Gender and Timebound Commandments in Judaism

The rule that exempts women from rituals that need to be performed at specific times (so-called timebound, positive commandments) has served for centuries to stabilize Jewish gender. It has provided a rationale for women's centrality at home and their absence from the synagogue. Departing from dominant popular and scholarly views, Elizabeth Shanks Alexander argues that the rule was not conceived to structure women's religious lives, but rather became a tool for social engineering only after it underwent shifts in meaning during its transmission. Alexander narrates the rule's complicated history, establishing the purposes for which it was initially formulated and the shifts in interpretation that led to its being perceived as a key marker of Jewish gender. At the end of her study, Alexander points to women's exemption from particular rituals (Shema, tefillin, and Torah study), which, she argues, are better places to look for insight into rabbinic gender.

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For my parents,
who came before

For my children,
who come after

For my husband,
who shared the journey
from here to there

Contents

Preface

Sometimes I call this book my "Smith book." My first teaching job out of graduate school was at Smith College, an elite liberal arts institution for women in New England. The largest major there was Women and Gender Studies, and the first class I was asked to teach was "Women in Rabbinic Literature." The class enrolled twenty-five students. A more prosaic "Introduction to Rabbinic Literature" registered only two. Clearly, Smith students had a passion for women's issues. I was glad to tailor my material to fit their interests. My training was in the hermeneutics of rabbinic literature, rabbinic theories of textuality, and text criticism. I saw my class on women as a backhand way to teach students the complex skills of decoding rabbinic texts. If students needed to hook into the material by connecting it to questions that were pressing to them in the contemporary world, so be it. My pedagogical goals could be achieved by doing a close reading of rabbinic texts on any topic. What I learned from teaching the course on women is the power of our contemporary questions. When people look at ancient texts through the lens of issues that matter today, their motivation to understand the foreign, the unfamiliar, and the esoteric increases exponentially. The truth of the matter is that very little distinguished the teaching objectives for my general introductory course from those of my course on women. The only significant difference between the two classes was the number of students I reached.

This book grows out of my experiences teaching women and rabbinic literature during my three years at Smith College. I was deeply moved by my students' enthusiasm for the material. This book exploits all that is positive in our contemporary interest in the social standing of women and the construction of gender. When teaching the course, however, I felt it vitally important to make sure the lens of student interest did not overdetermine our reading of rabbinic texts. We needed to balance our interest in gender with an understanding of the goals and purposes of the various genres of rabbinic writing. When

students read rabbinic texts too selectively for gender, they risked misinterpreting ancient gender. Precisely because I wanted my students to understand rabbinic gender in sophisticated ways, I wanted them to be patient and attend to the broader cultural and literary contexts within which rabbinic gender is constructed. Like my course at Smith, this book draws its energy from contemporary cultural debates about the role of women in society today, and in Judaism in particular. But also like my course, it steps back from questions of gender where appropriate to make sure we read the ancient sources in light of the most recent research on the goals and purposes of rabbinic writing.

This book grows out of my Smith course in another, very specific way. When I sat down to construct my syllabus, I was no expert on women or gender in rabbinic literature. I figured I should start the course by exposing students to the most well-known texts regarding rabbinic views of women. Experiences in traditional Jewish communities had exposed me to the rule that women are exempt from the so-called timebound, positive commandments (m. Kid. 1:7). Jewish women, like Jewish men, are generally obligated to follow the laws laid out in the Torah. There is, however, a small subset of commandments from which women are exempt. According to the rule, women are not required to do certain "positive" ritual actions (the "thou shalts" as opposed to the "thou shalt nots") that need to be performed at a specified time of the day, week, or year (the "timebound commandments"). Contemporary interpreters of the rule universally assume that the rule exempts women because of its understanding of the way that women differ from men. Whatever it is that makes women unique also makes it inappropriate to require women to perform these commandments. The most common contemporary explanation is that women are exempt from these commandments because they are not in complete control of their time. Women are generally burdened with the care of young children, a demanding duty that respects no external clocks. Since women must be available to their children when they need attention, it is not fair to require women to perform timebound religious obligations. On this interpretation, the rule is grounded in the rabbinic understanding of women as the primary caretakers of children. In my experience, Jewish women react to this interpretation of the rule in various ways. Some are grateful that Judaism acknowledges and makes allowances for the intense efforts they exert in the care of children. Others feel constrained by a tradition that limits their ritual participation on the basis of its perception that their primary role is as mothers and caregivers. Either way, contemporary Jews are using the rule to help them figure out what it means to be a Jewish woman today.

