

Women and the Kotel

I write this after years of frustration and anger over how women are treated at the Kotel (Western Wall). I have not had the fortune to visit Israel yet so I speak as a true outsider on this issue.

The Kotel is managed by the Haredi Rabbinate through the Western Wall Heritage Foundation whose chair is Rabbi Shmuel Rabinowitz. The Foundation is a government-funded institution that has sole authority over the Kotel. Rabinowitz, a Haredi rabbi, “refuses to abide any deviation from traditional Jewish law, which prohibits women from singing aloud, reading the Torah and wearing a tallit at the Kotel.”¹ Currently only Orthodox worship is permitted at the Kotel – this means that women are forbidden from wearing tallit and tefillin and they are not permitted to read (or even carry) a Sefer Torah (Torah Scroll) or sing out loud. Some women however do wear tallit and tefillin and many have been arrested for doing so “despite the 2003 Israeli Supreme Court ruling upholding a ban on women wearing tefillin or tallit prayer shawls at the site, or reading from a Torah scroll.”²

Rabbi Rabinowitz has sole authority to make decisions over the “community standards” of the Kotel. His authority stems from a 1981 law that gives the Kotel’s chief rabbi power to “give instructions and ensure the enforcement of restrictions.” The law also establishes that any prayer at the Kotel must be according to “local custom.”¹ Currently the Kotel is treated as an Orthodox synagogue. There is a mechitza (barrier) between the men’s section (consisting of 75 percent of the space) and the women’s section (consisting of 25 percent of the space). The separation of men and women is, according to Orthodoxy, a millennium old practice and is therefore standard practice and halakhah. The idea behind a mechitza is the custom of separating men and women during the Simchat Beit HaShoevah (Water Drawing Ceremony) during Sukkot. It is recorded that a balcony was made for the women to use while the men sat below them. This was in order to reduce “frivolity” between the genders.

Our Rabbis have taught, Originally the women used to sit within [the Court of the Women] while the men were without, but as this caused levity, it was instituted that the women should sit without and the men within. As this, however, still led to levity, it was instituted that the women should sit above and the men below. (Talmud Bavli – Sukkah 51b)³

The question is asked how this decision was made. Rab answered the question thus:

And the land shall mourn, every family apart; the family of the house of David apart, and their wives apart. [Zechariah 12:12] Is it not, they said, an a for tiori argument? If in the future when they will be engaged in mourning and the Evil Inclination will have no power over them, the Torah nevertheless says, men separately and women separately, how much more so now when they are engaged in rejoicing and the Evil Inclination has sway over them. (Talmud Bavli – Sukkah 52a)³

Zechariah does not state that the wives of the families are separate from the husbands. It is simply stating that it is both men and women who will mourn – each family separate from the other. There is no rational reason to believe that this verse means that men and women are to be separated. In addition, the “evil inclination” is also mentioned as a problem during the festival

(and by extension during any mixture between the genders). The rabbis use the Torah as a proof for the “evil inclination.”

And הוה saw that the wickedness of man was great in the earth, and that every imagination of the thoughts of his heart was only evil continually. (Bereishit 6:5)

Yet, God also states that we have the ability to overcome this “evil inclination.”

If you do well, shall it not be lifted up? And if you do not well, sin couches at the door; and unto you is its desire, but you may rule over it. (Bereishit 4:7)

Of course we should not put ourselves in situations where we are tempted however why does this mean that **all** men and **all** women must be separated based upon a rabbinical interpretation of a verse in Zechariah. The idea of a mechitza is based upon rabbinical tradition from the Talmud and does not have any basis in Torah. If a man (or woman) is tempted when in a mixed-group setting then that individual should remove themselves from the situation rather than demanding that everyone be separated based upon their gender.

The mechitza is a modern tradition pushed upon all Jews regardless of the traditions or beliefs of non-Orthodox Jews or even other Orthodox Jews. The mechitza comes from the supposed separation of men and women during the Simchat Beit HaShoevah (Water Drawing Ceremony) of Sukkot. Based upon the Talmud Orthodox rabbis believe that the balcony in the Temple was biblically ordained and therefore Orthodox Jews must not pray in a synagogue without a mechitza. There are some Orthodox rabbis who believe that the mechitza is an “ancestral custom” which cannot be changed.⁴

This balcony was made in the Court of the Women – a place where men and women were both permitted without a barrier between them. This was the furthest a woman could travel on the Temple Mount. It can be safely assumed that before the balcony was built men and women worshipped together in this court without a mechitza or other barrier. In addition during certain times of the year – especially Yom HaKippurim and Yom HaTeruah – the smaller Women’s Court would not be able to contain all the worshippers which meant the Outer Court (Court of the Gentiles) was utilized by worshippers where there is no indication of a mechitza.

