

Shaving on the Intermediate Days of the Festivals

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I. Introduction

The Sages of the Talmud frequently enacted rabbinic decrees in order to prevent certain types of activity which they felt were deleterious to the spirit or the observance of a particular holiday. Indeed, as noted by Nachmanides in his biblical commentary, absent these decrees one would find it very difficult to keep the holidays or Sabbath sacred.¹ This article will explore one such set of decrees: the prohibition to shave one's face² or cut one's hair on the intermediate days of the festivals (*chol hamoed*).³ In particular, this article will focus on the application of the prohibition to shave for people who are generally clean-shaven and who are residing in a society

1. Nachmanides (Ramban), *Commentary to Leviticus* 23:24.

2. Of course, even when shaving is permissible, it must be done without a razor in accordance with the requirements of halacha; see generally *Shulchan Aruch* Y.D. 181.

3. This prohibition is equally applicable to men and women; see *Pri Megadim* OC 546:9 and *Gra* 546:5, each of whom accept that men and women are both governed by this law, but for different reasons; see also Maharsham, *Da'at Torah* 531:2 who notes a practical difference between these two approaches.

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where Jews who observe the commandment (and the general society at large)⁴ frequently are clean-shaven, as that is the cultural norm in modern-day America.⁵ As has been noted

4. One author writes:

There exists in our culture a subtle yet pervasive prejudice against those who choose not to shave their faces, perhaps best evidenced by our language. The term used to describe those males who adhere to the preferred standard is "clean-shaven." The reasonable inference, if not the clear implication, is that the unshaven must also be unclean. Anti-beard sentiment seems to be a relatively recent phenomenon, at least in America, perhaps due in part to the post-1960s association of beards with nonconformity or rebellion, as well as to the perceptions that beards are unclean or that their wearers are trying to hide something. Before the invention of the safety razor, beards were more socially acceptable, largely because few men were willing to use the dangerous "straight razor." Professionals, able to pay the daily cost (in terms of both time and money) of a shave at a barber shop, and not as likely as laborers to benefit from the protection from the elements that facial hair provides, probably fostered the development of the association between "clean-shaven" faces and professionalism that survives to the present day.

James M. Maloney, *Suits for the Hirsute: Defending Against America's Undeclared War on Beards in the Workplace*, 63 *Fordham L. Rev.* 1203, 1205 (1995) (footnotes omitted).

5. Historically this was very difficult, because there was no simple permissible manner for a person to shave without violating the prohibition of shaving with a razor, found in *Shulchan Aruch Y.D.* 181:1-2. The recent invention of electric shaving has changed that reality, and thus many completely observant individuals are clean-shaven or shave only part of their face (such as a goatee). Nearly all rabbinic authorities permit shaving with an electric shaver, and this is the custom in all but Chassidic communities; see *Iggerot Moshe OC* 4:111, *Har Tzvi YD* 143, and Rabbi Ovadia Yosef, *Or Torah* (Tevet 5749), but see comments of

by halachic decisors, this cultural phenomenon seems to be unique to America.⁶

II. Talmudic Basis for the Decree Prohibiting Shaving

The Mishnah in *Moed Katan* recounts:

The following are permitted to shave on the intermediate days of the festivals: one who comes from far away or is released from prison or one who was excommunicated and whose excommunication was removed on the intermediate days or one who took a vow not to shave and his vow was rescinded by a rabbi on the intermediate days or one who is a *nazir* or a *metsorah* and who goes from uncleanness to cleanliness.⁷

Biur Heteiv on *Yoreh Deah* 181:5 and *Chelkat Ya'akov* 3:79. The reason many observant Jews wear beards is undoubtedly that suggested by *Chatam Sofer, Orach Chaim* 159. (For a modern "scientific" confirmation of one of Chatam Sofer's observations concerning beards, see Michael S. Wogalter & Judith A. Hosie, *Effects of Cranial and Facial Hair on Perceptions of Age and Person*, 131 *J. of Soc. Psychol.* 589, 590 (1991).)

As noted by *Rabag* (and *Radak*) commenting on 2 Samuel 2:26, this custom dates from biblical times; but see *Rav Pe'alim* 4:5.

6. Rabbi Feinstein, *Iggerot Moshe OC* 163, makes repeated mention of the fact that his approach is limited to "this country [America] and this particular time." Rabbi Feinstein's approach is discussed in section V. For a similar example of the unique issues raised by societal norms concerning shaving, see Rabbi Aharon Lichtenstein, "Shaving in Honor of Shabbat during Sefirat ha-Omer [for clean shaven men]," *Daf Kesher* 2(133):54-56 (5748). As noted by Rabbi Feinstein (*Iggerot Moshe OC* 2:96), the rules related to shaving on *chol hamoed* and the rules concerning shaving during *sefira* are unconnected; but see *Mishnah Berurah, Biur Halacha* 493, s.v. *nohagim*.

