Rabbi Ovadia Yosef, one of Israel’s most revered and controversial religious leaders, was born in Baghdad in 1920 and came to Palestine at the age of four. He attended yeshivot in the Old City of Jerusalem and was ordained by the chief Sephardic rabbi, Rabbi Ben-Zion Meir Hai Uziel. From 1947 to 1950, he served as a magistrate in the Cairo rabbinical court. Upon returning to Israel, he was appointed a rabbinical magistrate in Petach Tikva and then Jerusalem, and in 1969 became Tel Aviv’s chief rabbi. He served as chief Sephardic rabbi of Israel from 1973 to 1983.

By ARIEL PICARD
Before the political party Shas was established in 1984, Rav Ovadia was renowned only in the spiritual and halachic realm. He had gained a reputation as a halackhic genius with a photographic memory – admirers called him a walking sefer Torah – whose legal decisions exhibited boldness and vision. One striking example was his historic recognition, despite the initial opposition of the rabbinic elite, of the Beta Israel (Ethiopian immigrants) as Jews. Still, it was on becoming the spiritual leader of the Shas political party, which at its height in 1999 held seventeen seats in the 120-member Knesset, that Rav Ovadia became a household name in Israel. His presence in public life leaves few indifferent.

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It is not uncommon for the Sunday morning news in Israel to be peppered with contentious comments taken from Rav Ovadia’s weekly Saturday night drasha (sermon). Women, he declared, should stick to cooking and sewing. He has notoriously compared Arabs to snakes, and opined that Hurricane Katrina was a divine punishment for the American-backed Israeli withdrawal from Gaza. Following the Second Lebanon War, Rav Ovadia said that soldiers were killed because of their nonobservant lifestyle.

Rav Ovadia’s defenders contend that the subtleties of his comments are lost in the popular press. Still, such remarks infuriate and boggle the general public. How, people ask, can one who holds such outrageous views wield such formidable political and religious power in Israel? How is it, they wonder, that so many Shas supporters are not religious at all? And why is Rav Ovadia so important in the eyes of so many followers?

This article does not presume to answer all these questions but seeks to examine more closely his social-religious position as it is reflected in his halachic rulings. Owing to his controversial public persona, it is easy to forget that Rav Ovadia is first and foremost an important halachic figure who has been shaping Jewish religious law for over sixty years. His response to modernity has been harsh and uncompromising in some cases and surprisingly open-minded in others. Fundamentally, his halachic approach seeks to embrace the vast majority of the Jewish public, even though this public is no longer committed to halacha. In this respect, he speaks to a wide and appreciative audience.

The Power of Leniency

One of the most significant aspects of the modern world is the phenomenon of secularization. Beginning in the 18th century, as the ghettos of Europe gave way to emancipation and Jewish enlightenment – Haskala in Hebrew – the communal authority of the rabbinate was shaken, as many Jews left Orthodoxy. In response to the rise of Reform Judaism in Central Europe, an Orthodox counter-ideology emerged in the mid-19th century, seeking to reject any and all changes that the reformers tried to introduce into Jewish life.

While European Jewry had to contend with these challenges, Jews in Muslim countries lived in a very different world. Although the influences of secularization had reached these parts of the world, they did not lead to a deep crisis as they did in Europe. As Zvi Zohar writes in his book Tradition and Change (Hebrew, 1993): “The vast majority of members of the community kept considering themselves as believing Jews. . . But they considered religion and traditional Jewish norms to bear limited importance for them.” While in some European countries, the Orthodox communities set themselves apart from the secular Jews, Sephardic com-
Communities preserved their internal cohesion throughout the modern era, even after arriving in Israel.

Rav Ovadia Yosef employs the tactic of turning a blind eye, in certain cases where he believes that insistence upon the complete fulfillment of a religious commandment could lead to its complete violation.

Since, among non-European Jews, deviance from halachic norms was not commonly perceived as undermining the community’s religious identity, Rav Ovadia Yosef is more likely to respond more moderately to secular Israeli realities than Ashkenazi ultra-Orthodox rabbis, who view the same phenomena as a formidable threat that requires a severe reaction. However, when Rav Ovadia identifies a certain phenomenon as innovative, as signifying a wish to change halacha because of its incongruence with modernity, he considers it to be a threat and rejects it outright.

