**Introduction:**

**Does Gender Matter?**

Before approaching the topic of women and their obligation in *mitzvot*, particularly in contrast to the obligation of men, let us first ask ourselves a broader question: Does gender matter in our lives? People often point to biological differences between men and women. There is no doubt that biology matters in determining certain fundamental differences between men and women. Common sense, along with many academic studies, indicate that men and women feel and think differently, experience events and relationships differently and learn differently. Whether these differences are the result of the influence of nature, nurture or a combination of the two, it is reasonable to conclude that men and women differ not only physiologically, but psychologically, intellectually and emotionally as well.

Nonetheless, in the Western world, most people, particularly young people, acknowledge when asked that in their “secular” lives, the significance of gender is limited mostly to dating and building personal relationships. Equality between the sexes is something they have been educated towards all of their lives. Their teachers and professors are both men and women. Their fellow students or colleagues are both male and female. Many have male and female employers or supervisors, and co-workers of all genders. At least formally, men and women have equal educational and professional opportunities. While women are still underpaid in some professions in comparison to men – and are greatly underrepresented in some key areas like government and C-level positions – they have the opportunity to study and work in fields that are meaningful, interesting and financially lucrative. In marriage, men and women create partnerships and divisions of labor regarding household and child-rearing responsibilities that are not automatically based on gender. Scheduling is often based on who has the greater flexibility and on external childcare arrangements.[[1]](#footnote-2)This is becoming the case even in the more traditional ultra-Orthodox communities where the women are increasingly the breadwinners and the men are, in exchange for learning Torah, more involved in running of the household and caring for children.

In contrast, gender matters greatly in Orthodox Judaism. The traditional structure presumes that men and women are different and does not see equality as a value. Men have far more religious obligations than women on a daily, weekly, monthly and annual basis. . Many of these *mitzvot* take them out of the home and into the synagogue to perform their religious duties. A quorum of ten men is required for a prayer service to take place. Only men lead services, read Torah and generally oversee the functioning of the synagogue. While this may seem onerous to some, it also confers privileges. For in addition to obligation, men have greater legal weight in determining halakha. As mentioned above, only men count for a prayer quorum. If there are nine men, a boy under bar mitzva can be brought hold a Torah and serve as the tenth man but not a grown woman. Men alone are deemed fit to serve as witnesses (with a few exceptions) and religious judges, most significantly in areas of marriage, divorce and conversion. Professionally, men are circumcisers, ritual slaughters, kashrut supervisors, rabbis and cantors[[2]](#footnote-3). Until recently, all halakhic questions were directed to men only. Furthermore, halakhic rules, categories and precedents were constructed and applied without the participation of women even though they were directly addressed in laws having to do with them and their bodies, through the laws of marriage, divorce, sexuality, and mikva (laws based on menstruation and the ensuing sexual prohibitions).

In this chapter, the focus will be on positive time-bound mitzvot and the exemption of women. After undertaking an analysis of rabbinic texts, the emerging hierarchy that results when men and women are obligated differently in mitzvot will be considered along with the possible religious impact that this has on women’s connection to Torah and mitzvot and suggestions for moving forward.

**Time-bound *Mitzvot* and the Status of Women**

One of the major halakhic distinctions between the genders is women’s exemption from positive time-bound *mitzvot*. To a young woman growing up in the Orthodox world, this reality is often presented definitively as the seminal proof that men and women are intended by God to fulfill different roles. I would go as far as to suggest that the foundation of gender separation rests greatly, though not exclusively, on this distinction.

In modern times, two reasons are often taught as the explanations for this gender division:

1. Women are more spiritual than men and as a result “need” fewer *mitzvot*.[[3]](#footnote-4) This is understood to be the innate wisdom of the Torah, which recognizes that men and women cannot be religiously fulfilled in the same way. Men are more at risk and thus require more structure and boundaries to pursue a covenantal relationship with God.
2. Women are the primary caretakes of young children, and therefore cannot possibly be obligated in time-bound *mitzvot* that would keep them from focusing on this essential role[[4]](#footnote-5).

Examples of time-bound mitzvot are *tzitzit, tefillin, sukkah, lulav* and *shofar*. As will be explained below, the concept of “time-bound” defies a uniform designation, which complicates the attempt to neatly explain women’s exemption from this category of *mitzvot*. There is also debate regarding which mitzvot are timebound and which, while clearly timebound, nonetheless obligate women. Furthermore, the Talmud brings no explanation for the above distinction although over the centuries, different attempts to explain women’s exemption from time bound mitzvot have been brought to suggest fundamental character differences between the sexes. An analysis of rabbinic sources will be presented along with a critical examination of how textual interpretations evolve and shape gender identity.

**What Is Classified As a Time-bound *Mitzvah*?**

The primary source for women’s exemption from time-bound *mitzvot* is in a Mishnah in tractate Kiddushin.

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| Mishnah Kiddushin 1:7All of the *mitzvot* that a father is commanded to do for his son, women are exempt from, and all of the *mitzvot* the son is commanded to do for the father, both women and men are equally obligated.And all of the positive time-bound commandments, men are obligated and women are exempt.And all of the positive non-time-bound commandments, both women and men are obligated.And all of the negative commandments, whether time-bound or not, both men and women are obligated except for the prohibition to shave one’s sideburns or beard with a razor and for priests (male) not to incur impurity of the dead. | **משנה מסכת קידושין פרק א****משנה ז**כל מצות הבן על האב אנשים חייבין ונשים פטורות וכל מצות האב על הבן אחד אנשים ואחד נשים חייבין וכל מצות עשה שהזמן גרמה אנשים 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:  |

There are four categories of *mitzvot* presented in this Mishnah: positive time-bound, positive non-time-bound, negative time-bound and negative non-time-bound. Women are obligated in three of the categories and exempted from *mitzvot* defined as positive time-bound. No explanation is given and there is no clarity as to what time-bound means or how to define the concept of time in this regard. Furthermore, the distinction between time-bound and non-time-bound mitzvot appears in the Talmud only to emphasize the difference in *mitzvah* obligation between women and men. It serves no other function in the Talmudic discourse[[5]](#footnote-6) and contributes to the overall impression that women have less religious responsibility. Although there is no explicit explanation given, I would suggest that the context in which the time-bound exemption is introduced more than hints at the reason for its textual placement. It is found in tractate Kiddushin which is primarily about the transition of women into marriage. Historically, and halakhically, when a woman marries, she transitions from her father’s authority (*reshut*) to her husband’s authority[[6]](#footnote-7). Her commitment, once married, to serve her husband preempts her commitment to serve her father even though she remains obligated to honor her parents. From this one could imply that her commitment to her husband exempts any time-bound commitment to her father in Heaven, God.

This is best illustrated in a parallel text which presents a detailed explanation of the obligation incumbent upon a son when honoring his father:

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| Tosefta *Kiddush*in 1:11What is a *mitzvah* that a son has towards his father – to feed, give to drink, dress and cover, bring him outside and bring him inside, wash his face, hands and feet. The same applies to both men and women but the man is able to perform this *mitzvah* **while the woman is unable to do so for the authority of others is upon her.** | **תוספתא מסכת קידושין פרק א הלכה יא**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.** |

To clarify the above text, men and women are equally obligated in the fifth commandment to honor one’s parents. The cited Mishnah above states that women are obligated together with men in the fidelity of son to father or, more broadly, children to parents. However, married women are not free to fulfill this obligation because they require the permission of their husbands to do so, states the Tosefta. Due to the marital relationship, they are released from their filial obligations according to *halakhah* (although they are not exempt)[[7]](#footnote-8) and no biblical verses are cited to justify such a move. The message is clear: A married woman will not be free to perform this *mitzvah* in the same way as a man.[[8]](#footnote-9) In the Middle Ages, the presumed time restrictions that burden married women will become a more broadly used justification for why women are overall exempted from positive time-bound *mitzvot*.

Nonetheless, in the case of filial obligations, both the Jerusalem Talmud and the Babylonian Talmud add a caveat that if a woman becomes widowed or divorceid, she resumes her full obligation to her parents.[[9]](#footnote-10) In contrast to a blanket exemption from positive time-bound *mitzvot*, this temporary exemption is only for the duration of a marriage. It is interesting that such a distinction – between married and unmarried women – did not emerge with regard to other exemptions from mitzvot, reinforcing the unknowability behind the general principle.

Finally, even in Talmudic times, husbands could allow their wives to fulfill the commandment to honor their parents. In the 17th century, a prominent commentary on the Shulhan Arukh known as Shakh (*Siftei Kohen* by Shabtai Ben Meir HaKohen) notes that if a husband is not insistent that she give up her obligation, a married woman remains fully duty-bound to honor her parents. In the modern era, it is largely assumed by both husband and wife that a woman will continue to actively honor and respect her parents for the duration of her marriage.

**What Are Some Examples of Time-bound *Mitzvot*?**

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| **קידושין דף לג עמ' ב– לד עמ' א**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.  | [*Kiddush*in 33b-34a](https://www.sefaria.org/Kiddushin.34a.1)**The Sages taught: What is a positive, time-bound *mitzvah*?** ***Sukkah*, *lulav*,** ***shofar***, **ritual fringes (tzitzit),** **and** **phylacteries (tefillin).****And what is a positive *mitzvah* that is not time-bound?** **a *mezuzah***, **a parapet** on a roof, returning **a lost item**, **and the release** of the mother bird from **the nest,** [the mitzvah of sending away a mother bird when one finds it sitting on chicks or eggs]. |

In the lengthy Talmudic discussion that is excerpted above and continues for several pages in the Talmud, there is an attempt to analyze the classification of positive time-bound *mitzvot* from which women are exempt. Several examples are given and include the following: *Sukkah, Lulav, Shofar, Tzitzit* and *Tefillin*.[[10]](#footnote-11) These *mitzvot* can be grouped into two categories, although it is difficult to establish a unifying thread between the two.

1. *Sukkah, Lulav* and *Shofar* are time-bound because they can only be fulfilled on specific days of the year. No one disagrees with the time-bound nature of these *mitzvot*, as their performance is meaningless once the holiday passes. Accordingly, it would be logical for this exemption status to apply to all positive commandments on holy days that are calendar dependent, including *Shabbat* and Passover. But ultimately it does not. There is a uniform acceptance of these specific mitzvot (*Shofar*, *Sukkah*, *Lulav*) as both time bound and exempting women.
2. *Tefillin* and *Tzitzit* are both ritual objects that are to be worn all day every day (in Talmudic times) and are certainly distinct from the previous time bound examples of once a year mitzvot.[[11]](#footnote-12) Neither of these examples are uniformly accepted in the Talmud as time bound, as will be explained below. This category of mitzva is qualitatively different than the previous one and will require a different interpretive lens.
3. *Shema*, which is said every day, once in the morning and once in the evening without exception, does not appear in the list of exemptions in the Kiddushin text but it is unquestionably the quintessential example of a positive time bound *mitzva* from which women are exempt. Regarding its time bound nature, it more closely resembles the daily *mitzvot* of *tefillin* and *tzitzit* but it is even broader because it is an obligation both day and night. This *mitzva* will be thoroughly addressed after analyzing the Kiddushin source.

**Time-bound *mitzvot* related to the Jewish cycle of festivals**

Women’s exemption from sitting in a *sukkah* provides an opportunity to analyze the principle of women’s exemption from time-bound *mitzvot*. Although it is clear from the outset that women will be exempted, since this is an explicit example given in the *beraita* quoted above, the Talmud offers equally valid interpretive arguments through which women could have been obligated not only in *Sukkah* but in all positive time-bound *mitzvot*. An excerpt from the discussion appears below:

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| *Kiddush*in 34a **But**  **a *sukkah*, which is a positive, time-bound mitzva, as it is written: “You shall dwell in *sukkot* for seven days”** (Leviticus 23:42), [referring to the seven specific days of the Sukkot Festival], **the reason** women are exempt: “All **the citizens** in Israel shall dwell in *sukkot*.” The definite article “the” is an exclusion [the verse could have been “all citizens in Israel”], and serves **to exclude the women** … were not for the specific exclusion**, women** would be **obligated.** **Abaye said**: In the case of dwelling in a *sukkah* a special verse was **necessary** to exempt women, as otherwise **you might think that since** **it is written: “In *sukkot* you shall dwell,”** this means that **you should dwell as you do** in your permanent home: Just as **a man and his wife** live together in a residence, so too, **a man and his wife** are obligated to reside together in **a *sukkah*.****And Rava said** the specific exclusion **was necessary**, **as you might think** **to derive** a verbal analogy from: “On the **fifteenth** day of this seventh month is the festival of *Sukkot*” (Leviticus 23:34), **from Passover**, where the verse states: “And on the **fifteenth** day of the same month is the festival of Passover” (Leviticus 23:6). J**ust as there,** **women are obligated** to eat *matzah* on the first night of Passover, despite the fact that it is a time-bound mitzva, **so too here. Thus, it was necessary** for the verse to use the term “the citizens” to exclude women. | **קידושין לד עמ' א**והרי סוכה דמצות עשה שהזמן גרמא, דכתיב: בסוכות תשבו שבעת ימים. טעמא דכתב רחמנא האזרח, להוציא את הנשים, הא לאו הכי נשים חייבות!אמר אביי: איצטריך. סלקא דעתך אמינא הואיל דכתיב: בסוכות תשבו, תשבו - כעין תדורו. מה דירה - איש ואשתו, אף סוכה - איש ואשתו. ורבא אמר: איצטריך. סד"א נילף חמשה עשר חמשה עשר מחג המצות, מה להלן נשים חייבות אף כאן נשים חייבות, צריכא. |

There are compelling reasons, both methodological and practical, to obligate women in the *mitzvah* of *sukkah*. Abaye notes that if the *mitzvah* on *Sukkot* is to “dwell” in the *sukkah*, it should include women. Otherwise, men will be obligated to eat their meals and sleep inside the *sukkah* while their wives and daughters eat and sleep inside the home. Yet *Sukkot* is a holiday in which families are commanded to rejoice together, as explicitly stated in the biblical text cited below!

