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HOMOSEXUALITY AND JUDAISM: THE RECONSTRUCTIONIST POSITION

The Report of the Reconstructionist Commission on Homosexuality



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Federation of Reconstructionist Congregations and Havurot
Reconstructionist Rabbinical Association

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The document you are about to read has been submitted to the rabbinic and lay arms of the Reconstructionist movement for consideration. The following reflects steps taken to date:

The report of the Reconstructionist Commission on Homosexuality was adopted by the Board of Directors of the Federation of Reconstructionist Congregations and Havurot, the lay arm of the movement, in January 1992. In March 1992, the Reconstructionist Rabbinical Association passed the following resolution:

"We affirm all previous statements, policies, and resolutions of the Reconstructionist movement with regard to issues of homosexuality.

We endorse the spirit and intent of the document entitled Homosexuality and Judaism: The Reconstructionist Position and applaud its courage.

We return this document to the Reconstructionist Commission on Homosexuality and instruct the Commission to direct rabbis and their communities to study, discuss, and respond to the document with the intention of seeing that it be adopted in substance by the Reconstructionist Rabbinical Association and the Federation of Reconstructionist Congregations and Havurot in 1993."

Discussion of proposed policy guidelines is pending for both organizations and is projected to occur in 1993.

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The positions taken in this Report are solely the responsibility of the members of the Commission, which is grateful to its drafting committee: Alan Friedlander, Nancy Fuchs Kreimer, Robert Gluck, Mordechai Liebling and David Teutsch.

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The Report of the Reconstructionist Commission
on Homosexuality

January 1992

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I. INTRODUCTION

1. General Overview of the Issue and its Challenges

The Reconstructionist movement is dedicated to fostering broad-based commitment to Jewish life among Jews by providing an approach to Judaism that is personally meaningful, welcoming, and simultaneously responsive to Jewish tradition and the challenges of modernity.¹ Our communities strive for an inclusivity in membership and leadership that is consonant with a contemporary worldview. By studying Jewish sources and practice, and by reflecting on current scientific knowledge and the nature of the Jewish community, Reconstructionist Judaism considers issues that face us as individual Jews, as members of Jewish communities, and as participants in broader society. This occurs as part of an ongoing dialogue between rabbis and lay people based on the Reconstructionist understanding of Judaism as an evolving religious civilization. Our commitment to this process now leads us to an examination of the place of gay and lesbian Jews in Jewish life.

The reality of Jewish life today is that most communities include gay, lesbian and heterosexual people.^{2,3} Many people are not aware of this fact. Historically, the sexual orientation of gays and lesbians was invisible; they lacked alternatives. At a time when we are concerned with the Jewish future, we are moved to consider the fact that 7-8% of the Jewish community in the United States is lesbian and gay. This sizable minority is largely excluded from communal affairs.

Preliminary study of this issue indicates that this exclusion has resulted in a loss of active members of the Jewish community, as well as potential communal leaders. Many feel unwelcome in the Jewish community and comment that their concerns have until recently been unaddressed by Jewish communal organizations. The development and articulation of an approach to the important issues raised by these circumstances is clearly necessary.

¹ For an introduction to the beliefs and practices of Reconstructionist Judaism, see Rebecca Alpert and Jacob Staub, Exploring Judaism: A Reconstructionist Approach (New York: Reconstructionist Press, 1985).

²Research by Alfred Kinsey (see Sec. IV), demonstrated that 10% of men and 6% of women in the general U.S. population are gay or lesbian. The figure 7-8% is an average of both genders.

³We recognize the right of each individual and each group to name itself. "Gay and lesbian" is the preferred name of homosexual people in North America and therefore the one we use in this document. A person's status as heterosexual or gay or lesbian will be referred to as "sexual orientation." "Sexual orientation" is the term that has been most used by scientists since the early 1980s, when evidence began to accumulate that homosexuality and heterosexuality are unlikely to be a matter of free choice for many people. During the 1970s, the preferred term was "sexual preference," which had been selected as a corrective to the prior assumption that homosexuality was a disease.

Addressing the issue of homosexuality presents a significant challenge. The word "homosexual" is charged with profound emotive power and is connected to deep-seated human fears. The presence of an alternative to the assumption of heterosexuality causes discomfort, and is perceived as personally threatening by many. The Jewish legacy includes biblical and rabbinic prohibitions against homosexuality. The thought that one might be perceived as gay if seen as supportive of gay and lesbian concerns raises people's fears about their own potential exclusion. Misconceptions and distortions about homosexuality are not only pervasive; they serve as the major source of popular opinion. Discrimination and violence against gay and lesbian people remain widely and openly condoned in our society, supported even by many religious authorities.

The issues surrounding attitudes towards homosexuality have important institutional and societal components, and also have personal implications for individual Jews. The exclusion of gay men and lesbians from the Jewish community is the cause of much personal pain. The human cost of negative stereotypes and attitudes toward lesbian and gay people is staggering. In the eyes of some people, the label "homosexual" can, in and of itself, discredit all other aspects of a person's identity.

The high rate of suicide attempts by gay and lesbian youth is a case in point.⁴ Suicide is now the second leading cause of death among people ages 15 to 24. Gay and lesbian youth are two to three times more likely to attempt suicide than any other group of young people. Factors which contribute to the high suicide rate include family rejection, lack of peer support, abuse in school, and discrimination in employment. Societal discrimination and stigma against gays and lesbians is an overriding causal factor.

Over the past twenty years, the issue of homosexuality has become a topic of increasing discussion throughout our society. Following the successes of the civil rights and women's movements, lesbians and gay men have begun, at times successfully, to seek civil and political rights equal to those of all citizens. As a consequence, religious institutions are beginning to become aware of the needs and issues of their gay and lesbian constituents and to address them. This reconsideration takes place within the context of feminism, the reexamination of sexuality, the reinterpretation of traditional texts, and the rethinking of concepts of justice.

2. Purpose of the Commission

Recently, several Jewish religious movements have begun seeking a contemporary approach to homosexuality that is both just and authentically Jewish. The work of this Commission is part of the effort of the Reconstructionist movement to address this issue.⁵

⁴D.A. Martin, "Learning to Hide: The Socialization of the Gay Adolescent", Adolescent Psychiatry (Chicago: University of Chicago Press, 1982), Vol. 10, pp. 52-65.

⁵In 1984, the Reconstructionist Rabbinical College (RRC) established a policy of non-discrimination in admissions on the basis of sexual orientation. The Reconstructionist Rabbinical Association (RRA) has, from its founding in 1975, automatically welcomed all graduates of the College for membership. In 1991, the RRA adopted a formal policy of non-

The Reconstructionist Commission on Homosexuality was created in 1990 to study the issues that have arisen as a result of the recognition that the Reconstructionist movement, like all Jewish organizations, includes lesbian and gay Jews among our laity and rabbis. The Commission is comprised of lay and rabbinic representatives of all three arms of the Reconstructionist movement: the Reconstructionist Rabbinical Association, the Federation of Reconstructionist Congregations and Ḥavurot, and the Reconstructionist Rabbinical College. From August 1990 to November 1991 this body has held five meetings, each lasting several days, to study traditional and contemporary Jewish sources, to explore the information found in the biological and social sciences, and to consider the personal experiences of our rabbis and laity relating to this issue. Decisions on individual points were made by consensus. The document as a whole was approved unanimously.

The Commission's approach to study and decision making was consciously Reconstructionist, recognizing the evolving nature of Judaism as a product of the experience and creativity of the Jewish people. Laws, attitudes, beliefs, and values necessarily change as times and the social contexts of Jewish life change. The understandings and approaches of Jews in one age have always been recast in light of the needs, knowledge, and outlook of later eras. Study of Jewish tradition is a constant. Grounding in Jewish tradition remains for us compelling and necessary to guide contemporary life.

Before the modern era, change in Judaism was largely an unacknowledged process. Today, with critical tools of analysis, and with open recognition of the human source of Jewish traditions, our reinterpretation is conscious and intentional. It is our obligation as Reconstructionist Jews to reinterpret our traditions, rendering them meaningful and compelling to contemporary Jews.⁶

discrimination in membership, thus acknowledging the previously unwritten policy. At its 1990 convention, the RRA recommended that the movement establish a non-discrimination policy in rabbinic placement. The following year, a new movement-wide policy was enacted prohibiting discrimination in the referral of resumes of candidates for positions with congregations.

The Federation of Reconstructionist Congregations and Ḥavurot (FRCH) adopted a resolution in 1985 welcoming congregations that primarily serve gay and lesbian Jews, subsequently resulting in one new affiliate. At least one other affiliate includes in its statement of principles a specific welcome to gay and lesbian Jews. At least three affiliates have adopted policies addressing specific issues of inclusion of gay and lesbian families in their congregations' religious and communal life. Developments in the Reform and Conservative movements are noted in Section VI, "Contemporary Jewish Sources."

⁶Rabbi Mordecai M. Kaplan referred to the method by which he reinterpreted tradition as "revaluation." Kaplan stated: "Revaluation consists in disengaging from the traditional content those elements in it which answer permanent postulates of human nature, and in integrating them into our own ideology. When we reevaluate, we analyze or break up the traditional values into their implications, and single out for acceptance those implications which can help us meet our own moral and spiritual needs." The Meaning of God in Modern Jewish Religion (New York: Reconstructionist Press, 1962), pp. 6-7.

A Reconstructionist approach sees the need for change most clearly when 1) traditional ideas and customs are significantly in conflict with our most fundamental values, 2) when the basis for previous Jewish practice conflicts with new scientific knowledge, or 3) when social conditions change substantially. Our task is to be true to our knowledge, beliefs, and values, while preserving the spirit of tradition. At times, this requires reaching a position which differs from an earlier understanding of that issue. For Reconstructionists, it is crucial that our beliefs and actions are internally consistent and true to our most deeply held values.

3. Objectives of this Report and the Nature of Guidelines

The objectives of this report of the Commission are:

- 1) to elaborate a contemporary Jewish Reconstructionist approach to the issue of homosexuality;
- 2) to recommend policy regarding the core issues arising from the presence of gay and lesbian Jews in our communities; issues include the rights and responsibilities of congregations, the rights and responsibilities of gay and lesbian Jews in our congregations, and the status of gay and lesbian rabbis;
- 3) to propose a process and provide materials by which both lay people and rabbis in the movement can become educated and sensitized about concerns relating to Judaism and homosexuality.

The Reconstructionist movement affirms the value of local autonomy in the adoption of movement policies. Thus movement policies are usually termed "guidelines." For example, a Federation of Reconstructionist Congregations and Havurot affiliate may choose to adopt or reject the agreed upon stance of the FRCH on patrilineal descent in determining who is a Jew. The specific policy recommendations proposed in this document are to be considered guidelines in this light, allowing for congregational autonomy in matters of policy. The more general philosophical positions taken on Reconstructionist Judaism and homosexuality represent the unequivocal movement stance on this issue.

