

Homosexuality and Judaism

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Introduction

Homosexuality, once a word whispered only with revulsion or derision, is now out in the open for all to see and hear. In fact, homosexuality and its attendant issues have become big news. Whether it is the rapidly spreading, and ever-more frightening AIDS epidemic, or the increase in sympathetic "gay" characters in the theatre and in literature, or the widening legal battles over the status of homosexuals, one cannot go very far in contemporary society without confronting this once extremely closet-bound topic. Traditional Judaism, too, has been forced to confront the issue as "gay" individuals and "synagogues" have appeared on the Jewish landscape, often appealing for support from the liberal segments of the Jewish community.

Certainly, an authentic Jewish response must begin with the biblical prohibition against homosexuality. The Bible unequivocally states that a homosexual act between two consenting adult males is a capital crime.¹ Therefore, homosexuality is an activity that no traditional Jew can engage in, endorse, accept, or approve of (recent televised statements to the contrary notwithstanding).²

1. Levit. 18:22 and 20:13.

2. On WNBC TV's "Donahue" show during a discussion of the controversial Harvey Milk High School for homosexual students, June 12, 1985.

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Despite this initial biblical negative, there is much to discuss regarding our attitude to the homosexual, the issue of the homosexual's place in the community, the question of approach to and the treatment of the homosexual, and the problem of the homosexual's rights and acceptance in society. In addition, we must consider why the Bible and Jewish thought reject homosexuality, keeping in mind as we do that female homosexuality, though forbidden, is not nearly as serious a crime as is its male counterpart.³

Drawing the Right Picture

Our analysis of Judaism's approach to homosexuality begins with the question, "What is Judaism's view of the Jewish homosexual?" It is this author's contention that the only appropriate answer to this question is "there is no such individual."⁴

To explain this rather radical statement, one must go back to the structure that halacha places upon Jewish society. In this structure there are certain legal personalities who constitute the *dramatis personae* of the Jewish community. A Cohen is such a personality, as is a Levi. A woman is such a personality, as is a slave or a king. Other "characters" populate the Jewish landscape. The *mamzer* and the *Cohen Gadol*, the *Katan* and the *gadol*, the

3. See below for sources.

4. Spero, M.H., in (a) "Homosexuality: Clinical and Ethical Challenges", *Judaism and Psychology Halakhic Perspectives*, Yeshiva University, New York, 1980 and (b) "Further Examinations of the Halakhic Status of Homosexuality", *Proceedings of the Association of Orthodox Jewish Scientists*, vol. 7, 1983, disagrees with this position and claims that a homosexual personality, as defined by desires, orientation and lifestyle does exist, and that this state is intrinsically prohibited. In addition to the philosophical problems discussed in the article that arise from this position, there is an even more serious problem with his approach. The sources that Spero uses to support his position, *Torah Temimah* to Gen. 2;24, *Sanhedrin* 58a, T.J. *Kiddushin* 1;1, all deal with Gentiles. Although anything forbidden to Gentiles is forbidden to Jews, the prohibition against existing in a homosexual state cannot apply to Jews if the state does not exist for Jews. At best Spero has supported the idea of a homosexual subgroup in Gentile society. See below for discussion.

cheresh and the *shoteh* each has his place in the scheme of things.⁵ Lacking from this list is the homosexual. So much is he missing from the cast of characters of Jewish society that one is hard put to find a halachic term used specifically for him.⁶

If one were, in fact, to apply a halachic category to this individual, it would be the general category of *mumar l'teiavon* (one whose desires put him in opposition to Torah law), specifically *mumar l'mishkav zachor* (one who because of his repeated involvement in homosexual activity is in opposition to Torah law). Such a category exists in halachic literature,⁷ is clearly defined, and places the homosexual on an equal footing with other *mumarim* who violate other laws.

