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UNDER COVER: DEMYSTIFICATION OF WOMEN'S HEAD COVERING IN JEWISH LAW

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You get a *chatan* [a bride groom],
you get a ring, and you get a *sheitel* [a wig].
(Fagie Rosen, wig retailer and stylist)¹

Jewish law requires Jewish women to cover their hair. Modern women who obey these laws ascribe various meanings to the act of head-covering: It is a sign of marriage, or of identification with the tribe; a symbol of piety and humility; an act of deference to the Divine Will; a sign of sexual modesty. This paper challenges these taken-for-granted explanations for the practice of head-covering and argues that they are, in the words of Roland Barthes, *myths* that take certain discernable forms—legitimation, reification, unification and dissimulation. These myths obscure the underlying power relations that head-covering signifies. I argue that head-covering, like the Jewish marriage ceremony, and like the Jewish laws of divorce, demarcates the exclusive and unilateral property rights that a Jewish husband has in his wife's sexuality. In this paper I explore how these myths operate, their historical origins, and how they sustain relations of domination. My aim is to confront and challenge the extent to which the halakhah and Israeli law continue to view and treat women as the chattel of their husbands.

1. Introduction

It seems to me that the real political task in a society such as ours is to criticize the working of institutions which appear to be both neutral and independent; to criticize them in such a manner that the political violence

which has always exercised itself obscurely through them will be unmasked, so that one can fight them. (Michel Foucault)²

Taking inspiration from Michel Foucault, Roland Barthes,³ J.B. Thompson,⁴ and from discourse theory in general,⁵ I will attempt in this paper to *demystify* the sign of Jewish women's head-covering. I will argue that popular explanations that Jewish women give to legitimate the covering of their heads—for example, that it is a mark of a woman's loyalty to her husband or to Jewish law—take on discernable patterns that obscure the power relations (Foucault's "political violence") associated with it. I will posit that in the case of head-covering, these power relations refer to the demarcation of the exclusive and unilateral property rights of a husband in his wife's sexuality.

Moreover, I will argue that, even if most men whose wives cover their hair in deference to Jewish law were to deny that they retain any property rights (sexual or otherwise) in their wives, and even if most couples were to declare that their relationship was one of equality and mutuality, the ancient vestiges of such property claims still play a compelling role in the modern Jewish State of Israel. Those primordial notions haunt the rabbinic courts and to a certain extent inspire, or at least underscore, the rabbis' reluctance to find a solution to the problem of the *agunah*, the wife anchored to a dead marriage by a recalcitrant husband. Similarly, I will argue, the repressed notion of women as chattel has bridled the promulgation of legislation that would give Israeli wives full and actionable rights to marital property.

I have become convinced that it is necessary to decipher and demystify the sign of Jewish women's head-covering in order to confront and challenge the extent to which Jewish culture and Israeli laws continue to view women as the chattel of their husbands. Until Jewish men and women courageously and openly acknowledge the present-day potency of this idea, I fear that they will be unable to adopt necessary legal reforms, or to reinterpret their tradition in a manner that fully incorporates modern notions of women's autonomy and equality.

2. Myths, Modes, and Methodologies: Foucault, Berger, Barthes, Bourdieu, Thompson and Other Theoretical and Methodological Muses

In this paper, I take the position of the “omnipotent” sociologist to privilege the *paradoxa*, that which is against the common opinion,⁶ over the common-sense *doxa*.⁷ As Peter Berger explains, “the first wisdom of sociology is this—things are not what they seem.”⁸ For Berger, sociology is “the art of mistrust.” It is meant to “debunk and unmask the pretensions and propaganda by which [persons] cloak their actions.”⁹ I suggest that this goal of *paradoxa* lies at the heart of Barthes’ de-mythologizing “semiology,”¹⁰ of Foucault’s “political task,” and of Thompson’s ambition in calling for the analyst to make a methodological break with the “hermeneutics of everyday life” (i.e., *doxa*).¹¹ It’s the subject of critical discourse analysis in examining how “discursive strategies . . . ‘naturalize’ the social order.”¹² And it certainly is my goal in this paper.

I shall loosely follow Thompson’s methodology of “depth hermeneutics” to support my thesis.¹³ According to Thompson, the starting point of depth hermeneutics is the interpretation of *doxa*—how symbols (meaningful actions or expressions, such as the practice of head-covering) are understood by subjects in everyday life—the common sense. Once that common-sense interpretation is established, Thompson divides depth-hermeneutics into three principal phases: (1) socio-historical analysis of the symbols within their historically specific and social contexts (Section 3 of this paper); (2) formal analysis to establish, for example, the patterns taken by the common-sense interpretation of those symbols (Section 4); and (3) the researcher’s re-interpretation of the *doxa* (Sections 5 and 6).

To arrive at those common-sense explanations, I relied mostly on Lynne Schreiber’s *Hide and Seek: Jewish Women and Head Covering*, an anthology of essays written by 23 women, and one man, about the practice of head-covering.¹⁴ I also draw here on quotes from the internet, popular magazine articles, the work of anthropologist Susan Starr Sered,¹⁵ modern authors on Jewish law, as well as discussions that I have had with women over the years as a participant-observer in the field of Orthodox women who cover their heads.

To uncover the patterns that inform the common-sense explanations that women give for covering their hair, I take inspiration from what Thompson calls the “modes of operation of ideology,”¹⁶ and from what Barthes refers to as the “rhetorical forms” of myth.¹⁷ It is by juxtaposing this formal analysis with the common-sense explanations themselves, as well as with the socio-historical

analysis, that I hope to convince the reader of the plausibility of my re-interpretation of this symbol in Sections 5 and 6. While the conclusions I reach in these sections may come as no surprise to the veteran feminist reader—after all, we *all know* that the veil is a sign of male domination—in this paper I underscore both the patterns that symbolic domination takes, and the real and potent consequences that such symbols and their common-sense explanations have on the real and potent lives of Jewish women, including those who choose not to cover their hair (Section 6); and I show how other symbolic acts, like Jewish marriage and divorce, may similarly be revealed as expressions of relations of domination (Section 5).

I have chosen to label women’s “doxic” interpretations as “myths,” in the sense used by Roland Barthes in his essay “Myth Today.”¹⁸ Barthes describes myth as a type of speech—written or pictorial—that conveys a message that is alienated from its underlying “political violence” and contingent meaning. He defines myth as a “second-order semiological system” (p. 114) in which a sign “leaves its contingency behind,” “empties itself . . . becomes impoverished” (p. 117) and takes on a secondary significance that “obscure[s] the ceaseless making of the world” and “fixate[s] the world into an “object that can be forever possessed” and “immobilized” (p. 155). A myth, Barthes explains, does “not deny things. On the contrary, its function is to talk about them; simply, it purifies them, it makes them innocent, it gives them a natural and eternal justification” (p. 143). In this spirit, Barthes “demystifies” various symbols of French popular culture, including, among other things, wrestling, Romans in films, literary criticism, advertising for soap powders and detergents, toys, wine, meat and even Einstein’s brain.

