

THE CENTER FOR WOMEN IN JEWISH LAW AT THE
SCHECHTER INSTITUTE OF JEWISH STUDIES

To Learn and To Teach

Study booklets on women in Jewish law

NUMBER THREE

WOMEN IN THE *MINYAN* AND AS
SHLIHOT TZIBBUR

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Translation from the Hebrew: Rabbi Diana Villa



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PREFACE

THE SCHECHTER INSTITUTE OF JEWISH STUDIES

The Schechter Institute of Jewish Studies is one of the leading academic institutions of Jewish studies in the State of Israel. The unique approach of Schechter combines traditional and modern methods of study. Historical and textual discussions of Jewish sources are accompanied by cultural and topical discussions, which grapple with the ethical and social dilemmas of Israeli society today. The Schechter Institute offers courses of study towards an interdisciplinary M.A. degree in Jewish studies in classic fields such as Bible, Jewish Thought and Jewish History alongside innovative fields of study, which examine Gender, Education, the Community and Art from a Jewish perspective.

The students from all over the country who study at Schechter represent a broad spectrum of beliefs and world-views within Israeli society. They are attracted by the warm, open and pluralistic atmosphere at the Institute.

In the fields of applied research, the Schechter Institute runs the Institute of Applied Halakhah, the Center for Judaism and the Arts and the Center for Women in Jewish Law.

THE CENTER FOR WOMEN IN JEWISH LAW

The Center for Women in Jewish Law was established at the Schechter Institute of Jewish Studies in 1999 with the assistance of a grant from the Ford Foundation. The first purpose of the center – to study the status of women in the synagogue – is presented in my book *The Status of Women in Jewish Law: Responsa* published in 2001 and in the booklets entitled “To Learn and to Teach”, of which this is the third issue. The second purpose is to find halakhic solutions to the problem of modern-day *agunot* (anchored women) who are compelled to wait many years to receive a *get* (religious divorce) from their husbands. This problem is addressed in a book entitled *Zaa'kat Dalot: Halakhic Solutions for the Agunot of Our Time*, which appeared recently; and in the bi-annual *Jewish Law Watch*, which examined actual *agunah* cases that have languished for years in the rabbinic courts without resolution.

TO LEARN AND TO TEACH

This new series of booklets is devoted primarily to the status of women in the synagogue. It is based on my book *The Status of Women in Jewish Law: Responsa*, but it is intended for the general public. In this booklet, Rabbi Monique Susskind Goldberg rewrote my responsum on “Women in the *Minyan* and as *Shlihot Tzibbur*”, which appeared in the above-mentioned book, after studying the subject with Rabbi Diana Villa and Rabbi Israel Warman. The goal was to make that responsum accessible to a layperson who does not have a strong background in Talmud and Jewish law. Rabbi Diana Villa added a Glossary of Authors and a Glossary of Terms in order to assist the reader.

The booklets in this series appear in five languages – Hebrew, English, Russian, Spanish and French – in order to reach as many readers as possible in Israel and the Diaspora.

We hope that these booklets will encourage the public to learn and to teach about the status of women in Jewish law and that these activities will also lead to action.

Rabbi Prof. David Golinkin
The Schechter Institute of Jewish Studies
Jerusalem
March 2006

Introduction**

One of the clearest differences between Conservative and Orthodox synagogues is the growing participation of women in synagogue ceremonies. More and more women participate in tasks that used to be assigned exclusively to men. In the booklet *To Learn and to Teach* Number 2,¹ we explained the issue of women reading Torah in public and concluded that, according to Jewish law, women are allowed to have *aliyot* to the Torah and read it just like men.

In this booklet, we plan to study the sources and discuss the following issues: 1) women's obligation to pray; 2) counting women in the prayer quorum for "sanctified things"* and 3) women as prayer leaders.²

As we will see, the issues of obligation to pray and being a prayer leader are connected, because Jewish law establishes that only a person obligated to a certain commandment may fulfill the obligation for others.³ It follows that when we deal with women as prayer leaders we must first clarify the issue of their obligation to pray.

Women's participation in a prayer quorum is a separate issue, unrelated to women's obligation to pray, as we will see later on.

1) Women's Obligation to Pray

In this chapter we will examine whether women are obligated to pray, and if they are, whether they must pray three times a day just like men.

a) The Mishnah and the Talmud

Women's obligation to pray is mentioned in Mishnah* Berakhot 3:3:

Women, slaves and minors are exempt from reciting the Shema and from putting on Tefillin, but they are subject to the obligations of Prayer and Mezuzah and Grace after meals.

According to Talmudic sources, when the Mishnah mentions Prayer, it is undoubtedly referring to the *Amidah* prayer* also known as "The Eighteen

** A Glossary of Authors and a Glossary of Terms appears at the end of this booklet. An * refers to the Glossary of Terms; a • refers to the Glossary of Authors.

1 *Aliyot for Women, To Learn and to Teach*, Number 2, Jerusalem, December 2004.

2 This booklet is based on Golinkin.

3 Mishnah Rosh Hashanah 3:8. And see chapter 3 below on women as prayer leaders.

Benedictions”.⁴ Therefore, according to the Mishnah, women are obligated to the *Amidah* prayer*; it does not relate to the numbers of daily prayers or to their timing.

And this is how the Talmud* (Berakhot 20b) explains the Mishnah*:

That they are exempt from reciting the *Shema* is self-evident!

It is a time-bound positive commandment and women are exempt from all time-bound positive commandments!...

They are subject to the obligation of Prayer, because this is [supplication for Divine] mercy.

You might [however] think that since “Evening and morning and noonday” (Psalms 55:18) is written in connection with it, therefore it is like a time-bound positive commandment –

therefore we are told [that women have the obligation of Prayer].

