

Religion, Genetics, and Sexual Orientation: The Jewish Tradition

ABSTRACT. This paper probes the implications of a genetic basis for sexual orientation for traditional branches of Judaism, which are struggling with how accepting to be of noncelibate gays and lesbians in their communities. The paper looks at the current attitudes toward homosexuality across the different branches of Judaism; social and cultural factors that work against acceptance; attitudes toward science in Jewish culture; and the likelihood that scientific evidence that sexual orientation is at least partly genetically determined will influence Jewish scholars' and leaders' thinking on this issue.

Behavioral genetics is a primary focus of the current phase of genetic research, garnering intense interest from scientists and public alike. Is there something in the genes that makes it harder for some people to give up smoking, or more likely to become addicted in the first place? Is there some inherited musical talent shared by members of the Bach or the Marsalis family, or is the large number of successful musicians in those clans attributable simply to the familial environment? Is there "a gene" that can predict violent behavior? Is intelligence inherited? Traits as various as shyness, tolerance for pain, vulnerability to alcohol or tobacco addiction, religiousity, and sexual orientation have all been the objects of genetic claims. Although the science to support some of these speculations is still in its infancy, and some claims surely are overblown, the ethical and societal implications are already attracting a great deal of attention.

Among the many behaviors currently under the genetic lens, few fascinate the public more than sexual orientation. Sexual orientation, especially in its minority aspect of homosexuality, is the object of research across the world. A five-year project begun in 2003 and funded by the National Institutes of Health (NIH), seeks to enroll 1,000 pairs of homosexual

brothers and their parents in a study to “increase understanding of the genetic contribution to this trait.”¹

Whenever human subjects are being recruited into studies, an important ethical question is whether the research is likely to be in their best interest. Researchers and institutional review boards (IRBs) must ask this question as they design the research and present it to potential recruits. The potential subjects, and their friends and families, also must ask whether this is an endeavor to which they should lend their time, energy, and bodies. In population studies on ethnic groups, there has been a great deal of discussion about participatory research, collateral benefits to communities, and so on (Sharp and Foster 2000). Elsewhere, I have written skeptically about how scholars define “community” for the purpose of research (Davis 2000). However, whether researchers engage with “the community,” with its supposed representatives, or simply with individual recruits, the question of projected risk and benefit remains crucial. In the NIH study of sexual orientation, four thousand people, either gay men or their immediate family members, are being asked to join the research project. Surely these individuals have tried to take into account whether a scientifically proven genetic etiology of sexual orientation, should that transpire, would be “good for gays.”

This question—would finding a genetic basis for sexual orientation be good or bad for lesbians and gay men—is multifaceted. One can ask about the effect of research results on the common imagination (Conrad and Markens 2001). One can inquire about the risk that a “gay gene,” as the media often describes it, would allow people to terminate pregnancies in which they are carrying “gay fetuses,” or allow gay parents to select fetuses for that trait (Greenberg and Bailey 2007). One could argue about whether a genetically grounded trait is more likely to result in constitutional protection (Sands 2000). Conservative groups such as the Family Research Council have invested much of their credibility in a “contagion” theory of homosexuality, in which they argue, first, that gays can change their orientation, and, second, that children who come into contact with gay adults—e.g., Scout leaders—can be enticed or recruited into homosexuality (Knauer 2001). These claims presumably would be undercut by a proven genetic etiology.

A quarter of Americans believe that homosexuality is “a way some people prefer to live,” and that sexual orientation can be changed. Another quarter believe that sexual orientation is inborn and immutable. The remainder have some mix of these views. The better educated a person, the more likely she or he is to believe that sexual orientation is inborn

and not susceptible to change. Further, twice as many liberals as conservatives say that people are born homosexual. Belief that homosexuality is immutable is strongly associated with positive views about gays and lesbians (Pew 2003).

An important question is the effect on religion of a proven genetic basis of sexual orientation. This enquiry matters for a number of reasons. First, many gay people, and their friends and families, seek to reconcile their religion with their embrace of equality and justice for sexual minorities. For Catholicism, many mainstream Protestant denominations, and Orthodox Judaism, that reconciliation is still a hope for the future.

Second, religion has an effect on politics, not only for the obvious reason that religious individuals vote, but also because religious interest groups and lobbyists organize to bring their influence to bear on the political process. Thus, legal and policy issues such as same-sex marriage, the suitability of gay adults as adoptive parents, gays in the military, and so on, have religious factions weighing in from all sides. Many commentators attributed George W. Bush's crucial win in Ohio in 2004 to the fact that the religious right was motivated to go to the polls to vote for a statewide measure against same-sex marriage. A 2003 survey found that clergy are nearly as likely to speak about homosexuality from the pulpit as they are about abortion or prayer in school and also reported that highly religious people are significantly more likely to have negative views of gays and lesbians (Pew 2003). Seventy-three percent of white evangelical Protestants believe that homosexuals can change their orientation—the highest percentage of any group (Pew 2003). As denominations continue to struggle with this issue, it is clear that the biological basis of sexual orientation plays an important role in their thinking. For example, Methodist clergy reflecting on the 2005 decision to ordain an openly lesbian gay pastor reported that the “profound and ongoing conflict among Methodists over the nature of homosexuality” is at the heart of the issue. “Is it something you can't control, or something sinful and that should be repented of?” (Banerjee 2005)?

