

# ST ALBANS MASORTI SYNAGOGUE

## SAMS STANDARDS

### Can and Should Women Lead Prayer Services at SAMS?<sup>1</sup>

This response is specific to the SAMS community. I set out a general approach, but my conclusions are not determinative for any community other than the one I serve.

It is an oversimplification, but we can say that there are three tasks of a communal leader of prayer.

1. They must bring the community together; much like a conductor would work with an orchestra. This is in part technical; we must be brought in at the right time with the right tune, but also it is a spiritual, emotional and an artistic task. A great leader of prayer functions as a vessel, drawing a great spiritual response from the community and transforming the printed words of the Siddur into songful prayer.
2. They must fulfil certain key obligations on behalf of members of the prayer community. This is entirely a practical issue.
3. They must also serve as our representatives before God. We, the community, stand to be judged not only in our own right, but also in terms of who we appoint as our leaders.

Each role raises a different Halachic question.

1. The role of keeping the community focussed and united in their prayer raises the question; *is there something about women that distracts or otherwise makes it impossible for them to 'conduct' prayers for a mixed, male and female, community?*
2. The role of fulfilling ritual obligation raises the question; *are women technically able, in the same way as men, to fulfil obligations on behalf of both male and female members of the prayer community?*
3. The role of representing a fully constituted prayer community before God raises the twin questions; *who can and should lead a prayer community consisting of both men and women?*

## QUESTION 1.

### IS THERE SOMETHING ABOUT WOMEN THAT MAKES IT IMPOSSIBLE FOR THEM TO 'CONDUCT' PRAYERS FOR A MIXED, MALE AND FEMALE, COMMUNITY?

In this section I consider two issues, firstly the notion that the woman is a sexual provocation and as is therefore a distraction in prayer, secondly the question of

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<sup>1</sup> There is a vast amount of modern material, articles and responsa, on this subject. I have not referred to every useful source at every moment. That said, as will be clear, I owe a deep debt to Rabbi David Golinkin whose work in this field is considerable. See in particular, Responsa *B'Inyan HaMehitzah*, <http://responsafortoday.com/vol2/1.pdf> and *B'Inyan Nashim B'Minyan*, [http://www.responsafortoday.com/vol6/1\\_4.pdf](http://www.responsafortoday.com/vol6/1_4.pdf). These materials are in Hebrew and those only able to access English are directed to <http://www.schechter.edu/women/learn/learn.htm> where much of the material is translated, re-worked and made available to a non-specialist. For detailed bibliographies, including citations of key material produced by Orthodox legal authorities, see the end of these responsa. Rabbi David Fine has also discussed, extensively, the history of Masorti jurisprudence on this issue in his responsum *Women And The Minyan* [http://rabbinicalassembly.org/teshuvot/docs/19912000/oh\\_55\\_1\\_2002.pdf](http://rabbinicalassembly.org/teshuvot/docs/19912000/oh_55_1_2002.pdf).

whether the woman's place is in the domestic realm, away from the public sphere of communal prayer.

## Women As Sexual Provocateurs

Is there something sexually provocative and distracting about women, and most especially about their voice, which needs to be kept under-cover and away from public worship?

Rav Isaac said, 'A handbreadth of exposed skin, in a woman is a sexual incitement [*erva*]...'

Rav Hisda said, 'A woman's leg is a sexual incitement...'

Samuel said, 'A woman's voice is a sexual incitement, as it says, *For your voice is sweet* [*erev*]' (Song of Songs 2:14)

Rav Sheshet said 'A woman's hair is a sexual incitement.'  
(Talmud Brachot 24a)

We will have more to say about both the male-centred nature of this, and indeed all classic Rabbinic language and also the sexualisation of women in classic Rabbinics at a later point. At this juncture I want to consider this issue from within the tradition. I will also focus on the most halachically problematic issue – the woman's voice.

The early Rabbinic authority Hai Gaon understood prohibition on hearing a woman's voice [*kol b'isha*] as follows;

One may not recite [the Shema] while a woman is singing... However, if one can focus on one's prayers while she is singing in a manner that one does not hear her and does not pay attention to her, it is permissible [to recite the Shema].

(Otzar HaGeonim, Berachot, Peirushim 102)<sup>2</sup>

Hai Gaon prohibits specifically singing, he prohibits it by any woman, but only as a barrier to the recitation of the Shema. He also introduces the possibility of *kol b'isha* losing its prohibiting power. These are all issues which need to be clarified;

## Does the prohibition apply to all women?

The broader context of the passage in Brachot is a discussion of the possibility of reciting the Shema when in bed with one's wife and so it might be thought that the prohibition of *kol b'isha* applies only to one's wife, perhaps on the basis that since a husband is permitted, sexually, to his wife, she can therefore distract him in ways no other woman could. However in a related Talmudic source, we find the following comment on *kol b'isha*;

Shmuel said, 'A person should have nothing to do with women at all, whether adults or children. [Rav Nahman asked Rav Yehuda,] would you like to send a greeting to [my wife] Yalta. [Rav Yehuda] responded, 'Shmuel said "the voice of a woman is a sexual incitement... Don't even ask after her wellbeing."' (Kiddushin 70 a-b)

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<sup>2</sup> See also Ravad cited in Chidushei haRashba Brachot 25a, Yosef Caro, Bet Yosef OH 75 which take similar positions.

In this passage the problem is someone else's wife. This suggests that the problem is women who are precluded from the male. And indeed the codifier Rav Falk states that the problem is ONLY with precluded women and that permitted women, i.e. a person's wife does not count.

