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## *A RUPTURE OF HER OWN*

Rereading Professor Haym Soloveitchik's essay took me back to its year of publication in 1994 and the familiarity with the reality he was describing. The transition from mimetic to text-based practice was nothing short of revolutionary. More observant Jews were studying Jewish texts than at any other time in Jewish history. The idea that we could find every answer in a text was astonishingly gratifying. To quote Soloveitchik, "For the text is now the guarantor of instruction, as the written word is both the source and the touchstone of religious authenticity" (94). Everyone and anyone could be partners in the tradition by opening a book and analyzing the written word. We could bring our acute, critical eye that was honed for reading literature, history, and political science and cast it towards texts of Torah, Talmud, Jewish philosophy and halakha. We could take our mimetic traditional practices and distill them through the lens of the text, upgrading them to something more profound, more engaged, more Godly. The questions were less about the "why" and more about the "how," "where," "what," and "when." It was the era of Halakhic Man. But in retrospect, it was also the beginning of the era of Halakhic Woman. For an observant woman in the '80s and '90s, this process opened up a world of text study, and thus a direct encounter with the core sources of halakha, previously unknown in the history of Jewish women.

The meteoric rise of day school education charted by Soloveitchik affected girls and boys equally since compulsory education laws mandated that all children be educated well into adolescence. In Modern Orthodoxy, this led to increasing demand for more educational opportunities in *limmudei kodesh*, parallel to the equal opportunities available in the secular academic environment. From the 1970s onward, the teaching of Talmud to women in traditional programs of study began, even if controversially. One of the concerns often heard from within the religious

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community was that women would not be content with one more layer of study. Just as women moved from nursing to medicine to surgery or from working as secretaries to paralegals to lawyers to judges and finally, Supreme Court justices, the rabbinic establishment recognized that learning and learned women might demand a similar trajectory, with rabbinic ordination at its apex. Despite the perceived threat and some outright opposition, women began studying a text that had previously been banned to them.

By the 1990s, the Era of Halakhic Woman was firmly underway. There was plenty of funding for women to study first Talmud and then halakha. Kollel-type programs with stipends were set up in New York and Jerusalem. Many of these programs, which recruited married women with children, arranged the study schedule around day care hours and school vacations. Women began completing courses of study that would allow them to work in the rabbinic courts as rabbinic pleaders after taking rigorous exams in Jewish divorce law. They began teaching Talmud in Orthodox high schools and post-high school seminaries, and finally, they began to answer halakhic questions, first in the myriad laws involving menstrual cycles and marital sexuality, previously only answerable by male rabbis, and then, on issues of Shabbat and Kashrut and more.

The slope became slippery indeed, when as feared, women (and men) began to explore the possibility of *semikha* for women. In fact, a small group of rabbis within the Orthodox establishment have begun ordaining women both in Israel and America; this is one of the most contentious issues facing Modern Orthodoxy today.

As a beneficiary of this revolution in Torah study, I wish to address my experience as a woman studying Torah texts over the last thirty years and how I have experienced the rupture and subsequent reconstruction in Jewish identity and practice in its wake. I was part of a small group of young women in the 1980s at Stern College interested in studying Talmud seriously. Although I had never studied Talmud as a text until 18, a feminist agenda and an intellectual challenge propelled me forward. If boys could do it, then so would I!

Gradually, in accordance with the principle of “*mitokh she-lo li-shmah, ba li-shmah*,” I began to recognize it as my personal spiritual heritage, fascinated by the simultaneous esotericism and yet, familiarity of the Talmud. It was fortunate that as I reached early adulthood, courses of study began opening up to provide women like myself with the ability to bridge the gap in their Talmud skills. After graduating from Stern College, I spent years studying Talmud at Matan before going on to study halakha in Nishmat’s Yoetzet Halakha program and then went back to Matan’s

Hilkhata program. The evolution of halakhic thought and application fascinated me spiritually and intellectually and gave rise to a longing to be part of the chain of transmission and education.

As I pored over the texts, I also began to recognize that the voices were of men talking about women but not represented by women. One early example comes to mind. We were studying the eighth chapter of *Sanhedrin*, specifically the topic of killing a would-be perpetrator to save him from a greater sin, such as murder or adultery, in effect taking justice into one's own hands and saving the victim. A third party is permitted to kill a man trying to rape a married woman since biblically adultery is a capital crime. However, he is not permitted to do so for an unmarried woman since sexual relations with her is not punishable by death. This was morally complicated for me. Rape is a heinous violent crime. That sexual violence against an unmarried virgin was not serious enough to warrant the same measure of extreme intervention as was warranted to save a married woman was incomprehensible. To further the incredulity, the Torah fines the rapist by obligating him to marry his victim and pay a fine to her father. It is often explained as being in the interest of the woman, so that she would not remain humiliated and abandoned. The (former) virgin was considered blameless and guaranteed the status and rights of a married woman and her father would receive monetary compensation, and after this, all is presumed well! This was difficult to reconcile as a young, modern woman new to Talmudic discourse. It called into question conflicts between tradition, text, interpretation, and morality. Our teacher, at the time a young and very serious Talmud scholar and congregational rabbi, seemed utterly surprised at how contentious a topic this was for the class of Stern students.

