A SPECIAL SUPPLEMENT
Women, *Keri’at ha-Torah*,
and *Aliyyot*
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I. Introduction

The communal *keri’at ha-Torah* (reading of the Torah as part of the prayer service) has undergone something of an evolution over the years. The roots of this service can be traced back to the septennial *Hakhel* service held on *Hol ha-Mo’ed Sukkot* following *shemitta* (the sabbatical year). It was then that the King read portions of the book of Deuteronomy to the assembled nation, “men, women and children.” As noted by the *Hinnukh*, the purpose of this reading was not just the public study of the Torah, but more importantly a reaffirmation of the centrality of the Torah and Torah study in the life of the Jewish people.

In addition, the Talmud records a tradition that a central reading of the Torah for the Sabbath, holidays, *Rosh Hodesh*, *Hol ha-Mo’ed*, Mondays, and Thursday was established at the time of Moses. It was not until the beginning of the Second Commonwealth that Ezra the Scribe (*ha-Sofèr*) instituted *keri’at ha-Torah* on Sabbath afternoons. It would seem that the Mosaic practice had only one *oleh*, i.e., a single individual to get an *aliyya* and read the Torah aloud for all. It was Ezra who instituted multiple *aliyyot*, varying in number according to the nature of the day: seven on the Sabbath; six on Yom Kippur; five on the remaining Festivals; four on *Rosh Hodesh* and *Hol ha-Mo’ed*; and three on Sabbath afternoon, *Hanukkah*, *Purim*, fasts, Mondays, and Thursdays. The goal of these readings was public Torah study, and to assure that it would take place on a regular basis.
The mishna in Megilla (4:2) makes it clear that the seven aliyyot designated by Ezra for the Sabbath are actually the minimal number, and additional aliyyot (called hosafot) may be added as desired. Since these hosafot are part of the original takkana (enactment) of aliyyot, they are also part and parcel of the fulfillment of this rabbinic obligation. Thus, one who receives a hosafa recites the birkhot keri’at ha-Torah just like one who received one of the first seven. Whether hosafot may be added on the holidays, as well, is a matter of dispute, though R. Moses Isserlis (Rema), along with the majority of codifiers, rules that it is actually permitted. Nevertheless, the general custom is to refrain from adding hosafot on Yom Tov – with the exception of Simhat Torah. In the latter case, R. Israel Meir ha-Kohen Kagan, explains that we follow the basic law (me-ikkar ha-din) which is lenient, in order to enhance the rejoicing with the Torah.

The codifiers further discuss whether, as part of the Torah reading (basic aliyyot or hosafot), it is permissible to reread a section that was already chanted in a previous aliyya – and recite the keri’at ha-Torah benedictions thereon. The ruling of both Rabbis Caro and Isserlis is to follow the lenient opinion of Rivash when there is good reason to do so. This is indeed the normative practice on Hanukka, Hol ha-Mo’ed Sukkot, and Simhat Torah – where the same verses are read repeatedly. Since the codifiers conclude that hosafot and repetitions are all part of Ezra’s original enactment of keri’at ha-Torah and communal Torah study, birkhot ha-Torah are recited.

The take-home lesson is that there is no room to make any distinctions between the requirements and level of obligation of the first seven aliyyot and those of the hosafot. This conclusion is stated explicitly by many leading posekim (decisors or adjudicators of Jewish law).

We turn now to the keri’at ha-Torah benedictions. Initially, prior to the reading, the first oleh began by reciting “Barekhu et Ado-nai ha-mevorakh (Bless the Lord who is blessed).” To which the community responded, and the oleh repeated: “Barukh Ado-nai ha-mevorakh le-olam va’ed (Blessed is the Lord who is blessed for all eternity).” This first oleh then recited the first of the two birkhot ha-Torah “…asher bahar banu mikol ha-amim… (Who chose us from all the nations).” The last oleh following his aliyya recited the culminating benediction, “…asher natan lanu torat emet… (Who gave us a Torah of truth).” The intermediary olim recited no benedictions. Already in Talmudic times, this procedure was changed so that each oleh recited the barekhu salutation and the two bera-khot before and after his reading.

Additionally, each oleh originally read his own Torah portion aloud from the sefer Torah. This required literacy, knowledge, and preparation – a challenge to which not all were equal. It was not until several hundred
years later, in the post-Talmudic Geonic period, that a *ba’al keri’ah* (Torah reader) was appointed to read aloud from the *Torah* for each *oleh*.

The question of women receiving *aliyyot* is also briefly discussed in a *baraita* cited in the *Talmud Megilla*, which reads:

The Rabbis taught: All are eligible for an *aliyya* (bakol olin) among the seven [Sabbath *aliyyot*] – even a minor and even a woman. However, the Rabbis declared: a woman should not read (*lo tikra*) from the Torah – because of *kevod tsibbur* (communal honor).

Although this source presumably suggests that women are theoretically eligible to receive an *aliyya* and read their portion, in practical terms, however, this was seemingly ruled out because of *kevod ha-tsibbur*. This dichotomy finds further expression in the *Tosefta Megilla*, which reads:

And all are eligible for an *aliyya* among the seven [Sabbath *aliyyot*] – even a woman and even a minor; [however,] we do not bring a woman to read for the community.

Despite the above negative ruling of the *Talmud* and *Tosefta*, and in their wake all subsequent codifiers, there have been several recent attempts to reopen this issue. Within the last decade, two major approaches have been suggested - one penned by R. Mendel Shapiro (in part based on the earlier writings of R. Yehuda Herzl Henkin) and the other by R. Prof. Daniel Sperber - which attempt to build a case for women’s *aliyyot* at a normative halakhic service. In essence, they argue that the change in women’s sociological status in contemporary society should impact upon the contemporary halakhic relevance of *kevod ha-tsibbur* – such that *bona fide aliyyot*, with their attendant blessings, should no longer be out of bounds for women. R. Shapiro further posits that if the major barrier to women getting *aliyyot* is *kevod ha-tsibbur*, then the community should be sovereign to forgo its honor. Prof. Sperber, on the other hand, maintains that if there is a community of women who are offended by their not receiving *aliyyot*, then *kevod ha-beriyot*, the honor of the individual, should trump *kevod ha-tsibbur*, the honor of the community.

These lenient rulings were soon after put into practice in various “egalitarian halakhic” or “Partnership” *minyanim* (e.g., *Shira Hadasha* in Jerusalem and *Darkhei Noam* in Manhattan; see Addendum for further discussion). The motivation for these innovations was, to our mind, positive and sensitive – an
attempt to afford women greater opportunities for unmediated involvement in Jewish ritual. The question that we will address, however, is whether or not such innovations lie soundly within the parameters of halakha.

II. Assisting Others in Fulfilling their Religious Obligations

As previously noted, in Mishnaic and Talmudic times there was no such institution as the ba’al keri’ah, and, hence, each olib read his own Torah portion aloud from the sefer Torah for the community. It necessarily follows that the Babylonian Talmud and Tosefta in Megilla cited above, which grant theoretical eligibility to women to receive an aliyya, also empowered the olib to read her portion for the community. This ability to read from the Torah, and assist (le-hotsi) the other members of the community in fulfilling their keri’at ha-Torah obligation, might indicate that women share in the communal obligation of keri’at ha-Torah. The rationale for this conclusion requires us to go off on a bit of a tangent to discuss the rules of assisting others in fulfilling their obligations.

Mitsvot can be divided into two categories: (a) mitsvot which are incumbent on one’s body (mitsvot she-beGufo), like donning tefillin and wearing tsitsit, eating matsa and maror on Passover, and immersing in a mikva; (b) mitsvot which are verbal or auditory obligations, such as reciting kiddush or havdala or reading Megillat Esther. With regard to mitsvot she-beGufo, each individual must perform them for themselves – no one can do these mitsvot for another, and the principle of agency (sheluho shel adam ke-moto – one’s agent is as oneself) is of no avail. On the other hand, with respect to verbal or auditory obligations, one Jew can receive assistance from another. Thus, one can, for example, recite appropriate benedictions, read the megilla, and sound the shofar for his fellow to hear. The mechanism by which this assistance is received is known as shome’a ke-onoh (listening attentively is like reciting it oneself).

According to most authorities, shome’a ke-onoh is a transfer mechanism, by which not only the verbal aspects, but the totality of the “assistee’s” actions, are conveyed to the “assistee.” As a result, de jure, both the assistant and the assistee have simultaneously fulfilled the same obligation. Thus, for example, although the congregants themselves are not reading from a parchment, they fulfill their commandment of reading Parashat Zakhor from a sefer Torah and the recitation of the Book of Esther from a bona fide megilla, with the rendering of the ba’al keri’ah who is doing so. Similarly, those assembled carry out their obligation of reciting kiddush or havdala over a cup of wine, though they themselves are not holding such a cup.
However, Jewish law asserts that there is an intimate connection between obligation and this empowerment to assist others. Thus, the major proviso for *shome’a ke-oneh* is that the one rendering the assistance must be a *bar hiyyuva* (obligated), as stated by the *Mishna*: “Anyone who is not obligated cannot assist others in fulfilling their obligation.” This latter ruling readily leads to the conclusion, that “only one who is obligated can assist others in fulfilling their obligation.” Importantly, the *Mishna*’s ruling also suggests that one not obligated can nonetheless perform the *mitsva* for themselves, since no transfer mechanism is required.

Since obligation is pivotal to assisting others, let us clarify this requirement a bit more. The obligation we are referring to must be an “inherent” obligation. The term “inherent” refers to an obligation that devolves upon an individual because it was biblically or rabbinically commanded. The individual remains “inherently” obligated whether or not he has in fact fulfilled the obligation. This term comes in contradistinction to “assumed” obligations. For example, women are generally exempt from positive commandments which, like *sukka*, *shofar*, and *lulav*, are not continual obligations but, rather, time-determined—*mitsvot aseh she-baZeman geramman*. Nonetheless, women may perform them on a voluntary basis, as a *petura ve-osa* (one who is exempt, yet performs the commandment). However, women who repeatedly take upon themselves the performance of a normally optional/voluntary *mitsva* (like hearing the sounding of the *shofar*) may, according to many authorities, transform its status into one that is akin to that of a compulsory obligation (*kibbelu* or *shavya alaibu hova*). But this is not because the women now bear an inherent obligation like the men, but rather because there is now a *neder mitsva* – an oath to do a righteous act. As such, and unlike inherent obligations, the assumed obligations can be removed via *hatarat nedar-im*, the traditional procedure for removal of oaths.

Returning to verbal or auditory obligations and *shome’a ke-oneh*, the codes have refined this pivotal mechanism further:

1. *Shome’a ke-oneh* only enables one Jew (“the assister”), who is actively fulfilling his or her own obligation at that moment, to assist (in yeshivish parlance, “to be *motsi*”) those with an equal or lesser obligation (e.g.: a biblical vs. a rabbinic *mitsva*; or a rabbinic vs. a non-obligatory *mitsva*) to fulfill their duty. One cannot, however, assist another Jew who bears a greater obligation; put otherwise, one cannot receive assistance from another Jew of lesser obligation. This is because when the relative level of obligation of the assister (*motsi*) is lower than that of the assistee (*yotsei*), it is as if the assister is not obligated at all.
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(2) Shome’a ke-oneh also enables two individuals who both want to perform a non-obligatory act – for example, to recite a birkat ha-nehenin (pleasure benediction) prior to eating food\(^{42}\) or birkat ha-mitsva (mitsva benediction)\(^{43}\) before the performance of an optional mitsva\(^{44}\) – to assist one another. This is provided that both are doing the exact same action at the same time. However, one who already recited their food or optional mitsva benediction cannot repeat it for someone else; this would be a berakha le-vattala (a benediction for naught) which is forbidden.\(^{45}\)

(3) Based on what we have said until now, one who was obligated, but has already fulfilled his/her obligation, should be ineligible to utilize shome’a ke-oneh to assist his fellow Jew, since he/she no longer has an obligation to fulfill (see no. 1). Nevertheless, in the case of obligatory mitsvot – be they biblical or rabbinic – he/she still bears religious responsibility or arevut\(^{46}\) for his/her fellow Jews who have yet to fulfill their obligation. Because of this religious responsibility, or arevut, one is still deemed obligated to some extent at his/her original level\(^{47}\) and is, hence, empowered – and even required – to assist those with an equal or lesser inherent obligation. This principle is also known in the halakhic literature as “af al pi she-yatsa motsi”\(^{48}\) – even though one has fulfilled his/her obligatory mitsva, arevut empowers him/her to help others to fulfill their requirement. The consensus of posekim is that arevut is applicable not only to birkhot ha-mitsva, but also to obligatory birkhot ha-shevah (benedictions of praise).\(^{49}\)

To reiterate: shome’a ke-oneh is the halakhic vehicle by which one Jew can assist another in fulfilling his/her verbal or auditory requirements. The prerequisite for this is that the oneh (reciter) is actively discharging his/her own duty at that moment. Nevertheless, in the case of obligatory mitsvot, even if one has already fulfilled his/her obligation, arevut recreates sufficient obligation for shome’a ke-oneh to kick in again.

Two points need to be emphasized, however. Firstly, arevut cannot allow someone with a lesser obligation (e.g., rabbinic) to assist another Jew with a greater obligation (e.g., biblical). Arevut is no stronger than shome’a ke-oneh itself; it only ‘reboots’ the obligation at its original level. Secondly, the principle of af al pi she-yatsa motsi applies only to obligatory mitsvot (no. 1 above). It does not, however, apply to optional mitsvot or to pleasure benedictions (no. 2 above), which do not carry with them any intrinsic requirement that they be performed at all (see no. 5 below).

(4) Arevut can also be used by those who would have been fully obligated were some external condition fulfilled. They are considered “inherently obligated,” even if a prerequisite condition for the actual obligation has not yet been fulfilled. They therefore can recite the appropriate
benediction for their fellows requiring assistance. For example, if one partakes of bread and eats his fill (kedei sevi’a), he would be biblically obligated in Birkat ba-Mazon. However, because of arevut, one who ate only a ke-zayit of bread, and is, therefore, only rabbinically obligated, can join a zimmun and recite Birkat ba-Mazon for one who ate his fill. This is because the one who ate only a ke-zayit of bread could eat his fill and become biblically obligated.

The halakhic literature is replete with examples of the application of the arevut of inherent obligation. Thus, any male can recite the Birkat le-Hakhniso for the illiterate father of a child undergoing circumcision, even though the assister lacks a newborn son. The rationale is that if the assisting male were to have a son, he would be obligated to recite Birkat le-Hakhniso at the circumcision. In addition, it is the universal custom for the mesadder kiddushin (the one performing the wedding) to recite the Birkat Erusin (betrothal benedictions) – even though they are actually incumbent upon the groom. This is because if the mesadder kiddushin himself were to marry, he would be obligated to recite this Birkat Erusin. Similarly, because of inherent obligation, many leading decisors allow one who skipped a full day in the counting of the omer to nevertheless recite the benediction for one who has not. Finally, many leading posekim permit one who has not yet accepted the Sabbath or Holiday to recite kiddush for others who have. This is indeed the widespread practice in Israeli hospital wards. According to these authorities, arevut is applicable since the mekadesh himself will shortly become obligated, and, were he to accept the Sabbath or Holiday at that moment, he too would be obligated.

(5) There is some disagreement among the posekim regarding one who was obligated but has already fulfilled his obligation. Can such an individual assist those with no inherent obligation who want to perform an optional misva or recite the relevant benediction? There are two positions on this issue.

a) The “Majority School”: The vast majority of posekim maintains that one bears no arevut for those who lack any inherent obligation – even though they would like to fulfill a misva or recite a birkat ha-misva optionally. Hence, one who has already fulfilled his or her obligation cannot assist those not inherently obligated. For example, a male who already counted sefira can neither count for his wife nor recite the appropriate benediction for her. This is because neither shome’a ke-oneh nor arevut are operative: shome’a ke-oneh is inoperative because the reciter of the text or benediction has already fulfilled his obligation; arevut for its part cannot jumpstart the reciter’s obligation, since the assistee is not
inherently obligated. Reciting a benediction under such conditions would be for naught and deemed a berakha le-vattala. Similarly, a man who already heard the sounding of the shofar may not recite the associated benedictions for his spouse because one bears no arevut for those who are not inherently obligated; the benedictions she must recite herself.

b) The “Minority School”: There is, however, a small cadre of prominent modern posekim, who disagree with the previous majority approach. They maintain that one, who has already fulfilled his obligation, can help those who would like to perform even an optional mitsva. Nevertheless, they concede that the assister cannot recite the benediction for the non-obligated assistee. For example, a man who already blew shofar can do so again for his spouse but cannot recite the associated benedictions for her; this she must do so for herself. This school is split, however, as to the exact rationale behind this ruling.

The first approach within the “Minority School,” which we will dub the “Arevut Group,” concedes to the “Majority School” that arevut is the central issue. Nonetheless, it is generally acknowledged that although a woman lacks a “hiyyuv ha-mitsva” (a mitsva obligation), her performance of the optional mitsva is considered a “kiyyum ha-mitsva”– fulfillment of a mitsva worthy of heavenly reward. Consequently, argues this group, arevut can be invoked to enable those who would like to perform even an optional mitsva to do so, utilizing the principle of “af al pi she-yatsa motsi.” However, this approach distinguishes between arevut for an optional mitsva and arevut for the associated optional berakha. This is because the halakhic permissibility of a woman to recite an (optional) berakha on an optional mitsva is the subject of major dispute (see Sec. VA below); Ashkenazi posekim permit it for the woman herself because of her kiyyum ha-mitsva. However, the ba’al teki’ah (the one sounding the shofar) who previously heard shofar has no further kiyyum ha-mitsva by blowing shofar for a woman. Thus, since her recitation of the benediction is only optional, he has no arevut which would allow him to pronounce the Lord’s name in the birkat ha-mitsva for her. What is more, in light of this dispute, there may well be a serious obstacle to its recitation - namely, a berakha le-vattala. These problematics preclude arevut and, hence, do not allow a man to pronounce the birkat ha-mitsva on a woman’s behalf.

The second approach within the “Minority School” is that of the “Shome’a ke-Oneh Group.” The focus of this group is not arevut, which they admit is inoperable for those who lack any inherent obligation. Rather, they turn their attention to shome’a ke-oneh – which, as discussed above,
is the mechanism of transfer of verbal or auditory mitzva actions. This cadre’s novel suggestion is that, contrary to the assumption of the “Majority School,” shome’a ke-oneh per sé does not require obligation (and, hence, arevut) to effect the transfer. Rather, arevut is required only when transferring the fulfillment of mitzva obligations. Thus, where the listener needs to fulfill an obligation - such as a man hearing the shofar or megilla - arevut is a sine qua non. However, where the one being assisted need not fulfill any obligation, but rather has chosen to perform an optional mitzva, shome’a ke-oneh (even absent arevut) is a sufficient transfer mechanism. This is true even though the action does not emanate from one who is presently obligated. What is required, however, is that the one assisting: (1) be inherently obligated or at least have a fulfillment of an optional mitzva (kiyyum ha-mitzva); and (2) intend to assist the listener in the performance of a mitzva (“kavvanat mashmi’a”). These two requirements are necessary in order to transform – in the absence of any obligation – the physical action being performed (e.g., the blowing of the shofar) into a ma’aseh mitzva (a mitzva action). This ma’aseh mitzva can then be transferred to the listener via shome’a ke-oneh. Consequently, a man who has already fulfilled his own personal obligation can blow the shofar for a woman. Regarding the benediction, since the woman who hears the shofar fulfills an optional mitzva (generating a minimal “kiyyum ba-mitzva”), she may, according to Ashkenazi practice, pronounce the attendant blessing herself. However, the male assister, who has already fulfilled his own personal obligation, has no “kiyyum ba-mitzva.” In addition, absent arevut, there is no renewed “biyyuv” that would allow the male to recite a berakha.

All agree, however, that one who has already fulfilled his obligation may simultaneously assist both one who has yet to fulfill his obligation (for whom the assister has arevut), as well as one who lacks any inherent obligation but would like to perform the mitzva optionally (for whom the assister lacks arevut). Once the recitation of the benediction is justified and valid for the one, it is effective for both categories. For example, one who has already recited the benediction leshev ba-sukka for himself may repeat it for an obligated male, while simultaneously assisting a non-obligated female. “Af al pi she-yatsa motsi” has effectively returned the assister to obligation and to point no. 1 above.62

(6) There is a well known dispute as to whether or not arevut is gender-dependant.63 R. Joseph Te’omim, R. Ezekiel Segel Landau, and R. Ezekiel Kahila (reputed to be a pseudonym for R. Joseph Hayyim al-Hakam of Baghdad)64 espouse the view that women are generally excluded from
arevut. On the other hand, R. Akiva Eiger maintains that arevut is purely linked to obligation and, hence, women share arevut with men in all mitsvot in which the former are obligated – contingent of course on the level of obligation. Our presentation throughout follows the generally accepted majority opinion that arevut is obligation controlled (per the school of R. Eiger).

(7) One who is not inherently obligated bears no arevut for his/her fellow Jews, inherently obligated or not. For such non-obligated individuals, the principal of *af al pi she-yatsa motsi* is inoperative. Thus, a woman who has already heard shofar, shaken the lulav or counted sefira may not recite the relevant mitsva benedictions for others who may want to fulfill these time determined mitsvot. Minors bear no halakhic obligation to ensure that others fulfill their religious requirements; hence, the overwhelming consensus of the codifiers is that the concept of arevut does not apply whatsoever to minors.

The question nevertheless arises whether minors performing a given ritual for themselves can assist others via the mechanism of *shome’a ke-oneh*. As a general rule, majors are biblically obligated to perform commandments, while minors are biblically exempt. Nonetheless, there is a rabbinic obligation to educate minor children (*mitsvat hinnukh*), and many, if not most, rishonim maintain that this obligation falls solely on the parents, with the child bearing no personal obligation whatsoever. According to this first view, a minor can certainly not assist a major with any of his/her obligations.

However, some rishonim have ruled that minors themselves are rabbinically obligated to fulfill those commandments which will become obligatory upon them when they become of age. Importantly, it is this latter view which is adopted by the *Shulhan Arukh* and many other leading posekim. Despite this personal obligation, a minor can still not assist a major in biblical commandments, since the minor’s rabbinic obligation is a lesser one. Even in cases where the adult’s duty is also rabbinic in nature, the minor still possesses a lower level of obligation than a major. This is because the major is obligated because of a single rabbinic decree (*had de-rabbanan*); the minor’s obligation, however, is the result of the application of two rabbinic edicts (*trei de-rabbanan*) – one edict predicated upon the other. The first is the rabbinic commandment itself and the second is the rabbinic educational edict obligating minors to perform the commandments.

Because of this fundamental disagreement among rishonim and later decisors as to the precise nature of a minor’s obligation in mitsvot, we will
indicate, throughout the remainder of this paper, that a minor has “a minimal obligation, if at all” or we will state that a minor “does not bear the maximal obligation.” We will attempt to analyze each issue according to these varying views.

III. The Obligation of Women and Minors in Keri’at ha-Torah

Returning now to keri’at ha-Torah, we saw that women were empowered, at least theoretically, to read from the Torah and assist other members of the community in fulfilling their keri’at ha-Torah obligation. From the above discussion it would seem to follow that, were women not fully obligated in keri’at ha-Torah, they could not normally take an active part and read the Torah for the community. This is indeed the position of R. Abraham Abele Gombiner in his classic commentary to Shulhan Arukh, Magen Avraham. By allowing a woman to read the Torah for the community as part of her aliyya, the Talmud and Tosefta in Megilla would seem to be assuming that women are obligated in the public reading of the Torah. R. Gombiner suggests that although women are freed from the obligation of Torah study, they are nevertheless obligated in the public Torah reading, just as they are obligated in septennial Hakhel.

In support of his suggestion, Magen Avraham cites the minor tractate Massekhet Soferim, which reads:

There are those who [on the 9th of Av] read the Book of Lamentations at night… and he [the reader] reads it with crying and moaning… and translates so that the rest of the assembled and women and children will understand it – for women, like men, are obligated in the reading of the Book [keri’at sefer] … and they [the women] are likewise obligated in keri’at Shema, tefilla, birkat ha-mazon and mezuza… And it is proper to translate to the assembled, women and children, the entire Torah portion for that Sabbath and the reading from the prophet after the keri’at ha-Torah.

The consensus of poskim has found Magen Avraham’s ruling obligating women in keri’at ha-Torah problematic on several counts. Firstly, the unanimous opinion of the rishonim is to exempt women from keri’at ha-Torah. Secondly, the Talmud and codes indicate that one who calls his non-Jewish slave to the Torah sets him free, because non-Jewish slaves are not obligated in keri’at ha-Torah. Since the ritual obligations of women and non-Jewish slaves are generally equivalent, this would strongly suggest that women, too, are freed from any obligation in keri’at ha-Torah. Thirdly, “the Book” under discussion in Massekhet Soferim is the Book of
Lamentations (*Megillat Eikha*), not the Torah. In addition, many scholars understand the word “obligated” in *Massekhet Soferim* to mean “ought” or the proper way to act. Finally, even if we were to accept the validity of R. Gombiner’s interpretation of the *Massekhet Soferim*, why should we assume that this passage is halakhically reliable? After all, many of the decisions recorded in this minor tractate do not represent normative Jewish law. In fact, the very passage under discussion may be a case in point, for it states that women are obligated in reading *Shema* – contravening an explicit *mishna*. Clearly, this internal evidence alone should raise questions as to the halakhic reliability of this text.

Indeed, the overwhelming majority of halakhic decisors view normative halakha as exempting women from any requirement to hear the public Torah reading. These scholars reject the opinion of *Magen Avraham*, who links women’s theoretical eligibility for an aliyya with a putative obligation in *keri’at ha-Torah*. After all, minors may receive aliyyot, yet they are not fully obligated – if at all. What’s more, *Magen Avraham* himself records that, contrary to his aforementioned view of obligating women in the Torah reading, the prevalent custom of the women in his very own community was to actually walk out for *keri’at ha-Torah*. The permissibility of this latter practice for women has been reaffirmed in the modern period by many noted authorities.

### IV. The Essence of the *Keri’at ha-Torah* Obligation.

The eligibility of a minor to receive an aliyya is mentioned in the *baraita* in *Megilla* cited at the beginning of this paper. There is, however, a further relevant source appearing in *Mishna Megilla*, which states:

> A minor may read from the Torah... but he may not... go before the prayer stand [to serve as hazzan].

The inability of a minor to serve as hazzan is rooted in his lower level of obligation – if minors are obligated at all – than that of majors. As noted above, if the level of obligation of the assister (motsi) is lower than that of assistee (yotsei), it is as if the assister were not obligated at all. Hence, minors cannot serve as a hazzan, following the aforementioned mishnaic dictum: “Anyone who is not obligated cannot assist the masses in fulfilling their obligation.” As is well known, the hazzan serves three functions. The first is to set the pace of the prayers. The second is to pray aloud (hazarat ha-shats) and thereby fulfill the prayer obligation for those who do not know how to pray for themselves (*le-hotsi et she-eino baki*). And, finally, he leads the community in those special additions, like *kaddish*,
kedusha and barekhu, which are essential and obligatory parts of the communal prayer service (tefillat ha-tsibbur). As discussed previously, since a minor bears a lesser obligation than a major he cannot pray for those who do not know how to pray for themselves (the einam beki’im); nor can he lead the community in its obligatory recitation of the public prayer additions.

The above discussion immediately raises the seminal query as to why the mishna in Megilla just cited accepts a minor’s eligibility for an aliyya, while ruling at the same time that he cannot serve as a hazzan. After all, just as a minor’s obligation in public prayer is less than that of a major, so too is his obligation in the reading of the Torah! Indeed, in the comparable case of reading Megillat Esther, a minor cannot do so for a major. Similarly, how can the baraita in Talmud Megilla recognize a women’s theoretical eligibility for an aliyya, when in fact women are totally exempt from keri’at ha-Torah?

Perforce, the obligation of keri’at ha-Torah differs fundamentally from the obligation of reading Megillat Esther. In the latter case, each adult male and female has a personal obligation (hovat ha-yahid) to read from the megilla. The individual selected by the congregation to read aloud from the Megilla scroll – and only one reader is necessary for this function – enables the others to fulfill their personal obligation via the principle of shome’a ke-oneh (listening attentively is like saying). As already noted above, in order for this principle to work, the reader must be a bar hiyyuva (obligated). Keri’at ha-Torah, though, is different than keri’at ha-Megilla. Here, not one knowledgeable individual is required to read but seven! The 14th century scholar R. Isaac bar Sheshet Perfet (Rivash) indicates that the rabbis of the Talmud were concerned by the difficulty of finding an ample supply of suitable and willing olim. After all, seven individuals are required with sufficient literacy, knowledge and preparation to read from the Torah properly – despite the absence of vocalization (nekudot) and punctuation – and able to do so with the traditional cantillations (ta’amei ha-mikra). As a result, the Rabbis considered widening the pool of eligible olim by formulating the keri’at ha-Torah obligation more leniently. There is a disagreement, however, as to the exact nature of this more liberal formulation, and there are three schools of thought on the matter.

(1) Communal Obligation to Read: One school argues that in contradistinction to the reading of Megillat Esther, keri’at ha-Torah is a not a personal obligation (hovat ha-yahid) but a communal one (hovat ha-tsibbur). However, formulating the obligation as a communal one does
not mean that the individual bears no personal obligation. This is evident from Nachmanides’ comment on the *Mishna, Megilla* 23b, which states: “…[the prayer leader] does not pass before the Ark, [the priests] do not lift up their hands [for the priestly blessing], the Torah is not read, the *haftara* from the Prophets is not read [with their benedictions]…with less than ten…” Nachmanides *ad loc.* notes: “The things taught in our Mishna are all communal obligations, applying only to those who are obligated in the matter.” Clearly, he maintains that, despite the fact that *keri’at ha-Torah* is a communal obligation, some individuals have a personal obligation therein, while others do not.

The *posekim* indicate that *hovat ha-tsibbur* requires the men – who are the ones obligated in *keri’at ha-Torah* (see sec. III) – to ensure: (1) that a *minyan* is available for a communal Torah reading; (2) that such a Torah reading does take place via the appropriate number of *olim*/readers; and (3) that at least ten men are listening attentively to the reading. If the men shirk their responsibility, and a Torah reading does not take place as a result, each male of that community has violated a positive rabbinic commandment. Women, however, are totally freed from any such responsibility.

Formulating the obligation as a communal one may have another repercussion. Thus, some *posekim* posit that, when all the necessary conditions for *keri’at ha-Torah* have been secured and the active involvement of a *minyan* has been assured, there is no individual *hiyyuv* (obligation) on others to actually hear the Torah be read. Other scholars in this school demur, arguing that if one is already present in the synagogue during the Torah reading, one should indeed participate. This is presumably out of respect for the Torah, or because of Hillel’s injunction (*Avot* II:9) “*al tifrosh min ha-tsibbur*” (do not separate yourself from the community). For our purposes, the important upshot of this analysis – that *keri’at ha-Torah* is a communal not a personal obligation – is that any Jew present at the communal reading, including one who is not obligated, can serve as an *oleh* and read aloud from the Torah scroll for the community.

(2) **Personal Obligation to Listen**: The second school maintains that the *keri’at ha-Torah* obligation is indeed a personal one (*hovat hayid*). Nevertheless, in contradistinction to *mikra megilla*, one’s duty is not a *hovat keri’a* – a requirement to read from the Torah, but rather a *hovat shemi’a* – an obligation to listen as the words of the Torah are read aloud from the *sefer Torah* by the requisite minimum number of *olim* (their number ranging from three to seven). Since there is no obligation to read, no mechanism of *shome’a ke-oneh* is required for the members of
the congregation to fulfill their obligation. As to the personal requirement of **listening** to the reading, each one can do so by himself. Hence, the exact level of **hiyyuv** of the readers in **keri’at ha-Torah** is less important – they can even be non-obligated women or minors, provided they can read aloud.\(^\text{113}\)

(3) **A Two-Tiered Obligation**: A third school maintains that, in actuality, the **aliyyot** of a Torah reading are composed of two parts: the fundamental obligation – which can only be performed by those obligated in **keri’at ha-Torah**; and the additional **aliyyot** – which are available even to those who are not obligated.\(^\text{114}\) There is some dispute, however, as to what this fundamental core is. Some maintain that the fundamental obligation is one **aliyya**, since that was the number of **aliyyot** originally instituted by Moses;\(^\text{115}\) others argue that it is the basic three – common to all Torah readings;\(^\text{116}\) while others opine that it is a majority of the **aliyyot**.\(^\text{117}\) The additional **aliyyot** are a fulfillment of “**be-Rov am hadrat Melekh**”\(^\text{118}\) – “In the multitude of people is the King’s glory.”\(^\text{119}\) Alternatively, they correspond to the honor due the day (**kevod ha-yom**),\(^\text{120}\) as the Talmud says: “the greater the number of distinguishing marks of the day, the more its **aliyyot**.”\(^\text{121}\) Hence, beyond the basic **aliyya** or **aliyyot** - which can only be fulfilled by those **obligated** in **keri’at ha-Torah**, Hazal permitted even those who were not obligated to join in (**le-hitstaref**) as adjunct **olim**.

The fundamental take-home lesson from this discussion should be clear. It is not that ‘women were obligated in **keri’at ha-Torah** and by right should have had **aliyyot**, but along came **kevod ha-tsibbur** – which we have yet to define – and took this right away.’ On the contrary, women are **not** obligated in **keri’at ha-Torah** and, therefore, should have had **no** role to play therein. In an exceptional move – out of fear that there would not be enough men who would be knowledgeable enough to read from the **Sefer Torah** – Hazal considered allowing women to get **aliyyot**. It was a very special dispensation, instituted in times of widespread inability to properly read from the Torah, in an attempt to preserve the institution of **keri’at ha-Torah**. However, because of **kevod ha-tsibbur**, Hazal decided that they would not allow this dispensation to become **normative** practice; if at all, it would be available only in exceptional pressing circumstances (**she’at ha-debak**).\(^\text{122}\) We will return to this point, because it is a key to understanding much of the issue of women and **aliyyot**.

**V. Women and Minors and the Keri’at ha-Torah Benedictions**

In the previous section, we elucidated the theoretical eligibility of women and minors for an **aliyya**, despite the fact that neither is fully obligated, if
at all, in *keri‘at ha-Torah*. We focus now on the accompanying *birkhot keri‘at ha-Torah*. The question arises whether exemption from obligation in *keri‘at ha-Torah* affects one’s eligibility to recite these *birkhot ha-Torah*?

In addition, as already noted in our opening comments to this paper, the recitation of these benedictions underwent a bit of an evolution. Initially, only the first and last *olim* recited the opening and closing benedictions respectively, while the intermediary *olim* recited none (henceforth, the “old system”). Already in Talmudic times, this procedure was changed so that each *olah* recited the *barekhu* salutation and the two *berakhot* before and after his reading (dubbed, the “present system”).123 Were there any repercussions regarding the eligibility of women and minors to recite these benedictions as a result of the change in *berakha*-making policy?

This topic turns out to be complicated by several underlying issues, which we will attempt to clarify in turn.

**A. Women and Optional *Birkhot ha-Mitsva***

The first topic we need to elucidate is whether women can recite benedictions when they fulfill commandments or rituals that are optional for them. This issue is raised in Jewish law with regard to positive commandments which, like *sukka*, *shofar* and *lulav*, are not continual obligations but are, rather, time-determined—*mitsvot aseh she-haZeman geramman*.124 While a woman is generally exempt from such commandments, she may nonetheless perform them on a voluntary basis, as a *petura ve-osa* (one who is exempt, yet performs the commandment).

The question arises, though, whether she may also recite the attendant blessings along with her voluntary performance of the time-determined *mitsva*. While the “unnecessary” performance of a *mitsva* usually does not clash with any direct prohibition, pronouncing a *berakha she-eina tserikha* (an unnecessary benediction) is normally proscribed on the grounds that it is essentially taking God’s name in vain.125 Furthermore, the text of most *birkhot ha-mitsva* (blessings recited before performing a *mitsva*) would be problematic. After all, the traditional form of these benedictions reads: “Blessed art Thou, Lord our God, King of the universe, Who has sanctified us with Thy commandments, and commanded us (*ve-tsivvanu*)...” Since women are not commanded to perform *mitsvot aseh she-haZeman geramman*, how can they honestly proclaim that the Almighty has “commanded us”? Nevertheless, the noted Tosafist, R. Jacob Tam, rules that *petura ve-osa mevarekhet*: women voluntarily performing *mitsvot aseh she-haZeman geramman* may also recite the attendant benediction.126
Although Rabbenu Tam’s opinion is indeed the accepted Ashkenazic ruling,\textsuperscript{127} it is not the only view on the matter. Maimonides,\textsuperscript{128} R. Joseph Caro,\textsuperscript{129} and, in fact, a majority of Sephardic authorities down to the modern period, most notably R. Ovadiah Yosef,\textsuperscript{130} take strong exception to the Ashkenazic custom. These posekim strictly forbid Sephardic women from reciting berakhot when performing mitsvot from which they are exempt.\textsuperscript{131} There are, however, many posekim who rule that even Sephardic women may rely on Rabbenu Tam where the benediction text does not contain the problematic phrase \textit{“ve-tsivvanu.”}\textsuperscript{132} R. Ovadiah Yosef, however, forcefully rules against the recitation of a non-obligatory benediction in this instance as well.\textsuperscript{133}

The issue of the recitation of non-obligatory benedictions with minors is covered under the rubric of hinenukh (training and education), and, hence, presents no serious problem.\textsuperscript{134} What is more, the minor will eventually reach the age of obligation, hence saying \textit{“ve-tsivvanu”} is not at all inappropriate.\textsuperscript{135}

B. The Nature of the \textit{Keri’at ha-Torah} Benedictions

Benedictions for the private study of Torah (\textit{birkhot limmud ha-Torah}) are normally recited in the morning’s \textit{birkhot ha-shahar} and are effective for the entire day.\textsuperscript{136} As a result, the rishonim and later posekim assert that the blessings for the public reading of the Torah are a separate institution, distinct from private Torah study. Some maintain that the primary Torahic obligation to recite \textit{birkhot ha-Torah} applies exclusively to public Torah study.\textsuperscript{137} Hazal, however, later enacted blessings for private study as well, never eliminating the need for benedictions over public Torah study, including \textit{keri’at ha-Torah}. Other scholars are of the view that the public \textit{birkhot keri’at ha-Torah} were enacted in addition to the private \textit{birkhot limmud ha-Torah} out of honor for the Torah (\textit{mi-shum kevod ha-Torah})\textsuperscript{138} or out honor to the congregation (\textit{mi-shum kevod ha-tsibbur}).\textsuperscript{139}

While the above reasons describe the rabbinic motivation in establishing these \textit{birkhot keri’at ha-Torah}, they do not clarify their exact nature. Indeed, two fundamental approaches exist as to the proper character and classification of the Torah reading benedictions. One school maintains that these are mitsva benedictions, although there is some difference of opinion as to the precise mitsva being performed. Some posit that the mitsva being fulfilled is public Torah study (\textit{limmud ha-Torah be-rabbim}). As such, these blessings would not be obligatory on those exempt from Torah study, such as women and minors. Others suggest that these are \textit{birkhot ha-mitsva} on the special enactment (takkana) of public Torah
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reading (keri’at ha-Torah be-rabbim). As such, these blessings would not be incumbent on all those exempt from keri’at ha-Torah, including women and minors.\textsuperscript{140} Alternatively, these birkhot keri’at ha-Torah are mitsva benedictions, but are based on the communal obligation to ensure that Torah is studied and passed on, which all Jews share.\textsuperscript{141} A second schools argues that these blessings are not birkhot ha-mitsva; after all, the standard birkat ha-mitsva formulation of “ve-tsivvanu”, appears nowhere in the keri’at ha-Torah benedictions. Rather, they are birkhot shevah ve-boda-ya, blessings of special praise and thanks to the Almighty for giving the Torah to the People of Israel.\textsuperscript{142} Hence, they are appropriate for all who receive an aliyya – irrespective of their inherent obligation in keri’at ha-Torah.\textsuperscript{143}

C. For Whom Are the Benedictions Recited

The last introductory issue requiring explication is: upon whom does the duty and responsibility to recite the birkhot keri’at ha-Torah reside? The vast majority of posekim maintains that the obligation to recite the berakhot is a personal one, which devolves onto the individual. However, this view divides into two subgroups. One approach maintains that the obligation to recite a benediction rests with each of the congregants present – much like the case of mikra megilla. But it is the oleh who recites the benediction(s) aloud on behalf of each individual present, via the mechanism of shome’a ke-oneh.\textsuperscript{144} This school generally encompasses those who maintain that keri’at ha-Torah itself is a personal obligation for each congregant. According to this view, the only difference between the “old system” and the “present system” for reciting birkhot keri’at ha-Torah would be the number of olim who were required to recite benedictions, while their intent – to be motsi the congregants present – remained the same.

The second subgroup is of the opinion that the berakhot are the sole obligation of each oleh. This school generally, though not exclusively, corresponds to those who maintain that keri’at ha-Torah is a communal obligation, or – even if it is a personal obligation – it is to listen to the reading attentively. Since there is no personal obligation to read the Torah, other than for the selected olim, it is the latter alone who recite the benedictions.\textsuperscript{145} This view opines that under the “old system” of birkhot keri’at ha-Torah, the first and last olim declaimed their respective benedictions for themselves and for all the other olim. However, under the “present system,” each oleh recites the benedictions for himself alone – with no intention to do so for his fellow oleh.\textsuperscript{146} We emphasize that according to
either of these subgroups, even if birkhot ha-Torah are birkhot ha-shevah, they remain the personal responsibility (a hovat ha-yahid) of the oleh/olah.\textsuperscript{147}

As just noted, the overwhelming majority of authorities maintain that the obligation to recite the birkhot keri’at ha-Torah is a personal one. Nevertheless, there is a minority school which – contrary to most other rishonim – opines that these berakhot, which were instituted for the honor of the Torah and the community, rests on the congregation as a whole (hovat ha-tsibbur). Thus anyone can read for all. Anyone in the community – not necessarily the one doing the ma’aseh ha-mitsva of reading the Torah aloud, i.e. the oleh – can recite the benedictions. Accordingly, the only difference between the old and the present systems for reciting birkhot keri’at ha-Torah would be the number of olim who were required to recite benedictions. However, this school is importantly divided into two camps which disagree as to the essence of this “communal” obligation. According to R. Joseph B. Soloveitchik, the first camp includes Maimonides and R. Menahem haMeiri.\textsuperscript{148} These rishonim maintain that the obligation to recite the benedictions is a communal one and as such devolves onto each and every individual congregant present. While any member of the community may recite the berakhot, as noted above, the one so designated must do so aloud, thereby relieving all others present of their obligation. This the oleh does via the mechanism of shome’a ke-oneh effectuated by the congregation responding “amen” to the benedictions. The second camp includes R. Solomon ben Abraham Adret (Rashba), who in a recently published manuscript responsum,\textsuperscript{149} holds that this communal obligation to recite the benedictions rests on the congregation as a whole, but not on any individual or group of individuals. Any individual can be designated to recite the benedictions for the entire community and that alone is sufficient for the entire community to have fulfilled its hovat ha-tsibbur. We reiterate that this school is discussing specifically the Torah reading benedictions which it views as a hovat ha-tsibbur - but generally speaking it also maintains that keri’at ha-Torah itself is a communal obligation.

D. Can Women and Minors Recite the Keri’at ha-Torah Benedictions?

Putting the assorted components above together results in various halakhic outcomes – depending on how one rules on each of the elements. Indeed, two groups of scholars argue that women are precluded from reciting the birkhot keri’at ha-Torah:
(1) One position maintains that women are inherently forbidden to recite the birkhot keri’at ha-Torah. This is because these benedictions are birkhot ha-mitsva for the mitsva of public keri’at ha-Torah, from which women are exempt, and Sefardi practice prohibits women from reciting such non-obligatory blessings. As a result, under the old system, where blessings were only recited by the first and last oleh, this would preclude women from receiving the first and last aliyyot—though they could receive the middle ones which lack benedictions. According to this position, it is to these middle aliyyot that the baraita in Megilla 23a refers when it discusses the theoretical possibility of women receiving aliyyot. However, under the present system, where each oleh is required to recite their own benedictions, women would be excluded from reciting the berakhot, and, hence, from receiving any aliyyot. We note, however, that this obstacle would not arise for minors who can recite non-obligatory benedictions under the rubric of hinunik (education).

(2) The second group, like the first, maintains that these Torah reading benedictions are birkhot ha-mitsva for a mitsva from which women are exempt. They may even rule leniently regarding mitsva benedictions that do not contain the ve-tsivvanu formulation or may follow Ashkenazi practice. Nevertheless, they argue that the obligation to recite the Torah reading benedictions falls upon each of the congregants present and, using shome’a ke-oneh, the oleh recites the benediction(s) for each of them. Women who are not obligated in the birkhot keri’at ha-Torah, and minors who are either not obligated or bear a lesser obligation than majors cannot recite them for others who are fully obligated. As a result, under the old system, where blessings were only recited by the first and last oleh, women and minors could only receive the middle aliyyot which lack benedictions. According to this position, it is to these middle aliyyot that the baraita in Megilla 23a refers when it discusses the theoretical possibility of women and minors receiving aliyyot. However, under the present system, where each oleh is required to recite their own benedictions for themselves and the community, women and minors would be excluded from receiving any aliyyot since they cannot assist the congregants with their blessing obligation.

(3) Despite the arguments of the above two stringent groups, the majority position rules that if and when women and minors receive aliyyot, they then may also recite the attendant blessings, despite their exemption or lesser obligation in keri’at ha-Torah. This also seems to be the view of R. Joseph Caro and R. Moses Isserlis who, despite their discussions of aliyyot for women and minors, never raise the issue of the birkhot keri’at ha-Torah. These scholars apparently maintain that the
obligation to recite the *birchot keri’at ha-Torah* is a personal one of the *oleh* alone. In addition, they maintain one of the following three possible approaches regarding *birchot keri’at ha-Torah*:155

(a) The Torah reading benedictions are *birchot ha-mitsva*, and one may rule leniently regarding women’s optional recitation of *mitsva* benedictions that do not specifically contain the *ve-tsivvanu* formulation.156

(b) These *berakhot* are *birchot ha-mitsva*, but one may be lenient about their optional recitation by women following Ashkenazic practice (the school of *Rabbenu* Tam).

(c) They are *birchot ha-shevah* (benedictions of praise), appropriate for all who receive an *aliyya* – irrespective of one’s inherent obligation in *keri’at ha-Torah*.

(4) As just noted, the third school maintains that the recitation of the *birchot keri’at ha-Torah* is the sole obligation of the *oleh*. Nevertheless, in the previous section (V.C) we cited the minority view of Rashba who, contrary to all other *rishonim*, maintains that the obligation to recite the *birchot keri’at ha-Torah* rests on the *congregation as a whole* (*hovat ha-tsibbur*) and **not on any individual**. Anyone, therefore, may be designated to recite the benedictions for the community. Rashba himself does not discuss the issue of women and minors in this *responsum*; nevertheless, his analysis opens the way to one further position. Thus, one could conceivably argue that since no individual is fulfilling a personal obligation upon reciting the *birchot keri’at ha-Torah*, even a congregant who is not obligated in the Torah reading (like a woman or minor) may recite the benediction for the entire assemblage. Interestingly, without being aware of the existence of Rashba’s *responsum*, three *aharonim*, R. Issacher Solomon Teichtal, R. Shlomo Zalman Auerbach and R. Shlomo Fischer, have raised such a possibility in the case of others who are not obligated (e.g., an Israeli sojourning in the diaspora on *yom tov sheni shel Galuyot*). It is noteworthy, however, that with the exception of R. Teichtal, these *posekim* are unwilling to rule in accordance with this novel suggestion as normative *halakha* against the overwhelming majority of *posekim*.157

VI. Women and Minors under a *Ba’al Keri’ah* System

We have seen above that if and when a woman or a minor receives an *aliyya*, they can read their portion for themselves. Under those very same conditions, can they do so for other *olim* as well, i.e., can they serve as *ba’al keri’ah*? In order to answer this question, we need to gain greater insight into the role of the *ba’al keri’ah*.
A. The Function of the Ba’al Keri’ah

As noted in our opening comments, each oleh originally read his own Torah portion aloud from the sefer Torah. This required literacy, knowledge, and preparation – a challenge to which all were not equal. It was not until several hundred years later, in the post-Talmudic Geonic period, that a ba’al keri’ah (Torah reader) was appointed to read aloud from the Torah for each oleh.158 Two rationales for this institution have been presented. Tosafot maintains that the purpose of the appointment of a ba’al keri’ah was to prevent embarrassment to those who did not know how to read from the Torah,159 much as had been done earlier in Jewish history by the recitation of the bikkurim text upon the bringing of one’s first fruits to Jerusalem.160 R. Asher ben Yehiel (Rosh) suggests that the issue at stake was communal harmony. This was because there were those who, in fact, did not know how to read but insisted they could, and who would create dissension should they not be called up as a result.161

But the issue of rationale aside, the fundamental question is one of mechanism. After all, as originally instituted, the mandate of the oleh – and only the oleh – was to read the Torah aloud for the community from the Torah scroll; the oleh recites the keri’at ha-Torah benedictions before and after the fulfillment of that role. The function of the ba’al keri’ah is to do that very act of reading aloud from the Torah parchment for the oleh. If, however, the ba’al keri’ah is the one who is actually doing the mitzva act (ma’aseh ha-mitsva) – namely, reading aloud from the parchment – then he should be the one making the berakhot!162 By what mechanism does the action of the ba’al keri’ah get transferred to the oleh? By what means can the oleh make berakhot on the reading of the ba’al keri’ah, as if that reading aloud were his own?

Two possible mechanisms have been proffered in the halakhic literature. Some scholars have invoked shelihut (agency), i.e., that the ba’al keri’ah is the appointed agent or messenger of the oleh,163 much as the mohel is the agent of the father of the infant to be circumcised. However, the majority of posekim maintain that with auditory and verbal obligations – such as keri’at ha-Torah – an alternate mechanism is in effect, namely, shome’a ke’oneh – listening attentively is like reciting.164 As noted above, this second mechanism transfers the totality of the “assister’s” verbal actions to the “assisted.”165 Thus, the reading aloud of the ba’al keri’ah from a parchment can be transferred to the oleh.

It is of critical importance, though, to note that both shelihut and shome’a ke’oneh require that the ba’al keri’ah be a bar hiyyuva (actively obligated) in keri’at ha-Torah.166 In other words, shelihut and shome’a
ke’oneh are the legal vehicles via which one obligated party can help the other to fulfill his/her obligation. Hence, an attempt to apply these principles to keri’at ha-Torah turns out to be a bit problematic. For how can a ba’al keri’ah read for the oleh – he is not actively obligated? Only the oleh is authorized to read from the Torah scroll and recite the benedictions. How can anyone else assist the oleh or do so for him? No one else, not even the ba’al keri’ah, is actively obligated to read aloud at that moment!

The answer is rooted in the principle of “inherent obligation,” as discussed earlier. All males bear “inherent obligation” for keri’at ha-Torah, for were they to be called up as olím, they too would be fully obligated to read. Accordingly, arevut is in fact operational. It is arevut, therefore, which jump-starts an active obligation within the ba’al keri’ah, thereby authorizing and enabling him to assist the oleh in the fulfillment of his personal obligation of reading the Torah aloud.

Despite this clarification, the situation by keri’at ha-Torah remains somewhat more complicated. R. Joseph Caro rules according to Rosh and others that even in the presence of a ba’al keri’ah, the oleh is obligated to read along quietly with the reader, lest the oleh’s berakhot be considered in vain. As a result, R. Caro further rules that a blind or illiterate person is precluded from receiving an aliyya. R. Moses Isserlis (Rema) concurs that the oleh should a priori read along with the reader. However, he cites the leniency of R. Jacob Molin (Maharil) and others, who permit a blind or illiterate individual to receive an aliyya, even though neither can read along with the ba’al keri’ah from the Torah parchment. Interestingly, as R. Joseph B. Soloveitchik and others have noted, it is the Maharil’s view that has become the almost universally accepted halakhic practice.

What does Rosh’s requirement that the oleh read along quietly reveal about the division of labor between the oleh and the ba’al keri’ah? Various formulations appear in the responsa literature, but perhaps the most succinct puts it thusly. Originally, the task of each oleh was to read his Torah portion aloud to the community from the sefer Torah. With the innovation of a ba’al keri’ah, the task of the oleh has been effectively bifurcated: firstly, to read the selected Torah reading from the Torah scroll; and secondly, to have that selection read aloud for all the community to hear. Both subtasks must be fulfilled together for the attendant berakhot to be valid. According to the school of Maharil, the ba’al keri’ah can carry out both functions for the oleh via shelihut or shome’a ke-oneh. By contrast, Rosh’s school views the first component, namely, the obligation to read from the parchment, as the oleh’s personal task alone, which cannot be fulfilled via the actions of anyone else. After all, if the oleh does
not even read, argues Rosh, how can he make a berakha? Only with regards to fulfilling the second part of his obligation, i.e., to have the weekly portion recited aloud to the community, can the oleh be assisted by the ba’al keri’ah.

As just noted, however, it is the Maharil’s view that has become the accepted halakhic practice.

B. Women and Minors as Ba’alei Keri’ah

We turn now to the question with which we opened this section: can women and minors serve as ba’alei keri’ah to read the Torah aloud for others? Following the lead of Magen Avraham, the overwhelming majority of posekim rule that neither a minor nor a woman can serve as ba’alei keri’ah. They base their stance on the grounds that women are not obligated in keri’at ha-Torah, while minors bear, at most, a lesser obligation than majors. As a result, neither shelihut nor shome’a ke-oneh are effective mechanisms to enable a woman or a minor ba’al keri’ah to be motsi an oleh.

Two groups of scholars have, however, questioned this ruling of Magen Avraham. The first raises a fundamental issue: how is it possible that a woman or a minor could read for herself or himself, but not serve as ba’alei keri’ah to read for others? After all, in both cases the community is hearing the Torah reading from one who is not obligated! To the mind of the challengers, the answer to this rhetorical question is that it is not possible; if the Rabbis empowered minors (and women, kevod ha-tsitbur aside) to read for themselves, so too can they read for others.

Nonetheless, the overwhelming preponderance of posekim, as cited above, refuse to acknowledge any comparison between a minor or a woman reading his/her own aliyya and their serving as ba’alei keri’ah for others. The distinction is quite straightforward based on the analysis in the previous section. When women and minors, who are not obligated or not fully obligated in keri’at ha-Torah, read for themselves, the only issue at hand is whether the community has fulfilled its obligation. As the Talmud indicates in Megilla 23a, Hazal have ruled in the affirmative: “All are eligible for an aliyya … even a minor and even a woman” – and we have cited above several rationales for this.

However, when the non-obligated woman or the not fully-obligated minor read as ba’alei keri’ah for others, an additional element arises. This issue is whether the oleh has fulfilled his/her Torah reading obligation to an extent that enables him/her to recite the keri’at ha-Torah benedic- tions. Here the clear response of the vast majority of posekim is in the
negative. This is because it is necessary to transfer one subtask (reading the Torah portion aloud, according to the school of Rosh) or both subtasks (reading from the parchment and doing so aloud, following Maharil) performed by the *ba’al keri’ah* to the *oleh*. Without such transference, the berakhot recited by the *oleh* will be for naught. However, as noted by the *posekim*, the two mechanisms by which this transfer can occur, *shelihut* or *shome’a ke’oneh*, require that the *ba’al keri’ah* be a *bar hiyyuva* in *keri’at ha-Torah*. As noted above, it is the *arevut* of the men that transforms their inherent obligation into actual obligation, thereby enabling the *ba’al keri’ah* to assist the *oleh* in the fulfillment of his personal religious act through *shelihut* or *shome’a ke’oneh*. Since a minor is at most minimally obligated, while a woman is not obligated at all, the necessary transfer cannot be effected by them and, therefore, they cannot read for another – male or female. Indeed, R. Soloveitchik discusses this explicitly:

“…Nowadays, [that the *oleh* does not read aloud], we must resort to *shome’a ke’oneh* from the *ba’al korei* to the *oleh*. …[This is] because the law requiring three or seven *keru’im* [individuals called to the Torah], is actually requiring three or seven *kore’im* [readers aloud] – or at least that the reader himself should recite the benedictions. Hence, in order to invoke *shome’a ke’oneh*, we require a reader [i.e., a *ba’al korei*] who is obligated. A minor or a woman is hence invalid [to serve as a *ba’al korei*] nowadays *de jure* – unless they recite the benedictions over their own reading.”

The second group of challengers includes the noted halakhicists R. Israel Jacob Algazi and R. Joseph Te’omim. They opine that, since a minor is rabbinically obligated in *mitsvot* (*hinnukh*), he is empowered to assist others in fulfilling their rabbinic obligation of *keri’at ha-Torah*. However, as already discussed above in section II, this position has remained well outside the halakhic consensus for three primary reasons. Firstly, many authorities refuse to accept the initial premise, that a minor is rabbinically personally obligated. But even were we to accept this assertion, the minor still possesses a lower level of obligation in *keri’at ha-Torah*, one resulting from two rabbinic edicts (*trei de-rabbanan*), and cannot assist a major whose obligation is greater (*had de-rabbanan*). Finally, as discussed above, the overwhelming consensus of the codifiers is that the concept of *arevut* does not apply to minors whatsoever. For this reason, the position of R. Algazi and R. Te’omim has been generally rejected and invoked, if at all, only in pressing circumstances (*she’at ha-dehak*), i.e., when
there is no one else available to read and the Torah reading will be cancelled as a result.\(^{188}\) It must be emphasized, though, that even were we to accept the correctness of R. Algazi and R. Temin’s assertion, this would only empower minor males, who are rabbinically obligated - not women who are not obligated at all!\(^{189}\)

Thus, having deflected the criticism to Magen Avraham’s ruling, the vast majority of halakhic authorities have conclude that neither women nor minors can serve as ba’alei keri’ah as they are not fully obligated in keri’at ha-Torah. Should they, nevertheless, read for others, the Torah reading benediction made by the oleh will be for naught. We should note that the above analysis has followed the near unanimous position of the rishonim and the overwhelming preponderance of the aharonim, who posit that the keri’at ha-Torah benedictions are the personal obligation of the oleh (bovat ha-yahid). There is, however, the minority school of Rashba cited above (see Sec. V.C and D), which maintains that the Torah reading benedictions are a communal requirement (bovat ha-tsibbur) which anyone in the community can recite. According to this minority view, one could argue that even those not obligated in keri’at ha-Torah can recite the benedictions for all. According to this view there is no need for a transfer mechanism between oleh and ba’al keri’ah, and hence a minor or woman can serve as ba’alei keri’ah. This approach has not galvanized any significant normative halakhic support.\(^{190}\) These comments are also applicable to the discussion in the next two sections below (Secs. VI.C and D).

In concluding this section, we would like to indicate that R. Shlomo Goren adds a further reason for disallowing both women and minors from serving as ba’alei keri’ah. He posits that one cannot lead a communal ritual as ba’al keri’ah or sheli’ah tsibbur if he/she does not count towards the minyan required for the performance of that ritual.\(^{191}\) Since neither women nor minors count for the minyan of keri’at ha-Torah,\(^{192}\) they cannot, argues R. Goren, serve as communal readers either.

**C. Women and Minors as Olim (Kevod ha-Tsibbur Aside)**

There is yet another important outcome of the above analysis. This has to do with the question of whether, in our bifurcated system, women (kevod ha-tsibbur aside) and minors may receive aliyyot. Before proceeding, let us first review the classical analysis of the inter-relationship between the ba’al keri’ah and the oleh. For the oleh to be permitted to recite the Torah reading benedictions, the reading of the ba’al keri’ah must be transferred to the oleh. The technical mechanism by which this is accomplished is shome’a
ke-oneh. Nonetheless, shome’a ke-oneh requires the assister, i.e. the ba’al keri’ah, to be obligated. But as we saw above, the actual reading is the personal obligation of the oleh – and no one else. Nevertheless, arevut can impart to the ba’al keri’ah the needed obligation, provided that both the oleh and the ba’al keri’ah are obligated in the mitsva of keri’at ha-Torah. As we saw previously, the vast majority of halakhic authorities maintain that one bears no arevut for those who lack any inherent obligation – though they would like to perform a mitsva optionally. As a result, the inherently obligated male ba’al keri’ah has no mechanism by which to transfer his reading to olim who (like women) are not inherently obligated in keri’at ha-Torah. Any Torah reading benedictions recited under such conditions would be deemed in vain (a berakha le-vattala). We should emphasize that the overwhelming consensus of the posekim is that even if birkhot ha-Torah are birkhot ha-shevah (see sec. V.B), they cannot be recited be-torat reshut (as a voluntary act). The onus of a berakha le-vattala remains firm.

However, at this juncture we need to distinguish between minor males and adult women. Regarding minors, while they are not fully obligated, there is an obligation for majors to educate them (hinnukh) in the fulfillment of mitsvot – including keri’at ha-Torah. This educational obligation is sufficient to validate a one-directional transfer from the major to the minor. It is for this reason that a major may recite havdala and other birkhot ha-mitsva to be motsi (assist) a minor – even if the minor is not his own child. Once again, this is not the case for women, who bear no obligation for keri’at ha-Torah whatsoever. The upshot of these considerations is that minor males may perhaps be able to receive aliyyot and have others read for them; women certainly may not. Significantly, however, the above analysis does not preclude women and minors from reading for themselves, should they be called for an aliyya, since no transfer mechanism is required in such circumstances.

The above analysis has followed the vast majority of halakhic authorities. We have, however, previously noted [Sec. II (5)b] a “Minority School” of a number of prominent rabbinic scholars who maintain that one who is inherently obligated can assist those who would like to perform an optional mitsva. There are two rationales given for this ruling. The “Arevut Group” maintains that contrary to the “Majority School,” arevut can indeed be invoked for those who would like to perform an optional mitsva. The “Shome’a ke-Oneh Group” maintains that shome’a ke-oneh does not require arevut to allow the transfer of all forms of mitsva actions; arevut is required only when transferring the fulfillment of mitsva...
obligations. However, where the listener/assistee is not obligated, shome’a ke-oneh is a sufficient transfer mechanism even absent arevut. For shome’a ke-oneh to be operative it is sufficient that the assister alone be inherently obligated (or at least have a kiyyum ha-mitsva) and intend to assist the listener in the performance of a mitsva – thereby transforming the physical action into a “ma’asch mitsva” (a mitsva action). Applying either of the two rationales of the “Minority School” to keri’at ha-Torah, women should be allowed to recite birkot keri’at ha-Torah on the reading of the ba’al keri’ah, despite the fact that women are not obligated in keri’at ha-Torah, contrary to the “Majority School.”

Yet, even according to this “Minority School,” a woman can only be an olah; she cannot serve as a ba’alat keri’ah. The “Arevut Group” requires that the reader be at least inherently obligated; yet, a woman is obligated neither actually nor inherently in keri’at ha-Torah. The “Shome’a ke-oneh Group” requires that the reader be inherently obligated – which she is not – or at least have a kiyyum ha-mitsva. However, a ba’al keri’ah never has a kiyyum ha-mitsva merely by virtue of his reading the Torah aloud; that mitsva resides solely with the olah. Thus a women’s reading cannot be transferred to the olah via arevut, nor would it constitute a ma’asch mitsva for shome’a ke-oneh to work.

D. Who is the Real Oleh? The Inverted School

Until now we have assumed, as do most authorities, that the olah is the one formally called up who recites the benedictions, while the ba’al keri’ah is the one who reads the Torah portions aloud for each olah. Interestingly, however, there is a significant group of outstanding scholars, led by R. Abraham ben Mordechai Halevi, author of Resp. Ginnat V eradim, who seemingly turn everything on its head. They posit that the “real” halakhic olah is the one we call the ba’al keri’ah, who is actually doing the mitsva act of reading the Torah aloud, and he receives an aliyya seven times, as the reader. This is squarely based on the Tosefta, which reads:

A synagogue which has only one who can read [the Torah]: he stands, reads and sits, stands, reads and sits – even seven times.

According to this view, the Geonic institution of ba’al keri’ah was an extension of this Tosefta. Instead of having the reader make the benedictions seven times, seven individuals from the community (“olim”) are called upon to recite the berakhot for the reader, thereby punctuating the
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reading into seven aliyot. The ba’al keri’ah fulfills his personal obligation of the berakhot by the recitation of each of the various “formal” olim on behalf of the ba’al keri’ah via the principle of shome’a ke-oneh.

As noted in the previous section, according to the vast majority of posekim, in order for this principle of shome’a ke-oneh to work, the one reciting the berakhot – the formal oleh – must be a bar hiyyuva (inherently obligated), which women are not. As discussed in Section II above, minors – even if rabbinically obligated – have a lesser obligation than majors, and, therefore, transfer to majors is again blocked. Hence, according to this analysis, women and minors cannot serve as olim. A similar problem arises, when we consider whether women can serve as ba’alot keri’ah. This is because their lack of obligation again precludes arevut to them, and, hence, there is no mechanism for the transfer of the birkhot keri’at ha-Torah from the formal oleh to them. In the case of a minor, we may well be able to invoke hinnukh to create this transferability, but this mode is inaccessible to women.

We turn now to the “Minority School” discussed in the previous section. According to this school, if we maintain that the real oleh is the ba’al keri’ah, it would be totally forbidden for a woman to be either the ba’alat keri’ah or olah. The overall analysis goes like this. If the Torah reader (the real oleh) is a male, he would require birkhot keri’at ha-Torah of obligation, which a female olah could not possibly transfer to him because she herself is not obligated. More fundamentally, a women olah’s recitation of berakhot under such conditions would be le-vattala since she has no kiyum ha-mitsva (mitsva fulfilment). Hence, even if the Torah reader were a woman, the one reciting the berakhot could not be a woman. The remaining possibility is where the Torah reader (the real oleh) is a woman, and the one to recite the berakhot is a man. This too would be forbidden. According to the “Arevut Group,” since the reader is a non-obligated woman, the benediction is also optional and even according to this group one bears no arevut for the recitation of an optional blessing. According to the “Shome’a ke-Oneh Group,” a man cannot recite the benediction for her, since he can only recite a birkat ha-mitsva if he is performing a mitsva action – which he is not – or if the berakha is obligatory – which, absent arevut, it is not.

As before, even according to this analysis, women and minors can read for themselves and recite the benedictions for their own aliyot, since no transfer is required. However, they cannot recite the berakhot while having someone else actually read the Torah portion.
E. Summary

The above discussion describes two opposite approaches to the Geonic innovation of the ba’al keri’ah. Both positions agree that the actions of both the oleh (recitation of the birkhot keri’at ha-Torah) and the ba’al keri’ah (reading the Torah aloud) must be combined to create one whole mitsva act. The point of contention is the issue of transfer. According to the “traditional” approach, the oleh is the central functionary; the Torah reading of the ba’al keri’ah is credited to the oleh, who then recites the attendant blessings. A second approach, “The Inverted School,” views the ba’al keri’ah at the focal point and the berakhot of the oleh are transferred to him. In either scenario, this transferability is predicated on arevut, mutual religious responsibility, which in turn is contingent on one’s obligation in the ritual under discussion. Since women and minors are not obligated in keri’at ha-Torah, no transfer mechanism is operative.

Consequently, according to either approach, in the bifurcated Geonic system, women can serve neither as olot nor as ba’alot keri’ah; no whole mitsva performance can be created, and the benedictions will be for naught. We emphasize again that, even if birkhot ba-Torah are birkhot ha-shevah, they cannot be recited be-torat reshut (as a voluntary act). The onus of a berakha le-vattala remains firm. Nevertheless, posekim have ruled leniently in the case of minor males as olim and less commonly as ba’alei keri’ah. This is because, while minors are not obligated, there exists a religious responsibility in regard to their education (hinnukh). This, in turn, reactivates arevut and transferability – although the issue of “to what extent” remains. This is not the case for women, who bear no obligation whatsoever. However, neither of the two approaches, concerning who is the “real” oleh, precludes women and minors from reading for themselves, should they be called for an aliyya, since no transfer mechanism is required in that case.

The above analysis and conclusion also follows the almost unanimous position of the rishonim and the overwhelming majority of aharonim, who posit that the keri’at ha-Torah benedictions are the personal obligation of the oleh. Hence, the actions of both the oleh and the ba’al keri’ah must be combined to create one whole mitsva act. Otherwise, the keri’at ha-Torah benedictions are berakhot le-vattala. Contrary to this near unanimity, however, is the view of Rashba (see Sec. V.C and D above) who maintains that the Torah reading benedictions themselves are a communal requirement. According to this minority view, one could argue that anyone in the community can recite the berakhot, obligated in keri’at ha-Torah or not. Thus, there is no need for a transfer mechanism.
between *oleh* and *ba’al keri’ah*; hence, women and minors could (*kevod ha-tsibbur* aside) theoretically serve as both *olim* and *ba’alei keri’ah*. Nevertheless, in light of the almost complete agreement among *rishonim* and the overwhelming majority of *aharonim*, following this small minority position of Rashba in practice would undoubtedly be halakhically inappropriate. What’s more, former Chief R. Shlomo Goren (end of Sec. VIB, above) maintains that one cannot lead a communal ritual if he/she does not count towards the *minyan* required for the performance of that ritual. Since neither women nor minors count for the *minyan of keri’at ha-Torah*, they cannot recite the benedictions for the community either. All this is seriously compounded by the grave prohibition of invoking God’s name in vain when reciting benedictions in situations of major halakhic doubt (*safek berakhot lehakel*). This would clearly be such a situation!

The above analysis and conclusion also follows the vast majority of *posekim* who maintain that one who is inherently obligated cannot assist those who lack any inherent obligation – even though they would like to fulfill a *mitsva* or recite a *birkat ha-mitsva* optionally. Nevertheless, we have cited a minority of *posekim* who indeed permit such assistance. But, as we have shown, even this lenient minority approach only permits a woman *olah* with a male *ba’al keri’ah*, but never a female *ba’alat keri’ah*. Furthermore, this minority position must assume the “traditional” approach, that the *oleh* is the central functionary (the “true” *oleh*). For if the *ba’al keri’ah* is the real *oleh*, then this leniency too would disappear. Regardless to the exact nuances of our theoretical analysis, allowing women in practice to receive *aliyyot* based on this “Minority School” position is halakhically very unsound. Such a course violates the undisputed principle of “*safek berakhot lehakel,*” with the serious risk of pronouncing “*berakhot le-vattala*” (benedictions in vain).

