

Hilkhot Nashim
Halakhic Source Guides
Volume II





HALAKHIC SOURCE GUIDES

**HILKHOT
NASHIM**
הלכות נשים

Volume 2

Kiddush
Hamotsi
Havdalah
Sefer Torah

EDITED BY

Raḥel Berkovits

JOFA
Maggid Books

Hilkhot Nashim
Halakhic Source Guides
Volume II: Kiddush, Hamotsi, Havdalah, Sefer Torah

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Dedication

This entire project is dedicated to my father, Jacques Censor (Ya'akov ben Moshe veTemerel), *a"h*. A diamond merchant all his adult life, he was a man of few pretensions but he was brilliant, innovative, and had a wry, wicked sense of humor. He was fluent in six languages and was widely read.

He knew vast sections of the Talmud by heart, but never made a display of his knowledge or capabilities. When I had a halakhic question during my internship and residency, I would simply call him on the phone from the hospital, tell him the problem and on the spot he would quote me a seemingly relevant piece of Gemara and explain how to deal with the issue. I was always a bit suspicious of his convenient Gemara "quotations" since the rabbis of his Talmud always seem to rule exactly as I had hoped. One day, however, as I was reading Rabbi Dr. Lord Imanuel Jacobovits's book on medical ethics, there was one of the Gemaras, exactly as Dad had quoted! I quickly called him and confessed to my previous doubts and apologized. I never could understand how he knew so much, since I knew he did not have the time to learn as we were growing up. He laughed and explained that he had learned with his mentor, Rabbi Berger, in Antwerp, Belgium, after work from age eighteen until he was twenty-six, when Rabbi Berger went on *aliya* to then Palestine. "I just remember it all," he said.

When I was growing up, the tradition was to send boys to *yeshiva* and girls to public school. However, I was sent to Ramaz along with my brother. My father's expectations were exactly the same for both of us. He studied Gemara and *Humash* with me just as he did with my

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brother. In fact, his greatest pleasure later in life was to learn Gemara with my oldest child, a daughter, right up until the day he suffered his devastating stroke.

He died in 2005, unfortunately before this project was conceived. He would have loved these source guides. My father was a firm believer that the way we would be most likely to keep *halakhah* was if we understood the issues behind the rulings and made the determination for ourselves, rather than him telling us what we had to do.

He is sorely missed.

Monique (“Nicky”) C. Katz, M.D.

Abbreviations

M.	Mishnah	Yev.	Yevamot
B.T.	Babylonian Talmud	Ketub.	Ketubbot
J.T.	Jerusalem Talmud	Ned.	Nedarim
T.	Tosefta	Sot.	Sotah
Sh. Ar.	<i>Shulhan Arukh</i>	Git.	Gittin
O.H.	<i>Orah Hayyim</i>	Kid.	Kiddushin
E.H.	<i>Even Ha'ezer</i>	B. Kam.	Bava Kamma
H.M.	<i>Hoshen Mishpat</i>	B. Mets.	Bava Metsia
Y.D.	<i>Yoreh De'ah</i>	B. Bat.	Bava Batra
Ber.	Berakhot	Sanh.	Sanhedrin
Shab.	Shabbat	Shevu.	Shevuot
Eiruv.	Eiruvin	Eduy.	Eduyot
Pesah.	Pesachim	Avod. Zar.	Avodah Zarah
Suk.	Sukkah	Menah.	Menaḥot
Beits.	Beitsah	Arakh.	Arakhin
Rosh Hash.	Rosh Hashanah	Nid.	Niddah
Meg.	Megillah		
Hag.	Hagigah		



Preface

גדול תלמוד שהתלמוד מביא לידי מעשה.

Great is Torah study for it leads to observance.

(Sifrei Devarim 41)

This series presents an in-depth look at halakhic topics that affect a woman's obligation and involvement in Jewish ritual life. These essays aim to increase awareness of relevant halakhic issues among women and men alike so that they can make deliberate choices about their observance. We believe that placing great value on the Jewish tradition of learning and developing the skills needed to understand *halakhah* and its processes are crucial in maintaining a passionate and informed commitment to observance among Jews. One of the main goals of this series is to clarify what the texts actually say, with the hope that increased knowledge and a better understanding of the reasons behind common practice will lead to increased observance. The aim of an in-depth analysis of these sources is that the reader will not only learn what the normative *halakhah* is, but will understand how it developed, and that under the surface of what is considered normative *halakhah* is a dialectic of multiple and valid attempts at understanding and interpreting our earliest halakhic literature.