In 1973, Rav Ovadia announced his candidacy for the position of chief Sephardic rabbi of Israel, submitting a platform in support of his application:

I shall do my utmost with divine help... to face the problems that tear our world apart. To resolve them in the spirit of our holy Torah, and to strive for rulings with the power of leniency, according to the ways of Beit Hillel.

Along with the document, Rav Ovadia submitted excerpts from interviews he gave to the press, where he says:

I have said that I am of Beit Hillel, that is, to continue following Beit Hillel... In every instance where there is a dispute between [halachic] adjudicators about strictness and leniency [kula], the opinion that leans toward kula should be accepted according to suitable instructions.

Rav Ovadia’s implication is that his lenient line is not an obvious choice. It differs from the common approach in the ultra-Orthodox community that favors the stringent
observance of halacha and fashions a separate existence, isolated from and untainted by secular society. Rabbinic leaders who take this sectarian approach usually refer, in their halachic rulings, solely to the members of their own ultra-Orthodox community. By contrast, Rav Ovadia considers himself to be responsible for the wider Jewish public – which is how he justifies his preference for the lenient kula over the strict humra.

Rav Yosef tolerates the deviance of women’s pants, despite his personal opposition, to minimize the damage to the community – too tough a dress code could drive girls to secular schools.

Rav Ovadia often characterizes his generation – pejoratively – as “the generation of freedom and liberty.” In his opinion, freedom leads to the erosion of rabbinical authority and to the lack of commitment to complete submission to halachic requirements. The strict approach is therefore flawed, because excessive strictness is likely to lead the public to ignore duties that it finds too burdensome. Rav Ovadia is concerned lest traditional Jews who have “weak” religious devotion are driven from the path by the demands of a rigidly Orthodox lifestyle.

Pants or Miniskirts?

Historically, the Jewish world has always included anomalous and delinquent individuals who remained part of their communities. A key difference between traditional Jewish societies and modern ones is the size and scope of the departure from Orthodoxy. Today there are large groups who do not oblige themselves to an Orthodox understanding of halacha. Jews who call themselves mesorati – not to be confused with the Israeli Masorti movement, affiliated with American Conservative Judaism – pose an important challenge for Rav Ovadia. Many such Israeli Jews are of Middle Eastern or North African origin; many will keep kashrut and attend synagogue but also (by way of a famous example) drive to Jerusalem’s Teddy Stadium to watch soccer on Shabbat afternoon. In order to bring such people back to a full Torah-based life, Rav Ovadia has devised a policy that would strive to reduce halachic noncompliance, yet on the other hand would not expect full religious observance on the part of these individuals. In the examples that follow, we will see how Rav Ovadia applies this approach in his rulings.

The principle of hara be-mi’uto – “the lesser evil” – is nicely exemplified in an influential responsum that Rabbi Ovadia Yosef wrote in 1973 when the principal of a religious school complained that girls were coming to school in miniskirts: “He is unable to protest, although to our great dismay the fences of modesty have been broken open, and they [the girls] would not heed to their teachers’ orders.” The principal, unable to force the students to wear long skirts, is faced with the choice of allowing them to wear pants. The inquirer assumes that wearing pants entails a halachic obstacle and thus asks for the rabbi’s opinion on the matter. Rav Ovadia launches into a long speech about his firm rejection of the miniskirt:

And it has been found that she who walks in a miniskirt – a garment of the most horrible promiscuity – and her sole intent is to follow the ways of a fashion that leads to...
lust, certainly constitutes a case of transgressing “neither shall ye walk in their statutes” (Leviticus. 18:3).

The rabbi then analyzes the prohibition of women wearing pants: “A woman shall not wear that which pertaineth unto a man” (Deuteronomy 22:5). After a long discussion of this injunction and its stipulations, Rav Ovadia concludes that since women’s pants are different than men’s, they cannot be defined as pertaining “unto a man” and thus can be allowed, with the following reservation:

And in any case I maintain that girls should not be allowed to wear such pants in the first place, since they attract special attention from those who encounter them more than what a dress or a standard skirt would, and lead one to sinful thoughts. And modest girls of Israel may not walk in them whatsoever.

