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BAIS HAVAAD HALACHA CENTER
290 River Avenue, Lakewood NJ 08701
1.888.485.VAAD (8223)
www.baishavaad.org
info@baishavaad.org
Lakewood • Midwest • Brooklyn • South Florida

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HaRav Yosef Grossman zt"l

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UNDER COVER: MUST MEN WEAR YARMULKAS?

Adapted from the writings of Dayan Yitzhak Grossman

AP News reports:

A U.S. Congress-mandated group cut short a fact-finding mission to Saudi Arabia after officials in the kingdom ordered a Jewish rabbi to remove his kippah in public, highlighting the religious tensions still present in the wider Middle East...

About a third of the way through the village, a Saudi official handed a phone to [Rabbi Abraham] Cooper (of the U.S. Commission on International Religious Freedom), on which an official told him to remove his kippah, a skullcap worn by some Jews also known in Yiddish as a yarmulke.

Cooper refused, and the rest of the group agreed to cut their visit short over the demand.¹

There are obviously important issues at stake here involving the interests of Jews, the United States, and religious freedom. In this article and a follow-up, however, we focus on the specific halachic

questions of the obligation of a man to cover his head in general (this article) and the permissibility of uncovering it to comply with a demand of, or to show respect to, non-Jews (the follow-up).

The existence of an obligation for a man to cover his head is far from clear. There are a number of Gemara passages that indicate that doing so is praiseworthy:

- Rav Huna son of Rav Yehoshua did not go four amos with his head uncovered. He said: The Shechinah is above my head.²
- Rav Huna son of Rav Yehoshua said: May a reward come my way for never having gone four amos with my head uncovered.³
- Rav the Chaldean [astrologers] once told Rav Nachman bar Yitzchak's mother: Your son will be a thief. She never allowed him to uncover his head. She told him: Cover your head so that the fear of Heaven will be upon you, and ask for Hashem's mercy (to overcome your *yeitzer hara*). He never knew why she told him this.

¹ Jon Gambrell, US-mandated religious freedom group ends Saudi trip early after rabbi ordered to remove his kippah, AP News, <https://apnews.com/article/saudi-arabia-us-rabbi-kippah-dispute-religious-freedom-a932e4b5def634b82da9ac212909652b>.

² Kidushin 31a.
³ Shabbos 118b.



PARSHAS VAYIKRA

DEAD DEBT

Excerpted and adapted from a shiur by Dayan Yitzhak Grossman

He shall return the stolen item that he stole or the proceeds of his fraud or the pledge that was left with him.

Vayikra 5:23

If one Jew owes money to another, and a secular court discharges the borrower's debts in a bankruptcy, *poskim* debate whether halacha accepts this or the debtor's failing to pay would be considered *gzeilah*.¹

Some *poskim*, including R' Moshe Feinstein, hold that bankruptcy is valid, due to the principle of *dina demalchusa dina* (the law of the government is the law). R' Moshe Heinemann agrees but says it applies only to a restructuring of the loan, not to a discharge. The Chelkas Yaakov maintains that *dina demalchusa dina* is not applicable here at all.

The Maharshach allows bankruptcy on the basis of *minhag*: If local business custom allows debtors not to repay after a bankruptcy, then halacha accepts this, as is the case in many aspects of business halacha.² The Chikrei Leiv rejects this argument.

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¹ For more on this topic, see Rabbi Dr. Shlomo (Steven) Resnicoff, *Bankruptcy—A Viable Halachic Option?* at <https://www.jlaw.com/articles/bankruptcy.html>.
² Some understand his opinion as applying only to debt restructuring, while others understand it to include complete discharge of debt.

One day he sat studying under a palm tree, and the cloak fell off his head. He lifted his eyes

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Q&A from the
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Addenda Impedimenta

Q When Purim falls on *motza'ei* Shabbos as it does this year, is *Al Hanisim* inserted when reciting *Birkas Hamazon* for *se'udah shlishis* after nightfall?

A Generally, the insertions in *Birkas Hamazon* follow the meal's start. For example, on Shabbos, *Retzei* is inserted when *bentching* after nightfall at *se'udah shlishis*, because bread was eaten at the beginning of the meal while it was still Shabbos (Shulchan Aruch O.C. 188:10).

