

SUMMARY OF RABBI KATZ'S TESHUVAH

(Each section of the following summary includes a citation (page & paragraph in parentheses) of where to find the corresponding source paragraph in Rabbi Katz's teshuvah)

WHERE RABBI YSOSCHER KATZ'S CAN BE FOUND

The teshuva written by Rabbi Ysoscher Katz's is posted on the webpage: https://drive.google.com/file/d/1sGk3_I7qvWqto1RXe979EsZ6H27jmoXU/view

WHAT IS THE SOURCE FOR BRINGING NURSING BABIES TO SHUL?

Rabbi Katz derives, from the following 5 facts, that it is a mitzvah for mothers to bring even nursing-age babies to shul:

- (1) Torah requires, when Jews assemble for the hakheil assembly every 7 years, to bring taf (babies) **(p.1 1st para)**.
- (2) Rabbi Eliezer Ben Azariah in Talmud says the reason to bring taf to hakheil assembly is to give sachar to those that bring them. **(p.1 last para)**
- (3) Tosfos states that Gd's command to bring taf to the hakheil assembly provides a basis ("makom") for bringing babies also to shul. **(p.1 last para)**
- (4) Rabbi Yosef Engel (in his book Gilyon Hashas) deduces that Tosfos' "makom" means there is a mitzvah to bring taf to shul (since just permission to bring taf would not have been needed to be taught). **(p.2 last 2 paras)**
- (5) Ramban interprets "taf" as babies still young enough to nurse. **(p.2 last 2 paras)**

Combining the teachings of these 5 teachings results in there being a "mitzvah and obligation" (not just permission) to bring nursing-age babies to shul. **(p.2 last para)**

Although Magen Avraham recommends NOT bringing "young children" to shul, Magen Avraham does not refer to nursing-age babies (which are usually sleeping), but instead refers to children who are old enough disrupt davening with talking. **(p.2 para 2)**

WHAT IS A SHUL'S KEDUSHAH?

A shul has kedushah (sanctity) that would prohibit performing inappropriate actions in it.

The shul's kedushah is d'oraisah according to Yere'im and Chayai Adam, and is d'rabanan according to almost all other authorities. **(p.4 1st para)**

The women's section in shul has no kedushah according to Chachmas Adam; less kedushah than the men's section according to Avnai Nezer, and the same kedushah as the men's section according to almost all other authorities. Rabbi Katz concludes that women's section has same kedushah as the men's section. **(p.3 last para)**

DOES A BREAST, UNCOVERED FROM THE MOTHER'S CLOTHES AND COVERED ONLY BY A CLOTH, DEFILE A SHUL'S SANCTITY?

There are 3 arguments, below, why a breast, while not covered by a garment, and covered only by a cloth, does not defile the shul's sanctity:

Argument 1: The cloth is a garment based on the following: We know that a cloth tied around a person's neck (like a scarf) is considered a garment worn by the person for purposes of hotza'at Shabbat, so a cloth draped over a person's shoulders should also be considered a garment worn by the person for purposes of covering up in shul. Rabbi Katz admits that a weakness in this first argument is that draping-over a shoulder might not be equivalent to tied-around a neck. **(p.4 4th para)**

Argument 2: The breast, while covered by the cloth and baby's mouth, is considered not in the shul's domain, based on the following 3 facts: (1) We know that we may bring a Torah into a latrine by encasing the Torah in one sack (according to makilim) and two sacks one inside the other (according to machmirim), since the one or two sacks make it as though the Torah is in a domain that is separate from the latrine. So too, for purposes of shul's sanctity, the cloth covering the mother's breast should make it as though the nursing breast is in a separate domain from the shul according to the makilim. (2) The addition of the baby's mouth over the breast (serving as an inner sack covering the breast) should suffice even according to machmirim. That is because we know that although a person's own hand is not sufficient to serve as a cloth for purposes of providing a temporary yarmulka or a heart/genital-separator to enable praying, we know that another person's body part is sufficient to serve as a cloth to enable praying. (3) Whatever suffices for praying should suffice for presence in a shul. Therefore, the mouth of a baby should be sufficient to serve as a second sack covering the breast to satisfy even the machmirim. **(p.5 paras 2-3)**

Argument 2: Any opaque cloth, even if not qualifying as a garment and not qualifying as a sack, is sufficient cover based on combining the following 3 facts: (1) We know that for purposes of covering a person's heart or genitals (airvah) to enable reciting Shma, covering the genitals with anything opaque, even a non-garment such as murky water or a sheet, is sufficient. (2) Whatever is considered sufficient coverage for genitals should be considered sufficient coverage for a breast. (3) Whatever is appropriate attire for praying should be considered appropriate attire for presence in shul. Combining these 3 facts together leads to the conclusion that a mother's breast covered by anything opaque, including such as a cloth, is sufficient for presence in shul. **(p.4 last para)**

Rabbi Katz goes further by stating there is justification to permit nursing in shul even without a cloth covering the mother's breast, since the baby's mouth covers the nipple according to the makilim. **(p.5 last para)**

DOES THE FUNCTION OF NURSING IN SHUL DEFILE A SHUL'S SANCTITY?

