

THE CENTER FOR WOMEN IN JEWISH LAW

*To Learn and To Teach*

Study booklets regarding women in Jewish law

NUMBER TWO

ALIYOT FOR WOMEN

Rabbi Monique Susskind Goldberg

Translated from the Hebrew by

Rabbi Diana Villa



THE SCHECHTER INSTITUTE OF JEWISH STUDIES

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## THE CENTER FOR WOMEN IN JEWISH LAW

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## PREFACE

### THE SCHECHTER INSTITUTE OF JEWISH STUDIES

The Schechter Institute of Jewish Studies is one of the leading academic institutions of Jewish studies in the State of Israel. The unique approach of Schechter combines traditional and modern methods of study. Historical and textual discussions of Jewish sources are accompanied by cultural and topical discussions, which grapple with the ethical and social dilemmas of Israeli society today. The Schechter Institute offers courses of study towards an interdisciplinary M.A. degree in Jewish studies in classic fields such as Bible, Jewish Thought and Jewish History alongside innovative fields of study, which examine Gender, Education, the Community and Art from a Jewish perspective.

The students from all over the country who study at Schechter represent a broad spectrum of beliefs and world-views within Israeli society. They are attracted by the warm, open and pluralistic atmosphere at the Institute.

In the fields of applied research, the Schechter Institute runs the Institute of Applied Halakhah, the Center for Judaism and the Arts and the Center for Women in Jewish Law.

### THE CENTER FOR WOMEN IN JEWISH LAW

The Center for Women in Jewish Law was established at the Schechter Institute of Jewish Studies in 1999 with the assistance of a grant from the Ford Foundation. The first purpose of the center – to study the status of women in the synagogue – is presented in my book *The Status of Women in Jewish Law: Responsa* published in 2001 and in the booklets entitled “To Learn and to Teach”, of which this is the second issue. The second purpose is to find halakhic solutions to the problem of modern-day *agunot* (anchored women) who are compelled to wait many years to receive a *get* (religious divorce) from their husbands. This problem is addressed in a book entitled *Halakhic Solutions to the Agunah Dilemma*, which will appear shortly; and in the bi-annual *Jewish Law Watch*, which examined actual *agunah* cases that have languished for years in the rabbinic courts without resolution.

## ***TO LEARN AND TO TEACH***

This new series of booklets is devoted primarily to the status of women in the synagogue. It is based on my book *The Status of Women in Jewish Law: Responsa*, but it is intended for the general public. In this second booklet, Rabbi Monique Susskind Goldberg rewrote my responsum on "Aliyot for Women", which appeared in the above-mentioned book. The goal was to make that responsum intelligible to a layperson who does not have a strong background in Talmud and Jewish law. Rabbi Diana Villa translated the booklet into English and added a Glossary of Authors and a Glossary of Terms in order to assist the reader.

The booklets in this series are published in five languages – Hebrew, English, Russian, Spanish and French – in order to reach as many readers as possible in Israel and the Diaspora.

We hope that these booklets will encourage the public to learn and to teach about the status of women in Jewish law and that these activities will also lead to action.

Prof. David Golinkin  
The Schechter Institute of Jewish Studies  
Jerusalem  
December 2004

## Introduction\*\*

Torah reading in public is an ancient custom. Tradition attributes it to Ezra the Scribe, as we read in the Jerusalem Talmud (Megillah 4:1, 75a):

Moses enacted that Jews should read the Torah on Shabbat, Holidays, the New Moon and the Intermediate Days... Ezra enacted that Israel should read the Torah on Mondays and Thursdays and Saturday afternoons.<sup>1</sup>

The laws regarding Torah reading (such as the order of the readers, the number of readers and the number of verses to be read) were already in existence and fixed in the time of the Mishnah\*.<sup>2</sup>

It is important to point out that in the time of the Tannaim\* whoever went up to the Torah read his own portion, and only the first and last person recited the Torah blessings (Mishnah Megillah 4:1).<sup>3</sup> In talmudic times (see Talmud\*) the decision was made that every person who read would say a blessing before and after the reading (Babylonian Talmud, Megillah 21b).<sup>4</sup> It is only in the Middle Ages, when most of the people who went up to read the Torah could not read the verses from the parchment with the appropriate cantillation, that a new custom emerged: one person, who was an expert in Torah reading, would read the entire Torah portion.<sup>5</sup> Since then, the one who is offered an *aliyah* to the Torah says the blessings and reads in a low voice together with the Reader. These facts teach us that there is no halakhic difference between the one who blesses and the one who reads the Torah: whoever is allowed to read the Torah is allowed to bless it, and whoever is allowed to bless it is allowed to read it.

In most Conservative synagogues in Israel and abroad, women are offered *aliyot* to the Torah and read it,<sup>6</sup> while in most Orthodox synagogues only men read

\*\* A Glossary of Authors and a Glossary of Terms appears at the end of this booklet. An \* refers to the Glossary of Terms; a • refers to the Glossary of Authors.

1 See also Babylonian Talmud, Baba Kama 82a.

2 See, for example, Mishnah Megillah 4:2 and 4:4.

3 The Mishnah says: "The one who reads Torah first and the one who reads last makes a blessing before and after". Rabbi Obadiah of Bertinoro\* explains thus: "Whoever reads the Torah first, blesses before the reading. The last one, the one who finishes and completes the reading, blesses after the reading. All the rest of the Torah readers do not bless, neither before nor after the reading".

4 "Nowadays all make a blessing both before and after the reading."

5 See, for example Tosafot Mo'ed Katan 27b, s.v. *biklikhah* and Tosafot Baba Batra 15a, s.v. *Shemonah*. We should point out that in the Mishnaic period the readings were short, because they finished reading the entire Torah in three or three and a half years. In the Middle Ages, the readings were long, since they finished reading the entire Torah in one year, as we do today. Even so, in some congregations, especially among the Yemenites, the person who goes up to the Torah reads the section himself even today.