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5. cf. the *Mishnayot* in the third chapter of Tractate *Horiyot* and the *Mishnayot* in the eighth chapter of *Yevamot*. The categories of individuals mentioned here are *Cohen*—priest, *Levi*, *mamzer*—product of an adulterous or incestuous marriage, *Cohen Gadol*—high priest, *katan*—child, *gadol*—adult, *cheresh*—deaf-mute, *shoteh*—mental incompetent. This list is by no means complete.
6. *Roveia* (c.f. *Sanhedren* 9b) refers to only one aspect of the homosexual act and is also used for other sexual acts, e.g. bestiality (Levit. 18:23 and Mishna *Sanhedrin*, 1:4), and intercourse between animals (Levit. 19:19 and T.J. *Avodah Zarah* 40a). A. Even-Shoshan, *HaMilon Hehadash*, s.v. רבע, sees this first meaning as the primary and original meaning of the term. Interestingly R. Ishmael (*Sanhedren* 54b) requires a different verse (Deut. 23:18) to warn the “female” participant in the homosexual act than the verse (Levit. 18:22) which warns the “male” participant. As a result if an individual plays both roles at one time he is punishable for two sins. R. Akiba disagrees and allows an alternate reading of the verse in Levit. to serve as warning for the “female” participant, and consequently holds that an individual who plays both roles at once is punishable only once. It seems that R. Ishmael, certainly, and R. Akiba, probably, saw the two types of activity as being different. This strikes another blow against “*Roveia*” being a term for a homosexual and another blow against one who would want to suggest that the rabbis did recognize a homosexual personality. If there are two types of actions involved and two different verses or readings needed to cover them, there can not be a homosexual in Jewish law. If there were such an individual one verse should be sufficient. Other possible terms such as *Shochev Im Zecharim* or *Shochev Mishkivei Isha* are awkward and do not appear in colloquial usage. The modern transliteration of homosexual into Hebrew only proves the point that no term exists.
7. See *Avodah Zarah* 26b, *Hulin* 5a, *Horiyot* 11a, Rambam *Yad, Hilchot Teshuva* 3:9 and *Kesef Mishneh* ad. loc., *Shulchan Aruch, Yoreh Deah* 2, and *Choshen Mishpat*, 266:2. Some might argue that homosexuals who are exclusively

It seems clear from this that halacha never viewed the homosexual as a member of a unique category or as different from the non-homosexual. He has no greater or lesser rights or obligations. He deserves no special treatment or concessions nor any special vilification. In fact, the term “homosexual” is an essentially inappropriate description for him. We should, rather, refer to this individual as a person engaged in homosexual activity. “Homosexual” is therefore not a noun that identifies and categorizes the individual but an adjective that describes his activity.

This approach has great intuitive appeal. It is hard to imagine Jewish thought accepting the premise that sexual desires and activities provide grounds by which to define an individual's place in the community. In addition, there are vast and important ramifications that emerge from this picture of the individual as a person involved in homosexual activity and not as a homosexual.

The first effect of this changed conceptualization is to alter and improve the individual's perception of himself. If one is labelled and defined by the term “homosexual”, he is consequently different than the heterosexual. As such, he will struggle for minority status and for his rights as a member of that minority. He is, and should be, portrayed as a unique character type in movies, theater, and on television, and he should command an appropriate number of participants in any institution that constitutes itself along racial, ethnic, and religious lines. He agitates for gay pride and gay power, and if he is Jewish, he creates gay synagogues and other gay institutions.

homosexual are actually *Mumarim L'hachis* (following Rashi A.Z., ad. loc., sv. *L'Teiavon*). Although some militant homosexuals may come close to this definition, the emotional conflicts and extenuating circumstances involved make it difficult to describe most, if any, homosexuals as having actively chosen to reject permissible sexual relations for forbidden ones in the same way that Rashi describes the *Mumar L'hachis'* behavior regarding non-kosher meat. Even if one could define some or all homosexually oriented individuals as *Mumarim L'hachis* the comment of the *Chazon Ish* quoted in the next footnote would allow us to treat such an individual in the same way that we would treat a *Mumar L'Teiavon* i.e. like any other Jew (see *Kesef Mishneh* loc. cit.).

On the other hand, if “homosexual” is a term that is limited to the description of an activity, then the individual practicing this activity remains an undifferentiated member of society, and if Jewish he is part of Jewish society. He need not feel irreparably and irretrievably stigmatized. Above all, he need not feel excluded from the community. In the same way that the adulterer, the practitioner of pre-marital sex, the *mechallel Shabbat*⁸, or the speaker of *lashon harah* all enter the synagogue and feel at home while individually dealing with whatever guilt they carry as a result of their sinful activities, so, too, the individual involved in homosexual activity can and should enter the synagogue and feel himself to be part of the community. He is still a human being and a Jew. He is most assuredly not part of a separate homosexual society or sub-society. (See below for a discussion of the Gentile homosexual.) Obviously, the adulterer, *mechallel Shabbat*, et al are duty-bound to change their ways — to do *teshuvah* — and the *mumar l'mishkav zachor* has the same obligation.⁹