Reiterating, under the bifurcated *oleh/ba’al keri’ah* system, because women are not obligated in *keri’at ha-Torah*, they cannot read for others, nor can others read for them. Should they do so, the Torah reading benedictions may well be for naught. This conclusion is *me-ikkar ha-din* (the basic law) according to the overwhelming majority of *posekim* and has nothing to do with *kevod ha-tsibbur* (which we have yet to discuss). This conclusion challenges and undermines the prevalent *keri’at ha-Torah* practice in nearly all egalitarian/“Partnership” *Minyanim* (see Addendum); unless the woman who gets the *aliyya* reads for herself aloud, the *birkhot keri’at ha-Torah* will be *berakhot le-vattala*. However, if the woman who gets an *aliyya* does indeed read for herself, then we have come to the issue of *kevod ha-tsibbur*, to which we now turn.
VII. Understanding Kevod ha-Tsibbur

A. Examples of Kevod ha-Tsibbur

Having developed a better understanding of the obligation and mechanism of keri’at ha-Torah, time has come to introduce the concept of kevod ha-tsibbur into the equation. As we saw in the opening section of this paper, a baraita cited in the Talmud Megilla reads:219

The Rabbis taught: All are eligible for an aliyya among the seven [Sabbath aliyyot] – even a minor and even a woman. However, the Rabbis declared: a woman should not read from the Torah – because of kevod ha-tsibbur.

Literally, kevod ha-tsibbur refers to the honor or dignity of the community,220 but neither the Talmud nor the rishonim clearly delineate the rationale behind this kevod ha-tsibbur argument.

It is noteworthy that kevod ha-tsibbur appears several other times in the halakhic literature,221 but in each of these other cases the reasoning is clear – although varied.222 For example, because of kevod ha-tsibbur, it is forbidden to read from an incomplete sefer Torah – even if it is a parchment scroll containing a whole humash (fifth of the Torah).223 Doing so gives the impression that the community is lax about the fulfillment of basic communal mitsvot – it has money for everything else but not for a whole sefer Torah.224 Applying the same principle, it is improper to roll the sefer Torah225 or undrape the Torah lectern226 while the community waits idly by. The gabbaim should have prepared the Torah in advance227 and not try to save time at the community’s expense.228 Kevod ha-tsibbur is also invoked to require the ba’al keri’ah read standing during the communal Megilla reading,229 which is only proper out of respect to the community he represents and serves.230 A minor kohen may not bless the congregation alone,231 nor may an adult in tattered clothing (pohe’ah) serve as hazzan (cantor), read from the Torah, or bless the people – all based on kevod ha-tsibbur.232 Finally, it is likewise forbidden for a community to appoint as their permanent hazzan one who lacks the signature of adulthood and maturity of a full beard – which is at about 20 years old.233 In the latter cases it would be improper for a community to choose someone who is “only a kid” or who is dressed in tatters to represent them before the local temporal powers to be – a fortiori before the King of kings.234

Unfortunately, these examples do not seem to shed any additional light on our opening question: how are we to understand the kevod ha-tsibbur element with respect to women’s aliyyot? Besides, why does kevod
ha-tsibbur not apply to a katan (a minor)? As already noted, the Talmud in Megilla assumes a system in which each oleh read his own portion. So let us first understand the text on its own terms, and only later will we add in the further complicating element of a ba’al keri’ah.

B. Kevod ha-Tsibbur and Women’s Aliyyot

There are three basic approaches among rabbinic scholars as to what exactly it is that demeans the honor of the community when a woman is called to read the Torah – and why this does not apply to a minor:

1. Sexual Distraction School - The first school suggests that kevod ha-tsibbur is concerned with possible sexual distraction. This large group of leading decisors argues that it is improper, indeed dishonorable, for a community to unnecessarily introduce a possible element of sexual impropriety into public ritual – be it prayer or Torah study. The synagogue is a place where we try to sanctify our thoughts; and we make particular efforts to avoid all sexual distraction. Therefore, the standards of tseni’ut in a synagogue are halakhically greater than those in other venues – as evidenced, for example, by the requirement of a mehitsa. It is potentially sexually distracting, and therefore improper and dishonorable, to have a woman at the center of attention in a religious communal ritual – and, if it is not absolutely necessary or required, it is to be avoided. This approach has been applied not only to the case of women’s aliyyot, but to other rituals as well, such as women reading megilla, reciting kiddush or saying birkat ha-mazon for the community.

Also to be included within this sexual distraction school are those who focus on the particular issue of kol be-isha erva (that the singing voice of a woman is sexually distracting; Berakhot 24a). Since, in Talmudic times, the one who received an aliyya also read from the Torah with the associated cantillations, this would present a potential problem if the oleh were a woman. This school maintains that even where there are grounds to be more lenient about “kol be-isha erva” in general life, this certainly should not be permitted as normative synagogue practice.

What remains is to explain why kevod ha-tsibbur does not apply to a katan (a male minor). According to the understanding of “sexual distraction school,” kevod ha-tsibbur is clearly a gender issue; hence with a male minor there is no problem of kevod ha-tsibbur. As far as ketanot (female minors) are concerned, there is certainly no element of hinnukh on a minor female to do something that would be prohibited to her as an adult.

2. Lack of Obligation School: According to the scholars of the second “lack of obligation school,” while it is true that the Rabbis of the
Talmud made a special dispensation to allow non-obligated women and minors to read, they did so, however, only when absolutely necessary. They certainly did not want this to be a normative situation, because they believed that it was shameful for a community to resort to those who do not share full obligation in this communal ritual. To do otherwise would suggest one of two scenarios: (1) either this community really is so shamefully uneducated that there is an insufficient number of obligated adult males who know how to read from the Torah; or alternatively, (2) if there really are men who know how to read, and yet they choose to have the keri’at ha-Torah carried out by those who are not obligated to do so, this would suggest zilzul or bizzayon ha-mitsva (belittling or showing disrespect to a mitsva). Such behavior is equivalent to bizyon Shamayyim (or bizyon ha-Metsavveh) - disparaging God, the giver of the mitsvot. In either case, it would leave the distinct impression that the males of the congregation have made terribly light of their obligation to read the Torah. According to this school, there are no grounds for invoking kevod ha-tsibbur in other rituals where women and men are equally obligated.

A variation on this theme is suggested by R. Joseph Kafih and R. Yehuda Herzl Henkin, who focus on the nature of the prerequisite minyan quorum required for the performance of certain rituals. Thus, the vast majority of codifiers require ten males exclusively to constitute the minyan quorum required for the reading of the Torah or the haftara. R. Kafih and R. Henkin suggest that it is improper to call up to the Torah those who are not empowered to be full constituting members of the requisite minyan in place of those who are. As before, to do otherwise would suggest one of two scenarios: (1) either this community really is so shamefully illiterate that those adult males who constitute the minyan are incapable of reading; or alternatively, (2) if there really are men who know how to read, and yet they choose to have the keri’at ha-Torah carried out by those who are not empowered to constitute the minyan, this would suggest bizyon ha-mitsva.

Why does kevod ha-tsibbur not apply to a minor? The answer is that according to either variation of the “lack of obligation school,” it is not shameful for a community to involve minors. Indeed, the mitsva of hinnukh – educating minors in how to function in the synagogue – is both a parental and communal obligation.

3. Shame of Illiteracy School – The last school is subtly but importantly different than the second school presented above. It argues that kevod ha-tsibbur does not stem from women’s lower level of obligation or empowerment in a particular ritual, but rather from their lesser obligation
in public rituals as a whole. For as a general rule, women are freed from public rituals and, hence, it is the men who are expected to be knowledgeable enough to run the public service. As a result, it is improper to have women receive an aliyya, for one of two reasons, as above: (1) either this indicates that the community really is so shamefully uneducated that there is an insufficient number of adult males who are capable of reading from the Torah for the community; (2) or, alternatively, if there really are men who know how to read, and yet they choose to have the keri’at ha-Torah carried out by women – this shirking of their role would constitute bizyon mitsva.²⁴⁹

A variation on this theme is suggested by R. Yehuda Herzl Henkin.²⁵⁰ As noted above, women are generally freed from public rituals and, hence, it is incumbent upon the men to lead the public service. But even in those rare instances, like keri’at ha-Torah, where women were empowered to perform the ritual, the rabbis felt that it would be unwise for this to become normative practice, lest the men become lazy about learning the skills and preparing the reading.

As already noted above,²⁵¹ according to either variation of this school, it is not shameful nor is there a kevod ha-tsibbur deficiency for a community to involve minors where feasible. This is because hinnukh – educating male minors in how to function in ritual in which they will eventually become obligated – is both a parental and communal obligation.

Now let us reiterate the point we made earlier. It is not that women were full partners in keri’at ha-Torah, and kevod ha-tsibbur came along and took away from women something that was rightfully theirs. Rather, because of the widespread inability to read from the Torah properly, the Rabbis of the Talmud – as a very special dispensation – considered the possibility of allowing women, despite their lack of obligation – to receive aliyyot. On reconsideration, Hazal subsequently determined, however, that as normative synagogue practice this would be a bad idea, because there was a clear downside. It might well introduce an unnecessary element of sexual distraction, or demonstrate bizyon mitsva, or suggest that this community was shamefully uneducated, or perhaps even encourage illiteracy. As we will clarify shortly (in sec. D), women’s theoretical empowerment to read remained an option for pressing or dire circumstances, i.e., when there really is no one else available to read, and the Torah reading will be cancelled as a result.

C. Can a Community Set Aside Kevod Ha-Tsibbur?
The next basic question we need to explore is whether a community is sovereign to forgo its honor (limbol al kevodo). Even if giving women
aliyyot violates kevod ha-tsibbur, perhaps a community can decide to set aside its honor so as to allow a woman to receive an aliyya. We know, for example, that a parent or outstanding scholar can forgo the honor due them so that their children or students do not have to rise in their honor. On the other hand, a king has no right to set aside his honor, since it is not his personal honor – but that of the nation.252 In addition, while a parent or outstanding scholar can set aside their honor, they cannot set aside their shame (bizyonam).253

Let us first deal with this question generally and then turn to the specific issue of women’s aliyyot. Is a community autonomous, for example, to allow a man in tatters to serve as hazzan? Can they appoint a fourteen year old “kid” to be their regular cantor? Can the community forgo its honor and allow the gabbaim to roll the sefer Torah instead of taking out another Torah?

There are essentially three schools on this issue:

(1) The “stringent position” maintains that, as a rule, a community cannot set aside its honor. When the Rabbis of the Talmud forbad certain actions because of the “honor of the community,” they were setting universal congregational standards by which all had to abide. The most prominent proponent of this school is R. Joel Sirkis, noted author of the Bayit Hadash (Bah), though many other scholars concur.254 Bah does acknowledge, however, that there are extenuating circumstances – referred to in halakha as she’at ha-dehak (dire) situations – where there is no other choice available should we want to continue performing the ritual. For example, if a community only has one Torah scroll and two portions are to be read – there is no alternative but to roll the Torah following the first reading; otherwise, the second portion will not be read as required. Hazal, argues Bah, intended their decree for normative cases – not for such she’at ha-dehak situations.255

(2) The “lenient school” suggests that, provided the reasons are substantial, a community has the right to set aside kevod ha-tsibbur.256

(3) The majority “compromise position”257 distinguishes between two types of kevod ha-tsibbur. The question of rolling the Torah while the community waits idly by is an example of an internal community matter. The honor at risk is solely that of the community members themselves; it is purely a matter of the community vis-à-vis itself. In such a case, the community can forgo its honor, if it sees fit. However, the issue of appointing a teenager (above thirteen but below twenty) to be the regular hazzan, is a matter of who is worthy of representing the kehilla (community) before God. By comparison, one would not call on a 15 year old

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“kid” to plead the community’s case before governmental authorities; so why do so before the King of kings? Appointing a teenager as the regular cantor suggests that the community does not take its relationship with God seriously. Hence, this form of kevod ha-tsibbur is inextricably tied up with kevod Shamayyim – the honor of Heaven. The issue is one of the community’s standing vis-à-vis the Almighty. As such, should the community decide to forgo its honor, they are in essence foregoing the honor of Heaven – for which they have no authority. Accordingly, the community cannot set aside this category of kevod ha-tsibbur.258

D. Setting Aside Kevod ha-Tsibbur to permit Women’s Aliyyot in Dire Situations.

Let us now turn to the issue of setting aside kevod ha-tsibbur in the specific case of women’s aliyyot. For the time being, we will assume a system without a ba’al keri’ah – each oleh reads for himself.

First, we should note that Maimonides,259 Semag,260 and several later posekim261 are apparently of the opinion that in the specific case of women’s aliyyot, kevod ha-tsibbur can never be set aside, even be-she’at ha-dehak – i.e., even where there is no other choice available for performing the ritual. According to this school, Hazal decreed – through a formal enactment – that women should never be called up for an aliyya. Once the decree was formalized, the original motive for the enactment is no longer relevant.262 Thus, these posekim maintain that, even if there is no one else present who is capable of reading the Torah, a woman cannot be called upon to do so.263

Nevertheless, the majority of posekim would seem to disagree with this position, and have permitted women to receive aliyyot under non-normative she’at ha-dehak (dire) conditions or be-diAvad (ex post facto) situations.264 Indeed, she’at ha-dehak and be-diAvad situations are commonly equated in Jewish law following the principle “She’at ha-dehak ke-diAvad dami” (dire circumstances are halakhically equivalent to ex-post facto situations).265 Specifically, the following rare cases are discussed in the responsa and codes:

(1) A city of only kohanim: R. Meir ben Baruch of Rothenburg,266 permits women to receive the third through seventh aliyyot in this she’at ha-dehak situation, for otherwise the Torah reading would not take place. Were the kohanim to receive the remaining aliyyot, their lineage would be challenged (heikha de-lo efshar, yiddabeh kevod ha-tsibbur mi-penei pegam kohanim).

(2) If there are not seven men present who can read: Several posekim maintain that if there are not seven men present who can read from the Torah, a woman may be called to do so.267
(3) Aliyya for mother of a newborn whose husband is out of town: R. Jacob Emden\textsuperscript{268} deals with the case of a yoledet (mother of a newborn) whose husband is out of town. As a result of his absence, no prayer (mi she-berakh) for the health and welfare of the yoledet and her newborn will be recited. R. Emden considers this instance to be a she’at ha-dehak or be-diAvad (post factum) situation and permits the mother to receive an aliyya and have the concomitant mi she-berakh recited. [It is not clear, though, why a mi she-berakh le-yledet cannot be recited by the community in the father’s absence.] This leniency is provided that it is done in a private one-time minyan of limited size (metsumtsam).\textsuperscript{269} Also of import is R. Emden’s stipulation that his lenient ruling is contingent on the approval of his colleagues (“Kakh da’ati noteh im yaskimu inmi haverai.”). We are unaware of any other posek who concurs with this leniency.

(4) A woman who already rose for an aliyya: Some scholars maintain that if a woman was mistakenly called to the Torah and already rose for an aliyya, this is also considered a be-diAvad situation, and the keri’at ha-Torah may proceed.\textsuperscript{270} Thus, we see that while Hazal intended their kevod ha-tsibbur decrees for normative situations, they allowed for deviation in instances of she’at ha-dehak.\textsuperscript{271} But it is critical in this regard to emphasize a point that seems to have been missed by several modern authors. The fact that a sub-optimal performance of a ritual may be halakhically acceptable after the fact, or in dire situations, does not change the le-khathila necessity to perform the ritual properly.\textsuperscript{272} Proceeding one step further, R. Hayyim Hezekiah Medini discusses one who improperly performed a religious act or ritual be-mezid (on purpose) - despite knowing that it is forbidden le-khathila and only valid be-diAvad or bi-sha’at ha-dehak. He cites the Kenesset ha-Gedola, as well as many other rishonim and abaronim, who rule that such individuals do not fulfill their religious obligation whatsoever!\textsuperscript{273} The upshot would then be that not only are women’s aliyyot forbidden le-khattehila, but a community who calls women to the Torah knowing that this is a priori forbidden does not fulfill its Torah reading obligation and the benedictions are for naught!

We note in this regard repeated suggestions that we live in a time of crisis, with waning commitment to halakhic authority; hence, it is argued that we should declare our times as a “she’at ha-dehak generation.”\textsuperscript{274} This is because there are many who are not truly committed to halakha, but want a ritual based service which “feels” like halakha and reflects the congregants own more egalitarian values. The latter group threatens that if halakha won’t show greater flexibility, they will bolt.
These arguments notwithstanding, we find it hard to accept this claim as more valid now than it was at the turn of the 20th century, during the periods of the World Wars, and again in the Fifties or Seventies. R. Aharon Lichtenstein has asserted that while there may well be she’at ha-dehak situations, these have to be judged on a case by case determination. To label a whole generation as she’at ha-dehak in order to permit [wholesale] leniencies reserved only for extreme situations would seem totally unfounded and uncalled for.275 Besides, she’at ha-dehak describes instances where a ritual cannot be performed because the congregants are not physically or halakhically able to do so, not because they lack the desire.276 On the contrary, millennia of Jewish history have taught us that we will not be able to preserve Judaism by watering it down. Over the past two centuries, others have tried this approach and failed – certainly over the long term. Yet Orthodoxy overall continues to thrive, to the surprise of some and the chagrin of others.

E. Setting Aside Kevod ha-Tsibbur to Permit Women’s Aliyyot in Normative Situations.

Our question now becomes whether, in normative non-she’at ha-dehak situations, where there are available males to read, can the community willingly set aside its kevod ha-tsibbur to permit women to receive aliyyot and read? In our general discussion of kevod ha-tsibbur in the previous section (VII.C), we cited the large stringent school headed by R. Joel Sirkis (Bah) which maintains that a community cannot voluntarily set aside its honor; only in she’at ha-dehak situations is the honor of the community automatically rescinded. The same ruling should be applicable in the case of women’s aliyyot. Indeed, this stringent school – which was a minority position in the general debate over waiving kevod ha-tsibbur – may well represent the mainstream position in the case of women’s aliyyot. This is because it joins forces with the aforementioned cadre of leading posekim who rule out women’s aliyyot altogether – even in dire circumstances! At the very minimum, the weight of these major rabbinic authorities certainly introduces a serious element of doubt, and the concomitant ruling of safek berakhot le-hakel would kick in prohibiting the recitation of berakhot.277

Turning now to the more lenient schools discussed in the previous section, it would seem that in the case of women’s aliyyot, how one rules should hinge on the reason behind kevod ha-tsibbur, as discussed in section VII.B.

The first reason given was that Hazal were wary about the sexual distraction that might possibly result from a woman being at the focal
point of a synagogue communal ritual or because of kol be-isha erva. It seems unreasonable that, despite Hazal’s ruling against needlessly introducing such an element of sexual distraction, a community would be empowered to say: “Hazal may have been concerned by this problem, but we are not.” Indeed, R. Abraham David Rabinowitz-Teomim, R. Dov Eliezerov and R. Yaakov Ariel 278 argue this very point explicitly. R. Zvi Reisman 279 argues that the tseni’ut rationale in essence converts this kind of kevod ha-tsibbur into a form of kevod shamayyim – which a community cannot set aside according to the clear majority of posekim. It is only when there really are no men available to read that the interest of enabling keri’at ha-Torah to take place outweighs the fear of possible sexual distraction. In a normative circumstance, however, there is no similar halakhic justification to countervail the Rabbis’ concern for kedusha.

The second explanation of kevod ha-tsibbur offered was that it is inherently shameful for a community to resort to those who are not obligated in keri’at ha-Torah to fulfill the communal responsibility of Torah reading. If there really is no choice, then most authorities would allow knowledgeable women to read in such a she’at ha-dehak situation, as discussed above. If, however, there are obligated men present who know how to read, and yet they choose not to – this would indicate that the congregation has made light of its duty of keri’at ha-Torah and so passes fulfillment of its obligation on to others who are not obligated. This constitutes zilzul mitsva – belittling the importance of a mitsva, and demeans kevod Shamayyim, the honor of Heaven. 280 Under such circumstances, the vast majority of codifiers would once again forbid a community from setting aside its honor.

Finally, the last school suggested that calling women to the Torah gives the shameful impression that the men folk of the community – who normally lead public prayer rituals – are so illiterate that they are incapable of reading the Torah themselves. If this is indeed the situation, then setting aside kevod ha-tsibbur would seem to be an internal communal consideration, which is in the congregation’s purview. 281 On the other hand, if there really are men present who know how to read, and yet the congregation chooses to have the keri’at ha-Torah carried out by women - this shirking of their role would constitute zilzul and bizyon mitsva. This is an issue of kevod Shamayim, 282 and is forbidden. 283 We also cited above R. Henkin’s variation of this school. 284 He suggested that the Rabbis ruled against women reading lest the men become lazy about learning the skills and preparing the reading. As R. Henkin himself notes, 285 according to this view, it makes no sense that a community should be able to set this kevod ha-tsibbur concern aside.
In conclusion, we have presented three fundamental explanations of kevod ha-tsibbur found in the halakhic literature. Contrary to R. Mendel Shapiro’s understanding, in none of these explanations is the social standing of women a consideration.\footnote{286} Furthermore, we have demonstrated that, regarding women’s aliyyot, the overwhelming majority of posekim would forbid setting aside kevod ha-tsibbur, except in the rare situation of bona fide widespread communal illiteracy.\footnote{287} Since this is rarely the situation, there is generally no halakhic justification to set aside kevod ha-tsibbur to permit women’s aliyyot.\footnote{288} In addition, as already pointed out above,\footnote{289} there is no room to make any distinctions between the requirements of the first seven aliyyot and those of the hosafot regarding aliyyot for women.

We note in closing that the suggestion that kevod ha-tsibbur only applies in a fixed synagogue, but can be set aside in the case of ad hoc (be-akrai and private) minyanim, has also been explicitly rejected by the overwhelming consensus of posekim.\footnote{290} Even if this could be done, the olot would have to read for themselves.\footnote{291} We note, moreover, that the vast majority of egalitarian/“Partnership” Minyanim are open to the community, meet regularly and use ba’alei keri’ah.

**F. Does a Ba’al Keri’ah Ameliorate or Exacerbate Kevod ha-Tsibbur**

Irrespective of what kevod ha-tsibbur might mean, R. Moses Salmon,\footnote{292} R. Yehuda Herzl Henkin\footnote{293} and R. Mendel Shapiro\footnote{294} argue that once there is a male ba’al keri’ah, it is he who reads for the community. Thus, all other kevod ha-tsibbur considerations become irrelevant. This argument is faulty, however, for a variety of reasons.

(1) Firstly, we have explained in section VI above, that as a result of the Geonic innovation of the ba’al keri’ah, the function of the oleh has been bifurcated into two subtasks: one is fulfilled by the oleh, who recites the benedictions (and according to Rosh, reads from the Torah quietly); and the other is performed by the ba’al keri’ah, who reads from the Torah aloud. However, the keri’at ha-Torah benedictions may only be recited on a whole mitsva performance such that the benedictions and the act of reading aloud are united and attributed to the same individual. This requires the use of a transfer mechanism, namely shome’a ke-oneh, which is in turn based on obligation and mutual arevut of both the oleh and the ba’al keri’ah. Since women lack the requisite obligation in keri’at ha-Torah, whether they serve either as olot or as ba’alot keri’ah in such a bifurcated system, no transfer can be effected. In such an instance, the birkhot keri’at ha-Torah will be le-vattala and their recitation forbidden – even if one
were to assume, as Rabbis Salmon, Henkin, and Shapiro do, that kevod ha-tsibbur is not a consideration.

(2) This analysis aside, having a male ba’al keri’ah only partly solves the issue of kevod ha-tsibbur. Having a ba’al keri’ah may perhaps attenuate the problem of kol be-isha erva, and the shameful implication of communal illiteracy. But it does not solve the concern for possible sexual distraction resulting from having women unnecessarily at the center of a synagogue ritual. Nor does it alleviate the bizyon mitsva of the congregation; the latter results from the fact that the men folk have made light of their obligation to go up to the Torah, passing it off to the women who are not obligated. What is more, R. Joseph B. Soloveitchik has cogently argued, in the case of a mourner (avel), that if it is forbidden for the oleh to read himself from the Torah, then it is forbidden to do so via an agent using shome’a ke-oneh.295 This may arguably apply to a woman’s reading as well: if it is forbidden for a woman to receive an aliyya and read from the Torah because of kevod ha-tsibbur, then it is forbidden to do so via an agent using shome’a ke-oneh.

(3) Finally, several scholars note that the grounds for allowing the non-obligated women and minors to get aliyyot in the first place was the fear that there would not be enough sufficiently literate males to read.296 But with the institution of the ba’al keri’ah, there is no longer any justification for such leniency. Indeed, as we will discuss shortly in the next section, this may well be the reason for the longstanding, widespread custom which rules against calling minors for any aliyya, except maftir.

Thus, contrary to the suggestion of R. Henkin and R. Shapiro, the institution of ba’al keri’ah not only does not remove kevod ha-tsibbur, but rather in all likelihood stifles any chance for leniency. Indeed, R. Chaim Kanievsky clearly states that even nowadays where the oleh only recites the berakhot the prohibition of kevod ha-tsibbur is still in effect.297

G. Conclusion

In conclusion, we have examined R. Mendel Shapiro’s arguments298 from a variety of angles and perspectives. We are forced to conclude that, with all its erudition and scholarship, his article cannot serve as grounds for permitting women’s aliyyot.

VIII. A Matter of Custom

Jews are bound not only by law, but by minbag (custom) as well.299 This is all the more true when the custom is widespread throughout kelal
Yisrael. Despite the Talmudic ruling of Megilla 23a permitting minors to receive an aliyya, there is a longstanding, pervasive custom forbidding minors to do so, except for maftir. The basis of this custom is related to the underlying reason why the non-obligated were allowed to receive aliyyot in the first place: the fear that there would not be enough sufficiently literate males to read. Hence, as long as there is someone present who is obligated and who can read – and this includes the ba’al keri’ah – we do not call on the non-obligated for the central reading.

If this is true for minors – where there is no kevod ha-tsibbur considerations – it is true a fortiori for women where kevod ha-tsibbur is applicable. It is not surprising, therefore, that dating as far back as the 16th century, posekim have explicitly recorded that the established practice throughout kelal Yisrael was not to call women at all to the Torah. We conclude, therefore, that even if there were grounds to set aside kevod ha-tsibbur, this is precluded by clear longstanding custom and practice.

IX. Maftir/Haftara

The Sabbath Torah rendition of seven aliyyot concludes with a final supplementary aliyya referred to as the maftir. The maftir generally involves a short rereading of the last verses from the portion of the week – though on special occasions or on holidays, the maftir is as yet unread material. The one honored with maftir also reads a portion from the prophets called the haftara, which is preceded by one and followed by four benedictions. Three fundamental rationales have been suggested for the institution of the haftara: (1) the desire to encourage the study of the prophets; (2) the need to respond to edicts forbidding the reading of the Pentateuch; and (3) the desire to fight the influence of those sects in Judaism (e.g., the Samaritans) that viewed the Jewish Bible as consisting only of the Pentateuch. In any case, according to most sources, this novel practice was a separate institution, put into effect long after the period of Ezra ha-Sofer.

There are three major schools regarding the obligation of keri’at hahaftara. One maintains that, like keri’at ha-Torah, the obligation to read the haftara is a not a personal obligation (hovat ha-yahid) but a communal one (hovat ha-tsibbur). The second school maintains that one’s duty is not to read the haftara, but rather to listen as the words of the haftara are read aloud. The third school is of the opinion that male majors have a personal obligation to read the haftara, and the oleh reads for all.
Let us now turn briefly to the issue of whether women can be called to the Torah for maftir and read the haftara. As intimated earlier, the Mishna\textsuperscript{313} indicates that a minor may receive this honor. This may lead one to suggest that women too are eligible to receive maftir and read the haftara – just as they are by keri‘at ha-Torah. There are, however, no Tannaitic or Amoraic sources which discuss or even raise the possibility of giving maftir/haftara to a woman.\textsuperscript{314} The aforementioned baraita (Megilla 23a) and tosefta (Megilla 3:11),\textsuperscript{315} which serve as the sources for theoretically empowering women to receive an aliyya, refer only to the main seven Shabbat aliyyot, not to the maftir/haftara. In addition, in light of the fact that keri‘at ha-haftara was a separate takkana and instituted substantially after the introduction of multiple aliyyot by Ezra, there is no compelling reason to assume that the rules for both readings are necessarily the same.

On the contrary, there are good grounds for distinguishing between Torah and haftara readings.\textsuperscript{316} As already noted by Rivash,\textsuperscript{317} Torah reading involves multiple olim, and, hence, there was a fear that there might not be enough sufficiently literate, capable, and trained congregants to complete the reading. The rabbis, therefore, entertained the possibility of allowing, when absolutely necessary, even those who were not obligated in keri‘at ha-Torah to receive aliyyot. In the case of haftara, involving only one congregant, this leniency is unnecessary. This is all the more so since the one reciting the haftara generally does so from a text annotated with vowel signs and notes. Nevertheless, in order to educate those who would eventually become obligated, the rabbis of the Talmud empowered minor males to read the maftir/haftara. This latter consideration is not relevant to women, who are completely freed from keri‘at ha-haftara – as they are from keri‘at ha-Torah.

Finally, kevod ha-tsibbur, however it is to be interpreted, remains a central problem in the case of reading the haftara, as it is in keri‘at ha-Torah.

\textbf{X. Kevod ha-Beriyyot}

As mentioned in our introductory comments, R. Daniel Sperber\textsuperscript{318} argues that the concept of kevod ha-beriyyot, human dignity or the honor of the individual, can be invoked to set aside kevod ha-tsibbur, the honor of the community. The concept of kevod ha-beriyyot is invoked in situations where shame or deep emotional stress would accrue as a result of the fulfillment of a religious obligation. Its manifold ramifications have been
extensively reviewed and analyzed by Rabbis Rakover, Blidstein, Lichtenstein, Feldman, and many others. Hence, we will limit our discussion to the salient points as they impact on the topic of women’s aliyyot.

The Talmud in Berakhot 19b indicates that if one is wearing sha’atnez – a biblically forbidden garment made from an admixture of wool and linen – the wearer is obligated to immediately remove it. Moreover, the wearer must remove the sha’atnez garment even in the public thoroughfare, despite any possible embarrassment. The Gemara explains that God’s honor/dignity takes priority over that of Man, as the scripture states: “There is no wisdom nor understanding nor counsel against the Lord.” (Proverbs 21:30) However, if the garment is only rabbinically forbidden, one can wait until he returns home to change. The reason is that kevod ha-beriyyot, the honor of the individual, can defer rabbinic prohibitions.

Similarly, if a mourner (avel) returns to his home via an area which is rabbinically impure, those menahamim (comforters) who are kohanim may continue with the accompanying entourage rather than break off. Again, the embarrassment caused the mourner when individuals leave his entourage defers the rabbinic prohibition.

Put succinctly, R. Sperber argues that if there is a community in which the women are offended by their not getting aliyyot, then kevod ha-beriyyot, the honor of the individual, should trump kevod ha-tsibbur, the honor of the community, which is at most a rabbinic injunction. Thus, in such a community women should be allowed to receive aliyyot.

An in-depth survey of the responsa literature makes it clear, however, that despite the importance of the principle of kevod ha-beriyyot, it cannot be invoked indiscriminately. Indeed, leading rishonim and aharonim posit a variety of parameters for the preceding – we delineate eleven below. Accepting any one of these rules undermines the validity of invoking kevod ha-beriyyot and R. Sperber’s suggestion. If so, R. Sperber’s application of kevod ha-beriyyot to the issue of women’s aliyyot is, with all due and proper respect, seriously flawed.

(1) Firstly, kevod ha-tsibbur is in essence the kevod ha-beriyyot of the community. Hence it makes no sense that the honor of the individual should have priority over the honor of a large collective of individuals. In fact, this analysis is explicitly expressed by the 13th century Provence authority, R. Menahem ha-Meiri: “…the honor of the community (rabbinim) is not pushed aside by the honor of the individual or individuals.” This also seems to be the view of Rashba, who rules that the community does not wait for a kohen called to the Torah to finish his recitation of Shema. Rather, an Israelite is called in his place, because the honor of the
community sets aside the individual honor of the kohen.\textsuperscript{331} Many later scholars concur that k\textit{evod ha-beriyyot} of the individual does not have priority over k\textit{evod ha-tsibbur}.\textsuperscript{332} Furthermore, if the honor of the individual could take priority over the honor of the community, we would expect to find posekim who invoke k\textit{evod ha-beriyyot} in order to allow an individual in tattered clothes (\textit{pohe’ah}) to serve as a cantor or a Torah reader, or to do birkat kohanim – overriding Hazal’s prohibition.\textsuperscript{333} After all, the sensitivities of the poor and tattered are no less compelling than those of women. Nonetheless, we find no authority that supports such a position.\textsuperscript{334}

(2) Meiri also emphatically states: “The Torah never said to honor others with your dishonor.”\textsuperscript{335} Giving women \textit{aliyyot} by overriding k\textit{evod ha-tsibbur} with k\textit{evod ha-beriyyot} would effectively be honoring women by diminishing the honor of the community. Under such circumstances, k\textit{evod ha-beriyyot} becomes neutralized.

(3) R. Sperber’s suggestion would ask us to uproot completely and permanently the rabbinic ban on women’s \textit{aliyyot}. However, k\textit{evod ha-beriyyot} can only temporarily set aside a rabbinic ordinance on an \textit{ad hoc} basis.\textsuperscript{336} As stated in the Jerusalem Talmud: “Great is human dignity which supersedes a negative commandment of the Torah for a single moment (\textit{sha’a ahat}).”\textsuperscript{337}

(4) Next, the posekim indicate that the “dishonor” that is engendered must result from an act of disgrace (bizzayon) - not from refraining to give honor.\textsuperscript{339} For example, removing a \textit{sha’atnez} garment in the marketplace would result in a state of undress and cause bona fide shame. In such a case, if the garment is rabbinic \textit{sha’atnez}, k\textit{evod ha-beriyyot} sets aside this obligation. On the other hand, twenty individuals are not permitted to violate the second day of \textit{Yom Tov}, which is rabbinic in origin, to attend to a burial, when only ten are required – as the additional ten would come along merely out of honor.\textsuperscript{340} Refraining from giving honor is not equivalent to an act of disgrace and, therefore, will not set aside a rabbinic prohibition. Similarly, in the case of \textit{aliyyot}, no \textit{act} of shame has been performed to those not called to the Torah; the women are simply not honored and k\textit{evod ha-beriyyot} cannot be activated under such conditions. This is all the more so if the reason they were not called up was because that is what halakha dictates; that is the halakhic norm and there should be no expectation to the contrary.

(5) We also note that some leading posekim were unwilling to invoke k\textit{evod ha-beriyyot} to temporarily overturn a rabbinic injunction when the shame or emotional pain is minor.\textsuperscript{341} Thus, the noted 14\textsuperscript{th} century Spanish-North African scholar, R. Isaac Perfet (Rivash), forbade sewing new baby
clothes during hol ha-mo’ed for a newborn’s circumcision despite the parents’ desire to dress him properly and festively for the event.\textsuperscript{342} Their mild sense of embarrassment was not sufficient to permit violating the standing rabbinic prohibition against making clothes during the entire holiday. Similarly, with respect to women’s aliyyot, it is unlikely that the dishonor, if any, some women subjectively suffer at not receiving an aliyya is substantial enough to justify invoking kevod ha-beriyyot.

(6) Similarly, nearly all authorities maintain that kevod ha-beriyyot requires an objective standard that affects or is appreciated by most people. This comes to specifically exclude a subjective standard, in which what is embarrassing results from the particular sensitivities or aspirations of an individual or group.\textsuperscript{343} The search for spirituality cannot be used as grounds for violating halakha. Two examples of bona fide shame are a met mitzva (unattended corpse whose humiliation results from being left to decompose) and going naked in public. However, situations that are degrading to a person because of his personal predilections are not within the ambit of kevod ha-beriyyot.\textsuperscript{344} Thus, while many religiously committed women undoubtedly would prefer being permitted to receive aliyyot, they are not personally embarrassed when they do not receive one.\textsuperscript{345} They understand that this is the halakhic given and accept this reality.\textsuperscript{346} Arguments for a subjective standard lead to the conclusion that halakha is infinitely malleable. According to such logic, as soon as a group of women, nay, any group, says: “This Rabbinic halakha offends me” – be it mebitsa, modesty (tseni’ut), many aspects of taharat ha-mishpaha, who counts for a minyan, and who can serve as a hazzan – then the halakha provides a carte blanche to proceed with abrogating it. Such a position is untenable, if not unthinkable – it has the potential to undermine much of Jewish law.

(7) Many leading scholars note that, as in the cases of kevod ha-beriyyot discussed in Berakhot 19b and elsewhere, the shame must result from extraneous factors. Thus, removing the kilayim garment per se is not what causes the shame; rather, it is that one has no other garment on underneath and, hence, remains naked. Similarly, in the aforementioned case of the kohen menahem,\textsuperscript{347} no shame results from his following the laws of tumah; rather, the shame results from the dwindling of the mourners’ entourage. In such cases, kevod ha-beriyyot can be invoked to nullify the rabbinic commandment which results in the dishonor. However, kevod ha-beriyyot cannot be invoked to nullify a rabbinic commandment where the shame comes from the very fulfillment of the rabbinic injunction itself.\textsuperscript{348} Take, for example, one who is invited to dine with his colleagues or clients. Would we allow him to avoid embarrassment by eating fruit
and vegetables from which terumot and ma’asrot (which is presently Rabbinic) have not been removed, or by consuming hamets she-avar alav ha-pesah, or by drinking setam yeinam (wine touched or poured by a non-Jew)? Or alternatively, suppose someone is at a meeting and is ashamed to walk out in order to daven minha. And what about prayers at the airport in between flights – would we allow him to forgo his obligation because of this embarrassment? The answer is that in those cases where acting according to halakha – be it not eating terumot and ma’asrot, or not drinking setam yeinam, or to fulfill ones prayer obligation – creates the embarrassment, then kevod ha-beriyyot cannot set aside the Rabbinic prohibition or obligation. On the contrary, one should be proud to fulfill the halakha. Similarly, kevod ha-beriyyot cannot be invoked to uproot the rabbinic consideration of kevod ha-tsibbur which prevents women’s aliyyot. This is because the putative dishonor stems inherently from the very fact that women are not given aliyyot, in accordance with the rabbinic guidelines.

(8) That the rabbis of the Talmud were sensitive to women’s spiritual needs is evident from the rabbinic concept of nahat ru’ah (spiritual satisfaction), which was invoked in a variety of instances to permit certain special dispensations for women. R. Sperber maintains that this concept is an expression of kevod ha-beriyyot, a point which we address in sec. XI below. Yet, despite this admitted sensitivity, Hazal themselves were not deterred by either kevod ha-beriyyot or nahat ru’ah when they ruled that, because of kevod ha-tsibbur, women should not le-khatehilla receive aliyyot. Hence, how can we? This argument is all the more true according to the explanation of Rashi and others on the mechanism of kevod ha-beriyyot deferments. Rashi explains that in instances of kevod ha-beriyyot the Rabbis “forgo their honor to allow their edict to be violated.” It is one thing if the clash is unexpected, unanticipated, and accidental. But in the case of keri’at ha-Torah, it was Hazal themselves who knowingly set up the rule of kevod ha-tsibbur which precludes women from aliyyot, kevod ha-beriyyot and nahat ru’ah notwithstanding. Why would we, therefore, expect them to forgo their honor in such a case? Stated succinctly, one cannot argue that kevod ha-beriyyot can set aside rabbinic injunctions in instances where the Rabbinic prohibition was set up specifically for this case – despite the kevod ha-beriyyot consideration.

(9) We saw above that Rivash forbad sewing baby clothes during hol ha-mo’ed for a newborn’s circumcision despite the parents’ desire to dress him properly and festively for the event. One of Rivash’s rationales in reaching his conclusion is that since all understand that new clothes cannot be sewn on hol ha-mo’ed - because Hazal banned it, kevod ha-beriyyot
cannot be invoked to circumvent this rabbinic prohibition. R. Moses Feinstein has applied the same rationale to explain why the performance of the rabbinic harhakot (prohibitions against acts of affection when the wife is a menstruant – which included not passing or pouring in the normal manner, nor eating out of the same dish) are not, as a rule, suspended in public. All know that in their fertile years women menstruate and that acts of affection are forbidden between a couple until the wife immerses in a mikveh. Similarly, one cannot invoke kevod ha-beriyyot to allow women to receive aliyyot, because all understand that this has been synagogue procedure for two millennia and that the Rabbis of the Talmud themselves prohibited it.

(10) In the same responsum, Rivash rules against extending the leniency of kevod ha-beriyyot beyond those instances explicitly discussed by Hazal, since new cases may not be comparable in their nature or severity to the original examples. This is also the opinion of R. Yair Hayyim Bachrach and later posekim. The comprehensive survey of R. Gerald Blidstein confirms that throughout the Talmudic period and thereafter the use of kevod ha-beriyyot has been limited essentially to the following four areas: honor of the deceased, personal hygiene dealing with excrement, undress and nudity, and the family unit. Indeed, throughout the two millennia of post-Talmudic responsa literature, kevod ha-beriyyot is rarely if ever cited as the sole or even major grounds for overriding a bona fide rabbinic ordinance; it always appears as one of many additional reasons to be lenient (senif lehakel). What’s more, in those instances where kevod ha-beriyyot is invoked essentially alone, it is because the matter being deferred is a mere, often unbased, stringency (humra be-alma). Thus the innovation of women’s aliyyot cannot be based on the authority of kevod ha-beriyyot alone without several additional convincing arguments.

(11) Finally, Prof. Sperber assumes that kevod ha-tsibbur is a social status issue. If, however, we maintain, as do the vast majority of posekim, that kevod ha-tsibbur has to do with sexual distraction, or belittling the importance of keri’at ha-Torah by having those not obligated receive the aliyya, does it make sense that kevod ha-beriyyot could set this Rabbinic injunction aside?

We reiterate that even if the reader finds some of the above criteria debatable, this, in and of itself, does not weaken our overall argument. As noted above, accepting even one of the above eleven rules posited by rishonim and aharonim halakhically prevents the utilization of kevod ha-beriyyot and negates R. Sperber’s thesis. If so, the application of kevod
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ha-beriyyot to women’s aliyyot cannot be relied upon to undo two millennia of halakhic precedent.

In summary, an in-depth survey of the posekim and the established rules for the application of kevod ha-beriyyot inexorably leads one to respectfully conclude that R. Sperber’s attempt to apply kevod ha-beriyyot to the issue of women’s aliyyot is both unsubstantiated and erroneous.

XI. Kevod ha-Beriyyot vs. Nahat Ru’ah

As noted above, R. Sperber attempts to equate kevod ha-beriyyot (human dignity) and nahat ru’ah (spiritual satisfaction). However, there are very fundamental and important differences between these two principles. The former involves human dignity and is invoked in situations where shame or deep emotional stress would accrue as a result of the fulfillment of a religious obligation. In bona fide cases where kevod ha-beriyyot is challenged (see the guidelines delineated in the previous section^359), rabbinic prohibitions and obligations may be set aside. Nahat ru’ah, on the other hand, describes women’s desire to be more involved spiritually than the law requires. It is this category, not kevod ha-beriyyot, which in fact relates to the desire of some women to take a greater part in religious ritual. In such cases, we find that Hazal did indeed permit certain special dispensations for women. But, as most early commentators emphasize, these dispensations involved very minor infractions, if at all, of Jewish custom and law. Generally speaking, these dispensations included: (1) Hazal’s decision to refrain from instituting a prohibition of marit ha-ayin – even though the desired permitted act “looks like” a forbidden one; (2) Hazal’s decision to refrain from making a geder (fence), i.e., from prohibiting a permissible act that might have led to a prohibited one; and (3) setting aside unnecessarily stringent customs.

Let us begin with the seminal case recorded in Tractate Hagiga.\(^360\) The Talmud indicates that women bringing a sacrifice are exempt from performing semikha (placing one’s hands on the animal); nevertheless, they are allowed to do so because of nahat ru’ah. The Talmud clarifies, though, that bona fide semikha (which requires pushing down on the animal with one’s full force) is forbidden when not required. What was permitted for the women was a pseudo-semikha where the women were told to place their hands lightly on the animal (“akfu yadaikhu”). Even this might have been rabbinically forbidden, because it looks like a prohibited act (nirch ka-avoda be-kodashim),\(^361\) or because it could easily lead to one should the women lean down heavily (dilma ati leme’ebad be-khol...
Nevertheless, Hazal decided not to institute a prohibition, so as to acquiesce to women’s spiritual yearning for involvement in the sacrificial ritual and afford them nahat ru’ah. Note that according to the overwhelming majority of rabbinic authorities it was not that nahat ru’ah set aside the rabbinic prohibition; rather, no prohibition was ever instituted. Had one existed, it could not have been overridden by nahat ru’ah.

A second instance is the question of whether men who have fulfilled their teki’at shofar obligation can blow again specifically for women. After all, unnecessary blowing of the shofar is rabbinically forbidden on Rosh ha-Shana, and women are not obligated to hear shofar blowing, which is a time-determined commandment. Several rishonim maintain that while women can blow for themselves, men are not permitted to violate a rabbinic prohibition in order to grant nahat ru’ah to the women (she-ein omerim le-adam hato bishvil nahat ru’ah de-nashim). Nevertheless, the general custom, which permits shofar blowing for women, is based on authorities who argue that no prohibition is involved here at all. Although women are not obligated to hear shofar blowing, they do receive divine reward for doing so; hence, one who blows shofar for them is doing a mitzva action – not needless blowing. Once again, we see that nearly all agree that nahat ru’ah cannot set aside Rabbinic prohibitions.

The next case relates to the custom of some communities of the Middle Ages prohibiting menstruants from entering the synagogue. Nevertheless, the early 15th century German scholar R. Israel Isserlein records that he allowed menstruants in these communities to come to shul for the High Holidays. The rationale was that on these holy days, the entire community, male and female, was particularly careful to come to the sanctuary to pray; permitting menstruants to do so as well would accord them nahat ru’ah. But as further delineated by R. Isserlein and subsequent posekim, menstruants not entering the sanctuary is a humra be-alma – a mere stringency accepted by the women themselves out of respect for the holiness of the sanctuary and not because of any halakhic prohibition. As a result, it is easily overruled by nahat ru’ah considerations.

Sometimes cited by modern authors in the context of nahat ru’ah is a ruling of the noted Tosafist, R. Jacob Tam. Rabbenu Tam maintained that women who perform time determined commandments (mitsvot asch she-haZeman geraman), from which they are normally exempt, can also recite the relevant benediction (petura ve-osha mevarekhet). This is somewhat surprising in light of the fact that this might fall under the rubric of an unnecessary benediction (berakha she-eina tserikha), which is
generally proscribed on the grounds that it is essentially taking God’s name in vain. R. Tam maintains, though, that berakha she-eina tserikha poses no problem, since the prohibition of reciting a needless berakha is only rabbinic in nature. Unfortunately, R. Tam himself does not clearly delineate how this de-rabbanan classification resolves the problem, although later rishonim do. The basic rationale is that a benediction is considered needless only when it is totally uncalled for. But when it is recited in conjunction with the performance of even an optional mitzva for which women receive heavenly reward (kiyyum ha-mitsva), it cannot be deemed unnecessary and is, therefore, not rabbinically forbidden. None of these rishonim, however, invoke the notion of nahat ru’ah as the justification for this leniency. What is more, R. Tam’s leniency is by no means a gender-specific dispensation for women; indeed, the patur ve-oseh mevarekh principle has been applied to a variety of halakhic situations in which nahat ru’ah le-nashim is not a consideration.

We may conclude, therefore, that, contrary to R. Sperber’s suggestion, women’s desire to be more involved spiritually in ritual – including aliyyot la-Torah, properly falls under the well known rubric of nahat ru’ah – not kevod ha-beriyot. Nahat ru’ah, however, cannot set aside rabbinic prohibitions – including kevod ha-tsibbur and certainly not berakhot le-vattala.

XII. Concluding Remarks

We have delineated above several reasons why giving aliyyot to women under normal conditions is extremely problematic:

1. Of fundamental importance is the fact that women are not obligated in keri’at ha-Torah and concomitantly lack arevut for this ritual. This is pivotal in the bifurcated oleh/ba’al keri’ah system under which Torah reading is normally carried out, and prevents women from serving as ba’alot keri’ah to read for others, or from having others read for women should they receive aliyyot. This is because arevut is the “transfer mechanism” which renders the benediction recitation of the oleh/olah, and the Torah reading of the ba’al keri’ah, a combined act. Without arevut, the Torah reading benedictions of the oleh will be unconnected to the reading and, hence, le-vattala. Irrespective of whether birkhot ha-Torah are birkhot ha-mitsva or birkhot ha-shevah, they cannot be recited be-torat reshut (as a voluntary act) – but are a hovat ba-yahid and the personal responsibility of the oleh/olah. Without obligation and the connectivity of arevut, women can serve neither as olot nor as ba’alot keri’ah. This conclusion is the basic law (me-ikkar ha-din), based on the analysis and rulings of
the overwhelming majority of posekim, and has nothing to do with kevod ha-tsibbur. This latter consideration only comes into play where the woman who gets an aliyya reads for herself, as was the practice in Talmudic times. In such a case, the reading is not bifurcated and there is no need for a “transfer mechanism.” Hence, the reading would have been perfectly acceptable, were it not for the rabbinic concern of kevod ha-tsibbur.

In our discussion, we did note a small minority view which maintains that the Torah reading benedictions are a communal requirement. Following this opinion, anyone in the community can recite these berakhot, obligated in keri’at ha-Torah or not. According to this position, there is no need for a transfer mechanism between oleh and ba’al keri’ah; hence, women and minors could (kevod ha-tsibbur aside) theoretically serve as both olim and ba’alei keri’ah – even in a bifurcated system. Nevertheless, in light of the near unanimity of the rishonim and the overwhelming majority of aharonim to the contrary, following a small minority position in practice would undoubtedly be halakhically precluded. This is particularly true because of safek berakhot lehakel - the prohibition to recite benedictions in situations of serious halakhic doubt. Doing so is deemed equivalent to committing the serious sin of taking God’s name in vain.

We have also noted a minority cadre of posekim who maintain that one who is inherently obligated can assist those who would like to perform an optional mitzva. Applying this analysis to keri’at ha-Torah would only permit a woman olah with a male ba’al keri’ah, but not a female ba’alat keri’ah. Furthermore, this leniency – of a woman olah with a male ba’al keri’ah - assumes that the oleh is the central functionary in keri’at ha-Torah. However, if the ba’al keri’ah is at the focal point of the reading, this leniency too would totally disappear. Finally, allowing women to receive aliyyot and pronounce the attendant berakhot based on this minority approach is halakhically very questionable and certainly contravenes the principle of “safek berakhot lehakel.”

(2) Even if one were capable of overcoming the halakhic impediments cited in the previous paragraphs, women’s aliyyot would still be prohibited due to kevod ha-tsibbur. There are two primary concerns behind this concept which are explicitly delineated by the posekim. These are: (a) the unnecessary exposure of the community in the synagogue to possible sexual distraction (tseni’ut); and (b) the belittling of the importance of the mitzva of keri’at ha-Torah (zilzul ha-mitzva) by having those not obligated in keri’at ha-Torah specifically (or in public prayer ritual in general, according to other authorities) receive the aliyya. As a result, even were a prospective olah to read for herself - thereby circumventing the problematics of a “transfer mechanism” – the overwhelming majority
of *posekim* would forbid setting *kevod ha-tsibbur* aside under normative conditions. [The only possible exception would be those rare situations of *bona fide* wide-spread communal illiteracy.] Here again, relying on the small minority opinion, which might permit setting *kevod ha-tsibbur* aside, would again be precluded at the very least because of *safek berakhot lehakol*. [A more general application of *kevod ha-tsibbur* to a discussion of Partnership *Minyanim* appears in the Addendum.]

(3) Finally, we have surveyed the halakhic literature and culled the established rules for the application of *kevod ha-beriyot* to various situations. We conclude that any attempt to apply *kevod ha-beriyot* to the case of women’s *aliyyot* is both unsubstantiated and erroneous.

Thus, as has become clear from this paper, our understanding of the mechanism of *keri’at ha-Torah*, the rationale of *kevod ha-tsibbur*, and the rules for invoking *kevod ha-beriyot* differs sharply from that of Rabbis Shapiro and Sperber. Nevertheless, we take no issue with these authors’ right to publish their suggestions in support of women’s *aliyyot*. They, after all, did what Torah scholars are bidden to do: to make a suggestion, document their arguments, publish it in the literature, and wait for criticism and/or approval. After thrashing out the issue back and forth, one hopefully can discern where the truth lies.

But we do have misgivings about those who would enact women’s *aliyyot* in practice, and hastily undo more than two millennia of Halakhic precedent, simply because a publication or two has appeared on the subject. As this article demonstrates, the subject of women’s role in *keri’at ha-Torah* involves very complicated halakhic issues – which require extensive in-depth analysis. Considering the novelty of this innovation, religious integrity and sensitivity requires the patience of allowing the halakhic discourse of *shakla ve-tarya* (give and take) to run its course – leading to the formation of a consensus – before acting on such a significant departure from normative *halakha* and tradition. Modern Orthodoxy should welcome diversity and flexibility, but any innovations must be halakhically well-founded and solidly based. It often takes time before a final determination can be reached as to whether or not a suggested innovation meets these standards. But that is no justification for haste. Indeed, the past decade has seen an ever-growing number of recognized halakhic scholars and authorities who firmly reject the halakhic acceptability of women’s *aliyyot*. On mark are the comments of R. Dov Linzer:

“While it is necessary for us to explore opportunities to allow for greater inclusion of women in areas of ritual, we cannot allow such an impulse to compromise a rigorous approach to *halakha* and the halakhic process. If
we rightfully take offense when halakha is misread to exclude women’s participation when such a conclusion is not warranted, then we must be extremely careful ourselves not to misread halakha to include women’s participation when the sources do not allow for such a reading. Only if we fully internalize our absolute need to be true to halakha can we be responsibly responsive and inclusive.”

The halakhic process has always been about the honest search for truth – Divine truth. To adopt one particular approach simply because it yields the desired result without grappling with the arguments and the stand- ings of the other halakhic positions, is foreign to the halakhic process, and lacks intellectual honesty and religious integrity. It is shooting the arrows and then drawing the bull’s-eye. To paraphrase Prof. Yeshayahu Leibowitz, if we are agenda oriented, rather than truth based we will not really be serving God, but only ourselves. We will unfortunately be molding Judaism in our own image.

Addendum: Partnership/Egalitarian Halakhic Minyanim

A. Partnership Minyanim and Kevod ha-Tsibbur

Partnership or halakhic egalitarian minyanim (e.g., Shira Hadasha in Jerusalem and Darkhei Noam in Manhattan) actively involve women in leading the prayer service wherever these communities deem it halakhically appropriate. The practices differ from community to community, but can range from having women receive aliyyot and serve as ba’alot keri’ah, read Megillat Esther for men and women, read the other four Megillot (Ruth, Ecclesiastes, Lamentations and Song of Songs), serve as hazaniyot for pesukei de-zimra and Kabbalat Shabbat, and lead the recitation of Hallel. These practices are a radical break from the ritual of millennia and to date have not received the approval of any major posek.

The approaches to kevod ha-tsibbur found in the posekim and delineated above (Sec. VII.B) clearly apply not only to keri’at ha-Torah, but also to the vast majority of innovations in Partnership Minyanim. While women are welcome, even encouraged to attend shul, they are not obligated to maintain a properly functioning minyan in their community. They are not obligated in minyan attendance, nor in tefilla be-tsibbur, nor in keri’at ha-Torah ve-haftara, nor in any other public ritual which Jews do as a tsibbur.
As a result, leading contemporary posekim have confirmed that having women lead such public rituals would at least be a violation of kevod ha-tsibbur according to any of the definitions discussed above, though other prohibitions may well be involved. The zilzul ha-mitsva view of kevod ha-tsibbur maintains that since it is the men who are obligated in public prayer rituals, they should be the ones fulfilling them – not women who are not at all obligated. To have women lead the community in fulfilling these communal rituals and obligations would reveal that the men-folk do not value their halakhic responsibilities and obligations, and that is a serious issue of zilzul or bizyon ha-mitsva. As before, there is no issue of kevod ha-tsibbur when a katan is called to lead pesukei de-zimra or Kabbalat Shabbat because this falls squarely within the ambit of hinnukh. The Tseni’ut School, on the other hand, argues that because of possible sexual distraction, women should not unnecessarily be at the center of any communal religious ritual.

The source and nature of these communal rituals and obligations is not critical, argue these posekim. It may be biblical, rabbinic, custom, or mitsva min ha-muvhar. The recitation of the megillot, Kabbalat Shabbat, and certainly pesukei de-zimra in shul are long standing communal minhagim of at least several hundreds of years, while others go back more than a milenium. Indeed, the reading of the various megillot on the regalim already appears in Masekhet Soferim (ca. 8th century Palestine). The 9th century R. Amram Gaon and the 10th century R. Saadya Gaon both hold that the role of the sheliah tsibbur begins before pesukei de-zimra, and that is our minhag to this day. Furthermore, it is a very widespread custom that the one called to read the megillot, or lead Kabbalat Shabbat and pesukei de-zimra dons a tallit gadol as a sign of respect for the community (kevod ha-tsibbur) – clear testimony to their communal nature.

By contrast, kevod ha-tsibbur considerations may not be relevant when one fulfills one’s personal obligation even in the presence of many. So, for example, many scholars permit the recitation birkat ha-gomei and even kaddish yetoma by women, for these are individual obligations done in a minyan – not formally part of the communal obligation of prayer. Others permit women to recite kiddush after shul Shabbat morning, for it is not part of the formal public prayer ritual; hence, kevod ha-tsibbur does not necessarily come into play.

B. Recitation of Hallel in the Talmudic Period

We would like now to address one of the new major innovations instituted by Partnership Minyanim: having a woman serve as the sheliah tsibbur
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for the recitation of Hallel. What is the rationale behind this innovation?\(^{400}\)

In the Talmudic period, the general custom was for the sheli’ah tsibbur to recite the entire Hallel alone, out loud, with the congregation punctuating the Hallel with various responses of Halleluya and the repetition of specific verses. The community fulfills its obligation of Hallel via the recitation of the sheli’ah tsibbur by the general mechanism of shome’a ke-oneh. The precise nature of the communal response is the subject of much debate, yet the model of the responsive Hallel interplay is the shira va-aniyya (song and response) of Moshe Rabbenu and Am Yisrael when they sang Shirat ha-Yam (“Az Yashir”) in praise of the Almighty – as described in Sota 30b. This unique responsive Hallel format (also referred to by the classic commentators as ker’a va-aniyya, recitation and response) is invoked, according to the vast majority of authorities, only when reciting Hallel be-tsibbur; but not when Hallel is recited be-yehidut (alone).\(^{401}\)

What kind of tsibbur is required for the responsive Hallel? Rema\(^{402}\) allows a responsive Hallel even when there are merely three males (see next paragraph) davening together. R. Moshe Soloveichik\(^{403}\) maintained, however, that, except for Seder night,\(^{404}\) a regular minyan of ten men is necessary for shira va-aniyya. Hallel was enacted to be part of the shaharit service; and just as shaharit be-tsibbur requires a minyan, so too Hallel be-tsibbur. Arukh ha-Shulhan indeed indicates that the general custom follows the latter position.\(^{405}\)

The Mishna in the third chapter of Sukka\(^{406}\) teaches that the responsive shira ve-aniyya form can only be utilized – even be-tsibbur – when the sheli’ah tsibbur is an adult male, who is obligated in Hallel, either by takkana or by custom. However, if the congregation cannot find a qualified adult male sheli’ah tsibbur, then they willy-nilly must rely upon a woman or a minor to serve as their prayer leader. However, since both a minor and a woman are exempt from the obligation of Hallel, the general mechanism of shome’a ke-oneh cannot be invoked. This is because, as noted above, shome’a ke-oneh requires that both the listener and the reciter be obligated; as a result, the responsive Hallel cannot be said. Instead, for the congregation to fulfill its basic Hallel obligation, it must repeat the words of the minor or woman, word for word. Moreover, the Mishna states that a person or congregation that needs to rely on such a non-obligated minor or female prayer leader, is to be cursed – tavo lo me’eira.

The rishonim give two reasons for this drastic punishment of me’eira. The first reason is that the congregation has allowed itself to be so ignorant as to be forced into a position where it needs to rely upon non-obligated shelhei tsibbur. However, even if the members of the congregation are
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Educated, they are nonetheless deserving of a curse; this is because they have appointed as their communal representative before the Almighty one who is not obligated in the task. They have thereby insulted both the mitsva and the Metsavveh Himself.407

C. Hallel in the Post-Talmudic Period

Our contemporary pattern of reciting Hallel differs dramatically from the Talmudic form. Today, our communities are all considered to be educated (beki'im) and knowledgeable in the proper recitation of Hallel. As a result, our custom is for everyone to recite Hallel for themselves and not rely on the Sheli'ah Tsibbur. Nevertheless, we have maintained some semblance of the original custom of a responsive Hallel when recited be-tsibbur, although the segments of Hallel actually recited responsively are far fewer than those of the Talmudic period. Thus, only by the recitation of Yomar na Yisrael… Yomeru na Beit Aharon… Yomeru na Tirei Hashem… Ana Hashem Hoshi’a na and Ana Hashem Hatsliha na is there shira va-aniyya. Yet, even with regard to these responsive portions of the Hallel, the aharonim note that the general practice today is to have the community say these verses as well, and not rely solely on their recitation by the hazzan.408

If so, the argument goes, why can’t a woman lead the Hallel service in our day and age? After all, the members of the congregation are reciting Hallel themselves word for word anyway, individually, fulfilling their own Hallel obligation. Consequently, the lack of obligation of the female sheliah tsibbur in no way impacts today on the obligation of the congregants.

We, however, believe this argument to be erroneous for three major reasons. First, having a woman lead the congregation in Hallel — as in pesukei de-zimra - violates kevod ha-tsibbur. This understanding was discussed at length above.409

Second, having a woman, who is not obligated in the recitation of Hallel, lead the service, raises the concern of me’eira. Hazal’s criticism of having one who is not obligated in Hallel lead the service has little to do with the Hazzan being motsi. After all, one who is not hayyav simply cannot be motsi the congregation. Even in the Mishna Sukka, the non-obligated minor or female sheliah tsibbur is not being motsi the tsibbur. That is precisely why the Mishna requires each member of the congregation to recite the Hallel individually, with each person fulfilling his own obligation. Rather, as the rishonim emphasize, Hazal’s criticism results from the fact that by appointing a non-obligated person to lead the service, the congregation is “mev-azzezeh be-mitsvot la’asot sheluhin ka-eeleh mi-shnum de-lav benei hyyuva...
ninhu.”

Through their appointment, the congregation demonstrates that it does not take their Hallel obligation seriously. Leading posekim concur that even nowadays, the sheli’ah tsibbur plays a central role in leading the communal Hallel service, especially in those parts that are recited responsively. While the hazzan today is not motsi the tsibbur, he, nonetheless, melds the congregation into a cohesive unit and leads them in the communal Hallel. Only one who is obligated in Hallel can be an appropriate messenger/leader for his agent-congregation before the Almighty.

Support for this stringent position comes from Maimonides’ description of the communal recitation of Hallel. In the relevant section of his code, he writes again and again: “The reader recites… and they [or the whole community] repeats [or responds]…” But then towards the end of the discussion he adds: “And if the reader of the Hallel is a minor, a slave or a woman, he reads after them what they are saying, word for word.” Clearly, according to Maimonides, if the reader is one who is not obligated in Hallel, such a reader may not lead the community – even if they repeat after the reader word for word. Rather the non-obligated precentor should assist only individuals – not a community.

The final objection is based upon the teachings of R. Joseph B. Soloveitchik and concurred to by R. Avigdor Nebenzahl. The Rav explains that there are two dimensions to the mitzva of Hallel. The first is the simple recitation of Hallel; the second is the responsive reading of Hallel. While an individual can fulfill the obligation of the simple recitation of Hallel, only a tsibbur can fulfill the mitzva of reciting Hallel responsively. Reciting Hallel responsively is a unique kiyyum of Hallel ha-tsibbur – similar to reciting kedusha in tefilla be-tsibbur. The Rav further emphasized that tefilla and Hallel be-tsibbur are not merely enhanced forms of tefillat ve-Hallel ha-yahid. Rather they are separate and distinct categories, each comprising its own unique heftsa shel mitzva, with its own set of rules. One such unique feature of Hallel be-tsibbur is the responsive keri’a va-aniyya format. Since women cannot create the heftsa of mitzvot ha-tsibbur, the Rav maintains that women cannot lead the tsibbur in their kiyyum. Consequently, women would be barred from serving as shelihei tsibbur for the recitation of Hallel ha-tsibbur.

D. Conclusion

In conclusion, a more general application of kevod ha-tsibbur – according to either of the above definitions of bizyon ha-mitzva or tseni’ut - leads several leading posekim to a further conclusion. In addition to women’s
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aliyyot, many of the other practices of Partnership Minyanim in which women lead public ritual are halakhically unacceptable. This principle would preclude the appointment of women as a shelihot tsibbur for the recitation of any regular communal prayer or ritual such as pesukei de-zimra, Kabbalat Shabbat, communal Hallel and for the reading of the Megillot.416

One final observation is in order. Professor Haym Soloveitchik, in his now classic work “Rupture and Reconstruction,” skillfully documented the gradual move in contemporary Orthodoxy from a mimetic halakhic tradition to a text-based tradition. He further noted the profound impact that this transition had on the move of contemporary Orthodoxy in the 20th Century towards greater humra (stringency). What we are now beginning to witness is a similar, but opposite, text-oriented movement towards greater kula (leniency). Thus, the establishment of partnership minyanim is an attempt to introduce novel practices not explicitly addressed in the codes. However, an in-depth analysis of the corpus of halakhic literature demonstrates that partnership minyanim are halakhically problematic despite their overt absence from the codes. We therefore would like to suggest that neither leap – le-humra or le-kula – is sound or healthy for the halakhic process or for the Torah community. Perhaps what is called for is a balanced return to a more mimetic-influenced tradition, with its inherent sensitivity and stability without rigidity. But that discussion is for another occasion.

REFERENCES AND NOTES

1. Portions of this paper were presented by Aryeh A. Frimer at the annual Purim Frimer celebrations (21 Adar), which commemorate the release of Avinnu Moreinu haRav Dr. Norman E. Frimer z”l, together with one hundred others, from the hands of the Hanafi terrorists after 39 hours of captivity in the B’nai Brith Building, Washington, D.C., 1977. This paper is dedicated to his memory and that of our beloved mother, Imeinu Morateinu ha-Rabbanit Esther Miriam Frimer a”h. Aryeh Frimer would like to thank the Bellows Family Foundation for their kind and gracious support of this research. He would also like to acknowledge the receipt of the 2005-2006 Susi and Leon Pugatsch Prize for Contemporary Innovations to Preserve Jewish Heritage and Values. The authors wish to publicly thank (in alphabetical order) Dr. Maier Becker, Dan Feigelson, R. Shael I. Frimer, Joseph B. Gellman, Justice Neal Hendel, R. Yehudah Herzl Henkin, R. Yair Kahn, R. Shabtai Rappoport, Dr. Joel B. Wolowelsky, and R. Jeffrey Woolf for reviewing earlier versions of the manuscript and for their constructive criticism and perceptive comments. The authors, however, bear sole responsibility for the final product.

2. Deut. 31:12. For a discussion of the connection between Hakhel and Keri’at ha-Torah, see: R. Elchanan Samet, ““Hak’hel:” The Septennial National Assembly”,

126
Lashon

Moshe

Rema,

the consensus of the

tion is Biblical; see: Rashi,

Avraham

Berakhot

seem to be no more than a

every three days. Nevertheless, R. Isaac Abouhav,

suggests that early prophets wanted to ensure that Jews learned Torah at least once

2; Maimonides,

VII,

6, ch. 2, suggests that the

She'arim be-Halakha

and Jerusalem Talmuds regarding Monday and Thursday, see: R. Hayyim Pardes,

Torah on their own. Regarding the seeming contradiction between the Babylonian

and Jerusalem Talmuds, see Ephraim Stulberg, 

21a, ”

takkana

was primarily for the illiterate who could not learn

Torah on their own. Regarding the seeming contradiction between the Babylonian

and Jerusalem Talmuds regarding Monday and Thursday, see: R. Hayyim Pardes,

She’arim be-Halakha

(Tel Aviv: Machon Yad Mordechai, 5744), 191-194; R. Samuel

Gad ha-Kohen Yudaikin, Divrei Shalom, II, sec. 23; R. David Yosef, Halakha Berura,

VII, Oserot Yosef, sec. 2, no. 1.

5. Though established in biblical times, the innovation of keri’at ha-Torah would

seem to be no more than a takkana de-rabbanan (a rabbinic institution); see: Tosafot,

Berakhot 13a, s.v. “be-Lashon ha-kodesh;” Tosafot Megilla 17b, s.v. Kol ha-Torah and

Rema, Y.D. sec. 239, no. 7. According to R. Joseph Teomim, Pri Megadim, Esheh

Arraham, introduction to Orah Hayyim (henceforth O.H.), sec. 135, this is indeed

the consensus of the posekim. Nevertheless, some authorities maintain that the obligation

is Biblical; see: Rashi, Berakhot 13a, s.v. “Leima” and Megilla 17b, s.v. “be-Khol Lashon;”

R. Yom Tov Ishbili (Ritva), Megilla 17b, s.v. “Gemara: Ha-de-amranin;”

R. Joel Sirkis, Bayit Hadash, O.H., sec. 685 s.v. “Seder;” R. Simeon ben Tsemah Dur-

dan, Resp. Tashbets, II, sec. 163. R. Ahron Soloveichik, Parah Match Abaron, Hilkhot

Tefilla, 13:20 (pp. 77-78) argues that Rashi maintains that a minimal keri’a is bibili-

cally required on Shabbat and Yom Tov. For further discussion, see: R. Ben-Zion Meir


milu’im to O.H., sec. 131, no. 1; R. Yudel Rosenberg, Resp. Yehaveh Da’at, O.H.,

sec. 2; R. Ovadia Yosef, Tehaveh Da’at, I, sec. 85; R. David Yosef, Halakha Berura,

VII, Oserot Yosef sec. 2, no. 2.

6. B.T., Bava Kamma 82a; Mishna Megilla, 4:1 and 4:2. R. Menahem ha-Meiri,

Beit ha-Behira, (henceforth, Meiri), Megilla, 23a, s.v. “ha-Kol olin” indicates that

Moses’ takkana required only one individual to read, while Ezra established the mul-

tiple aliyyot; see also R. Menahem ha-Meiri, Kiryat Sefer, Article 5, part A. This also

seems to be the view of R. Nissim Gerondi (henceforth Ran), Gloss to Rulings of R.

