**YESHIVAT HAR ETZION**

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

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**THE LAWS OF THE BERAKHOT**

**Rav David Brofsky**

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Please *daven* for a *refua* *sheleima* for YHE alumnus
Rav Daniel ben Miriam Chaya Rut

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This week’s shiurim are dedicated in memory of Israel Koschitzky zt"l, whose yahrzeit falls on the 19th of Kislev. May the worldwide dissemination of Torah through the VBM be a fitting tribute to a man whose lifetime achievements exemplified the love of Eretz Yisrael and Torat Yisrael.

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**Shiur #67: *Birkot Ha-Mitzvot* (3)**

[Last week](http://etzion.org.il/en/shiur-66-birkot-ha-mitzvot-2), we continued our study of the *birkot ha-mitzvot*, blessings recited before performing *mitzvot*. We noted that there are two different formulas of *birkot ha-mitzvot*. Some are phrased: “*asher kideshanu be-mitzvotav vetzivanu al*…” (“Who has sanctified us with His commandments and commanded us regarding…”); others are formulated in the infinitive: “*asher kideshanu be-mitzvotav vetzivanu le* …” (“Who has sanctified us with His commandments and commanded us to…”). The *gemara* (*Pesachim* 7a-b), as well as the *Rishonim*, offer different explanations as to when each *nosach* should be employed. The discussion leads to interesting perspectives regarding the nature and parameters of numerous *mitzvot*.

This week, we will discuss when these blessings are recited and whether they are recited when there is technically no obligation to perform the *mitzva*.

***Mitzvot Aseh She-Hazeman Gerama***

The *mishna* teaches that women are exempt from time-bound *mitzvot*, known as *mitzvot aseh she-hazeman gerama*.

Every positive precept dependent upon a set time, men are obligated to observe but women are exempt. But those positive precepts not dependent upon a set time, both men and women are obliged to observe. All negative precepts, whether or not they are dependent upon a set time, are obligatory upon both men and women. (*Kiddushin* 1:7)

The Talmud (*Kiddushin* 34a) teaches that this exemption is derived from *tefillin*:

From where do we derive that women are exempt from positive precepts dependent upon a set time? It is derived from the *mitzva* of *tefillin*; just as women are exempt from wearing *tefillin*, so too they are exempt from all positive precepts dependent upon a set time.

The *gemara* and the *Rishonim* and *Acharonim* (see, for example, Abudraham, *sha’ar* 3, *Birkat Ha-Mitzvot*; R. Shimshon Raphael Hirsch, *Vayikra* 23:43; Mishpetei Uziel, vol. 4, *Inyanin Kelali’im* 4; Iggerot Moshe, *Orach Chaim* 4:49, et. al.) discuss this exemption and its rational.

At the end of his list of positive precepts in *Sefer Ha-Mitzvot*, the Rambam lists eight commandments from which women are exempt because they are time-bound commandments: *keriat shema*, *tefillin* (head), *tefillin* (arm), *tzitzit*, *sefirat ha-omer*, *sukka*, *lulav*, and *shofar*. He also lists *mitzvot* from which women are exempt despite the fact that they are not time-bound, as well as time-bound *mitzvot* in which they are obligated, both Biblical (*Kiddush* on Shabbat, fasting of Yom Kippur, *matza* on Pesach, *simchat ha-regel*, *hakhel*, *korban* *Pesach*) and Rabbinic (*nerot Chanuka*, *keriat ha-Megilla*, *arba kosot* on Pesach, *Hallel* on the night of Pesach).

 The Talmud (*Rosh Hashana* 33a; see also Sifra, *parshata* 2) cites a debate between R. Yosi and R. Shimon regarding whether women may fulfill time-bound *mitzvot*. They disagree with regard to the *mitzva* of *tekiat shofar* and “*semikha*” (placing one’s hands on the sacrificial animal). The discussion revolves around whether or not “*nashim somkhot reshut*” (placing the hands by women [on a sacrifice] is optional).