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| Deuteronomy 15: 13-15After the ingathering from your threshing floor and your vat, you shall hold the Feast of Booths for seven days.You shall rejoice in your festival, with your son and daughter, your male and female slave, the Levite, the stranger, the fatherless, and the widow in your communities.You shall hold a festival for the Lord your God seven days, in the place that the Lord will choose; for the Lord your God will bless all your crops and all your undertakings, and you shall have nothing but joy. | דברים טז**יג** חַג הַסֻּכֹּת תַּעֲשֶׂה לְךָ, שִׁבְעַת יָמִים: בְּאָסְפְּךָ--מִגָּרְנְךָ, וּמִיִּקְבֶךָ.יד וְשָׂמַחְתָּ בְּחַגֶּךָ: אַתָּה וּבִנְךָ וּבִתֶּךָ, וְעַבְדְּךָ וַאֲמָתֶךָ, וְהַלֵּוִי וְהַגֵּר וְהַיָּתוֹם וְהָאַלְמָנָה, אֲשֶׁר בִּשְׁעָרֶיךָ. **טו** שִׁבְעַת יָמִים, תָּחֹג לַיהוָה אֱלֹהֶיךָ, בַּמָּקוֹם אֲשֶׁר-יִבְחַר יְהוָה: כִּי יְבָרֶכְךָ יְהוָה אֱלֹהֶיךָ, בְּכֹל תְּבוּאָתְךָ וּבְכֹל מַעֲשֵׂה יָדֶיךָ, וְהָיִיתָ אַךְ שָׂמֵחַ. |

In a different vein, Rava argues that *Sukkot* could be equated to Passover, based on an exegetical tool known as *gezera shava*, meaning the same biblical language is used in both cases. This exegesis allows the laws of one to be imposed onto the other. As they each fall on the 15th of the month, the word “15th” serves as the exegetical link. Since women are obligated to bring the Passover offering and to eat *matzah* on Passover – even though they are time-bound *mitzvot* – this could serve as a precedent to obligate women in *sukkah* which falls on the same date of a different month. At the end of this passage, the Talmud concludes that the article “the”, which in Hebrew is one extra letter, is inserted in the text to clarify that women are exempt despite interpretive arguments that could determine otherwise.

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| Leviticus 23:42You shall live in booths seven days; all the citizens in Israel shall live in booths. | ויקרא כג**מב** בַּסֻּכֹּת תֵּשְׁבוּ, שִׁבְעַת יָמִים; כָּל-הָאֶזְרָח בְּיִשְׂרָאֵל, יֵשְׁבוּ, בַּסֻּכֹּת. |

In a parallel Talmudic text in tractate *Sukkah*,[[12]](#footnote-13) where the discussion about women’s exemption from *sukkah* is directly relevant to the material in the tractate, the Talmud does not engage in textual analysis of any sort. Rather, it introduces an irrefutable proof for women’s exemption: *hilkhata*, meaning it is an oral tradition received from Sinai. The exemption can conclusively be established based on a tradition passed down from Sinai rather than an exegetical proof from within the Biblical text. This bars any sort of future consideration for women’s possible obligation.

To summarize, the Talmud in Kiddushin is unequivocal in its ruling that women are exempt from the mitzva of *sukkah* despite the textual arguments by Abaye and Rava from within the Torah text that suggest the possibility of obligation. In tractate Sukkah, a simpler more authoritative proof is used: *hilkhata*. It is a tradition dating back to Sinai and textual arguments are irrelevant.

**Many Exceptions to the Rules**

The Mishnah established a principle in which women are exempt from time-bound *mitzvot* that take place at a specific time or on a specific day of the year. At the same time, the Mishnah states explicitly that women are obligated in all non-time-bound *mitzvot*. Yet, the Talmud brings several significant examples where women are obligated in positive time-bound commandments and exempt from non-time-bound positive ones.

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| *Kiddush*in 33b**Is this** in fact **a rule?** **What about *matzah*, joy** on holidays, and ***hakhel***, the public reading the Torah every seven years, which are all time-bound positive commandments and women are obligated?**Plus, what about learning Torah, procreation, and redeeming** one's firstborn **son**, **which are not time-bound positive commandments, and women are exempt?****Rabbi Yohanan says:** **One does not learn** practical *halakhot* **from general principles**. This is the case **even in a place where it says: Except,** to exclude a specific matter. | **קידושין לג עמ' ב****וכללא הוא?**הרי מצה שמחה הקהל דמצות עשה שהזמן גרמא ונשים חייבות! ותו, והרי תלמוד תורה פריה ורביה ופדיון הבן דלאו מצות עשה שהזמן גרמאהוא, ונשים פטורות!אמר רבי יוחנן: אין למדין מן הכללות **ואפילו במקום שנאמר בו חוץ.**  |

 In this piece of Talmud, we are taught that women are obligated in eating *matzah*, rejoicing on the holidays and gathering to hear the king read the Torah every seven years. This passage also acknowledges that women are exempt from several key non-time-bound positive *mitzvot*, notably Torah study, procreation[[13]](#footnote-14) and redeeming one’s firstborn son.[[14]](#footnote-15) In short, the Mishnaic statement in which women are exempt from positive time-bound *mitzvot* and obligated in positive non-time-bound *mitzvot* is by no means clear-cut since there are many exceptions to both rules. As Rabbi Yohanan states, we do not learn from general principles. This raises the question of why such a principle exists in the first place and what role it plays in shaping the binary gender arrangement. It is difficult to avoid the sense that the exemption of women from certain mitzvot is somehow arbitrary, yet the statement in the Mishnah must hold true in at least some cases or it would be rendered meaningless.

**One Does Not Learn from General Principles**

*R' Yohanan said: "One does not learn from general principles, even in a place where it says: Except (i.e., when the general principle is explicitly stated with its exceptions...)”*

The Talmud’s response to so many exceptions to the rules stated in the Mishnah is to conclude with the statement of the early and very important *amora* Rabbi Yohanan that general principles are rules of thumb, not hard and fast rules. In other words, although the Mishnah seems to be codifying a straightforward legal principle, the role of the stated principle is to be examined, assessed, diminished or broadened even if it lessens the accuracy of the statement. This analysis of the principle ultimately shows that when there are well established rules for certain mitzvot, they cannot be overturned by the application of a principle. Maimonides in his commentary to the Mishnah in *Kiddush*in expresses this dichotomy between the rule and the applied practice:

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| **Rambam Commentary to *Kiddush*in 1:7**And a positive time-bound commandment is one where the obligation must be carried out at a set time, and when that time passes, the obligation does not take effect, as with *sukkah, lulav, shofar, tefillin and tzitzit* because their obligation is in the day and not the night. And all others like them.And positive non-time-bound *mitzvot* are those whose obligation takes place regardless of time such as *mezuzah*, building a parapet, and charity. You already know that we have a principle that one does not learn from (heuristic) rules, and the term “all” [in the statements about women and positive commandments] truly means “most.”But there is no general rule regarding the positive commandments in which women are obligated or exempted, rather they are passed on orally and are matters received by tradition. Is it not the case that eating *matzah* on the first night of Pesah, rejoicing on the festivals, *Hakhel*, the public reading of the Torah every seven years, ***tefillah***, reading of the *megillah*, lighting Hanukkah candles, lighting Shabbat candles, and reciting *kiddush* are all positive time-bound commandments and for each of them a woman’s obligation is the same as a man’s obligation.Furthermore, the *mitzvah* of procreation, learning Torah, redeeming the firstborn and the war with Amalek, each are non-time-bound positive commandments and yet women are not obligated in them. All are passed on by tradition as was explained. | פירוש המשנה להרמב"ם מסכת קידושין פרק א משנה ז**ומצות עשה שהזמן גרמא -** **- הן מצות שאדם חייב לעשותם בזמן מוגבל, וכשלא יהיה זה הזמן נתבטל חיובם, כמו הסוכה והלולב שופר תפילין וציצית שהם מחוייבין ביום ולא בלילה, וכל מה שדומה לזה.****ו**מצות עשה שלא הזמן גרמא -**הם המצות המחוייבות בכל הזמנים, כגון מזוזה, ומעקה והצדקה. וכבר ידעת שהעיקר אצלנו אין למדין מן הכללות, ומה שאמר כל אמנם רוצה לומר הרוב,****ואמנם מה שהנשים מחוייבות ממצות עשה ומה שאינן מחוייבות ממה שמגיע אליהן אינו תלוי בכלל, ואמנם נמסרים על פה והם דברים שבאו בקבלה. הלא ידעת, שאכילת מצה בלילי פסחים ושמחה במועדים והקהל ותפילה ומקרא מגילה ונר חנוכה ונר שבת וקידוש היום, אלו כולם מצות עשה שהזמן גרמא, וכל אחד מהם מחוייבות על הנשים כמו שהם מחוייבות לאנשים.****וכמו כן מצות פריה ורביה ותלמוד תורה ופדיון הבן, כל אחד מהם מצות עשה שלא הזמן גרמא, ואף על פי כן אין הנשים חייבות בהן. ואמנם נמסרים על פה כמו שזכרנו.**  |

Maimonides acknowledges that the rule exempting women from time-bound *mitzvot* is not comprehensive since there are too many exceptions. He concludes that the classifications of *mitzvot* from which women are exempt do not follow any legal reasoning or logic, but rather are passed on by tradition. This is similar to the argument brought in tractate Sukkah exempting women from the mitzva based on a learned tradition from Sinai. Nonetheless, both medieval and contemporary commentaries have attempted to interpret the rule as the Torah’s response to something ingrained in female “nature,” sometimes suggesting that women are seen as spiritually deficient, while other times suggesting they are spiritually superior. We will examine some of these explanations later in this chapter.

**Can and Should Women Wear *Tzizit*?**

As noted above, there are two parallel categories of *mitzvot* defined as time-bound in the Mishnah. The first is *mitzvot* that occur at a certain time or on a certain day of the year. The second includes *tefillin* and *tzitzit* which are *mitzvot* worn on the body every day (except for *tefillin* on Shabbat and holidays).[[15]](#footnote-16) While there seems to be uniformity in the Talmud around the exemptions from shofar, lulav and sukkah, there is disagreement with regard to tzitzit and tefillin. What makes these mitzvot fall into the category of time-bound and why were women exempted from wearing them?

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| Tosefta *Kiddush*in Chapter 1, Halacha 10What is a positive time-bound commandment? *Sukkah, lulav,* and *tefillin*.What is a positive non-time-bound commandment? Returning a lost object, sending away a mother bird from the nest, building a parapet and *tzitzit*.Rabbi Shimon exempts women from *tzitzit* because it is a positive time-bound commandment. | **תוספתא מסכת קידושין פרק א (ליברמן) הלכה י**אי זו היא מצות עשה שהזמן גרמא? כגון סוכה לולב ותפלין. אי זו היא מצות עשה שלא הזמן גרמא? כגון אבידה ושלוח הקן מעקה וציצית.  **ר' שמעון פוטר את הנשים מן הציצית מפני שהיא מצות עשה שהזמן גרמא**.  |
| Jerusalem Talmud *Kiddush*in 61cWhat is a positive time-bound commandment? *Sukkah, shofar, lulav* and *tefillin*What is a positive non-time-bound commandment? Returning a lost object, sending away a mother bird from the nest, building a parapet and *tzitzit*.Rabbi Shimon exempts women from *tzitzit* because it is a positive time-bound commandment.Rabbi Shimon said to them (the Sages) do you not agree with me that *tzitzit* is a positive time-bound *mitzvah* since night clothing (pajamas) are exempt from *tzitzit*?Rabbi Hila said: the reason the rabbis included women in *tzitzit* is if a person had clothing that he wore both day and night they would be obligated in *tzitzit* (and thus, the *mitzvah* on this particular item of clothing would not have a time-bound quality since a person would wear it day and night). | **תלמוד ירושלמי מסכת קידושין דף סא טור ג** אי זו היא מצות עשה שלא הזמן גרמא?כגון אבידה ושילוח הקן ומעקה וציצית.ר"ש פוטר הנשים מן הציצית שהיא מ"ע שהזמן גרמא.אמר להן ר' שמעון אין אתם מודין לי שהיא מצות עשה שהזמן גרמא? שהרי כסות לילה פטור מן הציצית!אמר ר' הילא טעמון דרבנין שכן אם היו מיוחדות לו ליום ולילה שהיא חייבת בציצית. |

There is a known disagreement between the Sages and the Tanna Rabbi Shimon. This is repeated in multiple tannaitic sources with the Tanna Kamma (the majority opinion) ruling that women are obligated in tzitzit because it is not a time bound mitzva. The obligation is determined by the four-cornered nature of the garment, rather than time. Rabbi Shimon disagrees and claims that it is a time-bound *mitzvah*. In the Jerusalem Talmud brought above (and in a parallel discussion in the Babylonian Talmud tractate Menakhot 43a-b), Rabbi Shimon asks his colleagues why they disagree with him given that a night garment is exempt from *tzitzit* because the fringes cannot be seen and the Biblical verse commands “*and you shall see them*.” In his mind, a daytime mitzva that is not also a night time mitzva becomes time bound. In both Talmuds, the counter argument to Rabbi Shimon is that a garment worn both night and day is obligated in *tzitzit* becausethe *mitzvah* is not time-bound but determined by the type of clothing.

