

Performing Mitzvot of One's Own Volition - סמיכה בקרבנות as test case - Menachot 93a-b

In this week's daf (Menachot 93a-b), the mishnah declares that women do not lay their hands (semicha) on their korbanot. This seems to be the position within mishnah, as corroborated in Kiddushin (36a, Mishnah 1:8). However, in another tannaitic source - the Sifra (Midrash Halakha on Vayikra) - R. Yose and R. Shimon are cited as saying that women may choose to lay their hands (semicha) on their korbanot. Their approach introduces an important rabbinic concept - רשות - volitional acts. It also serves as precedent in the Bavli for women's volitional performance of mitzvot that are understood as not required of them. In this shiur, we will examine both of these dimensions.

Questions? Comments? Email dinanddaf@gmail.com

1. ויקרא א-א-ד

א ויקרא אל משה וידבר יהוה אליו מאהל מועד לאמר:

[GOD] called to Moses and spoke to him from the Tent of Meeting, saying:

ב דַבֵּר אֶל־בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם אָדָם כִּי־יִקְרִיב מִכֶּם קָרְבָן לַיהוָה מִן־הַבְּהֵמָה מִן־הַבְּקָר וּמִן־הַצֹּאן תִּקְרִיבוּ אֶת־קָרְבַּנְכֶם:

Speak to the Israelite people, and say to them:

When any of you presents an offering of cattle to GOD: You shall choose your offering from the herd or from the flock.

ג אם־עלה קרבנו מן־הבקר זכר תמים יקריבנו אל־פְתַח אהל מועד יקריב אותו לרצונו לפני יהוה:

If your offering is a burnt offering from the herd, you shall make your offering a male without blemish. You shall bring it to the entrance of the Tent of Meeting, for acceptance on your behalf before GOD.

ד וסמך ידו על ראש העלה ונרצה לו לכפר עליו:

You shall lay a hand upon the head of the burnt offering, that it may be acceptable on your behalf, in expiation for you.

2. מנחות צג-צג:

מתני' הכל סומכין, חוץ מחרש, שוטה, וקטן, וסומא, וגוי, והעבד, והשליח, והאשה.

MISHNA: Everyone who brings an animal offering places hands upon its head, except for a deaf-mute, an imbecile, a minor, a blind person, a gentile, a Canaanite slave, the agent of the owner of the offering who brings the offering on the owner's behalf, and a woman.

וסמיכה – שירי מצוה.

And the requirement of placing hands is a non-essential mitzva; therefore, failure to place hands does not prevent the owner from achieving atonement.

על הראש בשתי ידים, ובמקום שסומכין שוחטין, ונתקף לסמיכה שחיטה.

The rite of placing hands is performed by leaning on the head of the offering with two hands. And in the same location in the Temple that one places hands, one slaughters the animal. And immediately following the rite of placing hands, the slaughter is performed.

גמ'... והעבד והשליח והאשה. תנו רבנן: "ידו" – ולא יד עבדו, "ידו" – ולא יד שלוחו, "ידו" – ולא יד אשתו.

The mishna states: A Canaanite slave, the agent of the owner of the offering who brings the offering on his behalf, and a woman do not place hands on their offerings. Concerning these *halakhot*, the Sages taught in a *baraita*: The term “his hand” is mentioned three times in Leviticus, chapter 3, which details the requirement of placing hands. Each mention is expounded to exclude a different case. “His hand” (Leviticus 3:2), but not the hand of his Canaanite slave; “his hand” (Leviticus 3:8), but not the hand of his agent; “his hand” (Leviticus 3:13), but not the hand of his wife.

3. קידושין לו.

מתני', הסמיכות, והתנופות, וההגשות, והקמיצות, וה[ה]קטרות, והמליקות, והקבלות, והזאות – נוהגים באנשים ולא בנשים, חוץ ממנחת סוטה ונזירה שהן מניפות.

