# Chapter Three: *Ervah* Defined

Walking into an observant Jewish community, one of the first things that an insider will notice is how women dress since this often reflects the religious tenor of observance and commitment among its members. Sleeve length, skirt length, pants versus skirts and the amount of hair covered/uncovered, as well as the choice of head covering, are assumed to reflect a women’s religious identity more than any other ritual practice or commitment. In essence, dress choices are implicitly understood to represent a greater or lesser commitment to *halakhah*.

For that reason, conversations around women’s dress in a religious community are rarely neutral. For those who accept religious clothing guidelines determined by their community and halakha as the correct way to dress, there is a sense that anything less is a violation of the word of God. Women who become more rigorously observant will often manifest their increased commitment by lengthened sleeves, hemlines and thicker stockings. Their external clothing is meant to reflect a deep internalization of covenantal affiliation with Torah and mitzvot.

In modern Orthodox communities, one can find women of all ages who self-describe the years of skirting and dress coding in Orthodox educational institutions as oppressive and coercive.

 For some of them, the scar tissue has hardly healed and they struggle to listen to any defense of religious societal expectations about how to dress. It makes no difference that the dress code standards imposed upon them hardly reflected the more intense requirements found in ultra-Orthodox society. The idea that women are told how to dress at all serves as a fundamental violation of their agency that they see as hardly relevant to their religious commitment or identity. They understand the halakhot that restrict them as dating back to an era in which women and their bodies were largely seen as triggers for male sexual desire. What further increases the contentiousness of the dialogue is that there are almost no parallel dress restrictions on men,[[1]](#footnote-1) nor is there any concern for female sexual arousal that occurs in the context of interaction between the sexes.

Seen through this lens, conversations around the topic of the dress code are driven by the modern, liberal, feminist discourse in which women seek to claim ownership over clothing choices and body image. When the relevant texts are presented as justification for the halakhic framework, they are rejected as unsatisfying grounds for continued practice. As we will see below, when examined closely and critically, the texts raise many questions that cannot be easily answered.

Women, particularly young women, want to learn the halakhic sources and judge for themselves the authenticity of the textual basis for a religious dress code. I often hear the following questions asked:

* Is there is a requirement stemming from the Torah for women to cover their bodies?
* If it is a Jewish societal norm, who determines the code of dress?
* Since there are sources around women and dress that reflect the need to protect men from sexual desire, why can’t men control themselves and why are women being used for their protection?
* If the dress code is designed to differentiate religious Jewish women from their counterparts and safeguard them from secular promiscuous society, where did the particulars around knees and elbows come from?
* Why is the skirt elevated to the level of a ritual object like a kippa and tzitzit for women when it is simply a garment worn by Jews and non-Jews alike?

Orthodox educators have generally refrained from suggesting that these strictures be revised. Instead, they have suggested a variety of justifications for these practices and have developed relevant educational approaches in response.

Most centrally, women continue to be taught that their religious duty includes modest (as defined by the religious community) clothing choices in their ongoing service to God.

A prevailing explanation for this duty is that a woman should proudly view herself as a protector, helping men avoid unwanted and uncontrollable sexual thoughts. In this way, women are active partners in the continuous drive towards holiness, sanctity and service to God in the family, community and greater society. This approach works more organically in right-wing, ultra-Orthodox sectors where feminist ideology advocating full gender equality is often rejected as alien to the core beliefs of Torah and rabbinic authority.

Nonetheless, this conservative approach is also presented in modern Orthodox schools, with much greater dissonance, where it is frequently disregarded by female students (and their mothers) or considered offensive and irrelevant. The dissonance is even more powerful when students note that their fathers and brothers are able to concentrate and work in environments where women are immodestly dressed, without needing special protection.

Another educational approach is to empower women to dress modestly as part of their ongoing engagement with God’s presence in their lives.[[2]](#footnote-2) This ideology shifts the focus away from the male gaze and concerns for male sexual desire, placing it in the realm of women’s religious identity, which is externally reflected in their clothing choices.[[3]](#footnote-3)

 Although this approach tries to respectfully preserve the letter of the law while shifting the spirit of the law away from fear of the male gaze, for an educated generation of Jews raised on text study and critical source analysis, the topic of women and dress still feels forced, alienating, and far from reflective of the current social reality.

When engaging in pertinent text study, there are two significant challenges that can prove difficult. One, we do not have a rich textual history through which to trace the halakhic development requiring women to dress a certain way beyond what were obvious societal norms. Second, within the halakhic discourse we do not hear women’s voices articulated by the community of women adopting and practicing laws imposed upon their bodies. While the entire corpus of rabbinic text is devoid of women’s voices, their absence in laws codified for and about women is particularly jarring.

The source for a dress code for women is usually derived from early halakhic discussions in tractate Berakhot that relate to the prohibition for men to worship God or engage in Torah study in the presence of *ervah* (to be defined below, but literally meaning “nakedness”) and which define the presence of a woman as one of the sources of this *ervah*. In modern times, beyond the walls of the synagogue and religious study hall, these Talmudic guidelines have become the foundation for the required dress code for a religious woman at all times. Therefore, understanding the definition of *ervah* in rabbinic and halakhic literature is central to engaging in a conversation about women and dress in religious society.

Furthermore, the halakhic discussion around *ervah* touches on the general issue of male sexual desire and the struggle to control it when in the physical proximity of women. Reflected therein is a strong aspiration to build a society focused on sanctity and Godliness, devoid of sexual distractions that result from the intermingling of men and women. While Judaism embraces sexuality as divinely sanctioned, fostering intimacy between husband and wife as well turning us all potentially into partners in Creation, it is acutely aware of the destructive characteristic embedded therein, particularly in the context of male sexual desire.

In this and the following chapters, the topic of women and *ervah* will be examined through an analysis of the relevant primary texts. Unfortunately, textual analysis on these loaded topics is often glossed over in favor of glib pronouncements regarding halakhic prohibitions and male sexual desire. These reflect either patronizing over-simplification or coercive rigidity that preclude any sort of productive discussion and provide little room for nuanced approaches or the questioning of a particularly biased reading.

My aim is to approach the topic with a critical yet respectful outlook, evaluating the textual sources in the Torah, Talmud and later rabbinic writings enabling the reader to engage in the ongoing religious conversations around gender, dress and sexuality in Judaism as an educated participant.

As the key rabbinic texts are presented, each relevant concept will be assessed, and its original context examined. This will help give vital contextual perspective to the sources, allowing them to be understood as part of a greater Talmudic discourse before they are applied in a more limited fashion to the discourse around women’s dress. The next step will be to see how the earliest commentators on the Talmud, known as the Rishonim (1000-1500 CE) relate to the Talmudic material. Understanding how the earlier sources evolved over time into the later presentations of the topic is important to appreciating contemporary approaches. Finally, a look at some of the more recent halakhic material will be necessary to gain perspective on the current situation. This introduction provides the groundwork for the next four chapters where the topics of women wearing pants, singing publicly, and covering their hair will be analyzed independently, in terms of their relationship to the concept of *ervah*, along with other practical halakhic considerations.

## Biblical Sources

The concept of *ervah* appears in three sections in the Torah. The first reference is in Exodus 28:42, requiring a *kohen* to wear an undergarment as part of the priestly vestments to cover his genitalia or, literally, *ervah*. In chapters 18 and 20 of Leviticus, the term *ervah* appears repeatedly in the context of sexual prohibitions, in reference to the genitalia of women who are sexually forbidden. Exposing a woman's *ervah* is a euphemism for illicit sexual intercourse in the Torah. The language is directed towards the Israelite male as he is told repeatedly that he is prohibited to expose the *ervah* of his father’s wife, his brother’s wife, his sister, or of a menstruating woman. This collection of prohibitions is referred to as *gilui arayot*, literally exposing the *ervah* of prohibited women. Violation of these commandments leads to an absence of *kedushah* or sanctity. God threatens to expel the nation of Israel from its land for violating these laws, which are central to maintaining a relationship of holiness with God who is holy.