When I was putting together my syllabus, I recalled the passion with which different people had spoken about the rule: both those who were edified by its vision and those who felt constrained by it. I figured that looking at the rule was a good place to start my study of rabbinic views of women. My plan was to find the definitive article on the rule, include it on the syllabus, and move on. As it turned out, I could not find a scholarly article that explained

the rule to my satisfaction. So I did what any scholar in my shoes would do: I set about reading the primary sources on my own. At the time, I still assumed that the rule was motivated by a rabbinic understanding of how women differ from men. When the semester began, I still had not identified the "rabbinic view of women" implicit in the rule, but I figured I could work it out with my students. I developed a worksheet of primary sources that we would study together. During the first three weeks of the course, we read various articles that affirmed the importance of the rule and worked through relevant primary sources.

By the time I taught the course the fourth time, I no longer opened the course with the rule as a programmatic statement on gender by the rabbis. Something was not right, though I did not fully understand what. The more I worked with the sources, the less convinced I became that the rule could tell us anything about "the rabbinic view of Jewish womanhood." There was a major disconnect between the articles that read the rule as a programmatic statement of rabbinic gender and my own emergent understanding of the sources. Under these conditions, it no longer made sense to begin the course with a study of timebound, positive commandments. I was presenting students with a perspective – that the rule is a programmatic statement of rabbinic gender – that I immediately had to un-teach. This book represents my attempt to make sense of the dissonance I experienced when trying to reconcile the popular view with the results of my textual investigations. I am still not sure how to teach the course. Should I include a section on the rule if I am only going to show why the common perception is not true? Or should I excise discussion of the rule altogether since my discussion of the rule will not take the popular view as its starting point? I have learned a lot of interesting things about the rule and gender, although not the things I thought I would find when I first began my investigations. But the fact of the matter is that people want to understand the rule on the basis of its *perceived*, even if inaccurate, meaning. As I learned from my Smith students in my first year of teaching, contemporary questions play a useful role when they motivate and energize our study. At the same time, we need to make sure that we do not let our contemporary interests overdetermine the methods of our study. In this book, I try to balance these two *desiderata*.

In the body of the book, I argue that the rule was not formulated in dialogue with "rabbinic views of women." The rule eventually came to be seen as a "programmatic statement" of rabbinic gender, but this view of the rule is a function of *how the rule was transmitted, not how it was written*. I find myself in an awkward position. As in my course, I must both teach and un-teach the rule's prominence. On one hand, the energy for this book comes from the fact that in modern times the rule is taken to be the rabbis' premiere statement on the nature of Jewish womanhood. On the other hand, the central thesis of the book is that this view of the rule was constructed incrementally at particular moments in rabbinic history as the result of particular intellectual habits; it does not inhere in the rule.

In an ideal world, my book would be written for an audience that knows, like I did when I first began my investigations, that the rule exempting women from timebound commandments has been universally understood in the modern world to be a programmatic statement about the nature of Jewish womanhood. But I live in the real world where, even when talking with Jewish audiences, I must explain why I have chosen to focus my research on the rule in the first place. The problem is exacerbated by the fact that the phrase "timebound, positive commandments" sounds technical and esoteric if you are not already familiar with the concept. Most people wonder why I have chosen to focus on such an obscure topic. Ironically, in order to un-teach a widely held view, I need to teach it first.

This book, then, is the "article" I was seeking those many years ago. At the time I was looking, such an article did not, and could not, exist. As noted, the popular view of the rule – that it captures and defines the essence of Jewish womanhood – cannot be found in the rabbinic texts where the rule originates. So the article could not exist from the standpoint of ideas. But as I was to find out after eight years of textual labor, it could not exist as a mere article either. The book you have in your hands is the product of those efforts. To all those who facilitated the transition from inchoate intuition to coherent arguments and prose, acknowledgments are due.