This article begins to explore the implications for one religious tradition of a genetic etiology of sexual orientation. All over the world, Jews and Christians are struggling with their personal and institutional relationships to homosexuality. Issues such as whether same-sex erotic behavior is inherently sinful, whether clergy can preside over gay commitment ceremonies, and whether noncelibate gay persons can be ordained have emerged as some of the most difficult questions in American religious life today, in some cases threatening to cause actual schism. In Judaism and Protestant

Christianity, the more liberal branches already have decided in favor of full inclusion of gay men and lesbians; here the potential findings of genetic research will provide only an interesting footnote. On the other end of the spectrum, science is rejected altogether; in those enclaves, genetic findings will fall on deaf ears. However, there is a large middle ground in which the proper attitude toward homosexual persons is hotly contested and in which fairminded people struggle to make sense of their own experience, the experience of beloved friends and family members, and the teachings of their religious tradition. It is in this middle ground that the potential results of genetic research could be influential.

In this essay, I make “a first cut” at analyzing how Jewish religious communities might begin to integrate new genetic findings into the existing debate over this issue, by sketching out the scope of the questions. I focus on Judaism to keep the enquiry manageable, but I hope that the organizing questions and the general approach of the essay will serve as a catalyst for subsequent authors to train their lenses on different traditions.

I begin with a brief overview of the current state of the scientific research into genetic elements of sexual orientation. Then I look at contemporary attitudes toward homosexuality across the Jewish spectrum and inquire whether there is any evidence to suggest that a scientific finding of a genetic basis for sexual orientation would have a positive influence on those who currently condemn homosexuality.

THE SCIENCE²

During the 1990s, American media made much of the presence of something that has come to be called, erroneously, the “gay gene.” Today scientists know that a genetic basis of sexual orientation is ambiguous, contested, and multifactorial. There is no such entity as a single gene to which one can trace the origin of sexual orientation, although there have been several scientific studies during the last decade that have attempted to locate markers for the highly complex condition called “homosexuality.” In 1991, Simon LeVay hypothesized that the hypothalamus of the gay male was anatomically closer to those of women than to those of heterosexual males (LeVay 1991). Also in 1991, J. M. Bailey and R. C. Pillard issued the results of their twin studies on males in which they attempted to measure the penetrance of a genetic pattern for homosexuality. Bailey and Pillard (1991) concluded that the data are not consistent for a marker for male homosexuality. In 1993, Dean Hamer and colleagues published results of a linkage analysis with the X chromosome in a particular subgroup of homosexual men—those who had a gay brother. They found a statistical

correlation between this subgroup of men and a particular DNA sequence on the X chromosome, known as Xq28 (Hamer et al. 1993). To date, Hamer's data have not been able to be replicated. However, in 2004 an Italian scientist, Andrea Camperio-Ciani, surveying 4,600 people in all, discovered an explanation for how genes that are linked to homosexuality survive despite the fact that, from a Darwinian perspective, they ought to die out. Camperio-Ciani and colleagues found that the genetic factors that influence sexual orientation in men are correlated with higher fecundity in females (Camperio-Ciani, Corna, and Capiluppi 2004). "While he was careful to note that no single gene causes homosexuality, what he did find was a link to sexual orientation in the males that he studied on the X chromosome region Xq28, thus validating Hamer's research for the first time (although his was not a replication study)" (Suzanne Holland, personal communication, 2006). Camperio-Ciani cautioned that his discovery accounts for probably only about 14 percent of homosexuality; the remainder could be largely environmental.

Other studies have attempted to examine the genetics of sexual orientation by comparing homosexual men to their heterosexual brothers, with inconclusive results. As mentioned previously, a five-year project begun in 2003 and funded by NIH, seeks to enroll 1,000 pairs of homosexual brothers in a study to "increase understanding of the genetic contribution to this trait."

One of the interesting conclusions that has emerged from this debate is the realization that homosexuality has many forms and is probably not a single phenotype. Hamer himself now says that the "disappointing and inconsistent" results in behavioral genetics in the twentieth century can be traced to the "assumption that the rich complexity of human thought and emotion can be reduced to a simple, linear relation between individual genes and behaviors." A realistic model is one that takes into account the brain, the environment, and networks of gene expression (Hamer 2002). Brian Mustanski and colleagues, in a 2005 paper on which Hamer was the senior researcher, reports a modest correlation between genes on chromosomes 7, 8, and 10 and male homosexual orientation (Mustanski et al. 2005). "Since sexual orientation is such a complex trait, we're never going to find any one gene that determines whether someone is gay or not," Mustanski told reporters. "It's going to be a combination of various genes acting together as well as possibly interacting with environmental influences" (Warner 2005).

Most scientists today believe that there is a genetic component to sexual orientation, just as there is an environmental component. Although it is

clear that no “gay gene” has or will be found, what has become clearer is the genetic complexity of sexual orientation. One of the open questions for science right now is whether sexual desires are formed by genes within the nucleus, by sex hormones during fetal development, by experiences after birth, or—most likely—by a complex combination of these factors. Philosopher Timothy F. Murphy (1997, p. 43), in his thoughtful and exhaustive account of “gay science,” concludes that:

Research may well prove that there are genetic or neurological dispositions toward learning one set of erotic interests more easily than another. In such a view genetic or neuron groups would not cause homosexuality in any simple sense, but they might well be crucial to the pathways of early learning, memory, and social adaptation. These biological factors, decisive at early stages of development, would “cause” sexual orientation in the sense that they determine lasting adaptations that fundamentally control the way in which people can learn to take sexual pleasure. . . . A hypothesis of this kind would go a long way toward explaining why people, especially children, retain homoerotic orientations despite the formidable cultural obstacles put in the way of same-sex relations.

CURRENT ATTITUDES TOWARD HOMOSEXUALITY IN JUDAISM

Judaism is not a monolithic tradition; there is no single source of authority and no official dogma. The four main branches of Judaism are: Orthodox, Conservative, Reform, and Reconstructionist, with the Orthodox being perhaps the most diverse.