MISHNA: With regard to the placing of hands on the head of an offering, and the waving of certain offerings, and the bringing near of meal-offerings to the corner of the altar, and the removal of a handful from meal-offerings, and the burning of sacrificial parts on the altar, and the pinching of bird-offerings, and the collecting of blood of offerings in a vessel, and the sprinkling of blood, these apply to men and not to women. All these mitzvot apply specifically to men and not to women, except for the meal-offering of a *sota*, and the meal-offering of a nazirite woman, which these women wave.

גמ' סמיכות. דכתיב: “דבר אל בני ישראל... וסמך” – בני ישראל סומכים, ואין בנות ישראל סומכות.

GEMARA: From where is it derived that placing of hands on the head of an offering applies only to men? As it is written: “Speak to the sons of Israel...and he shall place his hand” (Leviticus 1:2–4), which indicates that the sons of Israel place hands on offerings, but the daughters of Israel do not place hands.

4. ספרא נדבה פרשה ב' אות ב'

”בני ישראל” סומכים ואין בנות ישראל סומכות. ר' יוסי ור' שמעון אומרים נשים סומכות רשות. אמר ר' יוסי, אמר לי אבא אלעזר היה לנו עגל זבחי שלמים והוצאנוהו לעזרת נשים וסמכו עליו הנשים; לא מפני שהסמיכה בנשים אלא מפני נחת רוח של נשים...

The sons of Israel lean on their *korbanot*, but the daughters of Israel do not. R. Yose and R. Shimo say: women may volitionally lean on their *korbanot*. R. Yose said: My father Elazar told me - We had a calf for a peace offering, and we took it to the women’s gallery, and the women leaned on it - not because leaning is a requirement for women but in order to put their minds at ease...

5. מכילתא דר' ישמעאל בא מסכתא דפיסחא ח:כז

שבעת ימים מצות תאכלו אך ביום הראשון תשביתו שאר מבתכם (שמות יב:טו)- לעשות הראשון חובה ושאר הימים רשות אתה אומר לעשות הראשון חובה ושאר הימים רשות או אינו אלא לעשות הראשון רשות ושאר הימים חובה ת”ל בראשון בארבע עשר יום לחדש בערב תאכלו מצות (שמות יב:יח) הכתוב קבעו חובה. הא אין עליך לומר כלשון האחרון אלא כלשון ראשון לעשות הראשון חובה ושאר כל הימים רשות.

“Seven days shall you eat unleavened products, but on the first day you shall remove leaven from your homes (Exodus 12:15).” This renders the first obligatory and the remaining days discretionary. Or: This renders the first discretionary and the remaining days obligation. Hence, Scripture teaches: On the first, the fourteenth day of the month, in the evening, you shall eat unleavened products (Exodus 12:18).” Scripture establishes the first as obligatory. Then, you should not follow the second approach, but the first approach: making the first day of Pesach obligatory, while the remaining days discretionary.

6. מכילתא דר' שמעון בר יוחאי שמות כב:כד

אם כסף תלוה יכול רשות ת”ל (דברים ט”ו ח') והעבט תעביטנו חובה לא רשות: משום ר' ישמעאל אמרו כל אם ואם שבתורה רשות חוץ משלשה שהן חובה זו אחת מהן:

"If you lend money to My nation" - perhaps this is discretionary. Therefore, Scripture teaches (Deut. 15:8), "and you shall surely lend" - i.e., it is a requirement rather than a volitional act. In the name of R. Yishmael they said: Every "if" in the Torah indicates discretion, except for three, which indicate requirement. And this is one of those latter instances.

7. ויקרא יד:לו

וְצִוָּה הַכֹּהֵן וּפָנָה אֶת־הַבַּיִת בְּטָרֶם יָבֵא הַכֹּהֵן לְרִאֲוֹת אֶת־הַנֶּגַע וְלֹא יִטְמָא כָּל־אֲשֶׁר בַּבַּיִת וְאַחַר כֵּן יָבֵא הַכֹּהֵן לְרִאֲוֹת אֶת־הַבַּיִת:

The priest shall order the house cleared before the priest enters to examine the plague, so that nothing in the house may become impure; after that the priest shall enter to examine the house.

