

# Current Jewish Questions

## Partnership Minyanim

### I. Women Leading Kabbalat Shabbat

#### 1. OU BOARD ISSUES STATEMENT ON FRIDAY NIGHT SERVICES

[http://www.ou.org/general\\_article/ou\\_board\\_issues\\_statement\\_on\\_friday\\_night\\_services#.Ubi6hvm1G\\_g](http://www.ou.org/general_article/ou_board_issues_statement_on_friday_night_services#.Ubi6hvm1G_g)  
October 14, 2010

At its meeting on October 6, 2010, the Board of Directors of the Orthodox Union resolved as follows:

“With regard to the matter of a woman leading Kabbalat Shabbat services before an audience of men and women, the position of the Orthodox Union is that such practice is improper and constitutes an unacceptable breach of Jewish tradition.”

#### 2. Kabbalat Shabbat: Recited by the community; but is it communal? – Rabbi Barry Freundel Tradition 44:2 2011 p. 35-51

Trying to decide this issue based on what Kabbalat Shabbat was like in the 15th-16th centuries is not appropriate as an Orthodox epistemological approach to halakha. I do so only because some claim that the relatively recent date of origin of Kabbalat Shabbat means that it is not to be considered mandatory communal prayer.

The far more important question is the status of Kabbalat Shabbat today. It is somewhat surprising to find, in an Orthodox context, a legal argument that simply skips the last 4 or 5 hundred years of halakhic history. That type of argument is usually associated with the Historic School and the Conservative movement. As I understand the halakhic process, one must look primarily to current practice and not to an understanding that existed at some other time and place in Jewish history but that is not currently held by any contemporary halakhic decisor and that does not appear in current practice.

What then is the halakhic reality of Kabbalat Shabbat today? Ohr Zaru'a says that regular repetition of a communal liturgical custom turns it into a *hiyyuv* for those reciting it. This comment alone may be sufficient to answer our question.

Further, a practice may become mandatory once it has spread through all Israel (*minhag she-nitpashet be-hol Yisrael*). As an example, the Mishna describes the Torah readings for the yearly cycle of the holidays. This description does not match what our contemporary communities do. Rambam, in his commentary to this Mishna, describes the practice essentially as we have it today. He defends the deviation by saying that what he describes is the “custom that has spread through all Israel.” The current practice is seen as binding and it is not acceptable to go back to the mishnaic list and follow its mandate. To do so would mean committing the Genetic Fallacy as described. The weight of universal contemporary Jewish practice carries the day as the halakhic reality.

### **3. Partnership Minyanim III R. Barry Freundel** February 3, 2013

<http://torahmusings.com/2013/02/partnership-minyanim-iii/>

There follows a truly remarkable sentence. It reads: “The fact that women regularly participate in and lead services like this in many Modern Orthodox settings suggests that the community has a broader conception of tefilla be-tsibbur than Rabbi Freundel does.”

I am not at all sure I understand the import of this sentence. Is there a responsa or posek who has validated this practice? Is Dr. Trachtman unaware of the frequently encountered phenomenon in halakhic literature wherein a practice begins to spread in the Jewish community and is then subject to Rabbinic review which may in fact yield negative conclusions, sometimes even hundreds of years after the practice begins? Is any practice engaged in by some subset of the community, in this case for likely no more than a couple of decades at most, suddenly halakhically consequential to the point where it can be used to challenge multiple halakhic sources? Finally, considering that those who are defending Partnership Minyanim challenge my assertion that the unanimous, hundreds of years old recitation of Kabbalat Shabbat in Ashkenazi circles is consequential, finding someone who cites this recent change in practice in some circles as being dispositive is remarkable, to say the least. Again, I do not see this comment as adhering to an Orthodox epistemology of Halakhah.

