**A Beit Midrash of Her Own**

When Rabbi Meir Shapiro instituted Daf Yomi (daily study of one page of Talmud) in 1923 as a means of connecting Jews through a system of Torah study in which every Jew would be on the same page of Gemara[[1]](#footnote-1), he could not have conceived of a world in which women study Talmud, let alone study Daf Yomi. And yet, when the fourteenth cycle of Daf Yomi ended in January 2020, there were a significant number of women around the world who joined in the celebrations as active participants.

Watching women take the stage at a women’s *Siyyum HaShas* held at the Jerusalem Convention Center in January 2020, some of them women who had founded advanced programs of study in Talmud and *halakhah*, filled me with awe-struck recognition that somewhere in the last 35 years, a historical process had been set into motion that I was privileged to witness and take part in. There is a moving passage describing Rabbi Akiba’s small group of students raising up the Torah in a vast wasteland following the destruction of the Second Temple:

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| The world was barren until Rabbi Akiva came to our teachers in the South and taught them: Rabbi Meir, Rabbi Yehudah, Rabbi Yose, Rabbi Shimon and Rabbi Elazar ben Shamua.  And it was they who revived the Torah at that time[[2]](#footnote-2). |

On that day in Jerusalem, it felt as if the Talmud had been raised up by this core group of women in a formerly barren desert and passed on to thousands of others, motivating young and old alike to find themselves in the vast sea of pages of the Talmud. Perhaps this may inspire others to consider Daf Yomi or multiple other possibilities for engaging in textual study.

Nonetheless, despite major advances in education and knowledge, there are modern Orthodox communities that hesitate or do not allow women to teach Torah, Talmud or *halakhah* to mixed classes of men and women and certainly not only to men. In the post-high school world of seminaries and yeshivot, this is even more apparent. Male rabbis teach young women, often making up a large percentage of a seminary’s faculty, but there are no yeshivot that employ women to teach Torah classes to their male student body. This gives a two-fold negative message, implying that women are less qualified to teach Torah, Talmud and *halakhah*, and insinuating that women who teach Torah will somehow introduce a sexual stimulus into the Beit Midrash.

In this chapter, I will present and briefly analyze sources about women and Torah study as well as sources about women in positions of authority. The chapter will conclude with a discussion of women and rabbinic ordination in contemporary times.

**Teach Your Sons and Not Your Daughters**

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| Deuteronomy 11:19-21  …and teach them to your sons—reciting them when you stay at home and when you are away, when you lie down and when you get up;  and inscribe them on the doorposts of your house and on your gates—  to the end that you and your children may endure, in the land that the LORD swore to your fathers to assign to them, as long as there is a heaven over the earth. | **דברים יא**  **יט** וְלִמַּדְתֶּם אֹתָם אֶת בְּנֵיכֶם לְדַבֵּר בָּם בְּשִׁבְתְּךָ בְּבֵיתֶךָ וּבְלֶכְתְּךָ בַדֶּרֶךְ וּבְשָׁכְבְּךָ וּבְקוּמֶךָ.  **כ** וּכְתַבְתָּם עַל מְזוּזוֹת בֵּיתֶךָ וּבִשְׁעָרֶיךָ.  **כא** לְמַעַן יִרְבּוּ יְמֵיכֶם וִימֵי בְנֵיכֶם עַל הָאֲדָמָה אֲשֶׁר נִשְׁבַּע יְהוָה לַאֲבֹתֵיכֶם לָתֵת לָהֶם כִּימֵי הַשָּׁמַיִם עַל הָאָרֶץ. |

This Biblical passage, which makes up the second paragraph of the *Shema* prayer, mentions an obligation to teach “*these words to your banim*” . The overwhelming majority of Biblical references to *ben* or *banim* refer to a son or sons, although there are a small number of instances in which the plural refers to children, including the last verse cited above, verse 21, “*to the end that you and your children endure*”, where it appears to be referring to all descendants, male and female.[[3]](#footnote-3) Returning to our verse and the obligation to teach “your *banim*”, the *midrash halakhah* cited below interprets the clause to indicate a father’s responsibility to teach his son Torah from a young age. By association, it infers unequivocally, that the verse excludes daughters.

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| Sifrei Deuteronomy Piska 46  *And you shall teach it to your banim*. Your sons and not your daughters, so taught R. Yose b. Akiva.  Hence the Sages have said: Once an infant begins to talk, his father should converse with him in the holy tongue and should teach him Torah, and if he does not teach him Torah, it is as if he buries him (the son). | **ספרי דברים פרשת עקב פיסקא מו**  "ולמדתם אותם את בניכם" בניכם ולא בנותיכם. דברי רבי יוסי בן עקיבה.  מיכן אמרו כשהתינוק מתחיל לדבר אביו מדבר עמו בלשון הקודש ומלמדו תורה ואם אין מדבר עמו בלשון קודש ואינו מלמדו תורה ראוי לו כאילו קוברו. |

The midrash introduces two important points that are incorporated into practical *halakhah*. First, that there is a central obligation for men to study Torah based on the obligation of a father to teach his son extrapolated from the words of the Shema to mean the words of Torah. Second, d aughters are excluded, as the Biblical verse is narrowly interpreted to include only sons. It is actually surprising on some level that the midrashic interpretation took such pains to emphasize that the verse itself excludes daughters. As noted above, the root *ben* usually refers to sons. However, Talmudic exegesis is known to understand this word to include daughters, even when the text could easily be understood as referring only to sons. Perhaps the most prominent example occurs in Deuteronomy 25:5, when a man dies without a son and leaves his widow with the obligation to marry his brother (normally a forbidden relationship) in order to bear a child to commemorate the deceased.[[4]](#footnote-4) One might think that this text refers to a male child who will carry on the dead man’s name. The unanimous conclusion of the Talmud, however, is that it is only when the man dies without *any* children that this practice, known as *yibum* or levirate marriage, is instituted. In *Midrash Tannaim*,[[5]](#footnote-5) the *midrash* interprets the Biblical passage to mean that any progeny left to the deceased, male or female – including a grandchild born to the son or daughter who are no longer alive – fulfills the Torah’s mandate. It seemed important to rabbinic interpretation to limit the institution of *yibum* which allows a woman to marry her brother-in-law, thus, perhaps, explaining the inclusion of daughters and granddaughters.

In contrast, when we return to our text, the Sifrei deliberately excluded daughters from the legal obligation of saying *Shema* and learning Torah.

The Talmud incorporates the Sifrei’s exegesis into a particularly relevant passage in tractate Kiddushin, concluding that women are exempt from the obligation to teach their sons Torah since they are exempt from study themselves based on the exegesis that men are commanded to teach their sons and not their daughters. It should be noted that this reading of the verse was not the main deterrent to women’s Torah study over the last 2000 years. The Sifrei’s interpretation created an exemption for women but it did not preclude or prevent women from such study. A much bigger obstacle is to be found in Mishnah Sotah 3:4.

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| Mishnah Sotah 3:4 (Sefaria translation and commentary)  When a guilty woman drinks **she does not manage to** finish **drinking before her face turns green and her eyes bulge, and her** skin becomes **full of** protruding **veins, and** the people standing in the Temple **say: Remove her,** so **that she does not render the Temple courtyard impure** by dying there.  **If she has merit, it delays** punishment **for her** and she does not die immediately. **There is a merit** that **delays** punishment for **one year, there is** a larger **merit** that **delays** punishment for **two years,** and **there is a merit** that **delays** punishment for **three years. From here** [**Ben Azzai**](https://d.docs.live.net/topics/shimon-b-azzai) **states: A person is obligated to teach his daughter Torah,** so **that if she drinks** and does not die immediately, **she will know that** some **merit** she has **delayed** punishment **for her.** [**Rabbi Eliezer**](https://d.docs.live.net/topics/rabbi-eliezer-b-hyrcanus) **says: Anyone who teaches his daughter Torah is teaching her promiscuity [*tiflut*].** [**Rabbi Yehoshua**](https://d.docs.live.net/topics/rabbi-yehoshua-b-hananyah) **says: A woman desires to** receive the amount of **a *kav*** of food **and a sexual relationship [*tiflut*]** rather **than** to receive **nine *kav*** of food **and abstinence.** | **משנה מסכת סוטה פרק ג משנה ד**  אינה מספקת לשתות עד שפניה מוריקות ועיניה בולטות והיא מתמלאת גידין. והם אומרים הוציאוה הוציאוה שלא תטמא העזרה.  אם יש לה זכות היתה תולה לה. יש זכות תולה שנה אחת, יש זכות תולה שתי שנים, יש זכות תולה שלש שנים. מכאן אומר בן עזאי: חייב אדם ללמד את בתו תורה שאם תשתה תדע שהזכות תולה לה. רבי אליעזר אומר: כל המלמד בתו תורה כאילו לומדה תפלות. |

This Mishnaic source exhibits a gender bias beyond the legal technicalities of obligation or exemption. The discussion takes place in tractate Sotah, which assesses a woman’s behavior in what is defined as an undoubtedly adulterous relationship.[[6]](#footnote-6) The passage in Numbers (Chapter 5) describes a where a husband suspects his wife of adultery and ordinary legal action is impossible because there are no witnesses. She may be guilty or innocent. In lieu of a trial, the suspected adulteress, known colloquially in rabbinic texts as a *sotah*, meaning one who went astray, must drink water mixed with of earth from the floor of the Temple courtyard and the rubbings resulting from erasing a passage in a scroll that includes God’s name. If she is guilty, “her belly will swell and her thigh will sag” (Numbers 5:27), suggesting impairment of fertility and/or sexuality.

In the Mishnah, various steps are added to the Bible’s protocol, including witnesses to the woman’s seclusion with a man other than her husband. She is thus not only suspected but there are strong grounds for suspicion regarding her guilt. Only a lack of witnesses to the actual act of fornication spares her from court proceedings and the death penalty. It should be noted that by the Mishnaic period, the institution of Sotah has been abolished[[7]](#footnote-7) so that the discussion is purely theoretical, a helpful point in understanding some of the discussion below around the Sotah’s connection to women and Torah study.

The Mishnah presents a description of a dramatic physical result of the ordeal if she had indeed committed adultery. The “water that brings the curse” causes her eyes to bulge and her veins to swell, resulting in her almost immediate death. What happens, wonders the Mishnah, if, despite her alleged guilt, there are no repercussions after she drinks the potion? Will this cause people to doubt the power of God’s word?

The answer given is that merit can suspend the punishment, and she will not die immediately, and the punishment may be delayed for up to three years. The type of merit that can suspend such punishment, however, remains undefined. This will be explored in the Talmud by several generations of Babylonian Talmudic Sages.[[8]](#footnote-8)

Returning to the Mishnaic text, Ben Azzai infers that a man is obligated to teach his daughter Torah as a way of accruing merit from the learning of Torah and to ensure that she understands that it is due to that merit that she does not die immediately.

To the modern reader, Ben Azzai aligns with the outlook that education empowers. By teaching women to understand the underpinnings of the *sotah* structure, they can navigate the system without the crippling fear of the unknown. I would even suggest that within the words of the text there emerges an educational philosophy that is preemptive. By educating her towards accruing merit, she may no longer have the desire or time to engage in an adulterous relationship. It is possible to read Ben Azzai as suggesting a tactic that will prevent societal promiscuity. His antidote is that fathers teach their daughters Torah.

The problem, as the Talmud is quick to point out, is that according to the exegesis of the Sifrei brought above, women are not obligated to study Torah. How then can the merit of Torah study provide protection from punishment if they have no *mitzvah* to do so? The answer given by the late Amora Ravina is that women do not accrue such merit from their own learning, and can only do so, “b y making their sons read and study and waiting for their husbands until they come home from the study hall.”[[9]](#footnote-10) This position greatly dilutes the impact of Ben Azzai’s statement and denudes it of practical application with regard to female Torah study.

Rabbi Eliezer, in sharp contrast to Ben Azzai, sees the education of women as dangerous and contributory to sexual licentiousness in society. The *Amora* Rabbi Abahu goes in a similar direction, explaining that if women study Torah, they will learn deviousness.[[10]](#footnote-11) In other words, if women know how to navigate the halakhic system, they will do so and thus avoid consequence or punishment for promiscuous behavior. It suggests that keeping women ignorant and afraid of punishment are imperative in promoting the sexual mores of monogamy and faithful marriage.

