

Rachel Levmore, Ph.D., To'enet Rabbanit, is the Director of the Agunah and Get-Refusal Prevention Project, of the International Young Israel Movement in Israel and the Jewish Agency. She is a sitting member of the State of Israel Commission for the Appointment of Rabbinical Court Judges.

A VIEW FROM THE OTHER SIDE

For over twenty years *to'anut rabbanייyot*—female Rabbinical Court advocates—have been fulfilling an important role in the halakhic process in Israel. Perhaps a blink of an eye in Jewish history, but yet a period more than sufficient to observe, even measure, the effect these women, functioning in a “rabbinic” role, have had on Jewish society in general, on Orthodox (including Haredi) circles, and most importantly on the Beit ha-Din ha-Rabbani ha-Mamlakhti and its rulings.

Historical Background

The State Rabbinical Court in Israel – Beit ha-Din ha-Rabbani ha-Mamlakhti – is part of the justice system, parallel to the civil Family Court, yet with sole legal and halakhic jurisdiction over matters of personal status, i.e. marriage and divorce. *Dayyanim* – Rabbinical Court judges – have the same powers as civil judges in their specific area of jurisdiction (power to issue an incarceration order or order of arrest, to levy sanctions, fine, cancel driving or professional licenses, and the like). In order to qualify as a *dayyan*, one must successfully pass a series of “licensing” examinations to acquire *keshirut le-dayyanut* (parallel to semikha of *yadin yadin* in the Diaspora). These exams are administered by the Rabbanut ha-Rashit. Only a select few are appointed to the position of a *dayyan* in the Beit ha-Din ha-Rabbani ha-Mamlakhti by the State Commission for the Appointment of Dayyanim (more on that later). Parallel to lawyers who are licensed to represent litigants in all courts are *to'anim rabbanייyim*, Rabbinical Court advocates, – who are licensed to represent litigants in the Beit ha-Din ha-Rabbani ha-Mamlakhti. *To'anim* must successfully pass a series of “licensing” examinations similar to those of the *dayyanim*, although covering less material, in order to acquire *harsha'a lete'ina rabbanit* (a Rabbinical Court advocate’s license; to my knowledge there is no official parallel of this type of semikha in the Diaspora). These exams are

TRADITION

administered by the Beit ha-Din ha-Rabbani itself and the title is awarded by the Chief Rabbi acting as Nasi Beit ha-Din ha-Rabbani ha-Gadol.

Traditionally, a yeshiva student would start off studying for semikha, focusing on the first two parts of the Shulhan Arukh—Orah Hayyim and Yoreh De'ah. When successfully completing these examinations, he would be ordained with the title “rabbi.” A small percentage would later go on and study to become a *to'en rabbani* (studying a large number of specific simanim in the last two parts of the Shulhan Arukh— Even ha-Ezer and Hoshen Mishpat).

As the level of women's learning rose in *torah she-beAl peh* during the early 1990's, it became apparent to Rabbi Shlomo Riskin that learned women should fulfill the heretofore male role of the *to'en rabbani* – to the benefit of the litigants, the *dayyanim* and the rule of *tsedek*. R. Riskin posited that 50% of the litigants in the divorce cases which were held in the Beit ha-Din were not having their stories properly heard by the *dayyanim* due to the fact that women could not comfortably express shameful family secrets to male rabbinic *to'anim*. Those *to'anim*, through no fault of their own, could not present the entire story to the *dayyanim*. The *dayyanim*, in turn, would issue rulings without all of the facts laid out before them – *ein le-dayyan ela ma she-einav ro'ot*. Thus these rulings could not be termed *din tsedek*.

