

# *Female Rabbis, Male Fears*

CHAIM SEIDLER-FELLER

IT SEEMS CLEAR THAT THE ISSUE INVOLVED in considering the ordination of women is not *halakhic* but attitudinal. The sources that have been adduced to support a woman's ordination are familiar to all broad-minded students of Halakhah.<sup>1</sup> Equally clear is the absence of any serious halakhic barrier to a woman's functioning as a rabbi.<sup>2</sup> Moreover, the literature is filled with instances of women who served as *poskot* and teachers of Talmud,<sup>3</sup> demonstrating, beyond a doubt, that the traditional tasks of the rabbi could be, and were, fulfilled by women. If it is argued that such women were exceptions, then the response would be that it is the exception that establishes the rule, i.e. there is no inherent disqualifying trait that would prevent a woman from assuming the role of rabbi.

The fundamental obstacle to the ordination of women, therefore, is the men who control the access to ordination. What it is that motivates these rabbis to withhold full recognition from Jewish women is the subject of this essay.

The overriding traditional concern has always been that the role of rabbi is somehow inappropriate for a woman. She is, after all, mother and caretaker of the home. The psalmists' praise of the bride awaiting to be married to the king, "*Kol kvudah bat melekh, pnimah*", "All glorious is the king's daughter within the palace" (Psalms 45:14), has been understood

1. See, for example, *Sefer Hahinukh*, edited by Chaim Dov Chavel (Jerusalem, 1953), Mizvah 158 (152 in other editions); Hayyim Joseph David Azulai, *Birkei Joseph, Hoshen Mishpat*, ch. 7, par. 12 . . . "a learned woman may render a legal decision;" Yom Tov/ibn Asevilli, *Hiddushim Ha-RITVA, Kiddushin* 38a, s.v. *asher tavim lifnehem*.
2. E.g., *kevod ha-zibbur*, the honor and dignity of the congregation, must be dealt with as a sociological category whose definition varies in relationship to the changes that befall a *zibbur*. Paradoxically, it may actually constitute a dishonor to today's *zibbur* if women are not ordained. Equally questionable is the attempt to disqualify women from the rabbinate on the basis of Maimonides' assertion, *Judges, Laws of Kings* 1:5, "No woman is eligible to head the State, for it is said *melekh* (king), that is, not a queen. So, too, whatever the office to which appointment is made, *only a man is qualified to hold it*." The incongruity of this statement is evidenced by the fact that Jewish Federations as well as synagogues are now commonly headed by women presidents. The problem of women serving as judges and witnesses will be discussed later in the essay.
3. See a lengthy list of women teachers and halakhic decisors in Barukh Halevi Epstein, *Mekor Barukh* (New York: M.P. Press, 1954), ch. 46, sec. 2 and in Shlomo Ashkenazi, *Ha-Isha B'aspakharitay Ha-Yahadut* (Tel Aviv: Zion, 1979), pp. 115-133.

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CHAIM SEIDLER-FELLER, a graduate of Yeshiva University, is currently Hillel director of U.C.I.A. and instructor in rabbinics at the University of Judaism.

by the mainstream rabbinic decision as mandating a home-oriented role for women.<sup>4</sup> Rather than being taken as a descriptive phrase it is seen as prescriptive, relegating the woman to a role as "Queen" of the home while her husband aspires to the position of "King" of the world outside the home. This doctrine of "Mr. Outside" and "Mrs. Inside" is similar to the Eriksonian distinction between "inner and outer space"<sup>5</sup> and to notions of biological determinism that portray the woman as bound to her physical-material nature, creating within her body, while the man is free to ascend to spiritual heights, conquering "outer-space" and shaping it according to his will.<sup>6</sup> Consonant with this view, the Biblical charge to "fill the earth and subdue it" (Genesis 1:28) could be taken to mean that women should "fill the earth" with children and men "subdue it" with ideas. Thus is anatomy destiny!