Isaac Alfasi (Rif), Megilla 23a, s.v. “Yerushalmi. Moshe,” and R. Isaac ben Sheshet

Perfet (Rivash), Resp. Rivash, sec. 326. R. Jehiel Michel Epstein, Arukh ha-Shulhan,

O.H., sec. 135, no. 1, however, maintains that it was Moses who instituted the seven

Sabbath aliyyot. For further discussion of the edicts of Moses and Ezra, see: R.

Yudaikin and R. David Yosef, n. 4, supra. As to the exact location of the seven divi-

sions, see Ephraim Stulberg, “The Last Oral Torah: The Division of the Torah into

Aliyyot,” JSIJ 8 (2009), 183-189.

7. This is further codified in Shulhan Arukh, O.H., sec. 282, no. 1.

8. This is stated explicitly by R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.),

Megilla 21a, “be-Shitah ha-Meiri,” no. 7, 343.


no. 1, n. 7.

10. Mishna Berura, ibid.

11. Sec: Resp. Rivash, sec. 84; Beit Yosef, O.H., sec. 282, s.v. Katav Rivash; Darkei

Moshe n. 2; Shulhan Arukh, O.H., sec. 282, no. 1; Mishna Berura, O.H., sec. 282,

no. 1, n. 7; Rema to Shulhan Arukh, O.H., sec. 669, no. 1. For further discussion,
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see: Resp. Yabbia Omer, VI, O.H., sec. 25; Abraham Ya’ari, Toledot Simhat Torah (Mosad haRav Kook: Jerusalem, 5724), ch. 11; R. Akiva Meller, ha-Keri’at ha-Torah ve-Hilkhotheha (Jerusalem, 5769), ch. 75, no. 6, n. 20.

12. (a) See: R. Abraham ben Mordechai ha-Levi, Resp. Ginnat Veradim, O.H., kelal 2, sec. 22-24; R. Solomon ha-Kohen (of Vilna), Resp. Binyan Shlomo, sec. 20; and R. Zalman Druck, Mikra’ei Kodesh – Hilkhot Keri’at ha-Torah, sec. 34. These authors maintain that as long as the prescribed reading has not been completed, all aliyyot are obligatory. R. Asher Weiss (personal communication, May 31, 2012) independently confirmed that there is no room to make any distinctions between the requirements and level of obligation of the first seven aliyyot and those of the hosafot. In particular, R. Weiss indicated that there was no room to consider giving women aliyyot for the hosafot. Similarly, Mishna Berura, O.H., sec. 282, no. 12, rules that the present-day custom to disallow minors from receiving aliyyot (except maftir) makes no distinction between the first seven aliyyot and any subsequent hosafot. This school seems to be anticipated by Ra’avya (Rosh ha-Shana, sec. 536) and Piskei ha-Rosh, Rosh ha-Shana, ch. 4, sec. 3. Ra’avya and Rosh (citing Ra’avya) compare the recitation of more than ten verses in malkhuyyot on Rosh ha-Shana with having more than seven aliyyot. Ra’avya and Rosh disagree with those maintaining that the recitation of verses beyond the minimum ten is optional (reshut) and, therefore, constitutes a disruption (hefsek) in the berakha. Rather, since it is permitted to add more than ten verses, the additional verses have the same status as the original ten. The clear implication from this comparison is that all aliyyot – even those beyond the basic seven – are to be considered part of the keri’at ha-Torah obligation.

The conclusion that even the multiple repetitions of the Torah reading that are practiced on Simhat Torah are of equal standing with the basic, obligatory reading is reflected in the writings of R. Abraham Danzig, Hayyei Adam, sec. 153, no. 7. He rules that during the repeated readings on Simhat Torah, the community must ensure that there is a community of ten men listening to the Torah reading – as is normally required; see Shulhan Arukh, O.H., sec. 146, no. 2 (ruling of Behag) and, infra, end of n. 106. Hayyei Adam’s ruling is cited authoritatively by Mishna Berura, sec. 669, no. 12, R. Moses Shternbuch, Resp. Teshuvot ve-Hanhagot, II, sec. 318, no. 3 and R. Akiva Meller, ha-Keri’at ha-Torah ve-Hilkhotheha, sec. 75, no. 9.

(b) Throughout this paper we use terms like “major posekim,” “leading posekim,” “prominent posekim” or “gedolei ha-posekim.” These terms are of significant importance since not all individuals who are called upon to resolve halakhic issues are in the same halakhic “league.” Indeed, not all rabbinical opinions are given equal standing (just as not all medical or legal opinions are of equal standing in their respective fields). The rules of decision-making and adjudication in Jewish Law explicitly grant more weight to those opinions rendered by scholars who demonstrably possess greater Torah knowledge and expertise (“gadol be-hokhmah”) or who are accepted widely by the Torah world as authoritative posekim (“gadol be-minyan”), than those rabbis who are not on that level or in that class. See, inter alia: Avoda Zara 7a; Rema, H.M., sec. 25, no. 2 and commentaries, ad loc.; R. Joseph Raphael Hazzan, Hikrei Lev, O.H., sec. 496, no. 96 (“… after all, any wise person can evaluate between scholars, who is greater than the other…”); Arukh ha-Shulhan, Y.D. sec. 242, no.63. See also the contemporary discussion of this principle and its application in: R. Elisha Aviner, “Kelalei Hora’ah be-Halakhot Mesuppakot”, Me’aliyot XIX (Sivan 5757), 145 at 155-158. R. Avraham Elkana Shapiro includes in this category those scholars who would be consulted on particularly difficult issues of taharat ha-mishpaha or aguna; see: Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice.

13. While the intermediary olim recited no benedictions, two authorities suggest that they may have recited *Barakhu*; see R. Jacob Joshua Falk, *Penei Yehoshua*, *Megilla* 23b, s.v. “be-Tosafot;” R. Moses Sofer, *Resp. Hatam Sofer*, O.H., sec. 66. Contradictory evidence is adduced, however, by R. Issacher Solomon Teichtal, *Resp. Mishne Sakhir*, II (Mekhon Yerushalayim: Jerusalem, 1987) sec. 434, no. 5. Interestingly, the Jerusalem Talmud, *Megilla* 3:7, indicates that even when only the first and last olim to the *Torah* recited a blessing, on the occasion of the special *aliyot* (e.g., *Aseret ha-Dibberot*, the *Shira*, and the *Tikkun*), the olib was required to recite both blessings.

14. *Mishna Megilla* 4:1,2 (B.T. *Megilla* 21a; as compared to the order of the mish-nayot in the Talmud, Chaps. 3 and 4 in the *Mishna* are interchanged) and discussion in *Talmud ad loc.* 21b. See also Jerusalem Talmud, *Megilla* 4:1, s.v. “Amar Rav Shemuel bar Nahman” and *Penei Moshe* ad loc. s.v. “Shama kalin keruvey.” Based on evidence from both the Jerusalem and Babylonian Talmuds, R. Jacob Schor, *Ittim le-Bina*, commentary on R. Judah Ben Barzillai (“Ha-Nasi”) Al-Bargeloni, *Sefer ba-Ittim*, sec. 177, n. 68, documents that the practice that each olib makes his own benedictions was already in place in Babylonia during the time of first generation amorah. From c. 230 C.E.; see *BT*, *Megilla* 21a-b. In the Land of Israel, however, the original “first and last” procedure remained in force for perhaps another century – even as late as the period of the third generation amorah. R. Zeira (c. 320 C.E.); see *JT*, *Berakhot* 7:3. We note that R. Schor’s analysis regarding R. Zeira is confirmed by the commentaries of R. Solomon Sirilio, *Perush Maharash Sirilio* and R. Joshua Benveniste, Sedei Yehoshua to the *JT*, *Berakhtot ad loc.* On the other hand, R. Moses Margaliyot, *Penei Moshe* and R. Yitshak Isaac Krasilschikov, *Toledot Tihsak* assume that the later procedure was by then already in place.


18. *Tosafot* maintain that the purpose of the appointment of a ba’al keri’ah was to prevent embarrassment to those who did not know how to read from the Torah; see: *Tosafot*, *Megilla* 21b, s.v. “Tana,” *Mo’ed Katan* 27b, s.v. “bi-Kblikha,” and *Bava Batra*, s.v. “Shemona.” R. Asher ben Jehiel (Rosh), *Piskei ha-Rosh*, *Megilla*, ch. 3, sec. 1, suggests that the issue at stake was communal harmony; this was because there were
those who, in fact, did not know how to read, but who would create dissension when they were not called up as a result.

19. (a) BT Megilla 23a. All talmudic references use the reading *kevod tsibbur*, though writings beginning from the geonic period use both *kevod tsibbur* (communal honor) and *kevod ha-tsibbur* (honor of the community); the latter is the more popular usage — certainly among *aharonim*. Several scholars have detected what they believe to be a two-tiered structure of the Talmudic statement. Some have conjectured that there was in fact a period when women received *aliyyot* on a regular basis, but this was later forbidden because of *kevod ha-tsibbur*. See: Ismar Elbogen, *Der Judische Gottesdienst in seiner Geschichtlichen Entwicklung* (Leipzig: G. Fock, 1913), 466; Isaac Moses (Ismar) Elbogen, *ha-Tefilla be-Yisrael be-Hitpathutah ba-Historit* (Tel Aviv: Devir, 5732), 351; Ismar Elbogen, *Jewish Liturgy: A Comprehensive History*, (Philadelphia: Jewish Publication Society, 1993), 357; R. Joseph Messas, *Resp. Mayyim Hayyim*, II, O.H., sec. 140; R. Daniel Sperber, *infra*, n. 25; R. Shai Piron, *infra*, n. 27i. This is pure speculation, however, and there is no hard evidence supporting it. See the contrary interpretations of the following scholars: R. Saul Lieberman, *Tosefta ki-Peshutah*, V, Megilla ch. 3, to p. 356 lines 33-34, p. 1177; R. Yehuda Herzl Henkin, “Hiluk Behag bein Mikra le-Mishna Megilla u-miMatai Ne’esru Aliyyot Nashim la-Torah,” *Beit Hillel*, 6:2 (22, Adar 5765), 99-102; R. Yehuda Herzl Henkin, *Resp. Benei Vanim*, IV, no. 8; R. Eliav Shochetman, *infra*, n. 26a, following n. 11 therein; R. Ephraim Bezalel Halivni, *infra*, n. 26c, 58-60 and 72. Interestingly, Samuel Safrai in his earlier years concurred with the latter position; see: “ha-Im Hayeta Kayemet Ezrat Nashim be-Veit ha-Kenesset bi-Tekufah ha-Atika?” *Tarbits*, 32 (5723), 329-338 – reprinted in *Erets Yisrael ve-Hakhameha bi-Tekufat ha-Mishna ve-haTalmud, (ha-Kibbuts ha-Me’uhad, 1983), 101. Somewhat later, however, in a paper published with his daughter, he seems to agree with Elbogen; see Chana and Samuel Safrai, “ha-Kol Olin le-Minyan Shiva,” *Tarbits*, 66:3 (Nisan-Sivan, 5757), 395-401.

(b) R. Sperber, *infra*, n. 25c (p. 23, and nn. 19 and 21), surveys the places where it states “aval ameru hakhamim” and argues that while some cases refer to things that are actually asur, others are merely expressions of the ideal way to fulfill *keri’at ha-Torah*. Yet, he concludes with confidence that the phrase in Megilla 23a: “However, the Rabbis declared: a woman should not read from the Torah – because of *kevod ha-tsibbur,*” describes what Hazal believed to be the preferred or recommended mode of conduct, the ideal way of performing *keri’at ha-Torah*. This position is untenable, however, for a variety of reasons: Firstly, R. Shlomo Pick (personal communication, March 2009) has reexamined some of the cases cited by R. Sperber as precedent for the suggestion that “aval ameru hakhamim” is merely a recommendation. He finds that R. Sperber’s interpretation runs counter to the explicit ruling of Maimonides - who uses the words *hayyavim* (obligated) or *asur* (forbidden). In particular, regarding Yoma 87b, see *M.T.*, *Hilkhot Teshuva* 2:7; regarding Yoma 69a, see *M.T.*, *Hilkhot Hilayyim* 10:12. See also *Hullin* 59a (not cited by R. Sperber) and *M.T.*, *Hilkhot Mamrim* 6:14. A similar critique is expressed by R. Ephraim Bezalel Halivni, *ha-Tehinna ve-haKeri’a le-Hai ha-Olamim: Iyunim be-Tefilla u-beKeri’at ha-Torah* (Jerusalem: 5772), 156-164, in particular at 158-160 where he discusses Yoma 69a, Beitza 14b, Sota 7a, Nidda 67b, and *Tosefta Shabbat* 6:16. Moreover, argues R. Halivni, even in those cases where there is no explicit prohibition – e.g., *Berakhot* 20b, *Pesahim* 50b and *Bava Metzia* 74b – the Rabbis make it eminently clear that they strongly disapprove of such behavior. There is most definitely a readily apparent instruction of how to act!

Secondly, the fact that there are many leading codifiers (see text at n. 264 below) who permit a woman to read only in extreme or dire circumstances (*she’at ha-dehak*) or post factum (*be-diAvad*) cases, clearly refutes this approach. Moreover, Maimonides...
Sean in dire situations, does not change the fact that a sub-optimal version may also be halakhically acceptable after the fact, or of communal conduct but the R. Elijah Mizrahi, for example, dic literature and it refers to strongly expressed objection and public reproof (see, for example, Mishna Pesahim 4:8, 56a – and commentary of Maimonides ad loc.). R. Elijah Mizrahi, Hiddushei ha-Re‘em al ha-Semag, Hilkhot Megilla, s.v. “be-Zeh lo hekeliu,” writes that women cannot help men fulfill their obligations (einan motsi‘ot) men by keri‘at ha-Torah or megilla – clearly indicating that this is not a recommendation but a determination. Indeed, Magen Avraham, O.H., sec. 689, n. 5 reformulates the words of R. Elijah Mizrahi thusly: “and [women] are totally disqualified (pesulot) [from reading the Torah or megilla] because of kevod ha-tsibbur.”

The critical distinction between le-khattehila and be-diAvad or she‘at ha-dehak situations seems to have escaped both Rabbis Shapiro, supra, n. 23, and Sperber, supra, n. 25. As already pointed out by R. Gidon Rothstein, infra n. 26b, p. 46ff, Rabbis Shapiro and Sperber incorrectly understand le-khattehila as the proper and recommended way of performing a certain act. Le-Khattehila is sometimes loosely used this way. However, in technical halakhic terms, it defines the necessary mode of performing an act or ritual, irrespective of the fact, that post facto the action is considered valid (R. Asher Weiss, discussion with to Dov I. Frimer, Dec. 20, 2007). See: B.T., Hullin, 111a-b, s.v. “Rav Ashi ikla”; “di-Avad,” Encyclopedia Talmudit, VII, p. 406ff; Shai Akawy Wosner, “Al Koberentiyut ye-Efectiviyyut be-Halakha: Birur rishoni shel ha-Havkhana bein le-Khattehila ve-diAvad,” Dinei Yisrael, 20-21 (5760-5761), 43-100. See also the comments of R. Eliav Shochetman, supra, n. 27a, 287-289, and R. Ephraim Bezael Halivni, supra, n. 26c, 92-93, n. 2. R. Shalom Mordechai Shvadron, Resp. Maharsham, I, sec. 37 notes that if one willfully violates a le-khattehila prohibition (with no personal benefit in mind) he is called a “rasha” – a wicked individual. Other authorities discuss whether an action - which is doubly forbidden le-khattehila – is thereby rendered invalid if performed even be-diAvad. See: R. Shalom Mordechai ha-Kohen Shvadron, Da‘at Torah, Y.D., Opening to Hilkhot Shehita, no. 36; R. Isaac Judah Schmelkes, Resp. Beit Yittshak, Y.D., I, end sec. 65. Clearly, le-khattehila is not merely a private recommendation, as R. Sperber would lead us to believe.

For example, Hazal say that a dairy spoon that has not been used in last 24 hours should not be used to stir hot chicken soup. Similarly, Hazal indicate that one should not eat out of utensils that have not been immersed in a mikvéh. In both cases, be-diAvad, if these utensils were used by mistake, the food remains perfectly kosher. Hazal’s a priori ruling in both these cases is not a recommendation, but rather a clear directive how one is required to act; under normative conditions, it is asur to act otherwise. Indeed, R. Hayyim Benveniste, Keneset ha-Gedola, Y.D., sec. 122, no. 26, rules in the latter case, based on rishonim and early abaronim, that if such a dairy spoon (that had not been used in last 24 hours) were used to stir hot chicken soup be-mezid (on purpose), the food would be rendered non-kosher thereby for the violator.

The law regarding women’s aliyot is similar: Hazal forbade women’s aliyot le-khattehila, even though be-diAvad or bi-sh‘at ha-dehak the aliyya may be valid. Thus, contrary to R. Sperber’s suggestion, kevod ha-tsibbur is not the recommended mode of communal conduct but the ab initio required way of performing a ritual. The fact that a sub-optimal version may also be halakhically acceptable after the fact, or in dire situations, does not change the le-khattehila necessity of the proper mode of
fulfillment. Interestingly, R. Joseph Engel, _Lekah Tov, Kelal 5_, examines at length whether or not an act which is valid only _be-diAvad_ qualifies as sufficiently halakhically suitable (_nikra ra’ui_) for various laws; it is certainly flawed behavior. Proceeding one step further, R. Hayyim Hezekiah Medini discusses one who performed a religious act or ritual _be-mezid_ (on purpose) - despite knowing that it is forbidden _le-khattehila_ and only valid _be-diAvad_. He cites the above _Keneset ha-Gedola_ and many _rishonim_ and _aharonim_ who rule that such individuals do not fulfill their religious obligation whatsoever. See: _Sedei Hemed, Kuntres ha-Kelalim, Ma’arekhet ha-Dalet, Kelalim_ no. 61; _Sedei Hemed, Pe’at ha-Shulhan, Ma’arekhet ha-Dalet, Kelalim, Kelal 3_ and _Kelal 30_, sec. 10. The upshot would then be that not only are women’s _aliyyot_ forbidden _le-khattehila_, but a community who calls women to the Torah knowing that this is _a priori_ forbidden does not fulfill their Torah reading obligation and the benedictions are for nought.

Even were we to accept R. Sperber’s suggestion, which we certainly do not, that the _baraita_ in _Megilla_ 23a is describing what _Hazal_ originally indicated to be the recommended mode of conduct, this would not make this two millennia old practice any less binding. This is because it would be an example of a _minhag she-binhuigah hakhamim_ – a custom initiated or affirmed by _Hazal_. As Maimonides states in his Introduction to the _M.T._, sec. 25 and _Hikhot Mamrim_ 1:2, customs promulgated by _Hazal_ for the improvement of religious performance (_minhagot she-yoru lahem la-rabbim kedei le-hazzek ha-dat_) are also rabbinically binding because of _lo tasur_. Meiri, _Sukkot_ 41a, s.v. “zeh she-bei’arnu,” distinguishes in this regard between two types of customs: those started by the people or even individual prophets and scholars, but never formally affirmed by _Hazal_; and those customs that were initiated or even just affirmed by _Hazal_. Only the latter category is rabbinically binding because of _lo tasur_. See: R. David ben Moses of Navardok, _Galya Massekhet_, 1 (Responsa), _Y.D._ sec. 4, s.v. “Omnam;” R. Israel Zev Gustman, _Kuntresei Shiurim, Kiddushin_, _shiur_ 24, sec. 15 and 16; R. Nachum L. Rabinovitch, _Yad Peshuta_, Introduction to _M.T._, sec. 25, _Sefer ha-Mitsvot, Mitsvot de-Rabbanan_, no. 4, and _Hilkhot Berakhot_, 11:16. This is also the view of R. Isaac Zev ha-Levi Soloveitchik cited in: R. Jacob Rosenthal, _Mishnat Yaakov_, _Hilkhot Keri’at Shema_, 1:4; R. Judah Heschel Levenberg, _Imrei Hen – Hiddushim u-Bei’urim al Seder ha-Rambam, Hilkhot Tefilla_, 4:4; _Likkutei ha-Griz_, I, 5-6 and II, 13; _Ma’atikot Shema’a_, II, 23-24, s.v. “be-Inyan takkanat.” The prohibition against women’s _aliyyot_ clearly falls in this latter category and is rabbinically binding.

20. The term _olin_ may be translated literally as “go up” and refers to the fact that the _bima_, the central Torah reading lectern, was raised (see _Sota_ 7:8; 41a). Alternatively it may have been used idiomatically and means “to be counted” or “included” as found in _Mishna, Moed Katan_, 3:5 (19a): “_Shabbat olin ve-eina mafseket_” and _Bava Kamma_ 119b “_ba-kol olin le-minyan tekhelet._”


22. See, for example, Maimonides, _M.T., Hilkhot Tefilla_, sec. 12, parag. 17; R. Joseph Caro, _Shulhan Arukh, O.H._, sec. 282, parag. 3.


26. It should be emphasized that we are discussing a Torah reading where there is a minyan of men present. If there are only ten women attending, the birkot keri’at ha-Torah recited are clearly berakhot le-vattala; see Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice. Part 1 - Theory,” Tradition, 32:2 (1998), 5-118; available online at: http://tinyurl.com/cj8ow9n.

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and 389. One brief responsum (with no analysis) supporting Shira Hadasha has been penned by R. Ronen Lubitch; see: http://www.kipa.co.il/ask/show/125660.

As an interesting aside, we note that there has also been some discussion of whether a woman who has undergone a transgender operation can receive an aliya. R. Meir Amsel and Idan Ben-Ephraim are lenient assuming that kevod ha-tsibbur is not relevant when the candidate is externally a male; see R. Meir Amsel, ha-Ma’or, 25:6 (Kislev-Tevet, 5763) 19, s.v. “Kevar”; R. Idan Ben-Ephraim, Sefer Dor Tabpukhot (Jerusalem, 5764) 163. On the other hand, R. Yigal Safran, “Nitu’ah le-Hablafat ha-Min,” Tehumin, XXI, 117-120, forbids, nevertheless, because halakhically she is a woman. Despite the transgender operation.


29. The principle of agency (shelubu sheI adam ke-moto) is widespread in Jewish law. It appears first in Mishna Berakhot 5:5 and Tosefta Ta’anit 3:2, and then throughout the Talmud (see, e.g., B.T. Nedarim 72b, Nazir 12b and Kiddushin 41b) and the codes. A full discussion is beyond the scope of this paper. For leading sources among the rishonim, see R. Isaiah of Trani, Tosafot Rid, Kiddushin 42b; R. Hayyim ben Isaac Or Zarua, Resp. Maharah Or Zarua, sec. 128; R. David Kokhavi, Sefer ha-Batim, Beit Tefilla, Sha’arei Tefilla, Sha’ar 8, no. 29. [We note that R. David Kokhavi explicitly includes reading of the Torah among those acts that must be done personally, and cannot be done by the agency of another.] For a fuller discussion of these rishonim and their subsequent development by the abaronim, see R. Moses Hillel Sasson, Mishpetei ha-She’ulubut (Jerusalem, 5765), sha’ar rishon, ch. 10, kelal 1, parag. 2, no. 2 and sha’ar sheni, sec. 30, parts 2-4; Dov I. Frimer, “He’arot le-Sugyat Mahut ba-She’ulubut,” Annual for the Institute for Research in Jewish Law, IX-X (Jerusalem, 5743), 113 and reprinted in Nediv Lev (Jerusalem, 2010), 233-246 (Hebrew sec.). Regarding agency in the fulfillment of mitzvot, see: R. Moses Hillel Sasson, ibid., Sha’ar rishon, ch. 10, and sha’ar sheni, sec. 30, part 1; R. Asher Weiss, Minhat Asher, Kiddushin, sec. 50; R. Asher Weiss, Minhat Asher, Beresbit, sec. 15; R. Asher Weiss, Shiurei Moreinu ha-Rav Shlita, VI, kvets 33 (262), Korab 5768; R. Asher Weiss, Minhat Asher al ha-Moadim: Rosh ha-Shana, Yom Kippur, Sukkot, sec. 47.

30. B.T. Sukka 38b; J.T. Megilla 4:1 (shome’a ke-korei). For in-depth analysis of this concept, its parameters and application, see the selected works below:

(a) Birkat Kohanim: R. Joseph Dov Soloveitchik, Beit ha-Levi al ha-Torah, Bereshit (at very end following Hannukah); R. Hayyim Soloveitchik, Asufot Rabbeinu Hayyim ha-Levi, Megilla, sec. 4; R. Naftali Zvi Judah Berlin, Resp. Meshiv Davar, I, sec. 47, s.v. “Siman 128;” R. Avraham Yeshayahu Karelitz, Hazon Ish, O.H. secs. 19 and 29; R. Aryeh Pomeranchik, Emek Berakha, Nes’i’at Kappayim, sec. 5; R. Joseph B. Soloveitchik, Reshimot Shiurim, R. Zvi Joseph Reichman, ed. (New York, 5749), Sukka 31b, 139, no. 4; Joseph B. Soloveitchik cited by R. Zvi Schachter, be-Ikevi ha-Tson (Jerusalem: Beit ha-Midrash de-Flatbush, 5757), sec. 17, no. 13, 95-97; R. Jacob Israel Kanievsy, Kehillot Yaakov, Berakhot, sec. 11 (12 in some editions); R. Elazar Man Shakh, Avi Ezri, Mahadva Kamma, Hilkhot Nes’i’at Kappayim, sec. 14, no. 11; Rabbis Ephraim Grunblatt and Yuval Nof, Revirot ve-Yovelot, II, sec. 435; (b) Keri’at Shema: R. Joseph B. Soloveitchik, Reshimot Shiurim, R. Zvi Joseph Reichman and R. Moshe Nehemia Reichman, eds. (New York, 5772), Berakhot 2a, no. 1, 8-11; (c) Keri’at ha-Torah: R. Jacob Emden, Resp. She’elat Yaavets, I, sec. 75; R. Aryeh Pomeranchik, Emek Berakha, Keri’at ha-Torah, no. 3; R. Zvi Pesach Frank, Resp. Har Tsevi, I, sec. 57 and 58; R. Zvi Pesach Frank, Mikra’ei Kodesh, Pesah, III,
sec. 60; R. Joseph Dov Soloveitchik, n. 181 below; R. Ovadia Yosef, Resp. Yehaveh Daat, IV, sec. 11; R. Ovadia Yosef, Resp. Yabbia Omer, IX, O.H., sec. 83. no. 7; R. Ovadia Yosef, Halikhot Olam, III, Toldot, sec. 15 and notes; R. Phineas Zevihi, Resp. Ateret Psal, I, part 1, O.H., sec. 14, no. 10, n. 9, 341-347; R. Elijah Schlessinger, Resp. Sho’alim ve-Doreshin, V, sec. 13 – reprinted in R. Elijah Schlessinger, Eleh Hem Mo’adai, V, sec. 8; R. Abraham Rapoport, Resp. Be’er Avraham, secs. 3 and 4; (d) Sefirat ha-Omer: R. David Cohen, “Shome’a ke-Oneh be-Sefirat ha-Omer” Mo’riah, 27:11-12 (323-324) (Nisan 5766), 116-125; R. Ovadia Yosef, Hazon Ovadya – Yom Tov, Hilikhot Sefirat ha-Omer ve-Yemei ha-Sefira, sec. 9 and n. 17; R. Elijah Schlessinger, Resp. Sho’alim ve-Doreshin, V, sec. 38; R. Itai Moskowitz, “Shome’a ke-Oneh be-Sefirat ha-Omer,” available online at http://www.kipa.co.il/jew/9/11976.html; (e) Sippur Yetsi’at Mitsrayim: R. Bezalel Stern, Resp. be-Tiel ha-Hokhma, VI, sec. 67; R. Asher Weiss, Hagada shel Pesah Minhat Asher, sec. 5; (f) Halitza: R. Naphtali Zvi Judah Berlin, Ha’amek She’ala on She’ilot, Tiroto, sec. 54, no. 18; (g) General Discussions: R. Aryeh Zvi Fromer, Si’ah ba-Sadeh, Sha’ar Birkat ha-Shem, sec. 4; R. Aryeh Zvi Fromer, Resp. Erets Tzevi, II, sec. 9; R. Zvi Pesach Frank, Resp. Har Tzevi, O.H., I, sec. 57; R. Abraham Weinfeld, Resp. Lev Avraham, I, sec. 8; R. Abraham Judah Farstein, Kenesset Avraham, I, sec. 24; R. Uriel Zvi Katsberg, Megilat ha-Urim, sec. 36; R. Jacob Fester, Birkat Yaakov, II, sec. 4; R. Elimelekh Meller, Shai la-Melekh – Sukka, Beisna ve-Kiddushin, secs. 10 and 11; R. Zvi Pesach Frank, Sha’ishnei Tzevi, I, sec. 7, anaf 3 and sec. 10; R. Zalman Nehemia Goldberg, Lev ha-Mishpat, sec. 17; R. Barukh Rakovsky, ha-Katan ve-Hilkhotav, III, Birur Halakha, sec. 2; R. Barukh David Povarsky, Bad Kodesh – Berakhot, Zeraim, Shabbat, Eruvin, sec. 18; R. Daniel Lehrfeld, Hemdat Daniel, I, Inyanay Tefilla, be-Din Motzi et ha-Baki, 150-153; R. Judah David Bleich, “Shome’a ke-Oneh,” Beit Yitshak, Yeshivah University, 5756, 199-213; R. Yigal Rosen, “be-Din Shome’a ke-Oneh,” in Sefer Zikkaron la-ha’Gaon Rabbi Shilo Refael zt”l, R. Joseph Elijah Movshovitz, ed., (Jerusalem: Mosad ha-Rav Kook, 5758), 45-46; R. Moses Levi, Birkat ha-Shem (Jerusalem: Yeshivat Kissei Rahamim, 5760), ch. 4., 162-175; R. Moshe Toib, Sefer Shome’a ke-Oneh (Jerusalem: Otsar ha-Posekim, 5762); R. Asher Weiss, Minhat Asher, Bemidbar (Jerusalem: Makkon Minhat Asher, 5766), ch. 13, 76-87; R. Asher Weiss, Minhat Asher al ha-Moadim: Hannuka, Purim, Dalet Tmomot” (Jerusalem 5773), Purim, sec. 23, 162-175; R. Michael Menahem Shiloni, Shome’a uMashm’ia (Jerusalem 5766); R. Yehiel Michael Rothchild, Yemei Berakha (Kiryat Sefer, 5767), 5-166; R. Barukh Weintraub, “Shome’a ke-Oneh”, available online at http://tinyurl.com/yonkgm (at end) and http://tinyurl.com/y574x; (h) Role of Shome’a ke-Oneh in Communal Ritual: R. Povarsky, Bad Kodesh – Berakhot, Zeraim, Shabbat, Eruvin, end of sec. 18, makes the critical point that the shome’a ke-oneh element transforms the reading and benedictions of the hazzan from an action of an individual into the action of a tsibbur (community). This is the role played by the hazzan during hazarat ha-sha’tis, or the communal reading of Megilla, Hallel or Birkat ha-Mazon. Simply having a large number of individuals doing a ritual together is insufficient to create a “communal ritual.” It requires the mediation of a hazzan who recites the ritual aloud for the community to hear and share = via shome’a ke-oneh. Thus the hazzan must be one who is obligated so that shome’a ke-oneh is effective. R. Povarsky specifically rejects the possibility that if each individual reads Hallel, even one who is not obligated (e.g., a minor or woman) can serve as hazzan. R. Povarsky argues that this would remain the recitation of Hallel as individuals and never fulfill the rabbinic ordinance of Hallel be-tsibbur. See also discussion in text at n. 411.

31. This majority school is led by R. Naphtali Zvi Judah Berlin and R. Avraham Yeshayahu Karelitz, supra, n. 30a. The minority school, lead by R. Joseph Dov
Soloveitchik, supra, n. 30a, maintains that only the words themselves are transferred, not the entirety of the act.

32. “Kol she-eino mehuyav ba-davar, eino motsi et ha-rabbim yedei hovatam.” Mishna, Rosh ha-Shana 3:8 (29a); see also Berakhot 20b. For an in-depth discussion of this principle see: R. Michael Menahem Shiloni, supra, n. 30g, sec. 6, 33-48. That the term “rabbim” means “others” (rather than “the many”) is clear from the discussion in Berakhot 20b where the discussion centers on a wife or child reciting birkat ha-mazon for their husband/father. See also Encyclopedia Talmudit, n. 40, infra. As to why the term rabbim was used, see the suggestion of R. Israel Lipschutz, Tiferet Yisrael, to Mishna Rosh ha-Shana 3:8, no. 42.

33. “Kol ha-mehuyar [or ha-hayyar] ba-davar, motsi et ha-rabbim yedei hovatam.”

This implication can be derived from the Talmudic statement in Berakhot 20b that if women are biblically obligated in birkat ha-mazon, they can assist others in fulfilling their obligation [“le-afukei rabbim yedei hovatam”]. It is, however, clearly stated in the Jerusalem Talmud, Berakhot 3:3 [“im haya hayyav afli u im yatsa motsi”] and various rishonim and abaronim; see, for example, R. Joseph ben Meir ibn Migash, Resp. Ri mi-Gash, sec. 86; Sefer ha-Ora, I, sec. 44, Din Pat ha-Tsunema be-ke’ara; Rosh, Berakhot, ch. 7, sec. 21 and Rosh ha-Shana, ch. 3, sec. 12; R. Isaac ben Aba Mari, Sefer ha-Ittur, Aseret ha-Dibrot, Hilkhot Shofar; 99a; R. Abraham ben Isaac of Narbonne, Sefer ha-Eshkol (Albeck), Hilkhot Seuda, 24b, s.v. “ve-Khol ha-berakhot;” R. Simeon ben Tsemah Duran, Resp. Tshibets, I, sec. 131; R. Yeruham, Toledot ha-Adam, Netiv 13, part 1, 103, column 2, s.v. “ha-Helek ha-Rishon;” R. Hayyim Joseph David Azulai (Hida), Birketi Yosef, O.H. sec. 124, no. 2; R. Yihye ben Joseph Tsalah (Maharits), Resp. Penuat Tsaddik, III, sec. 184, s.v. “u-miKol makom;” R. Eliezer Waldenberg, Resp. Tsits Eliezer, VII, sec. 1, “Kuntres Katan le-Maftrit,” ch. 1, s.v. “u-beSefer ha-Manhig,” ch. 2, s.v. “ve-Davar ze,” and ch. 5, s.v. “ve-Hitbonanti ve-ra’iti.”

34. R. Zalman Nehemiah Goldberg, Or ha-Moadim, R. Aryeh Isaac Korn, ed. (Jerusalem, 5757), sec. 21. See also n. 44, infra.

35. See “Isha,” Encyclopedia Talmudit, II, 244-246.

36. The concept of kibbelu or shavya la’ayanu hova with regard to women’s performance of time-determined commandments appears first in the rulings of R. Abraham Gombiner, Magen Avraham, O.H., 489, subsection 1 regarding women counting sefirat ha-omer. R. Joseph Teomim, Pri Megadim, Eshel Avraham, ad loc. finds such a position moot. R. Samson Hasid Bloch, Nezirut Shimson, Gloss to Shukhan Arukh, ad loc., and R. Joseph Babad, Minhat Hinnukh, Mitsva 306, no. 1 strongly dissent. Rabbis Bloch and Babad argue that if women are exempt, repeated fulfillment of this normally optional/voluntary mitsva or ritual does not render its performance obligatory. Only in cases where there is a dispute among authorities as to whether the ritual is optional or obligatory, as in the recitation of ma’ariv, can repeated performance render unto it an obligatory status. For a review of the relevant sources on kibbelu la’ayanu hova with regard to time-determined commandments, see R. David Auerbach, Halikhot Beitah, Petah ha-Bayit no. 22, sec. 19 n. 4, and sec. 20 n. 4. R. Auerbach indicates that the consensus of posekim agrees with Magen Avraham, noting that women have accepted upon themselves the mitsva of hearing shofar. See also: R. Zvi Cohen, Sefirat ha-Omer: Halakhot u-Minhagim ha-Shalem, second ed. (5746), ch. 2, sec. 78, n. 10; R. Israel Zev Gustman, Kuntresi Shuirim, Kiddushin, shiur 20 at end; R. Pesah Elijah Falk, Resp. Mahazeh Eliyahu, sec. 21; R. Asher Weiss, Minhat Asher al ha-Moadim: Hannuka, Purim, Daled Tsomot” (Jerusalem 5773), Hannuka, sec. 14, no. 6, 95-96; R. Samuel Kaminetsky, cited by R. Daniel Asher Kleiman, Kovets Halakhot – Piskei Morenu ba-Gaon R. Shmuel Kaminetsky Shlit”a, Tamim Nora’im, Hilkhot Rosh ha-Shana, ch. 11, sec. 1, n. 1.
37. R. Joseph Teomim, Pri Megadim, Eshel Avraham, O.H., 489, subsection 1. “u-Ma she-katav [ha-Magen Avraham] shavya alayhu hova... tsarikh iyyun be-zeh. Ve-Ha vaddai she-ein isha motsi [sic] isb.” (Regarding Magen Avraham’s assertion that women have accepted the obligation [of counting sefi ra upon themselves] ... this is doubtful. But what is sure is that a woman is not sufficiently obligated to assist a man in fulfilling his obligation.)

38. R. Hayyim Soloveitchik, Hiddushei R. Hayyim ha-Levi al ha-Rambam, Hilkhot Tefilla 10:6, indicates there is also a disagreement between R. Natronai Gaon and Rambam, on the one hand, and Rif and Rashba, on the other - regarding the status of a mitsva after kibbelu alayhu. R. Hayyim Perets Berman, “be-Inyan Tefilla Arvit Re-shut,” in Sefer Zikhron Tuv Moshe, (Yeshivat Ponevezh, Bnai Berak, 5768), 649-653, in discussing the analysis of R. Hayyim, demonstrates that Shulhan Arukh rules like Rambam and R. Natronai Gaon that kibbelu alayhu does not upgrade the practice to a bona fide obligation; rather, it maintains its original status and one is obligated only because of neder mitsva. R Asher Weiss (personal communication to DIF, April 26, 2013) is also of the opinion that kibbelu alayhu does not raise the hiyyuv to a level of inherent obligation enabling arevut to be motsi others. For similar approaches, see: R. Solomon Kluger, Resp. u-Vaharta ba-Hayyim, sec. 51; R. Samuel Elazar Haim Volk, Sha’arei Tohar, VI, sec. 47, end of no. 2; R. Gideon G. Rothstein, “The Roth Responsa on the Ordination of Women,” Tradition 24:1 (1988), 104-115 and the exchange of letters between Joel Roth and Gideon Rothstein, “On the Ordination of Women,” Tradition 24:4 (1989), 112-114; Aryeh A. Frimer, supra, n. 28– discussion at n. 107 therein.

39. Shulhan Arukh, Y.D. sec. 214, no. 1; R. Joseph Hayyim, Ben Ish Hai, Nissavim, end of no. 17; R. Jacob Hayyim Sofer, Kaf ha-Hayyim, O.H., sec. 589, no. 34; R. Ovadia Yosef, Resp. Yabilde ve-Yad, sec. 70; R. Ovadia Yosef, Resp. Yabia Omer, II, O.H. sec. 30; R. Asher Weiss, Shiur Evenim ba-Rav Shlita, “Sefirat ha-Omer,” Parashat Tazria-Metsora 5767, VI:20 (no. 215). In addition to not being inherent, an assumed obligation may only have a lesser rabbinic stature, even if the original commandment may have been Biblical in authority; see: R. Solomon Kluger, supra n. 38; Resp. Yabia Omer, ibid.


41. This rationale is explicitly stated by Rosh, Megilla, chap 1, sec. 4. For leading references, see: Berakhot 20b – one obligated rabbinically cannot be motsi one obligated Biblically; Mishna Megilla 19b – a minor cannot assist a major even by rabbinic commandments (e.g., reading the Megilla); Rosh Megilla, chap 1, sec. 4 – one obligated in a rabbinic commandment at a lower level (e.g., women in the reading of the Megilla) cannot be motsi one (a male) who is obligated at a higher level – see also Korban Netanel on Rosh ibid., n. 40.


44. See R. Yehoshuah Yeshayahu Neuwirth, Madrikh Hilkhati le-Ahayyot be-Vattei Holim, ch. 10, no. 1, who allows one woman to recite the shofar benediction for all women assembled together to hear the sounding of the shofar – which for women is an optional commandment. We note that the volume appears with the approbation of R. Shlomo Zalman Auerbach, who indicates that he reads through the entire
volume and approves of all its decisions. Because of the latter approbation, this *pesak* is also attributed to R. Shlomo Zalman Auerbach in *Halikhot Shlomo, II, Mo’adi ha-Shana Tishrei-Adar*, ch. 2, sec. 14, *Orhot Halakha* no. 55. This is also the ruling of: R. Joseph Shalom Elyashiv, as communicated by the latter’s grandson, R. Abraham Zvi Yisraelsohn, to R. Shlomo H. Pick, 2 Adar 5766 [March 2, 2006]; R. Benjamin Adler, *Mo’adi Kodesh al Rosh ha-Shana*, ch. 8, nos. 97 and 98. Both R. David Auerbach and R. Joseph Cohen indicate that a woman can blow *shofar* for herself and, at the same time, be *motsi’a* another woman because they are the same level of obligation [optional]; see: R. David Auerbach, *Halikhot Beitah*, ch. 9, sec. 6 and n. 13, and R. Yosef Cohen’s comments to R. Zvi Pesach Frank, *Mikra’ei Kodesh, Yamim Nora’im: Rosh ha-Shana*, sec. 25, in *Harerei Kodesh*, n. 2. R. Asher Weiss allows a woman to make *havdala* for herself and, at the same time, be *motsi’a* another woman - even assuming that women are basically exempt from *havdala*; see: R. Asher Weiss, “be-Inyan Mitsvat Havdala,” *Shiurei ha-Gaon Moreinu ha-Rav Shlita, Parashat Yitro* 5764, 13 (139). Similarly, R. Chaim Kanievsky rules that a woman performing an optional *mitsva*, such as counting the days of the Omer, may recite the benediction for other women as well; see R. Zvi Cohen, *Sefi rat ha-Omer: Halakhot u-Minhagim ha-Shalem*, Second ed. (5746), ch. 4, sec. 18, n. 41. Regarding the aforementioned Mishna, *Rosh ha-Shana* 3:8 (29a) [see n. 32, supra], which states: “Anyone who is not obligated cannot assist others in fulfilling their obligation,” these views maintain that the Mishna is only discussing whether one who is not obligated can assist one who is; however, one who is not obligated may perform an optional *mitsva* and recite the benediction for others who are similarly not obligated. Interestingly, R. Yehuda Herzl Henkin, personal communication (March 3, 2006), has suggested that women bear *arevut* for each other, primarily in instances like *shofar* where women have accepted the optional *mitsva* upon themselves as a continuing obligation (*kibbelu alayhu hova*); see above n. 36 and below nn. 59 and 182.

45. *Halakha Berura*, n. 42 supra, no. 10.

46. This is an abbreviated form of the oft quoted Rabbinic statement “*Kol Yisrael arevim zeh ba-zeh*” (*Torat Kohanim*, be-Hukkotai, *Parsha* 2, end of *Perek* 7; *Sanhedrin* 27b; *Shevu’ot* 39a). In post-Talmudic literature it appears most commonly as “...*zeh la-zeh*.” As the source for this principle, the Talmud cites the verse (Leviticus 26:37): “And they will stumble one because of the other...” – which is to be understood as one who stumbles because of the sin of the other. Nevertheless, the later commentators mention several additional sources for the concept of *arevut*: (1) R. Moses ben Nahman (Ramban or Nahmanides) cites Leviticus 19:17, which reads: “Do not despise your fellow in your heart rather you are bidden to try to guide him onto the proper path (*bokhe’ah tokhi’ah et amitekha*).” Nahmanides understands this verse to be referring to a case where you see your fellow committing a sin. The verse then concludes: “*ve-lo tissa alav het,*” which Nahmanides (ad. loc.) interprets as “lest you be held responsible for his improper actions.” In other words, you are obligated to educate your fellow; otherwise, you may well be held partially responsible for his neglect of duty. (2) R. Hayyim ben Attar in his commentary to Leviticus 26:37, R. Hayyim ben Attar in his commentary *Or ha-Hayyim* to Deuteronomy 29:9, and R. Isaiah of Trani, *Hiddushei Maharit*, *Kiddushin* 71a (at end), prefer Deuteronomy 29:9 as the source text. In the latter, Moses, in his last moments, re-enacts with the second generation the covenant of Sinai. He addresses them by saying: “You all stand here together in this covenant: your leaders, your tribal chiefs, your elders, your law enforcers – each Israeliite.” They note that we have a delineation of the nation as a whole and each segment of the population leader or commoner to teach us that we each have a covenantal responsibility for our fellow Jew. (3) But perhaps the most
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intriguing source for arevut is suggested by the following scholars: R. Zev Einhorn, Peirush Maharzu, Midrash Rabba, Yitro, Parasha 27, no. 9; R. Hanoch Zundel of Bialystok, Ets Yosef, Midrash Tanhuma, sec. 13; R. Joseph Dov Soloveitchik, Beit ha-Levi al ha-Torah, Shemot, Midrashim, 24:7, s.v. “va-Yikkah;” and R. Joseph Dov Soloveitchik, Resp. Beit ha-Levi, II, Derush 10, s.v. “be-Parasha ki Tisa.” They note that when the Almighty asked the Israelites whether they would accept the Torah they responded in the plural “We will fulfill and we will attempt to understand” (“na’aseh ve-nishma”; Exodus 24:7). Each Israelite accepted his/her mitsva obligations as part of the community of Israel; and in doing so also accepted responsibility for the community of Israel. On every Mitsvot, the community of Israel; and in doing so also accepted responsibility for the community of Israel; and in doing so also accepted responsibility for the community of Israel. Thus, one has effectively not finished his/her obligations, until he/she has, within reason, assured that their fellow Jews have done so as well. For a similar formulation, see Mishna Berura, sec. 655, Sha’ar ha-Tsiyyun, no. 5. This approach fits in nicely with R. Yehuda Gershuni’s assertion – based on Ran’s commentary to Rif, Rosh ha-Shana 29a, s.v. “Tami Ahava” – that arevut is not a separate/additional obligation. Rather, one’s obligations and those of his fellow are intimately joined, “as if all Israel were one body” (citing Ritva). See: R. Yehuda Gershuni, Kol Yehuda, “be-Inyan Mitsvat Tokhaha va-Arevut,” 596-616 at 612. For a similar analysis, see R. Eliezer Goldschmidt, “Areut be-Mitswot,” Mori’a, 32:3-5 (375-377, Shevat 5773), 124-130. The question of whether arevut is a continuation of one’s original obligation or a new, independent one, is also discussed by R. Samuel Elazar Haim Volk, Sha’arei Toba, V, sec. 29, 534-543 and R. Asher Weiss, Minhat Asher, Devarim, sec. 52, no. 2. For an extensive review of the origin, mechanics and application of arevut, see “Kol Yisrael Arevim Zeh la-Zeh,” Encyclopedia Talmudit, XXVIII, 472-519. For further discussion of the implications of arevut, see: R. Reuben M. Rudman, “Kol Yisrael Arevim Zeh ba-Zeh,” Tradition 42:2 (2009), 35-49. We note the minority view of R. Abraham Yitshaki, O.H., sec. 12, and R. Ezekiel Landau, Tsiyyun le-Nefesh Hayya (Tselah), Berakhot 48a who maintain that that arevut is not operative by rabbinic obligations. R. Hayyim Joseph David Azulai (Hida), Birkei Yosef, O.H. sec. 124, no. 3, R. Zvi Pesach Frank, Mikra’ei Kodesh, Yamiim Nara’a’im – Rosh Ha-Shana, sec. 27, no. c, 92, his brother R. Zev Wolf Frank, Toledot Ze’ev, Berakhot 29a and R. Ovadiah Yosef, Halikhot Olam, III, Hilkhot Tefilla u-Keri’at ha-Torah, Parashat Toledot 132, cites sources and evidence for why this view has been rejected. Surprisingly, in his responsa, Resp. Har Tsevi, O.H., II, sec. 121, no. 3, R. Zvi Pesach Frank comes to the Tselah’s defense – contrary to what he writes in the Mikra’ei Kodesh regarding the similar position of Zera Avraham. Apparently, what he writes in Resp. Har Tsevi is only in theory (be-lamdut) and not in practice (le-halakha). In any case, in Resp. Har Tsevi, R. Zvi Pesach Frank writes that even the Tselah admits that arevut is operative for a berakha on a biblical commandment.

47. See, for example, Tosafot, Berakhot 48a, s.v. “Ad she-yokha” at end; Ran on Rif, Rosh ha-Shana 29a, s.v. “Tami Ahava”; R. Gedalia Nadel, Hiddushei R. Gedalia, Berakhot sec. 2, s.v. “R”H 29a; Encyclopedia Talmudit, IV, n. 40 supra, 310 and Encyclopedia Talmudit, XXVIII, n. 46 supra, 493.

48. Rosh ha-Shana 29a. Note that shome’a ke-oneh allows the shome’a to receive assistance, while arevut empowers the oneh to give that assistance.


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Frank, Resp. Har Tsevi, Y.D., secs. 1 and 210; R. Gedalia Nadel, Hiddushei R. Gedalia Nadel, I, Berakhot, sec. 3; R. Elimeleh Meller, Shai la-Melekh, Sukka, Beitsa ve-Kiddushin, sec. 11; R. Abraham Isaiah Pfoifer, Ishei Yisrael, sec. 40, end of n. 2; R. Elija Cohen, Ma’asheh Hemed al Birkat ha-Ilanot, Beiturei Shitot sec. 2, 170-173, R. Moses Levi, Birkat Hashem, IV, Hilkhot Birkhot ha-Shevah ve-ha-Hoda’a, ch. 1, end of Parag. 15, n. 71, and ch. 3, parag. 36-37; R. Asher Weiss, Resp. Minhat Asher, I, sec. 9, no. 5 (“keivan de-boya bi yesh ha arevut... ve-ein zeh talui be-ofi ha-berakha ve-inanyah, ela im biyuvu hu o reshut.”) – appears also in R. Asher Weiss, “Birkat ha-Zeman be-Ner Hannuka,” Sh’ur Moreinu ha-Rav Shlita, Kuntres Shuvu, Parashat Hayyei Sara, 5773, XI, 10 (424), no. b; and R. Asher Weiss, Minhat Asher, Devarim, sec. 52, no. 3; R. David Henshke, personal communication (Nov. 2012) regarding ref. 43. Examples of the berakhot discussed are: Asher yatsar et ha-adam, Asher yatsar etkhem be-din, Borei me’orei ha-esh, Birkat ha-gomel, Yishtabah and Birkhot erusin. Some posekim distinguish between Birkat ha-gomel, which only the individual saved can recite, and other obligatory birkhot ha-shevah. R. Shneur Zalman of Liozna-Liadi, Shulhan Arukh ha-Rav, O.H., sec. 59, no. 4, maintains that “af al pi she-yatsa motsi” can be used for fulfilling a birkat ha-shevah only when a minyan is present. See also R. Moses Benjamin Perlstein, “be-Din Hazarat ha-Shats be-Arvit,” Kovets He’arot u-Be’urim – Obolei Torah, number 1016 (11 Nissan 5771) available online at: http://www.haoros.com/Archive/index.asp?kovetz=1016&cat=8&haoro=3. In this regard, we mention R. Joseph Barukh Kazis, cited in R. Isaac Lampronti, Pahad Yitshak (Mosad ha-Rav Kook, Jerusalem: 5737), IV, Birkat ha-Shevah, 121-126, who has argued that bnedictions recited before or after mitsva actions are by definition birkhot ha-mitsva, irrespective of the wording or formulation of the benediction. Examples of classic birkhot ha-mitsva worded as birkhot ha-shevah are Hadvalsa and Kiddush for the holidays. In a conversation with DIF (April 28 and May 5, 2012), R. Nachum Rabinovitch has concurred with this analysis. He further argues that this is generally what the posekim are referring to when they speak of “obligatory birkhot ha-shevah.” Contrary to other rishonim, Meiri (ibid.) maintains that one cannot invoke “af al pi she-yatsa motsi” even by obligatory birkhot ha-shevah. As a result, R. Ovadiah Yosef and his sons rule that one should be stringent based on safek berakhot lehakel. See: Resp. Yabbia Omer, IX, O.H. sec. 3, no. 2 by “Asher yatsar et ha-adaw, Hazon Ovadya, Hilkhot Tu be-Sheetav ve-Hilkhot Berakhot, Hilkhot Birkhot ha-Hoda’a, sec. 10, n. 15, 355-356; R. David Yosef, Halakha Berura, XI, sec. 219, no. 5, end of subsection 20, n. 24; R. Isaac Yosef, Yalkut Yosef, Hilkhot Bikkur Holim va-Avelut, sec. 10, no. 32. R. Isaac Yosef specifically challenges the lenient view of R. Moses Levi cited above. Interestingly, in Resp. Yabbia Omer, V, T.D. sec. 30, R. Ovadiah Yosef permits safardi hassananim to continue their long-standing custom of reciting “Asher yatsar etkhem be-din” for those gathered at the gravesite; in this latter case, however, he garners an additional reason to be lenient.

50. Shulhan Arukh ha-Rav, O.H., sec. 197, no. 6; R. Zussman Sofer comments to R. Jacob Alfandri, Resp. Mutsal me-Eish ha-Shalem, sec. 12. R. Sofer notes, however, that a kohen is not “inherently obligated” for redeeming his first-born son, since he is totally exempted from the mitsva of pidyon ha-ben. For reviews, see: Encyclopedia Talmudit, XXVIII, n. 46 supra, 503ff; R. Moses Levi, Birkat ha-Shem, V (Jerusalem: Makkon Ish Matzliah, 5756), ch. 3, secs. 3-5 and nn. 12-22 thereto. We note that R. Levi concludes that, because of the minority dissenting opinions, such benedictions recited by others are doubtful and one should be stringent (safeh berakhot lehakel). For a general discussion of safeh berakhot lehakel, see Berakhot 21a; M.T., Hilkhota Berakhot, 4:2 and 8:12; Shulhan Arukh, O.H., sec. 167, no. 9 and sec. 209, no. 3; “Berakhot,” be-Safeh, Encyclopedia Talmudit, IV, 291-315, at 303ff; R. Yitschak
Yosef, Mafte‘ah Meforat to Resp. Yehaveh Da‘at, Kelalei Safek Berakhot. See also n. 217. However, R. Levi’s invocation of safek berakhot lehakel is very curious considering that the vast majority of posekim, both rishonim and abaranim, including R. Caro and Rema, rule that others may indeed recite these benedictions. What is more, no new arguments have been discovered that were unknown to R. Caro and Rema; see: Resp. Tabbia Omer, II, O.H. sec. 8, no. 19 and millium. In addition, this majority view is reflected in general practice and, in the case of custom, one does not invoke the argument “safek berakhot lehakel”; see Resp. Tabbia Omer, II, O.H. sec. 25, no. 13; III, Y.D., sec. 17, no. 10; IV, O.H., sec. 23, no. 14; and V, O.H., sec. 6., no. 6.

51. The requirement to eat at least a ke-zayit seems to be rabbinic in origin; see Encyclopedia Talmudit, IV, “Birkat ha-Mazon,” le-Hoti et Havero, 475-511, at 507.

52. Tosafot, Talmidei Rabbenu Yona, R. Solomon ben Adret (Rashba), Meiri (see also 20b), Shita Mekubetzet and Rosh to Berakhot 48b; Ritva, Rosh ha-Shana 29a; Sefer ha-Eshkol, I, Hilkhot Netilat Yadayim u-Seuda, no. 18; Semag, Asin, no. 27; Semak, sec. 109; Sefer ha-Mamig Hilqhot Seuda, no. 17; Or Zarua, I, sec. 198; R. Asher ben Hayyim in Sefer ha-Pardef, Gate 10, ch. 9, no. 5; R. Zedekia ben Abraham ha-Rofeh, Shibbolei ha-Leket, sec. 154, citing Rashi and R. Yeshaya; Tur O.H., sec. 197 and Beit Yosef, s.v. “Katav Behag”; Bah, O.H., sec. 186, s.v. “ve-Ra’iti”; Shulhan Arukh, O.H., sec. 197 no. 4, and later codifiers ad loc.: Levush (no. 4), Taz (n. 3), Magen Avraham (n. 11) Mishna Berura (n. 24), Arukh ha-Shulhan (no. 8), Shulhan Arukh ha-Rav (no. 6), Kaf ha-Hayyim (n. 27); Encyclopedia Talmudit, n. 51, supra. The following posekim dissent requiring the reciter of birkat ha-mazon to eat his fill: Behag cited in Rosh to Berakhot 48b; Maimonides, responsum to the scholars of Lunil, cited in Kese Mishe, Hilkhot Berakhot 5:15; Sefer ha-Hashlama, Berakhot 20b; Sefer Ohol Mo’ed, Derekh 1, Netiv 10; Ra‘aya, Berakhot sec. 129; Ramban, Milhamot ha-Shem and Ra‘avon on Ba‘al ha-Ma‘or, Berakhot 20b.

53. Siddur Rav Saadya Gaon, Birkat ha-Mila (p. 98 in the Davidson, Assaf, and Joel edition; Jerusalem: 1970); R. David ben Joseph Abudarham, Sefer Abudarham, Sha‘ar ha-Teshi‘i, Dinei Mila, s.v. “ve-Katevu ha-mefareshim;” R. Yeruham ben Meshullam, Toledot Adam ve-Havva, netiv 1, part 2; Beit Yosef, Tur Y.D., sec. 265, s.v. “u-Mah she-katav ve-nohagin”; Rema, Shulhan Arukh, Y.D., sec. 265, no. 1; Bei‘ur ha-Gra, Y.D., sec. 265, no. 3—he indicates that Maimonides would also agree because of arevut; Arukh ha-Shulhan, Y.D., sec. 265, no. 13; Encyclopedia Talmudit, IV, “Berit Mila,” ha-Mila u-Birkhoteha, 246-261, at 253; R. Moses Bunim Pirutinsky, Sefer ha-Berit, Y.D., sec. 265, no. 18. Piskei R. Yeshayahu Abaron Z‘L (Riaz), Rosh ha-Shana, ch. 3, no. 5—cited in Shiltei Gibborim on Rif—dissents, maintaining that only the father can recite this berakha. The above opinions maintain that Birkat le-Hakkasis is a birkat ha-mitsva; see also Otsar ha-Geonim, Shita Mekubetzet, p. 142, but further discussion is beyond the scope of this paper.

54. R. Sar Shalom Gaon, Otsar ha-Geonim, Ketubbot 7b, no. 53 (others recite the benediction because it would seem pretentious for the hatan to do so); R. Shriha Gaon, Resp. R. Sherira Gaon, Sha‘arei Tsedek, III, Gate 1, sec. 45—cited in Otsar ha-Geonim, Ketubbot 7b, no. 54, 16 (others recite the benediction rather than the groom, because it is no different than a sheli‘ah tsibbur); R. Abraham ben R. Nathan ha-Yarhi, Sefer ha-Manhig, Hilkhot Erusin, sec. 110 (others recite the benediction because the groom is distracted); R. Aaron ha-Kohen of Lunil, Orbeh Hayyim, II, Hilkhot Kiddushin, sec. 21 (others recite the benediction so as not to embarrass the untrained); R. Aaron ha-Kohen of Lunil, Kol Bo, sec. 75, Hilkhot Ishut (so as not to embarrass the untrained); R. Perets ben Elijah, Hagahot Semak, sec. 183, n. 19 (so as not to embarrass the untrained); Semag, Esin 48; Mordekbai, Ketubbot, ch. 1, sec.
131 (because it would seem pretentious); Hagahot Maimoniyov, Hilbkot Ishut, ch. 3, no. samekh; Rema, Shulhan Arukh, E.H., sec. 34. no. 1; R. Solomon Luria, Be’i’urei Semag, Asin 48 (because it would seem pretentious; in addition, so as not to embarrass the untrained, analogous to keri’at ha-Torah); R. Solomon Luria (Maharsha”l), Yam shel Shlomo, III, Ketzubbot, ch. 1, end of sec. 17 (so as not to embarrass the untrained, analogous to keri’at ha-Torah and mikra bikkurim); R. Zvi Pesach Frank, Hadrat Kodesh, Inyanei Nisu’in, secs. 10 and 15; R. Abraham Hayyim Azadi, Resp. va-Yikra Avraham, sec. 8; Resp. Yabbia Omer, VII, E.H., sec. 17, no. 2 and miliyum; R. Ovadiah Yosef, Halikhot Olam, II, Parashat Shoftim – Hilbkot Eruvin ve-Nisuin, no. 2, n. 2, 203-204; R. Yitshak Yosef, Sova Semakhot, I, ch. 6, no. 16, n. 16; R. Isaac Ratsabi, Shulhan Arukh Mekutsar, VII, E.H. II, sec. 206, Eimei Yitshak, n. 297; Encyclopedia Talmudit, IV, “Birkat Eruvin,” Mekorab ve-Dineba, 420-427, at 421; Otsar ha-Posekim, E.H., sec. 34. no. 1, nn. 4.a. R. Abraham ben Moses (Maimonides), Hiddushim me-haRambam, cited in the Introduction to Ma’asch Roke’ah, objects to anyone - other than the groom - reciting this berakha. As mentioned in n. 55, the above opinions maintain that birkat erusin is a birkat ha-mitsva, rather than a birkat ha-shevah or even a birkat ha-nehenin.

55. Most authorities maintain that this berakha is incumbent on the one who does the action of betrothal, i.e., the groom – and the mesadder kiddusin is motsi him. See: M.T., Hilbkot Ishut, 3:23; R. Abraham ben Moses (Maimonides), Hiddushim mi-Ketav Yad, cited in the Introduction to Ma’asch Roke’ah; R. Ezekiel Segel Landau, Resp. Noda bi-Yehuda, E.H., Mahadura Tanyana, end of sec. 1; R. Isaac Zev ha-Levi Soloveitchik (Griz), cited in R. Zvi Pesach Frank, Hadrat Kodesh, Inyanei Nisu’in, sec. 15; R. Yitshak Yosef, Sova Semakhot, I, ch. 6, no. 17, n. 17 and references cited therein; R. Moses Amnon Faniri, Beit Hatanim, sec. 2, no. 4, n. 7 in the name of R. Ben-Zion Abba Shaul and R. Joseph Shalom Elyashiv; R. Isaac Ratsabi, Shulhan Arukh Mekutsar, VII, E.H. II, sec. 206, Eimei Yitshak, n. 298; Resp. be-Marchah ha-Bazak, VI, sec. 14 (5766; 2006), 56-57; R. Moses Sternbuch, Resp. Teshuvot ve-Hanhagot, II, sec. 637. We note in passing that Resp. Noda be-Yehuda ibid. toys with the theoretical possibility that a bride might be obligated, though the thrust of his responsum is that she is not; see R. Zvi Pesach Frank, Hadrat Kodesh, Inyanei Nisu’in, secs. 10 and 15. On the other hand, many scholars suggest that the bride too may be obligated; see: R. Hayyim Benveniste, Kenesset ha-Gedola, E.H., sec. 34, Hagahot ha-Tur, no. 6; R. Judah Samuel Ashkenazi, Siddur Beit Oved, li-Yemot ha-Hol, Dinei Birkat Eruvin, no. 10, R. Isaac Palagi, Yafeh la-Lev, IV, E.H., sec. 34, n. 1; R. Moses Amnon Faniri, Beit Hatanim, sec. 2, no. 4, n. 7 in the name of Resp. Kerem Shlomo, sec. 81. See also Otsar ha-Posekim, E.H., sec. 34, no. 1, nn. 1a and 1c.

Interestingly, R. Asher Weiss notes that in the standard edition of Maimonides’ Sefer ha-Mitsvot, Positive Commandment 213 (to marry via erusin) is listed as one of those commandments from which women are exempt. This, then, suggests that according to Maimonides women are exempt from this mitsva and presumably from the related benediction. Nevertheless, as R. Weiss notes, the new Fraenkel edition of Maimonides’ Sefer ha-Mitsvot - as well as the Heller, Kafih, and Chavel editions - have a different reading which does not list this commandment as one from which women are exempt. This, then, suggests that women, too, are obligated in this mitsva – and perhaps in the benediction as well. See: R. Asher Weiss, Kovets Darkei Hora’a, IX (5768), Hilbkot Eruvin ve-Nisu’in, “mi-Bei Ray,” sec. 2, end of no. 1, 76. More recently, R. Asher Weiss has argued that even if women, too, are obligated in this mitsva, they may well not be obligated in the benediction which is the provenance of the groom who does the mitsva action. See: R. Asher Weiss, “Kiddushei Heresh Shoteh
The above discussion has assumed that the Birkhot Erusin are birkhot ha-mitsva (benedictions of praise) or even birkhot ha-nebenin (benedictions over pleasure) for those present at the betrothal. In such a case, the mesudder kaddishin is motzi neither the groom nor the bride, but rather all those gathered. See: R. Zvi Pesach Frank, Resp Har Tsevi, O.H., I, sec. 44, and II, Milei de-brakhot, secs. 20-23; R. Zvi Pesach Frank, Resp Har Tsevi, Y.D., sec. 1; R. Zvi Pesach Frank, Hadrat Kodesh, Inyanei Nisu’in, secs. 10 and 15; Otsar ha-Poskim, E.H., sec. 34. no. 1, nn. 4a and 5a; R. Ovadia Yosef, Halikhot Olam, II, Parashat Shoftim – Hilkhot Erusin ve-Nisuin, no. 1, n. 1, 203; R. Asher Weiss, “Kiddushei Hersh Shebe ve-Katan,” Shiur Morenu ha-Rav Shlita, Kuntres Shevu’i, Parashat Ki tsete, 5773, Volume XI, 40 (454), 8 ff.


