

The relevance of rationalisations

A response to Chaim Rapoport

Yaffa Aranoff

It continues to be our policy to support dialogue and debate. In response to Chaim Rapoport's article, 'Why women are exempt from positive time-bound commandments: Is there a true Torah view?', Yaffa Aranoff argues that any subjective rationalisation of an aspect of *halakha* must not only reconcile itself with Jewish texts but also with the senses and sensibilities of the public to which the rationalisation is addressed, and that the notion of women finding fulfillment of positive time-bound commandments through a man's agency is at variance with today's reality of a large single community and a vibrant Orthodox feminist movement. Chaim Rapoport's response follows this article.

It is a truism that Modern Orthodoxy has been in the travails of a feminist restructuring for the past few decades. The flourishing of women's Yeshivot, prayer groups, *minyanim* in which women assume communal roles, calls for women to receive *semikha*, and direct action groups against the agunah's plight is the fruit of this new spirit. Many outside Orthodoxy have wondered why people discontent with the status quo do not simply leave and join another denomination of Judaism in which these problems are absent. I will answer only for myself: *mitzvo*t and *Talmud Torah* are too holy and meaningful to risk losing. The very *halakha* that prevents a woman from counting in a *minyan* is the *alakha* that inspires my life. This paradox is not a feature of modern society; it has been with us since the time of the Talmud.¹ The tension between spontaneity and regularity, between what one feels and what one is commanded to do is part of the foundation of an observant Jewish life. The Mahar calls this world *alma deperida* because of the polarities that characterise it.² As Abraham Joshua Heschel writes:

It is part of the human condition to live in polarities. It is an implication of our belief in one God to be certain

that ultimately reason and revelation are both derived from the same source. Yet what is one in creation is not always one in our historic situation. It is an act of redemption when it is granted to us to discover the higher unity of reason and revelation.³

For Heschel, tension is the source of creativity. Therefore, the only way to uncover a new insight that

will help us cope and learn from conflict is to feel deeply the lack of unity it engenders.

For any subjective rationalisation of an aspect of *halakha* to be successful, it must be sensitive to the pain or anger of those who struggle with the *halakha* under discussion; it must include empathy for the audience to which it is addressed.

Rabbi Chaim Rapoport fails to meet this standard in his article 'Why women are exempt from positive time-bound commandments'.⁴ Rabbi Rapoport gives meagre attention to the view

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of those who might find this exemption difficult. He quotes disparaging views on the nature of women without explaining how they might contribute and never disqualifies them. Finally, Rabbi Rapoport discriminates against single women and men. One of the greatest crises facing the Jewish community today is the high number of singles. It can only be deeply hurtful and alienating to read that 'thus even single people are not "complete" people in their own right'.⁵

The subjective rationalisation: between the Bet Midrash and the outside world

The modus of the Bet Midrash is to think on the theoretical plane and to fearlessly apply any reasoning, no matter how far fetched, to see if it will yield a new understanding. It is told of one of the Brisker rabbis in Lithuania that his father would take him for walks when he was only three or four years old and ask him questions like, 'How do you think they built this building?' Of course, the small boy had no training in engineering. The point was to teach his son that one could always 'raise a *sevara*', that one could always form a conjecture, even without full knowledge of how matters worked.⁶ To follow one's creative path unselfconsciously, feeling only the pleasure of a new insight, is one of the delights of yeshiva study.

However, in the world of halakhic practice, personal creativity is replaced by loyalty to the law as traditionally interpreted.⁷ A subjective rationalisation of religious practice is an attempt to apply the creativity of the Bet Midrash to practical *halakha*. It is a difficult occupation in that one's usually unbridled imagination must in this case constantly remain conscious of the resonance

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one's ideas will have amongst the intended audience. A subjective rationalisation of a *halakha* that satisfies only its

authors differs little from the normal Bet Midrash occupation. It is not surprising that ultimately, Rabbi Rapoport turns to mystical sources to justify the woman's exemption from positive time bound commandments.⁸ Mysticism places experience above theory and is therefore more likely to explain a *halakha* in a manner that accords with people's sensibilities, whereas the typical Bet

Midrash approach moves in the opposite direction of starting with theory and then relating to experience.