Saul Berman, in his now classic analysis of the sources, masterfully demonstrates that this public-private role distinction is the underlying factor in women's exclusion from the obligation to discharge certain *mizvot*.<sup>7</sup> Robert Gordis, in his influential treatment of the subject of women's ordination, presents a detailed analysis of all instances of the rabbinic category of "affirmative precepts limited to time" and their relationship to women's obligations. They clearly prove that this rubric, too, is descriptive rather than prescriptive. In fact, women are obligated to fulfill as many positive time-limited precepts as the number from which they are exempted. In other words, the rabbinic category of "affirmative precepts" limited to time, rather than establishing the legislative ground for women's exemption, acts as nothing more than an organizing literary principle, a device for grouping diverse precepts.<sup>8</sup>

Berman further contends that roles assigned by the tradition are merely preferred and not mandated. Consequently, the private role of wife-mother-homemaker encouraged by the law is not the exclusive one open to Jewish women.<sup>9</sup> Although it may have been the case that in the past there were not many alternatives practically available, the Halakha specifically intended to keep all options open and did not preclude the

possibility that a Jewish woman might legitimately choose a public-communal role, heretofore held predominantly by Jewish men. Women, if they so desire, may, therefore, elect to serve as communal leaders and fill positions as judges, rabbis and Queens.<sup>10</sup>

The potential entry of the woman into the public domain as a figure of authority compels the reopening of the entire discussion of a woman's obligation to testify. Since her disqualification as a witness is not based on a statutory lack of credibility, but on an exemption from mandatory public appearances, the extension of a woman's role into the communal realm would include offering testimony as well, thus sweeping away the objection to ordination of women that is based on their halakhic exemption from service in the public sphere as witnesses.<sup>11</sup> This aside from the ethical problem, as stressed by Gordis, which is involved in treating women on a par with deaf-mutes and mental defectives as regards their serving as witnesses in law suits. Some might argue that Berman's analysis leads, maximally, to the possibility of a woman choosing a public role and that this is insufficient to obligate her to testify. Nevertheless, the availability of this option undermines the blanket assertion that it is not customary for women to enter the public precinct.

Of greater significance is the pervasive reality of both a universal acceptance of the Jewish woman in almost all public roles and the concomitant self-definition of Jewish women as public beings. Even Orthodox women practice as doctors, lawyers, professors, research scientists, legislators, and so forth. Why, then, is it that the only area *barred* to Jewish women is the Jewish-religious sphere of life?<sup>12</sup> How do we deal rationally with the glaring inconsistency that allows women to be judges but not *dayanot*, witnesses but not *edot* . . . ? Doesn't the covenant obligate us to guard the law from humiliation and to maintain its credibility?<sup>13</sup> The system is denigrated by the compartmentalization required by the need to maintain the public-religious invisibility of Jewish women, causing all reasonable individuals to question the plausibility of halakhic analysis.

One often hears of modern Orthodox males who cleave to the tradi-

4. See Moshe Meiselman, *Jewish Women in Jewish Law*, pp. 9-15 and the Introduction by Shaina Sara Handelman to *Glory of the King's Daughter* (The Laws of Modesty in Women's Dress) by Moshe Wiener, for an accurate presentation of the traditional view.

5. Erik Erikson, "Womanhood and the Inner Space" in *Identity: Youth and Crisis* (New York: Norton, 1968). For an analysis and critique of Erikson see Juanita Williams, *Psychology of Women: Behavior in a Biosocial Context*, 2nd ed. (New York: Norton, 1983).

6. Margaret Mead, *Male and Female: A Study of the Sexes in a Changing World*, 3rd ed. (New York: Morrow Quill Paperbacks, 1967), pp. 181-2.

7. Saul Berman, "The Status of Women in Halakhic Judaism," in *The Jewish Woman: New Perspectives*, ed. Elizabeth Koltun (New York: Schocken, 1976), pp. 114-128. Berman's article originally appeared in *Tradition*, XIV, 2 (Fall 1973).

8. See Maimonides, *Commentary on the Mishnah, Kiddushin* 1:7, J. Kafih, trans. (Jerusalem: Mossad Harav Kook, 1963) II, p. 198.