The overarching conclusion in the Talmudic passage[[11]](#footnote-12) is that the study of Torah protects men from transgression, and in particular, from the evil inclination which is a euphemism for sexual desire. In stark contrast, it is assumed that women will misuse their knowledge to throw off the shackles of rabbinic authority and societal convention, leading to greater sexual immorality.It is likely that this attitude shows concern that a woman who learns Torah could “become like a man” in her intellectual and religious accomplishments, inserting a sexually threatening and emasculating scenario into the exclusively androcentric world of the rabbinic academy.[[12]](#footnote-13) The Jerusalem Talmud cites a heated conversation between a wealthy woman and the *Tanna* Rabbi Eliezer ben Hyrcanus. The matron asks a question about the story of the Golden Calf in Exodus and Rabbi Eliezer, instead of answering her retorts: “May the word of Torah be burned and not given to a woman!” He refuses even to answer a question that would involve explaining of the words of Torah to a woman.[[13]](#footnote-14)

Although Ben Azzai and Rabbi Eliezer are quoted side by side in the Mishnah, it is only the opinion of Rabbi Eliezer that is discussed in the Babylonian Talmud and in all subsequent commentary. In fact, it is Rabbi Eliezer’s opinion that is exclusively cited as authoritative, justifying the denial of access to Torah study for women. In effect, Ben Azzai is erased from all halakhic discourse, since his statement is not addressed at all in the Babylonian Talmud’s analysis of the Mishnah and does not appear in the Geonim and Rishonim.[[14]](#footnote-15)

There are, however, some interesting parallel early rabbinic sources that remained largely unexplored until the 20th century when women’s Torah education became a central issue.

In Tosefta Berakhot there is a fascinating text that discusses whether men and women in different states of *tum’ah* (ritual impurity) are permitted to read Torah and study Jewish text. The only category excluded from such pursuits are men who have experienced a seminal emission.

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| **תוספתא מסכת ברכות (ליברמן) פרק ב הלכה יב**  הזבין והזבות והנדות והיולדות מותרין לקרות בתורה בנביאים ובכתובים ולשנות במשנה במדרש בהלכות ובאגדות, ובעלי קריין אסורין בכולן.  ר' יוסה אומר אבל שונה הוא בהלכות הרגילות ובלבד שלא יציע את המשנה. | Tosefta Berakhot Chapter 2:12  *Zavim, Zavot, Niddot*, and women who gave birth are permitted to read the Torah and to learn Mishnah, *Midrash*, laws, and *Aggadot*. And men who had a seminal emission (*Baalei Kerayim*) are forbidden in all of them.  Rabbi Yossi says, “He can learn the laws that he is familiar with, as long as he does not arrange the Mishnah.” |

Seminal emission is the most common and most easily rectified state of ritual impurity. It requires immersing in a ritual bath soon after the emission.[[15]](#footnote-16) At a certain point in the early rabbinic period, it was decided that all men experiencing a seminal emission should refrain from prayer or Torah study until immersing in a ritual bath. It appears that men were encouraged to minimize seminal emissions, even as it would be impossible to eliminate such a bodily function completely due to a man’s obligation to procreate and engage in sexual relations with his wife. It is startling to discover, however, a text that casually references women reading Torah and learning Mishnah, *midrash, halakhah* and *aggadah*! Furthermore, this text is repeated almost verbatim in the Jerusalem Talmud.[[16]](#footnote-17) In his 20th century *responsum*, Rabbi Eliezer Waldenberg[[17]](#footnote-18) cites the Tosefta and Jerusalem Talmud to acknowledge that a different, more permissive and legitimate approach to women reading and studying Torah, Oral Law (Mishnah, *halakhah*, *aggada*) was extant in central rabbinic texts.

A similar theme appears in the Bavli but with significant emendation:

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| **ברכות דף כב עמ' א**  דתניא: "והודעתם לבניך ולבני בניך," וכתיב בתריה "יום אשר עמדת לפני ה' אלהיך בחורב," מה להלן באימה וביראה וברתת ובזיע אף כאן באימה וביראה וברתת ובזיע.  מכאן אמרו: הזבים והמצורעים ובאין על נדות – מותרים לקרות בתורה ובנביאים ובכתובים, לשנות במשנה וגמרא ובהלכות ובאגדות, אבל בעלי קריין אסורים.  רבי יוסי אומר: שונה הוא ברגיליות ובלבד שלא יציע את המשנה. | Bavli Berakhot 22a (Sefaria translation/commentary)  **As it was taught** in a *baraita*: It is written: **“And you shall impart them to your children and your children’s children”** ([Deuteronomy 4:9](file:///C:\Deuteronomy.4.9)), **and it is written thereafter: “The day that you stood before the LORD your God at Horeb”** ([Deuteronomy 4:10](file:///C:\Deuteronomy.4.10)). **Just as below,** the Revelation at Sinai was **in reverence, fear, quaking, and trembling, so too here,** in every generation, Torah must be studied with a sense of **reverence, fear, quaking, and trembling.**  **From here the Sages stated: *Zavim*, lepers, and those who engaged in intercourse with menstruating women, despite their severe impurity, are permitted to read the Torah, Prophets, and Writings, and to study Mishna and Gemara and *halakhot* and *aggada*. However, those who experienced a seminal emission are prohibited from doing so.**  [**Rabbi Yosei**](file:///C:\topics\rabbi-yose-b-chalafta) **says: One who experiences a seminal emission studies *mishnayot* that he is accustomed to study, as long as he does not expound upon a new Mishnah to study it in depth.** |

The bolded text is very similar to the text in the Tosefta and Jerusalem Talmud. There is, however, a major modification. Women who were featured prominently in the Tosefta as having the ability to read and learn Torah, are absent. In the Bavli, women who experience uterine bleeding (menstrual, uterine, parturient), are replaced by a man who has relations with a *niddah*, which transfers the impurity of the *niddah* onto him. Despite this ritual impurity, he can nonetheless read and study Torah.[[18]](#footnote-19)

Just as Ben Azzai disappears from the Babylonian Talmudic discourse on teaching daughters Torah, the women who read and studied Torah disappear from the *beraita* quoted in the Bavli. One singular exception is the Tannaitic figure Beruriah, the purported wife of Rabbi Meir who is described as a learned woman[[19]](#footnote-20). Unfortunately, it is beyond the scope of this chapter to fully analyze the Beruriah stories, fascinating as they are. Furthermore, Beruriah never served as a model for emulation until the modern era and had no impact on the attitude towards women’s education in classic rabbinic and post-rabbinic sources. If anything, the legend recorded in Rashi’s commentary that explains that Beruriah was seduced by her husband Rabbi Meir’s student (at his insistence) because she mocked the rabbis for considering women lightheaded, stands as a stark lesson against educating women in Torah.[[20]](#footnote-21) By ignoring Ben Azzai, the question of women’s education in Torah study lay largely dormant until the 19th century.

**The Next Stage: Maimonides and Sefer Hassidim**

Maimonides is nuanced in his analysis of women and Torah study. Most startlingly, he allows that women who study Torah indeed receive a reward despite the passage in Sotah cited earlier which rejects this possibility. In this manner, Maimonides perhaps reflect spirit of Ben Azzai. He also was the first to differentiate between women studying the W ritten Torah and the O ral Torah. This distinction will remain an important marker in the evolution of women’s Torah study when school curricula begin to emerge in the 19th century and later.

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| **רמב"ם הלכות תלמוד תורה פרק א הלכה יג**  אשה שלמדה תורה יש לה שכר אבל אינו כשכר האיש מפני שלא נצטוית, וכל העושה דבר שאינו מצווה עליו לעשותו אין שכרו כשכר המצווה שעשה אלא פחות ממנו. ואע"פ שיש לה שכר צוו חכמים שלא ילמד אדם את בתו תורה מפני שרוב הנשים אין דעתם מכוונת להתלמד אלא הן מוציאות דברי תורה לדברי הבאי לפי עניות דעתן. אמרו חכמים: כל המלמד את בתו תורה כאילו למדה תפלות. במה דברים אמורים? בתורה שבעל פה. אבל תורה שבכתב לא ילמד אותה לכתחלה, ואם למדה אינו כמלמדה תפלות. | Rambam Talmud Torah 1:13  A woman who studies Torah has a reward but not like the reward of a man because she is not commanded and anyone who does something that is not commanded on him to do so – his reward is not like the reward of the one who is commanded but rather less. Even though she has a reward, the rabbis commanded that a man should not teach his daughter Torah because most women’s minds are not directed towards study. Rather they misinterpret, rendering the text irrational because of their poor minds. The rabbis said, “Anyone who teaches his daughter Torah, it is as if he taught her *tiflut*.” What are we talking about? Oral Torah. However, Written Torah one should not teach her *ab initio*, but if he taught her, it is not as if he taught her *tiflut*. |

There are several points to note in this quote from Maimonides:

* Women receive a reward when they study Torah although not equal to the reward of men. This is in line with the overall Talmudic approach that those who are exempt from a *mitzvah* but nonetheless perform it receive less reward than those obligated.
* *Tiflut* or licentiousness could only come from women studying Oral Torah (although women would still receive a reward for such study).
* Written Torah cannot be associated with *tiflut*. Nonetheless, a father should not teach it to his daughter *ab initio*.

Maimonides presumes that R. Eliezer’s reasoning as to why women should not be taught is because women are mentally inferior to men: “Even though she has a reward, the rabbis commanded that a man should not teach his daughter Torah because most women’s minds are not directed towards study. Rather they misinterpret, rendering the text irrational because of their poor minds.” This idea of women being intellectually inferior, was not unique to Maimonides. It is simply reflective of the prevailing medical theories of the day, dating back hundreds of years. What is interesting is that Maimonides sees Torah study for women as no different from any other mitzva performed voluntarily for which the person receives reward. Perhaps it can be surmised from his approach that Torah study which represented intellectual achievement for Maimonides was so central to him as the purpose of the very existence of mankind, particularly of the Jewish people, that he saw it is a worthy activity even for women[[21]](#footnote-23).

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At around the same time, in Germany, women’s education was addressed in *Sefer Hasidim*, an important collection of laws, customs, ethical exhortations and spiritual practices attributed to Rabbi Judah the Hasid (1150-1217). In it, fathers are commanded to teach their daughters *mitzvot* so that they know what to do when overseeing a Jewish home.

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| Sefer Hasidim 313  Everyone must teach his daughters the *mitzvot*. The Talmudic statement that he who teaches his daughter Torah is as if he taught her *tiflut* refers only to the profundities and rationale of the *mitzvoth* and the mysteries of the Torah; these are not taught to a woman or to a minor. **However, a woman should be taught how to observe the *mitzvot*, for if she does not know the laws of Shabbat, how can she observe Shabbat, and this applies to all similar mitzvot**. Indeed, in the days of Hizkiyahu, king of Judea, men and women, old and young were familiar with the laws of purity and sacrifices. | **ספר חסידים סימן שי"ג**  חייב אדם ללמוד לבנותיו המצות כגון פסקי הלכות. ומה שאמרו שהמלמד לאשה תורה כאלו מלמדה תיפלות זהו עומק תלמוד וטעמי המצות וסודי התורה אותן אין מלמדין לאשה ולקטן. אבל הלכות מצות ילמד לה, שאם לא תדע הלכות שבת איך תשמור שבת? וכן כל מצות כדי לעשות להזהר במצות. שהרי בימי חזקיהו מלך יהודה אנשים ונשים גדולים וקטנים ידעו אפילו טהרות וקדשים. |

Sefer Hasidim rules that a man is obligated to teach his daughter practical *halakhah*. While the author does not reject Rabbi Eliezer’s prohibition, he minimizes it to refer only to the deep study of Talmud or to the “secrets of Torah.” A father must teach his daughter about the *mitzvot* so that she knows how to perform them properly. In essence, by limiting Rabbi Eliezer to the profundities and mysteries of Torah, *Sefer Hasidim* provides a rather broad framework for some form of education. Together with Maimonides, this includes the possibility that such learning has merit for the women who engage in it — and for the men who teach them.

The positions of Maimonides and *Sefer Hasidim* are essentially the only lens through which the discourse evolves. Both positions become codified into Shulhan Arukh and the Rema respectively. During the late Middle Ages, the sages of France and Germany accepted both approaches — the distinction between O ral and W ritten Torah presented by Maimonides (limiting women to W ritten Torah) along with the clear need to teach daughters— indicating that women should be educated at home in basic Jewish texts and rituals.[[22]](#footnote-27) Furthermore, there are credible accounts of outstanding educated women who served as religious leaders and scholars at this time.[[23]](#footnote-28) In the Cairo Geniza, for example, there are descriptions of elementary schools in which girls and young women studied, as well as schools in which both men and women served as teachers. Overall, however, few women had any comprehensive Jewish education, despite the softening of Rabbi Eliezer’s position.