The same principle applies when Rosh Chodesh falls on *motza'ei* Shabbos: *Retzei* is said

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and saw the palm. His *yeitzer* overpowered him, and he went up and cut off a cluster of dates with his teeth.⁴

None of these sources assert an actual obligation to cover the head. On the contrary, they imply that doing so constitutes pious conduct that goes beyond what ordinary people normally do or are expected to do. As R' Meir (Maharam) of Rotenberg states:

It is not prohibited to walk with an uncovered head, and (Rav Huna *brei* deRav Yehoshua's statement) "May a reward come my way for never having gone four *amos* with my head uncovered"—this is a matter of pious conduct.⁵

This is the position of R' Moshe Isserles (the Rama),⁶ R' Shlomo Luria (the Maharshah),⁷ R' Yoel Sirkis (the Bach),⁸ R' Avraham Gombiner (the Magein Avraham),⁹ and R' Chaim Yosef Dovid Azulai (the Chida)¹⁰ as well, and some understand this to be the view of the Shulchan Aruch.¹¹

The Maharshah goes so far as to maintain that when sitting and not walking, it is not even a matter of piety, even while studying Torah, as long as one is not uttering Hashem's name. In support of this position, he cites the following intriguing report:

I have heard about a certain chacham that when he would learn, he would learn bareheaded, and he said that the burden (of a head covering) was heavy upon him.¹²

Despite this report, however, the Maharshah proceeds to recommend that a *talmid* chacham should be careful to cover his head while studying Torah, because the masses believe that one must, so an ignoramus may consider him guilty of laxity if he does not.

Some *Acharonim*, however, maintain that at least in contemporary (i.e., traditional Christian) society, baring one's head is strictly prohibited. R' Yisrael (Mahari) Bruna writes:

[The implication of the Gemara that head covering is not strictly required] is only true for them, for they were in Eretz Yisrael, and they (the Jews) would go about this way (bareheaded). But we who live among the nations and they go about bareheaded, and this is considered the "traditions of the nations,"¹³ and there is no point of distinction between us and them except for head covering, [going bareheaded] is currently considered a violation of the precepts of Judaism (*oveir al das Yehudis*), as it says in Ksubos that a woman who goes out with her head uncovered is considered to be violating the precepts...¹⁴

R' Dovid Halevi (the Taz) writes similarly:

Because it is currently a law (*chok*) among the gentiles that they do this constantly, that as soon as they sit down they remove their hats,

this is included in "*uvechukoseihem lo seileichu* (and do not follow in their traditions)." A fortiori this law that has a reason, for covering the head indicates *yir'as shamayim* (per the Gemara's account of Rav Nachman bar Yitzchak's mother and other sources)...certainly one should distance himself from this more than from the rest of their laws.¹⁵

The Mishnah Brurah seems to incline toward the view of the Mahari Bruna and the Taz.¹⁶ The Aruch Hashulchan cites both the view that head covering is only a matter of piety and the view that it is obligatory, and he does not decide between them. But he declares that "experience shows" that covering one's head indeed fosters *yir'as shamayim*, and accordingly, "one who desires to merit fear of Hashem should be meticulous about this" where possible.¹⁷ R' Moshe Feinstein rules in accordance with the Taz.¹⁸ (It might be argued that the concern of the Mahari Bruna and the Taz for the prohibition against the traditions of the non-Jews is less applicable today than it was in their time, because the rules of hat etiquette (like rules of etiquette in general) in non-Jewish society have become much less rigid and uniform, and thus much less *chok*-like, than they were in their era.)

R' Ovadia Yosef (at the conclusion of a characteristically exhaustive treatment of the topic) also argues for the imperative of head covering today based on similar considerations to those of the Mahari Bruna and the Taz, but with respect to secular Jews as opposed to non-Jews:

It appears that in our times, when it is the way of the secular to go bareheaded, as a manner of casting off the yoke of Torah and mitzvos, certainly anyone who has *yir'as shamayim* must be careful to cover his head when he walks in public, so that there will be a distinction between the righteous and the wicked, between one who serves Hashem and one who does not serve Him.¹⁹ And this is more than a matter of pious conduct, and the kippah that is on the head of a religious person is a symbol and sign that he is associated with the religious camp, and *yir'as shamayim* is upon him...And one who walks bareheaded, on the contrary, this entails the appearance of prohibition (*mar'is ayin*): They will suspect that he is a secular person who casts off the yoke of the kingdom of Heaven from upon himself...²⁰

