

May a non-Kohen Receive the First Aliya?
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Note: The translations found herein are my own. Within translations, bold words denote direct translation of words in the text, while regular italic type denotes interpolations.

QUESTION: Our synagogue has very few Kohanim (members of the Jewish priestly tribe) and *Levi'im* (members of the tribe that served as workers in the Temple). This often means that it is difficult to give an *aliyah* to everyone who would like to receive an *aliyah*. Furthermore, it is generally the case that the one Kohen gets the first *aliyah* (honor to the Torah) at almost all Monday and Thursday services, while the *Levi* aliyah is split between two to three people, and the Yisraelim are only able to receive an *aliyah* one time every month or so. May the Talmudic institution of a Kohen and Levi's aliyah be foregone or otherwise avoided in order to allow for a more equitable distribution of *Aliyot*?

SUMMARY OF CONCLUSIONS: Whether and how the Kohen's aliyah may be skipped is a highly controversial matter. For this reason alone, these procedures should be used only in the most pressing of circumstances. Additionally, the Cohen's aliyah is a rabbinic institution which was designed to serve a number of purposes including preserving communal peace and sanctifying Kohanim in accordance with Leviticus 21:8. Even if skipping the Kohen's aliyah were clearly the correct course of action on an *ad hoc* basis, this should certainly not be done on a regular basis which would serve to undermine the law regarding *aliyot* in particular, as well as rabbinic institutions in general.

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I. Introduction

The institution of a Kohen and Levi's aliyah is prescribed in the Mishnah (ca. 200 CE) for purposes of maintaining peace in the synagogue:

מתני'. אלו דברים אמרו מפני דרכי שלום: כהן קורא ראשון ואחריו לוי ואחריו ישראל, מפני דרכי שלום.

Mishnah: These things they said because of the ways of peace: A Kohen reads from the Torah¹ first, and after him a Levi, and after him an Israelite, because of the ways of peace.

Mishnah Gittin 5:8 (found in the Babylonian Talmud at Gittin 59a)

Though the Mishnah does not explain the notion of "ways of peace," it is generally understood that this institution creates a clear rule as to who will get the first *aliyah*, so that there will not be arguments over this point. As the great 11th Century commentator, Rashi, puts it: כי היכי דלא ליתו לאינצווי תקינו להו רבנן האי סידרא דכיון דתקנתא דרבנן היא תו לא מציתן לשנויי ולמימר אנא קרינא. ***so that they not come to quarrel, the Rabbis instituted this order, because since it is a rabbinic institution, we will no longer see fit to change the order and say "I will read from the Torah first."*** Additionally, the Talmud suggests that this institution fulfills the biblical command to sanctify the Kohanim.² In fact, it seems that the Babylonian Talmud's final

¹ Note that this institution was created at a time where each person with an *aliyah* also read from the Torah.

² Babylonian Talmud Gittin 59b. The complete text of the Talmud on this subject is found in an appendix below.

רב אשי אמר, מהכא: בני עמרם אהרן ומשה ויבדל אהרן להקדישו קדש קדשים. ר' חייא בר אבא אמר, מהכא: וקדשתו - לכל דבר שבקדושה. תנא דבי רבי ישמעאל: וקדשתו - לכל דבר שבקדושה, לפתוח ראשון, ולברך ראשון, וליטול מנה יפה ראשון.

Rav Ashi said: The rule that a Kohen gets the first aliyah comes from here: "The sons of Amram were Aaron and Moses, and God distinguished Aaron to sanctify him as most holy he, and his sons forever to bring incense before the LORD, to serve him and to bless (people) by his name forever." (1 Chronicles 23:13)." ***Rabbi Chiyah bar Aba said: The rule that a Kohen gets the first aliyah comes from here: "And you shall sanctify him" (Aaron)(Lev. 21:8) - means that Aaron, and in turn his progeny should be sanctified - for all matters of holiness. It was taught in the academy of Yishma'el: "And you shall sanctify him" (Aaron)(Lev. 21:8) - means that Aaron, and in turn his progeny should be sanctified - for all matters of holiness: to begin first, to bless first, and to take a nice vessel first.***

Note that there is significant debate as to whether the institution of the Kohen and Levi's aliyah is a biblical or rabbinic institution. The Jerusalem Talmud presents differing opinions in this regard (PT on Gittin 5:9). Aruch Hashulchan (Rabbi Yechiel Michael Epstein, 19th century Lithuania) Orach Chayim 135:8 points out that the Babylonian Talmud accepts the view that the institution is biblical. Nonetheless, the identification of this rule as biblical or rabbinic will not be outcome determinative. As we will see below (in "*Historical Precedents For a Kohen Waiving His Honor*"), the honor of a king is viewed as absolute because of its biblical prescription, but on the other hand parental honor, certainly a biblical requirement, is deemed waivable.

understanding of the Mishnah, which is presented by Abaye (278-338), is that the Kohen's *aliyah* is a (presumably biblical) institution for honoring the Kohanim, but that the Mishnah added to this rule that a Kohen may not, at least in certain situations, pass on his *aliyah* to his teacher "because of the ways of peace:"

