

To the esteemed members of the Orthodox Union's executive committee and board of directors, in response to your questions:

- 1) Is it halakhically acceptable for a synagogue to employ a woman in a clergy function?
- 2) What is the broadest spectrum of professional roles within a synagogue that may be performed by a woman?<sup>1</sup>

These inquiries must be answered in a way that goes beyond a simple yes or no, permitted or prohibited. The issue of female clergy is complex, and touches upon not only the dictates of *halakhah*, but also upon fundamental issues in our *hashkafat olam*. Indeed, the questions relate to the philosophy of the halakhic process itself. Furthermore, we recognize that this issue is emotionally charged; some perceive limitations on women's roles and titles as barriers to full involvement in the Orthodox community, while others view the lifting of traditional gender distinctions in ritual as representing a rejection of the *mesorah*. This tension pits egalitarianism, a central value of modernity, against a time-honored tradition that clearly speaks of equally valued, yet different, roles for men and women.

In contemporary discourse, rabbinic discussion of these issues often appear to focus primarily on what functions performed by men are inappropriate for women. By contrast, our intention is to define halakhic parameters with the goal of clarifying practical roles that women can and, depending on the particular *kehillah*, indeed should, play in our community institutions.

The following represents our collective opinion. For the reasons noted above, we will begin with an outline of halakhic methodology.

## **Halakhic Methodology**

There are three primary factors that may be considered by a halakhic decisor when developing a ruling: legal sources, precedent, and a relevant halakhic ethos.

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<sup>1</sup> At the request of the OU, we have presented our response in a style that differs somewhat from a classic *teshuva*. While traditional responsa are penned in Hebrew and include extensive sourcing and elaboration of arguments, we present here a position paper that summarizes our extensive deliberations, yet reflects the certainty of our conclusions. In addition, please note that if asked individually, each one of us would, no doubt, have written a response in our own styles, emphasizing the particular approaches that we each found most compelling. This paper represents elements of the thought of each of its seven writers.

Legal sources, which may include both textual and oral rulings, are sometimes dispositive, but often require interpretation or the application of principles. Particularly when navigating multiple sources and competing considerations, years of sophisticated mentoring and significant experience in *psak* are required for a reliable conclusion to be reached. Self-contained, commonplace *sheilot*, such as those relating to basic *hilkhot berakhot* and *kashrut*, can often be resolved by reference to explicit legal sources alone. Issues with wider implications and multiple spheres of impact, however, demand consideration of factors that transcend strictly legal sources and require a broader approach.

Second, the Torah community's historical and widespread observance of a particular practice establishes a default position for halakhic decision-making. The Talmud resolves halakhic questions by examining the prevailing normative practice, instructing younger students, "*puk chazi mai amma de-var*" - "go out and observe the common practice." (*Eruvin* 14b) Time-honored traditions of the Torah community are revered, and *Chazal* have attributed a level of Divine sanction to those who sustain its practice: "*Im einam nevi'im - b'nei nevi'im heim*" - "if they are not [actually] prophets, they are sons of prophets." (*Pesachim* 66a)<sup>2</sup>

This is not to say that an established practice can never be altered; it must be assumed, however, that normative practice reflects a baseline truth that must be grappled with when innovations are suggested.<sup>3</sup> Great caution must be employed before altering *mesorat Yisrael*. This deep respect for established communal norms can be found throughout the works of the *Ba'alei HaTosafot* whose writings often invoke the validity of communal practice even in the face of apparently conflicting

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<sup>2</sup> See, also, *Arukh Hashulchan* (OC 345:18) with regard to the common practice to rely upon the fact that, in a place with less than 600,000 people, the prohibition to carry is only *miderabbanan*. The *Arukh Hashulchan* raises a multitude of difficulties with this opinion, but concludes:

אבל על כל פנים מה מועיל האריכות אחרי שהעירובין נתפשטו ברוב ערי ישראל הרבה מאות שנים מקודם - ורק על סמך היתר זה. וכאלו בת קול יצא - "הלכה - כשיטה זו".

Furthermore, *siyata dishmaya* is assumed to guide halakhic decisions themselves - so long as they are made in a proper manner. See *Sotah* 4b and *Ketubot* 60b.

<sup>3</sup> See *Yerushalmi Yevamot* (12:12):

אם יבוא אליהו ויאמר שהולצין במנעל - שומעין לו. שאין חולצין בסנדל - אין שומעין לו - שהרי הרבים נהגו להלויץ בסנדל. והמנהג מבטל את ההלכה.

See further, in the responsa of the Rosh (45). Dr. Haym Soloveitchik has written extensively on the strength of "*minhag*" - common practice - as a determining factor in halakhic inquiry. See, for example, H. Soloveitchik, *Ha-Yayin bi-Yemei ha-Beinayim: Yayin Nesech - Perek be-Toledot ha-Halakhah*; and "*Minhag Ashkenaz ha-Kadmon: An Assessment*," printed in the second volume of the *Collected Essays* of Dr. Soloveitchik.

