

Reflections on The Current Debate on Women's Professional Spiritual Leadership

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Introduction

During the last two weeks the policy statement issued by the Orthodox Union on the role of women in spiritual leadership in the Orthodox community has generated much discussion and debate. We note in introduction that we have great regard and esteem for the leadership of the OU, its commitment to the Jewish people and the amazing work that they do on behalf of us all. Moreover, we deeply respect the learning and sincerity of the panel of rashei yeshiva and synagogue rabbis on the rabbinic panel created by the OU. A number of them are cherished teachers and mentors, some are good friends and colleagues, and some are even students from past decades. At the same time, we feel it important to share reflections on the statement, its genesis and its implications.

Beginning with the commendable (but with a worry):

1. The rabbinic panel and the OU endorsed an expansion of teaching and pastoral roles for talented women in the context of the synagogue community.

This is assuredly a positive development. Yet we are concerned about the follow-through in the commitments to aggressively work to expand such roles. This concern relates to the experience with a similar position adopted by the Rabbinical Council of America in 2010 which stated that while they rejected women from taking on any clergy like roles, they encouraged other roles. It read: *In light of the opportunity created by advanced women's learning, the Rabbinical Council of America encourages a diversity of halakhically and communally appropriate professional opportunities for learned, committed women, in the service of our collective mission to preserve and transmit our heritage.*

To the chagrin of many of in the community, the sentiment articulated in 2010 was not acted upon in any real way by our leading institutions and organizations of Modern Orthodoxy during the last seven years. As one of the authors of the RCA statement in 2010 told us, the push or urgency to truly encourage shuls to carve out spaces for talented women did not materialize in any concrete fashion on the ground. Indeed, in some communities there has been regression, with a number of mainstream Orthodox shuls that in 2010 had staffed full-time community scholars and pastoral positions for women no longer having those in place. It is our fervent hope that these affirmative elements to the OU statement are addressed with the energy and commitment they deserve and not merely serve as window dressing to the primary purpose of the statement.

2. Yoatzot were affirmed

Also heartening, was the openness of the panel to enable the further advancement of the Yoatzot Halachah effort, which has been widely accepted in the parallel world of Religious-Zionism and Modern-Orthodoxy in Israel, and in many of our largest Orthodox communities. The engagement of yoatzot was not rejected by the panel, and was left to the discretion of each community for its implementation. We

strongly feel that this program, which has the endorsement of Modern-Orthodox *gedolim* such as Rav Aharon Lichtenstein of blessed memory and Rabbi Nachum Rabinovitch, as well as many other senior rabbis, deserves unequivocal endorsement and vigorous encouragement as a vehicle for greater *shmirat hamitzvot* and *avodat Hashem*.

Our broader concerns

Despite these important advancements, we are deeply concerned with the process and result of this effort.

The approach to dealing with the complicated issues at hand

We are disappointed with the manner and method of presentation of the argumentation in the panel's policy paper, which was far from robust. It did not reflect the level of deep scholarship that this august panel embodies. (We are informed that this was to enable an easier read, but, on such an important matter, a full presentation of the issues, developing arguments, and engaging the real alternative approaches, was called for).

To take one major example, of many. The rabbinic paper devotes a total of three sentences and one footnote to the complex discussion of the issue of *serarah* (coercive authority) and *mesimot/minuyim* (appointments), and the position of the Rambam, along with a relatively quick treatment of a Rav Soloveitchik analysis of the Rema on *shechitah* (ritual slaughter). It does not cite and engage the abundance of rishonim who held differently on this topic, the various interpretations of the Rambam, the question of whether *serarah* and appointment are applicable in the context of democratically elected positions where one can be hired and fired by a 5-4 vote of a board, the opinion of the Ritva and many subsequent authorities on the concept of *kiblu alaihu* (that communities can accept upon themselves the authority of those who by strict first principles seem to be excluded) and more. Moreover, the rich literature and views of contemporary *poskim* such as Rav Aharon Lichtenstein, Rav Nachum Rabinovitch, Rav Yehuda Amital, Rav Goren, Rav Uziel and Rav Herzog, and so many others who opined on similar issues in defining questions of *serarah* and appointment are simply not engaged in the paper. These views and literature have been widely discussed and researched in lengthy teshuvot and halakhic articles in such journals as *Hakira* and *Techumin*, and should have been referenced and given their due as well.

(It should be noted that the implications of adopting this Rambam, and with this specific reading, as halachically controlling, would logically lead the OU down a path they are unlikely to be ready to take. Would the OU now issue a directive that no OU synagogue can hire a rabbi who is a *ger tzedek*- a convert- as Rambam also rules explicitly that a convert is excluded from all positions of authority?!).

Indeed, the panel has a responsibility in such a presentation to contend with the abundance of halakhic literature that would support the possibility of a very different conclusion than the one it adopted. There needed to have been an engagement with the alternative understandings of: 1) the halakhic sources, 2) the nature and determination of *minhag* here; 3) the nature of the values animating the desire for such roles which need not be seen as foreign and hostile to Torah and *chazal*, rather as the

natural outgrowth of our having embraced advanced Torah study for women; 4) how other G-d fearing people might imagine the halakhic ethos differently; all of this is not engaged in the presentation.

