CHAPTER 4

Women’s Obligations to Fulfill Biblical Precepts

4.1 Introduction

The issue of women’s obligations to fulfill scriptural precepts has attracted wide scholarly interest within the general frame of gender discrimination in Jewish law, both ancient and contemporary, because it had and still has an impact on women’s status in society.1 This chapter attempts to clarify the legal aspect of this question as far as can be deduced from scriptural, Qumranic, and rabbinic texts. I do not take a position on the real circumstances in the periods under discussion, which may differ from the intentions of the writings’ authors or redactors.2 I begin by scrutinizing the biblical texts and considering what we can deduce from them, insofar as we are able to detach ourselves from ideas about this topic gleaned from other interpretive sources. I then deviate from chronological sequence by discussing the rabbinic viewpoint, since we possess ample material on this topic in their writings, whereas the extant Qumran texts contain few explicit halakhic rules on the subject and, in particular, lack explanations or motivations for their decisions. Insights into the stance of scriptural and Talmudic writings on this topic should facilitate our comprehension of the Qumran authors’ perspectives.

1 Leonard D. Gordon “Toward a Gender-Inclusive Account of Halakhah,” in Gender and Judaism: The Transformation of Tradition (ed. T.M. Rudavsky; New York: New York University Press, 1995), 3–12 at 3, states “Women have been the objects rather than the subjects of laws, and hence women have been unequal to men under the law.”

2 Susan Niditch, “Portrayals of Women in the Hebrew Bible,” in Jewish Women in Historical Perspective (ed. Judith R. Baskin; 2d ed. Detroit: Wayne State University Press, 1998), 25–45 at 41, states that she “faced the challenge that even the so-called historical books of the Bible and the legal texts are not simply reflections of historical fact or verifiable data.” Conversely, Ross Shepard Kraemer, in Her Share of the Blessings: Women’s Religions among Pagans, Jews, and Christians in the Greco-Roman World (New York: Oxford University Press, 1992), 93, specifies that the study “explores the portrait of Jewish women’s religious lives that emerges from these sources.”
4.2 Scriptural Attitudes towards Women’s Obligations

4.2.1 Scriptural Commands That Lack Precision about Gender

Scripture leaves open the issue of which precepts women are obligated to fulfill and from which precepts they are exempted. Most scriptural commands are androcentric—that is, directed to men, in singular and sometimes plural masculine mode. This grammatical feature, however, does not in itself exclude women, as some scholars have argued, since in Hebrew, the masculine mode can also include women.3 On the other hand, Scripture has implicitly taught us that there are differences between the sexes with respect to the fulfillment of its precepts. The equalizing phrase לֶבַנְתֵךְ לֶבַנְתִיךָ “to you and your sons and daughters,” permitting the daughters of a priest to eat the priestly allotment of the fellowship offering (Lev 10:14 and Num 18:19) and the priestly vegetal tithes Terumah (Num 18:31, in which the term בְּיִהְבֵּכִים appears), does not habitually appear in commandments; it appears in other grammatical forms in Exod 20:10 and Deut 5:13 regarding their common obligation to keep the Sabbath rest and in Deut 16:14 regarding the holiday rest and enjoyment. With respect to women’s permission to eat sacral food, the difference between sons and daughters is striking; the priestly allotment of the lower type of sacrifices (fellowship offering) is granted by God exclusively to the males (Lev 7:34 and 10:15), but the unwed daughters may profit from their father’s genealogical rank and eat them, as displayed above.4 On the other hand, they are not permitted to eat the קֵדֶשׁ הַקְּדִישָׁה “most holy” sacrifices; Scripture decrees יִאכַל זֶכֶר כָּל אֶתו “every male shall eat it” (Num 18:10). A woman may not enter the Temple precinct, where these most holy foods may be eaten; only male priests are permitted to enter: הוא בֵּינֵיכֶם וּחָק כְּחָק וַיָּכֹם קִרְיָת אֶל “because it is your share and your sons’ share” (Lev 10:14; 13 in NIV. See also Exod 28:43 and 29:44, Num 3:10). General commands, such as teaching the Torah, are directed to sons only (Deut 6:7); admonitions to fulfill these commandments are also explicitly directed to men (Deut 4:9), as is the promise to reward them with a long and good life (Deut 4:40). Yet women, who do not seem to be included in the commandments or in the promise of a good and long life, are punished for the transgressions of men.

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4 Wives, unquestionably, may eat them, like their obligation to rest on Sabbath, although they are not explicitly mentioned. See deliberation about this topic in Chapter 5 pp. 182–184.
(Deut 28:15–68).\(^5\) On the other hand, we find in Scripture both specific commands that explicitly apply only to men, such as the obligation to convey “to your sons and grandsons” the story of the exodus from Egypt for recollection and perpetual transmission (Exod 10:2) and the obligation to participate in the Passover meal (Exod 12:24), and others that apply to both men and women, such as the command to rest and do no work on Sabbath (Exod 20:9). A number of texts use the neutral נפש “soul” (e.g., the prohibition on consuming blood in Lev 7:27) or אדם “human” (e.g., referring to the bringing of offerings in Lev 1:2), or specify both איש “man” and אשה “woman” (Num 5:6, Deut 17:2, and elsewhere), indicating that the commandment applies to men and women alike. Thus, we can deduce which specific commands apply to both men and women, and from which commands women are specifically exempted, but we are left in limbo with respect to the many commands that lack such precise indications, although a distinction is evident.

4.2.2 Did Women Participate in the Revelation at Sinai? An Analysis of the Scriptural Text

The issue is even more complex and ambiguous because, as it seems, women were not present at the Sinai revelation, which is the theological basis of the divine source of the Israelite Law and of the Israelites’ assent and commitment to obey it, both in advance (Exod 19:8) and after listening (Exod 24:3, 24:7). Although the all-inclusive term עם “the people” is used in the narrative of this event (Exod 19), it must be interpreted here as excluding women, given the context of the succeeding verses.\(^6\) All the ordinances communicated by Moses to the people refer to men; in Exod 19:15 he tells them: “Prepare yourselves for the third day. Abstain from sexual relations.” This is the NIV’s interpretation, but the literal translation would be: “Prepare for the third day; do not approach a woman.” The LXX uses πρόσειμι “to go to or towards / approach,” which has no sexual associations and, moreover, is sometimes used in a hostile sense, “to come against / attack” (Liddell & Scott). The KJV translates, “come not at your wives,” a somewhat ambiguous and equally inexact translation that

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5 Women and men will obviously suffer equally from the severe afflictions enumerated in this text.

6 Phyllis Bird, “Images of Women in the Old Testament,” in Religion and Sexism (ed. Rosemary Redford Ruether; New York: Simon and Schuster, 1974), 41–88 at 50, writes that Israelite society was modified as a concept of a “religious community composed in the first instance exclusively of males, or perhaps originally all adult males.” Bird further writes that this attitude “coincided with the understanding of the ‘people’ (עם) as the warriors of the community.”
may or may not hint at sexual contact. The translators attempted to introduce some sense into this decree, since one would expect the prohibition to refer to contact—of whatever character—with one’s wife, yet the text explicitly states תגשו “do not come near / approach a woman.” This oddity, and the fact that the decree is addressed in the plural yet specifies a singular, unarticulated (zero article) woman, should not be overlooked in our hypotheses about the rationale for using this particular expression. The term נגש appears 125 times in Scripture, in various grammatical forms, but never refers to sexual intercourse. In fact, it is used elsewhere in the same lemma, in Exod 19:23: "Even the priests, who approach the LORD, must consecrate themselves"—a context in which it cannot be interpreted to mean sexual intercourse, but rather to approach. The usual biblical euphemisms for sexual intercourse are שכב, בוא, andידע,7 but the term נגש cannot be interpreted as meaning sexual intercourse.

These apparent oddities, which plausibly led the KJV translator to change the biblical text, suggest that the biblical text alludes to something other than sexual intercourse. There is no compelling justification for changing the translation of the biblical text because it does not fit our preconceptions. I believe that Scripture’s use of the undefined term אשה, rather than the frequently used נשיכם (denoting a specific type of separation between men and women, regardless of their particular relationship), is deliberate.8 It is extremely risky to speculate on the specific motive for this decree. Ancient Jewish mythology

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7 The term בוא, commonly translated as “to come/bring,” indicates sexual intercourse in Gen 16:4, 29:23, 30, 30:4, 38:2; Judg 16:3; 2 Sam 12:24, 16:22; Ezek 23:44; Ruth 4:13, and 1 Chr 7:23. The LXX interprets it in such instances as εἰσέρχομαι “to go in or into.” Gen 29:23b: ריב אנה אלילו he [Laban] brought her [Leah] to him [Jacob], and he [Jacob] lay with her” offers us an excellent example of the contextual interpretations of the term. The first ויבא (“he brought her”) is rendered as εἰσάγω “to lead in” and the second (“he had sexual intercourse with her”) as εἰσέρχομαι “to go into her.” The term שכב meaning habitually “to lay down to sleep,” as in Gen 28:11, refers to sexual intercourse, as in Gen 30:16, and to die in Gen 47:30. In Gen 19:33, we encounter two meanings of שכב in the same verse. The term ידע, usually used as “to know/recognize/inform,” is also used in Scripture as a euphemism for sexual intercourse, for example, in Gen 41, 25, 19:8, 24:16; Num 31:17, 18, 35; Judg 9:25, 11:39, 19:22, 21:11, 12; 1 Kgs 1:4; and 1 Sam 1:19.

8 We encounter the term נשיכם with the pronominal suffix in Exod 22:23, Deut 31:9 and 29:10, Josh 11:4, Jer 44:9, and Neh 4:8. Similarly, we encounter the term אשה, with its various pronominal suffixes such as אשת, אשתך, אשתו, אשת, and אשת, in many places in Scripture. The unarticulated form, אשה, is used only when it is not associated with a specific subject. Hence, אשה would be irregular if the intended meaning was “their wives,” to whom the decree is addressed.
associated a vague recollection of a volcanic eruption with the Sinai revelation; the command not to approach a woman may also be associated with some ancient magical issue. The only possibility I can think of is that it relates to an old taboo regarding the custom of a radical separation of the women during menstruation. Such customs, banning menstruating women from their homes, from temples, and even from their villages, are known from the past and from the customs of traditional peoples, and some restrictions are still

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9 Ty. Onq. interprets the term בנדתה in Lev 15:19, relating to the impurity of the menstruating woman as ברייחוקה “in her isolation/dislocation,” and על יקרב הב “who comes near to her (approaches/touches her) will be impure [until sunset].” Using the two opposite poles of “isolation” and “coming near” indicates a concept that may support our theory for the separation from the women before the Sinai revelation. Ty. Onq. uses הרחק to portray the concrete concept of “far” in its various grammatical forms (e.g., Gen 21:16, 22:4; Deut 12:21), but also to describe the abstract concept of detachment/separation from something, motivated by abhorrence (e.g., Exod 23:7; Lev 20:23; Deut 16:22). We encounter a notable use of הרחק for divorcing a woman in Num 12:1; because of the rabbinic interpretation of this enigmatic verse as alluding to Moses’ divorcing his wife, Ty. Onq., acknowledging this, interprets the biblicallehem, in its simple meaning “married,” by adding הרחק “divorced” to the second instance of חק, identical to Rashi’s interpretation. The LXX, too, interprets as יקרהו עגוריה “her separation from [her regular place],” from the root יקרה “privy/separation,” which may serve as an additional support for our theory.

10 Moses Maimonides, The Guide of the Perplexed (trans. Shlomo Pines; Chicago: University of Chicago Press, 1963), vol. 2, part III:47, 595, writes that the Sabeans, even at present, keep a menstruating woman in a house by herself, and burn that upon which she treads; they also consider as unclean anyone who speaks with a menstruating woman. He adds: “if a wind that blows passes over a menstruating woman and a clean individual, the latter becomes unclean.” In fact, the simple reading of the text of 11Q19 (11Temple*) XLI:14–17 would require the banishment of טמאתמה בנדת בהיותה ובנשים menstruating women from cities. Vered Noam, “Stringency in Qumran: A Reassessment,” JSJ 40 (2009): 342–55 at 353, understands this halakhah as the banishment of “menstruants from the domain of everyday life.” In my article, “Stringency at Qumran,” JSJ 42 (2011): 188–217 at 215–17, I attempted to interpret this rule to mean a woman experiencing an unhealthy discharge, but I cannot exclude Noam’s analysis of the text.

11 Mary Douglas, Purity and Danger: An Analysis of the Concepts of Pollutaion and Taboo (London: Ark Paperbacks, 1988; 1st ed., 1966), 121, states that “In some [cultures] menstrual pollution is feared as a lethal danger.” She quotes the names of the tribes and their various superstitious fears of the consequences for men, the entire community, and also for cattle from coming into contact with menstruating women (pp. 144, 147, 151 and 176).
practised today\textsuperscript{12} even in some Western cultures.\textsuperscript{13} The widespread belief in the harmful effect of menstrual blood in disparate cultures that had no contact with one another,\textsuperscript{14} and the persistence of this belief, make it plausible to suppose that it may have been considered sacrilegious for men who had had some contact with a menstruating woman to approach the Deity.\textsuperscript{15}

We have no indication of the concrete meaning and application of the verb \textit{קדש} and its derivatives, used extensively in Exod 19. In v. 10, \textit{קדשתם} relates to God's command to Moses to "consecrate" the Israelites, and in v. 14 \textit{קדש} announces that Moses has fulfilled this decree, but we do not know the

\textsuperscript{12} We read in Joanna L. Michel et al., "Symptoms, Attitudes and Treatment Choices Surrounding Menopause among the Q'eqchi Maya of Livingston, Guatemala," Social Science and Medicine 63 (2006): 732–42 at 736, that "there are a number of cultural taboos and restrictions surrounding women's health in Q'eqchi Maya communities…prohibiting bathing and serving food during menstruation and avoiding looking at newborn children during menstruation and pregnancy." Cecilia Sardenberg, "Of Bloodletting, Taboos and Powers: Menstruation from a Socioanthropological Perspective," Estudos Feministas 2 (Portuguese, 1994): 314–44, writes that "Menstrual flow is almost universally viewed as a different category of blood from that which flows in the veins, leading to a sense of aversion & shame…often thought to possess magical qualities, which are usually harmful. In many societies, women are isolated during menstrual periods." The following information appeared 25 June 2013 in the New York International Herald Tribune: "Chaupadi is the ritual isolation of menstruating women. It is a tradition practised in Achham, a district in the remote Far Western region of Nepal. Each month, women sleep outside their homes in sheds called 'goths,' in stables or in caves. They are deemed impure and treated as untouchable. They eat separately from their families, cannot enter their homes and often have to wash at a separate tap. The practice has roots in Hinduism."

