

## *Review Essay*

*On Changes in Jewish Liturgy: Options and Limitations* by Daniel Sperber, Jerusalem: Urim Publications, 2010, 221 pp.

**By: ARYEH A. FRIMER**

### **I. Introduction**

The prolific R. Prof. Daniel Sperber has published yet another masterful book—this time “On Changes in Jewish Liturgy: Options and Limitations” (henceforth, “Liturgy”)—in which the erudite author surveys the evolution of Jewish liturgy over a period of two and a half millennia.<sup>1</sup> As with Prof. Sperber’s other books, this one too is enjoyable, edifying and breathtaking in its depth and breadth. There is a lot of action in the footnotes and appendices that will keep scholars happily diverted. Prof. Sperber outlines how the prayer text has evolved into a variety of *nusḥa’ot* and a plethora of sub-*nusḥa’ot*—such that no two *Hassidische shtibelakh* daven exactly the same, nor do Yemenite *batei kenesset*. If one follows the prayer book from the time of the *Geonim* and the early Cairo Geniza manuscripts, through the *Hassidei Ashkenaz*, the *Ari*, and students of the Besht, down to the modern period—it becomes eminently obvious that there have been extensive additions of new prayers to the liturgy, and modifications in the text of the *shemone esrei*.

---

<sup>1</sup> The present review is based on a lecture by the same title given at Lander Institute, Jerusalem on January 13, 2011. The author would like to thank (in alphabetical order) R. Shael I. Frimer, R. Ephraim Bezael Halivni, Shira Leibowitz Schmidt, R. Gil Student, R. Joel B. Wolowelsky and R. Ari Z. Zivotofsky for reviewing an earlier draft of this manuscript and for their many valuable and insightful comments. The author bears sole responsibility for the final product.

---

Aryeh A. Frimer is the Ethel and David Resnick Professor of Active Oxygen Chemistry at Bar Ilan University. He lectures and publishes widely on various aspects of “Women and *Halakha*.”

R. Sperber does note that many of these changes were copying or printing errors. Others were forced upon Jews by the censor or came about despite great resistance from the *Posekim*. For example, leading codifiers—including Maimonides,<sup>2</sup> the *Tur* and *Shulḥan Arukh*,<sup>3</sup> and the *Gaon* of Vilna<sup>4</sup>—strongly disapproved of the introduction of *piyyutim* to the *birkot kerī'at shema* or *ḥazarat ha-shats*. Nevertheless, Rema and others support their continued recitation based on the fact that this was a revered centuries-old custom.<sup>5</sup> Indeed, relying on the Rema, the limited recitation of *piyyutim* persists, more or less, down to our very day.<sup>6</sup>

As the title suggests, this volume deals with a broad range of topics. Considering, however, that this book began as a lecture at a conference of the Jewish Orthodox Feminist Alliance (JOFA), it should not be surprising that it also touches on possible changes in Jewish liturgy taking into account feminist sensibilities.<sup>7</sup> Indeed, Prof. Tamar Ross<sup>8</sup> and other feminists have charged that the *Siddur* contains an “androcentric bias”—a charge I disagree with and critique.<sup>9</sup>

---

<sup>2</sup> Maimonides, *Teshuvot haRambam* (Blau edition), Responsa no. 181, 207 and 254.

<sup>3</sup> *Tur* and *Shulḥan Arukh*, O.H. sec. 68, no. 1.

<sup>4</sup> R. Elijah Kramer of Vilna, *Ma'ase Rav*, sec. 127.

<sup>5</sup> R. Moses Isserlish, O.H. sec. 68, no. 1 and sec. 112, no. 2.

<sup>6</sup> For a review, see: R. Ismar Elbogen, *Ha-Tefillah be-Yisrael be-Hitpathutah ha-Historit* (J. Heinemann ed., Joshua Amir trans., Tel Aviv, 1971) pp. 226, 227 and 449, and notes 60-64, 70-74.

<sup>7</sup> R. Daniel Sperber, “Our Dialogue with God: Tradition and Innovation,” Transcript from JOFA’s Sixth (10th Anniversary) International Conference, February 2007; available online at <<http://www.jofa.org/pdf/uploaded/1302-SSAF4754.pdf>>.

<sup>8</sup> Tamar Ross, “Expanding the Palace of Torah: Orthodoxy and Feminism,” (Brandeis University Press: Waltham 2004), pp. 21, 37-38.

<sup>9</sup> Aryeh A. Frimer, “Guarding the Treasure: A Review of Tamar Ross, *Expanding the Palace of the King—Orthodoxy and Feminism*, Brandeis University Press, Waltham 2004, xxiv + 342 pp.,” *BDD Journal of Torah and Scholarship*, 18, English section, pp. 67–106 (April 2007). See especially pp. 73 and 87-88. Available online at <<http://www.jofa.org/pdf/uploaded/1206-DQLN0171.pdf>>.

In this regard, the specific feminist issues raised in this work are three. The first is the permissibility of modifying the morning benediction “...*she-lo asani isha*” for men and “*she-asani ki-retsono*” for women (Liturgy, pp. 39-40). The second is the possibility of introducing the names of the *Imahot* (four Matriarchs) in addition to those of the *Avot* (three Patriarchs) into the opening *berakha* of the *Shemone Esrei* (Liturgy, p. 111). And finally, the emendation of the phrase in *Tahanun*: “*ve-shiktzunu ke-tum’at ha-niddah*”—and they [the nations] abominate us like the ritual impurity of a menstruant (Liturgy, p. 47). It should be noted that the first two issues have been discussed extensively in the Conservative movement,<sup>10</sup> but Prof. Sperber is presumably writing for a more traditional audience.

Based on the above-documented evolution of the prayer text, R. Sperber argues that our generation too should be able to make changes in the liturgy—changes that are more reflective of modern values and priorities. If a community so desires, this may well include additions and emendations that are reflective of feminist sensitivities (Liturgy, pp. 111–113). We should not be afraid, posits Prof. Sperber, that this will further split our prayer communities, since they are already extensively subdivided according to prayer texts and customs.

Citing R. Joseph Caro’s analysis of the Rambam,<sup>11</sup> R. Sperber does, however, note two provisos regarding any proposed changes.

---

<sup>10</sup> *Inter alia*: (a) Ré revising *She-lo asani isha*, see: (Pro) David Golinkin, “The Status of Women in Jewish Law: Responsa” (Hebrew), The Schechter Institute, Jerusalem, 2001; pp. 42-43. (b) Ré the inclusion of the Matriarchs in the opening of the Amida, see: (Con) David Golinkin, “A Responsum Concerning the Addition of the Imahot (Matriarchs) to the Amidah (Silent Devotion),” *Responsa in a Moment*, 1:6 (February 2007), available online at <<http://www.schechter.edu/responsa.aspx?ID=35>>; (Pro) Joel E. Rembaum, “Regarding the Inclusion of the Names of the Matriarchs in the First Blessing of the Amida,” *Proceedings of the Committee on Jewish Law and Standards (1986-1990)*, available online at <<http://tinyurl.com/27gtcwl>>; (Pro) Alvan Kaunfer, “Who Knows Four? The Imahot in Rabbinic Judaism,” *Judaism* 44:1 (Winter 1995), pp. 94–103.

