

## Concluding Responses to *Qeri'at ha-Torah for Women*

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## R. Shapiro responds to Rav Henkin:

I appreciate Rav Henkin's careful and fair reading of my article and I am encouraged that he agrees with "much" of what I wrote. His assessment that women's *aliyyot* are currently "outside the consensus" is obviously true, and for that reason, as I write, it would be wrong to create dissension by attempting to introduce the practice in existing synagogues. Like Rav Henkin, I see women's *aliyyot* as taking place in exceptional circumstances, some of which he himself describes.

So where, as Rav Henkin puts it, does all this leave us? We both agree, as Rav Henkin writes, that "if done without fanfare, an occasional *aliyyah* by a woman in a private minyan of men held on *Shabbat* in a home and not in a synagogue sanctuary or hall can perhaps be countenanced or at least overlooked." Also, Rav Henkin's willingness, based on *Tosefta Megillah* 3:5, to consider the possibility of women receiving *aliyyot* on *Simhat Torah*, where the number of *aliyyot* goes beyond the normative seven, is a convincing suggestion that did not occur to me, and it would appear that the argument in its support can be enlisted to permit women generally to receive the *aliyyah* of *maftir*.

Rav Henkin and I do seem to differ on whether women's *aliyyot* may be accepted as standard practice in congregations (conducting services in or outside synagogue sanctuaries) that do not regard them as violating *kevod ha-tsibbur*. Rav Henkin is flatly opposed to such an extension, declaring that "a congregation that institutes them is

not Orthodox in name and will not long remain Orthodox in practice." I believe that women's *aliyyot* should be acceptable even in these circumstances, if their introduction does not cause *mahloqet* within the congregation. Practically, that means that newly organized congregations of like-minded persons that institute women's *aliyyot* should be acknowledged by the Orthodox community as being Orthodox synagogues.

If my halakhic analysis is tenable – and Rav Henkin seems to agree that it is – by what moral justification may women be denied a halakhic privilege if they exercise it in self selected groups without directly impinging on others' sensibilities? Why should the fact that women's *aliyyot* are outside of the Orthodox consensus be a complete explanation of why they may not be instituted? Part of my motivation in writing my article was to widen the Orthodox circle, to give practical application to what I termed the halakhic "inclusive bias." I believe strongly that the consensus-bearing majority should have the strength and self-confidence to embrace those halakhically committed persons who, in certain matters and for a variety of reasons, adopt halakhically defensible practices that place them outside the consensus.

In this regard, Rav Henkin's response, which he entitled "*Qeri'at ha-Torah* by Women: Where We stand Today," seems to hide as much as it reveals. Does Rav Henkin think we might stand elsewhere "tomorrow?" If the current consensus should shift, would women's *aliyyot* then be an acceptable Orthodox practice? And what about those who act to change the consensus? Are they ulti-

mately to be judged by their success or failure – spiritual heroes or rogues depending on their persuasiveness and sense of timing and social climate? If this is the case, then halakhic change is by its nature a mean-spirited, opportunistic affair. Innovators may be denounced and ostracized, but developments are carefully monitored to sense which way the wind blows and where the new consensus settles.

Rav Henkin's prediction that a congregation that institutes women's *aliyyot* will deviate further from Orthodox practice is similarly opaque. Is Rav Henkin's prediction based on the "slippery slope" metaphor, or does he believe that such a congregation should be ushered out of the Orthodox fold? If the "slippery slope" is in play, what is the disastrous result to which women's *aliyyot* lead, and how will women's *aliyyot* set into motion that inexorable sequence of events that will culminate in that result? These are the issues that my paper ultimately raises, and I wish Rav Henkin had more to say about them.

My halakhic argument is simple: the only objection to women's *aliyyot* is *kevod ha-tsibbur*, and *kevod ha-tsibbur* is waivable or is by definition a relative concept. None of Rav Henkin's reservations about my discussion disturb this argument, a fact attested to by Rav Henkin's own willingness to consider women's *aliyyot* in limited circumstances. For the most part, Rav Henkin's comments reflect the type of disagreements that two reasonable people may have when considering a *sugya*. All of them are well taken, even those with which I do not agree. I will briefly discuss some of them, if only "*lehagdil torah u-leha'adirah*."