\textsuperscript{13} Emily Martin, \textit{The Woman in the Body, A Cultural Analysis of Reproduction} (Boston: Beacon Press, 2001), 97–98 writes: "In Anglo or European history, the taboos were based on beliefs that menstruating women cause meat to go bad, wine to turn, and bread dough to fall. In Cambridgeshire, well into this century, menstruating women could not touch milk, fresh meat, or pork being salted, lest it go bad."

\textsuperscript{14} Ilana Be'eer, "Blood Discharge: On Female Im/Purity in the Priestly Code and in Biblical Literature," in \textit{A Feminist Companion to Exodus and Deuteronomy} (ed. Athalya Brenner; Sheffield: Sheffield Academic Press, 1994) 152–64 at 161, writes that menstrual blood is considered a "major source of defilement. Sexual intercourse with menstruating women is included in the list of heinous sexual offences. The euphemism \textit{niddå}, used to describe a menstruating woman, reflects her social isolation and deprivation." She is also described as \textit{dàwà} "ill/unwell," as for example in Deut 28:60.

\textsuperscript{15} Kraemer, \textit{Her Share}, 101, quotes from the \textit{Epistle to the Bishop Basileides} that in the third century "some Christians shared the perception that sexual impurity (comprising both menstrual blood and sexual discharge) could interfere with one's ability to receive the Eucharist."
concrete attributes of this act; only the washing of the clothes is recorded; it is the only occurrence in Scripture of the term קָדָשׁ in association with washing the clothes. Even more enigmatically, a form of קָדָשׁ is used again in v. 23, referring to the mountain, to which the act of washing is obviously not applicable. A further question is raised by v. 22, indicating that the priests too must undergo the “consecration.” The text gives no indication as to what action(s) the priests should perform, since the washing of clothes decreed by Moses for all the people is not mentioned. Furthermore, we do not know the reason for the special command directed to the priests, who, we may assume, were included in the previous command to הָעָם “the people” and in its fulfillment (Exod 19:10, 19:14). The phrase מַטְמַאָתָהּ מַטְמַאָתָהּ (a derivative of קָדָשׁ) in 2 Sam 11:2–4 may support my hypothesis that it refers to some magical act used, inter alia, in connection with purifying a menstruating woman. In 2 Sam, the phrase is commonly assumed to be associated with some act of purification after menstruation, although we have no indication of what it really meant.

2 Sam 11:2 records that Bathsheba is bathing on the roof, presumably naked; but her purification from her uncleanness appears only later, in David’s dwelling (11:14), and it is unclear whether this purification was performed after her sexual intercourse with David, as the text seems to indicate, or before it. The text of Exod 19 is problematic in other respects, and seems to have been composed by the final redactor from many sources, but its use of קָדָשׁ, similar to that of 2 Sam 11, must be perceived as originating from an ancient source.

Assuming, as I hypothesize, that Moses’ instructions to the men to separate themselves completely from menstruating women refer to all women, because

16 The term קָדָשׁ is nowhere associated with the cleansing procedure from impurities of any kind.
17 See Heger, Challenges, 73–75, for a discussion of some problematic aspects of this chapter, rabbinic attempts to solve them, and possible ramifications for a Qumranic halakhah.
18 For an analysis of the different ancient sources from which this chapter was composed, see Tzemah Yoreh, www.biblecriticism.com.
19 In fact, the first rules about the pollution of menstruating women appear in the P and H segments of the Pentateuch, chronologically later than the Sinai revelation, according to the traditional viewpoint. But even those do not demonstrate a consistent logical foundation for the various rules. For example, the menstruating woman is unclean for seven days, as is the one who sleeps with her, and anyone touching her will be unclean until evening (Lev 15:19 and 24); no cleansing procedure is required. The one who touches her bed or her seat, however, is unclean until evening, but must wash himself and his clothes to regain purity (Lev 15:21–22); verse 23, in contrast, seems not to require washing for these acts. These oddities point to an amalgamation of different ancient traditions in the rules concerning the pollution and cleansing of menstruating women.
one cannot know which women have begun to menstruate and when, may resolve the apparent contradiction that Moses’ instructions to the people do not concur with the divine instructions conveyed to him. If we eliminate the common interpretation, based on rabbinic exegesis, that Moses forbids sexual intercourse, and instead posit that he commands a total separation from women in general because some women will be menstruating, then Moses repeats the divine instruction, but in a simpler, more understandable style: “Do not approach a woman.” This would also offer a reasonable explanation for the use of the undetermined term אשה “a woman” in place of נשים “your wives,” as we would expect if the command prohibits sexual intercourse. Further, if men who have had any contact with a menstruating woman must not be present at the Deity’s revelation at Sinai, then women would be definitely excluded. I am aware that I have no hard evidence for my hypothesis, but the arguments cited above make it plausible, as well as resolving some difficult textual problems. In fact, my thesis and argumentation do not relate to the question of what is or was the truth but, rather, address what we can deduce by logical consideration from the text before us.

It is evident that the entire pericope in Exod 19 relates to communication with and behaviour of men, as rabbinic speculations assert, rather than women. Furthermore, if the men were instructed not to have sexual intercourse with their wives (against the simple interpretation of the biblical text), yet the women were present, albeit separated from the men—as one late traditional commentator asserts—one would expect an explicit rabbinic dictum to this effect. Yet the rabbis do not mention anywhere that women participated in the miraculous event of the Sinai revelation to justify women’s obligation to fulfill the divine decrees given at Sinai, as they do in other similar cases. For example, the argument “because they too were present at that miracle” is used to justify women’s obligation to drink four cups of wine at the Passover meal (b. Pesah. 108a), to recite or listen to the Megillah on Purim (b. Meg. 4a), and to kindle the Hanukkah candles (b. Šabb. 23a). Women’s participation in the Exodus miracle is endorsed by this superlative pronouncement in Mek. Mass. D’Shira, parsha 3: “Rabbi Eliezer says that a maid servant saw at [the miracle of the sea] what Isaiah and Ezekiel [the prophets] did not see?” (Isa 6, Ezek 1). But the participation of women in the miracle of Sinai and their seeing and listening to God’s words (Exod 20:15, 19, expressed in masculine plural) is not mentioned anywhere in the authentic traditional rabbinic literature, lending

21 See p. 149.
further support for the thesis that woman did not participate in the Torah revelation at Sinai.

4.2.3  \textit{The Range of חעם and עדה}

The presumed neutral term חעם is used often in Scripture—not only in the above narrative—to identify the men of the people. In the introductory verse of the Golden Calf narrative, the phrase חעם, he people gathered around Aaron” must be understood as referring to the men. In v. 2, Aaron replies to the people’s demand by saying: Take off the gold earrings from your wives, sons, and daughters, and bring them to me, indicating that his interlocutors are male. חעם in Exod 32:3a may refer to men and women alike\textsuperscript{22} since we observe in Exod 35:22 that both men and women bore ornaments and brought them to Moses, but 32:3b, אַלּוּ אַל אֲחָר, “and brought them to Aaron,” relates to men only. The men were the instigators of the wicked affair; they were ordered by Aaron to take off their women’s jewels; and they orchestrated the entire event. The many uses of חעם in the narrative refer exclusively to men; women were not involved. Therefore, only men were executed by the Levites on Moses’ order (32:27), and only men are named in the identification of the dead (32:28). Similarly, חעם in Num 25:1 perforce refers exclusively to men. Moses’ instruction to the judges\textsuperscript{23} to kill all the men who worshipped the idol (Num 25:5) acknowledges the men’s misdeeds. Considering the righteousness

\textsuperscript{22} I do not think that the addition of כל חעם in Exod 19:8 includes women, in contrast to חעם that does not, although that possibility cannot be excluded. I conjecture that the use of the phrase as כחדא חעם, כחדא כחדא חעם, חעם חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חעם, חאם, חעם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאם, חאמ

\textsuperscript{23} The term שפטים in Deut 16:18, associated with שפטים, is translated by the NIV as “judges and officials,” and this seems to be the habitual translation: the judges who deliver the legal decisions and the officials appointed to enforce them. In our verse, however, the translation of שפטים as “judges” by the NIV and KJV is inappropriate, since the judges do not enforce their own judgements. The LXX interprets שפטים in Numbers as φυλαῖς, from the root φυλή “a tribe,” but also “a contingent of soldiers furnished by a tribe,” and in Deuteronomy as κριτὰς “judges.” The traditional commentator Rashi relates them to the officials “over thousands, hundreds, fifties and tens” appointed by Moses, whose
of divine justice, one may assume that here, too, the women were spared from the plague; Scripture records that the plague affected the יבון ישראל ובני בני ישראל (Num 25:8–9) in masculine plural, which may indicate that women were not affected.

The exclusion of women from active participation in the people’s affairs and in their evil behaviour is similarly evident from two significant narratives about the wickedness of the people. Korah, in launching his rebellion, gathers.Rendered “the assembly” (Num 16:19), in which only men over twenty were included (Num 1:2–3); women are not involved either in the gathering or in subsequent grumbling against Moses (Num 17:6, 16:41 in KJV, in which עדה is used interchangeably with עם), and they are not punished by the plague that afflicts the men (Num 17:12, 16:47 in KJV; again, the number of the dead מתים is given in masculine plural). In the narrative of the scouts sent by Moses to explore the land of Canaan (Num 13), again עדה is interchanged with עם; both terms refer to men only, as we see later in the text. In Num 13:26, עדה is used to describe those to whom the spies reported their observation, but in v. 30 Caleb silences עם “the people,” who seem to have been worried and disappointed by the report, as we see as the narrative develops. Only counted men over twenty grumbled (Num 14:2–3) and deserved punishment (v. 29), and that is further confirmed at the fulfillment of the announced retribution (Num 26:64–6). Num. R. 21:10 emphasizes that the masculine mode of these verses indicates that only the men were convicted and died in the desert, whereas the women entered the land. The succeeding narrative of Zelophehod’s daughters demonstrates it. The midrash equally asserts that the women were not involved in the sin of the Golden Calf, and were not punished.

There are occurrences of עם that according to the context include both men and women; for example, in Num 33:4b, Deut 16:18b, and Deut 7:6. On the other hand, I do not believe that the author of “and then the hands of all the people,” in the description of the idolater’s execution by stoning (Deut 13:10 and 17:7), intended that women should participate in the execution. It is

task was to “serve as judges for the people at all times” (Exod 18:21–22); hence, שפטים is appropriate.

Although the term מתים could grammatically intend both men and women, the term עדה used in these verses indicates that they refer to men only.

The numerous passages about the holiness of Israel in Lev 11:44–45, 19:2, and 20:7, 26 refer to men and women alike. I did not cite Deut 4:10 because it relates to the Sinai revelation, which I argue women were not present at. On the other hand, the term עם in Deut 31:12 includes women, but this is explicitly emphasized in the verse, and cannot serve as evidence for the interpretation of the term without further context that indicates who is included.

24 Although the term מתים could grammatically intend both men and women, the term עדה used in these verses indicates that they refer to men only.

25 The numerous passages about the holiness of Israel in Lev 11:44–45, 19:2, and 20:7, 26 refer to men and women alike. I did not cite Deut 4:10 because it relates to the Sinai revelation, which I argue women were not present at. On the other hand, the term עם in Deut 31:12 includes women, but this is explicitly emphasized in the verse, and cannot serve as evidence for the interpretation of the term without further context that indicates who is included.
evident that context determines the correct interpretation of דָּבָר, with or without the adverb כל, whether it relates to men only or to men and women alike.

4.2.4 Ramifications of Women’s Absence from the Revelation at Sinai

Women’s absence from the most momentous event of lawgiving in Israel’s history and culture[26] and their exclusion from participation in public affairs cast serious doubt on Scripture’s attitude towards the relevance of the Law for women, the pertinence of its commands, and the manner in which their obligations should be accomplished in particular circumstances. This significant question about women’s status and equivalence to men with respect to fulfilling the Torah’s precepts relevant to them[27] is further complicated by the reality that the man is the exclusive conduit of God’s commands relevant to the woman. It remains his prerogative, we may assume, to choose how to transmit the divine commands, and possibly also what to transmit and what to omit.

We observe that God gives to Adam the first negative command—from which trees to eat and from which not to eat.[28] God relies on him to transmit this

26 Shaye J.D. Cohen, “Are Women in the Covenant?” in A Feminist Commentary on the Babylonian Talmud: Introduction and Studies (ed. Tal Ilan et al.; Tübingen: Mohr Siebeck, 2007), 25–42 at 26–7, is not resolute on the issue of whether women participated at the Sinai revelation, by raising conjectures in both sides. Relying on the fact that “women were part of the people, the children of Israel, who departed from Egypt,” Cohen states, “women stood at the foot of Mount Sinai,” without specifying whether he is indicating that women participated in the event of revelation or that they were there but did not participate. Cohen hints to a contrasting indication, citing Exod 19:14–15, which commands men not to approach their women. He also draws attention to the tenth commandment (not to covet one’s neighbour’s wife), which cannot be addressed to women. Cohen thus leaves in limbo the question of whether women participated in the revelation and are “parties to the covenant” or not.