The voice of women who it is permissible to hear [can be excluded from the classification of *kol b'isha*] for they do not awaken the appetite.  
(Prisha Tur EH 21:2)

Several Medieval authorities incline in favour of a test from a person's own feelings – is the woman a woman who the man feels is sexually enticing? – this is the position of the Ritva;

All is in accordance with one's fear of heaven, and so, in the halachah all depends on the way a man recognises himself. Therefore if he requires prohibitive fences to curb his intentions, he should construct them and even viewing the coloured clothing of a woman is prohibited. But if he is aware of himself and knows that his desires are subjugated, then it is permissible for him to look at and speak with a woman who is an *erva* and to exchange warm greetings with a married woman.  
(Hidushei Ha Ritba Kiddushin 82a.)

The Ritva believes that 'only one who is thoroughly righteous and recognises his desires may conduct himself in such a manner... fortunate is one who conquers his passions and toils in Torah' but I am not sure that that it is sensible to limit the ability to 'withstand' the 'siren call' of a woman only to expert Torah scholars. Indeed this is noted, even in the Talmud itself.<sup>3</sup> According to Cherney<sup>4</sup> the relevance of how a person, subjectively, feels in ear-shot of a woman introduces a concept of *regilut* – that when something that was at one time, or could be seen as being, sexually enticing, becomes everyday, it loses its prohibited character. This is the position of Moshe Isserles in the leading Ashkenaz articulation of the law.

But a voice which one is accustomed to hear [*kol haregil bo*] is not sexually enticing.  
(SA OH 75.3)

We will return to look at the notion of *regilut* – getting used to something – later.

### **Singing and other utterances**

The association with song appears to be derived from the proof-text offered in the Talmud, a verse which concerns a singing woman, whose *voice is sweet* [ערב]. (Song of Songs 2:14). It should be noted that while the word ערב – sweet – sounds similar (ish) to ערוה – sexual incitement – the two Hebrew words are not etymologically connected. It is a weak proof and should be seen as an *asmachta* – a hook on which to hang an issue that is already prevalent practice. That said we should note the following specific Talmudic discussion of women in song;

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<sup>3</sup> See Succah 52a where Abbaye follows a man and woman as they walk across the meadows together. As they part, having kept far from transgression, Abbaye acknowledges he could not have withstood this temptation. Then 'a wise man tells him "the more a person becomes greater than their fellow, the more their evil inclination becomes greater than him."'

<sup>4</sup> Cherney, B. *Kol Isha*, JHCS 10, 57-75 at page 63.

Rav Yosef said, 'when men sing and women join in, it is licentious, when women sing and men answer, it is like raging fire in flax.'  
(Sotah 48a)

The connection of *kol b'isha* to song is explicit in the Shulchan Arukh, (Even HaEzer 21:3)<sup>5</sup> However there are authorities who, based on the Kiddushin passage discussed above, preclude all female utterances.<sup>6</sup> Regardless of the specifics of *kol b'isha* we should note that the Medieval Rabbis considered all forms social contact with women dangerous verging on the unacceptable. The opening line of the just-cited chapter of the Shulchan Arukh sets out the importance of keeping 'men [*adam*] very, very far away from women.' (Even Haezer 21:1)

### **What activities are prohibited within ear-shot?**

The passage in Brachot clearly concerns the recitation of the Shema prayer, but other Talmudic articulations merely suggest the voice of the woman is problematic without specifying which, if any, activities are prohibited or voided if performed within ear-shot. Matters are made even more complex by a tradition of interpretation that seems to fly directly against the context of the passage in Brachot. Commenting on passage in Brachot the Rosh states;

This was **not**<sup>7</sup> said regarding reciting the Shema rather it is forbidden to hear the voice of women.  
Tosafot HaRosh (Brachot 24a)

This is a surprising statement in view of the apparently clear language of the Talmud itself, but since neither the Rif nor Rambam<sup>8</sup> include *kol b'isha* among the list of things which make saying the Shema forbidden, we should take the Rosh's statement as representing Halachah (perhaps since saying the Shema is such a holy and purifying experience?) thereby understanding *kol b'isha erva* as a general instruction applied to general social interaction, not as a specific bar to specific prayers.

### **Does the Prohibition Still Apply Today?**

We have already raised the possibility of a voice that does not actually entice a man not being counted as *kol b'isha*, see the comments of Hai Gaon and the Ritva above, we discuss this more fully now.

In the thirteenth century, Ravia wrote, in the context of the full range of sexual enticements listed in Brachot (hair, skin, voice) that the prohibition;

Applies only to those things which are not usually revealed [*shain regilut lehigalof*], but it doesn't apply to an unmarried woman, with exposed hair because there is no licentiousness [*hirhur*], and the same applies regarding her voice.

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<sup>5</sup> See also Bet Yosef OH 75. Also restricting the prohibition to singing are Rabad, cited in Hidushei HaRashba Berachot 25a,

<sup>6</sup> See for example J. Blau, Responsa of Moses ben Maimon, *Machzikei Nirdamim* (Jerusalem 1960) 2:224, pp 398-400.

<sup>7</sup> This and other bold emphases in translations of Rabbinic texts are my own.

