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# Bringing Feminism, *Halakhah*, and Social Status Together: Women's Ordination in American Judaism

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# Bringing Feminism, *Halakhah*, and Social Status Together: Women's Ordination in American Judaism

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Undergraduate Thesis  
Colby College  
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**Table of Contents**

Introduction.....	3
1. <i>Halakhic</i> and Social Objections to Women as Rabbis in Talmudic Literature.....	7
2. The Reform Movement.....	15
3. The Conservative Movement.....	23
4. Women’s Religious Leadership in Orthodoxy.....	45
Conclusion.....	72
Glossary.....	74
Works Cited.....	75
Synopsis.....	80

## Introduction

The ordination of women as rabbis is seen as one of the most important steps in bringing American Judaism in line with contemporary American values. However, the road to women's ordination was a long and contentious one that is still being debated in Orthodox circles. The most problematic challenges to changing the role of women in Orthodox Judaism are certain exemptions and prohibitions outlined in the *halakhah* (Jewish law) that pertain to women. The *halakhah* exempts women from positive, time-bound commandments and for the purpose of ordination, the most important are those relating to public worship. However, many sources agree that the *halakhah* is meant to be a flexible law code that changes as the circumstances of the Jewish community change. Further, the preconceived notion of women's social status in Orthodoxy also serves as an obstacle to ordaining Orthodox women as rabbis. However, as modernity and feminism have allowed women to take on greater roles in secular society, Jewish women have advocated for greater roles within Judaism, including their inclusion into the rabbinate.

At present, both the Reform and Conservative movements ordain women as rabbis. While both the Reform and Conservative movements were at first reluctant to ordain female rabbis, it was the nascent American and Jewish feminism that led elites to reexamine traditional ideas. Even though the Orthodox movement has not yet ordained a woman with the title of 'rabbi,' there is a commitment to feminism in the context of *halakhah* among some Orthodox Jews, which has led to important developments and the ordination of the first Modern Orthodox rabba. While the title 'rabba' is not equal to the title of 'rabbi,' it is still an important step forward.

Ordaining women as rabbis always depends on a commitment to feminism, and in the case of the Conservative and Orthodox movements, this is complicated by a simultaneous commitment to *halakhah*. The movements to ordain women as rabbis within Reform, Conservative, and Orthodox Judaism demonstrate that feminism is the driving force behind women's ordination and differing conceptions of *halakhah* and the social status of women determine whether and how feminism can promote change. Therefore, if there is a commitment to feminism, the response will eventually be the ordination of women as rabbis. In the absence of such a commitment, women are not ordained as rabbis, regardless of a movement's conception of *halakhah*. The success of women's ordination movements further depends on willingness by elites to change the collective understanding of the social status of women. Thus, authorities in all movements must be willing to eliminate the distinction between technical eligibility and social acceptability. The increasing willingness of the Modern Orthodox to engage with feminism and to re-conceptualize the authority structure between men and women leads to the conclusion that the Modern Orthodox will eventually ordain women as rabbis.

This paper explores the factors that lead to the ordination of women as rabbis, specifically feminism, *halakhah*, and social status and how those factors are negotiated differently by the different denominations of American Judaism. The first chapter establishes the historical context of the debate, outlining the Rabbinic assumptions regarding women and classical texts that are central to the debate on the ordination of women as rabbis. The second chapter surveys the debate on the ordination of women in the Reform movement and finds that feminism was the driving force behind the ordination of women and that classical *halakhic* texts posed no obstacle because the Reform movement was not committed to *halakhah*. Further, the second chapter finds that the change in the social status of women in American society that

resulted from the feminist movement, played an important role in Reform's decision to ordain women rabbis. The third chapter elaborates on the Conservative movement's debate on the ordination of women as rabbis and discusses the intersection of the Conservative conception of feminism, *halakhah*, and social status. Chapter three finds that the Conservative experience with the change in women's social status in America, which provided Conservative women with the opportunity to fill any role they wished in secular society, led Conservative women to argue for equality under *halakhah*. Additionally, the third chapter discusses the *halakhic* debates that occurred among the Conservative rabbis of the time and finds that their embrace of feminism led the Conservative movement to transform the *halakhah* to match feminism. The fourth chapter focuses on the current debate happening in Orthodoxy and finds that the Orthodox have both a fundamentally different conception of feminism, *halakhah*, and the roles of a rabbi, which leads to a very different development. This last chapter explains why the Modern Orthodox woman rabbi is a major transformation that is still in line with the Orthodox conception of *halakhah* and the social "red lines" that separate the Modern Orthodox from Conservative. This paper concludes that as a result of the growth of feminism and the recent developments within the Modern Orthodox movement that Orthodox women rabbis are inevitable.

A wealth of research has been done on the ordination of women as rabbis in all three movements but there has not been a comparative analysis of Reform, Conservative, and Modern Orthodox and the ways in which feminism, *halakhah*, and social status intersect in different ways within each movement. Women from different denominations construct different conceptions of feminism. Reform feminists are not bound by *halakhah* and therefore, believe that Reform Judaism should be fully egalitarian as a result of contemporary society. Conservative and Orthodox feminists must work through *halakhah* in order to achieve change but arrive at

fundamentally different conceptions of what that change should be. The Conservatives take feminism as a given and argue that the change to women's social status necessitates a change in the *halakhic* status of women as well. The Orthodox on the other hand, understand feminism as separate and equal, and thus, focus on changing the social status of women without changing the *halakhah*. Thus, for the Orthodox, feminism is focused on status and not *halakhah*. As a result of these fundamental differences, the Reform, Conservative, and Orthodox movements create very different kinds of women rabbis.

## **Chapter 1: Halakhic and Social Objections to Women as Rabbis in Talmudic Literature**

Rabbinic Judaism, which recorded its legal and literary traditions from 200 to 600 CE, is the foundation for all contemporary forms of Jewish religious life. The distinctive view of women that the Rabbis develop has had a lasting impact on the Jewish community. These texts communicate the worldview of the Rabbis. Thus, due to the fact that their worldview is ultimately a major factor in shaping Jewish thought and Jewish practice, it is necessary to explore the Rabbinic conceptions of the nature of women and women's place in the Jewish community.

The Rabbis are a community of scholars who emerged after the destruction of the Second Temple in 70 CE. They are interested in ideas for their own sake and are especially interested in laws and legal formulations focusing on what God wants the Jewish people to do. In deciphering what God wants, the Rabbis subscribe to the concept of "Dual Torah," meaning the divinity of both the Written Torah, or Hebrew Bible, and the Oral Torah, which is the Rabbinic literature. Thus, the Rabbis believe that you cannot truly understand Torah unless you understand all of Torah, including the Oral portions that are not found in the Written Torah. Further, it is the Rabbis through Oral Torah who determine authoritatively what the Written Torah means.

Rabbinic literature is not a reliable source of information about historical social realities due to the fact that the Rabbis were not in control while writing their important works. Further, the Rabbis were not interested in describing reality in their writings. Rather, their goal was to write prescriptive and aspirational works. As a result, Rabbinic literature does not reflect political reality but is an excellent source of information about Rabbinic ideas and patterns of thought.

The Rabbis and the Social Status of Women



Rabbinic Judaism is fundamentally androcentric and as a result, the Rabbis develop a conceptualization of women as inherently different from men. Rabbinic views on women are summed up in the Talmudic statement that “women are a separate people” (Babylonian Talmud [b.] Shabbat 62a). Judith Baskin explains, “This conveys the basic Rabbinic conviction that females are human entities created by God with physical characteristics, innate capacities, and social functions inherently dissimilar from those of males.”<sup>1</sup> Thus, the Rabbis view of women as separate and secondary. Further, most Rabbinic sources could not conceive that women could have authority over men.<sup>2</sup> Maimonides states, “A woman is not appointed to the kingship, as it is said: ‘Set a king over you,’ (Deut. 17:15-16) and not a queen; similarly (to) all officies in Israel none but men are appointed” (Hilkhot Melakhim 1:15). This view of women displays a classic pre-feminist view of the world where women are secondary to men in all aspects of society. This view of women pervades Jewish thought and thus highlights how feminism’s ability to revolutionize secular gender relations will do so to Judaism as well.

As a result of the Rabbinic notion that women are inherently different from men, the Rabbis apportioned separate spheres and responsibilities to women, as a class, and to men, as a class. The result was that in the Rabbinic view of the Jewish community, women occupied the private realm of the family and the household, while men occupied the public realm of the synagogue and the study house. The Rabbis accord great respect to women who follow their prescribed roles, as highlighted by the statement, “Let a man be careful to honor his wife, for he owes her alone all the blessings of his house” (Baba Mezia 59a). As a result, the Rabbinic

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<sup>1</sup> Judith R. Baskin, “Introduction: Four Approaches to Women and the Jewish Experience,” in *Women and Judaism: New Insights and Scholarship*, Frederick E. Greenspahn, ed., (New York: New York University Press, 2009), 3-4.

<sup>2</sup> Rabbi Susan Grossman, “*Edut Nashim K’Edut Anashim*: The Testimony of Women is as the Testimony of Men,” *Committee on Jewish Law and Standards of the Rabbinical Assembly* (New York: Jewish Theological Assembly, 2001), 9.

conception of women as belonging to a particular sphere of society leads to a predetermined argument that there must be a sacred space between men and women.

The Rabbinic understanding of women as fundamentally different from men led the Rabbis to create a legal system that preserved this gender gap. The *halakhic* system created by the Rabbis methodically excludes women from performing many functions that are specifically reserved for men. The result of the creation of such a system has been the retention of a conception of women as a separate and inferior class.

### *Halakhic Obstacles to Women's Ordination*

As a result of the Rabbinic view of women as separate and inferior, the Rabbis create a religious system that systematically excludes women. Within the Rabbinic literature, the Rabbis create a system of *halakhah* (Jewish law) that outlines the commandments that all Jews must perform. The *halakhah* is complex and often open-ended, which can leave much room for further interpretation. The open-endedness of *halakhah* has been essential to increasing women's equality within the synagogue as well as to women's ordination. There are three aspects of *halakhah* that pose a challenge to the ordination of women as rabbis. These three aspects include women's exemption from positive, time-bound commandments; women's inability to take on communal responsibility for the *mitzvot* from which they are exempt; and women's inability to serve as witnesses or judges. Understanding the issues that these exemptions and prohibitions present is necessary to study the movement to ordain women as rabbis due to the fact that it is these classical Rabbinic sources being debated.

#### *Positive, Time-Bound Commandments*

Women are exempt from *mitzvot* that are characterized “as both ‘positive’ (meaning they must be actively performed, rather than passively refrained from) and ‘timebound’ (meaning their performance is in some sense linked to the time of day, week, or year).”<sup>3</sup> One possible explanation for women’s exemption from positive, time-bound commandments is because of familial and household responsibilities. However, women who do not have these responsibilities are also exempt from these commandments. Rabbi Moshe Meiselman explains that there is a lack of explanation for this exemption from the Rabbis. Even so, this particular exemption has been regarded as an accepted and basic part of *halakhah*. However, most *halakhic* authorities agree that women can choose to voluntarily perform the *mitzvot* from which they have been exempt to some degree.<sup>4</sup>

Interestingly, the *Magen Avraham*, written by Rabbi Avraham Gombiner (d. 1682) in 1671, outlines a possible legal remedy that would allow women to become obligated for *mitzvot* from which they are exempt. Rabbi Meiselman explains that in order to become obligated, women would have to voluntarily accept obligation for the optional *mitzvot* and the consequences of obligation. The *Magen Avraham* explains that this was used by men for the evening *Amidah*, *ma’ariv*, which was originally optional. Men voluntarily accepted the obligation of reciting *ma’ariv* at the specified time, thus, making *ma’ariv* a self-imposed obligation.<sup>5</sup> As a result, some have argued that women may use this same rationale with regards to the *mitzvot* from which they are exempt.

Rabbinic authorities also debate whether women can recite the associated blessings for *mitzvot* from which they are exempt. The issue arises because each blessing starts, “Blessed are

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<sup>3</sup> Elizabeth Shanks Alexander, “Whence the Phrase ‘Timebound, Positive Commandments?’” *The Jewish Quarterly Review* 97:3 (2007): 317.

<sup>4</sup> Moshe Meiselman, *Jewish Women in Jewish Law* (New York: Ktav Publishing House, 1978), 47.

<sup>5</sup> *Ibid.*, 48.

You, O Lord, our God, King of the universe, who has sanctified us through his *mitzvot* and commanded us to...” Thus, the words “commanded us” are problematic for individuals who are fulfilling an optional *mitzvah* because it is unclear whether the “us” refers all Israel or only those who are obligated to fulfill the specific *mitzvah*. Rabbinic authorities have interpreted this issue in different ways. For example, Rabbenu Tam (d. 1171) argues that “us” refers to all Israel, including women, while Maimonides (d. 1204) argues that it refers only to those who are obligated.<sup>6</sup> The exemption of women from positive, time-bound commandments is one of the most problematic *halakhic* issues for women’s ordination because according to traditional *halakhah*, women’s lack of obligation prevents women from assuming the obligation of the community, a function that is usually associated with a modern rabbi.

### *Communal Responsibility*

Originally, public worship consisted of the leader of the congregation reciting the *Amidah* (the Eighteen Benedictions) on behalf of the community with the community responding “*Amen*.” The act of listening and responding constituted the congregation’s participation in the worship. The recitation of the *Amidah* invoked the principle of *shome’ah k’oneh*, which allows the *shaliach tzibbur* (*shatz*) (representative of the community) to assume the obligation of others.<sup>7</sup> Public worship eventually became mandated by *halakhah* and often requires the presence of a *minyan* (prayer quorum), which has traditionally been defined as ten Jewish males because it has customarily been understood as a community of obligated people. Thus, due to the fact that women do not share the same obligation as men, most traditional authorities reject the validity of

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid., 133.

a *minyan* of women.<sup>8</sup> Thus, the inability to recite prayers on the behalf of others precludes women from serving as a *shatz* and counting in a *minyan*.

### *Witnesses & Judges*

The *halakhah* prohibits women from serving as a witness or a judge. The *halakhah* is unequivocal in its ban on women as witnesses. Further, women cannot serve on a divorce court or act as judges because according to the Mishnah, those who are fit to judge are also fit to testify and, therefore, women are excluded.<sup>9</sup> The practice of *edut*, or witness testimony, is a very complicated *halakhic* concept with a number of technical requirements. Women are disqualified from acting as a witness because of the Rabbinic interpretation of Deuteronomy 19:17, which states “*shenei anashim*,” which can be translated as “two people” or “two men.” However, it has been interpreted as referring to men only. Even so, there is a long-standing precedent of exceptions to the blanket prohibition on women’s testimony. Women’s testimony was accepted on issues in which men had no knowledge and on important issues when a man’s testimony was unavailable.<sup>10</sup> However, on most issues the Rabbis held that women could not be trusted as witnesses because they were not independent legal entities and their testimony would, therefore, be unduly influenced by their fathers or husbands. As a result of a woman’s lack of independent autonomy, women were viewed as untrustworthy and consequently, unreliable witnesses.

Additionally, women were not allowed to give testimony on behalf of men or certify documents that would bind a man to certain legal obligations. These prohibitions demonstrate that women were prevented from having legal authority over men, which shows that the Rabbis

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<sup>8</sup> Mayer Rabinowitz, “An Advocate’s Halakhic Responses on the Ordination of Women,” in *The Ordination of Women as Rabbis: Studies and Responsa*, Simon Greenberg, ed. (New York: The Jewish Theological Seminary of America, 1988), 112.

<sup>9</sup> Rabbi Rachel Isaacs, Interview with Author, April 2, 2012.

<sup>10</sup> R. Grossman, “*Edut Nashim K’Edut Anashim*,” 4.

connected the *halakhic* status of women with their perceived social status. Rabbi Susan Grossman states, “the Rabbis could not conceive of equating the authority of a woman with that of a man nor – perhaps most significantly – could they conceive of giving a woman authority over a man, as symbolized in a woman effectuating documents binding upon, and thereby restricting a man.”<sup>11</sup> Thus, one reason women were prohibited from serving as witnesses and judges is because the Rabbis wanted to maintain the authority structure of men having power over women. The ban on women from serving as witnesses and judges is important for ordination because rabbis often have to officiate weddings and oversee divorces and conversions, which requires them to act as witnesses and sit on a *beit din* (rabbinical court). Thus, the issue of women serving as both judges and witnesses becomes problematic for the question of women’s ordination.

