Rewriting 'Arakhin: Women and Tannaitic Vows of Valuation

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Abstract: *The Levitical laws of* 'arakhin *name only males as those who can actively donate the monetary value of another person to the sanctuary or temple. In contrast, tannaitic texts about* 'arakhin *explicitly name females among those who can donate the monetary value of another to the temple. However, this legislation of females as valuers should not be attributed to a rabbinic desire to ameliorate the status of women, but rather should be viewed as part of the larger rabbinic project of rewriting Scripture. In this case, tannaitic literature recategorizes* 'arakhin *with votive legislation instead of sanctuary/temple legislation. Close attention to gender enables us to notice the tannaitic rewriting of* 'arakhin *and thus investigate the rabbinic reconfiguration of its biblical inheritance, not only for the ways in which rabbinic texts rewrite biblical law concerning gender but also for a richer understanding of the scholastic process itself.*

Although destroyed more than a century before the Mishnah's redaction, the temple and its ritual retained a central place in rabbinic thought and imagination. Almost the entirety of the mishnaic order Kodashim is dedicated to temple ritual, as are a number of tractates in other orders.[1] As recent scholarship has convincingly demonstrated, although rabbinic writing on the temple may preserve some kernel of a historical record, its depictions often reflect rabbinic imaginations of temple ritual rather than any historical account of "events as they occurred."[2] Approaching the study of gender through the lens of the temple necessitates a similar consideration: mentions of gender in conjunction with the temple likely teach more about rabbinic assumptions about gender than those of the Second Temple period itself.[3] This article aims to extend our understanding of the process of

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1. See for example M. Sotah, M. Yoma, M. Shekalim, M. Sukkah, and M. Pesaḥim. See also Naftali S. Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2012), 1–2.

2. See Cohn, *Memory of the Temple*; Ishay Rosen-Zvi, *Ha-tekes she-lo' hayah: Mikdash, midrash u-migdar be-masekhet sotah* (Jerusalem: Magnes, 2008); Ishay Rosen-Zvi, "Orality, Narrative, Rhetoric: New Directions in Mishnah Research," *AJS Review* 32, no. 2 (2008): 243.

3. See also Tal Ilan, introduction to *Introduction to Seder Qodashin: A Feminist Commentary on the Babylonian Talmud V*, ed. Tal Ilan, Monika Brockhaus, and Tanja Hidde (Tubingen: Mohr Siebeck, 2012), 2, who writes, "[I]t may be noted that gender concepts influenced the very way the Temple

Jane L. Kanarek

rabbinic gendering of ritual through the examination of one particular temple ritual: *'arakhin* (valuation). The Levitical laws of *'arakhin* name only males as those who can actively donate the monetary value of another person to the sanctuary or temple. In contrast, tannaitic texts about *'arakhin* explicitly name females as those who can donate the monetary value of another to the temple. In other words, instead of only being valued by others, females also become valuers.

Since *'arakhin* is a law associated with the particularly male arena of the temple,[4] we might expect rabbinic exegesis to group *'arakhin* with other temple laws and emphasize the word "man" in Leviticus 27:2. Instead, tannaitic texts read the selfsame verse with an emphasis on the word "persons," including males and females as those who can vow the value of another person to the temple. This rereading, which includes females among those who can value, should not be attributed to any rabbinic desire to explicitly include women or to ameliorate their status.[5] Rather, it should be viewed as part of the larger rabbinic project of rewriting Scripture.[6] In this case, the rewriting involves associating *'arakhin* more with the legal category of vow than with the temple. While the result of this grouping of *'arakhin* with other types of vows is the recategorization of women as valuers, this is not the *goal* of the process. As Elizabeth Shanks Alexander has argued, at times the origins of rabbinic articulations of gender difference in relation to the performance of commandments may not lie in an explicit desire to reinforce a particular hierarchy but instead in a more formalistic scholastic exegetical process.[7] The example of *'arakhin* proceeds in the opposite direction than Alexander's: instead of inquiring after an exclusion (from the requirement to

rituals were conceived, both when the Temple stood, as far as these can be reconstructed, and in the imaginative Temple ritual of the rabbis."

4. Close reading of temple ritual can also be a fruitful location for the study of rabbinic constructions of masculinity. See Marjorie Lehman, "Imagining the Priesthood in Tractate Yoma: Mishnah Yoma 2:1 and Bt Yoma 23a," *Nashim: A Journal of Women's Studies and Gender Issues* 28 (Spring 2015): 88–105, who insightfully reads the rabbinic construction of the all-male priesthood and temple as in opposition to the all-male study house.

5. See for example the approach of Judith Hauptman, who describes similar rabbinic moves of inclusion as a conscious attempt to ameliorate women's status, albeit still within the confines of a patriarchal society. On this argument in the context of positive time-bound commandments, see Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder: Westview, 1997), 221–43.

6. For two recent works on the rabbinic project of rewriting Scripture, see Mira Balberg, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014); Jane L. Kanarek, *Biblical Narrative and the Formation of Rabbinic Law* (New York: Cambridge University Press, 2014). Balberg uses the word "recomposition" to describe the Mishnah's dependence on the biblical legal infrastructure as well as its structural, rhetorical, and compositional independence from it. Balberg, *Purity, Body, Self*, 181.

7. As Alexander comments, "Social issues like the relationship between women and time do not appear to have been on the minds of the rule's authors." Elizabeth Shanks Alexander, *Gender and Time-bound Commandments in Judaism* (New York: Cambridge University Press, 2013), 41. Of course, as Alexander also points out, the later interpretive applications of that scholastic process may help create and reinforce a particular gender hierarchy (Ibid., 134). See also Alexander, "From Whence the Phrase 'Timebound, Positive Commandments'?," *JQR* 97 (2007): 317–46.

fulfill time-bound positive commandments) I inquire after an inclusion (the possibility of dedication of a person's value to the temple). Nevertheless, close attention to gender enables us to better investigate the rabbinic reconfiguration of its biblical inheritance, not only for the ways in which rabbinic texts rewrite biblical assumptions about gender but also for a richer understanding of the scholastic process itself.[8] With this fuller understanding we can nuance the idea of males as the primary actors in public ritual life and suggest a more complex reality: that tannaitic texts also portray females as ritual actors in spaces that are often described as public.[9] By focusing on the specific case of *'arakhin*, I follow the methodology of Ishay Rosen-Zvi, who argues that attention to smaller cases enables us to specify the different processes of marginalization and so understand the ways in which "the mechanisms of exclusion operate in different spheres and specific texts."[10] Instead of repeating a trope that simply affirms women's marginalization within rabbinic culture, I aim, through examining this one particular case of *'arakhin*, to present a more complex and nuanced picture where the oft-cited categories of "norm" and "other" do not hold as steady as we might assume.[11]

8. See also Chana Safrai and Avital Campbell Hochstein, *Nashim ba-ḥuẓ—nashim be-fenim: Mekoman shel nashim ba-midrash* (Tel Aviv: Miskal–Yediot Aḥronoth, 2008), 16, who make a similar argument that investigation of the phrase *'ein li 'ela'* in relation to gender enables a fuller understanding not only of the workings of gender in tannaitic Halakhah but also of halakhic midrash in general.

