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KOL HAMEVASER

The Jewish Thought Magazine of the Yeshiva University Student Body

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About Kol Hamevaser

Kol Hamevaser, the Jewish Thought magazine of the Yeshiva University student body, is dedicated to sparking discussion of Jewish issues on the Yeshiva University campus and beyond. The magazine hopes to facilitate the religious and intellectual growth of its readership and serves as a forum for students to express their views on a variety of issues that face the Jewish community. It also provides opportunities for young thinkers to engage Judaism intellectually and creatively, and to mature into confident leaders. Kol Hamevaser is published monthly and its primary contributors are undergraduates, although it includes input from RIETS Roshei Yeshivah, YU professors, and outside figures. In addition to its print magazine, Kol Hamevaser also sponsors special events, speakers, discussion groups, conferences, and shabbatonim.

We encourage anyone interested in writing about or discussing Jewish issues to get involved in our community, and to participate in the magazine, the conversation, and our club's events. Find us online at www.kolhamevaser.com, or on Facebook or Twitter.



Volume V, Issue 1

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A Magazine and its Visions

BY: Chesky Kopel

Welcome to a new year of Kol Hamevaser, born in an ever-changing Yeshiva University. In our communities, both here in New York and elsewhere, a new year means new opportunities and frustrations, conversations and controversies. Already in the opening weeks of this academic year, we at Yeshiva face the consequences of institutional reorganization, and, more solemnly, look outward to Israel's many new diplomatic crises. These personal and national transformations help us appreciate even more the role of leadership in our lives, and the difficulties that this role entails. Torah study and life experience both reveal that changes in leadership are common features of existence. And it seems that, more often than not, leaders are made and judged by their capacity to inspire change and navigate crisis.

The staff of Kol Hamevaser is proud to present you with the only periodical magazine produced by the Yeshiva University student body. Our mission is to explore the important questions of Jewish thought and life, to relate to our living Torah, and to provide a forum in which students can communicate ideas passionately and creatively to one another. We hope that you gain from this endeavor and contribute to it, by reading, writing and joining our community in all its facets.

In this first issue, probing the theme of Leadership, we thank and pay tribute to the outgoing editorial staff: Editors-in-Chief Shlomo Zuckier and Sarit Bendavid, and Associate Editors Ilana Gadish and Jonathan Ziring. Their labor and dedication allowed this magazine to make great strides in the last year, and this issue, largely the product of their work, consists mainly of articles that were written and edited at the end of the last semester. We look forward to the great work they will continue to do as leaders in their respective settings, and wish a heartfelt Mazal Tov to Shlomo, Jonathan, and Ilana on their respective marriages over the summer. Mazal Tov as well to Chana Zuckier, our new editor-in-chief on the Beren Campus, on her marriage to Shlomo.

This year, Kol Hamevaser has an all-new editorial staff, and we would like to introduce ourselves: Editors-in-Chief Chana Zuckier and Chesky Kopel, and Associate Editors Ariel Caplan and Gabrielle Hiller. We and our writing staff are excited for the journey and challenges ahead; our upcoming plans include an issue on Jewish Education, a panel on the role of Torah in the American public sphere, and a student-led discussion group on moral questions surrounding the death penalty. Our future issues will feature a brand-new Arts section, part of the Jewish Life and Ideas Through Art project, in coordination with the Yeshiva University Museum. This section will examine works of art and poetry significant to the themes we will address.

Please visit us at www.kolhamevaser.com, check out our Facebook page and Twitter account, and avail yourselves of our guest lectures and shabbatonim.

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Chesky Kopel

This magazine contains words of Torah.

Please treat it with respect.

Communal Obligation and the Right to Strike¹

BY: Dani Lent

Strikes, in the conception of many Jews today, have a clear association with Israeli society. They are what cause disruptions to travel plans, cancellations of soccer games, and the boredom of thousands of schoolchildren. Whereas the international trend over the past few decades has been a general decrease in the number of workdays lost to strikes, there has been an increase in Israel, making it the country with the highest number of workdays lost.² From 2002-2008 alone, 408 strikes took place that resulted in the loss of 12.5 million days of work.³ Israel also has one of the most lenient policies in regard to who can strike, with the right being withheld only from security personnel. In contrast, most other states prevent from going on strike any worker whose services are deemed necessary for the survival of the state, such as airport personnel and social workers.⁴ Over the past decade, this blanket permission in Israel for almost all workers, including ones who provide social services, has been called into question. The recent threat of a physicians' strike and the two-month long teachers' strike in 2007 has brought this discussion to the forefront of both political and rabbinic discourse. Strikes of physicians and teachers specifically, both of whom have a religious component to their profession, are particularly contentious in halakhic literature.

The phenomenon of strikes is a relatively modern one, which explains the dearth of traditional halakhic discourse on the issue. One case, recounted in the Talmud, could be said to be one of the earliest Jewish strikes. In *Yoma* 38a, the Mishnah criticizes the House of Avtinas, the incense-makers, who refused both to work and to teach others the secrets of their art so that others could work in their stead. Other workers were brought in to break the strike, but they were not as competent. Ultimately, the Sages doubled the wages of the original workers with money from the Temple treasury so that they would return to work. This marks a precedent for the triumph of labor over management in Jewish history. Rambam seems to permit such guilds and the right of workers to organize and impose binding regulations, such as permissible hours of work and punishments for violators, but only under the guidance of rabbinic authority.⁴ As the medieval system of guilds morphed into the modern-day system of unions, rabbinic authorities applied virtually the same principle: Workers have a right to organize for their own advantage, but the rabbinate theoretically has the authority to nullify certain decisions that would harm communal interests.⁵

The right to strike is largely considered permissible in Jewish law due to our concern for protecting worker interests. In *Bava Metsiah*

10a, Rav allows an individual worker to quit even in the middle of the day if there will be no loss to his employer, because a laborer cannot be coerced into working for a particular wage.⁶ This is applied by later sources to mean that labor unions can decide that they are unwilling to work for a given salary. This principle, however, is subject to limitations, such as cases when the contract has already been agreed upon and in cases of essential services. Of the three services most commonly cited as essential—security, health, and education—only security work stoppages are prohibited in Israel.

While the health industry is legally permitted to go on strike in Israel, the obligation of a physician to treat patients is a halakhically mandated obligation. According to R. Eliezer Waldenberg, there exists a

Strikes of physicians and teachers specifically, both of whom have a religious component to their profession, are particularly contentious in halakhic literature.

communal obligation to provide for the sick.⁷ A physician is thus, in a sense, the operative, the messenger, for the entire community vis-à-vis the sick of the town because he is the one with the requisite skill set. The refusal of a physician to treat a patient constitutes a violation of the biblical prohibition, "You may not hide yourself,"⁸ from aiding a fellow human being.⁹ Even more so, "If the physician withholds his services, it is considered as if he shed blood,"¹⁰ based on the verse, "Nor shall you stand idly by the blood of your fellow."¹¹ There are, in addition, positive commandments that obligate a physician to treat a patient. Rambam states that "it is obligatory from the Torah for the physician to heal the sick, and this is included in the explanation of the scriptural phrase, 'and though shall restore it to him.'"¹² Rambam applies the concept of returning a lost object, normally thought to be reserved for physical objects, to the amorphous definition of returning to a sick person his health. Ramban,¹³ in his discussion of the obligation of physicians to treat, cites his source as the physician's commandment to "love your neighbor like yourself."¹⁴ On the basis of these two negative and two positive commandments, R. Yehudah Leib Zirelson argues that a physician's obligation applies not just in a case of *pikuah nefesh* (saving a life), but even in cases of

preventing the loss or deterioration of health.^{xii}

Modern-day physicians' strikes in Israel are primarily caused by physicians' displeasure with their wages and working conditions in the socialized state. Physicians, however, are only necessarily entitled to minimum payment in Jewish law. As physicians treat patients in accordance with divine command and ordinarily no compensation for the fulfillment of a *mitsvah* can be demanded, a physician is entitled to payment only for physical labor and time spent in which he could be employed elsewhere, and he may not then demand an exorbitant fee.^{xii} Based on this, R. Moshe Halevi Steinberg resolves that since Jewish physicians are obligated to heal the sick, they should not be allowed to strike for financial reasons under any circumstances. They may certainly ask for appropriate wages, but these financial demands cannot ever sanction a strike that has the possibility of endangering lives.¹⁵ On the other hand, the former Chief Rabbis of Israel, R. Avraham Shapiro and R. Mordechai Eliyahu, permit doctors to withhold free treatment from non-critical patients as a means of bringing their employer to arbitration.¹⁶

Teachers, like doctors, have the status in

commentators have attempted to expand the "loss" to secular studies as well. R. Aharon Kotler writes that there should be no separation between the waste of time meant for secular studies and the time spent for Torah studies because the loss of both bring about a neglect of education and nurturing of students.²¹

Today, however, teachers work under a contract with their employer—one that agrees to their right to strike. It can thus be proposed that any strike that is subsequent to the warning time obligated by law should not be considered, as it says in the story regarding the artisans in *Bava Metsiah*, "quitting in the middle of the day," because the employer agreed to this legal right and knew that this strike was possible. Thus, in R. Kotler's view, which frames the issue in terms of "quitting in the middle of the day," striking would not seem to be problematic because the concept of "loss" does not apply. It seems difficult, then, to hold that it is not permitted for secular studies teachers to strike when they do not have to contend with issues of *bittul Torah*. If, however, one subscribes to the idea presented by R. Eliezer Melamed that secular studies allow for a further understanding of God, then a hiatus from these studies would result in *bittul Torah*.²²

Bittul Torah of students is the problem that is most often mentioned in regard to teachers striking. Judaic studies teachers, and perhaps secular studies teachers also, who wish to strike are dependent upon the resolution of a dispute between R. Moshe Feinstein and R. Yosef Shalom Elyashiv. The Talmud recounts the obligations of a father regarding his son and includes among them the obligation to teach him Torah.²³ R. Yehoshua ben Gamla later extends this obligation of teaching Torah to children as one incumbent on an entire community.²⁴ If a teacher is hired to fulfill this obligation, however, does this discharge the father and community completely of their responsibilities and subsequently lay the duty for *hinukh* solely on the teacher? If so, is a teacher then responsible for any *bittul Torah* the student incurs? R. Feinstein, in prohibiting the strikes of teachers of Torah, affirms that once a teacher takes upon himself the education of his students, he is liable for any *bittul Torah* that occurs during his strike.²⁵ In contrast, R. Elyashiv does not hold a teacher any more responsible for students' lack of learning than any other member of the community who is

Judaism of claiming a divine mandate to their profession. Rambam writes, "In a place where it is customary to receive a wage for teaching the written Torah, one is permitted to do so. However, it is forbidden to take a wage for teaching the Oral Law, as it states: 'Behold, I have taught you laws and statutes, as God commanded me.'¹⁷ [Our Sages teach that Moses was implying:] Just as I learned at no cost, so too, have you been taught from me at no cost. Teach the coming generations in a like manner. Teach them at no cost as you have learned from me."¹⁸ The teaching of Torah is not considered to be a profession, but an act of religious observance; thus, Rambam considers charging money for it inappropriate. While today teachers of Torah are paid, the notion of the holiness of their profession comes to the forefront when they wish to gain better wages through striking.

In addition, there is a discussion as to a teacher's responsibility for their students' *bittul zeman* (waste of time). Sifte Cohen explains that when Rav in the Talmud refers to the ability of a worker to quit in the middle of the day if no loss will result, this "loss" extends also to teaching, because "every moment a child is not learning causes irreparable damage."¹⁹ While originally conceived by most commentators to be talking just about Torah learning,²⁰ later



bound by the obligation to teach children. He holds that a teacher's obligation to teach ends the minute he legally goes on strike, as his "messenger-status" for the fathers and the community becomes null and void.²⁶

This conception of both the physician and the teacher as messengers of the community can be the deciding factor in the *mahaloket* (argument) concerning the permissibility of their strike. Another look at the Talmud's account of the House of Avtinas' strike based on this idea of being messengers of the community could help us determine the correct ruling on the permissibility of strikes. The House of Avtinas can be said to have also served as messengers for the community. As incense-makers, the House of Avtinas acted as messengers for the community in its fulfillment of the obligation to offer incense. The incense was offered on behalf of the entire community as a means of attaining atonement, hence its prominence in the Yom Kippur Temple ritual.²⁷ As long as the House of Avtinas was acting as the messengers of their community to fulfill the communal obligation, it was not their prerogative to cease working, as they were not working for themselves alone. In entering a profession in which one is involved in "God's work" for the sake of others, there is an added layer of obligation in which one is in a sense beholden to the community that entrusted him or her with a duty. Immediately following that Talmudic story, R. Yishmael denounces the incense-makers for attempting to increase their own benefit at the expense of Heaven. R. Yishmael was displeased with the strike because it left the community without a means of fulfilling its obligation. In the same vein, physicians and teachers should not have the freedom to strike on their own behalf because they act not only on their own accord. The communal reliance on them does not rupture the moment they decide to strike, so their obligation to continue working and find some other means of remedying their situation does not either. Based on this logic, the stricter view in each *mahaloket* of R. Steinberg and R. Feinstein for physicians and teachers, respectively, seems to be more cogent. These two professions have the great distinction of being classified as having religious meaning, which, unfortunately for them, comes with the side effect of not halakhically possessing the full expanse of legal tactics by which to improve a non-ideal situation.

Dani Lent is a recent graduate of SCW. She is now a first year student at SUNY Downstate College of Medicine.

1 The following is a short list of the many articles to which I am indebted for their help: Fred Rosner, "Physicians' Strikes and Jewish Law," *Journal for Halakha and Contemporary Society*, Fall 1993; Aaron L. Mackler, "Judaism, Justice and Access to Healthcare," *Kennedy Institute of Ethics Journal*, 1:2 (June 1991); R. Elisha Aviner, "Shevitat Morim," *Yeshivat Maale Adumim*, available at: <http://www.ybm.org.il/hebrew/LessonArticle.aspx?item=2822>; J. David Bleich, *Contemporary Halakhic Problems*

(New York: Ktav, 1977), Vol 1: 186-189, Vol. 3: 18-25; Uri Desberg, "Shevitat Ovdim al pi ha-Halakha," *Tekhumim*, (1985) 5: 295-300.

2 Asaf Shapiro, "Shevitot Be-Mabat Ha-Shavati," The Israel Democracy Institute (2011), available at: http://www.idi.org.il/Parliament/2011/Pages/2011_68/68_d/68_D.aspx.

3 "Strikes and Lock-Outs, Strikers and Persons Locked-Out, Work Days Lost and Slow-Downs," Statistical Abstract of Israel, Table 12.45, Central Bureau of Statistics (2009), available at http://www.cbs.gov.il/reader/shnaton/shnatone_new.htm?CYear=2009&Vol=60.

4 *Mishneh Torah, Hilkhot Mekhirah* 14:10.

5 *Tsits Eliezer*, II, no. 23; *Iggerot Mosheh, Hoshen Mishpat*, I, no. 58.

6 *Bava Metsiah* 10a.

7 *Tsits Eliezer, Ramat Rahel*, 5:24. Based on the ruling of the *Shulhan Arukh, Yoreh De'ah* 249:16 which entitles the sick poor people of a town a large claim on the community's *tsedakah* resources.

8 Deuteronomy 22:3.

9 *Teshuvot Arzei ha-Levanon*, no. 61. In this responsum this dictum to prevent the monetary loss of others is extended to the prevention of another's loss of health.