### **4. Women Leading Kabbalat Shabbat: Some Thoughts August 19, 2010**

**Rabbi Michael J. Broyde**

<http://torahmusings.com/2010/08/women-leading-kabbalat-shabbat-some-thoughts/>

#### I. What is the Problem With Women Leading Kabbalat Shabbat?

First, notwithstanding some of that which has been written, I seriously doubt that the recitation of Kabbalat Shabbat has the status of a *davar shebikedusha*, such that a woman as a *chazan* is a violation of the classical *yatza-motzi* rules. Kabbalat Shabbat is generally discussed in the *poskim* (see *Shulchan Aruch* 261 and 263 as well as *Ishei Yisrael* 36:14-15) in the context of a *minhag* and nothing more, and we have generations of *tanaim*, *amoraim* and *rishonim* who did not say it...

Second, I doubt that there is any violation of *halacha* associated with a *shul* skipping Kabbalat Shabbat completely, or having no *chazan* at all for it...

Third, Kabbalat Shabbat need not be sung, and we should not base our analysis of the issue of women leading Kabbalat Shabbat on the *kol beisha* issue, as that can be readily avoided by simply saying Kabbalat Shabbat without any tunes at all (as I do to myself every Shabbat eve)...

Fourth, I suspect that as a matter of normative *halacha*, we will be hard pressed to claim a consensus that women may not lead any communal activities in an Orthodox community, and that it is a violation of general rules of modesty in our community...

Thus, I think that the real issue is exactly the one of violation of *minhag yisrael*. Whatever the theoretical basis of our custom is, it is clear that since the *minhag yisrael* of reciting Kabbalat Shabbat started five centuries ago, women have not led it. This is true even as there never has been a technical violation of *hilchot tefilla*, in my view, here. The issue is one of *poretz geder*, breaches of historical custom and change within Orthodox ritual.

#### II. The Issue of Change and Innovation in Matters of Minhag: When is Change Good or Bad?

Furthermore, let me confess that I do not think that merely pointing out to the community that having a woman lead Kabbalat Shabbat is a vast breach of minhag yisrael is enough of an explanation of why it should not be done when speaking to large segments of the Orthodox community. Our community looks at many of its innovations in the last century that were breeches of historical minhag yisrael and yet necessary to adapt to life in America. The notion of Jews speaking the vernacular or dressing as gentiles do is a breach of minhag yisrael, the concept of a yeshiva which is a university or college is a breach, as is religious Zionism, as is the rabbi giving a sermon in the vernacular, as is women learning and teaching Torah, as are literally dozens of innovations in American Orthodoxy. Each of us, in our synagogues, I suspect, engages in practices that would have been completely unacceptable a century ago in Europe. Our community, I think, will not agree with us if we oppose this merely because it is an innovation. We must explain why it is a bad innovation...

Finally, speaking just for myself, I agree with the sentiment that innovation itself can be good or bad, and our practice on matters not precisely governed by halacha can change as the reality changes. To put it simply, I would have supported the opening of Yeshiva College in 1928, even against the consensus of poskim, as the times needed it and halacha permitted it. In the face of a proposed innovation to minhagim, we must ask whether this is a good innovation or a bad one, and not merely oppose all innovation.

Thus, in this and every other context, we must explain why any particular innovation is unwise, and not just innovative.

### III. Women Leading Kabbalat Shabbat: An Explanation of the Problem

I think, but I am not certain, that the proper explanation for our opposition is as follows: We all agree that women are not allowed to be shluchoi tzibur for yatza-motzi matters as a matter of technical halacha, and we all agree that women cannot be shluchoi tzibur for devarim shebikedusha, either. We furthermore agree that outside the synagogue setting (such as at kiddush or birchot hanehenin) women can be motzi men. Our opposition to women being leaders of Kabbalat Shabbat is thus, I suspect, grounded in our sense that even though technical Jewish law permits this conduct as a matter of hilchot tefilla, we fear that such conduct produces a reality that is hard to present as a stable status quo, and we are worried that people will grow confused as to what only men can lead: women leading Kabbalat Shabbat will easily slip into women leading Maariv, which is precluded by halacha as commonly understood. For this reason, Orthodox communities have never let women lead those parts of davening that technical halacha does not formally prohibit them from lead.