For me, Jewish women’s head-covering in the twenty-first century—like Einstein’s brain and French detergent advertisements—is pictorial speech that has become mythical in the Barthesian sense. Head-covering has become a potent myth that conveys various gratifying messages, like community commitment, marital fidelity and religious allegiance. (I will explore those messages, among others, below.) But it is those explanations, and their appeal to value-laden sentiments, that obfuscate the power relations that undergird the sign—the institutionalized class distinctions among women on the basis of their sexuality, and the accompanying property rights of men in that sexuality. It is these myths that I want to dispel—to demystify.

I am aware that my critique of the common-sense explanations given for head-covering may elicit strong reactions, especially my reference to them

as “myths.” As Thompson explains, re-interpretations that deign to challenge mechanisms of domination touch on nerves of power. They step on sensitive cultural toes. I am also aware of the tentativity of my thesis. After all, I have not really *proved* anything. But I hope at least to have made a plausible argument, one that will serve to alter the horizons of understanding and stimulate a process of self-reflection,¹⁹ while adopting a practical rationality in dealing with issues of value and power,²⁰ advancing democracy,²¹ and remaining ironically skeptical.²²

3. Power Relations: Historical and Textual Origins

At least since the time of the redaction of the Mishnah (2,000 or so years ago), head-covering has marked the institutionalized class distinctions among Jewish women based on their sexuality, and their husbands'²³ interests in that sexuality. The Mishnah states:

A woman who is widowed or divorced is claiming her *ketubah* [the sum to which her marriage contract entitles her upon dissolution of the marriage]. She says: “You married me as a virgin, and my *ketubah* is therefore 200 *zuz*.” And he says, “Not so, rather I married you as a widow, and thus owe you only a *maneh*. If there are witnesses that she went out with a *hinumeh* [scarf] and her hair down [around her shoulders], her *ketubah* is 200 *zuz*. (Mishnah *Ketubot* 2:1, Schottenstein translation)

According to this text, the testimony regarding a woman's hair was proof of her status at the time of her marriage. If she was a virgin (unsullied sexual property) when led from her father's house to the wedding place, as evidenced by her scarf and uncovered, flowing hair, she would be entitled to a settlement of 200 *zuz* at the time of divorce (or widowhood). If she had been a widow or divorcee (used sexual property), as evidenced by her covered hair,²⁴ she would be entitled only to a *maneh*, a smaller sum. Thus, how a woman wore her hair at the time of her wedding was proof and designation of her sexual status, the monetary value of that status, and whether or not her sexuality had been assigned to the ownership of a particular man.

The historian and rabbi Louis Epstein confirms that the tradition of veiling the Jewish bride was a sign of “ownership or mastery”:

. . . [N]o doubt at a time when women were expected to hide themselves from the gaze of men the veiling of the bride was partly motivated by the sense of modesty. But sex morality is not at the root; at best it is only a secondary and indirect implication. The direct meaning is the symbolical significance of ownership or mastery. By covering up the bride the thought is expressed that she is taken possession of, perhaps also that, as a result, she is taken out of circulation as a free woman.²⁵

Flaunting those signs of ownership carried strict consequences under mishnaic law. For a married woman to uncover hair her in public was viewed as a direct transgression against her husband. The rabbis encouraged the husband of such a woman to divorce her, branded him as evil if he did not (Tosefta *Sotah* 5:9), and absolved him of his obligation to pay damages pursuant to her marital contract if he did (Mishnah *Ketubot* 7:6).

Although modern decisors no longer deem the uncovering of a woman's hair to be grounds for divorce, Ashkenazi rabbinic and responsa literature has maintained consistently since the Middle Ages, to this very day, that married women have a halakhic obligation to cover their hair.²⁶

It is hardly arbitrary that Jewish law associates a husband's property rights in his wife's sexuality with the covering of her hair. Like many other cultures,²⁷ the Jewish tradition associates hair, a part of the body that continues to grow throughout life, with generativity, life, vitality, nature, sexuality. Traditional Jewish texts directly link unbound hair with unbridled sexuality. The rabbis liken a woman who lets her hair grow long and wild to the demon Lilith, who uses her hair to seduce men to acts of prostitution (BT *Eruvin* 100b), or to a loose woman (Tosefta *Ketubot* 7:6). The Bible instructs the priests to publicly signify the unbridled sexuality of the suspected adulterous by unbinding her hair (Num. 5:18). If a foreign woman is captured in war, the Bible commands that her hair be shorn before her captor is allowed to take her as his wife, thereby suppressing her sexual attractiveness (Deut. 21:12; and see the commentary of Abraham ibn Ezra *ad loc.*). The Talmud maintains that a woman's hair is '*ervah*, a term that connotes sexual transgression (BT *Berakhot* 24a). If not cut, bound, covered or tamed, hair knows no boundaries—just like a woman's sexuality, or like women themselves.²⁸

In addition, traditional Jewish texts associate the covering of a woman—or of her sexual organs, or of her hair—with the act of taking possession of her and sequestering her to a particular man. In Ezekiel 16:8, God promises to spread

his garment (*kanaf*) over the Jewish people. Moshe Greenberg, commenting on the verse, explains that “in early Arabia . . . throwing a garment over a woman symbolized acquiring her.”²⁹ In a similar vein, the Bible curses the man who sleeps with his father’s wife as one who “uncovers the garments” of his father (Deuteronomy 23:1, 27:20), which, it is implied, have heretofore concealed his wife’s nakedness. Ruth asks Boaz to cover her with his garment (Ruth 3:9) and thereby take her as his wife. The Talmud identifies an unattached and available non-Jewish woman by her uncovered hair (BT *Sanhedrin* 58b).

4. Myths about Head-Covering

Alienated from its political, proprietary and power implications, Jewish women’s head-covering becomes a Barthesian myth that takes on various deceptive and often alluring meanings. In this section I will describe both the *content* of these meanings and the *forms* they take—legitimation, reification, unification and dissimulation.³⁰

Sexual Modesty (Legitimation through Rationalization)

Women’s hair is *‘ervah*. (BT *Berakhot* 24a)

One of the key ways that myth operates to *legitimate* relations of domination (in our case, the husband’s proprietary interests in his wife’s sexuality) is by representing those relations as just and worthy of support through a chain of reasoning: *rationalization*. In the case of head-covering, one of the key rationalizations made to justify head-covering is that it protects the sexual modesty of Jewish women. This rationalization has a rich textual history (as noted above) and is often called upon by lay-people and scholars. The following are quotes by women and scholars who express such chains of reasoning. Note, however, how this chain of reasoning breaks down. If it’s a sign of modesty, how come single women don’t have to cover their hair?

