



Teaching “Women in Jewish Law”

Abigail Lerner

It is a fact of modern observant Jewish life that Orthodox women have been influenced deeply by the secular Women’s Movement. Many observant women go to work and are educated in a secular milieu, read popular novels, newspapers and women’s magazines. There is almost no way to escape the challenge that has been posed to us as faithful servants of a religious, legal and social tradition that casts men and women in different roles. As observant women we are deeply committed to the *mesora* of our grandmothers. As modern women we are as deeply dedicated to the notion of the equality of women in every sphere of endeavor. And so, we have been forced to re-examine what we do in our religious lives, to deepen our understanding of halakha, to test our age old values against a new set of ideas — in order to be able to fulfill *da ma l’hashiv*. Know how to respond — not just to the outside challenge, but to the challenge that we as observant women have internalized, to the questions that we ourselves are asking.

The change in curriculum in a growing number of girls’ yeshiva high schools reflects the need to respond to the challenge that is felt by many Jewish educators. “That’s how it was done by our grandmothers for thousands of

years” or a quote from the *Kitzur Shulchan Arukh* is no longer enough to sustain meaningful observance among today’s young women. A more sophisticated response has been the study of halakha through the use of primary texts including *Gemara* and *Shulchan Arukh*. Indeed, much has been written in the last decade about women and the study of Talmud.

Another indication of the need to respond has been the development in several yeshiva high schools of “Women in Jewish Law” courses. These are courses that zero in on specific issues regarding women and halakha. It was a challenge and a privilege for me to teach this course at the Samuel H. Wang Yeshiva University High School for Girls during this past year.

The subjects that can be covered in a course on “Women in Jewish Law” are many. They fall into three main categories:

1. Obligations and Exemptions

Included here are obligations specific to women such as *nerot Shabbat* and *challah*. Of course the major subject in this category is *Mitzvot Aseh Shehazman Grama* (positive time-bound commandments). Also included are the status of *HaAino Mitzveh VOseh* (one who voluntarily performs a commandment in which he or she is not obligated) and specifics such as Women and Prayer and Women and *Tzitzit* and *Tefillin*.

2. Limitations on Women

Included here are Marriage and Divorce, Women and *Talmud Torah*, Women as Witnesses and Women in the Synagogue.

3. Male-Female Relationships

Topics under this rubric include the Laws of *Tzniut*, Headcovering for Married Women, Dating Ethics, *Taharat HaMishpacha*, Abortion and Contraception.

The course I taught was given only twice a week and so I faced serious limitations regarding the number of topics I could teach and how extensively I could explore them.

In choosing topics, I tried to be guided by my own principles and philosophies, what I thought was most important for the students to know in these last months before they are challenged by the problems of the adult world. I also tried to remain cognizant of the expressed desires and needs of the students. Sometimes I had to sacrifice the students’ legitimate wants for my goals and often the opposite was the case. The topic of *Tzniut* was studied with great interest and curiosity. But although it was understood that the problem of *Agunah* is troublesome (one student actually became part of a picket line in front of the business of a man who would not give his wife a *Get*) there was less interest than in the practical issues that touch the lives of the students now.

ABIGAIL LERNER is on the faculty of Yeshiva University High School for Girls, Queens.

Ultimately we covered the following subjects:

- *HaAino Mitzueh V'Oseh*
- Saul Berman's "Status of Women in Halakhic Judaism"
- The *Ketubah*
- Divorce
- *Agunah*
- *Tzniut* in dress
- Covering hair after marriage
- *Taharat HaMishpacha* (including dating and *negiah*)
- Abortion and contraception

Despite time limitations, I was committed to teaching the course through the use of primary sources. My commitment to the original texts developed out of several deeply held principles.

1. I did not want the course to disintegrate into a year of "girl talk." By exposing young women to original texts I wanted the students to come away with the understanding that even in those halakhic areas that apply specifically to women they could expect the full range of development, complexity and debate that they have been taught to expect in other areas of halakha.

A certain *hashkafa* starts to take shape as a result of textual study. For example, we started the school year by studying the topic of *HaAino Mitzueh V'Oseh*. This is the case with many mitzvot that women perform during the *Yamim Noraim* and *Succot*, at the beginning of the school year. Through textual study we were able to discover that the Sephardic *poskim*, who generally hold that women should not make *brakhot* for mitzvot from which they are exempt, were following the halakhic reasoning of the Rambam and, later, Rav Yosef Karo. Those Ashkenazic *poskim* who decided that women and others who are exempt do make a *brakha* when performing those mitzvot, were walking in the footsteps of Rabeinu Tam and the Rama. As a class we were able to discover that at the root of these disagreements were not pro or anti-women stances but honest differences in halakhic styles of reasoning.