57. Resp. Tsits Eliyzer, XII, sec. 24 and XIV, sec. 25; Resp. Yabbia Omer, VIII, sec. 46; Kollel Erets Hemdah, Hemdat Yamim, Ask the Rabbi, “Making Kiddush for Others before Accepting Shabbat,” Korah 5768 – available online at http://tinyurl.com/6h2gmt. R. Akiva Eiger, in his gloss to Shulhan Arukh, O.H., sec. 263 leaves the issue unresolved. Interestingly, R. Shlomo Zalman Auerbach agrees in principle with the applicability of arevut to such situations; nevertheless, in the case of the recitation of an early kiddush, he is deeply troubled by the possibility that one could declare the sanctity of the Sabbath without accepting it upon oneself. He, therefore, disapproves of this practice as standard hospital procedure, but permits it for individuals in dire circumstances. See: R. Shlomo Zalman Auerbach, Resp. Minhat Shlomo, I, sec. 3; R. Shlomo Zalman Auerbach cited by R. Yehoshuah Yeshayahu Neuwirth, Shemirat Shabbat ke-Hilkhatah, II, sec. 51, no. 18, n. 48; R. Shlomo Zalman Auerbach cited by R. Simha Bunim Lazerson, Shulhan Shlomo - Erkei Refiu’i, I, Ervei Shabbat, 37-44. 58. Ritva, novella to Rosh ha-Shana 29b, maintains that a male who has fulfilled his obligation of hearing the shofar, may nevertheless sound the shofar for women. He cites, however, two views as to whether the ba‘al teki‘ah may also recite the appropriate benediction for the women. The stringent school maintains that since hearing the shofar is a time-determined - and, hence, optional - mitsva for women, it is comparable to a pleasure benediction (birkhot ha-nebenin) and arevut cannot come into play. Thus, the recitation of a mitsva benediction by the man would be forbidden as a berakha le-vattala. Included in the stringent school are: Rabbenu Efraim ben Isaac of Regensburg cited by Ritva in his novella to Rosh ha-Shana 29b; Ritva himself
in his novella ibid. and in Hilkhot Berakhot, sec. 5, no. 2; Yesh Geonim cited in the Sefer Aguda, Rosh ha-Shana, sec. 18; Ba’al ha-Itur cited by R. Simeon ben Tsemah Duran, Hiddushei ha-Tasbhet, Rosh ha-Shana, 32b. On the other hand, the lenient view maintains that since women fulfill a mitzva by hearing the shofar, arevut is applicable and a man may recite the berakha for them (“keivian de-lav reshut gamur hu, de-ba ikku tsad mitzva, rashai levarekh”). Included in the lenient school are: R. Eliezer ben Joel ha-Levi (Ra’aya), Sefer Ra’aya (Aptowitz ed.), sec. 539 (this contradicts, however, what he writes in secs. 534 (p. 215; see editor’s n. 5) and 597); Ra’aya is cited by the Sefer Aguda, Rosh ha-Shana, sec. 18; Rabbenu Perets and Ba’al ha-Me’orot cited by R. Aaron ha-Kohen of Lunil, Orhot Hayyim, Hilkhot Rosh ha-Shana, Din Teki’at Shofar, no. 8; R. Jacob ha-Levi Moellin (Maharil), Sefer Maharil – Minhagim, Hilkhot Shofar, end of no. 1 - cited in Darkei Moshe, O.H., sec. 589, no. 2; Yesh omerim cited by R. Simeon ben Tsemah Duran, Hiddushei ha-Tasbhet, Rosh ha-Shana, 32b. (We thank R. Yehuda Herzl Henkin for bringing many of the latter references to our attention.) For further discussion of the two schools cited by Ritva, see: R. Gedalia Nadel, references to our attention.) For further discussion of the two schools cited by Ritva, ha-Shana 2; loc.:

Of critical importance is the ruling of Rema, O.H., sec. 589, no. 6. Like the stringent school of Ritva, Rema maintains that a man who has heard the shofar and thus fulfilled his obligation may sound the shofar for women, but he may not recite the appropriate benediction for them. [Ashkenazi women recite the berakha for themselves, while Sefardi women tend to refrain from reciting all optional benedictions; for further discussion see: Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice. Part 1 - Theory,” Tradition, 32:2 (1998), 5-118 – available online at http://tinyurl.com/cj8ow9n.] The overwhelming majority of posekim (delineated below) follow Rema and posit that his ruling is based on the principle that one bears no arevut for those who would like to perform an optional mitzva. This principle is cited by the codifiers in the following cases: (a) Blowing shofar for women – Tur, O.H., sec. 589, Darkei Moshe, no. 2; Shulhan Arukh, O.H., sec. 589, no. 6 and the following commentaries ad loc.: Hezekiah ben David da Silva, Peri Hadash, no. 6; R. Elijah Kramer of Vilna (Gra), Be’urei ha-Gra, no. 9, s.v. “Arav aherim” [see explication of R. Barukh Rakover, Birkat Eliyahu, ad loc.]; R. Menahem Mendel Auerbach, Ateret Zekemin; Shulhan Arukh ha-Rav, no. 2; R. Ephraim Zalman Margliot, Matchet Efrayim, no. 12; Mishna Berura, n. 11; R. Jehiel Michal Halevi Epstein, Arukh ha-Shulhan, no. 11. See also: R. Abraham Danzig, Hayyei Adam, sec. 141, no. 7 – see also comments of R. Aaron Joseph Bloch thereto, Lev Adam (Monticello, NY: 1967), II, 510; R. Jehiel Michel Tucazinsky, Lu’ah le-Erets Yisrael, Tishrei, Kelalim la-Teki’ot, no. 10 (p. 10, end of n. 1 in the Jerusalem 5767 edition of R. Nissan Aaron Tucazinsky); R. Abraham Judah Farbstein, Knesset Avraham, I, sec. 1; R. Shaya Devletsky, Kitsur Hilket Mo’adim: Rosh ha-Shana, Dinim la-Teki’ot, no. 22; Halikhot Be’itol, sec. 20, no. 9; R. Moses Mordechai Karp, Hilkhot Hag be-Hag – Yamim Noraim, ch. 10, sec. 3, n. 13. (b) Making havdala for women - Shulhan Arukh, O.H., sec. 296, no. 8 and the following commentaries ad loc.: Magen Avraham, n. 11; Eliya Rabba, n. 18; Shulhan Arukh ha-Rav, no. 19; Mishna Berura, n. 36. See also Kitsur Shulhan Arukh, sec. 96, no. 14; Resp. Tabbia Omer, O.H., sec. 24; Halikhot Be’itol, sec. 15, no. 31. Cf., however, Arukh ha-Shulhan, no. 5, who distinguishes between havdala and shofar blowing. (c) Reciting leish'er ba-sukka for women - Shulhan Arukh, O.H., sec. 640, no. 1 and the following commentaries ad loc.: Magen Avraham, n. 1; R. Jacob Elinger, Bikkurei Yaakov, n. 2; Mishna Berura, n. 1; Arukh ha-Shulhan, no. 2; Halikhot Be’itol, sec. 22, no. 6. See also R. Mordechai
Returning now to the case of teki'at shofar, we noted that one who has already fulfilled his obligation is forbidden to recite the relevant berakha for one who bears no obligation, because arevut cannot come into play. Nevertheless, one who has already fulfilled his obligation may blow shofar for others, even for those who lack any obligation. But how can this act be of value in the latter instance if arevut is not applicable? There are three primary approaches to this issue: (1) R. Aryeh Zvi Fromer, Si'ah ha-Sadeh, Sha'ar Birkat ha-Shem, sec. 4, no. 19, maintains that, indeed, no mitzva is fulfilled in such a case – yet it is permitted to blow for the women because of the principle of nahat ru'ah (see discussion at n. 349, infra). (2) R. Shlomo Zalman Auerbach, n. 59, infra, that the fact that one can blow again for women indicates that there is indeed arevut for those who would like to perform an optional mitzva; however, regarding the issue of reciting the benediction for women who are not obligated, Rema forbids this because he is doubtful as to its general permissibility. (3) The vast majority of scholars maintain that there is no arevut for one who is not obligated; nevertheless shofar is unique because its fulfillment requires only hearing the shofar blasts (a hiyyuv shemi’a). Other reasons have also been suggested; see, n. 61, infra. 59. In this minority is the distinguished 20th century posek R. Shlomo Zalman Auerbach. Like the rishonim of the “lenient school,” cited by Ritva in n. 58 supra, he suggests that one who has already fulfilled his obligation still bears arevut for those who would like to perform an optional mitzva. Nevertheless, R. Auerbach reasons that since the recitation of a non-obligatory berakha on an optional mitzva is a matter of major dispute, one bears no arevut for the blessing. He concludes that a man who has already fulfilled his mitzva obligation may not recite the attendant berakha for a woman (following the ruling of Rema, n. 60 infra) – even though Ashkenazi women can recite the berakha for themselves. See R. Shlomo Zalman Auerbach, Resp. Minhat Shlomo, II, sec. 56, no. 1 in Oszerot Shlomo 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons’ 5760 edition; R. Shlomo Zalman Auerbach, “be-Inyan Berakha be-Kiyyum Mitzva al Yedei Shaliah,” Kovets Lev Aryeh le-Zikhron R. Aryeh Leib Kalisch (Kollel Tiferet Yirmiyahu, Mahkhor Torani Lev Aryeh, Bayit va-Gan, Jerusalem) 44-46; R. Shlomo Zalman Auerbach, “be-Dinei Nashim be-Mitzvot Aseh she-haZeman Gerama,” Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 391-400, sec. 2. R. Auerbach’s view is cited by: R. Yehoshuah Yeshayahu Neuwirth, Shemirat Shabbat ke-Hilkhatah, Makhon Torani Lev Aryeh, Bayit va-Gan, Jerusalem) 44-46; R. Shlomo Zalman Auerbach, “be-Dinei Nashim be-Mitzvot Aseh she-haZeman Gerama,” Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 391-400, sec. 2. R. Auerbach’s view is cited by: R. Yehoshuah Yeshayahu Neuwirth, Shemirat Shabbat ke-Hilkhatah, II, sec. 51 n. 23; and by R. Elimelekh Winter, Minhat Elimelekh, III, sec. 3 and in the responsa (correspondence) at end of the volume, sec. 1, 243, no. 4. Interestingly, R. Winter, in his responsa, asked R. Chaim Kanievsy whether a father has an obligation to educate his daughter in time-determined commandments, assuming that men have arevut for women with regard to such mitzvot which are optional for the latter. R. Kanievsy responded that there is certainly no obligation on a father to educate his children in commandments which are optional. [Positions similar to that of R. Auerbach are held by: R. Samuel Elimelekh Turk, Resp. Peri Malka, sec. 27; R. Joseph Shalom Elyashiv cited by R. Azriel Auerbach, Kovets Halakhot mi-Maran ba-Grish Elyashiv, O.H., no. 124, in Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 128; and R. Yehuda Herzl Henkin, personal communication (March 3, 2006). R. Turk is of the opinion that Rema’s ruling against the toke’a’s recitation of a berakha for the women is only le-hkattehila; however, be-diAvad, should a benediction be recited, it is valid. [R. Turk’s interpretation of Rema’s ruling as le-hkattehila but not be-diAvad is surprising. For that is the opinion of Maharil, which Rema explicitly rules out because of a lack of arevut in the absence of obligation; see Darkei Moshe, O.H., sec.
589, no. 2. Also R. Turk’s reliance on Arukh ha-Shulhan, O.H., sec. 585, no. 5 is also highly questionable in light of the Arukh ha-Shulhan’s explicit ruling in O.H., sec. 589, no. 10, that the toke’a may not recite the berakha for women. Rabbis Elyashiv and Henkin have suggested that men bear arevut for women, and according to R. Henkin - women for each other, primarily in instances like shofar where women have accepted the optional mitsva upon themselves as a continuing personal obligation (kibbelu alaynu hova); see also nn. 44 and 182. On the other hand, R. Auerbach’s position is explicitly rejected by R. Zvi Pesah Frank, Mikr’a’ei Kodesh, Yamim Nora’im: Rosh ha-Shana, sec. 25, s.v. “Ahar kakh matsati.” See also the comments of R. Joseph Cohen in Mikr’a’ei Kodesh, ad. loc.

In the previous paragraph we noted that R. Auerbach maintains that one who has already fulfilled his/her obligation bears arevut for those who would like to perform an optional mitsva. This is only true, however, if the performance of the optional ritual is considered a mitsva action – if there is a kiyyum ha-mitsva. The latter is the situation, for example, when women perform time-determined commandments, from which they are normally exempt. See: Resp. Minhat Shlomo, ibid.; R. Shlomo Zalman Auerbach, “be-Dinei Nashim be-Mitsvot Aseh she-Hazeman Gerama,” Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 393, sec. 2; R. Shlomo Zalman Auerbach, Koves Lev Aryeh le-Zikhon R. Aryeh Leib Kalisch, ibid., 45. However, if there is no kiyyum ha-mitsva, as is the case when a non-Jew fulfills the commandments, or when a yisrael fulfills the functions of a kohen, even R. Auerbach would agree that there can be no arevut.

60. Following the ruling of Rema, supra, n. 58. For further discussion of the issue of arevut in non-obligatory rituals, see: Shulhan Arukh haRav, Y.D., sec. 1, n. 46, where he distinguishes between shehita and other obligatory mitsvot; R. Samuel Zaianetz, Koves He’arot u-Bei’urim – Ohalei Torah, 780 (Rosh ha-Shana 5760), 35-41 – available online at http://tinyurl.com/rcn7m; R. Shlomo Zalman Auerbach, Resp. Minhat Shlomo, I, sec. 3.


62. This is stated explicitly by R. Moses Judah Leib Zilberberg, Tiferet Yerushalayim, on Mishna Megilla 2:4, Tosefot R. Akiva Eiger, n. 19, s.v. “Huts me-heresh.”
63. For reviews, see Encyclopedia Talmudit, XXVIII, n. 46 supra, 516-519; Halikhot Beitah, Petah ba-Bayit, sec. 17.

64. R. Joseph Teomim, Peri Megadim, Mishbetsot Zahav, O.H., sec. 271, no. 1; R. Ezekiel Segel Landau, Dagul me-Revava, O.H., sec. 271; R. Ezekiel Kahila (reputed pseudonym of R. Joseph Hayyim), Resp. Torah li-Shemah, sec. 52. R. Moses Sofer, Hagahot Hatam Sofer, O.H., sec. 53, no. 19 maintains that while women have arevut for other women, they are excluded from arevut for men. R. Moses Feinstein, Resp. Iggerot Moshe, O.H., I, sec. 190, seems to adopt the view of Rosh and Rabbenu Yona, that there is no arevut for women except where there is pirsumei nisa. R. Joseph Shalom Elyashiv, “Hiddushim u-Bi’urim be-Inyan Nashim be-Dinei u-Mitsvot ha-Torah,” Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 401-439, at 409, sides with Dagul me-Revava, at least in theory. See also the comments of R. Isaac Hayyim Fuss, to the article of his father-in-law, R. Zalman Nehemia Goldberg, “be-Inyan Teki’at Shofar be-Isha,” Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 449-455, at 451ff., where he cites many sources on both sides of this issue. R. Meir Simha Auerbach, “be-Inyan Birkot ha-Shahar ve-Hiyuvam be-Nashim,” mi-Nashim ba-Ohel (Jerusalem, 5773), 487-490, ends his discussion without being able to decide conclusively like one side or the other.


66. See R. Israel Meir ha-Kohen Kagan, Mishna Berura, O.H., sec. 271, no. 5 and Sha’ar ha-Tsiyyun no. 9; R. Jehiel Michel Epstein, Arukh ba-Shulhan, O.H., sec. 271, no. 6; R. Ovadiah Yosef, Lieyvat Hen, no. 14; R. Ovadiah Yosef, Hazon Odavya, Shabbat II, Hilkhot Kiddush, no. 10, n. 11; R. Ovadiah Yosef, Me’or Yisrael, I, Shabbat 54b, s.v. “ve-Khol mi’,” R. Ovadiah Yosef, “Im ha-Nashim Yeshan be-Arevut al Anashim,” Masa Odavya (Jerusalem: Mossad haRav Kook, 5768), 196-212; R. Yehoshuah Yehayahu Neuwirth, Shemirat Shabbat ke-Hilkhatah, II, ch. 51, no. 9, n. 23. For further discussion of arevut with respect to women, see R. Moses Sofer, Gloss of Hatam Sofer to Shulhan Arukh, O.H., sec. 271 (women have arevut for women); R. Yehuda Gershuni, n. 46, supra; R. Isaac Jacob Weiss, Resp. Minhat Yitshak, III, sec. 54; R. David Auerbach, Halikhot Beitah, Petah ba-Bayit, sec. 17; R. Zalman Nehemiah Goldberg, Or ha-Mo’adim, R. Aryeh Isaac Korn, ed. (Jerusalem, 5757), sec. 21; R. Joseph Shalom Elyashiv, Resp. Kovets Teshuvot, III, O.H., sec. 44; Halikhot Beitah, Petah ba-Bayit, sec. 17. R. Asher Weiss, Minhat Asher, Devarim, sec. 14, no. 2 and sec. 52, no. 2, notes that in the case of birkat ha-mazon, women, if biblically obligated, can be motsi’ot men even though the former are freed from reciting berit ve-Torah. This is because their essential obligation is the same, though they differ in minor details. In the case of mikra megilla, by contrast, according to Behag, the nature of woman’s obligation is lesser and fundamentally different. While women’s obligation renders them arevut, i.e., responsible to assure that others will read, the women cannot create for men a level of obligation which they themselves do not possess. Hence, the women cannot read for the men. See R. Asher Weiss, Minhat Asher, Shemot, sec. 71, no. 6. See also R. Moses Sternbuch, Resp. Teshuvot ve-Hanahagot, I, sec. 405, who maintains that the final halakha is in accordance with the view of R.Akiva Eiger that women are within the ambit of arevut; nevertheless, le-khattehila, we act, to the extent possible, in accordance with the position that women are not included within arevut.

67. See “Kol Yisrael Arevim Zeh la-Zeh,” Encyclopedia Talmudit, XXVIII, sec. 3, 494-495; R. Jacob Alfandri, Resp. Mutsal me-Esh ha-Shalem, sec. 12; R. Zvi Cohen,
Sefirat ha-Omer: Halakhot u-Minhabim ha-Shalem, Second ed. (5746), ch. 4, sec. 15*, n. 32b thereto. Thus, a woman may blow shofar for herself and other women at the same time (see Shulchan Arukh, O.H., sec. 589, no. 6), since there is a kiyum ha-mitsva in her action (Bak, Tur, O.H., sec. 589). Accordingly, both R. Nachum Rabinovitch and R. Asher Weiss (conversations with Dov I Frimer, September 23, 2013) have indicated that a woman who has already performed or heard teki'at shofar, cannot blow shofar to assist other women. This is because once she has heard or performed teki'at shofar, further blowing is not considered a kiyum or ma'aseh ha-mitsva.

68. See, inter alia, R. Ahai of Shabha Gaon, She'ilot, 54; Magen Avraham, O.H. sec. 199, no. 7; Elya Rabbah, O.H. sec. 225, no. 4; Pri Megadim, Petiha Kolelet, sec. 3, nos. 17 and 28; Turei Even, Megilla 19b; R. Avraham Yeshayahu Karelitz, Hazon Ish, O.H. sec. 29, no. 5; R. Zvi Pesah Frank, Hadrat Kodesh, Inyanei Nisu'in, sec. 10; R. Abraham Judah Farbstein, Keneset Avraham, I, sec. 1, no. 4, subsec. 2; R. Zvi Cohen, Sefirat ha-Omer: Hilkhot u-Minhabim ha-Shalem, second ed. (5746), ch. 4, sec. 15*, n. 32c thereto, R. Cohen astutely notes that there is no source for an obligation of mitzvot regarding arevut. For reviews, see R. Elizer ha-Kohen Rabinowitz, Torat ha-Katan, ch. 34, secs. 21-23; Halikhot Beitah, Petah ha-Bayit, sec. 17; Encyclopedia Talmudit, XXVIII, n. 46 supra, 519ff. We note that R. Joseph di-Trani, Hiddushei Maharit, Kiddushin 71a, s.v. Kashim gerim is of the opinion that majors have arevut for minors but not vice versa. This is also the view of R. Hayyim ben Atar in his commentary Or ha-Hayyim, Deut. 29:9. Most authorities dissent, however, maintaining that majors have no arevut for minors; see Torat ha-Katan ibid. We note, however, that the obligation of majors to educate minors (bovat binnukh) towards the fulfillment of mitzvot is sufficient to validate a one-directional transfer from the major to the minor. It is for this reason that a major may recite havdala and other birkhot ha-mitsva to be motsi (assist) a minor, even if the minor is not his own child; see nn. 195 and 196, infra.

69. This appears to be the view of most rishonim; see Rashi, Berakhot 48a, s.v. “Ad she-yokhal;” Ramban, Milhamot ha-Shem on Rif, Berakhot 20b; Ran on Rif, Megilla 19b; Meiri, Megilla 19b; Ritva, Megilla 19b; Resp. Rivya, sec. 97; Hiddushei ha-Ran, Rosh ha-Shana 33a, s.v. “ve-Ein ella”; Shulhan Arukh ha-Rav, O.H., sec. 39, no. 1 and sec. 186, no. 3; R. Bezalel Stern, Resp. be-Tsel ha-Hokhma. For a review and in depth discussion, see R. Barukh Rakovsky, ha-Katan ve-Hilkhotov (Jerusalem: Netiv ha-Berakha, 5756), I, ch. 2, no. 4 and nn. 12 and 13; R. Elizer ha-Kohen Rabinowitz, Torat ha-Katan, ch. 9; R. Yehoshua Y. Neuwirth, The Halachoth of Educating Children (Jerusalem, Feldheim, 1999), sec. 3 and n. 7; “Hinnukh,” Encyclopedia Talmudit, XVI, 162-163; Resp. Yabbia Omer, III, O.H., secs. 27 and 28; R. Ovadiah Yosef in his introduction to R. Yitshak Yosef’s Yalkut Yosef – Dinei Hinnukh Katan u-Bar Mitsva; R. Ovadiah Yosef, Hazan Ovadya, Shabbat II, Hilkhot Kiddush, no. 10, n. 11. As an aside, we note that R. Shmaryahu Joseph Nissim Karelitz, Hut Shani, Hilkhot Sukka, sec. 12, parag. 2, subsec. 2, discusses the relative importance of arevut vs. binnukh where only one can be performed.

70. Tosafot, Berakhot 48a, s.v. “Ad she-yokhal;” Tosafot, Hagigga 2a, s.v. “Eizehu katan;” Tosafot ha-Rosh, Berakhot 48a, s.v. “Ad she-yokhal;” Tosafot Rabbenu Yehuda Sirleon, Berakhot 48a, s.v. “Ad she-yokhal;” Ran, Sukka 38a, s.v. “Tannu rabbanan;” Kesef Mishne, Hilkhot Hamets u-Matsa, ch. 6, no. 10 cites a Ran in Megilla. R. Joseph. Hazan, Hikrei Lev, O.H., sec. 70, notes that according to Tosafot, the rabbinic obligation placed on the child is not in lieu of the obligation of the parent to ensure that the child performs mitzvot. The parent must ensure that the child fulfills his obligation to perform mitzvot. R. Reuven Grozovsky, Hiddushei Rabbi Reuven, Sukka
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no. 2, explains that R. Hazan is of the opinion that Tosafot and Ramban both view the mitzva of hinnukh as a mitzva to ensure that the child is properly trained. The only difference between the two opinions is whether that obligation to ensure that the child is properly trained renders the child someone who is considered obligated to perform the mitzva. See R. Jacob Israel Kanievsy, Kehillot Ya’akov, Berakhot no. 24, who presents a similar approach, independent of R. Hazan.

71. Shulhan Arukh, O.H., sec. 186, no. 2; Levush ha-Tekhelet, O.H., sec. 186, no. 2.; Ma’amor Mordechai, O.H., sec. 186, no. 2; Derekh ha-Hayyim, sec. 70, Dinei kiddush al ha-Yayin, no. 2; Resp. Rabbi Akiva Eiger, Mahadura hammua, no. 7; Hayyei Adam, Kla 5, nos. 22-23; Resp. Ketav Sofer, O.H., sec. 99 (argues that this is the view of the majority of posekim); Mishna Berura, O.H., sec. 271, no. 2 and Sha’ar ha-Tsiyyun, no. 2; R. David Ortinberg, Tehilla le-David, O.H., sec. 271, no. 4; Shemirat Shabbat ke-Hilkhato, II, sec. 51, nos. 10, 13, and 15. These authorities indicate that a minor can be motzi a major in those rare instances where both are had derabbanan. This would also supply a mechanism for a major to be motzi a minor, and one minor to be motzi another; see Tehilla le-David, O.H., sec. 271, no. 4; Kaf ha-Hayyim, sec. 187, n. 11; Shemirat Shabbat ke-Hilkhato, II, sec. 51, nos. 10 and 15. Whether a minor can recite a benediction for another minor based on one minor to be a major in those rare instances where both are had derabbanan.


73. R. Abraham Abele ha-Levi Gombiner, Magen Avraham, O.H. sec. 282, no. 6. See also R. Masud Hai Roke‘iah, Ma’ase Roke‘iah, Hilkhot Tehilla 12:17; Mishna Berura, sec. 282, no. 12; R. Hayyim Joseph David Azulai, Birkei Yosef, O.H., sec. 282, no. 7; R. Jacob Meshullam Ornstein, Yeshu’ot Ya’akov, sec. 282, no. 4; R. Elijah David Rabinowitz-Teomim, Sofer Over Orah, sec. 141; R. Zvi Hirsh Grodzinsky, Mikra’ei Kodesh, sec. 4, no. 1, Sha’arei Kedusha n. 1; R. Hillel Posek, Resp. Hillel Omer, sec. 187; R. Shalom Isaac Mizrahi, Resp. Divrei Shalom, O.H., I, sec. 89; R. Joseph Shalom Elyashiv, Kovets Teshuvot, III, O.H., sec. 48. See also n. 85 below which includes a list of those posekim who maintain that women should le-hattekhillah be stringent like the view of the Magen Avraham.

74. Soferim 18:4

75. Vide infra, n. 84. R. Shalom Mordechai Shvadron, Resp. Maharsham, I, end of sec. 158 and R. Nadav Perets, Nidvat Perets, Megilla, sec.15, no. 4, challenge Magen Avraham for this reason. R. Isaac Tayeb, Erekha ha-Shulhan, O.H., sec. 282, no. 4, cites R. Moses of Coucy, Sefer Mitsvot Gadol (Semag), Divrei Soferim, Aseb
no. 4, who maintains that fundamentally women share equal obligation with men in mikra Megilla and should, therefore, also be empowered to read it for them. However, because of kevod ha-tsibbur, they are enjoined from doing so, based on an analogy to keri’at ha-Torah. R. Tayeb suggests that Semag, who equates Megilla and Torah reading, presumably maintains that women are obligated in keri’at ha-Torah. This is not at all required, however, since the Semag clearly maintains that the issue of kevod ha-tsibbur is unrelated to one’s obligation; see discussion below in sec. VIIIB and n. 238b.

Interestingly, R. Chaim Tuvya Melinick, cited by R. Elijah David Rabinowitz-Teomim, Sefer Over Orah, sec. 141, suggests that woman are obligated in hearing the reading of the Torah – analogous to Behag’s ruling by Megilla; see: Halakhot Gedolot, Hilkhot Megilla, s.v. “ha-Kol hayyavin.” R. Elijah David Rabinowitz-Teomim, ibid. and R. Judah Ayash, infra, n. 80, specifically reject this possibility.

76. Ketubbot 28a; Gittin 40a; M.T., Hilkhot Avadim, ch. 8, no. 17; Shulhan Arukh, Y.D., sec. 267, no. 70; Shulhan Arukh, E.H., sec. 4, no. 12.

77. Hagiga 4a; Shulhan Arukh, Y.D., sec. 267, no. 17; Shulhan Arukh ha-Rav, O.H., sec. 282, no. 8.


79. Indeed, this Massekhet Sofèrim is cited by the following rishonim as proof that women are required to hear Megillat Eikha: Mahzor Vitry, sec. 527, Sofèrim, sec. 18, no. 5; Sefer ha-Aguda, Sofèrim, sec. 16; Ramban, Torat ha-Adam, Sha’ar ha-Avel – Inyan Avelut Yeshana, s.v. “u-beMassekhet Sofèrim,” Tur, O.H. 559. The Magen Avraham and all the above rishonim have the reading “keri’at sefer,” except for Mahzor Vitry where “keri’at sefer Torah” appears. See also: R. Menahem Mendel Schwimmer, Birkhot ha-Mitsva ke-Tikkunot, 184, no. 8; Resp. Teshuvot u-Minhagot, II, sec. 250, s.v. “be-Massekhet Sofèrim;” R. Samuel Tibor Stern, Resp. ha-Shavit, III, sec. 20; R. Yehuda Herzl Henkin, Resp. Benei Vanim, II, sec. 10, s.v. “ve-Nireh she-beMagen Avraham.” R. Yehuda Herzl Henkin, personal communication (April 28, 2006), maintains that no obligation exists for women to hear keri’at ha-Torah, even if they are in the synagogue. There is, nevertheless, a communal obligation to translate the reading for them so they can understand the reading if they are there; but they are allowed to leave.


81. Several examples are cited in ch. 4 of Michael Higger’s introduction to his scientific edition of Massekhet Sofèrim (New York, 1937). See also Arukh ha-Shulhan, O.H., sec. 676, no. 5, who states: “The Massekhet Sofèrim is replete with errors, as is well known.” R. Moses Sofer, Resp. Hatam Sofer, E.H. part 1, sec. 38, s.v. “ve-Od,” and R. Abraham David Horowitz, Resp. Kinyan Torah be-Halakhu, VII, Y.D. sec. 74, no. 2, note that the minor tractates (e.g., Kalla, Sofèrim, Derekh Erets) as a whole were edited long after the Babylonian Talmud and include much material which is contrary to that found in the latter.
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82. Mishna Berakhot 3:3. As a result, R. Elijah Kramer of Vilna (Gra) and R. Jacob Neumberg, Nahalat Taakov, Massekhet Soferim, 18:4 actually eliminate “in keriat Shema” from his reading of the text. Interestingly, R. Joseph Caro, Beit Yosef and R. Joel Sirks, Bayit Hadash, both on Tur O.H. sec. 70, indicate that women should recite the first verse of keriat Shema in order to accept upon themselves the Heavenly yoke. Neither, however, cites the Massekhet Soferim as proof text, though R. Reuben Margaliot does; see: R. Reuben Margaliot, Nitossei Or, Soferim 18:4 and Sha’arei Zohar, Berakhot 2a. Because of this contradiction, R. Hayyim Joseph David Azulai (Hida) and R. Judah Ayash, as already noted above in n. 80, suggest that the word “obligated” used in Massekhet Soferim means only that these practices should be performed but not that they are absolute obligations. R. Shlomo Goren, ha-Yerushalmi ha-Meforash, Berakhot, III:3, s.v. “Nashim va-Avadim,” suggests that Massekhet Soferim follows the view of Ben Azzai, who maintains that women are obligated in Torah study like men. As a result, R. Shlomo Goren follows the view of Ben Azzai, who maintains that women are obligated in Torah study. However, Jewish law has been codified according to R. Elazar Ben Azaria that women are not obligated in (theoretical) Torah study and, hence, are freed from both keriat Shema and keriat ha-Torah.

83. In light of all the above, R. Prof. Daniel Sperber’s exclusive reliance on this Massekhet Soferim as proof that women are obligated in keriat ha-Torah is both surprising and troubling; see: R. Daniel Sperber, Sheloshah Minhagim Matmimim u-Mekoman shel Nashim be-Veit ha-Kenesset, “Lihiyot Isba Tehudiya,” Margalit Shilo, ed. (Jerusalem: Urim Publishers, 2003), 25-33.

84. (a) Rishonim: Tosafot, Rosh ha-Shana 33a, s.v. “Ha”; Rosh, Kiddushin 31a; Meiri and Ram on Rif, Megilla 23a, s.v. “ha-Kol Olin”; R. David ben Joseph Abudarahm, Sefer Abudarahm, Sha’ar ha-Shelesi, s.v. “Katav ha-Rambam”; Sefer ha-Battim, Beit Tefilla, Sha’arei Keriat ha-Torah, Sha’ar 2, no. 6. Abaronim: Beit Yosef, O.H. sec. 28, s.v. “ha-Kol,” Derisha O.H. sec. 28. R. Hayyim (ben Menahem) Algazi, Resp. Banei Hayyei, sec. 566; R. Elijah Kramer, the Gaon of Vilna (Gra), Alim li-Terufa (letter by the Gaon of Vilna which advises the women of his family not to attend the synagogue), Aram Tsova (Syria) 5626 (1856) edition – see also n. 84b, below; Shulhan Arukh ha-Rav, O.H. sec. 282, no. 5; R. Jacob Reisha, Resp. Shemit Y”akov, O.H. I, sec. 40; R. Abraham Hayyim Rodriguez, Resp. Orah ha-Tzaddik, sec. 3; R. Hayyim Joseph David Azulai (Hida), Kissei Rabhamim (complete edition, Jerusalem: 1959), Massekhet Soferim 14:14 Tosafot s.v. “she-Mitsva” and 18:4, Tosafot s.v. “she-ha-Nashim”; R. Jacob Emden, Mor u-Ketsi’a, O.H., sec. 417; R. Judah Ayash, Resp. Matte Yehuda, sec. 282, no. 7; R. Joseph Te’omim, Rosh Yosef, Megilla 23a, s.v. “Leima”; R. Shalom Mordechai ha-Kohen Shvadron, Resp. Maharam, I, end of sec. 158; Da’at Torah, O.H. sec. 282, no. 3; Arukh ha-Shulhan, O.H. sec. 282, no. 11; R. Simeon Sofer (Arloi), Resp. Hitorevet Teshuva, I, end of sec. 5; R. Mosses Stern (the Debrician Rov), Resp. Be’er Moshe, VIII, sec. 85; R. Efrayim Greenblatt, Resp. Riverot Efrayim, VI, sec. 153, no. 21; R. Yehuda Gershuni, Hokhma Yerushalmi, “be-Im Ken,” 166; R. Shlomo Goren, Mesiv Mivhama, II (ha-Idra Rabba: Jerusalem, 5744), gate 7, sec. 107, 173; Resp. Yabbiha Omer, VII, O.H., sec. 17, no. 4 and VIII, O.H., sec. 54, no. 7; Resp. Yehavveh Da’at, IV, sec. 23, n. 1; R. Yisroel Taplin, Orah Yisrael, sec. 17, no. 4, 1956, no. 7; R. Yehuda Yabbiha Omer, sec. 5; R. Yisroel Taplin, Ta’urikh Yisrael, 1956, no. 3, n. 5; R. Moshe Sternbuch and R. Moshe Halberstam, cited in Ritshei Lev, ch 7, parag. 18, n. 29; R. Yaakov Ariel, Alon Shir ha-Ma’alot,
Parashat Bereshit 5761, Olah ke-Hilkhatah; R. Isaac Abadi, Resp. Or Yitshak, sec. 52; R. Moses Mordechai Karp, Hilkhot Hag be-Hag: Purim (Jerusalem: Oraysa, 5791) addendum to ch. 3 n. 7, 213; R. Israel David Harfeness, Resp. va-Yevarekh David, I, O.H. sec. 28 at end; R. Barukh Rakovsky, ha-Katan ve-Hilkhatav, I, sec. 12, no. 1, n. 1; R. Menahem Mendel Schwimmer, Birkhot ha-Mitsvot ke-Tikkunim, 184, n. 8; R. Yehuda Herzl Henkin, personal communication (April 28, 2006) – see infra n. 87; R. Reuben Amar, Minhagei ha-Hida, O.H., I, second expanded edition (Jerusalem: Makhon Mishnat Hakhamim, 5759), sec. 26, no. 34 and n. 14; R. Simha Ben-Zion Isaac Rabinowitz, Piskei Teshuvot, II, sec. 135, no. 2 and III (expanded 5771 ed.) sec. 282, no. 6; R. Isaac Friedman, Otsar Halakhot, I, sec. 135, no. 5, n. 7 and extensive references cited therein. Regarding the view of R. Ahron Soloveichik, see n. 85, infra.

(b) R. Bezalel Landoi in his classic work on the Gra, “ha-Gaon he-Hasid me-Vilna” (Usha: Jerusalem, 1968), discusses Alim li-Terufa or Iggeret ha-Gra (letter by the Gaon to his son) on 325-326 and nn. 16 and 16* and 346, n. 19. He indicates that there are two basic editions of the Alim li-Terufa: the Minsk 5596 (1826) edition and the Aram Tsova (Syria) 5626 (1856) edition. Several more recent publications of the Alim li-Terufa bring both editions: Mesillat Yesharim, Shulsinger: New York, 5702, 125ff; Heshbono shel Olam (Bnai Brak, 5723) - Aram Tsova is on p. 34; “Iggeret ha-Gra,” (ed. Nehemia Pfeffer) Jerusalem, 5760 - Aram Tsova is on p. 42. The editor of the book “Heshbono shel Olam,” in his notes Bo’u Heshbon, on p. 35, s.v. ve-Al telekh, argues that the Aram Tsova edition is the more authoritative, and Bezalel Landoi seems to concur. There are several fundamental differences between the two editions, one which relates to the topic at hand, namely, women’s obligation in public prayer. The Minsk Edition of Alim li-Terufa reads as follows (translation by Noam Zohar):

“The basic definition of [the virtue of] solitude is that you should not, God forbid, go forth from the door of your home. Even in the synagogue, be very brief and leave. It is better to pray at home; for in the synagogue it is impossible to avoid [incurring] jealousy or hearing worthless talk and lashon ha-ra (gossip). This carries liability, as [the Rabbis] said, “Anyone who hears and remains silent” etc. (Shabbat 33). Even more [is it] so on Shabbat and festivals, when [people] gather in order to talk - it would be better not to pray at all!... Your daughter too, it is better that she not go to the synagogue, since there she sees nice garments and becomes jealous; she [then] reports at home and this brings them to [commit] lashon ha-ra and other offences.”

In the Minsk edition, there seems to be no distinction between son and granddaughter regarding the duty of attending the synagogue. Both are advised to refrain from attending the synagogue – “It is better to pray at home” – because of worthless talk, lashon ha-ra, and/or jealousy. This, however, is extremely problematic. Ma’aseh Rav ha-Shalem, (Jerusalem: Merkaz ha-Sefarim, 5747) reiterates twice (in secs. 25 and 33) that the Gaon was insistent that one pray in a minyan with the community. By contrast, Maasch Rav is consistent with the Aram Tsova edition, which reads as follows (translation by Aryeh A. Frimer):

“And a fundamental virtue is solitude: that you should not go forth from the door of your home, except in a case of great need or to do an important mitsva. And even in the synagogue you should sit in solitude, apart from others, because where people get together it is impossible to refrain from hearing worthless talk and lashon ha-ra. And even one who hears [lashon ha-ra] and is silent is punished as our rabbis of blessed memory have written (Shabbat 33). And this is all the more true on the Sabbath and Holidays when the masses gather in the synagogue and it is impossible to avoid worthless talk and lashon ha-ra - beware of sitting among them, distance yourself from the unseemly, and sit in the synagogue alone, for conversation in the synagogue is a grievous transgression and a great sin... Your daughter should not go
to the women’s synagogue, since there she sees woven and other such [nice] garments and becomes jealous; she [then] reports at home and this brings them to [commit] lashon ha-ra and other offences.”

In this Aram Tsova edition, there is a basic distinction drawn between son and granddaughter regarding the duty of attending the synagogue. The son is told to attend the synagogue but to sit in solitude apart from the masses. The granddaughter is advised not to go at all. This clearly implies that, while the fear of lashon ha-ra, idle talk, and jealousy apply equally to women and men, men should attend despite these risks because they are obligated in public prayer; women, for whom attendance is optional, would do better to stay at home.

85. R. Joseph Shalom Elyashiv maintains that women today, who can understand the Torah reading either in the original Hebrew or in translation, must be stringent and follow the view of Magen Avraham; see R. Joseph Shalom Elyashiv, Kovets Teshuvot, III, O.H., sec. 48; R. Joseph Shalom Elyashiv cited by R. Azriel Auerbach, Kovets Halakhot mi-Maran ha-Grish Elyashiv, O.H., no. 79, in Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 110; R. Joseph Shalom Elyashiv cited by R. Azriel Auerbach, “be-Inyan Nashim be-Virkat ha-Torah u-Keri’at ha-Torah,” in Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 464-469, no. 3, subsec. a. This is also the view of R. Isaac Tayeb and R. Chaim Tuvya Melinick, supra n. 75, and R. Elijah David Rabinowitz-Teomim, Sefer Over Orah, sec. 141. R. Samuel Tuvya Stern, in Resp. ha-Shavit, III, sec. 20 also initially maintained that women are obligated to hear keri’at ha-Torah; nevertheless, later, in Resp. ha-Shavit, V, secs. 28 and 31, he changed his mind, freeing women completely of obligation. R. Elyashiv’s view is also cited by the following scholars: R. Yisroel Taplin, Ta’arikh Yisrael, sec. 17, no. 5; R. Menachem Nissel, Ripshei Lev, ch 7, parag. 16, n. 27; R. Isaac Jacob Fuchs, Halikhot Bat Yisrael, sec. 2, no. 30, n. 77; and R. Yehezkel Feinhandler, Ashrei ha-Ish, O.H., part 1, sec.25, no. 20.

Interestingly, though, contrary to R. Elyashiv’s own writings, Rabbis Taplin, Nissel, Fuchs, and Feinhandler cite his position as advising stringency, rather than requiring it. That stringency is preferable is the opinion of R. Chaim Pinchas Scheinberg cited by R. Menachem Nissel, Ripshei Lev, ibid. (This is at odds with the opinion of R. Chaim Pinchas Scheinberg, cited by R. Yisroel Taplin, ibid.) R. Moshe Shternbuch and R. Moshe Halberstam, cited in Ripshei Lev, ch 7, parag. 18, n. 29, dissent, however, maintaining that since the overwhelming majority of posekim reject the opinion of Magen Avraham, there is no need for stringency.

R. Ahron Soloveichik, in a conversation with Dov I. Frimer (3 Tammuz 5757 - July 8, 1997), maintained that men and women share the same obligation (or lack thereof) in both tefilla be-tsibbur (including the obligation to pray three times a day; see also: Parah Mateh Aharon, Hilkhot Tefilla, 1:2 (pp. 34-35) and keri’at ha-Torah. However, even where women are personally obligated, R. Ahron Soloveichik posited that they are, nonetheless, specifically excluded by Hazal from counting towards a minyan or serving as a hazzan or ba’alat keri’ah because of kevod ha-tsibbur. R. Soloveichik acknowledged, however, that the accepted practice among women is not in accordance with his view.

86. See R. Isaac Friedman, Otsar Halakhot, I, sec. 135, no. 5, n. 8.

87. R. Dov Ber Karasik, Pithei Olam u-Matamei ba-Shulhan, O.H. sec. 146, no. 1, end of n. 1; R. Jacob Hayyim Sofer, Kaf ha-Hayyim, O.H. sec. 146, no. 1, n. 2; R. Bezalel Stern, Resp. be-Tsel ha-Hokhma, IV, sec. 19; R. Moses Stern, Resp. Be’er Moshe, VIII, sec. 85; R. Shalom Isaac Mizrahi, Resp. Divrei Shalom, O.H., I, sec.109; R. Yehuda Herzl Henkin, n. 79 supra; and R. Avigdor Nebenzahl, conversation with the authors, Dec. 6, 2011. Rabbis Sofer and Mizrahi indicate, however, that to their mind this leniency should not be used unless necessary. R. Moses Mordechai Karp,
Hilkhot Hag be-Hag: Purim (Jerusalem: Oraysa, 5791) addendum to ch. 3 n. 7, 213, suggests that Magen Avraham also agrees that women are not inherently obligated in keri’at ha-Torah. However, once keri’at ha-Torah begins, an obligation devolves upon them along with the men, since they are part of the tsibbur (community) present in shul. This would then be analogous to the laws of zimmun, which is optional for women, but in the presence of three men becomes obligatory for the women as well (Shulhan Arukh, O.H. sec. 199, no. 7). According to R. Karp’s novel approach, the “exodus” of the women, mentioned by Magen Avraham, occurred before the reading of the Torah commenced. A similar interpretation is suggested by R. Yehuda Herzl Henkin in “Malu Kevod ha-Tsibbur,” Ha-Darom 55 (Elul 5746), 33 (see p. 39) and Resp. Benei V’anim, II, no. 10 (see p. 42). This also seems to be the position of R. Chaim Kanievsky, cited by R. Yisroel Taplin, Ta’arikh Yisrael, sec. 17, no. 3, n. 5 dallin. R. Simeon Sofer (Arloi), Resp. Hitorerut Teshuva, I, end of sec. 5, argues that Magen Avraham too agrees that women are inherently exempt from keri’at ha-Torah; he only obligates them because walking out would constitute bizyon ha-Torah. R. Joseph Shalom Elyashiv, Kovets Teshuviot, III, O.H., sec. 48, also cited in R. Menachem Nissel, Rigshei Lev, ch 7, n. 27, maintains that the exodus of women was condoned only because they did not understand what was being read in any case; the situation is different today.

88. Supra, at n. 19.
89. Mishna Megilla 4:6 (24a; see parenthetical comment in n. 14, supra).
90. Many rishonim hold that a minor is totally exempt from public prayer. On Megilla 24a, see: Rashi, s.v. “Katan eino poreis,” Rashba; Meiri; Ran on Rif; R. Judah ben Berakhya, Shitat Rivav on Rif. on Mishna Megilla 4:6, see: R. Ovadiah Bartenora, Melekhet Shilomo and Tiferet Yisrael. Nevertheless, R. Solomon ben Adret (Rashba), Resp. Rashba, I, sec. 139 cites a responsum of Ra’avad indicating that the prohibition against a minor serving as a hazzan is based on a side consideration of kevod ha-tsibbur; it is dishonorable and hence improper for a community of adults to be led in prayer by a minor. As explained by R. Joseph Caro, Beit Yosef, Tur O.H., sec. 53, s.v. “u-miDivrei Rabbenu,” Ra’avad is of the opinion that a minor is rabbinically obligated in public prayer; hence, the minor could theoretically assist majors, who are also rabbinically obligated, to fulfill their obligation, were it not for kevod ha-tsibbur.

As discussed above, following n. 68, the vast majority of codifiers, however, reject this position either because they maintain that a minor is not personally obligated at all, or that his obligation is nearly always on a lower level than that of a major.

91. Supra, discussion at n. 41.
92. Supra, n. 32.
93. See, for example: R. David ha-Kohen Skali, Resp. Kiryat Hana David, II, Kuntres be-Shuv David, sec. 1; R. Judah Chesner, Si’ah Tefilla, ch. 7, sec. 1, nos. 4-7.
94. See, for example: Rosh ha-Shana, 34b; Resp. Rambam, sec. 221; Tur, O.H., sec. 124; Mishna Berura, O.H., sec. 124, subsec. 41; R. Joseph Elijah Henkin, Edut le-Yisrael, sec. 64, 161; R. Moses Feinstein, unpublished lecture cited in Si’ah Tefilla, supra, n. 93, no. 10; “Hazarat ha-Shats,” Encyclopedia Talmudit, XIV, 423ff.
95. R. Joseph B. Soloveitchik, cited in R. Zvi [Hershel] Schachter, Nefesh ha-Rav (Jerusalem: Reishit Yerushalayim, 1994), 123-127. R. Soloveitchik views the entire hazarat ha-shats as part of tefillat ha-tsibbur. See also: Reshimot Shiurim, n. 30b, supra, Berakhot 2a, 12-14; 21b, 330-331; 26b, 346-348; 42a, 464-465.
96. See nn. 32 and 33, supra.
97. R. David Zvi Solomon Eybeschutz, Levusha Serad, O.H. 282 on Magen Avraham no. 6, suggests that the Talmud’s permission for a minor to receive an aliyya refers to an instance in which there is an adult ba’al keri’ah to read aloud for the
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community. Several decisors note, however, that in Talmudic times olim read for themselves and the ba‘al keri‘ah was only instituted in the Geonic period. Hence, the Talmudic dispensation for minors (and women) to receive an aliyya, also included permission for them to read their portion aloud. See: R. Elijah Shapira, Eliya Rabba, O.H. sec. 282, no. 8; R. David Ortinberg, Tehilla le-David, O.H. 282, no. 8; R. Moshe Feinstein, Resp. Iggerot Moshe, O.H. II, sec. 72; R. Jacob Kaminetsky, Emet le-Yaakov, O.H., sec. 282, no. 3, s.v. “Sham. Ha-Kol (third).”

98. Mishna Megilla 2:4 (19b); Shulhan Arukh, O.H., sec. 689, no. 2.

99. Supra, at n. 19.

100. This is the opinion of the majority of rishonim. Nevertheless, Ashkenazic practice follows the minority view of Behag, who maintains that, while men are obligated to read (hovat keri‘a) the Megilla, women have a lesser obligation to hear the Megilla read (hovat shemi‘a). For a complete discussion of this point and its halakhic ramifications, see: Aryeh A. Frimer, “Women’s Megillah Reading,” in Traditions and Celebrations for the Bat Mitzvah, ed. Ora Wiskind Elper (Jerusalem: Urim Publications, 2003), 281-304. PDF file available online at: http://www.daat.ac.il/daat/english/tfi la/frimer2.htm.

101. See discussion in text at n. 32, supra.


103. The suggestion that keri‘at ha-Torah is a hovat ha-tsibbur, rather than a personal obligation, is already found in many of the classic rishonim; see: Geonim cited by R. Zedekia ben Abraham ha-Rofeh, Shibbolei ha-Leket, sec. 36; Tosafot, Sukka 52b, s.v. “ve-Keivan”; Ramban, Milhamot ha-Shem, Megilla 5a, s.v. “ve-Od amar Rav”; R. Solomon ben Adret, Responsa Rashba – ha-Hadashot mi-Ketav Yad (Jerusalem: Makhon Yerushalayim, 5765), sec. 14; Ran on Rif, Megilla 5a, s.v. “Hava uvda”;

104. M.T, Hilkhot Tefillah 8:4 - see R. Joseph Caro, Kesef Mishne, Hilkhot Tefilla 8:5, s.v. “ve-Katar” (end); R. Solomon Ibn Aderet, Resp. Rashba, I, no. 7; R. Joseph Te‘omin, Rosh Yosef, Megilla 23b.

105. Ramban, n. 103, supra; Ran on Rif, Megilla 5a, s.v. “Hava uvda” citing Ramban.

106. While the concept hovat ha-tsibbur is often cited (see nn. 103 and 111), the exact elements of such an obligation are not always delineated. The first two elements
are: (1) to ensure that a minyan is available for a Torah reading; and (2) that such a Torah reading takes place via the appropriate number of olim/readers. The formulation of these elements of hovat ha-tsibbur are found in the following sources: R. Abraham ben Mordechai Halevi, Resp. Ginnat Veradam, II, sec. 21, s.v. “ve-Shamati”; R. Meir Margaliyyot, Resp. Me’ir Netivim, I, sec. 33; R. Jacob Schor, Mishnat Yaakov, Birkat Yaakov, Berakhot 8a, s.v. “Man de-amor”; R. Joseph Schor, Ittim le-Bina, commentary on R. Judah Ben Barzillai (“Ha-Nasi”) Al-Bargeloni, Sefer ha-Ittim, sec. 176, n. 57, sec. 177, n. 68 and sec. 178, n. 80; R. Joseph Rosen (“The Rogatchover”), Tsafnat Pane’ah, M.T., Hilkhot Tefilla, 12:5 [cf. Resp. Tsafnat Pane’ah be-Hadashot (5770), secs. 7-9]; R. Eliezer Silver, Tsemakh Erez, Megilla 3a, p. 368, s.v. “ve-Hinneh,” R. Joseph Elijah Henkin, Lev Ivra, p. 50 and 158-159; R. Ben-Zion Lichtman, Bnai Zion, II, O.H. sec. 139, no. 7, s.v “u-Ma”; R. Abraham Weinfeld, Resp. Lev Avraham, I, secs. 26 and 64; R. Aaron Boaron, Birkat Abaron, I, 131, n. 1; R. Joseph B. Soloveitchik, Shi’urei ha-Rav al Inyanei Tefilla u-Keri’at Shema, R. Menahem Dov Genack, ed. (New York: Mesorah, 2010), sec. 5, no. 2, 71-72 and end of sec. 38, n. 103, p. 238; R. Ahron Soloveitchik, Sefer Parah Mesech Abaron, Sefer Aboth, Hilkhot Tefilla 13:20; R. Hayim Shaul Grainiman, Hiddushim u-Be’urim, Orah Hayyim, sec. 139, s.v. “Nireh” and “Sham. Gezeira;” R. Ovadiah Yosef, Halikhot Olam, I, Parashat Ki Tisa, no. 4, n. 4 and extensive references cited therein; R. Isaac Friedman, Otsar Halakhot, I, sec. 135, no. 2, n. 2 and extensive references cited therein; R. Shlomo Fischer, personal communication to Dov I. Frimer, November 29, 2002. This is presumably the view of the 15th century R. Israel Isserlein, Terumat ha-Deshen, sec. 24, who permits learning during the Torah reading even if ten are not listening. It is also likely that this is the position of the 16th century R. Judah Leib Hanneles (Maharlah), cited in R. Michael Simon and R. Joseph Maya, Hiddushim Hilkhot Olam, I, sec. 27; R. Asher Weiss, Minhat Asher, Talmud Torah, Responsa, sec. 11. See also: R. Jacob Schor, Ittim le-Bina on Sefer ha-Ittim, sec. 176, n. 57.

107. An analogous formulation, mutatis mutandi, is found in the Sefer ha-Hinnukh regarding communal sacrifices; see Sefer ha-Hinnukh, Mitsvat 299 (musafim and 401 (temidim). R. Asher Weiss, in his weekly shiur, Jerusalem, 28 Kislev 5769 (25/12/2008), presented an analogous analysis regarding the obligation of consuming kodashim by the weekly shift (misbhart) of kohanim. See also R. Asher Weiss, “Mitsvat ha-Yahid ve-ha-Tsibbur,” Shiur Moreinu ha-Rav Shliat, Kuntres Shuvu’i, Parashat Masei 5771, 37 (369), no. 1.

108. We have noted above that women (like minors) lack any obligation in keri’at ha-Torah (vide supra, n. 84). It follows, therefore, that according to the hovat ha-tsibbur school, women lack any responsibility to make sure that the ritual takes place (as outlined in n. 106, supra), nor do they bear any onus if it does not. The fact that women are not part of the tsibbur of keri’at ha-Torah is further testified to by the fact that they do not count for the minyan required to read the Torah; vide infra,
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n. 246. This distinction between men and women was explicitly confirmed for us by R. Nachum L. Rabinothitch (personal communication, Dec. 3, 2011). R. Avigdor Nebenzahl (conversation with the authors, Dec. 6, 2011) adds that according to the “hybrid school” (see n. 111c below) that men are forbidden from leaving the Torah reading once it has begun, such an obligation does not devolve upon women. Indeed, Magen Avraham (supra, n. 73) records that the widespread custom for the women to actually walk out for keri’at ha-Torah. The permissibility of this latter practice for women has been reaffirmed in the modern period by many noted posekim (supra, n. 87).

109. This is mentioned by many of the sources in n. 106 supra. See also R. Jeremiah Wolf, Divrei Yirmiyahu al ha-Rambam, Hilkhot Tefilla 12:5.

110. See Rabbis Schor, Silver, Henkin, and Weinfield, n. 106 supra. See also R. Isaac Abadi, Resp. Or Yitshak, O.H. sec. 52.

111. (a) The application of the hovat ha-tsibbur formulation to the issue of a woman and a minor receiving an aliyya is widespread; see the sources cited supra, nn. 103 and 106 and the following: R. Elijah ben Benjamin haLevi, Resp. Zekan Aharon, sec. 60; R. Menahem Mendel Schneersohn, Resp. Tsemah Tzedek, O.H., sec. 35; R. Solomon ha-Kohen (of Vilna), Resp. Binyan Shlomo, sec. 20; R. Solomon Mordechai ha-Kohen, Resp Maharsham, I, sec. 175; Naphtali Zvi Judah Berlin, Meromei Sadeh, Megilla 23a, s.v. “Tann Rabbanan”; R. Zvi Pesah Frank, Mikra’ei Kodesh, Hannuka-Purim, Arba Pashiyot, sec. 7; R. Issacher Solomon Teichtal, Resp. Misnne Sakhir, I, sec. 90; R. Abraham Judah Farbestein, Kenesset Avraham, I, sec. 15, no. 2, subsec. 2; R. Joseph B. Soloveitchik, Shi’arei ha-Rav al Inyanei Tefilla u-Keri’at Shema, R. Menahem Dov Genack, ed. (New York: Mesorah, 2010), sec. 5, no. 2, p. 72, and Reshimot Shiurim, n. 30b, supra, Berakhot 2a, p. 11; R. Ovadiah Yosef, Yehavveh Daat, V, sec. 25, in the note; R. Ovadia Yosef, Halikhot Olam, III, Parashat Toldot, no. 15, n. 15; R. Moses Fischer cited in Resp. Rivovot Efruyym, VI, sec. 62; R. Shlomo Moshe Amar, Resp. Sheima Shlomo, IV, O.H., sec. 5; R. Zalman Nehemiah Goldberg, be-Mar’eh ha-Bazak, V, addendum to sec. 113, 225, s.v. “re-Likhora;” R. Zalman Nehemiah Goldberg, Resp. Binyan Ariel, E.H., “Birkat Hatanim bi-Se’udat Sheva Berakhot al yedei Isha,” 135-141; R. Aaron Boaron, Birkat Aharon, I, 147. See also: A. Yehuda Warburg, The Aliyah of Minors: Competing Paradigms in Hilkhot Keri’at ha-Torah,” in Hazon Menahem, Yeshiva University, New York, 5758; 669-688. R. Zvi Elimelekh mi-Dinov also writes that keri’at ha-Torah does not require that the oleh be motsi the congregation and, hence, a minor may receive an aliyya. However, it is not clear from his analysis whether this is because Torah reading is a communal obligation or whether it is because the obligation is merely to listen (vide infra); see Hiddushei Halakhot mi-Ba’al Benei Yissaskhar, ed. R. Nathan Ortnr (5765), Keri’at ha-Torah, 190-191.

Many others have invoked this “communal obligation” approach with regard to other keri’at ha-Torah issues. See: references in n. 105 supra, Resp. Ginmat Veradim II, secs. 21 and 24; R. Solomon ha-Kohen (of Vilna), Binyan Shlomo sec. 35; R. Issacher Ber of Vilna, Pe’ulat Sakhir to Ma’aseh Rav (Minhagei ha-Gra), sec. 175; R. Mordechai Leib Winkler, Levushai Mordechai, II, O.H., sec. 99; R. Elijah Feinstein of P紀錄hin cited in R. Abraham Mandelbaum and R. Aaron Drazen, va-Yitta Eshel, 50 and 625, and in Asufot Rabbenu Hayyim ha-Levi, Megilla, sec. 3, n. 386 – see, however, Ma’atikei Shemua, II, 18 where the incident is attributed to R. Glicksen; R. Elijah Feinstein of P紀錄hin cited by R. Joseph B. Soloveitchik, Shi’arei ha-Rav al Inyanei Tefilla u-Keri’at Shema, ed. Menahem Dov Genack (New York: Mesorah, 2010), sec. 38, no. 1, 231; R. Elijah Feinstein cited by R. Zvi Schechter, “Divrei ha-Rav, 151; R. Rephael Shapiro of Velozhin, cited in “Kuntres Likkutei ha-Mo’adim u-Keri’at...
ha-Torah” (Jerusalem, 5768), 165; R. Meir Arik, Resp. Inrei Yoser, sec. 171, nos. 2 and 3; R. Meir Arik, Resp. Inrei Yoser be-Hadash, sec. 8; R. Aryeh Pomeronchik, Emek Berakha, Birkat ha-Torah, no. 3; R. Joseph Fa’ur haLevi “Aliyyat Katan Likrav ha-Torah,” in Sefer Zikkaron le-ha-Rav Yisshak Nissim (Jerusalem: Yad ha-Rav Nissim, 5745), Meir Benayahu ed., 113-133; R. Ben-Zion Lichtman, Benei Tsiyyon, II, O.H. sec. 139, no. 7; R. Avraham Yeshayahu Kareitz (Hazon Ish) cited by R. Abraham ha-Levi Horowitz, Orhot Rabbonenu, additions to Vol. I, 9; R. Avraham Yeshayahu Kareitz cited in Kuntres Likkutei ha-Ma’admim u-Keri’at ha-Torah (Jerusalem, 5768), 62-63; R. Moses Soloveitchik as transmitted by his son R. Joseph B. Soloveitchik in shiur (R. Shael I. Frimer, personal communication) and in Reshimot Shiurim, n. 30b, supra, Berakhet 2a, 11; R. Moses Soloveitchik as transmitted by his son R. Ahron Soloveitchik to R. Dov Frimer (July 8, 1997). R. Ahron Soloveitchik added, however, that while his father held that keri’at ha-Torah was a hovat ha-yahid (for more on R. Moses Soloveitchik’s position, see n. 113 below); R. Jacob Betsalel Zolty, Mishnat Yaavets, O.H., sec. 26, end of no. 2; R. Aaron Boaron, Birkat Aharon, I, 103-156; R. Abraham Aaron Price, Mishnat Avraham, I, to Sefer Hasidim, sec. 410, 410-411; R. Abraham Weinfeld, Resp. Lev Avraham, I, sec. 26; R. Haim David Halevi, Resp. Mayim Hayyim, II, sec. 42; R. Shlomo Zalman Auerbach cited by R. Nahum Stepansky, ve-Aleihu Lo Yibbol, I, O.H., sec. 210, and by R. Abraham Isaiah Pfoifer, Ishrei Yisrael, sec. 38, no. 16, n. 45; R. Shlomo Zalman Auerbach, Halikhot Shlomo, I (Tefilla), ch. 9, no. 3, n. 4, ch. 12, no. 6, and ch. 16, no. 13, n. 26 – see also Miltim, sec. 17; R. Abraham Judah Farbeinstein, Kneset Avraham, I, sec. 15, no. 2, subsec. 2; R. Moses Sternbuch, Resp. Teshuvot ve-Hanbahot, I, sec. 148; Resp. Yabba Omer, IV, Y.D., sec. 31, no. 3, VII, O.H., sec. 9, and IX, O.H., sec. 28; R. Eliezer Waldenberg, Resp. Tsits Eliezer, XVIII, sec. 5 and XXII, sec. 5 at end; R. Joseph Shalom Elyashiv, cited in R. Joseph Yekutiel Efrati, Resp. Yissar Yosef, O.H. II, sec. 21, no. 4, and sec. 73 (though R. Efrati notes that in practice R. Elyashiv was personally stringent to make up portions he missed, following the hovat ha-yahid view); R. Shalom Joseph Elyashiv, cited by R. Yehezkel Feinhandler, Ashrei ha-Isb, O.H., part I, sec. 25, nos. 15 and 16, p. 136; R. Ovadia Yosef, Mishnat Yosef, I, Shiurei Maran ha-Rishon le-Tsiyyon 5760, Parashat va-Yera, Hilkhon Leil Shabbat, no. 7, 19; R. Ovadia Yosef, Hazon Ovadya, Shabbat II, Dinei ha-Oleh le-Sefer Torah, sec. 1, n. 1; R. Isaac Yosef, Talkut Yosef, II, sec. 135, “Hizayon Keri’at ha-Torah ve-Tiltul Sefer Torah,” sec. 7, n. 9, 22; Talkut Yosef, She’erit Yosef, III, sec. 128, Hilkhon Nes’i’at Kappayim, no. 7 and note thereto, p. 145; R. Moses Aryeh Freund, Mara di-Shmateta; R. Israel David Harfeness, Resp. va-Yevarekh David, I, O.H. sec. 28; R. David Yosef, Halakhba Berura, VII, sec. 146, no. 2, Halakhba Berura, no. 3; R. Asher Weiss, Minhat Asher, Shemot, sec. 27; R. Issacher Dow Hoffman, “Yishuv Da’at Maran Yabbi’ha Omer Shelita she-Keri’at ha-Torah bi Hovat ha-Tsibbur,” Beit Hillel, 12:47 (3) (Tevet 5753), 107. See also: R. Simha Ben Zviyoen Isaac Rabinowitz, Piskei Tshuvot, II, sec. 135, no. 2, n. 12 and references cited therein; R. Hanokh Albeck, “Keri’at Pesukei ha-Haftara be-Beit Kneset u-Sheminatam,” Muriya, 27:7/8 (319/320; Hesdanan 5765), 104-106. (b) Others scholars dissent, maintaining that keri’at ha-Torah is a personal obligation (hovat ha-yahid). See R. Natronai Gaon, Resp. Geonim Sha’arei Teshuva, sec. 248; R. Natronai Gaon, Resp. Geonim - Mosafiya, sec. 85; R. Eliezer ben Nathan (Ra’avanan), Sefer Ra’avan, sec. 73; R. Judah ben Yakar, Perush ha-Tefilot ve-HaBerakhot, Din Me’ah Berakhot, 2; Ritva, Megilla 23b, s.v. “Ha-di-Katan”; R. Joel ha-Levi (rabbai of Cologne) cited by his son R. Eliezer ben R. Joel Halevi (Ra’avya), II, sec. 552, 262; Ra’avya, I, sec. 159 at end, 162; R. Simeon ben Tsemakh Duran, Resp. Tashbets, II, sec.
In addition, as noted above, n. 87, Rabbis Karp, Henkin, and Kanievsky utilize a school, since in each congregant must hear every word. R. Elijah of Vilna also seems to be in this reading, despite the fact that R. Issacher Ber of Vilna, despite maintaining in sec. 175, indicates that the Gra maintains that gerot Moshe 6, 2011). This also seems to be the view of R. Moses Feinstein who writes in Frimer, April 27, 2006); R. Avigdor Nebenzahl, conversation with the authors, Dec. no. 7, issue without deciding. See: R. Abraham Danzig, "Din het," R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, Magen Gibborim, O.H. sec. 57, no. 1, Elef ha-Magen, no. 1 and Shithei ha-Gibborim n. 1 who cite Ra’avan; R. Zvi Pesach Frank, Resp. Har Tsevi, O.H., secs. 58 and 72 and Mikra’ei Kodesh, Arba Parshiyot, etc. 7 – basing himself on Ra’avan; R. Aryeh Zvi Fromer, Resp. Erets Tsevi, II, sec. 9; R. Menashe Klein, Resp. Mishne Halakhot, III, sec. 19; R. Israel Grossman, Orach Yisrael, sec. 10; R. Saul Brisch, Resp. She’e'ilot Shaul, sec. 11, no. 4. Regarding the view of R. Hayyim Soloveitchik and R. Joseph B. Soloveitchik, see n. 111e and f, below. For further discussion, see R. David Yosef, Halakha Berura, VII, Oserot Yosef sec. 2, no. 3, and n. 10. R. Yosef argues that this is also the position of R. Zedekia ben Abraham haRofeh, Shibbolei ha-Leket, sec. 39. This is also presumably the position of the Mattheh Moshe cited in Magen Avraham, O.H., sec. 146, no. 5.

(c) There is yet another “hybrid” school. This approach maintains that keri’at ha-Totah is a hovat ha-tsibbur, and as such, one has no personal obligation to read or hear the Torah reading. However, if one is in the synagogue where a Torah reading is taking place, he is obligated to take part fully and listen attentively to the entire reading. Included in this school are: Shibbolei ha-Leket, sec. 39 – as understood by R. Isaac Yosef, Yalkut Yosef, She’erit Yosef, III, sec. 128, Hilkkot Nisi’at Kappayim, no. 7, note thereto, 145; Mishna Berura, O.H., sec. 135, Be’ur Halakha s.v. “Ein mevi’in” at end, and sec. 146, Be’ur Halakha s.v. “ve-Yesh mattirin” – as understood by R. David Yosef, Halakha Berura, VII, Oserot Yosef, sec. 3, s.v. “ve-Amnam,” by R. Solomon Kleinerman, “be-Geder Hiyyuv Keri’at ha-Torah,” Shalem Beit ha-Shem, Sivan 5765, 266-262, by R. Jacob Moses Hillel, Resp. va-Yashav ha-Yam, 1, sec. 19, no. 4, s.v. “ve-Divrei ha-Rav,” by R. Akiva Meller, ha-Kerita ha-Torah ve-Hilkhoteha (Jerusalem, 5769), Milu’im, sec. 1, no. 6, 709-710, and by R. Yaakov Ariel, be-Ohalah shel Torah, II, sec. 9, no. 2; R. Ben-Zion Lichtman, Benei Tsiyyon, II, O.H. sec. 139, no. 7, s.v. “u-Mab”; R. Yehuda Herzl Henkin (personal communication to Aryeh A, Frimer, April 27, 2006); R. Avigdor Nebenzahl, conversation with the authors, Dec. 6, 2011). This also seems to be the view of R. Moses Feinstein who writes in Resp. Igerot Moshe, O.H., I, secs. 28, s.v. “ve-Yesh” that keri’at ha-Torah is a hovat ha-tsibbur – despite maintaining in Resp. Igerot Moshe, O.H., IV, secs. 23 and 40, nos. 4-5, that each congregant must hear every word. R. Elijah of Vilna also seems to be in this school, since in Ma’ase Rav, sec. 131, he requires hearing every word of the Torah reading, despite the fact that R. Issacher Ber of Vilna, Pe’ulat Sakhir to Maasch Rav, sec. 175, indicates that the Gra maintains that keri’at ha-Torah is a hovat ha-tsibbur. In addition, as noted above, n. 87, Rabbis Karp, Henkin, and Kanivevsky utilize a similar approach to explain the problematic position of Magen Avraham, O.H. sec. 282, no. 6 that women too are obligated to listen to keri’at ha-Torah. R. Nebenzahl, ibid., explicitly rejects this proposition, maintaining that no such obligation devolves on women. R. Ahron Soloveitchik, Parah Mattheh Abaron, Hilkkot Tefilla, 13:20 (pp. 75-76) argues that the “hovat ha-yahid” and the hybrid schools are the basis of the varying opinions cited by R. Caro in Shulhan Arukh, O.H., sec. 146, no. 2.

(d) The latter two (personal obligation and hybrid) schools (nn. 111b and c, supra) will have to resort to one of the other two approaches discussed below (hovat shemi’a or two-part obligation) in order to rationalize how a woman or a minor could theoretically obtain an aliya, though not obligated in keri’at ha-Torah. Others raise the issue without deciding. See: R. Abraham Danzig, Hayyei Adam, Kelal 31, sec. 11; R. Barukh Dov Leibowitz, Birkat Shemuel, I, Yevamot, sec. 21, no. 1. For further discussion, see: R. Asher Weiss, Minhat Asher, Shemot, sec. 27.

(e) The positions of R. Hayyim Soloveitchik and his grandson R. Joseph B. Soloveitchik are a matter of some dispute. On the one hand, Asufot Rabbenu Hayyim
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ha-Levi, Megilla, sec. 3, 153-154, maintains that R. Hayyim Soloveitchik was a member of the hovat ha-tsibbur school. Others posit that R. Hayyim Soloveitchik held keri’at ha-Torah to be a hovat ha-yahid; as a result, if he missed keri’at ha-Torah in the morning, it was his wont to organize a reading in the afternoon. See R. Yaakov Werdiger, Tslofa de-Avraham, I, Emek Berakha, 366; R. Hayyim Soloveitchik, cited in “Kuntres Likkutei ha-Mo’adim u-Keri’at ha-Torah” (Jerusalem, 5768), 165; R. Hayyim Soloveitchik as understood by his son R. Moshe Soloveitchik, cited by R. Joseph B. Soloveitchik, Shi’urei ha-Rav al Inyanei Tefilla u-Keri’at Shema, R. Menahem Dov Genack, ed. (New York: Mesorah, 2010), sec. 38, no. 1, 231 and in R. Hershel Schachter, Nefesh ha-Rav, 130; R. Hayyim Soloveitchik as understood by his grandson R. Ahron Soloveichik, Parah Matteh Aharon, Hilkhot Tefilla, 13:20 (76). R. Ahron Soloveitchik repeated this assertion in his conversation with R. Dov Frimer (July 8, 1997). See also R. Abraham Mandelbaum and R. Aaron Drazen, va-Titta Eshel, 50 and 625. Other scholars suggest that it was a matter of doubt for R. Hayyim Soloveitchik. See R. Barukh Dov Leibovitch, Birkat Shemu’el, Yevamot, sec. 21; R. Judah Heschel Levenberg, Imrei Hen, Hilkhot Tefilla, 8:4, citing R. Meir Soloveitchik (the son of R. Isaac Zev Soloveitchik). See also Shi’urei ha-Rav al Inyanei Tefilla u-Keri’at Shema, ibid, n. 101, 233.

(f) Regarding the position of R. Joseph B. Soloveitchik (the “Rav”), R. Hershel Schachter records that the Rav, like his grandfather R. Hayyim Soloveitchik, would organize a reading in the afternoon if he missed keri’at ha-Torah in the morning, suggesting that he too held keri’at ha-Torah to be a personal obligation; see: R. Zvi (Hershel) Schachter, Nefesh ha-Rav, 130; R. Zvi Schachter, “Divrei ha-Rav, 151; R. Aharon Ziegler, Halakhic Positions of R. Joseph B. Soloveitchik, III (Lanham, Maryland: Rowman and Littlefield, 2005), 38-40. However, R. Joseph B. Soloveitchik’s brother, R. Ahron Soloveichik (in a conversation with R. Dov I. Frimer) and R. Shael Frimer report that the Rav indicated in shiur that he actually held like his father, R. Moses Soloveitchik, who in turn held like his maternal grandfather R. Elijah Feinstein of Pruzhin – rather than his paternal grandfather, R. Hayyim Soloveitchik – that keri’at ha-Torah is a communal obligation. [For further discussion of the position of R. Moses Soloveitchik, see below n. 113.] See also: R. Michel Zalman Shurkin, Havarei Kedem, I (Jerusalem, 5769), sec. 215, parag. b, s.v. ve-Hinneh; R. Joseph B. Soloveitchik, in Sheshmot Shiurim, n. 30b, supra, Berakhot 2a, 11. Hence, if one misses all or part of keri’at ha-Torah in the morning, there is no obligation to hear it again. Nevertheless, out of respect for his grandfather’s stringent position, he would make efforts to organize an afternoon Torah reading. This was also the custom of R. Ahron Soloveichik.

