

Orthodox Women Rabbis? Tentative Thoughts that Distinguish Between the Timely and the Timeless

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I. Introduction: Unity without Uniformity, Diversity without Divisiveness

In the second half of the twentieth century, the halakhic community has confronted several new intellectual challenges to the structure of Jewish law. Painting with a broad brush, these include: The reestablishment of the State of Israel with all of its unique halakhic dilemmas; the welcoming of Jews as equal citizens into the open Western democracies of the United States, Canada, and many other nations; the rise of new and powerful technologies as part of daily life; and the changing social status of women in the world.

Orthodox Judaism has not responded to any of these developments with a unified approach. Before we focus on the issue of women, it is worth briefly reviewing the first three topics. The reestablishment of the State of Israel has produced diverse responses, ranging from Rabbi Tzvi Yehuda Kook's advocacy of messianic

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Zionism to the Satmar Rebbe's full-blown rejection of the State as the devil's work. Most of Orthodoxy falls comfortably between these poles, and we recognize the entire spectrum as part of the Orthodox halakhic community. The welcoming of Jews as equal citizens in America has produced a similar diversity, from Rabbi Menashe Klein's denial that *dina demalkhuta dina* applies in America to Rabbi Joseph Soloveitchik's claim that it is a sin to purchase products from people who do not pay sales tax. Again, most of Orthodoxy resides between these poles. While more subtle, the same diversity exists with regard to approaches and attitudes to technology. Ranging from the contrary analyses of Rabbi Shlomo Zalman Auerbach and the Chazon Ish of the prohibition to use electricity on Shabbat, to larger questions regarding medical ethics and other technological advances, the Orthodox community lives with a diversity of very different approaches.

Many of these disagreements remain passionate and unfortunately sometimes hostile, to the point where some disputants have dismissed their interlocutors as beyond the pale of Orthodox Judaism. Most Orthodox Jews, however, continue to recognize their disputants as acting within the framework of halakhic Judaism, even if they deem the opposing position to be in error. While occasionally an attitude of complete intolerance toward other positions may be correct (the dangerous anti-Zionist activities of certain members of the *Neturei Karta* come to mind), we think that the more expansive demarcation of Orthodox opinions, in almost all circumstances, remains the better approach.

Until the reestablishment of a Sanhedrin, we need to achieve unity and not uniformity, enabling diversity without divisiveness. This is the appropriate historical lesson of the terrible schism within European Orthodox Jewry in the nineteenth and early twentieth centuries. The vicious fights between religious groups (Hasidim versus Mitnagdim, Zionists versus anti-Zionists) and the many polemical disputes about the details of ritual life (sermons in the vernacular, the placement of the *bimah*, *shebittah* knives) strike one, with the wisdom of hindsight, as unwise. The fratricidal fighting did not help our community or Judaism as a whole, and appears particularly misguided in light of how we have come over time to live with these differences. This has been made possible, in part, because we

have learned which areas we can and cannot fully cooperate together, but largely because we recognize that there are different acceptable Orthodox responses to modernity. As such, much work is done together in *kasbrut*, *gittin* (divorce documents) and *batei din* (judicial courts)—areas in which reciprocal recognition of *ne'emanut* (fealty to halakhah) are essential—even as our different rabbinic and synagogue organizations advocate varying Orthodox ideologies and agendas.

This same motto of “unity without uniformity, diversity without divisiveness” should also apply to the range of opinions regarding women’s issues, and in particular, the role of women as students and teachers of Torah. Clearly, there exists a wide spectrum of opinions on this matter, ranging from Rabbi Soloveitchik’s opinion that Talmud study ought to be a routine part of women’s education, to Rabbi Teitelbaum’s approach that women may only be taught the Written Torah without even Rashi’s commentary. Many others fall out between these two poles, again recognizing that all remain a part of the Orthodox community.

Recently, the Orthodox community came perilously close to fissuring over the decision by Rabbi Avi Weiss to grant the title *Rabba* (the feminine of the Hebrew term *Rav*, or *Rabbi*) to a woman who he felt was deserving of this title. The fissure was partially averted, at least temporarily, by Rabbi Weiss’s decision to cease granting such titles in the future, but his actions have thrust the larger issue of women clergy onto the public stage.

In the coming pages, we attempt to offer a framework for understanding the legal and meta-halakhic factors that shape the divisive debate over women rabbis. We hope that our study will foster dialogue and generate greater clarity of the relevant issues, even as we acknowledge that different opinions will remain.

It is important to emphasize that serious halakhic questions with major ideological and sociological implications require sensitive and nuanced analysis. In particular, we aim to avoid polemics and theatrics, and instead carefully define all of the relevant issues. The first step always entails delineating questions of technical halakhah, and only then addressing the significant elements relating to more global values, the “spirit of the law,” “public policy,” and “intra-communal politics.” Given that halakhah forms the backbone of

our behavior, we cannot risk distorting or misrepresenting the Torah by conflating the different elements, as they all remain independently significant considerations within the halakhic process. We thus divide this essay into two sections: technical halakhic questions and meta-halakhic considerations.

II. Technical Halakhic Questions

A. Eligibility to Receive Semikhah

What is *semikhah* (ordination) and may it be given to women? The contemporary notion of formal ordination, which first appears in fourteenth-century halakhic literature, does not authorize the same judicial activities as classic *semikhah* of Mosaic origins given exclusively in Eretz Yisrael in the Talmudic and pre-Talmudic eras.² Rather, as Rabbi Yitzhak ben Sheshet (Rivash 271) delineated and Rabbi Moshe Isserles (Rama) codified (*Darkhei Moshe* and *YD* 242:14), *semikhah* grants license by a teacher to a student to issue rulings on matters of Jewish law. It thus certifies the knowledge of the recipient of the degree, and further warrants him to issue halakhic rulings even within the locale of his teacher.³ While Rivash believed that it was not necessary to receive such *semikhah* following the death of one's teacher, R' David ben Hayyim HaKohen (Shu"t Radach 18:10) and others always required it to prevent unqualified people from issuing *hora'ah*. This *semikhah* was not necessary to teach Torah or to explicate basic or decided matters of halakhah (*YD* 242:8-9).⁴

² Confusion regarding this matter led some Sephardic figures to criticize their Ashkenazic colleagues for issuing *semikhah*, which in its classic form, cannot be issued outside the land of Israel. See, for example, the 6th chapter of *Nahalat Avot*, Rabbi Yitzhak Abarbanel's commentary to *Pirkei Avot*.

³ In this respect, Rivash adds, the student literally becomes his own master (or "rav"), since he is no longer subject to the limits of his teacher's jurisdiction.

⁴ It should be noted that the licensing given through *semikhah* was not a form of necessary investiture that granted powers invested by God, so to speak. As such, someone who decided not to accept *semikhah*, out of modesty or piety, could still perform functions like weddings and *gittin* (*YD* 242:14). Conversely, even if one had *semikhah*, but did not have the

Three different theories emerged regarding eligibility for contemporary *semikhah*. The first and simplest view, drawing the logical conclusion from the above depiction of *semikhah* and adopted by Rama in both the *Darkhei Moshe* and *Shulhan Arukh*, concludes that anyone is eligible to receive *semikhah* when their teacher certifies they have acquired requisite knowledge and licenses them to issue halakhic rulings. The scope of this license may be limited to certain areas of law (depending on the student's actual knowledge and qualifications) and may be granted to one who is ineligible to receive Mosaic ordination that was present in Talmudic times. As such, basic contemporary *semikhah* is based on one's knowledge and competence to answer questions of law.⁵

A second approach, taken by Rama in his responsa (24), contends that modern ordination should adopt the standards of the classical Mosaic ordination, and therefore one should not ordain anyone who could not receive the classical *semikhah* of Talmudic times.⁶ The criteria for classic *musmakhim* (recipients of ordination)

proper knowledge to perform certain functions, the standing of this individual's actions could be called into question.

⁵ This system, of course, may lead to situations of abuse, since two *musmakhim* with vastly different degrees of knowledge and qualifications may share the same title. Indeed, throughout the generations, some have protested the abuse of the title *rabbi* by those who issue rulings on matters on which they are not sufficiently qualified. See, for example, *Yam Shel Shlomo, Bava Kamma* 8:58. This may have particularly dire consequences in cases relating to personal status (such as *gittin*), and therefore Rama adds that one must be particularly careful that only rabbis competent in this complex area of law should engage in *gittin*. Nonetheless, the basic concept of *semikhah* remains the same for all. One frequently sees this manifested today by yeshivot that issue separate *semikhot*, one for *yoreh yoreh* and the other for *yadin yadin*. Each *semikhah* testifies to the successful completion of a distinct course of study, and licenses the recipient accordingly. Similarly, the Israeli Chief Rabbinate issues different *semikhot* for judges, neighborhood rabbis, and city rabbis, in addition to their basic *yoreh yoreh* certification.

