

Modesty, Sexuality, and Hair Covering

From the Bible to Maimonides

By Rabbi Haim Ovadia

A young and very brilliant woman, a doctoral candidate who was also studying with me for her conversion, asked me once what are the parameters of modest clothes according to the Torah. Now, had she asked what are these parameters according to Halakha, I could have provided some sources, but when it comes to the Torah, and as a matter of fact, to the whole bible, one is left perplexed.

In stark contradiction to the vast literature on modesty and to the near-obsession of (mainly male) religious leaders and educators with the topic, the bible offers almost no discussion of it. Yes, it's true that the bible does not lack prohibitions and criticism regarding immoral sexual behavior, but those deal exclusively with adultery and incest. On what biblical sources, one might ask, does the concept of modesty, as used today in the Orthodox literature and media, rely on?

In this article I will present an in-depth analysis of the three fundamental verses used by later generations to anchor the modesty discussion in the bible. These three verses are from Tora, Prophets, and Scriptures, and thus represent all of biblical literature.

Torah - והיה מחניך קדוש ולא יראה בך ערות דבר ושב מאחריך -

“Your encampment shall be holy, lest He will see shame in you [literally: nakedness of a sort] and abandon you”¹

The three first words of this verse have become a slogan for the modesty campaign. They can be heard in speeches, used in books about the subject, and serve as titles for posters and signs calling on women to be modest. One such sign reads (see picture below)²:

Your Encampment Shall Be Holy!

Women are requested to avoid passing/lingering on this sidewalk,
which is used by attendees of the synagogue.

The readers should know that this sign is hanging in a street in Bene Berak, an ultra-orthodox city in Israel, and that it is directed at women who dress according to the most rigorous requirements of the modesty-obsessed. But even that is not enough. To truly maintain the “holiness” of the community, women must not be present at the male-only territory of those in their way to attend services.

This worldview creates an extremely problematic and even dangerous situation for women, who are not allowed to be seen or heard, and are losing their sense of identity and dignity. It also casts the woman in a negative light as a seductress who threatens the integrity and the wholesomeness of the Jewish community. I will deal with these issues in the future, but first I would like to examine the verse in its original context.

The full text in which this verse appears in Deuteronomy addresses soldiers. The encampment is not a metaphor for “community” but rather a real military camp. There are no women in the camp and therefore no issues of sexuality-related modesty. The Torah tells soldiers that they must carry a small shovel as part of their gear. This shovel is to be used to dig a hole in the ground which will serve as the soldier’s personal “port-a-potty”. After relieving himself, the soldier must make sure that everything is well covered in dirt. If he does not do that, the verse admonishes, God will abandon the camp, an act associated in the Bible with definite defeat in the battlefield.

Why is the Torah so adamant in its rules of body hygiene in the camp? There are two reasons:

1. Throughout history, many military campaigns failed because of diseases which were spread due to lack of hygiene in the camps. The Torah wants to prevent this problem, and since soldiers tend to neglect this requirement, it presents it as a holy duty.
2. Soldiers on a military campaign, who are given a license to kill, are in a grave danger of losing their reverence of human life and their respect for mankind who was created in the image of God. They are either drunk with the power given to them, or turn apathetic and see no value in life. Psychologists and sociologists have proven today that awareness of one’s own bodily needs and adherence to high standards of hygiene and table manners reduce violence and make people treat each other with greater respect and dignity.³

Conclusion:

The verse from the Torah used to promote the idea of the need for women to dress modestly has been taken completely out of context. It is part of a soldier’s code of behavior and it applies to an all-male society. This points to a possibility that all modesty related rules are man-made and have no basis in the Torah. This is not to say that one is not required to behave with modesty, but rather that the parameters of modesty are not determined by legal literature.

So far we have examined the verse from the Torah upon which the Modesty Campaign rests, and saw that it deals with a completely unrelated issue. Let us now turn to the Prophets.

Prophets – והצנע לכת עם אלהיך

The prophet Micha⁴ addresses a question which all believers grapple with – what does God want me to do? His concise poetic answer is so beautiful that it has become an idiom in the Hebrew language:

הגיד לך אדם מה טוב ומה ה' אלהיך דורש ממך, כי אם עשות משפט ואהבת חסד והצנע לכת עם אלהיך

One tells you what is good and what is that God requests of you,

Do justice, love kindness, and walk modestly with God.

I translated here the root צנע as modesty, as it is popularly used today, but this meaning was given to it in Rabbinic Hebrew. In the bible it appears only one more time, and in both places it means humility and being unpretentious. The other appearance of this root is in Proverbs:

בא זדון ויבא קלון, ואת צנועים חכמה⁵ - wickedness brings shame, but wisdom dwells with the humble.

Rabbi Avraham ibn Ezra explains that to be צנוע is to be aware of the consequences of an evil act, and therefore shy away from doing it.⁶

However, in recent generations, the term צנוע has become associated with modesty of dress and separation of the genders. The verse from Micha features in pamphlets which call on women to dress modestly, and a book on the laws of modesty bears the title “Walk Modestly” - והצנע לכת (by Rabbi Elyakum Elinson). This trend could be traced to Rabbi Mordechai Yafeh of Poland (1530-1612) who, in accordance with the spirit of asceticism of the times, and no doubt under influence of the Christian environment which considered even marital relations a sin, uses the verse from Micah to restrict the woman’s behavior and dress code. His restrictions apply not only to the public space, where he considers it immodest for women to be, but even to her own house and bedroom.⁷

Once the verse has been appropriated to promote the idea of feminine modesty, it was used by other rabbis who felt that a woman should not be seen too much or be in the company of men. In the 20th century, Rabbi Menashe Klein uses the verse to argue that a woman should limit as much as possible her time out of her house. He reasons that the longer she is outside, she will cause more people to look, God forbid, at the exposed parts of her body, meaning her palms and face. It is insinuated that if it were possible, a woman would have been required to cover her hands and face as well.⁸

Just as the verse from the Torah which was taken out of context and used to preach modesty, so was the inspirational message of Micha reduced to Halakhic minutiae dealing with gender separation and sexual behavior.

By contrast, the early commentators, including the Talmud, view the verse in a completely different light. The Talmud explains that it means that one should not seek recognition and reward for his good deeds, even when they are public acts such as taking care of wedding or funeral expenses of poor families.⁹

Variants of this interpretation are presented by the great Sephardic commentators and philosophers of the Middle Ages, Rabbi David Kamhi (Radak), Rabbi Yitzhak Arama, Rabbi Yitzhak Avarbanel, and Rabbenu Yonah.¹⁰

Conclusion:

For many generations the verse from Micah was understood properly: a guide to life which emphasizes the character traits of seeking justice and doing good with others, coupled with a demand to keep one's religious behavior to oneself and not wear it on his sleeve in order to aggrandize himself. However, just as with the Torah source, the verse from Prophets which is most widely used to establish the discussion of the laws of modesty was taken out of context.

Scriptures - כל כבודה בת מלך פנימה ממשבצות זהב לבושה

The third and final verse of the three-legged Bible-based argument for the validity of the “commandment” for women to dress and behave modestly comes from the book of Psalms. Let us first present the way the verse was interpreted and used in traditional sources, and then deal with the original meaning of the verse within its context in Psalms. We have to break this discussion into two parts because of the sheer volume of literature written around this verse, and the many difficulties arising from the traditional reading of the verse.

The traditional translation of the verse in the title of this article is:

“The glory of the princess is for her to be inside, she is dressed with golden embroidery.”

Midrashic authors associated the term “golden embroidery” with the same words which appear in the description of the High Priest's garbs.¹¹ This prompted them to state that:

A woman who hides herself [inside], even if she is not from a priestly family, deserves to be married to a priest and to have children who will serve as High Priests.

The wise reader notes that though the Midrash seems to praise the woman, she has no intrinsic value or greatness. Her meritorious action is passive – she is hiding herself, and so is her reward – her son will be the High Priest, while she will rejoice from her glorious hiding place.¹²

This verse was also used in the Midrash to restrict women's movements:

Our rabbis say: a woman is not allowed to wear jewelry in public. Why? Because people look at her and it is shameful for a woman to adorn herself when she is outside. Jewelry was only given to women to be used at home... it is respectful for a woman to stay home, as King David said: “The glory of the princess is for her to be inside.” Even when a woman is home she has to hide herself in one robe on top of another [for modesty]¹³

The commentary Da'at Zeqenim, culled from the writings of the authors of the Tosafot (11-13th c) and published in standard editions of the Humash, uses a much harsher language:

A man must subdue the female, so she does not go out [lit.: become promiscuous] and cause [sexual] damage. Leah was such a person, she taught her daughter [to do the same] and caused damage...¹⁴

Based partially on the verse from Psalms, the author would like women to stay at home as much as possible, and blames the rape of Dinah not on the perpetrator but on the victim and her mother, not unlike the attitude towards rape victims today.

Rabbi Yitzhak Isaac HaLevi Herzog, who served as the Chief Ashkenazi Rabbi of Israel from 1936-1959, wrote the following on a case of domestic abuse. Though he reprimanded the husband for using violence, he agreed with his complaint that his wife is too out-going:

Regarding the [husband's] claim that the wife works in an office [with men], if the office belongs to non-Jews, we definitely should apply the rule of the "Princess' Glory". We cannot allow that a Jewish woman will be with non-Jews all day.¹⁵

Rabbi Herzog sees lack of modesty in the actions of a woman who shares an office with non-Jewish coworkers, but as we know, more and more women work outside their homes in public environments. In the reality of the Yeshivah world, where most husbands study all day and the women are the bread winners, necessity breeds flexibility. In that vein, Rabbi Menashe Klein answers the question of a young man who is about to get married and wants to know if his future wife is allowed to work in order to provide for him. The rabbi answers that since the Halakha of "Princess' Glory" is not well observed today, and since women started working alongside their husband in the past during harsh economic times, it is fine for a woman to work in an office and there is no breach of modesty.¹⁶

In another of his rulings, Rabbi Klein "allows" girls from orthodox institutions to go from door to door and collect money for their schools, despite the objection of some rabbis who claimed that the practice is immodest and even dangerous, as it exposes the girls to sexual predators. Rabbi Klein defends the practice by saying that the level of modesty is not high anyway and this is not the place to be strict. He writes that:

Those teenagers [lit.: virgins] and girls to not fulfil the Mitzvah of "Princess' Glory" as written. They should have been inside [their homes] but they go every day to school. They ride buses and meet strange and weird people with whom they joke. They greet the black and just any Goy with such joy and say hello to them.

The xenophobia is evident and it is directly associated with modesty. Ideally, according to Rabbi Klein, all girls should have been kept at home, but now that the terrible situation is that they talk pleasantly with non-Jews, sending them to collect money in Jewish homes saves them from sin.¹⁷

While Rabbi Klein "allows" women to override the obligation of staying home for the sake of providing for their husbands or raising money for their institutions, other rabbis are not so "lenient".

Rabbi Shmuel HaLevi Vosner, who passed away recently, writes the following in a ruling which reminds the reader of another Middle-Eastern country:

Regarding modesty, the practice of women to learn how to drive and to actually drive should be absolutely forbidden. Even learning to drive is dangerous and causes promiscuity, and the act of driving is diametrically opposed to the concept of "Princess'

Glory". The woman exposes herself in markets and streets for all to see, she stumbles and causes others to stumble... The rabbis said that it is not appropriate for women to ride, and even though they referred to riding an animal which is somewhat different than a car, however it is inappropriate and similar in some points which I'd rather not put in writing.¹⁸

Based on the verse in Psalms, Rabbi Vosner states that driving a car is inappropriate action which borders on promiscuity, but stops short of explaining why it is so. He then moves to the Fire and Brimstone department, and explains why accidents happen:

My heart tells me that this is the cause for so many accidents on the roads of Israel, accidents which claimed the lives of many victims, among them the good and the righteous.

Let us return to Midrashic sources and see how the Princess' Glory concept is interpreted as demanding boundaries of modesty. The Midrash Tanhuma says that one is not allowed to look at the face of a married woman.¹⁹ Had that rule been followed rigorously, it would have rendered social life an interaction impossible, unless women are totally covered or never leave their house. We shouldn't be surprised that there some women are not satisfied with even the strictest modesty standards and choose to cover themselves head-to-toe in a burka-like garment.