The precedents set by the Rabbis regarding both the nature of women as socially inferior to men and the *halakhic* exemptions and prohibitions for women have had lasting implications among the Jewish community. Judith Baskin states, “The negative ways in which women were constructed as ‘other’ and as morally inferior to men in the foundation texts of rabbinic Judaism had a long-lasting impact on men’s perceptions of women and on women’s images of themselves.”<sup>12</sup> The Rabbinic conceptions of women as secondary and inferior have been codified within the authoritative Jewish texts, and as a result, have deeply affected Jewish community as they study these texts. Due to the fact that the Rabbinic view of women has been propagated for such a long period of time, breaking down that conception has been very difficult. Further, arguing for a change to the classical Rabbinic conception of women, from separate and inferior to equal and capable, has been a long and arduous process. However, for the Reform,

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<sup>11</sup> Ibid., 7.

<sup>12</sup> Baskin, “Introduction,” 4.

Conservative, and Modern Orthodox movements, feminism is the force that begins to breakdown these arguments about the boundaries between men and women. Nevertheless, as one of the major influences on Jewish thought and practice, the repercussions of the androcentric characteristics of Rabbinic Judaism have long affected the conception of Jewish women and as a result, the movement to ordain women as rabbis.

## Chapter 2: The Reform Movement

The Reform movement developed in Germany during the nineteenth century for two reasons. On the one hand, Reform was a response to the emancipation of the Jews and the subsequent rights and opportunities that followed. On the other hand, Reform was an attempt to inhibit conversions to Christianity.<sup>13</sup> Reform Judaism argues for the introduction of innovation in Judaism, in addition to the preservation of tradition, because the denomination believes that Judaism should be able to confront and adapt to modernity.<sup>14</sup>

Within the German Reform movement, there was a focus on domestic Judaism, which centered on family observances in the home. Domestic Judaism allowed women to take on larger roles in the home in terms of the transmission of Jewish knowledge and values to the next generation. The focus on the domestic sphere stemmed from the middle class German development of the “cult of domesticity,” which dictated that a woman’s place was in the home and removed from the public eye.<sup>15</sup>

As Jewish women entered the upper middle class of Western European society, they adhered to this norm but some became involved in the Central European feminist movement of the nineteenth century. As those Jewish women adopted changing attitudes regarding marriage, careers, and motherhood, they became what Harriet Pass Freidenreich calls “Jewish ‘New Women,’” who challenged the cultured gender norms of nineteenth century Europe by arguing for increased women’s roles outside the home.<sup>16</sup> These Jewish “New Women” had radically different ideas of women’s roles than what society prescribed. However, these women were

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<sup>13</sup> Harriet Pass Freidenreich. “How Central European Jewish Women Confronted Modernity,” in *Women and Judaism: New Insights and Scholarship*, Frederick E. Greenspahn, ed., (New York: New York University Press, 2009), 136.

<sup>14</sup> Union For Reform Judaism, “What is Reform Judaism,” <http://urj.org/about/reform/whatisreform/> (accessed April 25, 2013).

<sup>15</sup> Pass Freidenreich. “Central European Jewish Women Confronted Modernity,” 135.

<sup>16</sup> *Ibid.*, 140.



unsuccessful in bringing German Reform women out of the “cult of domesticity,” because of the hostility towards feminism within the mainstream of German Reform. The antagonism towards the Jewish “New Women” shows that the rejection of the authority of *halakhah* alone is not sufficient to lead to equal roles for women in Jewish religious life.

When Jewish immigrants brought Reform Judaism to America, they transplanted the values of the German Reform movement. In the Pittsburgh Platform of 1885, the Reform rabbis formally declared that Reform only accepts as binding the moral laws of the Torah but nothing else. The Pittsburgh Platform states,

We recognize the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine, and today we accept as binding only its moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization.<sup>17</sup>

Due to the fact that the Reform movement does not regard *halakhah* as binding, the main tension in the Reform movement’s debate on women as rabbis was the social element of feminism. From the late nineteenth century through the mid-twentieth century, American society dictated that a woman’s place was in the home and that leadership roles were reserved for men. Similar to the Jewish “New Women” of Germany, the challenge to gender norms was not part of the American mainstream until the development of Second Wave feminism in the 1960s and, therefore, there was no space for Reform to embrace the activity of ordaining women rabbis until then. Accepting women in men’s roles was countercultural to the larger secular society and to Jewish society. Thus, the impact of Second Wave feminism was essential to changing accepted norms regarding the role of women in American society and subsequently, in the Reform Jewish community.

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<sup>17</sup> Paul Mendes-Flohr and Jehuda Reinharz, ed., *The Jew in the Modern World* (New York: Oxford University Press, 2011), 468.

### Moving Away From Traditional Gender Norms

Given the fact that the Reform movement does not accept *halakhah* as binding, Reform was the first movement to make changes regarding the status of women in the synagogue. In the mid nineteenth century, Reform became the first denomination to grant women the ability to participate equally in public worship, beginning with the introduction of mixed seating in 1851 by Isaac Mayer Wise at Congregation Beth El in Albany, NY.<sup>18</sup> Mixed seating was introduced for both pragmatic and symbolic reasons. Most American churches had mixed seating and so, when Jewish communities bought churches and converted them into synagogues, it was more cost effective to retain the family pews than to convert them.<sup>19</sup> Additionally, mixed seating “enabled families to worship together and to have the warmth of togetherness...in the deepest and most sacred moments.”<sup>20</sup> As a result, mixed seating encouraged more women to attend synagogue, which led to the emergence of women as consistent synagogue worshippers.<sup>21</sup> At the same time, Jewish women became more involved in synagogue organizations, taking part in the new phenomenon of Temple Sisterhoods and teaching the younger generations.

This ever-growing group of committed Jewish women, along with the ratification of the Nineteenth Amendment in 1920 giving American women the right to vote, made the issue of female religious leadership incredibly relevant.<sup>22</sup> In 1921, the question of whether a woman could be ordained as a rabbi was brought to the attention of the Hebrew Union College (HUC)

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<sup>18</sup> Pamela S. Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985* (Boston: Beacon Press, 1998), 9.

<sup>19</sup> Jonathan Sarna, “The Debate Over Mixed Seating in the American Synagogue,” in *The American Synagogue: A Sanctuary Transformed*, Jack Wertheimer, ed., (New York: Cambridge University Press, 1987), 367.

<sup>20</sup> Rabbi Isaac Mayer Wise in *Ibid.*, 366.

<sup>21</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 8.

<sup>22</sup> Karla Goldman, “Women in Reform: Between Rhetoric and Reality” in *Women Remaking American Judaism*, Riv-Ellen Prell, ed. (Detroit: Wayne State University Press, 2007), 116.

faculty by Martha Neumark who was seeking a High Holiday pulpit assignment as a student rabbi.<sup>23</sup>

Confronted with the possibility that Neumark might seek entry into the Rabbinical School, the HUC Board of Governors deliberated on the topic of whether women could be ordained as Reform rabbis. The HUC Board of Governors drafted a majority opinion, which stated that there was no reason why a woman should not be allowed to receive a rabbinical degree.<sup>24</sup> The HUC Board of Governors also asked the HUC faculty to rule on whether or not the ordination of women was permitted by Jewish law. Rabbi David Neumark (no relation to Martha Neumark) responded and stated that the *halakhah* allowed women to act as legal decision makers. He conceded, however, that ordaining women as rabbis did indeed violate “orthodox Jewish custom.” However, Rabbi Neumark reiterated that HUC was not debating orthodox Jewish traditions, but rather whether HUC would ordain women based on their ability to teach Judaism.

The rest of the faculty agreed with Rabbi Neumark that the Reform movement’s divergence from traditional Jewish norms allowed them to focus on the modern conception of a rabbi – someone who preaches, teaches, and presents Judaism to the world. As a result, the faculty concluded that HUC could not “logically and consistently refuse the ordination of women.”<sup>25</sup> Thus, the faculty came to the conclusion that a woman with the correct and necessary academic training could take on the responsibility of a twentieth century Reform rabbi.

Another issue that the Reform movement grappled with at the time was the idea that once a woman began having children, she would give up her career. Thus, the dominant attitude at the time was that it did not make sense to ordain women because they were only going to get

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<sup>23</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 62.

<sup>24</sup> *Ibid.*, 64.

<sup>25</sup> *Ibid.*

married, have children, and subsequently stop working. However, in 1921 when the HUC faculty debated the issue of women as rabbis, many of the faculty acknowledged that a modern woman no longer had to choose between her career and her family. Further, they felt that a woman, who had gone through childbirth, would be a “better rabbi for the experience.”<sup>26</sup> By acknowledging this major social change, the Reform movement showed that they were open to a change in the prescribed gender roles of the time.

In 1922, the Central Conference of American Rabbis (CCAR), the Reform rabbinic association in North America, adopted a responsum that stated, “In view of these Jewish teachings and in keeping with the spirit of our age and the traditions of our conference, we declare that women cannot justly be denied the privilege of ordination.”<sup>27</sup> Despite this CCAR responsum, the HUC Board of Governors decided not to change its policy, stating, “No change should be made in the present practice of limiting to males the right to matriculate for the purpose of entering the rabbinate.”<sup>28</sup> The HUC decision mostly stemmed from the belief that the time was not ripe for the ordination of women and that there were plenty of other opportunities for women within the synagogue. This displays the fact that changing the prescribed gender roles was in opposition to mainstream social norms at the time.

Karla Goldman argues that the “American Reform movement has always struggled to match women’s realities within the movement to its leaders’ rhetorical commitment to gender equality.”<sup>29</sup> Thus, while the Reform movement had stated that they saw no reason why a woman could not be ordained as a rabbi, there was no urgency to the movement to ordain women as

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<sup>26</sup> Ibid., 70.

<sup>27</sup> CCAR, “Ordination of Women as Rabbis: 1921,” CCAR Responsa. <http://www.ccarnet.org> (accessed October, 23, 2012).

<sup>28</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 71.

<sup>29</sup> Goldman, “Women in Reform,” 109.

rabbis until the thrust of Second Wave feminism in the 1960s and the resulting change in women's social status.

### Feminism and Reform's Embrace of Changing Social Norms

In order to understand the lasting impact of the Second Wave feminist movement, a discussion of First Wave feminism is also necessary. First Wave American feminism was singularly focused on the issue of women's suffrage.<sup>30</sup> As a result, First Wave feminism reached its conclusion with the ratification of the Nineteenth Amendment in 1920, which granted women the right to vote. Thus, it seems that First Wave feminism prompted Martha Neumark to request a pulpit assignment, which caused the Reform elites to go on record with a rhetorical commitment to women's ordination in 1921. However, once the First Wave feminist movement disappeared, that influence evaporated as well.

However, in the mid-1960s the American youth exploded with radical sentiment, giving rise to the New Left and the counterculture together referred to as "The Movement." Even though women were active among young radicals, the Movement was male dominated, and women were continually sidelined in the call for equality. This in turn led to a call for gender equality and the growth of Second Wave feminism.

As women began to demand parity for themselves within American society, Second Wave feminism grew. Second Wave feminism was a movement that featured many Jewish women at its front lines, such as Betty Friedan, who was one of the most influential Second Wave feminists. In her book, *The Feminine Mystique*, Friedan focused on the role that gender played in American society during the 1950s and early 1960s and attempted to address the twisted image of femininity that was prevalent at the time.

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<sup>30</sup> Pamela S. Nadell, "Women and American Judaism," in *Women and Judaism: New Insights and Scholarship*, Frederick E. Greenspahn, ed., (New York: New York University Press, 2009), 159.

Friedan explained that during that time, society dictated to women exactly how to live their lives and that in order to be ‘feminine,’ women had to give up all of their dreams of having a career or a life outside of the home.<sup>31</sup> Friedan argued that Western culture had underestimated the nature of femininity by attempting to cram all that is feminine into the perfect suburban housewife ideal. As Friedan stated, however, men had created this ideal.<sup>32</sup> It was precisely because the housewife was a man-made concept that women found it very difficult to adjust to the role they were supposed to play. Further, Friedan outlined the dissatisfaction that educated women felt when confined to suburban homes. In such situations, Friedan claimed that women were unable to “grow or fulfill their potential” as human beings.<sup>33</sup>

As Second Wave feminism grew, and it became increasingly clear that the movement was not going away, the American political machine responded. First, Congress passed the Equal Pay Act of 1963, which prohibited “sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions.”<sup>34</sup> Second, Title VII of the Civil Rights Act of 1964 banned discrimination in employment on the basis of race and sex.<sup>35</sup> With these developments, it became increasingly difficult for the Reform movement to deny women entry into the rabbinate while maintaining their identity as a movement that seeks to make Judaism compatible with the surrounding culture, especially considering they were already on record stating that there was no inherent reason why women could not serve as rabbis.

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<sup>31</sup> Betty Friedan, *The Feminine Mystique* (New York: W.W. Norton & Company, Inc., 1963), 16.

<sup>32</sup> *Ibid.*, 54-55.

<sup>33</sup> *Ibid.*, 77.

<sup>34</sup> Equal Pay Act 1963. *U.S. Equal Employment Opportunity Commission*.  
<http://www.eeoc.gov/laws/statutes/epa.cfm> (accessed March 16, 2013).

<sup>35</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 147.

By the late 1960s, with Second Wave feminism at its peak, the Reform movement understood that it could no longer maintain its current policy of inaction with respect to the ordination of women rabbis. After her graduation from the undergraduate joint program of HUC-JIR<sup>36</sup> and the University of Cincinnati in 1968, Sally Priesand was admitted to the HUC-JIR rabbinical school. In June 1972, Priesand was ordained as the first female American rabbi.<sup>37</sup>

For the Reform movement, while *halakhah* permitted the ordination of women from the beginning, feminism and the social status of women did not. It is only when feminism changes the status of women do women get ordained by the Reform movement. Reform had made rhetorical commitments to full egalitarianism before the height of the women's liberation movement but Reform elites refused to act on such commitments because the social norms of the time dictated that women could not fulfill male societal roles. However, the feminist movement of the 1960s profoundly changed the prescribed gender norms of American society, and as a result, the way Reform elites saw the world. The feminist movement of the 1960's mandated certain shifts in women's presence, place, and roles in American society. As a movement dedicated to making Judaism modern and compatible with the surrounding culture, the Reform movement understood that the time had come to apply the change of gender norms in America to the place of women in Reform Judaism. Once women were considered as having the same social status as men in society and therefore, able to serve in leadership positions, Reform was willing to ordain women as rabbis.

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<sup>36</sup> Hebrew Union College-Jewish Institute of Religion (HUC-JIR). HUC was founded in 1875 by Rabbi Isaac Mayer Wise. JIR was established in 1922 by Rabbi Stephen Wise (no relation). The two merged into one institution in 1950.

<sup>37</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 151.

### Chapter 3: The Conservative Movement

#### The Development of Conservative Jewish Feminism

In 1972, the same year that the Reform movement would ordain Sally Priesand as the first American woman rabbi, a small group of Jewish feminists called *Ezrat Nashim* (the name for the women's section of a synagogue, which can also be translated as "aid of women") presented their "Call for Change" at the Rabbinical Assembly's annual convention. The "Call for Change" embodied a feminist attitude and argued for equal access to leadership positions and religious participation for Jewish women in Conservative Judaism. The "Call for Change" stated,

It is not enough to say that Judaism views women as separate but equal, nor to point to Judaism's past superiority over other cultures in its treatment of women. We've had enough of apologetics: enough of Bruria, Dvorah, Esther; enough of Eshet Chayil! For three thousand years, one-half of the Jewish people have been excluded from full participation in Jewish communal life. We call for an end to the second-class status of women in Jewish life.<sup>38</sup>

*Ezrat Nashim* argued that the peripheral status of pre-modern Jewish women reflects the peripheral status of women in surrounding pre-modern cultures, a status that correlates with their different *halakhic* obligations. In light of contemporary social norms, which argued that women were socially equal to men, *Ezrat Nashim* argued that there should be equality under *halakhah* as well. In making their case, *Ezrat Nashim* argued that women should be obligated to fulfill all *mitzvot* equally with men.<sup>39</sup>

*Ezrat Nashim* grew out of a study group on the status of women in Judaism that was formed in 1971 in the New York *Havurah*. The *Havurah* movement was a countercultural

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<sup>38</sup> *Ezrat Nashim*, "'Call for Change' presented to the Rabbinical Assembly of the Conservative Movement: March 14, 1972," Jewish Women's Archive. <http://jwa.org/feminism/html/pdf/JWA039a.pdf> (accessed October 23, 2012).

<sup>39</sup> *Ibid.*



community of young Jews who studied and observed Judaism, and engaged in politics together.<sup>40</sup> Paula Hyman, a founding member of *Ezrat Nashim* stated, “We were all well-educated, in both Jewish and secular terms, and had been deeply affected by the nascent American feminist movement in which we participated.”<sup>41</sup> While women did participate in the *Havurah* movement, male Jews founded the *Havurah* movement and as some *Havurot* became more religious, they often attempted to deny women certain roles.