6 According to a 1995 survey, women go up to the Torah in 88% of the Conservative synagogues in the United States – see Wertheimer, p. 250.

and are offered *aliyot* to the Torah.<sup>7</sup> Our purpose in this booklet is to study the sources which deal with *aliyot* for women, and clarify the halakhah on this issue.<sup>8</sup>

## 1) Talmudic sources on the subject of *aliyot* for women

The main source dealing with our issue is a *baraita*\* in the Babylonian Talmud, Megillah 23a:

Our Rabbis taught: All are qualified to be among the seven [who read], even a woman and a minor,<sup>9</sup> but the Sages said that a woman should not read from the Torah out of respect for the congregation.

A similar *baraita*\* appears in *Tosefta*\* Megillah 3:11 (ed. Lieberman, p. 356):

And all are qualified to be among the seven [who read], even a woman and a minor; a woman should not be brought to read in public.

According to the literal meaning of the *baraita*\* in the Babylonian Talmud, “All are qualified to be among the seven [who read]”. Thus, in principle, the law allows anyone to be one of the seven who go up to read the Torah in public (on the Sabbath) including a woman and a minor; “but the Sages said that a woman should not read from the Torah out of respect for the congregation”.<sup>10</sup> We should point out that if we check the Talmudic sources, we will see that the expression “respect for the congregation” does not appear in Tannaitic\* sources; it is used by the *Amoraim*\* or by the *Stam*\*. It is therefore obvious that the original law is found in the first part of the *baraita*\*: “All are qualified to be among the seven [who read], even a woman and a minor”. The second part, “only the Sages said that a woman should not read from the Torah out of respect for the congregation” was added in the time of the *Amoraim*\* or by the *Stam*\*.<sup>11</sup>

7 In the last few years an interesting phenomenon has developed in Israel. There are Orthodox *minyanim* (prayer quorums) that allow women to go up to the Torah and read it, even though these *minyanim* are not egalitarian and have a *mehitzah* (partition) separating the men and the women. They base their conduct on the articles by Rabbi Mendel Shapiro and Rabbi Daniel Sperber.

8 This booklet is based on a responsum by Rabbi David Golinkin that was published originally in *The Responsa of the Va'ad Halakhah of the Rabbinical Assembly of Israel*, Vol. 3, 1989 (Hebrew with English summaries). It was reprinted in his book *The Status of Women in Jewish Law: Responsa* (Hebrew). We will refer to that revised and expanded version.

9 For variant readings of this expression, see Golinkin, p. 84, note 1.

10 We will deal with the concept of “respect for the congregation” below – see paragraph 4.

11 Rabbi Saul Lieberman commented in *Tosefta Ki-fshuta* to Megillah (p. 1177) regarding the Talmudic *baraita*\*: “And from ‘but the Sages said’ etc., this is the Babylonian Talmud’s interpretation of the first part”.



The *Tosefta*\* also allows anyone to read Torah in public in principle (“All are qualified to be among the seven [who read]”); however afterwards it expresses its reservation regarding women being offered an *aliyah* to the Torah (“a woman should not be brought to read in public”) without any explanation. This *baraita*\* also seems to have two layers, an ancient law, “all are qualified to be among the seven [who read]”, and a later addition, “a woman should not be brought to read in public”.<sup>12</sup>

Another source related to this issue is Tractate Soferim 18: 5-6 (Minor Tractates, Soncino press edition, p. 301):

And he translates [the scroll of Lamentations on the Ninth of Av] so that the rest of the people, the women and children may understand it; since women are obligated to listen to [and understand] the reading of the Book like men, and much more so men...; It is, therefore, a logical deduction that every section of the Torah and the Prophets [prescribed for the readings] of the Sabbath should be translated for the people, the women and the children after the reading of the Torah...

In other words, women are obliged to listen to the Torah reading exactly as are men.

## 2) Methods of interpreting the *baraita*\* in the Babylonian Talmud

The decisors interpreted the *baraita*\* in the Babylonian Talmud in different ways. Some of them are of the opinion that women do not go up to the Torah because they are exempt from public Torah reading, unrelated to “respect for the congregation”. These decisors think that reading the Torah in public is included in the obligation to study Torah. In their opinion, women are not obligated to study Torah<sup>13</sup> and therefore are exempted as well from public Torah reading. In addition, there are also decisors who think that the reason for the exemption is that public Torah reading is a time-bound positive commandment\*, and women are usually exempt from these commandments.<sup>14</sup>

12 See Golinkin, p. 85.

13 See the discussion of a woman’s obligation to study Torah in Golinkin, pp. 218-223.

14 These are commandments that must be fulfilled in a certain time framework, and according to Jewish law women are exempt from them – see the list in Kidushin 33b-34a. However, there are many exceptions to the rule and many scholars have tried to explain this. See, for example, Shemuel Safrai, *Bar Ilan* 26-27 (1995), pp. 227-236.

On the other hand, there are decisors who think that women have an obligation to hear the Torah read in public and “respect for the congregation” is the sole reason which prevents them from being offered an *aliyah* to the Torah. We shall now bring some examples of both approaches.

### a) Women are exempt from reading the Torah in public

According to the *Hidda*\* (Rabbi Hayyim Yosef David Azulai, 18<sup>th</sup> century), the words “women being under the obligation to listen to [and understand] the reading of the Book” in Tractate Soferim are related only to the commandment of *Haqhel*\* (Deuteronomy 31:10-13). He adds: “Indeed, they are exempt from studying Torah and from positive time-bound commandments”.<sup>15</sup> In other words, according to the *Hidda*, women are exempt from public Torah reading because it is part of Torah study and it is a time-bound positive commandment\*.

