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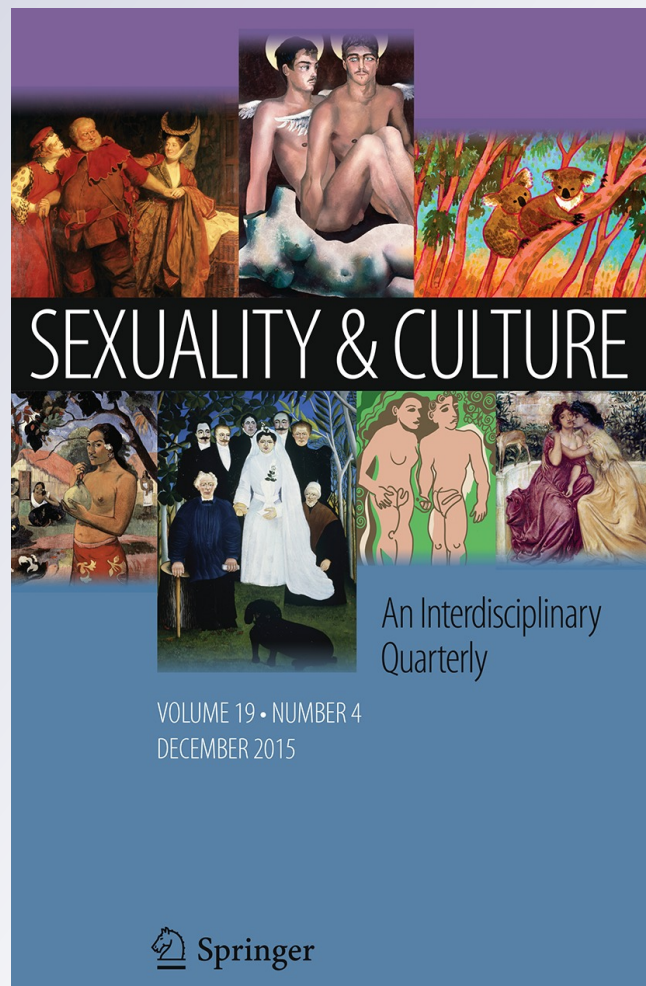
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Non-marital Sex in Reform Judaism: Reconciling Theory with Reality

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Abstract This paper examines the gap between the present day theory and reality facing Reform Jews who remain unmarried and sexually active. While the Reform movement has sought to address issues facing women and sexual minorities, there is a paucity of literature on matters concerning the increasing number of heterosexuals who, for one reason or another, choose to remain unmarried while being sexually active. One of the only attempts at addressing the general conduct of Reform Jews has been the 1998 “Reform Jewish Sexual Values” position paper coming out of the Ad Hoc Committee on Sexuality of the Central Conference of American Rabbis. Of the ten guidelines, numbers seven and eight propose a covenantal relationship and describe the conditions under which sexual joy may be experienced within Judaism. The document encourages “*B’rit* (“covenantal relationship”) ...grounded in fidelity and the intention of permanence” and “Simcha ...human sexual activity should be experienced only in healthy and responsible human relationships”. Both of these guidelines, if taken literally, would exclude a great many Reform Jews who do not find themselves in committed, long-term, exclusive relationships. What then are the acceptable outlets for sexual energies among this group? Do we accept that persons who do not adhere to these guidelines and those of other Reform groups be regarded as immoral? This is a debate that is long overdue in the modernisation of Jewish practice.

Keywords Carpenter · Kaplan · Non-marital sex · Reform Judaism · Heterosexual · Relationships

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Introduction

This paper reflects the polemic between the realities of the lived experiences of Reform Jews as it relates to their sexual expression and the theology that informs mature, single life. It attempts to open a dialogue not only between the writers, Carpenter, a psychologist and clinical sexologist, and Kaplan, a historian and rabbi, but hopefully also between the readers and their communities. The question explored here asks us to look truthfully at the lives of single adults within the Reform Jewish movement who wish to respect their faith and also their needs for companionship and sexual expression. They are easily identified within the synagogue as those who neither present a legal spouse to the congregation nor mention the absent partner. Their private lives are more than private, they are hidden and unexpressed. Their options for inclusion in the fellowship of the community is restricted to the extent that others in the community accept their informal and sometimes changing partnerships. They do not fit the traditional expectation but they are certainly increasing in numbers. This paper first identifies the gap between what is taught as good Jewish practice and what is performed in people's daily lives. It suggests that we have skirted the issue for long enough and have sometimes tried to apply *halakha* where it is non-applicable. The paper concludes by suggesting some of the ways in which we can begin to address the issue.