The discussion therefore shifts to the question of modesty: pants are worse than a dress – but are they worse than a miniskirt? Rav Ovadia’s conclusion is clear:

And in any event if the girls would not heed their parents’ and teachers’ instructions to avoid wearing very short skirts, and they walk with their calves and thighs exposed, which is an act of excessive promiscuity, we must opt for hara be-mi’uto, and allow them as a temporary measure to wear pants and must not roll rocks after those who slide and fall, and our left arm pushes away as our right arm draws them near.

The lesser evil, for Rav Ovadia – hara be-mi’uto – is pants. When he writes against women in jeans, he doesn’t make a halachic argument, but rather a value judgment. On the other hand, when sternly forbidding miniskirts he invokes the biblical injunction against adopting non-Jewish practices: “Neither shall you walk in their statutes.” By tolerating the deviance of women’s pants, despite his personal opposition, Rav Ovadia makes a partial concession to students who are not committed to halacha, hoping to minimize the damage to the community: too tough a dress code could drive the girls to secular schools. Such compromise represents the essence of the hara be-mi’uto policy.

The conscious desire to strive for change, rather than change itself, is what worries Rav Ovadia most.

Moderation in the Mikveh

Another way to deal with deviance from halacha is to ignore it. Rav Ovadia Yosef employs the tactic of ha’alamat ayin, or turning a blind eye, in certain cases where he believes that insistence upon the complete fulfillment of a religious commandment could lead, in practice, to its complete violation. Again, a fine example involves the appearance of women.

When examined in the mirror of ritual observance, nail grooming and polishing present a halachic problem. A woman who immerses at the mikveh must not separate her body from the water, and one of the instructions for women who come for ritual purification is to clip their nails. Thus nail grooming constitutes a halachic obstacle or hatzitza (buffer). And yet, some women refuse to clip their nails when coming to the mikveh, raising the question of whether they should be permitted to immerse at all.

Rav Ovadia discusses this problem at length, presenting various opinions, and ruled in the end that one may rely on the opinion of the lenient poskim (rabbinic adjudicators) in the matter:
The secular Jew who publicly desecrates the Shabbat and has no attachment at all to halacha is likened by Rav Ovadia to a gentile, and is removed from the community.

We must turn a blind eye on the women who wish to keep their nails intact without cutting them. This license is intended for women who refuse to adhere and comply with the words of the sages, and we must avoid a rift, God forbid, lest they refrain from the mitzvah of tevilah [immersion] altogether and be in danger of karet [untimely death by divine decree]. That is why we have compelled ourselves to search for justifications to permit this, lest we roll rocks after those who slide and fall.

Rav Ovadia’s examination of this phenomenon in its cultural context reveals that this is no mere halachic technicality about hatzitzat. He does not approve of the conduct of these women, who abandon the ancient custom of “our holy matrons” and follow a modern fad. And yet, since these women come to the mikveh and still wish to immerse, they should not be prevented from doing so, lest they refuse to come to the mikveh at all. These women, though following the customs of “modernity,” are not doing so out of a wish to change halacha and adapt it to the Zeitgeist, but out of their personal wish to follow the dictates of fashion. This conduct, though deviating from traditional halachic norms, does not constitute for Rav Ovadia a threat to the community’s traditional Jew-
ish identity, and not even to the identity of the women themselves. The deviance has no significance beyond a halachic problem that requires a solution.

Rav Ovadia concludes his responsum as follows:

And therefore in my humble opinion the woman in charge of the beit tevilah ["house of immersion" or mikveh] should be instructed to turn a blind eye to them, if they refuse to adhere to her request that they clip their nails.

For Rav Ovadia, women who wear wigs are tantamount to “innovators who have broken the fences of Israel open,” in their effort to make halacha match modern fashion.