Talmudic texts.<sup>4</sup> This is true regarding *minhagim* (customs),<sup>5</sup> and all the more so regarding matters that are dependent on the application of Jewish law. In fact, many practices that currently find expression in textual sources, and are thus understood to be textually based, were actually resolved based on the authority of precedential practice.<sup>6</sup>

Not only is there enormous significance in the Torah community's manner of observing a particular custom or behavior; equally significant is the community's failure or refusal to practice a certain custom or adopt a particular behavior. Although the *Mishnah* (*Eduyot* 2:2) states that “*lo ra'inu - aino raya*” (the fact that something has not been observed cannot be brought as a proof to one side of a legitimate halakhic dispute rooted in *pesukim* or *sevara*), the nonperformance of a particular practice does constitute a *minhag*, and such a *minhag* attains binding status. In addressing the implication of a community practice, the Maharik (quoted by the Shakh at the beginning of *Yoreh Deah*) rules that, by inference, the community's failure to adopt a particular practice can be understood to reflect an objection to that practice.<sup>7</sup>

Finally, it is essential for a halakhic decisor to be aware of, and keenly sensitive to, the broader context of Torah values. Such values originate from, but frequently extend beyond, specific legal dictates. *Halakhah* itself, if examined closely, reflects underlying themes, and sources from *mikra*, *aggadah*, and *kabbalah* complement the halakhic rulings to express values that direct our *avodat Hashem*. These core values, derived from these multiple sources, form a “Halakhic Ethos,” and throughout our history, these values have been integrated into the technical, practical

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<sup>4</sup> See, for example, *Tosafot Berakhot* 2a, *Berakhot* 18a, and *Avodah Zarah* 2a.

<sup>5</sup> The *Talmud Yerushalmi* (*Bava Metzia* 7:1) rules that “*minhag mevatel halakhah*.” While this idea is not meant literally, and this rule is applied only with regard to monetary practices where Torah law is not explicit, this provocative phrase speaks to the extent to which *halakhah* considers normative practice to be a significant factor in determining legal reality.

<sup>6</sup> Such examples include the prevalent practice to be lenient regarding the eating of *chadash* in areas outside and not bordering *Eretz Yisrael* (see the first page of *Kuntres Shem Chadash* from the author of *Magen ha-Elef*, Aryeh Leib ben Moshe Zuenz (c. 1768–1833)) and the universally accepted Ashkenazic practice that *kohanim* only recite *birkat Kohanim* on *Yom Tov*. See *Beit Ephraim* #6 and *Arukh Hashulchan* (*Orach Chaim* 128:64). See the relevant remarks of Dr. Soloveitchik, *ibid*, on the issue of *birkat kohanim*, in the article quoted in footnote 3.

<sup>7</sup> An example: A question arose in New Orleans in 5620 regarding an *andarta*, a bust, in memory of a communal leader. The question was sent to the *rabbanim* of Europe, who issued a prohibitive ruling. Rav Shimshon Rafael Hirsch based his response on the fact that, in practice, Jews had no history of commemorating through human statues. Rav Hirsch quotes the aforementioned opinion of the Shakh that in the area of *minhag*, “*lo ra'inu*” is, in fact, a valid argument. Rav Nathan Marcus HaKohen Adler, the Chief Rabbi of Great Britain, offered a similar explanation. See “*Be-din Tzurat Adam ba-Olam ha-Chadash*,” by Yitzchak Ehrenberg and Zev Eleff, in *Beit Yitzchak*, vol. 44 (5773), pp. 394-398.

resolution of complex halakhic issues. This important idea will be further explained in the coming section.

## **The Halakhic Ethos**

A *weltanschauung* emerges from the totality of the vast sea of *halakhah* and Torah thought, and this collective world view serves as the basis of our *avodat Hashem*. These overriding principles are mined through the examination of *mikra*, *halakhah*, and precedent.

*Mikra*: While most legal sections of the Torah are comprised of specific commands, many general injunctions can be found as well. Examples of such general directives include “*kedoshim tihyu*” (*Vayikra* 19:2), “*shabbaton*” (*Vayikra* 23:24) and “*v’asita hayashar v’hatov*” (*Devarim* 6:18). The Ramban’s commentary to these *pesukim*, as elaborated below, highlights the manner by which these general exhortations significantly shape normative practice.

*Halakhah*: A comprehensive study of the details of specific *halakhot* reveals fundamental principles which provide guidance for the development of a deeper and more expansive understanding of the details themselves. As our Rebbe, Rav Yosef Dov Soloveitchik, *zt”l* wrote, “Out of the sources of *halakhah*, a new world view awaits formulation.”<sup>8</sup> For the Rav, the appreciation that Torah values could be derived through the examination of the Torah’s legal sources was fundamental to an understanding of Torah and the halakhic decision making process. These fundamental principles represent an important part of what we call the *mesorah*.