The Gap Between Theory and Reality

Reform Judaism is a practical approach to religious observance that acknowledges the need to bring one's ritual practice into harmony with one's actual religious beliefs. Because of this practicality, it is surprising that the subject of non-marital sex has been avoided. Reform Judaism presents us with challenges because there is no central decision-making body that has authority to make policies that are obligatory and binding. This is because of the nature of Reform Jewish thought. Reform Jews are free to consider different ideas and make personal religious decisions based on what they find spiritually meaningful. Since people find a variety of things religiously meaningful, there is no way to build a consensus on what should be required. The very mention of the words "requirement" and "obligatory" are problematic for the average Reform Jew, as it is counter intuitive.

The Reform movement accepts that the Torah should be interpreted to meet the needs of contemporary Jews. This is not a new approach. The sages of the classical rabbinic tradition explicitly argued that the Torah was not in heaven and that God had given the responsibility for the interpretation of that Torah to human beings. Yet the Reform movement took this idea much further than traditionalists could because they were freed from the shackles of *halacha* (traditional Jewish law). Not having to follow thousands of detailed laws, Reform Jews could completely re-conceptualize what it meant to be a religious Jew and how Judaism could and should be practiced.

Reform Judaism rejects the concept of Jewish law as obligatory on all Jews. While selected practices may be spiritually meaningful to many, others can obstruct rather than promote contemporary religiosity. Yet there is no consensus on how to evaluate a given practice. Indeed, there is no accepted methodology for analyzing traditional texts and drawing any sort of authoritative conclusions from them. Rather, the movement evolves in response to social trends, influenced by both its leaders and its laity. Reform Judaism has explicit principles even if they continually evolve and therefore elude precise definition. These principles are complicated by the “facts on the ground.” The Reform movement has no universally accepted methodology for predetermining how to evaluate any particular religious issue, including questions relating to sexuality. Many Reform Jews were resistant to any proposal that might replace the halachic system they had rejected. So there is no central authority, neither a Reform chief rabbi nor a Reform halachic system. Not only is there no mechanism for enforcement, there is not even any accepted system for determining religious policies. The best that can be achieved is ongoing discussion, which hopefully will eventually lead to consensus. Since no one has the power to force their position on others, the persuasive abilities that can be marshalled in support of a given point carry a great deal of weight.

The Issue is Not Discussed

More than half the participants in the 2010 national sex survey ages 18–24 indicated that their most recent sexual partner was a casual or dating partner.

Despite these statistics, and the ubiquitous nature of casual sex in today's environment, the issue of non-marital sexual intercourse is one that has been largely ignored in the Reform Jewish literature. References to sex outside of marriage appear to be directed at teens and young adults who may at some point marry (Borowitz 1969; Glickman 1997). Other references to appropriate sexual practices may include the divorced or widowed Jew, however Jews who do not marry, even in mid to late adulthood are for the most part excluded from these commentaries (Jewish Choices, Jewish Voices). The exception is the consistent nod of approval to unions which mimic the status of married couples in their intent, commitment and longevity of the relationship. There is a loud silence when it comes to suitable intimate practices for the growing number of individuals who simply choose not to marry, not to have a single sexual partner throughout the likely 60 years of adulthood and who remain sexually active. While the single, married and divorced populations may experience different sociological realities as it relates to their sexual opportunities, from a psychological point of view the drive toward sexual satisfaction remains the same. It is therefore inconceivable that rational, well-thinking Jews would ignore the realities of biology and yet despite this the silence continues. Why is it that the Reform movement in general and the Central Conference of American Rabbis in particular has said so little about non-marital

heterosexuality? Joan Friedman, a Reform rabbi and professor who has specialized in Reform response literature, told us that the answer is quite simple.