<sup>11</sup> Liturgy, pp. 57–65, referring to R. Joseph Caro’s resolution of the seeming contradiction between *M.T., Hilkhhot Berakhot* 1:5 and *Hilkhhot Kri’at Shema* 1:7; see: R. Joseph Caro, *Kesef Mishneh, Hilkhhot Berakhot* 1:5. As noted by R. Gil Student, R. Sperber inexplicably cites the *Kesef Mishneh*’s

Firstly, it is critical that the modifications not alter the overall content, intent and message of the *berakha*. Secondly, the overall structure and format of the *berakha* must be maintained with regard to its opening and/or closing with *Barukh Ata Hashem*.

## II. Critique of Elements of R. Sperber's Halakhic Analysis

As just noted, Prof. Sperber's impressive volume is not merely an analysis of the past. It is in part also a proposal to justify changes in Jewish liturgy in the future—and it is here that we part company. In this regard, despite his rich and scholarly presentation, R. Sperber, to our mind, makes several very fundamental errors in halakhic analysis, and we will outline three below.

### (A) Obligatory Benedictions vs. Optional Prayers

Firstly, in his survey of the changes in Jewish liturgy, Prof. Sperber fails to discriminate between those prayers and benedictions that are ancient texts—authored and fixed by *Hazal*—and those that are much later introductions and purely optional. Thus, in an attempt to demonstrate that Judaism permits innovative creativity, he cites the creation of special optional prayers in honor of *Tu beShvat* (Liturgy p. 54), the private recitation of *Tefilla Zaka* on erev Yom Kippur (Liturgy p. 56), and the introduction of *Lekha Dodi* (p. 112). Based on these innovations he asks: If Jewish liturgy is not crystallized and accepts additions, why can't we add the Matriarchs to the first *berakha* of the *Amidah* (Liturgy p. 56)?

This attempt at a comparison is quite problematic. A *Tu beShvat Seder*, *Tefilla Zaka* and *Lekha Dodi* are all optional prayers, not even formulated as benedictions. Their authority, if any, comes only from *minhag*—from the fact that *Klal Yisrael* has seen fit to recite them regularly. How can one compare their introduction to the liturgy with the addition of the *Imahot* into the first *berakha* of the obligatory *Amida*—whose text was fixed by *Hazal*, and where there is a serious concern of *berakha le-vatala*?

---

rejected first explanation rather than his preferred second approach; see: R. Gil Student, "Nusach Feminist," *Hirburim*, Sept. 12, 2010, available online at <<http://torahmusings.com/2010/09/nusach-feminist/>>.

We will return shortly to the issue of introducing the *Imahot*, but I would like to focus on the issue of optional prayers. One of R. Sperber's suggestions was to remove the phrase "*ve-shiktzunu ketum'at ha-niddab*" from *Tahanun*. In this regard, Maimonides rules:<sup>12</sup>

אחר שמגביה ראשו מכריעה חמישית [בסוף העמידה], יושב לארץ ונופל  
על פניו ארצה, ומתחנן בכל תחנונים שירצה.

After one lifts his head from the fifth bow [at the conclusion of the *Amida*], he sits on the ground, falls with his face towards the earth, and utters all the supplications that he desires.

In other words, what one prays in *Tahanun* is up to the individual. Furthermore, the Tur<sup>13</sup> cites Rav Natronai Gaon to the effect that the very recitation of *Tahanun* is purely optional; it is merely a proper custom to add some request for mercy immediately after the *Shemone Esrei*. It would seem, therefore, that even though each community has a normative custom of what to say in *tahanun*, what is binding is the custom to recite some supplication; the exact wording of the *Tahanun* was not fixed. This conclusion is confirmed by R. Eliezer Melamed who writes:<sup>14</sup>

[ומי ש]עד שלא הספיק לסיימו כבר אומר החזן קדיש, יפסיק את  
התחנונים ויענה לקדיש וימשיך לשלב הבא של התפילה. שאין נוסח  
התחנונים מעכב, וכל שהתחנן מעט כבר יצא ידי חובת המנהג.

If one is in the middle of reciting *Tahanun* and the *hazzan* has started to recite the concluding *kaddish*, the congregant should skip to the end of *Tahanun* and continue *davening* with the community. This skipping ahead is permissible because the exact text of *Tahanun* is not critical, and one fulfils the custom even with minimal supplications.

---

<sup>12</sup> M.T., *Hilkhot Tefilla*, 5:13.

<sup>13</sup> Tur, O.H. 131. See also: *Shulhan Arukh haRav* no. 1, *Arukh haShulhan*, no. 2.

<sup>14</sup> R. Eliezer Melamed, *Peninei Halakha, Tefilla*, Chapter 21, p. 319. Available online at: <[http://www.yeshiva.org.il/midrash/doc/doc27/ph\\_thnon.doc](http://www.yeshiva.org.il/midrash/doc/doc27/ph_thnon.doc)>. See also *Arukh haShulhan*, O.H., sec 131, no. 2.

Hence, it would seem to us that anyone who wants to follow Prof. Sperber's suggestion of removing the phrase "*ve-shiktzunu ke-tum'at ha-niddah*" from *Tahanun* has clear halakhic basis to do so.<sup>15</sup> Indeed, with optional prayers, there seems to be little problem in making any necessary changes or corrections, such as removing from *Berikh Shemei* the verse "*veTehev li benin dikbrin di-ya'avdun re'utakh*," "May I be blessed with male progeny to do your will,"<sup>16</sup> or deleting the very problematic supplications to angels in *Shalom Aleikhem* (specifically *Barekhuni le-shalom*),<sup>17</sup> *selihot* or *Hineni*,<sup>18</sup> or removing the references to Babylonia in *Yekum Purkan* (which *eidot*

---

<sup>15</sup> R. Ephraim Bezalel haLivni (personal communication, February 8, 2011) has correctly noted that the phrase "*ke-tumat ha-niddah*" is taken from Ezekial 36:17. Indeed, Scripture contains many references to the shunning of a menstruate as the social reality; see, for example, Lamentations 1:9 and 1:17.

<sup>16</sup> Regarding this verse, see: R. Benjamin Solomon Hamburger, *Shorashei Minhag Ashkenaz*, I (*Makhor Moresbet Ashkenaz*: Bnei Brak, 5755) pp. 158–186, at p. 183. On p. 186 R. Hamburger lists thirteen reasons why many communities refrained from reciting *Berikh Shemei*.

<sup>17</sup> See: R. Judah Loew ben Bezalel (Maharal of Prague), *Netivot Olam* I, *Netiv Ha-Avodah*, no. 12; R. Hayyim of Volozhin, *Keter Rosh*, no. 93. This view is also widely attributed to the Gaon of Vilna, though no source is cited.

<sup>18</sup> Maharal of Prague, note 17, *supra*, objects to reciting "*Makhnesei Rachamim*" because it appears as if we are praying to the angels and not to the Almighty. He therefore amends the text from "*makhnesei rachamim hakhnisu rahameinu*" (those who bring in mercy bring in our plea for mercy) to "*makhnesei rachamim yakhnisu rahameinu*," (allow those who bring in mercy to bring in our plea for mercy) which is directed towards the Almighty. R. Moses Sofer, Resp. *Hatam Sofer*, O.H., sec. 166, records his personal practice to skip this prayer. He implies that it is not sufficient to amend the text because the notion that the angels should serve as ambassadors is objectionable even if we don't pray directly to them. For further discussion see: R. Solomon Sprecher, "*haPulmus al Makhnesei Rachamim*" *Yeshurun* no. 3 (5757; 1997) p. 706–729; Dan Rabinowitz, "*Machnesei Rachamim and [sic] Plagerism*," *Seforim Blog*, September 12, 2006 <<http://seforim.blogspot.com/2006/09/machnesi-rachamim-and-plagerism.html>>; R. Ari Enkin, "*Selichot—Machnesei Rachamim*," *Hirhurim, Torah Musings*, August 31, 2010, <<http://torahmusings.com/80/2010/08/selichot-machnesei-rachamim.html>>.

