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Women, *Keri'at ha-Torah*,
and *Aliyyot*

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WOMEN, *KERI'AT HA-TORAH*, AND *ALIYYOT*¹

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.”² As noted by the *Hinnukh*,³ 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 Talmud⁴ 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.⁵ It was not until the beginning of the Second Commonwealth that Ezra the Scribe (*ha-Sofer*) 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.⁶ 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.⁷ 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.⁸ Thus, one who receives a *hosafa* recites the *birkhot kerī'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.⁹ 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,¹⁰ explains that we follow the basic law (*me-ikkār 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 *kerī'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.¹¹ Since the codifiers conclude that *hosafot* and repetitions are all part of Ezra's original enactment of *kerī'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).¹²

We turn now to the *kerī'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 mi-kol 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.¹³ Already in Talmudic times, this procedure was changed so that **each** *oleh* recited the *barekhu* salutation and the two *berakhot* before and after his reading.¹⁴

Additionally, each *oleh* originally read his own Torah portion aloud from the *sefer Torah*.¹⁵ This required literacy, knowledge, and preparation – a challenge to which not all were equal.¹⁶ It was not until several hundred

years later, in the post-Talmudic Geonic period,¹⁷ that a *ba'al kerī'ah* (Torah reader) was appointed to read aloud from the *Torah* for each *oleh*.¹⁸

The question of women receiving *aliyyot* is also briefly discussed in a *baraita* cited in the *Talmud Megilla*, which reads:¹⁹

תנו רבנן: הכל עולין למנן שבעה, ואפילו קטן ואפילו אשה. אבל אמרו חכמים: אשה לא תקרא בתורה, מפני כבוד צבור.

The Rabbis taught: All are eligible for an *aliyya* (*hakol olin*)²⁰ 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:²¹

והכל עולין למנן שבעה, אפילו אשה, אפילו קטן. אין מביאין את האשה לקרות לרבים.

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,²² 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 Shapiro²³ (in part based on the earlier writings of R. Yehuda Herzl Henkin²⁴) and the other by R. Prof. Daniel Sperber²⁵ – which attempt to build a case for women's *aliyyot* at a normative halakhic service.²⁶ 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.²⁷ 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.²⁸ 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 kerī'ah*, and, hence, each *oleh* 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 *olah* 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 *kerī'at ha-Torah* obligation, might indicate that women share in the communal obligation of *kerī'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 (*sheluhō shel adam ke-moto* – one's agent is as oneself) is of no avail.²⁹ 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-oneh* (listening attentively is like reciting it oneself).³⁰

According to most authorities, *shome'a ke-oneh* is a **transfer** mechanism, **by which** not only the verbal aspects, but the totality of the "assister's" actions, are conveyed to the "assiste." As a result, *de jure*, both the assister and the assistee have simultaneously fulfilled the same obligation.³¹ Thus, for example, although the congregants themselves are not reading from a parchment, they fulfill their commandment of reading *Parashat Zakhōr* from a *sefer Torah* and the recitation of the Book of Esther from a *bona fide megilla*, with the rendering of the *ba'al kerī'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."³² This latter ruling readily leads to the conclusion, that "only one who is obligated can assist others in fulfilling their obligation."³³ Importantly, the *Mishna*'s ruling also suggests that one not obligated can nonetheless perform the *mitsva* for *themselves*, since no transfer mechanism is required.³⁴

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-haZeman geramman*.³⁵ 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 alaihu hova*).³⁶ But this is **not** because the women now bear an inherent obligation like the men,³⁷ but rather because there is now a *ned-er mitsva* – an **oath** to do a righteous act.³⁸ As such, and unlike inherent obligations, the assumed obligations can be removed via *hatarat nedarim*, the traditional procedure for removal of oaths.³⁹

Returning to verbal or auditory obligations and *shome'a ke-oneh*, the codes have refined this pivotal mechanism further:⁴⁰

(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.⁴¹

(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 food⁴² 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 level⁴⁷ 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.⁵⁰ For example, if one partakes of bread and eats his fill (*kedei sevi'a*), he would be biblically obligated in *Birkat ha-Mazon*. However, because of *arevut*, one who ate only a *ke-zayit* of bread, and is, therefore, only rabbinically obligated,⁵¹ can join a *zimmun* and recite *Birkat ha-Mazon* for one who ate his fill.⁵² 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.⁵³ 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)⁵⁴ – even though they are actually incumbent upon the groom.⁵⁵ 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.⁵⁶ Finally, many leading *posekim* permit one who has not yet accepted the Sabbath or Holiday to recite *kiddush* for others who have.⁵⁷ This is indeed the widespread practice in Israeli hospital wards. According to these authorities, *arevut* is applicable since the *mekaddesh* 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 *mitsva* 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 *mitsva* or recite a *birkat ha-mitsva* optionally.⁵⁸ 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*.”⁵⁹ However, this approach distinguishes between *arevut* for an optional *mitsva* and *arevut* for the associated optional *berakha*.⁶⁰ 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.”⁶¹ 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 *mitsva* 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 *mitsva 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 *mitsva*, *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 *mitsva* (*kiyyum ha-mitsva*); and (2) **intend** to assist the listener in the performance of a *mitsva* ("*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 mitsva* (a *mitsva* action). This *ma'aseh mitsva* 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 *mitsva* (generating a minimal "*kiyyum ha-mitsva*"), 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 ha-mitsva*." In addition, absent *arevut*, there is no renewed "*hiyyuv*" 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 *mitsva* 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 Eiger⁶⁵ 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).⁶⁶

(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*.⁶⁷ 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.⁶⁸

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.⁶⁹ 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.⁷⁰ Importantly, it is this latter view which is adopted by the *Shulhan Arukh* and many other leading *posekim*.⁷¹ 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.⁷²

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*.⁷³ 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*,⁷⁴ 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*⁷⁵ 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*.⁷⁶ Since the ritual obligations of women and non-Jewish slaves are generally equivalent,⁷⁷ this would strongly suggest that women, too, are freed from any obligation in *keri'at ha-Torah*.⁷⁸ Thirdly, “the Book” under discussion in *Massekhet Soferim* is the Book of

Lamentations (*Megillat Eikha*), not the Torah.⁷⁹ In addition, many scholars understand the word “obligated” in *Massekhet Soferim* to mean “ought” or the proper way to act.⁸⁰ 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.⁸¹ 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*.⁸² Clearly, this internal evidence alone should raise questions as to the halakhic reliability of this text.⁸³

Indeed, the overwhelming majority of halakhic decisors⁸⁴ view normative halakha as exempting women from any requirement to hear the public Torah reading.⁸⁵ 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.⁸⁶ 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.⁸⁷

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.⁸⁸ There is, however, a further relevant source appearing in *Mishna Megilla*,⁸⁹ 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.⁹⁰ As noted above,⁹¹ 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.”⁹² As is well known, the *hazzan* serves three functions. The first is to set the pace of the prayers.⁹³ 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-hotzi et she-eino baki*).⁹⁴ 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*).⁹⁵ As discussed previously,⁹⁶ 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!⁹⁷ Indeed, in the comparable case of reading *Megillat Esther*, a minor cannot do so for a major.⁹⁸ Similarly, how can the *baraita* in *Talmud Megilla*⁹⁹ 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*.¹⁰⁰ 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,¹⁰¹ 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)¹⁰² 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*).¹⁰³ 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]¹⁰⁴ ...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."¹⁰⁵ 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.¹⁰⁶ 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.¹⁰⁷ Women, however, are totally freed from any such responsibility.¹⁰⁸

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.¹⁰⁹ 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 ti-frosh min ha-tsibbur*" (do not separate yourself from the community).¹¹⁰ 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.¹¹¹

(2) **Personal Obligation to Listen:** The second school maintains that the *keri'at ha-Torah* obligation is indeed a personal one (*hovat ha-yahid*).¹¹² Nevertheless, in contradistinction to *mikra megilla*, one's duty is not a *hovat keria'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.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.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;¹¹⁵ others argue that it is the basic three – common to all Torah readings;¹¹⁶ while others opine that it is a majority of the *aliyyot*.¹¹⁷ The additional *aliyyot* are a fulfillment of “*be-Rov am hadrat Melekh*”¹¹⁸ – “In the multitude of people is the King’s glory.”¹¹⁹ Alternatively, they correspond to the honor due the day (*kevod ha-yom*),¹²⁰ as the Talmud says: “the greater the number of distinguishing marks of the day, the more its *aliyyot*.”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-dehak*).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** *oleh* 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 aseih 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 aseih 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 aseih she-haZeman geramman* may also recite the attendant benediction.¹²⁶

Although *Rabbenu Tam*'s opinion is indeed the accepted Ashkenazic ruling,¹²⁷ it is not the only view on the matter. Maimonides,¹²⁸ R. Joseph Caro,¹²⁹ and, in fact, a majority of Sephardic authorities down to the modern period, most notably R. Ovadiah Yosef,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.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 "*ve-tsivvanu*."¹³² R. Ovadiah Yosef, however, forcefully rules against the recitation of a non-obligatory benediction in this instance as well.¹³³

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

B. The Nature of the *Keri'at ha-Torah* Benedictions

Benedictions for the private study of Torah (*birkhot limmud ha-Torah*) are normally recited in the morning's *birkhot ha-shahar* and are effective for the entire day.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 Toraiddic obligation to recite *birkhot ha-Torah* applies exclusively to **public** Torah study.¹³⁷ *Hazal*, however, later enacted blessings for **private** study as well, never eliminating the need for benedictions over public Torah study, including *keri'at ha-Torah*. Other scholars are of the view that the public *birkhot kerit'at ha-Torah* were enacted in addition to the private *birkhot limmud ha-Torah* out of honor for the Torah (*mi-shum kevod ha-Torah*)¹³⁸ or out honor to the congregation (*mi-shum kevod ha-tsibbur*).¹³⁹

While the above reasons describe the rabbinic motivation in establishing these *birkhot kerit'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 (*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 *birkhot ha-mitsva* on the special enactment (*takkana*) of public Torah

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.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.¹⁴¹ A second school argues that these blessings are not *birkhot ha-mitsva*; after all, the standard *birkat ha-mitsva* formulation of “*ve-tzivvanu*”, appears nowhere in the *keri'at ha-Torah* benedictions. Rather, they are *birkhot shevah ve-hoda-ya*, blessings of special praise and thanks to the Almighty for giving the Torah to the People of Israel.¹⁴² Hence, they are appropriate for all who receive an *aliyya* – irrespective of their inherent obligation in *keri'at ha-Torah*.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*.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.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*.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*.¹⁴⁷

As just noted, the overwhelming majority of authorities maintain that the obligation to recite the *birkhot kerī'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 kerī'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.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,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 *kerī'at ha-Torah* itself is a communal obligation.

D. Can Women and Minors Recite the *Kerī'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 kerī'at ha-Torah*:

(1) One position maintains that women are *inherently* forbidden to recite the *birkhot kerī'at ha-Torah*. This is because these benedictions are *birkhot ha-mitsva* for the *mitsva* of public *kerī'at ha-Torah*, from which women are exempt, and Sefardi practice prohibits women from reciting such non-obligatory blessings.¹⁵⁰ 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 *hinnukh* (education).¹⁵¹

(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 kerī'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.¹⁵²

(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 *kerī'at ha-Torah*.¹⁵³ 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 kerī'at ha-Torah*.¹⁵⁴ These scholars apparently maintain that the

obligation to recite the *birkhot kerī'at ha-Torah* is a personal one of the *oleh* alone. In addition, they maintain one of the following three possible approaches regarding *birkhot kerī'at ha-Torah*.¹⁵⁵

(a) The Torah reading benedictions are *birkhot 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 *birkhot ha-mitsva*, but one may be lenient about their optional recitation by women following Ashkenazic practice (the school of *Rabbenu Tam*).

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

(4) As just noted, the third school maintains that the recitation of the *birkhot kerī'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 *birkhot kerī'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 *birkhot kerī'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 Kerī'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 kerī'ah*? In order to answer this question, we need to gain greater insight into the role of the *ba'al kerī'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 *mitsva* 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 kerī'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 kerī'ah*, is actively obligated to read aloud at that moment!

The answer is rooted in the principle of “inherent obligation,” as discussed earlier.¹⁶⁷ All males bear “inherent obligation” for *keri'at ha-Torah*, for were they to be called up as *olim*, 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 kerī'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 others¹⁶⁸ that even in the presence of a *ba'al kerī'ah*, the *oleh* is obligated to read along quietly with the reader, lest the *oleh's berakhot* be considered in vain.¹⁶⁹ 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 cites¹⁷⁰ the leniency of R. Jacob Molin (Maharil) and others,¹⁷¹ who permit a blind or illiterate individual to receive an *aliyya*, even though neither can read along with the *ba'al kerī'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.¹⁷²

What does Rosh's requirement that the *oleh* read along quietly reveal about the division of labor between the *oleh* and the *ba'al kerī'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 kerī'ah*, the task of the *oleh* has been effectively bifurcated:¹⁷³ 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 kerī'ah* can carry out both functions for the *oleh* via *shelihut* or *shome'a ke-oneh*.¹⁷⁴ 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.¹⁷⁵ 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.^{176,177} As a result, neither *shelibut* 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 first¹⁷⁸ 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-tsibbur* aside) to read for themselves, so too can they read for others.

Nonetheless, the overwhelming preponderance of *posekim*, as cited above,¹⁷⁹ 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* benedictions. 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, *shelibut* or *shome'a ke'oneh*,¹⁸⁰ require that the *ba'al keri'ah* be a *bar hiyyuva* in *keri'at ha-Torah*.¹⁸¹ 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 *shelibut* 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.¹⁸² 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.”¹⁸³

The second group of challengers includes the noted halakhicists R. Israel Jacob Algazi and R. Joseph Te'omim.¹⁸⁴ They opine that, since a minor is rabbinically obligated in *mitsvot* (*hinnukh*),¹⁸⁵ 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,¹⁸⁶ 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 rejected¹⁸⁷ 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 keriah* as they are not fully obligated in *keriat 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 *keriat ha-Torah* benedictions are the personal obligation of the *oleh* (*hovat 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 (*hovat ha-tsibbur*) which anyone in the community can recite. According to this minority view, one could argue that even those not obligated in *keriat 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 keriah*, and hence a minor or woman can serve as *ba'alei keriah*. 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 keriah*. He posits that one cannot lead a **communal** ritual as *ba'al keriah* 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 *keriat 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 keriah* and the *oleh*. For the *oleh* to be permitted to recite the Torah reading benedictions, the reading of the *ba'al keriah* 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 kerī'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 kerī'ah* the needed obligation, provided that both the *oleh* and the *ba'al kerī'ah* are **obligated** in the *mitsva* of *kerī'at ha-Torah*. As we saw previously,¹⁹³ 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 kerī'ah* has no mechanism by which to transfer his reading to *olim* who (like women) are not inherently obligated in *kerī'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.¹⁹⁴

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 *kerī'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 minor¹⁹⁵ – even if the minor is not his own child.¹⁹⁶ Once again, this is not the case for women, who bear **no** obligation for *kerī'at ha-Torah* whatsoever.¹⁹⁷ 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.¹⁹⁸ Significantly, however, the above analysis does not preclude women and minors from reading for **themselves**, should they be called for an *aliyya*,¹⁹⁹ 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”²⁰⁰ 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”²⁰¹ 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/assister 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'aseh 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 keru'at ha-Torah* on the reading of the *ba'al keru'ah*, despite the fact that women are not obligated in *keru'at ha-Torah*, contrary to the “Majority School.”²⁰²

Yet, even according to this “Minority School,” a woman can only be an *olah*; she cannot serve as a *ba'alat keru'ah*. The “*Arevut* Group” requires that the reader be at least inherently obligated; yet, a woman is obligated neither actually nor inherently in *keru'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 keru'ah* never has a *kiyyum ha-mitsva* merely by virtue of his reading the Torah aloud; that *mitsva* resides solely with the *oleh*. Thus a women's reading cannot be transferred to the *oleh* via *arevut*, nor would it constitute a *ma'aseh mitsva* for *shome'a ke-oneh* to work.²⁰³

D. Who is the Real *Oleh*? The Inverted School

Until now we have assumed, as do most authorities, that the *oleh* is the one formally called up who recites the benedictions, while the *ba'al keru'ah* is the one who reads the Torah portions aloud for each *oleh*. Interestingly, however, there is a significant group of outstanding scholars, led by R. Abraham ben Mordechai Halevi, author of *Resp. Ginnat Veradim*,²⁰⁴ who seemingly turn everything on its head. They posit that the “real” halakhic *oleh* is the one we call the *ba'al keru'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*,²⁰⁵ which reads:

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

According to this view, the Geonic institution of *ba'al keru'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

reading into seven *aliyyot*.²⁰⁶ The *ba'al keriah* fulfills his personal obligation of the *berakhot* by the recitation of each of the various “formal” *olim* on behalf of the *ba'al keriah* via the principle of *shome'a ke-oneh*.²⁰⁷

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.²⁰⁸ 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*.²⁰⁹ A similar problem arises, when we consider whether women can serve as *ba'alot keriah*. This is because their lack of obligation again precludes *arevut* to them, and, hence, there is no mechanism for the transfer of the *birkhot keriat ha-Torah* from the formal *oleh* to them.²¹⁰ 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 keriah*, it would be totally forbidden for a woman to be either the *ba'alat keriah* or *olah*. The overall analysis goes like this. If the Torah reader (the real *oleh*) is a male, he would require *birkhot keriat ha-Torah* of obligation, which a female *olah* could not possibly transfer to him because she herself is not obligated. More fundamentally, a woman *olah*'s recitation of *berakhot* under such conditions would be *le-vattala* since she has no *kiyyum ha-mitsva* (*mitsva* fulfillment). 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**.²¹¹ 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.²¹²

As before, even according to this analysis, women and minors can read for **themselves** and recite the benedictions for their own *aliyyot*, 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 kerī'ah*. Both positions agree that the actions of both the *oleh* (recitation of the *birkhot kerī'at ha-Torah*) and the *ba'al kerī'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 kerī'ah*s credited to the *oleh*, who then recites the attendant blessings. A second approach, “The Inverted School,” views the *ba'al kerī'ah* as 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 *kerī'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 kerī'ah***; no whole *mitsva* performance can be created, and the benedictions will be for naught. We emphasize again that, **even if *birkhot ha-Torah* are *birkhot ha-shevah*, they cannot be recited *be-torat reshut* (as a voluntary act).**²¹³ 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 kerī'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*,²¹⁴ 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 *kerī'at ha-Torah* benedictions are the personal obligation of the *oleh*. Hence, the actions of both the *oleh* and the *ba'al kerī'ah* must be combined to create one **whole** *mitsva* act. Otherwise, the *kerī'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 *kerī'at ha-Torah* or not. Thus, there is no need for a transfer mechanism

between *oleh* and *ba'al kerī'ah*; hence, women and minors could (*kevod ha-tsiḇbur* aside) theoretically serve as both *olim* and *ba'alei kerī'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.²¹⁵ 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 *kerī'at ha-Torah*,²¹⁶ 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*).²¹⁷ 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 kerī'ah*, but never a female *ba'alat kerī'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 kerī'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.²¹⁸ Such a course violates the undisputed principle of “*safek berakhot lehakel*,” with the serious risk of pronouncing “*berakhot le-vattalah*” (benedictions in vain).

Reiterating, under the bifurcated *oleh/ba'al kerī'ah* system, because women are not obligated in *kerī'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-tsiḇbur* (which we have yet to discuss). This conclusion challenges and undermines the prevalent *kerī'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 kerī'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-tsiḇbur*, 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 Torah*²²⁵ 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 keria* to 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 keriah*.

B. *Kevod ha-Tsibbur* and Women's *Aliyyot*

There are three basic approaches among rabbinic scholars²³⁵ 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.²³⁶ 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*.²³⁷ 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.²³⁸

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).²³⁹ 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**.²⁴⁰

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*.²⁴¹ 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,”²⁴² 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*.²⁴³ 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.²⁴⁴

A variation on this theme is suggested by R. Joseph Kafih and R. Yehuda Herzl Henkin,²⁴⁵ 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*.²⁴⁶ 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.²⁴⁷

3. Shame of Illiteracy School – The last school²⁴⁸ 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 (*limhol 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 *bazzan*? 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 forbade 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 *bazzan*, 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

“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 forego 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 keriah*— each *oleh* reads for himself.

First, we should note that Maimonides,²⁵⁹ *Semag*,²⁶⁰ and several later *posekim*²⁶¹ 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 *kobanim***: 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 *kobanim* to receive the remaining *aliyyot*, their lineage would be challenged (*heikha de-lo efshar, yiddaheh kevod ha-tsibbur mi-penei pegam kobanim*).

(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 Emden²⁶⁸ 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-yoledet* 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*).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 immi 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.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*.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.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-she'at ha-dehak*. He cites the *Keneset ha-Gedola*, as well as many other *rishonim* and *aharonim*, who rule that such individuals **do not fulfill their religious obligation whatsoever!**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."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 Ariel²⁷⁸ argue this very point explicitly. R. Zvi Reisman²⁷⁹ argues that the *tzeni'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.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.²⁸⁷ Since this is rarely the situation, there is generally no halakhic justification to set aside *kevod ha-tsibbur* to permit women's *aliyyot*.²⁸⁸ In addition, as already pointed out above,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*.²⁹⁰ Even if this could be done, the *olot* would have to read for themselves.²⁹¹ We note, moreover, that the vast majority of egalitarian/"Partnership" *Minyanim* are open to the community, meet regularly and use *ba'alei keriah*.

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

Irrespective of what *kevod ha-tsibbur* might mean, R. Moses Salmon,²⁹² R. Yehuda Herzl Henkin²⁹³ and R. Mendel Shapiro²⁹⁴ argue that once there is a male *ba'al keriah*, 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 keriah*, 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 keriah*, who reads from the Torah aloud. However, the *keriat 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 keriah*. Since women lack the requisite obligation in *keriat ha-Torah*, whether they serve either as *olot* or as *ba'alot keriah* in such a bifurcated system, no transfer can be effected. In such an instance, the *birkhot keriat 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 kerī'ah* only partly solves the issue of *kevod ha-tsibbur*. Having a *ba'al kerī'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 kerī'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 kerī'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 *minhag* (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*.³⁰⁰ 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.³⁰¹ Hence, as long as there is someone present who is obligated and who can read – and this includes the *ba'al kerī'ah* – we do not call on the non-obligated for the central reading.³⁰²

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.³⁰³ We conclude, therefore, that even if there were grounds to set aside *kevod ha-tsibbur*, this is precluded by clear longstanding custom and practice.³⁰⁴

IX. Maftir/Haftara

The Sabbath Torah rendition of seven *aliyyot* concludes with a final supplementary *aliyya* referred to as the *maftir*.³⁰⁵ 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;³⁰⁶ (2) the need to respond to edicts forbidding the reading of the Pentateuch;³⁰⁷ 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.³⁰⁸ 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*.³⁰⁹

There are three major schools regarding the obligation of *keri'at ha-haftara*. One maintains that, like *keri'at ha-Torah*, the obligation to read the *haftara* is not a personal obligation (*hovat ha-yahid*) but a **communal** one (*hovat ha-tsibbur*).³¹⁰ 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.³¹¹ The third school is of the opinion that male majors have a personal obligation to **read** the *haftara*, and the *oleh* reads for all.³¹²

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*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.³¹⁴ The aforementioned *baraita* (*Megilla* 23a) and *tosefta* (*Megilla* 3:11),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.³¹⁶ As already noted by Rivash,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*.

X. *Kevod ha-Beriyyot*

As mentioned in our introductory comments, R. Daniel Sperber³¹⁸ argues that the concept of *kevod ha-beriyot*, 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-beriyot* 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,³¹⁹ Blidstein,³²⁰ Lichtenstein,³²¹ Feldman,³²² and many others.³²³ Hence, we will limit our discussion to the salient points as they impact on the topic of women's *aliyyot*.³²⁴

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.³²⁵ 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.³²⁶ 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.³²⁷ 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.³²⁸

(1) Firstly, *kevod ha-tsibbur* is in essence the *kevod ha-beriyyot* of the community.³²⁹ 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-Meir: ³³⁰ "...the honor of the community (*rab-bim*) 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*.³³¹ Many later scholars concur that *kevod ha-beriyot* of the individual does not have priority over *kevod ha-tsibbur*.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 *kevod ha-beriyot* in order to allow an individual in tattered clothes (*pohe'ah*) to serve as a cantor or a Torah reader, or to do *birkat kohanim* – overriding *Hazal's* prohibition.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.³³⁴

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

(3) R. Sperber’s suggestion would ask us to uproot completely and permanently the rabbinic ban on women’s *aliyyot*. However, *kevod ha-beriyot* can only **temporarily** set aside a rabbinic ordinance on an *ad hoc* basis.³³⁶ As stated in the Jerusalem Talmud: “Great is human dignity which supersedes a negative commandment³³⁷ of the Torah **for a single moment** (*sha’a ahat*).”³³⁸

(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.³³⁹ For example, removing a *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 *sha’atnez*, *kevod ha-beriyot* sets aside this obligation. On the other hand, twenty individuals are not permitted to violate the second day of *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.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 *aliyyot*, no **act** of shame has been performed to those not called to the Torah; the women are simply not honored and *kevod ha-beriyot* 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 *kevod ha-beriyot* to temporarily overturn a rabbinic injunction when the shame or emotional pain is minor.³⁴¹ Thus, the noted 14th 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.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-beriyot*.

(6) Similarly, nearly all authorities maintain that *kevod ha-beriyot* 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.³⁴³ The search for spirituality cannot be used as grounds for violating *halakha*. Two examples of *bona fide* shame are a *met mitsva* (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-beriyot*.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.³⁴⁵ They understand that this is the halakhic given and accept this reality.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 *mehitsa*, modesty (*tzeni'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-beriyot* 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*,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-beriyot* can be invoked to nullify the rabbinic commandment which results in the dishonor. However, *kevod ha-beriyot* cannot be invoked to nullify a rabbinic commandment where the shame comes from the very fulfillment of the rabbinic injunction itself.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-beriyot* cannot set aside the Rabbinic prohibition or obligation. On the contrary, one should be proud to fulfill the *halakha*. Similarly, *kevod ha-beriyot* 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.³⁴⁹ R. Sperber maintains that this concept is an expression of *kevod ha-beriyot*,³⁵⁰ a point which we address in sec. XI below. Yet, despite this admitted sensitivity, *Hazal* themselves were not deterred by either *kevod ha-beriyot* 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-beriyot* deferments. Rashi explains that in instances of *kevod ha-beriyot* the Rabbis “forgo their honor to allow their edict to be violated.”³⁵¹ 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-beriyot* 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-beriyot* can set aside rabbinic injunctions in instances where the Rabbinic prohibition was set up specifically for this case – despite the *kevod ha-beriyot* consideration.³⁵²

(9) We saw above that Rivash forbade 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.³⁵³ 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-beriyot*

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.³⁵⁴ 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-beriyot* 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, Rivash³⁵⁵ rules against extending the leniency of *kevod ha-beriyot* 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*.³⁵⁶ The comprehensive survey of R. Gerald Blidstein³⁵⁷ confirms that throughout the Talmudic period and thereafter the use of *kevod ha-beriyot* 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-beriyot* 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-beriyot* is invoked essentially alone, it is because the matter being deferred is a mere, often unbased, stringency (*humra be-alma*).³⁵⁸ Thus the innovation of women's *aliyyot* cannot be based on the authority of *kevod ha-beriyot* 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-beriyot* 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-beriyot* and negates R. Sperber's thesis. If so, the application of *kevod*

ha-beriyot 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-beriyot* inexorably leads one to respectfully conclude that R. Sperber's attempt to apply *kevod ha-beriyot* to the issue of women's *aliyyot* is both unsubstantiated and erroneous.

