

Introduction

The Mishnah (c. 200 CE) stipulates that men and women have different levels of ritual obligation.¹ Men are obligated to perform all of the commandments outlined in the Torah. Women, by way of contrast, are obligated to perform all the commandments except those which are “timebound” and “positive.” “Timebound” commandments are those which must be performed at, by, or within a specified time frame. “Positive” commandments are those which must be actively performed rather than passively refrained from (the “thou shalt,” as opposed to the “thou shalt not”).² In classical Judaism, one observes the commandments as an ennobling act of devotion to the God of Israel who redeemed Israel from Egypt. Through observance of the commandments, the religious actor realizes himself or herself a covenantal partner with God.³ Insofar as the mishnaic rule indicates that men and women engage the commandments differently and insofar as observance of commandments is a central form of religious devotion in Judaism, the rule constructs men and women as different kinds of religious actors. This book seeks to understand what is at stake in that rule’s stipulations. How did the rabbis who conceived this rule think about the differences between men and women such that this way of gendering religious obligation made sense?

The topic of this book (the rule that exempts women from timebound, positive commandments) and its driving question (how can analysis of the rule

¹ m. Kid. 1:7.

² For a discussion of two different ways in which the terms “positive” and “negative” were used to describe categories of commandments during the tannaitic period, see Aharon Shemesh, “Toward a History of the Terms Positive and Negative Commandment” (Hebrew), *Tarbiz* 72/1 (1993): 133–50.

³ Jon D. Levenson, *Sinai and Zion: An Entry into the Jewish Bible* (San Francisco: Harper and Row, 1987), 15–86.

shed light on rabbinic gender?) are conceived in the shadow of a contemporary cultural debate about the role of women in Judaism. In the late 1960s and 1970s, when the tide of social change was sweeping across America and Europe, feminism blew into the Jewish world. Jewish women began to ask many of the questions that feminism had raised for society-at-large. Jewish feminists observed the mechanisms by which gender is constructed in Judaism, and they proposed strategies for women to achieve greater levels of religious self-realization.⁴ The rule that exempts women from timebound, positive commandments received significant attention in these conversations because at that time (and still today in certain circles) the rule was often cited as a cornerstone of traditional Jewish gender roles.

Two explanations of the rule – both of which affirm traditional gender roles – were circulating in the sixties and seventies, though they have their roots in medieval sources. The first explanation begins by acknowledging that women’s involvement in the care of babies and children places heavy and unpredictable demands on their time. Since it is not fair to put women in the untenable position of being ritually obligated without a reasonable means of fulfilling the obligation, the rabbis gave women a ritual “out” by declaring them exempt.⁵ For feminists, this vision of Jewish womanhood was less than inspiring. It tethered women to domestic responsibilities and kept them out of the “main business” of public and communal ritual where – they assumed – spiritual richness lay. The second explanation of women’s exemption from timebound, positive commandments did little to placate feminists. It claims that women have an innately spiritual nature and do not need the mundane trivialities of timebound, positive commandments to achieve a rich relationship with God. For women, spirituality is intuitive. By way of contrast, men need the concrete engagements of timebound, positive commandments to lift them out of

⁴ See Adler, who uses the language of “self-actualization” in her 1973 essay. Rachel Adler, “The Jew Who Wasn’t There: Halakha and the Jewish Woman,” in *Contemporary Jewish Ethics*, ed. Menachem Marc Kellner (New York: Sanhedrin Press, 1978), 352. See the early collection of feminist reflections in Elizabeth Koltun, ed., *The Jewish Woman: New Perspectives* (New York: Schocken Books, 1976). Later important works (in chronological order of appearance) include Judith Plaskow, *Standing Again at Sinai: Judaism from a Feminist Perspective* (San Francisco: Harper and Row, 1990); Rachel Adler, *Engendering Judaism: An Inclusive Theology and Ethics* (Philadelphia: Jewish Publication Society, 1998); and Tamar Ross, *Expanding the Palace of Torah: Orthodoxy and Feminism* (Hanover: Brandeis University Press, published by University Press of New England, 2004).