In these essays, the rabbinic texts themselves are presented not as references but as the main focus of the discussion. All sources are explained and translated into English to enable also those with a limited

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Hebrew-language background to work through the original texts. We invite you, the reader, to come and learn the relevant Talmudic, Geonic, medieval, and modern rabbinic texts; to become more knowledgeable about the rich halakhic discussion on each topic; and to find your place in the chain of the *masoret* – the tradition.

In the first volume of the series we focused on some of the rituals connected to the synagogue, where in the modern day women first started to take a more active participatory role – reciting *kaddish* to mourn the loss of a loved one; blessing *hagomel* after a dangerous experience, childbirth, or illness; and reading *Megillat Ester* to publicize the Purim miracle.

In this second volume of the series we focus on rituals connected to Shabbat, in which women are taking active participatory roles – reciting *kiddush* and *hamotsi*, touching the Torah, and reciting *havdalah*.

Besides learning the texts on your own, we encourage you to invite a friend to study the sources in a *havruta* partnership or to organize a study group in your community. It is our wish that these essays bring fervor for a knowledge of the halakhic sources to communities, study groups, classes, and the individuals who learn them.

We dedicate this series to women who are committed to *halakhah* and are struggling to embrace more of our beautiful heritage, to better fulfill the *mitsvot* of *ahavat Hashem* (love of God) and *avodat Hashem* (service of God), and in doing so, enrich the entire Jewish community.

גל עיני ואביטה נפלאות מתורתך.

Open my eyes so I will see the wonders from Your Torah.

(Psalms 119:18)

ACKNOWLEDGMENTS

With *shevah* and *hoda'ah leHashem* on the printing of this second volume in the *Hilkhot Nashim* series, we would like to thank the following people for their expertise, creativity, and contributions to this volume: The staff at Koren and Maggid Books, including publisher Matthew Miller, editorial director Reuven Ziegler, Caryn Meltz, Ita Olesker, Tomi Mager, Tani Bayer, Aryeh Grossman, Shira Koppel, Joshua Amaru, Nechama Unterman, Shira Finson, and Avichai Gamdani, who devoted

Preface

countless hours to turning the series into a printed reality. Thank you to Jonah Peretz for his help with the English translations in the chapter on *havdalah*. We would also like to thank Daphne Lazar Price and the entire professional staff at JOFA. The series would not be possible without the support and dedication of current and former JOFA professional staff.

Raḥel Berkovits, Halakhic Editor
Monique C. Katz, Patron
Gail A. Katz, Project Coordinator



Sanctification of the Day: Women and *Kiddush*

Raḥel Berkovits

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INTRODUCTION

The Jewish people's observance of Shabbat is comprised of two dimensions: one negative, the prohibition against performing creative labor (*melakhah*); and one positive, which includes the commandment to actively sanctify the day through the recitation of *kiddush*. Halakhic literature, from the Talmud to modern legal texts, discusses women's participation in this sanctification of Shabbat by addressing the following questions:

- Are women obligated to recite *kiddush* on Shabbat?¹
- What is the level of a woman's obligation – biblical or rabbinic?
- May a woman fulfill the obligation on behalf of another woman? May she fulfill the obligation on behalf of a man?
- May a woman who has already fulfilled her obligation repeat *kiddush* on behalf of someone who has not yet recited *kiddush*?

TALMUD

The fourth of the ten utterances or commandments (*aseret hadibberot*) is, “**Remember** the Shabbat day to keep it holy” (Exod. 20:8). When Moshe repeats these utterances in the book of Deuteronomy, a slightly different text appears that uses a different verb for the first word of the commandment: “**Guard** the Shabbat day to keep it holy, as the Lord your God commanded you” (Deut. 5:12). In grappling with the linguistic differences between these two verses, the rabbis articulated a fundamental aspect of Shabbat observance that is expressed in their understanding of a woman's obligation in *kiddush*.