XI. *Kevod ha-Beriyot vs. Nahat Ru'ah*

As noted above, R. Sperber attempts to equate *kevod ha-beriyot* (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-beriyot* is challenged (see the guidelines delineated in the previous section³⁵⁹), 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-beriyot*, 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 ba-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 (*nireh 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*

kohan).³⁶² 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*.³⁶³ 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.³⁶⁴ Had one existed, it could not have been overridden by *nahat ru'ah*.³⁶⁵

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*,³⁶⁶ 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*).³⁶⁷ 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 *mitsva* action – not needless blowing.³⁶⁸ Once again, we see that nearly all agree that *nahat ru'ah* cannot set aside Rabbinic prohibitions.³⁶⁹

The next case relates to the custom of some communities of the Middle Ages prohibiting menstruants from entering the synagogue.³⁷⁰ 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.³⁷¹ 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 sanctuary³⁷² and not because of any halakhic prohibition.³⁷³ As a result, it is easily overruled by *nahat ru'ah* considerations.

Sometimes cited by modern authors³⁷⁴ 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 aseih she-haZeman geramman*), from which they are normally exempt, can also recite the relevant benediction (*petura ve-osa mevarekhet*).³⁷⁵ 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.³⁷⁶ 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.³⁷⁷ Unfortunately, R. Tam himself does not clearly delineate how this *de-rabbanan* classification resolves the problem, although later *rishonim* do.³⁷⁸ 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** *mitsva* 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.³⁷⁹ 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.³⁸⁰

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 keriah* system under which Torah reading is normally carried out, and prevents women from serving as *ba'alot keriah* 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 keriah*, 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 ha-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 keriah*. 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 kerī’ah*; hence, women and minors could (*kevod ha-tsibbur* aside) theoretically serve as both *olim* and *ba’alei kerī’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 *mitsva*. Applying this analysis to *keri’at ha-Torah* would only permit a woman *olah* with a male *ba’al kerī’ah*, but not a female *ba’alat kerī’ah*. Furthermore, this leniency – of a woman *olah* with a male *ba’al kerī’ah* – assumes that the *oleh* is the central functionary in *keri’at ha-Torah*. However, if the *ba’al kerī’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 *mitsva* of *keri’at ha-Torah* (*zilzul ha-mitsva*) 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 lehakel*. [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*.³⁸¹ 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.”³⁸²

The halakhic process has always been about the honest search for **truth** – Divine truth.³⁸³ To adopt one particular approach simply because it yields the desired result without grappling with the arguments and the standings 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.³⁸⁴

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 kerī'ah*, read *Megillat Esther* for men and women,³⁸⁵ read the other four *Megillot* (Ruth, Ecclesiastes, Lamentations and Song of Songs),³⁸⁶ serve as *hazaniyyot* for *pesukei de-zimra* and *Kabbalat Shabbat*, and lead the recitation of *Hallel*.³⁸⁷ 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-tzibbur* found in the *posekim* and delineated above (Sec. VII.B) clearly apply not only to *kerī'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-tzibbur*, nor in *kerī'at ha-Torah ve-haftara*, nor in any other public ritual which Jews do as a *tsibbur*.³⁸⁸

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.³⁸⁹ 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*.³⁹⁰ 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).³⁹¹ The 9th century R. Amram Gaon³⁹² and the 10th century R. Saadya Gaon³⁹³ both hold that the role of the *sheli'ah tsibbur* begins before *pesukei de-zimra*, and that is our *minhag* to this day.³⁹⁴ 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*)³⁹⁵ – clear testimony to their communal nature.³⁹⁶

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-gomel*³⁹⁷ and even *kaddish yetoma*³⁹⁸ 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.³⁹⁹

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 *sheli'ah tsibbur*

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 commentaries 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*? Rema⁴⁰² allows a responsive *Hallel* even when there are merely three males (see next paragraph) davening together. R. Moshe Soloveichik⁴⁰³ maintained, however, that, except for Seder night,⁴⁰⁴ a regular *minyan* of ten men is necessary for *shira ve-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 *takana* 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 *shelihei tsibbur*. However, even if the members of the congregation are

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 Yirei 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 *sheli'ah 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-azzev be-mitsvot la'asot sheluhin ka-elekh mi-shum de-lav benei biyyuva*

ninbu.”⁴¹⁰ 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 *bazzan* 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.⁴¹¹

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]...”⁴¹² 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.”⁴¹³ 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.⁴¹⁴

The final objection is based upon the teachings of R. Joseph B. Soloveitchik and concurred to by R. Avigdor Nebenzahl.⁴¹⁵ The Rav explains that there are two dimensions to the *mitsva* 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 *mitsva* 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 mitsva*, with its own set of rules. One such unique feature of *Hallel be-tsibbur* is the responsive *keri’a va-aniiya* format. Since women cannot **create** the *heftsa* of *mitsvot 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-mitsva* or *tseni’ut* – leads several leading *posekim* to a further conclusion. In addition to women’s

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 dezimra*, *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,”⁴¹⁷ 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 *Avinu Moreinu haRav* Dr. Norman E. Frimer *zt”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”b*. 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”,

accessible online at: <http://www.vbm-torah.org/parsha.63/49nitzavim-vayelekh.htm>. See also the full length article in Hebrew at: <http://www.daat.ac.il/daat/tanach/samet2/22-2.htm>.

3. *Hinnukh*, Commandment 612.

4. B.T., *Bava Kamma* 82a; J.T., *Megilla* 4:1 (75a); *Massekhet Soferim*, 10: 1 and 2; Maimonides, *Mishne Torah* (henceforth *M.T.*), *Hilkhot Tefilla*, 12:1. The Talmud suggests that early prophets wanted to ensure that Jews learned Torah at least once every three days. Nevertheless, R. Isaac Abouhav, *Menorat ha-Ma'or*, Third *Ner*, sec. 6, ch. 2, suggests that the *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, *Otserot 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*, *Eshel Avraham*, 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-amrinan*,” R. Joel Sirkis, *Bayit Hadash*, *O.H.*, sec. 685 s.v. “*Seder*,” R. Simeon ben Tsemah Duran, *Resp. Tasbbets*, II, sec. 163. R. Ahron Soloveichik, *Parah Mateh Aharon*, *Hilkhot Tefilla*, 13:20 (pp. 77-78) argues that Rashi maintains that a minimal *keri'a* is biblically required on *Shabbat* and *Yom Tov*. For further discussion, see: R. Ben-Zion Meir Hai Uziel, *Resp. Mishpetei Uziel, mahadura tinyana*, I, *O.H.* (5761 edition, vol. III), *milu'im* to *O.H.*, sec. 131, no. 1; R. Yudel Rosenberg, *Resp. Yehavveh Da'at*, *O.H.*, sec. 2; R. Ovadiah Yosef, *Yehavveh Da'at*, I, sec. 85; R. David Yosef, *Halakha Berura*, VII, *Otserot 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 multiple *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 divisions, see Ephraim Stulberg, “The Last Oral Torah? The Division of the Torah into *Aliyot*,” *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-Shitat ha-Meiri*,” no. 7, 343.

9. See Rema and R. Israel Meir ha-Kohen Kagan, *Mishna Berura*, *O.H.*, sec. 282, no. 1, n. 7.

10. *Mishna Berura*, *ibid.*

11. See: *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,

see: *Resp. Yabbia Omer*, VI, O.H., sec. 25; Abraham Ya'ari, *Toledot Simbat Torah* (Mosad haRav Kook: Jerusalem, 5724), ch. 11; R. Akiva Meller, *ha-Keri'a ba-Torah ve-Hilkhotcha* (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 *malkhuyot* 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 *Simbat 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 *Simbat 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'a ba-Torah ve-Hilkhotcha*, 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-Halakhah 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.

Part 1 – Theory,” *Tradition*, 32:2 (1998), 5-118 at 37; available online at: <http://tinyurl.com/cj8ow9n>.

13. While the intermediary *olim* recited no benedictions, two authorities suggest that they may have recited *Barekhu*; 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 Sakbir*, 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 *aliyyot* (e.g., *Aseret ha-Dibberot*, the *Shira*, and the *Tokhaha*), the *oleh* was required to recite both blessings.

14. *Mishna Megilla* 4:1,2 (B.T. *Megilla* 21a; as compared to the order of the *mishnayot* 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 keruyei*.” 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 ha-Ittim*, sec. 177, n. 68, documents that the practice that each *oleh* makes his own benedictions was already in place in Babylonia during the time of first generation *amora* Rav (ca 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 *amora* R. Zeira (ca 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*, *Berakhot ad loc.* On the other hand, R. Moses Margaliyot, *Penei Moshe* and R. Yitshak Isaac Krasilschikov, *Toledot Yitshak* assume that the later procedure was by then already in place.

15. *Tosafot*, *Megilla* 21b, s.v. “*Tana ma*,” *Tosafot*, *Bava Batra* 15a, s.v. “*Shemona pesukim*,” *Tosafot*, *Menahot* 30a, s.v. “*Shemona pesukim*,” R. Asher ben Yaakov (Rosh), *Piskei ha-Rosh*, *Megilla*, ch. 3, sec. 1 (to 22b).

16. R. Isaac ben Sheshet Perfet, *Resp. Rivash*, sec. 326.

17. R. Eliyya Shapira, *Eliya Rabba*, O.H. sec. 282, no. 8; R. Moses Feinstein, *Resp. Iggerot Moshe*, O.H., II, sec. 72; R. Yudel Rosenberg, *Resp. Yehavveh Da’at*, O.H., sec. 2; R. Ovadiah Yosef, *Hazon Ovadya*, *Hilkhot Shabbat*, part 2, *Hilkhot Keri’at ha-Torah*, sec. 9, s.v. “*Amnam ra’iti*”; R. Chaim Kanievsky cited in R. Aharon Grandish, *Teshuvot ha-Grah*, II, sec. 1746. For an excellent in-depth discussion of the evolution of this institution, see: R. Benjamin Solomon Hamburger, “*ha-Korei ba-Torah*,” *Zekhor le-Avraham* (Holon, Israel), 5762-5763: 679-726. R. Shlomo Goren, *Resp. Meshiv Milhama*, II, Gate 7, sec. 107 assumes that the institution of the *ba’al keriah* occurred in the time of the *rishonim*, while R. Hamburger (p. 697) suggests that *ba’alei keriah* may have been in use as far back as the mid-seventh century CE. Since all agree that its inception was post-Talmudic, R. Shapira, R. Feinstein and R. Kanievsky have completely rejected suggestions of isolated authors that a minor or woman might be *oleh* in Talmudic times only if a *ba’al keriah* read for them; see: *Levushei Serad*, O.H. sec. 282 to *Magen Avraham* no. 6; R. Jehiel Meir Weingort, *Kokhavei Or*, *Megilla* 23a, sec. 146.

18. *Tosafot* maintain that the purpose of the appointment of a *ba’al keriah* 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-Khlikha*,” 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 Jüdische Gottesdienst in seiner Geschichtlichen Entwicklung* (Leipzig: G. Fock, 1913), 466; Isaac Moses (Ismar) Elbogen, *ha-Tefilla be-Yisrael be-Hitpathutah ha-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-Pesbutha*, 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 Bezael 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-Hakhamcha bi-Tekufat ha-Mishna ve-haTalmud*, (*ha-Kibbutz 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 Kilayyim* 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 Bezael Halivni, *ha-Tehinna ve-haKeri’a le-Hai ha-Olamim: Iyyunim be-Tefilla u-beKeri’at ha-Torah* (Jerusalem: 5772), 156-164, in particular at 158-160 where he discusses *Yoma* 69a, *Beitsa* 14b, *Sota* 7a, *Nidda* 67b, and *Tosefta Shabbat* 6:14. Moreover, argues R. Halivni, even in those cases where there is no explicit prohibition – e.g., *Berakhot* 20b, *Pesahim* 50b and *Bava Metsi’a* 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

(n. 259, below), Semag (n. 260, below) and several later *posekim* (n. 261, below) maintain that in the specific case of women's *aliyyot*, *kevod ha-tsibbur* can **never** be set aside, even in dire *she'at ha-dehak* or *post factum* cases. In addition, Meiri, *Kiryat Sefer*, Ma'amar 5, sec. a, writes: "All are eligible for an *aliyya* among the seven – even a woman and a minor...; however, the Rabbis objected (*mihu*) to a woman because of *kevod ha-tsibbur*." The word "*mihu*" appears many times in the Mishnaic and Talmudic literature and it refers to strongly expressed objection and public reproof (see, for example, *Mishna Pesachim* 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 bekeilu*," 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 Akavya Wosner, "*Al Koharentiyyut ve-Efektiviyut 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 Bezalel 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 Schmלקes, *Resp. Beit Yitshak*, 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 *mikveh*. 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 *aharonim*, 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 *aliyyot* is similar: Hazal forbade women's *aliyyot 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 *Kenesset 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-hinbigu 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-hazzeq 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*, I (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, *Mishmat Yaakov*, *Hilkhot Keri'at Shema*, 1:4; R. Judah Heschel Levenberg, *Imrei Hen – Hidushim u-Bei'urim al Seder ha-Rambam*, *Hilkhot Tefilla*, 4:4; *Likkutei ha-Griz*, I, 5-6 and II, 13; *Ma'atikei Shemu'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 olah ve-eina mafseket*” and *Bava Kamma* 119b “*ha-kol olin le-minyan tekhelet*.”

21. *Tosefta Megilla* (Lieberman edition) 3:11.

22. See, for example, Maimonides, *M.T.*, *Hilkhot Tefilla*, sec. 12, parag. 17; R. Joseph Caro, *Shulhan Arukh*, *O.H.*, sec. 282, parag. 3.

23. See (a) R. Mendel Shapiro, “*Qeri'at ha-Torah* by Women: A Halakhic Analysis,” *The Edah Journal* 1:2 (*Sivan* 5761), 1-55 – available online at <http://tinyurl.com/35d9bx>. This article was reprinted in *Women and Men in Communal Prayer: Halakhic Perspectives*, Chaim Trachtman, ed. (JOFA/Ktav: New York, 2010), 207-290. For a review of this volume see Joel B. Wolowelsky, “Women and Communal Prayer: Review Essay,” *Shofar: An Interdisciplinary Journal of Jewish Studies*, 30:4 (Summer 2012), 149-160; (b) R. Mendel Shapiro and R. Yehuda Herzl Henkin, “Concluding Responses to *Qeri'at ha-Torah* for Women,” *ibid.*, 1-4 – available

online at <http://tinyurl.com/377f9x>; (c) R. Mendel Shapiro, "Communications," *Tradition* 40:1 (2007), 107-116; (d) R. Mendel Shapiro, "Response to Shlomo Riskin," *Meorot* 7:1 (Tishrei 5769), 2-12, available online at <http://www.yncorah.org/content/view/436/10/> and reprinted in *Women and Men in Communal Prayer* ibid, 389-406.

24. R. Yehuda Herzl Henkin, "*Mahu Kevod ha-Tsibbur*," *Ha-Darom* 55 (Elul 5746), 33 (see p. 39); R. Yehuda Herzl Henkin, *Benei Vanim*, I sec. 4, II sec. 10, and IV secs. 2 and 8; R. Yehuda Herzl Henkin, "*Qeri'at Ha-Torah* by Women: Where We Stand Today," *The Edah Journal* 1:2 (Sivan 5761), 1-7, available online at <http://tinyurl.com/3ybfkn>; R. Mendel Shapiro and R. Yehuda Herzl Henkin, "Concluding Responses to *Qeri'at ha-Torah* for Women," *supra*, n. 23b; R. Yehuda Herzl Henkin, *Responsa on Contemporary Jewish Women's Issues* (Ktav: Hoboken, New Jersey, 2003), Chaps. 9 and 14; 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. While R. Henkin recognizes *aliyyot* for women in theory, he opposes them in practice based on the *minhag* of millennia and public policy considerations. As a matter of fact, R. Henkin's writings serve as the basis of much of R. Shapiro's analysis. In this light, the propriety of *Edah Journal's* choice of R. Henkin to critique R. Shapiro's piece seems highly questionable, as already noted by R. Gidon Rothstein, "Communications," *Tradition* 40:1 (2007), 118-121.

25. See (a) R. Daniel Sperber, "Congregational Dignity and Human Dignity: Women and Public Torah Reading," *The Edah Journal* 3:2 (Elul 5763), 1-14, available online at <http://tinyurl.com/2rstyz>; (b) R. Daniel Sperber, "*Kevod ha-Tsibbur u-Kevod ha-Beriyot*," *De'ot* 16 (Sivan 5763, June 2003), 17-20 and 44, available online at <http://toravoda.org.il/files/sperber16.pdf> <http://tinyurl.com/2orj4t>; (c) R. Daniel Sperber, *Darkah shel Halakha – Keri'at Nashim ha-Torah: Perakim bi-Mediniyyut Pesika* (Jerusalem: Reuven Mass, 2007); (d) R. Daniel Sperber, "Congregational Dignity and Human Dignity: Women and Public Torah Reading," in *Women and Men in Communal Prayer*, *supra* n. 23a, 27-205; (e) see also a recording of a lecture given by R. Sperber in Modi'in, Israel, July 3, 2006 - available online at http://u.cs.biu.ac.il/~kalechm/judaism/Sperber_03072006.WAV.

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>.

27. A series of critiques of the analyses of R. Henkin, R. Shapiro and R. Sperber have recently been published; see (a) R. Eliav Shochetman, "*Aliyyat Nashim la-Torah*," *Sinai*, vv. 135-136 (2005), 271-349; a slightly abridged form of this article appears in English translation: R. Eliav Shochetman, "*Aliyyot* for Women," in *Women and Men in Communal Prayer*, *supra* n. 23a, 291-358; (b) R. Gidon G. Rothstein, "Women's *Aliyyot* in Contemporary Synagogues," *Tradition* 39:2 (2005), 36-58, and end of n. 24 *supra*; (c) R. Ephraim Bezael Halivni, *Bein ha-Ish la-Isha* (Jerusalem: Shai Publishers, 5767), 58-71, 102-105 and in the English section, 12-21. See also R. Ephraim Bezael Halivni, *ha-Tehinna ve-haKeri'a le-Hai ha-Olamim: Iyyunim be-Tefilla u-beKeri'at ha-Torah* (Jerusalem: 5772), 156-164; (d) Aryeh A. Frimer, "*Lo Zo ha-Derekh*: A Review of R. Prof. Daniel Sperber's *Darkah shel Halakha*," *The Seforim Blog* (12 June 2008) – available online at: <http://tinyurl.com/68pcur>; (e) Aryeh A. Frimer and Dov I. Frimer, "Partnership *Minyanim*," *Text and Texture* (Rabbinical Council of America), May 23, 2010; available online at <http://text>.

rcarabbis.org/?p=909. See also Aryeh A. Frimer, n. 263, *infra*; (f) R. Shlomo Riskin, “*Aliyyot Nashim la-Torah*,” *Tehumin*, 28 (5768), 258-270 – republished in English “Torah Aliyyot for Women,” *Meorot* 7:1 (Tishrei 5769), 2-19 – available online at <http://www.yctorah.org/content/view/436/10/>. This article was reprinted in *Women and Men in Communal Prayer*, *supra* n. 23a, 361-388; (g) R. Shlomo Riskin, “Response to Mendel Shapiro,” *Meorot* 7:1 (Tishrei 5769), Shapiro/Riskin 13-15 – available online at <http://www.yctorah.org/content/view/436/10/>, reprinted in *Women and Men in Communal Prayer*, *supra* n. 23a, 407-411. We note that while R. Riskin rules against giving women the first seven Sabbath *aliyyot*, in the concluding paragraph of this article, he raises the possibility of giving women *maftir*, *haftara* and *hosafot*; (h) R. Chaim Navon, *Gesher Benot Yisrael (Yedi’ot Aharonot/Sifrei Hemed: Tel Aviv, 2011)*, ch. 7; see also, *infra*, n. 324; (i) R. Shai Piron, “*ha-Yesod ha-Sotsiyologi ve-Ekronot ha-Al shel ha-Halakha ke-Gorem Merkazi be-Mehkaro shel ha-Rav Prof. Sperber*,” available online at <http://www.ypt.co.il/print.asp?id=29620>. See also: R. Shai Piron, *Keri’at Nashim ba-Torah*, available online at <http://www.kipa.co.il/ask/show/27015>; (j) R. Michael J. Broyde, “Women Receiving Aliyot? A Short Halakhic Analysis,” in *Wisdom and Understanding: Studies in Jewish Law in Honor of Bernard S. Jackson*, Jewish Law Association Studies, XXII, Leib Moscovitz and Yosef Rivlin eds., (The Jewish Law Association, 2012), 1-16; published online without notes on November 26, 2009 at *Hirhurim-Musings*, <http://torahmusings.com/2009/11/women-receiving-aliyot/>; (k) In addition, several prominent religious Zionist rabbis have published responsa highly critical of the practices of Jerusalem’s *Kehillat Shira Hadasha* in which women are given *aliyyot*. See: R. Yaakov Ariel, “*Beit Keneset Shira Hadasha*” available online at <http://www.yeshiva.org.il/ask/printAsk.aspx/19299>; R. Yaakov Ariel, “*Aliyyat Nashim la-Torah: Hillul ha-Kodesh*,” *Hatsofe*, July 12, 2007 – available online at <http://www.kolech.com/show.asp?id=21790>; R. Yaakov Ariel cited by Matthew Wagner, “Ramat Gan chief rabbi slams ‘radical feminist’ egalitarian *minyanim*,” *Jerusalem Post*, February 19, 2008 – available online at <http://www.jpost.com/Israel/article.aspx?id=92575>; R. Dov Lior “*Minyanim Mebudashim be-Hishtatfut Nashim*” available online at <http://www.yeshiva.org.il/ask/printAsk.aspx/19496>; See also R. Dov Lior, *Resp. Devar Hevron*, II, sec. 263, n. 127 where he maintains that any change in the understanding and application of *kevod ha-tsibbur* needs to be made, if at all, by the leading scholars of the generation, not local rabbis; (l) In a lecture given in July 2009, R. Joshua Shapiro reported on a conference (held several years before) of the religious Zionist rabbinic organization “Tzohar.” A halakhic forum, comprised of Rabbis Yaakov Ariel, Shlomo Aviner, Chaim Druckman, and Aharon Lichtenstein, concluded that *Kehillat Shira Hadasha* has crossed the red line of what could legitimately be considered Orthodox practice. See <http://www.yrg.org.il/show.asp?id=33537>. R. David Stav, Chairman of Tzohar (conversation with DIF, Oct. 16, 2009), confirmed the accuracy of this report; (m) See also the related comments of R. David Zuckerman, citing unnamed leading *posekim*, available online at: <http://www.kipa.co.il/ask/show.asp?id=128867>. See also the recent responsa by (n) R. Ahiyya Shlomo Amitai (Rabbi of Kibbutz Sedei Eliyahu), “*Madu’a Nashim Lo Olot la-Torah*,” available online at <http://tinyurl.com/33cnkw>; (o) R. Ratzon Arussi, “*Aliyyot Nashim la-Torah*,” available online at <http://www.moreshet.co.il/web/shut/shut2.asp?id=120674>; (p) R. Yuval Cherlow, “*Keri’a ba-Torah le-Nashim*” available online at <http://tinyurl.com/6a9q6wb>; (q) R. Rami Rahamim Berakhياهو (Rabbi of Yishuv Talmon), *Resp. Tel Talmon*, II, sec. 91, n. 1, p. 113; (r) For a more popular discussion see R. Simcha Cohen, “The Propriety of Aliyot to the Torah for Women,” *The Jewish Press*, 11/9/2007, 56 and 11/16/2007, 75; (s) Regarding other aspects of “Partnership *Minyanim*,” see Addendum and nn. 387

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 *aliyya*. 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 Tahpukhot* (Jerusalem, 5764) 163. On the other hand, R. Yigal Safran, "Nitu'ah le-Hahlafat ha-Min," *Tehumin*, XXI, 117-120, forbids, nevertheless, because halakhically she is a woman, despite the transgender operation.

28. Aryeh A. Frimer, "Guarding the Treasure: A Review of Tamar Ross, *Expanding the Palace of the King – Orthodoxy and Feminism*," *BDD - Journal of Torah and Scholarship* 18, English section, 67-106 (April 2007), section Va. PDF file available online at www.lookstein.org/articles/treasure_frimer.pdf.

