

# Communications

*TRADITION* welcomes and encourages letters to the editor. Letters, which should be brief and to the point, should not ordinarily exceed 1000 words. They should be sent on disk, together with a double-spaced hard copy, to Rabbi Emanuel Feldman, Editor, Congregation Beth Jacob, 1855 LaVista Road NE, Atlanta, GA.

## JEWISH LEGAL WRITINGS BY WOMEN

TO THE EDITOR:

Rabbi Aharon Feldman's review of *Jewish Legal Writings by Women* (*Tradition* 33:2, Winter, 1999) demonstrates that the debate about feminism in Orthodoxy has occasionally permitted passion to override scholarly quality and civility. It is disappointing to find an example in the pages of *Tradition*. Not that the book under review is undeserving of criticism. The uneven quality of the contributions is an ironic reflection on the hubris of the editors' introduction that equates the book to the founding of the Bais Yaakov schools or the opening of Stern College. In addition to the errors that exercise the reviewer, one may point to a misquoted Mishna (p. 7), a lack of awareness of different customs in the ending date of the recitation of *kaddish* (p. 192, n. 29) and misinterpretation of a section from the Yerushalmi (Hebrew p. 30, n. 20). The halakhic legitimacy of certain ideological borrowings from contemporary feminism at different points in the book is worthy of discussion. The rhetoric is also an issue. To criticize Rabbinic concern that artificial insemination may break down personal moral barriers by remarking "*Kol ha-posel be-mumo posel*," (i.e., "it takes one to know one" [Hebrew, p. 69]) is blatantly disrespectful and totally out of place in a serious discussion. Even one such utterance diminishes the book.

I am not writing another book review. My concern is with R. Feldman's essay. The piece begins with a critique of feminism. The relationship between the book, Orthodox feminism, and radical secular feminism is never made clear. Whatever the relationship, tarring the one with the shortcomings of the other is unfair. Yet the reviewer frequently makes this facile equation. He states that the authors "willy nilly" (!?) echo a philosophy that is incompatible with their own belief system. These women will certainly not accept those parts of the feminist agen-

da directly opposed to Torah commandments, but they believe they can safely accept many of feminism's underlying premises (pp. 63-64). All the contributors to the book are credited with upholding Orthodox practice, despite feminism. Yet the footnote then undermines this judgment by referring to Blu Greenberg and Rivka Lubitch, neither of whom contributed to this volume.

The article fails to assess the strengths as well as the weaknesses of the work under review. For an anthology representing many authors, this is especially problematic. The author admits that not all the articles suffer from the problems he describes (p. 61, p. 64), but does not specify which articles he means. Instead, he asserts (p. 64): "A few articles are unrelated to the feminist agenda. But even these are meant to demonstrate, as the editors state in their opening paragraph, that women are now 'learned and empowered'." This is simply guilt by association. The book and its contributors cannot be challenged in one broad brushstroke, for the works in the book range across a broad spectrum of attitudes regarding feminism.

While R. Feldman accepts some features of feminism as "laudable", he regards others as "incompatible with the philosophical underpinnings of the Torah" (p. 63). But he does not define carefully which is which, and how what is unacceptable affects specific chapters in this book. One would not indiscriminately reject medieval works that borrowed from Aristotelian philosophy just because there are fundamental incompatibilities between Aristotelianism and Judaism. Yet R. Feldman tars with this broad brush even contributions like Ratzendorfer-Rosen's almost afeminist article.

Susan Handelman's article (full disclosure: Dr. Handelman is both a congregant and a friend), "Women and the Study of Torah in the Thought of the Lubavitcher Rebbe", deals faithfully with the subject of its title. Yet R. Feldman, without hesitation or qualification (n. 9), criticizes her for stating that the Rebbe's view contradicts the opinion of the Vilna Gaon and *Bet haLevi*, and asserts that she "nevertheless rejects their view in favor of the Rebbe's". He then expresses surprise "that anyone would give the opinion of a latter twentieth-century authority more weight than that of two of the most towering halakhic scholars of the past several centuries". But in reporting the Rebbe's position, Handelman is doing no more and no less than she has set out to do. Is R. Feldman implying that that view is unworthy of being reported faithfully? If so, R. Feldman is either directing a slap at the entire

Lubavitch movement, which follows the Rebbe in all things, or at the principle of *hilkbeta ke-batra'i*, which does grant weight to recent authorities. One need not be an apologist for Habad, or for almost every Orthodox Jew who has at one time or another followed R. Moshe or the Rav or some other contemporary authority as against earlier *aharonim*, to realize that such statements are questionable.

Further, a comparison of his comments and Handelman's words (p. 159) shows that he has unfairly criticized her for claiming that the Rebbe held that "Torah study attains the status of an independent mitzvah of Talmud Torah". Handelman explicitly rejects such an interpretation. Similar improper argumentation vitiates his critique of Aliza Berger's contribution on women wearing *tefillin*. The argumentation of Berger's article seems to work against her apparent goal of legitimizing this practice. She documents what appears to be a stringent *da'at yahid* among early *rishonim* that, in later halakhic history, became the accepted conclusion with virtually no indication of an extant *minhag* to counter this trend. This halakhic history has given the *mabmir* position great weight that is hard, if not impossible, to overcome. But R. Feldman begins his challenge to the article by saying, without citation of authority, or clarification of whom he is criticizing, that "it is a fundamental although often unknown or ignored principle in the determination of Jewish law that halakha is determined by the cumulative decisions of commentaries and decisors. Thus an opinion of the *rishonim* codified by the major authorities is inviolable" (p. 70).

