

This myth provides the psychic justification for those who mistreat and abuse people who are discovered to have homosexual tendencies, or even those whose mere demeanor and comportment are seen as indicating homosexuality. This myth assigns culpability to the one who feels same sex attraction, assuming that the feelings are either willful, or at least can be willed away, blaming him (or her) for the condition. Those whose views of homosexuals are colored by this myth may conclude that homosexuals deserve whatever misfortune befalls them, and some go out of their way to dish out such misfortune.

Fact #1: Feelings of sexual attraction generally are not consciously willed; they emanate from subconscious processes. Since these feelings are not willed, one cannot be held morally culpable for feeling same-sex attraction.

When one uses the term “sexual orientation”, one is referring to such feelings of attraction. Such feelings run on a continuum from exclusive opposite-sex attraction to exclusive same-sex attraction, covering all points in between. “Sexual orientation is different from sexual behavior because it refers to feelings and self-concept. Persons may or may not express their sexual orientation in their behaviors”. Thus, though someone may feel either opposite-sex or same-sex attraction, he might not act on those feelings.<sup>5</sup> “Although we can choose whether to act on our feelings, psychologists do not consider sexual orientation to be a conscious choice.”<sup>6</sup>

Myth #2: Gays are born that way.

In the early 1990’s, this myth became popular, and its acceptance has spread since. The mainstream media often report studies which indicate that one biological factor or another influences sexual attraction to one sex or the other in humans or in other species. The reports in newspapers and magazines tout these studies as supporting the idea that sexual orientation is genetic/biological, which most people take to mean that gays are born gay, that homosexuality is as determined and irrevocable as blue or brown eyes. However, when one reads the scientific papers themselves, one finds that the studies in question do not support the conclusions reported in the mainstream media, and very often, the authors themselves state explicitly in the body of their papers that they have not proven that homosexuality is genetically or biologically determined.

Fact #2: The idea that homosexuality is genetically or biologically dictated has been conclusively proven to be false. Gays, in general, are not born that way.

The proof comes from studies of twins—the same studies which have been touted as supporting the “gays are born that way” myth. If homosexuality were dictated by one’s genes, then two identical twins (who by definition share the same genes) would always be either both heterosexual or both homosexual, but it would be impossible for one to be heterosexual and one to be homosexual. The concordance rate should be 100%. J. Michael Bailey of Northwestern University, who has conducted many of the twin studies, was the lead author of the largest study

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5. Judith Glassgold, “Summary of Research on Select Issues in Lesbian, Gay, and Bisexual Psychology,” unpublished paper (2005), quoting from American Psychological Association, “Answers to Your Questions About Homosexuality and Sexual Orientation” (2005), APA website: [www.apa.org/pubinfo/answers.html#whatis](http://www.apa.org/pubinfo/answers.html#whatis).

6. American Psychological Association, “Answers to Your Questions About Homosexuality and Sexual Orientation” That we have a choice whether to act on our feelings does imply moral responsibility for those who choose to act on feelings of same-sex attraction. Such moral responsibility for observance or non-observance of the law prohibiting same-sex sexual relations should not, however, be grounds for harsh judgment. “אל תדין את חברך עד שתגיע למקומו” - Do not judge your fellow man until you arrive at his place. (Mishnah Avot 2:4).

conducted on the sexual orientation of twins.<sup>7</sup> The study surveyed nearly 5,000 twins in an Australian twin registry.<sup>8</sup> When one identical twin reported significant same sex attraction (Kinsey scale 2 or higher), the other twin reported same sex attraction only 11% of the time for males, 14% of the time for women.<sup>9</sup> A more recent study by Peter Bearman and Hannah Bruckner (of Columbia and Yale respectively) found concordance rates of 7% of male identical twins and 5% of female identical twins.<sup>10</sup> They conclude, “Clearly the observed concordance rates do not correspond to degrees of genetic similarity... If same-sex romantic attraction has a genetic component, it is massively overwhelmed by other factors. As argued above, it is more likely that any genetic influence, if present, can only be expressed in specific and circumscribed social structures.” These studies also rule out other prenatal influences (e.g., prenatal hormone levels) as dictating same sex attraction.

“Most scientists today agree that sexual orientation is most likely the result of a complex interaction of environmental, cognitive and biological factors.”<sup>11</sup> That approximately 10% of identical twins who report significant same sex attraction have a co-twin who also reports significant same sex attraction (compared with around 2% of the general population) is probably a rough indicator of the maximum extent that same sex attraction can be determined by a combination of genetic/biological factors and the common environment in which the identical twins are raised. That approximately 90% of identical twins who report significant same sex attraction have a co-twin who is heterosexual is probably a rough indicator of the extent to which same sex attraction is determined by different individual experiences and the way each individual cognitively processes them.<sup>12</sup>

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7. J. Michael Bailey, Michael P. Dunne, and Nicholas G. Martin, “Genetic and Environmental Influences on Sexual Orientation and Its Correlates in an Australian Twin Sample,” *Journal of Personality and Social Psychology* 78, no. 3 (March 2000): 526–36.

8. This method greatly reduces the problem of volunteer bias which Bailey concluded had inflated the proportion of pairs of twins in which both co-twins were homosexual in earlier studies he had conducted. The highest concordance rates in the earlier studies were around 50%, far from the 100% that would be expected if homosexuality were genetically determined.

9. Calculated from Table 1 in Bailey, Dunne, and Martin, “Australian Twins”. The concordance rates listed in Table 1 are probandwise concordance rates (the percentage of all individuals reporting significant same sex attraction who have a co-twin who also reports significant same sex attraction)

10. Peter Bearman and Hannah Bruckner, “Opposite Sex Twins and Adolescent Same Sex Attraction,” *Institute for Social and Economic Research Policy Columbia University Working Papers*, no. 01–04 (October 2001): 14, [Http://www.iserp.columbia.edu/research/working\\_papers/downloads/2001\\_04.pdf](http://www.iserp.columbia.edu/research/working_papers/downloads/2001_04.pdf) Subsequently published in the *American Journal of Sociology*, 107:1179-1205 (2002). This study was based on a sample of over 3,000 adolescents drawn from the National Longitudinal Study of Adolescent Health. 80% of those in the study completed the survey (compared to 54% of the Australian twin registry in Bailey’s study above), virtually eliminating any volunteer bias. I thank Dr. Neil Whitehead of New Zealand for alerting me to this study and its implications. His analysis of the twin studies (see note 12 below) and subsequent work he e-mailed to me is the main basis of what I have written regarding this myth.

11. American Psychological Association, “Answers to Your Questions About Homosexuality and Sexual Orientation.”

12. Bailey’s Australian twin study avoids direct mention and discussion of these inconvenient results by focusing on calculating “heritability”, based on assumptions which Bailey himself admits are

Myth #3: Homosexuality is ....

Fact #3: Any sentence starting with these two words is at best a gross and misleading oversimplification. First, when one speaks of “homosexuality”, or refers to a person as a homosexual, it is not clear precisely what one means. Is a person to be considered a homosexual if s/he feels some attraction to members of the same sex, but not exclusively? Is s/he considered a homosexual if s/he feels exclusive attraction to members of the same sex but does not act on it? Is a person who engages in sexual acts with a member of the same sex a homosexual regardless of the extent of their attraction to members of the same sex vs. members of the opposite sex? Is a person to be considered a homosexual only if s/he identifies as such? When we speak of homosexuals, do we refer to all of the above, or only some of them? When referring to the phenomenon of homosexuality or referring to people who are homosexual, we must be very careful to define very clearly to what or to whom we are really referring and for what purpose. For this reason, the words homosexual and homosexuality will be used sparingly in the text of this paper in favor of more precise terminology. We will use the term “same-sex attraction” most frequently.

The second misleading element in the phrase is the use of the singular “is”. “It is important to recognize that there are probably many reasons for a person's sexual orientation and the reasons may be different for different people.”<sup>13</sup> In addition to multiple possible causes of same-sex attraction in different people, there is a great deal of variation in the ways in which different people experience their same-sex attractions and come to terms with them in matters of behavior and identity. The words “homosexuality is ...” herald a disturbing tendency among people on all sides of this issue to overgeneralize from the experiences of one particular subgroup, assuming that they must be representative of all people who have same sex attractions. It would behoove us to internalize the probability that there are multiple “homosexualities”, and that we risk harming many individuals if we insist on pigeon-holing them into a concept of “homosexuality” which does not fit them.

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questionable. Regarding the methodology and assumptions behind twin studies, the meaning of the term “heritability” and how it is calculated, why these calculations vary widely in different twin studies of sexual orientation and why these calculations probably don’t hold water for sexual orientation, see Neil Whitehead and Briar Whitehead, *My Genes Made Me Do It!: A Scientific Look at Sexual Orientation* (Lafayette, LA: Huntington House Publishers, 1999), 149–63.

13. American Psychological Association, “Answers to Your Questions About Homosexuality and Sexual Orientation.” This conclusion is also supported by the extensive clinical experience of Dr. Nicholas Cummings, past president of the American Psychological Association. See Appendix 1 below, p. 29.

#### Myth #4: Same-sex attraction (sexual orientation) does not change

Many people have the impression that if someone feels significant same sex attraction, that means that that person is a homosexual and will be for life. Thus, such people should accept that and adjust their expectations in life and their sexual behavior accordingly.

Fact #4: Studies have found that feelings of same-sex attraction vary over time. Kinsey found that 4% of white males are exclusively homosexual throughout their lives after adolescence (6 on his scale), but that 8% were exclusively homosexual for at least three years between the ages of 16 and 55, and Kinsey constructed a table showing the varying distributions of people on his scale at different ages based on the detailed histories that he took.<sup>14</sup> The best study to date of sexuality in the United States (conducted in the early 1990's) also found that same-sex "attractions, identifications, and behaviors vary over time and circumstances with respect to one another—that is, are dynamically changing features of an individual's sexual expression."<sup>15</sup> Specifically, 42% of men who had reported some sexual behavior with other men at some point in their lives expressed no current same-sex desire.<sup>16</sup> This effect is especially pronounced in the significant percentage of men who have same-sex experience before age eighteen, but not thereafter.<sup>17</sup> It is thus particularly important that teens be clearly informed that a significant percentage of adolescents who feel same-sex attraction do not continue to feel it in adulthood.

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14. Alfred C. Kinsey, W. B. Pomeroy, and Clyde E. Martin, *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948), 651 Even though Kinsey's population sampling methods have been widely discredited, and his including a much higher percentage of subjects who spent many years in institutional setting significantly inflated the proportions of people with same-sex attractions and behaviors in his results, his qualitative findings are based on the most extensive and detailed interviews ever conducted regarding human sexuality and should be taken very seriously, except where there is high likelihood of researcher bias affecting the reporting of the results.

15. Edward O. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States* (Chicago and London: The University of Chicago Press, 1994), 291.

16. See below, p. 45

17. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 296 These results have been confirmed in subsequent studies, including a cohort study conducted in New Zealand (Nigel Dickson, Charlotte Paul, and Peter Herbison, "Same-Sex Attraction in a Birth Cohort: Prevalence and Persistence in Early Adulthood," *Social Science and Medicine* 56 [2003]: 1607–15) in which 48% of those who reported that they ever felt same-sex attraction reported that they do not currently feel it at age 26 (calculated from Table 1, p. 1609).

## Myth #5: Same-sex attraction (sexual orientation) cannot be changed through therapy

This position has been forwarded by mental health organizations such as the APA<sup>18</sup> and has come to be accepted as dogma.

Fact #5: While it is true that many people who have attempted to change their sexual orientation through therapy have failed to do so, and many of them have been harmed in the process, there are people who report that their sexual orientation has changed following therapy. The credibility of many of these reports was confirmed in a study by Dr. Robert Spitzer,<sup>19</sup> the psychiatrist who edited the DSM-III and was instrumental in removing homosexuality as a diagnosis. Dr. Spitzer started the study skeptical of the possibility of changing sexual orientation, but after conducting interviews with the 200 subjects of the study, he became convinced their claims to "have made major changes from a predominantly homosexual orientation to a predominantly heterosexual orientation" were credible, in his opinion. The major changes were "not limited to sexual behavior and sexual orientation self-identity," but also

encompassed sexual attraction, arousal, fantasy, yearning, and being bothered by homosexual feelings. The changes encompassed the core aspects of sexual orientation. Even participants who only made a limited change nevertheless regarded the therapy as extremely beneficial. Participants reported benefit from nonsexual changes, such as decreased depression, a greater sense of masculinity in males, and femininity in females, and developing intimate nonsexual relations with members of the same sex.<sup>20</sup>

Spitzer continues:

The findings of this study have implications for clinical practice. First, it questions the current conventional view that desire for therapy to change sexual orientation is always succumbing to societal pressure and irrational internalized homophobia. For some individuals, changing sexual orientation can be a rational, self-directed goal. Second, it suggests that the mental health professionals should stop moving in the direction of banning therapy that has as a goal a change in sexual orientation. Many patients, provided with informed consent about the possibility that they will be disappointed if the therapy does not succeed, can make a rational choice to work toward developing their heterosexual potential and minimizing their unwanted homosexual attractions. In fact, the ability to make such a choice should be considered fundamental to client autonomy and self-determination.

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18. American Psychological Association, "Answers to Your Questions About Homosexuality and Sexual Orientation."

19. Robert L. Spitzer, M.D., "Can Some Gay Men and Lesbians Change Their Sexual Orientation? 200 Participants Reporting a Change from Homosexual to Heterosexual Orientation," *Archives of Sexual Behavior* 32, no. 5 (October 2003): 403–17.

20. Spitzer, "Change," 413.

These findings of considerable benefits and no obvious harms in the study sample suggest that the current recommendation by the American Psychiatric Association (2000) that “ethical practitioners refrain from attempts to change individuals sexual orientation” is based on a double standard: It implies that it is unethical for a clinician to provide reparative therapy because there is inadequate scientific evidence of effectiveness, whereas it assumes that it is ethical to provide gay affirmative therapy for which there is also no rigorous scientific evidence of effectiveness and for which, like reparative therapy, there are reports and testimonials of harm.<sup>21</sup>

When people are distressed by their same-sex attractions and seek professional help in dealing with them, it is extremely important to carefully follow ethical guidelines to minimize the potential harm that could come from any treatment, whether its goal is to help the person accept his or her same-sex orientation or to attempt to reduce or eliminate the SSA and help develop or increase opposite-sex attraction.<sup>22</sup>

Myth #6: The Torah prohibited same-sex relations because they were perceived as being unhealthy perversions.

Fact #6: There is no indication in the Torah (nor in any classical Rabbinic texts) that the desire of a man to have sexual intercourse with another man is considered pathological. The prohibition against two males engaging in sexual intercourse is matter-of-factly included with the prohibitions against sexual intercourse with specific relatives, with a menstruant woman, with the wife of another man, and with an animal. The desire of at least some people to engage in such acts is assumed. The acts themselves are forbidden. All of these acts together are described as *הועברות* - abhorrent acts which defile the land of Israel and lead to exile (Leviticus 18: 26-30). Maintaining these sexual boundaries, despite any desire to violate them, is necessary on the path to holiness (Leviticus 20:7-8, 22-26, and, according to Rashi, Leviticus 19:2). There is no intimation in the Torah that the desire to engage in these acts is anything other than an expression of the human inclination to transgress boundaries in seeking immediate gratification of our physical desires - the *יצר הרע* (cf. Genesis 8:21, 6:5).

The idea that desire for same-sex intercourse indicated any kind of pathology developed in the late nineteenth and early twentieth centuries, when there was a great tendency to

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21. Spitzer, “Change,” 414–15. See also Appendix 1, below p. 29, regarding the extensive clinical experience of Dr. Nicholas Cummings, who sponsored the internal resolution of the American Psychological Association in 1974 that homosexuality is not a psychiatric condition.

22. See Michael S. Buxton, “Ethical Treatment for People Who Present with Unwanted Homoerotic Attractions,” *NARTH Bulletin* 14, no. 1 (Spring 2006): 1–2, 13–18, <http://www.narth.com/docs/buxton.html> for an excellent summary of the ethical issues and potential pitfalls involved in counseling such people. I am attaching the digital version of this article in Appendix 2, p. 33. Another important set of guidelines has been written by Warren Throckmorton and Mark Yarhouse, “Sexual Identity Therapy: Practice Guidelines for Managing Sexual Identity Conflicts,” [www.sexualidentityinstitute.org/documents/sexualidentitytherapyframework0506.pdf](http://www.sexualidentityinstitute.org/documents/sexualidentitytherapyframework0506.pdf), May 2006. See also Elan Yeshayahu Karten, “Sexual Reorientation Efforts in Dissatisfied Same-Sex Attracted Men: What Does It *Really* Take to Change?” (Ph.D. diss., New York: Fordham University, 2005), 16–23, for an overview of the literature on this subject. Karten’s dissertation investigated the factors associated with successful outcomes in therapy to change sexual orientation.

medicalize sexual behaviors which had previously been considered sinful.<sup>23</sup> The writings of some halakhic authorities in this time period on the subject of homosexuality reflected the pervasive influence of these ideas in Western societies through the 1950's and into the 1960's. The great majority of mental health professionals have rejected the idea that same-sex attraction is by definition a sign of psychopathology. Some mental health professionals continue to argue that it is by definition pathological. Even though many who make that argument may be at least partially motivated by religious values (as many who argue for its not being pathological are motivated at least in part by their value systems and political agendas), the halakhic prohibitions against same sex behaviors are in no way dependent on this issue.

This issue falls on the cusp between Science and Religion, which have been dancing a tortured dance for much of the modern period, often stepping on each other's feet. I have been living on that cusp for the past thirty years since, as a religious young man, I entered Caltech to become a scientist. In those years I have become very familiar with this dance. Religious authorities overstep the proper bounds of their discipline when they insist that certain realities of the physical universe must conform to views derived from their understandings of their authoritative religious texts and traditions, even when those views contradict clear scientific findings. The proper role of religion is to provide its adherents with a system of meaning and values through which to understand their purpose in the world and to provide guidelines for how to live up to the ideals that purpose implies. In Judaism, that includes the behavioral guidelines of Halakhah. In order for religion to succeed in its role in the modern world, it must fully take into account new discoveries in all fields of science. It must also take into account the tentative nature of many widely held scientific theories. The history of science, even in the past century, is replete with ideas that went from being considered ridiculous or controversial to reasonable hypotheses to widely accepted theories to universally accepted scientific knowledge to questioned theory to rejected theory over the course of a few decades. One example of an idea that followed this trajectory is the idea that same-sex attraction is by definition pathological.

The proper role of science is to describe the workings of the physical universe, to formulate concepts and theories for understanding it, and to use those theories and concepts to predict the future consequences of particular actions. Scientists (including medical and mental health professionals) overstep the proper bounds of their discipline when they go beyond those bounds to express value judgments urging particular courses of action. Their value judgments are not based on science; they are based on their own value systems (which might be religious, non-religious, or anti-religious, or totally idiosyncratic, depending on the particular scientist. I have been privileged to study with Nobel prize-winning scientists whose value judgments would make all of us quake with fear.) Science can tell us its latest, best sense of how physical processes in our world work, theories of why they work that way, and predictions for the results of actions we might propose. It is our role as religious authorities to assess that information accurately, and evaluate which courses of action to recommend based on our own value system—Torah and the Rabbinic tradition.

When large numbers of mental health professionals on both sides of this issue are motivated to draw their conclusions by their value systems more than by a dispassionate analysis of the available scientific evidence, the potential for harm is great.<sup>24</sup> I think most mental health

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23. For a comprehensive analysis of this process, see Jonathan Ned Katz, *The Invention of Heterosexuality* (New York: Dutton, 1995).

24. For a detailed analysis of the extent to which this danger is manifest in the mental health professions today (particularly in the American Psychological Association [APA]), see Rogers H. Wright and Nicholas A. Cummings, *Destructive Trends in Mental Health: The Well-Intentioned Path to Harm* (New

professionals can agree that the available evidence suggests that for at least some people who experience same-sex attraction, it is not connected with or the result of any psychopathology, and that for at least for some people who experience same-sex attraction, it is connected with or the result of some psychopathology. The main disagreement is about how many or few people should be presumed to be in which group. This question should be open to scientific study and reasoned consideration based on evidence.

Because there is no one uniform phenomenon of homosexuality, but rather wide variations in the etiology and manifestation of same-sex attraction and behavior among those who experience it, we must refrain from dealing with individuals who feel SSA based on sweeping generalizations grounded in myths and value judgments masquerading as established truths. We must deal with individuals with understanding, compassion and dignity as unique human beings created in God's image.<sup>25</sup> We now turn to describing the halakhic guidelines within which rabbis and institutions in Conservative Judaism should do that for those individuals who have same-sex attractions and may act on them.

### **Rejection, Acceptance or Validation**

In beginning to answer the question of how the rabbis and institutions of our movement should treat gay and lesbian Jews, there are three stances which are theoretically possible: rejection, acceptance or validation. The stance of rejection of those who violate major provisions of Halakhah is one which has deep roots in our history and in our halakhic sources. Socially ostracizing (or severely punishing) habitual violators of major laws served the important purpose of ensuring that the great majority of Jews would abide by the law.<sup>26</sup> That approach has been abandoned by most Jewish groups after the emancipation for the simple reason that it no longer works. In our open society, the stance of rejection is clearly counterproductive for a group such

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York and Hove: Routledge, 2005). Wright and Cummings served long, distinguished careers in psychology and as leaders in the APA. Cummings served as president of the APA, and Wright as president of two of its divisions. They share the liberal political views and values of the great majority of their colleagues, but they decry the extent to which the promotion of these views and values, often without sufficient scientific data to support their advocacy on particular issues, has squelched open scientific inquiry and debate through censorship, denial of tenure and status, shunning, and ridicule of opposing points of view and those who hold them. Wright and Cummings "lived through the McCarthy era and the Hollywood witchhunts and, as abominable as these were, there was not the insidious sense of intellectual intimidation that currently exists under political correctness." (p. xv) Cummings himself introduced the resolution that "homosexuality is not a psychiatric condition" to the Council of Representatives of the APA in 1974, and a followup resolution stating "there is no occupation for which being homosexual should be a barrier to employment" in 1975. These resolutions also called for "appropriate and needed research" to be conducted to substantiate these decisions. However, the required research, to Cummings dismay, has never been conducted. Although Cummings personally agrees with the resolutions, he concludes that the process by which both the American Psychological Association and the American Psychiatric Association adopted these stances "established forever that medical and psychological diagnoses are subject to political fiat." (p. 9). See also Appendix 1, below, p. 29.

25. One major objection (among many) that I have to the approach proposed by Rabbis Dorff, Nevins and Reisner is that it relies on a sweeping generalization about a specific application of *כבוד הבריות* to all homosexuals. That generalization is totally unjustified and likely to harm many individuals.

26. See Rambam, *Hilkhos Sanhedrin* 24: 7-9.

as the Conservative movement, which seeks to encourage, educate and persuade Jews who by and large do not live up to our ideals of halakhic observance to increase their observance of Halakhah. Our movement has never rejected Jews who habitually and publicly violate Shabbat, despite the absolute centrality of Shabbat observance in the Torah and in Rabbinic Law.<sup>27</sup> In our time<sup>28</sup>, we reject rejection and recognize that partial observance is better than none, while educating and encouraging ever increasing observance.

Gay and lesbian Jews should be as welcome and respected in our congregations as our members who publicly and habitually violate Shabbat and/or kashrut (i.e., the great majority of our congregants). They should be eligible for any honor or leadership position in our congregations and institutions for which observance of Shabbat and kashrut is not generally expected. However, we also take similar care in the policies of our congregations and institutions and in our rabbinic roles to refrain from validating actions which violate halakhah. While we value the deep friendship and acts of חסד through which partners in a same sex relationship fulfill the mitzvah of לרעהו כמור, ואהבת לרעהו כמור, we must refrain from publicly validating forbidden sexual relations. Since the purpose of a wedding, or a commitment ceremony modeled on a wedding, is to validate, celebrate and sanctify the sexual relationship of the two partners, rabbis must refrain from participating in such ceremonies for same sex couples and refrain from any public acknowledgment of the ceremony which might imply validation. We should be guided in drawing the line between acceptance and validation by our experience in drawing the lines regarding Shabbat, kashrut and intermarriage, where we similarly insist that rabbis and congregations not sponsor, endorse nor participate in activities, programs or ceremonies which violate these prohibitions even as we welcome and respect the members of our community who choose to violate them.

Stable, monogamous gay and lesbian couples who raise Jewish children are making a positive contribution to our communities, as are intermarried couples who raise their children as Jews. The Jewish children of these couples should be treated as we treat all other Jewish children in our communities, including celebration of the child's life-cycle events. To the same extent that the child recognizes both partners in the couple as parents, so should we.<sup>29</sup>

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27. See Rambam, Hilkhhot Shabbat 30: 15

28. השעה צריכה לכך - see Rambam, Hilkhhot Sanhedrin 24:10.

29. Even though Halakhah does not recognize the non-biological parent as a parent, as Halakhah does not recognize the non-Jewish parent of a Jewish child as the parent, we must respect the emotional bond of parent and child which has been created. While some might be concerned that publicly acknowledging the parent-child relationship of both partners in a same-sex couple is publicly validating same-sex relations, we hold that respecting that emotional bond must take precedence. One important area where a distinction may be made, however, is in the name used to call the child to the Torah. To the extent that the practice in a congregation is to call people to the Torah as the son or daughter of one parent only (usually the father) or to call the child of a Jewish mother and non-Jewish father only as the son or daughter of the Jewish mother, then the child may be called to the Torah only as the son or daughter of the biological parent. (Issues of the name to be used in the various permutations of cases involving legal adoption are beyond the scope of issues that can be handled in this brief overview.)

## Public Education, Counseling and Support

Conservative congregations and institutions in past decades adopted a stance of rejection toward those openly engaging in same sex relationships which mirrored the attitudes and accepted practices of Western societies at the time. That stance was disproportionate to and inconsistent with our stance regarding people who violated other provisions of similar importance in Jewish Law. Those of us who insist that the prohibition against same-sex sexual relations must be maintained have a special responsibility to distance ourselves from the rejectionist stance of the past and its harmful effects.<sup>30</sup> Doing so requires a concerted effort on the part of the institutions and rabbis of our movement to educate our members regarding the status of various same-sex acts in Halakhah, how these prohibitions should be seen in proportion with other central prohibitions such as *הילול שבת*, and how we should all avoid being judgmental of people who violate laws regarding same-sex relationships by imagining ourselves in their shoes.<sup>31</sup>

We also have an obligation to ensure that young people who are growing up in our communities who feel same sex attractions know that they have a safe place to turn for accurate information and responsible counsel regarding their issues and concerns. We must create a space in which they will not feel that they must deny their feelings in order to be accepted by their peers, their educators and youth leaders and rabbis in our communities. We need to provide educational programs in our communities specifically geared to our youth, particularly through USY and Camp Ramah.

We also need to make expert counseling available to our youth and to others in our communities who feel same-sex attraction. The Rabbinical Assembly, in consultation with mental health professionals, should set up a program to train rabbis who are already certified as psychologists, psychiatrists, social workers or counselors to understand the various ways in which same-sex attraction manifests, the choices which someone who feels these attractions can make, and the halakhic implications and health implications of those choices.

The sub-sections below briefly outline the above described components of the program for education and support which I propose.

### A Proportionate Profile of the Prohibitions

As we realize and as we stress in our communities that Shabbat and kashrut, and observance in general, are not all or nothing propositions, and that some observance is better than no observance, and more observance is better than less, and as we judiciously encourage people to incorporate partial observance of these mitzvot, we must take the same position with regard to both same-sex sexual activities and opposite-sex sexual activities which fall short of our tradition's ideal for achieving holiness. While Conservative rabbis have seriously discussed and finally issued an official statement regarding non-marital opposite-sex sexual activity which both posits the ideal that marriage is the only appropriate context for sexual intercourse through

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30. We owe an apology to the previous generation(s) of people who were raised in our movement, who discovered their same sex desires, and were labeled, teased, discriminated against, ostracized, and otherwise given the message that, as a result of these feelings, they should hate themselves.