This means that, according to Jewish law, women are exempt from time-bound positive commandments* (laws that must be observed within a certain time framework) and therefore they are also exempt from reciting the *Shema*. However women are obligated to Prayer, because it is a supplication of mercy.

The Talmud* goes on to explain why the Mishnah* feels the need to emphasize that women are obligated to Prayer. According to what is written in Psalms 55:17-18: “As for me, I will call upon God; and the Lord will save me. Evening, and morning, and at noonday, will I complain and moan; and He has heard my voice”, we could have concluded that Prayer is also a time-bound positive commandment*, since the verse mentions turning to God three times a day, yet women were supposed to be exempt from it. Therefore, the Mishnah emphasizes that women are required to Pray in any case; the reason for this according to the Talmud is that Prayer is a supplication for Divine mercy and women require mercy as well.

Such is the version of this Talmudic section in the Vilna edition*, but there are a few different versions of this section in the manuscripts. We will see further on that the decisors had different versions of this section, and they ruled in accordance with the version they were familiar with.

The following are the three main versions:⁵

4 We can derive this, for example, from Mishnah Berakhot 4:3: “Rabban Gamaliel says: every day a man should say the *eighteen benedictions*. Rabbi Joshua says: an abbreviated eighteen. Rabbi Akiva says: if he knows *his prayer* fluently he says the original eighteen, and if not an abbreviated eighteen”. For more sources on this subject, see Golinkin, p. 47, note 3.

5 For details about the manuscripts and the versions that the *Geonim** and *Rishonim** had, see Golinkin, pp. 48-49.

Version 1:

“Reciting the *Shema* and putting on *Tefillin*” are time-bound positive commandments and women are exempt from all time-bound positive commandments.

“Prayer and *Mezuzah* and Grace after meals” are *not* time-bound positive commandments and women are obligated to all *non*-time-bound positive commandments.

According to this version, the Talmud* distinguishes between reciting the *Shema* and putting on *Tefillin* that are time-bound positive commandments* and therefore women are exempt from them, and Prayer and *Mezuzah* and Grace after meals that are *not* time-bound positive commandments and therefore women are obligated to observe them.

Version 2:

You might [however] think that since “Evening and morning and noonday” (Psalms 55:18) is written in connection with it, therefore it is like a time-bound positive commandment – therefore we are told [that this is not so and women are obligated to pray].

In the book of Psalms it says that Prayer is said “Evening and morning and noonday”, therefore it is similar to a time-bound positive commandment*. The Mishnah* tells us that notwithstanding this, women are obligated to pray.

Version 3:

They are subject to the obligation of Prayer, because this is [supplication for Divine] mercy.

Women must pray because it is a supplication for mercy. As Rashi says (s.v. *vehayavin bitfillah*): “As prayer is a supplication for mercy, and it is a rabbinic enactment, which they also enacted for women and to educate minors”.

We conclude that, according to all the different versions of this Talmudic section, *women are obligated to pray*, but the explanations differ depending on the version:

- 1) Prayer is a *non*-time bound positive commandment; therefore women must observe it (according to version 1).
- 2) Even though prayer is similar to a time-bound positive commandment*, because it has fixed times during the day, women are nonetheless obligated to pray (according to version 2).

- 3) Prayer is a supplication for mercy and therefore women are obligated (according to version 3).

b) The Opinions of the *Rishonim**

When the *Rishonim** deal with the *Amidah* prayer*, they relate to the following questions:

- Is prayer a biblical or a rabbinic obligation?
- Is the Mishnah* relating to a fixed prayer three times a day or to a daily prayer with no fixed time?
- Is prayer a time-bound positive commandment?
- If prayer is a time-bound positive commandment, are women obligated to observe it or not?

Maimonides* Approach

Maimonides* rules in Laws of Prayer 1: 1-3:

1. To pray daily is a *positive commandment*, as it is said: "You shall serve the Lord, your God" (Exodus 23:25). According to tradition, the service that is here referred to is prayer, as it says "and serving Him with all your heart" (Deuteronomy 10:12), on which the Sages commented "What may be described as service of the heart? Prayer". The number of prayers is not prescribed in the Torah. No form of prayer is prescribed in the Torah. Nor does the Torah prescribe a fixed time for prayer.

2. Hence, women and slaves are under an obligation to pray, since this is *not* a time-bound positive commandment. The obligation in this precept is that each person should daily, according to his ability, offer up supplication and prayer; first uttering praises of God, then, with humble supplication and petition ask for all that he needs. And finally offer praise and thanksgiving to the Eternal for the benefits already bestowed upon him in rich measure.

3. One who was fluent, would offer up many prayers and supplications. If one was slow of speech, he would pray as he could and whenever he pleased. Thus also, the number of separate services depended on an individual's ability. One would pray once daily; others, several times a day... This was the uniform practice from the times of Moses to those of Ezra.

According to Maimonides*, there is a biblical positive precept to pray, that does not have a particular time framework. His source was the first version of the Talmudic section. According to this version, the Bible requires that everyone should pray once a day, yet each person can choose the time and wording he/she prefers. There is no fixed time according to biblical law, and therefore women are obligated to pray as well.

In the following paragraphs, Maimonides* describes the evolution of prayer in the Second Temple period (*ibid.* 1: 4-6):

4. When the people of Israel went into exile in the days of the wicked Nebukhadnezar, they mingled with the Persians, Greeks and other nations... No one was able, when he spoke, to express his thoughts adequately in any one language, otherwise than incoherently... when Ezra and his court realized this condition, they *ordained* the Eighteen Benedictions in their present order... so that these prayers should be in an orderly form *by everyone*... For the same reason, they *arranged* it [in a fixed form] all the blessings and prayers, so that the substance of every blessing should be familiar and current *to all Israelites*.

