

The Obligation of Married Women To Cover Their Hair

Rabbi Mayer Schiller

Introduction

The obligation of married Jewish women to cover their hair is subject to considerable discussion in halachic literature.¹ Its exact parameters are far from clear. Our goal will be to trace, in brief, the sources of this obligation as they unfold in biblical, talmudic/midrashic works and subsequently in the later *poskim* (decisors). Having concluded this overview, we hope to stake out the various halachically acceptable modes of conduct for contemporary married women. This is an involved and often emotion-charged topic. Our task will be to delineate the boundaries between law, custom and cultural passion so that those

1. There are several sources that deal with our topic at length. Among them are *Otzar ha-Poskim* (Jerusalem, 1965) *Even Haezer*, 21:2; R. Shelomoh Carlebach, "Mareh Mekomot le-Issur Periat Rosh be-Ishah ve-Dinei Peah Nokhrit," in Simon Eppenstein et al., eds., *Festschrift zum Siebzigen Geburtstage David Hoffman's* (Berlin, 1914) Hebrew; *Dat Yehudit ke-Hilkhato* (Vaad le-Mishmeret Zeniut; Jerusalem, 1980); *Dat Moshe ve-Yehudit* (Brooklyn, n.p., 1988); R. Moshe Weiner, *Glory of the King's Daughter* (Empire Press: New York, 1980); Dov I. Frimer, *Grounds for Divorce Due To Immoral Behavior (Other Than Adultery) According To Jewish Law* (Hebrew with English Synopsis) (Hebrew University, 1980); Elyakim Gezel Elinson, *Hazne Lekhet* (World Zionist Organization, 1987).

*Rebbi, Yeshiva University High School; Director, Reishit
Yerushaliym Alumni*

confronting this area will be able to make informed decisions concerning their own lives. The reader interested in further pursuing this matter may effectively do so by consulting the sources listed in note one below. The comments to follow should be viewed as providing an introductory framework for further research and consultation with halachic authorities.

Midrashic Sources

Before proceeding to the talmudic codification of hair covering it will be beneficial to note the midrashic (exegetical) wellsprings of our law. These are the bases for the Gemara text upon which our major attention must eventually be centered.

In *Parshat Naso* (5:18) (where the *sotah's* ordeal is outlined) we read, "And he [the priest] shall "*parah*" the head of the woman." In most current editions of the *Sifrei* the above text is commented on as follows:

The priest turns [to stand] behind her and is "*parah*" in order to fulfill the commandment of *periah*. [These are the] words of R. Yishmael. Another opinion [is], this teaches us concerning the daughters of Israel that they should cover their heads.²

Problems abound with the passage as quoted. If we are to assume that the word *parah* means uncover (as we will soon see, the basic Gemara dealing with hair covering indeed does so), then why is the teaching that the "daughters of Israel ... cover their heads" cited as "another opinion" ? If *parah* is to mean something else, what would that meaning

2. *Sifrei, Naso, Piska* 11. See the editions of H.S. Horovitz (Wahrman Books: Jerusalem, 1966) and Meir Ish Shalom (Vienna: 1968) where the reading is as we have quoted.

be, and will it be possible to derive anything concerning normative behavior from this alternative understanding?

A possible alternative explanation (although not without its own ambiguities) of *parah* is to be found in the Gemara *Sotah* where we read:

Our Rabbis have taught: "And he [the priest] shall *parah* the head of the woman" (*Bamidbar* 5:18) I only have here [mention of uncovering (?) the] head, how do we know that it [uncovering (?)] applies to the body as well?³ [This is derived from] that which it says, "the woman." If so, [what is derived from] that which it says, "And he shall *parah* the head?"⁴ It teaches that the priest undoes (*soter*) her hair.⁵

The sequence of this Gemara seems to be: 1) The assumption was that the word *parah* meant uncover. 2) How can we extend this to include the "body" as well? 3) It is derived from the word "the woman". 4) If so, why single out the head? 5) Because from "head" we derive that an additional act is to be performed, the unraveling of the braids. Apparently, at the end, the word *parah* serves a double function: its primary meaning, which is uncover, and a secondary meaning of unravel.

This double halachic meaning of *parah* is substantiated by several versions of the *Tosefta* where we are told that the accused wife (*sotah*) is treated "with the measure that she

3. The Gemara's assumption that the woman's "body" must be uncovered is based on the preceding Mishnah which states, "A priest seizes her garments ... until he uncovers her heart" (*Sotah* 7a).

4. In other words, why wouldn't the obligation to uncover the body include the head as well?

5. According to Rashi he "increases the uncovering in that he unravels her braids."

measured out." Accordingly,

She spread the sheet before him, therefore the priest takes her hat from her head and spreads it under foot. She braided her hair for him, therefore the priest loosens it.⁶

Rashi in his Torah commentary weaves both meanings of *parah* together. "He [the priest] unravels her braids in order to make her look despicable." This follows the translation of *parah* as unravel. However, Rashi then concludes, "This teaches us concerning the daughters of Israel that an uncovered head is a disgrace to them."⁷

Mizrahi is troubled with the connection Rashi establishes between the commandment to unravel braids and the obligation to cover hair. At most we might derive an imperative to braid the hair of Jewish women. His answer, along the lines that we have been pursuing, is that *parah* definitely means "uncover". The commandment to "unravel" that Rashi refers to is derived from the exegesis found in the Gemara *Sotah* quoted above. Nonetheless, Rashi's conclusion about the "daughters of Israel" is based on the plain meaning of *parah*.⁸

Having established that *parah* means uncover, there remains the matter of the *Sifrei* which seems to separate the law of uncovering the *sotah's* hair from its derivative of

6. *Tosefta*, *Sotah* 3. See the *Tosefta* edited by R. Moshe Shmuel Zukermantel (Wahrman: Jerusalem, 1963) for a listing of editions that include or omit the latter phrase.