Defining the problem

From the perspective of the Bet Midrash, one can discern little that is troubling about the woman's exemption from positive time-bound commandments. As Rabbi Rapoport mentions, a woman *may* perform these type of commandments if she wishes; so, what is the problem? Rabbi Rapoport addresses this question briefly:

Many women, at least in today's day and age, feel that their exemption or exclusion from such mitzvot is demonstrative of a discriminatory attitude towards women. If women are spiritually equal to men, why would they be allowed to, or even have to, forego the fulfillment of these mitzvot?⁹

The only primary source Rabbi Rapoport cites is the Mishnah in Tractate Kiddushin.¹⁰ This Mishnah treats men and women as individuals, without discussing the communal ramifications of the ruling. However, its communal ramifications are serious. This exemption disqualifies women from being counted in a *minyan* and therefore taking leading roles in the prayer service.¹¹ The focal event for most Jews is the weekly Sabbath service. The majority of United Synagogue members are not fully *shomrei halakha* and yet attend synagogue regularly. When a family celebrates a milestone, the male members usually receive *aliyot* to the Torah as way of communally marking the event. Women are excluded from this communal activity. This is, perhaps, the main difficulty with the exemption. In one's private religious practice, whether the *mitzvot* are mandatory or optional is a small matter once one has chosen the structure of her religious life. It is the communal ramifications that can sometimes be a stumbling block toward a more meaningful collective religious life. One cannot use only a text as the impetus for a subjective rationalisation; or else one is at risk of missing the main issues involved in its contemporary acceptance. The Bet Midrash perspective must be complemented by experience outside its walls.

Examining the method

After stating the difficulty, the article turns immediately to the Rishonim, as is proper

protocol in any Bet Midrash inquiry. As mentioned, even strained views receive consideration in the Bet Midrash. This flexible approach promotes creativity in most areas, but in some, it is dangerous. Gersonides is the article's first citation. He is quoted as an example of the view that 'women are – at least, in certain ways – spiritually and intellectually inferior to men and as such would be "out of their depths" in their involvement in certain mitzvot.'¹² The second view presented, Rabbi Moshe Teitelbaum's, is along the same lines. That one should consult such opinions when striving to make relevant a seemingly troublesome aspect of the *halakha* could serve only to distance further people who are struggling with feminism and Jewish law. 'Women are inferior' or 'Women are ineligible' are inadmissible views. Just as one would scoff at the one-time popular apology for American slavery that Afro-Americans benefited from and perhaps enjoyed slavery as they were too stupid to care for themselves – so too should one reject out of hand any view pointing to an inferiority in the mental, spiritual, or corporeal make-up of women.

When introducing Gersonides's view, Rabbi Rapoport states: 'His status as a medieval philosopher is significant in this context for it is arguable that the type of ideas he expresses with regard to women represent a widespread trend in medieval thinking and philosophical conditioning, rather than "normative" Jewish ethos.'¹³ Now that Rabbi Rapoport has acknowledged that the historical context of the great Jewish luminaries of the past did influence their views and that one has to bear that in mind when reading them today, broader methodological questions rise to the surface. How does one determine what lies within and outside 'normative Judaism'? Does the influence of general philosophical trends disqualify a specific view? By quoting Gersonides as a relevant voice from the past and then delimiting him by his historical context, Rabbi Rapoport suggests an approach of qualified reverence. How does a relationship of qualified reverence affect the study of our texts? What are the limits of qualified reverence? There are no categorical answers to the above questions: however, a discussion of the difficulties and opportunities involved in this type of learning would enrich any discourse on the relevance of the Torah today.

In addition to suggesting that the very opinions

Rabbi Rapoport quotes in order to gain an understanding of the status of women in 'normative' Judaism may indeed fall beyond its boundaries, he also suggests that there is a range of choice when determining the Jewish view on the matter:

Women seeking religious fulfilment in the twenty-first century will, in most cases, not be enamoured with Teitelbaum's perception of the role of women ... And they need not be. For there are many different philosophies regarding the exemption of women from time-bound commandments which do not tally with Teitelbaum's ideas. Nor do they reflect the doctrine of the inferiority of the woman expounded by Gersonides.¹⁴

Once again, Rabbi Rapoport has employed an analytical approach that could have radical ramifications. To what extent can one adopt different philosophies in cases where others do not 'tally'? This may be the greatest question dividing Orthodox Judaism from

other denominations, and yet Rabbi Rapoport gives it little attention. Moreover, if Rabbi Rapoport acknowledges a degree of choice in quoting thinkers of the past, one must ask why he chose the thinkers he did, especially if he believes that Gersonides' view is outside normative Judaism and that Rabbi Teitelbaum's 'may be the modern woman's nightmare'.¹⁵