31. *Mishnah Avot 2:4* - ואל תדין את חברך עד שתגיע למקומו.

which holiness can be attained yet gives specific guidelines for those who do engage in non-marital sex to maximize the extent to which their sexual behavior is in accord with Jewish values<sup>32</sup>, such a discussion has not been initiated in our movement regarding same-sex sexual behavior until very recently. Whereas the discussion regarding non-marital opposite sex activities continued for some twenty-five years from the beginning of the sexual revolution until a consensus was found, the model which Elliot Dorff has crafted for dealing with non-marital opposite sex activities can serve as the model for similar guidelines for same-sex sexual activities.

Most people in our society, when asked what the Torah (or the Bible) says about homosexuality, would say that the Torah forbids it. That is a gross oversimplification which has had profound negative consequences in our society both in terms of its effect on how some people have maltreated those whom they perceived to be homosexuals and in terms of its effect on lowering the level of esteem or respect some people have regarding our Torah. The Torah, however, states nothing about the modern category of "homosexuality", with all of the problems noted above in defining what is meant by that term. The Torah forbids a very specific act. Leviticus 18:22, addressing males, states: "וְאִתּוֹ זָכָר לֹא תִשְׁכַּב מִשְׁכַּב אִשָּׁה תוֹעֵבָה הוּא" —"and you shall not lay [with] a male [in the manner of] the layings of a woman, it is a *to'evah*." The Talmud defines "the layings of a woman" to mean that an act of anal penetration with the penis must occur in order to violate this law.<sup>33</sup> Both the passive (assuming his participation in the act is not forced) and the active partner to this act are considered equally liable (Leviticus 20:13). These definitions are agreed upon by all post-Talmudic halakhic authorities. It is this act, and only this act among all other possible same-sex erotic behaviors, which is considered a capital offense by Torah law, which is considered one of the *עֲרִיּוֹת*<sup>34</sup>, and which is labeled (along with all of the other sexual offenses listed in Leviticus 18) a *תוֹעֵבָה*.<sup>35</sup>

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32. Elliot N. Dorff, "This is My Beloved, This is My Friend." *A Rabbinic Letter on Intimate Relations*, The Commission on Human Sexuality and the Rabbinical Assembly (New York: The Rabbinical Assembly, 1996), 30–36. Dorff subsequently published an even better statement on the subject in Elliot N. Dorff, *Matters of Life and Death: A Jewish Approach to Modern Medical Ethics* (Philadelphia: The Jewish Publication Society of America, 1998), 136–38. See also pp. 119-20 there.

33. Sanhedrin 54a, 55a; Yebamot 55b

34. *עֲרִיּוֹת* literally means "nakednesses"; the Rabbis use this term, the plural of the word *עָרָה*—"nakedness" to designate the category of high sexual offenses listed in Leviticus 18, almost all of which are presented with the formula *עֲרוֹת פְּלוֹנִי לֹא תִגְלֶה*—"you shall not uncover the nakedness of so-and-so." These offenses include incest in varying degrees, adultery, male-male anal intercourse, and intercourse between humans and animals (bestiality).

35. Leviticus 18:26-30 repeatedly categorizes all of the sexual offenses listed in 18:6-23 as *תוֹעֵבוֹת* and admonishes the people not to defile their land with these practices. Regarding the structure and meaning of Leviticus 18 in its Biblical and Ancient Near Eastern context, see Baruch J. Schwartz, *Torah HaQedushah: Iyyunim BeChugah HaKohanit ShebaTorah [The Holiness Legislation: Studies in the Priestly Code]* (Jerusalem: The Magnes Press, The Hebrew University, 1999), 131–237. Schwartz's work is the most recent and the most extensive in-depth analysis of the Holiness Code on all levels, including detailed linguistic and syntactical analysis. Regarding the relationship between the use of the word *תוֹעֵבָה* in 18:22 and the uses of *תוֹעֵבוֹת* in 18:24-30, see Schwartz, 132-33, 219-220. Schwartz considers the terms 18:22) *תוֹעֵבָה* (זִמָּה (18:17), and 18:23) *תִּבְל* to be synonymous general terms of disapproval for sexual offenses, not limited to the specific acts described in the respective verses (p. 220): "הַמְּלִים 'זִמָּה', 'תִּבְל' וְ'תוֹעֵבָה' הֵן מְלִוֹת גְּנָאִי כְּלִלִיּוֹת לְעִבְרוֹת מִיְּנִיּוֹת וְאֵינָן מוֹגְבְּלוֹת בְּהוֹרָאתָן הַמִּילולִית לְמַעֲשִׂים מְסוּיָמִים. וְכַמוֹ..."

Halakhah differentiates between the עריות prohibitions and prohibited sexual behaviors which fall short of violating the עריות prohibitions. These behaviors all fall in the category of פריצותא. Behaviors labeled as פריצותא range from those which fall just short of violating one of the עריות prohibitions (e.g. a man who engages in ביהמה דרך איברים with a woman who is married to someone else<sup>36</sup>) to situations which the Rabbis were concerned might lead to sexual impropriety, such as men singing and women responding<sup>37</sup>, or a mixed group of slaves and women reciting the זימון<sup>38</sup>. This category thus includes all of the prohibitions derived from the verse לא תקרבו לגלות (Leviticus 18:6) in Sifra (אחרי מות יג:ב וכו'), as well as the prohibition against two females rubbing their genitals against each other (נשים מסוללות)<sup>39</sup>. While the status of some of the prohibitions which fall in this category (those derived from לא תקרבו) is a matter of dispute between Rambam and Ramban<sup>40</sup>, and more recently between Avram Reisner and Joel Roth, it is clear that their status is less severe than the עריות prohibitions. I cede to Rabbi Reisner's detailed analysis of these prohibitions and their status and to Rabbi Roth's השגות on that analysis. I do think it is extremely important to stress that one cannot treat everything in the category of פריצותא as being equally objectionable. Clearly, an act involving genital contact a few centimeters away from violating an עריות prohibition is more objectionable than being in a situation fully clothed which could conceivably entice one to engage in sexual activity, such as leering at a woman's heel.<sup>41</sup>

It is important for all Conservative Jews to understand that many gay couples and all lesbian couples do not engage in any acts which violate the עריות prohibitions. The acts which these couples might engage in, while forbidden, are seen as less severe prohibitions than the prohibition against a man and a woman engaging in sexual intercourse during the woman's period of נדה (Leviticus 18:19), which is one of the עריות prohibitions<sup>42</sup> and which the CJLS recently affirmed unanimously<sup>43</sup> as binding upon Conservative Jews. These פריצותא prohibitions are certainly less severe than the prohibition against performing forbidden work on Shabbat. הרי

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שאפשר לומר על חטאים רבים שהם מטמאים, כך אפשר לומר על חטאים רבים שהם 'זמה', 'תבל', 'תועבה'. לא נראה שיש סיבה ש'תבל' נאמר על משכב בהמה, 'תועבה' נבחרה לתאר משכב זכר, ו'זמה' משמשת לאפיין גילוי ערוות אשה ובתה או אשה ונכדתה. כל אחד משלושת התיאורים כללי במהותו, וכל אחד מהם יכול היה לאפיין כל אחת מהעברות.

36. Yebamot 55b, Sotah 26b

37. Sotah 48a

38. Berakhot 45b

39. Yebamot 76a

40. Sefer HaMitzvot, negative 353 and Ramban's commentary there

41. Nedarim 20a

42. albeit with a less severe penalty in Torah law than that prescribed for male-male intercourse or adultery.

43. I cast the only vote against one of the three papers affirming this prohibition which were passed at the September 2006 meeting of the CJLS. As I intend to explain in a concurring opinion, I certainly agree that the laws of נדה are binding on all Jews. The period of the נדה prohibition extends from the beginning of the woman's menstrual period for at least seven days by Torah law (extended to eleven or twelve days in Rabbinic practice for the past 1500-1800 years) until the woman immerses in a mikveh or natural body of water.

“One should always judge other people for in the most meritorious way possible.”<sup>44</sup> - דן את כל האדם לכף זכות

### What Every Teen Should Know

Educational programs geared to teens through USY, Ramah and our congregations should give the following messages, within a broader educational context dealing with issues of sexuality in general:

1. All people are entitled to be treated with human dignity and respected as unique individuals in all programs, institutions and congregations in the Conservative movement.

2. It is not uncommon for people to feel ashamed of same-sex attractions when they first arise and to deny that they feel them. These reactions are not helpful. People generally do not have conscious control over these feelings; they cannot be willed away. There is no logical reason for a person to feel culpable for having these feelings. It is important to honestly acknowledge one's feelings.

3. To the extent that these feelings raise issues and concerns, people should seek out knowledgeable, responsible, accepting people (hopefully this includes parents, but unfortunately it often does not) with whom to discuss these feelings, issues and concerns. (Our movement should provide easy ways to contact people trained to deal with young people who have these feelings, issues and concerns via telephone, e-mail and web-sites.)

4. Evidence from the best surveys of sexuality indicates that 40 to 50% of people who feel same-sex attraction in their teen years do not have those feelings thereafter. Therefore, a teen-ager should not conclude that his/her feelings of attraction to the same sex mean that s/he is necessarily homosexual.<sup>45</sup>

5. The best of the sociological studies of sexual behavior conducted to date indicate that at least two-thirds of men who express some level of desire for sex with other men also express some level of desire for sex with women, and 95% of women who express some level of desire for sex with other women also express some level of desire for sex with men.<sup>46</sup> Relative levels of desire for each sex can vary significantly over time.<sup>47</sup>

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44. Mishnah Avot 1:6. See also Shabbat 127a-b.

45. Dr. Peter Fagan of the Sexual Behaviors Consultation Unit at the Johns Hopkins University School of Medicine, the second of the experts to address us at our CJLS retreat in March 2004, was very clear in stating that teens should be discouraged from using nouns (such as this) to describe their feelings.

46. For 60% of these men who express some sexual desire for men, their desire for women is equal to or greater than their desire for men. 80% of the women who express some sexual desire for women express desire for men greater than or equal to their desire for women. These figures are based on Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 297, 311 (Table 8.3B). See Appendix 3 below (p. 40) for a fuller analysis of the data from this survey.

47. See above, p. 7

6. The Rabbinical Assembly's Commission on Human Sexuality has taken the clear position that "...teenagers need to refrain from sexual intercourse, for they cannot honestly deal with its implications or results—including the commitments and responsibilities that sexual relations normally imply, the possibility of children, and the risk of AIDS and other sexually transmitted diseases. Abstinence is surely not easy when the physical and social pressures are strong, but it is the only responsible thing to do."<sup>48</sup>

7. If one engages in sexual relationships which are not in keeping with the ideals of holiness of Judaism, which mandates that the proper context for sexual relations is in the marriage of a man and a woman, those sexual relationships, whether with the opposite sex or the same sex, should be imbued with the concepts and values Judaism would have us use in all of our relationships, including our intimate ones, which Dorff outlines.<sup>49</sup>

8. There are many possible causes for same-sex attraction. The causes (and the complex interactions of multiple causes) may be different for different people.<sup>50</sup> Beware of uncritically accepting doctrinaire statements regarding the cause of homosexuality (or the specific cause of your same sex attractions) which may serve someone else's particular agenda better than it serves your own needs. If you feel significant same-sex attraction, you may explore the many possible causes of same-sex attraction by reading widely (or consulting numerous people with different perspectives). Consider what resonates deep inside you and with your particular experience.

9. If one feels an uncontrollable urge to have sex (whether with the same sex or opposite sex), particularly with people one does not know well (if at all), and particularly if the urge is frequent, one should consult an appropriate mental health professional to determine whether one is feeling a sexual compulsion which can lead to very damaging addictive behavior.<sup>51</sup> (Our counselors should be trained to recognize the signs of this phenomenon and be able to refer to other professionals if necessary.)

### Counseling and Support

For people, particularly young people, who want to discuss the issues and concerns raised by their same-sex attractions and behaviors with someone in the context of their religious community, we need to make trained counselors accessible.

Counseling is not *psaq halakhah*. People will contact a counselor with their agenda—their own questions and needs; the counselor will deal with their needs as the people present

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48. Elliot N. Dorff, "*This is My Beloved, This is My Friend: A Rabbinic Letter on Intimate Relations*," The Commission on Human Sexuality and the Rabbinical Assembly (New York: The Rabbinical Assembly, 1996), 36

49. Elliot N. Dorff, *Beloved*, 31–34, items #1-6, #8 (See below, Appendix 4, p.49.)

50. See above, p. 6

51. One expert in the treatment of gay men for sex addiction (Robert Weiss, *Cruise Control: Understanding Sex Addiction in Gay Men* [Los Angeles: Alyson Books, 2005], 21) estimates that 10% of gay men (more in some communities) have become sex addicts, a far higher proportion of sex addiction than among heterosexual men.

them. Deciding practical halakhic questions is appropriate only when someone clearly and unambiguously asks for such a decision (and the counselor is a rabbi). I expect that such cases will be rare, and such issues might need to be handled in consultation with the questioner's *mara d'atra.*)

People who contact a counselor should be able to expect the following:

1. Full confidentiality
2. a listening ear sympathetic with the individual and his/her concerns, questions and issues;
3. accurate information regarding what is known about same-sex attraction from various perspectives;
4. an ability to help the individual sort out the extent of his/her attractions to the same sex and the opposite sex;
5. sensitivity to and respect for the different levels of religious commitment of the individuals;
6. sensitivity to and respect for the various theological assumptions of the individuals;
7. an ability to help individuals identify the choices they have in dealing with their same sex desires in a psychologically and physically healthy manner;
8. an ability to help the individual think through the halakhic implications of the various choices facing the individual according to the range of halakhic opinions and theological assumptions acceptable to the individual;
9. an ability to intervene effectively in a crisis situation (e.g., the individual expresses suicidal thoughts);
10. an ability to identify issues<sup>52</sup> requiring long term or intensive therapy (beyond the time constraints or professional qualifications of the counselor) with an appropriate mental health professional and to give referrals;
11. a willingness and ability for the counselor to consult with or intervene with the individual's rabbi (or with other relevant professionals in institutions of the Conservative movement) when the individual believes that would be helpful;
12. an ability to deal appropriately with the individual's issues in a non-judgmental manner without imposing any agenda on the part of the counselor.

In addition to individual counseling, some individuals will find support groups with other individuals who are facing similar issues to be very helpful. Our program of counseling and

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52. Such issues may include depression, tendencies toward compulsive or addictive behaviors, a history of childhood or adolescent sexual abuse, significant distress/unhappiness with one's same-sex attractions and/or desires.

support should facilitate the creation and maintenance of such support groups (whether online or in particular places at particular times).

### Halakhic Guidelines for Counseling

When an individual with same-sex attraction expresses the desire to live according to Halakhah (as traditionally understood) to the best of his ability, what halakhic advice should we give?

The answer depends on the extent to which the questioner also experiences opposite-sex attraction. If the individual has sufficient attraction and desire for the opposite sex to sustain a satisfying sexual relationship, then we should advise that person to seek marriage with a member of the opposite sex. For this person, the challenge of choosing between potential partners whom the law forbids and whom the law permits is not qualitatively different from the challenge faced by heterosexuals in choosing between potential partners. However, if the individual, after consultation with a counselor, feels that s/he might not be able to refrain from sexual relations with members of the same sex for the duration of an opposite sex marriage due to the strength or nature of the same sex attraction, at the very least, any potential spouse must be informed of the same-sex attraction and the person's concerns before agreeing to enter into the marriage. The person should also evaluate (with the help of a counselor or therapist) whether these concerns might be effectively addressed through therapy.<sup>53</sup>

If the individual is a man<sup>54</sup> who is exclusively or near-exclusively attracted to the same-sex such that he feels insufficient attraction to the opposite sex to maintain a satisfying sexual relationship, what halakhic advice should we give? It is certainly not right to advise that such men enter marriages with unsuspecting women whom they will have trouble satisfying sexually, and these men are not likely to feel much satisfaction of their own in the process. Such a marriage entails much pain and suffering for all parties (not to mention health risk), and it certainly doesn't come close to fulfilling the ideal described above. This being the case, such men are in the unenviable position of having no way of engaging in sexual activity which is halakhically permissible or which leads to holiness. This person should be informed that there is another avenue to sanctification. Rashi on Leviticus 19:2 reads:

קדשים תהיו - הוּו פרושים מן העריות ומן העבירה, שכל מקום שאתה מוצא גדר ערוה אתה מוצא קדושה, אשה זונה וחללה וגו' אני ה' מקדשכם, (ויקרא כא: ז - ח) ולא יחלל זרעו אני ה' מקדשו (ויקרא כא: טו) קדושים יהיו אשה זונה וחללה וגו' (ויקרא כא: ו - ז)

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53. The same could be said of a man or woman who is unsure whether he or she can refrain from sex with opposite sex partners other than the one he or she intends to marry.

54. I focus here exclusively on the case of a male for two reasons:

1. The prohibition against male-male anal intercourse is much more severe than the prohibition against female-female genital contact. Knowing this, one can extrapolate an approach to a female in a similar situation.

2. It is much more rare for females to have exclusive same-sex attraction than it is for males.

"You shall be holy—be separated from the ‘*arayot* and from sin, for everyplace where you find a fence (preventing) an ‘*ervah* violation, you find holiness....<sup>55</sup>

The very abstention from sexual activity is a path to קדושה. It is a very difficult path; it is not the path that would be recommended when there is a choice, but when it is the only path open, it is the path that one who desires to strive to live up to the Torah’s mandate of קדושים תהיו should consider trying to follow.<sup>56</sup>

Abstention from sex is not inherently unhealthy. While sex can be a very strong desire, and most males experience an insistent urge for sexual activity of some sort, and going without it for significant periods is experienced as a deprivation<sup>57</sup>, and living without it is “not good”<sup>58</sup>, sex is not absolutely necessary to live a productive psychologically well-adjusted life.<sup>59</sup>

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55. Rashi’s sources for this comment are Leviticus Rabbah 24:6 and Yerushalmi Yebamot 2:4, 3d. It is clear from those sources that refraining from behavior which falls far short of a violation of one of the עריות prohibitions is a sign of holiness. For instance the Shunamite woman recognizes that the prophet Elisha is a holy man (II Kings 4:9) because he doesn’t touch her, as opposed to Elisha’s servant Gehazi (II Kings 4:27), or because he doesn’t look at her, or alternately because she never finds semen stains on Elisha’s sheets.

56. According to Rabbinic tradition, Moses needed to refrain from sexual activity during his forty years in the desert so that he would always be ritually pure when God summoned him. See Numbers 12:1-8 with Rashi’s commentary and Louis Ginzberg, *Moses in the Wilderness*, vol. 3 of *The Legends of the Jews*, trans. Paul Radin, reprint, 1911 (Philadelphia: The Jewish Publication Society of America, 1968), 255–58 and sources in Ginzberg’s notes (vol. 6, n. 489-493). While total abstention from sexual activity is not generally expected of Jews (as Miriam’s and Aaron’s reactions to hearing of Moses’s abstention indicate), God’s instructing Moses to abstain indicates that it is certainly not unJewish to do so when sanctifiable sexual activity is not possible.

57. or self-affliction. It is considered one of the five ענויים we are commanded to refrain from on Yom Kippur.

58. Genesis 2:18

59. Dr. Peter Fagan, director of the Sexual Behaviors Consultation Unit at Johns Hopkins University School of Medicine, compares sex with physical exercise. In moderation, it is good for the body, but too much “can be detrimental to psychological health and social adjustment.” (Peter J. Fagan, *Sexual Disorders: Perspectives on Diagnosis and Treatment* [Baltimore and London: Johns Hopkins University Press, 2004], 30) Dr. Fagan then writes:

Can too little sexual activity hurt the body? There is no evidence that too little or no sexual activity does physical harm to the body. We know that during rapid eye movement (REM) sleep, individuals have a sexual response in terms of vaginal lubrication and erection. It is hypothesized that one of the functions of the lubrication and erection during sleep is oxygenation of the tissues involved. Nighttime sexual arousal may act as a preservative of the tissues necessary for sexual health. In the same self-regulatory manner, nocturnal emissions and ejaculations in men maintain a comfortable level of seminal fluid.

It is common wisdom that most physical activities have a "use it or lose it" factor. Muscles should be stretched; psychological resistance to physical inertia should be routinely surmounted. The same wisdom applies to sexual activity....(Fagan, *Sexual Disorders*, 31.)

Abstention from sexual activity does not mean that one cannot develop close, intimate, non-sexual loving friendships. Indeed, it is meritorious for all Jews to develop such close friendships in fulfillment of the commandment *ואהבת לרעך כמוך* (Leviticus 19:18). Rabbi Steven Greenberg writes of the advice he received from

...Rav Yosef Shalom Eliashuv, who lives in one of the most secluded ultra-Orthodox communities in Jerusalem....Speaking in Hebrew, I told him what, at the time, I felt was the truth. “Master, I am attracted to both men and women. What shall I do?” He responded, “My dear one, my friend, you have twice the power of love. Use it carefully.” ....<sup>60</sup>

While sexual attraction to a person with whom one is forbidden from engaging in sexual relations presents a challenge, it can also spur one to fulfill the commandment to love one’s neighbor as oneself on a deeper level. Greenberg suggests that Jonathan’s immediate feelings of love for David (I Samuel 18:1-3) may have been fueled by same-sex attraction.<sup>61</sup> The non-sexual intimate friendship which the two developed became the epitome of the Rabbinic ideal of unconditional love.<sup>62</sup> A number of men who primarily experienced same-sex attraction but subsequently stopped acting on those attractions have reported that abstaining from gay sex enabled them to move beyond physical lust to develop deeper non-sexual same-sex friendships.<sup>63</sup>

Since abstention from all sexual activity for long periods of time, or indefinitely, is extremely difficult, it is quite possible that this individual will consider this path too difficult to follow, or that despite his best efforts, he may not live up to that steep goal. At this point the person should be encouraged to observe whatever restrictions he finds it possible to observe.<sup>64</sup>

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In other words, no physical harm is done to the human body by having no conscious sexual activity other than the gradual decay of potential future sexual function through lack of exercise, and that gradual decay is mitigated by the unconscious sexual activities Dr. Fagan described which happen during sleep. Dr. Fagan does not mention any negative psychological effects of having no sexual activity in this section, even though he mentioned the negative psychological effects of too much sex in the previous paragraph. I spoke with Dr. Fagan by phone (August 2, 2004) and confirmed with him that, although refraining from sexual activity (celibacy) is a very tall order, particularly for a male, it is not inherently psychologically unhealthy, and one can live a psychologically healthy, socially well-adjusted life without sexual activity.

60. Steven Greenberg, *Wrestling with God and Men* (Madison, Wisconsin: University of Wisconsin Press, 2004), 7.

61. Greenberg, *Wrestling*, 100–01.

62. Mishnah Avot 5:16. This mishnah contrasts the love of David and Jonathan with the passionate desire which King David’s son, Amnon, felt for his half-sister (thus sexually forbidden to him), Tamar. After Amnon raped Tamar to satisfy his physical lust, he spurned her and hated her. Amnon’s “love” is thus termed “conditional love” which disappears when the condition (physical attraction) disappears.

63. “Peer Commentaries on Spitzer (2003),” Finally, recognition of a long-neglected population, Joseph Nicolosi, *Archives of Sexual Behavior* 32, no. 5 (October 2003): 446–47. One man who previously considered himself to be gay, but is now remaining celibate, told me that the most helpful thing a heterosexual man can do for someone in his position is to be a close friend.

64. Another option to consider is whether to attempt therapy to develop opposite sex attraction. See p. 8 above.

As noted above, p. 15, sex acts defined as פריצותא are considered to be less severe violations than male-male anal sex. Of the acts within the category of פריצותא, some are less problematic than others. I will offer here a brief list of sexual expressions which one might experience, ranging from the least objectionable to the most objectionable, but falling short of the ערוה prohibitions, which should never be engaged in. The least objectionable is nocturnal emission. While it is considered a source of ritual impurity, it is involuntary and violates no prohibition. The list continues through touching with no genital arousal or stimulation, touching with genital arousal but no direct genital stimulation or ejaculation, touch with genital stimulation and arousal but no ejaculation (violates מקשה עצמו לדעת<sup>65</sup>), touch with ejaculation (probably זרע לבטלה), and ביאה דרך איברים.

If this person chooses to engage in sexual relations with a same-sex partner, they should strive to imbue that relationship with the concepts and values Judaism would have us use in all of our relationships, including our intimate ones, which Dorff outlines.<sup>66</sup>

This person may also be interested in discussing the following issues and sources:

1. Some have suggested that a person who has an exclusive same-sex orientation should be considered אונס. Others have pointed out that אונס רחמנא פטריה is a formula which only exempts the person acting under *force majeure* from punishment for those acts; it does not grant permission to engage in those acts לכתחילה. They have also pointed out that a general desire to engage in sexual activity with a same-sex person does not imply אונס for any individual sex act. Indeed, the law follows the opinion of Rava that a male can never claim that an ערוה violation was due to אונס, since erection is always considered volitional.<sup>67</sup> There is an even deeper problem with assigning exclusive same-sex desire to the category of אונס. Since desire for sexual activity, no matter with whom or with what, is simply part of a person's יצר, we would be implying that a strong desire to do something (a desire emanating from one's יצר) can relieve a person from one's responsibility for one's actions. While that may be the case when someone acts under the influence of an obsessive-compulsive disorder or some other psychopathology which diminishes one's capacity to choose how one acts, that is generally not the case. For instance, the fact that a person may have a violent temper<sup>68</sup> does not relieve that person of the obligation to resist one's impulses to inflict harm on others or their property.

2. While the Rabbinic tradition affirms the responsibility of every Jew to resist impulses—even strong, persistent ones—to act in ways contrary to Torah and Rabbinic law and the path of holiness which these laws define, the tradition recognizes how difficult that is for some people. The Rabbis realized that sometimes one's יצר does overpower one. When a person does realize that one is being overpowered by an impulse to sin, the Rabbis consider it much

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65. Niddah 13b

66. Elliot N. Dorff, *Beloved*, 31–34, items #1-6, #8 (See below, Appendix 4, p.49.)

67. Yebamot 53b: והאמר רבא: אין אונס לערוה, לפי שאין קישוי אלא לדעת

68. There is scientific evidence that biological (e.g., genetic) and early childhood environmental factors may play a similar role in shaping one's impulses toward acting violently as such factors play in shaping same-sex desire. See Adam Rogers, Pat Wingert, and Thomas Hayden, *Newsweek*, 3 May 1999, From [www.newsweek.com](http://www.newsweek.com).

preferable for the person to make sure that that sin be kept private<sup>69</sup>, and the infractions which the individual chooses to violate under the influence of such strong impulses should be as minor as possible<sup>70</sup>. Doing so does not relieve one of responsibility for committing the sin, but it is considered to mitigate the severity of it in God's eyes.<sup>71</sup> If a man who experiences exclusive sexual desire for other men feels that he cannot abstain from sex indefinitely, then choosing lesser violations rather than major offenses, and keeping these matters private rather than making them public would be much preferred.

It might also be helpful (depending on the individual's theological assumptions and concerns) to note that in our High Holy Day liturgy, numerous prayers and פיוטים refer to God as the one who knows our יצר (inclination).<sup>72</sup> We appeal to God's intimate knowledge of our inclination to engage in prohibited behavior in pleading for mercy in his judgment of our actions. We believe that when God judges each of us, he takes into account the degree of difficulty involved for each of us in turning and moving toward that which is good and holy. We believe that God takes into consideration every deed, good or bad, and recognizes and credits every positive sign, even in the midst of the most serious violations. We should understand Ulla's statement in Hullin 92a-b in this context: עולא אמר: אלו שלשים מצות שקבלו עליהם בני נח, ואין מקיימין אלא שלשה: אחת שאין כותבין כתובה לזכרים, ואחת - שאין שוקלין בשר המת במקולין, ואחת - שמכבדין את התורה.—Ulla states: "these are the thirty commandments which the children of Noah accepted upon themselves, but they only observe three—one, that they don't write a marriage contract for males; one, that they don't sell human flesh at the butcher; and one, that they give honor to the Torah." The point of this teaching is that even though non-Jews (i.e., Romans) in their day were suspected of engaging in משכב זכור, and even though they were suspected of committing murder<sup>73</sup>, and even though they violated almost all of the laws in the Book, they still behaved in ways which indicated that their violations were less than ideal. They didn't marry the men with whom they engaged in משכב זכור<sup>74</sup>, they didn't sell the flesh of the human beings they killed, and they showed respect to Torah at least in its outer form.<sup>75</sup> Showing even this small amount of deference to the ideals which they violated in every other way was considered to be fulfilling mitzvot. That deference holds within it the possibility of eventual repentance.

