**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**Deracheha: Women and Mitzvot**

**Learning Torah II: Obligation**

**By Deracheha Staff; Laurie Novick, Director**

**Why are women exempt from laying *tefillin*?**

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Tefillin I: Exemption

## ● Why should we discuss this?

## On Deracheha, we are committed to exploring questions concerning women and mitzva observance as comprehensively as possible.

## We will see that, for a few reasons, the many halachic authorities prohibit women from fulfilling the mitzva of *tefillin.* Additionally, and perhaps largely as a result of these prohibitions, most Orthodox women seem to show little to no interest in fulfilling the mitzva.

Still, there are some religiously-observant women who **are** interested in exploring whether it is permissible to observe this mitzva voluntarily, the same way a woman may choose to perform other *mitzvot* from which she is exempt.

Even if a woman has no personal interest in performing the mitzva of *tefillin*, she should understand its significance and why women have not traditionally observed it. Learning about the mitzva can also give her insight into other women who might feel differently, as well as greater understanding of rabbinic responses to those women.

Additionally, this issue has made waves within recent years. In the winter of 5774, the principal of a coeducational modern Orthodox high school in New York permitted two female students to lay *tefillin* at the school's daily women's prayer group. A yeshiva high school newspaper picked up the story, and it quickly made the rounds of the Jewish internet, spawning articles, opinion pieces, and blogposts that debated the propriety of the principal's decision and of women laying *tefillin* in general. The principal soon clarified that the two girls in question came from Conservative homes and had been laying *tefillin* daily at home since their bat mitzvas. That clarification contextualized his decision, but did little to quell debate.

A typical headline, from "The Times of Israel," January 21 of that year, reads: "Orthodox Girls Fight for the Right to Don Tefillin." This media treatment (and others like it) views the question of women wearing *tefillin* through a civil rights prism: the suggestion is that oppressed women with spiritual aspirations confront a misogynistic, or at least short-sighted, Orthodox rabbinate.

This narrative is simplistic. From a halachic perspective, *mitzvot* are religious obligations, not civil rights. Both spiritual aspirations and rabbinic rulings must be attentive to Halacha.

Here we look at halachic sources and their interaction with traditional practice to investigate the question of women laying *tefillin* in halachic terms.

# Background: The Mitzva of *Tefillin*

**In the Torah** Where does this mitzva come from? In four passages, the Torah commands placing a sign on the hand and a remembrance between the eyes, known as laying (*hanachat*) *tefillin*. [[1]](#footnote-1) The first two commands, *Shemot* 13:1-10 and 11-16, are given in Egypt, just before the exodus. *Tefillin* appear at the conclusion of each portion, linked both with Torah as a whole and with the imperative to remember the deliverance from Egypt:

*Shemot* 13:9-10

It shall be for a sign for you on your hand and for a remembrance between your eyes in order that God's Torah be in your mouth because God took you out from Egypt with a strong hand. You shall keep this ordinance in its appointed time from year to year.

*Shemot* 13:16

It shall be for a sign on your hand and for *totafot[[2]](#footnote-2)* between your eyes because God took us out from Egypt with a strong hand.

*Tefillin* remind us of the exodus, a critical moment in our national relationship with God.

The third and fourth portions, *Devarim* 6:4-9 and 11:13-21, familiar to us as sections of *Shema*, command us to proclaim God's oneness and to love Him, to internalize, teach, and speak of these words (at minimum through the recitation of *Shema*), and, finally, to incorporate them into our *tefillin* and *mezuzot* (doorposts):

*Devarim* 6:8

You shall bind them for a sign on your hand and they shall be for *totafot* between your eyes.

*Devarim* 11:18

You shall place these words of Mine on your hearts and on your souls and bind them for a sign on your hand and they shall be *totafot* between your eyes.

The passages in *Devarim* emphasize our personal responsibility to internalize God's message and follow *mitzvot*. Tefillin provide a concrete way of demonstrating commitment to God.