The Commission's study of homosexuality and Judaism focussed most heavily on the issue of values. Our report begins with a study of the relevant values of Reconstructionist Judaism. It is in light of these values that we will be considering traditional Jewish sources. Our study then continues with an elaboration of the light shed on the issue of homosexuality by contemporary biological and social sciences, and then with a brief review of contemporary Jewish sources. A Reconstructionist interpretation of the Jewish sources follows. We conclude with specific policy recommendations for the Reconstructionist movement as well as the outline of an educational plan.

Discussion of homosexuality at this time should include a recognition of the challenge of AIDS. While AIDS is not a 'gay' disease, gay men, including Jews, are disproportionately affected by it, although heterosexual women and their children, especially members of minorities, are rapidly becoming the population most affected by AIDS. There are today a significant number of people with AIDS in our communities that need our help and support.

We call on the movement, its rabbis and its affiliates to develop programs, curricula and actions specifically on this issue.⁷

II. DISCUSSION OF VALUES FUNDAMENTAL TO RECONSTRUCTIONISM THAT UNDERGIRD OUR STANCE ON HOMOSEXUALITY

The Reconstructionist approach to ethics considers values to be of primary importance in shaping our response to contemporary issues. Below we outline both enduring Jewish values and Western values incorporated into Judaism in modern times. These are all relevant in considering the issue of homosexuality. By examining these values, it is possible to assess the contemporary force of traditional conceptions and to reinterpret Jewish tradition in light of those values. Of necessity, our discussion of each value will be brief.

1. Human Dignity and Integrity

Jewish tradition conceptualizes human beings as created in the "image of God".⁸ It follows that every person is to be treated with dignity and respect. The Talmud contains numerous sources for this value. In the tractate *Shabbat*, Rabbi Meir states that loving your neighbor as yourself is the highest value.⁹

Another rabbinic source, *Pirkei Avot*,¹⁰ adds: "Let the honor of your fellow be as dear to you as your own." The tractate *Menaḥot* admonishes: "if a person puts a neighbor to shame in public, it is as if that person shed blood."¹¹

⁷At its 1988 Convention, the Reconstructionist Rabbinical Association passed a resolution calling upon its members to address the challenge of AIDS by working to "include people with AIDS in all facets of congregational and communal life, pledge to work with their congregations and call on the FRCH to expand and deepen educational efforts regarding transmission modes of the disease...(and) healthy sexual practice...", urging that all Jews consider *bikkur ḥolim* (visiting of the sick) an important *mitzvah*, encouraging rabbis to set a "personal example," and urging the government to improve medical treatment and find a cure for AIDS.

⁸Genesis 1:26-27, *Pirkei Avot* 3.14.

⁹B. *Shabbat* 31a.

¹⁰*Pirkei Avot* 2.15; All English versions of Hebrew texts in this document have been rendered in gender-neutral language. This reflects an adaptation of the original Hebrew which has no gender-neutral terms.

¹¹B. *Menaḥot* 58b.

Contemporary sources consider human dignity a core value. In the words of Mordecai Kaplan, "All human beings are entitled to experience the dignity of selfhood or personality, the moral character of society and the reality of God."¹²

Each person deserves respect without regard to gender, race, and other personal characteristics.

2. *Kedushah*/Holiness

In every traditional society human beings have created disciplines and practices in order to relate to what they have perceived as awesome, powerful, transcendent, and ultimate. The places, rituals, times, and objects associated with these practices have been called holy. In Judaism *kedushah* (holiness) was early connected to protection from and connection to the ultimate not only through ritual but also through moral regulation. In Leviticus,¹³ the commandment to the Jewish people to "be holy, as God is holy" is made specific through detailed regulations regarding ritual life and social justice.

We understand holiness as that which gives life significance in ultimate moral and spiritual terms. When the rabbinic tradition asked what it meant to "be holy as God is holy," it concluded that one aspect of holiness consists of acts of caring in this world.¹⁴ When people work to clothe the naked, feed the hungry, visit the sick, and release the imprisoned, holiness dwells in their midst. Covenanted, loving human relationships are sources of holiness. Thus the Jewish marriage ceremony is called *Kiddushin*. Caring communities are sources of holiness as well. The vocation of the Jewish people is to make holiness manifest throughout the world.

3. Equality

The concept of equality, as we now understand it, entered Jewish thought in modernity. According to the Book of Genesis, the entire human race descends from a common ancestor.¹⁵ The Mishnah relates: "Humanity was created as a single individual...for the sake

¹²Mordecai M. Kaplan, *The Future of the American Jew*, (New York: Reconstructionist Press, 1948), p. 324.

¹³Leviticus 19:2. The entirety of Leviticus chapter 19, called by scholars "The Holiness Code," elaborates actions that define behavior leading to holiness. Included among these are matters of ritual and of social and familial justice. The justice concerns include honoring parents, providing for the poor and the stranger, honesty in business, justice in juridical decision making, and prohibition of stealing. Ritual concerns include observing Shabbat, refraining from divination and idolatry, and the physical separation of different categories of species through a ban on cross breeding animals and mixing types of materials in fabrics.

¹⁴*B. Sotah* 14b.

¹⁵Genesis 1:27.

of peace among humankind, that no person should say to another, 'My ancestor was greater than yours.'¹⁶

Being part of a society characterized by diversity, we understand these sources to refer to equality of all peoples and a respect for difference. In the words of Mordecai Kaplan, "Every individual must be able to feel that the society in which he [sic] lives...recognizes him as an end in himself...."¹⁷

Kaplan affirmed that equality is both a material and a spiritual concern. People can be said to have equal rights only when these include the right to worship in their community: "By discouraging any honest effort of men [sic] to commune with God, the source of life's value to them, we deny them equality of spiritual status."¹⁸

Equality implies not only equal participation, but also an equal opportunity to share in leadership and in the setting of policy. Equal access to leadership roles is an indicator of whether a group or individual truly holds an equal place in the community or society. The Reconstructionist movement has played a significant role in applying these principles to the rights of women by pioneering their full equality in Jewish leadership.

4. Community and Communal Responsibility

One of the basic tenets of Reconstructionism is the centrality of community to Judaism. Throughout the ages, Jews have viewed the community as an essential unit of society. It is through life in the community that a person finds meaning, direction, support, protection, and companionship. The Mishnah is emphatic in asserting: "Don't separate yourself from the community!"¹⁹ The midrash adds: "A person who says, 'What do I have to do with the burden of the community?'...destroys the world."²⁰

It is the community that has the power to offer legitimacy to ways of living, including family norms. Reconstructionists strive to make our congregations into "caring communities." This model of the congregation as community is explored in other places.²¹ Reconstructionists

¹⁶M. *Sanhedrin* 4.5.

¹⁷Kaplan, *The Future*, p. 326.

¹⁸*Ibid.*

¹⁹*Pirkei Avot* 2.5.

²⁰*Tanhuma Mishpatim* 2, 127a.

²¹See, for example, Harriet Feiner, "The Synagogue as a Support System," *Reconstructionist* 50/4 (January 1985), pp. 25-30, and "How Synagogue Support Systems Work," *Reconstructionist* 52/6 (May-June 1987), pp. 13-20 (several authors).

believe that there are many areas where Jews should look to the community for insight and guidance.²²

By asserting the value of community, we affirm the importance of responsibility to communal expectation and norms. We wish to encourage Jews, when engaged in personal decision making, to be mindful of the enduring interests of the Jewish people. Authentic Jewish choices are those that draw upon the wisdom of Jewish ethics and show regard for community concerns, while respecting individual freedom of choice.

5. Loving, Caring Relationships

The Torah relates that "it is not good for a person to be alone".²³ Jewish tradition is unequivocal in its assertion that each human being best lives a meaningful and productive life when engaged in a stable, intimate relationship with a mate. The Talmud teaches: "A Jew without a spouse lives without joy, blessing or happiness."²⁴ Unlike some religious traditions, Judaism strongly discourages celibacy. Because of the cultural context in which Judaism developed, marriage has been viewed as the norm in the life of an individual (see values 1 and 9).

Marriage is seen in the Talmud as a relationship not only between the two betrothed, but also including the divine. In the words of the midrash, "A man cannot be without a wife, or a woman without a husband, and both cannot be without the divine presence."²⁵ Living out values understood as holy thus forms a key part of Jewish marital relations.

Jewish tradition affirms mutual respect and trust as important values within a relationship. The Talmud teaches: "One who loves his wife as himself and respects her more than himself leads his sons and daughters on the right path. In the words of Job, 'Your tent is in peace.'²⁶

We recognize that traditional Jewish marriage was a partnership between two unequal parties. Jewish women were denied the ability to participate in basic communal institutions. Contemporary liberal Jews affirm the equality of both partners and understand that it is the obligation of each partner to treat the other with dignity. It is the qualities of mutual respect, trust, care, and love that we consider the fundamental attributes of loving partnership.

²² See, for example, Rebecca Alpert, "Ethical Decision Making: A Reconstructionist Framework," *Reconstructionist* 50/7 (June 1985), pp. 15-20.

²³Genesis 2:18.

²⁴B. *Yevamot* 62b.

²⁵*Bereshit Rabbah* 22.4.

²⁶B. *Sanhedrin* 76b after Job 5:24.

6. Stable Family and Community Life

Judaism conceives society as consisting of concentric circles--beginning with the individual, extending to the family, to the community, to the Jewish people, and finally to humanity and to all of life. The stability of one lays the foundation for the stability of the next.

The family is the primary and most appropriate vehicle for the transmission of Jewish identity and values. While the value of family has remained constant, the forms that families take have changed as Judaism has evolved. In the past, Jewish families have taken many forms, including the clan, the multi-generational extended family, and the nuclear family. The dominance of the nuclear family model, often viewed as the paradigm for the Jewish family, is, in fact, very recent.

In the present, Jews live in many types of families. Only 25% of all families in the United States today consist of two currently married parents and the children they bore together.²⁷ While Jews in the United States tend to marry later and have fewer children, our family trends follow those of the larger society.²⁸

The most constant value of the family is its ability to provide intimacy, emotional and material support, stability, and the transmission of Jewish commitment, values, and practices. Many old and new kinds of families can fulfill these values.²⁹ We are committed to preserving the traditional primacy of family because we understand the family as the primary, stable unit of intimacy.

7. Childrearing within the Context of Family

"Peru urevu: Be fruitful and multiply" is considered by Rabbinic Judaism to be the first "mitzvah," not only sequentially in the Torah,³⁰ but in its primacy. Childbearing and childrearing are a fundamental Jewish value. Commitment to this value has been heightened by the historical concern for the preservation of the Jewish people as a minority facing persecution. Childrearing also has primacy because parenting is a joyful and transformative

²⁷Preliminary 1990 U.S. Census data; the 1991 National Jewish Population Survey (NJPS) conducted by the Council of Jewish Federations found that only 17% of the 2.7 million households which include a "core Jew" (identified by religion as born Jews or Jews by choice) match the image of the Jewish nuclear family (two Jewish parents and their children).

²⁸See for example, Steven M. Cohen, American Assimilation or Jewish Revival? (Bloomington, IN: Indiana University Press, 1988).