It's not about ritual, it's not about Reform Judaism's relationship to the larger culture, it doesn't define Reform Jewish identity for anyone, and no one sees it as an ethical issue. Virtually the entire CCAR, and their congregants, explicitly or implicitly agree that there's nothing wrong with it. So who is going to raise it as an issue, and what would prompt them to do so? (email from Joan Friedman to Dana Kaplan, April 16, 2013)

For a religious movement that has prided itself on being contemporary and relevant, the Reform movement has said surprisingly little on non-marital sex. Perhaps this is because so much attention has been focused on gay and lesbian issues. It may have been seen as simply too sensitive an issue since so many Reform Jews were unmarried and continue to have sex. However, the movement has not shown any hesitation in confronting other controversial issues, such as the ordination of women as rabbis and the acceptance of LGBT congregants (Hein 2015; Appell 1998) and so the question arises "why the reticence?"

In the United States, the Reform movement ordained its first female rabbi in 1972, the Reconstructionist movement in 1974, and the Conservative movement in 1985. The Orthodox movement has yet to officially accept women in its rabbinate, although a few Orthodox women have been ordained in some seminaries. (Hein, 2015)

There is an entire time period in people's sexual lives that is almost completely ignored by Reform rabbis and Reform Judaism and that is the time between when they leave high school and the time that they show up in the rabbinate's office to plan their wedding. During these years, they are presumably meeting and having sex with different partners, perhaps a few, perhaps considerably more. Nothing is said about this and no attempt has been made to advocate for a particular position on how Reform Jews should behave under specific conditions.

Joan Friedman speculated why the Reform movement has published so little on what is such an important issue.

Prior to the "sexual revolution" no one addressed it because everyone agreed, at least for public consumption, that going to bed with someone on the third date was wrong. Since then I suspect that no one wants to address contemporary sexual mores honestly because they don't want to be total hypocrites. When I think back to my student days in the 1970s, before I became a Rabbi, I recall that heterosexuals were hopping in and out of bed with each other all the time. I think people are embarrassed to say publicly that it is OK, but they are also not willing to condemn it explicitly. Though I haven't looked at the book in years, Gene's *Choosing a Sex Ethic* justifies that stance somewhat, by eliminating the right/wrong judgment in favor of a sliding scale continuum: 'Heterosexual married sex is the best, but other contexts are not "wrong", they are just less good.' I'm not sure this is a uniquely Reform approach when you think about the midrash about what to do

if your yetzer gets the better of you: Dress in black, go to another city where they don't know you, do what you need to do, and do not profane the name of heaven in public. (email from Joan Friedman, April 16, 2013)

There are three major documents we have so far found that directly discuss Reform sexual ethics. The first one is *Choosing a Sex Ethic: a Jewish Inquiry* by Eugene B. Borowitz published in 1969. The second is *The Extra Dimension: A Jewish View of Marriage* by Roland B Gittlesohn, published in 1983. Both of these were single author books written by prominent rabbis. In 1998, The Ad Hoc Committee on Human Sexuality of The Central Conference of American Rabbis published a document entitled *Reform Jewish Sexual Values*, which set down 10 ethical principles by which any sexual relationship could be evaluated.

That there are so few documents directly related to this topic is astounding. One would have thought that there would be a plethora of books and articles describing various Reform approaches to sexual ethics. But there is almost nothing. One possible explanation is that what is considered normative has changed so quickly that is hard for serious scholars to keep up with the rapidly changing sexual mores of contemporary society. Adding to the difficulty, any Reform thinker writing about this topic has to keep in mind that we are part of a religious movement and have to be cognizant of what is seen as acceptable to a generality of people in religious circles.

The Few Who Discuss it Take Extremely Conservative Positions

Even the more liberal Reform thinkers require that the individual be in love before one can legitimately have sexual intercourse. But that is not how it works in contemporary dating. People have a couple of dates to see if they have “chemistry.” If they do, they want to see whether this can be translated into an exciting sexual encounter. They don't want to feel emotionally connected to each other before they find out what it's like to have sex with this mysterious new potential partner. For our theologians and rabbinic thinkers to emphasize stable loving relationships is to demonstrate that they have not considered dating any time in the last two or three decades—or longer. It is religious approval for those already in stable long-term relationships that is worthless for single people looking to make a temporary connection. Their advice is impractical and dismisses the lived experience of millions of single people throughout the United States and the world.

