

Breaking Cover: May One Remove His Yarmulka to Comply with Authority?

Adapted from the writings of Dayan Yitzhak Grossman

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We have been discussing the refusal of Rabbi Abraham Cooper, a member of the U.S. Commission on International Religious Freedom, to accede to an order by a Saudi official to remove his yarmulka while on a fact-finding mission to that country. Our previous article asked whether there is an actual obligation for a man to cover his head; this one explores the permissibility of uncovering the head in compliance with a demand of, or in order to show respect to, non-Jews.

The question was first discussed about six centuries ago in several *teshuvos* of German halachic authorities. R' Yisrael Isserlin (the Trumas Hadeshen) and R' Yaakov (Mahari) Weil both discuss the permissibility of removing a hat to show respect to a Christian priest. Their primary concern was that the priests were wearing crosses or other idolatrous items on their garments, and so an act of obeisance to the priest might constitute idolatry. They both cite a ruling of an earlier Ashkenazic authority, R' Yitzchak of Oppenheim, allowing such acts, because the priests themselves are not the subject of idolatrous worship, "and they are only worshipped due to their greatness, for they are nobles, but not because of their crosses." R' Yitzchak of Oppenheim derives that one may bow to someone who is not actually the subject of idol worship from the following *breisa*:

You shall not bow down to them (Shmos 20:5): To them, i.e., idols, you may not bow down, but you may bow down to a person like yourself. It might be thought that one may bow even to one who is worshipped by others, like Haman. The *pasuk* therefore states: And you shall not worship them.[1]

R' Yitzchak of Oppenheim concludes, however, that one should ideally close his eyes, to the extent possible, or stand before the priest arrives (to avoid having to honor him by rising).[2]

The Mahari Weil rules leniently, in accordance with R' Yitzchak of Oppenheim; the Trumas Hadeshen, however, argues that bowing to someone wearing a cross may give the appearance of bowing to the cross itself. The Rama cites both views and concludes that it is good to be stringent and follow the Trumas Hadeshen, and to remove hats and to bow before the priests arrive.[3]

In another *teshuvah*, the Trumas Hadeshen addresses the case of a government order that someone taking an oath must remove his hat and invoke Hashem's Name (the "*Sheim Hameyuchad*") when required to swear. He rules that it depends upon the rationale behind the order: If the intent of the non-Jews is to desecrate the honor of Hashem's Name, then it is obvious that one must give up his life rather than do so (*yeihareig ve'al ya'avur*) if the setting is public (*befarhesia*). But if their motivation derives from a belief this will make Jews take the oath more seriously and not perjure themselves, then it is not intended to cause us to violate our religion, only to promote their own interests, and one need not give up his

life to avoid doing so (*ya'avor ve'al yeihareig*). The Trumas Hadeshen concludes:

And I do not really know of an explicit prohibition against uttering the Name explicitly and with uncovered head for the sake of mandated oaths, for this is not an utterance in vain (*levatalah*), because it is necessary in order to comply with the law against believing their oaths (i.e., that Jews' oaths are not accepted unless they invoke Hashem's Name). And with regard to uncovering the head, we do not find any explicit prohibition against this.[4]

It seems clear that according to all views, there is generally no absolute prohibition against uncovering the head when non-Jews require it, as long as there is no concern of idolatry or the appearance thereof, and the non-Jews are acting in self-interest and not attempting to compel us to violate the Torah.

A couple of centuries later, R' Yaakov Reischer (the Shvus Yaakov) was asked whether it is permitted to be bareheaded in order to honor a "great man" or duke who visits a shul. He begins his response by echoing the Trumas Hadeshen's point that there is no clear basis from the Gemara for an absolute prohibition against bareheadedness, and he subsequently makes the above point that some allow it even in deference to someone wearing a cross, and all agree that doing so where no cross is present is permitted. He therefore concludes that baring the head for a distinguished government official can be justified by the goal of promoting good relations with the government (*shlom malchus*), but it is nevertheless ideal to avoid doing so if our perspective can be explained to, and accepted by, the dignitary:

Nevertheless, if it is possible to excuse ourselves to him by saying that we have a great prohibition against being bareheaded in a shul, and perhaps this will mollify him...certainly those who do so will be remembered for good.[5]

A century later, R' Shlomo Zalman Ullman was asked whether men in general, and community leaders (the seven *tuvei ha'ir*) that manage public affairs in particular, are permitted to sit bareheaded. He strongly forbids the latter on the grounds that such leaders are called a "holy assembly," about whom it is said that "Hashem stands in the Divine assembly,"[6] and it is thus unthinkable for them to proceed in such a manner that they would be forbidden to utter Hashem's Name:

And it is thus an *avon plilah*,[7] *chas veshalom*, that is too great to be borne,[8] to sit bareheaded in the community meeting place and deal with public affairs, except for a situation where it is the law (*dina demalchusa*) that a picture of the kaiser or king be placed on the wall and it is a matter of his honor to sit bareheaded before his picture, as is known, in which case it is permitted, and *dina demalchusa dina*...[9]

