

Positive Time-Caused Mitzvot: Rethinking Women's Exemption

Where it all begins: The Mishna

Mishnah Kiddushin 1:7

All of the mitzvoth that a father is commanded to do for his son, women are exempted from and all of the mitzvoth 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 in all of the negative commandments, men and women are obligated except for the prohibition to shave one's corner of the head and for priests (male) to incur impurity of the dead

Kiddushin 34a

[With reference to Mishna Kiddusin 1:7, above, about time-bound positive commandments:] Is this in fact a rule? What about matzah, joy on holidays, and the public reading the Torah every seven years, which are all time-bound positive commandments that women are obligated in? Plus, what about learning Torah, procreation, and redeeming one's first born son, which are all non-time-bound positive commandments that women are exempt from? R' Yochanan said: "We do not learn from general principles, even when the general principle is explicitly stated with exceptions..." [i.e., general principles are rules of thumb, not hard and fast rules.

משנה מסכת קידושין פרק א משנה ז

[*] כל מצות הבן על האב אנשיים ח"בין ונשים פטורות וכל מצות האב על הבן אחד אנשיים אחד נשים ח"בין וכל מצות עשה שהזמן גרמה אנשיים ח"בין ונשים פטורות וכל מצות עשה שלא הזמן גרמה אנשיים אחד ונשים אחד נשים ח"בין וכל מצות לא תעשה בין הזמן גרמה בין שלא הזמן גרמה אחד אנשיים ואחד נשים ח"בין חוץ מל תשחית ובל תקייף ובל תטמא למתיים:

קידושין לד

ת"ר איזהו מצות עשה שהזמן גרמא סוכה ולולב שופר וציצית ותפיאリン ואיזהו מצות עשה שלא הזמן גרמא מזוזה מעקה אבידה ושילוח הקן **וככלא הוא?** הרי מצה שמחה הקהיל דמצות עשה שהזמן גרמא ונשים ח"בות ותו והרי תלמוד תורה פריה ורבייה ופדיון הבן דלאו מצות עשה שהזמן גרמא הוא ונשים פטורות אמר רבי יוחנן **אין למדין מן הכללות ואףilon** במקום שנאמר בו חוץ דעתן בכל מערבין ומשתתפין חוץ מן המים ומלה ותו ליכא והאיכא כמהין ופרטיות אלא אין למדין מן הכללות ואףilon במקום שנאמר בו חוץ:

תלמוד בבלי מסכת ברכות דף כ עמוד א

משנה. נשים ועבדים וקטנים פטורין מקראית שמע

ומן התפילה, וחיבין בתפילה ובמזוזה וביברכת המזון.

גמרא. קראית שמע, פשיטא!

מצות עשה שהזמן גרמא הוא, וכל מצות עשה שהזמן גרמא נשים פטורות!

- מהו דתימא: הוайл ואית בה מלכות שמים - קמשמע לען.

ומן התפלי פשיטא!

- מהו דתימא: הוайл ואתקש למזוזה - קמשמע לען.

וחיבין בתפלה דרhami נינהו.

- מהו דתימא: הוайл וכותיב בה ערבית ובקר וצחרים, כמצות עשה שהזמן גרמא דמי - קמשמע לען.

ובמזוזה פשיטא! - מהו דתימא: הוайл ואתקש לתלמוד תורה - קמשמע לען.

ביברכת המזון פשיטא! - מהו דתימא: הוайл וכותיב בתת ה' לכמ בערבبشر לאכל ולחם בבקר לשבע, כמצות עשה
שהזמן גרמא דמי - קמשמע לען.