*Precedent*: The Torah worldview is also shaped by precedent. While, as discussed earlier, long-established practice assumes presumptive validity that is due enormous respect and deference, historical practice also serves as a source of more general guidance. Precedent in one area of *halakhah* is assumed to reflect fundamental truths and principles that help shape the halakhic ethos, and which thereby influence the resolution of *sheilot* in related areas. In particular, the halakhic ethos plays a critical role in providing guidance in addressing the original halakhic challenges of each generation.

Torah literature is permeated by the impact of the Torah ethos on halakhic practice. The Ramban comments that the *pasuk’s* phrase “*v’asita hayashar vehatov*” (*Devarim* 6:18), conveys much more than an exhortation to carefully follow the

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<sup>8</sup> *The Halakhic Mind*, p. 102.

explicitly referenced laws. The Ramban teaches that “[T]he intent of this statement is that ... He has said that you should observe the laws and statutes which He had commanded you. Now, He says that with respect to what He had not commanded, you should likewise take heed to do the good and the right in His eyes, for He loves the good and the right. And this is a great principle, for it is impossible to mention in the Torah all aspects of man’s conduct with his neighbors and friends and all of his various transactions and the ordinances of all societies and countries.” Through this *pasuk*, *Hashem* has provided an overarching value to be used as a yardstick to measure situations not actually addressed directly by the text.<sup>9</sup> <sup>10</sup> Similarly, the Talmud applies the *pasuk* and concept of “*Derakheha darkhei noam vekhol netivoteha shalom*” (*Mishlei* 3:17) to determine halakhic issues not at all referenced by the *pasuk*.<sup>11</sup>

The ethos of *halakhah* also plays a critical role in directing communal practice. For example, the *Chofetz Chaim*’s decision to champion women’s Torah study,<sup>12</sup> as well as the Rav’s expansion of this endorsement, was compelled primarily by extra-legal considerations.

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<sup>9</sup> A similar idea can be found in the Ramban’s understanding of the mitzvah of “*shabbaton*” (*Vayikra* 23:24) on Yom Tov (and Shabbat) as extending beyond the *melakhot*. “Thus we are not to be engaged the whole day in wearisome tasks, measuring out crops of the field, weighing fruits and gifts, filling the barrels with wine and clearing them away by themselves, and moving stones from house to house and place to place” despite the fact that none of these activities entail *melakhot*. Similarly, if not for the value of *shabbaton* that extends beyond the technicalities of Yom Tov violation, “The marketplace would be full for all business transactions, the shops standing open and the shopkeepers giving credit ... and the workers would rise early to go their work and hire themselves out for such works just as on weekdays!” (Translation by Rabbi Dr. Charles B. Chavel). The Ramban’s famous exposition of “*kedoshim tihiyu*” (*Vayikra* 19:2) likewise extends a halakhic ethos to determine practice in areas not explicitly covered by the letter of the law.

<sup>10</sup> Other examples include the Talmud’s proscription against inflicting pain on animals which, despite the absence of a technical legal source, is predicated on Torah values and is considered binding (see *Minchat Asher Bereishit* 21:4 based on Radvaz).

<sup>11</sup> See *Yevamot* 87b and *Sukkah* 32a.

<sup>12</sup> *Likkutei Halakhot, Sotah* 20b: “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 today, 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 *Chumash*, 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.”

Notably, the Rav turned to the halakhic ethos in explaining the prohibition of praying in a synagogue with mixed gender seating.<sup>13</sup> While the Rav briefly mentioned (but did not elaborate upon) possible legal concerns, his arguments relate primarily to the precedent of separate areas for men and women in the *Beit HaMikdash*, as well as various aspects of the “Jewish spirit of prayer.” The Rav’s global understanding of the Torah system led him to vehemently oppose the structural changes being suggested in the Orthodox synagogue of his time.<sup>14</sup>

The same is true of the Rav’s nuanced embrace of secular knowledge and modern civilization. Based on his Torah *weltanschauung*, Rav Soloveitchik developed Avraham’s words to Ephron in *Parashat Chayei Sarah*, “*Ger v’toshav anokhi imakhem*” (*Bereishit* 23:4), “I am a stranger and an inhabitant with you,” into a sophisticated, practical philosophy for engaging the world.<sup>15</sup>

Moreover, embracing the inner logic of *halakhah* as a source of values is the *sine qua non* for navigating this engagement with society in a manner that is in consonance with the Torah. Our community’s mandate to understand both the world *Hashem* created, as well as the society in which we live, must never blind us from recognizing that there are frequently societal trends which run counter to the ethos of the Torah.

### ***Mesorah*: Tradition and a Cumulative Approach**

These principles, conveyed by the Torah ethos, underlie the oft-referenced concept of “*mesorah*.”

The idea of *mesorah* is often mistaken as a mere historical record of Jewish practice. That misunderstanding, combined with both the absence of historical uniformity of normative practice, and the gradual evolution of *halakhah*, can be misconstrued as compromising the authenticity of *mesorah*. Authentic *mesorah* is rather an appreciation for, and application of, tradition as the guide by which new ideas, challenges and circumstances are navigated.

