

Source Sheet for the Teshuvah

“Women and Mitzvot”

by Rabbi Pamela Barmash

A. Mishnah Makkot 3:16

רבי חנניה בן עקשיא אומר רצה הקדוש ברוך הוא לזכות את ישראל לפיכך הרבה להם תורה ומצות שנאמר (ישעיה מ"ב) ה' חפץ למען צדקו יגדיל תורה ויאדיר

Rabbi Hananyah ben Aqashya said: The Holy One, blessed is he, wanted to grant merit to Israel. Therefore, he gave them Torah and mitzvot in abundance, as it is written, “It pleased the Lord for the sake of (Israel’s) righteousness to magnify the Torah and make it glorious”.(Isaiah 42:21)

B. Rabbi Pamela Barmash

Observing mitzvot is the primary way Jews live a religious life. We express our search for God and our quest to live in holiness through the observance of mitzvot. The mitzvot inspire us by focusing our thoughts and elevating our feelings: they guide us toward behavior imbued with certain values and goals. The observance of mitzvot shapes our actions and sanctifies our behavior. We make ourselves open to the spirit through the act of fulfilling mitzvot.

C. Babylonian Talmud Kiddushin 31a

גדול מצווה ועושה ממי שאינו מצווה ועושה

Greater is the one who is commanded (to observe a mitzvah) and does (it) than the one who is not commanded yet does.

D. Mishnah Kiddushin 1:7

מצות עשה שהזמן גרמה אינן חייבין ונשים פטורות וכל מצות עשה שלא הזמן גרמה אחד אנשים ואחד נשים חייבין וכל מצות לא תעשה בין שהזמן גרמה בין שלא הזמן גרמה אחד אנשים ואחד נשים חייבין חוץ מבל תשחית ובל תקיף ובל תטמא למתים:

The observance of all time-bound positive mitzvot is obligatory for men but not for women, and the observance of all positive mitzvot that are not time-bound is obligatory for men and women. The observance of all the negative mitzvot, whether they are time-bound or not, is incumbent on both men and women, with the exception of “You will not mar (the corners of your beard),”(Lev

19:27) “You shall not round off (the corners of your hair),” (Lev 19:27) and “You shall not become defiled through contact with the dead.”(Lev 21:1)

E. Time-bound positive mitzvot from which women were exempted are: reciting the Shema, wearing tzitzit and donning tefillin, residing in a sukkah, taking up the lulav, hearing the shofar, and some include counting the omer.

Time-bound positive mitzvot that were considered incumbent on women: eating matzah on Passover, drinking the four cups of wine on Passover, rejoicing on festivals, appearing at the Seventh-Year Assembly, lighting the Hanukkah candles, reading the megillah on Purim, reciting kiddush, lighting Shabbat candles, reciting the Shemoneh Esreh, observing niddah (menstrual separation), fasting on Yom Kippur, and reciting birkat ha-mazon.

Women were exempted from specific positive mitzvot that are not time-bound: women are not obligated to procreate, to study Torah, to circumcise their sons, to redeem their first-born children, to tear their clothing and ruffle their hair if they are infected with scale disease, and to present the first fruits offering.

Communal ceremonies from which women were excluded from participation (although they could view a ceremony): no aliyah to the Torah; not counted in the minyan necessary for the recitation of barkhu, the reader’s repetition of the Shemoneh Esreh, the Kedushah and the Kaddish (and therefore they could not serve as shlihat tzibbur because only those who are of appropriate social standing and who are obligated could fulfill a mitzvah on behalf of others); not included in a communal birkat ha-mazon; could not participate in *simhat beit ha-sho’evah* as well as almost all Temple rituals.

F. Sifre Numbers 115

ויאמר ה' אל משה לאמר דבר אל בני ישראל ואמרת אליהם ועשו להם ציצית, אף הנשים במשמע. רבי שמעון פוטר את הנשים מן הציצית מפני שמצות עשה שהזמן גרמה נשים פטורות שזה הכלל אמר ר' שמעון כל מצות עשה שהזמן גרמה נוהגת באנשים ואינה נוהגת בנשים

Speak unto the Israelites and tell them to make tzitzit for themselves. The Holy Scripture includes women. Rabbi Simon excuses women from tzitzit because as a time-bound positive mitzvah, women are exempted. For this was a general rule promulgated by Rabbi Simon: Every time-bound positive mitzvah applies to men and not to women.

