

Women in Positions of Leadership: Melekh ve-Lo Malkah Reexamined

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Between Senator Hillary Clinton running for the democratic nominee, Governor Sarah Palin on the Republican ticket and Israeli Foreign Minister Tzipi Livni working to become Israel's second female Prime Minister – “women in public office” is a topic on people's minds. Some Modern Orthodox *shuls* have begun to have women presidents, and allow women to hold other *shul* offices, although in many communities even that kind of public display of women in power within the synagogue is avoided. Certainly, many Orthodox women, fully observant of Jewish Law, already hold public positions in secular settings. Why the discrepancy? Why the hesitation? This article will examine biblical and rabbinic sources that discuss the issue of women's leadership, and hopefully gain insight into what those sources are conveying to us, and how, if at all, that impacts our situation today.

The Torah tells us in *parashat Shoftim*: “If, after you have entered the land that the Lord your God has assigned to you, and taken possession of it and settled in it, you decide, ‘I will set a king over me, as do the nations about me,’ you shall be free to set a king over yourself, one chosen by the Lord your God.”¹ The Torah tells us among the many mitzvot we are given in preparation for our entry into the Land of Israel that we will require leadership. The *Humash* writes that while the initiative at first will come from the people, the selection will ultimately be up to God, and the appointment will come from the nation.

The *Sifrei*, a Tanaitic compilation of *Midrash Halakha* on the book of *Devarim*, in its comments on our verse², includes the clarification: “*melekh ve-lo malkah*.” Meaning, you shall be free to set a king, and not a queen as the monarch. The text, in using the word king, has excluded the possibility for a queen to be part of this commandment. Where do the Rabbis learn this rule? Examining the following lines will guide us to an answer by highlighting the methodology with which the Rabbis of the *Sifrei* operated. The midrash continues on to the next clause in our verse, “one chosen by the Lord your God, according to a prophet.” The Malbim (19th c. Russia) asked the question: where did the Midrash learn this second rule? Why does the Midrash need to mention to us that God will speak through a prophet? He answers: because this is what the people did in *Sefer Shemuel*.

In *Sefer Shemuel*, the people approach the elderly prophet Shemuel, and they tell him, “You have grown old, and your sons have not followed in your ways. Therefore, appoint a king for us to govern us like all other nations.”³ The purpose of getting a king from the nation's perspective is to replace the Judges. Later in the chapter, after Shemuel warns the people about the kinds of sacrifices getting a king will involve, they reinforce their interest, and they

expound upon the reason: “That we may be like other nations: Let our king rule over us and go out at our head and fight our battles.”⁴

From these words it is apparent that the function of the king for these people was primarily that he be their “commander in chief.” We know from *Sefer Shoftim* that the Judges fought wars for the people. We also know that that form of leadership ended in disaster and civil war. Once that period ended, the people come to Shemuel and demand new leadership. They want change! All the other nations have a functioning monarch who leads their nation in battle - that's what the people her want.

Furthermore, the Mishnah in *Sanhedrin*⁵ cites among the King's powers that a king may lead the nation into a *milhemet reshut*, with the consent of the *Sanhedrin*. Rambam deduces from here that, in the case of a *milhemet mitzvah*, the king may take initiative even without first getting the *Sanhedrin*'s approval.⁶ Certainly, one of the king's primary roles was to lead the nation in battle.

Considering the king's military function, a problem with a female king arises. The Talmud takes for granted in several places that it is a man's nature to fight in battles, and it is not a woman's nature.⁷ Perhaps it was for this reason that the rabbis precluded the possibility of a queen in a position of king.

However, this analysis is insightful only as far as a king of the nation of Israel is concerned. But how does this inform our question of *shul* presidents and the like? While *shul* presidents do face many difficulties, going to battle is not usually on the job description. Rambam makes the transition: “We may not appoint a woman to kingship, as it says, ‘a king upon you and not a queen.’ So too with all appointments in Israel, we only appoint a man to them.”⁸

Rambam takes an injunction that limited the role of commander in chief to men, where the Torah wrote the word “king,” and the Rabbis explained it was limited to men, and not applicable to women—and he amplifies it to such an extent that it applies without limits, to every single appointment in the Jewish people! Based on our earlier analysis, this jump is puzzling. Perhaps the Rambam's understanding of the Midrash differs from the one I have presented.

The *Or Sameah* (Lithuania 19-20 c.) offers a commentary to Rambam's law: “This that the Talmud says in the chapter Three Who Ate (*Berakhot* 49a) that women and slaves are not included in Torah and kingship⁹ is not a proof, since the explanation for that statement is comparable to the mitzvah of Torah study—just as women are not obligated to study Torah, so women are not obligated in the positive commandment to establish a king upon Israel. This is as the *Sefer ha-Hinukh* wrote, since [women] are not conquerors, and this matter is simple.”

The *Or Sameah* remarks here that the Tal-

mud's limitation for women from “kingship” in *Berakhot* as a potential reason to exempt women from grace after meals is unrelated to our Midrash of *melekh ve-lo malkah*. He references, instead, to the *Sefer ha-Hinukh* (Spain, 13 c.).