27 Judith Romney Wegner, “Women in Classical Rabbinic Judaism,” in Jewish Women in Historical Perspective (ed. Judith R. Baskin; 2d ed.; Detroit: Wayne State University Press, 1998), 73–100 at 80, states that according to the Mishnah, “even the dependent woman remains a person. As a member of the Israelite community, she is bound by the responsibilities of Jewish personhood and must in principle observe the rules of Jewish law and custom.” I agree with Wegner’s first premise that a woman is a person in the ambit of Jewish law according to Scripture and rabbinic literature, but disagree with her second premise that, as such, a woman is expected to “observe [all] the rules of Jewish law and customs.” Hence, women’s responsibilities, as members of the Jewish people, are of lesser rank than those of men.

28 The first divine command to procreate, in Gen 1:28, is given to both Adam and Eve, because it is a task which must be accomplished by a man and a woman. Although the rabbis decided that the woman is not obligated to fulfill this command (m. Yeb. 6:6),
command to Eve, and indeed, Adam does so; but he changes dramatically the divine rule conveyed to Eve, as we learn from her dialogue with the serpent.29

We observe from another biblical rule that, indeed, the man's will and authority over his wife override even the divine rule. Num 30 describes a great variety of circumstances related to a father's or husband's authority to annul the vows of his daughter or his wife, because his will and decision override both her will and her obligation to fulfill her vow.30 Num 30:7–9 and 30:11–14 grant the husband the authority to annul his wife's vows, and therefore God will forgive the woman her sin לָסַל וְיַסְלָה for failing to accomplish her obligation; the man commits no sin by preventing his wife from fulfilling her obligation towards God, because God has given him this authority. However, when he exceeds his God-given authority by annulling his wife's vow long after he hears about it, he performs an unlawful act; her guilt is transferred to him, and he is not forgiven for his transgression, as we read in 30:16.31 One might expect that in such a case, when the man oversteps the authority granted to him by God, Scripture would decree that the woman must obey the divine obligation and fulfill her vow, but instead Scripture seems to require that she obey her husband's request, rather than the divine command, even in these circumstances. Although the husband's behaviour is sinful, and he will bear the consequences, God “surrenders” his right in favour of the husband.32 I hypothesize that the philosophical root of this rule was the critical significance given to ensuring harmonious married life and family stability.33

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29 Eve's dialogue with the serpent portrays her as a naïve, unsophisticated person telling only the truth, and there is no reason to suspect her of altering Adam's instructions to her. Hermann Gunkel, *Genesis* (trans. Mark E. Biddle; Macon, GA: Mercer University Press, 1997), 17, hypothesizes that the addition of the prohibition to touch the tree may have been the narrator's supplementation, “meant to portray the zealous nature of the young woman.” According to Bal, “Sexuality,” 33, that “alleged error” simply indicates Eve's confusion of the tree of knowledge with the tree of life—an understandable mistake. See further data on this issue in Chapter 2, pp. 47–77 and nn. 11 and 12.

30 The father's authority to annul her vows expires at her maturity (*m. Ned.* 10:2).

31 Timothy R. Ashley, *The Book of Numbers* (Grand Rapids, MI: Eerdmans, 1993), 581, states: “in the cases here considered [i.e., in vv. 14–16] guilt is incurred, but it belongs to the husband, not the wife.”

32 Some traditional commentators have indeed some difficulties with such a bold assumption, and devise solutions to minimize its impact. *Sifre piska* 156, however, interprets the rule according to its simple meaning, as I did.

33 As it seems, the rule of v. 16 applies only to the husband, not to her father.
4.2.5 The Husband’s Authority to Decide Which Precepts His Wife Must Fulfill: The Evidence

As we have seen, Scripture upholds the husband’s decision about his wife’s behaviour even against the law,\textsuperscript{34} against the expectation that in such a case the woman should fulfill her vow.\textsuperscript{35} This apparent peculiarity may have been the basis of the perception that Scripture grants the husband authority to decide which precepts, and what information about how to accomplish them, he will convey to his wife,\textsuperscript{36} except, plausibly, those precepts that are explicitly indicated in the Torah as obligatory for women and men alike, such as the commands to rest on Sabbath and not to consume blood, the prohibition of all forms of idolatry, and similar forbidden acts. Certain precepts, practised by some people and orally transmitted from generation to generation, may have been recommended to be imposed on women by a spiritual leader or elders of a community or area and, having gained a foothold there, spread with time to other areas.\textsuperscript{37} Through a “collaborative” process, some of these customs were then finally acknowledged by the rabbis as emanating from the Torah, and thus were established as definite rules for all Jewish women, and slowly became the normative rules of all Jews. I emphasize the qualification “normative” because, as we know, the Qumranites did not accept all of the rules previously decided, plausibly by the Pharisees, and acknowledged by the rabbis. The prohibition on polygamous marriage and marriage between uncle and niece are just two examples of such crucial \textit{halakhot}, whose sources, as I understand, were different customs circulating among the Jewish public. The Qumranites preferred the customs of those groups that prohibited polygamy and marriage with a

\footnotesize{\textsuperscript{34} We encounter a similar rabbinic rule granting preference to the woman’s obligation to satisfy her husband’s requirements over her scriptural obligation to honour her father in \textit{t. Qidd.} (ed. Lieberman) 11, because she cannot decide by herself to accomplish her duties towards her father.}

\footnotesize{\textsuperscript{35} This reality refutes the assumption of Isaac Sassoon, \textit{The Status of Women in Jewish Tradition} (New York: Cambridge University Press, 2011), 66, that Num 30 permits the husband to annul his wife’s vows on “supererogatory miṣvot,” but he “has no jurisdiction” over “his wife’s observance of miṣvot in general.”}

\footnotesize{\textsuperscript{36} Berman, “The Status of Women,” 16. Berman, a traditional scholar, declares that the rabbinic decisions regarding which precepts women should be exempted from were guided by the principle that “no law would stand in the way of her [the woman’s] performance” of her duties towards her husband and children, and in the shaping of a home.}

\footnotesize{\textsuperscript{37} Joseph Blenkinsopp, \textit{Wisdom and Law in the Old Testament: The Ordering of Life in Israel and Early Judaism} (Oxford: Oxford University Press, 1995), 92, states that early Israel “was a traditional society, which implies that norms for conduct were determined by appeal to the wisdom of the group accumulated over centuries.”}
niece. Since there are no explicit biblical texts outlining these prohibitions, the Qumran texts justify them by proffering logical deductions from scriptural texts (CD IV:20–V:1 and V:10), as the rabbis did by similar, but not identical, midrashic interpretive methods.\(^\text{38}\) I have published elsewhere a similar explanation for the “non-normative” halakhot of Jubilees.\(^\text{39}\)

Such a conjecture is similar to Qumranic or rabbinic decrees that have no explicit origin in Scripture. The structure and content of the phylacteries, for example, are based on Deut 11:18b: “Therefore shall ye lay up these my words in your heart and in your soul, and bind them for a sign upon your hand, that they may be as frontlets between your eyes” (KJV translation) and on similar but not identical biblical verses about this decree. In fact, the Samaritans and the Karaites, not accepting the rabbis’ decree and denying their interpretation, interpret this verse as a symbolic rather than concrete decree, claiming that in one of the four similar biblical passages, Exod 13:9, the cryptic לוטוטפת (totafot) is replaced with the abstract, symbolic לזכר ולטוטפת “remembrance.” The text of Deut 11:18 seems to support the Karaite theory of its symbolic character; as the first part of the verse to fix God’s words in the hearts and minds relates to a symbolic rule, so does the second part: tie the symbols on your hands and they should be as frontlets between your eyes. Nevertheless, the rabbis claim that their interpretation is the correct one, received orally from God by Moses at Sinai; phylacteries have been found in the Qumran region, and Matt 23:5 records that the Pharisees wore phylacteries.\(^\text{40}\) The phylacteries found in the Qumran region were similar in their construction (four cells in one case) to the current rabbinical-formulated phylacteries; their content was not exactly the same, adding two further biblical lemmas to the rabbinic four.\(^\text{41}\) There is no way to deduce from the relevant biblical verse the obligation to concretely bind scriptural lemmas on one’s body, much less the structure, colour, and content of the case; therefore, b. Šabb. 28b declares that all this description is a “halakhah received by Moses at Sinai.”\(^\text{42}\) Despite the utter absence of a

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\(^\text{38}\) Heger, Challenges, 35–41.

\(^\text{39}\) Ibid., 223–4. I wrote there, in reply to a different conjecture, that “I would rather assume that at this time [of the appearance of Jubilees], as in the later period, different customs and halakhot circulated among the Jewish public, since there was no supreme authority in Israel whose decisions were universally acknowledged.” See ibid. for a more extended discussion of this issue.

\(^\text{40}\) We read there: “They make their phylacteries wide and the tassels on their garments long.”

\(^\text{41}\) Yigael Yadin, Tefilin-shel-rosh (Jerusalem: Ha-ḥevrah le-ḥakirat Erets-yisrael ve-’atik-koteha), 1969.

\(^\text{42}\) Maimonides, Introduction to Interpretation of the Mishna (trans. from Arabic to Hebrew by Joseph Kapach; Jerusalem: Mossad HaRav Kook, 1961; 8th reprint, 1993) 10, explains
biblical source for these halakhot, both Qumran and the rabbis practised them, which is evidence that some revered Jewish personality established them and that they were acknowledged by the Pharisees and at Qumran as fundamental Torah.\footnote{We read in \textit{b. Ros. Has.} 12b: A head that does not lay/bind phylacteries is a willful transgressor/apostate. The overwhelming significance of this ritual is evident; failure to accomplish it is perceived to be the mark of an apostate.} Hence, we observe that some of these orally transmitted customs were accepted by all the Jewish people (if we assume that the Sadducees also accepted the wearing of the phylacteries), while others were rejected by some or by most of the people. The prohibition of polygamy, for example, practised by some groups (as discussed on p. 143), was rejected by the great majority of the Jewish people.\footnote{The prohibition against polygamy was pronounced by R. Gershom b. Judah, “the Light of the Exile” (960–1028), of Mayence/Mainz—a decree that was soon accepted in all the communities of northern France and Germany for practical reasons related to living in a Christian environment that strongly resented polygamy. Jews living in predominantly Muslim regions continued to practise polygamy until recently.}

Although the following passages relating to the subject of our inquiry are from later rabbinic times, we may reasonably assume that the stages of the institution of new or reformed halakhot were similar to the circumstances in the pre-rabbinic period. Halakhot and opinions may differ in relation to their period, but public agreement to changes of custom were definitely slow processes in the period of our investigation.\footnote{Hannah M. Cotton, “The Rabbis and the Documents,” in \textit{Jews in a Graeco-Roman World} (ed. Martin Goodman; Oxford: Clarendon Press, 1998), 167–79 at 172, writes about the development of Jewish civil law in the period 70–135 CE: “Jewish civil law was in the process of being created in the rabbinic schools, but had yet to receive its final shape—let alone the authority it was to acquire after its formal redaction at the end of the second century CE [with the redaction of the Mishnah].” In fact, the process continued for at least an additional three centuries with the amoraic interpretations of the Mishnah and their innovations. It is plausible that the process of the diffusion and acceptance of the new halakhot and customs obligating all Israelites was even slower and of longer duration than the establishment of the civil laws, controlled by a limited number of sages and their courts.} A narrative in \textit{b. Hullin} 110a attests to the developmental stages of new halakhot and their slow diffusion until acknowledged as a prevailing halakhah, mandatory for all Israel. We read there that Rab (Amora, about 200 CE) visited a town in Babylon. Surprised that the
Jews there did not yet practise the prohibition of eating meat with milk, he decreed a stricter version of the edict.

Rab's motivation to decree stricter rules when the basic ones were not obeyed may appear strange to our contemporary minds, but seems to concur with rabbinic logic.46 Rashi, well aware of this pattern of thought, confirms it explicitly: "He saw that they were neglecting the prohibition of meat and milk and made it stricter."47 This passage indicates that even at this late stage of rabbinic domination of the interpretation of the Torah laws,48 this expanded rule was not yet fully integrated into Jewish society.49

B. Abod. Zar. 36a offers us another aspect of the introduction of new halakhot. Rabbi Judah (the Prince) and his Judicial Court voted and permitted the use of oil from Gentiles, prohibited earlier by the illustrious Schools of Shammai and Hillel. They have nevertheless permitted it, because the prohibition was not diffused among the majority of Israel. Consequently, they relied on the maxim that one does not promulgate a decree binding the public unless the majority of the public can comply with it.50 The reality that the majority of the Israelite public did not comply with this prohibition justified repealing it. This narrative demonstrates that some new decrees by renowned rabbinic leaders were not accepted by the public, and thus fell into oblivion, whereas others were diligently practised. We read in y. Pesah. 1:6 27d that Hillel and Shammai decreed the ritual washing of the hands before eating or praying, and we have confirmation that this decree was practised (Matt 25:2; Mark 7:3). I would suggest, although we have no evidence for this, that it was a custom practised voluntarily by some Jews—emulating the biblical rule for the priests to wash their hands and legs before starting their service (Exod 30:20), or the elders who washed their hands before the ceremony of the Unsolved Murder (Deut 21:6)—and was then promulgated as an obligatory decree by Hillel and Shammai. On the other hand, some rules decreed by renowned personalities

46 As with other issues, this principle was not upheld rigidly and universally, and there is a contrasting opinion.
47 Rashi acquired this explanation from a declaration in b. Beṣah 2b that laws perceived as severe were less disregarded than those deemed lenient.
48 The rabbinic interdiction of mixing all kinds of meat with milk was promulgated by the rabbis terminus ad quem a century before Rav, at the time of Rabi Jose Hagelili (m. Hul. 8:4); yet it was still not practised in the small towns of Babylon.
50 Abot R. Nat., Recension a, Chapter 1, states: "If one extends [the confines] of a rule, one cannot comply with them."
but not by the majority of the rabbis, and accepted only in their town or area, were ultimately discarded even there. We read in b. Šabb. 130a that in the place of Rabbi Jose Hagelili, one would eat fowl meat with milk, not prohibited by Scripture, but forbidden by the majority of the rabbis, but rejected by Rabbi Jose. The circumstances of the dicta and narratives quoted above support my thesis about the developmental system of new or adjusted decrees that claim a basis in the interpretations of biblical texts.

