

LETTERS TO THE EDITOR

Sensitive Topics

I WOULD LIKE to offer some comments that I hope will be taken in the constructive way they were intended.

I. A journal aimed at promoting the intellectual and spiritual growth of the Jewish community carries with it the risk of exposing people to new, strange, and sometimes dangerous ideas before they have the background and insight to deal with them. This could result in a loss of spiritual strength, and in the case of young people, it could lead to their moving to a new *derech*, *chas v'shalom*.

A letter to the editor in one volume of *Hakirah* illustrates one of the problems: sometimes a question is raised, but is not fully answered. The wrong kind of question, unresolved in the mind of the reader, festers and could lead to a challenge to his *emunah*. Often it is our very brightest young people who are not able to cope with this seeming lack of consistency or lack of resolution. What is particularly painful is that these same people, were they slightly more mature,

would have found no difficulty answering the concerns that arise. But challenged too young, they fail.

In the same vein, an article in *Hakirah* questioned whether a *Rishon* harbored a certain strange belief. I venture to say that of the people who received this journal, maybe a third actually read the article. Some people dismissed it out of hand, unread. Some people were intimidated by the depth, and some people simply read the headline.

This latter group includes people who would never, on their own, harbor such belief. But the fact that a reputable journal allowed such a question to be asked gives credence to an affirmative response. Even if the debate shows this *Rishon* did not support this belief, for the headline reader, the unthinkable has become possible (*r"li*). As long as this issue of *Hakirah* remains on someone's bookshelf, the possibility of confusing people's *hashkafos* remains.

About 40 years ago a group of us decided to try to do something about the missionaries who had appeared in Brighton Beach. I called R' Moshe Feinstein, who told

me we could not debate them, because we would have to listen to their arguments.

There is always a danger to publishing ‘strange’ ideas and beliefs even if the intention is to prove them wrong.

II. Publishing contentious authors raises another danger. Because the cost of responding to such people’s assertions is so high, *Hakirah* doesn’t elicit responses from people able to address such contentions.

A disagreement in print with difficult people is not a quiet interaction between scholars who respect each other, and who care about the image of Torah. Rather, a scholarly dispute is sometimes taken personally, with the commenter then being attacked and demeaned.

Where there is no real desire to reach the truth but rather a desire to win, *Hakirah*’s publishing an author gives credibility to someone who has not earned it.

III. Halakhic controversies played out in English, and in periodicals like *Hakirah*, have other disadvantages. First and foremost, they delude the layman into thinking that he, too, can weigh the evidence (usually presented clearly and seemingly with authority) and arrive at his

own conclusions.

Such controversies lead the reader to think that both sides are equally scholarly, and in fact, the more effort needed to dispose of an author’s hypothesis, the more respect and credibility this person wins in the eyes of the public. A responsible journal like *Hakirah* should not publish controversial halakhic proposals; instead, *Hakirah* readers should be directed to traditional rabbinic journals where responsible authorities debate and decide halakhic issues in *lashon kodesh* as has been done in generations passed.

IV. One article relating to pre-Holocaust Europe was particularly troubling. The writer, clearly well-meaning and sincere, raised questions, used quotes that are largely unvalidated, and sent an inconclusive, confusing, and confused message. Rest assured that if David Kranzler¹ were

¹ I was extremely close to the late David Kranzler, who was perhaps the world’s finest scholar on matters relating to the Holocaust and the Jewish people. In our last conversation before he died, he worried about what would happen to his recently acquired 23 boxes of records and documents that he had gathered painstakingly, traveling the world to get firsthand information.

alive, this article would not have gone unanswered. As it is, for many readers, this was an article that could have challenged their *emunas Chachamim*.

V. There are no absolute truths in Science and there is nothing but absolute truth in Torah. Weighing a Talmudic passage against the current state of scientific knowledge is folly. Science is but an organized search for truth, and its conclusions change regularly, and sometimes drastically. Science “proves” nothing, and Torah doesn’t need “proof.” Science and Torah occupy different realms; bringing them together threatens and distorts both.

VI. Finally, *Hakirah* published a social science paper that exhibited a flaw common to the genre: advice and conclusions based on selective stories but not experimentally verified. Depending on who is selecting the stories and how they’re presented, advice comes out one way or another. Does this kind of ‘expert advice’ belong in *Hakirah*? Isn’t it possible that people can

be hurt following such advice?

Bernard Fryshman, Ph.D.
Brooklyn, NY

The editor responds:

Dr. Fryshman notes that *Hakirah* was founded to promote the “intellectual and spiritual growth of the Jewish Community.” In our efforts we have followed the principles of two of Israel’s greatest teachers, Rambam and Abarbanel.

Rambam taught that spiritual growth comes only with intellectual understanding. He explains that instruction must begin by teaching children and having them accept the *Yesodei Emunah*: “When persons have received this doctrine, and have been trained in this belief, and are in consequence confused (נבוך) by the writings of the Prophets, the meaning of the latter must be made clear and explained to them by pointing out the homonymity and the figurative application of certain terms discussed in this part of the work. Their belief in the unity of G-d and in the words of the Prophets will then be a true and perfect belief.... Those who are not sufficiently intelligent to comprehend the true interpretation of these passages in the Bi-

This kind of material enabled him to put to the lie contentions that distorted the role played by Torah Jews during World War II.

ble... may simply be told that the scriptural passage is clearly understood by the wise,”² and he continues that these people should content themselves with lesser understanding. In the pursuit of knowledge, confusion is expected and unavoidable. Rambam further states in the introduction to the *Moreh*,³ that he will not refrain from writing what will disturb many that one *chacham* may understand the truth. This is the nature of teaching Torah, if we hope for our learning to have any depth. Young people encounter questions long before they are able to sufficiently comprehend the answers. Specifically with regard to our exposing our readers to the claim that Rashi⁴ may have “harbored a certain strange belief,” we must remind Dr. Fryshman that Raavad claims that “greater and better people” than Rambam held this belief.⁵

² *Moreh Nevuchim* 1:35

³ See the end of his “Directions for Study.”