10 *Turei Zahav, Yoreh De'ah*, 336:1.

11 Leviticus 19:16.

12 Commentary on the Mishnah, *Nedarim* 4:4. Based on Deuteronomy 22:2.

13 *Torat ha-Adam*, s.v. "Ha-Sakanah."

14 Leviticus 19:18.

15 M. H. Steinberg, "Physicians' Strikes in the Light of Halacha," *Assia*, Vol. 3 (Jerusalem: Rubin Mass Ltd., 1983), pp. 341-342.

16 A. Shapiro and M. Eliyahu. "Letter Regarding the Recent Strike." *Assia*, Vol. 3 (Jerusalem: Rubin Mass Ltd., 1983), pp. 47.

17 Deuteronomy 4:5.

18 *Mishneh Torah, Hilkhot Talmud Torah*, 1:9. Rambam, Commentary on the Mishnah, *Avot* 4:5.

19 *Sifte Cohen, Hoshen Mishpat* 333:5.

20 *Maharam of Rothenberg*, 4:387.

21 *Mishnat R. Aharon*, Chapter 71.

22 R. Eliezer Melamed, *Hilkhot Shevitah*, available at: <http://www.yeshiva.org.il/midrash/shiur.asp?id=6396>.

23 *Kiddushin* 29a.

24 *Bava Batra* 21a.

25 *Iggerot Mosheh, Hoshen Mishpat*, 1:29. R. Feinstein does permit teachers to strike under the most dire of circumstances, such as when the teachers do not have enough to live off of and also on condition that it is clear that the employers will adjust their salaries.

26 R. Yosef Shalom Elyashiv, *Kobets Teshuvot* 2:50.

27 David Silverberg, "SALT: *Parashat Tetsaveh-Purim*," Virtual Beit Midrash, available at: <http://vbm-torah.org/archive/salt-vayikra/20-13tetzave-purim.htm>.

Kelei Kodesh and Lay Kodesh: An Interview with President Richard M. Joel

BY: Shlomo Zuckier

SZ: Can you describe your career trajectory- how you went from a career in law to a career in Jewish leadership?

RJ: I can't really say whether I ever had a career trajectory, and I'm not sure if I have a career in Jewish leadership. I often tell people that I am in no way the poster child for career planning, because my career has been - if you believe in *hashgahah peratit*, guided by a mostly kind hand, which resulted in an almost accidental career. I certainly didn't start by saying, 'What do I have to do to become president of Yeshiva University?' or even, 'What do I have to do to be in a position of working for the Jewish people and being an influence?'

thinking, "What am I going to do to make it?" I do remember thinking, "What am I going to do to make it better?" If there is a trajectory that Esther and I had, it was: "How do we build a joyous life, with our relationship and love at the center of it, serve God, create a happy family, and be involved in a community?" It wasn't out of a need to make it.

We were married, we moved to Forest Hills, [and] from there to Oceanside, where I was the youth director - not because I wanted to make it, or even to make it better; we needed to make a living. When R. Benjamin Blech (then the rabbi of Young Israel of Oceanside) recruited me for the youth director position, he said, "You're a young couple, looking to live

I don't think that my perspective was, "How can it be that I go from law to Jewish leadership?" I think we've spent our lives saying, "If you're lucky, how do you take advantage of opportunities to build a home and family, provide for them, and play to your strengths in advancing the Jewish story and civilization?"

While at Hillel in Washington, I once interviewed a young man who was looking for an opportunity to work for the Jewish community. A Phi Beta Kappa *summa cum laude* graduate from an Ivy League school who had been working at one of the major consulting firms, this fellow felt that by the age of twenty-seven, he knew everything there was to know, and was now going to give himself as a gift to the Jewish people. At a certain point during our discussion, he committed the cardinal sin of interviews, and said, "Can I be perfectly honest with you?" which meant, of course, that he had not been fully honest until that point. He said, "Do you know what I really want?" Pointing at my seat, he said, "I want to sit in that chair." When I asked him why, he said, "The power and the glory." I said, "You made a mistake; the Oval Office is six blocks down," and we joked a bit. He then asked, "When you were my age and were thinking about what you were going to do to make it, what did you say?" Stunned by his question, I took it seriously nonetheless, and responded that I honestly didn't remember

in suburbia, and this is a nice community and it's a part time job and you get a house." For those lofty leadership reasons, I accepted what I said I would never do, which was to work for the Jewish community. So I became a youth director. During our joyous 14-year run there, we were involved in all sorts of 'lay kodesh'¹ things that really mattered. Over the course of our time there, our community built a *hevra kadisha*, a *mikveh*, and a great youth program, and we were active in the Hebrew Academy of Long Beach, as well. Because of my background as a volunteer with the Torah Leadership Seminars, which were similar to CJF activities, I had been bitten by this sense of the potential to make an impact. I felt that I had some talents in helping to frame an environment and give it some nobility, and I had a good eye for getting people more talented than I to get involved and make things happen.

In my generation, people didn't give very much thought to what they were going to do. I knew that I was going to be a lawyer since the age of twelve, because law was a

respectable field, where I could make a living while improving the world. My early vision was to be a general-practice lawyer - to go to a community, hang up a shingle, make a living, and help people. When I got to law school, I found out that this is not necessarily the classic definition of what lawyers do, and also discovered that law had become more of a business than a profession. However, in my generation, career choice was very simple - you would either be a doctor or a lawyer or a businessman, or be involved in Jewish life as a rabbi. You chose one of these options and pursued your career path without thinking too much about it. This generation is going to live much longer and thus has the pressure as well as the luxury of saying, "How am I going to matter?," which I think is great. I try to attract people to Yeshiva so they can think about life as being ennobled and enabled. I talk about being *kelei kodesh* and *lay kodesh*.

I started out as an assistant district attorney because I wasn't interested in the business of law, but in making a difference. Instead of going to a Wall Street firm and then doing some *pro bono* work, I chose to do a public service internship at the DA's office. Working there, I felt, "this is justice; this is nice; this is noble," and was quite happy. Life was really wonderful and has been consistently wonderful throughout the years. I almost hate to say it - it's been a magical journey. While I was going through the period at Cardozo, helping to build the law school, and teaching law while wearing a *yarmulke*, there was this little voice in me saying, "what's next?" When I mentioned to my wife that I was thinking of joining a law firm, Esther said I wouldn't be happy practicing law. I said, "We have a wonderful life. I can continue practicing law, we'll make more money, we'll be involved in all these activities," and she said, "I think you need more than that."

As I was about to accept a job at a Manhattan law firm, Hillel called me out of the blue (I think because they were desperate), and said that they wanted to talk to me about running Hillel. I had nothing to do with Hillel; I was a complete outsider choice. A motif that goes

through my life is that my not being a rabbi seems to be a qualification. As I was recruited for that job, I said no and my wife said yes; I accepted in the end. The job was great to me because it was Jewish, and it allowed me to simultaneously run a serious institution, be a change agent, and be an educator. I feel that the Jewish People can only be sustained if they know their story, and if they feel some degree of passion about it, and both of these things are in Hillel's mission. At that point, we moved down to Washington and continued to have a wonderful life being involved in the community, and I got to go on this magical mystery tour of building institutions that would matter for the Jewish people. It all flows from Esther and from my relationship with God and Torah and my children. That has never wavered.

The one job in the Jewish world that I knew I would never have was president of Yeshiva University. It was at the beginning of the process that I was mentioned as a candidate, and I refused to be a candidate, saying that I loved what I was doing in Washington. I thought the YU presidency was a very important, but also an extremely difficult, job, and I didn't think I had what they would look to for qualification. They went through two years with me not being a candidate, and finally, at the very end of October 2002 I was somehow recruited by Mr. Stanton and Mr. Bravmann, I was engaged in six weeks of conversations, and apparently was elected.

I don't think that my perspective was, "How can it be that I go from law to Jewish leadership?" I think we've spent our lives saying, "If you're lucky, how do you take advantage of opportunities to build a home and family, provide for them, and play to your strengths in advancing the Jewish story and civilization?" I think everybody has that career path open to them.

SZ: How is your role at Yeshiva University different than it was at Hillel?

RJ: In substantial ways, it's not different. Taking responsibility for an enterprise, articulating a vision and developing an implementation strategy, while recruiting gifted, talented people, lay and professional, to advance the enterprise - those factors are the same.

On the other hand, there are some differences. Hillel was running a global franchise, so there was a certain safety in the headquarters in Washington as I worked with the seventy-five people who were all part of my infrastructure. I would also deal with the local Hillels, but it wasn't quite as up-close-and-personal as things are at Yeshiva. Also, the organization was limited to informal and experiential Jewish education. I was more involved in the fabric of community, on a more global Jewish level, although I think a lot of Yeshiva University is about a global Jewish level too. At Hillel, I had much more to do with the network of federations, the different agencies of the Jewish people and denominations, to work towards success. The phrase that Hillel Chairman Edgar Bronfman and I formed was that we didn't believe

in Jewish continuity; we believed in Jewish renaissance. I think *haddesh yameinu ki-kedem*, which is the definition of renaissance, is a theme at Yeshiva University as well.

There is clearly a difference between the business aspects of each position, in that my current job is the business of a university. The budget is about ten times the size of Hillel's, and my job entails dealing with an entire body of delivery of service, not just a piece of campus life for students. The mission at Yeshiva is a more focused mission, though the ramifications are every bit as global. Here I am a chief executive officer, but I am also involved in formal education and, to a lesser degree, experiential education. The fact that the institution is concentrated in one geographic area makes it more intense. When President Obama is interviewed and talks about problems of "life in the bubble," I understand his dilemma in the way that few others can. The president of Yeshiva University's role is viewed very much under a microscope.

The YU presidency entails responsibility for a diverse, integrated, and interesting academic institution of high quality which aims both to shape the Jewish future and succeed academically as a great graduate and professional university. When I first became president I went to a seminar with thirty other presidents, and at the end of the four-to-five day seminar, my colleagues elected me the new "president with the most difficult job." Why? They said, "Because you are running a major research university, and you have the Jewish People." They did not mean to put down the Jewish People in any way; they were simply noting that at Yeshiva, there is a peculiar partnering of agendas. The mission of Yeshiva University is not only to be a great university, but also to impact the Torah-observant community, the broader Jewish community, and, through those channels, all of civilization. The particularism of YU makes me a figure of interest in the world.

Another unique aspect of this job is the loss of anonymity. Unlike the experiences of other university presidents, my key constituencies are always front-and-center, where I live and where I eat and where I play and where I pray. It is hard to get away from being the president, and I'm just a guy, so I need to get away from it sometimes.

SZ: What is your favorite aspect of being president of YU, and what is your greatest challenge in that role?

RJ: I could say that I am in love with education, and love advancing the agenda of Torah in the world, and that's a great thing, but if you ask me what I like the best, it's being with students. Keeping myself intellectually and socially alive by having these interactions is critical to me, and joy comes from thinking that maybe I have the *zekhut* to, through those interactions, contribute in some way to whom they will become. Another aspect of being president that I enjoy is running an inspired team of educators and leaders. I love being able to think that we're impacting our world.

In terms of the challenging parts of the job, I'll answer in two ways: First, YU is one of the largest, if not the largest, Jewish institutions in North America. We are at a time of real civilizational turmoil and financial challenge. The hardest thing is seeing all the wondrous

undertakings that we are involved with, and knowing that we must move forward in an environment of not just restraint but constraint. The goal is not to figure out how to endure under such conditions, but how to break through and triumph, how to win. Additionally, as president, through my efforts, my successes or failures, I affect the lives of the people who depend on YU for *parnasah* (livelihood). Some people come and some leave, which can be a very hard thing. The second difficult aspect of being president is that working towards large goals in our retail world requires investing energy in individuals, which can often be very challenging, and makes it easy to focus more on the smaller details and lose focus of the larger picture.

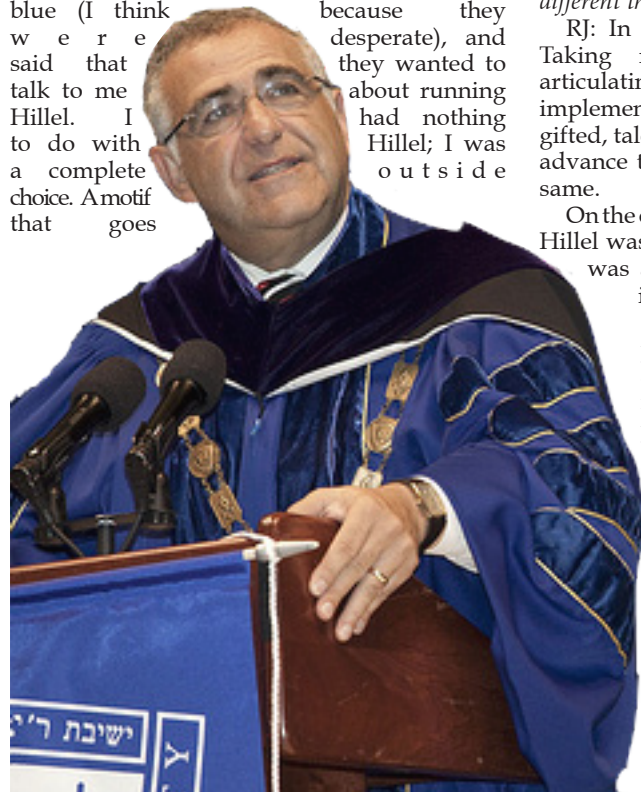
In terms of challenges, did you find that the panel, "Being Gay in the Orthodox World," and the ensuing fallout created a challenge in terms of keeping in mind all the different constituencies while responding to it?

Looking back, I can say that this was one of the wonderful opportunities I had, because it really called on my strengths, as well as the strength of the people around me. Nonetheless, if you asked me about the last seven and a half years (in the presidency), the panel doesn't stand out as being the most challenging event. I think that that issue is part of the reality that you deal with, whether it gets the light of attention or not, in so many ways.

And we've had so many things, from the time I've come here. Remember, this was an activist period. My charge, as Dr. Lamm encouraged me, was to stand on his shoulders and go to the next place. So it hasn't been about maintaining but creating, about *haddesh yameinu ki-kedem*. So for me, all of this is about creating a revolution no one notices until it's done. So if you ask me about how I emulate God, one way I love to do it is the way He makes flowers grow. You look around and there's nothing, and all of a sudden there's a flower. If you were standing and watching, you'd never see movement, and yet there's a flower. I think a lot of that is what's been happening at YU.

I think the program last year was extraordinarily challenging. Partially, it was challenging because it was important, and I don't know if we ran the whole enterprise the way we ideally should have. So I was on a jet plane on my way to London, and a lot of the "critical moments" had to happen while, in fact, I was in a hotel in London on a cellphone in the bathroom - because the bathroom was the only room where I could get cell reception - dealing with really challenging issues and statements to be made, and how to make them, and how to think about my different constituencies. And long-distance-leading is hard. But I also had the benefit of R. Reiss and R. Charlap and R. Joseph, and my professional team at that moment, and of lay leaders who helped.

I think it's painful dealing with rage or outrage. I don't think we're ever at our best when dealing with rage or outrage. The challenge of an event like that is to not get sucked into the moment, but to keep your eye on the ball and think about the broader perspective, to realize that there are issues of that kind of moment that take place all the time here, and this is a university, which also means that it's a place where ideas will be explored, and this is Yeshiva University, which means



that it's a place where issues of consequence for the Jewish People and for Torah get explored. It certainly wasn't fun, and along with a lot of other things, it presented the weight of responsibility: knowing that, at the end of the day, you are the only one who is going to go to sleep knowing that there's no one else to push this off to. But we've had other really hard issues, and hard decisions, that shaped the future. This was a matter of dealing with it, getting the right learnings from it, realizing that it was good or bad from a lot of directions and a lot of people's perspectives, and we had to figure out how to negotiate that.