Within Orthodox Judaism, *halakhah* (the law) is considered the unchanging will of God. It is a divine, not a human system, and thus is not subject to historical development. Although some Orthodox commentators do make use of scientific resources, others consider *halakhah* to be sufficient unto itself and capable of answering all questions in the hands of a competent decisor. Orthodox rabbi David Bleich (1980, p. 31) declares, “Jewish law does not change . . . I must either accept this principle or reject the halakhic process in its entirety.”

In Orthodox Judaism, attitudes toward homosexuality range from compassion coupled with a commitment to equality and justice for gays and lesbians in the civil arena (Kahn 1989), to depictions of depravity and deformity (Dresner 1991). One of the subtexts of this ambivalent view is the cluster of groups who offer “conversion therapy” for Jewish homosexuals (see www.jonahweb.org, accessed 27 April 2008). An article in *Jewsweek* on this phenomenon is intriguingly headlined “Struggling to Return: One Jewish Group Is Helping Homosexuals Return to Heterosexu-

ality” (Jessel 2003). Thus, heterosexuality is seen not only as normative, but as the moral equivalent of Zionism, with homosexuality cast as a sexual diaspora. This aligns issues of sexual orientation with powerful Jewish themes of exile, longing, and return, that many Jewish writers consider “the ultimate mark of the Jewish condition” (Zoloth 2003).

There is, however, an “underground movement” of *frum* (religiously observant) gay and lesbian Jews. The film *Trembling before G-d* highlights sympathetically the situation of the many lesbian and gay ultra-orthodox Jews (Dubowski 2001). One of the people featured in that film, Rabbi Steven Greenberg, claims to be the first “out” gay Orthodox Rabbi. I will discuss his book further later in the paper.

Conservative Judaism considers *halakhah* to be decisive, but views it as a human institution that “preserves the insights and experiences of the Jewish people as a whole” (Kellner 1978, p. 15). Conservatives are also more likely than Orthodox Jews to use extrahalakhic sources as additional grounds for decision. Together, these two branches of Judaism can be termed “traditional,” in that they both accept *halakhah* as decisive, although they understand it somewhat differently.

Conservative Judaism is actively struggling with its approach to homosexuality. In December of 2006, the Committee on Jewish Law and Standards (CJLS) of the Conservative movement followed the rabbinic tradition of approving multiple, mutually contradictory opinions. The 25 members of the CJLS voted on five submitted opinions (*teshuvot*) of which three received the requisite majority vote. The most liberal paper accepted, authored by Elliott Dorff, Daniel Nevins, and Avram Reisner, accepts gay rabbis and same-sex unions, while affirming the biblical prohibition against male anal sex. The two more conservative positions uphold bans on gay rabbis and same-sex unions. Four members of the Committee, including two who had authored the accepted conservative *teshuvot*, resigned in protest against the liberal position. (More liberal position papers, which did not find anal sex impermissible, did not obtain majority votes (Spence, 2006)). All three positions are now acceptable within the parameters of Conservative Judaism; individual rabbis, congregations, and seminaries will have to decide where to situate themselves within these options. Both University of Judaism and Jewish Theological Seminary have announced that they will begin to admit gay students.

Reform Judaism is the largest branch of Judaism in America. It uses *halakhah* as one resource for understanding its history and tradition, but does not consider it normative. The Reform movement relies instead on Enlightenment notions of personal autonomy, justice, and individual

rights, grounded in divine warrant. Reform Jews identify primarily with the prophetic rather than the legal tradition in Judaism, and they emphasize universal ethical principles and a social justice critique of contemporary society. However, some Reform scholars are calling for an increased appreciation of the halakhic tradition and for a more “covenantal” ethic within which the autonomous person looks also to the authority of the community to help her understand and give life to the ethical demands made on her through her relationship with God (Borowitz 1984).

The policy statements of the Central Conference of American Rabbis (CCAR)—the umbrella organization of Reform Judaism in America—urge that “all rabbis, regardless of sexual orientation, be accorded the opportunity to fulfill the sacred vocation that they have chosen” (Question 18.3.8: Reform’s Position On . . . Homosexuality, available at <http://www.faqs.org/faqs/judaism/FAQ/10-Reform/section-19.html>, accessed 4 May 2008). In 2000, CCAR issued a new resolution supporting officiation of same-sex commitment ceremonies. This resolution says:

WHEREAS justice and human dignity are cherished Jewish values . . .
 WHEREAS, the institutions of Reform Judaism have a long history of support for civil and equal rights for gays and lesbians . . .
 WE DO HEREBY RESOLVE, that the relationship of a Jewish, same gender couple is worthy of affirmation through appropriate Jewish ritual, and
 FURTHER RESOLVED, that we recognize the diversity of opinions within our ranks on this issue. We support the decision of those who choose to officiate at rituals of union for same-gender couples, and we support the decision of those who do not (Available at http://data.ccarnet.org/cgi_bin/resodisp.pl?file=gender&year=2000, accessed 27 April 2008)

Reconstructionist Judaism is a contemporary approach to Jewish life that integrates traditional culture with the insights and ideas of contemporary social, intellectual, and spiritual life, with emphasis on community and creativity. Reform and Reconstructionist movements are often classed together as “Liberal Judaism.”

The Reconstructionist movement established a nondiscrimination policy in rabbinical placement in 1991; in 1993, the movement supported rabbis who chose to officiate at rituals and rites of passage for same-sex couples, including wedding ceremonies. In March of 1994, the movement published a resolution putting itself on record in support of civil marriage for same-sex couples and pledging itself to work publicly towards that goal (see <http://www.therra.org/resolution-Mar2004.htm>, accessed 27 April 2008).