1. *Babylonian Talmud* *Shavuot 20b*

תלמוד בבלי מסכת שבועות כ:

As it is taught: “Remember” (Exod. 20:8) and “guard” (Deut. 5:12) were pronounced in a single utterance – which the mouth cannot utter, which the ear cannot hear. ... For

כדתניא: זכור (שמות כ:ח) ושומר (דברים ה:יב) בדיבור אחד נאמרו, מה שאין יכול הפה לדבר, ומה שאין האוזן

1. Appendix B will discuss the obligation of *yom tov kiddush*.

Rav Adda bar Ahavah said: Women are obligated in sanctifying the [Shabbat] day from the Torah, as the Torah states “remember” and “guard.” All who are included in guarding are included in remembering. And these women, because they are included in guarding, they are also included in remembering.

יכול לשמוע. ... דאמר רב אדא בר אהבה: נשים חייבות בקידוש היום דבר תורה, דאמר קרא: זכור ושומר, כל שישנו בשמירה ישנו בזכירה, והני נשי הואיל ואיתנהו בשמירה איתנהו נמי בזכירה.

The two commandments, “remember” and “guard,” regarding the observance of Shabbat originate in one utterance – which forms a composite whole. Because women must refrain from creative labor on Shabbat, to “guard” Shabbat, they also are obligated to proactively sanctify the Shabbat day in speech, to “remember” Shabbat. God’s joint utterance of the two aspects expresses how one part of the commandment cannot exist independently of the other.

2. Babylonian Talmud
Berakhot 20b

Rav Adda bar Ahavah said: Women are obligated in sanctifying the [Shabbat] day from the Torah. Why [should this be so]? It is a positive commandment caused by time, and women are exempt from all positive commandments that are caused by time! Abbaye said: [They are obligated] by rabbinic law. Rava said to him: Did he not say “from the Torah”?! And further, do we regard them as obligated in all positive commandments by rabbinic law?! Rather, Rava says: The Torah says “remember” (Exod. 20:8) and “guard” (Deut. 5:12). All who are included in guarding also are included in remembering. And these women, because they are included in guarding, they also are included in remembering.

תלמוד בבלי
מסכת ברכות כ:

אמר רב אדא בר אהבה: נשים חייבות בקדוש היום דבר תורה. אמאי? מצות עשה שהזמן גרמא הוא, וכל מצות עשה שהזמן גרמא נשים פטורות! אמר אביי: מדרבנן. אמר ליה רבא: והא דבר תורה קאמר! ועוד, כל מצות עשה נחייבינהו מדרבנן! אלא אמר רבא: אמר קרא זכור (שמות כ:ח) ושומר (דברים ה:יב), כל שישנו בשמירה ישנו בזכירה, והני נשי, הואיל ואיתנהו בשמירה איתנהו בזכירה.

Women's obligation to sanctify the Shabbat day is not subject to the known rule that women are exempt from positive commandments that are caused by time.² Rava explains that the principle in our case, learned directly from the verses of the Torah, makes this commandment an explicit exception to that rule. Women are clearly obligated to refrain from performing all the negative commandments³ of Shabbat, and therefore, as part of the same package, they are obligated in the positive commandments. God's revelation linked the two parts of the Shabbat experience, and this connection is the source of women's obligation in the positive commandment of sanctification.⁴

<p>3. <i>Rashi</i> <i>Berakhot 20b</i> R. Shelomo ben Yitshak, France (1040–1105)</p>	<p>רש"י מסכת ברכות כ:</p>
<p>Sanctifying the day is a positive commandment caused by time: "Remember the Shabbat day to keep it holy" (Exod. 20:8) – remember it over wine.⁵</p>	<p>קדוש היום מצות עשה שהזמן גרמא הוא: "זכור את יום השבת לקדשו" (שמות כ:ח) - זכרהו על היין.</p>
<p>In guarding: That you shall not do work (Exod. 20:10).</p>	<p>בשמירה: דלא תעשה מלאכה (שמות כ:י).</p>
<p>And these women are included in guarding: As it is taught in a <i>mishnah</i> (B.T. <i>Kid.</i> 29a): All negative commandments, whether they are caused by time or not caused by time, women are obligated because the Torah equated a woman to a man for all the punishments in the Torah.</p>	<p>והני נשי איתנהו בשמירה: דתנן (קרושין כט.) כל מצות לא תעשה, בין שהזמן גרמא בין שאין הזמן גרמא, נשים חייבות, דהשוה הכתוב אשה לאיש לכל עונשים שבתורה.</p>

2. That is, a positive commandment that is dependent on time. See M. *Kid.* 1:7.

3. Ibid. See also B.T. *Kid.* 35a and parallel in B.T. *B. Kam.* 15a.

4. See B.T. *Pesah.* 101a where it states that one is required to make *kiddush* at home so as to fulfill the obligation for all members of one's household.

