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# Dress Codes and the Daughters of Israel

The controversial topic of Orthodox women and modest dress relates directly to motifs of gender interaction, gender identity and sexual promiscuity. Many women wish to make thoughtful decisions about clothing choices as a reflection of their religious commitment, but feel alienated by a conversation that focuses on the male sexual gaze or *yetzer* in a fully gender-integrated modern society. When it comes specifically to the question of pants, women question how they are compromising their modesty by wearing a garment that is worn for comfort and covers more of their bodies, especially when seated, yet holds a negative bias that reflects a social convention whose halakhic basis they do not understand.

The questions around women and dress are three-fold:

1. Which garments transgress the halakhic norms of feminine modesty as developed through the concept of *ervah*?

2. Does wearing pants involve the transgression of the biblical prohibition, “A woman shall not wear men’s apparel” (Deuteronomy 22:5)?

3. Is there a legitimate social component extending beyond the pure boundaries of halakhic evaluation?

In this chapter we are going to continue building on the concepts of *ervah* and *ervat davar* presented previously in chapter 3 as we examine *shok beisha ervah* (a woman’s thigh? is *ervah*), cross-dressing, and modern responsa that attempt to anchor the pants prohibition within the halakhic construct. We will evaluate whether an entire category of apparel should be deemed unequivocally provocative after early sources are examined that prove halakhically that the concept of habituation can desexualize uncovering the formerly covered.

# *Shok* – What is it Precisely?

In the previous chapter, two parallel halakhic and sub-halakhic trends were developed regarding women, sexuality and dress. A source-based analysis of the concept of *ervah* was presented, focusing on its technical definition as male and female genitalia, as well as its connection to *gilui arayot* – a literal uncovering of the *ervah* to engage in prohibited sexual behavior. It was further suggested that the quintessence of *ervah* broadened into *ervat davar*, mentioned twice in Deuteronomy. *Ervat davar* as a biblical concept defies specific physical identification even as it alienates God’s presence from the camp as well as a man from remaining married to his wife.

In tractate Berakhot, a woman’s voice, hair and *shok* (either the thigh or the calf) are described as *ervah*, reflecting a concern for a type of sexualized interaction between men and women that, in turn, can lead to an alienation of God’s presence in our midst. Anything that can cause sexual thoughts or serve as a sexual trigger, down to a woman’s little finger, is potentially e*rvah* or *ervat davar*.

The word *shok* is mentioned in many biblical verses, but it is difficult to offer a clear definition of which part of the leg it refers to.[[1]](#footnote-34) In verses relating to Temple ritual, *shok* refers to the leg or shoulder of a sacrificial animal that, together with *hazeh* (breast), are eaten by the priests from offerings that are brought.

Returning to the *ervah* text in Berakhot that was analyzed in the previous chapter, Rabbi Hisda states that, “The *shok* of a woman is *ervah.*” He then cites a verse from Isaiah 47:2 in which the prophet casts aspersion on Babylonia, which, in the prophetic metaphor, is compared to a woman. The verse, which is the only place in Tanach in which specifically a woman’s *shok* is mentioned, reads: “Remove your veil, strip off your train, bare your *shok,* wade through the rivers.”[[2]](#footnote-35) The next verse begins, “Your nakedness shall be uncovered. Your shame shall be exposed.”

In a contemporary analysis of sources on women’s dress, Rabbi Yehuda Henkin reasons that the woman’s thigh is the likely reference both because of its closeness to the woman’s *ervah* and because of the visual depiction in the associated verse. A woman with a long skirt would need to lift it to cross even a small body of water like a puddle. Crossing a river, he suggests, requires the woman to lift her skirts high in order to avoid getting her dress wet.[[3]](#footnote-36) Such exposure is meant to shame the woman by uncovering her *ervah*.

While Isaiah does not serve as a normative halakhic source,[[4]](#footnote-37) nonetheless, it is a strong voice for what shameful exposure of nakedness looks like using the metaphor of a woman’s body. She is exposed. She is shamed. She is naked.

While the practical application of the Talmudic text might be directed toward a man when he says *Shema* (or, alternatively, as a general warning to avoid sexual arousal), there is a subliminal message for women within the text as well. If they are seeking to avoid shameful exposure, women should strive to cover up their literal and metaphoric nakedness.

Rabbi Hisda’s statement is neither defined nor contextualized by further Talmudic discussion. By narrowing the potential sexual stimulus of a woman’s body down to the pinky – which is always exposed – in an earlier statement in this textual unit, it seems as though the Talmud is referring less to female exposure and more to the man’s response to woman’s presence. On the other hand, the question of the status of the *shok* may be a more practical one. It is possible that the *shok* will always remain *ervah* even with habituation since it is adjacent to actual *ervah* and this proximity heightens its status as a place of nakedness.

**To summarize**: Based on biblical sources, a woman’s *shok* can mean the entire leg, the lower leg or the upper leg. With reference to animal sacrifices, it means thigh and shoulder. We can thus draw no absolute conclusions from the biblical sources as to exactly which part of the leg is *shok*. The verse in Isaiah and the associated Talmudic reference may be referring to a woman’s thigh. Establishing exactly what parts of the leg are included in the *shok* was probably irrelevant in Talmudic times outside of private spaces and the recitation of *Shema* since women’s skirts at the time covered the entire leg. As we present the Talmudic and halakhic sources, we will explore the possible relevance of these distinctions in an era in which skirt length, drastically and without precedent before the 20th century, lifts first above the calf, and, beginning in the 1960s, above the knee.

## What Happens After the Talmud?

The *shok* of a woman is referred to as *ervah* in post-Talmudic sources, into the period of Rishonim, and later, into the codes of Tur and Shulhan Arukh because of the possible sexual thoughts it could elicit in men.

From the source material, it seems that only in the last century did it become necessary to define *shok* as either the upper or the lower leg with regard to its exposure. Rabbi Israel Meir Kagan, author of the Mishnah Berurah, for instance, explains that the *shok’s* *ervah* refers to the upper leg, above the knee joint. Below that, there is no *ervah* even if the leg is exposed. While he writes this in the laws of *Shema*, it is clear that he is talking about a more general dress code to be implemented as part of the modesty customs of the daughters of Israel. Rabbi Avraham Karelitz, known as the Hazon Ish, responds to this ruling in his commentary to the laws of *Shema*.