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<sup>13</sup> “On Seating and Sanctification,” in Litvin, Baruch, *The Sanctity of the Synagogue*, third edition, pp. 114-118.

<sup>14</sup> Similarly, the Rav’s approach to the question of interfaith dialogue was primarily guided by Torah values. See “Confrontation” in *Tradition*, 1964, vol. 6 #2 and *Community, Covenant and Commitment*, pp. 259-265.

<sup>15</sup> Rabbi Joseph B. Soloveitchik, *The Rav Speaks*, pp. 70-80.

Our precious *mesorah* has thereby been the cornerstone of not only the preservation, but also the development of our religious and spiritual heritage. *Mesorah* is the bridge between our past and our future. When studying a proposed innovation, in addition to considering its immediate implications and whether it is consistent with Torah principles, attention must be paid to the potential impact of such changes on generations through the distant future. Each and every generation confronts an ever-changing social, cultural and technical environment. Halakhic leadership must, therefore, continually probe whether proposed changes and accommodations will enable the community to advance the objectives of an authentic Torah ethos, or simply accommodate prevailing values and expectations, often in opposition to the Torah worldview.

No doubt, a commitment to follow the ethos of the Torah, in addition to the letter of the law, requires faith, commitment, and a willingness to embrace timeless principles - even when counter-cultural and incompatible with prevailing societal values. In the words of the Rav, “It is very important [that] we must not feel ... an inferiority complex, and because of that complex yield to the ... transient, passing charm of modern political or ideological *sevaros* ... There is no need for apology; we should have pride in our *mesorah*, in our heritage.”<sup>16</sup>

## **Halakhic Perspectives on Women Clergy**

By application of halakhic methodology, we will now examine the specific questions addressed to us. Reference will be made to each of the three aforementioned factors used to arrive at a halakhic decision: legal sources, historical precedent, and the halakhic ethos. While each factor will be addressed independently, the factors inherently overlap, as emphasized earlier.

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<sup>16</sup> Conveyed in a 1975 speech to the Rabbinic Alumni of the Rabbi Isaac Elchanan Theological Seminary. The full relevant text reads as follows: “Second, we must not yield — I mean emotionally, it is very important — we must not feel inferior, I mean develop or experience an inferiority complex, and because of that complex yield to the charm — usually it is a transient, passing charm — of modern political and ideological *sevaros* (logic). I say not only not to compromise — certainly not to compromise — but even not to yield emotionally, not to feel inferior, not to experience an inferiority complex. And it should never appear to me that it is important to cooperate just a little bit with the modern trend or with the secular, modern philosophy. In my opinion, [Judaism] does not have to apologize either to the modern woman or to the modern representatives of religious subjectivism. There is no need for apology — we should have pride in our *mesorah*, in our heritage. And of course, certainly it goes without saying, one must not try to compromise with these cultural trends, and one must not try to gear the halakhic norm to the transient ways of a neurotic society, [which] is what our society is.”

From a legal standpoint, there are multiple challenges to the ordination of women and the appointment of women to formal clergy positions:

The *Sifri* (#157, to *Devarim* 17:15) states that a woman may not be appointed king. The Rambam (*Hilkhot Melachim* 1:5), based on the Talmud (*Yevamot* 45b), extends this prohibition beyond kingship to any position of *serarah* (formal communal authority).<sup>17</sup> As Rabbinical positions have been traditionally understood as paradigmatic of *serarah*, they would be restricted to men in accordance with the Rambam's position.

Furthermore, the Rav assigned great significance to the ruling of the Rema (*Yoreh Deah* 1:1) barring a woman from being appointed as a community *shochet* as being representative of a general preclusion of women from *all* formal religious appointments (*minuyim*) over the community at large. The Rav explained that during the times of the Rema, appointment as the community's *shochet* required the earning of a formal "license" (*kabbalah*) from a *chakham*. When the position of *shochet* became an official religious appointment in the community, it became restricted to men.<sup>18</sup>

Consideration of the ordination of women also raises questions regarding the nature of *semikhah*. While contemporary *semikhah* differs from classic *semikhah* (as described in the Talmud) in many regards, it must, nevertheless, be viewed as an extension of the original institution of *semikhah*.<sup>19</sup> Parallels between the current and

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<sup>17</sup> The opinion of the Rambam is accepted by the *Arukh Hashulchan* (*Choshen Mishpat* 7:4) all well as by many other authorities; See *Amud HaYemini* (12), *Mishpetei Uziel* (*Choshen Mishpat* 4:6). Rav Moshe Feinstein, in a set of oft-quoted responsa (*Yoreh Deah* 2:44-45) permitted a woman to serve as a *mashgichah* for *kashrut* noting that there are opinions in the *Rishonim* that *serarah* applies only to positions of royalty. However, it is clear from his responsa that Rav Moshe saw the restrictive position of Rambam as the normative ruling. Nevertheless Rav Moshe ruled that there was room to rely on the non-normative lenient position with regard to the position of *mashgichah*, which is arguably not a true position of *serarah* (and even so, Rav Feinstein suggested a way to further assure that the position would not be classified as *serarah*) and in the particular case of an impoverished widow.