Adjusting biblical laws with the claim that the adjustment is the correct interpretation of the relevant decree is an old and ingrained practice in rabbinic circles and among their later followers. A comprehensive discussion of this theme would surpass the frame of this study, but it may be useful to consider a brief comment by a traditional scholar, Benno Jacob, on the character of the variations between the text of Deuteronomy and those of the other books of the Pentateuch, and particularly of the alterations in the Ten Commandments between Exodus and Deuteronomy.\(^5\) To explain, or rather to justify theologically the differences in the recording of God’s words in Exodus and Deuteronomy, he writes that reading, interpreting, and explaining the Torah is “an imitation of the revelation on Sinai” and that “Deut itself provided the first example of such a Scriptural interpretation,” made by “Moses himself, who was the most competent of all interpreters.” Jacob further states that Moses “had added thoughtful interpretations” of the Exodus Decalogue and that “the freely but accurately reproduced text of Deuteronomy bore the relationship of written and oral law, the text to its interpretation.” The new laws and variations in Deuteronomy are an interpretation of the previously revealed laws, “which reflected the divine intent.”

In conclusion, I believe that I have substantiated my hypothesis about the husband’s initial authority to decide which precepts to impose on the dependants of his household, including his wife.\(^5\) Further, I have presented a plausible conjecture as to how customs voluntarily adopted by some segments of the people became institutionalized and officially validated as compelling biblical ordinances. This pattern prevailed with respect to the precepts women


\(^{52}\) Lena Cansdale, “Women Members of the Yahad according to the Qumran Scroll,” in *Proceedings of the Eleventh World Congress of Jewish Studies, A* (1993) 215–222 at 217 states, without an extended discussion or substantiation: “Women had a place in this [Qumran] community but their importance as well as their behaviour was determined by its male leaders.”
became obligated to fulfill as well as other rules that filled in essential technical details missing from many biblical decrees. Not all orally transmitted customs and rules were officially validated; some were not accepted by the majority of the people, and were ultimately discarded.

I am aware that my conjectures above do not have ironclad support from the quoted biblical and rabbinic texts, particularly since the authors of the latter attempted to exhibit a contrasting theory, but I believe that they are more than merely plausible; they are built on reason and valid argumentation. They may resolve a difficult problem with respect to a crucial general question about women’s obligation to fulfill biblical precepts: Which biblical precepts are women obligated to fulfill, and how are they to do so? As we shall see below, the rabbis grappled with this significant practical issue but did not succeed in establishing a reasonable and consistent system.

4.3 Rabbinic Viewpoints on Women’s Obligations to Fulfill Biblical Precepts

4.3.1 Did Women Participate in the Sinai Revelation? Rabbinic Opinions

From my scrutiny of the relevant rabbinic writings, I believe that the rabbis did not consider that women participated as men did in the revelation of the Torah at Mount Sinai. As a matter of principle, I presume that had the rabbis wished to affirm that women participated—disregarding the biblical text of Exod 19:15, which intimates the opposite—they could easily have used the most common midrashic method to do so: it is written ראתם אתياه a “you have seen” in the case of the miracle of the parting of the sea (Exod 19:4), and it is written ראתם אתياه in the case of the revelation at Sinai (Exod 20:18); just as the first case includes women (this is obvious and does not require substantiation), the second case would also include women. But they do not.

We read in Mek. Jethro. Mass. D’Behodesh, parsha 2: Rabbi Eleazar said: from the command of Exod 19:15 we deduce that a woman who discharges semen the third day after sexual intercourse is pure. This dictum leads Shaye Cohen to conclude that the waiting time of three days was required to allow the women “to be in a state of purity for the acceptance of the Torah.”53 As I understand it, Cohen’s assertion indicates that the women received the Torah at Sinai together with the men. I doubt, however, whether this can be deduced from the text, which subsequently quotes two rabbis disputing the above dictum about the three days. Further, this topic and its conflicting rabbinic assertions

53 Cohen, “Are Women in the Covenant?” 34.
Women’s Obligations to Fulfill Biblical Precepts

appear in m. Mikwa. 8:3 and m. Šabb. 9:3. The discrepancies in many aspects between these texts and that of the Mek. point to the irregularities of the latter,54 and raise justified doubts on the reliability of its composition and its interpretation by Shaye Cohen.

Moreover, as I have argued above, in none of the many passages on the purity or pollution of a woman discharging semen does any rabbi or commentator state or hint that the halakhot and deliberations on this topic demonstrate that the women participated in the Sinai revelation. This seems to me to indicate that their deliberations related only to the issue of when a discharging woman is pure or polluted, and bear no relation to the question of women’s participation at Sinai. This was not even on Rabbi Eleazar’s mind, if indeed he was the author of the dictum in question; at most, I would assume that he decided to quote the biblical verse because it supports his halakhah regarding the three-day period of discharge. Although I think the dispute about the length of this period relates to physical facts, the rabbis often used biblical verses to prove the validity of their opinions on such matters; physiological principles were not established according to human observations, as in modern science, but on the basis of hierarchical decisions—in our case, scriptural verses appropriately interpreted by the rabbis. Galileo was convicted by the Inquisition and sentenced to be burned at the stake (though this sentence was later commuted) because his observations contradicted the church’s declared truths.

There is just one later midrash, Pirkei d’Rabbi Eliezer (Higer), “Horeb,” which claims that, “On the eve of Sabbath, the Israelites stood ready [to receive the Torah], men separate and women separate.” Apart from the fact that no such narrative appears anywhere else, it is notable that its author declares that men and women stood at Sinai not on Sabbath, the day on which the Torah was revealed (b. Šabb. 86b), but on Friday. The issue of whether women participated at the Sinai revelation was taken up in the medieval period, and we encounter a difference of opinion between Rashi and Maimonides. Rashi, in his comments on Exod 19:15, perceives Moses’ command to have been promulgated for the benefit of the women, that is, so that they may be pure on the third day, and participate at the Sinai revelation, even if they discharge semen as a result of sexual intercourse.55 Maimonides, in contrast, perceives it as being for the benefit of the men, to sanctify themselves, as God says to Moses (Exod 19:10):

54 It is beyond the interest of the readers of this study to justify the statement by a lengthy discussion of this intricate topic.
55 Rashi asserts that abstaining from intercourse for three days enabled the women to take a ritual bath on the third day and be pure for the acceptance of the Torah.
“sanctity consists in renouncing sexual intercourse.” At any rate, the dispute between these two most outstanding traditional scholars and commentators indicates that the rabbinic writings do not tell us explicitly whether or not women participated in the Sinai revelation. Implicitly, however, we can deduce from b. Šabb. 87a that the abstention from sexual intercourse in Exod 19:15 was for the benefit of the men, to be pure for the divine revelation, which supports both Maimonides’ interpretation and our thesis. *Mek. Jethro. Mass. D’Behodesh, parsha 2,* interprets Exod 19:3b: “This is what you are to say to the house of Jacob’ refers to the women, and ‘tell to the sons of Israel’ refers to men.” This *midrash,* however, acknowledges our thesis that God did not speak to the women at Sinai; God told Moses what to transmit to the women, and what to the men. In fact, *Mek.* continues with another *midrash* that refines the first; God said to Moses tell the women the basic halakhot, which they are apt to understand, and tell to the men the details of the laws, which they are apt to understand. Just as Moses gave different rules to men and to women, later Israelite men told women what they considered appropriate for them.

We may assume that the rabbis followed the example of Ezra and Nehemiah regarding the distinction between the intellectual character and manner of conveyance of the Law to different groups of listeners, as I have already argued. We read in Neh 8:2–3: “So on the first day of the seventh month Ezra the priest brought the Law before the assembly, which was made up of men and women and all who were able to understand. He read it aloud from daybreak till noon as he faced the square before the Water Gate in the presence of the men, women and others who could understand. And all the people listened attentively to the Book of the Law.” In v. 13, however, we read: “On the second day of the month, ל悪 ההובות ללהי העם the heads of all the families, along with


57 From the rule to avoid sexual intercourse three days before listening to God’s voice at Sinai, Moses deduced that he must permanently avoid it, since he does not know in advance when God will speak to him.

58 The LXX translates this phrase as οἱ ἀρχοντες τῶν πατριῶν τῷ παντὶ λαῷ “the heads of the families (lit. ‘derived from one father’) of all the people.” The NIV omits the translation of the phrase ללב הנבות, which seems confusing—does it refers to all the people or to the heads of the families of all the people? The KJV translates “the chief of the fathers of all the people,” which is equally not very clear. The NRSV translates “the heads of the ancestral houses of all the people,” following Rahlf’s edition of the LXX; another LXX version
the priests and the Levites, gathered around Ezra the teacher to give attention to the words of the Law.” We observe the use of different terminologies: on the first day the author uses הָאָדוֹן אֵל “to read,” and the purpose of the reading is expressed by שָׁמַע “to hear,” that is, for the audience to hear, and בֵּן “to understand” (Neh 8:2–3, 8:8) or “to make intelligible” (8:7, 8:9) in (translated in the LXX with σύνεισομαι “to share knowledge”; the NIV has “understand”) what the instructors tell them;59 שָׁמַע is also used in Deut 31:12 for the mixed audience (men, women, children, slaves) at the meeting held once every seven years, in which only basic elements of the Torah are read. On the second day (Neh 8:13), however, to describe the teaching to the few elect aristocrats, שָׁמַע and בֵּן are replaced by לְהַשֵּׂכל “to give attention” (NIV), “to understand” (KJV), “to study” (NRSV); the LXX has ἐπίστομαι “to understand as a learned person (lit. ‘versed with knowledge’).” Thus, Ezra follows the decree of Deut, and the rabbis follow Ezra’s example. However we understand the odd phrase לְכָל הָעָם,60 Neh 9:1–3 indicate the great difference between the manner of teaching and fulfillment of the decrees for men and for women. Only the men (and here the text seems to be referring to all Israelite men) confessed their sins, demonstrating their consequent agony and their repentance; accomplished the separation as decreed by the leadership; and studied the Law intensely for a quarter of the day. The men, and only the men, were deemed responsible for the sins of the people, not only because of their marriage with foreign women, but for all other misdeeds, as is evident in Neh 9.

In conclusion, I maintain that the literal “do not approach a woman” means a strict separation of the men from the women, and hence they could not participate together in the Sinai revelation. According to the biblical narrative, concerns about ritual purity evidently did not motivate the command to abstain from sexual relations; טמא and טהור, the terms typically used in discussions of ritual purity do not occur at all in Exod 19, which records the Israelites’ preparations for the event. Furthermore, according to the biblical narrative, all the Israelites were ritually impure at that time, since they had had contact with a corpse and the cleansing solution (made from the ashes of a red heifer mixed

59 The text of this verse is also unclear, namely, who read and who understood, but the traditional commentators and the NIV and KJV translate that the instructors, mentioned in the preceding v. 7, read in such a way that the people understood their reading. B. Meg. 3a asserts that the instructors translated the Torah reading to them (since the term מפרש is used), plausibly intending a translation into Aramaic, as was later generally instituted.

60 See note 58.
with water) was not yet available. It is not appropriate for me to speculate as to
the possible motive for the decree, beyond my hypothesis about the menstrua-
tion taboo, discussed above. The arguments elaborated above, the fact that the
tenth commandment, “you shall not covet your neighbour’s wife,” cannot be
addressed to women,\(^{61}\) and the interpretation of the relevant biblical verses all
point to the conclusion that the narrative does not envisage the participation
of women in the Sinai revelation; they remained in their tents nearby.\(^ {62}\) The
rabbinic passages quoted, discussed, and disputed above cannot serve as evi-
dence contradicting the results of a simple interpretation of the relevant texts.

My discussion of women’s absence from the revelation at Sinai addresses
the rabbinic viewpoint on this topic; I have attempted to show that there is
no support in rabbinic writings for the idea that women participated in this
event. Unfortunately we have no texts from Qumran that address this ques-
tion; we can only presume that since a straightforward reading of the biblical
text seems to suggest their absence, the Qumran scholars, whose interpreta-
tions of Scripture habitually follow the simple or evident understanding of the
text, would agree.

4.3.2 *Rabbinic Attitudes towards Women’s Obligations: Introduction*
The rabbis attempted to rationalize women’s obligations and exemptions, but
ultimately concluded that the classification does not cover all instances. We
read in *m. Qidd.* 1:7: “Men are obligated [to fulfill] all time-associated positive
precepts, and women are exempted; both men and women are obligated [to
fulfill] all the non-time-associated precepts.” This seemingly clear statement
is questioned, however, in *b. Qidd.* 34a, claiming that the precepts to eat *mat-
zah*, to enjoy the holidays, and to participate in the once-in-seven-years assem-
bly (Deut 31:10–13) are time-associated precepts, and women are obligated
to fulfill them. Further, to study the Torah, to procreate,\(^ {63}\) and to redeem the

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61 Although it is assumed that J is the source of this element of the commandment, this
assumption does not affect our consideration.

62 We read in Exod 19:2b: “and יִשְׂרָאֵל Uriyah Israel camped there in the desert in front of the moun-
tain”; the usual phrase בְּנֵי יִשְׂרָאֵל, in masculine mode, is replaced by the neutral form,
since all of Israel included the women who left Egypt and camped in front of the moun-
tain. In fact, the term עִבְרֵי יִשְׂרָאֵל, אלָיוֹ, נַשְׁרָאֵל, or נַעַריוֹ, קָאִים, נַעַריוֹ, and similar attributes) appears rarely in the Pentateuch, only in those few instances in which it refers to the entire people, including women and children, as for example in Exod 14:30 and 31, 15:22, and 18:1 and 8.