The Exceptions to the Rule: A Justification Framework for Inclusion

<p>Berachot 20b</p>	<p>ברכות כ:</p>
<p>R. Adda b. Ahabah said: Women are under obligation to sanctify the [Sabbath] day by ordinance of the Torah. But why should this be? It is a positive precept for which there is a definite time, and women are exempt from all positive precepts for which there is a definite time?</p>	<p>אמר رب אדא בר אהבה: נשים חייבות בקדוש היום דבר תורה. - האם? מצות עשה שהזמן גרם הוא, וכל מצות עשה שהזמן גרם נשים פטורות! - אמר אביי: מדרבנן. - אמר ליה רaba: והא דבר תורה קאמר! ועוד, כל מצות עשה חייבינהו מדרבנן! -</p>
<p>Abaye said: The obligation is only Rabbinical. Said Raba to him: But it says, 'By an ordinance of the Torah'?</p>	<p>אלא אמר רaba: אמר קרא זכור ושמור - כל שיטנו בשמירה ישנו בזכירה, והני נשי, הויל ואיתנהו בשמירה - איתנהו בזכירה.</p>
<p>And further, on this ground we could subject them to all positive precepts by Rabbinical authority? Rather, said Raba. The text says Remember and Observe. Whoever has to 'observe' has to 'remember'; and since these women have to 'observe', they also have to 'remember'.</p>	<p>אמר ליה רבינה לרaba: נשים בברכת המזון, דאוריתא או דרבנן? למאי נפקא מינה - לאפיק' רבים ידי חובתן. אי אמרת (בשלמא) דאוריתא - אני דאוריתא ומפיק דאוריתא, (אלא אי) + מסורת הש"ס: [ואי] + אמרת דרבנן - הוי שאיינו מחייב בדבר, וכל שאינו מחייב בדבר - אינו מוציא את הרבים ידי חובתן. מי? - תא שמע, אמרת אמרו: בגין מברך לאביי, ועבד מברך לרבו, ואשה מברכת לבעלה; אבל אמרו חכמים: תבא מארה לאדם שאשתו ובנו מבריכין לו. אי אמרת בשלמא דאוריתא - אני דאוריתא ומפיק דאוריתא, אלא אי אמרת דרבנן - אני דרבנן ומפיק דאוריתא? - ולטעמי, קטן בר חייבא הו? - אלא, הכא במאי עסקין - כגון שאכל שיעורא דרבנן, דאיתי דרבנן ומפיק דרבנן.</p>
<p>Rabina said to Raba: Is the obligation of women to say grace after meals Rabbinical or Scriptural? — What difference does it make in practice which it is? — For deciding whether they can perform the duty on behalf of others. If you say the obligation is Scriptural, then one who is bound by Scripture can come and perform the duty on behalf of another who is bound by Scripture. But if you say the obligation is only Rabbinical, then [a woman] is not strictly bound to do this, and whoever is not strictly bound to do a thing cannot perform the obligation on behalf of others.</p>	
<p>What [do we decide]? — Come and hear: 'In truth they did say: A son¹³ may say grace on behalf of his father and a slave may say grace on behalf of his master and a woman may say</p>	

<p>grace on behalf of her husband. But the Sages said: A curse light on the man whose wife or children have to say grace for him.....'</p>	
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<p>Pesachim 43b</p> <p>Women are subject to the precept of eating unleavened bread by the law of Scripture, for it is said, "You shall not eat anything leavened with it" (Deut. 16, 3). Whoever is subject to not eating anything leavened is subject to the eating of unleavened bread; and these women since they are subject to the injunction of not eating anything leavened they are also subject to the precept: arise, eat unleavened bread."</p>	<p>תלמוד בבל מסכת פסחים דף מג עמוד ב</p> <p>דאמר רבי אליעזר: נשים חifyות באכילת מצה דבר תורה, שנאמר לא תאכל עליו חמץ וגו' כל שישנו בבל תאכל חמץ - ישנו באכילת מצה. והני נשי נמי, הואיל וישן בבל תאכל חמץ - ישן בקום אכל מצה.</p>
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Justification Framework of “They Too Were Involved in the Miracle”

<p>Shabbat 23a</p> <p>A woman definitely lights Chanukah candles for Rabbi Yehoshua ben Levi said: women are obligated in Chanukah candles for they too were involved in the miracle.</p>	<p>תלמוד בבל מסכת שבת דף כג עמוד א</p> <p>אשה ודאי מדליקת [נרות חנוכה], דאמר רבי יהושע בן לוי: נשים חifyות בnar חנוכה, ש愧ה הוי באותו הנס.</p>
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<p>Pesachim 108a</p> <p>Rabbi Yehoshua ben Levi said: Women are obligated in the four cups, since they too were involved in the miracle</p>	<p>תלמוד בבל מסכת פסחים דף קכח עמוד א</p> <p>ואמר רבי יהושע בן לוי: נשים חifyות בארבעה כוסות הלו, ש愧ה הוי באותו הנס.</p>
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Megilla 4a

And Rabbi Yehoshua ben Levi said: Women are obligated in the megilla reading since they too were involved in the miracle.

