Much Ado About Women

On the Orthodox Union's ban on women's ordination and shifting notions of authority in America's Orthodox community.

Coco C.H. van Beveren - 0748536
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1. Introduction

1.1 *Women in the rabbinate: a brief history*

The question of women's ordination has a lengthy history. In 1889, Mary M. Cohen, a journalist and communal activist, broached the topic in a short story titled "A Problem for Purim," published on the front page of Philadelphia's *Jewish Exponent*. In the story, set a few days before Purim, Lionel Martinez, a student preparing to become a minister,[1] invites a couple of friends over to discuss Jewish matters. Though he is not sure whether all his friends will agree, he decides to include three women in the discussion circle. They meet at his house; Martinez is elected chairman and presents the topic for the evening: ministers and their work. They discuss sermons and someone brings up the possibility of exchanging pulpits in order to invigorate things. In response, Dora Ulman, one of the female invitees and superintendent of a local sewing circle, poses the unexpected and provocative question: "Could not-our *women*-be-ministers?"[2]

In almost every decade since Cohen's female protagonist posed this question, the challenge to the male hegemony over the rabbinate was raised in different sectors of American Jewry, albeit mostly in hypothetical debates. However, parallel to these theoretical considerations, beginning in the 1920's, against the backdrop of the women's suffrage movement and generally heightened expectations for gender equality, a small number of women enrolled in rabbinical school. They hoped to complete the curriculum and receive ordination, like their fellow (male) students. The interwar years, moreover, saw pioneers exercising informal rabbinic leadership, though eventually many of these women settled down, taking on the role of wife, mother, and exemplary Jewish volunteer.[3]

Nonetheless, the barrier that had kept women from entering the rabbinate was finally removed in the second half of the twentieth century, when several factors in American Jewish life coalesced. To begin with, the second wave of American feminism, which began in the 1960s, reignited earlier calls for women's admission to the professions. As women fought for access to places that until then had been closed to them, the elite rabbinic seminaries, ordaining only men, became yet another institution to take on. The long history of debating the ordination of women and the fact that more and more American and American-Jewish

[1] At the time, the term "ministry" was commonly used to refer to the rabbinate.
[2] Pamela S. Nadell, *Women Who Would Be Rabbis: A History of Women's Ordination 1889-1985* (Boston: Beacon Press, 1998): 1-2.
[3] Pamela S. Nadell, "Rabbis in the United States," *Jewish Women: A Comprehensive Historical Encyclopedia,* February 27, 2009, retrieved April 7, 2019, from https://jwa.org/encyclopedia/article/rabbis-in-united-states.

women, many married and with children, were entering the workforce, led many women to ask why the doors of the seminaries continued to shut them out.[4]

Reform Judaism was at the forefront of the debate on women's ordination. In 1968, Sally Priesand was admitted to Hebrew Union College-Jewish Institute of Religion (HUC-JIR) rabbinic school. She became America's first female rabbi ordained by a seminary on June 3, 1972, receiving her ordination from Alfred Gottschalk, then president of HUC.[5] In the same year that Priesand was admitted to HUC-JIR rabbinic school, Reconstructionist Judaism, once the liberal wing of the Conservative movement, opened the Reconstructionist Rabbinical College in Philadelphia, welcoming both men and women. In 1974, Sandy Eisenberg Sasso received her ordination there. Conservative Judaism was no less engaged in the debate on women's ordination than the Reform movement. On the eve of Priesand's ordination, in spring 1972, a group of Conservative feminists demanded equality within their movement. A long struggle ensued, stirring up dissension among Conservative leadership. Finally, in October 1984, the Jewish Theological Seminary (JTS), the movement's main rabbinic seminary, voted in favor of admitting women to the rabbinic school. In 1985 Amy Eilberg became the first female rabbi in the Conservative Movement.[6]

Orthodoxy is the last group in which women actively pursue a role in the rabbinate. In 1984, months after the JTS took its historic vote on the issue, Blu Greenberg, founder of the Jewish Feminist Orthodox Alliance (JOFA), wrote a paper titled "Will There Be Orthodox Women Rabbis?"[7] In the paper, Greenberg described how "the Modern Orthodox community, if not exactly abuzz, [was] certainly examining the issue from a sober, somber distance."[8] She recalled one of her friends, jokingly, saying, "The party line is this: the Orthodox will accept women as rabbis - when the Reform and Conservative ordain goyim."[9] Nevertheless, Greenberg herself expressed the firm belief that the ordination of women in Orthodoxy would unfold gradually, starting with the creation of institutions of higher learning for women, followed by a small number of rabbis who would be willing to ordain the new class of learned women, and, eventually, the acceptance of female leadership by the community.[10] In fact, learning opportunities for Orthodox women have increased significantly, with a growing number of women completing courses of study in Torah and Jewish learning. At the same

[4] Nadell, "Rabbis in the United States."
[5] Pamela S. Nadell, "Sally Jane Priesand," *Jewish Women: A Comprehensive Historical Encyclopedia,* February 27, 2009, retrieved April 7, 2019, from https://jwa.org/encyclopedia/article/priesand-sally-jane.
[6] Nadell, "Rabbis in the United States."
[7] Blu Greenberg, "Will There Be Orthodox Women Rabbis," *Judaism,* 33:1 (1984) 23-33.
[8] *Ibid.,* 23.
[9] *Ibid.,* 23.
[10] *Ibid.* 32.

time, Reform, Reconstructionist and Conservative Judaism provide the Orthodox community with models of female rabbis.

In 2009, Sarah Hurwitz was the first Orthodox woman in the United States to become a rabbi, or rather, *rabba.*[11] She received ordination from Rabbi Avi Weiss who, together with Hurwitz, founded Yeshivat Maharat (YM), a learning institution dedicated specifically to training women as leaders and ordaining them as rabbis. The Orthodox rabbinic community was outraged, accusing Weiss of sabotaging his community, corrupting the Torah and cheapening the word of God.[12] The founding of YM, however, does not stand on its own. In 1997, Weiss – who received his ordination from the Rabbi Isaac Elchanan Theological Seminary (RIETS) of Yeshiva University (YU), a bastion of modern Orthodoxy – coined the term Open Orthodoxy to describe his own liberal vision for Orthodoxy. His ideology is open and inclusive in its acknowledgement and consideration of a wide range of voices and Orthodox in its fervent commitment to *halacha* (Jewish Law).[13] Open Orthodoxy developed in reaction to Modern Orthodoxy's rightward shift that started in the 1970's, with many Orthodox communities becoming increasingly religiously conservative and isolationist.[14] Open Orthodox institutions include Yeshivat Chovevei Torah (YCT), the progressive Orthodox rabbinic school for men founded by Weiss in 2000, the International Rabbinic Fellowship, and, of course, YM. From the onset, Open Orthodoxy has been strongly criticized by central and conservative streams within the Orthodox community. Notwithstanding criticism, since 2009 YM has ordained over twenty Orthodox women and states on the website that it "encourages [their] graduates to use the professional title most appropriate to them, in consultation with the communities they serve."[15] Today, graduates from YM adopt a variety of titles*: rabba*, *maharat* (an acronym for *manhiga hilkhatit ruhkanit toranit* meaning leader of halakhah, spirituality, and torah), *rabbanit* (a title originally used for the wife of a rabbi), and rabbi.[16] Lila Kagedan is the first Orthodox woman

[11] *Rabba* is the feminine form of rabbi.
[12] Abigail Pogrebin, "The Rabbi and the Rabba," *New York Magazine,* July 11, 2010, retrieved April 7, 2019, from http://nymag.com/news/features/67145/.
[13] Avraham Weiss, "Open orthodoxy! A Modern Orthodox Rabbi's Creed," *Judaism* 46, no. 4 (1997): 418, retrieved May 29, 2019, from https://search.proquest.com/docview/1304359712?accountid=12045.
[14] Chaim Waxman, "From Institutional Decay to Primary Day: American Orthodox Jewry Since World War II," *American Jewish History* 91. no. 3 (2003): 415, retrieved May 29, 2019, from https://muse.jhu.edu/article/181176.
[15] Retrieved April 7, 2019, from https://www.yeshivatmaharat.org/mission-and-p2.
[16] Simon Rocker, "Meet the new feminist faces of Orthodoxy," *The Jewish Chronicle,* July 15, 2018, retrieved April 7, 2019, from https://www.thejc.com/news/news-features/jofa-dinner-1.467129.

to adopt the title *rabbi* and serve as the sole rabbi at an Orthodox congregation.[17]

However, the question of women's ordination does not end here. The Orthodox community, though small, making up approximately 4 percent of the American Jewish population, is very diverse. Data from an in-depth survey conducted in 2017 by Nishma Research indicates a growing schism in the Orthodox community: the right and center shifting strongly further to the right and the left moving slightly more to the left.[18] Among the issues examined to explore the fragmentation of the Orthodox community was the role and status of women. The question of women having expanded clerical roles *with* a title signifying their rabbinic authority proved to be "the issue with the greatest divide between left and right, no matter where the 'dividing line' is placed."[19] This shows that to many in the Orthodox community the question of women rabbis remains, as it has been for over a century, a *question*.

1.2 A firm 'no' from the Orthodox Union

In February 2017, the Union of Orthodox Jewish Congregations of America (more commonly referred to as the Orthodox Union or the OU) answered the over a century old question – "Could not-our *women*-be-ministers?" – with a firm 'no.' The OU, the largest umbrella organization of Orthodox synagogues in the United States, issued a statement announcing a new policy barring women from serving in clerical roles. In effect, this means that a woman cannot hold the title of *rabbi* or even serve in a role in which she would perform clergy functions, such as officiating at weddings and funerals, delivering sermons or ruling in matters of *halacha.* Prompted by "a number of requests from member synagogues and their lay leadership and or rabbinic leadership for *halachic* guidance in this area,"[20] the OU commissioned a study, for which a special rabbinic panel convened. The new policy adopts the panel's rabbinic ruling, maintaining that "women serving in clergy roles, holding clergy titles is at odds with *halacha* and *mesorah* (tradition),"[21] while at the same time urging the community to "focus [its] energy and communal creativity on increasing and enhancing the

[17] Uriel Heilman, "Trailblazing Orthodox Rabbi Lila Kagedan Stands on 'Shoulders of Giants,'" *The Forward,* January 13, 2016, retrieved April 7, 2019 from https://forward.com/news/329916/trailblazing-orthodox-rabbi-lila-kagedan-stands-on-shoulders-of-giants/.
[18] "The Nishma Research Profile of American Orthodox Jews," 9, September 28, 2017, retrieved April 7, 2019 from http://nishmaresearch.com/social-research.html.
[19] *Ibid.,* 13.
[20] Josh Nathan Kazis, "Exclusive: Orthodox Union Adopts New Policy Barring Women Clergy," *The Forward,* February 2, 2017, retrieved April 27, 2019 from https://forward.com/news/362043/orthodox-union-adopts-policy-barring-women-clergy/.
[21] "Orthodox Union Statement," retrieved April 27, 2019 from https://www.ou.org/assets/OU-Statement.pdf.

contributions that women make to ours shuls and communities, rather than being consumed with limitations."[22]

Not surprisingly, the new policy adopted by the OU sparked debate within the Orthodox community which, as we have seen, is diverse and particularly divided on the question of female clergy. For example, maharat Ruth Friedman, who works at Ohev Sholom – The National Synagogue in Washington, D.C. – said, "it is jarring for the O.U. to be coming out and condemning this [OU member synagogues hiring female clergy] when so many communities are moving ahead with this."[23] Meanwhile, rabbi Avi Shafran, director of public affairs for the ultra-Orthodox advocacy group Agudath Israel for America, expressed his full support for the OU's new policy in an editorial titled "The OU is Right: Orthodox Women Shouldn't Be Rabbis."[24] Leah Sarna, a student at YM at the time the OU released its statement, was less outspoken on the matter. While she disagreed with the OU decision, she admitted to understanding "the wariness that some Orthodox Jews have toward ordaining women as rabbis after thousands of years of a male-only rabbinate."[25] Like those Jews wary of women entering the rabbinate, Sarna "appreciates the weight of tradition."[26] This left her, and many others, conflicted on the OU's new policy: "On one hand it hurts. On the other hand, I'm not sure I would want it to be any other way."[27]

1.3 *Research question*

With its Statement, the OU appears to be drawing a line in the sand, creating further division in a community that is already dealing with "anxieties about the border of Orthodoxy." According to some, "the result has the potential to tear the movement apart." Surely, a discussion ensuing from a decision that may have such significant consequences merits further, in-depth exploration.

A concept that figures prominently throughout the discussion on the (im)permissibility of women's ordination is *authority.* First, in its Statement, the OU asserts that, "(a)s Orthodox Jews we believe in the deference to rabbinic authority."[28] For centuries, a measure of

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[22] "OU Statement," 8.
[23] Ben Sales, "Facing OU Synagogue Ban, Orthodox Women Clergy Say They'll Keep Working," *The New York Jewish Week,* February 6, 2017, retrieved 27 April, 2019 from https://jewishweek.timesofisrael.com/facing-ou-synagogue-ban-orthodox-women-clergy-say-theyll-keep-working/.
[24] Avi Shafran, "The OU is Right: Orthodox Women Shouldn't Be Rabbis," *The Forward,* October 18, 2017, retrieved 27 April, 2019, from https://forward.com/opinion/385146/the-ou-is-right-orthodox-women-shouldnt-be-rabbis/.
[25] Sales, "Facing OU Synagogue Ban."
[26] *Ibid.*
[27] *Ibid.*
[28] "OU Statement," 6.

religious authority has been attached to the concept of the rabbi and to his person. However, the difference of opinion on whether or not women should be allowed to receive ordination calls into question the authority of the office of the present-day rabbi. Second, one may question the authority of the OU, both the organization in general and the Statement in particular. The mere fact that among OU member congregations some synagogues "have chosen to have women assume rabbinic roles and responsibilities, or rabbinic titles,"[29] and other members of the Orthodox community hold that, "no bureaucratic statement will be able to stem [the] tides of change,"[30] begs the question as to how much weight the OU Statement actually carries. Last, the elaborate response of the rabbinic panel, whose members are described in the OU Statement as "leading Rabbinic authorities," [31] reveals which sources drawn from Judaism's centuries-long tradition of interpretation, study and discussion these rabbis consider authoritative, to the extent that an argument which has such impact on the community is built upon them.

