



On Women in Rabbinic Leadership Positions

Daniel Sperber

Biography: Rabbi Professor Daniel Sperber is President of the Ludwig and Erica Jesselson Institute for Advanced Torah Studies at Bar Ilan University and Rabbi of Congregation Menachem Zion in the Old City of Jerusalem. Professor Sperber was awarded the Israel Prize in 1992 for his seven volume work, *Minbagei Yisrael*. His previous contributions to The Edah Journal and Meorot include “Ecological Ethics” (*Tevet* 5762), “Congregational Dignity and Human Dignity: Women and Public Torah Reading” (*Elul* 5763), “Continued Discussion of *Agunah*, *Kiddushei Ta`ut* and Tears of the Oppressed” (*Tammuz* 5765) and “Friendly *Pesaq* and the Friendly *Poseq*” (*Sivan* 5766)

Abstract: This essay analyzes the halakhic issues regarding women assuming positions of communal leadership and being rabbis. It examines in detail Maimonides’ halakhic ruling restricting communal appointments to adult Jewish males, citing pre-modern and modern halakhic decisors and agreeing with R. Moshe Feinstein (among others) that Maimonides’ ruling was his own innovation is a “rejected ruling.” Maimonides’ prohibition of women in communal leadership is also not historically accurate. It concludes that while allowing women rabbis is an innovative step in the Orthodox community, there is no normative halakhic bar to women being ordained or functioning as Jewish communal leaders.

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Introduction

There are those who argue that our whole halakhic system is skewed by overwhelming bias towards males: it is wholly "androcentric." As a consequence it should be completely deconstructed and then reconstructed in an egalitarian fashion given the contemporary status of women. I find this view unacceptable. I have always thought in terms of the normative tradition of classical *halakhab*, and believe that we have a sufficiently rich legal heritage to be able to confront the majority of challenges that modernity presents and find solutions within the parameters of classical halakhic thinking.¹ And even when it appears that we may have to reject hallowed precedent and tradition, a careful examination of the relevant sources will demonstrate that this is not necessarily the case. Rather we may circumvent and/or reinterpret so that the apparent precedential sources actually present no threat or contradiction to contemporary needs. I believe that all this may be done without straying beyond the parameters of the normative halakhic process. In this essay I shall try to demonstrate this by examining the question of the possibility of granting women elements of rabbinic status and communal authority.

This issue has recently become a *cause célèbre* and triggered an acute controversy when a woman was given a form of ordination and a title suggestive of rabbinic authority. I am referring, of course, to the highly publicized episode of Ms. Sara Hurwitz, who, after exhaustive examination by a number of rabbinic authorities, was granted the title of "Maharat"—a Hebrew acronym denoting a position of halakhic, spiritual and Torah leadership.² Shortly afterwards her title was changed to "Rabbah", which sparked an even more vehement and acrid response on the part of the Ultra-Orthodox Agudath Yisrael and the Moetzet Gedolei ha-Torah of America, and also the centrist Orthodox Rabbinic Council of America (RCA). Many contended that the RCA buckled under to the extreme right-wing pressure.

Be that as it may, the juggernaut of opposition forced a partial retraction from the title of "Rabbah", which in any case was probably politically ill-advised. But while the title seemed to be the main source of the controversy, the actual function was largely ignored. For there had already been women in similar functional positions, but under different titular definition, such as "intern", "educational director", "Rosh Kehilah", or "Scholar-in Residence" but on a more or less permanent basis. And so Sara

1. I stress this point because my view on this matter was completely misunderstood by the correspondent of the "Forward", Debra Nussbaum, in her report of March 16, 2010, misconstruing what I expressed at the JOFA conference on that date.

2. In point of fact a number of women had already been granted some sort of "semikhah" long before. Thus, Haviva Ner David was given an Orthodox ordination by Rabbi Arie Strikowsky. Rabbi Yonathan Chipman ordained Evelyn Goodman Tau, and three anonymous Orthodox rabbis (including Reb Shlomo Carlebach) granted semikhah to Mimi Feigelson, (Jerusalem Post Magazine, March 20, 2010, p. 41). And though I have no first-hand knowledge of the nature of those ordinations and on what level of knowledge they were based, they seem largely to have escaped the notice of would-be detractors.

Hurwitz continues, and will continue, in her authoritative function, while the title controversy rages but will eventually wane.

At the time when the issue of some sort of ordination for a woman was being raised, I was asked to write a responsum on the subject. I readily consented to do so, and did not really make any significant innovation, since the subject had been carefully discussed by a number of prominent authorities and scholars.³ I was perhaps able to add some additional elements, and here give a somewhat expanded version of the argument that I put forward in my responsum. It was entitled, "Question as to whether a woman may give halakhic decisions," which is one of the important functions of a rabbi, though of course not the only one.

Women in Rabbinic Positions

Question: Can a woman answer halakhic questions, that is to say be a halakhic decisor?