7. *Moed Katan* 3:1.

The Mishnah continues and states:

The following may wash their clothes on the intermediate days: one who comes from far away and is released from captivity or prison, or one who is excommunicated and is now released on the intermediate days, or one who swore not to wash his clothes and his vow was lifted on the intermediate days...

The Talmud, in explaining the rule of the Mishnah, states that a decree was enacted by the Sages that one should groom oneself and wash one's garments prior to the onset of the holiday so as to insure looking dignified and neat for the festival.⁸ The Talmud adds that in order to give this decree some "teeth" and assist in compliance, the Sages further decreed that one may not shave or wash one's clothes during the intermediate days, so as to insure that all would be careful to shave and wash on the eve of festivals.⁹ The rules mentioned in the Mishnah concerning people who were granted a dispensation to shave in the intermediate days are limited to cases of people who could not shave prior to the holiday.

The Talmud questions the rule by asking:

One who loses an object [which he is looking for] prior to the holiday so that he is duressed into not shaving prior to the holiday [because he is looking for his object], may he shave on the intermediate days? Or perhaps since it is not apparent to others why he could not shave, it is not permissible for him to shave? Abayeh replies to this question by stating:

8. See *Shulchan Aruch Orach Chaim* 531:1, where it states that "it is a mitzvah to shave on the eve of a holiday."

9. *Moed Katan* 14a.

"Can we say that all of the garments may not be washed except for a particular person's garment?"¹⁰

While the Talmud is not categorically clear that the normative halacha follows Abayeh, almost all early and late authorities accept his opinion and limit the dispensation to shave not merely to those who were duressed, but mandate that only those who were publicly duressed so that their special status would be known to all may shave on the intermediate days. All others may not.¹¹

However, there are two basic ways to understand this talmudic discourse. The overwhelming majority of the *rishonim*¹² rule that a rabbinic decree was enacted and the nature of the decree was as follows:

1) One may not shave during the intermediate days of the holidays. The reason for this decree was in order to induce a person to shave prior to the onset of the holidays.

2) An exception to this decree was made for those who could not shave prior to the holidays due to duress or a compelling circumstance and the duress or compelling circumstances were obvious to the casual observer, such as a person released from prison. A person who was duressed, but in a private way that would be unknown to others, is

10. Ibid. 13b-14a.

11. See *Shita Mekubetzet* on *Moed Katan* 14a as well as *Tur* and *Beit Yosef* on 531. The *Ravya* (836) resolves this matter leniently, as apparently does *Rabbenu Chananel* on *Moed Katan* 14a. *Bach* OC 534 also appears to resolve this matter leniently. The crucial question is whether this is a case of doubt as to a biblical prohibition or doubt as to a rabbinic prohibition; that seems to be the disagreement between *Bach* and *Beit Yosef*.

12. See *Beit Yosef* and *Tur* on *Orach Chaim* 531 in the name of many *rishonim*.

prohibited by rabbinic decree from shaving.

Rabbenu Tam, however, provides a different framework for discussing this dispute.¹³ He rules that the decree was as follows:

1) One who does not shave in preparation of the holidays may not do so on the intermediate days, as the Sages penalize this person for not preparing himself for the holidays.

2) This penalty provision *was waived* for a person who – it is clear to the casual observer – could not shave prior to the holidays due to public duress.

3) This penalty provision *was inapplicable* to a person who, in fact, does shave prior to the holidays.

Thus, Rabbenu Tam ruled that one who does shave in preparation for the holidays may shave again during the intermediate days of the holidays. Rabbenu Tam argues that there is no point in preventing a person who had shaved in preparation for the holidays from also shaving during the intermediate days.

While apparently logical, Rabbenu Tam's position can be challenged – as noted by *Tur* – since if Rabbenu Tam were right, the Mishnah would have included in its list a person who did shave in preparation for the holiday. In addition, *Tur* notes that Rabbenu Tam's reasoning would defeat one of the purposes of the Sages' decree – to create a significant encouragement to shave on the eve of a holiday by preventing one from shaving for a week after that day – for who would

13. Rabbenu Tam's opinion is not found in the works of the *Ba'ale Tosafot*. It is, however, recorded in *Tur* O.C. 531, *Hagahot Maimoniyot Yom Tov* 7:40, and *Hagahot Ashre, Beyah* 14a; this also appears to be the opinion of Maharam Me'Rothenberg, in his *S'machot* 9.

know who shaved and who did not? Bearded people could then shave on the intermediate days of a festival and claim that their conduct is permissible, by stating that they shaved on the festival eve.¹⁴

III. The Opinion of the Codifiers

While there are some authorities who attempt to demonstrate that both Rambam's and Rashi's opinions were, in fact, in agreement with the opinion of Rabbenu Tam,¹⁵ the overwhelming majority of authorities rejected his approach based on the *Tur's* critique. Rabbi Jacob ben Asher, author of the *Tur*, states the law as follows:

One may not shave on the intermediate days of the festival and the reason is that one should not enter the festival un-groomed; the explanation for that is that if one could shave on the intermediate days of the festivals, people would not be careful to shave on the eve of the festival, and there is an obligation upon all to shave prior to the festival in its honor. Since it is prohibited to shave on the intermediate days, one will be careful to shave on the eve. Rabbenu Tam asserts that since this is the reason, one who does shave on the eve of the festival can shave during intermediate days. It is very difficult to accept this as permissible and it also does not appear to be correct from the text of the Gemara, since if this had been true, it would have been appropriate to list this

14. See comments of *Tur* quoted in text and comments of *Taz*, *Shulchan Aruch* 531:1.

15. See, e.g., Rabbi Aaron Pinchik, "Shaving on Chol Ha-Moed," *Noam* 12:82 (5729) and Rabbi Yitzchak Pacha, "Shaving on the Intermediate Days," *Techumin* 2:116, 133 (note 35) (5741).

exception in the Mishnah . . . Also, who will know if one shaved prior to the festival . . . Thus it appears that one should not permit shaving except to those listed in the Mishnah explicitly.¹⁶

Both *Beit Yosef* and *Bach* discuss this issue and indicate their agreement with the opinion of the *Tur*.¹⁷

The *Shulchan Aruch* does not even mention the opinion of Rabbenu Tam but rules as follows:¹⁸

- 1) It is a mitzvah to shave on the eve of the festival.
- 2) It is prohibited to shave on the intermediate days even if one shaved on the eve of the holiday.
- 3) Even one who is duressed and thus cannot shave on the eve of the holiday, cannot shave on the intermediate days.

Rabbi David Halevi (*Taz*) explains the rationale for rules two and three by stating that it is prohibited because "who will know that one shaved prior to the festival?"¹⁹ Indeed, *Shulchan Aruch* itself expands on the list in the Mishnah of those who may shave, to include other people who cannot shave in preparation for the festival and whose reason for being unable to do so is obvious and apparent to all. The classic example of this is the Ramo's ruling that one who abandons apostasy and returns to Judaism – which in earlier times was demonstrated by shaving and haircutting – may do so even on the intermediate days, since such a person could

16. *Tur* OC 531.

17. *Beit Yosef* and *Bach*, *ibid*.

18. *Ibid*, 531:1-3.

19. *Taz* O.C. 531:2. Similar sentiments are found in *Magen Avraham* 531:2 and *Aruch Hashulchan* 531:1-4.

not have cut his hair prior to his return to tradition.²⁰ A similar example might also be the *Shulchan Aruch's* ruling that a minor may be given a hair cut on the intermediate days; the rationale is that all will know from looking at this small child that he or she is not obligated in the commandments.²¹

In sum, the overwhelming majority of classical decisors reject the opinion of Rabbenu Tam and prohibit a person from shaving on the intermediate days even if they shaved prior to the festival; indeed, the classical commentaries mention Rabbenu Tam's approach only to assert that it is not accepted.²² However, they accept the principle of the Mishnah and rule that a person who has a widely-known excuse for being unable to shave in preparation for the holiday – even if it is not one elaborated explicitly in the Mishnah – may shave on the intermediate days. Indeed, examples of such cases abound.²³

20. *Ramo* OC 531:7. For more on the custom of cutting one's hair when one returns to observance, see *Ramo* YD 268:2; *Shach* YD 268:17 and *Terumat Hadeshen* 86.

21. *Shulchan Aruch* OC 531:6. This also explains *Magen Avraham's* statement that a child who looks like he or she is past bar- or bat-mitzvah age should not publicly be given a haircut, lest people misinterpret that activity; *Magen Avraham* 531:9 quoted by *Mishnah Berurah* 531:16; *Aruch Hashulchan* 531:6 and *Kaf Hachaim* 531:29.

22. See comments of *Magen Avraham*, *Taz*, *Kaf Hachaim*, *Aruch Hashulchan* and *Mishnah Berurah*. Rabbenu Tam's approach is also rejected by *Yalkut Yosef* 5:516 and *Shemirat Shabbat Kehilchata* 66:23.

23. For example, see *Shita Mekubetzet*, *Moed Katan* 14a (s.v. *de'ika lemamar*) who asserts that one who is publicly involved in redeeming captives on the eve of the holiday and thus cannot shave, may do so on *chol hamoed*; *Meiri*, *Moed Katan* 14a permits shaving for a merchant whose business is widely known and who cannot shave because he is looking for a lost object and everyone

The reverse is also true. One exempted by the Mishnah, but whose travels in modern times would not cause public discussion, is not exempt. Thus, one who arrives from overseas is no longer exempt, since crossing international boundaries and oceans is now a common event unlikely to inspire people to widely discuss that person's travels or prevent him from shaving.²⁴

IV. Shaving as a Prohibited Form of Work,

Having addressed the parameters of the rabbinic decree, one other fundamental issue needs to be discussed: does shaving²⁵ violate the prohibition to work ("*melacha*") on the intermediate days of the festivals?