In my paper, I set forth six alternative interpretations of the *baraita/Tosefta*. Rav Henkin's comments are a valuable contribution to our understanding of this source, particularly his observations that that the *Tosefta* appears to support *Sefer ha-Batim's* opinion that women's *aliyyot* may be permitted in services held at home, and that paragraph 5 of the *Tosefta* passage suggests that women might receive optional *aliyyot* that come in addition to the

required seven. In reviewing *Or Zaru'a* and *Rid*, I see that Rav Henkin's criticism that I read them through the eyes of R. Saul Lieberman is probably correct. However, unlike Rav Henkin, I find R. Lieberman's interpretation of the *baraita/Tosefta* as conflicting sources to be quite convincing. The formulation of the *baraita* presents an internal contradiction: an inclusory introduction ("All may be included...") followed by a blanket prohibition. Why not simply write that women may not receive *aliyyot* because of *kevod ha-tsibbur*? This would indicate, as R. Lieberman suggests, that the consideration of *kevod ha-tsibbur* was added to the *baraita* by the *Bavli*. R. Lieberman's suggestion is corroborated by R. Yehudah Leib Graubart's statement in *Havalim ba-Ne'imim* that many *rishonim* see *kevod ha-tsibbur* as a concept unique to the *Bavli*.

Rav Henkin believes that I am wrong to suggest that Rambam might generally regard *kevod ha-tsibbur* as applying only to services held in a synagogue. I do not believe that Rav Henkin's quick dismissal of my suggestion is warranted. As I point out, Rambam presents the rules of *qeri'at ha-Torah* in chapter 12 of *Hilkhot Tefillah*, only after first summarizing the rules of prayer generally in the first ten chapters, and laying down the duty of the community to maintain synagogues in chapter 12. This arrangement of the rules of prayer and *qeri'at ha-Torah* suggests that Rambam viewed the rules of *qeri'at ha-Torah* as revolving around the religious life of the synagogue. I also cited *Hilkhot Tefillah* 8:1 to show that Rambam, in the context of the prayer service, identified *tsibbur* with the synagogue. As for Rav Henkin's argument from the case of reading from a *humash*, as Rav Henkin himself notes, Rambam there was simply quoting from *Gittin* 60a, and arguably did not intend to suggest that *kevod ha-tsibbur* is a synagogue-based concern only in that one particular case.

Rav Henkin takes me to task for not giving sufficient prominence to Ritva's interpretation of *kevod ha-tsibbur* as protecting men from the shame of ignorance. He suggests that I prefer the view of *Bah* and *Levush*, who see

women's *aliyyot* as intrinsically degrading and denigrating to the Torah or the congregation, in order to set up a straw man that will be easy to knock down. This is not the case. I believe that both interpretations are out of tune with Modern Orthodox sensibilities (one admittedly more grating than the other), and that *kevod ha-tsibbur* can be waived regardless of which interpretation we adopt. I prefer *Bah's* interpretation of *kevod ha-tsibbur* because I believe it makes more sense as *peshat* in the context of a synagogue service where there is a *ba'al qeri'ah* who reads for all *olim*. Ritva's theory of *kevod ha-tsibbur* as expressing solicitude for the illiterate male assumes circumstances where women perform *mitsvot* on behalf of illiterate men who have personal obligations with respect to those *mitsvot*, such as where women read *Megillah* or recite grace or *hallel* behalf of illiterate spouses. Rav Henkin actually appears to agree with me on this point. He finds it "odd" to read in my paper that "it is difficult to accept [Ritva's explanation] as the plain meaning of the term *kevod ha-tsibbur* [because] anyone who attends synagogue understands full well that *aliyyot* are not awarded based on a person's ability to read the Torah. This has been true for centuries, since the introduction of the *ba'al qeri'ah*..." According to Rav Henkin, my critique of the application of Ritva to contemporary *qeri'at ha-Torah* is out of place because Ritva meant only to explain the Talmudic concept of *kevod ha-tsibbur*, which, as Rav Henkin writes, "long preceded the introduction of the *ba'al qeri'ah*..." But if this is so, I cannot understand Rav Henkin's underlying criticism. On the one hand, he asserts that there is "no justification" for having recourse to theories of *kevod ha-tsibbur* other than those of Ritva and R. Avraham *Min ha-Har*, and on the other, he maintains that these theories are not relevant to contemporary services where there is a *ba'al qeri'ah*.

