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ON KOHANIM AND UNCOMMON ALIYYOT

Some years ago, I found myself on a Monday morning in a shul not my own, sitting next to a gentleman who had also happened there. During the repetition of the *Amida*, the *gabbai* walked by, noticed the name on his *tallit* bag and, as I now reconstruct the conversation, he asked him, “Are you a *kohen*?”

The man replied in the affirmative, and the *gabbai* went on:

We have a special bar mitsva here today, a young man raised by his grandfather with great struggle and dedication. We want to give him and the bar mitsva boy an *aliyya*. If you and the other *kohen* would step out for a moment, we shall be able to do so.

To my surprise, the *kohen* said that he would not leave. “I am not interested in an *aliyya*,” he said. He continued,

I would be quite happy if you gave it to the other *kohen*. But I have an obligation to stand up for the *kehuna*. It was not I who decided that *kohanim* have greater *kedusha* than *yisraelim*, and it was not I who decided that this status should be recognized in a variety of ways, including giving a *kohen* the first *aliyya*. There are always reasons to want to give other people an *aliyya*. If I walked out, I would be saying that Hazal were insensitive to this, that our understanding of what is important is greater than theirs. I would be saying that egalitarianism is more ethical than the *kohen-levi-yisrael* triad.

“I feel for this family,” he said, “but my loyalty to Hazal’s view of the world takes precedence.”

“Look,” replied the *gabbai*. “I am a simple person and I am not good at philosophy. For the last ten years, we all watched this grandfather raise his orphaned grandson. He deserves an *aliyya* at his grandson’s bar mitsva.”

“Sorry,” retorted the *kohen*; “I wish I could help you, but I can’t.” The *gabbai* went off to talk to the rabbi.

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As I think about this story years later, far removed from the grandfather and the *kohen*, I must admit that, on the surface at least, deciding on the correct thing to do in this case is not so obvious. The *gabbai* certainly had no interest in challenging the *kehuna* or denying that only some people are blessed with *kedushato shel Aharon* while others are not. He simply wanted to honor a deserving individual. The *kohen* had an obligation to protect the status of the *kehuna*, and surely the halakhic standard is to honor the *kohen* with the first *aliyya*. Asking the *kohanim* to leave is certainly manipulating the situation to get around the halakha. Is that really justifiable even if it turns out that it is technically valid? Was the *gabbai* acting properly in asking the *kohanim* to leave?

Of course, at times, we all try to figure out how we can get around the halakha. We don't want to walk up twenty stories on Shabbat, so we ask Tzomet to design an appropriate chip for a Shabbat elevator. We want to take the candles off the table after the Shabbat meal, so we put something of value on the tray before Shabbat to get around the problems of *muktsa*. Is there really something wrong with that?

Yet there certainly is a concept of *naval be-reshut ha-Torah*, a person who despicably manipulates the situation to get a result that is technically halakhically correct yet violates the whole ethos of the halakha. This might apply to both the *kohen* and the *gabbai*. Deciding whether or not a particular manipulation falls within this category cannot be based on evaluating the effectiveness of the manipulation; we are assuming that in both cases the technical requirements have been satisfactorily met. Rather, we are more or less forced to side with Justice Potter Stewart: We know it when we see it.

It will come as no great surprise that all this comes to mind in connection with the recent debate on whether a way can be found to give women an *aliyya* in an Orthodox synagogue. Rabbi Mendel Shapiro set out to find a way to justify halakhically a practice that heretofore had been limited to non-Orthodox synagogues,¹ and soon thereafter some congregations—most notably Shira Hadasha in Jerusalem—acted on it *halakha le-ma'aseh*.

It is not my purpose here to discuss whether R. Shapiro had made a good enough case for anyone to act on it in a practical way. That is a very important discussion, but one that is not my focus. At this point, I think there is a more fundamental question to be addressed: can such an enterprise have integrity? Is this like trying to find a way to honor these two people in the same synagogue, or is it an attempt to overturn the *kehuna*? If it is the former, we shall have to investigate the sources

for what they are and the elasticity they contain. If it is the latter, we need not bother, for at best we shall uncover a situation analogous to *naval be-reshut ha-Torah*.

Applying this attitude to the question of women's *aliyyot*, I think the first question we should ask is whether a desire to grant women *aliyyot* stems from a dissatisfaction with the place of women in halakhic Judaism or satisfaction with changes in women's education this past generation. This is a difficult call, because the constant negative comments on the non-egalitarian status of halakhic Judaism and the resulting defensive responses make either suggestion suspect.