אלא לרב, למה ליה לקדושי בביתה? - כדי להוציא בניו ובני ביתו.

See *Tosafot* to B.T. *Pesah.* 106a, s.v. *zokhreihu al hayayin*, as well as B.T. *Rosh Hash.* 29b.

5. See B.T. *Pesah.* 106a.

Rashi elucidates how the verses cited in the Talmud demonstrate women's biblical obligation in *kiddush*. He explains that the verb *zakhor* (remember) refers to the positive commandment of explicitly remembering Shabbat through the recitation of *kiddush* on wine,⁶ whereas the verb *shamor* (guard) refers to refraining from doing the thirty-nine prohibited creative acts on Shabbat, a subset of the negative commandments in which women and men are obligated equally.

GE'ONIM

*She'iltot Derabbi Aḥai*⁷ (Babylonia, c. 680–756) quotes the section from *Berakhot* (above) virtually word for word. Behag does, as well, in his explanation of women's biblical obligation in *kiddush*.⁸

<p>4. <i>Sefer Halakhot Gedolot #2 (Behag)</i> <i>Laws of Kiddush and Havdalah,</i> <i>page 100</i> (Authorship in dispute), Babylonia (ninth century)</p>	<p>ספר הלכות גדולות סימן ב הלכות קידוש והבדלה עמוד ק</p>
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<p>And women and slaves, even though sanctifying the day has a time set for it, and it is accepted by us [that] women and slaves are exempt from all positive time-caused commandments, with regard to sanctifying the day, they are obligated. As Rav Adda bar Ahavah said (<i>Ber. 20b</i>): women are obligated in sanctifying the [Shabbat] day from the Torah. And Rava explained the reason: the Torah says “remember” (Exod. 20:8) and “guard” (Deut. 5:12). All who are included in</p>	<p>ונשים ועבדים, אף על גב דקידוש היום זמנא קבע ליה וקיימא לן כל מצות עשה שהזמן גרמא נשים ועבדים פטורין, גבי קידוש היום חייבין, דאמר רב אדא בר אהבה (שם [ברכות] כ:): נשים חייבות בקידוש היום דבר תורה. ומפרש רבה? טעמיה, אמר קרא זכור (שמות כ:ח) ושמור (דברים ה:יב) כל</p>
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6. There is a dispute among Rishonim whether reciting *kiddush* on a cup of wine is from the Torah, as Rashi contends, or not. See *Tosafot* to B.T. *Naz. 4a*, s.v. *mai hi*, for Rabbenu Tam's opinion that the verse is an *asmakhta*, and see *Tosafot* to B.T. *Pesah. 106a*, s.v. *zokhreihu al hayayin*, for the opinion that the requirement for wine is purely rabbinic.

7. *She'iltot Derabbi Aḥai, Parashat Yitro, She'ilta 54*.

8. Also *Sefer Ha'ittim 156* presents Rav Hai as quoting a condensed version of the *sugya*.

guarding also are included in remembering. And women and slaves, because they are included in the guarding of Shabbat, they also are included in remembering.

שישנו בשמירה ישנו בזכירה. ונשים ועבדים הואיל ואיתנון בשמירה דשבת איתנון נמי בזכירה.

Shemuel Hanagid (Spain, 993–1056), who lived at the end of the Geonic period,¹⁰ broadens the discussion by stating the implications of women's biblical obligation in *kiddush*. His teachings, which reflect a different tradition¹¹ than that of the Ge'onim of Babylon, are cited in *Sefer Ha'ittim*.

5. *Sefer Ha'ittim* #156

ספר העיתים סימן קנו

R. Yehudah ben Barzilai, Spain (1082–1148)

And I have [a tradition] from the rabbis that says since a woman has [an obligation of] remembering from the Torah, a woman blesses [recites *kiddush*] for her husband,¹² but it is disgraceful [to do so]; however, a minor, since he is not obligated in the matter [*kiddush*] cannot fulfill the obligation on behalf of others.

ולי אית מרבנן דאמר כיון שאשה ישנה בזכירה מהתורה אשה מברכת לבעלה אלא שהיא מגונה, אבל קטן כיון שאינו מחויב בדבר אינו מוציא אחרים ידי חובתן.