²⁹Several cities (including New York, Los Angeles, Madison, WI, Ithaca, NY, and San Francisco), organizations, and corporations (including A.T. & T., Ben & Jerry's, and the American Psychological Association) have adopted rules recognizing the legal status of "domestic partnerships," i.e., those not legally married; The New York Times, September 21, 1990.

³⁰Genesis 1:28.

experience, as well as a creative act. Adoption and many new reproductive technologies provide additional opportunities for fulfilling this value, though some people face insurmountable barriers to doing so.

8. Physical Pleasure and Responsible Sexuality

Jewish tradition speaks of sexuality as *simhat ona*: the joy of sex³¹ and *simhat ishto*: rejoicing in one's partner.³² Tenth century scholar Saadya Gaon spoke of mutual love and human happiness as the very rationale for marriage.³³ Fulfillment in sexual intimacy is not only valued but seen as an obligation of marital partners. Denial of sexual satisfaction to one's spouse was a traditional ground for divorce. Maimonides, for example, ruled that "when a man marries a woman...he obligates himself to her for ten things...(including) her conjugal rights, sexual intercourse with her, according to the ways of the world."³⁴ Failure to experience physical pleasure has even been seen as a rejection of God's commandment.³⁵ Sexual expression ought to always take place in the context of recognizing one's partner as *betzelem Elohim* (created in the divine image).

While in recent centuries, Eastern European Jewry witnessed a narrowing of attitudes about sexuality, traditional Judaism had until then expressed an openness and tolerance regarding sexual practices. Sexual intimacy was affirmed for its own value, not only for procreation.³⁶ The Talmud allowed a wide variety of sexual practices.³⁷ Thirteenth-century commentator Nachmanides underscored this notion by teaching with regard to sexuality, that God created nothing unseemly.³⁸ In Judaism, physical pleasure and sexual responsibility are inextricably linked.

³¹David Feldman notes that this expression is Talmudic; see Feldman, Marital Relations, Birth Control and Abortion in Jewish Law (New York: Schocken, 1968), p. 71.

³²R. Abraham ben David (*Rabad*) of Posquieres (12th century), *Ba'alei HaNefesh, Sha'ar Hakedushah*, cited in Feldman, p. 71.

³³*Emunot v'Deot* 10.7.

³⁴*Mishneh Torah*, "Laws Concerning Marriage," 12:1-2, 4.

³⁵*B. Ketubot* 47b-48a; *Mekhilta* on Exodus 21:10.

³⁶E.g. *B. Pesahim* 72b; *Shulhan Arukh, Even Ha-Ezer* 23.5 codified this notion; for a fuller treatment, see Feldman, *ibid*, pp. 71-75.

³⁷Codified by Maimonides, *Mishneh Torah, Issurei Biah* 21.9, who allows a husband to "kiss any organ of his wife's body he wishes and to have intercourse with her in the customary or uncustomary way."

³⁸*Iggeret Ha-Kodesh*, quoted in Feldman, p. 99.

9. Physical, Emotional, and Spiritual Health

Beriyut (care for one's health) has been an important Jewish value since earliest rabbinic times.³⁹ From the medieval period through today, Jewish tradition has viewed physical, emotional, and spiritual health as indivisible and interrelated. Maimonides states: "Since by keeping the body in health and vigor one walks in the ways of God...it is one's duty to avoid whatever is injurious to the body and cultivate habits conducive to health and vigor."⁴⁰ Maimonides adds elsewhere: "Emotions of the soul affect the body and produce great, significant, and wide-ranging changes in the state of health."⁴¹

The physical release provided by sexual relations was considered by Maimonides and by Ibn Ezra, an important medieval Bible commentator, as necessary for physical health.⁴² The emotional component of sexual intimacy was recognized as essential to the maintenance of the well being of the person and relationship.

10. Personal Freedom

Reconstructionist Judaism affirms the freedom to make responsible choices. This is in keeping with contemporary Western values of personal autonomy and freedom of conscience. Though Jewish law and lore are a valued, important guide in making decisions about our lives, we believe that Jewish law is neither immutable nor obligatory for us. While we believe that the ideal setting for a substantial portion of decision making is within the community, we recognize the right of individuals to listen to their own consciences in making their daily life choices. This freedom exists in tension with other communal values. We further recognize that due to the voluntary nature of our society, every adult who lives within the organized Jewish community does so by an active choice.

³⁹See e.g., Ben Sira 30:22,25 (the health value of a joyful heart); *B. Shabbat* 108b (the health benefits of washing); *B. Ketubbot* 111a (finding a balance between standing, sitting, and walking), *B. Gittin* 70a (the health dangers of worry, travel, and sin), *Vayikra Rabbah* 34.3 (bathing as a religious duty), *B. Taanit* 22b (prohibiting afflicting oneself by fasting), Rabbi Samson Raphael Hirsh, *Horeb*, Ch. 62 (prohibiting carelessness with one's health, abstaining from that which is permitted, or willingly endangering one's life).

⁴⁰*Mishneh Torah, Deot*, (Laws Concerning Moral Dispositions and Ethical Conduct) 4.1.

⁴¹"Rules of Health", quoted in Minkin (ed), *The Teachings of Maimonides*, (Northvale NJ: Jason Aronson Inc., 1987), p. 388.

⁴²*Mishneh Torah, Deot* 3.2; *Pirkei Moshe Birefuah*, 17:8, published as *The Medical Aphorisms of Moses Maimonides*, Rosner and Muntner eds, (New York: Yeshiva University, 1970); ibn Ezra commentary on Leviticus 8:20; also see Jacob Emden, *Siddur Bet Yaacov*, Ch. VII, *Hulia* I.

11. Jewish Continuity and Adaptability

The future growth and enrichment of Jewish life are specific goals of Reconstructionism. Our approach teaches that for Judaism to remain authentic and compelling, we must engage in the study of the Jewish tradition, adapting it to changing political, scientific, social and technical circumstances, and thereby renew our commitment to Jewish living.

We recognize that Judaism is an evolving civilization, and that the world is changing at an unprecedented rate. We believe that Judaism must continually respond to change without abdicating its fundamental values and teachings. The special challenge of our day is to promote Judaism in a setting that allows the unprecedented personal and collective freedom to choose between many ways of life. Thus, when formulating an authentically Jewish response to the demands of contemporary ethical concerns, we must do so with discipline and responsibility to what is central in our tradition.

12. Inclusive Community

Judaism holds that it is only in community that Jews can find a life that is authentic and fulfilling. We Reconstructionists see the Jewish people themselves as the central sustaining force of Judaism over the ages, a reality we refer to as Jewish peoplehood. We are thus committed to making room in the Jewish community for Jews of many backgrounds and family situations.

Inclusion is a value rooted in the Jewish past. In the self-contained Jewish communities in which Jews once lived, everyone was a member of the community, even people considered "different."⁴³ Clearly, the variety of practices available to Jews today, including openly gay or lesbian committed life partnerships, is much broader than was possible for Jews in the past. "Diversity is inherent in the very nature of Jewish life today as it is inherent in the very nature of democratic living."⁴⁴

An open society promotes greater acceptance of difference. However, an open society has both positive and negative implications for Jewish life. The freedom to make life decisions opens the option to determine not only how but whether or not to participate in the Jewish community. Thus, the likelihood of communal survival can be improved by accepting diversity in the Jewish community. Reconstructionist communities strive for inclusivity in membership and leadership -- reaching out both to those who have historically been participants in organized Jewish life, as well as to those who have been or felt excluded.

⁴³A wide variety of types of people and social roles were to be found. This was out of necessity, because Jews lacked the choice to live elsewhere. However, such communities were more accepting of eccentricity than of deviations from conventional gender roles and sexual orientation. These were governed by clearly defined expectations and a demand that people either conform or keep their nonconformity invisible.

⁴⁴Ira Eisenstein, Judaism Under Freedom (New York: The Reconstructionist Press, 1956), p. 155.

By meeting the challenge of difference among Jews, the Reconstructionist movement affirms the practical necessity of inclusion, but sees conscious inclusiveness fundamentally as an act of justice (see values 1, 2, and 14).

13. Democracy

Democracy along with freedom is the bedrock on which American society was founded. Mordecai Kaplan taught that as people living in two civilizations, Jewish and American, we must bring the best of American values and culture to bear on our understanding of Judaism. The principle of democracy—that every person should have a voice and a vote regarding those matters affecting his or her life—has become a fundamental principle of Reconstructionism.⁴⁵ This principle empowers laity in partnership with rabbis to engage in extensive study and make responsible and knowledgeable decisions about the key issues facing our communities, such as the one at hand. We believe that democracy is a value which strengthens Judaism and benefits our community.

14. Learning from Contemporary Sources of Knowledge

In every age, Jews have expanded our civilization by drawing from the scientific, ethical and social insights of their surrounding cultures. For example, the twelfth-century works of Maimonides drew on the Aristotelian philosophical traditions of the Islamic world in which he lived. Similarly, the Reconstructionist approach to decision making seeks wisdom from a wide range of contemporary sources.

For Reconstructionists, Jewish sources hold significant weight. We also wish to consider carefully the best information available in the social and physical sciences, contemporary ethics and aesthetics, comparative studies of approaches taken in other Jewish communities, a historical understanding of Jewish attitudes, and other sources. The explosion of available information and new scientific data makes the study of sources beyond our traditional texts ever more critical.

15. "Tzedek, Tzedek Tirdof: You Shall Surely Pursue Justice"⁴⁶

Reconstructionism affirms that the improvement of conditions under which human beings live is a central Jewish concern. Our interest includes but transcends the Jewish people, extending to the improvement of the lot of all humanity. Our sources for this value are the prophets, who challenged the societies of their day to treat their members with justice, to feed the hungry, to clothe the needy, and to protect the most vulnerable.

Traditional Judaism spoke of the widow, the orphan, the deaf, and the blind as those most in need of protection. Justice for the vulnerable is a test of the ultimate values of a community or society. Jewish sources, prayers, and rituals continually remind us that we were once vulnerable as a people, enslaved in Egypt. We speak of having been strangers in the land of

⁴⁵Alpert and Staub, p. 39.

⁴⁶Deuteronomy 16:20

Egypt.⁴⁷ At various later points in Jewish history, we have been vilified and oppressed for no reason other than our identity as Jews. As a consequence, a major theme of Jewish tradition is the obligation to be sensitive to the needs of "the stranger in our midst," those that society views as outcast. The Jewish people has a special concern about just and fair treatment for those needing protection.

III. THE HISTORICAL JEWISH SOURCES: BIBLICAL, RABBINIC, MEDIEVAL

As Jews, we return to our traditional sources as a critical part of fully comprehending any issue. As Reconstructionist Jews, we then understand the texts in their historical context.