Whatever the meaning of "cumulative" and the identity of the major "authorities", he has created a halakhic principle out of whole cloth. Many Torah scholars criticized even *Shulhan Arukh* and Rema for excluding legitimate halakhic opinions from their works. (Cf. *Vikuah Mayim Hayyim*, Introduction, by Hayyim ben Betsalel, the Maharal's brother; many others raised similar concerns.) Some of the codifiers themselves stated that one could legitimately argue with their codifications (cf. Rema's introduction to *Torat haHatat*). While the halakhic moment of these works is considerable, R. Feldman has given them authority to negate legitimate positions and practices of non-codified *rishonim* (as for example many German Jewish practices), far beyond what they claimed for themselves.

A similar problem exists in his discussion of women and *kaddish*. The reviewer uncritically accepts that whatever limitations there may be for women to say *kaddish* in shul lie in concerns about sexual distract-

tion, as does the origin of *mehitsa*. But it is well known that R. Moshe held that the issue in *mehitsa* is *kalut rosh*, which R. Moshe understands as “socializing”. Certainly the original source concerning *mehitsa* in *Sukka* 51b seems to reflect this view. R. Feldman also fails to note R. Moshe’s letter in the most recent volume of *Iggerot Moshe* describing a practice of many generations that women did recite *kaddish* in the synagogue. Further, *Havot Yair*’s original negative *teshuva* on women saying *kaddish* never speaks of sexual arousal, only of violating *minhagim*. It is also not clear whether this *teshuva* prohibits women saying *kaddish* or whether it prohibits instead gathering to study Torah in the deceased’s home for 12 months for the purpose of having his daughters say *kaddish*.

The book has scholarly, halakhic, analytical, philosophical, and rhetorical shortcomings. But that does not justify the regrettable *ad hominem* attacks one finds here. Two examples among many: first, the references to the professions of the authors as a disqualifier, on p. 67 and n. 14. What is the point of this, especially in a journal that features halakhic articles by doctors, lawyers, and scientists who would not meet the author’s occupational qualifications? It is the quality of the work, not the vocation of the author, that counts. Second, the very last footnote is singularly unfair. The reviewer writes: “Sara Schenirer would be pleased to know that not one of the contributors to this book is listed in the biographical sketches as being a graduate of a Bais Yaakov Seminary.” Is there any scholarly importance to this comment? If it were suddenly revealed that five of the authors were Bais Yaakov alumni, would the book become kosher? This is an inappropriate put-down of the book, of Orthodox feminists, and of the world to the left of today’s Bais Yaakov. The book may not meet the institution’s *hashkafa*, but there are appropriate ways to say it.

The issue of feminism, like other issues, divides our community. If we are not to descend into even greater balkanization, rhetoric must be tempered and standards of civility maintained. Sadly, I fear that this article creates more heat than light. For the author and for *Tradition*, a rethinking of how to criticize and what types of criticism to publish is clearly in order.

(RABBI) BARRY FREUNDEL  
Washington, DC

TO THE EDITOR:

Despite the sharp polemical tone and occasional tendentious comments made in his review essay, Rabbi Aharon Feldman raises some important and significant criticisms of the recently published *Jewish Legal Writings by Women*. I would like to address one of them. He writes:

A more substantive reason that this book cannot be considered a serious contribution to halakhic tradition is the uneven quality of its scholarship. This is not surprising. While many of the contributors are engaged principally in Jewish studies in one form or another, the majority have other occupations. Statistician, family therapist, social worker are honorable professions, but hardly the stuff that makes for talmudic expertise. The sources for the halakhic rulings which the authors cite are often secondary or trivial . . . among those whose halakhic opinions are cited are non-rabbis; rabbis whose specialty is not halakha; and at least one Conservative rabbi. These are hardly the authoritative materials one would expect in solid legal writings.

He then points to certain misreadings of primary texts, and adds that even when texts have been read correctly “basic ground rules for halakhic rulings are often overlooked”.

I certainly do not share R. Feldman’s very broad brush attack on the book as a whole and regard a good number of the articles in the book as well-researched and argued. Yet his criticism resonates, even with those who view the book in less negative terms than R. Feldman. Why did the volume fall short of its self-articulated goal of presenting top notch halakhic scholarship authored by women Torah scholars? Why is it of uneven quality and halakhic rigor?