<sup>8</sup> Mishneh Torah Hil. Keriat Shema 3.16

(1:76 p. 52)<sup>9</sup>

The early-modern Orthodox authority, Rav Yehiel Wienberg, known as the Sridei Aish, was asked how high a Mehitza should be. It is a question with very direct implications for our discussion since sight of a woman's hair is considered *erva* in the same passage as the Talmud deems the voice of a woman *erva*. He noted;

Hungarian [ultra-orthodox] writers were exceptionally strict and expounded from sources that the Mehitza needed to be taller than the height of a woman. Moreover ... they prohibited going to synagogues without such a Mehitzah, and moreover forbid women from coming to pray and held it better that they stay in their homes. And for sure, their intentions are good – protecting the modesty which was customary in earlier generations – but in our time the situation has changed, and human nature has changed [*nishtaneh hamatzav vnishtanu hateviim*], and if women were kept in their homes and weren't allowed to come to Synagogue, the Torah of Jewish life would be lost for them totally. (Sridei Aish 1:8 col 20)

And so, he held, there was no need for a Mehitzah which removed sight of any female hair. This is an extra-ordinary document, clearly sensitive to the differences between our contemporary world and the world in which the more ancient of our texts were written. This response is also remarkable in the way in which it recognises a religious need to involve women in public prayer – admittedly not as leaders – but there is a clear rejection of the notion that what goes on in shul belongs to a male-only sphere. Weinberg also notes that, according to ancient texts, it would be forbidden for a menstruant to come to synagogue, but he also rides over this ancient prohibition, in the context of the High Holydays since;

It would be a great pain [*atzbon gadol*] for them, with everyone gathered inside and them standing outside. In our time women are very sensitive to being kept far from the Synagogue. Also going to Synagogue is, in our time, the possibility of survival of Judaism, for [men]<sup>10</sup> and for matriarchs.<sup>11</sup>

We live in a world where the voice of women and sight of uncovered hair of even married women is a commonplace. There may be some who are so sensitive to the sexual potential in women that they are unable to focus on even as mighty and holy task as prayer in the presence and/or earshot of women, but it would be wrong to use the power of a Halachic dicta to take away the voice or presence of women, for the sake of these troubled individuals. A man who is unable to consider a woman's voice or sight as anything other than a sexual enticement suffers an affliction. He should seek medical and or psychological assistance, he should not be protected in his affliction when this would cause *atzbon gadol* – great pain – to women who feel that being de-voiced is an equivalent of being kept outside with everyone gathered inside.

In conclusion, on the issue of woman as sexual provocateur, I decide as follows;

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<sup>9</sup> See also Levush, Manhigim, at the end of Orach Hayim, 36, citing Sefer Hasidim, which takes a similar position.

<sup>10</sup> Emending the Bar-Ilan Responsa manuscript, which has '*nashim*,' to '*anashim*,' thereby preventing tautology.

<sup>11</sup> Loc cit. See also Sridei Aish 2:8 where boys and girls are encouraged to go to Jewish youth groups where boys and girls sing together.

*Kol b'isha* does not prohibit the recitation of the Shema or other acts of prayer. It only applies to individual men who are, subjectively, distracted by individual women. A man who is so distracted should follow the advice of the Ritva. 'He requires prohibitive fences to curb his intentions and **he** should construct them.' It is not for the woman or the community to create fences creating divisions between all men and all women since, as the Sridei Aish has noted, 'the situation has changed, and human nature has changed.' The voice of a woman cannot be presumed to be a distraction in a society where we are used to it, especially when preventing women from having their voice heard in prayer would be a great pain for them and a threat to the continuity of Jewish life.

I would understand the obligations of a women distracted by the specific voice of a man in the same way.

## **The Woman's Place is in the Domestic Realm**

*All the honour of a Princess is internal.*  
(Ps 45.14)

This verse is often understood, in orthodox settings, to suggest that the correct realm for women is private and domestic. It should be noted that this is a matter of *hashkafah* – behavioural guidance, not *halachah* – legal principle, and as such it does not warrant, nor has it ever received, the sort of legal in-depth analysis that some of our other issues warrant. That said several points seem appropriate.

We could enter into a sociological discussion of the advantages of having a mother at home to cook and clean, but that would be to stray onto territory at the edge of Rabbinic competence, I will concentrate instead on an analysis of two Bible narratives that suggest that women have a vital roles to play in the realm of public prayer and in the 'House of God'.

Then Moses and the people of Israel sang this song to the Lord, 'I will sing to the Lord, for he has triumphed gloriously; the horse and his rider has he thrown into the sea...'  
And Miriam the prophetess, the sister of Aaron, took a tambourine in her hand; and all the women went out after her with tambourines, dancing.  
And Miriam answered them, 'Sing to the Lord, for he has triumphed gloriously; the horse and his rider has he thrown into the sea.'  
(Exodus 15)

Moses's song, the song of the men, is longer, or at least is recorded in far greater depth than the song of Miriam and the women, moreover this text does not suggest that Miriam led the men in song. That said it is evidence of a woman active in the most public way at the single greatest moment of prayerful celebration in the Bible.

An even more important account of female prayer, out of the home, can be found in the Book of Samuel. Hannah wishes for a child and therefore travels, we are told, year after year, to the central venue for Israelite worship in that time, Shilo.

Hanna rose up after they had eaten in Shiloh, and after they had drunk. And Eli the priest sat upon a seat by the gate post of the temple of the Lord... And it came to pass, as she continued praying before the Lord, that Eli observed her

mouth. Hanna spoke in her heart; only her lips moved, but her voice was not heard; therefore Eli thought that she was drunk. And Eli said to her, 'How long will you be drunk? Put away your wine from you.' And Hanna answered and said, 'No, my lord, I am a woman of a sorrowful spirit; I have drunk neither wine nor strong drink, but have poured out my soul before the Lord.'  
(1 Samuel 1)

This is an important text in terms of showing how women turn to prayer in the public ritual realm, in this case in the House of God. Its importance is magnified by the use the Rabbis made of this moving narrative.

