CHAPTER VII:
JEWS UNDER PERSIAN RULE, 538-332

The history of Judaism in the Persian period suffers from the paucity and unreliability of the sources. The major collection of documents is the three books of (First and Second) Chronicles, Ezra and Nehemiah. It is generally agreed that they originally formed one book, which was given its final form by the author of Chronicles, the so-called "Chronicler". Contemporary scholarship assigns Chronicles to the second half of the third pre-Christian century. No fact of Old Testament criticism is more firmly established than the untrustworthiness of the Chronicler as historian. "He distorts facts deliberately and habitually; invents chapter after chapter with the greatest freedom; and what is most dangerous of all, his history is not written for its own sake, but in the interest of an extremely one-sided theory. In passing judgment on his account of the Ezra-Nehemiah period...where his account is not supported by any other witness, the matter is settled, strictly speaking, without further discussion". The purpose that moved the Chronicler to write the entire pseudo-history was "to show that all the institutions of the true 'Israel', as they existed in the third century B.C., and as they had been established by Moses and David, were restored complete when the exiles returned" from Babylon.

Only slightly more information is supplied by Josephus in the Jewish Antiquities, which carries the story from the time of Nehemiah and Ezra to the end of the Persian period and beyond. The modern historian has therefore even for the last phase of Old Testament history only tendentious, self-serving and unreliable sources. This fact is not entirely surprising in view of the natural wish of the Jerusalem priesthood to conceal or falsify the true circumstances of the supposed "restoration of the Mosaic Law" to its pristine authority and vigor. On the other hand, attempts to reconstruct the sequence of events suffer from the apologetic and parenetic tendencies of Jewish historiography, as well as from the usual Protestant errors and biases that limn the development as linear and in some sense final. The history of the Jewish

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people, for nearly the whole of its existence a client people politically and culturally dependent upon larger, more powerful and influential nations, has to be read as one of divergence and convergence, of separatism and assimilation, of the wish to maintain a distinct identity while participating in the economic and cultural life of the dominant power. This analysis is particularly true in regard to the evolution of the Jewish attitude toward homosexuality from the First Commonwealth (ca. 950-586 B.C.) to the redaction of the Mishnah (A.D. 193). The implacable hostility of the priests of Jahweh to the Ishtar-Tammuz cult, the influence of Zoroastrianism, and then the military and cultural struggle against Hellenization all played a role in the crescendo of homophobia that was to become the heritage of Christianity when the new faith broke from Judaism to begin its victorious progress through the Roman Empire.

The obscurity that hangs over the Persian period is not accidental, because only then did Judaism assume its normative, Biblical form—which, it is true, the priestly authors ascribed to the remote antiquity of the age of Moses. The actual debates within the inner circle of religious innovators as to what were the "true traditions" could not have been preserved because they would have confessed the late and heterogeneous origin of the enactments. Likewise the Chronicler uniformly suppressed all reference to the subordination of Jerusalem and Judah to the north—to the authorities in Samaria. The "unique dearth of all information concerning the Persian period" can be explained only in terms of the need to deny the political and religious past and to create a fictitious one in the interest of the Jewish community and the Jerusalem priesthood.³

THE SECOND TEMPLE

NEHEMIAH

The notion sometimes found in modern rationalist interpretations of the Old Testament that the Jews prohibited homosexuality because they were too few in number to defend their territory against hostile neighbors, is less creditable than the

one that the Greeks tolerated and even institutionalized pederasty beginning in the seventh century because they suffered from chronic overpopulation and had either to restrict the birthrate of their propertied classes or to colonize or conquer new territories for settlement. There is no direct evidence for underpopulation in Israel before the Persian period. Josephus says only that in the reign of Xerxes

Nehemiah, seeing that the city [Jerusalem] had a small population, urged the priests and Levites to leave the countryside and move to the city and remain there...; he also told the people who cultivated the land to bring tithes of their produce to Jerusalem in order that the priests and Levites, having a perpetual source of livelihood, might not abandon the Temple service (Jewish Antiquities, XI 181-82).