⁶ Rama cites concerns that those ineligible to perform certain tasks will not be able to garner proper communal respect. Rabbi Moshe Sofer, *Hatam Sofer EH* 2:94, also adopts this position, albeit for a different concern, that out of self-pity or ignorance, the *rabbi* will ultimately err and end up per-

included that they be eligible to perform all judicial functions of the Sanhedrin, even if their particular ordination only permitted them to do limited tasks (*Mishneh Torah, Hilkhot Sanhedrin* 4:8-10). Women are thus not eligible for contemporary ordination in this view, since they cannot fulfill all duties performed by recipients of Mosaic ordination.

A third approach argues that for various cultural and legal reasons, different limitations were imposed on who could receive *semikhab*. For example, debates were held whether a minimum age was required to receive *semikhab*, or if it should be issued only at one's wedding. A more prominent issue related to competition and the licensing of someone to practice in an area where other rabbis presently served. Some *semikhot*, for example, authorized a person to establish their own yeshiva, despite the presence of others previously established.⁷

Similar issues relating to synagogue rabbis are highlighted by Rabbi Yehiel Michel Epstein in his *Arukh Ha-Shulhan (Yoreh Deah* 242:29). After affirmatively citing the Rama, he adds:

In our times and for many previous generations, each city chooses its official rabbi (*rav muvhak*) to issue legal rulings (*psak*) and to adjudicate (*lehorot ve-ladun*), and he is considered the official rabbi for the entire city and its surrounding areas. No one else has permission in this area, even if they have achieved requirements to issue rulings on Jewish law and adjudicate (*biggia le-hora'ah lehorot*), unless the city rabbi grants him permission by giving him ordination so that he can be chosen as the rabbi of any given community (*kehillah*). But without

forming tasks ineligible to him. He does provide a *limud zekbut*, however, for those who followed different standards of *semikhab* eligibility.

⁷ On the history of modern *semikhab*, including the various cultural and legal debates involved in these ordinations, see Mordechai Breuer, "Ha-Semikhab Ha-Ashkenazit," *Zion* 33 (5728), p. 15–46 (also reprinted in his collection of articles, *Assif: Mi-Pri Et Ve-Et*, Rimonim Publishers, 1999). On the concept of *beter hora'ah*, see Rabbi Dr. Yaakov Blidstein, "Heter Hora'ah Be-Mishnat Ha-Rambam U-Mashmuato Ha-Hevratit," in his *Iyyunim Be-Mahshevet Ha-Halakhah Ve-Ha-Aggadah*, Ben Gurion University Press, p. 103–113, and the sources cited in *Encyclopedia Talmudit*, "Hora'ah" (vol. 8), p. 486–494.

such ordination, it is prohibited to be a (synagogue) rabbi or resolver of questions (*moreh tzedek*) and this has been the practice for generations. Heaven forbid: one should not deviate! This is currently the central matter of ordination. It is getting permission and an attestation that one has reached the stage where one can issue ruling on matters of Jewish law.

The context of the statement clearly applies to a situation in which a locale has a bona fide community rabbi (*mara de-atra*). The larger issue of authorization (*reshut*) is less relevant in many contemporary situations since multiple rabbis can function within a given area. Nonetheless, *Arukh Ha-Shulhan* understands that one conception of *semikhab* authorizes—and therefore necessitates one to be eligible for—the position of synagogue rabbi. That is to say, the licensing given to anyone who has received this ordination is that they have received the social sanction to lead a *kehillah*, and not just issue rulings of Jewish law (*bora'ah*).⁸ Rabbi Yehiel Y. Weinberg further attests that the meaning of standard *semikhab* or *heter bora'ah* was to authorize a person to serve in a rabbinic position (*rav*, *dayan*, or *moreh tzedek*).⁹

One might conclude that whether women may be ordained as rabbis depends, in part, on the dispute between these three different conceptions of *semikhab*. In his responsum, Rama limits *semikhab* to those men who could theoretically perform all tasks filled by members of the Sanhedrin. In the *Shulhan Arukh*, however, he rules that anyone sufficiently knowledgeable to answer questions of Jewish law may be given *semikhab*. For the *Arukh Ha-Shulhan* and others this would only be so if he were additionally eligible to do the jobs customarily performed by those with *semikhab*, such as serving as a synagogue rabbi.

⁸ However, all agree that ordination is not required to teach Torah, either to adults or children, neither as a matter of logic nor as a matter of historical practice.

⁹ See the 4th volume of *Seridei Esh*, p. 138, Mosad Harav Kook edition (1969). In some recent reprints of *Shu"t Seridei Esh*, as well as the Bar Ilan CD version, the non-responsa essays have been removed. See also his essay in *Lifrakim* (new edition) in which he depicts the roles necessary to serve as a contemporary rabbi.

Different *poskim*, we suspect, would resolve this technical dispute of halakhah differently, as each position is supported by other authorities and historical practices.¹⁰ Any *semikhab* issued to women would have to resolve this issue and explicitly delineate the nature of its ordination.

B. The Issue of *Serarah*

Independent of the official licensing and title one receives from *semikhab*, a separate issue is whether women may perform certain rabbinic tasks or hold offices that constitute positions of *serarah*. The concept of *serarah* emerges from the Talmudic and halakhic discussions that exclude women and converts from being appointed as monarchs and serving as judges (*dayanim*).¹¹ In the *midrash halakhah* that excludes women from the monarchy, Ḥazal use the term to describe the fear (*eimah*) that the monarch instills upon his subjects.¹² An exact definition of the restricted positions, nonetheless, remains somewhat elusive. Rabbi Moshe Feinstein, in his responsum that permitted women to serve as supervisors for kashrut agencies, defined it as any position in which someone has discretio-

¹⁰ This dispute might be reflected in the fact that a few yeshivot only issue *semikhab* that includes both *yoreh yoreh* and *yadin yadin* licensing, thereby licensing their graduates to perform almost all rabbinic tasks (with the exception of issuing *gittin*). Most *yeshivot*, such as RIETS, as well as the Israeli Chief Rabbinate, however, issue a basic *heter hora'ah*, primarily based on *Orakh Ḥayyim* and *Yoreh De'ah*, while granting other *semikhot* to graduates who have achieved more advanced training. Other *yeshivot* regularly issue something colloquially known as “*Rav u-Manbig semikhab*,” which is mostly an honorific title. In some *yeshivot* it was issued on condition that one not engage in *psak halakhah*, yet in other *yeshivot* it authorized one to serve as a religious authority, with bearers of these certificates frequently adopting rabbinic positions. (Rabbi Weinberg states that in the Hildesheimer Seminary in Berlin, this *semikhab* was issued only to certify one’s qualifications as a teacher, but not to issue *hora'ah*. This certification helped garner the proper respect necessary to teach, while preventing those unqualified from issuing *hora'ah*.)

¹¹ See, for example, *Yevamot* 45b, *Shevu'ot* 30a, *Kiddushin* 76b, and *Yevamot* 102a.

¹² *Sifri Devarim* 17:15, #157.

nary, coercive powers to impose obligations or responsibilities against someone's will.¹³ In his responsum that permitted women and converts to serve as communal leaders and *poskei halakhah*, Rabbi Eliyahu Bakshi Doron, the former Israeli Sephardic chief rabbi, defined the forbidden job as a position in which the authority of their decisions stems from their appointment to a position of power (*shilton*), as opposed to their knowledge and wisdom (*yo'etz*).¹⁴

As Rav Moshe and others have noted, Rambam (*MT Melakhim* 1:5) understands the prohibition of women serving as a monarch as a prohibition of women functioning in all communal roles.¹⁵ The *Sefer Ha-Hinuch* (497), on the other hand, explicitly limits the prohibition for women to the realm of monarchy, even as he extends it more broadly in its application to *gerim* (498).

More significantly, independent of the definition and scope of *serarah*, many medieval authorities (and according to Rav Moshe,

¹³ *Iggerot Moshe YD* 2:44–5. This definition flows from *Shakh YD* 269:15.

¹⁴ *Shu"t Binyan Av* 1:65.