א"ל אביי לרב יוסף: מפני דרכי שלום? דאורייתא היא! א"ל: דאורייתא, ומפני דרכי שלום. כל התורה כולה נמי מפני דרכי שלום היא, דכתיב: +משלי ג+ דרכיה דרכי נועם וכל נתיבותיה שלום! אלא אמר אביי: לכדמר; דתניא: שנים - ממתניין זה לזה בקערה, שלשה - אין ממתניין; הבוצע הוא פושט ידו תחלה, ואם בא לחלוק כבוד לרבו או למי שגדול ממנו - הרשות בידו; ואמר מר עלה: לא שנו אלא בסעודה, אבל בבהכ"נ לא, דאתו לאינצויי.

Abaye said to Rav Yoseph: The Mishnah says that this rule is "because of the ways of peace." But is this so? Based on the above it appears that it is derived from the Torah! He (Rav Yoseph) said to him (Abaye), the rule is derived from the Torah, and is established by the Torah because of the ways of peace. I.e. when the Mishnah describes this rule as "because of the ways of peace," it does not mean to say that the rule is not derived from the Torah, but instead that the reason the Torah gives that rule is because of the ways of peace. All of the Torah is also because of the ways of peace, as is written: "Its ways are ways of pleasantness, and its paths are paths of peace." (Proverbs 3:17) I.e. the Mishnah would not have to tell us that this rule in particular is established by the Torah because of the ways of peace, because all of the Torah's rules are established for purposes of peace. The force of this objection seems to be that the Mishnah must be advising of some rule that is rabbinic in origin. Rather, Abaye says: The Mishnah must be understood in accordance with the Master (Per Rashi this refers to Abaye's teacher Rabbah bar Nachmani) for It was taught: "Two who are eating a meal together wait for each other regarding taking food from the plate, three who are eating a meal together do not wait. The one who breaks bread, he first puts out his hand toward the food plate, but if he wished to give honor to his teacher or someone who is greater in knowledge than he by allowing that person to take food first, the permission is in his hands." And Master said upon this: "They only taught that a person could give honor to his teacher with regards to a meal, but at the synagogue - no a person may no give his honor to his teacher because they will come to quarrel." I.e. there are general rules as to who is given a certain honor. In general, one may waive their honor in favor of a teacher. According to Abaye, the Mishnah rules that the Kohen may not defer his (biblically instituted) *aliyah* to his teacher, because this may lead to quarrels.

II. May a Kohen waive his honor in order to Honor a Teacher?

As presented in the Mishnah, the rule of a *Kohen* and *Levi's* *aliyah* is hard and fast, admitting of no exceptions. There is, however, an important discussion in the Talmud that has some implications in this matter:

אמר רב מתנה: הא דאמרת בבהכ"נ לא, לא אמרן אלא בשבתות וימים טובים דשכיחי רבים, אבל בשני ובחמישי לא. איני? והא רב הונא קרי בכהני בשבתות ויו"ט! שאני רב הונא, דאפילו רבי אמי ורבי אסי כהני חשיבי דא"י מיכף הוו כייפי ליה.

Rav Matna said: That which you said "at the synagogue - no," they only said regarding Shabbats and Holidays, where many people are found in the synagogue, but on Monday and Thursday - no there is no restriction regarding giving honor to his

teacher by allowing the teacher to read from the Torah first. Is this so? For Rav Hunah would read in place of the Kohen on Shabbat and Yom Tov even though he was not a Kohen! Rav Hunah is different, for even Rabbi Ami and Rabbi Asi who were the distinguished Kohanim in the land of Israel would defer to him.
Babylonian Talmud Gittin 59b

In this discussion, there is indication that a Kohen, at least on Monday and Thursday, may accord honor to his teacher by allowing that teacher to read in his place. There is good reason for the Talmud to consider whether permission for such a deferral exists. In Talmudic etiquette it was generally considered improper for a less knowledgeable person to be accorded a ritual honor before a more knowledgeable person.³ Therefore, our Talmudic discussion in Gittin should be viewed in this context - a discussion as to what extent the rule regarding *aliyot* should override the general notion of according honor to the more knowledgeable person. Although this text indicates some leeway with regards to the Kohen's *aliyah*, it is difficult to extrapolate from this text. One may argue that the Kohen's deferring to the teacher is permissible only because of the interest in honoring those knowledgeable in Torah. Further, the fact that the Rabbi is readily identifiable may have obviated the concern that calling him for the first *aliyah* would offend others (by creating competition for this first *aliyah*).⁴

It is worth noting that the practice of a Kohen passing on his honor to a teacher was fairly roundly rejected by most post-Talmudic rabbis. Maimonides (12th Century Spain & Egypt), for instance, writes in his law code, the Mishneh Torah, as follows: בכל קריאה וקריאה מאלו כהן קורא ראשון ואחריו לוי ואחריו ישראל, ומנהג פשוט הוא היום שאפילו כהן עם הארץ קודם לקרות לפני חכם גדול *in each and every reading of these Torah readings, a Kohen reads from the Torah first,*

³ An sample discussion of the interplay of the honor of a Kohen versus the honor of a scholar is found in the Babylonian Talmud at Megillah 27b - 28a:

שאלו תלמידי רבי פרידא: במה הארכת ימים? אמר להם: מימי . . . (כח.) לא ברכתני לפני כהן, . . . למימרא דמעלותא היא? והא אמר רבי יוחנן: כל תלמיד חכם שמברך לפניו, אפילו כהן גדול עם הארץ - אותו תלמיד חכם חייב מיתה . . . כי קאמר איהו - בשוין.