I cover my hair because I want to distinguish my sexual mores from those of the modern world. Secular society has facilitated the objectification and sexualization of women in a manner more offensive, more oppressive, and even more patriarchal than the tradition we have inherited. It’s a balancing

act. By covering my hair, I hope to protect my daughters as much as I can from the pressures of the modern world to market themselves through their bodies and their sexual availability. Covering my hair is about setting limits. (Esther, an Orthodox feminist leader)

[C]overing my hair infuses me with a continuous message of modesty . . . [T]hat which is attractive and seductive about a woman is, by the Torah's definition, the private domain of the woman and her husband. The goal of a woman covering her hair, or adhering to standards of modesty in dress, is not for her to make herself ugly; rather, the goal is for her to portray herself in a way that is not provocative. (Yael Weil)³¹

It protects the marriage because now it is known that the woman belongs to her husband, and other men will avoid improper contact with her. (Tehilla Goldman, quoting her sister-in-law)³²

Like the women quoted above, R. Getsel Ellison struggles to understand the reasons behind the injunction regarding head-covering. And like these women, he suggests that the rabbis are motivated by concerns of sexual modesty. Or perhaps head-covering is simply a sign of being married? He ponders:

. . . If [head-covering] is meant to prevent men from erotic thought, why differentiate between married and unmarried women? Since unmarried women today do not go to the *mikvah*, they are presumably *niddah* (impure due to menstruation), and fully forbidden as sexual liaisons . . . [And] [i]f the head-covering is meant to serve as a sign of being married, like the traditional wedding band, why does the injunction include divorcees and widows?³³

Though unsure of the exact answer to the dilemma that he has raised, Ellinson concludes that head-covering is a matter of sexual modesty. Quoting Rabbi Shiloh of Moshav Nahalim, he suggests the following explanation for why never-married women do not have to cover their hair:

. . . The hair-covering is meant to remind Jewish women to act in accordance with the guidelines laid down for them. By our sages' understanding,

any woman already experienced in male-female relationships requires this reminder, hence the obligation falls upon every non-virgin.³⁴

In other words, Ellinson rejects both the idea that Jewish women must cover their hair in order to control the sexual impulses of men, and the notion suggested by Weill and Goldman that it is a sign of sexual modesty between husband and wife. Instead, he proposes that head-covering is an act of modesty meant to control the sexual impulses of women.

Some people who think married Jewish women should cover their hair might agree with Ellinson. Or perhaps with Weill and Goldman.³⁵ Others might agree with Esther that head-covering distinguishes the sexual values of Orthodox Jewish women from those of more promiscuous modern women. Yet no matter whose *rationalizing* explanation is adopted regarding head-covering as a sign of sexual modesty, all are far removed from the notion that it is a marker of a husband's proprietary interests in his wife's sexuality and the valuation of that sexuality.

Talisman (Legitimation through Narrativization)

Kimhit was privileged to have sons who performed as high priests because the walls of her house did not see the braids of her hair. (BT *Yoma* 47a)

Another legitimating tactic of myth is to call upon stories embedded in the past, *narratives*—like the story of Kimhit—to justify relations of domination as worthy of support for being part of a timeless and cherished tradition. Note the vestiges of the Kimhit story in Shaindee's words:

I try to cover my hair at all times so that even the four walls will not see my hair. If I adhere closely to the laws regarding head-covering, I hope that I will be privileged to give birth to sons who are God-fearing and knowledgeable in Torah. (Sheindee, a physician's assistant)

The Kimhit narrative is astonishingly effective in entrenching the act of head-covering as belonging to a tradition that has awarded the woman who covers her hair with God-fearing sons. I swam for 15 years with Sheindee, an educated, professional Western woman whose hair I never saw because of the

story of Kimhit, even though we showered and changed in the same locker-room. For my swimming partner, covering her hair took on mystical dimensions that transcended rationality itself, let alone the custom's historical origins in the proprietary rights of husbands. Other Jewish maxims and *midrashim*—what Barthes would refer to as “statement-of-fact proverbs”—similarly invoke narratives of guilt, reward and punishment, and demons,³⁶ all to ensure that Jewish women cover their hair.

Marital Status (Reification through Naturalization)

You get a *chatan* [a bridegroom], you get a ring, and you get a *sheitel* [a wig]. (Fagie Rosen, wig retailer and stylist)³⁷

Marriage is the order of *nature*. A girl is born to get married and have children. It is the permanent, natural way of the world. For most Orthodox women—for most women, for that matter—marriage is still the unquestioned and preferred status. Like Muriel Heslop in the Australian film “Muriel’s Wedding,” or like Ellen Fein and Sherrie Schneider, authors of *The Rules: Time Tested Secrets for Capturing the Heart of Mr. Right*,³⁸ most Orthodox Jewish single women dream of the day that their knight in shining armor will awaken them from their slumber and carry them off to live happily ever after in a well-protected castle—after a big wedding, a smorgasbord, a white dress, a ring, and a *sheitel*. They might scoff at my claim regarding the proprietary rights that Jewish men have to their wives’ sexuality, as they might at Iris Marion Young’s statement that:

[T]he institution of marriage is irreparably unjust. Its original and current meaning is to solidify male power in relation to women, and to draw an arbitrary line around legitimate relationships. Its historical function has been to use women as a means of forging alliances among men and perpetuating their “line.”³⁹

For Orthodox Jewish women, marriage is not about politics, power, property, forging alliances or history. It’s a natural right of passage. It’s about love and commitment, relationships and families. Head-covering is an eternal sign of that loving relationship and fidelity to that relationship. It’s a status symbol worn with pride by the women who have been selected by their knights.

Myth operates by seeming natural, fixed (reified), and beyond history, the way things are. By associating head-covering with marriage, the custom stretches indefinitely into the past, so that any trace of its origin is lost. Any question of its end is unimaginable. Any logic is abandoned. Jewish married women cover their hair because covering one's hair is a sign that one is married. Jewish married women cover their hair because that is what Jewish married women do when they have been chosen. Like French men who drink wine because wine is the drink of French men. Like mothers who stay home with their kids because they are mothers who are, by their very nature, supposed to take care of their kids. These impoverished and tautological arguments make sense because "that's how it is."⁴⁰ It's natural.

Jewish Law (Reification through Eternalization)

I covered my hair not because I thought I needed reminding that I was married, not because I thought my hair was *'ervah*. I did it because it is largely acknowledged to be the *halakhah*, the law. I had grown up with, and believed in, the idea that following *halakhah* is not about liking it or finding it meaningful or necessary. It is about adherence to God's will, subsuming one's own desires to His. (Tova Mervis)⁴¹

Another way that myth operates is to represent that relations of domination are outside of time, outside of human determinations, beyond reason, something from above, *eternal*. It's not about men and their proprietary interests. It's not about sexuality or identity. It's about "The Law" out there (fixed and eternal), which may have no meaning and may not serve any function at all. Indeed, many Orthodox Jewish married women will tell you, like Tova Mirvis, that they cover their hair because it is the law that they must do so, and that this law is of biblical origin⁴²—that is, it's been the law, more or less, for eternity.

And once head-covering is described as The Law—and especially if that law is considered to be of Divine origin—it takes on a *reified*⁴³ life of its own that is easily alienated from its legal or political origins or implications. It is not relevant what reasons men or women give for The Law. Or what God's reasons are for The Law. The Law commands a certain type of behavior, and that is enough. The Law and obedience to The Law becomes the meaning. Covering one's head is the only goal, because the goal is to follow The Law, and The Law is that one's head should be covered.

This would explain why some Orthodox women cover their hair with a wig—even a natural hair wig made of their own hair: For them, head-covering is not about community identification, or sexual modesty, or marital status, or holiness. It is about their personal and unquestioning commitment to The Law and its eternal formalities. To the indiscriminating third-party observer, the bewigged woman is indistinguishable from the unmarried Jewish woman or the non-Jewish woman.⁴⁴ Only her God knows for sure. But He knows, and she knows, and that is good enough.

