**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**Deracheha: Women and Mitzvot**

**Women’s Status, Part 3: Positive Time-Bound *Mitzvot***

Why are women exempt? how can we understand the exemption?

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# Positive Time-Bound *Mitzvot*

After discussing women's and men's obligation to observe negative *mitzvot, (*[*here*](https://www.deracheha.org/halachic-status)*)* the mishna turns its attention to positive commandments:

Mishna *Kiddushin* 1:7 And all positive *mitzvot* that are time-bound, men are obligated and women are exempt. And all positive *mitzvot* that are not time-bound, both men and women are obligated.

"*Zeman geramah*," literally means 'time causes it.' Rambam explains that these obligations apply only at specific times:

Rambam, Commentary to the Mishna, *Kiddushin* 1:7 "*Mitzvat Aseh she-hazeman geramah*" means that the obligation to perform it applies at a certain time, and that at other times the obligation does not apply.

In general, men and women are equally obligated in positive non-time-bound commandments. These include loving our fellow person, returning a lost object, giving *tzedaka*, affixing a *mezuza*, and many other essential elements of Jewish observance.

The mishna tells us that, as a rule, men are obligated in positive time-bound commandments while women are not. Before we explore this category further, it is important to remember its context. Overall, the mishna has divided *mitzvot* into four major categories (positive time-bound, positive non-time-bound, negative time-bound, and negative non-time-bound). Women are generally obligated in three out of four.

In fact, out of the 613 Torah-level *mitzvot*, there seem to be only eight instances where women are exempted specifically from positive time-bound *mitzvot*: reciting *Shema*, donning *tzitzit*, laying *tefillin* on the head and on the hand, hearing *shofar*, taking *lulav*, dwelling in the *sukka,* and counting the *omer.* This is not a long list.

## ● Why does the exemption from this single category loom large? (See Appendix One.)

# Rabbinic Enactments

Rabbinic laws usually follow the patterns set by Torah law:

*Gittin* 65a All that our rabbis enacted, they enacted on the model of Torah law.

Since Rabbinic law typically conforms to the paradigm set by Torah law, does the exemption from positive time-bound commandments extend to rabbinic commandments?

Rabbeinu Tam writes explicitly that women are obligated in rabbinic-level time-bound *mitzvot*:[[1]](#footnote-1)

*Rabbeinu Tam, Responsa Sefer Ha-yashar* 70 For positive rabbinic commandments are equal[ly obligatory] for everyone [man and woman].

Other Tosafists disagree, and maintain that women are exempt from rabbinic-level positive time-bound *mitzvot*.

*Tosafot Megilla* 24a To women, who are exempt from positive time-bound *mitzvot*, even from those that are only rabbinic.

Despite the position of Rabbeinu Tam, the halachic consensus is that women are exempt from rabbinic-level positive time-bound commandments unless a specific reason is given for obligation.[[2]](#footnote-2)

How might this play out in practice? For example, women are usually exempt from the rabbinic positive time-bound mitzva of reciting the full Hallel. Women *are* obligated to recite Hallel at the seder, though. Why? For a special reason – that women were part of the miracle.

Legal Explanation

Why are women exempt from positive, time-bound commandments? The Talmud provides a technical, legalistic explanation for this principle.

*Kiddushin* 35a Rav Acha bar Yaakov: The verse states, "and it [*tefillin*] will be for you for a sign upon your hand and for a remembrance between your eyes in order that God's Torah will be in your mouth" (*Shemot* 13:9). The entire Torah is made analogous to *tefillin*. Just as *tefillin* is a positive time-bound commandment and women are exempt, so too women are exempt from all positive time-bound commandments.

The mitzva of *tefillin* (technically, two *mitzvot*: one for the head and one for the hand) is positive, because it entails specific action, and time-bound, because it is prohibited to lay *tefillin* on Shabbat or Yom Tov.[[3]](#footnote-3) Furthermore, since *Shemot* 13:9 compares *tefillin* to the entire Torah, the mitzva of *tefillin* is a *paradigmatic* positive time-bound commandment, from which we can learn about that entire class of *mitzvot*. For this reason, women's exemption from laying *tefillin* establishes that women are exempt from positive time-bound commandments in general.

The Nature of Rules

The mishna phrases women’s exemption from positive time-bound *mitzvot* as a clear rule. Yet the Talmud questions its authority, noting exceptions to the rule and acknowledging that rules of this sort apply only some of the time.

