

Yom Iyun, Shabbat Ki Tavo, 5768

READING AND HEARING

Foundations of Thoughtful Communal Practice

1. INTRODUCTION

Talmud Bavli, Masechet Sofrim 18:5-6

מסכת סופרים י"ח:ה'-'ו', מהד' היגער עמ' 316-317

ומתרגם [מגילת איכה בתשעה באב] לפי שיבינו בו שאר העם והנשים והתינוקות, שהנשים חייבות לשמוע קריאת ספר כאנשים, וכל שכן זכרים... ומן הדין הוא לתרגם לעם לנשים ולתינוקות כל סדר וסדר [של קריאת התורה] ונביא של שבת לאחר קריאת התורה...

And you shall translate [the words of Torah] so that everyone should understand, including women and children, **because women are obliged to hear the words of Torah just like men**, and how much more so males... and thus it is an obligation to translate to the men, the women and the children every portion of the Torah text as well as the Haftarah.

Mendel Shapiro, *Qeri'at ha-Torah by Women: A Halakhic Analysis*, Edah Journal 1:2 (2001)

If the essential halakhah (*iqqar ha-din*) can countenance *qeri'at ha-Torah* by women in one form or another, how do we account for the Orthodox community's refusal seriously to face this possibility? It seems to me that the explanation lies not in halakhah per se, but in an ingrained conservatism, naturally suspicious of change, which is heightened by the perception of being under siege from a dynamic, attractive and sometimes unsavory general culture. Also not to be underestimated is the fear that flexibility on this issue would play into the hands of the Reform and Conservative movements. The terms of reference of this reflexive, intuitive opposition are not the open, precise, give and take of classical halakhic argumentation, but the evocative language of *minhag* (custom), *porets geder* (breaker of norms), and *lo titgodedu* (do not splinter the community). Women may not receive *aliyyot* or read the Torah because it goes against ingrained *minhag*; it upsets the received religious order. The implied operative halakhic principle, even if not explicitly enunciated, is simple and direct: "essential halakhah (*iqqar ha-din*) must submit to *minhag*."

2. KEVOD HATZIBBUR - The Honour of the Community

תוספתא מסכת מגילה (ליברמן) פרק ג הלכה יא
...והכל עולין למנין שבעה אפי' אשה אפי' קטן אין מביאין את האשה לקרות לרבים

Tosefta Megillah 3:11

And all count towards the quorum of seven, even a woman, even a minor. We do not bring a woman to read for the public.

תלמוד בבלי מסכת מגילה דף כג עמוד א
תנו רבנן: הכל עולין למנין שבעה, ואפילו קטן ואפילו אשה. אבל אמרו חכמים: אשה לא תקרא בתורה, מפני כבוד צבור.

Talmud Bavli, Megillah 23a

Our rabbis taught: All may count towards the quorum of seven, even a minor, even a woman. But the sages said: A woman should not read from the Torah because of the honor of the community.

ר"ן על מגילה דף כג עמוד א ד"ה הכל (יג. בדפי הרי"ף)
הכל עולין למנין שבעה ואפילו אשה ואפילו קטן. פי' עולין להשלים קאמר ולא שיהו כולם קטנים ולא נשים דכיון דלאו בני חיובא נינהו לא מפיקי לגמרי...

Ran on Megillah 23a s.v. Hakol (13a in the Rif's pagination)

All count towards the quorum of 7, even a woman even a minor. This means: they come up to complete [this number], but they may not all be minors or women; since they are not obligated, they cannot entirely fulfill the obligations of others.

בית הבחירה להמאירי מגילה דף כד עמוד א
...זה ששנינו קטן קורא בתורה, הטעם לכך משום שאין הכוונה בקריאת התורה אלא להשמיע לעם, ואין זו מצוה גמורה כדי שנאמר בה הכלל שאמרו (בראש השנה כט) כל שאינו מחוייב בדבר אינו מוציא את אחרים ידי חובתם...

Meiri on Megillah 24a

...That which we have taught, "A minor reads from the Torah," the reason for this is that the purpose of Torah reading is that the people hear it, and it is not a bona fide mitzvah such that we would apply the rule, "Anyone who is not obligated in something cannot fulfill the obligations of others..."

בית חדש אורח חיים סימן נג

ולפע"ד נראה דאף להרמב"ם והרשב"א לא מהני מחילת הצבור, דאין פירוש מפני כבוד הצבור שהוא כנגד כבודם לפני בני אדם שתועיל בו מחילת הצבור, אלא פירושו שאין זה כבוד הצבור שישלחו לפניו יתעלה מי שאין לו הדרת פנים להליץ על הצבור...אלא הדבר פשוט כיון שכך תקנו חכמים דחששו לכבוד צבור אין ביד הצבור למחול. ותו דאם כן כל הני תקנות שתקנו חכמים מפני כבוד צבור שלא לגלול ספר תורה בצבור...אם אתה אומר דרשאין למחול, א"כ לא הועילו בתקנתם כלום, דכל צבור יהיו מוחלים!