Rabbi Freida's students asked him: How have you lengthened your days i.e. how have you merited a long life? He said to them: In all my days, . . . I never made a blessing before a Kohen i.e. I always allowed a Kohen the honor of saying a blessing. The Talmud asks: Is this to say that this practice of always allowing a Kohen to say a blessing is good practice? For Rabbi Yochanan said: Any scholar before whom someone blesses, even if it is an ignorant High Priest, that scholar is liable to death!(this is a hyperbolic statement to demonstrate that the behavior is highly detestable) . . . The Talmud explains Rabbi Freida's statement: When he said this, he meant that he never said a blessing in place of a Kohen when they were of equal status in scholarship.

⁴ Note that the Chatam Sofer (Germany 1762-1839) (Orach Chayim Volume 1 number 25) reads this situation differently and argues that it is only when a Kohen wants to designate his aliyah to a specific person that this may not be done on Shabbat, whereas if the aliyah is simply waived in favor of being given out by the *gabai* (ritual coordinator), then this may freely be done, even on Shabbat. However, this understanding turns the Talmud on its head. To the Talmud, the teacher's status seems to be the impetus behind allowing the Kohen to waive his honor.

*and after him a Levi, and after him an Israelite, and it is a disseminated practice⁵ today that even a ignorant Kohen is first to read before a great scholar Israelite.*⁶ In the Shulchan Aruch, Rabbi Yoseph Karo (1488-1575 Spain & Israel) quotes Maimonides' words in this regard almost verbatim.⁷ Neither Maimonides nor Rabbi Karo (nor Rabbi Moses Isserless in his gloss) suggests any distinction between Monday and Thursday and Shabbat. Although this may be because of their sociological reality (see footnote 9 below), it seems much more likely that they see this rule as becoming more universal and wanting to avoid the potential strife involved in debates in this regard. In his commentary on the Shulchan Aruch, Mishnah Berurrah⁸ explicitly says that there is no difference between Monday and Thursday and Shabbat.

III. Are there other situations in which the first aliyah can be given to someone other than a Kohen?

Although the Talmud only discusses a Kohen passing on his honor to his teacher, one may argue that there are other social situations in which the Talmud might permit a Kohen to pass on his honor to another, and that this may be more readily done on Monday and Thursday than on Shabbat and holidays.⁹ Below I discuss whether any such permission exists.

A. May a Kohen waive his rights to the first aliyah?

Post-talmudic literature has several discussions of whether a congregation may at times forgo the Kohen's aliyah. The most notable discussions in this regard relate to synagogue practices which involve raising money by auctioning off *aliyot*. It is worth noting at the outset, that raising funds for a synagogue is considered a particularly worthy goal. It is therefore worthy of our greatest efforts to find support for such customs where they already exist.¹⁰ There are a number of medieval rabbis who approved of foregoing the Kohen's *aliyah* in such a situation. For instance, Rabbi Joseph Colon¹¹ discusses a situation in which a synagogue had the practice of auctioning off the first *aliyah* on *Shabbat Bereshith* (the Torah reading on the *Shabbat* after *Simchat Torah*, which is from the beginning of Genesis). The practice had been that the

⁵ Note that the term מנהג פשוט "*disseminated practice*" is a technical term in Maimonides indicating a universal practice that has added legal status.

⁶ Mishneh Torah, Tefillah 12:1

⁷ Shulchan Aruch Orach Chayim 135:4

⁸ Mishnah Berurrah 135:9

⁹ Note that some commentators over the ages have discussed whether the Talmudic rationale for distinguishing Shabbat and holidays, namely, "*where many people are found in the synagogue*" is applicable in their society. In modern American society, it seems clear that Shabbat and Yom Tov are treated differently with regards to synagogue attendance. However, in situations where a synagogue still has a large number of attendees during weekdays, it would seem that this Talmudic exception would not apply.

¹⁰ Rabbi David Novak, "May a Kohen be Overlooked for the First Aliyah?" in *Tomeikh KaHalakhah Volume 2*, Union for Traditional Judaism: 1994, citing Jerusalem Talmud Ma'aser 5:3, 56b and Rabbi Joseph Colon (Responsa MaHaRIQ no. 9).