The Talmud recounts²⁶ the general rule that work is prohibited on the intermediate days, and there is a dispute as to whether that prohibition is biblical or rabbinic.²⁷ Whatever the nature of the prohibition, the rule is that work that is prohibited on the festivals is also prohibited on the

knows about it. For more such cases, see *Encyclopedia Talmudit*, "Chol HaMoed" 13:209-210.

24. *Mishnah Berurah* 531:13; *Shemirat Shabbat Kehilchata* 66:26 n.119.

25. For the purposes of this article, it is assumed that a person who shaves does so in the privacy of his own home using an electric shaver and does not go to a barber or other skilled professional for assistance while shaving.

26. *Chagigah* 18a; *Moed Katan* 29a; Rambam, *Laws of Yom Tov* 7:1; *Shulchan Aruch* 530:1.

27. According to those who consider the prohibition biblical, it is different from other prohibitions in that its precise boundaries were given to the Sages to define; see *Shulchan Aruch* O.C. 530 and *Biur Halacha* 530, s.v. *umytar*, and *Encyclopedia Talmudit* "Chol Hamoed" 13:104-113.

intermediate days unless one of five (relatively broad) exemptions are present. They are:

(1) If the work is not done, it will lead to a significant financial loss.²⁸

28. The precise definition of financial loss varies from society to society and person to person (*Mishnah Berurah* 544:6). Notwithstanding that fact, certain guidelines can be given. Loss of (significant) capital is almost always considered a financial loss. On the other hand, mere loss of interest or profit is not considered a true financial loss, and thus only allows for the deferment of rabbinic prohibitions. One who owns a store that sells items of use on *chol hamoed* (food, for example) may unquestionably remain open on *chol hamoed*. One who is not selling any such items may keep the store open only if the good-will necessary to run the business requires that it be open each day during the general work week.

A person who is an employee should strive to take vacation on *chol hamoed* if possible, if it will not jeopardize one's job. There is an interesting dispute between contemporary decisors whether a worker who wishes to take his vacation in order to do a specific vacation activity that cannot be done on the intermediate days (for either halachic or practical reasons) must nonetheless take them on the intermediate days, and forsake that vacation. Rabbi Moshe Feinstein, in a responsum published in *Sefer Zichron Shlomo* #18, states that such conduct is permissible (and merely the pious avoid it). In the same volume (responsum 41) Rabbi Moshe Stern avers that such conduct is prohibited, and states that employees must save up vacation days to use on the intermediate days whenever possible. Rabbi Neuwirth, writing in *Shemirat Shabbat Kehilchata* 67:(n.47) suggests a compromise. He states that an employee who has a finite number of vacation days in the year need not save them to use on the intermediate days, but if he has them available during the intermediate days, he must take them. Rabbi Neuwirth observes that if one were to accept this ruling, a person whose vacation days accrue at the beginning of the secular year must use these days for the intermediate days of Passover, but may then take a summer vacation with the understanding that he will have no choice but to work

(2) Work done to produce food for the sake of either the intermediate days or the holidays.²⁹

(3) Work where the action is of benefit to many people.³⁰

(4) Work done by an amateur, rather than a professional, or in an amateurish way rather than in a professional way, for the sake of the holiday.³¹

(5) Work done by a person who does not have money to buy food or other necessities.³²

on the intermediate days of Sukkot.

29. The parameters of the exception permitting work for the sake of the holiday include any actions – lighting fires, harvesting plants or turning on lights – needed either for *yom tov*, *chol hamoed* or the upcoming Shabbat's food needs; *O.C.* 533:1-3; *Shemirat Shabbat Kehilchata* 66:6. This exception permits every activity needed for food preparation, provided that it could not be done prior to the *moed*; *Shemirat Shabbat Kehilchata* 66:17 and note 78 of that work.

30. *Shulchan Aruch OC* 544:1. The rationale for this exception is that public works are best done at a time when many are available; see *Mishnah Berurah* 544:1. Most rule that amateurish work of benefit to many is permitted even if not for the sake of the holiday, and that skilled work is permitted only for the sake of the public and the needs of the holiday; *Shemirat Shabbat Kehilchata* 65:1-4.

31. Amateurish work of any type may be done for the sake of the needs of the holiday or the Shabbat that follows; thus, for example, one may turn on a light during *chol hamoed* when one needs light to read, or turn on the radio to listen to recreational music for pleasure on that day.

32. A person who has no money to pay for the basic needs of himself or his family (*Biur Halacha* 542, s.v. *al yedai*) may work even in otherwise-prohibited work, and it is preferable to do such work rather than to accept charity (*Ashel Avraham* 542). It is preferable that such work be done in a private, rather than a public, way.