*Kiddushin* 34a And is it a rule? Behold: matza, rejoicing [on a festival], *Hakhel* [assembly at the end of the sabbatical year]—which are positive time-bound commandments, and women are obligated. And further, behold: learning Torah, [the command to] be fruitful and multiply, and redeeming the first born—which are not positive time-bound commandments, and women are exempt. Rabbi Yochanan said: We do not learn [definitively] from rules, even in a place where exceptions are stated.

In other words, this rule is by no means absolute. In practice, the Talmud employs various means to determine a woman’s obligation in a given mitzva, sometimes citing the general exemption from positive time-bound *mitzvot*, while often turning to *midrash halacha* or oral tradition instead.[[4]](#footnote-4) The Rambam makes this point:

Rambam, Commentary to the Mishna, *Kiddushin* 1:7 For we have a rule that we do not learn [Halacha] from rules, and they say "all" to indicate "for the most part." But positive *mitzvot* in which women are or are not obligated, in all of their scope, do not follow a rule but are transmitted orally and these are received traditions.

The rule may be more of a rule of thumb than a source for Halacha. This may explain why the Talmud does not undertake a deeper explanation for it beyond learning from the *tefillin* paradigm. To the Talmud, when it applies, exemption from these *mitzvot* as a group may simply be a decree of Divine will.

Over the centuries, great rabbis have provided a variety of theological or philosophical rationales for women's exemption. When a matter is clear, one reason can suffice to explain it. Often, a wide range of proofs for a matter suggests that we are unsure as to the absolute reason behind it.[[5]](#footnote-5) These explanations all have significance, but none of them is fully authoritative.

Let's review some of the more prominent explanations, keeping this in mind.

# Essentialist Explanation

Rav Samson Raphael Hirsch (Germany, 19th century) suggests that women's exemption derives from both essential and practical gender differences:

Rav S. R. Hirsch, Commentary to *Vayikra* 23:43 (Judaica Press translation) The Torah did not impose these *mitzvot* on women because it did not consider them necessary to be demanded from women. All time-bound *mitzvot* are meant, by symbolic procedures, to bring certain facts, principles, ideas and resolutions afresh to our minds from time to time to fortify us to realize them to keep them. God's Torah takes it for granted that our women have greater fervor and more faithful enthusiasm for their God-serving calling [than men], and that this calling runs less danger in their case than in that of men from the temptations which occur in the course of business and professional life. Accordingly it does not find it necessary to give women these repeated spurring reminders to remain true to their calling...

For Rav Hirsch, women's "greater fervor and more faithful enthusiasm" for serving God," together with a more sheltered lifestyle than men's, makes these particular *mitzvot* unnecessary for women.

At first glance, this argument sounds like an elevation of women's spirituality above men's. However, Rav Hirsch is not advocating reverse gender bias. How do we know this? Elsewhere, Rav Hirsch refers to men and women as spiritual equals:[[6]](#footnote-6)

Rav S. R. Hirsch, "The Jewish Woman," *Judaism Eternal* While fully appreciating the special and deeply implanted characteristics of the female sex, the Sages also attribute to it complete spiritual and intellectual equality with the male.

What, then, is his claim? Women and men have complementary roles, and a woman needs less external prodding, such as that provided by positive time-bound *mitzvot*, to fulfill her role.[[7]](#footnote-7) Furthermore, men's professional roles outside the home present risks that these particular *mitzvot* help counteract, a process unnecessary for more domestically-oriented women. Although significant, internal motivation is not the only measure of spirituality.

## ● Are women more religiously enthusiastic than men? What about working women? (See Appendix Two.)

# Between Husband and Wife

Another major school of thought, exemplified by Abudarham’s approach, associates women's exemption from these *mitzvot* even more closely with women's traditional roles in the home.

Sefer Abudarham, Blessings on *Mitzvot* and Their Laws The reason that women were exempted from positive time-bound commandments is because the woman is subservient to her husband to perform his needs. If she were obligated in positive time-bound commandments, it is possible that at the time for performing the mitzva the husband would command her to perform his command, and if she were to perform the command of the Creator and set aside his [the husband's] command, woe is to her from her husband. If she were to perform his [the husband's] command and set aside the mitzva of the Creator, woe is to her from He who formed her. Therefore, the Creator exempted her from His commands in order that she have peace with her husband.

According to Abudarham (Spain, 14th century), the woman, subject to her husband's authority, is not free to perform positive time-bound commandments. Religious time constraints could create tension between her obligations to her husband and to God, and so women are exempt in order to promote *shalom bayit*, peace at home.