5. Thus, too, they *ordained* that the prayer services should be equal in number to the sacrifices – two prayer services daily, corresponding to the two daily offerings. And for the day on which an additional offering was ordained, they *instituted* a third prayer, corresponding to the additional offering. The service which corresponds to the daily morning sacrifice is called the Morning Prayer. The service which corresponds to the Afternoon sacrifice is called the Afternoon Prayer, and the service corresponding to the Additional offering is called the Additional Prayer.

6. So also, they *ordained that every person* should recite one prayer service at night... The Evening Service is not obligatory like the Morning and Afternoon Services. Nevertheless *all Israelites*, wherever they have settled, have adopted the practice of reciting the Evening Service and have accepted it as obligatory.

In Maimonides'* opinion, after the Babylonian Diaspora, Jews did not know how to pray in Hebrew anymore. Therefore, Ezra and his court *established* the Eighteen Benedictions, so that everyone would know how to pray. The Sages also *established* the number of daily prayers and their precise times.

According to this explanation, there is a biblical obligation to pray once a day, with no fixed wording. The fixed text we say three times a day is rabbinic. We may deduce from the use of expressions such as "*by everyone*", "*to all Israelites*", "*that every person*", "*all Israelites*", that Maimonides did not distinguish men

from women. He assumed that Ezra's enactments applied to all those obligated to pray according to the Torah, men as well as women.

When Maimonides ruled in Laws of Prayer 6:10 that "Women, slaves and minors are subject to the obligation of Prayer", he did not say explicitly if he was referring to the daily biblical prayer or to rabbinic prayer. Yet according to the Laws of Prayer, chapter 1, that we quoted above, it is clear that he held the opinion that women must pray three times a day just like men, even after the rabbinic enactment that transformed prayer into a time-bound positive commandment*.⁶

We can also learn about Maimonides' position regarding women's obligation to pray from his commentary to Mishnah Kiddushin 1:7:

... but there are no rules regarding positive commandments women are obligated or partially exempt from. These things are transmitted orally... You know that eating *matzah* on Passover eve, and rejoicing in the festivals and *haqhel* and *Prayer*, and reading the *Megillah* and *Hanukkah* lights and the Sabbath lights and saying *Kiddush* are *time-bound positive commandments, and in all of these cases the obligation for women is the same as the obligation for men...*⁷

That is, the rule that women are exempt from time-bound positive commandments* is not absolute, and Prayer is included among the time-bound positive commandments* that women are obligated to observe.

Many commentators on Maimonides also understood him to mean that women are obligated to pray three times a day just like men.

Thus, for example, R. Joseph Caro* wrote in the *Shulhan Arukh* (*Orah Hayim* 106:1): "Women and slaves, although exempt from reciting the *Shema*, are obligated to pray, because this is *not* a time-bound positive commandment". It is logical to assume that R. Joseph Caro agreed with Maimonides and also understood that since prayer is basically not a time-bound commandment and women are obligated to pray as much as men, the rabbinic enactment to pray three times a day applies to them as well.

And this is how R. Hayim David Halevi* interpreted Maimonides' approach:

I think that in his opinion [Maimonides'] women must say all three prayers, as this is indicated by the order of his words... Logic indicates the same thing; since the basic law applies to them, it applies in the way that the Sages defined it and established it (*Asch Lekha Rav*, Vol. 1, No. 30, pp. 97-99).

6 See Golinkin, pp. 50-51.

7 See Golinkin, p. 50.

To summarize, according to Maimonides*, prayer was originally a biblical positive commandment that applied to men and women since it was not a time-bound positive commandment*, and each person chose when and how to pray. When the rabbis established the wording and timing for prayer, since women were already included in this commandment, they did not distinguish between men and women, but rather obligated everyone to pray three times a day, even though rabbinic prayer had become a time-bound positive commandment*.⁸

The approach of other *Rishonim**

Other *Rishonim* maintained that prayer was a rabbinic precept *from the start*. This was the opinion of the author of *Halakhot Gedolot*, Rashi, Nahmanides and others, based on the above-mentioned Version 3: “because Prayer is [supplication for Divine] mercy”.⁹

In his commentary on the above-mentioned mishnah in Berakhot (s.v. *vehayavim bitfillah*) Rashi* commented: “because prayer is [supplication for Divine] mercy, and it was established by the Rabbis, who enacted it for women as well and to educate the minors”. Prayer is a supplication for mercy, and therefore the Sages established *from the start* that men and women were to pray the *Amidah* three times a day.

In summary, according to all the above-mentioned Rishonim, women are obligated to pray the Amidah three times a day just like men. Some of the Rishonim* consider the obligation of prayer biblical, with no fixed time, and women are therefore obligated. The rabbinic enactment establishing prayer three times a day is applicable to women as well, even though it became a rabbinic time-bound positive commandment*. Other Rishonim* think that prayer was a rabbinic time-bound positive commandment* from the outset, and that the Sages obligated women because prayer is a supplication for mercy and women require mercy as well.*

c) The Magen Avraham* and the influence of his interpretation on some of the Aḥaronim*

Considering the fact that, according to most *Rishonim**, women are obligated to pray the *Amidah* three times a day just like men, we need to ask: why do so many *Aḥaronim** and contemporary decisors rule that women are obligated to recite *one* daily prayer, with no fixed wording?

