

Motzaei Shabat *Zachor* 5769*

To Rabbi Avi Weiss Shlit"a

שלומות וברכות,

Regards and Blessings,

In answer to your question regarding the possibility of appointing a woman, who has learned Torah, and especially the *halakhot* of *Orah Hayyim* and *Yoreh Deah* from outstanding Torah scholars, and who according to her skills, knowledge, *middot* and life style is worthy of serving in Rabbinic roles, fulfilling a Rabbinic responsibilities in the community, and to be called *Morateinu* [Our teacher], or *Hakhama* [wise one].

This question touches upon questions of offering Torah instruction and teaching Halakha in the community, giving *psak*, women in authoritative positions (שררה), and the boundaries of modesty (*tzniut*) in an congregation that consists mainly, or entirely, of men.

In truth, this is not a new question and there is nothing in it that is revolutionary, or "modern". The establishment of "Beis Yaakov" at its time, giving *benot Yisrael* a comprehensive Torah education, following the ruling of the *Chafetz Chaim* zt"l, was truly revolutionary. That decision changed the face of generations, families and communities in Israel, in a way that it is difficult for us to imagine what would have occurred without it.

However, the appointment of an exceptional and unique woman to a *tafkid torani* (religious office), even the premier position in its generation, is an act that has been performed from time immemorial.

Beginning with Sarah *Imeynu*, about whom our Rabbis have stated that her level of prophecy exceeded that of Abraham (*Rashi Bereshit 21:12*), matriarchs and prophetesses, Miriam, Devorah, Hannah, who established song and prayer in Israel, and the wife of Manoah, and the Shunamite woman, who were closer to the knowledge of Hashem and to prophecy – more than their husbands, as the *Tanakh* testifies (Judges 13:8-11, and especially 22-23; Melachim II 4:8-10; and especially 22-23) –

Through Queen Shlomtzion, who was more worthy of the Hasmonean throne than her husband (*Kiddushin 66a; Sotah 22b*), and was closer to the Sages of Israel than any of the Hasmonean Kings. *Hazal* of her time were not concerned about the *Sifre's midrash halakha* (on Devarim 17:15 – "*Melech velo Malka*"), which the Rambam brought down as law (*Hilkhot Melakhim 1:5*) –

And up through learned women, disseminators of Torah and *poskot* – Halakhic rulers – in Israel, such as *Marat Beila*, wife of the *Sm"a* (who was referred to by her son in his introduction to his father's commentary on the *Tur*, the *Drisha*, at the end of *Even HaEzer*), whom the greatest of the *achronim* discussed one of the two *halakhot* which she introduced (חידשה), that when lighting Yom Tov candles,

one must recite the blessing before lighting the candles (*over le'asiyata*), as in most of the blessings over commandments (*birkot hamitzvah*), since using fire (הבערה) is permissible on Yom Tov (the Magen Avraham and the Dagul Mirevava disagreed with her, so as not to have separate customs for Shabbat and Yom Tov, and the *Hatam Sofer* paskened like her, and this seems to be the ruling in the *Mishna Berura*, see all in *Orah Hayyim* 263:5).

Such was also *Marat Osnat*, the daughter of R. Shmuel Barazani, the *rosh yeshiva* of Mosul and a leader of Kurdish Jewry. His daughter, who already in his lifetime taught at his yeshiva, succeeded him in his position, and whom Rabbis addressed using titles such as מוהר"ר [מורתנו הרב רבין – Our Teacher, the Rabbi, Rabbi...] (the entire account can be found in the article of Uri Melamed and Rina Levin Melamed, "The Rabbanit Osnat – The Religious Head of the Yeshiva from Kurdistan", *Pe'amim* 82 pp. 163-178 (Hebrew)).

A third example (out of many such examples) can be brought from *Marat Hava Bachrach*, the granddaughter of the *Maharal*, and the grandmother of R. Yair Hayyim Bachrach, author of the *Havot Yair*, which her grandson named in her memory where he testifies that she learned Tanakh, [Talmud] Bavli and Yerushalmi, Midrash, Responsa and Poskim, and that she would sit with students and discuss Halakhic points (מפלפלה) (at the end of the introduction to *Havot Yair*, and in many places within the work).

As every student knows, the Tosafot already debated the question of how Devorah the Prophet judged Israel (Gittin 88b; Baba Kamma 15a; Nida 50a), and they gave three different answers (all three are also mentioned in the *Sefer haHinukh*, R. Chavel edition, p. 141).

1) A woman is eligible to decide legal matters (כשרה לדין), since "The Torah made men and women equal in all *dinim* (civil matters) in the Torah" (Baba Kamma 15a, etc.), despite the fact that she is not eligible to testify (Baba Kamma 88a), and the statement that "All that are eligible to decide legal matters are eligible to testify" (Mishna Nida 49b) only refers to men and not to women (see also Novellae of the Rashba to Baba Kamma, 15a, in the first answer).