**Construction** *Tefillin* bind the messages of national and personal connection and commitment to God directly to the flesh. Indeed, nothing should separate between the *tefillin* compartments (*batim*) and straps (*retzu’ot*) and the body, as the verse says "*al yadecha*," directly on the hand.[[3]](#footnote-3)

Laying the *tefilla shel rosh* (of the head) and laying the *tefilla shel yad* (of the hand) are two distinct *mitzvot*.[[4]](#footnote-4) Each set of *tefillin* contains all four portions listed above. On the head, the portions are split up into four smaller scrolls, placed into four distinct *batim* (compartments), whereas on the hand they are all written on the same scroll and placed in a single compartment.[[5]](#footnote-5) Predominant custom, in accordance with the viewpoint of Rashi, places the portions in order of their appearance in the Torah. Some supplement this custom by wearing *tefillin* with the portions in a different order, in accordance with the viewpoint of Rabbeinu Tam.[[6]](#footnote-6)

The *shel yad* encircles the non-dominant hand, while the dominant hand performs the command to tie the *tefillin*.[[7]](#footnote-7)

**Timing** *Tefillin* were originally worn all day long.[[8]](#footnote-8) When they are worn for a more limited time, as today, they should at least be in place for the recitation of *Shema*. Why? The passages of *Shema* include the mitzva of *tefillin*. By reciting *Shema* without wearing *tefillin*, one would bear false witness: proclaiming a mitzva while shirking it.[[9]](#footnote-9)

# Women's Exemption

The mishna in *Berachot* states that women are exempt from two *mitzvot*: *tefillin* and the recitation of *Shema*. However, the mishna doesn’t explain the exemption:

Mishna *Berachot* 3:3

Women and bondsmen and minors—are exempt from recitation of *Shema* and from *tefillin.*

Let's look at the two explanations given in traditional sources for women's exemption:

**I. Time-Bound** Women are generally exempt from positive time-bound *mitzvot* (see [here](http://www.deracheha.org/positive-time-bound-mitzvot) for a detailed discussion of this rule). The Tosefta lists several such *mitzvot*, including *tefillin*:

Tosefta *Kiddushin* 1:8

What is a positive time-bound commandment? Such as *sukka* and *lulav* and *tefillin*.

*Sukka* and *lulav* are clearly time-bound: they are performed only on *Sukkot*. How are *tefillin* time-bound? The talmud addresses this question:

Shabbat and festival days have the status of a sign, *ot*,[[10]](#footnote-10) making the additional *ot* of *tefillin* superfluous.[[11]](#footnote-11) Since *tefillin* are worn only on workdays, they are time-bound, and women are exempt.[[12]](#footnote-12)

In the gemara in *Eiruvin*, Rabbi Yehuda and Rabbi Meir permit a woman to wear *tefillin* if there is an urgent need to transport them on Shabbat. The gemara deduces that Rabbi Yehuda and Rabbi Meir dispute the status of *tefillin* as time-bound, and thus they believe women are obligated in tefillin.[[13]](#footnote-13) However, that position contradicts the mishna in *Berachot* and is not accepted as Halacha.

**II. Learning Torah** As we have seen, the Tosefta in *Kiddushin* and the gemara in *Eiruvin* classify *tefillin* as a positive time-bound mitzva.

The gemara in *Kiddushin* goes further and defines *tefillin* as the archetypal mitzva from which to derive women’s overall exemption from positive time-bound *mitzvot*. In so doing, it provides an additional explanation for the exemption:

*Kiddushin* 34a

Whence do we know [that women are exempt from positive time-bound *mitzvot*]? Learn from *tefillin*: just as women are exempt from *tefillin*, so too women are exempt from all positive time-bound commandments. And learn *tefillin* from Talmud Torah: just as women are exempt from Talmud Torah, so too women are exempt from *tefillin*. Let's compare *tefillin* to *mezuza* [in which women are obligated]! *Tefillin* is juxtaposed with Talmud Torah, both in the first and second portion [of *Shema*—*Devarim* 6:7-8 and 11:18-19]; *tefillin* is not juxtaposed with *mezuza* in the second portion [of *Shema*—*Devarim* 11:19 comes between them].