8 For other commentators who interpret Maimonides in this way, see Golinkin, p. 51, note 6.

9 See Golinkin, pp. 51-52.

It would seem that the main source for this point of view is a misunderstanding of the words of Rabbi Abraham Gombiner* (17th century) in his commentary on the *Shullhan Arukh*. Rabbi Joseph Caro wrote: “Women and slaves, although exempt from reciting the *Shema*, are obligated to pray, because this is not a time-bound positive commandment” (*Orah Hayim* 106:1).¹⁰

And this is Rabbi Gombiner’s* comment in *Magen Avraham** (ibid., subparagraph 2):

Maimonides wrote that he considered prayer a biblical positive commandment... yet, according to the Bible, once a day with any wording is sufficient. Therefore, most women are not accustomed to praying regularly, since they say a petitionary prayer after the ritual of washing their hands in the morning, and biblically this is sufficient. And it is possible that the Sages didn’t require them to do more than that, *but Nahmanides thinks that prayer is rabbinic and this is the opinion of most decisors.*

The author of *Magen Avraham** tries to explain in this paragraph why “most women” in his time were used to praying any prayer once a day. He is not commenting on the Mishnah or the Talmud or ruling on Jewish law. He suggests the possibility that the Sages did not require them to do more than that, but he immediately rejects that opinion and says that *Nahmanides and most decisors* consider that the obligation of praying three times a day is a rabbinic enactment that is just as binding on women as on men, because it is a supplication for mercy.

Despite the final words of the *Magen Avraham**, many *Aharonim** based themselves on the beginning of his comment, in which he says that prayer is a biblical precept, and it is therefore sufficient for women to pray once a day. They even considered those words a legal ruling, and therefore they ruled that women are only required to pray any prayer once a day.¹¹ But, as we saw above, such a viewpoint conflicts with the opinions of the Talmud and the *Rishonim*, and even with Rabbi Gombiner’s very own opinion.

d) Evidence of women’s prayer throughout the generations

There is much evidence regarding women’s fixed prayer at home and in the synagogue throughout the generations, in different places, that contradicts the

10 See Golinkin, pp. 56-57.

11 See, for example Rabbi Yehiel Michal Epstein*, *Arukh Hashullhan*, *Orah Hayim* 106:7; also Rabbi Ovadiah Yosef*, in *Yabia Omer*, Vol. 6, *Orah Hayim*, No. 17.

opinion of those *Aḥaronim** who say it is sufficient for women to pray any prayer once a day. Three examples follow.¹²

In the Talmudic period

The following story is told in the Babylonian Talmud* Sotah 22a:

A certain widow had a synagogue in her neighborhood; yet she used to come daily to Rabbi Yohanan's House of Study and pray there. He said to her, "My daughter, is there not a synagogue in your neighborhood?" She answered him, "Rabbi, but have I not the reward for the steps [for the extra distance I walked to attend services]?"¹³

This is an example of a woman who went to the synagogue to pray every day. It should be noted that Rabbi Yohanan was not surprised that she came to the synagogue; he was just surprised that she came to *his* House of Study when there was a synagogue in her neighborhood.

The Middle Ages in Ashkenaz

In an elegy by Rabbi Eleazar of Worms in memory of his wife Dolce and their two daughters who were martyred in 1196, he relates the following:

*She sings of hymns and prayers, and she recites petitions,
... Nishmat kol ḥai, and Ve-khol ma'aminim;*

*She says Pitum ha-qetoret and the Ten Commandments...
She recites the order of the morning and evening prayers,
And she comes early to synagogue and stays late...*

I will tell the story of my eldest daughter Bellet:
She was thirteen years old, and as chaste as a bride.
She had learnt all the prayers and songs from her mother...
I will tell the story of my younger daughter [Hannah]:

12 See many other examples in Golinkin, pp. 52-56.

13 See also *To Learn and to Teach* 1, p. 15.

*Every day she would recite the first portion of the Shema,
She was six years old and she knew how to weave and sew...*¹⁴

This is evidence of a devout woman who prayed with fixed wording every morning and evening, at home and in the synagogue. Her daughters were educated to recite the *Shema* and pray every day as well.

Rome, 1524

David Hareuveni stayed in Rabbi Moshe Abudarham's home in Rome: "And he has a daughter who reads the twenty four [= the Bible] and she prays the morning and evening prayers daily".¹⁵

In summary, according to the Mishnah, the Talmud* and most of the Rishonim*, women must pray three times a day just like men.¹⁶ The evidence about women in different places who prayed every day, and even three times a day, from Talmudic times until the eighteenth century, proves that this was the accepted practice in many communities. The Aḥaronim* who ruled that women are required to pray only once a day, based themselves on the Magen Avraham*. We have proved that the author of Magen Avraham* was only trying to justify the custom of local women who prayed once a day, but he did not mean to rule in this way; he himself notes that most decisors require women to pray three times a day just like men.*

2) Women Joining the Prayer Quorum [Minyan]

There are certain sections in public worship that are only said in the presence of ten Jews; these are: *Barekhu**, *Kaddish**, the repetition of the *Amidah** and Torah reading. These prayers are called "sanctified things" [*devarim shebikdushah*].¹⁷

14 A. M. Haberman, *Sefer Gezeirot Ashkenaz V'zarefat*, Jerusalem, 1946, p. 165, quoted by Golinkin, pp. 54-55. Cf. English translations in Ivan Marcus, "Mothers, Martyrs, Homemakers: Some Jewish Women in Medieval Europe", *Conservative Judaism* 38/3 (Spring 1986), p. 42 and *The Penguin Book of Hebrew Verse*, edited by T. Carmi, Philadelphia, 1981, pp. 387-388.

15 *The Story of David Hareuveni*, A.Z. Eshkoli edition, second edition, Jerusalem, 1993, p. 39, quoted by Golinkin, pp. 54-55. In Hebrew.

