

# THE THIRD RAIL

*by Rabbi Yaakov Menken*

*"And you shall guard all my decrees and all my judgements, and you shall do them, and the land to which I am bringing you to dwell in will not spit you out." (20:22)*

Political analysts like to talk about the proverbial "third rail," a reference to the third, high-voltage rail in subway systems. Certain issues, they say, are so dangerous and contentious that anyone attempting to address them will electrocute his or her political career, as surely as treading on the third rail.

The following is a "third-rail" issue, and I'll probably get it from both sides: from the liberals, because I'm obviously an intolerant bigot, and from the frummies (a nickname for the fervently Orthodox), because I dare to discuss this issue in a supposedly family-friendly e-mail publication. But with all of the nonsense going on recently about "same-sex marriage," I think there's a point worth adding to the public discussion.

This issue, unlike most, is inspiring incredible rewrites of the Torah. Those who don't keep kosher don't juggle the verses prohibiting pork, and those who cook on the Sabbath don't bring Torah verses to prove that a strong "no" is actually "yes." They simply acknowledge that they don't observe. Get onto the present subject, however, and exactly the opposite happens.

The most recent example was an op-ed in the New York Jewish Week, provided by Rabbi David Ellenson, president of the Reform movement's Hebrew Union College-Jewish Institute of Religion. It came in response to a column by Editor and Publisher Gary Rosenblatt, who wrote that "much as we'd like to imagine that being an observing Jew and a liberal American poses no contradictions, the truth is that there are times when we have to place one noun above the other."

Ellenson begged to differ. "A tradition that demands 'You shall do that which is upright and good' can surely be construed in such a way that the ethos of Jewish tradition can be said to trump a single statement in Leviticus 18:22." While it's unimaginable that doing the opposite of G-d's will should be considered "upright and good," that's almost besides the point.

Why here, in this debate in particular, do we find such imaginative intellectual acrobatics? Perhaps the proponents realize that this isn't a "ritual law" that some discard with ease, but something that

touches the moral fabric of society itself. In the Talmud, Chulin 92a-b, it lists three merits that even the most corrupt societies have in their favor; the first of these is that they do not write marriage documents for men.

But in addition, it makes it easier to then delegitimize the opposition. By attempting to demonstrate that approval of this behavior is actually consonant with Judaism, the proponents assert that there is, in reality, no legitimate religious basis for opposition.

As we already know, those who favor traditional definitions of marriage are routinely called "bigots" or "homophobes," or (by the more considerate) simply "uncomfortable" with those who are "different." As an editorial in the New York Sun put it, "with a few exceptions, this cause is being advanced through the denigration of Jews and Christians who adhere to the fundamentals of religious law" rather than through a serious and sober discussion of the issues.

Our Sages have particularly harsh words for the pig. Kosher land animals have two attributes: they have cloven hooves and chew their cud. Among the non-kosher species with one of these attributes, the majority only chew their cud, so one can tell immediately that they are not acceptable. The pig, on the other hand, holds out its hooves and says "look, I'm kosher!"

To take verses here, phrases there, and put them together so as to turn Torah on its head, is like putting hooves on the pig. Rebbe Meir said in the Talmud that he could provide 50 proofs that an impure animal is pure -- but he never actually meant that it was.

To follow the Torah is not to adopt a position and then see how many verses you can take out of context to support it. That is not Judaism. Judaism says that the Torah should guide our thinking, rather than the latest wave to sway society. Sincere religious conviction is not bigotry, and in this situation, the least we should expect and demand is a bit of the very tolerance they say is required.

Good Shabbos,  
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