### No One Should Interfere: Women And Mitzvat Tzitzit

# Vered Noam Translated by Avital Morris

The public storm surrounding the Women of the Wall who wear *tallitot* at the Kotel has been focused primarily on political issues, such as the rights of non-Orthodox people at the Kotel, and throughout this discussion, terms like "Reform," "Conservative," "public space," "provocative" and even "*hillul Hashem*" (desecration of God's name) have been thrown around. But before we engage in politics, let's study Torah, and follow the interesting relationship woven (in more than one sense) throughout the ages between Jewish women and the *mitzvah* of *tzitzit*.

# A. The Tannaitic Period: Women, Too

The Mishnah in Kiddushin exempts women from positive time-bound commandments (גרמא), and a *baraita* quoted in the gemara on that mishnah lists the *mitzvah* of *tzitzit*, which applies during the day but not at night, as an example of *mitzvot* in that category (Kiddushin 33b-34a):

Which are the positive time-bound	איזוהי מצות עשה שהזמן גרמא? סוכה, ולולב, שופר, וציצית
commandments? Sukkah and lulav, shofar, and	ותפילין.
tzitzit and tefillin.	

However, many people do not know that this *baraita* represents a minority opinion, that of Rabbi Shimon, and not the majority of the rabbis of the Mishnah. Opposed to it stand no fewer than four tannaitic statements ruling according to the majority opinion, that women are obligated in the *mitzvah* of *tzitzit*; it therefore appears that most of the women in tannaitic society did fulfill this *mitzvah*. Tosefta Kiddushin 1:10 lists *tzitzit* as a positive *mitzvah* that is **not** time-bound, in which women are therefore obligated:

1.

Which are the positive commandments that are not time-bound? *Mitzvot* such as returning lost property, sending away the mother bird, buildin a fence around a roof, and *tzitzit*. Rabbi Shimon exempts women from *tzitzit* because it is a positive time-bound commandment.

אי זו היא מצות עשה שלא הזמן גרמא? כגון אבידה ושלוח הקן מעקה וציצית. ר' שמעון פוטר את הנשים מן הציצית, מפני שהיא מצות עשה שהזמן גרמא.

This dispute is clarified in the Yerushalmi on the same mishnah (Kiddushin 1:7):

2.

Which are the positive commandments that are not time-bound? *Mitzvot* such as returning lost property, sending away the mother bird, building a fence around a roof, and tzitzit. Rabbi Shimon exempts women from tzitzit because it is a positive time-bound commandment. Rabbi Shimon asked them: "Don't you agree that it is positive time-bound commandment? That's wh nightclothes are exempt from tzitzit."

אי־זו היא מצות עשה שלא הזמן גרמא? כגון אבידה ושילוח הקן ומעקה וציצית. ר' שמעון פוטר הנשים מן הציצית שהוא מצות עשה שהזמן גרמא. אמר להן ר' שמעון: אין אתם מודין לי שהיא מצות עשה שהזמן גרמא? שהרי כסות לילה פטור מן הציצית.

According to this version, R. Shimon and the other sages disagree regarding the classification of tzitzit as a time-bound commandment. A similar *baraita* appears in the Bavli itself (Menahot 43a):

3.

Our Rabbis taught: Everyone is obligated in the ת"ר: הכל חייבין בציצית, כהנים, לוים וישראלים, גרים, mitzvah of tzitzit: priests, Levites, and Israelites gerim, women and slaves. Rabbi Shimon exempts women because it is a positive time-bound commandment, and women are exempt from all positive time-bound commandments.

נשים ועבדים; ר"ש פוטר בנשים, מפני שמצות עשה שהזמן גרמא הוא, וכל מצות עשה שהזמן גרמא נשים פטורות.

The most surprising version, which also appears to be the earliest, is found in the legal midrash on the book of Numbers, Sifrei Bamidbar (115):

The verse "Speak to the Israelite people and command them to make for themselves tzitzit"women are included. Rabbi Shimon exempts women from *tzitzit* because it is a positive time-bound commandment. For this is Rabbi Shimon's general principle: every positive time-bound commandment applies to men but not to women, to fit people but not to unfit ones "דבר אל בני ישראל ואמרת אלהם ועשו להם ציצת" אף הנשים במשמע. ר' שמעון פוטר את הנשים מן הציצית מפני ש[היא] מצות עשה שהזמן גרמה. שזה הכלל אמר ר' שמעון: כל מצות עשה שהזמן גרמה נוהג באנשים ואינו נוהג בנשים, בכשרין ולא בפסולין.

