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# **The Old Testament and homosexuality**

## **What is God doing?**

The ELCA Conference of Bishops, meeting in retreat March 2, heard two papers examining what the Bible says about homosexual behavior. They were presented by Terence E. Fretheim, professor of Old Testament, Luther Seminary, St. Paul, Minn., and Walter F. Taylor Jr., professor of New Testament studies, Trinity Lutheran Seminary, Columbus, Ohio.

Here's the response from Terence E. Fretheim.

I have been asked to focus on Old Testament texts that pertain to homosexuality, or more accurately, homosexual practice, for the biblical writers were not familiar with several dimensions of this subject that have surfaced in more recent times, including orientation and committed relationships. The words "homosexuality" and "homosexual" when used of Old Testament texts are anachronistic. This difference in experience does not mean that we cannot use these texts in helpful ways today, but the move from that world to our own is no simple task. I recognize, of course, that the Old Testament cannot finally stand by itself, nor can the Bible for that matter, but how we deal with the Old Testament dimension of the scriptural witness will be important as we seek to move the discussion forward. I should note that the literature on this topic has exploded over the last decade in particular (several resources are cited within this article and at the end); at the same time, new insights into these texts seem few and far between as the same cards are shuffled and reshuffled.

It is generally agreed that the Old Testament contains only four explicit texts regarding homosexual behaviors — Genesis 19; Lev 18:22; 20:13; Judges 19 (five texts in the Roman Catholic/Orthodox Old Testament, including Wisdom 14:26) — though certainly the creation texts of the Bible (in Genesis and elsewhere) must be added to the list. In any thoroughgoing treatment, still other passages would have to be considered. For example, were one to consider the issue from the perspective of an oppressed minority, many other Old Testament texts would pertain; in that move alone, the four or five specific texts would grow to over six hundred, and that fact needs to be remembered.

With the possible, but unlikely exception of David and Jonathan, the Old Testament says nothing positive about this subject. At the same time, the Old Testament does not present a sustained argument on the issue or give it special attention. That the prophets, who find sins under every rock in Israel and denounce several forms of heterosexual sexual activity, never mention homosexual behaviors, is not unimportant. This reticence certainly implies that the matter was not a priority for Israel, but the point should not be overplayed.

Speaking generally, I think disagreements over this issue in the ELCA do not usually entail an argument about the authority of Scripture per se. Rather, the issue is the authority of specific

interpretations of biblical texts and how we might learn to adjudicate among differing interpretations of the relevant texts and the authority we give them. What a text says does not yet tell us what it teaches; the latter happens only when the text is interpreted from some angle of vision, which in turn is always informed by understandings and experiences we bring to the text. All of us are challenged to acknowledge that some dimensions of who we are — for example, our feelings, thoughts, and actions about homosexuality — are present in everything we say about a text, including everything I say in this article. All of us need to ask how these feelings, thoughts, and actions translate into our interpretation of the biblical texts, for they inevitably will.

But, not only are readers culturally conditioned, so are the texts. At the same time, we must be careful with arguments that appeal to the culturally conditioned character of texts when assessing their continuing value; every biblical text is culturally conditioned, and so other arguments will have to be drawn upon, lest we lose everything. The fact that the Old Testament does not understand homosexuality in a way we do today is important to recognize. Yet, while distinctions are to be made between then and now, this issue is more than a "that was then, this is now" matter.

In framing the issues, we need to keep the question of God in the forefront of the conversation: What is God up to with regard to this matter, then and now? Certainly we would want to claim a basic consistency in God's actions across the millennia and that God's most basic will for our embodied lives has remained constant. That enduring divine will as evident, for example, in God's giving of the law has been and continues to be, to paraphrase Deuteronomy 5:33: to serve the life, health, and general well-being of individuals and communities.

At the same time, the Old Testament testifies that God, in order to be constant with respect to that divine will for the world, has had to adjust ways and means in view of new times and places. For example, we will see below that God revises God's own laws. Certainly any history of God's actions would reveal that God has acted in surprising ways, upsetting human expectations, the most fundamental example of which is the incarnation itself. At stake in this issue may well be the freedom of God to make such new moves (though that would always entail divine freedom from within God's committed relationship to the world). The issues at stake are: whether and how a specific law or text continues to serve that most basic will of God, whether God has a new word in the service of that will, and the criteria we use to determine that. In seeking to discern what God might be up to, we will need help from every conceivable quarter, not just the biblical witness. I now look at the pertinent texts.

### Creation Texts

The biblical creation stories take heterosexuality for granted. Genesis 2:24 is illustrative: "Therefore a man leaves his father and mother and clings to his wife, and they become one flesh." Homosexual relations are not envisaged in these texts. It has been claimed that the Leviticus texts prohibiting homosexual behaviors were formulated in view of the creation texts, though they make no direct appeal to them. Whatever the case may be, matters of creation and law do need to be kept together (see below).