There are late-nineteenth century [drawings](#) and early-twentieth century [photographs](#) of men and women worshipping at the Kotel without a mechitza. When Rabbi Rabinowitz is asked about the photographs showing men and women praying without a mechitza he rejects this argument stating that the photographs are meaningless since the Kotel wasn’t under Jewish sovereignty. “‘They couldn’t read Torah or blow the shofar,’ he said. ‘They could hardly pray there. The British did terrible things. You want to go back to that? The British didn’t establish local custom.’”¹ However, if one goes back further in time to the Mishnaic and Talmudic period one will also find no archaeological basis for assuming the existence of a separation between the genders. The first mention of separation of men and women occurs toward the end of the Geonic era (eleventh-century CE) but from this point onward there is only a passing mention of such separation. It was not until the end of the nineteenth-century that a halakhic source requires the separation of genders in the synagogue. The Mishnah, Tosefta, and Talmud Bavli all state that

the erection of the balcony in the Temple was a rabbinic enactment and it tells us nothing about the synagogues. There is however “considerable evidence of mixed prayer in the Bible and in the Apocrypha. With reference to the Second Temple period many sources indicate that mixing was the norm in the Women’s Court.”⁵

Some in the Orthodox world will argue that women simply did not attend synagogue so there was no need for separate seating. This argument is not supported by archaeological or literary evidence. In fact, there are plenty of proofs that women did in fact attend synagogue. There was a halakhic ruling that a non-Jewish woman can help prepare a meal until the Jewish woman of that household returns from the synagogue (Talmud Bavli, Avodah Zarah 38a-b). Women are mentioned as being included among the seven people called to read Torah on Shabbat (Tosefta, Megillah 3, 11-2). In addition the Talmud Yerushalmi tells of a woman from Tiberias who went to synagogue every Friday night. In the fourth-century there is a Christian source from John Chrysostom who mentioned women attending synagogue.⁶

The separation of men and women in the synagogue developed centuries after the Temple was destroyed. There is no archaeological evidence of a women’s section in any synagogue of antiquity. In addition, even though there are many synagogue inscriptions of the time naming various areas within the synagogue, there has been no evidence found stating that a part of any ancient synagogue was used to separate women from their fellow male worshippers. The majority of these synagogues had a single prayer hall but no balcony and even for those few that had a balcony there is no reason to assume that the balcony served as a women’s gallery. The balcony, even according to rabbinic sources, may have functioned as a meeting space, a place for the beit din (rabbinic court) to practice, meals, study, or even a hazzan’s (cantor) living quarters. Out of all the traditions in rabbinic literature that address the synagogue not one mentions a women’s section. The only rabbinic source that mentions a separation is the balcony used during the Simchat Beit HaShoevah (Water Drawing Ceremony) of Sukkot. However, it appears from this place in the Talmud that during the other times of year men and women mixed together in this portion of the Temple.⁶

So, with all of this evidence, why does Rabbi Rabinowitz defend the mechitza at the Kotel? I would dare to say that the issue is one of following man-made traditions which are treated as actual mitzvot. However, why does the rabbi and those at the Western Wall Heritage Foundation refuse to listen to reason? In addition to following man-made traditions instead of Tanakh I would dare say it is due to the fact that the rabbi and those at the Foundation have the power (given to them by the government) to turn the Kotel into a Haredi synagogue.

“The body which has been given the keys of the Kotel by the Israeli government is a non-democratic, non-elected body,” said Lesley Sachs, Women of the Wall’s director. “It’s not a body that gives any kind of representation to world Jewry or Israeli Jewry. They have turned [the Kotel] into a haredi synagogue.”¹

Nowhere in the Tanakh is there a command to separate men and women during public worship or assemblies.

Assemble the people, the men and the women and the little ones, and your stranger that is within your gates, that they may hear, and that they may learn, and fear יהוה your God, and observe to do all the words of this law... (Devarim 31:12)

And Ezra the priest brought the Law before the congregation, both men and women, and all that could hear with understanding, upon the first day of the seventh month. (Ezra 8:2)

We have now established that the mechitza is actually something that started centuries after the destruction of the Temple. We have also established the fact that there are no ancient synagogues that separated women and men. So now let's turn our attention to the other issues of women and the Kotel.

Not only are women and men separated at the Kotel but women are also forbidden by a 2003 court order to not wear tefillin or tallit at the Kotel. They are also forbidden from singing or reading the Torah while at the Kotel.