תלמוד בבלי מסכת מגילה דף ד עמוד א

ואמר רבי יהושע בן לוי: נשים חיבות במקרא מגילה, שאף הן היו באותו הנס.

Rabbeinu Nissim, Commentary to Alfasi, Shabbat 445

Rabbenu Tam writes; Since women were also included in the miracle of the manna, they are obligated to partake of three Sabbath meals and to break bread over two loaves. However it is not necessary to base the ruling on these grounds, since men and women are equal with regard to all Shabbat activities as is derived from Zachor and Shamor. This ruling applies to all Shabbat obligations.

List of Women's obligations

1. Positive Time Bound Commandments For Which Women are Exempt

- a. **Shema**
- b. **Tefillin on the head**
- c. **Tefillin on the arm**
- d. **Tzitzit**
- e. **Counting Omer**
- f. **Sukkah**
- g. **Lulav**
- h. **Shofar**
- i. **Pilgrimage on the Festivals**

Positive Time Bound Commandments for Which Women are Obligated

- a. Kiddush
- b. Fasting on Yom Kippur
- c. Matza
- d. Rejoicing on the Festivals
- e. Assembling (Hakel) every Seven Years
- f. Sacrificing and Eating the Paschal Offering

3. Positive Non Time Bound Commandments for which Women are Exempt

- a. Study of Torah
- b. For the King to Write a Torah
- c. Priests blessing the people
- d. Procreation
- e. Celebration of groom with bride for a year
- f. Circumcision of sons/Redeeming First born son

4. Rabbinic commandments time bound and women are obligated (sometimes the same and sometimes different than men)

- 1. Hannukah candles
- 2. Megillah and other Purim mitzvot
- 3. Four cups of wine and all Passover mitzvot
- 4. Hallel on the night of Pesach
- 5. Lechem Mishnah
- 6. *Birkat Hamazon*
- 7. Prayer (Shmonah Esreh)
- 8. *Havdalah*
- 9. *Eruv Tavshilin*
- 10. *Seuda Shlishit* (as well as the other two meals, obviously)

Why are women exempt from time bound commandments?

First Voices are in the Middle Ages:

Abudraham, Section III (14th century Spain)

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 mitzvoth, her husband might bid her to do something at the precise moment that she is fulfilling one of these mitzvoth. 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?

R. Yehoshua Ibn Shuaiv (Spain 1280-1340)

"Therefore men bless every day that "He has not made me a Cuthite, that He has not made a slave and that He has not made me a woman....because the souls of Israel are holier than that of the other nations, and from Canaanite slaves and even from women, and even though women are relevant with regard to mitzvoth and they are from Israelite seed, their souls are not like the souls of men."

Things Begin to Change in the 19th Century

R. Samson Rafael Hirsch (19th century Germany), Commentary to Torah, Lev. 23:43:

Clearly women's exemption from Positive Precepts dependent upon a set time is not a consequence of their diminished worth; nor is it because the Torah found them unfit, as it were to fulfil these Precepts. Rather, it seems to me, it is because the Torah understood that women are not in need of these Precepts. 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 man. 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.

Rabbi Emanuel Rackman (20th century New York)

"...In order that man learn to sanctify time, the Law ordains for him many commandments which are governed by a calendar and a clock. Women, on the other hand, by the very nature of their

physical constitution and the requirements of the Law regarding their menstrual periods, needed little more to make them aware of the sanctity of time."