Rabbi Louis (Levi) Ginzburg has commented that, according to the version in this midrash, the disagreement between Rabbi Shimon and the majority stems not from a dispute over the categorization of *tzitzit* in the list of positive time-bound commandments, as the Yerushalmi (number 2 above) presents it, but rather from a dispute over the very existence of that principle. According to the Sifrei, the rule

exempting women from positive time-bound commandments appears to be itself an innovation of Rabbi Shimon that was not accepted by the majority. Ginzburg argues that this reconstruction explains the weakness of the rule exempting women from these commandments ("Is this really a rule?!" Kiddushin 34b), and the many exceptions to it.

# **B.** The Amoraic Period: Tzitzit on Aprons

The gemara in Menachot 43a says that Rav Yehuda, the leading authority of the second post-Mishnaic generation in Babylonia, tied *tzitzit* on his wife's four-cornered apron. The gemara explains that he did so because he believed that even nightclothes must have *tzitzit*. If the *mitzvah* of *tzitzit* is in force at night, too, it is not time-bound, which means that women are obligated in it.

However, the gemara in Sukkah 11a tells an even more surprising story about Rav Amram Hasida, a contemporary of Rav Yehuda, who also tied *tzitzit* on his wife's apron. This section of the gemara deals with whether those *tzitziyot* that he tied on his wife's apron are valid, because he tied them with one long string folded in four and only then cut it into the necessary eight strings. The discussion centers around the technical validity of these *tzitziyot*, while the fact that a woman needs valid *tzitzit* is not mentioned and appears to be taken for granted. Not only did Rav Yehuda and Rav Amram apparently believe that women are obligated in *tzitzit*; it seems that Rav Huna, who tells the story of Rav Amram, and even the later editors of this *sugya* who chose not to comment on this fact, did also.

## C. The Middle Ages: Exempt, but No One Should Interfere

In the earlier sections, I was not attempting to argue that women are obligated in *tzitzit*. In the diverging paths of *halakha*, we always begin at a large intersection, moving along one path to the next fork, until we are choosing between narrow alleyways. With time, the breadth of the discussion narrows, and we can never return to those roads not taken

Rabbi Shimon's opinion is the one that was codified in the *baraita* in Kiddushin, and that section of gemara is the one that was accepted as *halakha* regarding women's obligation in *mitzvot*. From then on, no one has ever argued that women are obligated in *tzitzit*. In the post-Talmudic era, it was also accepted that the *mitzvah* of *tzitzit* is not applicable at night, so that it is defined as a positive time-bound commandment. We can pick up a late echo of the uncertain status of *tzitzit* as time-bound in the idea that that the garment (rather than the person) is obligated in *tzitzit*, and the consequent opinion of the Rosh (Rabbenu Asher, 13th-14th century) that daytime clothing worn at night must still have *tzitzit*, and vice versa.

However, the medieval authorities did not see this as a reason to remove *tzitzit* from the category of positive time-bound commandments (see R"I's opinion in *Tosafot* to Kidushin 34a, *s.v.* "*Utefillin* 

ve-tzitzit").

Nevertheless, the rejected opinions are preserved in our sources for a reason. They can add weight to a future ruling that moves in a new direction, "in case the times require future scholars to rely on them" (see Mishnah and Tosefta Eduyot 1), but more importantly, they teach us about the history and development of *halakha* and about the appropriate tone and correct perspective with which to examine it today. As it turns out, *tzitzit* is not opposed to any innate feminine qualities, and there is no fundamental inconsistency in the juxtaposition of women and *tzitzit*. Perhaps for this reason, we almost never see the argument that *tzitzit* is men's clothing and therefore forbidden to women presented in halakhic sources (except in Targum Pseudo-Jonathan, an Aramaic translation of the Torah that often contains extra-rabbinic and anti-rabbinic rulings, which are intriguingly similar to early sectarian principles).

