

# A Reform Understanding of *To'eivah*

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In recent years, Jews across the denominational spectrum have invoked the term *to'eivah* (תוֹעֵבָה) in their discussions of human sexuality. Most often, it has been used as a means to categorically reject the possibility that particular sexual behaviors and members of sexual minorities could be acceptable within an authentic Jewish framework. Reform Judaism has taken an inclusive stance toward sexual minorities. In the process, our policies have been interpreted as an indication that we have rendered the category *to'eivah* meaningless and irrelevant in the realm of sexual behavior and values. By adopting the Ad Hoc Committee on Human Sexuality's Reform Jewish Sexual Values at its convention in June 1998, the CCAR has actually done the reverse. We have challenged ourselves to ask what meaning *to'eivah* can have in a Reform context today. This is neither merely an intellectual interest nor a polemical goal. We work daily with people whose lives and families are adversely affected, who believe there is no meaningful place for them in the Jewish community because of their (or a family member's) sexual orientation or gender identity. We owe it to them and to ourselves, as their leaders, to answer this question in a thoughtful and thorough manner.

## *To'eivah* in an Ancient Near Eastern Context

In the Hebrew Bible *to'eivah* is a categorical description of behaviors. The most widely recognized application of this category in the Bible is to "whatever is ritually or ethically loathsome and repugnant to God and men," or to an "offensive violation of established custom..."<sup>1</sup> Such a category has antecedents in other Ancient Near Eastern cultures. In fact, William Hallo posits that there are functional equivalents in Sumerian and Akkadian.<sup>2</sup> The range of activities discussed in Sumerian and Akkadian texts is extremely broad.

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Summing up the cuneiform evidence, it may be said in general that the divine distaste expressed in this genre of sayings seems, in Sumerian texts of the second millennium, to be reserved for infractions against ethical or behavioral norms, while in Akkadian texts of the first millennium it is extended as well to normally legitimate activities which happen to be conducted on an unacceptable day.<sup>3</sup>

Of particular note here is the possibility for an activity to be categorized as *to'eivah* by some groups and not others, as well as at certain times or under certain situations and not others. Thus a single activity can move in and out of the category depending on circumstances.

### *To'eivah* in the Bible

The root תעב is used over 100 times in the Bible.<sup>4</sup> It appears most frequently in Deuteronomy, Proverbs, and Ezekiel, with its most common form being *to'eivah*. Its semantic range includes "...offensive violation of established custom; foods prohibited as unclean; imperfect sacrifices; magic and divination; moral and ethical faults; reversal of the natural; idolatrous practices; idols."<sup>5</sup>

Its most common translations are "abomination" or "abhorred." According to the BDB the root itself means "erroneous."<sup>6</sup> Of particular note here is that these three translations or meanings are rarely understood as synonyms in English. Something can be an error without being categorized as morally or ethically offensive. Moreover not everything that is erroneous evokes a strong, negative, visceral response akin to abhorrence.

Interestingly, the range of synonyms that appear in Hebrew underscore the emotional and visceral responses that such erroneous behaviors evoke. They include: געל and זרה, both of which mean abhorred or loathed; נאס, rejected; פגל, foul (such as refuse) or soft (as in flaccid); שקצ, detested. These responses can be roused by any variety of stimuli. Yet, in the biblical texts in which they are paired with *to'eivah*, they focus attention upon the emotional and visceral range of meaning of *to'eivah*. The noun serves as a visceral label. The verb תעב is denominative and means to label something *to'eivah*. The polar opposite, *kadosh*, also describes a visceral response. The terms themselves have no inherent content; they are categories whose contents are to be determined. Specific things and behaviors can be placed into these categories.<sup>7</sup>