G. Babylonian Talmud Kiddushin 33b-34a

כל מצות עשה שהזמן גרמא וכו'. ת"ר: איזוהי מצות עשה שהזמן גרמא? סוכה, ולולב, שופר, וציצית, ותפילין; ואיזוהי מצות עשה שלא הזמן גרמא? מזוזה, מעקה, אבידה, ושילוח הקן. וכללא הוא? הרי מצה, שמחה, הקהל, דמצות עשה שהזמן גרמא, ונשים חייבות! ותו, והרי תלמוד תורה, פריה ורביה, ופדיון הבן, דלאו מצות עשה שהזמן גרמא הוא, ונשים פטורות! אמר רבי יוחנן: אין למדין מן הכללות ואפילו במקום שנאמר בו חוץ

“All time-bound positive mitzvot...” Our rabbis taught: Which are the time-bound positive mitzvot? Sukkah, lulav, shofar, tzitzit, and tefillin. And what are affirmative precepts not limited to

time? Mezuzah, installing a parapet on a flat roof, returning lost property, and the shooting of a bird away from a nest. Now, is this a general principle? But matzah, rejoicing on Festivals, and the Seventh-Year Assembly, are time-bound positive mitzvot that are incumbent upon women. Furthermore, study of the Torah, procreation, and the redemption of the firstborn, are not time-bound positive mitzvot, and yet women are exempt. Rabbi Yohanan answered: We cannot learn from general principles, even where exceptions are stated....

H. Rambam (Spain, Egypt, 1140-1204), Commentary on Mishnah Kiddushin 1:7

ומצות עשה שלא הזמן גרמה הן המצות שחובתן חלה בכל הזמנים כגון המזוזה והמעקה והצדקה, וכבר ידעת שכלל הוא אצלינו אין למדים מן הכללות, ואמרו כל רוצה לומר על הרוב, אבל מצות עשה שהנשים חייבות ומה שאינן חייבות בכל הקפן אין להן כלל אלא נמסרים על פה והם דברים מקובלים.

In truth, those positive commandments that are obligatory for women and those that are not is a matter determined not by any general rule but rather is (a matter) transmitted orally as one of those matters handed down by tradition.

I. Mishnah Kiddushin 1:7

כל מצות הבן על האב אנשים חייבין ונשים פטורות
וכל מצות האב על הבן אחד אנשים ואחד נשים חייבין

(With regard to) all the obligations of the son to the father, men are obligated but women are exempt.

(With regard to) all the obligations of the father to the son, both men and women are obligated.

J. Tosefta on Mishnah Kiddushin 1:7

אי זו היא מצות הבן על האב מאכיל ומשקה מלביש ומכסה מוציא ומכניס ומרחיץ את פניו ידיו ורגליו אחד האיש ואחד האשה אלא שהאיש ספיקה בו לעשות והאשה אין ספק בידה לעשות מפני שיש רשות אחרים עליה אי זו היא מצות האב על הבן למולו ולפדותו וללמדו תורה וללמדו אומנות ולהשיאו אשה ויש אומ' אף להשיטו בנהר

What is the obligation of the son to the father? He must feed him, give him drink, clothe him, help him out and in, and wash his face, hands and feet. (It should be that) the same obligation applies to both men and women, except that a man has the means at his disposal (to perform these tasks) but a woman does not because she is under the control of others (and therefore she is exempted). What is the obligation of the father to the son? To circumcise him, redeem him (from a kohen if the son is the first born of his mother), teach him Torah, teach him a trade, and marry him off. And some say, to (teach him to) swim in the river.

K. Jerusalem Talmud Kiddushin 1:6, 61a

אחד האיש ואחד האשה אלא שהאיש ספיקה בידו האשה אינה ספיקה בידה מפני שיש רשות לאחרים עליה נתאלמנה או נתגרשה כמי שהיא ספיקה בידה לעשות

The same goes for a man, the same goes for a woman. A man has financial resources at his disposal but a woman does not have means at her disposal because she is under the power of others. If she is widowed or divorced, she becomes like one who has means.

L. Tosefta Megillah 3:21

קטן מתרגם על ידי גדול אבל אין כבודו שיתרגם גדול על ידי קטן

A minor may translate for an adult (who is chanting from Scripture in public) but it is beneath his dignity for an adult to translate for a minor.

M. Rabbi David Abudraham (14th century, Spain)

והטעם שנפטרו הנשים מהמצות עשה שהזמן גרמא לפי שהאשה משועבדת לבעלה לעשות צרכיו. ואם היתה מחוייבת במצות עשה שהזמן גרמא אפשר שבשעת עשיית המצוה יצוה אותה הבעל לעשות מצותו ואם תעשה מצות הבורא ותניח מצותו אוי לה מבעלה ואם תעשה מצותו ותניח מצות הבורא אוי לה מיוצרה לפיכך פטרה הבורא ממצותיו כדי להיות לה שלום עם בעלה

The reason women were excused from time-bound mitzvot was because a woman is subject to her husband to attend to his needs. Were she under obligation to carry out the time-bound positive mitzvot, it might happen that while in the process of performing one of them, her husband orders her to do his bidding. Were she then to persist in doing the mitzvah of the Creator and neglect her husband, woe to her on account of her husband. However, were she to do his bidding and drop the mitzvah of her Creator, woe to her on account of her Creator. Therefore the Creator excused her from the mitzvot so that she will have peace with her husband.