The heterosexual assumption of the creation texts is commonly thought to put an end to this conversation. Any other types of sexual relationships are thought to be "unnatural," against the will of God in creation, the result of the fall into sin, and/or a threat to God's established order. It seems to me, however, that these creation texts actually push us in a different direction.

Two of the most important things to be said about the creation accounts relative to this issue are these: (1) The creation is not presented as a finished product; rather, there is a certain open-endedness in the created order that leaves room for further developments. (2) God is not the only subject of creating activity; rather, God involves already created beings in further acts of creating and in the ongoing process of creational development.

There are several texts that support such understandings: (1) *The Becoming of the Creation*. At least since Augustine it has been noted that the absence of a seventh day formula in Genesis 2:1-3 ("and there was evening and there was morning") leaves the future open-ended for further creative activity. This continuing creative task is not simply taken up by God (e.g., Psalms 104:30), but is also given over to human beings and other creatures (see below). Even more, God gives the command to the human beings to "subdue the earth" (Genesis 1:28); such a command means that God's evaluation of the creation as "good" does not carry the sense of "perfect." For human beings to subdue the earth means that, in time, creation would look other than the way it did on the seventh day. Somewhat ironically, God gives human beings this "natural law" so that the created order would not remain the same. And, in fact, we know that the created order has changed through the millennia. For the created order to have remained fixed just as God originally created it would be a failure of the divine design! Development and change are what God intends for the created order. God creates a paradise for sure, but that garden is not a static place. Genesis 1-2 presents readers with a highly dynamic situation in which the future is open to a number of possibilities and in which creaturely activity is crucial for the proper becoming of the creation. This brings us to our second point.

(2) *God Involves Creatures in the Creative Process*. Genesis 1-2 do not present God's creating as a unilateral act. Rather, God at times speaks with that which has already been created and involves them in still further creative activity. For example, in Genesis 1:11 God says, "Let the earth bring forth ... and the earth brought forth" (similarly in 1:20, 24). Creatures themselves are involved in further creations at God's behest.

Moreover, in Genesis 1:26 God is imaged as one who shares the creative process with that which is not God; the "us" is usually identified with the divine council (see, e.g., Jeremiah 23:18-22). The "let us make" signals to the reader that a relationship of mutuality exists within the divine realm; when human beings are created in the image of this kind of God, this implicitly entails a sharing of the creative process with them as well. The texts that follow report this kind of human involvement.

Initially, God's sharing of power with the human takes the form of a command, "Be fruitful and multiply" (Genesis 1:28). Together with the command to "have dominion," God thereby chooses not to retain all creative power; according to Psalm 8, such a power-sharing way of working in the world is ongoing. This theme is explicitly developed regarding human beings in Genesis 2:5 (cf. 2:15), where the presence of a human being to till the ground is considered just as

indispensable as the rain for the development of the creation. Human beings are thereby given responsibility for intra-creational development, bringing the world along in ways that are attuned to God's purpose.

This theme is developed still more sharply in Genesis 2:18-25. God here evaluates the creational situation — what does it mean for God to evaluate God's own work? — and announces that it is "not good" that the man should be alone. In the action that follows God invites the human being to participate in the move from a "not good" creation to a "good" creation. God creates the birds and animals and brings them to the human being and invites a response. Notably, the human being does not simply acquiesce to what God initially offers, which in turn sends God back to the drawing board. In other words, the human decision regarding the created order is honored by God and is taken into account in moving into new stages of creaturely development.

To expand on this point, the human being, in the process of determining that the animals would not satisfy the creational need, named the animals. Inasmuch as it was God who did the naming of several creatures in Genesis 1:5-10, this human naming comparably entails a process of discernment regarding the nature of intra-creaturely relationships and hence is a creative act. Remarkably, Genesis 2:19 states: "whatever the human being called every living creature, that was its name." Whatever! Phyllis Trible (p. 93) says it well: God is present "not as the authoritarian controller of events but as the generous delegator of power who even forfeits the right to reverse human decisions .... Without qualification God relinquishes dominion" to the human being. The decision of the man, initially deciding against the animals and then positively for the woman, has shaped the future of the created order in a decisive way. God did "split the Adam," but it was the human decision that led to that divine action.

These various texts suggest a relational model of creation, wherein both God and creatures participate in the becoming of creation. God is not simply independent and the creatures simply dependent; God has chosen to enter into an interdependent creative process. Amid all the order of the creative process — and there is less precision in the order of acts in chapter 1 than at first appears — God builds in a degree of open-endedness and unpredictability and leaves room for genuine creaturely decisions and actions regarding developments in the created order. This is a risky move for God, for it entails the possibility that the creatures will misuse the power they have been given; yet, even when they do, God chooses to exercise constraint and restraint and continues to engage human beings in this process (to which Psalm 8 testifies).