Holiness (Dissimulation by Euphemization)

Wearing a hat also shows that I am a serious Jew. . . . When I see a Jew who wears a head-covering, I know that Judaism matters to that person. (Susan Rubin Weintrob)⁴⁵

I want to illustrate my connection to holiness on a daily basis. (Jamie Hackel Hyams)⁴⁶

We must cover our hair all the time because God can see it [our hair]. . . . [W]e must cover our hair, especially in front all the way to the forehead. God gives everything, food and everything, so we must wear a kerchief. (elderly Jewish women informants in Jerusalem)⁴⁷

For Ms. Hyams, Ms. Weintrob, and the elderly women interviewed by Susan Sered in Jerusalem, women's head-covering is more than a sign of their personal status—of whether or not they are married. It is a religious sign that serves to affirm the “ongoing quality of their covenant with God.”⁴⁸

For them, head-covering is a sign of distinction indicating that the wearer is a “serious Jew” who has her priorities straight and places religiosity and spirituality above material concerns. Like the haircut of the abbé Pierre in Barthes' description,⁴⁹ it is a status symbol that reflects on the holiness, goodness and saintliness of the head coverer—thereby legitimating the act of domination.

But more accurately, myth operates in this case in a manner that *disguises* relations of domination under false appearances, rather than *legitimating* those relations as just or worthy of support, or *reifying* them as fixed and beyond question. The myth of holiness denies that head-covering is an act of oppression; it re-describes or euphemizes the power relations as an expression of

holiness, and then reduces that expression to a hat. Just like the myth that denies that Jewish marriage is an act of purchase, *kinyan*, and redefines it as an act of holiness, *kiddushin*. A linguistic case of bait and switch. Thompson refers to this strategy of concealment and diffusion as “dissimulation.”⁵⁰

Identity (Unification)

I began to feel that I needed a recognizable sign of identification with my people. I felt jealous of the men who could conspicuously announce their tribal affiliation with a *yarmulke*. (Chaya Devorah Bleich)⁵¹

I rang up a real estate agent in Jerusalem about renting an apartment,” [the lecturer] recounted. “And the first thing he asked me was, “how do you cover your hair?” . . . In some perverse way, the external markers of a woman’s religious behavior, in particular her head covering, have come to identify her place in the Jewish world. I find it amusing and pathetic that the religious identity of a whole family is characterized by the way the women covers her hair. (Sally Berkovic)⁵²

Another way that myth operates to sustain relations of domination is by constructing *symbols of unity* (like a flag or emblem) that embrace individuals in a collective identity. Jewish women cover their hair because that’s what the other women in their community do, and they want to be associated with that community. They do not have to think about why. They need not search for historical origins, legalistic essences, or relations of domination. Head-covering needs no justification, no rationalization. Women do not cover their hair to bridle their sexual excesses or to declare their sexual modesty. Their head-covering is about tribal affiliation. It’s the Jewish woman’s *yarmulke*. Hindus wear saris. Japanese wear kimonos. Orthodox married women cover their hair.

How Jewish women cover their hair also depends on their community. Settlers wear hats. Ultra-Orthodox wear wigs. Hasidic women wear wigs and hats.⁵³ The type of hat that a hasidic woman wears is not the same as the one that a settler will wear. By removing her head-covering, or changing it, a woman would make a social statement regarding her community and social identity. She covers her hair so that she will fit in. She covers her hair because it is part of who she is. She covers her hair because it is part of her identity:

Hair not only symbolizes the self but, in a very real sense, it is the self. . . . Corporate executives and adolescents, crew-cut marines and Rockabillies, Teddies, Hippies, Mods, Skins, and Punks . . . all express their identities and ideologies in their hair; so do monks and nuns, Hollywood trend setters and Rastafarians, feminists and film stars, transvestites and “queens,” weight-lifters and body-builders, conventional men and women, and deviants and rebels.⁵⁴

Covering her hair is the Orthodox Jewish woman’s expression of self.

Mask

So long as my head is covered, I can say anything I want and will not be discredited. (Tova, professor and scholar)

She said that it was important to wear a wig so that other religious families would consider her children as potential mates for their children, and her younger ones wouldn’t have to feel embarrassed because their mommy was different. (Leah Lax, quoting a friend)⁵⁵

In addition to being a distorted sign, or a sign that distorts, head-covering can be a tool of distortion. An unfaithful, immodest, uncommitted woman can hide many sins under her hat. The outsider can fit in. The politician, academic or social activist can use her head-covering to package and legitimate a message that might otherwise be unpalatable or not accepted. These women intuitively demystify Jewish women’s head-covering in their own interests.

5. Multiple Signifiers

In addition to women’s head-covering, Jewish life is replete with mythological signs that legitimate and obscure, and in that manner perpetuate, the notion that Jewish men have unilateral property rights in their wives’ sexuality. (This would not surprise Barthes, who notes that “the store of mythical signifiers is inexhaustible.”⁵⁶) Such mythological signs include many of the rituals and laws of Jewish marriage and divorce. Like the law dictating that a groom must sanctify his bride to him, while the bride does not—indeed, cannot—sanctify

her groom to her. Or the custom of the bride walking around the groom, while he stands center stage. Or the laws requiring the bride to remain silent and passive during the entire wedding ceremony. She does not even sign her marriage contract, let alone say the words “I do.” Or the laws governing the Jewish divorce ceremony, by which the husband must deliver a bill of divorce to his wife, freeing her so that she is available to other men, while the wife does not—indeed, cannot—deliver a bill of divorce to her husband. Like the bride, she is silenced during the divorce ceremony. She has nothing to say.

By blindly and nostalgically adhering to these traditions, customs and rituals, without acknowledging the extent to which they continue to reflect a husband's retention of property rights in his wife's sexuality, we perpetuate the vestiges of those proprietary interests and the way they continue to fixate the world, defy change, and discriminate against, or even oppress, women.

6. Real Consequences

The fact that Jewish men retain property rights in their wives' sexuality is hardly contained in the symbolic realm of head-covering. To this day, it has real and harsh consequences: Since married Jewish women do not have autonomous rights to their sexuality, they remain married until their husbands agree to divorce them (*agunot*); they cannot initiate divorce; the children born to them from men who are not their husbands are stigmatized (*mamzerim*); and the full and equal rights of women to marital property are severely limited.

Agunah—The “Anchored” Wife

One of the most difficult dilemmas perpetuated by ignoring the exclusive property rights retained by Jewish men in their wives' sexuality is that of the *agunah*—the woman anchored to a dead marriage.⁵⁷ As David Bleich puts it: “Understanding that the essence of marriage lies in a conveyance of a ‘property’ interest by the bride to the groom serves to explain why it is that only the husband can dissolve the marriage.”⁵⁸

Property cannot divest itself. My house cannot decide that it no longer wants me to own it. So, too, a woman cannot give her husband a bill of divorce (*a get*). Only he can divorce her, of his own free will (Deut. 24:1; BT *Yevamot* 112b).