If God takes note of the fulfilling of such mitzvot, all the moreso does God consider the ואהבת לרעך כמוך with which people act toward each other in fulfillment of the commandment חסד.

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69. Kiddushin 40a, Moed Katan 17a, Hagigah 16a. See particularly Tosafot Rosh on Kiddushin 40a, s.v. חילול שם (חילול שם ויעשה כל מה שלבו חפץ שמים בפרהסיא)

70. Meiri on Kiddushin 40a.

71. Moed Katan 17a

72. "אמת כי אתה הוא יוצרם ואתה יודע יצרם כי" (in וכל מאמינים, Silverman Mahzor, p. 151); "אמת כי אתה הוא יוצרם ואתה יודע יצרם כי" (in ונתנה תקף הם בשר ודם, Silverman, p. 148)

73. cf. Eruvin 62a

74. Rashi's comment ad locum indicates that this was the case, even though they may have designated long term partners.

75. Probably not much unlike many present day Americans who will say that they believe in the Ten Commandments, but probably couldn't list more than a couple of the commandments correctly.

The relationship between two men who love each other, like the relationship of any two people who love each other, probably involves the fulfillment of many mitzvot and a fair number of עבירות. The challenge is to maximize the mitzvot and to minimize the עבירות. Regarding our עבירות, we pray that God will forgive us for them and continue to wait patiently in expectation that eventually we will succeed in repenting from them.

In cases such as this, the goal of counseling is to help the individual come as close as possible to achieving his desired outcome of living a life according to Halakhah, as it has been traditionally understood, to the best of his ability. The role of the counselor is to clarify the choices facing the individual and their halakhic (as well as health) consequences, to empathize with the individual in the difficulties he faces, to give היזוק as he faces those challenges, and to express compassionate understanding if the individual falls short of his ideal outcome.

### Rabbinic Ordination

One of the greatest sources of pain and misunderstanding surrounding the issue of homosexuality in the Conservative movement in the past decade or two has been the way in which policies for admission to Rabbinical School (and Cantorial School) have been conceived,<sup>76</sup> explained and enforced. The unclear language of the consensus statement of 1992 on this issue<sup>76</sup> and the way that policy has been presented have given the widespread perception that people are ineligible to become rabbis in the Conservative Movement because of feelings which are beyond their conscious control. Unfortunately, I cannot state that that perception does not reflect reality; it probably does. I sense that a horrible mistake has been made which cries out for correction.

The desire of one man to engage in sexual activity with another man and the desire of a second man to engage in sexual activity with the wife of another man are both equally expressions of a male יצר. Torah equally forbids acting on either of these sexual desires. We're all facing challenges in living up to Torah's calling us to be holy. There is absolutely no reason or justification for labeling our people and discriminating against some of them because of the particular contents of their יצר. The content of one's יצר is not a relevant factor for admission to Rabbinical or Cantorial School.

What, then, is relevant? In order to answer this question, let us go back to the roots of the requirement that rabbis be ordained. Before a person could issue instructions to people regarding permitted or forbidden behaviors, that person needed to receive authorization (רשותא) from his רב.<sup>77</sup> The question was asked by a third party to the רב, "יורה?" — "shall he give instruction?" The רב's answer, "יורה", confirmed authorization to give halakhic instruction. The Talmud asks (Sanhedrin 5b) why this authorization is necessary if the person knows the law? The answer is that an incident spurred Rabbi Yehudah HaNasi to institute this formal requirement.

יורה? - יורה. אי גמיר - רשותא למה לי למישקל? - משום מעשה שהיה. דתניא: פעם אחת הלך רבי למקום אחד, וראה בני אדם שמגבלין עיסותיהם בטומאה. אמר להם: מפני מה אתם מגבלין עיסותיכם בטומאה? אמרו לו: תלמיד אחד בא לכאן, והורה לנו מי בצעים אין מכשירין. - והוא - מי ביצים דרש להו. ואינהו סבור: מי בצעים קאמר....תנא: באותה שעה גזרו: תלמיד אל יורה אלא אם כן נוטל רשות מרבו.

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76. What does "avowed" really mean? The lack of consensus reasoning to support the consensus conclusion has also been a source of confusion.

77. Sanhedrin 5a

...Once Rebbe went to a particular place and saw people kneading their dough while in a state of ritual impurity. He said to them: “Why do you knead your dough in a state of ritual impurity? They told him, a student once came here and taught us that swamp water (מי גְּצַעִים) does not make [food with which it comes in contact] susceptible to ritual impurity. That student was really teaching [that] the liquid of an egg (מי גְּיֵצִים) [does not make food with which it comes in contact susceptible to ritual impurity]... It is taught: At that time they decreed that a student should not give [halakhic] instruction unless he has received authorization from his master.

The essential requirement for rabbinic ordination is that the potential rabbi both know the law and be able to communicate it in a manner which will not lead people to confuse that which is permitted and that which is forbidden. In our day, we recognize that effective communication on these matters is not just a matter of proper diction, but also of proper example. Despite the significant range of opinions represented in the Rabbinical Assembly on many details of halakhic observance, there is consensus in the Conservative Rabbinic that our rabbis must communicate through their personal example a commitment to sanctifying our culinary appetites through observance of kashrut and a commitment to sanctifying time through the observance of Shabbat. Candidates for admission to Rabbinical School (and Cantorial School) must commit themselves to these observance. Students who publicly violate these laws<sup>78</sup> are not (or should not be) ordained as rabbis in our movement because their public behavior undermines the basic ideals of Conservative Judaism which we seek to inculcate in our communities. The ideal that sexual intercourse must be sanctified in the marriage of a Jewish man to a Jewish woman has long been a consensus ideal in our movement (formally affirmed in 1992 by a CJLS vote). It should remain so.

To what extent must a potential rabbi be able to serve as an example of this ideal for sanctifying sexual activity? We do not require that potential rabbis be married before ordination. (A few of my classmates from 1984 are still single.) Sexual activity is, or should be, private. What is required is that potential rabbis and rabbis not engage in public acts nor make public statements about themselves which are likely to undermine the ideal by giving people the impression that the rabbi (or potential rabbi) is engaging in behavior (or validating behavior) which is perceived as antithetical to that ideal. The following acts or statements are likely to be perceived in this manner and should thus not be done by members of the Rabbinical Assembly, and they should be grounds for denying admission to or ordination from Rabbinical School:

- 1) living together as a couple with a member of the opposite sex to whom one is not married;
- 2) publicly describing a member of the same sex as one’s spouse or partner (in a context which will be understood as meaning sexual partner) or by any other term which is meant to imply a sexual partner;
- 3) publicly performing a same-sex commitment ceremony or wedding;
- 4) publicly describing oneself as homosexual/gay/lesbian/queer (or any other term intending the same meaning) in a context which will be widely understood in our communities to imply behavior which is widely perceived as violating Torah. While these terms may be used in some contexts to designate only feelings of desire for same-sex sexual activity (which are irrelevant to Rabbinical School admissions or being a rabbi), the possibility of misunderstanding is great, and great care in using more precise

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78. say, by eating a cheeseburger at McDonald’s

language is warranted. The issue here is not sexual orientation; it is about communicating in a way that does or does not undermine our religious ideals.

### Privacy

We are halakhically obligated to respect the privacy of others. The Rabbis understood Balaam's blessing of Israel *מה טובו אהליך יעקב* to be praising the people for pitching their tents in such a way that no two tent openings faced each other so as to protect every family's privacy. The Talmud codifies the laws of *היזק ראייה* which prevent a home-owner from opening a window facing another person's window or door unless he also obstructs his view from the window into the facing house.<sup>79</sup> The concern for privacy is particularly acute in sexual matters. Asking questions about the nature of a person's sexual desires (e.g., sexual orientation) or about a person's private sexual practices, or otherwise investigating these matters, is a violation of the halakhic obligation to respect the privacy of other individuals (except in the context of a professional therapeutic relationship or in intimate conversation between spouses, partners or potential partners). Speaking publicly about one's own sexual desires or private sexual practices is a violation of the halakhic norms of modesty (*צניעות*).

I must stress, privacy is not the same as the closet. One may confide in close confidantes and family members, and should be able to do so without fear of rejection. Privacy is the privacy of the bedroom, not the closet.

We are also obligated to judge the behavior of one's fellow in the most meritorious way possible (*הוי דן את כל האדם לכף זכות*)<sup>80</sup>. This obligation applies if one sees evidence that would lead one to believe that another person may be engaging in forbidden sexual activity.<sup>81</sup> The prohibition against *מוציא שם רע* might also apply to speaking publicly about the presumed, or even the known, sexual activities of another person (Pesachim 113b).

### Personal Integrity

– “Rava says: any scholar who is not the same on the inside as he is on the outside is not a scholar.” (Yoma 72b) Rabbis must strive to fulfill this ideal. A person who intends to violate the law regularly in private should not apply to Rabbinical School. As a rabbi, one is obligated to observe the law, including sexual prohibitions, and it should not even appear as if one is violating them (which is a matter of *חילול ה'*)<sup>82</sup>. However, inclinations, so long as they are kept private, do not disqualify one from being a rabbi.

## **Conclusions**

1) We consider the desire for same sex erotic activity to be a *יצר* like any other *יצר*. There should be no discrimination against anyone based merely on the presence or absence of such feelings.

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79. Bava Batra 2b-3a

80. Mishnah Avot 1:6; Shabbat 127b

81. Shabbat 127b

82. Yoma 86a: היכי דמי חילול השם? אמר רב: כגון אנא אי שקילנא בישראל מטבהא ולא יהיבנא דמי לאלתר

2) Everyone has an equal obligation to observe the law, whatever the content of a person's יצר may be. We recognize that observing any law will be more difficult for some than for others; people for whom observing a law is more difficult deserve our understanding and support, but their greater degree of difficulty does not absolve them of responsibility.

3) Sexual activity can only be sanctified as an expression of our ideal of holiness in the context of a marriage between a Jewish man and a Jewish woman. When a person is in a life situation in which sexual activity cannot be sanctified in this manner, refraining from sexual activity is the only path toward holiness which is open at that time.

4) The legal status of various sexual activities which are not sanctified differs. Some activities, such as adultery and male-male penetrative anal sexual intercourse, are considered major sexual offenses (עֲרִיּוֹת) while others (e.g., sexual activity without genital penetration) are lesser offenses (פְּרִיצוֹת).

5) As with all halakhic requirements we encourage people to do their best to bring their behavior in line with the ideal to the greatest extent possible, recognizing that it is not an all or nothing proposition. We encourage those whose behavior is less than ideal to observe halakhic norms to the greatest extent possible. Fewer violations and lesser offenses are certainly to be preferred over more violations and major offenses.

6) We call upon all rabbis, congregations and institutions of Conservative Judaism to remove all residual traces of the rejectionist stance toward homosexuals, to extend the same warm welcome which we extend to all others and to treat them with the same human dignity with which we are obliged to treat all others, irrespective of their level of halakhic observance, as we do with those who violate Shabbat or kashrut, or who intermarry.

7) Even if one engages in non-sanctified sexual activity, one is not exempt from ethical considerations along the lines spelled out by Rabbi Elliot Dorff in "This is My Beloved, This is My Friend," pp. 31-34 (#1-6,8; reproduced in Appendix 4 below, p. 49).

8) We affirm policy (A) of the 1992 "Consensus Statement on Homosexuality" that members of the Rabbinical Assembly not perform same-sex weddings and public commitment ceremonies. We see officiation at such ceremonies as incompatible with communicating and projecting the ideal that sexual relations can only be sanctified in a marriage between a Jewish man and a Jewish woman.

9) Regarding admission to Rabbinical School and rabbinic ordination in Rabbinical Schools whose graduates are automatically accepted for membership in the RA, candidates are eligible for admission and ordination regardless of whether or not they feel same-sex attraction (i.e., regardless of sexual orientation). However, we require that our future rabbis be able to communicate with our communities, both by personal example and through speech, in a manner which does not undermine fundamental ideals of Conservative Judaism. A person who intends to violate the law regularly in private should not apply to Rabbinical School. As a rabbi, one is obligated to observe the law, including sexual prohibitions, and it should not even appear as if one is violating them.

10) Asking questions about the nature of a person's sexual desires (e.g., sexual orientation) or about a person's private sexual practices, or otherwise investigating these matters, is a violation of the halakhic obligation to respect the privacy of other individuals (except in the context of a professional therapeutic relationship or in intimate conversation between spouses, partners or potential partners). Speaking publicly about one's own sexual desires or private sexual practices is a violation of the halakhic norms of modesty (צניעות).

11) If one sees evidence that would lead one to believe that another person may be engaging in forbidden sexual activity, one should interpret the other person's behavior in the most meritorious way possible (*dan lekha'f zekhut*).

12) We instruct the RA, USCJ and JTSA to establish and appoint members of a joint task force (including representatives of the professional staffs of USY, Camp Ramah as well as CJLS members, other rabbis, lay leaders and JTS faculty) to develop and implement programs of public education, counseling and support along the lines outlined above on pp. 13–19.

### Final Observation

Two overarching commands of Torah have informed this responsum, as they should inform all of our practice of Judaism: צדק צדק תרדוף (Deut. 16:20) and קדושים תהיו (Lev. 19:2). Justice and holiness are two ideals which we have never been able to fully achieve, or even come close. Some may think that the conclusions of this responsum do not achieve sufficient justice. Some may think they settle for too little holiness. I am convinced that they maximize the sum of both to greatest extent possible in today's circumstances.

## Appendix 1: The Clinical Experience of Dr. Nicholas Cummings

Dr. Nicholas Cummings is a past President of the American Psychological Association (APA); he is widely recognized and respected as one of the leading lights of the psychological profession in the past half-century. He practiced psychology for forty-four years in San Francisco. Concurrent with his private practice Dr. Cummings served for twenty of those years as Chief of Mental Health for an HMO in Northern California, with 39 hospitals and medical facilities and over 900 psychotherapists (psychologists, psychiatrists and social workers) under his supervision. His knowledge regarding homosexuality is based on the accurate, comprehensive data kept by the HMO, as well as his personal practice, in which the majority of his clients were gays and lesbians. In his capacity with the HMO, he was the first employer in this country to hire openly gay therapists in 1959. In 1974, he sponsored the internal resolution of the APA that "homosexuality is not a psychiatric condition".

According to Dr. Cummings, homosexuality is not a unitary condition. For some types of homosexuality, the possibility of change is greater than for other types.

"In fact there are as many different kinds of homosexuals as there are heterosexuals.... I became the therapist of choice for gays and lesbians who had heard about me from successfully treated friends. With clinical experience I learned to assess the probability of change in those who expressed a wish to become heterosexual and was candid in discouraging those with whom the probability was low or absent, and unabashedly treated those for whom the prognosis was high. As in all psychotherapy success is never 100%, but many of my patients were not only able to change, but became happily married fathers. I still get cards and letters during the holiday season from former patients who continue to express their gratitude. I also hear from former patients who thank me for not attempting change as in retrospect they realized the impossibility. Those patients thank me for helping them become well-adjusted and happy with a same-sex domestic partner."<sup>83</sup>

Dr. Cummings estimates that he helped about 80% of his hundreds of gay and lesbian clients adjust to their same-sex orientation, while he helped about 20% to change their orientation to heterosexual. He described his rate of success as "very high" because he was very selective in recommending change of orientation only for those whom he thought had a high probability for success.<sup>84</sup>

Dr. Cummings adds:

...the personal value system is the greatest motivator to seek change, but there are additional clinical signs that tend to predict success. Surprisingly there were patients who lacked this value system and who had relocated to San Francisco from other parts of the U.S., and who behaved like a child in a candy store. They would take advantage of the

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83. E-mail correspondence, Dec. 2, 2006.

84. Telephone conversation, November 28, 2006.

complete freedom for anonymous sex present in San Francisco, chalking up as many as 500 different male partners within two years. It would not be uncommon to have contact in the gay baths with a dozen or more on a single night. It was interesting to see the number of young men who became revulsed over time with this incredible promiscuity and its constant need to accelerate it. These were "converted" somewhat like the severe alcoholic who has hit bottom.

One feature of our treatment regimen that contributed rapidly to resolution either for change, or for continuation (albeit more sedate) of the gay life style was our extracting agreement at the outset that the patient would refrain from ALL sex for the first 30 days of treatment.<sup>85</sup>

As a private citizen, Dr. Cummings has very liberal political beliefs and values, but is strongly committed to the principle that great care must be taken to NOT promote those beliefs and values as science when there is no convincing scientific evidence to support them. This is a principle which had been adopted by the APA long ago to guide its advocacy on social issues, but, as Dr. Cummings and his co-author Dr. Rogers Wright (formerly a faculty member in the Department of Psychiatry, UCLA Medical School, and, for nearly 50 years in independent practice in Beverly Hills and Long Beach CA., a practice which also included extensive experience in psychotherapy with homosexuals<sup>86</sup>) document in their recent book *Destructive Trends in Mental Health: The Well-Intentioned Path to Harm* (New York and Hove: Routledge, 2005), this principle has been constantly trampled upon as the APA has taken public positions on issues based on the liberal values of most psychologists (values which both co-authors share) with no scientific evidence to justify these positions, and often with much scientific evidence which contradicts them.

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85. E-mail correspondence, Dec. 4, 2006. By rapid resolution, Dr. Cummings means, "Our providers knew within 4 or 5 sessions if change was a probability, and this was discussed individually with each patient."

86. Dr. Wright reports that some 20-25 percent of his gay patients reported no feelings of same sex attraction after completion of psychotherapy, and that a goodly number of those patients who had maintained contact over some twenty plus years reported a continuing absence of SSA. Dr. Wright was quick to note: (a) that such data was subject to the well known vagaries of patient self reports; and (b) that he did not personally subscribe to nor provide any psychotherapy committed to a given outcome (e.g. Reparative Therapy). Dr. Wright also noted that a larger number/percentage of his former gay and lesbian patients (maintaining contact) reported that their psychotherapeutic experience had enabled them to be accepting and comfortable with their SSA, and to successfully enter and maintain rewarding long-term relationships with same sex partners. While Dr. Wright agrees with Dr. Cummings about the great variety of types of homosexuality; his position is that the patient MUST decide the goals of psychotherapy whether that decision is to attempt to change SSA, or to be accepting of the existing self. Dr. Wright added that a given individual's goals may - and frequently do - change during the process; but the right to choose MUST remain the patient's. Only then can the individual choose what is really wanted as opposed to what one "should" want. (e-mail correspondence, Dec. 11, 2006, following telephone conversation June 16, 2006 and e-mail correspondence, Dec. 4, 2006.)

The current position of the APA regarding therapy to change sexual orientation is a case in point. The APA resolution that “homosexuality is not a psychiatric condition” included a call for appropriate and necessary research to substantiate that decision. As APA president, Dr. Cummings established a Task Force on Gay and Lesbian Issues to sponsor, conduct and evaluate such research. Dr. Cummings told me that within a couple of years, a group of political ideologues with an agenda took control of the task force and stonewalled all of his efforts to ensure that such research would be conducted. This group has enforced its political will on the APA (through means which Dr. Cummings described as “despotic”) to widely disseminate the idea that change of orientation through therapy is impossible and unethical without any scientific evidence to support that position.<sup>87</sup> This politically motivated rejection of therapy for change of orientation in all cases contradicts the extensive clinical experience of Dr. Cummings himself, as well as that of many other therapists. Dr. Wright observes that “at an earlier point in time the same commitment to political expediency and pseudoscience resulted in propagating the myth that the world is flat.”<sup>88</sup>

Rabbis Geller, Fine and Fine, and even moreso Rabbis Dorff, Nevins and Reisner, have made this “flat earth” myth a lynchpin argument in their respective responsa. Rabbis Geller, Fine and Fine write: “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.”<sup>89</sup> Rabbis Dorff, Nevins and Reisner write:

There remains much to be learned regarding the psycho-social construction of sexual orientation, *yet this much is absolutely clear to the leading scientific authorities of our day: homosexual orientation is not a form of mental illness; it is not inherently harmful to individuals or to their children or families; and it is not subject to reversal by means of any available therapy....*<sup>90</sup>

The near total failure of advocates of “cure” to convert homosexuals into heterosexuals obviates the halakhic significance of tracing the source of homosexuality. Gay and lesbian people are homosexual and will remain so. Even those who have attempted a “cure” have been unable – in the vast majority of cases -- to change their orientation. For the halakhist, therefore, the issue of significance is not the origin of homosexual orientation, but rather the *permanence* of such an orientation by the time sexuality reaches consciousness. Whether sexual orientation is determined by nature or nurture or some combination

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87. Telephone conversation, Nov. 28, 2006.

88. E-mail correspondence, Dec. 7, 2006.

89. Myron S. Geller, Robert E. Fine and David J. Fine, “The Halakhah of Same-Sex Relations in a New Context,” p. 18.

90. Elliot N. Dorff, Daniel S. Nevins and Avram I. Reisner, “Homosexuality, Human Dignity & Halakhah,” p. 3

of both does not alter the resultant orientation, whether that orientation is heterosexual, homosexual, or something in between.<sup>91</sup>

I sent these three quotes to Dr. Cummings for his evaluation. After noting that these statements “inaccurately view homosexuality as a unitary condition,” and that the last quoted statement above was “egregious, as it concludes a unitary condition and remands one-and-all to a life of homosexuality,” Dr. Cummings wrote:

In summary, the three statements you sent do not reflect scientific/clinical evidence, but rather the pronouncements of militant advocates who have deliberately seized upon the early, contentious and complex nature of our scientific knowledge to promote an agenda.<sup>92</sup>

#### Additional Note

A number of the teshuvot presented to the CJLS, as well as public statements by members of CJLS, cited testimony of Dr. Abba Borowich to the CJLS in March 2004 as stating that therapy to change sexual orientation is generally ineffective. These citations did not take into account the nuances of what Dr. Borowich actually said, and they directly contradict what Dr. Borowich told me in a phone conversation in May 2004. Dr. Borowich reported to us that he was fairly consistently able to slide his clients (he treated about 200 Chasidim) a notch or two down the Kinsey scale, which made it possible for them to marry and have children. He reported that he stopped doing this therapy because he became aware of a few cases in which the client, after many years, returned to homosexual behavior, leading to the break-up of their marriages and much pain and suffering for their wives and children. Many CJLS members assume that that means Dr. Borowich stopped because he became convinced changing sexual orientation is not possible. This conclusion is simply false. I spoke with Dr. Borowich in more detail about his experience in May 2004. He told me that of the 200 Chasidim he treated (their status as patients of Dr. Borowich was kept a secret from everyone in their communities, including their future spouses, of course; and his former patients don't want to have any contact with Dr. Borowich after their treatment has been completed in order to protect the secrecy), a grand total of 3 former patients had contacted Dr. Borowich many years later informing him of their reversion to homosexuality and what had happened to their families. (At the retreat, Dr. Borowich mentioned that in these cases, the reversion occurred during a period of stress. Over the phone he told me about the stressors which were associated with the reversion in these cases: one had a manic episode, one was left alone for the summer, and one had a gambling problem. Dr. Borowich has had no subsequent contact or communication with any of the other 197 patients he treated.) Dr. Borowich stopped doing this type of therapy because he was concerned with the pain caused as a result of the family break-ups, particularly to the wives and children who were not in on the secret. Since this therapy did not guarantee irreversible success, and the consequences of failure were so horrible, Dr. Borowich stopped offering this therapy in the Chasidic community. Regarding the question of whether change of sexual orientation is possible, he con-

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91. Dorff, Nevins and Reisner, “Homosexuality, Human Dignity & Halakhah,” p. 4.

92. E-mail correspondence, Dec. 2, 2006.

tinues to hold, though, and this is a direct verbatim quote: "Bottom line: There is mutability." When I asked him whether he would accept a patient for that type of therapy if the patient promised to notify any potential spouse of his SSA and therapy, he answered, "That's a totally different question." Indeed the experience of many therapists and of many men who have changed their sexual orientation through therapy is that wives, fiancés and girlfriends who know of their husband/fiance/boyfriend's history of SSA are very supportive and helpful in the treatment process.

## Appendix 2: Ethical Treatment for People with Unwanted Same-Sex Attractions

### Ethical Treatment For People Who Present With Unwanted Homoerotic Attractions Guidelines For Therapists

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Many people in therapy who have homosexual feelings are in the initial stages of exploring the meaning of these attractions with people they trust.

They wonder what the future holds for them, and if marriage and family can be a reality. They wonder about their place in society—among peers, family, and various communities of people in which they are involved. Some are questioning their faith and values, and wonder how society will respond to them.

A consistent hope for some of these people is that same-sex attractions (SSA) can be reduced or eliminated, and that joyful heterosexual functioning can emerge. These clients tend to look especially to their therapists for assistance, partly because no one else seems to understand the issues involved or exactly how to help. It is an issue that many people, increasingly more publicly, have opinions about, but to which almost no one seems to know how to respond.

This paper is an effort to explore issues related to ethical, therapeutic treatment. Ethical and therapeutic treatment concerns the manner in which a person is treated by the therapist so as to promote trust, mental health, and personal development. At the heart of ethical considerations is how to reduce or eliminate harm, and promote health. Based on available research and clinical stories, I have categorized potential ethical dilemmas and biases of three varieties of therapists—

- 1) those who help clients with their goals to reduce SSA and where possible, increase heterosexual attraction
- 2) theoretically non-committed therapists whose beliefs might not agree with aspects of GLB identity or behavior, yet remain skeptical about change, and
- 3) GLB advocating or affirming therapists whose goal is to assist clients in accepting a GLB identity. My hope is that the issues raised here will spark discussion and deeper pondering of personal bias, so that ethical practices can improve and clients' needs can be met. Although I offer my opinions and biases throughout, the reader is invited to respond to the issues involved. The guidelines used to assess ethics and harm are taken from the Code of Ethics for the American Association for Marriage and Family Therapy (2001) and the American Psychological Association (2002).

### Ethical Dilemmas And Biases Among Three Types Of Therapists

#### Category One

Therapists who undertake to assist clients to reduce SSA and promote heterosexual functioning.

It is valuable to understand what may constitute harm from the experience of therapists and men and women who have undergone therapy in an attempt to develop stronger heterosexual attractions. The following problems are cautions to therapists, based on the work of Beckstead (2001), Haldeman (2002), and Shidlo and Schroeder (2002). [Ed. note: The Shidlo study was not a representative sample of reorientation therapy clients, but specifically advertised for persons who would "help" the study's authors "document harm."]

Therapists who undertake to assist clients to reduce SSA and promote heterosexual functioning may tend to err in the following ways, and should consider the ethics involved. These therapists may: Over-promote heterosexual potential and over-induce a client to believe that change is possible in every case. Therapists may be guilty of presenting unrealistic goal expectations, and work beyond the client's capacity to incorporate different attitudes and directives. A therapist who does this may be guilty of AAMFT ethics code 1.7, "MFT's do not use their professional relationships with clients to further their own interests." A therapist who press-

es too hard may neglect to consider co-morbid diagnoses that may constrain changes in sexual development.

Tie personal worth, salvation, or social role viability to heterosexual functioning. Clients of faith have typically thought through the implications of having SSA many times over, and are usually worried and may feel discouraged about not having stronger heterosexual feelings. Such a client may be experiencing a crisis of faith. A therapist may imply "wrongfulness" of homosexuality by his or her approach in a way that the client may internalize that message, believing he is condemned or less socially viable.

Vulnerable clients, at the beginning of therapy, have difficulty distinguishing between self-worth and their homosexual feelings, thoughts, and actions. Too strong of an approach at this phase may confuse a client unnecessarily. Time may be necessary to form a therapeutic alliance, in which the client is assured that her self-worth is not tied to either homosexuality or the direction she may take with these attractions. A strong therapist agenda may preempt a client from feeling safe to contemplate "outloud," discrepancies in his or her own values, thoughts, and goals.