Following the OU's Statement banning women from serving in clerical roles, *The Lehrhaus*, an online forum for discourse in the Orthodox community, convened a symposium to reflect on the decision, which was officially adopted as policy at an OU board meeting on February 1, 2017. The reactions from all 17 participants in the symposium, published on *The Lehrhaus'* website between 15 and 28 February 2017,[32] are the sample of responses that will form the heart of this research. The symposium contributors, all rooted within the Orthodox community, give voice to nuanced and varied perspectives on the issue. I set out to closely examine what this discussion, which ensued from the OU Statement, reveals about *shifting notions of authority* within the Orthodox Community. In order to do so I will first introduce a *definition of authority*, followed by a discussion of the main sources of authority in Judaism. Second, I will turn my focus to the rabbinic panel: reviewing who were deemed sufficiently authoritative to decide on such a highly charged issue and how they proceeded. Then, I will concentrate on the *symbolic significance of women's ordination*. This will give insight on the OU's motive for adopting a policy that does not align with the practice of some of its members and, moreover, might potentially result in a schism. This forms the last stepping stone toward an analysis of the responses in *The Lehrhaus* symposium in chapter 5. Finally, piecing all elements together, I will critically assess what the discussion following the OU

[29] "OU Statement, 2.
[30] Shira Eliassan, "Ignore the OU – Orthodox Women Rabbis Are Here to Stay," *The Forward,* February 8, 2017, retrieved April 28, 2019, from https://forward.com/sisterhood/362592/ignore-the-ou-orthodox-women-rabbis-are-here-to-stay/.
[31] "OU Statement," 3.
[32] Www.thelehrhaus.com.

Statement on female clergy teaches us about shifting notions of authority within the Orthodox community. Building on the analyses and its conclusion, as well as taking into account the most recent developments regarding the OU Statement, I will discuss possible consequences of the OU's policy and present suggestions for further research.

1.4 *Research method*

The OU Statement has ignited a heated discussion, taking place both online and offline, with exchanges ranging from carefully formulated deliberations to "adrenaline driven protestations."[33]

In the following, I will offer a qualitative discourse analysis of this discussion. *The Lehrhaus* symposium provides a kaleidoscopic view on the issue: all contributors are rooted in the Orthodox community but are at the same representative of the community's great diversity. Through close-reading – of the OU Statement, the rabbinic panel's response and the symposium contributions – I have identified lines of argument that run throughout the debate on women's ordination and pertain to the central focus of this research, *shifting notions of authorities.* I have conducted extensive literature review in order to establish the conceptual framework and broad historical context for the analysis.

[33] Jeffrey R. Woolf, "Mesorah in the Teachings of Rabbi Joseph B. Soloveitchik," 1, retrieved May 12, 2019, fromhttps://www.academia.edu/25716225/Mesorah_in_the_Teachings_of_Rabbi_Joseph_B._Soloveitchik_1_זצ_ל

2. The concept of authority in Judaism

2.1 *A definition of authority*

It is no easy task to define the word 'authority.' In everyday life, it refers to things of entirely different natures. To illustrate, a person can *be* an authority, *have* authority, *grant* authority, or have a run-in with *the authorities.*

A comprehensive definition of the word, or rather, concept, is offered by Naomi Osorio-Kupferblum (University of Vienna) in her article, "Conceptualising 'Authority.'"[34] She sets out by distinguishing between the use of authority as a descriptive form of reference and authority as a property. *The authorities* are an abstract object or entity. These public institutions oversee specific activities, ensuring that people and organizations engaged in said activities abide by the rules, or administrate activities in other ways. Border authorities, municipal authorities, and tax authorities are examples of such institutions. They *are* authorities, because they *have* authority. The name is descriptive of this particular property. The same applies to a person who *is* an authority. Someone is called an authority when he or she is knowledgeable in a specific area, to such an extent that people trust his or her knowledge and will therefore follow the authority's advice or instruction. Here, too, one *is* an authority, because he or she possesses the property of authority. Thus, in a first step towards her definition, Osorio-Kupferblum, brings focus to the property 'authority,' and concludes that this property has two parties: one party that *has* the authority and others who *do* things a certain way, because of that authority.[35]

As a second step in formulating a definition, Osorio-Kupferblum separates the concept at hand from two contiguous concepts, namely power and respect. Power and authority are easily confused or conflated.[36] So far, we have learnt that authority consists in a relationship between two parties: one that has the authority, the authority figure, and one that accepts the authority by acting in a certain way because of it, the agent. In many definitions, authority is described from the point of view of the authority figure, stressing the power dimension of the relationship. For example, we see this when authority is explained as "a power to enforce obedience," "the capacity for exercising ascendency over a group," or "a manifestation of

[34] Naomi Osorio-Kupferblum, "Conceptualising 'Authority,'" *International Journal of Philosophical Studies,* 23:2 (2015): 223-236, DOI: 10.1080/09672559.2015.1020828.
[35] *Ibid.,* 224.
[36] *Ibid.,* 224-225.

power."[37] However, the differences between power and authority are significant.

Osorio-Kupferblum describes power as the ability to do something *oneself,* even when the action consists in making someone else do something. For instance, a person's power can lie in making people do something they would not do otherwise. She goes on to explain that it is this particular point that leads to the confusion with authority. As opposed to power, authority is the ability to make *someone else* do something. One could say that it is exercised passively; no action on the part of the authority figure is necessary in order to prompt the agent to action. He or she acts *voluntarily.* Though some persuasion on the part of the authority figure may be involved, it is the agent who chooses to act. Any coercion or force by the person or institution possessing the authority would make it a matter of power. So, Osorio-Kupferblum goes on to conclude, whereas power is an ability that can be had without being exercised, authority consists entirely in the agent's *voluntary action.* Without the action, there can be no authority, making it a strictly non-dispositional property. This brings her to the following, provisional definition:

> *A person S_1 has authority if she makes another person S_2 volunteer to do something she would not have done otherwise.*[38]

Like authority, respect is entirely voluntary; it cannot be brought about by force. Instead, both respect and authority can only be had or earned, even without the person who has the respect or authority knowing about it. In fact, Osorio-Kupferblum explains, the person with the respect or authority need not even exist. Take for example Santa Claus in the case of little children, or, some would argue, deities in religious traditions. For the other person to believe that he or she exists is enough. What sets respect apart from authority is the fact that one can respect a person without ever being prompted to action, due to that respect, whereas authority consists precisely in a person's action, as we have seen in the foregoing. However, Osorio-Kupferblum points out, respect does play a role in authority. It is highly unlikely that a person (agent) would volunteer to act prompted by (certain beliefs he or she holds about) an authority figure, if he or she did not respect the authority. It follows that while respect is necessary for authority, it is not sufficient.[39]

Osorio-Kupferblum continues her conceptualization by discussing what kind of action

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[37] Clyde H. Reid, "Toward a Definition of Authority," *Journal of Religion and Health,* 6:1 (1984): 8-9, DOI: 10.1007/BF01533390.
[38] Osorio-Kupferblum, "Conceptualising 'Authority,'" 225.
[39] *Ibid.,* 225-226.

prompted under someone's influence constitutes authority. She starts with an example: someone could make a funny face, causing a person to laugh. Though the person's laughter is voluntary and would not have happened had the other person not made the funny face, this hardly qualifies as a case of authority. This example shows that there appears to be a restriction to the kind of actions performed under one's influence that constitute authority. We have already established that respect is a necessary condition for authority. An action performed under someone's influence, thereby conveying authority, could be an action that the respected person recommends. However, Osorio-Kupferblum continues, this does not have to be the case, since in many cases the authority figure is not aware of the authority he or she has. As less stringent option is an action that the authority figure approves. Again, the difficulty is that the authority figure might be unaware of the action performed under his or her influence and therefore be unable to approve or disapprove. Moreover, if the authority figure does not exist, approval as a condition for prompting action is ruled out in principle. Osorio-Kupferblum infers that this leaves only the agent's *beliefs.* However, she does not do away with the option of approval entirely, as many authorities are in the business of issuing approval. Instead, she holds that the concept of approval can be made part of the agent's beliefs.[40] Taking this into account, the earlier, provisional definition is emended as follows:

> *A person S_1 has authority if another person S_2 voluntarily does something she would not have done otherwise because she believes that S_1 would approve of it.*[41]

Formulated this way, the definition is open to all options: from an authority figure (S_1) that actually offers instruction, recommendation or (dis)approval to an authority figure that merely exists in the imagination or beliefs of the agent (S_2).

Since my focus in this research lies with shifting notions of authority, it is important to also consider different *forms* of authority, based on the outside grounds an agent may have for investing authority. In her conceptualization, Osorio-Kupferblum identifies three different forms of authority. The strongest form is *personal authority,* given to a person due to something about their personality, be it a strong presence, great charisma, or being a natural leader. With this type of authority, the impression the authority figure makes on the agent is so great that the agent acts in a way he or she believes the authority figure thinks he or she

[40] Osorio-Kupferblum, "Conceptualising 'Authority,'" 226.
[41] *Ibid.*, 227.

should, solely because he or she believes the authority figure thinks he or she should act that way. The second form of authority Osorio-Kupferblum discusses is *acquired authority,* which is dependent on (perceived or assumed) expertise.[42] It is this kind of authority that makes a person turn to a doctor (but not, for example, a mechanic) for medical advice or follow a recipe from a renowned chef. However, it is important to note that "acquiring expertise in an area is neither necessary nor sufficient for obtaining acquired authority."[43] Instead, what counts is that those who can give a person authority *believe* that person truly is an expert, that is, the best expert available. Sometimes, acquired authority can turn into personal authority. *Bestowed authority,* the third form Osorio-Kupferblum identifies, "is authority connected to a specific position or office and a person will have it only because and while she is in that position or holds that office."[44] With this form, the agent acts in accordance with what he or she believes the authority figure wants, because he or she has consented to the authority figure being in a position to decide for him or her. A person in a position of bestowed authority – for instance, a judge, a president or a teacher – can also have both acquired authority as well as personal authority.[45]

Any discussion of authority in Judaism, cannot bypass the authority of texts. Prima facie, the authority of a text is located in its author(s). If we regard the person as the central locus of authority, then written communications are valid expressions of that person's ideas. In such cases, the authority of the author extends to the person's writings. However, in some cases, the authority of the writings cannot be equated with the authority of its author(s). Some texts have an authority that is best described as *irreducible authority.* The nature of this particular type of authority can differ. First, there are texts that maintain a grip on a particular culture, which deems the text worthy of close reading and on-going analysis. Second, texts can live in their usage by a culture, functioning as a reference text. Authority then follows from the frequency with which the texts are consulted, cited, and used to decide other issues. For other texts, the nature of the authority is the fact that they are deeply embedded in the way of life of a community.[46]

To sum up, we have seen that authority as a property is the ability to make people voluntarily act in a certain way that they would not have done otherwise, because they believe the authority figure would approve it. Also, we have established that the authority figure does

[42] Osorio-Kupferblum, "Conceptualising 'Authority,'"228.
[43] *Ibid.,* 228.
[44] *Ibid.,* 229.
[45] *Ibid.,* 229.
[46] Michael S. Berger, *Rabbinic Authority* (New York: Oxford University Press, 1998), 10.

not have to be a person. It may very well be an institution, a fictional character or a text. The actions performed under the influence of the authority figure are not necessarily grand gestures. It is often simply the forming of a belief, opinion, preference or conviction.[47]

I will use Osorio-Kupferblum's twofold definition to assess the authority of the sources and persons involved in formulating the response of the rabbinic panel, the OU's policy and the ensuing discussion.

2.2 *Authority in Judaism*

We have learned that authority can be taken to mean different things, and – even when more clearly defined – can take different forms. This is precisely what we encounter when we turn our focus to authorities within Judaism.

2.2.1 *Accepting the yoke of the kingdom of heaven*

The Ten Commandments begin with the words "I am the Lord your God." At first glance, this simple statement of fact seems redundant, in particular to anyone who had experienced the Exodus from Egypt. These opening words gave rise to the question why the Commandments did not simply begin with the first command. In reply, the rabbinic sages put forth a parable, explicating that the decrees of a king do not carry any weight if the people do not accept his kingship. So too, God's authority must first be recognized, before he can command his subjects. The rabbis called this recognition of the authority of God *accepting the yoke of the kingdom of heaven.* This acceptance is the sine qua non of any subsequent authoritative, religious command. It is the authority of Moses and the revelation at Sinai that stand behind rabbinic authority.[48] Not accepting the yoke of the kingdom of heaven, i.e. the ultimate authority of God, annuls the authority of Moses, of the revelation, and any religious authority that has built upon that.

2.2.2 *Authoritative texts*

Sacred, authoritative texts make up an important part of Judaism. In addition to religious precepts, the texts embody the historical, cultural and social heritage of the Jewish people.[49] In what follows, I will briefly discuss the most important documents in Judaism.