Of course a woman is not a house. Rabbis understood that nearly 2,000 years ago, when they determined that there are occasions upon which a

court can compel a husband to divest himself of his wife (BT *Ketubot* 77a). However, no matter how much Jewish divorce law has evolved or developed, women remain the property of their husbands to the extent that such divestiture still depends on their husbands. To this very day, Orthodox Jewish authorities have rejected all attempts to infringe upon a husband's ultimate power and authority to divorce his wife. They insist that a divorce of a valid Jewish marriage can occur only when a husband personally and freely gives his wife a bill of divorce.

Thus, if a Jewish husband is missing, comatose or sitting in an Israeli jail because he refuses to give his Jewish wife a *get*, the Orthodox rabbinic judges who run the Israeli rabbinic courts will not declare the marriage over or annulled.⁵⁹ They will not allow for the appointment of an agent to deliver a *get* to the wife in the husband's stead.⁶⁰ And they have steadfastly refused to adjust the marriage contract or ceremony in such a way as to preclude the need for a *get* in such situations, either by imposing a condition upon the marriage contract that would void the marriage *ab initio* if the husband is deemed incompetent or recalcitrant,⁶¹ or by changing the marriage ceremony.⁶² As a result, women can be anchored to a bad marriage for years or even a lifetime, waiting for their husbands to give them a divorce.

Divorce

The fact that husbands still retain property rights in their wives' sexuality would also explain why rabbinic courts are so reluctant to establish grounds for ordering a husband to give his wife a divorce. Any interference with the husband's autonomy vis-à-vis his wife/property is essentially a legal fiction, developed over time to moderate the biblical law that gave husbands unfettered authority to divest themselves of their wives/property at their whim.⁶³ While it is true that some authorities and some courts today may even order a husband to divorce his wife if she is *repulsed* by her husband *for good reason*,⁶⁴ others do not recognize such liberal grounds.⁶⁵ And even the courts that do recognize *repulsion for good reason* as grounds for divorce will often narrowly interpret the limits of *good reason*, or will wait for years before issuing an order based on such a ruling.

Mamzer

Jewish law stigmatizes a child who is born of the union of a married woman and a man who is not her husband, whether or not he is married to someone

else. That child is not allowed to marry into the Jewish people (except to another *mamzer*) for generations (*Shulhan 'arukh, Even ha'ezer* 4:1, 13, 22). The stigma of *mamzer* is a powerful one that significantly inhibits a married woman whose husband refuses to give her a *get* from simply ignoring religious law and having a relationship with another man. There is no parallel stigma on a child born to a married man with an unmarried woman. In fact, some courts do not even recognize grounds for divorce in the fact that a man has left his wife for another woman and had a child with her.

The concept of *mamzer* can also be explained by the vestigial property rights that a man has in his wife. The stigma placed on the offspring of a married woman with a man who is not her husband is literally a mark that another man's property rights have been violated. The stigma does not apply to the offspring of a married man with an unmarried woman, since that union has not violated any man's property rights.

Property

Finally, the property rights held by Jewish men in their wives' sexuality continue to protect men's real interests in tangible property.

When men hold the ultimate key to determining whether their wives remain married to them or not, this encourages extortion as a means of divorce resolution. Rather than wait for their husbands to give them a bill of divorce of their own free will, women will waive their rights to child support and marital property, or even pay their husbands hundreds of thousands of dollars, for the privilege of divorce.⁶⁶ In Israel, until recently, the secular law relating to marital property exacerbated this problem by deferring the division of marital property until the end of the marriage.⁶⁷ Thus, under Israeli law, a Jewish husband could use Jewish law to prevent his wife from getting a divorce, and then piggyback on the secular marital property law to prevent her from realizing her interests in marital property registered in his name.⁶⁸

The fact that men have property rights in their wives would also explain the difficulty some Orthodox rabbis have in recognizing a wife's interests in marital property. If the legal essence of marriage lies not in an emotional and financial partnership, but, as Bleich put it, in a conveyance of a property interest by the bride to the groom, then the wife/property can have no interest in the husband's property. A wife's claim to her husband's property would, as some Orthodox scholars claim, be tantamount to *theft*. The husband's claim to his wife's property, by contrast, is a valid element of the property deal that he

made when he married her, in exchange for his guarantee of her maintenance and protection.⁶⁹

Cognizance of those vestigial property rights that Jewish men have in their wives, and the concomitant monetary benefits this gives to husbands, may explain why it took the Israeli Knesset more than 30 years to amend the secular marital property law in such a way as to insure that women can still realize their interests in marital property, even if their husbands refuse to give them a *get*.⁷⁰ To this very day, Israeli society continues its dialogue with Jewish tradition in a way that materially benefits husbands, who retain material advantages over their wives, and women continue to bear the real consequences of their husband's exclusive lien—"the conveyance of a property interest"—on their sexuality. So long as a woman's actual interpersonal and emotional relationship with her husband does not threaten him, that lien—like a mortgage held against a loan that is paid faithfully and monthly through an automatic bank transfer—is perhaps insignificant. But if the husband is threatened, he will, like the bank, call in that lien to his benefit, and it becomes very real indeed.

7. Conclusion and Recommendations

I am not suggesting that the State of Israel ban women's head-covering to solve the problems of the *agunah*.⁷¹ First, because a ban would not solve the problem; and second, because women would probably be the first to disregard it. The power of myth is great. God—so construed—is a tough opponent. Identity needs weigh us down. The patriarchal bargain is real. And most of us women, irrespective of faith, nationality or education, negotiate with the patriarchy to some extent or another, in one way or another, and to some success or another, depending on the strength of the patriarchal bargain we live with.⁷²

Don't get me wrong. I would like to see the custom of women's head-covering fall out of favor. I'd even give up on the less onerous versions like bandanas or human-hair *sheitels* that are nicer and sleeker than the woman's real hair. I'm just realistic and understand, personally, how difficult it is to compromise religious precepts that go to the core of one's identity as a Jew, a wife and a member of a community. However, my goal as a feminist, and perhaps the goal of feminism, is to raise the consciousness of women in such a manner as to ensure that any deference to customs like head-covering, or even

renegotiation of those customs in less burdensome versions, is fully informed. And I certainly am maintaining that we must unmask the myths that frame Jewish women's head-covering, so that we will be better able to fight the problem of the *agunah* and related issues, and so that we can transform Jewish marriage into a full partnership between equals.

Having taken on Barthesian mythical dimensions, women's head-covering obscures, legitimates, naturalizes and thereby perpetuates the manner in which Jewish men retain proprietary interests in their wives' sexuality. So do the rituals of marriage and divorce. And so does the framing of the laws regarding the *agunah* and Israel's laws of marital property. Only by unmasking the many creative ways in which our customs, rituals and laws act as mythical signifiers that protect the property interests of men will we be better able to protect the interests of women. Only by being conscious of, admitting to and confronting the historical and contingent origins of those customs, rituals and laws will we more readily come to consider and accept solutions to the problem of the *agunah*, such as annulment, conditional marriage or the adjustment of the marriage ceremony. Only then will we make the proper adjustments to our marital property law.

If we do not unmask those myths, if we do not acknowledge how the notion of men's proprietary interest in their wives' sexuality continues to have a wily, pervasive and formidable hold on our lives, those myths will continue to inhibit the transformation of the Jewish tradition and its thrust towards relevance and modernity.