The activities the Bible describes as *to'eivah* fall into a number of broad categories. Aspects of eating can be described as *to'eivah*—eating certain foods (Deut 14:3) and eating with certain people (Gen 43:32). Certain sexual relations are *to'eivah*, such as lying with a man as with a woman (Lev 18:22; 20:13); remarrying an ex-wife if she has been married in the interim (Deut 24:4); and taking a son's wives—broadly speaking, sleeping with unavailable women (Ezek 22:11). Engaging in idolatry is *to'eivah*, with primary examples being: bringing images of their gods into one's home (Deut 7:25–26); following other gods when you enter into the Land (Deut 13:15–16); and choosing a false god (Isa 41:24; 44:19). Engaging in unethical activities such as robbery (Ezek 18:12), shedding blood—living by the sword (Ezek 33:26), rendering an unfair judgment (Lev 19:15) is *to'eivah*. Mistreating others because of a disrespectful attitude is *to'eivah*, including being greedy for personal gain (Jer 6:13–15; 8:12) and failing to support the needy due to haughtiness (Ezek 16:50). Misleading others so that they will interact with you as they would otherwise not normally do—such as by wearing clothes associated with the opposite sex (Deut 22:5)—is *to'eivah*. Finally, engaging in an empty ritual or doing something without the proper intent, such as using incense as part of an empty ritual (Isa 1:13), or praying after turning a deaf ear to instruction (Prov 28:9), or being wicked and still offering a sacrifice (Prov 21:27) is *to'eivah*.

In fact, the majority of the above-mentioned activities can be aptly characterized as erroneous. Either one is acting in a way that demonstrates an error in understanding or in adhering to local custom, or one is erroneously identifying a food as unclean when it is clean, or erroneously believing magic and divination have power, or behaving in morally or ethically erroneous ways, or erroneously believing he/she can alter nature, or erroneously attempting to engage the divine through idolatrous practices or through the worship of idols.

Of these, some are described as *to'evot Adonai*, while the majority are described as just *to'eivah*, with no explicit mention of the deity. The claim that something is *to'eivah* for a particular deity is not peculiar to the ancient Israelites. A Phoenician grave inscription of King Tibnit of Sidon, late sixth century BCE, warns against disturbing his sarcophagus as a *to'abat Ashtart*.<sup>8</sup> In the former category are activities of two kinds, those clearly associated with idolatry and those connected with falsehoods. In the category of *to'evot Adonai* are bringing images of others' gods into one's home (Deut 7:25–26); offering blemished animals (Deut 18:1); following the cultic prac-

tices of other peoples (Deut 29–31); engaging in child sacrifice or engaging sorcerers, diviners, necromancers, etc. (Deut 18:9–12); offering a cult prostitute’s pay in the Temple (Deut 23:18); making a sculptured or molten image (Deut 27:15); making a sacrifice when one is a wicked person (Prov 15:8).<sup>9</sup>

It is the activities of deception in the category *to'eivat Adonai* that give rise to the most diverse examples. The activities of deception that are *to'eivat Adonai* are: if you are a woman, putting on men’s apparel (Deut 22:5); employing false weights and measures (Deut 25:13–16, Prov 11:1; 20:10,23); having a crooked mind (Prov 11:20); lying in speech (Prov 12:22); thinking evil thoughts (Prov 15:26); being haughty (Prov 16:5); acquitting the guilty and convicting the innocent (Prov 17:15). And people who are understood to be devious or deceptive by nature are themselves consistently deemed *to'eivat Adonai*, as are their actions (Prov 3:32; 15:9).

Interestingly, an antonym for *to'eivat Adonai* that appears in Proverbs is *r'tzono* (רְצוֹנוֹ), in accordance with God’s will or pleasing to God (Prov 11:1,20: false scales are an abomination to Adonai; an honest weight pleases God). And the antithesis of the one who acts deceptively or deviously is either a *tzadik*, righteous person (Prov 15:9: Those of stubborn heart/crooked men are an abomination to Adonai, but those whose way is blameless please God) or a *m'radef tz'dakah* (מְרַדֵּף צְדָקָה), seeker of righteousness (Prov 15:8,9).