It is significant, although not surprising, that when the Babylonian Talmud quotes the Tosefta in Kiddushin it leaves out the argument between the Sages and Rabbi Shimon, creating the impression of halakhic uniformity by placing *tzitzit* in the category of time-bound *mitzvot*. Rabbi Shimon’s opinion becomes normative, and the only opinion passed on,[[16]](#footnote-17) although two anecdotes about *amoraim* indicate that there were women who wore *tzitzit* based on the halakhic position that it is not time-bound and thus obligatory well after the Tannaitic period.[[17]](#footnote-18) In later halakhic literature, *tzitzit* became a *mitzvah* from which women are not merely exempt but were actively discouraged and even prevented from performing.[[18]](#footnote-19)

**Should Women Lay *Tefillin*?**

Like *tzitzit*, the time-bound nature of *tefillin* is not without dissent in the Talmud.

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| **מסכת עירובין דף צו עמ' ב**דתניא: המוצא תפילין מכניסן זוג זוג אחד האיש ואחד האשה אחד חדשות ואחד ישנות דברי ר"מ.ר' יהודה אוסר בחדשות ומתיר בישנות.ע"כ לא פליגי אלא בחדשות וישנות אבל באשה לא פליגי. שמע מינה מצות עשה שלא הזמן גרמא הוא וכל מצות עשה שאין הזמן גרמא נשים חייבות.  | Eruvin 96bHe who finds *tefillin* on Shabbat brings them indoors by wearing them one pair at a time – this applies to both men and women, to new and old *tefillin* – these are the words of Rabbi Meir.Rabbi Yehuda forbids it in the case of new *tefillin* but permits it in the case of old ones. Rabbi Meir and Rabbi Yehuda disagree only regarding new and old, but they agree regarding women. Learn from this that *tefillin* must be a positive commandment without a fixed time and women are obligated to perform all such commandments. |

This is an interesting source because it cites several major Tannaim who rule that women are obligated in *tefillin* since it is not a time-bound *mitzvah*. Like *tzitzit*, there is a lack of uniformity in the Talmudic discussion with regard to women’s exemption or obligation in these *mitzvot*. Such disparity is never mentioned in modern conversations about women wearing *tefillin* and *tzitzit* since the final halakhic consensus – even in the Talmud – veered steeply and absolutely away from considering such a possibility. For instance, a tannaitic *midrash* considers *tefillin* the very prototype of positive time-bound *mitzvot*.

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| Mekhilta DeRabbi Shimon Bar Yochai Chapter 13Another interpretation: “In order that the teaching of the Lord’s Torah be in your mouth” (Exodus 13:9) – to exclude women.Just as *tefillin* are distinctive insofar as they are a positive time-bound commandment from which women are exempt, so too are women exempt from all time-bound positive commandments. | **מכילתא דרבי שמעון בר יוחאי פרק יג**ד"א למען תהיה תורת ה' בפיך להוציא את הנשים.מה תפילין מיוחדות מצות עשה שהזמן גרמה נשים פטורות כך כל מצות עשה שהזמן גרמה נשים פטורות. |

This midrash ties the *mitzvah* of *tefillin* to the obligation to constantly study Torah; women are exempt because they are exempt from studying Torah. The next line then integrates the presentation of *tefillin* as a time-bound *mitzvah* to women’s overall exemption from time-bound *mitzvot*.

The discussion of women and *tefillin* is not exhausted by the question of its inclusion or exclusion from the time-bound category. Ultimately, *tefillin*, even if not time-bound, is also connected to Torah study since it contains within its parchment the text of the *Shema* within which lies the central commandment to study Torah.

***Tefillin* - For Those Who are Obligated to Study Torah:**

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| Mekhilta Bo – Chapter 13“In order that the teaching of the Lord’s Torah be in your mouth” (Exodus 13:9). Why was this said? Since it says [about *tefillin*] “And it shall be a sign,” I understand that even women should be obligated. This makes sense since *mezuzah* is a positive *mitzvah* and *tefillin* is a positive *mitzvah*; if you learn from *mezuzah* which is practiced by men and women, you might think *tefillin* also should be practiced by women as well as men. The Torah then says “In order that the teaching of the Lord’s Torah be in your mouth” (Exodus 13:9) I only meant this for one who is obligated in learning Torah. From here it is learned that all are obligated in *tefillin* except for women and slaves.Michal the daughter of Kush would put on *tefillin*, the wife of Jonah would go on pilgrimage during the three festivals, Tabi the slave of Rabban Gamliel would put on *tefillin*. | **מכילתא דרבי ישמעאל בא מסכתא דפסחא פרשה יג**למען תהיה תורת ה' בפיך למה נאמר? לפי שנאמר והיה לך לאות, שומע אני אף הנשים במשמע. והדין נותן, הואיל ומזוזה מצות עשה ותפילין מצות עשה, אם למדת על מזוזה שהיא נוהגת בנשים כבאנשים, יכול אף תפילין נהגו בנשים כבאנשים – תלמוד לומר למען תהיה תורת ה' בפיך, לא אמרתי אלא במי שהוא חייב בתלמוד תורה. מכאן אמרו הכל חייבין (בתלמוד תורה) [בתפלין] חוץ מנשים ועבדים.מיכל בת כושי היתה מנחת תפלין. אשתו של יונה היתה עולה לרגלים. טבי עבדו של רבן גמליאל היה מניח תפילין.  |

The Mekhilta asks a pointed question. Why is an exegetical connection not made between *tefillin* and *mezuzah*? Women are obligated in *mezuzah* since it is a *mitzvah* determined by a structure (the house) and not by time or through learning Torah. As both *mitzvot* appear in the *Shema* text and both involve *Shema* written on parchment, one could ask why not obligate women in *tefillin* because of *mezuzah*? The midrash clarifies that *tefillin* are directly connected to an obligation to learn Torah. Women are exempt from this obligation (although it is not positive time bound but positive non time bound) and thus, are exempt from *tefillin*. It concludes with two illustrations of exempted parties - Michal, a woman, and Tabi, a slave - who nonetheless put on *tefillin*, suggesting that exemption does not equal prohibition.[[19]](#footnote-20)

According to both Mekhilta texts cited, the exemption of women from *tefillin* is connected to Torah study and/or time-bound *mitzvot*. This then establishes an integral relationship between the exemption from learning Torah with the exemption from time-bound *mitzvot*. The logic seems to proceed as follows: Since women are exempt from the obligation to study Torah, they are exempt from *tefillin* and since *tefillin* is a time-bound *mitzvah*, women are exempt from all time-bound *mitzvot*.

The Babylonian Talmud offers similar logic:

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| Kiddushin 34a**And women are exempted from positive time bound commandments.****From where do we derive this? It is derived from the *mitzvah* of tefillin: Just as women are exempt from donning tefillin, so too, women are exempt from all positive, time-bound *mitzvot*.****And tefillin is learned from Torah study**. **Just as women are exempt from Torah study,** , **so too women are exempt from** **donning** **phylacteries**. | **תלמוד בבלי מסכת קידושין לד עמ' א****ומצות עשה שהזמן גרמא נשים פטורות.****מנלן? גמר מתפילין. מה תפילין נשים פטורות אף כל מצות עשה שהזמן גרמא נשים פטורות.****ותפילין גמר לה מתלמוד תורה. מה תלמוד תורה נשים פטורות אף תפילין נשים פטורות.** |

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| Kiddushin 34a**And let us** say the opposite **and juxtapose tefillin to *mezuzah***. **Tefillin are juxtaposed to Torah study** in **both the first paragraph and in the second paragraph** of *Shema*, whereas **tefillin are not juxtaposed to *mezuzah* in the second paragraph.** **But** if so, **let us juxtapose *mezuzah* to Torah study** and exempt women. This **could not enter your mind, as it is written** [with regard to the *mitzvah* of *mezuzah*:] **“That your days may be multiplied.”** Can it be said that **men need life** but **women do not need life?**  | תלמוד בבלי מסכת קידושין דף לד עמ, אונקיש תפילין למזוזה?תפילין לתלמוד תורה איתקיש בין בפרשה ראשונה בין בפרשה שניה. תפילין למזוזה בפרשה שניה לא איתקיש.ונקיש מזוזה לתלמוד תורה? לא סלקא דעתך. דכתיב: למען ירבו ימיכם - גברי בעי חיי נשי לא בעי חיי!? |

The Talmudic analysis used here is based on a methodological principle called *hekesh* or juxtaposition.

For the following two methodologies, it is necessary to see the contrasting order of the relevant mitzvot in the two passages of Shema

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| **דברים יא והיה אם שמע****וקשרתם** אותם לאות על ידיכם והיו לטופות בן עינכם**ולמדתם** אתם את בניכם**לדבר בם** בשבתך בבתך ובלכתך בדרך ובשכבך ובקומך**וכתבתם** על מזוזות ביתך ובשערך | **דברים ו ואהבת**:**ושננתם** לבנך **ודברת** בם בשבתך בבתך ובלכתך בדרך ובשכבך ובקומך**וקשרתם** לאות על ידיך והיו לטוטפות בין עניך**וכתבתם** על מזוזות ביתך ובשערך |
| **Deuteronomy** 11 (Second paragraph)**Bind** them as a sign on your hand and they shall be an emblem between your eyes.**Teach** them to your children….**Write** them on the doorposts of your house and gates. | **Deuteronomy** 6 (First paragraph)**Teach** them repeatedly to your children**Bind** them as a sign to your hand and they shall be an emblem between your eyes.**Write** them on the doorposts of your house and gates. |

In short, the Talmud essentially claims that while the Biblical verse on *tefillin* is adjacent to the verse on *mezuzah* in the first paragraph of *Shema*, it is not adjacent to *mezuzah* in the second paragraph. Meanwhile, the commandment to lay *tefillin* is adjacent to the verses about teaching Torah to one’s children in both paragraphs of *Shema*. For this reason, *tefillin* must be classified as similar to Torah study, from which women are exempt, rather than similar to *mezuzah* in which women are obligated. It goes through a similar process with *mezuzah*, suggesting that women could be exempted from *mezuzah*, which is not a time bound mitzva, because of its textual juxtaposition to the verse *“*teach it to your children” which obligates sons and not daughters in the mitzva to study Torah[[20]](#footnote-21). The conclusion of the Talmud is that in the second paragraph of Shema, the text following the command to “write them on the doorposts of your house”, promises “so that you will enjoy long life” and men and women both need long life.

**Women and *Shema***

In the Kiddushin text brought above, the mitzva of *Shema* is not addressed. It comes up peripherally in the context of *mitzvot* that are mentioned in the text of the *Shema*, such as *tefillin*, *mezuzah* and Torah study. Women’s explicit exemption from this *mitzvah* appears in a Mishnah in tractate Berakhot 19a-b that states that women, slaves and minors are exempt from *Shema* and *tefillin* and obligated in prayer, *mezuzah* and Grace after Meals. The ensuing Talmudic discussion regarding this Mishnah assumes an awareness of the Mishnah in *Kiddushin* exempting women from time-bound *mitzvot* as follows:

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| תלמוד בבלי מסכת ברכות דף כ עמ' אמשנה:**נשים ועבדים וקטנים פטורין מקריאת שמע ומן התפלין, וחייבין בתפלה ובמזוזה ובברכת המזון.**גמרא: **קריאת שמע -****פשיטא! מצות עשה שהזמן גרמא הוא וכל מצות עשה שהזמן גרמא נשים פטורות! מהו דתימא הואיל ואית בה מלכות שמים קא משמע לן.****ומן התפלין -****פשיטא! מהו דתימא הואיל ואתקש למזוזה קא משמע לן.****וחייבין בתפלה -****דרחמי נינהו. מהו דתימא הואיל וכתיב בה: ערב ובקר וצהרים כמצות עשה שהזמן גרמא דמי, קא משמע לן.****ובמזוזה -****פשיטא! מהו דתימא הואיל ואתקש לתלמוד תורה, קמשמע לן****ובברכת המזון -****פשיטא! מהו דתימא הואיל וכתיב: בתת ה' לכם בערב בשר לאכל ולחם בבקר לשבע, כמצות עשה שהזמן גרמא דמי, קא משמע לן.**  | Berakhot 20a**Mishnah: Women, slaves and minors are exempt from reciting the *Shema* and putting on *tefillin*, but are obligated for prayer, *mezuzah*, and Grace after Meals (*Birkat Hamazon*).****Gemara:** (Regarding Shema) That is **obvious,** as *Shema* is a **time-bound, positive *mitzvah*, and** the halakhic principle is: **Women are exempt from any time-bound, positive *mitzvah*****Lest you say: Since** *Shema* **includes** accepting **the kingdom of Heaven,** perhaps women are obligated in its recitation despite the fact that it is a time-bound, positive *mitzvah*. Therefore, the Mishnah **teaches us** that, nevertheless, women are exempt.We also learned in the Mishnah that women are exempt **from *tefillin*.** That is **obvious** as well. **Lest you say: Since** the *mitzvah* of *tefillin* **is juxtaposed** in the Torah **to** the *mitzvah* of ***mezuzah***. Therefore, the Mishnah **teaches us** that nevertheless, women are exempt.We also learned in the Mishnah that women, slaves, and children are **obligated in prayer.** Although the *mitzvah* of prayer is only in effect at particular times, which would lead to the conclusion that women are exempt, nevertheless, since prayer **is** supplication for **mercy** and women also require divine mercy, they are obligated. However, **lest you say: Since** regarding prayer it is **written: “Evening and morning and afternoon** I pray and cry aloud and He hears my voice” (Psalms 55:18), perhaps prayer should be **considered a time-bound, positive *mitzvah*** and women would be exempt, the Mishnah **teaches us**. And ***mezuza*.** The Gemara asks: That too is **obvious.** **Lest you say: Since** the mitzva of *mezuza* **is juxtaposed** in the Torah to the mitzva of **Torah study**, just as women are exempt from Torah study, so too they are exempt from the mitzva of *mezuza*. Therefore, the mishna explicitly **teaches us** that they are obligated.**And Grace after Meals.** The Gemara asks: That too is **obvious.** The Gemara replies: **Lest you say: Since it is written: “When the Lord shall give you meat to eat in the evening and bread in the morning to the full”** it **is considered a time-bound, positive mitzva,** exempting women. Therefore, the mishna **teaches us** that women are obligated. |

In the Mishnah, women are grouped with minors and Canaanite slaves, although the focus of the ensuing Talmudic discussion is limited to women.