The activity of nursing can be considered to include 2 aspects – (1) eating and (2) intimate interpersonal-contact. And both of the aspects are permitted in a shul, based on the following:

- (1) Adults commonly eat in shul now-a-days. And the Talmud implies that adults were permitted to eat in shul even in Talmudic times. So there should be no prohibition for a baby to eat in shul. **(p.6 paras 3-4)**
- (2) Kissing is a more-extreme form of intimate interpersonal-contact than nursing, in that kissing is a show of emotional affection whereas nursing is not a show of emotional affection. And even the more-extreme form of interpersonal-contact of kissing is not prohibited to be performed in Gd's presence, but is on-the-contrary a good thing to do, as indicated by 3 facts: (1) Moses and Aaron kissed each other on Gd's Mountain; (2) Rabbi Tarfon kissed Rabbi Akiva in a bes medrash; (3) Rabbi Katina in Talmud said that the cruvim on the ark in the Temple appeared to embrace each other like lovers to illustrate love between Gd and Jews. Accordingly, kissing to show love in Gd's presence is a good thing to do because it emulates Gd love for us. And if kissing, which is a more-extreme form of interpersonal-contact than nursing is permissible in shul, then nursing should also be permissible. The only authorities that mention a prohibition of kissing in shul are Rama and Shailot U'tshuvot Binyamin Zev (Ravaz), who say a father should not kiss his son

in shul, and they (Rama and Ravaz) are probably mistaken for the following reason: The only source Rama and Ravaz could have had for such a rule (i.e., not to kiss your son in shul) is Rabbi Yehuda Hachasid in his book Sefer Chasidim, and (Noda Biyuda teaches that) Rabbi Yehuda HaChasid never meant the rules he wrote in Sefer Chasidim to apply to all Jews but only to his own family. **(p.6 last para through p.11 2nd para)**

In summary, nursing in shul must be permitted, since its 2 components— eating in shul and intimate contact in shul – are both permitted acts.

In addition, if the nursing in shul is performed under a cloth, then it is considered as being performed in a separate domain than shul (according to the makilim mentioned above that consider a Torah in a single sack in a latrine as being in a separate domain than the latrine). **(p.11 3rd para)**

DOES A BREAST, WHILE NURSING IN PUBLIC, CONSTITUTE CONTINUOUS PROHIBITED EXPOSURE?

(1) While nursing, the nipple (“rosh hadad”) is covered by the baby’s mouth. (2) The breast is also covered by a cloth. Therefore, on 2 separate grounds, the breast is not continuously exposed during nursing. **(p.11 4th para)**

DOES BRIEF BREAST EXPOSURE PROHIBIT THE NURSING MOTHER FROM PRAYING OR BEING IN SHUL?

There are occurrences, before and after nursing, in which the breast is exposed. Although there is a rule that person may not expose his/her own genitals while in shul or while praying, that halacha does not apply to breasts. According to accepted halacha, a woman may pray while her breasts are exposed. Therefore, it stands to reason that a woman may also be in an empty shul while her breasts are exposed. **(p.11 4th para)**

DOES BRIEF BREAST EXPOSURE PROHIBIT OTHERS AROUND HER FROM PRAYING?

There are occurrences, before and after nursing, in which the breast is exposed to men and women around her while they pray. This is permitted for the following sequence of logic. **(p.12 paras 3-4)**

Character of the Prohibition

All authorities agree that men are prohibited from praying in view of a woman’s breast due to hirhur (inappropriate thoughts). The majority opinion among authorities assert is that women are permitted to pray in view of another woman’s breast because women are not sensually attracted to women’s breasts. However, Rabbi Katz agrees with the minority opinion that even women are prohibited from praying in view of another woman’s breast because it is common knowledge now-a-days that many women are sensually attracted to women’s breasts. In conclusion, women, like men, are prohibited from praying in view of a woman’s breast. **(p.13 paras 2-3)**

Prayer in View of an Exposed Private Part Is Permitted if the One Praying Is Preoccupied and the Exposure is Brief

The Rosh rules that a mohel may recite the birchat hamila in view of the exposed penis of the 8-day-old baby being circumcised on 2 independent grounds: **(p.14 last 3 paras)**

- (1) The prohibition against praying in view of genitals does not apply to an 8-day-old penis, since an 8-day-old penis is not considered airvah.
- (2) The prohibition against praying in view of genitals does not apply if (1) the prayer is preoccupied in work (“tikuni hamila”) and (2) the exposure is brief.