The second implicaton of this approach concerns the community's dealings with the individual involved in homosexual activity. If the practitioner of homosexuality is considered a full-fledged Jew (albeit a *mumar*), the community should welcome him as such. This is particularly true in our post-holocaust era, wherein our heightened awareness of the value of each Jewish soul has motivated many communities to make *kiruv rechokim* (attempts to bring non-observant Jews into the fold of Torah-observance) a

8. It is well known that if one violates the Sabbath in public there is a serious stigma attached (see *Hulin* 5a-6b and *Eruvin* 69a.). However, the equating of the Sabbath desecrator and the idolator is rarely applied in any more than a pedagogic sense in contemporary halachic literature (see R. Moshe Feinstein, *Iggerot Moshe, Orach Chaim*, 1, No. 23 and especially 1, No. 33). In addition to R. Feinstein's lenient stance on *Mechallelei Shabbat*, the *Chazon Ish, Yoreh Deah* 2:16, says that the stringent treatment of transgressors described in the Talmud does not apply today, as such treatment will cause greater abandonment of Judaism. Since our task is to improve the situation and not to make it worse, the only approach to take with sinners is “to bring them back with ropes of love.” This statement from the *Chazon Ish* could serve as the central message of this article.

9. Rambam, *Sefer Hamitzvot* Positive Commandment, No. 73.

hallmark of their activities. This *kiruv* work should not and cannot be limited only to violators of halacha in ritual matters. Deviance from halachic norms in sexual matters is as much an area for concern, outreach, and proper education as anything else. Particularly in an area that is as difficult to control as sexual desire,¹⁰ the support of the community for one who might want to bring his lifestyle in line with halacha may be crucial to success.

At this point something should be said about the term “*toeivah*”¹¹ as used by the Torah in connection with homosexuality. Some may feel that its appearance in this context precludes treating the practitioner of homosexuality in the same way that one would treat an individual who is guilty of a different sin. The problem with this suggestion is that to be consistent we would require similarly negative treatment of the person who eats non-kosher food¹², the idolator¹³, the unethical business man¹⁴ and the individual who remarries a woman who, since her divorce from him, has entered and left (by death or divorce) another marriage to another man¹⁵. All of these individuals are guilty of committing a *toeivah*, according to the respective verses that prohibit the particular activity. If we are going to ostracize the individual who commits homosexual acts, then we must ostracize these individuals as well. Since we do not take this approach in the other cases, we should not do so in dealing with the individual involved in homosexual activity.

How then to understand the *toeivah* designation? In an article

10. אין אפוטרופוס לעריות, “There is no guardian against unchastity” (*Ketubot* 13b and *Hulin* 11b), or the even more dramatic, אפילו חסיד שבחסידים אין ממנין אורו אפוטרופוס לעריות, “Even the most pious of the pious is not appointed guardian over unchastity” (TJ *Ketubot* 1,8). See also Rambam, *Issurei Biah*, 2:19, that inappropriate sexual behaviour will occur from time to time in all communities because of man's extreme desire for sexual matters.

11. Levit. 18:22 and 20:13.

12. Deut. 14:3.

13. Deut. 7:25-26 and 27:15

14. Deut. 25:16. Parenthetically, it would be interesting to see the stigma presently attached to homosexuality placed on anyone guilty of unethical business practices—at least for a brief time.

15. Deut. 24:4.

in the Encyclopedia Judaica Yearbook, Dr. Norman Lamm¹⁶ defines *toeivah* in aesthetic terms. These actions are repulsive in and of themselves; no rationale or explanation is necessary. Rather, the divine aspect within the human being is automatically and instinctively repelled by these activities. The fact that any number of individuals are possessed of a deadened spiritual sensitivity that allows them to accept or even participate in the acts in question, does not mean that the spiritually sensitive individual allows his revulsion to be diminished nor does he apologize for that revulsion.

Further, it is important to note that the wording of the verses in question indicates that this revulsion is directed only at the act and not at its perpetrator. The perpetrator is not to be ostracized. One who commits a *toeivah* is halachically and societally no different than one who commits a transgression of a non-*toeivah* law of equal severity.