8. Epilogue: Discipline and Decapitate

I will no longer perpetuate a custom which I have come to regard as one that symbolizes keeping women in their place and away from religious expression and observance. (Rachel Kuhr)⁷³

I hated what covering my hair represented. I felt like I, as a whole, was being covered over, that the purpose of the law was to silence me and hide me from sight. I didn't feel like myself. I found that I said less when I had my hair covered. I was unable to explain to people why I covered my hair, because the reasons behind it were so troubling to me. I was offended by the idea of sexualizing one more part of the female body and by the idea

that only married women, and not married men, need to be marked as “off limits.” (Tova Mirvis)⁷⁴

In closing, I note that head-covering is a powerful tool of social control operating on the body of women. Besides being a sign of a man’s proprietary interests in his wife’s sexuality, head-covering “keeps women in their place.” Helene Cixous, dialoguing with Freud, describes how men’s castration anxiety is displaced as the need to “decapitate” and silence women. She relates the following little Chinese story—myth, if you will—that I think is worth repeating here:

It reminds me of a little Chinese story. Every detail of this story counts. I’ve borrowed it from a very serious text, Sun Tse’s manual of strategy, which is a kind of handbook for the warrior. This is the anecdote. The king commanded General Sun Tse: “You who are a great strategist and claim to be able to train anybody in the arts of war . . . take my wives (all one hundred and eighty of them!) and make soldiers out of them.” We don’t know why the king conceived this desire—it’s the one thing we don’t know . . . it remains precisely “un(re)countable” or unaccountable in the story. But it is a king’s wish, after all.

So Sun Tse had the women arranged in two rows, each headed by one of the two favorite wives, and then taught them the language of the drumbeat. It was very simple: two beats—right, three beats—left, four beats—to turn or backward march. But instead of learning the code very quickly, the ladies started laughing and chattering and paying no attention to the lesson, and Sun Tse, the master, repeated the lesson several times over. But the more he spoke, the more the women fell about laughing, upon which Sun Tse put his code to the test. It is said in this code that should women fall about laughing instead of becoming soldiers, their actions might be deemed mutinous, and the code has ordained that cases of mutiny call for the death penalty. So the women were condemned to death. This bothered the king somewhat: a hundred and eighty wives are a lot to lose! He didn’t want his wives put to death. But Sun Tse replied that since he was put in charge of making soldiers out of the women, he would carry out the order: Sun Tse was a man of absolute principle. And in any case there’s an order even more “royal” than that of the king himself: the Absolute Law . . . One does not go back on an order. He therefore acted according to the code and with his saber beheaded the two women commanders. They were replaced and the exercise started again, and

as if they had never done anything except practice the art of war, the women turned right, left, and about in silence and with never a single mistake.

It's hard to imagine a more perfect example of a particular relationship between two economies: a masculine economy and a feminine economy, in which the masculine is governed by a rule that keeps time with two beats, three beats, four beats, with pipe and drum, exactly as it should be. An order that works by inculcation, by education: it's always a question of education. An education that consists of trying to make a soldier of the feminine by force, the force history keeps reserved for woman, the "capital" force that is effectively decapitation. Women have no choice other than to be decapitated, and in any case, the moral is that if they don't actually lose their heads by the sword, they only keep them on condition that they lose them—lose them, that is, to complete silence, turned into automatons.

It's a question of submitting feminine disorder, its laughter, its inability to take the drumbeats seriously, to the threat of decapitation. If man operates under the threat of castration, if masculinity is culturally ordered by the castration complex, it might be said that the backlash, the return, on women of this castration anxiety is its displacement as decapitation, execution, of women, as loss of her head.⁷⁵

Notes:

1. Lynne Schreiber, "Behind the Facade: A Day in the Life of a *Shaitel Macher*," in eadem (ed.), *Hide and Seek: Jewish Women and Head Covering* (New York–Jerusalem: Urim Publications, 2003), p. 68.
2. Michel Foucault and Noam Chomsky, "Human Nature" (1974), quoted by Paul Rabinow in his Introduction to *The Foucault Reader* (New York: Pantheon Books, 1984), p. 6.
3. Roland Barthes, *Mythologies* (English transl. by Annette Lavers; London: Paladin Grafton Books, 1986 [1973]).
4. John B. Thompson, *Ideology and Modern Culture: Critical Social Theory in the Era of Mass Communication* (Stanford, CA: Stanford University Press, 1990).
5. Ruth Wodak, "Linguistics and Critical Discourse Analysis," in Jef Verschueren, Jan-Ola Östman, Jan Blommaert and Chris Bulcaen (eds.), *Handbook of Pragmatics: Manual* (Amsterdam–Philadelphia: John Benjamins, 1995), pp. 204–210.
6. Michael Moriarty, "Myths," in idem, *Roland Barthes* (Cambridge: Polity Press, 1991), p. 20.

7. Pierre Bourdieu, *Outline of a Theory of Practice* (English transl. by Richard Nice; Cambridge, UK: Cambridge University Press, 1977); and Pierre Bourdieu and Jerry Eagleton, "Doxa and Common Life: An Interview," *New Left Review*, 191 (Jan.–Feb. 1992), pp. 111–121.
8. Peter Berger, *Invitation to Sociology: A Humanistic Perspective* (New York: Anchor Books, 1963), p. 23.
9. *Ibid.*, p. 38.
10. Barthes, *Mythologies* (above, note 3), p. 111.
11. Thompson, *Ideology and Modern Culture* (above, note 4), p. 279.
12. Wodak, "Linguistics and Critical Discourse Analysis" (above, note 5), p. 205.
13. Thompson, *Ideology and Modern Culture* (above, note 4), pp. 277–290.
14. Schreiber, *Hide and Seek* (above, note 1). All but one of the essays in Schreiber's anthology support the practice of head-covering.
15. Susan Sered, *Women as Ritual Experts* (New York–Oxford: Oxford University Press, 1993).
16. Thompson, *Ideology and Modern Culture* (above, note 4), pp. 60–67.
17. Barthes, "Myth Today," in idem, *Mythologies* (above, note 3), pp. 150–155.
18. *Ibid.*, pp. 109–158. Barthes' notion of myth is comparable to Thompson's notion of "ideology" in *Ideology and Modern Culture* (above, note 4); to the "legitimation" of Peter L. Berger and Thomas Luckman in *The Social Construction of Reality* (New York: Anchor Books, 1966), pp. 92–104; to the "doxa" of Bourdieu and Eagleton in "Doxa and Common Life" (above note 7); and to Foucault's "discourse" in "The Order of Discourse," in Robert Young (ed.), *Untying the Text* (Boston: Routledge & Kegan Paul, 1981 [1970]), pp. 48–76.
19. Thompson, *Ideology and Modern Culture* (above, note 4), pp. 26 and 321.
20. Bent Flyvbjerg, *Making Social Science Matter: Why Social Inquiry Fails And How It Can Succeed Again* (Cambridge: University Press, 2001), esp. Chap. 10: "Examples and Illustration: Narratives of Value and Power."
21. Sandra Harding, "Rethinking Standpoint Epistemology: What is Strong Objectivity?" in Linda A. Alcoff and Elizabeth Potter (eds.), *Feminist Epistemologies* (New York–London: Routledge, 1993), p. 69.
22. Berger, *Invitation to Sociology* (above note 8), pp. 38–39.
23. Leila Leah Bonner, "From Veil to Wig: Jewish Women's Hair Covering," *Judaism*, 42/4 (1993), pp. 465–477. Bonner claims that there is "sparse, contradictory evidence" for whether unmarried girls covered their hair in the biblical or the talmudic period and notes that most talmudic discussions of hair-covering involve married women. Leonie Archer, in *Her Price is Beyond Rubies: The Jewish Woman in Graeco-Roman Palestine* (Sheffield: JSOT Press, 1990), maintains that unmarried virgins in Graeco-Roman Palestine, who were subordinate to their fathers, did not bear any symbol of subordination such as head-covering, because they were mostly confined to their homes (p. 212).