Response: In *Mishnah Niddah* 6:4 it is said: "Whosoever is eligible to judge is eligible to bear witness." And in *Yerushalmi Yoma* 6:1 it is explicitly stated that since a woman may not bear witness she cannot judge. The *Tosafot* (BT *Niddah* 50a) asked: How then did Devorah the Prophetess serve as a judge? For in Judges 4:4-5 it is stated: "And Devorah, a prophetess, the wife of Lapidoth, she judged Israel at that time... and the children of Israel came up to her for judgment." One of their answers is that the Mishnah means to teach us only that he who is eligible to give witness may judge, i.e., that one who for some specific reason is

ineligible to bear witness likewise may not judge; it does not mean to imply an overall prohibition against women acting as judges. This answer takes no account of the *Yerushalmi's* formulation.

The *Tosafot* (ibid.) offered an additional answer: "She [Devorah] did not herself give judgment, but taught [the judges] the laws; and the *Yerushalmi* declares women ineligible to judge." This answer teaches us that a woman may give halakhic rulings, for that is the real meaning of teaching *halakhab* to others.

Yet another solution to this apparent contradiction is found in Ritba on *Qiddushin* 35a (ed. A. Dinin, Jerusalem 1985, 373), and in Rashba to *Bava Qamma* 15a (ed. A. Lichtenstein, Jerusalem 1987, 21), namely that the statement in *Niddah* refers only to a man, meaning that only a man who is unfit to bear witness is unfit to give judgment. But women, though they are unfit to bear witness, may act as judges, as we learn from Devorah the prophetess.

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Quite a different reply is given by Ran on BT *Shevu'ot* 30a (13a in Rif's pagination), and Rashba on *Shevu'ot*, ibid. Concerning Devorah's position as a judge, they write in their second response:

3. To cite just a few examples: Pamela S. Nade, *Women Who Would be Rabbis: A History of Women's Ordination 1889-1985* (Boston, 1998); Simon Greenberg, ed., *The Ordination of Women as Rabbis: Studies and Responsa* (A Centennial Publication of the Jewish Theological Seminary of America—the Conservative approach, though Prof. Israel Francus' views are more Orthodox and largely negative) (New York, 1988). Avi Weinrot, *Feminism ve-yahadut* [Feminism and Judaism], (Israel, 2001), pp. 84-117; A. Frimer, "Women in Public Positions in the Modern Period," in *Afiqei yehudah*, ed. I. Warhaftig (Jerusalem, 2005), pp.330-354; Aliza Bazak "Dayyanut nashim: nitu'ah mekorot ha-din u-behinatan be-dayyanut u-be-serarab" ["Women Judges: An Analysis after Sources of the Law and its Examination in the Light of the Rulings on Judges and Officeholders throughout the Generations"] in *Lihyot ishah yehudiyah*, ed. T. Cohen and A. Lavi (Jerusalem, 2005,) pp. 88-99; H. Hirschensohn, *Malki ba-qodesh*, vol. 2, (Hoboken, 1941), pp. 182-92, and see note 5 below.

...Or perhaps she did judge and did give rulings, because they accepted her, just as a person can accept one of his [close] relatives [as a judge].

A close relative is legally disqualified to be a judge, and Ran is saying that one can take it upon oneself to accept the ruling of someone who is legally disqualified from serving as a judge (such as a close relative or a non-Jew) and "the children of Israel came up to her for judgment"—agreeing to accept her rulings—her rulings were binding upon them. Hence, if a woman is approached for a halakhic ruling, it presumes that the questioner will accept her reply as authoritative.

Furthermore, even according to those who do not follow the lines of interpretation I have cited above, there are numerous areas in which a woman is eligible to give testimony, such as *yibbum* and *halitsab* (*Shulhan arukh, Even ha-ezer, Seder halitsab* 21-24. Maimonides, *Mishneh torah, Hilkebot yibum ve-halitsab* 4:31); issues between a man and his wife (Maimonides, id., *Hilkebot ishut* 21:10), establishing that a captive woman had not been raped and is permitted to marry a *kohen* (Maimonides, id., *Hilkebot issurei bi'ah* 18:17); establishing ownership (BT *Bava Qamma* 104b); issues both monetary and otherwise (BT *Ketubbot* 85b, Responsa of Rivash, 182); everywhere the testimony of a single witness suffices (Maimonides, id., *Hilkebot edut* 5:3); *kasbrut*, separating *hallah*, the Sabbath, and menstrual purity and impurity (Responsa *Tsits eli'ezer* vol. 4, 20); everything that a person can of his own accord correct (*Shulhan arukh, Even ha-ezer* 17:3, based on M. *Yevamot* 16:7), etc. It follows that in all these areas a woman is eligible not merely to give testimony, but also to give judgment.