Thus, a discussion of shaving or haircutting as a form of prohibited work involves a discussion of the various possible exceptions which permit work on the intermediate days.

Tosafot, addressing the issue of haircutting, state that "even though this action [shaving and haircutting] is work [and thus should be prohibited] the Sages would have permitted it for the sake of the holiday [if not for the rabbinic decree]."³³ Tosafot also give an alternative answer and state that "there are some forms of work that involve no real effort or exertion, like *prakiamatri*;³⁴ nonetheless, that which is done for the sake of esthetics, it is appropriate to permit it on the intermediate days." According to both approaches, shaving with an electric shaver is not a form of prohibited work on the intermediate days when done in the privacy of one's own home in the manner that all adults groom themselves nowadays (as opposed to prior times, when people were shaved by a barber). As noted by Rabbi Moshe Feinstein,³⁵ it seems that the final insight of Tosafot creates nearly a new category of permissible work – prohibited activity done merely for aesthetic reasons, which then becomes permissible. Elsewhere, Tosafot appear to rule that shaving one's facial hair is generally a permitted form of work and is prohibited only because of the rabbinic decree discussed above.³⁶

Although this issue might seem unimportant – what difference does it make whether shaving is prohibited by both

For an excellent review of the principles used to determine if work is permissible, see Rabbi Shlomo Aviner, "Chol Hamoed on Agricultural Settlements," *Techumin* 2:79 (5743).

33. *Moed Katan* 14a, "*veshar kol adam*."

34. A form of traveling salesman.

35. *Iggerot Moshe* O.C. 163.

36. Tosafot s.v. *shar*.

a rabbinic decree **and** as a form of prohibited work, or merely as a form of rabbinic decree – the consensus of halachic authorities accepts that shaving is not a prohibited form of work, or if it is, it is typically covered by one of the enumerated exceptions to prohibited work.³⁷ A small minority of halachic authorities rules that shaving is forbidden work, even in a case where the rabbinic decree is not applicable.

IV. The Controversy between Rabbi Landau and his Colleagues

Rabbi Yechezkel Landau, writing in *Nodah Biyehuda* 1:13, adopts a novel interpretation of the dispute between Rabbenu Tam and his colleagues. Indeed, he completely reinterprets and harmonizes Rabbenu Tam's view with that of other *Rishonim* and concludes that there are many circumstances in which it is completely permissible to shave on the intermediate days of the festival.³⁸

37. Particularly since shaving is no longer a skilled activity, but is done by almost all people in the privacy of their own homes without any specialized training, one is very much inclined to rule that – in cases not covered by the rabbinic decree prohibiting shaving – there is no "prohibited work" problem. Indeed, even those modern authorities who are absolutely firm in their ruling that the norm of a clean-shaven society has no impact on the prohibition to shave during the intermediate days of the festival, concede that shaving is not a prohibited form of work (except because of the rabbinic decree); see Rabbi Ovadiah Yosef, *Yalkut Yosef* 5:526 and Rabbi Shalom Masas, "Shaving on *Chol Hamoed*," *Techumin* 3:517-528

38. There is some discussion as to what motivated this responsum by Rabbi Landau, particularly as he initially noted that the reason for its publication would remain concealed. However, in *Nodah Biyehuda Orach Chaim* 2:101, he states that the rationale for this ruling was to insure that Jews who shaved did so from a Jewish barber. He notes that Jewish barbers shaved people in a

Writing in the *Nodah Biyehuda*, Rabbi Landau accepts the position of Tosafot that hair cutting is a forbidden form of work on the intermediate days which would have been permissible in theory as a matter of Torah law if done for the sake of the holiday.³⁹ The rabbinic decree, according to this analysis, essentially returned hair cutting on the intermediate days to the status of work that is not needed on the festival, and therefore biblically prohibited. Thus, according to Rabbenu Tam as explained by Rabbi Landau, hair cutting or shaving is biblically forbidden to all, whether one did or did not shave on the eve of the holiday.

However, there is a crucial difference between the case of one who has taken a haircut or shave prior to the festival and

manner permitted by Jewish law, but on the intermediate days of the festival, when these barbers were closed, some Jews surreptitiously would use the services of Gentile barbers, who shaved them with a razor. Thus, permitting a poor Jewish barber to remain open prevented some Jews from sinning. (In that era "shaving with a razor was – tragically – so common for many that they did not ever consider it really prohibited;" Rabbi Akiva Eiger, *Responsum* 96.)

Chatam Sofer Orach Chaim 154 suggests a different rationale, that casts the *Nodah Biyehuda's* ruling in a very different light:

I will recount a tale and reveal a secret. Because of the sins of our generation, there are many who shave with a razor regularly, and if they do not shave on the intermediate days, there will be enough facial hair on these people that their hair can be doubled over [the minimum amount of hair needed to violate the biblical prohibition of shaving with a razor] and after *yom tov* these people will shave with a razor, and violate many biblical prohibitions; thus it was better to permit these people to violate the rabbinic prohibition of shaving on *Chol Hamoed* [than the biblical prohibition of shaving with a razor].