The *Sefer ha-Hinukh* that the *Or Sameah* cites¹⁰ explains that the requirement for the kingship to be an inherited position is not exclusive to the king, but is generally set in place so that the children will have a fear in their hearts for the shoes that they are coming to fill. He does not mention this principle with regards to the limitation of *melekh ve-lo malkah*. Furthermore, even within this expansion, the author of *Sefer ha-Hinukh* adds that where the inheritance of a position does not lead to greater awe for the job, we should appoint someone new, who is more appropriately suited for the position.

The *Or Sameah* makes two comments. The first introduces the principle that women need not appoint a king upon the nation of Israel, since that job is reserved for the nation's men. *Or Sameah*'s second comment, wherein he cites the *Sefer ha-Hinukh*, is elusive: is he expounding on the first point, saying that the appointment of kings is reserved for men because they are the warriors? Or is he addressing the *Sifrei*'s rule that Rambam brings down here? If he is doing the latter, I understand why women ought not hold the kingship, as women are not meant to be warriors. However, the explanation does not satisfy Rambam's expansion to all positions of appointment with Israel. The merit-based credentials that are essential for all other appointments ought to pertain to women as they do for men. The *Or Sameah* does not address Rambam's reasoning in this respect.¹¹

Another difficulty with this entire issue is presented by the case of Devorah. In the *Sefer Shoftim*, chapter four, we learn: Devorah, wife of Lapidot, was a prophetess. She led (*shafiah-judged*, lit.) Israel at that time. She used to sit under the Palm of Devorah, between Ramah and Bethel in the hill country of Ephraim, and the Israelites would come to her for decisions. She summoned Barak, son of Avinoam, of Kedesh in Naftali, and said to him, “The Lord, the God of Israel, has commanded: ‘Go march up to Mount Tabor, and take with you ten thousand men of Naftali and Zevulun, and I will draw Sisra, Yavin's army commander, with his chariots and his troops, toward you up to the Wadi Kishon; and I will deliver him into your hand.’ But Barak said to her, ‘If you will go with me, I will go; if not, I will not go.’ ‘Very well, I will go with you,’ she answered. ‘However, there will be not glory for you in the course you are taking, for then the Lord will deliver Sisera into the hands of a woman.’ So Devorah went up with Barak to Kedesh.”¹²

We see in these verses that Devorah led the people. She acted as a judge, and she is trusted and relied upon both as the nation's

prophetess and as a military leader as well. Devorah tried to uphold the military limitation that we saw in the *Sifra*. She tells Barak that it will make him look bad if he *schlepps* her out to the battlefield with him, but he insists. He doesn't look brave from this story, but Devorah does go out to war with him.

Many have pondered how it could be that a woman was leading the people of Israel. The *Ba'alei ha-Tosafot* in several places come up with two basic suggestions as to how it could be that Devorah “judged” the people:¹³ either, she wasn't really judging, but merely teaching. An alternative suggestion Tosafot bring is that Devorah was thrust upon the nation as a prophetess, and once God gave his approval, then she has the approval she needs to be leader, and the people embrace her.¹⁴ The Ran makes a similar point where he distinguishes between a Torah-leader and a Torah-teacher, where in the case of a teacher, people are not bound by his or her rulings, but might choose to follow them, whereas a leader's ruling are binding.¹⁵

The *Minhat Hinukh* (19th C. Poland) limits the rules in the midrash about who can be a king to the original appointment. He remarks that just as the *Noda bi-Yehudah* (18th C. Prague) ruled that a son of a female convert could inherit the kingship, so could a woman. The prohibitions merely restrict who we are allowed to appoint in the first place. This is based on the language of the verse, “*son tasim*” - that you shall appoint. This approach emphasizes the centrality of the appointment, and deemphasizes the limitations that the Torah sets upon who can be appointed.¹⁶

Perhaps with this understanding, we can reflect on one of the *Ba'alei ha-Tosafot*'s comments about Devorah. She was brought upon the nation as a prophetess. God chose her for this position. The formal appointment of kings had not yet begun, and her entire realm of leadership stemmed from the fact that she was a prophetess. The leadership she took on thereafter appears to have a grassroots-like nature: rather than receiving a formal appointment, she gets the nation's approval, and she's in. People would come to her tree and ask for advice and seek her guidance and decision making. In this way, I would argue that it would not violate the Midrash's restriction, based on the sources we have seen.

R. Moshe Feinstein (20th c. New York) distinguishes between what is considered a person's profession and an appointment.¹⁷ He says that the “appointments” involve an aspect of “*serarah*”- or authority position. He brings this up in considering the permissibility of a modest widow acting as a *mashgihat kashrut* in a kitchen to make a living, and he rules that there is no concern of *serarah* in such a case because she has a supervisor and does not hold ultimate authority. A disagreement exists in the Talmud¹⁸ between the Palestinian and Babylonian practice with regards to defining the pa-