Lvush adds to Rosh’s reasoning (why a mohel may recite the birchat hamila in view of a baby’s penis) a further reasoning that there is no higher kedushah than kedushah of mila in term of gilui shchinah and that extra kedushah removes any sexual aspect from the baby’s penis being sexual. **(p.15 2nd para)**

Radvaz adds to Rosh’s reasoning (why a mohel may recite the birchat hamila in view of a baby’s penis) a further reasoning that the mohel will not have hirhur because the mohel (1) is concentrating on his job (“bimlacho tarid”) and (2) is used to seeing babies’ penises (“ragil bah tadir”). Radvaz explains that the source for Rosh’s rule (of permitting a bracha in view of genitals when the mohel is preoccupied and concentrating on his job and the exposure is brief and the mohel is used to it) is from BabaMetziah’s rule of permitting a cattle rancher to artificially inseminate cows. **(p.15 2nd para)**

Radvaz’s citation from artificial insemination to bris milah indicates that according to Radvaz’s understanding of Rosh, the permission to pray in view of an exposed private part if the exposure is brief and one praying is preoccupied is not limited to a baby’s penis but instead also applies to any private part such as a female breast and any preoccupation such as praying. **(p.15 3rd para)**

This concept is also supported in Yerushalmi Kedushin, which states that there is no problem when the priest places his hands under the sota’s hands when she waves the mincha, since yitzair hara is not aroused when the touching occurs for a brief time. **(p.15 last para)**

Similarly, Ovadiah Yosef permits both (1) woman to recite Hagomel in the men’s section and (2) a chasan to place a ring on a nidah bride’s finger, since yitzair hara is not aroused for a brief time. **(p.16 2nd para)**

Like Rosh, Rambam and ShulchanAruch prohibit reciting Shema by an exposed baby’s penis and yet do not require a mohel to cover the baby’s penis when he recites the bracha. Why? Probably for the same reason given by Rosh -- because the prayer is preoccupied and exposure is brief. **(p.16 last para through p.17 2nd para)**

In conclusion: Rosh believes there is a general rule that praying in view of an exposed private part is permitted if the prayer is preoccupied and exposure is brief, and Rambam and ShulchanAruch probably agree.

If so, then why do Rambam and ShulchanAruch pasken that a mohel is not permitted to recite the birchat hamilah in view of an exposed adult penis? OrLeTzion answers that the mohel is “bahool” (flustered/panicky) when circumcising a baby but not when circumcising an adult. **(p.17 3rd para)**

In summary, according to the Rosh’s 2nd answer above, a mohel may pray in view of an 8-day-old’s penis, even if it is airvah, since the mohel is preoccupied and the exposure is brief. Based on this, a man may pray in view of a woman’s breast if the man is preoccupied in praying and the breast exposure is brief. Admittedly, this logic (of applying the permissibility of a mohel to permit a man to daven in view of a breast) would not be valid if Rosh’s first answer (that 8-day-old penis is not airvah) is true, but Rama is the only authority that believes Rosh’s first answer is true. **(p.17 paras 5-6)**

Although Mishnah Brurah cites Chayai Adam as prohibiting saying divrei kedushah when a woman's breasts are exposed, they are referring only to when the breast exposure is constant, and not brief as in our case. **(p.18 2nd para)**

Another reason to permit praying in shul in view of an exposed breast is that there is no hirhur in shul, based on the following: Chida says there is no hirhur in a place of Gd's presence ("hashrat hashchina") and therefore permits men hearing a woman singing in shul. Similarly, Rabbi Shlomo Kluger (in his book Tov Ta'am Vada'at) says there is no yitzair hara in a bais medrash. **(p.18 4th para)**

Similarly, Ovadiah Yosef says although kol isha airvah, men may hear a woman sing in a place that has fear of Gd ("aimata d'shchinah"). **(p.19 2nd para)** Ovadiah Yosef similarly permits a woman to recite birchat hagomel in the shul's men's section, because since there is fear of heaven there is no fear of pritzus. **(p.18 last para)**