9. Of course, the term "public" along with the concomitant "private" are themselves problematic when applied to rabbinic literature. As Cynthia Baker observes, "'Privacy' itself is a deeply relative term, one that is bound up in modern Western discourse with ideological gender and class distinctions between 'public' and 'private' spheres—distinctions largely alien to Jewish Palestinian antiquity." Cynthia Baker, *Rebuilding the House of Israel: Architectures of Gender in Jewish Antiquity* (Stanford: Stanford University Press, 2002), 116. Thus, my use of the word "public" is meant only to indicate a space defined not by a form of local kinship but rather as a place portrayed as of the greater community of Israel.

10. Ishay Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash* (Leiden: Brill, 2012), 11. See also Rosen-Zvi, *Tekes*, 10–15.

11. On females as "other" in the Mishnah and males as "norm," see Judith Romney Wegner's foundational work, *Chattel or Person? The Status of Women in the Mishnah* (New York: Oxford University Press, 1988). See also Ross Kraemer, "The Other as Woman: An Aspect of Polemic among Pagans, Jews, and Christians in the Greco-Roman World," in *The Other in Jewish Thought and History: Constructions of Jewish Culture and Identity*, ed. Laurence J. Silberstein and Robert L. Cohn (New York: NYU Press, 1994), 121–44; Miriam Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts," in Silberstein and Cohn, *Other in Jewish Thought and History*, 91–120; Jordan D. Rosenblum, *Food and Identity in Early Rabbinic Judaism* (Cambridge: Cambridge University Press, 2010), 103–37; Michael L. Satlow, "Fictional Women: A Study in Stereotypes," in *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 3, ed. Peter Schafer (Tübingen: Mohr Siebeck, 2002), 225–43. As Peskowitz reminds us in her study of M. Mo'ed Katan 3:4 and M. Sotah 6:1: "Common references to the Other may reify that person/place/position as more unified and stable than it really is or was. This reification can hide the complex human acts of constructing and crafting gender culture, especially the gender culture represented in written texts …" Peskowitz, "Spinning Tales," 93.

Jane L. Kanarek

The laws of *'arakhin* are elucidated in the final chapter of the book of Leviticus, a book that centers around priestly ritual and the desert tabernacle. Leviticus 27 expounds a series of laws for gifts to the sanctuary: vows of people and animals, consecrations of houses and fields, procedures for firstling animals, proscribed items, and tithes.[12] The laws prescribe how such contributions are made, methods for determining the value of contributions, and whether these dedications may be redeemed. Although some scholars view chapter 27 as an awkwardly fitting epilogue to Leviticus,[13] Mary Douglas argues that it is integral to the book's message, the latch that locks the whole composition of Leviticus to its prologue. Leviticus begins with a discussion of burnt offerings and the preparation of those offerings for sacrifice, establishing that a main subject of Leviticus is "things offered to the Lord." Chapter 25 presents a contrasting category, "things belonging already to the Lord." Chapter 27, the conclusion of Leviticus, provides rules for redeeming things and people consecrated to God and also states that firstlings already belong to God. The final chapter of Leviticus integrates the two themes of the book, things offered to God and things already belonging to God.[14] The laws of *'arakhin* are thus firmly located within the purview of the book of Leviticus and integral to its concern with priestly temple ritual.

Leviticus 27:2–8, the focus of this article, prescribes a fixed scale of valuation for a vow to dedicate the worth of a human being to the sanctuary. From the ages of twenty to sixty, males are valued at 50 silver shekels and females 30; from five to twenty, males at 20 and females 10; from one month to five years, males at 5 shekels and females 3; from sixty and older, males at 15 shekels and females 10. Thus, both males and females are accorded monetary values for contributions to the sanctuary, although females are consistently valued at a lower amount. However, as Carol Meyers observes, from age twenty and on, the relative worth of females increases in proportion to males' worth.[15]

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12. Jacob Milgrom, *Leviticus 23–27: A New Translation with Introduction and Commentary* (New York: Doubleday, 2001), 2367.

13. Erhard S. Gerstenberger, *Leviticus* (Louisville: Westminster John Knox, 1996), 436; Baruch A. Levine, *The JPS Torah Commentary: Leviticus* (Philadelphia: The Jewish Publication Society, 2003), 192; Martin Noth, *Leviticus: A Commentary*, rev. ed. (Philadelphia: Westminster John Knox, 1977), 203–4; Gordon J. Wenham, *The Book of Leviticus* (Grand Rapids: Eerdmans, 1979), 336.

14. Mary Douglas, "The Forbidden Animals in Leviticus," *Journal for the Study of the Old Testament* 59 (1993): 9–10. See also Douglas, *Leviticus as Literature* (New York: Oxford University Press, 1999), 243–44; Jacob Milgrom, "HR in Leviticus and Elsewhere in the Torah," in *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert A. Kugler (Leiden: Brill, 2006), 456–57; Milgrom, *Leviticus 23–27*, 2409.

15. Carol Meyers, "Procreation, Production, and Protection: Male-Female Balance in Early Israel," *Journal of the American Academy of Religion* 51 (1983): 584–87. For Meyers, this increase in women's relative worth can be attributed to a woman's ability to continue her domestic responsibilities and productivity while a man's efficiency declines with age. She argues that the relatively high percentage of women's worth above the age of sixty (40 percent) from the combined total of male and female valuation is indicative of women's high status in ancient Israelite society. B. Arakhin 19a makes a similar point about the decline in men's productivity as they age and the increase in

While these verses demarcate clear monetary values for males and females, less clear is who possesses the ability to make the dedicatory vow. Leviticus 27:2 reads: "Speak to the Israelite people and say to them: When a man [*'ish*] explicitly vows [*yafli' neder*] to the Lord the equivalent value for a human being [*be-'erkekha nefashot*]…."[16] Although most (but not all) modern commentators read the word "man" as referring to both men and women,[17] a better reading of the verse is that "man" refers only to men. Indeed, the fact that the two other primary biblical texts on vows—Numbers 6 and Numbers 30—specify males *and* females as those who can take vows does not indicate that we should read Leviticus 27 with these two other biblical texts, but instead indicates the *opposite*, that Leviticus 27 differs from them when it comes to women and vows.