GENERAL ATTITUDE OF JEWISH RELIGION AND CULTURE TOWARD
SCIENTIFIC KNOWLEDGE

It is a truism that medicine and the sciences that support the practice of medicine are honored in the Jewish community. Large numbers of Jews in Israel, Canada, the United States, and elsewhere go into medicine and medical research as a career. Hospitals and scientific research are favored recipients of Jewish philanthropy. Even the most Orthodox Jews have embraced genetic knowledge as a way to avoid the birth of children with those genetic diseases that are more common among Jews (Rosner 1998).

Elliot Dorff (1988, p. 52), Conservative Rabbi and President of the University of Judaism, who has been a spokesperson for a more inclusive Jewish attitude toward lesbians and gays, states that “the crucial test” of the meaning of science for Judaism is how scientific discovery affects Jewish law. Although in principle God can change anything, in practice, the Rabbis believed that “the world behaves according to its custom,” and therefore scientific research that discovers the laws by which the universe behaves is a good and useful endeavor. Furthermore, “the Rabbis’ firm conviction was clear: the law does not exist in its own ontological realm but must rather relate to the world as it is. Truth was not only a trait of God; it was a legal necessity” (Dorff 1988, p. 54). Although ultimately it is the Rabbi, not the scientist, who makes legal decisions in Jewish law, advances in scientific knowledge may cause rabbinical decisors to overturn previous legal decisions on the basis of new knowledge (Dorff 1988). Robert Kirschner (1988, p. 487) argues that the subject of homosexuality is in need of further scientific study, especially with respect to the volitional nature of sexual orientation, and that, “until the data are conclusive, halakhic authorities can properly concede a basis for doubt that suspends a verdict.”

Because new scientific knowledge arrives daily, traditional Jews are constantly engaged in a creative struggle to reconcile earlier halakhic rulings with current scientific discoveries. For example, tobacco smoking used to be almost universal among traditional Jewish men, especially the ultra-Orthodox. In the 1960s, as scientific data about the dangers of smoking began to accumulate, Rabbi Moshe Feinstein, a “great Orthodox sage,” declined to rule that smoking was banned by Jewish law. Even though he acknowledged the possible risks of smoking, he invoked the dictum that “The Lord protects the simple;” in other words, although the possibility of lung cancer from smoking did exist, the Lord would protect those who foolishly indulged in the habit. However, by 1999, the scientific data was clear that, even if one did not come down with lung cancer, smoking was

a definite hazard to many of one's biological functions. Thus, a group of Orthodox rabbis, including Moshe Tendler, Feinstein's son-in-law, ruled that because smoking is an "immediate and inevitable danger" to the smoker, and an "assault" on the health of those who are forced to breathe second-hand smoke, it is no longer acceptable under Jewish law (Kessler 1999).

Rabbi Tendler is playing a crucial role in another controversy as well. In many Orthodox circles, especially some Hasidic sects, ritual newborn male circumcision includes oral suction of blood from the wound (*metzitzah b'peh*) by having the *mohel* (a traditional practitioner of male circumcision) suck the blood directly with his lips (Weiss 2005). The *mohel* repeatedly takes wine in his mouth and applies his lips to the wound, sucking the blood, after which he spits the mixture of blood and wine into a receptacle. This was originally done to care for the wound. The Babylonian Talmud declares that, for the sake of the infant, the *mohel* must perform this act, "so as not to bring on risk." A *mohel* who neglected to do this was considered negligent and dismissed (Gesundheit et al. 2004). An article in *Pediatrics*, of which Tendler was an author, concluded that direct oral-genital contact in this fashion poses a serious risk of infection to the neonate, in this case of herpes simplex virus, but presumably of other diseases as well (Gesundheit et al. 2004). In fact, a leading rabbinical authority, Rabbi Moses Schreiber, declared nearly two centuries ago that the ritual could be carried out with an instrument, rather than human lips. The majority of *mohels* today use a sterile glass tube. After a number of documented cases of herpes simplex virus transmission to infants following oral *metzitzah*, the Chief Rabbinate of Israel pronounced in 2002 that instrumental suction was "legitimate" in cases where there was a risk of disease transmission. Tendler goes further and urges that oral *metzitzah* be dispensed with entirely (Gesundheit et al. 2004). In March 2005, the Rabbinical Council of America, the main union of Modern Orthodox rabbis, issued a statement urging the abandonment of direct suction (available at <http://www.rabbis.org/news/article.cfm?id=100546>, accessed 29 April 2008). For his stance, Tendler has been attacked in ultra-Orthodox newspapers, harassed by prank callers, and his synagogue was vandalized (Weiss 2005). The Rabbi is quite clear, however, that *metzitzah b'peh* violates Jewish law. "The rule that's above all rules in the Torah is that you cannot expose or accept a risk to health unless there is true justification for it . . . All we're talking about now is presumptive evidence, and on that alone it would be improper according to Jewish law" (Newman 2005).

Another example is the case of the *heresh*, or deaf-mute, who in the Talmud is always categorized, along with children and imbeciles, as men-

tally incompetent, and therefore unable to function as a witness, perform various ritual acts, enter into marriage, and so on. In the nineteenth century, however, rabbis came into contact with deaf people who had been educated to read and write. For most commentators, even rabbis such as David Bleich, who forcefully insists that *halakhah* does not change, this changed understanding of what it means to be a deaf-mute, this new empirical data, did in fact cause them to overturn the Talmudic rulings and admit deaf people into the realm of rights and responsibilities that constitute Jewish adulthood (Kirschner 1998; Jacobs 2000).