¹⁵ The contested source of Rambam's ruling has garnered much discussion, since many editions of the Sifri only exclude women from the monarchy, even as research has shown several manuscripts that include textual variants to the Sifri which justify Rambam's position. See, most recently, Aliza Bazak "Dayyanut nashim: nitu'ah mekorot ha-din u-behinatan be-dayyanut u-be-serarah" in *Libyot Ishah Yehudiyah* (Vol. 3, 2005), ed. T. Cohen and A. Lavi, p. 89–98. (While this article focuses specifically on women serving as judges, it also discusses the larger issue of women holding positions of *serarah*). It is therefore surprising that Rabbi Daniel Sperber, in his responsum (online at <<http://yeshivatmaharat.org/resources-0>>) to justify the ordination of a woman, simply rejects Rambam's position, because, in his words, "Later authorities stated that they know no source for this opinion (R. Moshe Feinstein, *Iggerot Moshe, Yoreh de'ah*, vol. 2, 44–45), and that it is "a rejected ruling" (R. Ben-Zion Meir Hai Uziel, *Mishpetei Uziel*, vol. 3, *Hoshen Mishpat* 6)." Yet they, of course, did not have access to these manuscripts, and it is precisely Rabbi Sperber himself, in his very erudite work, *Netivot Pesikah* (Reuven Mass, 2008), who has most forcefully argued for the use of manuscript research in halakhic decision making. In any case, it remains undeniable that this was Rambam's position, which was also held, in part, by the Ritva (see below).

the majority) contend that communal acceptance would grant women the license to hold positions of authority in regard to political power and legal matters. The context of these statements is a discussion about the prophetess Devorah's extended reign as a "*shofetet*," normally translated as a judge. The Talmudic commentators are bothered by the possibility of how she could function as a judge, since the Talmud seems to prohibit women from that role.¹⁶ One common answer affirmed that she functioned as a judge, which was allowed on the basis of a well-established rule that litigants can agree (*kabbalah*) to be judged by those normally forbidden from this position.¹⁷

¹⁶ This is the widespread understanding of *Yerushalmi Shevu'ot* 4:7 and *Bavli Shevu'ot* 30a, which was ultimately codified in halakhah, *Hosben Mishpat* 7:4. See *Tosafot Niddah* 50a d.h. *kol* (cited by Ritva *Kiddushin* 35a d.h. *ve-ha* and Rashba *Bava Kamma* 15a d.h. *asher*) for a different opinion. Cf. *Kobelet Rabbah, Parasha 2. Tosafot Niddah* alternatively cites a position that Devorah was an entirely unique circumstance because she was chosen by God. Cf. *Tosafot Bava Kamma* 15a d.h. *asher*, *Tosafot Yevamot* 45b d.h. *keivan*, and Radbaz *Hilkhot Melakhim* 1:5.

¹⁷ Normally, such acceptance of judges is done on an *ad hoc* basis. *Sefer Ha-Hinuch* (#87) however, posits the possibility that the communal leaders appointed Devorah to this position, firmly establishing her position as a judge, usually held for an indefinite time period. This would explain the duration of her service. The issue of indefinite or permanent *kabbalah* for judicial positions has greatly engaged *poskim* who sought to understand how the converts Shmaya and Avtalyon could be appointed *Nasi* and *Av Bet Din*. Rabbi Chaim Benvenisti, *Knesset Ha-Gedolah, Haghot Bet Yosef* CM 7:1, asserts that the *kabbalah* of all Klal Yisrael works to appoint a *ger* as *Av Bet Din* or *Nasi*. This position was challenged by Rabbi Yonatan Eybeschütz, *Tumim* CM 7:1, and Rabbi Yehezkel Landau, *Doresb Le-Zion* #3. Alternatively, Rabbi Yiṯhak ben Asher (*Riv"ā Al Ha-Torah, Parshat Mishpatim*, citing Rabbi Moshe of Coucy) and Rabbi Shimon Duran (Tashbetz, *Magen Avot* 1:10) assert that *gerim* are not *pasul* for such positions if they are the most qualified for the job. This might constitute a definitive exception to the *serarah* rule. (Cf. *Midrash Eliyahu Rabbah*, 10, d.h. *u-Devorah Isbah Neviah*, where the *midrash* notes that Devorah was chosen as the *shofetet* over Pinḥas ben Elazar, and then further elaborates that all people—Jews and non-Jews, men and women, free-people and slaves—are blessed with the divine spirit according to the merits of their actions.) Alternatively, Rabbi Meir Dan Plotzki, *Hemdat Yisrael, mitzvah* 362, un-

Others, however, answered that while she could not function as an official judge, she could teach the relevant laws for the disputed case.¹⁸ The judges could then simply act on her halakhic wisdom. Yet many *rishonim*, including Ramban, Rashba, and Ritva, alternatively asserted that the term *shofetet* means that she served as a political authority.¹⁹ This was not prohibited to her under the terms of *serarah*, since the people decided to follow her authority.

In other words, the autonomous choice of people to accept in practice someone's authority, be it political or intellectual (and possibly judicial), precludes their power from constituting *serarah*. It is on this basis, for example, that a number of *poskim* in Israel have permitted women to hold office in the democratically-elected Knesset, despite the power of these positions. Similarly, many American rabbis have permitted women to be elected as presidents of their

derstands that their greater qualifications naturally led to their assumption of leadership roles, as opposed to a (forbidden) formal appointment. Rabbi Hayyim David Azulai (Hid"א), *Birkei Yosef* HM 7:6, while initially citing the opinion of the Knesset Ha-Gedolah, ultimately adopts the opinion of the Tashbetz and seems to conclude that *kabbalah* does not work for *gerim* to assume positions of *serarah*. He also mentions the alternative position, advocated by the Maharal (*Avot* 1:10), that Shmaya and Avtalyon were mere descendants of converts, but not actual *gerim*.

¹⁸ *Tosafot Niddah* 50a, *Hinuch* 87. On this notion, see *Hilkhot Dayanim im Halakhah Pesukah*, Machon Harry Fischel, p. 94–95, and Rabbi Joseph B. Soloveitchik, *Reshimat Shiurim: Shevu'ot-Nedarim*, ed. Rabbi H. Reichman, vol. II, p. 4.

¹⁹ Ramban *Shevu'ot* 30a d.h. *matni*, Rashba 30a d.h. *ve-lo nashim*, Ritva 30a d.h. *matni*. The latter source is particularly significant since he, like Rambam, explicitly states that the prohibition of *serarah* encompasses all communal positions, but contends that communal acceptance precludes this from being a *minui* of *serarah* and other *mesimot*. It appears that communal acceptance (*nohagin bah ke-din malkah* or *nohagin al pi-bah*) is seemingly differentiated by many *rishonim* with the *kabbalah* done in judiciary cases, which may be governed by different limitations, as noted above. Yet some *aḥaronim* seem to equate the two factors. It should be noted that Rabbi Ben-Zion Uzziel, *Shu"t Mishpatei Uziel*, vol. 4, HM #6 and others believed that even Rambam would allow women to fill positions when they have received communal acceptance. This interpretation, however, is far from universally accepted.

synagogues and schools.²⁰ Rabbis, who are almost universally elected and selected by their synagogues or schools, work under a limited employment contract, and do not inherit their office,²¹ are logically also covered by this license.

²⁰ The major reasons cited by the lenient *poskim* are one or many of the following factors traditionally found in the liberal democratic process: 1) the officer is elected by the public, 2) the power is either limited or shared with others, 3) the position is held for a limited time period, and 4) officers cannot automatically bequeath this power to their heirs. For different perspectives of these issues relating to *serarah*, see Rabbi J. David Bleich, “Women on Synagogue Boards,” *Tradition* 15:4 (Spring 1976), (reprinted in his *Contemporary Halakhic Problems*, Vol 2, Ktav Publishing House, 1983, p.254-267) and more recently, Rabbi Aryeh Frimer, “Women in Communal Positions: Shul Presidents,” *Text & Texture* (2 June 2010), <<http://text.rcarabbis.org/?p=931>>, which is an edited transcript of an oral presentation based on his Hebrew article, Aryeh A. Frimer, “*Nashim beTafkidim Tsiburiyyim beldan haModerni*” in *Afikei Yehudah—Rabbi Yehuda Gershuni zt’l Memorial Volume*, ed. R. Itamar Warhaftig, Ariel Press: Jerusalem, 5765 (2005), pp. 330-354. These articles, of course, discuss positions shaped by many issues, and not just the concept of *serarah*. Additional discussion may be found in Prof. Menachem Elon, *Ma’amad Ha-Ishah*, Hakibbutz Hameuchad Publishing House (2005), pp. 51–100. See also Rabbi Dr. Ariel Pikard, “*Ma’amad Ha-Nokhri Be-Medinat Yisrael Be-Pesikat Rabbanei Ha-Tzionut Ha-Datit*,” *Reshit* 1 (2009), p. 187–208, which discusses non-Jews filling positions of power within the State of Israel.