16 There is a disagreement among the *Aḥaronim* regarding women's obligation to pray *Musaf* [the additional prayer on the Sabbath and holidays], but there is no reason to differentiate between the morning, afternoon and evening prayers on the one hand and the *Musaf* and *Neilah* prayers on the other. There is no such difference in *Mishnah Berakhot* or in Maimonides. For more details, see Golinkin, pp. 58-59.

17 See Talmudic Encyclopedia, s.v. *devarim shebikdushah*, Vol. 6, columns 714-727.

Some derive this law from the verse (Leviticus 22:32): “that I may be sanctified among the Israelite people”. Maimonides*, for example, writes the following in his Laws of Prayer 8:6:

Every sanctified thing should only take place in a congregation of Israelites, as it is said: “that I may be sanctified among the Israelite people” (Leviticus 22:32).

Many decisors, among them Rabbi Joseph Caro* in the *Shulḥan Arukh**, consider that women are not counted in the prayer quorum for these things,¹⁸ even though this is not mentioned in the Mishnah*, the Talmud* or by Maimonides*, as we shall see below.¹⁹

a) The obligation to have a prayer quorum of ten for “sanctified things”

The main source for this subject is Mishnah* Megillah 4:3:

The *Shema* is not recited in public responsively, nor does one pass before the Ark*, nor do [the priests] lift their hands*, nor is the Torah read [publicly] nor the Haftarah read from the prophet, nor are halts made [at funerals]*, nor is the blessing for mourners said, nor the comfort of mourners, nor the blessing of the bridegrooms, nor is the name [of God] mentioned in the invitation to say Grace*, save in the presence of ten.

That is, all things in the above-mentioned list may be done only when there is a community of at least ten. We should emphasize that the Mishnah does not explain who these ten are, and does not exclude women.

The Babylonian Talmud* (Megillah 23b) interprets where the minimum number of ten as a definition of “community” comes from:

Whence these rules? [i.e. What is the biblical basis for this mishnah?] – R. Ḥiyya b. Abba said in the name of R. Yoḥanan: Because Scripture says, “that I may be sanctified among the Israelite people”, every act of sanctification requires not less than ten. How does the verse denote this? – As [Ravnai, the brother of Rabbi Ḥiyya bar Abba]²⁰ taught: We explain

18 And so it is written in the *Shulḥan Arukh, Oraḥ Ḥayim* 55:1: “*Kaddish* should not be said when there are less than ten, free, grown *males* present... and this is also the case for *kedushah* and *barekhu* which are not said with less than ten present”. For other decisors who think that women are not counted in the prayer quorum, see Golinkin, p. 59, note 21.

19 This paragraph is also based on the article by Professor Michael Chernik.

20 For this version of the name, see Golinkin, p. 60, note 25.

the word “among” here by reference to its use in another place. It is written here [in Leviticus], “that I may be sanctified *among* the Israelite people” [Leviticus 22:32] and it is written elsewhere [in Numbers], “Separate yourselves from *among* this congregation” [Numbers 16:21]; and we further explain the word “congregation” here by reference to what is written in another place: “How long shall I bear with this evil congregation” [Numbers 14:27]. Just as there ten are indicated, so here.

That is, according to this interpretation, the definition of “community” as a group of at least ten people is based on a double *gezerah shavah** that is derived from three verses. The word “among” appears in two verses “that I may be sanctified *among* the Israelite people” [Leviticus 22:32], and “Separate yourselves from *among* this congregation” [Numbers 16:21]. From here our Sages learn that the word “congregation” is synonymous with an Israelite community. The word “congregation” also appears in the verse: “How long shall I bear with this evil congregation” [Numbers 14:27]. The Sages learn from this that a “congregation” includes at least ten people, since the verse “How long shall I bear with this evil congregation” refers to the ten spies²¹ who slandered the Land of Israel. The Sages thus learn that an Israelite community includes at least ten people.

There is no detail in this interpretation that excludes women from the ten people comprising the prayer quorum.²²

b) The concept of “in public” in the context of martyrdom

In a section dealing with martyrdom*, the Talmud in *Sanhedrin* 74b cites the same interpretation we cited above:

Rabbi Yoḥanan said in the name of Rabbi Shimon the son of Yehotzadak... that in every [other] law of the Torah, if a man is commanded: “Transgress and do not suffer death”, he may transgress and not suffer death, excepting idolatry, forbidden sexual relations and murder.

In other words, a person does *not* have to suffer death over most of the transgressions of the Torah, but only for three transgressions for which a person does have to suffer death rather than transgress them.

21 Twelve spies were sent to spy out the land. Only two of them, Joshua the son of Nun and Caleb the son of Yefune, praised the Land of Israel, and therefore they were not included in the “evil congregation” – see Numbers 14: 6-7.

22 We must comment that the institution of the prayer quorum of ten, or *minyan*, is very ancient in Jewish history and the Talmudic interpretation comes to support the ancient custom *post factum* – see Golinkin, p. 151.

But further on in this section, the Sages clarify that one need not suffer death over these transgressions if they were performed “in private, but in public one must be martyred” (*ibid.*). In other words, if a Jew is asked to transgress even a minor transgression in public, in front of a Jewish assemblage, he/she is forbidden to do so and he/she must choose to die.

The Talmud goes on to define “in public”. In order to do so, they quote the exact same double interpretation regarding the terms “among” and “congregation” which we encountered in tractate Megillah regarding the number of people necessary for a *prayer* quorum for “sanctified things”*. The Sages reach the following conclusion in tractate Sanhedrin: “Rabbi Jacob said in Rabbi Yoḥanan’s name: *The minimum for “in public” is ten people... all Jews*” (*ibid.* 74b).

