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Concurring Opinion on Rabbi Barmash's Responsum on Women and Mitzvot¹

This paper was submitted, in May 2014, as a concurrence on "Women and Mitzvot" by Rabbi Pamela Barmash. Dissenting and Concurring papers are not official positions of the CJLS.

At the beginning of Israel's passage from Egyptian enslavement to the covenant at Sinai, Moses tells Pharaoh, "with our young and our old, with our sons and our daughters...we shall go to celebrate our Lord (Ex. 10:9)." Unfortunately, this inclusive ideal has not always been realized in Jewish life. Rabbi Pamela Barmash demonstrates in her scholarly responsum that the traditional exemption of women from the core mitzvot of Torah study and communal worship has had the effect, if not the intention, of devaluing their role in the covenant. The women of Israel, who stood together with the men at Sinai, were left behind when it came to the study hall and the synagogue. These exemptions separated them from the spiritual treasures of Judaism and deprived the Jewish community of their insights. Though these halakhic exemptions reflected a much broader social construction of gender that devalued women's intellectual, spiritual and public leadership capacities, they codified the reduced social status of women in the Jewish community.

Nearly a century ago a broad reassessment of the exclusion of women from the core mitzvot of Torah study and statutory prayer began, and not only in modernizing circles. In 1917 Rabbi Yisrael Meir Kagan (the "Hafetz Hayyim") endorsed Sarah Schenirer's campaign to found Bais Yaakov schools to educate young women in Torah and mitzvot. Rabbi Kagan also ruled in his halakhic commentary, the *Mishnah Berurah* (106:1, note #4), that women are obligated to recite the fixed prayers each morning and afternoon. In non-Orthodox circles the project to expand the religious education of Jewish women and to train them as Jewish educators began in America already in the nineteenth century but took off under the leadership of Rabbi Mordecai Kaplan at the Jewish Theological Seminary's Teachers Institute in 1909.² By 1955 Conservative rabbis were calling for the inclusion of women in liturgical leadership, but it would not be until the 1970s that feminist groups such as Ezrat Nashim would articulate an egalitarian agenda, and that women's status in ritual life would begin to equalize in non-Orthodox religious circles.

¹ I am grateful to several women for their advice on this concurrence, including my colleagues, Dr. Shuly Rubin Schwartz, Rabbi Jane Kanarek, and Rabbi Ashira Konigsburg; my students at JTS, Sarit Horwitz and Sarah Krinsky; my wife, Lynn Scheele Nevins, and our daughter Leora. Nevertheless, the views expressed here do not necessarily represent their own conclusions.

² See David Kaufman, "Jewish Education as a Civilization," in *Tradition Renewed: A History of the Jewish Theological Seminary of America*, ed. Jack Wertheimer (NY: JTS, 1997), Vol. 1, p.571.

A frequent criticism of gender-egalitarianism has asserted that it is concerned only with claiming new rights, and not with accepting new obligations. Rabbi Barmash states the opposite: women are indeed obligated in the life of Torah and mitzvot, just like men, and the consistent application of equal expectations of both men and women will yield a religious culture that is not only fairer, but also more fruitful as all members of our community are taught that their actions and ideas are cherished by God and by the people of Israel. Her responsum is a consolidation of the many arguments made in the past forty years by our scholars and demonstrated in practice by women from the clergy to the laity. It is now considered normative in egalitarian circles for women and men to participate equally in Torah study, public worship, and festival observances, and for mothers to play a role equal to that of fathers in supervising the education of their children as well as their participation in mitzvot such as *brit milah* and *pidyon ha'ben*. As I have argued elsewhere, we now assume that in all of the commandments of children toward parents, and of parents towards children, men and women are obligated equally.³ I supported Rabbi Barmash's paper, gave it my vote, and am pleased that it passed.

Still, I am left uneasy by the paper's relative inattention to particular challenges in implementing this new understanding given the deep-seated social reality of gender differentiation in our culture. While the formal obligations to keep mitzvot are an essential feature of our religious life, these occur within the context of personal identity, family traditions, and communal norms. Even as contemporary Western culture has adopted egalitarian values, it has also greatly diminished the importance of civic duty and of social conformity; the entire concept of religious obligation (*hiyuv b'mitzvot*) has become challenging to explain, much less expand. The acquisition of new rights is always a cause for celebration, but the acceptance of new obligations is a process that takes years, and sometimes generations. This is particularly the case when it comes to changes that run counter to an established and cherished part of one's personal identity such as gender.

Gender expression is a fraught topic in contemporary culture. Today, we are unambiguous in our conviction that women and men should have equal access to social goods such as the vote, education and employment, but we are considerably more confused about what it means to identify as a woman, as a man or as person who seeks to transcend the gender binary. Often, the answer comes down to how one dresses. And here is where the egalitarian ideal runs counter to the individual's demand for freedom of expression.