29. The principle of agency (*shelut ha-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-Battim*, *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 *aharonim*, see R. Moses Hillel Sasson, *Mishpetei ha-Shelihut* (Jerusalem, 5765), *sha'ar rishon*, ch. 10, *kelal* 1, parag. 1, n. 2 and *sha'ar sheni*, sec. 30, parts 2-4; Dov I. Frimer, "He'arot le-Sugyat Mahut ha-Shelihut," *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 *mitsvot*, 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*, *Bereshit*, sec. 15; R. Asher Weiss, *Shiurei Moreinu ha-Rav Shlita*, VI, *kovets* 33 (262), *Korah* 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 Rabbenu Hayyim ha-Levi, Megilla*, sec. 4; R. Naphtali 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, Nesi'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-Ikvei ha-Tson* (Jerusalem: *Beit ha-Midrash de-Flatbush*, 5757), sec. 17, no. 13, 95-97; R. Jacob Israel Kanievsky, *Kehillot Yaakov, Berakhot*, sec. 11 (12 in some editions); R. Elazar Man Shakh, *Avi Ezri, Mahadra Kamma, Hilkhot Nesi'at Kappayim*, sec. 14, no. 11; Rabbis Ephraim Grunblatt and Yuval Nof, *Rivevot 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'eilat 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. Ovadiah Yosef, *Resp. Yehavveh Daat*, IV, sec. 11; R. Ovadiah Yosef, *Resp. Yabbia Omer*, IX, O.H., sec. 83. no. 7; R. Ovadiah Yosef, *Halikhot Olam*, III, *Toldot*, sec. 15 and notes; R. Phineas Zevih, *Resp. Ateret Paz*, I, part 1, O.H., sec. 14, no. 10, n. 9, 341-347; R. Elijah Schlessinger, *Resp. Sho'alin ve-Doreshein*, 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*” *Moriah*, 27:11-12 (323-324) (*Nisan* 5766), 116-125; R. Ovadiah Yosef, *Hazon Ovadya – Yom Tov, Hilkhhot Sefirat ha-Omer ve-Yemei ha-Sefira*, sec. 9 and n. 17; R. Elijah Schlessinger, *Resp. Sho'alin ve-Doreshein*, 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-Tsel ha-Hokhma*, VI, sec. 67; R. Asher Weiss, *Hagada shel Pesah Minhat Asher*, sec. 5; (f) *Halitsa*: R. Naphtali Zvi Judah Berlin, *Ha'amek She'ala on She'iltot, Yitro*, sec. 54, no. 18; (g) *General Discussions*: R. Aryeh Zvi Fromer, *Si'ah ha-Sadeh, Sha'ar Birkat ha-Shem*, sec. 4; R. Aryeh Zvi Fromer, *Resp. Erets Tsevi*, II, sec. 9; R. Zvi Pesach Frank, *Resp. Har Tsevi*, O.H., I, sec. 57; R. Abraham Weinfeld, *Resp. Lev Avraham*, I, sec. 8; R. Abraham Judah Farbstein, *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, Beitsa ve-Kiddushin*, secs. 10 and 11; R. Zvi Pesach Frank, *Sha'ashvei Tsevi*, I, sec. 7, *anaf 3* and sec. 10; R. Zalman Nehemiah 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, *Inyanei Tefilla, be-Din Motsi 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 Zikaron la-haGaon 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: *Makhon Minhat Asher*, 5766), ch. 13, 76-87; R. Asher Weiss, *Minhat Asher al ha-Moadim: Hannuka, Purim, Dalet Tsomot* (Jerusalem 5773), Purim, sec. 23, 162-175; R. Michael Menahem Shiloni, *Shome'a uMashmi'a* (Jerusalem 5766); R. Yehiel Michael Rothschild, *Yemei Berakha* (Kiryat Sefer, 5767), 5-166; R. Barukh Weintraub, “*Shome'a ke-Oneh*,” available online at <http://tinyurl.com/yonkmg> (at end) and <http://tinyurl.com/yp574x>; (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"ts*, 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 Yeschayahu 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 mehuyyav 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-mehuyav [or ha-hayyav] 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 afilu im yatsa motsi*”] and various *rishonim* and *aharonim*; see, for example, R. Joseph ben Meir ibn Migash, *Resp. Ri mi-Gash*, sec. 86; *Sefer ha-Ora*, I, sec. 44, *Din Pat ha-Tsenuma 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. Tashbets*, 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), *Birkei Yosef, O.H.* sec. 124, no. 2; R. Yihye ben Joseph Tsalah (Maharits), *Resp. Peulat Tsaddik*, III, sec. 184, s.v. “*u-miKol makom*,” R. Eliezer Waldenberg, *Resp. Tsits Eliezer*, VII, sec. 1, “*Kuntres Katan le-Maftir*,” 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-Mo’adim*, 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 alayhu 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 Shimshon, 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 alayhu 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, *Kuntresei Shiurim, Kiddushin, shiur* 20 at end; R. Pesah Elijah Falk, *Resp. Mahazeh Eliyahu*, sec. 21; R. Asher Weiss, *Minhat Asher al ha-Moadim: Hannuka, Purim, Dalei Tsomot* (Jerusalem 5773), Hannuka, sec. 14, no. 6, 95-96; R. Samuel Kaminetsky, cited by R. Daniel Asher Kleiman, *Kovets Halakhot – Piskei Morenu ha-Gaon R. Shemuel Kaminetsky Shlit”a, Yamim 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] ish.*” (Regarding *Magen Avraham*’s assertion that women have accepted the obligation [of counting *sefira* 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 Tefillat Arvit Reshut*,” 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 ha-Hayyim*, sec. 51; R. Samuel Elazar Haim Volk, *Sha’arei Tohar*, VI, sec. 47, end of no. 2; R. Gidon G. Rothstein, “The Roth Responsum on the Ordination of Women,” *Tradition* 24:1 (1988), 104-115 and the exchange of letters between Joel Roth and Gidon 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*, *Nit-savim*, end of no. 17; R. Jacob Hayyim Sofer, *Kaf ha-Hayyim*, O.H., sec. 589, no. 34; R. Ovadiah Yosef, *Resp. Yehaveh Da’at*, II, sec. 70; R. Ovadiah Yosef, *Resp. Yabbia Omer*, II, O.H. sec. 30; R. Asher Weiss, *Shiur Moreinu ha-Rav Shlita*, “*Sefirat ha-Omer*,” *Parashat Tazri’a-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. Yabbia Omer*, *ibid*.

40. See “*Berakhot*,” *Encyclopedia Talmudit*, IV, 291-316, at 309 for sources and references.

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.

42. R. Shneur Zalman of Liozna-Lyadi, *Shulhan Arukh ha-Rav*, O.H., sec. 167, no. 23. R. David Yosef, *Halakha Berura*, XI, sec. 213. Cf. R. Gedalia Nadel, *Hiddushei R. Gedalia*, I, *Berakhot*, sec. 2, s.v. “*Berakhot* 42a.”

43. For an in-depth discussion of the development and formulation of *birkot ha-mitsva*, see R. David Henshke, “*Birkat ha-Mitsvot: Halakha ve-Toledoteha*,” *Sidra* 27-28 (5772-5773), 27-110.

44. See R. Yehoshuah Yeshayahu Neuwirth, *Madrikh Hilkhati le-Ahavyot 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 read 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'adei ha-Shana Tishrei-Adar*, ch. 2, sec. 14, *Orbot 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'adei Kodesh al Rosh ha-Shana*, ch. 8, nos. 97 and 98. Both R. David Auerbach and R. Joseph Kohen 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 Kohen'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, Kuntres Shevu'i, 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, *Sefirat 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 (*hokhe'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 bet*," 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. Bahyai ibn Pekuda 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 Israelite." 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

intriguing source for *arevut* is suggested by the following scholars: R. Zev Einhorn, *Peirush Maharzu, Midrash Rabba, Yitro, Parasha 27*, no. 9; R. Hanokh Zundel of Bialystok, *Ets Yosef, Midrash Tanhuma*, sec. 13; R. Joseph Dov Soloveitchik, *Beit ha-Levi al ha-Torah, Shemot, Mishpatim*, 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 *mitsva* that I would have said *e’eseh* (“**I** will do”), we say instead *na’aseh* (“**We** will do”). 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. “*Tani 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, *Shita Mekubbetset Pesachim*, II, *Kovets Hiddushim*, 554-562 at 556 - reprinted in R. Yehuda Gershuni, *Kol Yehuda*, “*be-Inyan Mitsvat Tokhaha va-Arevut*,” 596-616 at 612. For a similar analysis, see R. Eliezer Goldschmidt, “*Arevut beMitsvot*,” *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 Tohar*, 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, *Zera Avraham, 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, Yamim Nora’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, cite 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-yokhal*” at end; Ran on Rif, *Rosh ha-Shana 29a*, s.v. “*Tani 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.

49. The consensus of *posekim* follows Ritva, *R.H. 29a*, s.v. *Tanei Ahava*, “*Miktat Geonim*” cited in Meiri *R.H. 29a*, and *Hagahot Ashbri*, end of *R.H.* ch. 3, who invoke “*af al pi she-yataza motsi*” by **obligatory** *birkhot ha-shevah*. See: “*Kol Yisrael Arevim Zeh la-Zeh*,” *Encyclopedia Talmudit*, XXVII, columns 509-510; R. Abraham Meyukhas, *Sedeh ha-Arets*, III, *O.H.*, no. 9; *Mishna Berura, O.H.* sec. 59, no. 21; R. Aryeh Zvi Fromer, *Si’ah ha-Sadeh, Sha’ar Birkat ha-Shem*, sec. 3; R. Zvi Pesach

Frank, *Resp. Har Tsevi*, Y.D., secs. 1 and 210; R. Gedalia Nadel, *Hiddushei R. Gedalia Nadel*, I, *Berakhot*, sec. 3; R. Elimelekh 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'aseh Hemed al Birkat ha-Ilanot, Beirurei Shitot* sec. 2, 170-173, R. Moses Levi, *Birkat Hashem*, IV, *Hilkhot Birkhot ha-Shevah ve-haHoda'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-hova hi yesh ba arevut... ve-ein zeh talui be-ofi ha-berakha ve-inyanah, ela im biyyuv hu o reshut.*”) – appears also in R. Asher Weiss, “*Birkat ha-Zeman be-Ner Hannuka*,” *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu'i, 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 – Oholei 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 benedictions 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 *Haydala* 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. Yabbea Omer*, IX, O.H. sec. 3, no. 2 by “*Asher yatsar et ha-adam; Hazon Ovadya, Hilkhot Tu be-Shevah ve-Hilkhot Berakhot, Hilkhot Birkat ha-Hoda'a*, sec. 10, n. 15, 355-356; R. David Yosef, *Halakha Berura*, XI, sec. 219, no. 5, end of subsec. 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. Yabbea Omer*, V, Y.D. sec. 30, R. Ovadyah Yosef permits sefardi *hazzanim* 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: *Makhon Ish Matsliah*, 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 (*safek berakhot lehakel*). For a general discussion of *safek berakhot lehakel*, 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. Yitschak

Yosef, *Maṭte'ah Meforat to Resp. Yehavveh Da'at, Kelalei Safek Berakhhot*. See also n. 217. However, R. Levi's invocation of *safek berakhhot lehakel* is very curious considering that the vast majority of *posekim*, both *rishonim* and *aharonim*, 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. Yabbia Omer*, II, O.H. sec. 8, no. 19 and *milluim*. In addition, this majority view is reflected in general practice and, in the case of custom, one does not invoke the argument "*safek berakhhot lehakel*"; see *Resp. Yabbia 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-Hotsi et Havero*, 475-511, at 507.

52. *Tosafot, Talmidei Rabbeinu Yona*, R. Solomon ben Adret (Rashba), Meiri (see also 20b), *Shita Mekubetset* and Rosh to *Berakhhot* 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-Manhig Hilkhot Seuda*, no. 17; *Or Zarua*, I, sec. 198; R. Asher ben Hayyim in *Sefer ha-Pardes*, 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 *Berakhhot* 48b; Maimonides, responsum to the scholars of Lunil, cited in *Kesef Mishne, Hilkhot Berakhhot* 5:15; *Sefer ha-Hashlama, Berakhhot* 20b; *Sefer Ohel Mo'ed, Derekh* 1, *Netiv* 10; Ra'avya, *Berakhhot* sec. 129; Ramban, *Milhamot ha-Shem* and Ra'avad on *Ba'al ha-Ma'or, Berakhhot* 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-Hayva, 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, n. 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, n. 18. *Piskei R. Yeshayahu Aharon 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-Hakhniso* is a *birkat ha-mitsva*. There are, however, opinions that this benediction is a *birkat ha-shevah*, a benediction of praise (see: *Encyclopedia Talmudit*, *ibid.* and n. 55, *infra*), 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. Shirira Gaon, *Resp. R. Sherira Gaon, Sha'arei Tsedek*, III, Gate 1, sec. 45 – cited in *Otsar ha-Geonim, Ketubot* 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, *Orhot 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 Isbut* (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; *Mordekhai, Ketubot*, ch. 1, sec.

131 (because it would seem pretentious); *Hagahot Maimoniyyot, Hilkhot Ishut*, ch. 3, no. *samekh*; Rema, *Shulhan Arukh, E.H.*, sec. 34. no. 1; R. Solomon Luria, *Bei'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, *Ketubbot*, 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 *miliuim*; R. Ovadiah Yosef, *Halikhot Olam*, II, *Parashat Shoftim – Hilkhot Erusin ve-Nisu'in*, 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, *Einei Yitshak*, n. 297; *Encyclopedia Talmudit*, IV, "*Birkat Erusin*," *Mekorah ve-Dineha*, 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'aseh 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 kiddushin* is *motsi* him. See: *M.T., Hilkhot Ishut*, 3:23; R. Abraham ben Moses (Maimonides), *Hiddushim mi-Ketar Yad*, cited in the Introduction to *Ma'aseh Roke'ah*; R. Ezekial 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, *Einei Yitshak*, n. 298; *Resp. be-Mareh 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 Erusin*, 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), *Hilkhot Erusin ve-Nisu'in*, "*mi-Bei Rav*," 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 Shotek*

ve-Katan,” *Shiur Morenu ha-Rav Shlita, Kuntres Shevu’i, Parashat Ki Tetse*, 5773, Volume XI, 40 (454), 8 ff.

The above discussion has assumed that the *Birkhot Erusin* are *birkhot ha-mitsva*. However, many authorities maintain that these benedictions are *birkhot ha-shevah* (benedictions of praise) or even *birkhot ha-nehenin* (benedictions over pleasure) for those present at the betrothal. In such a case, the *mesadder kiddushin* 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, Inyanai Nisu’in*, secs. 10 and 15; *Otsar ha-Posekim, E.H.*, sec. 34. no. 1, nn. 4a and 5a; R. Ovadiah Yosef, *Halikhot Olam*, II, *Parashat Shoftim – Hilkhot Erusin ve-Nisuin*, no. 1, n. 1, 203; R. Asher Weiss, “*Kiddushei Heresh Shoteh ve-Katan*,” *Shiur Morenu ha-Rav Shlita, Kuntres Shevu’i, Parashat Ki tetse*, 5773, Volume XI, 40 (454), 9-10; *Encyclopedia Talmudit*, IV, “*Birkat Erusin*,” *Mekorah ve-Dineha*, 420-427, at 421. Nevertheless, R. Asher Weiss 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 le-Hakhniso* at a circumcision. See: R. Asher Weiss, “*be-Inyan Birkat Erusin*,” *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu’i, Parashat Pinhas* 5768, 36 (265), sec. a; R. Asher Weiss, “*be-Inyan Birkat Erusin*,” *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu’i, Parashat Hayyei Sara*, 5773, XI, 6 (420). 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. Further discussion is beyond the scope of this paper.

56. For reviews see: R. Zvi Cohen, *Sefirat ha-Omer: Hilkhot u-Minhagim ha-Shalem*, second ed. (5746), ch. 4, sec. 16, nn. 33-37; R. Simha Ben-Zion Isaac Rabinowitz, *Piskei Teshuvot*, V, sec. 489, no. 20. For some leading references, see: R. Zvi Pesach Frank, *Resp. Har Tsevi, O.H.* II, sec. 75; R. Samuel ha-Levi Wosner, *Resp. Shevet haLevi*, III, sec. 96, no. 1; R. Asher Weiss, *Kovets Darkei Hora’a*, *Kovets* 5 (*Nissan* 5766), sec. 3, 78-79.

57. *Resp. Tsits Eliezer*, 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-Hilkhatat*, II, sec. 51, no. 18, n. 48; R. Shlomo Zalman Auerbach cited by R. Simha Bunim Lazersohn, *Shulhan Shlomo – Erkei Refu’a*, I, *Erev 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 (*birkat ha-nehenin*) 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-Ittur* cited by R. Simeon ben Tsemah Duran, *Hiddushei ha-Tashbets*, *Rosh ha-Shana*, 32b. On the other hand, the lenient view maintains that since women fulfill a *mitsva* by hearing the shofar, *arevut* is applicable and a man may recite the *berakha* for them (“*keivan de-lav reshut gamur hu, de-ha ikka tsad mitsva, rashai levarekh*”). Included in the lenient school are: R. Eliezer ben Joel haLevi (Ra’avya), *Sefer Ra’avya* (Aptowitzer ed.), sec. 539 (this contradicts, however, what he writes in secs. 534 (p. 215; see editor’s n. 5] and 597); Ra’avya 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 – Minbagim*, *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-Tashbets*, *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, *Hiddushei R. Gedalia*, *Berakhot* sec. 2, s.v. “*u-baRitva sham*”; R. Abraham Judah Farbstein, *Kenesset Avraham*, I, sec. 1; R. Moses Mordechai Karp, *Hilkhot Hag be-Hag – Yamim Noraim*, ch. 10, sec. 3, n. 13.

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 *mitsva*. 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. “*Aval aherim*” [see explication of R. Barukh Rakover, *Birkat Eliyahu*, ad loc.]; R. Menahem Mendel Auerbach, *Ateret Zekenim*; *Shulhan Arukh ha-Rav*, no. 2; R. Ephraim Zalman Margalioth, *Match 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, *Kenesset Avraham*, I, sec. 1; R. Sraya Devlitsky, *Kitsur Hilkhot Mo’adim: Rosh ha-Shana*, *Dinim la-Teki’ot*, no. 22; *Halikhot Beitah*, 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. Yabbia Omer*, O.H., sec. 24; *Halikhot Beitah*, sec. 15, no. 31. Cf., however, *Arukh ha-Shulhan*, no. 5, who distinguishes between *havdala* and *shofar* blowing. (c) **Reciting leishet 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 Beitah*, sec. 22, no. 6. See also R. Mordechai

Karp, *Hilkhot Hag be-Hag, Sukkah*, part 2, ch. 13, no. 2. (d) **Reciting *birkat sefirat ha-omer* for women** – R. Zvi Cohen, *Sefirat ha-Omer: Hilkhot u-Minhagim ha-Shalem*, Second ed. (5746), ch. 4, sec. 15*, n. 32b thereto.

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 *mitsva* 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 *mitsva*; 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 *biyyuv 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 *mitsva*. Nevertheless, R. Auerbach reasons that since the recitation of a non-obligatory *berakha* on an optional *mitsva* is a matter of major dispute, one bears no *arevut* for the blessing. He concludes that a man who has already fulfilled his *mitsva* 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 *Otserot Shlomo* 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons’ 5760 edition; R. Shlomo Zalman Auerbach, “*be-Inyan Berakha be-Kiyum Mitsva al Yedei Shaliah*,” *Kovets Lev Aryeh le-Zikhron R. Aryeh Leib Kalisch (Kollel Tiferet Yirmiyahu, Makhon Torani Lev Aryeh, Bayit va-Gan, Jerusalem)* 44-46; R. Shlomo Zalman Auerbach, “*be-Dinei Nashim be-Mitsvot 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 (correspondance) at end of the volume, sec. 1, 243, no. 4. [Interestingly, R. Winter, in his responsa, asked R. Chaim Kanievsky 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 *mitsvot* which are optional for the latter. R. Kanievsky 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 ha-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-khattehila*; however, *be-diAvad*, should a benediction be recited, it is valid. [R. Turk’s interpretation of Rema’s ruling as *le-khattehila* 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-Sulhan*, 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 alayhu hova*); see also nn. 44 and 182. On the other hand, R. Auerbach's position is explicitly rejected by R. Zvi Pesah Frank, *Mikra'ei Kodesh*, *Yamim Nora'im: Rosh ha-Shana*, sec. 25, s.v. "*Ahar kakh matsati*." See also the comments of R. Joseph Cohen in *Mikra'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, *Kovets Lev Aryeh le-Zikhron 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, *Kovets 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.

61. R. Joseph Cohen cited by his grandfather, R. Zvi Pesah Frank, *Mikra'ei Kodesh*, *Yamim Nora'im: Rosh ha-Shana*, sec. 25 (though, R. Frank himself disagrees); R. Abraham Judah Farbstein, *Kenesset Avraham*, I, sec. 1, no. 3, subsec. 7; R. Moses Sternbuch, *Mo'adim u-Zemanim*, I, sec. 2, p. 5 and additions to this discussion at the beginning of VIII; R. David Auerbach, *Halikhot Beita*, sec. 20, no. 9, n. 17; R. Zalman Nehemia Goldberg, "*be-Inyan Teki'at Shofar be-Isha*," *Sefer mi-Nashim ba-Ohel* (Jerusalem, 5773), 449-455, at 453; R. Elyakim Getsel Pashkes (personal communication, January 28, 2013, as one possible approach. See also his *Itturei Megilla* [5772 ed.], *Megilla* 19b, s.v. "*be-Hallel u-beMegilla Af al pi she-Yatsa Motsi*," 237); R. Nachum Rabinovitch (personal communication, February 2, 2013; as one possible approach); R. Asher Weiss (personal communication, January 31, 2013); R. Eli Baruch Shulman, *Yismach Av*, sec. 24; R. David Briezel, "*Be'inyan Nashim be-Teki'at Shofar*," *Kovets Beit Aharon ve-Yisra'el*, XXI, Issue 2 (122) (*Kislev-Tevet*, 5767), 167-169 (327-329). See a variation of this approach in R. David Dov Levanon, "*Hagdarat Mitsvat Shofar*," (*Erev Rosh ha-Shana*, 5763), s.v. "*u-beMakom aber biddashti*," at http://www.yeshiva.org.il/midrash/doc/doc26/lv_klsh.doc. This school may find precedent in the writings of *rishonim* who apparently maintain that *arevut* is necessary only for blessings but not for the *mitsva* act itself; see R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 19b, s.v. "*be-Hallel u-beMegilla Af al pi she-Yatsa Motsi*," 237.

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 ha-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, *Hagabot Hatam Sofer*, O.H., sec. 271, indicates that *Peri Megadim*, *Eshel Avraham*, 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, "*Hid-dushim u-Bi'urim be-Inyanei 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-Hiyyuvam 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.

65. R. Akiva Eiger, *Resp. R. Akiva Eiger*, no. 7; *Tosefot R. Akiva Eiger*, *Mishna, Megilla* 2:4, n. 19, s.v. "*Huts me-heresh*." See the lengthy analysis of this debate by R. Zvi Pesah Frank, *Resp. Har Tsevi*, O.H. 122 and *Mikra'ei Kodesh*, *ha-Yamim ha-Nora'im: Rosh ha-Shana*, sec. 25, 81-82.

66. See R. Israel Meir ha-Kohen Kagan, *Mishna Berura*, O.H., sec. 271, no. 5 and *Sha'ar ha-Tsiyun* no. 9; R. Jehiel Michel Epstein, *Arukh haShulhan*, O.H., sec. 271, no. 6; R. Ovadiah Yosef, *Livyat Hen*, no. 14; R. Ovadiah Yosef, *Hazon Ovadya*, *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 Yeshnan beArevut al Anashim*," *Massa Ovadya* (Jerusalem: Mossad haRav Kook, 5768), 196-212; R. Yehoshuah Yeshayahu Neuwirth, *Shemirat Shabbat ke-Hilkhat*, 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 ha-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 ha-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 *arevot*, 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-Minhagim 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 *Shulkhan Arukh*, O.H., sec. 589, no. 6), since there is a *kiyyum ha-mitsva* in her action (Bah, *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 *kiyyum* or *ma'aseh ha-mitsva*.

68. See, *inter alia*, R. Ahai of Shabha Gaon, *She'iltot*, 54; *Magen Avraham*, O.H. sec. 199, no. 7; *Elya Rabba*, 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, *Kenesset Avraham*, I, sec. 1, no. 4, subsec. 2; R. Zvi Cohen, *Sefirat ha-Omer: Hilkhos u-Minhagim 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 *hinnukh* regarding *arevut*. For reviews, see R. Eliezer ha-Kohen Rabinowitz, *Torat ha-Katan*, ch. 34, secs. 21–23; *Halikhos 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 (*hovat hinnukh*) towards the fulfillment of *mitsvot* 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, *Berakhos* 48a, s.v. “*Ad she-yokhal*,” Ramban, *Milhamot ha-Shem* on Rif, *Berakhos* 20b; Ran on Rif, *Megilla* 19b; Meiri, *Megilla* 19b; Ritva, *Megilla* 19b; *Resp. Ritva*, sec. 97; *Hiddushei ha-Ran*, *Rosh ha-Shana* 33a, s.v. “*ve-Ein ellu*”; *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-Hilkhotav* (Jerusalem: Netiv ha-Berakha, 5756), I, ch. 2, no. 4 and nn. 12 and 13; R. Eliezer 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, *Hazon 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. *hinnukh* where only one can be performed.

70. *Tosafot*, *Berakhos* 48a, s.v. “*Ad she-yokhal*,” *Tosafot*, *Hagiga* 2a, s.v. “*Eizehu katan*”; *Tosafot ha-Rosh*, *Berakhos* 48a, s.v. “*Ad she-yokhal*,” *Tosafot* Rabbenu Yehuda Sirleon, *Berakhos* 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 *mitsvot*. The parent must ensure that the child fulfills his obligation to perform *mitsvot*. R. Reuven Grozovsky, *Hiddushei Rabbi Reuven, Sukka*

no. 2, explains that R. Hazan is of the opinion that *Tosafot* and Ramban both view the *mitsva* of *hinnukh* as a *mitsva* 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 *mitsva*. See R. Jacob Israel Kanievsky, *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'amar Mordekhai*, O.H., sec. 186, no. 2, n. 4; *Derekh ha-Hayyim*, sec. 70, *Dinei kiddush al ha-Yayin*, no. 2; *Resp. Rabbi Akiva Eiger*, *Mahadura kamma*, no. 7; *Hayyei Adam*, *Klal* 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-Hilkhat*, II, sec. 51, nos. 10, 13, and 15. These authorities indicate that a minor can be *motsi* a major in those rare instances where both are *had derabbanan*. This would also supply a mechanism for a major to be *motsi* a minor, and one minor to be *motsi* another; see *Tehilla le-David*, O.H., sec. 271, no. 4; *Kaf ha-Hayyim*, sec. 187, n. 11; *Shemirat Shabbat ke-Hilkhat*, II, sec. 51, nos. 10 and 15. Whether a minor can recite a benediction for another minor based on *shome'a ke-oneh*, see R. Zvi Cohen, *Sefirat ha-Omer: Hilkhot u-Minhagim ha-Shalem*, Second ed. (5746), ch. 2, sec. 10*, nn. 16c and 16d thereto; R. Barukh Rakovsky, *ha-Katan ve-Hilkhotav*, ch. 17, no. 13 and nn. 32-34 thereto.

72. See *Tosafot*, *Megilla* 19b, s.v. "ve-Rabbi Yehuda" and *Megilla* 24a, s.v. "Aval ein;" *Beit Yosef*, *Tur*, 689, s.v. "Heresh, shoteh ve-katan"; *Eliya Rabba*, O.H. sec. 186, no. 2, subsec. 3; R. Yom Tov Lipmann-Heller, *Tosafot Yom Tov*, *Mishna Megilla* 2:4, s.v. "Rabbi Yehuda;" R. David Ortinberg, *Tehilla le-David*, O.H., sec. 282, no. 8; *Resp. Sha'ar Efrayim*, sec. 12; *Mishna Berura*, O.H., sec. 186, no. 2, subsec. 4, *Sha'ar ha-Tsiyyun*, no. 4; *Mishna Berura*, O.H., sec. 271, no. 2, subsec. 2, *Sha'ar ha-Tsiyyun*, no. 2; *Mishna Berura*, O.H., sec. 689, no. 1, subsec. 6; *Arukh ha-Shulhan*, O.H., sec. 186, no. 4; *Resp. Yabbia Omer*, III, O.H., sec. 27, no. 6; R. Ovadiah Yosef, *Hazon Ovadya*, *Shabbat* II, *Hilkhot Kiddush*, no. 11, n. 12; 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; R. Moses Levi, *Birkat ha-Shem* (Jerusalem: *Yeshivat Kissey Rabamim*, 5760), ch. 4, n. 7, 168-170. Alternatively, the obligation of *hinnukh* (education of minors) is itself a lower level rabbinic obligation; see Rashba, *Megilla* 19b.

73. R. Abraham Abele ha-Levi Gombiner, *Magen Avraham*, O.H. sec. 282, no. 6. See also R. Masud Hai Roke'ah, *Ma'ase Roke'ah*, *Hilkhot Tefilla* 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, *Sefer Over Orach*, 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-hattekhilla* 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, *Erekh ha-Shulhan*, O.H., sec. 282, no. 4, cites R. Moses of Coucy, *Sefer Mitsvot Gadol* (*Semag*), *Divrei Soferim*, *Asel*

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. VIIB and n. 238b. Interestingly, R. Chaim Tuva 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, Hilkhhot 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., Hilkhhot 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.