This volume is among the very first literary attempts at the very beginning of a movement of serious study of *Torah she-be’al peh* for women, barely three decades old. Prior to the late 1960s and early 1970s, no full-time college or post college yeshiva or institute existed where serious, committed women in the Orthodox community were afforded the opportunity to study Talmud and halakha at the highest levels. Even with the growth of women’s learning on the high school, college and part-time adult education levels in the last twenty five years, communal support for the type of institutions that can and will produce truly learned women of the highest caliber is still sorely lacking. There is, of course, the pioneering Drisha Institute for Jewish Education, an independent and non-denominational institution of Torah learning in

New York City. However, there still does not exist even one post-collegiate full-time *makhon* or *yeshiva* for women devoted to rigorous study of *Torah she-be'al peh*, under Orthodox denominational auspices, in the entire United States. (And this, notably, close to twenty years after *maran* haRav zt"l delivered the inaugural shiur at the Stern College *bet midrash* on the first *sugya* in *Masekhet Pesahim*.) This disturbing fact redounds to the collective discredit of modern or centrist Orthodoxy and its educational institutions here in the United States. In Israel, there currently exist three or four institutions, at most, which offer opportunities for the type of serious learning that encourages the growth of scholars.

Moreover, the few women who are not discouraged by such obstacles do not see a clear career path that beckons and offers them teaching opportunities and communal Torah responsibilities. Even the average *lamdan*, *ben Torah* or rabbi does not simply emerge out of a vacuum. Such people are shaped and formed by a combination of many years of serious Torah study coupled with access to mentors who take them under their wings and show them how things are done: e.g. how one builds an *eiruv*, checks a *mikve*, looks at a *ketem*, deals with an *aguna she'ela*, prepares a *habura* or a *teshuva*, etc.

Do the standard respected Torah journals such as *Moria*, *Bet Yitshak*, *Or haMizrah*, *Yeshurun* or even the *Journal of Halacha and Contemporary Society* permit, let alone encourage the publication of Torah articles by budding women Torah students and scholars? By encouraging the submission of articles and bringing women into the equivalent of "the peer review" process (which can only serve to sharpen the level of Torah scholarship of women) our communal institutions would be taking a significant step in supporting and increasing the engagement of *benot Torah* in the wonderful world of *milhamta shel Torah*.

Many in the haredi world contend that women have no place in this arena at all. R. Feldman is apparently not among them. He states "that women who have attained the proper expertise in Jewish law have the authority to offer rulings, a view to which there is no reason for anyone to take exception, provided the expertise is genuine." Yet, if we truly espouse that view, and it is more than mere lip service to a non-existent and non-anticipated reality, we cannot perpetuate a system that offers tepid support to the growth of women's learning beyond college. Such a communal policy hinders any realistic chance that learning will grow and truly flourish in halakhically proper and constructive patterns in the present small group of committed women *lomdot*.

## TRADITION

R. Feldman notes, in critical tones, that almost all of the authors of this volume are not full time Talmud scholars. How could they be, with few opportunities for talented, creative women to express themselves in the areas of advanced *talmud Torah*? Top-notch talmudic scholarship requires critical masses of people, infrastructure, broad based support and learning opportunities. I recall with sadness, the dozens of talented, committed young women whom I have taught over the years, who have opted for an academic Jewish studies track or medical or law school because they realized that the Torah institutions they sought did not exist, nor were their concerns on the radar screen of the communal agenda of institutional Orthodoxy.

Yet, women's learning is not going to wither or disappear. Many female students in the modern Orthodox educational system are exposed to *Torah she-be'al peh* in high school and in Israeli *yeshivot* and a percentage of talented and committed students will continue to seek out "*devar Hashem—zu halakha.*" Women Torah teachers are entering the *yeshiva* high school work force teaching halakha and *gemara*, nurturing the growth and the aspirations of sincere young women even as they serve as role models to these women and to the entire community.

The new realities call for more serious post-collegiate Torah institutions for women; stipends to encourage our best and our brightest to devote themselves to this pursuit; rabbis and *poskim* prepared to guide young *lomdot* in the nuances and challenges of responsible and authentic *pesak halakha* and communal decision-making.

As those entrusted to safeguard the *mesora* and ensure that it is adhered to, while fostering greater and greater *kevod Shamayim* in this world, we need to work together to encourage young talented women, committed to God and Torah, who are seeking to dwell "*be-vet Hashem*", to ensure that indeed a room, nay, a study hall has been set aside in that house for them, furnished with *sefarim* and mentors. In this way we will collectively write another chapter in the glorious history of the unfolding of *talmud Torah—le-hagdil Torah u-le-ha'adira* and truly fulfill the verse "*Ve-khol banayikh limudei Hashem.*"

(RABBI) NATHANIEL HELFGOT  
New York, NY

TO THE EDITOR:

I treated the question of women wearing *tefillin* in *Jewish Legal Writings by Women*, which was reviewed by Rabbi Aharon Feldman. I thank the editors of *Tradition* for bringing the book to the attention of their readership. I know others have responded to the review as a whole. I have several comments regarding my chapter in particular:

First, the review included two misrepresentations regarding my chapter which I would like to clarify.

(1) This misrepresentation is most serious because it concerns the halakhic sources themselves. Briefly, the authorities whom R. Feldman cites as *prohibiting* women from wearing *tefillin* actually only say that one should *protest* the practice. As I stated in the chapter, no *rishonim* and only three *aharonim* actually prohibit. Readers are referred to my chapter for more details on the crucial distinction between prohibition and the “gray area” of protesting a practice.