8. ספרא, תזריע פרשת נגעים, פרק ה

[ב] "וביום" – מלמד שנותנים ב' ימים ב' ימים לביתו ב' ימים לכסותו דברי ר' יהודה. רבי אומר, הרי הוא אומר "וצוה הכהן וכולי" – אם ממתנים לו לדבר הרשות, לא ימתינו לו לדבר מצוה! וכמה היא מצותו? נראה בחתן – נותנים לו ז' ימי המשתה, לו ולביתו ולכסותו וכן ברגל נותנים לו כל ימי הרגל.

2) "And on the day": We are hereby (by this redundancy) taught that he (a groom) is given two (types of days [the seven days of the marriage feast and those of a festival]) for (non-inspection of plague-spots): for (those of) his body, for (those of) his house, and for those of his garments. These are the words of R. Yehudah. Rabbi says (that a special verse is not required for this, for) it is written (Vayikra 14:36): "And the Cohein shall command, (and they shall empty out the house before the Cohein comes in to see the plague-spot, so that there not be made unclean all that is in the house.)" If they wait for a mundane matter, shall they not wait for a matter of mitzvah! And how much (i.e., how many days) is his mitzvah? For a groom we allow the seven days of the marriage feast, for himself, his house, and his garments. And thus on a festival — we allow him all the days of the festival.

9. Dr. Tzvi Novick, *What is Good, and What God Demands: Normative Structures in Tannaitic Literature*, 24, 26

We emerge from this discussion with the following conclusions. The school of R. Akiva tends to find חובה where Scripture does not appear to call for it, while the school of R. Ishmael finds רשות not only where it represents the plain sense of Scripture, but even in some cases where it does not. In the latter cases, the act labeled רשות may be weakly obligatory, even though the labeling does not itself, semantically or pragmatically, convey such weak obligation.

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While **רשות** in opposition to **חובה** and **גזרה** signifies the absence of obligation, but does not preclude the possibility of quasi-obligation or preference, the opposition **רשות/מצוה** demarcates the realm constituted by divine law from the realm that exists independently of it. The latter realm does not escape the law's notice—in this very case, Lev 14:36 is understood as legislating concerning matters of **רשות**—but, unlike the realm of **מצוה**, it does not owe its existence or structure to the prescriptions of the Torah.

10. ראש השנה לג.

אין מעכבין את התינוקות מלתקוע. הא נשים — מעכבין, והתניא: אין מעכבין לא את הנשים ולא את התינוקות מלתקוע ביום טוב! אמר אביי, לא קשיא: הא רבי יהודה, הא רבי יוסי ורבי שמעון.

“One need not prevent children from sounding the *shofar* on Rosh HaShana.” The Gemara infers: If women wish to sound the *shofar*, one indeed prevents them from doing so. The Gemara asks: Isn't it taught in a *baraita* that one does not prevent women or children from sounding the *shofar* on a Festival? The Gemara answers that Abaye said: This is not difficult: This mishna is in accordance with the opinion of Rabbi Yehuda, while that *baraita* is in accordance with the opinion of Rabbi Yosei and Rabbi Shimon.

דתניא: “דבר אל בני ישראל.” בני ישראל סומכין, ואין בנות ישראל סומכות, דברי רבי יהודה. רבי יוסי ורבי שמעון אומרים: נשים סומכות — רשות.

As it is taught in a *baraita*: “Speak to the children of Israel...and he shall lean his hands upon the head of the burnt-offering” (Leviticus 1:2–4). The phrase “children of Israel” literally means sons of Israel, and this teaches that the sons of Israel lean their hands upon offerings, but the daughters of Israel do not lean their hands upon offerings; this is the statement of Rabbi Yehuda. Rabbi Yosei and Rabbi Shimon say: Women may volitionally lean on their korbanot.