78. R. Shalom Mordechai ha-Kohen Shvadron, *Da'at Torah*, O.H., sec. 282, no. 3, s.v. "*Od katav Magen Avraham*"; R. Shalom Mordechai ha-Kohen Shvadron, additions to R. Nahman Kahana, *Orhot Hayyim* (Jerusalem, 5743), *Hilkhhot Shabbat*, O.H., sec. 282, n. 6.

79. Indeed, this *Massekhet Soferim* is cited by the following *rishonim* as proof that women are required to hear *Megillat Eikha*: *Mahzor Vitry*, sec. 527, *Soferim*, sec. 18, no. 5; *Sefer ha-Aguda*, *Soferim*, sec. 16; Ramban, *Torat ha-Adam*, *Sha'ar ha-Avel* – *Inyan Avelut Yeshana*, s.v. "*u-beMassekhet Soferim*," 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-Tikkunan*, 184, no. 8; *Resp. Teshuvot u-Minhagot*, II, sec. 250, s.v. "*be-Massekhet Soferim*," 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.

80. R. Hayyim Joseph David Azulai (Hida), *Kissei Rahamim* (complete edition, Jerusalem: 1959), *Massekhet Soferim* 18:4 *Tosafot* s.v. "*she-ha-Nashim*," R. Judah Ayash, *Matteh Yehuda* (Gloss to *Shulhan Arukh*), I, O.H., sec. 282, no. 3, n. 7; R. Jeremiah Wolf, *Divrei Yirmiyahu al ha-Rambam*, *Hilkhhot Tefilla* 12:5; *Arukh ha-Shulhan*, O.H., sec. 282, no. 11; *Resp. Yehavveh Da'at*, IV, sec. 23. R. David Tamar, *Alei Tamar*, Jerusalem Talmud, *Berakhot*, III:3, s.v. "*Nashim peturot*," 118 – cites more than seven cases where "*hayyav*" does not refer to "obligatory" but "righteous" behavior (*minhag basidut*).

81. Several examples are cited in ch. 4 of Michael Higger's introduction to his scientific edition of *Massekhet Soferim* (New York, 1937). See also *Arukh ha-Shulhan*, O.H., sec. 676, no. 5, who states: "The *Massekhet Soferim* 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-Halakha*, VII, Y.D. sec. 74, no. 2, note that the minor tractates (e.g., *Kalla*, *Soferim*, *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.

82. *Mishna Berakhot* 3:3. As a result, R. Elijah Kramer of Vilna (Gra) and R. Jacob Neuernberg, *Nahalat Yaakov, Massekhet Soferim*, 18:4 actually eliminate “in *keri’at Shema*” from his reading of the text. Interestingly, R. Joseph Caro, *Beit Yosef* and R. Joel Sirkis, *Bayit Hadash*, both on *Tur O.H.* sec. 70, indicate that women should recite the first verse of *keri’at Shema* in order to accept upon themselves the Heavenly yoke. Neither, however, cites the *Massekhet Soferim* as proof text, though R. Reuben Margalioth does; see: R. Reuben Margalioth, *Nitsotsei 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, *Massekhet Soferim* obligates women in *keri’at Shema* and *keri’at ha-Torah*. 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 *keri’at Shema* and *keri’at 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 *keri’at ha-Torah* is both surprising and troubling; see: R. Daniel Sperber, *Shelosha Minhagim Matmihim u-Mekoman shel Nashim be-Veit ha-Kenesset*, “*Libiyot Isha Yehudiya*,” 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 *Ran* on *Rif, Megilla* 23a, s.v. “*ha-Kol Olin*”; R. David ben Joseph Abudarham, *Sefer Abudarham, Sha’ar ha-Shelishi*, s.v. “*Katav ha-Rambam*”; *Sefer ha-Battim, Beit Tefilla, Sha’arei Keri’at ha-Torah, Sha’ar* 2, no. 6. **Aharonim:** *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. Shevut Ya’akov, O.H.* I, sec. 40; R. Abraham Hayyim Rodriguez, *Resp. Orah la-Tsaddik*, sec. 3; R. Hayyim Joseph David Azulai (Hida), *Kissei Rahamim* (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. Maharsham*, I, end of sec. 158; *Da’at Torah, O.H.* sec. 282, no. 3; *Arukha ha-Shulhan, O.H.* sec. 282, no. 11; R. Simeon Sofer (Arloi), *Resp. Hitoverut Teshuva*, I, end of sec. 5; R. Moses Stern (the *Debriciner Rov*), *Resp. Be’er Moshe*, VIII, sec. 85; R. Efrayim Greenblatt, *Resp. Rivevot Efrayim*, VI, sec. 153, no. 21; R. Yehuda Gershuni, *Hokhmat Gershon*, “*be-Inyan Kibbud Nashim be-Sheva Berakhot*,” s.v. “*ve-Im Ken*,” 166; R. Shlomo Goren, *Meshiv Milhama*, II (*ha-Idra Rabba*: Jerusalem, 5744), gate 7, sec. 107, 173; *Resp. Yabbia 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. Ovadiah Yosef, *mi-Shiurei Maran ha-Rishon le-Zion Rabbi Ovadya Yosef, Shiur* 19, *Motsa’ei Shabbat Parashat va-Yeira* 5756; *Yalkut Yosef*, II, *Hiyyuv Keri’at ha-Torah ve-Tiltul ha-Sefer Torah*, sec. 9 and nn. 6 and 11; R. Isaac Yosef, *Kitsur Shulhan Arukh Yalkut Yosef, O.H.* sec. 135, no. 9; R. Yisroel Taplin, *Orah Yisrael*, sec. 2, no. 8; R. Chaim Pinchas Scheinberg, cited by R. Yisroel Taplin, *Ta’arikh Yisrael*, sec. 17, no. 3, n. 5*; R. Moshe Sternbuch and R. Moshe Halberstam, cited in *Rigshei Lev*, ch 7, par. 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-Hilkhotav*, I, sec. 12, no. 1, n. 1; R. Menahem Mendel Schwimmer, *Birkhot ha-Mitsvot ke-Tikkunan*, 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 be-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 Yeshtarim*, 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 *minyán* with the community. By contrast, *Maaseh 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 Tuvia Melnick, *supra* n. 75, and R. Elijah David Rabinowitz-Teomim, *Sefer Over Orah*, sec. 141. R. Samuel Tuvia 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. 3, n. 5*; R. Menachem Nissel, *Rigshei 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, *Rigshei 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 *Rigshei 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 stingency.

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 Match 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 keriah* 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 ha-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 "*Mahu Kevod ha-Tsibbur*," *Ha-Darom* 55 (*Elul* 5746), 33 (see p. 39) and *Resp. Benei Vanim*, 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*. 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 Teshuvot*, 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, *Melekheth Shlomo* 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, *Levushei 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 keriah* to read aloud for the

community. Several decisors note, however, that in Talmudic times *olim* read for themselves and the *ba'al kerī'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 kerī'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/tfila/frimer2.htm>.

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

102. R. Isaac bar Sheshet Perfet, *Resp. Rivash*, sec. 326. See also R. Israel Meir ha-Kohen Kagan, *Mishna Berura*, O.H. sec. 282, *Sha'ar ha-Tsiyyun* no. 16.

103. The suggestion that *kerī'at ha-Torah* is a *hovat ha-tsiyyur*, 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*"; R. Samson ben Zadok, *Sefer Tashbets*, sec. 185 in the name of R. Meir ben Barukh (Maharam) of Rothenburg. R. Aaron Boaron, *Birkat Aharon*, I, 133 maintains that this is also the position of R. Hananel ben Hushi'el, commentary to *Yoma* 70a; the latter indicates that it is proper to remain for *kerī'at ha-Torah* because of *be-rov am hadrat melekh*, suggesting that there is no inherent reason to stay. R. Solomon Elyashiv, "*Hiddushim ve-He'arot be-Inyanim Shonim*," in *Sefer mi-Nashim ba-Ohel* (Jerusalem, 5773), 3, cites a manuscript of R. Joseph Shalom Elyashiv in which he maintains that this is the view of the *Hinnukh*. The latter does not cite Torah reading among the seven rabbinic commandments, presumably because it is an obligation on the community – not the individual. For further discussion, see: R. David Yosef, *Halakha Berura*, VII, *Otesrot Yosef* sec. 2, no. 3, and n. 10; R. Aaron Boaron, *Birkat Aharon*, I, 103-156; R. Jacob Moses Hillel, *Resp. va-Yashav ha-Yam*, I, sec. 19, no. 4, s.v. "*Nimtseinu lemeidim*"; R. Akiva Meller, *ha-Keri'a ba-Torah ve-Hilkhoteha* (Jerusalem, 5769), *Milu'im*, sec. 1, 703-711; Collection of articles in "*Hilkhot Keri'at ha-Torah: Shulhan Arukh*, O.H., secs 134-140," *Aliba de-Hilkhet*, XXI (Adar II 5768), 1-36; R. Hanokh Kohen, *Olat Kohen*, II, sec. 1; R. Zvi Reisman, *Rats ka-Tsevi*, I, sec. 3. Rabbis Boaron and Hillel argue forcefully and extensively that this *hovat ha-tsiyyur* school represents the dominant position of the *geonim* and *rishonim*.

104. *M.T.*, *Hilkhot Tefilla* 8:4 - see R. Joseph Caro, *Kesef Mishne*, *Hilkhot Tefilla* 8:5, s.v. "*ve-Katav*" (end); R. Solomon Ibn Adret, *Resp. Rashba*, I, no. 7; R. Joseph Te'omim, *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-tsiyyur* 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 Veradim*, 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-amar*,” R. Jacob 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-Hinnekh*,” 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 Aharon*, 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 Soloveichik, *Sefer Parah Match Aharon, Sefer Ahava, Hilkhot Tefilla* 13:20; R. Hayim Shaul Grainiman, *Hiddushim u-Bei’urim, Orach 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, *Hiddushei Hagahot, Tur* 141, who refers to the Torah reading as a *mitsva min ha-muvhar*. Regarding the position of R. Hanneles, see also R. Jacob Shalom Sofer, *Torat Hayyim, O.H.*, sec. 139, no. 3. The third element, namely that at least ten men must listen attentively to the reading, appears in *Shulhan Arukh, O.H.*, sec. 146, no. 2 who cites this ruling of Behag. *Mishna Berura, Be’ur Halakha*, s.v. “*ve-Yesh mattirin*” *ad loc.* challenges this ruling on the grounds that *all* have to listen to the Torah reading – not just ten! Rabbis Aryeh Pomeronchik and Asher Weiss respond that the *Mishna Berura*’s question assumes that *keri’at ha-Torah* is a *hovat ha-yahid*. However, according to the view of Behag cited by R. Caro, *keri’at ha-Torah* is in fact a *hovat ha-tsibbur* and as such only a *tsibbur* of ten need be present and attentive to the reading. See R. Aryeh Pomeronchik, *Emek Berakha, Keri’at ha-Torah*, no. 3; R. Asher Weiss, *Minhat Asher, Shemot*, 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, Mitsvot* 299 (*musafin*) 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 (*mishmart*) of *kohanim*. See also R. Asher Weiss, “*Mitsvot ha-Yahid ve-ha-Tsibbur*,” *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu’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*,

n. 246. This distinction between men and women was explicitly confirmed for us by R. Nachum L. Rabinovitch (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 Weinfeld, 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 Tsedek, 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. “*Tanu Rabbanan*”; R. Zvi Pesah Frank, *Mikra’ei Kodesh, Hannuka-Purim, Arba Pashiyot*, sec. 7; R. Issacher Solomon Teichtal, *Resp. Mishne Sakhir*, I, sec. 90; R. Abraham Judah Farbstein, *Kenesset Avraham*, I, sec. 15, no. 2, subsec. 2; 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, p. 72, and *Reshimot Shiurim*, n. 30b, *supra*, *Berakhhot* 2a, p. 11; R. Ovadiah Yosef, *Yehavveh Daat*, V, sec. 25, in the note; R. Ovadiah Yosef, *Halikhot Olam*, III, *Parashat Toldot*, no. 15, n. 15; R. Moses Fischer cited in *Resp. Rivevot Efrayyim*, 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. “*ve-Likhora*,” R. Zalman Nehemiah Goldberg, *Resp. Binyan Ariel, E.H.*, “*Birkat Hatanim bi-Se’udat Sheva Berakhhot 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 Bnei Yissaskhar*, ed. R. Nathan Ortner (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. 103 *supra*; *Resp. Ginnat 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 Pruzhin 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 Shemu’a*, II, 18 where the incident is attributed to R. Glicksen; R. Elijah Feinstein of Pruzhin cited by R. Joseph B. Soloveitchik, *Shi’urei 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. Imrei Yosher*, sec. 171, nos. 2 and 3; R. Meir Arik, *Resp. Imrei Yosher be-Hadash*, sec. 8; R. Aryeh Pomeronchik, *Emek Berakha*, *Birkat ha-Torah*, no. 3; R. Joseph Fa'ur haLevi "Aliyyat Katan Likro ba-Torah," in *Sefer Zikkaron le-haRav Yitshak 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 Karelitz (*Hazon Ish*) cited by R. Abraham ha-Levi Horowitz, *Orhot Rabbenu*, additions to Vol. I, 9; R. Avraham Yeshayahu Karelitz cited in *Kuntres Likkutei ha-Mo'adim 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*, *Berakhot* 2a, 11; R. Moses Soloveitchik as transmitted by his son R. Ahron Soloveichik to R. Dov Frimer (July 8, 1997). R. Ahron Soloveichik added, however, that while his father held that *keri'at ha-Torah* was a *hovat ha-tsibbur*, in practice he was stringent to follow the view of R. Hayyim Soloveitchik that Torah reading is 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, *Ishei 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 *Miluim*, sec. 17; R. Abraham Judah Farbstein, *Kenesset Avraham*, I, sec. 15, no. 2, subsec. 2; R. Moses Sternbuch, *Resp. Teshuvot ve-Hanhagot*, I, sec. 148; *Resp. Yabbia 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 Yekutieli Efrati, *Resp. Yissa 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. Yechezkel Feinhandler, *Ashrei ha-Ish*, O.H., part I, sec. 25, nos. 15 and 16, p. 136; R. Ovadiah Yosef, *Mishnat Yosef*, I, *Shiurei Maran ha-Rishon le-Tsiyyon* 5760, *Parashat va-Yera*, *Hilkhot Leil Shabbat*, no. 7, 19; R. Ovadiah Yosef, *Hazon Ovadya*, *Shabbat II*, *Dinei ha-Oleh le-Sefer Torah*, sec. 1, n. 1; R. Isaac Yosef, *Yalkut Yosef*, II, sec. 135, "Hiyyuv Keri'at ha-Torah ve-Tiltul Sefer Torah," sec. 7, n. 9, 22; *Yalkut Yosef*, *She'erit Yosef*, III, sec. 128, *Hilkhot Nesi'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, *Halakha Berura*, VII, sec. 146, no. 2, *Halakha Berura*, no. 3; R. Asher Weiss, *Minhat Asher*, *Shemot*, sec. 27; R. Issacher Dov Hoffman, "Yishuv Da'at Maran Yabbi'a Omer Shelita she-Keri'at ha-Torah bi Hovat ha-Tsibbur," *Beit Hillel*, 12:47 (3) (*Tevet* 5753), 107. See also: R. Simha Ben Ziyon Isaac Rabinowitz, *Piskei Teshuva*, II, sec. 135, no. 2, n. 12 and references cited therein; R. Hanokh Albeck, "Keri'at Pesukei ha-Haftara be-Veit Kenesset u-Shemi'atam," *Moriah*, 27:7/8 (319/320; *Heshvan* 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'avan), *Sefer Ra'avan*, sec. 73; R. Judah ben Yakar, *Perush ha-Tefillot ve-haBerakhot*, *Din Me'ah Berakhot*, 2; Ritva, *Megilla* 23b, s.v. "Ha di-Katani"; R. Joel ha-Levi (rabbi 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 Tsemah Duran, *Resp. Tashbets*, II, sec.

163; *Peri Hadash*, O.H., sec. 146; R. Isaac Tayeb, *Erekh ha-Shulhan*, O.H. sec. 139, s.v. “*Din bet*,” R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, *Magen Gibborim*, O.H. sec. 57, no. 1, *Elef ha-Magen*, no. 1 and *Shiltei 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*, sec. 7 – basing himself on Ra’avan; R. Aryeh Zvi Fromer, *Resp. Eretz Tsevi*, II, sec. 9; R. Menashe Klein, *Resp. Mishne Halakhhot*, III, sec. 19; R. Israel Grossman, *Orah Yisrael*, sec. 10; R. Saul Breisch, *Resp. She’eilat 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, *Otserot 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 *Matteh 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, *Talkut Yosef*, *She’erit Yosef*, III, sec. 128, *Hilkhot Nesi’at Kappayyim*, no. 7, note thereto, 145; *Mishna Berura*, O.H., sec. 135, *Be’ur Halakha* s.v. “*Ein mevi’in*” at end, and sec. 146, *Bei’ur Halakha* s.v. “*ve-Yesh mattirim*” – as understood by R. David Yosef, *Halakha Berura*, VII, *Otserot 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*, I, sec. 19, no. 4, s.v. “*ve-Divrei ha-Rav*,” by R. Akiva Meller, *ha-Keri’a ha-Torah ve-Hilkhotiha* (Jerusalem, 5769), *Milw’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-Mah*”; 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. Iggerot Moshe*, O.H., I, secs. 28, s.v. “*ve-Yesh*” that *keri’at ha-Torah* is a *hovat ha-tsibbur* – despite maintaining in *Resp. Iggerot 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 Maaseh 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 Kanievsky 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 Matteh Aharon*, *Hilkhot 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 *aliyya*, 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*

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, *Tslova 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 in *Reshimot Shiurim*, n. 30b, *supra*, *Berakhot* 8a, p. 82, n. 60; R. Hayyim 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 Shachter, *Nefesh ha-Rav*, 130; R. Hayyim Soloveitchik as understood by his grandson R. Ahron Soloveichik, *Parah Matteh Aharon, Hilkhos Tefilla*, 13:20 (76). R. Ahron Soloveichik repeated this assertion in his conversation with R. Dov Frimer (July 8, 1997). See also R. Abraham Mandelbaum and R. Aaron Drazan, *va-Yitta Esbel*, 50 and 625. Other scholars suggest that it was a matter of doubt for R. Hayyim Soloveitchik. See R. Barukh Dov Leibovitch, *Birkat Shemuel, Yevamot*, sec. 21; R. Judah Heschel Levenberg, *Imrei Hen, Hilkhos 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 Shachter 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, “*Dirrei 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, *Hararei Kedem*, I (Jerusalem, 5769), sec. 215, parag. b, *s.v. ve-Hinneb*; R. Joseph B. Soloveitchik, in *Reshimot 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, *Iggerot 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, Hilkhos Keri'at ha-Torah*, sec. 135, no. 13, 31; R. Joseph B. Soloveitchik, *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit, Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhos 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, *Yom Tov Shen ke-Hilkhat*, 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. Sheima Shlomo*, IV, sec. 5; and R. Nadav Perets, *Nidvat Perets*, *Megilla*, 24a s.v. "*ba-Mishna, ha-Maftir*," 54, and sec. 5, 115; R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 23a, "*Keri'at ha-Torah al yedei 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*.

This analysis is resonant in a plethora of sources. See: *Bava Batra* 43a "*shani sefer Tora, de-liShemi'a kai*," R. Jonathan ha-Kohen of Lunil, *Megilla* (Mirskey edition, Jerusalem, 5704), 79; Meiri, *Megilla* 24a, s.v. "*ha-Mishna he-hamishit*"; Rabbenu Jacob Tam cited by *Tosafot R. Yehuda he-Hasid*, *Berakhot* 47b, s.v. "*Zot teshuvav Rabbenu Tam*," *Tosafot ha-Rosh*, *Berakhot* 48a, s.v. "*Leit hilkhet*" and *Rosh*, *Berakhot* ch. 7, sec. 20; R. Jacob Weil as cited by R. Israel Brona, *Resp. Mahari Brona*, sec. 103; R. Israel Brona, *Resp. Mahari Brona*, sec. 200; R. Shalom Mordechai Schvadron, *Resp. Maharsham*, I, sec. 175 and *Da'at Torah*, O.H., sec. 69, no. 1, s.v. "*ve-Ayyen Magen Avraham*"; R. Aaron Lewin, *Birkat Aharon*, *Berakhot*, ch. 1, sec. 53; R. Joseph Engel, *Tsiyyunim la-Torah*, *Kelal* 9; *Biur Halakha*, O.H., sec. 141, s.v. "*le-Vattala*," R. Ben-Zion Meir Hai Uziel, *Resp. Mishpetei Uziel*, III, O.H. sec. 14; R. Yudel Rosenberg, *Resp. Yehavveh Da'at*, O.H., sec. 2; R. Gedalia Felder, *Yesodei Yeshurun*, II, 172-174; *Resp. Tsits Eliezer*, VII, O.H., sec. 1, *anaf* 8, no. 23; R. Ovadiah Yosef, *Yehavveh Daat*, V, sec. 25; R. Israel Grossman, *Orah Yisrael*, sec. 10; R. Joseph Fa'ur ha-Levi, "*Aliyyat Katan Likro ba-Torah*," in *Sefer Zikkaron le-haRav Yitshak Nissim* (Yad ha-Rav Nissim: Jerusalem, 5745), Meir Benayahu ed., 113-133; R. David Jeremiah Zvi Rabinowitz, *Iyyunei Halakhot*, 204, sec. 5, no. 2; R. Moses Sternbuch, *Moadim u-Zemanin*, VII, sec. 125; *Keneset Avraham*, sec. 15, no. 2, subsec. 2; R. Aaron Boaron, *Birkat Aharon*, I, 147; R. Zalman Druck, *Mikra'ei Kodesh: Hilkhot Keri'at ha-Torah*, sec. 12, p. 48ff; R. Elijah Schlessinger, *Resp. Sho'alin ve-Doreshein*, V, secs. 12 and 13, reprinted in R. Elijah Schlessinger, *Eilu Hem Mo'adai*, V, secs. 5 and 8; R. Elyakim Getsel Pashkes, *Itturei Megilla*, *Megilla* 23a, nos. 4-5; R. Moses Aaron Slushetz, "*Birurim be-Inyanei Keri'at ha-Torah u-Birkhoteha*," *Kovets Hiddushei Torah (Beit Sefer Gavo'ah le-Tekhnologia - Makhon Lev)*, II, *Nisan* 5749, 73-94 (Part 1 - ch. 1-3), ch 1 sec. 12 and III, *Tammuz* 5752, 75-94 (Part 2 - ch. 4), ch. 4, sec. 4; R. Akiva Meller, *ha-Keri'a ba-Torah ve-Hilkhoteha* (Jerusalem, 5769), *Milu'im*, sec. 2, 711-714; 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. 1, subsec. b. See also R. Moses Aaron Slushetz, "*Hesher le-Hanhagat ha-Gra bi-Keri'at Zakhor*," *Kovets Hiddushei Torah (Beit Sefer Gavo'ah le-Tekhnologia - Makhon Lev)*, IV, *Summer* 5763, 113-123.

Often included in this *hovat shemi'a* school is R. Moses Soloveitchik who ruled that when a *ba'al keriah* reads for the community, he cannot have intention to exclude a particular individual [this is referred to as the case of the *ba'al keriah* 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 keriah* [via *shome'a ke-oneh*]. See: 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. 141, no. 2, 50; R. Joseph B. Soloveitchik, *Shiurei ha-Rav*

ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyanei Tsitsit, 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 keriah* is to read for the community, not for any individual. See: 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, 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 keriah* cannot have intention to exclude a particular individual. See the story as formulated by R. Ahron Soloveichik, *Parah Match 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 *mitsva* 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. Ovadiah Yosef to R. David ha-Kohen Sakli, *Kiryat Hana David* II, sec. 43 (appears in volume I); 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*.

116. *Inter alia*, R. Nathan ben Jehiel (author of *Arukh*) cited in R. Eleazar ben Judah of Worms, *Sefer ha-Roke'ah*, sec. 334 – see *Beit Yosef*, O.H. sec. 135, s.v. "*ve-Katav ha-Roke'ah*"; Maimonides, Commentary to *Mishna, Megilla* 4:6, citing "one of the latter Gaonim;" R. Obadiah Ben Abraham Yare Bertinoro, *Megilla* 4:6; *Magen Avraham*, O.H., sec. 282, subsec. 5; *Mishna Berura*, O.H., sec. 282, subsec. 11; *Resp. Iggerot Moshe*, O.H. II, sec. 98. See comments of R. Jacob Kaminetsky, *Emet*

le-Yaakov, O.H., sec. 282, no. 3, *s.v.* “*Sham ha-Kol* (second).” For a presentation of dissenting opinions, see: R. Jehiel Abraham Zilber, *Birur Halakha*, III, *O.H.*, sec. 282, 47-48.

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’at ha-Torah*, one view suggests that he instituted that **one** *oleh* should read three verses (analogous to the view of *Meiri* 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 *Mishna Berura ad loc.*, no. 1.

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

118. Proverbs 14:28. See also: “*Be-Rov Am Hadrat Melekh*,” *Encyclopedia Talmudit*, IV, 195; R. Abraham Isaiah Pfoifer, *Ishei Yisrael*, sec. 8, no. 9; R. Baruch Chaim Simon, *Be-Rov Am Hadrat Melekh, Or ha-Mizrah*, 48:3-4 (*Nissan* 5763), 90-100.

119. R. Joshua Menahem Mendel Ehrenberg, *Resp. Devar Yehoshua*, I, sec. 96, *s.v.* “*ve-Al pi zeh.*”

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 olin;*” 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-Ketsi’a, Tur, O.H.*, sec. 282; R. Gedalia Felder, *Yesodei Yeshurun*, IV, *Ma’arekhet Keri’at ha-Torah*, 405; *Mi-Shiurei Maran ha-Rishon le-Tsion Rabbenu Ovadiah Yosef 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 Talmudit*, II, 244-246.

125. *Berakhot* 33a; M.T., *Hilkhot Berakhot* 1:15; “*Berakha she-Eina Tserikha*,” *Encyclopedia Talmudit*, IV, 280ff; R. Uri Bezael Fischer, “*Din Berakha le-Vattala – Berakha she-Eina Tserikha*,” *Be-Lekhtekha va-Derekh*” (*Yeshivat Kerem be-Yavneh*), 25 (Winter 5767), 44-83; R. Asher Weiss, “*Berakha she-Eina Tserikha*,” *Minhat Asher, Shemot*, 205-211; R. Asher Weiss, “*Berakha she-Eina Tserikha*,” *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu’i, Parashat Yitro* 5773, 11, 17 (431). See also discussion and sources at nn. 376 and 377.

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; *Meiri, Eruvin* 96a, *Rosh ha-Shana* 33a, *Hagiga* 16b, *Bava Kamma* 86b, *Hullin* 85a and *Hibbur 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, “. . . commanded us,” is not inappropriate either. After all, the Talmud (*Kiddushin* 31a; *Bava Kama* 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 metsuyveh 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-osa mevarekhet* principle is not applicable to women’s tefilla 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 Zanzev and Karlin-Stolin dynasty refrain from reciting *berakhot* on time-determined commandments. In addition, Zanzev women are stringent about not entering a *sukka*. 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 *sukka*, see: comments of R. Yaakov David Ilan to *Tosafot ha-Rosh* (Jerusalem, Mossad Harav Kook), *Sukka*, 21b, n. 35.