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| The *shok* might connote from the knee down, above the knee being obviously forbidden. After all, Ra’avad wrote that men normally expose the *shok* and this is true only of the leg below the knee. Hence even a single exposed *tefah* below the knee would be forbidden. At the same time, Mishnah Berurah was lenient regarding below the knee…and this seems to be correct. If we forbid below the knee, it would apply even to the foot. Yet in some places women customarily go barefoot, and some part of their foot surely remains exposed. Hence the *shok* of Berakhot 24a must connote the thigh… |

Hazon Ish cites Rishonim such as the Ra’avad and Rashba who state that a man’s *shok* is not *ervah*. To his mind, this cannot mean that men are exposing their thighs.[[5]](#footnote-38) Thus, the *shok* of the Rishonim must be the lower leg. Consequently, women, whose *shok* is *ervah*, would be required to cover the lower leg*.*

Nonetheless, in principle he agrees with Mishnah Berurah, who permits exposure of the leg below the knee, since many women circulate in society with bared ankles and feet; it is inconceivable that those could be *ervah*. Thus, the *shok* of Berakhot with regard to a woman’s body must be halakhically defined as thigh. This essentially becomes the halakhic consensus.

Thus, women are unequivocally expected to cover their thighs to the knee and, more often, below the knee. It further encompasses the upper arm which is equated with the thigh (in the Torah, both the foreleg and the hindleg of an animal are defined as *shok*), so that in all halakhic compendiums, as well as in the formal and informal requirements of many religious institutions, women are instructed to cover their arms up to and, in some cases, including the elbow.

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| Responsa Si'ach Nachum 107The basic *halakhah* is to cover the *zero’a* (the portion between the shoulder and the elbow), but the Sages did not establish a defined measure for this coverage. In any case, the way of modesty is to cover most of the *zero’a*. However, in matters of modesty in clothing, it is appropriate to consider the customs of the society of Torah-observant Jews with which we wish to affiliate, and if women in that society are accustomed to cover more, it is appropriate to adopt that custom. |

A concern for the exposure of an armpit when a woman lifts her arms is also discussed in the halakhic literature. It would seem that this relates to an intimation of a woman’s breasts which are perceived as having the innate ability to sexually distract men even though they are not explicitly defined as *ervah* in the way that genitalia are. This would neatly parallel the concern for actual *ervah* when the thigh is revealed, creating a close connection between the joint of the upper arm and leg and the subsequent urgency to fully cover a significant amount of skin to avoid any hint of exposure near either of these areas.

## Halakhic Precision

*Halakhah* strives for clear parameters and methodical definitions. Mathematical precision is applied in defining the amount of wine that one must drink to fulfill the ritual obligation of *kiddush* or the exact amount of *matzah* that makes up a *k’zayit*. We noted that the absence of such technical boundaries in the Berakhot text gave the impression of a more conceptual discourse, rather than an applied one. By the 20th century, however, it became necessary to quantify hemline and sleeve lengths in order to create a defined structure beyond the conceptual, presumably because of the increasing exposure of women’s bodies in modern clothing styles.

Rabbi Isaac (in Berakhot) declared that a *tefah* or handsbreadth of a woman is *ervah*. In our earlier analysis, we considered the possibility that this could mean that even a covered *tefah* is sexually distracting.

At a certain point, the *tefah,* which is defined as an area of 7-9 centimeters*,* became a benchmark for how much of a habitually covered area can be exposed without presenting concern for *ervah*. In other words, up to a *tefah* of a married woman’s hair or skin exposed above the elbow or knee is not defined as *ervah* and men can pray or learn Torah in its presence. In some observant communities, this has become an acknowledged addendum to dress code, at least for hair and elbows. While this should also apply to the knee area, I have not found a source that equally permits an exposed *tefah* above the knee despite its parallel to the elbow. The likely explanation for this is that skirts rising above the knee already inch toward the thigh, which borders actual *ervah*. Even if it could be technically tolerated based on a rational application of the *tefah* principle, it remains completely taboo and cannot be considered.

One last point must be made about elbows and knees. As noted above (and in Chapter 3), the parts of a woman’s body that must be covered reflect societal criteria. For many rabbinic authorities, those parts of a woman’s body (face, hands, feet) that are ordinarily left uncovered are of no concern. Where does this leave us today when habituation has uncovered most of a woman’s body? Could an argument be made to allow sleeveless summer dresses or short skirts, given their ubiquity in greater society?

Extrapolating from the sources, both explicit and implicit, it seems that *shok* as thigh (and upper arm, which seems to include upper torso) is an example of something that even habituation does not permit for the reasons enumerated: habituation cannot fully curb or eliminate male sexual response. This attitude certainly contributes to the standardization of a religious dress code for women based on the aspiration to desexualize society. Although it is often stressed that the dress code is also about spirituality and religious female identity, women are considered responsible (within limits) for the effect their attire has on men.

As we turn our focus to pants, we find that the discussion regarding *shok* plays a role in the responsa literature since the fabric of the trousers, jeans and leggings literally covers the entire leg. We will have to look elsewhere for the halakhic concepts relevant to this topic.

# Women, Pants, and Cross-Dressing[[6]](#footnote-39)

In the analysis of women and pants, one of the main sources to address is the prohibition for a woman to wear men’s apparel.set out in Deuteronomy 22:

“A woman must not put on man’s apparel nor shall a man wear women’s clothing, for whoever does these things is a *toeva* (translated as abhorrence or abomination) to the LORD your God.”

The word *toeva* appears throughout the Bible to describe detestable acts largely involving idolatry or sexual promiscuity. Bible scholars feel that this particular prohibition is either about pagan cultic rituals, sexual promiscuity that results from crossing over to mingle with the opposite gender or possibly, about gender separation analogous to upcoming verses in the chapter about prohibiting mixtures in cloth and when sowing seeds. God, who created the biological separation between men and women, expresses affront at the behavior of those who seek to blur this distinction.

The earliest rabbinic interpretation, found in Sifrei Devarim Piska 226, understands the verse to mean the following:

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| Sifrei Devarim Piska 226“A woman must not put on man’s apparel.”Could this be teaching that a woman should not wear white garments nor should a man wear colored ones? Rather the verse concludes, “whoever does these things is *toeva* to the LORD your God.” Only practices leading to an abominable act are forbidden. As a rule, a woman should not put on male garb and circulate among men, nor should a man adorn himself in a feminine way and circulate among women.R. Eliezer Ben Yaakov says: Whence do we know that a woman should not wear weaponry and go off to war? It says: “A woman must not put on man’s apparel.” A man shall not adorn himself in women’s ornaments, as it says: “nor shall a man wear women’s clothing.” | ספרי דברים רכולא יהיה כלי גבר על אשה.וכי מה בא הכתוב ללמדנו? [אם] שלא תלבש אשה כלים לבנים, ואיש לא יתכסה בגדי צבעונים, [הרי כבר נאמר] "תועבה", דבר הבא לידי תועבה! [אלא] זה כללו של דבר - שלא תלבש אשה מה שהאיש לובש, ותלך לבין האנשים; והאיש לא יתקשט בתכשיטי נשים, וילך לבין הנשים.ר"א בן יעקב אומר, [מנין] שלא תלבש אשה כלי זין, ותצא למלחמה? תלמוד לומר "לא יהיה כלי גבר על אשה." [ומנין] שאיש לא יתקשט בתכשיטי נשים? תלמוד לומר "ולא ילבש גבר שמלת אשה."  |

The Sifrei cites two interpretations to the verse in Deuteronomy that discusses cross-dressing. In the first, it explains that the clothing is not the essence of the prohibition but rather, the resultant practices that lead to an abominable act. The *midrash* then clarifies its approach: a woman who puts on men’s clothing to circulate among men or a man who dresses like a woman to access exclusively female space both presumably do so to commit prohibited sexual acts.