Maimonides, like all of the medieval rabbinic authorities, rules that women are exempt from *tzitzit* (Hilkhot Tzitzit 3:9):

Women, slaves, and minors are exempt from *tzitzit* according to the Torah... but women and slaves who want to wrap themselves with *tzitzit* may do so without saying a blessing, and the same applies to all of the positive commandmen from which women are exempt: if they want to perform them without saying a blessing, no one should interfere.

נשים ועבדים וקטנים פטורין מן הציצית מן התורה... ונשים ועבדים שרצו להתעטף בציצית מתעטפים בלא ברכה, וכן שאר מצות עשה שהנשים פטורות מהן, אם רצו לעשות אותן בלא ברכה אין ממחין בידן

R. Ovadia Yosef (1920-2013), of blessed memory, one of the great modern Jewish legal authorities, explains Maimonides' ruling (Yabia Omer I Ora<u>h</u> Hayyim 39):

It is clear that the Rambam forbids only the blessing-- but doing the *mitzvah* without the blessing is fine, and this is evident.

והנה מבואר שלא מנעם הרמב"ם אלא מן הברכה, אבל לעשות המצוה בלא ברכה שפיר דמי, וזה ברור.

This view, that "if a woman wants to obligate herself in a *mitzvah*, she is permitted to do so and we do not stop her" (R. Yitzchak Halevy of 11th century Germany quoted in Machzor Vitry), is accepted by nearly all authorities (except the Raavad) and is based on several precedents, such as:

- Rabbi Chanina's statement in the gemara that one who does a *mitzvah* receives a reward even if he was not obligated to do it (Kiddushin 31a),
- Rav Yosef's joy in doing *mitzvot* even though he believed that he was exempt because he was blind (ibid),

- The traditions that King Saul's daughter Michal wore *tefillin* and Jonah's wife made the festival pilgrimages even though only men were obligated to do so (Eruvin 96a),
- Rabbi Yosi and Rabbi Shimon's decision to permit women to lay their hands on the Temple sacrifice to give them satisfaction (<u>Hagigah 16b</u>),
- Queen Helena who sat in a *sukkah* (Sukkah 2b), and others.

The main disagreement on this point is about whether a blessing on a commandment fulfilled voluntarily is "a blessing in vain" (ברכה שאינה צריכה). As we have seen, the Rambam forbids making a blessing, and the Sephardic tradition follows this ruling. But the majority of the Ashkenazi tradition permits it, in accordance with the famous ruling of Rabbeinu Tam that "women are permitted to say blessings when they perform any positive time-bound *mitzvah*, even though they are exempt" (Tosafot to Eruvin 96a s.v. "Dilma" and elsewhere) and R. Yitzchak Halevy's statement that "since she is already performing a *mitzvah*, she must say the blessing." This Ashkenazi permissiveness eventually influenced some Sephardic scholars (R. Yonah Gerondi, the Rashb"a, the Ra"n). The 20th century halakhic scholar Israel Ta-Shma pointed out the unique language used in the exceptional book "Responsa From Heaven" by R. Yaakov of Marvege (early 13th century Provence):

I asked about women who say blessings over th *lulav* and about the one who says the blessing for them when blowing the *shofar* [from which they are exempt] and whether this constitutes a transgression and whether it is a blessing in vair and [from heaven, by way of revelation, it was] answered "in all that Sarah your wife tells you, listen to her" (Gen. 21:12)— therefore, if they want to say blessings over *lulav* and *shofar*, the are entitled to do so.

שאלתי על הנשים שמברכות על הלולב ועל מי שמברך להן על תקיעת שופר אם יש עבירה ואם הוי ברכה לבטלה והשיבו [ כלומר, מן השמים, בדרך של התגלות בחזיון לילה, ו"נ]: כל אשר תאמר אליך שרה שמע בקולה... לפיכך אם באו לברך בלולב ושופר הרשות בידן.