112. See n. 111b, supra.

113. This hovat shemi’a formulation is basically that of R. Moses Feinstein, R. Jacob Kaminetsky and R. Joseph B. Soloveitchik. See: R. Moses Feinstein, Ligerot Moshe, O.H., II, sec. 72, IV, secs. 23 and 40, nos. 4 and 5; R. Moses Feinstein cited by his grandson, R. Mordechai Tendler, Sefer Mesorat Moshe (Jerusalem, 5773) O.H., no. 420, p. 194-5, n. 334; R. Jacob Kaminetsky, Emet le-Yaakov, O.H., sec. 282, no. 3, s.v. “Sham. Ha-Kol (third);” R. Joseph B. Soloveitchik cited in R. Zvi [Hershel] Schachter, Nefesh ha-Rav (Jerusalem: Reishit Yerushalayim, 1994), 136-137; R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah, sec. 135, no. 13, 31; R. Joseph B. Soloveitchik, Shi’urei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik sts’l al Inyanei Tzisit, Tefillin u-Keri’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilkhot Keri’at ha-Torah, sec. 135, no. 13, 156. However, it appears two centuries earlier in the writings of R. Jedediah Samuel ben
Judah Tarika (1713 - ca. 1769), Sefer Ben Yedid, Hilkhot Tefilla, ch 12, sec. 17. R. Soloveitchik emphasizes the public limmud ha-Torah element in keri’at ha-Torah, as do R. Shlomo Zalman Auerbach, cited in R. Yerachmiel David Fried, Tom Tov Sheni be-Hilkhato, addendum to ch. 9, n. 31-4, 346; R. Yudel Rosenberg, Resp. Yehavveh Da’at, O.H., sec. 2; R. Aryeh Leib Grosness, Resp. Lev Arye, II, sec. 1, no. 6; R. Isaac Leibis, Resp. Beit Avi, I, O.H. secs. 25 and 26; R. Shlomo Moshe Amar, Resp. Shimea Shlomo, IV, sec. 5; and R. Nadav Perets, Nidvat Perets, Megilla, 24a s.v. “ba-Misna, ha-Maftir,” 54, and sec. 5, 115; R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.), Megilla 23a, “Keri’at ha-Torah al ydei Isha ve-Katan,” no. 2, 382. R. Rosenberg notes that because the essence of the Torah reading is Torah learning, the Rabbis had originally instituted a meturgeman, a verse by verse translator; this is absent in the reading of Megillat Esther.


Often included in this hovat shemi’a school is R. Moses Soloveitchik who ruled that when a ba’al keri’ah reads for the community, he cannot have intention to exclude a particular individual [this is referred to as the case of the ba’al keri’ah of Khislavichi]. As explained in the sources below, since the obligation is to listen, each individual does that by himself and is not dependant on the ba’al keri’ah [via shome’a ke-oneh]. See: R. Zvi [Hershel] Schachter, Ne’esh ha-Rav (Jerusalem: Reishit Yerushalayim, 1994), 136-137; R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah, sec. 141, no. 2, 50; R. Joseph B. Soloveitchik, Shiurei ha-Rav
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ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tzitsit, Tefillin u-Keri’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilkhot Keri’at ha-Torah, sec. 141, no. 2, 186; R. Joseph B. Soloveitchik, Reshimot Shiurim, R. Zvi Joseph Reichman, ed. (New York, 5749), Sukka 38b, 191, s.v. “Sham Ba-Gemara”; R. Abraham Mandelbaum and R. Aaron Drazen, va-Yitta Eshel, 629. This analysis is a bit surprising since in n. 111f above we cited R. Ahron Soloveichik (in a conversation with R. Dov I. Frimer) and the Rav (in shiur as reported by R. Shael Frimer) that their father, R. Moses Soloveitchik, held like his maternal grandfather R. Elijah Feinstein of Pruzhin – rather than his paternal grandfather, R. Hayyim Soloveitchik – that keri’at ha-Torah is a communal obligation. Indeed, there are other sources which discuss this story suggesting that R. Moses Soloveitchik’s ruling was predicated upon his view held that keri’at ha-Torah is a hovat ha-tsibbur. Thus, the obligation of the ba’al keri’ah is to read for the community, not for any individual. See: R. Joseph B. Soloveitchik, Shi’urei ha-Rav al Inyanei Tefi lla u-Keri’at Shema, R. Menahem Dov Genack, ed. (New York: Mesorah, 2010), sec. 5, no. 2, 72; R. Joseph B. Soloveitchik, in Reshimot Shiurim, n. 30b, supra, Berakhot 2a, 11. To resolve this discrepancy, we would like to suggest that perhaps R. Moses Soloveitchik in his response did not take a stance. Rather, he indicated that irrespective of whether keri’at ha-Torah is a hovat ha-tsibbur or a hovat ha-yahid of shemi’a the ba’al keri’ah cannot have intention to exclude a particular individual. See the story as formulated by R. Ahron Soloveitchik, Parah Mateh Aharon, Hilkhot Tefilla, 13:20.

We also note that according to this hovat shemi’a school, both in the case of Torah reading and sounding the shofar, the misva is to “listen.” It remains to understand why women and minors are eligible to read the Torah for the community, but may not blow the shofar for them. For discussion, see: R. Tsevi Pesach Frank, Mikra’ei Kodesh, ha-Yamim ha-Nora’im: Rosh ha-Shana, sec. 16 and references cited therein; Iggerot Moshe, O.H., II, sec. 72; R. Elimelekh Winter, Minhat Elimelekh, III, sec. 12; R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.), Megilla 23a, “Keri’at ha-Torah al yedei Isha ve-Katan,” no. 2, sec. 6-7, 383.

114. Meiri and Rivash, n. 6, supra; R. Samson ben Tsemah Duran, Resp. Tashbets, I, sec. 131; see also comments of R. Ovadia Yosef to R. David ha-Kohen Sakli, Kiryat Hana David II, sec. 43 (appears in volume 1); R. Joseph mi-Tirani, Resp. Maharit, I, 145; R. Solomon ha-Kohen (of Vilna), Binyan Shlomo, I, sec. 54, s.v. “ve-Zakhinu le-din”; R. Judah Ayash, supra, n. 80; Resp. Tsits Eliezer, VII, O.H., sec. 1, anaf 5, nos. 14-16; R. Jehiel Meir Weingort, Kokhevei Or, Megilla 23a, sec. 145. See also: R. Yehuda Warburg, “The Aliyah of Minors: Competing Paradigms in Hilkhot Keri’at ha-Torah,” in Hazon Menahem, Yeshiva University, New York, 5758; 669-688. Although not elucidated in the above sources, we believe that these scholars maintain that keri’at ha-Torah is a hovat ha-yahid of keri’a for the basic core and a hovat ha-tsibbur for the remaining aliyyot.

115. Meiri and Rivash, n. 6, supra. See also R. Jehiel Abraham Zilber, Birur Halakha, III, O.H., sec. 282, 48-49, who concludes that, contrary to Rema’s ruling, n. 117, infra, this is the view of the majority of rishonim and the opinion to follow in practice. Accordingly, under conditions where women and minors may receive aliyyot, one adult male must be allocated an aliyya.


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R. Jehiel Meir Weingort, Kokhevei Or, Megilla 23a, sec. 145, suggests that the dispute as to whether the core is one or three aliyyot is dependent on the two positions presented in Bava Kamma 82a. Concerning Moses’s innovation of keri’t ha-Torah, one view suggests that he instituted that one verse suggests that he instituted that one or two verses (analogous to the view of Metri and Rivash, n.e. 115 above); the other posits that Moses instituted that three individuals (like the sources in the beginning of this note) rise to read one verse each. Regardless, Bava Kamma 82a cannot serve as a basis for those posekim who theoretically only permit women to receive the minority of the aliyyot (like Ran in n. 117 below) or only one aliyya out of seven Shabbat aliyyot; see: Shibbolei ha-Leket, sec. 35; Olat Shabbat, O.H. 282 – cited by Misnha Berura ad loc., no. 1.

117. Ran on Rif, Megilla 24a, s.v. “Katan Kore;” cited by Rema, O.H., sec. 282, no. 3.


120. R. Samson ben Tsemah Duran, R. Joseph mi-Tirani, R. Solomon ha-Kohen, R. Eliezer Waldenberg supra, n. 114.

121. Megilla 22b.

122. R. Aaron ben Abraham Aberle Worms, Me’orei Or, Kan Tsippor, mahadura batra, Megilla 23a, s.v. “ha-Kol oliv;” R. Gur Aryeh ha-Levi, cited in R. Isaac Lampronti, Pahad Yitschak, “Isha,”, no. 146; R. Jacob Emden, Hagahot Rav Yaakov Emden, Megilla 23a; R. Jacob Emden, Mor u-Ketzi u, Tur, O.H., sec. 282; R. Gedalia Felder, Yosedei Yeshurun, IV, Ma’arekhet Keri’at ha-Torah, 405; Mi-Shiurei Maran ha-Rishon le-Tzion Rabenu Yosia Shelita, I, Gilyon 19, va-Yera 5756, sec. 2.

123. Mishna Megilla 4:1,2 (B.T. Megilla 21a) and discussion in Talmud ad loc. 21b.

124. See “Isha,” Encyclopedia Talmud, II, 244-246.


126. For leading references, see Tosafot, Rosh ha-Shana 33a, s.v. “ha;” Rosh, Rashba, and Ran to Rif to Rosh ha-Shana 33a; Tosafot, Eruvin 96a-b, s.v. “dilma;” Tosafot, Kiddushin 31a, s.v. “de-lo;” Rosh to Kiddushin, ch. 1, sec. 49; Ritva, Kiddushin 31a; Meir, Eruvin 96a, Rosh ha-Shana 33a, Hagiga 16b, Bava Kamma 86b, Hullin 85a and Hibbon ha-Teshuva, 280. Tosafot Eruvin ibid. explain that “the blessing [of a patur ve-Oseh] is not in vain since he is reciting the (appropriate) benediction for a mitsva which he is performing, although he is exempt.” Furthermore, notes R. Nissim Gerondi (Hiddushei ha-Ran, Rosh ha-Shana 33a; Ran on Rif, Rosh ha-Shana 33a; Ran on Rif, Kiddushin 31a. Cf. Tosafot Touques, Kiddushin 31a.), the text, “... command us,” is not inappropriate either. After all, the Talmud (Kiddushin 31a; Bava Kamma 38a and 87a; and Avoda Zara 3a) concludes: “greater is (the reward of) one who is obligated and fulfills the commandment, than (that of) one who is not obligated and yet fulfills the commandment.” This clearly implies that the
latter, too, receives at least some reward. If so, then even an *eino metsuvveh ve-oseh* must share in the commandment. Since men are fully obligated and, as just noted, women receive reward for their actions, women may recite the *berakha*. The phrase “and commanded us” is relevant to women since reward indicates that they too are part of the *mitsva*; thus, they were given the commandment with performance being optional. Alternatively, the phrase “and commanded us” refers to the People of Israel as a whole. For a more complete discussion of this subject, see: Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice. Part 1 - Theory,” *Tradition* 32:2 (1998), 5-118, Section A; available online at: http://tinyurl.com/cj8ow9n. The latter article clearly demonstrates that Rabbenu Tam’s *petura ve-osha mevarekhet* principle is not applicable to women’s *tefilah* groups in which a *bona fide* minyan for public prayer is lacking. In a case where fewer than ten males are available, no public prayer or Torah reading obligation exists, *ab initio*. Under such conditions, Jewish law and tradition prohibit those assembled – male or female – from reciting the public prayer texts or Torah reading benedictions even on a voluntary basis.

127. R. Moses Isserlis (Rema), gloss to *Shulhan Arukh O.H.* sec. 589, no. 6. The only exceptions we are aware of to this generality are the rulings of R. Zvi Hirsch Ashkenazi (also known as the *Hakham Tsevi*), cited approvingly by his grandson R. Jacob Meshullam Ornstein, *Yeshu‘ot Ya’akov*, sec. 17, no. 1, and sec. 640, no. 1, and that of another grandson of the *Hakham Tsevi*, R. Hayyim Halberstam of Zanz, cited in *Mekor Hayyim*, sec. 435. Indeed, women of the Zanzer and Karlin-Stolin dynasty refrain from reciting *berakhot* on time-determined commandments. In addition, Zanzer women are stringent about not entering a *sukkah*. R. Isaac Kaufman, *Resp. Yevakesh Torah*, sec. 14, cites many sources in support of the position of the *Hakham Tsevi*, but concludes by indicating that the prevalent custom is not so. As to whether Rabbenu Tam’s rule applies to a *sukkah*, see: comments of R. Yaakov David Ilan to *Tosafot ha-Rosh* (Jerusalem, Mossad Harav Kook), *Sukka*, 21b, n. 35.


130. [We have used the spelling “Ovadia Yosef” (final H, single S) found in the Encyclopedia Judaica. However, on the former Sefardic Chief Rabbi’s stationery and seal, he spells his name “Ovadia Yossef.”] R. Ovadia Yosef, *Resp. Yabbia Omer*, I, O.H. secs. 28 and 39-42; II, sec. 6; V, sec. 43; VIII, sec. 8 and sec. 23, no. 30; IX, O.H., secs. 21, 23, 38, 79 no. 22, 94 no. 27, and 108 no. 28. R. Ovadia Yosef, *Hazon Ovadia* — *Yom Tov*, *Hilkhot Sefirat ha-Omer ve-Temei ha-Sefira*, no. 5, n. 11, 220. R. Ovadia Yosef, *Hazon Ovadia* — *Sukkot*, *Dinei ha-Teshiva ba-Sukkot*, sec. 19, n. 41, 149 and *Hilkhot Arba‘at ha-Minim*, sec. 11, n. 10, 339. R. Ovadia Yosef in his Letter of Approbation to R. David S. Cohen’s *Sukkat David*. R. Isaac Yosef, *Yalkut Yosef*, *She‘erit Yosef*, part 1, 495, sec. 4. Nor can she recite the associated she-*Hehiyyanu* benediction; see: *Resp. Yabbia Omer*, IV, O.H. sec. 50; *Hazon Ovadia* — *Sukkot*, *Hilkhot Arba‘at ha-Minim*, sec. 11 and end of n. 10, 340, and sec. 42, 425.

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(supra, n. 130), former Sephardic Chief Rabbi Mordechai Eliyahu states explicitly that Sephardic women are prohibited from reciting benedictions on commandments (birkhot ha-mitsva) from which they are exempt—even in cases where women have accepted upon themselves the obligation to perform these mitsvot regularly as do men. See the unpublished responsa, dated 19 Kislev 5750 (December 17, 1989), regarding women’s prayer services at the Western Wall, cited by Elav Shochetman, “Minyanei Nashim ba-Kotel,” Tehumin 15 (5755), 161-184. Surprisingly, however, in a responsa written two months later (Adar 5748), R. Eliyahu, based on Kaf ha-Hayvim, O.H., sec. 70, no. 1, rules that Sefardi women may recite all prayer benedictions (birkhot ha-tefilla) – contrary to R. Ovadia Yosef. See: R. Mordechai Eliyahu, Resp. Shu”t ha-Rav ha-Rashi (5748-5749), secs. 90, 118, and 236 and Resp. Shu”t ha-Rav ha-Rashi (5750-5753), secs. 97, 115, 269, and 379. Turning now to the Yemenite community, their custom is for women to refrain from reciting all birkhot ha-mitsva containing the “ve-tsivvani” formulation (vide infra, n. 132); see R. Isaac Ratsabi, Resp. Olat Yitsbak, I, sec. 166, no. 3; R. Isaac Ratsabi, Shulhan Arukh ha-Mekusar, O.H., I, sec. 11, no. 18; III, sec. 110, no. 18, n. 49.

Other Sefardi Scholars take issue with the stringent view and in particular with R. Yosef’s ruling; see R. David Hayyim Chelouche, Resp. Hemda Genzua 12, and R. Reuben Amar, Minhagei ha-Hida, O.H. part 1, sec. 21, Hilkhot Berakhot, no. 4, Ro’eh Yisrael, n. 4, 149-153 and part 2, sec. 45, Minhagei Hag ha-Sukkot, no. 10. Moreover, Jerusalem’s Sephardic Chief Rabbi Shalom Messas records that many Sephardic women in fact follow the practice of reciting blessings upon the performance of time-determined mitsvot, contrary to the view of R. Ovadia Yosef and his own view. R. Messas rules that these women who recite birkhot ha-mitsva should not be reprimanded; see Resp. Shemesh u-Magen, II, sec. 55, no. 4 and sec. 72, no. 3. He also permits the recitation of the keri’at shema benedictions; see: Resp. Shemesh u-Magen, III, sec. 63, no. 5. We have been informed that Mumbai women of Baghdadi (Babylonian) descent recite a berakhah on shaking lulav, but not on sitting in the sukkah. (Regarding sukkah, vide R. Yaakov David Ilan, n. 127 supra.) Interestingly, R. Naftali Tsevi Judah Berlin, She’irot, va-Yakkel, She’i’la 67, Ha’amek She’i’lah, end of no. 3, maintains that even according to Maimonides women have the option to recite a benediction on a time-determined commandment.

132. See Rosh, Kiddushin, ch. 1, sec. 49; Magen Avraham, O.H. sec. 296, no. 11; R. Ezekiel Landau, Tsiyyun le-Nefesh Hayya, Berakhot 26a; R. Raphael Shapiro, Torat Refi’el, I, O.H., Hilkhot Birkhot ha-Torah, sec. 2 at end, s.v. “Annam ra’iti”; R. Judah Leib Graubart, Resp. Havalim ba-Ne’imim, III, O.H. sec. 8; R. Jacob Bezalel Zolty, Sefer ha-Zikkaron le-Maran ha-Griv Zolty, Mishnat Yu’avit, Hilkhot Tisit 3:9, 58; R. Shlomo Zalman Auerbach, cited by R. Yehoshua Yeshayahu Neuwirth, Shemirat Shabhat ke-Hilkhatot, II, sec. 61, no. 24, n. 69, Resp. Minhat Shlomo, II, sec. 59, no. 22 in Otzarot Shlomo 5759 Edition and sec. 58, no. 3, sec. 2 in Sons’ 5760 Edition, and Halikhot Shlomo, Hilkhot Tefillat, ch 5, Devar Halakha, no. 4; Halikhot Beisah, Petah ha-Bayyit, no. 21 and sec. 5, n. 11. It is most notable that this is the view of Rosh Yeshivat Porat Yosef (Jerusalem), R. Ben-Zion Abba Shaul, in “Hiyyw Nashim be-Tefillal,” Tsifunot 1:2 (Tevet 5749), 52, and in Resp. Or le-Tsiyyon, II, sec. 4, no. 1 and sec. 5, no. 3. R. Ben-Zion Abba Shaul also notes that his predecessor, R. Ezra Atiya, concurred. This is also recorded as the custom of the Yemenite community; see: R. Isaac Ratsabi, supra, end of first parag. of n. 131.

133. Resp. Yabbi’a Omer, I, O.H., sec. 28, nos. 1-8; II, O.H., sec. 6, nos. 1, 7 and 8; VIII, O.H., sec. 8; IX, O.H., sec. 11; and Yalkut Yosef, She’erit Yosef, part 1, 486.

134. R. Jacob Tam cited at the end of Tosafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehuda,” ha-Katan ve-Hilkhatot, I, ch. 2, end of n. 12; ch. 13, no. 1.
135. Rashba, Rosh ha-Shana, 33a, s.v. “Rabbi Yossi;”


138. R. Saadya Gaon is perhaps the first to clearly distinguish between the birkhot limmud ha-Torah recited before a private Torah reading, and the birkhot keri’at ha-Torah made before and after public Torah reading – even though they share one benediction (asher bahar banu…) in common. He maintains that the birkhot limmud ha-Torah are associated with the obligation of knowing how to function as a Jew in this world. Once these benedictions are recited (generally, in the morning), no further benedictions need be recited for any Torah learning. The keri’at ha-Torah benedictions were established primarily to extol God and show honor to the Torah (mishnam kevod ha-Torah); hence, the birkhot keri’at ha-Torah may be recited repeatedly each time one receives an aliyya. R. Saadya Gaon’s view is cited by R. Judah ben Barzillai (“ha-Nasi”) Al-Bargeloni, as quoted by: Tur, O.H., sec. 139; R. David Abudarham, Sefer Abudarham ha-Shalem, Dinei Keri’at ha-Torah, 132; Otsar ha-Ge’onim, Berakhot 11b, no. 57. (We note that R. Judah ben Barzillai was the author of the Sefer ha-Ittim, but the extant manuscripts do not have the section on Hilkhot Berakhot, which is the source of the above citation. The reference cited by Rav Kafih in his edition of R. Abraham ben Isaac Av Beit Din of Narbonne [author of Sefer ha-Eshkol], Resp. Rabbenu Avraham b’r Tishbak Av Beit Din [Ra’avi Av Beit Din], sec. 3, 19, n. 2, is erroneous.) R. Saadya Gaon’s view is also implied (though certainly not explicitly stated) in Siddur Rav Saadya Gaon, 358-359. Many later rishonim concur with R. Saadya Gaon’s distinction. See, for example: R. Jacob Tam, Tosafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehuda;” Resp. Rabbenu Avraham b’r Tishbak Av Beit Din, sec. 3, citing his teacher R. Judah ben Barzillai; R. Isaac ben Samuel of Dampierre (Ri the Elder) - cited at length by Tosafot Rabbenu Yehuda Sirlion (erroneously called Tosafot Rabbenu Yehuda ha-Hasid), Berakhot 11a, s.v. “mi-sheKara;” R. Isaac ben Moses of Vienna, Sefer Or Zarua, I, Hilkhot Keri’at Shema, sec. 22; R. Meir ben Simeon ha-Me’el, Sefer ha-Me’orot, Berakhot 12a, s.v. “Avak;” Shibbolei ha-Leket sec. 5; Hiddushei ha-Rashba, Berakhot 11a, s.v. “Hishkimit;” Tosafot ha-Rosh, Berakhot 11a, s.v. “mi-sheKara;” R. Hayyim ben Samuel of Toledo (student of Rashba), Tseror ha-Hayyim, ha-Derekh ha-Rishon – Mishpeta ha-Tefilla, no. 6, p. 4 (Jerusalem, 5726); Meiri, Berakhot 11b; R. Joseph ibn Habib, Nimmukei Yosef, Berakhot 11b; R. Simeon ben Tsemakh, Perush ha-Rashbats, Berakhot 11b, s.v. “ve-Karav.” R. Saadya Gaon’s rationale that the keri’at ha-Torah benedictions were established because of kevod ha-Torah appears in a variety of sources, inter alia: Sefer Or Zarua, ibid. (she-Ein berakha zo ela me-hamat bibbat ha-Torah, she-nitkena be-rabbim li-kerov ha-Torah); Shulhan Arukh, O.H., sec. 139, no. 8; Arukh ha-Shulhan, sec. 139, O.H., no. 9; Resp. Mishpetei Uziel, III (Mabadura Tinyaana, O.H.), Miluim, to O.H. sec. 139, s.v. “Perush Rashi: mi-Shum;” R. Isaac Jacob Weiss, Resp. Minhat Yitshak, VIII, sec. 84, s.v. “ve-Hinneh be-guf;” Resp. Tsits Eliyzer, XII, sec. 37, s.v. “ve-Hinneh ka-et” and XVIII, sec. 29; Resp. Mishne Halakhot, VIII, sec. 184, s.v. “Ela de-khol;” and XI, sec. 116. See also R. Yom Tov Lipmann-Heller, Ma’adannei Yom Tov, Berakhot, ch. 1, no. 100, who also maintains that the benedictions are merely rabbinic, but does not cite a reason for their enactment.

139. Magen Avraham, O.H. sec. 139, no. 5 – and Mahatsit ha-Shekel ad loc.; Resp. Ginnat Veradim, O.H., klal 1, sec. 49; R. Isaac Tayeb, Erekh ha-Shulhan, O.H.
sec. 139, s.v. “Din bet;” Pri Megadim, Eshel Avraham, sec. 135, no. 1; R. Abraham Danzig, Hayyei Adam, Hilkhot Berakhot u-Tefillot, klal 31, no.11; R. Elijah David Rabinowitz-Teomim, supra, n. 75; R. Issacher Solomon Teichtal, Resp. Mishne Sakhrin, I, sec. 90 (digested at length in R. Isaac Flaxer, Sha’arei Yitschak, VIII, Birurim Yom Tov Sheni, klal 11, no. 3). Resp. Mishne Halakhot, VI, sec. 13 and XI, sec. 116 (“kevod ha-kabhal); R. Tuvia Yehuda Tavyumi (Gutentag), Resp. Erets Tova, sec. 3, no. 6; R. Shlomo Zalman Auerbach cited in R. Yerachmiel David Fried, Yom Tov Sheni ke-Hilkhato, ch. 9, nn. 14, 27, and 28; R. Mordechai Eliyahu, Kol Tsofayikh, Parashat va-Yiqqash, 5759 and Va-Yigash, 5760. Interestingly, Perisha, O.H., sec. 282, no. 6 and Resp. Erets Tova indicate that these berakhot are for both “kevod tsibbur ve-Torah.”

140. This distinction between keri’at ha-Torah as a misva of public Torah learning as opposed to a misva of public Torah reading is a subtle one, but it is well documented by R. Elyakim Getzlo Pashkes, Itturei Megilla (5772 ed.), Megilla 21b, “Birkat ha-Korei ba-Torah,” no. 5, p. 337ff. The first school, which emphasizes public Torah study, includes R. Saadya Gaon (cited by Abudarham, Dinei Keria’at ha-Torah); Rashi, Sefer ha-Ola, I, sec. 11; R. Isaac ben R. Judah, Tosaafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehudah,” Or Zarua, II, Hilkhot Pesahim, sec. 254, s.v. “Sahu she-ba-Nashim”; Meiri, Megilla 23a, s.v. “ha-Kol Olin”; Shibolei ha-Leket, sec. 5; R. Nissim to Rif regarding Megilla 23a; Tur and Shulhan Arukh, sec. 139, no. 8; R. Yudel Rosenberg, Resp. Yehaveh Da’at, O.H., sec. 2, s.v. “ve-Tama de-milita;”

R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilkhot Keria’at ha-Torah, sec. 135, no. 13, 31; R. Joseph B. Soloveitchik, Shiurei ha-Rav ha-Gan Rabbi Yosef Dov ha-Levi Soloveitchik sta’al al Inyanei Tisitsit, Tefillin u-Keria’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilkhot Keria’at ha-Torah, sec. 135, no. 13, 156; R. Moshe Barukh Karp, “Hovat ha-Tsibbur be-Keria’at ha-Torah,” Beit Yitschak, 43 (5771), 373-377, distinguishes between Torah study of the public vs. Torah study in public; keria’at ha-Torah is meant to be the former. Aryeh Zvi Fromer, Resp. Erets Tsevi, II, O.H., sec. 8, is of the opinion that the benediction requirement stems from the use of a Torah scroll, which is a central fulfillment of the obligation of Torah study. The second school, which emphasizes a misva of public Torah reading, includes, inter alia: Hiddushei ha-Rabba, Rosh ha-Shana 33a, s.v. “Rabbi Yosi,” and Tosaafot R. Yehuda Sirion (erroneously be-Hasid), Berakhot 11a. In a conversation with DIF (April 28 and May 5, 2012), R. Nachum Rabinovitch indicated that he believes that both of these schools, together with the view of R. Ariel, infra n. 141, which view birkhot ha-Torah as birkhot ha-misva, are the dominant opinion of the posekim. R. Ehlanan Berlin indicates that the position of the Jerusalem Talmud, Megilla, ch. 4, Halakha 1 (“Asa’uha ke-shav kol ha-mitsvot she-ba-Torah. Ma she’ar kol ha-mitsvot te’unot berakha, af zo te’unah berakha”) is that birkot ha-Torah are birkot ha-Mitsva; see R. Ehlanan Berlin “Be-Divre ha-Leket Yosher be-Inyan Nashim be-Keria’at ha-Torah,” in Sefer mi-Nashim ba-Ohel (Jerusalem, 5773), 497-500, at end.

Interestingly, there is some debate on whether or not the failure or inability to recite the birkhot ha-Torah prevents fulfillment of the misva of keria’at ha-Torah. See at length R. Abraham Dovber Kahana Shapiro, Resp. Devor Avraham, I, sec. 16, esp. no. 26; R. Asher Weiss, Minhat Asher, Talmud Torah: Keria’at ha-Ketivatah, sec. 9a-c and the sources cited therein. (The repercussions of this position are briefly discussed below at the end of n. 152.) R. Joseph B. Soloveitchik, in Reshimot Shiurim, n. 30b, supra, Berakhot 11b, 124-126, concurs, noting that the benediction prior to the reading of the Torah is an integral part of the misva of public keria’at ha-Torah, the closing berakha, however, may be an independent requirement.

141. R. Yaakov Ariel, Resp. be-Ohalah Shel Torah, I, Y.D., Petibah, no. 14 and O.H., sec. 9, no. 4.
142. Rashi, Berakhot 11b, s.v. “ve-Zo hi” indicates that the benediction “asher bahar banu” contains “hoda’a la-Makom ve-kilus la-Torah u-leYisrael” (thanks to God and praise of the Torah and Israel). Very similar language is used in Sefer Or Zaru’a, I, Hilkhot Keri’at Shema, sec. 24, s.v. “Amar Rav” and Mordechai, Berakhot, ch. Me-Ematai, remez 31. Rabbenu Yona on Rif, Berakhot 11b, s.v. “ve-ha de-ray ham-nuna” uses the words “shevah Yisrael u-shevah ha-Torah” (praise of Israel and praise of the Torah). Ramban, Sefer ha-Mitsvot, Mitsvot she-haRambam lo hevi’am, Mitsva 15, writes: “she-nitstavinu lehodot li-shemo yitbarakh, be-khol et she-nikra ba-Torah.” See, however, n. 143 end of second paragraph, where we cite R. Joseph Barukh Kazis and R. Nachum Rabinovitch to the effect that a benediction before the fulfillment of a mitsva is a birkat ha-mitsva irrespective of its formulation. Nevertheless, many aharonim have explicitly referred to the Torah reading benedictions as birkhot shevah ve-hodaya; see the fourth paragraph of n. 143.

143. R. Hayyim Soloveitchik suggests that women recite birkhot limmud ha-Torah as part of the morning benedictions because Torah learning per se requires birkhot ha-Torah, independent of whether or not one is obligated to learn Torah. R. Hayyim Soloveitchik is cited by his son R. Isaac Ze’ev Soloveitchik (henceforth, R. Velvel) in Hiddushei Maran Riz ha-Levi, Hilkhot Berakhot 11:16 at the end; and R. Aryeh Pomeranchik, Emek Berakha, Birkat ha-Torah, no. 1. As explained by R. Joseph B. Soloveitchik, Shiturim le-Zekher Aba Mari za’al, II, be-Inyan Tukanat Moshe, 206, this special requirement stems from a Jew’s unique relationship to Torah and a Torah guided life-style. This rationale is applicable to both birkhot limmud ha-Torah and birkhot keri’at ha-Torah. Hence, even though women are exempt from a keri’at ha-Torah obligation, should she be called to the Torah to read, she recites the benedictions. Similar suggestions have been made by R. Elijah David Rabinowitz-Teomim, Hiddushei ha-Gaon ha-Aderet, Gefen Aderet, sec. 5, no. 10; R. Elhanan Bunim Wasserman, cited by R. Abraham Dovber Kahana Shapiro, Resp. Devar Avraham, I, sec. 16, no. 1; R. Joseph Kafih, MT, Hilkhot Tefilla, 12:17, n. 49; R. Hayim Shaul Grainiman, supra n. 106, s.v. “Nireh.”

It should be noted that R. Velvel’s hiddush (novel suggestion) is more than just maintaining that birkhot ha-Torah are not birkhot ha-mitsva and, hence, are also applicable to those not obligated in keri’at ha-Torah. He argues that, because of his analysis, women are obligated to recite birkhot limmud ha-Torah in the morning, even though they are exempt from the mitsva of learning Torah. Similarly, women are obligated to recite birkhot keri’at ha-Torah should they receive an aliyya – even though they are exempt from the obligation of keri’at ha-Torah. In other words, R. Velvel’s major hiddush is that there can be an obligation to recite a berakha on a mitsva act independent of any obligation to perform that mitsva. This position is echoed by another giant of the “Brisker” school and a contemporary of R. Velvel, R. Elhanan Bunim Wasserman, ibid. By contrast, R. Abraham Dovber Kahana Shapiro, ibid., no. 27, s.v. “Aval kushta” argues that obligation in a berakha is always connected to one’s obligation in fulfilling a mitsva. Thus, R. Velvel’s position is unprecedented and, hence, many scholars find it untenable. Interestingly, we have found one other scholar, R. Joseph Babad, Minhat Hinnukh, end of commandment 430, who makes a similar suggestion. R. Babad wants to compare learning Torah to eating. Thus, one is not commanded to eat, but should he do so, he is obligated to make the appropriate benediction. However, this analogy does not respond to the criticism of the Devar Avraham: eating is not a mitsva act, while reading from the Torah is. In a conversation with DIF (April 28 and May 5, 2012), R. Nachum Rabinovitch concurred that R. Velvel’s position is highly problematic and is generally considered a shita dehuyya (a rejected position). In addition, R. Rabinovitch argued that benedictions recited before
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or after mitzva actions – like birkhot ha-Torah or birkhot ha-Haftara - are by definition birkhot ha-mitzva, irrespective of the wording of the benediction (see also above, n. 49 regarding “obligatory birkhot ha-shevah”). A position similar to that of R. Nachum Rabinovitch regarding the wording of birkhot ha-mitzva was actually stated several centuries ago by R. Joseph Barukh Kazis, cited in R. Isaac Lampronti, Pabah Yitshak (Mosad Harav Kook, Jerusalem: 5737), IV, Birkat ha-Shevah, 121-126. As a result, R. Rabinovitch posits that a woman whose birkhot keri'at ha-Torah are not obligatory cannot fulfill the obligation of men whose benedictions are.

R. Joseph B. Soloveitchik, R. Aharon Lichtenstein, and R. Elyakim Getsel Pashkes have suggested that the view that birkhot ha-Torah are not birkhot ha-mitzva may also find precedent in rishonim. Thus, R. Jacob Tam, Tosafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehuda,” comments on the uniqueness of birkhot keri’at ha-Torah and that it can be recited repeatedly, whenever one receives an aliya. See R. Joseph B. Soloveitchik, Reshimot Shuirim, n. 30b, supra, Berakhot 11b, 109-110; R. Aharon Lichtenstein cited in R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah, sec. 137, no. 4, Magen Avraham n. 8, p. 36-37 and in Shimeiri ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit, Tefillot, 121-126. As a result, R. Rabinovitch posits that a woman whose birkhot keri’at ha-Torah are not obligatory cannot fulfill the obligation of men whose benedictions are.

It is noteworthy that, although maintaining that birkhot ha-Torah are not birkhot ha-mitzva, neither R. Hayyim Soloveitchik nor his son R. Velvel ever indicated what they were. R. Joseph B. Soloveitchik, Reshimot Shuirim, ibid., at times explained his grandfather’s view as viewing birkhot ha-Torah akin to birkhot ha-shevah ve-hodaya. At other times, he suggested that his grandfather’s understanding of these berakhot as being similar to birkhot ha-nehenin (benedictions of pleasure). Other scholars, as well, have explicitly referred to the Torah reading benedictions as birkhot ha-shevah ve-hodaya; see: Maharal", Netiv Olam, Netiv ha-Torah, sec. 7; R. Jacob Joshua Falk, Penei Yehoshua, Berakhot 11b, s.v. “be-Otam devarim ve-baTsartifim"; R. Joseph Babad, Minhant Hinnukh, end of commandment 430; R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, Megilla (5772 ed.), sec. 47, no. 14; Shiltei ha-Gibborim n. 14; R. Abraham Isaac ha-Kohen Kook, Orah Mispat O.H., sec. 11; R. Joseph Kafih ibid.; R. Menasheh Klein, Mishneh Halakhot, VI, no. 13 and further elucidated in Hagagada Maggid Mishneh, 169; R. Moses Sternbuch, Resp. Teshuvot ve-Hanahagot, II, sec. 35; R. Asher Weiss, Minhah Asher, Talmud Torah: Keri’atah u-Khetivatah, sec. 6a-b; R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.), Megilla 21b, “Birkat ha-Kore ba-Torah,” no. 5, p. 340. R. Jacob Israel Kanievsky, Kehillot Taakov, Berakhot (second ed. 5750), sec. 22, compares them to both birkhot ha-shevah, but also to birkhot ha-nehenin, similar to R. J.B. Soloveitchik. See also
R. Aviad Bar-tov, “Birkhot ha-Torah,” Be’er Miriam – Hag ha-Shavu’ot (Alon Shevat: Yeshivat Har Etzion, Miskal-Yedioth Ahronoth Books and Chemed Books, 2012), 280-283. It is important to emphasize that these scholars do not claim, as did R. Velvel, that women who receive an aliyya are obligated to recite the keri’at ha-Torah blessings, only that women may recite them should they get a bona fide aliyya.

R. Joseph Leibowitz (personal communication to Aryeh A, Frimer, Nov. 5, 2011) argues that the birkhot ha-shevah school views keri’at ha-Torah as a reenactment of mattan Torah, with the benedictions “asher babar...” and “asher natan...” affirming this fact. This is consistent with the requirement of the oheh to stand based on the verse “ve-Atta poh amod immadi...” (Deut. 5:27);” see Megilla 21a and n. 190, supra. Keri’at ha-Torah as a reenactment of mattan Torah is resonant with the teachings of R. Joseph B. Soloveitchik; see: Nefesh ha-Rav, 136; mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah, sec. 141, no. 1, 47-49; Shiurei ha-Rav ha-Ga’on Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit, Tefilin u-Keri’at ha-Torah, Hilkhot Keri’at ha-Torah, sec. 141, no. 1, 182-184; R. Joseph B. Soloveitchik, Rishinot Shu-urim, n. 30b, supra, Berakhot 11b, 123-124. We close with several important comments about this birkhot ha-shevah school. Firstly, even if birkhot ha-Torah are birkhot ha-shevah, the view of the vast majority of scholars is that they cannot be recited b’torat reshut (as a voluntary act, with no onus of a berakha le-vattala), even where not halakhically appropriate or called for. We discuss this point fully in n. 194, below. We also note that R. Ovadiah Yosef, Resp. Yabia Omer, VIII, O.H., sec. 8, no. 1, citing Resp. Riva, sec. 16 maintains that Rosh specifically rejects the suggestion that women can recite birkhot keri’at ha-Torah because they are birkhot ha-shevah. R. Yosef argues forcefully that, sefardi women at least, are forbidden from reciting any benediction, be it birkat ha-mitsva or birkhat ha-shevah, in which they are not obligated. Finally, we have noted at the end of the second paragraph of this note that according to Rabbis Kazis and Rabinovitch birkhot keri’at ha-Torah are birkhot ha-mitsva irrespective of the language. What’s more, in n. 140, we cite R. Nachum Rabinovitch to the effect that the view that birkhot keri’at ha-Torah are birkhot ha-mitsva is the dominant opinion of the posekim. Finally, R. Asher Weiss argues that if birkhot ha-Torah are indeed birkhot ha-shevah and not birkhot ha-mitsva, then certainly the failure or inability to recite the birkhot keri’at ha-Torah cannot prevent or impact upon the mitsva of reading the Torah itself. See R. Asher Weiss, Minhat Asher, Talmud Torah: Keri’atot u-Khetivatot, sec. 9b. See also supra, end of n.te 140. 144. R. Judah ben Yakar, Perush ha-Tefillot ve-ha-Berakhot, Din Me’ah Berakhot, 2; Sefer Ra’avon, sec. 73; R. Joel cited by Ra’avya, II, 262; Rabbenu Yonah cited in Beit Yosef, Tur, O.H., 139, s.v. “Katav rabbenu ha-gadol,” Meiri, Megilla, 21b, s.v. “ha-Mishna ha-sheniyya,” third interpretation of the takkana of mi-shum ha-nikhnasin; Resp. Radvaz, III, sec. 425 (c.f., Resp. Radvaz, I, sec. 572); R. Isaiah ben Abraham ha-Levi Horowitz (Shelah), Haggahot Yesh Nohalin, Perek Zehirut ha-Torah, Azharot ha-Shabbat, sec. 39; Bah, Tur, O.H., sec. 140, s.v. “Yernshalmi” according to view of Maimonides; Ginnat Veradim, O.H., Kifl 2, sec. 21; R. Joseph Saul Nathanson and R. Mordechai Zev Etinge, Magen Gibborim, O.H., sec. 57, Shitei Gibborim, no. 1; R. Isaac Maltsen, Si’ah Yitzhak on Siddur ha-Gra Ishei Yisrael, HaNahgat ha-Kahal be-Er Keri’at ha-Torah (after Sabbath Shabbatit); R. Joseph ben Raphael Skovitch, Porat Yosef, Megilla 21b, s.v. “Gemara. Gezeva mi-shum; R. Aryeh Zvi Fromer, Resp. Erets Tsemi, II, sec. 9; R. Ben-Zion Lichtman, Benei Tsiyyon, II, O.H. sec. 139, no. 7, s.v. “ve-Yesh omerim.” See also discussion and references cited in R. Aaron Boaron, Birkat Aharon, I, 151-154. 145. See R. Jacob Tam, Tosafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehuda;” Tosafot, Sukka 52a, s.v. “ve-Keivan;” Meiri, Megilla, 21b, s.v. “ha-Mishna ha-sheniyya”;
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There are a few sources, however, which suggest that – even under the old system – the birkhot keri’at ha-Torah may have been the sole personal obligation of the first and last olim. See: Resp. Meshpetei Uziel, III, O.H., sec. 14, no. 2 – who is, therefore, troubled by Ran cited at the opening of this note; R. Nadav Perets, Nidvat Perets, Megilla 24a and sec. 15 suggests that this is the view of Rosh; R. Eliakim Getzel Pashkes, Itturei Megilla (5772 ed.), Megilla 21b, “be-Shitot ha-Meiri,” 341ff, maintains that this is the view of various rishonim. As noted by R. Uziel and R. Pashkes, according to this latter view, there was never a problem with a minor or a woman receiving the first or last benediction, since they were making it only for themselves.

147. That birkat ha-shevah can well be a hovat ha-yahid is specifically discussed by R. Asher Weiss who cogently argues that even if Birkhot Erusin are birkhot ha-shevah, it may still be incumbent on the groom to recite them. This would be analogous to a father’s recitation of Birkat Lehabkino at a circumcision; see R. Asher Weiss, “be-Inyan Birkat Erusin,” Shiur Moreinu ha-Rav Shlita, Kuntres Shevu’i, Parnashat Pinhas 5768, 36 (265), sec. a – reprinted in Kovets Darkei Hora’a, IX, Hilkhot Erusin ve-Nisu’in, 5768, 67-69. A similar argument is made by R. Samuel Rozovsky, “be-Din
Birkat Erusin I Havi Birkat ha-Mitsva o Birkat ha-Shevah,” Mori’ah, XXXI:1-3 (361-363) (Shevat 5761) 111-117.

148. See: R. Michel Zalman Shurkin, Harerei Kedem, II (Jerusalem, 5770), sec. 121; R. Joseph B. Soloveitchik, Shi’urei ha-Rav al Inyanei Tefilla u-Keri’at Shema, R. Menahem Dov Genack, ed. (New York: Mesorah, 2010), sec. 41, 245-246; R. Yair Kahn, Birkat ha-Torah: ha-Me’uleh She-baBerakhot,” Be’er Miriam: Hag ha-Shevu’ot, R. Yaakov Medan, ed. (Alon Shevut: Yeshivat Har Etzion, Miskal-Yedioth Books and Chemed Books, 2012), 271 at 276-278. The implication of this view is that, while there is no personal obligation to come to shul to hear the keri’a, nonetheless, if one does come to shul, he needs to listen and be yotsei the berakha. This is somewhat similar to the “Hybrid” School (see n. 111c above). But while the Hybrid School focuses on the keri’a itself, the Rambam and Meiri focus on the berakhot. Cf., however, R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.), Megilla 21b, “ha-Shomin et Keri’at ha-Torah I Mehayvei bi-Berakha,” no. 1, sec. 3, 345, who argues that Meiri too agrees that only the oleh – and not the community – is obligated in the berakhot.

149. See R. Solomon ben Abraham Adret (Rashba), Resp. Rashba – ha-Hadashot mi-Ketav Yad (Jerusalem: Makhon Yerushalayim, 5765), sec. 14. In the cited responsum, Rashba maintains that, while the oleh is generally the one who recites the benedictions, there is no necessary linkage between the reading from the Torah and the recitation of the berakhot; any congregant may in fact recite them. (This approach seemingly contradicts Rashba’s own expressed opinion in his novella, Hiddushei ha-Rashba, Berakhot 11a, s.v. “Hishkim,” that the Birkot Keri’at ha-Torah are the personal obligation of the one who actually reads from the Torah.) R. Zvi Rabinowitz, Nezer ha-Torah, 5:2 (11) (Nissan 5765), 215-223 attributes a similar position to Tosafot, Hullin 87a, s.v. “ve-Hiyyevo” and to Rosh, ad loc. sec. 8., who maintain that the keri’at ha-Torah benedictions belong to all the congregants equally. R. Rabinowitz’s interpretation is by no means compelling, though, and other interpretations of the position of Tosafot and Rosh are certainly possible.

150. See the second answer of R. Jacob Tam, Tosafot, Rosh ha-Shana 33a, s.v. “Ha Rabbi Yehuda” (end) – also cited by Or Zaru’a, II, Hilkhot Rosh ha-Shana, sec. 266; Rosh to Kiddushin, ch. 1, sec. 49; R. David ben Samuel ha-Kokhavi, Sefer ha-Battim, Beit Tefilla, Sha’arei Keri’at ha-Torah, Sha’ar 2, no. 6; Perisha, Tur, O.H., sec. 282, no. 3. Regarding the view of Meiri, see below n. 152.

151. It should be obvious that there is no obligation of hinnukh on minor females in this regard. Firstly, a parent has no obligation of hinnukh on mitsvot that will not be obligatory when the child becomes an adult. Hence, a parent need not train his daughter in mitsvot aseh she-haZeman gramman. See R. Yehoshua Neuwirth, The Halachoth of Educating Children, Jerusalem: Feldheim, 1999) Dinim Kelaliyyim, parag. 2, p. 2; R. Barukh Rakovsky, ha-Katan ve-Hilkhotav, I, ch. 2, no. 7. This is all the more true here, since according to this school, reciting non-obligatory benedictions is something that is forbidden to them as majors. Allowing them to recite benedictions would be miseducation, which is clearly forbidden.

152. Meiri, Megilla 23a, s.v. “ha-Kol Olin” indicates that women cannot receive aliyot under the present system because they are not obligated in keri’at ha-Torah. His view is cited approvingly in R. Hayyim Yosef David Azulai (Hida), Birkei Yosef, O.H., sec. 282, no. 7; R. Hayyim David ha-Levi, Mayim Hayyim, III, sec. 5. Since elsewhere in his writings (see n. 126 supra), Meiri consistently refrains from taking sides on the Rambam-Rabbenu Tam (Ashkenazi-Sefaradi) dispute regarding non-obligatory birkhot ha-mitsva, it would seem unlikely that he should be doing so here. R. Chaim Isaac Bloch argues that Meiri is being consistent with a view he cites in his
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commentary to Megilla 21b (n. 144, supra) that the oleh recites the benedictions for all present. Since women are not obligated in the birkhot keri'at ha-Torah, they cannot recite them for others who are. See the discussion of R. Chaim Isaac ha-Kohen Bloch, Divrei Hibba (New York: Moinester Publishing Co., 1937) on Ritva, Megilla, 21b, 119, n. 1 – available online at www.hebrewbooks.org/pdf/ritvamegilla.pdf. This interpretation is not without its problems, however. For according to this understanding, there should be no difference between women and minors; yet the Meiri in the next sentence indicates that minors can recite the benediction because of hinnukh. Thus, it would seem that the issue at hand is berakha le-vattala (improperly recited blessing). R. Shai Piron, Keri'at Nashim ba-Torah, available online at http://www.kipa.co.il/ask/show/27015, suggests that since women do not count for the minyan of keri'at ha-Torah, they certainly cannot recite Barekhnu. Our comments in the next paragraph of the text are applicable here as well.

At the end of n. 140, supra, we indicated that there is some debate as to whether or not the failure or inability to recite the birkhot ha-Torah prevents fulfillment of the mitsva of keri'at ha-Torah. According to those posekim that argue that it does, the position of R. Menahem ha-Meiri, R. Hayyim Joseph David Azulai (Hida) and R. Hayyim David ha-Levi just cited would lead to an important conclusion. If women were to recite birkhot ha-Torah be-tsibbur, not only is the benediction in vain (a berakha le-vattala), but there may not even be a fulfillment of the mitsva of keri'at ha-Torah. Thus, the congregation as a whole would not fulfill its communal obligation of keri'at ha-Torah.

153. See, for example, R. Jacob Tam, Tosafot, Rosh ha-Shana 33a, s.v. “Ha” (first answer); Hiddushei ha-Rashba, Rosh ha-Shana 33a (Mossad ha-Rav Kook ed.), s.v. “Matnitin” (second answer); R. Nissim (Ran) to Rif regarding Megilla 23a.

154. Sec: R. Joseph Caro, Beit Tosef on Tur, O.H., sec. 282, s.v. “ba-Kol,” citing R. Nissim supra n. 153 and Shulhan Arukh, O.H., sec. 282, no. 3; R. Moses Isserlis, Mapa, O.H. sec. 282, no. 3. R. Joseph Kafih, MT, Hilkhot Tefilla, 12:17, n. 49 argues that both Maimonides and R. Manoah concur that when minors and women (kevod ha-Tsibbur aside) receive aliyyot, they may then also recite the attendant blessings.


156. Vide supra, sec. Va. This argument is used by R. Jacob Tam, supra, n. 150, to explain why minors and women may recite birkhot keri'at ha-Torah. The responsa of R. Tam is cited by Tosafot Rabbenu Yehuda Siron (incorrectly called in some editions Tosafot R. Yehuda ha-Hasid), Berakhot 47b, s.v. “de-Amar Rabbi,” Or Zarua, I, Hilbot Se'uda, sec. 196, end of s.v. “Matnitin.” See also R. Manoah of Narbonne, Sefer ha-Menuha, Hilkot Tefilla and Birkat Kohanim, 12:7.

2, 135. See also R. Gerson Rizi, *Aliba de-Hilkheta*, supra, n. 103, pp. 19-20. While this approach is intriguing, it is clearly a very small minority opinion.

Rabbis Teichtal and Auerbach maintain that should an Israeli, sojourning in the diaspora, be called upon to receive an *aliyya* on *Yom Tov Sheni shel Galuyot*, he may do so although for him it is a weekday and he is not obligated in *keri'at ha-Torah*. This is because the benedictions were established *mi-shum kevod ha-tsibbur*. Hence, they are not for the individual but for the community as a whole and, hence, anyone in the community can recite them, even those not obligated. We should emphasize that, while R. Teichtal permits receiving the *aliyya le-khathila*, R. Auerbach would only rely on this argument be-diAvad, i.e., after the Israeli has been publicly called to the Torah. However, the Israeli is required to do his utmost to dissuade the *gabbai* from calling upon him in the first place (R. Avigdor Nebenzahl, conversation with the authors, Dec. 6, 2011). R. Moses Aaron Slushetz, *supra*, n. 113, ch. 1, sec. 12, agrees that the benediction belongs to the whole community, but they must be recited by one who is involved in the active reading rather than the passive listening; this limits it to the *oleh* or *ba'al keri'ah*. Interestingly, R. Moses Feinstein is cited by his grandson, R. Mordechai Tendler, *Sefer Mesorat Moshe* (Jerusalem, 5773) O.H., no. 348, p. 163, n. 282, as permitting an Israeli to receive an *aliyya* on *Simhat Torah*, but not on any other *Yom Tov Sheni shel Galuyot*.

We note in this regard that already the *Perisha*, O.H., sec. 282, no. 3, cites *kevod ha-Torah* as the rationale behind the *keri'at ha-Torah* benedictions. R. Rabinowitz-Teomim, *supra* n. 139, and R. Menashe Klein, *Resp. Mishneh Halakhot* supra nn. 138 and 139, also formulate the rationale behind the *keri'at ha-Torah* benedictions being *kevod ha-tsibbur* (Rabbis Rabinowitz-Teomim and Klein) or *kevod ha-Torah* (R. Klein), and unrelated to private Torah study. By doing so, they explain why women and minors may recite these blessings as well, despite their general exemption from Torah study. They in no way suggest, however, that anyone other than the *oleh* is obligated in the *berakhot*.
Schevu‘i, Parashat Hayyei Sara, 5773, XI, 6 (420), sec. b. These sources concur that the one who does the mitzva action recites the benediction. Interestingly, both R. Shlomo Zalman Auerbach and R. Joseph Shalom Elyashiv concur that the one who does the mitzva action recites the benediction, they also maintain that if the principal also does a little bit of the mitsva action, he too can recite the berakha. Thus a homeowner may recite the benediction for bedikat hamets if he starts the checking, even though the bulk of the bedika is done by someone else.

We note that this question assumes, as do the overwhelming majority of posekim, that the birkhot keri‘at ha-Torah are a personal obligation of the oleh. But according to the small minority of posekim who posit that the Torah reading benedictions is a purely communal obligation that rest on the entire assemblage, anyone can recite them. See the discussion above in sec. Vc and the references cited therein.


We note en passant that R. Nissim, to Rif, Rosh ha-Shana 28b (7b in pages of Rif), s.v. “Aval” at very end, suggests that shome’a ke-oneh itself is because of shelihut. Many arahonim also maintain this view. See, inter alia: Bah to Tur O.H., sec. 434 (end); R. Joseph Teomim, Pri Megadim, General Introduction, part 3, no. 28; R. Solomon Kluger, Hokhmat Shlomo, O.H., sec. 675; R. Meir Leibush Malbim, Erets ha-Hayyim, sec. 8, Erets Yehuda, no. 8; R. Aryeh Zvi Fromer, Si‘ah ha-Sadeh, Sha‘ar Birkat ha-Shem, sec. 4. Cf. R. Michael Menahem Shiloni, Shome’a u-Mashmi’a, sec. 1. As for our analogy to Mila, see; Shulhan Arukh, Y.D., sec. 265, no. 8.

164. R. Jehiel Jacob Weinberg, R. Joseph B. Soloveitchik, R. Yair Kahn, and Resp. Tsitits Eliezer all supra n. 163; R. Aaron Lewin, Birkat Aharon, Berakhot, ch. 1, sec. 53.

165. See discussion above at n. 30.

166. See: R. Gedalia Nadel, Hiddushei R. Gedalia, Berakhot sec. 2 (beginning). Similarly, R. Shlomo Zalman Auerbach notes that only those who are inherently obligated and bear arevu‘ can serve as shelihim to fulfill an obligation or recite a benediction for someone else; see: R. Shlomo Zalman Auerbach, Resp. Minhat Shlomo, II,
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167. See discussion in text at n. 50. Regarding females and minors as ba’alei keri’ah, see discussion in text at n. 181, infra. That arevut generates the necessary obligation by the ba’al keri’ah so that he can assist the oleh has been confirmed by R. Nachum Rabinovitch (discussion with Dov I. Frimer, February 2007).

168. R. Saadya Gaon, Siddur Rav Saadya Gaon, Keri’at ha-Torah, s.v. “ve-In korim;” Rosh, Megilla, ch. 3, no. 1; Meiri, Megilla 24a, s.v. “Suma;” Resp. ha-Rosh, part 3, sec. 12; Shibolet ha-Leket, Hilkhot Tefilla, secs. 35 and 36; Tur, O.H. sec. 141; R. David Abudarham, Sefer Abudarham ha-Shalem, Dinei Keri’at ha-Torah, 131; Resp. Rivash, sec. 204; R. Joshua Boaz Barukh, Shiltei Gibborim on Rif, Megilla 21b and 24b. Presumably, this is also the opinion of Rema cited Maharil only because he was the source of the prevalent custom to give the blind and illiterate that Rema considers a dissension might well result if Rema to insist upon his opinion to totally the aleph reads along quietly. See also Yehaveh Da’at, IV, sec. 11. See also, R. Isaac ben Hayyim of Oppenheim, Teshuvot Mahararam me-Rotenburg ve-Haverav, ed. Simcha Emanuel (Jerusalem, 2012), II, sec. 382, no. 8. R. Oppenheim prohibits a blind person from being called to the Torah, though it is not clear whether a ba’al keri’ah is present.

169. R. Joseph Caro, Shulhan Arukh, O.H., sec. 139, nos. 2 and 3, and sec. 141, no 2; R. Moses Isserlis (Rema), Darkei Moshe, Tur, O.H., sec. 135, no. 4 and sec. 141, no 1; R. Dov Ber David Reifman, Shulhan ha-Keri’a, sec. 8, no. 3; R. Jacob Shalom Sofer, Torat Hayyim, O.H., sec. 139, no. 2 and sec. 141, no. 2; Hayyei Adam, sec. 31, no. 5; R. Israel Meir ha-Kohen, Sha’ar ha-Tsiyyun, O.H., sec. 139, no. 6 and Be’ur Halakha, O.H., sec. 141, s.v. “le-Vattala;” Arukh ha-Shulhan, O.H., sec. 139, no. 3, and sec. 141, no 5; Kaf ha-Hayyim, sec. 141, no 16; R. Abraham Hayyim Naeh, Ketosot ha-Shulhan, sec. 25, no. 9; R. Ovadia Yosef, Halikhhot Olam, III, Hilkhot Tefilla u-Keri’at ha-Torah, Parashat Toledot, sec. 15, 129-132; R. Ovadia Yosef, Resp. Yehaveh Da’at, IV, sec. 11; Resp. Yabbia Omer, IV, O.H., sec. 4, no. 23; Resp. Yabbia Omer, IX, O.H., sec. 27, no. 2 and sec. 83, no. 7; Resp. Yabbia Omer, X, O.H., sec. 55, part 2, no. 6; R. Ovadia Yosef, Mishnat Yosef, I, Shiiurei Maran ha-Rishon le-Zion 5760, Parashat Hayyei Sarah, Hilkhot Keri’at Sefer Torah be-Shabbat, no. 6, p. 25; R. Ovadia Yosef, Mishnat Yosef, III, Shiiurei Maran ha-Rishon le-Tsiyyun 5762, Parashat va-Yetsar, Hilkhot Keri’at Sefer Torah be-Shabbat, no. 7, 55; Yalkut Yosef, II, sec. 141, no. 20, 114-116; R. David Yosef, Halakka Berura, VII, sec. 139, nos. 2 and 3, and sec. 141, no. 2, and Otserot Yosef, sec. 3; R. Naftali Hofner, Sefer Halakka – Dinei Keri’at ha-Torah, sec. 7, no. 4; Isher Yisrael, sec. 38, no. 18, n. 50*. For additional sources and discussion, see R. Benjamin Solomon Hamburger, supra, n. 17, 707-712. See also below n. 175 for a discussion of the rationale behind this ruling. Similarly, in Yemenite communities where each oleh reads for himself, one who is blind cannot be called for an aliyya; see: R. Aaron Kaffah, Minhat Aharon (Jerusalem, 5767), 242-260.

170. Rema in his gloss to Shulhan Arukh, O.H., sec. 139, no 3. This lenient ruling is surprising, since it runs contrary to his expressed opinion in Darkei Moshe, supra, n. 169 and his acquiescence to Shulhan Arukh’s ruling in O.H. sec. 141, no 2 requiring the oleh to read along with the reader. R. Israel Meir haKohen, supra, n. 169, suggests that Rema cites Maharil only because he was the source of the prevalent custom to give the blind and illiterate aliyyot. Were Rema to insist upon his opinion to totally disallow these individuals from being called to the Torah, dissension might well result which Rema considered a she’at ha-dehak situation. Most modern authors accept this
approach to understanding Rema; see inter alia: R. Shalom Hadaya, Resp. u-Devar Shalom, sec. 6, no. 2; Resp. Tabbia Omer, IX, O.H., sec. 83, no. 7; R. Naftali Hofner, Sefer Halakha – Dinei Keri’at ha-Torah, sec. 27, no. 4; Ishei Yisrael, sec. 38, no. 18, n. 50*; R. Isaac Jacob Fuchs, Tefilla ke-Hilkhata, sec. 16, no. 31, n. 70.

Interestingly, R. Mordechai Carmi, Ma’amar Mordekhai, O.H., sec. 139, no. 2, challenges Rema’s authorship of this passage. He notes that in the discussion of Rema’s student, R. Mordechai Yaffe, Levush Tekhelet, O.H., sec. 141, no. 3, on giving a blind or illiterate individual an aliyya, there is no mention of Rema’s lenient ruling. Indeed, the new Makhon Yerushalayim edition of the Shulhan Arukh (Jerusalem, 5754) on O.H., sec. 139, no. 3, n. 18, indicates that this gloss was actually penned by R. Moses ben Naphtali Hirsch Rivkes, the author of Be’er ha-Golah. In addition to the Introduction to Part 1 of the Mekhon Yerushalayim edition, the editors cite manuscripts in which this gloss of Rema is absent. See also R. Akiva Meller, ha-Keri’at ha-Torah ve-Hilkhoteha (Jerusalem, 5769), ch. 48, n. 2.


Many scholars note that the simple understanding of the Zohar, va-Yakkel (Zitomer edition), 202a and 206a, is that only the ba’al keri’ah reads, while the oleh should be silent. For additional sources and discussion, see: R. Benjamin Solomon Hamburger, supra, n. 17, 703-707.

172. R. Soloveitchik notes that while we advise olim le-khattehila to read along quietly following Rosh, in practice, we rule like Maharil. See R. Yair Kahn, “Shome’a ke-Oneh bi-Keri’at ha-Torah” (unpublished summary of taped shi’urim by R. Joseph B. Soloveitchik), sec. 4, s.v. “Halakha le-ma’aseh”; R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah, sec. 139, no. 3, 51 (based on the notes of R. Zvi Schachter); R. Joseph B. Soloveitchik, Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zt”l al Inyanei Tisit, Tefilin u-Keri’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilkhhot Keri’at ha-Torah, sec. 139, no. 3, p. 187. This was confirmed as well by R. Aharon Lichtenstein (April 13, 2012) in a conversation with R. Dov. I. Frimer and R. M. Zev Frimer. Thus, it is a widespread custom, both amongst Ashkenazim and Sephardim to call to the Torah the blind, untrained, and illiterate, who clearly cannot or will not read along from the scroll.

In addition, R. Soloveitchik (cited by R. Yair Kahn, *ibid.*) and R. Benjamin Solomon Hamburger, *supra* n. 17 (at 712), both note that if one is called to the Torah while he is in the midst of *birkhot keri’at shema*, the halakhic consensus is to accept the *aliyya* and recite the blessings, but not to read along with the *ba’al keri’ah*, again relying on Maharil; on *O.H.*, sec. 66, parag. 4, sec: *Levush*, *Keneset ha-Gedola*; *Magen Avraham*, no. 8; *Be’er Heitev*, no. 10; *Mishna Berura*, no. 26; Arukh ha-Shulhan, no. 9. See also: R. Yom Tov Lipmann-Heller, *Divrei Hamudot*, *Berakhot*, ch. 2, no. 23; Shavu’ei Efrayim, *Shav’ar* 1, sec. 3; R. Hayyim Palagi, *Kaf ha-Hayyim*, sec. 18, no. 11; *Kaf ha-Hayyim*, *O.H.*, sec. 51, no. 26. Finally, R. Moshe Soloveitchik ruled that for *Parashat Zakhor*, the *oleh* should not read along with the *ba’al keri’ah* as required by Rosh. Rather, he should fulfill his obligations according to Maharil with the reading of the reader via *shome’a ke-oneh* along with the rest of the community; see: R. Michel Zalman Shurkin, *Harei Kedem – be-Inyanei ha-Moadim*, I, sec. 185, no. 2 (5760 ed.) and sec. 208, no. 2 (expanded 5769 ed.). See also the discussion of R. Azriel Auerbach, *Kovets Halakhot mi-Maran ha-Grish Elyashiv*, *O.H.*, no. 294 and n. 386, in *Sefer mi-Nashim ba-OHEL* (Jerusalem, 5773), 195.

TRADITION

vbm/archive/2-halak/betzibur.rtf (the word missing in the middle of the last line is “suma”) or http://www.etzion.org.il/dk/1to899/054daf.htm#fnB0; R. Shabtai Rappoport, personal communication (March 21, 2012). We note in passing the very novel approach of R. Moses Aaron Sluschetz, supra n. 113, ch. 1, sec. 11ff., who invokes bifurcation of a very different kind; its explication, however, is beyond the scope of this paper.

174. R. Joseph B. Soloveitchik has suggested that according to the view of Maharil, the oleh could theoretically recite the Torah benedictions from his seat in the synagogue. Nevertheless, he rises to the central bima where the Torah is read out of honor to the Torah (kevod ha-Torah). See R. Joseph B. Soloveitchik, supra n. 113, ch. 1, sec. 11ff., who invokes bifurcation of a very different kind; its explication, however, is beyond the scope of this paper.

175. The school of Rabbenu Asher (Rosh) does not deny the general effectiveness of shelihut or shome’a ke-oneh. However, they maintain that these mechanisms cannot be invoked with regard to this first task of the oleh – to read the selected Torah portion from the Torah scroll. Several rationales have been proposed for this:

(a) The function of reading from the Torah scroll rests solely on the shoulders of the oleh; that is why he alone rises from among the other members of the community to stand in front of the Torah, and why he alone is empowered to recite the benedictions. All other congregants present, including the ba’al keri’at ha-Torah, are only obligated to hear the Torah read. Hence, the ba’al keri’ah who is only obligated to hear cannot be metsi the oleh with his basic defining first task of reading himself from the Torah scroll. As far as the second subtask of reading aloud, that can be done by the ba’al keri’ah for the oleh. Sec: R. Jacob Shor, Ittim le-Bina on Sefer ha-Ittim, sec. 178, no. 80; Be’ur Halakha, O.H., sec. 141, s.v. “le-Vattala,” Resp. Tabbia Omer, IX, O.H., sec. 83, no. 7; R. Moses Sternbuch, Mo’adim u-Zemanim, VII, sec. 125; R. David Yosef, Halakha Berura, VII, sec. 141, no. 2, Birur Halakha no. 6, p. 205; R. Eliakim Getzel Pashkes, Itturei Megilla (5772 ed.), Megilla 21b, “be-Plugtat ha-Rishonim,” sec. 1.3, 351; R. Ovadia Yavets, Resp. Darkhei Noam, secs 51 and 53.

(b) In a slight variation of the above, the second rationale takes a more formalistic approach. Although shome’a ke-oneh is normally operative, in the case of keri’at ha-Torah, the original ordinance required the oleh himself to read. This has not changed with the institution of a ba’al keri’ah. Sec: R. Elijah ben Benjamin ha-Levi, Resp. Zekan Aharon, sec. 60; R. Judah Ayash, Matheh Tehuda (Gloss to Shulhan Arukh), I, sec. 141, no. 5; R. Hayyim Joseph David Azulai (Hida), Mahazik Berakha, O.H. sec. 47, no. 4; R. Jacob Emden, Resp. Ta’avets, I, sec. 75; R. Israel Grosman, Orah Yisrael, sec. 10, no. 6; R. Ovadia Yosef, Hazon Ovadya, Hilhok Shabbat, part 2, Din ha-Oleh le-Sefer Torah, sec. 1, 258; R. Phineas Zevikhi, Resp. Atteret Paz, I, sec. 1, O.H., sec. 14, comment 9, s.v. “Ibra she-Yesh;” R. Reuben Amar, Minhagei ha-Hida, O.H. part 2, sec. 49, Minhagai Megilla u-Purim, no. 5, Ro’eh Yisrael, no. 5, 224.

(c) One can assist his fellow to fulfill his obligations of shofar, lulav, and megilla, because these are personal obligations and the principles of arevut apply. Regarding Torah reading, however, there is no personal obligation – only a communal one. As such, the mechanism of arevut is unavailable and, hence, the oleh must read from the Torah himself. See: R. Judah Leib Hanneles (Maharlah), cited in R. Michael Simon and Joseph Maya, Hiddushei Hagahot, Tur 141; R. Jacob Hayyim Sofer, Torat Hayyim, O.H. sec. 139, no. 3, R. Isaac Yosef, Yalkut Yosef, II, sec. 135, Keri’at Sefer Torah Hovat Tsibbur, no. 7, n. 9; Hazon Ovadya, Hilhok Shabbat, part 2, Din ha-Oleh le-Sefer Torah, sec. 1, 258.
(d) A rationale relevant particularly to the blind (summa) maintains that the olib must read from the Torah. This is because it is forbidden to read even one letter of the Torah not from the parchment itself; see R. Joseph Caro, Tur O.H. 141 s.v. “n-Ma she-katar.”

(e) As mentioned above (discussion at n. 162), the halakhic consensus is that the one doing the mitsva action is the one who should recite the benediction. For example, in the cases of circumcising, tithing, produce, and bedikat hamets – three mitsvoi that can be done via a shaliach - the de facto mobel, tither, and bodek recite the relevant birkhot ha-mitsva. By keri'at ha-Torah, it is the task of the olib to read the portion. If the olib doesn’t do so personally, then the ba’al keri’ah alone will be doing the mitsva act; hence, it is the ba’al keri’ah who should be reciting the berakhot, not the olib. In cases where all are fulfilling the mitsva simultaneously together, anyone present can recite the benediction. Thus, while it is normative for the toke’a to recite the shofar benediction, nevertheless, since the obligation is in fact to hear, any one of the listeners can recite the benediction (Magen Avraham, O.H., sec. 585, no. 3). Similarly, by Megilla reading, while it is normative for the ba’al keri’ah to recite the benedictions, any congregant present can (Rema, O.H., sec. 692, no. 1). This is because, all are personally obligated to read the megilla, and all are simultaneously doing the mitsva action via shome’a ke-oneh. See R. Elijah ben Benjamin ha-Levi, Resp. Zekan Aharon, sec. 60; R. Hayyim Joseph David Azulai (Hida), Mahazik Berakha, O.H. sec. 47, no. 4, sec. 689, no. 4 and sec. 692, no. 1; Be’ur Halakha, supra, n. 175a; Resp. Seridei Esb, II, sec. 62; R. Shlomo Zalman Auerbach, Resp. Minhat Shlomo, sec. 56, no. 1 in Oserot Shlomo 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons’ 5760 edition; R. Shlomo Zalman Auerbach, “be-Inyan Berakha be-Kityuy Mitsuva al Yedei Shalish,” Kovets Lev Aryeh le-Zikhron R. Aryeh Lifschitz (Kollel Tiferet Yirmiyahu, Makhon Torani Lev Aryeh, Bayit va-Gan, Jerusalem) 44–46; R. Reuben Amar, Minhagei ba-Hida, O.H. II, Minhagei Megilla u-Purim, no. 5, Ro’eh Tisrael, 224. See also the comments of R. Aaron Zelig and R. Aaron Eisenbach to Resp. Rashba – ba-Hadassot mi-Ketav Yad (Jerusalem: Makhon Yerushalayim, 5765), sec. 14, n. 3. Consequently, in order to allow the olib to recite the berakhot on the Torah reading, he must actively take part by actually reading from the Torah scroll, even if only quietly. For further discussion, see infra, n. 207. See also R. Hayyim Moshe Aaron Slushetz, “Heisor le-Hanahagat ba-Gra be-Keri’at Zakhor,” supra, n. 157.