What was completely missing from the discussion of rape in rabbinic literature both there and elsewhere was women's actual experiences of such a violation. This absence of women's voices from the endless texts about women's bodies, signs of virginity, detailed discussions about menstrual flow, sexual permissibility, and breast development is jarring. Once uncovered from the shroud of traditional male-authored exegesis, many unsettling questions about female identity and agency emerge. And yet, it is also a window into a world that has direct impact on halakhic practice and Jewish ritual.

The challenge that came with learning text was seeing the words through a lens it had never been held up to—the lens of women's perceptions, thoughts, and considerations. Hand in hand with slowly gaining mastery over the language and skills necessary to study and understand Talmudic texts and codes of law, came the growing recognition that I was

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reading these texts differently than the men who were teaching me or my male counterparts who were studying the same thing. While most men are able to delve into the legal conversations in an impersonal way, my experience from the world of a women's beit midrash is that one cannot remain indifferent to statements that objectify women in a way that is no longer acceptable in modern society.

The initial rush which came with the privilege of Talmud study morphed into a life-long experience of ongoing connection. Studying Talmud allows me to access the most seminal Jewish text after the Torah. It connects me to my past and illuminates my present and future. There is a sense of awe in listening to the voices learning and interpreting the Torah as they have for thousands of years. No topic is too small or mundane and the many stories and narratives give insight into personal and theological struggles. It is an intellectual challenge and a spiritual anchor. Moving from the Talmud into the vast world of halakhic codification, I better understand how I am meant to live my life in a constant encounter with the divine. Torah study has a vibrancy and passion that invites connection through questioning and exploring and provides the guidelines and boundaries I need for this ongoing journey.

However, in my pursuit of knowledge and understanding, there is also a sense of alienation. I cannot ignore that the world of Talmud is a world of hierarchy. In that hierarchy men have more *mitzvot* and obligation in the private and public sphere, serve as witnesses and judges on rabbinic courts, acquire women in marriage, and have exclusive control over divorce, all of which translate into more stature and worth. This is best exemplified in a classic Talmudic discussion: if a man and woman are drowning and only one can be saved, the man takes precedence because his life is worth more as a result of his greater obligations to Torah and *mitzvot*.

Not surprisingly, I am most drawn to the texts that are the most challenging—and most directly relevant—for me. There is something ineluctably fascinating in reading about yourself through the eyes of another. Over and over again I return to the tractates of *Ketubot*, *Kiddushin*, and *Gittin* as well as the tractate of *Nidda*, circling the texts and re-immersing, searching for my voice in a sea of men's voices about women's bodies, women's experiences, and women's most intimate moments.

At times there was and continues to be, for me, a sense of disenchantment with, and disconnection from, a religious system that presents the gender divide with clarity and surety. Learning through texts, the conversation becomes opaque and less convincing. To illustrate, one of the major gender distinctions is women's exemption from positive time-bound

*mitzvot*. It is often presented definitively in Orthodoxy as the seminal proof that men and women are intended by God to fulfill different roles. I would go as far as to suggest that the foundation of gender separation rests greatly on this distinction. It is thus explained that there is no hierarchy that privileges men over women. It is simply the innate wisdom of the Torah that recognizes that men and women cannot be religiously fulfilled in the same way. This line of thinking synergizes with the explanation given for the blessing men say daily “Blessed are you God Who has not made me a woman.” Men are simply thanking God for the extra *mitzvot* bestowed on them as men; it is not meant to reflect a demeaning attitude towards women. However, a quick look at the original statement in Tractate *Menahot* (43b) suggests that the author of the blessing, Rabbi Meir, is in fact differentiating the elevated status of Jewish (literate) men from ignoramuses and women. If the blessing was for the privilege of having received a greater number of *mitzvot*, the blessing for not being an ignoramus would not be relevant since the ignoramus has the same number of *mitzvot* as all Jewish men! The explanation falls short again when the text reveals that Canaanite slaves and minors are in the same general category as women in terms of their obligation in *mitzvot*. Underaged males, of course, will graduate into full-fledged male members of Jewish society. Even before bar mitzva, they will be encouraged to lead parts of the service which do not require a prayer quorum. Canaanite slaves, if freed by their masters can choose to convert and will become “male” in terms of obligation and privilege. Women, however, will in some ways perpetually remain equivalent to children.

If men are obligated in prayer, and women, though obligated as well, are unable to be counted in the prayer quorum, there is a clear hierarchy that exists in the synagogue. This dissonance grows greater after studying the *baraita* in *Megilla* (23a): “All are called up to read the Torah, including women and minors. Women and minors are not called up due to congregational honor.”