Rabbi Barmash acknowledges that, "for some women who were raised in a non-egalitarian or not-completely egalitarian atmosphere, it is understandable that they may be hesitant to take on new

³ See my chapter, "Between Parents and Children," in *The Observant Life*, edited by Martin S. Cohen and Michael Katz (NY: Rabbinical Assembly, 2012), p.676.

mitzvot. Learning new mitzvot may be challenging, and some women may find certain mitzvot daunting for a significant span of time.” Still, I am concerned that she underestimates the depth and even principled objection that some women may express, especially to adopting the mitzvah of tefillin.

The ritual objects known as tefillin have been, and for many Jews remain, closely associated with the liturgical garb of men. This is also true of the tallit, but perhaps because this garment can be adapted in style and is similar to shawls and scarves that women wear in non-ritual settings, women have been much more inclined to claim this mitzvah. Also, tefillin are not worn in our best-attended services on Shabbat and festivals, when tallitot are left out for congregants to use, even if they do not own one. The tallit is easy to wear and is relatively inexpensive, but tefillin are costly and complicated, requiring mentoring sessions to learn. They can be quite intimidating. Tefillin leave temporary marks on one’s hair and skin, require shirts that give access to the upper arm while preserving modesty, and are generally uncomfortable for many novices. These threshold issues are challenging for men as well, and indeed, many otherwise observant men do not regularly wear tefillin. Yet men are more likely to have male role models who wear or once wore tefillin, which are an established religious norm for them.

Because this is not yet the case for women, we must acknowledge and address the special challenge of extending this mitzvah. I have had the good fortune to be surrounded by tefillin-wearing women for the past quarter century, and indeed, the school that I lead requires all women to wear them daily. Moreover, because tefillin symbolize the Torah itself, and are worn publicly in morning prayers, it is important for women not only to be permitted, but also encouraged, to practice this mitzvah. Women in our school have often told me that they would never have experienced the profound mitzvah of tefillin had they not been required to wear them as rabbinical and cantorial students. But of course they are highly motivated to expand their embrace of mitzvot as part of becoming clergy.

The great majority of mitzvah-observant women, even those who eagerly participate in egalitarian worship, lead prayer and chant Torah, are not yet comfortable wearing tefillin. I detect resistance and even resentment against the notion that one must “dress like a man” to be respected as a leader in our religious culture. Even if there is nothing inherently male about tefillin, the impression that they are male garments, somewhat like neckties, is deeply embedded. For teenage girls in particular, demands that they dress in a way that feels awkward or uncool to them frequently generate resistance. The dilemma is that until women have female role models who wear tefillin, and until girls are encouraged to put them on just like the boys, their resistance to this mitzvah is bound to continue. But to insist overnight that all women and girls in our camps, schools and shuls must wear tefillin is to risk alienating them and driving them away.

Social scientists have taught us that change is most difficult when it involves loss;⁴ for example in feeling required to reject the precedent of beloved role models and communities. Pious mothers and grandmothers who in many cases assumed primary responsibility for the transmission of Jewish identity in their family during times of unprecedented assimilation should not be viewed as deficient in their religious practice.

Change will succeed if it is framed in terms of religious growth and personal development. In educational settings such as Ramah, USY, Schechter schools and synagogue programs, we should encourage girls and women to practice the mitzvah of tefillin. Each time that they do so counts as a mitzvah, just as with men, and we should celebrate the practice of mitzvot by all of our people. It would be beneficial to devote more energy in general to teaching all of our people about the origins, construction, use and significance of tefillin. Moreover, we might document the narratives of women who wear tefillin, and link them to earlier accounts (mythical though they might be) of women such as Mychal, daughter of King Saul, and the daughters of Rashi, who were said to have adopted this mitzvah. Perhaps in a few years it will make sense to make tefillin mandatory for girls in the same way as for boys not only in principle but in practice in all of our schools, camps and shuls, but first we must do a better job of laying the foundation. The implementation of this transition should be made on a local level by rabbis and Jewish educators.

I support Rabbi Barmash's responsum as a logical extension of our egalitarian convictions, and as an ideal to inculcate immediately. We would be wise to adopt an approach of education, change management, and patient encouragement, with clergy, teachers, counselors, and youth advisors all modeling this sacred practice, rather than demanding that women and girls accept the mitzvah of tefillin immediately and without exception.

⁴ See Ronald A. Heifetz, Alex Grashow and Marty Linsky, *The Practice of Adaptive Leadership: Tools and Tactics for Changing Your Organization and the World* (Cambridge: Harvard UP, 2009), esp. Ch. 6, p.96.