(2) R. Feldman quotes me as saying that “some married women cover their hair”. This is a misquotation. I stated that *many* married Orthodox women do so. Overall, R. Feldman gives the impression that I did not treat the matter of hair covering seriously. Readers are invited to the original chapter to make their own judgment. (Most unfortunately, R. Feldman compounds his misquotation error by extrapolating to a criticism of my and the book’s general approaches)

Regarding R. Feldman’s detailing the Vilna Gaon’s harmonization of the positions of the *Bavli* (that the Sages did not protest Mikhal’s wearing of *tefillin*) and the *Yerushalmi* (that they did protest): it is telling that the *aharonim* later than the Vilna Gaon retain the position of protesting rather than forbidding as in the Gaon’s *pesak*. In other words, authorities who were aware of the Gaon’s *interpretation* of the *gemara* at the same time rejected his *pesak*.

I thank R. Feldman for bringing up the issue of halakhic methodology, which, in retrospect, I should have made more explicit in the chapter. R. Feldman presents as a “fundamental—although often unknown or ignored—principle” that “an opinion of the *rishonim* codified by the major authorities is inviolable”. I, in fact, followed this principle in one of the positions I presented. Suffice it to say here that this principle in isolation is not always followed by *poskim*. This topic on its own is so complicated as to be worthy of an entire article in *Tradition*.



A last comment regarding R. Feldman's views:

R. Feldman views finding self-satisfaction in performance of *mitsvot* as negative. However, this idea was long ago deemed legitimate when women were permitted to place their hands (*semikha*) on sacrifices for this very reason (*Hagiga* 16a; *Sifra Vayikra*, ch. 2) and in general to perform commandments optionally (cf. *Nemukei Yosef to Kiddushin* 31a, s.v. "*avdina yoma tuva*", in *Shitot Hakadmonim* [New York, 1970]).

ALIZA BERGER  
Jerusalem, Israel

TO THE EDITOR:

Rabbi Aharon Feldman's review was refreshing. What he writes is honest and forthright. I commend *Tradition* for having the courage to publish it, since it is not the politically correct thing for a non-haredi magazine to do. As a recently transplanted American living in Israel—and although I am not a haredi person—I have long been upset by the huge pressure and public relations that have been applied by Orthodox feminists on Orthodox institutions in America. I have the feeling that the Orthodox rabbis and institutions that have gone along with Orthodox feminists have done so only reluctantly, because deep down these rabbis were loyal to the teachings of their mentors and their halakhic principles. However, they have been pressured into silence. This article will now give them the voice and the strength to stand up for halakhic integrity.

The article definitely will not win a popularity contest. Some women's groups have even used the Internet to urge their people to flood *Tradition* with protests. Nevertheless R. Feldman's analysis is right on target. He has helped the cause of the silent majority of Orthodox Jews in America whose basic religious values have long been under attack by feminists who claim to be loyal to halakha. He tells it as it is, and this gives us all a chance to look at this whole issue from a fresh perspective that does not go along with the conventional wisdom. R. Feldman has exposed the very weak scholarship that underlies the philosophy of the feminists, and he leaves them with these unanswered questions: First, why do today's Orthodox feminists seem more influenced by the general feminist movement than by the traditions of the Torah? Second, why do they feel that only by doing masculine-type service of God can they be religious?

Thank you for giving us so much food for thought.

RUTH COHEN  
Jerusalem, Israel

RABBI AHARON FELDMAN RESPONDS:

Regarding Rabbi Freundel's letter:

1. The agendas of Orthodox and secular feminism are so similar in their basic premises, that one has to be naive to believe that the connection between them is coincidental. Furthermore, most Orthodox feminists are the first to agree that their movement is an offshoot of secular feminism.
2. I was aware after writing my review—and so others pointed out—that it suffers from having mentioned the weaknesses of the book and few, if any, of its strengths. I therefore reread the book with this in mind but was unable to add anything to what I had written.
3. There is no mention in my review of Blu Greenberg or Rivka Lubitch as contributors to the book. Their views were cited because they are prominent in Orthodox feminism and their views are indicative of the positions taken by feminist groups on matters of halakha. An endorsement by Mrs. Greenberg, a leader of Orthodox feminists, appears on the back jacket, praising the book for joining [secular] feminism with [Jewish] tradition. This indicates clearly that the publishers themselves considered this to be representative of the contents of the book. The views of Lubitch were cited in a footnote not as a contributor but as an illustration of the potential of Orthodox feminists to stray from commitment to halakha.
4. I wrote, "Nearly all the articles in this book seek to advance this [feminist] agenda" and in footnote no. 9 listed those which did this only obliquely. I made no mention of Ratzenforfer-Rosen's article although I did imply that it is one of those articles which break no new ground—an accurate assessment.
5. The statement that the book is meant to demonstrate that women are learned and empowered is the clear implication of the editors' opening comment. It is not "guilt by association".
6. Dr. Handelman's article clearly and enthusiastically endorses the late Lubavitcher Rebbe's views as a basis for a new approach to women's study of Torah and her article was not meant merely to ensure that these views were "reported faithfully". She explicitly states several times

(pp. 144, 161, 162) that in this view women have an obligation to study Torah all day and also that this obligation results from the fact that their study of Torah “attains its own independent identity and essence” (p. 163). The category of *hilkheta ke-batra'i* is irrelevant where the *batrai* are not *ba'alei pelugta* of the *kama'i* and with all due respect to the Rebbe, I know of no serious scholar who would put him in this category with respect to the Vilna Gaon and *Bet haLevi*—which is why I found this approach “surprising”. R. Freundel is certainly entitled to his opinion, but I am also entitled to be surprised.