<sup>18</sup> See the opening pieces in *Sefer Shiurei HaRav al Inyanei Shechitah Melichah Basar B'Chalav veTa'arovot*, edited by Rav Elyakim Koenigsberg. The formal, communal role of the *shochet* is evidenced historically. In early American synagogues, a *shochet* was employed in an official capacity even when a rabbi was not engaged by the congregation. See *The Synagogue in America*, pg. 7.

<sup>19</sup> See *Shulchan Arukh Yoreh Deah* 242:5-6 based on *Maharik*, 113:3 and 169. The *Maharik* derived two *halakhot* by assuming that what was true for classical *semikhah* is still true for modern day *semikhah*. Also see Rambam (*Hilkhot Sanhedrin* 4:8) who includes the current function of *netilat reshut* in the laws of *Sanhedrin* as an extension of the original *semikhah*.



original forms of *semikhah* therefore, are relevant and valid.<sup>20</sup> Various sources indicate that the classic *semikhah* involved, and in fact may have centered on, designating individuals to serve as court judges.<sup>21</sup> Since the majority halakhic view<sup>22</sup> is that only men are eligible to be ordained as judges, even contemporary ordination would be restricted to men.<sup>23</sup>

Finally, the sanctity of the synagogue demands a particularly enhanced level of modesty - as illustrated by the requirement of a *mechitzah*. This elevated demand for the separation of genders is incompatible with a woman presiding over a male quorum.<sup>24</sup>

Members of this group differ as to the relative weights accorded to each of these concerns as well as whether each factor carries definitive halakhic significance independently, or only cumulatively. It is our unanimous opinion, however, that these considerations, combined with factors discussed below, impose a legal preclusion to the appointment of women clergy.

### **Precedent Regarding Women's Clergy Roles**

Furthermore, halakhic history evidences a precedent of precluding women from serving as clergy or receiving ordination. Even the Rema's restriction against appointing a woman to be a *shochetet*, referenced above, has always been normative.

Current women's roles in society - even in Jewish society - are undoubtedly different than in the past. While, *baruch Hashem*, advanced Torah learning opportunities for women continue to multiply, and more women today are interested in, and capable of, learning in-depth *halakhah*, it is clear from historical and halakhic literature that

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<sup>20</sup> See *Shu"t Rema* (24) and *Aruch Hashulchan* (*Yoreh Deah* 242:30) who seem to require eligibility for original *semikhah* in order to receive contemporary *semikhah*.

<sup>21</sup> "קרי ליה 'רבי' - ויהבי ליה רשותא למידן דיני קנסות" - סנהדרין יג. This is quoted in the Rambam (*Hilkhot Sanhedrin* 4:2) with a similar language.

<sup>22</sup> See *Tosafot* (*Bava Kama* 15a). *Tosafot* quote a minority opinion that women may serve as judges. *Shulchan Aruch* (*Choshen Mishpat* 7:4) rules like the overwhelming majority view in the *Rishonim*. Similarly, the *Talmud Yerushalmi* (*Yoma* 6:1) explicitly restricts women from *dayanut*. The one-time phenomenon of Devorah as *shofetet* (*Sefer Shoftim*, chapters 4-5) is discussed extensively by the *Rishonim* (to *Bava Kama* 15a and elsewhere) and is not seen as paradigmatic in any way.

<sup>23</sup> Women are excluded from positions that reflect the paradigm of *dayanut* - even when a full-fledged judge is not specifically required. For example: although a panel for *hatarat nedarim* does not share the technical requirements of a bona fide *beit din*, women are nonetheless excluded. Rabbi Akiva Eiger explains that a panelist for *hatarat nedarim* must meet the theoretical requirements for a *dayan*. See *Sefer HaChinukh* 406, *Shu"t R. Akiva Eiger* quoted in *Pitchei Teshuvah Yoreh Deah* 228:2, and *Arukh Hashulchan* 228:10.

<sup>24</sup> See *Eretz Ha-Tzvi* (Rav H. Schachter) 12:11-12 for a further elaboration of this concept.

women's Torah scholarship is not an entirely new phenomenon. Nonetheless, women scholars in the past, while clearly acknowledged and appreciated, impacted and guided the community without the formality of rabbinic titles or ordination.

The existence of female scholars throughout the history of our nation is, in our understanding, ample proof that the notion of semikha for women was conceivable. However, a continuing mesorah existed that dictated against it. We find it implausible to say that the question of female ordination has never presented itself throughout the history of our mesorah.

Finally, even if the absence of women rabbis throughout Jewish history is not fully dispositive, this phenomenon does establish a baseline status quo. We feel that the absence of institutionalized women's rabbinic leadership has been both deliberate and meaningful, and should continue to be preserved.

Our group believes that the combination of these two considerations, precedent and halakhic concerns, precludes female clergy. Given the status quo that we feel is meaningful and intentional, the burden of halakhic proof rests on the side of changing the established practice.