1. Sexual Activity Between Men

Leviticus 18:22 and 20:13 condemn sexual activity between men, describing it as *to'evah* (usually translated as an abomination) "when a man lies with a male as one lies with a woman." Leviticus 18:26 labels the list of prohibited sexual acts, among which sexual activity between men is included, under the same rubric. Leviticus 20:13 states that punishment for this offense is death by stoning. Clearly, in the times of the Bible, sexual activity between males was a severe infraction of the law. We do not know whether or how the law was enforced.

To better understand these texts, we must examine the context within which the prohibitions are presented. The biblical text appears to be speaking of a discrete sex act. It is not spoken of being in the context of a loving relationship. The frequency of the acts depicted is unknown. Sexual behavior between women is not mentioned.

The reasoning behind the prohibition of sexual activity between men is subject to debate. Leviticus 18:3, commanding Israelites to avoid the practices of the surrounding peoples (also implied in I Kings 14:24), suggests that the biblical author viewed the *to'evot* as sexual customs of the indigenous populations. Israelite distinctiveness was to be maintained by refraining from such practices. Leviticus 18:24-30⁴⁸ comments that the *to'evot* elaborated in this passage caused the defilement of the land, resulting in the "spewing out" of its inhabitants.

Why sexuality was a core issue for the elaboration of the *to'evot* is subject to speculation. Biblical scholar Tikva Frymer-Kensky notes that "there is nothing inherently sexual about pagan belief and practice, and the struggle against paganism does not necessarily have to

⁴⁷For example, Exodus 23:9: "You shall not oppress a stranger (*ger*) for you know the feelings of a stranger, having yourself been strangers in the land of Egypt"; see also Exodus 22:20 and Deuteronomy 10:19.

⁴⁸See also Deuteronomy 12:29-31, 18:9, 12.

be anti-sexual or sexually phobic."⁴⁹ Recent scholarship questions the accuracy of biblical characterization of the indigenous cults of the ancient Near East as sexual.⁵⁰

The term *to'evah* is itself not well understood. Scholars such as William Hallo have traced its origins to pre-biblical Akkadian and Sumerian civilizations.⁵¹ Hallo, among others, adds that the *to'evot* listed in Deuteronomy are cultic in character.

Rebecca Alpert⁵² observes that certain sexual practices may have been categorized *to'evot* as part of an ancient desire "to create an ordered perception of the universe" where certain things considered part of the sacred realm are separated from those of the profane. Alpert notes that "the sexual prohibitions described fit into the larger category of laws about kosher foods, the separation of the sexes and their clothing, and the prohibitions against plowing with two types of animals and of mixing certain types of fabric." Why the Israelites considered these profane is not known, and subsequent generations of Jews have understood the sacred somewhat differently⁵³.

⁴⁹Tikva Frymer-Kensky, "The Bible, Goddess, and Sex", Midstream, 34/7 (October 1988), p. 22.

⁵⁰Robert A. Oden, Jr., The Bible Without Theology: The Theological Tradition and Alternatives to It (San Francisco: Harper and Row, 1987), pp. 132-133. See Section III.3.

⁵¹Hallo writes: "All this evidence leads me to conclude that the concept of a divine taboo or abomination, so widespread in the ancient Near East, embraces two widely divergent realms. One involves the infraction of ethical norms and standards of good conduct, enshrined primarily in proverbs and other parts of the wisdom literature. In this sense, the concept becomes attenuated into little more than a colorful idiom, a synonym for misconduct, offense, or aberration. But the other realm evoked by the concept is more profound, touching on the sacred and inviolable nature of deity. In this meaning, the expressions are used by the Babylonians with reference to those acts which, while innocent enough in themselves, become taboo on unfavorable days, and by Israel, with regard to acts enjoined by alien cults but anathema to God." William Hallo, "Biblical Abominations and Sumerian Taboos," The Jewish Quarterly Review, Vol. 76/1 (July 1985), p. 38.

⁵²Alpert uses the methodology of anthropologist Mary Douglas, who observes "holiness is exemplified by completeness. Holiness requires that individuals shall conform to the class to which they belong. And holiness requires that different classes of things shall not be confused." See Douglas, Purity and Danger: An Analysis of the Concepts of Pollution and Taboo, (London: Routledge & Kegan Paul, 1966), p. 53; and Rebecca Alpert, "In God's Image: Coming to Terms with Leviticus," Christie Balka and Andy Rose eds., Twice Blessed: On Being Lesbian, Gay and Jewish (Boston: Beacon Press, 1989), p. 68.

⁵³There are some who hold that these distinctions are grounded in "the divine order of creation." The arguments offered by those who would drive homosexuality from the Jewish community are exemplified by the work of Samuel Dresner, who links a variety of rabbinic midrashim regarding the issue of mixing categories. He holds that there is a "normal pattern"

A notable feature of the post-biblical commentaries is the shift in focus from indigenous Canaanite practice to concerns of their own time. The classical commentators lacked a shared understanding of *to'evah*. Thus, individual commentators explained the term in a variety of ways. The Talmud,⁵⁴ for example, uses word-play to interpret the term to mean, "*to'eh ata ba*: you go astray because of it," suggesting that the result of this activity leads to wrong behavior or to a negative outcome.

Commentators in the medieval period continued to attempt to understand the term *to'evah*. French Bible commentator Rashi offers only a graphic description of the sex act: "He enters as the painting stick is inserted in the tube."⁵⁵ Another medieval source, *Sefer Haḥinukh*⁵⁶ describes sexual behavior between males as "a mad, contemptible and very ugly mode of conduct in the eyes of God and of all sensible people, and it is not fitting that man, who has been created to serve his Maker, should prostitute himself by such ugly conduct..." This

of copulating," paradigmatic of the "laws of natural mating," that is, heterosexual and monogamous.

According to Dresner's argument, the cause of the biblical flood was crossbreeding between "'heavenly' males and earthly women" (Genesis 6). Dresner states that these acts were emblematic of "generative crossing-over...the paradigm for the subsequent mixing of sexual lines between humans, among animals, and between them both, a transgression which extended upward to include divine beings and humans, and downward to encompass even the plant kingdom. The disarray was so complete and so total as to embrace the supernal, the biological and botanical realms...Catastrophe and a new creation were called for--the flood!"

Dresner claims that the biblical narrative should teach us that the basic social glue is monogamous, heterosexual sexuality. Deviation from this model is called inherently destructive: "Sexual misconduct may open the floodgates of destruction. There comes a time when society can no longer abide the violation of the laws which bind it together...."

Dresner fails to confront adequately the polygamous nature of biblical and rabbinic society. Dresner shows that he cannot distinguish among homosexuality, promiscuity, pederasty, and incest, to say nothing of many common sexual activities between husband and wife. For him, they are near each other on a slippery slope. He neither holds up his thesis of normalcy and the nature of the natural order to the test of contemporary science, nor examines the role of traditional social regulation in creating the slippery slope. Thus his hyperbolic claims rest on the claimed need to preserve every bit of halakhah in order to avoid the abyss, even when change is morally required in the face of newly discovered facts. "Homosexuality and the Order of Creation," *Judaism*, 40/3 (Summer 1991), pp. 312-313.

⁵⁴*B. Nedarim* 51b. *Tosaphot* to *Nedarim* 51b connects this comment to the biblical prohibition against sexual activity between men.

⁵⁵Rashi, commentary to Leviticus 20:13.

⁵⁶*Sefer Haḥinukh* 209.

interpretation of the text may reflect a cultural context in which sexual activity between man was inconsistent with the social norms experienced by the author.

Returning to sources relating to homosexuality in general, rabbinic sources in the Mishnah, Talmud, and midrash primarily reaffirm biblical law. The Mishnah⁵⁷ reaffirms the biblical prohibitions of sexual intercourse between men and the notion that Jews avoid the practices of ancient neighboring peoples. Elsewhere, the Mishnah⁵⁸ and its corresponding Talmud text⁵⁹ state that it is permissible for two bachelors to sleep "under the same coat," because "Jews are not suspected of homosexual practices." Rabbinic sources consider sexual activity between males to be "arayat," sexual infractions. Maimonides' legal code⁶⁰ reaffirms the ban on homosexual activity.

The Jewish sources do not describe sexual activity between men as "unnatural" or "(crimes) against nature", as do the Christian sources.⁶¹ From the Talmud onward,⁶² Jewish sources categorize intercourse in terms of whether or not it is done "*darkan ushelo darkan*," according to the (usual) ways. A discussion of the concepts of "naturalness" and "natural law" appears below, in the sections on *hashhatat zera* (spilling seed) and the Laws of Noah.

2. Sexual Activity Between Women

The biblical text is silent on this issue. Maimonides' medieval codification of Jewish law⁶³ is one of the few sources that explicitly forbid same gender sexual contact between women, calling it obscene (a weak form of prohibition). Rabbinic sources⁶⁴ condemn lesbian sexual behavior, equating it with harlotry, or a deviant practice of ancient Egypt and Canaan, yet specify no punishment. It is called *issur* (impermissible), but isn't counted among the more serious *arayat* (sexual infractions which include male same-gender sexual behavior). The

⁵⁷M. *Sanhedrin* 7.4.

⁵⁸M. *Kiddushin* 4.14.

⁵⁹B. *Kiddushin* 82b.

⁶⁰*Mishneh Torah, Issurei Biah* 1.14.

⁶¹See Boswell, Christianity, Social Tolerance and Homosexuality (Chicago and London: The University of Chicago Press, 1980), pp. 93-114.

⁶²For example, *B. Yevamot* 34b; *Mishneh Torah, Issurei Biah* 21.9 states: "A man may cohabit with (his wife) according to the usual way or not according to the usual way."

⁶³*Mishneh Torah, Issurei Biah* 21.9.

⁶⁴*Sifrei* 9.8, *B. Shabbat* 65a, *B. Yevamot* 76a. The rabbis forbade women who had engaged in the lesbian sexual acts from marrying *kohanim* (priests). For this purpose, lesbian sex acts are in the same category as heterosexual acts, as *kohanim* were only allowed to marry virgins. It implies only minimal condemnation by the rabbis of lesbianism.

designation "harlotry" is not as negative as it seems in contemporary parlance. The term is used by the rabbis when referring to behavior which is not explicitly prohibited by Jewish law, but which they condemned.

Sexual activity between women does not involve *hashhatat zera*, "spilling seed" (discussed below). This may be a reason for the lack of rabbinic interest in sexual activity between women.

3. Biblical Passages Traditionally Understood as Relating to Homosexuality

A. Deuteronomy 23:18 prohibits the *kadesh* or *kadesha* from the midst of the Israelites.⁶⁵ Many who have written on these texts⁶⁶ understand these terms to refer to cultic prostitutes, which they see as a common aspect of the cultic religion of the ancient peoples surrounding the Israelites. Recent scholarship disputes these long-held claims, asserting convincingly that the evidence utilized is highly ambiguous and unreliable. The work of Herodotus on this issue is itself derivative of other earlier unreliable writers, greatly distant in time from the events depicted, apologetic in aim, lacking a basis in scholarly research and thus not a legitimate source on the topic.⁶⁷

Oden's survey of comparative ancient Near East primary sources suggests little clear evidence to identify ancient sacred personnel as sacred prostitutes.⁶⁸ If cultic prostitution was ever practiced, there is no reason to assume that its participants were people of the same gender. If so-called sacred prostitution was connected to a fertility cult, as some have

⁶⁵Also referred to in I Kings 14:24.