Although it may be true that a leopard cannot change its spots, Judaism holds that a human being can change or control his activities.¹⁷ While we certainly recognize that many individuals have personality factors that would tend to promote certain sinful activities, our expectation is that these individuals will control these tendencies. We no more would accept the act of murder as legitimate because the perpetrator is prone to violence, than we should accept the act of homosexuality as inevitable because of the existence of biological, genetic, or environmental factors that may contribute to an individual's preference for homosexual acts. A rational individual can control himself, and no amount of apologetics, explanations, or rationalizations can change this fundamental fact. Simply put, the individual engaged in homosexual activity is wrong in what he is doing and is held responsible for having done it.

It is on this issue that the approach presented here parts company most completely with Dr. Lamm's view. Whereas Dr.

16. "Judaism and the Modern Attitude to Homosexuality," *Encyclopaedia Judaica Yearbook* 1974, Keter, Jerusalem, 1974, p. 198.

17. The concept of *Teshuva* makes no sense without this premise.

Lamm¹⁸ sees the homosexual as an *anuss* (an individual forced by heredity and/or environment into activity that the Bible forbids), this author sees him as *mumar*. Whereas Dr. Lamm effectively removes culpability from him (אונס רחמנא פטריי¹⁹), this author insists that creating a sense of culpability is an integral part of the approach that Judaism should take in confronting the individual involved in homosexual activity. This sense of culpability may be just the push necessary for the individual to begin the *teshuva* process.

The view presented here seems more in keeping with biblical,²⁰ talmudic,²¹ and other halachic sources.²² The consistent position taken by these sources is that the homosexual is ultimately subject to punishment for his actions. The halachic system fully expects that an individual properly warned, witnessed, and brought to trial for this act be killed. There is no indication anywhere in the literature that such individuals have a prima facie defense as *anussim*.

Dr. Lamm²³ supports his approach by arguing that present public policy and social reality preclude punishment of all

18. *Ibid* pg. 202. See also Matt, H.J., "Sin, Crime, Sickness or Alternative Lifestyle? A Jewish Approach to Homosexuality", *Judaism*, vol. 27 No. 1 Winter 1978, and Bleich, J.D., *Judaism and Healing, Halakhic Perspectives*, Ktav, New York, 1981. Bleich comes closest to the view presented in this article on the homosexual as *anuss* (forced). However, "*mumar*" (*sinner*) as opposed to "*anuss*" is the term to be used in the discussion of homosexuality. Introducing "*oness*" (compulsion) in a discussion of homosexuality is as appropriate as introducing it to a discussion of murder. There are murderers who are *anussim* (psychopathological murderers), but a discussion of these individuals is not a discussion of murder or the Jewish attitude to that crime. Yet we continue to speak of *anussim* (psychopathological homosexuals), who may make up only a small portion of those involved in that activity, in regard to Judaism's general view on the subject.

19. *Bava Kama* 28b, *Avodah Zarah* 54a, *Nedarim* 27a. Spero, op. cit., (b) also rejects the *anuss* position on these and other grounds.

20. *Levit.* 20:13

21. e.g. *Sanhedrin* 9b and 54a

22. *Rambam, Yad., Hilchot Issurei Biah* 1:14.

23. *Ibid* pp. 203-204.

offenders. We must, therefore, maintain our condemnation of the act while refraining from dealing punitively with the offender. In his view, this can best be done by treating the offender as an *anuss*.

However, there is nothing in his argument that prevents our labelling the individual as a *mumar*. We do not punish Sabbath violators, or those who eat *treif*. Environment/heredity is not enough to label the individual involved in homosexual activity an *anuss*. Rather label him a *mumar*, indicating that he is responsible for his actions.

Further, a stance such as Dr. Lamm's seems to carry with it the possibility of pushing the individual presently questioning his own sexual orientation over the wrong edge. After all, if biology/upbringing is the cause, and the participant is only the victim of irresistible forces, he has a handy excuse and less of a reason not to succumb to his desires.

Labelling one a *mumar* does not necessarily mean that the community should respond with public condemnation and rejection of the individual. In an era which lacks a Sanhedrin and adequate Jewish communal structures we have long tolerated, worked with, and even welcomed and accepted violators of many halachot within our community. It is necessary, therefore, to couple our tolerance of the individual with disapproval of the activity. This must then be combined with an expectation and hope that the individual will change his behavior. Calling him a *mumar*, if handled correctly, strengthens the chances for change.