# D. Women Making Tzitzit

An interesting extension of this discussion is the validity of *tzitzit* made by women. It turns out that, in medieval central Europe, it was customary for women to make *tzitzit* and attach them to garments. Rashi, as evidence for one of his rulings about *tzitzit*, recounts: "that is the custom, and that was the custom of the Lady, R. Yitzchak son of R. Menachem's sister, and she heard from him that it is permitted." R. Eliezer of Worms wrote a moving dirge for his wife who was murdered by rioters in 1196: "She sought white wool for tzitzit and spun it with willing hands/She set her mind on *mitzvot* and all who saw her, praised her."

This custom is not to be taken for granted, given that the gemara (Gittin 45b) rules that Torah scrolls, tefillin and mezzuzot written by women or children are invalid "because the verse says 'you should bind... and you should write"-- anyone who is obligated to bind tefillin may also write them, and anyone who is exempt may not write them." That is, one who is exempt from a commandment may not prepare the instruments needed for someone else to fulfill it. And in fact, Rabbeinu Tam declared tzitzit made by a woman invalid: "It once happened in Troyes that a woman had been accustomed to make tzitziyot and tie them onto tallitot, and Rabbenu Tam declared them invalid" (Hagahot Maimoniyot on Hilchot Tzitzit 1:9). However, the Tosafot on the above passage in Gittin disagree with him and say that the rule in the Gemara is particular to Torah scrolls, tefillin, and mezzuzot and cannot be extended to other commandments. Jewish society in general, following the Tosafot, accepted the practice. As we will see later on, there were places in which the only people who knew how to make *tzitzit* were women.

#### E. The Rebbetzin Who Wore Tzitzit

The very first denunciation of the practice of women wearing *tzitzit* came in the 15th century from the Maharil (R. Yaakov ben Moshe Levi Moelin, 1360-1427), the leader of German Jewry at the time and known for his codification of German Jewish customs. He was actually responding to the practice of wearing *tzitzit* among women he knew:

The Maharil said: in a place where there is a md אמר מהר"י סג"ל במקום שיש איש יודע לתקן ציציות אל who knows how to make tzitzit, a woman should not do it. He also said that in his opinion it is not right for women to insert themselves in the obligation to wear tzitzit. And they asked his why he does not stop the *rebetzin* in his town, Mrs. Bruna, who wears *tzitzit* at all times. He replied: because perhaps she won't listen to me (!), and in cases like this, it's better that people sin unknowingly than knowingly.

תתקנם האשה. ואמר דלא נהירא בעיניו מה שיש נשים מכניסות עצמן לחיוב ציצית. ושאלו לו מפני מה אינו מוחה ביד הרבנית מרת ברונא בעירו שהניחה בכל עת טלית קטן. והשיב: שמא אינה מקשבת לי (!), ועל כי האי גוונא אמר מוטב יהו שוגגין ואל יהו מזידין.

In his responsa, we find more detailed reasoning behind this outlook:

It seems that the essence of the commandment tzitzit is to remember God's commandments... And this remembering is of all 613 commandments... but women do not have 613 commandments because they are exempt from a positive time-bound commandments as well as from some negative commandments... But mer even though there are some commandments in

עוד נראה דעיקר מצות ציצית הוי לזכור כל מצות ה'... והזכירה היא בתרי"ג מצות ... והני נשי ליתינהו בתרי"ג דפטורי [ואותן נשים אינן חייבות בתרי"ג מצוות שכן פטורות] בכל זמן גרמא ובכמה מצות לא תעשה.... אבל גברא אף על גב דכמה מצות תלויות בכהנים [כלומר גם גברים אינם חייבים בכל המצוות שהרי יש מצוות שהן רק לכהנים], מכל מקום כל זכרים חד מינא נינהו [מין אחד הם]. וגם בית דין ישראל מצווין על הכהנים, שאם which only *kohanim* and not other men are obligated-- are all of one kind. And a court of non-*kohen* men is still empowered to punish a *kohen* for failure to perform his own specific *mitzvot*. This is not true of women-- because they are not at all included in the obligation of a 613 commandments, and they are a people in and of themselves. Therefore, for all these reasons, even though I have seen women who wear four-cornered garments with *tzitzit*, including one now in our neighborhood, it is a bizarre practice, I consider it arrogance, and the are called ignorant (The new Maharil responsa, 7).