### **The Halakhic Ethos of Gender Roles**

The Torah affirms the absolute equal value of men and women as individuals and as *ovdei Hashem*, but clearly and consistently speaks of role differentiation.

*Kedushat Yisrael* applies identically to both women and men; indeed, it is actually passed on to future generations specifically through Jewish women. Rav Shimshon Rafael Hirsch writes, "The concept of man created in the image of G-d embraces both sexes; together, male and female comprise the term 'human.' G-d has created them both equally close to Him and for the same active purpose according to His Will: "*zachar u'nekeivah bara otam.*"<sup>25</sup> Similarly, expectation of, and capacity for, personal spiritual achievement does not differ between the genders,<sup>26</sup> and the vast majority of halakhic obligations apply equally to women and men.<sup>27</sup>

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<sup>25</sup> *Collected Writings*, Vol. VIII, p. 85. Rav Hirsch spells out his views in a long essay entitled "The Jewish Woman". See, in particular, the first section of this essay - pp. 83-90 in *Collected Writings*.

<sup>26</sup> See Rabbi Joseph B. Soloveitchik, *Family Redeemed* p. 71.

<sup>27</sup> *Kiddushin* 29a

Differences between the roles of men and women are, however, axiomatic, and are reflected in a multitude of legal and extra-legal sources starting with the Torah itself<sup>28</sup> and continuing through the *Achronim*. Rav Soloveitchik stressed this idea in lectures and shiurim over many decades and in many contexts.<sup>29</sup> “Two humans were created who differ from each other metaphysically, not only physiologically, even as they both partake of Divine qualities. This contradicts the perverse notion that Judaism regards woman as being inferior to man. It also cuts away another false notion that there is no distinction between them in terms of their spiritual personalities. Two sexes were formed not only for propagative purposes, but [in addition,] they constitute existential originals. They differ in their psychical natures.”<sup>30</sup>

Rabbi Soloveitchik arrived at his worldviews not simply through sources that would classically be considered *machshavah* or *hashkafah*, but particularly through an understanding of the intricacies of *halakhah*. The distinctions between men and women in the observance of *mitzvot aseh she-ha-zman grama* (*Kiddushin* 29a), matrilineal, as opposed to patrilineal descent (*Kiddushin* 66b), laws applying to *Kohanim* (see, for example, *Sotah* 23), court testimony (*Shevuot* 30a), appointment to the monarchy (*Sifri* 157 to *Devarim* 17:15), and in inclusion in the composition of a minyan for communal prayer are each indicative of different roles for men and women.<sup>31</sup>

Gender differences have, historically, been particularly evident in the arena of public service. We believe that these distinctions are not merely a relic of times bygone; instead, they reflect a Torah ethos - a *mesorah* - of different avenues and emphases by which men and women are to achieve identical goals - the service of G-d and the

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<sup>28</sup> The *Avot* and *Imahot* were equally critical for the development of and the transmission of the mesorah. However, it is undeniable that they played very different roles.

<sup>29</sup> Many examples can be found in the essays published in *Family Redeemed*: “Adam and Eve” (1971), pp. 3-30 (especially 18-27); “Marriage” (1959), pp. 31-72 (especially 67-72); “Parenthood: Natural and Redeemed” (undated), pp. 105-125; *Torah and Shekhinah*” (1968), pp. 158 - 180 (especially 158-166).

<sup>30</sup> Rabbi Avraham Besdin, *Man of Faith in the Modern World*, pp. 84-85. Elsewhere, the Rav writes, “Sexual differentiation expresses more than a physical property; it manifests an ontic contrast, a dual aspect within the essence of creation, something deeper and more fundamental than natural sexual differentiation which finds its full expression in two bi-existential experiences, in two ideas of personalism” (Rabbi Joseph B. Soloveitchik, *Family Redeemed*, p. 70). Rav Hirsch, too, stresses the distinctions between men and women throughout the essay mentioned above, and in his famous explanation of the exemption for women from time bound mitzvot (see his commentary to *Vayikra* 23:46).

<sup>31</sup> The Talmud’s invocation of the verse “*kol kevudah bat melekh penimah*” (*Tehillim* 45:14) as a factor in establishing a detail of *halakhah* highlights this notion (*Yevamot* 77a). This is yet another example where a Torah value impacts directly on a legal decision.

perpetuation of the Jewish people.<sup>32</sup> It is the majority opinion of our panel that the appointment of women to clergy positions would be a contradiction to this halakhic ethos.

Role distinctions are not absolute. We celebrate the fact that many women engage in high-level *Torah* learning - despite the fact that their obligation in *talmud Torah* differs from that of men.<sup>33</sup> We encourage mothers and fathers to share responsibility and to pool their talents and abilities to best bring up their children - despite archetypal parenting roles in our tradition.<sup>34</sup> However, there is, naturally, greater room for flexibility in the informal world of one's personal *avodat Hashem* and in the nuances of one's family dynamics, than in the more formalized public arena. The formal structure of synagogue leadership should more closely reflect the halakhic ethos.