176. The following scholars completely prohibit a minor (and a woman, who is similarly not obligated) from reading for others: R. Israel ben Hayyim Bruna, Resp. Mahari Bruna, sec. 200; R. Meir Melamed, Resp. Mishpat Tzadek, III, sec. 43; R. Samuel ben Joseph of Cracow, Olat Tamid/Olat Shabbat, O.H., sec. 282, no. 3; Magen Avraham, O.H., sec. 282, no. 6; R. Judah Ashkenazi of Tiktin and R. Aaron Zeleznick to Resp. Rashba – ba-Hadassot mi-Ketav Yad (Jerusalem: Makhon Yerushalayim, 5765), sec. 14, n. 3. Consequently, in order to allow the olib to recite the berakhot on the Torah reading, he must actively take part by actually reading from the Torah scroll, even if only quietly. See also R. Hayyim Joseph David Azulai (Hida), le-David Emet, sec. 5, no. 27; Shulhan Arukh ha-Rav, O.H., sec. 282, no. 5; R. Abraham Danzig, Hayyei Adam, klat 31, no. 39; R. Yeshua Shabadu yedia Zayin, Resp. Perah Shoshan, O.H., klat A, sec. 8; R. Isaac Tayeb, Erekh ha-Shulhan, O.H., sec. 139, s.v. “Din bet” and O.H., sec. 282, no. 4; R. Israel Lipschutz, Tiferet Yisrael to Mishna Megilla 4:6, no. 45; R. Yihya ben Joseph Tsalach (Maharits), Resp. Pe’ulat ha-Tsaddik, II, sec. 63; R. Ephraim Zalman Margoiliot, Sha’arei Efrayim, sec. 3, no. 7; R. Jehiel Michel Epstein, Arukh ha-Shulhan, O.H., sec. 282, no. 9; R. Jacob Hayyim Sofer, Kaf ha-Hayyim, O.H., sec. 282, no. 2, n. 23 (as the view of the majority of codifiers); R. Abraham Hayyim Nâ’eh, Ketzot ha-Shulhan, III, sec. 84, no. 9; R. Joseph Elijah Henkin, Edut le-Yisrael, “be-Inyan Keri’at ha-Torah,” sec. 67, p. 164; R. Ovadia Hadaya, Resp. Yaskil Avdi, VII, O.H., sec. 5 and VIII, O.H., sec. 36; R. Matsli’ah Mazuz, Resp. Ish Matsli’ah, I, O.H., sec.
10 (as the view of the majority of codifiers); R. Isaac Nissim (as the view of the majority of codifiers) cited in R. Solomon Yaloz, Resp. Asher le-Shlomo, I, O.H., sec. 3; R. Joseph Zecharia Stern, Resp. Zekher Tehosef, sec. 100; Resp. Iggerot Moshe, O.H., II, sec. 72 (permits only in cases of extreme suffering); R. Moses Feinstein cited by his grandson, R. Mordechai Tendler, Sefer Mesorat Moshe (Jerusalem, 5773) O.H., no. 420, p. 194-5, n. 334; R. Jacob Kaminetsky, Emet le-Yaakov, O.H., sec. 282, no. 5; R. Abraham Judah Farbstein, Knesset Avraham, I, sec. 15, no. 2, subsec. 4; R. Shlomo Zalman Auerbach, Halikhot Shlomo, I, Tefilla, ch. 12, Devar Halakha, no. 11 at end; R. Shlomo Zalman Auerbach cited in R. Yerahmiel David Fried, Yom Tov Sheni ke-Hilkhatbo (1988 ed.), addendum to ch. 9, n. 31-4, p. 346; R. Shraga Feivish Schneebaig, Resp. Shraga ba-Meir, III, sec. 65, no. 3; R. Shlomo Goren, Meshiv Milhamam, II (ha-Idra Rabba: Jerusalem, 5744), gate 7, sec. 107; R. Solomon Yaloz, Resp. Asher li-Shlomo, I, O.H., sec. 3; R. Mordechai Eliyahu cited in R. Shlomo Moshe Amar, Resp. Sheima Shlomo, IV, sec. 5; R. Saul Bruice, supra, n. 173; R. Elyakim Getssel Pashkes, Itturei Megilla (5772 ed.), Megilla 24a, “Be‘ur be-Divrei ha-Magen Avraham,” 405. Also to be included are those posekim who prohibit a minor or woman to read even for themselves; see references cited infra, n. 199, second paragraph. R. Shlomo Zalman Auerbach similarly forbids an Israeli to serve as ba‘al keri‘ah for a diaspora community on Yom Tov Sheni, since he bears no keri‘at ha-Torah obligation; see Tom Tov Sheni ke-Hilkhatbo (1988 ed.), addendum to ch. 9, n. 31*, p. 345 and in 1998 ed. ch. 9, n.e 38.

177. The following posekim prohibit a minor to serve as a Torah reader, unless it is a she‘at ha-dehak, e.g., when there is no one else available to read and the Torah reading will be cancelled as a result: R. Jacob of Lisa, Derekh ha-Hayyim, sec. 75, no. 2; R. Jacob Emden, Siddur Beit Yaakov, Musakha ha-Shabbat, Halikhot Keri‘at ha-Torah, Miyan‘an ha-Olim le-Sefer Torah, sec. 7; R. Hayyim Joseph David Azulai (Hida), Birkei Yosef, O.H., 1976, no. 282, sec. 28, Mishna Berura, O.H., sec. 282, no. 13 and Sha‘ar ha-Tsiyyun no. 16; R. Tuvia Yehuda Tavyumi (Gutentag), Resp. Erets Tova, sec. 3, no. 6; Yeharvev Da‘at, V, sec. 25 (see also the discussion at the end of n. 181, infra); Hazon Ovadya, Hilikhot Shabbat, part 2, Hilikhot Keri‘at ha-Torah, sec. 9, n. 9; R. Ovadia Yosef, Liyyut Hen, sec. 282, no. 19; R. Isaac Yosef, Yalkut Yosef, II, sec. 135, Seder ha-Olim le-Sefer Torah, sec. 33, and IV, Hilikhot Shabbat, part 1, sec. 282, Dinei Keri‘at ha-Torah be-Shabbat, n. 15; R. Isaac Yosef, Yalkut Yosef, Dinei Hinnukh Katan u-Bar Mitzva, Dinei Keri‘at ha-Torah, no. a and b, 43; R. Gedalia Felder, Yesodei Yeshurun, IV, Ma‘arekhet Keri‘at ha-Torah, sec. 104-105; R. Gedalia Felder, Pri Yeshurun on Tanya Rabbati, I, 260; R. Efraim Grunblat, Riverot Efrayim, VI, sec. 63, no. 1; R. Joseph B. Soloveitchik, as cited by R. Zvi (Hershel) Schachter, “mi-Peninei ha-Rav: Kuntres be-Inyanei Pesak Halakha,” Be‘ur Yitshak, 38 (5766), 21-28, at 22; R. Joseph B. Soloveitchik cited by R. Zvi Schachter, “Divrei ha-Rav (Jerusalem: Mesorah, 5770/2010), 234; R. Moses Malka, Resp. Mikveh Mayyim, VI, O.H., sec. 11 (see, however, III, O.H., sec. 26); R. Joseph Shalom Elyashiv, cited in R. Joseph Yekutiel Efrati, Resp. Yissa Yosef, O.H. II, sec. 76; R. Shlomo Moshe Amar, Resp. Sheima Shlomo, IV, sec. 5; R. Abraham Joshua Pfoifer, Ishrei Tisrael, sec. 38, no. 14; R. Baruch Rakovsky, ha-Katan ve-Hilkhatov, I, ch. 12, no. 2.

(b) In this first group, we should also include several additional scholars who concur with the fundamental premise of these posekim, though they disagree with their understanding of Magen Avraham's ruling. See: R. David Ortinberg, Teshilla le-David, O.H., sec. 282, no. 8; Sha'ar ha-Tsiyyun, O.H., sec. 282, no. 16; Resp. Mishpetei Uziel, supra, n. 4; Resp. Asher le-Slimo, supra, n. 176; Resp. Kisrat Hana David supra, n. 178a; R. Yom Tov ha-Levi Schwartz, Resp. Ma'aneh ha-Laggerot, sec. 69. These scholars maintain that the fundamental reason for Magen Avraham's stringent ruling is that having a minor or woman as ba'al keri'ah for all of the aliyyot is equivalent to having all of the olim being those not fully obligated in keri'at ha-Torah. [Indeed, Resp. Ginnat Veradim, supra n. 144, Resp. Perah Shoshan and Resp. Taskil Avdi, both supra n. 176, cite this reason for prohibiting a minor as a ba'al keri'ah, although they do so in addition to the lack of obligation argument.] Having minors read the entire portion is explicitly forbidden by Rema O.H., sec. 282, no. 3, based on the rulings of Ran on Rif, n. 84, supra, and Rivash, n. 6, supra. Mishna Berura, O.H., sec. 282, no. 3, n. 14 citing Ran on Rif, supra n. 117, indicates that Ran actually ruled against even having women and minors as the majority of the olim. As a result of this analysis, Resp. Asher le-Slimo and Resp. Kisrat Hana David suggest that if a major is the ba'al keri'ah for some of the aliyyot (a majority according to Mishna Berura just cited), then there is no problem for the minor to read for the rest. This, however, is contrary to the overwhelming consensus of the posekim cited above, nn. 176 and 177.

(c) Several reasons have been suggested for Rema's ruling forbidding a situation where all (or a majority, according to Mishna Berura, ibid.) of the olim are those not fully obligated in keri'at ha-Torah: (i) It is a shame to the Torah if it is removed for a reading involving only (or mostly) those not obligated; see R. Mordechai Yaffe, Leshuv ha-Hur, O.H., sec. 282, no. 3; Resp. Perah Shoshan, supra n. 176; see, however, the critique of Eliya Rabba, ad loc., no. 7. (ii) It causes shame to Heaven; see Resp. Ginnat Veradim, supra n. 144; Resp. Perah Shoshan, supra n. 176; Resp. Taskil Avdi, supra n. 176; Resp. Mishpetei Uziel, supra, n. 4. (iii) It causes shame to the congregation; see Resp. Ginnat Veradim, supra n. 144; Resp. Perah Shoshan, supra n. 176; Resp. Mishpetei Uziel, supra, n. 4. (iv) Those obligated have not read the "basic core" number of aliyyot; see discussion in text following n. 113.

179. Nn. 176 and 177, supra.
180. See nn. 163 and 164, supra.
181. Regarding the interaction between the ba'al keri'ah and the oleh, see R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Rav, Hilhhot Keri'at ha-Torah, sec. 135, no. 13, p. 31 and sec. 141, no. 2, p. 50; Shiurei ha-Rav ha-Gaon Rabbi Tosef Dov ha-Levi Soloveitchik zt”l al Inyanei Tsiyut, Tefillin u-Keri'at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilhhot Keri'at ha-Torah, sec. 135, no. 13, p. 155-157 and sec. 141, no. 2, p. 186; R. Saul Bruice, supra n. 173; R. Jacob Kaminskey and R. Abraham Judah Farbstein, supra n. 176, and R. Elyakim Getzel Pashkes, Itturei Megilla (5772 ed.), Megilla 24a, “Beur be-Da'at ha-Magen Avraham,” 405. The above scholars utilize shome’a ke-onah, while R. Aryeh Zvi Fromer, Resp. Erets Tzvi, II, sec. 9 utilizes shelihut. That arevut generates the necessary obligation in the ba'al keri'ah so that he can assist the oleh has been confirmed by R. Nachum Rabinovitch (discussion with Dov I. Frimer, February 2007); see also the end of n. 166, supra. Males bear inherent obligation because were they to be called up as olim they would be fully obligated to read; see discussion in text at n. 50, supra. Women, on the other hand, are exempt from the rabbinic obligation of keri'at ha-Torah, while children are a trei de-rabbanan and, therefore, certainly bear no arevut for this mitzva. (We have already noted above that the overwhelming consensus of the codifiers is that the concept of arevut does not apply to minors; see n. 68 supra.) Thus, they cannot
serve as shelihim (i.e., ba’alei keri’ah). R. Moses Feinstein has noted that even were we to accept the position of R. Joseph Teomim (vide infra, n. 184) that minors are rabbinically obligated, and hence should perhaps have arevut for others in rabbinic mitsvot like keri’at ha-Torah, they still cannot read for others. This is because, as a rule, minors lack sufficient intellectual maturity to be appointed a shaliah; see: Resp. Liggerot Moshe, O.H. II, sec. 72 and R. Ezra Bick, n. 173, supra.

We should emphasize that the analysis presented in this paper differs somewhat from that of R. Soloveitchik. In this paper we have argued, as do nearly all the authorities cited in n. 173 supra, that shome’a ke-oneh is needed to transfer from the ba’al keri’ah to the oleh one subtask (reading the Torah portion aloud) according to Rabbenu Asher (Rosh), or two subtasks (reading from the parchment and doing so aloud) following Maharil. Without such transference, the berakhot recited by the oleh would be for naught. The Rav, by contrast, held that, according to Maharil, shome’a ke-oneh is needed to transfer attribution of the Torah reading from the ba’al keri’ah to the oleh. As a result, only an obligated adult male can serve as a ba’al keri’ah. However, because of bifurcation, R. Soloveitchik raised the possibility that according to Rosh, with whom Maharil disagrees, there may be no need for invoking shome’a ke-oneh whatsoever. After all, according to Rosh, the subtask of reading from the parchment is done by the oleh himself. As for the responsibility to read the Torah portion aloud, the Rav suggested that, according to Rosh, this could perhaps be performed by anyone present and not necessarily by the oleh. If so, then according to Rosh, the ba’al keri’ah himself could fulfill the requirement of reading the Torah portion aloud without any need to transfer – via shome’a ke-oneh or any other mechanism – the reading aloud to the oleh. The upshot of the Rav’s analysis would be that Rosh – although not Maharil – might maintain that a woman and minor could serve as ba’alei keri’ah, provided the oleh quietly reads along from the Torah parchment, thus validating the berakhot. Similarly, according to Rosh, a woman could receive an aliyya, provided that she reads along.

With all due respect, the Rav’s analysis is problematic on several theoretical and practical grounds: (1) As noted above, the Rav’s suggestion, that according to Rosh there may be no need for invoking shome’a ke-oneh, runs counter to nearly all the authorities cited in n. 173 supra. These authorities hold that even according to Rosh the ba’al keri’ah reads aloud for the oleh. (2) Ra’i Soloveitchik was forced into this position because of his attempt to defend the minority position of his great grandfather and namesake, R. Joseph Dovber Soloveitchik, supra n. 30a, regarding the shome’a ke-oneh and kol ram. In a conversation with R. Dov I. Frimer and R. M. Zev Frimer (21 Nissan 5772; April 13, 2012), R. Aharon Lichtenstein maintained that his father-in-law’s analysis was purely theoretical, and may not have been correct or necessary. This is because the kol ram of bikkurim and birkat kohanim is an inherent part of the fulfillment of the mitsva; by contrast the kol ram of Torah reading is necessary to transfer the information. (Further discussion is beyond the scope of this paper.) (3) In sec. V.B we cited a dispute as to the character of the Torah reading benedictions. The Rav analysis is only valid according to the minority of scholars (led by his grandfather R. Chaim Soloveitchik) who maintains that the birkot ha-Torah are birkot shevah ve-hodaya, blessings of special praise and thanks to the Almighty for giving the Torah to the People of Israel. Hence, they are appropriate for all who receive an aliyya, irrespective of whether they recite the Torah reading aloud or quietly. However, the majority of scholars maintain that they are mitsva benedictions for public Torah study or the public Torah reading. In such a case it makes no sense that they can be recited by one who only does the reading or learning quietly. For a similar critique, see
R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, “be-Plugtat ba-Rishonim,” nos. 2-3, pp. 351-352. (4) Kevod ha-tsibbur aside (see sec. VII), adopting such a lenient position to allow women to read or receive aliyot based on Rosh would result in a concomitant stringency: any oleh who does not read along quietly would render his benedictions berakhot le-vattala. At least, if the ba’al keri’ah and oleh are male, the oleh who neglects to read along can rely on the ba’al keri’ah, via shome’a ke-oneh following the view of Maharil. This is not so for women, whether functioning as the ba’al keri’ah or the oleh, where, absent obligation, shome’a ke-oneh is inoperative. (5) The analysis thus far has followed the traditional approach which assumes that the real oleh is the one formally called up and recites the benedictions, while the ba’al keri’ah is the one who reads the Torah portions out loud for each oleh. However according to the “Inverted School” (discussed in sec. VI.D below), the “real” halakhic oleh is the one we call the ba’al keri’ah, who is actually doing the mitzva act of reading the Torah aloud, with seven individuals from the community (“olim”) called upon to recite the berakhot for the reader. Under such an analysis shome’a ke-oneh is imperative for this transfer of the berakhot to the reader. However, if women are functioning either as the reader or the ones reciting the benedictions, since they lack obligation, shome’a ke-oneh is inoperative. (6) All the above discussion is in theory only. For as R. Soloveitchik himself notes, while we advise olim le-khattehila to be stringent and read along quietly as required by Rosh, in practice, we rule like Maharil; see supra, n. 172. In a conversation with R. Dov. I. Frimer and R. M. Zev Frimer, R. Aharon Lichtenstein (21 Nissan 5772; April 13, 2012) confirmed that the accepted pesak halakha is completely in accordance with the view of Maharil – bein le-kula u-vein le-humra.

Interestingly, R. Ovadiah Yosef seems to concur with R. Soloveitchik’s analysis of Rosh, but only under dire she’at ha-dehak situations. We have cited above in n. 177 the ruling of R. Yosef that a minor may serve as Torah reader under dire situations. R. Shabtai Rappoport (personal communication, March 21, 2012) reports that approximately twenty years ago he queried R. Yosef about this ruling in light of the fact that the minor cannot be motsi the oleh his obligation to read aloud. R. Yosef responded by pointing out that according to Rosh and Shulhan Arukh, whom he follows at least le-khattebila, the oleh is required to read along with the ba’al keri’ah. One could argue that such reading along is sufficient to prevent the oleh’s benedictions from being considered needless, certainly bi-she’at ha-dehak. Under such dire circumstances the reading aloud could be performed by anyone present (even those not obligated). This, of course, cannot be used to justify women’s aliyot under usual conditions.

182. We have noted above (text at n.e 44) that shome’a ke-oneh enables two individuals who both want to perform a non-obligatory act to assist one other. This is provided that both are doing the same act. However in the case of the ba’al keri’ah and the oleh, only one is de jure doing the act upon which the benedictions are recited. The mechanism required here is arevut, but this requires the one performing the mitzva act to be fully and inherently obligated, which women and minors are not. Even according to the minority view of R. Yehuda Herzl Henkin, supra nn. 44 and 59, that women do bear arevut for each other on an optional mitzva, this is only in a case where they have accepted the optional performance upon themselves as a continuing personal obligation (kibbelu alayhu hova), as has been the nigh universal custom of women by teki’at shofar for generations. That is not the case with keri’at ha-Torah, which womenkind de facto have not accepted upon themselves. What is more, de jure women may not be able to accept Torah reading as a personal obligation, since, according to many if not most scholars, keri’at ha-Torah is a communal obligation.
183. R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri’at ha-Torah*, sec. 135, no. 13, 31; Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit, Tefilin u-Keri’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot Keri’at ha-Torah*, sec. 135, no. 13, 156. The translation from the Hebrew is by Aryeh A. Frimer with the words in brackets added by the translator for clarification.

In light of this paragraph and the explicit statement of the Rav just cited in the text, we find a comment of R. Hershel Schachter particularly problematic. In *Nefesh ha-Rav*, 136-137 (and cited in R. Aharon Ziegler, *Halakhic Positions of Rabbi Joseph B. Soloveitchik*, IV, sec. 5, 13-15), Rav Schachter records that R. Soloveitchik commented that one who is deaf but not mute (*heresh ha-medabber ve-eino shome’a*) can certainly serve as a *ba’al keri’ah*. R. Schachter argued that this ruling is based on the position that the obligation in *keri’at ha-Torah* is to hear the Torah read (*hovat shemi’a*; see above sec. IV). Hence, argues R. Schachter, the *ba’al keri’ah* need not be obligated; even if one is deaf and exempt from mitzvot, he can also read aloud as a *ba’al keri’ah*. However, as we have pointed out above, this argument only works well with regard to the congregants, but will not suffice for the *oleh*. As the Rav himself indicates, the *oleh* must read for himself or hear from one who is obligated. Hence, if a *heresh ha-medabber* is really exempt from *keri’at ha-Torah*, he most definitely cannot serve as a *ba’al keri’ah*.

The fact is, however, that a *heresh ha-medabber ve-eino shome’a* is indeed obligated in the mitzvot. See: *Pri Megadim, Petiha ha-Kolelet*, part 2, sec. c; Resp Igerot Moshe, *Y.D.* IV, sec. 49, nos. 1 and 6; Resp Minhat Shlomo, *Shiur*, sec. 34; Resp Lev Aryeh, II, sec. 1; Resp Kovets Teshuvot, sec. 10; Yalkut Yosef, *Hilkhot Kaddish u-Kedusha*, sec. 67; R. Abraham Hamami, Resp *Minhat Arraham*, I, O.H., sec. 5. Hence, he can read the Torah aloud for others. R. Aharon Lichtenstein, in a conversation with R. Dov. I. Frimer and R. M. Zev Frimer (21 Nissan 5772; April 13, 2012), concurred with this analysis and our understanding of R. Soloveitchik’s ruling.


185. *Vide supra*, discussion at n. 70.

186. *Vide supra*, n. 68.

187. *Vide supra*, n. 176. Indeed, R. Abraham Judah Farbstein, *Keneset Avraham*, I, sec. 15, no. 2, subsec. 4, argues that R. Teomim in the *Pri Megadim, supra* n. 184, cannot possibly be taken literally, particularly since a minor has no arevut whatsoever for a major. Perforce, *Pri Megadim* only meant that a minor could be an *oleh* and read for himself, but not that he could read for majors.

188. *Vide supra*, n. 177.

189. This is explicitly stated by R. Shlomo Goren, *Mesiv Milhamma*, II (*haIdra Rabba*: Jerusalem, 5744), gate 7, sec. 107, p. 173.

190. See above, n. 157.

191. R. Shlomo Goren, *ibid.*, 174, s.v. “*Nosaf al kakh.*” The topic under discussion is whether a *mehallel Shabbat* (one who willfully desecrates the Sabbath) can serve as a *ba’al keri’ah*. R. Goren indicates that when a minor reads for himself, he is not serving as a *sheli’ah tsibbur*, and hence his reading is not nullified for this reason.


193. See discussion at nn. 58 and 68, *supra*.

194. A reviewer suggested to us that, assuming that the *birkhot ha-Torah* are *birkhot ha-shevah* (benedictions of praise; see nn. 142 and 143 above), perhaps the *birkhot ha-Torah* could be recited *be-torat reshut* (as a voluntary act), with no onus of a
berakha le-vattala. As proof, the reviewer cites the widely practiced non-obligatory Torah reading on Simhat Torah eve with birkhot ha-Torah. Indeed, there are posekim who permit the voluntarily recitation of birkhot ha-shevah. See: R. Jacob Hagiz, Resp. Halakhot Ketanot, I, sec. 264, and II, secs. 1 and 8; Resp. Beit David, O.H., sec. 359, p. 93, column 4; R. Jacob Lorberboim of Lisa, Havrot Da’at, T.Y., sec. 110, Beit ha-Safek, no. 20; R. Hillel Posek, Resp. Hillel Omer, sec. 139, p. 87; R. Ben-Zion Abba Shaul, “Hyyuv Nashim bi-Tefilla,” Tsefunot 1:2 (Tevet 5749), 52, and Resp. Or le-Tsiyyon, II, sec. 4, sources no. 1, sec. 5, sources no. 3, and sec. 6, sources no. 10. See also Resp. Yabbia Omer, VIII, sec. 8.

[As an aside, we note that the Halakhot Ketanot is discussed by R. Isaac Lampronti and R. Joseph Barukh Kazis; see: R. Isaac Lampronti, Pahad Yitshak (Mosad Harav Kook, Jerusalem: 5737), IV, Bircat haBesvah, 121-126. R. Lampronti is of the opinion that R. Hagiz was only discussing whether one fulfilled his benediction obligation, ex post facto (be-diAvad); R. Hagiz certainly would not have permitted the recitation of these benedictions ab initio (le-khattehila).

Nevertheless, the proposal that birkhot ha-Torah could be recited voluntarily is highly questionable.

a) While, the abovementioned posekim do indeed suggest that one can voluntarily say a bircat ha-shevah, most others limit any such leniency to the case of the “she-Hehiyyanu” blessing alone. See: R. Joel Sirkis, Bayit Hadash, O.H., secs. 29 and 432; Eliya Rabba, O.H., sec. 22, no. 1; R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, Magen Gibborim, O.H. sec. 218, no. 3, Elef la-Magen n. 4; R. Jacob Meshulam Ornstein, Yeshu’ot Ya’avok, sec. 225, no. 3; R. Azriel Hildesheimer, Resp. R. Azriel Hildesheimer, O.H., sec. 29; R. Dov Li’or, cited in Helek haLevi, R. Haggai Levi and R. Hevron Levi (Bat-Yam: 5758), p. 117 and in Resp. Teshuvah Mekubetset, R. Barukh Ephrati (Jerusalem, 5763), O.H., p. 62.


c) R. Ovadiah Yosef, Hazon Ovadya – Sukkot, Dinei ha-Yeshiva ba-Sukka, sec. 9, n. 18, s.v. “re-Hinneb,” 127, and R. Yitzshak Yosef, Ein Yitshak, II, 456-457, cite a host of posekim who do not permit the recitation of the she-Hehiyyanu benediction even where there is a doubt (safek berakhot lehakkel; see infra n. 217). According to these scholars, she-Hehiyyanu is no different than any of the other birkhot ha-shevah where one is obligated to be stringent when there is a question of doubt; see at length Ein Yitshak, ibid. 441-471, R. Moses Levi, ibid, n. 15 therein.

d) If this is true where there is a matter of doubt, it is all the more so where there is no obligation whatsoever. See: R. Ovadiah Yosef, Resp. Yabbia Omer, VIII, O.H., sec. 8; Ein Yitshak, ibid., 472-473. Indeed, R. Ovadiah Yosef, ibid. no. 1, citing Resp.
Riva, sec. 16, maintains that Rosh specifically rejects the possibility that women can recite birkhot keri’at ha-Torah because they are voluntary birkhot ha-shevah.

As to the reading of the Torah on Simhat Torah eve, this is a very old widespread custom; hence, the posekim were not concerned about a berakha le-vattala. For discussion, see Hazon Ovadia: Sukkot, Hilkhot Shemini Atseret, no. 4, n. 5; R. Akiva Miller, ha-Keri’a ha-Torah ve-Hilkhoteha (Jerusalem: 5769), ch. 75, sec. 1, n. 4 and Addendum 11, no. 6. In the case of custom, one does not invoke the argument “safek birkhat lehakket”; see Resp. Yabba Omer, II, O.H. sec. 25, no. 13; III, Y.D., sec. 17, no. 10; IV, O.H., sec. 23, no. 14; and V, O.H., sec. 6., no. 6; Ein Yitshak, ibid., 475-486.

195. See Shulhan Arukh, O.H., sec. 167, no. 19 (regarding ha-motzi); Magen Avraham, O.H., sec. 273, no. 7 (regarding kiddush and havdala); Matche Efrayim, O.H., sec. 625, no. 59 (regarding sukka); Mishna Berura, O.H., sec. 273, no. 16 (regarding kiddush and havdala); R. Simha Ben Tsiyyon Isaac Rabinowitz, Piskei Teshuvot, VI, sec. 677, no. 8 (regarding Hanukah candle lighting); R. Barukh Rakovsky, ha-Katan ve-Hilkhotav, I, ch. 13, no. 2 and n. 2 (general).

196. Mishna Berura, O.H., sec. 167, no. 93. In Sha’ar ha-Tsiyyun, ad loc. no. 84, he cites to this effect Beit Yosef, Gra, Taz and other aheronim. In Sha’ar ha-Tsiyyun, O.H., sec. 273, no. 17, he reiterates this position. See R. David Yosef, Halakka Berura, VIII, sec. 167, no. 20, Halakka Berura end of subsec. 51, Sha’ar ha-Tsiyyun n. 150, who concludes that this is the clear consensus of the codifiers. R. Eliczer ha-Kohen Rabinowitz, Torat ha-Katan, ch. 8, sec. 13, concludes from these sources that while the obligation and burdens of binnukh rests on the parent, all can share in its fulfillment. We reiterate that according to the minority view of Maharit and Or ha-Hayyim, supra n. 68, that majors bear arevut for minors, a major may certainly recite birkhot ha-mitsva for a minor.

197. Vide supra, n. 58.

198. The correctness of this analysis regarding women has been confirmed by R. Aharon Lichtenstein (21 Nissan 5772; April 13, 2012) in a conversation with R. Dov I. Frimer and R. M. Zev Frimer.

199. Indeed, the vast majority of posekim rule that women (kevod ha-tsibbur aside) and minors may read for themselves, should they be called for an aliyya. See supra, n. 176: Resp. Mahari Bruna; Resp. Mishpat Tsedek; Magen Avraham; Shulhan Arukh ha-Rav; Resp. Perah Shoshan; Hayyey Adam; Resp. Peulat ha-Tsaddek; Resp. Ish Matsli‘ah; Resp. Yashok Avdi; Edut le-Yisrael; Resp. Iggerot Moshe; Emet le-Yaakov; Kneset Avraham. See supra n. 177: Yalkut Yosef(various volumes cited). See R. Joseph B. Soloveitchik, supra, n. 181. See also R. Joel Sirkis, Resp. Bayit Hadash (Bah), sec. 158; R. Hayyim Jacob (Shadar) of Tsfat, Resp. Sama de-Hayyey, O.H., sec. 16; R. Isaac Tayeb, Etzkb ha-Shulhan, O.H., sec. 282, no. 4; R. David Amado, Resp. Einei David, p11 column 4; II, sec. 63; Tehilla le-David, O.H., sec. 282, no.8; Derekh ha-Hayyim, sec. 77, no. 6; R. Mordechai Carmi, Ma’amor Mordekhai, O.H., sec. 282, no. 5; R. Katriel Fishel Tchorsh, Resp. Keter Efrayim, sec. 26; Resp. Tsits Eliyzer, VII, sec. 1, end of anafr8; Yalkut Yosef, and Teharveh Da’at, II, sec. 15, IV, sec. 23 and V, sec.25; R. Elyakim Getsel Pashkes, Itturei Megilla (5772 ed.), Megilla 24a, “Be’ur be-Divrei ha-Magen Avraham,” 405. It remains the custom of the Yemenite community that each oleh, including minor males, reads his own portion; see R. Isaac Ratsabi, Shulhan Arukh ha-Mekutsar, O.H., II, sec. 60, no. 3.

There are, however, posekim who forbid a minor or woman from reading even their own aliyya. According to this school, when the Talmud Megilla permits those not obligated to receive an aliyya, this was not meant to be a normative situation, and

200. Vide supra, discussion at n. 59.

201. Vide supra, discussion at n. 61.

202. With regards to the “Shome’a ke-Oneh Group,” this analysis was confirmed to us in personal communications by the following halakhic scholars: R. Elyakim Getssel Pashkes (January 28, 2013), R. Asher Weiss (January 31, 2013), R. Nachum L. Rabinovitch (February 2, 2013), and R. Moses Sternbuch (February 4, 2013, via his grandson, R. Yonah Sternbuch). As discussed earlier, prior to the institution of a ba’al keri’ah, women – as well as minors – were, at least theoretically, allowed to read the Torah for the community as one of the seven olim, despite the fact that according to most authorities they themselves were not obligated in keri’at ha-Torah. The rationale for this practice aside, it clearly demonstrates that the oled need not necessarily fulfill any personal obligation through his Torah reading. Even after the introduction of the ba’al keri’ah into the service, the reader is merely assisting the oled with the Torah reading itself, but not in the fulfillment of any personal obligation. If so, according to the “Shome’a ke-Oneh Group”, no arevut is required; the ba’al keri’ah’s reading of the Torah can be transferred to the oled by means of shome’a ke-oneh alone.

203. This halakhic conclusion was confirmed to us in personal communications by both R. Elyakim Getssel Pashkes (January 28, 2013) and R. Asher Weiss (February 4, 2013). See also R. Elyakim Getssel Pashkes, Itturei Megilla [5772 ed.], Megilla 24a, “Beit’ur be-Da’at ha-Magen Avraham,” 405; R. Joseph B. Soloveitchik, mi-Beit Midrasho Shel ha-Ra’v, Hilkhot Keri’at ha-Torah, sec. 135, no. 13, p. 31; R. Joseph B. Soloveitchik, Shiurei ha-Ra’v ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanai Tsitsit, Tefillim u-Keri’at ha-Torah, R. Zvi Schachter, ed. (Jerusalem, 5763), Hilkhot Keri’at ha-Torah, sec. 135, no. 13, 156. See also the end of n. 67, where we indicate that once a woman has performed teki’at shofar, she cannot blow shofar to assist other women, because further blowing is not considered a kiyyum or ma’aseh ha-mitsva.

204. R. Abraham ben Mordechai Halevi, supra, n. 106; R. Isaac Judah Jehiel of Komarno, Shulhan ha-Tahor, O.H. sec. 140, no. 1; R. Jacob Shalom Sofer supra, n. 106; R. Zvi Pesach Frank, Resp. Har Tzvi, O.H., sec. 72; R. Joseph Elijah Henkin, supra, n. 176; R. Tuvia Yehuda Tavyumi (Gutentag), Resp. Erets Tova, sec. 3, no. 10; R. Hayyim Shaul Grainiman, supra, n. 106, s.v. “Rosh,” R. Moses Sternbuch, supra, n. 145; R. Yehuda Herzl Henkin, supra, n. 24; R. Avigdor Nebenzahl, conversation with the authors, December 6, 2011. The view of “The Inverted School” is explicitly rejected by the following scholars: R. Chaim Kanievsky, quoted by R. Jehiel Michael Rothschild, She’elat Rav (Kiryat Sefer: 5764), part 2, sec. 12, no. 25, p. 240; R. Aaron Boaron, Birkat Abaron, I, 155; and R. Moses Aaron Sluschetz, n. 113 supra, ch. 1, sec. 10. Among other arguments, it makes little sense to these latter posekim that seven sets of benedictions could be recited on one individual’s reading. In a conversation
with DIF (April 28 and May 5, 2012), R. Nachum Rabinovitch concurred that the position of “The Inverted School” is highly problematic and generally considered a shita dehuyya (a rejected position). R. Aaron Boaron rules out this position, based on the statement of Rosh (supra, n. 168) that “it doesn’t make sense that the oleh should be able to recite a blessing on another’s reading.” R. Grainiman of “The Inverted School”, ibid., responds by noting that this is the very reason why Rosh requires the oleh to read along quietly with the ba’al keri’ah. Doing so allows the benediction to go on both the private and public readings – though the ba’al keri’ah’s rendition aloud is still the main reading.

Interestingly, R. Menahem Mendel Schneersohn of Lubavitch, Resp. Tsemah Tse-dek, O.H., sec. 35 - in explaining the view of R. Benjamin Aaron Solnik, Resp. Masat Binyamin, sec. 62 – maintains a hybrid view. To wit, there are essentially two simultaneous olim, although only one reads aloud: the formal oleh recites the benedictions for the ba’al keri’ah, while the latter reads the Torah aloud for the former. Both transfer their action to the other via shome’a ke-oneh and between them a complete act is accomplished.


206. Many geonim and rishonim discuss this Tosefta indicating that the purpose of the sitting and standing was to set off and punctuate each aliyya. A large number of these scholars maintain, however, that following the Talmudic requirement to recite benedictions before and after every aliyya, there was no longer any need for the reader to sit down between aliyyot. This is indeed the final ruling of Shulhan Arukh, O.H., sec. 143, no. 5. Other geonim and rishonim dissent, maintaining that sitting between aliyyot was required despite the berakhot. For an extensive review of the sources, see: R. Saul Lieberman, Tosefta ki-Fshuta, Tosefta, Megilla, 3:12, 1178-79.

207. This does not violate the principle enunciated above (n. 175e) that the one doing the mitsva action should be the one who recites the benediction. This principle relates to instances in which the one actually doing the mitsva action is not in fact presently obligated (though he is “inherently” obligated). He has been appointed to do so on behalf of one who is presently obligated, such as a mohel for the father, a tither for the consumer, and a bodek hamets for the home owner. In such cases, the one doing the mitsva action and the one who recites the benediction should be one and the same. However, where the one obligated is actually doing the mitsva himself, he can ask someone else to assist him in the recitation of the berakha; see: R. Ephraim Zalman Margaliot, Yad Efrayyim, O.H., sec. 432, to Magen Avraham, no. 6, and R. Isaac Tayeb, Erekh ha-Shulhan, O.H., sec. 585. R. Margaliot cites as proof the ruling of R. Abraham Gombiner, Magen Avraham, O.H., sec. 8, no. 8 (see also Mishna Berura, no. 14 and Sha’ar ha-Tsiyyun, n. 21), that one who dons a tallit may request someone else to recite the berakha for him. R. Tayeb, on the other hand, notes the ruling that the officiating rabbi recites the Birkhot Erusin, even though it is the bridegroom who betrothes the bride. Following the analysis of the scholars in n. 204 above, in the case at hand, the ba’al keri’ah is the de jure oleh; he is doing the mitsva act of reading the Torah aloud as obligated, but has invited/honored someone else to assist him in reciting the blessing.

208. See Pri Megadim, O.H., sec. 141, Mishbetzot Zahav, no. 4, who clearly states that one who is not obligated cannot recite the benedictions for the ba’al keri’ah. R. Avigdor Nebenzahl (conversation with the authors, December 6, 2011) confirms that this rules out women from being olot.

209. Indeed, the codifiers record that the prevalent custom is that minors do not receive any aliyya except for maftir; see n. 300 below. As noted there, R. Ovadiah Yosef, Yehaveh Da’at, IV, sec. 23, maintains that the Sefardi custom permits calling
minors for all aliyyot. R. Yosef presumably maintains the traditional approach that the o�eb is the “real o�eb” – and not the ba‘al keri‘ah.

210. We remind the reader that at most women can serve as ba‘alot keri‘ah for only some of the aliyyot but not a majority, and certainly not all. See discussion above in n. 178. It might be suggested that we could combine two views to permit women to receive aliyyot (kevod ha-tsibbur aside). The first is to accept the position of the Ginnat Veradim (supra n. 204) that the ba‘al keri‘ah is the real o�eb, and the function of the pseudo-o�eb is merely to recite the berakhot for the ba‘al keri‘ah. The second view would be to accept the approach of R. Isaac Ze‘ev (Velvel) Soloveitchik, supra n. 143, who posits that the birkhot keri‘at ha-Torah are obligatory birkot ha-shevah for anyone who rises for an aliyya and reads from the Torah (including those not obligated like women). One could argue, therefore, that women possess an inherent obligation and, hence, arevut for those (like the ba‘al keri‘ah) who actually read from the Torah. This would allow her to be called to the Torah and recite the bendictions for the ba‘al keri‘ah. Despite this argumentation, R. Nachum Rabinovitch (conversation with DIF, April 28 and May 5, 2012) indicated that this approach can be readily dismissed, since it combines two shittot dehuyyot - two positions which have been rejected by the mainstream of Jewish law, as already mentioned in nn. 143 and 204, supra.

211. See discussion at n. 59ff.

212. See discussion at n. 61. It should be noted that R. Sternbuch is part of the inverted school (see n. 204 supra) and also the “Shome‘a ke-Oneh Group” (see n. 202 supra).

213. See above, n. 194.

214. As documented supra, n. 199, the vast majority of posekim rule that women and minors may read for themselves, should they be called for an aliyya.


216. Vide infra, n. 246.

217. For a general discussion of safek berakhot lehakkel, see Berakhot 21a; M.T., Hilkhot Berakhot, 4:2 and 8:12; Shulhan Arukh, O.H., sec. 167, no. 9 and sec. 209, no. 3; “Berakhot,” be-Safek, Encyclopedia Talmudit, IV, 291-315, at 303ff; R. Yitshak Yosef, Mafte‘ah Meforat to Resp. Yehavveh Da‘at, Kelalei Safek Berakhot; Ein Yitshak, supra, n. 194, 353-608. See also n. 50, supra. The posekim do not permit reciting birkat ha-shevah in cases of doubt either; see n. 194, supra. We note further that R. Joseph Tecomim, Pri Megadim, Petiha Kolelet, Hilkhot Berakhot, no. 4, writes that if there is some serious question as to whether the recitation of a berakha is justified, then even if there are two possible reasons why it should be warranted (sefek safeka), the berakha may not be recited. Both R. Shlomo Zalman Auerbach, Halikhot Shlomo, Mo‘adim, Sefivat Ha-omer, ch. 11, Orhot Halakha n. 24, and R. Asher Weiss, Shiur Moreinu ha-Rav Shlita, “Shittat ha-Bahag be-Mi she-Dillog chad mi-Yemei ha-Sefira,” Parshat Emor 5772, X.25 (no. 399), ch. 6, 10-11, concur. These scholars indicate that the invocation of “sefek safeka” by some halakhic authorities, regarding one who counted the omer during the day, is inaccurate. The real reason one continues with a berakha in that case is because halakha follows the majority view among the Rishonim that each day’s counting constitutes a separate mitsva, and does not depend on the others’.


220. R. Isaac Lampronti, Pahad Yitschak, “Tsibbur u-Khevodo,” suggests that the concept of kevod ha-tsibbur is derived from Jethro’s criticism of Moses for belittling the honor of the nation by making them wait for him for judgement (Exodus 18:14).
This correlates well with the prohibition to roll the sefer Torah or undrape the Torah lectern while the community waits idly by because of kevod ha-tsibbur. See the discussion at nn. 225 and 228 below.

221. For review, see “Kevod ha-Tsibbur,” Encyclopedia Talmudit, XXVI, 554-565. Regarding wearing a tallit gadol as an expression of kevod ha-tsibbur, see: R. Benjamin Solomon Hamburger, Shorashei Minhag Ashkenaz, 1 (Bnai Brak: Machon Moreshet Ashkenaz, 5755), 112-140; R. Abraham Shalom Shaki, Heikhal Avodat Hashem (Bnai Brak: 5740), 86-88. We note that to the examples of kevod ha-tsibbur cited below, Or Sameah, M.T., Hilkhot Tefilla, 8:12 includes the prohibition to appoint a hazzan who cannot pronounce Hebrew properly. For discussion, see: R. Gil Student, “Mispronouncing Hebrew,” Hirhurim-Musings, July 26, 2011, available online at: http://tinyurl.com/43amzcx.

222. R. Zvi Reisman correctly argues that kevod ha-tsibbur means different things in different instances and one should, therefore, not expect the rules to be uniform in each case. See R. Zvi Reisman, “Kevod ha-Tsibbur ve-Tirha de-Tsibbura,” Kovets He’aros u-Bi’urim – Ohalei Torah, Parashat va-Yetse, 5769, Issue 4 [970], 57-71 – available online at http://www.haoros.com/kovtzim.asp?yr=5769 [click on kovets 970]; R. Zvi Reisman, Tirha de-Tsibbura – available online at http://tinyurl.com/64h2dgn.

223. Gittin 60a; Shulhan Arukh, O.H., sec. 143, no. 2.
224. Ran on Rif, Gittin, 60a; Perisha and Levush, O.H., sec. 143.
225. Yoma 70a; Shulhan Arukh, O.H., sec. 144, no. 3.
226. Sotah 39b; Shulhan Arukh, O.H., sec. 148, no. 1 and Mishna Berura, n. 1.
227. Rashi, Yoma 39b, s.v. “Mi-penei kevod ha-tsibbur;” Ran on Rif, Megilla 24a, s.v. “Mi-penei kevod ha-tsibbur.”
228. Rashi, Sota 39b, s.v. “lehafshit et ha-teiva.”
229. Megilla 21a; Shulhan Arukh, O.H., sec. 690, no. 1. For the Torah reading there is a similar obligation, but in this case it has a biblical source and is a reenactment of the Sinai experience; see Megilla 21a and Shulhan Arukh, O.H., sec. 128, no. 34.

231. Mishna, Megilla 4:6 (24a) and Rashi s.v. “ve-Eino nosei;” Tosafot, Hullin 24b, s.v. “Nitmalei zekano;” Shulhan Arukh, O.H., sec. 128, no. 34.
232. Mishna, Megilla 4:6 (24a), Rashi s.v. “Aval eino,” and Megilla 24b; Shulhan Arukh, O.H., sec. 53, no. 13; Mishna Berura, ad. loc., sec. 40; Mishna Berura, O.H., sec. 128, no. 111.
234. Taz, O.H., sec. 53, no.2; Mishna Berura, O.H., sec. 128, no. 34, n. 122; Arukh ha-Shulhan, O.H., sec. 53, no. 10.

235. The discussion regarding the definition and ramifications of kevod ha-tsibbur have their focal point in Talmud and rishonim to Megilla 23a, and Shulhan Arukh and commentaries to O.H., sec. 282, no. 3, where this term formally appears in regard to women receiving aliyyot. However, the various definitions play themselves out in three other sugyot (religious subjects) where the possibility is raised regarding women performing a public ritual for men: (1) reading of the megilla (Talmud and rishonim to Megilla 4a and Arakhin 3a; Shulhan Arukh and commentaries to O.H., sec. 689, no. 2); (2) the recitation of kiddush (Talmud and rishonim to Berakhot 20b; Shulhan Arukh and commentaries to O.H., sec. 271, no. 2); and (3) the recitation of birkat ha-mason (Talmud and rishonim to Berakhot 20b and Sukka 38a). In our discussion
below, we will focus on *keri’at ha-Torah*, but will cross-reference the other sugyot as well. For a discussion of how *kevod ha-tsibbur* impacts upon women’s *Megilla* reading, see Aryeh A. Frimer, n. 100, *supra*.

236. The prohibition of praying or learning Torah in the presence of sexual distraction is discussed in *Shulhan Arukh*, O.H., sec. 75, *Mishna Berura* nos. 1 and 29.


In this regard, R. Shlomo Aviner has brought to our attention the remarks of R. Shimshon Zvi Levinger (letter dated 24 Kislev 5772). The latter cites the comments of Ran (to the Rif), Megilla 19b; and Ritva, Megilla 4a s.v. she-Af. Ran and Ritva contend that the halakha is concerned about immodesty when the presence of the women results in a noticeable change in the text of the ritual. Hence, men and women cannot count together to establish a zimmun quorum, since an additional zimmun blessing is recited in the birkat ha-mazon. In citing this view, Shulhan Arukh ha-Rav O.H., sec. 199, no. 7 writes: “It appears to be immodest since the inclusion of women together with men is made noticeable when the leader says ‘Let us bless’, indicating the inclusion of all [men and women]”. In other words, in zimmun there is a change in the language that specifically emphasizes the inclusion of women, since they are being called upon to join in the common blessing. R. Levinger argues that, similarly, a woman’s responsive recitation of “Barakhnu” as part of her aliya is similarly problematic. Here, too, it emphasizes the inclusion of women together with men in the communal ritual, and would be a breach of modesty according to Ran and Ritva. [It is not clear to these authors why R. Levinger needs to invoke the recitation of “Barakhnu.” According to the Sexual Distraction School of the kibbutz ha-tszibbur, the very act of women receiving an aliya is what is problematic, independent of whether berakhot are recited (e.g., the second through the sixth aliyyot according to the original procedure).]

(b) Mikra Megilla: This school maintains that although women are obligated equally with men in the reading of the Megilla, they cannot read for men, just as in the case of keri’at ha-Torah. See R. Moses of Coucy, Sefer Mitsvot Gadol (Semag), Divrei Soferim, Asb, no. 4, as well as R. Elijah Mizrahi, Hiddushei ha-Re’em al ha-Semag (cited by Magen Avraham, O.H., sec. 689, n. 5) and R. Hayyim Benveniste, Dina de-Hayyei, ad. loc., who indicate that the analogy is based on a common rationale, kevod ha-tszibbur; Behag according to Tosafot, Sukka 38a, s.v. “be-Emet Ameru.” See also Mishna Berura O.H., sec. 689, no. 7 and Arukh ha-Shulhan, O.H., sec. 689, nos. 1 and 5. Tosafot’s exact language is: “mi-Shum de-rabbim zila be-hu mitla” (Because they are a large group/in public it is improper). Zila mitla or ziluta in this context is meant to be synonymous with kevod ha-tszibbur; see R. Samuel Medalhinov, Minhat Shmuel, Berakhot 20a, s.v. “Nashim;” R. Elijah David Rabinowitz-Tecomim, Resp. Over Orah (Shema Eliyahu), sec. 110, s.v. “ve-Nireh”; R. Chaim Zalman Dimitrovsky in his comments to Rashba, Megilla 4a, n. 431; R. Joseph B. Soloveitchik in R. Zvi Joseph Reichman, Reshimot Shiurim [New York: 4749], Sukka 38a, 184, s.v. “Beram le-fi ha-Tosafot”; Otar Mefarshei ha-Talmud, Sukka, II, 38a, p. 345, s.v. “I nami mishum” and n. 56 thereto. R. Yehuda Herzl Henkin, Resp. Benei Vanim, II, no. 10, argues that zila mitla is related to the impression that would result that the community is so shamefully illiterate that the adult males are incapable of performing the ritual (see below in the text at n. 248: Shame of Illiteracy School). However, from the sources cited below regarding kiddush, it would seem clear that zila mitla is a sexual impropriety/modesty issue. (Otherwise, why would Sefer ha-Aguda, vide infra, distinguish between making kiddush for individual males who are family members and for those who are not?) Tosafot’s language [“mi-shum de-rabbim”] suggests that a woman might be able to read Megilla privately for one or two men; see R. Joseph Hazan, Resp. Hikrei Lev, O.H., sec. 45, s.v. “u-miKol makom mi-divrei;” R. Joseph B. Soloveitchik, Reshimot Shiurim, R. Zvi Joseph Reichman, ed. (New York, 5749), Sukka 38a, s.v. “Sham. Be-otam devarim,” 184. Semag dissents, however, maintaining that women cannot read for men at all (see comments of R. Elijah Mizrahi on Semag and Magen Avraham, O.H., 689, n. 5).

(c) Kiddush: R. Joseph Caro, Shulhan Arukh, O.H., sec. 271, no. 2, rules that since women are obligated equally with men, they can recite kiddush for men as well.
R. Yoel Sirkis, *Bayit Hadash, Tur, O.H.*, sec. 271 has challenged R. Caro’s unequivocal ruling by noting that in the comparable case of *mikra Megilla*, in which R. Caro himself maintains that women are also obligated; see: *Shulhan Arukh, O.H.*, sec. 689, no. 2. R. Caro cites a second opinion which opines that women cannot read for men. R. Sirkis concludes, therefore, that women should not make *kiddush* for men at all, and cites R. Solomon Luria, *Hagbot ba-Tur, O.H.*, sec. 689, to this effect as well. Several other posekim concur; see R. Hayyim Benveniste, *Shayarei Keneset ba-Gedola, Hagobot Beit Yosef*, sec. 1; sec. 689, no. 2; R. Yair Hayyim Bachrach, *Mekor Hayyim*, O.H., sec. 271, *s.v.* “Motsi’ot”; R. Samuel ben Joseph of Cracow, *Olat Tamid/Olat Shabbat, O.H.*, sec. 271, no. 2; R. Menahem Mendel Auerbach, *Ateret Zekenim, O.H.*, *Kaf baHayyim*, O.H., sec. 271, n. 8; R. Hayyim David haLevi, *Mekor Hayyim liVnot Yisrael*, ch. 10, sec. 3. *Magen Avraham* and others have justified R. Caro’s decision arguing that Megilla reading is generally done in public, and, hence, *zila milta* (impropriety) is applicable; *kiddush*, however, is commonly recited in private. See: *Magen Avraham, O.H.*, sec. 271, no. 3, n. 2; *Arukh ha-Shulhan, O.H.*, sec. 271, no. 5; R. David Mizrahi, *Sheitei Zeitim, O.H.*, sec. 271, no. 3; R. Pinhas Auerbach, *Halakha Berura, O.H.*, sec. 271, no. 2. There are two possible ways to understand the *Magen Avraham*’s analysis. One maintains that when *kiddush* is recited in private, then there is no problem for a woman to do so for several men (see sec. b above regarding *megilla*). However, when *kiddush* is indeed recited in public – for example, were a woman to make *kiddush* for the congregation - *zila milta* might well preclude women from doing so. This reading of *Magen Avraham*, however, is disputed by R. Jedidiah Tiya Weil, R. Jacob Emden, R. Joseph B. Soloveitchik, R. Aryeh Frimer and Dov Frimer. See: *Elya Rabba*, *O.H.*, sec. 271, no. 3; *Benei Zion, IV, O.H.*, sec. 271, no. 2, n. 2. According to this formulation, *zila milta* precludes women from reciting *kiddush*, for any adult males who are not members of her family, presumably because of modesty considerations. This position is actually preceded in the rulings of the *rishon* R. Alexander Zuslin ha-Kohen, *Sefer ha-Aguda, Berakhot* sec. 58, *Sukka* sec. 32, *Megilla* sec. 3, and *Shevu’ot* sec. 9. A large group of decisors have adopted this view as normative (*le-khattehila*), unless there is no convenient alternative. See the following sources, in which the modesty rationale is often explicitly given: R. Jacob of Lisa, *Derekh ha-Hayyim*, sec. 70, *Dinei Kiddush al ha-Yayin ba-Bayit*, no. 3; *Mishna Berura*, sec. 271, *O.H.*, sec. 271, no. 2, n. 4; R. Benjamin, Joshua Zilber, *Berit Olam, Kiddush*, no. 4; *Shemirat Shabbat ke-Hilkhatah*, II, sec. 51, no. 9 (*me-ta’amei tsi’ut*); R. Isaac Yosef, *Otsar ha-Dinim la-Isha ve-laBat*, sec. 16, no. 2 (*mi-shum tsi’ut* – because of modesty); R. Isaac Yosef, *Yalkut Yosef*, IV, part 1, sec. 271, no. 8 (*me-shum tsi’ut*); R. Hillel ha-Levi, *Kiddush ke-Hilkhatoh*, ch. 4, no. 11 (*me-midat ha-tsini’ut*); R. Aaron Zakai, * Mitsvat ha-Nashim*, sec. 11, no. 3 (*me-shum tsi’ut*); *Resp. be-March ha-Bazak, IV*, sec. 31 (*mi-ta’amei tsi’ut*); R. Yaakov Ariel, “*Isha be-Veit ha-Keneset,*” available online at http://www.yeshiva.org.il/ask/?id=4839; R. Dov Lior, “*Adifut bi-Verakha mul Ba’al ha-Bayit,*” available online at http://www.yeshiva.org.il/ask/default.aspx?cat=519.

(d) *Birkat ha-Mazon:* This school similarly maintains that even if women were equally obligated with men in *birkat ha-mazon*, they would not be able to recite
it publicly for others. See Tosafot, Sukka 38a, s.v. “be-Emet Ameru." However, she might be able to read privately to a few men; see discussion above by Megilla and kiddush.

As already cited above in this note, among the rishonim, this “Sexual Distraction School” is supported by Behag according to Tosafot, Sukka 38a and Sefer ha-Aguda, and perhaps Semag. We should, however, point out that two rishonim from Narvonna, R. Meir ha-Me’ili and R. Mano’ah, both explicitly state that kevod ha-tsibbur has nothing to do with preisut (promiscuity); see R. Meir haMe’ili, Sefer ha-Me’orot, Berakhot 45b, and R. Mano’ah on M.T., Hilkhot Berakhot, ch. 5, no. 7. These rishonim presumably align themselves with one of the other schools. See also R. Yehuda Herzl Henkin, “The Significant Role of Habitation in Halakha,” Tradition 34:3 (2000), 40–49.

239. (a) Mikra Megilla: This reason is attributed to R. Isaac ben Aba Mari, Aseret ha-Dibberot (Ba’al ha-Ittur) as a reason for prohibiting women from reading Megillat Esther for men, even though he maintains that they share equal obligation. See: R. Meir ha-Me’ili of Narvonna, Sefer ha-Me’orot, Megilla 19b; R. Aaron ben Jacob of Lunel, Orhot Hayyim, Hilkhot Megilla u-Purim, sec. 2 and Kol Bo, Megilla 45; R. David ben Levi of Narvonna, Sefer ha-Mikhtam, Megilla 4a. This reason is also given in Auerbach’s edition of R. Abraham Av Bet-Din, Sefer ha-Eshkol, Hilkhot Hanukka u-Purim, sec. 9. See also R. Hayyim David ha-Levi, Resp. Aseh Lekha Rav, V, sec. 97.

(b) Keri’at ha-Torah: Various abaranim concur with the stringent view of Aseret ha-Dibberot, invoking “kol be-isha erva” in regard to the question of women chanting the Torah. See R. Isaac Palagi, Yefeh Lev, VI, O.H., sec. 282 – also cited in R. Eliezer Waldenberg, Resp. Tsits Elizeier, XX, sec. 36, nos. 2 and 3; R. Joseph Messas, Mayim Hayyim, II, O.H., sec. 140; R. Joseph Katz Yetz, commentary to Sefer ha-Aguda (Jerusalem: 5726), Megilla, ha-Korei Omed, sec. 28, n. 26; R. Matsliah Mazouz, Resp. Ish Matsliah, O.H., sec. 10 – see comments of the son, R. Meir Mazouz, Milu’im mi-Ben ha-Mehabber, to p. 20 column 2: “Kol be-ish erva;” R. Dov Eliezerov, supra, n. 238a; R. Hayyim David ha-Levi, Resp. Aseh Lekha Rav, V, sec. 97; R. Efrain Greenblatt, Resp. Rivivot Efrayim, I, sec. 449; R. Eitan Yadi, Midrash Megilla, Masekhet Megilla 23a, 183. See also R. Azriel Hildesheimer, Resp. R. Azriel, O.H., sec. 128. R. Elijah David Rabinowitz-Tecomim, supra, n. 238a, discusses possible grounds for both leniency and stringency regarding women’s aliyyot. Nevertheless, he concludes that since kevod ha-tsibbur is a matter of tseni’ut and we are dealing with a tsibbur engaged in a davar she-biKudusha, we invoke a higher standard and do not utilize the standard leniencies. In addition, we note that R. Shlomo Zalman Auerbach, R. Eliezer Waldenberg, R. Shlomo Yosef Elyashiv, R. Nathan Gestetner, and R. Avigdor Nebenzahl concur that kol be-isha erva is a problem when a woman reads from the Torah; however, they maintain that the Talmud was not referring to this issue when it used the term kevod ha-tsibbur. The Talmud preferred invoking kevod ha-tsibbur precisely because it is a more inclusive term covering a variety of scenarios where kol be-isha erva is no longer an active consideration. Examples would be instances where the Torah is read without cantillations, when the olah is a non-menstruant bachelorette, or when the only ones present are family members. Although in these circumstances, kol be-isha erva may technically not be an issue, tseni’ut and kevod ha-tsibbur concerns remain. See R. Shlomo Yosef Elyashiv, cited in R. Abraham-Sofer Abraham, Nishmat Avraham (2007 ed.), Y.D., sec. 195, par. 2, 200; R. Shlomo Zalman Auerbach, cited in R. Abraham-Sofer Abraham, Nishmat Avraham, ibid – see also Halikhot Shlomo, I, Hilkhot Tefilla, ch. 20, sec. 11, n. 20; R. Eliezer Waldenberg, Resp. Tsits Elizeier, XX, sec. 36, nos. 2 and 3; R. Nathan Gestetner, Resp. lehorot Natan, V, O.H., sec. 5; R. Avigdor Nebenzahl, Resp. Avigdor ha-Levi, R. Nitsan Brauner, ed., I, O.H., Dinei
ha-Koreh ve-haMakreh (sec. 141), no. 21. Unfortunately, these scholars do not generally indicate what the central issue in kerod ha-tisbbur actually is. [For further discussion regarding reading in front of family members, see below end of n. 290]


240. R. Elijah David Rabinowitz-Teomim, supra, n. 238a; R. Shlomo Goren, Resp. Terummat ha-Goren, I, O.H., sec. 27; Benei Vanim, IV, sec. 8; R. Shlomo Aviner, cited by R. Mordechai Tzion, u-Devar Hashem mi-Yerushalayim, 280, no. 4, 19 Si-van 5773 (May 28, 2013).

241. It should be pointed out that both non-Jewish slaves and women generally share similar religious obligations; vide supra, n. 77. Indeed, Rema, O.H., sec. 282, no. 3, writes regarding receiving an aliyya: “The law for a non-Jewish slave is the same as for a woman...” This ruling, however, is ambiguous since it is can be understood either of two ways. One position maintains that Rema is of the opinion that “the law” referred to is kerod ha-tisbbur – which is applicable to non-Jewish slaves as well – and, hence, they too are precluded from receiving aliyyot. Alternatively, “the law” refers to the fact that non-Jewish slaves like women can basically receive aliyyot – even though they too are not obligated in keri’at ha-Torah; however, in contradistinction to women, kerod ha-tisbbur is not applicable in the case of non-Jewish slaves.

Many, if not most, scholars argue in favor of this latter reading allowing non-Jewish slaves to receive aliyyot, based on the Rema’s Darkei Moshe ha-Arokh and other sources; see: R. Shalom Isaac Mizrahi, Resp. Divrei Shalom, O.H., III, sec. 42; R. Yehuda Herzl Henkin, Resp. Benei Vanim, II, sec. 11; R. Judah Adari, Shulhan Arukh ha-Mevo’ar, O.H., sec. 282, no. C.2, in Mekabetsi’el, 9 (Shevat-Adar 5746), 136 and

Nevertheless, the first reading of Rema’s ruling, prohibiting non-Jewish slaves from receiving *aliyyot*, is supported by other noted scholars: R. Moses Margaliot, *March ha-Panim*, Jerusalem Talmud, *Megilla*, ch. 4, sec. 3, s.v. “ha-Eved,” *Arukh ha-Shulhan*, O.H., sec. 282, no. 10; R. Solomon of Chelm, *Shulhan Atei Shittim*, sec. 6; R. Shalom Mordechai ha-Kohen Shavadron, citing *March Panim*, in his additions to R. Nahman Kahana, *Orhot Hayyim* (Jerusalem, 5743), *Hilkhot Shabbat*, O.H., sec. 282, n. 6; R. Chaim Kanievsky, *Shoneh Halakhot*, sec. 6; R. Shalom Mordechai ha-Kohen Shavadron, citing R. Nahman Kahana, *Orhot Hayyim* (Jerusalem, 5743), *Hilkhot Shabbat*, O.H., sec. 282, no. 7. This position is consistent with the view that *kevod ha-tsibbur* relates to a lack of obligation, as posited by the second or third schools described below. Hence, total equality between women and slaves is expected.

242. R. Joseph Messas, *Resp. Mayyim Hayyim*, II, sec. 140; R. Joseph Kafih, Commentary to M.T., *Hilkhot Megilla*, ch. 1, no. 1, n. 3; R. Ovadia Yosef, *mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbi Ovadya Yosef Shita*, Shivur 19, *Motsae Shabbat Parashat va-Yeira* 5756; R. Ovadia Yosef, *Mishnat Yosef*, III, *Shiurei Maran ha-Rishon le-Tsiyyon*, 5762, *Parashat va-Yetsa*, Hilkhot Keriverah be-Sefer Torah be-Shabbat, no. 11, 56; an audio tape of a *shirur* given by R. Ovadia Yosef on this subject is available online at: http://www.isc.bgu.ac.il/faculty/kalech/judaism/ovadia_yosef.mp3 - see also n. 303; R. Simeon Hirari, *Resp. Sha’ar Shimon Ehad*, I, sec. 4, s.v. “ve-Hinneh ma.” This view actually finds precedent in the writings of various *rishonim*. The *Mishna* in *Sukka* 3:10 (Sukka 38a) indicates that one who relies on his wife or assistant in the recitation of *Hallel* is deserving of a curse (*tavo me’eira*). The following *rishonim* explain that the curse results from his reliance upon those who are not obligated in the recitation of *Hallel*; see: Rashi, s.v. “Makrin oto” (ho’il ve-ein mebuyyav ha-davar…tavo me’eira…*she-neveazeh et kono la’asot shelihin ka-cleh*; Tosafot, s.v. “u-Tehi lo me’eira” (*mi-shum de-neveazeh be-ma she-eelu mevearekhin lo, de-lav benei hiyyuva ninhu*); Tosafot Rabbenu Perets, s.v. “ve-Tavo me’eira” (*tavo lo me’eira she-neveazeh ba-mitsvat la’asot shelihin ka-cleh mi-shum de-lav benei hiyyuva ninhu*); Tosafot baRosh, s.v. “Tavo lo” (*mi-shum she-osoh lo shali’ah de-lo bar biyyuva ka layit leih*). *Sefer ha-Aguda*, Sukka, ch. 3, sec. 32 and *Sefer ha-Mikhtam*, Sukka 38a, s.v. “Tavo me’eira,” understand the curse as stemming from the very
illiteracy of the husband/father, which forces him to rely on the assistance of his wife and children (see below, n. 248). Nevertheless, the Sefer ha-Aguda concludes: “re-Im lamad, ha-mitsva [ha] mevazzeh, she-makrin oto isha ve-ered she-ein hayaavon bi-keri’at Hallel de-mitsvat aseh she-ba-zeeman gramma.” Similarly, Sefer ha-Mikhtam concludes: “re-Afislu yodei’a levarekh, af al pi she-cino bi-me’eira, zo cino ra’ui la’asot ken, la’asot shelihim ka-eileh levarekh bishvilo la-Shem yitbarakh.” See also discussion of R. Naphali Zvi Judah Berlin (Netsiv), Meromei Sadeh, Sukka 38a, s.v. “Mishna. Mi she-Haya” (Aval Rashi z”l mefaresh et ha-Mishna be-tsiibbur… im haya ha-makreh ered ve-khulu tavo lo me’eira, ve-yakhol libyot she-lamad, ela mishnum she-hu atsel likrot be-kol, lakhen ma’amid et ha-ered le-shats, ve-zeh bizzayon).

R. Avigdor Nebenzahl (conversation with the authors, Dec. 6, 2011) posits that calling upon one who is not obligated to read is zilzul ha-tsiibbur – making light of their obligations. The community cannot set aside its honor unless there is no other choice, i.e., that it is a she’at debak (see n. 255 infra).

243. Maimonides, M.T., Hilkhot Shebita 14:16 writes: “…One must not treat the mitsvot with disdain and regard them with scorn. For the honor is not for the mitsvot per se, but for He who, blessed be He, commanded us to observe them.”

244. For the rituals discussed below, we cite authorities who maintain that women are obligated equally with men and can be motsi’ot (assist) men in fulfilling their obligations. In contradistinction to the sources cited in n. 238, supra, these authorities do not invoke kevod ha-tsiibbur, although no explicit reason for this is given. The “Lack of Obligation School” (supra, n. 242) would argue that this is consistent with their understanding of kevod ha-tsiibbur, namely, that equal obligation not only empowers women to be motsi’ot men, but also vitiates kevod ha-tsiibbur considerations.

(a) Mikra Megilla: Most rishonim (see Sha’ar ha-Tsiyyun, O.H., sec. 689, sec. 2, n. 16 and R. Ovadiah Yosef, Resp. Yehavveh Da’at, III, sec. 51) maintain that women are obligated to read Megillat Esther and, therefore, should also be empowered to read it for others, male or female. See, for example: Rashi, Arakhin 3a, s.v. “le-Atuyei nashhim;” R. Moses ben Maimon (Rambam), Mishna Torah, Hilkhot Megilla 1:1 (see Magid Mishne and Haggahot Maimoniyot ad loc. and Shiltei Gibborim to Rif Megilla 4a); R. Isaac of Vienna, Or Zarua, II, sec. 368; R. Solomon ben Aderet (Rashba), Megilla 4a; Meiri, Berakhot 47b and Megilla 4a; R. David ben Levi, Sefer ha-Mikhtam, Megilla Nikret; R. Nissim (Ran), on Rif Megilla 4a; R. Isaiah ben Eliah the later, Piskei Riaz (Machon ha-Talmud ha-Yerushalmi, Jerusalem, 5731) Megilla ch. 2, 3:2 - cited in Shiltei Gibborim, to Rif Megilla 4a; R. Joseph ibn Haviva, Nimmukei Yosef, Megilla 4a, s.v. “she-Af.” This is the first opinion cited by R. Joseph Caro, Shulhan Arukh, O.H., sec. 689, parag. 1-2. Even though R. Caro cites a second opinion (yesh omerim) that women cannot read for men, R. Ovadiah Yosef maintains that the first expressed view (stam) is the final ruling of R. Caro. See R. Ovadiah Yosef, Hazon Ovadiah - Purim, me-Hilkhot Mikra Megilla, no. 4, n. 22, 59; R. Ovadiah Yosef, Resp. Yehavveh Da’at, III, sec. 51, 159 and IV, sec. 34, n. 2, 162; R. Ovadiah Yosef, Me’or Yisrael, I, Megilla 4a, s.v. “Tosafor d’v Nashim;” R. Ovadiah Yosef, Halikhot Olam, 1, Tetsevve - Hilkhot Purim, sec. 2, n. 2, 225. See also mi-Shiurei Maran ha-Rishon le-Tsiyyun Rabbenu Ovadiah Yosef Shelita, 1, Gilyon 19, va-Yera 5756, sec. 2, where R. Ovadiah Yosef permits a woman to read Megilla for a man (when absolutely necessary and only according to Sephardic usage), concluding: “And this is not, perish the thought, a Reform innovation, since this is the law and the halakha.” See also R. Yitzhak Yosef, Yalkut Yosef, V, 287-289 and R. David Yosef, Torat ha-Mo’adim, Hilkhot Purim ve-Hodesh Adar, sec. 5, no. 9, 138. For further discussion, see references in n. 242 above, and section II of Aryeh A. Frimer, “Women’s Megillah Reading,” supra, n. 235.
(b) Kiddush: Based in part on the view of Rash cited in Kol Bo, end of sec. 31, R. Joseph Caro, Shulhan Arukh, O.H., sec. 271, no. 2, rules that since women are obligated equally with men, they can recite kiddush for men as well. Several authorities have indicated that this ruling is consistent with his just cited decision by mikra megilla that women can read for men; see R. Hayyim Joseph David Azulai (Hida), Birkei Yosef, O.H. sec. 271, no. 1; R. Joseph Hazan, Resp. Hikrei Lev, O.H., end of sec. 45; R. Mordechai Bennet, Ma’amor Mordekhai, O.H., sec. 271, n. 1; R.ovidiah Yosef, Resp. Hazon Ovadiah – be-Hilkhot Seder Leil Pesah, I, part 1, sec. 10, 162-163; R. Ovadia Yosef, Me’or Yisrael, Berakhot 20a, s.v. “Amar Rav Ada.” See, however, discussion above in n. 238c.) We note that R. Moses Isselish (Rema) does not take issue with R. Caro’s ruling, suggesting that he too concurs. Although with regards to Megilla reading, Rema rules that women cannot read for men, this is a result of R. Isserlis’s view that women have a lesser obligation in this ritual; see Rema, O.H., 689, no. 2. Several posekim agree that since women are obligated equally with men in kiddush, there are no grounds for distinctions; see Tulve Zabav, O.H., sec. 271, no. 2, n. 2; Be’ur ha-Gra [and Damesek Eliezer], ad loc. The following abaronim cite R. Caro’s ruling without qualification: Resp. Hikrei Lev, O.H., end of sec. 45; R. Judah Samuel Ashkenazi, Siddur Be’er Tefilla, Dinim ha-Shayakhim le-Kiddush al ha-Yayin, no. 4; Hayyei Adam, Hilqhot Shabbat, Klal 6, no. 5; R. David Lida, Shomer Shabbat, sec. 3 (Dinei Kiddush), no. 3; R. Meir Cohen, Shabbat ke-Hilkhatotah, sec. 4, no. 2; R. Moses ha-Levi, Menubat Abova, I, ch. 7, no. 4. Shulhan Arukh ha-Rav, O.H., sec. 271, no. 6 agrees with R. Caro’s ruling in theory; however, he is concerned that allowing women to do so, when not absolutely necessary, might lead to a belittling of the importance of mitsvot.