לא רצה מכהו, מה שאין כן בנשים, דליתנהו כלל בתרי"ג, ועם בפני עצמו הן. הילכך מכל הני טעמי אף כי ראיתי נשים שלובשות ד' כנפות מצויצת ועוד היום אחת בשכונתינו, נראה דאינו אלא מן המתמיהין ויוהרא חשיבנא להו ומקרו הדיוטות (שו"ת מהרי"ל החדשות סימן ז).

The Maharil's comment about "arrogance" is cited by R. Yosef Karo in the Beit Yosef (Orah Hayim 17), alongside opposite opinions that permit not only the act of wearing *tzitzit* but even the blessing. He did not repeat the quotation in the Shulhan Arukh, but the Rema (R. Moshe Isserles) added it in his commentary. Because of these citations, the assessment of women wearing *tzitzit* as "arrogant" was popularized. Many modern rabbis have followed it. But we also find other opinions, such as that in the "Tzemach Tzedek" by Menachem Mendel Schneerson, the third Lubavitcher Rebbe and R. Moshe Feinstein who permitted women to wear *tzitzit* (see the articles by Shochetman, Shilo, and Lubitch, *Techumin* 15, 17). In any case, it is worth taking note of a few points here:

- 1. The Maharil was fighting against a practice that he saw in his community. The very existence of the practice and his clear personal opposition to it explain his harsh characterizations of these women as bizarre, arrogant, and ignorant. (Yedidiah Dinari has written about the common use of the phrase "appears like arrogance (מהדוֹי ביוהרא)" among the Maharil and his contemporaries. For the source of the word "ignorant" in this context, see Yerushalmi Shabbat 1, 2, 3a. On the diminished status of women in central Europe after the end of the 13th century, see Elisheva Baumgarten, *Mothers and Children: Family Life in Medieval Europe*).
- 2. The Maharil's reasoning is fascinating and has far-reaching implications. According to the Maharil, the great importance of *tzitzit* (which, according to the rabbis of the Talmud, is equal to all the other *mitzvot* together) does not apply to women, because women are excluded from the obligation to remember the *mitzvot* in their entirety. Men have a connection even to *mitzvot* in which they are not obligated, because their exemption is practical and not essential. Men, whether they are *kohanim* or Israelites, are are "all of one kind," and so all men are part of the general system of *mitzvot*. In contrast, women's exemption from certain commandments constitutes a removal of their bond to *mitzvot* as a whole. In other words, women's gender identity exceeds their Jewish identity because they

are, as the gemara says, "a people in and of themselves" (Shabbat 62a).

- 3. It is interesting to note that despite his firm opposition to the practice of women wearing *tzitzit*, the Maharil does not anchor his opinions in sources or present them as the result of previous *halakhic* rulings, but rather explains them in terms of ideology and social consequences.
- 4. Despite the harshness with which he writes, he does not try to stop the woman he knows from wearing *tzitzit* because he knows she would not listen.
- 5. It's surprising to learn of the existence of Bruna, the woman who wore *tzitzit* and did not give up on this *mitzvah* despite pressure from the unchallenged leader of central European Jewry, and here she seems to have kept the upper hand.

# F. Ten Musings

It is not my intention, nor do I have the authority, to issue halakhic rulings, but here are some preliminary musings that result from all this:

- 1. Would it not be right to say that women who wear *tallitot* are following the Rambam's ruling ("Women... who want to wear *tzitzit* may do so") while those who try to stop them are violating it ("no one should interfere")?
- 2. Isn't there room to read the Maharil's reasoning ("I consider it arrogance") as dependent on time and circumstances? (For other things that were labeled "arrogance" but are still commonly done see Shilo, *Techumin* 17).
- 3. If someone chooses nonetheless to rule according to the Maharil that women should not wear *tzitzit*, shouldn't he also rule like the Maharil by not trying to stop women who would not listen to him?
- 4. Today, can we really wholeheartedly accept the idea that women are not part of the bond with *mitzvot* as a whole, that *mitzvot* as a system of values belong only to men, because men are "all of one kind"? If it is forbidden to wear *tallit* and *tefillin* in a cemetery because it is "an act of mockery" (Brachot 18a) for the deceased who cannot, why is it permitted to wear them in front of women? Do we have compassion only for the feelings of dead people and not for the women who live among us?
- 5. If women really are a people in and of themselves, wouldn't it make more sense for them, instead of following the Maharil, to follow that pious woman who refused to listen to him?
- 6. "Reform, Conservative, provocative, <u>hilul Hashem</u>"-- aren't we overreacting? How did the

discussion deteriorate from rationality to emotion, from *halakha* to hysteria? The tendency toward hysterical and emotional reasoning is a common weakness among men, but here, it's worth the effort to refrain. Exaggeration and foggy reasoning hurt the halakhic discourse.