7. R. Freundel wants to know the source of my statement that a ruling codified in the *Shulhan Arukh* and agreed upon by all subsequent authorities is considered definitive halakha. This assumption is made by virtually every *teshuva* and *pesak* dealing with such issues written in the past four centuries.

8. *Kalut rosh* is forbidden because it leads to sexual impropriety (as in *Avot* 3:13); and this is the ultimate concern with the mixing of the sexes. Thus, for the purposes of our discussion, the two are the same.

9. The references to the professions of the contributors were not made as an *ad hominem* attack but as an indication that the book was written by non-professionals. If a medical journal would fill its pages with articles written by statisticians, lawyers and social workers would anyone take the journal seriously? And should not readers who are likely to take its advice seriously be apprised of the nature of the contributors? I would add that it is quite saddening that a book of such uneven quality could have been taken seriously enough to have been published as an halakhic work. This could occur only in an age where halakhic expertise is believed to consist of access to a database and where political correctness outweighs all other considerations.

10. The reference in my footnote to the fact that none of the contributors were listed as graduates of Bais Yaakov seminaries was a fitting, ironic repartee to the editors' claim that this book is the culmination of the movement begun by Sarah Schenirer. There is no better way to expose absurdities than by humor.

11. I cannot find in my review any violation of any “standards of civility”. If the above examples of *ad hominem* attacks are what caused R. Freundel to make this charge, I hope I have shown that it is unjustified.

Except for criticism of my “sharp polemical tone and occasional tendentious comments,” R. Helfgot's letter consists nearly entirely of a polemic for women's education in *Torah she-be'al peh*.

Regarding these criticisms, I am gratified that most individuals who read the review (such as Ruth Cohen in the letter published above), thought that my review was objective and insightful. I trust that my above response to R. Freundel will cause R. Helfgot to change his mind.

R. Helfgot seems to have the impression, based on one of my comments, that I would agree that women should be trained as halakhic authorities. In fact, I am unequivocally against such training.

In Jewish tradition, women have never been trained to be rabbinical authorities. This is not because women are considered less intelligent than men; on the contrary, the Sages say that women have more *bina* (a form of intelligence) than men. Rather, the reason is, as Rambam (*Talmud Torah* 1:13) puts it, because “most women’s minds are not attuned (*mekhuvanot*)” to this study. This codification, to which there is no dissenting opinion, is based on an explicit passage in the Talmud (*Sota* 21b), and I find it difficult to understand how so many modern leaders can cavalierly dismiss it.

It appears that Jewish tradition has known for millennia what Harvard psychologist Carol Gilligan has ascertained in recent years. In studies that have been widely accepted by the academic community, she has shown that “women’s mode of thought is contextual and narrative while men’s is formal, linear and abstract” (cited by Degler, *In Search of Human Nature*, Oxford University Press, 1991, p. 303). Anyone who has dealt with halakhic decision making knows that the latter qualities are precisely those required to arrive at an accurate halakhic conclusion and that approaching halakhic decisions from a contextual and narrative perspective will result in distorted rulings. Training women to be halakhic authorities (which a certain institution in Israel has recently undertaken amidst a heavy public relations blitz) is thus a reckless venture, and one which, although politically correct and likely to be popular with the unlettered and with feminist philanthropists, is fraught with danger to the halakhic process. Training those whose hands quiver to be brain surgeons would be a boon for the status of the handicapped, but would be a tragedy for those who would rely on their services.

The words used by Rambam, “*most* women’s minds . . .” implies that there are exceptions to the rule and indeed there have been female figures in Jewish history who were halakhic authorities. (When I undertook my review of this book, I had hoped that its contributors might consist of such figures.) To attain halakhic expertise such individuals must not simply master the vast halakhic data but must have been born

with minds attuned to the decision making process. My comment, that the rulings of women who have achieved halakhic expertise can be relied upon, referred to these exceptions. However, instituting training courses for the general female public, who by definition are not exceptions, cannot in my view be justified.

1) Regarding my objection to the suggestion by Dr. Berger that we follow an halakhic ruling which is nearly unanimously rejected by all authorities, Dr. Berger refers us to her article where she offers “details on the crucial distinction between prohibition and the ‘gray area’ of protesting a practice”. This apparently refers to her footnote 18 where a “possibility” of this distinction is explored and which concludes with a conjecture that it “could very well be” that “Michal’s act is viewed with approval”, and the subsequent reference to this idea later on in the article. Anyone who reads this footnote will see that no cogent basis is offered for this possibility; nor does it change the fact (not a “misrepresentation” as she terms it) that the ruling of nearly all *poskim* is that women should not wear *tefillin*.

2) Regarding the quotation about covering hair, the point I made was as follows:

Dr. Berger notes that the problem of the hair covering exists because “some married women cover their hair”. The clear implication is that she finds no problem if married women who do not cover their hair choose to wear *tefillin*. The absurdity of this position is striking.