Prematurely attempt to end clients' ambivalence about their condition, by rushing to goal-setting toward increasing heterosexual feeling. Some clients are past a contemplative stage—they want to work toward greater integration within a GLB framework; others, and perhaps the majority of clients who present for therapy with NARTH members, want to work toward heterosexual functioning. A significant number are pre-contemplative or in contemplation. A therapist who has strong values about heterosexuality may prematurely try to persuade the client into goal setting and action before he or she is ready. Such a client may naively trust the therapist, but not have the emotional or mental solidarity to accomplish what the therapist is asking. This client is likely to feel like a failure and that change is impossible for him.

Unintentionally create a dependent or conditional therapeutic relationship with the client, which can border on exploitation. As clients increase trust in the therapist (who is sometimes perceived as a last hope), they may work in order to please him or her, thus undermining a more intrinsic motivation for their own work. This can lead to premature beliefs or expressions of cure in which the client reports more progress than is accurate. It also places a bind on the client who eventually decides to engage in a homosexual relationship, which could induce shame and secrecy. This is a breach of AAMFT ethical code 1.3: Marriage and family therapists are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid condition...with clients that could impair professional judgment or increase the risk of exploitation. Too strongly leading a client can establish expectations the client is not prepared to manage, and the dependent client may hide this bind.

Over-emphasize cause-and-effect relations about the etiology of the individual's attractions, i.e., "you have homosexual feelings because...." Over-simplification of causes or too much emphasis on "why" a person has these feelings trivializes the array of experiences and real causes—known and unknown—a person has in the development of his or her own brand of sexuality. Further, it may appear to the client that since cause-and-effects can be easily known, solutions should just as easily follow. A lot of frustration can ensue if this does not turn out to be true for the client.

Have real homophobia or homo-negative beliefs and expressions. A therapist may believe that a person can never experience happiness, comfort, or relational value in GLB relationships, when clearly many people report that they do. A therapist may misrepresent the array of experiences and feelings reported by GLB people. A therapist may feel disgusted by hearing accounts of homosexual activity. Feminine expressiveness in men or masculinity in women may be appalling to the therapist. Such attitudes may lead the therapist to downplay the real pain of a client who has experienced direct or indirect prejudice in a society that consistently misunderstands this issue. Every therapist has some limit as to what is difficult to hear or tolerate, and has an ethical mandate to be aware of his or her beliefs, biases, and limitations. A therapist who has difficulty tolerating clients with homosexual concerns should refer them, in accordance with AAMFT ethical code 1.1: MFT's assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help.

Believe that everyone has the same heterosexual potential, "If only you can apply principles A, B, and C." Not distinguishing among characteristics and capacities of individuals who present for help inevitably leads to error in clinical judgment and therefore places unrealistic expectations on clients. The overly optimistic "conversion" therapist may never value and avoid discussions of GLB options, when the client needs to discuss such. APA ethical principle A states psychologists seek to safeguard the welfare and rights of those with whom they interact professionally. The right to choose and have the therapist be available to openly and non-judgmentally discuss choices is perhaps the most fundamental element of therapy.

Haldeman (2002) observed "...I have noted that different patients manifest different responses to their treatments. For some, particularly those who have been made vulnerable by repetitive, traumatic anti-gay experiences, or those who have been subjected to aversive treatments, conversion therapy has proved to be harmful" (p. 261).

Clients who have longstanding homosexual feelings and report little-to-no heterosexual desires routinely have more difficulty developing heterosexual feelings than clients who report sensing homosexual urges later or who have some heterosexual attraction (Nicolosi, Byrd, & Potts, 2001). They may be more susceptible to therapeutic harm or disappointment in not achieving heterosexual functioning, and may feel quite compelled toward GLB explorations. Any therapist who performs therapy with clients with homosexual concerns who want to work toward change, should be cautious in his or her expectations and safeguard against harm.

### **Category Two**

Therapists who are willing to work with clients with unwanted homoerotic attractions, and are unsure about their own competency to treat such or who are consistently skeptical about the possibility of change, even though they have entered into an agreement to help the client. These therapists may:

Feel pressure to take too literally a request to change sexual orientation. A client who, through despair or demandingness, "must" change his or her orientation may frighten, unnerve, or anger a therapist. Taking sexual orientation too literally means that the client or therapist is overly anxious to get to a preferred outcome. Such clients may not value the process of dealing with their attractions within their value frame, or be willing to be patient as they make adjustments and new adaptations that may lead to heterosexual attraction and functioning. Just as children do not actively go about willfully trying to achieve heterosexuality, one should not place too much pressure to accomplish the sexual component of sexual orientation work. The APA's guide *Answers to Your Questions about Sexual Orientation and Homosexuality* states "...many scientists share the view that sexual orientation is shaped for most people through complex interactions of biological, psychological, and social factors." Such a problem would usually require a long time to understand, manage, or overcome, so it is helpful to value the process. The therapist should seek adequate training to understand psychological and developmental problems that are often associated with SSA.

Incorrectly view therapy that addresses sexual orientation as being altogether different from therapies that address other kinds of problems. Some therapists who do this work eventually see many similarities across therapies and do not view sexual orientation work as entirely different or unique.

The successful treatments of unwanted homoerotic attractions do not overfocus on a direct alteration of sexual attractions. Successful treatments have much similarity with treatments for depression and anxiety-related problems. Among what is emphasized is treating common psychological mistakes in engaging with a nagging problem, e.g., the more you "try" not to be depressed or anxious, the more you are; the more you try to not have homosexual urges, the more you do.

This critique should be coupled with the ethical mandate to treat within the boundaries of our competencies. Therapists who wish to work with clients toward changes in sexual attractions should follow the AAMFT Ethical Principle 3.7: While developing new skills in specialty areas, MFT's take steps to ensure the competence of their work to protect clients from possible harm. MFT's practice in specialty areas new to them only after appropriate education, training, or supervised experience.

The therapist may wait too long to unite with the goals of the client, due to the therapist's own ambivalence about the possibility of change. A therapist may be too skeptical about the possibility of attraction-management or increasing heterosexual feelings. This is a case of not believing that a self-determined person really can make a difference in her own sexual functioning. A client may unnecessarily lose motivation or a sense of hope with such a therapist, especially if the client and therapist share religious values and goals. A therapist who cannot join with the client with some enthusiasm and confidence, after negotiating an agreement about therapeutic goals, should take the responsibility to develop a stronger competency in this area, or refer the client to someone who has competency.

The therapist may wait too long to encourage a client to move out of contemplative ambivalence, losing opportunities to help a client experiment with new behaviors, attitudes, and adaptations. There is a difference between a client who is genuinely trying to understand and process issues, and one who is perpetually stuck in contemplation. In agreement with the ethical code to develop competency, a therapist should assess and understand problem areas, such as listed in Appendix B (Cohen, 2000), common to people struggling with SSA, to motivate and facilitate growth.

### Category Three

GLB-affirming therapists. These therapists have tended to err in a different direction with regards to ethics (see for example, Perez, DeBord, & Bieschke, 2000). They may:

Present a strong pro-GLB agenda that influences the decisions of clients. Some of these clients may want to be more contemplative about the nature of same-sex attraction and homosexuality or move away from an identity based on sexuality. Therapists who have strong agendas and who use persuasive means can be coercive and unethical in that therapy becomes an attempt to override a client's values and self-determination, and promotes the interests of the therapist over those of the client. This may be especially harmful when interacting with SSA youth, who are only beginning to consider the meaning of such attractions. This kind of therapist is acting more in the role of GLB guide and advocate than therapist, which may confuse consumers of therapy. This kind of therapy may show a blatant disregard for family and larger-system relationships which the client holds dear and unnecessarily creates conflict.

APA Ethical Principle E states: Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making. Affirmation therapists may err on the side of treating people as fragile as a general rule, needing to save them from unconscious internalized homophobia and an oppressive society. Such a therapist may believe that these clients cannot really self-determine a non-GLB future or establish realistic therapeutic goals for themselves, other than accepting homosexual integration.

This attitude was expressed clearly by Tozer and McClanahan (1999). "An individual's desire to change [sexual orientation] is a reflection of an oppressive and prejudicial society wherein lesbian, gay, and bisexual persons are considered deviant and inferior. Therefore, this request is not truly voluntary" (p. 731). Morrow (2000) indicated that SSA clients are always, at the beginning of therapy "already suffering from internalized homophobia and self-hatred" (p.139). APA guidelines are adamant that individuals with homosexual feelings or behaviors have no intrinsic mental illness. To believe that such individuals can be so deceived by society so as to not even be able to rationally weigh the issues involved makes no sense, and actually takes a step backward toward a pathologizing approach. To be extreme in this thinking is in violation of APA Ethical Principle E: Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. A client may very well determine that a non-GLB lifestyle is more dignified and fitting of her or his values and goals.

Therapists may downplay the promiscuity that is a part of a dominant GLB culture and community. These therapists may diminish attention to health risks and problems—physical and psychological—associated with homosexuality. They may encourage youth to experiment with sexuality, even if under safe conditions. See Appendix A for a current update of some health risks.

Therapists may fail to promote an understanding of or research concerning etiology of same-gender attractions, believing that such explorations are an appendage to homo-negative attitudes. This is in violation of a principle of APA ethics stated in the preamble: Psychologists are committed to increasing scientific and professional knowledge of behavior and people's understanding of themselves and others and to the use of such knowledge to improve the condition of individuals, organizations, and society. Psychologists respect and protect civil and human rights and the central importance of freedom of inquiry and expression in research, teaching, and publication. To discount or ignore research that has demonstrated that individuals can and do manage and even make changes in their sexuality within a variety of values frameworks is misinforming.

Therapists who discount important value systems that question or oppose homosexuality, believing they are necessarily prejudicial to people. Within the AAMFT Ethical Principle 1, categories of possible discrimination include, in addition to sexual orientation, religion and culture, which may include family culture. To dismiss these significant influences out-of-hand as prejudicial and homophobic is systemically naïve, underhanded, and harmful to clients who depend on them.

Therapists who may value adolescent and adult sexual exploration and activity. What would be considered promiscuous and psychologically, interpersonally, and spiritually unhealthy by a majority of religions and people, is celebrated, encouraged, and even required by elements of the GLB culture. Bepko and Johnson (2000) detailed common rules among relationship-committed and non-monogamous gay male couples. "...rules exist such as no emotional affairs, only tricking (one-time sexual liaisons), no disclosures about outside sex (or full disclosure about it), or mutual participation in outside sex only as a threesome or in larger groupings." (Such behavior is rarely a part of lesbian culture.) This behavior would seem to undermine the role of sexuality in the development of secure attachments. It also privileges the status of male

recreational sexuality among values. Monogamy is generally regarded as an absolutely critical relational ethic among close, committed sexual partners.

Therapists who dismiss entirely the possibility of heterosexual development and the diminishing of unwanted homoerotic attractions. In the APA's guide *Answers to Your Questions about Sexual Orientation and Homosexuality* the answer given to the question "Can therapy change sexual orientation?" is "No," and further, that engaging in such therapy is harmful and likely unethical. The authors acknowledge that sexual orientation is "extremely important to an individual's identity," yet foreclose on a person's being able to do anything about it other than acceptance. The question is worded rather deceptively in such a way as to make the answer correct: probably no one believes that "therapy changes sexual orientation." This is like saying "therapy eliminates depression." If the question was "Have people reported that therapy assisted them to diminish same-sex attraction or increase heterosexual feeling," then, according to research, the answer would be, "Yes."

The DSM IV diagnostic code 302.9 Sexual Disorder Not Otherwise Specified subcategory: Other sexual orientation problems were created in part for people who are distressed about their sexual orientation. This created clinical room for people to explore and take initiative about unwanted elements of sexual orientation. The APA, in negating a range of effective therapeutic modalities, is clearly expressing a political bias.

Numerous recent and historic studies have indicated that it is possible for some individuals to completely diminish same-sex attraction and enjoy heterosexuality (see Beckstead, 2001; Byrd & Olsen, 2001; Nicolosi, Byrd, & Potts, 2000; Spitzer, 2003 [this article contains an excellent, state-of-the-profession series of 26 peer commentaries concerning research in sexual orientation and change]; Throckmorton, 2002, Yarhouse, 1998). Perhaps a larger majority of clients who have been successful in altering sexual attractions have done so with a kind of negotiation—homosexual compulsions, intrusive thoughts, or overwhelming feelings are treated and generally resolved, yet heterosexual attractions are not as strong as homosexual ones. Sometimes, and in the course of years (an average of two years post therapy, reported by Spitzer), heterosexual attractions emerge more strongly, especially toward a spouse or partner in a committed, loving relationship (not usually generalized to many people of the other sex). Even so, researchers indicate that more than one third of clients who seek a change in orientation are not successful. These people may be glad that they "at least tried"; others may be very disappointed, angry and resentful, or suffer damage to their self-esteem and sense of identity. With these clients, it is important to monitor expectations in therapy and help them achieve realistic goals.

## **Final Comments**

These lists and considerations are not exhaustive, nor are they axioms to conclude without debate. Ethical guidelines exist to help clinicians protect themselves and their clients against harm. I encourage clinicians to consider their own values, practices, limitations, and strengths regarding this type of therapy, and seek continual training to provide competent help. I also encourage ongoing dialogue among clinicians of different faiths and belief systems, as these have important influences in our clinical work. We do not help clients when we are militant or take strong political stances and expect our clients to do the same. A common goal among all therapists is to reduce or eliminate harm, and help clients lead healthy lives that are congruent with their values.

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## **Appendix A**

### **Research Regarding Health Risks For Practicing Homosexuals**

Although the American Psychiatric Association in 1973 removed homosexuality as a form of mental illness, people who report homosexuality in adulthood and adolescence, compared to people who do not, are two to four times more likely to receive mental health services (Clark & Serovich, 1997). Homosexuality has been correlated with higher incidences of suicidal thinking and attempts (Herrell, Goldberg, True, Ramakrishnan, Lyons, Eisen, & Tsuang, 1999), self-harm (Skegg, 2003), eating disorders among male homosexuals (Cartat & Camargo, 1991), and anxiety-related problems (den Aardweg, 1985).

A standard conclusion across research articles is that gay men usually have more sexual partners within specified periods of time than heterosexual men, and that sexual monogamy across a lifetime is so rare as to be not reported (Bepko & Johnson, 2000). In a 1996 *Genre* magazine survey of 1,037 volunteer male respondents, 24% said they had 100 or more partners in their lifetime; another 16% said they had more

than 40. They also report much more permeable sexual boundaries in committed gay relationships than would be expected in heterosexual relationships.

Among more conservative people with SSA, Spitzer's (2003) highly religious sample of 143 men and 57 women (N = 200; 14 people were LDS) who had undergone therapeutic or group attempts to modify sexual orientation, 13% of males and 4% of women had never engaged in consensual homosexuality; 47% of males and 94% of women one to 50 partners, and 34% of males, 2% of women said they had had over 50 partners. One half of these males and two thirds of the females had also had consensual heterosexual sex.

Despite large efforts to educate those who practice homosexuality, health problems and risk behaviors are on the rise. Gross (2003) reported—as predicted in 1997 by the CDC—a 14% upsurge in HIV among US homosexual men in the years 1999-2001, not including data from the gay-dense states of California or New York.

This author also reported "unprecedented outbreaks of syphilis and increasing rates of rectal gonorrhea" among homosexuals. In one report, one third of all black homosexual men in six major U.S. cities America had HIV, the majority going a significant amount of time without knowing it.

Kauth, Hartwig, and Kalichman (2000), in the *Handbook of Counseling and Psychotherapy with Lesbian, Gay, and Bisexual Clients* published by the APA stated "...gay and bisexual men have no greater physical health problems than heterosexual men, with few exceptions."

This statement seemed to downplay what they in the chapter later acknowledged, that gay and bisexual men (compared to men who have never had sex with men) on average are sexually more active at early ages and report more lifetime partners, have more anal intercourse (a much higher health risk behavior than male/female intercourse), experience more hepatitis B, HIV and STD's and complications of physically traumatic intercourse. These authors examined research between 1991-1997 and found that approximately one third of men surveyed in those studies had recently had unprotected anal sex, and that men under 30 commonly had unprotected sex—behavior that accounts for 47% of AIDS cases in America. Koblin, et al (2003) reported that among 4,295 HIV-negative homosexual men who had engaged in anal sex with one or more partners in previous year, "48% and 54.9% respectively reported unprotected receptive and insertive anal sex in the previous six months."

LDS youth may be particularly unlikely to use protection methods during sex, which would put them at higher risk for contracting sexually transmitted diseases. LDS youth/young adults might consider sexual planning premeditated and wrong, leading to "accidental" or impulsive, unprotected sex. It would not seem a far stretch to believe that most same-sex attracted LDS youth and young adults would also not plan for having sex, and often sexual behavior would be unprotected in new relationships.

Clearly, the decision to enter a homosexual relationship is not benign as to health risks. Part of informed consent is to non-coercively help clients have at least a reasonable understanding of health and safety risks associated with choices in behavior.

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From <http://www.narth.com/docs/buxton.html> (retrieved Nov. 6, 2006)

### Appendix 3: Recent Studies of Sexuality

When the CJLS last discussed the issue of homosexuality, the main data available on homosexual behavior and desire were from Kinsey's report. Ground-breaking as it was, Kinsey's study suffered from significant flaws in its design; the major flaw was that his subjects were volunteers who did not represent a typical cross-section of American society. The rather high percentages of people whom he had found to have engaged in homosexual activity reflected the fact that a rather high percentage of his subjects had spent significant periods of time in single-sex institutional settings such as orphanages and prisons. While the CJLS was deliberating this issue, major studies of sexuality using reliable population sampling methods were being conducted in France<sup>93</sup>, Britain<sup>94</sup> and the United States.<sup>95</sup> These studies, while confirming Kinsey's conclusion that the human race is not divided into two categories based on their proclivities toward sexual relations with the same sex or the opposite sex but rather exhibiting a continuum, found much smaller proportions of the population in all measured categories of same-sex eroticism than Kinsey reported. These three studies also each independently confirmed certain findings regarding same-sex behavior and desire.

The chapter on homosexuality in Laumann's report on sexual practices in the United States<sup>96</sup> begins with the following observation:

Perhaps no other single number in this study will attract greater public interest than our estimate of the prevalence of homosexuality.... In short, neither pedantry nor extreme scientific cautiousness leads us to assert that estimating a single number for the prevalence of homosexuality is a futile exercise because it presupposes assumptions that are **patently false**: that homosexuality is a uniform attribute across individuals, that it is stable over time, and that it can be easily measured.<sup>97</sup>

...To quantify or count something requires unambiguous definition of the phenomenon in question. And we lack this in speaking of homosexuality. When people ask how many gays there are, they assume that everyone knows exactly what is meant. Historians and anthropologists have shown that homosexuality as a category describing same-gender sexual desire and behavior is a relatively recent phenomenon (only about 100 years old) peculiar to the West (Foucault 1978; Chauncey 1983; Katz 1983; Halperin 1990; Stein 1992). But even within contemporary Western societies, one must ask whether this

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93. Alfred Spira, *Les Comportements Sexuels en France* (Paris: La documentation Francaise, 1993).

94. Kaye Wellings, et al., *Sexual Behavior in Britain: The National Survey of Sexual Attitudes and Lifestyles* (New York: Penguin, 1994).

95. The National Health and Social Life Survey (NHSLS), reported in Edward O. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States* (Chicago and London: The University of Chicago Press, 1994). Regarding the study design and the accuracy of population sampling methods, see Chapter 2, pp. 35-73. For a comparison of methods between the three studies, see p. 297.

96. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 283–320; the chapter was drafted by co-author Stuart Michaels.

97. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 283. Emphasis mine.

question refers to same-gender behavior, desire, self-definition, or identification or some combination of these elements. In asking the question, most people treat homosexuality as such a distinctive category that it is as if all these elements must go together. On reflection it is obvious that this is not true. One can easily think of cases where any one of these elements would be present without the others and that combinations of these attributes taken two or three at a time are also possible.

Examples abound. Some people have fantasies or thoughts about sex with someone of their own gender without ever acting on these thoughts or wishes. And the holder of such thoughts may be pleased, excited, or upset and made to feel guilty by them. They may occur as a passing phase, only sporadically, or even as a persisting feature of a person's fantasy life. They may or may not have any effect at all on whether a person thinks of himself or herself as a homosexual in any sense. Clearly, there are people who experience erotic interest in people of both genders and sustain sexual relationships over time with both men and women. Some engage in sex with same-gender partners without any erotic or psychological desire because they have been forced or enticed into doing so. A classic example is sex in prison. Deprived of the opportunity to have sex with opposite-gender partners gives rise to same-gender sex, by volition or as the result of force. Surely this is to be distinguished phenomenally from situations in which people who, given access to both genders, actively seek out and choose to have sex with same-gender partners. Development of self-identification as homosexual or gay is a psychologically and socially complex state, something which, in this society, is achieved only over time, often with considerable personal struggle and self-doubt, not to mention social discomfort. All these motives, attractions, identifications, and behaviors vary over time and circumstances with respect to one another—that is, are dynamically changing features of an individual's sexual expression.<sup>98</sup>

Let us now look at some of the quantitative figures behind the above qualitative report of the findings of this survey. The survey asked two questions in order to gauge the extent of same-sex desire: 1) "On a scale of 1 to 4 where 1 is very appealing and 4 is not at all appealing (2 is somewhat appealing; 3 is not appealing) how would you rate each of these activities . . . having sex with someone of the same sex?"<sup>99</sup>; 2) "In general are you sexually attracted to only women, mostly women, both women and men, mostly men, only men?"<sup>100</sup> The answers to the first question were taken as a measure of "appeal", and the answers to the second question as a measure of "attraction." These questions both asked about the respondent's current state of mind.

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98. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 290–91.

99. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 648 (Appendix C, Section 7, Question 4b.) This question was asked in a section on sexual fantasy.

100. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 658 (Appendix C, Section 8, Question 48). This question is the form asked to men. Women (Question 47) were asked a parallel question with the genders listed in reverse order: "In general are you sexually attracted to only men, mostly men, both men and women, mostly women, only women?" The section in which this question was asked was devoted to childhood and adolescent sexual experiences, including sexual victimization; the specific question was preceded immediately by a series of questions regarding sexual experience with the same sex from the age of puberty onward.

The relative levels of the two measures also differ for men and women, although this difference is not statistically significant. More men report being at least somewhat attracted to men (6.2 percent) than report finding sex with another man appealing (4.5 percent). In contrast, more women report finding the idea of sex with a woman appealing (5.6 percent) than report any sexual attraction to women (4.4 percent). In an analysis not shown, we found that 7.7 percent of the men and 7.5 percent of the women report one or the other form of same-gender sexual attraction or interest. About one-third of those (39 percent of the men and 34 percent of the women) reporting any same-gender desire expressed both forms, while the other two-thirds expressed only one form.<sup>101</sup>

While 7.7 percent of men indicate some level of same-sex desire, only 2.4 percent of men say that their same-gender attraction is exclusive. While 7.5 percent of women report some level of same-sex desire, only 0.3 percent say that their same-gender attraction is exclusive.<sup>102</sup> Put another way, for every man who says he is only attracted to other men, there are at least two men who report some level of desire or attraction for both men and women; for every woman who says that she is attracted only to other women, there are twenty-four women who express some level of desire or attraction for both men and women.

**Table 8.3B Prevalence of Sexual Identity and Sexual Attraction, by Gender (percentages)**

Sexual Identity	M	W	Sexual Attraction	M	W
Other	.3	.1	Only opposite gender	93.8	95.6
Heterosexual	96.9	98.6	Mostly opposite gender	2.6	2.7
Bisexual	.8	.5	Both genders	.6	.8
Homosexual	2.0	.9	Mostly same gender	.7	.6
Any same-gender sex (%): Both men and women	28.2	37.5	Only same gender	2.4	0.3
Same gender only	71.8	62.5	Total N	1,404	1,731
Total N	1,401	1,732			

When it comes to behavior, in most time frames measured, women are about half as likely as men to have had a same-sex partner. In the one year previous to the survey, 2.7 percent

101. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 297.

102. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 311 (Table 8.3B). In the British survey by Wellings, et al., *Britain*, 183 (Table 5.1) a total of 5.5 percent of men felt sexually attracted to a male at least once in their lives; 0.5% of all men reported feeling sexually attracted only to males. Among women, 4.3 percent reported having felt sexually attracted to a female at least once; 0.3 percent of women reported exclusive attraction to females. In that survey, 0.8 percent of men and 1.2 percent of women reported, "I have never felt sexually attracted to anyone at all."

of men reported at least one same-sex partner; 2.0 percent reported only same-sex partner(s), and 0.7 percent also reported at least one opposite-sex partner. For women, 1.3 percent reported same-sex partner(s); 1.0 percent had only same-sex partner(s); 0.3 percent also had at least one opposite sex partner. In the five year period previous to the survey, 4.1 percent of men reported at least one same-sex partner; 2.0 percent had only same-sex partner(s) and 2.1 percent had both men and women as partners. In the same period, 2.2 percent of women reported at least one same-sex partner; 0.8 percent had only same-sex partners, and 1.4 percent had both men and women as partners. That means that in a five year period, the majority of men who have sex with men also have sex with women, and nearly two-thirds of women who have sex with women also have sex with men. The proportions of those who have sex with both men and women continue to increase dramatically as one looks at longer time frames.<sup>103</sup>

Self-identification as homosexual or bisexual seems to be closely correlated with same-sex behavior in the past year. 2.0 percent of men and 0.9 percent of women identify as homosexual (almost exactly the same percentages who had exclusively same-sex partners in the

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103. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 311–12 (see table 8.3A). The authors write there:

The proportion of the men with male partners since age eighteen who report having had only male partners declines to about 20 percent of the total. For women, the comparable figure is about 10 percent. When the time period under consideration is extended to all partners since puberty, the proportion of men with *only* male partners declines again to 10 percent of the men with *any* male partners.<sup>28</sup> Translated to a prevalence rate for the men as a whole, this means that, since puberty, under 1 percent of all men (0.6 percent) have had sex only with other boys or men and never with a female partner. For women, the proportion is even smaller. About 5 percent of the women who have had female partners since puberty have never had sex with a male partner. This means that, overall, only 0.2 percent of all women have had sex only with women.

These findings based on measures of sex partners indicate once again just how normative heterosexuality is in our society. Over a lifetime, the vast majority of people who report sex with others include at least one opposite-gender partner. On the other hand, we have seen that there is a minority, about 9 percent of men and 4 percent of women, who have sex with someone of their own gender (see the *any sex* column in table 8.2). These data also indicate the importance of the life course in viewing issues such as the gender of sex partners as a dynamic process. Given the relatively low rates of same-gender partners and the small size of our sample, it is not possible to look at questions of the movement back and forth between partners of each gender over time. For many, no doubt, the pattern of the mixture of partners represents some experimentation early on and the settling into a fixed choice later, if for no other reason than the fact that most people have relatively few partners overall (see chapter 5). On the other hand, there are some people who have had both male and female partners in the past one to five years. Here again, men and women also appear to differ. Women are much more likely than men in any time frame longer than a year to have had male as well as female partners, given that they have any same-gender partners.

In the British survey (Wellings, et al., *Britain*, 187–90) the prevalence of same-sex genital contact among men is also twice as large as the prevalence among women, consistently for the various time periods measured. They also report a similar pattern regarding the extent of opposite gender sexual activity among those who report same-sex partners (pp. 209-13). "58.4% of men who have had a male sexual partner in the last 5 years have also had a female sexual partner, and the figures for the last 2 years and last year are 42.0% and 29.9% respectively. Among women reporting having had female partners, the proportions reporting also having had male partners is even higher: 75.8% in the past 5 years, 53.6% in the last 2 years and 44.6% in the last year." (p. 211) Their figures for exclusive homosexual behavior ever were 0.3% for males and 0.1% for females.

past year), and 0.8 percent of men and 0.5 percent of women identified themselves as bisexual (approximately the same percentages who had sex partners of both genders in the past year).<sup>104</sup>

Out of the 143 men in the survey sample who reported any kind of same-sex desire, behavior or identity, 75 reported some sexual behavior with a member of the same sex at some point in their lives (52%). Of these 75 men, 32 reported having no current same-sex desire (neither appeal nor attraction; that's 42% of the men who ever engaged in sexual behavior with another male). Even after taking into account those men whose same-sex experience was by force or enticed (whether by seduction or by monetary payment), that leaves a fairly significant percentage who once experienced same-sex desire who no longer do.<sup>105</sup> Only 34 of these men (45% of the men who ever engaged in sexual behavior with another male; 24% of the men who report any kind of same-sex behavior, desire or identity; 2.4% of all men in the survey sample) report a confluence of same-sex behavior, desire and identity (as either homosexual or bisexual). Of the 108 men who reported some level of same-sex desire, 63 of them (58%) never engaged in any same-sex behavior.