7. *Bamidbar* 5:18.

8. As a proof to this, Mizrahi cites Rashi's translation of *paru'a* (*Sh'mot* 32:25) as "uncovered" (*megulah*). In addition, Rashi there states that his comment is based upon the meaning of *parah* in our verse.

hair covering. In an apparent attempt to solve this quandary the Vilna Gaon proposes an alternative reading of the *Sifrei* which will eliminate all of the above-mentioned difficulties. In place of the phrase that reads, "[These are the] words of R. Yishmael. Another opinion [is]", Gra would have, "R. Yishmael said, 'From here we [derive] a warning' ..." Thus, the corrected version of the *Sifrei* is:

The priest turns to stand behind her and is *parah* in order to fulfill the commandment of *periah*. R. Yishmael said, "From here we [derive] a warning concerning the daughters of Israel that they should cover their heads."⁹

According to this reading it is R. Yishmael himself who, based upon understanding *parah* to mean uncovering, is the authority who states that the "daughters of Israel" may not have uncovered hair. (Conceivably, Gra's basis for amending the *Sifrei* was that when R. Yishmael is quoted in the Gemara he is given as the basis for the prohibition of uncovered hair.)¹⁰

We have spent some time on the source of the prohibition in order to establish its obligatory nature despite its being derived from an inference. However, the different expressions used by Rashi as he explains the primary sources to describe this practice seem confusing. Rashi in his Torah commentary, apparently based on *Sifrei* (although not quoting it literally), describes the inference as yielding that uncovered hair is a "disgrace",¹¹ while the original text merely says that it is common practice to cover hair. In his Gemara commentary we read, "it is not the way of the

9. *Sifrei* (With Glosses of the Gra) (Jerusalem, 1974) p.9.

10. *Ketubot*, 72a.

11. *Bamidbar*, *ibid.*

daughters of Israel to go about with uncovered heads."¹² Rashi as he appears on the Rif writes, "It is a custom of the daughters of Israel even though it is not written."

Exactly what is the legal status of this prohibition? The question of the halachic status of this prohibition depends on the meaning of the "warning" of R. Yishmael. In the Gemara in *Ketubot*, which we will turn to shortly, uncovered hair is described as biblically prohibited ("*d'oraitha hu*")¹³ based on R. Yishmael's statement. In *Dvarim Ahadim* we are cautioned to take this statement literally. Rashi's comment in *Ketubot* to the effect that it is "not the practice of the daughters of Israel to go about with uncovered heads" should not be understood to mean that "the matter depends on custom. It is a biblical law ..."¹⁴ Even *Shiltei Giborim*, who adopts a lenient position on the manner of hair covering, is also of the opinion that uncovered hair is "prohibited

12. *Ketubot*, *ibid.*

13. See *Otzar ha-Poskim* (*Even Haezer* 21:2) for an extensive listing of those who state clearly that woman's hair covering is a biblical requirement. Particularly interesting is the *Shach* who is cited (*Choshen Mishpat* 28:14) as maintaining that any law about which the Talmud declares "*d'oraitha hu*", such as ours (see below), must be seen as biblical, even if it be derived from an inference. The *Meharam Hagiz* in his *Eleh Ha-Mizvot* (262) sees uncovered hair as a transgression of the prohibition of "going in Gentile ways" and therefore biblical. (See below note 27) The silence of those who list biblical mizvot on this matter is explained by *Tashbaz* in *Zohar Rakia* (Positive Commandments 137 where he rules that the prohibition is biblical), who finds many laws which, although decidedly *min ha-Torah*, are not listed in the major compendia. For an encyclopedic array of *poskim* who see this prohibition as biblical, see Weiner, *op.cit.* (Hebrew section) p.3.

14. *Dvarim Ahadim* 45.

min ha-Torah."¹⁵

However, the matter is far from simple. *Sdei Hemed* lists an impressive array of sources to prove that *d'oraitha hu* may not imply a biblical obligation, but merely "a hint (*remez*) in the Torah."¹⁶ *Terumat ha-Deshen* writes that "the prohibition of uncovering the head of a woman has a support (*s'mach*) in the Torah." To adequately understand the difference between these two views we must first turn to the talmudic text which forms the primary basis for the law. It is important to remember that despite disagreements as to its ultimate source the prohibition was regarded as mandatory in *mishnaic* and *talmudic* literature.¹⁷

The Text in *Ketubot*

In *Ketubot* (72a) we read as follows:

These are to be divorced without receiving their *Ketubah*: A wife who transgresses the law of Moshe (*Dat Moshe*) or Jewish practice (*Dat Yehudit*). And what is [regarded as transgressing the] law of Moshe? Feeding her husband with untithed food, having

15. As quoted in *Otzar ha-Poskim*, *ibid*.

16. *Sdei Hemed*, (Section *Dalet*: 19).

17. There are many sources that indicate it was common practice for Jewish women to cover their hair in *mishnaic/talmudic* times. See Carlebach in "*Mareh*" for extensive references. In particular the *Midrash Rabbah* (*Bamidbar* 9:16) commenting on the word *paruah* is telling. "Why [should the priest uncover her hair]? Because it is the way (*derech*) of the daughters of Israel to have their heads covered. Consequently when he uncovers the hair of her head he says to her, 'You have departed from the way of the daughters of Israel, whose way it is to have their heads covered, and you have walked in the ways of the Gentile women, who walk about with their heads uncovered. Here then you have what you have wanted!'"

intercourse with him during the period of menstruation, not setting apart her dough offering (*challah*), or making vows and not fulfilling them.