²¹ This point is significant, since in addition to its indefinite duration, one of the classic characterizations of positions of *serarah* is that it includes the rights to bequeath the position to inheritors (much like the monarchy). See Rambam *Hilkhos Melakhim* 1:7, *Shu”t Hatam Sofer* OḤ 12–13, *Shu”t Avnei Nezer* 312, and the discussion in *Encyclopedia Talmudit*, “*Chezkat Serarah*” (vol. 14) p. 346–373. This was a historically accepted practice in many locales with regard to the rabbinate, even as it was highly disputed and certainly not universal. On this topic, see Rabbi Ephraim Weinberger, “*Yerushah Ba-Rabanut*” in *Ba-Tzomet Ha-Torah Ve-Hamedinah*, vol. 1 (Tzomet Institute) p. 294-300 (republished in his *Yad Ephraim, siman* 2). For a recent historical survey, including a detailed bibliography, see Shaul Stampfer, *Families, Rabbis, and Education: Traditional Jewish Society in Nineteenth-Century Eastern Europe*, Littman Library (2010), chapter 14. In such circumstances, rabbinic positions might indeed constitute *serarah*. However, in most communities today, there is no definitive inheritance right for children in rabbinic positions. See the position of R’ Weinberg-

Of course, one might argue that if we rule like Rambam and furthermore do not adopt the concept of communal acceptance, then those limited by the strictures of *serarah* could not receive *semikhah* and serve in any rabbinic positions. This, however, is not the established practice, since very few, if any, yeshivot exclude male *gerim* from receiving *semikhah* and functioning as rabbis.²²

er, as well as *Arukh Ha-Shulhan* 245:29, who affirm the legitimacy of this practice. It should be further noted that the controversial historical practice of purchasing one's position from either the community or the previous rabbi is no longer practiced today, a factor that was also occasionally cited as contributing to a *serarah* position.

²² In the course of writing this essay, we spoke with a senior administrator at a universally respected yeshiva that regularly issues *yoreh yoreh yadin yadin semikhah*. He told us that his yeshiva planned to issue this distinguished *semikhah* to a student who was a *ger*, as a sign of his accomplishment in learning, even as he would be instructed that he could not serve as a *dayan*. He would, however, be allowed to serve in the shul rabbinate, a position which the yeshiva deemed not as *serarah*, but rather as "*avdus*" (servitude), because of the nature of the communal service and pressures. One historical precedent for such a stand may be found in Rabbi Yitzhak (ben Avraham) Graanboom (d. 1809), author of *Zera Yitzhak* (Amsterdam 1789) on *Pirkei Avot*. A convert, he served as a rabbi of multiple congregations in Amsterdam, and was for an interim period the Chief Rabbi of Amsterdam. See Dan Rabinowitz, "The Chief Rabbi of Amsterdam: A Jewish Convert," *The Seforim Blog* (6 Dec 2006), accessible at <<http://seforim.blogspot.com/2006/12/chief-rabbi-of-amsterdam-jewish-convert.html>>.

It is reasonable to argue that contemporary shul rabbis in modern America do not possess coercive powers over their congregants, who can easily leave the institution but cannot be easily barred from membership, at least by the rabbi alone, and whose behavior cannot be easily regulated. One European reader has noted to us that the lack of *serarah* in the American rabbinate—as indicated by both their lack of coercive powers as well as their partial subservience to the whims of the synagogue board—remains problematic, as rabbis do not feel sufficiently empowered or protected to perform their duties with dignity and integrity. Indeed, in certain cases, this lack of *serarah* can be harmful and even malicious, as evidenced by the 2010 RCA Convention resolution to assist pulpit rabbis in difficult employment situations. Nonetheless, we believe that even as the rabbinate is entitled to greater respect and discretionary power, this does not change the fact that the hiring, contract, and powers of rabbis are sub-

This is despite the fact that the full scope of *serarah* restrictions more definitively applies to them, and they cannot serve as *dayanim* or in rabbinic positions of compulsory authority.²³

This halakhic tradition seems to reflect the understanding that many rabbinic duties—with the definite exception of acting as a standing rabbinic court judge—do not constitute *serarah*. This is especially so in situations where rabbis are elected to that position and are subject to restraints of other governing bodies. As such, it remains unpersuasive to bar women, on the basis of the *serarah* ar-

ject to checks and balances imposed by the community. In any case, however one understands this specific rabbinic position, the larger issue of giving women *semikhah* and allowing them to fill *some* rabbinic positions remains the same.

²³ Even if one would understand a certain position to constitute *serarah*, such as a synagogue rabbi, that does not necessarily preclude a *ger* from serving, in function if not in title, in that position. See *Teshuvot Ve-Hanhagot* 3:305, where Rabbi Moshe Sternbuch, *sblit*"a, permits appointing someone else with the official title of shul rabbi, and letting a *ger* act in practice as the *posek*, even with a title of *moreh tzedek* or assistant rabbi. This goes beyond the statement of Rav Moshe Feinstein, who asserted that even according to those who believe a *kashrut mashgiaḥ* is a position of *serarah* forbidden to women, a female could be a kashrut supervisor since the ultimate authority rested with the (male) head of the kashrut agency. Alternatively, Rabbi Eliezer Waldenberg, *Tzitz Eliezer* 19:47-8, suggests that even according to those who do not accept the concept of *kabalah* for positions of *serarah*, a *ger* could be included within a group of people serving in a certain position, if the community accepted his appointment to this committee. This would seem to be especially true if the person was deemed as the most qualified to serve in a certain position, which was cited by many *rishonim* and *poskim* as a mitigating factor to override the *serarah* limitations to *gerim*, as noted by Rabbi Waldenberg and others. In any case, everyone agrees that many positions currently filled by rabbis do not constitute *serarah*, and as such, *gerim* may receive *semikhah*. Parenthetically, we expect the number of *gerim* with *semikhah* will greatly increase in the coming generations, as many children will undergo Orthodox conversion because their mother originally did not receive a halakhic conversion.

gument alone, from receiving *semikhab*, when the long-time halakhic tradition has not applied that standard to *gerim*.²⁴

Indeed, it is worth noting that one position in the Jewish community which seems to contain some form of coercive powers is the one communal position that is most likely to be held by women: Head of School. A school principal has powers to discipline students and hire and fire staff, amongst their other duties of determining curriculum and shaping school policy. Nonetheless, our communities regularly hire women for these positions, and this is because the nature of their hiring, plus the checks and balances im-

²⁴ On this point, it is worthwhile to investigate the writings of Rabbi Moshe Feinstein with regard to *serarah*. In his most thorough treatment on the topic, written about a widow who wanted to succeed her husband as a *mashgihah kashrut* (*Iggerot Moshe YD II:44*), Rav Moshe asserted that according to most *rishonim*, women are not excluded from most communal positions, in contrast with the position of Rambam. Rav Moshe, who makes clear that he would like to allow, if possible, the widow to receive this livelihood, then argues that we can construe the position to be permissible for all women, even according to Rambam, if she serves under a rabbinic kashrut administrator. In the next responsa (II:45), Rabbi Meir Amsel correctly noted that according to Rav Moshe's understanding of the *sugya*, the majority halakhic position would allow women to serve as Israel's prime minister or as a shul president. Rav Moshe affirmed that this was the case, but asserted that we do not have to worry about such a proposition, since *frum* people under the guidance of a rabbi would not act accordingly, and would rule like Rambam. He then asserts that we should follow Rambam, unless there is some case of need (such as with the widow). In other words, Rav Moshe understood that according to the majority of *rishonim*, *serarah* would not prohibit a woman from acting in a communal position, but that we should not *pasken* like this position unless there was such a need (as in the case of a widow, or if the alternative candidates for a communal position were less observant or supportive of religious tenets). In his next *teshuva* on *serarah*, with regard to appointing a *ger* to the position of Rosh Yeshiva (*Iggerot Moshe 4:26*), Rav Moshe stated that there was a need to be *mekil* in light of the *mitzvah* of *ve-ahavtem et ha-ger*. It seems clear that Rav Moshe believes that *serarah* alone is not an insurmountable problem should there be a perceived need for women (or converts) to fulfill such positions. Of course, all things being equal, Rav Moshe clearly believed that women should not fill such positions, presumably for other reasons mentioned in this paper.

posed upon them by their boards, prevents this position from constituting *serarah*.²⁵ As such, we believe that a compelling case can be made that the halakhic principle of *serarah* alone does not preclude women from receiving *semikhah* and fulfilling rabbinic roles practiced by rabbis in America today.

C. Concerns of Women as Decisors of Jewish Law and Modesty Matters

Two other technical questions remain. The first is “Can women issue decisions of Jewish law?” It seems clear from a number of halakhic sources that there is no limitation on women issuing decisions of Jewish law (*psak halakhah*) in matters for which they are sufficiently trained. This point, stated in both the *Sefer Ha-Hinukh* (77, 152) and *Minhat Hinukh* (78:9), is also implied in many of the sources (cited above) regarding Devorah. This remains the clear ruling in recent halakhic compendiums, from rabbinic works like *Encyclopedia Talmudit* (vol. 8, p. 494), *Hilkhot Dayanim im Halakhah Pesukah* (7:4, p. 95) and Dayan Masud Elchadad’s *Minhat Asher* (*Hosben Mishpat*, vol. 1, p.14) to halakhic handbooks such as Rabbi David Auerbach’s *Halikhot Beitah* (28:8). Of course, if we want to have such women, we will need to train them, but that is exactly the issue at hand. Normative halakhah allows a woman who is competent in Jewish law to issue decisions on matters of halakhah.²⁶

In their role as communal leaders, teachers, and *ba'alot hora'ah*, women will almost inevitably be found in the public limelight. In general, the virtue of *tzni'ut* (modesty) encompasses a significant

²⁵ This point is made explicitly by Rabbi Aryeh Leib Grosnass, *Shu"t Lev Aryeh* 2:21. Rabbi Moshe Feinstein, as noted above, similarly contends that a *ger* can serve as a Rosh Yeshiva because their administrative powers do not constitute *serarah*.

