

HEBREW UNION COLLEGE - JEWISH INSTITUTE OF RELIGION
NEW YORK SCHOOL

INSTRUCTIONS FROM AUTHOR TO LIBRARY FOR THESES

AUTHOR JOAN S. FRIEDMAN

TITLE WOMEN AND POSITIVE TIME-BOUND COMMANDMENTS:
A COMPARISON OF ALFASI, MAIMONIDES, + THE TOSAFISTS

TYPE OF THESIS: D.H.L. () Rabbinic (☒)

Master's ()

1. May circulate ~~()~~ in library
2. Is restricted (☒) for 5 years.

Note: The Library shall respect restrictions placed on theses for a period of no more than ten years.

I understand that the Library may make a photocopy of my thesis for security purposes.

3. The Library may sell photocopies of my thesis. yes no ☒

4/2/80
Date

Joan S. Friedman
Signature of Author

Library
Record

Microfilmed _____
Date

Signature of Library Staff Member

WOMEN AND POSITIVE TIME-BOUND COMMANDMENTS:
A COMPARISON OF ALFASI, MAIMONIDES, AND THE TOSAFISTS

JOAN S. FRIEDMAN

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion
New York, N.Y.

March 28, 1980

Referee: Professor Michael Chernick

Acknowledgements

As the author, I take sole responsibility for any errors or shortcomings which the reader may perceive in this thesis. The credit, however, is shared by several other individuals, whom I wish to thank.

First and foremost, I would like to express my deepest gratitude to my adviser, Dr. Michael Chernick, who first introduced me to this material four years ago. He has guided my interest in this area and has helped me to develop the skills with which to pursue it. He has also been more than patient with me in these last few weeks.

I owe a great debt to all my professors at HUC-JIR. They have taught me much about scholarship, but they have taught me even more about being a Jew, a decent human being, and a rabbi. I pray that I might be a worthy colleague to them.

The HUC-JIR library staff also merits my thanks, especially Ms. Ina Rubin-Cohen, who always found the right answer. Ms. Beryl Seaberg has demonstrated great skill and fortitude in transforming a chaotic manuscript into a legible thesis, and I thank her. Miss Elanor R. Schwartz kindly allowed me to return to the offices of the National Federation of Temple Sisterhoods for several days to complete the notes to the thesis.

Finally, I dedicate this work, with love, to R.G.L.

TABLE OF CONTENTS

Introduction	p. i
Chapter I: Tannaitic and Amoraic Sources.....	1
Chapter II: May Women Perform Positive Time-Bound Commandments.....	9
Chapter III: Tefillin.....	24
Chapter IV: Tzitzit.....	31
Chapter V: Megillah, Pesach and Tefillah.....	41
Chapter VI: Talmud Torah.....	50
Chapter VII: Birkat Ha-Mazon.....	56
Chapter VII: Conclusions.....	70
APPENDIX: KIDDUSHIN 34a-35a.....	78
NOTES:	79
BIBLIOGRAPHY	98

Introduction

The legal system of rabbinic Judaism, the halacha, included women among those categories of people whose obligations to perform mitzvot were limited in some way. Slaves, minors, blind or deaf people, androgynes, and the mentally incompetent were similarly classed. The formal halachic definition of women's legal role is that they are exempt from performing positive time-bound commandments and obligated to perform positive non-time-bound commandments. Women, like all Jews, are, of course, obligated not to violate any of the prohibitions of the Torah. As a general principle, however, this rule is purely arbitrary, offering no explanation of the significance of time as a criterion for observance. There is no obvious, inherent, a priori cause for exemption women from this type of obligation in particular.

Beyond this, the principle of time-bound exemption does not in fact represent a complete picture of the boundaries of halachic observance of women, because there are time-bound obligations to which women are obligated, and non-time-bound obligations from which they are exempt. It is misleading, therefore, to ask why women are exempt from positive time-bound commandments. A proper comprehension of the rabbinic view of women's obligations to mitzvot arises only from examination of the full pattern of obligation and exemption.¹

This thesis intends to examine and delineate the pattern of women's exemption from and obligation to mitzvot in Talmudic and Rishonic literature in order to uncover the tradition's perception of women's relation to Torah

and mitzvot. I contend that a case by case analysis of this extended and extensive literature reveals that within the halacha governing what women do, there are hidden assumptions and unspoken considerations, which are ultimately based on the status and role of women in the various social and cultural milieus in which the rabbis lived. This holds true not only for the Tannaitic and Amoraic literature which promulgated the "time-bound" principle, but also for the Rishonic literature which attempted to establish proper halachic observance on the basis of the Talmud.

The particular mitzvot examined here in detail are of two types: mitzvot whose time-bound status and/or observance by women is ambiguous (shofar, tefillin, tzitzit, tefillah); and mitzvot whose obligatory or non-obligatory nature for women is in opposition to the time-bound principle (megillah, Pesach, talmud Torah, birkat ha-mazon).

This paper also attempts, consequently, to delineate various schools of thought among the Rishonim regarding women and mitzvot. Specifically, it compares the positions of the major north African authorities, R. Isaac Alfasi (1013-1103) and R. Moses ben Maimon (Maimonides, 1135-1204), with those of Rashi (1060-1104), and the early Tosafists in Franco-Germany, and with those of scholars of the Provencal-Spanish tradition. These three groups represent not only three distinct approaches to the study of Talmud and to the formulation of halacha, but also three different Jewish communities. Geographic differences meant vast differences in the surrounding environment -- political, social, religious, and cultural differences, all of which had an impact on local Jewish communities.

Differences of opinion among Rishonim on questions relating to women's obligation, if they show a tendency to divide along these geographic lines, may in part reflect the differences in the status of women in different countries where Jews resided. On the other hand, these differences may also reflect the internal development of the halacha and its acceptance of one or another scholar as more or less authoritative. Since this work is textually and not historically oriented, it concentrates on the latter possibility.

Finally, this paper indicates the direction taken by later halachists in the realm of women's mitzvah obligation by comparing the early Rishonic decisions with the codification of the same material by R. Joseph Karo in the Shulchan Aruch, with the glosses of R. Moses Isserles.

Chapter I

Tannaitic and Amoraic Sources

The Mishnah lays down the basic operative principle concerning women and the observance of mitzvot: "All positive time-bound commandments -- men are obligated and women are exempt; and all positive non-time-bound commandments -- both men and women are obligated".¹ Although the Mishnah states this principle anonymously, it is elsewhere attributed to R. Simeon bar Yohai.²

The term mitzvot asei she-ha-zman grama, "positive time-bound commandments", is explained in a Tannaitic commentary on the mishnah just cited. "What is a positive time-bound commandment? [One] such as sukkah, lulav, and tefillin. What is a positive non-time-bound commandment? [One] such as aveidah [i.e. returning lost objects], shiluach ha-ken [i.e. sending away the mother bird], maakeh [i.e. building a roof parapet], and [wearing] tzitzit. R. Simeon exempts women from tzitzit on the grounds that it is time-bound".³

The word kegon, "such as", shows that this was not intended as the definitive list of all time-bound and non-time-bound obligations. Rather, the intent of this baraita was to elucidate the meaning of the two rubrics named in the Mishnah, by referring to mitzvot whose proper manner of observance was already commonly known and generally accepted. A positive time-bound commandment is thus defined, by example, as one which must be performed on a specific day or at a specific hour. A non-time-bound obligation is one which could be done at any time, or whenever the opportunity presented itself.

In addition to this pair of statements on time-bound obligations, there is a series of Tannaitic statements which concern the obligations of women, slaves, and/or minors⁴ as opposed to those of men. Although it is not stated, the majority of mitzvot from which these three categories of people are exempted are time-bound. Furthermore, since four of them -- sukah, lulav, shofar, and tefillin -- are listed as illustrations of time-bound principle, it seems logical to conclude that the rest of these exemptions are for the same reason.

Thus, Tannaitic sources exempt women from reciting the sh'ma,⁵ from wearing tefillin,⁶ from sitting in the sukkah,⁷ from waving the lulav,⁸ from blowing the shofar or hearing it blown,⁹ from making the pilgrimages to the Temple,¹⁰ from reciting the Hallel on Sukkot,¹¹ from wearing tzitzit,¹² and from reading the megillah.¹³ Consistent with the principle of non-time-bound obligation they are obligated to put up mezuzot,¹⁴ to pray,¹⁵ to recite the grace after meals,¹⁶ to revere their parents,¹⁷ to wear tzitzit (a contradiction which will be discussed later in greater detail),¹⁸ and to observe maakeh, aveidah, and shiluach ha-ken.¹⁹

There are, however, exceptions to these rules. Women are obligated to eat matzah on Pesach,²⁰ to fast on Yom Kippur,²¹ and, according to at least one opinion, should hear the megillah read on Purim.²² Conversely, they are exempt from certain non-time-bound obligations: the study of Torah,²³ parental obligations,²⁴ and, according to some, the grace after meals.

Nowhere does the Mishnah, or any Tannaitic source, offer an explanation for why women should be exempt from positive time-bound commandments.

What is there about these obligations, as opposed to any others, which leads to such a ruling? The answer usually offered today, that women have obligations in the home which would interfere with their observance of these mitzvot, does not appear in rabbinic literature until the fourteenth century.²⁶ The apologetic that women have no need for the discipline of these obligations is hinted at in the Yalkut Shimoni, but does not find full expression until the writings of S.R. Hirsch.²⁷ Late or early, however, these answers are unsatisfactory, for they do not explain the numerous exceptions to the rule.

The real answer to this question emerges from an examination of the totality of women's exemption from and obligation to all mitzvot, not just time-bound ones. Not only the rules but the exceptions must be considered, and in this way a pattern appears to emerge. The Tannaim exempted women from two main types of obligations: those which would bring them into frequent contact with men outside their own homes and families; and those which were in any way related to education. They obligated women, however, to mitzvot from which their exemption would appear somehow "wrong".

Specifically, the restriction of contact with outsiders would mean exemption from Temple- or synagogue-oriented practices²⁸ such as pilgrimage, shofar, or sukkah and lulav (the sukkah being a place where men appear to have congregated on Sukkot).²⁹ The exemption from talmud Torah is similarly socially motivated; the rabbis did not live in a social milieu where girls and boys were educated together, or were even educated alike, if girls were educated at all. This distinction led to exemption of women from other obligations which were somehow related to Torah, such as tefillin³⁰, or

which were also liturgical, such as k'riyat sh'ma. Perhaps it was on this basis that R. Simeon argued for the exemption of women from tzitzit, since the recital of parashat tzitzit was part of k'riyat sh'ma, and was, therefore also related to liturgical practice.

On the other hand, there were some instances in which it would plainly have been ludicrous to exempt women. Obviously, women and men should be equally responsible for returning a lost object to its owner. Similarly, the rabbis felt that there was no reason why a woman should live in a house without mezuzot any more than a man should, or that women could be eating chametz on Pesach when the men have to be so careful to eat only matzah. And if men were liable to karet for eating on Yom Kippur, how could women be totally untouched by the day?

Disputes over women's obligations may be attributed to the same concerns. Must a woman recite the grace after meals? On the one hand, a woman should be as thankful as a man for food; on the other hand, women were not included in the possession and distribution of land whose produce they were eating. But even if grace was a woman's obligation, under no circumstances was she to join with the men, who ate separately, for a zimmin, for public thanks.³¹ Similarly, reading Megillat Esther was a very public, synagogue-oriented event; but could women be exempted from something which affected them so personally?

Of course, all the preceding is speculation. It assumes that the mishnaic statements of principle, and the exegeses of the halachic midrashim as well, are ex post facto explanations, attempts to create a system where there was none. There is no internal textual evidence to support such an hypothesis; it rests only on its ability to provide a coherent and internally

consistent explanation of the exceptions, conflicts, and inconsistencies within the rules of women's obligation to and exemption from mitzvot.

This time-bound/non-time-bound distinction was accepted and expanded by the Gemara, which added certain mitzvot, or at least recorded them, in each category. Women were obligated to make kiddush on Shabbat;³² to drink four cups of wine on Pesach;³³ to light Hanukah candles;³⁴ to read the megillah on Purim,³⁵ or at least to hear it read;³⁶ to observe the commandment of hakhel, assembly;³⁷ and to rejoice on the festivals.³⁸ Also mentioned by the Gemara is the exemption of women from the non-time-bound obligation of procreation.³⁹

The actual concept of time-bound and non-time-bound obligations is discussed in a lengthy sugya* based on the mishnah cited at the beginning of this chapter.⁴⁰ The sugya is a compilation of Tannaitic and Amoraic statements on various time-bound and non-time-bound commandments, most of which are found in other places in the literature.⁴¹ Since it is a compilation, and since it is largely anonymous, it appears likely that in its final form it is a late sugya, whose concern is clearly a desire to systematize the hodgepodge of rules concerning women and time-bound mitzvot. The goal of the sugya is to demonstrate that the exemption of women from time-bound commandments is not a rabbinic but a Toraitic principle, by showing that the Torah clearly exempts women from wearing tefillin. Tefillin become the paradigmatic time-bound commandment, establishing the general principle of exemption. The sugya then shows that all instances of obligation to time-bound commandments are exceptions to the general rule and have special mitigating features, which lead to women's obligation.

*See Appendix.

What is so striking about the argument in this sugya is that it is highly stylized and artificial. There are almost as many exceptional cases named as there are regular ones, and for virtually every one of them it is possible to construct both exempting and obligating exegeses. Most incredibly, the establishment of tefillin as a time-bound commandment from which women are exempt, is based on analogy to talmud Torah -- a non-time-bound commandment to which women should rightfully be obligated! The arbitrariness and inconsistency of this sugya is the most conclusive demonstration that women's exemption from positive time-bound commandments is not clearly biblical, and that, as a rabbinic principle, time was not the primary consideration in determining women's religious observance.

Furthermore, a short passage in the gemara to this mishnah seems to indicate that not everyone shared the perspective of this sugya.

Our rabbis taught: "What is a positive time-bound commandment? [One] such as sukkah, lulav, shofar, tzitzit, and tefillin. And what is a positive non-time-bound commandment? [One] such as mezuzah, aveidah, and shiluach ha-ken". But is this a general principle? For matza, simcha, and hakhel are time-bound and women are obligated; and talmud Torah, procreation, and redemption of the first-born are not, and women are exempt!? R. Johanan said: We do not learn from general principles, even in a place where it says "except for..."⁴²

Even though R. Johanan's comment was not originally directed to the question of positive time-bound commandments, certainly it was used by whoever constructed this sugya as a way of criticizing, or at least questioning, the validity of that principle. The anonymous gemara's counterexamples almost equal the baraita's examples, and it supports its skepticism with a memra of an important early Amora. This is completely contradictory to the attitude of the long sugya which follows it.

In addition to clarifying and enlarging the list of women's exemptions and obligations as laid down by the Tannaitic literature, the Gemara adds a new consideration: when a woman is obligated to perform these mitzvot is she obligated Toraitically (de-oraita) or only rabbinically (de-rabbanan)? This is not only a woman's question, of course; as time went on and the pronouncements of earlier sages acquired a firmer hold on authority in the minds of later scholars, the question of de-oraita/de-rabbanan became more pressing. It was essential to determine what weight was to be accorded the decisions of the rabbis in relation to the explicit, or not so explicit, words of the Torah.

The basis for applying this question to women was already stated in the Mishnah: "This is the general principle: one who is not obligated in a specific matter may not help others fulfill their obligations in that matter".⁴³ Where women were completely exempt from a mitzvah, it was clear that they could not help a man fulfill his obligation; where they were, they could. While the Mishnah did not concern itself with the distinction between these two levels of obligation, the Gemara did. The result was that the Gemara distinguished between the greater obligations of men and the lesser obligations of women in such matters as grace after meals, the reading of Megillat Esther, and others.

It seems that whenever there was ambiguity or ambivalence in the Tannaitic attitude toward the obligation of women in a given mitzvah, the Amoraim came down on the side of limiting women's obligations. Tefillin⁴⁴ are definitely time-bound, and completely forbidden for women in the view of one Palestinian Amora;⁴⁵ R. Simeon's position on tzitzit becomes the favored

one;⁴⁶ procreation is not a woman's obligation, contrary to R. Judah ben Beroka;⁴⁷ grace after meals may only be obligatory de-rabbanan;⁴⁸ and while women are equally obligated to observe the mitzvot of the Seder, still only "important women" should recline.⁴⁹

Against all this, however, are the statements of R. Joshua ben Levi, who maximized the participation of women in events which concerned them -- and which were only obligatory de-rabbanan anyway. According to R. Joshua, women were obligated to light the Hanukah candles,⁵⁰ to hear the megillah read on Purim (or perhaps read it)⁵¹, and to drink four cups of wine on Pesach.⁵² All these are because "they are also included in the miracle". There is also the statement of Raba in support of women's Toraitic obligation to kiddush: "Raba said: Scripture says 'remember' and 'observe' [the Sabbath] . One who is included in observing [i.e. the negative commandments of Shabbat] is included in remembering [i.e., the positive commandments of Shabbat]. "⁵³

Still, the Gemara did not completely lay to rest all discussion of women and time-bound mitzvot. In many cases it did not even try, not being concerned with rendering a final halachic decision. It remained for the Rishonim to determine what the Talmud meant, and to decide accordingly.