According to all the above replies, the upshot of the passage in B.T. *Niddab* is that a woman may give halakhic rulings. This, indeed, is how one may understand a statement in *Sefer ha-hinukh* (158), where we read concerning the prohibition that one who is inebriated may not give judgment: "[This prohibition] prevents

giving judgment in any place and at all times on the part of males *and of a wise woman who is suited to give ruling.*" That is to say, "a wise woman who is suited to give rulings" may not do so if she is inebriated, but may do so if she is not. And this is how Hida (R. Hayyim Yosef David Azulai) in his *Birkei yosef, Hoshen mishpat* 7:12, (and in *Pithei teshuvah* ibid. sec. 5) understood the situation:

Namely that a woman is ineligible to judge; however, a wise woman may give rulings. So is it apparent from one of the Tosafot's answers, namely that Devorah taught them the laws. And see that this is so in *Sefer ha-hinukh*, for in sec. 83 he agreed that a woman is ineligible to judge, while in sec. 158, concerning drunkards he wrote: "and so a wise woman who is suited to give rulings ..."

Ran says that one can take it upon oneself to accept the ruling of someone who is legally disqualified from serving as a judge.

Furthermore, Maimonides wrote of:

the need to understand the forbidden and the permitted and the rest of the commandments... which constitute the great goodness the Lord bestowed [upon us] to the betterment of this world so that we may merit the World to Come, for these are subjects that all have to know. And they may be known to all—old and young, man and woman, one with a broad heart and one with a narrow. (*Mishneh torah, Hilkebot yisdoei ha-torah*, chapter 4 *ad fin*)

We infer from here that an adult woman, with a broad heart, may well "understand what is forbidden and what is permitted." Indeed, continues Rambam, "the crown of Torah stands waiting for all, as it is said 'Moses commanded us a law, even the inheritance of the congregation of Jacob' (Deut. 33:4)—

everyone who wishes may come and take.”
(Maimonides, id. 3:1)

On the basis of these sources several great authorities of recent times agreed that a wise woman, who took upon herself to study the Torah in depth, and who could be said to be crowned with the crown of Torah, and who achieved a standard of learning such that she could give halakhic rulings, may indeed do so. Rav Yitzhak Isaac Herzog, *ẓ"tl*, so ruled and Rav Bakshi Doron, (*Binyan Av*, (Jerusalem, 1982), 65:5, p. 287) wrote that women can be “of the great ones of the generation and serve as decisors, teaching Torah and halakhic rulings, for which the authority stems from personal abilities.”

The source of authority for the ordained person is the competence he has demonstrated. Such competence is not gender limited

One should further take note of the fact that the institution of *semikhab* (ordination) was suspended, or even abolished, close to one thousand seven hundred years ago, and as a result the notion and character of ordination underwent a radical change. (See R. Moshe Isserles, in his *Darkei mosheh to Tur Yoreh Deah* 242:14, ed. *Maḥon Yerushalayim*, pp.599-600, 2xx; cf. his responsum no. 24, ed. A. Ziv, Jerusalem 1970, p. 147). From that time onwards the practice has been that a learned scholar, rich in experience and accepted by his congregation, after becoming acquainted with a candidate for ordination, and examining him in one way or another, gives him a “document of ordination” (*ketav hasmakhab*) which bears witness to his knowledge and competence in certain areas of halakhah (either *Orah hayyim* and *Yoreh de`ab*—“*Yoreh Yoreh*”, or *Hoshen mishpat* and *Even ha-ezer*—“*Yadin Yadin*”). This does not constitute a transfer of authority but rather an attestation to the candidate's abilities and suitability to respond to questions in specific areas of *halakhab*.

More recently, in certain communities, there have been established a series of written examinations, not necessarily individually tailored but formalized and covering a broad spectrum of halakhic issues. These are offered by institutions that prepare and vet them, and then give documents of ordination which are widely accepted by their communities. Such is the case of the Israeli Chief Rabbinate and Yeshiva University in New York, etc. But as stated above, this is a relatively modern phenomenon. Even up to the present day the traditional practice that has been in use for all generations since the abolishment of the original *semikhab* has been granting a testimony of competence by a rabbi who was ordained and accepted by the community as a decisor (*poseq, ba`al hora`ab*) to one whom he has personally examined in a detailed, systematic manner. The document specifies and defines the areas of competence. Thus the nature of such ordination and the ultimate source of authority for the ordained person is the level of competence he has demonstrated. Today, such competence is not gender limited, and may well be demonstrated and proven by women as well as men.

Indeed, there is now an accepted institution of women who are qualified to act as pleaders in rabbinic courts (*to`anot rabbaniyot*), and there are women advisors on halakhic issues concerning *niddah* etc. (*yo`atsot hilkhatiyot*). The latter are, in effect, offering halakhic rulings. The authority and recognition of such women is based solely on their proven competence.