What is the most unexpected thing you have learned about being a leader in the Jewish community?

Before I came to Yeshiva University, I had a strong sense of what Yeshiva was. At this point, I had been leading serious Jewish institutions professionally for almost 23 years, which gave me some degree of experience. The Torah Leadership Seminar, the youth programs that I was involved in, leading as a volunteer in my college and graduate school days, in many ways was the microcosm of how community works. Being involved in such programs taught me how to progress in a mission-driven way, how to work both cooperatively and rigorously to create a wonderful and successful institution. Furthermore, my mentor, Dr. Abe Stern, z"l, who was the director of the Youth Bureau of Yeshiva University, taught me a tremendous amount about leadership. A social worker, *musmakh*, and *mensch par excellence*, Dr. Stern modeled for me how the focus of leadership is about making it better and not about making it. I don't know that I felt tons of surprise; there were always learning moments along the way. The most unexpected aspect of leadership at Yeshiva was the relentless nature of the position. Being president can almost feel like being the guy in the slapstick routine who looks one way and gets a pie thrown in his face, and after wiping his face off, he turns the other way and the pie comes again - he just cannot run away from the pie. That imagery accurately describes the sense of constant work that being in this position at YU demands. I often feel that I am performing the trick where people balance plates on sticks and they keep adding sticks and plates and soon they are balancing five sticks at once. Here at Yeshiva, there are all these plates on these narrow sticks, and you need to figure how to run along the line while still keeping the plates from dropping. I think that aspect of the job was a little surprising.

Looking ahead, what is the greatest challenge facing Modern Orthodoxy, and how should our leaders deal with it?

The key elements, in my mind, of what you call "Modern Orthodoxy" and I call "Orthodoxy," are the primacy of a deep commitment to Torah and continued investment and growth in Torah, coupled with the mandate to regard the great ideas of the broader world and channel them, in partnership with God, to the betterment of society. On an individual basis, the challenge is to create a life of fulfillment and happiness through these commitments. It is a noble and worthy mission that requires work and ongoing effort. Additionally, the imperative to be generous and nonjudgmental toward Jews to our right and to our left, leaving the realm of judgment to the *Ribbono shel Olam* alone,

remains a serious challenge.

Furthermore, we must maintain the awareness that our specialness derives from the fact that we are neither exclusively collectivists nor individualists; we are both. We are capitalists and we are socialists, in the sense that we believe in the capacity of the individual to maximize his or her potential, and we also believe in the individual's responsibility to define him or herself as being part of the group. I think a clear Modern Orthodox credo is the *ma'amar* of Hillel ha-Zaken, "*Im ein ani li mi li... ve-im lo akhshav eimatai*" ("If I am not for myself, who is for me?...and if not now, when?"),² that tells me I have to be responsible for, but not exclusively focused on, myself, and I must accept responsibility now and not defer it for the future. Maintaining that balance, we believe in an integrated life, with Torah at its core. That requires nuance, to be able to build communities, and we're a small community, we're a very small community. We're growing, but we're a small community. I don't think the answers will be in the numbers. The answers have to be: to be generous, to be sure that we recognize that perhaps we have a role as the *leviyyim* of the Jewish People, that perhaps our role is not to be their kings or leaders in any way, but to recognize that the drumbeat of the purposefulness of Torah has to be articulated

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by us and worked with others together.

So whether it's *kelei kodesh* or lay *kodesh*, the word *kodesh* has to be modeled, that we live a life of nobility. I think there's all types of little challenges- the price of being Jewish. There are lots of generations that would happily put up with that being the major struggle. The essential challenge is to celebrate nuance and not relativism, and to accept that ours is not an intellectually or spiritually easy path, but it's the one we think is enormously fulfilling. To accomplish our mission we must not forget the rest of *Kelal Yisrael*, and we must learn to have humility and boldness at the same time. I think that is the major challenge.

Who are going to be the leaders of the future? Pulpit rabbis? Those in Hinnukh? Lay leaders? Will there be a change on this count from the current reality?

I'm not sure what the current reality is; I think it's mostly confused now. In order for us to be a *kehillah kedoshah*, it requires a deliciously complex partnership of lay and *kelei kodesh*, it requires *Yissakhar* and *Zevulun*, it requires the *kohanim* and *leviyyim*, and it requires the other tribes. We need a symphony of Jewish voices that share a commitment to moving society forward. What makes us unique, I think, is that we believe in investing both in the sacred scholar and in the engineer and neuroscientist.

We believe in those who will write our prose and those who will compose our poetry.

A leader is not someone who stands up and declares himself to be such, but is someone who takes responsibility. When our community takes responsibility and stands up for its constituents, learns how to fight while still recognizing the value of the other, then we advance. Currently, at Yeshiva University, I believe there are more students, women and men, than there have ever been who are living in an environment that successfully models responsible leadership. They see that there are opportunities, both in professional and lay ways, to assert that responsibility, and that is going to build the Jewish future. YU is *sui generis* because even with all of its flaws, and I have been told a few of them, Yeshiva is a place that is a model for successful community, with Torah and with *Madda*, with curricular and extracurricular, with thinking outward and looking inward. We are not asking that each student be actively involved in every one of these endeavors but there must be an appreciation of the splendor of a community that includes all of them. The sum of the human has millions of cells. You can start with a basic building cell and build the whole human body, but each cell has its own particular purpose. I truly believe that.

States of America that flies the Israeli flag next to the American and university flag. Additionally, I think that there are more students making *aliyyah* from this university than from any other university in the world, and this phenomenon is growing. To me, it is clear that Israel is the destination of the Jewish People, even if making *aliyyah* is not for me today. The job of the Jew is to live a Torah life and to strive individually to achieve *shelemut*. One cannot read through the Torah without soon realizing that the home of the Jewish people is *Eretz Yisrael*, which today also means *Medinat Yisrael*. There are clearly more *mitsvot* to observe and be *mekayyem* (fulfilled) in *Artseinu ha-Kedoshah* than anywhere else.

However, there is a lot that Jews can and must do throughout the world, even beyond supporting Israel or being involved in *hinnukh*. Just as there are many different ways to achieve *shelemut* within Torah, so too there may be many different places to achieve this goal most productively. Certainly, the center of the Jewish world is *Medinat Yisrael* and we view *aliyyah* as a wonderful aspiration for all of our students. However, there is also an aspiration for our students to go to Houston, Denver, Seattle, and Johannesburg to model the Jewish story and Jewish values. Living and spreading the values of *yiddishkeit* is our mission. The late Dr. Israel Miller, z"l, the senior vice president of Yeshiva, was very active in Israeli matters, and had relationships with all of the national Israeli leaders. I was fortunate enough to have this great Jewish leader as a mentor. Someone once questioned him about his dual loyalty to America and Israel, and he responded, "I love my mother and I love my wife." Institutionally that's what we believe in.

How much interaction should the leadership of the Modern Orthodox community have with leadership from other denominations of Judaism, and, beyond that, with leaders of other religions?

We have a responsibility to work hard to find ways, difficult though it may be, to maintain and invest in *Kenesset Yisrael*. Although we may disagree with their viewpoints in many instances, we must see all segments of Jewry as part of *Beit Yisrael*. Without every Jew, we are just a series of little enclaves. It is no great victory to say here we are and everybody else has disappeared; that is a failure. Our job is to be welcoming and open and, when we are able, to participate in the broader Jewish community. We don't want to develop the attitude of "we'll be reasonable; everything is relative." Nor do we have to judge every interaction with our non-Orthodox counterparts by saying, "Am I being *mekaddesh* this person right now?" We strive to be *dan et kol ha-adam le-kaf zekhut* and see that our role as the *leviyyim* of the Jewish people is to keep the Jewish ball in play by encouraging people to engage in the pursuit of Jewish knowledge and experience, in shared commitment to Jewish education and to the State of Israel.

To pursue these goals, we have to find ways to be counted. That is why I think it is important that our students attend the General Assembly of Federations and that we have service learning programs in Israel that are invested in citizenship of Israel. That is why we host programs at YU that the entire community is invited to. It is really important that I be able to sit down, without making statements

The Daughters of Tselofhad and Halakhic Progressivism

BY: Toviah Moldwin

of who is in and who is out, and have those conversations. At Wurzweiler, we have a Jewish communal program where everyone can learn the commitment and passion of Judaism without having to sign on to our way.

YU needs to be a service arm for the entire Jewish community, and to not have a narrow funnel of who is admitted. Certainly, we are unapologetic about what our undergraduate education is and what our Torah perspective is, but we have riches to share with the larger world as well.

In terms of other religions, we also send our students to Nicaragua and El Salvador. I have also had the privilege of being at some meetings between us and the leaders of other religions, which we do mindfully and with good will, when they reach out to us. However, in today's world, inter-religious dialogue is not the highest item on our agenda. Rather, by modeling our world and living our values, we advance civilization. If, in the course of doing so, there are opportunities to meet and discuss communal issues, though not engage in debates or doctrinal conversation, which may have other possible appropriate venues, then such interactions can be worthwhile, but I don't see them as being the top of the agenda. The top of the agenda is to advance civilization by being *benei Torah* and doing so generously.

What advice do you have for the current and future leaders of the YU student body?

Number one, learn Torah. Number two, love it all! Experience it all and push your own envelopes. It may seem counterintuitive, but now is not the time for you take it as easy as can be, but strive to drink from all the troughs that have been made available to you. At this time in your life, you have the ability to work hard and really have it all. Also, be respectful partners in this enterprise. Push the envelope, but push it from within the tent, not from outside the tent. Have some *hakkarat ha-tov*, and recognize that those in your community want to be in contact with you, want to help shape you and want you to shape yourselves. They know that they will be influenced by you as well, but by virtue of being older we have more experience and maybe have more knowledge that we get to share. Students should accept that. Another important piece of advice is by all means be skeptical but never be cynical. People are involved in YU because they want to advance our story; cynicism is only corrosive and destructive. By all means ask questions, by all means advocate, by all means look to what needs improvement, but also recognize that your mission is not a monologue. There is a dialogue, with testing and limits, and, more than many other places, YU is a place with our own definitions. We are what we are; we're not relativistic, we're particularistic.

Richard Joel is president of Yeshiva University. Shlomo Zuckier is a RIETS student and a former editor-in-chief of Kol Hamevaser.

1 President Joel often uses this term to refer to the valued secular leaders of the Jewish community. It is a word play of *kelei kodesh*.

2 Avot 1:14.

In recent years, there has been a significant amount of dialogue within the Orthodox community, particularly among the left-wing Modern Orthodox, over issues of halakhic progressivism, or the attempt to consciously change *Halakhah* to conform to a standard more in line with our modern values and sensibilities. This dialogue is most often heard in the context of women's issues (such as women's role in the synagogue or rabbinate), although there are other areas of *Halakhah* (such as homosexuality) in which increased attempts are being made to revise traditionally-held views of Jewish law.¹

Just as with many issues of controversy in the Jewish community today, the topic of halakhic progressivism is not a new one; in fact, the issue figures prominently in the biblical narrative of the daughters of Tselofhad. In this article, I will examine two classical rabbinic approaches to this narrative and, by doing so, I hope to shed some light on the question of halakhic progressivism in its modern context.

The story of the daughters of Tselofhad begins in Numbers 26:53-56, when God tells Moses:

To these shall you divide the land as an inheritance in accordance with the number of names. To the multitudinous, you shall increase his inheritance, and to the few, you shall decrease his inheritance; each man, according to his numbers shall his inheritance be given. However, with a lottery shall the land be divided, according to the names of their fathers' tribes shall they inherit. According to the lottery shall they inherit, whether the many or the few.²

Subsequent to this ruling,³ the daughters of Tselofhad approach Moses in front of the entire Jewish people, claiming:

Our father died in the desert, and he was not one of the assembly who congregated against God in the assembly of Korah, for he died in his own error, and he had no sons. Why should the name of our father be diminished from the midst of his family because he has no son? Give us an inheritance among the brothers of our father!

Moses listens to their request and approaches God, Who responds:

The daughters of Tselofhad speak correctly, give them a portion of inheritance among the brothers of their father, and you shall pass the inheritance of their father to them. And to the Jewish people shall you speak saying 'When a man dies and has no son, you shall pass his inheritance to his daughter.'

God then presents a hierarchical list of relatives who inherit a man who dies without sons.

A number of questions emerge from this narrative. What prompted the daughters of Tselofhad to approach Moses? More specifically, were they merely inquiring as to the *halakhah* in their particular situation, or were they attempting to change an already established law? Furthermore, what would have happened had the daughters of Tselofhad not approached Moses with their claim? Would the *Halakhah* today maintain that only sons would receive their father's inheritance, or would the *halakhah* ultimately have come to be that women also receive an inheritance (in the absence of living brothers) irrespective of whether or not the daughters of Tselofhad had ever petitioned Moses?

There are two basic approaches to this narrative found in rabbinic literature. The first approach can be found in tractate *Bava Batra*, in the name of Shimon ha-Shikmoni.⁴ According to ha-Shikmoni, Moses knew from the outset that the daughters of Tselofhad would receive a portion in the land of Israel. However, Moses was unsure whether the daughters of Tselofhad would also receive the extra portion normally reserved for firstborn sons, as their father was a firstborn son (the alternative would be that the daughters of Tselofhad would receive a portion equal to that of each of his father's brothers, as opposed to a double portion). Thus, the significance of the halakhic problem in question is relatively minimal, not a groundbreaking issue of women's rights. Furthermore, according to Shimon ha-Shikmoni, the nature of the discussion between Moses and the daughters of Tselofhad was not confrontational; Moses was simply unaware of the proper procedure in this situation. It therefore emerges that the actions of the daughters of Tselofhad were not particularly courageous or revolutionary; they were merely asking Moses for a ruling on an undecided halakhic issue.

Additionally, according to Shimon ha-Shikmoni's approach, "the legal portion concerning inheritance should have been written [solely] through Moses, but the daughters of Tselofhad merited to have it written through them."⁵ In other words, the daughters of Tselofhad made no change to the extant *halakhah*—in fact, had they not approached Moses, the *halakhah* would still have eventually been decided in their favor. The only real consequence of the conversation between Moses and the daughters of Tselofhad was that they would now receive credit for the revelation of this part of the Torah's laws concerning inheritance by having their names associated with this section of the Torah.

Shimon ha-Shikmoni's reading of the narrative of the daughters of Tselofhad is attractive for two reasons:

1) It preserves a sense of the immutability of *Halakhah*. That is, the daughters of Tselofhad never changed the *halakhah* in any way; they were merely the conduits through which the *a*

priori halakhah was revealed.

2) The daughters of Tselofhad are, in this reading, not portrayed as rebels or reformers, but rather as sincere Israelites with a halakhic question. From a traditionalist Orthodox standpoint, it is much easier to understand the Torah's positive attitude toward the daughters of Tselofhad if we do not view them as people who were trying to modify *Halakhah* to conform to their personal needs.