Chapter II

May Women Perform Positive Time-Bound Commandments

For the Rishonim, the principle of women's exemption from positive time-bound commandments carried sufficient weight, and the identification of various mitzvot as time-bound or not was sufficiently recognized and accepted, that a new question arose. Were women to be allowed to fulfill those mitzvot from which the Talmud exempted them on a voluntary basis? A similar problem had already arisen with regard to minors, arising from the obvious need to educate a boy in his responsibilities before such time as he became legally obligated. Slaves' performance of these mitzvot does not appear to have been an issue, for once manumitted, the semi-proselyte would become an adult male Jew.¹

Women, however, were different. They had neither the boy's certainty nor the slave's possibility of attaining a status of complete obligation, but instead, were perpetually obligated in a limited manner. It was only logical that the question of going beyond that limit would have arisen at some point. If it is true that the rabbinically-ordained pattern of women's observance was socially determined, then it follows that wherever and whenever women had the opportunity to alter their education, employment or social status, the question of altering their religious practice might arise.

What is at stake in this question is the very nature of women's relation to Torah and Judaism. If "exemption" means "permitted but not required", then the door is open for those women who so desire to increase their observance, and to share in whatever benefits derive from observance

of mitzvot. If, however, "exemption" means "prohibition", then there are certain areas of Judaism from which it is right and proper to exclude women.

If, as later apologists claim, the distinction between the obligations of men and women is made because each has a separate but equal function which must be maintained, then one might expect to find more consistency in the halacha: if women are excluded from certain "male" functions, then men should be excluded from certain "female" functions. Alternatively, if women are only exempted because of other responsibilities, then they should clearly be obligated whenever those responsibilities do not intervene. Neither one of these is the case, and nowhere is the entire span purely halachic literature from the Mishnah to the Shulhan Aruch is there a reason given for this distinction in observance.² A highly probable conclusion is that the system developed haphazardly, based on existing social, cultural, and economic realities which determined the relative status of and the relationship between men and women. Whenever those realities changed, the halachic view of male-female relations also changed, so long as the halacha was still developing. This rule holds true for the question of whether women are exempted or excluded from time-bound observances.

Two sugyot provided the basis for the discussion of whether women may perform positive time-bound commandments. The first is as follows:

[Mishnah:] We do not prevent children from blowing the shofar on Rosh Hashanah, but rather we work with them in order that they may learn.

Gemara: Then we do prevent women!? But it is not taught [in a baraita]: "we do not prevent either women or children from blowing the shofar on the festival".

Said Abaye: this is not a problem. The mishnah accords with R. Judah and the baraita accords with R. Jose and R. Simeon, as it is taught [in another baraita]: "Say to the sons of Israel" -- the sons of Israel lay on hands, but the daughters of Israel do not, according to R. Judah; R. Jose and R. Simeon say that women may lay on hands".³

The Gemara has joined two unrelated issues, one being the matter of blowing the shofar, and the other being semicha (i.e., placing one's hands on an animal about to be sacrificed).⁴ This is not unusual for the Gemara, which often uses a baraita or memra on one topic to explain another. Abaye explains the apparent contradiction⁵ between mishnah and baraita as representing the opposing opinions of R. Jose and R. Simeon against R. Judah. The mishnah accords with R. Judah's opinion, which forbids semicha to women, while the baraita accords with R. Jose's and R. Simeon's opinion which states women may lay on hands. By extrapolation, R. Judah forbids women to blow shofar, while the other two sages permit it.

Since shofar is a positive time-bound commandment, it is logical that the Rishonim use this source as a paradigm to answer the question of whether women may generally perform positive time-bound obligations. The Gemara merely raises the question with regard to shofar, but does not resolve the issue. The Palestinian Talmud only continues the debate.

They answered: [A baraita states that] Michal the daughter of Kushi wore tefillin: Jonah's wife went up [to the Temple] on pilgrimage, and the sages did not prevent them". R. Hezekiah said in the name of R. Abbahu: Jonah's wife was turned back, and the sages did stop Michal the daughter

of Kushi from putting on tefillin.⁶

The story that Michal, daughter of Saul, wore tefillin is brought here to support the view that women may do that which they are not obligated to do. R. Hezekiah, on the other hand, is of the opinion that if the mitzvah is not obligatory, then it is forbidden.

Amongst the Sefardim, the earliest major Rishon is R. Isaac Alfasi, author of the Sefer Ha-Halachot, the first Rishonic code. Alfasi's purpose was to compile a digest of practical halacha based directly on the Talmud. He therefore followed the text of the Talmud closely, eliminating aggadic passages, long discussions, and sometimes opinions not representing the halacha as he understood it. Alfasi's importance lies in his chronological proximity to the Geonim (his early life overlapped with the later years of Hai Gaon) and his reliance on their halachic tradition as found in Sheiltot de Rav Ahai, Halachot Gedolot, and Halachot Pesukot. In addition he used the teachings of R. Hananel of Kairwan, thus adding some elements of the Palestinian tradition.

Alfasi's code eliminated completely the passage about shofar which we quoted above. Since he, of course, knew the Gemara, he knew also that it interpreted the Mishnah's silence on women to mean that they were forbidden to blow shofar. Eliminating the baraita and Abaye's comment therefore confirms the Mishnah's position by eliminating any alternative. For Abaye there was a Tannaitic dispute; for Alfasi, there is no longer even a question. Women do not blow the shofar. Unfortunately, however, there is no way of knowing whether or not he intended this as a general rule regarding time-bound obligations.

Maimonides produced the Mishneh Torah, the most important code in the Sefardic world until the advent of the Shulchan Aruch 400 years later. Unlike Alfasi, Maimonides did not adhere to the order of the Talmudic text, but organized his material into fourteen sections, arranged by topic. In his attempt to provide the definitive statement of halacha on every subject, he used the language of the Talmud wherever possible, translating it into clear, Mishnah-style Hebrew, and also relied on Alfasi's earlier work. Interestingly, Maimonides never used the phrase "positive time-bound commandments", nor did he attempt to restate the general principle found in Mishnah Kiddushin. Perhaps those contradictions and inconsistencies which were noted in Chapter I disturbed him enough to cause him to drop the principle while retaining the specifics.

Maimonides raises an issue which apparently did not exist for Alfasi, though it figures prominently in Ashkenazic sources. He states, "... and so it is with regard to the rest of the positive commandments from which women are exempt. If they want to perform them without reciting the blessing, we do not stop them".⁷ Maimonides does not explain his reasoning, but one may infer it from the following: "One who makes an unnecessary blessing is taking the name of Heaven in vain, and is like one who swears in vain, and it is forbidden to respond, Amen."⁸ Since a woman was not required to do the act, she was also not required to say the blessing. This, for Maimonides, constitutes an "unnecessary blessing". In this he is adhering to a close reading of the Talmud, which contains what he reads as definite strictures with regard to blessings, but which omits specific guidelines on the subject of women reciting these blessings. He is, however, less exclusionary than Alfasi seems to be, in that he explicitly permits women to perform these obligations, albeit without the blessings.

The earliest of the major Ashkenazic commentators was Rashi (R. Solomon b. Isaac), a slightly younger contemporary of R. Isaac Alfasi, from northern France. Determining Rashi's own position on an issue can be difficult, since the purpose of his commentary is to explain the basic meaning of the Talmudic text. However, the testimony of later scholars confirms that he favored the strict restriction of women with regard to positive time-bound commandments. He explains the two possible positions on women performing these mitzvot in his commentary to the sugya from Rosh Hashanah.

"Then we do prevent women!?" -- since they are completely exempt, as this is a positive time-bound commandment, and if they blew [the shofar,] it would constitute a violation [of the prohibition] 'You shall not add [to any of the commandments' (Deut. 13.1)]..."Women may lay hands" -- this proves that even though Scripture exempts them, there is no prohibition, and the same is true for all time-bound commandments. 9

The testimony of other Rishonim identified the first comment as consonant with Rashi's own view. The thirteenth century Hagahot Maimuniot records that Rashi, like Maimonides, forbade women to recite the blessings over positive time-bound commandments,¹⁰ and the Meiri appears to be making a veiled reference to Rashi when he writes, "...and also the greatest of the commentators disagree and say...with regard to non-obligatory shofar blowing on the festival, that we do not stop children from blowing but we certainly do stop women."¹¹

A Tosafistic reference attributes the following statement on Michal and tefillin to Rashi: "...for if it were a positive time-bound commandment, they would have stopped her [from doing it] ."12 It seems then that Rashi opposed not only the saying of blessings, but the actual performance of a positive time-bound commandment by women. This would explain his comment that shofar blowing by women was a violation of bal tosif, the prohibition against adding to the mitzvot. If only the blessing were his concern, he would have expressed concern over bal tisa, the prohibition against taking God's name in vain, which is Maimonides' concern.

The concern attributed to Rashi by the Tosafot does not appear in any version of Rashi's commentary. However, in Eruvin 96a, Rashi comments on the sages' apparent acceptance of Michal bat Kushi's wearing of tefillin as follows: "'And the sages did not stop her' -- for this was like an addition to the words of the Torah, which exempted women from positive time-bound commandments."13 As it stands this comment makes no sense. Tosafot's presentation of Rashi's view added to this fragment would, however, make it sensible. That is, read as a whole, the gloss is clear: "'And the sages did not stop her' -- if it were in their eyes a positive time-bound commandment, they would have stopped her, for it would have been like an addition to the words of the Torah, which exempted women from time-bound commandments." This indicates that Rashi did, indeed, view women's voluntary performance of any time-bound obligation as a violation of bal tosif.

Rabbenu Tam stands in marked contrast to his maternal grandfather, formulating the definitive position in support of women's ability to perform time-bound mitzvot and to recite the blessings over them. Exemption

is not at all exclusionary in his view. On the dispute in Rosh Hashanah he has this to say: "R. Tam says: even though the anonymous mishnah agrees with R. Judah, the halacha is according to R. Jose for his reasoning has depth".¹⁴ This is a statement of almost revolutionary independence. Rabbenu Tam upholds a baraita against the authority of the Mishnah, and against what seems to have been the dominant way of viewing the question, because the opposite view makes more sense to him! R. Tam, the son of one of Rashi's well-educated daughters,¹⁵ was inclined to maximize women's ability to perform these mitzvot: "From this, R. Tam said that it is permitted for women to recite the blessings on all positive time-bound commandments, even though they are exempt..."¹⁶

R. Tam's position is set forth, analyzed, and criticised in two long virtually identical Tosafot.¹⁷ His argument rests on three points: 1) the position of R. Jose¹⁸ is more reasonable; 2) there are precedents recorded of women performing these obligations; 3) R. Joseph observed all the mitzvot even though as a blind man he was exempt. This latter is a reference to the story of R. Joseph in Kiddushin 31a, who reacts vehemently to R. Hanina's statement concerning the reward for observing mitzvot:

R. Hanina said: one who is obligated and observes is greater than one who is not obligated and observes. At first R. Joseph said: If someone had said to me, the halacha is according to R. Judah who holds that a blind man is exempt from the commandments, I would have made a banquet for the sages, for I am not commanded, [being blind,] and yet I observe. But now that I have heard the words of R. Hanina, that one who is commanded and observes is greater than one who is not commanded and observes -- on the contrary, if someone would tell me that the halacha is not according to R. Judah, then I would make a banquet for the sages!¹⁹

Two critical points emerge from this rather poignant anecdote. The first is that the blind R. Joseph did observe all the mitzvot despite his exemption, indicating that exemption is not prohibition. The second is that there is more merit in performing mitzvot when one is obligated. However, even when the performance is only voluntary, there is still some merit. This story, however, is not concerned with women. A crucial question for Rishonim who examine this text, then, is whether or not these points are transferable from a blind man to a woman.

The anonymous Tosafist disputes this last point, however on the grounds that a blind man is at least rabbinically obligated, while a woman is completely exempt. He asks how, then, can a woman recite a blessing which says "and has commanded us"? The omission of any refutation of this objection leads one to think that this particular Tosafist agreed more with Rashi than with R. Tam. The only attempt to answer it follows a completely different line of reasoning and is rejected by none other than R. Tam. It is a surprising suggestion by R. Isaac ben R. Judah that women's ability to say these blessings derives from their ability to be called up to the Torah even though exempt from talmud Torah. R. Tam rejects this proof on the grounds that there is no relation between talmud Torah and being called up to read. The question of the blessing is left unanswered.

R. Asher preserves this entire argument virtually intact in his comment on eino metzuveh ve-oseh: There he firmly rejects the position that a woman may not recite the blessings to these mitzvot:

And there is no question here of [violating the prohibition against] taking God's name in vain, if they [i.e. women] recite an unnecessary blessing; for that exegesis is actually only a Scriptural support for a rabbinic enactment...Therefore, since they intend to recite the blessing, there is no question of [violating] bal tisa here.²⁰

In another comment he writes, "...and Rabbenu Tam also said that women may recite the blessings over positive time-bound commandments even though they are exempt; and there is no question here of an invalid blessing."²¹ In other words, R. Asher holds that a blessing recited properly over a mitzvah is valid. The definition of an unnecessary blessing to which he and R. Tam adhere is much narrower than that of Maimonides or Rashi.

The theoretical permissiveness of Ashkenazic authorities toward women was reflected in reality at least with regard to shofar. R. Asher notes:

...and the author of Sefer Ha-Itur wrote that it is logical that another should not blow shofar for them [i.e., women] but that they themselves should blow. And in Ashkenaz people customarily blow for the women who have just given birth, before they blow in the synagogue, in order that the blower may fulfill his own obligation...And so it seems to me that a woman is not inferior to a child who has not reached school age, with whom we do work in order that they learn to blow; how much the more so should we enable women to learn to blow, who are intent on fulfilling the mitzvah!²²

In Franco-Germany, then, it was the accepted practice to ensure that all women heard the shofar blown on Rosh Hashanah, even those who could not be in the synagogue, which indicates the importance attached to this non-obligatory commandment. Women were even then encouraged to blow the shofar themselves, it appears. This liberal view was written into the Arba'ah

Turim by Rabbenu Asher's son Jacob.²³

This permissive view on shofar had been rejected by R. Isaac Or Zarua of Vienna, who died the year that Asher ben Yehiel was born. R. Isaac studied for a time with the pietist R. Judah He-Hasid,²⁴ from whom he may have acquired what appears to be a distinct anti-female inclination.²⁵ Although he agreed in principle that women who performed these mitzvot were not in violation of bal tosif, he did, however, find a specific reason to forbid women to blow the shofar.

...and even so, women are forbidden to blow [the shofar] on the festival of Rosh Hashanah, even without the blessing. For since they are not obligated to do it, Rosh Hashanah for them is like the rest of the festivals, when it is forbidden for any one to blow [a shofar] on Shabbat or on a festival, and the sages forbade even the carrying of the shofar.²⁶

Since women were not obligated to blow the shofar, R. Isaac concluded that the special permission needed for men to blow it on the festival did not extend to women. It appears that while he may have honored R. Tam's position R. Tam's position in theory out of respect for the authority of R. Tam, he circumvented it in practice, as with shofar and, as will be seen, tefillin.

The same attitude appears in the Hagahot Maimuniot, which lists specific reasons why women should not be allowed to perform certain mitzvot, namely tefillin and shofar. His reason for forbidding women to blow shofar is that in carrying or blowing it on Rosh Hashanah they may be in violation of the prohibition against labor.²⁷ Another Tosafistic commentary,

however, the Shiltei Ha-Giborim, gives unqualified permission to women to blow the shofar and to recite the blessings.²⁸

The scholarly tradition of Provence and northern Spain shows the heavy influence of Rabbenu Tam and the Tosafists. R. Tam's younger contemporary, R. Abraham ben David of Posquieres, with regard to Maimonides' prohibition of women's recital of these blessings, notes laconically: "And there is a view which disagrees and says that they may perform them even with the blessing, and it holds that the blessing also is voluntary."²⁹ The same view is expressed more forcefully by R. Abraham's contemporary and halachic opponent, R. Zerahia Halevi, the "Baal Ha-Maor", in a clear, concise summary of R. Tam's position:

And since we establish the mishnah [in Rosh Hashanah] as the opinion of R. Judah, but R. Jose and R. Simeon disagree with him, we reject the mishnah in favor of the baraita. And all positive time-bound commandments are voluntary, though not mandatory, since they are still mitzvot. And even though they [i.e., women] recite over them "who has sanctified us by His commandments and commanded us to blow the shofar" or "to sit in the sukkah" or "on the waving of the lulav", we do not stop them, as in the case of Michal the daughter of Saul...And thus the teaching has gone forth from the sages of this place, may their memory be for a blessing, and from the sages of France...³⁰

The crucial phrase here is "all positive time-bound commandments are voluntary...since they are still mitzvot". Even a non-obligatory mitzvah is still a meritorious act related to a mitzvah. The inference is that it would be wrong to deny a woman access to any s'char, any reward, deriving from the performance of a mitzvah, a position R. Nissim of Gerona will ultimately accentuate.