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[47] Osorio-Kupferblum, "Conceptualising 'Authority,'" 227.
[48] Stephen Wald, "Authority," in *20th Century Jewish Religious Thought: Original Essays on Critical Concepts, Movements and Beliefs,* ed. Authur A. Cohen and Paul Mendes-Flohr (Philadelphia: Jewish Publication Society, 2009), 29.
[49] "Jewish Sacred Texts," retrieved May 5, 2019, from https://embassies.gov.il/UNGENEVA/ABOUTISRAEL/PEOPLE/Pages/Jewish-Sacred-Texts.aspx.

The *Tanakh* is the Hebrew Bible and consists of three parts: *Torah* (lit. 'teaching'), *Nevi'im* (Prophets) and *Ketuvim* (Writings). All three parts were composed over a period of centuries and are attributed to different authors. The *Torah,* the first part, lies at the heart of all Jewish, sacred texts and consists of the five books of Moses. These books tell the story of the creation of the world, God's covenant with Abraham and his kin, the Exodus from Egypt, the revelation at Mount Sinai and the wandering of the Israelites in the desert. In addition to the Ten Commandments, the *Torah* contains hundreds of laws concerning moral, ethical and ritual matters. In relation to the other parts of the Hebrew Bible, the *Torah* has a unique status for several reasons. First, the events narrated in the five books of Moses are central to and assumed by the other biblical books. Second, other biblical books often refer to the *Torah* or allude to its passages. Within Jewish tradition, the *Torah* also holds a special place. This is due to the significance of the events narrated and the laws contained in it.[50] The second part of the *Tanakh,* the book of the Prophets, consists of historical writings that deal with the period between the settlement of the Jews in the Land of Israel and their exile to Babylon, as well as moral and religious exhortations of the Prophets. The third and last part of the Hebrew Bible, the Writings, entails liturgical as well as secular poetry, wisdom literature and historical writings.[51]

The Bible, a text deemed worthy of close reading and on-going analysis, gave rise to commentaries, which became sacred texts in their own respects. In part, this was driven by the need to apply the laws and (eternal) truths in the text to man's ever-changing reality. According to tradition, at Mount Sinai Moses did not only receive the Written Law, the *Torah* as found in the Bible, but also the authoritative interpretation of the Written Law, called the Oral Law. A rich oral tradition ensued, dedicated to study and interpretation of both the Written and the Oral Law. These discussions and teaching were handed down from rabbis to student, from generation to generation.[52] Faced with a great number of traditions and interpretations, especially after the destruction of the Temple in 70 C.E., rabbinical leadership began the process of arranging and editing the material. The final result of these efforts was the *Mishnah,* whose composition or editing was attributed to Judah I (second century C.E),

[50] Richard Elliot Friedman et al., "Pentateuch," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 731.
[51] Nahum M. Sarna et al., "Bible," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 576.
[52] Rosetta C. Musaph-Andriesse, *Wat na de Tora kwam. Rabbijnse literatuur van de Tora tot Kabbala* (Baarn: Uitgeverij Ten Have, 1973), 25-26.

patriarch of Palestinian Jewry.[53] The *Mishnah* caught the attention of subsequent scholars, became the starting point of academic discourse, and the foundation for most ensuing discussion of Jewish Law (*halakhah*). The authority and central place of the *Mishnah* is evident in the fact that for the next centuries *halakhah* developed as a commentary to the *Mishnah.*[54]

The contents of the *Mishnah* were extensively studied, discussed, elaborated on, and amended by a class of rabbis called the *Amoraim* (third to sixth century C.E.). This resulted in the compilation of the Babylonian and the Palestinian *Talmud,* voluminous works that cover the full gamut of Jewish law and tradition. In effect, both *Talmudim* constitute a collection of commentaries, reports, and complements to the *Mishnah.* Though both *Talmudim* contain many of the same teachings, the Babylonian *Talmud* became more important and is still considered more authoritative. This can be explained by the fact that the situation of the Jews in the Land of Israel worsened in the fourth century C.E., causing many sages to flee to Babylonia, leaving the *Talmud* in its rudimentary form. Meanwhile, in Babylonia, centers of learning flourished, which allowed for a comprehensive and complete redaction of the Babylonian *Talmud*.[55] Just as the *Mishnah* is discussed in the *Gemara,*[56] the *Talmud* is not without its commentaries. One of the best-known commentaries on the *Talmud* is the work of the medieval French rabbi Rashi (1040-1105), which dates from the eleventh century. His commentary has superseded the work of his predecessors, is lauded as being colorful and an excellent aid to students for understanding the text.[57]

Though the texts discussed thus far deal extensively with matters of law, not one constitutes a true code of law. The post-Talmudic era saw the development of *halakhic* literature*,* intending to capture vast *Talmudic* material into comprehensible rules for both religious use and the administration of autonomous communities. In the twelfth century, Maimonides (1135-1204) compiled his magnum opus, *Mishneh Torah.* Daringly breaking with Jewish tradition – though falling in line with the encyclopedic trend of the medieval world of his time – Maimonides' work only provides the directives of the law, without

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[53] Menachem Elon, "Codification of Law," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 767.
[54] Berger, *Rabbinic Authority,* 121-122.
[55] Yehuda Shurpin, "What Is the Talmud? Definition and Comprehensive Guide," retrieved May 5, 2019, from https://www.chabad.org/library/article_cdo/aid/3347866/jewish/What-Is-the-Talmud-Definition-and-Comprehensive-Guide.htm.
[56] The term Gemara refers to the discussions and elaborations of the Amoraim on the Mishnah. It is also used to designate the Talmud as a whole. ("Gemara," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 423.)
[57] Aaron Rothkoff, "Rashi," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 104.

mention of the differing opinions or the Talmudic source. In his view, presenting both the rejected and the accepted arguments would only confuse and limit the practicality of his book. For this innovative approach, Maimonides was both admired and vehemently criticized. Nonetheless, his *Mishneh Torah* greatly influenced subsequent codification of the law. [58] Among those influenced by Maimonides was Rabbi Joseph Caro (1488-1575), chief among the codifiers of post-Talmudic times. His *Shulhan Arukh* (lit. 'the prepared table') is to this day the standard legal code of Judaism. The code thanks its universal acceptance in part to the fact that it lists the difference in both customs and laws of Ashkenazic and Sephardic Jewry. The four sections of the code deal with laws of prayers and holidays, diverse laws (including dietary laws and rules relating to charity), laws concerning marriage and divorce and Jewish civil law.[59]

In sum, Jewish authoritative texts flow forth from a centuries long tradition of interpretation, study, and discussion, reaching back to the revelation at Mount Sinai of both the Written and the Oral Law. The sacred texts have a firm grip on Jewish culture and are therefore the subject of close reading and on-going analysis. Also, the sacred texts function as works of reference that are consulted, cited and used to decide other issues. Above all, the texts are deeply embedded in the way of life of the community.

2.2.3 *Rabbinic authority*

As we have seen in the foregoing, an important principle of Judaism is the belief that, together with the Written Law, Moses received the Oral Law, comprising all the *halakhah* not explicit in the Written Law. The sages of the Talmudic era (approx. 70-500 C.E.) further distinguished between that part of the Oral Law based on a tradition passed on from generation to generation, from the time of Moses, and a part to be created and developed by scholars, with help of the principles taught to Moses. Not denying the divine nature of the source of Jewish law, the sages asserted the human element and thus the authority of *halakhic* scholars in *every generation* to develop and shape the laws. They took this exclusive, human authority to decide in matters of *halakhah* to an extreme, maintaining, "the Torah was given to be determined by human intelligence, even if human intelligence errs."[60] Moreover, the continuity and vitality of Jewish law demands that scholars of every generation exercise their

[58] Elon, "Codification of Jewish Law," 770-772.
[59] Louis Isaac Rabbinowitz, "Shulḥan Arukh," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 529-530.
[60] Menachem Elon, "Rabbinical authority," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 703-704.

authority to develop the *halakhah.* The objective of the sages in exercising their authority was (and is) twofold: while they were concerned with the on-going evolution and development of the *halakhah,* they were equally engaged in preserving the spirit, orientation, and continuity of Jewish law.[61]

Traditionally, all Jewish leaders had to be ordained in order to be able to decide on matters of Jewish law. The Hebrew word for ordination, *semikhah,* literally means leaning or placing on, specifically of the hands. The Bible recounts how Moses ordained Joshua by placing his hands on him. In a similar way, Moses ordained 70 elders, who in turn ordained their successors and so forth. Thus, a chain of ordination was realized from Moses to the time of the Second Temple, granting a certain degree of authority to the phenomenon of ordination.[62] After the Bar Kokhba Revolt (132-135 C.E.), the Romans forbade the granting of ordination as part of a campaign to end the spiritual authority of the Jewish court. It is believed, however, that the practice was not discontinued until the late fourth century.[63]

Through the changing conditions of Jewish life and transformations in the functions of the rabbinate, ordination acquired new meanings. Today, rabbinic ordination is granted by a written document that indicates the person has acquired enough knowledge and understanding to answer questions of Jewish law and become a leader of a religious community.[64] Often, ordination is granted by an institution, such as a yeshiva or rabbinic school. However, private ordination by an individual rabbi is certainly possible. In fact, Sara Hurwitz, the first Orthodox woman in the US to be ordained, received private ordination from Rabbi Avi Weiss.[65]

Recognition of rabbinic ordination is not absolute, and certainly constitutes a question that is becoming increasingly complicated. For example, a number of American Orthodox rabbis are not recognized by the Chief Rabbinate in Israel, though no clear criteria for denying their credentials are formulated.[66] Outside of Orthodoxy, the question of recognition of ordination also arises, with rabbis even receiving online ordination after completion of a

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[61] Elon, "Rabbinical authority.".
[62] Isaac Levitats et al., "Semikhah," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 274.
[63] *Ibid.,* 275.
[64] "Jewish Practices and Rituals: Rabbinical Ordination (Semikha)," *Jewish Virtual Library,* retrieved May 12, 2019, from https://www.jewishvirtuallibrary.org/rabbinic-ordination-semikha.
[65] Julie Zauzmer, "In a break with tradition, Orthodox Jewish women are leading synagogues," *The Washington Post,* July 28, 2018, retrieved May 12, 2019, from https://www.washingtonpost.com/news/acts-of-faith/wp/2018/07/28/in-a-break-with-tradition-orthodox-jewish-women-are-leading-synagogues/?noredirect=on&utm_term=.2fbb7e30f324.
[66] Jeremy Sharon, "Leaked Letter: Chief Rabbinate Blacklisted Dozens of U.S. Orthodox Rabbis," *The Jerusalem Post,* May 28, 2018, retrieved May 12, 2019, from https://www.jpost.com/Israel-News/Leaked-letter-Chief-Rabbinate-blacklisted-dozens-of-US-Orthodox-rabbis-558553.

correspondence course. Some argue that, "just like there is an explosion of ways and permutations of being Jewish that are far from 'normative,' so there is inevitably an explosion of new ways to become a rabbi."[67] Conversely, others have described the rise of so-called non-traditional rabbis with questionable credentials as "a dire threat," and even "a plague."[68]

It is important to note that the position of rabbi has also changed significantly over time. In many communities – especially, but not exclusively, those removed from Orthodoxy – it is no longer sufficient for a rabbi to possess extensive knowledge of Talmud and religious codes. This modern debate about what a rabbi should know can be traced back to the 19th century, when German-Jewish philosopher Mendelssohn strove to give study of the Biblical text primacy over the traditional emphasis on study of Talmud in Jewish education. During the Jewish Enlightenment (*Haskalah*) this anti-Talmudic spirit was widespread.[69] Today, the role of rabbi has expanded and no longer automatically indicates the title-bearer's mastery of Talmud and Jewish law. The modern American rabbi has become a multifaceted religious leader, with both pastoral and professional skills, and "(a)dditional functions, such as social worker, grievance counselor, Hebrew school principal, and even synagogue CEO (…)."[70]

2.2.4 Mesorah: *the authority of tradition*

In the debate on women's ordination, it has been argued countless times that allowing women to join the rabbinate is a breach with tradition, or *mesorah* (lit. 'that which was passed on'). The elusive character of *mesorah* is evidenced by the myriad meanings assigned to it. Nevertheless, bringing together different viewpoints on *mesorah* can certainly shed light on its multi-dimensional character.