*mizrah* don't even say), or adding “*baRaḥaman Hu yevarekh et Medinat Yisrael...*” to the *baRaḥamans* after “*al yeḥasreinu*” in *Birkat haMazon*,<sup>19</sup> or adding *kinnot* for the Six Million on *Tisha beAv*,<sup>20</sup> or even to adding the *Imahot* to the *Mi she-berakh* for an *oleh* or *holeh*.<sup>21</sup> These are optional supplications, without set texts or benedictions sanctified by Ḥazal.<sup>22</sup>

### (B) *leKhatilla vs. be-di-Avad*

---

<sup>19</sup> *Birkat haMazon* officially ends with “*le-olam al yeḥasreinu*.” The subsequent *baRaḥaman* supplications are optional. See: *Tur* and *Arukh ha-Shulḥan*, *O.H.*, sec. 189, no. 7. As to the permissibility of adding and detracting *baRaḥaman* prayers at will, see: R. Ezekiel Kahila (reputed to be a pseudonym for R. Joseph Ḥayyim alHakam of Baghdad), *Resp. Torah Lishma*, sec. 51; R. Shlomo Aviner, *Kuntres Ner leMe'ah*, Vol. 2, sec. 18, available online at <<http://groups.yahoo.com/group/Ha-RavAviner/message/243>>; R. David Yosef, *Halakha Berura*, IX, *O.H.*, sec. 189, no. 1, note 4; R. Simḥa Ben-Zion Rabinowitz, *Piskei Teshuvot*, II, *O.H.*, sec. 189, no. 2.

<sup>20</sup> As now appear in nearly all modern editions of the *Kinnot*.

<sup>21</sup> The *Imahot* (along with Miriam, Abigail and Esther)—without the Patriarchs—appear in the traditional text of the *Mi sheBerakh* for a baby girl in the sefardic *Zeved haBat* ceremony. The four Matriarchs appear alone in the *Mi sheBerakh* for an ill woman in *Siddur Kol Eliyahu* (based on the rulings of former Israeli sefardic Chief Rabbi Mordechai Eliyahu). The four matriarchs appear in addition to the Patriarchs (along with Moses, Aaron, David and Solomon) in the *Mi sheBerakh* for a new mother found in the *Rinat Yisrael* and *Koren* editions of the siddur. The four matriarchs appear in addition to the Patriarchs in most versions of the *Yizkor* memorial prayer.

<sup>22</sup> A reviewer has asked why the changes cited in this paragraph do not contravene the binding quality of *minhag*. As I have indicated, we are dealing with *optional* prayers that are widely said. Yet, as I document, words, phrases or paragraphs have been removed from them in the course of time. The sections excised were viewed as problematic for a variety of reasons; yet no one was terribly bothered by the consideration of *minhag*. I suggest that this is because ultimately these *tefillot* were not established by Ḥazal and, hence, were deemed optional from the get-go. In many cases, their recitation was not universal and, in other instances, their very institution was a matter of dispute. As with *Taḥanun*, the *minhag* was their recitation, not their exact wording.

A more fundamental problem with R. Sperber's analysis has to do with a blurring of the difference between *le-khathila* (*pre-facto*) and *be-di-avad* (*post-facto*).<sup>23</sup> This is a failing we have noted previously in his analysis of *kevod ha-tsibbur* with regard to women's *aliyot*.<sup>24</sup> The author repeatedly suggests that *le-khathila* means the "preferred" or "ideal" performance (Liturgy p. 62). In this he simply errs!

*leKhathila* refers to the way one is required to act under normative conditions. For example, Hāzal say that one should not use a *milchig* spoon *she-eino ben yomo* (not used in the last 24 hours) to stir hot chicken soup.<sup>25</sup> Similarly, Hāzal indicate that one should not place food into utensils that have not been immersed in a *mikva*.<sup>26</sup> In both cases, *be-di-avad* the food remains perfectly kosher. Nevertheless, Hāzal's ruling in both these cases is not a *recommendation*, but rather a clear *directive* on how one is required to act. Under normative conditions, it is *forbidden* to act otherwise.<sup>27</sup>

This is also true regarding the obligatory prayer text and benedictions. Hāzal forbade changes *le-khathila*—even though *be-di-avad* or *bi-she'at ha-dehak* (under dire circumstances)<sup>28</sup> the change may be valid. Thus, Maimonides writes:<sup>29</sup>

ונוסח כל הברכות עזרא ובית דינו תקנום, ואין ראוי לשנותם ולא להוסיף  
על אחת מהם ולא לגרוע ממנה, וכל המשנה ממתבע שטבעו חכמים  
בברכות אינו אלא טועה ...

<sup>23</sup> On this point, also see the insightful comments of R. Gil Sudent, *supra*, note 11.

<sup>24</sup> Aryeh A. Frimer, "Lo Zo haDerekh: A Review of Rabbi Prof. Daniel Sperber's *Darkah shel Halakha*," *The Seforim Blog* (12 June 2008). Available online at: <<http://seforim.blogspot.com/2008/06/aryeh-frimer-review-of-daniel-sperbers.html>>.

<sup>25</sup> *Shulhan Arukh*, Y.D. 93:1 and 94:4.

<sup>26</sup> *Shulhan Arukh*, Y.D. 120:16; R. Zvi Cohen, *Tevilat Kelim*, Fourth ed. (5742), chap. 4, secs. 1 and 9.

<sup>27</sup> See: "di-Avad," *Encyclopedia Talmudit*, VII, p. 406ff; Shai Akavya Wosner, "Al Koharentiyyut veEfectiviyyut beHalakha: Birur Rishoni shel haHavkha-na bein leHatkhila ve-diAvad," *Dinei Yisrael*, 20-21 (5760-5761), pp. 43-100.

<sup>28</sup> See discussion at note 34 below.

<sup>29</sup> Maimonides, *M.T., Hilkhot Berakhot*, 1:7.



The wording of all the blessings, Ezra and his court enacted them, and it is inappropriate to change them, nor to add to one of them, nor to detract from one of them, and anyone who changes the wording coined by the Sages in the blessings is simply erring...

As Prof. Sperber himself cites, R. Joseph Caro in the *Kesef Mishne ad loc.* explains that if one erred and changed the text of a *berakha*, what he recited is improper and inappropriate—but the benediction is post-facto valid. This is provided the overall content and structure of the *berakha* remains intact, as noted above. But the fact that the improper benediction is *be-di-avad* valid is in no way a *carte blanche* to change the prayer text at will. Contrary to Prof. Sperber's intimation, if a change is made in a benediction, it needs to be corrected and certainly should not be repeated again.