Rav Hamnuna said, 'How many important laws can be learnt from these verses about Hannah, *And Hannah spoke in her heart*: from here we learn one who prays must direct it from the heart. *Only her lips moved*: from here we learn one who prays must enunciate. *But her voice could not be heard*: from here, it is forbidden to raise one's voice in Tefillah.  
(Talmud Brachot 31a)

Hannah, a woman, is the model for the correct way to pray! One might suggest that this is almost an example of the Rabbinic doctrine; deeds of ancestors serve as guides for generations to come - *maasei avot siman l'banim*. This doctrine is usually applied only to Abraham Isaac and Jacob, but here a female ancestor (appearing in a prophetic work) inspires both men and women in the correct way to pray.

Nor should we consider that women wishing to attend Synagogue is a modern 'invention.' It is clear that women would attend the synagogue in Talmudic times, see for one example Avodah Zara 38 a-b where we are told that a Jewish woman may leave an idol worshiper to stir a pot on the stove while she goes to the 'bathhouse or synagogue' without worrying that the food would be rendered tainted by idolatry.<sup>12</sup>

A full collection of sources, from Talmudic and medieval times, detailing women's regular presence, in Synagogal prayer can be found in Golinkin's responsum.<sup>13</sup> He cites sources detailing practice in Rome, Pisa, Ashkenaz and Jerusalem. Among them is a tale of a woman who prayed Shacharit every day in the synagogue, but 'the woman would leave the Synagogue before the community had concluded prayers...Behold' the (male) Rabbis found, 'she has sinned because she left the Synagogue.'<sup>14</sup>

In conclusion, on the issue of a woman's place being exclusively the domestic realm, I recognise several important texts which suggest that women have always played a role in public liturgy. Moreover I am particularly motivated by the way in Hannah serves as a model for all prayer. I hold the verse, *the honour of a Princess is internal*, to be irrelevant in the context of considering who may lead congregational prayer.

## QUESTION 2.

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<sup>12</sup> See also Sotah 22a for a story of a woman who went daily to the synagogue of Rebbi Yochanan.

<sup>13</sup> Golinkin *Nashim Bminyana* pp 6-7

<sup>14</sup> Sefer Hasidim Section 465.

**ARE WOMEN TECHNICALLY ABLE, IN THE SAME WAY AS MEN, TO FULFIL OBLIGATIONS OF BOTH MALE AND FEMALE MEMBERS OF THE PRAYER COMMUNITY?**<sup>15</sup>

Most discussions of the ability of women to lead synagogue prayers begin with the following legal principle; if two people share an equal obligation to perform a particular religious obligation one may, in many circumstances, meet the other's obligation by their own action. The reverse is equally true;

One who is not obligated in a thing, cannot exempt others from their obligation.  
(Mishnah Rosh Hashanah 3:8)

For example if a room of Jews wish to eat, only one person needs to make the appropriate blessing for everyone to eat, however a non-Jew has no obligation to say a blessing before eating food, so their blessing would not allow a Jew to partake of food until the (Jewish) individual made the blessing themselves.

This notion of fulfilling the obligation to say the Amidah on behalf of another person is a key function of a leader of prayer. The leader concentrates on saying the prayers accurately and if there are people in the congregation who don't have the same facility and familiarity with the prayers, they can respond 'amen' and be considered as if they had prayed accurately. We therefore have to ask this question – do men and women have the same obligation to pray, or is, somehow, the obligation of men somehow different or greater than that of women?

There is a notion that women are not obligated to perform what are known as 'positive time-bound obligations,' (Mishnah Kiddushin 1:7) but, as we shall see, this doesn't apply to the obligation to say the Amidah which is specifically and explicitly deemed an obligation NOT dependent on a specific time;

Women **are obligated in *tefillah*, *mezuzah* and *bircat hamazon*.**  
You might have thought [that *tefillah*] is a time-bound obligation since the verse states *I pray evening, morning and afternoon* (Psalm 55), therefore the contrary is specified.  
(Mishnah Brachot 3:3 & Talmud Bavli Brachot 20b)

It might be thought that the '*tefillah*' referred to here is a general obligation to articulate the praise of God, but it is clear, not least from the following section of Rambam's Mishneh Torah, that '*tefillah*' in this context refers to the Amidah.

The obligation [of *tefillah*] used to operate like this; a person would beseech and pray every day and speak of the praiseworthiness of the Holy Blessed One, and then ask for their needs to be met ... And so it was from the time of Moses until Ezra.

However when Israel was exiled in the days of the Wicked Nebucanezer, they were mixed in with the Persians and Greeks and other peoples... and when one of them went to pray [they erred or omitted things]. When Ezra and his Bet Din saw this they got up and fixed [*taknu*] the eighteen blessings in order ... so

<sup>15</sup> This section, in particular, follows David Golinkin's *Nashim BMinyan Ucshlichot Tzibur* closely  
[http://www.responsafortoday.com/vol6/1\\_4.pdf](http://www.responsafortoday.com/vol6/1_4.pdf)

they could be fluent for **all**... and in this way they fixed all the blessings and prayers in order in the mouth of **all** Israel.  
(Rambam Mishneh Torah Laws of *Tefilah* 1:2-6)

Golinkin suggests that the use of 'all' here specifically includes women among those who are now compelled to fulfil their obligation to perform '*tefilah*' by the recitation of the Amidah.<sup>16</sup> This certainly is the position of the central Halachic code, the Shulchan Aruch;

Women and slaves, although exempt from reading "the Shema," **are obliged to pray the eighteen-blessing prayer**, because it is a positive mitzvah which does not relate to a specific time.  
(OH 106:1)

Note that this code does not use the general term of the Mishnah – *tefilah*, but rather the explicit term – *shmonah esrei* which cannot be understood to mean anything other than the Amidah.