The male-dominance of the *Havurah* movement displays a way in which the American feminist movement impacted the Conservative Jewish feminist movement. The New Left and the counterculture were also male dominated and women were sidelined, even though they participated, similar to the *Havurah*. In her article, “Goodbye to All That,” Robin Morgan, an American feminist, discussed the need for women to break away from male dominated movements. Morgan argued that women must, “seize our own power into our own hands, all women, separate and together, and make the Revolution the way it must be made – no priorities this time, no suffering group told to wait until after.”<sup>42</sup> Influenced by the American feminist movement, *Ezrat Nashim* and other Jewish feminists felt that they could not sit on the sidelines anymore, and that they had to take action in order to change the status of women in Conservative Judaism.

Susannah Heschel, an active Jewish feminist, explains that Jewish feminism really began to grow when the Jewish community turned inwards in the 1970s.<sup>43</sup> Influenced by the Second Wave feminist movement of the late 1960s, Jewish women began to internalize these values and

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<sup>40</sup> Paula Hyman, “Statement,” Jewish Women’s Archive. [http://jwa.org/feminism/\\_html/JWA039.htm](http://jwa.org/feminism/_html/JWA039.htm) (accessed October 23, 2012).

<sup>41</sup> Ibid.

<sup>42</sup> Robin Morgan, “Goodbye to All That,” in *The Sixties Papers: Documents of a Rebellious Decade*, Judith Clavir Albert and Stewart Edward Albert, ed. (Westport: Praeger Publishers, 1984), 515.

<sup>43</sup> Susannah Heschel, ed., “Introduction,” in *On Being a Jewish Feminist: A Reader* (New York: Schocken Books, 1983), 5.

reflect on their place in Judaism. Realizing that Conservative Judaism was largely out of step with the notion of gender equality, Jewish women who were deeply committed to both Judaism and feminism brought the debate of whether women could be rabbis to the Conservative Jewish community. As Judith Plaskow stated at the first National Jewish Women's Conference in 1973, "We are here because a secular movement for the liberation of women has made it imperative that we raise certain Jewish issues now."<sup>44</sup> It is clear that the Second Wave feminist movement raised the consciousness of Conservative women and helped bring the question of whether women could be ordained as rabbis to the fore.

Rachel Adler, a prominent Jewish feminist, drew the attention to women's place in *halakhah* in her essay, "The Jew Who Wasn't There: *Halakhah* and the Jewish Woman." This essay is one of the most basic calls for change in liberal American Judaism. Adler's essay shows that many women felt that there was a need to reconcile the greater role that women were calling for in American society with their marginalized role in Conservative Judaism. Adler explains that within the context of Judaism, women were not accepted "as their own identity, they [rules regarding women] only set rigid stereotypes to define the limits of the growth of women."<sup>45</sup> Adler identifies the fact that the *halakhah* relegated women to the status of "peripheral Jews" in terms of religious matters. She argues that this is due to the fact that women are only commanded to observe all negative *mitzvot* but are exempted from positive, time-bound commandments. Therefore, since their connection with Judaism is through negative commandments, the "posture of their Judaism is negation rather than affirmation."<sup>46</sup> Thus,

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<sup>44</sup> Daniel Horowitz, "Jewish Women Remaking American Feminism/Women Remaking American Judaism: Reflections On the Life of Betty Friedan," in *A Jewish Feminine Mystique?* Hasia R. Diner et al., ed., (New Brunswick: Rutgers University Press, 2010), 244.

<sup>45</sup> Rachel Adler, "The Jew Who Wasn't There: *Halakhah* and the Jewish Woman," in *On Being a Jewish Feminist: A Reader*, Susannah Heschel, ed., (New York: Schocken Books, 1983), 12.

<sup>46</sup> *Ibid.*, 13.

increasing a woman's *halakhic* obligation would create a more positive relationship with Judaism. Fostering a positive relationship with Judaism would in turn draw women into the Jewish community rather than push them away from the religion. Further, changing the roles of women in the synagogue would foster increased participation by women and an enlargement of the roles available to women in the synagogue.

Riv-Ellen Prell, another Jewish feminist, explains that Jewish feminism has been “both radical, in the sense of challenging and engaging Jewish power and authority, and accomodationist, in the sense of focusing on issues and experiences that do not require dismantling Jewish law or community.”<sup>47</sup> Jewish feminists have attempted to change Judaism in ways that are inclusive while maintaining the integrity of the religion. Jewish feminists have endeavored to alter Judaism in order to be honest with themselves, and with the religion, similar to Betty Friedan's argument that women needed to be honest in forging their own identities. As a result, Conservative Jewish feminists argued that an increase in the *halakhic* obligations of women was necessary due to the change in women's social status. In debating the *halakhic* legitimacy of women rabbis, Conservative rabbis kept the demands of Conservative Jewish feminists in mind and as their arguments will show, their embrace of feminism and the change in women's social status lead the Conservative movement to transform the *halakhah* to match feminism.

#### Changing Conceptions of *Halakhah* in the Conservative Movement

Unlike the Reform movement, which was able to justify its actions based on the cultural forces of the time such as the change in gender norms as a result of Second Wave feminism, the debate on the ordination of women in the Conservative movement required a commitment to

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<sup>47</sup> Riv-Ellen Prell, ed., “Introduction: Feminism and the Remaking of American Judaism,” in *Women Remaking American Judaism* (Detroit: Wayne State University Press, 2007), 9.

feminism but also a commitment to *halakhah*. While Reform disregards the authoritativeness of *halakhah*, *halakhic* precedent binds the Conservative movement.<sup>48</sup> Thus, the Conservative movement was forced to reexamine the place of women in *halakhah* in light of the societal changes promoted by Second Wave feminism and the arguments made by Jewish feminists.<sup>49</sup>

The *halakhic* issues that Conservative leaders had to grapple with during the debate on women's ordination were women's *halakhic* exemption from positive, time-bound commandments, women's supposed inability to lead prayer services and count in a *minyan*, and women's ineligibility to serve as witnesses and judges. These issues emerged as the major focuses of the debate because these were the issues that Jewish feminists demanded Conservative leaders address. From 1972 until 1983, Conservative leaders debated the *halakhah* and its various interpretations in order to craft a conception of *halakhah* that reflected the change of the times while at the same time maintained the integrity of the law. As stated by Gerson Cohen, Chancellor of the Jewish Theological Seminary at the time,

The Seminary position, as expressed in this case by the majority of the faculty, can only be legitimately effective if a *halakhic* rationale can be found for it... It is not enough that the admission of women to the Rabbinical School does not contravene Jewish law. The admission must also be in accordance with the regnant spirit of the Jewish community of our time and place.<sup>50</sup>

Thus, the positions of the Conservative rabbis indicate the ways the various conceptions of *halakhah* and women were able to change as a result of the societal changes prevalent at the time.

### *Halakhic Interpretation*

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<sup>48</sup> R. Isaacs, Interview.

<sup>49</sup> Rabbi Rachel Kahn Troster. Undergraduate Thesis (New York: Jewish Theological Seminary/Barnard College, 2008), 5.

<sup>50</sup> Gerson Cohen, "Introduction," in *The Ordination of Women as Rabbis: Studies and Responsa*, Simon Greenberg, ed. (New York: The Jewish Theological Seminary of America, 1988), 3.

Jewish authorities acknowledge that the body of *halakhah* is not a uniform text. *Halakhah* can be interpreted in a number of ways because Rabbinic literature gives voice to multiple opinions, which creates a collage of ideas. Further, *halakhah* can develop as the conditions of the Jewish community change.<sup>51</sup> As Mayer Rabinowitz, a Conservative rabbi, states, “To claim that one’s own interpretation of *halakhic* tradition is the only tenable one is to close one’s eyes to the realities of the historic development of the *Halakhah*.”<sup>52</sup> Thus, the presence of multivocality can lead to various interpretations of Biblical verses and consequently, different understandings of the law. While *halakhah* can give rise to multiple interpretations of the same text, the opinion that is considered authoritative can vary from denomination to denomination. As a result, Conservative rabbis might come to different conclusions than Orthodox rabbis when reading the same text.

As Rabinowitz states, “legal definitions and applications are influenced by time and place, no matter what transcendent authority may be involved.”<sup>53</sup> Thus, it becomes evident that for the Conservative movement, *halakhic* interpretation necessitates a commitment to the historical tradition as well as an awareness of the social realities of the present.<sup>54</sup> Further, the Conservative movement accepts historicism, meaning the influence of time and place in shaping *halakhah*, while Orthodoxy does not. This dichotomy inherent in the Conservative conception of *halakhah* is what distinguishes the Conservative movement from Orthodoxy on the right and Reform on the left. For the Conservative movement, social realities and *halakhic* legacy are equally important when responding to *halakhic* questions. Orthodoxy on the other hand, places *halakhah* in the forefront, confronting societal changes in the context of *halakhah*. In contrast to

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<sup>51</sup> Ibid.

<sup>52</sup> Rabinowitz, “An Advocates Halakhic Responses,” 108.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

both Conservative and Orthodoxy, changes to social and cultural norms implicitly determine what policy changes the Reform movement can make. As a result, it becomes clear that while the Conservative movement does occupy a middle ground, the question of whether women can be rabbis still forced a reexamination of the Conservative conception of *halakhah* and the place of women within that *halakhah*. The willingness of the Conservative movement to engage in this reevaluation demonstrates the commitment of Conservative rabbis to the ideals of feminism.

### *Positive, Time-Bound Commandments*

As mentioned previously, women are *halakhically* exempt from positive, time-bound *mitzvot*. However, the Rabbinic authorities debate the degree to which women are exempt from these commandments. For example, both Maimonides (d. 1204) and the Ravad (d. 1198) argue that women may not perform *mitzvot* from which they are exempt. However, they both provide an exception to this rule, arguing that women can perform exempted *mitzvot* where physical presence fulfills the *mitzvah*, such as sitting in a *sukkah* (temporary booth used during the festival of Sukkot). However, even in the case of this exception, both Maimonides and the Ravad argue that women may not recite the appropriate blessings associated with the voluntary *mitzvah* because they are not performing the *mitzvah* under obligation.<sup>55</sup> Rabbi Yitzhak Halevi (d. 1415) takes a more permissive stance, arguing that simply because women are exempt from a *mitzvah*, does not mean that they are prohibited from fulfilling the *mitzvah*. Rather, it only means that they are not obligated. Thus, Halevi argues that women may fulfill the *mitzvot* from which they are exempted and additionally, that they can recite the required blessing because without the proper blessing the *mitzvah* is not truly fulfilled.<sup>56</sup>

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<sup>55</sup> Joel Roth, "On the Ordination of Women as Rabbis," in *The Ordination of Women as Rabbis: Studies and Responsa*, Simon Greenberg, ed. (New York: The Jewish Theological Seminary of America, 1988), 130.

<sup>56</sup> *Ibid.*, 131-132.

Joel Roth, a JTS associate professor of Talmud during the time of the Conservative debate on women's ordination, takes the view of Rabbi Yitzhak Halevi. He argues that due to the fact that the Talmud does not provide a "clear and explicit prohibition," there is no sufficient reason for arguing that women cannot observe exempted *mitzvot* in full.<sup>57</sup> Thus, according to Roth, women who voluntarily assume the obligation of fulfilling the *mitzvot* from which they are exempt may observe the exempted *mitzvot* and recite the associated blessings. Roth explains that there are a number of *halakhic* precedents that allow women to observe positive, time-bound commandments and recite the appropriate blessings. Two such *halakhic* authorities are the Ran (d. 1376) and the Ritba (d. 1330). The Ran explains that all who observe the *mitzvot* receive reward, however, those who are not obligated but observe the *mitzvot* voluntarily receive a lesser reward. The Ritba further explains that when the blessing states "commanded," it refers to all Israel, and means that all Israel has a right to observe the *mitzvot* and receive a reward. Thus, Roth uses *halakhic* precedents to show that women may voluntarily perform *mitzvot* from which they are exempt and may recite the appropriate blessings.

Roth goes on to argue that when a woman voluntarily assumes the obligation of the exempted *mitzvot*, there can be no difference in the nature of the observance between a woman and a man. Roth states, "What is mandatory or permissible for men is permissible for women as well."<sup>58</sup> In order to strengthen his argument, Roth adopts the argument of the legal remedy outlined in the *Magen Avraham*, which allows women to make optional *mitzvot* obligatory. The *Magen Avraham* explains that the evening *Amidah*, *ma'ariv*, was originally optional for men. However, men voluntarily accepted the obligation of *ma'ariv*, making *ma'ariv* a self-imposed

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<sup>57</sup> Ibid., 132.

<sup>58</sup> Ibid., 135.

obligation.<sup>59</sup> As a result, Roth argues that the *Magen Avraham's* judicial remedy may also be applied to women and the *mitzvot* from which they are exempt. Roth states,

The recitation of the evening *amidah* is *reshut*, “voluntary,” the same as the status of a woman’s observance of positive time-bound commandments. Yet, once one begins to recite it, one has changed its legal status from voluntary to obligatory, with whatever legal ramifications might result from the latter status.<sup>60</sup>

Roth’s statement explains that those who self-impose the obligation of reciting *ma’ariv* abide by the “legal ramifications” of the obligation, meaning that they must recite it on a daily basis. As a result, Roth’s analysis has profound implications for the nature of women’s obligations. By arguing that a self-imposed obligation is permanently binding, Roth elevates the status of voluntary obligations so that they are legally equivalent to other-imposed obligations, making the *halakhic* obligations of women equal to those of men and specifically addressing the arguments of Jewish feminists.

Drawing on *halakhic* precedents, Roth argues that the term “obligation” applies to self-imposed observance of *mitzvot* from which one is *halakhically* exempt.<sup>61</sup> Therefore, women may choose to observe positive, time-bound commandments as long as they accept the obligatory status of the *mitzvot*. In contrast to Roth, who uses the *halakhah* to change women’s *halakhic* status of obligation, Mayer Rabinowitz argues that all women have full religious obligations because of societal changes. He explains that because of the change to the social status of women, modern women now meet the criteria necessary to fulfill positive, time-bound *mitzvot*.<sup>62</sup> By taking this stance, Rabinowitz refrains from elevating the status of a self-imposed obligation but shows how the Conservative movement is willing to use the effects of modernity to influence *halakhah*.

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<sup>59</sup> Meiselman, *Jewish Women in Jewish Law*, 47.

<sup>60</sup> Roth, “Ordination of Women as Rabbis,” 137.

<sup>61</sup> *Ibid.*, 141.

<sup>62</sup> Rabinowitz, “An Advocates Halakhic Responses,” 115.



The new construct that Roth creates outlines a main difference between the Orthodox and Conservative movements. By allowing women to change the status of exempted *mitzvot* from voluntary to obligatory, Roth argues that self-imposed *mitzvot* are equal in religious value to other-imposed *mitzvot*. Rabinowitz's argument also highlights an important difference between Orthodox and Conservative movements because his argument draws heavily on historicism, arguing that the influence of time and place can validate changes in *halakhah*, a principle that the Orthodox do not accept as *halakhically* legitimate. Establishing the ability of women to perform positive, time-bound *mitzvot* allows the Conservative movement to tackle the subsequent issues of women counting in a *minyan* and leading prayer services.

*Minyan and Sheliah Tzibbur (Shatz)*

The *halakhah* allows one who is obligated for a *mitzvah* to appoint that obligation to another individual “who is *equally obligated* to act as his agent” (emphasis in original).<sup>63</sup> Thus, it is necessary to determine whether one whose obligation is self-imposed can act as an agent for those whose obligation is other-imposed because meeting the criteria for agency determines whether women are eligible to serve as a *shatz* (representative of the community) and count in a *minyan* (prayer quorum). The Conservative movement conceptualizes a rabbi as a *shatz* and a *halakhic* decisor. As a result, it is very important for the Conservative movement to find a *halakhic* rationale for allowing a woman to assume communal responsibility.

The Mishnah states, “This is the general rule: Anyone *she-eino mehuyyav* [on whom an obligation is not incumbent] cannot fulfill the obligation on behalf of many” (Rosh ha-Shana 3:8). As stated previously, Rabbinic literature allows for multiple interpretations, and Joel Roth takes advantage of this interpretive technique in his understanding of the word *mehuyyav*.

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<sup>63</sup> Roth, “Ordination of Women as Rabbis,” 142.

*Mehuyyav* literally means ‘obligated’ and Roth argues that it can be interpreted using a narrow definition or a broad definition. The narrow definition would claim that *mehuyyav* only refers to those whose “obligation is other imposed,” which would exclude women.<sup>64</sup> However, as stated above, Roth understands the term “obligation” to be defined more broadly, meaning both other-imposed and self-imposed obligation.