2. Principles of tolerance often compel us to be accepting of those with views more liberal than our own, but I was dismayed to find among my

students an ability to denigrate with ease those practices stricter than they have observed in their own communities. Textual study enabled me to restore, among my students, a healthy respect for those who follow a more stringent approach to halakha.

When we studied the laws regarding married women covering their hair we read and discussed the *Gemara* in *Ketubot* 72a that defines where a married woman should cover her hair and how much has to be covered. We discovered that the Bach, the seventeenth century commentator on the Tur, was more stringent than the *Gemara* in *Ketubot* — but it appeared that his stringency was based on an opinion in the *Talmud Yerushalmi*! Finally, we read the most stringent opinion of the nineteenth century — the Chatam Sofer. Chassidic communities, though far to the right of my classroom community, were understood to be following a time-honored halakhic tradition. Upon reading Rabbi Feinstein's (zt"l) responsum (*Iggrot Moshe, Even HaEzer* vol. I, no. 58) in which he expresses reservations about the Chatam Sofer's opinion, my students seemed relieved — but they were also chastened when they saw the respect and reverence which Rabbi Feinstein expressed for the Chatam Sofer and his stringent view.

In addition, our study of *Gemara Yuma* 47a in which is recorded the story of the famous Kimchit whose walls "never saw her hair" revealed an oft-omitted statement of Chazal. After Kimchit tells the *Chakhamim* that she feels she was worthy of having seven sons who served as *Kohanim Gedolim* be-

cause of the extent to which she covered her hair, the *Chakhamim* reply: "*Harbeh asu ken v'lo hoilu*" — many did as Kimchit but did not merit her great reward. We learned two things from this: Long before the Chatam Sofer, Kimchit was not alone in her stringency — "*harbeh asu ken*". Second, it appears that Kimchit's one stringency *alone* is not enough to merit great reward. A close reading of the original text had given us more respect for what appears to be a very old practice, but it also gave us a more balanced perspective of what is a difficult story for young women.

3. If there was one thing that I wanted to leave my students with, it was the importance of always incorporating halakha into their decisions. Although I did not hesitate to present my own views and personal practices when asked, I wanted the students to see the full range of halakhic decisions on an issue and to choose for themselves a halakhic response that they could live with. For this reason it was important to reveal the most lenient halakhic decisions as well as the most stringent. I felt it would be better for them to respect a lenient *psak* and remain consistent with it than to abandon halakha as beyond their grasp.

In our study of *Tzniut*, we spent several sessions on women and pants — an issue of great interest to young women in high school. We explored the full spectrum of decisions on the issue, from the most stringent to the most lenient. However, we had already discussed the halakhot of *tzniut* and the different concepts of *ervah*, beginning

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with sources in *Chumash* and ending with Rabbi Feinstein's decisions. They were already sensitive to the issues and I was able to explain more easily how even according to those lenient *poskim* who permit the wearing of pants by women, those pants would have to be chosen very carefully to conform to the patterns of *tzniut* that we had delved into in such detail.

In addition to halakhic texts, students also read secular primary sources when it was appropriate. In studying the problem of *Agunah*, besides exploring possible halakhic solutions, we looked at solutions available in civil law. We discussed the as yet untested New York State law that obligates the parties to a divorce to remove any barriers to the subsequent remarriage of either spouse. This is New York's famous "*Get Law*."² The case of *Rubin v. Rubin*³ was instructive for two reasons. In this case the woman was the recalcitrant spouse because she refused to agree to accept a *Get* although her husband was willing to grant one. The case demonstrated how two parties to a divorce could sign a civil agreement as part of their separation, in which they obligate themselves to give and accept a *Get*. That civil agreement is enforceable by the State courts.

My own reading of New York's "Enoch Arden" Law,⁴ the primary purpose of which is to "terminate the marriage between the petitioner and *absentee* spouse," as well as Alfred Lord Tennyson's poem *Enoch Arden*, from which the statute takes its name, were enormously helpful. The poem is a touching tale of a husband lost at sea for many years who returns to find his wife has remarried. I look forward to introducing it into the curriculum next year.

Beyond the primary texts, students were required to read several *halakhic*

and *hashkafic* articles in English. Saul Berman's "Status of Women in Halakhic Judaism,"⁵ although surprisingly difficult for seniors to read, was discussed at length. We combed the footnotes, found some of the texts that Berman referred to and analyzed his thesis of a "preferred" versus a "mandated" role of homemaker for Jewish women.