At no time in late antiquity was there a general appeal to Jews residing in the Diaspora to return to their native land, and they definitively abandoned it after the second Christian century, when the center of Jewish life moved to Babylonia. Underpopulation in Greece after the Renaissance is mentioned in Polybius and elsewhere to the effect that a few districts in Greece were depopulated and uncultivated in the Roman period. Both the Jews and the Greeks—despite the differences in their sexual morality—were numerous enough to create extensive diasporas in the pre-Christian era that could exert a powerful impact upon the cultural development of the entire Mediterranean basin which the Roman Empire later incorporated. But those differences led inevitably to a conflict of cultures lasting many centuries in which the moral beliefs of the one prevailed over those of the other.

**EZRA AND HIS REFORMS**

In 1910 Charles Cutler Torrey claimed that contrary to previous analyses, Ezra promulgated the Pentateuch only in 398 B.C. This would place its redaction into the beginning of the fourth century, but would not alter the conclusions formulated above. The final, authoritative text, as adopted by both Jews and Samaritans (who split off about 336 to form their own, autonomous religious community) forbade male homosexual acts under pain of death, and made both the active and the passive parties equally culpable. This legal enactment was the nucleus of the modern concept of "homosexuality." In the eyes of the priests of Jahweh, the client who frequented the pagan temple and the hierodule who served him sexually or otherwise were equally abominable. By adopting a theological definition that abolished the active-
passive dichotomy, the Mosaic law created the fiction that the partners in a homosexual act were doing the same thing, even if in the real world their roles were complementary. The manner of execution is not specified; the Talmud later prescribed execution by the sword (decapitation), or under certain conditions by stoning or strangling. The penalty of burning at the stake is not Biblical and not Jewish. The Pentateuch made no mention of lesbianism, probably for the reason that homosexual acts between women could not occur in a cult in which the officiants (the qādēs and the kelebh) and the worshippers were equally male.

THE PENTATEUCH, CONSTITUTION OF THE JEWISH COMMUNITY

Contrary to traditional belief, the Law of Moses could not have existed at the time when the Israelites invaded the land of Canaan, nor during the period of tribal amphictyony, nor even at the beginning of the First Commonwealth. The paramount cultural influence during all that time was Egyptian, and the Egyptians had no law codes—only laws. It was only in the last century of the old kingdom (680–586 B.C.) that Babylonian influence replaced Egyptian, and since the Babylonians codified their laws (the Code of Hammurabi being the most celebrated example) the client people followed suit. The first stage in this evolution is the book of Deuteronomy that was supposedly discovered in the Temple in the reign of King Josiah (622 B.C.).

The composition of the Pentateuch in the form in which it became a sacred text belongs to the Persian period, and its motivation was external. It stemmed from the wish of the Jewish community living under Persian rule to gain autonomy. The Babylonians and after them the Persians had annexed Judah (the former southern kingdom) to the province of Samaria (the former northern kingdom) and placed it under the authority of that governorship. Its status was not to change until 445 B.C. when Artaxerxes I commissioned his Jewish cupbearer Nehemiah as governor of Judah. When Nehemiah began to construct a wall around Jerusalem, he was creating the fortifications needed by a provincial capital—a capital for the former southern kingdom which effectively deprived Sanballat, the governor of Samaria, of a segment of his province.

To secure the recognition of provincial autonomy by the Persian authorities, the Jewish community needed a written constitution—not absolutely new, but compiled by the scribes from surviving texts and traditions. In the form that subsequently became canonical it dates from the beginning of the fourth century, and is the work of Ezra the Scribe and the descendants of the priestly caste still residing in Babylon. In the last
analysis it was a pious fraud, although its priestly editors could not have conceived it as such: it derived its authority from the historical fiction that it had been dictated by God to Moses on Mt. Sinai—a belief that critical scholarship unanimously rejects. From beginning to end it was a self-serving forgery with political aims: to affirm the claims of the Jewish community to the territory of Palestine, and to consolidate the role of the priesthood as its ruling elite.

The editing of the Pentateuch was clumsy and inconsistent; its main object was to draft a constitution for the Jewish community that would be ratified and enforced by the Persian authorities. For more than two centuries critical scholarship has struggled to uncover the source of particular narratives and laws by identifying peculiarities of language and style. What is certain is that the community which received the code as a divine mandate had no training in logic or in literary analysis. Dialogue with religious foes of the homophile movement is largely fruitless because the other side either insists that the Levitical statutes are an authentic revelation to Moses on Mt. Sinai, or holds that "all that matters is what is believed today." In either case, for homophile apologists to concede one or the other is tantamount to losing the argument.