The ensuing Talmudic discussion re-examines every mitzva specified in the Mishna, essentially asking why the gender distinction exists around each of the cited mitzvot. Two thousand years later, what is striking is the point-counterpoint in which either inclusion or exclusion of women regarding each mitzva counter to the Mishna’s ruling is considered and justified before ultimately accepting the Mishna’s position. The structure of the discussion introduces each mitzva with the obvious reason for its exemption and then embarks on a methodology known as “you might have thought”, followed by an excellent argument for women’s inclusion (or exemption) from the particular mitzva before ending with “thus it teaches us” to justify the need for specification in the Mishna. This lends itself to the impression that the determination of legal principle could have gone in a different direction while remaining equally compatible with the interpretation of Torah and law. I have found myself wanting to hit pause after the “you might have thought…” specifically with regard to Shema and tefillin, wondering what the religious world of women would have looked like had we been obligated from the outset in the two central mitzvot of Shema and tefillin which would have led to probably obligation in the Torah study as well.

Women’s blanket exemption from Shema certainly provokes curiosity since the Shema is a liturgical affirmation of the key doctrinal commitments underlying rabbinic Judaism (belief in one God and dedication to God through performance of the commandments)[[21]](#footnote-22), and the Talmudic discourse wonders whether they might have been obligated because of Shema’s theological significance. Since the Mishna exempts women from Shema, such an argument must be rejected. In contrast, the reason brought for the exemption from *Shema* is based on the verse that is traditionally used to exempt women from learning Torah, which perhaps serves a more compelling reason for the exemption:

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| Jerusalem Talmud Berakhot Chapter 3 Halakha 3**Mishna:** Women, slaves and minors are exempt from reciting the *Shema* and putting on *tefillin* but are obligated for prayer, *mezuzah*, and *Birkat Hamazon*.**Gemara:** Where do we learn that women are exempt from the obligation to recite the Shema? From the verse *and you shall teach them to your sons*. To your sons and not to your daughters. | **תלמוד ירושלמי, מסכת ברכות פרק ג הלכה ג (וילנא)****מתני'**נשים ועבדים וקטנים פטורין מק"ש ומן התפילין וחייבין בתפלה ובמזוזה ובבה"מ. **גמ'**נשים מניין? ולמדתם אותם את בניכם [דברים יא יט] את בניכם ולא את בנותיכם.  |

Rather than utilize the principle of time-bound *mitzvot* to exempt women from *Shema* (which has always seemed weaker to me given that Shema is said every single day and night), it derives the exemption directly from a verse which is part of the *Shema* passage, “and you shall teach it to your children.” This verse is traditionally interpreted by the Sages to refer to the obligation to teach one’s sons Torah to the exclusion of daughters. As seen regarding *tefillin* above, the *mitzvah* of reciting the *Shema* straddles two possible interpretive positions to explain women’s exemption. Despite the dual nature of the *mitzvah* (time-bound and/or part of Torah study) which seems to exempt women simultaneously from both directions, there are still rabbinic voices that disagree and obligate women in Shema. One such dissent is found in the minor Talmudic tractate of *Sofrim*/Scribes:

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| Minor Tractate *Sofrim* 18:4Some [congregations] read the Book of Lamentations in the evening of the Ninth of Ab, while others postpone it to the [following] morning after the reading of the Torah, when the reader stands up, his head covered with ashes, his clothes torn, and reads it with weeping and lamentation. If he is able to translate it, well and good; but if he is unable he entrusts it to one who knows how to translate properly and [that person] does the translation, so that the rest of the people, the women and children may understand it; in that women are obliged to listen to the reading of the Book, how much more so does it apply to men.Women have similarly an obligation in reading the *Shema*, prayer, the Grace after Meals, and affixing a *mezuzah.* But if they are not acquainted with the holy tongue they are to be taught [to say them] in any language which they can understand and master. From this it was deduced that the man who recites the benedictions must raise his voice for the benefit of his young sons, his wife and daughters. | **מסכתות קטנות מסכת סופרים פרק יח הלכה ד**יש שקורין ספר קינות בערב. יש מאחרין עד הבקר לאחר קריאת תורה שלאחר קריאת תורה עומד וראשו מתפלש באפר ובגדיו מפולשין וקורא בבכיה וביללה. אם יודע הוא לתרגמו מוטב ואם לאו נותנו למי שיודע לתרגם בטוב ומתרגם לפי שיבינו בו שאר העם והנשים ותינוקות שהנשים חייבות לשמוע קריאת ספר כאנשים וכ"ש זכרים.וכן המה חייבות בקריאת שמע בתפלה ובברכת מזון ובמזוזה. ואם אינן יודעות בלשון הקדש מלמדין אותן בכל לשון שהן יכולות לשמוע וללמד. מכאן אמרו המברך צריך שיגביה קולו משום בניו הקטנים ואשתו ובנותיו. |

In this rabbinic text, women are obligated to hear the reading of the Book (Torah), and they are also obligated in *Shema*, prayer, Grace after Meals and *mezuzah*. Furthermore, if they do not know Hebrew, they are taught to say the prayers in any language that they can understand. Therefore, a man must raise his voice so that his minor sons, wife and daughters can hear and be included when he recites blessings. While this text is singular in obligating women in Shema, it emphasizes the lack of uniformity on the subject of women’s obligation in *mitzvot* by directly contradicting the Berakhot text which assumes absolute exemption from *Shema*.

In contrast to Shema, women are obligated in prayer. However, prayer poses a significant internal contradiction to the time bound exemption since prayer in the Talmud usually refers to the *Amidah* prayer, which must be said three times a day. The Talmud itself acknowledges that prayer is time-bound, citing a verse from psalms.

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| O**bligated in prayer.** **Because** [prayer] **is** supplication for **mercy** and women also require divine mercy, they are obligated. L**est you say: Since** regarding prayer it is **written: “Evening and morning and afternoon** I pray and cry aloud and He hears my voice” (Psalms 55:18), perhaps prayer should be **considered a time-bound, positive *mitzvah*** and women would be exempt, the Mishnah **teaches us**.  |

In addressing the latent inconsistency in obligating women in prayer (while exempting them from Shema!), the Talmud explains that all human beings need mercy extended to them by God. Attempts to resolve the obligation to pray with the exemption from time bound commandments is dealt with by medieval and modern commentaries alike. It is universally accepted that women have an obligation to pray. However, there are different suggested requirements, from a minimal acknowledgement of God’s role in the world and thanks to God (which alleviates some of the dissonance around women’s obligation in prayer and its time bound nature) to an obligation to say the *Amidah* both morning and afternoon. Ironically, in modernity, many religious women are confident that they are exempted from prayer because of its time bound nature, especially since they are taught that the exemption is based on a fundamental character difference between men and women. How then can they be obligated in something as time consuming as prayer?

The last mitzva mentioned in the Mishna in Berakhot, in which women are obligated, is Grace after Meals. As with the other mitzvot, the Talmud debates the inclusion of women in what seems to be positive time bound commandment.

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| **Grace after Meals.** That too is **obvious.** **Lest you say: Since it is written: “When the Lord shall give you meat to eat in the evening and bread in the morning to the full”** ([Exodus 16:8](file:///C%3A%5CExodus.16.8)), it **is considered a time-bound, positive mitzva,** exempting women from its recitation. Therefore, the mishna **teaches us** that women are obligated. |

The Talmud brings a verse in which it is written that God gave the children of Israel meat at night and bread in the morning. Here too, the Talmud explains, one might assume that women should be exempt because of the time bound nature of meals attested to in the Torah. Nonetheless, it concludes, they are obligated to give thanks to God after eating. In an adjacent piece of Talmud, the discussion continues wondering whether women can fulfill men’s obligation in saying Grace. This builds on a principle brought below that if two people are both equally obligated, they can fulfill the other’s mitzvah obligation by reciting the text or blessing for the other.

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| [**Ravina**](file:///C%3A%5Ctopics%5Cravina-%28i%29) **said to** [**Rava**](file:///C%3A%5Ctopics%5Crava)**:** We learned in the mishna that **women** are obligated in the mitzva of **Grace after Meals.** However, are they obligated **by Torah law** or merely **by rabbinic law? What difference does it make**? The difference is regarding her ability **to fulfill the obligation of others** when reciting the blessing on their behalf. **Granted, if you say that** their obligation **is by Torah law,** one whose obligation **is by Torah law can come and fulfill the obligation** of others who are obligated **by Torah law. However, if you say** that their obligation is **by rabbinic law,** then from the perspective of Torah law, women **are** considered to be **one who is not obligated, and** the general principle is that **one who is not obligated** to fulfill a particular mitzva **cannot fulfill the obligations of the many** in that mitzva.  | אֲמַר לֵיהּ [רָבִינָא](file:///C%3A%5Ctopics%5Cravina-%28i%29) [לְרָבָא](file:///C%3A%5Ctopics%5Crava): נָשִׁים בְּבִרְכַּת הַמָּזוֹן, דְאוֹרָיְיתָא אוֹ דְּרַבָּנַן? לְמַאי נָפְקָא מִינַּהּ — לְאַפּוֹקֵי רַבִּים יְדֵי חוֹבָתָן. אִי אָמְרַתְּ בִּשְׁלָמָא דְאוֹרָיְיתָא, אָתֵי דְּאוֹרָיְיתָא וּמַפֵּיק דְּאוֹרָיְיתָא. אֶלָּא אִי אָמְרַתְּ דְּרַבָּנַן, הָוֵי ״שֶׁאֵינוֹ מְחוּיָּיב בַּדָּבָר״, וְכׇל שֶׁאֵינוֹ מְחוּיָּיב בַּדָּבָר אֵינוֹ מוֹצִיא אֶת הָרַבִּים יְדֵי חוֹבָתָן.  |

The central question left unresolved is whether women can fulfill men’s obligations in saying Grace after Meals. In the following text the Talmud brings unequivocal condemnation of men who allow their wives or minor children to say the Grace after Meals for them. Interestingly, Grace after Meals, will remain an unresolved point of halakhic contention regarding the degree of obligation and whether women are obligated Biblically or rabbinically.

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| **Come** and **hear** from what was taught in a *baraita*: **Actually they said** that **a son may recite a blessing** on behalf of **his father, and a slave may recite a blessing** on behalf of **his master, and a woman may recite a blessing** on behalf of **her husband, but the Sages said: May a curse come to a man** who, due to his ignorance, requires **his wife and children to recite a blessing on his behalf.** | תָּא שְׁמַע: בֶּאֱמֶת אָמְרוּ בֵּן מְבָרֵךְ לְאָבִיו וְעֶבֶד מְבָרֵךְ לְרַבּוֹ וְאִשָּׁה מְבָרֶכֶת לְבַעֲלָהּ, אֲבָל אָמְרוּ חֲכָמִים: תָּבֹא מְאֵרָה לְאָדָם שֶׁאִשְׁתּוֹ וּבָנָיו מְבָרְכִין לוֹ. |

This kind of automatic rejection of women (equated here with children) fulfilling men’s mitzva obligations will permeate the entire discussion brought below even when men and women are equally obligated. There is a reflexive dismissal of women fulfilling men’s mitzva obligation, as if this diminishes somehow the religious role of men as the more active sex in practice and ritual.

***Kiddush* on Shabbat**

The continuation of the Talmudic discussion in Berakhot looks at another exception to the rule of women’s exemption from time-bound *mitzvot*. As noted above in the Kiddushin text, eating *matzah*, rejoicing on festivals and gathering to hear the Torah read every seven years are exceptions to the principle of exemption. The text in Berakhot discusses women’s obligation in the *mitzvah* of reciting *kiddush* at the beginning of Shabbat over wine, further widening the gap between the principle and its application by using an exegetical methodology that is supported by the Biblical text.