⁴ Dr. Fryshman’s tact caused him to leave out the identities of the specific articles he is critical of, but for the sake of our readers’ comprehension we provide the details. In this case see *Hakirah* 7, “Was Rashi a Corporeal?” and *Hakirah* 9, pp. 15–80.

⁵ *Hilchos Teshuva* 3:7. We are

Our readership consists mostly of people who have learned *Hilchos Teshuvah* in *Mishneh Torah*, and our headline should not have been more troubling to them than other things they had previously learned in the most traditional of sources.⁶

In fact a *Hakirah* article by a celebrated expert *mechanech* asks “Are our Children Too Worldly?”⁷ and answers “No.” Based on decades of experience and Torah learning, Rabbi Fried explains that not going past the superficial indoctrination with our youth is what causes many to eventually stray. Rabbi Fried’s articles are sought after by a wide range of *mechanchem*, and we have consistently acquiesced to requests from around the world to release his articles for use throughout our yeshivos. Dr. Fryshman seems to demand standards of proof from studies in the social sciences that are generally expected only in the natural sciences. In this we be-

hardly presenting views of missionaries to which Rav Moshe *zt”l* objected.

⁶ One editor suggested that Dr. Fryshman’s advice is in line with Raavad, *Hil. Yesodei Hatorah* 5:5, where he admonishes Rambam for asking a question he feels cannot be sufficiently answered.

⁷ *Hakirah* 4, pp. 37–68.

lieve he runs counter to another one of our greatest teachers, Ramban: “Everyone who studies our Talmud knows that amongst disputing commentators there are no absolute proofs, nor definitive solutions for most problems, for this field is not an exact science like geometry and astronomy.”⁸

The above Ramban is quoted by Rav Nachum Rabinovitch in a *Hakirah*⁹ article entitled “What is “Emunat Hahka-mim?”” While Dr. Fryshman claims *Hakirah* published an article that for many “could have challenged their *Emunat Hahka-mim*,” we feel we have contributed to many people’s better understanding of this central Torah principle. In fact the article in question on the Holocaust, “To Flee or to stay,”¹⁰ was one of the many diverse types of articles presented in *Hakirah*, one meant to cause people to reflect upon a period in history that many wish to forget.¹¹ Readers had many different reactions to the article, which stated no conclusions, and

we printed a letter from a noted *talmid chacham, mechaber*, and survivor who ended his letter with a quote from one of his seforim: “I myself discussed this with members of my own family, who unanimously felt that if there is a decree then nothing would help. And yet the *Ohr ha-Chaim* states explicitly that a decree might only be for a specific location and therefore if one flees to a different location he can be saved.”¹²

Dr. Fryshman writes that there is a problem with publishing “contentious authors” for the appropriate people will not be willing to engage them in debate lest they be “attacked and demeaned.” The debates in *Hakirah* are full of passion and thus elicit harsh statements at times, and this is natural when people are passionately concerned about the truth.¹³ We ask all authors to keep arguments civil, and nothing “demeaning” is printed in *Hakirah*. Authors of the highest caliber both from the traditional

⁸ *Hakdama to Milchemet HaShem*.

⁹ *Hakirah* 5, pp. 35–46.

¹⁰ *Hakirah* 8, pp. 81–118.

¹¹ With regard to the critique of a lack of full documentation in this article, see the exchange of letters in *Hakirah* 10, pp. 11–14 that addresses this.

¹² *Hakirah* 10, p. 11.

¹³ See Isadore Twersky’s discussion in “Rabad of Posquieres: A Twelfth-Century Talmudist” about the sharpness of the language used by *Rishonim* in attacking their peers. The passion in the language of *Hakirah* does not reach the level of some of these icons.

Torah world and academia have consistently appeared in our pages and have shown themselves willing to debate the issues. Since one of our stated goals has been to “create a forum for the discussion of *hashkafa* and halakha,” we are open to all authors who wish to join our forum as long as their arguments are based on Torah sources. We do not feel competent to conduct a *Yiras Shamayim* litmus tests to determine whether a specific author is worthy of being heard, and do not know how an honest dialogue might be conducted were a Torah journal to criticize the opinions of others and not let them respond. We are also so confident in the truths of the Torah, that we feel certain that when a full dialogue is allowed, eventually the result will be a *Kiddush HaShem*.

Regarding the worry that halachic controversies are “played out in English” in *Hakirah*, it is not an innovation for Torah arguments of the highest caliber to be presented in the vernacular. Rambam’s *Persub HaMishnah*, *Sefer HaMitzvos*, and *Moreh Nevuchim* were written in Arabic, and both Rambam and Rif wrote important *teshuvos* in that language. By appearing in English, the articles are more inviting to a larger number of people, but our readers are sophisticated and

realize that these articles must be studied, not “read.” To facilitate this, one generally finds a large amount of the source material in the original Hebrew either in the text or in footnotes.¹⁴ Interestingly, since *Hakirah* has appeared, the concept of printing this type of material in English has been adopted by others whose views more closely match Dr. Fryshman’s.

We stated at the onset of our response that Abarbanel as well as Rambam were our guides. In his introduction to his commentary, Abarbanel is critical of the approach of Ralbag, who wished in his commentary to show what lessons can be learned from each section of Tanach he studied. Abarbanel said “that the words of the prophets are themselves the lessons (values) in character and philosophy, and thus I have just tried to explain what the verses mean.”¹⁵ Rav Chaim

¹⁴ We have been criticized by readers and editors of other journals for having so much Hebrew, and in places, un-translated Hebrew that some readers are not able to follow. In those cases the author is making a statement that the article must be studied and if the reader is not willing to put in the work to master the material then the article is not really appropriate for him.