And what is [regarded as transgressing] Jewish practice? Going out with uncovered head, spinning in the street, or conversing with every man.¹⁸

There is much discussion as to what the phrase "to be divorced" in the Mishnah actually means. Is it obligatory, merely meritorious, or simply permissible?¹⁹ What is more significant for our purposes, though, is the explanation of the terms *Dat Moshe* and *Dat Yehudit*. *Dat Moshe*, to quote Meiri, refers to "commandments that are written in the Torah or alluded to in it" while *Dat Yehudit* are "customs which the nation has adopted due to modesty since the daughters of Israel are more modest than other woman."²⁰ This is the approach of several *Rishonim* including Rashba who sees the uncovering of hair as transgressing *Dat Moshe* and the

18. Mishnah, *Ketubot* 7:6. The Mishnah goes on to list a few other instances as well.

19. *Gittin* 90a; Mordechai, *Ketubot* 72a; *Shulchan Aruch*, *Even Haezer* 115:4-5. There is some disagreement among *Acharonim* as to whether this divorce imperative has changed in our days due to widespread indifference to the hair covering obligation. See, for example, *Mishneh Halachot* (6:261) who views matters as unchanged and divorce as obligatory, and *Iggerot Moshe* (*Even Haezer* 1:114) who adopts a lenient view. In a comprehensive responsum Rabbi Ovadiah Yosef writes that the law of divorcing the women without her *ketubah* being paid is still in force, unless it is clear that the husband is using this accusation as a cover for his desire to be rid of his wife for personal reasons. (*Yabiah Omer* 3, *Even Haezer* 21).

20. *Beit ha-Bechirah*, *Ketubot*, *ibid*. His words are echoed by Rashi on the Mishnah who writes that *Dat Yehudit* are those practices which "the daughters of Israel are accustomed to do even though they are not written."

latter as intrinsically biblical.²¹

Rambam's opinion is subject to some dispute. The approach of several commentators on his work is that he adopts the novel view that uncovered hair violates *Dat Moshe*, but it is nonetheless a rabbinic law.²² This leads to some confusion as to what *Dat Moshe* means according to Rambam. *Radam* (a commentator on Rambam's *Sefer Ha-Mitzvot*) describes it as a "custom of the daughters of Israel of the Torah."²³ It is something more than a custom which carries the force of Rabbinic law once it is accepted (*Dat Yehudit*), but less than *d'oraitha*. Yet a third contingent of *Rishonim*, prominent among them the Rosh,²⁴ move the entire prohibition into the realm of *Dat Yehudit* and views the *d'oraitha* of the Gemara as not meant literally.

The Gemara which will be crucial for our discussion appears with slight variations in different *Rishonim*. We present the text as it is printed in our Gemara:

And what is [regarded as transgressing] Jewish practice (*Dat Yehudit*)? Going out with uncovered head. Is not [the prohibition of going out with] uncovered head biblical; for it is written "And he shall uncover the women's head" and this was taught in the house of R. Yishmael as a warning (*azharah*) that the daughters of Israel should not go out with an uncovered head? Biblically it is permissible if her head is covered with a basket; Jewish practice (*Dat Yehudit*) prohibits a basket as well.

21. *Teshuvot ha-Rashba*, (246, 471).

22. *Terumat ha-Deshen* (10) sees Rambam as viewing the prohibition as a "warning (*zehirut*) of the Rabbis."

23. *Chidushei ha-Radam* on *Sefer ha-Mitzvot* (Positive Commandments 175).

24. Rosh, *Ketubot* (72a-b) 8.

R. Asi said in the name of R. Yohanan, "With a basket there is no [transgressing the] prohibition of going about with an uncovered head."

R. Zaira analyzed this, "Where [is this woman assumed to be]? -- If you will say in the street; [then it will be objected that this is already] prohibited by *Dat Yehudit*. If you will say 'in the courtyard' [then it will be objected that] if this is true then you will not leave our Father Abraham any daughter who could remain under her husband!"

Abaye, or it might be R. Kahana said, "[The statement refers to a woman who walks] from a courtyard to a courtyard by way of an alley."

The step-by-step continuity of this Gemara is difficult to follow. Our opening paragraph above postulates that biblically a basket will suffice as a head covering for women in the street. However, *Dat Yehudit* prohibits a basket alone and requires some form of more thorough covering. (Rashi and Tosafot are both silent on the precise nature of this superior covering.) Apparently in opposition to this statement R. Asi in the name of R. Yohanan is quoted as saying that there is nothing wrong with the basket covering even in the street.

Rashi and Tosafot both maintain that at least the second half of R. Zaira's statement is returning to the original statement which prohibits the basket, asking how that could possibly be applied in the courtyard against common practice. Following this understanding, Abaye is limiting the prohibition of the basket by R. Yohanan to an alley.

Despite *p'shat* difficulties, what emerges from the Gemara according to Rashi and Tosafot²⁵ is the following: 1) In a

25. This is codified by the *Piskei Tosafot*. Rashi is explained

courtyard no covering at all is required. 2) In an alley running from courtyard to courtyard a basket alone will suffice. 3) In the street something more than a basket is required.

Rif and Rosh both add a further distinction on the basis of the *Yerushalmi* that the courtyard where uncovering is permitted is only one that the public does not frequent. Concomitantly the alley where it is prohibited is only one that is frequented.

Rambam, Tur and Shulchan Aruch

Rambam presents us with a stricter presentation of our law's final resolution which is traceable to a slightly different understanding of the original text.