More fundamentally, the distinction between the roles permitted (and, baruch Hashem indeed encouraged), and the ones precluded, and the insistence on the limitation on an amorphous and admittedly non-legal category of “clergy” remains confusing, and, we might even say, artificial. If indeed a female member of clergy runs afoul of *serarah* or appointment concerns, most certainly the others should often as well. If we have found it possible for the one, then it is indeed more than difficult to explain how we do not for the other.

Issues of process on the part of the OU

1. The makeup of the rabbinic panel, while including leading rabbinic scholars and leaders, was not sufficiently representative

The OU is to be commended for including both rashei yeshiva and synagogue rabbis and of varying ages and experience. But that’s as diverse as it got. Beyond the obvious exclusion from the panel of any talented women Torah scholars, there was little geographic or institutional diversity; the panel consisted of six of seven members from the tri-state area, and six of seven members who teach at various branches of Yeshiva University and RIETS. And even within those branches itself the diversity that exists at YU and RIETS was not fully represented. Equally distinguished rashei yeshiva at RIETS and other institutions should have been included and would have added immensely to the full breadth of the views that exist in our Modern-Orthodox world on these sensitive issues. In addition, in our world of easy technology as well as frequent travel from Israel to the US and vice a versa, inclusion of rashei yeshiva and *poskim* from the world of Yeshivot Hesder who have deep connections to the American scene would have enhanced any and all discussions on these important issues. Moreover, both seasoned and younger synagogue rabbis in the field who themselves are scholars and communal leaders but have varying perspectives on many of these issues, would have been excellent candidates to include in any panel. Doing so would have reflected a more rigorous attempt at including a wide range of the voices and perspectives within the broad world of Modern-Orthodoxy.

2. The method for engaging the reality in the community was inadequate

We recognize and appreciate that the panel reached out to rabbis as well as laypeople, men and women, of various communities, inviting them to share their written or oral thoughts on the issues at a number of sessions (two of the authors of this article indeed made such presentation). We are, however, perplexed as to why the rabbinic leadership of the more notable communities which currently engage women in clergy roles were not approached for their input and perspectives in the deliberations. Nor were women who fill such roles, or seek to fill such roles part of the fact-finding of this panel. To our minds, this is a matter not only of respect and wisdom, but of proper *horaah* (legal decision making) - to fully understand what it is that one is making a halachik determination about.

3. A divergence from the implicit contract with synagogues.

Finally, a broader question of the decision to convene this panel and present a policy statement on this topic is troubling to us. The OU has always played the critical role of convener, of the larger umbrella that holds beneath it the various elements of our Modern Orthodox community. Until now, the OU has wisely and purposefully remained neutral in many of the areas which have divided the Orthodox community in recent years. This has been the case even with regard to issues that have been championed by a more progressive element in the Orthodox community, including some of the shifts in the role of women in our synagogues.

Both as a matter of principle and of *tachlis*, on the ground, the permissibility of specific practices that might be carried out in a shul was determined by the Torah educated *mara de-atra* of each *kehillah*, who set the halakhic contours and parameters involved. These rabbis did not ask for others to embrace those decisions in their own kehillot, nor for direct approbation from the OU. They did presume that a halakhic decision, made responsibly by a rav, would be respected as his prerogative and responsibility to decide for his community, as its *posek* (who would arrive at his halakhic decisions with his own learning and reasoning and with the guidance he might seek from those to whom he would turn when uncertain).

Many rabbis serving OU shuls see this current policy adoption as a breach of this implicit contract with each kehillah, denying that community, under the rabbi's *horaah*, the right to arrive at a halakhic decision in this regard. This is especially true with regard to an area of halakhah which actually directly recognizes the concept of *kiblu alaihu* (which was, as mentioned, remarkably not even referenced in the position paper)- namely that communities were recognized as being empowered to override what might otherwise be a prima facie rule regarding who might fill a leadership role.

A hope

We hope that the commitment to furthering the advancement of women in myriad ways within Orthodoxy will indeed be taken up, as promised in the OU paper. We hope that, as more discussion ensues, the OU will find ways to ensure that communities and rabbis who take a different halakhic position than the one the organization has adopted would be accorded the autonomy and respect to continue to shape the spiritual contours of their synagogues and communal life.

So many of these issues have become so charged with anger, driven by mistrust, and subject to stubborn intransigence. We, the authors, have been part of the attempt over the years to help bring down the heat, and bring people together (with some success, limited as it seems to be). We hope that efforts can be made now to help prevent further division within the modern Orthodox community. We hope that our entire community can appreciate the importance of a unity that doesn't demand uniformity, when greater trust and respect makes space for divergence in halakhic and hashkafic matters. We pray that our community, with the leadership of the OU, will yet determine a path forward that might bring us closer together.

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