The remainder of actions, including all the sexual activities, categorized as *to'eivah*, are not *to'eivat Adonai*. They are clearly seen as erroneous activities. They break social norms and may evoke strong visceral and emotional responses. But linguistically such responses are not ascribed to God. Moreover, the determination that they belong in this category is not seen as divine. Some, based on their position in the text, seem to be activities associated with foreign cultures and peoples. In a world in which lands, peoples, and cultures were associated with specific gods, these activities were associated with these gods as well. The semantic range for the word most often rendered as foreign, *zarah* (זָרָה), includes loathsome, strange, and foreign.

### Foreign Worship Practices

*Avodah zarah*,<sup>10</sup> literally foreign or strange worship, is synonymous with idolatry. The Bible clearly rejects a number of activities as activities of foreign groups: Egyptians and Canaanites (Lev 18:3):

כְּמַעֲשֵׂה אֶרֶץ-מִצְרַיִם...וְכַמַּעֲשֵׂה אֶרֶץ-כְּנָעַן  
*kima'asei eretz mitzraim...uchima'asei eretz kina'an*

The label “foreign” is not merely descriptive; it is pejorative. Among the foreign cultic practices deemed objectionable by the biblical writers is engaging with male or female prostitutes in heterosexual or homosexual intercourse. In fact, the majority of sexual prohibitions mentioned in Leviticus 18 follow the admonition against engaging in activities of foreign cultures.

Perhaps, like some of the other activities that are in this category, these sexual activities can be understood as doing something with the wrong attitude or with improper intent. Engaging in these activities could be understood by others, as well as by the people themselves, as worshipping the gods of these other lands and peoples. They could be understood as turning away from the practices of one’s own people and one’s own god. Perhaps they were also understood as expressions of greed or haughtiness in relation to other human beings and before God. In a world in which women were recognized as part of a specific man’s domain and holdings, women were sexually off-limits to all other men. In a world in which free men were seen as subjects, not objects, a male having sex with another male was tantamount to treating that male as a sexual object, a woman; it was an act of oppression or degradation.<sup>11</sup> Having sex with another man’s woman or with another man could have been understood as adopting an unacceptable attitude or giving in to one’s own greed or sense of self-importance, thus diminishing the worth of another human being or his property. A parallel is drawn between illicit sexual relations and *avodah zarah*.

### Some Post-Biblical, Pre-Modern Considerations<sup>12</sup>

Discussions about *to'eivah* appear in a wide range of post-biblical Jewish writings: midrashic collections, biblical commentaries, and legal codes. They raise numerous concerns including: the term’s meaning, the term’s relevance in a post-biblical society, and appropriate societal responses to those who engage in what is deemed *to'eivah*. The following paragraphs will highlight and illustrate some of the issues contained in these texts as they, too, contribute to our reexamination of this category.

*The Difference Between “laying” and “lying” and the Implications of Intent and Consent:*

A text in Sifra to Leviticus (Qedoshim, Perek 10) clearly distinguishes between “laying” and “lying.” It also raises concerns about culpability and punishment and their relation to intentionality.

ששתי משכבות באשה<sup>13</sup> There are two ways of laying a woman (vaginal and anal). R. Ishmael says behold this comes to teach and a teaching is also derived surely they shall be put to death by stoning. You say stoning or by one of the deaths prescribed by Torah. Scripture teaches their blood is upon them. And later it says their blood is upon them. Just as דמיהם (*d'meiheem*), their blood, meant stoning before then it means the same here.

עונש—we have derived. Where is the warning? Scripture teaches, ואת זכר לא תשכב משכבי אשה (Lev 18:22) I only have a warning against laying.

Whence is the prohibition against being laid?

Scripture teaches לא יהיה קדש בבני ישראל (Deut 23:18) and it also teaches וגם קדש היה בארץ (1Kings 14:24).

And R. Akiva says: ואת זכר לא תשכב read as lain with.