2) Devorah did not decide legal matters, but rather would teach them the laws, and that is permissible according to all opinions, and as the *Sefer haHinukh* phrases it (ibid.): "She was a wise woman (*isha hakhama*) and a prophetess, and they would discuss with her even issues of prohibited and permitted (*issur ve'eheter*) and *dinim* as well"; and the *Hinukh* also wrote in another place, as part of the discussion of the prohibition of instructing Halakha when intoxicated (R. Chavel edition p. 229): "the prohibition on instruction applies in all places and at all times, and applies to men – and to a wise woman (*isha hakhama*) who is worthy of instructing – and any person who is considered a wise person and whose instructions people rely on, is prohibited from teaching to their students when intoxicated, for their teaching is like instruction (הוראה) as we have stated". The *Hid"א* relied on these positions of the Rishonim and brought them as halakha in his *Birkei Yosef, Hoshen Mishpat* 7:12, and his ruling was brought in the *Pithei Teshuva* there (par. 5). Rabbi Y"א HaLevi Hertzog relied on this ruling in 1948, as did many others.

3) *Bnei Yisrael* accepted Devorah the prophetess upon them because of her prophecy, and any person whom the litigants in a trial accept upon them can arbitrate (be a *dayan*), even if that person is otherwise not eligible to be a judge. The *Sefer haHinukh* brings this down more extensively, saying: "The leaders of Israel accepted her upon them as a judge, and following them, every person accepted her judgments, for in self acceptance certainly anyone is *kosher* (דבקבלה ודאי הכל כשרים), for every condition in finances exists"- and the *Hinukh* says all this according to the position which forbids (mostly following the Yerushalmi Yoma 6:1), but according to those who permit (which were brought above in the first answer), there is no problem and no forbidden aspect in having a woman be a judge. This explanation of community acceptance was brought recently by one of the most stringent poskim in this area, the *Rishon Letziyon* and former Chief Rabbi, Rabbi Mordechai Eliyahu *Shlit"a* (Tehumin 7 (1986) pg. 518-9), who wrote that the acceptance by *Am Yisrael* of Devorah was due to her powers of prophecy and as a special instruction of the time (*hora'at sha'a*) (following the language of the Tosafot and not that of the *Sefer haHinukh*), but this is only in the case of leadership of an entire people, however a "specific community, organization or town, can accept upon them, in a majority decision, a woman as a head of a board, administration, and so on".

From all of this it emerges quite clearly, that an *Isha Hakhama* can teach and instruct, according to all of the opinions, and a community can accept upon themselves an *Isha Hakhama* as their teacher (*Morah*) in Torah, in all of the regular roles of a community and synagogue rabbi, and there is no aspect of suspicion or prohibition, even according to the strict positions in Halakha on this issue. And in any case it is clear that there is no concern in this, not from the aspect of "positions of power" (שררה) for a woman, since they accepted her upon them, and not from a modesty (*tzniut*) perspective, since we are discussing suitable and wise women, who know the boundaries of *tzniut*.

Regarding that which many people are concerned about – the breaking of boundaries, and an erosion towards Reform and Feminist directions – this concern exists for men no less than for women. Ultimately, the Reform movements were founded and led by men many generations before the issue of women came up on the agenda. And in general, anyone who is trained in the teachings of *Hazal* knows that the women of Israel did not sin at the Golden Calf (*egel hazahav* – see the weekly Torah portion), nor at the sin of the scouts (*meraglim*; Bamidbar Raba 21:20), and that the redemption of Israel from Egypt was in the merit of the assembling women (*nashim hatzov'ot*; Rashi Exodus 38:8), for the men were terrified of Pharaoh's decree much more than the women, as Miriam, Aharon's sister, said to her father Amram, "Your decree is worse than that of Pharaoh" (Shemot Raba 1:16-17) – and what right do men, whose forefathers' filth (*zuhamah*) returned to them because of these sins, have to accuse the women of Israel of all of their concerns regarding breaking of boundaries – it is better that they create boundaries within themselves, and not seek examples of faulty women, corresponding to whom there are such faulty men aplenty.

On the contrary, we are well versed in the ways of the daughters of Israel being more stringent upon themselves, much more than the original prohibition, in the issue of keeping seven clean days on any drop of blood (Nida 66a, and see the Ramban's explanation in his novellae there on the stricture of the

daughters of Israel), and that which some people claim today, a few men and women, that this entire stricture came from the men and that they ascribed it to women, since the entire "Halakhic discourse" was in the hands of men – all this is not plausible in my eyes whatsoever, since I see today the relation that exists between the actual laws of Hametz on Pesach, and how great the distance is between the Halakha and that which most women do, being increasingly stringent upon themselves in the cleaning for Pesach far beyond the boundaries of the law. Therefore, I often plead persistently of the female Torah scholars of our time, that they not be excessively strict upon themselves and upon us, and there is a great need to be concerned for excessive stringencies, which turn in the end into leniencies, especially in our generation.

In conclusion, a great congratulations (*Yishar Koach*) to all those wise women, unique and distinct, who are worthy to teach and to instruct, and a great *Yishar Koach* to all those who support them – and a community can accept such women upon themselves, by majority decision, if the community finds them suitable and worthy to the position. And I am sure that *Klal Yisrael* and its connection to Torah will only be strengthened from this.

בברכה רבה לאורייתא,

With the blessing of the Torah,

Yoel Bin-Nun

Alon Shevut

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