Rabbi Joseph B. Soloveitchik (1903-1993), who is recognized as "the ultimate legitimator of Modern-Orthodoxy,"[71] has written and spoken on the topic of *mesorah* a number of times. Review of these discussions, as presented by Dr. Jeffrey R. Woolf of Bar Ilan University, reveals that in Soloveitchik's view, *mesorah* is much broader than the written elements of Jewish civilization. Instead, it entails much that is unwritten, namely "the

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[67] Stewart Ain, "Maverick Ordinations Spark Probe in Conservative Movement," *The New York Jewish Week,* July 11, 2018, retrieved May 12, 2019, from https://jewishweek.timesofisrael.com/maverick-ordinations-spark-probe-in-conservative-movement/.
[68] Josh Nathan-Kazis, "Online-Ordained Rabbis Grab Pulpits," *Forward,* December 3, 2012, retrieved May 12, 2019, from https://forward.com/news/166946/online-ordained-rabbis-grab-pulpits/.
[69] Azriel Schochat et al., "Haskalah," in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 436.
[70] Adam S. Ferziger, *Beyond Sectarianism* (Detroit: Wayne State University Press, 2015), 154.
[71] Woolf, "Mesorah in the Teachings of Rabbi Joseph B. Soloveitchik," 1, retrieved June 30, from https://www.academia.edu/25716225/Mesorah_in_the_Teachings_of_Rabbi_Joseph_B._Soloveitchik_1_%D7%96%D7%A6_%D7%9C.

unstated assumptions and values that envelop and inform, fashion and channel Jewish Life and Observance." [72] Moreover, Soloveitchik held that the *mesorah* was "no less authoritative for its being passed on orally."[73]

These *unstated* assumptions and values are also present in the discussion of *mesorah* by Rabbi Micha Berger, co-founder of The AishDas Society, a right-wing organization committed to advancing meaningful worship in the Orthodox community. He, too, draws from Soloveitchik's thinking, when he introduces *mesorah* in the meaning of mimetic tradition, transmission by culture and example. Berger distinguishes between different meanings of the expression 'having a *mesorah.*' First, it can refer to someone having a received practice and cultural tradition, such as Shabbat traditions passed on from father to son. Second, it can refer to having a strong student-teacher lineage. Either way, he concludes, *mesorah* entails "the importance of all that Torah, that doesn't fit into books."[74]

Rabbi Herschel Schachter, a former student and assistant of Soloveitchik, also puts emphasis on the student-teacher lineage in his work on *mesorah.* He holds that "*mesorah* is not primarily a corpus of knowledge, but a process of accessing a chain of student-teacher relationships that reaches back to Sinai."[75] Part of this process, according to Schachter, is consulting with teachers and scholars when one is uncertain about a matter of *halakhah.* Accepting these teachings constitutes a commitment to *mesorah*.[76]

Mesorah plays a big part in two fields of tension with which Orthodox Jews grapple, autonomy vs. authority and continuity vs. change. These beg the question of exactly how authoritative the *mesorah* is*,* what lies within *mesorah* and what not, and, who decides that.[77] It is important to note that both Soloveitchik and Schachter have made clear that in order for change to be valid, it must conform to *mesorah*, not just (technical) *halakhah.*[78] Change and *mesorah* form a complex pair. On the one hand, *mesorah* constitutes continuity harking back to Moses at Sinai, which can serve to protect the religious tradition from challenges in modern times. On the other hand, the implicit, unwritten nature of the *mesorah,* allows for advocates of leniency and reform to maintain the continuity of tradition, while at the same time forgoing the stringency of *halakhah.*

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[72] Woolf, "Mesorah in the Teachings of Rabbi Joseph B. Soloveitchik," 3.
[73] *Ibid.,* 3.
[74] Micha Berger, "What Does Mesorah Mean?," *Torah Musings,* August 31, 2015, retrieved May 12, 2019, from https://www.torahmusings.com/2015/08/what-does-masorah-mean/.
[75] *Ibid.*
[76] Gil Student, "Symposium on Masorah: Introduction," *Torah Musings,* May 20, 2016, retrieved May 12, 2019, from https://www.torahmusings.com/2016/05/symposium-masorah-introduction/.
[77] *Ibid.*
[78] Berger, "What Does Mesorah Mean?"

2.2.5 Minhag: *the authority of custom*

Minhag, custom, is assigned great significance in Jewish law. In addition to *halakhic* rulings by scholars, Jewish law recognizes – be it in certain circumstances and upon fulfillment of particular requirements – consistently followed courses of conduct as binding legal norms. As such, *custom* constitutes a legal source and can be considered *anonymous legislation.*[79]

As a legal source, custom can have three different functions. First, custom can serve as the decisive factor in the event of disputing opinions with regard to a particular *halakhic* rule. In effect, this means that in case of a dispute between halakhic scholars on a matter of law, custom decides the issue, even when it contradicts the accepted rules of decision.[80] Second, custom can add to the existing *halakhah,* in the event practical realities give rise to problems for which no answer is available. Finally, custom can establish new norms, which contradict existing *halakhah.*[81]

Three requirements have to be met in order for a custom to be deemed valid. To start, the custom has to be widespread, over the particular locality or among the whole class of people it concerns. Then, the custom must be of frequent application, though the exact time for a custom to develop is not determined. Rather, that depends on the nature of the issue and is, therefore, different in every case. Finally, the custom must be clear. If the custom is open to doubt, that which the law of the *Torah* decrees takes prevalence.[82] Obviously, not all behavior is custom. Nor is every custom valid to a degree that it can decide, add to or contradict Jewish law. Nevertheless, the dynamic between *minhag* and *halakhah* allows for creativity and change within the parameters of Jewish tradition.

In sum, Judaism has a broad, diverse range of authoritative sources. All are built upon the ultimate, divine authority and interconnected. The tension between continuity and change demanded by practical realities drives the constant and on-going processes of interpretation and development of the law and tradition. Equipped with the tools necessary for evaluating arguments on matters of authority, we can now (re)turn our focus to the debate on women's ordination, starting with the ruling of the rabbinic panel.

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[79] Moshe David Herr and Menachem Elon, "Minhag," in in *Encyclopaedia Judaica,* ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 15, Macmillan Reference USA, 2007, 267-269.
[80] *Ibid.,* 269.
[81] *Ibid.,* 269-270.
[82] *Ibid.,* 274.

3. The rabbinic ruling on female clergy

3.1 *Introduction*

In February 2017, the OU issued a statement announcing a new policy barring women from serving in clerical roles at any of its member congregations across the United States. Basically, this means that a woman cannot hold the title of "rabbi" or even serve in a role in which she would perform clergy functions, such as officiating at weddings and funerals, delivering sermons or ruling in matters of religious law. Founded in 1889, today the OU is the leading umbrella organization for Modern Orthodox congregations in the United States, with several hundred member synagogues. In addition to being the world's most widely recognized kosher certification agency, the OU – in its own words – works to "engage, strengthen, and lead the Orthodox Jewish Community, and inspire the greater Jewish community."[83] After having received questions from member synagogues seeking *halakhic* guidance on the issue of female clergy, the OU commissioned a study into the matter, for which a special rabbinic panel convened.[84] The Union's new policy adopts the panel's rabbinic ruling, maintaining that "women serving in clergy roles or holding clergy titles is at odds with *halacha* and *mesorah*,"[85] while at the same time urging the community to "focus [its] energy and communal creativity on increasing and enhancing the contributions that women make to our shuls and communities, rather than being consumed with limitations."[86]

The OU Statement is not the first of its kind. In 2013, the Rabbinical Council of America (RCA) – an Orthodox institution with over a thousand members, most of whom are graduates from RIETS-YU – issued a statement, saying they "cannot accept the ordination of women or the recognition of women as members of the Orthodox rabbinate, regardless of the title."[87] The statement was issued in light of the inaugural graduation ceremony of YM, ordaining three of its graduates as Orthodox members of the clergy (*not* rabbis). Though the RCA did not take an official position on whether it is halakhically permissible to ordain women in clerical roles, the Council firmly contended that "traditional rabbinical roles have not been in the domain of women," neither historically nor traditionally. Executive vice president of the RCA, Rabbi Mark Dratch, called the ordination of women divisive and

[83] "About the OU," retrieved May 25, 2019 from https://www.ou.org/about/.
[84] Kazis, "Exclusive: Orthodox Union Adopts Policy Barring Women Clergy."
[85] "OU Statement," 7.
[86] *Ibid.,* 8.
[87] "RCA Statement Regarding Recent Developments at Yeshivat Maharat," *Rabbinical Council of America* (website), May 7, 2013, retrieved May 1, 2019, from https://rabbis.org/rca-statement-regarding-recent-developments-at-yeshivat-maharat/.

premature, saying, "(e)ven if it were permissible, it might not be good policy."[88] In October 2015, citing its previous statement, the RCA formulated its policy with regard to female rabbis in unequivocal terms. The resolution prohibited RCA members from 1) ordaining women into the Orthodox rabbinate, regardless of the title used, 2) hiring or ratifying the employment of a woman in a rabbinic position at an Orthodox institution or 3) allowing a title implying rabbinic ordination to be used by a teacher of *Limudei Kodesh* (Jewish religious studies) in an Orthodox institution. It deserves mention that the title of maharat was explicitly mentioned in the text as a title indicating ordination to which the resolution applies.[89]

The OU commissioned the rabbinic study regarding women in leadership positions in the aftermath of the 2015 resolution passed by the RCA. The ruling of the rabbinic panel should, therefore, be read in view of the RCA's official position on the matter and the tension between the Orthodox religious establishment's opposition to female clergy and the reality that in a number of congregations women already successfully fulfil leadership roles that closely resemble the function.

3.2 *Decision makers: the rabbinic panel*

Following the RCA policy, the OU found itself faced with the "challenge – and responsibility – to help define the contours of professional synagogue roles that may be played by women (…)."[90] In its February 2017 statement, four interrelated reasons for presenting the issue to a rabbinic panel were listed. First, many rabbis from OU-synagogues looked to the Union for definitive guidance in this difficult matter. Second, the OU was convinced that the community would benefit greatly from a detailed response regarding women's professional roles in the synagogue. Furthermore, as we have seen, certain synagogues had already chosen to have women take on rabbinical roles and responsibilities, as well as rabbinic-like titles. It was the OU's impression that whereas parts of the community perceived these practices as "as aspects of Orthodox communal practice not necessarily governed by halacha," others within the community believed the practices to be "halachically impermissible." Lastly, as an Orthodox lay-organization, the OU considered it highly important to respond to the religious issues in

[88] Batya Ungar-Sargon, "Orthodox Yeshiva Set to Ordain Three Women," *Tablet Magazine,* June 10, 2013, retrieved, May 1, 2019 from https://www.tabletmag.com/jewish-life-and-religion/134369/orthodox-women-ordained.
[89] "2015 Resolution: RCA Policy Concerning Women Rabbis," *Rabbinical Council of America* (website), October 31, 2015, retrieved May 1, 2019, http://www.rabbis.org/news/article.cfm?id=105835.
[90] "OU Statement," 1.

the time-honored tradition of Orthodoxy, namely by presenting the questions to the community's foremost rabbinic authorities.[91]

In order to select the members of the rabbinical panel, the OU appointed a special community of lay leaders. This committee chose seven rabbis, who each enjoy "an exceptional reputation for scholarship and integrity" and count as "individuals to whom large segments of [the OU] communities' rabbis routinely turn for *psak* [*halakhic* decision-making, CvB] on issues of significance (…)."[92] The following *halakhic* scholars agreed to serve on the panel:

- **Rav Daniel Feldman** - Rosh Yeshiva, Rabbi Isaac Elchanan Theological Seminary, Yeshiva University; Rabbi of Ohr Saadya of Teaneck, NJ
- **Rav Yaakov Neuburger** - Rosh Yeshiva, Rabbi Isaac Elchanan Theological Seminary, Yeshiva University; Rabbi of Congregation Beth Abraham of Bergenfield, NJ
- **Rav Michael Rosensweig** - Rosh Yeshiva, Rabbi Isaac Elchanan Theological Seminary, Yeshiva University
- **Rav Herschel Schachter** - Rosh Yeshiva and Rosh Kollel, Rabbi Isaac Elchanan Theological Seminary, Yeshiva University
- **Rav Ezra Schwartz** - Rosh Yeshiva, Rabbi Isaac Elchanan Theological Seminary, Yeshiva University; Rabbi of Mount Sinai Jewish Center in Washington Heights, NY
- **Rav Gedalia D. Schwartz** - Av Beis Din of both Beth Din of America and Chicago Rabbinical Council
- **Ran Binyamin Yudin** - Rabbinic Faculty, Yeshiva University; Rabbi of Congregation Shomrei Torah of Fair Lawn, NJ [93]

It is remarkable that – with the exception of Rav Gedalia D. Schwartz – all scholars on the panel hold positions at YU. Rav Schwartz, however, is a graduate from RIETS-YU, where he received his ordination, as well as the chief presiding rabbi of the Beit Din of America, the RCA's national rabbinic court. The presumably homogenous character of the panel raises the questions who exactly the OU represents and who will accept their decision. The panel's

[91] "OU Statement," 2-3.
[92] *Ibid.,* 3.
[93] *Ibid.,* 4.

composition is certainly not representative of the increasing diversity within Modern Orthodoxy.

As part of the study, the OU invited feedback from community leaders, both men and women, through a series of forums held over the summer of 2016.[94] In addition, community members submitted brief, written statements outlining varying viewpoints. Thus, the rabbinic panel was able to consider a wide array of perspectives in their decision-making process.[95]

3.3 *The rabbinic ruling: an elaborate response*

The OU, prompted by its member congregations, put two questions before the rabbinic panel:

- Is it *halakhically* acceptable for a synagogue to employ a woman in a clergy function?
- What is the broadest spectrum of professional roles within a synagogue that may be performed by a woman?