Rabbi Yehiel Michal Epstein\* (nineteenth-twentieth centuries), claims that women are exempt from public Torah reading, and he explains the phrase in Tractate Soferim as follows:

It is not an absolute obligation... since she is exempt from Torah study and there is no greater time-bound [positive commandment] than this [=public Torah reading] (*Arukh Hashulhan, Oraḥ Hayim 282:11*).

In other words, according to Rabbi Epstein, the assertion in Tractate Soferim regarding women’s obligation to hear the Torah reading does not refer to an obligation in the ordinary meaning of the term, because Torah reading is part of the commandment to study Torah, and women are exempt from this commandment.<sup>16</sup> Torah reading is, according to his opinion, a typical example of a time-bound positive commandment\*.

But the decisors who claim that women are exempt from public Torah reading must explain the first part of the *baraita*\*, which contradicts their opinion. If women are exempt from public Torah reading, why does the *baraita*\* say “All are qualified to be among the seven [who read], even a woman and a minor”? This question was answered in several ways. For example:

- There are those who claim that even though women are exempt from time-bound positive commandments\*, they can recite a blessing on performing them

15 *Kiseh Raḥamim* on Tractate Soferim 18:5, Livorno, 1803, in his explanatory notes, s.v. *shehanashim*. See Golinkin, p. 89.

16 See above, note 13.

if they wish to do so. Thus, women would be able to read the Torah in public even though they are exempt, if not for the issue of respect for the congregation. This is the opinion of one of Rashi's teachers, which is quoted in Rashi's responsa (no. 68): "Rabbi Isaac Halevi taught... even though she is exempt from studying Torah, she can go up and bless, and this is not a blessing in vain."<sup>17</sup>

- There are those who think that the words "are qualified to be among" in the *baraita*\* mean "are qualified to complete". That is, women and children may be offered an *aliyah* to the Torah on condition that they are not offered *all* the *aliyot*. In order that someone recite a blessing and thus enable others to fulfill their obligation, at least one man over Bar Mitzvah age is necessary. The Rema\* (*Orah Hayim* 282:3), for example, wrote as follows: "The above-mentioned may be among those called up, but they may not all be women or minors". He ruled in this way following the Ran\* (on the Rif\* to Megillah, ed. Vilna 13a, s.v. *hakol*) and the Ribash\* (Responsa, nos. 35, 321, 326).<sup>18</sup>

### **b) Women have an obligation read the Torah in public and they would read were it not for "respect for the congregation"**

As we have mentioned, some decisors think that women have the same obligation of public Torah reading as men and "respect for the congregation" is the sole reason which stops them from reading the Torah.

Rabbi Manoaḥ of Narbonne (thirteenth century) explains thus:

If it were not for the issue of respect for the congregation, [a woman] would read and bless, since the Torah was given to male Israelites and also to females...; Scripture equated a woman to a man regarding all the punishments in the Torah (*Pesahim* 43a)... In any event, they were commanded to observe the commandments written in the Torah, and therefore they may bless "He who has chosen us" and "He who has given us" [= the blessings before and after Torah readings] and read the Torah the same as the men were it not for the issue of respect for the congregation.<sup>19</sup>

In other words, since women were included in the Torah's commandments and were liable for punishment, they are obligated to public Torah reading. It is only due to "respect for the congregation" that they do not do so.

17 This responsum is quoted by many Rishonim\* - see references in Golinkin, p. 31, note 37.

18 For additional decisors who had this opinion, see Golinkin, pp. 87-88.

19 *Sefer Hamenuḥah* on the *Mishneh Torah*, Laws of Prayer 12:17, ed. Horowitz, Jerusalem, 1970, p. 186. See Golinkin, p. 91.

Rabbi Abraham Gombiner (seventeenth century) thinks that women have an obligation to hear the Torah, and this is how he interprets the *baraita*\* in the Talmud (in *Magen Avraham*\* to *Orah Hayyim* 282, subparagraph 6):

We learn from here [= the *baraita*\*] that a woman has an obligation to hear the Torah even though [the reading] was enacted because of Torah study and women are not obligated to study Torah. In any case, they are commanded to hear as in the commandment of *haqhel*\*, to which women and children are obligated...

In other words, the author of *Magen Avraham* thinks that women are obligated to hear the Torah reading just as they have an obligation to the *haqhel*\* commandment, even though they are exempt from Torah study. Therefore, it would seem that according to his opinion, women would go up to the Torah were it not for the respect for the congregation.

Rabbi Jacob Emden\* (eighteenth century) also thinks that women have a Torah reading obligation and do not go up solely out of respect for the congregation; therefore in extreme situations he allows women to receive an *aliyah*. He explains that a woman does not read from the Torah on the basis of the second part of the *baraita*\* wherever this is possible, but when there are not seven people who are proficient in Torah reading and there is one woman who is, "All are qualified" [to go up and read] according to the first part of the *baraita*\*.<sup>20</sup>

### c) Evidence that women "have an obligation" to public Torah reading as much as men do

There is no doubt that the second approach is preferable. In other words, women "have an obligation" to public Torah reading as much as men do, but our Sages decreed that they should not go up [to the Torah] out of respect for the congregation. We say this for the following reasons:

- According to the language of the *baraita*\* in the Babylonian Talmud and in the *Tosefta*\* – "All are qualified to be among the seven [who read], even a woman and a minor" – it is obvious that the *Tanna*\* thought that women have an obligation related to Torah reading. If they were exempt due to "Torah study" or because of "a positive time-bound commandment", he would have expressed this explicitly, and there would have been no need for the later addition "out of respect for the congregation".