## ● Do time-bound mitzvot really take up that much time? (See Appendix Three.)

**A Twist** In a *sicha* (a public discourse) to the women and girls of Chabad, the Lubavitcher Rebbe adds an interesting twist to this interpretation, which he attributes to Arizal:[[8]](#footnote-8)

# 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.

While Abudarham's perspective seems to build on a hierarchical view of marriage, Rav Schneerson's embraces complementarity. If men and women work together in complementary ways to build a Jewish home, then the woman's exemption does more than facilitate the husband's mitzva performance; the husband's performance of positive time-bound *mitzvot* represents his wife.

**Single Women** If the exemption has to do with a woman's marriage, why should single women be exempt?

*Torah Temima* finds a talmudic basis for this question.[[9]](#footnote-9) The Talmud (see [here](https://www.deracheha.org/halachic-status)) discusses husband-wife concerns like Abudarham's with regard to a married woman's honoring her parents. There, however, the mishna still obligates the woman fully in the mitzva of honoring her parents; the Talmud releases married women from some elements of this obligation only when conflict arises.

According to Abudarham’s approach, why doesn't the Torah follow a similar model with time-bound *mitzvot*? Why not obligate women in general, and exempt married women in situations that cause conflict?

In line with his approach, Rav Schneerson suggests that a woman's future husband performs positive time-bound *mitzvot* on her behalf. However, this repsonse does not address divorcees, widows, and women who never marry.[[10]](#footnote-10)

The answer might be that Halacha often takes a law generated by concern for a particular instance (here, the married woman) and applies it to a broader class (here, women as a whole), an approach known as *lo pelug*.[[11]](#footnote-11)

Rav Yisrael Zeev Gustman (Lithuania and Israel, 20th century), however, writes that a woman should not avail herself of the exemption more than necessary:

Rav Yisrael Gustman*, Kuntresei Shiurim, Kiddushin*, p.254 In my humble opinion, it seems warranted to rule that even in positive time-bound commandments, it is not worthy for women to free themselves from these *mitzvot* if not for some [other] mitzva [whose time is] passing or because of excessive effort…

Rav Gustman accepts the across-the-board exemption, but seeks to minimize its effects on women who are at greater liberty. To Rav Gustman, women really should perform positive time-bound commandments unless there are conflicts or other significant concerns.

# Protected Role

Writing in the mid-1970's, Rav Moshe Feinstein builds on the *shalom bayit* logic. Rav Moshe moves the focus from husband to children. He sees child-rearing as a key constraint on women that leads to exemption from these *mitzvot*.[[12]](#footnote-12)

*Iggerot Moshe*, OC 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.

Rav Moshe writes that a woman raising children fulfills a Divine mission, "the most important labor to God." According to Rav Moshe, the physical makeup of women attests to this; women are built to bear children.[[13]](#footnote-13) Halacha serves to protect that mission by avoiding piling too many other responsibilities on a woman's shoulders. Even in a world like ours, in which "it is possible to give over the child-rearing" to others, the natural order does not change and Halacha does not change.

A woman may be in a position to choose to focus her energies on other matters, and Halacha permits that. But the Torah's basic legislation does not shift to reflect individual life choices. Elsewhere within this responsum, Rav Moshe notes that Halacha supports individual women who are genuinely motivated to observe more *mitzvot*.[[14]](#footnote-14) He does not think that means Halacha can or should change in general.

In an article on women and Judaism, Rabbi Saul Berman takes a similar approach to Rav Moshe's:[[15]](#footnote-15)

Rabbi Saul Berman, "The Status of Women in Halakhic Judaism," pp. 16-17 While not demanding adherence to one particular role, it is nevertheless clear that since for most of our history, our continuation as a people depended upon the voluntary selection by women of the role of wife-mother-homemaker, the law would and did encourage the exercise of that choice.... Exemption would be a tool used by the Torah to achieve a particular social goal, namely to assure that no legal obligation would interfere with the selection by Jewish women of a role which was centered almost exclusively in the home. However, it is vital to emphasize that even with these exemptions, the wife-mother-homemaker role is not the mandated, or exclusively proper role, though it is clearly the preferred and therefore protected role.

What does Rav Berman add to our discussion? While agreeing that the exemption facilitates a woman's "preferred and therefore protected role" in the home, Rav Berman emphasizes the individual woman's right to choose to what extent her life is centered on domestic activity.