Even rabbis whose Halakhic approach is considered more flexible, such as Rabbi Yechiel Yaakov Weinberg and Rabbi Ovadia Yosef, tend to be very rigid when it comes to the rules of modesty. Both rabbis base their words on our verse from Psalms. Rabbi Weinberg writes:

The glory of the princess is inside – at home and among her family. It is typical for righteous women of the Israelite nation to abhor the lustful eye of others.²⁰

The general concept of natural shyness may be correct, but as we will see later, it has nothing to do with the verse. Additionally, while it is true that women treasure their privacy, this is not an intrinsically Jewish, but rather a universal truth. One should also be careful before labeling every encounter between men and women as lustful. This approach invests normal social settings with sexual innuendo that does not exist, it stifles humane and emotional development, and it erects an impenetrable wall between the two genders.

Rabbi Yosef uses the verse to speak about the prohibition of wearing immodest clothes:

It is a holy duty for all rabbis who guard the holy guard, as well as the public servants who revere God's word, to publicize the severity of this prohibition, and to warn Jewish women to dress modestly, as it is written, the glory of the princess...²¹

While no one questions the importance of modesty and respectful relationships, the language is very harsh and invokes images of a holy war against desecration and spiritual deterioration. Unfortunately, as those who work with communities and individuals well know, the problems which plague observant Jews are much more dangerous than the lack of modesty.

I will conclude this section with a ruling by Rabbi Yitzhak Ratzhabi, published in 2001, which calls for men and women to stop addressing each other on a first names basis, with the exclusion

of spouses.²² Ideally, says Rabbi Ratzhabi, even a husband and wife should not use first names, but since that goal is unattainable, we should strive to prevent that practice among all others. He explains that this is needed as a counter-balance to the transgression of the concept of the “Princess’ Glory”. Not using first names, according to him, “will help set boundaries and distance between the genders and prevent the dangerous spiritual fire which will consume us all as sawdust”.

So far we have discussed some of the restrictions which were placed upon women based on the verse in Psalms 45:14, translated as saying that the glory of the princess is in staying indoors.

We have only touched the restrictions which afflict women on a daily basis, such as being scrutinized for modesty breaches, not being addressed by name, or being barred from driving. Besides these, there is a long list of activities and roles which halakhic literature mentions as unfit for women because that would be a breach of the above mentioned verse.

If we put together the opinions of all poskim, we will find that women should not recite: birkat haLevana (blessing of the new moon)²³; birkat haHama (blessing of the sun)²⁴; birkat haGomel (giving thanks for surviving a dangerous situation such as sickness or delivering a baby)²⁵.

They cannot serve as: witnesses²⁶; kashrut supervisors²⁷; paralegals in rabbinic courts²⁸; presidents of a communal or religious entity²⁹;

They are not allowed to visit: the synagogue³⁰; the cemetery³¹; the hospital (to visit people other than their immediate relatives)³²;

They are also not allowed to vote³³, to attend a public reading of the Megillah³⁴, or to light Hanukkah candles outside the house in case the husband is absent³⁵. According to one of these rabbis, Rabbi Menashe Klein (1925-2012), a woman’s role is to wait at home for her husband, making sure he receives food and drinks upon arrival³⁶. He therefore also rules that women should not date but rather have arranged marriages³⁷, should not teach or attend school³⁸, and have no permission to stroll outside with their husbands³⁹. He also adds that if ten women gather to pray it is a breach of modesty and the Divine Providence is not with them⁴⁰.

This exhaustive list is especially unsettling because while we can somehow rationalize a disparaging view of women in the past, most of the authors cited here are not relics of the dark ages, but rather contemporary scholars who are very well aware of the active role women have in all fields of life. What is more mindboggling, however, is that this vast halakhic literature revolves around a verse from Psalms, in stark contradiction to the rule that one cannot learn Halakha from the Prophets and Scriptures sections of the Bible.⁴¹

That being said, it is time to analyze the verse in its original context. Psalm 45 opens as a song of praise to King Solomon, but halfway through the psalm there is a sharp transition as the praise becomes harsh criticism. The psalm is neatly divided into 9 verses of praise and 9 of criticism, but the shift is so surprising, that many traditional scholars tried to ignore or bypass it.

The key word for understanding the nature of the psalm appears in the title, or the superscript: Maskil (משכיל) – which means to teach wisdom, and is used in Psalms to point out a hidden layer

of meaning. The poet tells the readers that the text is not what it seems, insinuating that the praise is either ironic or a description of the ideal, rather than the real, king. The poet mentions justice, truth, honesty, grace, and humility as the character traits which brought God to choose and anoint the king.

In verse 10, however, another key word, שגל, appears in the description of the royal entourage, thus revealing the hidden message of the psalm. The psalmist describes the king surrounded by women:

בנות מלכים ביקרותיך, נצבה שגל לימינך בכתם אופיר

The daughters of kings pay you tribute, the concubine stands to your right dressed in gold of Ophir

This is not the description of a righteous, God-appointed king, but rather that of a hedonistic ruler, immersed in a world of carnal delights. The word שגל, which some translated as “consort” is an explicit word which connotes sexual relationships against the woman’s will, either rape by conquering armies or of subjugation to a ruler. As a matter of fact, this word is so explicit, that in its four occurrences in Torah and Prophets⁴² it is written but not read, replaced instead by the more neutral verb שכב – to sleep.

The psalm continues with a vivid description of a king obsessed with acquiring new women for his harem, women from all over the world who are asked to abandon their families and past and bask in the king’s glory:

(יא) שמעייבת וראי וטהי אונגה ושקתי עמך ובית אביך (יב) ויתאן המלך זפגך פייהו אדניך והשתחויו לך (יג) ובת צור במנחה פניך יסליו עשירי עם (יד) כל כבודך בת מלך פנימה ממשבצות זקב לבושה (טו) לרקמות תובל למלך בתולות אחריה רעותיה מובאות לך (טז) תובלנה בשמחת נגיל תבאינה פתח כל מלך (יז) תסת אבתיך יהיו בגיך תשיתמו לשירים בקלה ארץ (יח) אזכירה שמה בכל דר ודר על כן עמים יהודה לעלם ועד

(11) Listen young girl and see, pay heed and forget your nation and family. (12) Let the king desire your beauty for he is your master; bow down to him! (13) Daughter of Tyre (Lebanon), the noblemen will welcome you with offerings. (14) The entourage of the princess is ushered in, decked in gold. (15) Wrapped in embroidery, she is led to the king, virgins at her heels, her friends brought to you [the king]. (16) With gladness and joy they will be led, they will come into the King’s chambers. (17) Your sons will take your ancestors’ place, [as] you will appoint them rulers over the land. (18) I will mention your name for eternity, therefore nations forever will praise you.

The last verses seal the reference to the corruption of the royal court. Whereas the ideal king in the beginning of the psalm is chosen by God for his virtues, the real king appoints his sons as ministers, while he is busy with his harem.

Now, if you had trouble finding the verse upon which the modesty argument rests, it is for a good reason. It does not exist! Or rather, it exists only in a detached form, plucked from the psalm, its vowels changed, and of course its meaning. It is verse 14, which in its original context describes the princess of Tyre, whom king Solomon married for political reasons, ushered into the palace with her luggage and friends. Her friends and maidens will also become part of the

king's harem. The word כבוד, which all the sources dealing with modesty translate as glory, suggesting that the glory of the princess is to be indoors, is actually written and read with a shuruq [kevudah and not kevodah], and therefore refers to the possessions of the princess.

Conclusion:

We have yet to look for other sources in the bible which clearly state a requirement to dress modestly, but so far we have seen that the three pillars of the modesty campaign have no scriptural basis. Deuteronomy (23:14) speaks of hygiene while Micah (6:8) warns people against fake religious devotion. The greatest deviation from the biblical text, however, is in the case the crown jewel of the modesty campaign, the verse from Psalms which serves as a basis for dozens of laws regulating, controlling, and limiting women's actions and status. A devout woman who reads all the laws based on this single verse from Psalms cannot help but feel that she must retire to a corner of the house, cover herself head to toe, and emerge only occasionally to feed her husband, provide for him, or dip in the Mikvah.

The most shocking thing about this is that the verse used to glorify the modesty of the Jewish woman actually describes sexual decadence and promiscuity.

As we shall see in further discussions of the concept of modesty, it is a later historical development, and as we have done so far in our analysis of Halakha, we will have to ask two principal questions:

- What changes between biblical and later periods caused the interest in and the codification of laws of modesty?
- What are the current changes between our modern society and past generations which require a fresh look at these laws?

Just as we have seen in the discussion of putting out fire on Shabbat, the apparently unanimous approach and nostalgic view of the past are not what we think they are.

Writing Halakha

As we have seen so far, the centrality of the issue of modesty cannot be squarely anchored in biblical texts. For that reason, before we continue to explore its centrality in the life of observant Jews (as well as other religions), we will have to examine the historical evolution of modesty in order to understand its roots and scope. This examination will also help us understand the differing views and practices, and contemplate the possibility of an observant society which will be less judging and intimidating on issues of modesty.

In order to conduct this analysis, I would like first to introduce the readers to the systematic approach to the study of Halakha. As in academic research, Halakhic discussions and decisions should follow a clear line of chronological order, importance, and distinction between primary and secondary sources, but in order to determine importance and hierarchy, one should be aware

of the different approaches to the validity of post-biblical sources. This is of extreme importance because in many Halakhic disputes, whether between great sages or lay people, arguments are often made along the lines of “this and that rabbi said so, so that’s it!”. Such arguments are made without giving any consideration to hierarchy, geographical location, social factors, personal factors, and most importantly, whether the view of that rabbi is accepted by his contemporaries or successors. To review all sources on the validity of post biblical and post Talmudic sources is beyond the scope of this article, so I will limit it to a brief survey of the main opinions.

Ashkenazi School of Thought: Oral Law is Divine and Monolithic

Rabbi Avraham Yeshayahu Karelitz (1878-1953), better known as the Chazon Ish, writes the following regarding the validity of different rabbinic and Halakhic sources.

משרשי האמונה שכל הנאמר בגמרא, בין במשנה ובין בגמרא, בין בהלכה ובין באגדה, הם הם הדברים שנתגלו לנו על ידי כח נבואי, שהוא כח נשיקה של השכל הנאצל עם השכל המורכב בגוף... נבואה... אפשר לו להיות לכלי קולט דעת... מבלי עיון ועמל שכלי, אבל רוח הקודש היא יגיעת העיון ברוב עמל ובמשנה מרץ עד שמתווסף בו דעת ותבונה בלתי טבעי... נרתעים אנחנו לשמוע הטלת ספק בדברי חז"ל בין בהלכה בין באגדה כשמועה של גידוף חס ושלום... והנוטה מזה הוא לפי קבלתנו ככופר בדברי חז"ל, ושהיטתו נבלה, ופסול לעדות

One of the tenets of faith is that all written in the Talmud, whether Mishnah or Gemara, whether Halakha or Aggadah... are the very things revealed to us by a prophetic power which is the connection [kiss] of the inducted mind with the mind which is combined with the body... Prophecy... one can become an absorbing receptacle... without analysis and mental toil... But divine inspiration is toiling to analyze with added energy and dedication until one has supernatural wisdom and intelligence... We recoil upon hearing one doubting the Sages, whether in Halakha or Aggadah, as we recoil when hearing blasphemy [lit. cursing God], God forbid... The deviators, according to our tradition, are heretics who denounce the words of the Sages, their Shehitah is therefore not kosher, and they are disqualified as witnesses...⁴³

Not only does the Chazon Ish give the words of post-biblical scholars a status of prophecy, he claims that their prophetic level is greater than that of the biblical prophets. Whereas biblical prophets could have been simply chosen by God as an empty vessel to be filled with divine inspiration, and without any preparation on their part, the scholar is one who has toiled in the study of Torah and has merited divine inspiration. It is obvious that this approach leaves little room for methodical research and analysis, and grants absolute power to a few chosen decisors of Halakha in each generation. This approach is a relatively new one, emerging in the 14th century, and it is contested by many, especially Sephardic scholars.

We can say that the Chazon Ish represents the dominant opinion of today’s orthodox world regarding the validity and authority of post-biblical texts, which sees the totality of Jewish Rabbinic literature as a monolithic, indivisible unit. According to that opinion, the words of the Mishnah and Talmud, as well as all the writings of post-biblical sages, including modern day Halakhic decisions, are a product of a prophetic process, and as such cannot be challenged or questioned.