There is however one Medieval writer who held that women **might** be exempt from the recitation of the Amidah. The Magen Avraham held the Rambam only meant to oblige women in a once-daily turning towards God, 'in any form of words [*nusah*] that a person would want,' and when the full Amidah was fixed as specific prayers 'it is **possible** that the wise did not obligate them any further.'<sup>17</sup> It seems that the prevailing sense that women are exempt from the obligation to say the Amidah is based on this 'possible.' However this seems an errantly restrictive interpretation of the clear wording in the Shulchan Aruch and the Rambam not only in Hilchot Tefilah, cited above, but also in his commentary on the Mishnah.

All positive obligations that women are obligated in; eating Matzah on the night of Pesach ... and *tefilah* and reading the Megillah and lighting Shabbat candles and Kiddush ... for each of them the **obligation for women is like the obligation for men**.  
(Commentary on Mishnah Kiddushin 1:7 ed. Kafach)

There is some discussion of whether the Amidah prayers recited on *musaf* or *neilah* are in the same category as the more regular prayers, but, following Golinkin,<sup>18</sup> I accept that the clear inclusive language of the Rambam - 'they fixed the eighteen blessings ... and in this way they fixed **all** the blessings and prayers' - should be understood to include all the Amidah prayers.

In conclusion, on the issue of whether women are able to fulfil the obligation of men to say the Amidah, I hold that they are.

In the course of this discussion we have raised a potential problem around the Shema.

Recitation of the Shema is a positive time bound obligation; a classification derived from the verse 'when you lie down and when you rise up.' (Deut 6) and as the Mishnah teaches;

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<sup>16</sup> Loc. cit. p. 5

<sup>17</sup> To OH 106:1

<sup>18</sup> Loc. cit. p. 10-11

Women, slaves and minors are exempt from the recitation of the Shema and from [wearing] tefilin.  
(Mishnah Brachot 3:3)

But this does not impact on our current discussion. The leader of prayer does not fulfil the obligation of a member of the community by reciting the Shema on their behalf. This is an obligation which, unlike saying the Amidah, cannot be fulfilled by another person, no matter their sex. Indeed this is also true for the other exemption referred to in the Mishnah above. A leader of prayer cannot exempt a member of the community by their wearing of tefilin. If you are, as a male, obligated to wear tefilin, you must fulfil this obligation yourself and no prayer leader, male or female, can exempt you from it by performing the obligation on your behalf.

The key question is not whether women are obligated to perform each and every *mitzvah*, but whether there are *mitzvot* – obligations – that a leader of prayer fulfils on behalf of a community that women are either not obligated to perform or have a partial or lesser obligation than men? I hold there are no such obligations.<sup>19</sup>

### QUESTION 3.

#### WHO CAN AND SHOULD LEAD A PRAYER COMMUNITY CONSISTING OF BOTH MEN AND WOMEN?

As noted, the role of a leader in prayer extends beyond the technical responsibility of saying the Amidah on behalf of those who have failed to say it accurately themselves. As Rabbinic Jews we hold that something special happens when a prayer community is constituted. God's presence can be invoked in a community in ways an individual cannot achieve alone. This is reflected in the classification of several parts of the liturgy as *devarim shbekedushah* – words of [special] holiness – which can only be said in a formally constituted community.

Don't divide the Shema [*pores et Shema*],<sup>20</sup> lead the prayers [*ovrin lifnei hatevah*]<sup>21</sup> and don't do the priestly blessing and don't read from the Torah ... and don't do the blessing for mourners or ... the blessing for a groom ... with less than ten.  
(Mishnah Megillah 4:3)

By the year 1000 the list of things that are only said in the presence of ten has developed to include the *kedushah* and the various *kaddish* prayers (Mishneh Torah Hil. Tefillah 8:4) and by the sixteenth century the *barachu* has joined the list (SA OH 55.1 quoted below).

#### Should Women be counted among the 'ten'?

<sup>19</sup> I return to look at the issue of *pores et shema* shortly.

<sup>20</sup> For Rashi this is a technical term for something not usually seen in contemporary prayer services. 'If a number of people come to the Synagogue after the community have read the Shema, one of them stands up and says the *kaddish*, *barachu* and first blessing before the recitation of the Shema [thereby allowing latecomers to hear these parts of the service they might otherwise have missed.]' *ad loc.* Rambam considers *pores et shema* to be 'One makes the blessings of the Shema and everyone who hears them answers amen.' (MT Hil Tefilah 8:5)

<sup>21</sup> See Rashi, *shaliach tzibur* – leader of the community

Before asking whether a woman can **lead** a constituted prayer community, or *minyan*, we need to investigate whether a woman can be counted **among** the 'ten.' While the Mishnah, cited above, does specify the number that is required for a *minyan*, it is quiet on what, if any, required characteristics a member of the *minyan* should have. Should they, in particular, be men, or do women also count? The Talmud is also silent on the issue, being preoccupied instead with a struggle to explain the reason for the number 'ten.' The explanation that is offered is a double *gezerah shavah*<sup>22</sup> – a tradition that comparing repeated words which appear in scripture in different contexts can have meaning.