Thus Numbers 30, the scriptural section that delineates the laws surrounding general vows and oaths, states, "If a man makes a vow [*'ish ki yidor neder*] to the Lord or takes an oath imposing an obligation on himself, he shall not break his pledge; he must carry out all that has crossed his lips. If a woman makes a vow [*ve-'ishah ki tidor neder*] to the Lord or assumes an obligation while still in her father's household by reason of her youth…." (Numbers 30:3–4). Despite the fact that the passage goes on to delineate the ways in which a female's vow can be limited by her father or husband, women are both named as a separate category from men as well as explicitly named alongside men as a category of people who can actively take a vow (*neder*). Similarly, Numbers 6, which details the laws of the Nazirite vow, lists both men and women in the category of those who can take Nazirite vows: "Speak to the Israelite people and say to them: When a man or a woman [*'ish 'o 'ishah*] explicitly utters a Nazirite's vow [*yafli' lindor neder*], to set himself apart from the Lord…." (Numbers 6:2). Although the passage continues in grammatically masculine language, this opening verse—which uses vocabulary similar to that of Leviticus 27:2—also delineates "woman" as a separate category from "man" and the Nazirite vow as one that both men and women may take. While Jacob Milgrom reads these two legal vow texts from Numbers as indicating that the word *'ish* in Leviticus 27:2 should be read in an inclusive manner, as indicating that women too could vow their own (or someone else's) valuation, the differing terminology and contexts of the vow texts in Leviticus and Numbers indicate that "woman" (*'ishah*) need not be read into "man" (*'ish*) in Leviticus 27:2.[18] Further, Leviticus 22:21, which prescribes that a sacrifice

women's: "Said Ḥizkiyah: People say, 'An old man in the house is an obstacle in the house; an old woman in the house is a treasure in the house.'"

16. Biblical translations are based on NJPS. In this case, while NJPS translates *'ish* as "anyone," the more accurate translation is "man."

17. On the reading of "man" as referring to males and females, see Levine, *Leviticus*, 193; Milgrom, *Leviticus 23–27*, 2368.

18. Milgrom, *Leviticus 23–27*, 2368. Milgrom makes a similar move in his reading of Leviticus 15:29. ("And on the eighth day she [the *zavah*] shall take two turtledoves or two pigeons, and bring them [*ve-hevi'ah 'otam*] to the priest at the entrance of the Tent of Meeting.") Whereas Leviticus 15:28 instructs the male *zav* to bring two turtledoves or pigeons and come before God (*u-va' lifne*

offered in fulfillment of a vow (*lefale' neder*) or as a freewill offering must be free of blemish, similarly describes the offerer as *'ish*, again reinforcing the conclusion that *'ish* in Leviticus 27:2 should be read as "man."

Indeed, as all of these texts stem from a priestly source, it would seem that the terminological difference between Numbers and the two Levitical texts is significant. As Jacques Berlinerblau comments, "Accordingly, it does not seem perfectly accurate to conclude that the term איש כי is gender-neutral. Given that the legislation of Lev. 27.2 and 22.21 uses the term איש כי, but not אישה כי, while Num. 30.3–4 uses both, it could be argued that only the latter verse actually addresses women votaries."[19] To take Berlinerblau's point one step further, the context of the Levitical verses is sanctuary dedication: in 22:21 it is the necessity of the priests ensuring that sacrifices not become desecrated, while in 27:2 it is sanctuary vows of valuation. While all scriptural vows involve the dedication of persons or property to the sanctuary,[20] a point to which I will return later, Numbers 30 is not concerned primarily with sanctuary but rather with contextualizing the priestly votive system within family law.[21] Similarly, while the Nazirite laws certainly involve priest and sanctuary, the focus of the passage is not on priest and sanctuary but rather on the person of the Nazirite. The main topic of Numbers 6 and 30 is not sanctuary holiness but rather particular votive procedures.

Narrative texts substantiate the picture drawn from legal texts—that in the case of the biblical *'arakhin* "woman" should not necessarily be read into "man." Only one story mentions the donation of people's monetary value to the Jerusalem temple, and it uses the word "man" (*'ish*) to describe the donators and "the money equivalent of human beings" (*kesef nafshot 'erko*) to describe

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'adonai) at the entrance to the tent of meeting and give them (*u-netanam*) to the priest, Leviticus 15:29 does not instruct the female *zavah* to similarly come before God or to give the sacrifices to the priest. Milgrom reads the phrase, "and [she shall] bring them" as a shortened form of *u-va' lifne 'adonai* and *u-netanam*. As Wegner correctly and respectfully argues, this terminological difference should not be explained away but instead read as reflecting the active legal capacity of males in regard to the cult and the incapacity of females. See Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary* (New York: Doubleday, 1991), 944; Judith Romney Wegner, "'*Coming Before the Lord*': The Exclusion of Women from the Public Domain of the Israelite Priestly Cult," in Rendtorff and Kugler, *Composition and Reception*, 456–57. See also Wegner's like critique of Milgrom's reading of the requirement of bathing in Leviticus 15:13 and 15:28. Wegner, "Coming before the Lord," 458–59.

19. Jacques Berlinerblau, *The Vow and the "Popular Religious Groups" of Ancient Israel: A Philological and Sociological Inquiry* (Sheffield: Sheffield Academic Press, 1996), 136. See also Wegner, *Chattel or Person?*, 239 n. 221, who agrees with this exclusivist reading of Leviticus 27:2. It may be that those who read Leviticus 27 as including women as valuers are reading through the lens of tannaitic texts. Such readings can be seen as part and parcel of the work that tannaitic texts do in transforming the past. On viewing tannaitic texts not solely as reports of the past but as performing the work of transforming the past, see Steven Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany: SUNY Press, 1991), 73–74.

20. Milgrom, *Leviticus 23–27*, 2040.

21. Baruch A. Levine, *Numbers 21–36: A New Translation with Introduction and Commentary* (New York: Doubleday, 2000), 425.

what is donated (2 Kings 12:5). This passage's terminology echoes that of Leviticus, which specifies that a man may donate the worth of other human beings. Again, it appears that while males and females have a value, only men can take a vow of valuation. 1 Samuel 1, the story of Hannah and her dedication of her son Samuel to the Shiloh temple, further corroborates this reading. Hannah vows (*va-tidor neder*) that if God grants her a son, *she* will dedicate her son to God and no razor will touch his head (1 Samuel 1:11). God fulfills Hannah's request, and Hannah eventually brings her son Samuel to the temple and dedicates him to God. Although the term *nazir* does not appear in the story, reference to the theme of hair cutting and to lifelong dedication to the temple cult link this story to the Nazirite vow.[22] Much as this story is connected to the Nazirite laws of Numbers 6, it is also connected to Leviticus 27 through Hannah's dedication of her son. As Baruch Levine notes, Hannah's vow is a precursor to this later priestly law of dedicating the monetary value of a person to the temple instead of the person him or herself.[23] Thus while it might appear that Hannah's story supports the idea that women are portrayed as able to take a votive vow of valuation, the opposite is true: once the practice of dedicating actual persons to the temple is transformed into the category of ʿarakhin, Levitical law limits this type of vow to males, excluding females from active valuation. Since the biblical version of ʿarakhin is grouped with the priestly laws of the tabernacle, a ritual realm that is the preserve of male priests,[24] it makes contextual sense that women would also be excluded as valuers in this particular type of vow. In other words, a man (ʾish) can vow the value of another person (*nefesh*)—male or female—but a woman cannot. A woman has a monetary value, but she cannot take a vow of valuation in regard to others.

