

HALOCHOSCOPE

This week's question:

A man needs to carry a weapon for protection at work. If other family members, including women, feel threatened by the same menaces, should they take firearms training?

The issues:

- A) *Lo yiheykli gever al isha*, women donning men's items
- B) Women carrying and using weapons
- C) *Shmiras hanefesh*, protecting oneself from danger

A) *Kli Gever*

The Torah lists two *mitzvos* forbidding males and females exchanging external appearances. On the simple level, it refers to exchanging items of clothing. However, the Talmud records debates and various other interpretations, all of which could apply. The wording of the *passuk* is: *The kli [lit. utensil or vessel] of a man shall not be on a woman, and a man shall not wear the clothing of a woman, for it is an abomination of Hashem your G-d, all who do these things.* The Talmud debates the definition of the *mitzvah*. In one view, the use of 'abomination' teaches that the Scriptural *mitzvah* is limited to exchanging clothing as a disguise, then mingling with the opposite sex. This is done to facilitate an abominable act, and for this very reason it is forbidden. The other main view is that it is forbidden regardless of intent. The act in and of itself is abominable.

In fact, when it is done to intermingle, it could ultimately lead to adultery regardless of whether this was the initial intent. Nonetheless, if the cross-dressing is not done with any intent to intermingle, it would not fit the guidelines of an abomination, according to this view. The difference between the two views is whether one may choose to settle in a region where men and women do not dress differently. Since their clothing is the same, one could not be faulted, in this region, for simply dressing as a woman or vice versa. In fact, there would be no such thing as dressing like one, the other, or the opposite! However, the existence of this practice ultimately leads to intermingling and immorality. According to the view that this is the purpose of the *mitzvos*, it would be forbidden. It would also be forbidden to live in this area, because one must dress!

The other view only forbids things that are uniquely for men or for women, done by the opposite sex. In one respect, the poskim maintain, this is a *chok*, a statute regardless of reasons. Some poskim consider one underlying reason for the *mitzvah* the existence of ancient pagan practices like these. [In fact, one can find artifacts of a Greek idolatrous sect of women whose priests donned imitation male '*kailim*', in museums. This indicates that the practice was part of ancient idol-worship. While these '*kailim*' are an extreme manifestation of this abomination, the Torah forbids all cross-dressing.] As such, the other view would also consider the *mitzvah* precautionary, to prevent idolatry. Nonetheless, each view considers the *mitzvah* in its own right. One can derive differences between the

views applicable to situations, leading to the elimination of some cases, for example, in a case where immorality or idolatry could not apply. However, the poskim conclude that we are not empowered to limit the reasons the Torah has for *mitzvos*. We now know of two, or according to the debate, one of two reasons, but there might be seventy. Accordingly, we may work only with the limitations defined by the Talmud and poskim. There is also a second interpretation of the second view, as neither *chok* nor pagan practice. It is considered somewhat contrary to the way Hashem created the two sexes, to intentionally practice the effects of the other. It is thus similar to the way *kilayim*, *mitzvos* forbidding mixing of the species, is defined by some.

Some prominent poskim maintain that two conditions are necessary for the violation: (i) The intention of the wearer is not for convenience, comfort or protection but to resemble a member of the opposite gender. This would exclude one wearing a single item of clothing of the opposite gender, while wearing everything else of the same gender. A compromising view maintains that items unique to the opposing gender are forbidden even if the rest of the clothing is of the same gender. Items worn by the opposite gender by default are permitted if the rest of the clothing is of the same gender. This view has a bearing on our case, since weapons are generally considered uniquely male. (ii) That the activity being done by a male is normally done by women for beauty. For example decorative women's sweaters are forbidden, but plain sweaters would be permissible. Many poskim do not subscribe to these conditions, but forbid any clothing. However, styles vary according to location, and certain clothing is neutral.