Rabbi Rapoport also cites the views of Rabbi Samson Raphael Hirsch and Rabbi Ovadia Yosef who claim that women are immune to the temptations that many of the time-bound commandments address (for example, *izizit*). The technique of excluding women by either declaring them unworthy or too worthy is commonly known as the 'pit and the pedestal'. While the view represented by Gersonides offends because of its disdain for women, Rabbi Hirsch's does so because of its presumption to understand every woman's nature and its illogic: if women bear a certain spiritual superiority, would it not serve the community well to place them in positions of leadership?

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Examining the author's view

The final view Rabbi Rapoport cites is from the Kol Bo:

The reason that women have been exempted from time bound mitzvot is because the woman is subservient to her husband to provide his needs. If she was obliged to fulfil time-related commandments at their designated times [a conflict of responsibilities may occur] for it is possible that whilst she is fulfilling the [Divine] commandments her husband will instruct her to perform his commandment.¹⁶

To the above, Rabbi Rapoport adds:

It is by no means condescending to the woman that the Torah considers her gender to possess the rich array of personal qualities that are indispensable to the role of *akeret habayit*. If it is this consideration that underlies the exemption of women from time-related mitzvot, it is surely not a symptom of sexual discrimination.

Having exonerated the exemption of any accusation of discrimination, Rabbi Rapoport takes the interpretation further. He claims, citing Rabbi

Chaim Vital, that the 'woman achieves her fulfilment of the time-linked commandments through the man

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in her life who performs them on his and her behalf'. There are several problems with this view.

Firstly, there is a lack of correlation in the above model. While women rely on men for the fulfilment of positive time-bound commandments, men do not rely on women in a corresponding way. One might argue that they rely on women to bear children so that men can fulfil the commandment to be fruitful and multiply. That argument fails to satisfy on two counts: women cannot bear children without men, while men can sit in the succah, for example, without the help of women; and bearing children is a one-off event (there is no commandment to bring up the children), while positive time-bound commandments are a daily fixture.

Secondly, this model presumes that every man and woman is in a relationship with a member of the opposite sex. Rabbi Rapoport addresses this issue by claiming that what is enshrined in law

reflects the norm of society, and not the exception. He also expresses great faith that 'somewhere in the globe there exists [the] other half' of every unmarried person. The latter notion begs the question whether a woman receives the benefit of the man in her life if he has not yet entered her life. We can no longer claim that the norm of Jewish society is married life. The number of single Jews in their 30s and 40s cannot go unnoticed. Whatever the causes may be, it is clearly one of the worst crises facing the modern Jewish community.¹⁷

As already discussed, any subjective rationalisation of an aspect of *halakha* must be aware of the effect it will have upon its hearers. How will a single person dedicated to Torah and *mitzvot* feel when she or he hears that her or his observance is incomplete without a spouse to do the other half? Most single people are not single by choice and are doing all they can to meet someone. There is no reason that their spiritual life should be put on hold until they get married. If that indeed is the traditional view, then it must be re-interpreted in light of the new reality of a vibrant singles community. If Jewish community leaders fail to support their single members by making them feel welcome and appreciating all they contribute, aside from the great personal pain that will ensue, we will stand at risk of alienating a large number of our people.

Additionally, the role of *akeret habayit* contains much tension and ambivalence. While many women find motherhood fulfilling and an inspiring task, they also sometimes feel overworked, denied privacy and personal realisation. For this reason I sense a degree of discomfort with the logic that claims that my role as *akeret habayit* should be the final destination of my personal development. I accept the tension between motherhood and my own goals as part of my life, for which I will find a unique (im)balance. But, I cannot accept another person dictating to me what the balance should be.

