

The *halakhic* basis for full female participation in Jewish ritual life

Limmud 2013

1. *Kevod hatzibbur* – the honour of the community

Mishnah Rosh Hashanah 3:8

This is the principle: anyone who is not obligated in a matter cannot discharge others of their obligations.

משנה, ראש השנה ג:ח
זה הכלל כל שאינו מחויב בדבר אינו מוציא את הרבים ידי חובתן.

Mishnah Berakhot 3:3

Women, slaves, and minors are exempt from the reading of *Shema* and from *tefillin* and are obligated in prayer and in *mezuzah* and in grace after meals.

משנה, ברכות ג:ג
נשים ועבדים וקטנים פטורין מקריאת שמע ומן התפילין וחייבין בתפלה ובמזוזה ובברכת המזון.

Talmud Bavli, Megillah 23a

It is taught - All count towards the quorum of seven (*aliyot*), even a woman, even a minor. But the Sages said a woman should not read from the Torah because of *kevod hatzibbur* – the honour of the community.

תלמוד בבלי, מגילה, כג ע"א
תנו רבנן הכל עולין למנין שבעה ואפילו קטן ואפילו אשה אבל אמרו חכמים אשה לא תקרא בתורה מפני כבוד צבור.

2. *Devarim shebikdusha* – words of sanctity requiring a minyan

Mishnah Megillah 4:3

We do not recite the Shema, nor have a communal prayer leader, nor offer the priestly blessing, nor read the Torah, nor read from the prophets, nor honour the deceased, nor say the blessing of the mourners nor the formal comforting the mourners, nor recite the wedding blessings, nor say *zimmun* in a group of fewer than ten.

משנה, מגילה ד:ד
אין פורסין את שמע, ואין עוברין לפני התבה, ואין נושאים את כפיהם, ואין קורין בתורה, ואין מפטירין בנביא, ואין עושין מעמד ומושב, ואין אומרים ברכת אבלים ותנחומי אבלים וברכת התנים, ואין מזמנין בשם פחות מעשרה.

Talmud Bavli, Sanhedrin 74b

And how many people are required to make a gathering public? Says Rabbi Yaakov in the name of Rabbi Yohanan: "Not less than ten people."... This comes from the double occurrence of *tokh*: here is written "And I will be sanctified amidst – *tokh* – the children of Israel" and there is written "Separate yourselves from admist – *tokh* – this congregation." In both cases there were ten Jews.

תלמוד בבלי, סנהדרין, עד ע"ב
וכמה פרהסיא? אמר רבי יעקב אמר רבי יוחנן, אין פרהסיא פחותה מעשרה בני אדם... דכתיב, "וונקדשתי בתוך בני ישראל" וכתוב התם הבדלו מתוך העדה הזאת מה להלן עשרה וכולהו ישראל אף כאן עשרה וכולהו ישראל.

3. *Mitzvot aseh she-hazman grama* – timebound, positive commandments

Mishnah Kiddushin 1:7

In all positive commandments caused by time, men are obligated and women are exempt.

משנה, קידושין א:ז
וכל מצות עשה שהזמן גרמה אנשים
חייבין ונשים פטורות.

Rambam, Hilkhhot Tefilla (Laws of Prayer) 1:1

It is a positive commandment to pray every day, as it is written: “You shall serve the Lord your God.” By tradition, they learned that this service is prayer, as it says, “Worship God with all of your heart”. The sages said, “What is service of the heart?” - “This is prayer.” The number of prayers is not Biblical, the form of prayer is not Biblical, and prayer has no Biblically fixed time. Therefore, women and slaves are obligated in prayer because it is a positive commandment, which is not caused by time.

רמב"ם, הלכות תפלה, א:א
מצות עשה להתפלל בכל יום, שנאמר
ועבדתם את ה' אלהיכם, מפי השמועה
למדו שעבודה זו היא תפלה שנאמר,
ולעבדו בכל לבבכם. אמרו חכמים, אי זו
היא עבודה שבלב? זו תפלה. ואין מנין
התפלות מן התורה ואין משנה התפלה
הזאת מן התורה ואין לתפלה זמן קבוע
מן התורה. ולפיכך נשים ועבדים חייבין
בתפלה לפי שהיא מצות עשה שלא הזמן
גרמא

Shulchan Aruch, Orach Chayim 108a

Women and slaves, even though they are exempt from reading the Shema, are obligated in prayer because prayer is a positive commandment, which is not timebound.

שולחן ערוך, אורח חיים, קו:א
נשים ועבדים שאע"פ שפטורים מק"ש
חייבים בתפלה מפני שהיא מ"ע שלא
הזמן גרמא

William Friedman, Jewish Theological Seminary (JTS)

Gender egalitarianism in ritual matters must not be viewed as a halakhic compromise. It is, rather, the fulfillment of *halakhah's* demands in our current circumstances. Women must not be permitted to read from the Torah because *kevod habriyot* (individual dignity) supersedes *kevod hatzibbur* (communal dignity), as some Orthodox defenders of partnership minyanim maintain; they read alongside men because that is *kevod hatzibbur* in a world in which women and men are equally educated and valued members of the community!

Women count in a minyan because a minyan – solely as defined in halakhic sources – is comprised of ten Jews who are intellectually mature, dignified, full political members of the community, and nowadays both adult men and women (but still not, e.g., children) fall into that category. Full political membership, however, means not just rights, but responsibilities. In both halakhic and sociological terms, that means that women are now fully obligated in what are often termed *mitzvot aseh she-hazeman grama* (obligations activated by specific times), *tzitzit* and *tefillin* being that category's most obvious daily manifestations. Owning up to this means that from egalitarianism is *mahmir* (stringent), not *meikeil* (lenient). This would be a set of religious demands that can generate passionate commitment.

Further reading

Judith Hauptman, *Rereading the Rabbis: A Woman's Voice*, 1998

Michael Rosenberg and Ethan Tucker, *Egalitarianism, Tefillah and Halakhah*, 2010.

David Hartman, *The God Who Hates Lies: Confronting and Rethinking Judaism*, 2011.

David Hartman, *From Defender to Critic: The Search for a New Jewish Self*, 2012.

Elizabeth Shanks Alexander, *Gender and Timebound Commandments in Judaism*, 2013.