Borowitz (1969) is the touchstone on non-marital sex for those who come after him and, while the first half of his book *Choosing a Sex Ethic* provides an ostensibly objective view on non-marital sex, he makes it clear in the conclusion of the book, “Speaking Personally,” that he is not in agreement with sex outside of marriage. He presents and examines four ethical values for sex: (1) healthy orgasm, (2) mutual consent, (3) love and (4) marriage. Healthy orgasms in Borowitz refers to the belief that sex is not only necessary for human existence but also contributes to good health. This is coupled with the notion that sex is a wife's right and that she is not only entitled to sexual satisfaction within marriage but is also entitled to good

orgasmic experiences. In providing this critique Borowitz admits that, “The ethical task therefore turns out to be as much a labour of self-discovery as well as of intellectual analysis” (1969, p. 53). In critiquing the value of *healthy orgasm*, Borowitz reaches for Freudian psychosexual theory, presenting a somewhat confused version of this theory. Freud, according to Borowitz, cannot be the arbiter of what would constitute an important value such as orgasm for healthy living. We would argue that Freud never intended to present a moral theory but rather one that is based on the human psyche, human drives and human psychological development. If Borowitz pretends in this portion of his book to present the biological imperative for orgasm as a healthy practice, he has certainly failed to do so and rather presents what seems to be an emotional response to a position he later objects to in his personal commentary. He makes a leap between Freud (Psychology), Kinsey (Biology) and ethics by arriving at the position that orgasm for healthy living is not a “worthy possibility” (1969, p. 56) because it is inherently a selfish and egotistical act which does not “...extend to others what it wants for self” (ibid). This is a spurious argument from both a biological and psychological point of view and certainly does not demonstrate a clear understanding of human sexuality as presented by either Freud or Kinsey. It might have been better if Borowitz had called on Maslow’s theory of self-actualization that more pointedly sets sex up as a basic human need.

Borowitz does find greater congruence between his own Reform views and the ethics expressed in the (2) mutual consent, (3) love and (4) marriage triad. Not surprisingly these are the very values that permeate most of the literature on non-marital sex as previously mentioned, and reflect the values of marriage. While asserting that mutual consent is critical to any act of intercourse and that love “...involves a sense of the unique and the exclusive” (1969, p. 73) even where love exists in a true and pure sense he feels this is not enough to necessitate intercourse. The final piece then is marriage which should be protected as a “...time of exclusive sexual relations” (1969, p. 92). When he finally expresses his “...sense of outrage at the sexual tone of our civilization” (ibid, p. 101) in his personal opinions in Chapter ten, we are a bit disappointed at the seeming departure from reason. At the same time we must remember that these are the views of a Reform thinker just emerging out of an era of free love, sexual revolution, civil rights movements and anti-war sentiment more than 30 years ago. A whole generation of Jews have come of age post Borowitz, and non-marital sexual intercourse has not disappeared from the landscape.

When we emailed him, Borowitz did not want to address these issues with us. He politely wrote back within minutes, “I have not written anything significant on this topic in recent years. Good luck on your project. Eugene B. Borowitz.” (email from Eugene B. Borowitz, April 14, 2013).

We suppose what many parents may be saying, perhaps explicitly and certainly implicitly, is that they trust their child’s moral sensibility. Since their child is an ethically grounded person who wants to do good, they can trust that their child will make moral decisions in terms of sexual behavior. What this means in reality is that they will follow a secular set of ethical guidelines which put the emphasis on honesty and avoidance of emotional or physical harm. Paul R. Abramson, professor

of psychology at UCLA, gives a good account of this approach from a secular perspective in his book *Sex Appeal: Six Ethical Principles for the 21st Century* (Oxford University Press 2010). These six principles are: (1) do no harm, (2) celebrate sex, (3) be careful, (4) know yourself, (5) speak up/speak out, and (6) throw no stones.

