

## Women's Issues

### Talmud Study by Women

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The following is a translation of *She'elot uTeshuvot B'nei Banim*, volume 3, number 12. Dated 14 *Marcheshvan* 5752 and addressed to the student body, this *teshuvah* establishes the Halachic basis for the teaching of Talmud at Nishmat. It will be included in a forthcoming volume of "Teshuvot on Women's Issues," ♦ 2002 by Rabbi Yehuda Henkin.

The Lubavitcher Rebbe *z"l* wrote that women should prepare for the immanent rebuilding of the Temple by studying *Kodeshim* and *Taharot*; R. Joseph B. Soloveichik *z"l* recommended teaching them sections that pertain to everyday life, such as parts of *Mo'ed*; while many others, including R. Moshe Feinstein *z"l* prohibited teaching women Talmud at all, as was the norm for many generations.

Underlying the controversy is Psalms 119:126, "*eit la'asot laShem*, it is time to act for *haShem*, *h-f-r-u Toratecha*." The Mishnah in *Berakhot* 54a reads *h-f-r-u* in two ways. If read in the past tense, *heiferu*, "they have violated," the verse means it is a time to act for the sake of *haShem* and punish those who have violated His Torah. If read as a command, however, *hafeiru*, "violate ♦!", it means that there is a time to violate His Torah in order to save it, as it were, and introduce needed changes. The Talmud employs this second sense in a number of instances: in *Berakhot* 54a to permit using *haShem*'s name in everyday greetings, even though that might seem to be irreverent; in *Yoma* 69a to permit wearing priestly garments outside the Temple, in order to save the community; in *Gittin* 60a to permit writing selections from the Prophets, even though normally only complete books of the Bible may be written; and in *Temurah* 14a to permit transcription of the Oral Law, which had previously been forbidden. This has no direct application to our time, however, as the Sages of the Talmud had the authority to legislate changes while we do not. No rabbi or group of rabbis today, however well-meaning, is authorized to introduce permanent changes in Halakhah.

Nevertheless, the second sense of *eit la'asot laShem* teaches us to make every effort to find a basis within Halakhah for steps needed to preserve Torah observance. For that reason, seventy years ago, a number of *gedolim* permitted the novelty of teaching girls *Tanakh* (Bible), ethics, and laws (although not

Talmud) in classes in an organized fashion, even though girls' Jewish education had traditionally been within the home. (See *Likutei Halakhot* to *Sotah* 21 and Resp. *Moznayim Lamishpat*, vol. 1, no. 45.)

Often there is no unanimity on such steps, for what is necessary in one community may be superfluous or even harmful in another. On a given issue one community will expound *eit la'asot laShem, hafeiru Toratekha* in order to introduce changes, while on the same question another community will expound *heiferu Toratekha? eit la'asot laShem* to block innovation.

Rambam wrote in *Hilkhot Talmud Torah* 1:13:

A woman who learned Torah is rewarded, although not as much as a man is. The reason is that she was not commanded to do so, and one who does something while not commanded to is not rewarded as much as one who was commanded and carried it out, but is rewarded less. Although she is rewarded, the Sages commanded (*tzivu*) that a man not teach his daughter Torah, because most women are not oriented to learn but rather transform Torah discussions into trivia due to the poverty of their intellect. The Sages said, "anyone who teaches his daughter Torah is as if he has taught her *tiflut* (frivolity)." What does this apply to? The Oral Torah. But regarding the Written Torah, he should not teach it to her *lekhat'hila*, but if he taught her it is not as if he taught her *tiflut*.

This was copied in abbreviated form in *Semag, Mitzvot Aseh* 12 and in *Tur* and *Shulhan Arukh* in *Yoreh De'ah* 246:6.

First, note that the prohibition is to teach her, but she is not forbidden to learn; similarly, one may not teach Torah to a slave but he may learn by himself, as stated in the Jerusalem Talmud in *Ketuvot* 2:10. Women may therefore teach each other and learn in *hevruta* among themselves, without restriction. It also follows that a woman is permitted to listen to men learning among themselves; for instance, a man giving a *sheur* to men need not stop if a woman is present. Proof comes from the Jerusalem Talmud in *Sukkah* 2:1, where no one objected to R. Gamliel's slave, Tavi, sitting underneath a table in the Succah in order to listen to the Sages' discussions, although it was forbidden to teach a slave Torah.