This worldview is taught in most Jewish day schools and Yeshivot, and it is inculcated and promulgated daily by speakers and authors. It is problematic for several reasons:

- There is a vast volume of rabbinical texts which contradict it, especially regarding the notion that non-Halakhic texts from the Mishnaic and Talmudic period are absolute and binding.
- A monolithic view, which grants an equal, sacred status, to all Mishnaic and Talmudic literature, has led to a mentality of “all or nothing”. Those who question and negate the validity of parts of the Talmud, mainly on issues of science and empirical knowledge, feel entitled to discard the whole corpus away. On the other hand, those who accept the whole corpus must accept statements they find offensive or which go against their beliefs and knowledge. These people are confined to life of cognitive dissonance, with an impenetrable wall between the “I believe” and “I feel and know” sections of their brain.
- Granting sacred status and absolute power to contemporary rabbis denies people the right to think and question, and allows for misuse of that power. This status is also a product of circular argument which is that one has to agree with his predecessors in order to be approved, and that once he follows that tradition he can approve of others. This creates a self-contained system, or some kind of a ruling caste, which leaves no room for innovation and adaptation to changing needs and circumstances.

As mentioned above, there is a plethora of sources which reject this worldview. They argue that only the biblical text is divine, that only the Halakhic parts of the Talmud are bindings, and that one can challenge an existing practice or Halakha, as long as he presents sound logical arguments. Before I present here some of these sources, though, I would like to demonstrate the second and third point, in the context of modesty.

A famous Midrashic source explains why the woman was created from Adam’s rib. According to that Midrash, God contemplated the possibility of using other organs but decided against it:

התבונן מאין לבראתה. אמר: לא אברא אותה מן הראש, שלא תהא מיקרת ראשה; לא מן העין שלא תהא סקרנית; ולא מן האוזן שלא תהא צייתנית; ולא מן הפה שלא תהא דברנית; ולא מן הלב שלא תהא קנתנית; ולא מן היד שלא תהא ממשמשנית; ולא מן הרגל שלא תהא פרסנית; אלא ממקום שהוא צנוע באדם אפי' בשעה שאדם עומד ערום אותו המקום מכוסה. ועל כל אבר ואבר שהיה בורא בה היה אומר לה: תהא אשה צנועה אשה צנועה, אעפ"כ (משלי א) ותפרעו כל עצתי

If I create her from the head, she will be arrogant. From the eye, she will look into everyone’s business. From the ear, she will eavesdrop. From the mouth, she will be a chatterbox. From the heart, she will be jealous. From the hand, she will be meddling. From the leg, she will go everywhere [lit.: she will be promiscuous].

I shall rather use a modest body part [the rib], which is covered even when one is naked.”

At every step of the woman’s creation God admonished: Be a modest woman! Be a modest woman! Yet, as the verse states “you have rebelled against my counsel” (Prov. 1:25) [meaning that women have all the negative qualities mentioned earlier, in addition to not being modest].⁴⁴

This Midrash, which clearly originated at a household inflicted by serious marital strife, is disparaging and insulting to women. A woman who listens to her logic and consciousness might justifiably reject it, and with it maybe all of Jewish tradition. A woman who decides to follow her belief in the sacred nature of Midrashic texts will have to accept it, and with it a very low self-esteem and the status of a second class citizen.

Let us turn now to the last point mentioned above, that of the self-contained system. As I will show in future posts dealing with head covering for women, there were always dissenting opinions who argued that it is a practice which is given to changes. Those voices are now marginalized and silenced, despite their solid reasoning and analysis, because they deviate from the norm. As a result, orthodox women who do not cover their hair are deemed less religious by others and are made to feel guilty.

Sep Sephardic School of Thought: Oral Law is Human and Multi-Faceted

Let us now consider the other approach to rabbinic literature, and present the sources which make the case for the human origin of most of Jewish literature and for our right to question and argue. This approach does not see post biblical literature as a monolithic, God-dictated text, but rather as a work of interpretation and legislation which allows for reassessment, dispute, and change, within certain parameters.

First, a quote from the introduction to the Talmud by Rav Shemuel ben Hofni Gaon, head of the school of Sura in the tenth century. Rav Shemuel was a prolific author of more than 60 books in Hebrew, Arabic, and Aramaic, who was also well versed in secular studies and sciences and rejected superstitions:

הגדה הוא כל פירוש שיבוא בתלמוד על שום עניין שלא יהיה מצוה, זו היא הגדה, ואין לך לתלמוד ממנה אלא מה שיעלה על הדעת. ויש לך לדעת שכל מה שקיימו חז"ל הלכה בגין מצוה שהיא מפי מרע"ה שקיבל מפי הגבורה, אין לך להוסיף עליו ולא לגרוע ממנו אבל מה שפירשו בפסוקים, כל אחד כפי מה שנזדמן לו וכפי מה שראה בדעתו... לפי מה שיעלה על הדעת מן הפירושים האלה לומדים אותם, והשאר אין סומכין עליהם

*Aggadah is any commentary in the Talmud on a non-halakhic matter... one should only learn that part of Aggadah which makes sense... One should know that... [the rabbis'] commentaries on the verses depend on their life circumstances and on what they deemed plausible... but we only learn the logically acceptable of these commentaries and we do not rely on the rest.*⁴⁵

The famous contemporaries and relatives [through marriage] of Rav Shemuel, write along the same lines. I am referring to Rav Sherira and his son Rav Hai, who served as the heads of the school of Pumbedita in the 10th and 11th centuries:

ואמר מר [רב] שרירא הני מילי דנפקי מפסוקי ומקרי מדרש ואגדה אומדנא נינהו, ויש מהן שהוא כך... והרבה יש שאינו כן... והם הזכירו דעתו של כל אחד ואחד, ואנו לפי שכלו יהולל איש. וכן אגדות שאמרו תלמידי התלמידים, כגון רבי תנחומא ורבי אושעיא וחולתם, רובם אינו כן, ולכך אין אנו סומכין על דברי אגדה. והנכון מהם מה שמתחזק מן השכל ומן המקרא מדבריהם, ואין סוף ותכלה לאגדות. ונשאל ממר רב האי ז"ל מה הפרש בין ההגדה והמדרש הכתובין בתלמוד שאינן מצויין להסיר שבושן, וההגדות הכתובות חוץ לתלמוד. והשיב כלל זה שכל מה שנקבע בתלמוד מחזור

הוא ממה שלא נקבע בו, ואעפ"כ הגדה ומדרש אף על פי שכתובין בתלמוד אם לא יכוונו ואם ישתבשו אין לסמוך עליהם, כי כללינו הוא אין סומכין על ההגדה, אלא מה שקבוע בתלמוד שאנו מוצאין להסיר שבושן ולחזקן יש עלינו לעשות, כי לולא שיש בו מדרש לא נקבע בתלמוד. ומה שאין אנו מוצאין דרך לסלק שבושו נעשה כדברים שאין הלכה. ומה שלא נקבע בתלמוד אין אנו צריכין לכל כך, אלא מעיינין בו אם נכון הוא ויפה, דורשין אותו ומלמדין אותו, ואם לאו אין אנו משגיחין עליו

Mar Rav Sherira said: lessons derived from biblical verses, which are labeled as Midrash and Aggadah are only assumptions! Some are true... and many are not... the [sages] recorded all opinions, but we [follow the rule]: "one's praise is his intelligence" (Prov. 12:8). Also, that Aggadah which was authored by the disciples of the disciples, such as R. Tanhuma and R. Oshaya and others, is usually not true, and we therefore do not rely on Aggadah. The true ones are those which can be supported by logic and by biblical text, and there is no end to Aggadah. Our master Rav Hai Gaon said that if the Aggadah and Midrash in the Talmud cannot be understood or clarified they should not be used to guide our actions.⁴⁶

Two centuries later Rabbi Moshe ben Nahman, or Nahmanides, explains that our acceptance of Midrash should be limited and cautious:

ועתה אני אפרש לכם למה אמרתי שאיני מאמין בזה. אנחנו יש לנו שלשה מינים של ספרים: האחד הוא הביבליה, וכולנו מאמינים בו אמונה שלמה. והשני הוא הנקרא תלמוד, והוא פירוש למצוות התורה... ואנחנו מאמינים בו בפירוש המצוות. עוד יש לנו ספר שלישי הנקרא מדרש, רוצה לומר שרמונש. כמו שאם יעמוד ההגמון ויעשה שרמון, ואחד מן השומעים היה טוב בעיניו וכתבו. וזה הספר, מי שיאמין בו טוב ומי שלא יאמין בו לא יזיק

I will now explain why I said that I do not believe in [the Midrash]. We have three kinds of books. The first is the Bible, in which we all fully believe. The second is called Talmud, a commentary on the laws of the Torah... we accept its legal parts... We have a third book called Midrash, meaning Sermons. It is as if a preacher delivered a sermon, and one of the listeners liked it and wrote it down. This book, if you believe in it, fine, and if not, no harm is done.⁴⁷

There were those who wanted to ignore the words of Nahmanides because they were part of a dispute against Christianity. Those scholars argue that Nahmanides really accepts all Midrash but had to repel the attacks of his opponent who relied on Midrashic material to prove the validity of Christianity. However, this cannot be the case since Nahmanides chose his words carefully. He does not say that Midrash is the writings of a preacher, but rather that one of the listeners wrote it down. Nahmanides crafted his words very carefully. As he describes a process of "lost in translation". The preacher delivered an oral presentation, which was meant only for the crowd of that place and time. When one of the listeners writes it down, he etches it in stone, but it is his interpretation of the sermon. Nahmanides makes here a very strong statement: the words of the Midrash were not meant to be written and there is a great chance that they were taken out of context and maybe even distorted.

We will conclude this brief survey with the courageous words of Rabbi Yosef Messas regarding the genres of Rabbinic literature:

במסכת סופרים (טז:ג) כתוב: פנים בפנים דיבר ה'... ארבעה אפיון. פנים של אימה למקרא, פנים בינוניות למשנה, פנים שוחקות לתלמוד, פנים מסבירות לאגדה.

פירושו הוא: בפירוש המקרא צריך להתנהג באימה, שהם דברי אלקים חיים ומלך עולם, והם למעלה משכל האדם. העמק בהם כל מה שתוכל, ואם לא מצאת פשר דבר מתאים לשכלך באיזה ענין, ומה גם באיזו מצוה, דע כי האשם תלוי בשכלך שאין בו כח להבין דברי אלקים.

פנים בינוניים במשנה, כי היא פירוש תורה שבכתב, ויש בה תערוכת של סברות התנאים משכלם ותבונתם, ויען שגם הם קרוצי חומר כמונו, יש להן רשות לישא וליתן בדבריהם להעמידם על הסברה. ותוכל להוסיף ולגרוע ולהגיה, כמו שאמרו האמוראים בתלמוד על הרבה משניות, חסורי מחסרה, משנה יחידה, שבשאת היא, וכיוצא הרבה באלה הדברים. וזוהי מדה בינונית. לא ביראת הרוממות ולא בזלזול חס ושלום.

פנים שוחקות לתלמוד, שנוכל לקרב ממנו רק הדברים הנוגעים לדינא, וכל השקלא וטריא שבהם נרחיק אותה, שעל זה אמר רבינו תם בספר הישר: "מה לנו ולשקלא ולטריא של הגמרא?" וכן עשה הרי"ף זיע"א בהלכותיו שאסף ההלכות ועזב השקלא וטריא, וגם הרא"ש זיע"א הלך בעקבותיו.

פנים מסבירות לאגדה, מפני שנתפשטה בין ההמון ראוי להסבירה להם על פי שכלם...

In Tractate Sofrim (16:3) it is written: The [Word of God] has four faces: For the bible - reverence; for the Mishnah - balance; for the Talmud – a smile; For the Midrash – a welcoming face...

We should approach Bible study with great reverence because it is the Word of God, the Creator and Sovereign, whose wisdom is beyond our grasp. We have to delve into the bible and not give up until we find a logical explanation for all of its words, and especially the commandments.

The Mishnah requires a balanced and sensible approach, since it is [only] a commentary to the written law. It was composed by the Tannaites, who were flesh and blood, just like us. It contains logical arguments and assumptions which the rabbis based on their wisdom and logic. We are therefore allowed to discuss their statements with logic, add, omit, and correct as necessary. By doing this we continue the work of the rabbis of the Talmud, who would say that the text of a certain Mishnah is corrupt, or that it is a minority opinion. This is a balanced approach, with neither reverence nor disrespect.

The Talmud is approached with a smile because we can only accept the matters which concern practical law and final decisions, while rejecting all the back and forth argumentations which are theoretical and have no practical application. This approach was upheld by Rabbenu Tam and Rabbenu Asher, and it guided Rabbi Yitzhak Al-Fasi in writing his abridged version of the Talmud.