Many scholars agree that the Bible and other sources that appear to condemn homosexuality are condemning homosexual *acts*. Neither the Bible nor the Talmud displays any awareness of same-sex attraction as a deep and ineradicable part of one's personhood—merely as a (voluntary) act. Greenberg (2004) and others claim that the true source of the early revulsion to “lying with a man as with a woman” is that it puts the passive (penetrated) partner in a subservient position, the position that women occupied in antiquity. Bradley Shavit Artson (1993, p. 16) writes that “committed, permanent, exclusive, homosexual relationships between equals were unknown until the modern era and therefore could not have been explicitly prohibited by earlier Jewish law.” Thus, he argues, there is no legal impediment to recognizing stable, sexually exclusive same-sex relationships, now that we recognize that those relationships do exist. In fact, given Judaism's commitment to monogamy and sexual restraint, such unions should not only be recognized, but “encouraged” (Artson 1993, p. 24).

One can make a fruitful parallel between the case of the *heresh* and that of lesbians and gays. The halakhic shift with regard to the *heresh* did not change because of concerns that deaf people were being discriminated against but rather because the understanding of *what it means to be deaf* changed in accordance with new evidence. The rules about incompetents continue to make sense—but deaf people are no longer classed as incompetent.

If genetic research can give a scientific grounding to the claim that sexual orientation, including homosexuality, is part of one's basic makeup, that data could well be a powerful source to support the arguments of scholars who take this approach. Artson (1993, p. 24) writes that “the prohibition in Leviticus and the rabbinic traditions knows nothing about the possibility of homosexuality as an orientation.” Joel Roth (2006, p. 3), however, questions this claim, and quotes the work of historian John Boswell to show that “[t]here was in antiquity homosexuality comparable to the most committed homosexual relationships of modernity.” The claim that sexual orientation is—at least in part—genetically determined,

is, obviously, an insight that cannot be claimed for antiquity. It may, in fact, be “the new thing,” like the revelation that deaf people are capable of full competence, that reinterprets and thus overturns a law based on outdated beliefs.

In the same fashion, one could argue that proscriptions against random acts of sex outside committed relationships are in line with core Jewish values of containing sex within marital bonds. In that sense, the condemnations in Leviticus and elsewhere continue to hold. However, we now understand that there is a class of people for whom their primary erotic attraction is toward people of their own gender. Ancient proscriptions are simply not relevant to sexual acts between loving, committed partners of the same sex, because we now know that they are not the same class of behavior.

Genetic data may be of some—perhaps minor—help in making this argument and may be useful to people such as Kirschner and Dorff, who appear to feel that scientific testimony would be helpful in pushing them in the direction they wish to go. However, the testimony of lesbian and gay persons—and especially of longtime committed couples—is probably even more powerful evidence. Rabbi Harold M. Schulweis (1992, p. 4) responds to this evidence when he writes:

I am not a scientist and I do not claim to understand all of the implications of these researchers. . . . [W]hen I speak to these men and women they reveal that their preferential erotic attraction was not chosen, but discovered, and discovered with pain and anxiety. Their orientation is as given as my own heterosexuality, whether it is explained as an act of nature or of God. Who then could call such basic involuntary orientation immoral and justify its punishment? The testimony of these people must be heeded. When a person declares on Yom Kippur that he needs to eat food, we listen to him. “Even if a hundred expert physicians say that he does not need it, we listen to him—as the scripture says ‘The heart knows its own bitterness.’ (Proverbs 14:10).”

IS THERE ANY EVIDENCE THAT ELEMENTS IN TRADITIONAL JUDAISM MIGHT BE OPEN TO CONSIDERING THE RELIGIOUS SIGNIFICANCE OF SCIENTIFIC EVIDENCE FOR A GENETIC ETIOLOGY OF SEXUAL ORIENTATION?

Robert Gordis (1983, pp. 390–91), writing in 1983 and describing what he took to be the negative attitude toward homosexuality among “most Americans,” claims that

The nub of the difficulty inheres in the fact that the origin and nature of homosexuality remains unknown at present. Whether it is genetic in origin, or the result of early family influences, or culturally induced by society as a whole, or by any combination of these factors, cannot be established at present. We simply do not have adequate scientific data to form any valid conclusions. Perhaps future research will reveal the answer or answers to these questions.

Gordis goes on to say that homosexuality “today” cannot be treated as a “willful perversion” and urged a “commitment to fight against . . . discrimination” against homosexuals. Gordis is obviously not going to win the prize for gay advocacy, and he falls into the trap of asking why homosexuals are the way they are, rather than why *people* are the way *they* are; nonetheless, his comments suggest an open mind and also suggest that whatever new evidence he is looking for, he expects it to come from the direction of science.

Dorff (1988, p. 58) writes:

Our thinking about homosexuality has been revolutionized in the last two decades. Jews had never openly questioned the Torah’s classification of homosexuality as an abomination before that time, but now many do. The truth is that we do not know what homosexuality is. Should we construe it as a totally voluntary act, and, if so, is it a perversion or a legitimate choice of sexual orientation? Is it a psychological, physical, or social disease which we should seek to cure? Or is it a genetically determined state which nobody can change or prevent? If it is the last of those, is the homosexual who either cannot or will not refrain from homosexual activity to be understood as forced (*oness*) and therefore exempt from any opprobrium? . . . Clearly, the Torah’s evaluation is based upon the assumption that homosexual sex is a voluntary act, but if it is something other than that, what should Jewish norms be?

Dorff, Nevins, and Reisner (2006), in their teshuvah that was accepted by the CJLS, incorporate science into their argument. Sexual orientation, they note, is still of undetermined etiology. The important science is not “the origin of homosexual orientation, but rather [its] permanence.” They quote a 2005 statement by the American Psychological Association to the effect that sexual orientation is not chosen, and is not within human control.