R. Nissim Gerondi (c.1310-c.1375) absorbed the Tosafist perspective as filtered through the Provencals to the school of Nahmanides, R. Jonah Gerondi, and R. Solomon ben Adret, in Christian Spain. R. Nissim's

discussion of R. Tam's position, indeed the most extensive treatment of that position, is found in two places in his commentary to Alfasi's Halachot.³¹ What is particularly remarkable about R. Nissim's discussion of the matter is that first he demonstrates forcefully that Tam's proofs are not valid, and then continues on to uphold that position anyway.

R. Nissim paraphrases R. Tam's three arguments in favor of the position that women may do positive time-bound commandments and recite the blessings for them, and concludes, "...and these are the words of R. Tam, may his memory be for a blessing".³² However, in Rosh Hashanah he criticizes R. Tam's blind man/woman analogy, and in Kiddushin he continues, "...and these are not proofs, because they do not recite the blessings in any case".³³ He continues, if the Talmud is using an argument about semicha, which means coming in direct contact with kodashim, holy things, to explain the opposition to Michal putting on tefillin (as it does in Eruvin 96a), then what is at issue is not the blessing at all, but whether a woman may even put on tefillin, which obviously requires coming in contact with them. The Tannaitic dispute regarding semicha is therefore to be extended in order to answer the question whether women may perform these mitzvot at all or not.

R. Nissim concludes that sentiment generally ran against allowing them performing such commandments. Even those who said that a woman could put on tefillin did not permit it outright, but only tolerated it, since they also worried about women tend not to have "guf naki", a "clean body". But despite all this negative evidence, R. Nissim does not forbid women to perform the mitzvot or to say the blessings:

And even though R. Tam's proofs were refuted, the later authorities agreed to his opinion, since they [i.e. women] do receive a reward for the act...and because they are within the general scope of mitzvot, they do recite the blessings. And if one question how they can say "who has commanded us", when they were not commanded, one might say that since men were commanded, and the women also relate to the mitzvot, since they receive some reward for their observance, then clearly women are also commanded to say "who has commanded us".³⁴

This is a principle every bit as daring as Rabbenu Tam's original statement permitting women to do these mitzvot and say the blessings. R. Nissim asserts a certain fundamental connection between women and mitzvot inherent in the fact that all of Israel received Torah. Exemption, therefore, cannot be prohibition. Women, like men, are rewarded for the performance of a mitzvah; it just happens that their reward is not as great. But the fact that they receive some reward proves, in turn, that they are also commanded in some sense. This is the critical application of the principle of eino metzuveh ve-oseh.

An overall pattern is discernable in the positions of the various Rishonim: there are those who minimize women's connection to time-bound mitzvot and others maximize it. Amongst the former are Alfasi, Maimonides, and Rashi, who is the only Ashkenazic authority to take such a restrictive view. Since Rashi seems not to have known of his contemporary Alfasi, and lived a century before Maimonides, one must ask whether it was merely coincidence that two of the earliest Rishonim, writing independently, drew similar conclusions regarding women and time-bound obligations. Perhaps they were both drawing upon a previously established tradition going back to the Geonim in Babylonia.

If this was the case, then Rabbenu Tam emerges as even a more radical

innovator, permitting both the act and the blessing, and sharply limiting the extent of the prohibitions against adding to the commandments and using God's name in vain. The position of R. Tam became the dominant one for Franco-Germany, Provence, and Christian Spain. Even critics such as R. Isaac Or Zarua were compelled to phrase their opposition within the parameters laid down by R. Tam, stating their objections very specifically via recourse to halachic side issues. The latest source considered here, R. Nissim, finds a way to maintain R. Tam's permissive opinion even though two centuries of Tosafistic analysis have provided all the necessary rebuttals. It is clear that R. Nissim does not want to restrict women's observance.

Finally, it is noteworthy that Jacob ben Asher, writing several decades before R. Nissim, eliminated from the Tur any consideration of the general principle governing women's observance of time-bound mitzvot. The absence of an explicit endorsement of R. Tam's position does not necessarily indicate that the Tur disagreed with it; he does, after all, endorse the liberal view of most Ashkenazic authorities on the question of women blowing the shofar. (He does, however, comment that "it is better that women not bless" if they wear tzitzit).³⁵ But the omission of the general statement could and would be taken by later generations as an encouragement to disregard the views of R. Tam and R. Nissim.

Chapter III

Tefillin

Considering that tefillin became, in a sense, the paradigmatic time-bound commandment with regard to women, it is somewhat ironic that many sources discuss the question of whether it is a time-bound obligation at all. Most of the debate on the proper time for putting on tefillin centers around the following biblical passage: "And it shall be a sign for you on your hand and a remembrance between your eyes, in order that the teaching of the Lord shall be in your mouth, for with a mighty hand the Lord brought you out of Egypt. And you shall observe this statute at its appointed time from this time forward (Ex.13:9-10)". Although the entire preceding paragraph up to verse eight is concerned with the laws of Pesach, most Tannaitic sources understand "this statute" to refer immediately back to tefillin. Thus, some sages concluded that tefillin were not to be worn at night:

"From this time forward [miyamim yamimah] " -- Why was this said? Because it says, "and it shall be a sign" -- I hear that it implies nighttime also. And reason would say that since mezuzah is a positive commandment, and tefillin is a positive commandment, if you learn concerning mezuzah that it is observed at night as well as during the day, perhaps tefillin also should be observed at night as well as during the day? This is the meaning of "from this time forward" -- during the days one puts on tefillin, and not at night.¹

The same reasoning also led to the exclusion of Shabbat and festivals.²

Some sources, mostly in the name of R. Akiba, understand verse 10 to refer only to Pesach.³ R. Akiba permits the wearing of tefillin at night, but derives the exclusion of Shabbat and festivals in another manner:

R. Akiba says: Is it possible that tefillin should be observed on festivals and Shabbat? Reason would say if mezuzah, which is not observed by travellers on the sea or in deserts, is observed on festivals and Shabbat, then is it not logical that tefillin, which is observed by travellers on the sea or in deserts, should be observed on festivals and Shabbat? This is the meaning of "a sign on your hand" -- Shabbat and festivals are eliminated, since they are signs in and of themselves.⁴

There are thus a number of sources limiting the proper time of tefillin, though none actually use the term mitzvot aseï she-ha-z'man grama. On the other hand, there are explicit references to tefillin being worn before dawn and after sunset⁵, though not on Shabbat.⁶

No Tannaitic source exempts women from tefillin solely on the grounds that it is a time-bound obligation; rather, the exemption is presented as a corollary of the exemption from talmud Torah. "Is it possible that tefillin might apply to women as to men? This is the meaning of 'in order that the teaching of the Lord be in your mouth' -- I did not say this except concerning one who is obligated to talmud Torah. For this reason they said: all are obligated to tefillin except for women and slaves".⁷ As if to dispute or qualify this rule, there follows: "Michal the daughter of Kushi put on tefillin; Jonah's wife went up on pilgrimage; Tabi the slave of Rabban Gamaliel put on tefillin".⁸

There is one source which appears at first glance to attribute women's exemption from the mitzvah of tefillin to its time-bound nature.

"In order that the teaching of the Lord is in your mouth (Ex.13:9)" -- [this was said] to exclude women. Just as tefillin are restricted [to men and] are a positive time-bound commandment [from which] women are exempt, so are women exempt from all positive time-bound commandments.⁹

However, the actual exegesis upon which women's exemption from tefillin rests here is that which proves their exemption from talmud Torah, which is the subject of this verse as understood by the rabbis. Women's exemption from tefillin depends on the analogy between talmud Torah and tefillin, an analogy which is only implied here. Thus, this midrash in reality resembles the previous one in its reasoning.

The logic of this midrash contrasts with that of the source in Sifre Bamidbar which contains R. Simeon bar Yohai's comment on tzitzit.¹⁰ Here, women's exemption is exegetically derived and serves as a basis for stating the time-bound principle; there R. Simeon relies on his principle against the position of the midrash.

The general view of tefillin in the Gemara is that it is a time-bound obligation, though the limits of its proper time are not universally agreed upon. The Palestinian R. Abbahu, for example, accepts the complete exclusion of nighttime, Shabbat, and festivals;¹¹ but Rav Safra knows that in the Babylonia there is or was a dispute over wearing tefillin on Shabbat.¹² As late as Ravina and Rav Ashi there is controversy over

wearing them after sundown, though the general rule is not to keep them on that long.¹³

In several places the Gemara states that it was R. Meir's position that tefillin are not at all time-bound and are therefore obligatory for women. This is a highly dubious identification, resting on the interpretation of a mishnah in Eruvin: "One who finds tefillin [on Shabbat outside the eruv] brings them in one pair at a time. Rabban Gamaliel says: two at a time".¹⁴ The Gemara identifies the anonymous opinion in the Mishnah as R. Meir's because the ruling of bringing the tefillin in one at a time agrees with his view about bringing in clothing on Shabbat: "he puts [one garment] on and takes it out and removes it, even if it takes all day".¹⁵ There follows a long, involved, and entirely anonymous discussion of how R. Meir and Rabban Gamaliel differ, with the conclusion being that R. Meir holds that tefillin should be worn on Shabbat, and Rabban Gamaliel does not.¹⁶

Even given the alleged opinion of R. Meir and the uncertainty regarding the time limit of this mitzvah, there was never any great doubt regarding women's exemption from it -- and exemption based firmly not on time, but on the perceived affinity between tefillin and talmud Torah. The Talmud stated: "And we learn about tefillin from talmud Torah: just as women are exempt from talmud Torah, so are they exempt from tefillin".¹⁷ The association of tefillin with k'riyat sh'ma is a further proof of this affinity, for the sh'ma mentions both talmud Torah and tefillin, and two of its paragraphs are included in the tefillin. So the Palestinian Talmud, in its explanation of Mishnah Berachot 3:3, did not even distinguish

between k'riyat sh'ma and tefillin, but linked them both to talmud Torah: "Women, slaves, and minors are exempt from k'riyat sh'ma and tefillin... From where do we learn that women are exempt? 'And you shall teach them to your sons' -- to your sons, and not to your daughters".¹⁰ The Babylonian Talmud is more ambiguous: women are exempt from reciting the sh'ma because it is time-bound, but it offers no explanation of why women are exempt from tefillin. It notes only that "You might have thought that it was analogous to mezuzah; therefore [this mishnah] comes to teach us [that it is not]".¹⁹

Mezuzah is the exception among the mitzvot in the first paragraph of the sh'ma, in that women are obligated to observe it. It is not time-bound, but like tefillin, it has by nature an affinity with talmud Torah, as the Gemara notes: "'And to mezuzah' -- this is simple! You might have thought that it should be analogous to talmud Torah; therefore [this mishnah] comes to teach us [that it is not]".²⁰ Mezuzah appears to fall into the category of mitzvot from which it would simply be absurd to exempt women, for, as the Gemara notes, both men and women need life-giving mitzvot,²¹ besides which it would be impractical to require mezuzot only in places where men live.

The definitive Talmudic statement on tefillin for later halacha is this: "And women are exempt from positive time-bound commandments. Where do we learn this from? From tefillin. Just as women are exempt from tefillin, so are they exempt from all positive time-bound commandments".²²

The example of Michal and the alleged opinion of R. Meir are exceptions to the rule, and are acknowledged as such. (An exceptional opposing opinion, but not a halachic one, is that of the Targum Jonathan, who asserts that women are forbidden to wear either tefillin or tzitzit because to do so would violate the prohibition against wearing a man's garments).²³

The Sefer Ha-Halachot reflects the progressive systemization of the "time-bound" principle. Alfasi has eliminated from his work the discussions of tefillin in Eruvin, Shabbat, and Kiddushin, with all of their ambiguities and conflicting opinions. For the mishnah in Berachot, he writes only, "K'riyat sh'ma and tefillin, for they are positive time-bound commandments and women are exempt from all positive time-bound commandments".²⁴ Although Alfasi collected all the baraitot concerning the proper time for tefillin in his Halachot Ketanot, nowhere does he mention the opinion of R. Meir.

Maimonides wrote that "Women, slaves, and minors are exempt from the recitation of the sh'ma"²⁵, and then wrote, "Everyone who is exempt from kiryat sh'ma is exempt from tefillin"²⁶, a statement which recalls the language of the mishnah in Berachot, and also reinforces the notion of inherent relation between these two. This is also an example of Maimonides' avoidance of the use of the "time-bound" principle. Although he definitely holds that tefillin are time-bound²⁷, he does not offer this as grounds for women's exemption.

Rashi's view is similar to that of Alfasi, but he is more definite regarding time: "...and tefillin are also a positive time-bound commandment since it holds that night and Shabbat are not proper times for tefillin".²⁸ The Tosafot do not disagree anywhere with the conclusion that tefillin are time-bound. However, they do find persuasive reasons why they should be worn at night, while stopping short of actually advocating such a practice.²⁹ Such considerations, however, do not affect women's exemption from tefillin, for Tosafot is aware that the connection to talmud Torah applies even if the time-bound definition does not.³⁰

There were some Rishonim who attempted to prohibit the wearing of tefillin by women. Rashi, as shown in Chapter II, held that for them to do so would be a violation of bal tosif. One Tosafist disagreed, but argued instead that the reason for prohibiting tefillin to women is that "tefillin require a clean body, and women are not diligent in taking care that they are clean...".³¹ R. Isaac Or Zarua who, it will be remembered, forbade women to blow the shofar even while agreeing with Rabbenu Tam that women may perform time-bound obligations, also found a reason to forbid women to put on tefillin: "...and similarly, it is forbidden for women to wear tefillin, even without a blessing, because it resembles the way of the sectarians who transgress the words of the sages and do not want to interpret Scripture as they do".³² The Tur, however, merely notes that women are exempt from wearing tefillin.³³ In general, for all authorities under consideration here, the particular question of women wearing tefillin was subsumed under the larger question of women performing any time-bound obligation.

Chapter IV

Tzitzit

Tzitzit was not definitely established as a time-bound obligation by either the Tannaim or the Amoraim. The proper applicability of the mitzvah seems to have been a long-standing dispute, as indicated by this mishnah: "The school of Shammai exempts a sadin from fringes; the school of Hillel requires that it have them".¹ Tzitzit, of course, were originally attached not to a special garment but to the tallit, the large cloak which served as the standard all-purpose external garment. A poor person would wear the tallit all day and use it to sleep in at night, but a wealthier individual could afford a separate covering for sleep, the sadin, or sheet.

Whether or not this sheet required fringes continued to be a matter of dispute. A baraita repeats the mishnah cited above and then continues, "and the law is according to the words of the school of Hillel".²

Another baraita contradicts it, however:

As it is taught: "And you shall see it" (Num.15:39) -- this excludes a night garment. Do you say this excludes a night garment or does it mean rather, this excludes the garment of a blind person? When Scripture says, "with which you cover yourself" (Deut.22:12) this refers to a blind person's garment. Then how do I understand "and you shall see them?" This excludes a night garment. And how could you see to include a blind person's garment and to exclude a night garment!? I include a blind person's garment, for others see it; and I exclude a night garment, since others do not see it.³

There is no doubt that the position of the school of Hillel is that tzitzit are not time-bound, for in their view, one should wear them all the time. The opposing view, however, is not so clearly defined. Why does the school of Shammai object to putting fringes on a night garment? Perhaps it is somehow disrespectful to put them on a garment used only to sleep in. The baraita seems to indicate that one should not put fringes on a garment which is never "seen" -- but in that case, is the determining factor the time or the garment? It is not clear.

Numerous sources hold tzitzit to be a non-time-bound obligation, as was seen in Chapter I.⁴ In these texts, this represents the majority opinion, and is always quoted either anonymously or in the name of "the sages". Virtually all dissent from this position is voiced by one individual, R. Simeon bar Yohai. "R. Simeon exempts women from tzitzit because it is a positive time-bound commandment".⁵ R. Simeon's reasoning draws on the position of the long baraita above: "R. Simeon said to them: Don't you agree with me that it is a positive time-bound commandment, since night garments are exempt from tzitzit?"⁶ R. Simeon understands time as the determining factor in this exemption, not the type of garment.

R. Simeon, of course, is the Tanna who enunciates the principle of women's exemption from time-bound obligations, the principle, which later appears anonymously in the Mishnah. "R. Simeon exempts women from tzitzit since it is a positive time-bound commandment and women are exempt. This is the general principle said R. Simeon: all positive time-bound commandments apply to men and not to women, to the fit and not to the unfit?"⁷

R. Simeon bar Yohai's comment is followed by one by R. Judah ben Baba, a fellow sage as well as disciple of R. Akiba. R. Judah ben Baba said: "In particular the sages exempted a woman's veil from tzitzit, and did not require them on her cloak but for the fact that there are times when her husband covers himself with it".⁸ Apparently R. Judah also holds that women are exempt from tzitzit, but they must have fringes on those garments of theirs that their husbands may use at some time. Thus, tzitzit is not a woman's obligation; it is a man's obligation, and therefore any garment which he wears -- including his wife's tallit -- must have tzitzit. For this reason, the veil was exempt, since a man would never wear a woman's veil. R. Judah seems to agree with R. Simeon, but he explains why it is that a woman's tallit must have fringes even though women are exempt from wearing them.