The next section will examine some of the changes that began to take place in parts of Europe in the 19th century regarding the education of girls in Jewish sacred texts. The discourse documented in some of the *responsa* and historical documents from that time reflects both urgency and hesitation, qualities that will continue to be pronounced into the 21st century as the glass ceiling restricting women’s education incrementally and then exponentially rises.

Progress was achieved in the late 18th century when the call for women’s education began to grow dramatically in Germany as a result of the Enlightenment. In 1827 the first Orthodox elementary school in Germany to combine secular and religious subjects opened its doors to young women. It was in this era that Rabbi Esriel Hildesheimer and Rabbi Samson Rafael Hirsch began to advance formal schooling for females. Rabbi Hirsch felt that the purpose of Jewish learning was not purely academic, rather the goal was religious instruction designed to motivate the student to act.

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| No less should Israel’s daughters learn the content of the Written Law and the duties which they have to perform in their lifetime as a daughter and young woman, as mother and housewife. Many times have Israel’s daughters saved the purity of the Jewish life and spirit. The deliverance from Egypt itself was won by the women; and it is by the pious and virtuous women of Israel that the Jewish spirit and Jewish life can and will again be revived[[24]](#footnote-29). |

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The urgency to educate Jewish girls stemmed from the exigency to reinforce their traditional role as wives and mothers. Hirsch reiterated the position taken by *Sefer Hasidim* but in the context of a broader educational effort outside of the home and with a modern framing. In his book *Horeb*, he set forth the curriculum necessary to educate girls[[25]](#footnote-30): Hebrew language, vernacular, Torah, Prophets and Writings, Science, History, Teaching of Duties, Writing and Arithmetic. While boys would be taught the theoretical instruction of the law, girls would be prevented from acquiring such information. Nonetheless, Hirsch clearly felt that learning “our sacred literature” was essential to teach conscientious fulfillment of duty and execution of the tasks one is obligated to perform.[[26]](#footnote-31) This is probably the first time that text-based education for women is openly connected to deeper engagement and commitment to ritual and practice.

Another German rabbi who was also involved in furthering educational opportunities for girls at that time was Rabbi Esriel Hildesheimer. An admirer of Hirsch, he felt that “I f it is true that knowledge is power, then the Jewish knowledge of our wives and young ladies will contribute to an invincible Jewish power — to power in the home, in Jewish family life and to a priceless influence in the area of the education of our sons.”[[27]](#footnote-32)

The forces of assimilation, along with the position and role of women in the larger German society, worked in their favor, highlighting the need for an institutional framework. Rabbis Hirsch and Hildesheimer believed that their innovative approach was necessary for the preservation of the Jewish family. A new direction in education was clearly necessary if the Jewish family was going to survive. While their stances represented a departure from the traditional Jewish communal norm that denied women formal educational access to all classical textual learning, neither Hirsch nor Hildesheimer permitted female students to study Talmud or the Codes of Jewish Law. The primary responsibility for these young, educated women would be to serve as an anchor for Jewish tradition and practice within the home, inspiring their husbands and children. Individual growth and development were surely not the focus.

The trend in Germany did not automatically spread to Eastern Europe. The situation in Poland was such that precious communal resources invariably went to financing schools for boys to study Torah. In the Hapsburg Empire which included Krakow, a Compulsory Education law was passed requiring all children between 6 and 14 to attend public schools. In an attempt to shield their sons from that requirement, Orthodox families deliberately sent their daughters to public schools to fill school quotas with girls.

The daughters, rather than the sons, were thus exposed to the external and seductive forces of the gentile world, resulting in those young women assimilating at astonishing rates. Paradoxically, the rabbinic leaders were reluctant and, in many cases, forcefully resistant, to opening Jewish schools for girls because it went against tradition. A generation of girls grew up identifying as Poles in language, thought and culture and were completely mismatched with yeshiva-educated boys. The Orthodox press cried out against their defection from Orthodoxy, but the trend continued. In some extreme cases, women converted to Christianity to marry non-Jewish lovers![[28]](#footnote-34)

There had already been suggestions put forth to open Jewish schools for girls in Galicia but they had been rejected, partially on the grounds of the ban by Rabbi Eliezer. At a rabbinical conference in Krakow in 1903, the idea was reintroduced. One rabbi pleaded that all girls be educated in the knowledge of Torah, “S ince so many of them are already far from their people and Jewish spirit.” [[29]](#footnote-35) Another proposed afternoon Talmud Torah for girls to learn prayers, blessings and laws. In response, one of the dissenters proclaimed “even this custom they wish to bring to Israel – Talmud Torahs for women! God Forbid! Such a thing will not be![[30]](#footnote-36)” The conference ended in a stalemate. While it was recognized that there was a growing crisis among young Orthodox women, it was determined that rejecting tradition in such a fashion would flagrantly defy rabbinic authority and be perceived as a capitulation to modernity.

The situation only began to change during World War I, when rabbis from Germany who had graduated from Hildesheimer’s rabbinical seminary in Berlin began to arrive in communities in Warsaw (Poland) and Kovno (Lithuania). Responding to the vital need, they set up Jewish gymnasiums for boys and girls and began to offer popular religious talks to older girls and women.[[31]](#footnote-37) This followed the trend that had begun in Germany decades earlier and reflected an organic evolution in Jewish pedagogy, encouraging both boys and girls to gain fluency in sacred texts alongside secular subjects.

In Krakow, however, the strong Hasidic leadership utterly opposed Jewish education for girls, even though it was in that city where the most famous defections of Hasidic girls to convents took place. Against this backdrop, it is all the more remarkable that Sarah Schenirer succeeded in her endeavors. She faced an uphill battle when she embarked on her journey to develop and implement a system of learning for girls in more traditional religious communities than those established by the Hirsch and Hildesheimer graduates. It is noteworthy that shortly before she opened the first Beit Yaakov school, Rabbi Yisrael Meir Kagan, known as the Chofetz Chaim, acknowledged the dire need for such schools in a commentary to tractate Sotah:

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| Chofetz Chaim, Likutei Halakhot, Sotah 21b[[32]](#footnote-38)  “He who teaches his daughter Torah.” Evidently, this was so only in previous times, when family tradition was strong enough for everyone to emulate his parents as indicated in the verse, “Ask your father and he will tell you” (Deut. 32:7). We could say that a girl should not be taught to learn Torah but rather model her conduct on that of her righteous parents. Now, however, our sins being many, parental tradition has weakened very much and frequently the daughters even leave home. Specifically, for those who regularly study gentile languages, it is surely a great *mitzvah* to teach them – Chumash and the Prophets and the Writings and the moral instruction of the Sages such as Ethics of our Fathers and Menorat ha-Ma’or so as to strengthen within them our holy faith. If not, they are liable to completely stray far from the path of the Lord and transgress all the principles of our religion, God forbid. |

Although he acknowledged Rabbi Eliezer’s ban, the current state of affairs had so drastically eroded any formerly accepted model that daughters were rejecting tradition and leaving home. It was now a *mitzvah* to teach them the contents of Jewish sacred texts lest they completely stray and transgress. Despite the acknowledged necessity, he did not actively pursue the establishment of a school system for girls. It was into this breach that Sarah Schenirer stepped. Born in Krakow in 1883 to a Hasidic family, Schenirer was a seamstress who spent every evening studying Torah.[[33]](#footnote-39) After she heard Rabbi Dr. Moshe David Flesch in Vienna call for the spiritual rejuvenation of Judaism through greater devotion and commitment to Torah study on the part of the Jewish woman,[[34]](#footnote-40) she began to implement her plan to teach Jewish texts. In 1917, she gathered forty women and girls for a study session. The older girls mocked her, but the women enjoyed her lecture. She realized then that she was going to have to start with younger students and in a more systematic way, reflecting the process towards elementary education described in the Talmudic tractate Bava Batra.[[35]](#footnote-41) Amid growing controversy, she sought to consult with the Belzer Rebbe, who wrote “blessings and success” on a piece of paper, thus approving of her initiative, even as he refrained from allowing his Hasidim to send their daughters to her school.[[36]](#footnote-42) Nonetheless, the numbers of enrolled students grew exponentially, and a few years later the Agudah organization took over the running of the schools.

What was particularly noteworthy about Sarah Schenirer’s life work was not just the school system for young students that she established, but the teacher training college that she founded which provided a strong foundation in belief and practice to the young women who became teachers dedicated to inspiring their students.[[37]](#footnote-43) While the goal of both the college and the school system was to reinforce observance, it did so through encouraging religious enthusiasm and fervor, using informal educational methods such as songs, dances, plays and trips.[[38]](#footnote-44) Religious piety and ideological commitment were the mission and highest achievement for Orthodox Jewish women. This was meant to extinguish any desire they may have felt for advanced secular education.[[39]](#footnote-45) For this reason, the schools did not provide a strong foundation in Hebrew text study beyond traditional Yiddish texts that were universally approved of, so that the girls learned sacred texts based on Yiddish translation and commentaries intended for lay people rather than in the original Hebrew.[[40]](#footnote-46) Yiddish was touted as a holy language and complete immersion in it was meant to counter attraction to Polish language and culture. This was in contradistinction to the Hirsch-Hildesheimer gymnasiums which were interested in inculcating a Torah with *Derekh Eretz* ideology that allowed for secular studies, as well.

Even within the most conservative and resistant ultra-Orthodox communities, the Bais Yaakov school system has proven the remarkable impact education can have in connecting and engaging young women to their religious heritage and halakhic practice. Indeed, the tide was already turning in all parts of the Jewish world as schools were being established with a focus on a modern education system for both girls and boys, integrating a strong commitment to religious observance with secular subjects necessary for building a sustainable life in contemporary society. Today it appears obvious that every community builds their own school systems for girls that reflects its own ideologies, customs and interpretations. From the most extreme Hasidic sects to the most liberal Orthodox, children in observant communities attend Jewish schools that tailor their curricular offerings to reflect religious ideology - regarding the world of Torah study as well as the secular world.

**But S** **hould W** **omen L** **earn Talmud?**

As educational opportunities for women increased in the mid-to-late 20th century and the feminist movement demanded equal educational, professional, social and economic opportunities for women, it was to be expected that the question of Talmud study for women would come to the fore. In 1937, even before feminism actively took root in the Orthodox community, Rabbi Joseph Dov Soloveitchik and his wife Tonya founded the Maimonides School in Boston that offered girls and boys equal educational opportunities, including the study of Talmud. Still, it remained outside of the mainstream school curricula for many decades.[[41]](#footnote-47) In the 1970 s Rabbi Moshe Feinstein was asked about teaching Mishnah in Bai s Yaakov schools. He answered briefly but emphatically in the negative.

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| Igrot Moshe  In the Bais Yaakov schools for girls, teachers want to teach mishnayot. Maimonides ruled like Rabbi Eliezer that this should not be taught. Mishna is Oral Law and therefore it should be prevented. Only Pirkei Avot should be taught in order to awaken in them love for Torah and good values but not the rest of the tractates. Since the matter is simple/clear, I will remain concise. | **איגרות משה, יו"ד ג,פז**  בבתי הספר לנערות בית יעקב רוצים המורים ללמוד עמהן משניות. רמב"ם פסק כרבי אליעזר שאין ללמד. משניות הוא תורה שבעל פה, ולכן צריך למונעם. רק פרקי אבות (יש ללמד) בהסבר לעוררן לאהבת תורה ולמידות טובות, אבל לא שאר המסכתות, ומתוך פשיטות אקצר. |

At the same time, in Israel, *responsa* by ultra-Orthodox rabbis like Bentzion Feurer and Moshe Malka endorsed nuanced and moderate positions with regard to integrating Oral Law (Mishnah and Talmud) into the curricula for girls.

Rabbi Feurer was asked whether it is permissible to teach both W ritten and O ral Torah to girls. His response, published in the religious education journal *No’am*, explicitly concluded that the teaching of Mishnah was permitted and to be regarded as positive, particularly in schools where students were going to be taught real *tiflut*, i.e., secular studies.