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| Berakhot 20b[**Rav Adda bar Ahava**](file:///C%3A%5Ctopics%5Crav-adda-b-ahavah-%28i%29) **said: Women are obligated to** recite the **sanctification of the Shabbat day** [***kiddush*] by Torah law.** **Why?** *Kiddush* is a **time-bound, positive *mitzvah*, and women are exempt** from **all time-bound, positive *mitzvot*.** [**Abaye**](file:///C%3A%5Ctopics%5Cabaye) **said:** **by** **rabbinic,** **law.**[**Rava**](file:///C%3A%5Ctopics%5Crava) **said to** [Abaye](file:///C%3A%5Ctopics%5Cabaye): First, [Rav Adda bar Ahava](file:///C%3A%5Ctopics%5Crav-adda-b-ahavah-%28i%29) said that women are obligated to recite *kiddush* **by Torah law, and, furthermore,** **let us obligate them** to fulfill **all** time-bound, **positive mitzvot by rabbinic law,** even though they are exempt by Torah law (which the rabbis did not do).**Rather,** [**Rava**](file:///C%3A%5Ctopics%5Crava) **said:** In the book of Exodus, **the verse said: “Remember** Shabbat and sanctify it” ([Exodus 20:8](file:///C%3A%5CExodus.20.8)), while in the book of Deuteronomy it is said: **“Observe** Shabbat and sanctify it” ([Deuteronomy 5:12](file:///C%3A%5CDeuteronomy.5.12)). **Anyone included in** the obligation to **observe** Shabbat by avoiding its desecration, **is** also **included in** the mitzva to **remember** Shabbat by reciting *kiddush*. **Since these women are included in** the *mitzvah* **to observe** Shabbat, so too **are they included in** the *mitzvah* of **remembering** Shabbat.  | **תלמוד בבלי מסכת ברכות דף כ' עמ' ב**אמר [רב אדא בר אהבה](https://he.wikisource.org/wiki/%D7%A7%D7%98%D7%92%D7%95%D7%A8%D7%99%D7%94%3A%D7%A8%D7%91_%D7%90%D7%93%D7%90_%D7%91%D7%A8_%D7%90%D7%94%D7%91%D7%94) נשים חייבות בקדוש היום דבר תורה.אמאי? מצות עשה שהזמן גרמא הוא וכל מצות עשה שהזמן גרמא נשים פטורות!אמר [אביי](https://he.wikisource.org/wiki/%D7%A7%D7%98%D7%92%D7%95%D7%A8%D7%99%D7%94%3A%D7%90%D7%91%D7%99%D7%99) מדרבנן.א"ל [רבא](https://he.wikisource.org/wiki/%D7%A7%D7%98%D7%92%D7%95%D7%A8%D7%99%D7%94%3A%D7%A8%D7%91%D7%90) והא דבר תורה קאמר! ועוד כל מצות עשה נחייבינהו מדרבנן!אלא אמר רבא אמר קרא ([שמות כ, ז](https://he.wikisource.org/wiki/%D7%A7%D7%98%D7%92%D7%95%D7%A8%D7%99%D7%94%3A%D7%A9%D7%9E%D7%95%D7%AA_%D7%9B_%D7%96)) זכור ([דברים ה, יא](https://he.wikisource.org/wiki/%D7%A7%D7%98%D7%92%D7%95%D7%A8%D7%99%D7%94%3A%D7%93%D7%91%D7%A8%D7%99%D7%9D_%D7%94_%D7%99%D7%90)) ושמור. כל שישנו בשמירה ישנו בזכירה. והני נשי הואיל ואיתנהו בשמירה איתנהו בזכירה.  |

The structure of the Talmudic passage continues to frame the obligation or exemption of women from specific commandments through the lens of the time-bound principle. It starts off with Rav Adda stating that women are obligated in *kiddush*, meaning the nighttime *kiddush* that sanctifies the beginning of Shabbat. The Talmud then asks why this should be so since *kiddush* is a *mitzvah* defined solely by the one day a week called Shabbat, and women are exempt from time-bound *mitzvot*.

Abaye suggests that a possible solution is that their obligation is rabbinic rather than biblical. In this way, women and men would have unequal obligations, with men being biblically commanded and women only rabbinically commanded. This maintains both the structure of the time-bound exemption and provides an opening for women’s obligation. Rava rejects this based on a literal reading of Rav Adda’s statement who stated explicitly that the obligation was based on an ordinance of the Torah. Furthermore, Rava notes, using that methodology, women should have been rabbinically obligated in all time-bound *mitzvot*, which is not the case.

Rava then employs a classic exegetical methodology: Two similar verses command the observance of Shabbat. The first states: **Remember** (Zakhor) the Sabbath day to keep it holy. “Remember” is understood to mean actively remembering the Shabbat through the recitation of *kiddush* and other rituals commanded on Shabbat. The second verse has a one-word variation: **Guard** (*Shamor*) the Sabbath day to keep it holy. One must refrain from transgressing on the Sabbath in order to maintain its holiness.

Since women are obligated in the guarding of Shabbat (*shamor*), asserts Rava, they must be obligated in the remembering of Shabbat (*zakhor*) which includes *kiddush.*[[22]](#footnote-23) This ultimately turns into a halakhic blueprint for all *mitzvot* involving Shabbat.This principle, along with a specific reference to *kiddush*, is stated clearly in the Shulhan Arukh.

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| Shulchan Arukh Orah Hayyim 271Women are obligated in *kiddush*, even though it is a positive, time-bound commandment because *zakhor* is compared to *shamor*. And these women, since they are included in guarding [the Sabbath], they are included in remembering it**.** And they can discharge men [from their obligation] since they are obligated biblically, like them. | **שולחן ערוך אורח חיים סי' רעא**נשים חייבות בקידוש אף על פי שהוא מצות עשה שהזמן גרמא, משום דאיתקש זכור לשמור, והני נשי הואיל ואיתנהו בשמירה איתנהו בזכירה ומוציאות את האנשים הואיל וחייבות מן התורה כמותם.  |

To summarize the Talmudic discussions, most of which appear in Kiddushin and Berakhot, the list of obligations and exemptions for women regarding the time-bound *mitzvot* principle is presented below:

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| **Exemptions because they are time-bound *mitzvot****Shema**Tefillin* (difference of opinion)*Tzitzit* (difference of opinion)*Sukkah**Lulav**Shofar*Pilgrimage on festivals | **Obligations in *mitzvot* despite their time-bound nature***Kiddush*Grace after Meals (possibly rabbinic)*Tefillah* (possibly rabbinic)*Matzah**Hakhel -* (Hearing the king read the Torah once every seven years)*Simhah –* (Joy on holidays)Paschal OfferingDestroying *Hametz*Fasting on Yom Kippur (positive and negative) | **Exemptions from non-time-bound positive *mitzvot***Learning/Teaching TorahProcreationRedeeming the FirstbornCircumcision of a sonHonoring father and mother once marriedLaying hands on a sacrificial animalDonating a half-shekel to the Temple |

The following is a list of rabbinic time-bound *mitzvot* and women’s obligation or exemption based on other Talmudic discussions:

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| **Rabbinic Positive Time-Bound *Mitzvot*** |
| **Women are obligated:**Hannukah candles*Megillah* and other Purim mitzvot*Bedikat Hametz* (difference of opinion whether they can perform the *mitzvah* or must have it performed for them)Four cups of wine and all Passover *mitzvot**Hallel* on the night of Pesach*Lehem Mishneh* (the obligation to have two loaves of bread at the first two and preferably third Shabbat meal)Lighting Shabbat candles*Havdalah**Eruv Tavshilin [[23]](#footnote-24)* | **Women are exempt:**Counting of the *Omer* (Majority opinion deems it is rabbinic but Maimonides counts it as biblical)*Hallel* (rabbinic) |

**Summary:**

The Mishnah states that women are exempt from positive time-bound *mitzvot* and obligated in all non-time-bound *mitzvot*. It gives no reason for this differentiation. There are so many exceptions to this rule – both to obligate women in time-bound *mitzvot* and to exempt them from non-time-bound ones, that the Talmud quotes Rabbi Yohanan acknowledging that we do not truly learn from something listed as a principle in the Mishnah. In the course of much of the Talmudic discussions, it feels as if a parallel universe is being laid out in which the reader can see “the road not taken,” towards greater gender equality in *mitzvah* obligation based on different textual analysis. Over and over, the possibility of equality in mitzvot is rejected and the path towards gender differentiation is the only one left open. Yet, simultaneously and at times surprisingly, women are exempted from only a handful of positive time bound mitzvot.

Despite the principle of exemption, women are obligated in all the positive time-bound *mitzvot* having to do with Shabbat, Passover and Yom Kippur. They are obligated in daily prayer (although they do not count in a minyan). In addition, women are fully obligated in the four *mitzvot* of Purim and must light candles on Hannukah.[[24]](#footnote-25) In fact, there are almost no rabbinically mandated time-bound *mitzvot* from which they are exempt, with the possible exception of counting the *omer*, whose origins are biblical, and reciting Hallel on festivals, which is based on Temple practice (from which women were almost entirely exempt).

**Rabbinic Sources About Women**

A quick survey of rabbinic sources about women shows that there are three main categories of discussion about women in rabbinic text. The first category treats women as “Other.” Here, women are portrayed as temptresses and pollutants. They are seen as lightheaded and liable to misconstrue information. According to several *midrashim*, even God was unable to control Woman’s nature. In some midrashic narratives, God tries to create Woman as both docile and submissive by creating her out of the most hidden part of man’s body.[[25]](#footnote-26) Ultimately, He fails and Woman is described as haughty, inquisitive, loquacious, jealous and more. In one particularly difficult text, the Talmud quotes: “A woman is essentially a flask full of feces and her mouth is full of blood, [a reference to menstruation], yet men are not deterred and they all run after her with desire.”[[26]](#footnote-27) These sources show a distinct suspicion towards, and bias against women, who are portrayed as strange beings in comparison to men.

In contrast, another group of sources describes the Jewish wife and mother in overwhelmingly positive terms and acknowledge the tremendous influence and impact women have on the family[[27]](#footnote-28). Without women’s commitment to God’s covenant, the men, who are obligated to pass on the Torah, would not have the temerity or discipline to fulfill their duties[[28]](#footnote-29). Women as wives are thus central partners in the perpetuation of the covenant. Their importance and stature in this group of Talmudic texts are defined by their position as mothers, passing on religious resonance to their offspring, nurturing them as young children and providing a warm home for the family. The Jewish nation could not survive without Jewish women, both figuratively and literally, given that Judaism is passed on matrilineally. The Talmud takes pains to legally protect the most vulnerable women in society. If a man or a woman needs to be supported financially, a community with limited resources should first act to protect its women, in order to shield them from a life of debauchery and prostitution.[[29]](#footnote-30) Unmarried female orphans are entitled to support from their father’s estate even though it essentially undermines their brothers’ Biblical right to solely inherit[[30]](#footnote-31). Married women have rights to food, clothing and sexual relations and can petition the court if their husbands are not fulfilling their marital obligations.

Finally, the third group of sources presents the halakhic status and obligations of women in distinction to men. Here the imbalance between the sexes is clear. Women are not equal to men. This is especially reflected in the entire structure of marriage and divorce. In Jewish marriage, a man exclusively acquires the sexual rights of his wife. There is no way to soften this legal reality. For this reason, Jewish divorce requires the husband to willingly release his wife from this contract of marriage by saying, “you are now permitted to any man.” Furthermore, for similar reasons, only married women are charged with committing halakhic adultery; married Jewish men are not considered to be halakhically adulterous or be implicated in the conception of a *mamzer* if they are unfaithful, as long as their sexual partners are unmarried. The Jewish divorce laws, perhaps, have become the most dissonant aspect of the gendered structure of traditional Judaism, for it leaves women completely at the mercy of men in acrimonious cases, stranded for years in limbo, forced to cede money or property in order to be freed of a toxic marriage. This effectively creates a moral Achilles heel for a religion that believes that halakhic practice simultaneously leads to greater ethical behavior, particularly in contrast to other cultures and religions.

Circling back to the general topic of the chapter, since men have more *mitzvot*, their lives are actually worth more qualitatively. Thus, if the terrible choice must be made to save the life of a man or a woman, the man’s life is given priority.[[31]](#footnote-32) This outlook can be seen as a direct reflection of the Torah itself since passages in Leviticus dictate a differing monetary valuation for men and women (when an individual wants to donate a person’s value to the Temple), with men having greater value.[[32]](#footnote-33) While many commentaries try explain that the difference in valuation between the genders is based on the market price for male versus female slaves and not as a measure of spiritual or communal worth, it has importance as a source in the Torah where a gender hierarchy and value differentiation is present.

As was illustrated in the chart brought above, women are obligated in many mitzvot. They are obviously expected to have competency regarding those areas of *halakhah* for which women are traditionally responsible in a Jewish home, e.g., the laws of *kashrut*, Shabbat and sexual intimacy. However, there is a hierarchy that directly stems from the imbalance in mitzvot obligation and is well reflected in a daily blessing brought by Rabbi Meir in the Talmud: “It was taught: R. Meir says: A person must say three benedictions every day and these are they: who has made me an Israelite; who has not made me a woman; who has not made me an ignoramus….”[[33]](#footnote-34)

In modernity this blessing has come under sharp critique from Orthodox feminists for its perceived misogyny. In response, Moshe Meiselman in his book on *Jewish Women in Jewish Law*, “acknowledges that the role differentiation implicit in her exemption from certain mitzvot is part of the overall divine plan for the world, whose justification lies in the will and wisdom of God[[34]](#footnote-35).” In other words, the smaller number of mitzvot incumbent upon women is no less according to God’s will than the greater number obligating men. Women’s status of holiness will be seen as inferior or superior to men (depending on the historical period) because of this differentiation in mitzva obligation.

**Infusing Theological Meaning into the Gender Gap**

After undertaking the analysis brought in the bulk of the chapter, it should be clear that the exemption from time-bound *mitzvot* does not functionally create an absolute binary gender distinction since women are obligated in many *mitzvot* and can voluntarily take on others. Conceptually, however, it remains at the heart of gender differentiation in Orthodox Judaism, serving as the foundation for the “separate but equal” philosophy. This distinction has turned into a platform highlighting the differences in character between men and women in traditional Orthodoxy, which, in turn, transmits the sentiment that if men and women have such vastly different religious dispositions - and especially if this can be attributed to God’s will - then it cannot be offensive for women to be limited in religious participation.