## ● Do we have to take sides in this discussion? (See Appendix Four.)

## **Appendices**

## APPENDIX ONE: Why does the exemption from this single category loom large?

*Here are two thoughts:*

*I. Most of the positive non-time-bound* mitzvot *create the Jewish character and general approach to life, the Jewish* gestalt*. In contrast, positive time-bound* mitzvot *are rituals. Three of them are central* mitzvot *of major holidays.*

*Although positive non-time-bound* mitzvot *are more numerous and arguably more fundamental to Jewish life than many of the rituals, the latter (especially when connected to objects or holidays) draw our attention.*

*For example,* viduy*, confession of sin as part of the process of repentance, is a significant* mitzva*. Both men and women are required to perform* viduy*. But it is the shofar on Rosh Ha-shanah, from which women are exempt on a Torah level, that has come to symbolize* teshuva*.*

*When women's exemptions fall largely in the area of ritual, they tend to stand out disproportionately because of their symbolic value and because of the significance we ascribe to the holidays.*

*II. Many of the positive time-bound rituals stand out in the context of prayer in the synagogue. When Jewish communities are decentralized and dislocated and the Judaism of the home and society takes second place to institutional Judaism, synagogues take on greater, perhaps outsized, importance.*

*The more a community's Jewish life emphasizes synagogue and ritual over holistic Judaism based in the home and the Jewish street, the more time-bound positive commandments appear central and the more central commands, such as believing in God, move to the periphery of religious attention. Perhaps for this reason, there is less communal discussion of this exemption in Israel, where the social and national experience overshadow the synagogue.[[16]](#footnote-16)*

*Of course positive time-bound commandments are important, and the exemption from them matters, but they are not the only cornerstones of Jewish religious life.*

## APPENDIX TWO: Are women more religiously enthusiastic than men? What about working women?

*There is no absolute way to prove or disprove essential gender difference in religious enthusiasm. A recent sociological study of American Jews did find disparity between the genders, with women and girls significantly more engaged, specifically among non-Orthodox denominations in America*.*[[17]](#footnote-17) The same study, however, attributes gender differences to American sociological norms, and not to innate religiosity.[[18]](#footnote-18)*

Sylvia Barack Fishman and Daniel Parmer*, Matrilineal ASCENT/ Patrilineal DESCENT*, p. 1, 69…Today American Jewish boys and men have fewer connections to Jews and Judaism than girls and women in almost every venue and in every age…Gender makes less of a difference among Orthodox Jews: the social capital of men and women within Orthodoxy is equal…American males are less attached to Jewish life not because men are innately "less religious" than women in some essential psychological way, but because American culture and society value religious activities and behaviors for women but devalue them for men. Moreover, those aspects of religion that men are typically more attracted to—namely religious activities—are not regarded as religious by the Christian-shaped society that values religious belief over religious behavior.

*The authors of the study dismiss the idea that men's lesser religious enthusiasm suggests that they are "innately 'less religious.'" Still, they acknowledge that "religious activities," like observing positive time-bound* mitzvot*, are "aspects of religion that men are typically more attracted to," and that the Orthodox communities that emphasize them for men have more gender balance overall. There is room to interpret this data in a way that supports Rav Hirsch's position.*

*Anecdotally, many women are hesitant to lay claim to a religious advantage rooted in gender, but quick to embrace the idea that women's spirituality and approach to religion take a different tone than men's.*

*In our era, when working women are the norm, Rav Hirsch's second argument--that part of men's need for these* mitzvot *has to do with broader exposure to outside influences--is less compelling. If anything, the situation in some* kollel *communities now is reversed. The men remain safe in the confines of the* beit midrash *while the women go out to work and face the attendant challenges. For Rav Hirsch, this type of societal shift may be theologically problematic. It's not clear how he would respond to it.*

## APPENDIX THREE: Do time-bound mitzvot really take up that much time?

*Many positive time-bound commandments do not take much time to fulfill. If a woman can perform a time-bound mitzva quickly, why should it create tension in her home? For example, putting on* tzitzit *in the morning can be accomplished in seconds.*

*Abudarham might answer that some of these* mitzvot*, such as laying* tefillin*, do take up more time. Perhaps the rule relates to the whole class of* mitzvot *in order to prevent confusion. We make exceptions only when warranted by the nature of the* mitzva*, not based on how much time it takes.*