We should reiterate, however, that while the rulings regarding mikra Megilla and kiddush in the previous two paragraphs are consistent with the explanation posited by the “Lack of Obligation School” in kevod ha-tsibbur, they do not necessarily require it. As already noted above in n. 238c in the case of kiddush, there is a cadre of scholars maintaining that kevod ha-tsibbur is totally inapplicable. Thus, R. Jedidiah Tiya Weil (son of R. Nathaniel Weil, author of Korban Neteilen), Ginzei ha-Melekh, Kuntres Divrei Shalom ve-Emet, Hilqhot Megilla, ch. 1, no. 1, argues that kevod ha-tsibbur is only relevant to those rituals, like keri’at ha-Torah and kiddush, where no minyan is required and women can be motzi’ot men. See R. Jacob Emden, Mor u-Ketsi’a, O.H., sec. 689, s.v. “ke-Magen Avraham, subsec. 4.” R. Joseph B. Soloveitchik has also publicly ruled that women can recite kiddush for men; see R. Michael J. Broyde and R. Joel B. Wolowelsky, “Further on Women as Prayer Leaders and Their Role in Communal Prayer: An Exchange, Communal Prayer and Women - Response to Judith Hauptman, Judaism, vol. 42, p. 94, 1993,” Judaism, 42:4 (Fall, 1993), n. 12; R. Michael J. Broyde “Halacha First,” Hirhnirim – Musings, November 6, 2011, available online at http://torahmusings.com/2009/11/halacha-first/, n. 3 therein, citing a public lecture at Yeshiva University on November 6, 1984; R. Howard Jachter citing a shiur in 1984, available online at: http://www.etzchaimkg.org/audio/sperber_debate.ram (44.20 minutes into the recording). Both R. Aharon Lichtenstein (personal communication to Aryeh A. Frimer, 12/31/06) and R. Nachum Rabinovitch (personal communication to Aryeh A. Frimer, 1/24/07)

R. Yehuda Herzl Henkin goes one step further, maintaining that kevod ha-tsibbur is not relevant to either kiddush or mikra Megilla. This is because kevod ha-tsibbur is only applicable to those rituals, like keriat ha-Torah, where a male minyan is required. In R. Henkin’s view, kevod ha-tsibbur is not mentioned formally by mikra Megilla or kiddush since in the former a minyan of women would suffice and in the latter no minyan at all is required. See R. Yehuda Herzl Henkin, Resp. Bnei Vanim, II, sec. 11, s.v. “ve-Hinneh ha-Rambam”; R. Yehuda Herzl Henkin, unpublished responsum to R. Harry Sinoff (dated 20 Av 5750) brought online by R. Marc B. Shapiro, “Some Assorted Comments and a Selection from my Memoir, Part 2,” available at http://seforim.blogspot.com/2009/11/some-assorted-comments-and-selection.html.

245. R. Joseph Kafi h, Commentary to M.T., Hilkhon Tefilla, ch. 12, no. 17, n. 49; Resp. Bnei Vanim, II, sec. 11. (Cf. R. Joseph Kafi h, supra, n. 202.) We have not included in this school the position of R. Shlomo Goren, supra n. 191, because he rules out those not included in the requisite minyan even be-di-avad, me-ikkar ha-din - and not just le-khattehila because of kevod ha-tsibbur. It should be noted that for most authorities, maximal obligation in a ritual and counting towards a minyan for that ritual go hand in hand. See “The First School” in Aryeh A. Frimer, “Women and Minyan,” Tradition, 23:4 (1988), 54-77, available online at: http://www.daat.ac.il/daat/english/tflia/frimer2-1.htm.

246. The exclusion of women is explicit in Maimonides, Hilkhon Tefilla, ch. 12, no. 3 and Meiri, Berakhot 47b, s.v. “ha-Mishna ha-Shelishit,” although not in Shulhan Arukh O.H., sec. 145, no. 1. Nevertheless, many of the later codifiers cite verbatim the language of Maimonides. See, for example, R. Efrayyim Zalman Margaliot, Sha’arei Efrayim, sec. 7, no. 38; R. Jacob Hayyim Sofer, Kaf ha-Hayyim, O.H., sec. 143, no. 1, subsec. 1; R. Hayyim David ha-Levi, Resp. Mayim Hayyim, III, sec. 5; Yalkut Yosef, II, sec. 143, no. 1, n. 1; R. Abraham Pfeifer, Ishrei Yisrael, sec. 15, no. 1; R. Solomon Man, ve-Zot ha-Torah, sec. 32, no. 1; R. Naphtali Hoffner, Sefer Halakha VI – Dinei keriat ha-Torah, sec. 8, no. 3; R. Avigdor Nebenzahl, Resp. Avigdor ha-Levi, (R. Nitsan Brauner, ed.) I, O.H., Hilkhon Shabbat (sec. 282), no. 58.

Several reasons are given for women’s non-inclusion into the keriat ha-Torah minyan quorum: (a) One school of codifiers maintains that women never count towards a minyan – irrespective of obligation; see the discussion of “The Second School” in Aryeh A. Frimer, “Women and Minyan,” supra, n. 245. (b) Another school maintains that minyan and obligation are linked; hence, women’s exemption from the obligation of keriat ha-Torah (supra, at n. 84) naturally results in their inability to constitute the requisite minyan for this service. See for example, R. Hayyim Rodrigues, Resp. Orah le-Tsaddik, sec. 3; R. Joseph Te’omim, Rosh Yosef, Megilla 23a, s.v. “Leima”; the discussion regarding “The First School” in Aryeh A. Frimer, “Women and Minyan,” supra, n. 245. (c) Others argue that keriat ha-Torah is a davar she-biKedusha (act of sanctification; “Davar she-biKedusha,” Encyclopedia Talmudit, VI, 714ff). See Meiri, Megilla 23b s.v. “ve-Nashnu”; R. Ovadya of Bartenora, Mishna Megilla 4:3, s.v. “ve-Ein Korin ha-Torah,” Kesef Mishne, Hilkhon Tefilla, ch. 12, no. 3, s.v. “Ein korin”; Levush, O.H., sec. 143, no. 1; Bah, Tur, O.H., sec. 689, s.v. “ve-Nashim nami.” R. Yihya Tsalah, Shetilei Zeitim, O.H., sec. 143, n. 1; Turei Even, Megilla 23b; Kaf ha-Hayyim, O.H., sec. 143, no. 1, subsec. 1; R. Abraham Aba Herzl, Siftei Hakhamim, Megilla 23b, s.v. “Mina hani milei,” R. Ben-Zion Hai Uziel, Resp. Mishpetei Uziel, Mahadura Tinyana – Helek Alef, sec. 17 and 18 – see also R. Ben Zion ha-Levi Lichtman, Bnei Tsiyon, II (end), additions to O.H. sec. 143, 212b-214b where the
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unabridged original responsa are brought; R. Dov Ber Karasick, Pithei Olam u-Matamei ha-Shulhan, O.H., sec. 143, n. 1; R. Joseph B. Soloveitchik, Shiurim le-Zekhker Aba Morz“v, vol. 2, be-Inyan takkanat Moshe, 213; R. Joseph B. Soloveitchik, mi-Beit Midrasha Shel ha-Rav, Hilkhot Keri‘at ha-Torah, sec. 143:4, 56; R. Joseph B. Soloveitchik, Shi‘urei ha-Rav al Inyanci Tefilla u-keri‘at Shema, edited by R. Menahem Dov Genack, Introduction, 3 and sec. 1, 15; R. Joseph B. Soloveitchik, cited in R. Hayyim Dov Altuski, Hiddushei Batra, ha-Masbir be-Masekhet Megilla, Megilla 21a, sec. 134-135 (“MasBIR” is an inverted acronym for Rav Yosef Ber (Dov) Soloveitchik, Moreinu); Talkot Yosef; II, sec. 143, no. 1, n. 1; Ishel Yisrael, sec. 15, no. 1; R. Meir Orlian “Birkhot ha-Torah shel Keri‘at ha-Torah be-Tsibbur,” Be‘it Yosef Shaul, no.4 (5754), 199-214, at p. 203; Sefer Halakha VI – Dinei keri‘at ha-Torah, sec. 8, no. 2; ve-Zot ha-Torah, sec. 32, no. 1, n. 1; R. Nachum L. Rabinovitch, Yad Peshuta, Hilkhot Tefilla, ch. 8, nos. 4-6. For devarim she-biKedusha the ruling is unanimous that the minyan must consist of ten male adults; see Shulhan Arukh O.H., sec. 55, no. 1 and commentaries ad loc.: Levush no. 1; Magen Avraham no. 1; Mishna Berura no. 2; Arukh ha-Shulhan no. 6. Shulhan Arukh ha-Rav, O.H. sec. 55, no. 2. See also R. Abraham Yaffe-Schlesinger, Resp Be‘er Sarim, sec. 18.

R. Zvi Hirsch Grodzinsky and R. Hillel Posek, supra, n. 73, argue that according to the view of Magen Avraham, supra, n. 73, who maintains that women are obligated in keri‘at ha-Torah, they may also count towards the minyan. However, as we have already noted, the overwhelming majority of codifiers, supra, n. 84, as well as accepted practice, reject the position of Magen Avraham. In addition, as cited in the previous paragraph, many rishonim and aharonim do not accept the intimate link between obligation and counting towards a minyan; see “The Second School” in Aryeh A. Frimer, “Women and Minyan,” supra, n. 245. R. Moses Sofer, Derashot Hatam Sofer, III, Derush le-Bar Mitsva, 72 – cited in Hiddushei Hatam Sofer, Megilla 23b, s.v. “ve-Ein Korin,” raises the possibility of including one woman towards the minyan quorum but no more.

R. Samuel Tuvya Stern, Resp. ha-Shavit, V, secs. 28 and 31, opines that even though women are freed from the obligation of keri‘at ha-Torah, they may nevertheless constitute a minyan for this purpose, because the purpose of the minyan is to publicize its performance. This statement is quite curious. There is indeed a school of scholars that maintains that women may be counted towards a minyan, where the minyan is needed only to give “publicity” to the performance. But, this is in cases like megilla reading, kindling Hanuka candles in the synagogue, recitation of birkat ha-Gomel for this purpose, because the purpose of the melava is to publicize its performance. See R. Moses ben Nahman, Milhamot Hashem, on Rif to Megilla, ch. 1, sec. 1067, 5a [p. 3a in Vilna edition of Rif], s.v. “ve-Od amar Rav.”

247. This is explicitly stated by Ritva, Sukka 38a, end of s.v. “Gemara. Tanu rabbanan.” See also Mishnat Yosef, supra, n. 242.

Soloveichik, in a conversation with Dov I. Frimer (3 Tammuz 5757 - July 8, 1997); Moses Butchako, Kol me-Heikhal (Yeshivat Hesder Heikhal Eliyahu), 7 (Tevet 5758), 125-141, at 140, no. 29; R. Herschel Shachter, “On Matters of Mesorah,” available online at http://tinyurl.com/15aeb; R. Herschel Shachter, “Can Women be Rabbis,” 2004, available online at http://tinyurl.com/gj9po; R. Avigdor Nebenzahl, Resp. Avigdor ha-Levi, R. Nitsan Brauner, ed., I, O.H., Dinei ha-Kore ve-haMakreb (sec. 141), no. 21; R. Yehudah Herzl Henkin, Resp. Benei Vanim I sec. 4, II sec. 10, IV secs. 2 and 3; R. Yehudah Herzl Henkin, “The Significant Role of Habitation in Halakha,” Tradition 34:3 (2000), 40-49 – reprinted in Understanding Tzniut: Modern Controversies in the Jewish Community (Urim Publications; Jerusalem:2008), ch. 2, 73-84; R. Yehudah Herzl Henkin, “Hilul Be’ag bein Mikra le-Mishma Megilla, u-miMatai Ne’esru Nashim la-Torah,” Beit Hillel, 6:2(22) (Adar II 5765), 99-102. In Resp. Benei Vanim II, sec. 10, and IV, sec. 3, R. Henkin includes in this school two rishonim. R. Yom Tov Ashvili (Ritva), Megilla 4a, s.v. “she-Af hen,” writes: “…And since we hold like R. Joshua ben Levi that women are obligated [like men], the women can assist [motsiot] the men as well; however, this is not [proper] kevod ha-tsibbur and the women [ve-hen] are included in tavo me’eira.” R. Abraham Min haHar, Megilla 19b, writes: “…It is not proper for her to assist others …[because of] tavo me’eira … and it is said …a woman should not read because of kevod ha-tsibbur.” Both seem to equate kevod ha-tsibbur with the concept tavo me-eira which appears in the Mishna Sukka 3:10, Talmud Berahot 20a, and Sukka 38a. The mishna indicates that one who relies on his wife or child to assist him in the recitation of Hallel or birkat ha-mazon is deserving of a curse (tavo me’eira). In n. 242 supra, we cited several rishonim who understand that the curse results from the necessary reliance of the illiterate husband/father on the assistance of his wife and minor children who are not obligated in the recitation of Hallel or birkat ha-mazon is deserving of a curse (tavo me’eira). However, other rishonim, like Ritva (see: Megilla 4a, s.v. “she-Af hen;” Sukka 38a, s.v. “u-Tehei lo” and “Gemara. Tanu rabbanan,” Resp. Ritva, sec. 97, s.v. “ve-Elu divrei”) understand the curse as stemming from the very illiteracy of the husband/father which forces him to rely on the assistance of his wife and even adult children, even though they too are obligated. [R. Yehuda Herzl Henkin, suggests that the curse in fact stems from the fact that the illiterate father had family members to learn from, but negligently did not avail himself of the opportunity. See: R. Yehuda Herzl Henkin, “Communications,” Tradition 40:1 (2007), 102-106, reprinted in, Understanding Tzniut: Modern Controversies in the Jewish Community (Jerusalem: Urim Publications, 2008), ch. 5, 101-105.] This equation suggests that kevod ha-tsibbur results from the analogous impression that the community of males is illiterate; otherwise, they should have served as ba’alei keriyah – which is their traditional role.

249. R. Mendel Shapiro, supra, n. 23 has argued that, according to Ritva, the shame and dishonor to the community results from the traditionally lower social status of women, who, as a result, were not expected to take the lead in public ritual. If they did, it would suggest that the men were shamefully illiterate. By contrast in the Modern period, argues R. Shapiro, women’s social status has changed, women take leadership roles in all areas of life, and a women’s getting an aliyya would not have negative dishonorable repercussion on the community. This suggestion of R. Shapiro is a central argument to his thesis and returns in various forms throughout his piece in the Edah Journal. However, a careful reading of Ritva reveals that he was not at all concerned with woman’s social status – since, regarding the comparable instance of tavo me’eira, Ritva refers to the impropriety of having one’s wife and adult son recite the birkat ha-mazon for him. The impropriety is the implication that one was illiterate.
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or making light of their traditional role. See also R. Gidon Rothstein, supra n. 27b, 49-50 and his n. 54 and discussion thereat.

That social status is not a relevant factor in determining kevod ha-tsibbur finds clear confirmation by the ruling that a mamzer (a child born of a strictly forbidden sexual relations) may receive an aliyyah – despite his being a pesul kahal (one forbidden to marry Jews of untainted lineage). See: Rema, O.H., sec. 282, no. 3; Levush, sec. 282, no. 4; Bah, O.H., sec. 135; Taz, sec. 135, no. 8; Magen Avraham, sec. 135, no. 13; Mahatzit ha-Shekel, sec. 135, no. 13; Shulhan Arukh ha-Ra\v, sec. 282, no. 8; Mishna Berura, sec. 135, n. 38; Resp. Petah ha-Devir, II, Kuntres Aharon le-Petah ha-Devir, I, sec. 55; Comments of R. Dov Beryl ha-Levi Kimmel, Beit ha-Levi, no. 174 on R. Joseph Tecomim, Kuntres No\’am Megadim, no. 14; Resp. Tsits Eliyzer, XX, sec. 10; R. Isaac Zilberstein, Hashukei Hemed, Megilla 23a – who also indicates that this is the opinion of his father-in-law R. Joseph Shalom Elyashiv. The reason given is that a mamzer is obligated in keri’at ha-Torah like other males; see Levush, sec. 282, no. 4; Mishna Berura, O.H., sec. 282, n. 17. In addition, according to many authorities, a non-Jewish slave (also a pesul kahal) may also receive an aliyya; vide supra, n. 241.

Equally important, by positing social standing as the primary reason behind kevod ha-tsibbur, R. Shapiro has ignored the other more accepted explanations of kevod ha-tsibbur which are adopted by the overwhelming majority of leading authorities. Reasons like sexual distraction and lack of obligation have nothing to do with social status and totally undercut R. Shapiro’s basic argument.


251. See, supra, see above at ne 247.


253. Resp. Rivash, end of sec. 220, citing Ra’avad. See also the sources cited at length by R. Isaac Yosef, Yalkut Yosef, Hilkhot Kibbud Av vaEm, II, ch. 12, no. 1, n. 1, 320-322 and ch. 16, no. 2, n. 2, 536-539.

254. R. Joel Sirkis, Bayit Hadash (Bah), Tur, O.H. sec. 53, s.v. “ve-Ein memanin.” This also the view of the following posekim: R. Joseph Caro in Shulhan Arukh, sec. 53, no. 6 according to Pri Megadim, O.H., sec. 53, Eshel Avraham, n. 9; R. Judah Ayash, Resp. Beit Yehuda, I, O.H., secs. 22 and 55; R. Israel Lipschutz, Tiferet Yisrael to Mishna Megilla 4:6, no. 45 (kevod ha-tsibbur is kevod Shamayim); R. Raphael Emanuel Hai Riki, Resp. Aderet Eliyahu, Kuntres Kol ha-Mosif Gore’a, no. 6; R. Hayyim Sofer in his comments to R. Jacob Alfanadri, Mutsal me-Esh, sec. 10; R. Isaac Harari, Resp. Zekher le-Yitshak, sec. 38; Kaf ha-Hayyim, O.H., sec. 53, n. 37 and sec. 143, n. 10 – see, however, sec. 690, no. 5; R. Menahem Mendel Auerbach, Ateret Zekenim, O.H., sec. 53, no. 6; Resp. Mishpetei Uziel, IV, H.M., sec. 4; R. Solomon Zalman Braun, She’arim Mtsuyyanim be-Halakha al ha-Shas, II, Megilla 24b, s.v. “mi-Sham kevod ha-tsibbur;” R. Moses Harari, Mikra’ei Kodesh – Hilkhot Rosh ha-Shana, Second edition (Jerusalem: 5766), 429-431; R. Zalman Joseph Aloni, “Birur Din Kevod ha-Tsibbur u-Mehillato,” Seridim, 2:24-27 (Sivan 5742); R. Avigdor Nebenzahl, conversation with the authors (Dec. 6, 2011); R. Samuel Eliyahu (Chief Rabbi of Tsfat), personal communication (Dec. 25, 2011). Ma’amor Mordkehai, O.H., sec. 53, no. 2, suggests that R. Caro remained undecided on this issue and, in practice, one should be stringent; see more discussion below, n. 256. R. Asher Weiss, Minhag Asher, be-Midbar, sec. 51, no. 2, maintains that only with matters which are essentially tirkha de-tsibbura can a community set aside its honor. Rabbis Ayash, Riki, Sofer, and Weiss compare the honor of a community to that of a king, which cannot be set aside. We should note that Resp. Rosh, part 4, secs. 17 and 22, forbids appointing one lacking a
full beard from serving as cantor. It is not clear, however, what his stand is regarding other kevod ha-tsibbur issues.

255. Bah, Tur, O.H. sec. 144, s.v. “Medallegin ha-Navi.” See R. Hayyim Palagi, be-Hafets Hayyim, sec. 39, nos. 13 and 22, who argues that the position of Bah – that kevod ha-tsibbur can be set aside in she’at ha-debak situations – is actually precedented in Ritva, Yoma 70a, s.v. “le-Fi she-ein.” See also R. Meir ben Barukh of Rothenburg, Resp. Maharam ben Barukh me-Rotenberg (Prague edition), IV, secs. 108 and 174; n. 264, infra. In discussing keri’at ha-Torah, R. Judah Leib Graubart, Resp. Havalim ba-Ne’imim, I, sec. 29, no. 2 – based on Hagahot Mordekhai, Gittin 60a, sec. 463, citing R. Samson of Sens – explains the rationale of this school as follows: kevod ha-tsibbur may be set aside where otherwise the fundamental rabbinic enactment of keri’at ha-Torah could not take place at all; if, however, there is another alternative whereby keri’at ha-Torah could still be performed, then kevod ha-tsibbur cannot be ignored.

256. R. Isaiah ben Eliyya, Piskei R. Yeshayahu Abaran z”l (Riaz), Megilla ch. 3, sec. 3, no. 4 (regarding one lacking a full beard serving as cantor or blessing congregation) cited in Shitei Gibborim, Megilla 24b; Pri Hadash, O.H., sec. 53, no. 6, sec. 143, no. 2, and sec. 144, no. 3; R. Samuel Landau, Resp. Shivat Zion, sec. 18; R. Hayyim Palagi, Re’eḥ Hayyim, Seder Ytiro; R. Hayyim Palagi, Resp. Nishmat Kol Hai, I, O.H., sec. 9. R. Palagi adds the proviso that setting aside kevod ha-tsibbur is permissible only where there is a substantial reason (ta’am ve-sibba gedola limhol al kevodam). Several other rishonim, in their discussion of a community reading from humashim, indicate that a community may set aside their kevod ha-tsibbur; nevertheless, it is not clear where they stand on the dispute between Taz (Compromise School) and Pri Hadash (Lenient School). See R. Samson ben Tsadok, Sefer Tashbets, sec. 186; Mordekhai, Halakhot Ketanot, Menahot, ha-Komets, sec. 968 citing Maharam; Resp. Ba’alei ha-Tosafot, sec. 16; R. Yeruham ben Meshulam, Toledot Adam ve-Harva, Netiv 2, part 3.

The view that a community may set aside their kevod ha-tsibbur is often attributed to R. Joseph Caro, based on Beit Yosef, Tur, O.H., sec. 53, s.v. “ve-Katav ha-Rashba” and sec. 143, s.v. “u-Ma she-Peresḥ.” Actually, in both cases R. Caro cites two opposing opinions without clearly deciding between them. Nonetheless, several posekim have concluded that from R. Caro’s ruling in Shulhan Arukh, O.H., sec. 53, sec. 6, it is clear that he sides with the stringent or compromise schools. There in Shulhan Arukh, R. Caro maintains that when it comes to appointing one below the age of twenty to serve as a permanent cantor, the community cannot set aside its kevod ha-tsibbur. See: Bah, supra, n. 254; Eliyya Rabba, O.H., sec. 53, sec. 6, n. 10; Magen Avraham, O.H., sec. 53, sec. 6, n. 9; Pri Megadim, Mishbetsot Zabah, sec. 53, n. 2; R. Isaac Harari, Resp. Zekhor le-Yitshak, sec. 38; Benei Tsiiyon, O.H., sec. 53, sec. 6, n. 8; Resp. Minhat Yitshak, VI, sec. 15; Resp. Yabbia Omer, IV, O.H., sec. 10, no. 6. As to R. Caro’s stance on the general issue of setting aside kevod ha-tsibbur, there are actually four positions: (1) Pri Hadash, O.H., sec. 53, no. 6, sec. 143, no. 2, and sec. 144, no. 3, argues that R. Caro was generally lenient; (2) Benei Tsiiyon, ibid., maintains that R. Caro was stringent only in the case of appointing a teenager as a permanent cantor (Shulhan Arukh, sec. 53) and elsewhere holds like the majority compromise school; (3) Pri Megadim, O.H., sec. 53, Eshel Avraham, n. 9, posits that R. Caro agrees with the stringent of Bah; (4) Ma’amor Mordekhai, O.H., sec. 53, no. 2, suggests that R. Caro remained undecided on this issue and was stringent out of doubt. R. Dov Lior, Resp. Devar Hevron, II, sec. 263, n. 126, maintains that even if R. Caro sides with the lenient position, his opinion has been totally rejected by later scholars, led by Taz, O.H., sec. 53, no. 2 and Magen Avraham, O.H., sec. 53, no. 9.
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258. R. Shalom Joseph Elyashiv, cited by R. Yehezkel Feinhandler, Ashrei ha-Ish, O.H., part 1, sec. 10, no. 9, 58, indicates that a youth minyan, where the vast majority of participants are below twenty, can appoint one of them to be the hazzan. This, however, is not a result of melibba, but rather because the kevod ha-tsibbur consideration is not relevant to a community comprised of congregants who are overwhelmingly underage. R. Isaac Zilberstein, Hashukei Hemed, Megilla 21a, 277-279, distinguishes between “lack of honor” and “shame.” For a ba’al keri’ah to read Megillat Esther for the community while sitting does not show proper respect for the community, but it does not shame them. Hence, argues R. Zilberstein, setting aside communal honor in the case of an invalid or elderly individual who cannot stand is permissible. The same is true for rolling them. Hence, argues R. Zilberstein, “Derashat ha-Rav bi-Zeman ha-Tefilla be-Shabbat,” Tebunnim, XIII (5752-5753), sec. C.3, 130-134; Resp. Yabbia Omer, IV, O.H., sec. 10, no. 6, VI, O.H., sec. 23, VIII, O.H., sec. 15, no. 4, and IX, O.H., sec. 83, no. 4; Yalkut Yosef, II, sec. 144, “she-La Liggol ha-Sefer Torah,” subsec. 2, n. 4; R. Ezra Batsri, Sha’arei Ezra, II, sec. 9 – originally appeared in “Sheli’ah Tsibbur be-Kissei Galgalim,” Tehumin, IV (5743), pp. 455-460; Resp. Benei Vanim, II, sec. 11; R. Nadav Perets, Nidvat Perets, Megilla 24a, s.v. “Ra’iti”; R. Nathan Zvi Friedman, Resp. Netser Mata’ei, I, sec. 1, end of no. 8; R. Shalom Isaac ha-Levi, Resp. Divrei Hakhamim, sec. 18; Benei Tsiyyon, O.H., sec. 53, no. 6, n. 8, and sec. 143, no. 2, n. 2.

259. Maimonides, M.T., Hilkhot Tefilla, sec. 12, no. 17, writes: “A woman may not read because of the honor of the community.” R. Masud Hai Rokei’ah, Ma’ase Rokei’ah, ad loc., underscores that this unqualified language (in contrast to that of the baraita of Megilla 23a) indicates that Maimonides maintains that women’s aliyyot are totally forbidden in this rabbinic edict, even bi-she’at ha-dehak. Several later rabbinic scholars concur with this understanding of Maimonides; see: R. Isaac ha-Levi Segal of Lemgo, Toledot Yitshak, Tosefta Megilla 3:5; R. Avraham Shoshana, ed. (Jerusalem: Machon Ofek, 5762), 217; R. Ben-Zion Lichtman, Benei Tsiyyon, IV, O.H. sec. 282, no. 3, n. 6; R. Joseph Messas, Mayim Hayyim, II, O.H., sec. 140; R. Zalman Nehemiah Goldberg, in Resp. be-Mareh ha-Bazak, V, addendum to sec. 113, 225-228; R. Zalman Nehemiah Goldberg, Resp. Binyan Ariel, E.H., “Birkat Hatanim bi-Se’udat Sheva Berakhot al yedei Isha,” 135-141; Tehilla le-Yona – Massakhet Megilla,
R. Solomon Shalom ha-Kohen Kahn, ed. (Makhon Be’er ha-Torah: Lakewood NJ, 5759), Megilla 23a, s.v. “ha-Kol Olin,” 218; R. Baruch Gigi, public lecture, February 14, 2008, available online at http://tinyurl.com/ce3fcs (thanks to David Eisen); R. Shai Piron, supra, n. 27i. This point is also made by R. Henkin in the original responsum to R. Levinger, 14 Nisan 5754, which appears in slightly revised form as Resp. Benei Vanim, IV, sec. 3.

260. R. Moses ben Jacob of Coucy, Sefer Mitsvot Gadol (Semag), Esin 19, s.v. “Kamma,” in his discussion of the number of aliyyot writes: “A minor who knows how to read and to Whom he is reciting the benediction counts among the seven.” R. Ben-Zion Lichtman, supra, n. 259, notes that only a minor is mentioned, but not a woman, because women are totally forbidden from receiving an aliyya. In addition, in Sefer Mitsvot Gadol (Semag), Divrei Soferim, Aseh, no. 4, Hilkhot Megilla, s.v. “Tanya be-Tosefta,” Semag forbids a woman, despite her obligation to read the Megilla, to be motsi even a single man based on an analogy to Torah reading, where women cannot read for men. R. Elijah Mizrahi, Hiddushei ha-Re’em al ha-Semag and R. Hayyim Benveniste, Dina de-Hayyei, to Semag ad. loc., indicate that the analogy is based on a common rationale, kerdov ha-tsibbur. (See the related comments of R. Aharon Lichtenstein, “Women’s Obligation to Light Chanuka Candles,” available online at http://tinyurl.com/82yh5v.) The view of Semag is cited le-halakha by R. Abraham Gombiner, Magen Avraham, O.H., sec. 689, n. 5, and later codifiers: Arukh ha-Shulhan, no. 5; Mishna Berura, no. 7; Kaf ha-Hayyim, no. 13. Several scholars explicitly state that Semag and Magen Avraham maintain that women cannot be motsi men - even be-di’Avad; see R. Moshe Gedalia ha-Levi, Hemed Moshe, O.H., sec. 690, n. 1; R. Abraham Pinso, Resp. Eretz mi-Tsar, sec. 23; R. Joseph Teomim, Pri Megadim, Mishbetot Zavah, n. 1; and Tehilla le-Yona – Massekhet Megilla, supra, n. 259. R. Teomim points out further that the rules of kervd ha-tsibbur are not uniform: in some cases, one is yotsei be-di’Avad despite kervd ha-tsibbur, but this is not the case regarding women reading megilla for men, which is invalid even be-di’Avad. Thus, Semag’s analogy between ker’i’at ha-Torah and Megilla reading clearly indicates that just as a woman cannot assist a man in mikra megilla, so too kerdov ha-tsibbur cannot be set aside to permit women’s aliyot, even be-di’Avad; see Tehilla le-Yona – Massekhet Megilla, supra, n. 259. Nevertheless, R. Yehuda Herzl Henkin, Resp. Benei Vanim, IV, sec. 3 disagrees, maintaining that even according to Semag, a woman can assist a man in Megilla and ker’i’at ha-Torah in be-di’Avad or bi-she’at ha-debak situations.

261. R. Abraham Pinso, supra, n. 260; R. Matsli’ah Mazuz, Resp. Ish Matsli’ah, O.H., sec. 10; R. Zalman Nehemiah Goldberg, supra n. 259; R. Isaac Zilberstein, supra n. 258; R. Akiva Meller, ha-Keri’a ha-Torah ve-Hilkhoteha (Jerusalem, 5769), ch. 50, n. 2. See also n. 288, infra.

262. Once a takkana has been enacted, it often functions independently, irrespective of the original reason of the takkana. Thus, the particulars of the law as practiced do not always correspond to the original rationale. See R. Abraham Dowber Kahana Shapiro, Resp. Devar Avraham, I, sec. 17, s.v. “u-beEmet;” Resp. Devar Avraham, III, sec. 19, s.v. “u-leFi ha-Perush;” R. Aharon Lichtenstein, Shirei ha-Rav Aharon Lichtenstein, Pesahim, Bedikat Hamets le-Ahar Bittul, 30, s.v. “kaMuvan;” R. Aharon Lichtenstein, Shirei ha-Rav Aharon Lichtenstein, Gittin, Takkanat Zeman be-Get, ha-Yalas bein Tu’am ha-Takkana le-Tokehen ha-Takkana, 52.

263. R. Michael Broyde, supra n. 27j, argues that, in the case of women’s aliyyot, this is also the view of Rashba and the overwhelming consensus of posekim. We find his arguments regarding Rashba unconvincing. See: Aryeh A. Frimer, “Women’s Aliyyot: le-Khathila, be-di-Avad or bi-She’at ha-Debak? Selected Comments on the Positions of Rabbis Mendel Shapiro, Daniel Sperber and Michael Broyde,” (In Review).
264. In sec. VI above, we pointed out that the present system of \textit{keri'at ha-Torah} differs sharply from that of the Talmud. The present system, apparently instituted in the post-Talmudic Geonic period, is a bifurcated system which relies on both an \textit{oleh} and a \textit{ba'al keri'ah}. Under such a system, women who are not obligated in \textit{keri'at ha-Torah} can serve neither as \textit{olot} nor as \textit{ba'alot keri'ah} unless they read for themselves, as was the case in Talmudic times. Thus, we posit that the discussions of the authorities cited in the previous paragraph, who have permitted women to receive \textit{aliyyot} under \textit{she'at ha-dehak} or \textit{be-diAvad} situations, refer to one of three situations: (1) They may be referring to cities which maintained the original Talmudic custom according to which each \textit{oleh} read for himself, much the way Yemenite Jews do to this day. This, indeed, seems clearly to be the case with the responsum of R. Meir ben Ba-ruch of Rothenburg; see the end of n. 266, \textit{infra}. (2) Alternatively, these discussions are fundamentally academic in nature, not practical responses, and even then, only where the women read for themselves. These authors are basing their responsa on the original Talmudic statement in \textit{Megilla} 23a (\textit{supra} n. 19), in which each of the \textit{olim} read for themselves, and not necessarily at all on real-life situations. See the related comments of R. Shlomo Goren, \textit{Resp. Meshiv Milhama}, II, Gate 7, sec. 107, s.v. “\textit{Ken nireh}” and R. Eliav Shochetman, \textit{supra}, n. 27a, 305-306. The same approach is true for those who allow women to receive an \textit{aliyya} in a private \textit{minyan} discussed in n. 290 – the women need to read for themselves. (3) Finally, it is possible that these authorities hold like the “Minority School” in \textit{shome'a ke-oneh}; see sec. II.(5)b. This also presumably the view of those isolated authors that a minor or woman might be \textit{oleh} in Talmudic times only if a \textit{ba'al keri'ah} read for them; see end of n. 17, \textit{supra}.


266. R. Meir ben Baruch of Rothenburg, \textit{Resp. Maharam ben Barukh me-Rotenberg} (Prague edition), IV, sec. 108. Maharam’s lenient position is widely cited; see R. Moses Parnes of Rothenburg, \textit{Sefer ha-Parnes}, sec. 206; Mordechai, \textit{Gittin}, ch. 4, sec. 404; \textit{Hagahot Maimoniyot}, \textit{Hilkhot Tefillah}, 12:17, n. res; Abudarham, \textit{Dinei Keri'at ha-Torah}, s.v. “\textit{ve-Katav ha-Rav Meir};” \textit{Beit Yosef}, \textit{Tur}, sec. 282, s.v. “\textit{ha-Kol Olin};” \textit{Darkei Moshe ha-Arokh Tur}, sec. 282, s.v. “\textit{ha-Kol Olin}.” Rabbenu Yeruham, \textit{Toledot Adam ve-Havra}, \textit{Netiv} 2, \textit{Helek} 3, 20b, cites the same decision in the name of Ramah (R. Meir haLevi Abulafia – perhaps the citation should be Ram, referring to R. Meir [of Rothenburg], not Ramah). For further discussion of the responsum of Maharam, see Aryeh A. Frimer, n. 263 \textit{supra}. It is noteworthy that the responsum of Maharam seems to be a direct response to a question asked him by his student R. Asher ben Moshe, in a letter found in \textit{Teshuvot Maharam me-Rotenberg ve-Haverav}, ed. Simcha Emanuel (Jerusalem, 2012), II, sec. 450. This letter is incomplete, and ends with a query regarding “\textit{ir she-kulam kohanim}.” The questioner makes it clear that the city under discussion had the original Talmudic custom according to which each \textit{oleh} read for himself. This is indeed reflected in the language of the original responsum of Maharam who writes: “\ldots \textit{de-kohen korei pa’amayim ve-shuv yikre’u nashim}.” Note the use of the term “\textit{korei}” rather than the mishnaic formulation of “\textit{oleh}.” Thus it is clear that each \textit{oleh/olah} actually read his or her portion. We note in closing that the view of the Maharam was challenged by R. Solomon ben Aderet, \textit{Responsa ha-Rashba ha-Meyuhosat la-Ramban}, sec. 186; see also \textit{Resp. ha-Rashba}, I, secs. 13 and 733 for a similar statement. It is the view of Rashba that is cited by R. Caro in his \textit{Beit Yosef} and codified in \textit{Shulhan Arukh}, \textit{O.H.}, sec. 135, no. 12.

Emden, Mor u-Ketsi’a, Tur, O.H., sec. 282; Mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbenu Ovadia Yosef Shelita, I, Gilyon 19, va-Yera 5756, sec. 2.

268. R. Jacob Emden, Migdal Oz, Birkhot Shamayim, Nahal Krit, Shoket 2, sec. 10.

269. See n. 290, below.

270. Shiyyarei Keneset ha-Gedola, O.H., sec. 690, Hagahot ha-Tur, no. 1; Bah, supra, n. 255; Resp. Tzeda u-Mishpat, O.H., sec. 4; R. Samuel Avigdor of Karlin, Minhat Bikkurim, Tosefta, Megilla, 3:11; R. David Pardo, Hasdei David, Tosefta, ibid; R. Joseph Teomim Rabinowitz, Rosh Yosef, Megilla 4a, s.v. “u-beTosafot s.v. Nashim;” R. Samuel Avigdor of Karlin, Minhat Bikkurim, Tosefta, Megilla, 3:11; Arukh ha-Shulhan O.H., sec. 282, no. 10; Mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbenu Ovadia Yosef Shelita, I, Gilyon 19, va-Yera 5756, sec. 4.

271. Bah, supra, n. 255.

272. See at length above n. 19b.

273. Sedei Hemed, Kuntres ha-Kelalim, Ma’arekhet ha-Dalet, Kelalim no. 61; Sedei Hemed, Pe’at ha-Shulhan, Ma’arekhet ha-Dalet, Kelalim, Kelal 3 and Kelal 30, sec. 10.

274. We have heard such suggestions proposed informally over the past three decades. Such an approach is also mentioned en passant by R. Michael Broyde, in a Festschrift in honor of Bernard S. Jackson, supra n. 27], at n. 10 therein. See also Shaul Seidler-Feller, “Reality Check: Lo Tikrevu le-Gallot Ervah and Shemirat Negi‘ah,” Kol Hamevaser, (November 6, 2009), available at http://tinyurl.com/43k6xny.

275. R. Asher Weiss has indicated that according to most posekim one can rely on a minority position against a clear majority only in cases of great financial loss (hefsed merubah), but not in all dire situations (she’at ha-dehak). Moreover, he cites the Hazon Ish to the effect that even in such extreme cases, it depends on how seriously the majority related to the minority position. See R. Asher Weiss, “ha-Torah Hasa al Mamonam shel Yisrael,” Shi’urei Moreinu ha-Rav Shlita, XI, kovets 25 (439), Tazria-Metsora 5773, secs. 2 and 3. In a subsequent personal conversation (with Dov I. Frimer, April 12, 2013), R. Weiss indicated that in bona fide instances of she’at ha-dehak his willingness to rely on a minority position would depend greatly on the nature and degree of severity of the crisis. But it is clearly easier to rely on a minority opinion when the she’at ha-dehak is hefsed merubah.

276. R. Aharon Lichtenstein (April 13, 5772) in a conversation of R. Dov I. Frimer and R. M. Zev Frimer. In a talk delivered on Shabbat Parshat Hukat 5754 (1994), R. Lichtenstein stated: “In our times, …[many suffer from] spiritual weariness. It reflects a desire to do only that which is pleasant and convenient – even where this aspiration is not compatible with the rigorous demands of Torah, whether on the halakhic level or in terms of spiritual consciousness.” See also R. Aharon Lichtenstein, “The Spirit of the People Grew Impatient,” accessible at http://vbm-torah.org/archive/sichot68/39-68chukat.htm. For further discussion, see Aryeh A. Frimer, end of n. 263 supra.

277. Regarding safek berakhot lehabbel, see supra nn. 50 and 217.

278. R. Elijah David Rabinowitz-Teomim supra, n. 238b; R. Dov Eliezerov and R. Yaakov Ariel, supra, n. 238a. R. Hayyim Palagi, Sefer Hayyim, sec. 16, no. 22 writes that in villages which lack a sefer Torah, it is often customary to read the portion of the week from a printed Humash. Nevertheless, a woman should not be chosen to read for the assembled because of kevod ha-tsibbur.

279. R. Zvi Reisman, supra, n. 238a. See n. 280, infra.

280. The suggestion that specifically a woman receiving an aliyya infringes upon kevod Shamayim is proffered by R. Reuben David Nawi in his gloss to R. Tsadka
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Hutsein, Resp. Tsedaka u-Mishpat, O.H., sec. 4, s.v. “ve-haRo’eh Yireh.” See also R. Isaac Zilberstein, n. 258 supra and R. Zvi Reisman, supra, n. 279. This is rejected by R. Yehuda Herzl Henkin, Resp. Benei Vanim, II, sec. 11. R. Henkin’s position would be in line with the view of R. Shlomo Fischer, supra end of n. 258, that kevod shamayyim too is subjective and depends on the perception of the community. [We have already noted that R. Fischer refused to rule on the issue of women’s aliyyot halakha le-ma’asch (in practice).] Thus, if the community does not believe that a particular act impinges on the honor of Heaven, they may set aside the kevod ha-tsibbur.

While Rabbis Henkin and Fischer may be correct that women receiving aliyyot is not inherently considered a problem of kevod shamayyim, with all due respect this is beside the point. The fact that obligated men have willingly forgone their aliyyot – in favor of those who are not obligated – is objectively an issue of zilzul ha-mitsva and kevod shamayyim. As noted above n. 243, Maimonides, M.T., Hilkhot Shehita 14:16, equates bizyon ha-mitsva (disrespect to a mitsva) with disparaging God, the giver of the mitsva.

281. R. Ahron Soloveichik, in a conversation with Dov I. Frimer (3 Tammuz 5757 - July 8, 1997), emphasized that under all circumstances there can be no setting aside of kevod ha-tsibbur without the congregation having full knowledge of what is being set aside and why; without such full knowledge, the waiver is invalid. See, however, n. 283, below.

282. See n. 243, supra.

283. R. Ahron Soloveichik, in a conversation with Dov I. Frimer (3 Tammuz 5757 - July 8, 1997), maintains that halakha le-ma’asch (in actual halakhic practice), a congregation today cannot set aside kevod ha-tsibbur even according to the “Shame of Illiteracy School.” If women make birkot ha-Torah or say davarim she-beKedusha in a regular minyan contrary to kevod ha-tsibbur it is a berakha she-einah tserikha.

284. Supra, n. 250.

285. This point is made by R. Henkin in the original responsum to R. Levinger, 14 Nisan 5754, which appears in slightly revised form as Resp. Benei Vanim, IV, sec. 3.

286. R. Shapiro, supra n. 23, bases himself almost exclusively on the assumption that kevod ha-tsibbur is related to a woman’s social standing. This is simply unfounded in the sources; for counter-examples, see above, n. 249.

287. See references cited supra, n. 267.

288. For the purpose of completeness we note several scholars who have raised the possibility of mehilla, that a community could set aside its honor in the case of women’s aliyyot. (1) Thus R. Elijah David Rabinowitz-Teomim, Over Orah, sec. 110, s.v. “Ela de-lo,” raises in passing the possibility of mehilla. However, he subsequently concludes that kevod ha-tsibbur is rooted in sexual distraction, and, therefore, ignores the possibility of mehilla as in anyway compelling. (2) At end of n. 258, supra, we cited R. Shlomo Fischer, who maintains that kevod shamayyim is subjective and depends on the perception of the community. Yet, as we have pointed out, R. Fischer has refused repeatedly to rule on the issue of women’s aliyyot in practice. (3) Finally, R. Ben-Zion Abba Shaul, Resp. Or le-Tsiyyon, II, sec. 9, n. 5, suggested that the matriarch of the family can receive an aliyya. However, he permits this leniency only in a private minyan made up of family members, and only to the matriarch of the family, since all present owe her special honor and respect. This suggestion, too, has been explicitly rejected by various scholars: R. Elijah David Rabinowitz-Teomim, supra, n. 238a; R. Joseph Kafi h, Commentary to M.T., Hilkhot Tefilla, ch. 12, no. 17, n. 49; Rabbis Ephraim Grunblatt and Yuval Nof, Rivevot ve-Yovelot, II, sec. 426; R. Avigdor
Aryeh Frimer and Dov Frimer


Furthermore, in a conversation with Aryeh A. Frimer and Noach Dear (June 2005), R. David Feinstein has argued that since Hazal did not explicitly indicate what the kvod ha-tsiibbur issue is in the case of women’s aliyyot, it cannot be set aside based on hypotheses, even with communal consensus. Similar comments are made by R. Moses Harari, Mikra’ei Kodesh – Hilkhhot Rosh ha-Shana, Second edition (Jerusalem: 5766), 429-431, and R. Joseph Menahem Zvi ha-Levi Mann, Moriah, 28:8-9 (332-333; Av 5767). See also R. Dov Lior, Resp. Devar Hevron, II, sec. 263, n. 127, who maintains that any change in the understanding and application of kvod ha-tsiibbur needs to be made, if at all, by the leading scholars of the generation, not local rabbis. R. Harari cites R. Avigdor Nebenzahl as forbidding such Torah readings, as well. R. Asher Weiss, in a conversation with Dov I. Frimer, also indicated that since R. Caro (Shulhan Arukh, O.H., sec. 282, no. 3) unequivocally ruled that women cannot receive aliyyot without any qualifications, no community can set aside its honor. We have also cited above, n. 27k, the stringent positions of R. Yaakov Ariel and R. Dov Lior. R. Samuel Eliyahu (Chief Rabbi of Tsfat), (personal communication, Dec. 25, 2011) also maintains that a community may not set aside its honor. Finally, R. Meir Simha haKohen of Dvinsk, maintains that a community may not set aside its honor if it will ultimately lead to a split in Kelal Yisrael; see Meshekh Hokhma, Ki Tetsei, Deut. 22:22.

289. See discussion above before n. 12.

290. In text at n. 268 above, R. Jacob Emden permitted a birthing mother to receive an aliyya in her husband’s absence (a be-diAvad situation), provided the minyan is private, one-time, and limited in size (metsumtsam). It is not clear from R. Emden’s ruling whether the privacy requirement is to help ameliorate the kvod ha-tsiibbur consideration or merely to limit the publicity of such an exceptional she’at ha-dehak practice. In any case, the idea that kvod ha-tsiibbur can be set aside in a private minyan finds precedent in the writings of R. David ha-Kokhavi, Sefer ha-Battim, Beit Tefilla, Sha’arei Keri’at ha-Torah, Sha’ar 2, no. 6, citing an anonymous source – whose authority we have no way of measuring. R. ha-Kokhavi himself seems to rule like this view, ibid. no. 8. R. Yehudah Herzl Henkin, Resp. Benei Vanim, II, end of sec. 7, does give this view some credence, though only ad hoc, in a private home and certainly not on a regular basis. Nevertheless, the subject of setting aside kvod ha-tsiibbur is in the case of ad hoc (be-akrai and private) minyanim is adequately covered in the paper of R. Gidon Rothstein, supra n. 26b. In n. 7 therein, R. Rothstein cites R. Israel Jacob Elgazi, Shalmei Tsiibbur, Halvei Shelamim, Dinei Torah u-Kvod ha-Tsiibbur, s.v. “ha-Safek ha-Hamishi” and R. Judah Ayash, Resp. Beit Yehuda, O.H., last line in sec. 55, to the effect that the rules of kvod ha-tsiibbur apply whenever and wherever a bona fide minyan is present. Other later posekim concur; see: R. Raphael Emanuel Hai Riki, Resp. Aderet Eliyahu, Kuntres Kol ha-Mosif Gore’a, no. 6; R. Hayyim Palagi, Mishnat Kol Hai, I, sec. 6. Indeed, R. Elgazi, R. Palagi and Encyclopedia Talmudit, XXVI, “Kvod ha-Tsiibbur” 554-565, n. 21 on 555, maintain that this is the general understanding of the codifiers. R. Ephraim Bezailel Halivni, ha-Tehinna ve-haKeri’a le-Hai ha-Olamim: Iyyunim be-Tefilla u-beKeri’at ha-Torah (Jerusalem: 5772), 161, cites Tur, O.H., sec. 691, which states: “Any ten are considered a tsibbur for every matter, and it makes no difference if they are in a synagogue or not.” (See also to Shulhan Arukh ad loc.: Magen Avraham, no. 8; Peri Megadim, Eshel Avraham, no. 8; Mishna Berura, no. 23.) Interestingly, R. Samuel Portaleone, supra n. 238, raises the possibility that a young (presumably minor) girl, “who is wont to come into the mens section,” might be able to receive an aliyya in a private minyan. Nevertheless, he concludes that this, too, is prohibited by custom. (In a related matter, R. Yehuda
Amital was asked by R. Yaakov Medan (Taped lecture, 5753) whether one could include his daughter with all the other minor children for the aliyya of Kol haNe’arim on Simhat Torah. R. Amital answered in the affirmative. Finally, R. Ben-Zion Abba Shaul, Resp. Or le-Tsiyyon, II, sec. 9, n. 5, suggests that in a private minyan made up solely of family members, the matriarch of the family can receive an aliyya since all present owe her special honor. As already indicated in n. 288, supra, R. Abba Shaul’s suggestion has been explicitly rejected by various leading scholars. See also n. 239b.

291. See, supra, n. 264.


293. Supra, n. 24 – in particular Benei Vanim, I sec. 4. R. Henkin ultimately opposes women’s aliyyot on public policy grounds.

294. Supra, n. 23. The view of R. Ovadia Yosef on this matter appears to be inconsistent and even contradictory. In an undated shiur, available online at http://www.ise.bgu.ac.il/faculty/kalech/judaism/ovadia_yosef.mp3, R. Yosef seems to indicate that the presence of a ba’al keri’ah eliminates kevod ha-tsibbur. However, in a printed version of a substantially similar lecture, found in R. Ovadia Yosef, mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbi Ovadya Yosef Shliita, Shiur 19, Motsaei Shabbat Parashat va-Yeira 5756, this comment is absent. Moreover, in Talkut Yosef, II, sec. 135, no. 41, 65, R. Isaac Yosef writes: “It is clear that it is forbidden according to Halakha to call women up to the Torah, even if she merely recites the blessings, and the shelih’ah tsibbur reads the portion aloud.” See also ibid., Kitshur Halakhot, no. 41, 345: “A woman may not be called to the Torah, even if there is no one in the synagogue who knows how to read the Torah.” (It should be noted that, in his approbation, R. Ovadia Yosef confirms that he reviewed the entire volume of his son in depth and approved of all his rulings. See also R. Isaac Yosef’s introduction which reiterates the same.) This stringent ruling appears even in the most recent revised edition of the Talkut Yosef which appeared in 2004 (5764). Similarly, in R. Ovadia Yosef, Mishnat Yosef, III, Shiurei Maran ha-Rishon le-Tsiyyon 5762, Parashat va-Yeira, Hilkhot Keri’ah be-Sefer Torah be-Shabbat, no. 11, 56, R. Ovadia Yosef rules: “Therefore, women may not receive any aliyyot whatsoever.” Also problematic is the fact that, in the above cited recording, R. Ovadia Yosef surprisingly permits women to receive aliyyot – in the presence of a ba’al keri’ah – only in be-diAvad situations, e.g., where they have already been called up by name. He does not, however, grant permission for women’s aliyyot in normal circumstances. To resolve these contradictions, we might simply propose that R. Yosef retracted his original more lenient suggestion. Alternatively, he may perhaps maintain that one cannot be lenient in practice because of a longstanding custom forbidding women’s aliyyot. See: Talkut Yosef, II, sec. 135, no. 41, n. 46 and Sec. VIII of this paper.

295. R. Joseph B. Soloveitchik cited by R. Zvi Schachter, be-Ikevi ha-Tzion (Jerusalem: Beit ha-Midrash de-Flatbush, 5757), sec. 17, no. 10, p. 94; R. Joseph B. Soloveitchik, Shiurei ha-Rav al Inyanei Avelut ve-Tisha be-Av, R. Eliakim Koenigsburg ed. (Jerusalem: Mesorah, 5760), Inyanei Tisha be-Av, sec. 20, p. 40.


298. Supra, n. 23.

299. For sources and discussion see: R. Menachem Elon, “Minhag (Custom),” Encyclopedia Judaica, XII, cols. 5-26; R. Barukh Efrati, “Tokfo shel Mimsad ha-Minlagim be-Yisrael,” Itturei Kohanim, 216 (Heshvan 5763), 26-39; R. Daniel Sperber,
Minhagei Yisrael: Mekorot ve-Toladot, I (Jerusalem: Mossad haRav Kook, 1989), ch. 1 and 2; R. Eliav Shochetman, supra, n. 27a, sec. 7 therein.

300. On O.H., sec. 282, sec: Magen Avraham, n. 6; Eliya Rabba, n. 6; Shulhan Arukh ha-Rav, n. 6; Tehilla le-David, no. 7; Arukh ha-Shulhan, nos. 9-10; Mishna Berura, n. 12 (he indicates that this custom makes no distinction between the first seven aliyyot and subsequent hosafot); Kaf ha-Hayyim, n. 24. On O.H., sec. 135, see Arukh ha-Shulhan, no. 29; Kaf ha-Hayyim, n. 18. See also R. Aaron ben Abraham Aberle Worms, Me’orei Or, Kan Tsippor, mahadura batra, Megilla 23a, s.v. “ha-Kol olin;” Resp. Ginnat Veradim, II, sec. 21; Resp. Panim Me’irot, II, sec. 54; R. Hayyim Joseph David Azulai (Hida), le-David Emet, sec. 5, no. 2 in Kuntres Abaron; Hayyot Adam, sec. 31, no. 39; Derekh ha-Hayyim, sec. 77, no. 6; R. Israel Lipszutz, Tiferet Yisrael to Mishna Megilla 4:6, no. 41; R. Solomon haKohen, Resp. Binyan Shlomo, O.H., I, sec. 54; Resp. Mishpetei Uziyel, Mahadura Tinyana O.H., sec. 14, anaf 2; R. Ovadiah Hadaya, Resp. Yaskil Avdi, VII, sec. 6 and VIII, sec. 36, no. 4; R. Gedalia Felder, Yeseodei Yeshurun, IV, Ma’arekhet Keri’at ha-Torah, 405; R. Gedalia Felder, Pri Teshurun on Tanya Rabbati, I, 262; R. Hayyim David ha-Levi, Mekor Hayyim ha-Shalem, III, sec. 122, no. 13 and n. 21; Resp. Tsits Eliezer, VII, sec. 1, Kuntres Katan le-Maftir, ch. 13; R. Reuben Amar, Minhagei ha-Hida, (Jerusalem: 5759 -Second Expanded Edition) O.H., part 1, sec. 26, no. 30, n. 8. We note that R. Ovadiah Yosef argues that this is not the universal Sefardic custom; what’s more, R. Yosef posits that R. Hadaya errrs when he claims that the custom in Israel is to refrain from calling up minors. See: Resp. Yehavveh Da’at, IV, sec. 23; Hazon Ovadya, Hilkhhot Shabbat, part 2, Hilkhut Keri’at ha-Torah, sec. 8; R. Judah Naki, Resp. me-Ein Omer (oral rulings of R. Ovadiah Yosef), I, Hilkhot Keri’at ha-Torah u-Veit ha-Kenesset, sec. 57, n. 57. However, R. Reuben Amar is equally emphatic that as indicated by the leading Sefardic codifiers, R. Hayyim Joseph David Azulai (Hida) and Kaf ha-Hayyim, the custom is indeed in practice by Sefardic Jews as well. As cited above, other Sefardic authorities, Rabbis Hadaya and ha-Levi, concur with R. Amar. There is, however, no such prohibitive custom among Yemenite Jews; see: Mekor Hayyim ha-Shalem, ibid.; R. Isaac Ratsabi, Shulhan Arukh ha-Mekutsar, O.H., part 2, sec. 60, no. 3. R. Avigdor Nebenzahl, Resp. Avigdor ha-Levi, (R. Nitsan Brauner, ed.) I, O.H., Hilkhot lulav, no. 19, indicates that the custom not to call up minors is not operational on Simhat Torah.

301. Resp. Rivash, supra n. 102.

302. Kaf ha-Hayyim, O.H., sec. 135, n. 18; Me’orei Or, Mekor Hayyim ha-Shalem, and Resp. Tsits Eliezer, all supra, n. 300.

303. R. Samuel Portaleone, supra n. 238 he indicates that this custom includes even minor women where modesty considerations are minimal, lest it lead to violations among the adults; R. Joshua Falk Katz, Perisha, Tur, O.H. sec. 282, no. 3 (b. 1550; d. 1614); R. Elijah Hazan, Resp. Ta’alumot Lev, III, sec. 20, no. 1; Yalkut Yosef, II, sec. 135, no. 41, n. 46; R. Gedalia Felder, Peri Teshurun II, on Tanya Rabbati, sec. 6, Inyan Sefer Torah, n. 50, 139; Resp. Benei Vanim, I, sec. 4; Rabbis Ephraim Gronblatt and Yuval Nof, Riverot ve-Torelot, II, sec. 426; R. Shai Piron, Keri’at Nashim ba-Torah, available online at http://www.kipa.co.il/ask/show/27015; Mishiurei Maran ba-Rishon le-Tsiiyon Rabbenu Ovadiah Yosef Shelita, I, Gilyon 19, va-Yera 5756, sec. 2. On an audiotape of a shiur given by R. Ovadiah Yosef, the latter indicates that Hazal instituted the practice (hinhigu) of not calling up women who are not obligated rather than the men who are. lest it besmirch the communal honor; see online: http://www.ise.bgu.ac.il/faculty/kalech/judaism/ovadia_yosef.mp3.
R. Sperber, n. 25c, supra, 32, n. 37, and n. 25d, supra, 59, cites the isolated case of the scholarly philanthropist Flora Sassoon who, according to historian Stanley Jackson, was called to “read from the Torah” in the synagogue of Baghdad; see Stanley Jackson, The Sassoons (London: Heinemann, 1968), 143. Jackson supplies very little as to the facts of the case, thereby raising more questions than he answers. For example, why is there no reference to this tidbit in the historical writings of other noted historians who studied the Sassoon Dynasty in general and the life of Flora Sassoon in particular? See, for example: Cecil Roth, The Sassoon Dynasty (London: Robert Hale, 1941); Abraham Ben-Yaakov, Perakim be-Toledot Yehudei Bavel (Jerusalem: 5749). Nor is this event discussed anywhere in the rabbinic literature of the 20th Century. We have been informed that there are members of the Sassoon Family who doubt the reliability of this report. Assuming, however, the veracity of the report, did Flora merely read from the Torah (as the text states) or did she actually have a bona fide aliyya and recite the Torah reading benedictions (as Prof. Sperber implies)? If the latter, did she read herself as the text suggests or was there a ba’al keri’ah. Were any rabbinic scholars consulted on this issue, or was this decision made by the congregation’s lay leadership? Perhaps Prof. Jackson was confused by the fact that Flora had a sefer Torah written for her in 1888 and took it, a shohet, and a minyan along with her on all her travels. In any case, there is certainly not enough information here to serve as a halakhic precedent. By all accounts, this was an isolated, never repeated case – an aberration that ran counter to the custom of almost a half millennium. R. Sperber’s assumption that the noted scholar R. Joseph Hayyim of Baghdad was consulted or knew about the case in real time is without any foundation. What’s more, if Flora Sassoon read for herself (see discussion at n. 199, supra), the aliyyah was valid post facto [n. 264].

304. See also our comments above at the end of n. 19b.


306. R. Shema’aya (Rashi’s student), ed., Sefer ha-Pardes (Ehrenreich Edition), 306; Shabbotei ha-Leket, sec. 44; Rabbenu Jacob Tam cited by R. Isaiah of Trani (Rid), Sefer ha-Makhri’a, sec. 31.


309. Rabbenu Tam cited in R. Isaiah of Trani (Rid), Sefer ha-Makhri’a, no. 31, suggests that haftara was innovated by Ezra ha-Sofer; however, in R. Jacob Tam’s Sefer ha-Tashbar, sec. 182 (sec. 222 in the 5719 Schlesinger edition, n. 3), it states only that the haftara is a rabbinic institution. R. Simon ben Tsemakh Duran, Resp. Tashbets, I, sec. 131, rejects any connection between haftara and Ezra ha-Sofer; see
R. Moses Lichtenstein, “Themes and Ideas in the Haftara – General Introduction,” available online at: http://www.tinyurl.com/yktsfj. The Encyclopedia Judaica indicates that the date of Ezra is a matter of debate since it is not certain whether he appeared in the seventh year (Ezra 7:7) of Artaxerxes I (465-425) or II (405-359). Many scholars hold that Artaxerxes II is meant, since Ezra appears to have followed Nehemiah. The 15th century scholar, R. Elijah Bahur, supra n. 307, dates the haftara innovation to ca. 167 BCE, during the Hasmonean period, as a result of the decrees of the Seleucid Syrian-Greek King Antiochus IV Epiphanes, hundreds of years after Ezra. If we place the inception of haftara reading at the time of the confrontation with the Samaritans, this would move it back ca.110 years to 280 BCE, but still well after the period of Ezra.

310. Ramban, Milhamot ha-Shem, Megilla 5a, s.v. “ve-Od amar Rav” indicates that all those listed in Mishna Megilla 4:3, which includes keri’at ha-haftara, are hovot ha-tsibbur.


312. Magen Avraham, O.H., sec. 284, no. 5. Following this latter school, R. Isaac Luria Ashkenazi (the Ari) instructed his disciples that the individual called to read the haftara should recite the benedictions (before and after) aloud for himself and all assembled, and each congregant then proceeds to read the haftara quietly to himself. See Resp. Hatam Sofer, sec. 68; Resp. Minhat Yitshak, III, sec. 12 – at the end of the responsum; Resp. Divre Yatsiv, O.H., sec. 129.

313. Mishna, Megilla 4:5 (2a); Shulhan Arukh, O.H., sec. 284, no. 4.

314. Nor to a non-Jewish slave. Resp. Tashbetz, I, sec. 131, explicitly distinguishes between the seven Sabbath aliyyot where they permitted a minor, woman, and non-Jewish slave to be included, and maftir/haftara where the Rabbis permitted only a minor to read.

315. See text at nn. 19 and 21, above.

316. Derisha, O.H., sec. 284, no. 6, cites several proofs to demonstrate that the rules for receiving an aliyya and reading the haftara are different.

317. Resp. Rivash, supra, n. 5.

318. R. Daniel Sperber, supra, n. 25. R. Sperber has also suggested that the phrase in Megilla 23a, “However, the Rabbis declared” introduces what Hazal believed to be the preferred or recommended mode of performing keri’at ha-Torah. This interpretation, however, is contrary to the expressed understanding of many rishonim who clearly indicate that this phrase describes what Hazal mandated as the ab initio required mode of action; see n. 19b, supra, where this and other refutations of Prof. Sperber’s suggestion are presented.

319. (a) R. Nahum Rakover, “ha-Hagana al Kevod ha-Adam,” (Jerusalem: Misrad ha-Mishpatim, 5738); (b) R. Nahum Rakover, “Kevod ha-Beriyot,” Shana be-Shana, 5742, 221-233; (c) R. Nahum Rakover, Gadol Kevod ha-Beriyot: Kevod ha-Adam ke-Erekh Al” (Jerusalem: Sifriyat ha-Mishpat ha-Ivri, 1998).

this outstanding lecture, R. Blidstein (at minute 25:30) suggests that the author of the concept *kevod ha-beriyyot* is the Tanna R. Yohanan ben Zakai.


324. For previous critiques of R. Sperber’s approach see: R. Eliav Shochetman, *supra*, n. 27a, 287-289; 306-312; R. Ephraim Bezalel Halivni, *supra*, n. 27c, 72-101;

325. Under certain conditions Biblical injunctions may be set aside as well, but a discussion of this is beyond the scope of this paper. Several Biblical sources have been suggested as the basis for the concept of kevod ha-beriyyot. R. Bahya ibn Pekuda, commentary to Ex. 21:37, derives it from the laws of penalties for the thief of a lamb vs. that of an ox. R. Joseph B. Soloveitchik, cited in R. Zvi [Hershel] Schachter, mi-Peninei haRav (Jerusalem: Beit Midrash de-Flatbush, 2001), 271-272, suggests an alternative source. The Talmud (Shabbat 127a; Bava Metsi’a 86b and Tosafot ad. loc. s.v. “Hazyei,” Shavu’ot 35b) posits that, at the beginning of Parashat va-Yera, our patriarch Abraham interrupted his conversation with the Almighty to take care of the needs of three weary travelers. Abraham’s concern for his guests, argues R. Soloveitchik, reflects the great importance in Jewish law and lore of kevod ha-beriyyot. See also R. Nahum Rakover, supra, n. 319b, 50ff. Nevertheless, its use to defer rabbinic injunctions is rabbinic in origin: see: R. Israel Shepansky, supra, n. 323c, 220-221.

326. For further discussion, see n. 330, infra.

327. In an unpublished responsum dated Heshvan 5724, R. Isaac Nissim writes to a father who yearns to see his daughter receive an aliyya on her Bat Mitsva: “And of course she should go… to the synagogue, but not to receive an aliyya. It is an explicit halakha that a woman may not read from the Torah in public and one does not change the halakha because of people’s feelings.” See: R. Aaron Arend, “Hagigat Bat-Mitsva be-Piskei ha-Rav Yitshak Nissim,” in Bat-Mitsva, Sarah Friedlander ben Arza, ed. (Jerusalem: Matan, 2002/5762), 109-115, at p. 113. Clearly, R. Nissim would seem to be rejecting R. Sperber’s suggestion that people’s feelings make a difference here, though the exact halakhic rationale is not explicated further.

328. See our preliminary comments in references 26d and 20e, supra. In addition to the rules cited in the text below for the application of kevod ha-beriyyot to rabbinic injunctions, several additional rules have been formulated by the posekim, although they do not seem to be directly and clearly applicable to the case of women’s aliyyot.

(a) Shame is not a consideration when an individual has brought it upon himself/herself through their own negligence (peshi’a). For example, the Talmud (Berakhot 47b) goes so far as to say that an am ha-arets cannot be counted in a zimmun of three Jews who recite birkat ha-mazon (the Grace After Meals) together! The definition of an am ha-arets for this purpose is “Even one who learned Bible and Mishna, but did not apprentice himself (meshamesh) to the wise.” Not to count someone like this to a zimmun is a great embarrassment indeed. But, explains Rabbenu Asher to Berakhot, ch. 7, sec. 20: the am ha-arets is to blame (pasha) for his own ignorance. We note that the final halakha regarding zimmun is that an am ha-arets may join a zimmun – for reasons unconnected to kevod ha-beriyyot (briefly: eiva; kiruv; no real talmidei hakhamim nowadays). See Mark Steiner, Mail-Jewish, vol. 48, no. 54 (June 20, 2005) – available online at http://tinyurl.com/2wzyyn.

(b) Kevod ha-beriyyot cannot defer a rabbinic injunction when the shame would occur much after the violation. Thus, as discussed in the text below, R. Isaac Perfet, Resp. Rivash, sec. 226, forbade sewing new baby clothes during hol ha-moed for a newborn’s circumcision despite the parents’ desire to dress him properly and festively for the event. One of the reasons given for his stringent ruling is as follows: the parents’ sense of embarrassment would only occur in a few days time at the berit, but the
violation of the rabbinic prohibition against making clothes during the entire holiday would occur as soon as the clothes were prepared. Similar rulings have been given by R. Meir Simha of Dvinsk, *Or Same’ah*, *Hilkhot Yom Tov*, ch. 6, sec. 14 and R. Joshua Menahem Ehrenberg, *Resp. Devar Yehosha*, I, sec. 20, no. 13.

(c) When the violation of a rabbinic injunction was not forced (ones) by *kevod ha-beriyot*, but occurred volitionally (be-mezid), *kevod ha-beriyot* cannot be invoked after the fact to prevent subsequent censure and shame. See: R. Avigdor Nebenzahl, *Gadol Kevod ha-Beriyyot* in *Sefer ha-Yovel Minhab le-Yehuda – Ray Yehuda Cooperman* (Michlala: Jerusalem, 5749), 69-71.