The subject of change brings us to our next point. Jewish thought would argue that homosexually-oriented individuals can change their sexual orientation and can ultimately develop an interest in and derive pleasure from heterosexual activity. This conclusion is an obvious consequence of our discussion thus far. If a homosexual act is punishable, and if we expect the individual who has homosexual desires to avoid giving in to them, what then is the life situation of such an individual? There seem to be two possibilities. One: such an individual cannot change his feelings. If this is the case he is a prisoner trapped in a body which, while commanded to marry and procreate, has an emotional structure

that finds such a concept at best unfulfilling and at worst a living purgatory. Two: change — and a normal, happy, fulfilled life in marriage and heterosexual union are possible.

We are told by the Talmud²⁴ that G-d does not play tricks on His creations. Particularly as the area of sexuality is an area of such deeply personal implications to any individual, it is difficult to imagine G-d creating a situation wherein those who feel themselves to possess a homosexual orientation cannot change and are consequently locked in a living prison with no exit and no key. Therefore, some method or methods must exist to successfully change the sexual orientation of motivated individuals. It is heartening to note that a recent study²⁵ indicates a 70% success rate among such individuals. It is unfortunate that the mass media and most mental health professionals publicly portray the goal of "acceptance of one's orientation" as the optimum, while downplaying or denying the possibility of change. Our task must be to publicize the possibility of change, and the relevant statistics that now become statistics of hope. We also should encourage the mental health community to develop new and even more effective methods to alter the sexual orientation of those striving to live a Torah-true lifestyle.

Perhaps one further support for the idea that homosexual orientation is at least preventable, if not totally changeable, is the anomalous fact that the one community in which the percentage of homosexual preference is significantly lower than in the general population is the Orthodox Jewish community.²⁶ It is almost as if

24. אין הקדוש ברוך הוא בא בטרוניא עם בריותי, *Avodah Zarah* 3a.

25. Schwartz, M.F. and Masters, W.H., "The Masters and Johnson Treatment Program for Dissatisfied Homosexual Men", *American Journal of Psychiatry*, 141:2, February, 1984, pp. 173-181. This study shows a remarkable success rate. After 1 year the success rate was 79.1% and after 5 years it was 71.6%.

26. "...except that the (frequency of the) homosexual among Orthodox Jewish groups appears to be phenomenally low", Kinsey, A.C., Pomeroy, W.B., Martin, C.E., *Sexual Behaviour in the Human Male*, W.B. Saunders, Phila., 1948, p. 483. See also Rosenheim, E. "Sexual Attitudes and Regulations in Judaism", in Money, J. and Musaph, H., ed., *Handbook of Sexology, Excerpta Medica*, Amsterdam, 1977, p.1321-22.

halacha rejects the notion of an individual called a homosexual, rejects the necessity of the homosexual act for any individual, rejects the idea of an irrevocable homosexual orientation, and then creates a society in which these ideals can, apparently quite successfully, be lived.

Judaism rejects the suggestions that homosexuality is either a form of mental illness or an "acceptable alternate lifestyle." Judaism's position would be a third and as yet unconsidered option. Homosexuality is an activity entered into volitionally by individuals, who may be psychologically healthy, which is maladaptive and inappropriate. Depending on one's theory, it may indicate arrested development, poor family structure, early trauma, frustration of the purpose of creation, disruption of the basic family structure, unnatural behavior, etc. But whatever the case, it constitutes activity that will diminish an individual's capacity to fulfill, in his own life, G-d's expressed plan for creation. As such, this individual cannot achieve his full potential as a human being.²⁷ Therefore, our task is to treat and redirect this individual to more appropriate and fulfilling activity.

Gentile Homosexuals

One question not addressed directly in the previous section is, "Why does Judaism not recognize the existence of a homosexual sub-group within the Jewish community?"

Of course, one might answer that as the act of homosexuality is forbidden, Judaism would no more grant official status to those who practice it than it would grant such status to murderers, thieves, or adulterers. This answer may, in fact, be sufficient and perhaps we should simply turn to the next section and the discussion of the rationale for Judaism's negative approach to the entire issue of homosexuality.