## APPENDIX FOUR: Do we have to take sides in this discussion?

*Many women do commit themselves to observing some positive time-bound* mitzvot *voluntarily, out of a desire to serve God in those ways. Some of these women, though, find that over time, especially with marriage or motherhood, outlooks and priorities change.*

*Husbands do increasingly participate in housekeeping and child care. Babies do nap. A woman is not necessarily engaged 24/7 in child-rearing. But perhaps because of the physicality of pregnancy, the vulnerability of childbirth, and the intensity of nursing, women's sense of spirituality can shift at each stage of life; for many women, that personal shift finds expression in a shift in preferred forms of* avodat Hashem*.*

*Some women find the above conceptual approaches to the topic helpful, and some do not. Some women marry and some do not; some have children and some do not. Some keep up more* mitzvot aseh shehazman grama *than others. Some change practice and thinking from year to year.*

*Most women appreciate having the flexibility to redefine the relationship to these mitzvot and to God over different stages of life.*

1. *Halichot Beitah* (*Petach Ha-Bayit* 7, p. 38) cites authorities who argue that Tosafot (*Berachot 20b* s.v. *bitfilla*) understand Rashi ad loc. as maintaining that women *are* obligated in rabbinic-level time-bound commandments. This is possible, but by no means clear. [↑](#footnote-ref-1)
2. *Halichot Beitah, Petach Ha-Bayit* 7, p. 38. Authorities debate whether women are exempt from other types of positive time-bound *mitzvot*, for example *mitzvot* which can be performed by means of a messenger, *mitzvot* upon the community, or *mitzvot* linked to a negative mitzva. [↑](#footnote-ref-2)
3. *Shulchan Aruch* O.C. 31:1. [↑](#footnote-ref-3)
4. The discussion in *Sukka* 28b about a woman's exemption from sleeping in the sukka is a perfect case in point, considering all three types of proof. [↑](#footnote-ref-4)
5. Talmud Yerushalmi *Berachot* 2:3 For Rabbi Yochanan said: Any matter that is not clear, they find support for it from many places. [↑](#footnote-ref-5)
6. Rav S. R. Hirsch, *Judaism Eternal*, Volume 2, (Surrey: Soncino, 1976), 95. [↑](#footnote-ref-6)
7. See Yisrael Kashkin, "Rereading Rav Hirsch on Mitzvos and Gender," *Hakirah* 18, Winter 2014, pp. 217-233. Available here: <http://www.hakirah.org/Vol18Kashkin.pdf>. [↑](#footnote-ref-7)
8. Available here: <https://www.sie.org/templates/sie/article_cdo/aid/2518597/jewish/Convention-of-Nshei-Ubnos-Chabad-25th-Day-of-Iyar-5744-1984.htm> [↑](#footnote-ref-8)
9. *Torah Temima* *Shemot* 13, note 42. [↑](#footnote-ref-9)
10. Schneerson, "Address." [↑](#footnote-ref-10)
11. Another possible direction for a response would be to argue for a distinction between the nature of *kibbud av va’em* and of positive time-bound commandments. [↑](#footnote-ref-11)
12. Rav Schneerson's *sicha* does also emphasize child-rearing and shares arguments with the positions we present here. We presented it in the last section because of its unique view of husband and wife and time-bound *mitzvot.* [↑](#footnote-ref-12)
13. There. See also *Berachot* 31b. [↑](#footnote-ref-13)
14. Responsa *Iggerot Moshe* OC 4:49 Indeed, every woman is permitted to fulfill even the *mitzvot* in which the Torah did not obligate them, and they have a mitzva and reward for fulfilling these *mitzvot*. [↑](#footnote-ref-14)
15. R. Saul Berman, "The Status of Women in Halakhic Judaism," *Tradition* 14:2 (Fall 1973): pp. 5-28. Available here: <http://traditionarchive.org/news/originals/Volume%2014/No.%202/The%20Status%20of%20Woman.pdf>. [↑](#footnote-ref-15)
16. Joshua Berman, "Balancing the Bima: The Diaspora Struggle of the Orthodox Feminist," *Midstream* (August/September 1990). [↑](#footnote-ref-16)
17. Sylvia Barack Fishman and Daniel Parmer, *Matrilineal ASCENT/ Patrilineal DESCENT.* (Waltham: Brandeis University, 2008).Available here: <http://www.brandeis.edu/hbi/publications/directors/docs/gendermonograph.pdf> [↑](#footnote-ref-17)
18. Ibid, 69. [↑](#footnote-ref-18)