The second voice, belonging to Rabbi Eliezer ben Yaakov, takes the clause to specifically refer to women wearing weaponry and going off to war and men adorning themselves in women’s ornaments. While this is not directly relevant to our conversation, this interpretation touches on questions of gender identity expressed through clothing or other accessories along within the spaces in which they are worn. Until very recently, war was a profoundly and exclusively male experience and women had no place in such a setting. Crossing over into such male space by a woman erodes the integrity of society and thus, is an abomination. Rabbi Eliezer compares women’s ornaments on men to men’s battle garments or accessories on women. It is not about the intended practice in the apparel, as the first Tanna understood. The simple act of wearing the other gender’s clothing is prohibited. For Rabbi Eliezer ben Yaakov, besides serving as a means of supporting gender identity through dress, the prohibition presumably also concerns sexual indiscretion and promiscuity.[[7]](#footnote-40)

If we look at Maimonides’ understanding of this law, we find that he writes explicitly that these acts of cross-dressing by both men and women are meant to arouse the senses to debauchery, or alternatively, for the purpose of idolatry.[[8]](#footnote-41) In other words, this *mitzvah* intersects with possible transgression across two major categories of sin — sexual promiscuity and idolatry. He further alludes to religious cults that require cross-dressing as part of pagan worship, for instance, men wearing gold and pearls and women putting on armor and bearing swords.

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| Rambam Sefer HaMitzvot, Lo Taaseh 40:That He prohibited also men to adorn themselves with women's ornaments. And that is His saying, “nor shall a man wear women’s clothing.”And any man who adorns himself like this or wears what is well-known in that city to be an ornament specific to women - is lashed. And you should know that this procedure - meaning that the women adorn themselves with men's ornaments and the men adorn themselves with women's ornaments - is done to arouse the drive for promiscuity, as is explained in the books written about this. And it is often placed in the stipulations for the making of some talismans and said, "If a man is occupied with it, he should wear women's garments and adorn himself with gold and pearls and that which is similar to them; but if it was a woman, she should wear armor and arm herself with swords." And this is very famous among those of this opinion. | ספר המצוות לרמב"ם מצות לא תעשה מוהמצוה הארבעים היא שהזהיר האנשים גם כן מהתקשט בתכשיטי הנשים והוא אמרו יתעלה "ולא ילבש גבר שמלת אשה".וכל אדם שהתקשט גם כן או לבש מה שהוא מפורסם במקום ההוא שהוא תכשיט המיוחד לנשים לוקה. ודע שזאת הפעולה, כלומר היות הנשים מתקשטות בתכשיטי האנשים או האנשים בתכשיטי הנשים, פעמים תיעשה לעורר הטבע לזמה כמו שהוא מפורסם אצל הזונים ופעמים ייעשה למינים מעבודת עבודה זרה כמו שהוא מבואר בספרים המחוברים לזה. והרבה מה שיושם בתנאי בעשיית קצת הטלאסם וייאמר אם היה המתעסק בו אדם ילבש בגדי נשים ויתקשט בזהב ופנינים והדומים להם ואם היתה אשה תלבש השריין ותזדיין בחרבות. וזה מפורסם מאד אצל בעלי דעת זאת: |

Although in Sefer HaMitzvot, Maimonides mentions both sexual promiscuity and idolatry as the reason for the prohibition, in the Mishneh Torah, he codifies it solely in the laws concerning idolatry.

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| Rambam Hilkhot Avodat Kokhavim 12:10A woman shall not adorn herself with man's adornment, such as a mitre, or a helmet, or a coat of armor, and the like, or cut the hair of her head man-fashion; neither shall a man adorn himself with the adornment of a women, for instance to wear loud-colored garments or golden ornaments in a territory where such clothes are not in style for men to wear or where such ornaments are not put on by any save women, all depending on the custom of the land. A man who adorned himself with woman's ornaments, or a woman who adorned herself with man's ornaments, are striped.  | **רמב"ם יד החזקה – הל' עבודת כוכבים פרק יב**:יי לא תעדה אשה עדי האיש כגון שתשים בראשה מצנפת או כובע או תלבש שריון וכיוצא בו או שתגלח ראשה כאיש. ולא יעדה איש עדי אשה כגון שילבש בגדי צבעונין וחלי זהב במקום שאין לובשין אותן הכלים ואין משימים אותו החלי אלא נשים, הכל כמנהג המדינה. איש שעדה עדי אשה ואשה שעדתה עדי איש לוקין. |

In Laws of Avodah Zarah, Maimonides writes about women who adorn themselves in a helmet, armor or weaponry and men who put on women’s jewelry. He extends it to include a prohibition on female grooming undertaken by men, with an emphasis on hair removal. Most important, however, is that in the Mishneh Torah he inserts an important caveat – gendered clothing, accessories and behavior are all according to local societal custom. In this statement, Maimonides recognizes that there is a significant socio-cultural component to the gendering of dress and behavior norms and that these can change, depending on time and place. Like Maimonides and independent of him, the Sefer HaHinukh (published anonymously in 13th century Spain) also linked cross-dressing to two categories of sin.

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| Sefer HaHinukh, Mitzvah 542Among the roots of the commandment to distance our holy nation from matters of sexual immorality … And there is no doubt that if the clothes of men and women were the same, they would constantly mix - these with those – “and the world would be filled with promiscuity.”And they also said in explaining this commandment that it is to distance all matters of idolatry, as the way of the worshipers of idolatry was with this.And I found these two reasons in the books of Rambam after I wrote them. | ספר החינוך - מצוה תקמבמשרשי המצוה להרחיק מאומתנו הקדושה דבר ערוה... ואין ספק כי אם יהיו מלבושי האנשים והנשים שוים, יתערבו אלו עם אלו תמיד ומלאה הארץ זמה.ועוד אמרו בטעם מצוה זו שהיא להרחיק כל ענין עבודה זרה שדרכן של עובדי עבודה זרה היה בכך.ואלה שני הטעמים מצאתים בספרי הרמב"ם ז"ל אחר כתבי אותם.  |

The author writes that the root of the *mitzvah* is to remove both promiscuous behavior and all traces of idolatry from the holy nation. He concludes by noting that he found both of these reasons in Maimonides after he had already written them himself. Both men understand the dilution of gender boundaries as leading to untethered behavior associated with sexual promiscuity and/or idolatry.

