

KRIAT SHEMA 3:16-17

by Rabbi Yitzchak Etshalom

16. Just as it is forbidden to read [K'riat Sh'ma] while facing tzo'ah or urine until he moves away from it, similarly, it is forbidden to read while facing an *'ervah* (nakedness - see questions) until he turns his face away. He should not even read while facing the *'ervah* of a *Kuti* (see questions) or a minor. Even if there is a glass barrier separating [him from the *'ervah*], but he still sees it, it is forbidden to read until he turns his head.

The entire body of a woman is considered an *'ervah*; therefore, he should not gaze at a woman's body while he is reading, even if it is his own wife. If one *tefach* (handbreadth - 3-4 inches) of her body was uncovered, he should not read while facing her.

17. Just as it is forbidden to read while facing the *'ervah* of other people, similarly he is forbidden from reading while facing his own *'ervah* and he should not read while he is naked until he covers up his own *'ervah*. If he had a belt of cloth or leather or burlap on his hips, even though the rest of his body is naked, he is allowed to read K'riat Sh'ma - as long as his heel is not touching his *'ervah*. If he was sleeping under a blanket and was naked underneath, he can wrap the blanket around himself below his heart and read. However, he should not wrap it around his neck, because then his heart would be "seeing" his *'ervah* and it would be as if he were reading without a belt.

TEFACH B'ISHAH 'ERVAH

(one uncovered tefach of a woman is considered an 'ervah)

Yitzchak Etshalom

I.

SOURCE

The Gemara in Berakhot (24a) states:

R. Yitzchak said: A tefach of a woman is considered *ervah. For what [Halakhah]? If it is for [the prohibition of] "gazing" at her, [this cannot be, for] R. Sheshet said: Why did Scripture reckon outer jewelry with jewelry worn next to the body (see Bamidbar [Numbers] 31:50)? To teach you that anyone who gazes [even] at a woman's little finger is considered as if he was gazing at her private parts. Rather, [it must be referring] to his wife - and [while he is reading] K'riat Sh'ma. R. Hisda said: A woman's *shok* (either thigh or calf) is 'ervah, as it says: "Uncover your *shok* and pass over rivers"

and it says [immediately afterwards] "Let your 'ervah be uncovered and let your shame be seen" (Yeshaya [Isaiah] 47:2-3). Sh'mu'el said: A woman's *kol* (voice) is 'ervah, as it says: "For your voice is sweet and your sight is comely" (Shir haShirim [Song of Songs] 2:14). R. Sheshet said: A woman's *se'ar* (hair) is considered 'ervah, as it says: Your hair is like a flock of goats (Shir haShirim 4:1).

OBSERVATIONS FROM THIS SUGYA

(1) The Gemara rejects the distinction between normally covered and uncovered parts of a woman's body for purposes of a lascivious gaze; this is prohibited (with regard to some set of women who are not his own wife) in any case. We are now left with two options in understanding R. Yitzchak's statement: gazing at his own wife, where we specifically disallow only when the focus is on an uncovered part of the body; or redefining the set of women who are included in R. Sheshet's stricture.

(2) The Gemara adopts neither of these resolutions, and reads R. Yitzchak's Halakhah as pertaining to his own wife, while he is reading K'riat Sh'ma. We don't know if this refers to "gazing" at her (*istakulei bah*), just looking at her (in a non-sexual way) or merely being in her presence while she is thus unclothed.

(3) Although R. Yitzchak's rule seems to be absolute (he doesn't mention where that tefach might be), from R. Sheshet's analogy it becomes obvious that not every tefach of a woman's body is considered 'ervah if uncovered. Since he equates "staring" at her little finger with staring at something much more private, it follows that her little finger (e.g. hands, perhaps feet, perhaps face) are not normally covered - and present no problem unless we look at them with improper intent. Therefore, we have to define which parts of the body are covered (pun intended) under R. Yitzchak's rule.

(4) After clarifying the meaning of *tefach b'ishah 'ervah*, the Gemara lists three more items which are considered 'ervah: *shok* (since the verse refers to it as an 'ervah), *kol* (since the verse praises it as sweet) and *se'ar* (again, since the verse praises it as sweet). Are the latter three to be understood like the first one - that it refers to his wife's shok, kol and/or se'ar while he is reading K'riat Sh'ma? If so, what of the shok, kol and se'ar of other women (not while reading K'riat Sh'ma)? Do we extend R. Sheshet's "little finger" rule to voice and hair? Although a full treatment of this sugya is beyond the scope of this shiur, we can at least outline some of the basic approaches found in the Rishonim - and suggest a reading of the sugya which fits well with those approaches.

II.

WHO IS INCLUDED IN R. SHESHET'S PROHIBITION?