20 See his glosses to Megillah 23a and Golinkin, p. 91.

- It is impossible to subsume Torah reading under the commandment to study Torah. If this were the case, how can it be that “a slave is qualified to be among the seven” (Jerusalem Talmud, Megillah 4:3, 75a = Jerusalem Talmud, Ketubot 2:10, 26d) and “a minor reads the Torah and translates” (Mishnah Megillah 4:6) – a slave is exempt from the study of Torah and a minor is exempt from all commandments!

- The Tractate Soferim (18:5) says: “that women are obligated to listen to [and understand] the reading of the Book like men”.<sup>21</sup>

In summary, we have cited two approaches to public Torah reading by women. One group of decisors assumed that women are exempt from public Torah reading because they are exempt from Torah study; according to some of them, they are also exempt because it is a time-bound positive commandment. On the other hand, other decisors think that women have an obligation regarding public Torah reading as much as men, but they do not go up [to the Torah] out of respect for the congregation. We have brought evidence supporting the second approach.

We have seen above that according to the sources it is clear that public Torah reading is not included in the commandment to study Torah. The question remains: what is the nature of the obligation to read Torah?

### **3) Reading the Torah in public – the essence of the obligation<sup>22</sup>**

In the *Mekhilta d’Rabbi Yishmael* (Tractate Vayassa, first section, ed. Horowitz-Rabin, p. 154) it says:

“And they went three days in the wilderness and found no water” [Exodus 15:22]... Because they had been without words of Torah for three days, they became rebellious. It is for this reason that the Elders and the Prophets instituted the reading from the Torah for the Sabbath, Monday and Thursday. How so? They read on the Sabbath and interrupt on Sunday. Then they read on Monday and interrupt on Tuesday and Wednesday. Then they read on Thursday and interrupt on Friday.

In other words, the midrash explains that the people of Israel rebelled in the desert because they did not hear words of Torah for three days. (The water is a metaphor for words of Torah). Therefore the Prophets and Elders enacted that the people of Israel have an obligation to read Torah at regular intervals, as the

<sup>21</sup> As we saw above, at the end of the first section.

<sup>22</sup> This section is based on Golinkin, pp. 93-96.

parallel *baraita*\* in the Babylonian Talmud, Bava Kama (82a) adds: "So that they do not go three days without Torah".

Maimonides\* (Laws of Prayer 12:1) wrote the following on the basis of these sources and the source in the Jerusalem Talmud (Megillah 4:1, 75a) which we quoted in the introduction:

Moses, our teacher, established the rule for Israel that they should read Torah publicly on Sabbaths and also on Mondays and Thursdays during the morning service, so that three full days shall not elapse without *hearing* Torah.

By comparing Maimonides' terminology here with his terminology in the Laws of the Reading of the Shema and the Laws of Prayer, Rabbi Jose Faur reached the following conclusion: "*Hearing* the Torah reading is not merely the means to fulfill the obligation to read, it is rather the *purpose* of the enactment".<sup>23</sup> In other words, the *individual* has no obligation to read Torah or to hear the Torah reading. It is the *congregation* that must read the Torah in public so that "three full days shall not elapse without *hearing* Torah".

Indeed, many important *Rishonim*\* interpret these sources to mean that a minor and a slave may read Torah in public:

- Rabbi Jonathan Hakohen from Lunel\* (twelfth-thirteenth century) writes:

"A minor reads Torah" (Mishnah Megillah 4:1) since Torah reading is only to enable the public to *hear*, and what does it matter if the person who accomplishes this is an adult or a minor? "But he does not recite the Shema in public responsively, since one who is not himself under obligation to perform this religious duty cannot perform it on behalf of a congregation".<sup>24</sup>

In other words, since the obligation of reading Torah is a communal obligation to enable the public to hear, it does not make a difference if the readers are adults or minors. But reading Shema is an individual obligation; since the minor is not under obligation to perform this religious duty, he cannot perform it on behalf of a congregation.

- The Meiri\* (thirteenth-fourteenth century) says:

"A minor reads the Torah", since the intention is to enable the public to *hear* and this is not a complete commandment as are the rest of the

<sup>23</sup> Faur, p. 125.

<sup>24</sup> Rabbi Jonathan Hakohen of Lunel's commentary on the Rif for the Tractates of Megillah and Mo'ed Katan, ed. Mirski, Jerusalem and New York, 1956, p. 79.

commandments about which it says: “One who is not himself under obligation [to perform this religious duty cannot perform it on behalf of a congregation]” (Mishnah Rosh Hashanah 3:8).<sup>25</sup>

- Rabbi Joseph Haviva\* (fifteenth century) explains:

“A minor reads the Torah”, since Torah reading is only to make the public hear, and what difference does it make if [the reader] is an adult or a minor?<sup>26</sup>

In other words, according to this interpretation, it does not matter who reads the Torah; the main point is to enable the public to hear the Torah reading, and everyone is fit to do this.

This explanation of the nature of the obligation to read Torah in public explains some surprising laws and facts related to public Torah reading:<sup>27</sup>

1. Torah reading in public is not included in the lists of commandments,<sup>28</sup> neither biblical nor rabbinic. Rabbi Eliyahu Halevi, one of the greatest decisors of the sixteenth century, wrote:

Even though by reading the Torah one performs a religious duty on behalf of the congregation, it is not similar to the obligation to fulfill commandments, since whoever did not hear the Torah reading did not transgress, since this is Ezra’s enactment so that the Jewish people should not remain without Torah. It is not even a rabbinic commandment.<sup>29</sup>

In other words, since the community is obligated to read the Torah in public, the individual person does not transgress if he did not read it or hear it.