I was concerned that my students would consider Berman's article not sufficiently "feminist," particularly in his discussion of a preferred role. I was amazed to find that my students were shocked by what they considered to be Berman's "extremist" feminist views. One student wanted to know if "Saul Berman" was a pseudonym for a woman writer because "no man could have written such an article."

The reactions of my students have caused me to reconsider some of my goals. Our job in high school is not only to help our students formulate a perspective about the role and status of women in Jewish law, but also to alert them to issues that may one day be of concern to them. Perhaps, with the proper approach, that day may never come. But if it does, then they will be armed with a positive familiarity with halakha that will enable them to face it with confidence and faith. ■

FOOTNOTES

1. Educators who are committed to this type of course should consider having it taught over a period of two years or giving the course more time during the senior year.
2. New York Domestic Relations Law sec. 253.
3. 348 N.Y.S. 2d 61. Family Court Bronx County, 1973.
4. New York Domestic Relations Law sec. 220.
5. *Tradition* vol. 14 no. 2, Fall 1973, pp. 5-28

BIBLIOGRAPHY

The following is a list of books and articles that I relied on most heavily to teach this course. Those works with an asterisk were read by the students.

General Works

*Berman, Saul, "The Status of Women in Halakhic Judaism," *Tradition* Vol. 14 no. 2 Fall 1973, pp. 5-28.

Elinson, Elyakim, *Halshah VHaMitzvot*. Israel: Histadrut, 1981, 3 vols.

This was my basic text. Although I photocopied and distributed some material from the work itself, most often I found the source for a halakha in Elinson and then photocopied the original text. Elinson sometimes offers only an excerpt and there is much to be gained from seeing the excerpt in its full context.

Meiselman, Moshe, *Jewish Woman in Jewish Law*. New York: Ktav and Yeshiva University Press, 1978.

Marriage, Divorce and Agunah

Greenberg, Blu, *On Women and Judaism*. Philadelphia: Jewish Publication Society, 1981. "Jewish Attitudes Toward Divorce", pp. 125-145.

Kaplan, Areyh, *Made in Heaven*. New York: Moznaim, 1983. Chapters 15 and 16.

Tzniut and Hair Covering

Willig, Mordechai — Taped lectures delivered at Camp Morasha. Private collection.

Taharat HaMishpacha

Eider, Shimon, *Halachos of Niddah*. Lakewood, N.J.: 1981 and 1988, 2 vols.

*Kaplan, Areyh, *Waters of Eden*. New York: N.C.S.Y. 1982.

I find this to be the most moving and meaningful explanation of *Tumah* and *Tahara* and why the Mikveh "works."

Abortion and Contraception

Feldman, David M., *Marital Relations, Birth Control and Abortion in Jewish Law*. New York: Schocken, 1974.

Hashkafa

Brayer, Menachem, "Ninety Three Benot Yaakov" in *The Jewish Woman in Rabbinic Literature*, Hoboken, N.J.: Ktav, 1986. 2 vols. See vol. 2, p. 178.

I was deeply moved by this letter as a seventeen year old and I was happy to have rediscovered it for my students. It elicited the same response from them as it had from me so many years earlier.

*Frankl, Victor, "On the Meaning of Love." *The Doctor and the Soul* New York: Vintage Books, 1986. pp. 132-154.

I have yet to find anything as meaningful on the subject of "*negiah*". The students were visibly moved.

*Prager, Dennis, "What Makes a Happy Person?" *Redbook* Vol. 172 no. 4, February 1989. "Happiness is hard work not fun."

Dr. Langer is Associate Professor of Sociology
and Criminology at Kean University

WOMEN'S PRAYER GROUPS: A Case Study in Feminism and Modern Orthodoxy

A front page article in the June 1997 issue of the *Women's Tefillah Network Newsletter* hails the arrival of Columbia University's daily women's tefillah (prayer service).

"We come from all over North America and Israel to Barnard, Columbia, the Jewish Theological Seminary, and greater Manhattan. We are Reform, Conservative, Orthodox, unaffiliated, or unlabeled... It may seem as though we are so diverse that we could never be involved in the same activity. However, this year, we have become one cohesive group, the Columbia University Women's Tefillah... The issues have certainly arisen with regard to the halakhic aspects of such a group and the potential of our Women's Tefillah to divide the community. We have been very careful to follow the guideline of halakhah in every manner... For those of us who do participate, women's tefillah has provided us with the chance to lead *davening*, to read from the Torah, and to create beautiful melodies together."