Given that homosexuality is neither chosen nor changeable, the question for these halakhists is: *How are Jewish gays and lesbians to live lives of dignity?*

Hershel J. Matt (1978, p. 14) “inquire[s] whether there are now any changed circumstances or new data in the light of which the Torah’s

stand today—though based on the same divine and enduring concerns and purposes—might possibly involve changed formulations or different emphases.” Artson (1993, p. 15) specifically calls for the inclusion of *social science* into Talmudic thinking and claims that “an unwillingness to interpret the Torah in the light of contemporary social science and historical knowledge constitutes an act of unwitting hostility to the Torah as a living tradition and the embodiment of God’s imperatives for the Jewish people.”

SOCIAL AND CULTURAL ELEMENTS IN JUDAISM THAT INFLUENCE THE TRADITION’S ATTITUDES TOWARDS HOMOSEXUALITY

The Jewish prohibition on (male) homosexual activity stems from Biblical and Talmudic sources, an array of texts that Kirschner (2001, p. 450) describes as “decisive if meager.” These include the prohibitions in Leviticus (18:22; 20:13), including the command that (male) homosexual relations are punishable by death, as well as more ambiguous “supporting” verses, such as the story of the men of Sodom, who demand that Lot cast his guests out of the house “that we may know them,” which is usually taken to have a sexual meaning (Dresner 1991), although other interpreters understand the story primarily as condemning Sodom’s failure of hospitality (Becker 2006). The Talmud assumes the prohibition on homosexuality when it cautions men to avoid being alone with other men and questions whether two Jewish men are allowed to sleep together under the same blanket, lest they be suspected of homosexuality (Kirschner 1998).

In addition to Biblical proscriptions, Jewish attitudes toward sexual orientation are influenced by religious and cultural views of family, marriage, and procreation. Judaism, as both a religion and a culture, has always been exceptionally centered on family and on children. The commandment to have children, to “be fruitful and multiply,” is interpreted as requiring each man—not women, interestingly—to have one girl and one boy at the very least. Failure to reproduce is even equated in the Talmud with “spilling blood” and diminishing the image of God (Greenberg 2004, p. 161). In the Book of Genesis, Rachel is recorded as imploring Jacob, “Give me children, otherwise I am dead,” which the great Talmudic scholar Rashi interpreted as meaning that one who is childless is accounted as dead. Among the Orthodox, where the push to have Jewish children to replace Jews lost in the Holocaust is strong, large families are common, and families as large as a dozen or more children are the norm in ultra-Orthodox communities. Commenting on this culture, Rabbi Alan Unterman (1003, p. 5) writes, “Procreation needs to be supported by

the marriage of all members of the ethnic group. Failure to marry and to reproduce is thus not merely the avoidance of a positive commandment, it is akin to communal treason.”

Judaism values marriage for procreation and companionship both. David Feldman (1983, p. 428) notes that one Talmudic interpretation of the proscription against homosexuality is that “[f]amily life is seen as the prime victim of this aberration” and that “[i]n an age of family dissolution it is all the more urgent to assert the stance of halakhah against an antithetical life-style.” Dennis Prager (1990, p. 10) writes:

It is impossible for Judaism to make peace with homosexuality because homosexuality denies many of Judaism’s most fundamental values. It denies life; it denies God’s expressed desire that men and women cohabit; and it denies the root structure that Judaism wishes for all mankind: the family.

An unmarried person is the object of constant matchmaking vigilance in Jewish communities. Even heterosexual single Jews or Jews without children often complain that they feel marginalized and uncomfortable in Jewish communal life (Ingall 2006). Unterman (1993, pp. 5–6) writes:

Rarely is there a point when someone who is not married is simply accepted as someone who does not wish to marry. For traditional Judaism, all unmarried members of the community are . . . not yet married. All childless couples are . . . not yet parents. All parents are, “Please God by you,” grandfathers and grandmothers in the making.

There is no tradition, no conception, in Judaism of the person who voluntarily refrains from marriage and family in order to be fruitful in some other fashion. However problematic the notion of productive and fruitful celibacy can be in Christianity—often, Christian writers forget that celibacy is a spiritual gift and attempt to impose it upon homosexuals—it does at least hold up an alternative to family life that is neither pathetic nor playboy.

. . . Christians do not acknowledge an obligation or responsibility to marry. Marriage is an “honorable estate,” but so is singleness. . . . Moreover, Christians do not acknowledge an obligation to have children. Christians believe that having children is optional, not a necessity for a fulfilled life or marriage. (Smith and Sedgewick 2003, p. 43)

The Jewish focus on family and children has both negative and positive effects on acceptance of homosexuality. On the one hand, the “Noah’s Ark” aspects of Jewish life can make being gay or lesbian even more difficult. “[Homosexuals] have, in effect, been told to walk alone, while the great majority of Jews are expected to walk in pairs and as families” (Dorff,

Nevins, and Reisner 2006, p. 16). On the other hand, the very things that today are causing so much political turmoil and perhaps even backlash, the gay push for civil unions, marriage, the right to adopt, as well as the increasing number of gay and lesbian couples who are going ahead and having children without waiting for society's approval of their families, can have a positive effect. A gay or lesbian couple who fit the template, who procreate and give grandchildren to their parents, who produce Jewish children to be cooed over, can garner acceptance and change the attitude of a community. The assumption that homosexuality is antithetical and destructive to family life falls away if one can understand families to include same-sex couples. To quote Greenberg (2004, p. 244), "[S]ince we will be out in our synagogues, coming to *shul* with our partners, and pushing our strollers into *shul* alongside the rest, rabbis will need to come up with a policy."