At the beginning of the chapter, it was noted that the two most popular contemporary explanations for why women are exempt from specific *mitzvot* by God and/or *Hazal* are because of their heightened spirituality or because of the time restraints they face while taking care of children. However, the earliest attempts, to give reasons for these exemptions focus on a wife’s subordination to her husband and the spiritual inferiority of women. The discrepancy between past and present justifications, along with absolute silence from the Mishnah itself, reinforces the sense that the explanations given are generally a result of a fluid social reality.

Both Jacob ben Abba Mari Anatoli in 13th century southern France and David Abudraham in 14th century Spain attribute women’s exemption from time-bound *mitzvot* to the tension it would cause in the household, forcing a woman to choose between God and her husband.

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| Abudraham, Section III A woman is exempt from positive precepts dependent upon a set time because she is bound to her husband, to attend to his needs. Were a woman obliged to perform such *mitzvot*, her husband might bid her to do something at the precise moment that she is fulfilling one of these *mitzvot*. Should she fulfill the bidding of her Creator and neglect her husband’s demands, she faces her husband’s wrath. On the other hand, should she fulfill her husband’s demands and neglect the bidding of her Creator, she faces the wrath of her Creator. Consequently, the Creator exempted her from these obligations in order to promote harmony between husband and wife.Do we not find that even the Great Name written in sanctity and purity is effaced in order to promote harmony between husband and wife? | Malmad HaTalmidim, *Parashat Lekh Lekha*The sign of the covenant [circumcision] is rightly limited to the male, seeing that the female’s role is that of help-mate to the male. It is said, *Yet, your urge shall be for your husband, and he shall dominate you* (Gen. 3:16), implying that her husband will lead her and direct her in his ways, and that she act in accordance with his instructions.For this same reason, women are exempt from all positive precepts dependent on a set time. Were she bound to observe these *mitzvot* at the set time, her husband would then be left without help at such times. This would lead to discord between them and undermine his authority, which was designed to benefit both husband and wife. |

Both of these sources present the principle of exemption as an absolute statement although they obviously know that women were “re-obligated” in many positive time bound mitzvot. What is interesting is the attempt to explain the exemption in light of women’s character and role in society. Women are meant to be wives and wives are subject to the will of their husbands. This seems to broaden the approach brought in Tosefta *Kiddush*in (cited above) explaining that a married woman is exempted from honoring her parents since she is subordinate to her husband. These authorities suggest that without a clear exemption, women would be caught between Creator and husband. Each would be vying for her absolute fidelity and neither God nor husband would understand her forsaking one for the other. In order to have harmony in the home, God exempted her from certain obligations.

A different approach emerges in Rabbi Yehoshua Ibn Shuaib, from 14th century Spain, who suggests that a man should bless God every day that “He has not made him a woman” since women’s souls are lesser. Just as the souls of Israelite men are holier than those of non-Jews and Canaanite slaves, so too they are holier than women’s souls, even though women are included in the covenant.

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| R. Yehoshua Ibn Shuaib (Spain 1280-1340)Therefore, men bless every day that “He has not made me a non-Jew, that He has not made a slave and that He has not made me a woman…” for the souls of Israel are holier than that of the other nations, and from the lowly Canaanite slaves and even from women, and even if they are obligated in *mitzvot* and they are from Israelite seed, their souls are not like the souls of men who are connected to Torah and all of the *mitzvot*, both positive and negative. | **דרשות ר"י אבן שועיב, תזריע-מצורע**ולכן אנו מברכין בכל יום שלא עשאני גוי ושלא עשאני עבד ושלא עשאני אשה... כי נשמתן של ישראל הן קדושות יותר מן האומות ומן העבדים הכנעניים הפחותים ואפילו מן הנשים, ואם הם שייכי במצות והן מזרע ישראל אין נשמתן כנשמת הזכר השייך בתורה ובכל המצות. |

This is radically different from the more widely known approach in modernity that already appears in the 16th century, in the commentary of Judah Loew ben Bezalel, the Maharal of Prague, in which women are presented as spiritually superior and thus, less in need of *mitzvot.*[[35]](#footnote-36) The Maharal developed his view based on a famous *midrash* that states that God gave the Torah first to women and only afterwards to men. This midrash expresses a sentiment that is prevalent in rabbinic literature as reflective of the second category of sources about wife and mother. It is understood that wives and mothers have a tremendous influence on men and sons in the home, so their inclusion at Sinai, while not explicitly stated, needed to be read into the Biblical text. Without the initial enthusiastic acceptance of women, men would never have been able to commit to Torah and mitzvot.[[36]](#footnote-37)

Since the main duty of women in this world view is to enable and inspire the Jewish observance of men, this evolved into a more positive commentary on the imbalance in *mitzvah* observance as seen in the Maharal. Several hundred years later, Rabbi Samson Rafael Hirsch explains that the Torah exempted women because time bound *mitzvot* are unnecessary for their religious commitment in contrast to men who need constant and daily reminders.

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| R. Samson Rafael Hirsch (19th century Germany), *Commentary to Torah*, Lev. 23:43:Clearly, women’s exemption from positive time-bound *mitzvot* is not a consequence of their diminished worth; nor is it because the Torah found them unfit, as it were, to fulfill these *mitzvot*. *Rather, it seems to me, it is because the Torah understood that women are not in need of these mitzvot.*The Torah affirms that our women are imbued with a great love and a holy enthusiasm for their role in Divine worship, exceeding that of men. The trials men undergo in their professional activities jeopardize their fidelity to Torah and therefore, they require, from time to time, reminders and warnings in the form of time-related precepts. Women, whose lifestyle does not subject them to comparable trials and hazards, have no need for such periodic reminders. |

Upon reading Rabbi Hirsch, one cannot help but ponder his last sentence. In the past, women may not have been subject to comparable trials and hazards as men, but what would he say of society in which men and women interact regularly in the same challenging external environments? Given that he greatly contextualizes his explanation to a reality that no longer exists, would he argue that now women should be equally obligated?

The Maharal and Rabbi Hirsch reframed some of the earlier speculations on women’s character (inferior to men) and women’s role (subservient to husband), into a more positive outlook in which women are spiritually superior and thus in need of fewer *mitzvot*.

In short, the two meta-halakhic explanations that became dominant in the 20th century were women’s innate spirituality leading to less existential necessity for *mitzvot* and the reinforcement of the woman’s central role as wife and mother, rather than submission to her husband. For Orthodox and non-Orthodox feminists alike, this differentiation, which results in gender bifurcation and more obligations for men, can seem apologetic and even demeaning. Despite the traditional religious narrative that women are given equal bidding to fulfill the will of God *in their own way*, it justifies a hierarchy that ultimately translates into exclusive male authority.

**Feminist Scholars in the 20th Century**

In the late 20th century, female Talmud scholars began to critically read the sources that presented the differences in obligation and religious participation between men and women. Many felt that the overall gender differentiation was not mandated by God, but largely based on interpretation of texts reflecting traditional behavior in a patriarchal society. As will be seen in the excerpted selections below, women’s voices sound very different than men’s when they encounter the Talmudic texts that establish a gender binary.

Judith Hauptman, for instance, notes that the whole category of time-bound *mitzvot* distinguishing between men and women’s level of obligation in *mitzvot* is devoid of any sort of coherent explanation or biblical prooftext. The only purpose it seemed to serve, she suggests, was to create this differentiation, which put women at a disadvantage. Before Hauptman, no male rabbinic authority had seen it as such. Judith Plaskow, in her seminal book *Standing Again at Sinai*, wrote that “any halakha that is part of a feminist Judaism would have to look very different from halakha as it has been….it would begin with the assumption of women’s equality and humanity and legislate only on that basis[[37]](#footnote-38).” More recently, Elizabeth Shanks Alexander wrote an entire book on gender and timebound commandments in Judaism, suggesting that we learn more “about the rule’s role in structuring gender when we focus on women’s exemption from a discrete subset of timebound, positive commandments than when we focus on women’s exemptions from the category as a whole…..undergirding the rule is an assumption that women are not central actors in the creation and perpetuation of the covenantal community[[38]](#footnote-39).” Throughout her book she focuses mostly on the exemptions from Shema, tefillin and tzitzit as representative of women’s exemption from Torah study, an exemption which goes the furthest in creating a hierarchy between men and women.

Orthodox women were also not immune to feminist scholarship and discourse with a focus on the undergirding of rabbinic Judaism regarding gender. In an essay titled “*The Jew Who Wasn’t There*, *Halacha and the Jewish Woman*[[39]](#footnote-40)” Rachel Adler wrote movingly about the hierarchy that emerges when women have fewer *mitzvot* than men:

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| Make no mistake; for centuries, the lot of the Jewish woman was infinitely better than that of her non-Jewish counterpart. She had rights which other women lacked until a century ago...the problem is that very little has been done since then (1000 CE) to ameliorate the position of Jewish women in observant society. All of this can quickly be rectified if one steps outside of Jewish tradition and Halacha. The problem is how to attain some justice and some growing room for the Jewish woman if one is committed to remaining within Halacha. Some of these problems are more easily solved than others. For example, there is ample precedent for decisions permitting women to study Talmud, and it should become the policy of Jewish day schools to teach their girls Talmud. It would not be difficult to find a basis for giving women aliyot to the Torah. **Moreover, it is both feasible and desirable for the community to begin educating women to take on the positive time-bound mitzvot from which they are now excused; in which case, those mitzvot would eventually become incumbent upon women**.  |

It is not surprising that in his *Jewish Women in Jewish Law*, a book that conforms to a traditionalist approach, Moshe Meiselman*,* strongly attacks Adler for having no respect or appreciation for a system that he perceives as respecting and valuing women because of the very distinction in obligation that she was critiquing. “What can be done,” he asks, “if it is God’s will that men and women serve their Creator differently?”

Many in Orthodoxy today continue to echo Meiselman, affirming the gender distinction as handed down from God to Moses at Sinai and thus, inviolate. The question that many Orthodox feminists return to over and over again is whether, in fact, God willed it that men and women serve different religious roles, or if the evolving structure of *halakha* had, at its outset, a clear social hierarchy in which men and women could not be equal. Tamar Ross, in her book on gender and religious practice, dedicates a section to examining women’s unequal obligation to perform *mitzvot*. Ross, who is a committed Orthodox Jew, a retired professor of Jewish Thought at Bar-Ilan University and a senior faculty member at the renowned Lindenbaum seminary for women in Jerusalem, generated much controversy when she published her book, *Expanding the Palace of Torah*, in the 1990s. In the citation below she specifically refers to the hierarchy that emerges from the difference in mitzva obligation between men and women[[40]](#footnote-41).

As further examples will demonstrate, men’s greater religious obligations, whether or not they are actually fulfilled, confer other legal privileges. By the same token, women’s lesser obligations disenfranchise them in many areas. As in the case of other classes situated on the hierarchical scale, difference in religious responsibility then serves as rationale for women’s diminished valuation. Under certain circumstances, the legal repercussions are significant indeed. Because greater obligation to mitzvoth is translated in halakhic terms as greater worth, the Mishnah rules that a man’s right to life precedes that of a woman’s in most life-threatening situations. This consideration is explicitly stated in some sources as justification for the ruling that if a man and a woman are drowning, the man should be saved first.

Of particular significance is also the fact that women are exempt (and according to dominant traditional position, even deliberately distanced) from the central religious activity of studying Torah, despite the fact that this activity is not classified as time-bound. As a result, although there is no ban in principle on women functioning as halakhic authorities, in practice they have had no official part to play in the tradition’s legislative and interpretive process. Because of their lack of proficiency in the Oral Law, women have been virtually excluded from any participation in halakhic discussion and its formulation.

It was one thing for non-Orthodox scholars like Plaskow and Hauptman to write feminist critiques of rabbinic sources. It was another thing entirely for Orthodox Jews like Rachel Adler (who at the time was Orthodox), Tamar Ross and Blu Greenberg to do the same with the sharp focus of scholarship, textual acuity and insider knowledge, along with an appreciation for, and commitment to, halakha. As a result of the raised glass ceiling resulting in greater educational opportunities for women in Torah and Talmud scholarship, women for the first time began adding their own voices to the reading of rabbinic texts, questioning some of the basic premises behind the narrative of “equal but different” gender roles.

**Suggestions Moving Forward**

Questions surrounding women’s status in traditional Jewish *halakhah* and community have become among the most pressing questions of the day, theologically, sociologically and halakhically. These issues unleash questions about modernity, morality, the evolution of *halakhah* and rabbinic authority.It has become challenging for modern-minded Orthodox Jews to articulate a rational justification for the widening gap between the roles that women play in their secular lives as compared to their Jewish lives. To my mind, women’s lesser obligation in mitzvot and in the central obligation of Torah study, and segregation in the synagogue have greatly impacted women’s ability to be visible and participate fully in central parts of Jewish life. For some women, there is a sense of religious marginalization particularly when the romanticization of the male-female partnership is simultaneously reaffirmed as justification for this necessary bifurcation. The traditional, and to my mind, apologetic explanations continue to be used in defense of this disparity.

Perpetuating the *mitzvah* disparity can cause women to feel alienated and estranged from commitment to performance of *mitzvot*. This in turn can lead to women disparaging what is actually incumbent upon them, such as prayer and Grace after Meals, wrongly concluding that they must be exempt. If more women would recite *kiddush* and bless the *hallah* in their homes or, at communal events, it would visibly remind us that women have an equal obligation in many of the time-bound *mitzvot* and that men and women can and should share these religious responsibilities, especially when their lives outside of religious space are decidedly egalitarian.

