

Women and the Future of Judaism: Introductory Comments

Aryeh A. Frimer (Keshet Israel, Washington DC, Nov. 7, 2010) 5 min

Firstly let me thank the organizers for honoring me by their invitation to sit on this distinguished panel. No one can deny that the changes that we have observed in the role of women in Judaism over the past century, and most dramatically over the past 40 years, have been anything but revolutionary. And I'm sure that we will discuss many aspects this evening.

In response to the moderators opening question, I would like to respond that Judaism is most definitely not egalitarian. The *mitzvot* revealed to Moses were not the same for Jew and gentile; nor were they, for that matter, identical for all Israelites. This lack of identity in religious obligation creates various different religious roles. All Jews share the same level of *kedushat Yisrael*, Jewish sanctity.¹ Nevertheless, Jewish law distinguishes between the obligations of *kohanim*, *leviyim* and *yisraelim*, as well as between males and females.² In particular, women were generally freed from the *mitzvot asei she-ha-zeman gramma* (time-determined positive commandments) which include, *inter alia*: *sukka*, *lulav*, *shofar*, *tefillin* and *tsitsit*.³ In none of the halakhic sources do we find any doubt, question or dispute as to women's fundamental exemption from *mitzvot asei she-ha-zeman gramma*.

This exemption is derived in the Oral Law through the use of the hermeneutical principles,⁴ and is therefore deemed to be biblical in origin. Moreover, Maimonides cogently argues that this exemption is *Halakha leMoshe miSinai* - rooted in ancient oral tradition.⁵ This must be the case since the Rabbis lack the authority to exempt women from commandments that the Torah itself obligates them to perform.⁶

The bottom line, then, is that halakhic Judaism maintains that God Himself ordained and commanded non-identical roles for men and women.

However, the fact that roles are non-identical does not mean they are not equally important. The importance of a religious role has nothing to do with its power or כבוד (honor) or exposure – it has to do with what Hashem asks me to do. Hashem did not want me Aryeh Frimer to be a Kohen. However, as Rabbi Saul Berman (Tradition 1972) has noted, women were exempted from time-determined positive commandments to give them greater flexibility in their roles as wife, mother and home-maker. But this was an exemption, not an exclusion, and - if there is no down side (exception *tefillin*) - women can assume the

performance of *mitsvot asei she-ha-zeman gramman*, should they choose.

Indeed Jewish law recognizes many women's desire for greater spirituality and wider opportunities for unmediated communal rituals. This the Talmud describes as *la'asot nahat Ruah laNashim*. This is a point many are not sensitive to.

For example, while both men and women are enjoined by Jewish law to pray daily, women need not fulfill their obligation within the context of communal services. Since it is the men who are obligated in public prayer and Torah reading, it is the men who count for the required *minyan* and lead the community in these rituals.⁷ Thus, from the perspective of Orthodox women, public prayer rituals as a rule involve the intermediacy of men. While this may be the halakhic reality, there are many women who are nevertheless in search of a more active and meaningful involvement in the spiritual moments of public prayer. Women's *tefilla* groups, Women's hakafot on Simhat Torah, and women's megilla readings are examples of innovative solutions to such needs. These innovations have found the approval of several leading Poskim.

But I do have serious disagreement with those who would enact innovations such as women's aliyyot and partnership minyanim, and hastily undo more than two millennia of Halakhic precedent. Religious integrity and sensitivity would have required serious consultation with renowned halakhic authorities of recognized stature - **before** acting on such a significant departure from normative *halakha*. Modern Orthodoxy should welcome diversity and flexibility – but any innovations must be halakhically well-founded and solidly-based.

The halakhic process has always been about the honest search for **truth** – Divine truth.⁸ To adopt one particular approach - simply because it yields the desired result – simply because it gets you where you wanna go - lacks intellectual honesty and religious integrity. To paraphrase Prof. Yeshayahu Leibowitz, if we are agenda oriented, rather than truth based - we will not really be serving G-d, but only ourselves. We will unfortunately be attempting to mold Judaism in our own image.⁹

That is something we have to beware of.

Notes and References

1. For further discussion, see: Aryeh A. Frimer and Dov I. Frimer, "Women's Prayer Services: Theory and Practice. Part 1 - Theory," *Tradition*, 32:2 (Winter 1998), pp. 5-118, text following note 25. PDF file available online at: <http://www.jofa.org/pdf/Batch%201/0021.pdf>.
2. R. Saul F. Berman, "The Status of Women in Halakhic Judaism," *Tradition*, 14:2 (Fall 1973), pp. 5-29.
3. See: *Mishna Kiddushin* 1:7; *Tosefta Kiddushin* 1:10; *Talmud Kiddushin* 29a, and *Kiddushin* 33b and ff.
4. *Kiddushin* 34a.
5. Maimonides, Commentary to *Mishna, Kiddushin* 1:7.
6. A reviewer has challenged this assertion by noting that the Rabbis indeed have the authority to abrogate positive Toraidic commandments by requiring inaction. For references and discussion, see: "Yesh ko'ah bi-yad hakhamim la'akor davar min haTorah," *Encyclopedia Talmudit*, XXV, pp. 607-657. Classic examples are the prohibition against sounding the *shofar* or shaking the *lulav* on the Sabbath; see: *Rosh haShana*, 29b and *Sukkot* 44a. This precedent is irrelevant, however, to women's exemption from time-determined positive commandments, for three reasons. Firstly, use of this rabbinic authority is limited to a select number instances in which fulfillment of the commandment might lead to widespread violation of a serious Toraidic injunction; see: R. Zevi Hirsch Chajes, *Kol Kitvei Maharaz Hayyot, Torat haNevi'im, Hora'at Sha'ah*, sec. 6, pp. 37-38. Thus, sounding the *shofar* or shaking the *lulav* on the Sabbath might lead to carrying these ritual items on the Sabbath in the public domain – a prohibition that carries corporal punishment. Secondly, rabbinic scholars have emphasized that the Toraidic commandment is never abrogated. Rather Hazal direct one not to perform a particular *mitsva* action under certain given circumstances. See: R. Zevi Hirsch Chajes, *ibid.*; R. Elhanan Bunim Wasserman, *Kovets Shiurim*, II, *Kuntres Divrei Soferim*, sec. 3; R. Jacob Israel Kanievsky, *Kehillot Ya'akov, Berakhot*, sec. 8. However, women were completely exempted from time-determined positive commandments. Finally, Hazal used their authority to prohibit the performance of a *mitsva*; however, women are only exempted - not excluded - from fulfilling time-determined *mitsvot*. Indeed, these *mitsvot* remain optional for any woman who would like to carry them out.
7. Aryeh A. Frimer, *supra* note i.
8. See: R. Aryeh A. Frimer, "Feminist Innovations in Orthodoxy Today: Is Everything in Halakha - Halakhic?" *JOFA Journal*, 5:2 (Summer 2004/Tammuz 5764), pp. 3-5 - available online at: <http://tinyurl.com/2fgqsu>.
9. Yeshayahu Leibowitz, "On Faith and Science," Rabbi Moshe Zev Kahn - Mr. Samuel G. Bellows Memorial Lecture, Rabbi Jacob Berman Community Center – Tiferet Moshe Synagogue, Rehovot Israel, April 1986.