Privileges of Priesthood

Should Jews who drive on Shabbat be honored in the synagogue? Rav Ovadia was asked whether a man of priestly descent (a kohen) who publicly desecrates the Shabbat should not be allowed to part in the priestly blessing of the congregation known as nesi’at kappaim (“raising up of hands”). The rabbis who had previously ruled in this matter compared the public desecrator to an idolatrous apostate (mumar l’avodah zara), who is not allowed to participate in the benediction. Rav Ovadia, though, seeks to allow such a person to participate and opens with the reason for his stance:

But since to our great disheartenment this transgression has become greatly prevalent in recent generations and some communities accept kohanim who are Shabbat desecrators, and should they prevent them from fulfilling the mitzvah of nesi’at kappaim they shall end up bickering, and we lack the strength to uphold all dicta of our religion, therefore we have deemed it right to be lenient here, where such thing is necessary.

Rav Ovadia knows full well that these Jews are part of the community; it is also clear to him that there is no way to coerce them into observing the Shabbat. In order to avoid unpleasant arguments or even separation from the community, Rav Ovadia seeks halachic leeway here. He invokes the famous opinion of Rabbi Jacob Ettlinger (an important authority in 19th-century Germany), who ruled that in his time Jews with any attachment to Shabbat, for instance those who pray and consecrate the day despite their not observing it according to halacha, should not be considered to be deviants. Therefore, Rav Ovadia rules:

And from now on, those who come to synagogue on Shabbat and pray with the public, and say in their prayer “it is an eternal sign commemorating the act of Creation,” and conclude their prayer with the refrain “blessed are You O God, consecrator of the Shabbat,” and they wish to come to the bimah and raise their hands in the Priestly Benediction, we must turn a blind eye to them so that we do not hold them back from fulfilling the mitzvah of nesi’at kappaim, for we must say that they are not subject to the laws that apply to idolaters.

For Rav Ovadia, ignoring Shabbat violation is not an act of denial. Instead, “turning of turning a blind eye” constitutes a lenient view of the violator who attends synagogue, who remains a member of the community and is “not subject to the laws that apply to idolaters.”
Going Too Far

There are clear limits, however, to Rav Ovadia’s moderation. Individuals who deviate from halacha are one thing; changing the system is quite another. On the subject of Reform Judaism, for example, Rav Ovadia is a hard-liner, following in the footsteps of Orthodox rabbis of the European tradition who believe that religious innovation undermines the foundations of Jewish existence and should be vehemently rejected.

On the subject of Reform Judaism Rav Ovadia is a hard-liner.

For Rav Ovadia, even innovations that aren’t severe from a formal halachic perspective may constitute a clear and present danger to the very essence of halacha. As far as he is concerned, intent is what counts. The conscious desire to strive for change, rather than change itself, is what worries him most. As the American sociologist Peter Berger has argued, the key feature of modernity is the awareness of change; that is, of the fact that many external aspects of reality have changed, affecting the individual’s internal world. Moreover, modern consciousness seeks innovation, viewing progress as a virtue, an advantage over the “old” world. Traditional consciousness, in the words of the Israeli historian Jacob Katz, holds that “man can, and should, plan his actions according to the customs of his ancestors.” Writes Katz: “Traditional society changes in practice and pretends not to change at all.”

Ever since the time of the Talmud, rabbinic sages have been faced with changes in social realities and have accordingly introduced changes in halacha. This was done, however, without any awareness of acting in a revolutionary manner. No alteration of basic values was intended, and the rabbis saw themselves as part of an historical continuum of halachic adjustments. The difference between this normative evolution of halacha and the demand for change by champions of modernity is that the latter are conscious of bringing about a revolution. And this is what Rav Ovadia is fighting against with all his might. Two sharply differing examples can illustrate this point.

When Rav Ovadia discusses the status of Jews who choose to be secular for ideological reasons, his position is very strict. He distinguishes between the form of secularization that he had encountered in Cairo, which was characterized by lesser observance but clung to tradition and community, and the phenomenon of Israeli secularization:

The mumarim l’avodah zara who desecrate the Shabbat in our holy land, who to our great dismay emerge contemptuous and desecrate the land brazenly in buses and cars and smoking cigarettes on the holy Shabbat in the public domain – those are certainly to be subject to the laws reserved to idolaters for all intents and purposes and should not be offered any relief.