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22. Baruch A. Levine, *Numbers 1–20: A New Translation with Introduction and Commentary* (New York: Doubleday, 1993), 233. On the prohibition against one who takes a Nazirite vow from contact with a corpse, wine and other grape products, and hair cutting (Numbers 6:2–7), see ibid., 215, 229–35.

23. Levine, *JPS Torah Commentary: Leviticus*, 193. See also Meyers, "Procreation, Production, and Protection," 585. As Mira Balberg correctly observes in, "Pricing Persons: Consecration, Compensation, and Individuality in the Mishnah," *Jewish Quarterly Review* 103, no. 2 (2013): 173–74, the monetary values in Leviticus 27:2–8 are not meant as substitutions for an originally vowed person but rather as the objects of dedication to begin with. See also Milgrom, *Leviticus 23–27*, 2410–11, who argues that the laws of ʿarakhin are meant to prevent cases like the dedication of Jephthah's daughter and to discourage a proliferation of Nazirites.

24. See Wegner, "Coming before the Lord," 453. While women do take part in building the sanctuary, they do not take part in its actual priestly ritual. For example, only male descendants of priests may partake of the meal offering (Leviticus 6:7–11), sin offering (Leviticus 6:17–22), and guilt offering (Leviticus 7:1–6). The two sacrifices that female descendants of priests may consume are the elevation offering and the gift offering, both of which could be eaten *outside* the sanctuary. Thus, when Leviticus states "the sons of Aaron," (*bene ʾAharon*, Leviticus 1:7, 2:2, 3:2) it does mean the *sons* of Aaron and not the daughters. On women's contributions to the sanctuary, see Exodus 35:22, 25–26, 29.

Jane L. Kanarek

Tᴀɴɴᴀɪᴛɪᴄ Tʀᴀɴsꜰᴏʀᴍᴀᴛɪᴏɴs: Mɪsʜɴᴀʜ, Tᴏsᴇꜰᴛᴀ, ᴀɴᴅ Sɪꜰʀᴀ

Tannaitic literature presents a different picture than that of Leviticus 27. Whereas Levitical law names only men as able to take a votive vow of valuation, the Mishnah, Tosefta, and Sifra all legislate that women both have a value *and* can make votive vows of valuation. M. Arakhin 1:1 lays out the basic rabbinic rules of valuation:

הכל מעריכים ונערכין נודרים ונדרים כהנים ולוים וישראל נשים ועבדים וטומטום ואנדרוגינס
נודרים ונדרים ומעריכים אבל לא נערכים שאינו נערך אלא זכר ודיי ונקיבה ודיי[25]

All[26] value [others] and are [themselves] valued, vow and are vowed about: priests, and Levites, and Israelites, women, and slaves. And a *tumtum* and *'androgynus* vow and are vowed about and value [others], but are not [themselves] valued. Because only a definite male and a definite female are valued.

As long as an adult[27] Jew can be placed in the category of one who is definitively male or female, the Levitical value scale applies to that person and he or she can dedicate that value as well as the value of others to the temple. He or she can also take a different type of monetary vow, known as *damim*, to dedicate his or her worth as measured on the slave market to the temple. While *'arakhin*'s amounts are fixed by Scripture, the amounts for *damim* are inherently flexible and dictated by market conditions.[28] In contrast to males and females, those of indeterminate sex—the *tumtum* and *'androgynus*[29]—can dedicate the value of others but cannot themselves be valued. They can, however, vow their own worth and that of others through the legal mechanism of *damim*.[30]

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25. MS Kaufmann.

26. Although my focus in this article is on the way in which the mishnaic terminology *ha-kol* (all) includes women, the word *ha-kol* generally functions in the Mishnah not only to name which categories are included in a particular rule but *also* to emphasize which are *excluded*. Within the order of Kodashim, only M. Arakhin 1:1 and M. Temurah 1:1 utilize the word *ha-kol* as part of a list that explicitly includes males and females. On the Bavli's rhetorical analysis of the mishnaic *ha-kol* to generate multiple differences, see Aryeh Cohen, *Rereading Talmud: Gender, Law, and the Poetics of Sugyot* (Atlanta: Scholars Press, 1998), 63.

27. See M. Arakhin 1:2, which I discuss more fully later.

28. On *damim* as determined by slave market value see M. Arakhin 5:2 and B. Arakhin 19b. On the Roman slave market, see Kyle Harper, *Slavery in the Late Roman World, AD 275–425* (Cambridge: Cambridge University Press, 2011), 77–78. See also Balberg, "Pricing Persons," 172–81, who argues that the difference between *damim* prices that vary by individual and fixed *'arakhin* prices reflect two different mishnaic perspectives on human life and existence: a recognition of individual disparities (multiplicity) and a commitment to their parity (unity). She locates this move both within rabbinic interpretive culture as well as within wider cultural currents in the Hellenistic and Roman world.

29. On the categories *tumtum* and *'androgynus* as sex/gender crossers, see Sarra Lev, "How the 'Aylonit Got Her Sex," *AJS Review* 31, no. 2 (2007): 297–316; Sarra Lev, "They Treat Him as a Man and See Him as a Woman: The Tannaitic Understanding of the Congenital Eunuch," *Jewish Studies Quarterly* 17 (2010): 213–43.

30. Similar to the Mishnah, the Tosefta also excludes the *tumtum* and *'androgynus* from those who can be valued. However, in contrast to the Mishnah, it does not use the vocabulary "all" or mention the categories of priest, Levite, and Israelite (T. Arakhin 1:1–2).

Although, as is characteristic of the genre of Mishnah, M. Arakhin 1:1 does not cite a biblical verse, its textual referent is certainly Leviticus 27:2–8. The Mishnah reads these Levitical verses as follows: "Man" (*'ish*) in Leviticus 27:2 includes both males and females, and when subsequent verses mention male (*zakhar*) and female (*nekevah*), those verses should be understood as referring *only* to those with male or female genitalia. This distinction between males and females and those of indeterminate sex applies to the scriptural laws of *'arakhin* and not to the rabbinic innovation of *damim*. When it comes to the laws of *'arakhin*, instead of emphasizing a legal distinction between males and females, this mishnah turns to a distinction between those who can be categorized within a gender binary of either male or female and those who cannot.[31]