Bayit Hadash Orah Hayyim 53

In my humble opinion, even for Rambam and Rashba the community cannot waive its honor, because the meaning of "because of the honor of the community" is not that we don't do something because it is disrespectful to the people present such that they could waive the concern, rather, it means that it is not fitting for the community that they should send before the Exalted One a lowly person to represent the community...the matter is simple: once the sages established something out of a concern for the honor of the community, the community has no right of waiver. And as further proof of this, were it true that the community could do so, what effect would there be to any of the regulations borne out of a concern for the community's honor, such as not rolling a Torah scroll...if a community is permitted to waive its honor, then every community will do so!

דברי רבינו תם המובאים בתוספות ר' יהודה שירליאון על ברכות דף מז עמוד ב
...והא דסלקי קטן ועבד ואשה, דליתנהו בתלמוד תורה, למנין שבעה, משום דס"ת לשמיעה קאי, וברכתן אין לבטלה,
דלא מברכי אקב"ו על התורה, אלא אשר בחר בנו ואשר נתן לנו...

The words of Rabbeinu Tam as quoted in Tosafot R. Yehudah Sirleon on Berakhot 47b

...And the reason that a minor and a slave and a woman may come up to the Torah, even though they are exempt from the study of Torah, is because the Torah scroll is for hearing. And their blessing is not in vain, because they do not say "who has sanctified and commanded us regarding Torah," but rather "who has chosen us...and who has given us."

3. TAKING HOLD OF THE TORAH

Mishlei (Proverbs) 3:18

עץ-חיים היא, למחזיקים בה; ותמכיה מאשר.

It is a tree of life to them that hold fast to it and all of its supporters are enriched.

Berakhot 22a

It was taught [in a *baraita*]: Words of Torah cannot be rendered impure.

Yirmiyahu (Jeremiah) 12:29

Are not all my words as fire, declares the Lord

Rambam, Mishneh Torah, Hilkhot Qeri'at Shema 4:8

All who are impure are obligated to read the *Shema* and recite the blessings that precede and follow it, despite their impurity...and all Israel has already adopted the practice of reading from the Torah and reading the *Shema* even after having emitted semen [and not first immersing in a *miqveh*] because **words of Torah cannot be rendered impure; rather, they retain their state of purity forever....**

Shulhan Arukh, Yoreh De'ah 282:9

All who are impure, even menstruating women, are permitted to hold a Torah scroll **and read from it.**

4. CONTEMPORARY REFLECTIONS

Daniel Sperber, "Congregational Dignity and Human Dignity: Women and Public Torah Reading," *The Edah Journal*, 3 (2003)

The rishonim already provide various explanations of why the practice is considered improper and of what precisely is meant by "kevod ha-tsibur." Some connect the matter to the parallel text in the Tosefta, dating from the same period as the baraita, which seems to suggest that the discussion is limited to an instance in which no knowledgeable men are present and the only person able to reading from the Torah is a woman, in which case her reading would violate the congregation's dignity: it would be an affront to the men if only a woman were able to read. This seems to be the explanation offered by many, though not all, of the rishonim, citing the Tosefta.

We have here a clash of two principles of different sorts—*kevod ha-tsibur* (if such exists) and *kevod ha-beriyot*. I've not yet found any consideration of human dignity in connection with women being called to and reading from the Torah, but it seems clear to me that, in this instance, human dignity trumps communal dignity. This is especially so when we are speaking about "a doubtful consideration of *kevod ha-tsibur*," for it is entirely possible that the congregation has waived its dignity, or that it senses no affront at all to its dignity in women being granted *aliyyot*. ... It thus seems clear that *kevod ha-beriyot*, individual dignity, must overcome *kevod ha-tsibur*, particularly when the concept of *kevod ha-tsibur* does not really pertain as it might have in ancient and medieval times....

In sum, it seems to me that nowadays, in those communities where it is agreed that change within the normative halakhic framework should take place and that the absence of such change will be a source of pain and suffering to an important segment of the community, the principle of *kevod ha-beriyot* overcomes the stated principle of *kevod ha-tsibur*.

Alick Isaacs: *Kevod Hatzibbur: Towards a Contextualist History (unpublished)*

A contextualist approach to historical interpretation (rather than an essentialist or legal-positivist one) can facilitate the halakhic process when the method is directed at understanding how halakhic language is (and has, in the past, been) used. "Contextualism" as a term refers to methodologies (or modes of reading) that delay the moment of presumed understanding of texts—texts written in the more or less distant past—and use that delay to render interpretation self-conscious and self-critical. Delay permits a search for unfamiliar or surprising patterns of thinking—interpretive gaps—embedded in what might otherwise be thought familiar uses of language. Contextualist methods question the notion that traditional interpretations and ideas are static in time and that their long histories are evidence of their resistance to change. Thus, they question the presumption that the meanings of words in old texts are made apparent through philological reconstruction alone. The cultural or mental gap that divides the modern reader from a historical text poses the greatest challenge to modern understanding. Texts must therefore be read in cultural context.