In Rav Ovadia’s eyes the Israeli secular public is permeated by a spiteful streak, and that is why Shabbat desecrators of this ilk must be deemed as resembling idolatrous apostates. The secular Jew who publicly desecrates the Shabbat and has no attachment at all to halacha is likened by Rav Ovadia to a gentile, and by that is removed from the community.

Rav Ovadia’s ruling expresses an intricate socio-historical reality. On the one hand, a large number of Israeli Jews desecrate the Shabbat but at the same time claim a traditional religious identity. Rav Ovadia views these Jews with moderation and allows them to actively participate in the
community. On the other hand, *hilonim* – Israelis who profess a secular ideology – get no sympathy from Rav Ovadia, who excludes them from the Jewish community with full halachic severity.

**Despite the initial opposition of the rabbinic elite, Rav Ovadia recognized the Ethiopian immigrants as Jews.**

**Hair and Heresy**

On the opposite end of the religious spectrum, we encounter the problem of wigs. Among the strictly Orthodox Ashkenazim, married women, in conformity with the laws of *tsni’ut* (modesty), customarily wear wigs (*sheytls* in Yiddish); this is true, to a lesser extent, among the most pious Sephardic women too. But Rav Ovadia condemns this custom, which he sees as originating from modern trends and Western influence. His key responsum on this matter states: “In [our] generation, when wigs are made so skillfully so that one cannot know for sure whether a woman’s hair is her own or whether she is wearing a wig, it may create a false impression of immorality.”?

Moreover, Rav Ovadia believes that wigs pose a serious problem because they derive from foreign cultures:

> For the custom of wearing wigs came from the gentiles by way of new fashions that change every other day, copied from *Amalek* [the archetypical enemy], certainly this constitutes a violation of “neither shall ye walk in their statutes,” since it [this custom] is immoral and impudent . . . And therefore this custom also, which we know was originally introduced by some women who follow new trends, and are carried away by modernity it is clearly a mitzvah and a duty to uproot this evil custom, and return to the ways of tradition, the ways of modesty, in accord with our holy Torah.

But by this standard, aren’t modern women who wear pants also guilty of immorality and impudence? Why is Rav Ovadia tougher on wigs than on pants? After all, women who wear wigs do so for religious reasons, seeking to cover their natural hair as required by halacha, whereas women wear pants for reasons that have nothing to do with religion.

It turns out, however, that the halachic context of wig wearing is itself what disqualifies this custom. Wearing pants is bad, but it’s no more than a female fashion statement; wigs represent an attempt to introduce a deliberate change in the realm of religious law. Thus for Rav Ovadia, “innovators who have broken the fences of Israel open,” in their effort to make halacha match modern fashion. Wearing jeans may be construed as evidence of religious weakness, but it doesn’t signify any ideological intent to change halacha. Rav Ovadia’s radical position on wigs exemplifies his acute sensitivity to phenomena that, in his view, threaten the identity of traditional Judaism.

Moreover, the two responsa are addressed to two very different groups. Rav Ovadia’s legal opinion about women’s pants addresses teenage girls at a crossroads who are unsure whether to choose tradition or secularization; thus in their case, to keep them in the fold, he applies the policy of *hara be-mi’uto*, the lesser evil. On the other hand, wig-wearing women are religious people, deeply committed to halacha, who can be required to follow much stricter halachic standards. In their case, there is little risk that greater stringency would push them away from Orthodoxy into secularism, or worse, Reform.

In the worldview of Rav Ovadia Yosef, the *kohen* who blesses the Orthodox congregation
on Shabbat, drives home, and smokes a cigarette after lunch, is a traditional Jew who lacks the will to keep all the rules. Reform Judaism, as an ideological movement, wants to change the rules, which is a whole other story. A moderate approach to traditional Jews unwilling to observe halacha fully will keep them close to home and perhaps draw them even closer. But leniency is out of the question when it comes to Jews in our “generation of freedom and liberty” who think they have found a new way of being religiously Jewish.