A further inference from Rambam is that the prohibition is specifically against teaching one's own daughter. He began, "A woman who learned Torah is rewarded ♦" and continued, "the Sages commanded that a man not teach

his *daughter* Torah ♦ The Sages said, "anyone who teaches his *daughter* Torah ♦." Rambam did not write outright that it is forbidden to teach women. He both paraphrased and quoted the Mishnah; since even in his paraphrase he mentioned only a father teaching his daughter, it is clear that he was being specific. Otherwise, he would have written, "The Sages commanded not to teach a woman Torah ♦. The Sages said, ♦ anyone who teaches his daughter Torah ♦.' "

This may also be the view of *Sefer Ma'ayan Ganim*, printed in 5313 (1553), which *Torah Temimah* quoted in *Devarim* 11, note 48:

What was said in *Sotah* 20a, "anyone who teaches his daughter Torah is as if he has taught her *flut*," perhaps applied when the father taught her when she was a child ♦ However, women whose hearts prompt them to approach the labor of *haShem* through conscious choice of the good ♦ it is incumbent on the scholars of their generation to praise and cherish them, to organize and strengthen them.

That is to say, the scholars of the generation must teach them, as opposed to fathers who may not teach their daughters. *Torah Temimah* questioned only the distinction drawn by *Ma'ayan Ganim* between a father teaching his daughter as a child and teaching her as an adult, for if that were the case Rambam should have written that most "girls" are not oriented to learn, and not most "women."

If the prohibition is only against teaching one's daughter ♦ perhaps because the father, fond of his daughter, might not be rigorous enough in teaching her ♦ this would explain how Talmudically-proficient women occasionally arose: others taught them, as it is improbable that they learned completely on their own. See the list of scholarly women in *Mekor Barkch* by the author of *Torah Temimah*, and at greater length in *Alei Tamar* on the Jerusalem Talmud in *Sotah* 3:4. As related in *Pesachim* 62b, Bruriah recounted 300 halakhic teachings from 300 rabbis. *Birkei Yosef* to *Hoshen Mishpat*, 7:12, wrote that a learned woman may issue halakhic rulings, and *Minhat Hinukh* wrote at the end of *mitzvah* 78:

If the scholars of a generation disagree on any law in *isur veheter*, excluding laws which require a formal *beit din* [to adjudicate them] ♦ there is no distinction. Even child scholars join [in determining the majority view] ♦ and

learned women, as well, such as Devorah ♦ There is no distinction; anyone who is a scholar has his opinion considered, whoever he is.

These inferences from Rambam are as opposed to *Sefer Hassidim*, no. 313, who wrote that "the profundities of the Talmud, the reasons for the *mitzvot*, and the secrets of Torah ♦ these, one does not teach a woman or a child." According to *Sefer Hassidim*, on the one hand there is no difference between teaching one's daughter and other women; on the other, a man may teach women Talmud up to whatever level of study boys can achieve by their bar mitzvah, which is considerable. If a talented woman is taught that much, it is likely she will be able to continue learning on her own. But Rambam did not distinguish between different levels of Talmud study, and accordingly a distinction must be made between teaching one's daughter and teaching others.

It is unclear what was Rambam's source that *lekhat'hila* one should not teach one's daughter even the Written Torah. In the Jerusalem Talmud in *Sotah*, a wealthy lady asked R. Eliezer, "Why do we find three different types of deaths [as punishment] for one sin of the Golden Calf?" He retorted, "A woman's wisdom is only in her spindle." He didn't answer her, although he later answered her question privately to his students, and remarked to his son, "Torah discussions are better burnt than given over to women."

Why didn't he answer her? In the Mishnah R. Eliezer cited *tiflut*, but he did not mention *tiflut* there. Moreover, the woman's question dealt with understanding Scripture and constituted study of the Written Torah; this is clear according to the *Taz* in *Yoreh Deah* 246:4, as opposed to *Birkei Yosef* in 246:8, and see *Nedarim* 36b. Teaching her the Written Torah apparently did not involve *tiflut*, yet R. Eliezer still did not want to answer her. This could be the source for Rambam's ruling that *lekhat'hila* a man should not teach his daughter even the Written Torah.