True, my quote should have read “many married women” instead of “some, etc.”, a breach of accuracy for which I accept full responsibility. Nevertheless, I am amazed that Dr. Berger makes a point of this error, even to the extent of commenting that “R. Feldman compounds his misquotation error” by my use of this comment in a general criticism of the article. Anyone who will reread the above passage and will make the appropriate substitution of “many” for “some” will see that this error is totally irrelevant to my criticism. The point is not whether “many” or “some” married women cover their hair; the point is that Dr. Berger finds no problem if those who do not cover their hair obligate themselves in *tefillin*. I found it absurd for someone who does not keep a required obligation (covering hair) to assume an obligation (*tefillin*) which, if not forbidden, is at best only optional, and that for Dr. Berger to suggest that such women wear *tefillin* shows that her priorities were misplaced. I made no comment, nor gave any impression, that she does not treat the matter of hair covering seriously.

3) The Vilna Gaon was not cited, as Dr. Berger seems to assume, to refute the distinction between protesting wearing *tefillin* and forbidding it. As stated above, since there is no evidence that this distinction exists, it never entered my mind that there was a need to refute it, nor does the Gaon deal with this distinction. The citation of the Vilna Gaon was a parenthetical comment that this major authority should have been cited in the article. It had no bearing on the thrust of my argument, which was clearly made assuming that “the opinion that the Sages did protest is a stringency”, which would disagree with the Gaon.

4) Dr. Berger defends herself for ruling against a near unanimous array of *poskim*, even though it is a fundamental principle of halakha that such rulings are inviolable, by saying: “Suffice it to say here that this principle in isolation is not always followed by *poskim*. This topic on its own is so complicated as to be worthy of an entire article in *Tradition*.”

I am sure that such an article would be interesting; but until it appears, I think the principle will continue to serve, as it always has, as a guideline as to what is acceptable halakha. The article should explain, as well, why it is preferable to follow the flimsy sources (listed in my footnote 25) whom she cites, rather than the classical *poskim* who disagree with them.

5) Regarding the comment in the Talmud that certain optional acts were permitted for women to give them *nabat ru'ah* (emotional satisfaction): It is clear from my article that I was criticizing those who make self-satisfaction the criterion of their relationship to *mitsvot*; in particular, those whom Ms. Berger suggests don *tefillin* because this *mitsva* will give them fulfillment, even though they will not be keeping other *mitsvot*. The above-mentioned women of Talmudic times derived their contentment from total devotion to the service of God and not from having an occasional spiritual experience. One cannot compare the two.

## THE BIBLICAL STORIES OF CREATION

TO THE EDITOR:

Rabbi Shubert Spero's article (*Tradition* 33:2, Winter 1999) is problematic regarding several essential points. He fails to show the basis, in traditional Judaism, for accepting a modern *derasha* and discarding the traditionally accepted literal meaning of the Torah. Doesn't his

approach contradict the principle that *ein mikra yotsei midei peshuto* (*Shabbat* 63a), that the obvious meaning cannot be rejected? Typically, *derashot* are additional perspectives for understanding the text rather than replacements. With respect to the Flood, one would have expected some clear justification from traditional sources of his rejection of Hazal when in conflict with science. This is especially troubling as he is dealing with an entire section of the Torah, and not just with aggadic statements. Isn't this what Rashba insisted upon during the debate on allegorization?

Unfortunately the above difficulty is much more than academic hairsplitting. Maharats Chajes (*Shabbat* 63a) clearly describes the dangers of gratuitous allegorizing. R. Spero fails to explain why his approach does not justify allegorization of the entire Torah and *mitsvot*, except to indicate that such an enterprise would not make sense. His claim—simply that “the presence of unrealistic elements in the story should alert us to the possibility of metaphor”—would apparently justify the allegorization of *matan Torah*. We have no archeological evidence for *matan Torah* and there are elements that seem unrealistic.

So long as R. Spero does not produce a satisfactory response to these questions, I fail to see why his theory should be taken as a valid Torah position, let alone accepted as true.

DANIEL EIDENSOHN  
Jerusalem, Israel

TO THE EDITOR:

There seems to be an inherent contradiction on the cover of *Tradition* Vol. 33:2, Winter 1999. The subtitle reads, “A Journal of Orthodox Jewish Thought”, and yet the title of the first article, by Rabbi Shubert Spero, asks if the stories of the Garden of Eden and the Flood were metaphors—hardly Orthodox Jewish Thought. Furthermore, the article itself seems to conclude that indeed they were metaphors.

The Torah's account of the Flood consists of descriptive passages including dates and names of the persona involved, whose genealogy is listed in detail, and clearly refers to an historical event. Based on the talmudic maxim, “*ein mikra yotsei midei peshuto*”, no Orthodox commentator in history has ever interpreted such a sort of passage as metaphorical. Following R. Spero's reasoning one might also conclude that the

forefathers, the Exodus and the giving of the Torah were all metaphors.