Despite the theological attractiveness of Shimon ha-Shikmoni's approach, however, we must realize that it runs counter to a number of details in the text of the biblical narrative. There are several indicators in the narrative that suggest that the encounter between Moses and the daughters of Tselofhad was of a more confrontational nature than Shimon ha-Shikmoni would have us believe. First of all, the fact that the Torah makes a point of telling us that the daughters of Tselofhad stood "in front of Moses, El'azar the Kohen, the leaders of the tribes, and the entire congregation of Israel [in front of] the tent of meeting"⁶ indicates that the nature of this incident was not a just a run-of-the-mill halakhic inquiry, but rather something far more critical and contentious. Moreover, the strong language used by the daughters of Tselofhad, such as "why should our father's name be diminished?" and "give us an inheritance!"⁷ demonstrates that the daughters of Tselofhad felt that they were being slighted in some way by the extant *halakhah*, not that the *halakhah* had simply "not yet been revealed."

Perhaps it is for these reasons that *Sifrei*⁸ takes a radically different approach towards the understanding of this narrative. In its commentary to the first verse of Numbers 27, *Sifrei* expounds:

Once the daughters of Tselofhad heard that the land was to be distributed to the tribes, to males and not to females, they all gathered to take counsel. They said, "not like the compassion⁹ of mortals¹⁰ is the compassion of the Holy One, blessed be He, as mortals are more compassionate to males than to females, whereas the Holy One, blessed be He, has compassion for all, as it is stated, 'and his mercy is upon all his creatures.'¹¹"

Sifrei's reading of this biblical narrative differs from Shimon ha-Shikmoni's reading in a variety of ways. According to *Sifrei*, the daughters of Tselofhad were not merely questioning Moses as to whether they had a halakhic right to the portion of the firstborn; rather, they were protesting a known *halakhah* which explicitly denied women the right to an ancestral portion in the Land of Israel. In other words, the daughters of Tselofhad felt that, although the *halakhah* that women would not inherit a portion in the land of Israel had already been established, it was inconceivable

to them – knowing that God is merciful and compassionate to all – that this would be the ruling that the Jewish people would have to abide by for all ages. When God said to Moses that “the daughters of Tselofhad speak correctly,” He was in effect acquiescing to the claim of the daughters of Tselofhad. God had agreed to amend the established *halakhah* because of their argument.

Without discussing the thorny theological problems that arise from *Sifrei* in terms of dealing with God “changing His mind,” we can learn a number of important ideas from *Sifrei*’s reading of this narrative. The most striking thing, of course, is that God’s acquiescence to the daughters of Tselofhad demonstrates that, although the *Halakhah* does represent God’s will, this in no way means that there are no alternative possibilities that God would find acceptable in lieu of the original conception of the *Halakhah*. It is also apparent from *Sifrei*’s reading that Judaism is not merely a religion of rules “set in stone,” as it were. Rather, *Halakhah* can sometimes defer to overarching Torah values, even to the point where a *halakhah* can be altered out of deference to Torah-based beliefs and values. Finally, we see from *Sifrei*’s reading of the story that even the common people, not just the halakhic leaders, have the ability to make a meaningful contribution to the halakhic process, even to the extent of changing the accepted *halakhah*.

When applying these ideas to the modern halakhic process, however, we must recognize that the modern context is not necessarily analogous to the biblical one. There are two reasons for this: 1) The incident of the daughters of Tselofhad took place in a time prior to the canonization of *Halakhah* in the written Torah. 2) The daughters of Tselofhad made their petition during a period of prophecy. In other words, it can be argued that the daughters of Tselofhad had the ability to change an existent *halakhah* only because: 1) The Torah was not in its final form yet, and it was therefore subject to change, and/or 2) The daughters of Tselofhad had a method of speaking to God (through Moses) to see if their request was approved. In the modern context, where both the Written and Oral Torah (by means of the Talmud) have attained canonical status, it would be impossible for us, as rabbinic Jews, to overturn *Halakhah* to anywhere near the extent that was done by the daughters of Tselofhad.

Does this mean, however, that in a post-biblical, post-prophetic era it would be impossible for the strict *Halakhah* to be mediated by other Torah-based values? To some degree, it does. As rabbinic Jews, we view ourselves as bound by an ever-expanding canon of halakhic literature. To step outside the canon would be a breach of everything that the rabbinic tradition stands for. Nevertheless, even within the canon of the halakhic tradition, there is a still a sufficiently wide array of opinions and room for interpretation to allow for the creation of a more value-centric halakhic system. By utilizing sources within our tradition in tandem with the values that form the fundamental backbones of the Torah, such as justice, truth, and compassion for all of God’s creations (which, according to our midrash in *Sifrei*, includes a notion of gender equality), we can create a more idyllic halakhic system than if we were merely to “count heads” of halakhic

authorities of a previous era or simply hold to *Halakhah* as it has been practiced for a long period of time.

Sometimes we forget that the halakhic system is not principally a conservative enterprise. The goal of the halakhic process is not to ensure that “the more the world changes, the more we do not.” If that is the goal, *Halakhah* has failed quite miserably. There can be no doubt in the mind of anyone with even a cursory knowledge of the history and development of *Halakhah* that Jewish Law, as it is practiced today, is significantly different from the way it was practiced in biblical or even Talmudic times. Yes, the halakhic system depends on the fact that we treat the Bible, Talmud, and (to a lesser extent) rulings of earlier halakhic decision-makers as canonical, but this should not prevent us from deciding which opinion or interpretation to follow based on a strong understanding of fundamental Torah ideals, even if this means modifying *Halakhah* as it is currently practiced.

Of course, in order for there to be any semblance of order in the halakhic process, halakhic change cannot be made on an *ad hoc* basis by any individual who feels that an existent *halakhah* runs contrary to Torah values, as this would inevitably result in religious and societal chaos. However, if we follow the example of the daughters of Tselofhad, it cannot be considered sacrilegious or improper for the religious masses to respectfully petition rabbinic authority to consider changing the accepted *Halakhah* within the broader parameters of the rabbinic tradition so that it more strongly accord with the beliefs and values which form the core of Judaism. Although it is ultimately up to the recognized halakhic authorities to make the final decision on halakhic matters, sometimes it is the duty of the religious masses to ensure that *Halakhah* is established in a reasonable fashion that accords with not just the texts of our tradition, but with our values as well.

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1 For an interesting perspective on some of these issues, see: Rabbi Aryeh Klapper, “Chukim, Mishpatim, and Womanhood” on the *Text & Texture* blog.

2 Translation is my own.

3 Numbers 27:1-11.

4 *Bava Batra* 119a.

5 *Bava Batra*, *Ibid*.

6 Numbers 27:2.

7 Numbers 27:4.

8 *Sifrei Bamidbar*, *Piska* 133.

9 “Compassion” here probably does not refer to emotional compassion, but rather to the tendency of patriarchal societies to place the needs of men above those of women.

10 Lit. “flesh and blood.”

11 Psalms 145:10.

Women’s Zimmun: It’s Just Not that Radical

BY: Gabrielle Hiller

It is a classic picture: A family joined together for their *Shabbat* meal, enjoying delicious food, speaking *divrei Torah*, and singing *zemirot* (songs). Finally, the meal concludes with *zimmun* (the invitation to bless) and *birkat ha-mazon* (blessing after the meal). Many of you might have similar experiences every week. The only difference in my family, made up of five females and one male, is that the *zimmun* is comprised not of three men, but of three women. Ever since my eldest sister taught my family and me what she learned in her high school *Halakhah* class about women’s *zimmun*, my mother and sisters have made a *zimmun* whenever we eat together.

When I entered high school a few years later and learned the sources for the *halakhot* of women’s *zimmun* myself, I discovered that the practice is even less prevalent than I had imagined. Many girls in my class were uncomfortable with the idea, and I have found that feeling to be widespread. More often than not, people are simply unaware of the halakhic sources of this practice. There are those, however, who are against or uncomfortable with women’s *zimmun* even after learning the sources. I will therefore first discuss the sources for women’s *zimmun*, and then I will attempt to understand the objections to this practice.

Contrary to popular belief, the practice of women’s *zimmun* is well-rooted in *Halakhah*, stemming back to the time of the Mishnah. As we will see, there are absolutely no authorities that say it is forbidden for women to form a *zimmun*. The only disagreement that stands is with regards to whether it is obligatory or merely optional for women to form a *zimmun*. The basis for this discussion is found in three Tanna’itic and Amoraic sources: A Mishnah from *Berakhot* 45a, a Beraita quoted shortly thereafter in 45b, and a Gemara in *Arakhin* 3a.

The first source, the Mishnah, discusses the basic concepts of *zimmun*. It begins, “*Sheloshah she-akhalu ke-ahat hayyavin lezammen* - three who ate together are required to join in *zimmun*.”² The Mishnah then continues to limit its statement and discuss who may and who may not join the quorum of three. The last example is, “*nashim ve-avadim u-ketanim ein mezammenin alaihen* - women, slaves, or minors, we do not join in *zimmun* on account of them.”³ Although this Mishnah seems to imply that women are excluded from the *mitsvah* of *zimmun*, in reality, it only says that women cannot join men. It remains unclear if three women can form a *zimmun* of their own.

The second source, the Beraita, begins to clarify the confusion that emerges from the Mishnah. The Beraita clearly states, “*Nashim mezammenot le-atzman* - women join in *zimmun* by themselves.”⁴ Although, as we learned in the Mishnah, women cannot join men in a *zimmun*, three women can form their own *zimmun*. The end of the Beraita clarifies that although women, slaves, and minors were grouped together earlier, they cannot, even if they want to, join together to form a *zimmun*;

each group can only do so separately.

From this Beraita, it is unclear whether it is a *hiyyuv* (obligation) or a *reshut* (optional act) for women to form a *zimmun*. *Tosafot* to *Berakhot* 45b explain that we derive that it is a *reshut* from the end of the Beraita - just as the end states “if they want...” so too is the beginning an optional case. On the contrary, however, one can learn like the *Rosh*⁵ that from the fact that the Beraita did not write “if they want” in the beginning, we see that, unlike the end, the statement in the beginning reflects an obligation.



The third main source, however, appears to put an end to the confusion. In *Arakhin* 3a, the Gemara states, “*Ha-kol hayyavin le-zammen’ - le’atuyei mai? Le’atuyei nashim* - ‘All are obligated in *zimmun*’, what [does the word ‘all’ come] to include? To include women.”⁶ For the first time, the Gemara explicitly uses the language of *hiyyuv* in relation to women’s *zimmun*.

These three sources - the Mishnah, Beraita, and Gemara - are not easily reconciled. *Tosafot*, *Shulhan Arukh*, and *Rosh* present three distinct approaches on how to understand these sources.

Tosafot understand the Mishnah simply: Women cannot be counted in a men’s *zimmun*. *Tosafot* explain that because women cannot say the line in *birkat ha-mazon* of “*al beritekha she-hatamtah bi-vessareinu*,” they cannot be in the same grouping as men.⁷ Additionally, *Tosafot* add that women cannot even respond to a men’s *zimmun* if they do not understand the Hebrew.⁸

The Mishnah is simple for *Tosafot* to understand. The Beraita, however, proves challenging. *Tosafot* write that the Beraita implies that women can form a *zimmun*, and yet, the general practice is for women not to do so. *Tosafot* solve this apparent contradiction between the written *halakhah* and the popular practice by concluding that the *mitsvah* to form a *zimmun* is optional, rather than obligatory.⁹

Although *Tosafot* provide a satisfactory explanation of the Beraita, their conclusion is difficult to reconcile with the Gemara, which clearly uses the word “*hayyavin* - obligated.” *Tosafot* are therefore forced to conclude that when the Gemara uses the language of *hiyyuv*, it really means *reshut* (permissible).

*Shulhan Arukh*¹⁰ is similar to *Tosafot* in many

ways. Just like *Tosafot*, *Shulhan Arukh* explains the Mishnah to mean that women cannot be counted with a men's *zimmun*.¹¹ Similarly, *Shulhan Arukh* rules, based on the Beraita, that it is a *reshut* for three or more women to form a *zimmun*. He adds a limitation, however: Women are not allowed to use *shem Hashem* in their *zimmun*.¹²

The *Shulhan Arukh's* interpretation of the Gemara, however, serves as the key difference between the *pesak halakhah* found there and *Tosafot's pesak*. While *Tosafot* were forced to conclude that "*hayyavin*" should be explained as *reshut*, the *Shulhan Arukh* instead applies the *hiyyuv* to something else. According to *Shulhan Arukh*, women are obligated to respond to a men's *zimmun*.^{13, 14} *Rema*,¹⁵ explicitly disagreeing with *Tosafot*, adds that this *hiyyuv* applies even if the women do not understand Hebrew.

Rosh,¹⁶ though he provides the most straightforward explanation, is radical compared to *Tosafot* and *Shulhan Arukh*. Just like *Tosafot* and *Shulhan Arukh*, *Rosh* explains the Mishnah to mean that women cannot join with men to form a *zimmun*. However, unlike *Tosafot* and *Shulhan Arukh*, *Rosh* holds that both the Beraita and Gemara teach that women are actually **obligated** to form a *zimmun*. He maintains that it would be incomprehensible for women who are *hayyavot* in *birkat ha-mazon*, whether it is a *de-oraita* or *de-rabbanan* obligation,¹⁷ to not also be *hayyavot* in *zimmun*. The *Gra* says that the position of *Rosh* is the most logical one, but that the practice of the

established practice.

But is the *lack* of women's *zimmun* an established practice? Rabbis Aryeh and Dov Frimer, in an article on women's prayer services,¹⁹ quote Rabbi Eliezer Berkovits and Justice Menahem Elon in their discussion on whether the absence of a practice constitutes a valid *minhag avoteinu* that must be followed by future generations. There is a *mahaloket Aharonim* regarding a situation when a community consistently refrains from doing a certain action, even though the action is technically *halakhically* permissible. Does this passive behavior constitute a communally binding prohibitive *minhag* (*lo ra'inu re'ayah ba-minhag*) or not (*lo rai'nu eino re'ayah*)²⁰? Rabbi Berkovits and Justice Elon claim that even according to the opinion that would answer in the affirmative, this *mahaloket* should not apply to women's prayer services because, although it was not something done in the past, it was also not a practice that the community expressly prohibited. The absence was not deliberate; rather, they explain, there was no social need for women's prayer services.

This same argument easily extends to women's *zimmun* as well. According to *Mishnah Berurah*,²¹ the reason why the *Hakhamim* did not make *zimmun* mandatory for women was because women were not educated and did not know how to recite *birkat ha-mazon*. The *Hakhamim* could not obligate women in something that they would be unable to do. In other words, there was no outright objection to women's *zimmun* in past generations. It was

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community is not to rule like him.¹⁸

Although *Tosafot*, *Shulhan Arukh*, and *Rosh* all explain and interpret the Mishnah, Beraita, and Gemara differently, one important factor common to all of them is that no one legislates that it is forbidden for women to form a *zimmun*. The only *mahaloket* is whether women's *zimmun* is a *reshut* or a *hiyyuv*.

With this clear basis in Halakhah for women's *zimmun*, it is perplexing why there are opponents to women's *zimmun*. Indeed, any opponents that I found were unable to deny that women's *zimmun* is technically permitted. Instead, their main arguments relate to *minhag avoteinu* (our parents' practices) and the dangers of feminism.

At first glance, the issue of *minhag avoteinu* appears to be a convincing objection. Why should our generation do something that our grandparent's generation did not do? They chose to follow the *shittot* that say women's *zimmun* is optional and we, in respect to the *minhagim* of the generations before us, should follow their lead and not change their

simply an impossibility. Consequently, just as in regard to women's prayer services, the *mahaloket* about negative *minhagim* does not apply here and there should be no reason why educated Jewish women should be prevented from forming a women's *zimmun* based on the reason of *minhag avoteinu*.