Roth further explains that women are not specifically prohibited from assuming the obligation of others. He explains that this is demonstrated by the clause that precedes the general principle articulated in the Mishnah that states, “A deaf-mute, imbecile, or minor may not serve as the agent through whom the many fulfill their obligation” (Rosh ha-Shanah 3:8). Thus, due to the fact that women are omitted from this prohibition and the fact that Roth has already shown that women who voluntarily assume the obligation of exempted *mitzvot* should be treated in the same manner as men, Roth argues that there are no limitations on the voluntary fulfillment of *mitzvot*. As a result, Roth concludes that women who assume the responsibilities of self-imposed obligation may serve as a *shatz* and count in a *minyan*. Roth states,

Women may be counted in a *minyan* and serve as *shatz* only when they have accepted upon themselves the voluntary obligation to pray as required by the law, and at the times required by law, and only when they recognize and affirm that failure to comply with the obligation is a sin.<sup>65</sup>

Thus, Roth discusses the potential for all women to serve as *shatz* and count in a *minyan*, rather than just women rabbis. This is an important distinction because it argues that any woman who accepts the full responsibility of self-imposed obligation may potentially be ordained as a rabbi. In making this argument, Roth effectively addresses the demands of Jewish feminists who argued that women should have the same *halakhic* obligations as men.

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<sup>64</sup> Ibid.

<sup>65</sup> Ibid., 168.

In contrast to Roth, Mayer Rabinowitz does not argue that women's voluntary obligation is equal to men. Rather, Rabinowitz argues that the function of the *shatz* has changed in a way that allows women to perform the modern functions of the *shatz* without changing the status of their obligation.<sup>66</sup> Rabinowitz argues that the main function of a modern *shatz* is ensuring that the congregation prays together and no longer entails acting as an agent for the obligation of others. He further explains that the *Beit Yosef*, written by Rabbi Joseph Karo (d. 1575) in 1559, states that only those who do not know how to pray *and* cannot understand the prayers can have his obligation fulfilled through the *shatz*.<sup>67</sup> Rabinowitz argues that because all congregants are provided with prayer books in the vernacular and in Hebrew, the *shatz* is not acting as the agent of the congregation. Rabinowitz states,

In today's synagogue the office of the *sheliah tzibbur* does involve any concept of 'agency.' He is a *hazzan*, a leader of the communal prayer service, who ensures that the *minyan* prays *together*, and who enhances the services by the manner in which he leads it. Hence, the claim that a woman may not serve as a *hazzan* or *sheliah tzibbur* because she may not fulfill the prayer obligations of a male congregant has no *halakhic* validity today (emphasis in original).<sup>68</sup>

Thus, by using the modern functions of a Conservative rabbi as an interpretive context, Rabinowitz is able to argue that *shatz* is a role that women can assume without changing the traditional interpretation of the status of women's obligation. Rabinowitz's analysis shows his implicit acceptance of the change that feminism has achieved in society. By arguing that the function of a *shatz* has changed from an agent of the community to a communal leader, a function that women can fulfill, Rabinowitz implies that women may serve as leaders of the congregation and this role is not reserved for men alone.

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<sup>66</sup> Rabinowitz, "An Advocate's Halakhic Responses," 115.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid., 117.

Rabinowitz also uses historicism to argue that women may count in a *minyan*. Rabinowitz explains that some authorities hold that a *minyan* consists of people sharing the same obligation of prayer, which would exclude women from counting in a *minyan* that also included men, since their obligation is different from men. However, Rabinowitz explains that equality of obligation is not a prerequisite for counting in a *minyan* and that other criteria, which would include women, are used to determine eligibility.<sup>69</sup> Traditionally, a *minyan* is interpreted as consisting of ten free adults. Rabinowitz explains that this has conventionally been understood as referring to only men because in pre-modern society, women were not free, due to the fact that they were considered legally subservient to either their fathers or husbands. However, Rabinowitz argues that this is no longer the case, as women are now considered legally independent. He states,

No one in our society today can reasonably argue that a woman is not as legally free as a man. Nor would anyone today challenge her status as an adult. The criteria for eligibility to be counted in a *minyan* have therefore not changed. What has changed is the reality which now enlarged the number of those who meet the criteria.<sup>70</sup>

Thus, Rabinowitz argues that the change in the social status of women validates a woman's ability to count in a *minyan*. Rabinowitz's interpretation shows that the Conservative experience with the social status of women, as being equal to men in society, is a reason for equality under *halakhah*. Further, his interpretation shows that the de facto equality of women and men's social status is the factor that pushes the change in traditional *halakhic* interpretation for the Conservative movement, illustrating that feminism is taken as a given for Conservative rabbis in favor of women's ordination.

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<sup>69</sup> Ibid., 112.

<sup>70</sup> Ibid., 115.

Judith Hauptman, a feminist Talmudic scholar who was very active in the Conservative debate on women's ordination, also argues that the current social reality allows women to serve as prayer leaders and count in a *minyan*. Similar to Rabinowitz, Hauptman explains that in addition to obligation, social status also played a role in determining the eligibility of an individual to discharge the obligation of others.<sup>71</sup> As Hauptman explains, in order to serve as a *shatz* an individual needed both obligation and a mature appearance, which the Talmud epitomizes in the beard.<sup>72</sup> The Talmud states, "When his beard grows in, he may serve as *shaliah tzibbur* and pass before the ark and lift his hands in the priestly blessing" (b. Hullin 24b). Thus, a boy may not serve in a leadership position until he has grown a beard, because the beard marks his maturity. The *Shulchan Arukh* further explains, "One may appoint only a bearded *sheliah tzibbur* because of the dignity of the congregation" (Orah Hayyim 53:6). Thus, according to traditional authorities, the dignity of the congregation is compromised if an un-bearded *shatz* is appointed.

Hauptman argues that the notion that an un-bearded *shatz* would compromise the dignity of the community has led to the understanding of women as inferior to men. Due to the fact that traditional authorities believe that only a bearded person is socially acceptable to lead the community, women are considered incapable of fulfilling such a role by virtue of their gender. Hauptman argues that the community must, and can, change its outlook as illustrated by the fact that most synagogues today "do not think twice before appointing a beardless *sheliah tzibbur*," despite the ban on such an action.<sup>73</sup> Due to the fact that a beard is no longer a prerequisite for commanding the respect of the congregation, women can no longer be disqualified from serving

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<sup>71</sup> Judith Hauptman, "Women and Prayer: An Attempt to Dispel Some Fallacies," *Judaism* 42:1 (1993): 99.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*, 100.

as a *shatz*, simply because of their gender. Hauptman argues that changes to social status can, and should, lead to changes in *halakhah*. She states,

If a community recognizes that in all other spheres of life women occupy the same social standing as men, it becomes odd and even morally reprehensible to retain the notion of women's inferiority, with its attendant disabilities, in the religious arena alone – particularly where their social standing and acceptability is the explicitly governing factor in the formulation and application of the *halakhah*.<sup>74</sup>

Thus, Hauptman argues that due to the fact that women now have an equal social status to men, the *halakhah* must be changed in order to reflect that change in status. The arguments of Roth, Rabinowitz, and Hauptman embody the arguments of Conservative Jewish feminists who maintained that the equality of social status necessitates *halakhic* equality.

#### *Serving as a Witness and a Judge*

*Halakhic* sources prohibit women from serving as witnesses and, as an extension of this prohibition, ban women from acting as judges as well.<sup>75</sup> Most sources assume that this prohibition is *de-oraita* (Biblically ordained) and therefore, poses a challenge to interpreting the prohibition in a more flexible manner. Roth explains, “any attempt to try to explain why the sages saw fit to interpret the Torah so as to exclude females from testifying would be pure guess work, subject to human error, and therefore, legally irrelevant.”<sup>76</sup> The Rabbis derive the prohibition that women may not serve as witnesses from reading Deuteronomy 19:15 in conjunction with Deuteronomy 19:17. Deuteronomy 19:17 states, “The *shenei anashim* shall stand before the Lord, before the priests and the judges that shall be in those days” (Deut. 19:17). The Rabbis interpret *anashim* to refer to men alone and as a result, interpret Deuteronomy 19:15,

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<sup>74</sup> Ibid., 100-101.

<sup>75</sup> Roth, “Ordination of Women as Rabbis,” 149.

<sup>76</sup> Ibid., 151.

which states, “*shenei edim* [two witnesses]” as also referring to men alone because both terms are associated with the term “*shenei*.”<sup>77</sup>

Maimonides also considered the prohibition *de-oraita*, stating, “Women are disqualified as witnesses from the Torah as it says: ‘By the testimony of *shenei edim* – [two witnesses]’ [Deuteronomy 17:6], masculine and not feminine” (Edut 9:2). Rabinowitz points out that Maimonides could have arrived at this interpretation because *edim* is the masculine plural but Hebrew often uses the masculine plural form when referring to a mixed group. The Talmud does provide some exceptions to the blanket prohibition to women serving as witnesses. Rabbi Susan Grossman explains that women’s testimony was accepted when the testimony of a man was unavailable or when a woman possessed superior knowledge on the subject matter.<sup>78</sup> Thus, it becomes clear that women were prohibited from testifying when men’s testimony was available.

Both Roth and Rabinowitz argue that the disqualification of women as witnesses was a social and functional reality of the time. The Rabbis held that there were significant differences between men as a class and women as a class and these differences provided sufficient reason to disqualify women from providing witness testimony. Women were considered “unreliable and fickle minded,” and this made them unreliable witnesses.<sup>79</sup> As an extension of the prohibition on women serving as witnesses, the Rabbis also prohibit women from acting as judges based on the principle, “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” (b. Niddah 49b).

Both Roth and Rabinowitz argue that the disqualification of women as a class from testimony and serving as a judge was a result of the social reality of the time and the Rabbinic conception of women as a distinct social class inferior to men. Roth explains that the

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<sup>77</sup> Ibid., 149.

<sup>78</sup> R. Grossman. “*Edut Nashim K’Edut Anashim*,” 4.

<sup>79</sup> Roth, “Ordination of Women as Rabbis,” 153.

disqualification of an entire class from testimony is valid only if the class possesses some trait that renders it untrustworthy. Thus, the Rabbinic perception of women as separate and distinct from men served as the main reason for the Rabbinic disqualification of women as a class from testimony. Roth states, “It cannot be denied that the rabbis perceived that there were significant characterological differences between women, as a class, and men, as a class.”<sup>80</sup> As a result, Roth argues, “It is the rabbinic image of the nature of women which is the sole justification for the prohibition.”<sup>81</sup> The Rabbinic understanding of the nature of women as unfit for testimony was a result of the social status of women at the time. However, Roth argues that this justification no longer holds due to the change in women’s social status and argues that the principle of *shinnui ha-ittim* (“times have changed”) applies in this case and thus, warrants a change to the prohibition on women’s testimony. He states,

It is simply inconceivable to me that anyone could cogently argue that modern women are generally unreliable as witnesses, that the entire class of women should be disqualified. If ever a claim of *shinnui ha-ittim* (“times have changed”) is appropriate, surely it is so regarding the rabbinic perception of the character of women.<sup>82</sup>

Roth’s argument shows that, for him, the change in the social status of women is the factor that justifies a change in *halakhah*. Due to the fact that the justification for the prohibition is no longer relevant, as a result of the change in women’s social status, Roth argues for a transformation of *halakhah* that will match the change in the social reality.

Rabinowitz explains that not only did the Rabbis understand women as socially unfit to testify, but women were also considered legally ineligible. During the Rabbinic period, women did not fit the definition of free adults due to the fact that they were legally under the control of their fathers or husbands. Like Roth, Rabinowitz argues that the change in the social and legal

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<sup>80</sup> Ibid., 153.

<sup>81</sup> Ibid., 157.

<sup>82</sup> Ibid., 171.



status of women warrants a change to the prohibition on women's testimony. Contemporary women are independent legal entities and are as competent as men. Thus, Rabinowitz employs a similar argument to his argument on women's eligibility to count in a *minyan*. He states, "The general criteria established by the Rabbis whereby one is to be adjudged qualified to serve as a witness may very well remain the same. What has changed is the reality which now enlarges the number of those who meet the criteria."<sup>83</sup> Thus, for both Roth and Rabinowitz, the change in women's social status that feminism has made warrants a change in *halakhah*.

Unfortunately, the issue of women serving as witnesses and judges was tabled in 1984. However, in 2001, the Conservative movement reexamined the issue of women as witnesses and judges. In a responsum, Rabbi Susan Grossman argued that perceptions of women as unreliable and untrustworthy indicated wider social realities of the status of women during the Rabbinic period.<sup>84</sup> Pre-modern women did not have personal autonomy because Rabbinic law dictated that a women's legal status was dependent upon her father or husband. Like Rabinowitz, Grossman argues that the notion of women as untrustworthy may stem from the idea that a woman's father or husband would influence her testimony. Further, she argues that it is possible that the lack of personal autonomy made women's testimony equal to that of a slave, because slaves also did not have personal autonomy.<sup>85</sup>

Judith Hauptman observes another important implication for the issue of autonomy with regards to women as witnesses and judges. Hauptman explains that women were not allowed to give testimony on behalf of a man.<sup>86</sup> As a result, "women's social status vis-à-vis men was such

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<sup>83</sup> Rabinowitz, "An Advocate's Halakhic Responses," 119.

<sup>84</sup> R. Grossman. "*Edut Nashim K'Edut Anashim*," 10.

<sup>85</sup> *Ibid.*, 6.

<sup>86</sup> Judith Hauptman. *Rereading the Rabbis* (Boulder: Westview, 1998), 211.

that it was inconceivable that a woman would supersede a man or have sway over him.”<sup>87</sup> Therefore, women were prevented from certifying documents that would bind a man to certain legal obligations because the social reality of the time was such that women could not have legal authority over men.

Grossman ultimately argues that a woman’s testimony should be treated the same as a man’s in all areas of Jewish law and, consequently, that Conservative women rabbis should be able to serve as religious judges on *batei din*. The changing nature of women in society plays a large role in Grossman’s argument. She explains that the subject areas in which women are knowledgeable have significantly grown as women have received increased education in all areas. Further, she states that in the Western world, women are legally autonomous and often even have legal authority over men.<sup>88</sup> As a result, Grossman explains that making women’s testimony like men’s testimony in all areas of Jewish law follows the Rabbinic paradigm that a woman’s testimony must be in an area in which she is knowledgeable. Similar to Rabinowitz’s arguments, the criteria for women’s testimony laid out by the Rabbis has not changed, rather, the changes in women’s social status have increased the number of qualified individuals.<sup>89</sup>

Roth and Rabinowitz both argued for the ordination of women and the acceptance of women to the Jewish Theological Seminary’s Rabbinical School and Grossman subsequently argued for the ability of women rabbis to act as a witness and a judge. Their differing interpretations of *halakhah* display the flexibility of *halakhah* and also the different ways Conservative authorities were willing to reconcile their commitment to *halakhah* with societal changes. Further, their arguments display that a commitment to feminism is an important motivating factor to arguments advanced by the proponents of the ordination of Conservative

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<sup>87</sup> Judith Hauptman in R. Grossman. “*Edut Nashim K’Edut Anashim*,” 7.

<sup>88</sup> *Ibid.*, 10.

<sup>89</sup> Rabinowitz, “An Advocate’s Halakhic Responses,” 119.

women rabbis. Feminism radically altered the secular world and subsequently, the view of women by a segment of the Conservative movement. The feminist notion that women should have equal roles in the system plays a large part in the arguments of Roth, Rabinowitz, Hauptman, and Grossman.

### Ordaining Conservative Women Rabbis

The responsa written by Roth and Rabinowitz were part of a larger study known as the Commission for the Study of the Ordination of Women as Rabbis, created by the Rabbinical Assembly in 1977. The Commission found that “there can be no direct *halakhic* objection to the conferral of the title ‘rabbi’ upon a woman, together with all the rights and responsibilities to perform the functions essentially connected to the office.”<sup>90</sup> As displayed by the responsa discussed above, the important functions of a Conservative rabbi are serving as a *shatz*, counting in a *minyan*, and serving as a witness and a judge. The 11-3 majority opinion of the Commission further stated that there were no direct *halakhic* objections to training and ordaining women as rabbis. Therefore, the Commission recommended that qualified women be ordained, and encouraged admission in the JTS entering class of 1979.