The underpinning argument for partnership minyan is that congregational honor is in fact violated if women *cannot* have active participation in synagogue and be called up to the Torah. Partnership minyanim are staunchly non-egalitarian and pride themselves on having halakhic integrity. They require a *mehitza* divider between men and women. Ten men make up the *minyan*. Women are allowed only to lead the prayers that a minor male can lead. However, based on the passage in *Megilla* (and other later sources), women are called up for *aliyot* and read Torah. Participants are adamant that they reflect halakha in both their traditional and innovative applications of the text. The halakhic concept of congregational honor

has been reinterpreted for the present generation to reflect the original statement in *Megilla* without its qualifying condition – in deep conflict with halakhic interpretation and mimetic tradition that is more than two millennia old. Rabbinic authority has protested mightily, but partnership minyanim remain committed to their defined halakhic practice. This is a case where textual interpretation has challenged mimetic tradition in a way not described in Soloveitchik's article. The partnership minyan model presents a counterexample to what Soloveitchik was observing. He wrote that "a tireless quest for absolute accuracy . . . is the hallmark of contemporary religiosity" (73), but he was talking about the move towards stringency. Here the "tireless quest" leads towards leniency. This shift has caused tremendous conflict within Orthodoxy, challenging models of leadership, halakhic authority, and source interpretation.

The sense of dissonance becomes more acute when women seek written proof that the codes of dress and behavior mandated by religious society are justified. Dress style has always been mimetic, based on society's expectations and standards. In the Talmud, this is expressed in a series of short *sugyot* around the code called *dat yehudit* or Jewish practice which is concerned with the behavior and dress of (married) Jewish women in an attempt to prevent acculturation. Religious women today actually want to acculturate in their dress and are heavily influenced by fashion styles that largely fall far short of the modesty standards required by religious communities.

When my students unpack the sources and engage in text analysis on this topic, they are underwhelmed by how unrelatable and insufficient the sources seem. The Talmudic and post-Talmudic discussions on the topic are androcentric and are almost exclusively concerned with men's obligation to focus on the spiritual and not lose focus due to a women's partial bodily exposure during ritual practice. There are no fully parallel restrictions on men or is there any mention of female sexual arousal that occurs with the interaction between the genders.<sup>1</sup> While inevitable in modern Jewish institutions, text study on matters of dress, hair covering, and women's singing voices can lead to a complete delegitimization of the topic. This is largely as a result of the absolute emphasis placed on the written word as the repository for finding truth. There has been a reframing of these issues, in part by women who talk about modest dress in terms of female empowerment and self-respect which injects a positive vocabulary into the discourse. However, this falls short of explaining why a certain skirt or sleeve length or skirts versus pants are the necessary criteria to mirror those important values. Text study struggles to meet the challenge of such pressure and when examined carefully, can fail to convince.

Soloveitchik wrote, “The world now experienced by religious Jews, indeed by all, is rule-oriented and in the broadest sense of the term, rational. Modern society is governed by regulations, mostly written and interpreted by experts accounting for their decision in an ostensibly reasoned fashion” (87). The fortress of halakha as a monolithic institution passed down from Sinai is at times eroded when text study brings to light the spectrum of interpretation and the various external influences that infiltrates rabbinic decision making. In a post-modern world, halakha can be perceived as a religious legal system that has no absolute truth associated with it. Young people fall betwixt and between both in their rejection of absolute truth and, simultaneously, a desire to have proven without a shadow of a doubt that God spoke to Moses at Sinai and dictated both the Written and Oral Laws as one. My own experience has been that in today’s source-based learning environment, the “touchstone of religious authenticity,” as it were, invites new challenges to the foundations of religious life. Often, rigorous text study, especially on women’s issues, but not only, can lead to disillusionment. The demystification of halakhic sources unmasks the fragility of the entire construct which at times can be shattering. There is a growing sense that in this generation the entire system of halakha is on trial! I spend many hours discussing and defending its integrity, value, and truth with students after teaching contemporary halakhic issues. For some, text study liberates, providing tools to grapple with and reconcile our tradition and lending context to the structure. This, however, does not always lead to stricter devotion. Often students feel at liberty, because of the learning, to pick and choose what speaks to them. For others, there remains an unsettling sense of the arbitrary, and meta-questions of faith and belief hover implacably in the background.

I believe that we are at a seminal time in Jewish history. The walls of the academy might be tilting forward and backward to regain equilibrium, but the inner core is solid and strong and will withstand. The challenge is to find more nuanced and authentic ways to teach the sources but simultaneously admit that not everything is text-based and the values and traditions that have been passed on through the generations are as much at the core of our Jewish identity and observance as the text itself.

<sup>1</sup> The yearbook *Tehumin* recently published a responsum by R. David Stav noting this imbalance and imposing laws of dress and conduct on men in parallel. This is a response to contemporary reality and women’s response to the imbalance of the halakha which affects only them. See David Stav and Avraham Stav, “Laws of Modesty for Men” [Hebrew], *Tehumin* 39 (2019) 208–220.