¹¹ 15th century France/Italy Responsa MaHaRIQ no. 9

Kohanim present, if they did not win the auction, would waive their rights to the first *aliyah*, and would leave the synagogue in order to allow the auction winner to take the *aliyah*. Rabbi Colon ruled that if a Kohen were to refuse to waive his rights and exit the synagogue, the Kohen may be forced to exit. Rabbi Colon based his ruling on a number of factors, including the importance of fundraising and the honor that he felt was done to the Torah through the auction practice. He also cites what seems to be a longstanding precedent that on certain optional fasts, if a Kohen was present who was not fasting, he would be asked to leave the synagogue in order to forgo the Kohen's *aliyah*. Another example of rabbinic approval for calling someone other than a Kohen is where the custom of the synagogue is to give people *aliyot* when they are observing a *Yahrzeit* (the anniversary of a loved one's death), and without waiving the Kohen's *aliyah* there would not be enough *aliyot* for the number of people with a *Yahrzeit*.¹² It should be noted that on its face, the giving of an *aliyah* on a *Yahrzeit* should not override the Mishna's prescription of the order of *aliyot*, as the *Yahrzeit aliyah* has no Talmudic basis, and is but a custom. Nonetheless, the emotional sensitivity that comes along with a *Yahrzeit* is reason for a more accepting approach in this regard. Although some rabbinic authorities approved of waiving the Kohen's *aliyah*, other rabbinic authorities rule that a Kohen must be called for the first *aliyah* even if he is willing to waive his right to do so.¹³

The matter of whether one is permitted to and/or capable of waiving one's honor is discussed in many contexts throughout talmudic and halachic literature. For instance, the Talmud rules that while a Jewish political leader (the *Nasi*) is capable of waiving his honors, " אין כבודו מחול - מלך שמחל על כבודו - *a king who waives his honor, his honor is not waived.*"¹⁴ The Talmud derives this by reading the words of Deuteronomy 17:15, "שׁוֹם תִּשִׂים עָלֶיךָ מֶלֶךְ" *you shall put a king upon yourself*" as giving the Jewish people an obligation to have awe for their king. The Talmud in Kiddushin reports that a father is capable of waiving his honor, but that there was a difference of opinion as to whether a Rabbi's waiver of honor is effective.¹⁵ There is also extensive post-talmudic literature on the question of whether a congregation may waive its honor in certain regards.¹⁶

Should we conclude from this that a Kohen's honor is in fact waivable, or is not? On the one hand, there is an argument to be had that the Talmud's reference to a particular verse with regards to a king's honor may demonstrate that absent a particular verse, one's honor is waivable. One may argue that since the rule concerning the Kohen's *aliyah* was created in order to diminish congregational bickering, it should be waived when it is deemed necessary for congregational peace. On the other hand, one may argue the Kohen's *aliyah* should not be waivable since it is a rabbinic institution designed to maintain communal peace by establishing a set order which is both predictable and not subject to debate, and that encouraging waiver of this honor "opens

¹² See e.g. Chatam Sofer (Orach Chayim Volume 1 number 25).

¹³ See e.g. Rabbi David Halevi (1586-1677 Poland), *Turei Zahav* Orach Chayim 135:3, Aruch Hashulchan Orach Chayim 135:10.

¹⁴ BT Ketubot 17a and parallels.

¹⁵ Kiddushin 32a. The generally accepted *halacha* is that a Rabbi's waiver of honor is effective, Mishneh Torah Laws of Torah 5:11, Shulchan Aruch Yoreh Deah 242:32.

¹⁶ For an excellent discussion of the opinions on this matter, see Mendel Shapiro's "Qeri'at ha-Torah by Women: A Halakhic Analysis," particularly pages 35-39 in *Edah Journal* 1:2, available online at http://www.edah.org/backend/JournalArticle/1_2_shapiro.pdf.

pandora's box." Furthermore, as we saw in the introduction above, the Talmud indicates that there is a certain communal obligation to sanctify the Kohen (see footnote 2 above). By analogy to the king, where the Talmud tells us the people have an obligation to honor the King and therefore the king may not waive his honor, an argument can be made that the obligation to sanctify the Kohen restricts the Kohen's prerogatives to waive his honor. We have already seen that Abaye understands the Mishnah to speak directly to the matter of a Kohen passing on his *aliyah* to a teacher. While Abaye's understanding would seem to counsel against allowing a Kohen to waive his honor, the fact that the Talmud notes at least a limited exception for passing on an honor to a teacher (Monday and Thursday), begs the question as to how far this exception may be stretched.

Though some rabbis ruled that a Kohen may waive his honor, others disagreed. Each position has its logical basis. Prior to coming to a conclusion on this matter, it is worth exploring some logistical matters concerning skipping over the Kohen's *aliyah*.