R. Spero cites two verses as a source for his thesis that explicit passages in the Torah can be interpreted as metaphor: 1) "Cities . . . fortified to the heavens", and 2) "Circumcise . . . the foreskin of your hearts". He seems to be confusing two meanings of the word "metaphor". A metaphor employed as a figure of speech in describing a real occurrence is not the same as the use of a metaphorical story, which never happened, to convey an idea. Certainly, R. Spero would agree that the cities which were "fortified to the heavens" were cities which actually existed, even though a metaphorical figure of speech was employed to describe them.

R. Spero also cites Ramban, who states that only by virtue of a miracle could the Ark have contained as many animals as it did, to conclude that since it was a miraculous occurrence a judgment has to be made if it was an historical event. The connection between the two is unclear. Would R. Spero reason that because the splitting of the Red Sea was a miracle, a judgment has to be made as to whether it was a metaphor?

R. Spero further implies that the creation of Adam is a metaphor. He writes that punctuated evolution, the current theory of many evolutionists, prepared the groundwork for "that strain of man in whom a moral spark had taken hold". In other words, there were many strains of man, but through Divine Guidance only the one which had the moral spark survived. This is quite a deviation from the way the Torah describes the creation of man.

Unfortunately, R. Spero's article is based on an obsequious acceptance of the latest theories of evolution and cosmology as absolute truth. Such faith is unwarranted for, as many writers have recently shown, these theories are based on meager information and massive conjectures. The only absolute faith which a Jew should have is in the truth of the Torah, within the bounds of legitimate interpretation based on *Hazal* and *rishonim*. Sadly, this seems to have been neglected by R. Spero.

YOSEF HAKOHEN  
Jerusalem, Israel



## TRADITION

TO THE EDITOR:

I, and I assume many other readers, would be very interested in hearing how Shubert Spero would explain, or reinterpret, the numerous unambiguous statements made by *Hazal* that indicate that the story of Noah and the Flood was an actual historical occurrence. For example, when *Hazal* (*Avot* 5:2) speak of the ten generations from Adam until Noah and the Flood, it is clear that they are not speaking metaphorically. Additionally, when *Hazal* (*Sanhedrin* 107b-108b) speak of the sins of “the generation of the Flood”, as well as the level of righteousness obtained by Noah for which he merited being saved, it is clear that they are referring to one specific historical event.

Furthermore, it is important to note that *Divrei ha-Yamim*, one of the sacred books of *Tanakh*, leaves no room for doubt that “real history” starts with Adam, not only with the *Avot*. This history includes Noah.

In summation, while it may be possible to learn *additional* lessons from the Flood which were not mentioned by *Hazal*, it is not clear to me how an account that is contradicted by both the written and oral tradition, can be considered legitimate “Orthodox Jewish Thought”.

(RABBI) YITZCHOK ORATZ  
Lakewood, NJ

SHUBERT SPERO RESPONDS:

I am grateful to Daniel Eidensohn for the opportunity to clarify my views.

1. The principle of *ein mikra yotsei midei peshuto* need not be taken as absolute (as does the Maharats Chajes) in the sense that it holds true without exception in all types of Torah expression. Even in the area of halakha there is an exception (*Yevamot* 24) which is, however, justified by the support of a *gezera shava*. However, in non-halakhic areas such as narratives, poetry and theology there is an equally authoritative principle of *dibera Torah ke-lashon benei adam* which tells us that the words and sentences of the Torah in these areas are not a “private language” and may be interpreted according to the usages prevailing in natural languages generally. Thus, since people sometimes use language metaphorically with the intention that the literal meaning be ignored, so too, the Torah. Rambam makes it clear that when “the literal sense

(*peshat*) of any passage in the Torah contains statements that can be refuted by proof *or* are contrary to the fundamental principles of our religion, then it must be rejected” (*Guide* II 25). Therefore, according to Rambam, any passages that attribute corporeality to God must be interpreted otherwise. Similarly, there is his famous hypothetical that had the philosophers been able to prove the eternity of the universe, we would be compelled to so interpret the account in Genesis although it would be contrary to the *peshat*.

There is also the view of Menahem haMeiri (*Bet Habehira* on *Avot* 3:14; see note 1) that the material in the Torah can be divided into three groups: 1) passages in which we must reject the apparent meaning (*nigla*) and accept the hidden meaning (*nistar*); 2) passages where we accept only the *nigla* and not the *nistar* (such as the laws and the commandments); and 3) where both are to be accepted and sometimes necessary. As examples of the first group, haMeiri cites passages which describe God in corporeal terms and the story in *Genesis* 11:4, where the people say: “Come let us build a city and a tower *with its top in heaven . . .*” They could not have meant it literally! It is only the way people speak.

2. In connection with the story of the Garden of Eden, I indicated that one who accepts the story literally, while missing the deeper meaning, will nevertheless derive some truth. This is the case where “*ein hasippur yotsei midei peshuto legamrei*”.