Rav Hiya taught, we can learn this from the repeated mention of the word '**amongst**,' the Bible states *and I [God] will be made holy **amongst** the children [bnei] of Israel* (Lev 22) and elsewhere *separate yourselves from **amongst** that **congregation***. (Numbers 16). And then from the repeated mention of the word '**congregation**,' [firstly in the verse just mentioned and then] here *How long will I [God] bear with this wicked **congregation***. (Numbers 14) Just as this last verse refers to ten, so too the other ones. (Megillah 23b)

A verse that does indeed seem to discuss God's vesting of the Divine presence in some kind of community is connected first to a verse discussing Moses' reaction to the rebellion of Korach, and through this verse to a verse discussing God's reaction to the failures of the generation who left Egypt. Since God's disappointment is occasioned by the failure of the ten spies, so this verse is considered to define a congregation as ten.<sup>23</sup> This is tenuous, even by Rabbinic standards. Golinkin argues that the tendentiousness should incline us away from reading too much detail into the acceptance or exclusion from women in this 'ten.'<sup>24</sup>

Elsewhere (Sanhedrin 74b) we find exactly the same Rav Hiya series of connections used in a discussion of whether the quorum of ten in front of whom misdeeds are considered committed *b'pharhesia* – in public. Is the 'ten' any people, or only Jews? The Rav Hiya passage, from Megillah, is used to prove that Jews only are meant. The discussion then checks whether Ester is considered to have sinned in public (by allowing herself to be married to a non-Jew – Ahashueros), only to conclude that she is exempt from sinning *b'pharhesia* because she was a passive agent in the sin, she was married, she didn't undertake any positive action. In other words Ester, a woman, is, in theory, held to be capable of sinning *b'pharhesia* – in public. Since she, as woman, is capable of shaming God in public by any misdeed, one might think she should be capable of proclaiming the holiness of God in public through any merit.

Also among those early sources silent on the need to count only men, we find the following extract from Rambam. There is more detail here than in the Mishnah, but again, no reference to specific requirement of maleness.

How do you do public prayer [*tefilat btzibur*]? One prays in a strong voice and everyone listens, and don't do it with less than ten free adults [*gedolim u'venei horin*], and the prayer leader is one of them.

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<sup>22</sup> Though in Mishnah Sanhedrin 1.6 the same figure is derived from a straight application of the word **congregation** in Numbers 14. See also Gen 42:5 and Psalm 82:1 for other congregationally minded verses.

<sup>23</sup> As opposed to a congregation of feckless spies lacking in faith!

<sup>24</sup> *Teshuvot Nashim B'Minyan* p. 69.

(Mishneh Torah Hil. Tefillah 8:4)<sup>25</sup>

How are we to approach this silence as to any gender requirement? We are surely safe in assuming that, in ancient times, it was simply assumed women were not full members of the prayer community and therefore there was no need to exclude them by name. But note that this is an assumption made NOT on the basis of any halachic norm or derived teaching (*midrash*) but rather as a reflection of prevailing sociological conditions at the time. Women, in ancient and medieval times were simply not considered to have a role in 'proper' society and therefore frequently become invisible, not only in rabbinic texts, but in so many other ways both inside and beyond worlds of religious ritual.

It is in the context of this prevailing reality, I argue, that we should consider Joseph Caro's Shulchan Arukh, sixteenth century. Here, for the first time, we see a shift in the language used to define the sort of person who can 'count.'

Don't say the *kaddish* with less than ten free adult **males** [*zecahrim benei horin gedolim*] who have two hairs, and this is the law for the *kedushah* and the *barachu*, we don't say them with less than ten.  
(Orach Haim 55:1)

This is the text-based origin of the notion of not counting women in 'ten.' The Mishnah, Talmud and Rambam are silent. The androcentrism appears without explanation in the Shulchan Arukh. None of the classic commentators on this text explains the inclusion of this androcentric language and Caro himself does not mention this new restriction in his commentary on the Tur. Again I hold that this represents not an explicit Halachic stand, but merely the articulation of a fifteenth/sixteenth century social reality in which women had no role in official communal life.

The question then becomes how should we count 'ten' today? It makes a great deal of sense not to count minors, it is obvious that we should only count Jews, but is it a true reflection of the times in which we live only to count men? I argue no. In the world in which we live, a world where women play an equal role in all parts of communal life, from the Prime Minister down, it is most odd to consider that the precise legal quorum of 'ten' should preserve a social reality long since abandoned in other parts of our life. There can be no doubt that Judaism has always considered both 'male and female' are created in the 'image of God.' (Genesis 1), the time has come, indeed it came many years ago, to acknowledge this in terms of who counts, in our attempts to stand before God.

Of course a more traditional perspective would scoff at the notion of using prevailing social norms to reinterpret a text once the text specifies a particular gender, and of course making the shift to count both men and women represents a major change in how we count 'ten.' Nonetheless, I believe it would be wrong to consider that women should not count when the ground for this claim is itself a societal norm and not an articulated Halachic stance. I do not make this claim for all Jewish communities. There clearly are Jewish communities in which women do not play any role in public life, and for these communities it is understandable that women should not count towards the 'ten'. But St. Albans Masorti Synagogue is not such a community. Rather

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<sup>25</sup> See also Tur OH 55.1 which also leaves undefined any required gender for the 'ten.'

we are a community that values the public contributions of its women members in all parts of synagogal life. We recognise women as adult independent agents – *gedolot uvanot horin* – and for us to exclude women from the ‘ten’ on the basis of the unexplained mention in the Shulchan Arukh, rather than consider the Shulchan Arukh, Rambam and Talmud present only a reflection of a long-since disappeared societal norm, is inappropriate.

We have therefore created the possibility of considering women as members of the prayer community. We now turn to consider who may lead such a community.

### Who May Lead?

The major Talmudic discussion of how a leader is chosen from the members of the community is in tractate Taanit, 16a. That discussion is specific to who should serve as leader at a time of great need, but, as we shall see, the teaching is accepted as normative practice.

