

# KRIAT SHEMA 3:18-19

*by Rabbi Yitzchak Etshalom*

**18.** If two people were sleeping [naked] under one cover, each one of them is prohibited from reading [K'riat Sh'ma] even if he covers up below his chest, until the cover separates them in such a manner that this one's flesh doesn't touch the other's flesh below the hips.

If he was sleeping with his wife or minor children and \*b'nei veito\* (see Q2 below) - their bodies are considered like his body and he isn't [overly] aware of them. Therefore, even if his flesh touches theirs, he may turn his face away, separate below his chest [with the cover] and read.

**19.** Until when are they considered minors for this matter? Until a male is 12 years and one day old and a female is 11 years and one day old - as long as their body build is similar to that of mature people, "breasts formed and your hair grown" (see Yehezqel [Ezekiel] 16:7) - after this point, he should not read without using the cover to separate from them. However, if they had not yet reached [the stage of] "breasts formed and your hair grown", he may read next to their flesh and he doesn't need to separate until the male is 13 years and a day old and the female is 12 years and a day old.

## SE'AR B'ISHAH 'ERVAH

(The Halakhic status of women's hair)

Yitzchak Etshalom

[As promised, this is a continuation of the previous shiur although it isn't directly connected with this week's text. mod.]

I.

## SOURCES

### SE'AR B'ISHAH 'ERVAH

The Gemara in Berakhot, in listing various "exposures" of a person which are considered "'ervah" (and thereby prohibiting the reading of K'riat Sh'ma in the vicinity), records R. Sheshet's statement: "Se'ar b'ishah 'ervah" (a woman's hair is considered 'ervah), as it says: Your hair is like a flock of goats (Shir haShirim 4:1).

The reason for this status may be inferred from Rashi's earlier comment on "kol b'ishah 'ervah" (a woman's [singing] voice is considered 'ervah) - from the fact that a woman's voice [hair] is praised,

we see that it is alluring.

The central issue of this sugya - which we discussed last week - is whether these classifications of 'ervah are geared towards the husband of the woman in question - and only while he is reading K'riat Sh'ma (and saying Tefillah) - or whether they are general definitions of 'ervah which make those exposures "off-limits" to any other man at all times.

Besides this issue, the inclusion of hair on this list presents a unique problem: Almost all of the Rishonim accept the reality that non-married women do not, as a rule, cover their hair. In addition, many married women only cover some of their hair - so how do we define the 'ervah? It is clearly not an inherently private part of the body (as evidenced by both of the above realities), so we cannot automatically define a woman's hair as 'ervah for other men at all times. It is also not (automatically) sexually alluring, so it is hard to understand why it would be prohibited to read K'riat Sh'ma while in the vicinity of a woman with uncovered hair.

II.

DAT MOSHEH V'Y'HUDIT

The Mishnayot in the seventh chapter of Ketubot list various reasons which justify a "one-sided" divorce and settlement. In other words, in these cases, if the woman has the justified claim, the husband is forced to divorce her (sort of - but that's a series of shiurim by itself) and pay the Ketubah. If, on the other hand, the man has the justified claim, he may/must divorce her - and she forfeits the Ketubah. Mishna 6 reads: "The following [women] leave [their marriages] without a Ketubah: Someone who violates \*dat Mosheh v'Y'hudit\* (lit. "the custom of Mosheh and a Jewish women").

Rashi explains that "dat Yehudit" refers to those customs of modesty which Jewish women have accepted and practiced. From the examples given in the Mishnah, we can infer that "dat Mosheh" refers to Halahically mandated practices which affect family life. Rambam (MT Ishut 24:11) reads "dat Mosheh" as a Torahic violation of modesty, among other things.)

In defining dat Yehudit, the Mishnah lists \*yotz'a v'roshah parua\* - "if she goes out and her hair is \*parua\*". Three things need to be clarified:

- (a) What is the definition of parua'?
- (b) "Goes out" - where?
- (c) What is the source of this custom/law?