In January 1979, JTS Chancellor Gerson Cohen presented the findings of the Commission to the Rabbinical Assembly. The vote on whether to admit women to the Rabbinical School was scheduled for December of that year. However, when the Seminary Senate was supposed to vote, they ended up tabling the motion because of an organized opposition led by Professor Saul Lieberman. Lieberman was an important figure at JTS, and in the Jewish world in general, and was deeply respected by many Conservative rabbis. He wrote a responsum against the ordination of women as rabbis, arguing that women are unfit to judge and

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<sup>90</sup> Tucker, "Final Report," 19.

therefore, cannot be given the title rabbi.<sup>91</sup> His responsum further activated the countermovement, which refused to reconcile the varying conceptions of *halakhah*.<sup>92</sup> The opposition to women's ordination led by Lieberman and other faculty contributed to the very tense situation at JTS between the movement's proponents and opponents.

Immediately following the tabling of the vote on whether the Rabbinical School would accept women as candidates for ordination, women who sought admission to JTS, along with their supporters, formed organizations to mobilize support and keep the debate relevant. One such organization was the Group for Rabbinic Ordination of Women (G.R.O.W.) organized by Lawrence Troster and his wife Elaine Kahn, who argued for "immediate admission of women to the Rabbinical School of the Jewish Theological Seminary."<sup>93</sup> G.R.O.W. continued the mission of *Ezrat Nashim* by coming from a feminist perspective, but it was even more significant because it involved male rabbinical students as well and showed the Seminary faculty that the issue was not going to disappear, no matter how long the vote was postponed.<sup>94</sup> Activity from both students and faculty on the issue put further pressure on the JTS faculty to make a decision. By forming a group specific to women's ordination, G.R.O.W. showed the faculty that this issue was not only motivated by the changes in the secular world, but that it also came from the Jewish community and the Conservative Jewish feminist movement that had developed since the early 1970s.

In 1983 it seemed that the efforts of G.R.O.W. had been successful when the Rabbinical Assembly considered admitting Rabbi Beverly Magidson, who had been ordained by HUC-JIR. While her application for membership failed by four votes, it led Gerson Cohen, the Chancellor

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<sup>91</sup> Rabbi Saul Lieberman, "Responsum," *Tomeikh Ka-Halakhah Vol. 1*, trans. Rabbi Wayne Allen (New York: Union For Traditional Conservative Judaism, 1986).

<sup>92</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 205.

<sup>93</sup> *Ibid.*, 208.

<sup>94</sup> Elaine Kahn, Interview with Author, December 6, 2012.

of JTS at the time, to raise the issue once again with the JTS faculty.<sup>95</sup> Cohen brought the question for a vote before the Seminary Senate in October 1983. His cause was aided by the death of opponent Saul Lieberman in March 1983. The faculty voted 34-8 to allow women admission to the Rabbinical School.<sup>96</sup> In 1985, Amy Eilberg was ordained as the first Conservative woman rabbi.<sup>97</sup>

It becomes clear that even though the *halakhic* legitimacy of women as Conservative rabbis had been well argued in 1979, similar to Reform, the internal politics of the Conservative elite about their attitudes towards feminism played a role in delaying a final decision. Further, the Conservative debate displays how the impact of both American and Jewish feminism led to the ordination of female Conservative rabbis. Second Wave feminism raised the consciousness of Conservative Jewish women, which in turn led to the creation of Jewish feminism, a movement of Jews committed to a distinct Jewish form of feminism. Through Jewish feminism, Conservative women were able to actively argue for inclusion into the rabbinate on the basis that women should no longer be excluded from religious leadership and should be able to perform the same religious functions as men. In order to justify the ordination of women as rabbis, the Conservative movement had to rethink the *halakhah* and the status of women prescribed by *halakhah*. Through a commitment to feminism and a willingness to reexamine the *halakhah* in light of new cultural and societal norms, the Conservative movement made the decision to ordain women as rabbis.

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<sup>95</sup> Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination, 1889-1985*, 211.

<sup>96</sup> *Ibid.*, 212.

<sup>97</sup> *Ibid.*, 214.

### Chapter 4: Women's Religious Leadership in Orthodoxy

The question of women's ordination as rabbis was not a pressing concern for the Orthodox movement until the Conservative movement ordained its first woman rabbi in 1983. The Conservative movement's ordination of a woman rabbi led the Orthodox movement to begin discussing the issue. However, unlike the Conservative movement, increasing the formal and informal religious opportunities for Orthodox women has not been rapid. Rather, it has been a slow process but nevertheless, a process that has led and is still leading to important change. In the Orthodox movement, it is still a commitment to feminism in the context of *halakhah* that has made this change possible.

For the purpose of this paper, the term "Orthodox" will refer to the Modern Orthodox movement, unless stated otherwise. While there are a variety of affiliations that fall under the umbrella of "Orthodox Judaism," it is only the Modern Orthodox who are currently willing to wrestle with the idea of ordaining women rabbis because the Modern Orthodox do not view a commitment to feminism as antithetical to traditional Judaism.<sup>98</sup>

#### Modern Orthodoxy & Feminism

Joel Wolowelsky defines Modern Orthodox Jews as Jews who "define their lives in terms of *halakhic* values and commitments. They have the same allegiance to Torah and its teachers as those on the "right" but nonetheless maintain a distinct image."<sup>99</sup> What separates the Modern Orthodox community from the "right" is the Modern Orthodox community's openness to secular studies, liberal arts, and Western traditions. Feminism is a Western tradition that the Modern

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<sup>98</sup> Darren Kleinberg, "Orthodox Women (Non-) Rabbis," *CCAR Journal: Reform Jewish Quarterly*, LIX:2 (2012): 95.

<sup>99</sup> Joel Wolowelsky, *Women, Jewish Law, and Modernity* (Hoboken: KTAV Publishing House, Inc., 1997), 12.

Orthodox are increasingly open to in the context of providing more opportunities for women in terms of both religious education and leadership. Unlike right-wing Orthodoxy, the Modern Orthodox do not dismiss attitudes or problems simply because they grow out of the modern experience. It is only when such attitudes or problems contradict *halakhic* norms that the Modern Orthodox reject proposed changes to traditional practices. Therefore, it is a willingness to engage with modern issues and problems that has made the Modern Orthodox community more hospitable to feminist ideology and increasing the leadership opportunities available to Orthodox women.

The Modern Orthodox conceptualize the role of a rabbi differently from both the Reform and Conservative movements. Darren Kleinberg explains that Orthodox communities do not require rabbis to lead services and the degree to which Orthodox rabbis lead prayer services varies from synagogue to synagogue.<sup>100</sup> Further, leading a religious service became such an important issue during the Conservative debate because Conservative Jewish feminists demanded that women be considered as equals with respect to leading prayer. Thus, leading services is a cultural concept that the Conservative movement felt was a necessary function of a modern rabbi. As a result, the Conservative movement had to find a *halakhically* acceptable justification for allowing women to count in a *minyan* and serve as prayer leaders. However, for the Modern Orthodox, having a woman lead a prayer service crosses a red line.<sup>101</sup> Thus, a practical difference between the Conservative movement and the Modern Orthodox are certain symbolic aesthetic lines. The Modern Orthodox cannot have women leading prayers, counting in a *minyan*, and must have a *mehitzah* (partition between men and women in the synagogue)

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<sup>100</sup> Kleinberg, "Orthodox Women (Non-) Rabbis," 98.

<sup>101</sup> Rabbi Jeffery Fox, Interview with Author, January 23, 2013.

because those are features that make the Modern Orthodox part of the larger Orthodox community and separate from the Conservative movement.

Rabbi Fox, Rosh Yeshiva (dean of the Yeshiva) at Yeshivat Maharat,<sup>102</sup> explains that the Modern Orthodox movement has tried to decouple the notion of a rabbi as both a leader of religious services who can help form a *minyan* and a rabbi as a spiritual and legal guide. Rabbi Fox argues that the two do not have to go together, that “you do not have to advocate for a full egalitarian *davening* [praying] setting in order to have a woman in the role of spiritual leader.”<sup>103</sup> Conservative and Reform authorities would disagree with Rabbi Fox’s argument because the Conservative and Reform movements view women as having an equal status to men, which leads them to argue for full equality in the synagogue. For the Modern Orthodox, however, the status of women is determined by *halakhah*. Thus, the Modern Orthodox will always preserve the gap between men and women because there is a predetermined argument in the *halakhah* that will always be there. Thus, the language and rhetoric used by the Modern Orthodox is one that preserves the Orthodox conception of *halakhah*, which has practical implications for what women can do in Modern Orthodoxy. However, because both Modern Orthodox men and women agree on these red lines, Rabbi Fox’s argument is not hierarchical. Thus, the Modern Orthodox will not have the same kind of female rabbi as the Conservative and Reform movements because it is not the same kind of feminism. The current focus for women who wish to be Orthodox rabbis is the conception of a rabbi as a legal and spiritual authority.

Even though there is a movement to have women as legal and spiritual authorities, the Orthodox do not wish to apply the term “rabbi” to a woman. However, if Rabbi Fox believes that one does not need to count in a *minyan* or lead prayer services in order to be a rabbi, would

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<sup>102</sup> Yeshivat Maharat is the women’s yeshiva founded by Rabbi Avi Weiss in 2009 for the purpose of confirming Orthodox women as *Halakhic* and Spiritual leaders.

<sup>103</sup> R. Fox, Interview.



it not be logical to give women who fulfill all the roles of rabbis the title “rabbi”? Thus, it seems that for the Orthodox, what is at stake with allowing women to possess the title of “rabbi” is that it challenges the traditional authority structure of Orthodox Judaism. Applying the title “rabbi” to a woman implies that she has power and authority over others, something that Orthodox women have not formally had before. The development of feminism among Orthodox circles challenges these traditional boundaries.

In its beginnings, Second Wave feminism as a vast movement included certain radical themes that many Orthodox found incompatible with *halakhic* values. These themes included support for abortion, lesbianism, a longing for a unisex society that lacked specific gender roles, as well as many others. Aharon Feldman, a Modern Orthodox rabbi, states, “There are serious doubts as to whether the philosophical underpinnings of feminism – even the milder forms that are found in Orthodox Jewish feminism – are ultimately compatible with the philosophical underpinnings of the Torah.”<sup>104</sup> Joel Wolowelsky argues that Orthodox who fear feminism are mostly afraid of the “slippery slope” because they are afraid that once a major change is made, the religious floodgates will open and the tradition will crumble. However, Wolowelsky argues, “In the end, the ‘slippery slope’ fear is rendered irrelevant by our commitment to *halakhah*. It is *halakhah* which decides if we may accommodate someone’s feelings.”<sup>105</sup> Thus, many Orthodox felt that feminism posed a fundamental threat to Jewish continuity. However, proponents of increasing women’s religious roles felt that there was a *halakhic* way to acknowledge feminist requests. Wolowelsky argues that this was important due to the fact that feminism had altered women’s images of themselves.

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<sup>104</sup> Aharon Feldman, “Review Essay: Halakhic Feminism or Feminist Halakhah?” *Tradition* 33:2 (1999): 63.

<sup>105</sup> Joel Wolowelsky, “A Quiet Berakhah,” *Tradition* 29:4 (1995): 64.

As early as 1986, a number of Modern Orthodox scholars began to realize that there was a change in women's self-perceptions taking place within the Orthodox community. This was largely due to the fact that the secular landscape had been completely altered by Second Wave feminism. Not only had American policy and public attitudes towards women changed, but there had also been a change in the self-perception of a large number of American women, whether or not they explicitly identified with the women's liberation movement.<sup>106</sup> This change in women's self-perception did not leave the Orthodox community unscathed. As Joel Wolowelsky states, "a good number of *halakhically* committed American women have also come to have a non-traditional view of themselves."<sup>107</sup> Wolowelsky does not state whether or not he considers this change in the self-perception of Orthodox women as good or bad. Rather, he acknowledges that this is a social reality that will inevitably lead to a debate on the status of women in Orthodoxy and could push women from the movement. He states, "To exclude well-educated women from participating will drive them from the Torah community."<sup>108</sup> According to Wolowelsky, it is imperative to engage with feminist issues in order to preserve the female Orthodox community, but one must do so through *halakhah*. Wolowelsky's argument shows one way the Modern Orthodox have come to engage with feminism. Wolowelsky is not motivated by feminism when arguing for a *halakhic* debate of feminist demands, rather, he is motivated by keeping the interest of Orthodox women. Wolowelsky's motivations contrast with those of Rabbi Fox, who is committed to the values of feminism, and those values drive his argument. However, there are limitations to Wolowelsky's approach, due to the fact that he is not motivated by feminism itself. Wolowelsky states, "Accepting specific proposals is not equal

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<sup>106</sup> Joel Wolowelsky, "Modern Orthodoxy and Women's Changing Self-Perception," *Tradition* 22:1 (1986): 65.

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*, 68.

to accepting feminism as a whole.”<sup>109</sup> However, without accepting feminism as a whole, accepting specific proposals will not lead to a true transformation of women’s status in Orthodoxy. Rabbi Fox’s approach of a commitment to feminism is therefore, necessary for the ordination of women because feminism demands an equal status for women, even if it is a separate and equal status determined by *halakhah*. Thus, without a commitment to feminism, there cannot be change in the status of women.

Joel Wolowelsky argues that there are two principles that Orthodox Jews must keep in mind when addressing feminist issues. First, he argues that one must differentiate between feminist demands that develop from prevailing social attitudes that are *halakhically* acceptable and those that the Orthodox would view as inherently opposed to fundamental *halakhic* principles. For example, a woman as a spiritual, legal, and Torah leader is viewed by some Modern Orthodox as *halakhically* acceptable, while counting a woman in *minyan* is seen as directly opposed to *halakhah*. The reason for this distinction is because counting in a *minyan* requires equal obligation, and unlike the Conservative movement, the Modern Orthodox will not change the *halakhic* status of women. Having a woman as a spiritual, legal, and Torah leader, on the other hand, does not require a change to *halakhah* and is therefore, *halakhically* acceptable. Second, Wolowelsky argues that social attitudes alone cannot determine *halakhic* decisions. Rather, *halakhic* rulings must be based on *halakhic* analysis. He states, “It is the *posek* (*halakhic* decisor) and not the sociologist who determines *halakhah*. Similarly, an *issur* (*halakhic* prohibition) must flow from the sources, not the state of mind of the *posek*.”<sup>110</sup> Thus, the *posek* cannot let personal feelings about an issue pervade the *halakhic* decision at hand. This view is not unique to Orthodoxy due to the fact that Joel Roth would one hundred percent agree. This

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<sup>109</sup> Wolowelsky, *Women, Jewish Law, and Modernity*, x.

<sup>110</sup> Wolowelsky, “Women’s Changing Self-Perception,” 69.

shows that right-wing Conservative and left-wing Orthodox rabbis have the same conception of *halakhah*. Wolowelsky also contends that when feminist desires are *halakhically* acceptable and the motivation behind such desires is of a religious character, the increased involvement of women in Jewish life should be encouraged. Thus, as Wolowelsky states, “feminism in the context of *halakhah* is religiously significant for women.”<sup>111</sup>

#### Orthodox Responses to Conservative Responsa

As explained in the previous chapter, Rabbi Joel Roth (Conservative) focuses on a woman’s limited ability to fulfill a man’s obligation through her own actions. This limitation directly relates to women being able to count in a *minyan* and lead prayer services because if women are not obligated or their obligation is *de-rabbanan* while the man’s obligation is *de-oraita*, then men cannot fulfill their obligation through women. However, Roth outlines a new construct to solve this issue. He argues that if women choose to obligate themselves and accept the consequences of obligation, then they are equal to men in obligation and can fulfill the men’s obligation, subsequently allowing women to be counted in a *minyan* and lead prayer services.

While Modern Orthodoxy believes in a “flexible” conception of *halakhah*, this flexibility is distinct from the Conservative movement. The Orthodox firmly adhere to the *halakhic* structure of the distinctiveness of obligation. Therefore, the performance of a *mitzvah* out of obligation is qualitatively different than the performance of an optional *mitzvah*. As a result, an individual who performs an optional *mitzvah* cannot perform that *mitzvah* on the behalf of someone who is obligated. Wolowelsky states, “We must recognize the *halakhic* reality that just as we do not have the option of declaring that any *mitzvah* is not binding and obligatory, we cannot impose an obligation that does not exist. But lack of obligation does not mean lack of

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<sup>111</sup> Wolowelsky, *Women, Jewish Law, and Modernity*, 4.

opportunity.”<sup>112</sup> Therefore, Wolowelsky fundamentally disagrees with Roth’s assertion that women can voluntarily assume the obligation of fulfilling all *miztvot* and thus, become legally equivalent to men.