Similar to M. Arakhin 1:1, T. Arakhin 1:2 lists women as among those who can both value others as well as themselves be valued: "Women and slaves vow and are vowed about, value and are valued…." Likewise, the Sifra also lists women as those who can value others as well as themselves be valued. As is characteristic of tannaitic midrash, the Sifra links the legal ruling to Scripture: "Another opinion: Why does Scripture say, 'persons' [*nefashot*]? It is possible [*she-yakhol*] that I would only know [the case] of a male who values the female. A female that values a male from where? Scripture says, 'persons' [*nefashot*]."[32] Implicitly drawing on the word "man" in Leviticus 27:2, the Sifra raises the possibility that one might logically think to exclude females from the category of those who can value other persons. The word "persons" at the end of the same verse is necessary to teach that, in fact, females are among those who can value another.[33] The Sifra's proposed, but ultimately rejected, reading reveals the very real exegetical possibility of female exclusion from *'arakhin*—and thus the choice to locate females as "valuers" in the realm of *'arakhin*.[34]

A few different factors make this inclusion of females noteworthy. The first, as I have argued, is that the biblical verses themselves, particularly when read together with the prescriptions about general and Nazirite vows, do not necessitate

31. In my use of the term "gender" here I draw on the foundational work of Joan Scott, who notes not only that gender should be understood as "the social organization of sexual difference" but also as "knowledge about sexual difference." Joan Wallach Scott, *Gender and the Politics of History*, rev. ed. (New York: Columbia University Press, 1999), 2.

32. Sifra, *Be-ḥukotai*, *par.* 3, to Leviticus 27:2 (ed. Weiss, 112b).

33. The word "persons" carries an additional exegetical load in this Sifra passage. The Sifra proposes a legal link between inclusion and exclusion in *'arakhin* and *damim*. It raises the possibility that one might conclude that since a person who is disfigured (*menuval*) or has boils (*mukeh sheḥin*) is excluded from *damim*, he should also be excluded from *'arakhin*. "Persons" teaches that this is in fact not true. T. Arakhin 1:2 similarly excludes those who are disfigured (*ha-ketiyin u-muke sheḥin*) from *damim* but includes them in *'arakhin*. Those who are disfigured would have no worth on the slave market but would still possess the biblically ascribed worth that depends solely on sex and age. See also Philo (*On the Special Laws* 2.32–34), who similarly recognizes the way in which *'arakhin* depends on sex and age and not beauty, as would be the case in the slave market.

34. See also B. Arakhin 4a–b. On the language "it is possible" (*yakhol*) as revealing ideological possibilities and not simply as a rhetorical device, see Moshe Halbertal, *Mahapekhot parshaniyot be-hithavutan: 'Arakhim ke-shikulim parshaniyim be-midreshe halakhah* (Jerusalem: Magnes, 1997), 21–22.

this reading of females as active parties in valuation. The second noteworthy factor is the mention of the rabbinic categories of *tumtum* and *'androgynus*. Like females, they are sometimes exegetically included in the category of "man" (*'ish*) and sometimes not. To provide one tannaitic example of inclusion, Mekhilta de-Rabbi Ishmael states the following:

ד"א במכסת נפשות למה נאמר לפי שנאמר איש אין לי אלא איש אשה טומטום אנדרוגינוס מנין
תלמוד לומר במכסת נפשות[35]

Another opinion: "in proportion to the number of persons" (Exodus 12:4). Why is this said? Because it says, "man." I only have a male. A female, *tumtum, 'androgynous* from where? Scripture says, "in proportion to the number of persons."

Like the *'arakhin* passage, Exodus 12:4 contains both the words "man" (*'ish*) and "persons" (*nefashot*): "But if the household is too small for a lamb, let him share one with a neighbor who dwells nearby, in proportion to the number of persons [*nefashot*]: a man [*'ish*] according to what he will eat you shall contribute for the lamb." As the Mekhilta states, the second half of the verse implies that only males are included in the paschal sacrifice commandment. The word "persons" is thus necessary to inform that females as well as those of ambiguous sex are also included in the commandment. The juxtaposition of "man" and "persons" here leads to inclusion even of sex/gender crossers.[36] In other words, M. Arakhin 1:1 could have used the word "persons" in Leviticus 27:2 to include the *tumtum* and *'androgynus*, but it chooses not to do so.[37]

The third factor is the mention of another common rabbinic classificatory grouping of persons—the deaf-mute, mentally incompetent, and minor—in M. Arakhin 1:2:

חרש שוטה וקטן נידרים ונערכים אבל לא נודרים ולא מעריכים מפני שאין בהן דעת פחות מבן
חודש נידר אבל לא נערך[38]

A deaf-mute [*ḥeresh*], mentally incompetent [*shoteh*], and a minor are vowed about and valued but they do not vow and do not value [others] because they

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35. Mekhilta de-Rabbi Ishmael, *par. Bo'*, to Exodus 12:4 (ed. Horovitz-Rabin, p. 12).

36. Although this midrash does ultimately include females and those of ambiguous sex within the category of persons, as Safrai and Hochstein argue, *Nashim ba-ḥuẓ*, 20, it nevertheless posits a gender binary with "man" as the normative category against which females and those of indeterminate sex are measured.

37. For another and later example of the legal classification of the *'androgynus* as male, see B. Shabbat 136a–b, which contrasts *'arakhin* with circumcision. In the former case, the Bavli contends, R. Yehudah would classify the *'androgynus* as not male, while in the latter he would classify the *'androgynus* as male.

38. MS Kaufmann. In Albeck, M. Arakhin 1:1. The Bavli also groups M. Arakhin 1:1–2 together. The vow referred to here concerns *damim*.

do not have understanding [*da'at*]. [A person] less than a month [of age] is vowed about but not valued.

What is striking in this passage is the turn to the oft-cited rabbinic chain of deaf-mute, mentally incompetent, and minor[39] and their exclusion as valuers in 'arakhin (and vows of *damim*) because of another rabbinic value—the importance of understanding to the performance of a commandment.[40] Scriptural exegesis does not mandate these categorizations—or even the mention of these groups of people. Since the minor (male)[41] is listed in much the same way as are females in 'arakhin, with monetary values ascribed according to age, it certainly would have been possible for the Mishnah to read the minor as it does the woman, as one who can value others and be valued. Yet the Mishnah does not do so because of its concern with the importance of understanding as a legal category. The exclusion of the minor highlights, once again, the multiplicity of exegetical possibilities available, and pushes us to pay closer attention to the mishnaic choice of one inclusion in particular, that of women.[42] In other words, when more than one reading choice is possible, we need to ask ourselves why a particular reading is chosen instead of another available one.