And these are the things that if she transgresses one of them she has violated *Dat Moshe*: Going out into the street with the hair of her head uncovered. And what is *Dat Yehudit*? It is any custom of modesty to which the daughters of Israel have accustomed themselves. And these are the things that if she transgresses one of them she has violated *Dat Yehudit*: Going into the street or an open alley with her head uncovered without the veil (*radid*) as is the way of all women, even if her hair was covered with a shawl (*mitpachat*)...²⁶

Apparently Rambam is equating the basket of our Gemara with the insufficient covering of a "shawl", which although biblically permitted in the street becomes prohibited under the rubric of *Dat Yehudit*. We have also now encountered for the first time a specific description of the type of covering which *Dat Yehudit* obligates. *Perisha* explains the *radid* to

along these lines by the *Beit Yosef* on *Tur, Even Haezer*, 115.

26. *Mishneh Torah, Ishut* 24:11, 12.

"cover her whole body similar to a *talit*."²⁷ He points out that the phrase "as is the way of all women" refers to "all women" in a place where the *radid* is customary, but *Dat Yehudit* would not obligate a *radid* if it is not the custom of women in a given place to wear one. Alternatively, he sees the *radid* as obligatory only on top of a "shawl", but not on top of a "hat."²⁸

Apparently *Dat Yehudit* refers to forms of behavior which according to the standards of the surrounding culture become accepted as the definition of "modesty" even if they go beyond the simple demands of the Torah. Alternatively, they may also be standards which Jewish women have rendered normative by their popular usage throughout time, even though, once again, they go beyond halachic requirements. In the time and place of Rambam this meant that, in addition to normative (*Dat Moshe*) hair covering (the exact nature of which we have yet to precisely define), a shawl of some type had to be worn.

Interestingly enough, the *Tur*²⁹ seems to include totally uncovered hair under the category of *Dat Yehudit* as does the *Shulchan Aruch*.³⁰ The *Tur* does not list any law concerning hair covering under *Dat Moshe*. Thus, it might be that they felt the very prohibition of uncovered hair to be *Dat Yehudit* based and therefore conceivably capable of being influenced by time and place.³¹ Alternatively, their listing

27. *Perisha, Even Haezer* 115:10.

28. *Mishneh Torah*, *ibid*.

29. *Tur*, 115.

30. *Shulchan Aruch, Even Haezer* 115:4.

31. See *Beit Shmuel, Even Haezer* 115:9 where this inference is disputed because the example of *Dat Yehudit* given in *Shulchan Aruch* is of going into the street without a *radid*. This argument

of uncovered hair as transgressing only *Dat Yehudit* is due to the example they give, which is "going out with hair uncovered without a shawl even though her hair is covered with a hat."³² Thus, the example they cite is clearly one that all would agree is *Dat Yehudit*. Of course, this explanation leaves unanswered why the primary prohibition is not listed under *Dat Moshe*. In the pages to follow we will see how the *poskim* responded to the possibility of *Dat Yehudit* being the sole source of the prohibition.

Women's Hair Covering: The Obligation's Magnitude

The married woman who uncovers her hair is transgressing assorted laws besides those involving *Dat Moshe* and *Dat Yehudit*. A woman's hair is to be considered a "form of nakedness".³³ Thus, one is forbidden to utter words of prayer or Torah study while facing it.³⁴ It is also forbidden to stare (*histaklut*) at a woman's *erva* (nakedness).³⁵ Therefore, many authorities conclude that it is prohibited for a married woman to uncover her hair because she would be transgressing the prohibition of *lifnei iver* ("not placing a stumbling block before a blind man" – referring to any action which leads another to sin).³⁶ Also,

still leaves unanswered the question of why *Shulchan Aruch* completely omits the prohibition when listing *Dat Moshe*.

32. *Tur*, *ibid*.

33. *Berachot* 24a.

34. *Shulchan Aruch*, *Orach Chaim* 75:2.

35. *Mishneh Torah*, *Issurei Biah* 21:1 and especially 21:17 where Rambam restates the prohibition of uncovered hair while discussing the laws of immodest behavior and illicit "gazing".

36. See Weiner, *Glory* (Hebrew section) p.14 for a lengthy list of authorities who make precisely this point.

there are authorities who see uncovered hair as a violation of the prohibition of "not going in their statutes" which refers to any non-Jewish custom adopted for reasons of immodesty. According to this analysis, since hair covering was at one time accepted by non-Jews, we must view the move away from this practice as one calculated to lesson the bounds of modesty and, therefore, a Gentile practice which Jews may not imitate.³⁷

Women's Hair Covering : Practical Questions

I . Partially Uncovered Hair

There is a major disagreement between the *poskim* as to whether a woman's hair may be partially uncovered. There are those who maintain that any uncovering of a woman's hair would represent a transgression of a biblical prohibition.³⁸ One of the major authorities who adopts this position is Chatam Sofer. He cites the talmudic statement of Rav Sheshet that, "A women's hair is an *erva*, as it is written, 'Your hair is like a flock of goats.' "³⁹ This phrase is the continuation of the verse, "You are beautiful my love",⁴⁰ which the *Amoraim* use as a basis for designating the parts of a women's body to be seen as "nakedness." Chatam Sofer points out that the previous phrase in the verse is "from under your kerchief." He posits that the verse is praising two attributes, 1) beautiful hair compared to the "flock" and 2) "that this hair which would be beautiful if revealed is covered 'under your kerchief.' " The function of the

37. See *ibid.* p.16 for a listing of authorities.

38. This position is advocated by the *Teshurat Shay* (1:51) and *Dovev Mesharim* (1:124) as well as many other authorities.

39. *Berachot*, 24a.

40. *Shir ha-Shirim* 4:1.