The welcoming approach to the Midrash is necessary because Midrash has become widespread amongst the people. The rabbis should therefore strive to explain it bring it closer to their understanding.⁴⁸

Rabbi Messas represents a long tradition of great thinkers who emphasize the importance of using analytical tools, logic, history, and science, when studying Jewish texts and especially

when coming to determine Halakha. As we shall see, this approach is of the essence when dealing with the problems of the modern Jewish world, of which modesty is but one.

Modesty, Labeling, and Halakhic Methodology

As I set out to do in the beginning of this article, we will deal with the actual laws or requirements of modesty, but before we get there, it is imperative that we understand the methodology of Halakha and review the sources related to modesty in a historical and analytical manner.

Why are we spending more time on Halakhic methodology when discussing modesty? Because the issue of modesty is essential to any discussion of modern Halakha, which implies adaptation to changing circumstances and acceptance of the diversity and versatility of Jewish law and lore. Our customs and practices could be divided into two main categories – private and public, but modesty is one where the two become inextricable, specifically for women, while for men it is mostly kippah and dress code. Observant and non-observant Jews alike, as well as many non-Jews, would immediately label a woman according to her parameters of modesty. This is especially true when dealing with hair covering in today's society. We have ample evidence dating back to the fourteenth century that orthodox women did not cover their hair, and it is well established and attested to that this was also the norm in early 20th century. Despite all that, today most women who do not cover hair would not be considered orthodox, even though they are fully observant.

This sad reality is a result of the human tendency to categorize and catalogue people, which unfortunately relies on external features as the fastest and surest method of classification. Writes Steven Pinker:

*People sort other people into mental pigeonholes according to their affiliations, customs, differences, and beliefs. Though it's tempting to think of this serotyping is a kind of mental defect, categorization is indispensable to intelligence. Categories allow us to make inferences from a few observed qualities to a larger number of unobserved ones. If I note the color and shape of a food and classify it as a raspberry, I can infer that it will taste sweet, satisfy my hunger, and not poison me... the problem with categorization is that it often goes beyond the statistics...*⁴⁹

The problem with the external features of modesty is that they do not reflect the true nature and personality of the wearers, but “modesty” still forces them into a rubric created by others. Our study of modesty must therefore address the historical development of the concept and determine whether it is rooted in Halakha, societal norms or other factors.

Here is an anecdote: several years ago, while living in Los Angeles, I was waiting in line at the Pico Glatt supermarket, a few hours before Shabbat. The woman ahead of me, who was wearing pants and who did not cover her hair, turned to me all of a sudden and said in Hebrew: “don't judge me by my looks, I am very observant” [אל תראה אותי ככה, אני מאד דתייה].

For a second, I was taken aback by her remark, but then understood that she thought that I was looking at the items she bought and at her appearance, while in reality I was lost in thought, probably preparing my speech for Shabbat. Once I realized that, I asked her not to judge me. I explained that by thinking that I judge her by her appearance, she is passing judgment on me. While it is true that many observant people do that, I told her, I was brought up differently. Why would I think that someone who rushes to the supermarket on a busy Friday and shells her money on exorbitantly priced kosher items is not observant?

But even though I told her that, I know very well that my way, which I have learned from my grandfather and master, Hakham Shaul Fetaya, is not the norm. I know that many women face judgmental attitude on a daily basis, and as a result either acquiesce and follow the rules posed on them or rebel and reject observance altogether.

Here is how writer Rachel Kuhr describes her experience as someone who decided to cover her hair but keep the pants:⁵⁰

...endless comments and sideways glances were thrown my way by Orthodox Jews who I'd run into at the grocery store or at the community gathering when I'd wear jeans and a hat. Some people let me know they saw it as hypocrisy: "How can you cover your hair if you are not wearing a skirt?" although the two Halakhot are not at all related, wearing the skirt was apparently seen as a more basic Halakah to observe. They gave me the impression that hair covering was really only for over-the-top Jews... it was as if they were saying that hair covering was the final straw in observance - you can't possibly cover your hair if you don't already follow the law and custom to the fullest. The pants wearers who didn't cover their hair seemed threatened by my hat, and the head-coverers, who all wore skirts seemed appalled by my pants.

Why did Rachel Kuhr have to subject to such scrutiny and criticism? Why did the woman at the Kosher supermarket feel that she has to defend her religious identity?

It will take some time to answer these questions, so bear with me, but in the meantime, I would like to pose another question to those readers who are familiar with the Mishna:

Where in the Mishna can one find a detailed, methodical discussion of the laws of modesty?

The short, one-word answer is: Nowhere!

The more detailed answer is that we find some references to the topic, but they are random and not systematic. The first is in tractate Shabbat, chapter 2, where the Mishnah discusses which accessories a woman is allowed to carry on Shabbat. However, this is not a direct discussion of modesty, and we can only infer what was the customary method of dress at the time. The second is a six-word phrase in tractate Ketuboth (7:6): What is [a transgression of] the law of Jewish women? Going out with the hair undone [or uncovered].⁵¹

We will return to this Mishnah and its Talmudic interpretation in the future, since it serves as the foundation for the argument that a woman must cover her hair, but for now let us search for more Mishnaic sources. Searching... searching... that's it! Other than those two indirect references to

the method in which women used to dress in Mishnaic time, there is no discussion of the topic in the Halakhic format so familiar to us from the Mishnah and later sources. There are dozens, if not hundreds, of books discussing modesty, as well as thousands of passages in Halakha literature. How did they all come about without even one coherent and detailed discussion in the Mishnah, something along these lines:

הכל חייבות בכיסוי הראש, בין הנשואות, ובין גרושות ואלמנות, חוץ מן הרווקות, ואיזהו כיסוי ראש, כל שהוא מכסה כל שיערה, רבי פלוני אומר רוב שיערה, ואחרים אומרים כל שאין יותר משתי אצבעות נראות מתוכו, הרי הוא כיסוי... ולא שיערה בלבד אמרו, אלא אף היד והרגל, וכל שדרכו לכסות

All [women] must cover their hair, whether married, divorced or widowed, except for single women. What is a hair-covering? That which covers all her hair. Rabbi so-and-so says: all her hair. Others say: if no more than two-fingers [width] can be seen, it is considered a hair-cover... and not only her hair [they said is prohibited] but also the hand and leg, and all which she is accustomed to cover...

This “Mishnah”, of course, does not exist. When post-Talmudic authors searched for Rabbinic literature sources to use as a basis for legislating women’s modesty, they had to rely on the above mentioned Mishnahs in Shabbat and Ketuboth, on a paragraph in Talmud Berakhot, and on midrashic material.

Hair: Covered or Braided? – The Sugya in Ketuboth

Now that we have reviewed Biblical and Mishnaic sources, we are ready to venture into Talmudic discussions, and then continue into the world of Halakha. Traditionally, the Talmud is viewed as the first binding Halakhic source, since the words of Mishna are sometimes hard to decipher.⁵² Faithful to this tradition, we will start our in-depth analysis with Talmudic texts.⁵³

There are two major areas of modesty found in Halakhic sources, which are hair covering for women and dress code (length of garments, gender-unique garments).

Of the two, hair covering is the axis around which the whole discussion revolves, because it is considered the final act of pious heroism which a woman can perform to show her adherence to Halakha. As mentioned in previous posts, and as we shall see in future discussions, the gradual education towards modesty starts with clothes and culminates with hair. Unmarried women are not required to cover their hair, for example, and a woman who chooses to focus on hair-covering but ignore such modesty staples as long sleeves and skirts will be scoffed at.

The main source upon which the halakhic discourse of head covering rests is the Mishna in Ketuboth (7:6) and its Talmudic interpretation (72:1-2). I will present here an alternative reading of the texts, which takes into account linguistic elements and historical context. I have been studying these texts in depth, guided by the wonderful words of Rabbi Yosef Messas in his seminal response concerning hair-covering:⁵⁴

ובגשתי לחפש בדברי הפוסקים אשר לפני, מצאתי רק חומרא על חומרא ואיסור על איסור, ובכך אמרתי אשא דעי למרחוק לשאוב מן המקור, משנה וגמרא ונושאי כליהם הנמצאים לפני, אולי אמצא להם פתח תקוה להיכנס בו

As I researched the words of my predecessors, I only found restriction upon restriction and prohibition upon prohibition. I therefore decided to go back to the source, to the Mishna, Talmud, and their commentaries, to see if there is a way to declare that [the practice of not covering the hair] is valid...

Our discussion starts in the words of the Mishna in Ketuboth:

ואלו יוצאות שלא בכתובה: העוברת על דת משה ויהודית. ואיזו היא דת משה? מאכילתו שאינו מעושר, ומשמשותו נדה, ולא קוצה לה חלה, ונודרת ואינה מקיימת. ואיזוהי דת יהודית? יוצאה וראשה פרוע, וטווה בשוק, ומדברת עם כל אדם. אבא שאול אומר: אף המקללת יולדיו בפניו. רבי טרפון אומר: אף הקולנית. ואיזוהי קולנית? לכשהיא מדברת בתוך ביתה ושכיניה שומעין קולה

These women must be divorced without the right to collect their Ketubah: those who transgress the laws of Moses and of Jewish women...

How does she transgress the laws of Jewish women? She goes out to the marketplace with loose hair, she weaves in the marketplace, and she talks with everyone.

Abba Shaul says: also a woman who curses her husband's parents in front of him.

Rabbi Tarphon says: also a boisterous woman... one whose neighbors can hear her when she talks inside her home.

The modes of behavior listed as deviating from the law of Jewish women are obviously not laws, but rather a failure to abide by societal norms which women of the time respected.

The two last opinions mentioned in the Mishna, those of Abba Shaul and Rabbi Tarphon, expect the woman to maintain certain standards of behavior even inside her home. It is interesting to note that the husband is not subjected to the same obligations.

The three first ones, however, are of interest to our discussion. Regarding the translation of the first of those three, there is no room for doubt. The verb פָּרַע is derived from biblical Hebrew where it has one meaning only: disorder. When associated with hair, the verb means disheveled or long hair, but never does it refer to uncovered hair.

This is most evident and irrefutable in the following biblical sources:

ויקרא, יג:מה: וְרֵאשׁוֹ יִהְיֶה פְּרוּעַ וְעַל־שָׁפָם יַעֲטֶהּ

In regards to the leper the Torah says that his head should be פָּרַע, and that his headgear should cover his mouth and moustache. We see that the hair is called פָּרַע even though it is covered.

במדבר, ו:ה: גִּגְלַל פְּרַע שְׂעָר רֵאשׁוֹ

A man who vows to be a Nazir (hermit) must grow his hair פָּרַע. This can only refer to hair let loose without cutting, and not to uncovered hair.

יחזקאל, מד:כ: וְרֵאשָׁם לֹא יִגְלְחוּ וּפְרַע לֹא יִשְׁלְחוּ כְּסוּם יִכְסְמוּ אֶת־רֵאשֵׁיהֶם

The prophet Ezekiel writes that the Kohanim should not shave their head completely nor grow their hair פָּרַע, but rather cut it evenly.

All these sources clearly demonstrate that the term Peru'a Rosh (פרוע ראש) does not mean uncovered hair but rather disheveled or loose hair. The type of undesirable behavior the Mishna mentions is for a woman to go out to the marketplace with her hair disheveled, but there is apparently no problem if her hair is braided.

Why is there an emphasis on the marketplace, as opposed to other public places? Why didn't the Mishna say יוצאה מביתה which would include any place outside the house? And why is there a concern with disheveled or loose hair?

The Mysterious Weaver

To understand why the Mishna is concerned with disheveled hair in the marketplace, we have to look at the other modes of undesirable behavior mentioned in the Mishna: weaving in the marketplace and talking with people. These two seem quite innocent and it is hard to understand how they would warrant a divorce.

Many commentators, the Talmud included, were perplexed as to the nature of these actions, and it was only in the 19th century that a satisfying explanation was offered. It was Rabbi Hanokh HaCohen Erentroy (1854-1927), one of the disciples of the Hatam Sofer school, who was also academically trained and well versed in ancient languages. Rabbi Erentroy explains that at that time weaving in the marketplace was the “calling card” of prostitutes. His argument is supported by several sources but most importantly by a story recorded in the Talmudic discussion of our Mishna. In that story, an Arab woman who was weaving in the marketplace deliberately cut the cord and let the spindle roll to the feet of a young rabbi. She then asked him to retrieve the spindle for her. His master, who saw it, claimed that this is the forbidden behavior mentioned in the Mishna.⁵⁵ Rabbi Erentroy explains that she used the spindle as a tool to point to certain men and attract them, and that this is the meaning of “talking to people” in the Mishna.