The Talmud also discusses a view that the main issue is beautifying oneself, for a man. For a female the issue would be trying to appear manly. The poskim follow this stringent view. While wearing the clothing is the example used by the Torah, the abominable side of it is the act of beautifying. Specific examples in the Talmud include removing gray hairs. There is some debate on the number of hairs included in this prohibition, but the consensus is to forbid removing even a few hairs. Shaving hidden areas is considered beautification, unless done to relieve pain. The Talmud debates whether this is forbidden Scripturally, and whether it includes removal of the hidden body hair by other methods. The Talmud maintains that there is usually no need to remove hidden hair due to pain. It does not grow long enough to cause pain, and even if it does grow that long, it falls out by itself. From here we learn that to relieve pain it would indeed be permitted, and that it would not be forbidden if it were normal for men to do it anyhow. Accordingly, in locations where men do shave body hair it is permitted, though practicing stringency is commended. Another example cited by the Talmud is using a mirror. Here, too, if the prevailing practice is for men to use a mirror, the prohibition would not apply. [See Parshas Ki Saitzai 22:5, commentaries (e.g. Ibn Ezra, Hirsch, Malbim). Shabbos 94a Nazir 58b-59a Makos 20b Avoda Zara 29a, Poskim. Chinuch 542-543. Tur, BY Bach Sh Ar YD 156:2 182, commentaries. Halachoscope V:30 VII:6.]

B) Carrying and using weapons

Two other Talmudic interpretations of the *passuk* are partially accepted as *halacha*. They interpret the *mitzvah* forbidding women to wear men's clothing. The term used by the Torah for this is a male's *kli*, unlike the term used for a women's garment. Furthermore, the *passuk* could easily forbid abominations, that would automatically include

dressing in order to intermingle or as part of idolatry. Rather, the Torah refers to other effects unique to men. One interpretation refers to *tzitzis* and *tefillin*, and the other refers to weapons. This argument is also used to forbid men from other forms of beautification. While the majority of poskim do not forbid women to wear *tzitzis* or *tefillin* under this *mitzvah*, the prohibition on bearing arms seems to have been accepted.

Women do not carry arms to go forth in battle. Though they could do the same work as the men in this field, it is presumed that their presence in these situations invites immorality. It seems that it was also as idolatrous a mannerism as women dressing like men for idolatrous purposes.

There is much discussion on what exactly is forbidden. The terms used by the sources refer to going forth in battle. This implies that bearing the arms alone would not be forbidden. In light of the reasons offered this makes sense. Women do not usually go into battle. Others maintain that this is but a way of saying that women may not even use the arms. Weapons are not usually needed in peacetime. Proof is brought for this view from instances where a woman did not use a weapon to kill, when the need arose. For example, *Yael* killed *Sisera* with a tent peg to the head, rather than a knife. Others contend that in that situation she was able to avoid using a weapon, since she had drugged him to sleep. Normally, she may use a weapon. Furthermore, the tent peg was also being used as a weapon. Besides, she was doing the work of a man by simply killing. A third view maintains that a woman may use weapons, but may not wear them as one going forth in battle would. In this view, too, the term used by the source is an example of the common way this item could be used by a woman to appear manly.

In keeping with the concern for intermingling, the view that forbids a woman's use of weapons is concerned that to use the weapon the woman must learn its use. Since men are the primary users, learning its safe use will require learning from a man. This will involve intermingling. [See Ki Saitzai 22:5, Sefer Shoftim 5:26, Targumim. Nazir 58b-59a, Poskim. Chinuch 526, 542-543, 603, Minchas Chinuch. Tur Sh Ar OC 17:2 28:3 (Levush), YD 182:5. Igros Moshe OC IV:75:3. Tzitz Eliezer XX:31. Nachalas Shimon Shoftim I:12. Chochmas Adam 90, Binas Adam 74.]