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| Rabbi Benzion Fuerer, *Noam*, Volume 3[[42]](#footnote-48)  But today a daughter who does not study Torah studies actual *tiflut* instead, and surely we must choose between actual *tiflut* and “as if” *tiflut*, we prefer the latter. In our times, the argument for Torah study by women outweighs by far the argument against; for in place of the perfect faith diffused by the Torah, young women are fed meaningless notions of *tiflut* and objectional ideas found in secular irreligious literature. A single Torah text book might well eradicate the impact of many volumes of *tiflut* study. Whether we like it or not, the traditional melamed has been replaced by the lady-teacher who transmits the Torah to boys and girls in elementary school. If girls do not learn Torah in school, the irreligious teacher will replace the religious teacher and transmit to the children in elementary school their own spurious version of Torah…evidently this induced the eminent Torah scholars of the past two generations to approve teaching Torah to girls — **both Written and Oral Torah, e.g., Mishnah, Codes**, etc. I wish that all Jewish girls would study Torah and not expose their hearts to the *tiflut* of this permissive generation. |

Rabbi Moshe Malka, an eminent rabbinic authority from Morocco who became the rabbi of Petah Tikva, went even further in acknowledging the need to increase Torah study for women to keep up with the educational challenges provided by advanced secular education. He suggested that R. Eliezer would surely waive hi s ban in light of the contemporary educational reality.

While in practice, no ultra- Orthodox schools formally teach their female students Talmud, the explanations given by these rabbinic authorities further illuminates the contemporary discourse on the topic. In addition to Rabbi Malka, a number of rabbinic authorities, including the Lubavitcher Rebbe, recognized the dissonance in limiting women from studying the Oral Law while allowing them to study secular subjects at the highest academic levels.

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| Menachem Mendel Schneerson, Sichot, Part III, *Parashat Emor* 5750, p. 171.  In the generations preceding us, there did not exist educational institutions for girls…every daughter received [the traditions] from her mother and the older women [in the community], etc. Nonetheless, in the last few generations, the great rabbis established educational institutions for girls, seeing it as an exigency of the hour, since without question they leave their homes and are influenced by what they see outside etc. and thus, it is a necessity to establish for them educational institutions in which they will receive proper and approved religious education.  And this, then applies to the study of the Oral Torah (beyond the study of *halakhot* that apply directly to them). **Since nonetheless, women and girls learn a variety of disciplines through which cunning enters into them. Thus, it is not just permissible for women to study the Oral Law, but beyond this, according to the very reasoning of the Halakhah itself, it is necessary to teach them Oral Torah**. Not just to learn the halakhic decisions without their reasons, but also to teach them the reasons behind the laws, including the fine dialectical arguments that are found in the Torah. **For it is in human nature, male and female, to desire and take pleasure even more in this kind of study.** Through this there will be in them a development of the senses and of the connections infused with the spirit of our Holy Torah. |

Rabbi Schneerson recognized the disparity that restrictions on women in the world of Torah study created in comparison with their access to secular knowledge. In addition, he astutely noted that women of today, just like men, crave the intellectual stimulation provided by dialectical Talmud study. This acknowledgment undercut the coherency of the fragile construct that from the time of Maimonides had attempted to uphold some semblance of Rabbi Eliezer’s statement by differentiating between Written and Oral Torah, giving legitimacy for women to learn Written Torah while maintaining clear boundaries to avoid their learning Oral Torah.

Nonetheless, as with the Belzer Rebbe who approved Sarah Schenirer's initiative but not for his own community, the Lubavitch school system for girls has never included Oral Torah study in its curriculum. While halakhically possible, it is not desirable in communities that reinforce strong gender differentiation in all aspects of communal structure and society, leading to educational frameworks that continue to distinguish between boys’ and girls’ curricula of study.

Already in the 1970 s, women had slowly begun studying Talmud in organized settings. Rabbi David Silber, who was a student of Rabbi Soloveitchik, began teaching classes to women when he established Drisha, a women’s yeshiva. Likewise, in Israel, Rabbi Chaim Brovender did the same at his women’s yeshiva, Beruria (now Midreshet Lindenbaum), known fondly as “Brovender’s” for many years. Stern College opened a Talmud class for women in 1977 . Before that time, the students had access to Talmudic texts as primary sources used in preparing for classes in Jewish history, law and Biblical exegesis. This was the first time a class aimed at the students’ gaining independent skills was offered. To reinforce its legitimacy and importance to Yeshiva University, Rabbi Joseph Dov Soloveitchik taught the inaugural class. At the end of his lecture, he expounded on the importance of both men and women studying Oral Torah [[43]](#footnote-50) :

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| Without *Torah She-Ba’al Peh* (Oral Torah), there is no Judaism. Any talk about Judaism minus *Torah She-Ba’al Peh* is just meaningless and absurd. Like if one never studied physics and writes the philosophy of nature. It’s ridiculous, you can’t write the philosophy of nature before you are acquainted with physics, so you cannot write about Judaism if you are not acquainted with *Torah She-Ba’al Peh*. It’s important that not only boys should be acquainted, but girls, as well. I’ll support you as far as education is concerned. If you have problems come to me, I’ll fight your battles. |

From the late 1980s onward, more and more opportunities arose for women in modern Orthodoxy to study Talmud. The discourse of *bedieved* – as something permitted after-the-fact – which justified such studies in the 1970s, gave way to a discourse of *lehathila*, in which Talmud study for women was seen as an organic continuation of the obligation to teach girls Torah that had begun in the 19th century. The famous passage in *Shema* which had been initially interpreted as “A nd teach it to your sons,” had already been tacitly reinterpreted as “A nd teach it to your children,” by the 20th century, in order to justify and reinforce the need to allocate communal resources to educating girls in parallel to boys. It was no longer understood to be particularly about fathers and sons but about parents and children. By the late 20th century, many modern Orthodox high schools had begun to incorporate Talmud into their curricula for girls. Many *midrashot* (post-high school programs for Israelis and gap year students who come to Israel to study Torah for a year) offer some Talmud, varying from minimal exposure to a significant number of hours spent studying Talmud text.

On a more advanced level, in 1990, Matan opened an Advanced Talmud Institute (from which I graduated) which provided stipends for women to study full time for three years, together with a schedule that allowed for daycare pick-up time. Nishmat and Midreshet Lindenbaum’s Beruria Scholars program offered similar opportunities. Alumnae of those programs began to open *midrashot* for Israelis and/or Americans with an emphasis on Talmud study. Yeshiva University eventually opened GPATS, a graduate program in advanced Talmud studies. Most recently, Drisha opened the first yeshiva for women run by a cadre of women who have been studying and teaching Talmud for decades and who have implemented a yeshiva-style curriculum. There has been awe-inspiring progress in making the Talmud accessible to a critical mass of women of all ages who now have the tools to engage with a text that is central to Jewish and religious identity and practice. This, in turn, has allowed women to access the page as active learners rather than passive listeners, joining the echoing voices raised in Torah study dating back to Sinai.

This progress might translate into a false sense of complacency. While there are, indeed, opportunities for women to advance in their study of Talmud, it is important not to romanticize the current reality. Despite Rabbi Soloveitchik’s clear support, there have been misgivings expressed about where this kind of study will lead, and suspicion that as a result of their study women will be unsatisfied with the traditional gendered structure of Orthodoxy. 35 years after he served as the first Talmud instructor at Stern, Rabbi Mordechai Willig has publicly stated that the phenomenon of women’s Talmud study must be reevaluated because of the subsequent rumblings caused by such learning.

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| The inclusion of Talmud in curricula for all women in modern Orthodox schools needs to be reevaluated. While the *gedolim* of the twentieth century saw Torah study to be a way to keep women close to our *mesorah*, an egalitarian attitude has colored some women's study of Talmud and led them to embrace and advocate egalitarian ideas and practices which are unacceptable to those very *gedolim*.[[44]](#footnote-51) |

In practice, very few female students actually take Talmud classes. Furthermore, there is a considerable imbalance between the world of Torah study for men and for women that is unlikely to change in the near future. This imbalance is radically different than anything in the academic and professional worlds in which standards and expectations are the same for men and women. Stern College, for instance, offers advanced Talmud classes that require the small number of students who register to prepare for 6 hours a week and attend a two-hour *shiur*. In contrast, men at Yeshiva College enrolled in the *Beit Midrash* program, which makes up about half of the student body, devote 24 hours a week to Talmud study over-and-above their regular college course load.

The contrast is equally striking in the Israeli seminary/yeshiva world. Women’s gap year seminary programs in Israel that schedule 6-10 hours of Talmud a week are considered “heavy” on Talmud study. Parallel programs for young men expect their students to study 6-8 hours of Talmud a day. This has led to critique both from the young women seeking more rigorous studies and from the male yeshiva world which – at times mockingly – finds women’s programs lacking.

The underlying explanation behind the disparity is that men have a *mitzvah* to study Torah – meaning Talmud – throughout their lives. Thus, considerable support, resources, passion and even pressure are put on men in religious society to ensure that the hallowed study halls known as *Batei Midrash*, are filled. Since women are not traditionally viewed as being obligated to study Torah for Torah’s sake and the question of necessity to educate women in Talmud remains an open one, there is no corresponding social or financial structure to support such intensive study. Furthermore, many women’s programs pedagogically endorse a more diverse program of study, offering not only Talmud and *halakhah*, but serious classes in Bible and Jewish philosophy. This broadening of access to a more diverse course of study of Torah beyond Talmud can be seen as an advantage to women’s education compared to the traditionally rigid structure of men’s *yeshivot*. Still, from within the world of *yeshivot*, it is likely to be perceived as inferior.

Although it is unanimously accepted that parents are obligated to educate both sons and daughters in Torah, this does not translate into an equally perceived life-long obligation to study daily. Once a woman marries and has children, childrearing and household duties are seen as women’s religious obligations, parallel to Torah study for men. I have heard lectures in which leading rabbinic authorities express the opinion already articulated in tractates Sotah and Berakhot (cited earlier in this chapter), that for a woman, the laundry, childrearing and housekeeping duties that allow her husband to study Talmud bring her merit as if she studied Talmud herself. Nonetheless, it must be acknowledged that there is a proliferation of Torah study classes regularly available to women in all modern Orthodox and ultra- Orthodox communities, reinforcing the greater communal acceptance that Torah study in its many forms is the most central way to ensure and inspire connection and dedication to a life of religious practice.

**Can W** **omen B** **ecome H** **alakhic A** **uthorities?**

By the early 1990s, the advent of women’s Talmud study led to programs geared towards graduating women competent in Jewish texts, including the Talmud more than 1000 years of Talmudic commentary, alongside classic halakhic discourse emanating from the Talmudic texts and culminating in contemporary halakhic *responsa*. The aim of these programs was professional development, positioning women to take up leadership roles in communities and find employment in positions based on their Talmudic and halakhic expertise. These programs included Midreshet Lindenbaum’s rabbinic advocate program that trained women to argue divorce cases in rabbinic courts and Nishmat’s halakhic advisors (*yoatzot halakhah*) program which was a response to the perceived urgency of introducing women to the frontlines of sensitive questions on intimacy and sexuality. These, along with women’s Talmud programs that were encouraging students to spend several years studying classic Talmud texts, ultimately led to the debate about ordination that arose at the beginning of the 21st century.

There are three considerations regarding the greater topic of women and positions of authority that need to be evaluated from a halakhic standpoint. Each one of these considerations will be examined textually below.

* Women’s testimony is not accepted by rabbinic courts except under very specific circumstances. The Mishnah states that those who are not fit to serve as witnesses are barred from serving as judges as well.
* The Torah states that should the people of Israel desire it, they shall appoint a king. *Midrash* *halakhah* explains that the Torah explicitly specifies a king and not a queen. Based on this interpretation, Maimonides stipulates that only men may be appointed to positions of communal authority.
* Women are considered a source of sexual distraction in *halakhah*. This point is not directly addressed in the sources about religious leadership but it hovers in the background o f all conversations having to do with women interacting with men.

**Women as J** **udges**

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| Deuteronomy 19:15-17  **A single witness** may not confirm a person’s guilt or blame for any transgression or sin; a case can be ruled valid only on the testimony of **two witnesses** or more.  If a man appears against another to testify maliciously  The **two men** in dispute shall appear before the LORD, before the priests or magistrates in authority at the time, | דברים יט  **טו** לֹא-יָקוּם עֵד אֶחָד בְּאִישׁ, לְכָל-עָוֺן וּלְכָל-חַטָּאת, בְּכָל-חֵטְא, אֲשֶׁר יֶחֱטָא: עַל-פִּי שְׁנֵי עֵדִים, אוֹ עַל-פִּי שְׁלֹשָׁה-עֵדִים--יָקוּם דָּבָר.  **טז** כִּי-יָקוּם עֵד-חָמָס, בְּאִישׁ, לַעֲנוֹת בּוֹ, סָרָה.  **יז** וְעָמְדוּ שְׁנֵי-הָאֲנָשִׁים אֲשֶׁר-לָהֶם הָרִיב, לִפְנֵי יְהוָה, לִפְנֵי הַכֹּהֲנִים וְהַשֹּׁפְטִים, אֲשֶׁר יִהְיוּ בַּיָּמִים הָהֵם. |

The Biblical text makes clear that two witnesses are necessary to establish the guilt or innocence of a defendant. The text also relates to false testimony, establishing that disputes should be brought before God, represented by the priests or the judges/magistrates who hold authority at the time. The following verse, not cited, is the command and obligation for the judge or priest to investigate the matter thoroughly before ruling. The following *midrash h* *alakhah*, based on the verses above, serves as the source for the Talmudic exclusion of women as witnesses.