¹⁵ Introduction to Abarbanel’s

Brisker said it another way when asked, What is the difference (נפקא מינה) in one of his *chakirahs* (*Hakirahs*)? He answered, “the *nafka mina* is to understand the Gemara.” We have tried not to promote an agenda, but to study the words of *Chazal* and the *Rishonim* with the confidence that in so doing we will grow intellectually and spiritually.

Perhaps we—the *Hakirah* editors and the many authors who have joined with us—are not always right in our analysis. We could certainly use some help in our efforts. Dr. Fryshman makes the point that “Science and Torah occupy different realms.” Similar arguments are made in two of the articles in the present edition, but the explanation of how this is so varies greatly between the two articles, and a study of the accompanying concepts is well worth the effort. We thank Dr. Fryshman for his interest and his perspective and hope that he and other like-minded *talmidei chachamim* will join us in our mission.

Women Rabbis?

I WOULD LIKE to comment on the article written by Rabbis Mi-

commentary on *Sefer Shmuel*.

chael J. Broyde and Shlomo M. Brody.

It is a very extensive analysis of the *Halachic* issues concerning the problem of women’s ordination.

I am puzzled, however, why this analysis gives the impression that this is not a resolved issue. In fact it was understood to us, including the members of the rabbinic council, that this was resolved at last year’s conference when they voted unanimously to ban the practice of giving *Semicha* to women. The same position was taken by all other orthodox rabbinic groups and organizations.

At that conference I had the privilege of addressing a special session on this matter, and among my remarks I recalled that when the Conservative movement began to deal with this egalitarian issue, their leadership was told that if they were to grant the first request for women’s participation for *aliyos*, it would not stop at that point. The issue would propel itself and there would be constant demands for widening the role of women. From *aliyos* there would be a natural desire for the participant to read from the *Torah*, then to participate in a *minyan*, and the next step would be for a woman to lead the *davening*.

Eventually women demanded

to be accepted in the Rabbinical Seminaries and to be recognized as rabbis. But it did not stop there. The next goal was to open the doors to gay students which led to the climactic request to have them recognized as functioning rabbis.

This was a big jump, as people who are gay violate one of the most severe commandments punishable by *karais* and their behavior is called an abomination. Fortunately this last demand was not officially accepted but it shows, in a period of two decades, how one step led to the next and could even cause the problem of gay rabbis to be under consideration.

These developments indicate a danger of a breach in our tradition. It just doesn't stop. Once a breach is made it is very difficult to halt its progress.

Finally, how many are involved in this whole issue? We are talking about one learned young woman. *Ma ra'ash?* Why this haste? Is one person's desire enough to justify such an upheaval in the Jewish community?

Our own yeshiva has, *kein yirbu*, over 3,000 high school graduates who live in all parts of the country and *Eretz Yisrael*, and occupy key positions in *chinuch habanos*, yet to the best of my knowledge, have never raised

the issue of rabbinic ordination. I am sure the same holds true for thousands of other *Bais Yaakov* movements. Many have also chosen various professions ranging from law to speech therapy to accounting, etc. A substantial number have become heads of schools, and hundreds serve as teachers and have made a tremendous impact on the entire educational system.

Women who teach in various schools find it very satisfying in many ways. While the material rewards are not always what they should be and need improvement, there are many other factors that compensate for this problem.

It brings to mind something that I heard from the late *Chebiner Rosh Yeshiva* on my first visit to Israel. When he heard that I was in *Rabbanos* and *chinuch*, he quoted from *Haazinyu*, "*tizal katal imrasi k'siirim alai desheh u'revivim alai esev.*" When addressing a large audience, implied by the word *desheh*, a large field, one can speak with great fervor, *k'siirim*. When addressing a single child, however, implied by *alai esev*, it must be *revivim*, like a gentle rain.

He emphasized that the highest accolade is to have children say they love their teacher. We found that to be the best approach. Children should not

have fear of their teachers, they should love them. This makes the whole learning experience a pleasurable one. This is more easily realized in a girl's school and for this reason our faculty, especially in younger grades, find teaching a pleasurable experience.

Overall, the overwhelming majority have no interest in overturning centuries of tradition.

Abraham Kelman, Dean
Prospect Park Yeshiva

Rabbis Brody and Brody respond:

Thank you Rabbi Kelman for your letter.

Rabbi Kelman makes three major points. First, he wonders why we wrote our article about women's ordination, since the various rabbinic councils voted to ban such ordination. Second, he tells us that past changes in halakha adopted by the Conservative movement concerning women have led it far afield of halakha. Finally, he contends that most women have no interest in ordination.

We doubt the relevance of all three of these points.

First, we think that halakha does not and should not be established by votes at rabbinical conferences. Instead, it gets es-

tablished by robust discussion referencing Gemara, *rishonim*, *Shulhan Arukh* and *aharonim*, none of which were mentioned in his letter, but which were reviewed in our article at some length. The failure to conduct this discussion around halakhic texts creates disillusionment and discord, and ultimately, dysfunction within the halakhic community. It was precisely for this reason that we wrote our article, to move the discussion back to the proper halakhic framework.

Second, we are not sure what precedent should be learned from the failures of the Conservative movement for the future of the Orthodox community. Our communities are very different, times are very different, and we need to look ahead and not back. It could well be that such ordination is a bad idea, and in our article, we explicated several halakhic and meta-halakhic reasons why that might be so. Yet we do not think that the example of Conservative Judaism proves that one way or another.