Two references to *ervah* are also found in Deuteronomy, but with a different textual presentation than seen previously in Exodus and Leviticus. The phrase *ervat davar* (literally, a “matter of nakedness”) appears first in Deuteronomy 23:15 where it states:

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| Deuteronomy 23:15 The Lord your God walks in the midst of your camp… therefore shall your camp be holy; that He see no matter of nakedness (ערות דבר) in you and turn away from you.  | דברים כג**טו** כִּי ה' אֱלֹקֶיךָ מִתְהַלֵּךְ בְּקֶרֶב מַחֲנֶךָ ... וְהָיָה מַחֲנֶיךָ קָדוֹשׁ וְלֹא יִרְאֶה בְךָ עֶרְוַת דָּבָר וְשָׁב מֵאַחֲרֶיךָ.   |

As we learned in Leviticus with regard to the character of the land of Israel, holiness is possible only when *gilui arayot* — the exposing of prohibited sexual nakedness (i.e., prohibited sexual relations) — is controlled. In Deuteronomy, this idea is expanded beyond prohibited sexual acts to refer something more conceptual.[[4]](#footnote-4) Many translators translate *ervat davar* as “offensive” or “inappropriate behavior," not limited only to sexual promiscuity. *Ervat davar* must be removed or controlled if God is to be present in the camp of the Israelites when they go out to war against their enemies. This verse commands holiness even during wartime, an environment where Godliness would seem to be most absent. It is juxtaposed to the previous passages in which men are commanded to leave the camp to purify themselves in water following a seminal emission and to carry a spike with their gear in order to bury excrement in a designated area outside of the camp. The Torah seems to suggest that *ervat davar* relates not only to limits on sexual behavior found in Leviticus but also about something broader — the concept of muting the physical in deference to the spiritual. While bodily wastes are a normal part of the human condition and cannot be prevented, discretion must be shown in the surreal world of war where the physical is often far more manifest than the spiritual.

While the laws of Israelite military encampments were not practically relevant for thousands of years (until recently), these guiding concepts of discretion regarding bodily needs remained resonant in the rabbinic period and onward. In the post-Temple world, for the most part, places of prayer and Torah study took on the status and position previously reserved for sites of God’s dwelling in the Israelite military camp and in the Temple. Laws relating to holy space were to be applied into these sanctified spaces as well. *Ervah* and *ervat davar* – defined as sexual promiscuity, bodily nakedness and the unseemly (i.e., human waste) – must be absent for holiness to exist.

The final biblical reference to *ervah* is in Deuteronomy 24:1 where the term *ervat davar* is used to explain the reason that a man might divorce his wife.

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| Deuteronomy 24:1 (translation Robert Alter)When a man takes a wife and beds her, it shall be, if she does not find favor in his eyes because he finds in her some shamefully exposed thing, and he writes her a document of divorce and puts it in her hand and sends her away from his house…. | דברים כד**א** כִּי יִקַּח אִישׁ אִשָּׁה וּבְעָלָהּ וְהָיָה אִם לֹא תִמְצָא חֵן בְּעֵינָיו כִּי מָצָא בָהּ עֶרְוַת דָּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתֻת וְנָתַן בְּיָדָהּ וְשִׁלְּחָהּ מִבֵּיתוֹ. |

The Biblical text presents a case where a man decides to send away his wife after finding an *ervat davar* in her. The text describes some sort of divorce ritual in which he writes a bill of divorcement, hands it to her and sends her away from his household. These verses later form the foundation for the inflexible Jewish divorce law in which in a one directional manner, a man must give his wife a divorce document known as a get willingly for the divorce to take effect.

In Mishna Gittin 9:10, based on the Biblical phrase *ervat davar*, Beit Shammai suggests that the divorce is based on “a matter of *ervah*” or prohibited sexual behavior. Beit Hillel broadens the interpretation and reads it as an “*ervah*-like matter” or something unseemly or indecent that gives the man grounds for divorce, like “spoiling his soup.” Sexual infidelity is, perhaps, the most obvious expression of *ervat davar,* but it can include other inappropriate behavior as well. The linguistic connection between the two verses in Deuteronomy suggests that just as *ervat davar* inhibits God’s presence in the military camp, *ervat davar* can cause a man to divorce his wife.

In summary, *ervat davar* expands the definition of *ervah* from a specific bodily area (genitalia) that must be covered, to a broader concept of some form of indecent behavior (even involuntary) that, if unchecked, inhibits God’s presence or leads, in the case of marriage, to divorce. In Talmudic and post-Talmudic discourse, it appears that *ervah* and *ervat davar* blend together so that once definitions of *ervah* are established, they expand to encompass far more than the simple covering of female nakedness.

## Berakhot 24a-b: *Ervah* as a Deterrent to Prayer and Blessing

The central starting point for halakhic discussion regarding a dress code for women is a text that appears in the third chapter of tractate Berakhot in the Babylonian Talmud. It is here that several rabbinic statements about women and *ervah* are arranged into a scripted discussion about an exposed thigh,[[5]](#footnote-5) uncovered hair or hearing a woman’s voice.

Before examining that text, a general introduction to the Talmudic chapter in which it is found will help frame its analysis. Throughout the vast corpus of Talmudic literature, *ervah* often refers to a woman who is sexually prohibited to a man based on either familial relationship or her marital status, as per Leviticus 18. In tractate Berakhot, however, the technical boundaries of defining physical *ervah* are explored within the context of the prohibition to pray or study Torah in its presence.[[6]](#footnote-6) The topic of the third chapter of Berachot focuses on the correct way to recite the *Shema*, a prayer whose focus is acceptance of the yoke of the Kingdom of Heaven, which requires utmost concentration and discipline. The chapter examines distractions that interfere with men’s ability to say Shema properly. These include seminal emissions, nakedness, bodily waste and sexual arousal[[7]](#footnote-7).

In the page of Talmud that immediately precedes the text about women as sources of *ervah*, the following scenarios are presented and discussed:

1. A married couple lying in bed. The Talmud assumes that people sleep naked and the proximity of *ervah* is inevitable even when covered with a sheet or coverlet. Where can the man store his *tefillin* safely to protect them from theft or from mice while treating them respectfully? The text does not directly refer to *ervah* but there is nakedness and the potential for sexual relations which will lead into the next *ervah*-centric scenarios.
2. Two traveling men are sleeping naked in bed covered by a sheet. How should they recite the *Shema*? Although the Talmud does not suggest there is any sexual impropriety in this scenario, male nakedness is *ervah* and thus, an impediment to engaging with God’s presence through recitation of the *Shema*. This would be the case even if a man were alone.
3. The Talmud asks about a husband and wife naked in bed together. The man is obligated to recite the *Shema* while the woman is not. Her body is familiar *ervah,* which suggests sexual neutrality, but there is still the possibility that the man will experience sexual desire. Can he say Shema in such a case?

Different resolutions are offered in each of these cases:

In the first case, the *tefillin* preferably should be tied in a knot within the coverlet beside his head. They can remain there even when the couple has sexual relations.

In the second case, the two men, who are ostensibly lying side-by-side, should turn their heads away from each other’s *ervah*. They can even lie backside to backside as they turn away from one another since buttocks do not, according to Rav Huna, constitute halakhic *ervah[[8]](#footnote-8)*.

As a result of Rav Huna’s attitude regarding backsides, the precise technical definition of *ervah* is narrowed to the exposure of genitalia. Female nakedness is then addressed by quoting a Mishnah from tractate Hallah, which will be quoted below.[[9]](#footnote-9) The Mishna states that a woman, when alone, can make the blessing over *hallah* while naked for she can squat and cover her *ervah*. A man, however, cannot, because his *ervah* cannot be flattened against the ground or hidden by crouching.

