

## Joel Roth

My current paper before the Law Committee should be understood as a lengthy addendum to my paper of 1992, which has long been in the public domain and is readily accessible on the RA website. In that paper I dealt thoroughly with the biblical texts, their rabbinic interpretations, the proper halakhic categorization of the issues involved, the morality of the Torah's mandate, and the relationship that should obtain between the Jewish community and its gay members.

I concluded that the prohibitions are *de-oraita*, though only one act brings with it the theoretical liability for a capital offense; that the sages could surely conceive of loving and monogamous relationships between members of the same sex, probably knew of such relationships and did not distinguish between such relationships and other types of homosexual relationships in their understanding of the law; that the Torah's mandate is moral when analyzed in terms of any of the regnant theories of the etiology of homosexuality; and that gay members of the Jewish community are members of that community in exactly the same way that Jews who violate other dictates of the halakhah are, recognizing that the demand made of them by the law is difficult, that they did not choose their attractions, and that most believe that long-term, permanent change is impossible.

The primary purpose for which I wrote another paper for the current round of deliberations of the CJLS was in order to react and respond to ideas that have become widespread since the Committee's last deliberation. This summary contains a synopsis only of my conclusions regarding ideas which have been expressed in the papers of other members of the Committee. Some of the points to which I react may not be in the final versions of the papers, which I have not yet seen at the time of writing this summary.

Ultimately, what is at stake in our deliberation is the halakhic integrity and legitimacy of the Conservative Movement.

Any *teshuvah* which predicates its conclusion on a thesis which undermines the sacrosanct nature of the Torah cannot be entertained as the legitimate writing of the next chapter in book of Halakhah, but must, rather, be considered a new book – which is precisely what our Movement affirms that it is NOT writing.

Reading the context of the verses in Leviticus in a unique way, unsupported by objective and dispassionate evidence that such a reading is correct, makes for bad law. Even when the reading is ostensibly supported by the view of one Bible scholar, whose theory has not yet stood the test of time, and is not even widely accepted by other Bible scholars, it is unwise in the extreme to base so far-reaching a change in normative Jewish law upon it.

An argument which defines the *de-oraita* prohibition narrowly, but does so by ignoring the preponderant weight of precedent over the entire history of the law; which utilizes scientific evidence of the irreversibility of same sex attractions as grounds for advocating the overturning of laws which have already been only weakly defined as *de-rabbanan*, and does not consider whether the laws are moral despite that fact; and utilizes a rabbinic dictum which is likely not really to apply to the case to which it is being applied – such an argument builds a tall building on a very shaky foundation. It is not likely to be judged by history as a strong *teshuvah*, but as a weak one, verging on the indefensible.

The CJLS ought to reaffirm its consensus statement of 1992.