Rashi (Berakhot 24a s.v. l'istakulei bah) understands that the "even a little finger" of R. Sheshet applies to a married (to someone else) woman; Rashi later hints that this is associated with *hirhur 'aveirah* - thoughts of sinning. In other words, the prohibition of lascivious gazing is directly related to the

prohibition of acting on that gaze - since relations with a married woman are a capital crime, gazing at her (in a way which stimulates thoughts of such a violation) is an extension or protection of that violation.

Rambam (MT Issurei Bi'ah 21:2-3) reads this prohibition as applying to all forbidden women - even non-married women - the one exception he makes (and encourages) is to gaze at the face of a non-married woman who is he is considering marrying. We could explain Rambam's approach as similar to Rashi - with the extension applying to anyone with whom relations are forbidden. However, from the context of Rambam's ruling, it seems that he judges "gazing" as inherently problematic, and therefore equally applicable to anyone who is a prohibited sexual liaison.

III. TEFACH - SPECIFICALLY WHILE READING K'RIAT SH'MA

The Gemara's resolution is, as mentioned, a bit vague - Rashi understands that it is prohibited to read K'riat Sh'ma while facing his own wife if a tefach is uncovered; Rambam takes this one step further and requires turning the head away (see OC 75:6 for various opinions about turning the whole body away vs. Rambam's approach). R. Hai Ga'on (cited below) rules that this is only problematic if he is gazing at her, but even normal looking doesn't present a problem.

TEFACH - ABSOLUTE OR CONTEXTUAL?

Although the Gemara records R. Yitzchak's statement in a non-qualified form, the Rishonim generally assume that the tefach mentioned is of a place which is normally covered. See, for instance, RABD (quoted in Hashlamah, Rashba), Tosafot Rosh (Berakhot 24a s.v. tefach) Or Zarua' #133 (at the end) and Raaviah #76.

This is also how R'ah explains the inclusion of "shok" in the list - even though we would think that since the shok is sometimes uncovered (while walking/working), it is still considered a "normally covered area".

IV. SHOK, KOL AND SE'AR

Where do these three types of 'ervah fit into our Halakhah - are they forbidden at all times (e.g. listening to a woman's voice, seeing her hair or her shok)? - If so, isn't shok redundant, considering that we already identified any part of a woman's body as "off limits" for gazing? Perhaps the intent is to let us know that the shok should not even be "looked at" without gazing? Is the explanation relating to his own wife and only during the reading of K'riat Sh'ma applicable here?

R. Hai Ga'on (Otzar haGe'onim, Berakhot, Perushim p. 30, also quoted in Rabbenu Yonah, Berakhot 17a in Rif pages, s.v. 'ervah) rules that the whole list (shok, kol, se'ar) only applies to reading K'riat Sh'ma; i.e. not to gaze at (or intently listen to, in the case of kol) his own wife's tefach, shok, se'ar or kol while reading K'riat Sh'ma. He evidently learns that the three statements following the

clarification (i.e. shok, kol and se'ar) are all built upon that understanding - that we are discussing those parts of his own wife's body (and, a fortiori, another woman's body) which he must not focus on while saying K'riat Sh'ma.

Rashi combines both approaches - shok, kol and se'ar are forbidden on a married woman at any time (presumably - to stare or listen intently), and are equally forbidden regarding his own wife while reading K'riat Sh'ma. Rashi understands the Gemara as defining that which is considered an 'ervah on a woman's body, simultaneously affecting two areas: that which is forbidden to "focus" on if the woman is married to someone else - and that which is problematic for K'riat Sh'ma. This follows Rashi's approach from above, that the prohibition of gazing is an extension of the actual prohibition of adultery - since looking in that way stimulates that interest, it is clear that even such thoughts, while permissible in the case of one's own wife, are not appropriate while reading K'riat Sh'ma.

Rambam takes a slightly different approach: Whereas he rules that a tefach presents a problem for K'riat Sh'ma - "even his own wife", he doesn't mention se'ar, shok or kol; he does mention se'ar and kol in the context of generally forbidden areas of contact with women with whom relations are presently forbidden (Issurei Bi'ah 21:2). Rambam evidently takes the last three items on the list at "face value"; they are considered 'ervah and are classified as prohibited as part of the larger group of forbidden activities between a man and woman who are not permitted to each other (see Issurei Bi'ah 21 - the whole chapter is instructive for this point). Unlike the "tefach", which the Gemara itself redefined (K'riat Sh'ma - his own wife), the others are just defined as 'ervah.

V.

POSTSCRIPT

See Teshuvot Maharm Al-Ashkar #35 for an interesting discussion of the issue of se'ar; see also Arukh haShulhan OC 75:7. Also, many of the Rishonim point to Rif's omission of this whole sugya as indication that he felt it was rejected Halakhically, by virtue of an earlier ruling in the Gemara regarding *agavot* (which will be in the text of next week's Halakhot). See Hiddushei Rashba, Berakhot 24a s.v. Amar Rav Hisda.