To further this sense of dissonance, the classic justifications based on women’s roles in hearth and home apply much less than before. Most women marry later than they did in the past and for many years after women become obligated in *mitzvot* at the age of 12, they are often busy pursuing education and professional opportunities rather than raising children. Women today also live for many years in good health after their responsibilities for child-rearing and housekeeping have diminished. Furthermore, women are certainly subject to many of the same spiritual and religious challenges faced by men in modernity, as well as the particular questions raised by feminism which begs the question whether women should be exempted from any time bound mitzvot. One could argue that given the change in the social reality of women, women should be obligated in all *mitzvot* and only exempted when family circumstances require it.

Strengthening this suggestion, it is noteworthy that even though they are formally exempt, women in many Orthodox communities are educated from a young age to recite the *Shema*, hear the *shofar* on Rosh Hashana, sit in a *sukkah*, bless the four species and say Hallel on holidays as if they were obligated. In other words, the inconsistencies that emerged in the analysis above as to what is a time-bound *mitzvah* and why women are exempt from some and not others are exacerbated when we look at those optional *mitzvot* that have come to be treated as pivotal and quasi, if not fully, binding. Perhaps it is time to remove the positive time-bound *mitzvot* exemption from the equation altogether!

Likewise, the need for thoughtful change leading to greater connection and engagement by women in perpetuating the religious covenant goes beyond the positive time bound mitzva platform. Unfortunately, there is a “permitted but prohibited” attitude that has infiltrated halakhic discourse that discourages people from deviating from the *mesorah* even when there is room in halakha to thoughtfully reconsider. In a similar vein to what was suggested above, some examples of things permitted yet prohibited beyond positive time bound mitzvot will be brought below with directed suggestions about rethinking women’s presence in public ritualistic spaces.

* 1. Women have traditionally had little to no presence in synagogue. Women’s sections in the synagogue were small, if they existed at all, and women often had to struggle to hear or see. They certainly had no direct contact with Torah scrolls. In contrast, most Orthodox communities today invest thought and resources when building a women’s section to ensure that it be easily accessible and provide women with the ability to see and hear the entire service. This consideration, in and of itself, reflects a change in the way synagogue is experienced, essentially representing a break from tradition all by itself. However, very few Orthodox synagogues allow the Torah to be passed through the women’s section although all authorities agree that a woman can touch a Torah without concern for menstrual impurity[[41]](#footnote-42). This has become a major flash point in Orthodox services on some college campuses. The irony that this happens in a progressive environment where female and male students are treated equally further underscores the gap for women between their secular and religious lives. It serves as an excellent illustration of a non-halakhic issue carrying within it the meta-halakhic anxiety around changing the natural order of gender differentiation in any way that differs from what was done in the past. It seems to me that in modern Orthodoxy, passing women the Sefer Torah should not be a cause of fear but rather a natural and organic way of sending women the message that the Torah too belongs to them.

b. Similarly, women dancing with a Torah on Simhat Torah is a heated issue that continues to divide congregations in most modern Orthodox communities. It is hard to understand how in the 21st century, women dancing with the Torah has led to verbal and, at times, even physical violence within communities. The disproportion inequality in the experience of young boys and men who are actively engaged in reading Torah and dancing with the scrolls compared to that of the women who passively watch from the side, often talking during the long stretches of dancing, is not only painful to experience but is an offense to religious values. One wonders how women, who today are actively engaged in the study of Torah, could possibly threaten the natural order by showing their passion and love for Torah in the manner that men do on the holiday meant to celebrate such devotion.

c. Women saying *kaddish* after losing a parent has gained traction in the last thirty years as they look to incorporate a ritual that traditionally reflects the on-going year of mourning for parents. This practice reflects growing literacy and activism on the part of observant women who seek greater involvement within the halakhic framework. While this has slowly earned acceptance, it sadly remains a struggle, as if hearing the voices of women chanting a prayer will violate the sacredness of the prayer space and harm the congregation’s ability to express devotion to God. Perhaps it would be less jarring to hear women’s voices if they were obligated to attend prayer services on a regular basis. Then they would have a more equal footing when discussing the women’s section and active roles women could potentially play during or after the services. Enacting such changes as passing the Torah over to the women’s side, allowing women to dance with the Torah on Simhat Torah and supporting women saying Kaddish, none of which are prohibited, would help to remove the overwhelming sense of imbalance that characterizes the synagogue experience.

d. Finding ways for women to participate in the Jewish marriage ceremony. Traditionally, there has been no role for women to play in any part of the ceremony. The bride is passive, holding out her finger to accept kiddushin, but having no active role beyond circling her husband seven times before taking her place next to him. In the last decade, there have been increasing attempts, within the halakhic framework, to turn the huppa into a more partnered space. These range from allowing women read the sheva berakhot in translation or say a personal berakha under the huppa, and in singular cases, allowing women to say some of the sheva berakhot. In Israel, in some circles, it is not uncommon for women in leadership positions (myself included) to read the ketuba. To quote a prominent head rabbi of Yeshiva University, “a monkey could also read the Ketubah” as the reading has no legal or ritual significance. It is thus disappointing that many Orthodox rabbis/communities nonetheless vociferously prevent women from playing even a non-halakhically significant role in the marriage ceremony. Finally, rabbinic authorities have found halakhically appropriate ways for the wife to give a ring to the husband by clearly distinguishing it from the act of kiddushin when the husband gives the ring to the wife. All of these attempts have been with met ferocious resistance in the majority of Orthodoxy with simultaneously growing acceptance particularly in . However, the persistence of couples insistent on finding ways of making the marriage ceremony more interactive and equitable, along with the rabbinic authorities and communities willing to make such a move has begun a sea change that I can only hope will evolve into acceptance.

**Final Words**

One fear that has been articulated when the question of greater gender equality specifically in mitzvot arises is that any change in the traditional structure will lead to women demanding complete equality which goes against thousands of years of worship and practice. This concern will be addressed in the chapter exploring the world of women’s Torah study which has led to a demand for female ordination. While there is some truth to this concern, the use of the “slippery slope” argument seems to be an avoidance of looking critically at the religious social reality, shutting down further discussion and limiting the possibility of developing meaningful approaches to these issues.

Another, more legitimate fear to my mind, is that increasing women’s roles could potentially lead to a decrease in men’s participation in Jewish life. In other words, will we gain the women only to lose the men? In egalitarian spaces, it is not uncommon to find more women attending prayer services and more women registered for rabbinical school than men. Similar to the “slippery slope” argument, one could question whether better education and religious direction could preempt such a decline. After all, men have not stopped becoming doctors and lawyers even as women are working alongside them and vying for the same jobs in many fields!

One way in which feminist critique might inspire us to more thoughtfully look at gender roles of mitzva performance is to focus on mitzvot in which women are clearly obligated despite the time bound nature of the mitzva and remove the gender bias favoring men’.

Unfortunately, religious society is reluctant to allow women to perform rituals even in cases where it is permitted. In other words, social norms are more compelling than actual halakhic determination, turning something permitted into a virtual prohibition. To illustrate, for many years, people who visited my home were uncomfortable with my making the blessing over *hallah* although halakhically both men and women are equally obligated in the mitzva When my brother asked a prominent Orthodox rabbi about this practice, he was told that while a woman could *perform* this ritual, she should not do so, since it goes against the *mesorah*, meaning tradition. As a result, women are discouraged in active rather than passive participation, even concerning *mitzvot* in which they are obligated!

In another instance, a former student of mine arrived at her single brother’s home for dinner on Friday night. While the meal had not yet begun, they had already made *kiddush*. She asked for a cup of wine so that she could make *kiddush* and one of the male guests offered to make it for her. She politely refused and asked for wine so that she could make *kiddush* herself. He again offered to make *kiddush* for her more aggressively, insisting that women cannot make *kiddush*. Halakhically this is inaccurate. Women are as equally obligated as men in *kiddush*, as was presented earlier in the chapter. Given that the men had already fulfilled their obligation, it was actually preferable for my student to make her own *kiddush*! This kind of scene repeats itself regularly throughout the Orthodox world as it is automatically assumed that women are exempted from most rituals or, dependent on men to fulfill them.

The traditionalist approach, that women should not perform certain mitzvot because of *mesorah*, creates dissonance given the not insignificant numbers of men and women who leave home yet only marry many years later, as well as those who divorce and become widowed/widowered. This reality has forced many women (and men) to uncomfortably assume rituals for themselves and/or their children from which they thought they were exempt or feel awkward performing. A colleague recently told me that she had grown up with a very traditional attitude towards religious gender roles, ironically even as she was studying to become a Talmud teacher (more on that in the next chapter). When she was divorced, she reluctantly began to make *kiddush*, bless the *hallah* and make *havdala* for herself and her children. Upon remarrying, she assumed she and her husband would each resume their respective gendered rituals since he had been lighting the Shabbat candles for his family after his wife died. To her surprise, her new husband encouraged her to continue making kiddush because he preferred not to for dietary reasons. And in a lovely twist, they each decided to continue lighting Shabbat candles for their respective families. Once the boundary between gender roles had to be removed for halakhic reasons, this couple saw the potential in reexamining the performance of mitzvot outside of gendered social norms. Perhaps others could begin to do the same from the outset.

A final anecdote: My grandmother, one of 13 children in Williamsburg, Brooklyn, never sat in a *sukkah* growing up because there was only room for her father and brothers. Since women were not obligated in this *mitzvah*, she, her sisters and her mother sat in the kitchen. In contrast, my mother, who did not consider herself a Jewish feminist in any way, took upon herself the *mitzvah* of sitting in the *sukkah* as an absolute requirement. Even when there was no room, she insisted on being allowed to eat in the *sukkah* to the acute annoyance of men who had to crowd even more to let her in, grumbling how she really wasn’t obligated. She also scrupulously blessed the *lulav* and *etrog* each day of *Sukkot* and prayed twice a day, not just the mandatory *Shemoneh Esrei*, but the full morning and afternoon prayers that included *Shema* and *Hallel* when relevant (which she sang loudly), both prayers from which she was exempt. She was careful to hear *shofar* every year of her life regardless of the age of her children, hiring babysitters when necessary. Nonetheless, she did not have an agenda to fulfill all voluntary mitzvot. She was not interested in making *kiddush* or blessing the *hallah* on Shabbat (unless my father was away and then, interestingly, she did make kiddush even when my brother was around, as the acting head of the household). She never wanted to read Torah or wear *tefillin*. She committed to “extra” mitzvot that to her were an obvious conduit to spiritual growth.

For my mother, it was unthinkable that the *mitzvot* that she had taken upon herself should not be fully binding. Otherwise, where was the religious commitment? Her approach had nothing to do with seeking equality. It was an organic extension of her ongoing relationship with *Torah* and *mitzvot* and her recognition that rituals create profound depth and meaning stemming from unyielding commitment to their performance. While at times I was annoyed with her, I began to admire how she saw the mitzvot as directly connected to her service of God, making no distinction between those that formally obligated her and those that she had taken upon herself.

It is my ardent hope that the upcoming generations will work together to create more partnerships in religious spaces and think creatively about increased *mitzvah* obligation for women, rather than automatically falling back on the traditional structure as the default. Lack of education, apathy and fear, however, continue to make this an uphill struggle.

1. It would be grossly inaccurate to portray modern society as fully egalitarian in nature. There are still many gender biases in place that hurt men and women with preconceptions of innate capabilities based on biology. With enough willpower, however, men and women can often push past such stereotypes and fight, if necessary, legally, for entry into gender-specific spaces. At home, however, the division of household tasks and childcare arrangements that places a significantly unequal burden on women, leave heterosexual wives consistently unhappy with their situation, even as men have increased the amount of time they spend on such chores. Interestingly, gay male couples report the most equitable division of labor and least dissatisfaction with regard to sharing the burden of home and childcare. There are many studies and articles written on this topic. For two recent ones, see “Even Breadwinning Wives Don’t Get Equality at Home”, Aliya Hamad Rao, The Atlantic, May 12, 2019, and “How To Make Your Marriage Gayer”, Stephanie Coonz, The New York Times Sunday Review, February 13, 2020.

. [↑](#footnote-ref-2)
2. From a halakhic perspective, women can ritually slaughter, circumcise and act as kashrut supervisors although throughout history it has not been traditionally done. The purpose of such a list is to show that professionally, beyond teaching, women have very few leadership or professional roles in Orthodox Judaism. One obvious exception is mikva attendants; however in many cases men are paid to oversee the mechanical working of the mikva. More on this will be addressed in chapter 2. [↑](#footnote-ref-3)
3. Maharal, *Sifrei Maharal* (Jerusalem:1971), *Be’er HaGola* 27a, R. Samson Raphael Hirsch, *Commentary to Leviticus* (New York: 1971), 23:43. [↑](#footnote-ref-4)
4. The idea that women are exempted because of family obligations can be sourced to Abudraham and Malmaad HaTalmidim cited on p. ? Both of those sources relate to a wife’s need to submit to her husband and thus, her time is not her own. In modernity, I personally have heard in my youth and continue to hear from many students of all ages that women are exempted from mitzvot to care for children. This seems to have organically emerged in the modern era to speak in a language more resonant with modern martial relationships. More on this below. [↑](#footnote-ref-5)
5. Hauptman, Judith, *Rereading the Rabbis*, p. 226. [↑](#footnote-ref-6)
6. Ideally a father would betroth his daughter under the age of 12.5 years of age even if the couple did not formally live together. Until that age a father has legal rights over his daughter and can marry her even against her will. After this age, the girl becomes a *bogeret* or legal adult. She cannot be married against her will and her father does not have legal authority over her, although presumably, if she is living at home, her father would still be heavily involved in her choice to marry. [↑](#footnote-ref-7)
7. This is codified in the Rambam and Shulhan Arukh. [↑](#footnote-ref-8)
8. It must be noted that while a husband has the ability to prevent his wife from caring for her parents, if a man continuously prevents his wife from seeing her parents, it is grounds for divorce with a *ketubah*. The language in the Mishnah (Ketubot 7:4) is forceful:

**One who vows** **his wife not to go to her father’s house, when** [he] **is with her in the** **city,** **one month, he may maintain** her as his wife. If the vow is for **two** months, **he must divorce** her **and give** her her **marriage contract. And when** her father **is in a different city,** **one pilgrim Festival,** i.e., until the next pilgrim Festival, **he may maintain** her as his wife. For **three** Festivals, however, **he must divorce** her **and give** her her **marriage contract.** [↑](#footnote-ref-9)
9. Yerushalmi Kiddushin 1:7, 61a; Bavli Kiddushin 30b. [↑](#footnote-ref-10)
10. The obligation to recite the *Shema*, which is perhaps the most quintessential of time-bound *mitzvot*, is missing from this list. It appears in the discussion in Tractate Berakhot, which will be analyzed below.