JEWISH VIEW OF FREE WILL AND AGENCY

The Jewish view of humankind is one of creatures, made in God's image, who have the freedom and capacity to obey or disobey God's law (as expressed in the Torah). A famous Midrash dramatizes this point:

Before conception takes place, "the seminal drop is brought before the Holy One, there and then it is decided, concerning this one, whether it will be strong or weak, wise or foolish, rich or poor—but not whether it will be wicked or righteous." (B Niddah, 16b, quoted in Matt 1978, p. 16)

Or, as an even more famous Talmudic statement puts it, "All is in the hands of Heaven—except the fear of Heaven" (B Berakhot, 33b, quoted in Matt 1978, p. 16)

However, there is also in Judaism, as seen in the earlier quotation from Dorff, the idea of one who is coerced into an act, and who is therefore not held accountable. This force, or *oness*, this lack of freedom, engenders exemption from responsibility for the act in question. "The underlying principle is . . . that when forbidden acts are performed in the absence of voluntary choice and free decision, or in the absence of other options, the offenders are judged more leniently . . ." (Matt 1978, p. 17). In his book *Wrestling with God and Man* (2004), gay Orthodox Rabbi Steven Greenberg takes this idea and runs with it.

Greenberg (2004, p. 239) focuses upon one of the most controversial, "audacious and imaginative" of the Hassidic rebbes, Reb Mordechai Joseph in the town of Izbica, in Poland. A scion of the Izbica/Radzin dynasty, Reb Mordechai Joseph lived and taught in a time when Hassidism

was dealing with the challenge of the Enlightenment, come late to Poland, that was finally “knocking at the door of every Hassidic home” (Magid 2003, xviii).

Mordechai Joseph was perhaps the most antinomian, deterministic Jewish theologian of all time. For Mordechai Joseph, the crucial events in Jewish history—the exodus from Egypt and the revelation at Sinai—“are an unfolding process of man’s becoming aware that his apparent freedom is an illusion” (Faienstein 1989, p. 22). Even the prayers that the Israelites sent up to God to rescue them from Egypt, Mordechai Joseph interprets as God sending to the people the stimulus to pray, to which he then responded (Faienstein 1989, p. 22). In Mordechai Joseph’s extremely theocentric thought, “the only reality which is of any consequence is the will of God, and man’s task is to discern what God’s specific will is at any given moment in history” (Faienstein, 1989, p. 23). God’s will is not stable, and thus one cannot find God’s will absolutely in the Torah or the Talmud. “The Torah contains general principles and instructions applicable to most situations. However, the will of God is not always necessarily identical with the Torah and with the rabbinic tradition that flows from it” (Faienstein, 1989, p. 23).

Greenberg focuses on Mordechai Joseph’s commentary on an incident in the Book of Numbers. While the people of Israel were traveling in the desert on their way to the Holy Land, they encamped near Moab. The men were attracted to the Moabite women, who seduced them to participate in idol worship. As the Israelites began to lose more and more of their inhibitions, one of the Israelite chiefs, Zimri, took a Moabite woman, Cozbi, into his tent “in the sight of Moses and the whole Israelite community” and began to have sex with her. When Pinhas, a priest, saw this, he took a spear and stabbed Zimri and Cozbi to death.

Greenberg (2004, p. 240) notes that traditional rabbinic commentary on this story is ambivalent, praising Pinhas for his loyalty but also voicing suspicion at his brand of vigilante justice. But Mordechai Joseph sees this story from an entirely different perspective, one in which Zimri is the hero and Pinhas, at best, a misguided hothead. He says, “It should not enter your mind to think that Zimri was an adulterer, heaven forbid. The Holy One does not make a section of the Torah to honor an adulterer. Instead, there is a secret in this matter” (Faienstein 1989, p. 24). How does Mordechai Joseph exonerate Zimri? He says:

Behold there are ten levels of sexual passion. The first is one who adorns himself and goes out intentionally after a sinful liaison, that is, he pulls toward him the evil inclination (*yetzer hara*). After that there are another

nine levels, and at each level another aspect of freedom is taken from him so that increasingly he cannot escape from sin until the tenth level. At that [level] if he distances himself from the evil inclination and guards himself from sin with all his power until he has no capacity to protect himself further and still his inclination overpowers him and he does the act, then surely it is the will of God. . . . For Zimri in truth guarded himself from all wicked desires, and when he understood that she was his soul mate, it was not in his power to release himself from doing this deed The essence of the matter is Pinhas thought Zimri was an ordinary adulterer [not realizing] that Cozbi was [Zimri's] soul mate from the six days of creation. (Greenberg 2004, p. 240)

Morris Faierstein comments that the discussion of the story of Zimri is the “single most controversial” passage in Mordechai Joseph’s work *Mei Ha-Shiloah*. Mordechai Joseph “completely reverses” the traditional understanding of who is the hero and who is the villain in this story. “Mordechai Joseph considers Pinhas to be . . . one who looks only to the Law and does not understand the will of God. Zimri, on the other hand, follows the will of God even though it happens that he is violating the teachings of Torah” (Faierstein 1989, p. 24).

Greenberg (2004, pp. 240, 241) writes:

[T]he key to Mordechai Joseph’s interpretation [of the story of Zimri] is that Zimri’s subjective experience, fought and denied, guarded against and so purified ten times, is in the end God’s will. This is likely the most anti-nomian religious text anywhere in the Hasidic tradition. Rabbi Mordechai was not widely supported in his understanding of the conflict between powerful personal emotional experience and the law. Still, the text is there, and it invites us to explore how the fullness of subjective experience might, in surprising ways, fulfill the will of God.

. . .