24. But see Samuel Krauss, *Archaeology of the Talmud*, II, Part 2 (Hebrew edition; Berlin–Vienna: Hertz, 1945) pp. 266–304, taking the position that married women were obligated by the rabbis to *bind* their hair, but not necessarily to *cover* it. See also Louis Epstein, *Sex Laws and Customs in Judaism* (New York: Ktav, 1967 [1948]), p. 39 at note 66. However, most commentators take the position that married women were obligated to their hair (see below, notes 26 and 54).
25. Epstein, *Sex Laws* (above, note 24), pp. 38–39. Archer, referring to Jewish women in Graeco-Roman Palestine, remarks: “Apart from signaling to other men that she was a married woman and therefore unapproachable, the veil signified the authority which society vested in the husband” (*Her Price is Beyond Rubies* [above, note 23], p. 214). According to Gerda Lerner, Middle Assyrian laws referred to the veil as the visible means of distinguishing between respectable women who “sexually serve one man” and public women; see her “Veiling the Woman,” in *The Creation of the Patriarchy* (Oxford–New York–Toronto: Oxford University Press, 1986), pp. 134–139.
26. Dov Frimer, *Grounds for Divorce Due to Immoral Behavior (Other than Adultery) in Jewish Law* (Hebrew; Ph.D. Dissertation, The Hebrew University of Jerusalem, 1980). See generally Michael J. Broyde, Lilli Krakowski and Marc Shapiro, “Further on Women’s Hair Covering: An Exchange,” *Judaism*, 40/1 (Winter 1991), pp. 79–94; and Mayer Schiller, “The Obligation of Married Women to Cover their Hair,” *Journal of Halacha and Contemporary Society* (1996), pp. 81–108.
27. See, e.g., Edmund Leach, “Magical Hair,” *Man: Journal of the Royal Anthropological Institute*, 88 (1958), pp.147–164; and Howard Eilberg-Schwartz, and Wendy Doniger (eds.), *Off with Her Head: The Denial of Women’s Identity in Myth, Religion, and Culture* (Berkeley, CA: University of California Press, 1995).
28. See generally Rachel Elijor, “The Transition from Myth and Imagination to Law and Norms: A New Critique and Evaluation of the Law in Light of Myth” (Hebrew; paper presented at the Jerusalem Van Leer Institute on July 7, 2001).
29. Moshe Greenberg, *Ezekiel 1–20*, Anchor Bible (Garden City, N.Y.: Doubleday, 1983), p. 277.
30. Thompson, *Ideology and Modern Culture* (above, note 4), p. 60, Table 1.2. Barthes, in “Myth Today” (above, note 17), explains that myth is not an idea or an object, but “a mode of signification, a form.” He describes the principal “rhetorical forms” of myth as: (1) inoculation; (2) privation of history; (3) identification; (4) tautology; (5) neither/norism; (6) the quantification of quality; and (7) the statement of fact (pp. 148–156). Thompson’s “modes of operations” regarding “ideology” are easier to follow than Barthes’ “forms” regarding myths, though they overlap substantively.
31. Yael Weil, “You’ve Come a Long Way Baby,” in Schreiber, *Hide and Seek* (above, note 1), p. 36.
32. Tehilla Goldman, “Dealing with It,” in Schreiber, *Hide and Seek* (above, note 1), p. 141.

33. Getsel Ellinson, *Women and the Mitzvot, II: The Modest Way* (English transl. by Raphael Blumberg; Jerusalem: World Zionist Organization, 1992), p. 122.

34. *Ibid.*

35. I recently came across a YouTube clip in which a young woman explains that her hair is something she shares with her husband alone. See: <http://www.youtube.com/watch?v=v6bUAtrnHfU> (viewed on October 22, 2008).

36. Examples include the following: “Why does a man go bareheaded, while a woman covers her head? A woman is like a person who commits a sin and is embarrassed before other people” (Genesis *rabbah* 17:8). “Why does a woman cover her head, and a man does not? A woman covers her head out of the shame that she feels over her ruinous behavior” (*Avot deRabbi Natan* 9:15). “One of the 10 punishments decreed by God on women is that they go out [into the market place] covered like mourners” (*ibid.*, 42:11).

37. Schreiber, “Behind the Facade” (above, note 1).

38. Ellen Fein and Sherrie Schneider, *The Rules: Time Tested Secrets for Capturing the Heart of Mr. Right* (New York: HarperCollins, 2000).

39. Iris Marion Young, *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton, NJ: Princeton University Press, 1997), p. 105.

40. Barthes, “Myth Today” (above, note 17), p. 153.

41. Tova Mervis, “Letting My Hair Down,” at http://www.beliefnet.com/story/27/story_2796_1.html (viewed on October 22, 2008). Note, however, that Mervis stopped covering her hair (below, note 74).

42. Broyde, Krakowski and Shapiro, “Further on Women’s Hair Covering” (above, note 26). Broyde concludes: “Almost all contemporary decisors maintain that a Biblical and immutable rule requires married women to cover their hair.” However, he also brings a long list of minority decisors who have held that they do *not* have to do so, since it is no longer considered immodest to reveal one’s hair. Marc Shapiro, in the same article, discusses the responsum of Isaac S. Hurewitz., rabbi of an Orthodox congregation in Hartford from 1895 to 1935, who supported this minority opinion. See also Frimer, *Grounds for Divorce* (above, note 26), pp. 102–104.

43. See Berger and Luckman, *The Social Construction of Reality* (above, note 18): “. . . [R]eification is the apprehension of the products of human activity as if they were something else than human products—such as facts of nature, results of cosmic laws, or manifestations of divine will” (p. 89).

44. Schiller, in “The Obligation of Married Women to Cover their Hair” (above, note 26), refers to rabbis who maintain that wearing a wig does not conform to the spirit of the law.