What emerges from these texts is not a static or mechanistic world. To be sure, there are the consistent rhythms of the creation, to which Genesis 8:22 bears witness: seedtime and harvest, cold and heat, summer and winter, day and night. But God has built into the created order a certain openness with respect to its future that waits, not only upon God, but also upon creaturely activity, not least decisions that human beings make. Another way to speak of this topic would be to say that God does not have a final will in place from the beginning regarding the development of every aspect of the created order. God makes adjustments in the divine will for the world in view of God's ongoing interaction with a created order that is still in the process of becoming and in view of God's ultimate purposes for all creatures.

Are not these texts revealing of the contemporary situation? That God does not create a static

world is sharply evident in the actual history of nature. Might not that also be evident in the changing nature of interhuman relationships? We know, for example, that the command to be fruitful and multiply (1:28) — a natural law — need not be fulfilled in order for an individual to be fully a human being. Single persons, by choice or not, are fully human; they are not "unnatural" even though they are not envisaged in the creation account; one thinks of Jeremiah, Paul, and Jesus himself. Moreover, married couples who cannot or will not have children, or who cannot or will not have sexual intercourse, are not less than human and, for those who choose, the adoption of children can be a good thing. In addition, the command to "fill the earth" (1:28) — a natural law — certainly needs to be rethought in view of developments in population growth over the last century or so.

Given these and other points of openness in creational developments, in which human beings are called to participate, it seems to me that developments in same-sex relationships cannot be condemned or declared "against nature" simply by appeal to the creation texts. Human beings have been given continuing responsibility with respect to the ordering of the world, and interhuman relationships have been one of those areas. A fundamental question in this context is whether we can understand changing gender identities and sexual orientations as expressions of this kind of ongoing creative process (see Nissinen). At the least, the Genesis creation texts allow for that possibility without passing judgment.

The understanding of creation in the wisdom literature has a comparable contribution to make regarding this subject, with its own particular twists.

In the God speeches in Job 38-41, God takes Job out into the wilds of the creation. This journey reveals that creation is more complex than either Job or his friends imagined. On the one hand, there are images of a world that is well-ordered, with accompanying themes of care and nurture. On the other hand, you get images of wildness and strangeness — the wildness of sea and weather, the uncertainties of the night, the unusual animals, many of them unclean animals, and Behemoth and Leviathan, Job's own Jurassic park. God's world does not run like a machine; it cannot be reduced to a world so well ordered that there is no room for irregularities or for randomness. As Ecclesiastes 9:11 puts it: "time and chance happen to them all." God's creation is highly complex, wherein diversity reigns supreme, the regular and the unexpected occur, the clear and the ambiguous reside side by side, and the beautiful plays with the bizarre. Would you have created a world that includes both eagles and ostriches? These chapters are God's own imaging of the creation and everything doesn't fit into a nice, neat little schoolroom of nature. After reading these chapters, many considerations of what is "natural" are thrown into a cocked hat. We do, of course, have much to learn about the created order, but recent learnings from the scientific community demonstrate the rightness of Job's vision and reveal a world characterized by greater complexity, more openness, and a genuine interplay of law and chance.

The book of Proverbs teaches us that human observation and human experience are very important in discovering the truth about the world. Discoveries of such truths by any discipline cannot be ignored in our biblical, theological, and ethical considerations. To put this point more broadly, the Bible reflects the knowledge of the world that they had at that time. Increasingly smaller numbers of people in our churches insist that, say, the astronomy of the Bible or its considerations about the age of the world, must be accepted by modern Christians in a precise

way; this point should be recognized as important regarding any truths recoverable by scientific endeavor. Proverbs wisely encourages us to seek the truth about the world from every quarter possible; in other words, we are called to follow its example.

At the same time, books such as Job and Ecclesiastes promote a hermeneutics of suspicion regarding existing ideologies, whether social, scientific, theological, or ethical. Job's friends are legion in every generation and these wisdom books commend a suspicion and even a skepticism regarding reigning perspectives, especially when such views are used, as with Job's friends, to verbally abuse or marginalize the one who speaks forthrightly from a different perspective.

Leviticus 18:22; 20:13 in the Context of Sodom and Gomorrah (Genesis 19)

You shall not lie with a male as with a woman; it is an abomination (Leviticus 18:22)

If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death; their blood is upon them (Leviticus 20:13)

The dominant tradition of both Jewish and Christian communities over the centuries has affirmed the continuing applicability of the law regarding homosexual behavior (18:22), though not the law regarding sanctions (20:13). This tradition has usually considered these texts to be concerned with male/male behaviors by homosexuals; some recent interpretations, however, think it more probable that the texts speak primarily, if not exclusively, of male/male behaviors by heterosexuals. This interpretation would correspond to that of the other sexual laws in Leviticus 18, all of which are concerned with heterosexual behaviors. An important factor in this interpretation is that it links these law texts with the only other type of same-sex activity of which the Old Testament speaks, namely, the stories of Sodom and Gomorrah in Genesis 19 and Gibeah in Judges 19. That is, these stories may explain why the Leviticus laws were formulated in the first place, though they move beyond these stories in speaking in general terms.