The *tefillin* passages in *Devarim* stress the connection between *tefillin* and the mitzva of learning Torah. These passages link *tefillin* more closely to the formal mitzva of Torah study, from which women are exempt (more [here](http://www.deracheha.org/learning-torah)), than to *mezuza*, which applies equally to everyone's dwellings. According to this passage, the strong link between learning Torah and *tefillin* leads to women’s exemption from *tefillin*.[[14]](#footnote-14)

## ● Now that learning Torah from texts is more open to women, should the exemption from *tefillin* remain in place?

Women’s exemption from laying *tefillin* is based on the exemption of women from the formal mitzva of learning Torah, but women learn more Torah texts nowadays than ever before. Some modern rabbinic voices even tell us that text learning has become an obligatory form of *avodat Hashem* for women*.* (See more [here](http://www.deracheha.org/learning-torah-4-what-to-study).) Does this have any effect on women's relationship to the mitzva of *tefillin?*

Although there are many reasons why a woman may be obligated to learn Torah, women's exemption from the formal mitzva of Talmud Torah remains in place. It is that formal exemption that leads to the exemption from the mitzva of *tefillin.* For example, women have always been obligated in learning practical Halacha, which can be described as a form of learning Torah. That did not change the original formulation of exemption from *tefillin.* So too, increased imperatives for women to learn Torah and the real halachic significance of women fulfilling the mitzva of learning Torah through text study do not change the exemption from *tefillin.*

That being said, we might expect communities in which women's text study is seen as an imperative to encourage women to fulfill the mitzva of *tefillin* voluntarily. Why don't they?

As compelling as the idea may be for a woman who learns Torah to bind it to her flesh, there are other halachic factors at stake that militate against voluntary performance of the mitzva of *tefillin.* We discuss these in the next installments of this series. If there were no other halachic impediment, we imagine that many women would take an interest in fulfilling the mitzva of *tefillin* and many more religious women throughout history would have done so*,* creating a more substantial precedent than the single example of Michal (see below)*.* But those halachic impediments make and have made a difference to the majority of women who are most devoted to learning Torah.

**Halachic Ruling** Shulchan Aruch rules in line with what we have seen:

*Shulchan Aruch* OC 38:3

Women and bondsmen are exempt from *tefillin* because it is a positive time-bound commandment.

# Voluntary Performance

May a woman choose to lay *tefillin* voluntarily, just as she can choose to perform other positive time-bound *mitzvot*?

The Talmud Bavli suggests that she may:

*Eiruvin* 96a-b

As is taught [in a *baraita*]: Michal the daughter of Kushi [Shaul] would lay *tefillin* and the sages did not protest. And the wife of Yona [the prophet] would make a festive pilgrimage [to Jerusalem] and the sages did not protest…We can derive from their non-protest that…He thinks that [pilgrimage] was voluntary [performance of a positive time-bound mitzva], here too [Michal's wearing *tefillin*] is voluntary [performance of a positive time-bound mitzva].

The Talmud relates that Michal, King Shaul's daughter, wore *tefillin*, and that the wife of the prophet Yona made a festive pilgrimage.[[15]](#footnote-15) The sages did not protest either act. Naming these specific women may suggest that they were unique. However, the Talmud concludes that Michal's laying *tefillin* was a standard case of voluntary performance of a mitzva from which women are exempt but not prohibited, and thus was not protested.

In contrast, the Talmud Yerushalmi[[16]](#footnote-16) cites a view asserting that the sages *did* protest Michal's wearing of *tefillin*:

Yerushalmi *Eiruvin* 10:1

Behold, Michal, the daughter of Shaul, would wear *tefillin*, and the wife of Yona would make a festive pilgrimage, and the sages did not protest them. Rabbi Chizkiya in the name of Rabbi Abahu [said]: The wife of Yona turned back; Michal, the daughter of Shaul, the sages protested against her.