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| Sifrei Devarim Shoftim 190  “And they will stand” (Deuteronomy 19:17).  It is incumbent that those being judged should stand.  “Two men.” I only know thus that this is when there are two men. A man and a woman or a woman and a man or two women one against the other, how do I know they too stand in judgment? The Torah says: “who have a dispute.” Any people (male or female) in any kind of dispute.  Could this mean then that a woman can stand as witness? It says here “two” and it say there (Deuteronomy 19:15) “two”[witnesses]. Just as here it means men to the exclusion of women, so too there it means men to the exclusion of women. | **ספרי דברים פרשת שופטים פיסקא קצ**  ועמדו. מצוה בנדונים שיעמדו.  שני האנשים. אין לי אלא בזמן שהם שני אנשים איש עם אשה ואשה עם איש שתי נשים זו עם זו מנין? תלמוד לומר: אשר להם הריב. מכל מקום.  יכול אף אשה תהא כשירה לעדות? נאמר כאן: שני, ונאמר להלן: שני. מה שני האמור כאן אנשים ולא נשים אף שני האמור להלן אנשים ולא נשים. |

The exegesis in the Sifrei proceeds as follows:

In verse 15, we have the word *shenei* (two) in the masculine that describes the need for two or more witnesses. In verse 17 we have the word *shenei* (two) followed by the noun “men” to describe two people in a dispute. This rendering of “two men” in verse 17 is understood also as an elucidation of the same noun “two” in verse 15, clarifying that it, too, refers to two men, to the exclusion of women as witnesses. Paradoxically, the exegesis in the same *midrash* of verse 17 is that the term “two men” is non-gendered and denotes both men and women as litigants!

As noted above, this type of exegesis in which the usage of masculine pronouns or the use of the word “men” or “sons” to exclude women is prevalent in rabbinic interpretation. However, it is notable that in this case, women are included in the justice system as litigants, despite the use of the explicit noun “men,” yet they are excluded as witnesses by the same exact verse. Such inconsistency can be jarring, but it is very much prevalent in the unfolding of *halakhah* from the outset.



A Mishnah in tractate Niddah further states that those who cannot serve as witnesses cannot serve as judges.

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| Mishna Niddah 6:4  Whoever is eligible to act as a judge in a capital case can serve as a judge in a monetary case and there are those who are eligible to serve as judges in a monetary case but not serve on a capital case. **Whoever is eligible to act as a judge is eligible to act as a witness but one may be eligible to act as a witness and not as a judge.** | **משנה מסכת נדה פרק ו משנה ד**  כל הראוי לדון דיני נפשות ראוי לדון דיני ממונות. ויש שראוי לדון דיני ממונות ואינו ראוי לדון דיני נפשות.  כל הכשר לדון כשר להעיד. ויש שכשר להעיד ואינו כשר לדון: |

To summarize, women cannot act as witnesses, and they cannot serve as judges since one who cannot witness cannot judge. Nowhere in the rabbinic conversation is any attempt made to rationalize the exclusion of women, e.g., due to a flaw in women’s character. The claim that some make, that women cannot be witnesses because they do not have the ability to remain objective due to their emotional tendencies has no basis in the Talmud.[[45]](#footnote-52) In practice, women can actually testify in many important areas of law. These include testimony regarding the state of affairs between a husband and wife, whether a woman is a virgin (including her own virginity), establishing that a captive woman was not raped and is subsequently permitted to marry a priest, and her own or another woman’s personal status which would permit or prohibit her/them from marrying.

Furthermore, women can testify in monetary cases in which a single witness is sufficient such as issues of *kashrut*, separating *hallah*, checking for *hametz*, and menstrual purity and impurity.[[46]](#footnote-53) The exclusion of women from testifying in court cases where only two male witnesses are accepted is treated as an apodictic statement, existing without explanation or contextualization.[[47]](#footnote-54) There are also many exceptions to the rule.

**Deborah:**  **Judge and Prophetess**

The judge and prophetess Deborah served as an ancient precedent for a wise woman’s ability to act as both a political and religious authority, posing a challenge to the later disqualification of women as rabbinic court judges (or rabbis).

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| Judges 4:4-5  Deborah, wife of Lapidot, was a prophetess; she led Israel at that time.  …and the Israelites would come to her for judgment. | **שופטים ד**  **ד** וּדְבוֹרָה אִשָּׁה נְבִיאָה אֵשֶׁת לַפִּידוֹת--הִיא שֹׁפְטָה אֶת-יִשְׂרָאֵל בָּעֵת הַהִיא.  **ה**...וַיַּעֲלוּ אֵלֶיהָ בְּנֵי יִשְׂרָאֵל לַמִּשְׁפָּט. |

How could Deborah, a woman who is prohibited by Oral Law from serving as a judge, serve as judge and leader? The Babylonian Talmud does not address this specific question. Many Talmudic commentaries, however, are bothered by this discrepancy and attempt to come up with an approach that maintains the integrity of both Oral Law and the Biblical story.

Two common answers are commonly given to solve this conundrum. The first, prevalent in the school of Tosafot[[48]](#footnote-55), is that Deborah taught the relevant laws for the disputed case but did not actually judge. A variation on this is found in Sefer HaHinukh who referred to “w ise women fit to render halakhic decisions.”[[49]](#footnote-56) Both acknowledge women’s ability to master halakhic material, although Tosafot limited the application of this knowledge to an educational, rather than leadership, role. In a slight variation, Nahmanides writes that the community were guided by her leadership in the manner of a queen guiding her populace[[50]](#footnote-57). She was not appointed judge (or queen) but she was treated with the venarance and authority given to a leader.

A second approach, brought by several Rishonim[[51]](#footnote-58), is that she was appointed to be a judge by the community. Since the people voluntarily accepted her authority, she served as a judge by the will of the people and not through halakhic fiat. There is actually a well-established rule originating in a Mishna found in Tractate Sanhedrin 24a that litigants can agree to be judged by anyone, even individuals who would, ordinarily, be precluded from serving as judges such as relatives[[52]](#footnote-59).

**King but not Queen: Women in P** **ositions of A** **uthority**

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| Deuteronomy 17:15  You shall appoint **a king** over yourself, one chosen by the LORD your God. Appoint a king of your own people; you must not appoint a foreigner over you, one who is not your kinsman. | דברים י״ז  **טו** שׂוֹם תָּשִׂים עָלֶיךָ מֶלֶךְ, אֲשֶׁר יִבְחַר יְהוָה אֱלֹהֶיךָ בּוֹ. מִקֶּרֶב אַחֶיךָ, תָּשִׂים עָלֶיךָ מֶלֶךְ--לֹא תוּכַל לָתֵת עָלֶיךָ אִישׁ נָכְרִי, אֲשֶׁר לֹא-אָחִיךָ הוּא. |
| Sifrei Devarim 157:2, 8-10  (2) "A king": and not a queen.  (8-10) Another thing: "You shall appoint a king.” This is a positive commandment.  “You cannot appoint a foreigner.” This is a negative commandment.  **From here it was said that a man should be appointed to be a communal leader, and a woman should not be appointed to be a communal leader.** | ספרי דברים קנ״ז:ב׳, ח׳-י׳  **ב** מלך. ולא מלכה.  **ח-י** דבר אחר. שום תשים עליך מלך. מצות עשה.  לא תוכל לתת עליך איש נכרי. מצות לא תעשה.  איש נכרי. **מיכן אמרו: האיש ממנים פרנס על הציבור ואין ממנים האשה פרנסת על הצבור**. |

The verse in Deuteronomy commands the nation of Israel to appoint a king when they enter the Land of Israel. *The m idrash h alakhah* limits the concept of monarchy to men. In a subsequent (less known) clause, the *midrash* adds a statement that only men can serve as communal leaders.

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| Rambam Laws of Kings 1:5  A woman should not be appointed king as it is written in the Torah, “appoint a king” and not a queen. This principle also applies to all other positions of authority within Israel. Only men should be appointed to fill them. | **רמב"ם הלכות מלכים פרק א הלכה ה**  אין מעמידין אשה במלכות שנאמר: עליך מלך, ולא מלכה. וכן כל משימות שבישראל אין ממנים בהם אלא איש. |

Maimonides famously incorporated this restriction from the *midrash halakhah* into the Mishneh Torah (cited above), where he extended the limitation on communal leadership to all positions of authority. This became known in the halakhic discourse as *serarah,*or power of authority – a catchword for the prohibition of women to serve in positions of authority.

Not all medieval authorities agreed with Maimonides. Major medieval authorities such as Nahmanides, Rashba, and Ritva understood that the usage of “judge” indicated that Deborah could serve as a precedent for women in positions of political authority if they achieved communal acceptance. The Ritva’s position is particularly interesting because while he agreed with Maimonides that the prohibition of *serarah* barred women from all communal positions, he contended that if there was communal acceptance, there was no *serarah[[53]](#footnote-60)*. According to this approach, Debo rah *de facto* served as [rabbinic] judge and political leader since the people chose to accept her authority and unanimously submitted to her. A community can therefore appoint a woman as their political, communal or religious leader without violating the tenet of *serarah*.

**The Contemporary Picture**

The question of women and positions of authority was almost completely theoretical until the 20th century. Over 100 years ago, on the eve of the first election in Mandatory Palestine, the issue of women’s suffrage and participation in public life was a contentious one in Israel. It came before Rabbi Abraham Isaac Kook, Chief Ashkenazi Rabbi and Rabbi Ben Zion Meir Uziel, Chief Sephardi Rabbi, for resolution[[54]](#footnote-61).

Rabbi Kook prohibited both possibilities, stating that women must be prevented from occupying any positions of office, as well as those involving judgment and testimony. He further wrote that the idea of women engaging in public life perverts the ideals that Torah represents for a just and moral society that guards and protects the holy and pure nature of the wife and mother in the home. Another concern related to the possible promiscuity and immodesty that could ensue should women leave the home to enter the voting booth, let alone were they to go to work alongside men in mixed venues. Rabbi Uziel completely disagreed. He held that women in his day could engage in public life and hold positions in public office, viewing men and women as equally capable and finding no compelling halakhic reason to prevent it.

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| This ruling of the Rambam only refers to an appointment by the Sanhedrin. But when the appointment is by the consent of the community, where through a majority vote the public voices its opinion, the agreement and trust of the public in its appointees, who will be supervising their communal affairs – in such a case even he would agree that there is no hint of a prohibition [i.e., for a woman to serve].  …It is common sense that in any serious meeting and meaningful conversation there is no question of lack of modesty….And sitting in the proximity [of women] when involved in communal affairs, which is work of holiness, does not lead to lightheartedness. For all Israel are holy people, and her women are holy and are not to be suspect of breach of modesty and morality.[[55]](#footnote-62) |

In addition to invoking the approach that communal appointment is not the *serarah* prohibited by Maimonides, he concludes that the concern for sexual immodesty is unfounded. Women and men can respectfully interact in professional environments without concern for immorality.

While women were given the vote and the ability to run for office by the state, controversy erupted around the question of women serving on religious councils in Israel and as synagogue presidents in the United States. In Israel, in 1987, Leah Shakdiel made headlines when she turned to the High Court after the Attorney General barred her from serving on a religious council because of religious restrictions of *serarah*. The court overturned the the Attorney General’s ruling, and in 2016 the Attorney General’s office ruled that all religious councils must be comprised of 30% women. In practice, it is difficult to find enough women to serve on such councils. One might conclude that this difficulty stems from the fact that these positions were previously closed to them for religious reasons, even though legal and halakhic allowances are now being made. On the other hand, it is also possible that women are simply disinterested in serving on religious councils for other reasons, having more to do with time constraints and general apathy about religious affairs.