39. See section III.

one who has not, according to Rabbi Landau. The one who has shaved already is only prohibited to shave as it is "biblically prohibited work"; one who has not shaved prior to the holiday is caught between two separate problems: the prohibited work rule and the decree of the Sages penalizing one who has not shaved.

Rabbi Landau then adds that one who is in the category of permitted to do any work – such as a poor person who has no money for food – may cut hair during the intermediate days of the festival, and one who has had his hair cut prior to the festival may have such a person cut his hair or shave his face. Rabbi Landau defended this ruling a number of times in his responsa⁴⁰ and while it has been reported that he retracted this decision later in life, that assertion is difficult to defend.⁴¹

A number of preeminent authorities disagree with the premise of Rabbi Landau and thus reject his conclusion. The most forceful is Rabbi Moshe Schreiber (*Chatam Sofer*)⁴² who states clearly that Rabbi Landau's basic analysis is incorrect. *Chatam Sofer* maintains that the true issue is the nature and scope of the rabbinic decree prohibiting shaving, and not whether that physical activity is a form of prohibited work on the intermediate days of the festival.

To prove this, he notes that the model used by the Talmud for the decree concerning the intermediate days was the ancient decree that priests who work in the Temple may not have their hair cut or be shaven during their tour of duty in the

40. See also *Nodah Biyehuda* O.C. 2:101 and 2:99.

41. See *S'dei Chemed, Chol Hamoed* 8:5. To accept such a proposition would be to posit that the responsa published posthumously by his son in *Nodah Biyehuda* 2:101 – which contain a defense of this liberality – are inaccurate.

42. O.C. 154.

Temple, so as to prevent them from entering their service period unkempt (*i.e.*, if they needed to be groomed, they had to do it prior to the start of their service). This decree has no basis at all as a form of prohibited work – and, *Chatam Sofer* states, neither does the rabbinic decree concerning grooming oneself during the intermediate days. Thus, he rules that the rabbinic decree prohibits shaving and haircutting by all, regardless of whether one is or has found a poor person in need of work, since the crucial issue is not "work". Most authorities appear to agree with the approach of the *Chatam Sofer*, although a number agree with Rabbi Landau.⁴³ As noted by Rabbi Neuwith:

One does not cut one's hair or trim one's beard on the intermediate days, not even on the eve of the final days of the holiday, even if one had one's hair cut or removed one's beard prior to the festival.⁴⁴

Even if one were to accept the insights of Rabbi Landau (and most do not), its applicability in America would be limited to extremely poor people or people who know extremely poor Jewish barbers.⁴⁵

43. See *Mishnah Berurah* 531:2; *Aruch Hashulchan* 542:2; *Orchot Chaim* 531:1 *She'arim Metzuyanim Behalacha* 104(13) and the authorities cited in *S'dei Chemed*, *id.* There are those who agreed with Rabbi Landau's ruling, however; see, for example, *Olat Shmuel* 72, who permits shaving for the last days of *yom tov*, based on Rabbi Landau's analysis.

44. *Shemirat Shabbat Kehilchata* 66:23.

45. An alternative rationale that would generally permit shaving on *chol hamoed* can be found in *Machatzit Hashekel* 531:10 who appears to rule that the talmudic decree prohibiting shaving is limited to the head, and is completely inapplicable to the facial area. Such a rationale perhaps can also be found in *Magen Avraham* 531:12. However, both *Mishnah Berurah* (*Biur Halacha* 531, s.v. *kol adam*) and *Kaf HaChaim* (531:39-42) indicate that the analysis

V. Clean-Shaven Men in a Clean-Shaven Society

Modern secular society has changed, to some extent, the social reality concerning shaving. While there was a time when most observant people were not clean-shaven – and indeed it was difficult to remain clean-shaven and function in accordance with halacha – such is no longer true.

A clean-shaven person in a clean-shaven society creates a new halachic question vis-a-vis shaving on the intermediate days of the festivals. A person who has no beard, even if he shaves in preparation of the holiday, *nonetheless* will look unkempt during the holiday, and it will be visibly apparent to all that this person shaved in preparation of the holiday and yet still needs to shave again. The fact that he shaved prior to the holiday does not, in any way, insure that he will look proper during the intermediate days. The only way to look neat during the intermediate days is for him to shave then. Furthermore, the presence of many such people insures that this fact is common knowledge.

In light of the change in societal norms, an examination of the rabbinic literature indicates three different approaches that have been taken to this issue in modern times.