39. See, for example, M. Terumot 1:1; M. Eruvin 3:2; M. Rosh Ha-shanah 3:8; M. Megillah 2:4; M. Ḥagigah 1:1; M. Gittin 2:5, 5:8; M. Bava Kamma 5:6, 6:2, 6:4, 8:4; M. Shevu'ot 6:4; M. Menaḥot 9:8; M. Ḥullin 1:1, 6:3; M. Parah 5:4; M. Toharot 3:6, 8:6; M. Zavim 2:1; M. Yadayim 1:5; T. Terumot 1:1, 10:18; T. Shabbat 17:16; T. Rosh Ha-shanah 2:5; T. Yevamot 9:2, 11:11; T. Gittin 2:5; T. Bava Kamma 4:4, 4:6, 6:7, 6:14, 6:19, 6:20, 6:30, 6:31, 9:13; T. Shevu'ot 5:10; T. Ḥullin 5:3; T. Arakhin 1:1; T. Kelim 2:3, 2:4; T. Parah 5:7, 12:8; T. Toharot 3:7; T. Makhshirin 3:2. For an overview of the rabbinic understanding of the deaf-mute see Pamela Barmash, "The Status of the Heresh and of Sign Language," http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/Status%20of%20the%20Heresh6.2011.pdf.

40. On *da'at* see, for example, M. Bava Meẓi'a 7:6; M. Parah 12:10; M. Toharot 3:6; M. Yadayim 4:7; T. Terumot 1:1, 3:1; T. Yevamot 11:11; T. Bava Kamma 6:7, 6:19; T. Toharot 3:7.

41. The minor referred to in the phrase, "deaf-mute, mentally incompetent, and minor," is most likely male.

42. Of course, groupings other than age and sex/gender are also possible. As Philo's commentary on 'arakhin implicitly recognizes, Scripture chooses age and gender as categories and disregards other possible groupings, here that of worthiness for labor or physical beauty (recognized by the rabbinic *damim*), for determining value:

In dealing with those who have dedicated votive offerings, not only of their property or parts of it, but of themselves, the law laid down a scale of valuation in which no regard is paid to beauty or stature or anything of the kind, but all are assessed equally, the sole distinctions made being between men and women and children and adults…. The order that all males and females should be assessed equally at every age was made for three cogent reasons. First, because the worth of one person's vow is equal and similar to that of another, whether it was made by a person of great importance or one of mean estate; secondly, because it was not seemly that the votaries should be subject to the vicissitudes of slaves who are valued at a high price or on the other hand are rated low accordingly as they have not a fine condition of body or comeliness; thirdly, and this is the most convincing of all, that in the sight of men, inequality, in the sight of God equality, is held in honour. (*On the Special Laws* 2.32–34)

Indeed, tannaitic inclusion or exclusion of a particular category of people is not predetermined.[43] We thus need to ask: why do tannaitic texts read against the scriptural grain and include women as actors precisely in a realm—the temple—where we might think they would be most likely to exclude them and maintain the Levitical paradigm? Why are women not understood as "other" in the realm of *'arakhin*? Further, I contend that these inclusions and exclusions are not random exegetical reading choices made solely on a case-by-case basis. Instead, as we will see in the case of the tannaitic version of *'arakhin*, the inclusion of women is part of a larger tannaitic reshaping of vows in general and more specifically the category of *'arakhin*.

Listing Vows

As I have remarked earlier, exegesis should be viewed neither as an inexorable outgrowth of reading Scripture nor as a random reading choice based solely on case-by-case proclivities. The case of female inclusion in *'arakhin* is one striking example of this point, for, as I have argued, neither Scripture itself nor scriptural interpretation mandate reading *'ish* to include women as active valuers. Scholars who have examined the use of the word *'ish* in tannaitic/halakhic midrash have tended to approach the question of when *'ish* refers only to "man" and when it refers to "man" and "woman" from either the local vantage point of a particular verse or from the vantage point of a particular midrashic school. Thus, Michael Chernick argues that rabbinic exegesis of *'ish* can be systematically explained: *'ish* means a male or man unless another verse clarifies that use.[44] Tal Ilan contends that midrashim stemming from the school of R. Ishmael assume that women, unless otherwise stated, are included in the biblical text, while those stemming from the school of R. Akiva assume that they are excluded unless directly mentioned.[45] In contrast, Azzan Yadin-Israel points out the inconsistency with which the Sifra interprets the words *'ish 'ish* (any man) and *nefesh* (person) as at some times indicating inclusion and others exclusion.[46] However, instead of

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Philo, *On the Special Laws*, trans. F. H. Colson and G. H. Whitaker (Cambridge: Harvard University Press, 1937), 7:325–27.

43. On the role of exegetical choice in both exclusion and inclusion in tannaitic midrash, see Safrai and Hochstein, *Nashim ba-ḥuz*, 27. On exegetical choice in general, see Kanarek, *Biblical Narrative*, 48–66.

44. Michael L. Chernick, "*'Ish* as Man and Adult in the Halakhic Midrashim," *Jewish Quarterly Review* 73, no. 3 (1983): 254–80. See also Shaye Cohen's laconic critique of Chernick as "a valiant attempt to discover consistency and rationality." Shaye J. D. Cohen, *Why Aren't Jewish Women Circumcised? Gender and Covenant in Judaism* (Berkeley: University of California Press, 2005), 252 n. 39.

45. Tal Ilan, *Silencing the Queen: The Literary Histories of Shelamzion and Other Jewish Women* (Tübingen: Mohr Siebeck, 2006), 124–48. See also Jane L. Kanarek, "Pilgrimage and Piety: Rabbinic Women and Vows of Valuation: Mishnah 'Arakhin 5:1, Tosefta 'Arakhin 3:1, BT 'Arakhin 19a," *Nashim: A Journal of Women's Studies and Gender Issues* 28 (Spring 2015): 71 n. 19.

46. Azzan Yadin-Israel, *Scripture and Tradition: Rabbi Akiva and the Triumph of Midrash* (Philadelphia: University of Pennsylvania Press, 2014), 23–25, 32–40. Yadin-Israel argues that such

examining the repeating occurrences of one word or even looking for consistency (or inconsistency) within one midrashic school or collection, another interpretive path lies in a contextual and categorical turn.

Tannaitic literature demonstrates a tendency to think in categories. In other words, particular laws do not exist in isolation from one another but rather are grouped into larger legal fields. One way that the Mishnah conveys these categories or fields is through the use of lists that reveal the applicability of particular commandments.[47] However, while the Mishnah provides us with lists, it often does not name the category or common denominator behind a particular grouping or reveal why these lists apply to certain commandments or rituals and not to others. Thus, one needs to ask: how is a particular law categorized within the Bible and then how is it recategorized in its rabbinic rewriting? In other words, the larger interpretive web in which a particular law is embedded has significance not only on the level of the verse but also on the level of particular words in that selfsame verse.[48] While the Sifra's interpretation of *'ish* may itself be inconsistent, that does not preclude asking after the particulars of one interpretive example, particularly when that example has parallels in other tannaitic collections. What factors, then, might lie behind this tannaitic rereading of Scripture? Why does tannaitic literature read against Scripture's grain?

In her work on the emergence of Christianity as a conceptual entity among literate Romans of the fourth and fifth century, Catherine Chin observes that particular reading practices produce larger ideological structures and implicit narratives.[49] The list is one such reading practice: "The mechanism of the list has a particular function in pedagogical texts: the conceit of the text is that it conveys knowledge from one figure or group of figures to another figure or group."[50] The opening words of M. Arakhin 1:1 ("All value [others] and are [themselves] valued, vow and are vowed about: priests, Levites, and Israelites, women....")