Thus any serious writer on Reform sexual ethics has to be aware of how people today think and act and at the same time must be able to establish his or her bona fides with religious thinkers of various denominations and religions. Doing these two things simultaneously is very difficult, especially for a liberal thinker who is still tied to a religious tradition. It is not easy to bridge the dramatic differences in mentality between the ancient texts and contemporary sensibilities in any field and particularly in things sexual. The documents that became the Torah were written thousands of years ago in a very different world. It was a patriarchal society and much of the laws concerning sexual activity had to do with societal control and specifically masculine control of the feminine (Adler, 1998). It was also a world of absolutes. In the Torah, God could immediately execute a person for a sexual violation. There are biblical verses that condone and even praise people who behave in what was regarded as a sexually immoral manner. In one shocking episode, Phineas is praised by God for having executed an Israelite prince who publicly cohabited with a Midianite woman (Numbers 25). And yet, a legitimate, intimate relationship could be established quickly, almost immediately, with just a few simple acts such as a man handing an object of value to a woman and the presence of two witnesses- *erusin*. The Torah is more concerned with ensuring that society remains orderly rather than the ethical implications of a private act. Teasing out moral lessons that can be applicable in a contemporary context is a difficult task indeed.

There is a tremendous gap between the contemporary hookup culture and traditional morality as expressed in Western monotheistic traditions. Any Reform rabbi venturing into these waters risks being bitten by a shark. What can they say? If they say that it's okay to experiment sexually for a few years, they will certainly be condemned for lacking a sense of sexual propriety. They will be attacked for reducing sexual activity to its biological basis and refusing to recognize the holiness that should be implicit in every sexual act.

But if they emphasize the need for holiness in sexual relations, they run the risk of being seen as hopelessly out of touch with the realities of dating in even relatively conservative environments. In a time when it is considered extremely common to have sex on the first date and regarded as rather conservative to wait until the third date, theological formulations stressing the need for love and commitment in order to instill holiness in the act sound medieval. More modern attempts at addressing these issues include the writings of Rabbi Mark Glickman.

In 1997, the Union of American Hebrew Congregations (UAHC, later renamed URJ) published a collection for college students entitled *Where We Stand: Jewish Consciousness on Campus*, which had an article on Jewish sexual ethics by Rabbi Mark Glickman. Glickman emailed us saying "I actually wrote it for high-schoolers back in 1990–1991 when I was working at the UAHC HQ as one of the NFTY directors. I think it was for a resource book called *Hamakor*." Regardless, they later published it for college students in *Where We Stand*. This is important because there

might be quite a difference in how sexuality is addressed for a high school rather than a university aged readership (email from Mark Glickman, April 14, 2013). Glickman tried to balance a positive approach with a reminder that premarital sex was prohibited in traditional sources.

If we had to summarize the Jewish view of sexuality in just one sentence, it would probably go something like this: According to Jewish tradition, sex is a great and holy act—so holy, in fact, that it should never be trivialized or cheapened. (UAHC Press 1997)

Glickman states that unlike many other religions, Judaism does not see sex as something inherently sinful. On the contrary, Glickman emphasizes, married Jews are commanded to engage in sexual intercourse. Glickman describes the prohibition against premarital sex but is careful to describe it in such a way that it could be interpreted as something that applies only to the Orthodox. On the other hand, he never explicitly says that the prohibition against premarital sex does not apply to Reform Jews. As he wrote to us many years after he published the piece, “I was trying to impart to the kids a sense of the sanctity with which Judaism views sex, but also to avoid taking a hard-line ‘no, no, no’ perspective.” Reflecting further, he recalls that “I wrote it at the height of the AIDS epidemic. AIDS activism was moving ahead full-force; the AIDS quilt was growing wider and wider; the disease had drastically changed the nation’s sexual sensibilities, etc. NFTY was very involved in AIDS advocacy, and, now that I think of it, I believe the AIDS discussion was humming of many of our activities, including NFTY programs and resources around sex. For teenagers, the real questions were:

What am I supposed to do with my intensifying sex-drive when everyone’s telling me that acting on it can kill me?’ ‘Is it OK for a teenager to have sex?’ ‘Is abstinence OK?’ ‘How can I handle my sexuality in a way that both honors the reality of my desires and is also safe, intelligent, and prudent?’ I decided to write an article that acknowledged sex as good—so good that it is holy. The article encouraged deep reflection about premarital sex without coming right out and forbidding it. It was a position that I as a Reform rabbi could take in good conscience, knowing that it expressed Jewish values in a way that acknowledged the reality of modern life. (email from Mark Glickman, April 14, 2013)

This vacillating is not due to any weakness on Glickman’s part. He would not have been authorized to take a position on such an important issue. If he had said that Reform Jewish college students are prohibited from having sexual relations outside of marriage, he would’ve been vigorously criticized for taking such a strong position without any authoritative sources. On the other hand, if he had argued that college students should be allowed to experiment sexually, he would have been attacked even more for supporting libertine behavior! So he vacillated and deliberately obscured the two contrary positions, concluding with a vague but inspirational formulation emphasizing personal responsibility: “Judaism sees sex as something that is very holy—and holy things always carry the potential for greatness and danger.” The Jewish tradition, Glickman argues, “... Even as it

impels us to explore our own sexuality, asks us to be careful about how we approach it.” Our tradition asks us “... to appreciate the wonder and the seriousness, the glory and the danger, the beauty and the majesty of sexual affection between two people.” That was the best that he could do.