²⁶ We think it is not insignificant that in the rare historic circumstances when women did achieve the requisite level of knowledge or expertise in halakhah, they did engage in halakhic discourse. See, for example, the sources cited in *Halikhot Bat Yisrael* 9:7. See also Shlomo Ashkenazi, *Nashim Lomdaniyot: Sekirah Historit* and Shoshana Pantel Zolty, *‘And Your Children Shall Be Learned’: Women and The Study of Torah in Jewish Law and History*, Jason Aronson Press, 1993.

element to many laws, and our community must vigilantly maintain this value. Many of these laws are objective and timeless, applicable in any era or context. Yet it is important to note that some matters of *tzni'ut* remain subject to time and context, as attested to by the *gemara* and confirmed in *Tosafot*, *Pithei Teshuvah*, and many other sources.²⁷ In broader society, women regularly work with men, and serve as professors, lawyers, doctors, and other professionals with highly public roles, and this is not seen as immodest behavior. In Orthodox communities in which women work in these jobs, it seems inconsistent to contend that women cannot fulfill such roles in the context of serving the community.²⁸ This is particularly true within the non-Hasidic community, where, for example, many regularly address the OU and RCA conventions while others give *shiurim* and lectures in many synagogues. Of course, in communities where women are not allowed to hold such jobs, such communal behavior might be deemed inappropriate or forbidden.²⁹

²⁷ *Tosafot Kiddushin* 81a d.h. *hakol le-shem shamayim*, *Pithei Teshuva EH* 21:3. For example, in the early 20th century, *poskim* debated the right of women to vote, with many arguing that it was immodest. Today, all *poskim* permit it and recognize it as perfectly appropriate behavior. Similarly, women regularly serve as school teachers, even though this position is explicitly prohibited to them in the *Shulhan Arukh* (YD 245:21), lest it lead to inappropriate interaction with their students' fathers. For other examples of this larger phenomenon, see *Tzitz Eliezer* 9:50 and *Yabia Omer OH* 6:13.

²⁸ A similar point was already made by Rabbi Yitzchak Herzog in *Tehukah le-Yisrael al-pi ha-Torah*, vol. 1, p. 98-99 and Rabbi Ben-Zion Uziel, *Mishpatei Uziel* 4 CH 6 d.h. *ha-halakhah ve-ha-musariyut*. Some have further contended that it might be more appropriate for fellow women to address certain halakhic and pastoral questions relating to women, such as the area of *Hilkhot Niddah*.

²⁹ One reader of an earlier draft contended that it would be inappropriate for women to hold rabbinic positions because they would not receive the requisite respect required for the office. As codified in Rambam *Hilkhot Melakhim* 1:6, this was a reason why people who had occupied socially-denigrated positions (such as a barber, tanner, or bathhouse caretaker) could not become king. (Indeed, *Arukh Ha-Shulhan He-Atid, Hilkhot Melakhim* 71:9 cites Rambam's position and suggests that the prohibition of

III. Meta-Halakhic Considerations

We believe that the technical halakhic questions regarding women rabbis remain debatable, but that ultimately a reasonable case can be made that it is not forbidden to issue qualified women *semikhab* and let them perform many rabbinic functions. Yet this does not necessarily make it appropriate or advisable in the current context. As with all cases of changes in normative halakhic practice, one needs to weigh and address other meta-halakhic or non-halakhic issues. This calculation plays a central role in determining whether we should deviate from traditional practice and begin to ordain women.

A. Some Thoughts on the Mesorah

Many have invoked “mesorah” or traditional practice to explain why ordaining women is prohibited. While we agree that ordaining women as rabbis would certainly be a profound departure from the traditional practice, it is important to delineate the different definitions and roles the concept of *mesorah* plays within halakhah.

In one sense, *mesorah* refers to specific halakhic traditions relating to subject matters which, by their nature, were difficult to codify in words. Examples of such phenomena include the *trop* (musical notes) for Torah reading or the identity of kosher birds. A *mesorah* remains necessary in these cases to transmit the relevant laws. In such cases, these traditional practices become binding, absent some contrary halakhic argument.

Another example of such a phenomenon applies to cases in which a certain position has taken root in practice, even as the technical halakhah might point in a different direction. Under some circumstances, for example, the community might follow a *mesorah* to practice leniently on a given matter, even as many halakhic

serarah for *gerim* and women was to ensure that the position of king receives the greatest of respect.) This assessment, based on sociology and not sources, would seemingly lead to the conclusion that the positions of Israeli Prime Minister or Chief Justice, British Prime Minister, or United States Secretary of State, have become lessened in the public’s eyes because they are or were held by women. We believe this to be incorrect, and do not see why genuinely qualified women would garner less respect or tarnish the stature of the rabbinate.

sources might rule stringently. At other times, contemporary practice might refrain from performing certain behaviors, even as the sources explicitly permit them.

A well-known example of the latter phenomenon (because it is found within the first paragraph of *Yoreh De'ah*) includes women serving as ritual slaughterers (*shohetot*). The *mishna* explicitly permits women to slaughter animals, a position which is codified by Rabbi Yosef Karo in *Shulhan Arukh* (YD 1:1), against those medieval authorities who claimed that women should not perform this function for ancillary reasons (such as concerns for fainting). The Rama, however, following the position of the *Agur*, contends that we do not allow women *shohetot*, since this has become the common practice. The logic of this position—that which we have not seen should not be done—is disputed by Rabbi Yosef Karo in his *Bet Yosef*, who contended that the fact that something has not yet occurred does not imply any impropriety in doing it. Accordingly, a contemporary practice to refrain from a certain action only becomes authoritative if we have a *mesorah* that *poskim* specifically addressed this question and forbid the behavior.

Shakh (YD 1:1 and *HM* 37:38), however, defends Rama, and citing a *teshuvah* of the Maharik, contends that we do not need a *mesorah* of a prohibitive *psak* to assert that the absence of certain behavior proves that this was halakhically-required abstinence. We do, however, require it to be the type of question which would have regularly arisen, for if it would have been a permitted behavior, then someone would have acted accordingly on some occasion.³⁰ Since the need for meat arises regularly, and the laws of *shehittah* (in those times) were a matter of day-to-day practice, Shakh contends that we would have seen women slaughterers had they been allowed to fulfill that function. Regarding the dispute on the different defi-

³⁰ See *Maḥatzit Ha-Shekel* to *Shakh* YD 1:1 who confirms this straightforward reading of the Shakh. In the case of *shehittah*, one presumes that the reason to prohibit women from slaughtering stemmed from ancillary concerns, such as concerns for fainting, an issue raised in numerous halakhic sources. Parenthetically, it appears that in a few Sephardic communities, women continued to serve as slaughterers. See, for example, Rabbi Hayim David Azulai (Ḥid"ā), *Birkei Yosef* YD 1:4.

nitions of *mesorah*, different *poskim* may take varying positions, with some siding with R' Yosef Karo and others following the Shakh.³¹

³¹ Rabbi Aryeh Frimer has suggested that Rabbi Joseph B. Soloveitchik, based on his explanation of this Rama in his *Yoreh De'ah shiurim*, as well as other rulings of his regarding women in leadership rules, would forbid women from serving as rabbis. See "The View of Rav Joseph B. Soloveitchik on the Ordination of Women," *Text & Texture* (26 June 2010), <<http://text.rcarabbis.org/?p=958>>. We think this view is insufficiently proven as the view of Rabbi Soloveitchik, for the following reasons: A) Firstly, it should be emphasized that the Rav made his statements regarding *minui kahal* in *iyyun shiurim*, based solely on Rambam, and never gave a specific *psak* regarding women as rabbis. B) Secondly, Rabbi Soloveitchik's well-known view, practiced *le-ma'aseh*, was to give *semikhab* to converts, even as it has been reported that he felt they should not take on synagogue pulpits. In other words, *semikhab* can be given to someone, even if the proscriptions of *serarah* may limit their rabbinic activities. C) Rabbi Frimer's conjecture is partly based on a statement of Rabbi Soloveitchik in his *Yoreh De'ah shiurim* which suggested that women were excluded from communal positions beyond those prohibited to *gerim*. This remains counter-intuitive, however, since for many rishonim like the *Sefer Ha-Hinuch*, the exclusion of *gerim* from positions of *serarah* is more definitive than it is for women, as noted above, and further remains inconclusive in the writings of Rambam, who in fact seems to understand the proscriptions regarding a woman to derive from the more explicit Biblical statements regarding a *ger*. Of course, the Rav was speaking in an *iyyun* context, exclusively using Rambam to explain a difficult Rama, and was not specifically asked *le-ma'aseh* if women could receive *semikhab* or work in rabbinic positions. D) It further remains possible that Rabbi Soloveitchik could have permitted women to receive *semikhab*, and not function as synagogue rabbis, a view that Rabbi Frimer simply dismisses, even as it was exactly the view of the Rav with regard to converts. E) Furthermore, in a statement in *Hamesh Derashot* p. 122 fn. 9 (a source not cited by Rabbi Frimer), the Rav distinguishes the appointment of a shul rabbi from the selection of a member of a Sanhedrin or *bet din*. The latter—classic beholders of *serarah* positions—are chosen by a limited group and specialize in *hora'ah*, *din*, and *harbatzat Torah*. The former, however, also serve as a communal leader and representative—a *parnas*—and therefore requires the consent of the entire community, based on R' Yitzhak's statement in *Berakhot* 55a. (Cf. *Nefesh Ha-Rav*, ed. Rabbi Herschel Schachter, p. 267, where the Rav is quoted as telling an embattled shul rabbi that he is not entitled to his position if the community does not