- 7. Societal factors have always been a part of the halakhic process. A *posek* has the right to oppose women wearing *tallitot*, but on two conditions: transparency and perspective. It is his responsibility to explain the facts of the case and to straightforwardly admit that this is an entirely Orthodox practice, and that *halakha* permits and even encourages women to voluntarily take on *mitzvot* in which they are not obligated. That applies in particular to this important *miztvah*, which women have in fact practiced at different times throughout history. He could then announce that he is following the Maharil's method and describe the contemporary circumstances that lead him to this ruling. This approach would obligate him to adhere to the measured, moderate tone that this subject demands.
- 8. In contemporary public discourse, there is a common demand that women who take on this *mitzvah* should do it privately and secretly, but not in public. So far, I have not found a source for this demand (See Shochetman and, in contrast, Lubitch *Techumin* 17). If a woman may wear a *tallit*, she should do so in a place of worship, including in a synagogue or at the Kotel.
- 9. The Women of the Wall who wear *tallitot* are primarily interested in them as ritual garments to be worn during prayer. If women do accept this *mitzvah*, would it obligate them to wear *tzitzit* under their clothes at all times? Not necessarily, because the necessity of *tzitzit* depends on the garment—a person who is not wearing a four-cornered garment does not need *tzitzit* (Menahot 41a). But those women would be required to put *tzitzit* on any four-cornered garments they wear during the day.
- 10. This gives us a rare opportunity. "The *tzitzit* that we make today are for the *mitzvah* only and are not really clothing" (Beit Yosef Orah Hayim 17, quoting Terumat HaDeshen), since men no longer wear four-cornered garments. In that, we have moved away from the original mitzvah, in which *tzitzit* were attached to the ordinary clothing of Jewish men. For this reason, some great rabbis of our time have large slits made in their suit-jackets so that they will be obligated in *tzitzit*. But since women currently wear shawls and ponchos and the like, which happen to have four corners, they are uniquely positioned to return the *mitzvah* to its original glory.

# G. Epilogue

The Maharil knew that Mistress Bruna would not listen to him. Why wouldn't she? I was lucky enough to acquire a letter that Mistress Bruna wrote to the Maharil, in which she explains her position.

To our great rabbi, R. Yaakov Moelin, may God protect him:

You and I both know that the real common factor between mitzvot from which women are exempt is not time, but rather the body and the community. Almost all of them are related to the body and to the wordless experience of the senses that the entire community shares: the smell of the etrog, the sound of the shofar, the shade of the sukkah. The wrapping of the tallit, that brings you into a private inner world, and at the same time, spreads over you the connection with everyone in the synagogue and with Jews everywhere and even with your ancestors. And above all of them is the beautiful composition of Torah reading: the exalted words and the depths of their meanings, the smell of the parchment and the beauty of the letters, the melody of the chant and the memory of having learned it by heart, and the glory of the scroll with its silver decorations.

You are telling me that I don't belong to any of this. That I am sentenced to a life of aloneness, removed from experience and belonging. That there is a permanent restraining order keeping me from my community and my history. From the connection to mitzvot as a whole. From the Torah. That I am sentenced to a Judaism without color, without smell, without melody, without community, without Torah. That is a curse. That is a banishment from the Garden of Eden. Close your eyes a moment and answer honestly: would you be willing to accept that sentence?

Rabbi Yaakov, teacher of all Jews in exile, everyone knows that you are a great scholar. But, with all due respect for your Torah learning, you are tone deaf: you can't tell the difference between arrogance and longing.

I have lived in exile since the time of the Mishnah, but now the time has come, and I am not waiting for your permission. I am going home.

Respectfully,
Bruna,
Right here in your neighborhood,
Worms, Germany