

May a *Kohen* be Overlooked for the First *Aliyah*?

It has been the occasional practice in one synagogue to honor congregants with aliyot to the Torah without regard to the order of kohen, levi or yisrael. At such times, kohanim and levi'im are asked to leave the sanctuary to allow others to receive the aliyot and earn the synagogue a sizable donation for the honor. Can this practice be justified on both halakhic and economic grounds and, if so, what ought the proper procedure be?

The reason for calling a *kohen* to the Torah first and a *levi* second is for the sake of peace, lest quarrels arise among the worshippers regarding who is more worthy to be called before the others (*Gittin* 59b; Maimonides, *Commentary to the Mishnah*, *Gittin* 5:8).

Yet there are congregations which, especially during the high holidays, sell or otherwise award the honor of being called to the Torah first, in disregard of the established order. In some cases the highest bidder may be a *kohen* or the purchaser may in turn award "his" honor to a *kohen* present but this is usually not the case. Congregations use this vehicle in order to raise funds for their operation. Actually, this custom is not unknown in Jewish history. Rabbi Isaac ben Moses of Vienna mentions the common practice of auctioning *aliyot* to the highest bidder in thirteenth century Germany (*Or Zarua*, vol. 1, p. 41). Rabbi Joseph Colon (*Responsa MaHaRIQ*, no. 9, First Part) mentions two similar fifteenth century customs. The Jews of France and Germany would sell the honors to the Torah on Simhat Torah in order to raise money for the synagogue. And Jews once raised money for lighting the synagogue by selling the honor of being called first to the Torah on Shabbat *Bereshit*. Interestingly, Rabbi Colon adds that should an Israelite purchase

the first *aliyah*, any *kohen* present “waives his honor” and leaves the synagogue. If he fails to leave the synagogue, the authorities—even non-Jewish authorities—may be summoned to physically remove him.

While the case cited by Rabbi Colon seems like an accepted precedent (see *Ba'er Hetev* on Shulhan Arukh, *Orah Hayyim* 135:5, sub-paragraph 7) to justify the fundraising of some synagogues today, there is an inherent problem in his opinion. As Rabbi Shabbetai HaKohen points out (*Orah Hayyim* 135:5, sub-paragraph 7) if the *kohen* could waive his honor, why should he be forced or even asked to leave the synagogue? Thus, there are other authorities (Rabbi David Halevy, *Turei Zahav* on *Orah Hayyim* 135:3, sub-paragraph 3) based on the Geonic tradition who rule that an Israelite—even if learned and noble—may not be called in place of a *kohen* even if a *kohen* allows it. (Rav Huna was the notable exception. See *Gittin* 59b). They rule that a *kohen* cannot waive his honor.

However, this can be seen to apply only when the *kohanim* (and *levi'im*) are physically present at the time the first portion of the Torah is being read. When they absent themselves from the synagogue before the beginning of the Torah reading, then they are not in violation of the rabbinic protocol which mandates that they be called up first, and they are not being asked to waive their honor. They have so altered the conditions which would make the rule apply to them so as to be exempt from it.

Similarly, *kohanim* who feel that they themselves do not want to bless the people by performing *Birkat Kohanim* are not guilty of violating a positive scriptural commandment (Numbers 6:23; *Sotah* 39b; Maimonides, *Laws of Prayer* 15:12) if they absent themselves from the synagogue before the reader calls on them to do so (see Jerusalem Talmud, *Nazir* 6:1, 56a; *Sotah* 39b, Tosafot, s.v. *kol*; *Menahot* 44a, Tosafot, s.v. *kol*; Rabbi Jacob ben Asher, Tur, *Orah Hayyim* 128 and Rabbi Joseph Karo *ad locum* in the name of Rabbenu Asher and Rabbi Nissim Gerondi). Therefore, if a *kohen* can avoid an obligation which is scripturally mandated, then, it seems all the more so, he can do likewise to avoid a privilege granted him by the rabbis. A *kohen*, by his absence, may avoid the privilege but may not waive his honor.

There are, however, several later authorities who rule that a *kohen* can indeed waive his honor under certain circumstances. Rabbi Moses Sofer (*Responsa Hatam Sofer*, *Orah Hayyim*, no. 24), for example, distinguishes between a *kohen* waiving his honor for another individual, which is forbidden, and waiving his honor for the benefit of the community as a whole, which is permitted. And Rabbi David Tzvi Hoffman (*Melamed L'ho-il*, Part I, Nos. 10 and 12) concludes that a *kohen* may waive his honor *occasionally* and recommends a formula to be recited when a replacement is called to the Torah (see also *Kaf haHayyim*, *Orah Hayyim* 135).

Nevertheless, under normal circumstances, a synagogue ought to follow the

standard practice legislated by the Rabbis and call a *kohen* to the Torah first, followed by a *levi*, and then a *yisrael*. The rationale for this practice, namely, the preservation of peace among congregants who would otherwise quarrel over honors, is as relevant today as it was in the time of the Talmud.

However, for the raising of money for the synagogue (which Rabbi Colon calls a task done for the sake of heaven), a commonplace practice for which we should try to find support (see Jerusalem Talmud, *Ma'aser Sheni* 5:3, 56b and parallels), or for occasions when there are many non-*kohanim* who are obliged to receive an *aliyah*, there are ample precedents to allow the *kohen* to waive his honor.

While the procedure advocated by Rabbi Colon should be followed generally, namely, *kohanim* and/or *levi'im* who would be overlooked ought to be asked privately to absent themselves prior to the start of the Torah service, public announcements to this effect ought to be avoided since it may seem to make a mockery of the law that mandates that a *kohen* be called first. Making a mockery of rabbinic law ought to be scrupulously avoided (*Eruvin* 21b). It is preferable to rely on those authorities who permit a *kohen* to waive his honor and remain rather than make a public request for the *kohanim* to leave.

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