Sefer HaHinukh further advocates for a society that maintains clear gender separation through distinct external markers in dress that structure the separation. This is echoed in the commentary of Abraham Ibn Ezra,[[9]](#footnote-42) although the medieval biblical commentary does not interpret the *mitzvah* as having idolatrous overtones. He writes:

The purpose of a woman is to give birth, and if she goes out to war with the men, she will come to promiscuity and the same is the case for …the man. The purpose is to prevent smooth faced men from mingling with women and then secretly committing adultery with them. And this shows that the custom in Israel, as in most kingdoms, is for the dress of men to not be like the dress of women but that there be a distinction between them.

Ibn Ezra reinforces the need for distinction in dress to prevent breaking of boundaries that will lead to adultery. In contrast with Maimonides and Sefer HaHinukh who intuited an idolatrous component within the prohibition, Ibn Ezra saw its as concerned only with sexual promiscuity. This concern relates specifically to married women, since adultery is one of the gravest indications of a corrupt society.

While the Rambam, Ibn Ezra and Sefer HaHinukh provided reasons for the *mitzvah*, the Tur and Shulhan Arukh simply codified the law.[[10]](#footnote-44) In the Tur, it is reduced to a simple sentence. “A woman may not wear clothing which local custom deems to be exclusively male nor may she shave her head like a man.” He codifies several prohibitions for men regarding beard and hair grooming and hair-dyeing. The Tur (and Shulhan Arukh) also prohibit men to use a mirror unless they are shaving or need to check for illness in their eyes since it is a feminine practice and forever prohibited to men.[[11]](#footnote-45)

The Shulhan Arukh quotes Maimonides with regard to the relevant laws.

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| Shulhan Arukh Yoreh Deah 182:5A woman may not clothe herself in men's clothing, e.g., put on her head a mitre or helmet, or wear armor, and so on (Rema: examples of male clothing in accordance with the local custom) (Tur) or shave her head like a man. A man may not clothe himself in the clothes of a women, e.g., wear colored clothing or golden ornaments in a place where only women wear those things. (Rema: Even wearing just one of the garments is forbidden, even if it is apparent by his other garments that this is a man or a woman.) | שולחן ערוך יורה דעה סימן קפב**ה** לא תעדה אשה עדי האיש כגון שתשים בראשה מצנפת או כובע או תלבש שריון וכיוצא בו (ממלבושי האיש לפי מנהג המקום ההוא) (טור) או שתגלח ראשה כאיש. ולא יעדה איש עדי אשה כגון שילבש בגדי צבעונים וחלי זהב במקום שאין לובשין אותם הכלים ואין משימין אותו החלי אלא נשים. הגה ואפילו באחד מן הבגדים אסור אף על פי שניכרים בשאר בגדיהם שהוא איש או אשה.  |

It is interesting to note Rabbi Moses Isserles’s (Rema) caveat, whose source is Rabbi Joseph Karo’s Beit Yosef (a commentary on the Tur). Rabbi Karo wrote that one gender-specific garment, if worn as adornment externally by the opposite sex, violates the prohibition of cross-dressing, even if the person’s gender is obvious from the rest of his or her clothing.[[12]](#footnote-46)

Rabbi Joel Sirkis (Bach) in his commentary to the Tur added two elements for consideration when evaluating the prohibitive nature of cross-dressing. These will be echoed in two central commentaries on the Shulhan Arukh, known as Taz and Shakh.

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| Bayyit Hadash on Tur Yoreh Deah 182The law is lenient in two respects. First of all, no prohibition applies, even against wearing something that makes one more attractive unless one does so to resemble the opposite sex. Clothing worn as protection against the summer sun or winter rain presents no problem.Second of all, even if a man intends to resemble a woman, no prohibition applies unless in doing so he thereby beautifies himself. As the Sifrei states: “…nor shall a man wear women’s clothing.”Therefore, male garments worn by women when they go to market and sit in shops violate no prohibition. They are made only as clothing to cover the body, not for beautification or adornment. Moreover, women wear them only as a protection from exposure to the elements not to resemble men. |

First, as stated in the Talmud, the prohibition only applies if the male or female is cross-dressing in an attempt to beautify themselves for the sake of adultery or other forms of perverse behavior.

Second, based on a Talmudic source in Nedarim, women or men who wear one another’s clothing for protection against the summer sun or winter rain do not violate the prohibition in any way. They are intending only to cover and protect the body but not to remove gender distinctions or adorn and seduce.

Thus, three major halakhic authorities from the 16th century onward, clarify and define the prohibition of women wearing men’s clothing, limiting it to cross-dressing for very specific, promiscuous purposes.

It is possible to see in the differing halakhic positions taken by Aharonim – rabbinic authorities after the 16th century – a continuation of the split between the two positions outlined in the Sifrei, represented by the first Tanna and Rabbi Eliezer. The first Tanna was concerned with the type of cross-dressing that leads to masquerading as the opposite sex for the purpose of engaging in prohibited behavior. Wearing one article of gendered clothing will not achieve that goal and thus, would not be prohibited. Even wearing several articles of gendered clothing, if the purpose is for protection from the elements, would not violate any prohibition. In general, the type of clothing is less significant than the resultant behavior. Rabbi Eliezer’s position, however, was less focused on behavior. Even wearing a single-gendered item crossed the gender divide and, regardless of behavior, represented an abomination.

One of the main ideas that emerges from this source analysis is that gender differentiation is a value in halakhic literature. Dress is one of the ways in which gender separation is maintained and this ensures fidelity to holiness as reflected in sexual separation. If we remove the markers that police this separation, the possibility of sexual perversion is manifest. As expressed in the Sefer HaHinukh, “If men and women wear the same clothing they will always be mingling and the earth will be filled with perversion.”

The verse in Deuteronomy focuses on both men and women. They are equally held accountable for misleading the community of Israel by blurring the gender divide, and thus, opening doors to the betrayal of the covenant with God.

A look at the modern responsa on pants which were, at one point, a masculine article of clothing but are today genderless, reveals an emerging, and very strong religious ideology against garments that blur gender differentiation. Nonetheless, it is hard to equate pants with cross-dressing based on the halakhic analysis above since wearing pants does not involve a desire to disguise gender, engage in idolatrous practices or exemplify sexual promiscuity. Today, pants are simply a garment, without relation to gender, worn to cover the body in the same way that shirts, sweaters, and socks describe garments that clothe different parts of the body and have no clear gender association. What differentiates men’s garments from women’s garments are cut, color and sometimes fabric. There is some overlap today regarding some of these categories. For example, men might wear pink shirts, a color once exclusive to women, and women will wear men’s sweaters, and the halakhic literature does not protest such crossing over. Much of this overlap is dictated by fashion norms and has little to do with the biblical prohibition.[[13]](#footnote-47) Pants, however, remain outside of any sort of measured halakhic conversation.