A number of authorities, including Rabbi Ovadiah Yosef, adopt the position that the decree made by the Sages of the Talmud has only the delimited exceptions given in the Mishnah and cases identical to them. Thus, even if it might have been logical for the Sages in the time of the Mishnah to exempt a clean-shaven person in a clean-shaven society, for whatever reason they chose not to do so, and enacted a broad decree without any exemption – except for one who is clearly duressed *and did not shave on the holiday eve out of duress*.

of the *Machatzit Hashekel* is not correct.

Rabbi Yosef states:

Even if one shaved his beard on the eve of the festival it is prohibited to shave again on the intermediate days of the festival; this is true even if one is accustomed to shaving every other or third day. There was one who permitted one who shaved prior to the festival to shave on the intermediate days through a poor Jewish barber who has nothing to eat. Most authorities argued with him and the consensus is that it is prohibited.⁴⁶

This approach is also found in *Shemirat Shabbat Kehilchata*, stating that it is prohibited even for a clean-shaven person to shave on the intermediate days of the holidays.

However, all authorities admit that a person who will suffer a significant financial loss (certainly the loss of his job) if he does not shave himself may do so, as the Sages did not prohibit either haircutting or shaving in the case of significant

46. Rabbi Ovadiah Yosef, "Laws of Chol Hamoed," *Kol Sinai* 7:2(181-192), at pp. 186-187 (5723); see also Rabbi Yitzchak Yosef quoting his father Rabbi Ovadia Yosef, *Yalkut Yosef* 5:516 in which nearly the same rule is cited. Similar such sentiments can be found in Rabbi Shalom Masas, *Tevuot Shemesh* 1:55-56 and *Likutei Halachot al Chol Hamoed* 12-13. So, too, these authorities rule that the minority opinion of Rabbenu Tam (and to a lesser extent *Nodah Biyehuda*), since rejected by normative halacha, may not be relied on even in circumstances where such an opinion might be logical to follow.

In the case of nail cutting – which is not mentioned in the Talmud as something mandated on the eve of *yom tov* out of respect for the holiday, but which many *rishonim* strongly encouraged (see *Ramo* 532:1) – the halacha accepts the approach of Rabbenu Tam and rules that one who cut his/her nails in honor of the holiday may also cut them on the intermediate days; *Magen Avraham* 532:3.

loss.⁴⁷

The second approach, which is found in the responsa of Rabbi Moshe Feinstein, rules that it is permissible for a clean-shaven person to shave on the intermediate days if the person does so regularly, in a society where many others are also clean-shaven, and the person shaved on the festival eve.⁴⁸ Essentially, Rabbi Feinstein argues that since it is common knowledge and visibly apparent that people who do not wear beards shave frequently and regularly and have certainly shaved on the eve of the festival (this can be verified in a glance), such a person is the equivalent of the visibly dressed person who may shave. Just as one who is publicly released from prison may shave, since his plight is widely known, so too the bearded person recognizes that the un-bearded person is in a visibly different situation and will not be confused with the bearded person. This is similar to the assertion of the Ritva that women are permitted to adorn themselves on the intermediate days with jewelry, since

this is needed for one's body and is like food preparation since it is normally done with little effort. It was not prohibited by the Sages under the rubric of "lest one enter the festival disheveled" as this activity is done daily and it is not the custom of people to

47. See *Shita Mekubetzet* on *Moed Katan* 18a. This rationale is used by the *Mishnah Berurah* (531:21 and *Biur Halacha*, s.v. *kol adam*) to justify shaving in the case of a health need, which is itself only permitted because all health needs are considered a *davar ha'avad* – an item which if not acted on now, is lost – just like a financial loss; see also *Shulchan Aruch* OC 534:2 which permits the washing of an item (linen) on *chol hamoed* that will be destroyed if not washed immediately.

48. *Iggerot Moshe* O.C. 163.

delay it.⁴⁹

Rabbi Feinstein adds that the objection by the *Tur* that this category of clean-shaven people is unmentioned in the Mishnah or Talmud is not relevant to a society where many are clean-shaven, as that society was unknown in the time of the Mishnah.⁵⁰ The new social reality would, according to Rabbi Feinstein, eliminate the possible problems of suspecting a person of not shaving on the eve of the holiday, as anyone can tell when a clean-shaven person last shaved.

However, the two final paragraphs of Rabbi Feinstein's responsum state:

Thus, it is clear that, in my opinion, in our era and in this country – where those who shave their face do so every day or every other or third day – there is no prohibition [to shave on the intermediate days]...

Nonetheless, my custom is not to permit shaving on the intermediate days except for one in significant need or great pain. If one wishes to rely on this line of reasoning for mere aesthetic reasons alone, one should not rebuke him, since the halacha is in accordance with that conduct in my opinion.