R. Chanina b. Idi says: משכב זכר והבהמה (laying or lying with a male or a beast) were within the same category as all the עריות and behold Scripture pulls them out and calls them תועבה (*to'eivah*), as these are עריות (arayot), sexual offenses, for which one is liable, when זדון (*zadon*), intentional, to be כרת (*kareit*), cut off and if שגגה (*shgagah*), unintentional, one makes a sin offering, and for which Canaanites were exiled, so it is with all of the עריות (*arayot*).<sup>14</sup>

A clear distinction is drawn between initiating sexual contact, “laying,” and being the object of another’s sexual advances, “being laid.” Moreover, if one is “laid,” then a secondary issue must be considered in order to determine a just punishment. Were both parties acting willfully and willingly? Even when involved in proscribed sexual activity, one receives a far less severe punishment if he has done so unwillingly, by being forced.

Ibn Ezra focuses his attention on the phraseology of Lev 20:13, which states, “A man who lies with a male as one lies with a woman, the two of them have committed [an act that is] *to'eivah*.” For Ibn Ezra the two can be accused of committing a *to'eivah* only if there was consent. Otherwise, only the one who has forced the other to engage in sex has committed a *to'eivah*. Ibn Ezra uses the same variables of consent and force to determine if someone is to be punished for the

act of revealing a woman's bloodflow, discussed five verses later in Lev 20:18. There he states that the meaning of the phrase *v'hi gilta* (וְהִיא גִלְתָּהּ) means "willingly," because if she were forced, only he would be cut off.

*The Fluidity of that which is Deemed To'eivah:*

Rashi, commenting on Deut 14:3, considers the impact of personal and group perception and the contents of the category *to'eivah*. He focuses on the restrictive application of the term *to'eivah*, writing, "Anything that I have declared to be an abomination to you (which in itself may not be an abominable thing)."

Silberman, elucidating Rashi's comments, explains:

the term *to'eivah* is a comparative one, for what one person regards as an abomination, another may deem to be perfectly agreeable...For this reason Scripture frequently states that a certain action or person is *to'eivat Adonai*, an abomination unto the Lord. This is the meaning here...Every act that God has forbidden us to do, He has by virtue of that prohibition declared to be abominable,  
...<sup>15</sup>

From this we are reminded that we all react differently to the same stimuli. What we view as erroneous or objectionable or abhorrent may not be viewed as such by others. Also, what we choose to do or not to do reflects our own values and our own sense of what constitutes an error in judgment or an error in action.

The earliest strata of Jewish legal writings accepted polygamy and two major types of non-marital intercourse: with a concubine or with a maidservant.<sup>16</sup> Each woman was seen as having a clearly understood relation to the man with whom she was having sexual relations. The concubine did not have a written agreement (*ketubah*) nor did she celebrate *kiddushin*, but her children could be acknowledged as legitimate offspring. A concubine became the exclusive sexual partner of a man with whom a verbal agreement was made. That agreement could have certain conditions attached to it. For example, the agreement could include information about frequency (from one time to on-going until asked to leave) or location (if she would live among the members of a man's household or separately). A maidservant, in contrast, was merely property, available for her owner to use as he saw fit, with the offspring joining the ranks of his acquisitions. These extra-marital relations were understood in context as having clear intent and parameters. Neither was consid-

ered *to'eivah* and both were considered distinct from prostitution, which was categorized as *to'eivah*, a form of idolatry.

Polygamy and concubinage remained part of the social and cultural landscape of Sephardic and eastern Jewish communities well into the modern period. The rabbis of Ashkenaz generally rejected the notions that in a post-biblical context these extra-marital liaisons existed or that they could be acceptable. And with the eleventh-century *takannah* of Rabbenu Gershom legislating against polygamy, in stark contrast to the Bible and even earlier post-biblical Jewish communities, all sexual relations outside of a monogamous marriage were deemed unacceptable within the communities of Ashkenaz.