# A Brief History of Pants

If we look briefly at the history of women wearing pants, we discover that the phenomenon began in the 19th century and began with women seeking both the literal and symbolic freedom that pants provided. While it was against the law for women to wear pants well into the 20th century in some western countries, women nonetheless persisted. When compared to skirts, they give women greater ability to fully participate in physical activities as well as allowing women to sit more comfortably and less self-consciously. There is also an important added factor with regard to social and professional status: Women can be perceived by men as equals if they wear similar clothing.

Many religious leaders, Jewish and non-Jewish, protested the move toward women wearing pants. There was a universal concern that women would exhibit unladylike behavior, possibly veering toward promiscuity. It was equated with the potential downfall of the family, the emasculation of men and the concern that social and moral chaos would ensue if the gender differences represented by dress were to be obliterated.[[14]](#footnote-48)

# The Rabbinic Response

One of the first rabbinic authorities to deal with the question of women wearing pants was Rabbi Yekusiel Teitelbaum, the head of the rabbinic court in Sighet, Hungary in the 19th century. In his responsa *Avnei Zedek*, he records a question about whether women are allowed to wear trousers under their clothing as protection against the cold. Rabbi Teitelbaum offers a learned halakhic discussion and concludes that such garments are permitted.

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| One may rely upon the view of Bach and Taz that even an outright [male] garment is permissible if worn as protection against the cold. Shakh forbade only a man’s so dressing up that one cannot tell he is a man. His entire focus is on the person, not his garb, such that if a man wears only one female garment, and does not intend to resemble the opposite sex, he violates no prohibition. Surely trousers beneath a woman’s clothing, or even over them are permissible, since the woman will ultimately be recognized as such by her other clothing and since she is only wearing this garment as protection from the cold.…Yet even without my answer, there is still no problem, for after investigation, I have become aware that women’s trousers can be distinguished from men’s being that the two are different. Thus, there are two points in your favor:There is no intent to resemble men and they are different from men’s garments. Both here and in Poland, even pious modest women have long practiced this, without a complaint being heard. A greater problem is the new phenomenon of women wearing men’s hats and suits…these would seem to be forbidden and I have previously made an uproar about this, demanding that their forbidden status be publicized. Unfortunately, many trespass in this regard as well by wearing non-Jewish fashions. May God have mercy on us! |

In his analysis, Avnei Zedek reflects the halakhic discourse that preceded him on the topic of cross-dressing. Nonetheless, it is important to note two elements that appear in this responsum. The first is that the pants he is referring to are loose and formless. They are cut to fit women’s bodies but they seem suited for work rather than fashion. He acknowledges that pious women in Hungary and Poland are wearing these garments presumably because of the mobility it gave them to carry out certain jobs and to protect themselves in very cold climates from the winter chill. He writes specifically that they are not trying to imitate men and that the garments are somewhat modified for women. There is no attempt to cross-dress and there is no sexual allure to the garments.

The second is his attack on women who wear men’s suits and hats, a trend occurring in the 19th century in Europe and the United States. This trend incensed the Avnei Zedek, who describes the look as “very ugly.” Although he admits that there are some slight differences in the cut of the suits worn by women, to his mind, they are clearly menswear and women could be mistaken for men when wearing them. He maintains that such clothing violates a clear prohibition, although he does not specify the source of the transgression. He could be referring to cross-dressing but it is also possible that he is talking about a different prohibition found elsewhere in Shulhan Arukh (Yoreh Deah 171:1) forbidding an individual from dressing in the manner of the gentiles.

Overall, the Avnei Zedek presents a moderate position, but it would be inaccurate to make use of his *responsum* to permit skinny jeans and leggings based on his ruling regarding the pants women were wearing in his generation. In addition, it is clear that he is concerned about the breakdown of gender boundaries in his attack on men’s suits and hats being worn by women.

One hundred years after the Avnei Zedek, Rabbi Yehuda Henkin wrote that he asked his grandfather, Rav Yosef Henkin, a major halakhic authority, about women wearing pants. His grandfather responded that loose pants were permitted for women and would possibly be even more modest than other clothing options. Rabbi Henkin further explored this added advantage of baggy pants instead of skirts when considering the subject of modest dress.[[15]](#footnote-49) It is possible that he is the only major rabbinic authority in this generation to rule that some form of loose pants is permissible.

More reflective of the overall response to women wearing pants are the rabbinic authorities who show extreme antagonism. Two schools of thought have emerged. One school argues that pants are so gendered that there is no way to wear them without violating a biblical prohibition. The other school admits that there is no biblical prohibition, but that nonetheless, the garment is prohibited. In the rhetoric cited below, the sense of a religious war being waged is palpable.

Rabbi Yitzhak Yaakov Weiss (1902-1989), in his responsa *Minhat Yitzhak*, was asked about women wearing pants in 1958 while he was serving as the head of the rabbinic court (*Av Beit Din*) in Manchester England. The questioner asks about the source of the prohibition and adds that women’s pants are cut differently than men’s and are also distinguishable by color so that gender boundaries are maintained.

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| Answer: This question does not require elaborate investigation, for an outright prohibition is involved. Besides, ostentatious clothing such as this is produced, *a priori*, for sin and is associated with promiscuity. Even if they are not classed as “male articles” wearing them still constitutes an “abominable act.” |

In the opening sentence, the *Minhat Yitzhak* maintains that there is an outright prohibition to women wearing pants but in the second sentence, he reveals his bias, suffused with animosity toward these articles of clothing, above and beyond the nature of the prohibition. He states that such clothing is used for sin and promiscuity. Even if they would not be “male articles,” they would still be an abomination. He upholds his position that they are in fact “male articles” and biblically prohibited, even though they do not fit into any of the categories for male articles that we have seen in previous definitions of the prohibition from the Talmud until the 20th century. Nonetheless, he sees them as sexually corruptive and, of necessity, to be avoided from the earliest of ages. He argues that even if “the female version of these is a bit different from the male version, their labels will still apply, hence they should be forbidden.” When he is asked about a woman wearing pants at home while alone, he responds that this, too, violates the prohibition of wearing “male articles.” Below is an excerpt from the same responsum where he addresses women wearing pants to ski.

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| Is she allowed to wear trousers to go skiing, when skiing without them is difficult and when, if she falls, they actually provide an advantage? This seems to depend on a debate among the rabbinic authorities regarding whether a woman is allowed to wear male garb as protection against the elements. On close scrutiny however, it appears that even wearing such garments is forbidden according to all opinions. Even Shakh is lenient only where exposure to the elements is not a matter of choice. Yet who would allow her to wear male garb to go skiing? Better she should stay home and not dress this way…especially as a Torah prohibition is involved. |

In contrast to Rabbi Weiss, Rabbi Ovadia Hodaya (1889-1969, a member of the Beit Din Hagadol of the Israeli Rabbinate) offers a more transparent approach that requires no apologetics.