According to this analysis, shaving is permitted but not encouraged on the intermediate days of the festival.⁵¹

49. Ritva, *Moed Katan* 8b.

50. *Iggerot Moshe O.C.* 163. Finally, Rabbi Feinstein disagrees with the analysis of Rabbi Landau concerning whether shaving is work, and rules that shaving is prohibited exclusively by the rabbinic decree, which he feels is not applicable to a clean-shaven person. Particularly when facial shaving is so routine and requires no particular skill, states Rabbi Feinstein, there is no problem of prohibited work.

51. An approach similar to Rabbi Feinstein's can be found in

The third position is taken by Rabbi Joseph B. Soloveitchik. Based on an analysis similar to that of Rabbi Feinstein discussed above, Rabbi Joseph B. Soloveitchik and his son-in-law, Rabbi Aharon Lichtenstein, rule that since it is permissible to shave during the intermediate days it would seem logically compelling that one who is clean-shaven must shave on the intermediate days, and particularly on the last day of the intermediate days since there is an upcoming festival.⁵² Shaving during the intermediate days, for a clean-shaven person, is a fulfillment of the rabbinic commandment to look dignified and proper during the intermediate days and on the final days of the festival.

Rabbi Hershel Schachter, in his intellectual biography of Rabbi Soloveitchik, *Nefesh HaRav*, recounts Rabbi

Rabbi Yekutiel Greenwald's *Kol Bo al Avelut* 2:131. The position of Rabbi Shlomo Zalman Auerbach is unclear; 66:23(n.107) states that Rabbi Shlomo Zalman Auerbach is uncertain about "a king who shaves every day if Rabbi Landau would permit such a person to shave, since Rabbi Landau only permitted shaving through a poor Jew who does not have what to eat." Although his words are unclear, it is quite possible to understand Rabbi Auerbach as being in agreement with Rabbi Feinstein, and that the only problem is one of the technical issue of prohibited "work," which Rabbi Auerbach suggests can be solved without any difficulty in the case of a king. Indeed, other have related to this author that Rabbi Auerbach indicated that Rabbi Feinstein's responsum was persuasive on this issue. This understanding of Rabbi Auerbach also explains the sequence of ideas discussed in the *Shemirat Shabbat Kehilchata*, where the approaches of both Rabbis Feinstein and Auerbach are presented after the phrase *עַל מַעַן*, which in the *Shemirat Shabbat Kehilchata* means "for an alternative view, see."

52. As with many of the rulings of Rabbi Soloveitchik, this one was never placed in writing by him. These rulings are recorded in Rabbi Yitzchak Pacha, "Shaving on the Intermediate Days," *Techumin* 2:116, 133 (5741) and Rabbi Shmuel Sprecher, "Shaving on the Intermediate Days," *Noam* 21:252-253 (5738).

Soloveitchik's reasoning as follows:

To those who shave every day, it is obvious that they may shave on the intermediate days too, since it is clear from the explanation of the Mishnah given in *Moed Katan 14a* that every case where it is obvious to all that a person is duressed, and thus cannot shave, that person may shave on the intermediate days. All know that a clean-shaven person cannot on the eve of a holiday shave those hairs that have not yet appeared. [Thus, this person's unkempt appearance is considered a product of duress, and he is permitted to shave.]⁵³ One can also add that in the case of a person permitted to shave on the intermediate days that he must shave, so as not to be disgusting on the intermediate days and so as to avoid entering the last days of the festival looking repugnant.⁵⁴

These authorities argue that once one accepts that the rabbinic decrees found in *Moed Katan 13b-14a* are inapplicable to a clean-shaven person, there is no choice but to rule that one who is clean-shaven *must* shave at least in honor of the final days of the festival, just as for any other festival.⁵⁵

It is important to understand that the approaches of Rabbis Feinstein and Soloveitchik are not predicated on the correctness of either Rabbenu Tam or Rabbi Landau, but rather maintain that all would agree that shaving is permissible on the intermediate days in a case where it was obvious that the clean-shaven person had shaved in preparation for the holiday, and yet was still unkempt because of the growth on new hair

53. See the reasoning cited in note 56.

54. *Nefesh HaRav* 189-190.

55. For an approach similar to Rabbi Soloveitchik's, see Rabbi Moshe Malka, *Mikveh Hamayim* 2:20.

which could not be removed prior to the holiday. Those who argue with this reasoning would assert that the talmudic leniencies found in *Moed Katan* 14a concerning those who may shave on the intermediate days are limited to those who did not shave in anticipation of the holiday, unless one accepts the rulings of Rabbi Landau or Rabbenu Tam.

VI. Conclusion

Both the technology of shaving and the sociology concerning when one shaves have changed considerably in the last century. Until recently it was unusual to encounter an observant Jew who was routinely clean-shaven, and finding a halachically acceptable way to remain clean-shaven was no easy task. Certainly, until very recently there were no societies where most of the observant Jewish community was generally clean-shaven. This has changed. Technology has created a halachically permissible way to shave; for social and economic reasons, many religious Jews choose to be clean-shaven. This article has explored the responses of halacha to the changed realities of our lives.