Is the desire to engage in sex with a same-gender partner purely (or even predominantly) biologically determined, like left-handedness or right-handedness, or is the experience of such desire subject to environmental influences? The NHSLs data provide substantial evidence that environmental influences (particularly the size of the city in which one grew up for men and the level of education for women) may play a very significant role in the development of same-sex desire as well as the likelihood of acting on those desires.

The only case where a single statistic completely represents a population characteristic is where a distribution is uniform across the whole population without regard to any social or other characteristic. The use of and debates about a single number as a measure of incidence of homosexuality in the population, be it 10 or 2 percent (or some other number), are based on the implicit assumption that homosexuality is randomly (and

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104. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 311–12 (See Table 8.3B compared to Table 8.3A above)

105. This effect is especially pronounced in the significant percentage of men who have same-sex experience before age eighteen, but not thereafter. See Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 296. The British survey reports similar findings and conclusions in Wellings, et al., *Britain*, 203–06. In interpreting the results of this survey in comparison to the NHSLs, it is important to note that the British defined a category of "any sexual experience" in the following ways: 1) in the face-to-face interviews, respondents were handed a card with the definition, "Sexual experience is any kind of contact with another person that you felt was sexual (it could be just kissing or touching, or intercourse or any other form of sex) (p. 181);" 2) at the beginning of the self-completion questionnaires, in which most of the specific questions regarding same-sex attraction and behavior were asked, "any sexual contact or experience" was defined in contrast to genital contact—"this is a wider term and can include just kissing or cuddling, not necessarily leading to genital contact or intercourse." (p. 422) In the course of the interviews in the United States for the NHSLs, respondents were instructed, "People mean different things by sex or sexual activity, but in answering these questions, we need everyone to use the same definition. Here, by 'sex' or 'sexual activity', we mean any mutually voluntary activity with another person that involves genital contact and sexual excitement or arousal, that is, feeling really turned on, even if intercourse or orgasm did not occur." One should thus be careful to compare the category of *any sex* in the NHSLs with the category of *genital contact* in the British survey, not with *any sexual experience*.

uniformly) distributed in the population. This would fit with certain analogies to genetically or biologically based traits such as left-handedness or intelligence. However, that is exactly what we do not find. Homosexuality (or at least reports about homosexuality) is clearly distributed differentially within categories of the social and demographic variables that are used in tables 8.1 and 8.2.<sup>106</sup>

The most striking difference is that the proportions of male same-sex behavior and desire increase proportional to increased urbanization.

Men living in the central cities of the twelve largest metropolitan areas report rates of same-gender sexuality of between 9.2 and 16.7 percent (see the columns referring to *identity* and *desire*, respectively), as compared to rates for all men on these measures of 2.8 and 7.7 percent, respectively. And the rates generally decline monotonically with decline in urbanization.<sup>107</sup>

While much of this increase can be traced to the migration of people who experience same-sex desire and wish to engage in same-sex erotic behavior to larger cities where the environment is more tolerant, the urbanization effect is still quite significant when one measures the level of urbanization of the place that the man lived when he was fourteen or sixteen years old (and it is highly unlikely that that place of residence was chosen because of same-sex interest). 7.1 percent of men who lived in large cities or metropolitan areas at age fourteen or sixteen reported a same-sex partner in the previous five years. Only 3.5 percent of men who lived at those ages in towns, medium sized cities or suburbs reported a same-sex partner in the previous five years, and only 1.1 percent of men who lived in rural areas at those ages reported a same-sex partner in that time frame. A cogent explanation for this phenomenon is that something about large urban environments either elicit or provide an opportunity for the expression of same-sex desire and behavior that otherwise would not be experienced in other environments. Regarding this "elicitation/opportunity hypothesis" Laumann, et al. write:

The elicitation/opportunity hypothesis is the less obvious explanation. It runs counter to the more essentialist, biological views of homosexuality that is so widespread. It implies that the environment in which people grow up affects their sexuality in very basic ways. But this is exactly one way to read many of the patterns that we have found throughout this research. In fact, there is evidence for the effect of the degree of urbanization of residence while growing up on reported homosexuality. This effect is quite marked and strong for men and practically nonexistent for women. Table 8.1

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106. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 307; footnote 26 there reads:

There is a statistically significant relation between all the master status variables in table 8.1 and at least one of the same-gender partner measures for both men and women. There are two exceptions: urbanization while growing up for women and race for men. However, the relation between race and same-gender partners for women is due to the different (somewhat elevated) rate for "other" rather than any differences between whites and blacks.

The categories of the social and demographic variables are place of residence, place of residence at age 14/16, age, marital status, education, religion, religious attendance, and race/ethnicity.

107. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 306.

displays the relation between the urbanization of the place where respondents were living at age fourteen (sixteen for the GSS). We find a similar but much more moderated relation to current residence: among the male respondents, there is a clear monotonic relation between the level of urbanization and the proportion reporting same-gender partners in a given time period. Unlike current residence, residence at age fourteen or sixteen is very unlikely to be the result of a choice by the respondent based on sexual preference.

The relation of urbanization to same-gender sexuality is quite marked for men but much weaker for women. This is true for both current residence and residence while growing up. This suggests that homosexuality among men and women in the United States may be socially organized quite differently. It is even possible that the phenomena themselves (the various forms of same-gender sexuality) are different for men and women. (Of course, we have already demonstrated that the various forms of same-gender sexuality differ in substantial ways among men and among women as well.) Discussions of homosexuality often treat any same-gender sexual behavior or interest as fundamentally the same. These results challenge such easy conclusions.<sup>108</sup>

The major difference which stands out in looking at the prevalence of homosexual behavior or desire among the different categories of women is the pronounced effect of higher education.

Most of the patterns in the relations between same-gender sexuality and the social and demographic master status variables observed in tables 8.1 and 8.2 are similar for men and women. Except for one variable, the appeal of having sex with someone of one's own sex, the rates for women are always lower than the rates for men in any particular category. Education, however, does seem to stand out for women in a way that it does not for men. Higher levels of education are generally associated with higher rates on any given measure of same-gender sexuality. But this pattern is more pronounced and more monotonic for women than it is for men. In general, women with high school degrees or less report very low rates of same-gender sexuality. The strength and consistency of the pattern for women is mainly due to the fact that women who have graduated from college always report the highest level of same-gender sexuality. In the case of the measures of desire or interest, the female college graduates' rates are higher than those of comparable men, even for sexual attraction, where the overall rate for women is lower than that for men. For the measures of appeal and desire, the women's overall rates are higher than or comparable to the men's rates, but this turns out to be largely due to the especially high rate among the college educated.

There does not seem to be an obvious explanation for this pattern. Higher levels of education are associated with greater social and sexual liberalism (see chapter 14) and with greater sexual experimentation (see Kinsey, Pomeroy, and Martin 1948; Kinsey et al. 1953; and chapter 3 above). Acceptance of nontraditional sexual behavior is likely to be higher among the more educated. This may facilitate higher rates of reporting among the better educated, even if behavioral differences across education levels are negligible. But it seems likely that both effects occur.

We have already observed some drop-off in heterosexual partners (and rates of sexual activity) among the more highly educated women (see chapters 3 and 5). On the one hand, more education for women may represent greater gender nonconformity. But it may also represent a higher level of personal resources (human capital) that can translate

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108. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 308–09.

into more economic and social opportunities, which would, in turn, increase one's ability to please oneself rather than others. The fact that younger women (those under forty) report higher levels of same-gender partners in all three time periods but do not so clearly report higher levels of same-gender desire may be due to historical changes that affect the opportunities and norms for cohorts differentially....

Summation: The NHSLS data from 1994 indicate that homosexuality is not a monolithic phenomenon attributable to one single biological root cause, but rather a catch-all category encompassing different types of desire for same-gender sex, different same-gender erotic activities, and/or identification with a label based on one's same-sex desires or behaviors. The findings most relevant to our halakhic analysis are that 1) a majority of people who engage in sex with a same-gender partner in a five year period also engage in sex with an opposite gender partner, 2) at least two-thirds of men who express some level of desire for sex with other men also express some level of desire for sex with women, and 95% of women who express some level of desire for sex with other women also express some level of desire for sex with men, 3) a substantial proportion of men who experience desire for same-gender sex at some point in their lives (e.g., before age 18) do not experience this desire at other times in their lives (e.g., in adulthood), and 4) the prevalence of same-gender desire and same-gender sexual activity is correlated with sociological variables, particularly the level of urbanization of the place in which men grow up and the level of education which women have attained.

#### Appendix 4: Values Which Should Imbue All Relationships<sup>109</sup>

1. *Seeing oneself and one's partner as the creatures of God.* We are not machines; we are integrated wholes created by, and in the image of God. As such, our sexual activity must reflect our value system and the personhood of the other. If it is only for physical release, it degrades us terribly. While this recognition is a necessary component in marital sex, it is all the more imperative in non-marital sex, where the lack of a public, long-term commitment to one another heightens the chances that one or both of the partners will see sex as simply pleasurable release. In our sexual activities, we need to retain our human character—indeed, our divine imprint.

2. *Respect for others.* This means, minimally, that we must avoid coercive sex. Marriage is no guarantee that sexual relations will be respectful and non-coercive. Still, the deep relationship which marriage betokens makes it more probable that the two partners will care for each other in their sexual relations as well as in all of the other arenas of life. Unmarried people must take special care to do this, if only because they know each other less well and are therefore more likely to misunderstand each other's cues.

3. *Modesty.* The demand that one be modest in one's sexual activities—as well as in one's speech and dress—is another corollary of seeing oneself in the image of God. For singles it is especially important to note that modesty requires that one's sexual activities be conducted in private and that they not be discussed with others.

4. *Honesty.* Marriage is a public statement of commitment of the partners to each other, and sexual activity is one powerful way in which that commitment is restated and reconfirmed. If one is not married, however, sex cannot possibly symbolize the same degree of commitment. Unmarried sexual partners must therefore openly and honestly confront what their sexual activity means for the length and depth of their relationship.

5. *Fidelity.* Marriage by its very nature demands fidelity; unmarried relationships by their very nature do not. The value of fidelity, then, and the security, intensity, and intimacy that it imparts to a relationship are not really available to a non-marital relationship. In the spirit of this value, though, one should avoid short-term sexual encounters and seek, instead, long-term relationships to which one remains faithful for the duration of the relationship. Infidelity breeds pain, distrust, and, in the extreme, inability to form intimate relationships with anyone. The Jewish tradition requires us to respect one another more than that; we minimally must be honest and faithful to our commitments so as to avoid harming one another.

6. *Health and safety.* This concern of the Jewish tradition is even more critical in non-marital relationships than it is in married ones, for most sexually transmitted diseases are contracted in

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109. Elliot N. Dorff, *"This is My Beloved, This is My Friend: A Rabbinic Letter on Intimate Relations,"* The Commission on Human Sexuality and the Rabbinical Assembly (New York: The Rabbinical Assembly, 1996), 31–33.

non-marital, sexual liaisons. In our time this includes not only recurring infections, like syphilis, but fatal diseases like AIDS.

From the standpoint of Judaism, marriage is the appropriate place for sexual relations. For those not living up to that standard it is imperative to recognize that sexual contact with any new partner raises the possible risk of AIDS. That is not only a pragmatic word to the wise; it comes out of the depths of the Jewish moral and legal tradition, where *pikuah nefesh* (saving a life) is a value of the highest order. Moreover we are commanded by our tradition to take measures to prevent illness in the first place. Fulfilling these commandments in this age requires all of the following:

- (a) full disclosure of each partner's sexual history from 1980 to the present to identify whether a previous partner may have been infected with the HIV virus;
- (b) HIV testing for both partners before genital sex is considered, recognizing all the while that a negative test result is only valid six months after the last genital contact;
- (c) careful and consistent use of condoms until the risk of infection has been definitively ruled out either by the partner's sexual history or results of HIV testing; and
- (d) abstinence from coitus where there is demonstrated HIV infection in either partner.

If any of these requirements cannot be met, due to discomfort with open communication, lack of maturity, one partner's reticence to disclose his or her history, or doubts about the trustworthiness of the partner's assurances, then abstinence from genital sex with this partner is the only safe and Jewishly legitimate choice. AIDS, after all, is lethal; protection against it must be part of any sexual decision. We are always obligated to take care of our bodies, and that responsibility does not stop at the bedroom door. Sexual relationships must therefore be conducted with safety concerns clearly in our minds and hearts.

...

8. *The Jewish quality of the relationship.* Unmarried people who live together should discuss the Jewish character of their relationship just as much as newlyweds need to do. That ranges across the gamut of ritual commandments, such as the dietary laws and Sabbath and Festival observance, and it also involves all of the theological and moral issues described above.

Moreover, single Jews should date Jews exclusively so as not to incur the problems of intermarriage for themselves and for the Jewish people as a whole. Intermarriage is a major problem for the contemporary Jewish community, for studies indicate that some 90% of the children of intermarried couples are not raised as Jews. Furthermore, intermarriage is a problem for the people themselves. Marriage is hard enough as it is, involving, as it does, many adjustments of the couple to each other; it is even harder if they come from different religious backgrounds. It is no wonder, then, that as high as the divorce rate is among couples of the same religion, it is almost double that among couples consisting of a Jew and a non-Jew. Consequently, single Jews should date Jews exclusively if they want to enhance their chances of staying together and of having Jewish children and grandchildren.

## Same-Sex Attraction and Halakhah

### **Addendum<sup>110</sup>**

Leonard R. Levy

It is the natural inclination of human beings sensitive to the pain others suffer to act to remove that pain as quickly as possible based on our surface perception of what is causing the pain and how best to relieve the pain or to remove it. It is not our natural inclination to dig deeper, to probe whether our surface perceptions are borne out by in depth analysis. It is not natural to examine with due diligence the possibility that a proposed solution to remove the pain may cause other problems which could cause more suffering than the original situation. It is not natural, but it is crucial. Physicians are often asked and tempted to apply treatments about which the long term efficacy and risks are not sufficiently known in order to alleviate the suffering of their patients. Medical professionals are trained to resist that temptation and to remember the hippocratic oath: First, do no harm. Their ability to resist is reinforced by historical experience which has generated a very long list of treatments which were used without sufficient testing that ended up doing more harm than good. For those who are not professionally trained to do so, the need to ask probing questions before acting on surface perceptions is learned all too often by suffering the consequences of not having asked them in past situations.

Recognizing that the pain has been inflicted by people who believed same-gender sexual relationships to be wrong because of the biblical prohibition in Leviticus 18 (and by the pervasive assumptions of a social order organized around the principle), and recognizing that attempts to remove the pain by removing the persistent strong inclination of some people to engage in same-sex sexual activities through pschoanalysis were frequently unsuccessful, often doing more harm than good, many recommend that we remove the pain by removing the prohibition. I am convinced that a more in depth analysis indicates a high likelihood that removing the prohibition, or taking any action which will be widely perceived as removing the

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110. In previous versions of my teshuvah, I have devoted much space to presenting reasons substantiating the need to maintain the prohibitions against same-sex sexual relations—reasons which even those who do not agree with the positivist approach to halakhah in this case should take seriously. Since this lengthy detailed presentation based on data gleaned from studies in many disciplines detracted from the attention which should be placed on the important practical issues which the responsum addresses, I have removed it from the body of this teshuvah, and I am appending it as an addendum to the teshuvah. The addendum should be seen as an independent exhortation to members of the committee, and eventually to readers at large, to maintain the traditional prohibitions.

prohibition, while it may have some positive effects for some people, will end up doing more harm than good overall.

Proponents of removing or modifying the prohibitions claim that doing so is necessary in order to respect the human dignity of those who can only find sexual satisfaction through acts which violate the prohibitions. They claim that maintaining the prohibition for those who are constitutionally oriented toward same-gender sexual activity is theologically untenable. They maintain that public affirmation of committed same-sex relationships through a public ceremony parallel to (or identical with) a wedding is necessary in order to encourage stable monogamous relationships and the building of Jewish families, thereby reducing the risk of sexually transmitted diseases and increasing the Jewish population. They also claim that failure to remove or modify the prohibitions and to celebrate same-sex unions with a public ceremony risks pushing constitutional homosexuals into heterosexual marriages which cannot possibly succeed, and ensures perpetuation of the many injustices that have been inflicted upon homosexuals in our society.

These claims overestimate the positive effects that the proposed changes would have, ignore potential negative effects, and fail to consider the significant positive effects of the program of education and counseling which I propose—a program which entails far fewer potential negative effects. These claims are also based on surface perceptions and assumptions which have very little evidence to support them, and, upon deeper analysis, significant counter-evidence against them.

In addition to the common misperceptions that I pointed out in the “Myths and Facts” section in the body of the teshuvah (pp. 3-11), there are further complexities which must be taken into account in our analysis.

### **Complexities**

The following complexities and distinctions must be kept in mind in all of our discussions of this issue. I will certainly do my best to make it clear where these distinctions are relevant throughout this paper.

1. We must constantly consider the practical implications of anything which CJLS decides on this matter. Analyzing these implications is very complex because CJLS does not operate with the authority to enforce its decisions on anyone. When we make decisions regarding the behavior we expect of Conservative rabbis, we can rightly expect that the great majority of members of the Rabbinical Assembly will indeed act in accordance with an opinion which we issue. That is not true for well over 90% of the 1.5 million Conservative Jews. However, it would be a grave mistake to conclude that our words have no effect on their behavior. While all too few Conservative Jews will do everything their rabbis say they should do (or not do), they do value the counsel of their religious leaders and feel obliged to move their behavior at least a certain percentage toward that which their rabbi says and does. The rabbi's practice and teaching of Judaism is the ideal bellweather by which congregants measure their own practice. Beyond this benchmark, they feel no need to strive. For many, it is also the benchmark from which negotiations begin regarding the inevitable unholy compromises (“if the rabbi says we need x, then 1/2 x is good enough for us...”). Each congregant has his/her own idiosyncratic idea of what percentage of the distance toward the rabbi's ideal benchmark s/he should be; and that percentage may vary with particular types of issues.

2. Male homosexuality and female homosexuality are not two sides of the same coin. This is true not only regarding the different legal evaluation of sex acts between two males and sex acts between two females in halakhah, but also regarding differences in the phenomena of

male-male sexual attraction and female-female sexual attraction themselves, and regarding major differences in the demographic prevalence of the two phenomena. Female homosexuality cannot be discussed simply as the female version of male homosexuality. Indeed, female sexuality cannot be discussed simply as the female version of male sexuality.<sup>111</sup> Except where explicitly stated otherwise, this paper will deal exclusively with male homosexuality for the following reasons:

- a) the phenomenon of exclusive male-male sexual attraction is much more prevalent than exclusive female-female sexual attraction<sup>112</sup>;
- b) much more research has been done on male homosexuality, so more is known about it at present; and
- c) the prohibition against male-male sexual relations is much more stringent than that against female-female sexual relations.

3. The questions regarding how homosexuals have been treated in the legal system in our countries for the past half century and how they will be treated in them in the future are not the issues that CJLS is dealing with, although they must be taken into account as the context within which we are making our decisions. The fact that something which was once not legal in the United States of America or Canada, or in any number of states or provinces, has become or will become legal, does not mean that it must become permitted under halakhah in Conservative Judaism as well. Likewise the fact that one holds that something is forbidden under Jewish law does not mean that one must insist that it be illegal under the laws of the state.<sup>113</sup> The idea that the government has little or no business in regulating the private sex acts of consenting adults may make a great deal of sense in a country which has the Bill of Rights, and/or an evolving sense of a constitutional right to privacy, as part of its constitution. However, as religious authorities, we have much business in transmitting the teachings and standards of our tradition regarding private sexual behavior to those who look to us for guidance. Whether states should make it possible for same-sex couples to marry is a question of constitutional law and political philosophy. Even though religious values may motivate activists on both sides of that issue, it is not a religious question under our exclusive purview. Whether the CJLS empowers Conservative rabbis to officiate at same-sex weddings or commitment ceremonies is a religious/halakhic issue, not a political one. It is logically possible for one to favor the legalization of same-sex marriage in states of the United States or provinces of Canada while opposing the officiation of Conservative rabbis at those same-sex weddings. Even if same-sex marriage is ultimately accepted widely in our country, we may still determine that it is forbidden for us to perform same-sex weddings. After all, we consider it forbidden to perform intermarriages even though in all fifty states it is legally permitted for Jews to marry non-Jews.

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111. These gender differences are a constant theme through chapters 1-8 of Richard C. Friedman and Jennifer I. Downey, *Sexual Orientation and Psychoanalysis* (New York: Columbia University Press, 2002). See particularly pp. 5, 12, 19, 145-150.

112. See Table 8.3B and the discussion thereon in Edward O. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States* (Chicago and London: The University of Chicago Press, 1994), 311-13.

113. Some have suggested that in the case of *שבע מצות בני נח* we may indeed have such an obligation. While I do believe that we have an obligation to make clear that non-Jews are obligated to follow these laws and to encourage their observance, we do not have an obligation to seek government enforcement of them. After all, the First Amendment already protects the rights of citizens of the United States to engage in blasphemy and idolatry.

## Defining the Issue

Those who advocate that we remove or modify the prohibitions against same-sex sexual relations and officiate at same-sex weddings or commitment ceremonies do so mainly for the population which most people associate with the term homosexual—those who are exclusively attracted to members of the same sex. Their attraction to the same sex, and their total or near total lack of attraction to the opposite sex, is not a matter of choice. It is beyond their conscious control. Observance of these prohibitions, which psychologists agree is a choice which can be made<sup>114</sup>, comes at a very high cost and denies the opportunity for sharing a loving sexual relationship and potentially building a family around that relationship. The plight of such exclusive homosexuals who seek to live their lives according to Torah and the Rabbinic tradition to the greatest degree possible is indeed painful and difficult. Their pain cries out to us, and we dare not ignore it. The body of the teshuvah to which this addendum is attached seeks to address their plight to the greatest extent possible without undermining the prohibitions against same-sex sexual relations and the ideal that sexual relations can be sanctified only in the context of the marriage of a Jewish man and a Jewish woman. We insist on maintaining these prohibitions and this ideal not only for reasons of halakhic integrity, but also because of the likelihood that modifying these prohibitions and this ideal will cause more harm to more people than the good it might do for some people.

The draft teshuvot previous submitted to the CJLS seeking to remove or to modify these prohibitions and this ideal focus narrowly on the needs of a small group of people—homosexuals who feel exclusive or nearly-exclusive same-sex attraction, who seek to observe halakhah, and and who wish to have their sexually exclusive relationships with same-sex partners recognized as the equivalent of marriage. The authors of these draft teshuvot have suggested that normalizing the status of these observant gay and lesbian couples will promote an ideal which we should project for all homosexuals.

But we dare not ignore the implications and impact of taking these proposed steps on others who feel same-sex attraction, as well as on the rest of our communities. First let us consider the rest of the continuum of people who experience same-sex attraction and the impact that removing or modifying the prohibitions and officiating at same-sex weddings may have on their behavior and the sociological implications of that impact. The best of the sociological studies of sexual behavior conducted to date indicate that at least two-thirds of men who express some level of desire for sex with other men also express some level of desire for sex with women, and 95% of women who express some level of desire for sex with other women also express some level of desire for sex with men.<sup>115</sup> These are people for whom the challenge of choosing between potential partners whom the law forbids and whom the law permits is not qualitatively different from the challenge faced by heterosexuals in choosing between potential partners.

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114. Judith Glassgold, “Summary of Research on Select Issues in Lesbian, Gay, and Bisexual Psychology,” unpublished paper (2005), quoting from American Psychological Association, “Answers to Your Questions About Homosexuality and Sexual Orientation” (2005), APA website: [www.apa.org/pubinfo/answers.html#whatis](http://www.apa.org/pubinfo/answers.html#whatis). See in teshuvah, p. 4.

115. For 60% of these men who express some sexual desire for men, their desire for women is equal to or greater than their desire for men. 80% of the women who express some sexual desire for women express desire for men greater than or equal to their desire for women. These figures are based on Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 297, 311 (Table 8.3B). See Excursus 1 in the teshuva (pp. 28-35) for a fuller analysis of the data from this survey.

When CJLS publicly issues statements and teshuvot regarding homosexuality, they will be heard by the great majority of people through headlines in the media. We will not be able to effectively target different public messages to these two populations. If the headline reads, “Conservative Movement approves gay marriage and ordination of homosexual rabbis,” the message to all will be that same-gender sexual relationships are now permitted and equally valued with opposite-gender sexual relationships. That message is indeed what at least one of the papers previously submitted to CJLS on this subject sought to convey. However, even the approach suggested by Rabbis Dorff, Nevins and Reisner, if it is ultimately approved by CJLS, will end up being understood by most people to convey the same message, despite all of their well intentioned efforts to avoid that. All members of CJLS must consider with due diligence the possible long-term impact of sending that message.

### **The Essential Question: Does the Gender of the Partners Really Matter?**

There are two arguments commonly put forward for accepting that people who are capable of developing a fully satisfying loving sexual relationship with someone of the opposite sex may legitimately choose to develop such a relationship with someone of the same sex. The first is that in principle, it shouldn't matter what gender the partners are; the important thing is that the partners have a loving, committed relationship. The second argument is that if in order to relieve the pain and injustice suffered by those who are not capable of developing such a relationship with someone of the opposite sex we need to accept that some people who may have chosen an opposite sex relationship may now choose a same-sex relationship, even though in principle a person who has the capability of developing such a loving sexual relationship with someone of the opposite sex should do so, then that's a relatively small price to pay.

My sense from discussions with students is that the first argument is rapidly becoming the more commonly accepted one. Those who forward it posit that when sex is an expression of mutual love between two adults in a committed, exclusive relationship, it is an expression of the holiness toward which Jews strive in relationships sanctified by *kiddushin*—marriage. This approach cannot be accepted for two reasons: 1) it is based on the false premise that there is no significant difference between same-sex and opposite sex sexual relationships which would lead us to value them differently; and 2) it cannot be justified halakhically. This false premise is based on the common assumption that female sexuality is essentially the female version of male sexuality.

Recent research demonstrates that this presumption is false. In their recent book on sexual orientation<sup>116</sup>, Richard Friedman and Jennifer Downey summarize the extensive research findings which indicate that males and females **tend**<sup>117</sup> to differ significantly with regard to the

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116. Friedman and Downey, *Sexual Orientation*.

117. These are tendencies in the prevalence of certain characteristics between two different populations, males and females, **not hard and fast rules about individual males and females**.

Most sex differences in behavior consist of specific experiences and activities that, when measured, can be described quantitatively. The means for men and women differ statistically, but there is considerable overlap between individuals. For example, men tend to be better at spatial relations than women, but some women perform as well as any man.... Similarly women tend to be better at verbal activities than men, but authors John Updike, Saul Bellow, and Philip Roth would hardly be considered verbally

nature and content of their sexual/erotic fantasies, the frequency of those fantasies, the age of onset of those fantasies, the behavioral consequences of those fantasies, the connection (or lack thereof) of subjective feelings of sexual arousal with objective signs of genital arousal, the types of situations which stimulate sexual arousal, and what types of experiences are considered to be necessary for feeling sexual satisfaction. For a detailed presentation of these differences, see Excursus 1, pp. 80 ff. Here I will briefly summarize the most important differences:

1) Males tend to become sexually aroused by fantasies or sensual (particularly visual) stimuli of sexually attractive members of the gender(s) whom they identify as the objects of their sexual desires independent of any relationship with the object of desire. Their fantasies tend to include fantasies of having sexual relations with a variety of partners. Their sexual arousal is immediately physically manifested as genital arousal. Satisfaction of the sexual desires is almost always achieved through orgasm. In contrast females tend not to become sexually aroused in the absence of a relational context with the desired person, physiological signs of genital arousal are often not sufficient to feel sexual arousal, and orgasm is not necessary for sexual satisfaction except in a minority of women.