In the case of the man and woman, it is left as a Tannaitic debate. Later, Maimonides[[10]](#footnote-10) will rule that a spouse can lie naked in bed next to her husband even with their bodies touching as he says Shema without any barrier between them based on the familiarity component. The Shulchan Aruch will rule similarly although he will also bring the opinion that of an authority who forbids such contact and writes that it is best to heed to his words[[11]](#footnote-11).

Returning to the Talmudic text in Berakhot, a scenario is described where a father is naked in bed with his small children. At what point do their sexual organs become *ervah* and prevent him from saying *Shema*? The Talmud suggests that the age of the child will determine the answer to this question.

Immediately before the textual unit that serves as the cornerstone for halakhic rulings regarding women’s dress we learn: A question is asked by Rav Mari to Rav Pappa: “What if you see your pubic hair poking out of a garment just as you want to say *Shema*?” Pubic hair is the quintessential Talmudic indicator of sexual maturity for males and females. Does seeing a hair distract or prevent you from saying *Shema*? Rav Pappa answers that it is just hair and nothing more. Even though pubic hair is a sign of sexual maturity, its appearance outside of actual exposed nakedness is not a cause for distraction. Not everything associated with sexual organs is viewed as unseemly or *ervat davar*!

To summarize: the *ervah* in all of these passages is the actual exposure of sexual organs which prevents men and women from blessing or praying. The concern in all of these passages is the prohibition of saying prayers in the presence of the uncovered genitalia of both men and women. Nudity is not regarded as disturbing in itself, to the extent that the Talmud calmly discusses a naked woman separating *hallah* and does not regard her as posing a danger to the religious fabric of society. The Talmud is merely inquiring — does her nakedness preclude her from making the blessing invoking God’s name? The surprising answer is that as long as her genitalia are covered, she may make the blessing while naked.

## Covered but Uncovered

The series of statements that serve as the foundation of the halakhic discourse on modest dress appears as a unit only once in the entire Babylonian Talmud,[[12]](#footnote-12) woven together from statements made by Amoraim living between 200-300 CE; the context where each statement was originally made is unclear.

Due to its centrality, this brief unit, whose statements largely stand on their own without elaboration or discussion, will be analyzed in its entirety. In the previous section we learned that *ervah* literally referred to the nakedness of genitalia. In this section, there are no exposed or semi-exposed genitalia. but, nonetheless, the sages quoted posit that exposure of other parts of a women’s body – or even her voice – are defined as *ervah,* even though no physical *ervah* is present. This textual unit transcends the confines of the previous pages of Talmud in which *ervah* had a very definite boundary.

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| **Berachot 24a****R. Yitzhak** said: A *tefah* (handsbreadth)[[13]](#footnote-13) in a woman constitutes *ervah*.  How so? If one gazes at it?! *But has not* **R. Sheshet** [already] said: Why did Scripture enumerate the ornaments worn outside the clothes with those worn inside?[[14]](#footnote-14)  To tell you that if one gazes at the little finger of a woman, it is as if he gazed at her secret place! No, he was referring to one's own wife, and only when he recites the Shema.**Rav Hisda** said: A thigh in a woman is *ervah*, as it is written (Isaiah 47:2), "Bare your *shok*, wade through the rivers,” and it is written (*ibid.*, v. 3), “Your *ervah* shall be uncovered and your shame shall be exposed.”**Shmuel** said: A woman's voice is *ervah*, as it is written (Song of Songs 2:14) “For your voice is sweet and your appearance is comely.”**Rav Sheshet** said: Hair in a woman is *ervah*, as it is written (*ibid*. 4:1), “Your hair is like a flock of goats.” | ברכות כד.אָמַר ר׳ יִצְחָק: טֶפַח בָּאִשָּׁה עֶרְוָה. לְמַאי? אִילֵּימָא לְאִסְתַּכּוֹלֵי בַּהּ, וְהָא אָמַר רַב שֵׁשֶׁת: לָמָּה מָנָה הַכָּתוּב תַּכְשִׁיטִין שֶׁבַּחוּץ עִם תַּכְשִׁיטִין שֶׁבִּפְנִים — לוֹמַר לָךְ כׇּל הַמִּסְתַּכֵּל בְּאֶצְבַּע קְטַנָּה שֶׁל אִשָּׁה, כְּאִילּוּ מִסְתַּכֵּל בִּמְקוֹם הַתּוֹרֶף. אֶלָּא בְּאִשְׁתּוֹ וְלִקְרִיאַת שְׁמַע. אָמַר רַב חִסְדָּא: שׁוֹק בָּאִשָּׁה עֶרְוָה, שֶׁנֶּאֱמַר: ״גַּלִּי שׁוֹק עִבְרִי נְהָרוֹת״, וּכְתִיב: ״תִּגָּל עֶרְוָתֵךְ וְגַם תֵּרָאֶה חֶרְפָּתֵךְ״. אָמַר שְׁמוּאֵל: קוֹל בָּאִשָּׁה — עֶרְוָה, שֶׁנֶּאֱמַר: ״כִּי קוֹלֵךְ עָרֵב וּמַרְאֵךְ נָאוֶה״. אָמַר רַב שֵׁשֶׁת: שֵׂעָר בָּאִשָּׁה עֶרְוָה, שֶׁנֶּאֱמַר: ״שַׂעֲרֵךְ כְּעֵדֶר הָעִזִּים״. |

The Talmud cites the opinions of four sages,[[15]](#footnote-15) in the context of the greater overall theme of the chapter which, as noted, examines types of *ervah* that lead to an inability to say *Shema*. Until this point in the chapter, *ervah* had been defined by uncovered genitalia. What is unique about these four statements about women is that they are no longer about literal nakedness.

It is entirely possible that each of these statements was orginally part of a discussion independent of reciting the *Shema* concern for sexual and were general statements of concern for sexual arousal triggered by male awareness of female presence. There are many such statements in the Talmud regarding the seductive power of the male gaze (when gazing at a woman) to distract and derail men from religious focus.[[16]](#footnote-16) As seen above, even her little finger upon scrutiny can cause a man to become sexually inflamed. It was understood then as it is now that religious society is best protected when sexual desire is contained.

If the first statement made by Rabbi Yitzhak defining the uncovered handsbreadth of a woman as being *ervah* is taken at face value, its implications are far-reaching. This would essentially equate the uncovering of any body part more than a *tefah*, including the face or the hands to naked genitalia. Women and men should consequently never be in contact with one another except when absolutely necessary, and certainly not outside of the family unit! This approach will be translated later by Maimonides and Shulhan Arukh into an admonition for men to stay far away from women. The casualness of the previous page of Talmudic discussion regarding male and female nakedness in bed, and buttocks that might not be *ervah*, provides a jarring contrast to Rabbi Yitzhak’s statement that a generic uncovered *tefah* is *ervah*.

Returning to the text in Berakhot, following Rabbi Yitzhak’s statement, the Gemara brings Rav Sheshet’s midrashic interpretation comparing the temptation of seemingly innocuous outer ornaments like bracelets to an inner ornament that comes into contact with the female sexual organ.[[17]](#footnote-17) Rav Sheshet uses this juxtaposition to state that one who gazes at a woman’s little finger might as well be looking at her actual pudendum (the absolute definition of *ervah)*. In essence, if a man gazes lustfully even at a most innocuous part of a woman’s body, like her pinky, it has the power to derail him both sexually and spiritually. His interpretation acknowledges the sexual power that the covered, and certainly the uncovered, female body has to arouse men. This, too, provides a sharp, even uncomfortable, contrast to the earlier scenarios where a couple naked in bed simply turned back-to-back so that the man could recite *Shema* despite the actual presence of revealed *ervah*.