"kerchief" was to hold together all of a woman's hair in order that it should be totally covered under a "hat."⁴¹ (This double covering is similar to that of Rambam [see above]). This follows the understanding that the problem with the "basket" in the Gemara was that it was not a complete covering of all the woman's hair.

Others maintain that partial uncovering might be permissible. Rashba (*Berachot* 24a) also maintains that "hair which normally extends outside the kerchief and her husband is used to it" is not to be considered "nakedness" in his presence. It seems that Rabbi Moshe Feinstein extends this leniency of Rashba to all women.⁴² *Maharam Alshakar* was an early advocate of this view.⁴³ He is quite emphatic that the custom "in the time of the Talmud and at present" was to cover all of one's hair, but to allow some hair to dangle out of the front of the covering ("between the ear and forehead"). In fact, he goes so far as to suggest that the Cabalistic references to not allowing any hair ever to be seen are not discussing these bangs, but only hair which it is the custom to cover. In conclusion, he notes that there are many things that "our sages are lenient with in order not to make a women despicable to her husband."

Some extend the amount of hair that may be uncovered

41. *Chatam Sofer, Orach Chaim* 36.

42. *Iggerot Moshe, Even Haezer* 1:56.

43. *Maharam Alshakar* (35). Worried that errant conclusions might be drawn from this position of *Maharam Alshakar*, the *Shevilei David (Orach Chaim* 75:2) writes, "One should not mistakenly assume, based on *Maharam Alshakar*, that the prohibition of uncovered hair is dependent on mere custom and therefore in a place where women brazenly go about with uncovered hair that this would be permitted. This is not so. ... the prohibition of uncovered hair is not dependent on popular custom at all."

to a *tefach* (handbreadth).⁴⁴ Rabbi Moshe Feinstein, who advances this thesis, maintains that a woman's hair should be considered the same as any other part of her body which is normally covered. Just as these other parts of the body are forbidden to be seen only if a *tefach* (handbreadth) is revealed, so too on a woman's head. Interestingly Rabbi Feinstein personally advocates complete covering and maintains that it is "proper" to do so, but those who follow the lenient approach should not be viewed as violating *Dat Yehudit*. In the end, he limits the actual space that may be uncovered to the width of two fingers, this being in his opinion a square *tefach*.

In fact, Ramo rules that the prohibition of "nakedness" would not apply to hair that is "outside the kerchief." *Mishnah Berurah* feels that this opinion only relates to hair which is placed in a kerchief which is under a "hat" in order to keep it in order. This "small amount which it is impossible to keep together is permitted."⁴⁵ Perhaps, according to Rabbi Feinstein, Ramo could be understood to be referring to a larger amount of hair. However, there are those who feel that even this hair "outside the kerchief" would be biblically prohibited.⁴⁶

44. See *Iggerot Moshe, Even Haezer* I:58 where the opinion is advanced that a partial uncovering of hair would not be considered a violation and the above quoted stance of Chatam Sofer is refuted at length.

45. Ramo, *Orach Chaim* 75:2.

46. See Weiner, pp.30-36 for a lengthy presentation of sources.

The position that permits hair which extends beyond the confines of a garment which is on top of a woman's head is severely criticized by many *poskim*. The *Magen Avraham (Orach Chaim 75:4)* notes that the *Zohar (Parshat Naso 239)* advises against the uncovering of any hair on a woman's head. He concludes "This is the proper way to conduct oneself". The lenient group led

What emerges here is that since the question of partial uncovering falls under the category of *Dat Yehudit* it is subject to the influences of custom. However, the salient question is to what degree this custom may override established communal practice. No *poskim* suggest that custom may impact upon *Dat Moshe* prohibitions so that total uncovering of a woman's hair could be allowed based upon changing fashions. This would be possible only if the *Dat Moshe* prohibition would be rendered *Dat Yehudit*; in environments where social practice no longer accepts it, possibly modifications might arise.

II. Wearing of Wigs

As far as the wearing of wigs goes, we once again enter into an area of fierce controversy among the *poskim*. There are those who see it as permissible.⁴⁷ Their opinion is based

by *Maharam Alshakar* is seen by *Maharaz Hayot* (53) as reflecting standards that were only applicable in Arab countries. He writes, "since in Arab lands it was the custom to [allow partial uncovering] therefore those hairs would be considered a place which is normally uncovered... and this would, accordingly, not cause sinful thoughts... but in our lands which from time immemorial the custom was to cover all hair, it attains a status of something permissible which some are stringent about and no man is allowed to change this custom... especially since this has been the custom from the earlier days, these hairs would once again be considered a place which is normally covered."

47. It is worth noting here the opinion of *Sitre U-maginei* (2:44) quoted in *Otzar ha-Poskim* (ibid.) who sees wigs as the lesser of two evils. He writes, "Due to our many sins in most countries many women have removed the yoke of *Dat Yehudit* from themselves and go about with uncovered hair in public. At a time such as this it is improper to search after stringencies ... therefore, it seems to me that it is better to rely on those authorities who permit [wigs] in order that they not transgress a more severe prohibition ... "

upon *Shiltei Giborim* (*Shabbat* 375) who rules that the prohibition of uncovered hair applies only to hair which is attached to the skin, as does the rule of "the hair of a woman is nakedness." He writes, "It seems that there is no difference whether the hair [of a wig] be made of the wearer's own hair, or of that of another woman, so long as it provides a covering for her real hair... there is no prohibition." This also seems to be the opinion of *Ramo* and of *Magen Avraham* (*Orach Chaim* 75:2) who quote *Shiltei Giborim* approvingly in relation to the reciting of prayers in front of a woman wearing a wig. *Pri Megadim* (*Aishel Avraham* 75:5) writes that "in those lands where women are accustomed to wear uncovered wigs, they may rely upon this opinion."⁴⁸