Certainly we must take note of the fact that in our Torah world, religious adolescent women are now expected to continue in yeshiva high schools and post-graduate seminaries, often spending a year away from home in Israel. For people who can remember the times when it was natural for boys in a family to attend a yeshiva while their sisters went to public school, this is truly amazing. Today we take for granted that women will not only learn Torah at advanced levels, but also develop professional halakhic competence. We have *to'annot rabbaniyot* practicing before the Israeli Rabbinic Courts and *yo'atsot halakha* addressing personal questions of *nidda* and *tabarat ha-mishpaha*. Women head institutions of college-level Jewish studies and publish articles on Torah subjects. All of this is embraced not as a protest of some sort, but as a natural explosion of the force of women's involvement in Torah released by the *Hafets Hayyim* and nurtured by the Rav, R. Joseph B. Soloveitchik, *zt"l*.

Of course, there are many segments of the Torah world—especially those associated with haredi groups—who view these developments with alarm rather than applause. In such a world, the notion of a woman getting an *aliyya* is rightfully offensive. But in our world, it is, I think, quite natural to ask if women can move into yet another area of close contact with Torah—direct contact in the form of an *aliyya*. Yet we must quickly add that a good question does not determine a particular answer.

It is also important to add that it is irrelevant that the same question was raised decades ago by the Conservative movement and answered there in the affirmative. That discussion took place in the context of proposing egalitarianism—erasing the halakhic distinctions between men and women in not only seating arrangements, but halakhic obligation too. It was an attempt to use the halakha and its sources to undermine a basic halakhic concept. Not so in the contemporary context, where Shira Hadasha—whether or not R. Shapiro's reasoning is solid enough to be a

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basis for practical application—maintains a proper *mehitsa* and halakhic distinctions between the obligations of men and women in various parts of the *tefilla*.

In our bar mitzva case, the motivations of both the *gabbai* and *kohen* seem in order. The *kohen*, however, seems to have acted without a through analysis of what the halakha actually demands. Summarizing the halakhic discussion of a situation where two *benei mitsva* who are *yisraelim* are to be honored with an *aliyya* on a Monday or Thursday, R. Ovadya Yosef writes: “They should ask the *kohen* to leave the synagogue . . . and even if he refuses to leave, they should say, ‘Even though there is a *kohen* present, a *yisrael* should come forward in place of the *kohen*.’”²

But our *kohen* was not entirely uninformed. As R. Moshe Feinstein points out, it is not clear at all that such license automatically transfers over to a Shabbat situation.³ And our case of wanting to honor a grandfather is not exactly analogous to two bar mitzva boys. Ultimately we shall have to be honest with ourselves and not simply try to look it up in a book.

It is important to remember that positive inclination in addressing “women’s issues” does not necessarily imply automatic agreement with any particular innovation. For example, consider the practice adopted in some shuls regarding bringing the Torah from the *aron* to the central *bima*. The *hazzan* brings the Torah to the entrance of the women’s section. He hands it to one of the women, who carries it through her section, giving the other women the opportunity to kiss it. She then returns it to the *hazzan*, who carries it to the *bima*.

Rabbis Moshe Erenreich and Yosef Carmel address the question briefly in their *Responsa be-Mar’eh ha-Bazak*.⁴ They are *poskim* who are consistently sympathetic to the fact that the motivation of religious women for greater participation in religious life is healthy and worthy of encouragement. (For example, they allow women to be honored with reciting *sheva berakhot* after the celebratory meal.)⁵ But they will not allow the *sefer Torah* to be carried as we described through the women’s section, as it constitutes a change in the regular norms and customs of the synagogue.

Others⁶ have taken a more expansive and nuanced approach. For example, R. Yuval Sherlo writes:

While this is not forbidden from a halakhic standpoint, I would not hide my lack of enthusiasm for the idea—and this for two reasons. First, there is a purely halakhic consideration that applies equally to the men’s section. My opinion is that that the *sefer Torah* should be brought from

the aron to the *bima* via the shortest possible route. . . . Second, this is a deviation from the normal custom of the synagogue.

But this having been said, since there are many women who would be more strongly involved in *avodat Hashem* by virtue of such an innovation, I cannot find it proper to forbid it.

As a practical matter, the *hazzan* should certainly not enter the women's section. The *sefer Torah* should be carried by a woman in that section, and she should return it to the *hazzan*.