11. עירובין צו.-:

אלא האי תנא הוא דתניא: מיכל בת כושי היתה מנחת תפילין ולא מיחו בה חכמים, ואשתו של יונה היתה עולה לרגל ולא מיחו בה חכמים. מדלא מיחו בה חכמים — אלמא קסברי מצות עשה שלא הזמן גרמא היא.

Rather, we must say that it is this *tanna* who maintains that Shabbat is a time for phylacteries, as it was taught in a *baraita*: Michal, daughter of Kushi, King Saul, would don phylacteries, and the Sages did not protest against her behavior, as she was permitted to do so. And similarly, Jonah's wife would undertake the Festival pilgrimage and the Sages did not protest against her practice. From the fact that the Sages did not protest against Michal's donning phylacteries, it is apparent that these Sages hold that phylacteries is a positive mitzva not bound by time, i.e., it is a mitzva whose performance is mandated at all times, including nights and Shabbat. There is an accepted principle that women are obligated in all positive mitzvot not bound by time.

ודילמא סבר לה

The Gemara rejects this contention: But perhaps that *tanna* holds

קרבי יוסי, דאמר: נשים סומכות רשות.

in accordance with the opinion of Rabbi Yosei, who said: It is optional for women to place their hands on the head of a sacrificial animal before it is slaughtered. Although only men have this obligation, women

may perform that rite if they wish. Similarly, women may perform other mitzvot that they have no obligation to fulfill.

דאי לא תימא הכי, אשתו של יונה היתה עולה לרגל ולא מיחו בה, מי איכא למאן דאמר רגל לאו מצות עשה שהזמן גרמא הוא? אלא קסבר רשות, הכא נמי רשות.

As, if you do not say so, that this *tanna* holds in accordance with the opinion of Rabbi Yosei, the *baraita* states that Jonah's wife would ascend to Jerusalem for the Festival pilgrimage and the Sages did not reprimand her. Is there anyone who says that the mitzva of Festival pilgrimage is not a time-bound positive mitzva and that women are obligated to fulfill it? Rather, he holds that she did not embark on the pilgrimage as an obligation, but that it was optional; here, too, with regard to phylacteries, it is optional. Consequently, no proof can be cited from this *baraita* as to whether or not Shabbat is a fit time for phylacteries.

אלא האי תנא היא דתנא: המוציא תפילין, מכניסן זוג זוג. אהד האיש ואהד האשה, אהד חדשות ואהד ישנות, דברי רבי מאיר. רבי יהודה אוסר בחדשות, ומתיר בישנות.

Rather, who is the *tanna* who maintains that Shabbat is a time for phylacteries? It is this *tanna* who taught the *halakha*, as it was taught in the *Tosefta*: One who finds phylacteries brings them in pair by pair, whether the finder is a man or whether she is a woman, and whether the phylacteries are new or whether they are old. This is the statement of Rabbi Meir. Rabbi Yehuda prohibits bringing in new phylacteries since they might merely be amulets in the form of phylacteries, but he permits bringing in old ones, which are certainly valid phylacteries.

עד כאן לא פליגי אלא בחדשות וישנות, אבל באשה לא פליגי. שמע מינה מצות עשה שלא הזמן גרמא הוא, וכל מצות עשה שאין הזמן גרמא נשים חייבות.

Analysis of this *Tosefta* indicates that Rabbi Meir and Rabbi Yehuda disagree only with regard to the issue of new phylacteries and old ones; however, with regard to a woman bringing in the phylacteries, they do not disagree that it is permitted. Learn from it that this *tanna* maintains that donning phylacteries is a positive mitzva not bound by time, and since women are obligated in every positive mitzva not bound by time, a woman may don these phylacteries and walk into the town.

ודילמא סבר לה כרבי יוסי, דאמר: נשים סומכות רשות? לא סלקא דעתך דלא רבי מאיר סבר לה כרבי יוסי, ולא רבי יהודה סבר לה כרבי יוסי.