⁶⁶Including such notable biblical critics as Smith, Budde, Frazer, Albright, von Rad, Mays, Ringgren, Fohren, Kaufmann, and Yamauchi. Other sources making the same claim include The Interpreters Dictionary of the Bible and the biblical lexicons of Brown, Driver and Briggs and of Koehler and Baumgartner. The historical sources cited by these scholars include ancient Greek texts and the works of the Church Fathers.

⁶⁷Oden, *op. cit.*

⁶⁸Oden, *op. cit.* p.150; Oden notes: "Whether or not sacred prostitution was ever a reality in the ancient Near East, accusations about the practice turn out to be very much the norm" (p. 153).

suggested,⁶⁹ it is logical that it would have been primarily enacted between men and women. Deuteronomy 23:18 therefore has little relevance to a discussion of homosexuality.

B. Two biblical narratives (Genesis 19 and Judges 19) have been seen by some to refer to homosexuality.

The townsmen of Sodom who surrounded the house of Lot (who was an outsider residing in the town) in Genesis 19 demanded that he allow them "to be intimate" with two male angelic messengers, guests in his house, who had been sent to warn Lot's family of God's intention to destroy the town, "because the outcry against (the town) has become so great that God has sent us to destroy it."⁷⁰ Lot offered his daughters in the place of the guests, but the townsmen refused them. Neither were they successful in attacking the guests.

In Judges 19, a Levite, with his concubine, took refuge for the night in the home of the only person (also an outsider, residing in town) in the Benjaminite tribal town of Gibeah willing to take in strangers. He was accosted by "the men of the town, a depraved lot," demanding that the host "bring out the man...so that we can be intimate with him."⁷¹ The host protected the man by offering the concubine (and the host's daughter, who was refused) to the townsmen who "raped her and abused her all night long... (until) she collapsed (dead) at the entrance of the man's house."⁷² What ensued was a civil war in which the tribe of Benjamin was decimated by the other tribes acting in concert.

Most contemporary Bible scholars understand both these narratives as teaching about hospitality or insensitivity toward other people, not about homosexuality.⁷³ In both sequences, the homes in which visitors are staying are attacked by local people who eventually demand to sexually assault the male stranger. In neither case is a permanent

⁶⁹Frymer-Kensky discovers that the only known sexual fertility rite is documented as having taken place in Sumer, well preceding the biblical period. The ritual is performed by the king, representing the vegetation god, Dumazi, and a woman representing the goddess Inanna, about whom Frymer-Kensky comments: "She is assumed to have been a special priestess, but for all we know, she could actually have been a wife of the king specially favored with this ceremony" (Frymer-Kensky, p. 22). Frymer-Kensky adds that in Babylonia, this rite was de-sexualized and becomes "divine combat." A sacred marriage rite is maintained, yet this is celebrated not by people, but by two statues.

⁷⁰Genesis 19:13.

⁷¹Judges 19:22.

⁷²Judges 19:25-26.

⁷³ Nahum Sarna, for example, describes the "outcry" of Sodom as "an arrogant disregard of elementary human rights, a cynical insensitivity to the sufferings of others.... It is clear from our story that Lot, in offering hospitality to the strangers, had violated the norms of the society in which he lived, and the angry citizens soon came to give vent to their sense of outrage". Understanding Genesis (New York: Schocken Books, 1964), pp. 145-146.

resident of the town willing to offer hospitality. In both sequences, women are offered in his place by a host who demonstrates an ethic of offering protection to his male guest. By portraying the depravity of the town, this narrative justifies God's destruction of Sodom.⁷⁴ The Judges narrative aims to capture the lawless plight of the days "when there was no king in Israel,"⁷⁵ concluding "never has such a thing happened or been seen from the day the Israelites came out of the land of Egypt to this day!"⁷⁶

Several rabbinic sources⁷⁷ make a connection between Genesis 19 and homosexuality. The rabbis suggest that the destruction of Sodom was sealed only once the threat of sexual assault was made. This rabbinic interpretation may have been made in response to the Greco-Roman world, where sexual behavior between men existed.

Despite these sources, the theme of Genesis 19 is assault against visitors, not homosexuality. The rabbis fail to distinguish between assault and consensual sexual behavior. The latter is not present in this narrative. The act of sexual terror carried out in Judges is perpetrated against a woman, a sign that sexual assault and lack of hospitality are the themes. That sexual intercourse between men has been referred to in the Christian world as "sodomy" is based on a misreading of the Genesis text, which makes no distinction between sexual assault and sexual intimacy. Genesis 19 and Judges 19 do not address the subject of this Report.

4. Hashhatat Zera: "Spilling Seed"

The Book of Genesis tells the story of Onan, a son of Judah who "spilled" his seed on the ground rather than impregnate his brother's widow, thus depriving his brother's line of progeny (through the ancient institution of levirate marriage which was his obligation).⁷⁸

The biblical account concerns the obligations of levirate marriage and the spilling of seed. The rabbis purposely weakened the institution of levirate marriage for social reasons and strengthened the prohibition against spilling seed for a variety of reasons, including their sense of the unclean. Discharge was sufficient reason to require immersion in the mikveh. *Hashhatat zera* was connected to three ways that semen can be spilled--masturbation,⁷⁹

⁷⁴Genesis 18:16-33; for an extended treatment of the Sodom narratives in Christian thought, see Boswell, *op. cit.*

⁷⁵Judges 19:1.

⁷⁶Judges 19:30.

⁷⁷*Bereshit Rabbah* 26:5; *Vayikra Rabbah* 23:9.

⁷⁸Genesis 38:7-10

⁷⁹*Shulhan Arukh Even Ha-Ezer* 23.2; *Sefer Haḥinukh* 209 attributed to Rabbi Pinḥas Ha-Levi of Barcelona, translated by Charles Wengrov (Jerusalem: Feldheim Publishers, 1984), p. 365 and *Zohar* 188a, 219b, which seeks to condemn masturbation.

sexual acts between men,⁸⁰ and heterosexual acts resulting in ejaculation elsewhere than in a vagina.⁸¹ All these are condemned for reasons similar to those for observing the laws of menstruation.⁸²

Medieval sources explicitly link masturbation and *hashhatat zera*. The *Shulhan Arukh* condemns masturbation on this ground⁸³ as does the mystical literature.⁸⁴ *Sefer Hahinukh* connects *hashhatat zera* with homosexuality, asserting that "God commanded us that human seed should not be destroyed by sexual relations with men: for this is indeed destruction, since there can be no fruitful benefit of offspring from it...." While this medieval source interprets Genesis 38 in this manner, we do not read the text as referring to homosexuality.

A small number of Jewish sources speak of non-procreative sex as *shelo darkan*, "not in the usual or customary way".⁸⁵ Contemporary writers at times translate this term as "unnatural", a word with an extensive history in Hellenistic and Christian sources.⁸⁶ Because of the current popular association of the word "unnatural" with sexuality⁸⁷ we discuss this term here.

5. The Laws of Noah

A frequently heard objection to homosexual acts is that they are a violation of natural law. There is no agreement within Jewish tradition that a universal natural law exists. Most rabbinic sources reject the idea of natural law. One major strand of rabbinic tradition, however,⁸⁸ derives a universal moral law from the laws of Noah.⁸⁹ Even if this were a

⁸⁰*Sefer Hahinukh* 209.

⁸¹See *Tosaphot*, Rid to *B. Yevamot* 12b, and *Mishneh Torah, Hilkhhot Issurei Biyah*, 21.9

⁸²*B. Nedarim* 51b.

⁸³*Shulhan Arukh, Even Ha-Ezer* 23.2.

⁸⁴*Zohar* 188a, 219b, which seeks to condemn masturbation, and *Sefer Hahinukh* 209.

⁸⁵*B. Yevamot* 34b uses the term to refer to Onan's spilling of seed; *Rabbenu Tam* (*Tosaphot, B. Yevamot* 12b) uses the term when he allows non-procreative intercourse; Maimonides (*Mishneh Torah, Issurei Biah* 21.9) allows marital intercourse *darkan ushelo darkan* (in the customary or unc customary way).

⁸⁶For further discussion of these sources, see Boswell, *op. cit.*

⁸⁷For example, *Torah Temimah* to Leviticus 18:22.

⁸⁸*B. Yoma* 67b, *Sifra, Aḥarei Mot* 13:10.

⁸⁹*B. Sanhedrin* 56-60; *Mishneh Torah, Melakhim*, 8:10, 10:12

sufficient warrant for a claim that Judaism has recognized natural law, there is no evidence that the tradition considered its ban on homosexuality to be universal or part of natural law.

Thus, from the perspective of Jewish tradition, the banning of homosexuality is the result not of natural law, but of revelation. We understand what we have inherited as revelation to have been formulated by people in search of the divine. Revelation can have two components, one that is culturally bound, and one that attempts to discover universal human ethics. To the extent now possible, this report makes an effort to ground a view of homosexuality in Jewish values as they address the universal human condition. We conclude that no natural law claim about homosexuality can be derived from Jewish tradition.

"Natural" is a term popularly understood to refer to behavior considered to be in alignment with the way God intended the universe to function (i.e., "according to the natural order"). Biblical and rabbinic sources do not utilize this Greek idea. The talmudic expression *darkan ushelo darkan* refers not to that which is "in accordance with the natural order," but "according to customary practice."

A significant difficulty posed by the concept of naturalness is that the term is often applied as if it were an objective categorization of behavior claiming that what is common or prevalent is actually normative (i.e., what ought to be). It is common for traditional societies, including Judaism prior to modernity, to make the assumption that their particular ways of doing things are divinely ordained. Reconstructionists consider culture to be a human creation and therefore view this concept as anachronistic. From a biological perspective the more common heterosexual relationships that have been essential for preservation of the species are not the only natural ones. As discussed below (contemporary scientific understanding), somewhat less common biological occurrences are no less natural or normal, even though they are not essential for preserving the species. People who derive their ideas about what is ethical from their assumptions about what is normal have confused their understanding of science with their beliefs about what people ought to be or do. We can't honestly derive what we ought to do from what is in biology. Cultural beliefs and values drive any understanding of what is normative. The existence of a phenomenon in nature is not sufficient evidence to prove or disprove its moral validity.

IV. CONTEMPORARY SCIENTIFIC UNDERSTANDING

The sciences, including sociology, anthropology, psychology, and biology, offer findings significant to this study. They help clarify our understanding of the nature of homosexuality.

We learn from the sciences that homosexuality is a commonly occurring characteristic among human beings. The cross-cultural survey by Ford and Beach⁹⁰ demonstrated that there is no culture in which homosexuality does not exist.