As to the question of whether a woman can serve in position of communal authority, Maimonides' view (*Mishneh torah, Hilkehot melakhim* 1:5) is well known, forbidding women from having any position of authority.⁴ However, later authorities stated that they know no source for this opinion (R. Moshe Feinstein, *Iggerot mosheh, Yoreh de`ab*, vol. 2, 44-45), and that it is “a rejected ruling” (R. Ben-Zion Meir Hai Uziel, *Mishpetei uzziel*, vol. 3, *Hoshen mishpat* 6). In addition, Rav Uziel wrote (*Pisqei uzziel* 43).⁵

This ruling only refers to an appointment by the Sanhedrin. But when the appointment is by the consent of the community, where through a majority vote the public voices its opinions, the agreement and trust of the public in its appointees, who will be supervising their communal affairs—in such a case even Rambam would agree that there is no hint of a prohibition [i.e. for a woman to so serve].

In other words, since the appointment of the leader of a community, be it in a position of spiritual leadership (or administrative, financial and/or political) is dependent upon the congregation's agreement, or that of their elected representatives, the authority vested in such a leader stems from the community that has the halakhic right to vest its authority in its leaders.

This view may gain further support from the following discussion. The *Tosafot Yom Tov* on *Mishnah Avot* 1:10 raises the following question related to Maimonides' statement in the introduction to his *Commentary on the Mishnah* that Shemaya and Avtalion were converts and rose to be *Nasi* and *Av beit din*: "But surely we have learned (M *Sanhedrin* 4:2; M. *Horayot* 1:4) that converts cannot receive such appointments?" He replies that they themselves were not converts but perhaps born of a non-Jewish father and a Jewish mother (from "*qahal geirim*"). However, *Hida* (*Birkei yosef*, *Hosben mishpat* 7:6; in the name of the *Kenesset ha-gedolah*) has a different solution. He asserts that "*qabbalah mebania*—acceptance has legal effect, as we have learned from Shemaya and Avtalion... In every case where the community

accepts and is satisfied with an appointment, the appointee can judge even on matters of authority and enforcement (*be-milei de sevarah u-kefiyah*)."

Later authorities stated that they know no source for this opinion and that it is "a rejected ruling."

There is, as it were, a contract of agreement that the congregation accept the rulings of its appointee, similar to that in a case of court arbitration, *borerut*. And when a great and accepted authority appoints an individual to such a position of leadership, the community assents to such appointment.

Moreover, we see that R. Feinstein (*Iggerot mosheb, Yoreh de`ab*, vol. 4, 24) states that a woman is in no way prohibited from accepting a position of authority. Indeed, he permitted a woman to serve as a *kasbrut* supervisor, even though it is a position of communal authority. (*Iggerot mosheb Yoreh de`ab* vol. 2, sect. 44)

Rav Herzog went even further⁶ (*ibid.* p.111), stating that the women of our generation, especially those who have been put forward as candidates for parliament, have a very broad education and are successful in business, run charitable institutions, etc. Accordingly, they are surely fit to serve in leadership positions in the community, even as members of parliament. And, he argues, Maimonides would agree with this, for his remarks were made given the cultural state of women in his own time.

4. This matter requires much further elaboration, and therefore I have addressed it below. Most recently Prof. Abraham Grossman, in an article entitled "*Ishah u-mishpabab be-haguto shel R. Avraham ben ha-Rambam.*" In *Dinei Yisrael* 26-27, 2009-2010, p.123, pointed to the ambivalent attitude of the Rambam to women. He refers us to *Hilkhos teshuvah* 10:1, where women's worship of God is categorized as of those of ignoramus and children; *Iggeret ha-shemad* (*Iggeret ha-Rambam*, ed. Y. Shilat 1. Jerusalem 1987 p.30): "... even women lacking in brains..."; *Hilkhos avodat kohanim* 11:16: "those senseless idiots, and among them women and children, who lack understanding", (my translation—D. S.). On the other hand, Rambam, Grossman points out, was concerned for the rights of women. (See *ibid.*)

5. The full responsum of R. Uziel appears in English, translated by Zvi Zohar in *The Edah Journal* 1:2, found at [http://www.edah.org/backend/coldfusion/search/document.cfm?title=Two Public Letters of Rav Abraham Ha-Kohen Kook %26—ed](http://www.edah.org/backend/coldfusion/search/document.cfm?title=Two+Public+Letters+of+Rav+Abraham+Ha-Kohen+Kook+%26—ed).

6. *Tehukah le-yisrael al-pi ha-torah*, vol. 1 (Jerusalem 1989).