A few words about Sodom and Gomorrah help us see the connection. Genesis 19:4 stresses that 100 percent of the males in Sodom demand that Lot bring his two visitors out for sexual abuse. That every male in town was involved certainly means that they were not all homosexuals (or that even a majority of them were). Lot, in offering his betrothed daughters to all the men of Sodom, even thinks they might be satisfied with heterosexual rape (which actually occurs in Judges 19). Genesis 19 is likely a witness to vicious behavior by heterosexuals, the result of which would be gang rape. Parallels to such behaviors by heterosexuals exist in other Ancient Near Eastern literature and are amply evident in modern settings, including our prisons. One rabbinical interpretation puts it this way: the men of Sodom had developed a habit of sexually abusing strangers that came into town to demonstrate who was in charge (see Nissinen). If this kind of violence against strangers is the concern that led to the laws in Leviticus, this would help explain why the sanction — capital punishment — for such behavior in Leviticus 20:13 was so severe. It may also help explain why only male/male behaviors are forbidden in Leviticus 18:22 (same-sex actions by females are never mentioned in these laws, though women are included in Leviticus 18:23).

The story of Sodom and Gomorrah is mentioned some twenty times in the rest of the Bible (more

than any other Genesis text) and only in Jude 7 is the sin explicitly named as sexual, and there it probably has reference to sex with angels, which Lot's visitors were. The sins of Sodom are mentioned most explicitly in Ezekiel 16:49: pride, excess of food, prosperous ease, and not aiding the poor and needy — sins often ignored in this conversation. Jesus interprets the sins of Sodom exclusively in terms of the lack of hospitality (Matthew 10:14-15; Luke 10:12). So, if you are guided by the principle, what would Jesus do? — this interpretation should at least take priority. This understanding conforms to what the Genesis text explicitly states, when Lot replies that these men "have come under the shelter of my roof" (19:8). Some interpreters put down the sin of inhospitality, but hospitality was a virtue greatly prized in Israel and is enshrined in many texts, in both Old Testament and New Testament (see Exodus 22:21; 22:9; Leviticus 19:33-34; Deuteronomy 10:18-19; 16:14; 26:12; Romans 12:13; Hebrews 13:2).

It is not unimportant to note that, though some Jewish works from the intertestamental period do give Sodom's sins a same-sex reference (e.g., the Testaments of the Twelve Patriarchs), the New Testament authors ignore that interpretation.

In this conversation, I am troubled by the remarkable lack of attention given to Lot's offer to give his betrothed daughters over for rape by all the men in the town. Apparently for him male honor is understood to have a higher value than a woman's virginity. In any case, same-sex gang rape by either homosexuals or heterosexuals does not define homosexuality anymore than heterosexual gang rape defines heterosexuality.

#### Leviticus 18:22 and 20:13 in the Context of Israel's Law

I interweave three concerns in what follows, namely, the specifics of the law regarding homosexual behavior, the concerns that undergird that law, and the Old Testament understanding of law more generally. If the above-mentioned interpretation of these laws as directed against heterosexual behaviors is correct, then the following discussion becomes less important. Inasmuch as many readers may continue to interpret these laws in general terms with reference to behavior by homosexuals, the following considerations remain important.

The Leviticus texts are a part of the so-called Holiness Code, chapters 17-26; generally speaking, its laws are also called purity laws and associated with the distinction between clean and unclean. Some interpreters, generalizing from the New Testament abrogation of some purity laws (see Acts 10:9-29), have claimed that these kinds of laws have been set aside for Christians. But, this direction for reflection and action is not helpful, not least because incest, adultery, bestiality, and idolatry are included among these very laws. I would also claim that the distinction between clean and unclean is not to be set aside either, though the kinds of distinctions Israel made will often be different from our own (e.g., those laws pertaining to menstruation, including Leviticus 18:19 in this context). This distinction continues to play a significant role in every culture, including our own, and there may be continuing help for us here in both general and specific terms (I think of the issue of boundaries). We cannot consign this body of law to oblivion, either through negative judgment or through neglect, and church conversations are not helped by such interpretive moves. From another angle, trying to sort out the laws in terms of moral, ceremonial, and civil is not helpful either, for Leviticus knows no such distinctions (and some laws cut across those boundaries). Leviticus sees all of life as a whole, interconnected, and so should we.