Then-Chief Rabbi Mordechai Eliyahu accepted R. Riskin's thesis and agreed that a training program for women Rabbinical Court advocates be established. Hence, the first training program for women *to'anut rabbaniyyot* was born under the auspices of Ohr Torah-Stone Institutions in Israel.¹ The years-long program was staffed by rabbanim who taught the women in the same manner as they taught in *yeshivot gevohot* in the highest level shiurim. Each *sugya* was developed from the Mishna and the Gemara, through the Rishonim until the Shulhan Arukh, and on through the *nose'ei keilim* and the Ahronim.²

As the first students of the program initially sat for the licensing exams in Even ha-Ezer and Hoshen Mishpat, it became apparent that the women passed at twice the rate of the men who took the exams. This brought about the strong resistance of both the male *to'anim* and the Directorate of the Rabbinical Courts to the women – to the point

¹ On a personal note, I must express the gratitude I have for having had the *zekhut* to study in the highest level of organized studies in *torah she-beAl peh* for women in Jewish history.

² For a listing of the material in Hoshen Mishpat and Even ha-Ezer, as well as Rabbinical Court rulings and more, included in the Beit Din administered exams, see <http://rbc.gov.il/TargetAudiences/RabbinicalPleaders/Pages/default.aspx>.

of not allowing women to sit for the exams. When respectful reasoning with the examination committee and the Ministry of Religion (under whose auspices the Rabbinical Courts functioned at that time) did not succeed in resolving the problem, the issue was brought before the Supreme Court of Israel. Only after the sole religious justice on the panel observed that “the law allowed any student who had been registered in any yeshiva – even one in which no studies were held, rather only *tehillim* was recited all day – to sit for the State administered exams, but the women present in the courtroom who all had academic degrees before they commenced their high level Torah learning were not allowed to sit for the exams,”³ did the Supreme Court rule that the *to’annot* training program must be recognized as authorized for the presentation of students to be examined. Consequently, the path was cleared for women to undergo the rigorous exams, at the same time as men, for the purpose of receiving certification and recognition in the participation of the halakhic process.

Halakha le-Ma’aseh

As mentioned earlier, the *license* to practice is issued by the Chief Rabbi in his position as Nasi Beit ha-Din ha-Rabbani Ha-Gadol.⁴ Once certified, the *to’annot rabbaniiyyot* began to appear before the *dayyanim*, who were clearly not used to the idea of a woman “talking Torah.” However, the serious, professional work and attitude of the vast majority of the *to’annot rabbaniiyyot* enabled their appearances in the Beit Din to become part of the rabbinic landscape. Despite some mishaps as the rabbinic world adjusted to the women and vice versa, the *to’annot rabbaniiyyot* quickly became valued members of the halakhic process in the most sensitive area of personal status. An immediate development was that their presence brought about more proper decorum to the proceedings. The *to’annot rabbaniiyyot* commenced representing both male and female litigants, both in the State Rabbinical Courts and in private haredi courts. It became apparent to me that Israeli society fully accepted women in this

³ Justice Tzvi Tal in *Bagatz* 6300/93, *The Institute for the Training of To’annot Beit Din v. the Minister of Religion*.

⁴ My certificate, signed by Nasi Beit ha-Din ha-Rabbani ha-Gadol Chief Rabbi Eliyahu Bakshi-Doron, states (original text in Hebrew and translation):

... עמדה גב'... בבחינת לטוענים רבניים, הוסמכה כטוענת בית דין רבני ורשאית לייצג
בעלי דין ולטעון בשמם בכל בתי הדין הרבניים בארץ.

... *Geveret*... has completed the examinations for Rabbinical Court advocates, has been ordained as a *To’enet Beit Din Rabbani* and is authorized to represent litigants and plead in their names in all of the Rabbinical Courts in the Land.