⁵ Moshe Meiselman attributes this position to the medieval commentator Abudraham (d. 1345). See Moshe Meiselman, “The Jewish Woman in Jewish Law,” in *The Jewish Woman in Jewish Law* (New York: Ktav Publishing House, 1978), 43. Moshe Benovitz points out, however, that Abudraham’s rationale for the rule has more to do with a woman’s obligation to her husband than to her children. Benovitz suggests that the modern rationale that links the exemption to women’s duties to her children is a “modern, apologetic” version of the medieval explanation that suggests that women are at the beck and call of their husbands. Presumably contemporary traditionalists find it more palatable to suggest that women have a more unnegotiable obligation to their children than to their husbands. See Moshe Benovitz, “Time-Triggered Positive Commandments as Conversation Pieces,” *HUCA* 78 (2007): 47.

spiritual lethargy.⁶ To the feminists, this explanation smacked of apologetics.⁷ It prodded women to see their meager ritual lot as a sign of election that was belied by social realities. They felt that anyone with eyes to see could discern that the multifaceted ritual life of men was more spiritually fulfilling than the glorified childcare that fell to women.⁸ Mainstream feminism had created opportunities for women to achieve new levels of professional self-realization and economic remuneration. Jewish feminists also wanted to expand, rather than limit, their spiritual and ritual horizons. Contesting the gender roles implicit in women's exemption from timebound, positive commandments provided one concrete means to do so.⁹

Not surprisingly, traditionalists sensed that their social vision was under attack and rose to its defense.¹⁰ Rabbis and traditionally minded women alike found meaning in the model of Jewish womanhood implied by the rule. They celebrated the importance of women as the spiritual center of the home.¹¹ They suggested that women do not need timebound commandments because they naturally synchronize themselves with the divine temporal rhythms through internal biological clocks in their bodies.¹² Above all, they stressed that different levels of ritual responsibility do not imply a denigration of women as religious actors.

Though the debate between feminists and traditionalists ostensibly centers on the rule that exempts women from timebound commandments, the underlying tension concerns how Jewish women should construct their religious lives today. When feminists say that the rule limits women's religious development

⁶ Meiselman attributes this position to the Maharal of Prague (d. 1609) and Samson Raphael Hirsch (d. 1888). See Meiselman, "The Jewish Woman in Jewish Law," 43–44; the Maharal's *Drush al haTorah* included in *Sifrei Maharal* (Jerusalem, 1971) in the volume with *Be'er haGolah*, 27a of Prague; and Samson Raphael Hirsch, trans. and explained, *The Pentateuch*, vol. 3: (*Leviticus Pt. II*), rendered into English by Isaac Levy (Gateshead: Judaica Press, 1976), s.v. 23:43, 711–12.

⁷ Orthodox feminist Tamar Ross characterizes these two explanations of the rule as "patriarchalist and apologetic" insofar as she discusses them in her section on "The Conservative Response: Patriarchalists and Apologists." This judgment is not necessarily an indictment, in her view. See Ross, *Expanding the Palace of Torah: Orthodoxy and Feminism*, 35–37.

⁸ See, for example, the remarks of Rachel Adler: "It is not unusual for committed Jewish women to be uneasy about their position as Jews. It was to cry down our doubts that rabbis developed their pre-packaged orations on the nobility of motherhood; the glory of childbirth." Adler, "The Jew Who Wasn't There," 348.

⁹ See the trenchant essay by Rachel Adler, originally published in 1973. Adler, "The Jew Who Wasn't There." The fact that the first chapter in Rachel Biale's 1984 book examines women's ritual exemptions suggests that she too finds women's ritual exemptions to play a major role in structuring women's religious lives in Judaism. See Rachel Biale, *Women and Jewish Law: An Exploration of Women's Issues in Halakhic Sources* (New York: Schocken Books, 1984), 10–43.

¹⁰ See especially Moshe Meiselman's rebuttal to Adler's 1973 article: Meiselman, "The Jewish Woman in Jewish Law," 43–62, esp. 52–57.