9. Berman, *Op. cit.*, pp. 125-6.

10. Ben Zion Meir Chai Uziel, former *Rishon le-Zion*, considers the possibility of a woman functioning as judge on the grounds of *kibluah aleyhem*, that the litigants or the community leaders accept her as a judge. He concludes by recommending against his own suggestion, "*lo nashon la'asot lakhannah kash*", because it would harm the traditional structure of the Jewish household. (*Pischei Uziel b'She'elot Hazman* [Jerusalem: Mossad Harav Kook, 1977], pp. 227-8).

11. This objection is raised by David Novak, "Yes to Halakha Means No to Women Rabbis," in *S'ema*, 9/166 and by the *Minority Opinion* in the *Final Report of the Commission for the Study of the Ordination of Women as Rabbis*, Rabbinical Assembly, January 30, 1979.

12. Tsuriel Admorit, the enlightened spiritual leader of Kibbutz Yavneh, recognized this paradox. See "Ortodoksiyah of Parashat *Darashim*", in *B'Toch Hazeman V'Nigdo* (Tel Aviv: Ha-Kibbutz Ha-Dati, 1967), pp. 109-10.

13. See David Hartman, *Maimonides: Torah and Philosophic Quest* (Philadelphia: The Jewish Publication Society, 1976), pp. 127-9.

tional view regarding women's interiorized religious life, yet who have wives who, in theatre, dance and other bold ways, play out their destinies in the public arena. Cynthia Ozick has implicitly recognized that this dichotomy leads many Jewish women to choose careers outside of the Jewish world, with the result that we have impoverished Jewish culture.<sup>14</sup> This state of affairs has arisen because the Jewish doors have remained shut. How much longer can the Jewish community afford to tolerate the demoralization and the alienation of its best and brightest women?

It is important to note that whenever traditional scholars were confronted with an anomaly such as a Deborah who was a recognized judge (*shofetet*)<sup>15</sup> or with the acceptance of women as witnesses in particular cases,<sup>16</sup> they always found a *teiruz*, a pretext, that rationalized the irregularity. According to this mode of apologetics, Deborah was not a judge who used reason and legal procedure to determine the law; she was a prophetess to whom the law was revealed.<sup>17</sup> Since it is illegitimate for a prophet to legislate, this definition of Deborah's judgeship blunts any effort at employing her as a model for opening the position of *dayan* to women. It is intended as an absolute disqualification. Regarding women who are accepted as witnesses, the legal scholars teach that, if and when women are empowered to testify, it is because the case in question does not require testimony (which can be presented only by two proper male witnesses) but merely a credible depiction of the facts.<sup>18</sup> Never have the analysts considered the alternative that these exceptions have created new data for possible utilization as precedents in future deliberations. In fact, as Rachel Adler and other feminist scholars have noted, the tradition refuses to acknowledge women's experiences as new data, relegating it to the realm of "non-data."<sup>19</sup> Over the centuries, such "non-data" becomes more inaccessible and imperceptible to both male and female eyes.

Apart from the above sources of opposition, there is one fundamental and non-halakhic argument shared by all opponents of women's ordination. The common thread is a fear that it would destroy the structure of Jewish family life and, hence, doom Judaism. Jessie Bernard,<sup>20</sup> Virginia

ir,<sup>21</sup> Marshall Sklare<sup>22</sup> and other social scientists<sup>23</sup> have asserted that the family as an institution has shown remarkable adaptability in various cultures and contexts, the Jewish situation included. Their research over the past twenty years should have successfully calmed Jewish fears regarding the disintegration of the family under the press of social change. Additionally, role redefinition has occurred even in the Orthodox household, yet, the family has adapted and survived. No doubt this is a trying period, but all eras of transition are stressful.

If, indeed, this line of thinking is tenable and evolutionary change within the family is assimilable, why does the resistance to ordination of women persist?