Third, as to the demand for Orthodox women rabbis both by the Orthodox community generally and Orthodox women specifically, we confess not to know the answer to this question. We suspect that Rabbi Kelman does not really know the answer either—maybe there

are many women who would like to be rabbis but do not because they think such desires are sinful. We do agree that many women teachers would like better working conditions, and wonder if a proper title, as well as receiving parsonage as clergy, might help that situation. Be that as it may, the question of how to utilize the incredible talents of Orthodox women in *avodat hakodesh* is a pressing matter, and we hope that our article helped shed light (as opposed to heat) on this subject.

We reaffirm, yet again, the wisdom of Rabbi Lamm's *sblita* approach (cited on page 49 of our article) worth repeating here:

To have a woman learn Gemara a generation or two ago like women learn Gemara today would have been too revolutionary. But with time, things change; time answers a lot of questions, erodes discomfort, and helps. So my answer, when I was asked by a reporter about what I think about women rabbis, was, basically: "It's going too fast." I did not say it was wrong, I did not say it was right. It just has not paced itself properly. I was criticized, of course. People asked, "You mean that *al pi din* they're allowed to become rabbis?" My response: "I don't know—are

you sure they're not allowed to?"

Women Rabbis?

IN THE INTRODUCTION to your previous issue you write that the recent controversy "over the permissibility of female rabbis met with universal condemnation from all branches of Orthodoxy." To demonstrate this comment, you reproduced the various public statements of the Agudath Israel of America and the Rabbinical Council of America on this topic as reflective of the range of the views within Orthodoxy.

In this context I am writing to point out that you—I am sure inadvertently—left out the voice of the International Rabbinic Fellowship (IRF), representing more than 150 Modern-Orthodox communal rabbis and educators, which expressed a highly nuanced position on this entire area of discussion.

I am attaching below the two public statements adopted by the IRF in March 2010 and June 2010. I hope that you can share them with your readership to complete the picture.

With Torah blessings,

Nathaniel Helfgot
Board Member, IRF

The editor responds:

We were unaware of the statements issued by the International Rabbinic Fellowship and thank Rabbi Helfgot for bringing them to our attention. The statements can be found at: <<http://blogs.jta.org/telegraph/article/2010/03/17/1011172/weiss-rabbinic-fellowship-weighs-in-on-women-in-leadership>> and at <<http://joshyuter.com/2010/07/06/judaism/jewish-culture/international-rabbinic-fellowship-press-release/>>. ¹⁶

We are surprised, however, that an Orthodox rabbinical organization would take such a nuanced stance. We would have expected that a ruling that emerges clearly from Rambam in *Mishneh Torah*, ¹⁷ and that has been taken for granted in all pe-

¹⁶ We believe the most important quote from the IRF statement is, “we affirm that attempts to delegitimize rabbis and synagogues for the positions they take on this debate go against the spirit of respectful and meaningful conversation. In that vein we affirm that engaging women to serve in a various forms of congregational and communal religious and spiritual leadership is in accordance with the Halacha and Orthodox practice.”

¹⁷ As Rav Schachter points out in his *Hakirah* article

riods of time and has been restated by every major *posek* of our time—both of Agudah and of the RCA—could safely be considered endorsed by all branches of Orthodoxy and the condemnation coming from these organizations would be considered “universal.”

We noted within our introduction that this issue threatens the definition of Orthodoxy. Though for the sake of *lebagdil torah u'lihadera* we printed an article that contends there is room for some future discussion on this issue, and we believe that the issue, as all issues, should be discussed based on the halakhic sources ¹⁸—there are no major *poskim* who are willing to endorse this position and we believe that should this line ever be crossed the term Orthodox will become an issue of debate. Indeed the statement of the IRF “complete[s] the picture.” ¹⁹

¹⁸ As Rabbi Broyde reiterates in his response to Rabbi Kelman.

¹⁹ The letter by Rabbi Kelman and Rabbi Broyde’s response make clear how wide the divide has grown under the umbrella of modern Orthodoxy.

Women Covering Hair

IN *HAKIRAH* 10 (Summer 2010), Prof. Marc B. Shapiro shared with us a hitherto unpublished responsum of R. Menachem Mendel Kasher *zt"l* to R. Dr. Leo Jung *zt"l*. While the letter addresses primarily the issue of shaving during *hol ha-mo'ed*, R. Kasher also refers to the practice of “many rabbis who have come from Lithuania and Russia and do not reprimand their wives who go with their heads uncovered although it is apparently a biblical prohibition.” R. Kasher goes on to state: “And they find themselves room to be lenient based upon a careful reading (“*diyuk*”) of Rashi, Rambam, etc.” Prof. Shapiro refers us to the writings of Haifa’s former Sephardic Chief Rabbi, R. Joseph Messas, a contemporary of R. Kasher, to explain the derivation from Rashi. As for the Maimonidean source, Prof. Shapiro indicates that he was not able to find the appropriate citation.

In order perhaps to shed additional light on R. Kasher’s remarks and references, allow me, for the purpose of *hagdalat ha-Torah*, to share two conversations I had with Rav Aaron Soloveichik *zt"l* regarding the attitude of *Hakhmei Lita* on the subject of hair covering for women.

I first met with R. Aaron Soloveichik in 1970 to discuss the issue and then had the opportunity to review the matter with him again in 1997.

Rav Aaron Soloveichik indicated that *Hakhmei Lita* were *not* happy with the growing phenomenon of married women not covering their hair. (See, for example, the opening remarks of the Rabbi of Novaradok, R. Jehiel Michal Epstein (1829–1908), to *Arukh ha-Shulhan*, O.H. 75:7 – D.I.F.) Nonetheless, their relative tolerance of the development and *limud zekhut* stemmed from their understanding of how to treat the apparent contradiction of two Tannaic sources on the subject.