Kinsey, Pomeroy and Martin found that 10% of American men were homosexual (as expressed by primarily same gender sexual fantasies and desire), and that approximately 50% of men, mostly heterosexual, engaged in at least one sexual experience with another man prior to marriage.⁹¹ The Kinsey Institute estimates that up to 6% of women are lesbian in orientation.⁹² Despite many changes in American sexual behavior in the twenty years following Kinsey's study, Hunt found that the percentage of men homosexual by orientation remained constant.⁹³ It is reasonable to expect that the percentage of Jews who are gay and lesbian conforms to that in the general population. While these studies find heterosexuality to be the more common sexual orientation, homosexuality occurs in nature.

Ford and Beach also surveyed the social acceptability of homosexuality cross-culturally. In 64% of 76 societies, they found that homosexual activities were viewed as normal and socially acceptable behavior, although of a minority of individuals. The study concludes that homosexuality is a normal variant of sexual behavior, thus suggesting that the notion of homosexuality as unnatural is culturally derived.

Many theories have existed throughout the history of psychology regarding the nature and "causes" of homosexuality. There was a time when homosexuality was considered to be a disease. In 1974, the American Psychiatric Association (APA), drawing upon contemporary knowledge, deleted the classification of homosexuality from its list of mental disorders. This stance reflected the understanding of many mental health professionals that homosexuality is a normal expression of human selfhood.⁹⁴ The APA ruling guides all practitioners of

⁹⁰Patterns of Sexual Behavior (New York: Harper & Row, 1951).

⁹¹Sexual Behavior in the Human Male (Philadelphia: W.B. Saunders Co., 1948); 9-13% continued to have sexual contact with men after marriage.

⁹²Percentage varies by age and marital status; Kinsey, Pomeroy, Martin and Gebhard, Sexual Behavior in the Human Female (Philadelphia: W.B. Saunders, 1953).

⁹³M. Hunt, Sexual Behavior in the 1970s (Chicago: Playboy Press, 1974).

⁹⁴The APA decision was followed by similar decisions of the American Psychological Association in 1975, and the National Association of Social Workers in 1977.

psychotherapy, through its publication in the Diagnostic Statistical Manual, a primary reference for mental health professionals in all fields.⁶⁵

While the precise origins of sexual orientation--heterosexual and homosexual--are unknown, leading researchers hold that it is determined by a combination of biological, psychological, and social factors: "There does not appear to be a single cause or a simple developmental path that determines sexual orientation, be it homosexual or heterosexual. Both biological and socio-environmental factors have been identified that may affect the development of sexual orientation, and different factors may play varying roles in different individuals."⁶⁶ Neurobiologists hold that the propensity for sexual orientation originates in the early years of childhood, or, according to some researchers, before birth.⁶⁷ Psychologists hold that the full development of sexual orientation can be the culmination of an extensive process of adult identity formation.⁶⁸ However, since the preliminary development of sexual orientation is rooted in genetics and family relations, it is not substantially affected by the role modeling of significant adults, such as teachers and clergy.

Therapeutic interventions aimed at altering sexual orientation have not met with success. While choice may play a role for some, for others orientation is determinative. While the

⁶⁵APA Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised (DSM III-R), 1974, 1986.

⁶⁶Reinisch, "Homosexual/Heterosexual: An Overview" in Homosexual/Heterosexual: Concepts of Sexual Orientation (McWhirter, Sanders & Reinisch eds, New York: Oxford University Press, 1990), p. xxv; also see Bell, Weinberger, and Hammersmith, Sexual Preference: Its Development in Men and Women (Bloomington, IN: Indiana University Press, 1981).

⁶⁷For a survey of research, see Weinberg and Bell eds, Homosexuality: An Annotated Bibliography (New York: Harper & Row, 1972); also see Green, Reinisch, and Sanders, "Behavior Influences of Prenatal Hormones" in Sexual Identity Conflict in Adults and Children (New York: Basic Books, 1974); and Reinisch and Sanders, Handbook of Clinical Psychoneuroendocrinology (New York: The Guilford Press, 1987). For a critique, see Houtt, "Human Sexuality in Biological Perspective: Theoretical and Methodological Considerations," and Futuyma and Risch, "Sexual Orientation, Sociobiology, and Evolution," both in DeCecco and Shively eds, Origins of Sexuality and Homosexuality (New York: Harrington Park Press, 1985). A recent study by neuroscientist Dr. Simon LeVay, reported in the September 1991 issue of Science, offers evidence that differences exist in the hypothalamus (an organ in the brain which governs sexual behavior) between heterosexual and gay men. LeVay does not claim to have discovered an origin of sexual preference, but only that further research is indicated. Critics of this study point out that brain tissue utilized was solely from men who died of AIDS and that its results have not been replicated elsewhere.

⁶⁸See, for example, Cass, "Homosexual Identity Formation: A Theoretical Model," Journal of Homosexuality, 1979; and Green, et. al.

percentages of these groups have not yet been established, this data is not relevant to the values-based approach of this report.

In sum, the biological and social sciences suggest:

- 1) homosexuality occurs in nature;
- 2) homosexuality is not a disease or an illness;
- 3) sexual orientation is a primary component of personal identity, rather than a description of a sexual act;
- 4) a significant percentage of all people are gay or lesbian in orientation;
- 5) the origins of sexual orientation, heterosexual and homosexual, are unclear, and are to be found in a complex of issues, which may include biological as well as psychological and social factors;
- 6) children are no more or less likely to become heterosexual or gay or lesbian due to sexual orientation of public role models.

V. DISCRIMINATION AND PREJUDICE

Gay men and lesbians are subject to invidious discrimination and prejudice in contemporary society. Such discrimination is evident in reduced employment opportunities, job advancement, and housing. In many states, legal protections such as those that protect other minorities do not exist. Legally, homosexuals are excluded from the civil right to marry one another, and they face major obstacles in child custody cases. The laws of some states ban a variety of sexual activity between consenting adults, including same-gender sex.

Committed life partners are denied the basic rights granted legal marital partners, such as custody over the children they have raised with a now-deceased blood parent, access to joint tax filing and insurance policies, as well as the lack of visitation and control in the custodial care of a seriously ill partner. These disabilities create situations which range from annoying to tragic.

In its most extreme form, bias is channelled into violence. Assault against gay men and lesbians is a form of violence which is not clearly and consistently condemned and is even sanctioned by some. It is presently on the rise.⁹⁹

Popular misconceptions about gays and lesbians lead to another form of anti-gay bias. Gay men and lesbians are the object of fears that they will sexually molest others, especially children. Such groundless and harmful notions are strikingly similar to negative myths about

⁹⁹Gary David Comstock, Violence Against Lesbians and Gay Men (New York: Columbia University Press, 1991).

Jews during the Middle Ages.¹⁰⁰ Statistics on sexual abuse demonstrate that the vast majority of cases are perpetrated by heterosexual men.¹⁰¹

Judaism, like other religions and peoples, has historically discriminated against gays and lesbians, seeing them as "other". Jewish communities either ignore them or insist on denial of their homosexuality (such as by the non-recognition of the existence of a life partner, or by failing to address their most basic needs and concerns). Jewish ritual has excluded gay and lesbian families. It is striking that in the face of this discrimination, many gay and lesbian Jews have persisted in seeking a place for themselves in our community.

The pervasive nature of anti-gay bias and discrimination suggests that it is important for religious organizations to take an unequivocal stance regarding the nature of homosexuality and the treatment of gay men and lesbians.

This is especially true for Jewish institutions. Jews have a special concern with the equal treatment of all people. Jews knew slavery to Pharaoh in Egypt and the experience of being victims of discrimination and slaughter. As a people who have been vilified, we can and must understand the situation of others who face exclusion and who are demonized in the eyes of society.

VI. DISCUSSION: JEWISH SOURCES IN THE LIGHT OF SCIENCE

Reconstructionist Jews are committed to reconciling our values and contemporary scientific understanding with earlier Jewish sources. Contemporary science presents compelling evidence that homosexuality is best understood as a sexual orientation. Sexual orientation, whether heterosexual or homosexual, is a primary constituent of human personality.

Contemporary scientific understanding counters the traditional Jewish conception that homosexuality refers to a set of discrete sexual acts outside the context of a loving relationship or sexual orientation. There is no evidence that the biblical, rabbinic, or medieval Jewish worlds understood the concept of sexual orientation as a human personality characteristic. The biblical reference is solely to the sexual activity of "a man lying with a man." Rabbinic references to sexual activity between women similarly describe discrete sex

¹⁰⁰See Jeffrey Richards, Sex, Dissidence, and Damnation: Minority Groups in the Middle Ages (London: Routledge, 1991).

¹⁰¹The charge that gay men and lesbians frequently molest children is unfounded. Most sexual abuse is, in fact, perpetuated by heterosexual men. See Gregory Herek, "Myths About Sexual Orientation," Law and Sexuality (New Orleans: Tulane Law School) 1/1 (1991), pp. 152-156 for a review of the literature, which includes Groth and Birenbaum, who found that "of 175 adult males who were convicted in Massachusetts of sexual assault against a child, none had an exclusively homosexual adult sexual orientation." See Groth and Birenbaum, "Adult Sexual Orientation and Attraction to Underage Persons," Archives Sexual Behavior 175 (1978), pp. 176-77 (quoted as in Herek). Herek also cites 1989 Gallup poll data suggesting the steady decline of popular belief in particular accusation.

acts. Such activity might have taken place among people defined by contemporary definition as heterosexual. As Rabbi Hershel Matt noted after studying the psychological literature:

In our own generation homosexual behavior has been found to involve not merely a single overt act, or series of such acts, but often to reflect one's profound inner condition and basic psychic orientation, involving the deepest levels of personality.¹⁰²

There are some who utilize the term "natural" as if it were a scientific term to describe the legitimacy of behavior. As we have explained above, we consider this concept neither scientific nor appropriate to the present discussion.

The ancient concern with *hashḥatat zera*, spilling seed, is based on a prescientific understanding of conception. Some rabbis, like others in their time, believed that it was the male semen that grew into a fetus, once heterosexual intercourse took place. This view gave way in modernity to a fuller understanding of the fertilization process between sperm and ovum. The rabbinic concern with the protection of male semen must in part be seen in this light. The rabbis' desire to prohibit masturbation, as well as their goal of promoting reproduction, also plays a significant role in their sacralization of semen. We see their stance is an expression of their values, and not simply a consequence of their pre-scientific understanding of human reproduction.¹⁰³

Finally, contemporary scientific advances in reproductive technologies make it possible for not only heterosexual but lesbian women to bear their own biological children. Despite systemic barriers against gays and lesbians in the process of applying for adoption, a combination of adoption and new reproductive technologies enables gay men and lesbians to parent their own children.

For centuries lesbians and gay men have parented children within the context of heterosexual marriages. Parenting by gay and lesbian couples never arose as an option. Today such parenting takes place. The concern that homosexuality can undermine the family is based on an anachronistic understanding of the family and of homosexuality. As legal and social barriers continue to fall, gay men and lesbians can and do form families and raise children of their own. Lesbian and gay Jews contribute to the building of strong Jewish families.