128. *M.T.*, *Hilkhot Tsitsit* 3:9.

129. *Shulhan Arukh*, O.H., sec. 589, no. 6.

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 Ovadiah – Yom Tov, Hilkhot Sefirat ha-Omer ve-Yemei ha-Sefira*, no. 5, n. 11, 220. R. Ovadia Yosef, *Hazon Ovadya – Sukkot, Dinei ha-Yeshiva ha-Sukka*, sec. 19, n. 41, 149 and *Hilkhot Arba’at ha-Minim*, sec. 11, n. 10, 339. R. Ovadia Yosef in his Letter of Approval 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 Ovadya – Sukkot, Hilkhot Arba’at ha-Minim*, sec. 11 and end of n. 10, 340, and sec. 42, 425.

131. For leading references (and citation of dissenting opinions), see R. David Auerbach, *Halikhot Beitah, Petakh ha-Bayit*, sec. 18; R. Jehiel Abraham Zilber, *Birur Halakha, Tinyana*, O.H. secs. 589 and 640; R. Eliezer Judah Waldenberg, *Resp. Tsits Eliezer*, IX, sec. 2 and XVII, sec. 64; R. Isaac Nissim, *Resp. Yein ha-Tov*, 28; R. Abraham Antebbi, *Hokhma u-Mussar*, sec. 231; R. Moses Malka, *Resp. Mikve ha-Mayyim*, III, sec. 16, IV, sec. 62, and V, secs. 28-29; R. Yosef Kafih in his commentary to *M.T.*, *Hilkhot Tsitsit* 3:9, no. 28; R. David S. Cohen, *Sukkat David*, sec. 2, 8, p. 105; R. Shaul David Boutchako, “*Birkhot Nashim be-Mitsvot Aseh she-haZeman Geramma*,” *Kol me-Heikhal*, VII (*Tevet*, 5758), 61-65. See also Aryeh A. Frimer and Dov I. Frimer, n. 58 *supra*, Addendum, Part 1a. In line with the view of R. Ovadia Yosef

(*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 responsum, dated 19 Kislev 5750 (December 17, 1989), regarding women's prayer services at the Western Wall, cited by Eliav Shochetman, "*Minyanei Nashim ba-Kotel*," *Tehumin* 15 (5755), 161-184. Surprisingly, however, in a responsum written two months later (Adar 5748), R. Eliyahu, based on *Kaf ha-Hayyim*, O.H., sec. 70, no. 1, rules that Sefardi women may recite all prayer benedictions (*birkhot ha-tefilla*)—contrary to R. Ovadiah 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-tsivvanu*" formulation (*vide infra*, n. 132); see R. Isaac Ratsabi, *Resp. Olat Yitshak*, I, sec. 166, no. 3; R. Isaac Ratsabi, *Shulhan Arukh haMekutsar*, 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 Genuza* 12, and R. Reuben Amar, *Minhagei ha-Hida*, O.H. part 1, sec. 21, *Hilkhot Berakhhot*, 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. Ovadiah 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 *sukka*. (Regarding *sukka*, *vide* R. Yaakov David Ilan, n. 127 *supra*.) Interestingly, R. Naphtali Tsevi Judah Berlin, *She'iltot, va-Yakbel, She'ilta* 67, *Ha'amek She'alah*, 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*, *Berakhhot* 26a; R. Raphael Shapiro, *Torat Refael*, I, O.H., *Hilkhot Birkhot ha-Torah*, sec. 2 at end, s.v. "*Amnam 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*, *Mishmat Ya'avets*, *Hilkhot Tsitsit* 3:9, 58; R. Shlomo Zalman Auerbach, cited by R. Yehoshua Yeshayahu Neuwirth, *Shemirat Shabbat ke-Hilkhatat*, II, sec. 61, no. 24, n. 69, *Resp. Minhat Shlomo*, II, sec. 59, no. 22 in *Otserot Shlomo* 5759 Edition and sec. 58, no. 3, subsec. 2 in *Sons' 5760 Edition*, and *Halikhot Shlomo*, *Hilkhot Tefilla*, ch 5, *Devar Halakha*, no. 4; *Halikhot Beitah*, *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 "*Hiyyuv Nashim be-Tefilla*," *Tsefunot* 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. Yabbia 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-Hilkhotav*, I, ch. 2, end of n. 12; ch. 13, no. 1.

135. Rashba, *Rosh ha-Shana*, 33a, s.v. “Rabbi Yossi;”

136. *Shulhan Arukh*, O.H., sec. 47, nos. 10-12.

137. R. Issacher Ber Eilenberg, *Be’er Sheva*, *Sota* 33a; R. Raphael Joseph Hazan, cited by R. Hayyim Palagi, *Semikha le-Hayyim*, sec. 2; R. Jacob Bruchin, *Resp. Mishkenot Yaakov*, O.H., sec. 60 (in 5598 Vilna ed.; sec. 63 in 5720 Jerusalem ed.); R. Raphael Shapiro, *Torat Refael*, I, O.H., *Hilkhot Birkhot ha-Torah*, sec. 2; R. Abraham Dovber Kahana Shapiro, *Resp. Devar Avraham*, I, sec. 16, no. 17.

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 keriat 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 *keriat ha-Torah* benedictions were established primarily to extol God and show honor to the Torah (*mishum kevod ha-Torah*); hence, the *birkhot keriat 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 Keriat 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 Yitshak 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 Yitshak 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 he-Hasid*), *Berakhot* 11a, s.v. “*mi-sheKara*,” R. Isaac ben Moses of Vienna, *Sefer Or Zarua*, I, *Hilkhot Keriat Shema*, sec. 22; R. Meir ben Simeon ha-Me’il, *Sefer ha-Me’orot*, *Berakhot* 12a, s.v. “*Avak*,” *Shibbolei ha-Leket* sec. 5; *Hiddushei ha-Rashba*, *Berakhot* 11a, s.v. “*Hishkim*,” *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 – Mishpete 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 *keriat 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 hibbat ha-Torah, she-nitkena be-rabbim li-khevod ha-Torah*); *Shulhan Arukh*, O.H., sec. 139, no. 8; *Arukh ha-Shulhan*, sec. 139, O.H., no. 9; *Resp. Mishpetei Uziel*, III (*Mahadura Tinyana*, 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-Hinnech be-guf*,” *Resp. Tsits Eliezer*, XII, sec. 37, s.v. “*ve-Hinnech 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 Sakhir*, I, sec. 90 (digested at length in R. Isaac Flaxer, *Sha’arei Yitschak*, VIII, *Birurei Yom Tov Sheni*, *klal* 11, no. 3); *Resp. Mishne Halakhot*, VI, sec. 13 and XI, sec. 116 (*kevod ha-kahal*); 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-Hilkhat*, ch. 9, nn. 14, 27, and 28; R. Mordechai Eliyahu, *Kol Tsofayikh*, *Parashat va-Yehi* 5759 and *Va-Yiggash*, 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 *mitsva* of public Torah **learning** as opposed to a *mitsva* of public Torah **reading** is a subtle one, but it is well documented by R. Elyakim Getsel 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 Keri’at ha-Torah*); Rashi, *Sefer ha-Ora*, I, sec. 11; R. Isaac ben R. Judah, *Tosafot*, *Rosh ha-Shana* 33a, s.v. “*Ha Rabbi Yehuda*,” *Or Zarua*, II, *Hilkhot Pesachim*, sec. 254, s.v. “*Sahu she-ha-Nashim*”; Meiri, *Megilla* 23a, s.v. “*ha-Kol Olin*”; *Shibbolei ha-Leket*, sec. 5; R. Nissim de Rif regarding *Megilla* 23a; *Tur* and *Shulhan Arukh*, sec. 139, no. 8; R. Yudel Rosenberg, *Resp. Yehavveh Da’at*, O.H., sec. 2, s.v. “*ve-Ta’ama de-milta*,” R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav*, *Hilkhot Keri’at ha-Torah*, sec. 135, no. 13, 31; R. Joseph B. Soloveitchik, *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit*, *Tefillin u-Keri’at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot Keri’at ha-Torah*, sec. 135, no. 13, 156. R. Moshe Barukh Karp, “*Hovat ha-Tsibbur be-Keri’at ha-Torah*,” *Beit Yitshak*, 43 (5771), 373-377, distinguishes between Torah study of the public vs. Torah study in public; *keri’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 *mitsva* of public Torah **reading**, includes, *inter alia*: *Hiddushei ha-Rashba*, *Rosh ha-Shana* 33a, s.v. “*Rabbi Yosi*,” and *Tosafot R. Yehuda Sirlion* (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-mitsva*, are the dominant opinion of the *posekim*. R. Elhanan Berlin indicates that the position of the Jerusalem Talmud, *Megilla*, ch. 4, *Halakha* 1 (“*Asa’uha ke-she’ar kol ha-mitsvot she-baTorah. Ma she’ar kol ha-mitsvot te’unot berakha, af zo te’una berakha*”) is that *birkot ha-Torah* are *birkot ha-Mitsva*; see R. Elhanan Berlin “*be-Divrei ha-Leket Yosher be-Inyan Nashim be-Keri’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 *mitsva* of *keri’at ha-Torah*. See at length R. Abraham Dovber Kahana Shapiro, *Resp. Devar Avraham*, I, sec. 16, esp. no. 26; R. Asher Weiss, *Minhat Asher*, *Talmud Torah: Keri’atah u-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 *mitsva* of public *keri’at ha-Torah*; the closing *berakha*, however, may be an independent requirement.

141. R. Yaakov Ariel, *Resp. be-Ohalah Shel Torah*, I, Y.D., *Petihah*, no. 14 and O.H., sec. 9, no. 4.

142. Rashi, *Berakhot* 11b, s.v. “*ve-Zo bi*” indicates that the benediction “*asher ba-har banu*” contains “*boda’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 Zarua*, 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-rav 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 Pomeronchik, *Emek Berakha*, *Birkat ha-Torah*, no. 1. As explained by R. Joseph B. Soloveitchik, *Shiurim le-Zekher Aba Mari za”l*, II, *be-Inyan Takkanat 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 keriat ha-Torah*. Hence, even though women are exempt from a *keriat 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 *keriat 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 keriat ha-Torah* should they receive an *aliyya* – even though they are exempt from the obligation of *keriat 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

or after *mitsva* actions – like *birkhot ha-Torah* or *birkhot ha-Haftara* – are by definition *birkhot ha-mitsva*, 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-mitsva* was actually stated several centuries ago by R. Joseph Barukh Kazis, cited in R. Isaac Lampronti, *Pahad Yitsbak* (Mosad Harav Kook, Jerusalem: 5737), IV, *Birkat ha-Shevah*, 121-126. As a result, R. Rabinovitch posits that a woman whose *birkhot kerī’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-mitsva* 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 kerī’at ha-Torah* and that it can be recited repeatedly, whenever one receives an *aliyya*. See R. Joseph B. Soloveitchik, *Reshimot Shiurim*, n. 30b, *supra*, *Berakhot* 11b, 109-110; R. Aharon Lichtenstein cited in R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhot Kerī’at ha-Torah*, sec. 137, no. 4, *Magen Avraham* n. 8, p. 36-37 and in *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit, Tefillin u-Kerī’at ha-Torah, Hilkhot Kerī’at ha-Torah*, sec. 137, no. 4, *Magen Avraham* n. 8, p. 166-167. (We note that R. Lichtenstein’s suggestion was made in 1960, independently of his father-in-law, R. J.B. Soloveitchik, whose comments were made in a *shiur* given in 1982); R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, 340. R. Pashkes, *ibid.*, 344, also suggests that this is the view of Meiri. R. Jacob Bezalel Zolty, *Mishnat Ya’avets, O.H.*, sec. 31, no. 1, cites in this regard Nahmanides, *Sefer ha-Mitsvot*, Additional Commandment 15. This may also be the view of R. Manoah of Narbonne, *Sefer ha-Menuha, Hilkhot Tefilla and Birkat Kohanim*, 12:17. We note that in none of the above citations do any of the *rishonim* state explicitly that *birkhot ha-Torah* are **not** *birkhot ha-mitsva*; they are all inferences where other explanations are also possible. Thus, one could well argue that the fact that *birkhot kerī’at ha-Torah* can be recited repeatedly is not because they are *birkhot ha-shevah* (see below). Rather, Hazal gave the *mitsva* of public Torah reading special rules not normative in other rituals. This is indeed the position of Rashba, *Rosh ha-Shana* 33a, s.v. “*R. Yosi ve-Rav Shimon*,” and may be the opinion of R. Tam as well.

It is noteworthy that, although maintaining that *birkhot ha-Torah* are **not** *birkhot ha-mitsva*, neither R. Hayyim Soloveitchik nor his son R. Velvel ever indicated what they were. R. Joseph B. Soloveitchik, *Reshimot Shiurim*, *ibid.*, at times explained his grandfather R. Hayyim 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: Mahara”l, *Netivot Olam, Netiv ha-Torah*, sec. 7; R. Jacob Joshua Falk, *Penei Yehoshua, Berakhot* 11b, s.v. “*be-Otam devarim ve-haTsarfatim*”; R. Joseph Babad, *Minhat Hinnukh*, end of commandment 430; R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, *Magen Gibborim, O.H.*, sec. 47, no. 14, *Shiltei ha-Gibborim* n. 14; R. Abraham Isaac ha-Kohen Kook, *Orah Mishpat O.H.*, sec. 11; R. Joseph Kafih *ibid.*; R. Menasheh Klein, *Mishneh Halakhot*, VI, no. 13 and further elucidated in *Haggada Maggid Mishneh*, 169; R. Moses Sternbuch, *Resp. Teshuvot ve-Hanahagot*, II, sec. 35; R. Asher Weiss, *Minhat Asher, Talmud Torah: Kerī’atah u-Khetivatah*, sec. 6a-b; R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, “*Birkat ha-Kore ha-Torah*,” no. 5, p. 340. R. Jacob Israel Kanievsky, *Kehillot Yaakov, 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 Shevut: 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 bahar...*” and “*asher natan...*” affirming this fact. This is consistent with the requirement of the *oleh* 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-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts”l al Inyanei Tsitsit*, *Tefillin u-Keri’at ha-Torah*, *Hilkhot Keri’at ha-Torah*, sec. 141, no. 1, 182-184; R. Joseph B. Soloveitchik, *Reshimot Shiurim*, 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 *be-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. Yabbia 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 keriat 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 *birkhot 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 keriat 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 keriat 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 keriat ha-Torah* cannot prevent or impact upon the *mitsva* of reading the Torah itself. See R. Asher Weiss, *Minhat Asher*, *Talmud Torah: Keri’atah u-Khetivatah*, sec. 9b. See also *supra*, end of n. 140.

144. R. Judah ben Yakar, *Perush ha-Tefillot ve-haBerakhot*, *Din Me’ah Berakhot*, 2; *Sefer Ra’avan*, 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-nikbnasin*; *Resp. Radvaz*, III, sec. 425 (c.f., *Resp. Radvaz*, I, sec. 572); R. Isaiah ben Abraham ha-Levi Horowitz (Shelah), *Hagahot Yesh Nohalin*, *Perek Zehirut ha-Torah*, *Azharot ha-Shabbat*, sec. 39; Bah, *Tur*, O.H., sec. 140, s.v. “*Yerushalmi*” according to view of Maimonides; *Ginnat Veradim*, O.H., *Klal* 2, sec. 21; R. Joseph Saul Nathanson and R. Mordechai Zev Eitinge, *Magen Gibborim*, O.H., sec. 57, *Shiltei Gibborim*, no. 1; R. Isaac Maltson, *Si’ah Yitshak on Siddur ha-Gra Ishei Yisrael*, *Hanhagat ha-Kahal be-Et Keri’at ha-Torah* (after Sabbath *Shaharit*); R. Joseph ben Raphael Skovitch, *Porat Yosef*, *Megilla* 21b, s.v. “*Gemara. Gezeira mi-shum*”; R. Aryeh Zvi Fromer, *Resp. Erets Tsevi*, 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*”;

Ran, Gloss to Rif, *Megilla* 23a, s.v. “*Ha-Kol olin*,” R. Ephraim cited by Ra’avya, II, 265 and by Mordechai, *Megilla*, ch. 4, sec. 832; R. Asher ben Jacob, Rosh, *Megilla*, ch. 3, no. 1 (21b) – see *Mishna Berura*, *Be’ur Halakha*, O.H., sec. 141, s.v. “*le-Vattala*,” R. David ben Samuel ha-Kokhavi, *Sefer ha-Battim*, *Beit Tefilla*, *Sha’arei Keri’at ha-Torah*, *Shaar* 2, no. 6; R. Aaron ha-Kohen of Lunil, *Kol Bo*, sec. 20, “*Din Hotsa’at ha-Torah*, *ve-Din ha-Keri’a u-Virkoteha*,” *Resp. Radvaz*, I, sec. 572 (c.f., *Resp. Radvaz* III, sec. 425); R. David ben Samuel ha-Levi, *Turei Zahav* (Taz), sec. 428, no. 5; *Magen Avraham*, sec. 284, no. 4 and sec. 585, no. 7; *Resp. Tsemah Tsedek*, O.H., sec. 35; *Resp. Maharsham*, sec. 175; *Da’at Torah*, O.H., sec. 69, no. 1, end s.v. “*ve-Ayyein Magen Avraham*,” *Itim le-Bina*, *supra* n. 106, sec. 178, n. 80; *Arukh ha-Shulhan*, O.H., sec. 139, no. 11; *Resp. Mishpetei Uziel*, III, O.H., sec. 14, no. 2; R. Yudel Rosenberg, *Resp. Yehaveh Da’at*, O.H., sec. 2, s.v. “*ve-Tsarikh lada’at*,” R. Bezalel Zolty, *Mishnat Yaavets*, O.H., sec. 26, no. 2; R. Abraham Weinfeld, *Resp. Lev Avraham*, I, sec. 64; R. Israel Grossman, *Orah Yisrael*, sec. 10, no. 6; R. Hayim Shaul Grainiman, *supra* n. 106, s.v. “*Megilla* 21b;” R. Moses Sternbuch, *Hilkhot ha-Gra u-Minhagav*, *Hilkhot Keri’at ha-Torah*, sec. 126; R. David Jeremiah Zvi Rabinowitz, *Iyyunei Halakhot*, 204, sec. 5, no. 2; R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, “*ha-Shomin Keri’at ha-Torah I Mehayvei ba-Berakha*,” 340. For further discussion and references; see: R. Aaron Boaron, *Birkat Aharon*, I, 151-154; R. Zvi Rabinowitz, *Nezer ha-Torah*, 5:2 (11) (Nissan 5765), 215-223; R. Shlomo Goren, *Meshiv Milhama*, II (*ha-Idra Rabba*: Jerusalem, 5744), gate 7, sec. 107, p. 176 and 179, no. 5; R. Menashe Klein, *Resp. Mishne Halakhot*, VI, sec. 33; R. Elijah Schlessinger, *Resp. Sho’alin ve-Doreshein*, V, secs. 12 and 13 – reprinted in R. Elijah Schlessinger, *Elu Hem Mo’adai*, V, secs. 5 and 8. Both Rabbis Boaron and Pashkes state that this is the dominant view in *posekim*.

146. R. Ephraim cited by Ra’avya, II, 265 and by Mordechai, *Megilla*, ch. 4, sec. 832; Meiri, *Megilla*, 21b, s.v. “*ha-Mishna ha-sheniya*”; Rabbenu Nissim (Ran), gloss to Rif, *Megilla* 23a, s.v. “*Ha-Kol olin*,” Bah, *Tur*, O.H., sec. 140, s.v. “*Yerushalmi*,” Taz, O.H., sec. 140, no. 3 and sec. 428, no. 5; *Magen Avraham*, O.H. sec. 140, no. 2; R. Nathaniel Weil, *Korban Netanel*, on Rosh, *Megilla*, ch. 3, sec. 3, note *samekh*; R. Aryeh Leib Ginzburg, *Turei Even*, *Megilla* 31; *Resp. Noda bi-Yehuda*, *Tanyana*, O.H., sec. 15; *Resp. Hatam Sofer*, I, O.H., sec. 170; *Resp. Maharsham*, I, sec. 175; R. Solomon ha-Kohen (of Vilna), *Resp. Binyan Shlomo*, sec. 20, s.v. “*Teshuva*,” “*Birkat ha-Torah*,” *Encyclopedia Talmudit*, IV, 629 at n. 188.

There are a few sources, however, which suggest that – even under the old system – the *birkhot kerit’at ha-Torah* may have been the sole personal obligation of the first and last *olim*. See: *Resp. Mishpetei 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 Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, “*be-Shitat 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 *birkot 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 Lehakniso* at a circumcision; see R. Asher Weiss, “*be-Inyan Birkat Erusin*,” *Shiur Moreinu ha-Rav Shlita*, *Kuntres Shevu’i*, *Parashat 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 Ahronoth 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 asheh 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 *aliyyot* 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

commentary to *Megilla* 21b (n. 144, *supra*) that the *oleh* recites the benedictions for all present. Since women are not obligated in the *birkhot kerī'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, *Kerī'at Nashim ha-Torah*, available online at <http://www.kipa.co.il/ask/show/27015>, suggests that since women do not count for the *minyan* of *kerī'at ha-Torah*, they certainly cannot recite *Barekhu*. 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 *kerī'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 *kerī'at ha-Torah*. Thus, the congregation as a whole would not fulfill its communal obligation of *kerī'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. See: R. Joseph Caro, *Beit Yosef on Tur, O.H.*, sec. 282, s.v. “*ha-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.

155. *Vide supra*, sec. Vb. Clearly, R. Caro, *supra* n. 129, cannot hold position b.

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 kerī'at ha-Torah*. The responsa of R. Tam is cited by Tosafot Rabbenu Yehuda Sirlion (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, Hilkhot Tefilla and Birkat Kohanim*, 12:7.

157. R. Issacher Solomon Teichtal, *Resp. Mishne Sakhir*, I, sec. 90. R. Shlomo Zalman Auerbach has invoked this position in *be-di'Avad* situations (see below), as recorded in R. Yerachmiel David Fried, *Yom Tov Shenī ke-Hilkhatō*, ch. 9, n. 14 (1988 ed.; n. 13 in 1998 ed.). R. Shlomo Fischer (personal communication to Dov I. Frimer, November 29, 2002, eve of 25 Kislev 5763) agreed with this position in theory, but refused to apply it *halakha le-ma'aseh*. See also R. Hayyim Moshe Aaron Slushetz, “*Hesber le-Hanhagat ha-Gra be-Kerī'at Zakhō*,” *Kovets Hiddushei Torah* IV (Jerusalem: Makhon Lev – Jerusalem Technology College, 5763) 113-128, at 117-118. The position above of R. Auerbach as quoted by R. Fried has been cited in a variety of sources; see R. Isaac Trager and R. Aaron Auerbach, *Halikhot Shlomo*, I, *Tefilla*, ch. 16, *Devar Halakha*, no. 30; *Halikhot Shlomo*, II, *Mo'adei ha-Shana: Tishrei-Adar*, ch. 12, *Devar Halakha*, no. 4; R. Tuva Freund, *Shalmei Mo'ed*, ch. 39, p. 168; R. Simha Bunim Lazerson, *Shulhan Shlomo*, II, *Dinei Kerī'at ha-Torah*, no. 174

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 Shení 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-di'Avad*, 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 kerí'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 Shení 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*.

158. *Supra*, text at nn. 15-17.

159. *Tosafot*, *Megilla* 21b, s.v. "Tana" and *Bava Batra* 15a, s.v. "Sheмона."

160. *Mishna. Bikkurim* 3:7; see: *Tosafot*, *Bava Batra*, n. 159, *supra*; *Piskei ha-Rosh*, *Megilla*, ch. 3, sec. 1; R. Solomon ben Jehiel Luria, *Be'urei Semag*, *Esin* 48 and *Yam Shel Shlomo*, III, *Ketubbot*, ch. 1, end of sec. 17.

161. *Piskei ha-Rosh*, n. 160, *supra*. According to *Rabbeinu Meshulam*, the institution of *ba'al kerí'ah* may come to replace the *metargem* (translator) as a go-between, modeling *mattan Torah*. See R. Yair Kahn, "Vezot Ha-Torah," accessible at <http://www.vbm-torah.org/archive/parsha71/54-71vezot.htm>.

162. For an in-depth review of the sources, see R. Michael Menahem Shiloni, *Shome'a u-Mashmi'a* (Jerusalem 5766), sec. 39. R. Shiloni indicates that most *posekim* maintain that the one who does the *mitsva* action recites the benediction, while a minority maintains that the principal can do so as well. For leading sources, see Magen Avraham, O.H., sec. 432, no. 2, subsec. 6 and the comments of R. Joseph Shalom Elyashiv cited by R. Azriel Auerbach, *Kovets Halakhot mi-Maran ha-Grish Elyashiv*, O.H., no. 287, in *Sefer mi-Nashim ba-Ohel* (Jerusalem, 5773), p. 191; R. Shlomo Zalman Auerbach, *Resp. Minhat Shlomo*, II, sec. 56, no. 1 in *Otsrot Shlomo* 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons' 5760 edition; R. Asher Weiss "be-Inyan Birkat Erusin," *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu'i, Parashat Pinhas* 5768, 36 (265), sec. b, reprinted in *Kovets Darkei Hora'a*, IX (*Hilkhot Erusin ve-Nisu'in*) (5768), 69-71; R. Asher Weiss, "be-Inyan Shelihut be-Mitsvot," *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu'i, Parashat Korah* 5768, 33 (262), n. to pp. 4-5; R. Asher Weiss, "be-Inyan Birkat Erusin," *Shiur Moreinu ha-Rav Shlita, Kuntres*

Shevu'i, Parashat Hayyei Sara, 5773, XI, 6 (420), sec. b. These sources concur that the one who does the *mitsva* action recites the benediction. Interestingly, both R. Shlomo Zalman Auerbach and R. Joseph Shalom Elyashiv concur that the one who does the *mitsva* 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 kerī'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.