In contrast, in America, the National Council of Young Israel, which mostly caters to a modern Orthodox population, does not allow women to serve as president of their synagogues due to *serarah*. *Serarah* was also invoked in a famous two-part *responsum* written by Rabbi Moshe Feinstein who was asked whether a widow could be appointed as *kashrut* supervisor in place of her dead husband, in order to support herself and her son. After explaining why a woman could serve in this capacity due to the many Rishonim who disagreed with Maimonides on *serarah*, he concludes that he feels it advisable to uphold Maimonides’ ruling. Instead, he suggested a compromise: a rabbi would formally hold the title of *kashrut* supervisor while the widow would be hired to do the supervising.[[56]](#footnote-63) Even today, *serarah* remains one of the focal points of all questions regarding women and communal authority, despite near halakhic consensus that communal acceptance obviates the halakhic issues.

**Leadership and Professional Training Programs on the P** **ath to O** **rdination**

As noted above, by the early 1990s Talmud study programs began to act to advance their graduates beyond the walls of the Beit Midrash. In Israel, Midreshet Lindenbaum opened a program to train women to serve as rabbinic advocates in the rabbinic divorce courts. For the first time, women were intensively studying the halakhic laws of divorce in depth, and taking rigorous exams to qualify for jobs that had previously been available only to learned men. Eventually, some of their graduates began to work in the rabbinic courts, arguing difficult and complex cases before the judges[[57]](#footnote-64).

In 1997, Nishmat opened its halakhic advisors or *yoetzet halakhah* program to train women in the intricate and sensitive laws of *niddah*, to enable them to serve as “first responders” to *n* *iddah* and sexuality questions. In addition to the intense halakhic training (which rivals parallel all-male training programs), Nishmat includes hundreds of hours of supplementary information in gynecology, sexuality, fertility and intimacy. The Nishmat hotline has answered over 250,000 questions to date, in addition to the hundreds and thousands of questions fielded by women not working on the hotline who are graduates of Nishmat and similar training programs. This “breaking of silence” suggests an enormous need that was simply waiting to be met. I field multiple calls and questions weekly from women who thank me for my sensitivity and availability, admitting that they would never call a male rabbi with such personal questions. During the recent corona virus outbreak, *yoatzot halakhah* and Nishmat were at the forefront of ensuring *mikvah* safety throughout the crisis, along with the Jerusalem based Eden Center staffed entirely by women and committed to safe and meaningful mikva practice as well as women serving in rabbinic and pastoral leadership positions throughout Israel and the United States.

The *yoetzet halacha* program is not without critics. There are prominent right-wing Orthodox communities in the Diaspora where rabbinic leaders have fought to prevent a *yoetzet* from establishing herself in the community and have actively discouraged women from going to them for answers. In the Fall 2019 issue of the ultra-Orthodox journal *Dialogue*, Rabbi Aharon Feldman, the head of the prestigious Ner Israel yeshiva in Baltimore and a senior member of Agudas Israel, the largest ultra-Orthodox rabbinic council in America, wrote an article titled “*Yoatzot Halakhah* – Are They Good for Jews?” In it, he disparaged the training of women to answer halakhic questions in the laws of *niddah*, and more to the point, critiqued this phenomenon as a terrible distortion of the tradition in which rabbis were the only address for such questions. He wrote that the increased observance by women of these laws does not justify the price being paid to the greater integrity of Torah.

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| As such, the introduction of *yoatzot halakhah* into the synagogue must be resisted. We cannot permit a movement which strives to uproot *Halakhah* – which is the goal of many of those who would introduce female rabbis – to take the slightest hold in our Shuls. Even if it is true that *yoatzot* *halakhah* will contribute to greater observance of *taharas ha-mishpacha* (family purity), winning the battle for increased observance of this Mitzva is not worth losing the war for the integrity of the entire Torah[[58]](#footnote-66). |

Rabbi Feldman was attacking what the *yoatzot* represent— which is a fundamental shift in how halakhic questions are answered and the role women play in leadership and community. To Rabbi Feldman, Orthodox feminism, fueled by learning programs such as the *Yoatzot* program, has paved the way for the Maharat or Orthodox ordination program in New York, which seeks to give women legitimacy as communal leaders with rabbinic authority .

Meanwhile, in the second decade of the 21st century, a number of programs began teaching women the basic curriculum for ordination. As these programs gained traction and began graduating students, the topic of ordaining women in the Orthodox community which had seemed theoretical and even impossible in the 1990s, became increasingly controversial in the first decades of the 21st century. The binary structure differentiating between men and women in traditional Jewish life began teetering; the possibility arose of women taking a seat at the rabbinic table. Programs launched in Israel at Matan, Midreshet Lindenbaum, Beit Morasha, and Harel, and most famously at Yeshivat Maharat in New York, educate women in the laws of Shabbat, *k ashrut*, m arriage, c onversion, m ourning and *n iddah,* with rigorous exams given after each unit of study. All bestow titles to their graduates, but most avoid the controversial usage of the title Rabbi. The titles range from those incorporating the Hebrew word for teacher into the title such as *Heter Hora’ah* (literally, permission to instruct) and *Morat Halakhah* (teachers of *halakhah*),which mirrored earlier approaches found in Tosafot, for example, allowing women to teach *halakhah[[59]](#footnote-67)*, to the more controversial *Rabba* (an invented female version of the word *Rav* or Rabbi in Hebrew) and finally, *Maharat*, a Hebrew acronym for the words *Manhiga Hilkhatit Rukhanit Toranit* denoting a female "leader of Jewish law spirituality and Torah." It seems to me that in the United States, the topic was more politicized than in Israel both because of the concern for appearing to resemble non-Orthodox denominations which have been ordaining women for decades[[60]](#footnote-68) and because of the professional status and job market for rabbis, which differs considerably from what exists in Israel.

Finally, Rabbis Feldman and Willig rightly perceived that opening the pages of Talmud to women was the beginning of an increasingly slippery slope, as women push for more access to the most central Jewish texts located at the foundation of observance and ritual. As Rabbi Willig also anticipated, the synagogue has become a flashpoint for reconsideration of gender roles, first with women’s *tefillah* groups[[61]](#footnote-69) followed by women’s *megillah* readings and finally, partnership prayer groups in which women can actively lead some (but not all) of the service, including reading the Torah. This has disturbed the equilibrium of the *mesorah* , a concept that will be defined below.

As with all issues of a gendered nature, concerns for the impact of such a move on the greater religious structure are paramount. The Orthodox and ultra- Orthodox rabbinical institutions responded accordingly to the idea of women being ordained.

The following statement was issued by the Moetzes Gedolei HaTorah of America on February 25, 2010[[62]](#footnote-70):

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| These developments represent a radical and dangerous departure from Jewish tradition and the mesoras haTorah and must be condemned in the strongest terms. Any congregation with a woman in a rabbinical position of any sort cannot be considered Orthodox. |

The Rabbinical Council of America (RCA), which, as a body, has supported women’s Torah study, was more nuanced in its rejection[[63]](#footnote-71):

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| 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. Due to our aforesaid commitment to sacred continuity, however, we cannot accept either the ordination of women or the recognition of women as members of the Orthodox rabbinate, regardless of title. Young Orthodox women are now being reared, educated and inspired by mothers, teachers, and mentors who are themselves beneficiaries of advanced women’s Torah education. As members of the new generation rise to positions of influence and stature, we pray that they will contribute to an ever-broadening and ever-deepening wellspring of *Talmud Torah*, *yir’at Shamayim* and *dikduk be-mitzvot*. |

In 2015, the RCA publicized a resolution on its “policy concerning women rabbis” in which they reasserted that female rabbis are a violation of the *mesorah*  and stated that RCA members may not ordain women, hire women in rabbinic positions or allow a title implying ordination to be used by a teacher of Torah studies in an Orthodox institution.[[64]](#footnote-72) In 2020 in Israel, a group of observant and learned women who had already passed private ordination exams petitioned the High Court demanding to take official rabbinate ordination exams that would recognize their level of knowledge on par with that of men, and grant them equal pay and professional status. After the High Court ruled in their favor, the response on the part of the rabbinate was similar to that put out by the RCA:

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| In accordance with the halakhic position of the council of the chief rabbinate, that reflects the traditional-halakhic position that has existed for many generations in the Orthodox world, it is impossible to ordain women into rabbinic positions. |

The common denominator of all these statements is the preservation of heritage and tradition, known as *mesorah* in halakhic literature. While questions of ordaining outstanding minors arose from the 14th century onward, there was absolute silence concerning the ordination of women (who are often grouped with minors in rabbinic literature). This is hardly surprising given that women were not systematically educated, certainly not in the nuances and intricacies of Jewish law. There was no possible opportunity for a *mesorah* of women rabbis to be established. Educating women on an institutional level was itself born out of a breach in the *mesorah* that eventually led to widespread institutionalized education of young women across the spectrum, as detailed earlier in this chapter.

**One L** **ast N** **ote about S** ***emikhah*/O** **rdination:**

Another argument that has been presented against offering ordination to women is their inability to be conferred with classic *semikhah.* This term refers to a specific type of ordination that existed in ancient times and has not been bestowed for over 1000 years, but remains a benchmark for those who can be ordained even on the lesser level that is conferred today. In other words, since women were never conferred with original *semikhah*, they have no ability to seek out any form of ordination. This argument should apply to male converts as well since early rabbinic and halakhic texts exclude male converts from positions of religious authority including judging, witnessing and communal authority in a manner similar to the exclusion of woman described above. Still, learned male converts are nonetheless permitted to serve as synagogue rabbis (a decision dating back hundreds of years), and there seems to be no concern that they will somehow forget the halakhically imposed restrictions on their leadership.[[65]](#footnote-73)

Rabbi Eliyahu Bakshi-Doron, former Chief Sephardic Rabbi of Israel, is the only authority that I am familiar with who equates the ability of converts to hold positions of leadership – including Torah leadership – with that of women.

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| ...It appears that a woman (and a convert) can serve in leadership positions…A woman (and convert) can serve as decision-makers and teach Torah and halakhic rulings…They can judge without coercion. There is some question whether they can be appointed to positions of authority through a democratic vote, whose halakhic status is comparable to their being accepted by the congregation. In the opinion of many authorities, this is permitted. Therefore, in the case of a woman, one should rule leniently in this direction, since the actual prohibition is the subject of controversy among the Rishonim. In all such positions, one must make a clear distinction between the power of authority and the power of leadership. |

Not surprisingly, he nonetheless affirmed that he would not support ordaining women, seeing it as a Reform innovation.[[66]](#footnote-74) As with Feldman and his opposition to the *yoatzot*, we see the push-pull motion that has defined the movement of women advancing in Torah study from the outset. Women can teach and answer halakhic questions. They can even judge without coercion, according to Rabbi Bakshi-Doron. However, they cannot become rabbis.

**Women’s Voices**

Until now, women have been conspicuously absent from halakhic discourse. That is beginning to change. In *Expanding the Palace of Torah: Orthodoxy and Feminism*, Tamar Ross writes, “It is likely that women entering into the halakhic discussion will contribute their unique perspective, impacting on any given topic. Taking into consideration different concerns can bring about different conclusions regarding the law.” A decade later, Rabbanit Dr. Michal Tikochinsky wrote an article in which she noted that Ross’ words have been found to be accurate,[[67]](#footnote-75) citing several examples that illustrate the need for female voices. One was the role of women in a given congregation. This includes sensitivity to the height and transparency of the *mehitzah* (although sometimes, it is actually women who prefer a more opaque divider) and ways of making women feel included in the congregation, which is actively made up of men. Another was the immersion of women for conversion in the presence of a beit din, a third was the voice of women in answering questions around menstruation and mikva as well as expanding the role of women at Jewish marriage ceremonies in the manner of reading ketubah or acting as a master of ceremonies.

Another issue that has come to the fore in the last few decades has been the recitation of *kaddish* by women during services. Although Rabbi Moshe Feinstin wrote that “throughout the generations it was customary that from time to time, a female mourner would enter the synagogue to say kaddish[[68]](#footnote-76)”, women were more often told that they could not say kaddish in the synagogue, or that they could do so only with men accompanying them, which caused pain and humiliation for a growing number of women. Those who had no brothers were told to hire strangers in their stead to fulfill their duty towards the memory of a parent or spouse or child. The push to allow women to say *kaddish* in synagogue has been driven by knowledgeable women who make use of halakhic sources to argue for its legitimacy[[69]](#footnote-77). While recitation of *kaddish* by women has become more acceptable, there are still many communities in which it is seen as suspicious and controversial. Only recently, I found myself in two prayer quorums in which I was discouraged from saying *kaddish* out loud. While allowing women to lecture on Torah after services has also become more accepted, many communities will still not allow a woman to speak in the main sanctuary or in the middle of services. It appears that there is a clear desire to keep women in their defined roles and not blur any gender boundaries that would allow for religious female leadership roles.