Another reason to permit praying in shul in view of an exposed breast is that there is no hirhur in shul since there is no hirhur in a public place, as follows: The Mordechai and Rama permit a man in a bath house to be bathed by a woman since there is no hirhur in a public place. And although several authorities say Mordechai is very wrong in permitting a woman to touch a naked man while bathing him, even those authorities would probably agree that there is no problem with a woman merely exposing her breast briefly in shul to a man praying. **(p.20 last 2 paras)**

Although Rabbi Meir in Mesechet Gittin says nursing in public in a shuk is pritzus and grounds for divorce, that applies only to an open environment like a shuk but not in a closed environment like a shul. **(p.22)**

Conclusion

Based on all the above considerations, Rabbi Katz concludes that there is no problem with a long-duration nursing in shul when covered by a cloth and brief-duration nipple exposure (when starting or ending nursing) in shul, even in view of men praying or learning, and even in the men's section, whether during davening or during a lecture. In fact, the problem with nursing and brief breast-exposure is so non-existent that there is no preference for a mother to nurse in the women's section instead of the men's section. The reasons provided for there being no problem with even brief breast exposure in front of a man praying or learning are that (1) the exposure is brief, (2) the man is preoccupied with praying or learning, (3) hirhur (inappropriate thought) does not occur in a holy place, and (4) hirhur does not occur in a public place.

CRITIQUE, BY MITCHELL ROSE, OF RABBI KATZ'S TESHUVAH

I, Mitchell Rose of Cleveland Ohio, believe Rabbi Katz came to the wrong conclusions based on the following flaws I find in his logic:

Flaw in Rabbi Katz's Derivation

Rabbi Katz's conclusion -- that a man is too preoccupied to have hirhur (thoughts of sexual titillation) from a briefly-exposed breast and nipple if the man is praying or learning -- is derived from the Rosh's assertion that a mohel has no hirhur from a baby's briefly-exposed penis. That derivation is flawed. That is because the vast majority of men are not sexually attracted to a baby's penis but very attracted to a female breast. So the fact that a mohel has no hirhur from a briefly-exposed baby's penis does not suggest he has no hirhur from a briefly-exposed adult woman's breast and nipple.

Rabbi Katz's conclusion -- that a man has no hirhur (thoughts of sexual titillation) from an exposed breast when in a holy place -- is based on Chida and Rabbi Shlomo Kluger (in his book Tov Ta'am Vada'at) and Ovadiah Yosef. That derivation is flawed. Although the Chida and Ovadiah Yosef say the shul's holiness prevents hirhur from a woman's singing voice, Chida and Ovadiah Yosef would not be so clueless about male psychology as to believe that shul's holiness prevents hirhur from an exposed breast. Although Rabbi Shlomo Kluger says there is no yitzair hara (desire to sin) in a bais medrash, that is no proof that a men are not sexually titillated by an exposed breast.

Rabbi Katz's assertion -- that a man has no hirhur (sexual titillation) from an exposed breast when in public place -- is based on the Mordechai and Rama. This derivation is flawed, and flies in the face of common knowledge. Although the Mordechai and Rama permit a naked man in a bath house to be touched by clothed woman, that does not suggest that the man would not be sexually titillated by the woman exposing her breast. This is well-illustrated by Vladimir Putin's facial expression in response to a female protester trying to offend him by flashing her breasts. Putin was not offended, just titillated, despite being in a very public place (in presence of world leaders).



Clear Error in Rabbi Katz's Conclusion

It is common knowledge that heterosexual men are strongly sexually titillated not only by brief exposure to a nipple, but even mere breast cleavage, as illustrated by some episodes of Jerry Seinfeld, and as Jerry Seinfeld told George in one episode: "You're just supposed to take a peek...Looking at cleavage is like looking at the sun; you don't stare at it...; you get a sense of it and then you look away." Therefore, Rabbi Katz's assertion that men are not sensually titillated by exposure to even an exposed nipple is laughable. Men are not offended by the sight of an exposed breast, they welcome it and savor the mental image.

Issue not Addressed by Rabbi Katz's Teshuva

Rabbi Katz's teshuvah addresses only halachic permissibility of public breastfeeding and public breast-exposure and only in terms of makom kedusha and praying. His teshuvah does not address the issue of public breastfeeding and public breast-exposure breastfeeding in general. This latter issue was addressed in an editorial in The Harvard Crimson (www.thecrimson.com/column/femme-fatale/article/2015/12/3/column-fetishization-breasts-cleavage/) which concludes that "There's nothing wrong with getting sexual pleasure from seeing breasts." It is up to each woman and her husband whether to provide that pleasure to others.