B. If the first aliyah is given to other than a Kohen, must the Kohen leave the room?

We saw above that Rabbi Joseph Colon presumed that if a Kohen were not given the first *aliyah*, the *kohanim* would vacate the synagogue while the first *aliyah* is called. In *Beth Yoseph*, however, Rabbi Yoseph Karo argues that there is no reason that a Kohen would be required to leave the synagogue in order for him to waive his *aliyah*.¹⁷ On the other hand, Rabbi Moses Isserless, who wrote the Ashkenazi glosses on the Shulchan Aruch suggests that it is best for a Kohen to leave when he is not called for the Kohen's *aliyah*.¹⁸ Furthermore, those who believe that a Kohen may not waive his rights to the first *aliyah* believe that the Kohen's willing departure from the synagogue is the only circumstance in which anyone other than a Kohen may be called.¹⁹

To this day, there is still a debate as to whether it is appropriate for a Kohen to leave the room if a non-Kohen will receive the first *aliyah*. While seeking advice on this matter from my teachers, they were of two minds in this regard. Some feel that the Kohen leaving the room is the best practice, because this way there is no question as to whether a Kohen is empowered to waive his honor to the *aliyah*. Rabbi David Novak in "May a *Kohen* be Overlooked for the First *Aliyah*?"²⁰ advises that the *Kohanim* should be asked to leave the room, but no announcement should be made, as this may appear to make a mockery of Jewish law. On the other hand, others of my respected teachers have indicated that they feel it is unnecessary for the *Kohanim* to depart.

The question of how giving the first *aliyah* to a non-Kohen should operate is a difficult one. Advocating on the side of the Kohen leaving the room is one major factor. If no Kohen is present at the beginning of the Torah reading, then it is relatively clear that failing to call a Kohen is not a violation of the Mishnah's rule. However, if one believes that a Kohen may waive his

¹⁷ Beth Yoseph on Tur Orach Chayim 135 s.v. וכתב עוד שם דבשלש תעניות שאחר פסח.

¹⁸ Gloss on Shulchan Aruch Orach Chayim 135:5. Note that the context in this discussion is where a Kohen is present but cannot take the *aliyah* because he is reciting *Shema*.

¹⁹ See e.g. Aruch Hashulchan Orach Chayim 135, end of subsection 135:10.

²⁰ See footnote 10 above.

right to the *aliyah* while still being in the room, there are several major factors advocating against requesting his departure. First, the departing Kohen will be deprived at least of some ability to participate in the Torah reading. Second, the Kohen may be offended by being requested to leave the room.²¹ Finally, the Kohanim leaving the room may give the unwanted appearance of either a mockery of, or an attempt to avoid the consequences of Jewish law. On balance, I do prefer that the Kohanim exit the room when they are not afforded their *aliyah*, but this is a close call and should not be done if it cannot be done tactfully and sensitively.

C. If a Kohen does not receive the first aliyah, may a Levite receive an aliyah?

In the Babylonian Talmud, Gittin 59b, Abaye rules that if a Kohen is not present, "נתפרדה חבילה" *the bundle is separated.* The implication seems to be that the Kohen and Levi's *aliyot* are a packaged deal. Rashi's commentary on this statement introduces two potential understandings of this ruling. Either it means that without a Kohen, a Levi may not receive an *aliyah* at all, or it means simply that without a Kohen, "all bets are off," and a Levi may receive an *aliyah*, but it need not be the first one. Maimonides rules that in the absence of a Kohen, a Levi may not be called.²² Rabbi Yoseph Karo makes the same ruling in Shulchan Aruch, over the objection of Rabbi Moses Isserless who rules that a Levi may be called for the first *aliyah*, but not for any subsequent *aliyah*. Frankly, I am ambivalent as to which understanding of Abaye's statement should be accepted. It seems clear to me that at the very least, not calling a Kohen for the first *aliyah* would eliminate the necessity of calling a Levi. If a Levi is called, he should probably be called for the first *aliyah*. However, calling up a Levi in this situation may well be a halachic error.

D. Concerns about offending Kohanim and Levi'im.

Foregoing the Kohen's *aliyah*, we have seen, has implications both for Kohanim and Levi'im. Therefore, it is fair to be concerned that Kohanim and Levi'im are not offended by our departure from standard practice. One particular concern may be the sincerity with which some would indicate their willingness to waive their honor or to leave the synagouge. Some Kohanim and Levi'im may feel pressured into acquiescing to such requests even though they do not feel it to be fair or proper. As these Kohanim and Levi'im are afforded certain rights by the Mishnah, we should not take asking them to forgo their honor as a trifling matter.²³ It also seems that this concern will remain in perpetuity, as new Kohanim and Levi'im may join a minyan, who will feel

²¹ A particularly poignant anecdote comes to mind about a friend who was regularly asked to leave the room during Torah readings while he was in mourning for his father, who passed away at quite an early age. Later in life, being asked to leave a synagouge so that someone else could have the Kohen's *aliyah* brought back traumatic memories.

²² Mishneh Torah Laws of Prayer 12:19.