TRADITION

position in the late 90's when I received calls from divorcing men asking me to represent them after searching for a *to'en* or a *to'enet* in the yellow pages!⁵

For some of the *to'anot*, myself included, the *aguna* problem became a major priority. The observation has been made that since *to'anot rabbaniyyot* have represented *mesuravot get* – victims of get-refusal – the *dayyanim* have issued more rulings of *hiyyuv get* as well as sanctions against recalcitrant husbands than they had previously. Personally speaking, in my first years as a *to'enet rabbanit* I handled only difficult cases – those of *mesuravot get* for years and actual *agunot*.⁶ In every one of the cases, with *siyata dishmaya*, a get was given.⁷ The integration of *to'anot rabbaniyyot* into the system was so rapid that, exactly one decade from the concept's inception, a *to'enet rabbanit* was incorporated into the Directorate of the Rabbinical Courts at the highest level. I worked in the *aguna* unit directly under Rav Eliyahu Ben Dahan, then director, from 2000 until 2010. The “impossible” cases were referred to the *aguna* unit by the *dayyanim* or other Beit Din workers when the *dayyanim* could not resolve the cases. There was no hesitancy on their part to refer the cases to me as a woman. The qualities needed for this role were deep knowledge of the halakha, intuitive psychology, out-of-the-box thinking, and total determination to resolve the terrible situation of *iggun*. Gender was irrelevant. The entire Beit Din system reversed its attitude towards a women working in its midst on equal footing as a matter of course within one decade.

To my knowledge there are seventy to eighty *to'anot rabbaniyyot* in Israel. Unfortunately, the original training program for women closed due to the fact that the younger generation of women inspired to become *to'anot rabbaniyyot* realized that it was necessary to be a licensed attorney in order to faithfully represent clients in both the Beit Din Rabboni and the civil Family Court. Accordingly, the young cadre of women set to battle for *agunot* in the Beit Din chose to train in academia, causing registration to fall in the *to'anot* programs. Ironically, the only remaining

⁵ There is indeed such a professional category in the general Israeli phone listings.

⁶ As well as one *mamzerut* case in which ha-Rav Shalom Messas z”l, right before his death, completely validated the complex reasoning I had presented to the High Rabbinical Court *lehattir* (to clear the child of the *mamzer* status).

⁷ For an example of a “*hiddush*” in a classic case of *ma'is alai* which brought the *dayyan* to issue a *hiyyuv get* and consequently the halakhic reasoning served as a model for other *to'anim* and lawyers, see my doctoral dissertation: *The Changed Universe of Rulings of the Israeli Rabbinical Courts: An Halakhic and Analytical Study of the Rulings of the Rabbinical Courts Regarding Divorce*, Dept. of Talmud, Bar Ilan University, Ramat Gan, Oct. 2010. (Hebrew)

institution which trains women *to'anut rabbaniiyyot* is a haredi program catering mainly to haredi women who are not permitted to study in universities!

In keeping with the goal of eradicating the *aguna* problem, moving from the particular to the general, I personally focused on establishing a prenuptial agreement for the prevention of *get*-refusal in Israel. As a *to'enet rabbanit* I was able to bring couples before the Beit Din to sign a prenuptial agreement which received the Beit Din's validation as a halakhic ruling. Forming a team with two other *anshei halakha* – ha-Rav Elyashiv Knohl and ha-Rav Dr. David Ben Zazon – and in consultation with many experts, the “Agreement for Mutual Respect” was drawn up in the year 2000. To date, thousands of couples have signed, but that was not enough to convince Israeli rabbis to familiarize themselves with the concept. So in 2009 I authored a book of halakha, speaking the language of the rabbanim, delineating the issues regarding prenuptial agreements and analyzing them. The book includes a forward by Chief Rabbi of Haifa and *Ra'avad* ha-Rav Shear Yashuv Cohen who called it the first halakhic responsum authored by a woman.⁸ What is significant is that the book *Min'i Einayikh mi-dima*, published by Ariel Institutes (a Jerusalem rabbinic institution which trains *dayyanim*), is used by *dayyanim*, community rabbis, yeshivot, midrashot, Talmud professors, and law school professors as a pivotal text, bringing about the acceptance of prenuptial agreements as a legitimate halakhic tool for the prevention of *get*-refusal. No attention is paid to the gender of the author, rather to the import of the book's content.⁹

One Example of Many

The instance of *to'anut rabbaniiyyot* may be the only case in Israel where women actually received Rabbinate-granted certification, yet it is but one example of many situations where women function in a rabbinic role. An additional demonstration is the role filled by *yo'atzot halakha*, a position which was created in Israel as well, initiated by Rabbanit Chana Henkin.