9. The text of Behag reads רבה instead of רבא, which appears in the printed text of the Talmud.
10. Shemuel Hanagid was a transitional figure between the Ge'onim and the Rishonim. Avraham ibn Daud called him "the first of the generations of the rabbinat." See *Encyclopaedia Judaica*, s.v. Samuel Hanagid.
11. The phrase ולי אית מרבנן דאמרי is used exclusively by Shemuel Hanagid. See footnote in Mordechai Margalijot, *Sefer Hilkhot Hanagid* (Jerusalem: Akademya Lemada'ei Hayahadut Be'artsot Haberit, 1962), *siman* 27, p. 134.
12. See M. *Rosh Hash.* 3:8, which states the general rule that to fulfill another's obligation, both parties must be obligated in the commandment. See also B.T. *Ber.* 20b, which states that the person fulfilling another's obligation must be obligated at the same level or greater. That is to say, only someone who has the same Torah obligation can fulfill the obligation for someone with a Torah obligation. A person who has a Torah obligation may also fulfill an obligation for someone who has a rabbinic obligation.

Shemuel Hanagid, quoting his teachers, is the first to state the clear halakhic implication of women having a biblical obligation in *kiddush*. A woman may recite the blessing on behalf of her husband (and by extension any man), as she is equally obligated in the commandment from the Torah. However, he adds a caveat that doing so would be disgraceful.¹³ This conflict between a woman's equal obligation to recite *kiddush* from a strictly halakhic perspective and the social implications of women acting upon this halakhic conclusion is a theme that later authorities address in depth.

RISHONIM

The text from Tractate *Berakhot* is so straightforward that the majority of Rishonim on the Talmud do not comment¹⁴ on it. Those Rishonim who do mention it, quote it verbatim.¹⁵ A number of early prayer books and books on custom and practice¹⁶ also mention a woman's equal biblical obligation. The following statements made by Rishonim on a number of different issues related to the laws of *kiddush* are of interest.

13. Possibly he assumes that the only reason a husband would have his wife recite *kiddush* for him would be because he was unlearned. See *M. Suk.* 3:10. And Rashi there *Suk.* 38a.

שאשתו ובניו מברכין לו - דודאי מחמת שלא למד הוא.

14. It is cited a number of times as proof that there is a biblical obligation in *kiddush* in general and in the subsequent discussion of the role of wine in that obligation. See, e.g., *Tosafot* to B.T. *Pesaḥ.* 106a, s.v. *zokhreihu al hayayin*; *Tosafot* to B.T. *Shav.* 20b, s.v. *nashim*; and *Ḥiddushei Haritva* to B.T. *Pesaḥ.* 106a, s.v. *zokhreihu*. See also *Mordekhai Ber.* 61 for Rabbenu Tam's opinion.

15. See, e.g., Rif to B.T. *Ber.* 12a in the pages of Rif; *Rosh Ber.* 3:13; and *Tosafot* to B.T. *Kid.* 35a, s.v. *mishum*. See also *Haggahot Maimoniyot, Shab.* 29:1; and *Ra'avan Ber.* 154.

16. See, e.g., *Siddur Rashi* 489; *Maḥzor Vitry* 110; *Sefer Avudraham, Birkhot Hamitsvot Umishpetehem*; *Sefer Hamanhig, Hilkh. Shabbat*, 151; *Perushei Siddur Hatefillah Laroke'ah* 86, *Seder Kiddush Leil Shabbat*, p. 482; and *Orḥot Ḥayyim, Hilkh. Kiddush*, 13.

6. *Sefer Ra'avayah*

Volume 1, *Berakhot* #61

R. Eliezer ben R. Yo'el Halevi, Germany (1140–1225)

And in sanctifying the day, they fulfill the obligation on behalf of men, as Rav Adda bar Ahavah said: Women are obligated in sanctifying the day from the Torah as it is written “remember” and “guard”; all who are included in guarding also are included in remembering.

ראבי"ה

ח"א מסכת ברכות סימן סא

ובקידוש היום מפקי לגברי,
דאמר רב אדא בר אהבה נשים
חייבות בקידוש היום דבר
תורה דכתיב זכור ושמור כל
שישנו בשמירה ישנו בזכירה.

7. *Ritva*

Laws of Berakhot 8:12

R. Yom Tov ben Avraham Ashvili, Spain (1250–1320)

Women are obligated in sanctifying the day from the Torah and [are obligated] rabbinically¹⁷ [to recite *kiddush*] over wine or over bread¹⁸ and [to recite *kiddush*] in the place where a meal [is being eaten].