The Mishnah (*Ket.* 7:6) states: “[Violators of] *Dat Yehudit* [includes] women who go out with their heads uncovered.” Rashi comments: “This was the custom of the daughters of Israel (*benot Yisrael*) even though it is not written explicitly [in the Torah].” The Gemara (*Ket.* 72a), however, questions the Mishnah’s classification of women going out with their heads uncovered as merely a violation of the custom based on *Dat Yehudit*, instead of the biblically, text-based *Dat Moshe* (See: Rashi, *ad loc.*, s.v. “*D’Oraita he*”): “Going with one’s head uncovered is Toraidic, as it states (Num. 5:18):

‘...and he [the *kohen*] shall uncover the head of the [*Sotah*] woman.’ And the School of Rabbi Ishmael taught: ‘This is a warning to the daughters of Israel (*benot Yisrael*) that they should not go out with their head uncovered.’ This suggests that it was a Torah violation for married women to go about with their heads uncovered.

On the other hand, *Sifrei* (*Naso* 11, Horovitz ed., p. 17), upon citing the same derivation as the Talmud from Num. 5:18 to the effect that: “This teaches that the daughters of Israel cover their heads,” then adds: “Although there is no proof to the matter” (that there is a Torah obligation for a woman to cover her hair) (*af-al-pi she’ein ra’ayah le-davar*), we do find a remembrance (*zekher le-davar*) of the original custom in the behavior of Tamar as recorded in II Sam. 13:19. Thus the *Sifrei*, in contradistinction to the Talmud, clearly maintains that there is no biblical proof or obligation for a woman to cover her head.

Rashi (*ad loc.*, s.v. “*Azbara*”) provides two explanations as to how the Tanna’im derived the “warning” to women that they should not go about with their heads uncovered from the biblical text of the *Sotah*. First, Rashi suggests that the *Sotah*’s hair is uncovered *mida keneged mida*,

measure for measure; that is, just as she uncovered her hair for her lover in order to beautify herself, the Temple Priest now uncovers her hair in order to disgrace her. Rashi concludes this suggestion with the remark: “therefore it is prohibited (*mikhlal de-assur*) [for a woman to uncover her hair before others].” Rashi then proffers a second explanation: The fact that the *Sotah*’s head needed to be uncovered demonstrates that it was the custom of Jewish women to go about with their hair covered (*ein derekh benot yisrael la-tzet peru’ot rosh*). Rashi concludes his remarks with the words: “*ve-khen ikkar*,” indicating that he clearly prefers this second interpretation to the first.

Rav Aaron Soloveichik explained that while Rashi’s first interpretation of the Gemara maintains that it is indeed biblically prohibited, “*assur*,” for women to go about with their heads uncovered, Rashi’s second, and preferred, interpretation understands the practice of women to cover their hair as merely being rooted in ancient custom. (Cf. R. Messas, cited by Prof. Shapiro, who understands both interpretations of Rashi as being rooted in custom; and R. Moshe Feinstein, *Resp. Iggerot Moshe*, E.H., I, sec. 57, who explains both interpretations of Rashi as being rooted in biblical law—

D.I.F.) In Rav Aaron Soloveichik's mind, Rashi's preference for the second interpretation was obviously motivated by the unequivocal remarks of the *Sifrei* that there is no clear biblical source that women are obligated to cover their heads: "*af-al-pi she'ein ra'ayah la-davar, zekher le-davar.*" Rashi therefore felt compelled to explain the Gemara in a way that would be in consonance with the *Sifrei*. Accordingly, Rashi understands the Gemara's question "*D'Oraita he*" as simply about classification: why does the Mishnah classify women who go out with their heads uncovered under the *unwritten*, custom-based *Dat Yehudit*, instead of under the textually based *Dat Moshe*? (See also: R. Menachem Ha-Meiri, *Ket.* 72a, Cohen ed., p. 260; R. Israel Isserlein, *Responsa Terumat HaDeshen*, secs. 10 and 242—D.I.F.) The Gemara's query, however, was not intended to reflect any normative character of being in actuality a *D'Oraita* prohibition. Furthermore, Rashi's preference for the second interpretation of the Gemara is reflected in his Commentary to the Torah (Num. 5:18) where he writes: "He [the *kohen*] unloosened the locks of her [the *Sotah*'s] hair in order to embarrass her; from here we learn that *benot Yisrael* consider it a disgrace to have

their hair uncovered."

Rav Aaron Soloveichik confirmed that this explanation of the *sugya* was that of his father, Rav Moshe Soloveitchik *zt"l*. (Cf. R. Hershel Shachter, *MiPninei HaRav* [Brooklyn, New York; Flatbush Beth Hamedrash, 2001], 210-211.) Moreover, Rav Aaron Soloveichik maintained that it was the *Sifrei* and Rashi's conclusion ("*ve-khen ikkar*")—that a married woman's covering her hair was fundamentally rooted in *minhag*—which served as the halakhic basis of the *limud zekhut* adopted by *Hakhmei Lita* to allow married woman not to cover their hair. (See also: R. Joseph Hayyim [author of the *Ben Ish Hai*], *Hukei Nashim*, chap. 17—D.I.F.) But, he clearly added, this is a very longstanding *minhag* that *should* be respected and continued even today. (As for the Lithuanian approach to the halakhic principle of *se'ar be-ishah ervah*, *Ber.* 24a, see the famous lenient ruling of R. Jehiel Michal Epstein, *supra*.)