(d) *Kevod ha-beriyot* can only defer an injunction which it is rabbinic from its very inception. However, a biblical prohibition which is degraded to a rabbinic one because of some technicality cannot be deferred. See: R. Joseph Shalom Elyashiv cited by R. Azriel Auerbach, *Kovets Halakhot mi-Maran ha-Grish Elyashiv*, O.H., no. 13, in *Sefer mi-Nashim ba-Ohel* (Jerusalem, 5773), 86.


330. Meiri, *Berakhot* 19b, s.v. “Kevod ha-beriyot.” The topic under discussion there is a case of Rabbinic impurity about which the Talmud writes: “If they have buried the body and are returning, and there are two ways open to them, one ritually pure and the other impure: if [the mourner] goes via the pure one, they go with him by way of the pure one; and if he goes by the impure one, they go with him by the impure one, out of respect for him.” This reading appears in our editions and is cited by Rashi *ad. loc.*, Maimonides, *M.T.*, *Hilkhot Evel* 3:14 and *Beit Yosef*, Y.D. 372, s.v. “u-Ma she-katav ve-khen.” It suggests that the community (including its kohanim) may be able to violate a rabbinic prohibition in paying honor to the individual (however, *vide infra*). Meiri, on the other hand, rejects this reading, stating that the honor of the community cannot be deferred by the honor of individual, as cited above. He therefore prefers the reading that appears in the Jerusalem Talmud, *Berakhot* 3:1, and *Masekhet Semahot* 4:14 (Geiger ed. 4:9): “…if [the community] goes by the pure one, [the mourner] goes with them by the pure one; and if they go by the impure one, he goes with him by the impure one, out of respect for the community.” This latter reading is actually preferred by the overwhelming majority of *rishonim* to *Berakhot* 19b: *Sefer ha-Hashlama*; *Shita le-haRa Alshabili*; Ra’avad cited in *Shita Mekubbetset*; *Sefer ha-Me’orot*; and *Resp. Rashba* I, sec. 324. See also *Dikdukei Soferim*, ad loc. R. Israel Shepansky, *supra*, n. 323c, n. 64 therein, suggests that this is also the view of Tosafot, *Avodah Zara* 17a, s.v. “Okerin.” R. Jacob Zvi Yalish of Dinov, “*Kevod ha-Beriyyot I Doheh Lo Ta’aseh*,” *Melo ha-Ro’im*, sec. 22, indicates that even according to the alternate reading, the community follows the mourner, because each individual is commanded to show him respect. However, if it were merely the honor of the community versus the honor of the individual, there is no doubt that the honor of the community has priority.


(b) A reviewer has challenged our suggestion that *kevod ha-beriyot* does not set aside *kevod ha-tsibbur* from the fact that individuals with colostomy bags and catheters *de facto* receive *aliyot*. This presentation is inaccurate though, since the central issue is not *kevod ha-beriyot*. In fact, the major issue regarding one who has a catheter or colostomy bag is that the latter may be considered as *tso'ah* (feces) which would preclude the patient from the recitation of all prayers, the donning of *tefilin*, and the study of Torah. Several *posekim* deal with these issues without invoking *kevod ha-beriyot*; see, for example: Resp. Iggerot Moshe, O.H., I, sec. 27; Resp. Minhat Yitschak, VI, secs. 11 and 12, and X, sec. 8; Resp. Tzitz Eliezer, VIII, sec. 1 and XII, sec. 2; R. Shlomo Zalman Auerbach cited in *Nishmat Arraham*, O.H., 76:6. Hence the question of whether one wearing a catheter or colostomy bag can get an *aliyyot* is not at all a *kevod ha-tsibbur* issue – after all, these appurtenances are covered and hidden. These authorities would permit *aliyot* like they allow *tefillot*, *tefillin* and *limmud ha-Torah*.

333. See supra n. 232.

334. Cf., however, Resp. HaValim ba-Ne'imim, I, sec. 29, no. 3, *s.v.* “Ah,” who suggests that the case of *pohe‘ah* is a special stringency: because one dressed in tatters is of particularly great embarrassment to the community. There is no such indication in any other sources, however.

335. Meiri, *Berakhot* 19b, end of *s.v.* “Yesh devarim.”

336. This point has been recently raised as well by R. Gerald Blidstein; see supra n. 320c beginning with minute 59:50.

337. The negative commandment is “Do not stay (*Lo tasar*) to the right or left from the word they declare to you,” (Deut. 17:11) from which rabbinic injunctions receive their authority; see *Berakhot* 19b.


We note, however, that a number of scholars understand JT *Kilayyim* 9:1 as referring to Biblical prohibitions. See *ad loc.*: R. Solomon Bekhor Yosef Sirilyo, *Perush ha-Rash Sirilyo*; R. Meir Marim, *Sefer Noda*; and R. Elijah of London, *Perush R. Eliyahu mi-Londrish u-Pesakav*. Their stance as far as rabbinic prohibitions is unknown. By contrast, many commentators and *posekim* clearly maintain that this principle of *sha‘ah ahat* governs the interaction of *kevod ha-beriyot* with rabbinic prohibitions as well. This cadre includes the following commentaries to JT *Kilayyim* 9:1: R. Moses Margaliyot, *Penci Moshe* and *March Panim*; R. Elijah Kramer of Vilna (Gra), *Perush ha-Gra*; R. Yitshak-Isaac Krasilchikov, *Toledot Yitschak*. This is also the opinion of: *Tosafot*, *Ketubot* 103b, end of *s.v.* “Oto;” R. Isaac of Vienna, *Or Zarua*, II, *Hilkhot Erev Shabbat*, sec. 6; R. David Samuel Pardo, *ibid.*; *Arukh ha-Shulhan*, Y.D., sec. 303, end of no. 2; R. Yehudah Herzl Henkin, *ibid.* See *Encyclopedia Talmudit*, n. 323 supra.
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n. 304 therein. R. Jacob Zvi Yalish of Dinov, “Kevod ha-Beriyyot I Doheh Lo Ta’asch,” Melo ha-Ro’im, sec. 12 concurs when the violation is active (kum ve-aseh), as in the case of aliyyot la-Torah.

339. R. Yair Hayyim Bachrach, Resp. Havvot Yair, end of sec. 96 (“shame visible to all”); R. Isaac Blazer, Resp. Peri Yishak, sec. 54, s.v. “Tikrat devarav,” R. Meir Simha of Dvinsk, Or Same’ah, Hilkhot Tom Tov, 6:14 and Hilkhot Sanhedrin, 15:1; R. Jeroham Perlow, Commentary on Sefër ha-Mitsvot le-Rav Sa’adya Gaon, I, Asin 19 (146, column 4); R. Moses Feinstein, Resp. Iggerot Moshe, Y.D., I, sec. 249, s.v. “ve-Nimtsa;” R. Menachem Mendel Kashier, “be-Inyan G’ilu’ah be-Hol ha-Moed,” [ed. by R. Melech (Marc) Shapiro], Hakirah, 10 (Summer 2010), Hebrew section, 23-28. See also: R. Ya’akov (Gerald J.) Blidstein, supra, n. 320a, 162; R. Chaim Zev Reines, supra, n, 323b; R. Nahum Rakover, supra, n. 319c. These scholars note the cases of a king and a mourner discussed in Berakhot 19b, where the lack of honor, namely a suitable escort, activates kevod ha-beriyyot. However, these cases are unique in that Jewish law specifically commands one to honor them and, hence, the absence of honor engenders shame. Interestingly, R. Aryeh Leib Ginsburg, Resp. Sha’agat Aryeh, sec. 58, seems to dissent, writing that the absence of honor is sufficient to effect kevod ha-beriyyot. See, however, R. Judah Leib Graubart, supra n. 332a, s.v. “Amnam,” who argues that according to R. Ginsburg’s own comments in his Turei Even, Megilla 24b, s.v. “Mumim,” there is no proof that an individual’s disgrace can supersede kevod ha-tsibbur. In fact, we note that he retracted this position in a subsequent responsum, Resp. Sha’agat Aryeh ha-Hadashot, sec. 12, s.v. “ve-Teda Lekha.” There he indicates that shame is a clear prerequisite for activating kevod ha-beriyyot; a lack of honor, by contrast, is an insufficient reason.

A reviewer has challenged the assertion that kevod ha-beriyyot refers to the “dishonor” engendered from an act of disgrace based on a responsum of R. Abraham Isaac ha-Kohen Kook. In Resp. Da’at Kohen, sec.169, he invoked, among a variety of reasons, kevod ha-beriyyot to allow women the honor of sewing together the Torah parchment sheets. We should note, however, that this invocation of kevod ha-beriyyot appears in the question portion of the responsum and, hence, does not necessarily reflect R. Kook’s own position on this issue. But even were we to accept that the question reflects R. Kook’s stance on kevod ha-beriyyot, the case here is unique. The question assumes that the prohibition of women’s involvement is a questionable rabbinic prohibition. Furthermore, as R. Kook himself points out, there was a standing custom of the community to permit such a practice; thus, nullifying it would have a painful result. Had the issue involved a clear prohibition, or had there not been a standing custom, R. Kook presumably would not have invoked kevod ha-beriyyot. In fact, R. Kook actually concludes that the issues involved in having women sew up the sefer Torah may well be biblical, and hence he rules stringently despite kevod ha-beriyyot. See below n. 358c.

R. Daniel Sperber in his book Darkah shel Halakha, supra, n. 25c, 77, n. 104, also challenges the assertion that kevod ha-beriyyot refers to an act of disgrace – not merely from refraining to give honor. He cites the fact that a bride is permitted to wash her face on Yom Kippur (Mishna Yoma 10:1; Yoma 73b). R. Sperber assumes that the prohibition against washing on Yom Kippur is rabbinic and that the permission to wash stems from kevod ha-beriyyot. Based on this he wants to demonstrate that the shame here results from something that was not done. This analysis is erroneous, however, for several reasons. Firstly, it is a dispute among the rishonim whether rehibisa (washing) on Yom Kippur is biblically or rabbinically forbidden; see: Encyclopedia Talmudit, XXII, Yom ha-Kippurim, 420-574, at pp. 451 and 470. If it is biblical, kevod ha-beriyyot cannot permit its active violation (kum ve-aseh). More fundamentally,
however, the leniency for a bride has nothing to do with k tav ba-beriyot. What is forbidden on Yom Kippur is laving of pleasure (rehitsa shel ta’anug), but not washing of necessity, e.g., for cleanliness; see Jerusalem Talmud, Berakhot, II:7; Shulhan Arukh, O.H., sec. 613, no. 1. Thus, if an area of one’s skin is soiled it may be cleansed. A bride was permitted to wash her face on Yom Kippur, so that her visage would not be displeasing in her new groom’s eyes – and this was considered laving of necessity, not one of pleasure. As Rashi, Toma 73b, s.v. “ve-baKalla,” states: “She requires beauty until she becomes beloved on her husband…..” R. Ovadya of Bartenora, Mishna Yoma 10:1, s.v. “ve-baKalla,” similarly writes: “She requires beauty in order to become beloved on her husband…..” See also: Arukh ha-Shulhan, O.H., sec. 613, no. 10; R. Mordechai Yaakov Breisch, Resp. Helkat Yaakov, Ivyanim Shonim, sec. 13, s.v. “ve-Nireh la-aniyut da’ati leyashev,” R. Benjamin Ze’ev (Wolf) ha-Levi Boskowitz, Seder Mishna, M.T., Hilkhon Shevitat Asor 3:1; Encyclopedia Talmudit, ibid. at p. 483. Indeed, R. Boskowitz maintains that the laving of a bride (like that of a king) is a washing of mitsva (obligation), not pleasure.

R. Sperber, ibid., 83, also cites a responsum of R. Isaiah of Trani, Resp. ha-Rid, sec. 21, which permits the lighting of candles in the synagogue on Yom Tov because of k tav ba-beriyot. R. Sperber attempts to use this example to demonstrate that k tav ba-beriyot can set aside prohibitions even if it is only to honor those who are attending synagogue. Unfortunately, he errs in his analysis here as well. The responsum of Rid, like similar responsa of Rabbenu Asher and Maharam of Rothenburg, are merely demonstrating that lighting candles in the synagogue, while seemingly for no necessary purpose, comes under the rubric of tsorekh okhel nefesh because they honor people (Rid), the synagogue (Maharam) or the holiday (Rosh); see: Resp. Rosh, Kelal 5, Din 8; Resp. Maharam ben Barukh, III, sec. 387. This is by no means k tav ba-beriyot in the classic jurisprudential sense; nor is it the honor of people which defers the candle-lighting prohibition – just as it is not the honor of the synagogue or the holiday that defers the ban. Rather, once these purposes (to honor people, the synagogue or the holiday) are determined to be tsorekh okhel nefesh, it is the latter principle which defers the prohibition, not the principle of k tav ba-beriyot.

Finally, we note that the B.T., Hullin 92a deals with the prohibition of geneivat da’at (misrepresentation). The Talmud indicates that it is forbidden to fill up a partially empty wine bottle in order to give the misimpression that it is actually a full bottle. Nevertheless, such a practice is permitted if it is done to show honor to the recipient, as Rashi comments: “Gadol [great is] k tav ba-beriyot.” This might suggest that k tav ba-beriyot is a matter of paying honor, and it is k tav ba-beriyot that sets aside the prohibition of geneivat da’at. In his comments to this selection, R. Moses Sofer, Hiddushei Hatam Sofer, Hullin 92a, s.v. “mi-Shum” indicates that k tav ba-beriyot sets aside no prohibitions in this case. Rather, genevrat da’at is forbidden because it causes the recipient anguish. When, however, the recipient is honored thereby, there is no anguish and thus no prohibition.

340. See: R. Ya’akov (Gerald J.) Bledstein, supra, n. 320a, 162 and references cited therein.

341. Resp. Rivash, sec. 226; Resp. Havvot Yair, sec. 191; and Melo ha-Ro’im, supra, n. 330, sec. 17 – in cases where the violation is active (kum ve-aseh). By contrast, the following scholars dissent, maintaining that k tav ba-beriyot can be invoked to temporarily overturn a rabbinic injunction even when the shame or emotional pain is minor: R. Joseph Teomim, Shosannat ha-Amakim, kelal 6; R. Jonathan Eybeschuetz, Urim ve-Tumim, Hilkhon Edut, sec. 28, end of no. 12; R. Meir Arik, Tal Torah, Berakhot 20a. Melo ha-Ro’im and Shosannat ha-Amakim both indicate, however, that no proof can be drawn, however, from the ruling of Rema, O.H., sec. 13, no. 3. There
Rema deals with the case of one who discovers on Shabbat that his tallit is lacking a fourth tsitsit and he has no other talit available to don. Rema rules that he can – out of embarrassment – wear this tallit, though this is rabbinically forbidden on the Sabbath. Although the shame is minimal, the violation is only a passive one and, hence, kevod ha-beriyyot can be invoked.


R. Isaac Blazer, Resp. Peri Yitshak, sec. 54, dissents, maintaining that kevod ha-beriyyot can be subjective. However, he is referring to a class of individuals, like mourners or elders, whose plight all can understand; he is not referring to individuals who want to defer a rabbinic injunction because of their personal sensibilities. Interestingly, R. David Povarsky, ibid., maintains that the question of whether kevod ha-beriyyot has a subjective element (as suggested by R. Blazer) is in fact a dispute between Maimonides vs. Rosh and Ritva. But even according to the former, who according to R. Povarsky maintains that there is a subjective element, this is so only when it comes to prohibitions related to monetary issues (mamona - e.g., retrieving lost objects or testifying regarding monetary matters), but not general prohibitions (issura) - as would be the case with women getting aliyyot.

In support of his claim that subjectivity plays a role in kevod ha-beriyyot considerations, R. Daniel Sperber, supra, n. 25c, 81, n. 112 therein, cites the decision of Mishna Berura, O.H., sec. 13, no. 3, subsec. 12. As already noted (supra, n. 341), Rema ad loc. permits one who discovers that his tallit is lacking a fourth tsitsit to nevertheless wear it in the synagogue on the Sabbath. This is because of the embarrassment he would suffer were he to remain in synagogue without a tallit. Mishna Berura cites, however, many abaronim who maintain that if the owner of the problematic prayer-shawl feels no shame in going sans tallit, he may not don it. The analogy between these two cases, however, is questionable. In this latter case, not wearing a tallit in synagogue is objectively a source of embarrassment, since he visibly stands out from the other (married) males; his friends and acquaintances will undoubtedly remark and question his non-standard behavior. In this latter case, not wearing a tallit in synagogue is objectively a source of embarrassment, since he visibly stands out from the other (married) males; his friends and acquaintances will undoubtedly remark and question his non-standard behavior. Nevertheless, the authorities are stringent (azlinan le-humra) and will not defer the rabbinic injunction where someone is not troubled by this shame. This, however, can in no way serve as precedent for the claim that kevod ha-beriyyot is applicable to cases where there is no objective shame – but rather an individual or group of individuals are subjectively sensitive and want to defer a rabbinic injunction because of their personal sensitivities. Here the overwhelming consensus of codifiers is that one cannot be lenient and kevod ha-beriyyot cannot be invoked.

Also cited by R. Sperber (ibid., p. 88) in support of complete subjectivity in kevod ha-beriyyot is the fact that the monetary remuneration for publicly shaming someone (boschet) – is relative to the public standing of the one who shames and the one who is shamed; see: Mishna Ketubot 3:7; Bava Kamma 83b; Encyclopedia Talmudit,
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“Boshet,” III, 42-50, at p. 46. However, it is clear that the legal concept of shame for the purpose of quantifying damages payements in the case of boshet is substantively different from the concept of human dignity or dishonor capable of deferring a halakhic prohibition. For example, no financial claim of boshet can be made if the shaming occurred by words or in print – where the physical body of the one shamed remains untouched; nevertheless, the Jewish court may well punish an individual for such immoral libelous behavior; see: Shulhan Aruch, H.M., sec. 420, no. 38; Encyclopedia Talmudit, ibid.

344. Based on the formulation of R. Mark Dratch, supra, n. 323f; 14.
345. There is no quantitative scientific study which documents this assertion, though many informal surveys by us both in the United States and Israel, over the past four decades, do confirm this conclusion. Prof. Christel Manning studied one “mainstream” modern Orthodox synagogue with no women’s tefilla group. The women were generally satisfied with their status, despite having feminist attitudes toward such issues as equality in the workplace. It did not seem as if the women would have preferred a women’s prayer group and they were generally fine with the way things were. See: Christel Manning, God Gave Us the Right: Conservative Catholic, Evangelical Protestant, and Orthodox Jewish Women Grapple With Feminism (New Brunswick, N.J.: Rutgers University Press, 1999). We thank Dr. Aliza Berger for bringing the book to our attention.

346. See the insightful comments of R. Hayyim Navon, supra, n. 324, and R. Barukh Gigi, supra, n. 259. The latter is also cited in Yoav Sorek, “ha-Tur ha-Hamishi shel ha-Shulhan Arukh,” Makor Rishon, Shabbat Section, 16 Adar 1 5768 (February 22, 2008), 7.
347. See discussion in text above, after n. 325.

A reviewer has challenged this principle from the leniency extended to businessmen, who shave daily, to also shave during the three weeks. However, the dispensation was not activated by kevod ha-beriyot but by hefsed mammon (davar ha-aved). See: R. Moses Sofer, Resp. Hatam Sofer, O.H., sec. 158; R. Moses Shick, Resp. Maharam Shick, Y.D., sec. 371; Resp. Ligerot Moshe, H.M., part I, end of sec. 93, O.H., part IV, sec. 102, and O.H., part V, sec. 24, no. 9; the extensive discussion of R. Shlomo Zalman Braun, She’arim Metsuyanim be-Halakha, III, sec. 122, no. 5. Another
reviewer asked about the permission of Rema, *O.H.*, sec. 554, no. 17 to wear shoes on *Tisha be-Av* when one passes through a non-Jewish community. Firstly, many authorities challenge the validity of this leniency. But even given its validity, the dispensation, here again, was not activated by embarrassment (*kevod ha-beriyot*) but by *hillul Hashem* and possible resulting danger. See the discussion in *Hazon Ovadya, Arba Ta’aniyot, Issur Ne’ilat ha-Sandal be-Tisha be-Av*, 302, no. 8, n. 6.

We should note that the ruling of R. Jacob Israel Kanievsky cited above refers to the issue of handshaking with women. R. Kanievsky views this as totally forbidden (*an issur gamur*) which cannot be set aside by *kevod ha-beriyot* – even if abstention will cause shame to the woman. This is also the opinion of the following scholars: R. Ovadiah Yosef, as cited by his son R. Isaac Yosef, *Otsar Dinim la-Isha ve-la-Bat*, sec. 37, no. 25, n.e 25; R. Shlomo Aviner cited online at http://www.kikarhashabat.co.il/1-11271-1-193549.html; Ben Zion Mutsafi cited online at http://www.moreshet.co.il/web/shut/shut2.asp?id=134214. R. Yitzhak Abadi, *Or Yitshak* vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253, asked the Hazon Ish about shaking a woman’s hand, and the latter told him that it is *yehareg ve-al ya’avor*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, vol. 2, 253.

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349. Sifra, Parsheta 2; Hagiga 16b.

350. R. Daniel Sperber, Darkah shel Halakha, supra, n. 25, 72-74 and n. 98 therein.

351. Rashi, Berakhot 19b, s.v. “Kol milei.” See also the sources cited in Encyclopaedia Talmudit, supra n. 323a, n. 428 therein.

352. This very argument was employed by R. Yehuda Herzl Henkin to explain why the benediction “she-Lo asani isha” cannot be abrogated by invoking kevod ha-beriyyot. See: R. Yehudah Herzl Henkin, “Amirat she-Lo Asani Isha be-Lahash,” mi-Perot ha-Kerem (Yeshivat Kerem be-Yavneh), 5764, 75-81, sec. B.1, s.v. “la-Aharona”; R. Yehudah Herzl Henkin, Resp. Benei Vanim, IV, sec. 1, no. 3, “la-Aharona”; R. Yehudah Herzl Henkin, personal communication to Aryeh A. Frimer (11/26/07). Similarly, R. Solomon Drimmer maintains that kevod ha-beriyyot cannot permit defecation in a plowed field on the Sabbath – since it was specifically this case that the Rabbis prohibited (in Shabbat 81b; Shulhan Arukh, O.H., sec. 312, no. 9). See R. Solomon Drimmer, Hiddushei Hatam Sofer, Shabbat 81b, s.v. “ba-Gemara, Eitiveih Ravina.”


354. Resp. Iggerot Moshe, Y.D., part II, sec. 77, end of s.v. “u-miTa’am she-hu.”


356. Havvot Yair, sec. 95; R. Malakhi ha-Kohen, Yad Malakhi, I, Kelalei ha-Gimmel, no. 123; R. Raphael ha-Kohen, supra, n. 353, s.v. “ve-Da.” See also discussion of R. Isaac Brand, supra, n. 323l at n. 122 therein.

357. R. Ya’akov (Gerald J.) Bldstein, supra, n. 320a, 140-141 and 178ff. See also R. Aharon Lichtenstein, supra, n. 321a, 14, n. 321b and n. 321d, 34.

358. See: R. Ya’akov (Gerald J.) Bldstein, supra, n. 320a, 170-172; R. Aharon Lichtenstein, supra, n. 321a, 14-15 and n. 321b; comments at the end of n. 348 supra. This is indeed the case in all those instances cited at length by R. Daniel Sperber in his book Darkah shel Halakha, supra, n. 25c (henceforth Darkah):

(a) The custom in some communities prohibiting menstruants to enter the synagogue (Darkah, 74) is a clear case of a humra be-alma (see references cited infra, nn. 371 and 373). Hence, the fact that even in such communities, menstruants visited the sanctuary on the High Holidays would be a classic example of kevod ha-beriyyot overruling a humra be-alma. [As we discuss later, in sec. XI below, in actuality this is not a case of kevod ha-beriyyot but of nahat ruah.]

(b) In the famous case of the wedding performed on Shabbat by R. Moses Isserlisch, Resp. Rema, sec. 125 (Darkah, pp. 74-75), R. Aharon Lichtenstein indicates that Rema gives no less than seven reasons to be lenient; see: R. Aharon Lichtenstein, supra, n. 321a, 15, first column, and n. 321b.

(c) As cited above, n. 339, R. Abraham Isaac ha-Kohen Kook’s responsum (Resp. Da’at Kohen, sec.169) raises the question of whether women may be given the honor of sewing together the Torah parchment sheets (Sperber, 79). This question bases itself on at least four reasons, including the fact that it was already the standing custom of the community to permit such a practice. In fact, R. Eliezer Waldenberg, Resp. Tzits Eliezer, XVIII, sec. 59, permits the practice and cites several responsa which concur
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without ever mentioning kevod ha-beriyyot. See also Piskei Teshuva, I, sec. 39, p. 356, no. 4.

(d) R. Ben-Zion Meir Hai Uziel, Resp. Mishpetei Uziel, IV, sec. 6, discusses women’s right of suffrage (Darkah, p. 80). Here too there are a variety of reasons to be lenient; see R. Aryeh A. Frimer, “Women in Community Leadership Roles in the Modern Period,” In “Afkei Yehudah – Rabbi Yehuda Gershuni z’t’l Memorial Volume,” R. Itamar Warhaftig, ed., Ariel Press: Jerusalem, 5765 (2005), 330-354 (In Hebrew) - available online at http://tinyurl.com/9cucl. But as is clear from the quote R. Sperber cites, for R. Uziel the most important reason for allowing women to vote was that he could find no convincing reason to prohibit it. He invoked kevod ha-beriyyot only to prevent needless humrot – where none in his opinion were justified. See case (a), above. See also, R. Ephraim Bezalel Halivni, ha-Tehinna ve-haKeri’a le-Hai ha-Olamim: Iyyunim be-Tefilla u-beKeri’at ha-Torah (Jerusalem: 5772), 162.

(e) R. Sperber next cites the responsum of R. Eliezer Waldenberg, Resp. Tsits Eliezer, VI, sec. 6, no. 3 (Darkah, 80-81), which invokes kevod ha-beriyyot to permit the use of a hearing aid on Shabbat. The fact is that R. Waldenberg gives three reasons to be lenient. In addition, he notes that there is extensive Talmudic precedent for kevod ha-beriyyot specifically setting aside the carrying of muktsa.

(f) The last case discussed by R. Sperber (Darkah, 82) is the one analyzed by R. Ezekial Segel Landau, regarding the need to reveal an adulterous relationship to the cuckolded husband; see: Resp. Noda bi-Yehuda, O.H., Mahadura Kamma, sec. 35. Here, R. Sperber himself acknowledges that there are major additional reasons to be lenient.

(g) There are several other examples where kevod ha-beriyyot has been invoked which are not cited by R. Sperber, but they too follow the guidelines outlined above. For further cases where kevod ha-beriyyot has been invoked to set aside humrot, see: R. Yuval Sherlo, “Reshut Lehahmir” (Petah Tikva, 5767), 89-90, who permits passing an object in public to one’s menstruant wife (he also gives two other reasons to be lenient). Similarly, R. Elyashiv Knohl, Ish ve-Isha, Part II, sec. 7, no. 6, based on R. Ovadiah Yosef, Taharat ha-Bayit, Part 2, sec. 12, no. 3, n. 3, permits carrying a heavy object together with one’s menstruant wife. Finally, R. Eliezer Waldenberg, Resp. Tsits Eliezer, VIII, sec. 15 – Kuntres Meshivat Nefesh, ch. 14, no. 16 is lenient regarding bandaging on Shabbat.

(h) It is forbidden to daven when one has to defecate, and if the need is acute (i.e., that he cannot sustain himself for 72 minutes), his tefillot and berakhot are rabbinically invalid (Shulhan Arukh, O.H., sec. 92, no. 1). Mishna Berura ad. loc., Be’ur Halakha s.v. “Haya tsarikh le-nekavav” discusses the case of a hazzan in an acute situation, who will be very embarrassed to walk out in the middle of his public prayer. The Be’ur Halakha rules that the hazzan may continue davening, provided that when he began, he erroneously estimated that the situation would not become acute. Unders such conditions, kevod ha-beriyyot can be invoked to permit the hazzan to continue despite the acute situation, because he began to daven with permission (be-heter) and his prayer is, therefore, valid be-diAvad. Note that kevod ha-beriyyot alone would not have allowed the hazzan to violate the rabbinic prohibition and continue. Indeed, if it was clear from the start that the situation would become acute and the hazzan began without halakhic permission, his prayer may well be invalid even be-diAvad. Under such conditions, the hazzan has no permission to recite the resulting berakhot—which are rendered le-vattala despite the kevod ha-beriyyot considerations. [Be’ur Halakha leaves this issue partially open because one could argue that, because of kevod ha-beriyyot, Haza”l removed the prohibition to pray – and hence no berakhot le-vattala.
accrue. It is clear, however, that according to Be’ur Halakha, kevod ha-beriyyot does not set aside berakhot le-vattala.)

(i) An interesting case is the question of giving an aliyya to one who is blind. As discussed above (see text above at n. 168), this is a major dispute between R. Caro, who prohibits such a practice, and Rema, who permits. Despite their Sefardic heritage, many Moroccan scholars ruled leniently, invoking kevod ha-beriyyot as a factor in their decision. Here again, however, kevod ha-beriyyot is not being used to override a rabbinic injunction, but rather to decide a well founded halakhic disagreement. In addition, the responsa indicate that many communities already had a custom to be lenient. See: R. Jacob Ovadiah, "Suma ha-Im Oleh la-Torah," available online at http://www.2all.co.il/web/Sites/orchma/ and http://tinyurl.com/4gx65wh - responsum 21. See also R. Benjamin Aaron Solnik, Resp. Masat Binyamin, sec. 62 who at the close of his responsum invokes nahat ruah in the same fashion, to resolve the dispute.

(j) Finally, R. Ezra Batzri ("Ka’akua bi-Mekom Gabbot ha-Einayim," Tehumin, 10, 282-287) has permitted tattooing eyebrows onto a woman who is missing them, relying in part on kevod ha-beriyyot. He did so only after citing arguments suggesting that tattooing in such a case is perfectly permitted. For a related discussion, see R. Ovadia Yosef, Taharat ha-Bayyit, III, Dinei Hatsitsa, no. 8, n. 11. For a discussion of tattooing in conjunction with reconstructive breast surgery, see R. Joseph Shalom Elyashiv, cited by R. Isaac Zilberstein, Kav ve-Naki, I, Y.D., sec. 272, 253-254; Naomi Englard-Schaffer and Deena R. Zimmerman, n. 323o, supra. 359. See also n. 328, above.

360. Sifra, Parsheta 2; Hagiga 16b.

361. Tosafot, Eruvin 96a, end s.v. “Mikhal;” Tosafot, Hullin 85a, s.v. “Nashim;” Mordekhai, Rosh ha-Shana 29a, sec. 619; Terumat ha-Deshen Pesakim u-Ketavim, sec. 132; Resp. Radvaz mi-Ketav Yad (vol. VIII), O.H. sec. 64; R. Yosef Teomim, Rosh Yosef, Hullin 85a, s.v. “Gemara, ve-Ray Yosi;” Turei Even, Megilla 16b, s.v. “Benei Yisrael;” Resp. Iggerot Moshe, O.H., II, sec. 2; R. Yaron Vahav, Sha’arei Torah, sec. 8, no. 3 and sec. 10, no. 8.

362. R. Eliezer ben Natan (Ra’avan), Sefer Ra’avan, sec. 87; Ra’avad, Sifra, Parsheta 2, s.v. “ve-Ein benot Yisrael somekhot (end);” Meiri, Hagiga 16b; Resp. Iggerot Moshe and Sha’arei Torah, supra, n. 361; Resp. Shevet ha-Levi, VIII, sec. 1; R. Shlomo Zalman Braun, Shearim Metsuyanim be-Halakha, Hagiga 16b, s.v. “de-Amar.”

363. See sources in nn. 361 and 362, supra.

364. Out discussion of Hagiga 16b in the text is based on the large cadre of rishonim cited in nn. 361 and 362, supra. Nevertheless, there is an additional group of rishonim who have a slightly different approach. Thus, Ran on the Rif, Sukka 20b, maintains that while women are exempt from semikha, they are permitted to do so fully, just as they are permitted to fulfill mitsvot asheh she-baZeman gramman. This is because in doing these optional mitsvot, there is a bona fide kiyyum ha-mitsva (performance of a mitsva action, with divine reward); hence, the semikha which is part of the mitsva – though optional for women – may be performed fully as well. According to this formulation, women who bring their own sacrifice would actually be permitted to push down forcefully on the animal. Although leaning unnecessarily on a sacrifice is prohibited, the kiyyum ha-mitsva makes a bona fide semikha permissible. This also appears to be the view of three earlier rishonim: Rashi, Hullin 85a, s.v. “ve-Rabbi Yosi;” Ra’avad, Sifra, Parsheta 2, s.v. “R. Yosi ve-R. Shimon omerim nashim somekhot reshit;” and Meiri, Hagiga 16b. According to these early-day authorities, Hagiga 16b is not dealing with a case where a woman brings her own korban, as just discussed. Rather, Gemara Hagiga is referring to a case where her actions do not constitute a
mitsva – such as when the sacrifice is not hers, but that of her husband. It is then that she may not press down forcefully. Still, because of nahat ru‘ah, we do allow her to do a pseudo-semikha by placing her hands lightly on her husband’s korban; the Rabbis refrained from prohibiting this act even though it looks like, or could easily come to, a forbidden act. As before, nahat ru‘ah does not, in and of itself, trump an already existing prohibition; it merely sways the Rabbis from not instituting one where it might have been appropriate. For further discussion of this approach, see: R. Aaron Gustman, Elyashiv, ibn Hayyim (1555-1632), Korban Aharon, Safra, va-Yikra, ch. 2, parsheta 2, no. 2; R. Isaac Nunis-Bilmonti, Sha‘ar ha-Melekh, Ma‘asch Korbanot, 3:13; R. Israel Zev Gustman, Kuntresei Shi’urim – Kiddushin, sec. 20, nos. 3 and 5; R. Joseph Shalom Elyashiv, He’arot be-Masekhet Hagiga 16b, s.v. “Laasot nahat ru‘ah le-nashim.”

The above consensus position notwithstanding, the 15th century scholar R. Elijah Mizrahi clearly maintains that nahat ru‘ah can actively set aside rabbinic rulings. Thus, in his gloss to Semag, Asin 42, Hilkhot Shofar, s.v. “Aval mishum nahat ru‘ah,” R. Mizrahi writes that nahat ru‘ah can be equated with tsa‘ar, which sets aside rabbinic injunctions. See also, R. Moses Sternbuch, Resp. Teshuvot ve-Hanhagot, IV, sec. 114, s.v. ve-Hinneb Kevod Torato.” However, these opinions run counter to the overwhelming consensus of authorities cited above. Finally, we note that the 12th century rishon Ra‘avan, supra n. 362, writes that the rabbinic prohibitions of placing one’s hands lightly on a sacrifice (akfa) and of reciting a needless benediction are set aside before women (de-dabi yabbi yosi issura de-rabbanan mi-kamei nashi). This formulation is unclear. His words could mean that nahat ru‘ah sets aside existing rabbinic prohibitions – which would make him the only such rishon to say so. Alternatively, he might simply mean that the women’s desire for optional fulfillment of a mitsva action prevented the Rabbis from instituting such prohibitions in these cases because the action was not without spiritual value.

365. As R. Barry Freundel puts it: “The classic Talmudic passage about bringing nahat ru‘ah to women tells us that responding to legitimate emotions is important. But in that particular case (the laying of hands on an animal before it is sacrificed), a limit was placed on how women did it - so that they would not violate halakha, even as a mechanism was found to allow the laying of hands in some form. The Rabbis understood that responding to the feelings was important but that responding to a need or concern by stepping outside of the structure of halakha does more harm than good in many ways.” See: R. Barry Freundel, “Partnership Minyanim II,” Hirbvim-Musings, January 27, 2013, available online at http://torahmusings.com/2013/01/partnership-minyanim-ii/.


367. R. Elizer ben Samuel of Metz, Sefer ha-Yere’im, sec. 419 (old printing 117); R. Isaac ben Abba Mari of Marseilles, Sefer ha-Ittur, Hilkhot Shofar, Hekhsher Tekia, s.v. “Garsinan;” R. Moses ben Jacob of Coucy, Sefer Mitzvot Gadol (Semag), Asin sec. 42; Shibbolei ha-Leket, Seder Rosh ha-Shana, sec. 295; R. Meir ben Yekutiél, Hagahot Maimoniyot, Shofar ve-Sukka ve-Lulav, ch. 2, no. 1.

368. Sefer Ra’ava, II, Megilla, sec. 593; Mordekhai and Resp. Radvaz mi-Ketav Yad, supra n. 361; Rosh cited in Tur O.H., sec. 589; Tur and Beit Yosef, O.H., sec. 589; Shulhan Arukh, O.H., sec. 589, no. 6; Mishna Berura, ad. loc. n. 9. We note that R. Shneur Zalman of Lyadi, Shulhan Arukh ha-Rav, O.H., sec. 589, no. 2 and sec. 596, no. 2, indicates that the prohibition of blowing needlessly is uvdin de-hol (action prohibited because it is similar to weekday work). The latter is a minor rabbinic prohibition (she-ein bo mi-shum shevut gamur) and, hence, easily set aside. Sha’agat Aryeh, sec. 106, questions the permissibility of carrying a shofar on Rosh ha-Shana to blow for one who is not obligated – since “needless” carrying on yom tov is forbidden. R. Moses Feinstein, Resp. Iggerot Moshe, III, O.H., sec. 95 refutes this claim for
two reasons. Firstly, as noted above, although women are not obligated to hear shofar blowing, should they opt to do so there is a kiyyum ha-mitsva and reward for doing so; hence, one who carries the shofar for this purpose is not carrying needlessly. Furthermore, argues R. Feinstein, since blowing shofar gives women nihat ruah, this too renders the carrying not needless. See also Shemateta de-Moshe: Pesakim u-Be’’urim me-haGaon Maran ha-Rav Moshe Feinstein (Jerusalem: Makhon Asukei Shemateta, 5767), O.H., sec. 6, Mekor ha-Shemateta, n. 2, 162.

369. Thus, although a man who has heard the shofar may sound it for women, he may not recite the appropriate benediction for them, even according to Ashkenazic authorities. This is because he bears no arevut for them and the benediction would be a berakha levattala. See the discussion above in n. 58.

370. See: Rema, O.H., sec. 88, no. 1, cited in R. Daniel Sperber, supra, n. 25c, p. 74. The prevalent contemporary custom is to be lenient; see Mekor Hayyim O.H. sec. 88, no. 1, s.v. Haga. Avul ha-minhag, Shulhan Arukh ha-Rav O.H. sec. 88, no. 2; R. Abraham Adadi, ha-Shomer Emet, sec. 7, no. 3; Hayyef Adam, kelal 3, sec. 38; Mishna Berura sec. 88, no. 1, subsec. 7; Kaf ha-Hayyim sec. 88, no. 1, subsecs. 10 and 11; R. Ovadiah Yosef, Resp. Yeheveh Da’at III, sec. 8; R. Isaac Friedman, Otsar Halakhot, I, sec. 88, no. 12. R. Asher Eliach, cited in Resp. Rivevot Efrayim VI, sec. 68, indicates that the sainted R. Israel Meir ha-Kohen Kagan was wont to gather women to the synagogue and lecture to them on a variety of topics, and he was never concerned whether they were menstruants. See also: R. Moses Sternbuch, ha-Halakha ba-Mishpaha, ch. 2, sec. 14; R. Menahem Mendel Kirschboim, Resp. Menahem Meshib, II, sec. 20. However, Kitzur Shulhan Arukh, sec. 153, no. 17, Arukh ha-Shulhan, O.H., sec. 88, no. 4, and Shulhan ha-Tahor, sec. 88, no. 3, cite only the original stringent custom of the Rema. See also R. Yekutiel Judah Halberstam, Resp. Divrei Yatziv, Y.D., II, sec. 139.

371. See: Rema, O.H., sec. 88, no. 1, cited in R. Daniel Sperber, supra, n. 25c, p. 74. The prevalent contemporary custom is to be lenient; see Mekor Hayyim O.H. sec. 88, no. 1, s.v. Haga. Avul ha-minhag, Shulhan Arukh ha-Rav O.H. sec. 88, no. 2; R. Abraham Adadi, ha-Shomer Emet, sec. 7, no. 3; Hayyef Adam, kelal 3, sec. 38; Mishna Berura sec. 88, no. 1, subsec. 7; Kaf ha-Hayyim sec. 88, no. 1, subsecs. 10 and 11; R. Ovadiah Yosef, Resp. Yeheveh Da’at III, sec. 8; R. Isaac Friedman, Otsar Halakhot, I, sec. 88, no. 12. R. Asher Eliach, cited in Resp. Rivevot Efrayim VI, sec. 68, indicates that the sainted R. Israel Meir ha-Kohen Kagan was wont to gather women to the synagogue and lecture to them on a variety of topics, and he was never concerned whether they were menstruants. See also: R. Moses Sternbuch, ha-Halakha ba-Mishpaha, ch. 2, sec. 14; R. Menahem Mendel Kirschboim, Resp. Menahem Meshib, II, sec. 20. However, Kitzur Shulhan Arukh, sec. 153, no. 17, Arukh ha-Shulhan, O.H., sec. 88, no. 4, and Shulhan ha-Tahor, sec. 88, no. 3, cite only the original stringent custom of the Rema. See also R. Yekutiel Judah Halberstam, Resp. Divrei Yatziv, Y.D., II, sec. 139.

372. It must be remembered that, until the recent period, highly absorbent deodorant sanitary napkins and tampons were simply not available. A heavy flow could certainly be a source of embarrassment and engender a feeling of lack of cleanliness. Many women obviously felt that under such conditions it was improper to be present in the synagogue, unless there were pressing reasons otherwise. The modern situation is, of course, radically different. See: R. Samuel Turk, Resp. Kerem Tsevi, sec. 41; R. Moses Zvi Landau, Shulhan Melakhim, second ed., Dinei Nidda ve-Toledet le-Davar she-biKedusha, sec. 1, 37; R. Ovadiah Yavets, Resp. Darkhet Noam, sec. 39. R. Moses Malkah, Resp. Mikveh ha-Mayyim IV, Y.D. sec. 20, suggests that the clothing of menstruants were normally worn, stained, and/or of poor quality and were thus considered inappropriate attire for the synagogue. See also the comments of R. Joseph Hayyim Sonnenfeld, Sefer Torat Hayyim - Resp. Rabbi Yosef Hayyim Zonnenfeld (Machon Keren Re’em, Jerusalem, 5762) sec. 27.

373. Sec: Levush O.H. sec. 88, no. 1 at end (“…for in any case it is perfectly permissible, except that the women are wont to be stringent because of a simple custom”); Magen Avraham and Mahatsit ha-Shekel O.H. sec. 88, no. 3; Bi’urei ha-Gra, O.H. sec. 88, no. 1, n. 6 [see also R. Zvi Hirsch Lempert, Piskei ha-Gra sec. 88 and Ma’aseh Rav, sec. 58]; Shulhan Arukh ha-Rav O.H. sec. 88, no. 2; R. Abraham Adadi, ha-Shomer Emet, sec. 7, no. 3; Hayyef Adam, kelal 3, sec. 38; Mishna Berura sec. 88, no. 1, subsec. 7; Kaf ha-Hayyim sec. 88, no. 1, subsecs. 10 and 11; R. Jacob Saul Elyashar, Resp. Ma’ase Ish, O.H., sec. 3; Resp Tsit Selleier X, sec. 8; R. Samuel
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374. See, for example, R. Mendel Shapiro, n. 23a, Edah Journal, 16 and Women and Men in Communal Prayer, p. 231; R. Zev Gothold, Takhkemon, I (Jerusalem: 5770), 174-175.

375. For leading references, see: R. Jacob Tam, Sefer ha-Yashar (Responsa), sec. 64, no. 5; Tosafot (s.v. “ha”), Rashba, Meiri, Rosh, and Ran to Rif – to Rosh ha-Shana 33a; Tosafot, Erurin 96a-b, s.v. “dilma”; Tosafot (s.v. “de-lo”), Ramban and Ritva – Kiddushin 31a; Meiri, Hagiga 16b, Rosh ha-Shana 33a and Hibbur ha-Teshuva 280 (see n. 39 in Lange ed. of Meiri, Hagiga 16b for a complete list of places where Meiri discusses this matter); Sefer Ra’avya, II, Megilla, sec. 593; R. Isaac of Vienna, Or Zara, II, Kiddushin, sec. 23, no. 4 and the comments of R. David Yosef, Resp. Rambam Pe’er ha-Dor (Yosef ed.) sec. 105, n. 4.

376. Berakhot 33a; M.T., Hilkhot Berakhot 1:15 and Hilkhot Shemuvot, 12:9; Resp. Rambam (Blau ed.) sec. 124; Resp. Rambam Pe’er ha-Dor (Yosef ed.) sec. 105. See, however: Resp. Rambam (Blau ed.) sec. 333; Resp. Rambam Pe’er ha-Dor (Yosef ed.) sec. 26, which intimates that the prohibition is only Rabbinic. For a comprehensive discussion of the position of Maimonides, see the comments of R. David Yosef, Resp. Rambam Pe’er ha-Dor (Yosef ed.) sec. 105, n. 4.

377. This is provided that the benediction is recited as an expression of heavenly praise. If the recitation is totally for naught, then a biblical prohibition may be violated; see R. Moses Sofer, Hiddushei Hatam Sofer, Ketubot 24. The view of Rabbeinu Tam, that the prohibition against a berakha she-eina tserikha is actually rabbinic in origin, is maintained by the majority of rishonim; see Resp. Yabbia Omer, IX, O.H., sec. 23, no. 4 and the comments of R. David Yosef, Resp. Rambam Pe’er ha-Dor (Yosef ed.) sec. 105, n. 4. As noted above, n. 376, Maimonides dissents. See, at length: R. Ishmael ha-Kohen of Modona, Resp. Zera Emet, sec. 1; R. Jacob Joshua Falk, Penei Yehoshua, Berakhot 33a, s.v. “Sham, Teni Rav Aha”; R. Judah Samuel Ashkenazi, Geza Yishai, I, Ma’arekhet Ot ha-Bet, s.v. “Berekha she-Einah Tserikha,” secs. 209-211; Resp. Yabbia Omer, IX, O.H., sec. 11, sec 86, no. 12, and sec. 94. no. 7; R. Isaac Arieli, Einayyim la-Mishpat, Berakhot, 14a, s.v. “de-hani”, and 33a, no. 50; R. Nachum L. Rabinovitch, Yad Peshuta, Hilkhot Berakhot, 1:15; Encyclopedia Talmudit, IV, “Berekha she-Einah Tserikha”; R. Asher Weiss, “Berekha she-Eina Tserikha,” Shiur Moreinu ha-Rav Shlita, Kuntrer Shemuvot, Parashat Yitro 5773, 11, 17 (431).” See also n. 125 supra.

378. Supra, n. 375.

379. See nn. 364 and 369 supra. R. Asher Weiss, Minhat Asher, Bemidbar, sec. 32, no. 1, posits that because of nhat ruah alone, Hazal would have prohibited women from reciting birkot ha-mitsva on the fulfillment of an optional mitsva. It is only because such an action is worthy of heavenly reward as a mitsva action that Hazal ruled that there is no berakha le-vattala involved.

380. See Aryeh A. Frimer and Dov I. Frimer, n. 375 supra, Addendum Part 1 thereto. See also R. Benjamin Aaron Solnik, Resp. Masat Binyamin, sec. 62, who at the close of his responsum invokes nhat ruah to permit a blind person to receive an aliya. As discussed above in n. 358i, nhat ruah is not being invoked to permit the forbidden, but to resolve a halakhic dispute to the side of leniency.

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381. See the sources cited in nn. 27, 288 (second parag.). Regarding partnership minyanim, see nn. 387k-p and 389.


386. R. Shlomo Riskin has recently permitted women in Efrat to read the Book of Ruth for men. See: Yori Yanover, “Rabbi Riskin Permits Women to Read Ruth for Men in Orthodox Shul,”Jewish Press, May 14th 2013, available online at: http://tinyurl.com/cjvnp6b. See the discussion in n. 391, infra.


Regarding the recitation of pesukei de-zimra, the consensus of poskim is that women are exempt from this obligation. See: Shulhan Arukh ha-Rav, O.H., sec. 70, no. 1; Arukh ha-Shulhan, O.H., sec. 70, no. 1; Kaf ha-Hayyim, O.H., sec. 70, no. 1; Resp. Or be-Tsion, sec. 5, no. 3, 44-5; Resp. Teharve Da’at, III, sec. 3; Resp. Yabbia Omer, II, O.H., sec. 6; Resp. Yalkut Yosef, I (5764 ed.), sec. 51, no. 33 and n. 33 thereto; Halakha Berura, IV, sec. 51, no. 2, subsec. 7 and Resp. Oserot Yosef, sec. 3; R. Pesah Elijah Falk, Resp. Mahazeh Eliyahu, sec. 15; R. Shlomo Aviner, Resp She’elat Shlomo, II, sec. 21; R. Eliezer Melamed, Peninei Halakha – Tefillat Nashim, sec. 15, no. 4 and n. 2; Piskei Teshuvot, I, sec. 70, no. 1, n. 4. Mishna Berura, O.H., sec. 70, no. 2 dissents; however, in Sha’ar Tiyyun no. 4 ad. loc. he cites the Shulhan Arukh ha-Rav and leaves the matter unresolved. Surprisingly, the above authorities are ignored by R. Abraham Isaiah Pfoifer, Ishei Yisrael, 7, no. 10, who cites only the view of Mishna Berura.


389. Our formulation is based on the conversations of Dov I. Frimer with R. Aharon Lichtenstein and R. Moshe Mordechai Karp (April 2010), as well as with R. Asher Weiss (Nov. 14, 2013) and R. Nachum Rabinovitch (Nov. 16, 2013; see also, infra, n. 396). Similarly, R. Avigdor Nebenzahl, Dec. 6, 2011, emphasized to the authors the impropriety of having women unnecessarily at the center of any communal religious ritual, as maintained by the Tseni’ut School of kevod ha-tsibbur. See also: R. Avigdor Nebenzahl, “He’arot ve-He’arot be-Inyanei Hannukah,” in Kovets Torani Hilkhati Meshiv k rich Torah — Hannuka, Part IV, no. 56, Nisan 5773, 16, no. 3 – “Ta’am she-Nashim Einan Motso’ot et ha-Anashim Yedei Hovatam be-Hallel.” Interestingly, R. Hayyim Palagi, Sefer Hayyim, sec. 16, no. 22 writes that in villages which lack a sefer Torah, it is often customary to read the portion of the week from a printed Humash. Nevertheless, a woman should not be chosen to read for the assembled community because of kevod ha-tsibbur.
R. Shlomo Aviner and R. Samuel Eliyahu have come out against Partnership Minyanim for other reasons. R. Aviner (personal communication, Dec. 2, 2011) has objected to Partnership Minyanim on four grounds: (1) It represents a profound change from the normative prayer procedure and the practice of generations; see Resp. Rashba, I, sec. 323. (2) It may reflect a grievance with the halakhic system, which can be considered heresy; see Resp. Iggerot Moshe, O.H. IV, sec. 49. (3) Many posekim object to a woman reciting the Mourners Kaddish by herself, let alone communal rituals such as pesukei de-zimra, Kabbalat Shabbat and Hallel. See: R. Chaim Binyamin Goldberg, Penei Barukh, ch. 34, sec. 20 – translated into English in Mourning in Halacha (Brooklyn, NY: Mesorah Publications, 1991), ch. 39, sec. 21. [See, however, the lenient sources cited in note 397 infra, n. 147 therein.] (4) Twelve reasons have been cited by R. Hershel Schachter against women’s prayer group and many of them certainly apply to Partnership Minyanim; see: R. Zvi (Hershel) Schachter, “Tse’i Lakh be-Ikvei ha-Tson,” Beit Tishbak 17 (5745), 118-134, reprinted in R. Zvi Schachter, Be-Ikvei ha-Tson (Jerusalem: Beit ha-Midrash de-Flatbush, 5757), 21-37. [See, however, Aryeh A. Frimer and Dov I. Frimer, “Women’s Prayer Services: Theory and Practice. Part 1 - Theory,” Tradition, 32:2 (1998), 5-118.]

R. Samuel Eliyahu (Chief Rabbi of Tsfat), (personal communication, Dec. 25, 2011) also opposes Partnership Minyanim on several grounds: (1) a community may not set aside its honor; (2) changes in prayer ritual and practice require a broad consensus throughout kelal Yisrael; (3) one has to be careful of the slippery slope and of giving the impression that longstanding traditions are easily changed by creating the necessary pressure.

390. Other approaches to the distinction between women and minors regarding pesukei de-zimra or kabbalat Shabbat can be found in R. Michael Broyde n. 387k and Joel B. Wolowelsky n. 387t, above.

391. Massekhet Soferim 14:18 (14:15 in some texts, and 14:16 in the Higger ed.); see also Midrash Rut Zuta (Buber edition), beginning of Parasha 1 and Yalkut Shimon on Ruth, end of sec. 596. Earlier in Massekhet Soferim (14:3; 14:1 in some texts), there is mention that one recites “al mikra megilla” before the reading of the various meglilot as well. Indeed, following the ruling of R. Elijah Kramer of Vilna (Be’tur ha-Gra, O.H. sec. 490, no. 9, s.v. “re-Nohagin”), the general custom in Israel is to recite “al mikra megilla” and “she-Hehiyyanu” when reading from a klaf (parchment). Mishna Berura, O.H. sec. 490, no. 9, subsec. 19, concurs. This would certainly confirm the solid standing of this practice.

We have cited in n. 386 above R. Riskin’s ruling permitting women in Efrat to read the Book of Ruth (and other meglilot, except Esther) for men. In an e-mail clarification of his position to the Efrat Discussion Group (May 16th 2013), R. Riskin writes: “The Ba’alei Hatosafot (Arakhin 3a) bring down the view of the Behag (Ba’al Halakhot Gedolot, R. Simeon Kayyara, 9th century) who maintains that women who read Megillat Esther cannot fulfill the obligation for men because men and women have differing obligations regarding the Scroll of Esther: the men are obligated to read the meglilah, whereas women are obligated only to hear the meglilah. Therefore, most Ashkenazi congregations (including all the synagogues in Efrat) would not allow women to read Megillat Esther except for other women; but clearly this exception only pertains to the Scroll of Esther where there are different obligations between the sexes. The Scroll of Ruth is not a personal obligation on the part of each individual, but is rather a communal obligation which devolves upon the entire community. Hence there is no distinction between men and women; so women can certainly read it for the entire congregation.”
With all due respect, R. Riskin errs for several reasons: (a) Firstly, by his own admission, reading _Megillat Rut_ is a communal obligation, a position clearly stated by R. Issacher Ber of Vilna, _Pe’ulat Sakhir to Ma’aseh Rav_, sec. 175. Longstanding customs, certainly if they are 1200 years old, are obligatory as well. This explains why the _Massekhet Soferim_ cited above requires that a benediction be said, and so ruled R. Elijah Kramer, the Gaon of Vilna, as noted above. The fact that outside of Israel, the benediction is not generally recited does not make the reading any less obligatory, even if it is only based on the authority of a custom. Granted that there are some communities in which the four Megillot are not read; yet, this does not contravene the fact that it is a communal obligation in those communities where the custom is in effect. This communal obligation, like all _hovot ha-tsibbur_, falls on the men of the community – not the women – and it is the men who are bidden to fulfill it. According to the “Lack of Obligation School” of posekim discussed above (see sec. VII.B.2), having non-obligated women read for the community would be _zilzul ha-minhag_ and, hence, a breach of _kevod ha-tsibbur_. This is in contradistinction to _Megillat Esther_ in which, according to many sefardic posekim, women are obligated equally with men. Hence, according to the “Lack of Obligation School” women, in such a case, can read for the men. See n. 244a. (b) Furthermore, R. Riskin totally ignores the “Sexual Distraction School” of _kevod ha-tsibbur_ (see sec. VII.B.2), which objects to placing women at the center of communal ritual. Thus, _Tosafot Sukka_ 38a (explaining the Behag), _Semag Asin Derabbanan_ 4, _Magen Avraham_ O.H. sec. 689, no. 5 (among others - see n. 238b, _supra_) maintain that the problem of women reading _Megillat Esther_ for men is not one of obligation, but of _kevod ha-tsibbur_ (or _zila milta_ – placing women at the center of communal ritual. See also: _Mishna Berura_ O.H., sec. 689, no. 7, and _Arukh ha-Shulhan_, O.H., sec. 689, nos. 1 and 5. This would apply equally for the Book of Ruth as it would for the Scroll of Esther, and has nothing to do with obligation! (c) The argument that _kevod ha-tsibbur_ is not relevant to communal practices based on custom is refuted by a _teshuvah_ of R. Moses Isserlis, _Resp. Rema_, no. 35. There he discusses at length reasons for the custom of not reciting a _berakha_ before the reading of the Book of Ruth, despite the ruling of _Massekhet Soferim_ to the contrary. Rema indicates that one reason for this was the custom (practiced in his community) that the congregants read the Book of Ruth to themselves. He posits that the benediction on the reading of the _megillot_ mentioned in _Massekhet Soferim_ was presumably instituted, as in the case of the Torah reading benedictions, because of _kevod ha-tsibbur_ (see _supra_, n. 139). Hence, it is only relevant when the reading of the _megillot_ is done communally. This analysis makes it clear that _kevod ha-tsibbur_ is a relevant consideration once the reading is a communal one – even if the authority for that reading is only custom. Hence, having a woman read _Megillat Rut_ for the community would be a breach of _kevod ha-tsibbur_, as argued above.

392. R. Amram Gaon, _Seder R. Amram Gaon_, opening of _Seder Pesukei de-Zimra_.
393. R. Saadya Gaon, _Siddur R. Saadya Gaon_, opening of _Tefillat Shahar le-Tsibbur_.
394. R. Aharon Lichtenstein, _supra_, n. 389; R. Asher Weiss, _supra_, n. 389, found this particular proof regarding _pesukei de-zimra_ very convincing. This is in contradistinction to Rambam, _M.T._, _Hilkhot Tefilla_, 9:1, who maintains that the role of the hazzan and public prayer begin with the _kaddish_ before _barekhu_. See R. Joseph B. Soloveitchik, _Shiurim le-Zekher Abba Mari z”l_, II, _be-Inyan Pesukei de-Zimra_, 17-34.
395. The earliest reference that a hazzan wraps himself in a _tallit_ is found in _Rosh Hashana_ 17b dealing with the recitation of the “thirteen attributes of mercy.” The text reads: “[The verse] teaches that the Almighty wrapped Himself like a _sheli’ah tsibbur_ and showed Moshe the procedure for prayer.” _Yam Shel Shlomo_, _Hullin_ ch. 8,
sec. 53 maintains that a tallit is worn by a hazzan and one who gets an aliyya – see also Ba’er Heiter O.H., sec. 14, no. 3, subsec. 6; Divrei Hamudot to Rosh, Halakhot Ketanot, Hilkhot Tsitis, sec. 1, n. 3, indicates that even one reciting kaddish should wrap himself with a tallit out of respect to the community (kevod ha-tsibbur). Kevod ha-tsibbur as a rationale for donning a tallit by the Hazzan is cited by the following sources: Magen Avraham, O.H., sec. 18, no. 1, n. 2; Elyon Rabba, O.H., sec. 18, n. 2; Ba’er Heiter O.H., sec. 18, no. 3, subsec. 4; Pri Megadim, Eshel Avraham, sec. 18, no. 1, nn. 1 and 2 and sec. 581, no. 1, n. 3; Shulhan Arukh ha-Rav, O.H., sec. 14, no. 8 and sec. 18, no. 4; R. Shlomo Kluger, Resp. ha-Elef Lekha Shlomo, O.H., sec. 354, s.v. “Ma she-He’ir,” Mishna Berura, O.H., sec. 14, no. 3, Be’ur Halakha s.v. “Sha’ala ke-shel Hi metsuyyets,” Mishna Berura, O.H., sec. 18, no. 3, subsection 5; Resp. Mishne Halakhot sec. 23. Mishna Berura, O.H., sec. 14, no. 3, subsection 11 records that a tallit is worn out of respect (mi-penei ha-kavod) by a hazzan, one who gets an aliyya, and by a Kohen who blesses the community. In this regard, see the in-depth discussion of R. Benjamin Solomon Hamburger, Shorashei Minbag Ashkenaz, 1, Tallit mi-Shum Kevod ha-Tsibbur, 112-140. The general custom of having the hazzan wear a tallit for Kabbalat Shabbat out of kovod ha-tsibbur is discussed by R. Barry Freundel, supra, n. 3871 and by R. J Simcha Cohen, “Halachic Questions: A Chazzan’s Tallit,” Jewish Press, Wednesday September 2, 2009; available online at: http://www.jewishpress.com/pageroute.do/40666. This is also the custom of the German (Breuer) community of Washington Heights (Herbert Schuster and Charles Hexter, personal communications, October 31, 2010). See also Minhagei Be’it ha-Kenesset le-Leil Shabbat, parag. 1 and 9-13, and n. 8 – available online at http://tinyurl.com/2f2e4xw.

396. R. Moshe Mordechai Karp, supra, n. 389. R. Rabinovitch, supra n. 389, clarified that halakha le-ma’ase (in practice) he would not allow women to lead any of the accepted tefillos including pesukei de-zimra or kabbalat Shabbat. Nonetheless, it is important to emphasize that tefillos be-tsibbur, pesukei de-zimra, and kabbalat Shabbat are not all cut from the same halakhic cloth. They are, therefore, not of the same level of stringency, which may have halakhic significance in specific, she’at ha-dehak situations.

Thus, while there is no question that women cannot lead tefillot be-tsibbur, pesukei de-zimra is historically somewhat different. In fact, there were communities in the past where no shel’ah tsibbur was appointed to lead pesukei de-zimra. What is more, the opening benediction Barukh she-Amar is nowhere mentioned in the Talmud, suggesting perhaps that these Psalms were recited privately. We today, however, have generally accepted the Geonic custom of appointing a shel’ah tsibbur to lead in the recitation of pesukei de-zimra beginning with barakha – Barukh she-Amar - and closing with a berakha - Yishtabbah; see, supra, nn. 392 and 393. According to this widespread minhag which invokes bookend benedictions, pesukei de-zimra is indeed part of tefillot be-tsibbur and as such commands the rules of kovod ha-tsibbur. Consequently, R. Nachum Rabinovitch rules in practice that it would be forbidden for women to lead pesukei de-zimra, although in origin it is of a lesser degree of stringency than the rest of public prayer.

Similar considerations apply to Kabbalat Shabbat, which was initiated by the mekubbalim of Safed only in the 16th century. This service is merely a collection of seven chapters of Psalms bracketing the piyut Lekha Dodi recited on Erev Shabbat. See: R. Jacob Emden (Yaavets), Siddur Beit Yaakov, Seder Kabbalat Shabbat, attributes the custom to R. Moses Cordovero (1522-1570); R. Issacher Jacobson, Netiv Bina, II (Sinai: Tel Aviv, 1987), sec. 1, 30-31. See also the in-depth discussion of R. Yechezkel Goldhaber, “Likrat Shabbat Lekhu ve-Nelkha (Part A),” Kovets Be’it Aharon ve-Yisrael, XI:4 (64), Nissan-Iyar 5756, 119-138, at 127ff. Kabbalat Shabbat is generally said
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from the bima, and not the amud, in order to demonstrate that it is not really part of the formal davening; see R. Abraham Werdiger, Siddur Tsolota de-Avraham, IV (Shabbat II), 17; R. Issacher Jacobson, Netive Bina, II (Sinai: Tel Aviv, 1987), sec. 1, 33; R. Yechiel Goldhaber, “Likrat Shabbat Lekhu ve-Nelkha (Part B),” Kovets Beis Aharon ve-Yisrael, XI:6 (66), Av-Elul 5756, 91-112, at 99ff and n. 79 therein. In the Alt Neu Shul in Prague and elsewhere, it was the custom to recite Kabbalat Shabbat with musical instruments very early on Friday afternoon, as early as 90 minutes or more before the Sabbath. The music stopped ca. 30 minutes, before the Sabbath when the women went home to light candles. See R. Aaron Epstein, Resp. Kappei Aharon, sec. 20; R. Daniel Sperber, Minhagei Yisrael, IV (Mosad ha-Rav Kook: Jerusalem, 5755), ch. 1; R. Yechiel Goldhaber, “Likrat Shabbat Lekhu ve-Nelkha (Part D),” Kovets Beis Aharon ve-Yisrael, XIII:1 (73), Tishrei-Heshvan 5758, 119-134. (We thank Prof. Shnayer Leiman for bringing these latter sources, and particularly the outstanding Golhaber series of articles, to our attention.) As a result, Kabbalat Shabbat is of a lesser degree of stringency even to that of pesukei de-zimra. Nonetheless, the almost universal custom today is to incorporate Kabbalat Shabbat into the Erev Shabbat davening, recited immediately prior to Maariv. In addition, it is said today by Ashkenazim, led by a sheli’ah tsibbur (although there are no berakhot) wearing a tallit (see supra, n. 395). The result is this minhag Yisrael also warrants that the principles of kevod ha-tsibbur apply. Therefore, in practice R. Rabinovitch would not allow a woman to lead Kabbalat Shabbat.


399. R. Aharon Lichtenstein, personal communication to Aryeh A. Frimer, December 31, 2006; R. Nachum Rabinovitch, personal communication to Aryeh A. Frimer, January 24, 2007. The above are cited in the addendum to Aryeh A. Frimer, “Women in Community Leadership Roles – Shul Presidents” – Edited Transcript of Lecture (in English) with Addenda (Summaries of Conversations with Rav Aharon Lichtenstein and Rav Nachum Rabinovitch), Rabbi Jacob Berman Community Center – Tiferet Moshe Synagogue, January 14, 2007. Word file available online at http://bermanshul.org/frimer/Women_in_Leadership.pdf. See also source pages to Aryeh A. Frimer, “Women and the Public Recitation of kiddush” (In Preparation) - available online at: http://tinyurl.com/354owag. It is noteworthy, however, that R. Nachum Rabinovitch, personal communication to Dov I. Frimer, September 25, 2010 indicated that kiddush Friday night in the synagogue is part of the takkana of
communal *ma’ariv on erev Shabbat*; see Rambam, *Pe’er ha-Dor*, sec. 148 (cited in *Beit Yosef* *OH* sec. 124, no. 3, s.v. “ve-Katav”). Since women are exempt from communal prayer obligations, they are precluded from reciting Friday night *kiddush* for the community.

400. See *supra*, nn. 387d-f.


403. *Reshimot Shiurim*, *supra* n. 401, 190.


407. Rashi, *Tosafot*, *Tosafot haRosh*, and *Tosafot Rabbenu Perets* to *Sukka* 38a. As for the inter-relationship between *bizyon ha-mitsva* and *bizyon Shamayim* (*ha-Metsavveh*), see: Maimonides, n. 243 *supra*.


411. Rabbis Aharon Lichtenstein, Moshe Mordechai Karp, and Barukh David Povarsky, personal conversations with Dov I. Frimer, April 2010. See also n. 30h *supra*.


413. *Ibid.*, parag. 14

414. This analysis has been confirmed by the noted Maimonidean scholar, R. Nachum L. Rabinovitch (conversation with Dov I. Frimer, Dec. 7, 2001).


416. The above analysis of *kevod ha-tsibbur* limits a woman’s leadership role in communal prayer ritual. A reviewer has challenged this position from the case of *kaddish yatom after Aleinu*. Posekim maintain that a minor can recite this *kaddish* and later scholars have extended this leniency to women, as well; see n. 398 supra. Interestingly, R. Rema in his gloss to *Shulhan Arukh, O.H.* sec. 132, no. 2, indicates that if there are no mourners present, someone else in the community should nevertheless recite the *kaddish yatom after Aleinu*. This would suggest, claims the reviewer, that recitation of this particular *kaddish* is a communal obligation (*a hovat ha-tsibbur*). Yet women mourners can recite it!

To our mind, however, this analysis is incorrect. R. Jacob ben Judah Landau, *Sefer ha-Agur, Hilkhot Tefillat Ma’ariv*, sec. 334, indicates that *kaddish yatom* was specifically enacted for those mourners who like minors cannot lead the public prayer service and recite the affiliated *kaddishim*. Indeed, many *posekim* rule that adult mourners, who have the option of being *shelihei tsibbur*, should leave the *kaddish yatom* for the minors alone; see, for example: *Resp. Maharam Mints*, sec. 80; *Arukh ha-Shulhan*, *Y.D.*, sec. 376, no. 12. Thus from its inception, the *kaddish yatom* was the personal obligation of the mourner, not a *hovat ha-tsibbur*. *Sefer ha-Agur, ibid.*, and R. Benjamin ben Mattathias, *Resp. Binyamin Ze’ev*, sec. 201 indicate that, if no *avelim* are present, this *kaddish* should continue to be recited by anyone else in the community “for all the deceased of Israel.” This suggestion is then cited by Rema in his *Darkei Moshe*
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and *Mapa* to *Y.D.* sec. 376, no. 4. This is also the source of Rema’s gloss in *O.H.* sec. 132, no. 2.

Several comments are in order regarding this latter institution: (1) When *avelim* are present, they say *kaddish* for their deceased, and no *kaddish* is said for the “dead of Israel.” Thus, if mourners are regularly present, a year or two could go by during which no *kaddish* is said for the deceased of Israel. This is very much unlike a communal obligation. (2) Rema indicates that in the absence of a mourner, anyone can say the *kaddish* – not specifically the *hazzan*, who normally leads communal rituals. Again, this lack of assignment is very unlike a communal ritual. It is more likely that the one who recites the *kaddish* does so as an individual. Indeed, the *Resp. Binyamin Zev* says explicitly that if reciter is the *hazzan*, he should be careful to recite this *kaddish* differently than he said the regular *kadeishim*; namely, he should recite it in an undertone and sadly, as is customary of other mourners. Clearly, this recitation is a *hesed* (an act of lovingkindness) that an individual in the community does for the deceased of Israel. It is not a communal obligation. (3) Finally, even if the reviewer is correct that there is a communal element in the continued recitation of this *kaddish*, it is only in those limited cases where no *avelim* are present. For this reason, it is unclear to us whether a minor or woman could be chosen to recite *kaddish yatom* after *Aleinu* in the absence of mourners. However, under a normative situation, where mourners are present, the latter recite *kaddish yatom* as a purely personal obligation. Hence women and minors can do so as well.