63 Although the command to procreate in Gen 1:28 is expressed in the plural and seems
clearly directed to both Adam and Eve, *m. Yeb.* 6:6 declares that only the man is obligated
to procreate, not the woman. Midrashic methods are devised to reconcile the rule which
first-born son are positive non-time-associated precepts and women are exempted. Hence, said Rabbi Johanan, we cannot establish a *halakhah* on the basis of the presumed principle. But Rabbi Johanan did not abolish the principle, which has remained the logical justification and overall guideline for the general issue of women’s obligations, albeit with exceptions, as we observe from the various discussions about this principle in the rabbinic literature. Below, therefore, I scrutinize the rabbinic decisions about these obligations and attempt to reveal their authors’ ideological motivations for applying them selectively, as they in fact did in practice. I believe that the rabbis made most of these decisions on the basis of their own pragmatic considerations, because there was no rigid, invariable principle, as I have suggested above; these 

contradicts Scripture, but it is not in the scope of the study at this juncture to deliberate further about it.

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64 I dispute Isaac Sassoon’s theory in *The Status of Women in Jewish Tradition* (New York: Cambridge University Press, 2011), 46, that Rabbi Johanan and the Amoraim, who challenge the *mishnah*’s principle, did not intend to “undermine the *mishna*,” but “had inherited traditions that defied the *mishna.*” I do not perceive it as a dispute between two traditions, as Sassoon asserts; *the mishna* did not announce any *halakhah*, and Rabbi Johanan did not dispute any *halakhah*. His challenge of the principle is founded on the assumption that the *mishna* agrees to the enumerated *halakhot*, but he argues that they contradict the principle. His conclusion does not discard the principle; he only limits its overall application. Hence, Rabbi Johanan’s scrutiny is not based on conflicting traditions. Consequently, I do not perceive that Judith Hauptman’s theory in *Rereading the Rabbis: A Woman’s Voice* (Boulder, CO: Westview Press, 1998), 238, that “there were a wide variety of opinion on these matters [which precepts women are obligated to fulfill], but in most cases only one opinion was included in the Mishna,” applies to our case.

65 Saul J. Berman, “The Status of Women in Halakhic Judaism,” *Tradition* 14, no. 2 (1973): 5–28 at 11, states that the cited principle “is found to be descriptive of some of the laws regulating the status of women, but is inaccurate as a general description.”

66 Maimonides, in his *Commentary to the Mishna* in *m. Qidd. 17*, however, perceives it differently, and writes: “But the [rules about] which of the affirmative precepts women are obligated [to perform] and from which they are exempted in all their extent have no principle at all, but are transmitted orally, and they are accepted by tradition.” He does not declare, however, that it is a tradition from Sinai. Hence, his opinion supports my thesis, argued earlier in the study, about the initiation and developmental stages of which precepts women are obligated to or exempted from. They are not the outcome of interpretations of the scriptural texts.

67 Saul Berman, “The Status of Women in Halakhic Judaism,” in *The Jewish Woman: New Perspectives* (ed. Elizabeth Koltun; New York: Schocken Books, 1976), 118–19, demonstrating the inconsistencies of the principle proffered in *m. Qidd. 17*, writes: “Some other principle or principles must have been operative in determining the specific set of obligations and exemptions which constitute the legal status of women.”
utilitarian precepts and haphazard customs were then ultimately institutionalized and declared to be obligatory. The rabbis’ search for a determining principle for the obligations of women is not an exception to their usual practice: they attempted to reveal principles in other laws and regulations as well.

4.3.3 Rabbinic Theories and Their Textual and Practical Background
Let us start with *m. Ber.* 3:3: “Women, slaves and minors are exempted of reciting *Shema* (Deut 6:7) and wearing phylacteries (6:8), and are obligated to perform prayer, writing on the doorposts, (6:9) and blessing God after meals. (Deut 8:10).” In reality, according to the simple interpretation of the relevant biblical texts, the precepts of reciting the *Shema* and wearing the phylacteries are not time-associated precepts, and women should be obligated to perform them according to the rabbinic principle. We read in Deut 6:7 the command to recite the *Shema*: “Impress them on your children. Talk about them when you sit at home and when you walk along the road, when you lie down and when you get up.” The simple meaning of this command is “always” or “all the time”—not that these commands apply only at the specific times enumerated. Deut 6:8, which commands the wearing of phylacteries, does not hint of any time limitation. Whereas in the rule for reciting the *Shema* the rabbis reveal some phrases that could be interpreted, in a midrashic system, as alluding to an obligation of the *Shema* during the day only, we do not encounter such an interpretation

68 Gordon “Toward a Gender-Inclusive Account,” 5, states: “The legal-centeredness of late pharisaic and early rabbinic Judaism” is affirmed by St Paul, Shmuel Safrai, and Martin Buber. The rabbis’ goal, like Ezra’s, was to create an impenetrable wall between the Jews and their neighbour nations, thus ensuring the cultural persistence of the Jewish minority by isolating them from any inappropriate influence.

69 Rachel Biale, *Women and Jewish Law: An Exploration of Women’s Issues in Halakhic Sources* (New York: Schocken Books, 1984) 17, likewise postulates a developmental theory about the issue of which precepts women are obligated or exempted to fulfill. She contends, however, that initially women were obligated to fulfill all precepts, but “a gradual evolution of daily practice and communal customs… allowed women not to perform certain *mitzvot,*” in contrast to my reversed hypothesis, namely, that initially women were not obligated to accomplish positive precepts, and the gradual evolution established the precepts to which they were obligated. The logical and historical circumstances affirm a rabbinic developmental system of accretion of new precepts and of rules of application of existing ones, and thus, we should perceive their method regarding the particular subject of women’s obligations in the same way.

70 We read in *b. Yoma* 19b: “‘Talk about them’ [means] make it permanently, and do not make them occasionally”; we encounter a parallel dictum in Josh 1:8.

71 In *y. Ber.* 3:6b, *Hal.* 3 women’s exemption from reciting the *Shema* is challenged, arguing that it should be compared to their obligation to pray.
attempted regarding the Phylacteries. In the absence of such scriptural time limitation, some rabbis indeed conjecture that binding phylacteries is a non-time-associated precept and that women are obligated to perform it.\footnote{In a rhetorical debate, in \textit{b. Sabb.} 62a it is assumed that Rabbi Meir conjectures that the obligation of phylacteries applies also at night, and consequently it is obligatory also for women as a non-time-associated precept.} The majority of the rabbis, however, ignore this distinction and interpret the two precepts (the \textit{Shema} and phylacteries) as referring to day only and not to night; hence the \textit{halakhah} that both are time-associated precepts and thus not obligatory for women.\footnote{\textit{M. Ber.} 1:3 interprets \textit{ובكومך ובשבך} (Deut 6: 7b) in a restrictive way: “at the time when people go to bed and they get up.”} Moreover, although the biblical text about writing on the doorposts (Deut 6:9) is identical to the antecedent decree relating to phylacteries, the rabbis classify phylacteries as a time-associated precept, not obligatory for women, and writing on the doorpost as a non-time-associated precept, obligatory for men and women alike. It would seem that some underlying ideology was behind this decision, as we shall also see below.

Among the precepts that are obligatory for women are prayer, writing on doorposts, and grace after meals. Reciting the grace after meals is evidently a non-time-associated precept (it is recited no matter what time the meal takes place), and its classification as such is reasonable.\footnote{The biblical command to thank God after a meal in Deut 8:10 refers to men and women alike, but does not establish a fixed text, as occurred later.} The precepts of prayer and writing on doorposts, however, raise some questions. There is no command in Scripture obligating prayer.\footnote{We encounter in \textit{b. Ber.} 26b a discussion about whether the three daily prayers were established by the Patriarchs (based on midrashic exegesis of biblical verses) or the rabbis, as substitute for the sacrifices that ceased to be offered after the Temple’s destruction. I would like only to draw the reader’s attention to Daniel, who is said to have prayed three times a day (Dan 6:11, v. 10 in KJV).} The precepts of prayer and writing on doorposts, however, raise some questions. In fact, we find extremely few instances of prayer by the Patriarchs and Moses at junctures where we would expect them. \textit{Sifre Deut. piska} 26 lists ten different terms used in Scripture to describe prayer, but altogether they appear on few occasions. Abraham prays for Abimelech (Gen 20:17), but he does not pray to God upon arriving in Egypt, when he is in danger because of Sarai (Gen 12:12). Isaac prays to God for Rebekah’s pregnancy (Gen 25:21), but he does not pray for his safety when he settles in Gerar (Gen 26:7). Jacob is frequently in danger—escaping from Canaan, running away from Laban, meeting Esau, fearing repercussion for the killing of the Shechemites—but we do not see him praying to God for help and rescue. Moses prays to God more often for the Israelites, and only once for himself to be permitted to cross
the Jordan and see the promised land (Deut 3:23); one might perceive this narrative rather as discouraging prayer, since God does not grant this request. Moreover, we observe in Gen 25:21 that Isaac prays to God for Rebekah to have children; God answered his prayer, and his wife Rebekah became pregnant. Hence, it seems that the woman does not pray to God on her own behalf, but it is the man who must pray for his wife.

Writing on doorposts, which the rabbis classified as a non-time-associated precept, is similar in its essence to the precept of the tassels, which the rabbis classified as a time-associated precept, and therefore exempted women from wearing them; hence, women should equally be exempted from writing on doorposts, since neither can be seen at night. In fact, in *t. Qidd.* (Lieberman) 1:10, we encounter a dispute about the classification of time-associated and non-time-associated positive precepts; the *tosefta* states that the precepts of Sukka (Deut 23:42), Lulav (Deut 23:40), and Phylacteries are time-associated, whereas returning a lost object (Deut 22:1), freeing a bird (Deut 22:7), making a parapet (v. 8), and wearing tassels (Num 15:39) are non-time-associated precepts. Rabbi Simeon exempts women from wearing tassels, because it is a positive time-associated precept.

*B. Menah.* 43a justifies this opinion on the grounds that the function of the tassels—namely, looking at them—is explicitly indicated in Scripture (Num 15:39), and one cannot see them at night; thus, they are time-associated and obligatory only during the day. Rabbi Simeon's dictum was established as the correct *halakhah* and acknowledged by the rabbinic community.

However, there is no dispute in the rabbinic literature that the precept of writing on the doorposts is obligatory for women, and although the relevant biblical decree is not explicitly associated with seeing the words, it is evident that their function is to be seen, just as the phylacteries and tassels are intended to be seen; the rabbis classify both of these as time-associated precepts and exempt women from fulfilling them. The purpose of the precepts of the *Shema*, phylacteries, and writing on the doorposts is indicated in Deut 6:6, which introduces them: “These commandments that I give you today are to be on your hearts.” This purpose is accomplished by three methods: the *Shema* is recited by heart; one wears phylacteries and therefore sees them; and one sees the writing on the doorposts. The parallel introductory verse to the same three commands (Deut 11:18) equally indicates their joint purpose: “Fix these words of mine in your hearts and minds.” In essence, there is no difference between the function of writing on the doorposts, wearing the tassels, and binding the phylacteries and the manner in which they are accomplished; their common

76 Indeed in *b. Qidd.* 34a the exemption of the phylacteries by women is challenged on the ground that one should compare it to the doorposts, which obligates them; as is not
purpose and function is to be seen, which leads to remembering the divine commands, the reward for accomplishing these commands, and the severe punishment for transgressing them.

The rabbis, however, do not classify these three precepts in the same way; they perceive the wearing of tassels as a positive, time-associated precept, despite the fact that one can see them by night with the help of candle or any other source of artificial light; but although the same is true of the writing on the doorpost, they disregard the compelling logical consequence set out above and classify this as a positive non-time-associated precept, and thus obligatory for women, as we have seen. The rabbinic decision in b. Menah. 43a that a nightgown is exempt from the obligation of tassels, because it is not seen by anybody, but that a blind person is obligated to wear them because they can be seen by other people during the day, could be perceived as logically justified.77 While the precept of wearing the tassels is in essence an obligation of the individual, its motivation אתו והראיתם "to see it," is written both in plural and in singular;78 the use of the plural may have induced the rabbis to assume that the tassels’ function is the stimulation of both the bearer and the public to remember all of the Lord's commands. This decree and the precept of writing on the doorpost, unlike the reciting of the Shema, have a double purpose, namely, that the individual and the public should remember and obey the divine commands.

The distinction between the biblical styles in which these functions are expressed is just a matter of literary style. Although the function of both the phylacteries and the writing on the doorposts is to be seen, like that of the tassels in Num 15, the commands in Deut 6 and 11 do not contain their purpose, since they include also the command of Shema in the introductory verse, which does not have this function. The introductory verse had therefore to be

77 The rabbis, however, as usual deduce by a midrashic method the tassels’ exemption of a nightgown from the quotation of the tassels in singular mode ואתו והראיתם (Num 15:39), pointing to a restrictive interpretation and the obligation of the blind to wear tassels by the seemingly superfluous phrase בה תכסה אשר "which you wear" in the text of Deut 22:32.

78 This phrase is irregular from a grammatical viewpoint, since one would expect the subject to be in plural mode, not singular, since it refers to four tassels, as it appears in its parallel decree in Deut 22:12 as גדילים, its singular is גדיל, like פטיל. Further, y. Ber. 3a, 1:2 asks why the pronoun ואתו of the ציצית is written in masculine mode, since it is a feminine term.
written in a way appropriate for all three precepts. I believe that the rabbis, in making their halakhic decisions on women’s obligation to fulfill or exemption from fulfilling these precepts, were guided by pragmatic motives, which they did not divulge; their decisions are simply presented as the appropriate interpretation of the scriptural texts. It is our task to attempt to reveal the motives for each of their decisions that seems to us not to concur with the logical interpretation of the relevant scriptural decrees.