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semantic discontinuity stems from the Sifra engaging in "a hermeneutic of camouflage," using midrashic rhetoric to repackage extrascriptural traditions as midrash. Yadin-Israel, *Scripture and Tradition*, 100.

47. See Alexander, *Gender and Timebound Commandments*, 27–32, who notes the importance of categories to the mastery of information within an oral tradition. On lists as a fundamental mishnaic form, see Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism 200 BCE–400 CE* (New York: Oxford University Press, 2001), 106–11; Jaffee, "Writing and Rabbinic Oral Tradition: On Mishnaic Narrative, Lists, and Mnemonics," *The Journal of Jewish Thought and Philosophy* 4 (1994): 135; Jacob Neusner, "The Mishnah's Generative Mode of Thought: *Listenwissenschaft* and Analogical-Contrastive Reasoning," *Journal of the American Oriental Society* 110, no. 2 (1990): 317–21; Neusner, *A History of the Mishnaic Law of Purities* (Leiden: Brill, 1977), 21:191–96. On lists in tannaitic midrash see Wayne Sibley Towner, *The Rabbinic Enumeration of Scriptural Examples: A Study of a Rabbinic Pattern of Discourse with Special Reference to Mekhilta D'R. Ishmael* (Leiden: Brill, 1973).

48. On the concept of an interpretive web in rabbinic legal interpretation of biblical narrative see Kanarek, *Biblical Narrative*, 26–27, 178–81.

49. Catherine M. Chin, *Grammar and Christianity in the Late Roman World* (Philadelphia: University of Pennsylvania Press, 2007), 7.

50. Chin, *Grammar and Christianity*, 25. See also Jaffee, "Writing and Rabbinic Oral Tradition," 135 on lists as a fundamental oral genre for preserving and organizing culturally significant information.

convey a unique list. While a number of tannaitic texts list "priests, Levites, and Israelites," as among those permitted to perform a particular ritual act, M. Arakhin 1:1 is the only tannaitic text to include women in that list.[51] Other tannaitic texts that list priests, Levites, and Israelites but not women are M. Sanhedrin 4:2 (adjudicating capital cases), T. Berakhot 5:14 (grace after meals),[52] T. Megillah 2:7 (reading the scroll of Esther),[53] and T. Rosh Ha-shanah 2:5 (sounding the shofar). Of these examples, the only one explicitly dependent on the temple is that of M. Arakhin. While M. Arakhin's listing of women alongside priests, Levites, and Israelites signals that they are categorized separately, this side-by-side listing also conveys that in the specific case of *'arakhin* and *damim*, what applies to these men applies to women as well.[54] Attention to gender thus challenges us to see the uniqueness of this list among other tannaitic lists as well as to ask after the particular knowledge that it conveys, the ways in which it structures relationships among its different listed terms.[55]

Indeed, this list conveys knowledge not only about sex and gender but also about the ways in which sex and gender intersect with monetary votive vows. As I have noted, M. Arakhin 1:1 includes two types of vows: *'arakhin* and *damim*, the former scripturally derived while the latter a rabbinic innovation. The terminology the Mishnah utilizes to describe people who make a *damim*-type vow is *nodarim*, while those about whom a *damim*-type vow is made are termed *nidarim*. Although *'arakhin* and *damim* each have its own mode of measurement, one fixed and one determined by the slave market, when it comes to men and women, who can evaluate and who can be evaluated, the two types of vows are legally equivalent. This legal equivalency indicates an overlap between these two vows, where a particular type of knowledge about gender—who can evaluate and who can be evaluated—is conveyed from one list item to the other. Through the use of the general terminology *neder* to describe the specific process of *damim*, the Mishnah signals that it is thinking of *damim* within the context of general vows (*nedarim*).[56] The word

51. Sifre Bamidbar, *Koraḥ, pis.* 119, to Numbers 18:20 and *Pinḥas, pis.* 132, to Numbers 26:53 (ed. Kahana, 1:30, 57) propose the inclusion of females along with priests, Levites, and Israelites as among those who can inherit the land of Israel (as well as converts, *tumtum* and *'androgynus*). However, these pericopes ultimately dismiss these groups, with the exception of Israelites, as the correct referent of Numbers 26:53. These Sifre texts are thus not examples of the inclusion of females along with priests, Levites, and Israelites.

52. *Editio princeps*: ישראלים.

53. Women are listed in T. Berakhot 5:17 and T. Megillah 2:7 but in both cases as a separate grouping from that of priests, Levites, and Israelites. They are listed together with slaves and minors and as exempt from, respectively, grace after meals and the reading of the megillah; priests, Levites, and Israelites are listed as obligated.

54. On lists as a rabbinic mechanism through which male-female differences are produced, see Alexander, *Gender and Timebound Commandments*, 56–60.

55. Here I draw on Hayden White's understanding of plot as a structure of relationships and the list as a particular form of a plot. Lists thus structure relationships. Hayden White, "The Value of Narrativity in the Representation of Reality," *Critical Inquiry* 7, no. 1 (1980): 13.

56. T. Arakhin 1:2 lists *nedarim* before *'arakhin* ("Women and slaves vow and are vowed about, value and are valued," *nodarin ve-nidarin ne'erakhin u-ma'arikhin*), perhaps indicating that in its conceptual framework, vows are the primary category.

neder reveals what otherwise might be hidden in this rabbinic listing of 'arakhin and *damim* together in one group: that tannaitic texts have recategorized 'arakhin with general vows instead of with temple law. Once 'arakhin is located with votive legislation, a legal category where women are known actors, the unintended effect of this move is for women to also become valuers.

This tannaitic regrouping of 'arakhin has precedent. Philo also categorizes 'arakhin together with general vows and not with temple legislation. In *On the Special Laws*, under the third of the Ten Commandments, prescribing the duty of keeping oaths, Philo groups together his rewritten and allegorized versions of Numbers 30 (*On the Special Laws* 2.24–31) with Leviticus 27 (*On the Special Laws* 2.32–34).[57] Although Philo is ambiguous about the gender of those who take 'arakhin-type vows, his inclusion of both general vows and 'arakhin under the same heading reveals that he considers them to be part of the same category. Indeed, Philo ends this section on vows with a caution about the importance of not delaying the fulfillment of a vow,[58] concluding with the words: "This is enough on the subject of oaths and vows" (*On the Special Laws* 2.38). Like tannaitic literature, Philo considers 'arakhin alongside other votive legislation and not with temple law. While I am not positing any causative link between Philo and the rabbis, *On the Special Laws* presents an explicit instantiation of what is hidden in tannaitic literature.