3. My suggestion that the story of the flood be seen as metaphor does not originate in some “conflict in science”. To the contrary, I am aware of the work of two scientists who have recently discussed evidence of a large flood in this area during this period (William Ryan & Walter Pitman, *Noah’s Flood: The New Scientific Discoveries About the Event that Changed History*). Either way, I have no difficulty believing in miracles if that is what the Torah is telling us. For the thinking, believing reader the important question is how does the Torah *want* me to read this? For example, does the Torah wish us to believe that God stopped the sun so that Joshua could complete his battle? If you believe that *ein mikra yotsei midei peshuto* holds everywhere, then the answer is in the affirmative. However, Ralbag argues very cogently (and not because of any conflict with science) that that is *not* what happened. What is involved here is a philosophical question before you ever get to the text. Can we discover any criteria for deciding under what circumstances God performs miracles? Rambam tells us it is only when there is a need for one (*Yesodei HaTorah* 8:1). Here Ralbag asks, is it reasonable

to assume that God would perform the greatest miracle in all just so that Joshua could finish his battle before dark?

What prompts me to see the flood as metaphor is: 1) The discoveries of evidence of the many destructions and extinctions of a global nature which took place in earlier periods through which the *right* kind of humans, animals and plant life managed to survive thanks to Divine Providence. These would remain unremarked by the Torah if the flood story were taken literally. 2) Was there no other way for God to preserve the desired species except by the means recounted in the story of Noah, *as literally understood*? Does the Torah want me to believe that it was by means of a single three-tiered wooden ark that God preserved life on this planet, or is this an analogical metaphor for a much larger, more complex and much more marvelous process that natural history is gradually revealing?

I would place the flood story in HaMeiri's third category. For here, too, there are many aspects of the story, even if taken literally, which convey elements of the Torah's message.

4. Nowhere do I suggest that the "presence of unrealistic elements" is sufficient reason to read a story as a metaphor. I say only that it alerts us to the *possibility* of metaphor. Thus, the occurrence of unrealistic elements after the appearance of Abraham which marks the beginning of *real history* would not by itself suggest metaphor (see my article, p. 13). I also made it quite clear to any serious student of the Torah that there never was any question that in the area of *mitsvot* there is no alternative to the literal meaning. I therefore see nothing in my article that would imply or lead to "allegorization of the entire Torah and *mitsvot*".

In his attempt to distinguish between two "uses" or "meanings" of metaphor, Yosef Hakohen states: "A metaphor employed as a figure of speech in describing a real occurrence is not the same as the use of a metaphorical story which never happened, to convey an idea. . . ." This is not so. Of course, the cities referred to in *Deut.* 1:28 "really existed". In *describing* the height of the fortifications the Torah uses a metaphor ". . . up to the heaven", which means we do not interpret these words literally; i.e., the walls did not reach the heavens but were very high. But so also with the story of Adam in *Gan Eden*. Here, too, something most significant for all mankind "really" and "actually" occurred between Adam and Hashem, only the Torah chooses to *describe* what happened in the language of metaphor. This means that we are not to look up *ets hada'at* in the catalogue of the botanist nor a talking *nahash* in the encyclopedia of the zoologist. Rather, these terms may

represent other more general things which the context may suggest and which we are challenged to discover.

As I said in my article, the power of a good metaphor is such that because of the analogic similarity between the words (*mashal*) and the reality (*nimshal*), one who takes the story literally learns something of the truth, nevertheless. In other respects, the use of metaphor in the story of Garden of Eden is the same as in *Deut.* 1:28 and just as legitimate.

My appeal to unrealistic language as a clue to the possibility of metaphor is confined to the period of time of the subject matter in the title: Creation, Garden of Eden, the Flood. This is because we are dealing here with natural history and the early history of man and civilization which, by their very nature, present a problem of communication. Obviously, beginning with the stories of the Patriarchs at the very latest, the Torah is giving us history. Here, with its fundamental belief in the One Creator God who intervenes in history, it is to be expected that the Torah may record the occurrence of miracles. However, it is by no means clear that once we are in history proper, *every* description of an event which appears to be a miracle is to be taken literally. Consider *Joshua* 10:12, 13 and the comments of Ralbag on that text.

Mr. Hakohen finds that my allusion to “many strains of man” is a “deviation from the way Torah describes the creation of man”. I refer him to the Rambam in the *Moreh* (Part I, Chap. VII) who, on the verse in *Gen.* 5:3 that “Adam gave birth to a son in his own likeness, after his image and called his name Seth”, writes the following: “Those sons of Adam who were born before that time were not human in the true sense of the word; they had not “the form of Man” (p. 20 in the Friedlander translation).

Finally, in a personal note to Mr. Hakohen: While I am prepared to accept *missar* from anyone, it would be more helpful if it zeroed in on my true weaknesses. Happily, “an obsequious acceptance of the latest theories of evolution and cosmology as absolute truth” is not one of them, nor does anything I have written over the last 52 years reflect such a belief. What is truly sad is that so many of our literalists do not realize that in their holy zeal to save the Torah for Orthodoxy they are actually darkening the light of the Torah and distorting its truth. And that is not a metaphor.

In response to Rabbi Oratz:

1) I have never denied that *gedolim ve-tovim mimeni* hold that the entire account of the Flood is history.

## TRADITION

2) It may be possible to maintain that the Flood story contains metaphoric elements while retaining belief in the historicity of Noah, his family and the *seder hadorot*. See *Midrash Rabba* end of *Vayera* where Resh Lakish says that the story of Job is a *mashal*, although Job himself was an historical personage.