²³ Though technically there may not be a requirement to ask Levites to waive their *aliyah*, it is unimaginable that we would not consider their feelings in regards to foregoing the standard lineup of *aliyot*.

all the more pressured to acquiesce to the status quo even though they may be hurt by it.²⁴

E. Conclusion

At this point, we have seen that whether a Kohen is permitted to waive the Kohen's *aliyah* is halachically controversial. We have also seen that there are a number of difficult questions which arise when we presume to forgo the Kohen's *aliyah*. In fact, the very notion of departing from a procedure prescribed in the Mishnah should inspire a great deal of concern. We do not want to, God forbid, ignore or devalue the system of *aliyot* instituted by our sages, particularly in the case of a rule that was created to give predictability to the first *aliyah*, and thus hopefully diminish the number of quarrels that may arise in this regard. On the other hand, there are some situations where significant countervailing interests may apply, such as the comfort brought to someone observing a Yahrzeit by being given an *aliyah* in honor of their loved one. Therefore, it seems to me wise to allow for forgoing the Kohen's *aliyah* in the most pressing of circumstances, but to seek to limit these circumstances as much as possible. To the extent a person "expecting an *aliyah*" can be encouraged to take an *aliyah* at a later date, or to accept another *aliyah*, this would be highly advisable. In this regard, it is important to remember that the Talmud identifies *gelilah*, the wrapping of the Torah, as the greatest of the honors available.²⁵ In many situations, we would do well to remember that the expectation of an *aliyah* is often based in later custom, whereas the first *aliyah* going to a Kohen, and the second *aliyah* going to a Levi is prescribed by the Mishnah (and seems to be considered a Torah law). Nonetheless, where it is absolutely necessary to have more than one *aliyah* given to a Yisraelite at a Monday or Thursday minyan, this may be done. Preferably, the Kohanim present should exit the synagogue before the first person is called for an *aliyah*.

²⁴ Fascinatingly, the Chatam Sofer (Orach Chayim Volume 1 number 25) argues that once a minyan has received the permission of Kohanim to forego their *aliyah* when there are a number of Yahrzeits, that this decision of the Kohanim becomes established practice of the synagogue, and newcoming Kohanim would not have any standing to object to this practice. This seems to me a shocking opinion, coming as it does from a Rabbi who is famed for his vociferous objection to any innovations in Jewish practice introduced by the early Reform movement.

²⁵ BT Megillah 32a.

ואמר רבי שפטיה אמר רבי יוחנן: עשרה שקראו בתורה - הגדול שבהם גולל ספר תורה. הגוללו נוטל שכר כולן, דאמר רבי יהושע בן לוי: עשרה שקראו בתורה - הגולל ספר תורה קיבל שכר כולן. שכר כולן סלקא דעתך? אלא אימא: קיבל שכר כנגד כולן.

And Rabbi Shafthiah said in the name of Rabbi Yochanan: If ten people (Rashii: i.e. a minyan) read in the Torah, the greatest among them wraps the Torah scroll. The one who wraps gets the reward of them all. For Rabbi Joshua ben Levi said: Ten people who read in the Torah, the one who wraps the Torah scroll receives the reward of them all. The Talmud expresses shock: Does it cross your mind that he gets the reward of them all? The Talmud responds: Rather, say that he receives a reward equal to them all.

I recall that one time when I did *Hagbah*, my Rabbi and teacher Rabbi David Weiss Halivni told me that as Kohen, I should have done *gelilah* as this was a considered a greater honor.

IV. Is it permissible to overlook the Kohen's aliyah on a regular basis in order to allow for a more equitable distribution of *aliyot*?

We have seen above that there are a plethora of concerns regarding foregoing the Kohen's *aliyah*. It seems obvious that these concerns would only be amplified were the Kohen's *aliyah* skipped on a regular basis, whether by waiver of honor or by the Kohen exiting the room. However, there are a number of observations that make regular avoidance of a Kohen's *aliyah* even more objectionable on Halachic and sociological grounds.

First, I would like to note that any sources I have found regarding a Kohen's waiving of the honor of the first *aliyah* have concerned such waiver on an *ad hoc* basis in particular circumstances, and not on a regular basis. In fact, in analyzing the precedent of Rabbi Joseph Colon regarding the auctioning of *aliyot*, the Chatam Sofer stresses that this was the case only for a particular and identified holiday.²⁶ Similarly, Chatam Sofer's allowing Kohanim to waive their honor in order to facilitate *Yahrzeit aliyot*, is in a case when this need comes up occasionally.²⁷ Rabbi David Novak²⁸ explicitly states that waiver of the Kohen's honor should be done only on limited occasions:

Rabbi David Tzvi Hoffman concludes that a Kohen may waive his honor occasionally . . . 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.
(emphasis in the original)

A number of responsa do emphasize that a Kohen should only occasionally waive his honor, so as not to remove the sanctified status of the Kohanim.²⁹ It seems to me that this concern is particularly applicable in modern circles, where the notion of favoring a Kohen in any way is under siege. For example, in the Conservative movement there are many congregations which object on principle to any favoring of Kohanim (or favoring any group over another in any way). For this reason, many congregations have entirely eliminated the Kohen and Levi's *aliyot*, and have abolished the Priestly blessing, thus depriving their Kohen congregants of the opportunity to fulfill the *mitzvah* (commandment) of conferring the Priestly blessing (to say nothing of depriving their congregation of this blessing itself). This is a path down which we dare not travel. Instead, we must sometimes accept certain inequities inherent in our system, out of respect for Torah, both written and oral, which establishes our religious order.

