

## DISSENT ON WOMEN'S HIYUVIM

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*This paper was submitted, in May 2014, as a dissent to "Women and Mitzvot" by Rabbi Pamela Barmash. Dissenting and Concurring papers are not official positions of the CJLS.*

Rabbi Barmash's Teshuvah is very compelling. Her historical and sociological analysis of the concept of "Mitzvah Aseh Shehazman Grama" (positive, time-bound Mitzvot), is a wonderful addition to scholarship that makes Conservative Judaism's approach to Halacha so powerful for the contemporary world. If Rabbi Barmash had published this paper in a Journal of Jewish Thought, all Jews would have benefited from its insights. Unfortunately, she chooses to present it as a Teshuvah, a Halachic ruling. So while I basically agree with her analysis of the topic, I disagree with its Psak (ruling).

My major objection to this Teshuvah is that by creating new Hiyuvim (obligations) compelling women to observe Halacha in the same way as men, we are creating a whole new class of sinners. What I mean is that any realistic look at Conservative Jews will make it clear that our men have not taken upon themselves the Mitzvot which they are obligated to follow. It is unfortunate but true that most Conservative Jewish men do not pray three times a day. Most Conservative Jewish men do not wear Tefillin. By what logic could we expect that this Teshuvah will suddenly make our women follow these Mitzvot? Any when they don't, aren't our rabbis putting a stumbling block before the blind? And furthermore, this Teshuvah's conclusion is opposed by the dictum that rabbis should not create laws that the majority will not follow. We should not demand observance that we know will not be fulfilled.

Over the last number of months I have asked a number of women who are serious Conservative Jews what effect this Teshuvah would have on them. A very large majority of this admittedly anecdotal survey said that it would not change their observance. Although most also believed that women and men should be treated equally. This again shows a dichotomy between theory and practice.

Another objective is that while historically women have chosen to accept many Mitzvot upon themselves from which they had previously been exempt (i.e. Lulav and Shofar), it was the women who accepted the responsibility and then the rabbis incorporated them as Hiyuvim for women. So historically, what Rabbi Barmash is advocating was a 'bottom up' not a 'top down' process. This Teshuvah upends that natural flow.

As an analysis of the relationship of women and Mitzvot, this Teshuvah makes a tremendous contribution to our understanding of the topic.

If this Teshuvah had called for the education of women and their encouragement to accept upon themselves more Mitzvot, it would have added to Conservative Judaism's legacy.

Unfortunately it goes even further asking for something that is not realistic. I must therefore dissent from its conclusion.