Rav Moshe Soloveitchik's and Rav Aaron Soloveichik's understanding of the *Sifrei* is strongly supported by the commentary of the noted *Rosh Yeshiva* of Velozhin, R. Naftali Zvi Yehuda Berlin (1817–1893; *Emek ha-Netziv*, Num., sec. 11. See also: *MiPninei HaRav*, *op cit.*). Similar-

ly, their understanding of Rashi's two interpretations of the Gemara finds explicit expression already in the famed commentary of R. Pinhas HaLevi Horowitz (Germany, 1731–1805), to tractate *Ketubot*, *Sefer Hafla'ah* (*Ket.* 72a). In fact, one of the Telze Yeshiva's finest sons, the "Abeler Rav," R. Moshe Zev Kahn (Lithuania, 1887 – Chicago, 1957), in his *Sefer Tiphereth Moshe*, II, sec. 10 (p. 294), cites the *Sefer Hafla'ah* approvingly, forcefully arguing that a custom—such as hair covering for women—does not become a *D'Oraita* simply because the custom is recorded in the Torah. It is highly likely that R. Kasher was referring to the *Hafla'ah* when he made reference to "a careful reading (*diyuk*) of Rashi."

As for Maimonides, Cracow's and later Warsaw's Chief Rabbi, R. Dov Berush Meisels (1798–1870), notes that Rambam is apparently in full agreement with Rashi's preferred view that women's practice of covering their hair is rooted in ancient custom and not in law. It is for this reason, argues R. Meisels, that Rambam does not count women's covering their hair among the 613 Commandments, despite the Talmud's explicit designation of women's head covering as a "*D'Oraita*"

(*Hiddushei Mahardam*, *Sefer HaMitzvot*, *Aseh* 175). This understanding of Rambam is confirmed by Maimonides' language in chapter 21 of *Hilkhot Isurei Bi'ah*, where, after a string of prohibitions introduced with the term "*assur*," he suddenly switches in sections 16 and 17 to the less forceful word "*lo*." (Cf., R. Israel Isserlein, *Responsa Terumat HaDeshen*, secs. 10 and 242, who maintains that Maimonides considers women's obligation to cover their hair as a rabbinic prohibition.) Although R. Meisels was not a Lithuanian authority, it is not at all inconceivable that later Lithuanian rabbis found in his writings support for their lenient position, as alluded to by R. Menachem Kasher.

Often cited among those Lithuanian scholars who permitted married women to go with their hair uncovered is R. Isaac Simcha HaLevi Hurewitz, in his fine commentary on Maimonides' *Sefer HaMitzvot*, *Yad Halevi*, *Aseh*, 175 (Jerusalem: 1926, pp. 143 a-b); and again in *Degel Yisrael*, *Sivan* 1928 (also quoted in *Kuntress Ha-TNelu'im Be-Sa'arah* [Pietrikov: 1929] pp. 12–15). R. Hurewitz was born in Novaradok in 1869, and served as rabbi of Hartford, Connecticut, from 1893 until his death in 1935). However, R. Hurewitz's analysis

is fundamentally different from that of other Lithuanian scholars and corresponds more closely with the approach adopted by various Moroccan rabbinic authorities. A fuller discussion of this, however, is well beyond the scope of this letter. I would just conclude by noting that when I discussed the subject of woman's hair covering, in 1973, with another of Lithuania's outstanding products, the renowned halakhic scholar R. Yehuda Gershuni (Grodno, Belarus, 1909 – Jerusalem, Israel, 2000), he maintained that continuing this *minhag* was not obligatory today, referring me to the *Yad HaLevi*.

Dov I. Frimer
Jerusalem

The editor responds:

We thank Rabbi Frimer for his lucid and enlightening *limud zchus*, but since in the *teshuvah* in question Rav Kasher states that those “wives who go with their heads uncovered” are apparently violating a biblical prohibition, we think it is important to point out some reasons that these arguments have not been accepted *le-halacha*.²⁰ Rabbi Frimer notes

²⁰ This issue has been widely dis-

that none of Rambam's *taryag mitzvos* refers to hair covering, and some have taken this as proof that the prohibition is not *D'Oraisa*. However, neither does Rambam list a mitzvah in the *taryag* that requires one to clothe oneself in public. Actually Rambam does not state anywhere in *Mishneh Torah* either a Rabbinic or a Torah prohibition against a woman (or man) going naked in the market place, as long as the woman's hair is covered.²¹ I doubt anyone would contend that Rambam considers such conduct to be permitted by the Torah. The laws of *tznius* are based on two of the *Taryag mitzvos*. The *aseh* of “Walking in the ways of G-d” (והלכת בדרכיו) teaches that just as G-d is Holy, so too we are to be holy (קדוש) (*Hilchos Deos* 1:6),²² and Rambam

cussed lately in two volumes of *Tradition* and most recently in *Dialogue*. Our purpose is only to address the evidence given here. A wider discussion of this topic will be included, in an upcoming volume of *Hakirah*, in a general essay on Rambam's presentation of a woman's role and rights.

²¹ See *Hilchos Edus* 9:9, 11:5: If one goes naked all the time they are considered insane (שוטה) and if while doing dirty work they are compared to a dog.

²² Also *Chazal* (See Rashi, *Vayikra*

explains that *tznius* is an integral part of holiness, (קדושה) (*Hil. Deos* 5:4-6).²³ The *lav* that pertains to this is “Do not draw near to uncover nakedness”²⁴ to act in a way that will lead to a forbidden sexual act (גלוי עריות). The prohibition for going with uncovered hair in the marketplace is in chapter twenty-one²⁵ of *Hilchos Issurei Biah*, which is devoted to this *lav D’Oraisa*. Rambam explains that the Torah repeats this *lav* when it says, “Therefore shall ye keep My charge, that ye do not any of these abominable customs, which were done before you,”²⁶ and “these abominable customs” relates to the verse “After the

doings of the land of Egypt, wherein ye dwelt, shall ye not do; and after the doings of the land of Canaan, whither I bring you, shall ye not do,”²⁷ as Egypt and Canaan were steeped in lewd conduct.²⁸

Understanding this helps us realize what Chazal mean when they say that the requirement for a married woman to cover her hair in the marketplace is *Das Moshe* דת משה, i.e., part of the Torah’s separation of Israel from the culture it had left and the culture it was about to encounter. This requirement of extra *tznius* for Jewish wives is fundamental to *Kedushas Yisrael*. Rambam writes: “These are the things that if one transgresses any of them it is a violation of *Das Moshe*: going out into the market place with her hair uncovered (ושער ראשה גלוי), or taking an oath or vow and not fulfilling it, or having marital relations while a *niddah*, or that she does not take *challah*, or serves her husband food that is not kosher.” Certainly the last four

קדושים תהיו — הוו פרושים מן 19:2) state העריות.