However, the historic response of *poskim* to the wearing of wigs was in the past centuries largely negative.⁴⁹ The list of authorities who opposed the wearing of wigs includes

48. The acceptance of wigs was far more widespread in recent decades amongst Ashkenazic authorities. Rabbi Ovadiah Yosef in his works frequently denounces this practice and describes it as one whose influence should be "shunned". He says that it is a meritorious act to publicize that the wearing of wigs is prohibited and "this is especially so for Sephardic women among whom the custom was always to prohibit [wigs] from time immemorial." He concludes that, "any woman who accepts upon herself to observe this law in all its strictness, only to go into the street if her hair is totally covered with a hat or a *tichal*, will be blessed with all the blessings of the Torah and will merit to see children great in Torah and the pure fear of God." (*Yabiah Omer* 5, *Even Haezer* 5).

49. This position is succinctly expressed by Rabbi Avraham T'umim who writes, "Even though *Beit Shmuel* prohibits wigs because of *marit ayin*, I am of the opinion that they are biblically prohibited. Since the prohibition forbids immodesty, what difference is it if the hair is her own or made to look like her hair?"

among many others R. Ya'akov Emden,⁵⁰ the Vilna Gaon,⁵¹ R. Shlomo Kluger,⁵² *Maharaz Hayot*,⁵³ Chatam Sofer,⁵⁴ the Zanter Rav,⁵⁵ and Maharsham⁵⁶ to cite a few from assorted times, places, and orientations. Rabbi Ovadiah Yosef concludes his overview of the subject by saying, "The law is like the majority of *Acharonim* who prohibit [wigs]."⁵⁷

Mishnah Berurah cites both opinions on the subject and concludes by quoting *Magen Giborim* who rules that "definitely in a place where there is no established custom to wear wigs the law is with the stricter view because of *marit ayin*."⁵⁸

A third opinion permits the wearing of wigs only if it is obvious that it is not the woman's own hair. Rabbi Yehoshua Leib Diskin writes, "That which the *Shiltei Giborim* permits [wigs] only applies when it is obvious to all that she is not

50. *Sheilat Ya'vez* (1:9) where wigs are seen as prohibited due to *Dat Yehudit*.

51. See *Shnot Eliahu*, *Shabbat* (6:8).

52. See *Shnot Chaim* (316).

53. *Teshuvot Maharaz* (53), prohibits wigs and offers some historical perspective, "Since the days of my childhood I have not heard of any who are lenient in this matter in all of Poland. It is a recent thing which has begun where many are 'breaking the fence' and it is proper to return them to the old ways."

54. *Orach Chaim* (75) comment on *Magen Avraham* (5).

55. *Divrei Chaim*, *Orach Chaim* (2:59) *Yoreh Deah* (1:30).

56. *Da'at Torah*, *Orach Chaim* (75) where wigs are regarded as biblical "*erva*" and blessings may not be recited in front of a women wearing one.

57. *Yabiah Omer* 5, *Even Haezer* 5.

58. *Mishnah Berurah*, *Orach Chaim*, (75:15) *The Shulchan Aruch ha-Rav* (75:4) merely cites the lenient ruling without qualifications.

wearing her own hair, but without this it would be prohibited because of *marit ayin* and also because of the prohibition of 'nakedness' which can lead to sinful thoughts."⁵⁹

III. Unmarried Woman

There are a few authorities who maintain that unmarried women must also cover their hair. *Bach* writes that since "the source of the prohibition is the phrase 'the daughters of Israel should not go about with hair uncovered' and it does not say specifically married women, therefore both married and unmarried women are included."⁶⁰ However, the vast majority are of the opinion that there is no such obligation.⁶¹ The reason appears to be based upon the fact that it was never the practice of unmarried girls to cover their hair. Therefore, this could not become an obligatory practice of modesty. This reasoning is alluded to in *Perisha*⁶² and stated explicitly by Chatam Sofer who writes, "Our ancestors were never strict concerning uncovered hair of unmarried women."⁶³

Here we see that there is an element (at least according to Chatam Sofer) in which the law is influenced by the practices of modesty in the surrounding society. However, we must view with caution the impulse to derive from this that Torah requirements for woman's hair covering are based upon the normative practices of any society. The *Mishnah*

59. *Kuntres Acharon* (203). There were others, such as *Ri Asad* (*Yoreh Deah* 366) who saw the wearing of wigs prohibited as a gentile custom.

60. *Bach* (*Even Haezer* 21). See also *Gra* who agrees with *Bach* and offers the same reasoning. (*Even Haezer* 21:11).

61. *Beit Shmuel* and *Chelkat Mechokek* (*Even Haezer* 21:5).

62. *Perisha*, *Even Haezer* (21:3).

63. Chatam Sofer, *Nedarim* 30b.

Berurah is quite clear that "normative practices" influence halachic standards of modesty only when they are in accordance with certain objective norms. For example, he lists the uncovering of a woman's thigh or of her hair as examples of objective standards of modesty which may not be compromised on the basis of social trends.⁶⁴

In fact, *Shulchan Aruch* does seem to rule that unmarried women must also cover their hair,⁶⁵ but this is dismissed by many commentaries⁶⁶ as referring to widowed or divorced women. *Magen Avraham* adopts a novel approach which serves to explain a custom: He maintains that the prohibition of "uncovering" as it applies to unmarried women refers to undoing their braids.⁶⁷ To this day there are communities whose unmarried women braid their hair.⁶⁸

IV. Shaving the Hair of Married Women

A custom fairly widespread in Hungarian, Galician and Ukrainian Jewish communities was that a woman upon marriage would shave off all her hair. She would then cover her head with a *tichal* (kerchief). After WWI, the *tichal* was to greater or lesser degree, at times replaced by a partial or total wig. Nonetheless, the custom of shaving one's hair has remained in some circles today.