To the illuminating words of Rabbi Erentroy, I will add that weaving has been long associated in many literary works with promiscuity, temptation, and deception. Think, for example, of the infamous Rumpelstiltskin, the PR people referred to as "spin doctors" or "spinmeisters", of the term “spinster”, and of Penelope, Odysseus' wife, who promises her suitors that she will marry one of them once she finishes weaving, but each night undoes her day's work.

I would like to clarify that this by no means suggests that disheveled hair, weaving in the marketplace, and talking to people, are considered today immoral or undesirable. Rather, the point is that in antiquity, and specifically at the time that Mishna was composed, they had such status.

We now understand why the Mishna calls for the husband to divorce his wife in such cases. It was not about neglecting to observe some fine points of modesty, but rather about displaying markers of promiscuous behavior and acts of defiance against the husband. It is also understood why these actions fall under the category of women's practice and not Jewish law, because they depend in the local society and culture.

We can return now to the questions posed previously and answer them. Disheveled or loose hair, at the time of the Mishna, was one of the recognizable traits of a temptress. It had this status, however, only in the marketplace, where many people congregated. There were no limitations of how a woman treats her hair at home or in less public places, such as the courtyard or side streets. What was expected in the marketplace was that the hair will be braided, and even that, as explained before, was only in the social context of the Mishna.

Another proof for this explanation is provided by an earlier discussion in Talmud Ketuboth (17:2), which says that it was customary for a young bride to travel to the wedding with loose hair and with Hinouma – היוצאה בהינומא וראשה פרוע. The word hinouma is interpreted by several commentators as a veil, so it is obvious that hair could be covered but still called פרוע. The practice shows that loose hair was considered highly provocative and therefore it was only permitted for a young bride in order to enhance her beauty and appeal for her future husband.

Hair Covering – Is it Mentioned in the Talmud?

We now turn to what is the only Talmudic discussion of a woman's obligation to cover her hair.

In response to the Mishna which describes loose hair as a transgression of women's practice, the Talmud asks:

ראשה פרוע דאורייתא היא? דכתיב: ופרע את ראש האשה, ותנא דבי רבי ישמעאל: אזהרה לבנות ישראל שלא יצאו בפרוע ראש!

But isn't the prohibition [not to go out with] loose hair is biblical, as it is written "the priest shall loosen the hair of the woman", and the school of Rabbi Ishmael commented that this is a warning for Jewish women not to go out with loose hair?

The Talmud answers:

דאורייתא, קלתה שפיר דמי, דת יהודית - אפילו קלתה נמי אסור

The biblical requirement is satisfied with a basket on the woman's head, but women's practice forbids even that.

These two paragraphs are of utter importance since the whole concept of the obligation for a woman to cover her hair relies on them. It is therefore imperative that we analyze them carefully. There are several problems facing those who wish to learn from here that a woman must cover her hair.

- First, there is no mention here of uncovered hair, but rather of loose hair.
- Second, the claim that the prohibition is biblical cannot be understood as granting it a status of biblical law, but rather as an "asmakhta", a supporting text to a rabbinical idea. The "warning" derived from the verse cannot fall under the category of classic warnings as discussed by the rabbis. The verse speaks about a woman who was accused by her husband in adultery. The woman is brought to the Temple where the priest undoes her hair and lets it down or dishevels it. The Torah never mentions that the woman has to

bind or braid her hair, although it can be construed from the text. Since there is no legalistic phrasing in the Torah saying that loose hair is forbidden, the “warning” mentioned by the school of Rabbi Ishmael is not biblically binding.

To clarify the matter, we should know that the question *אזהרה מנין* – “where do we learn the warning from?”, appears in Rabbinic literature 35 times. In all occurrences, except our case, the answer includes a text with a clear language of prohibition: beware, do not, you shall not, etc. To make the “warning” against going out with loose hair a biblical warning, we should have had a verse in that style, for example: *ואשה כי תהיה לאיש ראשה לא תפרע* – once a woman gets married she should not let her hair loose. This verse, however, does not exist, as well as the alleged “warning”.

קלת – Basket? Kerchief?

The answer given by the Talmud, that the Torah requirement is satisfied with a basket, has perplexed many commentators, who approached the text with the understanding that it discusses hair covering. Some attempted to explain that women used the basket as a hat. According to that interpretation the Torah requires a woman to cover her hair but would be satisfied if she uses a woven basket even though her hair shows through it. This is a problematic interpretation for three accounts. One, covering hair with a basket is impractical. Second, woven baskets are usually much larger than hats, while smaller volume containers are made of solid materials. Third, the Mishna clearly mentions baskets of gold and silver⁵⁶, which had to be solid. If some baskets were woven and others were solid, the statement which allows their use is rendered invalid, since we are not told which type of basket is accepted.

Other commentators suggested that the word *קלתה* should be translated as thin veil or scarf, but that would go against all linguistic evidence from Rabbinic literature, where the word appears over sixty times and always in the sense of basket.

The difficulty of finding the right interpretation points again towards the understanding that the discussion is about loose hair. The basket mentioned here refers to the base of the basket, which was some sort of fabric woven into the woman hair to provide a stable seat for the basket, which was usually carried on the head, as can still be seen in Arab villages in Israel.

The Talmud’s statement should be understood thus: in order to satisfy the insinuated biblical requirement to bind or braid the hair, the woven basket base is enough, since it gathers the hair neatly. However, Jewish women took upon themselves the practice to not rely on that device when going to the marketplace.

As mentioned above, these are difficult Talmudic passages, but I believe that the interpretation offered here solves all the problems. Those who are well versed in Talmud are invited to revisit the Talmudic discussion with the insights offered here and find out that the Talmudic discussion of the legal obligation for women to “cover” their hair refers only to binding or braiding it. Even that was required only in Mishnaic times when loose hair had far-reaching significance which implied promiscuity.

Hypocritical Modesty - Kimhit and Ohn Ben Pelet

There are several other Talmudic sources which are frequently quoted as a proof that a woman must cover her hair. One is a story about a woman named Kimhit who had the special merit of seeing two [and some say seven] of her sons serving as High Priests.⁵⁷ When the rabbis asked her what was the secret of her blessing, she answered:

מימי לא ראו קורות ביתי קלעי שערי

The traditional translation of her answer is:

The beams of my house never saw my exposed hair.

This story should have never been used as a halakhic source because of the rule that one does not learn halakha from Aggadah or from stories. The real problem, though, is that this translation, just like the interpretation of the Talmudic paragraph we have discussed previously, is anachronistic. The translation, or interpretation, was made at a much later period, when women used to cover their hair, and therefore subconsciously understood the words of Kimhit as referring to exposed hair. As a matter of fact, what she says is that she never unbraided her hair under her ceiling, but rather did it under a cover. Either she unbraided and then braided again her hair under a scarf, or she wore a head-cover at home [I know of women of the previous generation who used to that]. The exact words she uses are קלעי שערי – the braiding of my hair.

Not only does she refer to unbraiding, rather than exposing her hair, but the rabbis reject her answer:

אמרו לה: הרבה עשו כן, ולא הועילו

They told her: "many other women did the same but failed."

As Rabbi Yosef Messas remarks in his famous Teshuva on the matter, many commentators failed to address the rabbis' response to Kimhit. When she tells them that she attributes her special merit to her strict rules of modesty, they answer that it is not the reason.

What we learn from the story of Kimhit is not that women are obligated to cover their hair. We learn that there were those who attempted to take upon themselves extreme measures of modesty, in the belief that it will bring them blessing and success. We also learn that the rabbis of that time, which had to be at least 150 years before the editing of the Mishna, since the Temple were still standing, rejected this kind of behavior. Their statement "many tried but failed," conveys the message that spiritual growth does not depend on external display of modesty.

This message is relayed through another Talmudic narrative, which was also completely misunderstood, unfortunately:

אמר רב: און בן פלת אשתו הצילתו... אשקיתיה חמרא, וארויתיה, ואגניתיה גואי, אותבה על בבא, וסתרתה למזיה, כל דאתא חזיה, הדר. אדהכי והכי אבלעו להו

This Midrash deals with one of Korah's accomplices, Ohn ben Pelet, who was part of the initial rebellion but whose name is missing from the list of those punished with Korah. The Talmud explains that Ohn's name is omitted because his wife convinced him to quit Korah's campaign, arguing that he does not stand to gain anything from it. When Ohn told his wife that he wouldn't be able to refuse Korah's messengers when they come to pick him up for the final confrontation with Moshe, she told him to leave matters to her. Per her instructions, he hid in his tent while she sat at the tent's opening and unbraided her hair. When the messengers saw her from afar they turned around and left empty-handed.⁵⁸

As with Kimhit's story, this story is also widely misquoted as describing Ohn's wife uncovering her hair. Again we find that the common practice in later centuries influenced the reading of the text. The original text clearly says that Ohn's wife unbraided or disheveled her hair – סתרתי למזייה, and there is no indication that it was covered prior to that.

What is more important, though, is the message of the story. The proponents of hair-covering used the story to argue that a woman must act with modesty, and by doing so, they missed the point. The tale about Ohn's wife does not describe historical events and should not be taken literally, as we have seen previously in our discussions of Midrash. The author of the tale wanted to criticize the hypocrisy of those who focus on modesty while committing grave sins themselves. Just try to visualize the absurd scene he describes: a group of elderly men who consider themselves fit to be the leaders of the nation have just defied Moshe as a true prophet, despite witnessing first-hand his prophetic vision on Mount Sinai.⁵⁹ Those people, who rebel against God and Moshe in the most heretical and blasphemous way possible, stop dead in their tracks at the sight of a woman with loose hair. Could there be greater hypocrisy?

This Midrash takes the core concept of the story of Kimhit to a new level. Kimhit's world is one where people try to obtain spirituality by using external measures, namely modesty. The world of Ohn ben Pelet, on the other hand, is populated with those who live in error, thinking that they are holier than others because they maintain higher standards of modesty.

If the characters and types of behavior described in these stories resonate with real people and events, it is not a coincidence. As we shall eventually see, these are global trends which can be found in all religions and cultures, among them the major trend identified here: attributing internal qualities to external objects or actions.

Handbreadth, Leg, Voice, and Hair

Now that we have analyzed the Talmudic paragraphs which are a direct commentary on the Mishna, we can turn our attention to the second order of Talmudic material, the self-standing statements of Amoraic scholars, which have no basis in the Mishna or in the Torah. These statements are known as מימרא, and are often the opinion of one rabbi only. They should be analyzed very carefully in terms of the context in which they were said, the identity of the author, and whether all later commentators agree on the interpretation of said statement.⁶⁰

The paragraph we are going to discuss here is a very famous one, to the extent that four excerpts of it are used until today as Halakhic rulings regarding women's modesty. These excerpts are:

טפה באשה ערוה – a woman's exposed handbreadth is considered nakedness.

שוק באשה ערוה – a woman's leg is considered nakedness.

קול באשה ערוה – a woman's voice is considered nakedness.

שער באשה ערוה – a woman's hair is considered nakedness.

These excerpts, as mentioned above, have become axioms hurled at anyone who dares question the concepts of modesty as practiced today by many observant Jews. The readers may be familiar with different interpretations and manifestations of these four rules, but in this post we will only deal with the details of the last one. In order to do so, however, we must first consider the full original paragraph in context.

The four concepts are not connected to any particular Mishna, but have rather branched off a discussion of the proper situation in which one is allowed to read the Shema. The original Mishna, from which the discussion branched off, talks about a man who realizes that the time for reading Shema is about to pass while he is standing in a Mikveh. He cannot read the Shema while naked so he has to stir the murky water to cover his genitalia.⁶¹

Commenting upon this Mishna, which deals with reading the Shema facing one's own naked body, a question was raised whether two men who sleep in one bed, naked, can turn their faces away from each other and read the Shema.⁶² According to one opinion, each one of them can read the Shema if he is facing his friend's back. Now a question is raised how is that possible if he is facing his friend's buttocks. The Talmud answers that this is not considered nakedness.⁶³

It is in this context, of the permissibility of reading Shema in front of exposed nakedness, that the four items of handbreadth, leg, voice, and hair are mentioned. The Talmud never says that a woman should cover her body or hair in a certain manner but rather that one is not allowed to read the Shema in certain situations. The authors of these statements agree that men should not look at women, but do not consider it an obligation for the woman to cover herself or hide her hair or voice.