Even without the issue of *minhag avoteinu*, there are those who still object to women forming a *zimmun* because they claim that many women perform this practice in order to further the feminist agenda. Due to this lack of pure intentions, they say, women's *zimmun* should not be encouraged. In the words of Rabbi David Cohen, "What was once considered commendable becomes improper when it is done to further an agenda which, to my mind, negates those forces of *halachah* and *mesorah* which have sustained us."²²

These objections to women's *zimmun* upset me. Perhaps there truly are women who have construed women's *zimmun* into something that it is not, but I participate in a women's *zimmun* whenever the opportunity arises

because in my high school Halakhah class we opened up a Gemara and a *Shulhan Arukh* and other sources and found that there are *Tanna'im*, *Amora'im*, *Rishonim*, and *Aharonim* who support and encourage women's *zimmun*. Should I be stopped, too? Should I have to relinquish this opportunity to personally glorify Hashem's name just because there is a danger that others are doing so for the wrong purpose? How much do *halakhah*-abiding Jewish women have to give up in order to put a stop to the so-called "dangers" of the feminist movement?

In regard to innovations of the feminist movement, many claim that even if something is technically permitted according to Halakhah, it should be forbidden in order to prevent a slippery slope in which women will begin to do things that have absolutely no basis in Halakhah. But there is a danger in applying the slippery slope argument too often. It is more appropriate to apply this principle to practices such as women's prayer groups and other similar examples, which are controversial because their halakhic basis is not entirely clear. The practice of women's *zimmun*, however, is explicitly supported even by *Tanna'im*. If the slippery slope argument is applied even to such a well-rooted idea, how many more perfectly halakhic practices will it be applied to in the future? If we prevent women from doing things that are halakhically permissible (and perhaps lauded) for them, we will only create more women who are frustrated within the the halakhic framework. If, according to *Mishnah Berurah*, it is true that the only reason why women's *zimmun* has not been common practice is because women were uneducated, then anyone nowadays who supports women's education to any extent – even just a knowledge of the Hebrew language that would allow them to fulfill the *mitsvah* of *birkat ha-mazon* – should support women's *zimmun* as well. Women's *zimmun* is a practice that, whether you follow *Tosafot*, *Shulhan Arukh*, or *Rosh*, is perfectly valid according to Halakhah and provides women with another legitimate and beautiful way to praise the name of Hashem.

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1 I would like to sincerely thank Rabbi Saul Berman and Mrs. Shayna Goldberg, without whom I would have been unable to write this article.

2 *Berakhot* 45a (Artscroll's translation).

3 *Ibid.*

4 *Berakhot* 45b (Artscroll's translation).

5 *Rosh* to *Berakhot* 7:4.

6 Artscroll's translation.

7 *Tosafot* to *Arakhin* 3a, s.v. *mezammenot le-atzman*.

8 *Tosafot* to *Berakhot* 45b, s.v. *she'ani hatam de-ikah de'ot*.

9 *Ibid.* *Tosafot* continue to explain that there is some support in the actual Beraita that women's *zimmun* is only optional. Firstly, the language of "*im ratzu* – if they want" found at the end of the Beraita allows us to infer that we can read the beginning as "women can form their own *zimmun* if they want." Additionally, the surrounding Gemara compares a *zimmun* of three women to a *zimmun* of two men. Just as two men have no obligation to form a *zimmun*,

so too three or more women have no obligation of *zimmun*.

10 *Shulhan Arukh*, *Orakh Hayyim* 199:6-7.

11 *Mishnah Berurah* to *Shulhan Arukh* 199:12 explains differently than *Tosafot* why women cannot join men to form a *zimmun*. Rabbi Yisrael Meir Kagan explains that because women are not *benei hiyyuva* (subject to obligation) like men, and because "*ein hevratan na'eh* – their association is not appropriate," it would be improper for women and men to form one group.

12 *Mishnah Berurah* to *Shulhan Arukh* 199:15 explains that the use of Hashem's name in *zimmun* is a *davar she-be-kedushah* (form of sanctification), and can therefore only be used when there are at least ten free men present.

13 At first glance, this statement is puzzling. If women cannot join men to form a *zimmun* because "*ein hevratan na'eh*," why is it any more appropriate for women to answer to a men's *zimmun*? *Mishnah Berurah* anticipates this difficulty and explains that because the three or more men are not dependent on the women to form a *zimmun*, the women joining to be *yotzeh* (fulfill) their *hiyyuv* by listening is not a *genai* (degradation) in the same way.

14 It is a common question whether the opposite applies as well: should men respond to a women's *zimmun*? Rabbi David Auerbach (*Halikhot Beitah* 90:7) rules, "*vadai rashai ha-ish la'anot ahareihen* – it is certainly permitted for a man to answer after them" (author's translation). Rabbi Yehuda Henkin in his *Responsa on Contemporary Jewish Women's Issues* (Jersey City, NJ: Ktav Publishing House, 2003), 38, agrees with R. Auerbach and even says that there are no grounds to forbid men from answering to a women's *zimmun*. Nonetheless, Rabbi Henkin adds that although men are permitted to, they are not required to respond to a women's *zimmun*.

15 *Rema* to *Shulhan Arukh*, *Orakh Hayyim* 199:7.

16 *Rosh* to *Berakhot* 7:4.

17 *Berakhot* 20a discusses the level of obligation of women in *birkat ha-mazon* and it is left unclear if a women's *hiyyuv* is *de-oraita* or *de-rabanan*.

18 *Bi'ur Halakhah* 199, *Bi'ur Ha-Gra*, *Orakh Hayyim* 199:7.

19 Rabbi Aryeh A. Frimer and Rabbi Dov I. Frimer, "Women's Prayer Services- Theory and Practice," *Tradition* 32:2 (Winter 1998): 5-118. Available at: <http://www.daat.ac.il/daat/english/tfila/frimmer1.htm>.

20 These phrases personify the argument. "*Lo rai'nu eino re'ayah*" means that not having seen a practice is not proof that a practice may not be done. "*Ra'inu re'ayah ba-minhag*," however, claims the opposite: The fact that a practice was not done should be considered a prohibitive *minhag* that must be followed by future generations.

21 *Mishnah Berurah* to *Shulhan Arukh*, *Orakh Chaim* 199:16.

22 Rabbi David Cohen, "Legal-ease," *Jewish Action*, Winter 1999, available at: <http://www.ou.org/publications/ja/5760winter/letters.pdf>.

Israel, Judaism, and the Treatment of Minorities

BY: Rabbi Yosef Blau

Israel's Declaration of Independence¹ states that "by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly (we) hereby declare the establishment of a Jewish state in Eretz Israel, to be known as the state of ISRAEL."² The Declaration promises that the new state will be open to the immigration of Jews and will uphold the full social and political equality of all its citizens, without distinction of race, creed, or sex. It includes an appeal to the Arab inhabitants to return to the ways of peace and to play their part in building the state, "on the basis of full and equal citizenship."³

The duality of being both a Jewish and democratic state is a basic part of the Declaration. Signers of the document ranged across the political spectrum, including Orthodox rabbis representing both the Agudah and the Mizrachi parties. The 1992 Israeli Basic Law⁴ on "Human Dignity and Liberty" includes an amendment that founds human rights on the sanctity of human life and the spirit of the principles set forth in the Declaration of Independence.

Rabbi Isaac Herzog, the State's first Ashkenazic chief rabbi, wrote extensively on Israeli law's foundation in traditional Jewish law. He provides the facts that Israel was created on the strength of a United Nations resolution and is committed to being a democratic state as the bases for giving full rights to non-Jewish minorities. He analyzes halakhic perspectives on Islam and Christianity, and concludes that both religions are to be given full religious freedom in the state.⁵

During the First Lebanon war, controversy arose over possible Israeli negligence in allowing its Lebanese Christian allies to

massacre Palestinian civilians in the refugee camps of Sabra and Shatila. The Israeli cabinet was divided on whether to conduct an independent inquiry. Mafdal, the religious Zionist party, was also split until Rabbi Joseph B. Soloveitchik, the leading religious Zionist halakhic authority, broke from his pattern of not publicly commenting from the United States on Israeli religious questions and demanded that Mafdal support the inquiry. When Rabbi Yehuda Amital in Israel took the same position, it aroused a great deal of criticism. This was indicative of a shift in perspective with concern for the welfare of non-Jews, seen by many religious Zionist rabbis as less important than preserving the moral image of the Israeli military.

In recent years, attitudes toward treatment of the non-Jewish (Arab) minority in Israel in religious Zionist circles have diverged from the positions of Rabbis Herzog, Soloveitchik, and Amital. Some leading rabbis now oppose renting apartments to Arabs;⁶ a few have endorsed books that differentiate between Jewish and non-Jewish lives.⁷ Some consider the transfer of Arabs from the Jewish state a legitimate proposal.⁸

Remarkably, the idea that the treatment of a non-Jewish minority in a Jewish country is a test of Judaism appears in a medieval Jewish work, the *Kuzari*. This book, written by the famed Jewish poet and thinker Rabbi Yehuda Halevi, has been a major influence on prominent religious Zionist thinkers such as the Rabbis Kook, father and son. In this work, the Jewish People is seen as being a higher order of humanity. Because Rabbi Halevi's life and writings reflect a profound love for the land

of Israel, his book remains popular in religious Zionist circles.

In the *Kuzari*, the king of the Khazars searches for a way of life for his people. He consults representatives of Christianity, Islam, Judaism, and philosophy, becomes convinced of the superiority of Judaism, and leads his people to convert to Judaism.

The Jewish scholar has a powerful argument against the representatives of Christianity and Islam regarding their descriptions of their religions. He points out a contradiction between doctrine and actual behavior: They talk about religions of love and justice but, in reality, whenever Christians or Muslims captured a country, they mistreated its inhabitants and killed their opponents. There is an implied contrast with Judaism. Yet, the king questions the Jewish scholar: How do you know that Jews will act differently? You are not in control of any country and your behavior when in charge has not been tested.⁹

In 1948 this changed. The Jews now have a country, Israel, which has a significant non-Jewish minority. The king's question is no longer theoretical. What is Israel's response? What is Judaism's response?

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1 Various different English titles are used to refer to this document, including Declaration of Independence (most sources), Proclamation of Independence (Knesset website), and Declaration of the Establishment of the State of Israel (Ministry of Foreign Affairs website). This

article will use Declaration of Independence, which is both the most common and the closest to the original Hebrew, *Megillat ha-Atzma'ut*.

2 Israel Ministry of Foreign Affairs, The Declaration of the Establishment of the State of Israel: May 14, 1948 (English text), available at: www.mfa.gov.il.

3 Ibid.

4 Available on the Knesset website, at: http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm. The fourteen "Basic Laws" (*Hukey ha-Yesod*) of Israel, passed by the Knesset between 1958 and 2001, are the basis of Israel's immutable constitutional law, and are intended to serve as draft chapters for the eventual composition of a full constitutional document.

5 Rabbi Isaac Herzog, "*Te'hukah le-Yisra'el al pi ha-Torah*," chapter 2, pp. 12-22.

6 See for instance, Kobi Nahshoni, "50 municipal rabbis: Don't rent flats to Arabs," *Ynetnews*, July 12, 2010, Jewish World section, available at: www.ynetnews.com.

7 On the topic of Rabbi Yitzchak Ginsburg's *Torat Ha-Melekh*, see Daniel Estrin, "Rabbinic Text or Call to Terror?," *The Jewish Daily Forward*, January 29, 2010, available at: www.forward.com.

8 See, for instance, Richard Silverstein, "Israeli Rabbis Favor Right of Return...to Saudi Arabia," *Eurasia Review*, April 27, 2011, available at: www.eurasiareview.com

9 *Kuzari (tirgum Yehuda Even Shmuel)*, 1:114.

Rav Lakhen Benot Yisrael: Humility and Rabba-nut¹

BY: Ariel Caplan

The major problem—one of the major problems, for there are several—one of the many major problems with governing people is that of whom you get to do it; or rather of who manages to get people to let them do it to them. To summarize: it is a well-known fact that those people who must *want* to rule people are, ipso facto, those least suited to do it. To summarize the summary: anyone who is capable of getting themselves made President should on no account be allowed to do the job.²

As I consider issues of leadership, my mind inevitably wanders to *parashat Korah*, which addresses questions of power and challenges thereto. I cannot help but relate Korah's challenge against the leadership of Moshe and Aharon to the more recent attempts of leaders within our community, spearheaded by individuals or groups, to unilaterally alter

the practices of our community and transform the power structure of American Orthodoxy. While a comparison does not prove a point, it often generates much food for thought.

The most salient issue which has been a focus of the recent power struggle is the ordination of female rabbis. I am not, of course, simply writing to add my two cents to the debate; enough has been said about it, more than enough fingers have been pointed, and my halakhic and hashkafic knowledge is far from sufficient for me to comment usefully on the proposition. I do think, however, that the tone of the debate makes it obvious, even to someone like me, that a highly problematic view of the rabbinate has infected the minds and hearts of *kelal Yisrael*.

This conclusion is reached rather simply. The most common argument I have seen put forth in favor of ordaining women runs as follows: 1) Women are, in the modern age, able to learn at the same level as men, removing the barrier which has to this point automatically

made women less capable of performing rabbinic duties than men. 2) If women are just as capable, it would be unfair to withhold the privilege of rabbinic ordination from women. 3) Our sense of fairness therefore mandates that women should be ordained as rabbis.

This argument is painfully easy to knock down. It is very difficult to argue for the existence at present of a substantial cadre of women who are able to learn at nearly the same level as the individuals who receive *semikhah*, whatever our reference institution for standards of *semikhah* may be: RIETS, Ner Israel, Lakewood, or even the Israeli Rabbinate. Certainly, as I have been privileged to witness myself, very learned women do exist, but they are relatively rare. Additionally, even learned women have not often experienced the same intensity of years of rigorous *yeshivah* study, of "*ve-hagita bo yomam va-laylah*,"³ and it would be difficult to assert that more than a handful of women have the requisite *shimmush talmidei hakhamim* (personal experience with Torah

scholars) which is a basic requirement for issuing halakhic rulings.

Even for the few women who may be personally qualified in the senses mentioned above, it is difficult to assert that education and academic achievement alone are sufficient to justify ordination. A parallel demonstration is the fact that there are non-Jews in the world who are far more Jewishly educated than most *musmakhim* and who could even put many well-established rabbis to shame.⁴ However, being Jewish is certainly a prerequisite for *semikhah*. Similarly, women's exclusion in various respects from *talmud Torah*⁵ and communal life (in both temporal and spiritual spheres)⁶ may hint at an unbridgeable gap between women and the rabbinate, the latter of which is founded upon being steeped in Torah study and commands significant authority in the community.

None of these points necessarily indicate that women cannot serve as rabbis, but together they indicate that the argument presented

above leaves open much room for debate.

All this said, the issue which most upsets me is not anything previously stated. I can live with people who disagree with me, whether their opinions are based on ignorance or a different assessment of either reality or halakhic texts (although the latter is clearly quite preferable). However, I cannot remain silent in the face of a society which is insensitive to Torah values, particularly regarding the issue of the rabbinate, which serves not only as a body of communal leadership but as the bearer of the *masorah*, which in turn directs our understanding of God's will.