Responding directly to the Roth responsum, Gidon Rothstein elaborates on why the Orthodox do not accept the novel construct of self-imposed obligation that Roth lays out. Rothstein outlines three issues that the Orthodox have with Roth’s concept of self-imposed obligation. Firstly, the Orthodox argue that the source of the concept is unclear. Roth uses the *Magen Avraham* (R. Avraham Gombiner d. 1682) as his source. However, Rothstein explains that the ideas put forth in the *Magen Avraham* are disputed and therefore, the notion of self-imposed obligation is not necessarily a valid *halakhic* concept.<sup>113</sup> This particular issue marks an important distinction between the Orthodox and Conservative conception of *halakhah*. Rabbi Avi Weiss explains that the

Orthodox – Modern and Right alike – contend that legal authority is cumulative, and that a contemporary *posek* can only issue judgment based on a full history of Jewish legal precedent. In contrast, the implicit argument of the Conservative movement is that precedent provides illustrations of possible positions rather than binding law. Conservatism, therefore, remains free to select whichever position within the prior legal history appeals to it.<sup>114</sup>

Thus, using a source that is disputed is a dividing line between the Orthodox and the Conservatives. Secondly, Rothstein explains that Roth leaves the parameters of this self-imposed obligation undefined. Rothstein states, “Most of the sources focus on whether one can recite a blessing with God’s name. Therefore, the sources would seem to indicate that this self-imposed obligation is very limited.”<sup>115</sup> The sources that Roth presents specifically indicate a limited use of self-imposed obligation and therefore, the extent to which this construct allows for women to

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<sup>112</sup> Ibid., 17.

<sup>113</sup> Gidon Rothstein, “The Roth Responsum on the Ordination of Women,” *Tradition* 24:1 (1988): 111.

<sup>114</sup> Rabbi Avraham Weiss, “Open Orthodoxy! A Modern Orthodox Rabbi’s Creed,” *Judaism* 46:4 (1997): 411.

<sup>115</sup> Rothstein, “The Roth Responsum,” 112.

assume all *miztvot* from which they are exempt as obligatory is unclear. Lastly, a self-imposed obligation can be removed at any time, which is an option unavailable to those with other-imposed obligations and therefore the two are not really equal. As a result, the Roth responsum goes too far for the Orthodox conception of *halakhah* by allowing women to self-impose the obligation of fulfilling all *miztvot* from which they are exempt, and making them legally equivalent to the *de-oraita* obligation of men. Thus, based on the Orthodox conception of *halakhah*, the Orthodox cannot use the rationale that Roth uses to change the *halakhic* status of women. However, the Modern Orthodox will allow women to participate in optional *miztvot*. On the surface, the Modern Orthodox critique of the Conservative *teshuvot* is a justification for why the Modern Orthodox do not accept the arguments of Roth and other Conservative authorities. However, the critique also serves an internal function, because it reiterates for the Modern Orthodox that they have an Orthodox conception of *halakhah* and are therefore distinct from the Conservative movement.

For the Modern Orthodox, elevating the status of a self-imposed obligation to that of a *de-oraita* obligation is *halakhically* illegitimate. Further, the Modern Orthodox view counting in a *minyan* and leading prayer services as red lines that cannot be crossed both in terms of *halakhah* and intrinsically. Not only are women counting in a *minyan* and leading prayers services understood as *halakhically* impossible, but there is also the non-*halakhic* factor of women's social status being distinct from that of men that also accounts for elevating these changes to a "red line" status. Judith Hauptman, a Conservative feminist Talmudic scholar, explains that in addition to obligation, an individual needs to have a certain social status in order to lead prayer services.<sup>116</sup> Evidence for the additional requirement of social status comes from the Mishnah which states, "A woman may recite Grace for her husband...but a curse alight on

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<sup>116</sup> Hauptman, "Women and Prayer," 99.

any man who allows his wife to do so” (Mishnah Berakot 3:3). Hauptman explains that the imposition of a curse can be understood as meaning that even though a woman is obligated to recite Grace, she is still unable to do so for a man because she lacks the necessary social status. Hauptman states, “Although obligation to pray is a necessary condition for women to serve as prayer leaders, it is not sufficient. The designated individual also has to be someone who commands the respect of the congregation, or, stated differently, is socially acceptable to it.”<sup>117</sup> Due to the fact that the Modern Orthodox understand women as having a separate status than men, they may not fulfill the obligation of others or act as prayer leaders.

Blu Greenberg, one of the most prominent Orthodox feminists, further explains that women’s social status was kept inferior to that of men by the denying women access to higher religious education. She states,

If the study of Torah and Mishnah is not forbidden to women, why does Talmud remain off limits? Because direct access to learning is the key to religious leadership in traditional Jewish communities. Without it, there is no way a woman can qualify as a scholar, a *halakhic* decision maker, or a rabbi.<sup>118</sup>

The recent changes to Orthodox women’s education, such as the inclusion of Talmud, have already begun to change the social status of Orthodox women vis-à-vis men.

### Feminism in Orthodoxy: Is Separate and Equal Possible?

As women were able to receive higher degrees of education and serve in higher offices in secular society, Modern Orthodox women began to expect the same opportunities to be afforded to them in their religious life. Originally motivated by secular feminism, Orthodox women expressed feminism through their desire for religious growth, but there are also competing conceptions of feminism within Orthodoxy. Blu Greenberg, in her classic work *On Women &*

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<sup>117</sup> Ibid., 100.

<sup>118</sup> Blu Greenberg, *On Women & Judaism* (Philadelphia: Jewish Publication Society, 1981), 47-48.

*Judaism*, argues that a traditional Jewish feminist movement must reevaluate the *halakhah* in a way that expresses the concerns of Orthodox women while at the same time instilling a sense of Jewish values into those concerns.<sup>119</sup> Greenberg further urges Orthodox elites to reanalyze the *halakhic* exemptions and prohibitions concerning women. Greenberg's feminism is somewhat similar to that of the women in the Conservative movement because she argues for a reinterpretation of *halakhah* in light of the modern awareness of feminine equality and potential.<sup>120</sup> However, even those within the Orthodox community who are willing to increase women's leadership roles within the community are not willing to reevaluate the *halakhah*, but are willing to make changes to the social status of Orthodox women. Thus, it becomes evident that it is possible for feminism to be focused on status and not *halakhah*.

However, Greenberg does incorporate her Orthodox values into her conception of feminism. She argues that it is possible for traditional Judaism to create roles where men and women function as equals while retaining their distinct identities. Greenberg explains, "Judaism places very heavy emphasis on separation... In doing so, the uniqueness of each thing or each being is enhanced; a sense of holiness is miraculously established through the commandments of setting apart."<sup>121</sup> While Orthodox rabbis will not reevaluate the *halakhah* as Greenberg demands, some Orthodox rabbis and scholars have also expressed Greenberg's notion of "separate but equal" feminism.

One such scholar is Rabbi Jeffrey Fox, the Rosh Yeshiva at Yeshivat Maharat, who focuses on the distinction between "gender blind" and gender neutral." He argues that there are clearly places in secular society that are gender blind, such as employment opportunities, and there are places that are gender neutral, such as the Olympics where men and women both

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<sup>119</sup> Ibid., 6.

<sup>120</sup> Ibid., 46.

<sup>121</sup> Ibid., 52.



compete with their respective genders but they do not compete against each other. Rabbi Fox believes that Judaism does not have to be completely gender blind in order to be gender neutral. He argues, “You can still be a committed feminist and be gender neutral in ways that are meaningful and respectful of the unique voices of men and women.”<sup>122</sup> Rabba Sara Hurwitz, the first female Orthodox legal, spiritual, and Torah guide,<sup>123</sup> argues that because feminism has become more mainstream and less radical, it is possible to hold both labels. She states,

Ten years ago, you had to choose. You could either be Orthodox or a feminist. And I think now, because of the work that JOFA’s<sup>124</sup> done and because of the fact that people are feeling more comfortable with their commitment to inclusivity, it’s possible to be both Orthodox and feminist.<sup>125</sup>

As both Rabbi Fox and Rabba Hurwitz show, the Orthodox attitude towards feminism has changed in recent years. The Orthodox increasingly feel that there is a way to engage in meaningful *halakhic* discussion of feminist issues, specifically women as members of the clergy.

### The Current Landscape

There is currently one woman, Sara Hurwitz, who has achieved the highest religious leadership position of any Orthodox woman, to date. Today, Sara goes by the title of rabba but she was originally ordained with the title MaHaRa”T<sup>126</sup> in 2009 at the Hebrew Institute of Riverdale (HIR) by Rabbi Avraham Weiss. Rabbi Weiss is the head rabbi at HIR and is known for his rabbinical advocacy. As Orthodox Rabbi Marc D. Angel of the Congregation Shearith

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<sup>122</sup> R. Fox, Interview.

<sup>123</sup> Technically speaking, Sara Hurwitz is not the first Orthodox woman to receive a conferral by an Orthodox Rabbi. In the 1990s Haviva Ner-David received a private ordination by Rabbi Aryeh Strikovsky in Israel. However, Ner-David’s ordination is now a moot point with respect to the Orthodox community due to the fact that she has since left the Orthodox movement and now considers herself a “post-denominational rabbi.” See Darren Kleinberg, “Orthodox Women (Non-) Rabbis,” *CCAR Journal: Reform Jewish Quarterly*, LIX:2 (2012): 82 for more information.

<sup>124</sup> Jewish Orthodox Feminist Alliance. To learn more visit [www.jofa.org](http://www.jofa.org).

<sup>125</sup> Rabba Sara Hurwitz, Interview with Author, January 23, 2013.

<sup>126</sup> MaHaRa”T is an acronym made up from the sounds of the first letters of four Hebrew words: Manhigah Hilchatit Ruchanit Toranit. This translates as Legal, Spiritual, and Torah Guide.

Israel and Weiss's long time friend explains, Rabbi Weiss is the kind of rabbi who feels a commitment to the Jewish people as a whole rather than only the Orthodox community.<sup>127</sup> Rabbi Weiss has long been an advocate for Orthodox women, championing the issue of Orthodox women's prayer groups in the 1990s. However, influential rabbis at Yeshiva University who were contemptuous of his ideas were not shy about making their voices heard, making Weiss' life at Yeshiva University increasingly hostile. When Weiss realized that he could not push the school to the left alone, he decided to found his own and did so in 1999 with Yeshivat Chovevei Torah, a Modern Orthodox rabbinical school focused on inclusivity. Weiss explains, "I was once involved in activism because I enjoyed it, but now I have come to believe that a true activist takes no pleasure from it. Now I'm an activist because I feel I have no choice; there are things I believe I simply must do."<sup>128</sup> Thus, when Weiss found the opportune person and moment in time to ordain the first women in American Orthodox Judaism, he took the chance.

In 2004, Hurwitz completed the three-year curriculum at the Drisha Institute, an institution that has made important headway in the area of women's religious education. Drisha was founded in 1979 by Rabbi David Silber as the world's first center for women's advanced study of classical Jewish texts. Rabbi Silber states, "Today it's a different world for women in the traditional community, with many different opportunities for learning. Although we are still very far away from the ideal, it is way better than it was, and Drisha has been at the forefront."<sup>129</sup> While it is unclear what Rabbi Silber's "ideal" is, Drisha offers a number of educational programs for both women and men, including a three-year program paralleling rabbinic ordination that has significantly increased the access to higher religious education for Orthodox

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<sup>127</sup> Abigail Pogrebin, "The Rabbi and the Rabba," *New Yorker*, July 11, 2010.

<sup>128</sup> *Ibid.*

<sup>129</sup> "About Drisha." Drisha Institute for Jewish Education. <http://www.drisha.org/aboutdrisha.php> (accessed February 15, 2013).

women. Upon graduation from Drisha, Hurwitz became the *Madricha Ruchanit* (spiritual guide) at HIR.

After studying privately with Rabbi Weiss for five years, she was formally ordained as MaHaRa”T Sara Hurwitz in March 2009.<sup>130</sup> Hurwitz needed to privately study with Rabbi Weiss in order to receive the same curriculum as male rabbinic candidates due to the fact that the Orthodox community does not feel that three years is enough to provide a rabbinic candidate with the knowledge necessary to serve as a religious leader and a *poseket* (interpreter of *halakhah*). Further, because Yeshivat Maharat was not yet available, studying privately with Rabbi Weiss was the way to achieve this next level of education. As a result, the independent studying that Hurwitz did with Rabbi Weiss was much more focused on the application of principles and laws that she had learned previously.

MaHaRa”T is an acronym that stands for *Manhigah Hilchatit Ruchanit Toranit*, which means Legal, Spiritual, and Torah Guide. At her confirmation Rabbi Weiss stated,

Sara is a *Manhigah Hilchatit*, a *halakhic* leader with the authority to answer questions of Jewish law asked by her congregants and others. Sara is a *Manhigah Ruchanit*, a spiritual leader with the qualification to offer pastoral care and spiritual guidance, and the right to lead lifecycle ceremonies within the framework of *halakhah*. Sara is a *Manhigah Toranit*, with the knowledge to teach Torah, the written as well as the oral law in every aspect of Jewish learning.<sup>131</sup>

Thus, a MaHaRa”T can serve the functions of responding to questions of Jewish law, pastoral care, spiritual guidance, involvement in lifecycle events and teaching. The implications of this title are such that women can serve as guides in all matters of *halakhah* and spiritual guidance

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<sup>130</sup> Kleinberg, “Orthodox Women (Non-) Rabbis,” 85.

<sup>131</sup> R. Avraham Weiss, “Responsa Regarding Women’s Roles in Religious Leadership” (transcript of speech given at the conferral ceremony of Sara Hurwitz at the Hebrew Institute of Riverdale, Riverdale, NY, March 22, 2009). The document “Responsa Regarding Women’s Roles in Religious Leadership” was distributed at the conferral ceremony of MaHaRa”T Hurwitz. The document includes the remarks offered at the ceremony by Rabbi Avraham Weiss and three *halakhic* responsa from three different rabbis: Rabbi Yoel Bin-Nun, Rabbi Dr. Daniel Sperber, and Rabbi Joshua Maroof. The document also includes a copy of the unsigned “Writ of Authorization and Title” in Hebrew and in English.

but that there are certain roles that can only be filled by men including counting in a *minyan*, leading services, or sitting on a *beit din* (rabbinical court).

Hurwitz explains that her position at HIR evolved over time, but that by the time she was ordained as MaHaRa”T she felt as though she was a full member of the clergy. She states, “I was really accepted and people turned to me for all sorts of rabbinic questions and life-cycle events. I think the ordination really helped people understand who I was and what I was doing.”<sup>132</sup> Surprisingly, there was little backlash from the Orthodox establishment after Rabbi Weiss’s conferral of the title MaHaRa”T on Sara Hurwitz. However, after a year, it became clear to Rabbi Weiss that the title never really took hold among the wider Jewish community. Many found the title long and confusing and the larger Jewish community did not really understand what it meant. These facts led Rabbi Weiss to the conclusion that little had changed from this seemingly momentous act.<sup>133</sup>

As a result, in January 2010, Rabbi Weiss announced from his pulpit that he would be changing Hurwitz’s title from MaHaRa”T to rabba. As soon as he made the announcement, controversy ensued. The Orthodox establishment saw the conferral of the title rabba as an immediate danger to tradition. Agudath Israel of America, ultra-Orthodoxy’s most authoritative rabbinic body issued the following statement, “These developments represent a radical and dangerous departure from Jewish tradition. Any congregation with a woman rabbinical position of any sort cannot be considered Orthodoxy.”<sup>134</sup> Further, an amendment was floated at the Rabbinical Council of America’s Convention in April 2010 that proposed the expulsion from the RCA, one of the world’s largest organizations of Orthodox rabbis, of any member who ordained a woman. That amendment failed but another passed which stated, “We cannot accept either the

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<sup>132</sup> Rabba Hurwitz, Interview.

<sup>133</sup> Pogrebin, “The Rabbi and the Rabba.”

<sup>134</sup> Ibid.

ordination of women or the recognition of women as members of the Orthodox rabbinate, regardless of title.”<sup>135</sup> Rabbi Weiss was able to come to a compromise with the RCA that a woman cannot be an Orthodox rabbi but can be confirmed as a MaHaRa”T. Rabbi Weiss also made the commitment that he will not ordain women with the title of rabba in the future. The RCA sees the issue as a terminology dispute. However, to break with the RCA would be a radical departure for Weiss and his movement and would create a distinct rupture between the Weiss and his followers and Modern Orthodoxy.