And who is considered appropriate [*regil*] to lead prayers [on a fast day]? Rabbi Yehudah said, ‘one who is burdened [with a large family] and has no [means to support them], he works in the field and his home is empty. [Moreover] their youth is unblemished, they are meek and they are wanted by the people, they are pleasant and their voice is sweet<sup>26</sup> and is expert at reading the Torah and other Biblical works and is proficient in various fields of Rabbinic learning and is expert in every one of the blessings.  
(Taanit 16a)

By the time of the Shulchan Arukh these requirements have been codified to apply to all prayer services;

The leader of the prayer community must be appropriate [*hagun*]. What is appropriate? They should be free from sin and never to have been the subject of gossip [*motzi shem ra*], not even in their childhood. They should be humble and desired by their community. They must look nice and have a pleasant voice and they must regularly read from the Torah, Prophets and Writings.  
(OH 53:5)

To this list, the Mishnah Brurah adds;

Their clothes should be long, so you shouldn’t be able to see their legs,<sup>27</sup> and they should be first into the Synagogue and last out, nor should they be foolish or frivolous, rather they should be able to speak of the needs of the community.

These texts do more than set a ‘high bar,’ they define the qualities needed to be an appropriate leader of prayers beyond any human reach. The insistence that a leader of prayer should be ‘free from sin’ is already enough to rule out the entire human race!

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<sup>26</sup> It is interesting to note the Hebrew term used here - ‘ערב.’ This is the same word used as a proof that a woman’s voice is ערוה (Song of Songs 2:14 and Brachot 24a, see discussion above). The man should be ערב, the woman is, in traditional circles, banned from leading since she is ערוה/ערב.

<sup>27</sup> This is based on Talmud Megillah 24b, see my responsa on Aliyot for Women at [http://e-sams.org/standards\\_of\\_practice.htm](http://e-sams.org/standards_of_practice.htm).

There is perhaps instruction to be gained in seeing the way in which the Talmudic requirement that a prayer leader be, 'one who is burdened [with a large family] and has no [means to support them].' It is a powerful image; it speaks to the urgency and vital importance of congregational prayer. Leading a community is not about singing and it is not about sounding tuneful. It is about placing ourselves before God, taking our successes and failures, strengths and weaknesses and beseeching the Divine for mercy on behalf of the community. But despite the clear wisdom and beauty in the requirement, it's gone by the time of Shulchan Arukh. Indeed the whole demand for perfection, clear in the Talmud and in the opening definition of what makes an appropriate leader of prayer in the Shulchan Arukh, is softened greatly by the very next comment.

And if you can't find one who has all these qualities, choose the best of the community in matters of wisdom and good deeds.  
(OH 53:5)

The *shaliach tzibbur* must be desired by their community. And if, teaches the Shulchan Arukh, you can't find someone truly appropriate and entirely free of any failing, then you chose as best as you can.

The Halachic system, with its myriad of caveats and nuances, is not designed for a perfect world, full of sinless, error-free humans. It is a very real and very realistic attempt to challenge us to do the right thing. Of course you cannot have a perfect leader of prayer. Rather, and this is critical, the key characteristic of the imperfect leader who ends up serving their community is that they are chosen by the community. We are the ones who decide whether a particular candidate to lead us in prayer is appropriate [*hagun*] or not good enough.

There are different ways to respond to this responsibility. One the one hand we can ratchet up the standards, thinning down the number of prospective candidates, excluding one for their failure to observe a certain rule of Shabbat observance, excluding another for their inability to distinguish between a *shva na* and a *shva nach*. Or alternatively we can lower the bar, welcoming in new prospective leaders of the community; tolerating occasional mis-pronunciation or personal failing in the hope that the honour of representing a community will inspire them and us to increase our learning and refine our behaviour. Different communities, at different times, will approach this decision in different ways.

So, how is this decision to be applied at St. Albans Masorti Synagogue today? Certainly we wish to look up to our prayer leaders. Indeed this is something that many members stressed in the consultations that preceded the writing of this paper. But we also see ourselves as an inclusive congregation, given to sharing honours broadly and encouraging, particularly, those who wish to improve their skills to do so. We are, as a community, loath to label our members 'not good enough'. In the context of this broader approach, the lack of women prayer leaders felt awkward. Much as we might have wished to hide from the reality of what we were doing, we were claiming that women were not capable of being *hagun* – appropriate. More precisely we made the claim that the inappropriateness of women is utterly connected to their gender. In other words, while we welcomed any male, provided they could recite the Hebrew, to lead the services, we permitted no woman, regardless of her level of knowledge, piety or commitment.

I know on a certain level it *is* possible to make the case that just because a particular community won't allow women to lead prayers doesn't *necessarily* mean that that community thinks any less of its women. I know it *is* possible to think that women are perfectly good enough in all sorts of ways, other than leading services, and not to *mean* to demean 50% of the Jewish people. I know it *is* possible to feel that the unique nature of woman should keep her from leading a community in prayer before God, but not stop her in other enormously important ways from serving the Holy Blessed One. I know these things to be possible, but I don't accept them, either for myself, or the St. Albans Masorti community.

Accordingly I conclude, on the question of the appropriateness of a person to serve as prayer leader, that consideration of a person's gender should not trump all other factors. Women, as men are equally able to be considered *hagun* – appropriate – by the community.