¹¹ See Saul Berman, "The Status of Women in Halakhic Judaism," in *The Jewish Woman: New Perspectives*, ed. Elizabeth Koltun (New York: Schocken Books, 1976), 114–28.

¹² Lisa Aiken, *To Be a Jewish Woman* (Northvale: J. Aronson, 1992), 34–36.

by tying them to domesticity and when traditionalists counter that the rule affirms uniquely feminine modes of religious expression by respecting the temporal rhythms in women's bodies, they are debating not just the meaning of the rule (although they are doing that too). The deeper disagreement involves whether the gendering of religious obligation proposed by the rule structures women's lives for better or worse. They are asking whether Jews today should accept or reject the picture of women's religious lives painted by the rule. This book does not attempt to adjudicate the question of what kind of religious identities Jewish women should adopt for themselves today. It neither contributes to a feminist critique of the roles suggested by the rule (though I would suffer in a society where these roles limited my own development) nor advocates traditional allegiance to the rule (though I am attracted to the idea of fealty to an ancient text). The book does, however, draw energy from these heated debates because at the center of them is the question of what the rule actually means. Whenever someone rejects or affirms the rule's social utility, he or she theorizes about how the rule structures gender. As a scholar of rabbinic literature and culture, I have tried in this book to shed light on this issue.

There is, of course, an important difference between my interest in the rule and that of parties to the debate just described. When feminists and traditionalists debate the meaning of the rule, they do so with a consciousness that it is a normative Jewish source with a voice in how Jews construct their identity today. I, on the other hand, approach the rule as an artifact of history: conceived, formulated, and transmitted by sages who lived in a world very different from ours. Both ways of reading are legitimate, of course, but it is important to be cognizant of the differences between them. As a historian, my interest is in reconstructing the cultural concerns of the world that produced the rule. I want to understand those aspects of the ancient world that explain why this way of configuring gender and religious obligation made sense. The question that this book raises is *how* best to elicit this information from the sources. This is a serious question because scholars who have all the best intentions of locating the rule in its historical context use paradigms derived from the contemporary cultural debate to reconstruct ancient gender in the rule.

Parties to the contemporary cultural debate (irrespective of whether they are "for" or "against" the rule) see the rule as a programmatic statement on rabbinic gender. They reach this conclusion on the basis of their understanding of the rule's literary structure. The rule juxtaposes the religious obligations of men and women, stipulating one important difference between the two. This structure leaves readers with both a *question* and a *strategy* for answering the following question: Why does the rule treat women differently from men? The strategy for answering the question involves discerning the distinctive features of timebound, positive commandments and linking them to a postulated characteristic of women. Consider the following example of this interpretive strategy: Timebound commandments allow little flexibility in the time of their performance. Women are exempt because they are otherwise engaged

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in time-consuming domestic responsibilities, especially childcare. From this we learn that the rabbis envisioned women as domestic creatures whose primary responsibilities revolve around childcare. Or: Timebound, positive commandments are necessary for the religious actor who forgets to be conscious of God at regular intervals. Women are not required to perform them because they are naturally in sync with divine rhythms. From this we learn that the rabbis envisioned women as spiritually intuitive and adept. Or: From this we learn that the rabbis envisioned womanhood in terms of the physical body with its distinct temporal rhythms. When one foregrounds the question implicit in the rule's literary structure and answers it using this procedure, the rule does indeed appear to be a programmatic statement by the rabbis about women's nature.

When academic scholars accept the common perception that the rule is a key piece of evidence regarding rabbinic views of women, they reflexively adopt this procedure as the best means of getting the rule to yield insight into rabbinic gender. Like the parties to the contemporary cultural debates, scholarly researchers direct their energy toward understanding why the rule treats women differently from men. They focus on the distinctive features of timebound, positive commandments and link them to postulated characteristics of women in tannaitic culture.