 [↑](#footnote-ref-11)
11. In the time of the Talmud, *tefillin* were worn all day, every day. There was a dispute with regard to whether tefillin should be donned on Shabbat. Bavli Berakhot Chapter 3 has numerous discussions of how to bring *tefillin* into the bathroom. At a certain point in the post-Talmudic period, there was a move to limit wearing *tefillin* to the morning in conjunction with prayer. [↑](#footnote-ref-12)
12. Bavli Sukkah 28a-b. [↑](#footnote-ref-13)
13. Procreation is an enormous topic that is beyond the scope of this book as it touches on fertility, sexuality and contraception. It must be noted that a man cannot perform this *mitzvah* without a woman! According to the letter of the law, if a wife cannot fulfill the *mitzvah* or is put at risk by pregnancy, then a man must take another wife. If the sons or daughters die, which was very common in the ancient world, the man must continue to procreate. On the other hand, women may remain unmarried, marry a man known to be sterile and use certain devices to prevent pregnancy because she is not biblically commanded to procreate, allowing her some latitude in protecting herself from becoming pregnant. [↑](#footnote-ref-14)
14. Women’s exemption from redeeming the firstborn son, circumcising their sons or teaching their sons Torah all are based on the same principle. Since women themselves are not obligated to be redeemed, circumcised or learn Torah, they cannot be obligated to facilitate the obligation for their sons.. [↑](#footnote-ref-15)
15. The *halakhah* is that *tefillin* are not worn on Shabbat or holidays which makes it time bound. However, this decision was not accepted by all Tannaitic sages . Hence the debate as to whether *tefillin* is a time bound mitzva or not. [↑](#footnote-ref-16)
16. This is not unusual, as the Babylonian Talmud does this countless times in order to condense certain conversations. [↑](#footnote-ref-17)
17. Bavli Sukkah 11a and Bavli Menahot 43a. Rabbi Amram the Pious and Rav Yehudah attached *tzitzit* to their wives’ garments. See Rashi and Tosafot there. [↑](#footnote-ref-18)
18. Maimonides in the Laws of *Tzitzit* 3:9 writes explicitly that women may wrap themselves in *tzitzit* (without reciting a blessing) and the Shulhan Arukh codifies it simply as a positive time-bound *mitzvah* from which women are exempt. The Rema, after acknowledging this truth, nonetheless defines it as an act of conceit should women choose to perform this *mitzvah*. [↑](#footnote-ref-19)
19. In the parallel citation of this source in the Jerusalem Talmud, the discussion goes in a different direction and actually serves to work against the possibility of women performing similar *mitzvot*, specifically *tefillin*.

תלמוד ירושלמי מסכת ברכות פרק ב דף ד טור ג

נשים שאינן חייבות בתלמוד תורה אינן חייבין בתפילין. התיבון הרי מיכל בת כושי היתה לובשת תפילין ואשתו של יונה היתה עולה לרגלים ולא מיחו בידיה חכמים? ר' חזקיה בשם ר' אבהו: אשתו של יונה הושבה, מיכל בת כושי מיחו בידיה חכמים.

 **Yerushalmi Berakhot Ch. 2**

We have learned elsewhere: Women and bondsmen are exempt from reciting the *Shema* and from *tefillin*. This ruling is questioned: Did not Michal the daughter of Kushi don *tefillin* and did not Jonah’s wife go up for the Pilgrimage Festivals and the Sages did not object? R. Hizkiah answered in the name of R. Abbahu, “Jonah’s wife was turned back, and the Sages did object to Michal, the daughter of Kushi.”

In contrast, the Babylonian Talmud presents the opinion that women can perform optional *mitzvot* despite their exemption.

תלמוד בבלי מסכת עירובין דף צו עמוד א

דתניא: מיכל בת כושי היתה מנחת תפילין ולא מיחו בה חכמים, ואשתו של יונה היתה עולה לרגל ולא מיחו בה חכמים. מדלא מיחו בה חכמים, אלמא קסברי מצות עשה שלא הזמן גרמא היא. ודילמא סבר לה כרבי יוסי דאמר נשים סומכות רשות? דאי לא תימא הכי, אשתו של יונה היתה עולה לרגל ולא מיחו בה! מי איכא למאן דאמר רגל לאו מצות עשה שהזמן גרמא הוא? אלא, קסבר רשות. הכא נמי, רשות.

 **Bavli** **Eruvin 96a**

We have learned: Michal the daughter of Kushi used to don *tefillin* and the Sages did not object; Jonah’s wife would go up for the pilgrimage festivals and the Sages did not object. We must infer that these are regarded as positive *mitzvot* not dependent upon a set time. Or perhaps the teaching is in accord with the view of Rabbi Yose who says that women may opt to lay their hands on an offering (*semicha*). If you do not say so, why did the Sages not object to Jonah’s wife going up for the pilgrimage festivals? Can anyone maintain that going up for the pilgrimage festivals is not a positive *mitzvah* dependent upon a set time? We must conclude that this teaching is in accord with the view that these *mitzvot* are optional for women. [↑](#footnote-ref-20)
20. In chapter two, an analysis of the women’s exemption from Torah study will be undertaken thoroughly. [↑](#footnote-ref-21)
21. Alexander, Elizabeth, p. 137. [↑](#footnote-ref-22)
22. The same methodology is used for the obligation of women to eat *matzah* on the first night of Passover. Since the prohibition to own or eat *hametz* appears next to the commandment to eat *matzah* on Passover in several places in the Torah, a logical extension is used to connect the positive and negative commandments. Women are prohibited from *hametz* so they must be obligated to eat *matzah*. This logic is used to obligate them in both the negative and positive *mitzvot* when fasting on Yom Kippur. Since it is prohibited for them to eat, they must be positively commanded to fast, even though it is time-bound. [↑](#footnote-ref-23)
23. From Wikipedia: An ***eruv tavshilin*** refers to a [Jewish](https://en.wikipedia.org/wiki/Jewish) ritual in which one prepares a cooked food prior to a [Jewish holiday](https://en.wikipedia.org/wiki/Jewish_holiday) that will be followed by the [Shabbat](https://en.wikipedia.org/wiki/Shabbat). Normally, cooking is allowed on major Jewish holidays but only for consumption on that day, and not for consumption after the holiday. If such a holiday occurs on Friday, cooking for Shabbat is allowed according to Biblical law, but the rabbis forbade this in order to prevent confusion on other years *unless* this ritual of *eruv tavshilin* is performed, which would remind the people of the reasons for the exception. This ritual consists of cooking and baking some food for the Sabbath before the holiday begins. The food must consist of at least an egg-size amount of bread or [matzoh](https://en.wikipedia.org/wiki/Matzoh) and an olive-sized amount of cooked food. After being set aside, a blessing must be recited, and the food must be eaten on Shabbat. Because the "dishes" or "servings" are "mixed", meaning we have "mixed" the time of preparation between the day prior to the holiday with a food that may be eaten on the day after the holiday (which will be the Shabbat), this thereby allows for cooking to take place on the holiday itself which is not considered a "new" cooking, but rather a continuation of the "mixed" cooking that has already "begun" before the holiday started. [↑](#footnote-ref-24)
24. With regard to some of the rabbinic time-bound *mitzvot* in which women are obligated, such as those associated with Hannukah and Purim, as well as rabbinic Passover *mitzvot*, Rabbi Yehoshua ben Levi (a first generation *amora* and thus, someone who lived close to the period of the *tannaim*) suggests as an explanation that they were part of the miracle and that is the reason that women were included in the obligation. [↑](#footnote-ref-25)
25. See Genesis Rabbah 18: 2 and Deuteronomy Rabbah Parasha 6:11. [↑](#footnote-ref-26)
26. Bavli Shabbat 152a. (Text translations are generally taken from Sefaria.org, with minor edits, as necessary.) [↑](#footnote-ref-27)
27. See Shemot Rabbah 28:1 and B. Talmud Berakhot 17a. In both of these sources women are rewarded for taking their children and husbands to the house of study and waiting for them to return. In Shemot Rabbah, God tells Moses that if He makes the mistake of speaking to the men first, as he did in Eden with Adam, the women will make the Torah void, so great is their influence. As a result, God addresses the House of Jacob (interpreted as the women) before the Sons of Israel (the community of men). [↑](#footnote-ref-28)
28. See Genesis Rabbah 17:2, 7 and others in that chapter. [↑](#footnote-ref-29)
29. B. Talmud Horayot 13a. As is often the case with rabbinic sources it is not unusual to find contradictory positions regarding a given situation. While there is often a protective attitude towards vulnerable women in rabbinic literature, we find a rabbinic decree requiring a woman who is pregnant or has recently given birth to wait 18-24 months before remarrying, ostensibly for the protection of the child (See Ketubot 59b-61a, Yevamot 42a-b, Shulchan Aruch Even HaEzer 13:11). Over the centuries, women widowed or divorced by their husbands were desperately seeking to remarry in order to have a source of sustenance. Some of the women were faced with prostitution in order to feed their children and asked the courts permission to remarry. Yet in some of these cases the rabbinic authorities would still not allow them to remarry. See Responsa Mahari Mintz #5, Responsa Hatam Sofer (Even HaEzer 1), Section 3:30 and for contemporary discussion see Igrot Moshe Even HaEzer Section 4:49-50. The halakhic sources show a curious reluctance to override this particular rabbinic decree despite the vulnerability of the women and children in these cases. [↑](#footnote-ref-30)
30. Tosefta Ketubot 6:8, Mishna Ketubot 13:3. [↑](#footnote-ref-31)
31. **תלמוד בבלי מסכת הוריות דף יג עמוד א**

**מתני׳** האיש קודם לאשה להחיות ולהשב אבדה והאשה קודמת לאיש לכסות ולהוציא מבית השבי בזמן ששניהם עומדים בקלקלה האיש קודם לאשה

 Bavli Horayot 13a

**The man precedes the woman** **to rescue or to return a lost item**. **And the woman precedes the man** (with regard to clothing with) **a garment** **or to release from captivity**. **When they are both subject to sexual degradation,** **the man precedes** **the woman.** [↑](#footnote-ref-32)
32. See Leviticus Ch. 27. [↑](#footnote-ref-33)
33. B. Talmud Menakhot 43b. See Rabbi Daniel Sperber’s excellent analysis of the difference in blessings for men and women, *On Changes in Jewish Liturgy, Options and Limitations*, Urim, 2010, pp.33-40. [↑](#footnote-ref-34)
34. Meiselman, Moshe, *Jewish Women in Jewish Law*, New York, 1978, pp. 49-51. [↑](#footnote-ref-35)
35. Maharal of Prague, *Be’er HaGolah* 27a [↑](#footnote-ref-36)
36. **פרקי דרבי אליעזר, פרק מ' חורב (היגר)**

ר' פנחס אומר, ערב שבת עמדו ישראל בהר סיני עורכין האנשים לבד והנשים לבד. אמ' לו הב"ה למשה: לך אמור להם לבנות ישראל אם רוצות הן לקבל את התורה. ולמה שאלו לנשים? לפי שדרכן של אנשים הולכין אחרי דעתן של נשים שנ' "כה תאמר לבית יעקב" אלו הנשים, "ותגד לבני ישראל" אלו האנשים .

 Pirkei D’Rabbi Eliezer – Horeb

Rabbi Pinchas says: On the eve of Sabbath, Israel stood at Sinai, the men prepared alone and the women alone. God said to Moses: Go inquire of the daughters of Israel whether they want to receive the Torah. And why were the women asked? For it is the way of men to follow the opinion of women, as it is written “thus shall you say to the house of Jacob” these are the women, and “tell the children of Israel,” these are the men. [↑](#footnote-ref-37)
37. Plaskow, Judith, Standing Again at Sinai, Harper Collins, 1991, p. 72. [↑](#footnote-ref-38)
38. Shanks Alexander, Elizabeth, Gender and Time Bound Commandments in Judaism, Cambridge Press, 2013, pp. 236-37. [↑](#footnote-ref-39)
39. The article can be found on line in the Jewish Women’s Archive. [↑](#footnote-ref-40)
40. Ross, Tamar, *Expanding the Palace of Torah*, p. 38. [↑](#footnote-ref-41)
41. A Torah scroll cannot contract impurity. Even if a dead body were to fall on it, it would remain pure due to the stringent requirements that go into the material used to construct the Torah. [↑](#footnote-ref-42)