However, the eighteenth-century Ashkenzi rabbi, Jacob Emden, wrote an unusual responsum in which he deemed permissible certain non-marital sexual relations. He posited that marriage was not required and that one could fulfill the *mitzvah* of being fruitful and multiplying with a concubine if he has not found a woman to marry him or if his wife has not given birth to his children and he cannot divorce her. He also wrote that during the periods Jewish law prohibited sexual relations with one's wife (during *niddah* and post-partum) it was permissible for one to turn to a concubine. The intent of these non-marital sexual relations was to satisfy a man's sexual needs and both he and the concubine, and ostensibly the wife, understood this.<sup>17</sup> In deciding these cases, the rabbis were concerned with the intent behind one's choice to engage in sexual activity. For some, the only permissible intent was to fulfill the *mitzvot* associated with marriage, within the context of monogamous marriage. For others, non-marital sexual partners were permitted if the intent and parameters of the relationship were clearly understood. A man's intention to satisfy his sexual needs or his desire to fulfill the *mitzvah* of having progeny could result in his having sexual partners who were not his legal wife. In all cases, both parties engaging in sexual relations understood the nature of the relationship—what they could expect from the liaison for themselves and their potential offspring.

*Intent and Its Consequences:*

Bar Kappara (BT, Ned. 51a) played with the word *to'eivah*, offering a creative etymology of the word. He divided it into the words *to'eh* and *va* (תוֹעֵה וָ), concluding that a *to'eivah* is something that leads

one to err through it. This rendering of *to'eivah* found resonance in later generations as well. Rashi's discussions of intent as it relates to *to'eivah* seem to reflect Bar Kappara's perspective. As Rashi's comments on Deut 22:5 underscore, to lead another to make an error in judgment or to act in error is also *to'eivah*. Of a woman's wearing male apparel or a man wearing female apparel, Rashi writes:

...so that she look like a man, in order to consort with men, for this [a man in woman's clothes] can only be for the purpose of adultery *ni'uf* (נִאֲוָה), unchastity (Siphre; Nazir 59a), in order to go and stay *unnoticed* amongst women. Another explanation of the second part of the text is: it implies that a man should not remove by a depilatory the hair of the genitals and the hair beneath the arm pit (Nazir 59a) *ki to'eivah hi*, because it is *to'eivah*. This implies that the Torah forbids only the wearing of garb that leads to abomination, unchastity (Siphre).

Sifre, comments in a similar vein:

*kli gever* (כְּלֵי גִבּוֹר) clothing of a man: A woman shall not wear that which pertains to a man. What does the text come to teach us? That a woman will not wear white garments and the man isn't covered in colors. [Rather] the text teaches "*to'eivah*," a thing that brings one to "*to'eivah*," this is the general category of the thing: A woman shouldn't dress in a manner that a man dresses and go among men and a man should not adorn himself with women's jewelry and go among women. R. Eliezer b. Jacob says: Whence do we know a woman shouldn't wear armor/arms and go to war? Text says: A man's garment shouldn't be on a woman and the man will not adorn himself with women's jewelry. Text says: And a man shall not wear a woman's dress.<sup>18</sup>

How different this is from a general prohibition concerning all types of clothing! In both references contained in Sifre, the prohibition concerns the external characteristics of the clothing or adornments. Interestingly, it is the adornments (jewelry or armor), not the garment itself, that could ultimately lead someone to misidentify another person's gender and then engage with that person, based on a false assumption, in an activity that could be considered *to'eivah*. To choose to wear something that you know can lead another astray is an act of will with malevolent intent.

*Proper Intent and Attitude:*

In the Tosefta, the range of activities mentioned repeatedly in Proverbs and the semantic range that highlights improper attitudes toward others become the focus.<sup>19</sup>

The people of Sodom said because food comes forth from our land and silver and gold come forth from our land and precious stones and pearls come forth from our land, we do not need people to come to us—they only come to diminish us. We will arise and forget the [Neusner: how things are usually done] [Jastrow 449: law for the protection of travellers/traders]. God says to them, By means of *The good I've caused for you, you have forgotten*, how things are usually done/the law protecting travellers. I will make you be forgotten from the world.

What does it mean נַחַל פְּרִיץ? Job 28:4: He breaks open a water-course in a place far from inhabitants, forgotten by foot travellers.