For example, R. Yosef Caro rules in the *Shulḥan Arukh*<sup>30</sup> that, if instead of making *haMotsi* over bread as prescribed by Ḥazal, one said *she-hakol* or said the *berakha* in Aramaic, the benediction is valid. On this the Vilna Gaon and *Mishna Berura*<sup>31</sup> indicate that this is only *be-di-avad*; *le-khathila* it is forbidden to change Ḥazal's formulation in any way. Similarly, if by mistake one recited the text of *Shabbat Arvit* for *Shabbat Shabharit* or *Minḥa*, or vice versa, he or she has fulfilled their obligation.<sup>32</sup> However, the 13<sup>th</sup> century *Rishon* R. Zedakiah ben R. Avraham *haRofe*, who is the source for this latter law, notes:<sup>33</sup>

אבל המחליף ומשנה לכתחלה, עליו אני קורא: "אל תסג גבול עולם"  
(משלי כב, כח) ו-"פורץ גדר ישכנו נחש". (קהלת י, ח)

However, one who exchanges and changes [the texts] on purpose—about him apply the verses: "Do not move an ancient

---

<sup>30</sup> *Shulḥan Arukh, O.H.*, sec 167, no. 10; see also sec. 187, no. 1.

<sup>31</sup> *Be'ur haGra, O.H.*, sec. 68, no. 1, note 1; *Mishna Berura, O.H.*, sec 167, no. 10, note 53; *Mishna Berura*, sec. 187, no. 1, note 4. See also "Berakhot," *Encyclopedia Talmudit*, IV, p. 291 at note 97.

<sup>32</sup> *Shulḥan Arukh, O.H.*, sec 268, no. 6.

<sup>33</sup> R. Zedakiah ben R. Avraham Ha-Rofe, *Shibbolei haLeket, Inyan Shabbat*, sec. 128. His view is cited by R. Eliyyah Shapira, *Eliyyah Rabba, O.H.*, sec 268, note 10.

boundary marker...” (Proverbs 22, 28), “and whoever breaks through a fence shall be bitten by a snake.” (Ecclesiastes 10:8).

It is clear that many of the major differences in the obligatory prayer texts of the various *eidot* occurred prior to the printing press, where the text was learned by rote—and hence subject to an accumulation of errors over time. These changes were of a *be-di-avad* status and should have been corrected immediately, but after time, no one knew for sure what the proper *nusah* was. Similarly, changes introduced by or for fear of the censor also have a *she’at ha-dehak* status that in *halakha* is equivalent to *di-avad*.<sup>34</sup> Censor changes often remain in place for hundreds of years before conditions improve and the origin of the change is uncovered and corrected.<sup>35</sup>

Many outstanding scholars have done their best to educate their community as to the correct *nusah*. Indeed, the tinkering with the text by the *Hassidei Ashkenaz*, the Arizal and his students, the Hasidic Masters and other great scholars throughout the generations—as thoroughly documented by Prof. Sperber—were all attempts to correct the text and return it to what they thought was the authentic version instituted by *Hazal*. But nowhere do we find examples where, under normative conditions, leading scholars consciously corrupted *what they knew to be a perfectly proper text*—so as to correspond to some passing fancy or ideology.

---

<sup>34</sup> *Kol she’at ha-dehak ke-di-avad dami*. For leading sources, see: *Resp. Bayyit Hadash haYeshanot*, sec. 111, *s.v. Im ken hu hadin*; R. Moses Isserles (Rema), *Torat Hatat*, sec. 16; Rema, *E.H.*, sec. 169 sec. 12, R. David haLevi, *Turei Zahav (Taz)*, *Y.D.*, sec. 91, note 2; R. Shabbetai haKohen, *Siftei Kohen* (Shakh), *Y.D.* sec. 142, note 10 and *H.M.*, sec. 43, note 31; R. Samuel Feivish, *Bet Shmuel*, *E.H.* sec. 62, note 4; R. Jacob Reisher, *Resp. Shevut Ya’akov*, III, *Y.D.* sec. 102 (as the ruling of *gedolei ha-poskim rishonim ve-aharonim*.) For a general review, see: “*diAvad*,” *Encyclopedia Talmudit*, VII, pp. 406–419, at p. 417 and note 140.

<sup>35</sup> A classic example is the 17<sup>th</sup> century removal of “*she-hem mishtabavim la-bevel va-rik...*” from *Aleinu* in Ashkenazy prayerbooks. The verse has been returned only in prayer books printed in the last half-century. See: “*Aleinu leShabbe’ah*,” *Encyclopedia Judaica*, 2008, second ed., available online at: <<http://tinyurl.com/36nqdog>>.

### (C) Opening and Closing Benedictions of *Amida* vs. the Middle ones

Let's now raise our third critique of Prof. Sperber's halakhic analysis. Prof. Sperber correctly notes that *Hazal* in *Masekhet Berakhot*<sup>36</sup> encourage us to make our daily weekday *davening* relevant by adding some personal elements to it.

רבי אליעזר אומר: העושה תפלתו קבע אין תפלתו תחנונים. מאי קבע?  
... רבה ורב יוסף דאמרי תרוייהו: כל שאינו יכול לחדש בה דבר.

R. Eliezer says: if a man makes his prayers a fixed task, it is not a [genuine] supplication. What is meant by a "fixed task"? ... Rabba and R. Joseph both say: Whoever is not able to insert something fresh into it.

Now, the rules for adding novel requests into the *Shemone Esrei* are explicitly discussed in Rambam and *Shulḥan Arukh*.<sup>37</sup> Prof.

---

<sup>36</sup> Prof. Sperber actually cites *Avot* 2:13: "R. Simeon said:... when you pray, make not your prayer a fixed task." To our mind, these selections from *Berakhot* 28b and 29b are more explicit.

<sup>37</sup> Maimonides, *M.T.*, *Hilkhot Tefilla* 1:9 writes regarding these opening and closing benedictions: "...and it is forbidden to change anything". Despite this categorical language, many commentaries *ad loc.* understand Maimonides to be referring to the addition of personal *bakashot* (requests); for a summary, see: R. Joseph Kaffah *ad loc.* Indeed, *Shulḥan Arukh*, *O.H.* secs. 112 and 119 forbids adding any private requests in the first three and last three benedictions. In sec. 113, no. 9, R. Caro further forbids adding "titles of praise" to those appearing in the *Amida* (*baKel*, *haGadol*, *haGibbor ve-haNora*). Categorical language against changes and additions appears in *Resp. Rosh*, *Kelal* 4, no. 20; R. Yom Tov ben Abraham Asevilli, *Hiddushei haRitva*, *Berakhot*, *Hilkhot Berakhot*, sec. 6, no. 14; *Hiddushei haRa'ah*, *Berakhot* 11a; *Magen Avraham*, *O.H.* sec. 68, introduction; R. Hayyim of Volozhin, *Nefesh haHayyim*, Gate 2, Chap. 13; R. Elazar Segel Landau, *Yad haMelekh*, *Hilkhot Tefilla*, 1:4; *Hayei Adam*, *kelal* 24, end of no. 19 (*assur le-bosif shum davar*), though this too may refer to the addition of personal *bakashot*; R. Joseph B. Soloveitchik, "The Lord is Righteous in All His Ways" (Jersey City, NJ: Toras haRav Foundation/Ktav, 2006) pp. 298-299; R. Ovadiah Yosef, *Resp. Yabia Omer*, IV, *O.H.*, sec. 48, no. 5. *Arukh haShulḥan*, *O.H.* secs. 112, nos. 1 and 4 and *She'arim Metsuyyanim beHalakha*, to *Kitsur Shulḥan Arukh* 18:5, no. 6 cite the view of the Tur, *O.H.*, sec. 113 (in the name of his brother R. Jehiel) that each let-