Typically, when the Bavli and the Yerushalmi disagree, Halacha follows the Talmud Bavli. So the Bavli's position that the rabbis did not protest Michal's wearing *tefillin* provides a strong basis to permit women to wear *tefillin* voluntarily, notwithstanding the dissenting position found in the Yerushalmi.[[17]](#footnote-17)

Early halachic authorities, including *Sefer Ha-chinuch*, rule accordingly:

*Sefer Ha-chinuch* Mitzva 421

This mitzva applies in all places and at all times, among males but not among females, since it is a positive time-bound commandment. Still if they [females] want to lay *tefillin* we do not protest and they have a reward, but not like the man's reward, for the reward of one who is commanded and performs is not like the reward of one who is not commanded and performs. In Tractate *Eiruvin*, in the beginning of chapter "He who finds *tefillin*," [the sages] of blessed memory said that Michal daughter of Kushi [Shaul] would lay *tefillin* and the sages did not protest.

Rashba, thirteenth-century leader of Sephardic Jewry, also permits women to lay *tefillin* voluntarily. He uses the case of Michal as proof for his broader position that women can choose to perform *mitzvot* voluntarily and make a blessing on them.[[18]](#footnote-18)

Responsa Rashba I:123

I agreed with the words of he who says that if they [women] want, they can do every positive mitzva and make a blessing, based on the deed of Michal bat Shaul who would wear *tefillin*. That they didn't protest her, but she acted in accordance with the will of the sages, and presumably if she laid *tefillin*, she made a blessing.

Furthermore, Shulchan Aruch (quoted above) does not indicate that there is any unique aspect to the relationship of women to the mitzva of *tefillin*, as opposed to other time-bound *mitzvot*. By extension, a woman who customarily makes blessings on positive, time-bound commandments could choose to lay *tefillin* and to make a blessing.

We will see, however, in our next installment, that there is more to the story.

## ● Did medieval women lay tefillin? What about Rashi's daughters?

We have almost no record of medieval women laying *tefillin* in practice. There is one report of a few righteous thirteenth century women laying *tefillin* in the area of Vienna.[[19]](#footnote-19)

Rav Avigdor Tzarfati, Sefer Peirushim Upsakim al Ha-Torah

Some righteous women were accustomed to lay *tefillin* and recite a *beracha.*

Despite their lenient rulings, there is no indication that women in Rashba's or Sefer Ha-chinuch's milieu actually laid *tefillin*.

Halachic permissions do not always lead to halachic practice.

The popular claim that Rashi's daughters laid *tefillin* has no historical record to support it.[[20]](#footnote-20) Where did it come from? Rabbeinu Tam's mother was one of Rashi's daughters, and Rabbeinu Tam is one of the authorities who do not differentiate between women laying *tefillin* and other voluntary mitzva performance by women. Perhaps Rabbeinu Tam's halachic position was mistaken for a historical attestation about his own mother's practice and that gave rise to the popular myth.

1. Although the word *'tefillin'* (singular, *tefilla*) does not appear in the Torah, it appears in Mishna and *Midrash Halacha*. Rosh (*Hilchot Tefillin* 2, followed by Tur 25) explains that it is related to the word *pelila*, judging (also the root for our word for prayer, *tefilla*), as *tefillin* testify to the Divine Presence among us.

Rosh, Laws of *Tefillin* 2

'*Tefillin*' is the language of judgment, for it is a sign and a proof to all that see us that the Divine presence dwells upon us. [↑](#footnote-ref-1)
2. The term *totafot* appears in the Tanach only to denote the *tefillin* worn on the head. Commentators suggest a variety of meanings, including remembrance, adornment, or a cryptic reference to the number four (the number of portions of the Torah included in the *tefillin*). [↑](#footnote-ref-2)
3. Rosh, *Hilchot Tefillin*, 18

That he also lays *tefillin* on his flesh without a barrier (*chatzitza*). [↑](#footnote-ref-3)
4. *Menachot* 44a

Rav Sheshet said: Anyone who does not lay *tefillin* transgresses eight positive commandments.