While God may have willed this match made in heaven from star-crossed lovers from different sides of the track, no protection is offered them in the story from brutish zealots like Pinhas. . . . Even worse, God’s later promise to Pinhas of a covenant of peace is hard to reconcile with Rabbi Mordechai’s interpretation of the story. God seems forced to live with simplistic religious leaders who think of every difference as danger. For Rabbi Mordechai, God emerges as torn between the great structures of nation building defended by Pinhas and the lives of those individuals whose unconventional love is also God’s will.

It is not hard to see where Greenberg is going with this. Greenberg implies that the Zimri story, in Mordechai Joseph's interpretation, aligns *oness*, the notion of *force*, with God's will. The force that impels Zimri toward Cozbi is not only strong enough to argue for leniency for sin—not that Zimri gets that from Pinhas!—but strong enough to turn wrongdoing into its opposite: the fulfillment of God's will. The parallel to lesbian and gay people is obvious: gay and lesbian people, in many cases, and almost certainly in the traditional sectors of Jewish life, have fought against their erotic desires until it became impossible to fight any more. The conclusion is that their erotic direction must—or at least *may*—be an expression of God's will.

Greenberg does not take this a further step, but that extra step is also obvious. If, in fact, sexual orientation is part of one's DNA, part of the very blueprint of one's being, then, first, it is arguably part of the Divine Image of which each human being is a reflection. Second, the *force* that propels a gay person toward his or her same-sex partner, is, like the force that propelled Zimri and Cozbi, a sign that God intended them for each other “from the six days of Creation.”

Greenberg's creative leap here is especially helpful because it implicitly counters an important argument made by Roth. The latter, considering the question of involuntary acts, notes that its meaning

is always that the person who acted under duress or compulsion is exempt from legal liability. Coercion *never* implies that the behavior is halakhically valid. The argument from coercion distorts the meaning of the term, for it seeks not only an exemption from liability but the legitimation of the act. (Roth 1993, p. 34)

Greenberg overleaps this argument by implying that inner coercion can (sometimes) be an expression of God's will.

Greenberg's use of the Zimri story could be misleading. I do not think that Greenberg means to imply that lesbians and gays have no control over their *actions*. Rather, the implication is that, just like all people everywhere, gays and lesbians have no control over the objects of their erotic *attraction*.

Given people whose primary erotic attraction is ineluctably to those of the same sex, given two men or two women who were intended for each other “from the six days of Creation,” how can Judaism respond? Creative celibacy is, as shown above, not a very Jewish option. Nor is it an authentically Jewish option to steer people into sexually lackluster heterosexual marriages in which they manage to “perform” in a minimal fashion. In *Trembling before G-d*, we see couples where the young man was pushed

into a marriage that would supposedly “cure” him of his homosexual “leanings;” the tragic result is a relationship in which the woman feels sexually unattractive and poorly companioned. This is not acceptable for a religion in which a woman’s sexual fulfillment is considered even more important than her husband’s and in which making love to one’s wife is a religious obligation. The more authentically Jewish option is to welcome gay and lesbian people into the pleasures and challenges of monogamous, religiously blessed relationships.

POTENTIAL INFLUENCE OF A GENETIC BASIS FOR SEXUAL ORIENTATION
ON THE ATTITUDES OF CONSERVATIVE AND ORTHODOX
JEWISH COMMUNITIES

For those scholars who would like to push traditional Judaism toward a more inclusive attitude to homosexuals, I suggest that genetics will prove a useful but limited weapon. The most salient objection is that many homosexual persons, especially lesbians, do not consider their sexual orientation “involuntary.” Many lesbians have been previously married, have enjoyed sex with men, but chose a lesbian identity for complex reasons. Even the most liberal of the recent Conservative positions emphasizes that “Heterosexual marriage between two Jews remains the Halakhic ideal” (Dorff, Nevins, Reisner 2006, p. 19) and directs Jews who are able to form a heterosexual marriage to do so.

If an inclusive attitude toward gay persons is based upon lack of choice, this implies that a homosexual life is not “as good as” a heterosexual one. The former, but not the latter, needs the excuse of nonvoluntariness.

However, for those homosexuals who do experience their orientation as nonvoluntary, genetic evidence may be a very useful tool. As shown, for many traditional Jewish commentators who are trying to be open and fair-minded, the fact that homosexuals have not chosen their orientation is a powerful spur, especially as many people tend to conflate an inborn, nonvoluntary trait with a fixed trait. There is a strong commitment in all branches of Judaism to social justice. Further, as a very small minority, Judaism cannot afford to drive people away. Unterman (1993, p. 5) writes that “be fruitful and multiply” is not only a biblical commandment but “the foremost weapon of Jewish demography and one of the most efficient survival techniques for any minority.” If a person is ineluctably gay, it is a better strategy in the long run for Judaism to accept that person, bless his partnership and welcome their children, than to reject him. Artson (1993, p. 25) comments:

There is no reason to presume that two Jewish homosexuals, having sought rabbinic recognition of their commitment to each other and to establishing a Jewish home, should be any less a source of strength and vitality to the Jewish community and to Judaism as a religion than any other similar heterosexual couple.

If homosexuality *is* an immutable trait, what is a gay person to do? To leave traditional Judaism for the kinder waters of liberal Judaism or liberal Christianity, or to have no religious community at all, is not a “Jewish” solution. Not only does it drive away the gay person, but quite possibly his or her family as well. Given the “Noah’s Ark” nature of Jewish communal and religious life, celibacy as a “solution” is both unrealistic and alien. In the long run, all but the most right wing of Jewish groups will have to go the route Conservative Judaism has taken and allow if not insist that individual congregations accept gays and lesbians as full members of the congregation, with the same opportunities to serve as clergy and to have their lifelong commitments celebrated and supported. This can probably only happen if homosexuality is considered an immutable characteristic. Evidence for a genetic etiology of sexual orientation could be an important part of this effort.

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