The question posed by the text for the reader is how is this passage meant to be understood? There are two suggested answers to that question:

1. Rabbi Isaac and Rav Sheshet are both talking about *Shema* since that is the theme of the chapter, and the entire unit is thus structured around sexual distraction when a man is reciting this important prayer. All of the subsequent statements are meant to be understood within the context of the laws of *Shema*.
2. After previously discussing *ervah* with regard to the laws of *Shema*, the Talmud has moved into a more general discussion about the male gaze and the power of sexual desire that can be triggered at all times simply by the presence of a woman. The additional three statements about the thigh, voice and hair of a woman would then constitute advice about spiritually dangerous situations rather than a definition of applied halakha.

Whatever Rabbi Isaac’s original intent was, his statement is positioned by the Talmud within the halakhic discourse about reciting the *Shema*. Even a man’s wife – who is a legitimate outlet for his sexuality and a familiar presence in household interactions devoid of sexual potential – can distract him from the task of concentrating on the recitation of *Shema*.[[18]](#footnote-18) Reading it together with the earlier scenarios cited above, a man can be naked in bed with his wife but must completely turn away from the sight of her when reciting the *Shema* due to the power of visual stimulus of her body. Rabbi Isaac’s statement thus becomes an important source for halakhic consideration in the laws of *Shema*.

In contrast, the teaching brought in the name of Rav Sheshet remains outside any clearly defined applied halakha on matters of dress and *ervah,* since no one expects women to cover their little fingers when a man is saying *Shema*. It indicates the awareness that a man’s intrinsically carnal nature could lead him to have intense sexual thoughts even while gazing at something as innocuous as a woman’s little finger. These feelings would, indeed, prohibit him from saying *Shema*. Rav Sheshet’s statement is not directly tied to laws of *Shema* in any practical or applied sense. He is pointing out that the valence of the male gaze is not a feature of its object but of its subjective experience of the gazer. If he is looking at the woman sexually, it does not matter if he is even looking at something as innocuous as her little finger. His comment can be seen as rhetorical hyperbole which serves as a cautionary assertion about unseemly behavior which could be tied to *ervat davar,* precluding God’s presence from residing within sacred space. In other words, the space is made sacred by the behavior, rather than the physical presence of the people, particularly the men, in this space.

Following Rav Sheshet, three additional statements which will be presented below are made about *ervah* that have an associative quality to one another. No further analytical discussion takes place after these statements. Their halakhic importance and practical application are unclear in the Talmudic context and left open to further evaluation in the post-Talmudic era.

## Three Sources of *Ervah*

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| **Berachot 24a****Rav Hisda** said: A thigh in a woman is *ervah*, as it is written (Isaiah 47:2), "Bare your *shok*, wade through the rivers,” and it is written (*ibid.*, v. 3), “Your *ervah* shall be uncovered and your shame shall be exposed.”**Shmuel** said: A woman's voice is *ervah*, as it is written (Song of Songs 2:14) “For your voice is sweet and your appearance is comely.”**Rav Sheshet** said: Hair in a woman is *ervah*, as it is written (*ibid*. 4:1), “Your hair is like a flock of goats.” | ברכות כד.אָמַר רַב חִסְדָּא: שׁוֹק בָּאִשָּׁה עֶרְוָה, שֶׁנֶּאֱמַר: ״גַּלִּי שׁוֹק עִבְרִי נְהָרוֹת״, וּכְתִיב: ״תִּגָּל עֶרְוָתֵךְ וְגַם תֵּרָאֶה חֶרְפָּתֵךְ״. אָמַר שְׁמוּאֵל: קוֹל בָּאִשָּׁה — עֶרְוָה, שֶׁנֶּאֱמַר: ״כִּי קוֹלֵךְ עָרֵב וּמַרְאֵךְ נָאוֶה״. אָמַר רַב שֵׁשֶׁת: שֵׂעָר בָּאִשָּׁה עֶרְוָה, שֶׁנֶּאֱמַר: ״שַׂעֲרֵךְ כְּעֵדֶר הָעִזִּים״. |

After Rav Sheshet’s statement about the pinky it would seem that the next three statements are redundant. However, the Talmud now brings three specific examples of qualities in a woman that have erotic potential illustrated by the associative Biblical verses that serve as support for each. The first statement in this section is made by Rav Hisda who declares that the thighof the woman is *ervah*, quoting a source in Isaiah.[[19]](#footnote-19) This reinforces the earlier suggestion that such statements were made in the context of moral guidance to avoid possible triggers for male sexual arousal, possibly during the recitation of Shema.

The second statement is made by the important Amora Samuel. He declares that the voice of a woman is *ervah.*[[20]](#footnote-20) Samuel seems to be referring to the voice of a woman in all settings and at all times – including a woman’s conversational voice – appearing to advocate a complete separation of genders outside of the immediate family unit and if taken to an extreme, even within the house! This reading is upheld by other references to Samuel’s position. In Kiddushin 70a, a student of Samuel uses this precise statement to deflect sending regards to a woman through her husband. The premise is that verbal interaction with women opens the door to *ervah* itself or more concretely, it expresses a concern for interaction that will lead to the uncovering of nakedness through acts of *gilui arayot*, and should be avoided as much as possible.[[21]](#footnote-21)

If we read Samuel’s statement with that of Rabbi Yitzhak who stated that even a handsbreadth of a woman is *ervah* and with that of Rav Sheshet that a woman’s pinky can be a source of sexual arousal, then we have three sources that, when taken together, advise that women be covered and silent in order to remove any semblance of *ervah*.

The final statement in the unit is also offered by Rav Sheshet who was cited earlier in the text. In line with the previous statements, he brings another source of *ervah*—the hair of a woman—framed by a quote from the *Song of Songs*. This statement becomes central to the discussion of hair covering as it unfolds in the post-Talmudic era. It will be carefully assessed in Chapter 5.

## The Jerusalem Talmud Parallel

A parallel text in the Jerusalem Talmud reinforces the assumption that the statements in our unit were not necessarily meant to have direct practical application, at least in the time of the Talmud. The following source appears in tractate Hallah around the scenario referenced earlier in Berakhot.

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| Mishnah Hallah 2:3 A woman sits and separate hallah while naked because she can cover herself.A man cannot. | משנה חלה ב:גהָאִשָּׁה יוֹשֶׁבֶת וְקוֹצָה חַלָּתָהּ עֲרֻמָּה, מִפְּנֵי שֶׁהִיא יְכוֹלָה לְכַסּוֹת עַצְמָהּ, אֲבָל לֹא הָאִישׁ. |
| Jerusalem Talmud Hallah 2:1[[22]](#footnote-22) Is it to say that the buttocks do not fall under the category of *ervah*?That is indeed the case for saying a blessing.But as to looking at them even for a second, that is forbidden. As it is taught in a *Beraita*:He who stares at a woman’s heel/buttocks is as if he stared at the womb. He who stares at the womb, it is as if he had sexual relations with her. Samuel said, hearing the voice of a woman is forbidden on grounds of *ervah*.What is the source?“Because of the sound of her harlotry, she polluted the land, committing adultery with stone and tree” (Jeremiah 3:9). | ירושלמי חלה ב:אהָדָא אָֽמְרָה עֲגָבוֹת אֵין בָּהֶן מִשּׁוּם עֶרְוָה. הָדָא דְאַתְּ אָמַר לִבְרָכָה אֲבָל לְהַבִּיט אֲפִילוּ כָּל־שֶׁהוּא אָסוּר. כְּהָדָא דְתַנֵּי הַמִּסְתַּכֵּל בַּעֲקֵיבָהּ שֶׁל אִשָּׁה כְּמִסְתַּכֵּל בְּבֵית הָרֶחֶם.וְהַמִּסְתַּכֵּל בְּבֵית הָרֶחֶם כִּילּוּ בָּא עָלֶיהָ.[שְׁמוּאֵל](file:///C%3A%5Ctopics%5Cshmuel-%28amora%29) אָמַר קוֹל בְּאִשָּׁה עֶרְוָה מַה טַעַם וְהָיָה מִקּוֹל זְנוּתָהּ וַתֶּחֱנַף הָאָרֶץ וְגוֹ׳. |