3.3.1 *Halakhic methodology*

In its 17-page long ruling, the panel sets out by acknowledging both the complexity of the questions as well as the fact that the issue is emotionally charged: proponents of female clergy perceived limitations on women's roles as a barrier to their involvement in the community, while opponents viewed greater leniency in gender distinctions as a rejection of the *mesorah* (tradition). In effect, in the debate on female clergy, egalitarianism, a hallmark of modernity, and the Orthodox tradition of equally valued, yet different roles for men and women are diametrically opposed.[96]

The rabbis begin the presentation of their collective opinion by clarifying the *halakhic* method employed. They identify three factors that may be considered when developing a ruling: legal sources, precedent and a relevant *halakhic* ethos. Regarding legal sources, including both oral and textual rulings, the panel points out that many require interpretation or the application of principles. Therefore, significant experience in *halakhic* decision-making is an absolute requirement for reaching a reliable conclusion. Furthermore, in the case of complex issues with far-reaching implications and different spheres of impact, such as the

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[94] Elizabeth Kratz, "In Unprecedented Statement, Orthodox Union Condemns Women in Clergy Roles, Outlines Permissible Opportunities," *The Allgemeiner,* February 6, 2017, last accessed May 1, 2017, https://www.algemeiner.com/2017/02/06/in-unprecedented-statement-orthodox-union-condemns-women-in-clergy-roles-outlines-permissible-opportunities/.
[95] "OU Statement," 5.
[96] "Responses of the OU Rabbinic Panel," *Rabbinic Council of America* (website), 1, last accessed May 1, 2019, http://www.rabbis.org/pdfs/Responses-of-OU-Rabbinic-Panel.pdf.

questions at hand, a broader approach is required. In such cases, factors outside strictly legal sources should also be taken into account.[97]

Precedent, the second factor considered, concerns historical and widespread observance of a particular practice by the Torah's community. Prevailing normative practices establish a default position for *halakhic* decision-making and are assumed to reflect a basic truth that must be considered when dealing with innovations. Moreover, the community's failure or refusal to practice a particular custom or adopt certain behavior is deemed equally significant. As stated in the ruling, "the non-performance of a particular practice does constitute a *minhag,* and such a *minhag* attains a binding status." [98]

The *halakhic* ethos, the third factor, comprises those core values that direct worship of the Divine. It is best explained as a collective worldview (*Weltanschauung*) that emerges from the vast sea of *halakhah* and Torah thought. These central principles are uncovered through the examination of the *Tanakh, halakhah* and precedent. The Hebrew Bible contains numerous general injunctions that have played a significant role in shaping normative practice. So too, specific *halakhot* reveal fundamental principles and values that can guide the development and deeper understanding of the details of the *halakhah*. Precedent also shapes the collective worldview. Historical practice can serve as a source for general guidance, as precedent in a specific area of *halakhah* is understood to reveal fundamental truths and principles that shape the ethos. The *halakhic* ethos plays a crucial role, in that it provides guidance in addressing the unique *halakhic* challenges of every generation.[99]

3.3.2 Mesorah*: a bridge between the past and the future*

The panel expands the conceptual framework for its ruling with a discussion of *mesorah,* which they describe as follows:

> *Authentic mesorah is rather an appreciation for, and application of tradition as the guide by which new ideas, challenges and circumstances are navigated*.[100]

Mesorah is further explicated as being the cornerstone of both the preservation as well as the development of religious and spiritual heritage, bridging the past with the future. When

[97] "Responses of the OU Rabbinic Panel," 2.
[98] *Ibid.,* 2-3.
[99] *Ibid.,* 4-6.
[100] *Ibid.,* 6.

deciding on a proposed innovation, *halakhic* leadership should pay attention to the impact changes could have on generations even in the distant future. They should continually ponder the question whether changes sufficiently enable the community to advance the objective of an authentic Torah ethos.[101]

3.3.3 *Perspectives on women clergy*

Applying the *halakhic* method, the rabbis respond to the questions addressed to them by the OU, referencing all three factors: *halakhah,* precedent and the *halakhic* ethos. As far as *halakhah* is concerned, there are several legal preclusions to the appointment of women clergy. To begin with, Biblical exegesis on Deuteronomy 17:15 states that a woman cannot be appointed king. Maimonides extended this prohibition to include any position of formal, communal authority (*serarah*). Traditionally, rabbinical positions have been understood as the archetype of *serarah*. Thus, following Maimonides, these positions would only be open to men. The panel goes on to state that debating the ordination of women also brings forth questions with regard to the nature of *semikhah.* Regardless of the difference between classic (i.e. Talmudic) and contemporary *semikhah,* the latter must be viewed as an extension of the former. Different sources imply that classic *semikhah* involved, and possibly even centered on, designating individuals to serve as court judges. The majority *halakhic* view is that only men are eligible to be ordained as judges. Thus, being a continuation of the classic institution, even contemporary *semikhah* would be available only to men.[102] Underlying these *halakhic* reasons that bar women from serving as rabbis is the *halakhic* qualification of women as ineligible, unreliable witnesses. This classification stems from the sages notion of women as having frivolous minds. Women were not obligated to learn – or even forbidden to do so, a minority opinion – and, therefore, did not develop their minds and thinking processes. [103] Surely, this reasoning is predominantly sociological and appears to be at odds with today's Orthodox community in which women are "encouraged to share their Torah knowledge, and their enthusiasm and wisdom with the broader community."[104] Lastly, the rabbinic panel asserts that the sanctity of the synagogue requires a particular level of modesty (*tzniut*), as evidenced by the requirement of a *mechitzah* (a partition that separates women and men

[101] "Responses of the OU Rabbinic Panel,"*,* 7.
[102] "*Ibid.,* 8-9.
[103] Tirza Meacham, "Legal-Religious Status of the Jewish Female," *Jewish Women's Archive*, retrieved May 30, 2019, from https://jwa.org/encyclopedia/article/legal-religious-status-of-jewish-female.
[104] "OU Statement," 7.

during public prayer). According to the panel, "(t)his elevated demand for the separation of genders is incompatible with a woman presiding over a male quorum."[105]

The panel asserts that *halakhic* history provides evidence for the preclusion of women from serving as clergy or receiving ordination. However, historical and *halakhic* literature do show that women have long engaged in in-depth study of Torah, were appreciated and acknowledged, and impacted and guided the community, all without having received ordination or a formal rabbinic title. Based on the existence of female scholars throughout history, the rabbis of the panel draw three conclusions, i.e. that the notion of ordination for women was conceivable; that it was highly unlikely that the question had never presented itself until the present time; and finally, that a continuous tradition dictated against it. It is important to recall the earlier mentioned notion that the failure to adopt a practice constitutes a custom and may even be viewed as an objection to this practice. The panel considers the status quo meaningful and intentional, and concludes, "the burden of halakhic proof rests on the side of changing the established practice."[106]

Regarding gender roles, the *halakhic* ethos is evident in the Torah's affirmation of the equal value of men and women as individuals and servants of God, while clearly and consistently speaking of role differentiation. The panel emphasizes that both men and women are created equally and that there is no difference between the genders regarding personal and spiritual achievement. In fact, the majority of *halakhic* requirements apply to men and women equally. Nonetheless, both legal and extra-legal sources, including the Torah, evince the differences between the roles of men and women. Rav Soloveitchik maintained, "(t)wo humans were created who differ from each other metaphysically, not only physiologically, even as they both partake in Divine qualities."[107] For the rabbis on the panel, many laws - for example the distinction between men and women in the observance of positive time bound commandments - are indicative of men and women's different roles. They hold that these distinctions between the genders, which are particularly evident in the public arena, are much more than relics of the past; rather "they reflect a Torah ethos - a *mesorah* - of different avenues and emphases by which men and women are to achieve identical goals."[108] Appointing women to clerical positions would contradict the *halakhic ethos.*

[105] "Responses of the OU Rabbinic Panel," 9.
[106] *Ibid.*, 10.
[107] *Ibid.,* 11.
[108] *Ibid.*, 11.

For the reasons stated above, the panel's answer to the first question is a firm 'no,' "a woman should not be appointed to serve in a clergy position."[109] The rabbis add the following:

> *This restriction applies both to the designation of a title for women that connotes the status of clergy member, as well as to the appointment of women to perform clergy functions on a regular ongoing basis - even when not accompanied by a rabbinic title.*[110]

Thus, the panel's ruling closes the door not only on women who wish to receive formal ordination, but also on those women wishing to serve, or already serving their congregations, in clergy-like functions.

3.3.4 *Staying inside the lines: communal roles for women*

The second question addressed to the panel steers the focus away from limitations and prohibitions, and instead concentrates on how women can serve the community in a non-clergy capacity.

The rabbis underline that "(t)he restriction on assuming a clergy role has not precluded, and need not preclude, women from making vital and substantial contributions to the Jewish people."[111] This statement is followed by a non-exhaustive list of professional roles for women in a synagogue setting. Examples include serving as a visiting scholar in residence, serving in senior managerial and administrative positions, and serving as a synagogue staff member in the role of professional counsellor to address the spiritual, psychological, or social needs of the community.[112]

The panel gives special consideration to the role of the *yoatzot halakhah,* female *halakhic* advisors who consult on issues of *taharat hamishpachah* (family purity laws that govern the separation of husband and wife during and after the menstruation). Though they acknowledge the significant role these women have played, the panel encourages rabbis to take the steps necessary to make sure that their congregants feel comfortable to ask the community rabbi questions in the field of *taharat hamishpachah.* The function of the female halakhic advisers is distinct from clergy for different reasons. First and foremost, they only

[109] "Responses of the OU Rabbinic Panel," 12.
[110] *Ibid.,* 12.
[111] *Ibid.,* 13.
[112] *Ibid.,* 13-14.

offer advice, rather than rule or decide on disputed matters. Also, the female advisers are only specialized in a limited area of *halakhah* and they function outside the context of prayer services. Nonetheless, the panel encourages careful evaluation of the utilization of *yoatzot halakhah* by *poskim* (halakhic scholars) and the communities. In any event, "a *yoetzet halakhah* should only be employed with the approval of the synagogue's or the community's rabbis and should continue to work in close consultation with the local rabbi(s)."[113]

The panel concludes the ruling by encouraging the communities to address the genuine aspirations of women seeking new avenues to increase their involvement "in a manner compatible with halakhah and consistent with Torah values."[114]

Law, tradition and values make up the foundation of the argument against female clergy, and at the same time set the parameters for advancing the role of women in today's Orthodox society. However, women's ordination is not solely an issue concerned with delineating gender appropriate roles within the community. In fact, the issue holds significance for both intra- and intercommunal positioning. It is to this broader significance that we will now turn.

[113] "Responses of the OU Rabbinic Panel," 14-15.
[114] *Ibid.,* 16.

4. The symbolic significance of women's ordination

4.1 *Introduction*

For the majority of the Orthodox community, the ordination of women is – in the words of the rabbinic panel – one of many "societal trends which run counter to the ethos of Torah."[115] At the time of the issuance of the OU Statement, only a small number of its member synagogues, less than one percent, employed women in rabbinic capacities. Moreover, the OU did not act on its new policy, stating "there is a narrow exception for a handful of shuls that currently employ female clergy."[116] Nevertheless, the issue of women's ordination is highly consequential and divisive, as evidenced by the rise of Rabbi Weiss' Open Orthodoxy and the fact that 38 percent of the Modern Orthodox community strongly believes that women should have opportunities for expanded roles in the clergy as well as a title signifying their "rabbinic authority."[117]

There seems to be a disjunction between the policy formulated by the OU and the everyday practice of, admittedly, a small number of its members. However, taking into account that "highly qualified and dedicated women are increasingly assuming leading roles in Orthodox communal life,"[118] we cannot rule out the possibility that more than a handful of member congregations employ women in capacities that do not fall within the lines of the new policy.

In his studies on women's ordination, Prof. Dr. Mark Chaves (Duke University) describes this relation between rule and practice as *loose coupling* and infers from it that "formal denominational policies about women's ordination possess a symbolic significance"[119] that exceeds the practical implications. In what follows, I will discuss Chaves' explanation of both loose coupling and the symbolic significance of women's ordination, which will prove helpful in evaluating the OU's decision.

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[115] "Responses of the OU Rabbinic Panel," 6.
[116] Elizabeth Kratz, "Orthodox Union draws a line in the sand on female clergy, seeks compliance from member synagogues," *Jewish News Syndicate,* January 31, 2018, retrieved May 31, 2019 from https://www.jns.org/orthodox-union-draws-a-line-in-the-sand-on-female-clergy-seeks-compliance-from-member-synagogues/.
[117] Hannah Dreyfus, "First-Ever Survey Of Modern Orthodox American Jews Reveals Fragmented Community," *The New York Jewish Week,* September 27, 2017, retrieved May 31, 2019, from https://jewishweek.timesofisrael.com/53-of-modern-orthodox-jews-believe-women-should-have-expanded-roles-in-clergy/.
[118] "OU Statement," 1.
[119] Mark Chaves, "The Symbolic Significance of Women's Ordination," *The Journal of Religion,* 77, 1 (1997): 111, referred to by Judith Frishman, "The Ordination of Women and the Question of Religious Authority," in *Gender and Religious Leadership: Women Rabbis, Pastors and Ministers,* ed. Bomhoff et al. (Lanham, MD: Lexington Books, forthcoming).

4.2 *Loose coupling: the relation between rules and practice*

Drawing from theories in the study of organizational change, Chaves argues that "formal rules about gender equality in religious denominations are only loosely coupled with the actual practice of women and men in congregations."[120] He lists three elements that support his argument. First, policy changes regarding the ordination of women do not correspond with trends in the number of women actually seeking clergy status. To illustrate, before 1970, women did not pursue clerical positions, even in denominations that allowed women's ordination. After 1970, women increasingly wanted to join the clergy, even in denominations that did not (yet) allow their ordination. Second, women have since long taken on significant leadership roles, even when formally denied such positions, and continue to do so. Last, policies that allow for women's ordination do not necessarily lead to gender equality in practice. Chaves considers this loose coupling as an indication that the rules are a response to external, institutional pressure, rather than solutions to actual, internal problems. Sources of pressure include both waves of the women's movement and the formal acceptance of gender equality in the professions. In some denominations, recognition of these pressures has resulted in acceptance, while others have persisted in resisting.[121]

Chaves explains that religious denominations "appear to be most influenced by the behavior of denominations they understand to be most like them."[122] He hypothesizes that denominations that perceive themselves as similar to denominations that grant women formal equality will institute women's ordination earlier than those denominations that see themselves as different from these liberal denominations. In a recent article on the ordination of women, Prof. Dr. Judith Frishman (Leiden University) adds to Chaves' hypothesis that "fear of being perceived as dissimilar by those on the right could lead to resistance."[123] For Modern Orthodoxy, allowing women to enter the rabbinate would alienate them from the Orthodox camp. Open Orthodoxy provides an excellent example. Considering that this movement has been accused of having adulterated "the essence of what the world has called Orthodoxy for generations,"[124] the impact that the decision to grant women ordination can have on a community's position is not the be underestimated.