The following is a partial list of the conclusions historians of rabbinic culture have reached regarding the ancient rabbinic views of women on the basis of the rule:

- Timebound commandments *take* time. Women do not have much expendable time because of the all-consuming responsibilities of home and children. Conclusion: The rabbis constructed womanhood around domestic tasks and childcare.¹³
- Timebound commandments *mark* Jewish ritual time (holy occasions). The responsibility for marking such occasions falls to those in social order who resemble the priestly caste (not women). Conclusion: The rabbis constructed women as second-class citizens in their social order.¹⁴
- Timebound commandments need to be performed "*on time*," but women lack the self-control to respond appropriately. Conclusion: The rabbis constructed women as wild, untamed creatures.¹⁵

¹³ Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought" (Hebrew), *Bar Ilan Annual* 26–27 (1995): 233.

¹⁴ Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder: Westview Press, 1998), 226–27. See also Natan Margalit, "Priestly Men and Invisible Women: Male Appropriation of the Feminine and the Exemption of Women from Positive, Time-Bound Commandments," *AJS Review* 28/2 (November 2004): 305–6.

¹⁵ Lawrence Hoffman, *Covenant of Blood: Circumcision and Gender in Rabbinic Judaism* (Chicago: University of Chicago Press, 1996), 164–67.

- Timebound, positive commandments are *performed in the public domain*, but women should not be in the public domain. Conclusion: The rabbis constructed women as creatures of the private, domestic sphere.¹⁶

In much of their work on the rule, academic scholars make a point of explicitly rejecting popular explanations of the rule.¹⁷ They strive to reach historically grounded conclusions regarding the rabbinic motivations for excluding women from this class of commandments. What they do not realize, however, is that by employing this procedure for getting the rule to yield insight into rabbinic gender, they have largely determined in advance the kind of information they will elicit from the rule. From the moment scholars accept the analysis that frames the rule as a key rabbinic statement on women, they cut off the most productive avenues for getting the rule to yield insight into rabbinic gender.

I argue that in order to unburden ourselves from the patterns of reading employed in the contemporary cultural debates, we must *explicitly* acknowledge our debt to the contemporary cultural context. This book chooses to focus on the rule and what it can tell us about rabbinic gender not because of an innate feature of the rule, but because of a *widespread perception* that the rule conveys important information about how the rabbis constructed gender in antiquity. Having attributed the book's line of inquiry to popular perceptions of the rule rather than a feature of the rule itself, I am free to conduct the research in the way that makes most sense for me as a historian of antiquity. Eliciting information about the role the rule played in the construction of rabbinic gender requires that we locate the rule in the cultural context in which it was produced. We must be careful *not to read the rule through the lens of later interpretation*, and we must be sure *to read the rule in the context of contemporary parallels*. Unfortunately, these standards for scholarly research have often been disregarded when scholars turn to examine the rule's role in the construction of rabbinic gender. The next section explores the roots of this unwitting neglect of standard scholarly procedure.

The Normative View of the Rule and the Reading Habits That Follow from It

Parties to the contemporary cultural debate make several assumptions about the rule that foster particular ways of reading it. Though scholars of ancient

¹⁶ Judith Wegner, *Chattel or Person: The Status of Women in the Mishnah* (New York: Oxford University Press, 1988), 150–53. See also Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought," 233.

¹⁷ See, for example, Hauptman, *Rereading the Rabbis*, 221; Margalit, "Priestly Men and Invisible Women: Male Appropriation of the Feminine and the Exemption of Women from Positive, Time-Bound Commandments," 302; and Benovitz, "Time Triggered Positive Commandments," 59–64.

rabbinic culture do not share these assumptions, they have adopted many of the reading habits that follow from them.

Most significantly, contemporary Jews recognize the rule as a normative statement by the ancient rabbis. For them, the rule dictates how the social world *ought* to be constructed. Though the rule was composed in antiquity, it is assumed to have a normative force that extends through today. Whether “for” or “against” the rule, parties to the contemporary debate envision the process that produced the rule as one in which the rabbis tried to influence the shape of Jewish society. Traditionalists are inclined to accept the authority of the rule as determinative even today. Feminists may reject the authority of the rule in our time, but their interest in doing so is rooted in a recognition of the fact that originally the rule was formulated to function normatively. According to the normative view of the rule, the rabbis exerted social influence by deciding which commandments women should perform. To the extent that the parties to the contemporary cultural debates engage in historical reconstruction of the origins of the rule, they assume that the rabbis formulated the rule as a *prescriptive principle* to determine which of the many existing commandments women should be required to perform. Three reading habits follow from this normative view of the rule.