Be that as it may, we believe this dispute is not germane to our question for two important reasons. Firstly, even according to Shakh, the belief that contemporary practice proves halakhic propriety only applies to cases in which an issue would have regularly arisen, and therefore the abstinence from such behavior proves that *poskim* believed it was prohibited. Given the lack of formal education for women, the question of women rabbis, quite simply, did not arise on a regular basis. There is no basis for a *mesorah* which would assert that women were regularly qualified to serve as rabbis, but did not do so for some halakhic reason. This seems to be proven by the fact that in the vast literature written from the fourteenth century onward regarding the nature of *semikhah*, the issue of women *musmakhot* simply does not arise, even as they do discuss the propriety of ordaining a qualified minor. As such, we do not find it compelling to claim that women cannot receive *semikhah* or serve as rabbis based on this notion of *mesorah*.

want his services.) This might indicate that the Rav understood that even though the rabbinate constitutes a *parnas*, it has imposed upon it certain limitations that prevent it from becoming a *serarah* position. The statement in *Hamesh Derashot* might derive from a well-trodden position in rabbinic literature that the rabbinate represents *keter Torah* and cannot constitute lordship. See, for example, *Shu"t Hatam Sofer OH 12*, where he posits the right to *yerushah* could exist in many communal positions like a *sofer* or a *shoter*, but not in positions of *kedushah*. For further sources, see *Encyclopedia Talmudit*, "Hezkat Serarah," cited earlier, and the sources cited on p. 542 of the source index to the Frankel edition of Rambam's *Hilkhot Melakhim 1:7 d.h. marbitz Torah*. Hence, it remains possible that the prohibition of *serarah* might exclude a woman from serving as a synagogue president but not as its rabbi. (This, parenthetically, was reported to us as to have been the view of Rav Ahron Soloveichik, who believed that a shul president constituted *serarah*, but a shul rabbi did not. We were told that he felt this way because contemporary *shul* presidents possess greater discretionary power than the rabbi.)

In any case, as Rabbi Frimer notes, other *poskim* certainly may (and did) disagree with the Rav's positions on each particular matter. In fact, many of the Rav's most devoted students have departed from his *psak* regarding women as shul presidents, because they understand the relevant sources, and the described position and social context, differently today.

Secondly, as a general rule, contemporary needs will trump this notion of *mesorah* in cases when no technical issue prohibits engaging in a certain behavior. There is no doubt that certain practices remain immutable within Orthodox Jewish law. For example, neither a great rabbi nor a panel of great rabbis could announce, “Given the needs of the time, pork now becomes permanently kosher,” or, “From now on, Shabbat will be observed on Sunday.” That authority is simply not present in Orthodox Jewish law. Such is not the case with practices established by tradition alone. When the Orthodox community, its leaders, and its *poskim* feel that circumstances have changed and that the needs of a time are such, any practice that is permitted as a matter of technical Jewish law receives halakhic mandate, even if it has never been done within the Orthodox community.³² That is exactly what occurred a century ago with the expansion of women’s Torah education. It is precisely this innovation that has led to the new possibility of female clergy and provides an appropriate conceptual framework to understand the relevant meta-halakhic issues.

³² In this regard, see *Shu”t Noda Be-Yehudah Tanina OH 18* (R’ Yehezkel Landau on 12 windows in a shul) and *Shu”t Orakh Mishpat, OH 112* (R’ Abraham Isaac Kook on the consumption of sesame oil on Pesach), who affirm that matters which have not been traditionally practiced, but are *mutar* according to law, are absolutely permissible once deemed necessary. This point, which we believe is readily apparent to all students of halakhah, is made by Professor Eliav Shochetman in his trenchant critique of women’s *aliyot*. He notes that as opposed to the latter case, in which there is an explicit prohibition listed in the *gemara* and *poskim*, many other recent innovations in female ritual practice, such as bat mitzvah celebrations, received the approbation of many *poskim* precisely because they felt there was no technical *assur* and that such innovation was mandated, even as it went against traditional practice. See Eliav Shochetman, “*Aliyot Nashim La-Torah*,” *Sinai* 135-136 (5765), p. 338-343. This section of the article was unfortunately not included within its recent translation in the book, *Women and Men in Communal Prayer: Halakhic Perspectives*, ed. Chaim Trachtman, Ktav Publishing House, 2010.

B. Continued Changes in Talmud Torah for Women

Rabbi Yisrael Meir Kagan, the *Hafetz Hayyim*, felt very strongly that the tradition (*mesorah*) of not teaching women Torah from texts had to change.³³ Based on this premise, *poskim* debated throughout the 20th century what this study should entail, and in particular, if it should encompass intense study of *Torah she-Be'al Peh*. Some believed that women's education must include Talmud study, others limited this to the intellectual elite, while others discouraged this study and some prohibited it. The question of what changes should be made, and at what rate, remains an open conversation, and therefore women learning torah on a serious level is certainly far from a universal practice. As with other hotly-debated issues, holders of the various positions remain members of the broader Orthodox community. Different communities adopt diverse models, each with its own strengths and weaknesses.

The pressing question today is whether to retain the status quo, or if women who have received intense Talmudic training should have new outlets to utilize their knowledge and skills. This

³³ As he explicitly notes in his *Likutei Halakhot, Sotah 20b* (emphasis added):
It seems that all of this [prohibition against women learning Torah] applies only to times past when all daughters lived in their fathers' home and tradition was very strong, assuring that children would pursue their parents' path, as it says, "Ask your father and he shall tell you." On that basis we could claim that a daughter needn't learn Torah but merely rely on proper parental guidance. **But nowadays, in our iniquity, as parental tradition has been seriously weakened and women, moreover, regularly study secular subjects, it is certainly a great mitzvah to teach them Humash, Prophets and Writings, and rabbinic ethics, such as *Pirkei Avot*, *Menorat Hamaor*, and the like, so as to validate our sacred belief; otherwise they may stray totally from God's path and transgress the basic tenets of religion, God forbid.**

The *Hafetz Hayyim* recognized that a change in the way women are educated is needed when confronting modernity. Indeed, simply contrast the above statement with Rabbi Yehiel M. Epstein's observation (*Arukh Ha-Shulhan YD 246:19*) in the 1880s, "Since the beginning of time, we have the practice not to teach women from a book, and we never heard of such a practice. Rather, for the laws that one needs to know, a woman teaches her daughter or daughter-in-law."

represents a natural question within our heritage that believes in *lilmod u-le-lamed*, to learn and to teach. Moreover, one must ponder whether the community could benefit from the additional resources afforded by a cadre of learned and talented women. These are important questions to ask, and as we attempt to keep Torah meaningful in the contemporary context, we must act with great forethought, acknowledging that any changes in the *mesorah* must develop carefully.

To take root, these changes need to become accepted and validated by a significant spectrum of the community. In Israel, the recently-developed positions of *yoatzot halakhab* (advisers in *hilkhot niddah*) and *toanot rabbaniyot* (rabbinical court advocates), created with the endorsement of a series of *poskim* and *gedolim*, have achieved much initial success and growing acceptance. The former position has now been introduced into the American Orthodox community, while other synagogues begin to experiment with female community scholars. In this early stage, the concept of women rabbis has certainly not received broad acceptance, and any further developments should only evolve after continued dialogue with *poskim*, rabbinic and lay leaders, and the community of learned women.

C. Slow and Careful Changes Take Root over Time

Second, the nuanced hesitations expressed by Rabbi Norman Lamm, *sblit*^a, requires serious thought. He states:

There are certain things that are acceptable only in the long run. I approve of the idea of increasing the role of women in religious life and think it is an important one... Just imagine: we have taken women who have good brains, good characters, and good personalities and devoted their lives to Hitler's 3 K's: *Kinder* (children), *Küche* (kitchen), and *Kirche* (church)! Women are not just good for these three things. There are enough individual cases that are exceptions to allow you to learn *min ha-perat el ha-kelal* (from the specific case to the general category). It is just not true that they cannot think straight—they can. We have crooked ideas if we think otherwise.