## Women Clergy

For the reasons stated above we believe that a woman should not be appointed to serve in a clergy position.

This restriction applies both to the designation of a title for women that connotes the status of a clergy member, as well as to the appointment of women to perform clergy functions on a regular ongoing basis - even when not accompanied by a rabbinic-type title. The spectrum of functions appropriately considered as the role of clergy can be identified by duties generally expected from, and often reserved for, a synagogue rabbi. These common functions include, but are not limited to: the ongoing practice of ruling on a full-range of halakhic matters, officiating at religiously significant life-cycle events, (e.g. *brit milah*, baby naming, *bar mitzvah*,

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<sup>32</sup> It is not unusual for the Torah to differentiate between different categories of people, both in *halakhah*, with regard to specialization of roles and in terms of formal positions of religious leadership. For example, only a *Kohein* can perform service in the *Beit Hamikdash* and eat from certain *korbanot*. Similarly, unlike an Israelite, a *Levi* played a unique role in the *Beit Hamikdash* and was entitled to receive *ma'aser*. These distinctions reflect the idea of assigning different communal responsibilities to different categories of people, while messaging that these distinctions carry with them no implications regarding their respective spiritual value.

<sup>33</sup> Women are exempt for the overriding commandment to study Torah (*Kiddushin* 29b). However, they are obligated to study the laws relevant to the mitzvot incumbent upon them (*Yoreh Deah* 246:6).

<sup>34</sup> See, for example, Rav Soloveitchik, *Family Redeemed*, p. 118.

*bat mitzvah*,<sup>35</sup> weddings and funerals),<sup>36</sup> the regular practice of delivering sermons from the pulpit during services, presiding over or “leading services” at a *minyan* and formally serving as the synagogue’s primary religious mentor, teacher, and spiritual guide.

While a synagogue rabbi performs myriad functions, it is these common functions most often performed by a rabbi that characterize his role as the synagogue’s formal religious leader. The gamut of rabbinical responsibilities has evolved over time, adapting to the needs of each generation and locale. Nonetheless, the designated role of spiritual synagogue leader can be identified through the prevailing rabbinic duties.

### **Communal Roles for Women**

That being said, female role models are, of course, absolutely critical for the spiritual growth of our community. Communities depend, and have always depended, upon women’s participation in a wide array of critical roles, both lay and professional, that are wholly consistent with Torah’s guidelines. Women should most enthusiastically be encouraged to share their knowledge, talents, and skills - as well as their passion and devotion - to synagogues, schools and community organizations. The restriction on assuming a clergy role has not precluded, and need not preclude, women from making vital and substantial contributions to the Jewish people.

The needs and standards of communities differ significantly. As appropriate to each community and, subject to the guidance and the approval of the synagogue’s lay and rabbinic leadership, we believe that it is appropriate for women to assume the following non-exhaustive list of professional roles within the synagogue setting<sup>37</sup> *in a non-clergy capacity* (as defined above):

1. Roles women are currently assuming:
  - a. Teaching ongoing classes and *shiurim*, and delivering lectures.
  - b. Serving as a visiting scholar-in-residence

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<sup>35</sup> Of course, at a *Bat Mitzvah* celebration attended primarily or exclusively by women, it is likely that the arrangement most in keeping with the Torah ethos of *tzniyut* will involve women playing frontal roles and not men.

<sup>36</sup> Women *speaking* at these events is common practice in our community and is not a “clergy function.”

<sup>37</sup> In responding to the questions posed by the OU, our suggestions focus on the professional contributions of women within the synagogue. Of course, we continue to support the critical role that women have played, and must continue to play, in our educational institutions. The issue of lay leadership positions is beyond the scope of this paper.

- c. Serving in senior managerial and administrative positions, such as executive director, or director of programming and/or adult education.
2. Roles women are beginning to assume in some synagogue settings:
    - a. Serving as a synagogue staff member in the role of community educator or institutional scholar to supplement synagogue rabbis in enhancing the community's educational opportunities.
    - b. Serving as a synagogue staff member in the role of professional counselor to address the spiritual, psychological, or social needs of the community.
    - c. Serving as a teacher and mentor to guide females through the conversion process.

While by no means an exhaustive list, these examples are illustrative of the myriad contributions that women can provide within the synagogue structure without assuming a formal clergy role. With the guidance of their local rabbi, communities can explore the opportunities that can be best implemented to deepen and enrich the Torah learning and religious experience of men and women alike.

### **Halakhic Advisors**

Segments of our community have engaged highly knowledgeable and dedicated women who are trained to serve as halakhic advisors (“*yoatzot halakhah*”) for issues of *taharat hamishpachah*. In a number of communities these advisors have played a deeply significant role and have increased the comfort level of many women in posing halakhic questions in this most sensitive area of observance. These *yoatzot halakhah* have fielded many thousands of important questions which might not otherwise have been asked.