This passage is important for two reasons. First, it presents the practical application that blessings may, in fact, be said in the presence of buttocks because they are not strictly speaking *ervah*. However, gazing sexually at buttocks is identical to looking at the womb, or more practically, at genitalia. And looking at a woman’s genitalia is akin to having sexual relations with her, presumably because of its stimulating effect on the male viewer. It is obvious that this statement is meant to be hyperbolic; the author of the passage does not equate looking with actually doing. It is, however, understood that such a strong stimulus is likely to lead to prohibited sexual behavior. While there may not actually be *ervah* present, since strictly speaking only genitalia and not buttocks fit the technical definition, there is definitely *ervat davar,* even if that terminology is not used. Samuel’s statement that aural stimulus can lead to sexual promiscuity appears for a third time in the Talmudic corpus. A more in depth analysis of a woman’s voice will be undertaken in a later chapter as previously noted.

## Where Does *Ervah* Go?

Before we continue to examine this textual unit, a brief summary of how the tractate continues is in order. There is no follow-up or in-depth discussion about any of the statements regarding women and *ervah*. Nothing is clarified or categorized and no practical application is sought . Instead, the Talmud picks up the thread of a previously asked question about *tefillin* and how and where to place them when one enters an outhouse. It then moves on to other topics such as belching, passing gas and sneezing during prayer. Bodily waste and related topics are addressed before coming back to reconsider male nakedness. A question is then asked about male genitalia that can be seen behind something transparent, like glass. In contrast, excrement behind glass can be present even during *Shema*. What seemingly causes it to be a distraction is its smell or the possibility of stepping on it. Once it is covered with a glass receptacle, it is no longer problematic even though it can still be seen because its polluting quality – smell – has been minimized. This is not the case regarding human nakedness with regard to which the Torah writes: “that He see no matter of nakedness – *ervat davar* in you” (Deuteronomy 23:15). Thus, the Talmud concludes, although the sexual organ is covered by something transparent, it is still seen, and thus, it is prohibited during Shema.[[23]](#footnote-23) Its visual presence is enough to deflect the possibility of a direct engagement with God through blessings, prayer and Torah study.
One final note about male *ervah*: It is completely limited to genitalia.[[24]](#footnote-24) Nothing else about the man is defined as such,which brings our analysis into much sharper relief and raises the question: what is it about the woman’s body that requires broadening the definition to include even minimal exposure? The obvious answer is that women are sources of sexual arousal for men, leading to two separate aspects of *ervah*. The first is the presence of exposed genitalia, which are objectively inappropriate when one is aspiring for connection through prayer and other related activities. The second is distraction due to sexual arousal. This aspect is subjective and specific to men since they are easily aroused by the sight or sound of women. In consequence, the concept of *ervah* goes far beyond the first aspect, so that a woman’s voice, hair or pinky have the power to distract a man sexually and must be contained.

## Post-Talmudic Discussion of the Berachot text

After the Talmud was redacted, the rabbinic authorities known as the Geonim interpreted the text, producing some of the earliest works of Talmudic synthesis and interpretation. They proposed a sharp distinction between *halakhah* and *aggadah*, which are often found side-by-side in Talmudic discussion. *Halakhah*, the straightforward legal discourse in the Talmud, was regarded as authoritative, legal and significant. *Aggadah*, the lessons learned from rabbinic stories and homiletical interpretations of Biblical text, had a lesser status to their mind, at least with regard to practical halakhic application. They also distinguished between rulings that could be accepted as practiced law and the vast Talmudic literature of give-and-take. Essentially, they sought to winnow the Talmudic dialogue down to its legal conclusions, separating rabbinic speculation, philosophy and other teachings from legally binding rules.[[25]](#footnote-25)

With regard to our Talmudic text in Berachot, the Geonic *Halakhot Gedolot*, refers briefly to those statements, but only within the context of the *Shema*; they serve no other applied purpose.[[26]](#footnote-26) In a similar vein, Rav Hai Gaon writes:

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| Otzar Gaonim, Berakhot, p. 30, section 102And so Rabbeinu Hai wrote that the law prohibits a man to say Shema in front of a woman who uncovers a handsbreadth that is normally covered, for a *tefah* of a woman is *ervah*. And additionally, he should not recite *Shema* when she is singing, for the voice of a woman is *ervah,* but opposite her face or opposite an area of her body normally covered or while she is talking normally it is permitted and even when she is singing, it is permitted if he can concentrate on his prayer ….and does not pay attention to her song, and …. (even) when a handsbreadth is uncovered, it is not prohibited (to say Shema) unless he gazes at it but casual looking is permitted.  | וכתב רבינו האי גאון ז"ל דהוא הדין לכל אשה שמגלה טפח במקום מכוסה שאסור לקרוא כנגדה דטפח באשה ערוה. וכן אין לו לקרות בשעה שמנגנת דקול באשה ערוה אבל כנגד פניה או כנגד מקום שאין דרך לכסות או בשעה שמדברת כדרכה מותר ואפילו בשעה שמנגנת אם יכול לכון בלבו לתפלתו בענין שאינו שומע אותה ואינו משים לבו אליה מותר ואין לו להפסיק קריאתו וכן שמגולה טפח אינו אסור אלא כשמסתכל בה אבל בראיה בעלמא מותר. |

Rav Hai Gaon permits a man to look at a woman when saying Shema as long as he does not gaze, להסתכל at parts of her body that are normally covered. He even allows for her singing if he can concentrate on the *Shema*. It is the man’s thoughts or response to a woman that distracts him, not her presence. When he is not reciting *Shema*, presumably, there is no immediate concern for such distraction.

In the period of Talmudic interpreters known as the Rishonim, we find a number of different approaches regarding the application of the statements in Berakhot that extend beyond the contours of saying Shema into the broader questions around the presence of women on men. The earliest however, completely ignores the *ervah* statements even with regard to Shema. It is cited by Rabbi Isaac Alfasi of Fez, known as the Rif (1013-1103), who is the author of a comprehensive halakhic work*, Sefer HaHalakhot*, in which he quotes all of the passages of halakhic relevance from the Talmud and states a halakhic ruling. It is interesting that when commenting on the relevant page in Berakhot, he omits the *ervah* statements about thigh, hair and voice, giving them no halakhic weight.