2) Females are more likely to be sexually aroused by procreative fantasies than are males. Many of their fantasies serve the evolutionary role of selecting a mate who is most likely to protect and provide for the female and her offspring.

In short, women's sexual desires and fantasies **tend** to be focused on relationship and procreation (i.e., building a stable family), while men's sexual desires and fantasies **tend** to be focused on physical satisfaction irrespective of such complications.

When these differences between male sexuality and female sexuality are examined from the vantage point of the different valuations which the Rabbinic tradition attaches to male sexual pleasure and female sexual pleasure, we gain a deeper understanding of the wisdom of the Torah's prohibition of male-male intercourse, irrespective of the relational context. Rabbinic Judaism never subscribed to the Christian standard that sex was only legitimate for the purpose of procreation. Sexual pleasure, as well as procreation, was considered to be not only legitimate, but ideally, the fulfillment of a mitzvah. However, the Rabbis specifically defined this mitzvah as an obligation of the husband to provide sexual pleasure to his wife at regular intervals, to the extent that his profession (and its attendant stresses) permitted.<sup>118</sup> Although a wife's refusal to engage in sexual intercourse with her husband for an extended period of time was recognized to be grounds for divorce and loss of the ketubah payment that would otherwise be due her upon divorce<sup>119</sup>, the Rabbis never stated that a wife has the obligation to provide sexual pleasure to her husband. I believe that this rhetorical distinction reflects the Rabbis' differential evaluation of the sex-drives (יצר) of men and of women. When it comes to women, the Rabbis often stressed the importance of fulfilling their sexual desires. A husband should make sure to engage in

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challenged. From a sex researcher's perspective it is perfectly understandable that some women experience sexual fantasy similarly to most men.

(Friedman and Downey, *Sexual Orientation*, 19–20)

118. Mishna Ketubot 5:6 enumerates the various intervals for the unemployed, workers, donkey drivers, camel drivers, and sailors.

119. Mishna Ketubot 5:7. For a complete but succinct discussion of the complex halakhic sources on defining the nature of the expectation that women will engage in sexual intercourse with their husbands, and the limitations on the husbands rights to sexual intercourse, see Nahum Rakover, "Coercion in Conjugal Relations," *Jewish Law Association Studies I: The Touro Conference Volume 1* (1982 1985): 101–19.

sexual relations with his wife before leaving on a business trip.<sup>120</sup> A husband has the obligation of providing *שמחה* for his wife through sexual relations above and beyond the formal *עונה* obligation when the wife desires it.<sup>121</sup> The basic assumption behind all of these statements is that women's sexual desires can and should be fulfilled in the context of marriage. However, the Rabbis considered the sexual desires of men to be potentially insatiable. The Talmud relates that King David made the mistake of thinking that engaging more frequently in sexual relations with his wives would satisfy his desires and thus prevent him from falling into sin. The male *יצר* according to the Talmud, increases the more one tries to satisfy it, but the more one starves it, the more the sexual appetite decreases.<sup>122</sup> It was through this error that David came to sin with Bathsheba. The Talmud (Nedarim 20b) contrasts despicable behaviors of husbands toward their wives with regard to sexual intercourse from the most praiseworthy by juxtaposing statements of R. Levi and R. Shmuel bar Nahmani. R. Levi designates as "rebels and transgressors" those who induce their wives to submit to intercourse through fear and those who physically force their wives to have sex (i.e., rape), as well as numerous other types of intercourse in which the husband is not sufficiently attentive to his wife nor acting as an expression of love for her.<sup>123</sup> The label "rebels and transgressors" is also applied to the offspring that might result from such types of intercourse.<sup>124</sup> In contrast, Shmuel bar Nahmani states that when women initiate sexual relations with their husbands<sup>125</sup>, the offspring will be great scholars like Issachar (the son Leah bore Jacob after initiating relations with him), people of understanding at an exceptional level. The Rabbinic ideal is that husbands should engage in sexual intercourse with their wives only

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120. Yebamot 62b. This applies even during the time *לווסתה*, when he would usually be expected to refrain from sexual relations as a precaution in case the wife's menstrual period might start a little earlier than usual.

121. Pesachim 72b. David Feldman (David M. Feldman, *Marital Relations, Birth Control, and Abortion in Jewish Law*, reprint, 1968 [New York: Schocken Books, 1974], 64) writes, "The legalistic obligation [of *עונה*] itself is based on an "estimate" of her sexual needs; if these exceed the estimate, so does his duty."

122. Sanhedrin 107a:

אמר רב יהודה אמר רב: לעולם אל יביא אדם עצמו לידי נסיון, שהרי דוד מלך ישראל הביא עצמו לידי נסיון ונכשל. אמר לפניו: רבונו של עולם, מפני מה אומרים, אלהי אברהם אלהי יצחק ואלהי יעקב ואין אומרים אלהי דוד? - אמר: אינהו מינסו לי, ואת לא מינסית לי, אמר לפניו: רבונו של עולם, בהנני ונסני. שנאמר +תהלים כ"ו+ בהנני ה' ונסני וגו'. אמר: מינסנא לך, ועבידנא מילתא בהדך, דלדידהו לא הודעתיהו ואילו אנא קא מודענא לך, דמנסנא לך בדבר ערוה. מיד +שמואל ב' י"א+ ויהי לעת הערב ויקם דוד מעל משכבו וגו' אמר רב יהודה: שהפך משכבו של לילה למשכבו של יום, ונתעלמה ממנו הלכה: אבר קטן יש באדם, משביעו - רעב, ומרעיבו - שבע.

This "halakhah" which David missed was stated by Rabbi Yochanan in Sukkah 52b.

123. The others are having intercourse 1) with a hated wife, 2) while the husband is under a rabbinic ban (נידוי), 3) when he's not sure which of his wives he is with, 4) in the heat of an argument, 5) while drunk, 6) when he has already decided to divorce her.

124. Whatever one might think of the idea that the offspring of a sexual encounter may have traits related to the nature of the sexual encounter, it is clear that R. Levi and R. Shmuel bar Nahmani are expressing their opinions regarding the evaluation of such sex acts in this manner.

125. The stam Talmud qualifies that this initiation be done in an appropriately non-chutzpadic manner.

when their wives desire it, not when they don't. When they are fulfilling their wives desires, they are engaging in a מצוה.<sup>126</sup>

When we understand these Rabbinic teachings in the context of the findings outlined by Friedman and Downey, the wisdom of these teachings becomes clear. Since women's sexual desires tend to be tied to the context of a caring, loving relationship and to a drive for procreation, satisfying those desires is a mitzvah. When men engage in sexual intercourse with their wives as an expression of desire for physical pleasures which goes beyond the bounds of what the woman desires, or even if the man is simply not intending his sexual activity to give his wife pleasure, the sexual intercourse is no longer a מצוה; it is a דבר מגונה (and possibly worse). When a man and his wife engage in sexual activity as a true מצוה, the joy that they experience is שמחה של מצוה. It is through the joy which one feels through the performance of a mitzvah that God's presence enters our lives:

ושבחתי אני את השמחה - שמחה של מצוה, ולשמחה מה זה עשה - זו שמחה שאינה של מצוה. ללמדך שאין שכינה שורה לא מתוך עצבות ולא מתוך עצלות ולא מתוך שחוק ולא מתוך קלות ראש ולא מתוך שיחה ולא מתוך דברים בטלים, אלא מתוך דבר שמחה של מצוה.<sup>127</sup>

In this way, the ideal of the Jewish marriage is fulfilled: "לא איש בלא אשה ולא שניהם בלא שכינה"<sup>128</sup>

The ideal is that every sexual act a man engages in be one which is directed toward satisfying his wife's sexual desires. Fulfilling this ideal requires attentiveness to the loving, caring relationship with the whole person. This is an ideal which men have much difficulty living up to. To the extent that we come close to living up to this ideal, it is with the help and encouragement of our wives (and/or the fear of what they'll do to us if we stray too far from the ideal). In any case, this is the ideal which we project when the bride and groom stand under the wedding canopy and we recite the *sheva berakhot*, referring to the couple as רעים האהובים and praising God as משמח חתן עם הכלה—"the one who causes the groom to rejoice with the bride."<sup>129</sup>

The above analysis meets an aggadic argument (that love is what matters, not the genders of the two individuals in the couple) with an aggadic counter-argument (that the different

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126. See also Eruvin 100b

127. Shabbat 30b

128. Bereshit Rabbah 8:9, 22:2. These texts deal specifically with procreation (commenting on the Gen 1:26 - (נעשה אדם בצלמנו כדמותנו - 1:26), but this teaching has been used frequently in the past few decades by our rabbis in wedding talks and educational settings to describe the ideal of Jewish marriage in general.

129. Ketubot 8a. Rashi there explains,

משמח חתן וכלה - ובאחרונה משמח חתן עם הכלה לפי ששמחת ברכה הראשונה לא בשמחת חתונה אנו אומרים שהרי תפלה היא שמתפללים ומברכין שיהו שמחים בהצלחה כל ימיהם לפיכך אין לחתום בה משמח חתן עם הכלה דמשמע איש באשתו אלא ברוך ה' משמח את שניהם לעולם בסיפוק מזונות וכל טוב ובאחרונה שבח שמשבח להקב"ה שברא חתונת דיבוק איש באשה על ידי שמחה וחדוה לפיכך יש לחתום משמח חתן עם הכלה שהוא לשון שמחת איש באשה.

I am indebted to Rabbi Ben Zion Bergman for teaching me this source at UJ in 1980-81, and for sparking my interest in Rabbinic texts on sexuality in general through his inspiring teaching of Bavli Ketubot chapters 1 and 2.

tendencies of women's and men's sexual desires matters very much<sup>130</sup>). That the contention that when sex is an expression of mutual love between two adults in a committed, exclusive relationship, it is an expression of the holiness toward which Jews strive in relationships sanctified by *kiddushin* lacks any halakhic justification is more straightforward. Simply put, the legal sources of our tradition, from the verses in Leviticus through the classical Rabbinic sources and their Medieval commentaries and codifications, define the act of male-male penetrative intercourse to be a major sexual offense irrespective of its relational context. An act which has been unambiguously defined by Torah and two millenia of legal tradition as a major offense cannot be transformed into a vehicle for expressing our tradition's ideal of holiness simply because many people think gender differences shouldn't matter. One cannot sanctify that which by definition one cannot make holy. The appropriate use of aggadic reasoning within the limits of halakhah is apparent in the following analogy to the laws of kashrut.

Rabbi Isaac Klein wrote regarding the means by which kashrut sanctifies us:

The Torah regards the dietary laws as a discipline in holiness, a spiritual discipline imposed on a biological activity. The tension between wanton physical appetites and the endeavors of the spirit was traditionally explained as the struggle between *יצר הטוב*, the good inclination, and *יצר הרע*, the evil inclination—the two forces that contend with each other for mastery of the soul.

To transpose this into a modern key, it is the struggle between our higher self and our lower self, between the animal in us and the urge to strive upwards, which is part of the process of evolution. The arena of struggle in this evolutionary process is biological. All these appetites remain in the realm of the physical. Religion strives to lift them out of the merely physical into the realm of the spirit. To illustrate: Eating is one of the important functions of life. It begins as a biological act, a means of satisfying hunger. When we invite a friend for dinner, a new dimension is added to eating; it becomes a social act. It helps to cement friendship. When a meal takes place in connection with *שמחה של מצוה*, the joy of observance of a commandment, it becomes a solemn act that helps add significance to an occasion. On the Sabbath, or even more, on Pesah at the Seder, eating becomes a religious act, an act of worship, with the table becoming an altar of God.

Religion thus raises the biological act into the dimension of the holy. Hence the connection in the Torah between the dietary laws and holiness.

Rabbi Samuel H. Dresner suggests that the dietary laws have as their purpose the teaching of reverence for life. He says: "Human consumption of meat, which means the taking of animal life, has constantly posed a religious problem to Judaism, even when it has accepted the necessity of it. The Rabbis of the Talmud were aware of the distinction between man's ideal and his real condition, regarding food."<sup>131</sup> Since it was felt that man must eat meat, the act was surrounded with regulations which would prevent him from being brutalized and instead would cause him to develop reverence for life. Rabbi Dresner continues: "We are permitted to eat meat, but we must learn to have reverence for the life we take. It is part of the process of hallowing which Kashrut proclaims. *Reverence for Life*, teaching an awareness of what we are about when we engage in the simple act of eating flesh, is the constant lesson of the laws of Kashrut."<sup>132</sup>

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130. Just how much will become clear below, Excursus 1, p.79 ff.

131. Samuel H. Dresner, *The Jewish Dietary Laws: Their Meaning for Our Times*, Seymour Siegel, reprint, 1959 (New York: The Burning Bush Press, 1966), 24.

132. Dresner, *The Jewish Dietary Laws: Their Meaning for Our Times*, 27.

This would explain the purpose of the dietary laws as a whole.<sup>133</sup>

Ritually slaughtering a permitted animal, draining its blood, removing the forbidden parts, and cooking the permitted flesh without any mixture with milk (as well as reciting blessings before and after eating) sanctify the physical act of eating meat. Why should this process sanctify the eating of the flesh of a cow any more than it could sanctify the eating of the flesh of a pig? Why can't we sanctify eating pork? The Torah defined species permitted for consumption and species forbidden for consumption. Limiting the number of permitted species might be another way in which the Torah defines how we can sanctify our consumption of food. The delineation of forbidden species may or may not have any logical reason behind it; indeed Rabbinic tradition considers the prohibition of pork to be a *חוק*, a law which has no logical reason. It is not up to us to impose our own logical considerations and redefine the definitions of permitted and forbidden species. Ritually slaughtering a forbidden species, draining its blood, etc., cannot sanctify eating its flesh.

The fact that many people are capable of developing a loving, committed sexual relationship with someone of either gender is no reason to abandon the Torah's definition of sanctification of sexual intercourse exclusively through the marriage of a man and a woman. This fundamental halakhic point would stand even if there were no rational explanation for it. Rational explanations which have no basis in Talmudic literature—*טעמי המצות*—speculative as they are, can strengthen our understanding of the law and our commitment to observe it, but they cannot legitimately be adduced to disregard the law or uproot it. The process of raising a physical act above the mundane to a higher level approaching an ideal defined by Torah which Rabbi Klein adduces to explain how kashrut sanctifies our physical drives applies also to the sanctification of our sex-drives. Torah, and the Rabbinic tradition which interprets and expands upon it, defines the means of sanctification of our physical desires for sexual activity. When the male's sexual desires are directed toward fulfilling the female's sexual desires in a loving, committed relationship sanctified by *הוּפָה וְקִידוּשֵׁי*, the sexual union of the man and woman fulfills the ideal of holiness. The research cited above (pp. 55–56, and in more detail below, p.80 ff.), which demonstrates the different tendencies of male vs. female sexuality, indicates that the designation of the loving couple as male and female is not just a matter of *דבריה תורה בהויה* or *דברו* *הכמים בהויה*, but a necessary matter of definition rooted in the differential nature of the male and female sex drives. Sanctification requires raising a physical act to a higher level. Satisfaction of the female sex drive raises the male's sexual activity in the process of doing so to a higher level. That sanctification cannot occur with two males or with two females.<sup>134</sup>

## The Second Argument

As we noted above, the second argument is that if in order to relieve the pain and injustice suffered by those who are not capable of developing such a relationship with someone of the opposite sex we need to accept that some people who may have chosen an opposite sex relationship may now choose a same-sex relationship, even though in principle a person who has

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133. Isaac Klein, *A Guide to Jewish Religious Practice* (New York: The Jewish Theological Seminary of America, 1979), 303–04.

134. With two males, the act remains at the low level of physical pleasure. Male-male intercourse is thus considered a major offense. With two females, the act does not lower either party from the relational plane, thus the act is not considered a major offense. However, the act does not raise either party to a higher level. It is thus not a sanctifiable act.

the capability of developing such a loving sexual relationship with someone of the opposite sex should do so, then that's a relatively small price to pay.

Those who forward this argument<sup>135</sup> downplay both the relative numbers of people who are likely to be affected and the potential consequences. In doing so, I believe that they are making a serious error. They also far overstate the benefits they expect will accrue from endorsing officiating at same-sex weddings and commitment ceremonies. A more sober analysis of the relative risks and benefits leads to the conclusion that those who forward this argument should reconsider their proposal that we endorse same-sex weddings and commitment ceremonies.<sup>136</sup>

Even though the proponents believe that sanctifying gay marriage will reduce sexual promiscuity among gay males, the opposite result is likely. Even though we have affirmed that opposite sex sexual relations are only sanctified within marriage, fully 72% of high school seniors and 90% of twenty-two year olds are sexually active.<sup>137</sup> If the message goes out that same-gender sexual relationships are now permitted and equally valued with opposite-gender sexual relationships, we cannot expect that any smaller proportion of males who desire same-sex relations will defer them until after marriage. What we can expect is that young males who feel sexual desire for both males and females, who hear the message that we now officiate at same-sex marriages, will conclude (over time, if not immediately) that it is as legitimate for them to act now on their same-sex desires as on their opposite sex desires. In the NHSLS survey of 1992, of all men who reported some level of same-sex desire, 58% never engaged in any same-sex behavior.<sup>138</sup> I think it's safe to assume that a substantial proportion of those 58% refrained from same-sex behavior because they thought it was wrong, or at least socially unacceptable, to do so. If we send the message, wittingly or unwittingly, that same-sex and opposite-sex are equally OK, that number will drop precipitously.<sup>139</sup> Considering that only 31% of those men reporting some level of same-sex desire identified as homosexuals (a figure which corresponded closely in the survey with the number of men who reported exclusive same-sex desire), that adds a new

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135. Some form of this argument has been expressed to me in separate personal conversations with Rabbis Dorff, Nevins and Reisner.

136. In addition to my disagreement with the proponents of this second argument regarding evaluation of the relative risks and benefits, I consider the proposal to remove or modify the prohibition and to perform weddings and/or commitment ceremonies to be halakhically indefensible in principle. I am writing in this section לטעמייהו.

137. Elliot N. Dorff, *Matters of Life and Death: A Jewish Approach to Modern Medical Ethics* (Philadelphia: The Jewish Publication Society of America, 1998), 138.

138. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 299 (calculated from Fig. 8.2).

139. Indeed, in a study of a cohort of 26 year olds in New Zealand (Nigel Dickson, Charlotte Paul, and Peter Herbison, "Same-Sex Attraction in a Birth Cohort: Prevalence and Persistence in Early Adulthood," *Social Science and Medicine* 56 (2003): 1609,), where society is much more positive toward homosexuality in attitudes and in social policies than the United States, 52 men reported that they had some level of attraction to the same sex (having felt attracted at least once) at some point in their lives. 43 men reported having had some same sex genital contact by age 26 (calculated from Tables 1 and 2). Only 7 out of the 52 men described themselves as being more attracted to men than to women. 43 out of the 52 men described themselves as attracted "more often to the opposite sex, but at least once to the same sex."

potential population for male-male sexual behavior nearly double the size of that of the exclusive homosexual population. This additional population will be subject to the substantial, potentially lethal health risks entailed with male-male sexual activity. These risks are substantial even when one always uses a condom (behavior which should not be assumed among adolescents, who sometimes engage in reckless behavior, particularly when subject to intense social pressure, as may be the case when a more experienced partner presses the adolescent to try “barebacking”). Condoms are estimated to fail 10% of the time due to slippage or bursting. Condoms do not block the transmission of all sexually transmitted diseases. (It should also be noted that long-term repetitive practice of anal sex exposes the passive partner to serious, potentially fatal health risks [other than AIDS and STD’s] even if every active partner he had used a fully effective condom.<sup>140</sup>) Since this new potential population also desires opposite-sex relations, the potential for spreading AIDS and other sexually transmitted diseases from the homosexual population to the heterosexual population also increases substantially.

An infection like HIV ... is much less likely to be transmitted from one network to another, especially if contacts outside the group are few and sporadic. Hence, HIV/AIDS has been contained in certain pockets of the population, not distributed more evenly across the population.... If the networks were not so highly structured, with relatively few people moving between network groups ... the spread of HIV/AIDS would have been much different than that we have observed in our nation over the past decade. We would have seen, in fact, a pattern observed in Africa, where HIV/AIDS apparently has spread widely throughout heterosexual networks.<sup>141</sup>

Since studies have shown that 40-50% of males who feel same sex attraction as teens do not feel it thereafter<sup>142</sup>, nearly half of the additional people who would be exposed to these risks when

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140. Because the rectal sphincter is designed to stretch only minimally, penile-anal thrusting can damage it severely. Anal intercourse almost always traumatizes the soft tissues of the rectal lining to some degree. Even minor or microscopic tears in the rectal lining allow for the passage of bowel contents into the bloodstream, including toxic waste products and pathogenic microorganisms, leading to a relatively high incidence of hepatitis and other serious infections, among those who engage in anal sex regularly. See W.F. Owen, Jr., “Medical Problems of the Homosexual Adolescent,” *Journal of Adolescent Health Care* 6, no. 4 (July 1985): 278-85.

The toll that regular practice of anal sex takes on the long-term health of homosexual men might be very great. Some studies indicate that the life expectancy of gay men is significantly lower (by decades) than average, even among those who do not die from AIDS. See Evan Wood, et al., “Modern Antiretroviral Therapy Improves Life Expectancy of Gay and Bisexual Males in Vancouver’s West End,” *Canadian Journal of Public Health* 91, no. 2 (March/April 2000): 127, who calculate that when deaths from AIDS are excluded, the life expectancy of a 20 year old gay man in Vancouver’s West End community was approximately 51. While this result might be lowered by some deaths from AIDS having been attributed to other causes on death certificates, I think we should assume that the effect of repetitive anal sex on life expectancy is significant and treat it as a health risk at least as serious as smoking.

141. Edward O. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States* (Chicago and London: The University of Chicago Press, 1994), 396. The authors are comparing HIV with gonorrhea, with which sex partners are more likely to be infected through one sex act.

142. See Fact #4 in the teshuvah, p. 7 and n. 17 there.

wider approval for same-sex relations is perceived would not have ever engaged in same-sex behavior absent that message of wider approval.

When it comes to marriage, validating same-sex marriage is likely to lead more of those men who feel desire for both sexes to choose a same-sex union rather than an opposite-sex marriage more frequently than they currently do.<sup>143</sup> Since there are only half as many lesbian women as there are gay men<sup>144</sup>, that means that for every man who has the choice and chooses a male partner, there will be one additional female who desires a husband who will not find one available. The potential implications for the demographics of the Jewish community should give pause. Given the numbers involved, it is quite possible that the numbers of additional women who will be unable to find husbands could turn out to be larger than the number of exclusively homosexual men for whose presumed welfare the proposed modifications of the law are being considered. Given that committed Jewish women already significantly outnumber available committed Jewish males (because more Jewish males intermarry), the proposed change could substantially exacerbate this profound problem which ensures that some women will never be married and never have their desires for sexuality and companionship fulfilled in a sanctified relationship.<sup>145</sup>

One argument which proponents of the proposed changes sometimes raise is that by encouraging gays and lesbians to marry and raise children, we can increase the number of Jewish children who will be born, providing an important contribution to solving our current demographic woes. However, since the legal, technological and financial obstacles involved in surrogacy or adoption (the options open for gay male couples to raise Jewish children) are much greater than those faced by opposite-sex couples in reproducing in the typical manner, the rate of Jews raised by gay male couples is likely to be significantly lower than the rate would have been for the opposite-sex couples which would have resulted had we not validated same-sex unions. When one starts estimating just how many male same-sex couples will raise Jewish children because CJLS has an opinion validating same-sex unions and encouraging them to do so, how many of the individuals in those couples might have chosen to marry a woman and raise Jewish children with her (most probably in larger numbers, e.g. two children rather than one) had CJLS not validated same-sex unions, keeping in mind that we're not looking at the immediate effect in the next few years but at the cumulative effect over two generations or more, during which time same-sex marriage will most likely come to be seen as an equally valued option, one comes to the conclusion that the projected net gains in Jewish children born or raised that proponents of

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143. A further possibility is raised in Walter R. Schumm, "Differential Risk Theory as a Subset of Social Exchange Theory: Implications for Making Gay Marriage Culturally Normative and for Understanding Stigma Against Homosexuals," *Psychological Reports* 94, no. 1 (February 2004): 208–10. According to Schumm, male-female relationships involve more barriers and risks than same-sex relationships. If same-sex unions are seen as equally valued with opposite-sex marriage, same-sex unions might actually seem more attractive to people who have both same-sex and opposite-sex desires than would opposite-sex marriage.

144. See Edward O. Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States* (Chicago and London: The University of Chicago Press, 1994), 311, Table 8.3, reproduced in Appendix 1 of the teshuvah, p. 30.

145. This analysis assumes that the proportion of people who feel same-sex attraction will remain the same over time after same-sex marriage were to be validated. It is also quite possible, though, that the proportion of the population who feel same-sex attraction could increase as same-sex marriage becomes normalized. This increase, in turn, could increase the potential effects on this problem.

same sex marriage/commitment ceremonies dangle before us is a mirage. It might actually result in a net loss.

Then there's the contention that officiating at same-sex weddings and commitment ceremonies will influence more male homosexuals to enter monogamous relationships. Studies cited by Nimmons find that three out of four gay men in long-term relationships, are in open relationships in which monogamy is not expected.<sup>146</sup>

...much evidence now demonstrates that non-monogamy is a robust and established cultural practice among us. Precise numbers are hard to pin down, but it is estimated that between 40 and 50 percent of gay men are in committed couples at any given time. Among those men, however, the shape of things is extremely well established. A stack of research confirms that about three-quarters of gay men in stable, long-term relationships are consensually non-monogamous, without it necessarily threatening the viability of the couple....<sup>147</sup>

Among the studies cited there by Nimmons is one conducted by Andrew K.T. Yip among committed gay male Christian couples in Nottingham, England.<sup>148</sup> Yip studied thirty couples. Seventeen of the couples had begun their partnership with an expectation of sexual exclusivity. Within six months to two years, eight of these couples became behaviorally non-exclusive and renegotiated the terms of their partnership to include sexual non-exclusivity. The other thirteen couples were expectationally non-exclusive to begin with.

The search for sexual variety and excitement appears to be the main reason for sexual non-exclusivity .... This search for sexual excitement is facilitated by the male sex-role socialisation process which encourages men, both gay and heterosexual, to place great importance on frequent and varied sexual activity and the high degree of availability of casual and anonymous sex in the gay scene. Having sexual encounters outside the partnership is not perceived to be unfaithfulness or infidelity, since both partners have either explicitly agreed or implicitly assumed that the partnership is of this nature. This attitude is pervasive among the respondents in this category.<sup>149</sup>

Regarding the eight couples who started out exclusive and then became non-exclusive, Yip writes, "To most couples, the first outside sexual encounter took place unexpectedly. Having experienced it and realised that it did not necessarily lead to relationship breakdown, they were encouraged to continue."<sup>150</sup>

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146. David Nimmons, *The Soul Beneath the Skin: The Unseen Hearts and Habits of Gay Men* (New York: St. Martin's Press, 2002), 84–87.

147. Nimmons, *Soul Beneath*, 84.

148. Andrew K.T. Yip, "Gay Male Christian Couples and Sexual Exclusivity," *Sociology* 31, no. 2 (May 1997): 289–306. See also below, n. 175.

149. Yip, "Gay Christian," 298–99.

150. Yip, "Gay Christian," 295.

Sexual non-exclusivity is the cultural norm among gay males, even religiously committed ones.<sup>151</sup> This is a far different situation from that of heterosexual couples, where non-exclusivity occurs in only 25-30% of couples, where in the great majority of those cases it is not expected, where it is generally perceived to be unfaithfulness or infidelity which threatens the viability of the marriage, and where it is most often limited to isolated incidents. While those gay couples who desire a public ceremony to mark their long-term commitment as a couple may be more predisposed toward an expectation of sexual exclusivity than a representative sample of the gay community in general, it appears highly unlikely that rabbinic officiation at a ceremony will have any appreciable long-term effect on whether or not those couples will remain monogamous.