BEGINNING OF JEWISH HOMOPHOBIA

The significance of the Persian period for the evolution of the Jewish attitude toward homosexuality is that only then did Leviticus 18:22 and 20:13 become part of the Mosaic Law, the constitution of the sacral community that formed on the ruins of the Judean state after its destruction by the Babylonians in 586 B.C. During the two centuries of Persian rule, it is true, homosexuality did not preoccupy the leaders of the Jewish community. Intermarriage with non-Jews was their major worry, and in the reign of Artaxerxes II Mnemon (397 B.C.) the book of Ezra has the children of Israel assemble humbled and penitent to enter into a formal covenant the first clause of which is "that we would not give our daughters unto the people of the land, not take their daughters for our sons" (10:31). On this Torrey commented in 1896: "Race exclusiveness is not brought about suddenly and violently, by a wave of the hand. Whether the Chronicle's purpose in this part of the narrative was to account for this same exclusiveness, or to work in its interests" he preferred to leave outside of speculation. In order to prove that it was "demanded by the Jewish Law" this prohibition was read into Leviticus 18:21 and 20:2-6, which formally ban the sacrificing of children to

Moloch. Subsequently, when Judea became independent thanks to Roman protection, the "Hasmonean Sanhedrin" (ca. 140 B.C.) made sexual intercourse between Jews and non-Jews a crime punishable by death. Perhaps in deference to the belief that "God is long-suffering with all sins except fornication" later passages in the Talmud and the commentators added that the culprit was not even to be hailed before a court but to be lynched by vigilantes on the spot!

There is no suggestion that a falling birth rate was ever a problem in that era, or that the prohibition (of male, though not of female homosexuality) had other than purely religious motives. Needless to say, the law could not be enforced apodictically, it required the police power of the Persian state, and specifically the authority which at the behest of the Jewish authorities the governor exercised to dispossess, flog or even execute whoever disobeyed their commandments. At that time, to be sure, the Mosaic Law had no significance save for the adherents of the Jewish cult, and its followers were but one of many subject peoples scattered across the vast realm of the King of Kings. So undistinguished were they that no Greek author before Alexander the Great mentions them in any connection. The Greek name of the territory, Palaistinē, was taken from the Philistines who occupied the coastal cities. It was only in the Maccabean era (beginning in 142 B.C.) and under Roman protection that Jewry achieved not only political independence once again but a visible role in world history.

Also included in the Pentateuch was the book of Genesis, which modern scholarship dismisses as pseudo-history, or at best a historical novel, which at times includes two incompatible versions of the same event. This work--probably assembled in the fifth century--recounts the destruction of Sodom and three other "cities of the plain." The final version of the legend of Abraham devotes two and a half chapters of the fifteen (one-sixth of the whole narrative) to Sodom and its vicissitudes, incorporating the legend of Lot, Abraham's nephew. Lot has the same function throughout the narrative: he is continually rescued from the misfortunes that befall him because of his residence in Sodom. In short, it is a Bedouin folk tale about the perils of city life. In chapter 14 Abraham is depicted as a Bedouin sheikh with an armed retinue that saves Lot when the cities of the plain are overwhelmed by an invading coalition. In the second half of chapter 18 he pleas for the city which God has determined to destroy. The crucial incident involving the two visitors, Lot and his daughters, and the "men of Sodom" (ch. 19) was adapted from

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5 The sanhedrin (from the Greek synūdrion) was the highest legislative and judicial body of the Jewish state: it enacted laws and heard capital cases.
the account of the outrage at Gibeah in Judges 19. Even though no homosexual act occurs in either narrative, the episode of Lot in Sodom with its doubly miraculous dënouement offered the point of departure for the myth that four of the five cities were divinely punished for the depravity of their inhabitants, although the Biblical account says nothing about the other three. However, the

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6 John Boswell began his case that mainstream Christians were no more hostile to homosexuality than adultery or fornication with the spurious argument derived from Bailey (1955) that the Sodomites were punished for inhospitality rather than homosexuality by claiming like Bailey that "to know" in Hebrew meant "to get acquainted with a stranger" so as not to feel threatened by his presence, although in the same chapter Lot offers to the Sodomites his daughters "who had not yet known a man" (Genesis 19), which was of course the normal sense of the word. In any case all Jewish tradition interprets Genesis as well as the outrage at Gibeah (Judges) parallel to the Sodom story as a discussion of homosexuality. The Bailey/Boswell thesis is tendentious nonsense popular with Dignity and other neo-Christian homosexual circles. This is a communication from Lester Segal, Rabbi and Professor of History at the University of Massachusetts-Boston:

The upshot of Genesis 19:4-11 is that although the Sodomites were, to judge from the context, bi-sexual (after all, Lot offers them his daughters), the meaning of verse 5, "that we may know them" is: to be sexually intimate with. (1) Although the "sin" of Sodom need by no means have been limited to homosexuality (2) there is, Bailey notwithstanding, no getting away from the meaning of "that we may know them" as sexual intimacy. This is the essence of Nahum Sarna's view of the matter, who also emphasizes the clear Pentateuchal legislation regarding homosexuality (3).

Let me add the following three observations:

1. With respect to the verb "know" in the context of Genesis 19, it is I think of some relevance to note that in verse 8, the same Hebrew verb is used by Lot when he says: "See I have two daughters who have not known a man"--a not uncommon Hebrew biblical way of referring to an unmarried woman.

2. For the likely variety of Sodomite wrongdoing, see e.g. Genesis 13:13, Ezekiel, 16: 49-50.
ation took two variants: that the Sodomites practiced sexual vices among themselves, or that they violated the laws of hospitality by assaulting and violating strangers who set foot on their territory. The second variant was extensively developed in midrashic writings well into the Middle Ages.

Critical scholarship has established that Sodom never existed\(^7\) and that the entire story is a geographical legend conceived by the mythopoetic mind of the ancients, although crypto-fundamentalists are still vainly searching for the site of the ruined cities.\(^8\) The two and a half chapters devoted to Sodom are so riddled with inconsistencies and contradictions that they amount to a fairy tale, not a credible account of a historic

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These are cited by Bailey, too, p. 9.

3. Bailey, p. 37, acknowledges the legislation in *Leviticus*, despite the problems he finds in ascertaining the precise other ancient Near Eastern practice in this regard. With respect to *Leviticus*, I consider it highly unlikely--purely as a matter of the realities that law codes are prone to reflect that "they (i.e. the relevant verses in *Leviticus*) are simply items of abstract legislation designed to provide against a future possible occurrence of the offenses penalized" (Bailey, p. 29).

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7 The very name is the Bedouin Arabic dialectal form *sudummatu* "sea," just as Gomorrah is *gumurratu* in the same meaning. The Classical Arabic forms are *sutummatun* and *gamratun*.

8 The founder and later president of Cornell University, Andrew Dickson White, established this negative finding beyond a doubt in his *History of the Warfare of Science with Theology in Christendom* (1896), which devoted two whole chapters to the rise and decline of the legend. He based his arguments particularly on the investigations of the French geologist Edouard Lartet published in the five-volume work of his patron the Duc de Luynes, *Voyage d'exploration a la mer Morte, a Petra et sur la rive gauche du Jourdain* (1871-75). For the phenomena associated with the supposed site of the conflagration he offered a scientific explanation: in prehistoric time it had been submerged by the Dead Sea, which covered a wider area than at present, and the fall of the water level exposed the surfaces whose barrenness and desolation were then ascribed in the folklore of the Bedouin inhabiting the eastern and southern shores to divine retribution for the depravity of the erstwhile inhabitants. Though almost totally ignored by twentieth-century scholarship, this work has been confirmed by recent carbon-14 dating which shows that there was no urban culture in Palestine in the so-called period of the patriarchs. The book of Genesis in its totality has been erased from history: its background is anachronistic, Canaan in the period 1350-1300 B.C., on the eve of the Israelite invasion.
event. But the first variant as suggested in Genesis 19 joined with destruction by "brimstone and fire" reinforced all the paranoia latent in the prohibition of male homosexuality in Leviticus, and powerfully contributed to what I have dubbed the "sodomy delusion." Moreover, the association with Abraham, the first monotheist who rejected idolatry and worshipped the true God, made the Sodom legend part of the heritage of all three "Abrahamic religions": Judaism, Christianity and Islam.  