The first habit of reading involves focusing on the distinctive feature of timebound commandments and linking them with a posited characteristic of women. This habit of reading follows from the assumption that the rule *determines* women’s ritual involvement. If the rule determines women’s ritual involvement, then the best way to reveal rabbinic ideas about women is to reveal the rationale for the rabbinic prescription. This habit of reading, however, is not warranted by the prevailing scholarly opinions regarding the purpose of the Mishnah (the document in which the rule is preserved). In popular circles the Mishnah is viewed as the document by which the ancient rabbis promulgated (and continue to promote) their legal standards among the Jewish population. Scholars, however, are increasingly skeptical about the idea that the Mishnah functioned as an authoritative code of rabbinic law for the Jewish populace during the tannaitic period.¹⁸ If the Mishnah did not serve as a law

¹⁸ Skepticism regarding the popular view of the Mishnah arises from two different quarters. Those who examine the role of the rabbis in Jewish society-at-large have concluded that the rabbis did not have the sufficient social influence among the non-rabbinic population to enforce rabbinic legal norms as represented by the Mishnah. See Seth Schwartz, *Imperialism and Jewish Society, 200 B.C.E.–640 C.E.* (Princeton: Princeton University Press, 2001); Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: Jewish Theological Seminary of America; Jerusalem: Yad Izhak Ben-Zvi Press, 1989); and Miriam Peskowitz, *Spinning Fantasies: Rabbis, Gender and History* (Berkeley: University of California Press, 1997). Scholars increasingly see the laws in the Mishnah as a kind of wishful thinking on the part of the rabbis that helped bring about the authority they envisioned for themselves. See Beth A. Berkowitz, *Execution and Invention: Death Penalty Discourse in Early Rabbinic and Christian Cultures* (New York: Oxford University Press, 2006); and Ishay Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash*, trans. Orr Scharf (Leiden: Brill, 2012). Skepticism also arises

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code, then the rule may not have been included therein to determine women's ritual involvement. Nonetheless, scholars often focus on the distinctive characteristic of timebound, positive commandments as a means of articulating the view of women implied by the rule.

Even leaving aside the issue of the purpose of the Mishnah generally, many scholars explicitly reject the idea that the rule determined women's ritual involvement.¹⁹ There are many rituals where women's obligations do not conform to the stipulations of the rule.²⁰ "Be fruitful and multiply," for example, is *not* a timebound commandment, and according to the rule women should be obligated, but according to tannaitic law they are exempt.²¹ Likewise, saying the Amidah at appointed times *is* a timebound commandment, and according

from assessments of literary data within the Mishnah. New theories about the Mishnah propose that the laws therein were compiled to serve as a pedagogical tool in the training of sages or as expressions of philosophical positions. For the proposal that the Mishnah served a pedagogical purpose, see Abraham Goldberg, "The Mishna – a Study Book of Halakha," in *The Literature of the Sages*, part 1, ed. Shmuel Safrai (Philadelphia: Fortress Press, 1987), 211–51; and Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge: Cambridge University Press, 2006). For the theory that the Mishnah functions like a philosophical essay, see Jacob Neusner, *Judaism: The Evidence of the Mishnah* (Atlanta: Scholars Press, 1988), 230–83. Dov Zlotnick documents the rules that amoraic scholars (particularly from the school of R. Yohanan) put in place in order to facilitate the Mishnah's functioning like a law code after the Mishnah was already a document. The fact that such rules were needed suggests to Zlotnick that there was a disparity between R. Yohanan's vision of the Mishnah as law code and Rabbi Judah the Patriarch's when he compiled it. See Dov Zlotnick, *The Iron Pillar – Mishnah: Redaction, Form, and Intent* (Jerusalem: Ktav, 1988), 206–17.