N. Rabbi Samson Raphael Hirsch (1808-1888, Germany)

The Torah did not impose those mitzvot on women because it did not consider women in need of them. All time-bound positive mitzvot are meant by symbolic procedures to bring certain facts, principles, ideas, and resolutions fresh to our minds from time to time in order to spur us on and to fortify us to realize them and keep them. God's Torah takes it for granted that our women have greater fervor and more faithful enthusiasm for their God-serving calling (taking care of the home) and that their calling runs less danger in their case than in that of men from the temptations which occur in the course of business and professional life. Accordingly, it does not find necessary to give women those repeated goading reminders to remain true to their calling and warnings against weakness in their business lives.

O. Sifre Devarim, Ekev, 46

ולמדתם אותם את בניכם, בניכם ולא בנותיכם דברי רבי יוסי בן עקיבה
 מיכן אמרו כשהתינוק מתחיל לדבר אביו מדבר עמו בלשון הקודש ומלמדו תורה ואם אין מדבר עמו בלשון קודש ואינו
 מלמדו תורה ראוי לו כאילו קוברו שנאמר ולמדתם אותם את בניכם לדבר במ, אם למדתם אותם את בניכם למען ירבו
 ימיכם וימי בניכם, ואם לאו למען יקצרו ימיכם שכך דברי תורה נדרשים

And teach them (the words of God) to your sons (בניכם) -- your sons and not your daughters.

These are the words of Rabbi Yose ben Akiva.

From here they derived that when a son begins to speak, his father should speak to him in the holy tongue and teach him Torah. And if he does not speak to him in the holy tongue and does not teach him Torah, it is considered as if he buried him, for Scripture states, *and teach them to your sons* (בניכם). If you teach them to your sons, then your days and the days of your sons may be prolonged, and if not, then your days (and the days of your sons) will be shortened, for thus are the words of the Torah...

P. Rabbi Pamela Barmash

To say that the study of Torah is the central mitzvah in rabbinic Judaism is to understate the importance of Torah study. The study of Torah is the highest spiritual activity, and at the heart of our communities is a culture of Torah study. To obligate women to study Torah is to make women equal members of the central project of rabbinic Judaism. It is to say that women's role in the transmission and creation of Torah is needed and expected in order to sustain our communities. Women would not be visitors to the beit midrash but are necessary participants, essential links in the chain of Jewish tradition and learning.

We can return to the verse in Deuteronomy interpreted in Sifre Devarim and understand it differently, *And teach them to your children*, both your sons and your daughters.

Q. Rabbi Pamela Barmash

The general exclusion of women from many mitzvot is based on the characterization of those mitzvot as positive and time-bound. A number of reasons have been devised for the link between this category and the exclusion of women from those mitzvot. However, it turns out that this category was devised for exegetical (formal interpretive) purposes, and only later was the category extended to other mitzvot from which women had already been excluded. It was never a generative principle.

Instead, women were excluded because they had subordinate status. They were exempted from the mitzvot that Jews are obligated to observe in the normal course of the day, week, and year because the essential ritual acts should be performed only by those of the highest social standing, those who were independent, those who were heads of their own households, not subordinate to anyone else. Only males were considered to be fitting candidates to honor God in the most fit way. The acts of those who were subordinate honor God in a lesser way and, therefore, women were excluded from them. Furthermore, social standing matters in relations

between human beings, and those of higher social standing would lose their dignity if some of lower social standing functioned on their behalf. Women were endowed with ritual responsibilities for others inside the home because the rabbis thought that women had the intellect and reliability to do so. It was social status alone that determined whether women were exempted from certain mitzvot. Women were also not involved in public ritual ceremonies because of their position in social hierarchy.

The involvement of women in Jewish religious and liturgical life has changed significantly in the past century and even more in the past few decades. Jewish women are aspiring to the privileges and responsibilities enjoyed by Jewish men through the millennia. The halakhah has recognized that when social customs change significantly, the new social reality requires a reappraisal of halakhic practices. The historical circumstances in which women were exempted from time-bound positive mitzvot are no longer operative, and the Conservative movement has for almost a century moved toward greater and greater inclusion of women in mitzvot. In Jewish thought and practice, the highest rank and esteem is for those who are required to fulfill mitzvot. We rule therefore that women and men are equally obligated to observe the mitzvot. We call upon Conservative synagogues, schools, and camps to educate men and women in equal observance of mitzvot and to expect and require their equal observance of mitzvot.

Women are responsible for the mitzvot of reciting the Shema and the Shemoneh Esreh, wearing tzitzit and donning tefillin, residing in a sukkah, taking up the lulav, hearing the shofar, counting the omer, and studying Torah. Mothers are equally responsible for the circumcision of their sons, the covenantal naming of their daughters, and the redemption of their first-born sons and daughters as fathers are. The Committee on Jewish Law and Standards recognizes that the social status of women entitles them to participate in public ritual and may fulfill mitzvot on behalf of others.

פסק (Pesak Halakhah)

Women and men are equally obligated to observe the mitzvot, with the exception of those mitzvot that are determined by sexual anatomy.