The Gemara attempts to refute this. But perhaps that *tanna* holds in accordance with the opinion of Rabbi Yosei, who said: It is optional for women to place their hands on the head of a sacrificial animal before it is slaughtered. Here too, perhaps it is optional for women to don phylacteries. The Gemara answers: This cannot enter your mind, as neither Rabbi Meir holds in accordance with the opinion of Rabbi Yosei, nor does Rabbi Yehuda hold in accordance with the opinion of Rabbi Yosei, as the Gemara proceeds to prove.

לא רבי מאיר סבר לה כרבי יוסי, דתנן: אין מעכבין את התינוקות מלתקוע. הא נשים מעכבין — וסתם מתניתין רבי מאיר.

Neither Rabbi Meir holds in accordance with the opinion of Rabbi Yosei, as we learned in a mishna: One need not prevent children from sounding the *shofar* on Rosh HaShana. Although there is an element of prohibition in sounding the *shofar* when there is no obligation to do so, since the children will one day be obligated to sound the *shofar*, one need not prevent them from doing so and learning. It may be inferred from here that one must prevent women from sounding the *shofar*. And an unattributed mishna is in accordance with the opinion of Rabbi Meir, indicating that according to Rabbi Meir, a woman does not even have the option of performing a time-bound positive mitzva.

ולא רבי יהודה סבר לה כרבי יוסי, דתניא: "דבר אל בני ישראל ... וסמך", בני ישראל סומכין ואין בנות ישראל סומכות. רבי יוסי ורבי שמעון אומרים: נשים סומכות רשות.

Nor does Rabbi Yehuda hold in accordance with the opinion of Rabbi Yosei, as it was taught in the *Sifra*, the halakhic *midrash* on Leviticus. The verse states: "Speak to the sons of Israel...and he shall place his hands on the head of the burnt-offering" (Leviticus 1:2–4). By inference, the sons of Israel place their hands, but the daughters of Israel do not place their hands. Rabbi Yosei and Rabbi Shimon say: It is optional for women to place their hands on the head of a sacrificial animal before it is slaughtered.

וסתם סיפרא מני — רבי יהודה.

And who is the author of an unattributed *Sifra*? It is Rabbi Yehuda.

12. ירושלמי ברכות ב:ג, דף ד' עמוד ג'

נשים מניין ולמדנתם אותם את בניכם ולא את בנותיכם. את שהוא חייב בתלמוד תורה חייב בתפילין. נשים שאינן חייבות בתלמוד תורה אינן חייבין בתפילין. התיבון הרי מיכל בת כושי היתה לובשת תפילין. ואשתו של יונה היתה עולה לרגלים ולא מוחו בידיה חכמים. רבי חזקיה בשם רבי אבהו אשתו של יונה הושבה. מיכל בת כושי מוחו בידיה חכמים.

Women from where? (*Deut.* 11:19) "And you should teach them to your sons", and not to your daughters. *The main discussion of this point appears in Chapter 3:3. Anyone who is obliged to study Torah is obliged for *tefillin*, women who are not obliged to study Torah are not obliged for *tefillin*. *The proof, explicit in the *Mekhiltot*, is really from *Ex.* 13:9: "It shall be a sign on your hand and a remembrance between your eyes, so that the Torah of the Eternal shall be in your mouth, because with a strong hand the Eternal led you out of Egypt." Hence, only one who is obliged to study is obliged to wear *tefillin*. Naturally, for those who declare that *Ex.* 13:10 speaks of *tefillin* and nights are not a time for *tefillin*, it follows that *tefillin* is a positive commandment bound to stated times and, as a general principle, women are not obligated. However, since that interpretation of v. 10 is in doubt, it is not used here. They objected, but did not Michal, the daughter of the Kushi *Saul, addressed as "Kush" in the heading of *Psalm* 7., wear *tefillin*, and did not the wife of Jonah make the pilgrimage to the Temple *Obviously, everybody can go to Jerusalem anytime he wishes, and we know from many sources that entire families made the pilgrimage, in particular for Passover. What is meant here is that Jonah's wife went to Jerusalem to bring the obligatory sacrifices in her own name, either additional to those of her husband or for herself when her husband was away at sea or at Nineveh. She may bring *עולת ראייה*, the holocaust of appearance, as a voluntary offering, but if she insists on presenting the offering as obligatory for her pilgrimage, then there is a question of the legality of the offering and doubtful sacrifices should not be offered., and the sages did not object. Rabbi Hisqiah in the name of Rabbi Abbahu: Jonah's wife was turned back *Not from Jerusalem, but from presenting her pilgrimage sacrifice in the Temple separately from her husband., the sages forbade it to Michal the daughter of Kushi. *The first statement, that Michal wore *tefillin* and that the wife of Jonah made the pilgrimage, is a tannaïtic statement in the *Babli* (*Erubin* 96a), and the *Babli* concludes from it that women may exercise all obligations that are bound to a fixed time from which women are freed. The *Yerushalmi Amoraïm* and later *Yerushalmi* sources (*Pesiqta rabbati* Chap. 22) disagree. This disagreement is not mentioned in the *Babli*; i. e., the argument is rejected