At the same time, things have to be done gradually. To have a woman learn Gemara a generation or two ago like women learn Gemara today would have been too revolutionary. But with time, things change; time answers a lot of questions, erodes discomfort, and helps. So my answer, when I was asked by a reporter about what I think about women rabbis, was, basically: “It’s going too fast.” I did not say it was wrong, I did not say it was right. It just has not paced itself properly. I was criticized, of course. People asked, “You mean that *al pi din* they’re allowed to become rabbis?” My response: “I don’t know—are you sure they’re not allowed to?”³⁴

We should take note of Rabbi Lamm’s reservations and hesitations regarding the future and recognize that the pace of change is central to achieving a positive outcome, whatever that might be. His nuanced formulation addresses well the question of change in *minhag Yisrael*. *Minhag Yisrael* does evolve over time, and it certainly has changed considerably in the last century with regard to women’s general and religious education. Slow and careful change facilitates greater insight, feedback, and development, and could be a good motto for Orthodoxy in this area.³⁵

D. Practical Issues that Must be Resolved

One element of this process would entail contemplating whether the many complex practical issues associated with women rabbis

³⁴ Interview with Rabbi Dr. Norman Lamm, *YU Commentator*, Feb 12, 2010. It can be read at: <<http://www.yucommentator.com/kol-hamevaser/an-interview-with-rabbi-dr-norman-lamm-1.1127268>>. To a certain extent, a similar sentiment was expressed in the early 1950s by Rabbi Yehiel Yaakov Weinberg, *Seridei Esh* 1:139 (new edition), on the topic of women’s suffrage and rights to serve as elected communal officials. After very briefly noting the different halakhic arguments, he refrains from taking a stand, contending that 1) time will determine the matter, and 2) that the halakhic argumentation is secondary to “deeper” issues at stake.

³⁵ In this regard, let us share a witticism of one of our teachers: “Change in Orthodoxy is a lot like orthodontics. To move teeth, you have to apply small amounts of pressure over great periods of time. Lots of pressure over small periods of time do not move teeth but break them. So too with the Orthodox community. Slow change produces positive developments, while large movements break us apart.”

remain resolvable—and if the potential solutions are worthwhile steps. Even if one were to basically agree that as a matter of technical halakhah, women can serve as rabbis—in the sense that they may teach Torah in various settings, provide guidance on Jewish theology to individuals and groups, perform certain roles of emotional and pastoral care, answer questions of Jewish law on many matters which they are trained, and, from these tasks, ultimately function as communal figures and leaders—certain practical issues must be addressed. Many rabbinic job descriptions entail serving in functions prohibited to women as a matter of Jewish law, including being the *hazzan* or *ba'al kore*, serving on a bet din, and many other matters. A great deal of clarification as to what a rabbi is empowered to do by their *semikhab*, and expected to do in a given position, would be needed before women rabbis could be considered.³⁶ Of course, the most important practical change needed to even consider the possibility of women rabbis is the creation of women's seminaries that focus intensely on providing a top-flight multi-year talmud and halakhah curriculum. Most rabbis in training learn in yeshiva for the better part of a decade nearly full-time before *semikhab*, and there is no program like that for women anywhere in the world now. Indeed, we recognize that it took women nearly a century to climb to the top echelons of American law (a discipline less broad or complex than halakhah) and the same long journey is likely present here as well. On the other hand, long journeys start with small steps.

To prevent confusion and mishaps that will lead to violations of halakhah, the exact delineations of these roles would require understanding within both scholarly circles and the broader public.³⁷ This

³⁶ Another issue to be examined is how the issues of *serarah* and authority differ in various communities with different rabbinic organizational structures, such as England, continental Europe, the United States and Israel. While the power of *kabbalah*, as well as internal checks and balances of power, may be able to surmount all of these issues, they nonetheless must be fully explored.

³⁷ For example, it would need to be clear that despite the fact that the rabbi is the tenth person in the room, she cannot make the *minyan*, or serve as the *hazzan* despite the fact that others in the room have inferior Hebrew skills. While these halakhot remain obvious in today's environment, they might become sociologically awkward (and therefore liable to violation)

is not easily or quickly achieved. Toward this goal, we might need different titles and ordinations for men and women clergy. In England, for example, different members of the Orthodox rabbinate go by distinctly different titles, reflecting different roles, functions and rights: Reverend, Minister, Rabbi, and Dayan. This model may be worthy of being adapted for these issues and adopted in different locales.

E. Non-Orthodox Movements?

Others add another cautionary factor into this calculus. Given the broader phenomenon of non-halakhic egalitarianism with liberal Judaism, the introduction of women as rabbis might appear as a concession to non-Orthodox movements. As such, they claim, we ought to prohibit this development, even if in a different cultural context it would be permissible.

This very real world calculus—focusing not on the halakhic reality, but rather on the perception of reality—is important to consider. If one were to decide to employ this reasoning, of course, it would be important to recognize and stress that the underlying activity is not really prohibited, and that the ruling serves as a prophylactic tool to address the needs of the generation. Otherwise, we would run the risk of distorting the halakhic tradition for polemical purposes.

In the end, however, we do not think this concern should play the deciding role for three reasons. First and foremost, as a general principle, we believe that the spiritual needs of women and the attempt to resolve these types of issues should trump fears of sectarian triumphalism. As Rabbi Aharon Lichtenstein *shlit"á* has recently argued, with his characteristic wisdom:

when the woman is the congregation's spiritual leader. Indeed, it was this consideration that led the *Hatam Sofer*, cited above, to forbid giving *semikbah* to anyone not eligible to perform all duties of Sanhedrin members. While some rabbis play a less fundamental role in performing these functions, there remains no question that many regularly perform such rituals and all are expected to be able to do so. As such, the halakhic parameters and communal expectations would have to be greatly clarified to prevent halakhic violations.

Serious and responsible *poskim*, impeccably committed and with catholicity of Torah knowledge, should, I believe, give greater weight than in recent generations has been assigned, to the dispensation of *la'asot nahat ruah lenashim*³⁸ cited in the Gemara and in *Shulḥan Arukh* as the basis for permitting what might otherwise have been proscribed.

Second, this is especially true in our case, since we are uncertain if the issue of ordaining women stems from non-Orthodox origins. It is quite reasonable, as Rabbi Lamm observed, this is simply a logical conclusion of the policy supporting women's immersion in Talmud study. Many pious Orthodox women, fully dedicated to halakhah, genuinely desire to use their knowledge toward serving the community. As a general rule, we should not thwart the genuine religious desires of some simply because others may have nebulous motivations for a similar goal.

Moreover, we believe that the threat of sectarian triumphalism with regard to halakhic matters has greatly abated. In early generations, one might have plausibly worried that different changes could be perceived as acceptance of the claims of non-Orthodox movements. That applied in eras when Orthodoxy was embattled, and the non-Orthodox movements tried to justify themselves through halakhic discourse. Today, even as it continues to face significant challenges and dilemmas, Orthodoxy is thriving, and the non-Orthodox movements are no longer perceived as competing or threatening alternative halakhic societies. As such, our community will understand that changes made with some form of consensus of the Orthodox community and its *poskim* represent genuine and legitimate halakhic activity.

We do believe, however, that within the more liberal segments of Orthodoxy today, there exists a nascent movement to try to push the envelope toward greater egalitarianism in the prayer setting and create halakhic change in other areas, with or without rabbinic approbation. In recent years, this sector has published articles to justify, and sometimes implemented in practice, amongst other proposals: women's *aliyot*; the allowance for unmarried women to

³⁸ *Hagigah* 16b. Loosely translated, "To give spiritual satisfaction to women."

go to the *mikveh*; the unjustified nullification of marriages without a *get*; and the abolishment of the seven “clean days” of *niddah*. While each of these cases adopts various degrees of radicalism and halakhic plausibility, they all reflect frustration with, and occasionally animosity toward, traditional halakhic norms and contemporary rabbinic leadership, and they have the potential to recklessly break the bonds of Orthodoxy.

The appropriate response to this phenomenon, however, is not to launch polemical halakhic rejoinders or to engage in overly sensationalistic rhetoric. Defensive, reactionary responses, lacking both direction and nuance, will only inflame the situation. Rather, we must display responsible halakhic leadership by openly tackling each issue, separately and transparently, with care to distinguish and address technical halakhic arguments and meta-halakhic considerations. This process maintains halakhic integrity without compromising traditional values, and is the only way that we can address contemporary needs while maintaining full fidelity to the Torah and the *mesorah*.