Rabba Hurwitz argues that her function as a legal and spiritual leader has not changed with her change in title. She explains, “The controversy helped awaken people to the possibility that they could pursue this position. So girls could now follow this trajectory and become spiritual leaders, become rabbis.”<sup>136</sup> As evident by this statement, Hurwitz uses the terms “rabbi” and “MaHaRa”T” interchangeably, showing that she sees no distinction between the two. However, Rabba Hurwitz concedes that rabba is distinct from rabbi due to the fact that it denotes that there are certain things that women cannot do as religious leaders. Hurwitz explains, “Although it’s the female version of rabbi, it implies that there are red lines, that there are things that women do not do, like counting in *minyan*, leading *davening*, and sitting on a *bet din*.”<sup>137</sup> However, as explained previously, if the Modern Orthodox do not view counting in a *minyan* and leading services as rabbinic functions, then sitting on a *beit din* is the only rabbinic function that a MaHaRa”T cannot perform. Thus, it seems that the refusal of the title “rabbi” is not solely based upon *halakhah* but also on social status. Allowing women to hold the title of “rabbi” would change the traditional collective understanding of women’s roles in Orthodox

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<sup>135</sup> Ibid.

<sup>136</sup> Rabba Hurwitz, Interview.

<sup>137</sup> Ibid.

communities. Even so, functioning as a legal and spiritual leader is a significant change to traditional gender norms within Orthodoxy.

Rabba Hurwitz readily identifies as a feminist. She believes that feminism means more opportunities for women and the ability to help women achieve equality. Hurwitz states, “The feminist movement has been incredibly helpful to help me get to where I am and I’m grateful for the openings that have been made available for me. I feel in many ways that I stand on the shoulders of the people who came before me.”<sup>138</sup> Hurwitz further explains that her South African roots led her to a true understanding of discrimination. For Rabba Hurwitz, the first hand knowledge of prejudice and inequality has translated into a sense that “as a women [she] should be able to do and be whatever [she] want[s].”<sup>139</sup> Of course, this statement is implicitly qualified to include only those desires that do not conflict with *halakhah*. The feminist aspirations of Orthodox women must be in line with accepted *halakhic* interpretation. Despite this qualification, the increased ability for Orthodox women to openly identify with feminist ideals increases the Orthodox willingness to engage with feminism, which could one day lead to Orthodox women rabbis.

#### *Halakhic Legitimacy of a Manhigah Hilchatit Ruchanit Toranit (MaHaRa”T)*

At Sara Hurwitz’s conferral ceremony, three responsa were presented in the document “Responsa Regarding Women’s Roles in Religious Leadership” to legitimize the conferral of the title MaHaRa”T upon an Orthodox woman. The authors of the responsa are Rabbi Yoel Bin-Nun, Rabbi Dr. Daniel Sperber, and Rabbi Joshua Maroof, respectively. Rabbi Bin-Nun is an Orthodox Israeli educator and was the Rosh Yeshiva at Yeshivat Ha-Kibbutz Ha-Dati in Israel

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<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

until his retirement in 2006. Rabbi Sperber is a professor of Talmud at Bar-Ilan University in Israel, and Rabbi Maroof is the head rabbi at the Magen David Sephardic Congregation's Beit Eliahu Synagogue in Rockville, Maryland.

The authors of the responsa do not address the question of whether Orthodox women can become "rabbis." Rather, as David Kleinberg points out, "they each provide their own formulation of the question they are responding to."<sup>140</sup> The three responsa focus on whether a qualified woman can serve in rabbinic roles and fulfill rabbinic responsibilities in the community. Specifically, the three *teshuvot* (responsa) all focus on whether a qualified woman may issue *halakhic* decisions (*psak*) and whether a woman can serve in a position of communal authority.

#### *Women as Halakhic Decisors (Posekot)*

All three responsa come to the conclusion that a woman may be a *halakhic* decisor (*poseket*). Rabbi Bin-Nun explains that a woman may decide legal matters based on the statement, "the Torah made men and women equal in all *dinim* (civil matters) in the Torah" (Baba Kamma 15a).<sup>141</sup> Further, he argues that a woman may decide legal matters even though a woman may not testify because the statement, "All that are eligible to decide legal matters are eligible to testify," (Mishnah Niddah 6:4) only refers to men (Novellae of the Rashba to Baba Kamma 15a). However, this argument is somewhat disputed among *halakhic* authorities so the authors turn to a discussion of the Biblical judge and prophetess Deborah.

The Tosafot debate how Deborah was able to serve as a judge if women are not eligible to bear witness. All three authors explain that Deborah did not give judgment herself but

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<sup>140</sup> Kleinberg, "Orthodox Women (Non-) Rabbis," 87.

<sup>141</sup> Rabbi Yoel Bin-Nun, 1 in "Responsa Regarding Women's Roles in Religious Leadership."

actually taught the judges the laws.<sup>142</sup> Rabbi Bin-Nun explains that this follows from the statement, “She was a wise woman (*isha hakhama*) and a prophetess, and they would discuss with her even issues of prohibited and permitted (*issur ve’eheter*) and dinim as well” (Sefer haHinukh, R. Chavel edition p.141). Rabbi Sperber explains that the fact that Deborah taught the laws to the judges shows that a woman may give *halakhic* rulings because that is true meaning of teaching *halakhah* to others.<sup>143</sup> All three authors also show that the *halakhah* further underlines the ability of a woman to issue *halakhic* rulings through the statement in Sefer haHinukh (R. Aharon HaLevi d. 1303) that prohibits someone who is drunk from issuing *halakhic* rulings. Sefer haHinukh states, “This prohibition prevents giving judgment in any place and at all times on the part of males and of a wise woman who is suited to give ruling” (Sefer haHinukh 158).<sup>144</sup> Therefore, a woman who has achieved the standard of learning required for issuing *halakhic* rulings may do so without any *halakhic* objections.

While it may seem that these rabbis are arguing that a qualified women may serve on a *beit din*, they are not. Rather, they are focused on a woman’s ability to decide matters of *halakhah*. Both Sperber and Maroof elaborate on this distinction. Sperber explains, “[Deborah] did not herself give judgment but taught [the judges] the laws, and the Yerushalmi declares that a woman may give *halakhic* rulings, for that is the real meaning of teaching *halakhah* to others.”<sup>145</sup> Rabbi Maroof further clarifies that there is a fundamental difference between *halakhic* decision making (*hora’ah*) and judging (*piskat din*). He explains that *hora’ah* is applying the principles of the law to everyday life and is validated by the process of Torah study that produces it. Women can serve as a *poseket halakhah* (*halakhic* decisor) because the process of *hora’ah* is

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<sup>142</sup> Rabbi Yoel Bin-Nun 2, Rabbi Dr. Daniel Sperber 1, and Rabbi Joshua Maroof, 1 in “Women’s Roles in Religious Leadership.”

<sup>143</sup> Rabbi Dr. Daniel Sperber, 1 in “Women’s Roles in Religious Leadership.”

<sup>144</sup> R. Bin-Nun 2, R. Sperber 1, and R. Maroof, 1 in “Women’s Roles in Religious Leadership.”

<sup>145</sup> R. Sperber, 1 in “Women’s Roles in Religious Leadership.”



equally accessible to both men and women. Judgment, on the other hand, “derives its validity not from the process that produces it but from the stature of the one who issues it...legal decisions...are manifestations of the special status with which he [the judge] is vested and take effect by virtue of that status alone.”<sup>146</sup> Thus, Rabbi Maroof argues that a woman cannot be a judge because a woman cannot be granted the political authority of a man due to the fact that the “special status” of a judge is inaccessible to women. Thus, these rabbis create a binary distinction between serving as a judge and acting as a *halakhic* decisor. A woman may function as a *halakhic* decisor in all areas in which “she was examined and found competent” but may not sit on a *beit din* due to the fact that she does not have the same status of a male rabbi.<sup>147</sup>

While some Modern Orthodox are feminist, they will always preserve a sacred space between men and women because there is a predetermined argument that will always be there, leading to a “separate but equal” conception of feminism. Allowing women to function as *halakhic* decisors is a transformation but it is still in line with *halakhah* because allowing a woman to issue decisions does not change the status of women. Thus, the Modern Orthodox exude not only a reluctance to tamper with *halakhah*, but also a reluctance to tamper with traditional conceptions of social status determined by *halakhah*, feminist principles notwithstanding. For the Modern Orthodox, social status is paired with ritual and to the extent that the Modern Orthodox can change it without changing *halakhah*, they will. Thus, for the Modern Orthodox, women can be *halakhic* decisors but cannot serve as judges because that would close the gender gap that preserves *halakhah* for the Modern Orthodox.

### *Women in Positions of Communal Authority*

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<sup>146</sup> R. Maroof, 2 in “Women’s Roles in Religious Leadership.”

<sup>147</sup> R. Sperber, 3 in “Women’s Roles in Religious Leadership.”

The Bin-Nun and Sperber responsa also conclude that a woman may serve in a position of communal authority. The responsa use the term “communal authority” as meaning a leader of the community who supervises communal affairs, such as *kashrut* (dietary laws) and therefore, do not include sitting on a *beit din*. Rabbi Sperber explains that while the Rambam forbids women from having any positions of authority, later *halakhic* authorities have stated that the Rambam lacks a source for this prohibition and that therefore, it is a rejected ruling. In response to the Rambam’s prohibition, Sperber explains that Rabbi Yosef Raphael Uziel (d. 1953) wrote,

This ruling 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 opinions, the agreement and truth of the public in its appointees, who will be supervising their communal affairs – in such a case even the Rambam would agree that there is not hint of a prohibition [i.e. for a woman to serve] (*Piskei Uziel* 43).<sup>148</sup>

As a result, the community bases a woman’s communal leadership on the voluntary acceptance of the woman’s authority.

Rabbi Bin-Nun also argues that if a community voluntarily accepts the leadership of a woman, then there is no *halakhic* issue in having her as a communal authority. He explains that this follows from the fact that the Israelite community accepted Deborah as their leader and as a result, every person accepted her teachings. Bin-Nun states,

An *Isha Hakhama* can teach and instruct, according to all of the opinions and a community can accept upon themselves an *Isha Hakhama* as their teacher (*Morah*) in Torah, in all aspects of the regular roles of a community and synagogue rabbi, and there is no aspect of suspicion or prohibition, even according to the strictest positions in *Halakhah* on this issue.<sup>149</sup>

Thus, Rabbi Bin-Nun concludes that a woman, when accepted by her community, may teach and instruct the community and further, can assume all the “regular roles” of a rabbi. However, by making the distinction that a woman can only take on the “regular roles” of a rabbi, Bin-Nun

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<sup>148</sup> Ibid.

<sup>149</sup> R. Bin-Nun, 3 in “Women’s Roles in Religious Leadership.”

implicitly states that “the roles and responsibilities [afforded to women] are part of, but do not amount of the sum of, the role of a male rabbi.”<sup>150</sup> As a result, while Rabbi Bin-Nun does allow sufficiently educated Orthodox woman to take on some roles of a rabbi, specifically teaching and instructing, he is careful to underscore the fact that the role of a MaHaRa”T is not equivalent to a male rabbi who can act as a judge. Bin-Nun is able to make this distinction by explaining that Deborah did not really judge, rather, she taught the laws. Despite this distinction made by Rabbi Bin-Nun, the responsa presented at the Sara Hurwitz’s conferral ceremony are still very significant because these responsa assign *halakhic* legitimacy to women as *halakhic* decisors on all *halakhic* issues, which is a monumental step forward.

*Implications of the “Responsa Regarding Women’s Roles in Religious Leadership”*

The *teshuvot* that ascribe *halakhic* legitimacy to women as *halakhic* decisors, specifically those of Bin-Nun, Sperber, and Maroof, show a feminist impulse distinct from other Orthodox *teshuvot* regarding women, such as those regarding women’s prayer groups. By allowing a woman to act as a *poseket*, not just on women’s issues but also on all *halakhic* issues, these responsa potentially place Orthodox women in a position of authority over men. For the Orthodox, the concept of women having authority over men is problematic because the Rabbis consistently prohibit any actions that would have given women authority over men, such as allowing women to formally testify. Rabbi Susan Grossman states, “the Rabbis could not conceive of equating the authority of a woman with that of a man nor – perhaps more significantly – could they conceive of giving a woman authority over a man.”<sup>151</sup> However, the responsa of Bin-Nun, Maroof, and Sperber are a radical departure from this notion for the

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<sup>150</sup> Kleinberg, “Orthodox Women (Non-) Rabbis,” 88.

<sup>151</sup> R. Grossman, “*Edut Nashin K’Edut Anashim*,” 7.

Orthodox. Rather than only allowing women to decide on matters of *halakhah* that specifically relate to women, which would only allow women to have authority over other women, these *teshuvot* allow women to rule on *halakhic* issues that affect both women *and men*. Thus, when a man comes to Rabba Hurwitz or another MaHaRa”T with a *halakhic* issue, such as a business transaction, Rabba Hurwitz or the MaHaRa”T can issue a *psak* on that subject. In such situations, Rabba Hurwitz or the MaHaRa”T holds authority over the Orthodox man who posed the question as long as that individual voluntarily accepts the authority of the MaHaRa”T due to the fact that the communal authority of women is based on the consent of the community.<sup>152</sup> If there is consent of the community, the MaHaRa”T is in a hierarchically superior position to the male petitioner. Due to the fact that the MaHaRa”T would most likely be accepted as authoritative by those coming to her for *halakhic* rulings, the MaHaRa”T is not hierarchically inferior to the rabbi in this sphere.

The implications of allowing women to issue *halakhic* rulings in all areas of *halakhah*, and consequently have authority over men who come to a MaHaRa”T for guidance, cannot be understated because it marks an important transformation in the social status of Orthodox women. To have an Orthodox woman with authority over an Orthodox man is an innovation that can only be attributed to a willingness to engage with feminism, even if it is a mild form of feminism. Allowing women to act as *halakhic* and spiritual authorities but refusing to cross the “red lines” of permitting women to count in a *minyán*, lead prayer services, or sit on a *beit din*, allows the Modern Orthodox to push the envelope from within the system while still maintaining a distinction between male and female religious leaders. As Rabba Hurwitz explains, it allows the Modern Orthodox to “interpret how women can fit into the current *halakhic* framework that

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<sup>152</sup> R. Sperber, 3 in “Women’s Roles in Religious Leadership.”

guides the Modern Orthodox community.”<sup>153</sup> Thus, the Modern Orthodox have made the choice to engage with feminism in a *halakhic* way and provide a leadership role that significantly changes the status of women in the Modern Orthodoxy.

### Looking Ahead

This spring, the first class of women will graduate from Yeshivat Maharat. Yeshivat Maharat was founded by Rabbi Avi Weiss in 2009 and is the first institution to confirm Orthodox women as *halakhic* authorities and spiritual leaders. Yeshivat Maharat takes the curriculum provided at Drisha a step further by providing a curriculum composed of Talmud, *halakhic* decision making (*psak*), pastoral counseling, and leadership development. Yeshivat Maharat’s website states, “Yeshivat Maharat is changing the communal landscape by actualizing the potential of Orthodox women as *rabbinic* leaders. Yeshivat Maharat represents a natural evolution towards a pluralistic community, where women and men, from every denomination, can enhance the Jewish world. (emphasis added).”<sup>154</sup> At least for now, upon completion of the program at Yeshivat Maharat, students are confirmed with the title MaHaRa”T. However, that could change in the future, especially considering the fact that the website explicitly states “rabbinic leaders.” Finding a proper title that the Orthodox will accept is very important because once Yeshivat Maharat is not considered Orthodox, it loses its purpose.

The three women graduating this spring will officially receive the title of MaHaRa”T, however, Rabba Sara explains that the hiring institution will be able to choose what title to use.<sup>155</sup> It seems that the title MaHaRa”T is simply being used as an interim title until Avi Weiss feels that the time is ripe to change the title to rabba. Joel Wolowelsky seems to have foreseen

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<sup>153</sup> Rabba Hurwitz, Interview.

<sup>154</sup> “Welcome.” Yeshivat Marahat. <http://yeshivatmaharat.org/> (accessed February 15, 2013).

<sup>155</sup> Rabba Hurwitz, Interview.

the current situation. In 1986 he stated, “Given the fact that the ordination of women was initiated from without the *halakhic* community, social reality dictates that there will be learned Modern Orthodox women acting as *posekot* long before they have the formal title.”<sup>156</sup> Wolowelsky understood that the Orthodox would not easily confer the title of rabbi, or rabba more specifically, on a woman because of the many *halakhic* and social objections the Orthodox establishment would raise. He continues, “Simple parsonage considerations may force creating a formal title as more women become professionals taking on roles normally associated with rabbis.”<sup>157</sup> Thus, Rabbi Weiss will use the title of MaHaRa”T until he feels it can be changed. However, due to the hostile backlash from the Orthodox establishment in 2010 when Rabba Hurwitz’s title was changed, it seems that Rabbi Weiss and his followers will have to wait a decent amount of time before doing anything too radical if they wish to remain connected with the larger Orthodox community.