Let us now look at the sources for these four statements.⁶⁴ The last three cite verses from the prophets and scriptures, which cannot serve as a basis for halakha and are actually taken out of context. The first, regarding an exposed handbreadth, has no biblical source at all, but rather relies on another statement, made by Rav Sheshat, that one is not allowed to look even at woman's finger.⁶⁵ Rav Sheshat goes as far as to say that looking at a woman's finger is tantamount to looking at the most intimate parts of her body. It is interesting to note that this statement - טפה באשה ערוה – is made by a fourth century rabbi and has no source in the Mishna. It is also interesting to note the Rav Sheshat, who forbids looking at a woman, was blind. Could there be any connection between his blindness and the extreme statement he makes? According to Rabbenu Gershom, the answer is positive. He writes that Rav Sheshat, who was a disciple of Rav, wanted to emulate his master's practices after Rav passed away, in order to perpetuate his

legacy. Since Rav was careful never to raise his eyes and only looked at the ground, Rav Sheshat decided to blind himself.⁶⁶

אמר ליה רב לרב שימי: שימי את? אתה הוא זה שימי? לפי שלא היה רואהו משום דהוי ביה ברב מילי דחסידות שלא היה מגביה עיניו מן הארץ ולפניו היה מביט מרוב ענוה וזו אחת היתה ממדותיו. ורצו לנהוג במדה זו רב יוסף ורב ששת תלמידיו ונעשו סגי נהורין

This is a sign of extreme piety which brings to self-mutilation, and should definitely not serve as a parameter for Halakha.

Unfortunately, the popular view takes Rav Sheshat's words as binding, although he expresses his personal [and most extreme] opinion. It also takes the four statements above as applying at all places and all times, and almost ignores the fact that the discussion in the Talmud revolves around reading the Shema and not modesty.

However, to our discussion about hair covering, the following insights are of importance:

The exposed hair is understood by Rashba as referring to a loose braid. This agrees with our analysis of the Talmud in Ketuboth, which concluded that women did not cover, but rather braided their hair.⁶⁷ Rashba's commentary is also cited by Rabbi Yosef Karo in his Bet Yosef,⁶⁸ where he explains that all these statements refer to the common practice of women, and that there is no problem with those parts of the body or the hair which are usually not covered.

The verse used to support the statement that hair is considered nakedness proves the opposite, because it is a quote from Song of Songs where the lover praises his beloved's hair. Although Song of Songs is widely understood as a parable, it nevertheless describes reality, and in the author's real world a married woman did not cover her hair.

Most importantly, Rabbi Yitzhak Al-Fasi, known as the Rif, completely omitted that paragraph, with its four statements, from his abridged Talmud, where he only records binding Halakhic decisions. Rabbi Avraham ben David, the Raavad (1125-1198), explains the omission thus: Rabbi Al-Fasi did not mention this discussion at all, possibly because previously the Talmud says that one's exposed buttocks are not considered nakedness. Rabbi Al-Fasi concluded that if this is so, then obviously a woman's hair or exposed handbreadth cannot be considered nakedness.⁶⁹

Conclusion:

The Talmudic paragraph where the statement about a woman's exposed hair is made cannot save as a halakhic proof that women must cover their hair, for the following reasons:

- It is not a rule of modesty but one of the laws of prayer.
- It speaks of a loose braid and not of exposed hair.
- Even the definition of loose braid depends on the practice of local women.
- Rabbi Yitzhak Al-Fasi does not accept this statement.

We have now analyzed most relevant Mishnaic and Talmudic paragraphs, and found that there is no indication that hair covering for women was mandated in the time of the Talmud.

Nostalgia Versus Logic

Before we continue with the discussion I wanted to reiterate ideas I brought up in the beginning of this series. This discussion is much more than an analysis of the minutiae of the laws of modesty. It is first and foremost a case study of the development of Halakha, which could help people at all levels of observance and of all denominations better define and understand their choices. The theme of modesty was chosen to for the case study because of its tremendous importance to the current state of affairs and to the future of the Jewish People.

Let me explain, the most alarming result of the modesty campaign is the marginalization of women in stricter orthodox communities. A young girl who is constantly told that she should not be seen or heard will eventually grow up to become a woman with low self-esteem and low confidence. Not only does this outcome stifles and stunts the spiritual growth of women and their right to be treated equally, there is no doubt that the codification of modesty into a legal system, imposed by men on women, is a major factor in cases of maltreatment of women, both emotionally and physically, in some religious circles.

Another negative result of the emphasis on dress code is that people are classified by their external appearance and not by their actions, beliefs, personalities, and character traits. The labels run the full gamut from “promiscuous” to “very religious” and allow people to look down at others for not being as observant as them. It also pushes some women to the extremes of covering themselves and their daughters head to toe, burka-style.

Now let us return to the methodological analysis of Halakhic material and the understanding of the evolution of Halakah, as demonstrated so far by this study.

We have taken a concept of which all Jews are aware, namely that observant Jews, and especially women, are bound by a very strict dress code. In order to understand the roots of that system we have looked in the bible, differentiating between Torah, prophets, and scriptures. We have examined each verse used as a support to the modesty legal system within its context and assessed the ways in which the verses were used to promote certain ideas or agendas.

We then moved on to Mishnaic sources and looked for a discussion of modesty. We have analyzed the material, and we have found that in its social context it meant something totally different than the way it was understood later. We also found out that the key word of the Mishnaic discussion was mistranslated. From the Mishna we moved to primary and secondary Talmudic source, primary being those which refer directly to a Mishna, and secondary being those that are self-standing statements by Talmudic scholars.

We have also look at Midrashic sources found in the Talmud and evaluated their validity and relevance to the Halakhic question in hand.

After doing all that, we are ready to move on to post Talmudic sources and ask the question of how was the vast system governing women’s modesty created, without having almost any Talmudic source to rely on.

This is a tedious process, but if one truly wants to understand the roots and development of Halakha, as well as to feel an inner, spiritual connection to the ritual he performs and practices he keeps, this process should be applied to all religious actions.

We could apply this process, even if only superficially, to some of the questions sent in by our readers:

Wearing Kippah is not mentioned in the Torah. In the Talmud it is mentioned as a measure of extreme piety or great wisdom, and there is ample evidence that until early medieval times, blessings were said with head uncovered. Similarly, despite its prominence in Hassidic literature and in texts of scripted confession, wasting one's seed is not mentioned in the Torah, except for a Midrashic interpretation of the story of Onan. It is not mentioned even in the Mishna, but it merits an extensive discussion in the Talmud. Other elements identified with strict adherence to Jewish law, such as the different levels of Kosher meat, the need for Kashrut supervision for every consumable item, and the need to place a Kashrut guardian angel at every store, were blown out of proportion in the 20th century.

In the same manner, the methodical learner will find out that issues such as solving the problem of Agunah, legal age, women in leadership positions, men's jewelry, prayer times, wearing tefillin and more, are not as black and white as we tend to think. In the past, courts had ways to immediately undo the marriage of an Agunah (a woman whose husband refuses a Jewish divorce), legal age was a case-by-case decision, women held religious leadership positions, men wore earrings and nose rings, people prayed Arvit three and four hours before sunset, and orthodox people did not wear tefillin for almost a hundred years.

These are only a few examples, but when we study them thoroughly, alongside the theme of modesty, we realize that it is impossible to extricate the Halakhic process from "external" processes. These include political, financial, cultural, and sociological factors of the time and place of the author. All these are known in academic language as "sitz im leben", or "setting in life". In addition to these "general" settings which could have influenced the author or authors, we have to consider personal ones. Do we not know of great rabbis who suffered from religious OCD, also known as scrupulosity? Is it not possible that their natural inclination towards counting, cleansing, and chanting, has affected their Halakhic writings?

There is much more to say about the Halakhic process, but for now I will conclude with these two messages:

The Torah is a Torah of life and love, and one of the yardsticks the Sages used in defining the details of laws and practices is דרכיה דרכי נועם – the paths of the Torah are pleasant.⁷⁰ It logically stems that if a practice causes discomfort, anxiety, or a sense of loss, there might have been an interruption in the process of transmission from the original source.

It is that process that we set out to investigate, in order to provide a Halakhic which will enable us to derive the greatest possible benefit from it, in terms of inspiration, spiritual growth, and better life quality.

The Monogamous Harem⁷¹ and the War on Sexuality

As we return to the discussion of modesty, we cannot ignore the fact that the development of the vast system of laws and practices governing women's modesty sits at the point of encounter, or clash, between nature's prominent species: men and women [or women and men].

As have been noted several times here, most of the laws and restrictions concerning modesty were created by men, but they govern and control the life of women. This phenomenon is not unique to Judaism, as it is shared by Christianity and Islam. The interesting thing about the role of modesty in those two religions is that unlike Judaism, their original legal system was very limited. Christianity was promoted by Paul of Tarsus as a system of belief and not practice, practically calling for abandoning all the laws of the Torah. In Islam there are five pillars, which are not mentioned directly in the Koran, but rather in the oral tradition, the Hadith. These five are: declaration of faith (Shahada), prayer, fasting, giving charity, and pilgrimage. Neither Christianity nor Islam included modesty in their legal systems, but somehow it became inextricable from both religions. One could be tempted to attribute the consensus to the common origin of these two religions in Judaism. However, the requirement that women dress modestly, at least around holy men or while performing holy tasks, is not unique to the monotheistic religions, and can be found in Buddhism and Hinduism as well.

This commonality forces us to assume that the religious urge to control women's dress-code has deeper roots, shared across religions and cultures. The first, I believe, is that women were willing to accept some restrictions because they wanted to protect their privacy. This willingness, however, was pushed to extremes by legislators and clerics who constantly tried to subdue the sexual drive, for fear that it will undermine the religious order.

The crusade against sexuality dictates what women are allowed to wear, where they are allowed to be seen, and how often, but it is not limited to these rules only, nor to women alone. In some cultures, it is displayed in the cruel and dangerous practice of female genital mutilation, while others regulate the frequency and nature of sexual relationships. Catholicism views those relationships as sinful and promotes celibacy for men and women, and many Jewish religious luminaries were praised for their abstinence (in post-biblical literature). Under the rubric of subjugation of the sexual drive one could also file the religious obsession with masturbation, sexual orientation, separation of the genders, and marrying in a young age to avoid "living in sin".

There is another factor, though, which has to do with the different worlds of men and women. These two human species, which interact constantly and intimately, are often unaware of the vast differences between them, and tend to view each other through their own lenses. "Men are from Mars, Women are from Venus", is a title most people associate with this concept, but I have some other favorites. The first is "You Just Don't Understand: Women and Men in Conversation", by Prof. Deborah Tannen, which is an eye-opener for both genders and helps them understand the different factors in their communication styles and focuses. The second is "The Essential Difference: Male and Female Brains and the Truth about Autism", by Prof.

Simon Baron-Cohen (yes, his cousin!). In this book the author discusses, among other issues, the lesser ability of men to read and interpret facial expressions.

In one communication workshop I conducted, I have presented the participants with the test the book suggests, which consists of photos of people's eyes and mouth, and multiple choice questions about the emotions displayed. The author writes that women usually do much better in this test, and indeed after a few minutes one of the men threw his arms in the air and bitterly complained that he is completely lost. Though the sensitivity to and the ability to read and understand emotions is mostly inherent and not acquired, the awareness of the different capabilities of men and women could help both genders avoid frustration and contempt, if men will be willing to pay more attention and women will be willing to more clearly articulate their feelings and not rely on male intuition.

I presented this brief survey here because I believe that no serious Halakhic discussion of issues related to interaction between men and women can be conducted without a basic understanding of the differences between the genders and of the new wealth of information modern science provides us with.

I would like to return to the title of this paragraph which was inspired by another book, which I believe is extremely important when approaching the issue of modesty and sexuality. This book is "The Red Queen: Sex and the Evolution of Human Nature", by Matt Ridley.

*If powerful men had their way, women would probably live in harems like seals; If most women had their way, men would be as faithful as albatrosses.*⁷²

In *The Red Queen*, Ridley presents the theory that men and women look for different qualities in a spouse. To put it in a very simplistic way, men seek to have as many descendants as possible, while women want a mate who will be loyal to them and will be able and willing to take care of the couple's children. In the past, powerful men prided themselves for their harems. Ridley quotes Laura Betzig, who has examined 104 politically autonomous societies and found that "in almost every case, power predicts the size of a man's harem."⁷³ The modern reader who lives in a monogamous society will probably shrug this off as a relic of our barbaric past, but the pages of recent history are replete with stories of powerful men entangled in extra-marital affairs or marrying several times, as if they had to cement their powerful status with the conquest of women.