Sperber does not emphasize that there is a clear distinction between the 13 middle *berakhot* of the *Shemoneh Esrei*, and the opening and closing six. Indeed, in the middle benedictions, one is allowed—even encouraged—to add, preferably towards the end of a *berakha*; however, in the first and last three *berakhot* additions are highly problematic. This is indeed part of the reason that there is so much variation in the *nusḥa'ot* of the various *eidot* in the text of the middle *berakhot* of the *Amida*, yet almost none in the opening and closing ones.<sup>38</sup> It also explains why *posekim* were more forthcoming when it came to making some modifications in *Birkat Nahem* recited on *Tisha beAv* (as documented by R. Sperber in *Liturgy*, pp. 128 and 161–167).<sup>39</sup>

---

ter is counted—hence, additions are forbidden. This disputes the view of several other *rishonim* who maintain that the text of the benedictions were not fixed. See: Tosafot, R. Solomon ben Aderet, and R. Menahem haMeiri to *Berakhot* 11a; R. Simeon ben Tsemah Duran, *Resp. Rashbats*, III, sec. 247; Ra'avad, Tur, *O.H.*, 68. See also the discussion of Hanan Ariel, “*Hoda'ab isbit biTefillat Shemoneh Esrei*,” available online at: <<http://www.yhy.co.il/content/view/406/168/lang,he/>>; Shiran Amusi, “*haTsad haSheni shel haMatbe'a*,” *Pitubei Hotam* (Yeshivat Hesder Orot Shaul, Petah Tikva), Av 5770, pp. 199–226.

<sup>38</sup> The manuscripts cited by R. Sperber (*Liturgy* pp. 66–69) containing variants in the first and last three *berakhot* are all quite ancient. We know little about their authorship or halakhic authority. In any case, by the end of the Geonic period, the texts of these six benedictions were essentially universally fixed in the form we have them today. See the nearly identical texts of the following *Geonim* and *Rishonim*: R. Amram Gaon, *Maḥzor Vitri*; Rambam, *M.T.*, end of *Abava*; R. Yehuda ben R. Yakar; and Abudarham. After the ruling of Maimonides (*supra*, n. 37) and subsequent codifiers forbidding variations in these six benedictions (other than the exceptions discussed below), the issue would seem to be closed.

<sup>39</sup> This may also be viewed as a *she'at ha-deḥak*, since the *berakha* as it stands describes a “mournful, ruined, scorned and desolate” Jerusalem—which while historically true for much of the past two millennia is no longer factually accurate. We note, however, that R. Joseph B. Soloveitchik was vigorously opposed to any change in the text of this *berakha*. He was of the view that the Temple is the heart of Jerusalem, and as long as the Temple is destroyed, the city is not considered rebuilt. See: R. Zvi (Hershel) Schachter, “*miPi haShemu'a miMaran haGrid Soloveitchik (Sblita) [Zatsal]*,” *Mesorah*, vol. 7, p. 19; R. Hershel [Tzvi] Schachter, *Nefesh Ha-*

There are two categories of exceptions to this rule regarding no changes in the opening and closing *berakhot*. [We note that the battle over the permissibility of these two exceptions was a lengthy one, and merely reinforces the premise that under normative conditions changes are forbidden. These are exceptions that prove the rule.] The first class of exceptions includes the four verses introduced during the *aseret yemei teshuva*: *Zakbreinu le-ḥayyim*, *Mi khamokha av ha-rah'amim*, *uKhetov le-ḥayyim tovim* and *beSefer ḥayyim*. These were accepted primarily for three reasons: firstly, because the custom to recite them dates back to the Geonic period, if not earlier;<sup>40</sup> secondly, because they are temporary changes rather than permanent ones; and, finally, because they are communal requests for life which presumably have an element of *she'at ha-dehak* to it.

The other exception relates to the insertion of *piyyutim* which, as noted above, was vigorously resisted by a great many leading codifiers.<sup>41</sup> Even those who accepted their recitation did so only because the *piyyutim* were written by outstanding scholars going back to the period of the *Rishonim* and earlier, 700 to perhaps 1500 years ago.<sup>42</sup> In addition, they are communal requests—and there is a clear proviso that the *piyyutim* be said only *be-tsibbur*, not in private.<sup>43</sup> In a very large number of *shuls* in Israel, the recitation of *piyyutim* is permitted only in *Hazarat haShats*.

These exceptions aside, the fact remains that for more than a millennium, the texts of the opening and closing six benedictions were not tampered with.

---

*Rav*, p. 79; “The Significance of *Nahem*,” Koren *Mesorat haRav Kinot* (Jerusalem: OU Press and Koren Publishers, 2010), Simon Posner, ed., p. 779. Many other *poskim* agree with the *Rov*; see: R. Shlomo Aviner, *Kuntress Ner leMe'ab*, I (ed. R. Mordechai Zvi haLevi Zion, Jerusalem: 5760), sec. 56; R. Gil Student, “*Nachem* Nowadays,” *Hirburim – Musings*, July 30, 2006, available online at: <<http://torahmusings.com/2006/07/nachem-nowadays/>>.

<sup>40</sup> See *Masekhet Soferim*, 19:8 cited by Nahmanides in his “*Derasha leRosh haShana*.”

<sup>41</sup> See discussion at notes 2-4, *supra*.

<sup>42</sup> *Mishna Berura*, O.H. sec. 68, note 4.

<sup>43</sup> *Mishna Berura*, *ibid*, note 6.

### III. Introduction of *Imahot* to *Birkat Avot*.

I'd like to comment, now, on R. Sperber's suggestion to include the *Imahot* together with the *Avot* in the opening paragraph of the Amidah. This is a practice that has found its way into Conservative Jewish practice and prayer books<sup>44</sup> despite the objection of some of their own leading scholars.<sup>45</sup> Indeed, this proposal can be rejected based on many considerations.

(1) Firstly, as just discussed, other than *piyyutim*, over the past millennium, no changes or additions whatsoever have been made in the first three *berakhot* of the *Shemone Esrei*—most certainly not permanent ones, and certainly not in the private *Shemone Esrei*.

(2) Furthermore, we have to ask whether this change is in line with the content and intent of the *berakha* as established by Hāzal. After all, why were the *Avot* included in the opening of the *Shemone Esrei* in the first place? The *Mekhilta*<sup>46</sup> indicates that Hāzal based their wording on an explicit *Pasuk*:<sup>47</sup>

ומגין שאומרים "ברוך אתה יי אלהינו ואלהי אבותינו אלהי אברהם אלהי יצחק ואלהי יעקב" שנאמר (שמות ג, טו) "ויאמר עוד אלהים אל משה, כה תאמר אל בני ישראל: ה' אלהי אבותיכם אלהי אברהם אלהי יצחק ואלהי יעקב."

And what is the source of saying “Blessed are You, Lord our God and God of our fathers, God of Abraham, God of Isaac and God of Jacob?” For it is written (Exodus 3:15): “And the Lord said further to Moses, thus shall you say to the children of Israel: Lord, God of your fathers, God of Abraham, God of Isaac and God of Jacob.”