The difficulty is that the wealthy lady was not R. Eliezer's daughter. Why, then, didn't R. Eliezer answer her? Meiri wrote in *Yoma* 66b that R. Eliezer did not answer because he felt that people should not show off by seeking out great rabbis to ask them their simple questions. This is consistent with Meiri's own explanation in *Sotah*, that *tiflut* in a woman means that "she prides herself in the few things she knows, and rings like a bell to show her wisdom." A bell is empty, but makes a lot of noise. According to this, it was indeed because of *tiflut* that R. Eliezer did not want to teach her the Written Torah. However, this does not accord with Rambam's definition of *tiflut*.

Another solution is R. Sherira Gaon's explanation that R. Eliezer did not answer the woman because of his custom not to teach anything he had not heard from his teachers. R. Tzvi Hirsh Chayot in *hishagahot* to *Yoma* 66b objected that in the Jerusalem Talmud R. Eliezer did answer the woman's question to his own students. But I think this poses no difficulty, because the answer attributed in the Jerusalem Talmud to R. Eliezer is attributed in the Babylonian Talmud to Rav and Levi instead. According to the *Bavli*, then, R. Eliezer did *not* answer the woman's question, and that is R. Shrerira Gaon's view.

*Bahand Taz*, on the other hand, wrote in sec. 246 that the source for not teaching women the Written Torah is *Hakheil*, the septennial reading of the Torah in the Temple, regarding which R. Elazar b. Azariah said in *Hagigah* 3a that "the men came to learn and women came [only] to hear." Since there was only one Torah-reading for everyone, the reason the women only came to "hear" rather than to "learn" as the men did, could be that women were prohibited *lekhat'hila* from learning even the written Torah. But this is not the sense of Rambam, nor did *Tosafot* explain it this way; see *Tosafot* in *Sotah* 20a beginning "Ben Azai." Also, the distinction advanced by *Taz* between simple things in the Torah which women may learn without restriction, and ingenious or closely-reasoned explanations which men are forbidden to teach them *lekhat'hila*, is not supported by Rambam's categorical statement "regarding the Written Torah, he should not teach her *lekhat'hila*."

A source for permitting the teaching of Scripture to women, on the other hand, would seem to be the Mishnah in *Nedarim* 35b, "One whose vow prohibits him from receiving benefit from another, [the other] should not teach him Scripture, but teaches his [minor] sons (*banav*) and daughters Scripture." There is a variant reading that omits the words "and daughters," but *Tosafot* and Rosh in 36b wrote that even so, "*banav*" in the plural means all his children, including daughters. This is also the opinion of Ran and the pseudo-Rashi commentary to *Nedarim*, and of Ri"tz as quoted in *Shitah Mekubetzet*.

However, Rambam in *Hilkhot Nedarim* 6:7 wrote that "he teaches his son (*bno*)" in the singular; *bno* usually means only a son and not a daughter, and this presumably was the version Rambam had in his text of the Mishnah. This is also the version of Rif, *Semag* in *Lo Ta'aseh* 242, and *Tur* in *Yoreh De'ah* 221. Gra explained that daughters are not mentioned because *lekhat'hila* one should not teach them even the Written Law, following Rambam's ruling in *Hilkhot Talmud Torah*. Yet in the case in *Nedarim* the teacher is neither the daughters' father nor is he acting on the father's behalf; see Resp. *haRashba*, vol. 1, no. 645. Nevertheless, Rambam does not allow for teaching the girls the Written

Torah. Doesn't this disprove our understanding of Rambam that the prohibition is only against a father teaching his daughters?

Not necessarily. The Mishnah in *Nedarim* specifies teaching Scripture (*mikra*), which *Nimukei Yosef* explains as referring to all 24 books of the Bible. The reason to allow the teacher to teach the children in spite of their father's vow is that a mitzvah does not produce any volitional benefit (*mitzvot lav leihanot nitnu*), as *Tosafot* explained. Since teaching Torah is a mitzvah, it does not technically violate the father's vow. But what mitzvah is there to teach a girl *Tanakh*? See *Resp. Maharil*, no. 199, who wrote, "What do they need [the book of] Chronicles for? ♦ [What they need is] only the Torah which contains the *mitzvot*." And although women are rewarded for Torah study even though they are not commanded to study, reward is irrelevant in the case of a minor. For this reason Rambam in *Nedarim* permitted teaching Scripture to the sons and not to the daughters, for in the absence of a mitzvah to do so, teaching them would violate the father's vow. But this says nothing about teaching them when there is no vow.