R. Yehuda Herzl Henkin, while not wanting to comment fully on the issue, makes a number of relevant points:

- Women today are “*nashim hashbuvot*” (cf. *hasava* at the Passover *seder*). It is not innately disrespectful (*bizayon*) to bring the Torah to them as well, where the custom is to bring it to the men.

- In most modern synagogues, the women's section is constructed in a way that makes it halakhically part of the main synagogue for most purposes; there would be no problem of removal of the Torah from the synagogue.

- If a woman carries the *sefer Torah*, the suggestion that the man carrying the Torah hand it to his wife is a poor one because this is forbidden when she is *nidda*. It would be better for specifically an unmarried girl or woman to be selected to be handed and hand back the Torah. (This can be viewed as a *segula* for getting married.) She can then in turn hand the Torah to a married woman.

It would be a mistake to think that the only reason for feeling that R. Shapiro's argument is unconvincing is an unsympathetic approach to the feelings of contemporary Torah-educated women.

In thinking about the whole issue, I am reminded of an incident that took place a decade or so ago. I was in Israel at a teacher's seminar, and at my breakfast table was a young woman straight from seminary beginning her teaching career. When she mentioned that she lived at home with her parents and sister, I took up my ongoing informal sociological poll which I reconstruct here. I asked her if the three women at the table said *birkat ha-mazon* with the *zimmun*. “No,” she replied, “we're not feminists.”

“Well,” I commented, “it was *Shulhan Arukh* (*Orah Hayyim* 199:7) and not JOFA (the Jewish Orthodox Feminist Alliance) that suggested that three women had the option of forming a *zimmun*.” “Yes,” she responded, “that might be true if not for the fact that my father is present at the table.”

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My sociology survey completed, I turned to another subject. But a few days later, I saw her in the lobby looking through a bag-full of newly bought books. Looking through the books, I noticed *Halikhot Betah*, one of the more popular halakhic guidebooks for women. Turning the pages, I reached the section on *zimmun*, and pointed out the author's comment that "My uncle, R. Shelomo Zalman Auerbach, maintains that three women who eat with one or two men may add the *zimmun*, and the men may answer."

"I am not sure what that means," she said. "But as it happens, tonight my cousin is taking me to R. Shelomo Zalman for a *berakha*, and I will ask him."

The next day, I asked her how it went. "It was the most embarrassing moment of my life," she said. "As I was leaving, I asked him if I could ask a question. He, of course, agreed. I asked, 'When my sister and I eat with my parents, may we women add the *zimmun*?' He replied, 'Yes, and your father should answer.'"

"What was embarrassing about that," I asked. "Well," she said, "I was so flustered by his response that I snapped at him, 'That's impossible!'"

"And what was his reaction," I asked.

She replied: "He just smiled and said, 'So say *birkat ha-mazon* without the *zimmun*.'"

I do not mean to suggest by this anecdote that R. Shelomo Zalman *zt"l* would have necessarily ruled one way or another on the issue of women's *aliyyot*. But it is instructive to keep in mind that sometimes we think that something must be forbidden simply because we find it unfamiliar. And it is also important to remember that the fact that something is technically permitted does not mean that all halakhically committed people will be comfortable with it.

In the end, at our bar mitzva, the *kohen* refused to leave; the *gabbai* announced "even though there is a *kohen* present, a *yisrael* should come forward in place of the *kohen*" and called the grandfather. The *kohen* then stormed out in anger.

Surely there was a better way for the bar mitzva to proceed.

NOTES

1. R. Mendel Shapiro, "Qeri'at ha-Torah by Women: A Halakhic Analysis," *The Edah Journal* 1:2 (Sivan 5761). The article can be found online at www.edah.org (accessed December 2005).
2. R. Ovadya Yosef, *Yabi'a Omer, Orah Hayyim* 6:23 (3).
3. R. Moshe Feinstein, *Iggerot Moshe, Orah Hayyim* 2:34.
4. R. Moshe Erenreich and R. Yosef Carmel, *Shu"t be-Mar'eh ha-Bazak* (Jerusalem: The World Zionist Organization, 1991), 4:15.
5. *Ibid.*, 5:113.
6. I am grateful to R. Aryeh Frimer for bringing the comments of Rabbis Sherlo and Henkin to my attention. R. Sherlo's comments appeared on the web site www.moreshet.co.il (accessed December 2005); R. Henkin's comments were in a personal communication.
7. R. David Auerbach, *Sefer Halikhot Betah* (Jerusalem: Makhon Sha'arei Ziv, 1983), 12:7 n. 14.