Rashi ad loc.

There are four passages in them and with each one they fulfill two positive commands… [↑](#footnote-ref-4)
5. *Menachot* 34b

"And as a remembrance between your eyes". How is that? One writes them on four parchments and places them in four compartments of one hide…Our rabbis taught: How does one write the *tefilla* of the hand? He writes it on one parchment. [↑](#footnote-ref-5)
6. Rashi *Menachot* 34b

In the order that they are written in the Torah.

Tosafot s.v. *Ve-hakoreh*

Rabbeinu Tam explained… in the order that they are placed in the *tefillin* from right to left, which is "*Kadesh*" "*Ve-haya ki yevi'acha*" "*Ve-haya im shamo'a*" *Shema*" [↑](#footnote-ref-6)
7. *Menachot* 37a

R. Natan says: …For it says "and tie them" "and write them." Just as writing is with the right hand, so too tying is with the right hand. [↑](#footnote-ref-7)
8. There is debate as to whether the Torah permits wearing *tefillin* at night. Halacha follows Rabbi Akiva's view that on a Torah level, *tefillin* should be worn also at night. Eiruvin 96a

We heard that Rabbi Akiva said: Night is a time for *tefillin,* Shabbat is not a time for *tefillin*.

A rabbinic edict, however, prohibits laying *tefillin* at night, lest one fall asleep and then not be able to be careful about bodily cleanliness.

*Shulchan Aruch* OC 30:2

It is prohibited to lay *tefillin* at night, lest he forget them and sleep in them. [↑](#footnote-ref-8)
9. *Berachot* 14b

Ulla said: Anyone who recites *Shema* without *tefillin* is as though he testifies falsely about himself. [↑](#footnote-ref-9)
10. *Shemot* 31:13

You, speak to the children of Israel saying: You shall observe my *Shabbatot* for they are a **sign** between me and you for all your generations, to know that I am God who sanctifies you. [↑](#footnote-ref-10)
11. *Menachot* 36b

For it is taught in a *baraita*, Rabbi Akiva says: Is it possible that a person would lay *tefillin* on *Shabbatot* and festival days? The verse teaches us, "It shall be for you a sign on your hand and *totafot* between your eyes." [The obligation applies to] whoever needs a sign. *Shabbatot* and festival days are excluded [from that category], for they are themselves a sign. [↑](#footnote-ref-11)
12. The rejected view that *tefillin* are not worn at night could be an alternative explanation of *tefillin* as a time-bound mitzva. (This is derived from *Shemot* 13:10, which uses the expression “*miyamim yamima.*” Idiomatically, this means “from year to year” and refers to the annual observance of Pesach. But literally, it means “from days to days” and can be taken to refer to *tefillin*.) [↑](#footnote-ref-12)
13. *Eiruvin* 96b:

As is taught [in a *baraita*]: One who finds *tefillin* [vulnerable in the public domain, on Shabbat] brings them inside one pair at a time [by wearing them], whether [the finder is] a man or a woman, whether they [the *tefillin*] are new or old, the words of Rabbi Meir. Rabbi Yehuda prohibits with new *tefillin* and permits with old ones. They only disagree regarding new and old, but they do not disagree about a woman. Learn from this that *tefillin* is a positive commandment that is not time-bound. Women are obligated in any positive commandment that is not time-bound. Perhaps they think like Rabbi Yosei, who said 'Women can lean on a sacrifice voluntarily?' [Here too a woman could wear *tefillin* voluntarily.] You couldn't think so because neither Rabbi Yehuda nor Rabbi Meir agrees with Rabbi Yosei.

Men and women are not permitted to carry articles in the public domain on Shabbat, but may wear them. Rabbi Meir and Rabbi Yehuda permit women to wear *tefillin* on Shabbat in order to bring the *tefillin* inside and protect them from the precarious, damage-prone public domain.