However, there may be another more profound and far-reaching answer to this question. The *Sifra* states:²⁸

27. See Spero, op.cit., (a), p. 157.

28. To Levit. 18:2.

לא אמרתי אלא בחוקים החקוקים להם ולאבותם ולאבות אבותיהם, ומה היו עושים האיש נושא לאיש והאשה לאשה.

I did not say this except for those laws inscribed for them [the Gentiles], their fathers and their fathers' fathers. What did they [the Gentiles, as opposed to the Jews] do? Men would marry men, and women would marry women.

This seems to indicate a difference between homosexuality as practiced in Gentile circles and homosexuality when it makes its appearance in the Jewish community. For the Gentile, homosexuality is a reality that is part of his heritage. For the Jew, homosexuality is a foreign incursion.

Additional support for this division along national lines can be adduced from the prohibition against female homosexuality. This prohibition, though not explicitly stated in the Bible, is derived from the same verse, Leviticus 18:2, that elicits the comment of the *Sifra* quoted above. The verse reads: "After the doings of the land of Egypt wherein you lived you shall not do, and after the doings of the land of Canaan where I am bringing you shall not do, nor shall you walk in their statutes." This source provides a further indication that homosexuality is viewed as a foreign element in Jewish society. It may well be that this factor contributes to halacha's unwillingness to recognize a homosexual sub-group within Jewish society.

Statistics show significantly reduced levels of homosexual men in Orthodox Jewish circles as compared to all other segments of society. Further indication of this anomaly is provided by the dearth of questions relating to homosexuality and individuals involved in homosexual activity in halachic and responsa literature.²⁹

29. *Encyclopaedia Judaica*, s.v. Homosexuality; Lamm, op. cit., p. 197; Epstein, I.M. *Sex Laws and Customs in Judaism*, Ktav, New York, 1948, pp. 64-65, 135. See *Sefer HaChinuch* No. 209 who describes a homosexual prostitute and then says that such an individual is known to us from the Arabs (*Eretz Ha'Yishmaelim*). The *Chinuch* is quoting from Ramban to Deut. 23:18, with one change.

One obvious question remains. Does halacha recognize a homosexual individual who cannot change, and therefore a homosexual sub-community in the Gentile world?

The answer to this question seems unclear. On the one hand the *Sifra* quoted above indicates a belief that at least some Gentile homosexuals develop their sexual orientation because of a traditional cultural heritage. This would tend to support the idea that halacha acknowledges the possibility of a homosexual subgroup in Gentile society.

On the other hand, none of the stories from the Bible, such as the sin of Ham³⁸ the men of Sodom,³⁹ or Potiphar's true purpose in purchasing Joseph as his slave,⁴⁰ portray any of the individuals as totally homosexual. All are either married (in the normal fashion) or are said to father children in the course of their lives. This would seem to indicate that pure homosexuality was considered an aberration even if found in Gentile circles.

Further, halacha prescribes the death penalty for homosexual acts committed between Gentile men.³⁰ Our tendency would therefore be to deny that halacha recognizes a homosexual community among Gentiles. If we, in fact, did recognize such a community would we not be advocating genocide towards it? Such a position is obviously troubling.

Condemnation of Homosexuality — Why?

In discussions of the Jewish view of homosexuality, the question "Why does Judaism condemn a pleasurable, victimless act that takes place between two consenting adults?" often takes center stage. Although explanations are not lacking in the literature, a truly consistent approach should also shed some light on why

Rambam doesn't mention the Arabs, but he does say that the institution was known from the Egyptians. Both these scholars were obviously unfamiliar with homosexual prostitution—and therefore with institutionalized or extensive homosexuality within the Jewish community. Further compare Rambam, *Yad, Hilchot Issurei Biah* 22:2 with 22:5. כולן חשודין על משכב זכר (the Gentiles) לא נחשדו ישראל על משכב זכר. and (the

30. *Sanhedrin* 58a, Rambam *Yad, Hilchot Melachim* 9:5.

female homosexuality, though forbidden, is far less heinous a crime than male homosexuality.³¹

In fact, a number of suggested answers suffer from a failure to adequately explain this last point.

One such approach centers around the primacy of family and children in our system of values. The practice of male homosexuality obviously frustrates the implementation of these values.³² But so does the practice of female homosexuality. Yet the two are not treated with equal severity.

