

Reuven Hammer
Y.D. 246:6.2014d
Concurring Opinion

This paper was submitted, in May 2014, as a concurrence on "Women and Mitzvot" by Rabbi Pamela Barmash. Dissenting and Concurring papers are not official positions of the CJLS.

I strongly support this Teshuvah but would like to add something that is not dealt with in it. Rabbi Barmash, probably for good reason, decided to deal only with the rabbinic attitude toward women's obligations and not to discuss the question of how the Torah sees this issue. My own belief is that when the Torah speaks of commanding the Israelites to observe laws and ordinances, it is including both men and women unless specifying otherwise.

For example, at Sinai the verse says, "Thus you shall say to the house of Jacob and declare to the children of Israel..." (Exodus 19:3). Commentators themselves have interpreted those phrases to mean both the women and the men. Similarly in Exodus 21:1, "These are the rules that you shall set before them.." 'them' is an inclusive term. *Only when the Torah specifies males are women excluded*, such as "When a man sells his daughter..." (Exodus 21:7) or when only males are specifically commanded to make the journey to the sanctuary three times a year, "Three times a year...all your males shall appear before the Lord your God in that place that He will choose" Deuteronomy 16:16 When the term *b'nai Yisrael* is used, as in Numbers 15:1 or 15:37 there is no reason to think that this means literally 'sons' but rather, as NJPS has it, 'the Israelite people.'

Therefore in my opinion all the mitzvot in the Torah were obligatory on men and women alike unless they were gender specific (circumcision, menstruation etc.) or unless the Torah went out of its way to specify 'males' as in the pilgrimage laws. Therefore what the Sages did in exempting women from certain obligations, generally but not exclusively under the rubric of "positive commands that are time connected," was to provide an exemption to matters which the Torah had commanded women due to the practicalities of the time and to the conventions of society. This Teshuvah, then, cancels that exemption because of new conditions and new realities and returns the situation to what it was previously *in the Torah itself* when men and women were both obligated to these commandments.