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[120] Mark Chaves, "Ordaining Women: The Diffusion of an Organizational Innovation," *American Journal of Sociology,* 101, 4 (1996): 843, referred to by Frishman, "The Ordination of Women."
[121] *Ibid.,* 843-845.
[122] *Ibid.,* 851.
[123] Frishman, "The Ordination of Women," 6.
[124] Avi Shafran, "Be Honest: Open Orthodoxy Is Not Orthodoxy," *Haaretz,* October 28, 2013, retrieved June 1, 2019, from https://www.haaretz.com/opinion/.premium-be-honest-open-orthodoxy-is-not-orthodoxy-1.5280912.

4.3 *Denominational identity: the symbolic significance of women's ordination*

As mentioned above, Chaves deduces from the loose coupling of rules and practice that policies on women's ordination have a symbolic significance. Denominations shape their identity partly by their policies on women. As a result, (refusing) women's ordination has become an essential marker of denominational membership.

Two cultural elements seem important in the spread of women's ordination and, accordingly, the shaping of denominational identity: whether a denomination is highly sacramental and whether it considers the bible inerrant.[125] At first glance, these elements do not seem relevant when looking at Jewish denominations. Frishman explains, however, that "there are certain parallels when it comes to the degree to which revelation is understood as a divine, one-time event (*tora mi-Sinai*) and halachic decisions are to be based on precedence and normative practice with little or no consideration for extra-legal (e.g. historical or teleological) arguments."[126] For these biblically – or in the case of Orthodox Judaism, *halakhically* – inerrant denominations the maleness of the clergy constitutes part of the core identity. Refusing women to join the clergy represents "resistance to 'modernism' and the gender equality perceived to come with it."[127] This explicit connection between women's ordination and modernism proves particularly challenging for Modern Orthodoxy, the movement's foundational assumption being that "it is indeed possible to combine fidelity to traditional Judaism with modern values and understandings."[128] With its Statement, the OU firmly positions itself in the Orthodox, *halakhically* inerrant camp, at a clear distance from those denominations that do welcome women into the rabbinate. At the same time, Rabbi Avi Weiss' liberal vision for Orthodoxy, realized in the Open Orthodox institutions, threatens Modern Orthodoxy's position in the Orthodox community. The ordaining of women by a movement that (self) identifies as Orthodox inevitably blurs the boundaries of Orthodoxy as a whole.

The symbolic significance of women's ordination raises the stakes of the debate that has engaged the community, following the OU Statement. Not only gender equality but also the integrity of the Modern Orthodoxy community appears to be on the line.

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[125] Chaves, "Ordaining Women," 851-852.
[126] Frishman, "The Ordination of Women," 7.
[127] Chaves, "Symbolic Significance," 108.
[128] Jack Wertheimer, "Can Modern Orthodoxy Survive," *Mosaic,* August 3, 2014, retrieved June 1, 2019, from https://mosaicmagazine.com/essay/uncategorized/2014/08/can-modern-orthodoxy-survive/.

5. *The Lehrhaus* Symposium

5.1 *Introduction*

The online platform *The Lehrhaus* – German for 'house of study,' a translation of the rabbinic term *bet midrash* – was launched on October 16, 2016. Described in its mission statement as "a forum to generate thoughtful and dynamic discourse among individuals within the Orthodox community and beyond,"[129] the platform is "host to the thrust and parry of Jewish vigorous debate."[130] All of the platform editors are affiliated with the Orthodox community, as are the majority of its readership and contributing authors. Consequently, the content of the platform is shaped predominantly by the interests of said community.[131]

The symposium, convened to reflect on the response of the rabbinic panel and the OU Statement, falls in line with *The Lehrhaus'* deliberate choice not to ignore or remain neutral on such complex matters, but rather provide "a forum where those divisive issues can be addressed and debated without having things deteriorate into a virtual shouting match."[132] Unlike the rabbis on the rabbinic panel, the contributors to the symposium – seventeen in total – come from across the Orthodox spectrum. Among the contributors are faculty, students and alumni from Open Orthodoxy's YCT and YM, as well as from RIETS-YU, and right-wing institutions like Yeshivas Ner Yisroel and the Talmudical Yeshiva of Philadelphia.

The contributions range from text-based, halakhic discussion to calls to action and accounts of women already thriving in leadership positions within the Orthodox community. Overall, the tone of the debate is nuanced and constructive, with a dominant focus on how the Orthodox community can move forward on this matter. Several of the contributors explicitly give the rabbinic panel credit for having "approached their task with sensitivity and nuance,"[133] and the OU for having gone "out of its way to urge a number of proactive steps."[134] By and large, the contributors are positive about "increasing and enhancing the contributions that women make to (…) shuls and the community."[135] However, they are

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[129] "Mission Statement," *The Lehrhaus*, retrieved 10 June, 2019, from https://www.thelehrhaus.com/about-us/.
[130] Elli Fischer, "Continuing An Old Conversation At The Lehrhaus," *The New York Jewish Week,* November 29, 2017, retrieved June 10, 2019 from https://jewishweek.timesofisrael.com/continuing-an-old-conversation-at-the-lehrhaus/.
[131] *Ibid.*
[132] *Ibid.*
[133] Zev Eleff and Ari Lamm, "The State of the Conversation," *The Lehrhaus*, February 28, 2017, retrieved June 22, 2019, from https://www.thelehrhaus.com/culture/the-state-of-the-conversation/.
[134] Tzvi Sinensky, "Lay-Rabbinic Relations: The Present Moment and the Path Ahead," *The Lehrhaus*, February 15, 2017, retrieved June 22, 2019, from https://www.thelehrhaus.com/timely-thoughts/lay-rabbinic-relations-the-present-moment-and-the-path-ahead/.
[135] "OU Statement," 8.

divided on whether or not the endorsement of professional roles for women should go so far as to include allowing them to enter the rabbinate. In what follows, I will discuss how and why opinions on the question differ.

5.2 *Psychological arguments: on the nature of women*

Central in the argument against women's ordination is the – purportedly – *halakhic* view that women cannot serve as a judge or witness and are, thus, barred from serving as rabbis. Originally, Jewish religious leaders had to be ordained to serve as court judges. Still, participating in a *bet din* [Jewish court of law, CvB] is often an important part of the role of rabbis. It is no surprise that the panel's invocation of this *halakhah* is the focal point of criticism, since the reasoning to the restriction is the notion that women have frivolous minds and are, therefore, not obligated to learn. Chaim Twerski, a scion of the Chernoble Hassidic family and *rosh yeshiva* at Hebrew Theological college in Skokie, Illinois, takes the Talmudic objection to teaching women Torah as his starting point: "One who teaches his daughter Torah is as if he teaches her lewdness."[136] Twerski points to two explanations offered for the objection to teaching women *Gemara.* According to Maimonides "women, due to their mental weakness, would not understand the teachings correctly and would distort the Oral Law."[137] Similarly, the sages believed that women have light minds. Twerski, though supportive of the panel's responsum, views both reasons as inapplicable to contemporary society, stating, "Lack of education will deprive anyone of mental development. Today, however, we see no difference between men and women in their mental capacity."[138] Another reason offered by the Talmud for not teaching women Torah is that wisdom "allows for the opportunity to deviate with clever but wrongful reasoning."[139] The dictum implies that if women were to study Torah, they would be sly in their reasoning, using their acquired wisdom for evil instead of good, risking corruption of the Torah and the individual. Twerski considers this reason equally invalid. He holds that women today are as sophisticated and study the same secular core curriculum as men.

There are, however, additional difficulties in the Talmudic text. To start, women are depicted not only as being frivolous, but also sly and devious. Accepting such contradictory statements without questioning is typical of stereotyping and prejudice. Moreover, why

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[136] Chaim Twerski, "On the Lomdus of the OU Responsum," *The Lehrhaus*, February 22, 2017, retrieved 23 June, 2019 from https://www.thelehrhaus.com/timely-thoughts/on-the-lomdus-of-the-ou-responsum/.
[137] *Ibid.*
[138] *Ibid.*
[139] *Ibid.*

should men suspect women of using wisdom in devious ways? Shielding them from corrupting the individual – i.e. themselves – by not teaching them Torah seems like a clever way to keep women in the dark, unable to engage in the processes of interpretation and decision-making. Also, wrongful reasoning is described as leading to *deviation.* Surely, any deviation on the part of women would mean going against opinions and rulings of *men*, who have for centuries controlled – and still are controlling –the world of Torah study, interpretation and *halakhic* decision making. Thus a notion that no longer can be reasonably argued is enrolled to deliberately exclude women from "shaping the dynamic of their religious landscape."[140]

Remarkably, another rationale for banning women from the rabbinate that relates to their presumed nature goes unchallenged by Twerski. Moses Isserles (1530-1572) – a world-renowned scholar known for the *Mappa* (lit. tablecloth), his commentary to Joseph Caro's *Shulhan Arukh* – ruled that in a situation where a question of *kashrut*[141] needs an immediate solution the answer of a woman cannot be trusted. The reason given is that "a woman, more than a man, has a tendency to be lenient."[142] Other Talmudic and rabbinic dictums also emphasize women's empathy and mercifulness, reasoning this will cause her to be subjective, instead of offering an objective point of view in matters of *halakhah.*[143] In light of this emphasis on the importance of objectiveness, it is interesting to consider the work of Emanuel Rackmann (1910-2008), who was president of the RCA, provost of YU and "an outspoken advocate of a more inclusive, intellectually open Orthodox Judaism."[144] In his work on Orthodox approaches to *halakhah,* he argues that "(t)he subjective element cannot be the basis for decision, but honesty requires that its presence shall not be denied."[145] He contends that rabbis who apply their intuition, personal philosophy, and sympathy to their judicial decision making, "are no less 'Orthodox' than their colleagues, and indeed, they may even be more halakhically 'authentic'."[146] Furthermore, Rackmann explains that the sages, when confronted with equally valid yet different interpretations, preferred those interpretations which would be considered more acceptable by the people, since "they held that the Torah's ways must be

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[140] Sara Wolkenfeld, "Schools Need Leadership, Too: The OU and Day School Education," *The Lehrhaus,* February 15, 2017, retrieved June 25, 2019, from https://www.thelehrhaus.com/timely-thoughts/schools-need-leadership-too-the-ou-and-day-school-education/.
[141] *Kashrut* is the body of Jewish dietary laws.
[142] Twerski, "On the Lomdus of the OU Responsum."
[143] *Ibid.*
[144] William Grimes, "Emanuel Rackman, Prominent Rabbi, Dies at 98," *The New York Times,* December 4, 2008, retrieved June 25, 2019, from https://www.nytimes.com/2008/12/05/nyregion/05rackman.html.
[145] Emanuel Rackman, "Halakhic Approaches," in *Encyclopaedia Judaica Year Book 1975/76: events of 1974/75,* (Jerusalem: Keter Publishing House., 1976): 143.
[146] *Ibid.,* 143.

'ways of pleasantness.'"[147] Certainly, leniency would be an essential component of the Torah's pleasant ways.

The rationale that women's very nature makes them unfit to judge, thus making them ineligible for the position of rabbi, is undeniably rooted in a social reality that does not reflect the Orthodox reality of today. Moreover, the image of women conveyed in the Talmudic dictums is difficult to reconcile with the rabbinic panel encouraging women to "share their knowledge, talents, and skills – as well as their passion and devotion – to synagogues, schools and community."[148]

5.3 *Sociological arguments*: *rethinking the role and authority of present-day rabbis*

As noted above, the rabbinic panel followed Maimonides in his interpretation of Deuteronomy 17:15, concluding that any position of formal authority (*serarah*) is closed to women. In reaction to this line of argument, a number of contributors discuss the changing role and authority of present-day rabbis as well as the changing dynamics in rabbinic-lay relationships. As we have learned from Osorio-Kupferblum's conceptualization, authority concerns a relationship: one in which a person voluntarily acts in a certain way, because he or she thinks the authority figure would approve.

Shaul Robinson – senior rabbi at Lincoln Square synagogue, New York, a *shul* that has since long "witnessed the blessings of women in positions of meaningful Torah leadership,"[149] – writes that, "(t)he rabbinate is no longer a formal 'on a pedestal'-type of position." He argues that for young, Modern Orthodox Jews it is important that a rabbi is "someone with whom they can genuinely bond."[150] Though he is unconvinced by the arguments brought forward by proponents of women's ordination, he emphasizes the need to create new roles for women in synagogues, since in his opinion, "it is simply impossible for a male rabbi in this day and age to be as close to the female members of his *shul* as he is to the males."[151] Robinson does not provide a clear explanation for his opinion. His statement that "developing a genuine friendship, a closeness," [152] with women in the community would be

[147] Rackman, "Halakhic Approaches." 140.
[148] "Responses of the OU Rabbinic Panel," 13.
[149] Shaul Robinson, "OU – Enforce and Educate!," *The Lehrhaus*, February 23, 2017, retrieved 28 June, 2019 from https://www.thelehrhaus.com/timely-thoughts/ou%E2%80%94enforce-and-educate/.
[150] *Ibid.*
[151] *Ibid.*
[152] *Ibid.*

"simply inappropriate" [153] could point to the Jewish rules of modesty (*tzniut*) as well as to the increased scrutiny cross-gender mentoring relationships are subject to in the age of Me Too.