2. Those who go up to the Torah do not bless “Who has sanctified us by His commandments and has commanded us” but rather “Who has chosen us... and given us His Torah”. As early as the twelfth century, Rabbeinu Tam\* mentioned that the reason for this is that Torah reading is not a personal commandment for the person who goes up to the Torah, but rather a communal obligation.<sup>30</sup>

25 *Beit Habelirah* to Megillah, ed. Herschler, Jerusalem, 1968, p. 79.

26 *Nimukei Yosef\** to Megillah, ed. Blau, New York, 1960, p. 88. For other examples of *Rishonim\** and *Aharonim\** who think that Torah reading is a communal obligation, see Golinkin, pp. 94-95. See also Faur, pp. 125-126.

27 See Golinkin, pp. 95-96.

28 See, for example, the lists of commandments in Maimonides’ *Sefer Hamitzvot* and in *Sefer Mitzvot Gadol (Smag)*, positive commandments, fol. 242c.

29 Quoted by Faur, p. 126.

30 His responsum is quoted in *Tosafot Rabbi Yehuda Sirlion* to Berakhot 47b, ed. Zacks, Jerusalem, 1972, p. 521. See Golinkin, p. 94.

3. According to Jewish law, one is allowed to leave the synagogue during the Torah reading, between *aliyot*.<sup>31</sup> Furthermore, a learned person may study Torah during the reading.<sup>32</sup> According to some decisors, an individual can study “the Bible twice and the translation once”<sup>\*</sup> during the Torah reading.<sup>33</sup> If Torah reading was a personal obligation, the law would not allow these things.

In summary, we have shown that Torah reading is a communal obligation. The community must make sure the Torah is heard so that Jews “do not go three days without Torah”. The individual is not obligated to hear or to read the Torah; therefore it makes no difference who reads the Torah – even someone who is not obligated to observe commandments, such as a minor, can read the Torah in public.<sup>34</sup> According to the same logic, women may read the Torah in public. The claim by some decisors that women are exempt from public Torah reading because it is a time-bound commandment, or because women are exempt from Torah study, does not stand up to careful scrutiny. Therefore we can assert that, according to the basic law found in the Babylonian Talmud and in the *Tosefta*, “all are qualified to be among the seven [who read], even a woman and a minor”.

#### 4) “Respect for the congregation” and Torah reading by women

As we have seen so far, the only reason not to allow women to go up to the Torah is “respect for the congregation”. We will now examine the meaning of this concept.

##### a) The meaning of the expression “respect for the congregation” in the *baraita*<sup>\*</sup>

The expression “respect for the congregation” appears in five places in the Babylonian Talmud besides our *baraita*<sup>\*</sup> (Megillah 23a). We will now cite three of those passages:

###### 1. Megillah 24b

According to Abaye (a Babylonian Amora<sup>\*</sup>), a naked person does not read Torah due to “respect for the congregation”. Therefore he does not allow a child in rags

31 See Berakhot 8a; Maimonides<sup>\*</sup>, Laws of Prayer 12:9; *Shulhan Arukh*<sup>\*</sup>, *Orah Hayyim* 146:1. And see Golinkin, p. 96.

32 Berakhot *ibid.*; Maimonides *ibid.*; *Shulhan Arukh* 146:2. And see Golinkin, *ibid.*

33 This is Rabbi Joseph Caro’s<sup>\*</sup> ruling in *Shulhan Arukh*, *Orah Hayyim* 146:2 and 285:5. And see Golinkin, *ibid.*

34 Golinkin, *ibid.*



(who is partially naked) to read Torah because of “respect for the congregation”. It is clear in this case that the expression “respect for the congregation” means the disgrace of the congregation,<sup>35</sup> that is, an affront to the honor of the congregation.

## 2. Yoma 70a

According to the Mishnah (Yoma 7:1), the High Priest read two biblical sections on *Yom Kippur* (Leviticus 16; Leviticus 23) from a Torah scroll. He said the third section (Numbers 29) by heart, and did not roll the Torah scroll to the end of the book of Numbers. The Talmud explains his behavior in the following way: “Rav Sheshet (a Babylonian *Amora*\*) said: Since we do not roll a Torah scroll in public”, and the *Stam*\* added: “out of respect for the congregation”.<sup>36</sup>

Rashi\* explains the expression “out of respect for the congregation”: “they will be waiting in silence due to this”. In other words, it is disgraceful for the congregation to have to wait while the scroll is being rolled.

## 3. Sota 39b:

Rabbi Tanḥum (a Palestinian *amora*\*) said in the name of Rabbi Joshua ben Levi (a Palestinian *Amora*\*): the prayer leader is not allowed to strip the ark bare in the presence of the congregation out of respect for the congregation.

Rashi\* explains the words “to strip the ark bare in the presence of the congregation” in this way:

They used to bring the Torah from another house where it remained for safekeeping to the synagogue. And they spread pretty cloths all over the ark and then placed the Torah inside. When they left [the synagogue] and took the Torah to the house where it remained for safekeeping, they would not remove the cloths from the ark in public, since it is an annoyance for the congregation to wait there with the Torah. Rather, he would take the Torah to his house and put it down and the congregation would leave after he did. He would come back later and remove the cloths from the ark.

According to Rashi’s explanation, “respect for the congregation” means an annoyance to the congregation. This is similar to the case in Yoma (example

35 Rashi apparently interpreted the expression “respect for the congregation” as synonymous to the disgrace of the congregation – see Golinkin, p. 97, note 8.

36 Yoma 70a and Sota 41a. This addition of the *Stam* does not appear in Sota nor in some of the manuscripts of Yoma – see Golinkin, p. 97, note 9.

number 2 above); in both cases the public had to wait, and this waiting is a disgrace to the congregation, an affront to its honor. We could also interpret that “it is a disgrace for the congregation to see the ark ‘naked’ as in the above-mentioned laws regarding a naked person and a person in rags (example number 1 above)”.<sup>37</sup>

We have thus learned from the Talmudic sections in which the expression “out of respect for the congregation” appears, that it always means the disgrace of the congregation.<sup>38</sup> We can therefore assume that this is its meaning in our *baraita*\* as well.