 Why doesn’t R. Yehuda permit women to blow the shofar on Rosh Ha-Shana or place their hands on a sacrifice in the Temple? How does he view a *mitzva* performed by a woman? Rashi (s.v. *ha-nashim*) explains that according to R. Yehuda, if a woman fulfills a time-bound *mitzva* from which she is exempt, she violates the Biblical prohibition of *bal tosef* (adding on to the *mitzvot*). The commentators, including the Maharsha (ibid.), disagree with this understanding. Others (Ran 9b, s.v. *garsinan*; see also Tosafot, *Eiruvin* 96a, s.v. *mikhal*) explain that R. Yehuda is only strict regarding certain *mitzvot*, such as *teki’at shofar* and *semikha*. These *Rishonim* may disagree as to whether or not it is considered as if the woman has “fulfilled” the *mitzva* if she performs it.

 Even according to R. Yosi, who permits women to fulfill these *mitzvot*, one may question whether the fulfillment (*kiyum*) is the same as the fulfillment of a man. The ramifications of this question are beyond the scope of this *shiur*.

**Blessing Before a Time-Bound Commandment**

 Some *Rishonim* maintain that women should not say the *birkat ha-mitzvot* before performing a time-bound *mitzva*. Some of these *Rishonim* imply that women do not say the blessing because there is no actual fulfillment of the *mitzva* (see, for example, Rambam, *Hilkhot Tzitzit* 3:9 and *Hilkhot Ma’aseh Ha-Korbanot* 3:5). Others imply that the problem may be technical; a woman cannot say the text of the blessing, “*asher kideshanu be-mitzvotav vetzivanu al*…” (“Who has sanctified us with His commandments and commanded us regarding…”), as they were not actually commanded to fulfill the *mitzva* (Hagahot Maimoniot, ibid., 40; see also Rosh, *Kiddushin* 1:49, and Ran, *Rosh Hashana* 9b, s.v. *u-le’inyan*).

 Other *Rishonim* disagree and insist that women may say a blessing before fulfilling a time-bound *mitzva* (Rabbenu Tam, as cited by Rosh, *Kiddushin* 1:49, and Tosafot, *Rosh* *Hashana* 33, s.v. *ha*). They clearly maintain that the phrase “*asher kideshanu*” should be understood as referring to the Jewish People as a whole.

Interestingly, the Shibolei Ha-Leket (*Seder Rosh Ha-Shana* 295) cites R. Yishaya, who rules that although women may fulfill time-bound commandments, they must do so without saying a blessing. If they were to say a blessing, that might demonstrate that they are performing the *mitzva* because they believe they are obligated, which may be a violation of *bal tosef* (adding on to the Torah). This may be rooted in an interested passage in the Rambam (*Hilkhot Mamrim* 2:9), who writes that one who establishes a rabbinic enactment but claims it is of Biblical origin violates *bal tosef*. In other words, blurring the lines between a Biblical and Rabbinic *mitzva* may be viewed as a form of *bal tosef*.

**The *Halakha***

The Rema (OC 589:6) records that it is customary for women say to the blessing before fulfilling time-bound *mitzvot*. This is indeed the practice of Ashkenazi women.

Within the Sephardi community, there are different rulings. The Shulchan Arukh (ibid.) rules that “although women are permitted to blow [the shofar] … they do not say the blessing.” In contrast, R. Chaim Yosef David Azulai (1724 –1806), known as the Chida, records in his Birkei Yosef (OC 654:2; see also Kaf Ha-Chaim 589:23) that the custom of some Sephardi women in the land of Israel was to say the blessing before fulfilling time-bound mitzvot. In more recent years, other authorities (Mishpetei Uziel, CM, *kelalim* 4, and Tzitz Eliezer 9:2) affirmed that the custom of some Sephardi women is to say the blessing. R. Ovadia Yosef, in numerous responsa (see, for example, Yabi’a Omer, OC 1:40; see also Ben Ish Chai, *Nitzavim* 17) insists that Sephardi women should not say *birkot ha-mitzvot*, in accordance with the view of the Shulchan Arukh. He even rules that Sephardi women should not say the *Birkot* *Keriat Shema* and the blessings said before and after *Pesukei De-Zimra* (Yabi’a Omer, OC 3:6). However, others disagree (see Kaf Ha-Chaim 70:1).

Next week, we will discuss whether one says a blessing before performing a *minhag*.