There were *poskim* who were very much in favor of

64. *Mishnah Berurah* 75:10-14. Theoretically, though, if the prohibition is merely *Dat Yehudit* based it could be influenced by popular custom.

65. *Even Haezer* (21:2).

66. *Beit Shmuel*, *Even Haezer* (21:5) et al.

67. *Magen Avraham*, *Orach Chaim* (75:3).

68. This practice is widespread among Jerusalem's traditional Ashkenaz community (*yishuv ha-yashan*), the *Toldot Aharon* community and some Hungarian Jews.

this custom. There were two reasons for this. (1) It was seen as a means to guarantee that no hair of a married woman would ever be exposed. (2) It was viewed as eliminating the possibility of a woman's hair rising to the surface during her ritual immersion in the mikveh, thus rendering her *tevilah* invalid.⁶⁹

Others fervently opposed the custom. They denounced it because it would render a woman ugly in the eyes of her husband.⁷⁰

Contemporary Practice

Today we find assorted legitimate approaches regarding married women's hair covering. There are those who still maintain the initial opposition to wigs of any sort and cover their hair completely with a *tichal*.⁷¹ Others have

69. *Shulchan Aruch, Even Haezer* (9:10).

70. *Yabiah Omer* (4 *Yoreh Deah* 1). See also *Iggerot Moshe Even Haezer* 1:59 where the question of conflicting family traditions on the matter of a woman shaving her head is dealt with.

71. This is the practice to this day of *yishuv ha-yashan*, *Toldot Aharon* and some Hungarian Jews. It was also advocated as the ideal by many Hungarian and Galician leaders. For example, Rabbi Joel Teitelbaum (Satmar Rav) often demanded of his followers that they adopt this practice. However, his requests met with limited success. At present less than half of Satmar Hasidim in America follow this practice. The others, by and large, cover their wigs with hats. Interestingly, in post-World War I Hungary the Orthodox of *Oberland* (operating within the Ashkenaz-Chatam Sofer tradition) began to wear wigs, while the *Unterland* Orthodox (heavily influenced by Hasidism of Galicia) maintained the traditional opposition to the practice. This occurred despite Chatam Sofer's own position on the matter. The *yishuv ha-yashan* custom actually involves the wearing of two coverings, a kerchief and a shawl. Perhaps this ancient practice stems from Rambam's opinion which requires two coverings.

compromised this practice in a very limited way by covering their head completely with a *tichal*, while wearing at the front of the *tichal* a small piece of a wig. They hope thereby to eliminate the problem of *marit ayin* by using a wig-piece small enough that it cannot be mistaken for the woman's own hair. This practice is sanctioned by R. Ya'akov of Emden (a staunch opponent of wigs) who writes, "If the wig is placed on the front or side of her head below the point of the hairline there is no prohibition."⁷²

There are others who, while wearing a wig, cover most of it with a hat or other covering of some sort. This appears to be an attempt to combine the opinion of those authorities who permit a small amount of hair to be uncovered with those who permit wigs. In other words, if the wig be prohibited, at least the majority of it is covered; and if the wig be permitted then there is certainly no problem.

Other women rely completely upon those who permit wigs. This is common practice in the "Yeshiva world" and among Polish or Lithuanian Hasidim (who in the wake of World War I adopted wigs as the norm). German Orthodoxy also followed this practice (especially in the *Austritt* community), as do their spiritual descendants today.⁷³

Finally, there are those women who cover most of their own hair with a hat or *tichal* and expose less than a *tefach*.⁷⁴

72. *Sheilat Ya'avez* (1:9); this became common practice amongst many after WWI. It is the norm today amongst the rabbinic family of Skver, among others. Prior to that time the practice in Skver was to wear a bonnet which completely covered the head and tied under the chin.

73. The Yeshiva world's approach is notable given the Vilna Gaon's opposition to wigs.

74. This is becoming widespread among some in the Religious Zionist camp in Israel as well as among the Modern Orthodox.

As a sub-category of this group are those who expose more than a *tefach* relying upon the opinion that hair which extends beyond the hairline is not subject to any prohibitions.

Completely Uncovered Hair

Within the confines of their own home, *Magen Avraham* and many other *poskim* would permit a married woman to go about with her hair uncovered.⁷⁵ *Beit Shmuel* rules that it is prohibited due to *Dat Yehudit*.⁷⁶ Certainly the Cabalistic tradition rejects it.⁷⁷

Mishnah Berurah cautions that even according to the lenient opinions, the women's hair would still be considered "nakedness". This would mean that it is still forbidden to study or pray in her presence.⁷⁸ However, we shall see that not all *poskim* accept this.

However, in public there appears to be no accepted

75. *Magen Avraham, Orach Chaim* (75:2) However, based on Cabalistic reasons he also concludes that it is best to cover one's hair in the home as well. *Darkei Moshe (Even Haezer 115:4)* permits a woman to go about in her own home with her hair uncovered. However, he concludes that because of modesty a woman should not uncover her hair at all, even in the house.

76. *Beit Shmuel, Even Haezer* (115:9).

77. *Bach (Even Haezer 115)* writes, "the uncovering of a woman's hair is prohibited even in her own courtyard and thus is the custom in all parts of Israel... that even in front of the members of her house she should not be found without a shawl on her head." The *Chatam Sofer (Orach Chaim 36)* based upon *Bach* and *Zohar (Parshat Naso)* prohibits uncovering even in the privacy of one's home. However, *Rabbi Moshe Feinstein (Iggerot Moshe, Even Haezer 1:58)* extends the prohibition only to an actual courtyard and permits uncovered hair in the privacy of one's home.