The question remains: what is the disgrace to the congregation when a woman reads Torah?

The answer to this question can be found at the end of the *Tosefta* passage which we quoted above in section 1 (*Tosefta Megillah* 3:11-12, ed. Lieberman, p. 356):

And all are qualified to be among the seven [who read],  
even a woman and a minor,  
A woman should not be brought to read in public.  
A synagogue that has only one person capable of reading,  
He stands and reads and sits, stands and reads and sits, stands and reads  
and sits  
Even seven times.

In other words, if a synagogue has only one man who is qualified to read Torah,<sup>39</sup> it is preferable that he should read all the *aliyot* rather than bring a woman who knows how to read, even though in principal the law allows her to read. It is disgraceful to the men that there are no men qualified to read and it becomes necessary to bring a woman.<sup>40</sup>

Indeed, this is how Rabbi Ben Zion Meir Hai Uziel, Sefardic Chief Rabbi of Israel, interpreted the expression “out of respect for the congregation” in a responsum written in 1921:

And the interpretation of “out of respect for the congregation” is that no one should say that there are no men who know how to read, but it is not a question of licentiousness.

37 Golinkin, p. 98.

38 This is also Rabbi Blumenthal’s conclusion, p. 1088.

39 This was a widespread phenomenon in Talmudic times – see Golinkin, p. 99, note 11.

40 This is how the Ribban\* explained our *baraita*\* very concisely: “It is disgraceful to the congregation that a woman should come and read” (Golinkin, p. 98).

In other words, the fact that a woman goes up to the Torah is a disgrace to the congregation, not because there is any fear of licentiousness, but because this will shame the men since people will say that they do not know how to read Torah.<sup>41</sup>

### **b) The congregation may relinquish its honor**

If the reason women are not allowed to read Torah in public is merely due to respect for the congregation, the question remains whether the congregation can relinquish its honor and allow a woman to read. The decisors disagree regarding this question.

Some of the major decisors determined that the congregation can relinquish its honor in times of duress. For example, the Maharam of Rotenberg\* ruled in the thirteenth century that in a city which has only Kohens, a Kohen will go up to the Torah twice and women will go up for the rest of the *aliyot*. And this is what he writes: "And women will read... in cases where there is no other possibility, the respect for the congregation will be set aside because of [i.e., in order to avoid the suggestion of] priestly defects".<sup>42</sup> In other words, if the Kohens go up for all the *aliyot*, the congregation might think that every Kohen who went up to the Torah is not a valid Kohen and this would be an insult to the honor of the Kohens; therefore it is preferable to bring women to read Torah for the rest of the *aliyot*. According to the Maharam, the congregation must relinquish its honor in these circumstances and accept women.

Rabbi Jacob Emden\*, whom we quoted above (end of section 2, b), thinks that in "a place in which there are not seven men who are proficient in Torah reading and there is a woman who is proficient," she goes up to the Torah and the congregation should relinquish its honor.

According to Rabbi Joseph Caro\*, the congregation can relinquish its honor even when it is not a time of duress. In an attempt to justify the custom "that a minor may lead the evening services after Shabbat," he claims that even though this custom is not respectful of the congregation, the congregation may relinquish its honor.<sup>43</sup> It follows that the congregation may relinquish its honor and allow women to go up to the Torah on the basis of the basic law in the *baraita*\* above (section 1): "All are qualified to be among the seven [who read], even a woman and a minor."

41 See similar interpretations in Golinkin, p. 99.

42 *Responsa, Rulings and Customs*, Kahana edition, vol. 1, Jerusalem, 1957, Responsa section, no. 47. And see Golinkin, p. 100.

43 *Beit Yosef, Oraḥ Ḥayyim*, section 53, s.v. *Umidiorei Rabeinu*. See also Golinkin, p. 100.

### **c) The congregation does not need to relinquish its honor because the original reason has disappeared**

On the other hand, in our days it is not necessary to rule that the congregation must relinquish its honor in order to allow women to go up to the Torah.

According to the explanation presented above, the expression “respect for the congregation” means a disgrace to the men in the congregation, since people will think they do not know how to read Torah and a woman must be brought in their place. This concern could only arise in a time and in a society in which only men learned how to read and most women could not read, but in our days, most women learn how to read, even in ultra-Orthodox society.

Therefore, in our days, there is no reason for a man to be ashamed or offended if a woman reads Torah, since the original reason for the decree has disappeared due to changing times and circumstances. We can therefore return to the basic law and allow women to read Torah and recite the blessings in public, the same as men.

But how can we ignore the well-known principle (Mishnah Eduyot 1:5) that “no court can set aside a decision of another court unless it is greater than it in wisdom and in number?” Maimonides<sup>\*</sup> ruled (Laws of Rebellion 2:2) that “Even if the reason which prompted the earlier authorities to enact the decree or ordinance has disappeared, later authorities may not set aside [their enactment] unless they are greater”. We can reply that the decisors disagree about this issue. Rashi<sup>\*</sup>, the Ra’abad<sup>\*</sup>, the Meiri<sup>\*</sup> and others ruled that once the original reason behind a decree disappeared, a rabbinic court may annul the prohibition, even if the court is not greater than the previous one in wisdom and in number.<sup>44</sup>

Therefore, we can say that since the original reason for the decree that women may not go up to the Torah out of respect for the congregation no longer exists, we can go back to the basic law that, “all are qualified to be among the seven [who read], even a woman and a minor”.