A second approach argues that homosexuality is somehow unnatural. Our bodies are constructed to act in certain ways, and the practice of male homosexuality perverts these ways.³³ Once again, female homosexuality seems to be every bit as unnatural as the male variety, yet we do not react to it in the same way.

Often, those who advocate these two approaches resort to the "hashchatat zera" (destruction of seed) argument. Since male homosexuality involves *hashchatat zera* and female homosexuality does not, the prohibition as violated by the men is more stringent.³⁴

There are two problems with this response. First, it does not adequately explain the treatment of the male participant. *Hashchatat zera* in other contexts does not entail the death penalty.³⁵ However, males involved in homosexual activity (as opposed to females) are subject to capital punishment. *Hashchatat*

31. *Yevamot* 76a, *Shabbat* 65a. Female homosexuality is punished by "Makot Mardut" which is a rabbinic and not a biblical punishment. *Yad, Issurei Biah* 21:8. On the other hand male homosexuality is a capital crime as has been indicated. For a more complete discussion of female homosexuality see Spero, op. cit., (b).

32. *Sefer HaChinuch* No. 209.

33. *Torah Temimah* to Levit. 18:22, No. 70.

34. *Sefer HaChinuch*, loc. cit.

35. *Nidah* 13a, Rambam, *Yad, Hilchot Issurei Biah* 21:18, *Shulchan Aruch, E.H.* 23:1-2. There is no question of the seriousness of this sin, but it is not a capital crime to be tried in a human court of law as is homosexuality. See also Feldman, D.M., *Birth Control and Jewish law*, New York University, 1968, chs. 6 and 8, and the debate between him and M. Tendler in *Tradition*, vol. 9, No.'s 1-2 and 4. Even if we accept the view that Er and Onan (Gen. 38) died for the sin of *hashchatat zera*, their punishment came at G-d's hands and not in a court of law.

zera, therefore, does not appear to be a significant enough factor to explain this severe reaction on the part of Torah law.

Second, the biblical prohibition concerns the homosexual act and not *hashchatat zera*. In Jewish law, homosexual activity, if consummated, is a capital crime even if there is no *hotzaat zera*, yet male physical contact, even if it results in *hotzaat zera*, is not punishable in this way unless actual sexual consummation occurs.³⁶ For these reasons, the approaches cited seem unable to serve as complete explanations for the Torah view on this issue.

However, one variation on the "unnatural" theme seems to fare better in dealing with our question. This position takes its definition of natural, not from physiology and nature as studied in the laboratory, but from nature as defined in the Torah. The Torah says:

על כן יעזב איש את אביו ואת אמו ודבק באשתו והיו לבשר אחד.
אחד.

Therefore shall a man leave his father and his mother and cleave to his wife and they shall be as one flesh.³⁷

The Torah has, in this verse, defined "natural" as man and woman united in heterosexual union. Any person engaged in homosexual activity acts against G-d's natural order of things, and is therefore culpable. However, women involved in homosexuality are less in violation of the "natural" than men, as *אחד* "he shall cleave ... and they shall be as one flesh", can be accomplished by males in homosexual union but not by females. This explanation seems to deal neatly with the various facets of the problem.³⁸

One other approach to the question of why Judaism has such antipathy to homosexuality deserves mention.³⁹ This approach

36. *Sanhedrin* 55a, *Rambam, Yad, Hilchot Issurei Biah* 1;10, and 1;14. *Shulchan Aruch, Even Ha'Ezer*, 20;2.

37. *Gen.* 2;24

38. This approach is suggested by the *Beraita, Sanhedrin* 58a, which derives prohibitions for various immoral sexual activities for Gentiles from this verse.

39. This approach was suggested to me by Mr. Mat Hoffman, national director of

expands on the *אחד* "he shall cleave ... and they shall be as one flesh" argument, reintroduces the centrality of the family in Judaism to the discussion of homosexuality, and treats the halachic differences between male and female homosexuality in a rather interesting way. This explanation argues that homosexuality, when it did occur at all in the Jewish community, usually occurred in a bisexual context and not as an exclusively homosexual orientation on the part of the individual. Individuals raised in the Jewish community usually possessed a strong sense of family as part of their tradition and heritage. This, coupled with the desire to find personal continuity into the next generation and with communal pressure to marry, would naturally lead almost everyone to establish a marriage relationship. Unfortunately, some individuals might seek additional companionship elsewhere. This outside companionship could possibly be homosexual in nature. Such an outside relationship might then be devastating to the special intimacy between husband and wife and to the family, the fundamental building block and most important religious institution in Jewish society.