²³ Whereas Rambam explains here that *Talmidei Chachamim* act with *tznius*, everyone is expected to act with קדושה גדולה. Also see *Mori V’Rebbe* Rav Herschel Schachter’s article in *Hakirah* 11, pp. 20-21 where he discusses the idea of *tznius* being a quality of G-d that we must emulate.

²⁴ *Vayikra* 18:6. לא תקרבו לגלות ערוה

²⁵ Nevertheless only *Hilchos Issurei Biah* 21:17 is relevant to this and not 21:1,2, which forbids only looking in a lustful way at any part of a woman. While hair is included in this, it is only with a lustful glance.

²⁶ ושמרתם משמרתיה לבלתי עשות מחקת והתעבת אשר נעשו לפניכם

²⁷ כמעשה ארץ מצרים אשר ישבתם בה לא תעשו וכמעשה ארץ כנען. See *Vayikra* 18:3, 6, 30. See *Sefer HaMitzvos, Lav* 353; also *Issurei Biah* 21:8.

²⁸ Of course the *lav D’Oraisa* of “Do not put a stumbling block before a blind man,” לפני עור לא תתן, מכשול, is also relevant.

issues in this list are Torah violations related to her not lowering the husband's religious observance. Obviously the one listed first is *D'Oraisa* as well, as the Gemara (*Kesuvos* 72a,b) explicitly says. Even if we follow the language of the *Sifrei* that *parshas sotah* is only a "hint" (זכר לדבר) to the fact that Jewish wives covered their hair, nevertheless it must be understood²⁹ that it is a *gilui milsa* (גלוי מילתא), i.e., an indication that it is included in the absolute Torah standard of *tznius* and uncovered hair for a married woman is immodest and hence a violation of both *v'halachta b'drochov* and *k'maaseh Eretz Mitzrayim*.³⁰

However this fundamental requirement of *Das Moshe* that Rambam writes of in *Hilchos Ishus*, "The Laws of Marriage," requires that a woman cover only part of her hair, "ושער ראשה"

"גלוי",³¹ and this is not the prohibition Rambam speaks of in *Hilchos Issurei Biah* where his language is taken by some to be referring to a Rabbinic prohibition.³² There Rambam writes, "The daughters of Israel should not go in the market *peruei rosh*," לא יהלכו בנות ישראל פרועי ראש בשוק. In *Hilchos Ishus* it is in describing the violation of *Das Yehudis*, יהודית, that Rambam speaks of *peruei rosh* and explains that it refers to "her hair covered with a kerchief," שיערה מכוסה במטפחת,³³ rather than with a full רדיד veil, that apparently covers all her hair.

²⁹ The distinction is clear in *Kesuvos* 72b. Based on *Hil. Sotah* 3:5, perhaps what Rambam refers to as a כופה would suffice.

³⁰ The citation of Rambam's usage of ולא rather than אסור is interesting, but not necessarily of halachic significance since either word can refer to an *issur D'Oraisa* or a rabbinic prohibition. See *Hilchos Shabbos* 1:3 where he makes the point that his usage of אין עושין and אסור are of equal significance in *Hilchos Shabbos*. Moreover the second half of the relevant halacha refers to a rabbinic prohibition and singles it out as being a גזרה, thus implying that the first part is a more significant prohibition.

³¹ In *Hilchos Ishus* 24:13 it is even clearer that this is the definition of פרועי ראש. See note 35.

²⁹ As is commonly found in the Talmud, ואע"פ שאין ראייה לדבר זכר generally supports a Torah concept. Thus in Rashi as well, we should assume the prohibition is *D'Oraisa*.

³⁰ With regard to *Kesuvos* 72a,b, perhaps only if we are to learn a prohibition from *parshas sotah* is it assumed to be part of the *lav* and if it is only learned as a זכר, then it is only part of the *aseh* of בדרכיו והלכת בדרכיו.

Nevertheless, even those things that are a violation only of *Das Yehudis* still come under the rubric of the *mitzvos D'Oraisa* of *v'halachta b'drocho* and *k'maaseh Eretz Mitzrayim*.³⁴ Rambam writes: "What is *Das Yehudis*, the customs of *tznius* that the daughters of Israel have practiced?... Going to the market or open street with her hair visible and without the *r'did* that all women wear even though she is covered with a *matpachas*,³⁵ or if she knits in the market place with a rose on her forehead or cheek as the gentile immodest women do, or knits in the market showing her arms to all, or flirts with the young men, or asks her husband for marital re-

lations with a loud voice that her neighbors would overhear the most intimate conversations, or curses her father-in-law before her husband." Certainly all the latter acts defy fundamental standards of *tznius* that the Torah requires and that distinguish Yehuda from the Egyptians and the Canaanites. While *Das Moshe* relates to that which is specifically mentioned in the Torah, this latter list encompasses the standards that *Bnos Yisrael* recognized was expected of them and accepted upon themselves along with *Kabbolas HaTorah*.³⁶ Perhaps this is what Rav Aharon Soloveichik *zt"l* meant in saying "this is a very old *minhag* that *should* be respected and continued even today."³⁷ Certainly no

³⁴ This is not the place for discussing the concept of *Divrei Sofrim*, but generally they are Rabbinic laws that flesh out *D'Oraisa* principles

³⁵ We will not elaborate here, but clearly the difference between *Das Moshe* and *Das Yehudis* with regard to head covering is in how much of the hair must be covered and in which places. There is much discussion as to exactly what a *r'did*, a *matpachas* and a *kupach* are. Some latter-day commentaries interpret *r'did* as a covering over the first level of covering. In this editor's note we will suffice with the simplest reading in Rambam and as noted, a later article will deal with this in greater depth.