Ridley writes that ancient emperors "recruited young women, kept them in highly defensible and escape-proof forts, guarded them with eunuchs, pampered them, and expected them to breed the emperor's children."

I believe that the concept of the harem can explain some of the laws regarding women's modesty. Even in a monogamous society, men still need to control and contain women. One of the means for achieving that control is the creation of an ideological harem, to which the woman will be confined. Women are educated, from a young age, to believe that they should hide themselves in the house. If they leave the house, they should create for themselves a mobile shelter, impenetrable to other men who are trying to take hold of the husband's "property". This

is why most of these laws did not originally apply to single women. It was only the married women who needed to be protected, although there is also the motif of the daughter who are protected by her father from prying eyes.

In Midrashic literature, we find Abram locking his wife Saray to hide her from king Pharaoh,⁷⁴ and Jacob locking up his daughter Dinah to hide her from his brother Esau.⁷⁵ Both women are hidden in a portable harem – a trunk or crate. We also read of Papus ben-Yehuda who would lock his wife at home whenever he had to be out for business.⁷⁶ In popular literature we are familiar with Bluebeard, Rapunzel, and the infamous chastity belt.

All these lead me to the conclusion that beside the natural tendency of women to protect their privacy, and the need of religious authorities to control the sexual drive, it was the subconscious desire of men to confine their wives to designated spaces, thus securing the integrity of the man's monogamous harem. Another point of comparison: ancient emperors expected their many wives to bear them many children, preferably males who could spread the father's seed more efficiently than women. In a similar way, women in many religious societies are expected to bear many children, and the bias in favor of males extends beyond religion.

The discussion of the social and cultural background of the concept of modesty is of extreme importance, because as we have seen in previous posts, there is no footing in the Torah or the Mishnah for the current Halakhic system which governs women's dress-code and hair. Even the discussion in the Talmud is limited to the demand that women braid their hair, and that also was done only in public places.

The primary Halakhic source which demands full coverage of a woman's hair is Maimonides, who defines it as biblical law.⁷⁷

אלו הן הדברים שאם עשת אחד מהן עברה על דת משה: יוצאה בשוק ושער ראשה גלוי... ואיזו היא דת יהודית, הוא מנהג הצניעות שנהגו בנות ישראל. ואלו הן הדברים שאם עשת אחד מהן עברה על דת יהודית: יוצאה לשוק או למבוי מפולש וראשה פרוע ואין עליה רדיד ככל הנשים, אף על פי ששערה מכוסה במטפחת

If she did one of these things she has transgressed Mosaic Law: Going out to the marketplace with her hair exposed... Jewish Law is the practice of modesty followed by Jewish women. If she had done one of the following she has transgressed Jewish Law: Going out to the marketplace or a thoroughfare with loose hair and without the veil all women wear, even though she wears a scarf...

Since there is no source for it in the bible, we must say that Maimonides's stance is a matter of interpretation. Either he meant that in a society where all women cover their hair the practice will gain a biblical status, or that he interpreted the Talmudic discussion in Ketuboth as demanding a hair-cover because of the society he lived in.

In the future, I hope to expand more on the exact wording and source of Maimonides, as well as on the words of the Zohar on the matter. I will also discuss the historical development which led to the abandonment, and later resuscitation, of the practice of married women to cover their hair.

In the meantime, though, in order to prove both the point about the monogamous harem and the different social conditions in Maimonides' time, let us read how often, according to Maimonides, should a woman leave her house:⁷⁸

גנאי הוא לאשה שתהיה יוצאה תמיד פעם בחוץ פעם ברחובות, ויש לבעל למנוע אשתו מזה ולא יניחנה לצאת אלא כמו פעם אחת בחודש או פעמים בחודש כפי הצורך, שאין יופי לאשה אלא לישב בזווית ביתה שכך כתוב כל כבודה בת מלך פנימה

It is repugnant for a woman to leave the house frequently, to the streets or to the marketplace. The husband should prevent his wife from doing so and let her leave the house only once or twice a month, according to necessity, since the only beautiful thing for a woman is to sit at the corner of the house, as it is written: "the glory of the princes is inside..."

Those who argue for a Maimonidean interpretation of the Talmudic text, and therefore for a biblical status for the requirement of hair covering should be asked the following question: do you really want to live by every word Maimonides wrote?

Most reasonable people, I hope, will answer in the negative, and that in turn will maybe make them admit that had Maimonides lived today, he would have phrased many of his laws differently.

Rabbi Haim Ovadia

¹ דברים כג, טו



³ The Better Angels of Our Nature, Steven Pinker, esp. pp. 65-70.

⁴ 6:8

⁵ Proverbs 11:2

⁶ **אבן עזרא, משלי, יא:ב:** וצנועים הם המתביישים מעשות זדון כמו והצנע לכת

⁷ **ר' מרדכי יפה'ן, לבוש אורה חיים, סימן רמ:** אף על פי שישן עם אשתו יהא אדם צנוע במטתו, דכתיב הצנע לכת עם אלהיך, כלומר אפילו במסתרים, ואפילו בחדרי חדרים במקום שאין אצלך שום אדם שרואה אותך רק אלהיך אשר לפניו יתברך חשכה כאורה, הוי צנוע בהצנע לכת. לפיכך לא יהא אדם רגיל ביותר עם אשתו לפי שיש בו קלות ראש מאד, אלא בעונה האמורה בתורה דהיינו כל אדם לפי מה שהוא בפרנסתו וחיותו יתנהג גם כן עם אשתו, שלא צותה התורה בפרייה ורבייה אלא כפי יכולת האדם

⁸ **הרב מנשה קליין, שו"ת משנה הלכות, חלק יז סימן כח:** אבל הכוונה אדרבה לפי שדרכה של אשה להיות בצניעות ומכוסה כל גופה, אבל פניה וידיה הם מגולות. שהרי אינו מדבר כאן מנשים שחצניות ה"ו שהם הולכים מגולות בשר, אלא מדבר מנשים כשרות וצנועות שהולכות מכוסות ומלובשות בתכלית הצניעות, אלא דאף על פי כן הרי פניה וכפות ידיה אין דרך לכסות, ולכן אפילו תהיה מלובשת במלבושי כבוד, אם לא תזהר מלהתראות ולהתערב בין אנשים, אז ממילא יסתכלו בה בפניה או בידיה המגולות ועל ידי זה יבואו לידי מכשול. וכמו שאמרנו כל המסתכל אפילו באצבע קטנה של אשה כאילו מסתכל במקום התורף, ואם כן הרי גורמת בזה שיכשלו בה בני אדם, ולכן הזהיר אותה ר"י

שתהא צנועה ונוהרת שלא יסתכלו בה בני אדם. ומה שתמה מעלת כבוד גדולתו דאם כן איך אשה יוצאת לשוק לא קשה, דודאי אם צריכה ללכת לדרכה ולעשות צרכיה יוצאת לשוק, אלא שתזהר שלא תסובב בין האנשים. ועל דרך שהזהירו ז"ל אחורי ארי ולא אחורי אשה, הכי נמי נצטוותה האשה להזהר מן האנשים שלא יסתכלו בה אנשים אחרים חוץ מבעלה, ותהדר על הצנע לכת שלא תהלך בין אנשים אם צריכה ללכת בחוץ, ובים של שלמה יבמות, פרק ח' סי' י"ט כתב ומכאן משמע שדרך אשה חשובה להיות צנוע ואף בדרך תדחיק בכל מה שתוכל להיות פנימה

בבלי, סוכה, מט:ב: מאי דכתיב: הגיד לך אדם מה טוב ומה ה' דורש ממך, כי אם עשות משפט ואהבת חסד והצנע לכת עם אלהיך? עשות⁹ משפט - זה הדין, ואהבת חסד - זו גמילות חסדים, והצנע לכת עם אלהיך - זו הוצאת המת והכנסת כלה לחופה. והלא דברים קל וחומר: ומה דברים שדרכן לעשותן בפרהסיא - אמרה תורה הצנע לכת, דברים שדרכן לעשותן בצנעא - על אחת כמה וכמה

רד"ק על מיכה שם: הוא יחוד האל יתברך ואהבתו בכל לבבו ובכל נפשו, ואמר והצנע כי הדבר הזה מסור ללב והוא דבר צניעות. ויונתן¹⁰ תרגם: והוי צנוע להלכא בדחלתא דה'; **רבי יצחק עראמה, עקידת יצחק, שמות שער מג:** והצנע לכת עם אלהיך. הוא באמת הנהגת אדם עצמו בדעות ותכונות ומדות נאותות להיותו עניו וצנוע בינו למקום כי אשר לא ישמור חקו בזה הוא עו פנים וחצוף למעלה ולמטה בלי ספק; **רבי יצחק אברבנאל על מיכה שם:** והצנע לכת עם אלהיך, רוצה לומר שבלבבך ובנפשך שהוא הנסתר והצנוע שלא יראהו אדם, תלך עם אלקיך באמונת תורתו ואמונתו ואהבתו, לא לבד בנגלה, ובקרבך תשים ארכך באמונתו. אבל שבנסתר שלך ובצניעותך אחרי ה' תלך ובו תדבק. גם רמז בצניעות שלא תעזי פניך לדרוש מה למעלה ומה למטה, ולספק בשרשי האמונות ברשעים הפלוסופים, אבל תאמין בתמימות וצניעות תלך אחרי אלהיך ואל תסור מאחוריו; **ספר שערי תשובה לרבינו יונה, שער א:** והצנע לכת עם אלקיך - זה עיקר כניעתך לעבוד את ה' בהצנע לכת, כי זה יורה על כניעתך, שלא תחמוד כבוד על מעשיך הנכבדים. אף כי על המעלות אשר לא יחפוץ בהם היוצר את יצוריו, כי אין להתהלל בהם, כמו העושר והגבורה ומיני החכמות, זולתי השכל וידוע את השם יתברך, כמו שנאמר (ירמיה ט, כב - כג): אל יתהלל חכם בחכמתו ואל יתהלל הגבור בגבורתו, אל יתהלל עשיר בעשרו, כי אם בזאת יתהלל המתהלל השכל וידוע אותי

¹¹ Exodus 28:13

במדבר רבה, פרשת במדבר, פרשה א: כל כבודה בת מלך פנימה ממשבצות זהב לבושה, זה אהרן שנאמר (שמות כח) ועשית משבצות זהב. מיכן אמרו אשה שהיא מצנעת עצמה, אפי' היא ישראלית, ראויה היא שתנשא לכהן ותעמיד כהנים גדולים

קטעי מדרשים מהגניזה ט, קיצור של דרשות ילמדנו, עמוד פ: רבותינו אומרים אף בחול אסורה לצאת בהן [בתכשיטין] לרשות הרבים.¹³ למה? מפני שהעם מסתכלין בה, שהוא פגם לאשה ללכת בשוק כשהיא מקושטת, שלא ניתנו תכשיטין לאשה אלא שתהא מתקשטת לתוך הבית... וכבודה שלאשה שתהא יושבת בביתה, כן דוד אמר כל כבודה בת מלך פנימה... אפילו אם האשה בבית צריכה להיות מצנעת עצמה בשני חלוקין

דעת זקנים מבעלי התוספות, בראשית פרק א: ללמדך, שדרך האיש לכבוש את הנקבה, שלא תהיה יצאנית, לגרום תקלה לערוה, כמו¹⁴ שעשתה לאה שהרגילה, וגרמה תקלה לבתה... שנאמר כל כבודה בת מלך פנימה

הרב יצחק אייזיק הלוי הרצוג, שו"ת היכל יצחק, אבן העזר א סימן ג: ולענין הטענה שהאשה עובדת במשרד. אם זה במשרד של נכרים, ודאי בכגון יש לאמר כל כבודה בת מלך פנימה [ואין להתיר] שאשה ישראלית נשואה תהא חברתה עם נכרים כל היום