REWRITING VOWS

As I have remarked, the most straightforward place to categorize the laws of 'arakhin is as temple legislation, as does Leviticus. This is certainly where its Levitical context leads; 'arakhin is part of a larger group of laws that regulate sanctuary, and later temple, ritual. Yet, in reading against the scriptural grain to include women as those who not only can be valued but also value others, tannaitic texts reshape 'arakhin's Levitical context. Instead of grouping 'arakhin with sanctuary/temple law, they now group it largely in the category of vows. Indeed, this regrouping of the laws of 'arakhin is part of a larger rabbinic project of rewriting the category of vows itself.

All biblical vows are dedicatory vows, a promise to devote someone or something to the sanctuary.[59] Rabbinic literature adds an additional type of vow to this biblical inheritance: a prohibitive vow. In a prohibitive vow, either the votary or another person named in the vow is barred from deriving benefit from

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57. On Philo's use of the Ten Commandments as a framework within which to classify all of the individual commandments, see Naomi G. Cohen, *Philo Judaeus: His Universe of Discourse* (Frankfurt: Peter Lang, 1995), 72–86. As Cohen comments, "This was not merely a technical enterprise, but involved a considerable amount of value judgement." Ibid., 86.

58. See Deuteronomy 23:22.

59. Moshe Benovitz, *Kol Nidre: Studies in the Development of Rabbinic Votive Institution* (Atlanta: Scholars Press, 1998), 4, 10; Milgrom, *Leviticus 23–27*, 2420. In addition to being dedicatory, biblical vows are also conditional. See, for example, Jacob's vow to build a sanctuary (Genesis 28:20–22), Jephthah's sacrifice of his daughter (Judges 11:30–31), and Absalom's sacrifices at the Hebron sanctuary (2 Samuel 15:8).

a certain possession. The subject of the vow is not the votary but rather the object that becomes prohibited. Although this prohibited object is likened to temple property, the object remains the vow taker's property; it is not *actually* consecrated to the temple. This contrasts with dedicatory vows, where the object *does* become temple property. Although the rabbis frame prohibitive vows as a biblical institution by linking them to Numbers 30:3, they are nevertheless a later rabbinic innovation.[60]

This rabbinic rewriting of vows can be seen not only in the adding of a new type of vow (prohibitive vows) to the larger general category but also in the more specific ways it reconceptualizes when a father or husband may annul his daughter's or wife's vow. While Numbers 30 grants a father or husband permission to annul almost all vows, tannaitic compilations limit this permission. As Mira Balberg argues, they do this by making two interpretive moves: interpreting Numbers 30:14 as referring only to vows that can be categorized as vows of affliction (*nidre 'innuy nefesh*), and formulating another category of vows, that of interpersonal vows (*nedarim she-beno le-venah*). For a father or husband to annul his daughter's or wife's vow, it must be justified as fitting into one of these two categories.[61] Rabbinic thinking about *'arakhin* should thus be viewed within this larger context of the general rabbinic remaking of biblical vows.[62]

It is important to note that even when recategorized with other types of vows, *'arakhin* remains a dedicatory vow. That its status as such has not changed can be seen in its classification in the order Kodashim along with other tractates that discuss dedicatory vows—Temurah and Me'ilah—and not in the order Nashim along with Nedarim and Nazir. Yet the location of Arakhin within Kodashim may have blinded us to the ways in which tannaitic literature is thinking about *'arakhin* differently from the biblical paradigm, with votive legislation more

60. Benovitz, *Kol Nidre*, 3, 9–13. See Sifre Bamidbar, *Matot, pis.* 153, to Numbers 30:3 (ed. Horovitz, p. 199); B. Nedarim 14a; B. Shevu'ot 20b.
61. Mira Balberg, "'Elu nedarim she-hu' mefer: 'Iyyun be-she'elot hagdaratam ve-sivugam shel nedarim nitanim le-hafarah be-sifrut ha-tanna'im ve-ha-'amora'im" (Masters' thesis, Hebrew University, 2005), 4, 21–85, 109–13. See Sifrei Bamidbar, *Matot, pis.* 155, to Numbers 30:14 (ed. Horovitz, p. 206); M. Nedarim 11:1–4, 12–13 (Albeck 11–12); T. Nedarim 7:1–4, 7–8.
62. This recategorization of *'arakhin* with vows is likely also part of a larger rabbinic project of rewriting the temple and recasting its ritual in a rabbinic light. While *'arakhin* remains a temple ritual, the rabbinic shifting of its category to that of vows may serve as a way to assert rabbinic legal authority over yet another area of temple ritual. However, since *'arakhin* remains a temple ritual—albeit a rabbinically interpreted one—this recategorization of *'arakhin* with vows may also be a method to maintain this legal category despite the inability to perform it. In other words, other types of vows can be taken, and through taking other vows, the memory of this particular type of temple vow is kept alive. If I am correct about the above two conjectures, it is also interesting to note that these two values of solidifying rabbinic authority and of maintaining memory of the temple trump, even unconsciously, that of maintaining women's biblical status as valued but not valuers in *'arakhin*. On the rabbinic rewriting of the temple more generally, see for example Cohn, *Memory of the Temple*; Rosen-Zvi, *Tekes*; Jeffrey L. Rubenstein, *The History of Sukkot in the Second Temple and Rabbinic Periods* (Atlanta: Scholars Press, 1995).

than temple laws. Close attention to the particulars of the rabbinic writing of gender has enabled us to highlight this exegetical move.

In her book *Menstrual Purity*, Charlotte Fonrobert describes a paradigm shift in the science of blood or stains. Whereas in the blood discourse of the Tanakh, women stand at the center, the rabbinic shift to the visual moves women aside as authorities over their own bodies. Fonrobert connects this move of rabbinic authority to Leviticus 13, the laws of skin disease, and argues that the rabbis read menstrual laws analogically with these laws.[63] This reading can be seen as a regrouping of the menstrual laws with another category of laws concerning the body, a regrouping that is part of a cultural process where male rabbis become the scientific authorities over women's bodies and women's subjectivity is marginalized. The example here proceeds in the opposite direction, where instead of being moved out, women are moved in as subjects. Yet, as I have argued, this unique inclusion of women in a list that includes priests, Levites, and Israelites should not be attributed to a desire to ameliorate women's status. Rather, it is an outgrowth of rabbinic reading practices.

Understanding the ways in which tannaitic literature remakes the Bible necessitates attention to rabbinic categorization. Yet, since these categories are often implicit, when a law can potentially fall into more than one category, tracing the exegetical pathways and reading closely for exegetical anomalies leads to a more subtle recognition of the law's rabbinic categorization. Moreover, close attention to gender and its workings in rabbinic literature can highlight the very processes of rabbinic thinking and the methods through which they recast their biblical inheritance. In this case, tannaitic literature has recategorized *'arakhin* from temple to vow.

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63. Charlotte Elisheva Fonrobert, *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford: Stanford University Press, 2000), 108–9.