With all this, I have not found a clear source for Rambam's view that *lekhat'hila* one should not teach his daughter even the Written Torah. *Bi'ur haGra* in *Yoreh De'ah* 246:25 does not cite any. Rambam may have had some source in *Hazal* that is unknown to us, as R. Kapach wrote in his commentary to *Hilkhot Talmud Torah*.

The basis for this entire discussion is the Mishnah in *Sotah* 20a:

If she has independent merit, it postpones [the punishment] ♦ Ben Azai said, from this [we learn that] "a man must teach his daughter Torah, so that if [a guilty *sotah*] drinks [the bitter waters] and nothing happens, [his daughter] will know that merit postpones [the punishment]." R. Eliezer said, "anyone who teaches his daughter Torah is as if he has taught her *tiflut*." Rabbi Yehoshua said, "A woman wants one measure (*kav*) with *tiflut*, more than nine measures with *perishut* (abstinence)."

Ben Azai's reasoning seems obscure. What does the daughter's knowing that merit postpones *asotah*'s punishment have to do with teaching her Torah? Teach her that one fact and nothing else! A similar difficulty arises from the statement in the Jerusalem Talmud that R. Elazar b. Azariah and Ben Azai disagreed on the question of teaching women Torah, because the former taught that women came to *Hakheil* only to listen and not to learn. Yet at *Hakheil* the king read publicly only from the book of *Devarim* and made no mention of the

laws of *sotah*, which are in *Bamidbar*. I find this problematic in *Tosafot*'s discussion there.

Rather, Ben Azai's opinion was that women should be taught Torah in general, and he cited the Halakhah in *Sotah* only as an example of the benefits that would ensue. "From this, Ben Azai said (*mikan amar*) ❖" is only an illustration; it does not mean that his view was based on it. Compare the language "*mikan amru*" in *Avot* 1:5, and see *Negai'im* 14:6.

R. Eliezer disagreed with Ben Azai; in R. Eliezer's opinion, teaching women Torah is like teaching them *tiflut*, and the loss outweighs the gain. The Jerusalem Talmud decided that R. Elazar b. Azariah, too, disagreed with Ben Azai, because at *Hakheil* the king read to the men and women together; nonetheless, R. Elazar b. Azariah expounded that men came to learn but women came only to listen. Why not also to learn, as the men did? One explanation might be that women lack the intellect or the orientation to do so, and this would conform to R. Eliezer's argument of *tiflut*. But I think a better explanation is that if there was an obligation to teach women Torah, there would be no difference between the responses of the men and the woman at *Hakhel*. From R. Elazar b. Azariah's exposition that the men came to learn while the women came only to listen, therefore, it is clear that women need not receive an education that will enable them to learn along with the men. This is as opposed to Ben Azai's opinion that fathers are obligated to teach their daughters the same as they teach their sons.

The two explanations are very different. According to the first, R. Elazar b. Azariah agreed with R. Eliezer in objecting to teaching women Torah. According to the second, however, although R. Eliezer b. Azariah held that there is no obligation to teach women, there is no indication that he ruled that there was any *prohibition* against doing so. This is supported by the Jerusalem Talmud's wording, "[The view of] Ben Azai is not that of R. Elazar b. Azariah." R. Elazar b. Azariah disagreed with Ben Azai, but the *Yerushalmi* does not say that he agreed with R. Eliezer.

Why, then, was R. Eliezer's opinion that teaching women involves *tiflut* accepted as normative by the *poskim*, even though he was a "*shamuti*" and other rulings of his were rejected? Rashi, *Tosfot Ivra*, and Bartenura explained that R. Yehoshua in the Mishnah agreed with him, making them a majority of two to one against Ben Azai. But R. Yehoshua said "a woman wants one *kav* together with *tiflut* ❖" as a generalization. There can be exceptions, as Resp. *Ramah* wrote in no. 304, although his example there

was *lehumra*. In exceptional cases R. Yehoshua would agree that there is no *tiflut*, and in those cases Halakhah would not be in accordance with R. Eliezer.