I would hypothesize that the rabbis’ exemption of women from the precepts of Shema, phylacteries, and tassels, which is inconsistent with their principle obligating women to fulfill positive non-time-associated precepts, was instituted with the goal of separating men and women to avoid promiscuity—an important rabbinic objective, as we know from other rabbinic sources. We do not know exactly when public prayers in the synagogues were instituted; previously, as we know from Josephus, these meeting houses were used for public meetings to discuss current issues and to teach the law (Vita 277; C. Ap. II:175). However, once the public prayers were instituted,79 exempting women from the obligation to perform these three precepts furthered the rabbis’ goal of separating men and women. T. Sukkah 4:1 attests to the reality of the problem even before the Temple’s destruction; it records that structural changes were made in the Temple Court to avoid the meeting of men and women.80

79 B. Ber. 53a deduces from Prov 14:28 that prayer in public is preferred.
80 On the other hand, Ross S. Kraemer, “Jewish Women in the Diaspora World of Late Antiquity,” in Jewish Women in Historical Perspective (ed. Judith R. Baskin; 2d ed.; Detroit: Wayne State University Press, 1998), 46–72 at 49–51, quotes a remarkable number of sources documenting the reality that women participated in the “governance of the synagogues”; were “archisynagogos, the head of the synagogue”; attended synagogue services; and a woman had a “seat of honour” in the synagogue according to an inscription from Western Asia Minor. This practice complied with Roman custom, in which wealthy women were honoured and wielded influence as local benefactors. The latter, however, hold “religious offices” “serving as priestesses of public cults,” in contrast to Jewish women, who were excluded from such activity. See Judith Evans Grubbs, Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood (London and New York: Routledge, 2002) 9. Hannah Safrai, “Women and the Ancient Synagogue,” in Daughters of the King: Women and the Synagogue: A Survey of History, Halakhah, and Contemporary Realities (ed. Susan Grossman and Rivka Haut; Philadelphia: Jewish Publication Society, 1992), 39–49 at 39, quotes other sources, among them Acts 17:1–4, concerning women’s activities in the synagogues at the time of the Second Temple. It is evident that there was separation between men and women at “religious” public meetings. It demonstrates that the penetration of rabbinic rules and customs in diasporic communities, particularly in
Moreover, wearing phylacteries requires showing a bare arm and uncovered hair, which would categorically clash with the chastity rules and provoke the male libido.\textsuperscript{81} Further, the prevailing social custom for women to stay at home, and not intermingle with men in public places, in the synagogue, or in the marketplace motivated the rabbis to exempt them from those obligations that would clash with this custom.\textsuperscript{82}

We may perceive support for this presumption from a similar rabbinic pronouncement in \textit{b. Meg.} 23a, which asserts that women are legally permitted to read the Torah to the public in the Synagogue, but the rabbis advised against it, out of respect for the public’s dignity. I have not found any explanation for this enigmatic statement. Again, separating men and women in the public sphere may have motivated the rabbis’ decision not to impose on women precepts and customs that would contravene this principle.\textsuperscript{83} With respect to women’s obligation to pray, I would hypothesize that the rabbis intended private supplications rather than public prayer, as we read in \textit{b. Ber.} 20b: “women are obligated to pray, because prayers are supplications for compassion.” This character of prayer recalls the ancient non-institutionalized individual prayers, in contrast

\begin{footnotes}
\item[81] These are rabbinic, not biblical, rules showing a strict separation between men and women. \textit{M. Ketub.} 7:6: enumerates women’s “unchaste” behaviour, including her chatting with men, which permits or compels (that is unclear from the text) the husband to divorce his wife without payment of her \textit{ketubah}.

\item[82] Judith Romney Wegner, \textit{Chattel or Person? The Status of Women in the Mishnah} (New York: Oxford University Press, 1988), 156, similarly states that the rabbis exempted women from cultic practices because they believed “that women should stay out of Israelite communal life,” although, as she asserts, the rabbis never explicitly give this reasoning.

\item[83] Ibid., 158, presumes, among other explanations for the vague concept of offending the dignity of the public, that some sages may have feared “that sexual distraction generated by the presence of women might disrupt the public devotion.” I agree with Wegner’s proposition, but I do dispute her assertion at 157 that the rabbinic rule relates to women’s “eligibility to perform the rite that constitutes the central feature of synagogue worship,” demonstrating, in Wegner’s opinion, the rabbinic aim to deny women’s participation in cultic celebrations. Reading the Torah is not a cultic celebration (a rite, as Wegner calls it), but an accomplishment of the decree to study the Torah. See Deut 6: 7, and Maimonides’ explanation in \textit{Mishne Torah Halakhot} of prayer and priestly blessings 12:1 of the rabbinic rule (\textit{b. B. Qam.} 82a) to read the Torah in the Synagogue every Monday and Thursday. Women are not obligated to study the Torah, but they are not prohibited from doing so; therefore, they may read the Torah, and thus, in principle, they may study it. Wegner’s statement that “the reading of the Torah constitutes the central feature of synagogue worship” seems to be a personal impression, as I cannot find a rabbinic source for this idea.
\end{footnotes}
to the later institutionalized prayers, consisting mainly of blessings, devotion, and thanks, with only a minimum of supplications for the well-being of Israel and scarcely at all for oneself. In fact, b. Ber. 20b discerns between the three daily prayers at defined times (evening, morning, and noon; see Ps 55:18), conceived as a time-associated positive precept from which women are exempted, and the individual non-institutionalized type of prayer, obligatory for women.

Marc Brettler offers us another perspective on the distinction between the poetic prayers recited at public cultic processions and prose prayers, a type that any individual, including women, may compose. He argues that most of the poetic prayers (that is, the psalms) were not appropriate for women; they address males only. He analyses, among others, Ps 128, which specifically relates to men. “Thus,” he continues, “one could imagine many situations in which a woman might have wanted to recite an ‘official’ ready-made psalm rather than composing her own prayer, and in certain circumstances, would have had to settle for a psalm that dealt with her situation in most minor or indirect fashion.” On the other hand, Brettler agrees that some psalms, for example Ps 65, are written in neutral and include men and women alike.

Both Ps 65:3 (v. 2 in KJV): “You who answer prayer, to you all people will come” and 65:5 (v. 4 in KJV): “Blessed are those you choose,” are gender-neutral, in contrast to many other instances (e.g., Ps 34:9; 40:5; 49:12, and 127:5) in which appears the copula הַגּוֹבֵר Shallēr “Blessed is the man.”

The prayers that any individual composes to ask for divine succour in time of affliction, supplications for special benevolence, and thanks for favours received are those the rabbis considered equally obligatory for women and men. We observe that Elkanah and Hannah pray together (1 Sam 1:19), and Hannah is the promoter of the entire episode. She prays to God and vows to

84 Shmuel Safrai, “The Obligations of Women [to Perform] Precepts in the Teaching of Tannaim” (Hebrew), in Bar-Ilan: Annual of Bar-Ilan University, Studies in Judaica and the Humanities (1995): 227–36 at 233–34, similarly states that this decree relates to individual prayer, each for his own needs and requests, as practised before the institutionalization of public prayer in synagogues.


86 Ibid., 27.

87 Ibid., 27–38.

88 Ibid., 47.

89 Ibid., 40.

90 On the other hand, it is difficult to acknowledge as appropriate the rabbinic assertion that women are obligated to pray for divine succour in times of distress and suffering; prayers
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dedicate her child to God (1:10–11); she also decides when to bring him to the House of the Lord (1:22) and what offerings to bring on that occasion (1:24). Elkanah, her husband, is totally absent during her dialogue with God, in which she emphasizes her prayer and God’s response to it (1:26–28). The show is entirely hers; only at the end of this narrative do both bow to God.91

We observe a similar state of affairs in the case of Manoah’s wife. Although the author of Judg 13 does not tell us her name (which may reflect women’s dependent status in society, in which the man represented his wife), she enjoys a higher status in the eyes of God. The divine angel reveals to her that she will conceive and bear a son (Judg 13:3). In the later-compiled narrative of Genesis, God tells Abraham that his wife Sarah will bear a son for him (Gen 17:16), and Abraham gives his son the name Isaac (Gen 21:3). The man’s privilege of naming his offspring does not appear in the narrative of Manoah’s wife, who bears a son and gives him his name (Judg 13:24). In a much later period, in the NT, we find similar circumstances; here, however, the angel similarly reveals to Zacharias that his wife, Elisabeth, will bear a son (Luke 1:11–20), but he tells Zacharias to name him John (Luke 1:63). Because of her social status, Manoah’s wife does not ask the angel any questions; she believes him, whereas Zacharias does not (Luke 1:18), for which he is punished (Luke 1:20), but goes to her husband and tells him what has occurred, expecting him to approach the Deity for further instructions (Judg 13:6–7). Manoah indeed prays to God, who hears his supplication (Judg 13:8–9a), but the angel appears again not to him but to his wife (Judg 13:9b). Only then, when she calls Manoah, does the angel speak to him and confirm to him the instructions given to the woman (Judg 13:13). We observe the contrast between the woman’s underestimation of herself in practical terms, probably because of her dependent rank in society, and her expressing the person’s supplication to be relieved from an individual predicament cannot be perceived as a compelling decree.

91 We read in 1 Sam 1:28b: ‘וישתחו’ ‘And they worshipped there the LORD.’ Since ישותached is written with one י, instead of the usual ישות thở, which indicates the plural, the traditional commentators, the KJV, and the NIV translate it in the masculine singular; some translate it as neutral, that is, without indicating who worshipped; and others directly name Elkanah or Samuel. It is not within the scope of this study to investigate this grammatical issue, but there are many other instances in Scripture of ישות that, based on context, must unquestionably be translated in the plural (see Gen 27:29, 43:28, 48:12; 1 Kgs 9:9; Neh 8:6). The context in this particular case likewise requires perceiving ישות as referring to both Hannah and Elkanah. In v. 24, however, the context requires translating it in the singular, as referring to Hannah, since Elkanah is not mentioned as having gone together with her, although from the grammatical aspect it should have been written ישותETH or ישותETHETH.
pre-eminence in the eyes of heaven; she is also depicted as more sagacious than her husband.92

4.3.4 How Women’s Obligations Became Institutionalized

Shmuel Safrai93 likewise94 perceives a historical development in women’s exemption from an array of precepts. In contrast to my hypothesis of a gradual imposition on women of precepts from which they were hitherto exempted, however, he conceives the opposite: a gradual exemption from existing obligations;95 therefore, I will limit my debate against this opinion to Safrai’s study. Both of us hypothesize as to their motives. Safrai writes that initially it was assumed that women participated in the revelation of the Torah at Sinai, as they were taught at the time of Ezra, and thus, like men, were obligated to fulfill all precepts. I dispute this assumption, based on the midrashim quoted above.96 The scriptural text scrutinized above clearly contradicts this claim, and Safrai himself acknowledges that there is no hint to this effect in the biblical text.97 The assumption that Ezra imposed all precepts on women, based on the fact that he read the Torah “in the presence of the men, women and others who could understand” (Neh 8:3), does not seem to me to be evidence for Safrai’s assertion. It is obvious that Ezra did not read the entire Torah to the assembled public in a single day (Neh 8:3); it is plausible that he read pericopes containing

92 When Manoah is scared to death having seen “God,” his wife calms him with a logical rationale (Judg 13:22).
94 See n. 69 on p. 154, Biale’s similar opinion.
95 Hauptman, Rereading, 237, affirms my hypothesis that the rabbis imposed obligations on women, but offers a different motive: “The rabbis began to increase women’s obligation, imposing on them a variety of mitzvot relating to the holidays and the Sabbath. They recognized that women, like men, needed to express themselves religiously, open a direct line of communication with their Maker.” I would like to share her vision, but regrettably I do not perceive such an ideology as underlying the rabbis’ imposition of precepts on women. Such a Weltanschauung would also have required the obligations to bind phylacteries, wear tassels, or at least to participate in the obligatory daily public prayers, but the rabbis exempted women from these obligations, which are intrinsically associated with religious expression and direct communication with the Maker.
96 See n. 3 on p. 132.
97 Ibid. The midrash of the Mek. Jethro. Mass. D’Behodesh, parsha 2, quoted by Safrai at 229, does not, however, declare that women participated at the Sinai revelation. (See my analysis above, pp. 148–152.) Both Mek. and Exod. Rab. emphasize that Moses told the halakhot to women in a different manner than they were taught to men, as I discuss at length below, pp. 168–169. They point to separate teachings given to men and to women.
essential precepts that unquestionably obligate women, such as the command to rest on Sabbath and the prohibition on consuming blood (discussed above), as well as doctrinal topics such as the prohibition on idolatry—Ezra’s main concern, as we see in Ezra 9:1. One should compare Ezra’s reading the Torah to all the people to the biblical decree of the assembly to be held once every seven years (Deut 31:12). It is obvious that transmitting general doctrinal topics was the main purpose of this event, as well as, plausibly, some basic laws obligatory for all, as we see from the rationale cited in Deut 31:13: “Their children, who do not know this law, must hear it and learn to fear the LORD your God as long as you live in the land you are crossing the Jordan to possess.” Moreover, the presence of children and foreigners indicates the scope and content of the recitation.

4.4 Debating Safrai’s Theory on the Sequence of the Developmental Stages

4.4.1 Consequences from the Rabbinic Midrashim about the Rules for Teaching Women

In fact, since it is obvious that women are obligated to fulfill some decrees, they must be taught some elementary knowledge of the rules they are expected to keep. Therefore, we must understand in a nuanced manner the apparent dispute in m. Sotah 3:4: Ben Azzai says that a father must teach his daughter Torah to avoid engendering heretical thoughts regarding the validity of the Test of the Unfaithful Wife; that may occur if she would not be affected with cruel inflictions immediately after having drunk the ordeal water, as is supposed to happen to a guilty woman according to the mishna. Cognizant of the teaching, she would know that if a woman has gained merit for good deeds, the punishment may be postponed, but will ultimately occur. He does not declare that a man is obligated to teach his daughter the entire Torah, with its intricate rules and ordinances; he limits his dictum to the need to teach her the rules and circumstances of the Test of the Unfaithful Wife and its consequences. Rabbi Eliezer seems unconcerned by such contingency, and asserts that teaching one’s daughter Torah is like teaching her frivolity/obscenity.98 As suggested

98 Michael L. Satlow, “Rhetoric and Assumptions: Romans and Rabbis on Sex,” in Jews in a Graeco-Roman World (ed. Martin Goodman; Oxford: Clarendon Press, 1998), 135–144 at 142, asserts that “All the rabbinic condemnations of female Torah study base themselves on the assumptions that because a woman does not have the requisite amount of self-discipline, she will use her Torah knowledge for ill.” I would rather hypothesize that
above, it would have been logical and compelling to teach women some Torah laws that are pertinent to them, in a simple manner that they could understand. This refinement on the question of teaching the Torah to women is the foundation of Ben Azzai’s dictum, and concurs with other similar rabbinic texts.

