

Protecting Marriage – Really!

By Rabbi David M. Frank

Rosh Hashanah 5769

Sixteen years ago, a young mother, with a two year old son, came to see me. Jane and her family were moving here from Los Angeles. And she had one question for me. Would they be accepted at Temple Solel?

You see, back then, they were taking a bold step and shattering an unspoken rule – that gay and lesbian Jews belonged in gay and lesbian synagogues. The idea of mainstreaming into a suburban, family centered synagogue was uncharted territory. So, what did I tell this young mom? I told her the truth. That I could not speak for the members of Temple Solel, but I could promise her that if she joined, she would always have the support of her rabbi.

To be honest, we had some rough spots along the way. When they asked to join a *Havurah*, it was very difficult to place them, with several *Havurot* expressing hesitation about exposing their children to homosexuality. So, I spoke about it on High Holidays, and I'm proud to say that in response, a number of *Havurot* rushed forward and said they would be please to accept them as members.

Several other such proud moments have since followed. In 1998, our Reform movement clarified its position on same gender union, and gave its blessing to rabbinic officiation. So, ten years ago, I went to our Board, and was supported in a decision to officiate at a religious ceremony for Jane and her partner, Laura.

I have to tell you that at the ceremony there wasn't a dry eye in the house. Laura remembers that I used the "L word" right out front in my remarks. It didn't really strike me as all that significant, until I realized what it meant to those assembled in our beautiful La Jolla backyard setting. It meant that no longer was homosexuality a word to be discretely whispered. Family members and friends, gay and straight, heard me name and sanctify and bring under the tent of Reform Judaism, this relationship, this family, and their yearning to be recognized as a Jewish household by us.

At the time, their son, Bob, was a little boy, with a big smile and flowing sandy hair. Today, not only is Bob a huge 12th grade football player (who his moms would tell you spends too much time on sports and girls, and not enough time hitting the books), but he now has a little sister, Hannah. This summer, ten years after our religious ceremony in La Jolla, we all gathered again in my study.



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Hannah had brought some pretty rose pedals, which she sprinkled generously over the floor. And Bob held the rings, and was a signatory on the California marriage license. The five of us, finished what we had started so many years ago – finally, conducting a civil marriage ceremony which, in June, the State of California empowered me to perform.

No matter what the rest of my rabbinate holds in store, I know that I will always cherish that day as one of its finest moments. We began in uncertain times, not really knowing how Jane and Laura and Bob and Hannah would be received at Temple Solel. But, we truly found it in ourselves to be an inclusive, welcoming congregation.

Jane served for many years on our Board of Trustees, and as a distinguished officer of Temple Solel. She was instrumental in helping us acquire this land upon which our building now stands. Laura, through her foundation work, has brought thousands of dollars of funding to our Synaplex Shabbat, and annually addresses our teens in 10th grade Confirmation. Bob attended our Preschool, had his Bar Mitzvah here at Temple Solel, and will graduate this year from the San Diego Jewish Academy. And Hannah is following in his footsteps.

I'm sure it hasn't always been easy – breaking through stereotypes and prejudice never is. But, I feel like we've come through whole. And thanks to Jane and Laura, we have broken down one more barrier of discrimination and exclusion. They had the courage to believe, and you had the wisdom to support the belief, that separate but equal, is not really equal!

Unfortunately, this is not a challenge that Temple Solel, nor even the whole Reform Movement has the power to overcome. It is greater than one movement, or one religion. In a profound way though, it will be addressed by the voters of the State of California, as we go to the polls in November to cast our vote on Proposition 8.

Now, I realize that I tend to get flack when I speak on political issues, especially on the High Holidays. Therefore, I just want you to know that I am wearing my flame retardant robe!

Actually, I am mindful of the old adage which says that, "it is the rabbi's role to comfort the afflicted, and to afflict the comfortable." So, whatever you may think about what I have to say, you will at least remember what the rabbi talked about on Rosh Hashana and, I hope, have some healthy discussion on what I view as a fundamental question of civil rights and religious freedom.

In the spirit of the Rev. Martin Luther King Jr. and Rabbi Abraham Joshua Heschel, I really believe that this is our moment, this is our cause, and that we, too, have to speak out.



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By the way, if we choose remain silent, I can tell you that there are hundreds of thousands on the other side of this issue who will drown out our silence with their voices. As a clergy member of our local faith community, I have already been recruited to join in their chorus.

In case you weren't aware, voter precincts are being canvassed door to door. Sermons are definitely being preached throughout the mega-churches. And congregations are being organized on the grass roots level to support Proposition 8. Not only that, but millions of dollars are flooding in from around the country to bolster this massive effort.

Proposition 8 is actually very simple. Your ballot will read: "Only marriage between a man and a woman is valid or recognized in California." Its official title is the "California Marriage Protection Act."