To make things clearer, I will note that there are two categories of leadership in *kelal Yisrael*: temporal leadership and spiritual leadership. The modern rabbinate likely represents a chimera uniting the two types: A rabbi is expected to guide the community in many practical matters as well as offer spiritual instruction and inspiration. It is in the spiritual sphere that my objection truly lies; I argue strongly against the assumption underlying point 2 of the above position, the claim that it is unfair to withhold the privilege of entering

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the rabbinate from anyone who is capable of performing rabbinical functions. My distaste arises from the notion that entrance into the rabbinate is a privilege, even a right, which may be fought for and won. On the contrary, it is clear to me that among the most essential elements of spiritual leadership is humility, perhaps to the point of not wanting one's position at all.

Let us consider two major spiritual leaders mentioned in the Torah: Moshe and Aharon. Moshe is described as "*anav me'od, mi-kol ha-adam asher al penei ha-adamah* - exceedingly humble, more than any man on the face of the earth."⁷ Indeed, Moshe, the conduit of Torah who is the first link in the chain of *masorah*,⁸ the man described by Rambam⁹ as the most perfect person ever to walk the earth, did not want to be Moshe Rabbenu. The *pesukim* in *parashat Shemot*¹⁰ describe Moshe's initial strong objections to the idea of being made a leader of the people. Moshe begged of God, "*shelah na be-yad tishlah* - Send whomever (else) You will send!" *Al derekh ha-peshat* (in accordance with the plain reading of the text), Moshe wanted the redeemer to be anyone but himself; he wished for neither the glory of Israel's savior-king nor the prestige of an ambassador to the Pharaoh.¹¹ *Al derekh ha-derash*, Moshe felt that his brother Aharon would be a better candidate and he therefore wanted Aharon to lead.¹² (Certainly, Moshe later occasionally needed to speak out against challenges to his rule -

perhaps because they symbolized challenges to God's authority - but the initial instinct is nonetheless significant.) Moshe's humility is seen by *Midrash Tanna'im* as archetypal behavior for future leaders: "Just as Moshe Rabbenu was humble... so must every judge be humble."¹³

Aharon's personality is less obvious from the *pesukim* themselves. However, several *midrashim* record a striking incident that demonstrates Aharon's reservations about leadership: "When Moshe poured the anointing oil on [Aharon's] head, Aharon shook and was terrified. He said to Moshe, 'My brother, perhaps I was not worthy to be anointed with the sacred oil, and I misappropriated it, and I became deserving of excision!'"¹⁴ The Midrash adds that this story was related to Korah and his followers to make it clear that their claim was against God, Who had appointed Aharon, and not against Aharon himself, who had not desired the position granted to him.

Hazal are emphatic in stressing the virtue of humility, particularly in the context of acquisition and retention of Torah knowledge. For example, consider this passage from

Masekhet Ta'anit:

Rabbi Hannina bar Idi said: "Why were words of Torah compared to water...? To tell you: just as water leaves a high place and moves to a low place, so too, words of Torah are only sustained within one whose attitude is lowly."

And Rabbi Oshaya said: "Why were words of Torah compared to these three liquids: water, wine and milk...? To teach you: just as these three liquids are only sustained in the lowliest of vessels [i.e., earthenware], so too, words of Torah are only sustained within one whose attitude is lowly."¹⁵

Two other passages indicate that pride and Torah knowledge are incompatible: "R. Yehudah said in the name of Rav: 'Anyone who becomes vain: if he is a scholar, his wisdom eludes him.'"¹⁶ Again, "Rabbi Yohanan said: "'[Torah] is not in the Heavens" (*Devarim* 30:12) - it will not be found among the lofty of spirit [i.e., arrogant]."¹⁷

Based on these and other sources, Maharal writes unequivocally, "It is impossible to acquire Torah [knowledge] except [if one is] a master of this trait [of humility]."¹⁸ His rationale is that Torah is an intellectual entity, and one must remove himself from physicality (which he connects to haughtiness) in order to acquire Torah. However, another explanation, more relevant to the current discussion, may

be advanced; it begins with another source regarding humility and Torah knowledge:

R. El'azar said: "What is the meaning of the verse, 'His cheeks are like a bed'¹⁹ of spices?' If a person makes himself like this bed which everyone tramples, and like this spice with which everyone perfumes themselves, his Torah learning will survive, and if not, his Torah learning will not survive."²⁰

Interpreting this piece, Rashi explains that the traits encouraged here are 1) avoiding haughtiness and 2) teaching Torah to students. Interestingly, the *derash* of Rabbi El'azar seems to link the two, perhaps indicating that the former is a prerequisite for the latter. There is an intuitive logic to the connection; an arrogant teacher will place his own comfort above the needs of students. Apparently, rabbinic leadership goes far beyond personal scholarship, requiring sensitivity and a willingness to surrender oneself to the needs of the public. In the words of Tosafot explaining a similar Gemara in *Nedarim*, "He should teach Torah to everyone,"²¹ whatever their intellect or stature.

Even God Himself is described as humble in a fascinating passage recited by many before the *aleinu* prayer every *motsa'ei shabbat*:

R. Yohanan said: "In every place where you find the might of God, you find His humility. This matter is written in the Torah, repeated in the *Nevi'im*, and tripled in the *Ketuvim*. It is written in the Torah: 'For Hashem your God is the God of powers and Master of masters,' and it is written after it, 'He carries out the justice of orphan and widow.'²² It is repeated in the *Nevi'im*: 'So said the high and exalted [One Who] lives forever and is holy, etc.' and it is written after it, 'And [I dwell] with the crushed and low of spirit.'²³ It is tripled in the *Ketuvim*, as it is written, 'Extol Him Who rides upon the heavens,' and it is written after it, 'The father of orphans and the judge of widows.'²⁴²⁵

A careful reading immediately reveals that R. Yohanan's proof texts do not all really fit the bill. While dwelling "with the crushed and low of spirit" is an act of modesty, ensuring that widows and orphans receive their due seems to be irrelevant to humility. Perhaps, however, this is the point: humility is synonymous not with self-abnegation but with selflessness. It is the ability to look beyond one's own admirable qualities and focus on the needs of others.

This, it seems, is the reason humility is required for Torah leadership. Only a person who is humble in this sense - who would enter a leadership position for the sake of those who will be led, rather than for personal gain - is worthy of being granted the gift of knowledge of the divine Word. Only someone who is humble in this way will utilize the intellectual gifts granted to him for the public good.

Despite being the greatest man who ever lived, Moshe Rabbenu was (to quote Rashi's explanation of Moshe's humility) "*shafel ve-savlan* - lowly and patient,"²⁶ constantly placing the people's needs above his own. It is, then, a sorry situation indeed when a debate over the nature of the rabbinic establishment morphs into a vicious power struggle, rather than an honest assessment of the needs of the Jewish people. Some battles are worth fighting, and certain *mahalokot* (arguments) are indeed *le-shem shamayim* (for the sake of Heaven). Still, especially in the context of *mahaloket*, it is worthwhile for all of us to recall the ideal portrait of a rabbi and the values that should light the way for these critical Jewish figures, and to reconsider how we debate the future of the rabbinate.

"*Rav Lakhen Benot Yisrael* - There is much [opportunity] for you, O daughters of Israel."²⁷ The debate about women's roles in today's Orthodox community is an important one, and the question deserves serious and careful analysis. But it should be answered based on the dictates of Halakhah, the established *masorah*, and the needs of the general populace, rather than either patriarchal bias or the desire to advance a feminist agenda. Despite the common claim to the contrary, women are actually granted a vast array of spiritual opportunities within the framework of Halakhah, and adding to or detracting from what Halakhah dictates are both dangerous. Yet in this murky set of issues, one thing is clear: we will not serve the Jewish people by concentrating solely on the rights of potential rabbis, whose lives are supposed to be dedicated to the people, not the other way around. Instead, we should reframe the issue based on the following three questions: 1) Does the Jewish community have a significant and demonstrable need for female rabbinic leadership? 2) Would the inclusion of women in the rabbinate contradict the dictates and/or values of the system they would hope to represent? 3) Would the benefit of this innovation outweigh the resistance of the halakhic system to fundamental alterations to spiritual practices? Only through properly focused debate will useful conclusions ever be reached.

This essay ought to have ended already; indeed, in its earlier forms, this sentence and those following it did not exist. However, I would like to tack on two notes which I think are worthy of further consideration, lest the reader decide to ignore the regrettably oft-neglected endnotes section. First, I have focused on feminist considerations rather than misogynistic attitudes because I only see the former as related to the humility issue, which was what inspired me to write this piece. Beyond this, I am willing to trust that rabid sexism is not a serious problem amongst most of the *Kol Hamevaser* readership; as far as I can tell (though I may be mistaken), YU hardly encourages exclusion of women from religious or communal life. I will certainly acknowledge, however, that in other contexts and communities, negative attitudes towards women's intellects and abilities will drive the

conversation, which is certainly problematic, albeit in a different sense.

The second note is that not all debaters on the same side speak in one voice, and the argument I have outlined and analyzed is not representative of all those in favor of women's ordination. Some have, indeed, focused on the questions I have laid out. However, it is often difficult to hear these voices above the clamor that is the civil-rights argument for women's ordination. Unless there is an attitudinal shift, I believe the more reasonable voices will be lost in the wave of demands not grounded in tradition. Then, either the pro-ordination side will be defeated by traditionalists, or a new split will develop within the modern Orthodox community. Neither should be a reason to rejoice for someone who favors ordination of women.

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1 While responding to the broader conflict that emerged with the ordination of Sara Hurwitz and the opening of Yeshivat Maharat, this article is most specifically meant to serve as a response to Ilana Hostyk's piece "In Defense of Rabba Hurwitz," published last year in the

Yeshiva University *Observer*. The article, available at <http://www.yuobserver.com>, asserts: "Stern College for Women is an institution that has demonstrated that women are more than capable of achieving the same heights in learning as any man... However, one could not have expected all of this learning to be for naught. Jewish women could not reasonably be expected to remain in the same position they previously had in Judaism now that they have attained all of this knowledge. A leadership position within the framework of halakha is the logical, and necessary, next step." This argument will be directly addressed and analyzed. However, I should note here that I find it distasteful that learning for its own sake is described as "for naught."

2 Douglas Adams, *The Ultimate Hitchhiker's Guide to the Galaxy* (New York: Wings Books, 1996), 278.

3 *Yehoshua* 1:8. Also see *Menahot* 99b.

4 I have had the privilege of learning from one such individual who is currently employed by Yeshiva College as a professor. To cite a characteristic line, "I could cook you a perfectly kosher meal. But you would never eat it!"

5 See Rambam, *Mishneh Torah, Hilkhot Talmud Torah* 1:1, which establishes that women are not obligated to learn Torah, and 1:13,

which discourages women's Torah education. Also see the formulation in *Shulhan Arukh, Y.D.* 246:6, which also relates these two points.

6 This takes a more extreme form in Rambam's assertion (*Mishneh Torah, Hilkhot Melakhim* 1:5) that women are excluded from any position of *serarah*, authority; this stance is, of course, simply an extension of the more widely accepted law that a woman may not be appointed as ruling monarch over the Jewish people (based on *Sifrei* 157:15). Even those who do not accept Rambam's position will readily admit that women are excluded from certain public roles in the synagogue, such as leading prayers and the majority of Torah reading. Outside the synagogue, they are also precluded from serving as judges (*Shulhan Arukh, H.M.* 7:4) or witnesses (ibid. 35:14) in court. One might argue, however, that such exclusions do not necessarily indicate fundamental assumptions about women's roles in society. For instance, the exclusions of participation in court may be related more to the nature of court proceedings than to the ontological role of womankind. Yet, the abundance of roles only available to men is difficult to ignore by ascribing the various cases to small details rather than a broader picture of societal structure.

7 *Bemidbar* 12:3.

8 *Avot* 1:1.

9 *Hilkhot Teshuvah* 5:2, *Peirush ha-Mishnayot Sanhedrin* 10:1.

10 *Shemot* 3:11-4:13. Translation is the author's.

11 Ramban ad. loc.

12 See Rashi ad. loc.

13 *Devarim* 1:15.

14 *Bemidbar Rabbah* 18:9; with author's translation. Also see the parallel midrash in *Vayikra Rabbah* 3:6, as well as the more extreme formulation in *Sifra* on *Shemini* 1:37, in which Aharon is confident that he was not worthy.

15 7b. Translation is the author's.

16 *Pesahim* 66b. Translation is the author's.

17 *Eruvin* 55a. Translation is the author's.

18 *Netivot Olam, Netiv Ha-Torah*, Chapter 2.

19 This refers to the agricultural phenomenon, not the piece of furniture.

20 *Eruvin* 54a. Translation is the author's.

21 55a, s.v. *she-yehei*. Translation is the author's.

22 *Devarim* 10:17-18.

23 *Yeshayahu* 57:15.

24 *Tehillim* 68:5-6.

25 *Megillah* 31a. Translation is the author's.

26 Rashi to *Bemidbar* 12:3. Translation is the author's.

27 Cf. *Bemidbar* 16:7.

Tirha de-Tsibbura and the Modern Synagogue

BY: Toviah Moldwin

For centuries, if not millennia, the synagogue, as the locus of Jewish communal prayer, has served as the primary focal point of Jewish communal and religious activity. Communal prayer brings together Jews of all different ages, religious backgrounds, and professions to unite with the common goal of fulfilling their religious duty to pray. Needless to say, because communal prayer makes up such a large part of the religious experience of observant Jews, their experiences with communal prayer can have a large impact on their attitude towards Judaism as a whole. As such, one would expect that a concerted effort would be made on the part of Jewish communal leadership to ensure that the synagogue experience is an overall positive one. Unfortunately, however, this is simply not the case. Contemporary synagogues across the spectrum of Orthodox Judaism have been inundated with numerous practices which undoubtedly fall under the category referred to in classical rabbinic parlance as "*tirha de-tsibbura*," or "burden upon the congregation."¹ It is my intention in this article to make readers aware of the more prominent manifestations of *tirha de-tsibbura* in our synagogues and to provide suggestions as to how congregations should go about addressing this problem in order to make the experience of communal prayer more pleasant to the modern synagogue attendee.

I should note that I make my case not as a halakhist or expert of any sort, but rather as a consumer of the synagogue service who has observed, experienced, and engaged in many discussions about the practices spoken about in this article. Although there will undoubtedly be those (perhaps even entire communities) who feel that this article, or large parts of it,

does not represent their personal feelings about the issue, it is my unscientific observation that many of the practices to be mentioned in this article are commonly perceived by congregants as being burdensome. Of course, it is the job of every community leader to decide what the needs of his or her community are, but it is my hope that this article can serve as a starting point for discussions between community leaders and their congregants to address the issues of *tirha de-tsibbura*.

It must be mentioned that *tirha de-tsibbura* is not merely a pragmatic consideration or a meta-halakhic concern; it is a real halakhic value which appears in numerous places in halakhic responsa literature.² Nevertheless, the majority of the issues I will be discussing in this article do not come directly from halakhic responsa, as there simply is not enough literature on the subject to fully cover every aspect of *tirha de-tsibbura* as it applies to the modern synagogue. As such, this article will not focus on specific halakhic responses to particular synagogue practices, but will rather take a common-sense approach to identify practices which clearly fall under the category of *tirha de-tsibbura*.