Many rabbinic discussions allude to homosexuality in a strongly negative tone.⁴⁰ The Talmud⁴¹ discusses the meaning of the term "*to'evah*" as used in the context of homosexuality. Says Bar Kapparah, "*to'evah*" means " *to'eh ata ba*," "you have strayed from her." This phrase is explained by Tosafot⁴⁷ as meaning:

שמניחין נשותיהן והולכין אצל משכב זכר.

"that they leave their wives to follow homosexuality."

This statement seems to embody the essence of the proposed explanation.

Whether because of different emotional needs on the part of

The Flame; Jewish College Student's Organization. It is also suggested, in brief terms, by Dr. Lamm, op.cit., pp. 197-198.

40. *Gen. Rab.*, 26;5 (commenting on *Gen.* 6;2)

ויקחו להם נשים אלו נשי אנשים מכל אשר בחרו זה זכר ובהמה. רב הונא בשם רבי אמר דור המבול לא נימוחו מן העולם עד שכתבו גמומיסות לזכר ולבהמה.

41. *Nedarim* 51a.

women, their status in society, or because of the physiological impossibility of *והיו לבשר אחד ... ורובק*, on the part of women, male homosexuality is considered a far more serious danger in this context and is, therefore, treated with greater severity.

Our discussion to this point leads to the following conclusions:

1. Homosexuality is an activity, not a state of being. Put another way, "homosexual" is an adjective, not a noun.
2. Homosexual activity is wrong.
3. Homosexuality may be a foreign incursion into Judaism.
4. The perpetrator of homosexual activity is held responsible for the activity.
5. We expect individuals involved in such activity to make every attempt to stop the activity and to alter their sexual orientation.
6. No greater halachic stigma attaches to the practitioner of homosexuality than to the Sabbath violator or the violator of many other divine commandments.

In light of these conclusions the traditional Jewish community should agree on the following goals:

1. The primary goal should be to create an environment that is most conducive to motivating the practitioner of homosexuality to want to change his orientation.
2. In the absence of this motivation or during a period when initial attempts to change are unsuccessful, our task is to keep this individual within the Torah community. We must create a situation which offers a positive alternative to the "gay synagogue" and to the even worse choice of complete abandonment and assimilation.

It would seem that these goals can best be realized by implementing the following agenda:

All unnecessary negative stigma must be removed from the individual involved in homosexual activity. Such an individual must be encouraged to see himself as someone with a problem that he is responsible to overcome, and not as a person who has been defined by his sexual orientation.

At the same time that the individual is told of his responsibility to change, he must also be told, with great compassion, that we recognize the difficulty of his task and that

we are willing to help in any way possible. This is similar, in general terms, to the way in which we treat others such as the alcoholic.

Specific programs of outreach to those participating in homosexual activities should be implemented so that those best able to respond to the questions of these individuals will have a chance to work with them. Contemporary Jewish organizations do *Kiruv* (outreach) work with individuals who violate many commandments. We must do the same with those whose failures are in sexual areas. This is particularly true because of the all-pervasive nature of sexual desire and because of the constant encounter with sexual imagery that pervades our society.

Mental health professionals must be encouraged to develop new and better therapeutic techniques to alter sexual orientation. Methods that are even partly successful must be highlighted and publicized to offer hope to those who would want to change.

The issue of homosexuality is an extremely sensitive, difficult, and emotional one. It is a topic that creates a sense of discomfort and even revulsion not only in those who may have been personally involved in such activity, but also in many who have never had any personal contact with it at all. Stereotyping and personal doubts about one's sexuality tend to maintain and reinforce these reactions and the AIDS scare has given them new impetus. Our response as Torah-true Jews must be to reject these prejudicial and counter-productive reactions. On the other hand, we cannot equivocate in our opposition to homosexual activity. This is particularly true in light of the media's continuing portrayal of homosexuals as positive role models and the increasing acceptance of the homosexual as a minority group with "legitimate" civil rights.

The program described above entails walking a difficult tightrope between condemnation of an act and acceptance of the perpetrator as a Jew worth saving. We cannot close our eyes and pretend that a problem of this magnitude will go away. It is our task to present a legitimate Jewish response, balancing our opposition to homosexual activity with our concern for the human beings involved.