There was clearly the need for greater guidance. The following year, in 1998, The Ad Hoc Committee on Human Sexuality of The Central Conference of American Rabbis set out what it termed *Reform Jewish Sexual Values*. This committee had been created as a response to the HIV epidemic and had dealt extensively with issues relating to gays and lesbians, but they also turned their attention briefly to issues relating to broad ethical considerations. In their statement on Jewish sexual values, they enunciated ten values for relationships. These values include sexual interactions that reflect: (1) *B'tzelem Elohim* (“in the image of God”); (2) *Emet* (“truth”); (3) *B'ri-ut* (“health”); (4) *Mishpat* (“justice”); (5) *Mishpacha* (“family”); (6) *Tz'niyut* (“modesty”); (7) *B'rit* (“covenantal relationship”); (8) *Simcha* (“joy”); (9) *Ahava* (“love”); (10) *Kedusha* (“holiness”). (Report of the Ad Hoc Committee on Jewish Sexual Values, 109th Convention of the CCAR, Anaheim, CA, CCAR Yearbook, Vol. CVIII, July 1997–December 1998 (c) 1999 by Central Conference of American Rabbis.)

Rabbi Donald R. Berlin was a member of the Committee from around 1994 and had this to say 20 years later:

I was troubled by the number of pre-marital Jewish couples who believed that they were ‘living in sin’ by religious standards - a view emphasized by conservative American religious culture. They had decided to ‘ignore’ this element as they ignored most religious rituals even as they acknowledged and accepted Jewish religious moral and ethical values. My point is that this led to a put-down of Judaism. The trick is how to reframe the teaching by introducing the Taxonomy and encouraging its acceptance as an authentic and consistent Jewish religious understanding. (email from Rabbi Donald R. Berlin, April 14, 2013)

The Role of Halakhah in Reform Judaism

In 2001, Mark Washofsky published his book, *Jewish Living: A Guide to Contemporary Reform Practice*. Reform Judaism does not generally use halakhic literature as its guide, yet Warshofsky and others see Halakhic teachings as a non-authoritative guide which unites us with other Jews.

This does not mean, however, that rabbinic law and its literature function for us in exactly the same way as they function for other Jews. Just as we have our own particular experience as a modern Jewish religious movement, so do we have our own unique approach to halakhah which emerges from that experience. (2001, p. xvii)

For scholars like Warshofsky the Reform response serves the purpose of dialogue, questions and answers between halakhic literature and the modern context in which we experience our lives. In the very last part of his book, in the section on

Judaism and society, he discusses non-marital sexual relations as a sub topic of human sexuality. As a professor of rabbinics at HUC–JIR and as the chair of the CCAR Response Committee, Washofsky can be expected to rely heavily on rabbinic sources. We have doubts whether medieval sources are particularly helpful in resolving modern ethical dilemmas, but let's leave that aside for the moment.

Washofsky states that there are two broad approaches in medieval rabbinic literature. Maimonides argues that one who has intercourse outside of marriage violates the prohibition against harlotry (*kedeishah*) found in Deuteronomy chapter 23 verse 18: "There shall be no harlot of the daughters of Israel, neither shall there be a sodomite of the sons of Israel." Nachmanides (2001) argued that the term harlotry refers only to casual sex outside of marriage. The Torah allows a man to form a stable sexual relationship with a woman other than his wife. This woman is called a concubine (*pilegesh*). While Maimonides acknowledges that this was true, he argues that only the King of Israel is permitted to take a concubine. Washofsky writes that "the terms of this dispute are rooted in our biblical past, but its outcome might have significant implications for our practices today." This would only be true if we accept these rabbinic sources as authoritative or perhaps as non-authoritative but deeply influential. We doubt whether most Reform Jews would feel that way but let us follow his argument to the end.