The section goes on to ask why Esther had sexual relations with Ahasuerus and did not instead become a martyr.²³ We may deduce from this very question that the Talmudic section assumes that Esther and other women must martyr themselves when a quorum of ten Jews is present, just like men.²⁴

The literal meaning of the text means that there is no difference between women and men as far as joining ten people who are considered to be “in public”, as long as they are all Jews. Furthermore, since women are obligated to be martyred,²⁵ it makes sense to include them in the “public” related to that precept.²⁶

c) Women participating in a quorum for “sanctified things”

Some decisors tried to prove that women do not join a quorum for “sanctified things”*, since it is written (Leviticus 22:32) “that I may be sanctified among the Israelite people [literally the *sons* of Israel]”. These decisors understand the verse as referring only to “the sons of Israel” and not to “the daughters of Israel”.²⁷ This explanation is difficult to accept, as the Tosafists wrote (Arakhin 2b, s.v. *lerabot*), “since the whole Torah was also revealed in masculine language”.

In addition, we may conclude from the identical interpretations in both Talmudic sections (Megillah 23b and Sanhedrin 74a) that these two command-

23 It is forbidden for a Jewish woman to have sexual relations with a non-Jew – see for example *Shulḥan Arukh, Even Ha’ezer* 16:1; Maimonides, *Laws of Sexual Prohibitions*, 12:1.

24 See Rif on the passage cited above from Sanhedrin, Vilna edition 17b and Jerusalem Talmud Shevi’it 4:2, 34a (= Sanhedrin 3:6, 21b) and see Golinkin, in the chapter on “Women and the Mourner’s *Kaddish*,” pp. 125-126.

25 See our analysis in the following chapter on “Women as Prayer Leaders”.

26 There are decisors who explicitly include women in the concept of “in public” – see Frimer, pp. 50-51, and Golinkin, p. 61, note 30.

27 See Golinkin, p. 60, note 26.

ments represent two sides of the same coin – sanctifying God’s name in public. If women join the quorum for martyrdom according to the section in Sanhedrin, they also join the quorum for saying “sanctified things”^{*} according to the section in Megillah.

This seems to be Maimonides’^{*} opinion, as he writes in the Laws of Prayer 8:4:

How is public worship conducted? One person recites the prayers aloud, and all the rest listen. This is not done if there are fewer than ten free *adults* present, the prayer leader being counted in the number.

Maimonides^{*} was very precise in his language. The word “adults” seems to include women, since when Maimonides wanted to exclude women from the quorum for the invitation to say Grace or the priestly benediction, he did so explicitly.²⁸

In summary, on the basis of the Talmudic sections and Maimonides, we may rule that women join the prayer quorum for “sanctified things.”*

3) Women as Prayer Leaders

A prayer leader performs an obligation on behalf of others. In other words, by praying aloud, the prayer leader discharges those who heard his prayer (and answered “amen” to his blessings) of the obligation to pray. It would seem that the function of the prayer leader was created in order to enable those who did not know how to pray to observe the commandment to pray.

As we mentioned at the outset, Jewish law establishes that only someone under the obligation to fulfill a religious duty can perform it on behalf of others. As we learn in Mishnah Rosh Hashanah 3:8:

A deaf-mute, a lunatic and a minor cannot perform a religious duty on behalf of a congregation. This is the principle: one who is not himself under obligation to perform a religious duty cannot perform it on behalf of a congregation.

We have proved above that a woman is obligated to say the *Amidah* prayer as much as a man²⁹ and that women have a biblical obligation to sanctify God’s name.³⁰ Therefore, a woman can be a prayer leader for any prayer, including for “sanctified things”^{*} just like a man.

28 See Laws of Benedictions 5:7 and Laws of the Priestly Benedictions 15:9.

29 See chapter 1 above on “Women’s Obligation to Pray”.

30 See also Maimonides^{*}, Fundamental Laws of Torah 5:1.

Those who oppose having women as prayer leaders can claim that there is a problem with the recitation of the *Shema*. As we saw above, we have learned in Mishnah Berakhot 3:3:

Women, slaves and minors are exempt from reciting the Shema and from putting on Tefillin, but they are subject to the obligations of Prayer and Mezuzah and Grace after meals.

The question remains: how can a woman fulfill the congregation's obligation to recite the *Shema* if she is not obligated herself? We may respond to this claim by explaining that the recitation of *Shema* in our times does not require a prayer leader or even a quorum, because the custom of reciting the *Shema* in public responsively ("porsin al Shema") was discontinued a thousand years ago. Therefore, everyone is obligated to recite the *Shema* and it is irrelevant whether the prayer leader is obligated or not to observe this commandment. Therefore, the fact that a woman is exempt from the reading of the *Shema* does not prevent her from being a prayer leader.³¹

In summary, women can lead public prayers just like men.

4) Additional Questions

Even though the conclusions above are based on the sources, opponents can pose three questions. We will now reply briefly to these questions.

a) How can we rule against the *Aḥaronim** or even against the *Shulḥan Arukh**?

We saw above that, in the opinion of some *Aḥaronim**, women are not obligated to pray three times a day. We also saw that, according to the *Shulḥan Arukh**, women do not join the prayer quorum for "sanctified things". We can ask then, may we rule against those decisors?

We may respond to this argument that the *Geonim** and Maimonides* established that the Babylonian Talmud* is the highest authority in issues of Jewish law,³² and that we may rule according to the Talmud even if such a ruling is against that of the greatest decisors.