---

<sup>44</sup> *Siddur Sim Shalom for Shabbat and Festivals*, United Synagogue: New York, 1998, p. 36; *Siddur vaAni Tefilati*, Israeli Masorti Movement and Rabbinical Assembly of Israel: Jerusalem, 1998, p. 68.

<sup>45</sup> See note 10b, *supra*.

<sup>46</sup> *Mekhilta deRabbi Yishmael, Parasht Bo, Masekhta dePisha, Parasha 16*. This *Mekhilta* is cited by: R. Judah ben Yakar, “Perush haTefilot ve-haBerakhot,” *Shemoneh Esrei*, p. 35; R. David Abudarham, *Abudarham haShalem, Seder Shabarit shel Hol u-Perusbeha*, s.v. *Barukh ata Hashem* (Eshkol ed., p. 94).

<sup>47</sup> Exodus 3:15. Similar wording appears only a few verses later (4:5).

As explained by R. Bahya ibn Pakuda, this is the only place in the Torah where we find the Almighty identifying Himself as the God of given individuals.<sup>48</sup> In addition, the rubric of “the fathers Abraham, Isaac and Jacob” occurs numerous times throughout Tanakh in connection with God’s revelation and His covenantal pronouncements. For example, in Leviticus 26:42 we read:

וּזְכַרְתִּי אֶת בְּרִיתִי יַעֲקֹב וְאֶת בְּרִיתִי יִצְחָק וְאֶת בְּרִיתִי אַבְרָהָם  
אֶזְכֵּר וְהָאָרֶץ אֶזְכֵּר:

And I shall remember my covenant with Jacob, and even my covenant with Isaac, and even my covenant with Abraham I shall remember and the land I shall remember.

On the other hand, nowhere in Tanakh do we find the concept of the *arba Imahot*, let alone the “God of the *Imahot*.” The notion of “four Matriarchs” appears for the first time only in Rabbinic literature.<sup>49</sup> Hence, to include the *Imahot* into the opening verses of the *Shemone Esrei* would be a *misrepresentation* of Jewish theology. Our covenantal relationship to G-d is through the *Avot*, not the *Imahot*. To be sure, the *Imahot* were very important supporting players in the formative years of our people, but they were not the spiritual leads by any means.

(3) The introduction of the *Imahot* into the opening *berakha* of the *Amida* would be a misrepresentation for another reason. Our model for approaching the Creator in prayer is based on the Patriarchs who according to Hazal established the three daily prayers.<sup>50</sup> In addition, a survey of *Tanakh* makes it clear that one of the

---

<sup>48</sup> R. Bahya ben Joseph Ibn Pakuda, Commentary to Genesis 35:10 and Exodus 35:11. See also: R. Barukh haLevi Epstein, *Torah Temima*, Genesis 12:2, note 2. We do, however, find the Almighty referring to himself as the “God of David” (II Kings 20:5; Isaiah 38:5). The Talmud (*Sanbedrin* 107a) relates to this point indicating that King David was excluded from the opening benediction of the *Amida* because he failed his test with Bathsheba. As to the reference to the “God of Elijah” (II Kings 2:14), this is made by Elisha, not God Himself; see: Nahmanides, *haEmuna ve-haBitahon*, Chapt. 15, s.v. “veNahzor le-inyaneinu;” R. Elijah Mizrahi, Commentary to Genesis 12: 2 s.v. “Zehu she-omrim.”

<sup>49</sup> See: Alvan Kaunfer, note 10, *supra*.

<sup>50</sup> See *Berakhot* 26b.

major functions of the prophet was to pray for individuals and the nation.<sup>51</sup> As Rashbam (*ad loc.*) writes:<sup>52</sup>

כי נביא הוא - לשון נבי שפתים. רגיל אצלי ומדבר את דברי, ואני אוהב את דבריו ושומע תפילתו.

For the word *navi* (prophet) is derived from *niv sefatayim* (expression of the lips). For the *navi* is commonly in my presence and speaks in my name, and I like his words and listen to his prayers.

Indeed, in the first verse in Tanakh (Genesis 20:7) in which the term *navi* is used, G-d informs Avimelekh that Abraham the prophet will pray for him:

עתה השב אשת האיש כי נביא הוא ויתפלל בעדך.

Now, restore the man's wife; for he is a prophet, and he shall pray for thee.

Similarly, the people plead with the prophet Samuel to pray for them (I Samuel 12:19):

וַיֹּאמְרוּ כָל-הָעָם אֶל-שְׂמוּאֵל הַתְּפִלָּה בְּעַד-עַבְדֶיךָ אֶל-יְהוָה וְאֵל-נַמּוֹת.

And all the people said unto Samuel: 'Pray for thy servants unto the Lord thy God, that we die not.'

To which Samuel assures them that he will continue to do so (*ibid.* 23):

גַּם אֲנֹכִי חֲלִילָה לִי מִחַטָּא לַיהוָה לְהִתְפַּלֵּל בְּעַדְכֶם.

---

<sup>51</sup> See: (a) Sharon Rimon, "*baNavi haMitpallel*," available online at: <<http://www.etzion.org.il/vbm/archive/13-parsha/04vayera.rtf>>. (b) Similar comments were made by R. Yaakov Meidan, "*Moshe veAharon beKbohanav uShemuel beKorei Shemo - haAmnam?*" *Yemei Iyyun beTanakh, Mikhlelet Herzog*, Alon Shevut, Tammuz 25, 5764 (July 14, 2004). I thank R. Mordechai Goldreich for bringing the details of R. Meidan's insights to my attention.

<sup>52</sup> Commentary of R. Samuel ben Meir (leading French Tosafist and grandson of Rashi), Genesis 20:7.



...far be it from me that I should sin against the LORD in ceasing to pray for you.

Interestingly, R. Yaakov Meidan notes that the *Anshei Keneset haGedola* (Men of the Great Assembly) established the fixed Jewish liturgy at the beginning of the Second Commonwealth. He argues that their authority for this innovation stems in no small part from the fact that this body included the last three prophets Haggai, Zecharia and Malachi—specialists in prayer.<sup>53</sup>

(4) In addition, the adjectives used in describing the Almighty in *Birkat Avot*,<sup>54</sup> indeed, the language of prayer in general, are all based on the choice of language used by the prophets. In this regard, the *Avot* were all *bona fide* prophets, as the Torah clearly testifies. But this may not be true of the *Imabot*. Indeed, with the exception of Sarah, the *Gemara* in *Megilla* does not include the Mariarchs among its list of the fifty-five major prophets.<sup>55</sup>

תנו רבנן: ארבעים ושמונה נביאים ושבע נביאות נתנבאו להם לישראל.  
... שבע נביאות מאן נינהו? שרה, מרים, דבורה, חנה, אביגיל, חולדה  
ואסתר.

Our Rabbis taught: 'Forty-eight prophets and seven prophetesses prophesied to Israel... 'Seven prophetesses.' Who were these? Sarah, Miriam, Deborah, Hannah, Abigail, Hulda and Esther.