## ANALYSIS OF THE GEMARA

The Gemara (Ketubot 72a-b), commenting directly on this Mishnah, states the following:

\*Roshah parua\* (if her hair is uncovered/undone) is [not only a violation of dat yehudit, it is a violation

of] Torah law, as it says [referring to the Sotah - see below] "And he [the Cohen] shall \*para\* the head of the woman" (Bamidbar [Numbers] 5:18) - and it was taught in the school of R. Yishma'el - this is a warning to Jewish women that they should not go out with their heads parua'. [Response:] From the Torah, \*kalatah\* (prob. a type of basket women wore on their heads where they could keep sundry items - see Rashi 72b s.v. kalatah) is sufficient; dat yehudit [prohibits going out] even with [only] \*kalatah\*. R. Asi said in the name of R. Yohanan - [going out with only] kalatah is not considered \*parua' rosh\*. R. Zera asked - where [is this Halakhah applicable]? If you say in the marketplace (=public area), it is a violation of dat yehudit! If you say in her courtyard, (i.e. that she need not cover with more than kalatah but that a totally uncovered head is unacceptable) - if so, you leave no daughter to Avraham Avinu who can stay married to her husband (i.e. no Jewish woman would exercise such care to cover her head in her own courtyard). Abaye responded: It refers to going from one courtyard to another via the alley.

### III.

#### PARUA'

Although parua' in other circumstances may mean "undone" (as in "untied"), in this context, it does seem to mean "uncovered" - from the fact that it is a specific type of hair-covering which is required even in the semi-public areas - and another type of covering in the fully public domain.

Rosh Parua' shows up in four contexts in the Torah:

(a) Metzora' - someone with scale disease (see Vayyikra [Leviticus] 13), while under quarantine, has a rosh parua' (Vayyikra 13:45). The Gemara (Mo'ed Katan 15a) explains, in the name of R. Elazar, that this means "growing his hair" (i.e. not getting it cut) - and parua' then means "unkempt". As a matter of fact, the Metzora' specifically does have to keep his head covered - see MT Tum'at Tza'ra'at 10:6.

(b) Mourning - in Vayyikra 10:6, Mosheh warns Aharon and his family not to adopt the typical mourning customs upon the death of Nadav and Avihu (and the rest of the people will do the mourning). Included in the activities which they should not do are rosh parua'. Here, again, the meaning is "unkempt".

(c) Nazir - in Bamidbar 6:5, the Nazir is defined as \*gadel pera'\* - here it is clear that it means "unkempt" (no haircutting).

(d) Sotah - as part of the ritual of the Sotah (a woman suspected of adultery) the Kohen makes her hair parua' (as above, Bamidbar 5:18). From the Mishna in Sotah (1:5) it seems clear that the Kohen would "undo" her hair (i.e., untie it so that it fell free).

The Gemara's version of R. Yishma'el's comment on this - that the Sotah verse serves as a warning that Jewish women should not go out with rosh parua' - may, therefore, refer to hair that is untied - not necessarily uncovered.

However, the Sifri's reading of R. Yishma'el is a bit different: "This teaches that B'not Yisra'el cover their hair." (Sifri Naso #11, p. 17 in Wahrman edition). The two differences here are very significant:

(a) in the Sifri, R. Yishma'el is reporting a common custom (since the Sotah's hair is uncovered, we can infer that it would have otherwise been covered) - but not as a law;

(b) in the Sifri, the focus is on covering, not just "tying".

Putting the two sources together (i.e. accepting the inherent validity of each reading - which is certainly debatable), we find a law which forbids Jewish women from going out with their hair unfettered - and a custom (dating back to the times of the Torah) that Jewish women indeed cover their hair (when they go out?).

#### IV.

##### (A CIRCULAR) DEFINITION OF 'ERVAH

As noted last week (regarding the "uncovered tefach"), 'ervah (with one or two exceptions) is defined as that part of the body which is not normally exposed - such that its exposure is cause for stimulation. The Gemara in Berakhot merely adds voice (which is intangible - see Raaviah's remarks at #76), shok (which is sometimes covered, sometimes not - see R'ah's comments on the sugya) and se'ar, which is not directly part of the body. However, how do we define (if at all) what parts of the body should be covered, such that their exposure becomes defined as 'ervah? We cannot say "cover anything which is an 'ervah" - because 'ervah is defined as covered parts of the body!

This is where *dat yehudit* comes in - Jewish women (and men) have practiced levels of modesty for generations which then becomes defined as "Jewish dress". This modesty is more a function of dignity than directly a valuation of certain parts of the body being stimulating. Our sugya in Ketubot bears this out - since *kalata* completely covers the head, yet is not sufficient for a woman going to the fully public domain (MT *Ishut* 24:12), we must infer that "proper" hair-covering is not (just) an issue of keeping her hair out of sight of other people (men?). (See, however, *Orhot Hayyim*, *Hilkhos Ketubot* #33, s.v. *v'ei zo*). Rather, there is a type of Jewish modesty and dignity which demands certain type of behavior and dress when in public. See *Ishut* 24:12, where Rambam clearly reads *dat yehudit* as being outfitted "in the manner of all the women".