God's basic concern in these holiness laws is not simply to call individuals to lives of holiness, though that is certainly the case. God's most basic concern is more comprehensive and community-oriented, namely (to quote Deuteronomy 5:33), "that you may live and that it may go well with you, and that you may live long on the land that you are to possess." In other words, generally speaking, God's laws manifest a basic concern for the life, health, and good order of the community; put negatively, they are concerned to shelter the community from disease, instability, and death.

All the sexual laws in Leviticus 18 are specifically concerned with these issues. The law regarding homosexual behavior does not stand isolated. It is associated with other forms of proscribed sexual behaviors (verses 6-23, only for males, except for 18:23), all of which are introduced in verse 5 by the rationale for obedience: "so that you may live." The presence of this rationale is exceedingly important: the divine will informing these laws focuses on the best life possible for the community and, given that most of the sexual laws are intrafamilial, the best life for the family. This point recalls that relationships within that social fabric normally included families that lived in exceedingly close physical proximity and included non-family members such as slaves. It seems clear in these laws that the "rights" of the community, its stability and sustainability, stand over and above free individual expression and individual rights. In other words, a stable sexual community is in the best interests of the life of individuals.

Under the umbrella of this more comprehensive rationale for these laws regarding sexual behavior, scholars have developed several, more specific rationales for the prohibition in verse 22. They include: the violence, the blurring of creation-established boundaries, the wasting of male seed and the loss of needed progeny, separating God's people off from the idolatrous practices of other peoples (see 18:3, 24-30), the effect of polluting the land (18:25, 27, 28), and (given the phrase "as with a woman") a dishonorable, shaming role for the male that assumes the submissive position and confuses gender roles. The last-noted rationale could explain why, among many other practices, cross-dressing is also called an "abomination" (Deuteronomy 22:5), a word that means something like "detestable." The rationale of the wasting of seed, tied up with the absence of reference to female-female sexual relations, is currently common, but the lack of concern for masturbation or for sexual activity during pregnancy in the law discounts this rationale for me. In any case, this scholarly attempt to discern a more precise rationale for 18:22 has been elusive. It may be that all or most of these factors played a role in the formulation of the law and/or its interpretation at some point along the way in Israel's life.

But none of these more precise rationales are as important as the most basic concern that ties all the sexual activity references in Leviticus 18 together, namely, life, health, and good order. In this context that means a stable sexual community.

Ideally, the way to begin to consider each law in its own terms is to ask whether it continues to be God's will for our communities at two levels: (1) Does the law continue to have authority for us as law? (2) Does the law only direct us to the concerns that generated the law in the first place? I would claim that the latter remains very much in place for church and society today regarding matters of sexual behaviors (or any other law, for that matter). If we set aside the law as law for ourselves, the concerns that inform the law continue to be important for our context,



because issues regarding the life and health of our communities are as much at stake for us as for them. At the least this question is central: regarding the issue at stake, what action on the part of the ELCA will best contribute to the life, health, and sexual stability of our communities? Work on this question would entail the consideration of more particular issues. For example, given the threat of AIDS, would it be in the best interests of the health of our communities to promote committed relationships in the homosexual community? A list of such questions should be gathered and considered. (It might be added that, in lifting up these concerns, a witness is made to the fundamentally gracious orientation of the book of Leviticus, evident not least in Jesus' use of Leviticus as well as in the sacrificial laws, the obedience of which mediated forgiveness to a sinful community.)

Regarding the other levitical text that mandates capital punishment for homosexual behavior (20:13; as for adultery, cursing one's parents [Leviticus 20:9-10], and fourteen other acts), most would agree that it has been proper to set the law aside. Yet, if our understanding that the stories in Genesis 19 and Judges 19 have informed these laws is correct (see above), then the death penalty for gang rape is not as extraordinary as it would otherwise seem. At the same time, Leviticus 20:13 remains in our Bibles and has been commonly interpreted with reference to all same-sex behaviors; as such, it is wise to remember that this text has no doubt directly or indirectly contributed to violence and hostility toward gays and lesbians.

In considering whether to set aside the law in Leviticus 18:22, several general considerations regarding Old Testament law come into play that will set our feet on a somewhat firmer ground, though are finally insufficient for making a decision.

One issue to keep before us is the close correlation of creation and law. Israel's dynamic sense of a creation in the process of becoming is accompanied by a dynamic sense of law. If laws are to connect appropriately with the changing realities of creation, they must change to keep pace with those realities. If God is on the move with the created order, then God's law is also on the move. In thinking about the law, it is important to recall that the creation texts do involve the human in the task of discernment and the process of change. At the same time, it is obvious that in any changes we may recommend with respect to these laws, we must be able to give good reasons for doing so that are consonant with the scriptural witness and in the best interests of the life and health of our communities.