13. חגיגה טז:

"דבר אל בני ישראל ... וסמך", בני ישראל סומכין, ואין בנות ישראל סומכות. רבי יוסי ורבי שמעאל אומרים: בנות ישראל סומכות רשות.

The Gemara raises an objection to this from a *baraita*: “Speak to the children of [*benei*] Israel” (Leviticus 1:2). The word *benei* literally means: Sons of. And it states nearby: “And he shall place his hand on the head of the burnt-offering” (Leviticus 1:4), from which we learn that the sons of Israel place their hands, but the daughters of Israel do not place them. Rabbi Yosei and Rabbi Yishmael say: It is optional for the daughters of Israel to place their hands. They may place their hands if they so choose, although they are not obligated to do so.

אמר רבי יוסי, סח לי אבא אלעזר: פעם אחת היה לנו עגל של זבחי שלמים, והביאנוהו לעזרת נשים, וסמכו עליו נשים. לא מפני שסמיכה בנשים, אלא כדי לעשות נחת רוח לנשים. ואי סלקא דעתך סמיכה בכל כחו בעינן — משום נחת רוח דנשים עבדינן עבודה בקדשים? אלא לאו, שמע מינה לא בעינן בכל כחו!

Rabbi Yosei said: The Sage Abba Elazar related to me the following incident: On one occasion, we had a calf for a peace-offering, and we brought it to the Women’s Courtyard, and women placed their hands on it. We did this not because there is an obligation of placing hands in the case of women, but in order to please the women, by allowing them to sacrifice an offering, in all of its particulars, as men do. Now, if it enters your mind that we require placing hands with all one’s strength, would we perform work with consecrated offerings in order to please the women? Rather, isn’t it correct to conclude from this that we do not require placing hands with all one’s strength?

לעולם אימא לך בעינן בכל כחו — דאמר להו: אקפו ידיכו. אי הכי, לא מפני שסמיכה בנשים, תיפוק ליה דאינה לסמיכה קליל!

The Gemara rejects this: Actually, I could say to you that we do require placing hands with all one’s strength, but here they allowed women to place their hands by saying to them: Ease your hands and do not press forcefully, so that their hand placing should not constitute work. The Gemara retorts: If so, then the reason formulated as: Not because there is an obligation to place hands in the case of women, is irrelevant to this law. Let him derive the permission for women to do so from the reason that it is not considered placing hands at all. If placing hands must be performed with all one’s strength, this action the women are performing does not constitute placing hands.

אמר רבי אמי: חדא ועוד קאמר. חדא — דליתא לסמיכה קליל, ועוד — כדי לעשות נחת רוח לנשים.

Rabbi Ami said: He stated one reason and another. One reason is that it is not considered placing hands at all, as it is not performed with all of one’s strength; and another reason is that they allowed it in order to please the women.