I have assumed in previous versions submitted to the CJLS that the phenomenon of non-exclusivity even in long-term male same-sex couples was simply a function of the male יצר, unrestrained by the complementary female tendencies noted above (p. 55). Further research has led me to conclude that there is probably another major influence (or set of influences) on this phenomenon for a significant number of men who engage in same sex relationships. It could be that the etiology of the drive for some men to have sex with other men makes that drive incompatible with maintaining a long-term exclusive sexual relationship. Promoting the sanctification or normalization of same-sex unions and holding up monogamous coupledness as the ideal for men with exclusive or near-exclusive same sex attraction can profoundly harm these men. This point is best illustrated by the stories of individual men. I am quoting from their stories in their own words, which often betray a tendency to generalize from their personal experiences to what they believe possible for all others who experience SSA. As I stated in the teshuvah, such sweeping generalizations have the potential to cause harm, just as the sweeping generalizations which others have made from their experiences have caused harm to these individuals.<sup>152</sup> Their experiences and the way that they have come to understand them and find deeper meaning in them should be respected, though. To the extent that others find that these stories resonate with their own experiences, they may find them helpful. Where appropriate, I will append my own comments at the end of the stories.

### David's Story

To summarize the process of growing up, I always felt different from the other boys. Subsequently I felt different from other men. This led me to a classic SSA behavior: attempting to be the "good little boy" in my effort to achieve male affirmation. As an adult, it led me to seek out other men, men with whom I could have a sexual relationship which was an inappropriate way to absorb their masculinity. I so desperately wanted to be a man. But I never understood why I was attracted to other men, until recently....

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151. In Yip's study, 21 of the couples (70%) ended up non-exclusive.

152. Some of the therapists and healing groups mentioned in these testimonies also exhibit the same tendency. The mention of any of these therapists and groups is in no way an endorsement of their work. In the process of setting up the counseling program which I propose, the task force should, with the help of appropriate professionals, evaluate the extent to which these therapists and groups act in accordance with the ethical considerations outlined by Michael S. Buxton, "Ethical Treatment for People Who Present with Unwanted Homoerotic Attractions," *NARTH Bulletin* 14, no. 1 [Spring 2006]: 1-2, 13-18, <http://www.narth.com/docs/buxton.html>, and/or by Warren Throckmorton and Mark Yarhouse, *Sexual Identity Therapy: Practice Guidelines for Managing Sexual Identity Conflicts* (2006), [www.sexualidentityinstitute.org/documents/sexualidentitytherapyframework0506.pdf](http://www.sexualidentityinstitute.org/documents/sexualidentitytherapyframework0506.pdf).

I recognize that my SSA was caused by many factors including sexual molestation, first at age 4, again at age 8 and subsequently at age 14....

By the time I was 14 years old, I began the process of looking for older men to pay attention to me. I also began hanging out in public places where men congregated so that older men would notice me, pay attention to me, and make me feel that I was a some-body.

As time went on, I decided I should tell my father that I was attracted to men. His response was simple and straightforward: "I'll cure it for you. I'll arrange for you to get married." It always amazes me how so many people believe that the "cure" for homosexuality is marriage. Guess what? . . . It is not true. Thus, at age 17, my father arranged a "shiddach" (arranged marriage) for me and assumed that would take away the SSA, but, you know what, it didn't!

When I was 19 years old, I had my first child. (I now have 5 and am a grandfather.) My wife and I decided to move to the Sephardic community in Brooklyn. I soon learned the ropes in New York City - the gay capital of America - and began to hang out in all the gay spots. As I cruised for anonymous sex. I would often tell my wife that I'd be home in 45 minutes when in truth I knew it would be more like 3 hours.

My wife always knew something was wrong but she had no idea what it was. My dysfunctional life went on and on and on. It lasted for 22 and a half years. So did the lies and deceit. (As I think about it now, I'm mortified by my behavior.)

I would start cruising for men from early in the morning before "tifila" (prayer) and would run back to "shul" (synagogue) to pray. Sometimes on "Shabbat," I would skip "shul," go to the bookstore around the corner to meet someone for sex, then return home.

When a friend of mine got caught nearly a year ago and lost his wife and family because of it, I realized that I was going nowhere and the same thing would probably happen to me. I wanted help, and needed it so desperately, but had no where to turn.

Having heard about the gay orthodox movie Trembling Before G-d, I figured maybe they could help me.

So-0-0-0, I looked up the website of the movie and sent an E-mail telling them I NEEDED help because I was not happy in that lifestyle - perhaps better described as that deathstyle. In response, someone called me who referred to himself as a psychologist. I told him that I'm not happy in the lifestyle and want out. The therapist ... (who also is featured in the Trembling film) then did what I believe is totally unethical, particularly for a professional. He invited me to his apartment for a Hanukkah gathering.

When I asked "why", he suggested that the cure for my emptiness was to meet another Orthodox married man with SSA. If I did that, then, ... I could have an affair with a man without getting caught. His logic was simple.

We would both be careful because we would be the same - "frum" (observant) and married. I tried to explain to him that I wasn't looking for a male partner. It was not what I wanted, I wanted out!!!

He kept on talking for another 20 minutes, trying to convince me that this was the answer to my problems, that I was born this way, that G-d created me this way and that I should accept the gay lifestyle. I asked him whether any therapists could help me change. Not

only did he say "no" but he said such practices were damaging, unethical and banned by the American Psychological Association.<sup>153</sup>

Of course, he did not tell me anything about the thousands of individuals who were able to heal their emotional wounds through reparative therapy and thus live normal, healthy heterosexual lives....<sup>154</sup>

I was 10 seconds away from ending all the pain and suffering I had been through. At that moment, *Hashem* (G-d) put a thought in my head: you will not die, but rather simply hurt yourself and others who love you, thereby increasing your own pain and frustration . . . . So, at the last second, I stopped, and, at that precise moment, realized that I needed to find help somewhere.

I cannot begin to tell you how it hurts to have a problem such as SSA, or to be unable to discuss it with anyone in the entire world, and to feel trapped in a *Gehennom* (hell) that you don't know how to exit. Fortunately, *Hashem* gave me a clue. He gave me the thought that perhaps if I called a particularly competent *Rav*, I might get assistance.

I called one of the leading rabbis in my community. He doesn't know me but, of course, I knew who he was and what a *Talmid Chacham* (learned man) he was. I told him about my pain and suffering and all that I had been through. He listened carefully and advised me to call a therapist friend of his in Brooklyn. When I did so, he, in turn, recommended I call JONAH to find out more about their program of gender affirming processes, a program designed to fill in the developmental gaps that cause same-sex attraction. I also discovered that most psychologists and psychiatrists have been trained to believe that homosexuality is inborn and genetic, rather than understanding that through a combination of *teshuvah* (repentance) and a secular program to fill in developmental gaps, change of one's inner being or healing of one's inner wounds can occur for this kind of a disability.<sup>155</sup>

When I first went to JONAH, I really had mixed feelings. In some ways, I had hoped I would meet a new man and thus proudly wore my tee-shirt to the meeting that said "catcher" (a phrase used in the gay community to indicate a role in sexual activity). Soon, however, I realized the seriousness of JONAH, the opportunity they were providing for me to clean myself up, change my outward appearance, my identity as a person, my sexual behavior patterns, my sexual arousal triggers, and my sexual fantasies - basically my whole life! I am a totally different person today than the individual who called JONAH looking for help.<sup>156</sup>

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153. The APA has not banned therapy to change sexual orientation, however an attempt was made to do so in the APA Council of Representatives in 2002 (See Wright and Cummings, *Destructive Trends in Mental Health: The Well-Intentioned Path to Harm* (New York and Hove: Routledge, 2005), pp. 17-18. In August 2006, the current APA President, Gerald P. Koocher, affirmed the right of patients, with informed consent and within ethical guidelines, to seek treatment to attempt to change sexual orientation.

154. <http://www.jonahweb.org/cms/e/index.php?option=content&task=view&id=7&Itemid=29>

155. "Out of Gehennom," *Jewish Press*, August 23, 2002

156. <http://www.jonahweb.org/cms/e/index.php?option=content&task=view&id=7&Itemid=29>

It is not easy, but with motivation and perseverance it can be done. Those of us with the problem, need to learn about healing through every part of our beings, our heads, hearts, body, and soul or, in psychological terms, through cognitive, emotional, experiential, and spiritual means.<sup>157</sup>

G-d challenged me to go through "gehenam" [hell] and come out whole. He challenged me to understand, by personal experience, the depths of despair which a person can go through and yet come out whole. He challenged me to understand the differences between sexual brokenness and sexual wholeness.

The fact that I am so successful is a testimony to "Hashem's" (the Name) wisdom and the resiliency with which he endowed me. I hope others of you who are aware of people conflicted with SSA take to heart my story that change is possible - but only if the person seeking change really wants to and is motivated.<sup>158</sup>

When I met David and had the opportunity to speak with him<sup>159</sup>, he told me that before he started therapy, he did not find sex with his wife to be satisfying, to say the least. Now, he says, he can barely wait until she returns from the mikveh after the niddah period. The process of change took David approximately a year-and-a-half. He says that by learning to identify with his masculinity and gradually seeing himself as a man like other men, same-sex attraction naturally decreased, as opposite-sex attraction gradually increased. He also learned how to connect with other men in a non-sexual way, which he has also found very rewarding.

The common wisdom when we hear about a case of a man who marries a woman but isn't really sexually attracted to her and has same-sex sexual encounters on the side is that everyone would be better off if the couple were to divorce and the man were to get past his internalized homophobia and accept himself as a gay man and seek a male partner in a stable monogamous relationship. That might work for some people, but that could not work for David. He was seeking attention and approval from males who appeared more masculine than he perceived himself by having sex with them. He would then feel dirty and disgusted afterward, probably due to his history of sexual molestation as a child. He was unable to relate to other men in a healthy, loving way. Therapy or suicide were the only ways he saw out of his personal gehennom. The assumptions now saturating our society and the mental health professions about the impossibility of changing one's sexual orientation, assumptions reinforced by the first therapist David reached out to, pushed him to the brink of suicide. Thankfully, David found therapists and a supportive group of people who could help him heal from the wounds of his childhood to find inner wholeness, as well as what he calls sexual wholeness with his wife, the mother of his five children.

Many people will assume that stories like David's describe only a few isolated cases compared with the larger population of gays. We can't be sure just how common or uncommon such stories are, but there is evidence that experience of childhood sexual molestation may be fairly common among those who feel same-sex attraction. A recent study of 231 gay and bisexual young men (ages 13-23) living with HIV who were recruited from the clients of HIV clinics in New York, San Francisco, Los Angeles and Miami found that 46% each of the gay and

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157. "Out of Gehennom," *Jewish Press*, August 23, 2002

158. <http://www.jonahweb.org/cms/e/index.php?option=content&task=view&id=7&Itemid=29>

159. May 18, 2006

of the bisexual youth reported sexual abuse before age 13 and a history of unwanted sex.<sup>160</sup>  
46%!

### Frank's Story

When I first began my reparative therapy work almost two and a half years ago, I had no idea of the gifts I would give to myself. The road was long and very painful, but as with every aspect of life, nothing of real value comes easy. That motto has been my driving force and my guiding light through times of darkness and despair. If something is difficult to do, the level of difficulty was my indicator to do exactly that which I wanted to avoid. It takes courage, honor, grits, and character to do the deep emotional work that can cause one's sexual attractions to shift. And it is no mistake that those are the same characteristics that make a strong man.

I grew up with five siblings. I was second in line, and the first-born son. The family structure during childhood was a classic textbook case in the formation of a homosexual individual, complete with an absent father and a strong, domineering mother. My father did not physically abandon our family, but he was an alcoholic and totally emotionally absent. There was no connection between my father and me. There were no hugs, putting me on his shoulders, or other affirmations that a boy naturally wants from his father. In response, I defensively detached from my father at a very young age. Until I started my reparative therapy, I had under-estimated the profound "father wound" I carried inside.

My mother's relationship with my father was defined by constant strife over his alcoholism, gambling, and coming home late. My father was the "bad guy" in our household. We all took my mothers' side. We were all triangulated into the relationship between her and my father. She was "safer," because she was present and provided more comfort and attention than he. However, my mother always suffered from migraines, sudden mood swings, and other problems. I am sure raising five kids on her own took its toll on her emotionally and physically. My mother was both physically and emotionally abusive. She screamed and yelled a lot. She would leave all of us home by ourselves as she went out looking for her husband in bars. In her bursts of anger and frustration she beat us with coat hangers to settle fights and squabbles us kids had. There were no healthy boundaries set in our home. She could not handle us. And she hung on to an unhealthy relationship at all odds.

As I got into adolescence, I was groomed to be the perfectly behaved young man. I got straight A's in school and thrived on my mother's approval to avoid her displeasure. I was not the rough and tumble type at all, and I felt different from the other boys. I lived my life totally disconnected to any kind of healthy male friendships. Through elementary and high school my friendships were primarily with girls. I avoided the high school jocks out of fear and shame I had about myself, and yet I had a fascination about them at the same time. It did not take long before my feelings turned to lust. I did have a first girlfriend; the relationship was sexual, but not healthy. I was emotionally unable to love her, and only used her for my own gratification. I did not touch her very much, and needless to say, she broke up with me out of her frustration over a very one-sided relationship.

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160. Rosa Solorio, Dallas Swendeman, and Mary Jane Rotherman-Borus, "Risk Among Young Gay and Bisexual Men Living with HIV," *AIDS Education and Prevention* 15, no. Supplement A (2003): 85.

My first year of college was very scary for me. I was not attracted to girls at all, and at the same time, I was fearful of my male peers. I carried a lot of fear and shame. I kept safe by keeping my nose in my studies. Over time I became comfortable with my college roommate, and we began to fool around. For him it was a passing curiosity, but for me, it became an obsession. It was my first sexual relationship with a man. He saw my neediness and became guarded. He asked me point blank if I was gay. I denied it, figuring he would be repulsed. Soon we stopped. Later in life he married and had three kids.

A second girlfriend entered the picture during my second year of college. We were sexually intimate during those years, but I had this deep hunger for the men in the dorms and on campus. It plagued me. I came out to her because we were so close and talked about everything. She handled it surprisingly well, and we both took it on ourselves to make it our mission to get to the bottom of my sexual confusion. She was a psychology major, and I was sociology, so we knew how to do research, but the task before us was daunting.

There were volumes of literature on homosexuality. It was nurture versus nature, in a nutshell. But the truth was, my attractions to men were so strong, it didn't matter what the research said. I determined that my sexual attraction had to be genetic since it was so strong. And it turned out that three of my siblings also had same sex attraction. The genetic argument won.

I got my degree. My girlfriend and I went our separate ways. I could not deny my attractions to men. I was "free!" I began to act out and embrace the gay life style. The first two years I had many openly gay friends. A good time consisted of us going to West Hollywood, getting drunk, and picking up guys.

Over the next 10 years, I had two five-year relationships with gay men. The first was a "cheater," and I thank God that I never contracted AIDS. I was totally sexually obsessed with this man, and it was a difficult thing to break off the relationship. The second was an awesome man. I love him to this day, but now in a deeper way, as a brother. We built a home down in Mexico. I had found what I was looking for!

But soon this nagging feeling started to surface -- that there was still something missing in my life. I had everything, yet my soul seemed empty. I did not feel complete. I denied and suppressed the feeling for almost a year. Then one day, my heart literally started to speak to me by beating irregularly. I went to a doctor in Mexico, and she was a bright woman. She heard my heart, saw the fear in my eyes and asked, asked me if there was something troubling me. There was. I was dying of emptiness. Yet, I continued to deny my heart, though I knew the truth. I guess I learned from my mother to just hang on at all odds.

Then about two and half years ago, one day back home I was listening to the radio. Dr. Laura was talking about this book by Socarides called "Homosexuality: A Freedom Too Far." She talked about how homosexuality is not genetic in nature, and how it was taken off the list of deviant behavior in the world of psychology under pressure from a radical group of gay psychologists. She explained that Socarides had worked with hundreds of homosexual men, and that in his clinical studies he found that homosexual behavior is a core identity and emotional issue.

The topic intrigued me, so I bought Socarides book. The book spoke to my heart directly. It took three months to read, because with each passing chapter I began to realize the

truth about homosexuality, its causes and meanings. With each chapter, my heart told me that I would have to break up with my boyfriend. If I were to truly find happiness in life, I would have to become a man in all his power, and start addressing some heavy emotional baggage that I had been carrying around since childhood.

I broke up with my boyfriend. It was the hardest thing I have ever done in my life, but I could no longer deny that there was indeed something more for me to discover about myself.

I hate to read, but I had this insatiable hunger for the truth. I read Richard Cohen's book, "Coming Out Straight." I read "Battle for Normality" by Van Den Ardwig. I read Nicolosi's books and countless articles. I could not stop seeking out the truth. Every book had my story in it. I became well versed in father wounds, mother wounds, triadic relationships, defensive detachment, and missing steps in core identity development. My homosexuality was just a symptom of profound and deep emotional arrest. It was indeed the tip of an iceberg. I began therapy with David Matheson through NARTH, and have never looked back since.

These last years I have involved myself in deep emotional healing with the support of many wonderful men who choose not to embrace homosexual feelings. Most importantly, I have other men in my life now who are not same-sex attracted. Both of these groups of men are my brothers. They are my fathers. They are my peers. They are my connection to the world of men to which I belong and had not been a part of before. Many of these men are my New Warrior and Journey into Manhood brothers. They helped to initiate me into a more authentic manhood. With this healthy connection to men, I have learned what men do, how they act, feel, and express themselves.

I have become transformed. I have experienced physical changes in my voice, and most importantly, I have experienced emotional changes. I am more at peace with myself than I have ever been in my whole life. Gone are the manic energies I used to have. I am much more on an even keel. My energy is real, and I feel more connected to my body. I am comfortable in my own skin. I have the male friendships that I have always desired. My relationship with my father is the best that it has ever been. More importantly, my attraction to women surfaces more each day. I have indeed become a man.

Now, I am on a new journey. I put out my hand to same-sex-attracted men who are open to the possibilities of change, men who are just starting on the path of healing. My mission is to be a mentor and role model for these brothers. I want to give back what was so generously given to me. I have healed to the point where my cup is running over. I have started an SSA healing ministry at my church. I serve as a volunteer staff member on Journey into Manhood and New Warrior weekends. I helped create a local support group for same-sex-attracted men seeking change.

Sometimes I find myself asking where do I stop? Well, the world needs to hear the truth. This work is the only answer to the "genetic" lies portrayed in the media -- the lie that I once bought into. With the increasing acceptance of gay marriage, sexually confused young men and women who come from failed families like mine will fall into despair without any hope. Young people are hungry for the truth.

So, when do I stop? My answer is never. This work is food for my soul.<sup>161</sup>

Frank's experience points to the great need for young people to really think and search deeply, open-mindedly and open-heartedly about their same-sex attractions, considering different points of view. Even when there is no history of sexual abuse and one has found a wonderful same-sex relationship, one might still find that it doesn't answer one's deepest needs and yearnings. Frank now appears to feel as hurt and cheated by the pervasive pushing of the prevalent assumptions about same sex attractions which he had previously accepted as the previous generation of gays who were pushed to assume that they must be suffering from a psychiatric disorder. He is reacting by generalizing his own experience. Again, I stress, individuals should consider all possibilities and determine for themselves what resonates and makes sense, aligning with their deepest sense of themselves. The counseling program which I propose should help our young people who seek guidance to do that. Pushing the assumptions of one side or another on individuals risks doing them harm.

### **Dangerous Ideas**

Perhaps the greatest potential source of harm for the most people that might come from our removing or modifying the prohibitions and normalizing same-sex unions is from the ideas being forwarded to justify such a change and their long-term implications. Far beyond the direct harm which widely accepted myths cause to a significant number of people who experience SSA, ideas which have been forwarded by members of CJLS in previous meetings and in previous drafts of teshuvot can be applied to other issues once these ideas are accepted as precedents if this committee adopts one or more of the permissive opinions.

Some have argued that we must permit at least some same-sex sexual behaviors (the *פריצותא* prohibitions, which they take to be Rabbinic prohibitions) since it is a matter of basic human dignity to have a halakhically permissible way to engage in satisfying sexual expressions. I am deeply concerned that this broad generalization will lead some people to feel justified to act on sexual impulses which they have heretofore felt bound to resist or for which to seek treatment.<sup>162</sup> Indeed arguments for legitimizing "consensual" pedophilia are increasingly being discussed and written about in mental health circles, most prominently in the *the Journal of Homosexuality*, which published a special double issue entitled *Male Intergenerational Intimacy*.

Other arguments forwarded undermine the central principle of Judaism that we have been created with free will and the ability to act against our most basic instincts in order to serve the higher purposes to which God calls us. The following section deals with the implications of those arguments.

#### Fruit Flies, Pheromones and Theology: Voles and Volition

On June 3, 2005, the journal *Cell* published an article reporting that scientists in Austria had found that one gene in the fruit fly *drosophila* controlled all aspects of the complex courtship

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161. [http://www.peoplecanchange.com/About\\_Us\\_Haynes.htm](http://www.peoplecanchange.com/About_Us_Haynes.htm)

162. This concern applies all the moreso to the arguments of those who would set aside Torah law for the same or similar reasons.

ritual of male fruit flies like a switch.<sup>163</sup> When they spliced the male version of this gene ( $fru^M$ ) into females, these females would engage other females (or males engineered to produce female pheromones<sup>164</sup>) in the mating ritual. When they spliced the female version of the gene ( $fru^F$ ) into males, these males would barely engage in any courtship behavior with a female (courtship index [CI] < 5%, compared with approximately 80% for  $fru^M$  males).<sup>165</sup> When these males with the female gene ( $fru^F$ ) were placed with another male, they courted the other male more frequently (CI = 20%) compared with  $fru^M$  males (CI = 10%), and when groups of  $fru^F$  males were left on a food plate for several hours or days, they would form chains of three or more males each courting the one ahead of him in the chain during 63% of a ten minute observation period.<sup>166</sup> This chaining behavior is never observed in males with the normal male gene, and the researchers considered it a reliable indicator of sexual orientation (even though “it is not clear how this chaining behavior relates to normal courtship”). The scientists thus write: “We conclude that male-specific *fru* splicing not only promotes male-female courtship, it also inhibits male-male courtship.”<sup>167</sup>

Some of the coverage of this finding in the mainstream press attributed far-reaching implications for our understanding of human sexual orientation to this study. The *San Francisco Chronicle*, headlined its story, “Master gene found to direct sex behavior: Fruit fly experiment suggests orientation is innately decided,” and stated, “The finding supports scientific evidence accumulated over the past decade that sexual orientation may be innately programmed into the brains of men and women.”<sup>168</sup> This statement goes far beyond any conclusion drawn by the authors of the *Cell* paper, or that can be responsibly drawn from it. But the main problem with such popular coverage is that by highlighting the sexual orientation finding, the main conclusion of the authors was reduced to second billing. That conclusion is far more important and far-reaching in its potential implications, and it is to that conclusion that we now turn our attention.

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163. Ebru Demir and Barry J. Dickson, “Fruitless Splicing Specifies Male Courtship Behavior in *Drosophila*,” *Cell* 121 (3 June 2005): 785–94.

164. The role of specific female pheromones in triggering male sexual behavior (and vice versa) in the animal kingdom is well established. Whether there are human pheromones is still a matter of scientific dispute. Two compounds which gender-selectively influence parts of the human brain associated with sexual arousal have been identified, but since humans do not have the nasal pit receptors which trigger the sexual response to pheromones in animals, it is unclear whether the effect of these compounds meets the definition of pheromone. A study by Swedish researchers last year (Ivanka Savic, Hans Berglund, and Per Lindstrom, “Brain Response to Putative Pheromones in Homosexual Men,” *Proceedings of the National Academy of Sciences [PNAS]* 102, no. 20 [17 May 2005]: 7356–61 ) found that a group of twelve homosexual men (all Kinsey 6’s) responded to these compounds in the same way that a group of twelve heterosexual (Kinsey 0) women did, but differently from a group of twelve heterosexual (Kinsey 0) men.

165. Demir and Dickson, “*Drosophila* Courtship,” 787 The “courtship index” (CI) is the percentage of time the male courts the female during their first eight (8) minutes together or until copulation.

166. Demir and Dickson, “*Drosophila* Courtship,” 788.

167. Demir and Dickson, “*Drosophila* Courtship,” 788.

168. Elisabeth Rosenthal, “Master Gene Found to Direct Sex Behavior: Fruit Fly Experiment Suggests Orientation is Innately Decided,” *San Francisco Chronicle*, 3 June 2005, A9.

The main interest of the authors is the genetic basis of innate behavior. We know that when it comes to physical development of parts of our body, the development of whole body parts is dependent upon single switch genes which are responsible for initiating the entire cascade of steps necessary for a body part to develop. The authors ask whether the same is true of complex behaviors: “Are there behavioral switch genes that create the potential for a complex innate behavior? Or, at the other extreme, do instincts emerge diffusely from the combined actions of the vast number of genes that contribute to nervous system development and function, so that no single gene can be said to specify any particular behavior?”<sup>169</sup> The researchers recognized that the only way to convincingly demonstrate the existence of a behavioral switch gene is to show that a gene specifies “either a male or female behavior, irrespective of the overall sexual phenotype of the animal.”<sup>170</sup> Thus the researchers focused their attention on a prime candidate for being a switch gene, “the *fruitless* (*fru*) gene of *Drosophila*, which is intimately linked to male sexual orientation and behavior.”<sup>171</sup> They conclude,

Complex behaviors require the actions of vast numbers of genes, and so it is quite easy to isolate mutations in single genes that disrupt a particular behavior. Almost all of these mutations are relatively uninformative as to the genetic basis of that behavior or indeed the relationship between genes and behavior more generally. More useful are genes for which different allelic states result in different manifestations of the behavior. Several fascinating examples of such genes have been found, and all have provided important insights into the behaviors they influence. This includes, for example ... the vasopressin 1a receptor gene in affiliative behavior in voles,<sup>172</sup> and, more controversially, the

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169. Demir and Dickson, “*Drosophila* Courtship,” 785.

170. Demir and Dickson, “*Drosophila* Courtship,” 785 See also p. 792: “It is difficult to envision how such an experiment might be performed for anything other than a sexually dimorphic behavior.”

171. Demir and Dickson, “*Drosophila* Courtship,” 785 Regarding the fortuitousness of the discovery of the function of the *fru* gene, see p. 792.

172. M. M. Lim, et al., “Enhanced Partner Preference in a Promiscuous Species by Manipulating the Expression of a Single Gene,” *Nature* 429 (2004): 754–57 A summary of the results of this article in *Biotech Week* (07-14-2004; “Emory University; Researchers make promiscuous animals monogamous by manipulating genes”, 176) reads:

Researchers at the Yerkes National Primate Research Center of Emory University and Atlanta's Center for Behavioral Neuroscience (CBN) have found that transferring a single gene, the vasopressin receptor, into the brain's reward center makes a promiscuous male meadow vole monogamous.

This finding, which appears in *Nature*, may help better explain the neurobiology of romantic love as well as disorders of the ability to form social bonds, such as autism. In addition, the finding supports previous research linking social-bond formation with drug addiction, also associated with the reward center of the brain.

In their study, Yerkes and CBN postdoctoral fellow Miranda M. Lim, PhD, and Yerkes researcher Larry J. Young, PhD, of the department of psychiatry and behavioral sciences at Emory University's School of Medicine and the CBN, attempted to determine whether differences in vasopressin receptor levels between prairie and meadow voles could explain their opposite

serotonin transporter gene in human depression. Importantly, *fru* differs from “behavior genes” such as these in one critical aspect: it does not influence a behavior as it happens, but rather acts during development to create the potential for a behavior.

So scientists have now found two types of genes which effect behavior: “behavior genes” which influence a behavior as it happens; and “behavior switch genes”, which act during development to create the potential for a behavior. We have examples of both types of genes effecting sexual behavior in the animal kingdom: a vasopressin receptor gene in voles, which renders formerly promiscuous males monogamous; and the *fru* gene in fruit flies, which is the necessary switch for developing the potential for the fly to engage in successful courting behavior with females, and also appears to inhibit males from courting other males. What does this mean for human beings?