Rav Uziel forcefully rejected the suggestion that a woman serving in a central position of authority in a community, especially in the synagogue, would constitute a breach of modesty, or violate the prohibition regarding “the voice of a woman being unchaste”:

It is common sense that in any serious meeting and meaningful conversation there is no question of lack of modesty.... And sitting in the proximity [of women] when involved in communal affairs, which is work of holiness, does not lead to lightheartedness, (i.e. immodesty). For all Israel are holy people, and her women are holy, and are not to be suspect of breach of modesty and morality.⁷

Moreover, latter day authorities stated that wherever the awe of the *Shechinah* is present, we need not concern ourselves with the rule regarding "the voice of a woman being unchaste" (R. Zvi Elimelech of Dinov, *Benei yisaskhar*, [Zolkiev-Lvov, 1846] *Kislev-Tevet* 4, 123, in the name of Hida, *Rosh david* [Mantua, 1776], 56d, *Be-shalah*). This may also be deduced from the straightforward reading of the *beraita* in BT *Megillah* 23a and R. Ovadia Yosef, *Yehaveh da'at*, vol. 4, (Jerusalem, 1981), sect.15, *ad fin*, and his note on p. 78, as well as from Rav Herzog (*Tehukah le-yisrael al-pi ha-torah*, vol. 1, (Jerusalem 1989) p. 98), who writes that he sees no problem concerning matters of immodesty, for “surely women appear in our law courts.... and we have never heard that anyone has cast doubt on such behavior. And if we were to take such a

stringent position, life would no longer be livable.”

To summarize: From the time of our ancestral mothers—such as Sarah, Devorah the Prophetess, or Beruriah, the wife of R. Meir—there have been learned women who dealt in *halakhah* and gave halakhic rulings. See, for example, *Teshuvot maimoniyot to Mishneh torah, Hilkebot ma'akhalot asurot*, 5; *Tosafot* to B.T. *Shabbat* 111 b; *Raviyah, Evel* sect. 841, see Aptowitz, vol. 3, p. 561; *Or zarua* vol. 2, 256; *Responsa R. Hayyim Or zarua* 101, 146, etc. Madame Bailah the wife of SMA, was famous and described as being learned by his son, R. Josef Jospe ha-Kohen in his introduction to the *Derishah* on *Tur Yoreh de'ab*, part 2. R. Avraham Gombiner, (the Magen Avraham) disagreed with her on two of her *hiddushim*, but R. Yehezkel Landau wrote of her "that in my humble opinion the law is according to his mother.... And so would I rule like the wife of the Gaon the *Derishah*, who is a lady whose heart rises up in wisdom.”⁸

From the time of our ancestral mothers, there have been learned women who dealt in halakhah and gave halakhic rulings.

There is even a tradition cited by R. David Conforte, (*Qoreh ha-dorot* 25b [Venice, 1746; Jerusalem, 2008], p. 93) that "a wise woman wrote" the anonymous *Kol bo*, a famous medieval book of *halakhah*, (though he probably rightly rejects this attribution).

7. *Pisqei uzziel* 44. See note 5.

8. Shlomo Ashkenazi, in his book *Ha-Ishahishah be-aspaqlariat ha-yahadut* [Woman as reflected in Judaism] vol.1 (Jerusalem, 1953), pp.115-130, lists over seventy learned Jewish women, several of whom had leadership positions (e.g. the daughter of Rabbenu Nissim of Kairuan, the wife of R. Yosef ha-Nagid (1031-1066), who after her husband's death led the community of Luciena (see Ashkenazi, *ibid.*, p.118), and gave halakhic rulings (e.g. Bailah, the wife of R. Yehoshua Walk (1550-1614) (*ibid.* p.122), or the wife of R. Avraham of Falaise (*ibid.* p.119). See further M. Kayserling, *Jüdische Frauen* (Leipzig, 1879; Shlomo); Shelomoh Ashkenazi, *Nashim lamdanuyot: seqirah historit* [Learned women: A historical review] (Tel-Aviv, 1993); A. Neubauer and M. Steinschneider, *Zur Frauenliteratur*, ed. A.M. Habermann (Jerusalem, 1968). On Madame Bailah, see also *Entsiklopedia le-toledot gedolei yisrael*, ed. M. Margalot, vol. 3 (Jerusalem 1943) col. 710.

In conclusion: From the above sources—*Tosafot* on *Niddah*, *Ran* on *Shevu'ot*, *Rashba* and *Ritba* on *Bava qamma*, *Sefer ha-hinukh*, *Hida* in *Birkei yosef*, and a number of latter-day authorities—it emerges that “a wise woman”, a god-fearing one, who studied Torah intensively and *halakhab* systematically in depth and in breadth from truly learned scholars, and who was examined by them and/or by an experienced rabbi, and who gained practical experience in the areas of *halakhab* by being in constant contact with true authorities—*shimush*—is certainly worthy to be crowned with the crown of Torah, and rightly to be considered eligible to give halakhic responses and practical ruling, in those areas in which she was examined and found competent. And may the Lord guard over her that she make no error, and lead no one astray, but guide her congregation along the pathway of Torah and the fear of God.