In contrast, Maimonides (1135-1204) writes in the laws of *Shema* that the entire body of a woman is *ervah*, and he forbids a man from gazing at it during the recitation of *Shema*.[[27]](#footnote-27)

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| **Kriat Shema 3:16**Just as the *Shema* may not be read in a place where there is ordure or urine till he has moved away [to a distance of at least four cubits], so it is forbidden to read the *Shema* in the presence of any person, even a gentile or child, whose privy parts are exposed, even though a glass partition separates him from them, unless he turns away his face. Since he is able to see, he may not read the *Shema,* unless he turns away his face. Any part of a woman's body is *ervah*. Hence, while reading the *Shema,* one must not gaze at a woman's body, even if she is his wife. And if a hand-breadth of a part of her body is exposed, he must not read the *Shema* while facing it. | **קריאת שמע ג:טו**כְּשֵׁם שֶׁאָסוּר לִקְרוֹת כְּנֶגֶד צוֹאָה וּמֵי רַגְלַיִם עַד שֶׁיַּרְחִיק כָּךְ אָסוּר לִקְרוֹת כְּנֶגֶד הָעֶרְוָה עַד שֶׁיַּחֲזִיר פָּנָיו. אֲפִלּוּ כּוּתִי אוֹ קָטָן לֹא יִקְרָא כְּנֶגֶד עֶרְוָתָן אֲפִלּוּ מְחִצָּה שֶׁל זְכוּכִית מַפְסֶקֶת הוֹאִיל וְהוּא רוֹאֶה אוֹתָהּ אָסוּר לִקְרוֹת עַד שֶׁיַּחֲזִיר פָּנָיו. וְכָל גּוּף הָאִשָּׁה עֶרְוָה לְפִיכָךְ לֹא יִסְתַּכֵּל בְּגוּף הָאִשָּׁה כְּשֶׁהוּא קוֹרֵא וַאֲפִלּוּ אִשְׁתּוֹ. וְאִם הָיָה מְגֻלֶּה טֶפַח מִגּוּפָהּ לֹא יִקְרָא כְּנֶגְדָּהּ: |

Like Rav Hai Gaon, Maimonides uses the verb להסתכל to define the male gaze that is a deterrent to saying Shema. In contrast, he extends it to include the entire body of the woman, covered or uncovered since the body of a woman is *ervah* (his words). In other words, while Rav Hai Gaon specifically prohibited gazing at an uncovered *tefah* normally covered while saying Shema, Maimonides expands this to include any and all gazing at a woman. This is further qualified by the next line in which he clarifies that if there is an uncovered *tefah* (normally covered), a man cannot say Shema at all in its presence. To compare, Rav Hai allowed Shema to be said even in the presence of the uncovered *tefah* if there was no intentional gaze.

Even for Maimonides, however, the mere presence of a (covered) woman need not be avoided when saying Shema if she is dressed properly and he has no intent to stare. In his “Laws of Prohibited Sexual Relations,” he continues with the parameter of intent as significant in differenting between visually noticing a woman and gazing at a woman, the latter being prohibited. He additionally prohibits any sort of intimacy between men and women prohibited to one another.

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| **Issurei Biah 21:2**One who engages in these behaviours is suspected of committing Arayos. And it's forbidden for a person to intimate with his hands or feet or to hint with his eyes to any of the Arayos or to laugh with her or to engage in light-headedness. And even to smell her perfume or to gaze at her beauty is forbidden. And one who engages in this deliberately receives lashes of rebelliousness. And one who gazes even at the little finger of a woman intending to derive sexual pleasure is comparable to one who looks at her genitalia. And even to hear the voice of an *ervah* or to look at her hair is forbidden. | **איסורי ביאה כא:ב**הָעוֹשֶׂה דָּבָר מֵחֻקּוֹת אֵלּוּ הֲרֵי הוּא חָשׁוּד עַל הָעֲרָיוֹת. וְאָסוּר לָאָדָם לִקְרֹץ בְּיָדָיו וּבְרַגְלָיו אוֹ לִרְמֹז בְּעֵינָיו לְאַחַת מִן הָעֲרָיוֹת אוֹ לִשְׂחֹק עִמָּהּ אוֹ לְהָקֵל רֹאשׁ. וַאֲפִלּוּ לְהָרִיחַ בְּשָׂמִים שֶׁעָלֶיהָ אוֹ לְהַבִּיט בְּיָפְיָהּ אָסוּר. וּמַכִּין לַמִּתְכַּוֵּן לְדָבָר זֶה מַכַּת מַרְדּוּת. **וְהַמִּסְתַּכֵּל** אֲפִלּוּ בְּאֶצְבַּע קְטַנָּה שֶׁל אִשָּׁה וְנִתְכַּוֵּן לֵהָנוֹת כְּמִי שֶׁנִּסְתַּכֵּל בִּמְקוֹם הַתֹּרֶף. וַאֲפִלּוּ לִשְׁמֹעַ קוֹל הָעֶרְוָה אוֹ לִרְאוֹת שְׂעָרָהּ אָסוּר: |

By integrating the statements on *ervah* around the little finger, hair and voice, which are all specifically referenced, into his laws of forbidden sexual relations, Maimonides extends the applied boundaries of *ervah* beyond the narrow contours of the laws of Shema. In all interactions with women, a man must honestly assess whether he intends to derive sexual benefit. On one hand, Maimonides seems to endorse restricted interaction between men and women. On the other hand, the parameter of intent allows men to engage with women when necessary, even outside the family unit, placing the burden on the man to be fully aware.

A similar approach emerges in the commentary of Rashba (Rabbi Solomon ben Aderet, 1235-1310), on Berakhot. Rashba focuses on habituation in the interactions between men and women as the determining factor of what constitutes a trigger for sexual arousal, beyond the specific paradigm of a man saying Shema. While he takes the expectation of modest dress for granted, he believes that the aspects of a woman’s body that are regarded as *ervah* can change based on societal norms of dress. He clarifies that the handsbreadth that is considered *ervah* in the Talmud (Rabbi Isaac) refers to an uncovered handsbreadth in a normally covered and thus, sexually suggestive area of the body. While Maimonides seemed to understand that with intent, any part of a woman’s body could become *ervah*, Rashba defines it more narrowly as only the areas of the body normally covered have that potential.

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| **Commentary of Rashba on Berakhot 24a**Rav Hisda said the shok of a woman is ervah. And specifically for others and for men and because of sexual thoughts but not for herself, since it is taught a woman can sit and take the dough portion while naked.And what Rav Isaac said, that a handsbreadth in a woman is nakedness, and established with regard to his wife and Shema, Raavad interpreted that it is specifically the handsbreadth from a normally covered part of her body.And on this Rav Hisda stated that the *shok* (seems to be thigh) of a woman is a hidden place and it is *ervah* and even with regard to her husband, even though the same place is not hidden for the man.However, her face, hands, feet and her speaking voice that is not a singing voice and her hair outside of her veil which is not covered causes no concern (for sexual thoughts) because he is accustomed to them and is not distracted, and in another woman it is prohibited to look at any area of her, including her little finger and her hair and it is prohibited to hear her speaking voice as it is written in Kiddushin “let master send regards to Yalta” and he replied “Samuel said the voice of a woman is nakedness” and from this it seems that specifically the voice of sending or receiving regard for this arouses feelings of familiarity.  | **חידושי הרשב"א מסכת ברכות דף כד עמוד א**אמר רב חסדא שוק באשה ערוה, ודוקא לאחרים ולאנשים ומשום הרהור אבל לעצמה לא דהא קתני האשה יושבת וקוצה לה חלתה ערומה.והא דאמר רב יצחק טפח באשה ערוה ואוקימנא באשתו ובק"ש פירש הראב"ד ז"ל דאפשר דוקא ממקום צנוע שבה ועלה קאתי ר"ח למימר דשוק באשה מקום צנוע וערוה הוא ואפילו לגבי בעלה אף על פי שאינו מקום צנוע באיש, אבל פניה ידיה ורגליה וקול דבורה שאינו זמר ושערה מחוץ לצמתה שאינו מתכסה אין חוששין להם מפני שהוא רגיל בהן ולא טריד, **ובאשה אחרת אסור להסתכל בשום מקום ואפי' באצבע קטנה ובשערה ואסור לשמוע אפי' קול דבורה כדאמרינן בקדושין [ע' א']** לישדר מר שלמא לילתא אמר ליה הכי אמר שמואל קול באשה ערוה, ואלא מיהו נראה דדוקא קול של שאלת שלום או בהשבת שלום כי התם דאיכא קרוב הדעת,  |

Rashba quotes Raavad (Rabbi Abraham ben David 1125-1198), who writes that only parts of the body that are normally covered, including hair outside of her braid, or a woman’s voice outside of her speaking voice, constitute a source of *ervah* during *Shema*.[[28]](#footnote-28) He brings the *shok* as an example,explaining that this is not a part of the body normally concealed by men, but since it is normally concealed by women, it has the power to stimulate. He also writes that a woman’s *ervah* is not a problem for the woman herself since she can fulfill the *mitzvah* of *hallah* while naked. It is only a problem for a man when saying *Shema*.