הלכות ברכות לריטב"א ח:יב

נשים חייבות בקידוש היום מן
התורה ומדבריהם על היין או
על הפת ובמקום סעודה.

17. See Appendix A for a full discussion of women's obligation in the rabbinic obligation of *kiddush* during the day, when *kiddush* was already recited at night.

18. See *Sefer Ha'orah, Hilkh. Kiddush* 1:53.

8. *Sefer Kol Bo*

#31¹⁹ s.v. *Ta'am Lama*

R. Aaron ben R. Jacob Hakohen of Narbonne, France, and Majorca
(thirteenth–fourteenth centuries)

ספר כלבו

סימן לא ד"ה טעם למה

And women are obligated in sanctifying the [Shabbat] day... and a woman who knows how to recite *kiddush* recites *kiddush* and if not, they recite it for her; and Ra"sh z"l²⁰ explained even to fulfill the obligation of others who do not know how to recite *kiddush*.²¹

ונשים חייבין בקדוש היום... ואשה היודעת לקדש מקדשת ואם לאו מקדשין לה, וביאר הר"ש ז"ל ואפילו להוציא אחרים ידי חובתם שאינן יודעין לקדש.

The consensus among the Rishonim is that a woman's biblical obligation in *kiddush* carries with it all the legal implications of that obligation vis-à-vis herself and recitation for others. The Rishonim do not mention that there is anything improper about a woman reciting *kiddush* on behalf of a man. This opinion is reflected in the codes.

CODES

All three of the major codes explicitly state that women are obligated in *kiddush*.

19. See also his later work *Orhot Ḥayyim, Hilkh. Kiddush* 13–14.

20. Most likely this reference is to Rashi and not R. Shimshon of Sens. See the chapter “To Distinguish Between the Holy and the Mundane’: Women and *Havdalah*,” 113 for a full explanation. See *Perisha* on *Tur, O.Ḥ.* 271:3, who cites this general law in the name of the *Kol Bo*.

21. Regarding reciting a *berakhah* on behalf of another, male or female, there are two different opinions. One view, expressed here by *Kol Bo*, maintains that one may recite a *berakhah* for others only when they are incapable of performing the ritual on their own. The other position is that one may recite the *berakhah* for others under any circumstances even if they are experts and are capable of reciting it for themselves. See Rosh, *Rosh Hash.* 4:14; *Ḥiddushei Haritva* to B.T. *Rosh Hash.* 29a; and *Ḥiddushei Harashba* to B.T. *Rosh Hash.* 34b. See also *Mishnah Berurah*, below, in the body of the text. See also the end of *Sefer Kol Bo* quoted here 31.

9. Maimonides

Laws of Idolatry 12:3

R. Moshe ben Maimon, Spain and Egypt (1138–1204)

[With regard to] all the negative commandments in the Torah, both men and women are obligated, except for the prohibition against shaving [the corners of one's beard], the prohibition of rounding off [the corners of the head], and the prohibition for a priest to contract impurity through contact with a dead body. And women are exempt from all the positive commandments that apply from time to time and are not constant, except for the sanctification of [the Shabbat] day, eating *matsah* on *Pesah* night, eating and slaughtering the paschal lamb, *hak'hel*,²² and joy [on the festivals], in which women are obligated.

רמב"ם

הלכות עבודת כוכבים יב:ג

כל מצות לא תעשה שבתורה אחד אנשים ואחד נשים חייבים חוץ מבל תשחית ובל תקיף ובל יטמא כהן למתים. וכל מצות עשה שהיא מזמן לזמן ואינה תדירה נשים פטורות, חוץ מקידוש היום, ואכילת מצה בלילי הפסח, ואכילת הפסח ושחיטתו, והקהל, ושמחה שהנשים חייבות.

In stating the general rule of women's obligation in the commandments, Maimonides lists²³ the Torah²⁴ commandment of *kiddush* on Shabbat as one of the exceptions to the rule that women are exempt from positive time-caused commandments.

22. This refers to the gathering once every seven years to hear the king read certain passages from the Torah to the nation. See Deut. 31:12.

23. See the parallel discussion in *Sefer Haḥinnukh*, Commandment 251.

24. See Maimonides, *Sefer Hamitsvot*, positive commandment 155, and his comments at the end of the positive commandments, where he lists the sixty essential biblical commandments and includes *kiddush* as one of the commandments for which women are obligated.