When the first evidence was raised that male homosexuality might be biologically/genetically determined, the idea that God makes some people gay rapidly became popular. As a number of people on CJLS have argued: How can a good God create people with a strong drive to have same-gender sex and then command them not to act on that drive? When males who do not feel a particularly strong desire to remain monogamous conclude that they must be lacking the gene for monogamy that prairie voles have, will we ask the same question regarding the drive to promiscuity? Aggressive behavior also seems to be part of the specific genetic inheritance of males. Indeed the fruit fly researchers wrote:

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mating behaviors. Previous studies of monogamous male prairie voles, which form lifelong social or pair bonds with a single mate, determined the animals' brains contain high levels of vasopressin receptors in one of the brain's principal reward regions, the ventral pallidum. The comparative species of vole, the promiscuous meadow vole, which frequently mates with multiple partners, lacks vasopressin receptors in the ventral pallidum.

The scientists used a harmless virus to transfer the vasopressin receptor gene from prairie voles into the ventral pallidum of meadow voles, which increased vasopressin receptors in the meadow vole to prairie-like levels. The researchers discovered, just like prairie voles, the formerly promiscuous meadow voles then displayed a strong preference for their current partners rather than new females. Young acknowledged many genes are likely involved in regulating lifelong pair bonds between humans. "Our study, however, provides evidence, in a comparatively simple animal model, that changes in the activity of a single gene profoundly can change a fundamental social behavior of animals within a species."

According to previous research, vasopressin receptors also may play a role in disorders of the ability to form social bonds, such as in autism. "It is intriguing," said Young, "to consider that individual differences in vasopressin receptors in humans might play a role in how differently people form relationships."

And, Lim added, past research in humans has shown the same neural pathways involved in the formation of romantic relationships are involved in drug addiction. "The brain process of bonding with one's partner may be similar to becoming addicted to drugs: both activate reward circuits in the brain." The researchers' next step is to determine why there is extensive variability in behaviors among individuals within a species in order to better understand the evolution of social behavior.

An open question is whether *fru* specifies male-like behavioral patterns more generally or is exclusively involved in male courtship behavior. We have focused our study on courtship behavior because this is the most dramatic, most robust, and best understood of the sexually dimorphic behaviors in *Drosophila*. But other behavioral patterns, such as aggression, are also sexually dimorphic, and it will be interesting to determine to what extent these behaviors depend on *fru*.<sup>173</sup>

Does God create people with a strong desire to inflict violent injury or death on other humans and then command us not to act on that drive?

The Torah's answer to the last question is clearly yes. This matter is addressed in Genesis 4 by the story of Kain and Abel. Kain, like all human beings, is created with the capacity to feel deep jealousy and murderous rage. God tells Kain that the way to deal with his jealousy of God's attention to Abel's offering is to do better next time so as to warrant God's attention—הלא אם תיטיב שאת. But if Kain doesn't do better, he'll feel the temptation of sin, to lash out in rage against his brother—ואם לא תיטיב לפתח הטאת רובץ. The desire to act on that temptation will be extremely great—ואליך תשוקתו—but Kain, and all human beings, have the power to rule over passionate desires and not act on them—ואתה תמשול בו. It is no accident that Kain's passionate desire to lash out at his brother is described as תשוקה, which also denotes passionate sexual desire. The desire to kill other human beings out of jealousy or a desire for revenge, often passionately felt, is deeply rooted in all of us<sup>174</sup>, and God commands us all לא תרצח. We are capable of ruling over that passion, and more often than not we succeed, but sometimes people don't.

For some people the urge to act violently is not merely an episodic response to extreme circumstances but a persistent tendency of their personalities which may very well have a strong genetic component. Likewise the strong persistent drive felt by some men to have sex with multiple partners is not just an episodic response to a particularly alluring potential partner. These drives are every bit as persistent and strong as the drive of a man with exclusive attraction to other men to have sex with them. If it becomes popularly accepted to consider all of these

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173. Demir and Dickson, "Drosophila Courtship," 791.

174. The New York *Times* "Week in Review" section on Jan. 8, 2006 ran a short quote on p. 4 from David Buss, an evolutionary psychologist at the University of Texas under the title "Be Afraid." The quote was from a survey of scientists conducted by Edge.org regarding their candidates for "most dangerous idea." Buss wrote:

The dangerous idea is that all of us contain within our large brains adaptations whose functions are to commit despicable atrocities against our fellow humans—atrocities most would label evil.

The unfortunate fact is that killing has proved to be an effective solution to an array of adaptive problems in the ruthless evolutionary games of survival and reproductive competition: Preventing injury, rape, or death; protecting one's children; eliminating a crucial antagonist; acquiring a rival's resources; securing sexual access to a competitor's mate; preventing an interloper from appropriating one's own mate; and protecting vital resources needed for reproduction. ...

The danger comes from people who refuse to recognize that there are dark sides of human nature that cannot be wished away by attributing them to the modern ills of culture, poverty, pathology, or exposure to media violence.

drives to be genetic, will we say that since God imbued them with these drives, God must have intended that they be acted upon?

At this point, many people object that there is a big difference between the passionate desires which drive a person to hurt others and a passionate desire to engage in loving sexual relations in a committed relationship with an adult of the same sex. In the latter case, no measurable harm appears to be done, there appear to be measurable benefits to the two people involved, and if the sexual relations are an expression of deep love between two human beings, they claim it should be considered in consonance with the highest ideals of our Torah.

One problem with this argument is that it doesn't really apply to the drive toward non-monogamous relations. A spouse who engages in extra-marital sexual relations is not usually driven by a desire to hurt the other spouse (even though that is sometimes the case), and many people in our society claim that extra-marital relationships need not hurt anyone when both spouses consent to non-monogamy and the issue is dealt with honestly (and honesty is a high ideal of our Torah), and can even strengthen the relationship between the spouses.<sup>175</sup>

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175. Indeed many in the gay community state that they are successfully negotiating such honest committed long-term relationships which are not sexually exclusive, and that their success might be a model for heterosexuals also. See Nimmons, *Soul Beneath*, 84–93, particularly pp. 92-3:

What if married couples felt less stigma about naming what statistics tell us that so many of them already do? Might we one day erase the words “cheating” and “betrayal” from the matrimonial script? Indeed, might the very concepts slowly evaporate from a more humane marital vocabulary? Could terms like “straying” and “philandering” come to look as quaint as “cuckold” does today? If stable committed partners explored sexual pleasures elsewhere, might they feel less trapped in an angry, resentful, or explosive near-celibacy? Would we see less of the common social pattern of male mid-life crisis, or hear less of married women’s frustrated search for a meaningful intimacy?

Might husbands and wives not feel the same social pressure to divorce after episodes of sexual adventure by one partner? Might such arrangements avoid shattering of what may otherwise be a fulfilling and companionate marital relationship? ...

Our innovations would bring changes at a public health level, as well. Perhaps honestly open couples would adopt safer sexual practices in an atmosphere of consent, reducing the numbers of women surprised at contracting HIV from a mate they believed was faithful. Perhaps we would see less domestic violence than that now inflamed by sexual frustration, jealousy, possessiveness, or shame....

There are larger, culture-changing implications here. We can't predict what might happen if more committed straight couples came to recognize, as so many gay men do, a more nuanced pallet between emotional fidelity and sexual exclusivity, if they drew new lines between trust, truth, and sex. Could a franker set of permissions lessen the sexual chasm between men and women, offer stable couples new domains in which to practice intimacy? Might it actually increase truth-telling among married couples? Could they find, as many gay men report, that it can actually reduce tensions and enhance the intimacy that successful long-term partners need with each other? Could it even help redefine the idea of a committed couple, not as a domain where cheating is winked at, joked at, gossiped about, shrugged at, or expected, but as the forum where intimate partners take the risks to tell the real truth of themselves and their desires? ....

The main problem with this line of reasoning, though, is that it assumes that our current level of knowledge and secular ethical determinations based on that knowledge are the standards by which explicit prohibitions of our Torah must be judged. The popular secular ethic in our society is that people have a right to engage in any behavior they choose, provided it does not impinge upon the rights of others or cause any harm. When one requires evidence of harm in order to justify the Torah's prohibition of men having sexual intercourse with other men, the burden of proof is shifted from those who propose changing the law to the law itself. The Torah has drawn a line of prohibition at same-sex sexual intercourse. If one starts with the assumption that that prohibition is merely a primitive sexual taboo, reflecting a lower state of human knowledge than currently available, such a shift may make logical sense<sup>176</sup>. However, it behooves us to remember that the scientific study of homosexuality and sexuality in general is in its infancy, and our knowledge of these matters is impoverished relative to the depth and breadth of our knowledge in other areas of the physical and social sciences, let alone in comparison to the knowledge of the all-knowing One. If one seriously considers the possibility that the prohibition might reflect God's revealed wisdom, one must conclude that such a shift in the burden of proof is totally untenable. Lack of apparent evidence of direct harm to the two individuals involved in a given sex act cannot be the standard by which that act is judged to be permissible. Elsewhere (p. 61 ff.) I bring evidence of potential negative sociological implications of publicly declaring sex acts between two men to be permissible and potentially meritorious or sanctifiable. The firm and unyielding prohibition against all sexual intercourse between males under any circumstances which is decreed in our Torah and the millennia of subsequent legal tradition may, in God's great wisdom, be necessary to ensure a stable society in which men and women act on their sexual desires in the context of building family through a sexually exclusive relationship.

And then there's the issue of holiness. Torah bids us not just to act ethically in our sex lives, but also to sanctify sex, to make it holy. Holiness is not determined by rational considerations; it is revealed to us by God in Torah. Science gives us no idea how behavior in this world affects our souls and their disposition in the world to come. Our tradition does make

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This approach to sexual non-exclusivity is common among committed Christian male homosexuals. The first openly gay Episcopal priest to be ordained, Rev. J. Robert Williams, touched off a furor just weeks after his ordination, when

in a Detroit church, Mr. Williams gave a presentation called "Toward a Theology of Gay and Lesbian Marriage." An account of what he said was reported by Kate DeSmet, religion writer for The Detroit News, and later confirmed by Mr. Williams.

Mr. Williams told the audience that, in his view, monogamy was not essential for a valid Christian relationship, either homosexual or heterosexual. What is important, he argued, is that a couple be honest with one another about what other sexual relationships they are having. "Sexual exclusivity," he said, "is an option a couple may or may not choose as part of making covenant together." (Ari Goldman, "Ouster of a Gay Priest, Who betrayed Whom?", *New York Times*, Feb. 12, 1990)

See also Yip, "Gay Christian". See above, p. 64 ff. That the sexual dimension of a relationship -as with other dimensions such as the financial - is best managed by creative and constant reflection as well as negotiation is the main theme of his book, *Gay Male Christian Couples: Life Stories* (Praeger, 1997).

176. Although it violates the declared standard under which the CJLS operates. See *Emet Ve-Emunah: Statement of Principles of Conservative Judaism*, Robert Gordis (New York, 1988), 23.

certain claims regarding these matters, and I, for one, take those claims seriously and recommend that even those who are skeptical of them should not dismiss those claims cavalierly.

All of this leaves us with a theological conundrum, but it is not one which is unique to homosexuality. We appear to be genetically programmed (presumably by God) with strong drives to behave in ways which God commands us not to behave. Our tradition's answer to this conundrum is that God has given us the power to control those drives, and it is through taking control over these passionate drives that we reach our highest potential as human beings. רב אמר  
לא נתנו המצות אלא לצרף בהן את הבריות.<sup>177</sup>

Summation: As it becomes clear that there is a strong genetic influence on human behaviors, drives and desires, our position regarding homosexuality is likely to be seen as a *binyan av*, an exemplar case regarding the extent to which we consider people responsible for these genetically influenced behaviors in general.<sup>178</sup> If we remove the prohibition (or modify it in a way that is perceived as removing it), and especially if CJLS endorses officiating at same-sex weddings or commitment ceremonies, the likely popular conclusions that will be derived will be as follows: 1) We do not believe that human beings have the ability or responsibility to control persistent, strong drives when it can be demonstrated that those drives are likely to have been programmed into us by God through our genes; 2) We consider the level of knowledge and wisdom underpinning central laws of our Torah and the unanimous legal traditions of the past two millennia so primitive that we have greater confidence in our current state of knowledge about sexuality in general and homosexuality in particular. I don't think those are perceptions that any of us would want to be associated with. חכמים הזהרו בדבריכם.....

### Conclusion

In addition to the formal halakhic reasons for maintaining the clear undisputed precedent of millennia prohibiting same-sex sexual behaviors, we find that there is evidence that modifying those prohibitions, and particularly normalizing same-sex unions with commitment ceremonies or weddings, is likely to cause greater harm to a greater number of people than maintaining the prohibition. The foreseeable harm includes a significant increase in adolescent experimentation with same sex behaviors which put these young people at significant health risk, and the likelihood that significantly more men who feel sexually attracted to both sexes will choose same sex unions over opposite sex marriage than is currently the case, leaving more women unable to find husbands. Projecting monogamous same-sex unions as the ideal for those with predominantly or exclusively same-sex attractions by sanctioning rabbinic officiation at a commitment ceremony is unlikely to have any appreciable long-term effect on whether or not those couples will remain monogamous, but can cause harm to individuals whose same-sex attraction is connected with childhood sexual molestation and other possible root causes of same-sex desire which may preclude developing loving stable relationships with male partners. Furthermore, extending the logic of the arguments brought by proponents of modifying or removing the prohibitions and permitting same sex ceremonies to other issues can lead to far reaching consequences which are likely to bring even greater harm to a much wider population.

The pain and injustices suffered by gays and lesbians can be significantly mitigated with the programs for public education and counseling which I propose in the teshuvah without exposing our people to the greater risks outlined above.

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177. Bereishit Rabbah, Parasha 44:1, s.v. *achar hadevarim*

178. Because Myth #2 (above, p. 4) has become so popular.

## Excursus 1: Differences Between Male and Female Sexuality

The assumption that female sexuality is symmetrical with male sexuality is rooted in Freud's conception of heterosexuality as it became popularly accepted. While the idea that sex for pleasure in the context of marriage is legitimate may have been a novelty for Christian civilization at the turn of the twentieth century, that idea is very much in keeping with classical Judaism. Jews adopted the concept of heterosexuality as expressing what Rabbinic Judaism has always taught.<sup>179</sup> However, there was a subtle difference between Freud's heterosexuality and the Rabbinic view of sex for pleasure in marriage. While the Rabbis went out of their way to frame their discussions of sexual pleasure in marriage from the perspective of female sexual pleasure<sup>180</sup>, Freud's formulation was male-centered. Freud's conceptual framework derived from his own self-analysis. He extrapolated from his own experience of libido and projected that onto females also. The female sex-drive was assumed to be symmetrical with the male sex-drive. Females were expected to be stimulated by the same phenomena which stimulated males. In one of Freud's early writings<sup>181</sup>, he analyses the case of a female patient whom he gives the pseudonym Dora. In the course of her analysis, Dora, then eighteen years old, related an incident which had occurred five years earlier with a man referred to as Herr K. Herr and Frau K were close friends of Dora's family, and Dora spent much time with the K's. One day Herr K had arranged with his wife and then thirteen-year-old Dora to visit his office. He then persuaded Frau K to stay home, sent away his clerks, and was alone when the girl arrived. Herr K pulled down the outside shutters on the windows and "suddenly clasped the girl to him and pressed a kiss upon her lips." Dora experienced "a violent feeling of disgust, tore herself free from the man, and hurried past him . . . to the street door." Analyzing Dora's response to that kiss, Freud writes, "This was surely just the situation to call up a distinct feeling of sexual excitement in a girl of fourteen<sup>182</sup> who had never before been approached." Freud terms Dora's response, "entirely and completely hysterical," since she did not consciously experience heterosexual arousal, and stresses Dora's failure to feel the "genital sensation which would certainly have been felt by a healthy girl in such circumstances."<sup>183</sup> Freud seems to be assuming that Dora should have felt as he imagines he would have felt as a boy of fourteen approached by an older woman. In doing so, he totally ignores the more threatening nature of the situation of the young girl with the older man, and presumes that normal females must feel the same feeling of sexual excitement and genital sensation that males would feel in the symmetrical situation. While I think we would all find a therapist's ignoring the fear a thirteen/fourteen year old girl would feel in such a situation to be appalling, most of us accept the basic presumption that the female desire for the physical pleas-

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<sup>179</sup>The Rabbinical Assembly's resolution on Gay and Lesbian Jews states that the Rabbinical Assembly affirms "our tradition's prescription for heterosexuality." *Proceedings of the Rabbinical Assembly*, 1990, 275.

<sup>180</sup>See above, p. 56.

<sup>181</sup>Sigmund Freud, "Fragment of an Analysis of a Case of Hysteria," in *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, vol. 7, ed. James Strachey (London: Hogarth Press, 1953), 3–122. The article was written in 1901, and first published in 1905.

<sup>182</sup>Dora was actually thirteen; throughout Freud's account he mistakenly adds a year to Dora's actual age. Jonathan Ned Katz, *The Invention of Heterosexuality* (New York: Dutton, 1995), 220, n. 39.

<sup>183</sup>Freud, "Fragment," 29; quoted from Katz, *Invention*, 67–68.

ures of sexual activity is, or should be, roughly parallel to male desire.<sup>184</sup>

Recent research demonstrates that this presumption is false. In their recent book on sexual orientation<sup>185</sup>, Richard Friedman and Jennifer Downey summarize the extensive research findings which indicate that males and females **tend**<sup>186</sup> to differ significantly with regard to the nature and content of their sexual/erotic fantasies, the frequency of those fantasies, the age of onset of those fantasies, the behavioral consequences of those fantasies, the connection (or lack thereof) of subjective feelings of sexual arousal with objective signs of genital arousal, the types of situations which stimulate sexual arousal, and what types of experiences are considered to be necessary for feeling sexual satisfaction.

Men, as a group, seem to be more erotically motivated than women. At every age in which comparisons have been made, they masturbate more frequently and have had more sexual partners. Although the tendency to experience sexual fantasy declines during adulthood in both sexes, men fantasize more frequently than women do both during masturbations and also routinely, in daily life. For example Laumann and colleagues<sup>187</sup> found that 54 percent of men compared to 19 percent of women had sexual thoughts at least every day. Men also have more diverse sexual fantasies than women....

In men sexual arousal is generally equated with an awareness of a specific affect (e.g., lust), erection, and intense desire to achieve orgasm. Although this occurs among some women, it is not typical. There is far more variability in the multiple behavioral dimensions constituting sexual experience among women than men.<sup>188</sup>

The reason that male sexual fantasy is different from other types of fantasies is that, in physiologically normal men, it is usually not capable of being repressed for long periods of time, only briefly and transitorily....

Once sexual fantasy is experienced, it may or may not motivate sexual activity, including

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<sup>184</sup>Of course some differences have come to be widely known and accepted in recent decades, such as the longer response time of females to sexual stimuli and the frequent need for foreplay. It is also widely accepted that females tend not to desire sexual activity as frequently as males, but the physical nature of female sexual desire is still widely presumed by the general public to be essentially similar to that of males, despite these few differences.

<sup>185</sup>Friedman and Downey, *Sexual Orientation*, .

<sup>186</sup>These are tendencies in the prevalence of certain characteristics between two different populations, males and females, **not hard and fast rules about individual males and females**. Most sex differences in behavior consist of specific experiences and activities that, when measured, can be described quantitatively. The means for men and women differ statistically, but there is considerable overlap between individuals. For example, men tend to be better at spatial relations than women, but some women perform as well as any man.... Similarly women tend to be better at verbal activities than men, but authors John Updike, Saul Bellow, and Philip Roth would hardly be considered verbally challenged. From a sex researcher's perspective it is perfectly understandable that some women experience sexual fantasy similarly to most men. (Friedman and Downey, *Sexual Orientation*, 19–20)

<sup>187</sup>Laumann, et al., *The Social Organization of Sexuality: Sexual Practices in the United States*, 135.

<sup>188</sup>Friedman and Downey, *Sexual Orientation*, 19.

masturbation and interpersonal sexual activity. Sexual activity in males, however, tends to be preceded by sexual fantasy, and, frequently, sexual fantasy leads directly and immediately to sexual activity.

In most boys and girls, erotic fantasies occur during childhood. Unlike girls and women, in whom erotic fantasies usually first appear in the context of meaningful involvements with others, in boys the onset of erotic fantasies tends to be independent of romantic, affection, and close relationships.... Many men date the onset of sexual fantasy to their earliest memories—age three to four or so. Most, however, place its onset at about age eight. Some as late as puberty and a few even later....

Most males experience such fantasy passively, as mental events that happen to them. Their first sexual activities tend to be self-masturbation, and the only difference between homo- and heterosexual groups regarding the onset of sexual desire is in the gender of the desired object. By adolescence the necessity to cope with intense, specifically erotic fantasies—impulses, desires—is part of the adaptational requirement of boys. Girls are much more diverse....<sup>189</sup>

In laboratory situations there is good correlation between a man's awareness of sexual excitement/arousal and objective measurements of erection. This is not so for women. The hemodynamics associated with a woman's genital vasocongestion can be measured utilizing an instrument called a vaginal photoplethysmograph. A number of independent investigators have confirmed that the relationship between what has been termed genital arousal (more or less the equivalent of male erection) and the subjective sense of feeling sexually aroused, is inconstant at best. In fact at least in experimental situations, women may report little or no sexual arousal even when objective signs of "genital arousal" are unmistakable.

Moreover, unlike men, only a minority of women consider orgasm the most important source of sexual satisfaction with a partner. DeBrulin reported that only 20 percent of women judged orgasm to be the most important source of sexual satisfaction in a sexual interaction with a partner (1982), a percentage that gibes with the findings of other investigators. In addition, whereas erection is necessary for men to achieve intromission, women can participate in heterosexual intercourse without sexual arousal. Common sense, clinical experience, and research data indicate that they frequently do so. Whereas most men who achieve intromission during intercourse experience sexual orgasm, substantial numbers of women do not (for example Laan notes that over 50 percent of women with masturbatory experience do not orgasm during coitus). These data indicate that women tend to participate in sexual activity, including intercourse, for many reasons, only some of which would be considered "erotic" by standards applied by men to their own behavior....

A woman presented with a stimulus that a man might find immediately erotic (a picture of the nude member of the opposite sex) may or may not experience it as sexually arousing. After all, what is traditionally considered "pornography" is largely consumed by

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<sup>189</sup>Friedman and Downey, *Sexual Orientation*, 12–14 The findings cited from Friedman and Downey throughout this section is based on the work of many researchers whom they duly noted. Please consult the pages cited for their sources.

men. On the other hand, men do not consume romance novels in any great numbers. From a male perspective, endless attention is devoted in these novels to a certain type of context and setting in which sexual arousal may possibly be mobilized. The stories that pique the interest of so many women bore men....

The notion that female sexual fantasy depends more on relational context than male sexual fantasy is also compatible with evolutionary psychology. It is adaptive for women to seek partners who can provide resources and protect them and their offspring. Men, on the other hand, should (according to an evolutionary model) seek sexual encounters with as many different partners as possible.<sup>190</sup>

We have written in our earlier work about a phenomenon much more common in women than men, the need to be "kindled" by an intimate relationship before sexual excitement can emerge. The original "kindling hypothesis" comes from animal electrophysiologic models....As we use it, we refer to the phenomenon of initial experience (in this case, of a relationship that acquires a sexually exciting quality), which makes patterns of processing that can be activated in the future by less and less substantial cues....

Once the girl or woman is awakened to these sexually exciting feelings, she is much more sensitive to situations in the future that may elicit them. In those situations the girls or women involved may not have entertained fantasies that are explicitly sexual originally; their fantasies may have been purely romantic. Once sexual awakening has taken place, purely sexual fantasies may (though they may not) take their place beside the romantic ones.

A related phenomenon has to do with kindling of new sexual feelings in adulthood, an event that seems to occur more often in women than in men and that has led us to suggest that women may have more capacity for sexual plasticity than men. Thus it is not uncommon for women whose behavior has been exclusively heterosexual and their fantasies primarily heterosexual to experience the kindling of passionate sexual feelings and fantasies toward a woman with whom they have developed a close and intimate friendship.

The content of women's sexual and romantic fantasies differs considerably from that of men's. For instance, Person et al. (1989) reported about a study of gender differences in sexual fantasy that women significantly exceeded men on just a few items, of which the most common fantasy was "being rescued from danger by one who will become my lover." The men endorsed more often fantasies of sex with a variety of partners and initiatory behavior....<sup>191</sup>

Just as almost all female mammals have innately determined patterns of behavior that lead them to show interest in and care for their young, so—we suggest—do human females. There is little question that this interest is present in young girls, much more than young boys, long before pubertal development, and remains so later in life.... The theme of interest in maternal doll play and in infant care is built on and elaborated during middle childhood and again is a feature of the development of girls and not boys. Still later, after puberty occurs, procreative themes expressed in fantasy and dreams take on a more

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<sup>190</sup>Friedman and Downey, *Sexual Orientation*, 20–22.

<sup>191</sup>Friedman and Downey, *Sexual Orientation*, 26–27.

adult quality and may occur cyclically in some women....<sup>192</sup>

Among common fantasies in women is the desire for a high-status and desirable mate to coparent offspring with them. Their fantasies of the ideal mate may be influenced by those they have entertained about the kind of child or children they desire: handsome or beautiful, highly intelligent, sharing some maternal trait such as height or hair color or having the opposite, etcetera. Indeed, the idea of conceiving a child is sexually highly arousing to many young women (and some men as well)....

We are not aware of data about frequencies of sexually exciting, procreative fantasies in men and women. In general, however, it is our impression that reproductive fantasies fuel erotic desire more frequently in women, regardless of sexual orientation, than in men. Since women who conceive children in lesbian partnerships also often report arousing fantasies of conception, we conclude that this fantasy is linked to maternal and nesting desires rather than penetrative sex with a male partner.<sup>193</sup>

Women's fantasies about their romantic/sexual partners and coparents of their children also have unique attributes. We have been struck by the great importance women put on their *admiration* of the potential partner.... Although men may also idealize their partners, our clinical experience suggests that among women admiration of the partner is far more frequently a requirement for sexual relationships than among men....<sup>194</sup>

To sum up the most important differences which are relevant to our analysis:

1) Males tend to become sexually aroused by fantasies or sensual (particularly visual) stimuli of sexually attractive members of the gender(s) whom they identify as the objects of their sexual desires independent of any relationship with the object of desire. Their fantasies tend to include fantasies of having sexual relations with a variety of partners. Their sexual arousal is immediately physically manifested as genital arousal. Satisfaction of the sexual desires is almost always achieved through orgasm. In contrast females tend not to become sexually aroused in the absence of a relational context with the desired person, physiological signs of genital arousal are often not sufficient to feel sexual arousal, and orgasm is not necessary for sexual satisfaction except in a minority of women.

2) Females are more likely to be sexually aroused by procreative fantasies than are males. Many of their fantasies serve the evolutionary role of selecting a mate who is most likely to protect and provide for the female and her offspring.

In short, women's sexual desires and fantasies **tend** to be focused on relationship and procreation (i.e., building a stable family), while men's sexual desires and fantasies **tend** to be focused on physical satisfaction irrespective of such complications.

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<sup>192</sup>Friedman and Downey, *Sexual Orientation*, 30. The authors cite there, and in numerous other places in the book, significant evidence that different types of play between boys (rough and tumble play) and girls (maternal play) is most significantly effected by variations in levels of exposure to pre-natal androgens, and not by parental or societal expectations.

<sup>193</sup>Friedman and Downey, *Sexual Orientation*, 31–32.

<sup>194</sup>Friedman and Downey, *Sexual Orientation*, 32–33.

**August 27, 2019 clarification by Rabbi Leonard Levy:**

I fully recognize now, and I did when I wrote this responsum in 2006, the harm that can be caused by therapy to change attraction from same-sex to opposite-sex. Nothing in my responsum should be read as endorsing or recommending reparative/conversion therapy.

*Author updates are meant to clarify ambiguities in the original text, or to respond to subsequent developments. Unless noted otherwise, they have not been voted upon and approved officially by the CJLS and are therefore the individual position of the author.*