First, I would like to thank Lois Dubin of Smith College, the study partner with whom I prepared the primary sources in anticipation of my first year of teaching. The questions that emerged from our study fueled my research for many years to come. I want also to thank the many Smith students who studied with me while I taught there and who shared their passion for women's issues with me.

Parts I and II of the book were initially researched and drafted during a sabbatical year in Jerusalem (2004–5). I would like to thank the institutions and individuals that supported my learning and work during that year. Thank you to Shaye Gafni and the Yad HaNadiv-Berachah Foundation for their financial support and mentoring. Thank you to the Hartman Institute for providing a collegial place to work and write during my year in Jerusalem and for welcoming me into its intellectual community. A highlight of my year was presenting my work in progress as a series of four lectures to the weekly seminar in "Advanced Jewish Studies." The feedback I received on technical issues was invaluable, and the seminar's general interest in my approach was heartening and encouraging. Two individuals from the Hartman Institute deserve special mention for their level of involvement with me. Shlomo Naeh was assigned to me as a "mentor" by the Yad HaNadiv-Berachah Foundation. Words cannot express the depth of my gratitude for his engagement with me and this project. The textual interpretations presented in this book emerged in an ad hoc manner as I pored over primary texts with a framing set of questions. Each time I settled on a new interpretation, I would hurry from the library where I was working to Shlomo's office. I would narrate my insight to him, and he

would interrogate it on the spot on the basis of his intimate familiarity with the entire rabbinic corpus and manuscript variants. Shlomo was my harshest and best critic, and my work is infinitely better for his pointed questions and the resources to which he directed me. I do not think I was ever able to convince him that the Mekilta's midrashic presentation of the rule conceptually precedes the mishnaic formulation of the rule, although I hope that my latest version of Chapter 1 offers new evidence for my intuition. My great victory came at the end of the year, when Shlomo smiled wryly at me and said, "When you showed up at the beginning of the year I thought it would be impossible to say anything new about this topic, which has already been written about so extensively. You have wrung water from a stone." Ishay Rosen-Zvi also provided invaluable collegiality and intellectual support during my year at the Hartman Institute. He generously served as a sounding board while I tried out different versions of my argument. He was receptive to my emerging thesis and asked intelligent questions that pushed my thinking deeper. Thanks also go to the following scholars, who discussed my work with me during the year in Israel: Rahel Berkovits, Menahem Fisch, Yoni Garb, Moshe Halbertal, Avital Hochstein, Tal Ilan, David Levin-Kruss, Hindy Najman, Vered Noam, Chana Safrai obm, Aharon Shemesh, Hila Weinstein, and Noam Zohar.

Part III of the book was conceived, researched, and written back in Virginia over the next seven years. A special thanks to Jonathan Schofer, who served as cheerleader extraordinaire. He read multiple drafts at various stages, offered useful feedback, and suggested generative readings, but most of all believed in the project and helped me see it from a distance when I was too mired in the details. Our conversations were a source of sustaining and mobilizing energy. I am grateful to the following people, who exerted considerable effort reading drafts – often several times – provided valuable feedback, saved me from many errors, and alerted me to perspectives and resources I had not considered: Blaire French, Greg Goering, Christine Hayes, Richard Kalmin, and Rebecca Rine. I am also grateful to the following individuals, who read parts of the book, discussed my hypotheses with me, studied primary texts with me, and generally shared their expertise: Rachel Anisfeld, Cynthia Baker, Elisheva Baumgarten, Beth Berkowitz, Asher Biemann, Yehudah Cohn, Valerie Cooper, Jennifer-Rachel Cousineau, Natalie Dohrman, Kelly Figuera-Ray, Charlotte Fonrobert, Steven Fraade, Gregg Gardner, Chaya Halberstam, Martien Halvorson-Taylor, Judith Hauptman, Tal Ilan, Martin Jaffee, Mark James, Paul Jones, Gil Klein, Judith Kovacs, David Kraemer, Ben Laugelli, Marjorie Lehman, Rebecca Levi, M. David Litwa, Timothy Lytton, Barbara Mann, Chuck Mathewes, Rena May, Margaret Mohrman, Rachel Neis, Tzvi Novick, Peter Ochs, Vanessa Ochs, Tamar Ross, Suzanne Singer, Benjamin Sommer, and Barry Wimpfheimer. I presented all of the chapters at one point or another in public forums (at UVa, University of Tennesee, Yale, Jewish Theological Seminary, William and Mary College, Haifa University, Harvard Law School, Institut für Judaistik at the Freie Universität, Graduate Theological