One of the most welcome changes in the last decade has been the increased publication of halakhic articles and *responsa* by learned women. This is an important advancement in disseminating the years of scholarship, research and interpretation that have been going on in the women’s yeshivot.

Let me describe one more situation, with which I have been personally involved, that reflects the advancement in scholarship and the ownership over halakhic sources by religious women. Over the last 900 years, tradition required a *mikvah* attendant to oversee a woman’s immersion in the ritual bath. This requirement does not appear in the Talmud and Geonim and is first cited in literature from the 12th century. Until then, it seems likely that women went together to immerse, if only for reasons of safety, because of the requirement to immerse after dark and the frequent location of *mikvaot* on the outskirts of town.

The Shulhan Arukh cites two halakhic positions which he presents as being equally halakhically valid in Beit Yosef, his commentary to the Tur.[[70]](#footnote-78)

In the first, he cites the position of Rabbeinu Asher, known as the Rosh, who writes that a woman over 12 years old should stand over the immersing woman to make sure that none of her hair protrudes from the water, which would invalidate the immersion. The second position brought in the Shulhan Arukh and cited in the name of the medieval authority Raavad is that when a woman immerses alone, she should gather her hair into a loose hair net to avoid this problem.

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| Shulhan Arukh Yoreh Deah 198: 40  A Jewish woman older than 12 years and one day must stand over her when she immerses to ensure that not one hair of her head floats above the water. If there is no one to stand above her, or it is nighttime, she should tie her hair in with threads made of hair that are not a barrier [from contact with water] or with woolen threads or a hairband on her head, as long as it is loosened or with a hairnet or she should tie a loose garment on top of her hair. | **שולחן ערוך יורה דעה הלכות נדה סימן קצח סעיף מ**  צריך להעמיד על גבה יהודית גדולה יותר מי"ב שנה ויום אחד בשעה שהיא טובלת שתראה שלא ישאר משער ראשה צף על פני המים. ואם אין לה מי שתעמוד על גבה, או שהוא בלילה, תכרוך שערה על ראשה בחוטי שער שאינם חוצצים או בחוטי צמר או ברצועה שבראשה, ובלבד שתרפם או בשרשרות של חוטים חלולות או קושרת בגד רפוי על שערותיה: |

By the 20th century, it was unthinkable that women would immerse alone. However, in the wake of feminism and the rise in sexual harassment, women have been encouraged to express feelings of discomfort or coercion with regard to their sense of agency over their own bodies. Some began to ask why they couldn’t immerse unattended since it was their personal *mitzvah*. After learning halakhic sources, women discovered that the *mikvah* attendant was not a halakhic mandate appointed to ensure their preparedness for immersion. In addition, with *mikvaot* that are indoors and well lit, it is easy to discern whether the entire body along with every hair on the head has gone under the water. Stories of aggressive intervention by *mikvah* attendants who insisted on checking women head to toe before allowing them to immerse began to circulate, but even those who had no complaints wondered why they were obligated to have someone else observing them in their most vulnerable state.

Several years ago, a woman came to the *mikvah* where I volunteer. She told me she hated the *mikvah* because she hated having another woman present. I offered her the option of going in alone. When she emerged, she said it was the first time after many years of marriage, that she had actually enjoyed the experience of ritual immersion. It was the first of several similar stories I heard over a short period of time. I immediately called two rabbis to relay this information and discuss future steps. The first was the rabbi of my community who responded that if it was important to them, we should allow women to immerse alone as a policy. From that time on, the *mikvah* in my hometown allows women to choose whether to have an attendant present. Some women have shared that it is the first time they feel comfortable with the *mitzvah*. For others, having increased agency over the ritual has increased the meaningfulness of the *mitzvah* for them. Others ask that the attendant come in only once they are in the water to supervise the actual immersion asking them to leave before they emerge from the water. In this model, there is a sense of supervision but without a feeling of uncomfortable exposure.

The second conversation was with one of the rabbinic founders of the *yoatzot halakhah* program. After I shared some of these stories with him, he paused and said something extraordinary: “Nechama, this is why we need women to answer questions in this area of *halakhah*. It would never have occurred to me or to my colleagues that a woman would have a problem with another woman.”

Women’s voices expressing discomfort with a practice that is not a halakhic necessity has allowed the opening of spaces that are compatible with both *halakhah* and the needs of women today.

This issue became a point of contention in *mikvaot* across Israel. Eventually, a group of women petitioned the Israeli High Court, arguing that *mikvah* was their private *mitzvah* and it was no one’s concern to ensure proper compliance or observance. They expanded their argument to push back against the standard practice of asking women if they were married, arguing that even if single or gay women immersed, it in no way invalidated the waters of the *mikvah* and thus, was an infraction of civil liberties in a publicly funded institution. The Ministry of Religious Affairs fought back fiercely, as did many *mikvah* attendants who felt that the feminist movement was unreasonably threatening to erode something foundational about *mikvah* practice. In the end, the Israeli Supreme Court ruled in favor of the petitioners. It was a significant moment historically because it was born out of the feminist movement working in concert with advanced Torah scholarship for women. The success of these arguments is changing the way *mikvah* is practiced within the halakhic structure, giving full agency to the women who are obligated in the *mitzvah*. This initiative has not been welcomed everywhere, however, and in many *mikvaot* outside of Israel, the *mesorah* of the attendant is not only maintained but strictly enforced. Outside of Israel, *mikvaot* are privately funded by the community and as a result, the local rabbinic authority has the final and sometimes the only word.

1. “What a great thing! A Jew travels by boat and takes gemara *Berachot* under his arm. He travels for 15 days from [Eretz Yisrael](https://en.wikipedia.org/wiki/Land_of_Israel" \o "Land of Israel) to America, and each day he learns the *daf*. When he arrives in America, he enters a *[beis medrash](https://en.wikipedia.org/wiki/Beth_midrash" \o "Beth midrash)* in New York and finds Jews learning the very same *daf* that he studied on that day, and he gladly joins them. Another Jew leaves the States and travels to Brazil or Japan, and he first goes to the *beis medrash*, where he finds everyone learning the same *daf* that he himself learned that day. Could there be greater unity of hearts than this?” Said by Rabbi Meir Shapiro at the first general assembly of Agudat Israel in 1923. [↑](#footnote-ref-1)
2. Yevamot 62b [↑](#footnote-ref-2)
3. BDB, p. 120, Genesis 21:7, Exodus 21:5. [↑](#footnote-ref-3)
4. Deuteronomy 25: 5-10. [↑](#footnote-ref-4)
5. Midrash Tannaim 25:5.

   "ובן אין לו." אין לי אלא בן בן הבן ובת ובת הבת טומטום ואנדרגינס מנ'? ת"ל "אין לו" מכל מקום. אם כן למה נאמר בן? פרט לשיש לו מן השפחה ומן הנכרית שאינו קרוי בנו. [↑](#footnote-ref-5)
6. While the biblical text does not explicitly qualify when a jealous husband is entitled to subject his wife to the Sotah ordeal, the oral law as expressed in the Mishna limits the Sotah ordeal to a situation where the husband has explicitly warned his wife before witnesses not to seclude herself with a particular man and she nevertheless is found to have done so in front of witnesses.