In *y. Hag* 75d 11 and *b. Hag* 3 it is asked: the men come לַלֹּאֵד to learn, the women come לְשֹׁמַע to listen to the Words of the Law at the Assembly (Deut 31:12); but what is the motivation of the children’s presence at the event? What interests us is the distinction between the women’s listening and the men’s learning, a dictum that cannot be interpreted literally; one learns by listening, and in listening, one learns. We must therefore interpret it as meaning that the women are taught the basic doctrines or decrees in a simple manner, whereas the men are taught in a more detailed and complex manner; each in the manner they are able to understand. This interpretation is acknowledged explicitly in a *midrash* on Exod 19:3b in *Mek. Jethro. Mass. D’Behodesh, parsha 2*, quoted on p. 150. This interpretation is a logical and practical solution to the distinction between men and women regarding the study of the Torah and the fulfillment of its precepts. 99 In my opinion, this is acknowledged by all the

the rabbis assumed that the lower intelligence of women could cause an incorrect understanding of the teachings, and thus cause faulty fulfillment of the precepts.

Kraemer, *Her Share*, 96, claims that the rabbinic exemption of women from some precepts had the “unavoidable consequence” of women not being able to “serve God fully, and therefore could never stand in the same relationship to God as a free adult male.” I disagree with Kraemer’s conjecture, which has no support in rabbinic writings, or in Scripture, their source; the evaluation of a person’s deed, and his or her relationship to God, as I understand scriptural and Judaic theology, is conditioned by the manner in which each fulfills the precepts commanded by God. The particular precepts performed by the priests or the Levites did not absolutely generate two classes of Israelites: one that “fully served God” and the other only partially. The same applies, as I understand it, to the merits of men and women; the criterion to be judged as a righteous person was not the number of the performed precepts, but the manner in which each fulfilled the precepts commanded to him or her. I similarly disagree with Kraemer’s assertion at 102 that the rabbis were concerned with “horror” for a woman’s act “almost of ritual pollution for men,” and therefore could “denigrate” them. I do not encounter such a rabbinic affirmation in their writings; it is Kraemer’s own interpretation, baseless, in my opinion. Whatever was the ancient origin of the separation from a menstruate, the rabbis did not consider any magical destructive power of the menstruation blood, as I presume was Kraemer’s and other scholars’ allegations of “horror” or excessive dread from contact with it. The rabbis and their loyal followers were equally concerned and extremely careful to not transgress, voluntarily or involuntarily, the purity laws of and separation from a menstruating woman, just like regarding the fulfillment of all other precepts with all their minutiae, as constituted by the rabbis.
rabbis in a general sense, though with possible insignificant differences. The Mek. plausibly deduced their opinion from the narrative in Neh 8, which discerns between the manner of conveyance and genre of knowledge imparted to the masses, as demonstrated above (pp. 150–151).

4.4.2 Additional Evidence against Safrai’s Theory

Other considerations also contradict Safrai’s thesis that women were progressively exempted from previous obligations. His argument that women were exempted from the obligation to participate in institutionalized daily public prayers\(^\text{100}\) because of practical considerations demonstrates the sequence of the developmental process. This type of prayer was a new rabbinic obligation,\(^\text{101}\) not imposed on women, and thus, contradicts his thesis to the contrary. Furthermore, as we know, the rabbis instituted a great array of new rules not set out in Scripture, such as the mass of “work” prohibitions on Sabbath\(^\text{102}\) and the extension of the biblical prohibition on cooking an animal in its mother’s milk to a general decree against consuming any meat and milk products together, which the rabbis made significant intellectual efforts to justify as a Torah rule.\(^\text{103}\) It would be odd to assume that they reversed this general approach in the matter of the obligations of women, exempting women from presumed biblical decrees, if, as Safrai argues, the common belief (acknowledged by Ezra) was

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100 See n. 84.

101 We observe from \textit{m. Ber.} 4:3 and 4 that at the time of Rabbi Akiba (i.e., in the second part of the second century CE), there were still disputes between the Tannaim about the structure of the daily prayer, and Rabbi Eliezer sharply criticized the attitude that prayer is a fixed obligation that one must fulfill, as Rabbi Obadia of Bertinoro, the most prevalent commentator of the \textit{mishna}, explains his dictum. Hence, institutionalized prayer was a late rabbinic institution. Bilhah Nitzan, \textit{Qumran Prayer and Poetry} (Hebrew; Jerusalem: Mossad Bialik, 1996), 33, asserts that only at the period of the Tannaim did fixed prayers become obligatory for all. Ismar Elbogen, \textit{Prayer in Israel in Its Historical Development} (trans. Joshua Amir; Tel Aviv: Dvir Co., 1972), 185, states that we do not have hard evidence for fixed public prayers before the period of the \textit{Mishnah}. Qumran anticipated the rabbis in the institution of fixed daily prayers, see particularly 4Q 503 (4QpapPrQuot), but I do not think that we can deduce from such sources that women participated in daily or other prayers.

102 We read in \textit{t. Hag.} (trans. Lieberman) 1:9: “The \textit{halakhot} of Sabbath, holiday offerings and using sacred things are like hanging on a hair (a thin thread) [namely] scant text and many \textit{halakhot} that have no support.” The \textit{tosefta} then indicates some \textit{halakhot} that were based on much text and many \textit{midrashim}.

103 See an extensive study about that topic in Paul Heger, \textit{The Pluralistic Halakhah: Legal Innovations in the Late Second Commonwealth and Rabbinic Periods} (Berlin: De Gruyter, 2003), 157–74.
that women, like men, were obligated to fulfill all the biblical precepts, and if this was the practice in Israel.

There is also explicit textual evidence against Safrai’s thesis. We read in *b. Pesah*. 43b that the obligation of women to eat *matzah* is a Torah decree, since this decree is recorded together with the prohibition to eat leavened bread on the seven Passover days in Deut 16:3. Hence, we deduce from it that whoever is prohibited to eat leavened bread is obligated to eat *matzah*; consequently, since the women are included in the prohibition of eating leavened bread, they are equally obligated to eat *matzah*. This reasoning can be perceived as logical only if women were not initially obligated to eat *matzah*, as it seems from the biblical decree, written in the masculine singular, and so understood by the rabbis, who require a midrashic exegesis to obligate them.

In *b. Pesah*. 91b, three Tannaim dispute whether it is permissible to slaughter the Passover meal for women alone, because they are not obligated to participate in its performance. Qumran scholars 4Q265 (4QMisc. Rules) 3:3 and 11Q19 (11QTemplea) XVII:6–9 even prohibit women to participate in its consumption. On the other hand, the rabbis obligated women to drink the four cups of wine during the later-instituted Passover Seder, a ceremony of which there is no hint in Scripture (*b. Pesah*. 108ab). This inconsistency contradicts Safrai’s assumption that women were initially obligated, like men, to perform all precepts. The rabbis agree that such an important precept as the Passover meal was not obligatory for women, according to Scripture; it is highly implausible that they would have decided to exempt women from this obligation had it been a scriptural decree. Furthermore, if the rabbis were indeed exempting women from scripturally mandated participation in the Passover meal, then there would be no debate as to whether one may slaughter the Passover sheep for women alone, since they would be obligated by the Torah to eat it. On the other hand, they required women to perform a new obligation, clearly instituted by them, which indicates that in reality, the rabbis instituted new obligatory precepts for women.

Safrai’s theory that the rabbis exempted women from previous obligations has another flaw. *T. Qidd.* (Liberman) 1:10, quoted above, asserts that there is a

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104 The obligation of women to eat *matzah* conflicts with the “presumed” principle that women were not obligated to perform positive time-associated precepts, since eating *matzah* is unquestionably such a rule.

105 See p. 170 and pp. 176–180 in Chapter 5 for further deliberations about the rabbinic dispute and Qumran’s motivation of its rule.

106 *B. Pesah*. 108b motivates it, “because the women too were present at that miracle [of Parting of the Waters during the Exodus from Egypt].”
dispute as to whether women are obligated to wear tassels, and in b. Šabb. 62a, also quoted above, Rabbi Meir is assumed to argue that the binding of phylacteries is obligatory for women. If indeed these precepts were initially obligatory for women, and the rabbis later exempted them, there would be no reason to debate whether or not they are time-bound. The simple solution would be to observe how people behaved according to their tradition, demonstrating what they believed to be the Torah’s command. We find a similar solution in b. Pesah. 66a: It is recounted that people, having forgotten a specific halakhah, asked Hillel to enlighten them, but he too had forgotten. He said to them: “Let us see the Israelites’ behaviour; if they are not prophets, they are descendants of prophets.” Next day, seeing their behaviour, he remembered the halakhah and said: “That is what I received by tradition from Shemaiah and Abtalion.” Thus, the people’s behaviour is the most efficient evidence of the true tradition, and the disputing rabbis should have followed Hillel’s advice if indeed they wanted to invalidate an old tradition. On the other hand, such a method could not be applied if the development of women’s obligations progressed according to my thesis.

Although the rabbis applied their midrashic principles selectively,107 both to create new obligations or add restrictive details to biblical rules and to annul such rules or make them more lenient, they always justified their decisions by a midrashic exegetical method, however far it might be from the simple understanding of the biblical text and even when it was devoid of any straightforward logical reflection, as we shall see in the next example. Rarely, the rabbis justified their halakhic decisions by means of a logical conjecture.108 We saw in the above-cited dictum from b. Pesah. 43b how the rabbis justified their halakhah obligating women to consume matzah on Passover despite the fact that the relevant scriptural decree (Deut 16:3) is written in the masculine. On the other hand, the same midrashic method is applied to justify the decision to exempt women from the obligation to circumcise their sons, since the command to circumcise every male is written in the masculine “as God commanded אתו him” [Abraham] (Gen 21:4), referring to the command in Gen 17:10. The justifying midrash of the above rule appears in b. Qidd. 29a:

107 For examples of such selective applications of the rabbis’ midrashic principles, see Paul Heger, Cult as the Catalyst for Division: Cult Disputes as the Motive for Schism in the Pre-70 Pluralistic Environment (Leiden: Brill, 2007), 62, 66, and 235.

108 The rabbis always justified their narrative midrashim by citing biblical verses, regardless of the remoteness or utter lack of relationship between the two. See Heger, Challenges, 35–49, for an extended study of the different justification styles of rabbinic and Qumranic writings.
“[because it is written עָדוּ וּלָהוֹ ‘him,’ not עָדוּ וּלָהּ ‘her,’] we deduce that the obligation relates to a man, not to a woman.” With this *midrash* the rabbis overruled the neutral passive form of the original biblical command, המל, which does not distinguish which gender must perform the circumcision (Gen 17:10). The commands in the masculine, then, are applied selectively: the masculine in Deut 16:3 is overruled, and the obligation to eat *matzah* is applied to men and women alike, whereas the decree of circumcision, written in the masculine in Gen 21:4, is applied by the midrashic method to exempt women from its performance. We observe that the rabbis explicitly justify the application of both the extension and its opposite, the restriction, via midrashic methods. This demonstrates the extent to which the rabbis went to justify exempting women from specific Torah decrees; but, as noted above, we do not encounter such justifications for other precepts, except the generic claim that the biblical decree is written in masculine. The rabbinic deliberations on which positive precepts women are exempted from relate only to the question of whether or not a precept is time-bound. The principle that women are exempted from time-associated positive precepts is perceived as scriptural, deduced by the rabbis through their scrutiny of the biblical decrees. That is, their classification was not presumed to have been devised by them, but based on Scripture. This principle, however, did not live up to expectations, since their decisions are based on pragmatic considerations, attempts to explain the motive of the rabbinic principle; namely, that the rabbis exempted women from performing “cultic time bound commandments,” whereas they obligated the performance of non-cultic and non-time-bound precepts. I do not think that this classification concurs with the facts. The rabbis obligate women to perform the precepts of writing on the doorposts, eating *matzah*, and drinking four glasses of wine on the Passover eve, which are of cultic character.

My last example shows the circular evidence used to justify exempting women from the specific obligations to bind the phylacteries, to teach the Torah, and to study it, as well as to absolve men from the obligation to teach women the Torah. We read in *b. Qidd.* 34a (paraphrased): We compare the command of phylacteries to that of studying the Torah; just as women are exempted from studying the Torah, they are exempted from the obligation to bind the phylacteries. The text, however, does not tell us that women are exempted from studying the Torah or how this is justified. This rule, and the interpretive system used to deduce it, we learn from *b. Qidd.* 29a: The father
is obligated to teach the Torah to his sons, because it is written: “Teach them to your sons” (Deut 11:19), and when the father does not teach his son, he must teach himself, because it is written twice ולמדתם "and teach them." The mother is not obligated to teach her son, because the phrase "and teach them" is written twice, and that teaches us that whoever is obligated to study the Torah is obligated to teach it, but whoever is not obligated to study it is not obligated to teach others. She is not obligated to teach herself the Torah, because “and teach them” is written twice (in Deut 5:1 and 11:19), and that teaches us that whomever others are obligated to teach the Torah is obliged to teach it to himself, but whomever others are not obligated to teach is not obligated to teach to himself, and others are not obligated to teach her, because Scripture says: “and teach them to בנותיכם your daughters.” Hence, this entire deliberation and the resulting decisions hinge on the masculine gender of the biblical decrees. Since most of the commands in Scripture are in the masculine, the application of this criterion would automatically exempt women from all obligations except where they are explicitly mentioned; in practice, however, the rabbis applied it selectively, as we saw in the quoted excerpts from their deliberations and halakhic decisions.

Last but not least, if the rabbis had absolved women from biblically imposed obligations, they would have done so systematically, according to a principle, as is their habitual procedure. Their search for a logical principle governing the obligations of women, and their failure to substantiate it, demonstrates the opposite; that is, that they searched in vain for a principle to justify their ad hoc acknowledgement of customs performed at random.