## **5) Additional questions regarding *aliyot* for women**

It is commonly thought among the general public that women are prohibited from going up to the Torah because of ritual impurity during menstruation and because women aren’t allowed to have their voices heard in public. We will now consider these claims and show that they have no foundation.

44 See sources in Golinkin, p. 102, note 14.

### a) Words of Torah are not susceptible to impurity

The widespread notion that women may not go up to the Torah because of their menstrual impurity,<sup>45</sup> is contrary to Talmudic law and to most of the decisors. Berakhot (22a) states explicitly: "It has been taught: Rabbi Judah ben Betyra used to say: Words of Torah are not susceptible to impurity". The major decisors such as the Rif\*, Maimonides\*, the Semag\*, the Rosh\*, the Tur\* and Rabbi Joseph Caro\* ruled in the same manner. This is the ruling, for example, in the *Shulḥan Arukh* (*Orah Ḥayyim* 88:1): "All impure people may read Torah, read the Shema and pray". The Rema\* writes there: "There are authorities who write that a woman who has her period should not enter the synagogue, pray, mention God's name or touch a Torah scroll. There are those who say that all of this is permitted, and this is the basic law".

Therefore, there is no reason to prevent women from going up to the Torah out of concern for impurity, and not one of the dozens of decisors who dealt with our issue mentioned menstrual impurity as a reason to prevent women from receiving *aliyot* to the Torah.<sup>46</sup>

### b) "A woman's voice is lewd" is unrelated to public Torah reading

The notion that a man cannot hear the voice of a woman who is singing comes from Samuel's words in Berakhot 24a: "A woman's voice is lewd". Yet some of the *Rishonim*\* already interpreted Samuel's words as referring to the voice of a woman who is speaking, to the extent that this will lead to prohibited intercourse.<sup>47</sup>

Only the *Aḥaronim*\*, especially the Ḥatam Sofer at the beginning of the nineteenth century, issued a sweeping prohibition for men to hear women's singing voices. This ruling is not in line with the words of the Talmud and the *Rishonim*\*.<sup>48</sup>

Therefore, there is no reason to prohibit public Torah reading by women due to "a woman's voice is lewd".

45 This notion is based on an external *baraita*\*, *The Baraita of Tractate Niddah*. See Golinkin, p. 102, and the bibliography there in note 15.

46 See Golinkin, *ibid*; Blumenthal, pp. 1097-1098; and Feldman, p. 295.

47 See Berman's article on this subject.

48 See Golinkin, p. 103.

## 6) Summary and conclusions

1. The decisors disagree regarding public Torah reading by women. According to one opinion, women are exempt from public Torah reading because they are exempt from Torah study and from time-bound positive commandments. According to a second opinion, according to the basic law women must fulfill the obligation of public Torah reading, but they do not do so out of respect for the congregation.
2. The Talmudic sources support the second approach, and there is no difference between men and women's obligations regarding public Torah reading.
3. The public Torah reading obligation is not the individual's obligation, but rather the congregation's obligation to have the Torah heard in public; therefore it makes no difference who reads the Torah.
4. The only reason to prevent women from reading Torah is "respect for the congregation". In Talmudic times, it was a disgrace to the congregation of men if a woman read Torah, lest someone say that there are no men among them who can read Torah.
5. The congregation may relinquish its honor and allow women to read Torah.
6. In our day, it is not necessary for the congregation to relinquish its honor, since in our society women know how to read just like men, and there is therefore no disgrace to the men when women read in public. The reason for the decree has disappeared, and we can go back to the basic law that "all are qualified to be among the seven [who read], even a woman and a minor".
7. Finally, there is no reason to forbid women from reading Torah in public due to menstrual impurity or due to "a woman's voice is lewd".

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## Glossary of Authors

*Bertinoro, Rabbi Obadiah of Bertinoro* (Italy and Israel, 1450-ca. 1516): author of the classic, comprehensive commentary on the Mishnah\*, based on Rashi and Maimonides.

*Emden, Rabbi Jacob* (Germany, 1697-1776): author of commentaries on the Mishnah\* and the Talmud\*, a prayer book and responsa called *She'elat Yabetz*.

*Epstein, Rabbi Yehiel Michal* (Belarus, 1829-1908): author of *Arukh Hashulhan* on the four sections of the *Shulhan Arukh\**, with the purpose of ruling on Jewish law according to the Talmud\*, Maimonides\*, the *Rishonim\** and the *Shulhan Arukh\** and its commentators.

*Haviva, Rabbi Joseph* (Spain, beginning of the fifteenth century, a disciple of the Ran, Rabbi Nissim Gerondi): the author of *Nimukei Yosef*, an important commentary of the Rif's *Sefer Halakhot*.

*Hidda, Rabbi Hayyim Yosef David Azulai* (Jerusalem 1724-Italy 1806): important halakhic authority for Italian Jews and the Middle Eastern communities. He wrote Talmudic, halakhic and mystical works.

*Jonathan of Lunel, Rabbi* (Provence, twelfth-thirteenth century): author of an important commentary to the Rif's *Sefer Halakhot*.

*Maharam of Rotenberg* (Germany, 1215-1293): one of the major German decisors; he wrote thousands of responsa.

*Maimonides (Rambam), Rabbi Moses ben Maimon* (Spain and Egypt, 1135-1204): physician, philosopher and halakhic authority. Author of the *Mishneh Torah*. Maimonides also wrote commentaries on the Mishnah\* and the Talmud\*, responsa, philosophical works (such as *The Guide of the Perplexed*) and medical works.

*Meiri, Rabbi Menahem ben Shelomo Ha-Meiri* (Provence, 1249-1315): author of *Beit ha-Behira*, a commentary on most of the tractates of the Talmud\*.