Rav Henkin is obviously interested in my argument that *Shulhan Arukh* (*Orah Hayyim* 282:2) be read as permitting women's *aliyyot* where the Torah is read by a *ba'al qeri'ah*. He finds the underlying reasoning "highly plausible, but not in itself proven." The proof that I adduce from *Perishah* is a "good point, but not enough" to clinch

my interpretation of the *Shulhan Arukh*. Also, Rav Henkin believes that attributing to *Shulhan Arukh* a "conscious intention" that "women may be included, they just may not read," is "anachronistic ... lacks credibility" and reflects a "distinction ... suggested only recently, when women's Torah readings became an issue."

My interpretation of *Shulhan Arukh* as permitting women to receive *aliyyot* but not to read is a *biddush* that is not essential to my basic halakhic argument. I am pleased that it finds some favor in Rav Henkin's eyes, and I wish it found more. I would only point out that my interpretation is based on a literal reading of *Shulhan Arukh*, i.e., I read *Shulhan Arukh* as meaning what it says: "All may be included ... but a women may not read..." This is usually not taken to be an exaggerated position, and *poseqim* are not expected to punctuate their writings with statements that they "really" mean what they write. Indeed, if we accept Rav Henkin's argument that the only tenable definition of *kevod ha-tsibbur* is that of the Ritva (concern for the illiterate male), I don't see how any other interpretation of *Shulhan Arukh* is possible: what violation of *kevod ha-tsibbur* can there be if a *ba'al qeri'ah* reads for all?

I agree with Rav Henkin that *Shulhan Arukh* and its commentators did not contemplate that women would actually receive *aliyyot*, but I do believe that they accepted it as a legitimate, hypothetical possibility, much as we raise all sorts of unlikely but nonetheless legitimate halakhic possibilities in our own studies. *Perishah* was the first to highlight what is explicit in *Shulhan Arukh* but, as I point out in my paper, other authorities, including Rema, Ran, and R. Akiva Eiger, discuss the issue in ways that indicate that they too found women's *aliyyot* a halakhic possibility.

I have difficulty with Rav Henkin's description of my argument as "anachronistic," an attempt to read modern-day sensitivities into classical texts. Perhaps what is anachronistic is the tendency to read the sources in light of modern-day Orthodox truisms. My interpretation of *Shulhan Arukh* would certainly not be the first time that

contemporary students found guidance on novel issues in the classical sources. It is not unusual for sources to assume fresh significance and meaning as new demands are made on them. In previous generations, no one asked whether women might receive *aliyyot* if they do not read. We do ask the question and should be grateful that *Shulhan Arukh* seems to provide an answer.

Rav Henkin and I agree that there is no *minhag* prohibiting women's *aliyyot*. However, Rav Henkin points out that such a "totalitarian" *minhag* could theoretically exist, and that I do not give sufficient credence to *minhagim she-nohagu kol yisrael*. I would agree that my passing reference to such *minhagim* (I refer to them as *ha-minhag ha-pashut bekhoh maqom*) is insufficient and that I should have recognized them as a special class of *minhagim*. Nonetheless, I don't believe that this observation detracts from the view of *minhagim* generally as a halakhic concept intended to allow for nuance and dimension in religious life, and provide relief for demands of uniformity (*nahara nahara u-pashteï*).

### Rav Henkin responds to R. Shapiro:

I, in turn, am grateful to R. Shapiro for highlighting the differences between us. He writes, "it would appear that the argument in its support can be enlisted to permit women generally to receive the *aliyyah* of *maftir*." No. *Maftir* retains two key disabilities: First, although *maftir* repeats part of what was already read, it is not a voluntary *hosafah*. It has long since become an obligatory *aliyyah*, in spite of being in addition to the original seven. As such, it remains within the purview of *kevod ha-tsibbur*. Second, *maftir* involves going up to the reading desk in the men's section, something I was careful to avoid with regard to *Simhat Torah*. Regular entrance of women into the *ezrat gevarim* is a line a synagogue cannot cross and remain Orthodox. I see no point in arguing about this, either.

For the record, my comment "highly plausible, [but] not in itself proven" refers to my interpretation of the *baraita*, not to R. Shapiro's interpretation of the *Shulhan Arukh*.