31 See Golinkin, p. 62, note 35.

32 See sources in Golinkin, p. 63, note 37.

As the Rosh* established in his Code:

“Yiftah in his generation was like Samuel in his generation” [Rosh Hashanah 25b]. There is only “the judge in charge at the time” [Deuteronomy 17:9], and he can contradict their [the Geonim’s*] words, because anyone can build up or tear down or even contradict whatever is not explicit in the Talmud* edited by Rav Ashi and Ravina. (Rosh on tractate Sanhedrin, chapter 4, paragraph 6).

And Rabbi Solomon Schechter* warned:

But however great the literary value of a code may be, it does not invest it with the attribute of infallibility, nor does it exempt the student or the Rabbi who makes use of it from the duty of examining each paragraph on its own merits, and subjecting it to the same rules of interpretation that were always applied to tradition.³³

In other words, the *Shulhan Arukh** and its commentaries are *important* guides to Jewish law, but they are not the *only* guides. When a decisor is presented with a complex problem in Jewish law, he must solve it by studying the Talmud*, codes and responsa in depth, and not by relying on one code alone.

b) May we observe Jewish law differently than our ancestors?

Even if we have sources on which to base our conclusions above, we know that women did not join the prayer quorum nor lead services in the past. May we observe Jewish law differently than our ancestors?

We may answer based on the book of Deuteronomy (17: 8-11):

If a case is too baffling for you to decide... and you appear before the Levitical priests, or the judge in charge *at the time* and present your problem. When they have announced to you the verdict in your case, you shall carry out the verdict that is announced to you.

In other words, every generation has its own problems, and the leaders of that generation have to deal with them. Therefore, people must go to the “judges”, the scholars in Jewish law in their generation. The sources exist, but the scholars and rabbis of each generation must interpret them according to the circumstances in that generation. The conclusions of earlier decisors are not necessarily the conclusions we will reach in our time. Jewish legal scholars must

33 See Schechter, p. 211.

examine the sources anew based on the reality of their time. As far as our issue is concerned, when the *Shulḥan Arukh** was written in the sixteenth century, it was unnatural for women to join the prayer quorum. But today, in a mixed society, in which women function, for the most part, like men and together with them, a mixed quorum is something natural. Therefore, after a reexamination of the sources which proves that there is no problem according to Jewish law, we may conclude that women may join the prayer quorum.³⁴

c) Are women who do not pray regularly sinners?

There are those who think that we should not rule that women must pray three times a day, because this decision would, so to speak, turn all the women who did not pray in the past or do not pray in the present three times a day into sinners.

We may reply to this argument that in-depth examination of the sources proves that women must pray three times a day just like men. Even so, throughout the history of Jewish law, it was not infrequent for different decisors in different places to rule in different and contradictory ways. There were great differences in Jewish law in the past, for example between Babylonia and the Land of Israel, between Ashkenazim and Sephardim, and between Ḥassidim and Mitnagdim [those opposed to Ḥassidism]. This does not mean that those who acted based on a certain ruling were sinning; they simply based themselves on their rabbi's ruling.

Regarding our topic, a woman who does not accept this responsum, and continues to pray a prayer once a day is not a "sinner"; she may rely on decisors who ruled differently.

5) Summary and Conclusions

An in-depth analysis of the Talmud* and codes leads us to the following conclusions:

1. *Women are required to pray the Amidah prayer in the morning, afternoon, evening, Musaf and Neilah services, just like men.*
2. *Women may join a prayer quorum for Berekhu, Kaddish, repetition of the Amidah and Kedushah.*
3. *Women may lead prayers in all of the above-mentioned services.*

³⁴ See more sources on this subject in Golinkin, p. 65.

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Caro, Rabbi Joseph (Spain and Israel, 1488-1575): he wrote a commentary on the *Tur*• called *Beit Yosef* and the *Shulḥan Arukh*•, to which the Rema's• glosses were added, making it the most influential code to this day.

Epstein, Rabbi Yeḥiel Michal: see *Arukh Hashulḥan*•.

Gombiner, Abraham: see *Magen Avraham*•.

Halevi, Rabbi Ḥayim David (Israel, 1925-1998): Chief Sephardic Rabbi of Tel Aviv, author of responsa *Aseh Lekha Rav* and *Mayim Ḥayim* and codes such as *Mekor Ḥayim Hashalem*.

Maimonides (Rambam), Rabbi Moses ben Maimon (Spain and Egypt, 1135-1204): physician, philosopher and halakhic authority. Author of the *Mishneh Torah*. Maimonides also wrote commentaries on the Mishnah• and the Talmud•, responsa, philosophical works (such as *The Guide of the Perplexed*) and medical works.

Nahḥmanides (Ramban), Rabbi Moses ben Nahḥman (Spain 1194 - Israel 1270): doctor, kabbalist, commentator, poet and authority in Jewish law. He wrote a commentary on the Torah, novellae on the Talmud, responsa and commentaries on the classical code of the Rif• and on Maimonides'• *Book of Commandments*.

Rashi, Rabbi Shelomo Yitzḥaki (France 1040-1105): his commentaries on the Bible and Talmud• have become indispensable to understanding those texts.

Rema, Rabbi Moses Isserles (Poland, 1525-1572): author of *Darkhei Moshe* on the *Arba'ah Turim* (see *Tur*•) by Jacob ben Asher, and of glosses to Caro's *Shulḥan Arukh*•, known as the *Mappah* (Tablecloth). These glosses supplemented Caro's code with the laws and customs of Germany and France. In this way, they contributed to its becoming authoritative throughout the Jewish world in the sixteenth century and a major code to this day.

Rif, Rabbi Isaac Alfasi (Fez 1013-Spain 1103): author of a classic code organized according to the order of the tractates of the Talmud•.

Rosh, Rabbi Asher ben Yeḥiel (Germany and Spain, ca. 1250-1327): important decisor who combined the German and Spanish schools of halakhah. His major work was *Piskei Ha-Rosh*. He also wrote *Tosafot* on the Talmud• and many responsa.