We are helped by the fact that the church has often found good reasons to do so. The church has a long tradition of setting aside scriptural mandates and precedents, including usury, slavery, the ordination of women, and remarriage of divorced persons. Jesus emphasized the last-noted matter (Mark 10:11-12) and it is noteworthy that setting it aside without formal decision has produced hardly a ripple in the churches. This is probably because most of us know divorced persons who have been remarried successfully and it may be helpful to remember that experience in the discussion of Leviticus 18:22. Such an informal setting aside of scriptural mandates has been common over the years, including, for example, Leviticus 21 (Israel's Vision and Expectations document!), still selectively applied as recently as the 1950s in ELCA predecessor bodies (a "wholeness of body" argument on the basis of Leviticus 21:17-20). At the least, our consideration of the current issue should entail a careful revisiting of those earlier formal and informal decisions, for the purpose of determining the hermeneutical principles that were used

and any other criteria. Such research may not only be of continuing help in our decision-making, but perhaps most importantly, it can help promote a sense of churchly consistency over the years.

This setting aside of scriptural mandates is not something that begins with the church, of course, for Jesus and the New Testament evangelists have shown the way in their setting aside of certain Old Testament laws (and their criteria for doing so deserves careful attention; see Mark 2:23-27; 7:1-23; Acts 10:9-16). But even the New Testament is not the innovator on such matters; the Old Testament itself revises prior laws and explicitly sets older laws aside. We begin with the prophets and move to the laws (Note that much work remains to be done in this area of biblical study).

One particular text that is especially pertinent here is Isaiah 56:1-8 (it has been carefully studied by my colleague Fred Gaiser in *Word & World*, 1994). This text contains the familiar line, "My House shall be called a house of prayer for all peoples." Leviticus 21 forbids eunuchs from being priests; Deuteronomy 23:1 makes it even more severe, forbidding eunuchs from participating in the worshiping assembly. Isaiah 56:4-5 explicitly addresses itself to faithful eunuchs and, in effect, welcomes them to "church" and promises these persons who could not produce children an everlasting name within the people of God. Persons who had been singled out as being "against nature" were now proclaimed an integral part of the community of the faithful. This word from God in Isaiah 56 is an outright abrogation of an old law from God. In view of new times and places, God's newer word sets aside God's older word. This text, used by Jesus in overturning the money-changers in the temple (Matthew 21:13), may well have shaped Jesus' vision and that of the New Testament evangelists.

In passing, I note that Isaiah 56 can be linked with the numerous prophetic texts that speak of God's changing the divine mind, especially with respect to matters of judgment (e.g., Jeremiah 26:3, 13, 19; Jonah 3:10; some forty times in the Old Testament). These texts are testimony to how God's moves into the future can be affected by God's interaction with the people. Never changing will be God's steadfast love, God's salvific will for the world, and God's faithfulness to promises made; but, in order to be true to these unchanging dimensions of the divine character, God may have to change in other respects (for a brief and clear study of this biblical theme, see Martin Marty, "A Changeless/Changing God — and Us," *Lutheran Woman Today*, August 1989). That God has the freedom to change for the sake of Israel and the world is an important prophetic witness to the kind of God with whom we have to do. And it is this kind of God who has given us the law.

What the prophet Isaiah does with an old law from God is nothing new for Israel. The Pentateuch itself bears witness to an ongoing process of changing older law. From an inner-Old Testament perspective, God's laws are not immutable. That the law was understood to be changeable is evident within the very heart of the law itself and this witness, in addition to Isaiah 56, constitutes an important inner-biblical warrant for ongoing changes we might make in the law.

There are at least two pieces of evidence that demonstrate that the law is a dynamic rather than a static reality.

1. Law and Context. Unlike the law codes in the ancient Near East and in our own society, the

Pentateuch does not present the law as a code, but integrates it with the ongoing story of the people of God; laws and narratives are interwoven. God's gift of the law remains integrated with the story of God's ongoing gracious activity. Law is always intersecting with life as it is lived, filled with contingency and change, with complexity and ambiguity. And so the experience of the journey through the desert, especially in the book of Numbers (e.g., chapters 15, 18-19), meant the generation of new laws for new occasions.

That new laws emerge in connection with the wilderness experience is important. The law in and of itself tends to promote a myth of certainty and absoluteness; actual life, however, is filled with contingencies, in which nothing on the ship of life seems to be tied down. The law provides something of a compass for wandering in the wilderness; the contingencies of wilderness wandering keep the law from becoming absolutized in a once-for-all content; new laws will be needed and older laws revised or put on a back burner. Israel's concern for development in the law takes ongoing experience into account while remaining constant in its objective: life, health, and stability (see T. Fretheim, *Exodus*, pp. 201-207).