Even if they changed the title, however, there is no indication that the function of these women would change. It seems unlikely that the Modern Orthodox will have female religious leaders that are equal members of the clergy in the sense that they could count in a *minyan*, lead services, and sit on a *beit din*, at least for the near future. This assertion stems from the fact that it is both the men *and the women* who ascribe importance to maintaining the *halakhic* red line drawn at the above-mentioned functions. For example, Rabba Hurwitz finds Orthodox norms unproblematic because she is committed to both the Orthodox conception of *halakhah* and feminism.<sup>158</sup> Thus, she insists on the aforementioned red lines because she wants to be recognized as Orthodox. Further, for the Modern Orthodox to find a *halakhically* valid argument for justifying such an act would most likely create a distinct fracture between the Modern

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<sup>156</sup> Wolowelsky, “Women’s Changing Self-Perception,” 77

<sup>157</sup> Ibid.

<sup>158</sup> Rabba Hurwitz, Interview.

Orthodox and the rest of Orthodoxy. Such a break is something I do not think the Modern Orthodox want, due to the fact that the legitimacy of Modern Orthodoxy rests on its claim to Orthodoxy, which means that it cannot break from the ultra-Orthodox. I believe that this stems from the fact that the Modern Orthodox still view themselves as in line with the larger Orthodox establishment. This argument is reinforced by the fact that Rabbi Avi Weiss was willing to compromise in 2010 in order to remain a member of the RCA. If Avi Weiss and his followers had wanted to break with the rest of the Orthodox community in such a radical way, the RCA Convention in 2010 would have been the opportune time. It is possible that as time progresses, the Modern Orthodox will feel that having female members of the clergy that are equal to men is such an important part of their mission that they will break with the rest of the Orthodoxy. However, I do not think that is anywhere in the near future.

For the foreseeable future, I think that a partnership model may emerge between male and female members of the Modern Orthodox clergy. Both Rabbi Fox and Rabba Hurwitz argue that men and women working together to understand and interpret difficult *halakhic* texts will better serve the community. Women clergy members who bring a feminist perspective to *halakhic* interpretation will understand that difficult texts cannot be ignored. Hurwitz states, “It’s a method of pausing and acknowledging that they’re difficult, whatever the issue. It’s a methodology of pausing and working through it, rather than just brushing it under the table.”<sup>159</sup> However, there is no way of knowing whether other sectors of the Orthodox community would accept *halakhic* rulings from women even though there are responsa that legitimize the *halakhic* decisions of learned women. Despite this uncertainty, it is clear that there is a slow and spreading change taking place within the Orthodox community. Yeshivat Maharat will confirm women with the title of MaHaRa”T and these women will find jobs. As a result, there will be a

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<sup>159</sup> Ibid.

change in the collective understanding of the roles of Orthodox women that will eventually lead to Orthodox women rabbis, with that title, who continue to adhere to traditional norms about women's ritual roles.



### Conclusion

The ordination of women as rabbis depends on a commitment to feminism and different conceptions of feminism, *halakhah*, and social status in the Reform, Conservative and Orthodox movements intersect in different ways to create different kinds of woman rabbis. For the Reform movement, *halakhah* permitted ordination but not feminism. Only when feminism changes the status of women in secular society do women get ordained in the Reform movement. The absence of *halakhah* and commitment to full egalitarianism led the Reform movement to ordain women rabbis who are completely equal to their male counterparts. For the Conservative movement, the demands of Conservative Jewish feminists structured the debate. The Conservative movement's experience with women's social status, as equal to men in secular society, led Conservative Jewish feminists to argue for equal status under *halakhah*. Thus, the Conservative movement transformed *halakhah* to match feminism. For the Modern Orthodox, feminism is conceptualized as separate and equal and the status of women is determined by *halakhah*. The Modern Orthodox needed an equal status for women that does not change *halakhah*. Thus, the development of a MaHaR" T is a transformation but it is still in line with *halakhah*. As a result, it becomes clear that the Modern Orthodox can make this change because it is not *halakhah* and that for the Modern Orthodox, feminism is focused on status and not *halakhah*. Thus, the Modern Orthodox transform feminism to match *halakhah*.

In creating a separate but equal leadership role for Orthodox women, the Modern Orthodox show that while they are feminist, they will always preserve a sacred space between men and women because there is a predetermined argument in classical texts. This gender gap preserves *halakhah* for the Modern Orthodox and also maintains Modern Orthodoxy's connection to the larger Orthodox community. At some point, the Modern Orthodox might

move closer to the Conservative movement than they are to the Ultra-Orthodox, and this would be a result of the impact of modernity and feminism. The growth of feminism and the recent developments within the Modern Orthodox movement lead to the conclusion that Orthodox women rabbis are inevitable. The inevitability of Orthodox women rabbis, with that title, leads to the deduction that the resulting divide between the Modern Orthodox and the Ultra-Orthodox is only going to increase. The ordination of women in American Judaism, and specifically within the Modern Orthodox movement, show the impact of modernity on Judaism and further show that feminism is never a steady state. Feminism has a dynamic of its own expansion for all three denominations. It begins to eat into the old arguments about the boundaries between men and women but because the boundaries were originally different for all three branches of American Judaism, the change that occurs is necessarily different as well.

## Glossary

***Amidah:*** The Eighteen Benedictions

***Beit Din:*** Rabbinical court. Usually comprised of three rabbis. Plural: *batei din*

***Davening:*** Praying

***De-oraita:*** A Biblically ordained law

***De-rabbanan:*** A Rabbinically developed law

***Dinim:*** Laws

***Edut:*** Witness

***Halakhah:*** Jewish law

***Hazzan:*** Leader of the communal prayer service

***Hiyyuv:*** Obligation

Hora'ah: *Halakhic* decision making

***Isha hakhahma:*** Wise woman

**MaHaRa"t:** Acronym for *Manhigah*

*Hilchatit, Manhigah Ruchanit, Manhigah*

*Toranit.* Legal, Spritual, and Torah guide

***Mehuyyav:*** Obligated

***Mehitzah:*** Partition between men and women in the synagogue

***Minyan:*** Prayer quorum

***Mishnah:*** Rabbinic text compiled around 200 CE. Legal compilation that covers a wide range of topics of Jewish law.

***Midrash Halakhah:***

***Mitzvah:*** Good deed, Commandment.

Plural: *mitzvot*

***Piskat Din:*** Judgement

***Posek/Poseket:*** *Halakhic* decisor

(male/female)

***Psak:*** *Halakhic* decision

***Rosh Yeshiva:*** Dean of the Yeshiva

***Shaliah/Shelihat tzibbur:*** Representative or emissary of the community. (male/female).

Acronym: *shatz*

***Sukkah:*** Temporary booth used during the festival of Sukkot

***Teshuva:*** Responsum. Plural: *teshuvot*

***Talmud:*** Rabbinic commentaries on the Mishnah. Palestinian Talmud, Israel, 200-400 CE. Babylonian Talmud, Babylonia, 200-600 CE.

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### Synopsis

My project focuses on the ordination of women as rabbis in American Judaism. Ordaining women as rabbis always depends on a commitment to feminism, and in the case of the Conservative and Orthodox movements, this is complicated by a simultaneous commitment to *halakhah* or Jewish law. The movements to ordain women as rabbis within Reform, Conservative, and Orthodox Judaism demonstrate that feminism is the driving force behind women's ordination and differing conceptions of Jewish law and the social status of women determine whether and how feminism can promote change. Therefore, if there is a commitment to feminism, the response will eventually be the ordination of women as rabbis. In the absence of such a commitment, women are not ordained as rabbis, regardless of a movement's conception of Jewish law. The success of women's ordination movements further depends on a willingness by elites to change the collective understanding of the social status of women. Thus, authorities in all movements must be willing to eliminate the distinction between technical eligibility and social acceptability. The increasing willingness of the Modern Orthodox to engage with feminism and to re-conceptualize the authority structure between men and women leads to the conclusion that the Modern Orthodox will eventually ordain women as rabbis.

A wealth of research has been done on the ordination of women as rabbis in all three movements but there has not been a comparative analysis of Reform, Conservative, and Modern Orthodox and the ways in which feminism, Jewish law, and social status intersect in different ways within each movement. Women from different denominations construct different conceptions of feminism. Reform feminists are not bound by *halakhah*, because the Reform movement does not view Jewish law as binding and therefore, Reform feminists believe that Reform Judaism should be fully egalitarian as a result of contemporary society. Conservative

and Orthodox feminists, do view Jewish law as binding and therefore must work through *halakhah* in order to achieve change but arrive at fundamentally different conceptions of what that change should be as a result of their differing conceptions of Jewish law. The Conservatives take feminism as a given and argue that the change to women's social status necessitates a change in the status of women within Jewish law as well. The Orthodox on the other hand, understand feminism as separate and equal, and thus, focus on changing the social status of women without changing the *halakhah*. Thus, for the Orthodox, feminism is focused on status and not *halakhah*. As a result of these fundamental differences, the Reform, Conservative, and Orthodox movements create very different kinds of women rabbis.

As I stated earlier, the Reform movement does not view Jewish law as binding and believes that Judaism should be able to confront and adapt to modernity. The issue of women's ordination as rabbis was first raised in 1921 and shortly after the movement made a rhetorical commitment stating, "In view of these Jewish teachings and in keeping with the spirit of our age and the traditions of our conference, we declare that women cannot justly be denied the privilege of ordination." However, due to the social status of women in contemporary society at the time, there was really no urgency in the Reform movement to ordain women as rabbis until Second Wave feminism changed women's social status in the 1960s.

For the Reform movement, while Jewish law permitted the ordination of women from the beginning, feminism and the social status of women did not. It is only when feminism changes the status of women do women get ordained by the Reform movement. Reform had made rhetorical commitments to full egalitarianism before the height of the women's liberation movement but Reform elites refused to act on such commitments because the social norms of the time dictated that women could not fulfill male societal roles. However, the feminist movement

of the 1960s profoundly changed the prescribed gender norms of American society, and as a result, the way Reform elites saw the world. The feminist movement of the 1960's mandated certain shifts in women's presence, place, and roles in American society. As a movement dedicated to making Judaism modern and compatible with the surrounding culture, the Reform movement understood that the time had come to apply the change of gender norms in America to the place of women in Reform Judaism. Once women were considered as having the same social status as men in society and therefore, able to serve in leadership positions, Reform was willing to ordain women as rabbis and did so in 1972 by ordaining Rabbi Sally Priesand.

When Jewish community turned inwards in the 1970s, Conservative Jewish women, who had been influenced by the Second Wave feminist movement began to internalize these values and reflect on their place in Judaism. Realizing that Conservative Judaism was largely out of step with the notion of gender equality, Jewish women who were deeply committed to both Judaism and feminism brought the debate of whether women could be rabbis to the Conservative Jewish community. Riv-Ellen Prell, a Jewish feminist, explains that Jewish feminism has been “both radical, in the sense of challenging and engaging Jewish power and authority, and accomodationist, in the sense of focusing on issues and experiences that do not require dismantling Jewish law or community.” Jewish feminists have attempted to change Judaism in ways that are inclusive while maintaining the integrity of the religion. As a result, Conservative Jewish feminists argued that an increase in the obligations of women under Jewish law was necessary due to the change in women's social status. In debating the *halakhic* legitimacy of women rabbis, Conservative rabbis kept the demands of Conservative Jewish feminists in mind. Their embrace of feminism and the change in women's social status lead the Conservative movement to transform the *halakhah* to match feminism and after a very long debate, which I do

not have time to get into the details of now, ordain Amy Eilberg as the first Conservative woman rabbi in 1985.

Unlike both the Reform and Conservative movements, the Modern Orthodox conceptualize feminism as separate but equal. Further, for Modern Orthodox the status of women is determined by Jewish law and thus, the Modern Orthodox will always preserve the gap between men and women because there is a predetermined argument in the Jewish law that will always be there. Thus, the language and rhetoric used by the Modern Orthodox is one that preserves the Orthodox conception of Jewish law, which has practical implications for what women can do in Modern Orthodoxy. Thus, the Modern Orthodox will not have the same kind of female rabbi as the Conservative and Reform movements because it is not the same kind of feminism. The current focus for women who wish to be Orthodox rabbis is the conception of a rabbi as a legal and spiritual authority and not a rabbi that can lead services, for example, as in the Reform and Conservative movements.

Within the Modern Orthodox movement, authorities have come to engage with feminism for different reasons, one being to ensure that women do not leave Modern Orthodoxy. However, the problem with this motivation is the lack of commitment to the values of feminism. Without accepting feminism as a whole, accepting specific proposals will not lead to a true transformation of women's status in Orthodoxy. A commitment to feminism is therefore, necessary for the ordination of women because feminism demands an equal status for women, even if it is a separate and equal status determined by Jewish law. Thus, without a commitment to feminism, there cannot be change in the status of women.

There is currently one woman, Sara Hurwitz, who has achieved the highest religious leadership position of any Orthodox woman, to date. Today, Sara goes by the title of rabba but

she was originally ordained with the title MaHaRa”T in 2009 by Rabbi Avi Weiss. MaHaRa”T is an acronym that stands for *Manhigah Hilchatit Ruchanit Toranit*, which means Legal, Spiritual, and Torah Guide. Surprisingly, there was little backlash from the Orthodox establishment after Rabbi Weiss’s conferral of the title MaHaRa”T on Sara Hurwitz. However, after a year, it became clear to Rabbi Weiss that the title never really took hold among the wider Jewish community. As a result, in January 2010, Rabbi Weiss announced from his pulpit that he would be changing Hurwitz’s title from MaHaRa”T to rabba. As soon as he made the announcement, controversy with the Orthodox establishment ensued, eventually leading Rabbi Weiss to state that he would not confirm another woman with the title rabba.

Despite the controversy, Sara Hurwitz has been ordained as a rabba, giving her legal authority in Jewish law. By allowing a woman to act as a decider of Jewish law, not just on women’s issues but on all *halakhic* issues, this change potentially places Orthodox women in a position of authority over men because Rabba Hurwitz or another MaHaRa”T can issue legal rulings on issues that affect both women and men. The implications of allowing women to issue legal rulings in all areas of Jewish law, and consequently have authority over men who come to a MaHaRa”T for guidance, cannot be understated because it marks an important transformation in the social status of Orthodox women. To have an Orthodox woman with legal authority over an Orthodox man is an innovation that can only be attributed to a willingness to engage with feminism, even if it is a mild form of feminism. Allowing women to act as legal and spiritual authorities but refusing to cross the “red lines” of permitting women to lead prayer services or sit on a rabbinical court allows the Modern Orthodox to push the envelope from within the system while still maintaining a distinction between male and female religious leaders. As Rabba Hurwitz explains, it allows the Modern Orthodox to “interpret how women can fit into the

current *halakhic* framework that guides the Modern Orthodox community.” Thus, the Modern Orthodox have made the choice to engage with feminism in a *halakhic* way and provide a leadership role that significantly changes the status of women in the Modern Orthodoxy.

The ordination of women as rabbis depends on a commitment to feminism and different conceptions of feminism, *halakhah*, and social status in the Reform, Conservative and Orthodox movements intersect in different ways to create different kinds of woman rabbis. For the Reform movement, *halakhah* permitted ordination but not feminism. It is only when feminism changes the status of women in secular society do women get ordained in the Reform movement. For the Conservative movement, the demands of Conservative Jewish feminists structured the debate. The Conservative movement’s experience with women’s social status, as equal to men in secular society, led Conservative Jewish feminists to argue for equal status under Jewish law, which led the Conservative movement to transform Jewish law to match feminism. For the Modern Orthodox, feminism is conceptualized as separate and equal and Jewish law determines the status of women and the Modern Orthodox needed an equal status for women that does not change Jewish law. Thus, the development of a MaHaRa”T is a transformation but it is still in line with *halakhah*. Thus, the Modern Orthodox transform feminism to match Jewish law.

In creating a separate but equal leadership role for Orthodox women, the Modern Orthodox show that while they are feminist, they will always maintain a gap between women and men. This gender gap preserves Jewish law for the Modern Orthodox and also maintains Modern Orthodoxy’s connection to the larger Orthodox community. At some point, the Modern Orthodox might move closer to the Conservative movement than they are to the Ultra-Orthodox, and this would be a result of the impact of modernity and feminism. The growth of feminism and the recent developments within the Modern Orthodox movement lead to the conclusion that

Orthodox women rabbis are inevitable. The inevitability of Orthodox women rabbis, with that title, leads to the deduction that the resulting divide between the Modern Orthodox and the Ultra-Orthodox is only going to increase. The ordination of women in American Judaism, and specifically within the Modern Orthodox movement, show the impact of modernity on Judaism and further show that feminism is never a steady state. Feminism has a dynamic of its own expansion for all three denominations. It begins to eat into the old arguments about the boundaries between men and women but because the boundaries were originally different for all three branches of American Judaism, the change that occurs is necessarily different as well.