---

<sup>53</sup> R. Yaakov Meidan, *supra*, note 51b. A similar idea appears in R. Joseph B. Soloveitchik, "The Lord is Righteous in All His Ways" (Jersey City, NJ: Toras haRav Foundation/Ktav, 2006) pp. 298-299) who writes: "I do not believe in so-called liturgical creativity or creative liturgy. The *Gemara* (*Megilla* 17b) says that 'One hundred and twenty elders, among whom were many prophets,' wrote our *Shemoneh Esrei*. Only they could write it. Prayer is not just a hymn, but a copy of a conversation between *haKadosh Barukh Hu* and a human being. Who can write such a conversation? Only the Men of the Great Assembly and the prophets were able to do it. That is why we are so careful about every word in the *nusah ha-tefilla*, the text of the liturgy." See also R. Hayyim of Volozhin, *Nefesh haHayyim*, Gate 2, Chap. 13.

<sup>54</sup> B.T., *Yoma* 69b; J.T. *Berakhot*, Chap. 7, *halakha* 3.

<sup>55</sup> *Megilla* 14a. See, however, *Genesis Rabba*, *Toledot*, sec. 67, which maintains that the *Imabot* had prophecy.

These criteria aside, why mention the *Imahot* when we don't include Moshe *Rabbenu*, transmitter of the Torah,<sup>56</sup> or King David, author of *Tehilim*—on which so much of our prayer is based?<sup>57</sup> Why mention the *Imahot*? Just because they were women? Just because of feminist sensibilities? This is not only a theological misrepresentation as discussed above, it is intellectually dishonest. I don't think that women should be excluded, where relevant, because of their gender; nor should they be included, where irrelevant, just because of their gender.

#### IV. *She-Lo Asani Isha and Mitsvot Asei She-ha-zeman Gramman*

I'd like to turn now to the other issue raised by R. Sperber, and that is the recitation of the *she-lo asani isha* benediction in *birkot ha-shahar*—along with *she-lo asani goy* and *she-lo asani aved*. Prof. Sperber records that many women find the negative formulation “...who has not made me a woman” derogatory (Liturgy, pp. 39-40). In light of the flexibility he sees in Jewish liturgy, he argues for the permissibility of modifying the benediction “...*she-lo asani isha*” to “*she-asani ish*” or “*she-asani Yisrael*,” and “*she-asani kirtsone*” to “...*she-asani isha*” or “*she-asani Yisraelit*” (Liturgy, pp. 111–113).<sup>58</sup>

I would like to make it clear that there is no doubt as to the authenticity of the text of the benediction *she-lo asani isha*—since it appears thrice in Rabbinic literature: in the *Tosefta*, the *Talmud Bavli* and the *Yerushalmi*.<sup>59</sup> Both the *Tosefta* and the *Yerushalmi* make it clear that the benediction is related strictly to men's greater obligation in commandments. As is well known, women are generally freed from *mitsvot asei she-ha-zeman gramman* (time-determined positive commandments), which include, *inter alia*: *sukka*, *lulav*, *shofar*,

---

<sup>56</sup> R. Joseph B. Soloveitchik, *Ha-Adam ve-Olam* (Eliner Press: Jerusalem, 1998), p. 75.

<sup>57</sup> See note 48, *supra*.

<sup>58</sup> See also Rabbi Asher Lopatin, “Goodbye ‘Shelo Asani—God didn't make me a ...’ Hello ‘She’asani Yisrael’—‘God made me a Yisrael.’ Available online at <<http://tinyurl.com/6a6lq5m>>.

<sup>59</sup> B.T. *Menahot* 43b; J.T. *Berakhot* 9:1; and *Tosefta Berakhot* 6:18

*tefillin* and *tsitsit*.<sup>60</sup> Based on what we discussed above, it is clearly forbidden to remove or modify an obligatory blessing.

Reams have been written to explain the import of these benedictions and why they are in the negative.<sup>61</sup> I would like, however, to cite the comments of R. Reuven Margalio,<sup>62</sup> which I personally find very satisfying.

האשה אינה נענשת על ביטול מ"ע שהזמן גרמא וחלקה בעוה"ב כחלק הגבר. ובכך היה מקום לאדם מישראל לחשוב שמוטב היה לו נולדתי אשה, שאז הייתי נפטר מעול כל מצוות אלו. לכן תקנו שכל איש ימסור מודעה יום יום כי המצוות אינן עליו כטונא.

A woman is not punished if she does not fulfill time-determined positive commandments, and her share in the World to Come is like that of a man. Hence, there might well be room for a male Jew to think that it might have been better had he been born a woman, for then he would have been freed from the yoke of these commandments. Hence, [the Rabbis] established that each male should make a daily declaration that these *mitsvot* are not a burden.

A similar approach appears in the writings of the 18<sup>th</sup> Century Talmudist R. Samuel Eidels (Maharsha) who writes:<sup>63</sup>

[מברכים שלא עשני אשה] דבריאית איש ואשה קלים מצד א' וקשים מצד אחד. דאם יזכו הרי שכר האיש גדול מן האשה שזכה בהרבה מצות שהיא חייב בהן יותר מהאשה, וכן בהיפך אם לא יזכו הרי עונש האיש יותר מהעונש האשה.

[A male makes this benediction because the roles] of a man and a woman are each lenient on the one hand and stringent on the other. For if they are righteous, the reward of the male is

---

<sup>60</sup> See: *Mishna Kiddushin* 1:7; *Tosefta Kiddushin* 1:10; *Talmud Kiddushin* 29a, and *Kiddushin* 33b and ff.

<sup>61</sup> "Birkot haShahar," *Encyclopedia Talmudit*, IV, p. 371ff; Joseph Tabory, "The Benediction of Self-Identity and The Changing Status of Women and of Orthodoxy," *Kenishta*, 1 (2001), pp. 107-138.

<sup>62</sup> R. Reuven Margalio, *Nitsotsei Or, Menahot* 43b, s.v. *Rabbi Meir Omer*.

<sup>63</sup> R. Samuel Eliezer Eidels, *Maharsha Hiddushei Aggadot, Menahot* 43b. See also Chabakuk Elisha, "Shelo Asani Isha," A Simple Jew Blog, September 12, 2008, available online at: <<http://tinyurl.com/343e2g5>>.

greater, because he is commanded in more *mitsvot* than a woman. However, if they are not righteous, the man's punishment is greater than a woman's.

These scholars note that one who has greater obligation has greater potential for reward, but also for greater possible punishment should he or she not do as required. Thus, a man who doesn't put on *tefillin* or sit in the *Sukka* is punished for *bittul aseh*—for not fulfilling the positive commandment he was bidden to obey. Hence, the Rabbis ordained that each day, each of us acknowledge that, *mutatis mutandis*, the Creator could have made us a non-Jew, or a slave, or a woman, with fewer obligations, but also fewer risks. Yet, the Almighty chose not to. By reciting the daily identity *berakhot* “*sheLo asani goy; sheLo asani aved; sheLo asani isha,*” each of us accepts upon ourselves the spiritual/religious role that we have been given. The “*she-lo*” is to be understood as “Who has not,” a sober acknowledgement and acceptance of a spiritual role, not a celebrative “because He has not.”