On June 4, 2003, the Court issued a ruling, and the legal battle regarding the Women of the Wall came to a close. The majority ruled that, despite the state's claims to the contrary, the Women of the Wall maintained a legal right to pray at the Western Wall. Nevertheless, such right was not without boundaries, and the Court was obligated to minimize the harm felt by other worshippers by the form of prayer of the Women of the Wall and to prevent violent incidents between the two warring camps. In keeping with its opinion, the Court ruled that prayer at Robinson's Arch would allow the Women of the Wall to pray according to their practice "next to the Western Wall," so long as the site was revamped within 12 months to accommodate the women's worship.⁷

According to Rabbi Rabinowitz and much of Orthodoxy women are not forbidden from wearing tefillin or tallit however they are strongly advised not to do so. (Of course, there are some who erroneously believe that women are forbidden from wearing tefillin and tallit.) In fact the Talmud states that women are exempt from time-bound mitzvot but are not forbidden from performing these mitzvot.

All obligations of the son upon the father, men are bound, but women are exempt. But all obligations of the father upon the son, both men and women are bound. All affirmative precepts limited to time, men are liable and women are exempt. But all affirmative precepts not limited to time are binding upon both men and women. And all negative precepts, whether limited to time or not limited to time, are binding upon both men and women; excepting, you shall not round [the corners of your heads], neither shall you mar [the corner of your beard], and, he shall not defile himself to the dead. (Talmud Bavli – Kiddushin 29a)⁸

The rabbis of the Talmud argue that time-bound mitzvot include sukkah, lulav, shofar, tzitzit, and tefillin. The question is asked how women can be exempt from time-bound mitzvot yet they are commanded to eat matzah during Chag HaMatzot ((Deuteronomy 16:3; Pesachim 43b), rejoicing during Sukkot (Deuteronomy 16:14), and assembling to hear the Torah read every seven years (Deuteronomy 31:12). In addition, the study of Torah, procreation, and the redemption of the firstborn are not affirmative time-bound precepts yet women are exempt from

them. Rabbi Yohanan reportedly answered that “We cannot learn from general principles, even where exceptions are stated.” (Talmud Bavli – Kiddushin 33b-34a)⁸

So essentially there is no rationale to say why women are exempt from time-bound mitzvot. Rabbi Yohanan based the reasoning upon an example of an eruv (Kiddushin 34a) which is of course a rabbinic precept and not found within the Tanakh. There is no valid “general principle” to state that women are in fact exempt from time-bound mitzvot. Of course, one will be told that women’s first responsibility is in the household and women are “spiritually superior” to men so they don’t need to fulfill these mitzvot. It is easy to see that both of these responses are simply pandering opinions to both women and men.

According to rabbinic literature women are not forbidden from donning tefillin or tzitzit. So, why does Rabbi Rabinowitz say that women are forbidden from wearing tefillin and tzitzit when they are in fact not forbidden?

Why are women not to read publically from the Torah? There are four answers generally given to this question. First, women are spiritually superior to men and as such do not have the obligation to read from the Torah.⁹ Second, if a woman is called to the bimah to read from the Torah this is considered immodest according to “Jewish” standards. Third, if a woman is called to read from the Torah it will be assumed that there is no man in the congregation who is able to do so.¹⁰ Fourth, even though women are qualified to read from the Torah they are exempt from doing so out of respect for the congregation (Megilah 23a).¹¹ So we learn that women are in fact not forbidden from reading Torah in the public. The only reasons given are rabbinic gymnastics regarding so-called “Jewish” modesty and the potential derogatory nature toward men.

In coordination with not being able to read Torah in public, Orthodoxy also forbids women from singing in public. A woman singing is considered immodest by those in the Orthodox world. The most oft reason given is that a woman’s singing voice is considered arousing for men and therefore forbidden.

Samuel said: A woman’s voice is a sexual incitement, as it says, For sweet is thy voice and thy countenance is comely. (Talmud Bavli – Berachot 24a)¹²

‘Thus said Samuel,’ he replied, [To listen to] a woman’s voice is indecent.’ (Talmud Bavli – Kiddushin 70a)⁸

In other words a woman’s singing voice is stimulating for men therefore the women must be silenced. It is the fault of the woman and not the man therefore the woman must be silenced. This is the stand of Rabbi Rabinowitz and therefore the stand of those who represent him and the Foundation at the Kotel.

While some Jews in the world don’t believe in wearing tefillin, many in the Jewish world do believe this is a mitzvah. Wearing tzitzit and studying Torah are both mitzvot from the Torah. The wearing of tzitzit is a mitzvah for **both** men and women.