³⁶ It is noteworthy that Rambam says that the marital relationship as we now know it started with *Kabbolas HaTorah* and thus it follows that the level of *tznius* expected of a married *bas yisrael* began then.

³⁷ מנהג is binding just as halacha is and cannot be changed. Such fundamental laws as של גליות יום טוב שני של גליות, מנהג, as are ערבה and הלל בר"ה. We should also note that when Rav Kasher said that a דיוק from Rashi was used by some to justify going with uncovered hair, we should not translate *diyuk* as a "close reading," which would imply that if one has carefully studied Rashi he will come to this conclusion. Rather the word

argument can be made that the customs of the day should be the standards that define *das yehudis*. The whole point of these laws is to give absolute standards lest we be influenced by the society in which we live.

Mishneh Torah

YASHER KOCHACHEM and many thanks for your latest issue. As always, it made for stimulating and thoughtful reading.

R. Buchman's exchange with Dr. Kellner was particularly fascinating. I quite agree with his comment "Rambam was indeed *farfrumt*." Moreover, there is an inner integrity and consistency to all of his writings that many fail to appreciate. Rambam, in many respects, was as much of a "mystic" as he was a rationalist.

Lastly, but not least, is the aspect of Rambam's Hebrew writing style. His *Mishneh Torah* prose is inspirational, and I am told that a contemporary Arab poet once claimed that were it not for the fact that the Koran was divinely dictated, he would

have said that Rambam's Arabic style was superior to that of the Koran.

Elijah Judah Schochet
Los Angeles, CA

Aleinu

IN HIS ARTICLE, "*Aleinu: Obligation to Fix the World or the Text?*" (Spring 2011), Mitchell First faults the author of the articles in the "Orthodox Forum" volume on *Tikkun Olam* (1997) for simply accepting the *Tikkun Olam* reading of *Aleinu*.

Not so. The point was made by me in my contribution to that volume (p. 165, n. 24). In any event, as Mr. First notes, these obligations to fix the world rest securely on numerous other sources and do not rise or fall on a single debatable reading of one prayer in the liturgy.

Marc D. Stern
Clifton, NJ

Mitchell First responds:

1. I would like to thank Mr. Stern for pointing out my error. I had noted two other articles in this volume that merely assumed that the reading was with a *kuf*. But I overlooked the footnote in Mr. Stern's article.

in this context means "deduction," which in the colloquial usage refers to one's debatable deduction, and in this case Rav Kasher clearly felt it was an invalid deduction.

2. I am now aware of two other *Aleinu* fragments from the Genizah with a *caf* reading: Cambridge U Or. 1080.2.46 and London British Library Or. 10155/2. I would like to thank Dr. Ezra Chwat, of The Institute of Microfilmed Hebrew Manuscripts at the Jewish National and Hebrew University Library, for bringing these to my attention.

3. In note 13, in attempting to explain a Palestinian practice of reciting *Aleinu le-Shabeah* in *Pesukei de-Zimra*, I should also have referred to the following Talmudic passage: *le-olam yesader adam shivho shel HKBH ve-aḥar kakh yitpallel* (Ber. 32a).

4. Finally, I should have clarified that even with the *caf* reading, the *caf* probably would have had a *dagesh*. The pronunciation would therefore have been the same as or very close to the pronunciation with a *kuf*. *Piel* verbs have a *dagesh* in the second letter in the infinitive. For example, *le-daber* (to speak), not *le-daver*.

Property Assessment Cases

Drs. Epstein, Dickman and Wilamowsky note:

SOON AFTER THE publication of the *Hakirah* 11, we received an informal letter from Dr. B.

Fryshman with regard to “Reconciling Divergent Estimates of Value in Property Assessment Cases.” The article attempts to explain why according to the Gemara’s interpretation, *Acherim* say that if 3 assessors independently assess a property as being worth 80, 100 and 120 respectively, the value of the property is set at 93 1/3. Dr. Fryshman demonstrated that the Gemara’s result is consistent with a “weighted” average, where each assessment is weighted by the number of people who say that it was worth at least that amount:

# of People Agreeing	It is Worth at least	Multiply both Columns
3	80	240
2	100	200
1	120	120
Total 6		560

Weighted Average: $560/6=93\frac{1}{3}$.

Dr. Fryshman concludes, “Clearly Chazal knew about, and used, the weighted average. The more we know about the real world, the more we realize that Chazal knew everything...”

We thank Dr. Fryshman for offering a second mathematical argument that yields the Gemara’s value of 93 1/3. While Dr. Fryshman’s approach is quite innovative, it is also certainly

not the Gemara's view since the Gemara offers an entirely different explanation. In fact, in the asymmetric case, the weighted average would give a result different from that of the Gemara. For example if the 3 assessments were 80, 100 and 140:

# of People Agreeing	It is Worth at least	Multiply both Columns
3	80	240
2	100	200
<u>1</u>	140	<u>140</u>
Total	6	580

Weighted Average: $580/6 = 96 \frac{2}{3}$;
Meshalshim: $80 + (140-80)/3 = 100$.