The first category of issues I will address does not involve the prayer service *per se*, but rather the physical environment of the synagogue. Ideally, a synagogue should be well-lit, have proper climate-control, and should hold sufficient space and seats for all those who pray therein. Although all of these things are subject to constraints due to the financial resources of the community, it often appears as though the "comfort factor" is simply not considered by those who are charged with making administrative decisions about the synagogue. I have been in many synagogues,

even synagogues which clearly had a strong financial base, where the lighting is woefully inadequate, the temperature is unbearably hot or cold, or where a large number of congregants is squeezed into a small side room for *minhah* and *ma'ariv* despite the fact that the synagogue has a main sanctuary that seats hundreds of people only a few feet away. It is also necessary for a synagogue to be properly cleaned on a regular basis; for people with allergies, it can be nothing short of torture to have to pray in a synagogue full of dust and mold. A little bit of foresight and consideration for the comfort of the congregation can easily diminish the *tirha de-tsibbura* engendered by having an uncomfortable physical environment.

A second major source of *tirha de-tsibbura* to be found in our synagogues comes from the congregants themselves. The most common problem caused by congregants, of course, is the frequent disruption of prayer services that occurs when congregants converse during the synagogue. Unlike some of the other violations of *tirha de-tsibbura*, this problem has not gone unnoticed by synagogue leadership; synagogue rabbis and *gabbai'im* frequently chastise their congregants about disruptions of this nature. Unfortunately, this problem seems to be unavoidable; regardless of how many times a rabbi may speak out against talking during services, there will inevitably be people who will continue to utilize synagogue services as an opportunity to socialize with their friends and acquaintances.

It should be noted, however, that the blame for the excessive amounts of talking that occurs in contemporary synagogues does not rest solely with the congregants. The vast majority of talking that transpires during services occurs

during "downtime" in which the congregants are not praying but rather waiting for some part of the service to end, or listening silently while the prayer leader alone conducts some part of the service. While some idleness is unavoidable, there are many steps that synagogues can take to minimize the amount of time that the congregation spends standing around idly. Not only will this diminish the amount of talking in the synagogue, but it will also contribute to a more fluid prayer service.

"Downtime" can occur at many junctures during the prayer service, but I will briefly mention the most common examples here. Firstly, it is very important that a certain amount of planning goes into every prayer service. The people who are to lead services and receive *aliyyot* should be appointed early in the service. The *sifrei Torah* should be rolled to their proper place before services to ensure that the congregation will not need to idly sit before the Torah reading to wait for the *ba'al keriah* to find the correct location. The rabbis of the congregation should confer with the *gabbai'im* prior to services to determine which custom to follow in the event of a holiday or special event in which there are divergent liturgical customs, so that these decisions do not have to take place while the congregation is waiting. Planning these things just a little while in advance can make the difference between a well-organized, pleasant prayer service and a cumbersome and frustrating synagogue experience.

Other manifestations of "downtime" come from certain parts of the prayer service themselves. While I would not advocate any changes to the liturgy, there are certain liturgical practices that have simply gone out of control in our communities. Two particularly

egregious examples of this are the *mi she-berakh* prayer that is recited for sick people and the *mi she-berakh* recited for a person receiving an *aliyyah* to the Torah³. With reference to the former, there is absolutely no reason why anyone should feel the need to come up to the *gabbai* reciting the *mi she-berakh* to tell him to insert the name of a particular sick person; congregants can and should mention the name of the sick person from their seats as the *gabbai* reaches the appropriate point in the *mi she-berakh*. Similarly, the *mi she-berakh* said for a person who receives an *aliyyah* should be shortened as much as possible; there is no need for the *oleh* to enumerate his family members, friends, rabbi, or favorite sports team—to do so is remarkably inconsiderate to everyone else in the congregation who is patiently waiting for the service to continue, regardless of how large of a donation the recipient of the *aliyyah* may have granted to the synagogue. The abolition of these practices will effectively eliminate a prominent occurrence of “downtime” within the service and will significantly diminish the *tirha de-tsibbura* that transpires during the Torah reading.

A final, very common incidence of downtime occurs during the interval between the time when the congregation finishes praying the

congregants and should therefore explicitly be denounced by the synagogue leadership.

In addition to the *tirha de-tsibbura* that can be caused by an unpleasant physical environment and disruptive congregants, it is necessary to mention the *tirha de-tsibbura* that can be engendered by the people who play an active leadership role in the services, namely the *ba'al tefillah*, the *ba'al keriah*, and the synagogue rabbi.

When discussing the issue of *ba'alei tefillah* and *tirha de-tsibbura*, the first point that needs to be made is that the synagogue service is not a musical performance. The function of a *ba'al tefillah* is to act as a representative of the community in the fulfillment of public prayer as well as to discharge the obligation of those who, due to mitigating circumstances, cannot fulfill their individual obligation to pray. It is not appropriate for a *ba'al tefillah* to turn this religious obligation into a forum for an aggrandizing display of vocal talent (or, as is occasionally the case, the lack thereof). Although there are certainly parts of the service that are traditionally sung, and it is appropriate for the *ba'al tefillah* to lead the singing during these parts of the service, the *ba'al tefillah* should not extend the length of the *tefillot* nor

that involves singing, the *ba'al tefillah* must be able to both carry a tune and choose a key in which the vast majority of the congregants can sing. A *ba'al tefillah* who receives disapproving reviews about his performance from a significant number of congregants should not be permitted to lead the services again at that synagogue until it can be ascertained that he has corrected his deficiencies.

Similarly, if at all possible, a synagogue should only allow a *ba'al keriah* to read for the congregation if his *keriat ha-torah* abilities are up to certain basic standards. While there is no need for a *ba'al keriah* to have a beautiful voice, it is important for the dignity of the congregation that a *ba'al keriah* not be completely tone-deaf. More importantly, a *ba'al keriah* should have a basic knowledge of Hebrew grammar as it pertains to the reading of the Torah. Although the Hebrew language has changed much since the biblical period, and even the most meticulous of *ba'alei keriah* will not even come close to approximating what the language originally sounded like, there are certain grammatical nuances which are widely accepted as being preferable, if not obligatory, to be emphasized when reading the Torah, such as the correct accenting of the words and the differentiation between a *sheva na* and a *sheva nah*. Synagogues, especially large synagogues that have the resources to be selective, should make efforts to obtain a *ba'al keriah* who has a strong command of these nuances of the Hebrew language. In addition to ensuring that the *keriat ha-torah* will be fulfilled in the most proper and halakhically acceptable fashion, a good *ba'al keriah* can make the Torah reading an enjoyable part of the prayer service, whereas a bad *ba'al keriah* will leave congregants cringing for the entire duration of *keriat ha-torah*.

Having discussed the *ba'alei tefillah* and *ba'alei keriah*, the final and perhaps most ubiquitous manifestation of *tirha de-tsibbura* comes from the rabbi himself, and in particular, the practice of the rabbi's sermon during the prayer service. It is often the case that a significant portion of a synagogue's congregants have little or no interest in hearing their rabbi's sermon, and often for good reason. Modern synagogues have congregants whose educational backgrounds in Judaism range from almost complete lack of Jewish literacy to seasoned *yeshivah* students to rabbis to tenured professors of Jewish Studies. Very few rabbis possess the scholarship and oratory skills to please such a diverse audience. Moreover, even if a rabbi were able to consistently give highly intelligent and articulate *derashot* that appeal to the entire congregation, it would still be inappropriate for him to deliver his sermons during services, as it unnecessarily lengthens the prayer service for those who came to synagogue simply because they wanted to pray with a *minyan*.

The alternative, of course, is not to eliminate rabbis' sermons, but simply to relocate them to a juncture which is more considerate of the congregants. If a rabbi or his congregation feels the need to have a weekly (or daily) *devar Torah*, the rabbi can deliver his words of wisdom either prior to the commencement of services or subsequent to their conclusion,⁵ so only those who are interested in hearing the rabbi speak will stay, while those who wish to leave can do so without feeling uncomfortable. This small

change in the scheduling of the rabbi's sermon can improve the atmosphere of the synagogue by leaps and bounds.

There are undoubtedly many other synagogue practices which fall under the category of *tirha de-tsibbura*; I have only listed the ones which I consider to be most significant. It goes without saying that many of the specific suggestions I have put forward in this article are somewhat controversial. I do not expect every synagogue to implement all of the policies I have suggested, or even agree with them, but I think it is important that every community look at itself and ask, “what can we do to ensure that all our congregants have a meaningful and positive *tefillah* experience?” Eliminating the many little annoyances that have crept into contemporary synagogue services can go a long way in improving a congregation's attitude toward the institution of communal prayer.

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1 See Berakhot 27b and Sotah 39b (The terminology in Sotah differs in terminology from that in Berakhot, see the article cited in the next note).

2 This article is not intended to discuss the technical halakhic and conceptual issues relating to *tirha d'tzibbura*. For that, see the following article: “*Kevod Tsibbur ve-Torah Tsibbur*,” The Israel Koschitzky Virtual Beit Medrash of Yeshivat Har Etzion, available at: <http://www.etzion.org.il/vbm/archive/8-bishiv/37%20tircha%20de'tzibura.php>.

3 Ideally, the service would be significantly improved if no *mi she-berakh* prayers were recited at all, but, as this is a custom that has become well-ingrained in many communities, at least we can cut down on the unnecessary waste of time that occur while preserving the custom of the *mi she-berakh* prayer.

4 This is particularly a problem during the High Holidays, when the service is often drawn-out several hours longer than is necessary simply due to the enormous amount of *hazzanut*. While some may feel that *hazzanut* is part of the “High Holiday experience,” it is important to remember that for many people (particularly children and young adults), the long, drawn out services of *Rosh Hashanah* and *Yom ha-Kippurim* are among the most painful and difficult rituals of Judaism, and there is no real reason for this to be the case—the services can easily be shortened by several hours without detracting whatsoever from the meaning of the service. Even on *Yom Hakippurim*, when the Torah commands us to “afflict our souls,” the rabbinic interpretation of “affliction” does not include the particular affliction of having to stand in the synagogue for hours on end listening to *hazzanut*.

5 If a *kiddush* is being held after services, it is preferable, from the perspective of both the rabbi and the congregation, to have the *devar Torah* either at the *kiddush* (assuming that the congregants have a place to sit) or afterwards. Having a *devar Torah* immediately prior to *kiddush* is probably more inconsiderate than having it in the middle of services, and it is a sure-fire way to guarantee that no one will pay attention.

One would expect that a concerted effort would be made on the part of Jewish communal leadership to ensure that the synagogue experience is an overall positive one.

silent *amidah* and the point when the *ba'al tefillah* starts his repetition. Although different communities may have significantly different average prayer speeds, there should never be a situation where the majority of a congregation is waiting for the *ba'al tefillah* to start his repetition of the *amidah*. If the synagogue rabbi takes a long time to complete his silent prayer, he should instruct the *ba'al tefillah* not to wait for him. Additionally, if the *ba'al tefillah* knows that he prays at a slower pace than the majority of the congregation, he should either make sure to pray at a faster pace or decline to lead the prayers. Similarly, if a would-be *ba'al tefillah* reads slowly, and as a result, his repetition of the *amidah* would be significantly slower than the congregation is used to, he should decline to take the *amud* to ensure that the congregation will not become burdened by listening to a painfully slow repetition of the *amidah*.

Now that we have discussed the problem of talking during the service and the factors that can lead to it, it should also be pointed out that congregants often engage in other activities which are just as disruptive as talking but which often go uncastigated by synagogue leadership. For example, many people, including some prominent rabbis, have the practice to spontaneously raise their voices at certain parts during the prayer service, pace up and down the synagogue aisles, clap, or make exaggerated bodily gesticulations. This behavior can often be distracting to the other

sing parts of the service that are not usually sung. Not only does excessive *hazzanut* distract the congregation from the essential purpose of the prayer service, it can be painful for people who do not enjoy listening to *hazzanut*, and it can often draw out the service to a length to which even the most patient people will become restless.⁴

Of course, there are people for whom *hazzanut* is an important and uplifting part of their prayer service, and I do not mean to remove *hazzanut* entirely from the Jewish People as a religious experience. However, it should be understood that *hazzanut* is not an integral part of the prayer service and should not be treated as such. If a synagogue does want to invite a professional *hazzan* once in a while, it is only considerate to warn congregants considerably in advance and to provide alternative services for those who do not enjoy *hazzanut*.

Ba'alei tefillah should be aware of the liturgical customs of the congregation as well as the pace at which the majority of the congregants pray. It is inappropriate for a *ba'al tefillah*, of his own volition, to change the accepted *nusah*, tune, or pace of the congregation's prayer. If a *ba'al tefillah* does not wish to abide by the community's standards in this regard, he should not be permitted to lead services, since it will inevitably bother members of the congregation. Furthermore, it is incumbent upon the synagogue leadership to ensure that if someone is chosen to lead a part of the services

David, Son of Jesse

BY: Chesky Kopel

"And I will dishonor myself even more, and be low in my own esteem..." (King David)

It was a momentous celebration in the City of David. The Ark of God had been rescued from captivity, and throngs of people paraded it through the streets, rejoicing as they had never done before. Young and old, poor and rich alike danced around the Ark, accompanied by jubilant shouts and horn blasts. Right in the thick of it was David, the newly anointed king of Israel himself, frolicking with all his might. Whenever the Ark's carriers moved forward six steps, the king sacrificed an ox and a fattened lamb. The people and their king shared a few euphoric moments together and took pride in the salvation of God. It seemed as though nothing could go wrong on that beautiful day in the City of David.

All the while, Queen Michal, daughter of the late King Saul, watched the merrymaking from her window. Shocked by the king's display of self-abasement, she determined to speak her mind to him. But she waited it out, and the frustration grew inside her.

After the procession had finished and many more offerings were brought, the king distributed gifts of bread and cakes to the multitudes and sent them home. David then returned to his palace and was greeted by Michal, but not as he expected. She positioned herself opposite the king, animated by exasperation, and began to accuse:

"Didn't the king of Israel do himself honor today - exposing himself today in the sight of the slave-girls of his subjects, as one of the riffraff might expose himself!"²

Michal, herself the daughter of a king, was certain that she knew and understood royalty. Saul, her father, would never have conducted himself as David had in the streets; that was not royal behavior. David lowered his stature and disgraced the kingship by dancing with the common folk. This kingship of Israel was not his to disgrace; it is forever a position of responsibility issued to man by God. The king's image is not negotiable, and his honor is essentially inalienable.³

David was taken aback by the challenge issued by his own wife. Although he did not dispute Michal's description of himself, he found a grave error in her conclusion. The king looked away and thought, choosing his words carefully. Returning Michal's gaze, he declared:

"It was before the Lord who chose me instead of your father and all his family and appointed me ruler over the Lord's people Israel! I will dance before the Lord and dishonor myself even more, and be low in my own esteem; but among the slave-girls that you speak of I will be honored."⁴

David could not bear to stand apart from the people as their superior while they celebrated the honor of the true King, God. Before the Creator of heavens and earth, all men are equal. While the king of Israel is called upon to rule over the people and command their awe, he must do so carefully and selflessly, with his aim on the true national ideals. David

had studied and internalized the words of the Torah, which demanded from him nothing short of personal humility, steadfast dedication to God and observance of His laws, "...In order that he not exalt himself above his fellows or deviate from the instruction to the right or to the left, to the end that he and his descendants may reign long in the midst of Israel."⁵ David chose to discharge his duty properly, unlike his predecessor Saul, thereby ensuring a long reign for himself and his descendants, also unlike Saul.

The lives of David and Michal diverged tremendously from the time of that encounter. "Until her dying day, Michal daughter of Saul had no children."⁶ David, however, founded the Messianic dynasty, and became the greatest king of Israel. He was as much a symbol as an individual man, the icon for Jewish monarchy, and his performance was one by which all future kings would be judged.⁷ Despite his humble conduct that day with the Ark, David became the everlasting paradigm of personal honor in Israel.