Union, and Hartman Institute), and my work benefited from the comments and questions of all those in attendance. Thanks go also to the anonymous readers for Cambridge University Press, who gave generously of their time, making the effort to understand my arguments and offer thoughtful feedback and suggestions. The book is infinitely better for the input of all of these people. I, of course, am solely responsible for all shortcomings and errors that remain.

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Chapter 3 originally appeared as "How *Tefillin* Became a *Non*-timebound, Positive Commandment: The *Yerushalmi* and *Bavli* on *mEruvin* 10:1," in *A Feminist Commentary to the Babylonian Talmud: Introduction and Studies*, ed. Tal Ilan et al. (Tübingen: Mohr Siebeck, 2007), 61–89.

Chapter 6 originally appeared as "Women's Exemption from Shema and Tefillin and How these Rituals Came to be Viewed as Torah Study," *Journal for the Study of Judaism* 42 (2011): 531–79.

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An unexpected treat during the last three years of the writing process was sharing each chapter fresh off the press with my father. A writer and editor of works about ancient Judaism, he has extensive experience with scholarly research and writing in fields adjacent to mine. Despite the similarity of our interests, we often joke that we might as well be in different professions, so great is the disparity in our approaches. His focus is biblical archaeology and the historical reality that lies behind the biblical text. Mine is rabbinic texts and the religious life that lies in front of them. I thank my father for thoughtfully reading each chapter and for living in the ideas, even as they diverge from his primary interests. Our subsequent conversations were deeply moving; he engaged the arguments as if they mattered, not only in academia, but also for "real people" in the "real world." When I finished the final version of the Epilogue, I emailed him a copy, saying, "I won't feel it's done until it has seen the red ink of Hershel's pen." I am forever grateful to have had the opportunity to interact with him in a way that was both deeply personal and professionally sophisticated.

And last, because he is dearest of all, I thank my husband. He is the air I breathe, my source of sustenance. He believes in me, in my ideas and their importance, and in my ability to bring them to life in writing. He reminds me to keep the important things important and let the lesser things drop. He lets me work hard when I need to and makes me stop when I lose perspective. He keeps me in mind of the higher purposes for which we have been placed on this earth. For helping me be the best person I can, I thank him from the bottom of my heart.

For all of these blessings and the many others that go unspoken, I thank the Holy One.

Elizabeth Shanks Alexander
Richmond, Virginia
June 13, 2012

Abbreviations

b.	Bavli
b.	ben/bar
BB	Baba Batra
BCE	before the Common Era
Bekh.	Bekhorot
Ber.	Berakhot
Bik.	Bikkurim
BM	Baba Metzia
CE	Common Era
Deut	Deuteronomy
Eruv.	Eruvin
Exod	Exodus
Hag.	Hagigah
HUCA	*Hebrew Union College Annual*
Josh	Joshua
Kel. BM	Kelim Baba Metzia
Ker.	Keritot
Ket.	Ketubot
Kid.	Kiddushin
Lev	Leviticus
LXX	Septuagint
m.	Mishnah
Meg.	Megillah
Mek.	Mekhilta of Rabbi Ishmael
Men.	Menachot
MRSY	Mekhilta of Rabbi Shimon bar Yohai
Naz.	Nazir
Ned.	Nedarim

NJPS	New Jewish Publication Society edition of *Tanakh*
Num	Numbers
Pes.	Pesachim
Ps	Psalm
Pss	Psalms
QE	Qorban Edah
R.	Rabbi
RH	Rosh Hashanah
San.	Sanhedrin
Sem.	Semachot
Shab.	Shabbat
Sif. Dt.	Sifre Deuteronomy
Sif. Num.	Sifre Numbers
Sot.	Sotah
Suk.	Sukkah
t.	Tosephta
y.	Yerushalmi
Yev.	Yevamot