The Amoraim appear to have gravitated toward the position of R. Simeon, though without stating so explicitly. This trend was promoted by a number of factors. First, the time-bound principle became a part of the Mishnah, and so assumed greater authority as time went on. Second, there was more than one exegesis of the phrase "and you shall see it", and one of them, that this excluded night garments, could be understood to mean that fringes should not be worn at night. Third, tzitzit were the subject of the third paragraph of the sh'ma, and were thus related to other mitzvot from which women were exempt.

There are indications of this trend in both Talmuds. In the Palestinian Talmud, this comment follows the account of R. Simeon's disagreement with the sages over tzitzit: "R. Hila said: The rabbis'

reason is that this is so [i.e., that night garments require fringes] if he used them both during the night and during the day. Then they require fringes".⁹ R. Hila has explained away the disagreement between R. Simeon and the rabbis. In general, he implies, the rabbis agree that bedclothes do not require fringes, but they do require them if one uses the garment both during the day and at night. The conclusion to be inferred is that daytime is the determining factor in the wearing of tzitzit.

The Babylonian Talmud shows the change much more clearly. In the Tosefta and the Palestinian Talmud, a baraita appears in which tzitzit is listed as an example of a non-time-bound obligation, a classification to which R. Simeon's opposition is recorded.¹⁰ But in the Babylonian Talmud, the same baraita appears as follows: "Our rabbis taught: What is a positive time-bound commandment? One such as sukkah, lulav, shofar, tzitzit, and tefillin. And what is a positive non-time bound commandment? One such as mezuzah, maakeh, aveidah, and shiluach ha-ken".¹¹ No doubt this change crept in during the oral transmission of the baraita, as it reflected actual practice.

Another example from the Babylonian Talmud is the tale of R. Judah bar Ilai, who used to prepare himself for Shabbat by washing himself and putting on his sadin with its fringes, in which he "resembled an angel of Lord of Hosts". But when his students would come to him on Friday evening with their fringeless garments:

he said to them: "My sons, have I not taught you thus: 'The school of Shammai exempts a sadin from fringes; the school of Hillel requires that it have them; and the law is according to the words of the school of Hillel'?" But they reasoned that it was a rabbinic prohibition because of night garments.¹²

This anecdote reveals yet another reason why tzitzit came to be considered time-bound. According to the Torah, the tzitzit must include a thread of techeilet, which is understood to be wool dyed blue.¹³ But the Torah also forbids shaatnez, the wearing of linen and wool together.¹⁴ Therefore the rabbis had to be concerned with the fabric of the garment from which the tzitzit were hung. The sadin, which was made of linen, was accordingly exempt from tzitzit by the school of Shammai. The school of Hillel, on the other hand, declared shaatnez inapplicable to tzitzit, reasoning that the command to wear fringes and the prohibition of shaatnez were enunciated in adjacent verses¹⁵ specifically to teach that fringes could be made of mixed linen and wool. A sadin, however, was solely a night garment, and as such was completely exempt from tzitzit because of the requirement of u-r'item oto, "and you shall see it". A person wearing a fringed sadin at night was therefore violating shaatnez, since wearing that garment at night was in no way part of the mitzvah. Consequently, the rabbis exempted all garments worn at night from having fringes, in order to prevent someone from fringing a linen garment which turned out to be worn at night, and thus violating shaatnez. It was this rabbinic prohibition to which R. Judah bar Ilai's student adhered.¹⁶ One can see that time is not the single overriding factor in this prohibition; the type of garment still seems to be the heart of the matter. But the prohibition creates a situation in which fringes are not worn at night at all, making tzitzit a

de facto time-bound obligation.

Following this trend, Alfasi classified tzitzit as a positive time-bound commandment. For this purpose he quoted a baraita: "'Our rabbis taught: All are obligated to wear tzitzit -- priests, Levites, and Israelites, proselytes, and manumitted slaves. R. Simeon exempts women because this is a positive time-bound commandment, and women are exempt'. And we follow R. Simeon".¹⁷ It is noteworthy that Alfasi's version of this baraita, unlike the Talmud's¹⁸, does not include women in the initial list of those obligated to wear tzitzit. This omission strengthens R. Simeon's position. According to Alfasi, R. Simeon classifies tzitzit as a time-bound obligation because of the exclusion of night garments: "What is R. Simeon's reason? As it is taught in a baraita: 'And you shall see it' -- this excludes a night garment".¹⁹ The intermediate step of shaatnez drops out of consideration, for Alfasi's explanation equates the exemption of night garments with the exemption of any garment worn at night.²⁰ Tzitzit become time-bound de jure, instead of just de facto.

Maimonides' position resembles that of Alfasi. Tzitzit are not to be worn at night because of the stipulation "and you shall see it", which means, he says, that they are to be worn only "during the time of seeing".²¹ Furthermore, he holds that "Women, slaves, and minors are Toraitically exempt from tzitzit".²² In this ruling, Maimonides goes beyond Alfasi. Originally, only R. Simeon held that tzitzit were time-bound, while the sages ruled that they were to be worn at all times and on all garments, except on a garment worn exclusively at night. Later sages enacted a prohibition against wearing tzitzit on any garment at night, lest one accidentally violate shaatnez. Alfasi codified this rabbinic prohibition

by classifying tzitzit as time-bound. Finally, Maimonides declared tzitzit to be not rabbinically, but Toraitically, time-bound, ignoring the question of shaatnez.

This new definition of tzitzit as time-bound according to the Torah has the result of removing it even further from the realm of women's mitzvot. Maimonides ruled that "Women and slaves who wish to wear tzitzit may do so without reciting a blessing. And the same is true for all positive commandments from which women are exempt".²³

Rashi does not explicitly state anywhere that he considers tzitzit to be a time-bound obligation. However, the trend toward it being time-bound is so strong in both the Talmud and in the Tosafot that it is difficult to imagine that Rashi would have held otherwise. One would expect such an unusual position to be expressed or quoted by some other source. Since it is not, then it seems that Rashi also accepted R. Simeon's view.

Did Rashi permit women to wear tzitzit? That he forbade women to wear tefillin is known²⁴, and one might extrapolate from that to tzitzit. In a gloss related to Maimonides' permissive ruling allowing women to wear tzitzit as long as they did not recite the blessing, however, the Hagahot Maimuniot writes, "and thus Rashi forbade them to bless".²⁵ This implies that Rashi's position and Maimonides' position were the same. Perhaps Rashi recognized the ambiguous status of tzitzit, as opposed to a definite time-bound mitzvah such as tefillin, and so did not consider the wearing of tzitzit by women to be a violation of bal tosif.

The Tosafists were very well aware of the various considerations involved in determining whether tzitzit was a time-bound obligation.²⁶ They, of course, hold that it is. But unlike the Mishneh Torah, the Tosafists seem to have an awareness that tzitzit were not Toraitically time-bound. One comment even ascribes the designation of tzitzit as a time-bound obligation to the Gemara:

"It was a rabbinic prohibition because of the question of night garments". Since the anonymous Gemara uses this reason to explain the prohibition and not the reason of "lest he tear it", this implies that we follow R. Simeon, who exempts night garments in Menachot [43a] and so it implies also in Berachot [14b] ...that all agree that the mitzvah of tzitzit is not operative at night and therefore women are exempt from it...²⁷

This is a recognition of the trend of Amoraic thought as discussed above.

One other aspect of the relation of women and tzitzit bothered the Tosafists. If the principle of "All who are included in sh'mira [i.e., the negative commandments of Shabbat] are included in z'chira [i.e., the positive commandments of Shabbat]" could be used to obligate women to recite or hear kiddush, and if the same reasoning could link chametz and matzah, then why not do the same for tzitzit?²⁸ It says at the end of Deuteronomy 22:11, "You shall not wear shaatnez", and the very next verse begins, "You shall make fringes for yourself". Since women are obligated not to violate the shaatnez prohibition, why should they not be obligated to wear fringes? The answer given by both the Tosafot and by Nahmanides is phrased strictly in terms of midrashic hermeneutics: "But here we have already interpreted these two adjacent verses to mean that it is permitted to wear

linen and wool when wearing fringes; so therefore we must leave the ruling concerning women according to the general principle of positive time-bound commandments..."²⁹ Such a response often seems to indicate that the answer is a foregone conclusion and the exegesis is only added to confirm it.

All of the arguments concerning the time-bound nature of tzitzit are rehearsed by Rabbenu Asher in several places, but he has no doubt, of course, that it is a time-bound obligation from which women are exempt.³⁰ His son Jacob ben Asher wrote in the Arba'ah Turim as follows:

A blind man is obligated to wear tzitzit, but women and slaves are exempt...and Maimonides, may his memory be for a blessing, wrote that they may wear tzitzit but without saying the blessing. And he follows his opinion, which holds that women may not recite the blessing for something from which they are exempt. But R. Tam, may his memory be for a blessing, wrote that they may bless even though they are exempt; but it is better that they not bless.³¹

The Tur cites both the Ashkenazic and North African traditions and then, as noted in Chapter II, states a preference for Maimonides' position.

R. Nissim explains clearly and succinctly why it is that tzitzit are time-bound: "...and the answer is that even though a night garment is also exempt from tzitzit during the day, even so a day garment is exempt at night, For there is never any obligation until two conditions have been met: there must be a garment which is intended to be seen, and it must be during the - time of seeing..."³²

R. Nissim, however, as shown in Chapter II, studied the Tosafist tradition as it had filtered into northern Spain from Provence. It was he who upheld the position of Rabbenu Tam that women may perform any time-bound mitzvah and recite the blessing, from which one can infer in this case that R. Nissim permits women to wear tzitzit and to recite the blessing. He thus stands in opposition to R. Jacob ben Asher's position in the Tur. R. Jacon was the son and student of a leading Tosafist, but his code was directed toward Sefardic Jewry, among whom the practices prescribed by Maimonides had already gained currency. Thus, the Tur preserves all opinions but supports what is locally practiced, while R. Nissim maintains the permissive option without apparent regard to current practice.

One may discern an overall progression from Tannaitic to Rishonic pronouncements, in which women were gradually dissociated from the mitzvah of tzitzit. This process was carried forward by the increasingly formal identification of tzitzit as a time-bound obligation, and by the fact that it was apparently not the general practice for women to wear tzitzit.³³ No doubt these two factors were interdependent. Those Rishonim who maintained, at least theoretically, women's ability to perform these mitzvot, maintained their ability to wear tzitzit. Those who limited women's actions in general did so also with regard to tzitzit. In this way, tzitzit resembles both shofar and tefillin.

Chapter V

Megillah, Pesach, and Tefillah

The obligation of women regarding the reading of the Scroll of Esther ("megillah") is a disputed question in Tannaitic and Amoraic literature. The Mishnah states, "All are fit to read the megillah except for a deaf person, a mental incompetent, and a minor..."¹, a statement which finds a close parallel in the Tosefta: "All are obligated in the reading of the megillah..."². But while the Mishnah does not specifically mention women at all, the Tosefta adds that "Women, slaves, and minors are exempt and do not fulfill others' obligations for them."³

The Amoraim recognized the inherent link between women and Purim which would mandate their inclusion in its observance. "Bar Kappara said: It is necessary to read it i.e., the megillah before women and children, for they were also in danger. R. Joshua ben Levi did this: he assembled his children and his entire household and read it before them".⁴ Bar Kappara was a contemporary of R. Judah Ha-Nasi, while R. Joshua was a second generation Amora in Palestine.

R. Joshua ben Levi provides the definitive formulation of the rule regarding women and the megillah: "R. Joshua ben Levi said: Women are obligated in the reading of the megillah, for they also were included in that miracle".⁵ R. Joshua's statement lies within the parameters of the time-bound principle. As a post-Mishanaic formulation, it explains why women are obligated, when according to the Mishnah they would ordinarily be exempt. His statement is also a direct contradiction of the Tosefta, phrased in the same language as the Tosefta.

R. Joshua's statement appears in the collection of baraitot at the beginning of tractate Arachin in the Babylonian Talmud, where it is interpreted by the Gemara to mean that women are not only obligated to hear the megillah read, but that they may also read it for other people:

"All are obligated in the reading of the megillah";
"All are fit to read the megillah" -- What is added
[by the formulation "all?"] It adds women. And
this is like [the saying of] R. Joshua ben Levi who
said: Women are obligated in the reading of the megillah
for they also were included in that miracle.⁶

These sources clearly establish the obligation of women to hear the megillah read on Purim. But the Rishonim are quick to notice that there are actually two issues involved in megillah: the obligation to hear it and the ability to read it for others. It is clear from all sources except the Tosefta that women are obligated to hear the megillah read. Only the Mishnah, however, states clearly that it is talking about reading, and it does not mention women, although the Gemara in Arachin 3a presumes that it includes them. It is on the question of the obligation of women to read the megillah that the debate amongst the Rishonim centers.

Alfasi quotes the memra of R. Joshua ben Levi, but gives no hint of what it means to him.⁷ Maimonides, however, definitely indicates that women may read the megillah for anyone, including men:

The reading of the megillah in its proper time is a positive commandment according to the words of the scribes. And the matter is known to be an enactment of the prophets. And all are obligated in its reading -- men, women, proselytes, and manumitted slaves... Both the reader and the one who hears the reader read have fulfilled their obligation, as long as he [i.e., the hearer] hears it from one who is obligated in its

reading. Therefore if the reader was a minor or a mental incompetent, one who hears it from him has not fulfilled his obligation.⁸

Maimonides notes that megillah is a rabbinic, not a Toraitic obligation, a consideration which, no doubt, makes it easier to place the obligations of men and women on an equal basis here.

Rashi's understanding of the baraita in Arachin matches Maimonides' conclusion: "'To include women' -- who are obligated in the reading of the megillah and are fit to read it and to fulfill men's obligation for them".⁹

Tosafot, on the other hand, retreat sharply from this permissive stand. Regarding R. Joshua ben Levi's reason for their inclusion, "that they also were included in that miracle", the Tosafist in Megillah comments:

Rashbam [R. Samuel ben Meir, R. Tam's brother] explained [that this means] that the essential part of the miracle was by their hands: On Purim by Esther, on Hanukah by Judith, and on Pesach that they were redeemed through the merit of the righteous women of that generation. But this is a problematic explanation, for the phrase "that they also" implies that they were superfluous. His explanation would require that the text say "that they". Therefore it seems to me that "they were also in danger" is a better way of understanding this comment...¹⁰

This rejection of women as integral to the miracle of Purim has practical ramifications, for it decreases the strength of women's claim on reading the megillah.

Another Tosafot contrasts Rashi's position with that of the Halachot Gedolot, which bases its view on the Tosefta. Quoting the Halachot Gedolot

Tosafot says:

"Women, slaves, and minors are exempt from reading the megillah". This is the language of the Tosefta, but the Halachot Gedolot adds, "but they are obligated to hear it, since all were in danger of destruction... Therefore one must understand here that women may only fulfill the obligations of other women by reading the megillah, but not men. And [the baraita in Arachin] means that women [may read for other women]...¹¹

Tosafot sides with the Halachot Gedolot against Rashi. This is a strange reversal, considering R. Tam's strong views permitting women to perform mitzvot which his grandfather had forbidden them. One wonders why Rashi chose to disagree with the Halachot Gedolot in this case.

R. Isaac Or Zarua, so conservative with regard to shofar and tefillin, maintains Rashi's position: "Women, slaves, a tumtum, and an androgyne are all obligated to read the megillah, and it seems to me that they may fulfill others' obligations for them..."¹²

Rabbenu Asher adheres to the position of the Tosafot, but emphasizes that one should not think that women need a man to read for them, a stance which is reminiscent of his encouragement to women to blow shofar. He explains the passage in Arachin, that "All are fit", to mean "so that you would not say that women can only fulfill their obligation through the more important reading by men. This teaches us that a woman may [read for] her companions".¹³

The Hagahot Maimuniot cannot reconcile the Tosafists with Maimonides.

He lists all the sources exempting or limiting the obligation of women, and contrasts them with the passage from Arachin, which he understands to mean that women may read for anyone. He concludes, "and so it appears that this and not the limited view is the opinion of our rabbi the author i.e., Maimonides -- for he only excluded a deaf person, a mental incompetent, and a minor from reading".¹⁴

The tension between these two strongly held positions, that women may read for men and that they may only read for themselves, is evident as late as the Tur and R. Nissim Gerondi. The former does not actually venture his own opinion, but instead cites others which represent his inclination:

All are obligated in the reading of the megillah...and women are also obligated in its reading. And Rashi explained that they fulfill men's obligations for them, but in the Halachot Gedolot it says that although they are obligated to read the megillah they [may not read] for men. And in the Bet Ha-Behira it says that it is only logical that just as women have their own zimmun and do not join [with men] for the grace after meals, so here also they should not join...¹⁵

R. Nissim also apparently joins in the trend toward the position of the Halachot Gedolot. After citing both Rashi and the Halachot he explains that the latter requires women only to hear and not to read the megillah, as shown by the example of R. Joshua ben Levi, who read to his household. And although he realizes that it is not certain that only hearing is required, still he sides with the Halachot: "and this is not clear, but it is proper to pay attention to these words and to be strict".¹⁶

There is a reluctance here to agree to an halachic position which is not universally acceptable and may, therefore, be wrong. The limits of R. Nissim's flexibility in this issue have already been set, and he has only to align himself with one party or another. He chooses the position which limits women's participation because it is safer. There are no halachic objections, just unused halachic possibilities.