<p>10. Tur <i>Orah Hayyim</i> #271 R. Ya'akov ben R. Asher, Spain (1269–1343)</p>	<p>טור אורח חיים סימן רעא</p>
<p>And both men and women are obligated in sanctifying the [Shabbat] day.</p>	<p>ואחד אנשים ואחד נשים חייבים בקידוש היום.</p>

Tur equates the obligation of men and women in *kiddush*, sanctifying the [Shabbat] day.

<p>11. Shulḥan Arukh <i>Orah Hayyim</i> 271:2 R. Yosef ben Ephraim Caro, Spain and Israel (1488–1575)</p>	<p>שולחן ערוך אורח חיים סימן רעא:ב</p>
<p>Women are obligated in <i>kiddush</i> even though it is a positive commandment caused by time (explanation: a positive commandment that is dependent on time) for “remember” was compared to “guard,” and these women because they are included in guarding, they also are included in remembering. And they fulfill the obligation [i.e., they may recite <i>kiddush</i>] on behalf of men since they [women] are obligated from the Torah like them [men].</p>	<p>נשים חייבות בקידוש אע"פ (אף על פי) שהוא מצות עשה שהזמן גרמא (פי' מצות עשה התלויה בזמן), משום דאיתקש זכור לשמור והני נשי הואיל ואיתנהו בשמירה איתנהו בזכירה ומוציאות את האנשים הואיל וחיבות מן התורה כמותם.</p>

The *Shulḥan Arukh*²⁵ explicitly codifies the legal implication²⁶ of the equal biblical obligation: women can fulfill the obligation of *kiddush* on behalf of men. Rema (R. Moshe Isserles, Poland, c. 1525–1572), author of the Ashkenazic glosses to the *Shulḥan Arukh*, does not comment, signifying that he is in agreement with the ruling of the *Shulḥan Arukh*.

25. See also *Beit Yosef, O.H.* 271:2.

26. See n12, above.

RESPONSES TO THE SHULḤAN ARUKH

The explicit statement in the *Shulḥan Arukh* that women can recite *kiddush* on behalf of men provoked some opposition. *Baḥ* was disturbed by what he perceived to be an inconsistency in the rulings of the *Shulḥan Arukh*. In the laws of the reading of the *megillah*,²⁷ after stating that women can read for men, R. Caro also quotes a second opinion that women cannot fulfill the obligation on behalf of men, and yet here in the laws of *kiddush*, R. Caro states unequivocally that women can recite *kiddush* for men. This difference in ruling did not make sense to *Baḥ*.

12. Baḥ (Bayit Ḥadash)

Orah Ḥayyim #271

R. Yo'el Sirkis, Poland (1560–1640)

ב"ח (בית חדש)

אורח חיים סימן רע"א

Both men and women are obligated in sanctifying the [Shabbat] day, and this is the language of the *Kol Bo*, “And R. Shimshon of Sens *z”l* explained: and even to fulfill the obligation on behalf of others who do not know how to say *kiddush*.” *Beit Yosef* [R. Caro] cited this and so ruled in the *Shulḥan Arukh*.²⁸ But with regard to [reading the] *megillah* (*O.H.* 689:2), he wrote in the *Shulḥan Arukh*, “There are those who say that women do not fulfill the obligation on behalf of men,” and he wrote there in accordance with the words of *Behag* that

ואחד אנשים ונשים חייבים בקידוש היום וזה לשון הכל בו וביאר הר"ש ז"ל ואפילו להוציא אחרים י"ח שאינן יודעים לקדש עכ"ל ומביאו ב"י ופסק כך בש"ע. אבל גבי מגלה סימן תרפ"ט כתב בש"ע: י"א שהנשים אינן מוציאות את האנשים. וכתב ע"פ דברי בה"ג שהביא רבינו לשם החולק על פירש"י שכתב שנשים מוציאות את האנשים. ותימה שכאן פסק כפרש"י²⁹ שהביאו בספר כל בו והפסקים סותרין זה את