What does it mean לְפִיד בּוֹז?

Job 12:5 Contempt is ready in the thought of him that is at ease, for those that are ruined, that slip with their feet.

What does it mean וְיִשְׁלִי אֹהֲלֵי־ם?

Job 12:6 The tents of robbers prosper, and they who provoke God are secure; they who bring their God in hand.

Thus he says, As I live, declares God, אֶחֱזֶקְךָ עֲשֵׂתָהּ קְרוֹם אֶחֱזֶקְךָ Ezek 16:48ff.

Behold this is the sin of Sodom נָאוֹן שִׁבְעַת לְחָם לְהֵם pride and surfeit of food, arrogance, prosperous ease, complacency...never helped the poor and needy; they were proud and engaged in *to'eivah* in front of me. That is why I have "swept them away" when I saw it.<sup>20</sup>

There is both inner-biblical exegesis and rabbinic support that the sin of Sodom was not homosexual sexual activity. It was the haughtiness and pride, the greed and arrogance of the people of Sodom that led them to treat others poorly, to be inhospitable and to cut themselves off from others.

### **A Reform Understanding of *To'eivah***

So, what meaning might the category *to'eivah* have for us as Reform Jews? And more specifically, how might we understand it in relation to our lives as sexual beings? As Reform Jews, in accordance with the Reform Jewish Sexual Values adopted by the CCAR, we seek to elevate our sexual behavior from its most bestial level, to set ourselves apart and act in a holy manner. We affirm that "Our sexu-

ality and sexual expression are integral and powerful elements in the potential wholeness of human beings.... Each Jew should seek to conduct his/her sexual life in a manner that elicits the intrinsic holiness within the person and the relationship."

In his paper, "Towards a Taxonomy for Reform Jews to Evaluate Sexual Behaviors," Jonathan A. Stein<sup>21</sup> suggested that we think about our sexual behaviors via categories. He saw the category *to'eivah*, abhorrent, as an operative category for contemporary liberal Jewish sensibilities, when considered in relation to the Reform Jewish Sexual Values. In that context, this category would consist of the most unacceptable behaviors involving sex. In the Ad Hoc Committee on Human Sexuality's early discussions a suggestion was made that a breach of all of the Sexual Values including those that involve abuse, violence, and coercion would be included in this category. In his paper, Rabbi Stein added the phrase "or which violate[s] certain historic Jewish and human societal norms." But Rashi's incisive observation that what is acceptable to one may be abhorrent to another is still valid today. Personal, visceral, and emotional responses to certain activities will vary. Using them as criteria is, at best, limited and, at worst, faulty. Moreover, many sexual and relational expressions long viewed as violating "certain historic Jewish and human societal norms" are no longer viewed as such. Therefore, we must acknowledge that in the area of human sexuality, activities and interactions that were once understood to be natural for all human beings or divinely ordained, such as heterosexuality, are no longer automatically accepted as such.

Our circumstances and knowledge, our range of experience, are all radically different from those expressed in the Bible and, much like Emden, we must determine for ourselves what their contemporary meaning is for us. Two clear contemporary examples of Reform Judaism's rejection of long-held Jewish societal norms are our acceptance of ex-spouses remarrying each other, even if they've been married to others in the interim, and our acceptance of adult consensual sex between members of the same gender. Conversely, today we do object to adults engaging in sexual activity with minors, a practice tolerated in biblical and post-biblical Jewish texts. Human beings have always had a wide range of behaviors to express their sexual desires and needs. Other more concrete criteria than that which "violate[s] certain historic Jewish and human societal norms" will better serve us as guides as we explore the range of meaning that *to'eivah* can have for us as Reform Jews.