The obligations of women on Pesach became more numerous as the Seder ritual itself grew more complex. There are almost no Tannaitic references to the particular obligations of women on this festival. The general principle is, "One who is included in the command to eat matzah is included in the prohibition of eating leaven".¹⁷ Women's obligation to observe Pesach was probably not even an issue in the early part of the rabbinic period, for how could anyone imagine, for purely practical considerations, that women would continue to eat chametz while the men had to eat matzah?

R. Eliezer reversed this principle to prove that "women are obligated by the Torah to eat matzah"¹⁸, a position which was endorsed by the Gemara with the Tannaitic proof that women are equally obligated to observe all prohibitions in the Torah.¹⁹ This seems to have been accepted without question.²⁰

In addition, the rabbis expected women's presence and participation in the Seder: "R. Joshua ben Levi said, women are obligated to drink four cups of wine, for they also were included in that miracle".²¹ The importance of the festival outweighed its time-bound nature. (As Rashbam noted, women were integrally related to the miraculous aspect of the festival). In the question of reclining, however, other social

values seem to have carried the day. The anonymous Gemara states, "A woman who is with her husband need not recline, though an important woman should recline".³² Reclining was the symbol of freedom and honor, and, as the Gemara so often notes elsewhere, a married woman is not completely free. This distinction between the sexes even at a time when both are under equal obligation is reinforced for later generations by the comment in the Sheiltot, "It is not the practice for women to recline".²³

The Rishonim are united in their view that men and women are equally obligated to drink four cups of wine. Although this is a time-bound obligation, it is only of rabbinic origin, as R. Joshua ben Levi stated.

Both Alfasi and Maimonides preserve the notion that an important woman should recline.²⁴ Amongst the Ashkenazim, Rashbam explains that "A woman need not recline, since she is subject to her husband and fears him. And in the Sheiltot it explains that it is not the practice for women to recline".²⁵ By the time of Rabbenu Asher, this comment is understood to mean that there was a dispute between the views of Rashbam and R. Ahai Gaon. R. Asher understands that according to Rashbam, a widow or divorced woman must recline, while according to R. Ahai, even these do not but only an "important woman". The Shiltei Ha-Giborim perceives the same dispute but concludes that R. Ahai holds that no woman should recline.²⁷ The Tur, however, after recording both sides of this dispute, concludes with his father that widows, divorced women, and important women do recline.²⁸ R. Jacob further prescribes that men and women are equally obligated not only concerning the four cups but also "in all the mitzvot of that night, such as matzah and maror."²⁹

Tefillah, the private and individual recital of petitionary prayer, is nowhere defined as a time-bound obligation in any of the Tannaitic, Amoraic, or Rishonic sources here considered.

The Mishnah lists tefillah as one of the mitzvot to which women, slaves, and minors are obligated, along with grace after meals and mezuzah.³⁰ Both Talmuds stress the importance of tefillah for everyone, since it is supplication for God's mercy³¹ and "everyone should ask for mercy for themselves."³² The Babylonian Talmud adds that this is not a time-bound obligation, even though it may appear so.

Alfasi confirms women's obligation: "Tefillah...because it is a positive non-time bound commandment, and women are obligated to perform all such commandments."³³ Maimonides states explicitly that neither the number, the form, nor the time of prayer are determined by the Torah, and "therefore women, slaves, and minors are obligated to pray, since it has no fixed time..."³⁴ This is also the opinion of Rashi.³⁵

Tosafot does not disagree with Rashi, but does mention two qualifications. One is that women are exempt from reciting Hallel on Sukkot, which is also rabbinically ordained but is time-bound.³⁶ The other is that "'One hundred women resemble two men' -- for the purpose of a gathering for prayer and for the purpose of anything requiring ten..."³⁷ These qualifications refer to public worship and the recital of the Eighteen Benedictions three times daily, obligations which are defined

by almost all the Rishonim as being outside a woman's purview.

R. Jonah Gerondi³⁸, Rabbenu Asher³⁹, and the Tur⁴⁰, all confirm women's obligation to tefillah, although the latter does not explain that it is not time-bound.

Chapter VI
Talmud Torah

Although the study of Torah is not a time-bound obligation, there was never any question that women were exempt from both studying and teaching. "'And you shall teach them to your sons [b'neichem] (Deut.11:19)' --'your sons' and not your daughters".¹ This exegesis appears so many times in Tannaitic and Amoraic literature that there can be no possible doubt of its complete acceptance. Girls and women were simply not included in the educational process by which the Torah tradition was transmitted. It was specifically a father's responsibility, and not a mother's, to ensure that sons were educated.²

Women were specifically included by the Torah in the mitzvah of hakhel, the seventh-year public reading of the Torah, but this is not the same thing as talmud Torah, and certainly by rabbinic times it was in any case only an academic question. Even so, R. Eleazar ben Azariah could not imagine that women would or could actually learn Torah at this public reading. Projecting what he himself knew back to the scene of this assembly, he explains, "Assemble the people men, women, and children (Deut.32:12) -- the men came to study, the women came to listen, and the children came...to bring a reward to those who brought them".³

Although women were not required to study, and apparently did not study the Oral Torah (with the exception of Beruriah), some must have been literate in the Written Torah, for the following statement appears concerning the public reading of the Torah on Shabbat: "All may go up as part of the seven[readers], even a minor and even a woman; but the sages said a woman should not read the Torah because of the honor of the congregation".

This is, however, unrelated to the mitzvah of study.

What became for most later authorities the key passage concerning women and talmud Torah is found in tractate Sotah. At issue is the suspected adulteress, whose guilt or innocence is determined in a trial by ordeal, the drinking of the bitter waters.

Certain merits may hold punishment in suspense...; hence ben Azzai says: A man ought to give his daughter a knowledge of the Law so that if she must drink [the bitter water] she may know that the merit [that she had acquired] will hold her punishment in suspense. R. Eliezer says: If any man gives his daughter a knowledge of the Law it is as though he had taught her lechery. R. Joshua says: A woman has more pleasure in one kab with lechery than in nine kabs with modesty.⁵

The comments of Ben Azzai and R. Eliezer are clearly not intended here in a legal sense, and are not to be taken literally. Rather they are expressing two vastly different reactions to the woman's ordeal, and by implication, two attitudes toward women in general. Ben Azzai, a lifelong bachelor, has compassion even for the woman guilty of illicit relations. A father should protect his daughter by teaching her some Torah, since the merit of her learning will at least postpone the horrible punishment she deserves. R. Eliezer, on the other hand, maintains that that would merely enable women to commit adultery with impunity. The gratuitous remark by R. Joshua reinforces R. Eliezer's statement by portraying women as creatures who are preoccupied with sex. The implication is clear: there will be no end to a woman's sexual depravity if she knows she can "get away with it", so don't aid and abet her by teaching her! In this fashion women were not only formally excluded from study but an attitude was formulated which denigrated women and actively discouraged those who were learned, i.e. men, from teaching them.

The Gemara raises only one question concerning the exemption of women from the non-time-bound obligation of talmud Torah. It asks why an analogy should not be drawn from mezuzah to talmud Torah to obligate women and responds that the analogy holds true only in the second paragraph of the sh'ma⁶, whereas the analogy between tefillin and talmud Torah holds true in both paragraphs.⁷ Such an artificial rationale is sufficient only because the answer is a foregone conclusion.

Alfasi reproduces a detailed Talmudic exegesis showing the complete dissociation of women from all aspects of this mitzvah.

[One of a father's obligations to his son is] "to teach him Torah" -- from where do we learn this? As it is written, "And you shall teach [ve'limad'tem] them to your sons". And if his father has not taught him, he is obligated to teach himself, as it is written, "And you shall learn [ve-lamad'tem]". And from where do we learn that she [i.e., a mother] is not obligated to teach [her son?]. As it is written, "And you shall learn", "And you shall teach" -- one who is obligated to learn is obligated to teach, and one who is not obligated to learn is not obligated to teach. And from where do we learn that she is not obligated to learn? As it is written, "And you shall teach", "And you shall learn" -- one whom others are obligated to teach is obligated to learn, and one whom others are not obligated to teach is not obligated to learn. And from where do we learn that others are not obligated to teach her? Scripture says, "And you shall teach them to your sons" -- "your sons" and not your daughters.⁸

Maimonides puts it more succinctly: "Women, slaves, and minors are exempt from the study of Torah...And a woman is not obligated to teach her son, for [only] one who is obligated to learn is obligated to teach".⁹ Maimonides acknowledges the lesser merit that does accrue even to one who is not obligated to a mitzvah but performs it. However, he does not approve of it in this case:

And even though she receives a reward for study, the sages commanded that a man should not teach his daughter Torah, for the majority of women do not have minds fit to be educated, but they turn words of Torah into vain talk, according to the paucity of their minds. The sages said that if one teaches Torah to his daughter, it is as if he had taught her lechery. This was said concerning only the Oral Torah, but a man should not teach her the Written Torah a priori. If he does, however, it is not like teaching her lechery.¹⁰

This comment clearly betrays Maimonides' own tendency: women are fundamentally incapable of the serious intellectual effort required for talmud Torah. This view was, no doubt, reinforced by the fact that few, if any, women ever received enough education in his day and age in order to prove him wrong. The situation is analogous to those Christian rulers in Europe who subjected Jews to every sort of disability and then pointed to their "degenerate" life style as proof that Jews could never live as normal human beings.

It is the way in which Maimonides validates his prejudice which is so striking. He has transformed the mishnah from Sotah by removing R. Eliezer's words from their original semi-aggadic context and granting them an halachic status. It is as if someone were to conclude from Mishnah Peah 1:1, that one was legally exempted from all the mitzvot listed there if one engaged in talmud Torah. R. Eliezer's statement is hyperbolic and non-halachic, representing an attitude toward the mishnah's actual topic of concern; but Maimonides has transformed this statement into an actual gezerah, a rabbinic prohibition, against women's education. Where R. Eliezer's concern was "lechery", and the fear of condoning sexual immorality, Maimonides has substituted his own idea that women are basically mentally incompetent. Furthermore, the Mishnah gives no indication of

a preference for either ben Azzai or R. Eliezer and neither, for that matter, does the Gemara in Sotah 21a-22a. Maimonides has chosen R. Eliezer's position -- supported by women's exemption from talmud Torah, of course. The only loophole Maimonides allows is that men are not to be condemned after the fact if they teach women Scripture. Thus he lays the foundation for an attitude toward the education of Jewish women which persists to this day.

The question of women's education does not seem to have been of great concern to the Ashkenazic Rishonim. One does not find dissension from the principle of exemption from talmud Torah, but neither does one find the expression of an attitude such as Maimonides'. It is popularly reported, in fact, that Rashi's daughters (he had no sons) not only married their father's most distinguished students but were themselves educated. Rashi himself notes in one of his responsa that he is ill, and his daughter is reading the correspondent's question to him and recording the response.¹¹ If one may extrapolate from comments on shofar (see Chapter II) and grace after meals (see Chapter VII), in which it is clear that women participated in these mitzvot, then it is possible to surmise that some women, at least, attained some degree of Jewish learning in Ashkenaz.¹² Maimonides, on the other hand, was much more liberal than the Tosafists in his inclusion of women as equals in the reading of the megillah. One wonders if this was really so, or whether he could write such a thing because the matter was purely an academic one.

The Tur notes that "it is a positive obligation on every [male] Israelite to teach his son Torah...but he is not obligated to teach his daughter,

for we understand 'to your sons' to mean 'and not to your daughters!..' ¹³

There are no comments here which call to mind the words of R. Eliezer
or of Maimonides.

Chapter VII

Birkat Ha-Mazon

Opinions are divided amongst the Tannaim concerning women's obligation to recite birkat ha-mazon, the grace after meals. Since this is not a time-bound obligation, one would expect there to be no question about women's inclusion in it. That there is conflict over it, therefore, is enlightening, for out of the debate one may learn a great deal about how the rabbis perceived the roles of the sexes relative to each other and to the Torah.

There are actually two issues included in the question of grace after meals as the Tannaim see it. One is the question of whether or not women are obligated to recite it at all; the other is whether or not women may make up all or part of a zimmun, the quorum of three necessary for the public recital of the grace.

Concerning the first question, the Mishnah states, "Women, slaves, and minors are...obligated to pray, to affix a mezuzah, and to recite the grace after meals".¹ The Tosefta, on the other hand, asserts just as categorically that "Women, slaves, and minors are exempt [from reciting the grace] and do not fulfill others' obligations for them".² A baraita confuses the issue with the ambiguous declaration that "In truth they said: a son may recite grace for his father, and a slave for his master, and a woman for her husband. But the sages said: let a curse fall upon a man whose wife and children must recite for him [i.e., because he is ignorant]".³ The Mishnah and the Tosefta flatly contradict each other,

but the implications of the baraita are not clear. It may mean, in accordance with the Mishnah, that a woman is obligated to say grace and therefore she can say it for her husband if he does not know it. Or it may mean, in accordance with the Tosefta, that a woman is exempt, but even so in contrast to the Tosefta, she may recite for her husband if he cannot do it himself. Then the baraita would seem to be saying that if a man doesn't know the grace, he may call upon any of these three of his dependents to recite it for him. Such an interpretation leads to difficulty, however, since the rabbis held very strongly that "One who is not obligated in a matter cannot help others to fulfill their obligations in it".⁴ Thus, the Tannaitic sources leave the question of women's obligations unresolved, though we may assume that the view of the Mishnah was preferred over that of the Tosefta.

Opinions are even more mixed concerning the question of zimmun. The Mishnah excludes women, slaves, and minors from the zimmun altogether.⁵ A baraita states that "Women form their own zimmun and slaves form their zimmun. Women and slaves and minors who wish to form a zimmun together may not".⁶ It is unclear whether this baraita considers zimmun optional or mandatory for women, but the Gemara at the beginning of tractate Arachin understands it to mean that it is mandatory: "'All are obligated to form a zimmun' -- What is added [by the formulation 'all']? It adds women and slaves, as it is taught, 'Women [must] form their own zimmun and slaves [must] form their own zimmun'".⁷ The phrase "All are obligated to form a zimmun" does not appear anywhere else in its entirety, making it impossible to know if it does indeed include women.

The Babylonian and Palestinian Talmuds develop differing positions with regard to women's obligation to say grace. The Palestinian Talmud simply explains that women are obligated, "as it is written: 'You shall eat and be satisfied and bless the Lord your God (Deut.8:10)'".⁸ There is no question that women must say grace, since they have eaten.

The Babylonian Talmud, however, departs radically from the Mishnah. The language of the Mishnah in Berachot 3:3 does not imply any special limitation or qualification of women's three obligations, nor does the initial explanation by the Gemara make any. But then a discussion of women's obligation to say kiddush is brought in, in which Abaye and Rava debate whether the obligation is Toraitic or rabbinic. The discussion is then carried over to the grace after meals: are women obligated to say grace as a Toraitic obligation, or is it only a rabbinic enactment? The question is whether women's obligation to say grace is the same as that of men, who are assumed to be definitely obligated by the Torah. What would prompt such a question on the part of the Gemara? Nowhere is there any claim that grace after meals is a time-bound obligation, nor is there any indication that the Gemara's question stems from the Tosefta's exemption of women. There is one answer: the very raising of the question indicated a pre-existing sentiment for an affirmative response, meaning that there were some Amoraim who perceived a difference between men and women in relation to this mitzvah. But for what reason?

The answer may lie in another discussion elsewhere in the Talmud in which the Amoraim discuss the requisite form and content of the grace. "R. Ilai siad that R. Jacob bar Aha said in the name of our Rabbi [Judah Ha-Nasi] : Everyone who does not mention the covenant of circumcision and Torah...has not fulfilled his obligation".⁹ These are matters unrelated to women, who neither are obliged to study Torah nor are circumcised. If one feels that mention of these mitzvot are essential to the grace, then it may appear, as a consequence, that women have a weaker connection to this obligation. Alternatively, it may be that as the grace grew more and more complex in structure and content, only learned people -- or those whose obligation it was to be learned -- could be expected to say it properly. Or perhaps, like the segregated zimmun, it reflects the separation of the sexes to the point where some male scholars almost automatically extended the separation into any and all realms.

As an attempted solution to the question of the level of women's obligation, the Gemara offers the baraita discussed earlier, that a woman may recite for her husband. Its purpose here is to show that the obligations of men and women are presumably equal, as proven by the ability of a woman to recite grace for her husband. The Gemara, however, casts doubt on that proof by interpreting the baraita to refer to a very limited situation: an instance when both have eaten less than the minimum for which the Torah requires grace. In that case, both are only obligated rabbinically, and so she may recite for him.