הרב מנשה קליין, שו"ת משנה הלכות, חלק ט סימן רנ: בדבר אשר בקש עוד היות שמתכונן אי"ה לישא אשה ובקש להדריכו בארחות חיים בגדרים של כבודה בת מלך פנימה אי יותר טוב שאשה תצא בשביל בעלה במקום ביטול ובמקום פריצות... בזמן הזה הא דינה דכל כבודה בת מלך בעונ"ה כמעט ליכא כי אם אמנם היתה האשה יושבת בביתה ולא היתה יוצאת לחוץ לשום דבר אז ודאי הי' לנו לומר דכל כבודה בת מלך פנימה אפילו במקום ביטול תורה הוא דבאמת כן הי' מעולם שהאשה לא יצאה מביתה אבל לאחר החורבן בעונ"ה אנחנו במתי מעט ובין האומות והפרנסות היו קשות הרגילו הנשים לצאת

שו"ת משנה הלכות, חלק ד סימן קכה: אין הבתולות והנערות הללו מקיימין קרא כדכתיב דכל כבודה בת מלך פנימה, והולכין בחוץ¹⁷ תרונה לכל חפציהם, והרי הולכין לבית ספר יום יום על הבאסעס עם נהגים שונים ומשונים, וצוחקים עמהם ובאיזה שמחה מקדימים את השחור או סתם גוי בבאס כשנכנסין ופורסים לו שלום

הרב שמואל הלוי וואזנר, שו"ת שבט הלוי, חלק ד סימן א: בענין הצניעות מה שנשים לומדות ומרגילות עצמן לנהוג מכונית אוטא, הנה¹⁸ מן הנסיון למדתי שהוא דבר שראוי לאסור גמור, כי עצם הלמוד גרם כבר וגורם לפריצות והוא ההיפך הגמור מכל כבודה בת מלך פנימה, כמו שעצם הנהיגה הוא ממש להיפך כל כבודה וגו', האשה חושפת עצמה בזה בשוקים ורחובות לעין כל ראה נכשלת ומכשלת את האחרים, ואין דרכה של אשה במרכב... אף על פי שהמציאות של רכיבה על גבי בהמה אינו דומה לגמרי להא דידן, מכל מקום בעצם אין דרכה בכך דומה בכמה דברים שקשה לפרש בכתב. ולבי אומר לי שהוא אחד הסבות של האסונות הגדולות שנעשים בדרכים בא"י המפילים כל כך חללים והרגו כבר טובים וצדיקים

מדרש תנחומא, פרשת וישלח: אשת איש שאינו רשאי להסתכל בה, לפיכך כתיב כל כבודה בת מלך פנימה¹⁹

הרב יחיאל יעקב וינברג, שו"ת שרידי אש, חלק א סימן עח: כל כבודה בת מלך פנימה - בביתה ובחוג משפחתה ודרכן של נשי ישראל²⁰ הכשרות שהן בוחלות שאנשים זרים יתנו בהן עין חומדת

ילקוט יוסף, דינים לאשה ולבת, הערות פרק ס: לפיכך חובה קדושה על כל הרבנים שומרי משמרת הקודש ופרנסי הצבור החרדים לדבר²¹ ה', לפרסם ברבים חומר איסור זה, ולהזהיר את בנות ישראל ללכת בלבוש צנוע, וכל כבודה בת מלך פנימה, ממשבצות זהב לבושה

הרב יצחק רצאבי, בית הלל, כרך ה, תשס"א, מו-מט: האינדא שבעוונותינו הרבים אין מתקיים כל כבודה בת מלך פנימה ונטשטשו²² התחומים, ובפרט כשיש קשר קבוע בין אנשים לנשים, וקרוב הדבר שהקריאה בשם ומה גם פעם אחר פעם, והיא כאש בנעורת. אם כן נוטים הדברים דבכי האי גוונא נחשב לאיסור כדי ליצור לכל הפחות גבול ומרחק ביניהם

הרב יצחק ווייס, מנחת יצחק, ח:טו²³

הרב יהודה לייב גרויבארט, חבלים בנעמים, ג:ח²⁴

הרב חיים דוד הלוי, עשה לך רב, ה:לט²⁵

הרב יהושע מנחם אהרנברג, כתב עת פעמי יעקב, מה:ט-כ²⁶

הרב מנשה קליין, משנה הלכות, טז:כד²⁷

הרב מרדכי גרוס, כתב עת בית הלל, 2006, נב-נז²⁸

ר' חיים שלמה חפץ, מקומה של עדות במשפט העברי, כתב עת דיני ישראל, ט, נא-פג, ובמיוחד עמ' סח²⁹

ר' שלמה רייסקין, כניסת פנויה לבית הכנסת, כתב עת שמעתין 163, 109-116³⁰

משנה הלכות, טז:קיד³¹

הרב אליעזר וולדינברג, ציץ אליעזר, חלק ה, רמת רחל, טז:ד³²

ר' מאיר שורש, כל כבודה בת מלך פנימה, כתב עת שמעתין, 67-68, עמ' 86³³

משנה ברורה, תרפט:סו, ס"ק א³⁴

הרב שלמה זלמן אויירבך בשם החתם סופר, מנחת שלמה א:צא³⁵

משנה הלכות, יז:צב: תפקיד האשה בבית הוא להכין מאכל ומשתה לבעלה³⁶

שם, ז:רלג³⁷

שם, יב:שנב³⁸

שם, י:ריז: לצאת עם האשה לטייל אין היתר³⁹

שם, טו:כו⁴⁰

בבלי חגיגה, דף י עמוד ב: דברי תורה מדברי קבלה לא ילפינן; בבלי נדה, דף כג עמוד א: דנין דברי תורה מדברי תורה, ואין דנין דברי תורה מדברי קבלה

⁴² Deut. 28:30; Is. 13:16; Jer. 3:2; Zech. 14:2;

⁴³ חזון אי"ש, קובץ אגרות, כרך א, אגרת טו

⁴⁴ בראשית רבה, יח:ב

⁴⁵ מבוא התלמוד לרב שמואל בן חפני גאון

⁴⁶ ספר האשכול, הלכות ספר תורה, ס:א

⁴⁷ כתבי הרמב"ן, מהד' שעוועל, ב, שח, וכוח הרמב"ן

⁴⁸ רבי יוסף משאש, אוצר המכתבים ג, אלף תפה

⁴⁹ The Better Angels of Our Nature, p. 195.

⁵⁰ In Hide and Seek, Jewish Women and Hair Covering, ed. Lynne Schreiber, p. 124.

⁵¹ משנה כתובות, ז:ו: ואיזוהי דת יהודית? יוצאה וראשה פרוע

⁵² אלשיך, משלי כד:כז: הלא אשר לא ידע רק סדרי משנה בלבד, ידמה למי שזרע ועדיין אין לו מה יאכל, כי עדיין יהיה משולח ונעזב לא ידע להתנהג, כי התנאים מבלי עולם ואין פוסקין הלכה מפי משנה, עד בא הגמרא שאלין יוסף איש מלהיות משולח, ובו יתנהג כי יברר בו פסק ההלכה על ידי קושיות והיות ופירושים, כלוקט שבליים ודש אותם וזורה ובורר אוכל מתוך תבן וקש ומביא החטה אל הבית

⁵³ We will present the texts in the following order, which reflects their hierarchy: First, the Talmudic discussions of an explicit source in the Mishna. Second, the Talmudic statements which belong to the post Mishnaic, or Amoraic, period. These statements are known as Memra, or dictum, and they are authored by rabbis who lived between the 4th and 6th centuries. Lastly, we will look at the statements which have no binding Halakhic power, since there are Midrashic in nature.

⁵⁴ The translation of the full Teshuvah can be found in Forthodoxy.org: <https://forthodoxy.org/2016/08/05/updated-translation-rav-yosef-messas-zl-on-covering-the-hair/>

⁵⁵ הרב חנוך הכהן ארנטרובי, עיונים בדברי חז"ל ובלשונם, כג-קכד: אין כל ספק שטויה בשוק נחשבה כדבר מגרה ומגונה... מכאן ברור שמדרכן של זונות היה לפתות כך גברים ואכן המלים "עלם הב לי פלך" הן מעידות על זה

⁵⁶ משנה ביכורים, ג:ח: העשירים מביאים בכוריהם בקלתות של כסף ושל זהב והעניים מביאין אותם בסלי נצרים של ערבה קלופה

⁵⁷ בבלי יומא מז:א

⁵⁸ בבלי סנהדרין, קט:א-קי:ב

⁵⁹ רמב"ם, הלכות יסודי התורה, ח:א: משה רבינו לא האמינו בו ישראל מפני האותות שעשה... ובמה האמינו בו? במעמד הר סיני, שענינו ראו ולא זר ואזנינו שמעו ולא אחר האש והקולות והלפידים. והוא נגש אל הערפל והקול מדבר אליו ואנו שומעים משה לך אמור להן כך וכך, וכן הוא אומר פנים בפנים דבר ה' עמכם

⁶⁰ The role of the memra in Talmudic discussion was explored, among others, by Prof. Abraham Weiss (1895-1970), Prof. David Weiss-HaLivni (1927-), and my late teacher, Prof. Meir Simha HaCohen Feldblum (-2002).

⁶¹ בבלי, ברכות, כב:ב: ירד לטבול, אם יכול לעלות ולהתכסות ולקרות עד שלא תהא הנץ החמה - יעלה ויתכסה ויקרא, ואם לאו - יתכסה במים ויקרא

⁶² שם, כד:א: בעא מיניה רב יוסף בריה דרב נחוניא מרב יהודה: שנים שישנים במטה אחת, מהו שזה יחזיר פניו ויקרא קריאת שמע, וזה יחזיר פניו ויקרא קריאת שמע?

⁶³ שם: זה מחזיר פניו וקורא קריאת שמע. והא איכא עגבות! מסייע ליה לרב הונא, דאמר רב הונא: עגבות אין בהם משום ערוה

⁶⁴ אמר רבי יצחק: טפח באשה ערוה. למאי? אילימא לאסתכולי בה - והא אמר רב ששת: למה מנה הכתוב תכשיטין שבחוץ עם תכשיטין שבפנים - לומר לך: כל המסתכל באצבע קטנה של אשה כאילו מסתכל במקום התורף! אלא: באשתו, ולקריאת שמע. אמר רב חסדא: שוק באשה ערוה, שנאמר גלי שוק עברי נהרות, וכתוב תגל ערותך וגם תראה חרפתך. אמר שמואל: קול באשה ערוה, שנאמר כי קולך ערב ומראך נאוה. אמר רב ששת: שער באשה ערוה, שנאמר שערך כעדר העזים

⁶⁵ אמר רבי יצחק: טפח באשה ערוה. למאי? אילימא לאסתכולי בה - והא אמר רב ששת: למה מנה הכתוב תכשיטין שבחוץ עם תכשיטין שבפנים - לומר לך: כל המסתכל באצבע קטנה של אשה כאילו מסתכל במקום התורף!

⁶⁶ רבינו גרשום, מנחות, קט"ב

⁶⁷ חידושי הרשב"א, ברכות כד"א: שיערה מחוץ לצמתה שאינו מתכסה אין חוששין להם

⁶⁸ בית יוסף, אורח חיים, סימן עה, סעיף ג: אבל פניה ידיה ורגליה וקול דיבורה שאינו זמר, **ושערה מחוץ לצמתה שאינו מתכסה**, אין חוששין להן מפני שהוא רגיל בהם ולא טריד, עכ"ל. ורבינו נראה שהלך בשיטה זו, וזהו שכתב טפח מגולה באשה במקום שדרכה לכסותו, דמשמע דבמקום שאין דרכה לכסותו כגון פניה או ידיה לית לן בה

⁶⁹ חידושי הרשב"א, שם: ... והרב אלפסי ז"ל שלא הזכיר מכל זה כלום כתב הראב"ד ז"ל דאפשר דמשום דאמרינן לעיל עגבות אין בהן משום ערוה סבור הרב ז"ל דכ"ש טפח ושוק ושערה וקול

⁷⁰ Proverbs 3:17. This concept is used in Bavli Sukkah, 37:1, to determine that thorny or poisonous plants cannot be part of the four species used on Sukkot.

⁷¹ The word harem comes from the Arabic haram [related to the Hebrew חרם] which means forbidden. It is the palace where the king's many wives live and to which entrance is forbidden to all but the king.

⁷² P. 197

⁷³ Ibid. p. 199.

⁷⁴ תנחומא לך לך, ח

⁷⁵ פסיקתא זוטרתא, בראשית, כד:לג

⁷⁶ תוספתא סוטה, ה:ט

⁷⁷ רמב"ם הלכות אישות, פרק כד, הלכה יא-יב

⁷⁸ רמב"ם הלכות אישות, פרק יג, הלכה יא