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| The prohibition of cross-dressing is not violated unless a man or woman wears trousers distinctly suited to the opposite sex. For a different reason, however, they should be forbidden to women. **Trousers are a wild, promiscuous and immodest garment for women since legs are separated from each other to the very top. One who sees a woman wearing trousers may be led to sinful thought or even to fornication**.Unfortunately, there is no longer any separation between young men and women. All mingle together at work and school….for this reason, trousers should be forbidden to women. Every man who truly fears the word of God must keep his daughters from going out in such garb, lest it lead to real sexual offence. |

Pants are “wild and promiscuous” because they allow men to see the split in the legs of women. They draw attention to her *ervah* even if it is actually covered. Habituation will not help when something draws attention to *ervah*. He decries the mingling of the sexes that takes place in school and at work. The camp is being polluted. *Ervat davar* or conceptual *ervah* is driving away the presence of God.

Thus, the difficulty with pants remains even when the halakhic discourse regarding cross-dressingis resolved. It results in a far more insidious issue, for it involves a perceived breach of feminine modesty within society. Rav Hodaya is the first to suggest that the split in the legs represents an insurmountable modesty violation. The source for this conclusion is not clear. Rabbi Henkin wonders the same thing. He explains that the phrase “spreading the legs” which Rabbi Hodaya uses in his rejection of pants actually refers in rabbinic literature to the movement a woman makes during sexual intercourse. While this is an immodest position when exhibited outside of that particular act, it is acceptable according to the Talmud when she rides on a horse or donkey. Rabbi Henkin concludes that a woman who walks and sits normally in pants is not exhibiting immodest behavior. The garment is not the issue, explains Rabbi Henkin; the concern for an immodest pose is relevant either in pants or in a skirt. Pants do not intrinsically represent immodesty.

We have thus presented two schools of religious thought when addressing possible prohibitions with regard to women wearing pants. One school trumpets the biblical prohibition of cross-dressing and the other, an insurmountable breach in modesty.

Those two positions are well represented in a polemical exchange between Rabbi Ovadia Yosef and Rabbi Eliezer Waldenberg on this topic.

In the early 1970s, a school principal wrote to Rabbi Ovadia Yosef explaining that his female students were coming to school in mini-skirts and there was little he could do to prevent this. He then asked whether pants would be preferable. Rabbi Ovadia starts off his response by attacking the mini-skirt, prohibiting it both because of sexual promiscuity and because it violates the injunction not to: “Go after the non-Jews in their behavior…mini-skirts are a sign of the promiscuous culture of the West.[[16]](#footnote-50) He then analyzes the prohibition of “male articles” and comes to the conclusion, after a lengthy analysis involving the Talmud and early and late rabbinic authorities, that pants which are made for women do not violate that prohibition. Even articles of clothing that are unisex do not violate the prohibition. However, he explains that pants are inadvisable:

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| Even so, I admit that *a priori* one should not allow young women to wear trousers since they are an arrogant form of dress that arouses the attention of onlookers more than a normal skirt or dress and provokes sinful thought. Fine Jewish girls should not wear them at all especially those that really cling to the body, for they cause men to stare and to entertain especially sinful thoughts.If girls do not heed their parents’ and teachers’ wishes that they avoid especially short skirts and they go out in public with legs bared which constitutes excessively immodest behavior, we must choose the lesser of two evils and instruct them as a temporary provision to wear trousers…therefore where the girls will not listen to us to wear skirts that cover the knee, trousers are preferable until we influence them to wear the modest dress of all fine Jewish girls. |

Rabbi Ovadia concludes that pants do not violate the Torah prohibition of cross-dressing and thus, it comes down to a question of modesty and which garment is less sexually enticing. Pants, he writes, are preferable since they at least cover the entire leg. Mini-skirts are a graver violation of modesty than pants because they expose the *shok*, which he defines as thigh and which is a type of *ervah*. This kind of garment comes close to exposing the actual *ervah* and must be vehemently protested.

Although he does not prohibit them outright, Rav Ovadia is not comfortable with pants. He calls them an arrogant form of dress that attracts the attention of onlookers. He is also aware that the young women who are resisting parental and school authority may very well leave the schools and slip farther away from a life of religious observance. The difficult decision to allow pants in this situation shows an awareness of the reality of the situation.

Nonetheless, it is hardly surprising, given all that we saw above, that Rabbi Eliezer Waldenberg attacked Rabbi Ovadia Yosef for his perceived soft position on pants.

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| Tzitz Eliezer Vol. XI, 62 (Getsel Ellison translation)Our greatest legal authorities have raised their voices against those who by seeing a pretext for leniency regarding women’s trousers have made themselves “scoundrels with Torah approval.” They have ruled that the Torah simply forbids such trousers with these words “A woman shall not wear male articles” (Deut. 22:5).Clearly, none of the halakhic differentiations presented by the *poskim* apply to shameful garments such as these. By their very nature, their abominable arrogance is evident for all to see, as are the lustful thoughts of those who wear them. By exposing the shape of the leg and by accentuating the figure, they are the living fulfillment of “They make a tinkling with their feet” (Isaiah 3:16). It goes without saying that they are forbidden in terms of *kli gever*.Such trousers lay a wicked trap to ensnare young Jewish males in the net of promiscuity. They are almost certainly to be considered accoutrements of fornication. Hidden in their very shape and form is a poisonous incitement to sexually forbidden acts. |

Rabbi Waldenberg condemns the few rabbinic authorities who explain why pants are not male articles. They are not only *kli gever,* writes Waldenberg*,* but also conduits to lust and sexual thoughts. To his mind, they are *ervah* personified. Though there may not be even a *tefah* uncovered on the woman’s body when she wears pants, this kind of clothing is so sexually perverse that he calls them accouterments to fornication. In contrast to Rabbi Ovadia Yosef, he feels the mini-skirt is preferable to pants because it fits into the accepted category of women’s apparel:

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| And in truth, wearing pants causes drawing close to abomination, even worse than the wearing of a mini-skirt….for according to what is told, the promiscuous males stand in the middle of the street or at the side with the promiscuous females, the type who wear pants and they draw near to one another and rub against one another through the pants, something that can be avoided when wearing a dress.  |

It seems that the two approaches reflect the different world views of each authority. Rabbi Ovadia Yosef was willing to acknowledge the present reality of women’s dress even though he protested its inevitability. Rabbi Waldenberg, in contrast, felt that any acknowledgment was to be seen as a concession that would cause greater damage in the future. To his mind, it was better to totally and absolutely reject pants as an option rather than accept the reality as a given.[[17]](#footnote-51)