To put that point in other terms: the form that the law takes in Israel's ongoing life is to be shaped by the accompanying narrative action of God. God's work of salvation is always related to the expressed needs of the people, such as getting them out of Egypt. And so the basic shape for the law is drawn from Israel's narrative experience with God rather than from abstract ethical argument or divine imperative — for example, "be merciful as the Lord your God is merciful" (Luke 6:36). And because God is always doing new things, we must be alert as to how that divine work may relate to new developments in the law.

It is striking that God gives the people so many motivations for obeying the law. God seldom simply says: I'm God, so obey (Leviticus 19 would be one such example). Rather, God gives good reasons. This is especially true in Deuteronomy. For example, you were strangers, so take care of strangers (Deuteronomy 10:18-19). Or, obey so that it may go well with you and that you may live long (Deuteronomy 5:33); that is, it is in your best interests and the interests of your community to obey. Obedience will always also be in the best interests of the neighbor, especially the marginalized and the outsider (Deuteronomy 24:19-22). In this Leviticus context, 18:5 gives a key motivation, "by doing so one shall live," in addition to the phrase, "I am the Lord." Right obedience for Israel is always a reasoned obedience. We are thereby obligated to ask what motivations may be available for retaining Leviticus 18:22, for revising it, or for setting it aside altogether. A "God says so" is biblically insufficient.

2. Revision of Law within the Old Testament. One way in which Israel's dynamic understanding of the law can be seen is in the changes that the book of Deuteronomy makes in the laws from the book of Exodus (separated by 40 years in the canon; historically, 400-500 years or more). In his commentary on Deuteronomy (p. 13), G. von Rad has noted several law texts in Exodus that Deuteronomy revises in view of new times and places.

I begin with the Ten Commandments. In both Exodus 20 and Deuteronomy 5 these laws introduce the two major bodies of law in the Pentateuch. They might be called core, enduring values in light of which the laws that follow are to be read and interpreted. Given this status of the Decalogue, it is striking that Deuteronomy finds it necessary even to revise the Exodus

version. For example, it switches "house" and "wife" in the coveting commandment so that "wife" is no longer on a list of property, and "neighbor" in the tenth commandment is not obviously male. Or, Deuteronomy gives a different motivation for keeping the Sabbath than does Exodus (compare Exodus 20:11 with Deuteronomy 5:15).

Deuteronomy's revision of Exodus law is more substantial elsewhere. For example, the slavery laws in Exodus 21:2-11 have been revised in Deuteronomy 15:1-18, particularly with respect to the role of women, equalizing the treatment of male and female slaves (compare also Leviticus 25:37-46 for other developments). For another example, Deuteronomy 15:1-11 revises Exodus 23:10-11 (see Leviticus 25:1-6 for further developments).

These acts of revision constitute an inner-biblical warrant for further revision of biblical law in post-biblical times, though at two different levels. Given the status of the Decalogue, changes made should be minor (at the least, the coveting commandment ought to "cover" husbands as well as wives, so that the "neighbor" is no longer only male). The revision of other laws, however, could be more substantial. Revision of the slavery laws, developed not much further in the New Testament, has been continued in more modern times, and that to the point where as laws they have been set aside altogether.

Notably, internal tensions and inconsistencies between, say, Exodus and Deuteronomy are not all ironed out; that is, the laws in Exodus are not revised so that they read just like Deuteronomy. Leaving Exodus stand the way it was given is not considered a threat to the law's integrity; this editorial move is not unlike, say, the U.S. Constitution, which is retained in its original form, though amendments have been made over the years. It was important to let old law and new law remain side by side as a scriptural witness to the process of unfolding law, to show that the law changes and that God's will is a living will. In other words development in the law is just as canonical or scriptural as are individual laws or the various collections of law. At the same time, all laws — older laws from God and newer laws from God — remain the laws of God. That both old and new have been kept in the canon means that for every new formulation of law, every word from God from the past must be considered carefully in moving toward any new formulation (again, not unlike U.S. laws). It is precisely in the interaction of older and newer laws that new understandings are generated for new times and places. Hence, instead of an immutable, timeless law in the Bible, we have to do with a developing process in which experience in every sphere of life over time is drawn into the orbit of the law.

The ongoing formulation of new laws by human beings over the post-biblical centuries, both within the church and without, is in tune with the divine intention regarding creational life and well-being. Because these emerging laws are, however, usually associated with state or national legislatures, and are developed by human beings, we tend not to think of them as God's laws. But, of course, they are. It may well be that some of the newer laws stand over against biblical laws, and hence would not be unlike their biblical predecessors in, say, Deuteronomy. But in developing such new laws, we are called to do a careful and thorough consideration of the old and, importantly, without treating any existing law with disdain. In other words, we cannot make a blanket statement that pertains to all laws, that they are either all applicable or all obsolete. We are called to study each law on its own terms, in the context of Old Testament understandings of creation and law, and see what might come of it.