The delight of the article's author can be juxtaposed against the anger and disappointment expressed by Rabbi Charles Sheer, Columbia University's Jewish chaplain, in his letter to the *Jewish Week* (reprinted in the same newsletter) in response to the decision of the Va'ad Ha-Rabbanim of Queens (Rabbinical Board) to forbid women's prayer groups. In this letter, he quotes passionately from the supportive response of Rabbi Yehiel Yaakov Weinberg to a query about Bat Mitzvah

celebrations (re: *Hukkot Ha-Goyyim* and *Mahloket*) and then implores the rabbinical group in Queens to reconsider their verdict.

Eliezer Berkovitz, in *Jewish Women in Time and Torah* (KTAV, 1990; p. 8), also cites the responsum of Rabbi Weinberg, concluding that, "all this also applies to the introduction of women's prayer services in our time. Their absence in the past does not mean that this should remain so for all time to come. It was in conformity with the prevailing conditions. The new practice does not offend what there was, for what there was is no more." Rabbi Avi Weiss (*Women at Prayer*, KTAV, 1990; p. 56) suggests that, "...women's tefillah groups are not an innovation, and not a new *minhag* (custom), because women's prayer services have been in existence for years... women's tefillah groups follow the same format as the women's yeshiva prayer groups - with one exception: the reading of the Torah from the Torah scroll." Weiss goes on to suggest that the women's prayer group has often been mislabeled as a women's *minyan*, thus confusing the very essence of the discussion of women's tefillah.

The controversy surrounding women's prayer groups reached a critical point in 1985 when five Talmudic scholars at Yeshiva University issued a responsum in which they concluded that women's prayer groups are forbidden according to Jewish law. This was quickly followed by two articles, appearing in the journal *Sh'ma*, highly critical of their position, and a stinging critique of the criticizers by Rabbi Kenneth Auman who made reference to Moshe Meiselman's *Jewish Women in Jewish Law*, which quotes Rabbi Joseph B. Soloveitchik "as being opposed to women's prayer groups."

While the number of women's prayer groups in 1985 was objectively quite insignificant, today these groups meet throughout the U.S. and in Canada, Israel, Australia and England. At the S.A.R. Academy in Riverdale, N.Y., approximately 53% of the young women attaining the age of Bat Mitzvah in this current academic year have marked this event at a women's prayer service.

What is the role of the yeshiva day school, its administration and staff, in guiding its students and parents in the celebration of this rite of passage? Where is the intersection of halakhic permissibility and socio-cultural traditions and considerations? What is the nature of the link between feminism, modern Orthodoxy and women's prayer groups?

In an attempt to gain some insight into the attitudes of Jewish female college students toward women's prayer groups, an anonymous questionnaire was distributed to approximately 175 students at Yeshiva University's Stern College for Women. An analysis of the data indicates that while the level of individual prayer is strikingly high (86% of respondents pray daily), and the awareness of the issues surrounding women's prayer groups is significant, there appears to be a sense of ambivalence, confusion and rejection of women's prayer groups.

The level of participation in women's tefillah is minimal (77% had never attended such a group), and approximately 80% of those who have not attended would either not attend in the future or were doubtful about attending. Of those who have attended, only 17% said that they would attend again. Only 21% of the respondents felt that such groups are important and only 24% said they should exist. The overwhelming majority of those who pray in an Orthodox synagogue are content with their role in the service, and only 12% of those who had attended a women's prayer group felt more spiritually elevated than in a traditional service. Those who graduated a yeshiva high school were less likely to have attended as compared to those who only had an elementary school education, and those who attended a co-ed institution were more likely to have attended, than those who went to an all-female school. Clearly, the more closely one's educational experiences approximate a traditional Jewish orientation, the less likely is the person to have encountered a non-traditional venue for communal prayer.

While the perception of halakhic permissibility is slightly higher for those who have participated in the prayer group experience as compared to those who have not, the relationship between perceived halakhic permissibility and those variables that would affirm women's tefillah (attendance, importance, etc.) is absent. In fact, the data suggests that attendance or non-attendance, rejection or support, is *not* a function of perceived halakhic permissibility but rather of other socio-cultural, political and spiritual interests and considerations.

Confusion, ambivalence and apparent disapproval rule the day in the discussions surrounding women's prayer groups. 38% of those who *have* attended do not know if it is halakhically permissible as compared with 43% of those who have *not* attended. It is interesting to note that

while 35% of respondents said that a women's prayer group is halakhically permissible, only 25% said they should exist while the remaining 75% said they should not exist or were not sure. 34% of those who said they would attend again did not affirm that the group is halakhically permissible.