Rivka Press Schwartz – *rebbetzin* of a signatory of the responsum – approaches the need for strong relationships between rabbis and laity from a different stance. She reasons that in order for women to fully submit themselves to the authority of *mesorah* and build strong relations with their rabbinic, *male* leaders – gender remains undisputed by Schwarz –, opportunities should be created "for women to have the same kind of exposure to and relationships with those figures [Torah leaders] that men have taken for granted."[154] Schwartz argues that it cannot be reasonably expected that women will respect Torah leaders and see themselves as subordinated to them when these same leaders hold that "women are not worth (…) spending their time on"[155] and, moreover " are not part of the chain of the transmission of *mesorah."* These attitudes, she concludes, are the reason the Orthodox community is getting exactly what it is paying for: women are checking out, "if not physically then in the fullness of the engagement of their hearts and minds." Though Schwartz – who does not approve of women in the rabbinate – only insists that rabbinic leaders invest in forging "meaningful, personal and lifelong connections with women,"[156] an alternative solution seems implicit in her argument: women having their own (female) leaders and rabbis.

Elli Fischer – an independent author, translator and rabbi – is straightforward in his opinion on how the meaning of the term rabbi has shifted. He states, "the term "rabbi has become a catch-all title for every male religious functionary,"[157] be it a *shohet*,[158] or a third-grade rabbi, who has not even been ordained. With *semikhah* more easily available – through online programs and training courses concluded with an open book test on as little as fifty pages of Talmud – more men with less and less scholarship go by the title of 'rabbi.' Fischer contends that, "(t)he title has gone from job description to credential, and a very watered-down credential at that."[159] Nonetheless, he acknowledges that the rabbinic title is still charged by its history and considers it an injustice that the Orthodox community "has not found a way to recognize the credentials of female Torah scholars."[160] He concludes that

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[153] Robinson, "OU – Enforce and Educate!"
[154] Rivka Press Schwartz, "Putting Our Money Where Our Mouths Are," *The Lehrhaus*, February 20, 2017, retrieved 28 June 2019, from https://www.thelehrhaus.com/timely-thoughts/putting-our-money-where-our-mouths-are/.
[155] *Ibid.*
[156] *Ibid.*
[157] Elli Fischer, "The OU Paper: Three Lenses," *The Lehrhaus,* February 27, 2017, retrieved June 28, 2019, from https://www.thelehrhaus.com/timely-thoughts/the-ou-paper-three-lenses/.
[158] A *shohet* is a ritual slaughterer, certified to slaughter animals for food in the manner prescribed by Jewish law.
[159] Fischer, "The OU Paper."
[160] *Ibid.*

women are denied not only recognition, but also a decent salary, and, most importantly "the respect they deserve."[161] Twerski agrees with Fischer on the dwindling authority of rabbis, stating, "one might argue, (…) that in a Modern Orthodox congregation, the rabbi is not an authority at all."[162] The reason being that, according to Twerski, the rabbis ruling is often taken as a suggestion or ignored entirely. In this scenario, he reasons, women should be able to serve as rabbis, since the rule barring women from authority positions would no longer apply to the rabbinate.[163]

Tzvi Sinensky, who is currently pursuing a PhD on the intersection between Jewish thought and gender studies at YU's Bernard Revel Graduate school of Jewish Studies, offers a broad context for the dwindling authority of rabbis in the Orthodox community. He attributes the erosion of "the public's respect for authority" to the "American ethos of autonomy" and "the fact that Americans' faith in their political institutions has a reached a nadir."[164] Next, he identifies the elements that have "cast a dark shadow over all rabbinic-lay relations,"[165] and contributed to the divide in Modern Orthodoxy. First, by vehemently polemicizing against Open Orthodoxy, many rabbis have, unintentionally, branded themselves as well as their rabbinic colleagues as reactionaries. Second, a deep sense of distrust has developed in the community. A new generation of rabbis has shared with members of the community their belief that *halakhah* allows considerably more room for flexibility than has traditionally been held. As a result, "rabbis' objections to halakhic innovations have been understood to be driven by public policy considerations, not strict *halakhah,*" and are met with skepticism. However, what Sinensky considers the most important factor contributing to the divide is the fact that the rabbinic establishment – embodied by the OU, the RCA, and YU – fails to actively promote a *positive* agenda for the community. Instead, they are "cast primarily in the role of respondents,"[166] with the lay organization pushing forward. According to Sinensky, "institutional rabbinic Orthodoxy has come to be viewed as more interested in drawing red lines than in promoting an affirmative vision of Judaism."[167]

Zev Eleff and Ari Lamm, both RIETS-YU graduates, make the same observation. They, too, assert that Modern Orthodox leadership does not succeed in leading public

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[161] Fischer, "The OU Paper."
[162] Twerski, "On the Lomdus of the OU Responsum."
[163] *Ibid.*
[164] Tzvi Sinensky, "Lay-Rabbinic Relations: The Present Moment and the Path Ahead," *The Lehrhaus* (website), February 15, 2017, retrieved June 28, 2019, from https://www.thelehrhaus.com/timely-thoughts/lay-rabbinic-relations-the-present-moment-and-the-path-ahead/.
[165] *Ibid.*
[166] *Ibid.*
[167] Sinensky, "Lay-Rabbinic Relations."

discourse, but rather remains silent, only "breaking that stance when provoked to react."[168] The argument seems hard to refute, since in its Statement the OU clearly mentions that over the years women have already assumed rabbinic roles and responsibilities in synagogues. However, Shmuel Winiarz, who describes himself as being oriented "towards what is colloquially termed the "yeshiva world,"[169] does offer an opposing viewpoint in the opening paragraph of his piece. He maintains that the OU is not divisive and "has long articulated where it stands,"[170] without wavering. He refers to "an unequivocal statement, asserting women's ordination was contrary to Halakhah,"[171] published in the 1970s.

Eleff and Lamm establish that religious authority has been "the swirling undercurrent beneath the surface"[172] of Modern orthodox debates for decades and still is today. After having relied predominantly on Soloveitchik for denominational policies, at present "Modern Orthodoxy has yet to produce a leader from its own ranks because it still continues to acknowledge mastery of the Talmud as a qualification for leadership."[173] Yet, we have seen in the foregoing that in the present-day it is not so much mastery of the Talmud the laity seeks from its rabbis, but rather the ability to build close, mentoring relationships. Eleff and Lamm assert, however, that generally "Modern Orthodox Judaism has preferred to place significantly greater power in the hands of the *roshei yeshiva* than congregational rabbis."[174] Case in point: five of the seven rabbis on the panel are *roshei yeshiva.* This predilection can be seen as part of Modern Orthodoxy's shift to the right. Consequently, it is no surprise that Winiarz – one of two ultra-Orthodox contributors to the symposium, Twerski being the other – holds that "pesak, when determining communal behavior, is the province of an elite cadre of experienced talmidei hakhamim [Torah scholars, CvB]."[175] He reasons, "(t)he more consequential the question, the more qualified and experienced the deciders must be." What is more, Winiarz argues, "significant leadership accomplishment in community leadership does not by itself earn one the status of posek [*halakhic* decisor, Cvb]." Winiarz's view seems to leave little decisive power for congregational rabbis, who may not always equal the Talmudic mastery and status of the elite Torah scholars but are strong contenders when it comes to community leadership.

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[168] Eleff and Lamm, "The State of the Conversation."
[169] Shmuel Winiarz, "A Principled Pesak and a Window into Pesak," *The Lehrhaus*, February15, 2017, retrieved June 29, 2019 from https://www.thelehrhaus.com/timely-thoughts/a-principled-pesak-and-a-window-into-pesak/.
[170] *Ibid.*
[171] *Ibid.*
[172] *Ibid.*
[173] Eleff and Lamm, "The State of the Conversation."
[174] *Ibid.*
[175] Winiarz, "A Principled Pesak."

With authority dependent on the voluntary actions of people – in this case the laity – it will be interesting to see which will be given precedence: the centralized, predominantly scholarly leadership of Orthodoxy's establishment or, rather, the more pastoral guidance which is sought from, and more likely to be offered, by congregational rabbis.

5.4 *Halakhic approaches: grappling with change*

The question of women's ordination is exemplary of the challenge inherent in Modern-Orthodoxy: how to be at once "progressive and traditional, forward thinking and rooted, open-minded and committed."[176] *Halakhah* sets limits to change and "gives the Jewish people the opportunity to be creative in seeking solutions and directions within the framework that G-d has set."[177] The symposium contributions address both the *halakhic* reasoning presented by the panel and offer alternatives approaches to the issue at hand.

Chaim Trachtman, author and member of the board at YM, critically analyzes Soloveitchik's analytical approach to *halakhah* – which inspired the rabbinic panel's *halakhic* ethos – by juxtaposing it with that of Rabbi Moshe Feinstein (1895-1986), one of the foremost *halakhic* authorities of the twentieth century. Soloveitchik, generally considered an icon of modernity, viewed *halakhah* as "a blueprint for the world as a whole."[178] In his view, the law encompassed all conditions necessary for the universe to exist, at present and in the future. As such, any change in *halakhic* guidelines poses an immediate threat to the stability of the universe. Soloveitchik reasoned along this line of thinking in his approach to the *halakhic* status of women, their relationship with man and their place in society. His stance on the position of women "is based on prototypes that he developed from the rabbinic literature and the corpus of law they constructed."[179] According to Trachtman, Soloveitchik's approach hardly accommodates change, instead, it allows for rabbinic statements – that have become part of the corpus of Jewish law – to be regarded "as (…) ineradicable fact, and not as (…) sociological observation prone to change."[180] Conversely, Feinstein, in his approach – which is strongly text based, building on precedent recorded in rabbinic literature, and thus, harder

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[176] Shayna Goldberg, "The Challenge and Joy of Living with Tension." *The Lehrhaus,* February 22, 2017, retrieved June 30, 2019, from https://www.thelehrhaus.com/timely-thoughts/the-challenge-and-joy-of-living-with-tension/.
[177] Chaim Trachtman, "Modeling Modernity: Revisiting the Rabbi Soloveitchik Paradigm," *The Lehrhaus,* February 21, 2017, retrieved June 30, 2019, from https://www.thelehrhaus.com/timely-thoughts/modeling-modernity-revisiting-the-rabbi-soloveitchik-paradigm/.
[178] *Ibid.*
[179] *Ibid.*
[180] *Ibid.*

to summarize – always considered the empirical facts when making his final decision. Unlike Soloveitchik, whose famous responsum on women's prayer groups is illustrative of his reasoning on women – Feinstein "did not reflect an essentialist stance."[181] Rather, Trachtman discerns in Feinstein's approach to *halakhah* "an Aristotelian willingness to observe what is happening in the world."[182] Soloveitchik, on the other hand, was less concerned with facts on the ground when deciding on matters of the law, and was, moreover, "deeply skeptical of psychological notions that are counter to those expressed by *Hazal* [the sages of the Oral Law, CvB]."[183] Trachtman acknowledges that bringing about change within the law is not easy, but "can be done by moving the source of light."[184]

Dr. Jeffrey R. Woolf (Bar Ilan University) also discusses Soloveitchik in his contribution, which concentrates on different meanings of the term *mesorah.* He explains how, for Soloveitchik, the encounter between ever-changing reality and *halakhah* – embodied in the *Talmudim* and codes of law – was shaped by study of the law, and its application to reality. Though "the signs of the times" are not entirely absent from rabbinic responsa and books of law, they are "limited and modulated by the accepted canons of Toray study and halakhic decision-making."[185] Only in the event of extremely difficult situations would Soloveitchik deviate from this approach, "and only then using tools that Tradition itself provided." Woolf's essay elaborates upon Soloveitchik's skepticism with regard to factoring in psychological notions when deciding on *halakhic* issues, as mentioned briefly by Trachtman. Woolf writes that Soloveitchik categorically rejected the application of psychological analysis – which he considered a speculative and materialist atheist approach – to *Talmud* and *halakhah,* in order to avoid "the dangerous prospect of turning the Torah into nothing more than a Jewish ornament on value systems that are in many ways at odds with the Torah."[186] Woolf, who professes to be deeply committed to "creating new Torah leadership structures for learned women,"[187] follows Soloveitchik in his conclusion that "for those structures to be meaningfully Orthodox, they must emerge out of the methodology of *Mesorah.*"[188]

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[181] Trachtman, "Modeling Modernity."
[182] *Ibid.*
[183] *Ibid.*
[184] *Ibid.*
[185] Jeffrey R. Woolf, "Wanted: Precision, Nuance and Avodat Hashem," *The Lehrhaus,* February 28, 2017, retrieved, June 29, from https://www.thelehrhaus.com/timely-thoughts/wanted-precision-nuance-and-avodat-hashem/.
[186] *Ibid.*
[187] *Ibid.*
[188] *Ibid.*

Jeffrey S. Fox, *rosh yeshiva* at YM, [189] in his symposium essay, explains that Soloveitchik's conclusion on women serving as ritual slaughterers – analogy brought forward by the panel to support their *serarah*-argument – is, in fact based on "an unconvincing read of Maimonides." [190] To start, Fox explains that Soloveitchik's position on women slaughterers is based on a remarkable formulation found in the *Kol Bo* (a *halakhic* work of anonymous authorship, end of the fifteenth century) quoting the thirteenth century *Sefer Mitvos Katan* (lit. small book of commandments, also known by the acronym Semak) stating, "women may only slaughter *for themselves.*"[191] However, Fox continues, standard printed editions of the Semak simply state "women may not slaughter," without the additional qualification found in the *Kol Bo*. Furthermore, the seventeenth century scholar Hezekia da Silva accepted that "women may slaughter only for themselves," but inferred from it that they could not slaughter for the community, since that would require hard work and women were simple deemed too lazy. He does not connect the ban on women serving as community slaughterer to a prohibition to women taking *any* position of formal authority. Fox further argues that Maimonides, in his *Mishneh Torah,* writes, "one who knows the law of slaughtering and slaughtered in front of a *hakham* [Torah scholar, CvB] until they become accustomed is called an expert. And all experts may slaughter even from the outset *by themselves.* (...) And [this law applies] even to women and slaves (…)."[192] Maimonides' use of 'by themselves' does not mean that women are allowed to slaughter only for themselves, rather he expresses that once trained to be experts, slaughterers no longer need supervision to make sure they practice in accordance with the *halakhic* rules. According to Fox, it is likely that this is also the meaning of 'for themselves' in the *Kol Bo*'s version of the Semak. Fox's explanation demonstrates that Soloveitchik's restrictive position on *serarah* – appealed to by the rabbinic panel to support their ban on women's ordination – is just one possible interpretation and "one based on an unconvincing read of Rambam" at that.[193]