## Leviticus 19 Centering Leviticus 18 and 20

I conclude with a few words on the redactional context of the two texts in Leviticus 18 and 20. It needs to be asked whether Leviticus 19, which stands between these two texts in the present redaction, in fact speaks to their interpretation. It has long been noted how the laws regulating but supporting slavery in Exodus 21, following upon God's deliverance of Israel from slavery in Egypt, constitute a collision waiting to happen regarding the issue of slavery in the community of faith (it took centuries for the collision to occur). This kind of unrecognized incoherence of theology and practice may also be true with respect to the placement of Leviticus 19 (irrespective of whether the editors fully knew what they were doing). This chapter contains a series of remarkable statements, including: "You shall love the alien as yourself, for you were aliens in the land of Egypt" (19:34); "you shall not hate in your heart any of your kin" (19:17); "You shall not take vengeance or bear a grudge against any of your people, but you shall love your neighbor as yourself" (19:18).

While love of the alien and the neighbor obviously cannot be translated into tolerance for all behaviors, one is given to wonder whether the special status that Jesus gives to Leviticus 19:18, does not finally qualify the surrounding chapters in some ways (certainly not all!). The fact that Jesus refers to Leviticus 19 several times (Matthew 5:43-44; 19:19; 22:39; Mark 12:31; Luke 10:27) but not chapters 18 and 20 may be significant. Jesus certainly knew of the content of Lev 18 and 20 when he said that Deuteronomy 6:4-5 and Leviticus 19:18 were key to the interpretation of the law. It is also striking that Paul quotes Leviticus 19:18 in Romans 13:9 in a context concerned about keeping certain Jewish practices, where people are "quarreling over opinions" (Romans 14:1) and "passing judgment on your brother or sister" or despising them (Romans 14:10). Paul also quotes this text in Galatians 5:14 in a context where he is concerned about people biting and devouring one another (5:15; see also James 2:8). At the least, these NT uses of Leviticus 19 speak loudly to those of us who are debating difficult issues in the church. And that will probably be the heart of the challenge for us in the immediate future: will we be able to love our neighbors as we do ourselves.

### Some Gathered Points

#### 1.Regarding the Creation Texts:

- The creation is not a finished product or a static order, but God creates the world with a certain open-endedness within which enduring creational structures are in place, but randomness, contingencies, etc. also affect the development of the creation. The creation account and the God speeches in Job 38-41 are especially helpful in showing this.
- God is not the only subject of the creating activity. God involves creatures, especially human beings, in the ongoing process of creational development. And God does not micromanage the process.
- Relevant non-biblical and non-theological inquiries and knowledge are to be seriously taken into account.

## 2. Regarding the Law Texts;

- A creation that is not static is closely correlated with a law that is not static.
- The Bible itself, both OT and NT, revises or sets aside earlier laws in view of changing times and places, but at the same time does not eliminate them from the text. Development in the law is just as biblical as are the laws themselves.
- A distinction is to be made between individual laws and the concerns that inform the laws. God's purpose in all the laws was to promote the life, health, and stability of the community; that should remain in view whatever one does regarding individual laws as laws. In other words, the motivations that God gives to obey the law are especially important and help us to speak clearly of a reasoned obedience.

## 3. Regarding God:

- God creates a dynamic world in which development, randomness, and change are integral to the very nature of creation.
- God's will for all creatures is constant in its basic concern for their life and health. At the same time, God may adjust particular expressions of that will in view of ongoing interactions with the world. The freedom of God to do this is an important claim, though this is a freedom from within God's committed relationship to the world.
- God revises or abrogates God's own laws. The text regarding eunuchs in Isaiah 56 may be especially insightful with respect to the issue under discussion.

### Some Helpful Resources:

- David L. Balch, ed., *Homosexuality, Science, and the "Plain Sense" of Scripture* (Grand Rapids: Eerdmans, 2000).
- Patricia Jung and Ralph Smith, *Heterosexism: an Ethical Challenge* (Albany: State University of New York, 1993).
- Martti Nissinen, *Homosexualism in the Biblical World: A Historical Perspective* (Minneapolis: Fortress, 1998).
- Choon-Leong Seow, ed., *Homosexuality and Christian Community* (Louisville: Westminster/John Knox, 1996).
- Jeffrey Siker, ed. *Homosexuality in the Church: Both Sides of the Debate* (Louisville: Westminster/John Knox, 1994).
- Phyllis Trible, *God and the Rhetoric of Sexuality* (Philadelphia: Fortress, 1978).

(Note: Some of this material will appear in my forthcoming article in The Patrick Miller Festschrift, "Law in the Service of Life: The Dynamic Sense of Law in Deuteronomy.")

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