The Talmud maintains that since neither Rabbi Yehuda nor Rabbi Meir permit women to fulfill *mitzvot* voluntarily, they must consider the mitzva of *tefillin* not time-bound and thus obligatory for women.

See, however, *Or Same’ach*, *Talmud Torah* 1:2, who argues that even if they don't consider the mitzva of tefillin to be time-bound, Rabbi Yehuda and Rabbi Meir would still consider women exempt from *tefillin* because of the exemption from the mitzva of learning Torah (see below). At the same time, though they generally prohibit voluntary mitzva performance, they allow for it in the case of learning Torah or, by extension, laying *tefillin*:

*Or Same'ach*, Laws of Learning Torah, 1:2

If so the Talmud proves well that Rabbi Meir and Rabbi Yehuda think that it is not a positive, time-bound commandment. If so, "in order that God's Torah will be in your mouth" refers to learning Torah, and they uprooted it [*tefillin* from women] just because of Torah…but women are not obligated in *tefillin* according to any Tanna and that is correct. [↑](#footnote-ref-13)
14. A parallel midrash halacha in *Mechilta Bo Masechta De-Pischa* 17 (quoted in Yerushalmi *Eiruvin* 10:1) also bases women's exemption from *tefillin* on women's exemption for learning Torah, employing the verse "*lema'an tihiye Torat Ha-shem be-ficha*" (*Shemot* 13:9, used differently in *Kiddushin* 35a).

Mechilta of Rabbi Yishmael, *Bo Masechta De-Pischa* 17

Because it was said "And it will be for you a sign" I understand that this also refers to women. And logic leads [to this]: since *mezuza* is a positive mitzva and *tefillin* is a positive mitzva, if you learned about *mezuza* that applies to women as to men, it could be that *tefillin* should apply to women as to men. The verse comes to teach us "In order that God's Torah will be in your mouth." I only said regarding one who is obligated in learning Torah. From here they said that all are obligated in *tefillin* except for women and bondsmen.

The *Mechilta* does not even raise the issue of positive time bound commandments, grounding woman's exemption from *tefillin* solely in the exemption from Torah study. It is not clear if Rabbi Yehuda and Rabbi Meir rejected this rationale for exempting women for *tefillin* as well as the time-bound rationale. See *Or Same’ach*, *supra* note 13. [↑](#footnote-ref-14)
15. Note also the parallel in *Mechilta* which likewise brings no opposing viewpoint:

*Mechilta* of Rabbi Yishmael, *Bo Masechta De-Pischa* 17

Michal daughter of Kushi [Shaul] would lay *tefillin*. [↑](#footnote-ref-15)
16. Also *Pesikta Rabbati* 25. [↑](#footnote-ref-16)
17. Notably, Gra seems to have understood the Bavli passage differently, concluding that its discussion did not present the Talmudic consensus, but only the specific viewpoint of Rabbi Meir and Rabbi Yehuda.

*Be'ur Ha-Gra* OC 38:3…

And one can say that also the Talmud [Bavli] thought so [like the Yerushalmi] but they only had to cite it [Michal’s story] according to the one who said women are obligated [Rabbi Yehuda and Rabbi Meir]. [↑](#footnote-ref-17)
18. In this he presumably follows Rabbeinu Tam, as recorded in Tosafot *Rosh Ha-shana* 33a s.v. *Ha Rabbi Yehuda*. Rabbeinu Tam does not explicitly permit a woman to make a blessing over *tefillin*, but *tefillin* is one of the examples he brings regarding his proof from the blind man and he does not at any point retract it. [↑](#footnote-ref-18)
19. Quoted by Avraham Grossman, *Ve-hu Yimshol Bach*, Jerusalem: Merkaz Zalman Shazar, 2010, p. 318. [↑](#footnote-ref-19)
20. See Ari Z. Zivotofsky, "What's the Truth About Rashi's Daughters?" *Jewish Action*, Summer 2011. [↑](#footnote-ref-20)