Similarly, *Prisha* in 246:15 wrote that if the daughter has shown herself to be an exception to the majority, there is no *tiflut* involved in teaching her. The catch is that "nevertheless her father is forbidden to teach her, because he does not know what is in his heart," i.e., he doesn't know what she will be like when she grows up and whether she will be frivolous or not. But this does not apply to teaching a grown woman, whose behavior and character can be ascertained. Rambam's reference to most "women" not being oriented to learning rather than "girls," comes only to explain why a father should not teach his daughters when they are children, lest when they grow up they turn out to belong to the majority of women who did not take the intricacies of Torah seriously. But in the case of a serious woman who wishes to learn Talmud, even her father is permitted to teach her. This resolves the difficulty raised by *Torah Temimah* against *Ma'ayan Ganim* I mentioned above.

Furthermore, Rambam wrote that "the Sages commanded that a man not teach his daughter Torah." Everywhere in Rambam's *Mishneh Torah*, the phrase "the Sages commanded" (*tzivu hakhamim*) signifies proper and desirable behavior but not an enforceable *isur veheter*. Thus, in *Hilkhot De'ot* 2:3 he wrote: "The Sages commanded to be extremely meek ♦ and they also commanded to distance oneself from anger," and in 3:1, "The Sages commanded that a person not refrain from anything but what the Torah prohibited"; and see 2:4, 3:3, 5:10, and 6:2. In *Hilkhot Talmud Torah* 2:5: "The Sages commanded, limit your business and occupy yourself with Torah." In *Hilkhot Ishut* 14:4: " ♦ Therefore the Sages commanded that a person should never marry more than four wives ♦," and see 15:18-19, 20:1, and *Arukh haShulhan* in *Even haEzer*, 58:3. In *Hilkhot Matanot Ani'im* 10:17: "The Sages commanded that poor people and orphans should be part of his household," and also see 10:18. In *Hilkhot Malveh v'Loveh* 1:3: "The Sages commanded, your friend's property should be as dear to you as your own." In *Hilkhot Nahalot* 7:13: "The Sages commanded that during his lifetime a man should never display preference for some of his children over others."

With the possible exception of multiple wives, all of these are exhortatory and are not formal *halakhot*. In the same way, Rambam's statement, "The Sages commanded that a man not teach his daughter Torah because most women are not oriented to learn" is not a categorical decree, but a general

reccommendation. Its source is R. Eliezer's statement, "anyone who teaches his daughter Torah ❖", which is also not in the form of a halakhic decree; R. Eliezer did not say, "It is forbidden to teach one's daughter Torah." It therefore comes as no surprise that there have been exceptions, and that some scholars taught Talmud directly to their daughters.

I am hesitant to rely on the above alone or on the Rambam's distinction between teaching one's daughter and women in general, since *Tosafot*, *Sefer Hassidim* and Resp. *Maharil* do not distinguish between daughters and other women. However, the distinction between most women and exceptional women can be relied upon.

I will add something new in this regard. Rashi explained *tiflut* that "through [study] she understands how to be crafty, and is able to sin without [it] being revealed," and *Arukh* also interpreted *tiflut* to mean sin. This could account for the difference between teaching a woman Scripture and teaching her Talmud, for only the latter can equip her with the casuistic skills and the knowledge she would need in order to dissemble successfully. As the Mishnah in *Avot* 1:9 warned, "Be careful with your words, lest others learn from them how to lie."

However, Rambam in his commentary in *Sotah* did not mention sin, but instead wrote that *tiflut* means "vanities and parables." In *Hilkhot Talmud Torah*, he wrote that women "transform Torah discussions into trivia due to the poverty of their intellect." Why should this concern apply only to the Oral and not to the Written Torah?