163. *Shibbolei ha-Leket, Hilkhot Tefilla*, sec. 36; R. Abraham Hayyim Adadi, *Resp. vaYikra Avraham*, O.H., sec. 4; *Resp. Moshe Yedaber, Hilkhot Tefilla*, sec. 1 (cited by *Resp. Tsits Eliezer*, VII, sec. 1, *anaf* 10, no. 30); R. Abraham Isaac haKohen Kook, *Resp. Orah Mishpat*, O.H., sec. 15; R. Aryeh Zvi Fromer, *Resp. Erets Tsevi*, II, sec. 9; R. Barukh Epstein, *Barukh she-Amar, le-Tefillat Hol*, s.v. "*be-Din mehuddash*," *Resp. Iggerot Moshe*, O.H. II, sec. 72; R. Eliakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 21b, "*be-Plugtat ha-Rishonim*," sec. 1.3, pp. 350-351; R. Moses Aaron Slushetz, *supra*, n. 113, ch. 1, sec. 9ff. Rabbenu Yona on Rif, *Berakhot* 34a, end of s.v. "*u-meHeikhan hu mathil*" indicates that the *ba'al kerī'ah* reads for the *oleh* – but does not explicitly invoke *shelihut*; nevertheless this is the understanding of R. Akiva Meller, *ha-Kerī'a ba-Torah ve-Hilkhoteha* (Jerusalem, 5769), *Milu'im*, sec. 3, no. 2, p. 716. See also R. Asher Weiss, *Minhat Asher, Bemidbar* (Jerusalem: *Makhon Minhat Asher*, 5766), ch. 13, 78-79. Criticism of the *shelihut* approach can be found in R. Moses Sofer, *Resp. Hatam Sofer*, I, O.H., sec. 55, s.v. "*u-Mai de-kamman*," *Resp. Tsits Eliezer*, *ibid.*; R. Jehiel Jacob Weinberg, *Resp. Seridei Eish*, I, 169; R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhot Kerī'at ha-Torah*, sec. 135, no. 13, p. 31; *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyaney Tsitsit, Tefillin u-Kerī'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot Kerī'at ha-Torah*, sec. 135, no. 13, p. 155-157. R. Yair Kahn, "*Shome'a ke-Oneh bi-Kerī'at ha-Torah*" (Unpublished summary of taped shi'urim by R. Joseph B. Soloveitchik); R. Asher Weiss, *Minhat Asher, be-Reshit* (Jerusalem: *Makhon Minhat Asher*, 5763), ch. 15, 93-94; R. Asher Weiss, "*be-Inyan Shelihut be-Mitsvot*," *Shiur Moreinu ha-Rav Shlita, Kuntres Shevu'i, Parashat Korah* 5768, 33 (262), n. to pp. 4-5.

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 *aharonim* 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. Tsits 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 *arevut* can serve as *shelihim* to fulfill an obligation or recite a benediction for someone else; see: R. Shlomo Zalman Auerbach, *Resp. Minhat Shlomo*, II,

sec. 56, no. 1 in *Otserot Shlomo* 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons' 5760 edition; R. Shlomo Zalman Auerbach, "*be-Inyan Berakha be-Kiyyum Mitsva al Yedei Shali'ah*," *Kovets Lev Aryeh le-Zikhron R. Aryeh Leib Kalisch* (Kollet Tiferet Yirmiyahu, Makhon Torani Lev Aryeh, Bayit va-Gan, Jerusalem), 44-46. Cf. the discussion of R. Michael Menahem Shiloni, *Shome'a u-Mashmi'a*, sec. 7, no. 4, 52-55.

167. See discussion in text at n. 50, *supra*. Regarding females and minors as *ba'alei keriah*, see discussion in text at n. 181, *infra*. That *arevut* generates the necessary obligation by the *ba'al keriah* 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-Im korim*;" Rosh, *Megilla*, ch. 3, no. 1; Meiri, *Megilla* 24a, s.v. "*Suma*;" *Resp. ha-Rosh*, part 3, sec. 12; *Shibbolei 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 Rabbenu Isaac cited in *Tosefot*, *Bava Batra* 15a, s.v. "*Shemona*" (at end), that the *oleh* reads along quietly. See also *Yehavveh Da'at*, IV, sec. 11. See also, R. Isaac ben Hayyim of Oppenheim, *Teshuvot Maharam 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 keriah* 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, *Ketsot ha-Shulhan*, sec. 25, no. 9; R. Ovadiah Yosef, *Halikhot Olam*, III, *Hilkhot Tefilla u-Keri'at ha-Torah*, *Parashat Toledot*, sec. 15, 129-132; R. Ovadiah Yosef, *Resp. Yehavveh Da'at*, IV, sec. 11; *Resp. Yabvia Omer*, IV, O.H., sec. 4, no. 23; *Resp. Yabvia Omer*, IX, O.H., sec. 27, no. 2 and sec. 83, no. 7; *Resp. Yabvia Omer*, X, O.H., sec. 55, part 2, no. 6; R. Ovadiah Yosef, *Mishnat Yosef*, I, *Shiurei Maran ha-Rishon le-Zion* 5760, *Parashat Hayyei Sarah*, *Hilkhot Keri'at Sefer Torah be-Shabbat*, no. 6, p. 25; R. Ovadiah Yosef, *Mishnat Yosef*, III, *Shiurei Maran ha-Rishon le-Tsiyyon* 5762, *Parashat va-Yetse*, *Hilkhot Keri'at Sefer Torah be-Shabbat*, no. 7, 55; *Yalkut Yosef*, II, sec. 141, no. 20, 114-116; R. David Yosef, *Halakha Berura*, VII, sec. 139, nos. 2 and 3, and sec. 141, no. 2, and *Otserot Yosef*, sec. 3; R. Naftali Hofner, *Sefer Halakha – Dinei Keri'at ha-Torah*, sec. 27, no. 4; *Ishei 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 ha-Kohen, *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. Yabbia 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 in 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’a ba-Torah ve-Hilkhoteha* (Jerusalem, 5769), ch. 48, n. 2;

171. R. Simha ben Samuel of Speyer cited in *Teshuvot Maharam me-Rotenburg ve-Haverav*, ed. Simcha Emanuel (Jerusalem, 2012), II, sec. 479; R. Isaac ben Moshe (*Or Zaru’a*), *Piskei Tosafot le-Hilkhot Tefilla me-Rabbenu Yitshak ben Moshe, Si’ah Tefilla* (Jerusalem, 5759), no. 20, 103, cites Rabbenu Simha b. Samuel of Speyer; R. Jacob Molin, *Sefer Maharil – Minhagim* (Jerusalem: Makhon Yeushalayim, 5749), *Hilkhot Keri’at ha-Torah*, end of sec. 3; R. Abraham ben Isaac *Av Beit Din*, *Sefer ha-Eshkol, Hilkhot Seder Parshiyot ve-Haftorot*, Auerbach Edition, part II, sec. 22, p. 69, cited by R. Joseph bar Haviva, *Nimmukei Yosef, Megilla* 24a, s.v. “R. Yehuda,” and *Beit Yosef, Tur*, O.H. sec. 141 [the text in the Albeck edition (p. 184) is different suggesting perhaps a more stringent position]; view cited in *Meiri, Megilla* 24a, s.v. “*Suma*,” R. David ben Samuel ha-Kokhavi, *Sefer ha-Batim, Beit Tefilla, Sha’arei Keri’at ha-Torah, Sha’ar* 2, no. 7; R. Alexander Suslin ha-Kohen of Frankfurt, *Sefer ha-Agudda, Bava Kamma, Pereh ha-Hovel*, sec. 114; R. Joshua Boaz Barukh, *Shiltei Gibborim* on Rif, *Megilla* 24b; R. Benjamin Ze’ev ben Mattathias of Arta, *Resp. Binyamin Ze’ev*, sec. 245; R. Benjamin Aaron Solnik, *Resp. Massat Binyamin*, sec. 62. See as well: *Resp. Rashba ha-Hadashot mi-Ketav Yad* (Jerusalem: Makhon Yerushalayim, 5765), secs. 14 and 15. R. Joseph B. Soloveitchik maintains that this is also the opinion of Rabbenu Tam cited in *Tosefot, Bava Batra* 15a, s.v. “*Shemona*”; see: R. Joseph B. Soloveitchik, *Reshimot Shiurim*, R. Zvi Joseph Reichman, ed. (New York, 5749), *Sukka* 38b, 191, s.v. “*Sham. Ba-Gemara*”; R. Yair Kahn, “*Shome’a ke-Oneh bi-Keri’at ha-Torah*” (Unpublished summary of taped shi’urim by R. Joseph B. Soloveitchik). Many scholars note that the simple understanding of the *Zohar, va-Yakhel* (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 zts”l al Inyanei Tsitsit, Tefillin u-Keri’at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot 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 *Sefaradim* to call to the Torah the blind, untrained, and illiterate, who clearly cannot or will not read along from the scroll.

See, *inter alia*, *Mishna Berura*, O.H., sec. 139, no. 13; *Arukh ha-Shulhan*, O.H., sec. 141, no. 5; R. Ovadia Hadaya, *Resp. Yaskil Avdi*, V, O.H., sec. 22, nos. 2-7; R. Shalom Messas, *Resp. Teyu'ot Shemesh*, VIII, O.H., sec. 67; R. Shalom Messas, *Resp. Shemesh u-Magen*, I, O.H., sec. 11, II, O.H., secs. 51, 55 nos. 7 and 9 and 58 no. 3, III, O.H., sec. 75, no. 3, IV, O.H., secs. 16, 49 no. 4 and 82 nos. 1 and 2; R. Shalom Messas, *Talkut Shemesh*, R. Elijah Ariel Edrei, ed., O.H., secs. 53 and 55; R. Shalom Joseph Elyashiv, cited by R. Yehezkel Feinhandler, *Ashrei ha-Ish*, O.H., part 1, sec. 25, no. 27, 138; R. Ben-Zion Abba Shaul, *Resp. Or le-Tsiyyon*, II, sec. 9, no. 6, p. 86; R. David Yosef, *Halakha Berura*, O.H., VII, *Otserot Yosef*, sec. 3; R. Jacob Ovadiah, "Suma ha-Im Oleh la-Torah," available online at <http://www.2all.co.il/web/Sites/orchma/PAGE682.asp>. It should be noted, however, that R. Ovadiah Yosef, while originally allowing *aliyyot* for the blind, ruled more stringently in later years (ca. the year 2000). For his more lenient rulings, see: R. Ovadiah Yosef, *Halikhot Olam*, III, *Hilkhot Tefilla u-Keri'at ha-Torah*, *Parashat Toledot*, 132-133; *Resp. Yabbia Omer*, I, O.H., sec. 40, no. 14; IV, O.H., sec. 8, no. 15; *Talkut Yosef*, II (1990 ed.) sec. 139, no. 4, p. 84-86. For the more stringent *pesakim*, see: *Resp. Yabbia Omer*, IX, O.H., sec. 83, no. 7, sec. 87, no. 1, sec. 88, no. 6, and sec. 108, no. 74; R. Ovadiah Yosef, *Mishnat Yosef*, I, *Shiurei Maran ha-Rishon le-Tsiyyon* 5760, *Parashat Hayyei Sarah*, *Hilkhot Keri'at Sefer Torah be-Shabbat*, no. 7, p. 25; *Talkut Yosef*, II (2004 ed.) Introduction (end), no. 2; *ibid.*, sec. 139, no. 4, p. 84-86; *ibid.*, Additions, sec. 135, no. 8, pp. 372-378. See also his view in n. 169, *supra*. Nevertheless, R. Ovadiah Yosef's position on *suma* is clearly a minority view in practice.

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 keriat shema*, the halakhic consensus is to accept the *aliyya* and recite the blessings, but not to read along with the *ba'al keriat*, again relying on Maharil; on O.H., sec. 66, par. 4, see: *Levush*; *Kenesset 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; *Sha'arei Efrayim*, *Sha'ar* I, 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 keriat* as required by Rosh. Rather, he should fulfill his obligations according to Maharil with the reading of the reader via *shomei'a ke-oneh* along with the rest of the community; see: R. Michel Zalman Shurkin, *Harerei 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.

173. This bifurcation analysis is resonant in the writings of many authors; see *inter alia*: R. Aryeh Zvi Fromer, *Resp. Erets Tsevi*, part 2, sec. 9; R. Jacob Betsalel Zolty, *Mishnat Ya'avets*, O.H., sec. 26, end of no. 2; R. Aryeh Leib Grossness, *Resp. Lev Aryeh*, II, sec. 1, no. 7; R. Yair Kahn, "Shomei'a ke-Oneh bi-Keri'at ha-Torah" (unpublished summary of taped shi'urim by R. Joseph B. Soloveitchik); R. Joseph B. Soloveitchik, *mi-Beit Midrash Shel ha-Rav*, *Hilkhot Keri'at ha-Torah*, sec. 141, no. 2, p. 50; R. Joseph B. Soloveitchik, *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyanei Tsitsit*, *Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot Keri'at ha-Torah*, sec. 141, no. 2, p. 186; R. Saul Bruice, "Be-Inyan Berakha de-Keri'at ha-Torah," *Yeshurun – Ma'asef Torani*, III (*Makhoron Yeshurun*, NY-Jerusalem, Elul 5757), 251-252; R. Eliezer Lerner, "Gidrei Keri'at ha-Oleh la-Torah im ha-Shats," *Beit Hillel*, 5:2 (18) (*Iyar* 5764); R. Ezra Bick, "be-Inyan Mitsvat Keri'at ha-Torah be-Tsibbur," available online at www.etzion.org.il/

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 Slushetz, *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, *mi-Beit Midrasho Shel ha-Rav, Hilkhoh Keri'at ha-Torah*, sec. 135, no. 13, p. 31; *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyanei Tsitsit, Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhoh Keri'at ha-Torah*, sec. 135, no. 13, pp. 156-157.

175. The school of Rabbenu Asher (Rosh) does not deny the general effectiveness of *shelibut* 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'ah*, are only obligated to **hear** the Torah read. Hence, the *ba'al keri'ah* who is only obligated to hear cannot be *motsi* 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*. See: 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. Yabbia 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 Getsel 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*. See: R. Elijah ben Benjamin ha-Levi, *Resp. Zekan Aharon*, sec. 60; R. Judah Ayash, *Matteh Yehuda* (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. Ya'avets*, I, sec. 75; R. Israel Grosman, *Orah Yisrael*, sec. 10, no. 6; R. Ovadia Yosef, *Hazon Ovadya, Hilkhoh 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, *Minhagei 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 Tsiibur*, no. 7, n. 9; *Hazon Ovadya, Hilkhoh Shabbat*, part 2, *Din ha-Oleh le-Sefer Torah*, sec. 1, 258.

(d) A rationale relevant particularly to the blind (*suma*) maintains that the *oleh* 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. “*u-Ma she-katav.*”

(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 circumcision, tithing produce, and *bedikat hamets* – three *mitsvot* that can be done via a *shaliach* – the *de facto* *mohel*, tither, and *bodek* recite the relevant *birkhot ha-mitsva*. By *keri’at ha-Torah*, it is the task of the *oleh* to read the portion. If the *oleh* doesn’t do so personally, then the *ba’al kerī’ah* alone will be doing the *mitsva* act; hence, it is the *ba’al kerī’ah* who should be reciting the *berakhot*, not the *oleh*. 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 kerī’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 Esh*, II, sec. 62; R. Shlomo Zalman Auerbach, *Resp. Minhat Shlomo*, II, sec. 56, no. 1 in *Otserot Shlomo* 5759 edition and sec. 58, no. 4, subsec. 2 in the Sons’ 5760 edition; R. Shlomo Zalman Auerbach, “*be-Inyan Berakha be-Kiyyum Mitsva al Yedei Shaliach*,” *Kovets Lev Aryeh le-Zikhron R. Aryeh Leib Kalisch (Kollet Tiferet Yirmiyahu*, Makhon Torani Lev Aryeh, Bayit va-Gan, Jerusalem) 44-46; R. Reuben Amar, *Minhagei ha-Hida*, O.H. II, *Minhagei Megilla u-Purim*, no. 5, *Ro’eh Yisrael*, 224. See also the comments of R. Aaron Zelevnick and R. Aaron Eisenbach to *Resp. Rashba – ha-Hadashot mi-Ketav Yad* (Jerusalem: Makhon Yerushalayim, 5765), sec. 14, n. 3. Consequently, in order to allow the *oleh* 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, “*Hesber le-Hanhagat ha-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 Tsedek*, 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, *Be’er Hetev*, O.H., sec. 282, no. 7; R. Hayyim Jacob Shadar of Tsfat, *Resp. Sama de-Hayyei*, O.H., sec. 16; 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*, klal 31, no. 39; R. Yeshua Shababu *yedia Zayin*, *Resp. Perah Shoshan*, O.H., klal 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 Margaliot, *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 Na’eh, *Ketsot 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 Yehosef*, 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, *Keneset 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-Hilkhat* (1988 ed.), addendum to ch. 9, n. 31-4, p. 346; R. Shraga Feivish Schneebalg, *Resp. Shraga ha-Meir*, III, sec. 65, no. 3; R. Shlomo Goren, *Meshiv Milhama*, 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 Getsel 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 kerī’ah* for a diaspora community on *Yom Tov Sheni*, since he bears no *kerī’at ha-Torah* obligation; see *Yom Tov Sheni ke-Hilkhat* (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*, *Musakh ha-Shabbat*, *Hilkhot Keri’at ha-Torah*, *Minyan ha-Olim le-Sefer Torah*, sec. 7; R. Hayyim Joseph David Azulai (Hida), *Birkei Yosef*, O.H. sec. 282, no. 8; *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; *Yehavveh Da’at*, V, sec. 25 (see also the discussion at the end of n. 181, *infra*); *Hazon Ovadya*, *Hilkhot Shabbat*, part 2, *Hilkhot Keri’at ha-Torah*, sec. 9, n. 9; R. Ovadiah Yosef, *Livnat Hen*, sec. 282, no. 19; R. Isaac Yosef, *Yalkut Yosef*, II, sec. 135, *Seder ha-Olim le-Sefer Torah*, sec. 33, and IV, *Hilkhot Shabbat*, part 1, sec. 282, *Dinei Keri’at ha-Torah be-Shabbat*, n. 15; R. Isaac Yosef, *Yalkut Yosef*, *Dinei Hinnukh Katan u-Bar Mitsva*, *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, *Rivevot Efrayyim*, 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*,” *Beit 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 Malkah, *Resp. Mikveh Mayyim*, VI, O.H., sec. 11 (see, however, III, O.H., sec. 26); R. Joseph Shalom Elyashiv, cited in R. Joseph Yekutieli Efrati, *Resp. Yissa Yosef*, O.H. II, sec. 76; R. Shlomo Moshe Amar, *Resp. Sheima Shlomo*, IV, sec. 5; R. Abraham Joshua Pfoifer, *Ishai Yisrael*, sec. 38, no. 14; R. Barukh Rakovsky, *ha-Katan ve-Hilkhotav*, I, ch. 12, no. 2.

178. (a) R. Judah Aryeh Leib Alter of Gur, *Sefat Emet*, *Shabbat* 23a, s.v. “*Ayein ba-Rav*,” R. Judah Yudel Rosenberg, *Resp. Yehavveh Da’at*, I, O.H., sec. 2; R. Moses Malka, *Resp. Mikveh Mayyim*, III, O.H., sec. 26 (see, however, VI, O.H., sec. 11); R. David ha-Kohen Skali, *Resp. Kiryat Hana David*, II, O.H., sec. 43; R. Joseph Faur ha-Levi, “*Aliyyat Katan Likro ba-Torah*,” in *Sefer Zikkaron le-haRav Yitshak Nissim* (Jerusalem: Yad ha-Rav Nissim, 5745), Meir Benayahu, ed., 113-133.

(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, *Tehilla 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-Shlomo, supra*, n. 176; *Resp. Kiryat Hana David supra*, n. 178a; R. Yom Tov ha-Levi Schwartz, *Resp. Ma'aneh la-Iggerot*, 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 keriah* for all of the *aliyyot* is equivalent to having all of the *olim* being those not fully obligated in *keriat ha-Torah*. [Indeed, *Resp. Ginnat Veradim, supra* n. 144, *Resp. Perah Shoshan* and *Resp. Yaskil Avdi*, both *supra* n. 176, cite this reason for forbidding a minor as a *ba'al keriah*, 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-Shlomo* and *Resp. Kiryat Hana David* suggest that if a major is the *ba'al keriah* 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 *keriat 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, *Levush 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. Yaskil 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 keriah* and the *oleh*, see R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhot Keri'at ha-Torah*, sec. 135, no. 13, p. 31 and sec. 141, no. 2, p. 50; *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyanei Tsitsit, Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhot 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 Kaminetsky and R. Abraham Judah Farbstain, *supra* n. 176, and R. Elyakim Getsel Pashkes, *Itturei Megilla* (5772 ed.), *Megilla* 24a, "Be'ur be-Daat ha-Magen Avraham," 405. The above scholars utilize *shome'a ke-oneh*, while R. Aryeh Zvi Fromer, *Resp. Eretz Tsevi*, II, sec. 9 utilizes *shelikut*. That *arevut* generates the necessary obligation in the *ba'al keriah* 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 *keriat ha-Torah*, while children are a *trei de-rabbanan* and, therefore, certainly bear no *arevut* for this *mitsva*. (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. Iggerot 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 fulfil 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, awomen 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) Rav 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)¹⁴³ who maintains that the *birkot ha-Torah* are *birkhot 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 ha-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 *aliyyot* 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 kerī'ah* and *oleh* are male, the *oleh* who neglects to read along can rely on the *ba'al kerī'ah*, via *shome'a ke-oneh* following the view of Maharil. This is not so for women, whether functioning as the *ba'al kerī'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 kerī'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 kerī'ah*, who is actually doing the *mitsva* 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 Lichenstein (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-khattehila*, the *oleh* is required to read along with the *ba'al kerī'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 *aliyyot* 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 kerī'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 *mitsva* 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 *mitsva*, 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 *kerī'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, *kerī'at ha-Torah* is a **communal** obligation.

183. R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhhot 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, Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhhot 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 kerī'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 kerī'ah* need not be obligated; even if one is deaf and exempt from *mitsvot*, he can also read aloud as a *ba'al kerī'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 kerī'ah*.

The fact is, however, that a *heresh ha-medabber ve-eino shome'a* is indeed obligated in the *mitsvot*. See: *Pri Megadim, Petiha ha-Kolelet*, part 2, sec. c; *Resp Iggerot Moshe*, Y.D. IV, sec. 49, nos. 1 and 6; *Resp. Minhat Shlomo*, sec. 34; *Resp. Lev Aryeh*, II, sec. 1; *Resp. Kovets Teshuvot*, sec. 10; *Yalkut Yosef, Hilkhhot Kaddish u-Kedusha*, sec. 67; R. Abraham Hamami, *Resp. Minhat Avraham*, 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.

184. R. Israel Jacob Algazi, *Emet le-Ya'akov, Dinei Aliyyat Keri'at ha-Torah*, sec. 27; R. Joseph Teomim, *Pri Megadim, O.H.*, sec. 282, *Eshel Avraham*, no. 6 and *Mishbetsot Zahav*, no. 3.

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

186. *Vide supra*, n. 68.

187. *Vide supra*, n. 176. Indeed, R. Abraham Judah Farbstein, *Kenesset 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, *Meshiv Milhama*, 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 kerī'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.

192. *Vide infra*, n. 246.

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. Halakhhot 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, *Havvot Da'at*, Y.D., sec. 110, *Beit ha-Safek*, no. 20; R. Hillel Posek, *Resp. Hillel Omer*, sec. 139, p. 87; R. Ben-Zion Abba Shaul, "*Hiyyuv 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 *Halakhhot Ketanot* is discussed by R. Isaac Lampronti and R. Joseph Barukh Kazis; see: R. Isaac Lampronti, *Pahad Yitshak* (Mosad Harav Kook, Jerusalem: 5737), IV, *Birkat haShevah*, 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 *birkat 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'akov*, 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.

b) Moreover, the overwhelming majority of *posekim* are strict even in the case of "*she-Hehiyyanu*" as well, forbidding its voluntary recitation. For further discussion and documentation, see: Aryeh A. Frimer, "*Birkat she-Hehiyyanu be-Seudat Purim Yabid*," *Or ha-Mizrah*, 32 [*Nisan-Tammuz* 5744], 294-308. See also R. Shlomo Zalman Auerbach, *Resp. Minhat Shlomo*, II, sec. 4, no. 32 in *Otserot Shlomo* 5759 edition and sec. 60, no. 9 in *Sons' 5760 Edition*; *Resp. Yabbia Omer*, IV, O.H., sec. 50, VI, O.H., sec. 42, VIII, O.H., sec. 8, no. 1, and IX, O.H., sec. 18, sec. 94, no. 26, and sec. 108, no. 28; R. Ovadiah Yosef, *Hazon Ovadya – Sukkot, Hilkhhot Arba'at ha-Minim*, sec. 11, end of n. 10, 340; *Hazon Ovadya – Tu bi-Shevat, Berakhhot Shonot*, no. 5, n. 5, 400-402; *Resp. Shevet ha-Levi*, IV, sec. 25; R. Yisroel Taplin, *Orah Yisrael*, sec. 12; R. Chaim Yosef Friedman, *Hayyim Shel Berakha* (Brooklyn, NY: 1992), *Petiha*, sec. 9, 38-40; R. Samuel David, *Resp. be-Hilkhhot Yom ha-Atsma'ut*, sec. 4, no. 3; R. Moses Levi, *Birkat Hashem*, IV, ch. 1, sec. 4 and n. 14; R. Uri Bezalel Fischer, "*Din Berakha le-Vattala – Berakha she-Eina Tserikha*," *be-Lekhtekha va-Derekh*" (*Yeshivat Kerem be-Yavneh*), 25 (Winter 5767), 44-83.

c) R. Ovadiah Yosef, *Hazon Ovadya – Sukkot, Dinei ha-Yeshiva ha-Sukka*, sec. 9, n. 18, s.v. "*ve-Hinneh*," 127, and R. Yitshak 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 berakhhot lehakel*; see *infra* n. 217). According to these scholars, *she-Hehiyyanu* is no different than any of the other *birkot 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 kerī'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 Ovadiah: Sukkot, Hilkhot Shemini Atzeret*, no. 4, n. 5; R. Akiva Miller, *ha-Kerī'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 “*safeek berakhot lehakel*”; see *Resp. Yabbia 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-motsi*); *Magen Avraham*, O.H., sec. 273, no. 7 (regarding *kiddush* and *havdala*); *Match 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 Tes-huva*, 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 *aharonim*. In *Sha'ar ha-Tsiyyun*, O.H., sec. 273, no. 17, he reiterates this position. See R. David Yosef, *Halakha Berura*, VIII, sec. 167, no. 20, *Halakha Berura* end of subsec. 51, *Sha'ar ha-Tsiyyun* n. 150, who concludes that this is the clear consensus of the codifiers. R. Eliezer ha-Kohen Rabinowitz, *Torat ha-Katan*, ch. 8, sec. 13, concludes from these sources that while the obligation and burdens of *hinnukh* 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-tisbur 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*; *Hayyei Adam*; *Resp. Peulat ha-Tsaddik*; *Resp. Ish Matsli'ah*; *Resp. Yaskil Avdi*; *Edut le-Yisrael*; *Resp. Iggerot Moshe*; *Emet le-Yaakov*; *Keneset 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-Hayyei*, O.H., sec. 16; R. Isaac Tayeb, *Erekh 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'amar Mordekhai*, O.H., sec. 282, no. 5; R. Katriel Fishel Tchorsh, *Resp. Keter Efrayim*, sec. 26; *Resp. Tsits Eliezer*, VII, sec. 1, end of *anaf* 8; *Yalkut Yosef*, and *Yehaveh 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

required a male adult *ba'al kerī'ah*. See: R. Abraham ben Mordechai Halevi, *Resp. Ginnat Veradim*, II, sec. 21; R. David Zvi Solomon Eybeschuetz, *Levushai Serad to Magen Avraham*, O.H., sec. 282, no. 6; R. Abraham Dovber Kahan Shapira, *Devar Avraham*, I, sec. 16, no. 17; *Resp. Mishpetei Uziel, mahadura tinyana*, I, O.H. (5761 edition, vol. III), *milu'im* to O.H., sec. 131, no. 1; R. Hayyim David Halevy, *Shulhan Arukh Mekor Hayyim*, III, ch. 122, no. 14; *Resp. Mishne Halakhot*, XV (O.H., *Mahadura Tanyana*, part 5), sec. 209; R. Samuel David, *Resp. me-Rosh Tsurim*, sec. 5. We note that this latter position is explicitly challenged by: *Resp. Iggerot Moshe*, sec. 72 (referring to *Levushai Serad*); *Resp. Yehavveh Da'at*, V, sec. 25; R. Moses Malka, *Resp. Mikveh Mayyim*, III, O.H., sec. 26; *Resp. Kiryat Hana David*, II, O.H., sec. 43 (all referring to *Resp. Mishpetei Uziel*).