In summary, the historical Jewish sources hold that homosexuality refers to discrete same-gender sex acts, that it is an aberration resulting in a diminution of holiness due to spilled seed, that all people are inherently heterosexual, and that homosexuality undermines the family. For all the reasons stated above, we understand these views as an expression of their respective periods in the evolution of Jewish civilization, but limited in their ability to inform our contemporary discussion.

¹⁰²Hershel Matt, "Sin, Crime, Sickness or Alternative Lifestyle?: A Jewish Approach to Homosexuality," *Judaism* 27/1 (Winter 1978), pp. 13-24.

¹⁰³See Section IV.

VII. CONTEMPORARY JEWISH SOURCES

Serious consideration by contemporary Jewish scholars about issues regarding homosexuality has intensified in recent years. An extensive responsum was written by Rabbi Norman Lamm, President of Yeshiva University, who affirmed the strong prohibition against homosexuality advocated in the biblical text. Lamm nevertheless opposed any civil penalty for such behavior, relying instead on social sanctions.¹⁰⁴ Lamm invoked a psychological understanding of homosexuality as a disease in order to encourage compassion and efforts at rehabilitation; nonetheless, he maintained the stricture of *to'evah* (interpreted by Lamm as referring to behavior viewed as "morally repugnant" and thus a "grave sin"). David Bleich, a noted Orthodox medical ethicist, shares Lamm's conclusions.¹⁰⁵ The Orthodox viewpoint is occasionally supported by teachers of usually more liberal persuasion such as Reform Rabbi Solomon Freehof, who said that he supported the ban on homosexuality based on his belief that the Torah reflects deep-rooted ethical attitudes.¹⁰⁶

Additional Reform movement responsa edited by Rabbi Walter Jacob¹⁰⁷ have followed Rabbi Freehof's opinion, considering homosexuality to be a grave sin and disallowing any possibility of *kiddushin* for the relationship of two gay men or lesbian women. However, guided by the tradition's strong support of Jewish community and family life, these responsa state that it is wrong to exclude homosexuals from normal congregational activities and permit, for example, a lesbian couple to participate fully as parents in a synagogue service celebrating their child's bar mitzvah provided they are not "flagrant" about their relationship.

Bradley Artson, a Conservative rabbi, asserts that the halakhic prohibition against homosexuality is based on erroneous assumptions--that homosexuality is unnatural, that it reflects a sickness, and that it refers narrowly to sexual activity that necessarily takes place outside of ongoing loving relations. Artson understands as *to'evah* "anonymous sex, all violent sex, all coercive sex," a category of behavior which is immoral, irrespective of sexual orientation. He argues that the term *to'evah* does not, in fact, refer to our contemporary understanding of homosexuality. He argues that rabbinic prohibitions deserve reconsideration

¹⁰⁴Norman Lamm, "Judaism and the Modern Attitude to Homosexuality," Encyclopaedia Judaica, 1974 Yearbook.

¹⁰⁵"There is indeed strong reason to believe that Judaism regards homosexuality as pathological. If homosexuality is an aberration, then, of course, a cure must be attempted... This tendency (i.e. homosexuality) may not be acted upon because homosexual conduct is forbidden... While Judaism regards the homosexual act with repugnance, it has the greatest sympathy for the homosexual as a person... (but) society has a definite obligation not to bestow a seal of legitimacy on homosexual activity." David Bleich, Judaism and Healing: Halakhic Perspectives (New York: Ktav Publishing House Inc., 1981), pp. 70-72.

¹⁰⁶Solomon Freehof, "Judaism and Homosexuality," CCAR Yearbook, Vol. 83 (1973).

¹⁰⁷Walter Jacob, "American Reform Responsa" (New York: CCAR Press, 1983), reprinted in Contemporary American Reform Responsa (New York: CCAR Press, 1987).

in light of the fact that being heterosexual, gay or lesbian is not usually a matter of choice. Artson holds that we have a Jewish obligation to support positive family relations, social stability, the elimination of suffering, and the pursuit of individual dignity and self-fulfillment. He concluded that "Homosexuality can be ...healthy, natural, supportive of family values and stability and is no impediment to raising well-balanced and thriving children," and that therefore, homosexuality should be considered a *halakhically* acceptable sexual orientation if it is expressed within the context of an exclusive, mutually committed, adult relationship.¹⁰⁸

While reinterpretation of traditional texts remains a vital concern to some, other liberal thinkers have based their case for inclusion of gays and lesbians in Jewish community more directly on contemporary knowledge and a reliance on values. Rabbi Janet Marder argued that "reverence for tradition is no virtue when it promotes injustice and human suffering".¹⁰⁹ Rabbi Hershel Matt stated the case for gay and lesbian rabbis serving as positive role models for the Jewish community.¹¹⁰ He implored bold and courageous action leading to acceptance of such rabbis, and called for integration, rather than separateness, of "straight" and gay-lesbian congregations. The response to Matt in letters to the editor¹¹¹ was mixed but generally unfavorable, reflecting deep-rooted personal or societal concerns and fear of legitimating gays and lesbians.

The Conservative movement has attempted, like Rabbi Matt, to balance a concern with the rights of the individual with fidelity to the stance held by the historical Jewish sources. The Rabbinical Assembly, during its 1990 Convention of Conservative rabbis, passed a resolution in support of civil rights for gays and lesbians, while affirming and recommending the traditional life of heterosexuality. The resolution also welcomed gay and lesbian Jews in Conservative synagogues, deplored anti-gay violence, and called on the Conservative movement and its affiliates "to increase our awareness, understanding and concern for our

¹⁰⁸Bradley Artson "Gay and Lesbian Jews: An Innovative Jewish Legal Position," Jewish Spectator 55/3 (Winter 1990), pp. 6-14.

¹⁰⁹Janet Marder, "Getting to Know the Gay and Lesbian Shul," Reconstructionist 51/2 (October-November 1985); see also Ellen Umansky, "Jewish Attitudes Towards Homosexuality: A Review of Contemporary Sources," in the same publication.

¹¹⁰Hershel Matt, "Homosexual Rabbis?" Conservative Judaism, vol. 39/3, (Spring 1987). Rabbi Matt's stance reflects an evolution of his thinking. Previously, in "Sin, Crime, Sickness or Alternative Life Style?: A Jewish Approach to Homosexuality," Judaism 27/1 (Winter 1978), pp. 13-24, Rabbi Matt called for the removal of stigmas against gay men and lesbians, while maintaining that heterosexuality is a "God-intended norm." Rabbi Matt's argument was that homosexuality is "a sexual deviance, malfunctioning, or abnormality," an unalterable feature of the personality of some, and thus a circumstance beyond one's control. The gay man or lesbian thus acts *me'ones* (under constraint), freed from blame, despite the forbidden nature of homosexual behavior. He argued for "accepting them as they are."

¹¹¹Letters to the Editor, Conservative Judaism 40/1 (Fall 1987).

fellow Jews who are gay and lesbian."¹¹² Nevertheless, discussion about the resolution made it clear that the Conservative movement is far from ready to openly accept gay or lesbian rabbis, or to afford gays or lesbians equal status within the leadership of congregations or the movement.

Discussion in the Reform movement¹¹³ about homosexuality began in the early 1970s within the Central Conference of American Rabbis (CCAR), leading to the passage of resolutions in the Union of American Hebrew Congregations (UAHC) (1975) and in the CCAR (1977). The former supports the civil but not religious rights of gay men and lesbians. A Committee of the CCAR recommended "that the UAHC should not accept homosexual congregations into its membership."¹¹⁴ Nevertheless, in the same year the UAHC accepted its first congregation that primarily serves gay and lesbian Jews. Initial debate about religious rights of gay men and lesbians, including those of rabbis, began in the CCAR in the early 1980s. A 1981 responsum rejected "this type of individual, as a role model within the Jewish community."¹¹⁵ In 1987, the UAHC General Assembly resolved that "(sexual) orientation should not be a criterion for membership or participation in an activity of any synagogue," encouraging the synagogue involvement of gay and lesbian Jews, ending discrimination in synagogue employment, calling for inclusive language in liturgy and for the development of educational programs on the issue.

The 1989 CCAR convention debate centered on "homosexuality and the rabbinate." Rabbi Yoel Kahn urged recognition of the *kedushah* (holiness) of homosexual relationships: "Deep, heart-felt yearning for companionship and intimacy is not an abomination before God. I believe that God summons us to affirm the proper and rightful place of the homosexual Jew--and her or his family--in the synagogue and among the Jewish people."¹¹⁶ Rabbi Leonard Kravitz took the opposing view, noting that "there is no unanimity in the general culture (and in the Reform movement) that homosexuality is acceptable," and adding his personal belief: "that which is natural is not necessarily Jewish."¹¹⁷

¹¹²"Resolution on Gay and Lesbian Jews," document from the Spring 1990 convention of the Rabbinical Assembly.

¹¹³For a fuller treatment of this issue, see Yoel Kahn, "Judaism and Homosexuality: The Traditionalist/Progressive Debate," Homosexuality and Religion (New York: Harrington Park Press, 1989).

¹¹⁴CCAR Yearbook, Vol. 87 (NY: CCAR Press, 1977), pp. 50-51.

¹¹⁵Report of the Ad Hoc Committee on Homosexual Congregations," CCAR Yearbook, Vol. 84 (New York: CCAR, 1974) pp. 28-29.

¹¹⁶Yoel Kahn, "The Kedusha of Homosexual Relationships," CCAR Yearbook, Vol. 99 (New York: CCAR, 1989) pp. 136-141. Also see Yoel Kahn, "Judaism and Homosexuality: The Traditional/Progressive Debate," Journal of Homosexuality 18/3-4 (1989-90), pp. 47-82.

¹¹⁷Leonard Kravitz, "Address," Homosexuality and the Rabbinate (New York: CCAR, 1989).

The following year (1990), the CCAR overwhelmingly declared that: "all Jews are religiously equal regardless of their sexual orientation" and urged "that all rabbis, regardless of sexual orientation, be accorded the opportunity to fulfill the sacred vocation which they have chosen." On the issue of the religious status of homosexual relationships, a majority report "affirms that heterosexuality is the only appropriate Jewish choice for fulfilling one's conventional obligations," with a minority affirming that "the relationship, not the gender of the people, should determine its Jewish value." The body affirmed the admissions policy of the Reform seminary, Hebrew Union College-Jewish Institute of Religion (HUC-JIR), "which considers sexual orientation only within the context of a candidate's overall suitability for the rabbinate, his or her qualifications to serve the Jewish community effectively, and his or her capacity to find personal fulfillment within the rabbinate."¹¹⁸

Also in 1990, Rabbi Alexander Schindler, President of the UAHC, observed that "in most mainstream congregations, we have not extended our embrace to include gay and lesbian Jews." He called for their "fuller acceptance in our midst," urging that the Reform movement become "a place where loneliness and suffering and exile end, a place that leaves it to God to validate relationships and demands of us only that these relationships be worthy in His (sic) eyes...."¹¹⁹

In summary, contemporary Jewish leaders speak with more than one voice on the issue of homosexuality within Judaism. Those with conservative positions on the issue rely on the biblical and rabbinic texts. Religious liberals not inclined to revision on this question are concerned with the potential weakening of societal morals and the potential for political polarization of gay and lesbian civil rights. The general trend outside of Orthodoxy, however, is toward a response based on an interpretive reading of Jewish values in the light of modern scientific understanding that moves toward the equal treatment of gay and lesbian Jews.