And that is essentially the argument for Proposition 8. On the "ProtectMarriage.com website, there is only one moral argument put forth: "It protects our children from being taught in public schools that 'same-sex' marriage is the same as traditional marriage." Now, I'm not sure why a constitutional amendment is required to teach our children this distinction. And I'm also not sure why same-sex marriage in any way threatens traditional marriage.

But, I will tell you that I'm ready to tackle the subject of precisely what same-sex marriage is and is not. One thing it is, is equal protection under the law. Yes, California does have a provision for Domestic Partnership. And supporters of Proposition 8 will argue that this is all that's need to protect gay and lesbian rights. But, it's not really that simple.

For example, did you know that public employees can get long-term health benefits for a spouse, but not for a domestic partner? Or, even more serious can be that fateful ambulance ride to the hospital, when life and death decisions are often involved. There is no question that a spouse can make these decisions. But it's the luck of the draw as to whether a domestic partner will be allowed to come along on the ride, let alone be permitted in the emergency room with their loved one. Marriage is automatically understood, recognized, and critical to ensuring equal treatment under the law.

But this is only one part of the issue. Let's face it, America is a religious nation, and religion plays a dominant role in shaping American opinion on issues like these.

So, it I thought it might be good for us to know what our own Jewish religious tradition has to say. After all, I would imagine this is a question many of us are confronted with from time to time – how can same-gender marriage be morally justified? Especially, given what's written in our Torah. As we know, the book of Leviticus is very clear – homosexuality is condemned as a sinful act. And anyone who reads the bible literally, as the word of God, would have to reckon with that fact.



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But, fortunately, Leviticus is not the only important biblical text and, for that matter, the Bible is not our only sacred text. And, perhaps most important of all, Reform, Conservative, Reconstructionist, and even many modern Orthodox Jews do not read the Bible as the literal revealed word of God.

So, it would be extremely simplistic to sum up Judaism's view on homosexuality based on one statement in the Torah. Human nature is an exceedingly complex thing, and the more we learn from science, the more our Jewish understanding evolves.

On *Rosh Hashanah*, we celebrate the wonder of creation. The *Shofar* calls us to attention, and invites us to consider our human nature and place on this earth. Why are people so different – a rainbow of colors, shapes, abilities, and personalities?

In the *Midrash*, our rabbis marveled that unlike coins which are minted from the same dye and come out each exactly the same, the miracle of the human being is that, while we are also cast from the same dye, the original dye of Adam, nevertheless, each person is unique and unlike any other. When it comes to human design, our rabbis had a great appreciation for our diversity – certainly, far more than the authors of Leviticus who lived a thousand years earlier in a vastly different culture.

And, over the centuries, that appreciation has only deepened. As American Jews, in particular, we believe that diversity is not our weakness, but our strength. And rather than focusing on what divides us, we look at what unites us, and what we have in common. Going back to the Torah, the one thing that all people have in common, is that we were created *b'tzelem d'mut Elohim* – every person is hewn in the image of God, with the intrinsic potential for holiness.

For the authors of Leviticus, three thousand years ago, there was a more primitive understanding of what causes a person to be gay. In the absence of the scientific knowledge we have today, they drew certain moral conclusions. But, now science has taught us a great deal about sexual orientation. It seems clear that, in most cases, homosexuality is a predetermined quality with which people are born.

They can attempt to change it, they can attempt to suppress it, but they cannot successfully alter who they fundamentally are – gay and lesbian men and women who reflect the glorious diversity of human design and are endowed with the same potential for holiness as everyone else.

It's interesting that the Hebrew word for marriage is, *Kiddushin*, from the root, *Kadosh*, which means, Holy. Our rabbis clearly saw that marriage is all about expressing our holy potential. So, the key question is, can there be holiness in a same-gender marriage? Again, *Rosh Hashanah* is



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most instructive, because as the *Shofar* heralds the world's creation, the 2 creation stories in the Torah really tell us a lot about the purpose of marriage.

In the first creation story, in which the world is created in six days, God places man and woman on the earth, and commands them to be fruitful and multiply. So, forming a family and having children is one significant part of marriage.

The second aspect of marriage is conveyed in the famous story of Adam and Eve. Unlike the first creation story, in which man and woman are placed on the earth together, in this story, Adam is created all by his lonesome in the big Garden of Eden. God takes notice and says, *lo tov heyot ha-adam levado*, it's not good for Adam to be alone. So, along comes Eve, a companion for Adam.

In this story, we get a completely different take on creation. Here, the major headline is about our interdependence, taking care of our garden and the world, and having a companion to share in the project. The main emphasis of the second creation story regarding marriage is partnership.

So, Rosh Hashanah brings us to look at 2 very different components of marriage – bearing children and forming a family on the one hand, and loving companionship on the other. And both are equally important, just as both creation stories were considered important enough to be included in our Torah, side by side.