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 Getsel 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 kerī'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 *oleh* need not necessarily fulfill any personal obligation through his Torah reading. Even after the introduction of the *ba'al kerī'ah* into the service, the reader is merely assisting the *oleh* 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 kerī'ah*'s reading of the Torah can be transferred to the *oleh* by means of *shome'a ke-oneh* alone.

203. This halakhic conclusion was confirmed to us in personal communications by both R. Elyakim Getsel Pashkes (January 28, 2013) and R. Asher Weiss (February 4, 2013). See also R. Elyakim Getsel Pashkes, *Itturei Megilla* [5772 ed.], *Megilla* 24a, “*Bei'ur be-Da'at ha-Magen Avraham*,” 405; R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav, Hilkhut Keri'at ha-Torah*, sec. 135, no. 13, p. 31; R. Joseph B. Soloveitchik, *Shiurei ha-Rav ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik zts"l al Inyanei Tsitsit*, *Tefillin u-Keri'at ha-Torah*, R. Zvi Schachter, ed. (Jerusalem, 5763), *Hilkhut 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-Tabor*, O.H. sec. 140, no. 1; R. Jacob Shalom Sofer *supra*, n. 106; R. Zvi Pesach Frank, *Resp. Har Tsevi*, O.H., sec. 72; R. Joseph Elijah Henkin, *supra*, n. 176; R. Tuvia Yehuda Tavyumi (Gutentag), *Resp. Erets Tova*, sec. 3, no. 10; R. Hayim 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 Kanievisky, quoted by R. Jehiel Michael Rothschild, *She'eilat Rav (Kiryat Sefer: 5764)*, part 2, sec. 12, no. 25, p. 240; R. Aaron Boaron, *Birkat Aharon*, I, 155; and R. Moses Aaron Slushetz, 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 kerī’ah*. Doing so allows the benediction to go on **both** the private and public readings – though the *ba’al kerī’ah*’s rendition aloud is still the main reading.

Interestingly, R. Menahem Mendel Schneersohn of Lubavitch, *Resp. Tsemah Tsedek*, 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 kerī’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.

205. *Tosefta, Megilla*, 3:12 (ed. Lieberman, 356).

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* act 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 kerī’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, *Mishbetsot Zahav*, no. 4, who clearly states that one who is not obligated cannot recite the benedictions for the *ba’al kerī’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 *oleh* is the “real *oleh*” – and not the *ba'al keriah*.

210. We remind the reader that at most women can serve as *ba'alot keriah* 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 *Gin-nat Veradim* (*supra* n. 204) that the *ba'al keriah* is the real *oleh*, and the function of the pseudo-*oleh* is merely to recite the *berakhot* for the *ba'al keriah*. The second view would be to accept the approach of R. Isaac Ze'ev (Velvel) Soloveitchik, *supra* n. 143, who posits that the *birkhot keriat 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 keriah*) who actually read from the Torah. This would allow her to be called to the Torah and recite the benedictions for the *ba'al keriah*. 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*.

215. In a conversation with R. Dov I. Frimer and R. M. Zev Frimer, R. Aharon Lichtenstein (April 13, 2012) referred to such a reliance as “halakhically farfetched.”

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, *Maft'e'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 Teomim, *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 (*sefeik sefeika*), the *berakha* may not be recited. Both R. Shlomo Zalman Auerbach, *Halikhot Shlomo, Mo'adim, Sefirat Ha-omer*, ch. 11, *Orhot Halakha* n. 24, and R. Asher Weiss, *Shiur Moreinu ha-Rav Shlita*, “*Shittat ha-Bahag be-Mi she-Dilleg ehad mi-Yemei ha-Sefira*,” *Parashat Emor* 5772, X:25 (no. 399), ch. 6, 10-11, concur. These scholars indicate that the invocation of “*sefek sefeika*” by some halakhic authorities, regarding one who counted the *omer* during the day, is inaccurate. The real reason why one continues counting 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’.

218. R. Elyakim Getsel Pashkes, personal communication, January 28, 2013.

219. *Megilla* 23a.

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*, I (Bnai Brak: Machon Moresheet 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 *hazan* 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.

230. Meiri, *Megilla* 21a.

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.

233. *Hullin* 24b and *Tosafot*, s.v. “*Nitmalei zekano*,” *Shulhan Arukh*, O.H., sec. 53, no. 6 and 8.

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-mazon* (*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.

237. R. Elijah David Rabinowitz-Teomim, *Resp. Over Orah* (*Shema Eliyahu*), end of sec. 110; R. Abraham Isaac ha-Kohen Kook, *Resp. Orah Mishpat*, O.H., sec. 35; R. Menahem Mendel Kasher, *Resp. Divrei Menahem*, I, sec. 38; R. Zvi (Hershel) Schachter, *Ereits ha-Tsevi* (Jerusalem: 5753), end of sec. 12, 99.

238. (a) *Keri'at ha-Torah*: R. Samuel Portaleone (*mi-Sha'ar Aryeh*; 16th century student of R. Menahem Azariah of Fano), *Hiddushei Shmuel* (unpublished manuscript) cited by R. Meir Benayahu, "*De'ot Mahapkhaniyyot bi-Kelalei ha-Halakha*" *Asufot* (1989) 3, 141-244, no. 47 on pp. 199-200 [We thank Prof. Marc B. Shapiro for bringing this source to our attention]; R. Jacob Emden, *Mor u-Ketsi'a*, O.H., sec. 55, s.v. "*Katuv ba-Mordekhai*" and sec. 282; R. Judah Ayash, *Matteh Yehuda* (Gloss to *Shulhan Arukh*), I, O.H., sec. 282, no. 3, n. 9; R. Samuel Vital, *Nimmukei ha-Rav Shmuel Vital*, cited in *Petah ha-Devir*, O.H., sec. 282, no. 9; R. Abraham Pinso, *Resp. Ezrat mi-Tsar*, sec. 23, s.v. "*ve-Ulam libyot*," R. Rahamim Nissim Isaac Palagi, *Yafeh la-Lev*, O.H., VI, sec. 282 - cited in R. Eliezer Waldenberg, *Resp. Tsits Eliezer*, XX, sec. 36, nos. 2 and 3; R. Joseph Messas, *Mayim Hayyim*, II, O.H., sec. 140; R. Matsliah Mazouz, *Resp. Ish Matsliah*, O.H., sec. 10 - see comments of the son, R. Meir Mazouz, *Hosafot u-Milu'im, be-Milu'im mi-ben ha-mehaber*, to 56 column 4: "*Hashbash hirhur*," R. Walter S. Wurzburger, "R. Joseph B. Soloveitchik as *Posek* of Post-Modern Orthodoxy," *Tradition* 29:1 (1994), 5-21, at 17; R. Dov Eliezerov, *Resp. Sha'ali Zion, Tinyana*, part 1, O.H., sec. 19; R. Shaul Yisraeli, *Resp. be-Mareh ha-Bazak*, I, sec. 37, no. 7; R. Shalom Messas, *Resp. Shemesh u-Magen*, I, O.H., sec. 28; R. Zalman Nehemiah Goldberg, in *Resp. be-Mareh ha-Bazak*, V, addendum to sec. 113, pp. 225-228; R. Zalman Nehemiah Goldberg, *Resp. Binyan Ariel*, E.H., "*Birkat Hatanim bi-Se'udat Sheva Berakhot al yedei Isha*," 135-141; R. Hayyim Dov Altuski, *Hiddushei Batra - Haga be-Mishna Berura*, O.H., sec. 282, *Mehabber* no. 3, 194; R. Yaakov Ariel, *Aliyyat Nashim la-Torah O ba-Torah, ha-Tsofe*, July 13, 2007 (*Tammuz* 27 5767), 5; R. Yaakov Ariel cited by Matthew Wagner, "Ramat Gan chief rabbi slams 'radical feminist' egalitarian *minyanim*," *Jerusalem Post*, February 19, 2008 - available online at <http://www.jpost.com/Israel/article.aspx?id=92575>; similar comments by R. Ariel appeared July 7, 2007 on the *Yediot Aharonot* newspaper website in Hebrew - available online at <http://tinyurl.com/33yta3q>; R. Moshe Meiselman, *Jewish Woman in Jewish Law* (New York: Ktav Publishing House and Yeshiva University Press, 1978), 141ff; R. Samuel Shapiro, "*Nashim bi-Keri'at ha-Torah*," available online at <http://tinyurl.com/m9ddc>; R. Zvi Reisman, "*Kevod ha-Tsibbur ve-Tirha de-Tsibbura*," *Kovets He'arot u-Bi'urim - Ohalei Torah, Parashat va-Yetse*, 5769, Issue 4 [970], 57-71 - available online at <http://www.haoros.com/kovtzm.asp?yr=5769> [click on *kovets* 970]; R. Zvi Reisman, *Tirha de-Tsibbura* - available online at <http://tinyurl.com/64h2dgn>. R. Hayyim Rating, "*Shadraniyyot be-Radio ha-Haredi - Radio Kol Ha'i*" - available online at <http://www.tinyurl.com/y9xguc>. R. Hershel Schachter also invokes the concept of *tseini'ut*, though he seems to be referring to modesty before God and a women's more private role in Judaism. See: R. Hershel Schachter, "Can Women be Rabbis?" 2004, available online at: <http://tinyurl.com/gj9po>; R. Hershel Schachter, "On the Matter of Masorah," 2003, available online at: <http://tinyurl.com/l5aeb>. See also R. Rami Rahamim Berakhyahu, *Resp. Tal li-Vrakha*, II, sec. 91, who understands *kevod ha-tsibbur* as a public *peritsat geder* - transgressing accepted norms of practice.

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 "*Barekhu*" as part of her *aliyya* 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 "*Barekhu*." According to the Sexual Distraction School of *kevod ha-tsibbur*, the very act of women receiving an *aliyya* 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*, *Aseh*, 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-tsibbur*; 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 milta*" (Because they are a large group/in public it is improper). *Zila milta* or *ziluta* in this context is meant to be synonymous with *kevod ha-tsibbur*; see R. Samuel Medalchinov, *Minhat Shmuel*, *Berakhot* 20a, s.v. "*Nashim*," R. Elijah David Rabinowitz-Teomim, *Resp. Over Orach* (*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*"; *Otsar Mefarshei ha-Talmud*, *Sukka*, II, 38a, p. 345, s.v. "*In nami mishum*" and n. 56 thereto. R. Yehuda Herzl Henkin, *Resp. Benei Vanim*, II, no. 10, argues that *zila milta* 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 milta* 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, *Hagahot ha-Tur*, O.H., sec. 689, to this effect as well. Several other *posekim* concur; see R. Hayyim Benveniste, *Sheyarei Kenesset ha-Gedola, Hagahot 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 haHayyim*, 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, *Shetilei 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. Aharon Lichtenstein, R. Nachum Rabinovitch and R. Yehuda Hezl Henkin cited below, end of n. 244. These scholars maintain that *zila milta* (or *kevod ha-tsibbur*) is totally inapplicable to *kiddush* which is fundamentally private in character. This is because no *minyan* is required or even preferred for its performance. Hence, it remains a "private" ritual even when performed in public.

Elya Rabba takes a more stringent position arguing that "*rabbim*" in *Tosafot's* formulation is not to be taken literally as "a large group" or "in public", but rather as adult males who are not family members. See: *Elya Rabba*, O.H., sec. 271, no.3, n. 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 precedented 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-Hilkhatat*, II, sec. 51, no. 9 (*me-ta'amei tsnit*); R. Isaac Yosef, *Otsar ha-Dinim la-Isha vellaBat*, sec. 16, no. 2 (*mi-shum tsnit* – because of modesty); R. Isaac Yosef, *Yalkut Yosef*, IV, part 1, sec. 271, no. 8 (*me-shum tsnit*); R. Hillel ha-Levi, *Kiddush ke-Hilkhatat*, ch. 4, no. 11 (*me-midat ha-tsnit*); R. Aaron Zakai, *Mitsvat ha-Nashim*, sec. 11, no. 3 (*me-shum tsnit*); *Resp. be-Mareh ha-Bazak*, IV, sec. 31 (*mi-ta'amei tsnit*); R. Yaakov Ariel, "*Isha be-Veit ha-Kenesset*," 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 *preitsut* (promiscuity); see R. Meir ha-Me’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 Habituation 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 *aharonim* 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 Eliezer*, 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. Efraim Greenblatt, *Resp. Rivevot 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-Teomim, *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-biKedusha*, 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 Eliezer*, 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 *kevod ha-tsibbur* actually is. [For further discussion regarding reading in front of family members, see below end of n. 290]

On the other hand, many *posekim* maintain that the position of the *Aseret ha-Dibberot* (*Ba'al ha-Ittur*) does not reflect normative *halakha*. More specifically, these scholars rule that women chanting the Torah or *Megilla* with the appropriate notes (*ta'amei ha-mikra*) are not precluded by the prohibition of *kol be-isha erva*. See: R. Jacob Hayyim Sofer, *Kaf ha-Hayyim*, sec. 689, no. 2, n. 13; *Resp. Divrei Hefets*, cited by R. Hayyim Hezekiah Medini, *Sedei Hemed*, *Kelalim*, *Ma'arekhet kuf*, klal 42; R. Jehiel Jacob Weinberg, *Resp. Seridei Eish*, II, sec. 8; R. Nahum Zvi Kornmehl, *Resp. Tiferet Tsevi*, II, sec. 7; R. Samuel ha-Levi Wosner, *Resp. Shevet ha-Levi*, III, sec. 14, who indicates that most *rishonim* are lenient by *keri'a de-mitsva*; R. Joseph Dov Soloveitchik, cited by R. Howard Jachter, "The Parameters of Kol Isha," available online at: <http://koltorah.org/ravj/The%20Parameters%20of%20Kol%20Isha.htm>; R. Ovadiah Yosef, *Yehaveh Da'at*, III, sec. 51, n. 1, and IV, sec. 15, end of note; R. Ovadiah Yosef, *Resp. Yabbia Omer*, VIII, *O.H.*, sec. 22, no. 10 and IX, *O.H.*, sec. 98, no. 9, and sec. 108, no. 74; R. Ovadiah Yosef, *Hazon Ovadiah - Purim, me-Hilkhot Mikra Megilla*, no. 4, n. 22, p. 59; R. Ovadiah Yosef, *Hazon Ovadiah - Tu bi-Shevat, Hilkhot Birkhot ha-Hoda'a*, no. 4, n. 9, 346-347; R. Ovadiah Yosef, *Me'or Yisrael*, I, *Megilla* 4a, s.v. "*be-Tosfot d'h Nashim*," 251, and *Megilla* 23a, s.v. "*Tanu Rabbanan, ha-Kol*," 279; R. Ovadiah Yosef, *Halikhhot Olam*, II, *Ekev*, sec. 2, n. 2, p. 74; R. Ovadiah Yosef, approbation to R. Hanan ha-Levi, *Imrei Hanan*, I (Kefar Hasidim, 5746); R. Ovadiah Yosef, *Mi-Shiurei Maran ha-Rishon le-Tsiyyon, Rabbenu Ovadiah Yosef Shelita*, I, *Gilyon* 19, *va-Ye'ira* 5756, sec. 2, 73. R. Isaac Yosef, *Yalkut Yosef*, V, *Dinei Keri'at Megilla*, sec. 12 and nn. 19 and 22, and VII, sec. 23, no. 11, end of n. 16; R. Isaac Yosef, *Yalkut Yosef, Otsar Dinim la-Isha ve-laBat*, sec. 24, no. 6; R. Simeon Hirari, "*Kol be-Isha Erva ve-Nashim bi-Keri'at Megilla*," *Or Torah, Adar* 5731, sec. 123, 289-292 and *Nisan* 5731, sec. 148, 339-343 – see especially 341 s.v. "*u-leOr*," and R. Yehuda Herzl Henkin, *Resp. Benei Vanim*, II, sec. 10, III, sec. 1, and IV, sec. 8. R. Joseph Hai Siman Tov, *Sefer Kerem Yosef, Megilla* 23a, "*Eikh lo Haishinan le-Kol be-Isha Erva ke-sheOleh likro ba-Torah*," 630-649 reviews ten reasons why *kol be-isha erva* should not be invoked by *keri'at ha-Torah* and *Mikra Megilla*.

240. R. Elijah David Rabinowitz-Teomim, *supra*, n. 238a; R. Shlomo Goren, *Resp. Terumat 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 *Sivan* 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 can be understood either of two ways. One position maintains that Rema is of the opinion that "the law" referred to is *kevod ha-tsibbur* – 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, *kevod ha-tsibbur* 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

141. In fact, the Jerusalem Talmud, *Megilla*, ch. 4, sec. 3 and *Ketubot* ch. 2, sec. 10, indicates that a slave can receive an *aliyya* without qualification, and this source is cited in Rabbenu Hananel, *Megilla* 23a; *Piskei R. Yeshayahu Aharon Z"l* (Riaz), *Megilla* ch. 3, sec. 2, no. 11; *Tosafot Rid*, *Megilla* 23a; *Sefer ha-Ittim*, sec. 181, 270; *Shibbolei ha-Leket*, sec. 38; *Tanya Rabbati*, sec. 6; *Or Zarua*, II, sec. 383; *Be'ur ha-Gra*, O.H., sec. 282, n. 9. This is also the implication of Babylonian Talmud, *Ketubbah* 28a and *Gittin* 40a. In addition, several *rishonim* have a textual reading (*girsā*) which includes slaves (*afilu eved, afilu isha, afilu katan*) in the original *baraita* in *Megilla* 23a; see: *Sefer Tashbets*, sec. 191; *Mordekhai*, *Gittin* sec. 404; *Resp. Maharam ben Barukh*, sec. 108. Numerous authorities argue that such a distinction between women and non-Jewish slaves is a natural outcome of what they believe to be the essence of *kevod ha-tsibbur* – namely, sexual distraction. See: R. Jacob Emden, *Mor u-Ketsi'a*, O.H., sec. 282; R. Judah Ayash, *Matteh Yehuda* (Gloss to *Shulhan Arukh*), I, O.H., sec. 282, no. 3, n. 9; R. Samuel Vital, *Nimmukei ha-Rav Shmuel Vital*, cited in *Petah ha-Devir*, O.H., sec. 282, no. 9; R. Shalom Mordechai ha-Kohen Shvadron, additions to R. Nahman Kahana, *Orhot Hayyim* (Jerusalem, 5743), *Hilkhot Shabbat*, O.H., sec. 282, n. 6; R. Ben-Zion Lichtman, *Benei Tsiyyon*, IV, O.H. sec. 282, n. 8, s.v. “*ve-Din*”; R. Gedalia Felder, *Pri Teshurun* on *Tanya Rabati*, I, p. 260; 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.

Nevertheless, the first reading of Rema's ruling, prohibiting non-Jewish slaves from receiving *aliyyot*, is supported by other noted scholars: R. Moses Margalio, *Mareh 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 Atsei Shittim*, sec. 6; R. Shalom Mordechai ha-Kohen Shvadron, citing *Mareh 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*, 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. Ovadiah Yosef, *mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbi Ovadya Yosef Shlita*, *Shiur* 19, *Motsaei Shabbat Parashat va-Yeira* 5756; R. Ovadiah Yosef, *Mishnat Yosef*, III, *Shiurei Maran ha-Rishon le-Tsiyyon* 5762, *Parashat va-Yetse*, *Hilkhot Keri'ah be-Sefer Torah be-Shabbat*, no. 11, 56; an audio tape of a *shiur* given by R. Ovadiah Yosef on this subject is available online at: http://www.ise.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-Hinneḥ 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 child to assist him 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 meḥuyyav ba-davar...tavo me'eira...she-mevazzeḥ et kono la'asot shelibin ka-eleh*); *Tosafot*, s.v. “*u-Tehi lo me'eira*” (*mi-shum de-mevazzeḥ be-ma she-elū mevarekkin lo, de-lav benei biyyuva ninhu*); *Tosafot* Rabbenu Perets, s.v. “*ve-Tavo me'eira*” (*tavo lo me'eira she-mevazzeḥ ba-mitspot la'asot shelubhin ka-eleh mi-shum de-lav benei biyyuva ninhu*); *Tosafot ha'Rosh*, s.v. “*Tavo lo*” (*mi-shum she-oseh 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: “*ve-Im lamad, ha-mitsva [hu] mevazzev, she-makrin oto isha ve-eved she-ein hayyavin bi-keri’at Hallel de-mitsvat aseh she-ha-zeman gramma.*” Similarly, *Sefer ha-Mikhtam* concludes: “*ve-Afilu yodei’a levarekh, af al pi she-eino bi-me’eira, zo eino ra’ui la’asot ken, la’asot shelibim ka-eileh levarekh bishvilo la-Shem yitbarakh.*” See also discussion of R. Naph-tali Zvi Judah Berlin (Netsiv), *Meromei Sadeh, Sukka* 38a, s.v. “*Mishna. Mi she-Haya*” (*Aval Rashi z”l mefaresh et ha-Mishna be-tsibbur... im haya ha-makreh eved ve-khulu tavo lo me’eira, ve-yakhol libyot she-lamad, ela mishum she-hu atsel likrot be-kol, lakhen ma’amid et ha-eved 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 *zizul ha-tsibbur* – making light of those who are obligated. The community cannot set aside its honor unless there is no other choice, i.e., that it is a *she’at dehak* (see n., 255 *infra*).

243. Maimonides, *M.T., Hilkhot Shehita* 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-tsibbur*, 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-tsibbur*, namely, that equal obligation not only empowers women to be *motsi’ot* men, but also vitiates *kevod ha-tsibbur* considerations.

(a) *Mikra Megilla*: Most *rishonim* (see *Sha’ar ha-Tsiyyun, O.H.*, sec. 689, sec. 2, n. 16 and R. Ovadiah Yosef, *Resp. Yehaveh 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 nashim;*” R. Moses ben Maimon (Rambam), *Mishna Torah, Hilkhot Megilla* 1:1 (see *Magid Mishne* and *Haggabot 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 Elijah 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. Yehaveh Da’at*, III, sec. 51, 159 and IV, sec. 34, n. 2, 162; R. Ovadiah Yosef, *Me’or Yisrael*, I, *Megilla* 4a, s.v. “*Tosafot d”h Nashim;*” R. Ovadiah Yosef, *Halikhot Olam*, I, *Tetsavve - Hilkhot Purim*, sec. 2, n. 2, 225. See also *mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbenu Ovadiah Yosef Shelita*, I, *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. Yitshak Yosef, *Talkut 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'amar Mordekhai*, O.H., sec. 271, n. 1; R. Ovadiah Yosef, *Resp. Hazon Ovadiah – be-Hilkhot Seder Leil Pesah*, I, part 1, sec. 10, 162-163; R. Ovadiah 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 *Turei Zahav*, O.H., sec. 271, no. 2, n. 2; *Be’ur ha-Gra* [and *Damesek Eliezer*], *ad loc*. The following *aharonim* cite R. Caro’s ruling without qualification: *Resp. Hikrei Lev*, O.H., end of sec. 45; R. Judah Samuel Ashkenazi, *Siddur Beit Tefilla*, *Dinim ha-Shayakhim le-Kiddush al ha-Yayin*, no. 4; *Hayyei Adam*, *Hilkhot Shabbat*, Klal 6, no. 5; R. David Lida, *Shomer Shabbat*, sec. 3 (*Dinei Kiddush*), no. 3; R. Meir Cohen, *Shabbat ke-Hilkhatah*, sec. 4, no. 2; R. Moses ha-Levi, *Menuhat Ahava*, 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 Netanel*), *Ginzei ha-Melekh*, *Kuntres Divrei Shalom ve-Emet*, *Hilkhot Megilla*, ch. 1, no. 1, argues that *kevod ha-tsibbur* is only relevant to those rituals, like *keri’at ha-Torah* and *mikra Megilla*, which are communal in their very purpose and nature – requiring a *minyan*, at least *le-khattehila*. However, lighting *Hannuka* candles or reciting *kiddush* is private in nature – it does not **require** the presence of a *minyan*, even though it is sometimes performed in public. Hence in the latter rituals, *kevod ha-tsibbur* should not be invoked. Similarly, R. Jacob Emden maintains that since *mikra Megilla le-khattehila* requires a *minyan* for *pirsumei nisa*, *kevod ha-tsibbur* is a valid consideration; this is in contradistinction to *kiddush*, where no *minyan* is required and women can be *motsi’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,” *Hirhurim – 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)

concur – see summaries of these conversations at the end of “Edited Transcript of “Women in Communal Leadership Positions”: Lecture by Aryeh A. Frimer,” accessible at http://bermanshul.org/frimer/Women_in_Leadership.pdf.

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 *keri'at 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. Benei Vanim*, II, sec. 11, s.v. “*ve-Hinneb 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 Kafih, Commentary to M.T., *Hilkhot Tefilla*, ch. 12, no. 17, n. 49; *Resp. Benei Vanim*, II, sec. 11. (Cf. R. Joseph Kafih, *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/tfila/frimer2-1.htm>.

246. The exclusion of women is explicit in Maimonides, *Hilkhot 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. Efrayim Zalman Margalioth, *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, *Ishei Yisrael*, sec. 15, no. 1; R. Solomon Man, *ve-Zot ha-Torah*, sec. 32, no. 1; R. Naphtali Hoffner, *Sefer Halakha VI – Dinei kerit'at ha-Torah*, sec. 8, no. 3; R. Avigdor Nebenzahl, *Resp. Avigdor ha-Levi*, (R. Nitsan Brauner, ed.) I, O.H., *Hilkhot Shabbat* (sec. 282), no. 58.