²⁶ Orach Chayim Part 1 number 24. Admittedly, it seems that this is most significant to the Chatam Sofer because the identified holiday was in his view "grandfathered in" because the Kohanim of that congregation had previously accepted the practice of auctioning off *aliyot* on that holiday.

²⁷ Orach Chayim Part 1 number 25.

²⁸ "May a *Kohen* be Overlooked for the First *Aliyah*," see footnote 10 above.

²⁹ See e.g. Melamed Le-ho'il (Rabbi David Tzvi Hoffman, b. 1843 Hungary, D. 1921 Berlin) part 1 numbers 10 & 12.

Removing the Kohen's aliyah from regular circulation sends another very dangerous sociological message, namely, that Jewish practice may be amended based on how its "fairness" is perceived by its constituents. The fact is that Jewish law does recognize different roles for different members of society. When we change or circumvent these rules, we do so at the peril of replacing our religion of law with a religion of our own sociological desires and reinforcing the notion that Judaism is whatever we want it to be. Certainly, in times of dire need the Torah does allow for amending its laws.³⁰ However, one should never be too quick to rely on this rule, as undoubtedly one runs the risk of thereby completely undermining the halachic system.

For all these reasons, the standard halachic practice of a Cohen and Levi aliyah should be preserved in all but rare circumstances. Although this may have a disquieting impact upon members of the minyan, this disquiet must be understood in terms of the many halachic issues and sociological dangers involved in changing such practices. There is enough halachic basis to support an occasional break from the standard practice despite these halachic and sociological issues. However, these occasions must be kept to an absolute minimum, and must not be allowed to become commonplace so as to supplant the standard halachic practice.

³⁰ Psalms 119:126, "עַתָּה לַעֲשׂוֹת לִיקוֹן הַפָּרוּ תוֹרַתְךָ" *It is a time to act for God - uproot your Torah,*" c.f. Mishnah Berachot 9:5 (at BT 54a) and Mishneh Torah, Mamrim 2:4.

Appendix - The Talmudic Source for the Kohen and Levi's Aliyah

Babylonian Talmud Gittin 59a (Mishnah 5:8)

תלמוד בבלי מסכת גיטין דף נט עמוד א

מתני'. אלו דברים אמרו מפני דרכי שלום: כהן קורא ראשון ואחריו לוי ואחריו ישראל, מפני דרכי שלום;

Mishnah: These things they said because of the ways of peace: A Kohen reads from the Torah first, and after him a Levi, and after him an Israelite, because of the ways of peace.³¹

Mishnah Gittin 5:8 (found in the Babylonian Talmud at Gittin 59a)

Babylonian Talmud Gittin 59b (Mishnah 5:8)

תלמוד בבלי מסכת גיטין דף נט עמוד ב

גמ'. מנה"מ?

QUESTION: From where do these words come? I.e. what is the source of the law that a Kohen gets the first Aliyah and a Levi the second?

אמר רב מתנה, דאמר קרא +דברים ל"א+ ויכתוב משה את התורה הזאת ויתנה אל הכהנים בני לוי, אטו אנא לא ידענא דכהנים בני לוי נינהו? אלא כהן ברישא והדר לוי.

ANSWER 1: Said Rav Matnah: The the law that a Kohen gets the first Aliyah and a Levi the second is **because scripture states: "And Moses wrote this Torah and gave it to the Kohanim, the sons of Levi"** (Deut 31:9) - **Is this verse because I don't know that the Kohanim are the sons of Levi?**

Rather, the scripture teaches that the order is **Kohen first, and then Levi.**

רבי יצחק נפחא אמר, מהכא: +דברים כ"א+ ונגשו הכהנים בני לוי, אטו אן לא ידענן דכהנים בני לוי נינהו? אלא כהן ברישא והדר לוי.

ANSWER 2: Rav Yitzchak Nafka said: The the law that a Kohen gets the first Aliyah and a Levi the second is derived **from here: "The Kohanim, the sons of Levi, shall draw near"** (Deut 21:5) - **Is this verse because we don't know that the Kohanim are the sons of Levi? Rather,** the scripture teaches that the order is **Kohen first, and then Levi.**

רב אשי אמר, מהכא: +דברי הימים א' כ"ג+ בני עמרם אהרן ומשה ויבדל אהרן להקדישו קדש קדשים.

ANSWER 3: Rav Acha said: The rule that a Kohen gets the first aliyah comes **from here: "The sons of Amram were Aaron and Moses, and God distinguished Aaron to sanctify him as most holy"** (1 Chronicles 23:13).

ר' חייא בר אבא אמר, מהכא: +ויקרא כ"א+ וקדשתו - לכל דבר שבקדושה.