R. Nissim Alpert suggests an insightful rationale as to why these *berakhot* are formulated in the negative. Hazal wanted to communicate to us that the Creator only gives us the *opportunity*. He defines who we are *not*; it is up to us to define who we *are* and maximize our positive potential.<sup>64</sup> Interestingly, the same idea appears in the writings of 19<sup>th</sup> century R. Zadok haKohen.<sup>65</sup>

והטעם שאין לברך שעשני ישראל כי האדם עדיין הוא תחת הבחירה, ובשם ישראל יכונה זה שבחר בטוב. ומי יודע אם יכול לעמוד בבחירתו. ולכן אינם מברכין רק שלא עשני גוי ועבד. ועל כל פנים ניתן תחת הבחירה לבחור בטוב מחמת שאינו גוי ועבד. וכן שלא עשני אשה ובבחירתו לקיים כל המצוות שהאיש מצווה יתר על האשה.

And the reason one should not recite “who has made me an Israelite” is that man functions with freedom of choice, and one can be called an Israelite only if he chooses properly. And who can be sure that he/she will chose correctly? Hence, we

---

<sup>64</sup> R. Joel Rich, personal communication (January 2011); see also comments to <<http://tinyurl.com/6l3ojup>>.

<sup>65</sup> R. Zaddok haKohen Rabinowitz of Lublin, *Pri Tsaddik, vaYikra, Parashat Emor*, sec. 7, s.v. “*veAḥar kakh.*”

can only recite the benedictions “who has not made me a non-Jew or a slave.” But, nevertheless, one has the choice to choose [whether to do these *mitsvot*] because he is not a non-Jew or a slave. The same is true for “who has not made me a woman”—it is in his choice to fulfill or not to fulfill those *mitsvot* that stem from men’s greater *mitsva* obligation.

Prof. Sperber has waved this all off as “apologetics” (Liturgy pp. 37–39). I guess one man’s apologetics is another’s honest explanation. While Prof. Sperber surveys a variety of explanations, no one interpretation is more authoritative than any other. The only authoritative guideline is the one given us by the *Tosefta* and the *Yerushalmi*<sup>66</sup>—namely, that this benediction relates to the fewer number of specific *mitsvot* in which women are obligated. Prof. Sperber has chosen to interpret the *berakha* in a way that creates a problem and casts aspersions on Ḥazal. To my mind, it is far better to understand it so no problem begins!

The truth, however, is that for radical feminists, there is much more at stake in this benediction than just its formulation. Despite the fact that all Jews share the same level of *kedushat Yisrael* (Jewish sanctity),<sup>67</sup> Jewish law, nevertheless, distinguishes between the obligations of *kohanim* (priestly clan), *leviyim* (Levites) and *yisraelim* (other Israelites), as well as between males and females.<sup>68</sup> This lack of identity between the religious obligations of men and women leads us to the inescapable conclusion that Judaism is most definitely not egalitarian. And this is the crux of the problem!

Women’s exemption from *mitsvot asei she-ha-zeman gramman*—about which there is no dispute<sup>69</sup>—is derived in the Oral Law

---

<sup>66</sup> See note 59 *supra*.

<sup>67</sup> For further discussion, see: Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice. Part 1—Theory,” *Tradition*, 32:2 (Winter 1998), pp. 5–118, text following note 25. Available online at: <<http://www.jofa.org/pdf/Batch%201/0021.pdf>>.

<sup>68</sup> See: R. Saul F. Berman, “The Status of Women in Halakhic Judaism,” *Tradition*, 14:2 (Fall 1973), pp. 5–29.

<sup>69</sup> Indeed, until the Middle Ages it was rare for women to voluntarily perform a time-bound commandment. See: R. Israel Moses Ta-Shma, *Halakha, Minhag, uMetsiut beAshkenaz (1000–1350)* (Jerusalem: Magnes Press, 2000), p. 265.

through the use of the hermeneutical principles.<sup>70</sup> Maimonides posits that this exemption is rooted in ancient oral tradition.<sup>71</sup> In either case this exemption is deemed to be biblical in origin.<sup>72</sup> The bottom line, then, is that halakhic Judaism maintains that God Himself ordained and commanded non-identical roles for men and women. This clearly does not sit well with many feminists. Indeed, Judith Plaskow<sup>73</sup> believes that this is “a profound injustice of the Torah itself in discriminating between men and women.”

For those whose highest commitment is to *halakha*, this lack of identity in religious roles is a resounding rejection of certain basic feminist values. It suggests that the Torah’s set of priorities is not always consonant with those of modern day radical feminism. All this comes through loud and clear in “*she-lo asani isha*” and is the fundamental reason that feminists have battled for a more egalitarian language—like *she-asani yisrael* for males and *she-asani yisraelit* for females. The latter communicates nothing about the different levels of *mitsva* obligations of men and women—which is the whole purpose, content and intent of the *berakha*, as is clear from the above-cited *Tosefta* and the *Yerushalmi*.<sup>74</sup> Using a language for these benedictions that does not emphasize the difference in religious roles is, to my mind, not only contrary to the intent of Hāzal and halakhically wrong, but also theologically incorrect and misleading.<sup>75</sup>

---

<sup>70</sup> *Kiddushin* 34a.

<sup>71</sup> Maimonides, Commentary to *Mishna, Kiddushin* 1:7.

<sup>72</sup> This must be the case since the Rabbis lack the authority to permanently exempt women from commandments that the Torah itself obligates them to perform. For further discussion, see Aryeh A. Frimer, note 9 *supra*, in note 38 thereto.

<sup>73</sup> Judith Plaskow, “The Right Question is Theological,” in Susannah Heschel, ed., *On Being a Jewish Feminist: A Reader* (New York: Schocken, 1995), pp. 231-232; cited by Tamar Ross, note 8, *supra*, p. 118.

<sup>74</sup> See note 59 *supra*.

<sup>75</sup> R. Sperber’s cites (Liturgy pp. 41–43) a private *siddur*, written by the 15<sup>th</sup> century scribe, polemicist and geographer Rabbi Abraham Farisol for an Italian patroness. This work uses the variant: *she-asatani isha ve-lo ish*. This is undoubtedly a curious piece of liturgical history, totally absent from the well-documented Italian rite. I wonder, however, why R. Sperber finds this fact of any halakhic import? We know nothing of R. Farisol’s

## V. Conclusion

As already noted in our opening comments, we have found Prof. Sperber's historical survey of the evolution of Jewish liturgy enjoyable, edifying and breathtaking in its depth and breadth. Prof. Sperber, however, makes an effort in this volume to go one step further, attempting to justify and direct future changes in Jewish liturgy. We find this facet of the work to be seriously lacking in its halakhic analysis, and, hence, unconvincing in its direction. This is particularly true for the suggestions he makes regarding various feminist issues that we have discussed in detail in this review.

Perhaps, before one tinkers with the *Siddur*, we should recall the words of R. Abraham Joshua Heschel, who wrote:<sup>76</sup>

The crisis of prayer is not a problem of the text. It is a problem of the soul. The *Siddur* must not be used as a scapegoat. A revision of the prayer book will not solve the crisis of prayer. ❧

---

halakhic credentials or his halakhic underpinnings. Indeed, neither he nor his position is cited anywhere in halakhic literature. The same comments are true for George Jochnowitz's Judeo-Provencal prayer book (Roth Manuscript 32) with a similar formulation; see George Jochnowitz, "...Who Made me a Woman," *Commentary*, April 1981; pp. 63-64; George Jochnowitz, "Women's Blessings," *Commentary*, October 1981, Reader Letters.

<sup>76</sup> R. Abraham Joshua Heschel, "Man's Quest for God," New York: Charles Scribners Sons, 1954.