*Ra'abad, Rabbi Abraham ben David of Posquieres* (Provence 1120-1198): he wrote glosses on the Rif\* and Maimonides\*, responsa and commentaries on the Talmud\*.

*Rabeinu Tam, Rabbi Jacob ben Meir Tam* (France, 1100-1171): Rashi's\* grandson, one of the most important Tosafists. He was a well-known halakhic authority and some of his *novellae* are included in the commentaries of the Tosafists on the Talmud\*. He wrote *Sefer Hayashar* which includes *novellae* and responsa.



*Ran, Rabbi Nissim Gerondi* (Spain 1300-1380): considered the major halakhic authority of his generation. Important commentator on the Rif\*. He also wrote *novellae* on the Talmud and responsa.

*Rashi, Rabbi Shelomo Yitzhaki* (France 1040-1105): his commentaries on the Bible and Talmud\* have become indispensable to understanding those texts.

*Rema, Rabbi Moses Isserles* (Poland, 1525-1572): author of *Darkhei Moshe* on the *Arba'ah Turim* (see Tur\*) by Jacob ben Asher, and of the glosses to Caro's *Shulhan Arukh\** known as the *Mappah* (Tablecloth). These glosses supplemented Caro's code with the laws and customs of Germany and France. In this way, they contributed to its becoming authoritative throughout the Jewish world in the sixteenth century and a major code to this day.

*Ribash, Rabbi Isaac ben Sheshet Perfet* (Spain 1326-Algeria 1408): a disciple of the Ran\*. He served as a rabbi in Spain and as Chief Rabbi and head of the Rabbinic Court in Algiers. The author of *Responsa of the Ribash*, which is an important source of the *Shulhan Arukh\**.

*Ribeban, Rabbi Judah ben Binyamin* (Italy, thirteenth century): one of the commentators on the Rif's\* code.

*Rif, Rabbi Isaac Alfasi* (Fez 1013-Spain 1103): author of a classic code organized according to the order of the tractates of the Talmud\*.

*Rosh, Rabbi Asher ben Yehiel* (Germany and Spain, 1250-circa 1327): important decisor who combined the German and Spanish schools of halakhah. His major work was *Piskei Ha-Rosh*. He also wrote *Tosafot* on the Talmud\* and many responsa.

*Semag, Rabbi Moses of Coucy* (France, beginning of the thirteenth century): author of *Sefer Mitzvot Gadol*, which organized the halakhah according to the order of the positive and negative commandments.

*Tur, Rabbi Jacob ben Asher* (Germany 1270-Spain 1343): author of *Arba'ah Turim*, in which he edited the halakhic material up to the fourteenth century and ruled in matters of halakhah, placing his father, the Rosh\*, in a privileged position.

## Glossary of Terms

*Aḥaronim*: Talmudic interpreters and halakhic sages from the *Shulḥan Arukh*\* to our days.

*Amoraim*: Rabbis of the Talmudic (see *Talmud*\*) period (220-500 C.E.), who taught and studied in the academies in Israel and Babylonia.

*Baraita*: tannaitic (see *tannaim*\*) dictum not included in the *Mishnah*\*.

*Beit Yosef*: Rabbi Joseph Caro's\* commentary on the Tur.

*De-rabbanan*: rabbinic law from the time of Ezra the Scribe to the end of the Talmudic (see *Talmud*\*) period.

*Haqhel*: a ceremony at which the king read certain sections of the Torah (from the book of Deuteronomy) to the whole people of Israel (men, women and children) in the Temple courtyard, every seven years, at the end of the first day of the feast of *Sukkot* (Tabernacles).

*Magen Avraham*: one of the principal commentaries on *Shulḥan Arukh*\*, *Orah Ḥayyim* written by Rabbi Abraham Gombiner (Poland, 1637-1683).

*Mekhilta d'Rabbi Yishmael*: a Tannaitic midrash on the book of Exodus from the academy of the *Tanna* (see *Tannaim*\*) Rabbi Yishmael.

*Midrash Halakhah*: Tannaitic (see *Tannaim*\*) midrashim which derive halakhah from Biblical verses. They are collected in the *Mekhilta*, *Sifra* and *Sifrei*, and are scattered throughout both Talmuds.

*Mishnah*: collection of mostly legal sources, edited by Rabbi Judah Ha-Nassi, around 200 C.E.

*Nimukei Yosef*: See Rabbi Joseph Haviva\* in the Glossary of Authors.

*Rishonim*: Talmudic interpreters and halakhic sages from the end of the Geonic period (eleventh century) until the *Shulḥan Arukh* (sixteenth century).

*Shulḥan Arukh*: sixteenth century law code, written by Rabbi Joseph Caro (Spain and Israel 1488-1575), to which the Rema's\* glosses were added, which helped make it the most influential code to this day.

*Stam*: anonymous sections of the Talmud\* not attributed to a particular sage.

*Takkanah*: rabbinic enactment for the purpose of communal improvement, reacting to changing circumstances.

*Talmud*: a series of tractates which include the *Mishnah*\* from tannaitic (see *Tannaim*\*) times and the *Gemarah*, the discussions of the *Mishnah* by the

*Amoraim\**. The Babylonian Talmud became the basic source for all future halakhic development.

*Tannaim*: rabbis of the *Mishnah\**. They studied and taught in the land of Israel from the Second Temple Period until 220 C.E. Besides the *Mishnah*, they authored many *baraitot* (see *baraita\**) such as the *Midrash Halakhah\** and the *Tosefta\**.

*Time-bound positive commandment*: a commandment which must be observed within a certain time framework. According to classical halakhah, women are usually exempt from these commandments.

*Tosefta*: a collection of *baraitot* (see *baraita\**) which was edited according to the order of the *Mishnah* during the following generation.



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