45. Susan Rubin Weintrob, “Why I Wear a Hat,” in Schreiber, *Hide and Seek* (above, note 1), pp. 95–96.

46. Jamie Hackel Hyams, "Why Would a Non-Orthodox Woman Choose to Cover Her Hair or Her Head?" www.jfed.org/art/jh/why.htm (viewed on October 23, 2001).
47. Sered, *Women as Ritual Experts* (above, note 15), p. 72.
48. Saul Berman, "The Status of Women in *Halakhic* Judaism," *Tradition*, 14/2 (1973), pp. 5–28, discussing the need of Jewish women for religious symbols.
49. Barthes, *Mythologies* (above, note 3), p. 47.
50. Thompson, *Ideology and Modern Culture* (above, note 4), pp. 62–63.
51. Chaya Devorah Bleich, "The Woman's *Yarmulkah*," in Schreiber, *Hide and Seek* (above, note 1), p. 135.
52. Sally Berkovic, *Straight Talk* (New York: Ktav, 1999), p. 54.
53. See Barbara Goldman Carrel, "Hasidic Women's Head Coverings: A Feminized System of Hasidic Distinction," in Linda Arthur (ed.), *Religion, Dress and the Body* (Oxford: Berg, 1999), pp. 163–178.
54. Anthony Synott, "Shame and Glory: A Sociology of Hair," *The British Journal of Sociology*, 38/3 (1987), p. 404.
55. Leah Lax, "Under My Wig," *Moment* (December 2004), pp. 40–41.
56. Barthes, "Myth Today" (above, note 17), p. 127; see also Pierre Bourdieu, *Masculine Domination* (English transl. by Richard Nice; Cambridge, UK: Polity Press, 2001), describing how the masculine order inscribes itself in various ways onto the bodies of women.
57. This definition of the *agunah* is a modern one. See J. David Bleich, "Modern Day *Agunot*: A Proposed Remedy," *Jewish Law Annual*, 4 (1981), pp. 167–187; and Irving A. Breitowitz, *Between Civil and Religious Law: The Plight of the Agunah in American Society* (Westport, CT–London: Greenwood Press, 1993), p. 1.
58. J. David Bleich, "*Kiddushei Ta'ut*: Annulment as a Solution to the Agunah Problem," *Tradition*, 33/1 (1998), p. 114.
59. Eliav Shochetman, "Annulment of Marriages," *Shnaton hamishpat ha'ivri*, 20 (1997), pp. 349–397 (Hebrew).
60. Breitowitz, *Between Civil and Religious Law* (above, note 57), pp. 60–63.
61. See Eliezer Berkovits, *Conditional Marriages and Divorces* (Hebrew; Jerusalem: Mosad Harav Kook, 1967), supporting the imposition of conditions on Jewish marriages.
62. Meir Simha Feldblum proposed changing the marriage ceremony in "The Problem of *Agunot* and *Mamzerim*: An Inclusive and Comprehensive Solution," *Diné Yisrael*, 19 (1997–1998), pp. 203–216 (Hebrew).
63. Ze'ev Falk, *Hebrew Law in Biblical Times* (Jerusalem: Wahrman, 1964), p. 154; Judith Romney Wegner, *Chattel or Person? The Status of Women in the Mishnah* (New York–Oxford: Oxford University Press, 1988). Judith Hauptman, in *Rereading the Rabbis: A Woman's Voice* (Oxford: Westview Press, 1999), claims that the Mishnah discouraged divorce at whim (p. 103).

64. Moshe Silberg, *Personal Status in Israel* (Hebrew; Jerusalem: Mif'al Hashikhpul, 1965), pp. 116–117. See, e.g., File no. 830/55 (Jerusalem Rabbinic Court, December 15, 1994), *The Law and Its Decisor: Rabbinic Court Decisions in Family Matters*, 1/1 (2003), p. 4 (Hebrew); and File no. 016788168 (Supreme Rabbinic Court, May 10, 2001), *The Law and Its Decisor*, 1/5 (2003), p. 6 (Hebrew). Breitowitz, in *Between Civil and Religious Law* (above, note 57), explains the halakhic implications of a woman's claim that she is repulsed by her husband for objectively viable criteria, and otherwise (pp. 55–57).

65. See e.g., File no. 830/55 *R vs. R* (Supreme Rabbinic Court, October 31, 1995), *The Law and Its Decisor*, 1/1 (2003), p. 4 (Hebrew).

66. Susan Weiss, "The Three Methods of Jewish Divorce Resolution: Fundamentalism, Extortion and Violence," *Eretz aheret*, 13 (2002), pp. 42–47 (Hebrew).

67. Israeli Spouses (Property Relations) Law (5733–1973), §5, amended November 12, 2008, just before I wrote the final draft of this article.

68. Yakobi/Knobler 48 (3), *Piskei din*, 529, 550 (Hebrew; Israel Supreme Court, 1994).

69. Rabbi Avraham Sherman, "The Presumption Regarding [Marital] Partnership Has No Basis in the Laws of Israel," *Tehumin*, 19 (1999), pp. 205–220 (Hebrew); idem, "The Presumption Regarding [Marital] Partnership in Light of the Laws of the Torah," *Tehumin*, 18 (1998), pp. 32–40 (Hebrew).

70. Though the law has finally been amended (see above, note 67), Israeli women's groups fear that a coalition agreement following the February 2009 elections might lead to the amendment's repeal.

71. I would not ban head-covering any more than I would recommend prohibiting cosmetic surgery, or the wearing of make-up or mini-skirts, to solve the problem of anorexia. See Susan Bordo, *Unbearable Weight: Feminism, Western Culture, and the Body* (Berkeley, CA: University of California Press, 1993); and Naomi Wolf, *The Beauty Myth: How Images of Beauty Are Used Against Women* (London: Vintage, 1991 [1990]); both authors make the connection between male domination and anorexia, make-up and cosmetic surgery. I would, if I could, seek laws to ban cultural practices that pose serious health risks to women, like female genital mutilation—but that lies beyond the scope of this article.

72. Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender & Society*, 2/3 (1988), pp. 274–290. See, e.g., Valeria Seigelshifer, "From Tichles to Hair Bands: Modern Orthodox Women and the Practice of Head Covering" (M.A. Thesis, The Hebrew University of Jerusalem, 2006), on how Modern Orthodox Israeli women resist, struggle, participate and negotiate with the Jewish tradition of head covering; Uma Narayan, "Minds of Their Own: Choices, Autonomy, Cultural Practices and Other Women," in Louise M. Antony (ed.), *A Mind of One's Own* (Boulder, CO: Westview Press–Perseus Books, 2001), pp. 418–433, on how women from the Sufi Pirzadah community in New

- Delhi negotiate with their traditions of *purdah* (seclusion) and veiling; and George E. Gruen, "Defining Limits on Religious Expression in Public Institutions: The Turkish Crisis over Headscarves," Jerusalem Center for Public Affairs, Jerusalem Letter/Viewpoint, no. 399 (February 1, 1999), at <http://www.jcpa.org/jl/vp399.htm> (accessed February 28, 2009), on how pious Turkish women circumvent the state ban on veiling by wearing wigs to, in order to study at state universities. See more generally Jean Baker Miller, *Towards a New Psychology of Women* (Boston, MA: Beacon Press, 1986 [1976]), on how and why subordinates—women—sometimes adopt dominant beliefs.
73. Rachel Kuhr, "Tipping My Hat," in Schreiber, *Hide and Seek* (above, note 1), p. 126.
74. Tova Mervis, "Letting My Hair Down," http://www.beliefnet.com/story/27/story_2796_1.html (viewed on March 16, 2006).
75. Helene Cixous, "Castration or Decapitation" (English transl. by Annette Kuhn), *Signs*, 7/1 (1981), p. 41.