C) *Shmiras hanefesh*

Mitzvos associated with danger include the *mitzvah* to guard one's health, to prevent hazards in the home, a positive and negative *mitzvah*, not to stand by while someone is in danger, the more so oneself, not to injure oneself, and to love others like oneself, the more so oneself. These are all Scriptural *mitzvos*. Moreover, the Torah is to live by, and not to die by. This is the basis for danger to one's life overriding any other *mitzvah*.

The *mitzvos* under discussion do not apply when one needs to protect himself from danger. An example of this is found in the Talmud. While the use of mirrors is forbidden to men, if one is taking a haircut from a barber who is suspected of violence, he may watch himself and the barber in a mirror.

Assuming that the risk does not rise to that level, may women learn the use of the weapon and use it if necessary, but may not wear it like a man? If the women do not wear the weapons openly [though this would provide more deterrent] would the poskim permit them carrying them concealed? If there is a form of weapon unique to women, there might be a dispensation allowing it, including training, on the basis of social and cultural

factors. A man would certainly be forbidden to bear such weapons, except for protection.

If there is a true risk, there is no question that a woman may bear and use arms. If there is no risk, learning the use of, and bearing arms does not fit the usual guidelines of protecting one's life. Were it so, women would not be forbidden to do so. Evidently, arms are usually used in battle only. If there is a moderate risk, another factor might be invoked to permit women to train and use them, and where necessary, to carry them. The dispensation based on pain is applied broadly. If a man is concerned that he might cut himself taking a haircut, he may use a mirror. Men may use women's umbrellas as protection from rain or sun, this is to alleviate or prevent pain, rather than to intermingle. If a man is ashamed of heavy hair growth on his hands, he may shave them. Shame is considered a serious form of pain. The poskim invoke pain as a factor to permit women wearing long undergarments to protect themselves from the cold.

However, this presumes that the prohibition is primarily to forbid adornment in the manner of the opposite gender. Thus, if one wears the item or does the activity to avoid pain, rather than to adorn, he or she is not in violation. Some maintain that included in the more general *mitzvah* are two separate issues, adornment and wearing clothing or other items. Adornment depends on intent, and may therefore be relaxed where no adornment was intended but it was due to pain. Clothing is forbidden in its own right, regardless of intent. Therefore, weapons are forbidden even if there is no adornment factor. Rather than being worn as an adornment, they show warrior like strength, which for a Jew is no adornment. In fact, one could say that if they serve as an adornment, they might be permitted for this very reason, since they would not be giving the appearance of a warrior. [See Igros Moshe OC IV:75:3.]

Accordingly, in our case, if there is real danger, those who are able to must take the best measures to protect themselves. If there is no real danger, but the women feel safer being protected, they may train for using these weapons, in a modest manner. That is, they may not mingle with men. They may use the weapon if they are threatened. It is preferable for them not to carry it concealed. They may carry it openly only if it is a women's model, and the prevailing culture considers it a woman's adornment.

On the Parsha ... Lest the avenger of the blood pursue the murderer, for his heart will be heated, and he will catch up with him and strike him and kill him, and there will be no judgment of death upon him ... Therefore, prepare three cities [of refuge] ... And the blood of the innocent shall not be shed in the midst of your land that Hashem has given you as a heritage, with you being guilty of bloodshed. [19:6-10] Much is written about the reason an unintentional murderer is punishable by death at the hands of the avenger, unless he escapes to the city of refuge. Here it appears that he is also considered innocent, so much so that if cities of refuge are not set up, complete with road-signs, the people are guilty of bloodshed! In truth both of these are true, and for the same reason. The entire Torah may be violated to protect life from danger. The unintentional murderer, in his negligence, does not appreciate this overriding concern for the protection of life. Those who neglect proper preparation of cities of refuge also do not appreciate this. Both are guilty of shedding 'innocent blood' that need not have been shed.

♣ In honor and in memory of my mother, Yittle bas R. Shimon a'h, Henriette Silver. ♣

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