Why then do we let children lead services like Kabbalat Shabbat and Pesukai Dezimra? I suspect that the answer to that question is as follows (and it is complex): exactly because we are now a more egalitarian community than we ever were, we must be careful not to treat women like children as a matter of halacha. People do not perceive the gap between men and women as socially or religiously great (since both are obligated in most mitzvot min hatorah), whereas the gap between adults and children is very large both religiously and socially (as children are not obligated in mitzvot min hatorah at all). Thus, we worry more that women leading the parts of services (even parts that, when they lead, do not violate technical halacha) is far more likely to lead to women leading all of services than the possibility that we will forget that children are not full participants. Thus, we permit six year old children to lead Ein Keloheino, because no one will confuse a six year old with an adult, but we ought not to permit Ein Keloheino to be led by an adult woman, exactly because we will confuse her with an adult man, because she is an adult obligated in Jewish law. Since she

cannot lead Mussaf as a matter of Jewish law, even as she looks like a fully obligated adult in our modern egalitarian eyes, we must draw greater lines distinguishing women from men than children from adults. We fear this confusion less when a woman leads kiddush in the social hall or makes hamotzi over Shabbat lunch, exactly because neither of these are situations where we consider the person leading services to be functioning as a chazan...

Jewish law remains a dynamic legal system to this very day. Like all dynamic systems, change in custom is possible and in the last century in America much has changed within Orthodox custom. But, if our community is to grow and prosper, it is because we examine closely whether each and every proposed innovation is prudent and wise, as well as whether it is technically permissible. Furthermore, halacha – more than many legal systems – is aware of the fact that customs have to foster and facilitate halachic conduct in other areas of Jewish life and observance. Changing the custom so as to allow women to lead Kabbalat Shabbat as a chazan seems to me to be a practice that badly obfuscates between situations where a proper shaliach tzibur is needed and where one is not, and thus a bad innovation, likely to lead people astray.

<p><b>5. M. Zevachim 12:4</b>  All sacrifices which became disqualified: [if this happened] Before they were flayed, their skins do not belong to the priests. [If it occurred] after they were flayed, their skins belong to the priests. Said R. Hanina the segan of the priests: never in my life have I seen skin go out to the place of burning. R. Akiba observed: we learn from his words that if one flays a firstling and it is found to be terefah, the Priests have a right to its skin. But the sages maintain: <u>'I have never seen' is not proof</u>; rather, it [the skin] must go forth to the place of burning.</p>	<p><b>5. משנה זבחים יב משנה ד</b>  כל הקדשים שאירע בהם פסול קודם להפשטן אין עורותיהם לכהנים לאחר הפשטן עורותיהם לכהנים אמר רבי חנינא סגן הכהנים מימי לא ראיתי עור יוצא לבית השריפה אמר ר' עקיבא מדבריו למדנו שהמפשיט את הבכור ונמצא טריפה שיאותו הכהנים בעורו <u>וחכמים אומרים אין לא ראינו ראייה אלא יוצא לבית השריפה :</u></p>
<p><b>6a. Shulhan Aruch Y.D. 1:1</b>  Everyone may slaughter ab initio, even women. Ramo: there are those who say we do not give women to slaughter for it was already the custom that they not to so. And this is the custom that women are not slaughterers.</p> <p><b>6b. Shach YD 1:1</b>  And this is the custom – This is what the Agur and the Beit Yosef add on this, that "'We have not seen' is not a proof." And according to my opinion, the opinion of the Agur like what the Maharik writes in 172 that regarding customs and the like, <u>saying 'We have not seen; is a proof.</u></p>	<p><b>שו"ע יורה דעה א:א</b>  הכל שוחטין לכתחלה, אפילו נשים. הגה: יש אומרים שאין להניח נשים לשחוט, שכבר נהגו שלא לשחוט, וכן המנהג שאין הנשים שוחטות (ב"י בשם האגור).</p> <p><b>ש"ך יד א:א</b>  וכן המנהג - כ"כ האגור והב"י השיג עליו דלא ראינו אינה ראייה ולפעד"נ דדעת האגור כמ"ש מהר"י"ק בשרש קע"ב דבמנהג וכה"ג הוי לא ראינו ראייה וכמ"ש הרב בח"מ ס"ס ל"ז :</p>