The advocates of women's prayer groups may be encouraged by what may be seen as a fluidity in attitudes that can be developed into support through appropriate channels of education and coherent ideology. The detractors of women's prayer groups may see in this data a sense of disenchantment and rejection with non-traditional venues for prayer. The issue, some may say, is not grounded in halakhic considerations, but is rather an expression of modern orthodoxy that rejects the feminism of contemporary culture in the arena of prayer.

Highlights of Major Findings

1. When asked about the frequency of prayer, 86% reported that they pray daily as compared to 7.5% on Shabbat only, 3.5% on High Holidays only, and 2.9% Not At All. The overwhelming majority of respondents are involved in daily prayer.
2. When questioned about their familiarity with the concept of women's prayer groups, 89% said Yes, 5.2% said No, and 5.8% were Not Sure.
3. The level of awareness can be contrasted with actual participation in a women's prayer group. 76.9% of respondents had never attended such a group while 23.1% had attended.
4. When those who had not attended a women's prayer group were asked if they would, 47.4% answered No, 13.3% Yes and 32.9% were Not Sure. Clearly the majority of students are expressing sentiments that reveal a rejection of, or ambivalence toward women's prayer groups.
5. When frequency of attendance is evaluated, a total of four (4) respondents, or 2.3% of the sample population, have attended more than five times.
6. Of those who *have* attended a women's prayer group, 57% have attended only once, 33% have attended two to five times, and 10% have attended more than five times.

7. Of those who have attended a women's prayer group, only 17% said that they would attend again as compared with 40% who said No, and 43% who were Not Sure. The rejection and/or ambivalence that was expressed by those who had *not* attended is also evident in the sentiment of those who *have* attended.
8. When questioned about the motivational factors for their attendance at a women's prayer group, 70% identified a Bat Mitzvah celebration or social circumstance, 14% attended because of curiosity, while 16% said they were guided by ideological or spiritual reasons.
9. When those who had attended a women's prayer group were asked if they felt more spiritually elevated than in a traditional synagogue service, 70% answered No, 12% said Yes, and 18% Don't Know.
10. When questioned about whether their attitudes toward these groups changed after their participation, 56% said No, 30% said "Yes," in a positive way, while 14% said "Yes," in a negative way.
11. The rejection and/or ambivalence toward women's prayer groups is amplified by the fact that 41% felt that these groups are Not Important, 35.8% were Not Sure, and 21% answered that they were Important.
12. Indeed, 38% said that women's prayer groups Should Not Exist, 36% were Not Sure, and 24% said they Should Exist.
13. The level of awareness regarding women's prayer groups is quite extensive, as evidenced by the fact that 75% of respondents indicated that they have discussed the halakhic (legal) issues surrounding this matter.
14. When asked whether they think that women's prayer groups are halakhically permissible, 41.6% said they Don't Know, 35% said Yes and 21% said No.
15. When asked whether they believe the issue of women's prayer groups creates unnecessary conflict, 53% said Yes, 25% said No, and 21% said they Don't Know.
16. 87% of those who pray in an Orthodox synagogue feel content with their role in the service, as compared with 13% who do not.
17. When asked whether the current status of women in Orthodox Judaism necessitates a need for change, 68% said No, 20% said Yes and 12% said they Don't Know.

18. It is interesting to note that 43% of those who only attended a Jewish elementary school had attended a women's prayer group, as compared to the attendance figure of 22% for those who had also attended a Yeshiva high school.
19. While the total number of respondents who identified themselves as Reform Jews was quite small, 60% of those individuals had attended a prayer group as compared with a figure of 22% for Orthodox respondents.
20. 31% of respondents who had attended a co-ed Yeshiva high school had attended a women's prayer group, as compared with 17% of those who had attended an all-female institution.
21. 30% of those who *had* attended a women's prayer group thought that such groups were important, as compared to 19% of those who had *not* attended.
22. As might be expected, 52% of respondents who *have* attended a women's prayer group believe they are halakhically permissible, as compared to a figure of 30% of those who have *not* attended.
23. 43% of those who said they would *not* attend a women's prayer group a second time believe the group to be permissible, as compared to 66% of those who said they *would* attend again.
24. 26% of upperclassmen see a need for change in the current status of women in Orthodox Judaism, as compared to an 11% figure for younger females (underclassmen).

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