This shiur did not touch on many central issues relating to se'ar and kol; even though it is not directly addressed in the text of the next two Halakhot, The next shiur will focus on *se'ar b'ishah 'ervah* and the whole issue of hair-covering for women. This will include a rationale for unmarried women not covering their hair and the resulting permission to read K'riat Sh'ma in their presence.

now, to the questions:

Q1: What is the definition of *'ervah* in this context?

A: See the shiur

Q2: What is a Kuti?

A: A Kuti is a member of the Samaritan sect which was considered quasi-Jewish in the times of the Mishna - but later found to be idolaters and were distanced. See Mishnah Berakhot 8:8 and Rambam's commentary there.

There are some manuscripts (see Sefer haMenuchah) which read "goy" instead of "kuti" here; the original Gemara (in the version we have, Berakhot 25b) reads " 'aku"m " (i.e. idolaters) but likely refers to any non-Jew.

Q3: Why would we think that a glass barrier is sufficient?

ML (Meir Levin):

A possible approach to the Rambam.

Both the prohibition of Tsoah and of Eruva comes from the posuk "and your camp should be holy...there shall not be seen in you ervas dovor".

The paradigm defining the prohibition of Tsoah is that it should not be "in your camp". Your camp has tsoah if you are within 4 amos or connected to it by sight or smell. Since this is what defines "your camp" , it applies even if you do not actually see it (at night or a blind person Cf. Beit Yosef OC 75). One connects to the Tsoah in this fashion. A similar idea in the Rambam Breishis 19,17 by Lot's wife; (compare Bamidbar 21,9). Correspondingly, when it is above or below 10 tefachim or behind a glass partition, or in a whole covered by your shoe, it is not in "your camp".

Eruva is forbidden by "seeing it" or if it is "in you". A glass partition is still a problem (nothing to do with being "in your camp") whereas the night is ok. When the heart "sees the ervah", it is also a form of seeing. The heel touching the ervah is a problem of "in you" (and generalizes to any other organ in contact with the ervah-Rashi Brachot 26b or is a special case , rabbinic b/se one might come to touch the ervah - Tosfos. The Tosfos may not accept the "in you" as a determinant of the prohibition). Since the prohibition is expressed in the passive(shall not be seen), even seeing it from the corner of one's eye(knegdo) is included. But it should be a shiur of Tefach, to be called "seen".

In Halakha 16, the Rambam seems to refer to a woman who is fully clothed. One may not gaze intently at her (mistake) or see a tefach revealed, even without gazing. This tefach may be only for his wife or only in the generally uncovered place. He makes the distinction between "mistake" and "roeh" in Pirush Hamishnayot (Commentary to the Mishna) on Sanhedrin, Perek Arba Misos. See also Bach OC 75.

Q4: What is the definition of an "uncovered tefach"? - does this apply to feet, to the face - what are the parameters?

A: See the shiur

Q5: Why is the 'ervah of others similar to his own 'ervah?

A: From the rest of this Halakhah (and MT Berakhot 1:9) it is clear that the two are not alike - whereas the 'ervah of a woman is much more expansive (any part which is normally covered), he may read K'riat Sh'ma and say B'rakhot if he just covers his "primary" 'ervah (genitals). (Tefillah is a different matter and requires more covering - we'll leave that for our discussion of Hilkhhot Tefillah 4:7). The similarity which Rambam points to does tell us something - probably that the source for both prohibitions is the same "He should see no 'ervah among you..." (Devarim [Deuteronomy] 23:15); referring to both your own nakedness while invoking God's Name and to your exposure to another's nakedness while doing so.

Q6: Why is there a concern about his heel touching his 'ervah?

A: RABD and Rabbenu Manoach understand that it doesn't mean specifically his heel - but _even_ if his heel is touching (and certainly any other part of his body), because any part of his body which is touching his genitals will cause stimulation - which is certainly problematic while saying K'riat Sh'ma.

Q7: Why are we concerned that his heart not "see" his 'ervah?

A: Rabbenu Manoach explains that since while saying K'riat Sh'ma, we are accepting God's Unity, our love and reverence for Him - all of which are "heart-oriented". If his heart is "exposed" to his 'ervah, how can he properly focus on these?

Building on this idea, I believe that we can understand it "environmentally" - to wit, we are trying to construct the proper environment for focussing on God's Oneness, and all of the commitments which result from that awareness. By separating those parts of us which are normally associated with thinking and feeling from those which perform more animalistic functions (and often lead us astray), we are reminding ourselves of the strength and constant awareness needed to live up to that commitment.

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