   . By the time the woman is brought to the High Priest for the ritual which will prove her guilt or innocence, she has definitively secluded herself with a man. The Mishna, in far greater detail than the Biblical text, describes a graphically violent ritual , including the ripping of her clothing to expose her breasts and the uncovering and disheveling of her hair. See Ishay Rosen-Zvi, *The Mishnaic Sotah Ritual*. [↑](#footnote-ref-6)
7. Mishnah Sotah 9:9. The move to abolish the Sotah ordeal is attributed to Rabbi Yochanan Ben Zakai who lived at the end of the Second Temple. [↑](#footnote-ref-7)
8. Sotah 21a. Rav Yosef states that performing *mitzvot* only provides protection in the moment that the *mitzvah* is performed. It has no long-term, lasting effect that would protect from punishment or from sin. Learning Torah on the other hand does have such an effect and “protects people from punishment and saves them [from sinning].” The later *Amora*, Rava, suggests that *mitzvot* can actually protect a person from punishment long-term. [↑](#footnote-ref-8)
9. Sotah 21a. [↑](#footnote-ref-10)
10. Sotah 21b. [↑](#footnote-ref-11)
11. Sotah 21a-b. [↑](#footnote-ref-12)
12. Thanks to my friend and editor Josh Amaru for that suggestion. [↑](#footnote-ref-13)
13. Sotah 3:18 [↑](#footnote-ref-14)
14. In the Jerusalem Talmud Sotah 3:18, the Talmud asks Rabbi Elazar ben Azaryah to explain the commandment of *hakhel*, the septennial reading of the Torah to the entire people by the king described in Deut. 31:10-13. In that verse it is explicitly stated that men, women and children are obligated to hear the Torah being read. Rabbi Eliezer explains that men come to learn, women to hear, and children to give reward to those who bring them. The Yerushalmi suggests that Ben Azzai would explain women’s *mitzvah* not as listening but as learning, given his approach in the Mishnah. This is significant because in contrast to the Bavli, the Yerushalmi retains Ben Azzai’s opinion as a legitimate option. [↑](#footnote-ref-15)
15. For a *kohen*, there is an additional requirement, to wait until after sunset before consuming sacrifices and tithes, all of which must be eaten in a state of ritual purity. See the opening pages of Bavli Berakhot. [↑](#footnote-ref-16)
16. Yerushalmi Berakhot 3:4 [↑](#footnote-ref-17)
17. Tzitz Eliezer 9:3 [↑](#footnote-ref-18)
18. Saul Lieberman in his commentary to the Tosefta writes “the Munich manuscript (of the Bavli) is suspicious in my eyes for it seems that they deliberately removed the women and replaced them with men, meaning that only men are allowed to participate in these rituals and Torah study. See Tosefta Kifshuta, Zeraim Part 1, p. 20, footnote 10. I could not find one B. Talmud manuscript or early print edition that did not have this emendation to the text. The emendation is significant, however, as it will have tremendous impact on the future halakhic process regarding the question of women learning and reading Torah. [↑](#footnote-ref-19)
19. There are many excellent academic articles questioning the historical accuracy of Beruriah as Rabbi Meir’s wife. See Goodblatt, David, The Beruriah Traditions, *Journal of Jewish Studies* 26: 68-86, 1975, Adler, Rachel, The Virgin in the Brothel and Other Anomalies: Character and Context in the Legend of Beruriah. *Tikkun* 3, 1988 and Boyarin, Daniel, *Carnal Israel*, University of California Press, pp.181-196, 1993. [↑](#footnote-ref-20)
20. See Rashi on Avodah Zarah 18b *ikka d’amri*. In recent years, academic scholarship has tried to verify the source of the difficult and sordid story brought in Rashi. At the very least, there is a parallel ending found in Rabbeinu Nissim of Kiron from the 10th century in his book *Yafeh Min Hayehsua* where he brings the story about the rescue of the sister of Beruriah and the danger that was caused to Rabbi Meir as a result of this act. He ends by stating simply that Rabbi Meir went and took his wife and all that he had and moved to Iraq (Bavel). For an excellent academic analysis with important conclusions essentially arguing that the text found in Rashi was not brought by Rashi, see Etam Henkin’s article in Beit Morasha, <https://bmj.org.il/wp-content/uploads/2019/12/21.8.Henken.pdf>. [↑](#footnote-ref-21)
21. Thanks to Josh Amaru for this observation. [↑](#footnote-ref-23)
22. Grossman, Avraham, *Pious and Rebellious: Jewish Women in Medieval Europe*, p. 161. [↑](#footnote-ref-27)
23. See Grossman, pp. 162-63; Golinkin, David, *The Status of Women in Jewish Law: Responsa, Schechter Institute of Jewish Studies, 2012, p. 365.* [↑](#footnote-ref-28)
24. R. Shimshon Raphael Hirsch: *Horeb*, Part II, The Soncino Press, London, 1962, p. 371*.* See also Hirsch’s commentary to Deuteronomy 11:19. [↑](#footnote-ref-29)
25. Ibid, pp. 411-412. [↑](#footnote-ref-30)
26. R. Shimshon Raphael Hirsch: *Siddur Tefillot Yisrael*, Mossad HaRav Kook, Jerusalem, p. 70. ולמדתם The term לימוד is more comprehensive than שינון. We believe that it is for this reason that the Halakhah bases its statement בניכם ולא בנותיכם limiting the commandment to teach the Torah to the instruction of our sons exclusive of our daughters on the sentence ולמדתם אותם את בניכם and not וששנתם לבניך. **The fact is while women are not to be exposed to specialized Torah study or theoretical knowledge of the Law, which are reserved for the Jewish man,** such understanding of our sacred literature as can teach the fear of the Lord and the conscientious fulfillment of our duty, and all such knowledge which is essential to the adequate execution of our tasks should indeed form part of the mental and spiritual training not only of our sons but of our daughters as well. [↑](#footnote-ref-31)
27. Ellenson, David, "German Orthodox Rabbinical Writings on the Jewish Textual Education of Women: The Views of Rabbi Samson Raphael Hirsch and Rabbi Esriel Hildesheimer" in *Gender and Jewish History*, eds. Kaplan, M. A. and Moore, D., p. 167. [↑](#footnote-ref-32)
28. Seidman, Naomi, *Sarah Schenirer and the Bais Yaakov Movement*, Littman, 2019, pp. 19-20. [↑](#footnote-ref-34)
29. Ibid, p. 22. [↑](#footnote-ref-35)
30. Ibid. [↑](#footnote-ref-36)
31. Manekin, Rachel, *The Rebellion of the Daughters: Jewish Women Runaways in Habsburg Galicia,* pp. 186-192. [↑](#footnote-ref-37)
32. Translation taken from Ellinson, Getsel, Women and the Mitzvot, Vol. I. *Serving the Creator*, World Zionist Organization, 1986, p. 263. [↑](#footnote-ref-38)
33. Weissman, Deborah, “Bais Ya’acov: A Historical Model for Jewish Feminists,” in *The* *Jewish Woman: New Perspectives,* ed. Koltun, E., p. 141. [↑](#footnote-ref-39)
34. Ibid. [↑](#footnote-ref-40)
35. Bava Batra 21a. The Talmud relates that schools were first opened for older boys of 16 and 17 years of age before it became clear that such boys were intractable. The revamped education system began with boys of six and seven. [↑](#footnote-ref-41)
36. The famous 1933 letter of the Chofetz Chaim in which he gave his stamp of approval to Bais Yaakov was actually solicited by Agudah (not by Sarah Schenirer) to counter opposition in Frysztak to the opening of a Bais Yaakov. In it, he urges all men who fear God to send their daughters to study in this school, while categorically rejecting the concern for the prohibition to teach daughters Torah. He concludes by calling it a *mitzvah* to educate young women in Bais Yaakov. [↑](#footnote-ref-42)
37. My own grandmother was a student in one of the first Bais Yaakov classes in Williamsburg, New York. One of thirteen children, born to a very religious family, she went to public school according to American compulsory education laws, but attended afternoons classes at Bais Yaakov in an after-school program. It had an enormous impact on her, and for my entire life I heard her talk about the influence of Rebbetzin Vichna Kaplan who inspired her students to constantly think about their relationship to God and have their love for Him reflected in everything they did. [↑](#footnote-ref-43)
38. Manekin, pp. 234-235. [↑](#footnote-ref-44)
39. Ibid. [↑](#footnote-ref-45)
40. Ibid. [↑](#footnote-ref-46)
41. As a result, Rabbi Soloveitchik’s students were able to argue for and against the practice. See Farber, Seth, *An Orthodox American Dreamer*, Chapter 4, Brandeis University Press, 2003, pp. 68-87. [↑](#footnote-ref-47)
42. Translation taken from Ellinson, Getsel, Women and the Mitzvot, Vol. I. *Serving the Creator*, World Zionist Organization, 1986, p. 266-268. [↑](#footnote-ref-48)
43. Berman, Saul, [Forty](https://thelehrhaus.com/commentary/forty-years-later-the-rav%25E2%2580%2599s-opening-shiur-at-the-stern-college-for-women-beit-midrash/) Years Later: The Rav’s Opening Shiur at the Stern Beit Midash For Women, Lehrhaus, October 9, 2017. [↑](#footnote-ref-50)
44. http://www.torahweb.org/torah/2015/parsha/rwil\_ekev.html [↑](#footnote-ref-51)
45. Rabbinic sources recognized that under certain circumstances we cannot assume that men are objective witnesses, and various professions, such as gambling, money lending with interest and even shepherding disqualify men . See Mishna Rosh Hashana 1: 5 and B. Talmud Sanhedrin 25b. Family members are automatically disqualified from testifying about one another. Blind, deaf mute, mentally ill and minor males are all disqualified, not only as witnesses but also as litigants. [↑](#footnote-ref-52)
46. In his *book Rabba, Maharat, Rabbanit, Rebbetzin: Women with Leadership Authority According to Halachah, p. 27,*, Daniel Sperber concludes that in all of these areas it would follow that if a woman can testify, she can also serve as a judge. While his position is singular it is the logical extension of the process that unfolded regarding women and serving as a witness in court. If women can, in fact, offer testimony even in limited cases, they should logically be able to issue judicial rulings in those cases. [↑](#footnote-ref-53)
47. In his *Jewish Women in Jewish Law*, a strident defense of a traditional approach to women’s roles in Orthodoxy, Moshe Meiselman admits that the disqualification of women as witnesses might be completely arbitrary with no rational explanation. “There are many possible reasons for the technical disqualification of women and no one really knows for sure. The only clear facts are that the ability to testify is neither a right nor a privilege but an obligation from which women have been excused. This disqualification of women is a technical rule rather than an expression of lack of credibility. Thus, women’s statements are acceptable whenever credibility is required rather than witnessed testimony. Women’s statements are not considered witnessed testimony. Nonetheless, a woman’s oath is acceptable in court as is the oath of any credible person” (p. 79). [↑](#footnote-ref-54)
48. Tosafot Nidda 50a. [↑](#footnote-ref-55)
49. Sefer HaHinukh, *Mitzvah* 152. [↑](#footnote-ref-56)
50. Nahmanides Shavuot 30a. [↑](#footnote-ref-57)
51. Rashba and Ran, Shavuot 30a. [↑](#footnote-ref-58)
52. See also Shulchan Aruch, Chosen Mis [↑](#footnote-ref-59)
53. Ritva Shavuot 30a. [↑](#footnote-ref-60)
54. For the primary source material cited here, see Kook, Abraham Isaac, “*On the Election of Women*”, September 1919 and “*On Women’s Voting*” April 1920 - Jerusalem, translation Zvi Zohar and Uziel Ben Zion, *Mishpetei Uziel* 44, translation Zvi Zohar, published in *The Edah Journal* in The Halakhic Debate of Women in Public Life, 2001. [↑](#footnote-ref-61)
55. Uziel, Ben Zion, Mishpetei Uziel 44, translation Zvi Zohar. See citation 57. [↑](#footnote-ref-62)
56. Igrot Moshe, Yoreh Deah, Part 2, 44-45. The debate over women working as *kashrut* supervisors became politicized in Israel when the women’s organization Emunah petitioned the supreme court in 2013 to allow them to apply for jobs that were exclusively held by men, as long as they passed the requisite exams. Most recently, the rabbinic organization Tzohar teamed up with Emunah to provide courses for female *kashrut* supervisors. In practice however, there are few women in the field. [↑](#footnote-ref-63)
57. Two well-known graduates are Dr. Rachel Levmore and Rivka Lubitch. As a consequence of her work with *agunot* – “chained” women or women unable to get Jewish divorces – Levmore composed two halakhic prenuptial agreements intended to prevent or circumvent drawn out and embittered divorce situations. Lubitch, who has worked tirelessly to expose the complex reality of children labeled as *mamzerim* in Israel, has experienced much backlash and personal attacks for her work. She has also written a painful and devastating account of her 20 years working as a rabbinic advocate. It must be noted that the last thirty years have seen some critical advances (not enough, but still, some progress) made in the rabbinic courts in trying to find broader solutions for women trapped and unable to obtain divorces. These changes have come as the result of collaborations between learned women and men, who, together with female lawyers, professional feminist advocates and the assistance of public pressure, have presented these matters as central, critical issues in our time. [↑](#footnote-ref-64)
58. Feldman, Aharon, *Yoatzot Halakah – Are They Good for Jews*? Dialogue Fall 2019., [↑](#footnote-ref-66)
59. Tosafot Nidda 50a. See earlier discussion around the prophetess Deborah teaching halakha. [↑](#footnote-ref-67)
60. Ordaining women in the other denominations was also cataclysmic and caused tremendous internal fighting and strife until the inevitable happened. Some of the rhetoric protesting ordination of women in those denominations strongly resembled the arguments used in Orthodoxy. It is difficult to ignore, however, that sharing the profession with women means sharing professional opportunities and the power base that the rabbinic community confers upon its members. One of the results has been that in non-Orthodox settings more women are in rabbinical school than men. This is also seen in egalitarian prayer spaces where I have observed that there are more women than men. As I often note in my lectures, I do not want to lose the men to gain the women. It will require a concerted educational effort on the part of both genders to create shared and respectful environments in which men and women seek out equal opportunities without feeling threatened by the shared space. [↑](#footnote-ref-68)
61. Women’s *tefillah* groups began in the late 1980s in an attempt to create meaningful prayer spaces for women without challenging the gender imbalance within the traditional synagogue. Rabbi Avi Weiss wrote a halakhic analysis in his book Women at Prayer, Ktav, the idea was to allow women to pray together and read from the Torah with *aliyot* without including the category of prayer defined as *devarim she’bikedusha*, prayers requiring a *minyan* of men specifically *kaddish* and *kedushah*. These were considered flashpoint of controversy with many rabbis publicly denouncing and coming out aggressively against them. In the end, they largely have faded away in favor of partnership *minyanim* which involve men and women, a *mehitzah* and women only participating in the parts of the service that do not require a *minyan*. In this case, the presence of men allows the participants to include all prayers in the service. [↑](#footnote-ref-69)
62. Can be found in torahmusings.com/2010/02/moetzes-condemns-ordination-of-women/. [↑](#footnote-ref-70)
63. Resolution on Women’s Communal Roles in Orthodox Jewish Life Adopted Without Dissent by the 51st Convention of the Rabinical Council of Americal, April 27, 2010. See www.rabbis.org/news/article.cfm?id=105551. [↑](#footnote-ref-71)
64. The emphasis on the word “Orthodox” in each of these responses seems to be a direct reference to the fact that ordination of women has been a flagship issue differentiating Orthodoxy from Conservative and Reform Judaism in the 20th century. This denotes a political concern and reticence from conceding on an issue that has served as a defining disagreement between the denominations. [↑](#footnote-ref-72)
65. Broyde, Michael J.and Brody, Shlomo, Orthodox Women Rabbis? Tentative Thoughts That Distinguish Between the Timely and Timeless, Hakirah, Volu 11, To highlight the distinction between women and male converts, they describe a conversation with a senior administrator at a universally respected yeshiva that issues *semikah* and was planning to issue it to a convert as a sign of his accomplishments in learning, even though he understood that he would be unable to serve on a rabbinic court. He was given permission to act as synagogue rabbi because this was not deemed *serarah* but *avdut* i.e., servitude, because of the nature and pressures of communal service and the reality in which rabbis are subservient to the synagogue board. [↑](#footnote-ref-73)
66. In a letter written by Rabbi Bakshi Doron to the RCA on June 26, 2015, he strongly rejected the notion of women rabbis although he admitted that women can function as poskot but not on an official communal level. See Marc B. Shapiro’s article in the *Seforim* blog from February 9, 2016, p. 6 for more details. [↑](#footnote-ref-74)
67. Tikochinsky’s article, “Women in Positions of Halachic Leadership,” appears as the Afterword in Daniel Sperber’s*RABBA, MAHARAT, RABBANIT, REBBETZIN: Women with Leadership Authority According to Halachah,* Urim, 2020. [↑](#footnote-ref-75)
68. *Responsa Iggerot* *Moshe* OH 5:12 [↑](#footnote-ref-76)
69. For an excellent source analysis, see Berkovits, Rahel, *A Daughter’s Recitaiton of Mourner’s Kaddish*, JOFA, 2011. See also Smart, Michal and Ashkenas, Barbara, *Kaddish Women’s Voices*, Urim 2013. My own essay on saying kaddish for my mother can be found on p. 124. [↑](#footnote-ref-77)
70. Beit Yosef 198:40. [↑](#footnote-ref-78)