According to the Reform Jewish Sexual Values there are ten values that comprise a holy relationship:

1. *B'tzelem Elohim*
2. *Emet*
3. *Briyut*
4. *Mishpat*
5. *Mishpachah*
6. *Tz'niyut*
7. *Brit*
8. *Simchah*
9. *Ahavah*
10. *K'dushah*

It is interesting to note that the breaches that comprised traditional understandings of *to'eivah*, by analogy and through interpretation, were deemed objectionable precisely because they did not embody some of these values. The concerns expressed in Prophets and in Deuteronomy and reiterated in Tosefta about greed and haughtiness interfering with one's ability to respond to the needy, or causing one to put personal gain over other considerations are relevant in the realm of sexual behavior as well. As Reform Jews we affirm that sexual intimacy should be mutually expressive for those involved. To not consider the needs of a sexual partner, to engage in sexual behavior solely to satisfy one's own needs or to enhance one's position—personally, economically, professionally, or as a means to assert one's power over another—would be to fail to recognize the partner as created *b'tzelem elohim*, in the image of God. At such times, the intent, the parameters, and the potential outcomes for both parties are not clear. All these, it can be argued, lack an intent that affirms the Reform Sexual Values. They may, in fact, be considered *to'eivah* because they lead one to err or *to'eh vah*.

According to traditional sources and commentaries, to deceive another, through dress or by false weights and measures, is to commit an act that is *to'eivah*. As the Sifre teaches, to claim to be someone other than who you are in order to engage in sexual activity is, at the very least, improper. To do so would be a failure of *emet*, truth. Particularly egregious are willful lies related to one's marital status, age, or health status (*vis-à-vis* STD's and HIV). They deny a prospective partner the possibility of making an informed decision. Such activities may be *to'eivah*.

According to traditional sources on *to'eivah*, the antithesis of acting deceptively is to be a *m'radef tz'dakah*, a seeker of righteousness or justice. To be a *m'radef tz'dakah*, according to the Reform Jewish Sexual Values, is "to reach out and care for others, to treat all of those created in the image of God with respect and dignity, to strive to create equality and justice wherever people are treated unfairly." All activities that exploit a power or age differential or in anyway compromise the dignity and equality of another are a failure of *mishpat*, justice; such activities may be *to'eivah*.

Ideally, all our sexual relationships should be founded on a *brit*, covenant. They should be undergirded by mutual esteem, trust, and faithfulness. Moreover, a *brit* delineates the roles and responsibilities of the parties who enter into it. As Emden's responsum underscores, no matter the nature of a sexual relationship (marital or non-marital), it is essential to clarify each partner's relationship to the other and the expectations of each, thus defining the terms of the *brit*, as it were. A failure to abide by those roles and responsibilities represents a breach of trust and faith, a breach of the *brit*. Children believe adults care about their safety and well-being. Spouses believe the same about a partner to whom they have made a loving commitment. Endangering physical or emotional well-being and safety, particularly in the sexual arena, is a breach of trust, a failure to uphold a *brit*. Acts that breach both values, *brit* and *mishpat*, such as child molestation, incest, spousal rape and abuse are *to'eivah*.

We should also consider a number of other variables. As Ibn Ezra and the text from Sifre advise, we must ask if the people involved are acting with intent/willfully or if there has been coercion. Is one person leading another to believe that there is one intent while there is actually another? Sexual behaviors that fail to respect the inherent holiness and dignity of a sexual partner, that are built on lies and falsehoods with the express intent of leading someone to act in a way she/he would otherwise avoid, that exploit power differentials, mistreat or abuse others, and that violate another person's sense of trust, faith, or boundaries may be considered *to'eivah*.

If such falsehoods lead someone to do something that he/she feels is unethical or morally objectionable, it might be considered *to'eivah*. As the Center for the Prevention of Sexual and Domestic Violence has taught, the violation is determined by the victim, not the perpetrator. Only the person experiencing a sense of violation knows it. We all have different things that make us uncomfortable, each of us has the right and the obligation to communicate when

something is uncomfortable, and each of us has the right for such a communication to be heard and heeded.