In conclusion, when the rabbis instituted changes with respect to women’s obligations, these were only to obligate women to perform precepts from which Scripture exempts them or to include them in later-instituted obligations. For example, the newly instituted obligation to drink four cups of wine on Passover

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110 I assume that the midrash perceives the first quotation of the term in Piel, as indicated by its punctuation in the_MT_ and the addition of a י_ in the rabbinic text, hence the term implies teaching others, and the second parallel quotation in Deut 5:1 without it is supposed to be understood as expressed in _Kal_, intimating that the sons must teach themselves the Torah.

111 Hauptman, _Rereading_, 238, writes: "The Torah rarely obligates women directly. It addresses itself to men who then relay it to the women who are in their charge." She goes on to say that "Like children they were not independently obligated"; rather, "it was their husbands who were in charge of seeing that they did so [i.e., fulfilled the obligations relayed to them by their husbands]." Hauptman’s thesis agrees with mine regarding the developmental stages of women’s obligations to fulfill precepts and the husband’s responsibility for the correct conduct of his wife.
(cited above) includes women, but the rabbis do not obligate women to partake in the Passover meal, from which they are exempted in Scripture.

4.5  **Qumranic Attitudes on Woman’s Obligations to Fulfill Biblical Precepts**

4.5.1  **Introduction**

Whereas we have access to ample rabbinic literature on their *halakhot* in this area, and the underlying considerations that generated them, we do not have comparable materials from the Qumran literature to enable us to reflect on either their halakhic decisions or their basic philosophy with respect to women’s obligations and exemptions. Since, as we have seen, Scripture explicitly relates some commands to both men and women, but not others, we must assume that the Qumran scholars were aware that women were not obligated to perform all the biblical precepts, as men were. Indeed, we have definite evidence that, according to Qumran *halakhah*, women were not obligated to participate in the Passover meal, as we read in 11Q19 (11QTemplea) XVII:6–9 that men over twenty are commanded to perform the slaughtering of the Passover offering. 4Q265 (4QMisc. Rules) 3:3 explicitly prohibits the consumption of the Passover offering by נער וzeptot אישה “youth and women.” We have no similar explicit statements, however, in the Qumran texts concerning which *halakhot* women are obligated to fulfill and from which *halakhot* they are exempted. I will quote some implicit and indeterminate rules, from which we can deduce an imprecise idea of their practice in some respects, but no enlightenment about their overall theory and practice with regard to women’s obligations.

4.5.2  **Implicit Deductions from Qumranic Texts**

4Q502 (4QpapRitual of Marriage) 19:5–6 indicates that women participated at joyous events of the community (vv. 2–3), but the blessings were recited by אישים men.112 Hence, we can deduce from this lemma that women did not participate in the ritual performance of the public blessings.113 On the other hand, 1Q28a (1QSa) I:4–5 tells us that women were obligated to avoid transgressing some

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112 Although the use of אישים in the text seems to unequivocally indicate that only men say the blessing, Crawford, “Not According to Rule,” 137, states that the lemma “describes women participating in the worshipping life of the community.”

113 Although I believe that the prayers in 4Q503 (4QpapPrQuot) were performed only by men, the plural masculine mode and the phrases זכאי בני (Frgs 7–9: 3) and זכאי בני (Frgs 48–50: 8) do not serve as unquestionable evidence for it.
rules; this is to be expected, as an unquestionable result of the biblical texts, as I have argued. We read there: “As they arrive, all the newcomers shall be assembled—women and children—114—and read [a]ll the statutes of the Covenant. They shall be indoctrinated in all of their laws, for fear that otherwise they may sin accidentally.” However, the phrase “indoctrinated in all of their laws” is ambiguous; we do not know whether it relates to all of the laws of the Covenant or to all the laws of the Torah. Both possibilities seem inappropriate, since we know that the ordinances of the Community Rules relate to men only, and we have seen above, in the example of the Passover meal, that women and children are not obligated to perform all biblical precepts. We must therefore assume that the author means that they should be taught the rules relevant to them—that is, to women and children—regardless of whether we understand the phrase to refer to the Torah decrees or to the Covenant’s ordinances. I would tend to assume that the author’s intention was to teach them the relevant ordinances of the New Covenant and to explain to them the relevant rules of Scripture.115 But we have no specific data about the type of decrees from which women are exempted or which they are obligated to fulfill.

The use of במשגותיהמה to describe the motivation for teaching the laws may offer us a hint as to the types of precepts obligatory for women and children. Derived from the root שגג “doing something inadvertently,” this term is always associated with actively performing a wrong act—here it means transgressing a prohibition, not passively failing to perform an obligation. The main uses of שגג in Scripture occur in connection with making atonement for involuntary wrongdoing (transgressing prohibitions, eating sacral food, involuntarily killing a person); לעש, in the negative sense of “not to do” or “done involuntarily,” appears often in these biblical decrees.116 Moreover, in some cases נפש “soul” is the object of the rule, affirming that the rule refers to men and women alike. We could say almost with certainty, therefore, that according to Qumran scholars, men and women are equally obligated not to transgress the scriptural

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114 I deleted here the translators’ addition of “included” from the phrase “women and children included” because I understand it as being directed to the women and children of the newcomers; see extended justification for this deletion in Chapter 5, p. 189.

115 In the majority of quotations, such as in: CD II:2–3; CD VI:11–12; CD VI:39; CD VIII:12; CD IX:2–3; CD X:5–6; 1Qp Hab II:3–4; 1QS I:16–18; 1QS V:3–4; 1Qb 1Q28b (1QSb) I:2–3; 1Q33 (1QMilhamah) XVI:8–9; 1OH 4:8; 4Q256 (4QSb) III (3a-b) 3; the term must be perceived as referring to the group’s New Covenant, although in some instances (e.g., CD XV:8, XIX:29, and 1Q22 (1QapocrMoses) I:8) it relates to the covenant of Moses.

prohibitions. This rule would concur with the rabbinic opinion that women are obligated not to transgress the prohibited decrees. We read in *m. Qidd.* 1:7b that both men and women are obligated to observe all the negative precepts, whether time-bound or not, except the rules not to cut the hair at the sides of the head and not to clip off the edges of the beard (Lev 19:27), which are not relevant to women, and not to become polluted by a corpse (Lev 21:1–4), which is relevant exclusively to male priests.

We know positively that women were not obligated to fulfill all the active precepts, as men were, from the fact that women and children were forbidden to partake in the Passover meal (definitely an active precept). I can only conjecture that it was incumbent upon the man, as husband and head of the family, to decide which active precepts his household would fulfill.\textsuperscript{117} I conjectured above that one may assume that this was the custom in Israel, before the rabbis institutionalized these customs and implemented universally obligatory rules for all Israelite women. We may perceive implicit support for this hypothesis in two Qumran dicta: 1Q28a (1QS\textsuperscript{a}) I:9–11 decrees that a man cannot marry before reaching the age of twenty, when he knows to discern between right and wrong. There is no such restriction for women, and as we know, in that period women were married at a young age. Hence, the wife is not required to discern right from wrong, presumably because, at her young age, she does not possess the knowledge and wisdom for the correct fulfillment of the divine rules;\textsuperscript{118} the husband, however, endowed with this faculty as a result of his intense ten-year instruction and the study of the Hagy (1Q28a (1QS\textsuperscript{a}) I:6–8), is responsible for the behaviour of his household. The only logical reason for instituting this rule, it seems to me, is to ensure the correct performance of the divine decrees; I do not think that the author was motivated by concern to ensure an orderly household directed by one mature person.

As we can deduce from the text of 1Q28a (1QS\textsuperscript{a}) I:6–11, there are three prerequisites that a young man must accomplish to be ready for marriage: to be

\textsuperscript{117} Christiana van Houten, *The Alien in Israelite Law* (Sheffield: Sheffield Academic Press, 1991), 35, writes that the protection of the weak and dependent members of society, such as the widow, the orphan, and the foreigner, in Scripture, “is a law addressed to the head of the household, as are all the laws.”

\textsuperscript{118} Wassen, *Women*, 201, conjectures that if the women took the oath of the covenant, an extremely doubtful presumption, the young women, like the men, were “responsible and accountable for fulfilling the commandments.” Wassen seems to ignore the rationale for Qumran’s condition that the man must be mature and adequately instructed to be allowed to marry, without requiring the same condition from women; hence, one cannot impose on her such a responsibility.
instructed in the Book of Hagy, to be enrolled in the community, and to have reached the age of twenty. This lemma supports our thesis that the ability to discern between right and wrong, a requirement for permission to marry, is tied to a man's completion of the mandatory instruction in the holy writ, which qualifies him to guide the comprehensive and correct fulfillment of the divine commands.

The husband has authority to impose his will on his wife, even when, as a consequence, she sins by failing to perform her vow, as is written הוהי יֶש לָהּ וּהו: “and God will forgive her” (Num 30: 9), indicating that she performed a sinful act. 4Q416 (4QInstrb) 2iii:21–2iv:7 explains and justifies this rule by emphasizing “So that she should walk in/according to thy good pleasure,” referring to God’s communication to Eve, בך ימשל והוא “and he will rule over you,” thus implying that this dictum is the foundation of the husband’s authority to annul his wife’s vows.119 Therefore, difficult as it is to assume that Qumran scholars conceived that God granted priority to the husband’s will over God’s own120 even when the husband oversteps his God-given authority, as I argued earlier, this seems to be the logical consequence of this biblical rule.121 It is plausible, then, that Qumran, emulating Scripture, authorized the husband to decide which precepts his wife must perform and from which she is absolved.

119 Wegner, Chattel, 147, indicates a similar motive for the rabbinic exclusions of women from participation in the cult. She writes: “a legal presumption that men, as heads of households, perform cultic precepts on behalf of wives, children, slaves and all within their jurisdiction.”

120 In a similar instance, b. Ros. Has. 27b comments: it is an assertion that “the mouth cannot say and the ear cannot hear.” Biale, Women and the Jewish Law, 13–14, quotes David ben Joseph Abudarham, a medieval commentator, who writes on this issue. Biale summarizes his theory in a condensed and colourful manner: “The reason for women’s exemption is that a woman is a servant of two masters, and may be caught in a crossfire of jealousies between them [God and her husband].” It is God who “bows out” of the competition.

121 It may also indicate that a wife’s obligations are of a different character than that of a man, being a priori less compelling, because she is a part of her husband, and only he can decide what she can do and what she cannot. Hence, from the legal aspect, when he becomes aware of his wife’s commitment and does not annul it, he validates it, and her vow or pledge are legally deemed to be his commitment; annulling it afterwards, it is he, not the woman, who legally breaks the commitment and bears the sin. Such an explanation is, in my opinion, plausible from the legal aspect, and would be perfectly appropriate for the rabbinic mindset. I doubt, however, that one can assume in Scripture such legalistic basis for this rule. I dispute Wassen’s interpretation of CD XVI: 10–12 in Women, 92–93, restricting the husband’s authority to annul only pledges against the Law, a topic I will discuss on another occasion.
The style of another biblical command, the text of the Fourth Commandment (the Sabbath decree) in Exod 20:10 and Deut 5:14, may have also led the Qumranic author to assume that the husband bears responsibility for his wife’s behaviour. We read there: “אתה You (masculine singular) shall not do any work, neither you, nor your son or daughter, nor your male or female servant.” Women are explicitly included in the command, but wives are not mentioned. Thus, it may have served to justify the enactment of the Qumranic rule that the husband must be mature and must be adequately instructed in the rules and doctrines of the Book of Hagy for ten years, until the age of twenty; the husband is commanded to ensure his wife’s obedience. Although it seems from the text that he is also responsible for the behaviour of his household (children and servants), since the command is conveyed to him, his offspring must be explicitly mentioned because they may also include mature children who are themselves responsible for their actions; the command does not discern between a Canaanite slave and an Israelite slave, who is also himself responsible for the fulfillment of the divine commands. The husband, however, is always responsible for his wife’s fulfillment of the Torah precepts, since she is not mentioned separately and is perceived to be a part of him. Although, as noted above, we have no explicit text to support our hypothesis, I believe that implicit deduction from the quoted texts offers a plausible conjecture on Qumran’s attitude towards the obligations of women to fulfill biblical precepts, and the husbands’ involvement in their practical application.

4.6 Conclusion

I believe that I have presented a reasonable and appropriately substantiated proposition about the interesting and challenging topic of women’s obligation to obey the scriptural decrees, as one may deduce from the texts of Scripture, Qumran, and rabbinic literatures. On the basis of my research, I have attempted to substantiate my thesis that women, unlike men, were not obligated to fulfill all the precepts. This crucial issue, I believe, had a determining impact on the social status of women in ancient Jewish society, and continues to affect their status in religious Jewish communities today. In the course of the study, I was confronted by the question of how to translate into practice the rules quoted in the relevant texts, since it became clear to me that we stand before a clarification of its meaning: 위한 שלט י הלומדים, בך ישלט, a "he will rule over you regarding righteousness or guilt."
long-range development, particularly in the rabbinic world, before the institution of a final code of law. Some scholars argue that women were initially obligated to fulfill all scriptural rules and that the rabbis later exempted them from a number of specific precepts; I hypothesize the opposite developmental chronology, arguing that women were initially exempted from fulfilling many precepts, that husbands decided which biblical decrees should be accomplished by their wives, and that some of these decisions were later institutionalized by the rabbis. By legally and officially obligating women to fulfill an array of precepts, the rabbis enhanced women's social status; women, like men, have the duty and privilege to perform the divine will and commands. I hope to have succeeded in making this argument convincingly on the basis of scriptural and rabbinic writings, and also with respect to Qumranic custom, relying on logically plausible conjectures. I hope that my study on this topic will serve as a basis for further scholarly debates, including the question of women's participation in the revelation at Sinai. Last but not least, I consider that the comparison I have effected between rabbinic and Qumranic writings on this topic supports my thesis concerning the difference between their systems for interpreting Scripture: the Qumran texts adhere to the simple reading and interpretation of the scriptural decrees, whereas the rabbis interpret them using a midrashic method to concur with their ideological viewpoints and practical goals.