27. See *Nashim*, vol. 1, ch. 3, “Part of the Miracle: Women and Megillah,” p. 248, for a full discussion of this issue.

28. See n31, below.

29. Most likely this abbreviation refers to R. Shimshon of Sens. As *Baḥ* stated above, *Kol Bo* is quoting R. Shimshon of Sens; however, as the abbreviation for Rashi was just mentioned a few lines earlier and the two abbreviations are very similar (if not the same sometimes), either *Baḥ* or the printer accidentally repeated the same abbreviation instead of writing הר"ש as *Baḥ* had used at the beginning. However,

our teacher [*Tur*] cited for the purpose of disagreeing with Rashi's explanation, who wrote that women fulfill the obligation of men [to read the *megillah*]. And it is a question, as here [with regard to *kiddush*] he ruled like the explanation of R. Shimshon of Sens that is brought in *Sefer Kol Bo*, and the decisions contradict one another – for it appears that one should not differentiate between *kiddush* and *megillah*. And in my humble opinion, it is correct to be stringent in *kiddush* as in *megillah* that the women should not fulfill the obligation of men, and so I saw that Maharshah wrote thus.

זה – הנראה דאין לחלק בין קידוש למגילה. ולפעד"נ עיקר ההחמיר בקידוש כמו במגילה שאין הנשים מוציאות לאנשים וכן ראיתי שכתב מהרש"ל.

If in the laws of the reading of the *megillah*, *Shulḥan Arukh* chose to include the opinion of Behag that limits women from fulfilling the obligation on behalf of men, why in the case of *kiddush* did he unequivocally permit them to do so? *Baḥ* believes that there should be no difference between *megillah* and *kiddush*; therefore, one should be stringent and not allow a woman to perform the ritual for men in the case of *kiddush* as well. *Taz*, the son-in-law of *Baḥ*, defends *Shulḥan Arukh* and responds directly to this argument.³⁰

there is a slight possibility that the reference from *Kol Bo* in general is referencing Rashi's opinion and not R. Shimshon's. See n113 of the chapter "'To Distinguish Between the Holy and the Mundane': Women and *Havdalah*."

30. See also the beginning of *Magen Avraham*, O.H. 271:2, where he answers the challenge of *Baḥ* using a different argument than *Taz*. He states that ritual acts performed in public like the reading of the *megillah* are different. This point also is raised later in *Arukh Hashulḥan* 271:5, cited in source #19, below.

13. *Taz* (Turei Zahav)*Orah Hayyim* 271:2

R. David Halevi, Poland (1586–1667)

ט"ז (טורי זהב)

אורח חיים סימן רע"א:ב

And they fulfill the obligation for men

etc. Even though in *O.H.* 689, he ruled in *Shulḥan Arukh* like Behag that women do not fulfill the obligation for men in reading *megillah*; although they are obligated in the reading of *megillah*, it is not comparable to the case here [of *kiddush*]. Because with *megillah*, there are opinions that women should not recite the blessing “on the reading of the *megillah*” but rather “on the hearing of the *megillah*” as *Beit Yosef* [R. Caro] wrote there; therefore, surely it is not correct that *a priori* they will fulfill for the men. But that is not the case here [with *kiddush*]; everyone agrees that there is no difference at all between men and women; therefore certainly they [women] fulfill for them [men]. And Rashal and my teacher, my father-in-law [*Bah*], decided to rule here also that they should not fulfill [for men] like in *megillah*, and this is not compelling at all.

ומוציאות את האנשים כו'.
אף על גב דבסימן תרפ"ט
פסק בש"ע כבה"ג דאין נשים
מוציאות אנשים במקרא
מגילה אף ע"ג שהם חייבות
במקרא מגילה, לא דמי לכאן,
דבמגילה יש דעות דאין לנשים
לברך על מקרא מגילה אלא על
משמע מגילה כמ"ש שם ב",
ע"כ בודאי לא נכון שלכתחלה
יוציאו האנשים משא"כ כאן
הכל מודים שאין חילוק
כלל בין אנשים לנשים ע"כ
שפיר מוציאות אותם. ורש"ל
ומו"ח ז"ל פסקו גם כאן דאין
מוציאות כמו במגילה ואין זה
מוכרח כלל.

According to *Taz*, there exists a fundamental difference between the obligations of reading the *megillah* and of *kiddush*. Regarding reading the *megillah*, authorities disagree about whether or not women and men have the same obligation – some believe that they do, and some believe that women are obligated only to hear the *megillah*, which is not equivalent to a man's obligation to read it. Due to this difference of opinion, the *Shulḥan Arukh* in the section on reading the *megillah* records the opinion that women do not fulfill the obligation on behalf of men (due