¹⁹ The suggestion is made that the rule reflects a descriptive summary of some aspects of current popular practice. See Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought"; Tal Ilan, *Jewish Women in Greco-Roman Palestine* (Peabody: Hendrickson Publishers, 1996), 117; and Biale, *Women and Jewish Law: An Exploration of Women's Issues in Halakhic Sources*, 17.

²⁰ Though the rule exempts women from timebound, positive commandments, other sources obligate them to the following timebound, positive commandments: *hakhel* (Deut 31:12), *simchah* offering (Deut 15:14 and t. Hag. 1:4), eating matzah on Passover (t. Pisha 1:34), *kiddush hayom* (b. Ber. 20b), lighting of Hanukah candles (b. Shab. 23a), drinking the four cups of wine on Passover (b. Pes. 108a–b), and reading the *megillah* on Purim (b. Meg. 4a). In addition, though the rule obligates women to perform non-timebound, positive commandments, women are exempt from a number of them: Torah study (Sif. Dt., Ekev, Piska 46, and t. Kid. 1:11), redemption of the firstborn son (t. Kid. 1:11), circumcising one's son (t. Kid. 1:11), and to "be fruitful and multiply" (m. Yev. 6:6) on the view of all except Yohanan b. Baroka. Modern scholars have hardly been the first to note the inconsistency of the rule with these exceptional cases. Already in the Talmud, R. Yohanan rejects the prescriptive utility of the rule (see b. Kid. 34a). Maimonides agrees with R. Yohanan that the rule should not be regarded as a prescriptive principle. Rather the term "all" in the phrase "all timebound, positive commandments" should be understood as describing *most* timebound, positive commandments. See Maimonides' commentary to m. Kid. 1:7. Shlomo Goren offers a useful overview of Maimonides' approach to this question: "Women as Regards Timebound, Positive Commandments" (Hebrew), *Mahanayim* 98 (1965): 10–16.

²¹ See m. Yev. 6:6.

to the rule women should be exempt, but according to tannaitic law they are obligated.²² Since the rule clearly did not determine women's involvement in the exceptional cases, scholars suggest that the rule did not determine women's ritual involvement even in the cases that do conform to the rule.²³ In their view, the rule summarizes and reflects the state of women's actual ritual practice when the rule was formulated. But even these scholars who recognize that the rule was not formulated to function normatively focus on the distinctive features of timebound commandments when they push the rule to yield insight into rabbinic gender.²⁴

A second habit of reading the rule also follows from popular assumptions about the rule. Parties to the contemporary cultural debates generally focus on the mishnaic version of the rule while ignoring evidence of the rule in other compilations of tannaitic literature (tannaitic midrash and toseftan baraitas). A focus on the mishnaic version of the rule makes sense if one holds the normative view of the rule because the Mishnah, and not other tannaitic documents, has a privileged status as part of the Jewish legal canon. Scholars, however, do not generally privilege mishnaic evidence as a *source of information about tannaitic culture* over extra-mishnaic evidence. From a historical perspective, evidence from other tannaitic sources has as much to tell us about tannaitic culture as mishnaic evidence does. Indeed, if one's goal is to reconstruct the world that lies behind the sources, the more diverse the sources that one brings to bear, the more fully one is able to reconstruct that world.²⁵ Nonetheless, scholarly studies of the rule tend to focus exclusively on the mishnaic version of the rule when analyzing the rule for insight into rabbinic gender.²⁶

²² See m. Ber. 3:3.

²³ See Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought"; Ilan, *Jewish Women in Greco-Roman Palestine*, 178; and Biale, *Women and Jewish Law: An Exploration of Women's Issues in Halakhic Sources*, 17.

²⁴ See Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought," 233–36.

²⁵ Several noteworthy examples of this type of scholarship are Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany: State University of New York Press, 1991), esp. 28–49; Chaya T. Halberstam, *Law and Truth in Biblical and Rabbinic Literature* (Bloomington: Indiana University Press, 2009), esp. 91–105; and Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash*.