(*Adar* 5769)

Women in Positions of Authority

I briefly alluded above to Maimonides' position on this issue, and here I would like to address it in further depth. It is well-known that Maimonides rules in *Hilkebot melakhim* 1:5, that

to “all positions of authority in Israel (כל משימות (בישראל) one appoints only men.” And clearly a rabbinic position is one which carries with it considerable authority. The apparent source of this ruling is the biblical verse in Deut. 17:9. “You shall surely appoint over yourself a king”, upon which *Sifrei* ad loc. adds, “a king and not a queen.” Maimonides follows the ruling in *Sifrei*, expanding it to exclude a woman from having any position of authority, as we have just seen. R. Moshe Feinstein (in his *Iggerot Mosheh*, *Yoreh de'ah* 2, 45) writes, “I do not know, in my ignorance, of any source for his words, and we must assume that this was his personal opinion.” R. Hayyim David Halevi (*Tehumim* 10, 1989, p. 121) also thought this

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was Maimonides' personal opinion, but was troubled by the fact that Maimonides usually prefaces to a statement of his own view the words “it would appear to me” (ויראה לי). R. Halevi therefore finally concludes that Maimonides must have had a source which has been lost to us.

In point of fact, R. Uziel (*Piqkei uzziel be-she'eilot ha-zeman* [Jerusalem, 1977], sect. 43, pp. 224 et seq.) claims to have found Maimonides' source in a homiletic exposition on Deut. 17:15, "You cannot place upon yourself a gentile [as King]." From here they learned that one appoints a man as *parnas* (community leader) over the community, but one does not appoint a woman as *parnas* over the community—a source discovered by R. Shlomo Aharon Wertheimer. Earlier, R. Yaakov Levinson, (*Shivyon ha-nashim mi-nequdat ha-halakhab* [New York, 1920], chapter 3, p. 18), pointed to the passage in *Midrash lekab tov* on *Shofetim* (p. 58), where the author adds: "A man and not a woman...this is a negative commandment, that one may not appoint a '*parnasah*' (female community leader) over the community." One

can also point to *Midrash* Psalms 22 (ed. Buber, p. 192), where it is stated: "Woe to the generation where women are its leaders." When discussing Maimonides' view, R. Uziel (ibid. p. 230) suggests the prohibition may have been based not on an inherent disqualification of women (פסול האשה), but on the affront to the dignity of the community (כבוד הציבור). The rationale is important, because when the appointment is not made by the Sanhedrin but is made by the community itself, the disqualification would nevertheless remain in force if it reflected something inherent in women. But if it is a matter of the "dignity of the community," an appointment made by the community would obviously not be seen as an affront. Hence, in such a case even

9. See also R. Yonah Dovrat, "*Behirat u-minui nashim le-tafqidei tsibbur* [Electing and appointing women to communal roles] in *Ha-qibbuts ba-halakhab*, (Shalavin, 1984), p. 299, who discusses Rambam's source, and R. Yisrael Rosen, *Nashim be-tafqidim tsibburijim* [Women in communal roles] *Tehumim* 19, 1998 pp. 18-19; Avi Weinrot, ibid. p. 107 note 12, with additional references. He also refers us to a discussion between R. David Tzvi Hoffmann and Dr. Ritter regarding the status of Queen Shlomtzion, who Hoffmann argues received her royal authority by right of inheritance from her late husband Yannai. He further argues that there was no prohibition involved, merely halakhic policy. Ritter, for his part, held that there was no prohibition involved because the appointment was not by the people but by King Yannai. See *Ha-qibbuts ba-halakhab*, ibid pp. 286-290; Weingort, ibid. pp. 107-108 note 14. See further on this point the responsum of the *Noda bi-yehudah*, *Qamma*, *Hosben mishpat* sect.1; *Minhat hinyukb* 497:1; Y. Rosen, ibid. pp.20-21, for a further discussion of this point with additional bibliography. As an aside it is interesting to hear of the Moslem position on this issue. In "The Tale of Salim, the Youth of Khorasan", as related in Richard F. Burton's *Supplemental Nights* to the book of the *Thousand Nights and a Night*, vol.1, 1886. (facsimile ed. Denver 1900), p. 350, we read that Salma says: "But now Allah hath deigned reunite me with my brother, and it is no longer lawful to me that I be king and Sultan over the people, and I a woman; because there is no Sultanate for women, as when men are present". To which Burton adds a note (1):

There is no Salic law among Moslems; but the *Rasm* or custom of Al-Islam, established by the succession of the four first Caliphs, to the prejudice of Ayishah and other masterful women would be a strong precedent against queenly rule. It is the reverse with the Hindus who accept a Ravi as willingly as Rajah, and who believe with Europeans that when kings reign women rule, and *vice versa*. To the vulgar Moslem feminine government appears impossible and I once was asked by an Afghan, "What would happen if the queen were in childbed?"