I think the difference is based on what was said in *Beitzah* 30a concerning "*mutav sheyihyu shogegin ve'al yehiyu meizidin*, it is better that they sin out of ignorance rather than willfully," referring to women who would eat up to the last minute on the evening of Yom Kippur:

Does not this [injunction not to admonish unintentional violators] apply only to rabbinical matters, but not to Torah matters? This is not so: whether [the violation is] of Torah or rabbinical origin, we do not say anything to them. For the extension of Yom Kippur is of Torah origin, and [nevertheless] they eat and drink until dark [and we do not admonish them]

*Sefer ha'Itur* explained that the principle *mutav sheyihyu shogegin* applies only in the case of prohibitions not explicitly written in the Torah, similar to the extension (*tosefet*) of Yom Kippur. Where a prohibition is clearly spelled out, we admonish and restrain even unintentional violators until they desist. Such is

also the opinion of Rashba, Rosh, Ran, *Magid Mishneh* in *Hilkhos Shevitat Asor* 1:7 and other *rishonim*. *Sefer haMe'orot in Beitzah* and Resp. *Tashbatz*, vol. 2, no. 47, explained that the unintentional violator will accept admonishment when shown that the prohibition is explicit in the Torah, and see my discussion in *Bnei Banim*, vol. 2, no. 27.

This distinction accounts for the difference between teaching women the Written and the Oral Torah. Women accepted what could be shown to them in black-and-white, but not necessarily what was transmitted orally. They were liable to view the expositions of the Oral Torah as "parables" and to "transform Torah discussions into trivia." But it is permitted to teach Talmud to women today, because when the Talmud became fixed in writing it acquired the status of Written Law.

Support for this can be brought from Rosh's ruling on the commandment to write a *Sefer Torah*, in his *Hilkhos Sefer Torah*, chap. 1:

Today, when we write *Sifrei Torah* and deposit them in synagogues ♦ it is a positive commandment [incumbent] on every man in Israel who can afford to, to write the Pentateuch, Mishnah, Gemara, and Rashi's commentary, so that he and his children can study them. For the commandment to write the Torah is in order to use it to learn from, as is written (*Devarim* 31:19), "Teach it to the children of Israel, put it in their mouths." Through [studying] the Gemara and Rashi's commentary he will have a clear grasp of the reasons for the commandments and the laws: therefore, they are the very books that a man is commanded to write.

His ruling is cited by *Tur* and *Shulhan Arukh* in *Yoreh De'ah* 270:2. The *aharonim* disagree as to whether according to Rosh there is no longer a commandment to write a Torah Scroll, which is the view of *Prishah* and *Shakh*, or whether the original commandment is still in force but there is an additional mitzvah today to copy the other books, which is the opinion of *Beit Yosef* and *Taz*. All agree, however, that Rosh ruled that there is a positive commandment to write the other books. The difficulty is that when the Torah was given at Sinai it was forbidden to write the Oral Torah, as stated in *Gittin* 60b, "you are not permitted to write things which were spoken." How can there be a commandment to write what was forbidden to be written at the time the commandment was given? The answer must be that once written, the Oral Torah acquired the status of Written Torah.

The same applies to teaching women: now that the Talmud is in writing, *tiflut* no longer applies because women take the written word seriously. Those who teach women excerpts from the Mishnah and Talmud orally and make a point of not using regular printed texts, are thus doing the exact opposite of what is required. And while Rambam did not explicate any of this, it certainly deserves to be used as a supporting argument to remove women's Talmud study today from the category of *tiflut*.

The more that women today can be seen as different from women of past generations, the more they can be taught the Oral Torah. Women who seek to learn and are not studying Torah for the sake of an academic degree, and all the more so when they are no longer supported by their parents, are not part of the historical majority of women and may be taught even Gemara. It is certainly better to draw them to study in a women's *bet midrash* rather than study Talmud in a secular framework.

All this in a generation that needs it. Rashi explained *tiflut* as being that a woman might use her learning to help her sin without being caught, and Resp. *Maharil* wrote that even were there a mitzvah to teach women it would be necessary to abrogate it because of "*eit la'asot laShem*." In their days everyone was outwardly religious, and the concern was only lest there be hidden deviation. That is not the case today, when anyone who wants to becomes openly non-observant.

Today, women who are highly educated in secular subjects but are lacking in Torah contrast the shallowness of their Jewish knowledge with the depth and interest they find in other fields. This is the opposite of the situation described by Rambam; it is precisely the poverty of women's Torah education that leads them to imagine the Torah as being trivial. "*Eit la'asot laShem*" today is to expand and deepen woman's Torah studies, on condition that there are Halachic grounds for doing so, as I have shown. To seek to prevent all women from learning Talmud as in previous generations is an example of the "piety of fools" and causes souls to be lost, God forbid. But even without this consideration, to the extent that they are exceptions to the majority it is permitted to teach women Talmud.