⁸ For a more prosaic description, see Matthew Wagner, *Jerusalem Post*, Aug. 19, 2009, <http://www.jpost.com/Jewish-World/Jewish-Features/Woman-writes-halachic-treatise-on-prenuptial-agreements-that-she-hopes-will-prevent-thousands-of-aguna-cases>.

⁹ Though when the book first came out, in an amusing incident, a *dayyan* in the Beit ha-Din of Tel Aviv called a *to'enet rabbanit* into his office to tell her that it was not possible that a woman authored such a work of halakha, claiming: “she must have plagiarized it from a man!”

TRADITION

This raises the question: While controversy rages in religious circles on the American side of the ocean (circles which seem to parallel those in Israeli society), why in Israel does the issue of women functioning in the various rabbinic roles not raise such fierce ongoing discussion? Many times there is no discussion at all. In fact, the most that can be said is at times when a “new” development arises there may be some voices raised against it. However, once it is “up and running” everyone just moves on.

Perhaps the answer partially lies in the Hebrew language, which has a term that doesn’t really translate into English and which can be easily used in the feminine form—*anshei u-neshot halakha* (literally, men and women of halakha). This term encapsulates not only one who lives his life according to halakha but also is knowledgeable in halakha and whose opinions will be valued. Another factor may be that scholarship for women in Israel is an easier field to enter due to the fact that Hebrew, the language of rabbinic literature, is the Israeli woman’s mother tongue. Some scholarly women are self-taught. A case in point is Malka Puterkovsky, awarded an honorary doctorate by Bar Ilan University for her rabbinic leadership and teachings. Malka taught *shiurim* in many institutions, and gathered such a large following amongst both young women and men, that when the press needed to understand a halakhic issue they would turn to Malka. Lacking any title, it was the press that crowned her as “rabbanit”! In the year 2014, Malka was appointed to the prestigious Commission for the Determination of Medicinal Entitlements in Israel, to fill the slot of the “rabbi” on the committee! Malka’s well-known example of halakhic leadership inspires young women scholars to follow in her footsteps.

In the past few decades various rabbinic functions were filled by women— *to’anot rabbaniyot, yo’atzot halakha*, female founders and heads of midrashot (such as Malka Bina, founder of Matan, or Esti Lichtenstein Rosenberg, Rosh Beit Midrash of Migdal Oz), school “rabbis” in girls’ high schools, PhD’s in various fields of Jewish studies—all multiplied to become excellent teachers and leaders in interpretation of texts and Jewish thought, accepted by both women and men. All of the aforementioned women do not necessarily limit themselves to a narrow field of activity, rather they may also act as a consultant to rabbis as well as to laypeople; make themselves available as an address for deep issues that concern young people; be called upon for pastoral counseling; and be asked halakhic *she’elot* in fields other than their obvious expertise. For example, *To’enet Rabbanit* Dr. Avigail Rock is a regular contributor, as an expert in *mefareshim*, to Yeshivat Har Etzion’s *Virtual Beit Midrash* and teaches annually at its high-level *Yemei Iyyun be-Tanakh*. Another extraordinary

example is Dr. Tehilla Elitzur, who teaches Talmud in the Petihta Program at Matan and lectures at Michlelet Herzog. For generations, Torah scholars were puzzled by a seeming internal contradiction of Rabbeinu Asher – the Rosh – regarding the prohibition of coercion of a get in the case of a violent husband.¹⁰ Dr. Elitzur researched manuscripts of the Rosh’s rulings and was able to resolve the halakhic conundrum. Her work and halakhic discourse were so impressive, that the directorate of the Beit ha-Din ha-Rabbani sent out the thirty-page paper to all the *dayyanim*.¹¹

As has been demonstrated above, many Orthodox women leaders in Israel developed naturally, much as would any male religious leader: one who demonstrates scholarship by teaching or writing, one who uses Torah knowledge to help people, and one to whom regular people turn for one’s wisdom or knowledge of halakha. Once a woman has attained recognition, the fact that she may be functioning in a rabbinic role is treated in a matter of fact manner. By “matter of fact” I intend both meanings of the term: colloquially – meaning in a practical manner –and literally– meaning these are the facts on the ground. It just seems to make sense.