R' Volf Breier (the Nachlas Binyamin) was asked whether the laxity regarding bareheadedness that prevailed in his time, and in particular the custom in schools of young students and their teachers sitting and walking to and fro while bareheaded, was justifiable. He concludes that it was not:

In my humble opinion, as a matter of halacha, the prohibition against bareheadedness is certainly a matter of *das Yehudis*[10]...insofar as Jews, who are holy, have always been accustomed not to walk or sit bareheaded, and they consider it frivolity (*kalus*) and licentiousness (*pritzus*), certainly for their descendants it is a matter of *das Yehudis*. And even more than this: In my humble opinion, in a school where a rule has been established that young Jews must specifically sit bareheaded, and they do this in accordance with their father and the heads of the community, this is an absolute prohibition due to "*uvechukoseihem lo seileichu* (and do not follow in their traditions)"... Similarly, one who is particular in this matter, to sit bareheaded like the custom of the nations, violates a prohibition...because he is particular to emulate the mode of conduct of the nations, he violates a Torah prohibition.[11]

R' Dovid Zvi Hoffmann was asked whether one may swear with uncovered head in a non-Jewish court. He cites a number of earlier authorities on the question and notes that while the G-d-fearing (*yerei'im*) Hungarian rabanim were very strict about bareheadedness, the Vilna Gaon concludes that even uttering Hashem's Name while bareheaded is not strictly prohibited, and avoiding doing so is merely a matter of piety.

He then cites the stringent conclusion of Rav Breier that obeying school regulations mandating bareheadedness violates *uvechukoseihem lo seileichu*, but he proceeds to report a remarkable *ma'aseh rav* as a contrary precedent:

In the holy community of the *yerei'im* of Frankfurt am Main, in the school that was established by the gaon R' Shamshon Raphael Hirsch *zt"l* (in which I was a teacher for two and a half years), the students sit bareheaded during secular studies, and only during the study of Torah do they cover their heads (and this is the custom in the school of Hamburg as well). This was done there in accordance with the edict of HaRav Hagaon Moreinu HaRav Shamshon Raphael Hirsch *zt"l*.

The first time that I arrived at the home of HaRav Hagaon Shamshon Raphael Hirsch with a hat on my head, he said to me that here it is *derech erez* to remove the hat from one's head when one visits an important person, and perhaps another teacher (there are many non-Jewish teachers as well in the school there), who will see that I am not removing the hat from my head in the presence of the head of the school ("director"), will consider this as though I am insulting him, and in this and similar contexts there is no issue of *uvechukoseihem*.

Rav Hoffman accordingly finds at least some room for leniency with respect to baring one's head in court:

And if so, in our case, if the judge grants permission to cover the head during the oath, that would be ideal, and everyone must certainly *lechat'chilah* request permission from the judge to cover his head, and he should state that he is commanded to cover his head for all matters of holiness, and an oath for him is undoubtedly a matter of

holiness. But if the judge does not wish to grant him permission, he does not have to accept upon himself even a financial penalty, and he may swear even while bareheaded, and so ruled the Trumas Hadeshen (as above)...[12]

[1]Sanhedrin 61b.

[2]Trumas Hadeshen *cheilek* 1 *siman* 196; Shu"t Mahari Weil, Dinin Vehalachos *siman* 28 (both cited in Darchei Moshe Y.D. *siman* 150).

[3]Rama ibid. *se'if* 3.

[4]Trumas Hadeshen *cheilek* 2 (*Psakim Uchsavim*) *siman* 203 (cited in Sheyarei Knessess Hagedolah Y.D. *siman* 157 *Hagahos* Tur *os* 2). Cf. Bais Hillel Y.D. *siman* 157 *os* 3.

[5]Shu"t Shvus Yaakov *cheilek* 3 *siman* 5. Cf. Shu"t Yosef Ometz *siman* 16 *os* 3 (and the discussions of Yerios Shlomo (Bnei Yisrael) and Divrei Yisrael (*siman* 17 *os* 1) cited below).

[6]Tehillim 82:1.

[7]See Iyov 31:28.

[8]Bereishis 4:13.

[9]Shu"t Yerios Shlomo *siman* 17. See Bnei Yisrael there for an extensive discussion of the halacha of bareheadedness.

[10]See Shu"t Mahari Bruna *siman* 34, cited in the previous article.

[11]Shu"t Nachalas Binyamin *siman* 30.

[12]Shu"t Melameid Leho'il *cheilek* 2 *siman* 56. One published edition of the work apparently had the temerity to omit this *teshuvah*: see R' Gil Student here and here, and Dan Rabinowitz, Yarmulke: A Historic Cover-up? *Hakirah* 4 (2007) pp. 226-28.

Cf. Shu"t Tzitz Eliezer *cheilek* 5 *siman* 6 (an exchange between R' Tzvi Pesach Frank and R' Eliezer Yehudah Waldenberg); Shu"t Divrei Yisrael (Veltz) O.C. *siman* 16 *os* 2 (a response to Rav Waldenberg), and *simanim* 17-18.