There the matter rests. The Gemara failed to resolve the question, for there are two possible conclusions to be derived from this sugya. One is to say that the only reason the woman could say grace for her husband was because his limited obligation in this case matched hers, which is always limited. The second conclusion is to say that the baraita deals only with a case where both are obligated to a limited extent, and it says nothing about a woman's possible Toraitic obligation. A third possibility rejects the Gemara's limited interpretation of the baraita and uses the baraita as proof that women are Toraitically obligated. All three possible understandings of this passage are supported by various Rishonim.

The Talmud is equally inconclusive regarding zimmun. As already noted, the passage in Arachin 3a concludes that women are obligated to form a zimmun; but the passage in Berachot 45b holds that it is always a voluntary act on their part: "For even one hundred women resemble two men in that they are not obligated to constitute a zimmun".¹⁰

Alfasi eliminates all discussion of Toraitic and rabbinic obligation, stating only that "Prayer, mezuzah, and grace after meals...are non-time-bound positive commandments, and women are obligated to do non-time-bound positive commandments".¹¹ This implies that he views their obligation as Toraitic. Perhaps the Palestinian Talmud influenced his thinking. Also in line with the Palestinian position, he completely eliminates any mention of women forming even a voluntary zimmun. Alfasi does include

the baraita on a woman saying grace for her husband, but only in its place in Sukkot 38a, not in Berachot 20b. In the context of the sugya in Sukkot, however, the baraita is intended as a comment on Hallel, not grace after meals.

Maimonides represents accurately the ambiguous conclusion of the sugya in Berachot 20b: "Women and slaves are obligated to recite the grace after meals. But there is a question whether they are Toraitically obligated, since it has no fixed time, or whether they are not. Therefore they do not fulfill the obligation of adult [males]".¹² It is interesting that while he offers a reason for a possible Toraitic obligation, there is no corresponding reason to support only a rabbinic objection. The Talmud offered no reason, Maimonides offers no reason, Alfasi apparently ignored the possibility of mere rabbinic objection altogether -- and yet this groundless doubt is now of sufficient weight to prevent women from occupying an equal position with regard to this non-time-bound obligation to which the Mishnah obligates them without question. A woman may say grace for a man only when they have both eaten less than the Toraitic minimum.¹³ Speaking realistically, very seldom do people sit down to eat and consume less than an egg's or an olive's volume of food. Thus, this rule effectively prevents women from ever saying grace for a man.

As regards zimmun, Maimonides states that women may form their own. However, even if there are ten of them or more, they may not use the formula which includes mention of God's name in it.¹⁴ Thus he further limits women's permitted participation in this mitzvah.

Rashi is the first early commentator to provide a rationale for women's obligation to say grace being a rabbinic one. While women might be Toraitically obligated because of the absence of a time limitation, they may be only rabbinically obligated "because it is written, ['And you shall eat and be satisfied and bless the Lord your God] for the good land which He has given you', and the land was not given to the women to be apportioned".¹⁵ Whether this is his own final decision cannot be said for certain.

Rashi concurs with the baraita in Berachot 45b that women may form their own zimmun, but they may not mix with slaves or minors. He also notes that they may not mix with free adult males to form a zimmun: "But two women or two slaves may not join with two men because what applies to the men does not apply to women and slaves, for women do not mention the covenant [of circumcision] and slaves do not mention 'our portion [of land]'.¹⁶ The prohibition is Mishnaic, but an explanation for it appears only in Rashi's commentary. Furthermore, his comment indicates that it was actual practice for women's version of the grace to differ slightly from that of the men, reflecting the difference in their obligations.

Finally Rashi encourages women to form their own zimmun. Three women have more reason than two men to form a zimmun, since "even though they are not obligated, in [this] voluntary matter three minds [i.e., women] are more strongly expected to thank [God publicly] than are two men."¹⁷

Tosafot are inclined to maximize women's obligations regarding grace.

In contrast to all previous interpretations, the Tosafists' comment understands the case of a woman reciting grace for her husband as referring to an instance when the men and the women had both eaten enough to be Toraitically obligated.¹⁸ The Tosafist continues by stating that this does not necessarily mean that women are Toraitically obligated in general since after all, they may not be part of a zimmun. This represents a unique joining of the two essentially separate questions of grace and zimmun. The writer concludes that grace may be analogous to megillah: "for women are obligated to it, but Halachot Gedolot explained that women do not fulfill men's obligations in megillah".

Another Tosafot takes issue with several reasons for defining women's obligation as only rabbinic. Refuting Rashi's statement that women were not given land, it notes that priests and Levites also received no land, yet their obligation is Toraitic. As for the claim that one must mention brit and Torah, neither of which applies to women, Tosafot simply asks:

Since they [i.e., women] cannot mention brit and Torah, [does this make their obligation] only rabbinic? Or shall we say that [precisely] because [mention of these things] is inapplicable to them their obligation is clearly Toraitic, and that what is written later on [that one must mention these in order to say a proper grace] is [only] dealing with men, to whom this provision is applicable?¹⁹

There is little doubt that Tosafot intended this as a support of women's Toraitic obligation. Implicit in the question is a recognition of the fact that while the rabbis are responsible for the particular form of the grace, as shown by the discussion in Berachot 45b, the Torah commands the

grace obligation in general. This obligation is universally applicable.

Zimmun, however, remained optional for the Tosafists, despite several expressions of intention to make it mandatory. For example:

This implies that women may constitute their own zimmun, and thus did the daughters of R. Abraham, the son-in-law of Rabbeinu Judah, at their father's behest. And yet this is not the common practice, and it is problematic that people do not do thus, for when it says "[women] form their own zimmun", it implies that they are obligated to do so.²⁰

The rest of this comment, however, goes on to demonstrate that a women's zimmun is not mandatory. In order to prove this, however, the Tosafist must reconcile Berachot 45b and Arachin 3a by explaining away the latter: "And when it says at the beginning of Arachin that 'All are obligated to form a zimmun -- to include women' -- this refers to a voluntary matter, not an obligatory one". This is sheer sophistry; the meaning of the text in Arachin 3a is clearly that women must form a zimmun of their own, a practice which Tosafot does not want to demand. Perhaps the Tosafot were merely reflecting what was already established as the social pattern. This pattern seems indicated by another comment which states that "our women rely on this as proof that they need not form a zimmun".²¹ (Does this mean that there were women who were familiar with the sources, or did they only rely on what they were told?).

Tosafot raise an interesting question for the first time: could a woman fulfill her obligation to say grace just by hearing the men's recital if she didn't understand Hebrew? This question may indicate

that there were some women who did understand and some who did not, and that these latter were a concern. However, it probably says that very few women in Ashkenaz knew Hebrew, but the Tosafists' strong sense of universal obligation to this mitzvah made it imperative that women say grace in a meaningful way. The Tosafists do not solve this problem conclusively, but they lean strongly to the side of requiring women to hear or recite grace in a language which they understand.²² The opinion of the Hagahot Maimuniot, however, is that they need not understand.²³

R. Abraham ben David of Posquieres in his glosses to the Mishneh Torah strongly disputes its author's contention that the baraita in Berachot 20b refers to a meal too small to be Toratically liable for saying grace:

...and this [baraita] does not mean what [Maimonides] said it means, and we do not accept [his] halachic decision, for we hold that eating even the volume of an olive or an egg [obliges one to say grace] according to the Torah. For [after eating only that much] one can [recite grace] for those who have eaten to satiety. [The view that one who eats an olive's or egg's worth is only rabbinically obligated] is only the opinion of R. Avera.²⁴

As this discussion shows, there was at this point in time a fair amount of latitude in fixing the meaning of the Gemara, and the Rishonim were often sensitive to the differences between what an Amora had said and what was recorded anonymously. In this manner, R. Abraham distinguished elsewhere between the attempt to interpret the baraita to mean only a rabbinic obligation, which he ascribed to Rabina, and the correct halachic decision to be made regarding grace, which he says favors Rava's position:

"But the halacha in this sugya is as described by Rava...and to this sugya it certainly makes no difference whether he ate an olive's worth or to satiety; a slave or a woman may fulfill his obligation".²⁵

This latter comment of R. Abraham was written in response to his contemporary, R. Zerahiah Halevi, who had already written in his commentary to Alfasi's Halachot that the Gemara did not answer the question of women's obligation, and that therefore "she does not fulfill others' [i.e., men's] obligations for them, because it is possible that they [i.e., women] are only rabbinically obligated".²⁶ This position, identical to that of Maimonides, was later espoused by R. Isaac Or Zarua, the conservative Tosafist Hasid from Vienna.²⁷

Rabbenu Asher takes an interesting position in this debate. It is his opinion that women's obligation to say grace is only rabbinic,²⁸ but on the other hand, no matter what the level of their obligation is, they still must form a zimmun:

...And it seems to me that the text in Arachin 3a [means that women are] obligated, whether one likes it or not, since they are included in the formulation "All are obligated"...And also, since women are obligated to recite the grace, whether Toraitically or rabbinically, why shouldn't they be obligated to form a zimmun like the men?²⁹

Shiltei Ha-Giborim has compiled a list of some surprisingly liberal Tosafistic opinions, some of which do not appear elsewhere,³⁰ including the report that Rabbenu Tam and Rabbenu Asher both ruled that women and slaves may count as part of the zimmun of ten, a more radical step than

the mixed zimmun of three which R. Judah allows. At least one other Tosafist, R. Judah Ha-Cohen, even put this into practice, according to Shiltei Ha-Giborim: "...and R. Judah Ha-Cohen made it a regular practice to include women in the zimmun". The two dissenting opinions mentioned here are Maimonides and R. Meir of Rothenburg, the teacher of Rabbenu Asher. Finally, Shiltei Ha-Giborim notes that all authorities agree that women may fulfill their obligation by hearing the men's zimmun, but there is a dispute over whether or not it is necessary that women understand what they hear.

Nahmanides, a Spanish student of the Provencal-Spanish tradition, reaffirms the position of R. Abraham ben David in a long refutation of both Alfasi and the Baal Ha-Maor:

The author says: Does it not explain [in the Gemara] the "Prayer and mezuzah and grace after meals are positive non-time-bound commandments, and women are obligated to all positive non-time-bound obligations"? This implies that they are Toraitically obligated!... And in any case, we learn from the baraita saying "a woman recites grace for her husband" that women are Toraitically obligated to say grace... And the Palestinian Talmud also holds that women are Toraitically [obligated,] but we do not bring proof from there to here.³¹

Nahmanides' student and colleague, however, R. Jonah Gerondi, sides with Alfasi and R. Zerachiah, holding that women's obligation is only rabbinic, and for that reason they may not recite for men. R. Jonah raises another difficulty, however: if women may not recite for men even if both have eaten, then how can a man who has eaten less than the quota specified for Toraitic obligation recite grace for other men who have? R. Jonah's

response is that:

[the two cases] are not alike. For a man, even though he has eaten nothing, should logically fulfill others' obligation who have eaten, for all of Israel are responsible for each other. He is responsible for them and must save them from transgression by helping them fulfill their obligations; but a woman is not at all within the scope of this responsibility...³²

Here is the crux of the matter. R. Jonah stands with Alfasi, Rashi, Maimonides, and R. Zerahiah Halevi in asserting that there is a fundamental, a priori difference between the obligation of men and the obligation of women to recite the grace after meals. Regardless of the non-time-bound principle, these authorities found reasons to posit an inherent limitation in women's obligation to recite this blessing. These reasons stem from women's limited relation to the mitzvot in general.

On the other hand, R. Jonah, like R. Asher, is insistent that women must form their own zimmun: "And it appeared to my master and teacher, may God bless and keep him, that they are obligated to form a zimmun, for the Gemara concludes that 'it is different there, for there are minds', which seem to mean that even though they are women, since they are three it is logical that they form a zimmun".³³ Furthermore, women may fulfill their obligation by hearing the men recite the grace, but only if they understand Hebrew.³⁴

Jacob ben Asher preserved a multiplicity of opinions in the Tur. He records R. Abraham ben David's strong affirmation of women's Toraitic obligation, as well as the Tosafists' view that Berachot 20b does not prove conclusively that women's obligation is only rabbinic.³⁵ He also

lists the variety of opinions on zimmun, whether required or optional , noting that his father held it to be required, but that this was not the practice in Ashkenaz. He mentions the practice of R. Judah Ha-Cohen and the opposition of R. Meir of Rothenburg.³⁶

Finally, R. Nissim of Gerona, writing a generation after the Tur, aligns himself with the position that women are Toraitically obligated to recite grace, as shown by the baraita in Sukkah 38a and Berachot 20b. If so, he asks, then why do the sages in the baraita end by condemning this practice? Says R. Nissim, they are objecting to the inclusion of a woman in the zimmun.³⁷

Chapter VIII

Conclusions

We stated in the Introduction that one of the goals of this thesis was to look for patterns of thought concerning women and time-bound mitzvot among Rishonim of common geographic and/or cultural origins. Such similarities, it was suggested, might be attributable to social, economic, or cultural factors in the surrounding environment which affected the status of women. In Chapters I and II, the hypothesis was proposed that the original criterion which determined a woman's obligation to or exemption from a given mitzvah was not the issue of time at all, but rather was a function of social circumstances. The analysis of Rishonic sources is, therefore, extension of this hypothesis.

From the sources studied here, no definitive pattern has emerged, but some trends have appeared, and it is possible to indicate what directions further research might take.

While it is true that the two north African authorities, R. Isaac Alfasi and Maimonides, are generally most restrictive, one cannot then categorize the restrictive position as "Sefardic" and the more permissive one as "Ashkenazic". Rashi's views concur almost completely with those of Alfasi and Maimonides. One cannot make any generalizations even at the points which they disagree.

The similarities among Alfasi, Rashi, and Maimonides lead to speculation concerning the relation to each other. It does not seem that two major early authorities in widely separated locations would agree with such consistency purely by chance. Perhaps both Rashi and Alfasi were each articulating a tradition attributable ultimately to a common source in Babylonia. Further research might clarify this question.

While Maimonides maintained the continuity of this tradition, his older contemporary, R. Jacob Tam, did not. R. Tam was an innovator in many areas of Jewish law, including laws relating to women. His ruling that women were allowed to perform time-bound mitzvot and to recite the blessings apparently had a precedent. Rashi offers it as an explanation of R. Jose's opinion on semicha, but it was R. Tam who gave this position authoritative backing. At this point, however, we cannot offer a specific reason for his willingness to take a liberal stance toward women. It is well-known that R. Tam was the author of many liberal halachic rulings which departed from precedent in order to ease the social and economic pressures on Jews in the twelfth-century France.¹ Perhaps his views on women and their religious role were also a product of his time and place, which was so very different from Babylonia. Conversely, perhaps the similarities between Baghdad, Fez, and Cairo account in part for Maimonides' lack of departure from earlier practices in this regard.

Whatever the reason, R. Tam's enormous influence over Ashkenazic and Provençal-Spanish jurisprudence is evident in this as well as in other areas.

Many of the Tosafot included in the printed page of the Talmud quote or paraphrase his views on women and time-bound obligations. Rabbenu Asher, writing some 150 years later, also bases himself firmly on R. Tam's argument, as does R. Nissim, one of the latest representatives of the northern Spanish school. Even R. Isaac Or Zarua, a disciple of the generally anti-female Ḥasidei Ashkenaz, accepted the ruling of R. Tam in principle, though he found ways to circumvent it.

On the basis of the work presented here, it is not possible to state to what extent the dominance of R. Tam's views in the Tosafistic literature reflects reality. The numerous references to the practice of women hearing the shofar or even blowing it themselves, for example, show definitely that this was a common practice in Ashkenaz. But the absence of references to women actually performing any other time-bound obligation from which they are exempt, leads one to wonder if the permission was not almost totally theoretical. The lack of indication that women took advantage of R. Tam's ruling does not mean, of course, that the rabbis were "anti-female", or that they unofficially prevented or dissuaded women from observing if they wanted. On the contrary, given Rashi's almost complete exclusion of women from the obligation of practice of time-bound mitzvot, the Tosafists' concern for women -- even if theoretical -- and their real concern at least for shofar and grace after meals, show some sensitivity toward women as people and as religious individuals. We must not forget that this was a society built on strong sex-role differences, and by no means can it be judged by modern standards of egalitarianism.

The debate over grace after meals illustrates this point. The Tosafistic literature examined here is full of references to individual rabbis and their actual practice. Again, R. Tam stands out in his willingness to count women even in the zimmun of ten; but others are named who include women in a zimmun of three, which is contrary to the Mishnah. Rabbenu Asher and others hold that women should not mix with the men, but that they ought to have their own obligatory zimmun. These men seem to have been slightly ahead of where their own women were, for one Tosafist notes that the women just won't do it. A further indication of respect for women's religious sensibilities is the requirement that women understand the grace in order to fulfill their obligation to recite it. Even R. Jonah Gerondi, who held that women were only rabbinically obligated to recite grace, required that they form a zimmun and that they recite grace in a language which they understood.