VIII. A RECONSTRUCTIONIST APPROACH TO HOMOSEXUALITY

A Reconstructionist understanding of homosexuality must be consistent with our experience, with our fundamental values, and with the knowledge available from contemporary science. In this way we can adapt Judaism to the present day. Reconstructionist groups engage in the process of reinterpretation of a wide range of issues facing our communities, from ritual practice to membership policies. This process of reintegration should extend to issues that pertain to the inclusion of all Jews who are seeking to find religious fulfillment within our community. This is an issue of social justice as well as of Jewish survival.

For Reconstructionists, Jewish values that affirm the inherent dignity, integrity, and equality of human beings have primacy over the traditional prohibitions based on the biblical, rabbinic, and medieval texts condemning same-gender sexual activity. We accept it as our sacred task to correct the misunderstandings and resulting injustices of the past and to fulfill the Jewish

¹¹⁸Report of the Ad Hoc Committee on Homosexuality and the Rabbinate (New York: CCAR, 1990).

¹¹⁹Alexander Schindler, "A Time to Reach Out," Reform Judaism 18/3 (Spring 1990).

obligation to seek justice. Our understanding of homosexuality is, in part, to be seen in this light.

Many who reject Jewish law in other areas assert the binding nature of the biblical condemnation of same-gender sexual acts, and therefore homosexuality in general. We reject the act of justifying injustice which is achieved, too often, by citing biblical law. This approach is in conflict with the intellectual and religious integrity that Reconstructionists demand.

We understand the value of equality to inform our contemporary concept of rights. The Reconstructionist movement sees itself as a community of communities. Both the whole and each constituent body has the power to accord rights and responsibilities to its members. In the Reconstructionist movement, these apply regardless of gender, age, disability, and birth religion.

Sexual orientation is a personality characteristic of all human beings. Homosexuality is no different from heterosexuality in this respect. All people inherently deserve dignity, integrity and equality. Therefore, we accord the same treatment both to homosexuals and heterosexuals that we now apply regardless of gender, age, disability, and birth religion.

Our tradition encourages us to seek connections with other Jews through community, family, and intimate loving relationships. Sexual orientation should not be a consideration in determining who may or may not participate in community and family life. Furthermore, due to contemporary reproductive technologies and the option of adoption, lesbian and gay Jews can and do form stable families with children, contributing to Jewish family life. We believe that gay and lesbian Jews do not undermine the family unless oppression prevents them from forming family units inside the Jewish community. Support of gay and lesbian families helps to strengthen the Jewish family in its diversity.

We affirm the importance of loving, caring, intimate relationships as a primary source of companionship and comfort. Jewish tradition accords committed relationships which are affirmed by Jewish ritual with the value of *kedushah*, holiness. We affirm the qualities of mutual respect, trust, care, and love in committed relationships regardless of sexual orientation. Gay or lesbian partnerships embody these values no more or less than do heterosexual marriages. As we celebrate the love between heterosexual couples, so too do we celebrate the love between gay or lesbian Jews. As we affirm that heterosexual marriages embody *kedushah*, so do we affirm that *kedushah* resides in committed relationships between gay or lesbian Jews.

We affirm that inherent in the expression of sexuality is physical pleasure. Sexual fulfillment should be valued and seen as an obligation for loving partners of any sexual orientation. Jewish tradition speaks of loving partnership as including the divine presence, and affirms sexual intimacy as an integral aspect of fully intimate relationships and a positive value in itself. We believe that sexual intimacy, in its variety of forms, should be viewed as holy. We believe that this holiness is equally available to heterosexuals, gays, and lesbians.

We recognize that traditional Jewish sexual ethics did not treat as legitimate the sexual expression between people of the same gender. We are broadening the traditional affirmation of the positive value of sexuality by affirming lesbian and gay sexual expression. Lesbian, gay, and heterosexual people are equally deserving of sexual intimacy which promotes well being of the body, mind, and spirit for each partner in the relationship.

Judaism has always insisted upon a relationship between sexuality and responsibility for one's sexual partner. This includes concern for both partners' emotional, physical, spiritual, financial, and sexual needs. Love and responsibility go hand in hand. Our values cause us to reject uncaring sex, compulsive multi-partner sexual conquest, the trading of commodities of any sort for sexual favors, incest, sex between adults and minors, degrading or forced sex, and other forms of sexual expression that fail to take into account the needs and feelings of one's partner. Jewish sexual ethics apply regardless of sexual orientation.

Our affirmation of personal freedom in the context of communal responsibility moves us to acknowledge the diversity of choices people may make, including the decision not to seek an intimate relationship. We acknowledge that there are legitimate reasons that single people--gay and lesbian, or heterosexual--choose to remain single. Single people should be treated as equally valued members of our Jewish community.

We affirm the value of having children. Our commitment to the value of personal freedom means that we accept that some heterosexual, gay, and lesbian Jews may choose not to be parents, although this is not our highest ideal for the majority of people. We wish to encourage individuals of both sexual orientations to create permanent family units and to raise children. This is critical to Jewish continuity and significant to personal growth and satisfaction. We encourage the creation and nurturance of family units that are committed to the human dignity of all members.

Jewish communities should in turn welcome individuals and families regardless of their type of family structure, and then do everything in their means to enable them to find comfort in belonging. Jewish institutions should be encouraged to support diverse types of families.

The ancient concern with *hashhatat zera*, spilling seed, is raised not only by sexual activity between men, but also by male masturbation, and by the use of condoms and diaphragms. Due to the advent of modern science, we now understand the origins and preservation of life differently than did our ancient forebears. We no longer primarily associate the origin of life with the moment of ejaculation. We attach holiness and mystery to the time of birth, which remains one of awe for us. We therefore reject the rabbinic prohibition of *hashhatat zera*, spilling seed, as a norm that should inform our position on homosexuality.

We recognize the bias in Jewish and American culture that deems homosexuality as less desirable than heterosexuality. As we affirm that homosexuality and heterosexuality are both normal expressions of human diversity, we affirm that both are ways of being which offer fulfillment. We look forward to changes in the social climate, supported by communal policy, that encourage parents to value and affirm their children, irrespective of a child's sexual orientation.

An affirmation of the diversity of Jewish individuals and families leads us to welcome lesbian and gay individuals and families as members of congregations and havurot with the same rights and responsibilities as heterosexual individuals and families. We look forward to the added richness that lesbians and gay men will bring to our communities. Inclusion means more than participation in existing rituals and customs. It also means finding ways to allow and encourage gay and lesbian Jews to celebrate their unique life-cycle events and the other special events in their lives.

Inclusion also means incorporating the stories of lesbian and gay Jews into our people's history. For the history of the joys and suffering of the Jewish people to be fully remembered, taught, and understood, the history of gay and lesbian Jews must be studied and woven into our collective inheritance. We affirm the importance of recalling the history of oppression suffered by lesbian and gay peoples (e.g., the Inquisition and the Holocaust). Just as we value the discovery of Jewish women's history, and the history of other invisible or excluded Jews (such as Marranos), we all benefit by studying the histories of gay and lesbian Jews.

In sum, lesbians and gay men should be welcomed to full participation in every aspect of Jewish community life as individuals, couples, and families. The sources of our tradition throughout the ages speak of the importance of caring for "the stranger among us." In remembering that we as a people have been a persecuted minority, we affirm our commitment to justice in our day. We therefore fully welcome gay and lesbian Jews to our communities, and commit ourselves to addressing their needs.

Finally, the value of democracy necessitates a commitment to education and to responsible decision-making. A clear understanding of the issues presented in this paper requires careful study and deliberation. Moral education on this issue must include elements that are historical, textual, scientific, and value-based. An educational process must be conducted on a personal, congregational, and movement-wide basis. It must allow for the processing of people's deepest feelings in an environment which promotes open discourse. An opportunity must be created for the reassessment of deeply held beliefs and opinions.

By affirming the value of democracy, we assert the need to examine the ways in which gay and lesbian Jewish voices have been absent from the dialogues of our movement. Gay and lesbian Jews must be included in leadership and enfranchised into the decision-making process of the Jewish community.

By affirming the inclusion of gay and lesbian Jews in leadership, we affirm the existing position of the Reconstructionist movement, welcoming gays and lesbians to the rabbinate. It is likely that there have always been rabbis who were gay men, albeit often not public about their sexual orientation due to the fact of discrimination. Lesbians have served as rabbis since the ordination of women, facing similar challenges. Despite a lack of public affirmation, they have served with dignity and distinction, serving all the needs of Jews from birth to death. It is our hope that the dedication of the Reconstructionist movement to justice will enable gay men and lesbians fully to serve our movement and the Jewish community.

IX. AFFIRMATION OF PREVIOUS MOVEMENT POLICIES

The "problem" of homosexuality will be reduced to the extent that heterosexuals learn to look upon homosexuals as persons with a sexual preference different from their own. They must cease to brand homosexuality as an abomination, a disease, a threat to the perpetuation of the human race; they will thereby contribute to the creation of a social atmosphere in which homosexuals will not be impelled to segregate themselves in self-protection. The "problem" will be alleviated to the extent that homosexuals are no longer discriminated against in employment, or ridiculed in the media, the theater, the films or in the pulpit.¹²⁰

In light of our values, scientific knowledge, and understanding of Jewish sources, we have arrived at our understanding of homosexuality, which is stated above. In light of this understanding, we affirm previously existing policies.

We affirm the 1984 admission policy of the Reconstructionist Rabbinical College, that "age, sex, marital status, sexual orientation and race will not be determining factors in the consideration of the Admissions Committee."

We affirm the 1985 vote of the Board of Directors of the Federation of Reconstructionist Congregations and Havurot welcoming as affiliates congregations that primarily serve gay and lesbian Jews.

We affirm the 1990 resolution of the Reconstructionist Rabbinical Association calling for a movement-wide policy of non-discrimination in rabbinic placement.

We affirm the 1991 resolution of the Federation of Reconstructionist Congregations and Havurot barring discrimination regarding sexual orientation in the forwarding of resumes for rabbinic positions, as a first step towards ending all discrimination in rabbinic placement.

We affirm the historically implicit policy of nondiscrimination in membership in the Reconstructionist Rabbinical Association, which accepts as members all new graduates of the Reconstructionist Rabbinical College upon application. We affirm the 1991 Reconstructionist Rabbinical Association resolution which explicitly declares a policy of non-discrimination in membership on the basis of gender, marital status, sexual orientation, birth-religion, age, race, national origin, or physical disability.

¹²⁰Ira Eisenstein, "Discrimination is Wrong," *Judaism* 32/4 (Fall 1983), pp. 415-416.