78. *Bi'ur Halacha, Orach Chaim* (75:2).

halachic source to permit a married woman to have her hair totally uncovered. The method and degree of covering is a subject of legitimate dispute, but a covering of some sort there should be. Nonetheless, we remain perplexed by the lenient approach taken to the law in some circles. It is fairly well known that among Lithuanian Jews after World War I many married women uncovered their hair. This was common even among rabbinic families. Indeed, when large numbers of Lithuanian Jews and their leaders came to America in the twenties and thirties they largely ceased to observe this law. Although many of the leaders' wives eventually began to wear wigs in the post World War II period, their original reluctance seems strange. Was their practice in any way justifiable, or are we simply dealing with the inability of a segment of the Jewish people to withstand the tremendous force of social pressure?

There are those who offer the opinion of Rabbi Yehiel Michel Epstein as a possible source for the popular practice. Since his statement in *Aruch ha-Shulchan* is relevant to our topic, it is worth quoting directly:

And now let us denounce the practice which for many years, due to our many sins has become widespread, in which the daughters of Israel have "broken the barriers" and go about with their hair uncovered. The more we scream about this it does not help and the plague has spread ... Woe unto us that this has happened in our days! However, as far as the law is concerned it seems that it would be permissible to pray and recite blessings in front of their uncovered heads. Since now the majority do this, [their hair] has the status of parts of the body which are normally uncovered ... and there is no fear of lust.⁷⁹

79. *Aruch ha-Shulchan, Orach Chaim* (75:7). This position is

Clearly Rabbi Epstein has only ruled in relation to the law of *erva* and not that of a married woman's hair covering. Nonetheless, two factors do emerge. First, there need not be a linkage between the definition of *erva* and the requirement of hair covering. Second, at least as far as *erva* goes, its definition may be affected by changing times. Yet, we do see that *Aruch ha-Shulchan*, for some reason, did not feel that the prohibition of uncovered hair could be affected by differing environments.

There is an interesting passage in the Responsa of Rabbi Yehoshua Babad where he seems to be basing the entire structure of the law on social conditions:

If the tradition had been that married women went with their hair uncovered and single women with their hair covered, then it would be prohibited for single women to go uncovered and married women could walk about uncovered ... All is dependent on the tradition (*minhag*) of the women.⁸⁰

In addition, Rabbi Yosef Hayim goes a step further in his discussion of Ashkenaz "custom" to completely uncover hair (which he rejects for Sephardim) when he writes:

They have a justification, because they say that the tradition has become accepted, both among the Jews and other nations where they live, to accept the uncovering of hair, like the uncovering of face and hands, as not causing provocative thoughts.⁸¹

directly opposed in *Mishnah Berurah* (75:10).

80. *Sefer ha-Naim, Sefer ha-Vatik, Even Haezer* (21).

81. *Sefer Chukei Nashim* (17). This translation as well as that of the previous footnote are taken from Michael Broyde, "Further on Women's Hair Covering: An Exchange", *Judaism* (Vol. 40, Winter 1991) pp. 79-89. This fascinating article is a refutation of a previous article by Marc Shapiro who claimed ("Another Example of

What is the possible justification which R. Hayim refers to? As far as I have been able to uncover there are only three rabbinic works (all of twentieth century origin) written by Orthodox authors that permit married women to completely uncover their hair in public.⁸² Basically their view was that since hair covering is no longer a standard of modesty a woman's hair can no longer be considered "a place which is normally covered." However, none of the accepted mainstream authorities ever so much as considered the legitimacy of their view.

In order to permit total hair uncovering it would seem necessary to view the original law as *Dat Yehudit* and, as such, subject to changing standards. There are *poskim* who adopt this view. Nonetheless, none of them suggested that the requirement is environment-based to the extent of permitting total uncovering.

It would take us beyond the confines of this essay to explain why one should not rely on a handful of isolated sources. Suffice it to say they have not been accepted by the halachic world. The Lithuanian practice is probably best seen as an aberration which, when the time became more receptive, was quickly abandoned. It may be understood in the context of the general laxity which enveloped East

'Minhag America' ", *Judaism*, Vol. 39, Spring 1990) that the non-compliance with this law may be seen as an example of "Minhag America" which has "triumphed over a law" (p. 148). Broyde, although not advancing his theory as *halacha l'ma-aseh*, attempts to offer an approach which would provide some legal basis for those who uncover their hair.

82. Rabbi Isaac S. Hurewitz, *Yad ha-Levi*, pp. 143a-b; Rabbi Yosef Masas, *Mayim Chaim* (2:110) and *Ozer Michtavim* (1884); Rabbi Ephraim Zalman Slutzki, *Etz Ephraim, Orach Chaim* (12); See also Broyde, *op. cit.* p.85, where a fourth opinion is cited via oral testimony.

European Orthodoxy concerning this halacha in the post World War I era. Other areas witnessed the adoption of total or partial wigs.

The two major twentieth century Lithuanian codes, *Mishnah Berurah* and *Aruch ha-Shulchan*, are both clear that the hair covering requirement remains unchanged. Today, woman's hair covering is seen as an objective norm throughout the halachic world, the method of which may be influenced by social change, but not the basic requirement.

The standard a woman should use to determine which of the above practices she should adopt is subject to the forces of family tradition, personal rabbinic guidance, individual, emotional and spiritual makeup and a host of other factors. How a woman is to arrive at this decision is a matter beyond the scope of the present article.