²⁶ There are some limited precedents to my approach, which takes the full range of tannaitic parallels to the rule into account when trying to reconstruct the meaning of the rule. Safrai, for example, examines the midrashic parallels to the rule, though in the end these do not impact how he uses the rule to reconstruct rabbinic gender. See Shmuel Safrai, "The *Mitzva* Obligation of Women in Tannaitic Thought." Margalit and Noam Zohar focus on the mishnaic rule, but they take the important step of examining the rule in the context of the chapter in which it appears. See Margalit, "Priestly Men and Invisible Women: Male Appropriation of the Feminine and the Exemption of Women from Positive, Time-Bound Commandments"; and Noam Zohar, "Women, Men and Religious Status: Deciphering a Chapter of Mishnah," in *Approaches to Ancient Judaism: New Series*, vol. 5, ed. Hebert Bassler and Simcha Fishbane (Atlanta: Scholars

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Finally, a third habit of reading characterizes discussion of the rule in the contemporary cultural debates and has penetrated scholarly study of the rule. The discussion assumes that the rule determined women's ritual involvement. But this understanding of the rule is attested only in the commentary to the Mishnah provided by the Babylonian Talmud (the Bavli, c. 600 CE), not in the Mishnah itself. While the Mishnah is commonly read through the lens of the Bavli in popular circles, scholars of rabbinic culture have worked hard to distinguish the cultural world of the tannaim (whose work is preserved in the Mishnah and other tannaitic documents) from that of the post-amoraic sages (whose work is preserved in the latest stratum of the Bavli).²⁷ When scholars read the rule as a prescriptive principle that determines women's ritual involvement, they inadvertently blur the distinction between the rule as it functioned during the tannaitic period and the rule as it was understood by its later talmudic interpreters.

Historians of rabbinic culture generally eschew these habits of reading because they prevent us from reconstructing the cultural and intellectual world

Press, 1993), 33–54. As far as I am aware, no scholarship on the rule examines the parallels to the rule in the Tosephta, which are the focus of Chapter 2 of this book.

²⁷ David Weiss Halivni laid the groundwork for distinguishing tannaitic and post-amoraic culture by identifying a stratum in the Bavli that was attributable to a group of sages who lived after the Amoraim. Halivni calls this generation of sages the “stammaim” (“anonymous ones”) because their identity remains anonymous. Other scholars have suggested that the stratum that Halivni attributes to the stammaim is more properly attributed to the Saboraim. Since my discussions of this generation of sages do not turn on attributing the materials to either the stammaim or saboraim, I use the agnostic term “post-amoraic” sages to describe the sages that Halivni identified. See David Weiss Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, Mass.: Harvard University Press, 1986); and Richard Kalmin, *The Redaction of the Babylonian Talmud: Amoraic or Saboraic?* (Cincinnati: Hebrew Union College Press, 1989).

Halivni's students have built on Halivni's findings and collectively worked on articulating the distinctive culture and intellectual interests of the post-amoraic sages. See David Kraemer, *The Mind of the Talmud: An Intellectual History of the Bavli* (New York: Oxford University Press, 1990); Jeffrey L. Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003); and Barry Scott Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011).

Jacob Neusner first articulated the scholarly agenda of studying the Mishnah without the overlay of its talmudic framing. See Jacob Neusner, ed., *The Modern Study of the Mishnah* (Leiden: Brill, 1973). Since he first articulated this vision, a number of studies have explored distinctive features of tannaitic culture. See Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy*; Halberstam, *Law and Truth in Biblical and Rabbinic Literature*; Berkowitz, *Execution and Invention: Death Penalty Discourse in Early Rabbinic and Christian Cultures*; and Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash*. In my own work, I have tried to attend to the differences among tannaitic, amoraic, and post-amoraic intellectual culture. I have been especially concerned with recognizing the Bavli as an interpretation of the Mishnah and not a statement of the Mishnah's “innate” meaning. See Alexander, *Transmitting Mishnah*.