Oddly enough, megillah appears to run counter to all these trends. Alfasi, Maimonides, Rashi, R. Isaac Or Zarua, and possibly Rashbam all hold that women are equally obligated and may read for men -- but the Tosafists are unanimous in restricting them to reading for other women! Perhaps the former are adhering to what might be called a "strict constructionist" view. The Talmud does clearly classify megillah as a rabbinic obligation, like the Hanukah candles and the four cups on Pesach, and consistency would require that women be obligated. But in ruling thusly, these authorities contradict the more restrictive decision of the Halachot Gedolot, a work widely regarded as containing the authoritative tradition because of its relative age and Geonic authorship. A solution to this puzzle may appear in further research.

The liberalism of R. Tam and the conservatism of Maimonides are contrasted most visibly in 14th century Spain, in the work of R. Jacob ben Asher and of R. Nissim. R. Jacob collected a wide variety of Ashkenazic and Sefardic opinions in the Tur. Where his own point of view appears it often tends toward conservatism: he omits any explicit affirmation of women's right to perform any positive time-bound commandments, and he comments that it is better that they not recite the blessing (whether over tzitzit, or over all time-bound commandments is not clear), and implies that women should not read the megillah for men. The somewhat restrictive position taken by the Tur is underscored by a comparison with R. Nissim of Gerona who, some 50 years later, actually supplements R. Tam's position with a new idea of his own, defending women's full access to positive time-bound commandments.

In short, while a pattern of opinion does emerge here which reflecting the internal dynamics of the halachic tradition over a period of three centuries, there is not sufficient conclusive evidence to attribute differences of opinion to influences arising from varying cultural milieus.

There is no clearly defined line of demarcation for example between the opinions of Jews in Christian countries and those of Jews in Moslem countries. Alfasi and Maimonides are both conservative and lived in Moslem lands; but Rashi, R. Isaac Or Zarua, and the Tosafist who wrote the Hagahot Maimuniot were all Ashkenazim, not contemporaries, and yet were equally conservative. The scholars of Provence were supposedly somewhat liberal

because of their relatively cosmopolitan environment, while R. Tam may have come from what was still not a big city even by 12th century standards; yet it was he who was the radical innovator.

Nor does any single authority emerge as one who consistently maximizes or minimizes women's role in performing mitzvot. All authorities are sometimes permissive and sometimes restrictive. The modern feminist question of the role of women in Judaism cannot be merely read back and superimposed on the halacha of the early middle ages.

The importance of bringing this material together lies chiefly in two areas. First, it raises numerous questions for further research. If one wishes to come to an understanding of how the halacha has defined and prescribed the role of Jewish women in "ritual" or "religious" life, one must not only be aware of the views of the major authorities, but must also understand them in their individual historical contexts. It is also essential to examine the social and historical circumstances in which each halachic ruling was promulgated, in order to gain insight into why such a decision was reached. For those for whom women's increased participation in the mitzvot discussed here is a priority, it is of particular importance to study figures like Rabbenu Tam or R. Judah Ha-Cohen, to discover how and why they made their decisions.

Secondly, this material provides an interesting and necessary counter-

balance to the halacha of the Shulchan Aruch. The Shulchan Aruch's compiler Joseph Karo, was a Sefardic Jew, writing for the Sefardic world, and was heavily influenced by Maimonides. Karo's codification tends to preserve the stricter rulings propounded by the Rishonim we studied. His code was later adapted for use by Ashkenazim by R. Moses Isserles, a Polish scholar, yet even in Isserles' glosses a conservative trend is visible.

Karo states simply that women are exempt from shofar, tefillin and tzitzit because they are time-bound.² Isserles preserves only a weakened version of the strong permissive attitude of R. Tam. Concerning shofar he writes: "And it is a custom for women to recite the blessings over positive time-bound commandments, and so they also bless in this case".³ Concerning the tzitzit he writes, "If they want to wear them and recite the blessing they are permitted, as with the other positive time-bound commandments. But it appears haughty and therefore they should not wear tzitzit".⁴ Here is an obvious case of social pressure influencing the halacha, a phenomenon which reappears in Isserles' comment on tefillin: "And if women wish to be stricter [and to take this obligation] on themselves, we prevent them". Without citing a reason other than "haughtiness", women are now excluded from two of the most visible time-bound obligations. It is simply wrong for a woman to enter the male sphere.

Karo quotes Maimonides' one liberal opinion, on megillah, but shows other influences when he adds, "But some say that women may not [read for] men".⁶

Isserles quotes an equally restrictive opinion from the Mordecai.⁷ Karo likewise follows Maimonides in that only "important women" recline at the Seder,⁸ to which Isserles responds by quoting the Mordecai as saying, "And all our women are called important",⁹ but then adding that it is no longer the practice for any woman to recline.

The Shulchan Aruch also follows Maimonides in the ambiguous nature of women's obligation to recite the grace after meals, on which Isserles makes no comment, thus signifying his concurrence.¹⁰ The same holds true for Karo's ruling on zimmun, to which Isserles adds that women are obligated to have a zimmun when they eat with men -- but they may fulfill that obligation by listening to the men, even without understanding.¹¹

Finally, Karo repeats in toto Maimonides' strident statement barring women from talmud Torah. Isserles moderates this somewhat: "But in any case a woman is obligated to learn those laws which apply to women".¹²

In short, the conservative trend of later authorities is evident. The widespread acceptance of the Shulchan Aruch led to the elimination of many options for women, and reinforced an increasingly anti-female attitude. The sources collected and discussed in this thesis underscore the limited perspective of the Shulchan Aruch and the Aharonim. By their existence they provide hope that the fuller participation of women in Jewish life today will become a reality.

AND AFFIRMATIVE PRECEPTS LIMITED TO TIME, WOMEN ARE EXEMPT. Whence do we know it?—It is learned from phylacteries: just as women are exempt from phylacteries, so are they exempt from all affirmative precepts limited to time. Phylacteries [themselves] are derived from the study of the Torah: just as women are exempt from the study of the Torah, so are they exempt from phylacteries. But let us [rather] compare phylacteries to *mezuzah*?⁴—Phylacteries are assimilated to the study of the Torah in both the first section and the second;⁵ whereas they are not assimilated to *mezuzah* in the second section.⁶ Then let *mezuzah* be assimilated to the study of the Torah?⁷—You cannot think so, because it is written, [*And thou shalt write them upon the mezuzah of thine house...*] *That your days may be multiplied*.⁸ do then men only need life, and not women!

But what of *sukkah*, which is an affirmative precept limited to time, as it is written, *ye shall dwell in booths seven days*,⁹ yet the reason [of woman's exemption] is that Scripture wrote *ha-ezrah*,¹⁰ to exclude women,¹¹ but otherwise women would be liable?—Said Abaye. It is necessary: I would have thought, since it is written, *ye shall dwell in booths seven days*, 'ye shall dwell' [meaning] even as ye [normally] dwell [in a house]: just as [normal] dwelling [implies] a husband and wife [together], so must the *sukkah* be [inhabited by] husband and wife!¹²—But Raba said, [34b] It is necessary [for another reason]: I might have thought, we derive [identity of law from the employment of] 'fifteen' here and in connection with the Feast of unleavened bread:¹³ just as there, women are liable, so here too. Hence it is necessary.

But what of pilgrimage,¹⁴ which is an affirmative command limited to time, yet the reason [of woman's exemption] is that Scripture wrote, [*Three times in the year all thy males shall appear before the Lord thy God*],¹⁵ thus excluding women; but otherwise women would be liable?—It is necessary: I would have thought, we learn the meaning of 'appearance' from 'assembling'.¹⁶

Now, instead of deriving an exemption from phylacteries, let us deduce an obligation from [the precept of] rejoicing?¹⁷—Said Abaye: As for a woman, her husband must make her rejoice.¹⁸ Then what can be said of a widow?¹⁹—It refers to her host.²⁰

Now, let us learn [liability] from [the precept of] 'assembling'?—Because unleavened bread and 'assembling' are two verses [i.e., precepts] with the same purpose,²¹ and wherever two verses have the same purpose, they cannot throw light [upon other precepts].²² If so, phylacteries and pilgrimage are also two verses with one purpose,²³ and cannot illumine [other precepts]?—They are both necessary: for had the Divine Law stated phylacteries but not pilgrimage, I would have thought, let us deduce the meaning of 'appearance' from 'assembling'.²⁴ While had the Divine Law written pilgrimage but not phylacteries, I would have reasoned, Let phylacteries be assimilated to *mezuzah*.²⁵ Thus both are necessary.²⁶ If so, unleavened bread and 'assembling' are also necessary?—For what are they necessary? Now, if the Divine Law stated 'assembling' but not unleavened bread, it were well:²⁷ for I would

argue, let us deduce 'fifteen', 'fifteen', from the feast of Tabernacles.²⁸ But let the Divine Law write unleavened bread, and 'assembling' is unnecessary, for I can reason. If it is incumbent upon children,²⁹ how much more so upon women! Hence it is a case of two verses with the same purpose, and they cannot throw light [upon other precepts].

Now, that is well on the view that they do not illumine [other cases]. But on the view that they do, what may be said?³⁰ Furthermore, [that] affirmative precepts not limited to time are binding

upon women; how do we know it? Because we learn from fear:³¹ just as fear is binding upon women, so are all affirmative precepts not limited to time incumbent upon women. But let us [rather] learn from the study of the Torah?³²—Because the study of the Torah and procreation³³ are two verses which teach the same thing,³⁴ and wherever two verses teach the same thing, they do not illumine [others]. [35a] But according to R. Johanan b. Beroka, who maintained, Concerning both [Adam and Eve] it is said, *And God blessed them: and God said unto them, Be fruitful and multiply*,³⁵ what can be said?—Because the study of the Torah and redemption of the firstborn are two verses with one purpose, and such do not illumine [others]. But according to R. Johanan b. Beroka too, let procreation and fear be regarded as two verses with one purpose,³⁶ which do not illumine [other cases]?—Both are necessary. For if the Divine Law wrote fear and not procreation, I would argue. The Divine Law stated, [*Be fruitful, and multiply, and replenish the earth, and conquer it*]: only a man, whose nature it is to conquer, but not a woman, as it is not her nature to conquer.³⁷ And if Scripture wrote 'procreation and not fear, I would reason: A man, who has the means to do this [*sc.* to shew fear to his parents] is referred to, but not a woman, seeing that she lacks the means to fulfil this:³⁸ and that being so, she has no obligation at all.³⁹ Thus both are necessary. Now, that is well on the view that two verses with the same teaching do not illumine [others]: but on the view that they do, what can be said?⁴⁰—Said Raba. The Papunians⁴¹ know the reason of this thing, and who is it? R. Aha b. Jacob. Scripture saith, *And it shall be for a sign unto thee upon thine hand, and for a memorial between thine eyes, that the Torah of the Lord may be in thy mouth*:⁴² hence the whole Torah is compared to phylacteries: just as phylacteries are an affirmative command limited to time, and women are exempt, so are they exempt from all positive commands limited to time.⁴³ And since women are exempt from affirmative precepts limited to time, it follows that they are subject to those not limited to time.⁴⁴ Now, that is well on the view that phylacteries are a positive command limited to time: but what can be said on the view that they are not?⁴⁵—Whom do you know to maintain that phylacteries are an affirmative precept not limited to time? R. Meir. But he holds that there are two verses with the same teaching, and such do not illumine [others].⁴⁶ But according to R. Judah, who maintains that two verses with the same teaching illumine [others], and [also] that phylacteries are a positive command limited to time, what can be said?—Because unleavened bread, rejoicing [on Festivals], and 'assembling' are three verses with the same teaching,⁴⁷ and such do not illumine [others].⁴⁸

NOTES

Introduction

1. There are questions of women's halachic status which are not discussed here, such as women serving as witnesses; they fall into the realm of what would be called in Western terminology "civil" law, as opposed to the subject at hand, which falls entirely into the area of "religious" law. The fact that women are at a disadvantage in non-religious areas of Jewish law is, I believe, a reflection of social conditions and both cause and effect of their limited role in religious matters.

Chapter I: Tannaitic and Amoraic Sources

1. Kiddushin 1:7: וְכָל מִצְוָה שֶׁהָיָה עָלֶיהָ לִשְׁמֹרֶת
וְכָל מִצְוָה שֶׁהָיָה עָלֶיהָ לִשְׁמֹרֶת
וְכָל מִצְוָה שֶׁהָיָה עָלֶיהָ לִשְׁמֹרֶת

See also T. Sotah 2:8.

2. Sifre Bamidbar 115; T. Kiddushin 1:10; Y. Kiddushin 1,7; Menachot 43a.

3. T. Kiddushin 1:10: לכבוד ה' נצטו עשר שנים ויחיהו כבוד
ה' ויחיהו כבוד ה' ויחיהו כבוד
ה' ויחיהו כבוד ה' ויחיהו כבוד
ה' ויחיהו כבוד ה' ויחיהו כבוד

See also Y. Kiddushin 1,7 and Kiddushin 33b-34a.

4. This paper does not deal with the obligations of slaves and minors, or their relation to the obligations of women.

5. Berachot 3:3.

6. Berachot 3:3; Mekilta de-Rabbi Ishmael, Bo 17; T. Kiddushin 1:10; Y. Kiddushin 1.7; Kiddushin 33b-34a.

7. Sukkah 2:8; T. Sukkah 1:1; Sukkah 2b, 28a; T. Kiddushin 1:10; Y. Kiddushin 1:7; Kiddushin 33b-34a.

8. T. Kiddushin 1:10; Y. Kiddushin 1,7; Kiddushin 33b-34a.

9. Ibid. and Rosh Hashanah 33a.

10. Hagigah 1:1: and Hagigah 4a.

11. Sukkah 3:10.

12. See n. 2.

13. T. Megillah 2:4.
14. Berachot 3:3.
15. Ibid.
16. Ibid.
17. Sifra, Kedoshim 1; Kiddushin 1:7; T. Kiddushin 1:11.
18. See n. 2.
19. T. Kiddushin 1:10; Y. Kiddushin 1,7; Kiddushin 33b-34a.
20. Pesachim 43b.
21. Sifra, Aharei Mot 7:9.
22. Y. Megillah 2,5.
23. Y. Berachot 3,3.
24. Kiddushin 1:7 and T. Kiddushin 1:11.
25. T. Berachot 5:18.
26. Eliakim Ellinson, Ha-Ishah Veba-Mitzvot, Jerusalem, Ha-Mahlakah Le-Hinuch Ule-Tarbut Torani'im Ba-Golah Shel Ha-Histadrut Ha-Tzionit Ha-Olamit, second edition, 1977, pp. 31-32.
27. As in, for example, S.R. Hirsch's commentary to Leviticus 23:43: "God's Torah takes it for granted that our women have greater fervour and more faithful enthusiasm for their God-serving calling, 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 [i.e., positive time-bound obligations] to remain true to their calling, and warnings against weaknesses in their business lives." — S.R. Hirsch, The Pentateuch, vol. III, translated by Isaac Levy, London, L. Honig and Sons Ltd., 1958, p. 712.
28. The famous baraita in Megillah 23a reflects this attitude. The public reading of the Torah is neither a time-bound obligation nor a fulfillment of talmud Torah, and yet women are not to read. The concept of kevod ha-tzibur, "the honor of the congregation", is a product of social circumstances.
29. R. Judah's reference to the sukkah of Queen Helena (see n. 7) indicates nothing about the usual observance of Sukkot by women. Queen Helena was such an atypical figure that she cannot be regarded as a reliable standard.

30. Y. Berachot 3,3:

וְעַתָּה מִיָּד נִתְּנָה לָנוּ אֱלֹהֵינוּ
וְעַתָּה מִיָּד נִתְּנָה לָנוּ אֱלֹהֵינוּ
וְעַתָּה מִיָּד נִתְּנָה לָנוּ אֱלֹהֵינוּ
31. Berachot 7:1.
32. Berachot 20b.
33. Pesachim 108a.
34. Shabbat 23a.
35. Megillah 4a and Arachin 2b-3a.
36. Y. Megillah 2,5.
37. Kiddushin 34a.
38. Ibid.
39. Ibid.
40. Kiddushin 34a-35a.
41. For example: 1) the analogy of tefillin and talmud Torah -- Y. Berachot 3,3; 2) the exegesis of ha-ezrach to exempt women from sukkah -- Sukkah 28a; 3) the exegesis of zechurcha to exclude women from pilgrimage -- Hagigah 4a; 4) on reverence for parents (mora) -- Kiddushin 30b; 5) the exegesis of Ex. 13:9-10 with reference to tefillin -- Baba Kama 54b; 6) on tefillin as a non-time-bound obligation -- Eruvin 96b.
42. Kiddushin 33b-34a.
43. See Ch. VII, n. 4.
44. Eruvin 95a-96b and Kiddushin 34a-35a.
45. Y. Berachot 2,3.
46. As shown by the version of the baraita in Kiddushin 33b-34a.
47. Kiddushin 35a.
48. Berachot 20b.
49. Pesachim 108a.
50. See n. 34.