The critical school further demonstrated early in this century that the account of the creation of Adam and Eve in the first chapter of Genesis is derived from an earlier Babylonian myth in which, however, there were three pairs of primal human beings, one heterosexual, the other two homosexual and lesbian, as we should now say. This formulation is independently attested in Berossus and in the myth of Aristophanes in Plato's Symposium. The author of the narrative in Genesis suppressed the latter two pairs, leaving the Jewish (and Christian) creationist with no way of explaining attraction to one's own sex except as the Vendidad imagined it—as an urge implanted by the Devil. Thus the book of Genesis bequeathed to the Abrahamic religions an exclusively heterosexual concept of human sexuality and implicitly consigned homosexuality to the realm of demonic interference in God's universe.

The events of the Persian period therefore set the stage for the rise of Jewish and then Christian homophobia, but do not explain the escalation to such paranoid intensity in later times. The influence of Zoroastrianism, which also forbade male homosexuality in language similar to that of Leviticus, may have reinforced the long-standing antipathy to the sexual rites in Canaanite idolatry. But under Persian rule homosexuality (in any

9 The burning sulphur expelled by an erupting volcano, even though there has been no volcanic activity in Palestine in historic time. The motif was transferred from the volcanic regions on the eastern and southern rim of the Dead Sea, where eruptions occurred as late as the thirteenth Christian century.

10 In quite recent times the French Catholic Orientalist Louis Massignon, who devoted much of his career to studying Islamic mysticism, composed a work entitled Les trois prières d'Abraham. II. La prière pour Sodome (1930). It was inspired by the incoherently assembled dialogue in Genesis 18, where Abraham pleads for the wicked city only to be told that there are not ten righteous men in Sodom. Massignon—the teacher of Henri Irénée Marrou—professed to have discovered the "spiritual causes" of inversion, but his speculations in fact amount to the most sophisticated piece of theological homophobia in the twentieth century.

of its variants) was no threat to the Jewish religion, at least it is never mentioned in the sources. The author of Chronicles (and of Ezra-Nehemiah) in fact suppresses all mention of the gedēšīm in passages where they figure in the book of Kings. This suppression, in contrast with the episodes in Genesis and Judges, may, however, announce the onset of the belief that homosexual behavior should be not only forbidden but unmentionable. It would mark the beginning of homosexual invisibility in history--of which the last chapter is still to be written. Given the general dishonesty and unreliability of the Chronicler, such a falsification would be perfectly compatible with his historical method. If in the four canonical gospels Jesus never alludes to the subject, it is because the Judaic milieu had for centuries relegated it to the unspeakable. So invisibility has a Biblical precedent and sanction --like all the rest of the "sodomy delusion."

Thus while the Persian period remains obscure in many respects, subsequent history leaves no doubt that over those two centuries Biblical Judaism came to reject and penalize male homosexuality in all forms, and that Jewish religious consciousness deeply internalized this taboo. It became a distinctive feature of Judaic sexual morality, setting the worshippers of the god of Israel apart from the gentiles whose gods they despised. The stage was set for the confrontation between Judaism and Hellenism, which had developed a totally different set of institutions and values grounded in the practice of paiderasteia which mythology ascribed to the Greek gods and heroes. The age-asymmetrical homosexuality of the Greeks must have particularly exacerbated the abhorrence of incest that is the overriding principle of Judaic morality. Following the onset of the Hellenistic period in 332 B.C., this antagonism grew marked and bitter, and hardened into the later implacable condemnation and persecution by the Christian Church.

The underlying paradox of sexual psychology is the simple fact that it is impossible to know what another human being feels. One may observe the sexual behavior of others directly or indirectly through narratives, jokes and the like, but one can never experience either the sexual urge that compels others to behave as they do, or the sexual pleasure that they derive from actions that strike the observer as ridiculous, demeaning, and degrading. This incomprehension joined with the proximity of the sexual organs to the urinary system and the end of the gastro-intestinal tract makes for oscillation between ridicule and disgust. The Greeks seem to have experienced disgust only minimally and therefore relished the humorous aspect maximally, in contrast with the Judaic mentality that found every aspect of homosexuality too disgusting for public mention even in a humorous or satiric context. The invisible wall separating the two
cultures generated the intense, paranoid homophobia that accompanied the Judean resistance to Hellenization in the Maccabean period and was bequeathed to Christianity when it broke from Judaism to become an independent world religion.