This dissonance epitomized the life of King David; with every expression and poetic composition, he let ordinary emotions

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compromise his status as the infallible monarch.⁸ Human weaknesses drove him to the worst of sins, and he readily acknowledged these faults.⁹ David was a notoriously imperfect man, and this made him somewhat of an enigmatic king. Many men can separate their emotions from their work, but not from their identities. However, the identity of an anointed king is his work, and David's strong emotions invariably affected his kingship.

The majority of the people of Israel could not have known this about David. The masses revered their divinely-chosen monarch, and knew him only as a great symbol of national glory. Those who look back on David's life from a later point in history therefore find an awkward and fragile arrangement: A man who struggles with his kingship rules over a people that misunderstands its king.

There was once a young, ambitious man named Ahimaaz, a priest and loyal servant of David, who also misunderstood his king. But unlike most Israelites, he encountered the king's humanity, and discovered the true legacy of David, son of Jesse. And he learned this lesson the hard way.¹⁰

Twenty-three years had passed since Israel joyously welcomed the Ark's return, and rebellion was now brewing in the City of David.¹¹ Following a bitter family dispute, Prince Absalom, the son of David and Maacah, rebelled against his father's rule, crossing

boundaries of law and family loyalty in his treason.

The handsome, charismatic traitor easily won over the hearts of the people and, along with his great army of supporters, marched on Jerusalem. David and his shrinking camp fled across the Kidron Valley to the Mount of Olives, and the rebels took over the capital city. Zadok the High Priest, accompanied by his young son Ahimaaz and all the Levites, carried the Ark of the Covenant of God out of the city and across the Kidron, to accompany the king who had championed its cause and welcomed it there in the first place. David saw the Levite camp and refused to let them join him in his exile. He stood courageously and addressed Zadok:

"Take the Ark of God back to the city. If I find favor with the Lord, He will bring me back and let me see it and its abode. And if He should say, 'I do not want you,' I am ready; let Him do with me as He pleases."¹²

David previously brought the Ark to Jerusalem, its appointed resting place, and the Ark had not departed from the city for twenty-three years. Now, even as David himself left, the Ark would stay; it was not his, but God's. The city would not remain the City of David,

but Jerusalem, the site which the Lord God had chosen to establish His name.¹³ The young Ahimaaz was spellbound as he watched David and bore first-hand witness to the king's courage and selfless dedication to the will of God. David sent Zadok back to the city with Ahimaaz and Jonathan, son of Abiathar. The three priests returned obediently with the Ark, ready to fulfill the will of their great, devout king.

However, only later did their crucial service really begin. After reaching the top of the Mount of Olives, David was greeted by Hushai the Archite, a loyal servant ready to help resist the rebellion. The king dispatched Hushai back to Jerusalem as a spy, commanding him to infiltrate the advisors of Absalom, advocate against their counsel, and send back reports on the developments in the palace. David designated the young priests Ahimaaz and Jonathan as Hushai's messengers. Hushai returned to Jerusalem, and the intrigue began.

David's camp approached the town of Bahurim, and Shimei, son of Gera, a man of Saul's family, emerged. He threw stones at David and his supporters, and called David a criminal for stealing the kingship from Saul. The brazen challenger cursed the king to fall to Absalom as a punishment for his previous deeds. David's servants grew furious and wished to kill Shimei, but David himself took the abuse in stride and calmed his followers.

"If my son, my own issue, seeks to kill me, how much more the Benjaminite! Let him go on hurling abuse, for the Lord has told him to..."¹⁴

The king of Israel thus deflected concerns for his honor once again, and emphasized the will of God exclusively.

Back in Jerusalem, Absalom's advisor Ahithophel instructed the rebel king to sleep with his father's concubines in full view of the people of Israel as an expression of control, which Absalom did. Ahithophel, whose words were accepted by many as those of an oracle, then conceived of a plan to overcome and assassinate David that same night with twelve-thousand troops, and Absalom agreed once again. Hushai had arrived some time earlier and presented himself as a loyal servant of Absalom, and the rebel king accepted him, albeit suspiciously. Hushai was well-known as an acquaintance of King David, and he professed to have excellent inside knowledge of the king's ways, his strengths and weaknesses. With this credit, Absalom called him to discuss Ahithophel's attack plan. He disputed the plan and recommended that Absalom first gather together a much larger army, "all Israel from Dan to Beer-sheba,"¹⁵ if he were to have any hope of capturing or killing the mighty and shrewd King David. Absalom and his men were impressed and followed Hushai's advice.

Ahimaaz and Jonathan stayed outside of the city and set up secret camp at En-rogel. Hushai sent a slave-girl to them with word of Absalom's new battle plan, and they hurried back to alert David of the oncoming threat. On the way, they were spotted by a young boy who informed Absalom. Absalom's men pursued them, and the two priestly spies found refuge in the home of a sympathetic man in Bahurim. They hid in the man's well, and his wife spread a cloth over it and scattered kernels of grain upon the cloth to conceal them. Absalom's men could not find the spies and returned to Jerusalem. The spies reached David and informed him of the battle plan. David's entire camp immediately crossed the Jordan and headed toward Mahanaim. Absalom delayed his attack to first amass a great army. (Ahithophel saw that he had been ignored and committed suicide.) The new army of Absalom set out for the east bank of the Jordan, and the battle began.

David's followers were prepared for the attack and defeated the Israelite camp, all thanks to a daring motley crew of spies and sympathizers: Hushai, a Jerusalem slave-girl, Jonathan and Ahimaaz, and an obscure couple from Bahurim. These are the people who saved the king and his Messianic dynasty. What drove them to do it? The explanation is all too simple, rooted in a remarkable common denominator.¹⁶ All of these saviors had encountered David's humble and devout character. Hushai was a friend who knew David as an honest and unassuming man, not as a politician. Jonathan and Ahimaaz had witnessed David sending the Ark back to Jerusalem, deferring his honor to the honor of God. The people of Bahurim saw David stand down against the abuse of Shimei, disavowing himself of personal vengeance. And the slave-girl? She was in Jerusalem

twenty-three years earlier, of course, when King David danced the Ark into the city and disgraced himself in her presence, much to the displeasure of a certain Michal.¹⁷

But Ahimaaz's journey of discovery was not yet over, and the battle's good ending would soon sour for David. David the king dispatched his troops to battle, and the men marched forward courageously. However, as they began to depart the camp, David the frightened father instructed his three generals - Joab, Abishai, and Ittai - regarding a matter of great personal importance. Trembling, David announced to his confidants in earshot of the thousands,

"Deal gently with my boy Absalom, for my sake."¹⁸

Surely Absalom was guilty of treason against the king of Israel and deserved death; in fact, he was actively seeking the death of his own father. Yet David could not bring himself to issue the order for his son's death because to him, Absalom the rebel was "Absalom my boy," and nothing could ever change that.

The army of King David routed and slaughtered the rebels, and Absalom himself fled on a mule. In his flight, his long hair became tangled in the branches of a terebinth tree, and his mule continued to run without him. Absalom was held there in that tree "between heaven and earth,"¹⁹ between life and death, a defenseless man totally at the mercy of his adversaries. He was spotted by followers of David, and one of them immediately informed Joab of Absalom's circumstances. Joab replied to the messenger that he should have killed Absalom on the spot, but the messenger adamantly objected, recounting the frantic request of the king. So Joab advanced on his own, with a wild fury in his eyes, and killed Absalom himself, driving three darts into the rebel's chest. Joab and his men took Absalom's body down from the tree, threw it into a pit, and covered the pit with stones.

In a stroke of bad timing, Ahimaaz arrived on the scene, charged with the energy of victory. He had not been present at the king's directive to protect Absalom, and surmised from Joab's conduct that the killing was warranted. He volunteered to run back to King David and deliver the good tidings, but Joab insisted that he stand down, saying,

"You may bring tidings some other day, but you will not bring any today; for the king's son is dead!"²⁰

The impulsive Joab thus scrambled to keep

the already-fragile situation under control. He knew he must inform the king of Absalom's fate, else another person would do so first and include all the details. Still, Joab had pity on Ahimaaz, the young loyal man with great potential, and did not wish to let him rush to David as the bearer of his own bad news. Instead, Joab sent a Cushite running ahead to inform David of Absalom's death, but Ahimaaz still failed to understand the problem. He persisted in his appeal, and asked if he could at least run after the Cushite. Joab once again stressed that the news was not good, but did not specify the king's wishes to Ahimaaz, out of shame for his own transgression. Ahimaaz prevailed over Joab, for lack of logical opposition to his desire, and ran ahead to David, passing the Cushite.

The young priest charged ahead through the late afternoon, his adrenaline rushing. Everything began to make sense to him. God honors and protects the king who is so devoted to Him, and eliminates the sinful enemies that stand in this king's path. Absalom deserved to die, and Ahimaaz was now proud to deliver this news to King David. He acknowledged and considered his ulterior motives, imagining, of course, that bringing good news will surely establish him on the king's good side for the future. The sun began to set, and David's watchman spotted the sprinting Ahimaaz from a distance. Behind him was the Cushite. The watchman informed the king of the two apparent messengers, and commented that he recognizes the first as Ahimaaz, son of Zadok. David eased up upon hearing this information, and responded, with unintended tragic irony:

"He is a good man, and he comes with good news."²¹

Ahimaaz was immediately admitted to the king's presence, and he rushed forward, and declared:

"Praised be the Lord your God, who has delivered up the men who raised their hand against my lord the king."²²

David did not understand the implication of Ahimaaz's words, or maybe just wished he did not:

"Is my boy Absalom safe?"²³

Thrown off by this response and conspicuously stammering, Ahimaaz lied to the king:

"I saw a large crowd when your Majesty's servant Joab was sending your servant off, but I do not know what it was about."²⁴

David wishfully believed the young priest, and turned to consult the Cushite runner, who had just arrived. The Cushite tactlessly reported the death in poetic praise, and David could not contain himself. He ascended to the roof wailing and moaned the following words, to be forever burned into the conscience of Ahimaaz and all of Israel.

"My son Absalom! O my son, my son Absalom! If only I had died instead of you! O Absalom, my son, my son!"²⁵

Young Ahimaaz knew already that King David was humble and religiously-devoted, but he now learned the hard way that David was no superhero. He was a human being who loved his baby boy, and no national mission could ever change that. No generals or advisors could ever convince him to sacrifice his personal emotions for the sake of the nation. David was a person first and king second, and like any person, he even succumbed to the

temptations of sin and to the inscrutable, lowly throes of depression.²⁶ Many of the people did not realize this about their king, and may not have approved if they had. But David was unwilling to compromise his humanity for anything and if the people did not like this, they could leave him alone.²⁷

David, son of Jesse may not have realized the legacy he would leave. Still, the Bible's endorsement of his legendary kingship established his imperfect persona of David, son of Jesse, and the model that he set, knowingly or unknowingly, for effective, caring Jewish leadership.

I will also add, on a personal note, that simplified reverence of individual figures makes me terribly uneasy. It undermines the inviolable truth that every human is essentially complex and emotive, a truth which is too often carelessly disregarded. As a student of History, I often find disconcerting the sweeping theories that modern thinkers construct about the causes of large movements and societal trends. When we identify the simple formulas that drove seventh-century Arabs to Islam, twentieth-century Europeans to socialism, and 1960s Americans to pacifist subcultures, we undermine the inner agitations and impulses that drove each individual in each of those movements to embrace such life-changing commitments. This is not to say that these historical theories are inaccurate, but there is value in balancing academic objectivity with respect for individual human lives, because every human is complex and different.

Because of their very public nature, leadership personae are particularly fragile. The publicity invites critics to judge leaders from a distance, leading them to either idolize or demonize the figure in question. However, this is a dangerous simplification. To the extent that we fail to acknowledge the essential imperfection and complexity of every human, we fail to truly appreciate people's lives and accomplishments, and the messages and ideals that they espouse. All ideas are both conceived and implemented by flawed, imperfect people, without exception. David's life, as experienced through the perspective of Ahimaaz and others, is preserved in text as a stark rejection of the notion of human perfection. The people expected an infallible, flawless leader, and found a human being in his place. It is very telling that this same David, son of Jesse, is still known as the paramount leader of Israel and founder of the Messianic dynasty.

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1 II Samuel 6:22. The essay, from this point until otherwise indicated, is my recreation of the narrative of II Samuel 6:12-23. All descriptions of actions and dialogue are taken directly from the text, and all descriptions of appearance, attitude, and emotion are my own embellishments. Bible references here are translated by the Jewish Publication Society (Philadelphia, PA: 1999), with some of my own changes for clarification.

2 Ibid, 6:20.

3 See *Yalkut Shimoni* to the Torah 228, 913, and 940, and *Ketuvot* 17a, *Sotah* 41b, *Kiddushin*

32b, and *Sanhedrin* 19b for the opinion of R. Ashi that a king cannot legally waive his honor. Even if he expresses a desire to do so, others are nonetheless required to show him honor, based on an exegesis of Deuteronomy 17:15: "You shall surely set a king over yourself..." which extrapolates that "his awe shall be upon you." The underlying theory seems to be that the nation is required to honor the king because of God's will, irrespective of the king's personal self-image.

4 II Samuel 6:21-22.

5 Deuteronomy 17:20. The earlier phrase, "the words of the Torah" is also meant to refer to this portion of Deuteronomy, 17:14-20, which is the Torah's only instruction regarding the laws of the king of Israel. My outline of this dispute therefore means to convey that Michal's opinion reflected well the statements of Hazal regarding the king's honor, while David's opinion reflected well a simple reading of the Torah verses. In formulating the *halakhah*, though, it is of course essential to see the two texts as forming a united message.

6 II Samuel 6:23. This verse makes clear the feelings of the biblical author regarding God's attitude towards Michal, as a result of her conduct in this story. Talmudic and Midrashic sources record several interpretations of this verse. *Bemidbar Rabbah* 4 and *Talmud Yerushalmi Sanhedrin* 6:23 understand that she actually never had any children. *Talmud Bavli Sanhedrin* 21:1, however, presents views that Michal had children, either before this incident, or on the day of her death.

7 See, for example, description of Hezekiah in II Kings 18:3, and description of Josiah in II Kings 22:2.

8 See, for example, Psalms 22:7, 86:1.

9 For David's sin with Bathsheba and his subsequent admission of guilt, see II Samuel 21:22.

10 The essay, from this point until note xxvi, is my recreation of the narrative of II Samuel 15:1-19:1. All descriptions of actions and dialogue are taken directly from the text, and all descriptions of appearance, attitude, and emotion are my own embellishments.

11 Timeline information obtained from William H. Gross, "Chronology of King David's Life," (Colorado Springs, CO: 2005).

12 II Samuel 15:25-26.

13 Cf. Deuteronomy 12:5,11, and more.

14 II Samuel 16:11.

15 Ibid, 17:11.

16 The following paragraph breaks from the narrative to present my analysis. The claims within it are literary hypotheses and are not based on any authoritative sources.

17 This was perhaps a fulfillment of David's guarantee to Michal: "...among the slave-girls that you speak of I will be honored" in II Samuel 6:22.

18 Ibid, 18:5.

19 Ibid, 18:9.

20 Ibid, 18:20.

21 Ibid, 18:27.

22 Ibid, 18:28.

23 Ibid, 18:29.

24 Ibid.

25 Ibid, 19:1.

26 See notes vii and viii above.

27 Cf. Bob Dylan, "Rambler, Gambler," home recording by Cleve Peterson, (Minneapolis, MN:1960).



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