Speak unto the children of Yisrael, and bid them that they make throughout their generations tzitzit in the corners of their garments, and that they put with the tzitzit of each corner a thread of blue. (Bamidbar 15:38)

Women are commanded to wear tzitzit so the fact that the rabbi of the Kotel forbids women from doing so means that he is countermanding God's own command. Women are permitted to read from the Torah – this is even seen in the Talmud. The idea that for modesty reasons a woman cannot read from Torah is not even mentioned in the Talmud. In fact, the only real reason given for this ban is that it may appear that there is no man who is capable of reading from the Torah and women are exempt from reading Torah out of respect for the congregation. So, for the sake of a man's ego (which should not even be in play when it comes to a mitzvah) women are not permitted to read from Torah in mixed company. This is the stand of Rabbi Rabinowitz and the Foundation.

In addition, the idea of women being forbidden (for modesty reasons or otherwise) from singing in public is based upon a false belief that it would be stimulating for men. This is something not based upon Tanakh and is a man-made tradition. The idea that a man can be stimulated simply by hearing a woman sing (especially if the woman is singing to/about God!) is simply not realistic. If a man is stimulated in this case then the man should remove himself from the situation and seek help. Women have sung in public even in the Torah.

And Miriam the prophetess, the sister of Aharon, took a timbrel in her hand; and all the women went out after her with timbrels and with dances. And Miriam sang unto them: Sing הנהי, for He is highly exalted: the horse and his rider has He thrown into the sea. (Shemot 15:20-21)

Rabbi Rabinowitz and the Western Wall Heritage Foundation base their decrees upon false beliefs and fraudulent facts. The rabbi decrees that women are not to don tefillin or tzitzit and they are not to read from the Torah or sing in public. These decrees are antithetical not only to Tanakh but also to the Talmud itself! The idea that women are separated from men at the Kotel is counter to Tanakh and the writings of the rabbis – not to mention historical records. Even if the mechitza must stay (and I am not in favor of this) why should women be forced to not worship in their own way – and in the way that they are permitted to do so according to the Tanakh?

¹Ben Sales. "Who controls the status quo at the Western Wall?" JTA, 27 November 2012. [<http://www.jta.org/news/article/2012/11/27/3112941/the-foundation-keeping-the-kotel-orthodox>]

²Ben Sales. "Women of the Wall pray, wear tallit at Kotel with no arrests." Crescent City Jewish News, 12 March 2013. [<http://www.crescentcityjewishnews.com/women-of-the-wall-pray-wear-tallit-at-kotel-with-no-arrests/>]

³I. Epstein. Tractate Sukkah, n.d. [<http://halakhah.com/pdf/moed/Sukkah.pdf>]

⁴Lisa Katz. "What is a Mechitza?" About.com Judaism, n.d. [<http://judaism.about.com/cs/worship/f/mechitza.htm>]

⁵David Golinkin. "The Mehitzah in the Synagogue." Responsa for Today, 1987. [http://www.responsafortoday.com/engsums/2_1.htm]

⁶Lee Levine. "In Search of the Synagogue Part V." Reform Judaism Online, Spring 2009. [<http://reformjudaismmag.org/Articles/index.cfm?id=1458>]

⁷Women of the Wall. "Summary of the verdict of Women of the Wall's court case." n.d. [<http://womenofthewall.org.il/about/legal-status/summary-of-the-verdict-of-women-of-the-walls-court-case/>]

⁸I. Epstein. "Tractate Kiddushin." n.d. [<http://halakhah.com/pdf/nashim/Kiddushin.pdf>]

⁹Chani Benjaminson. "Why can't my daughter have a real bat mitzvah?" Chabad, n.d. [http://www.chabad.org/library/article_cdo/aid/480254/jewish/Why-Cant-My-Daughter-Have-a-Real-Bat-Mitzvah.htm]

¹⁰Shlomo Chein. "Why don't women get called up to the Torah in Orthodox synagogues?" Ask Moses, n.d. [<http://www.askmoses.com/en/article/235,2074748/Why-dont-women-get-called-up-to-the-Torah-in-Orthodox-synagogues.html>]

¹¹I. Epstein. "Tractate Megilah." n.d. [<http://halakhah.com/pdf/moed/Megilah.pdf>]

¹²I. Epstein. "Tractate Berachot." n.d. [<http://halakhah.com/pdf/zeraim/Berachoth.pdf>]

©Rachel-Esther bat-Avraham, 2013
www.becomingjewish.org