So, one of the biggest arguments that is usually advanced against same-gender marriage, has to do with that first component of children and family. After all, our plumbing is constructed a certain way, and it seems intuitive that same-gender couples can't have biological children together. Therefore, it's argued that same-sex couples can't fulfill the biblical requirements for marriage and, thus, it is unnatural and immoral. But I would refute this argument in a couple of ways. First, I don't know the statistics, but I am sure that a very high percentage of same-gender couples do, in fact, have children, either through previous marriages, or through adoption, or through In Vitro Fertilization, just like many straight couples.

But, to address this specious argument which says that since a couple can't have children naturally, they shouldn't be married, let me make one critical point. And that is, if we were to extend this logic, then we would also have to argue that straight couples struggling with infertility, or seniors in their second marriages who are obviously incapable of having kids together, should also not be allowed to get married in California – because they can't fulfill the biblical commandment to have children. Clearly, we would find this absurd.

The reality is that *Kiddushin*, a holy covenanted relationship, is an ideal. It can't all be achieved by every couple all the time. Sometimes, couples who, for whatever reason, are without



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children, need to focus more on the Adam and Eve part of their marriage – on the sacred partnership they share in life. Or, couples with children, who face the constant demands and distraction of family life, will need to accept a sometimes less than idyllic bonding with their spouses.

Really, when we talk about the morality of same gender marriage, we have to be a lot less superficial in our reasoning. In Jewish terms, when we talk about the morality of marriage, what we want to try to define, is what makes *Kiddushin*, *Kadosh* – what makes marriage holy?

I might suggest the following. When a couple cherishes and respects one another, there is holiness. When they are faithful to one another and monogamous, there is holiness. When they are modest in public, there is holiness. When they create a mikdash me'at, a miniature sanctuary in their home, filled with Jewish learning, celebrations, and observances, there is holiness.

Same gender couples are no less capable of exemplifying these virtues, and no less susceptible to the pitfalls of human weakness, than are straight couples. Marriage is an ideal, an aspiration to holiness, even if it is not always achieved at all times in all ways by all couples.

As a rabbi, I have had to do a lot of soul searching around this issue. But, along with our Reform Movement, I have come to the realization that what makes a marriage a marriage, is not the couple's gender, but the sacred values that a couple upholds. A same gender couple who seek to live a life of holiness should not be denied that opportunity, either by Judaism or the State of California.

And that is why I am most proud to be a Reform Jew:

- Because we have been on the forefront of civil rights for gays and lesbians for more than 30 years – fighting against discrimination in housing, employment, and schools.
- Because our movement accepted into the Union for Reform Judaism the first gay synagogue, was the first to ordain gay and lesbian rabbis, and the first to tackle the question of rabbinic officiation at same-gender ceremonies.

Now, I can say I am even more proud, because even as Reform Judaism broke ground, many other rabbis and movements have since followed. American Judaism has come of age, and we will no longer hinge our complex understanding of the human being on one narrow verse of Torah.

And those who do, well, they need to at least refrain from restricting our religious freedom with a constitutional amendment!



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This summer, on the way home from Israel , my family and I stopped in Amsterdam . The highlight was having the chance to visit Anne Frank’s house. The annex in which she and her family hid from the Nazis is exactly as it was when they lived there, minus the furniture, which the Nazis removed when they captured the Franks. But, the walls, even the walls in Anne’s room, with her pictures and postcards pasted up, are still there as they were.

The most striking thing, was the black fabric draped over the windows. No light came in or out. They could not take the chance of being seen through the window. So, they lived for over two years, sequestered in that dark, sealed apartment, with no fresh air, no time outside, their very existence known to no one.

For so many years, this is also how gays and lesbians have been forced to live in our society – who, by the way, were also singled out and gassed by the Nazis. Secret, closeted, unrevealed and unknown to others. When I was a rabbinic student more than 25 years ago, our professors announced that any gay or lesbian student who came out, would not be ordained. So, it turned out that classmates of mine lived in deep fear of being outted and losing their careers. Their public life was a carefully constructed facade, and their private relationships were shrouded in secret darkness. It was only many years later than I came to know the painful life they were forced to live, and what it must have felt like when esteemed faculty refused to sign their protégé’s ordination papers.

Anne Frank once wrote: “Everyone has inside of him a piece of good news. The good news is that you don’t know how great you can be! How much you can love! What you can accomplish! And what your potential is! . . . Despite everything, I believe that people are really good at heart.”

These words have inspired all humanity to strive for renewed human respect and dignity. As we enter this New Year, the *Shofar* calls us to re-consecrate ourselves to that task, to reaffirm that each of us is truly created *b’tzelem Elohim*, in the holy image of God, and that the morality of marriage is defined not by gender, but by holiness.

Proposition 8 does not protect marriage, it distorts it, and gives our children exactly the wrong message about what is sacred in a relationship!

We have an historic chance to stand up for something important. And if we have the courage to raise our voices and cast our votes, we will truly be granting a Shana Tova to those who deserve what most of us take for granted – civil rights, religious freedom, and human dignity.



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