If Nachmanides is correct that concubines are permitted under specific circumstances, Washofsky argues, "then we could adopt that institution, adjust it to the egalitarian temperament of our time, and declare that Judaism permits the establishment of long-term, non-marital sexual relationships between consenting adults." (p. 318). This is such a long leap that it is hard to catch one's breath! To take just one example of the difficulty that this logic presents, concubines were females because in the Torah it might be permissible for a man to take more than one woman but it would never be permissible for a woman to take more than one man. When Washofsky says that we could simply adjust it to the egalitarianism required by our contemporary mentality that is a rather tall order. But in any case he presents his own objections.

Washofsky explains that even those who believe that the Torah does not technically forbid concubinage nevertheless argue that the institution should be forbidden today on moral grounds because the social evils that would result from some unions require that the sages forbid them. "This has been the approach of Reform response as well." While we know that a great deal of sexual activity goes on outside of marriage, he explains, the question we face as a religious community is whether to sanctify it. "Shall we teach, in the name of Torah, that these relationships offer a legitimate religious alternative to marriage? Shall we teach that, as long as these relationships are stable and monogamous, affording the couple the opportunity to experience sexual and emotional intimacy, they partake of the Jewish ideal and therefore attain a measure of sanctity (*kedushah*)?" His answer is obviously a resounding no. Neuberger (1995) also presents the role of the *pilegesh* as one of three alternatives to the dilemma. The other two include making marriage "lighter" through a series of serially monogamous committed relationships and fluid but honest, consenting relationships among adults.

The reason he gives is that according to Jewish thought, as he understands it, the sanctity of all marital relationship lies precisely in “the legal and moral restrictions that surround it.” These restrictions are a central component of what constitutes the ideal state of sexual union. The ideal state of sexual union is intended to be “a private process of separation and elevation” characterized “by a serious and long-term commitment which, though not unbreakable, cannot be ended merely on the whim of the parties involved.” This is entirely arbitrary. He is essentially saying that marriage as we have decided to define it is holy but other relationships are not because they do not meet our definition. But then he makes a point that we completely agree with. He says that there can be no measure of holiness; either a sexual relationship has holiness or it does not and it only has holiness, according to his criteria, in the context of marriage. Nevertheless, this does not mean that those living together without being married are living in sin. The absence of holiness “... does not entail a vacuum of morality.” These relationships can be ethical in the same way as a marriage meaning that they should be “... free from manipulation, deceit, and foreseeable harm.” The couple should give each other “... human respect, honesty, and consideration” (ibid, p. 319). But, he cautions, “Judaism asks far more of us than ethical behavior alone. It asks us to distinguish our sexual conduct in the most exalted manner possible” (ibid, p. 319). That goal can only be fulfilled, he concludes, in the context of marriage.

So why has the Conservative movement not been more visible in addressing the issue? Joan Friedman speculated that it is because “Conservative Judaism, by contrast [to the Reform movement], claims to be a halakhic movement. Every time a Conservative rabbi marries a couple s/he knows has been living together but still uses a ketubah that refers to ‘*hada betulta*’ [stating that the bride is a virgin, language absent from the usual Reform wordings] it raises a question for them: What’s the relationship between our halakhic commitments and our cultural values?”

The Way Forward

Now that the discussion has been formally re-opened, what is the way forward? Some would argue that, if the issue is not bothering you, you should not bring it up. The fact is it does bother those who wish to participate fully in the life of the Jewish community but feel they have to exclude their partners from their worship. This is much more about the scrutiny of others than the personal decision of the individual regarding their sex life. The ancient practice of the *pilegesh*, mentioned earlier by Mark Washofsky, if sanctioned in a modern dispensation would surely have to reflect the gender equality we have come to expect. Fortunately we already have the language for such arrangements as the bible suite.com site tells us, “the term a concubine; also (masculine) a paramour—concubine, paramour” (<http://biblesuite.com/hebrew/6370.htm>). That however does not address the casual or less committed relationship between couples who may have any variety of sexual arrangement. We are not so naïve as to think that there is any way to legislate a way of being that would satisfy all sexual expressions between partners. What we are proposing is that

the dialogue has to continue among communities of adults if this area of Jewish expression is to have personal and communal meaning for congregants.

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