9. Rashi, Rosh Hashanah 33a, s.v. and
הוא נשאל על ידי ר' יוחנן
10. Hagahot Maimoniot, H. Tzitzit 3:9 ad loc.
11. Bet Ha-Behira, Eruvin 96a:
ועל ידי ר' יוחנן נראה שיש להבין
12. Tosafot, Eruvin 96a, s.v. הוא נשאל על ידי ר' יוחנן
13. Rashi, Eruvin 96a, s.v. הוא נשאל על ידי ר' יוחנן
14. Tosafot, Rosh Hashanah 33a, s.v. הוא נשאל על ידי ר' יוחנן
15. There is actually no proof that all three of Rashi's daughters were educated. Since one of them knew Hebrew, however (see Ch. VI, n. 11), it seems likely that all three were, being from the same family.
16. Tosafot, Eruvin 96a, s.v. הוא נשאל על ידי ר' יוחנן
17. See n. 14 and n. 16.
18. Note the complete identification of the dispute over semicha with the question of shofar, and the further extrapolation of this identification to cover all positive time-bound commandments from which women are exempt.
19. Kiddushin 31a: הוא נשאל על ידי ר' יוחנן

10. Hagahot Maimuniot, H. Tzitzit 3:9 ad loc.

11. Bet Ha-Behira, Eruvin 96a:

12. Tosafot, Eruvin 96a, s.v.

13. Rashi, Eruvin 96a, s.v.

14. Tosafot, Rosh Hashanah 33a, s.v.

15. There is actually no proof that all three of Rashi's daughters were educated. Since one of them knew Hebrew, however (see Ch. VI, n. 11), it seems likely that all three were, being from the same family.

16. Tosafot, Eruvin 96a, s.v.

17. See n. 14 and n. 16.

18. Note the complete identification of the dispute over semicha with the question of shofar, and the further extrapolation of this identification to cover all positive time-bound commandments from which women are exempt.

19. Kiddushin 31a:

במלך ארבע מאות שנה אחר חורבן בית ראשון
 שחזרו על ארבע מאות שנה אחר חורבן בית ראשון
 למה בסוכה ארבע מאות שנה אחר חורבן בית ראשון
 במלך ארבע מאות שנה אחר חורבן בית ראשון
 שנה ארבע מאות שנה אחר חורבן בית ראשון
 חזרו ארבע מאות שנה אחר חורבן בית ראשון
 על חזון ארבע מאות שנה אחר חורבן בית ראשון

31. Rabbenu Nissim, Sefer Ha-Halachot, Rosh Hashanah 9b s.v. בס"נ
and Rabbenu Nissim, Sefer Ha-Halachot, Kiddushin 12b-13a,
s.v. בס"נ

32. Rabbenu Nissim, Sefer Ha-Halachot, Rosh Hashanah 9b, s.v. בס"נ
בס"נ

33. Rabbenu Nissim, Sefer Ha-Halachot, Kiddushin 12b, s.v. בס"נ
בס"נ

34. Ibid., 13a: בס"נ
בס"נ

35. Tur, Orah Hayyim 17: בס"נ

Chapter III: Tefillin

1. Mekilta de-Rabbi Ishmael, Bo 17: בס"נ
בס"נ

See also Eruvin 96a and Menachot 36b.

2. Ibid.

3. Eruvin 96a and Menachot 36b. In Mekilta de-Rabbi Simeon bar Yohai 13:10,
 however, it is R. Eliezer who holds thus, and R. Akiba who applies this
 passage to tefillin. But since the later tradition is virtually unan-
 imous in its perception that R. Akiba does not exclude nights, perhaps
 this source is in error.

4. Mekilta de-Rabbi Simeon bar Yohai 13:10: בס"נ
בס"נ

אין נוסחא דהורא דהורא דהורא דהורא דהורא
 נוסחא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

See also n. 1.

5. Eruvin 96a; Sukkah 11a; Menachot 36a, 43a.

6. Mishnah Shabbat 6:2 expressly forbids wearing tefillin on Shabbat.

7. Mekilta de-Rabbi Ishmael, Bo 17:

יבולא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

See also Y. Berachot 2,3.

8. Ibid.: דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

See also Eruvin 96a where, as in the Palestinian Talmud, the statement is added, "דלא מיהא דהורא דהורא".

9. Mekilta de-Rabbi Simeon bar Yohai 13:9: דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

10. Sifre Bamidbar 115.

11. Y. Berachot 2,3.

12. Shabbat 61a.

13. Menachot 36b.

14. Eruvin 10:1: דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

15. Shabbat 120a: דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

16. See Shabbat 62a; R. Nissim Gaon, Shabbat 61a, s.v. דהורא דהורא;
 Kiddushin 35a.

17. Kiddushin 34a: דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא
 דהורא דהורא דהורא דהורא דהורא דהורא

See also Y. Berachot 2,3. Another manifestation of the rabbis' dissociation of women from tefillin and talmud Torah is their exclusion of

- [illegible]

28. Tosafot, Menachot 43a, s.v. והיה כולו חטא:
29. Hidushei Anshei Shem, Alfasi, Halachot Ketanot 11a, n. 1: הכלל הוא דנשנין שני סובין
ולבן דין הנשיא נתיא איהו דלי כללן דכל מיד וכו'.
 See also Rabbenu Nissim, Sefer Ha-Halachot, Kiddushin 14b, s.v. הכלל
 20. הכלל מיד שכללן איהו.
30. Rabbenu Asher, Halachot Ketanot, H. Tzitzit, n. 1; Piskei Ha-Rosh, Alfasi, Halachot Ketanot 11a, s.v. כרע וקיל ביה and כרע וקיל ביה.
31. Tur, Orah Hayyim 17: סומא אייה גצ'צ'ית ונשיא ודבד'ם
באוריה...ובג'ה הרמיה צ'י שיג'צ'פו ג'לו ברב' והוא
הולך לשיטת פירש נשיא אין יכולת לארץ ג'צ'ר שן
באוריה סומא ח'ת צ'י' בג'ה שיכולת לארץ ארץ שן
באוריה ויורה לוח שנה יארכו.
32. Rabbenu Nissim, Sefer Ha-Halachot, Kiddushin 14b, s.v. הכלל:
הכלל דאיהו דכסוס לוח איהו נתיא פאר איהו כסוס יום ג'ל'ם
כאר דלוח'ם לוח מ'איה צ'י' דאיהו איהו כסוס ח'ת'ם לוח'ם
ובג'מן לוח'ם.
33. As shown by the comment of the Targum Jonathan (see Ch. III, n. 23).

Chapter V: Megillah, Pesach, and Tefillah

1. Megillah 2:4: הכל כשרין לקרית את המסילת אוף
מאיה שולח וק'ן.
2. T. Megillah 2:4: הכל אייהן בקריתא מ'סילת
3. Ibid.: נשיא ודבד'ם וק'ל'ם פארין וק'ן מ'סילת את הרב'ם וי'ת.
4. Y. Megillah 2,5: הר קבט'ם איהו צ'כ'י' לקריתא ל'כ'ן נשיא
וא'כ'ן ק'ל'ם שאל'ם ה'ו מס'ק ר'י יחוס'ד מן ל'י ד'כ'ר
מן מ'כ'נ'ס מ'נ'י ו'כ'ן מ'י'ת'ם וק'ר ל'י ק'מ'כ'ו'ן.
5. Megillah 4a: איהו ר'י יחוס'ד מן ל'י נשיא אייהו בקריתא
מ'סילת שאל'ם ה'ו מ'סילת ה'ס.
 R. Joshua made similar statements concerning the lighting of Hanukkah candles (Shabbat 23a) and drinking four cups of wine at the Seder (Pesachim 108a).
6. Arachin 2b-3a: הכל אייהן בקריתא מ'סילת ר'כ'ל כשרין
לקריתא את המ'סילת ל'איהו מ'סילת נשיא ודבד'ם
דאיהו ר'י'ת'ם נשיא אייהו בקריתא מ'סילת שאל'ם ה'ו
באוריה ה'ס.

17. Sifre Devarim 130: אלה שיהיה בקרבם אלוף
הוא גדל אצלם חנה
18. Pesachim 43a-43b: נשים אחרות האבילות מצה דבר אחר
19. Ibid.
20. It is mentioned by the Gemara in Kiddushin 34a and 34b as an exception to the time-bound principle.
21. Pesachim 108a: ואמר רבי יוחנן בן לוי נשים אחרות
האומות בוסות הוציאן מן הן הן האומות הנס
22. Ibid.: אשה אצל אשה לא גדלה חסידה ואם אשה
אחרת היא צריכה חסידה
23. Sheiltot de-Rav Ahai, Tzav n. 77: לא צריכה נשים למעלה
24. Sefer Ha-Halachot, Pesachim 23a and H. Hametz U-Matzah 7:8-7:9.
25. Rashbam, Pesachim 108a, s.v. חנני : אשה אלה צריכה חסידה
אחרת גדלה וכדומה לו וחברת האומות צריכה לא צריכה
נשים למעלה
26. Rabbenu Asher, Pesachim 10:20.
27. Shiltei Ha-Giborim, Sefer Ha-Halachot, Pesachim 23a, n. 2.
28. Tur, Orah Hayyim 472.
29. Ibid.: ... ואלו מצות הנקבות האלו ללך כשן מצה וחמץ
30. Berachot 3:3.
31. Berachot 20b.
32. Y. Berachot 3,3: בדי טמא כל האדם והוא מקרי טמא על דמיו
33. Sefer Ha-Halachot, Berachot 11b-12a: גמליהם... צריכה ליה מ"ד
טמא כשן טמא וכי מ"ד טמא כשן טמא נשים אחרות
34. H. Tefillah 1:1-1:2: ואיכך נשים ודברים אחרים גמלה לך טמא
מ"ד טמא כשן טמא
35. Rashi, Berachot 20b, s.v. . ואחריו גמלה
36. Tosafot, Berachot 20b, s.v. . גמלה כשן
37. Tosafot, Berachot 45b, s.v. : דמיו נשים כשן טמא
38. Rabbenu Jonah, Sefer Ha-Halachot, Berachot 11b, s.v. טמא טמא
גמלה

11. הנני צדור של המאמר נידון ב"סודי אולי ויחלף על דבר
דיווי ער הלא יד דמה למה גרציה מאמר לא כדור כי גר
באי ואכלה יד מלחמה גרל סופר ולכן גר קטל
מפי מדרש הלל ורואו כדור אל ארון...

— Sefer Ha-Pardes Le-Rashi, ed. H.L. Ehrenreich, Budapest, 1924, pp. 160-161.

12. R. Moses Isserles reports in his glosses to the Shulchan Aruch that the Sefer Mitzvot Gadol obligated women to study those matters which pertained to them (see Ch. VIII, n. 12). The author of the Sefer Mitzvot Gadol, R. Moses of Coucy, was one of the later French Tosafists from the school of Paris. This ruling, however, does not appear in editions of his work. Possibly this halacha was mistakenly attributed to him, or else he did say it elsewhere.

13. Tur, Yoreh Deah 245: איש על כל אחד ממשנה שלמה למה
מורה... ואין איש למה... למה דרשין למה ולא
למה גרמיה.

Chapter VII: Birkat Ha-Mazon

1. Berachot 3:3: נשים וצדיקים וקלנים... א"מין גרמיה ובמזבח
ובמזבח המזון.
2. T. Berachot 5:18: נשים וצדיקים וקלנים כדורין ואין מוציאין
אל המזבח יד אומות.
3. Berachot 20b: מאמר אמרו בן מדרש לאמר וצדק מאמר למה
ואמר מדרש לעדלל מאמר אמרו מבמה גמל מלמד
לאמר מאמר ואין מדרשין לו.
4. Rosh Hashanah כל שאינו מאמר מדרש אין מוציא את
המזבח יד אומות.
5. Berachot 7:1.
6. Berachot 45b: גיש נשים ומפניה לעצמן וצדיקין ומפניה לעצמן
נשים וצדיקים וקלנים אם יצו עצמן אין מפניהן.
7. Arachin 3a: הבל א"מין בפיון לאמר מאמר נשים
וצדיקים דמניא נשים מפניהן לעצמן וצדיקים מפניהן לעצמן.
8. Y. Berachot 3,3: דבר ג ואכלה וצדק ובמה את ה' אלהים.
9. Berachot 49a: מלך אצלל איש יצדק בר מאמר משום דמין כל
שלא אמר מדרש ולמד מדרש מאמר... לא יצו יד אומות.
10. Berachot 45b: וכל מאמר נשים כדור מדרשין דמין.

- [illegible]

אמרי סודו, בדי שבת וכל ימי חול המועד
אם צריך...

25. Hassagot Ha-Rabad, Sefer Ha-Halachot, Berachot 12a, s.v. בדין
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
26. Ha-Maor Ha-Katan, Sefer Ha-Halachot, Berachot 12a, s.v. : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
27. Shiltei Ha-Giborim, Sefer Ha-Halachot, Berachot 11b, n. 8.
28. Rabbenu Asher, Berachot 3:13.
29. Rabbenu Asher, Berachot 7:4: : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
30. Shiltei Ha-Giborim, Sefer Ha-Halachot, Berachot 33a, n. 2: : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
31. Milhamot Ha-Shem, Sefer Ha-Halachot, Berachot 12a, s.v. : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
32. Rabbenu Jonah, Sefer Ha-Halachot, Berachot 11b, s.v. : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
33. Rabbenu Jonah, Sefer Ha-Halachot, Berachot 33a, s.v. : וכל איש
...אם צריך... : וכל איש...
...אם צריך... : וכל איש...
34. Ibid.
35. Tur, Orāh Hayyim 186.
36. Tur, Orāh Hayyim 199.
37. Rabbenu Nissim, Sefer Ha-Halachot, Sukkah 19a, s.v. : וכל איש

Chapter VIII: Conclusions

1. "Rabbeinu Tam", unpublished paper by the author, submitted for a course at HUC-JIR, New York, 1976.
2. Shulhan Aruch, Orah Hayyim 589:3; 38:3; and 17:2.
3. R. Moses Isserles, Orah Hayyim 589:3: ואנכי שרשתי מדרבנא
על איך שיבאן סתם צ"ב
4. R. Moses Isserles, Orah Hayyim 17:2: ואני אמרתי דברי
ולפיכך דלוי הנהיג בידיהם - כלל איך שיבאן סתם
אין איש ביהמ"ד אין אין אין ללא צ"ב
5. R. Moses Isserles, Orah Hayyim 38:3: אין הנהיג דברי
למאן צ"ב דברי מין בידן
6. Orah Hayyim 689:2: ויש אומרים שרשתי אופן מביאם אה
הנהיג
7. R. Moses Isserles, Orah Hayyim 689:2.
8. Orah Hayyim, 472:4.
9. R. Moses Isserles, Orah Hayyim 472:4: יבא תיגא עלן מיקרי איהו
10. Orah Hayyim 186:1.
11. Orah Hayyim 199:6.
12. R. Moses Isserles, Voreh Deah 246:6: ואני אמרתי דברי
ואשר צ"ב דברי כ"כ ב"ב א"ב

BIBLIOGRAPHY

Books:

1. Danby, Herbert, The Mishnah, London, Oxford University Press, 1933.
2. Ehrenreich, H.L., ed., Sefer Ha-Pardes Le-Rashi, Budapest, 1924.
3. Ellinson, Eliakim, Ha-Ishah Veba-Mitzvot, Jerusalem, Ha-Mahlakah Le-Hinuch Ule-Tarbut Torani'im Ba-Golah Shel Ha-Histadrut Ha-Tzionit Ha-Olamit, second edition, 1977.
4. Hirsch, Samson Raphael, The Pentateuch, vol. III, trans. Isaac Levy, London, L. Honig and Sons Ltd., 1958.
5. Scholem, Gershom G. Major Trends in Jewish Mysticism, New York, Schocken Books, third revised edition, 1961.
6. Urbach, Ephraim E., Baalei Ha-Tosafot, Jerusalem, Mossad Bialik, 1955.

Manuscripts:

1. Friedman, Joan S., "Rabbenu Tam", unpublished paper, submitted for a course at Hebrew Union College-Jewish Institute of Religion, New York, 1976.

List of Rabbinic Texts and Commentaries Cited:

1. Mishnah
2. Tosefta
3. Mekilta de-Rabbi Ishmael
4. Mekilta de-Rabbi Simeon bar Yohai
5. Sifra
6. Sifre Bamidbar
7. Sifre Devarim
8. Palestinian Talmud
9. Babylonian Talmud
 - Rashi
 - Tosafot
 - Rabbenu Asher

10. Targum Jonathan
11. Sheiltot de-Rav Achai
12. R. Isaac Alfasi, Sefer Ha-Halachot
Hassagot Ha-Rabad (R. Abraham ben David)
Ha-Maor Ha-Katan (R. Zerahiah Ha-Levi)
Milhamot Ha-Shem (Nahmanides)
R. Jonah Gerondi
R. Nissim Gerondi
Shiltei Ha-Giborim (including R. Isaac Or Zarua)
13. R. Isaac Alfasi, Halachot Ketanot
Piskei Ha-Rosh (Rabbenu Asher)
Hidushei Anshei Shem
14. Maimonides, Mishneh Torah
Hassagot Ha-Rabad (R. Abraham ben David)
Hagahot Maimuniot
15. Yalkut Shimoni
16. Rabbenu Asher, Halachot Ketanot
17. R. Jacob ben Asher, Arba'ah Turim
18. R. Joseph Karo, Shulhan Aruch
Mapah (R. Moses Isserles)