Final analysis

Rabbi Rapoport has mustered his expansive knowledge of Jewish legal and philosophical thought to compose an understanding of a woman's exemption from positive time-bound commandments. One can infer that his aim was to engender a more affirmative attitude toward this ruling on the part of women.¹⁸ I have discussed

why I think his presentation does not achieve that goal. There seems to be a lack of relation to the women whom the article hopes to reach. I cannot imagine a feminist who would accept an argument that women are inferior or are above certain central rituals in Jewish communal life nor a feminist who would accept that she needed a man to perform some *mitzvoit* on her behalf.¹⁹

Rabbi Rapoport concluded with a quote from the last Lubavitcher Rebbe, Rabbi Menachem Mendel Schneersohn, who states that the relationship between a man and a woman is like that of the brain to the heart.²⁰ They are both essential and both depend on each other, and there is, therefore, no cause for rivalry. However, the Baal HaTanya clearly states that the brain is superior to the heart.²¹ This is reminiscent of early hasidic explanations of the relationship of the Tzaddik to the community. The Tzaddik represented the spiritual and the community the corporeal.²² Although the spiritual relies on the corporeal for expression, the former is clearly superior. One can ask of the last Lubavitcher Rebbe's analogy if there is not a relationship of dependence and yet hierarchy between the brain and the heart and men and women by extension. A quotation taken out of the larger social and religious context is not a reliable source for the true attitude of its author.

Furthermore, any argument that relies solely on texts will not be able to impact upon society. The possibility for Orthodoxy to remain relevant, nay, to attract as many Jews as possible, does not depend only on our texts. While they have their place in dictating *halakha*, what really matters is what happens in the community. For women to feel that they are an equal part of Jewish life does not depend on a supportive line from the Middle Ages; it depends on how we feel when we go to shul or to a community meeting. Any subjective rationalisation of *halakha* remains impotent unless it can be reflected in practice. I would be more inclined toward Rabbi Rapoport's view if he provided examples of how the ritual of *tefillin*, for example, should be performed to symbolise the fact that a man is acting on a woman's behalf. For the work of the Bet Midrash to become meaningful for every Jew, we must allow experience and sensibility to take their rightful place alongside logic and tradition in the endeavour to reconcile tensions, ever knowing that true reconciliation is an act of redemption.

Notes

- 1 See TB Brakhot 28 .
- 2 A.J. Heschel, *God in Search of Man: A Philosophy of Judaism* (NY: Farrar, Strauss, and Giroux 1955) p.341.
- 3 Ibid., p.19.
- 4 Chaim Rapoport. 'Why Women are Exempt from Positive Time-bound Commandments', *Le'ela* 50 (December 2000) pp.53–54.
- 5 Ibid., p.60.
- 6 Heard in shiur by Rabbi Ariel Hollander at Matan, 1999.
- 7 E.g., in a BBC documentary on *agunot*. R. Morgenstern of New York said that he is the only rabbi to learn his interpretation of the Bet Din's authority in cases of divorce *and to implement it*. R. Morgenstern is original in his day because of his readiness to implement what he has learned from the Talmud and Rishonim even when it contradicts later *poskim*.
- 8 Rapoport, pp.59f.
- 9 Ibid., p.54.
- 10 Mishnah Kiddushin 1:7.
- 11 Shulhan Arukh, Orakh Haim 589:1.
- 12 Rapoport, p.54.
- 13 Ibid., pp.54–55.
- 14 Ibid., p.56.
- 15 Ibid.
- 16 Ibid., p.58.
- 17 At Limmud 2000, Michael Lerner, editor of *Tikkun* and Rabbi of Cong. Bet Tikkun in San Francisco, led a session called 'The Oppression of Singles'. He spoke of the community's failure in one of its historical responsibilities to help people meet. His main point was that in our market economy the belief that all success is the result of innate talent and hard work has spilled over into private life. People think that if one is married one obviously has 'what it takes'; if one is single one doesn't. People are then hesitant to arrange blind dates or to address the problem of loneliness, for it would be touching on what is perceived as a fault. Lerner also believes that many singles have internalised this oppressive attitude and avoid all 'singles' events.
- 18 R. Rapoport's sentence, 'Many women ... feel that their exemption ... is demonstrative of a discriminatory attitude' implies that this article is directed to women.
- 19 'Feminist' indicates any woman who believes women are not inferior to men and seeks to contradict that notion. Some distrust the term because of its connotations. However, it embraces a wide range of beliefs and one need not accept all of them to be counted as a feminist.
- 20 Rapoport, p.61.
- 21 See, for example, chapter 51 of Part I of the *Tanya*.
- 22 Gedalia Nigal, *Manhig V'eda* (Jerusalem: D'fus Yehuda 1962) p.62.