Rav Menachem M. Schneerson 'Address to Convention of N'shei Ubnos Chabad,' 25 Iyar 5744

Women are freed from performing mitzvos which are obligatory only at a specific time (e.g., tzitzis, which is obligatory only during the day). The AriZal writes concerning such mitzvos: "When the male performs the mitzvah, it is unnecessary that the woman should also do them separately, for she has already been included with him at the time when he does the mitzvah... This is the meaning of our Sages' statement, 'One's wife is as one's body.'"...In other words, when Torah frees a women from certain mitzvos, it frees her only from doing them — so that she can devote her time and energies to her unique mission. The state of wholeness and perfection that is attained, and the reward that accrues, from these mitzvos, does pertain to women also — through her husband performing them.

Iggerot Moshe)C 4:49

The average women in the world are not rich and are responsible for raising the boys and girls, which is the most important labor to God and to the Torah... For the nature of women is also more suited for child-rearing; therefore, [God] was lenient with them so as not to obligate them in learning Torah and in positive time-bound commandments. Therefore, even if the order of life in the world should change for all women, and for the wealthy in all eras, and even when it is possible to give over the child-rearing to some men and women as in our country, the law of the Torah has not changed and neither has rabbinic law.

Now the Women Begin to Speak

Rachel Adler, excerpted from *The Jew Who Wasn't There*, published 1971:

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. ...**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.**

Blu Greenberg, excerpted from On Women and Judaism, published 1981

We who are committed to traditional Judaism are standing today at the crossroads on the question of women. Feminism disturbs our previous equilibrium, for it makes a fundamental claim about women contrary to the model generated by *halakhah* [Jewish law].On the whole, I believe that a Jew has a better chance of living a worthwhile life if he or she lives a life according to *halakhah*. Therefore, I do not feel threatened when addressing the question of the new needs of women in Judaism nor in admitting the limitations of *halakhah* in this area. Indeed, it is my very faith in halakhic Judaism that makes me believe we can search within it for a new level of perfection, as Jews have been doing for three thousand years.

Judith Plaskow, Standing Again at Sinai, published 1990: Any halakha that is part of a feminist Judaism would have to look very different from halakha as it has been. It would be different not just in its specifics but in its fundamentals. It would begin with the assumption of women's equality and humanity and legislate only on that basis. Laws governing the formation and dissolution of relationships, for example, would acknowledge women's full agency, so that the present laws of marriage and divorce would be ruled unjust and unacceptable. It would be different not only in its content but in its practitioners. Women would shape *halakhah* along with men, codetermining the questions raised and the answers given. It would be open to continual transformation in the light of deeper understandings of justice.

Dr. Tamar Ross, excerpted from Expanding the Palace of Torah, published 2001:

Women's unequal obligation to perform mitzvoth:

A few rabbinic sources appear to have assumed that all the commandments were at the outset addressed only to men. This would mandate examining each mitzvah separately in order to see whether it might apply to women as well....There are however, other important distinctions between the legal obligations of men and women that are not biologically based.....In the course of such discussions, which display a more gender-based legislative bias, women's obligations usually appear as an addendum or as an exception to the male norm. Even including women in the religious obligations that apply on the holiday of Purim – commemorating an event with a female protagonist – necessitates a special argument "They too were witness to that miracle".

The net result is that women are at times classified in halakhic literature together with other marginalized groups such as slaves, children, imbeciles androgens, hermaphrodites and the deaf-mute – either because they are excluded from certain mitzvoth altogether or because they are merely exempt....

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.

Excerpted from an article by Rabbi Abraham Gordimer following the ordination of women by Rabbi Herzl Hafter and by the Maharat program, 2010: It is regrettable that Open Orthodoxy is becoming the new Conservative movement, but that is precisely what is happening. Denial of a Singular Divine Author of the Torah, denial of the objective truth of Torah She-b'al Peh, ordaining women rabbis, creating gender-modified rituals, and so much more; the "Orthodoxy" has been swallowed up by the "Open". The Torah requires the Jew to subordinate his ideologies and actions to God, to the objectively true and authentic mandate of Sinai. Reshaping Judaism as we see fit has no place in this mandate. Let us recommit to Hashem and the eternal, unchanging charge of Sinai, and pray that all of our brothers and sisters will join us