A case in point is the State Commission for the Appointment of *Dayyanim*. For decades only men served on this very exclusive and powerful committee.¹² After years of attempted legislation, which was fiercely opposed by the religious political parties, in the summer of 2013 an amendment was passed into law requiring that at least four of the eleven members of the commission must be women, with one of them a *to’enet rabbanit*.¹³ That is how it came to pass that I literally sit alongside the two Chief Rabbis, two *dayyanim* of the Beit ha-Din ha-Rabbani ha-Gadol, two ministers, two Members of Knesset, and two attorneys in the committee. At this particular time in Jewish history, the impact to be made by this committee is crucial. For many years no appointments were made to the Battei Din due to a stay order of the Supreme Court. The lack of women members on the committee was found to be unacceptable by the Court. As a result, with the convening of a newly constituted committee following the 2013 legislation, twenty-four appointments were to be

¹⁰ *Teshuvot ha-Rosh*, kelal 43.

¹¹ Tehilla Elitzur, “Emdat ha-Rosh legabbei kefiyyat get be-ikvot alimut ha-ba’al: Iyyun mehudash le-or tsuratah ha-mekorit shel teshuvat ha-Rosh,” [in Hebrew] *Dinei Yisrael* 29 (5773), 125-153. A synopsis can be found here: <http://www.daat.ac.il/mishpat-ivri/skirot/skira.asp?id=233>.

¹² In exceptional circumstances, it happened rarely that a woman would become a member as a representative of the Israeli Bar Association or as the Minister of Justice.

¹³ The law was proposed by two Orthodox female MKs—initiated by MK Aliza Lavie (Yesh Atid) and supported by MK Shuli Moalem-Refaeli (Habayit Hayehudi).

TRADITION

made to the regional Battei Din and all seven *dayyanim* (!) of the Beit ha-Din ha-Rabbani ha-Gadol are (yet) to be appointed. The appointment of a third of the cadre of Rabbinical Court Judges will determine the line of halakhic rulings for generations to come—not only for the citizens of Israel, but for the entire Jewish world as the Beit ha-Din ha-Rabbani ha-Gadol serves as a source of authority today when difficult decisions have to be made by Diaspora rabbis.

Fully cognizant of the import of my choices and as the sole Rabbinical Court-professional member of the committee, aside from the two *dayyanim*,¹⁴ I interviewed well over one hundred candidates for the position of *dayyan*, both rabbanim vying for the Regional Courts and serving *dayyanim* vying for the Beit ha-Din ha-Gadol. I sat with each rabbi that asked to meet with me between one and a half to two and a half hours in deep halakhic discussion. The rabbanim were challenged on a variety of issues that can be found on a Beit Din's docket, so that I could discern each one's approach to *pesika* on all the relevant issues.¹⁵ Word quickly got out, after the first few candidates were thoroughly examined, that a meeting with the female *to'enet* was an exercise in challenging halakhic discourse. Ironically, the vast majority of the rabbis who requested an interview were haredi. It is now a matter of fact for those hundred plus rabbanim who experienced this, that a woman can have Torah knowledge just as a man does.