Fox goes on to address the idea of a *negative custom.* He explains how Rabbi Shabbatai Meir HaKohen (1622 - 1663), an esteemed *Talmudist* and *halakhic* scholar, known as the Shakh, held that "within the context of customs it is possible that not seeing or not

[189] A rosh yeshiva is a leader of a Talmudic academy.
[190] Jeffrey S. Fox, "Rabbi Soloveitchik's Position on Women as Shohatot and the Development of Customs of Abstention: Semikhah and Mesorah," The Lehrhaus (website), February 23, 2017, retrieved June 22, 2019 from https://www.thelehrhaus.com/timely-thoughts/rabbi-soloveitchik%E2%80%99s-position-on-women-as-shohatot-and-the-development-of-customs-of-abstention-semikhah-and-mesorah%E2%80%94a-response-to-the-ou-panel/.
[191] *Ibid.* (emphasis added).
[192] *Ibid.* (emphasis added.)
[193] *Ibid.*

doing something can serve as evidence of a negative custom."[194] He based this idea on a response of Joseph Colon ben Solomon Trabotto (c. 1440 - c. 1480), a noted Italian *halakhic authority,* also known as the Maharik. Soloveitchik, in a *shiur* [lesson on a Torah topic, CvB], also developed the idea of a negative custom, referring to the commentary of the Shakh. The rabbinic panel, in turn, appealed to the idea in their argument against women, reiterating "that the *non-performance* of a particular practice *does* constitute a *minhag* (custom) (i.e. a negative custom, CvB), and such a *minhag* attains a binding status."[195] By refusing to permit the ordination of women, the panel continued to uphold a longstanding custom.. However, both Soloveitchik and the rabbinic panel omit a critical part of the Shakh's reasoning in their application of the principle of negative custom. In one of his commentaries, the Shakh explains that "a negative custom can only be created in the context of something that arises regularly." Fox astutely notes that, "(g)iven the unusual nature of a panel of esteemed rabbinical scholars convened on behalf of this OU, one is hard pressed to claim that this is a "common question."[196] Rather, for the Orthodox community, the question of women's ordination is "a thoroughly new and uncommon question."[197] In fact, until the 1990s, when learning opportunities for Orthodox women increased "it would have been unreasonable to imagine a group of women learning for semikhah."[198] The panel's argument of *negative custom* is built on feeble ground. Having proven that there are different ways to read the same sources, Fox concludes that "given the range of possible positions on the matter of female clergy, it is unwise for the OU to adopt this paper as a matter of national policy."[199]

5.5 *Alternatives and role models: a positive note*

Several of the symposium contributors choose to focus less on the prohibition formulated by the OU in its Statement, and instead direct attention to the dire need for "a more inclusive approach to education that considers all members of the congregation as having value,"[200] and the various ways in which "there is a *halakhically* legitimate place for women to assume leadership roles within [the] community."[201] Mindful of "the need to tread slowly and

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[194] Fox, "Rabbi Soloveitchik's Positon on Women as Shohatot."
[195] "Responses of the OU Rabbinic Panel," 3.
[196] Fox, "Rabbi Soloveitchik's Positon on Women as Shohatot."
[197] *Ibid.*
[198] *Ibid.*
[199] *Ibid.*
[200] Matt Reingold, "A Vision for the Visiting Scholar," *The Lehrhaus,* February 20, 2017, retrieved June 30, from https://www.thelehrhaus.com/timely-thoughts/a-vision-for-the-visiting-scholar/.
[201] *Ibid.*

carefully,"[202] the ideas and alternatives described seem to build from the notion that, "quiet and incremental change can ultimately result in social transformation."[203]

Sara Wolkenfeld – a teacher in the summer programs of Drisha, which was originally founded as the world's first center specifically committed to women's study of classical Jewish texts – reads the responsum of the rabbinic panel through the lens of day school educators. She calls on them to be aware of the fact "that even unconscious attitudes towards gender norms can impact how teachers relate to students in the classroom and, in turn, how students relate to the material they learn."[204] For Wolkenfeld, day schools have ample opportunity to counterbalance students' exposure to (almost) exclusively "male leadership teaching Torah on Shabbat,"[205] a sight that will not change if the OU has its way. Hopeful that "the OU statement can be used as a to tool to advocate for positive change,"[206] Wolkenfeld lists a numbers of actions day schools can take in order to realize a more inclusive educational environment. Her ideas include opening up public Torah-related speaking roles to boys and girls, men and women within the school community, offering an equally rigorous curriculum to boys and girls, and pay-equality across the sexes.

Matt Reingold, teacher at TannenbaumCHAT, a coeducational community Jewish high school in Toronto, Canada, presents "a model for how synagogues can approach scholars-in-residence,"[207] one of the roles the rabbinic panel considers appropriate for women to assume in a synagogue setting. Reingold holds that including female scholars and teachers in the synagogue's yearly calendar demonstrates "the value of the community and the types of role models that it wishes to present."[208] He stresses the need for congregations to create a balanced and inclusive educational platform in order to answer to the different interests of *all* their constituents. Gender considerations are of crucial importance toward meeting that objective. Acknowledging that a visiting scholar-in-residence is *not* a rabbi, Reingold states that though the level of inclusion he proposes "might not be sufficient for all, it is imperative that a baseline [for women's leadership roles, CvB] be established."[209]

Laura Shaw Frank, Director of Recruitment, Placement and Alumnae Relations at

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[202] Shayna Goldberg, "The Challenge and Joy of Living with Tension."
[203] Laura Shaw Frank, "Yeshivish Women Clergy: The Secular State and Changing Roles for Women in Ultra-Orthodoxy," *The Lehrhaus,* February 21, 2017, retrieved June 30, 2019, from https://www.thelehrhaus.com/timely-thoughts/yeshivish-women-clergy-the-secular-state-and-changing-roles-for-women-in-ultra-orthodoxy/.
[204] Wolkenfeld, "Schools Need Leadership Too."
[205] *Ibid.*
[206] *Ibid.*
[207] Reingold, "A Vision for the Visiting Scholar."
[208] *Ibid.*
[209] *Ibid.*

YM, marks that it should not be overlooked that the ultra-Orthodox community, unlike Modern Orthodoxy, has already allowed women to claim the title of clergy, despite having declared women's ordination "a radical and dangerous departure from Jewish tradition and the mesoras haTorah."[210] In part, this is possible because "the term "clergy" is not charged in the ultra-Orthodox world."[211] The fact that the secular state officially requires women to label themselves as "clergy" in order to benefit from certain privileges within the US tax-system "does not impact Halakhah, nor does it upend the male hierarchical religious leadership structure in the community."[212] More importantly, however, "these women are not "rocking the boat," by fervently fulfilling their leadership roles. To start, most of these women obtain their positions because their husbands are rabbis. Second, their work does not require them to attain a level of education on a par with men. Furthermore, these women mostly engage in outreach activities, for which making certain concessions to the values of the modern world is allowed in order to reach unaffiliated Jews. Lastly, and most importantly, they maintain the strict separation of the sexes their community observes, ministering only to other women. Shaw Frank points out that it is precisely "[b]ecause they operate within the female sphere, these women enjoy much greater latitude in terms of pastoral leadership and religious functions than the OU statement seems to allow."[213] Ironically, the situation in the ultra-Orthodox world might help Modern Orthodoxy negotiate change.

Another example of women's leadership within the Modern Orthodox community is brought into the discussion by Todd Berman, associate director of Yeshivat Eretz HaTzvi, a Modern Orthodox yeshiva in Jerusalem, Israel. Jewish Learning on Campus (JLIC) – founded in 2000 by Rabbi Menachem Schrader – places married couples at college campuses to meet the religious needs of Orthodox students "and serve as models for both men and women and to act as living exemplars of strong, committed Jewish families."[214] The initiative was launched at three universities, including Brandeis University, where Berman and his wife chose to work. Though the OU welcomed JLIC, one thing stood in the way of Schrader's initiative receiving its sponsorship: it was suggested that, like *rebbetzins*, the women should not get salaries. However, Schrader insisted that "[h]usband and wife would work on equal

[210] Shaw Frank, "Yeshivish Women Clergy."
[211] *Ibid.*
[212] *Ibid.*
[213] *Ibid.*
[214] Todd Berman, "JLIC: The OU Program that Introduced a New Vision of Orthodox Women's Leadership," *The Lehrhaus,* February 23, 2017, retrieved June 30, from https://www.thelehrhaus.com/timely-thoughts/jlic-the-ou-program-that-introduced-a-new-vision-of-orthodox-womens-leadership/.

terms," and for that reason "they should be seen as independent employees."[215] Eventually, the OU accepted Schrader's view and agreed to become a partner in JLIC. Surprisingly, "[what] began as a grudging concession soon became a source of pride."[216] At the 2002 OU Convention in Westchester, NY, where increasing the role of women was the focus, JLIC was presented as "a new paradigm in Orthodox women's leadership."[217] Female JLIC-educators provided unique leadership role models for thousands of Orthodox students on campus and still do so today. Berman, quite rightfully, notes that the recent ban on female clergy seemingly conflicts with the OU having "fully embraced the models of leadership espoused by JLIC educators, both male and female, and the entire gamut of activities they perform on campus."[218] In fact, JLIC-couples support students through "pastoral counseling, programming, learning one-on-one, public speaking, and (…) answering questions of Jewish law."[219] Consequently, this begs the question whether the objection to female clergy is concerned more with clergy-like titles, than with women actually serving in such capacities. In any case, the OU's longstanding patronage of JLIC adds to the strong disparity between the significant, clergy-like roles women have already assumed in the Orthodox community and the refusal of the rabbinic panel and the OU to acknowledge that fact accordingly.

The Lehrhaus symposium lays bare the difficulties involved in accommodating change within a religious tradition that is both timeless and of all times. Moreover, the contributions show that – in addition to consideration of *Talmudic* and traditionally authoritative sources – psychological and sociological arguments figure prominently in the debate on women's ordination. Taking into account all the responses, it becomes evident that for the Orthodox community, the issue is "a question of *halakhah,* self-perception, and communal policy."[220]

[215] Berman, "JLIC: The OU Program."
[216] *Ibid.*
[217] *Ibid.*
[218] *Ibid*.
[219] *Ibid.*
[220] Fischer, "The OU Paper."

6. Final thoughts and conclusion

Since the release of the Statement barring women from clerical positions, the OU has established a department of women's initiatives which, according to the website, "is implementing national programming (…) to help each woman find her personal and communal leadership voice."[221] With regard to the handful of *shul*s already employing women in clerical positions, the OU said it was going "to put a process in place to work *with* those synagogues in the hopes that they will modify their practices so that they will come into compliance with the responses of the rabbinic panel."[222] Meanwhile, none of these synagogues has made any changes to the titles or job descriptions of their female clergy, nor do they appear inclined to do so. On the contrary, "28 more women are (…) on the path to ordination"[223] at YM, and the Orthodox community remains strongly divided on the issue.

It is hard not to see the ban on women's ordination as an unsuccessful attempt by the OU to reassert its authority. Reactions from the very community the OU claims to represent demonstrate a waning willingness to defer to the authority of a rabbinic elite adamant to determine the face of Modern Orthodoxy. The OU's appeal to the rabbinic panel's 'outstanding scholarship' is remarkable at a time when learnedness and authoritative decision-making are steadily ranking lower on the list of what is sought after in a rabbi. Rather, present-day rabbis are expected to be community leaders, capable of building strong connections with their congregants. Recalling Osorio-Kupferblum's conceptualization of authority, I would argue that *personal authority* is becoming more important, whereas *acquired authority* is increasingly less significant. As a result, centralized authority – vested in institutions like the OU and the RCA – will likely diminish, while congregational rabbis will become more and more central in shaping the identity of their congregations. The few synagogues that employed women in clerical positions well before the response of the rabbinic panel was adopted as OU policy will serve as a testing ground. Will the three year-period set by the OU for engaging in dialogue with these members suffice to reestablish its authority to the point that these synagogues, and others, will voluntarily bar women from clerical positions, because they know the OU approves and are desirous of its approval?

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[221] "About The Women's Initiative." Retrieved July 3, 2019, from https://www.ou.org/women/about/.
[222] Elizabeth Kratz, "Orthodox Union draws a line in the sand."
[223] Hannah Dreyfuss, "After New OU Ruling, 'Business As Usual' At Orthodox Women's Rabbinical School," *The New York Jewish Week,* February 7, 2018, retrieved July 3, 2019, from https://jewishweek.timesofisrael.com/after-new-ou-ruling-business-as-usual-at-orthodox-womens-rabbinical-school/.

The shifts in authority – from centralized to more diffuse, from acquired to personal – revealed by the discussion on women's ordination raise a number of other questions for the future. Will rabbinic schools reevaluate their curricula in order to educate leaders better equipped to answer to the changing needs of Orthodox congregations? Will less centralized authority offer more opportunity for women to advance in leadership positions? How will female leadership influence the damaged lay-rabbinic relationship? Ultimately, however, the question remains whether women's ordination will eventually be included in the fabric of the Orthodox community or will be a pivotal reason for tearing it apart.

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