# Female Respectability

The pants topic touches not only on questions of *shok*, *ervah* and cross-dressing but also on matters of communal identity and gender affiliation. In a brief analysis that appeared in the journal *Tradition,*[[18]](#footnote-52) Rabbi J. David Bleich goes beyond the strictly halakhic questions of male apparel and male sexual desire to a broader issue involving rabbinic authority and community.[[19]](#footnote-53)

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| A number of years ago, the question of the propriety of slacks was presented to a number of prominent scholars by Rabbi Yom Tov Lippa Deutsch… All of the Rabbis whose views on this matter are published in *Taharat Yom Tov* replied in the negative……While there is little doubt that in many instances the type of slacks currently in vogue do not conform with halakhic norms of modest dress, it is difficult to agree that this must necessarily always be the case. For example, an ensemble including slacks designed to be worn under a long modestly cut tunic does not appear to be inherently immodest… The governing concern is that those viewed as exemplars of Torah study, whether male or female, comport themselves in a way which enhances rather than detracts from the honor and esteem in which Torah is held. Hence, it would seem that as long as slacks are viewed as improper attire by significant segments of the Jewish community, the wearing of such garb by those charged with bearing the banner of Torah should not be sanctioned. |

After reviewing the halakhic source material presented above, Rabbi Bleich considers a third possibility — the socio-religious aspect. He brings an innovative suggestion when he refers the reader to a section of Mishneh Torah in which Maimonides describes garb appropriate for a Torah scholar and concludes that both men and women who study Torah and reflect the values of a life committed to Torah should also wear clothing that remind them to comport themselves accordingly and identify them with such a lifestyle. This represents a sharp turn away from the dialogue about sexuality, promiscuity and *ervah*, suggesting a nuance in line with modernity in veering from absolute prohibition to aspiration.

Finally, Rabbi Getsel Ellinson presented a nuanced approach in his in-depth analysis of women and pants that focuses more on the religious community’s standards of identity and belonging.

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| Another factor that must be taken into account, however, is the existence of a community of modest Jewish girls with their own standard. The fact that they are careful to wear only skirts affords significant weight to this structure. By wearing a skirt, a Jewish girl identifies with this group and separates herself from other permissive circles.To a certain extent, in the last few decades the skirt has become a sort of “yarmulka” for the scrupulously observant girl who strives to follow our Sages’ ethical guidelines as reflected in their halakhic rulings. By her refusal to wear trousers, she demonstrably declares that she is unwilling to resign herself to the dictates of modern style and that she takes exception to the immorality so rampant these days in society at large.For the modest young woman who comes into contact with that society in the context of her daily work or study, this last factor has special import. Such girls need a constant reminder that they do not identify with the values and lifestyle of their surroundings. My daughter once scored this point saying, “Even if it could be proven beyond the shadow of a doubt that there is nothing wrong with wearing trousers, I would still continue to avoid them.” |

Ellinson was the first to place the choice ultimately made by women at the center of his assessment. He regarded it as an empowering statement on the part of young women to choose a dress code that distinguishes them from society at large. By calling the skirt the equivalent of the “yarmulka,” Ellison moves away from questions of modesty and male sexual arousal and focuses instead on identity, values and lifestyle. In quoting his daughter at the end of the footnote, he consciously includes a woman’s voice in his writing, something that was not present in any of the other rabbinic sources quoted.

# Final Thoughts

The prohibition of cross-dressing remains strikingly prominent when discussing the question of women wearing pants. On one hand, this anchors the discourse in a biblical text, giving clarity to the prohibitive nature of the practice. On the other hand, doing so appears to be forced, since it contradicts the actual nature of the prohibition as interpreted for 2000 years. There is a substantive difference between the cut of men’s and women’s pants, including jeans, and women are not trying to resemble men when they wear these garments. Pants today are so ubiquitous that, in fact, women may cause more attention by wearing a skirt! Were we to go out to the marketplace to see people who are dressed respectfully and respectably, we would encounter women wearing pants – both loose and tight – to work, school and for elegant dress. In the words of Rabbi Getsel Ellinson, “It is difficult to sustain this idea [cross-dressing]…and it seems that the ruling of the authorities stems not so much from formal halakhic considerations as from an aversion to the phenomenon itself and to the tendencies it reflects.”[[20]](#footnote-54)

The approach that prohibits women from wearing pants because of cross-dressing, breathes new meaning into the biblical prohibition. There is an underlying concern that in wearing a garment that had previously been limited to men, women will obliterate a major external distinction between the sexes. This obliteration, seen through the eyes of a traditional society based on gender distinction, reflects a sense of social and moral chaos and upheaval within the fabric of the family. This fear is particularly exacerbated at a time when the separation of men from women in greater society, as well as in some religious spaces, has begun to dissolve.

The second approach veers away from cross-dressing toward concepts of *ervah*, gender separation and modesty norms.[[21]](#footnote-55) This halakhic discourse includes and element of fluidity based on habituation and the norms of society. Recent responsa, instead of acknowledging a changing reality and the existence of societal standards wherein women wear pants, voice a clear protest by decrying the desecration inherent in the wearing of such garments, leading to abomination, perversion and absolute moral anarchy. Such virulent rhetoric – using words like libertine, wanton, loose and licentious – suggest the inability to formulate a carefully constructed argument to prohibit such apparel.

The third and most moderate approach is less source-based and more focused on the skirt as a sign of religious commitment and identity. This has been in many ways the most successful argument presented in religious communities and schools, since it avoids focusing on male *yetzer* and cross-dressing. If we look at dress as reflecting religious affiliation and identity, the religious man has *tallit* and *tefillin* to mark him in sacred spaces and *kippah* and *tzitzit* in public spaces, while women have no parallel ritual garments. It has been suggested that the skirt, although not a ritual garment per se, serves as a sign of religious identity in the manner of *kippah* for men.[[22]](#footnote-56) In this way, the skirt is presented as an empowering choice on the part of women to identify with the objectives of a God-fearing religious society. Along these lines, young women are educated to believe that the skirt (along with longer sleeves) represents a greater form of self-respect by desexualizing the way they dress, in line with the norms of religious expectation.

However, upon close examination, this third approach fails to convince those women searching for clarity. If anything, it further widens the chasm between men and women in modern Orthodox settings where boys and girls learn side-by-side and men and women work together as equals. Skirts or long clothing that demonstrate a woman’s *avodat Hashem* (commitment to God) work well in ultra-Orthodox communities where men also have a clear dress code that identifies them as belonging. In contrast, in modern Orthodoxy, men’s clothing is not very restricted beyond the basic requirements of respectability. Men wear a *kippah* and *tzitzit* but it is acceptable for an Orthodox man to remove his *kippah* at work if he feels uncomfortable and *tzitzit* are almost always tucked in. Furthermore, men can wear baseball caps or other mainstream apparel in lieu of the *kippah*, allowing them to blend into secular society.