## **AN ADDENDUM**

### **THOUGHTS ON THE ANDROCENTRIC NATURE OF RABBINICS AND RABBINIC LANGUAGE**

The approach of Rabbis of antiquity towards women is complex. This passage from the early twentieth century Rabbi J. H. Hertz is a very good example of a traditional Rabbinic voice;

The Jewish sages recognized the wonderful spiritual influence [of the Jewish wife], and nothing could surpass the delicacy with which respect for her is inculcated. [As the Talmud states] 'Love your wife as yourself and honour her more than yourself. Be careful not to cause a woman to weep, for God counts her tears. Israel was redeemed from Egypt on account of the virtue of its women. He who weds a good woman, it is as if he had fulfilled all the precepts of the Torah.'

(J.H Hertz, Pentateuch)

To a contemporary feminist there is something troubling about the very language used here, but, nonetheless, the intent is clear. Women are highly valued. More practically the Rabbis created many brave and creative legal structures to protect and strengthen the lot of women in ancient times; principally the institution of the *ketubah* to protect women with no means of economic self-sufficiency from being discarded by their husbands.<sup>28</sup>

There are also occasional glimpses, in the Rabbinic canon, of what might be considered a gendered awareness of the relationship between men and women. In a discussion of what happens to inheritances a woman comes into once married there is a consensus that these devolve to her husband, but there is a disagreement about what happens to inheritances that an engaged woman comes into.

Bet Shammai says she can sell it and Bet Hillel says she can't...

Rabbi Yehuda said, the Rabbis said before Rabban Gamliel, 'Since [the husband] has acquired the woman, shouldn't he also acquire the property?'

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<sup>28</sup> See generally J. Hauptman *Rereading the Rabbis* and particularly Section 3, pp 60-74.

[Rabban Gamliel] said to them, 'we are embarrassed [that a married woman who comes into an inheritance has no control of it]<sup>29</sup>, and you [want us stretch such an embarrassment further]?!<sup>30</sup>  
(Mishnah Ketubot 8:1)

But even in a relatively aware text such as this the woman is not considered as an agent in her own right, deciding her own destiny, she is reliant on the man. Nowhere is this clearer than in the opening words in the Rabbinic treatment of marriage.

A woman is acquired [*niknet*] in three ways...  
Through money, a writ and sexual intercourse.  
(Mishnah Kiddushin 1:1)

The woman is passive. She is acquired, she is married; she does not acquire, she does not marry. The woman, in this and many other texts, is objectified. She is not the subject of her own marriage, just as women were not, in ancient times, generally considered to be the subject of their own lives.

While I would have been delighted to have seen a more 'enlightened' approach to these issues in texts over 1500 years old, I am not distressed to find a somewhat old-fashioned and male-focussed or androcentric approach in texts written in an androcentric time and place, it would be unreasonable to expect anything else. More worrying however are moments of misogyny clearly visible in ancient texts. The Rabbis lived in a homo-social world. In general they had no interaction with women, either socially or in their study. On occasion, it must be admitted, this lack of female socialisation is apparent to the point of creating offence.

A woman is as a pitcher full of excrement and her mouth is full of blood.  
(Shabbat 152a)

There is much to say about this statement. One can offer apologetics and explain context but texts like this (and there are others) should not be saved. They should not be considered to reflect God's wish for humanity; the touchstone of all we consider holy. Tragically one can detect an impact, on contemporary and traditional forms of observance, of these moments of misogyny. Women tend not to be treated as pitcher of excrement, but, as a Rabbi, I meet many women who complain they have been made to feel second-class Jews. It is surely impossible for anyone involved in traditional Jewish communities not to be struck by the words of Cynthia Ozick, author and critic.

In the world at large I call myself and am called a Jew. But when, on the Sabbath I sit among women in my traditional shul and the rabbi speaks the word 'Jew' I can be sure that he is not referring to me. For him, 'Jew' means 'male Jew'. When the rabbi speaks of women, he uses the expression 'Jewish daughter' he means it tenderly. 'Jew' speaks for itself. 'Jewish daughter' does not. A Jewish daughter is someone whose identity is linked to and defined by another's role. 'Jew' signifies adult responsibility. 'Daughter' signifies immaturity and a dependent and subordinate connection.

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<sup>29</sup> Lit - regarding the new.

<sup>30</sup> Lit - impose on us the old.

When my rabbi says 'A Jew is called to the Torah' he never means me or any other living Jewish woman.

My own synagogue is the only place in the world where I, a middle aged adult, am defined exclusively by my being the female child of my parents.

My own synagogue is the only place in the world where I am not named Jew. (Cynthia Ozick, On Being A Jewish Feminist)

Even when pre-modern Rabbis are striving to do well by women, there is something, quite literally, patronising in the way men put themselves forward as patrons – guardians and protectors – while simultaneously rejecting the notion that women could or should speak for themselves. We have, as Jews, existed for millennia with only half our voices being heard and recorded and we, now, need to open up our tradition to the unique contributions, challenges and inspiration that will come by welcoming women to make their contributions to Jewish life not only from the home, but also from before the ark, in public, in Synagogue.

This will not be an easy journey for many. Some men, and some women also, will find these new voices, contributions and challenges to be uncomfortable. But comfort is not the test of our religious quest to walk in God's ways. Rather we must always strive to do better, to recognise, ever more deeply, the divine image encoded in all humanity. It is in this context that I decide as follows.

## **CONCLUSION**

1. There is nothing about women that distracts or otherwise makes it impossible for them to 'conduct' prayers for a mixed, male and female, community.
2. There are no obligations a male leader of prayer can fulfil on behalf of the community that a woman cannot.
3. Women, at St. Albans Masorti Synagogue, should be counted in the 'ten' that make up a *minyan* and the gender of a person should not trump all other considerations when considering who should lead the community in prayer.

Rabbi Jeremy Gordon  
Kislev 5767