(By the way, the Gemara here clearly permits a woman to have her hair totally *parua'* in her own courtyard - and certainly inside her house - and does not qualify that with considerations of other people/men being there. Perhaps there is no problem with "exposure" to other people, as long as it is in the house which is deemed private and where dignity has a different set of parameters.)

Once that has become the custom, a breach of it becomes a problem of 'ervah (at the very least, for *K'riat Sh'ma* and *Tefillah*). Since it was never the custom (in most countries) for Jewish girls who were still single to cover their heads in public, (for a possibly divergent view, see MT *Issurei Bi'ah* 21:2). By

the way, it is clear that the customs of dress among Jewish women differ(ed) from place to place - see Teshuvot Maharm al-Ashkar #35.

V.

## POSTSCRIPT

This shiur is meant only as an introduction to some of the issues related to women's head-covering. By no means is it meant to be exhaustive and, as always, should not be used for practical Halakhic guidance. A competent Halakhic authority should always be consulted personally.

There are several relevant issues which were not discussed here - chiefly the "wig" controversy. Indeed there are many Halakhic authorities who do not permit the use of a wig for a woman's head-covering; conversely, a common and wide-spread custom among many great Rabbinic families is for the women to wear wigs.

now, to the questions:

**Q1:** Who are \*b'nei veito\*?

**A:** Rashi (Berakhot 24a s.v. haya yashen) understands the term as referring to the wife. Tosafot (ad loc. s.v. vehatanya) challenges this and prefers a reading (of the Gemara there) which elides the term. Bach (ad loc. #2) reads "ishto uv'nei veito", leaving out "banav"; thus "b'nei veito" become "his children." Rambam cannot accept either of these readings, since he lists all three (wife, children and the elusive "b'nei veito"). It would be tempting to translate the term as referring to his servants - that the children of his servants while they are young are included here - but that is precluded by Rambam's use of all these terms: "avadav" (his servants), "ishto" (his wife), "banav" (his children) and "b'nei veito" (?) in MT Eruvin 4:1, Ma'aser 10:2 and M'tam'ei Mishkav uMoshav 10:5.

A possible reading would be "his wife's children"; since we do find a wife occasionally being referred to as "beito" (see Shabbat 118b and Rashi s.v. ishti) - if she had children from an earlier marriage, they could be included in b'nei veito.

Alternatively, the phrase may be a case of \*ashigrat leishna\* - habit of the tongue; generally, a man's household includes his wife, children and "everyone else"; this phrase may sometimes "roll off the tongue" even when not directly appropriate. See, for example, JT Terumot 1:1 in reference to Heresh. See also Maggid Mishneh at Issurei Bi'ah 12:22.

**Q2:** Why does he have to turn his face away from his own family members - either he should have to turn his body away - or not turn at all (after all, it isn't the face that generates the problem here).

**A:** From the sugya in Berakhot (24a), it would seem that the intent of \*mah'zir panav\* (he turns his face away) actually means to turn fully around so that his back is to the bed-mates body. See also Rabbenu Manoach on our Halakhah for an explanation of why a "full turn" is necessary.

**Q3:** Why are there two ages of majority, depending on body growth? Either it should be purely based on age, or on body growth?

**A:** The Gemara quotes a statement which permits reading K'riat Sh'ma while in bed with family members who are \*k'tanim\* (minors). The Gemara then cites a dispute about the age at which they cease to be minors - and Rambam (like Rif) rules like the second opinion - until 11 (girl) or 12 (boy) years old - as long as these "signs" have begun. However, as Rabbenu Yonah (Berakhot 15a in Rif pages, s.v. ve'idi) points out, once they have reached majority (12/13), they are no longer in the category of \*k'tanim\* and, regardless of physical development, it is prohibited to read K'riat Sh'ma while they are in bed with the prospective reader unless something separates their flesh from his.

**Q4:** Stylistic question - why does Rambam utilize this phrase from Yehezqe'el to describe a maturing youth?

**A:** The Gemara itself (Berakhot 24a) uses this phrase to describe "coming of age"; so the question is why the Gemara does so. From the sugya in Niddah (48a), it seems that these two "signs", which in the original (Yehezqe'el 16) are used to allegorically describe the coming of age of B'nei Yisra'el in Egypt, are the indications of imminent puberty. In addition, Rabbenu Yonah (ibid.) explains that this phrase is immediately followed by \*v'at 'erom v'eryah\* - "and you were naked"; hence, the definition of \*'eryah/'ervah\* is based on these characteristics. See also Bava Metzia' 93b, where a verse is used (in a similar style as ours) to directly guide how far a hired watchman must go to protect his bail.

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