We do indeed have major controversies in Israel regarding many matters of religion or religion and state—usually regarding public policy, such as the 1988 Supreme Court decision allowing Leah Shakdiel to sit on a local religious council. However, in the case of women functioning in a heretofore male role, even these public debates disappear once the new development comes into existence. In any case, almost all of the women in Israel who serve as “rabbinic-type leaders” reached their stature due to educating themselves and to direct recognition of their qualities. Although a very small number of women were recently “formerly ordained” by three programs in Jerusalem, once done, the matter was passed over and did

¹⁴ Neither Chief Rabbi had any experience in the Beit Din at that point, nor qualification to serve as a *dayyan*. In addition, prior to the appointment of the seven *dayyanim* to the High Court, both *dayyanim* reached the age of seventy and were required to resign from the committee.

¹⁵ Indeed, in no small part due to these evaluations, two types of previously unheard-of appointments were made to the regional courts: three academics (including a Doctor of Philosophy) were appointed as *dayyanim*, as well as seven candidates who had served in combat units in the IDF (including one who received a commendation for bravery).

not engender any controversy. Perhaps no outcry was heard since no particular group felt it concerned them or felt threatened by it—neither those who oppose women’s ordination nor those who support it. Alternatively, perhaps there was no outcry since so many other women before them were and are already performing rabbinic functions and are highly regarded by Israeli society.

Concluding Observations

As a former American, viewing American Orthodoxy from the Israeli side of the ocean, I have reached a number of conclusions:

- a. There is a qualitative difference on this issue between Israel and America, with women in Israel actually and quietly functioning in various roles in which rabbis would function for at least two decades.
- b. In Israel we (the women) generally do not care what the title is. It may be a question that is raised for practical considerations, but it is not a major issue. Many of us ask to be addressed by our first names. It is not the title which grants stature, rather students, followers, or the regard of society in general.
- c. The matter-of-fact reception of women serving in public religious positions may be a function of the Israeli ethos of “creating facts on the ground” (in many fields of Israeli life) – once a fact is established, it becomes part of the Israeli landscape.
- d. Those who live in Israel are secure in their Jewish identity. Even change brought about utilizing civil powers such as legislation or court rulings in this issue are not a threat to the foundation of one’s Jewish identity. Rather, practical adjustments are made to accommodate it as the change invariably enriches Jewish life for everyone’s benefit.
- e. Women becoming rabbinic/spiritual leaders is a natural change, not a revolution. It is also natural that both *anshei u-neshot halakha* work together, both in leading the religious and general society in Israel and in relating to halakhic problems.

In a nutshell, women serving in religious or rabbinic roles of leadership in Israel is a natural, sensible manifestation of *kevod ha-beriyyot*.

In his 1986 article “Modern Orthodoxy and Women’s Changing Self-Perception,” Dr. Joel B. Wolowelsky wrote presciently:

From a practical point of view women have *already* gained professional entry into the rabbi’s world. Women teach and function as administrators in yeshivot; they lecture and have prominent positions in public Jewish

TRADITION

life; their counsel is sought by those who know and respect their knowledge. All that is denied them is to preach from the pulpit ... Of course, human nature is such that accomplished people generally desire some sort of formal recognition. But given the fact that ordination of women was initiated from without the halakhic community, social reality dictates that there will be learned modern Orthodox women acting as *posekot* long before they have the formal title. (If one wanted to hazard a guess, I would say that one of the areas that will first attract women will be *niddah*...)...In any event, certainly there will eventually be some sort of formal recognition of the fact that women – as the Chief Rabbi of Haifa [who later became the Rishon leTziyon, Chief Rabbi of Israel] recently wrote¹⁶ – “may be *gedolei hador*...[and] serve as *morei hora'ah* [*posekot*] and teachers of Torah and practical halakhah, as the authority for these positions flow from the individual's talents.”¹⁷

As thirty years have passed, these ideas have come to pass.

¹⁶ Eliyahu Bakshi Doron, Responsa *Binyan Av* (Jerusalem 1982), no. 62, 287.

¹⁷ Joel B. Wolowelsky, “Modern Orthodoxy and Women's Changing Self-Perception,” *Tradition* 22:1 (1986), 65.