F. The Breakdown of Gender Distinctions within Judaism

Others have expressed concern that the ordination of women will lead to the breakdown of all gender distinctions found within the Torah, halakhah and the *mesorah*. This has been raised by a number of people who are generally sympathetic to other developments regarding the role of women in halakhic ritual and Jewish public life.³⁹

³⁹ In the above cited interview, Rabbi Lamm expressed a general sketch of this concern. He stated,

“Do I think having women rabbis is a good thing? I do not know. I am, however, concerned that, before long, we will find ourselves overly feminized, and I would not want to see that happen. Women will begin complaining about why they cannot be *Kohanim* and *dukhen*. I can name 100 different *halakhot* that just do not work with women—for instance, a woman cannot be an *ed kiddushin* (a witness for betrothal)... When it comes down to it, I am a believer that there are differences between men and women that should be reflected in halakhic practice.”

If we understand this concern correctly, we may break it down into halakhic and sociological considerations. The halakhic argument, it would seem, fears a slippery-slope situation, in which the ordination of Orthodox women rabbis leads to a barrage of other changes not mandated by halakhah, all in the name of egalitarianism. We definitively oppose such a non-halakhic movement, and believe that anyone who would advocate such an agenda will find themselves excluded from the community of those committed to halakhah.

Each halakhic issue should be individually and appropriately addressed. Sometimes changes are permissible and a good idea, other times they remain *assur*, and many proposals fall into a grey area.⁴⁰ One should not simply address all issues relating to women under the heading of “*Hilkhot Feminism*” (in a positive or negative sense).

See also the remarks of Rabbi Gidon Rothstein in two essays on *Text & Texture*: “Women and the Splitting of Modern Orthodoxy: Confronting the Underlying Issues” <<http://text.rcarabbis.org/?p=769>> and “The Component Issues of a Traditional Jewish Womanhood” <<http://text.rcarabbis.org/?p=804>>.

Indeed, many have understood the entire notion of *serarah* as stemming from the need to differentiate roles between men and women. See, however, the contrary position of Rabbi Hayyim David Halevi, *Tehumin* 10, p. 121, who states that the law is a *gezerat ha-katuv*. He bases this on the position, adopted by Rabbi Yehezkel Landau, *Noda Be-Yebuda Kamma*, *HM* 1 and pondered by *Minhat Hinnuch* 497:2, that *serarah* only prohibits the action of a formal anointment (*hakhtarah*), but not their assumption of powers by inheritance. Since a woman might be able to inherit a position, but not receive the initial formal appointment, gender differentiation seems an insufficient explanation for the law. (The position that women may inherit *serarah* is explicitly rejected by Rabbi Yechiel M. Tu-chizinsky, *Ha-Ishah Al-Pi Torat Yisrael*, p. 50-51. For further sources on the inheritance of women to *serarah* positions, see p. 540 of the source index to the Frankel edition of Rambam’s *Hilkhot Melakhim* 1:5.)

⁴⁰ For example, something might be technically *mutar* but a bad idea for other reasons. Alternatively, one might make a plausible halakhic argument for a change, but the contrary read of the sources remains more compelling. Likewise, something might only have the support of a *da’at yachid* in the sources, but *gedolei Yisrael* might believe that the times dictate following this opinion. All of these models, well established within the history of halakhah, apply to all realms of halakhic discourse.

The ordination of women certainly is not the first issue that has been raised regarding the role of women in the last century, nor will it be the last. Yet as long as we remain within the framework of the established halakhic process, led by our *poskim* in consultation with our rabbinic and lay leadership, we believe that this will prevent the distortion of halakhah and the destruction of communal unity.

Alternatively, some contend that on a sociological level, the ordination of women will lead to the distancing of men from the synagogue and communal leadership. The evidence for such a claim stems from recent studies of the non-Orthodox movements which find that as these movements adopt egalitarian norms and special programming aimed to attracting women, men have become less engaged in communal and religious life.⁴¹ It remains difficult to gauge the exact nature of this threat. It is important to note, however, that if we continue to work within the framework of the established halakhic process, we will not find ourselves anywhere close to the full-fledged non-halakhic egalitarianism advocated by non-Orthodox movements. We cannot imagine a situation in which gender distinctions will not forever remain with the Orthodox community. Moreover, while this issue may require caution and further thought, it should not prevent us from addressing the issues that already distance (for one reason or another) many women (and men) from an Orthodox halakhic lifestyle.

IV. Concluding Thoughts: A Path Forward

We believe that any requisite amount of consensus needed within Orthodoxy for ordaining women is far from being present. The law has thus not changed. Yet one of this article's central intellectual endeavors is to assert that when seeking to determine whether certain practices are timely or timeless, one must distinguish between the unchanged and the unchangeable.

⁴¹ See Sylvia Barack Fishman and Daniel Parmer, *Matrilineal Ascent / Patrilineal Descent: The Gender Imbalance in American Jewish Life*, Hadassah-Brandeis Institute, 2008. The study is available online at <http://www.brandeis.edu/hbi/pubs/Gender_Monograph_5aug08_Complete.pdf>.

Especially if one follows the position of the Rama on *semikhah* found within his *teshuvot*, and Rambam's position on *serarah*, one may reasonably argue that women cannot serve as Orthodox rabbis because of technical halakhic argumentation. We believe, however, that a reasonable argument may be made that no technical halakhic issues prohibit Orthodox women from serving as rabbis, or at least receiving some other form of ordination as Orthodox clergy. Nonetheless, this halakhic question does not require immediate resolution. A host of others concerns—relating to *mesorah*, practical rabbinics, communal unity, and unpredictable sociological consequences—leads us to favoring slow and non-radical development on this issue as some form of consensus develops and emerges.

We have tried to present a framework for thinking about the halakhic and meta-halakhic issues involved in this issue, so that our community can try to develop some form of consensus on this issue over a period of time. This is the responsible approach on this matter, given the complexity of the total picture and the importance of the institution of the rabbinate to Orthodox life.

Some will not like this conclusion because they will maintain, “If this is plausibly *mutar* on a technical level, we should proceed at full speed.” Others will not like it because it did not conclude, on whatever basis, that “Giving *semikhah* to women is categorically *assur*.” Both approaches are not a proper vision of how Jewish law ought to work. Halakhah, like life, is frequently nuanced and complex, and is not always well encapsulated merely by words like *hayav* or *assur*.⁴² This is such a case, and it is important to strive to be wise, acting with foresight and vision, as well as insight and probity. Simple solutions to complex problems are always easy to find, but they are rarely correct.

The responsible handling of these issues will help ensure Orthodox unity even as we respect our diversity. We should not fall prey to the errors made in previous eras and allow our lack of

⁴² Hence, halakhic literature has phrases like “*ain ruah hakhamim noha bamenut*” or “*mutar aval eino raui*” or “*reshut aval eino hayav*.”

uniformity to become overly divisive. Orthodox women rabbis should not be a schism issue between the various groups within Orthodoxy. All the communities need to take small steps toward fulfilling their vision, and not giant steps that rip us apart as a broad community of people bonded by halakhah.⁴³ Over the last half-century the role of women within the halakhic community has vastly changed, and yet thankfully, all those committed to halakhah remain within the broader tent of Orthodoxy. Slow and steady movement is wise, as is civil discourse, coordinated interaction, and dialogue between all members of the Orthodox community.

Support for women learning gemara is wide and deep within a segment of the Orthodox community, deriving from the clear and direct leadership of Rabbi Joseph B. Soloveitchik, *zt"l*, as well as many other *gedolim* both in America and in Israel. We support this for the community that needs and wants it, and believe that women's (and men's) learning deserves even more communal encouragement and institutional support. Pious women involved in intense study should receive access to all realms of Torah knowledge by the best educators and *talmidei hakhamim*, and receive proper training to serve the community. Even without a rabbinic title, genuinely deserving women should receive appropriate *kavod ha-Torah*, and be included in all communal matters for which they are qualified to contribute, including those areas not related to "women's issues."

⁴³ Based on this, we believe the unprecedented decision to ordain a woman with the title rabba was justly criticized since it was not supported by a major halakhic authority, did not develop with appropriate communal coordination, and did not address the major issues raised by such a change. We further believe that it would have been much better—for the sake of the halakhic process as well as the long-term growth of women's participation in Torah and mitzvot—for the title to be forsaken for now by its sole user. The continued use of this title will only continue to serve as a distraction from the central issues that must be appropriately addressed regarding women's leadership roles. We believe that this could be rectified through a self-sacrificing action for the sake of communal unity, women's scholarship, and the halakhic process, following the model of Rabbi Yehoshua (*Rosh HaShanah* 25a).

Given that there does not appear a panel of Torah giants to endorse the immediate and far-reaching change of giving *semikhab* to women, those who support increasing women's leadership roles should return to the path of incremental development on which Orthodoxy has been traveling until recently. Women should sit and study for increasingly long periods of time, write serious scholarship in Torah, develop as inspiring spiritual personas, and lead torah institutions, in function if not in form. In short, they should build the Orthodox community brick by brick, and see what happens over time. The passage of time, as Rabbi Lamm observes, solves many problems. We endorse this approach. ❧