However, there were women leaders in the modern world. This is clearly pointed out by S.D. Goitein, in his magisterial *A Mediterranean Society* vol. 3 (Berkeley, Los Angeles, London, 1978), p. 357:

Al-Hākim's (966-1021) sister, Sayyidat al-Mulk ("The Mistress over the Kingdom"), was suspected of having engineered his murder and she ruled the country after his death for four years. The Sudanese mother of the caliph al-Mustansir (1036-1094), who originally had been a slave girl in the possession of the Jew Abū Sa'd al-Tustari (who later became her "vizier"), held power while her son was a minor. Al-Mustansir himself, on his deathbed, put the Imamate, the religious and temporal leadership of the empire, into the hands of his sister, who then swore allegiance to al-Mustalī, the youngest and therefore, most amenable, of the seven sons of her dead brother. Al-Mu'izz, the most splendid ruler of Zirid Tunisia (1016-1062), was brought up by his aunt Mallāl, also known in the Geniza papers as al-Sayyida, "The Mistress," or "The Ruler," who acted as regent until her death in October 1023, and there were other prominent women of the Zirid court. The role of women at the courts of eleventh-century Egypt and Tunisia was so conspicuous that Ibn 'Idhārī, the noted historian of the Muslim West, dedicates a special chapter to the topic. See ibid. pp.506-507 notes 207-210. This subject is beyond my area of competence.

Maimonides would agree to the legitimacy of the appointment.¹⁰ Indeed, this is R. Uziel's conclusion, namely that if a woman is elected by the public "even Rambam would agree that there is no hint of prohibition." (ibid. p. 232)

There are inscriptions from the Roman and Byzantine periods referring to women as archisynagogos or presbytera.

We have already mentioned that R. Moshe Feinstein did not accept Maimonides' ruling, citing that numerous early authorities disagreed with it.¹¹

Furthermore, historically speaking we know there were women in leadership positions. We

have already mentioned Devorah the prophetess and Queen Shlomtsion (above note8), and there are a number of inscriptions from the Roman and Byzantine periods referring to women as *archisynagogos* or *presbytera*. We even know of a Rufina, who was a Jewish woman and an *archisynagogos*.¹² Are we to assume that all these historical precedents have no halakhic significance? Or rather, shall we follow the reasoning offered by several authorities that Maimonides' ruling is irrelevant to the contemporary situation, and that he himself would agree to the appointment of women elected by a democratic process to leadership positions, or alternatively appointed by a select committee with the agreement of and the satisfaction of the community.¹³

10. I have discussed this issue of "the dignity of the community" has been discussed by me in considerable detail in my essay entitled "Congregational Dignity and Human Dignity: Women and Public Torah Reading," in *Women and Men in Communal Prayer: Halakhic Perspectives*, (Jersey City, 2010), pp. 27 et seq. We may point out that recently R. Aharon Lichtenstein expressed the view that there should be a greater stress on the well being of a *tsibbur* in several of his studies. See, e.g., "The Human and Social Factor in Halakha," *Tradition* 36/1, 2002, p.20; "'Mah Enosh?': Reflections on the Relation between Judaism and Humanism", *The Torah U-Maddab Journal*, 14, 2006-2007, pp. 30-43, etc.

11. e. g., *Hinuckh*, Rashi, Ran to *Qiddushin* 76b, *Tosafot* on *Sotah* 41b, etc.; *Iggerot mosheb*, *Yoreh de'ah*, part 2, sect. 45.

12. There is some debate in the professional literature as to whether women served in leadership positions in the synagogues of ancient times, but the preponderance of evidence is that they did. There are at least four inscriptions from the Roman and Byzantine period referring to women as *archisynagogos* or *presbytera*. See B.J. Broton, *Women Leaders in the Ancient Synagogue: Inscriptional Evidence and Background* (Chico, Cal., 1982), 41-46; D. Noy, *Jewish Inscriptions in Western Europe*, Vol.1 (Cambridge, 1993), 59, 62, 163. But there are others who question this interpretation of the documents. See D.D. Binder, *Into the Temple Courts: The Place of the Synagogues in the Second Temple Period* (Atlanta, 1997), 372-379 (with abundant bibliography, ibid., 372. n. 58). These issues were recently summarized by W. Marburg in *The Cambridge History of Judaism*, vol. 3 (Cambridge, 1999), 389-401, and by Lee I. Levine in his comprehensive book, *The Ancient Synagogue: The First Thousand Years* (New Haven-London, 2000), 482-483. Levine tends to accept Broton's thesis that the majority, if not all, of the titles appearing in more than twenty inscriptions from outside of Palestine indeed indicate that women held official positions in the synagogue. On Rufina, see P. W. van der Horst, *Ancient Jewish Epigraphy: An Introductory Survey of a Millennium of Jewish Funerary and Epigraphy* (300 BCE=700 CE) (Kampen, 1996), 70, 105-109, who brings testimony concerning the offices of *archisynagogissa*, *prytanis*, *gymnasiarchos*, *agonotbetes*, *mater synagogue*, *pateressa*, and *mater collegii*, all of which indicate that women served in positions of leadership both inside and outside the synagogue.