ANSWER 4: Rabbi Chiyah bar aba said: The rule that a Kohen gets the first aliyah comes **from here: "And you shall sanctify him"** (Aaron)(Lev. 21:8) - means that Aaron, and in turn his progeny should be sanctified - **for all matters of holiness.**

תנא דבי רבי ישמעאל: וקדשתו - לכל דבר שבקדושה, לפתוח ראשון, ולברך ראשון, וליטול מנה יפה ראשון.

SUPPORT FOR ANSWER 5: It was taught in the academy of Yishma'el: "And you shall sanctify him" (Aaron)(Lev. 21:8) - means that Aaron, and in turn his progeny should be sanctified - **for all matters of holiness: to begin first, to bless first, and to take a nice vessel first.**

³¹ Rashi: כי היכי דלא ליתו לאינצווי תקינו להו רבנן האי סידרא דכיון דתקנתא דרבנן היא תו לא מצינן לשנוויי ולמימר אנא so that they not come to quarrel, the Rabbis instituted this order, because since it is a rabbinic institution, we will no longer see fit to change the order and say "I will read from the Torah first."

א"ל אביי לרב יוסף: מפני דרכי שלום? דאורייתא היא!

ATTACK QUESTION: Abaye asked Rav Yoseph: The Mishnah says that this rule is "because of the ways of peace." But is this so? Based on the above it appears that **it is derived from the Torah!**

א"ל: דאורייתא, ומפני דרכי שלום.

ANSWER 1: He (Rav Yoseph) said to him (Abaye), the rule is **derived from the Torah, and** is established by the Torah **because of the ways of peace.** I.e. when the Mishnah describes this rule as "because of the ways of peace," it does not mean to say that the rule is not derived from the Torah, but instead that the reason the Torah gives that rule is because of the ways of peace.

כל התורה כולה נמי מפני דרכי שלום היא, דכתיב: +משלי ג'+ דרכיה דרכי נועם וכל נתיבותיה שלום!

ATTACK QUESTION: All of the Torah is also because of the ways of peace, as is written:

"Its ways are ways of pleasantness, and its paths are paths of peace." (Proverbs 3:17) I.e.

the Mishnah would not have to tell us that this rule in particular is established by the Torah because of the ways of peace, because all of the Torah's rules are established for purposes of peace. The force of this objection seems to be that the Mishnah's rule must be rabbinic in origin.

אלא אמר אביי: לכדמר; דתניא: שנים - ממתנין זה לזה בקערה, שלשה - אין ממתנין; הבוצע הוא פושט ידו תחלה, ואם בא לחלוק כבוד לרבו או למי שגדול ממנו - הרשות בידו; ואמר מר עלה: לא שנו אלא בסעודה, אבל בבהכ"נ לא, דאתו לאינצויי.

ANSWER 2: Rather, Abaye says: The Mishnah must be understood **in accordance with the Master** (Per Rashi this refers to Abaye's teacher Rabbah bar Nachmani) **for It was taught: "Two** who are eating a meal together **wait for each other regarding** taking food from the plate, **three** who are eating a meal together **do not wait. The one who breaks bread, he first puts out his hand** toward the food plate, **but if he wished to give honor to his teacher or someone who is greater** in knowledge than he by allowing that person to take food first, **the permission is in his hands."** **And Master said upon this: "They only taught** that a person could give honor to his teacher **with regards to a meal, but at the synagogue - no** a person may no give his honor to his teacher **because they will come to quarrel."** I.e. I.e. there are general rules as to who is given a certain honor. In general, one may waive their honor in favor of a teacher. According to Abaye, the Mishnah rules that the Kohen may not defer his (biblically instituted) aliyah to his teacher, because this may lead to quarrels.

The Talmud digresses to a discussion regarding the statement that a Kohen may not waive one's honor in the synagogue:

אמר רב מתנה: הא דאמרת בבהכ"נ לא, לא אמרן אלא בשבתות וימים טובים דשכיחי רבים, אבל בשני ובחמישי לא.

QUALIFYING STATEMENT: Rav Matna said: That which you said "at the synagogue - no", they only said regarding Shabbat and Holidays, where many people are found in the synagogue, **but on Monday and Thursday - no** there is no restriction regarding giving honor to his teacher by allowing the teacher to read from the Torah first.

איני? והא רב הונא קרי בכהני בשבתות ויו"ט!

ATTACK QUESTION: Is this so? For Rav Hunah would read in place of the Kohen on Shabbat and Yom Tov even though he was not a Kohen!

שאני רב הונא, דאפילו רבי אמי ורבי אסי כהני חשיבי דא"י מיכף הוו כייפי ליה.

Rav Hunah is different, for even Rabbi Ami and Rabbi Asi who were the distinguished Kohanim in the land of Israel would defer to him.

The Talmud continues with other discussions:

אמר אביי, נקטינן: אין שם כהן - נתפרדה חבילה.

LEGAL STATEMENT: Said Abaye: We take it that if there is no Kohen, the bundle is separated.