Some authorities distinguish between walking four *amos* and walking less than four *amos*, between outdoors ("under the sky") and indoors, and/or between a partially uncovered head and a bare one; a discussion of these distinctions is beyond the scope of this article.²¹

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and *Ya'aleh Veyavo* is omitted (Mishnah Brurah *ibid.* 33), at least if one finished eating bread before nightfall. If he continued eating at night, the matter is subject to a three-way *machlokkess*:



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- The Bach applies the principle to this case as well; *Retzei* is inserted and not *Ya'aleh Veyavo*.
- The Taz (*ibid.* 7) says both are inserted, *Retzei* for the bread eaten by day and *Ya'aleh Veyavo* for the bread eaten by night.
- The Magein Avraham (*ibid.* 17) argues that the two insertions contradict one another—as Shabbos and Rosh Chodesh fall on different days—so they cannot both be invoked in the same *Birkas Hamazon*. But how to choose between them? He rules that the meal's conclusion takes precedence over its start, so say *Ya'aleh Veyavo* and not *Retzei*.

There is no universal minhag about which view to follow.

The Mishnah Brurah explains that the Magein Avraham's ruling does not apply to your case of *Al Hanisim* and *Retzei*, because *Al Hanisim* is a lesser obligation than *Retzei*.

Later *poskim* consider whether the Taz's idea applies to *Al Hanisim* and *Retzei*: The Kitzur Shulchan Aruch (44:17) assumes that the Taz's logic is applicable to all insertions, so *Al Hanisim* is said along with *Retzei*. But the Pri Megadim (M.Z. *ibid.* 7) avers that the combination of *Al Hanisim* and *Retzei* is different, and even the Taz would agree that both cannot be said.

In practice, only *Retzei* should be inserted, because the majority (Bach, Magein Avraham, and Pri Megadim) say that *Retzei* overrides *Al Hanisim* (Kovetz Halachos, Purim 17:3).

⁴ *Ibid.* 156b.

⁵ Sefer Teshbeitz (Katan) *siman* 547; Kol Bo (Hilchos Tfilah) *siman* 11 (cited in Bais Yosef O.C. *siman* 91).

⁶ Darchei Moshe O.C. *siman* 2 as 2 and *siman* 8 as 4.

⁷ Shu"t Maharshah *siman* 72.

⁸ Bach O.C. *siman* 2 s.v. *Vichaseh rasho*.

⁹ Magein Avraham *siman* 91 s.k. 3 (and cf. *siman* 2 s.k. 6 and *Machatzis Hashekel* there).

¹⁰ Birkei Yosef O.C. *siman* 2 as 2.

¹¹ Bach *ibid.*; Birkei Yosef *ibid.*; Shu"t Yabia Omer *cheilek* 9 O.C. *siman* 1 as 1.

¹² Cf. Shu"t Zichron Yehudah *siman* 20; Shu"t R' Azriel (E.H.-C.M.) *siman* 253 p. 434; Dan Rabinowitz, *Yarmulke: A Historic Cover-Up?* *Hakirah* 4 (2007) pp. 221-236.

¹³ See *Vayikra* 18:3 and 20:23.

¹⁴ Shu"t Mahari Bruna *siman* 34.

¹⁵ Taz O.C. *siman* 8 s.k. 3.

¹⁶ Mishnah Brurah *siman* 2 s.k. 11.

¹⁷ Aruch Hashulchan *ibid.* *sef'ir* 10.

¹⁸ Igros Moshe *ibid.* at the end of the *siman* s.v. *Uvristas*.

¹⁹ *Malachi* 3:18.

²⁰ *Vabia Omer* *ibid.* at the end of the *siman*.

²¹ See *Ha'elef Lecha Shlomo* O.C. *siman* 3; *Igros Moshe* *ibid.*; *Mayim Chaim* (Messas) *siman* 23.

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Many Hungarian *poskim*, including the Minchas

Yitzchak and Mishneh Halachos, maintain that bankruptcy does not have halachic validity. They say the debtor

must repay his business debts, even years later, and failure to do so constitutes *gzeilah*.

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