13. This is clearly the view of the *Yam shel shlomoh*, *Bava Qamma* 10, sect. 34, and the *Mishpetei shemu'el*, by R. Shemuel Kalai, Venice 1599-1560, sect. 92.: "that when the communities accepted them [as community leaders], even if they are relatives, it is patently simple... that there can be no claim [of disqualification] against them".."

Perhaps we should also take cognizance of the comment of the *Beit yitshaq* (*Yoreh de'ah* 257:5), citing the *Mordekhai* (to *Baba Batra* sect. 488)). He says that when a community wishes to appoint someone as its treasurer, he is duty-bound to acquiesce to their request. The *Mordekhai* refers us to *Yerushalmi Pe'ah* 8:1, when the appointment of treasurers, or collectors of charity, is discussed by R. Yitzhak and R. Haggai. This is also cited by the *Darkei mosheb*, *Yoreh de'ah* 256:2, and this ruling is accepted by the *Hokhmat adam* 147:29. A treasurer (*gabbai tsedaqah*) was a position of considerable authority, for he could bring much pressure upon those reluctant to pay their dues, forcing them to do so. And since we are discussing appointments made by a community, in effect the community is requesting the individual to assume a position of authority and leadership; hence, it would be halakhically problematic for the individual to decline such a request.

Conclusion

I have tried to demonstrate that a careful study of the relevant rabbinic sources leads us to the conclusion that there is no halakhic impediment to a woman's appointment to a leadership position. This, indeed, was the ruling of Supreme Court Judge Menahem Elon in the famous case of Lea Shakdiel, who was elected to the membership of a religious Municipal Committee (מועצה דתית), an appointment that elicited aggressive opposition on the part of the ultra-religious establishment. Nor should there be any halakhic problem in the case of a woman appointed to a position of halakhic authority in a congregation that welcomes her and accepts her leadership.¹⁴

In the above discussion I have not in any way deconstructed classical *halakhah*, nor have I ignored or rejected the views of dominant authorities. I have shown them to have referred to different situations from those with which we are dealing in present-day society, and believe that the most reverent of authorities could agree with my conclusions when being apprised of our contemporary situation. Admittedly, such moves are innovative and many of our leading authorities fear any kind of innovation. But we should follow the motto of the sainted R. Kook, whose credo was “הישן יתחדש והחדש יתקדש”—May the old be renewed, and the new be sanctified.

Postscript

Recently my friend and colleague Prof. Aryeh A. Frimer gave a lecture entitled “The View of Rav Joseph B. Soloveitchik, זצ”ל, on the Ordination of Women” (June 27, 2010). Rav Soloveitchik never discussed this issue openly, but Frimer found solid pieces of evidence that the Rav opposed women serving as *shul* rabbis, receiving *semikhab* and being presidents of

synagogue boards. The Rav based himself primarily on Rambam's position that women could not have *serarab* (communal authority) and those positions granting such authority were, in the Rav's opinion, closed to women. I have discussed Rambam's position, and have reached a different conclusion. Paradoxically, the Rav did permit women to be *mashgihot kashrut* (*kashrut* supervisors), though I have argued they, too, have authority. He did not permit women slaughterers, but I have shown elsewhere that many communities did in fact appoint women slaughterers. (See *Minhagei yisrael* 4, Jerusalem 1995, pp. 9-12; vol. 6, Jerusalem 1998, pp. 260-263; vol.7, Jerusalem 2003, pp. 401-402; vol. 8, Jerusalem 2007, p. 268).

“May the old be renewed, and the new be sanctified.”

Prof. Frimer ends his balanced discussion with the following statement:

This [the above] in no way contravenes the fact that a large cadre of leading *poseqim* have disagreed to varying extents with the Rav's sole reliance on the Rambam, his analysis of *serarab*, and his distinction between *serarab* and *miuni kahal*. Furthermore, many *poseqim* accept the efficacy of democratic elections (*kiblu aleibem*) as a means of circumventing *serarab* considerations in other communal leadership positions (such as *shul* presidency and elected political positions, and they may well feel the same about rabbinic positions...) As a result of all these considerations, it will not be a simple matter to come to a final ruling on the issue of women's ordination...

14. It is true that there may be congregational functions which she cannot carry out; see Francus' remarks referred to above note 3. They are not altogether convincing, however, and require further examination. In any case, they are few and far between and leave her sufficient areas of productive rabbinic activity.

While I agree that the matter is not simple, I also think it needs to be confronted, and hence I penned the above deliberation.¹⁵

I was also treated to Rabbi Nethaniel Helfgot's fine discussion on the subject.¹⁶ He believes that "the major issue here is ultimately (not) halakhic. Rather it touches more on very emotional, sociological and political self-definitions regarding what have been

perceived for 30-40 years as "bounding" issues between Orthodox and non-Orthodox movements. However, he further states that "taking into account the practical sociological communal realities, a move perceived as ordaining women at the moment is premature" I have the deepest respect for R. Helfgot and his reasoning, but I still venture to reply: אם לא עכשיו, אימת? — "If not now, when?"