Moreover, to act with force is to commit a *to'eivah*. In accordance with Ibn Ezra's methodology, the victim is not to be held responsible, only the perpetrator. A gray area, based on Ibn Ezra's insights and the Reform Jewish Sexual Values, is consensual sadomasochistic or bondage and domination sexual practices. There are those who would argue that both parties who engage in these behaviors suffer from some sort of pathological disturbance. Others argue that the range of healthy consensual sexual activity in which adults engage is exceedingly broad, and that as long as it is truly consensual it should not be disparaged or rejected by those who do not engage in such practices themselves.

To exploit an age or power differential is *to'eivah*. Therefore, child molestation, engaging in sex with a minor, sexual harassment, and engaging in sex with a subordinate at work are all *to'eivah*. Physically or emotionally abusing another while engaging in sexual acts, or through references to sexuality is *to'eivah*. Rape, though often thought of as sexual, is widely recognized as an act of violence that involves sexual organs. It is a violent assault perpetrated to assert power over or humiliate another. As violence, as a desecration of the sanctity of another human being, as a blatant disregard for honesty and mutuality, it is *to'eivah*.

### Conclusion

As Reform Jews, we take our sexual lives seriously and seek to have our values reflected in our sexual behaviors and sexual relations. By deepening our understanding of the meaning *to'eivah* can have for us as liberal Jews, we can take greater responsibility for the choices we make and help our congregants do the same. For us, as clergy, enhanced knowledge and sensitivity will redound in our counseling and teaching practices. It will make our welcome more genuine, enabling those who have felt disenfranchised or marginalized to find a place for themselves within the Jewish community. It will also help us clarify the limits that we do recognize in the sphere of sexual expression, and identify the values upon which they are based in a clear and cogent manner.

Notes

1. *The Interpreter's Dictionary of the Bible*, George Buttrick, ed. (New York: Abingdon Press, 1962), pp. 12–13.
2. William H. Hallo, "Biblical Abominations and Sumerian Taboos," *JQR* 86/1 (1985): 21–40.
3. *Ibid.*, p. 33.
4. (1980 vol. 4, אבן-שושן, אברהם, קונקורדנציה חדשה (ירושלים: קריית ספר, 1980), p. 13.
5. *The Interpreter's Dictionary of the Bible*, p. 13.
6. *A Hebrew and English Lexicon of the Old Testament*, Brown, Driver, Briggs, eds. (Oxford: Oxford University Press, 1951), p. 1072.
7. My thanks to Dr. S. David Sperling for his assistance and insights on these matters.
8. Hallo, *op. cit.*, p. 34.
9. Note that all but one of these references appear in Deuteronomy.
10. Although biblically based, this is a rabbinic term.
11. In the Middle Assyrian laws, ca. 1076 BCE (law 20), a convicted sodomizer is himself sodomized and then castrated. M. Roth, *Law Collections from Mesopotamia and Asia Minor* (Atlanta, 1995), p. 160. In Apuleis' *Golden Ass* there is a story about an adulterer who is punished by being penetrated by the offended husband.
12. My thanks to Drs. Alyssa Gray and Sharon Koren for their assistance and input on this section.
13. The highlighted phrases from the Sifra text are intentionally left untranslated precisely because the discussion is an attempt to clarify their meaning.
14. Sifra to Leviticus, Qedoshim pereg 10, verse 11 (ed. Yequtiel Yehudah Waldman).
15. A. M. Silberman., *Chumash with Rashi's Commentary* (Jerusalem: Feldheim, 1934), volume 5, p. 204.
16. Louis Epstein, *Marriage Laws in the Bible and Talmud*. Harvard Semitic Series 12 (Cambridge, Mass., 1942).
17. *She'elot U'tshuvot*, She'ilat Yavetz, vol. 2, no. 15 (New York: Gross, 1961).
18. *Piska Devarim* 226.
19. The Hebrew phrases that are highlighted remain untranslated because the Tosefta discussion is an attempt to elucidate their meanings.
20. Lieberman, *Tosefta Sotah*, Perek 3, Halachah 12.
21. Jonathan A. Stein, "A Taxonomy for Reform Jews to Evaluate Sexual Behaviors," *CCAR Journal* (Fall 2001), pp. 25–33.