There may, however, be significant advantages in posing *taharat hamishpachah* queries to the same individual to whom one generally turns for *hora'ah*. This is especially true in the Diaspora where, as opposed to *Eretz Yisrael*, communities are typically organized around a synagogue rabbi and rebbetzin and *psak* is generally handled on a local level. Furthermore, answers to questions regarding *taharat hamishpachah* are often integrally connected to the dynamics of a particular family and marital relationship. Consequently, it is recommended that these questions be posed to the community rabbi who is knowledgeable in *hilkhot niddah* and also integrally involved with the couple on many levels.

We strongly encourage synagogue rabbis to take all necessary steps to ensure that their congregants are comfortable asking questions in these areas. Rabbis should collaborate with their congregants - certainly women, but men as well - to devise practices that will provide maximum comfort for those with questions. We also encourage synagogue rabbis to further increase their sophistication and training in the applicable halakhic, medical, and psychological spheres to serve as a valuable resource.

We recognize and understand, however, that some women are, and may remain, uncomfortable asking these *sheilot* to their synagogue rabbi and often cannot, or will not, avail themselves of the options presented above. Accordingly, those best positioned to assist in this area are knowledgeable and highly trained women who are passionate and committed to helping their communities, and who are imbued with *yirat shamayim*.

Significant differences exist between the clergy functions outlined above and the role of a *yoetzet*. *Yoatzot* distinguish themselves from female clergy because, as their title implies, *yoatzot* advise, rather than issue novel rulings or decisions in disputed matters, and they do not perform other rabbinic functions. They specialize in a limited area of *halakhah* - an area that is most relevant to women and where *tzniyut* is essential - and function outside the context of prayer services.

We do not have a consensus opinion with regard to all of the halakhic issues involved with the official position of *yoetzet halakhah*. We agree that *yoatzot* provide a valuable service, but some feel that, with regard to normative wide-spread community practice, halakhic and meta-halakhic concerns outweigh the benefits.

In light of all of the above-referenced considerations, the utilization of *yoatzot halakhah* should continue to be evaluated carefully by *poskim* and communities alike. Under all circumstances, a *yoetzet halakhah* should only be employed with the approval of the synagogue's or community's rabbis, and should continue to work in close consultation with the local rabbi(s).

## **Conclusions and Further Suggestions**

Ultimately, our mission must be to enhance the commitment of the Jewish People to Torah and *mitzvot*. All of our actions must be measured against this foundational

standard. There is much we can do as a community, both men and women, to further advance these lofty goals.

Our synagogues must continue to serve the needs of women and men. While the traditional synagogue experience continues to offer religious fulfillment to many women in our communities, some women - and men for that matter - feel disengaged from their shuls and uninspired in the synagogue. They yearn for a closer connection to *Hashem* and seek to intensify their *tefillah* experience.

It is axiomatic that the timeless traditions of *Chazal* provide the framework for living a Torah life; however, we are not always successful in bringing those traditions to life. We recognize that many who are looking for new avenues to increase their shul involvement are motivated by a genuine desire to strengthen their connection with *Hashem*. As such, the importance of *tefillah* for women and men (and children) must be stressed and efforts must be undertaken by communal leadership, both rabbinic and lay, to create an environment and *tefillah* experience that will engage every individual.

We encourage our communities to address these genuine aspirations in a manner compatible with *halakhah* and consistent with Torah values. For example, care should continue to be taken to construct *mechitzot* that not only follow halakhic requirements, but are also sensitive to the degree of engagement with the services that can be felt from the *ezrat nashim*. Similarly, women seeking greater involvement in synagogue prayer services should be encouraged to come to *shul* for weekday and *Shabbat minyanim*, and the *ezrat nashim* should be inviting and available for their attendance. Each synagogue should be encouraged to reach out to women - and particularly single women when applicable - to create meaningful ways to involve them in synagogue life. Women should be actively included in conversations related to *tefillah* and synagogue atmosphere.

The spiritual growth of our community is dependent upon a steady stream of talented women both serving as role models and teachers, and filling positions of influence. As a community, we need the best and brightest women - and men - to be motivated and well-trained to pursue careers in *avodat hakodesh*, whether in schools, synagogues or *chesed* organizations. Finally, steps should be taken to properly recognize women who dedicate their lives and their abilities to serving and educating our community, including the attribution of fitting titles that convey the significance of these roles.



As we broaden our perspective from the letter of the law to the values that emerge from the totality of our tradition, we encounter the opportunity to more fully understand the Divine and to walk in His ways. We seek to follow the values of the Torah, preserve them, and embrace them as our guide, which we can only do by respecting our tradition and upholding the instructions and values that emerge from within it. It is with this deep level of engagement with the Torah that we are infused with a sense of purpose and transcendence, and it is through the medium of *halakhah* and Torah ethos that we find liberty and exaltation in surrendering ourselves to the Divine will.

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Rabbi Yaakov Neuberger  
Rabbi Michael Rosensweig  
Rabbi Ezra Schwartz  
Rabbi Gedalia Dov Schwartz  
Rabbi Hershel Schachter  
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