In a similar vein, Ritvah (Rabbi Yom Tov of Seville, 1260-1320), writes this explicitly in his commentary on Kiddushin:

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| **Ritva Kiddushin 82a**All is dependent on wisdom and the sake of heaven: This is the normative rule of Jewish law, that all is dependent on what a person sees in himself. If he needs to distance himself more, he must do so, even such that he not gaze upon women’s undergarments when they are being washed. So too, if he sees in himself that his desires are subdued and under control and do not give rise to any impure thoughts, he may look at and speak to a woman with whom he is prohibited to engage in a sexual relationship and ask a married woman how she is doing. This explains the conduct of Rav Yohanan who looked at the women as they were immersing, without any erotic intent | **חידושי הריטב"א מסכת קידושין דף פב עמוד א**הכל לפי דעת שמים. וכן הלכתא דהכל כפי מה שאדם מכיר בעצמו, אם ראוי לו לעשות הרחקה ליצרו עושה ואפילו להסתכל בבגדי צבעונין של אשה אסור כדאיתא במסכת עבודה זרה (כ' ב'), ואם מכיר בעצמו שיצרו נכנע וכפוף לו ואין מעלה טינא כלל מותר לו להסתכל ולדבר עם הערוה ולשאול בשלום אשת איש, והיינו ההיא דרבי יוחנן (ב"מ פ"ד א') דיתיב אשערי טבילה ולא חייש איצר הרע, רבי אמי דנפקי ליה אמהתא דבי קיסר (כתובות י"ז א'), וכמה מרבנן דמשתעי בהדי הנהו מטרונייתא (לעיל מ' א'), ורב אדא בר אהבה שאמרו בכתובות (שם) דנקיט כלה אכתפיה ורקיד בה ולא חייש להרהורא מטעמא דאמרן, אלא שאין ראוי להקל בזה אלא לחסיד גדול שמכיר ביצרו, ולא כל תלמידי חכמים בוטחין ביצריהן כדחזינן בשמעתין בכל הני עובדין דמייתינן, ואשרי מי שגובר על יצרו ועמלו ואומנתו בתורה, שדברי תורה עומדים לו לאדם בילדותו ונותנין לו אחרית ותקוה לעת זקנתו, שנאמר עוד ינובון בשיבה דשנים ורעננים יהיו. |

The onus is placed upon men to be sensitive and aware of their sexual arousal triggers, even as it normalizes mixed-gender association. According to Rashba’s approach, the parts of a woman’s body that must be covered while a man is reciting Shema are determined by the social standards of dress. Ritva, outside of the context of the recitation of Shema, places the onus on the man and emphasizes his own responsibility for understanding what triggers his sexual arousal.

In the halakhic definitions of *ervah* found in the codes written by Rabbi Yaakov Ben Asher (1269-1343), author of Tur, and in Shulhan Arukh, written by Rabbi Joseph Karo (1488-1575), the halakhic opinion follows the Rashba that only parts of the body normally covered constitute halakhic *ervah* during *Shema*. However, in *Even HaEzer* 21:1, in the laws of prohibited sexual relations, they both come out strongly against all interaction with women that could lead to sexual thoughts, beginning the relevant passage with a warning to men, “to stay far, far away from women.” While the language in Tur is identical, below is the text from Shulchan Aruch since it is a more widely studied text:

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| Shulchan Aruch Even Haezer 21:1A person must stay very far from women. He is forbidden to signal with his hands or his feet, or to hint with his eyes, to one of the arayos. He is forbidden to be playful with her, to be frivolous in front of her, or to look upon her beauty. Even to smell the perfume upon her is forbidden. He is forbidden to gaze at women doing laundry. He is forbidden to gaze at the colorful garments of a woman whom he recognizes, even if she is not wearing them, lest he come to have [forbidden] thoughts about her. If one encounters a woman in the marketplace, he is forbidden to walk behind her, but rather [must] run so that she is beside or behind him. One may not pass by the door of a promiscuous woman [or: a prostitute], even four cubits [around 6–8 ft or 2–2.5 m] distant. If one gazes even at the little finger of a woman with the intent to have pleasure from it, it is as though he gazed at her shameful place. It is forbidden to listen to the voice of an erva or to look at her hair. If one intentionally does one of these things, we give him lashes of rebellion. These things are also forbidden in the case of ordinary Biblical prohibitions. | שלחון ערוך אבן העזר כא: אצריך אדם להתרחק מהנשים מאד מאד ואסור לקרוץ בידיו או ברגליו ולרמוז בעיניו לאחד מהעריות ואסור לשחוק עמה להקל ראשו כנגדה או להביט ביופיה ואפילו להריח בבשמים שעליה אסור ואסור להסתכל בנשים שעומדות על הכביסה ואסור להסתכל בבגדי צבעונים של אשה שהוא מכירה אפי' אינם עליה שמא יבא להרהר בה. פגע אשה בשוק אסור להלך אחריה אלא רץ ומסלקה לצדדין או לאחריו ולא יעבור בפתח אשה זונה אפילו ברחוק ד' אמות והמסתכל אפילו באצבע קטנה של אשה ונתכוין ליהנות ממנה כאלו נסתכל בבית התורף (פי' ערוה) שלה ואסור לשמוע קול ערוה או לראות שערה והמתכוין לאחד מאלו הדברים מכין אותו מכת מרדות ואלו הדברים אסורים גם בחייבי לאוין: |

The legal parameters for the recital of *Shema* are clear and defined in the Shulchan Aruch . The code of behavior cited above in Even HaEzer in the context of a mixed-gender society, however, is far from defined. The harsh rhetoric warning men away from women seems to represent an attempt to inspire fidelity to religious aspirations that nullify potential sexual misconduct beyond the strict boundaries of law.

**Summary**: From the Talmud on, the practical consequences of something being *ervah*, seem to have been limited to the halakhic requirements for reciting *Shema*. Defining parts of women’s bodies as *ervah* is a reflection of the great concern for male sexual arousal specifically during prayer. However, besides the laws of Shema, the Shulchan Aruch also states starkly that men should avoid all possible engagement with women outside of the family since women, covered or uncovered, can cause sexual thoughts in men. Nonetheless, in the Talmud and all subsequent literature, women are a presence. Women are found in the marketplace. Women interact with men. Even married women interact with men outside of the home. Women are not invisible and they are not completely covered.

Although actual laws of women’s dress are not found in the Talmud or post-Talmudic discussions, nor can any be found outside of the context of reciting Shema in any codes of law, the *ervah* statements in *Berakhot* largely become the foundation of defining women’s dress codes while directly addressing concern for male sexual arousal in a concrete and applied way to limit sexualization in religious society. It is noteworthy that the movement towards greater definition of the laws of modest dress for women, specifying the body parts to be covered and the amount in centimeters that may be revealed, is a development of the 20th-21st centuries. During this time, casual social contact between men and women became the norm and societal dress codes become more and more minimal. In response, the discourse around the *ervah* statements in Berakhot became the jumping-off point for the crafting of a religious dress code of women with fairly standard covering up points of the body, including the elbow, knee and collar bone. Nevertheless, a consensus did not develop and the dress code varied significantly in different places and different societies.