It must be that the issue at hand is fundamental to the conflict between men and women: it involves a power struggle. As a result of women's emergence into every domain, including politics, the synagogue has become the last bastion of male privilege in the Jewish community.<sup>24</sup> And Jewish males, with their female allies, are committed to the defense of the hierarchical system that has sustained their control of Jewish religious life over the centuries. It is understood that expertise and status are two factors that determine personal authority and power.<sup>25</sup> Therefore, the presumptive intention is to withhold, indefinitely, the keys to the legal-scholarly tradition and, consequently, the rabbinic authority that derives therefrom. At Yeshiva's Stern College where Rabbi J. B. Soloveitchik inaugurated the Talmud program a few years ago, the nature of the women's study is thoroughly unlike that of the men's learning at Yeshiva College. Whereas Talmud is a required subject that dominates the program of the men of Yeshiva, it is merely an elective for the women. While the more advanced and accomplished instructors teach the men, it is less proficient scholars who teach the women. As a result, the men's *shi-urim* are far more complex and erudite than those of the women and the men are prepared to continue a rigorous application of Talmudic methodology on their own while the women must be content with a fleeting exposure to Talmudic texts. In the Conservative movement and at the Jewish Theological Seminary the matter has been continually misconstrued in halakhic terms.

14. Cynthia Ozick, "Notes Toward Finding the Right Question," in *Lilith*, 6 (1979).

15. *Shofetim* 4:4.

16. *Terumat Ha-Deshen, she-elah* 353; Moses Isserles in *Shulhan Arukh, Hoshen Mishpat*, sec. 35, par. 14.

17. *Tosafot, Niddah* 49b (50a), s.v. *kol ha-kasher ladun*. A most ingenious answer has been suggested by Yehudah Gershuni who claims that Deborah's acceptance as a judge was a result of her exceptional personal qualities; there were no other men who were as qualified as she was. This reasoning is based on a Tosafist analysis that accepts a convert as a judge when the convert is most qualified. See "*Ha-Isha B'Halakhah Uv'Aggadah*" in *Or Ha-Mizrah* (1982), p. 71. Here we have an explicit example of the prejudice that requires women and all minorities (e.g., converts) to be more qualified than the dominant majority (i.e., male Jews) in order to achieve equality.

18. See Ibn Aderet, *Responsa of RaShba attributed to RaMBa'N*, 74.

19. Rachel Adler, "I've Had Nothing Yet So I Can't Take More," *Moment* 8:8.

20. Jessie Bernard, *The Future of Marriage* (New York: Bantam Books, 1973), pp. 85-88. 21. Virginia Satir, *Conjoint Family Therapy*, 2nd ed. (Palo Alto: Science and Behavior Books, 1967), pp. 20-26, 178-190.

22. Marshall Sklare, *America's Jews* (New York: Random House, 1971), pp. 73-79. 23. E.g., Mary Jo Bane, *Here to Stay: American Families in the Twentieth Century* (New York: Basic Books, 1976).

24. See Mortimer Ostow's essay in the symposium on "Women and Change in Jewish Law," *Conservative Judaism*, 29:1. Ostow observes that "... the synagogue serves traditionally as a refuge from the struggles of the marketplace. . . One would not wish to sponsor a program that will convert the synagogue from a refuge to an arena where a man will feel that he must struggle again to defend his self-esteem."

25. I. Frieze, J. Parsons, P. Johnson, D. Ruble and G. Zellman, *Women and Sex Roles: A Social Psychological Perspective* (New York: WW Norton, 1978), pp. 304-307.

This symposium is, after all, a by-product of the strife that has plagued the Conservative movement in the wake of its decisions regarding women's ordination. Even Hebrew Union College, which pioneered the ordination of women, boasts not one female faculty member nor has it produced a single woman scholar. Scarce and almost nonexistent are the Judaica texts written by women.

Only when male authorities are no longer threatened by women trained in the intricacies of the Talmudic tradition and possessed of a sophisticated Jewish knowledge, and when their impulse to use the halachic process to preempt the central questions involved is delegitimized can equality and meaningful power-sharing be achieved. As long as present attitudes prevail, however, and the rabbinic leadership refuses to acknowledge the motive underlying their behavior, the struggle for power will continue unabated and the casualties will multiply.

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