Schechter, Rabbi Solomon (Rumania, Germany, Austria, England and the United States, 1847-1915): one of the founders of the Conservative movement in the United States. Became well-known through his work on the Cairo *geniza* at

Cambridge University. He was chancellor of the Jewish Theological Seminary of America from 1902 until his death.

Tur, Rabbi Jacob ben Asher (Germany 1270-Spain 1343): author of *Arba'ah Turim*, in which he edited the halakhic material up to the fourteenth century and ruled in matters of halakhah, placing his father, the Rosh*, in a privileged position.

Yosef, Rabbi Ovadiah (b. Iraq, 1920): former Sephardic Chief Rabbi and the Shas movement's authority on Jewish Law. Author of responsa *Yabia Omer* and *Yehaveh Da'at*.

Glossary of Terms

Aḥaronim: Talmudic interpreters and halakhic sages from the *Shulḥan Arukh** to our days.

Amidah prayer: The central prayer in all obligatory and fixed services, which is said while standing and facing Jerusalem. It is also called The Eighteen Benedictions, because of the original eighteen blessings in the version for weekday services.

Amoraim: Rabbis of the Talmudic (see *Talmud**) period (220-500 C.E.), who taught and studied in the academies in Israel and Babylonia.

Arukh Hashulḥan: code of Jewish Law by Rabbi Yeḥiel Michal Epstein (White Russia, 1829-1908) on the four sections of the *Shulḥan Arukh**, with the purpose of ruling on Jewish law according to the Talmud*, Maimonides*, the Rishonim* and the *Shulḥan Arukh** and its commentators.

Barekhu: A blessing in which an individual invites the congregation to bless God before prayer and before reading Torah, and the congregation responds with a blessing. It is one of the “sanctified things”.

Baraita: Tannaitic (see *tannaim**) dictum not included in the Mishnah*.

De-rabbanan: Rabbinic law (from the time of Ezra the Scribe to the end of the Talmudic (see *Talmud**) period.

Geonim: The Babylonian academies’ sages between the seventh and eleventh centuries. Their authority extended from Babylonia through North Africa and Spain. They determined the principles for ruling according to Jewish law and wrote commentaries, codes and responsa.

Gezerah Shavah: One of the basic midrashic rules. When the same word, combination of words or root appears in two verses, the Sages made inferences from one verse to the next, especially in halakhic subjects.

Halakhot Gedolot: A code from Geonic times (ninth century), written by Rabbi Simon Kayara.

Halts made at funerals: A mourning custom from the Talmudic period. The mourners were accompanied to the cemetery and were told “Sit, dear ones, sit; stand, dear ones, stand” a number of times.

Invitation to Grace: The obligation to invite people to bless after a meal when three or more people eat together. When those eating together are at least ten, the words “our Lord” are added, and this is one of the “sanctified things”*.

Kaddish: A prayer in Aramaic said during congregational worship, after studying Torah or between certain prayer sections. Sometimes it is reserved for mourners. There are different versions, depending on where it is recited, and this is one of the "sanctified things".

Magen Avraham: One of the principal commentaries on the *Shulḥan Arukh**, written by Rabbi Abraham Gombiner (Poland, 1637-1683).

Martyrdom: A Jew is required to die in order to sanctify God's name in certain circumstances, i.e., to refuse to transgress certain laws even if he is being threatened with death.

Mishnah: Collection of mostly legal sources, edited by Rabbi Judah Ha-Nasi, around 200 C.E.

Mishnah Berurah: Commentary by Rabbi Israel Meir Hacoen (known as the *Ḥafetz Ḥayim*, Poland, 1839-1933) to the *Shulḥan Arukh*, *Oraḥ Ḥayim*, which updates it to the twentieth century.

Pass before the Ark: "He who passes before the Ark" is the Talmudic term for prayer leader (see Repetition of the Amidah*).

Priests raise their hands (priestly blessing): the priests raise their hands in a special manner in order to bless the people with the three verses of the priestly blessing (Numbers 6: 24-26) during the Repetition of the Amidah*. This blessing is included in the "sanctified things"*.

Repetition of the Amidah: the Eighteen Benedictions (see Amidah Prayer*) that the prayer leader repeats aloud after the congregation has prayed silently.

Rishonim: Talmudic interpreters and halakhic sages from the end of the Geonic period (eleventh century) until the *Shulḥan Arukh* (sixteenth century).

Sanctified things: Prayers and blessings that sanctify God's name and are said in a prayer quorum.

Shulḥan Arukh: Sixteenth century law code, written by Rabbi Joseph Caro*, to which the Rema's* glosses were added, making it the most influential code to this day.

Talmud: A series of treatises which include the *Mishnah** from tannaitic (see *Tannaim**) times and the Gemarah, the discussions of the *Mishnah* by the Amoraim*. The Babylonian Talmud became the basic source for all future halakhic development.

Tannaim: Rabbis of the *Mishnah**. They studied and taught in the land of Israel from the Second Temple Period until 220 C.E. Besides the *Mishnah*, they

authored many *baraitot* (see *baraita**), such as the *Midrash Halakhah* and the *Tosefta**.

Time-bound positive commandment: A commandment to do something (rather than to refrain from something forbidden) that must be observed within a certain time framework. According to classical halakhah, women are usually exempt from these commandments.

Tosefta: A collection of *baraitot* (see *baraita**) which was edited according to the order of the *Mishnah* during the following generation.

Vilna edition: The most famous Babylonian Talmud edition, edited by the Romm family in the nineteenth century. Most Talmud editions in our days are facsimiles of the Vilna edition.

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