In some communities, the statement that the entire body of a woman is *ervah* is taken literally, leading to a dress code that mandates that everything be covered with clothing and that clothing should not reveal the shape of the body. However, even in those more restrictive spaces, there is no demand to cover women’s hands or faces, perhaps based on the notion that men can be habituated so that these are not sources of arousal. In other communities, there is a greater emphasis on habituation, leading to more latitude and permitting the exposure of lower legs and feet or lower arms to the elbow. In more liberal communities, women will casually reveal other parts of their bodies, with the assumption of habituation playing a far greater role in crafting dress code norms with less emphasis on the parameters of *ervah*.

Both the idea of intentional gaze as seen in Rav Hai and Maimonides along with the halakhic approach that emerged in Rashba and Ritva giving habituation a significant role in defining something as *ervah* can continue to help direct us towards moderation when developing religious guidelines and boundaries for mixed-gender interaction today. The question that arises today in modern Orthodox environments is how broadly habituation can be applied in a society where suggestive clothing and familiarity between sexes is widely accepted. While different cultural norms allow for significant uncovering of women’s bodies, it is difficult to suggest that no objective boundaries exist. Familiarity is one parameter, and drawing sexual attention is another. The two co-exist in a delicate dance that permits and limits simultaneously.

1. This is only relevant with regard to the modern Orthodox community where men are expected to dress in a respectable manner in school and synagogue but guidelines for covering their bodies do not include covering elbows and knees. In the ultra-Orthodox community, men wear dark pants and white shirts with jackets and hats. In the Hassidic community, each community has its own “uniform” of dress for men which involves several layers of clothing. [↑](#footnote-ref-1)
2. See Lea Taragin-Zeller’s *[Modesty for heaven's sake: Authority and creativity among female Ultra-orthodox teenagers in Israel](https://www.jstor.org/stable/10.2979/nashim.26.75)*, Nashim 26, pp. 75-96., [↑](#footnote-ref-2)
3. Oriyah Mevorach in her book What Are You Asking? Uses this approach to redirect the misogyny latent in the rabbinic texts towards an empowering feminist outlook that upholds the letter of the law but reinterprets the spirit behind it. [↑](#footnote-ref-3)
4. While the earliest rabbinic interpretation of this verse interjects the Leviticus sources into the Deuteronomy verse by explaining that “sexually prohibited behavior removes the Divine Presence, (See Sifrei Deuteronomy Chapter 258), a plain reading of the text seems to go beyond Leviticus. [↑](#footnote-ref-4)
5. The word *shok* is ambiguous. It could be leg, thigh or calf as will be explained below and in the next chapter that deals with pants. [↑](#footnote-ref-5)
6. See Henkin’s analysis, pp. 11-29. See also Getsel Ellinson, *The Modest Way*, The World Zionist Organization, 1992, pp. 170-173. [↑](#footnote-ref-6)
7. My friend and editor Josh Amaru pointed out that *ervah* also would affect women who say Shema, pray and learn Torah. It must be noted of course, that women are exempt and thus are not directly addressed by either the Talmud or subsequent discourse. However, the comment is accurate. A woman cannot perform religious duties in the presence of *ervah* but there will be some clear biological distinctions to men as will be presented in the chapter. [↑](#footnote-ref-7)
8. Nonetheless, the halakha is that two men must have a garment separating their bodies, preventing their loins from touching even back to back. See Mishneh Torah Laws of Shema, 3:18 and Shulchan Aruch Orach Chaim 73:1. [↑](#footnote-ref-8)
9. Mishna Hallah 2:3 [↑](#footnote-ref-9)
10. Maimonides Laws of Shema ibid, [↑](#footnote-ref-10)
11. Shulchan Aruch Orach Chaim 73:2. [↑](#footnote-ref-11)
12. [↑](#footnote-ref-12)
13. A *tefah* is a standard unit of measurement found in the Talmud, equal to 7-9 centimeters. [↑](#footnote-ref-13)
14. This statement is referring to a verse in Numbers 31:50: “So we have brought as an offering to the LORD such articles of gold as each of us came upon: armlets, bracelets, signet rings, errings, and pendants, that expiation may be made for our persons before the LORD.” The last ornament in Hebrew is called כומז or gold ornament according to Biblical dictionaries. However, the midrash interprets it to mean an internal piercing of the pudendum, reflecting on the sensitivity of male desire which can be equally inflamed by ornaments both external and internal. [↑](#footnote-ref-14)
15. The statements do not appear in chronological order although three out of four of them lived in the 2nd-3rd generation of Amoraim, between 200-300 CE. Rabbi Isaac was an Amora in the land of Israel in the 2nd and 3rd generation. Rav Sheshet lived in the 2nd-3rd generation of Amoraim in Babylonia. Rav Hisda also lived in the 2nd and 3rd generation in Babylonia. He was a student of Rav and a contemporary of Rav Sheshet. Shmuel is the earliest of the four. He is a first generation Amora in Babylonia and a partner to Rav with whom he usually disagrees. [↑](#footnote-ref-15)
16. See Avodah Zarah 20a, Nedarim 20a, Berakhot 61a, among others. For example, in Nedarim 20a:  Rabbi Aḥa, son of Rabbi Yoshiya, says: Anyone who watches women will ultimately come to sin, and anyone who looks at the heel/buttocks of a woman will have indecent children as a punishment. Rav Yosef said: And this relates to all women, including his wife when she has the status of a menstruating woman. Rabbi Shimon ben Lakish said: The heel of a woman that is mentioned is not the heel of the foot, but the place of uncleanliness, i.e., the genitalia, and it is called a heel as a euphemism, as it is situated opposite the heel. [↑](#footnote-ref-16)
17. See above, footnote 10. [↑](#footnote-ref-17)
18. The little finger of a woman will later become the focus of laws governing the non-sexual space of a couple when the woman is a *niddah*. The concern with passing objects lest he brush against her little finger likely stems from this *sugya,* in which the little finger is equated with her genitalia. See Chapter 9 where these laws are analyzed and discussed. [↑](#footnote-ref-18)
19. Verses from prophetic teachings like Isaiah are not ordinarily presented as a sources for *halakhah*; neither are verses from biblical poetry like the Song of Songs which serve as the primary texts supporting the next two statements. The reason for acknowledging this is because later in modernity these statements are treated as halakhot and given either a Biblical or quasi Biblical status. [↑](#footnote-ref-19)
20. See Chapter 4 in which Samuel’s statement is extensively analyzed. [↑](#footnote-ref-20)
21. This will be reinforced by another *sugya* in Ketubot 72a which we will examine in Chapter 4 about *Dat Yehudit* which involves behavioral norms of married women intended to minimize sexual promiscuity. There too, conversation between women and men is heavily restricted. [↑](#footnote-ref-21)
22. Translation: Jacob Neusner, *The Talmud of the Land of Israel*, Volume 9, Hallah, The University of Chicago Press, 1991, p 67. [↑](#footnote-ref-22)
23. Berakhot 25b [↑](#footnote-ref-23)
24. This is summarized succinctly and clearly in the Arukh HaShulhan in the laws of Kriat Shema, Orah Hayyim 75:1. “Although for a man only the genitals constitute indecent exposure, it is not so regarding a woman…” [↑](#footnote-ref-24)
25. Saimon, pp. 146-47. [↑](#footnote-ref-25)
26. ספר הלכות גדולות הלכות ברכות פרק שלישי עמוד מד [↑](#footnote-ref-26)
27. Shalom Berger pointed out to me that Maimonides uses different verbs to describe the act of looking. In this passage the word used is להסתכל which he suggested means to gaze with intent. It would not prevent a man from noticing the precense of a woman. I am more interested in the idea that the entire body of a woman, even when covered, is ervah if a man gazes at her. [↑](#footnote-ref-27)
28. Rashba’s commentary on Berakhot 24a. [↑](#footnote-ref-28)