Finally, given how ubiquitous jeans, short sleeves, and even sleeveless tops are in the classroom and workplace, religious men in these communities will hardly notice what women are wearing, with the exception of tight or particularly revealing clothing, The Rishonim were correct in recognizing that habituation neutralizes male *yetzer* to a large extent.

For modern Orthodox women, the gap between expectations of men and women in dress exacerbates the cognitive dissonance they experience in maintaining a structure of *halakhah* that does not reflect their realities. None of the arguments are convincing in contemporary reality. Pants are not men’s garments, nor are they promiscuous. While the “skirt equaling *kippah*” for women is a nice idea, it does not carry with it a sense of halakhic obligation.

Many are aware of the unfortunate truth that women who choose to wear pants are perceived as less committed to religious observance. By equating self-respect with halachically acceptable dress choices, women who dress otherwise can be perceived as immodest and promiscuous, even if their clothing is modest and respectable.

This is the backdrop to the angst-filled conversations I have with my students as they try to embark on the next stage of their religious journey, after seminary, usually on secular college campuses.

I often urge my students to avoid defining their religious commitment solely around the decision to wear or not wear pants. We talk about the Jewish concept of *tzniut* and modesty, which, as a central value, should inspire thoughtfulness in dress, language and comportment, equally affecting men and women. When the prophet Micah preached, “Walk modestly with God,” he was exhorting the people of Israel to strive for a quality that should infuse the very essence of our lives, bringing them (and us) closer to the Divine image within.

If women choose to wear only skirts, then that choice should inspire greater attention paid to how external deportment can serve to fuel true religious growth rather than relying on a stock uniform to replace internal development.

In the same manner, if women choose to wear pants, then they should feel even more motivated to visibly increase their participation in Orthodox prayer quorums and Torah classes, both to reinforce their own commitment to *halakhah* and change social perceptions of what committed Orthodox women look like. Their clear adherence to *halakhah* could challenge religious communities to rethink the paradigms around standards of dress. Instead of constantly fighting and/or resenting modesty norms imposed upon them, women should strive to make thoughtful decisions regarding their choices of dress and how it reflects their inner commitment to Torah and *mitzvot*.

1. Examining biblical and rabbinic dictionaries does not help clarify the definition of the word. The Brown Driver Briggs biblical dictionary defines it as leg, or lower leg distinct from thigh, but in animals, the shok refers to the upper leg, thigh or hind leg. Jastrow’s Talmudic dictionary defines it as leg in a person, specifically citing our text in Berakhot 24, or as shoulder together with breast with regard to sacrifices. In the modern Even Shoshan Hebrew dictionary, shok is defined as the part of the leg below the knee. In the Keter dictionary, however, shok is defined as thigh or leg. [↑](#footnote-ref-34)
2. Translation JPS [↑](#footnote-ref-35)
3. *Bnei Banim*, Volume 4, p. 38. [↑](#footnote-ref-36)
4. See Ephraim Urbach, *Tarbitz* 18, 1948, “Halakhah and Nevuah” [Heb] and Menachem Elon, *Jewish Law*, Volume 1, pp. 203-204. In the Babylonian Talmud we find disagreement whether non-Pentateuchal books can serve as sources for halakhic rules. [↑](#footnote-ref-37)
5. The Hazon Ish’s assertion does not constitute historical proof. It simply does not fit with his understanding of how men affiliated with observant communities could have dressed. [↑](#footnote-ref-38)
6. I am not addressing the halakhic issues regarding cross-dressing for the transgender community. Since there is no intent by transgender men and women to engage in sexual promiscuity or to practice idolatry, it seems to me that there are reasons to permit, but that question would have to be addressed by appropriate religious authorities. [↑](#footnote-ref-39)
7. This *midrash* has ramifications for girls serving in the army. For an excellent analysis see Beit Hillel’s *teshuvah* on the topic: *And Beit Hillel Says: Halakhic Rulings of the Rabbis and Rabbaniot of Beit Hillel* (Hebrew), Yedioth Aharonoth Books, 2018, pp. 211-260. [↑](#footnote-ref-40)
8. Sefer Hamitzvot Negative Commandment 40. [↑](#footnote-ref-41)
9. Ibn Ezra, Deut. 22:5 [↑](#footnote-ref-42)
10. Yoreh Deah 182 [↑](#footnote-ref-44)
11. A mirror is perceived as fundamentally and essentially a female article, similar to the approach taken by Rabbi Eliezer regarding a weapon, which he saw as irrevocably defined as a male article. [↑](#footnote-ref-45)
12. Rabbi Karo did not include this in his Shulhan Arukh. [↑](#footnote-ref-46)
13. For example, men and women may shop for the same items of clothing in different departments within the same store. Even boyfriend jeans or boyfriend sweaters, while suggestive of men’s clothing, are actually cut for women’s bodies and sold in the women’s department. [↑](#footnote-ref-47)
14. http://the-toast.net/2014/08/07/wearing-pants-brief-history/ [↑](#footnote-ref-48)
15. Rabbi Yehuda Henkin notes there that he regrets not clarifying with his grandfather whether tight form fitting pants would be actually prohibited or seen as inappropriate clothing rather than a prohibited garment. He himself does not rule on the matter nor does he address it in detail. [↑](#footnote-ref-49)
16. Rabbi Ovadia is referring to the law codified in Shulhan Arukh Yoreh Deah 171:1 that prohibits going out in the way of idolators or wearing clothing specific to them. Rema adds that one must be separate from gentiles in dress and action. To Rav Ovadia, mini-skirts represent sexual promiscuity and violate a clear prohibition of the law found in Shulhan Arukh. [↑](#footnote-ref-50)
17. Ariel Picar…. [↑](#footnote-ref-51)
18. *Tradition*, Volume 16:1, 1976, pp. 155-158. [↑](#footnote-ref-52)
19. Rabbi Aryeh Leibowitz in a recent YU podcast (2017) expressed a similar distinction. [↑](#footnote-ref-53)
20. Ellinson, p. 220. [↑](#footnote-ref-54)
21. While *Dat Yehudit* is only minimally mentioned, I feel that it rests at the foundation of the approach that rejects pants as an antithesis to modesty and modesty norms within the accepted garments of the daughters of Israel. [↑](#footnote-ref-55)
22. The *kippah* is the head covering initially worn by married men at times of prayer and Torah study that gradually evolved into a sign of Jewish identity to be worn at all times in many, but not all, communities. Today it is worn at all times, in many different shapes and sizes, by most men and boys affiliated with Orthodox observance as a sign of identity. In non-Orthodox communities, it is worn by men and, most recently, by women, at times of prayer or religious ceremonies taking place in synagogues. [↑](#footnote-ref-56)