Several reasons are given for women's non-inclusion into the *keri'at 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 *keri'at 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 *keri'at ha-Torah* is a *davar she-biKedusha* (act of sanctification; “*Davar she-biKedusha*,” *Encyclopedia Talmudit*, VI, 714ff). See Meiri, *Megilla* 23b s.v. “*ve-Nashuv*”; R. Ovadya of Bartenora, *Mishna Megilla* 4:3, s.v. “*ve-Ein Korin ha-Torah*”; *Kesef Mishne, Hilkhot 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 Hakhmim, 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, *Benei Tsiyyon*, II (end), additions to O.H. sec. 143, 212b–214b where the

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-Zekher Aba Mori za"l*, vol. 2, *be-Inyan takkanat Moshe*, 213; R. Joseph B. Soloveitchik, *mi-Beit Midrasho Shel ha-Rav*, *Hilkhot Keri'at ha-Torah*, sec. 143:4, 56; R. Joseph B. Soloveitchik, *Shi'urei ha-Rav al Inyanei 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-Massekhet Megilla*, *Megilla* 21a, sec. 134-135 ("MaSBIR" is an inverted acronym for Rav Yosef Ber (Dov) Soloveitchik, *Moreinu*); *Yalkut Yosef*, II, sec. 143, no. 1, n. 1; *Ishei Yisrael*, sec. 15, no. 1; R. Meir Orlian "Birkhot ha-Torah shel Keri'at ha-Torah be-Tsibbur," *Beit Yosef Shaul*, no.4 (5754), 199-214, at p. 203; *Sefer Halakha VI – Dinei keru'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 Aruch 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* quorum. 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 Tuvia 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* quorum 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 the *birkat ha-Gomel* blessing etc., where the *minyan* is not intrinsic to the performance of the *mitsva*, for the obligation is essentially the individual's. See "The Third School" in Aryeh A. Frimer, "Women and Minyan," *supra*, n. 245. This is certainly not the case with *keri'at ha-Torah* which appears in the *Mishna's* list in *Megilla* 23b of rituals requiring a *minyan*. As Nahmanides notes, the practices included in this list are communal obligations (*hovot ha-tsibbur*) for which the halakha inherently requires a *minyan* because of their special sanctity or public character. 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.

248. Rav Chaim Benjamin Pontremolli, *Petah ha-Devir*, O.H., sec. 282, n. 9; R. Ben-Zion Meir Hai Uziel, *Resp. Mishpetei Uzziel*, IV, H.M., sec. 6 – reprinted in *Resp. Piskei Uziel bi-She'eilot ha-Zeman*, sec. 44; R. Judah Adari, *Shulhan Arukh ha-Mevo'ar*, O.H., sec. 282, no. C.2 in *Mekabetsi'el*, 9 (*Shevat-Adar* 5746), 135; R. R. Dov Eliezerov, *Resp. Sha'ali Tsiyyon, Tinyana*, part 1, O.H., sec. 19; R. Ahron

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/l5aeb>; 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-haMakreh* (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 Habituation 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, "Hilluk Behag bein Mikra le-Mishma Megilla, u-miMatai Ne'esru Aliyyot 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 [*motsi'ot*] 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*. However, other *rishonim*, like Ritva (see: *Megilla* 4a, s.v. "*she-Af'hen*," *Sukka* 38a, s.v. "*u-Tebei 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 keriah* – 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

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; *Mahatsit ha-Shekel*, sec. 135, no. 13; *Shulhan Arukh ha-Rav*, 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 Teomim, *Kuntres No'am Megadim*, no. 14; *Resp. Tsits Eliezer*, 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 *aliyyah*; *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.

250. *Resp. Benei Vanim*, IV, sec. 3.

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

252. *Kiddushin* 32a.

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 Metsuyyanim be-Halakha al ha-Shas*, II, *Megilla* 24b, s.v. “*mi-Shum 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'amar Mordekhai*, *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, *Minhat 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 ba-Navi*.” See R. Hayyim Palagi, *he-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-dehak* situations – is actually preceded 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 *Hagabot 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 Aharon z”l* (Riaz), *Megilla* ch. 3, sec. 3, no. 4 (regarding one lacking a full beard serving as cantor or blessing congregation) cited in *Shiltei 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’eh Hayyim*, *Seder Yitro*; 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-Tsafot*, sec. 16; R. Yeruhm ben Meshulam, *Toledot Adam ve-Havra*, *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-Katan ha-Rashba*” and sec. 143, s.v. “*u-Ma she-Peresh*.” 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 Aukh*, O.H., sec. 53, sec. 6, it is clear that he sides with the stringent or compromise schools. There in *Shulhan Aukh*, 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; *Eliya Rabba*, O.H., sec. 53, sec. 6, n. 10; *Magen Avraham*, O.H., sec. 53, sec. 6, n. 9; *Pri Megadim*, *Mishbetsot Zahav*, sec. 53, n. 2; R. Isaac Harari, *Resp. Zekhor le-Yitshak*, sec. 38; *Benei Tsiyyon*, 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 Tsiyyon*, *ibid.*, maintains that R. Caro was stringent only in the case of appointing a teenager as a permanent cantor (*Shulhan Aukh*, 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’amar 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. 127, 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.

257. *Turei Zahav*, O.H., sec. 53, sec. 6, n. 2; R. Yair Hayyim Bachrach, *Mekor Hayyim*, O.H., sec. 53, no. 6; *Mor u-Ketsi'a*, *Tur*, sec. 53, s.v. "Amud Gimmel, be-Beit Yosef, u-leFi zeh," vs sec. 144; *Mahatsit haiShekel*, O.H., sec. 144, sec. 3, n. 7; R. Tsadka Hutsein, *Resp. Tsedaka u-Mishpat*, O.H., sec. 4; R. Raphael Solomon Laniado, *Resp. Beit Dino shel Shlomo*, O.H., sec. 18; *Arukh ha-Shulhan*, O.H., sec. 53, no. 10 vs. sec. 144, no. 6; R. Meshulam Finkelstein, *Elef ha-Magen*, n. 55 to R. Ephraim Zalman Margaliot, *Matteh Efrayim*, sec. 581, no. 26; *Mishna Berura*, O.H., sec. 53, n. 23 vs. sec. 144, no. 16; R. Abraham Dovber Kahana Shapiro, *Resp. Devar Avraham*, I, sec. 16, no. 17; R. Jacob Bezalel Zolty, *Resp. Mishnat Ya'avets*, O.H., sec. 76; R. Hayyim David ha-Levi, "Derashat ha-Rav bi-Zeman ha-Tefilla be-Shabbat," *Tehumin*, 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-Lo Liglol 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'ai*, 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.

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 *minyán*, 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 *mehilla*, but rather because the *kevod ha-tzibbur* 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 keria* 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 the Torah scroll when necessary while the community waits. However, reading from a *humash* rather than a complete scroll, having a teenager who lacks a full beard serving as *Hazan*, or calling a non-obligated woman to the Torah all result in negative implications about the community and shames them. Such *kevod ha-tzibbur*, argues R. Zilberstein, cannot be set aside. Contrary to other *posekim* in this school, R. Shlomo Fischer, personal communication to Dov I. Frimer, November 29, 2002, maintains that *kevod shamayim* is subjective and depends on the perception of the community (see n. 280, *infra*); thus, if the congregation does not believe that a particular act impinges on the honor of Heaven, it may set aside *kevod ha-tzibbur*. We should note that R. Fischer refused to rule on the issue of women's *aliyyot halakha le-ma'aseh* (in practice). Regarding *Resp. Rosh*, see *supra* end of n. 254. See also end of first paragraph of n. 256 *supra*.

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 Isba," 135-141; *Tehilla le-Yona – Massekhet 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, *Hilkhhot 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, *kevod 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-diAvad*; see R. Moshe Gedalia ha-Levi, *Hemed Moshe*, O.H., sec. 690, n. 1; R. Abraham Pinso, *Resp. Ezrat mi-Tsar*, sec. 23; R. Joseph Teomim, *Pri Megadim*, *Mishbetsot Zahav*, n. 1; and *Tehilla le-Yona – Massekhet Megilla*, *supra*, n. 259. R. Teomim points out further that the rules of *kevod ha-tsibbur* are *not* uniform: in some cases, one is *yotsei be-diAvad* despite *kevod ha-tsibbur*; but this is not the case regarding women reading *megilla* for men, which is invalid even *be-diAvad*. Thus, *Semag*’s analogy between *keri’at ha-Torah* and *Megilla* reading clearly indicates that just as a woman cannot assist a man in *mikra megilla*, so too *kevod ha-tsibbur* cannot be set aside to permit women’s *aliyyot*, even *be-diAvad*; 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 *keri’at ha-Torah* in *be-diAvad* or *bi-she’at ha-dehak* 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 Dovber Kahana Shapiro, *Resp. Devar Avraham*, I, sec. 17, s.v. “*u-beEmet*,” *Resp. Devar Avraham*, III, sec. 19, s.v. “*u-leFi ha-Peirusk*,” R. Aharon Lichtenstein, *Shiurei ha-Rav Aharon Lichtenstein*, *Pesahim*, *Bedikat Hamets le-Ahar Bittul*, 30, s.v. “*kaMuvan*”; R. Aharon Lichtenstein, *Shiurei ha-Rav Aharon Lichtenstein*, *Gittin*, *Takkanat Zeman be-Get*, *ha-Yahas bein Ta’am ha-Takkana le-Tokhen 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-Dehak*? 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 *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 *oleh* and a *ba'al keriah*. Under such a system, women who are not obligated in *keri'at ha-Torah* can serve neither as *olot* nor as *ba'alot keriah* **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 *aliyyot* under *she'at ha-debak* or *be-di'Avad* situations, refer to one of three situations: (1) They may be referring to cities which maintained the original Talmudic custom according to which each *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 Baruch of Rothenburg; see the end of n. 266, *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 *Megilla* 23a (*supra* n. 19), in which each of the *olim* read for themselves, and not necessarily at all on real-life situations. See the related comments of R. Shlomo Goren, *Resp. Meshiv Milhama*, II, Gate 7, sec. 107, s.v. “*Ken nireh*” and R. Eliav Shochetman, *supra*, n. 27a, 305-306. The same approach is true for to those who allow women to receive an *aliyya* in a private *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 *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 *oleh* in Talmudic times only if a *ba'al keriah* read for them; see end of n. 17, *supra*.

265. See *Sedei Hemed*, *Ma'arekhet Daled*, *kelalim* 59-61 and *Pe'at ha-Sadeh*, *Ma'arekhet Daled*, *kelal* 30; “*di-Avad*,” *Encyclopedia Talmudit*, VII, 417 and n. 140 therein.

266. R. Meir ben Baruch of Rothenburg, *Resp. Maharam ben Barukh me-Rotenberg* (Prague edition), IV, sec. 108. Maharam's lenient position is widely cited; see R. Moses Parnes of Rothenburg, *Sefer ha-Parnes*, sec. 206; Mordechai, *Gittin*, ch. 4, sec. 404; *Hagahot Maimoniyot*, *Hilkhot Tefillah*, 12:17, n. *resh*; Abudarham, *Dinei Keri'at ha-Torah*, s.v. “*ve-Katav ha-Rav Meir*,” *Beit Yosef*, *Tur*, sec. 282, s.v. “*ha-Kol Olin*,” *Darkei Moshe ha-Arokh Tur*, sec. 282, s.v. “*ha-Kol Olin*.” Rabbenu Yeruhm, *Toledot Adam ve-Havva*, *Netiv* 2, *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 Rothenberg], not Ramah). For further discussion of the responsum of Maharam, see Aryeh A. Frimer, n. 263 *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 *Teshuvot Maharam me-Rotenburg ve-Haverav*, ed. Simcha Emanuel (Jerusalem, 2012), II, sec. 450. This letter is incomplete, and ends with a query regarding “*ir she-kulam kohanim*.” The questioner makes it clear that the city under discussion had the original Talmudic custom according to which each *oleh* read for himself. This is indeed reflected in the language of the original responsum of Maharam who writes: “...*de-kohen korei pa'amayim ve-shuv yikre'u nashim*.” Note the use of the term “*korei*” rather than the mishnaic formulation of “*oleh*.” Thus it is clear that each *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, *Responsa ha-Rashba ha-Meyubasot la-Ramban*, sec. 186; see also *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 *Beit Yosef* and codified in *Shulhan Arukh*, O.H., sec. 135, no. 12.

267. 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-Ketsi'a, Tur, O.H.*, sec. 282; *Mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbenu Ovadiah 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, *Hagabot ha-Tur*, no. 1; Bah, *supra*, n. 255; *Resp. Tsedaka 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 Ovadiah 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 Fest-schrift 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 merubeh*), 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 merubeh*.

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 *Parashat 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 lehakel*, 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

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’aseh* (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 Shebita* 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’aseh* (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 Orach*, 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 Kafih, 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

Nebenzahl, *Resp. Avigdor ha-Levi*, R. Nitsan Brauner, ed., I, *O.H., Dinei ha-Kore ve-haMakreh* (sec. 141), no. 21.

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 *kevod ha-tsibbur* 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 *kevod ha-tsibbur* 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 *kevod ha-tsibbur* consideration or merely to limit the publicity of such an exceptional *she'at ha-dehak* practice. In any case, the idea that *kevod ha-tsibbur* 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 *kevod ha-tsibbur* 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 Tsibbur, Halvei Shelamim, Dinei Torah u-Kevod ha-Tsibbur*, 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 *kevod ha-tsibbur* 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, *Nishmat Kol Hai*, I, sec. 6. Indeed, R. Elgazi, R. Palagi and *Encyclopedia Talmudit*, XXVI, "*Kevod ha-Tsibbur*" 554-565, n. 21 on 555, maintain that this is the general understanding of the codifiers. R. Ephraim Bezalel Halivni, *ha-Tebinna 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.

292. R. Moses Salmon, *Netiv Moshe* (Vienna, 1899), 24, n. 112; cited by R. Marc B. Shapiro, "Taliban Women and More," *Seforim Blog*, June 11, 2012, n. 14, available online at: <http://seforim.blogspot.co.il/2012/06/taliban-women-and-more.html>.

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. Ovadiah 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 keriah* eliminates *kevod ha-tsibbur*. However, in a printed version of a substantially similar lecture, found in R. Ovadiah Yosef, *mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbi Ovadya Yosef Shlita, Shiur 19, Motsaei Shabbat Parashat va-Yeira* 5756, this comment is absent. Moreover, in *Yalkut 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 *sheli'ah tsibbur* reads the portion aloud." See also *ibid.*, *Kitsur 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. Ovadiah 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 *Yalkut Yosef* which appeared in 2004 (5764). Similarly, in R. Ovadiah Yosef, *Mishnat Yosef*, III, *Shiurei Maran ha-Rishon le-Tsiyyon* 5762, *Parashat va-Yetse*, *Hilkhot Keri'ah be-Sefer Torah be-Shabbat*, no. 11, 56, R. Ovadiah Yosef rules: "Therefore, women may not receive any *aliyyot* whatsoever." Also problematic is the fact that, in the above cited recording, R. Ovadiah Yosef surprisingly permits women to receive *aliyyot* – in the presence of a *ba'al keriah* – only in *be-di'avad* 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: *Yalkut 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-Ikvei ha-Tson* (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.

296. *Resp. Sha'ali Tsiyyon* and *Resp. Shemesh u-Magen*, *supra* n. 171a – based on *Resp. Rivash*, *supra*, n. 102.

297. R. Chaim Kanievsky, cited in R. Aharon Grandish, *Teshuvot ha-Grah*, II, sec. 1746.

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-Minhagim be-Yisrael," *Itturei Kohanim*, 216 (*Heshvan* 5763), 26-39; R. Daniel Sperber,

Minhagei Yisrael: Mekorot ve-Toladot, I (Jerusalem: Mossad haRav Kook, 1989), ch. I and 2; R. Eliav Shochetman, *supra*, n. 27a, sec. 7 therein.

300. On *O.H.*, sec. 282, see: *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'iroi*, II, sec. 54; R. Hayyim Joseph David Azulai (Hida), *le-David Emet*, sec. 5, no. 2 in *Kuntres Aharon; Hayyei Adam*, sec. 31, no. 39; *Derekh ha-Hayyim*, sec. 77, no. 6; R. Israel Lipschutz, *Tiferet Yisrael to Mishna Megilla* 4:6, no. 41; R. Solomon haKohen, *Resp. Binyan Shlomo, O.H.*, I, sec. 54; *Resp. Mishpetei Uziel, 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, *Yesodei Yeshurun*, IV, *Ma'arekhet Keri'at ha-Torah*, 405; R. Gedalia Felder, *Pri Yeshurun 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-Mafkir*, ch. 13; R. Reuben Amar, *Minhagei ha-Hida*, (Jerusalem: 5759 -Second Expanded Edition) *O.H.*, part I, 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 errs when he claims that the custom in Israel is to refrain from calling up minors. See: *Resp. Yehaveh Da'at*, IV, sec. 23; *Hazon Ovadya, Hilkhot Shabbat*, part 2, *Hilkhot 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 Yeshurun* II, on *Tanya Rabbati*, sec. 6, *Inyan Sefer Torah*, n. 50, 139; *Resp. Benei Vanim*, I, sec. 4; Rabbis Ephraim Grunblatt and Yuval Nof, *Rivevot ve-Yovelot*, II, sec. 426; R. Shai Piron, *Keri'at Nashim ba-Torah*, available online at <http://www.kipa.co.il/ask/show/27015>; *Mi-Shiurei Maran ha-Rishon le-Tsiyyon Rabbeinu 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 besmirm 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 *minyán* 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.

305. For general reviews, see: *Encyclopedia Talmudit*, X, “*Haftara*,” 1-32; R. Yissachar Jacobson, *Hazon ha-Mikra* (Tel Aviv: Sinai, 5719), I, 18-21; R. Samuel ha-Kohen Weingarten, “*Reshitán shel ha-Haftorot*,” *Sinai*, 83:1-6 (504-509) (*Nisan-Elul* 5738/1968), 505-536, available online at <http://www.tinyurl.com/hjkg7>; Aviad Bienenstock, “*Keri'at ha-Haftara*,” available online at <http://www.tinyurl.com/z2ej2>; R. Samuel N. Hoenig, *Jewish Action*, 63:1 (Fall 5763/2002), available online at <http://www.tinyurl.com/hye69>.

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

307. *Sefer Abudarham*, *Shaharit shel Shabbat*, s.v. “*ve-Ahar she-golein*”; R. Moses ben Joseph Trani (ha-Mabit), *Beit Elokim, Sha'ar ha-Tefilla I*, ch. 10, s.v. “*ve-Inyan ha-Haftara*,” R. Elijah Bahur Levita, *Sefer ha-Tishbi*, sec. “*Peter*,” *Levush*, O.H., sec. 284, no. 1. R. Bahur is cited by R. Yom Tov Lipmann-Heller, *Tosafot Yom Tov, Megilla*, 3:4, s.v. “*li-keSidran*.”

308. See: R. Adolf Büchler, “The Reading of the Law and the Prophets in a Triennial Cycle. II,” *The Jewish Quarterly Review*, 6:1 (October, 1893), 1-73, at 5ff; R. Judah Leib Fishman (Maimon), *Hagim u-Mo'adim* (Jerusalem: 5708), 200-201; R. Reuven Margolies, *Nefesh Hayya*, O.H., sec. 284, s.v. “*Sham, Turei Zahav*.” For further sources see R. Samuel ha-Kohen Weingarten, *supra*, n. 305.

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-Yashar*, 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*.

311. *Resp. Minhat Yitshak*, III, sec. 12; R. Abraham Rapoport, *Resp. Be’er Avraham*, secs. 3, 4 and 5; R. Zalman Druck, *Mikra’ei Kodesh: Hilkhhot Keri’at ha-Torah*, 198.

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 (24a); *Shulhan Arukh*, *O.H.*, sec. 284, no. 4.

314. Nor to a non-Jewish slave. *Resp. Tashbets*, 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 haMishpatim*, 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 Ap*” (Jerusalem: *Sifriyat ha-Mishpat ha-Ivri*, 1998).

320. (a) R. Ya’akov (Gerald J.) Blidstein, “*Gadol Kevod ha-Beriyot – Iyyunim be-Gilguleha shel Halakha*,” in *Shenaton ha-Mishpat ha-Ivri*, IX–X (5742–5743), 127–185; (b) R. Ya’akov (Gerald J.) Blidstein, “*Kevod ha-Beriyot u-Kevod ha-Adam*” in *She’eila shel Kavod – Kevod ha-Adam ke-Erekh Musari Elyon ha-Hevra ha-Modernit (ha-Makhon ha-Yisre’eli le-Demokratiya* and Magnes Press: Jerusalem, 2006), Joseph David, ed., 97–138 – available online at <http://tinyurl.com/288g34>. (c) See also: R. Gerald J. Blidstein, “Human Dignity as a Norm of Jewish Law,” Cardozo Law School, November 24, 2010; available online at: <http://tinyurl.com/34xt834>. In

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

321. (a) R. Aharon Lichtenstein, “*Kevod ha-Beriyot*,” *Mahanayim*, 5 (Iyar 5753), 8-15. Interestingly, based on Maimonides, *Hilkhot Sanhedrin*, 24:9-10, R. Lichtenstein suggests that “*beriyot*” in the term *kevod ha-beriyot* relates to all human beings; (b) R. Aharon Lichtenstein, “*Kevod Ha-beriyot: Human Dignity in Halakha*” – this is an English translation of reference 321a – available online at <http://tinyurl.com/35gedm>; (c) R. Aharon Lichtenstein, “*Kevod haBeriyot*” – available online at <http://tinyurl.com/2a7bvc>; (d) R. Aharon Lichtenstein, “*Mah Enosh*: Reflections on the Relation between Judaism and Humanism,” *Torah U-Madda Journal*, 14 (2006-2007), 1-61, at p. 30ff – available online at <http://tinyurl.com/22kf6m>.

322. (a) R. Daniel Z. Feldman, *The Right and the Good: Halakha and Human Relations* (Brooklyn, NY: Yashar Books, 2005 – Expanded edition), Chapter 14, 197-214; (b) R. Daniel Z. Feldman, “*K’vod haBeriyot – Human Dignity*,” shiur (March 18, 2005), available online at <http://tinyurl.com/2wu4vm>; (c) R. Daniel Z. Feldman, “*Kavod haBeriyot*,” audio shiur (June 26 2007) available online at: <http://tinyurl.com/3xtw6j>.

323. (a) “*Kevod ha-Beriyot*,” *Encyclopedia Talmudit*, 27, 477-542; (b) R. Chaim Zev Reines, “*Kevod ha-Beriyot*,” *Sinai* 27:7-12 (159-164; *Nisan-Elul* 5710), 157-168; (c) R. Israel Shepansky, “*Gadol Kevod ha-Beriyot*,” *Or ha-Mizrah*, 33:3-4 (118-119; *Nisan-Tammuz*, 5745), 217-228; (d) Danny Eivers, *Kevod ha-Beriyot, Talelei Orot*, 7 (5757), 125-135 – available online at <http://tinyurl.com/3dyezo>; (e) R. Benayahu Broner, *Kevod ha-Beriyot ke-Bitui le-Hofesh ha-Perat, Talelei Orot*, 8 (5758-5759), 59-70 – available online at <http://tinyurl.com/6zufyv3>. (f) R. Mark Dratch, “The Divine Honor Roll: *Kevod ha-Beriyot* (Human Dignity) in Jewish Law and Thought,” (2001; revised 2006) – available online at <http://tinyurl.com/2bfet2>; (g) R. Hershel Schachter, “*Kavod haBriyot*,” audio shiur available online at <http://tinyurl.com/26bam6>; (h) R. Mosheh Lichtenstein, “God’s Handiwork: Human Dignity as a Halakic Factor (Part 2)” – available online at <http://tinyurl.com/2k6gnm>; (i) Hershey H. Friedman, “Human Dignity in Jewish Law,” 2005 – available on line at: <http://tinyurl.com/35sxyw>; (j) R. Daniel Sperber, *supra*, n. 25; (k) Eliezer ben-Shlomo, “*Kevod ha-Adam mul Shelom ha-Tsibbur be-Hashpalat Asir*,” *Tehumin* 17 (5754), 136-144; (l) R. Isaac Brand, “*Gadol Kevod ha-Beriyot*,” *Sidra* 21 (5766), 5-34. (m) Arik Grinstein, “*Gadol Kevod ha-Beriyot – Yoter mi-Kevod Elokim?*,” *Pit-tubei Hotam* (Yeshivat Hesder Orot Shaul, Petah Tikva), Av 5770, 295-325. (n) For a beautiful presentation of the ethical aspects of *kevod ha-beriyot*, particularly in the writings of R. Chaim Shmuelevitz (*Sihot Mussar*, II, Essay 37), see R. Jacob J. Schacter, “Jewish Tradition and Human Decency: The Principle of *Kavod Ha-Beriyot*,” available online at <http://tinyurl.com/4ehdewu>. (o) For a discussion of *kevod ha-beriyot* in conjunction with reconstructive breast surgery, see: Naomi Englard-Schaffer and Deena R. Zimmerman, “Halachic Issues Raised by Reconstructive Breast Surgery,” *Assia-Jewish Medical Ethics and Halacha*, 8:1 (December 2011), 43-63 and n. 358j, *infra*. (p) For a discussion of *kevod ha-beriyot* with regard to non-Jews, see: *M.T., Hilkhot Sanhedrin* 24:10; *Tur*, H.M., sec. 2 (end); R. Yaakov Kaminetsky, *Emet le-Ya’akov*, O.H., sec. 13, no. 3 and H.M., sec. 2, no. 1; R. Dekel Cohen, *Resp. Elyashiv haKohen*, III, sec. 52. These sources suggest that here is *kevod ha-beriyot* even by non-Jews. However, R. David Pardo, *Resp. Mikhtam le-David*, Y.D., sec. 46, s.v. “*ve-Hinneb be-ze muvan*” (end), assumes not so.

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;

Aryeh A. Frimer, *supra*, n. 27d; R. Chaim Navon, “*ha-Ma’avak al Demuto shel Beit ha-Kenesset*,” *Makor Rishon*, August 17, 2007, Shabbat Magazine, 19; R. Chaim Navon, “Women and Halakha: Shiur #06: Public Torah Reading by Women,” available online at <http://tinyurl.com/p8ajvmh>.

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-beriyot*. 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-beriyot*. See also R. Nahum Rakover, *supra*, n. 319b, 50ff. Nevertheless, its use to defer rabbinic injunctions is rabbinic in origin: see: R. Nahum Rakover, *supra*, n. 319c, p. 81; 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-beriyot* 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-beriyot* (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-beriyot* 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 Yehoshua*, 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-Beriyot* in *Sefer ha-Yovel Minhah le-Yehuda – Rav 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.

329. R. Judah ben Isaac Ayash, *Resp. Beit Yehuda*, O.H. 58, s.v. “*ve-Khi teima*”; R. Israel Shepansky, *supra*, n. 323c based on Rabbenu Nissim and R. Eliezer ben Nathan (Ra’avan).

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-Hashtama*; *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-Beriyot I Dohah 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.

331. R. Solomon ben Aderet, *Resp. Rashba*, I, sec. 115 cited in *Beit Yosef*, *Tur*, O.H. sec. 135 and *le-halakha* in *Shulhan Arukh*, O.H. sec. 135, no. 5.

332. (a) R. Jacob Zvi Yalish of Dinov, *supra*, n. 330; R. Chaim Zev Reines, *supra*, n. 323b, 166 and 168; R. Israel Shepansky, *supra*, n. 323c, 227-228. See, however, R. Judah Leib Graubart, *Resp. Havalim ba-Ne’imim*, III, sec. 64, s.v. “*Aval*” ff., who queries whether perhaps the actual disgrace and embarrassment of an individual – and not merely his honor – could supercede *kevod ha-tsibbur*. He leaves the issue unresolved.

(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 *aliyyot*. 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 *tefillin*, 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. Tsits Eliezer*, VIII, sec. 1 and XII, sec. 2; R. Shlomo Zalman Auerbach cited in *Nishmat Avraham*, O.H., 76:6. Hence the question of whether one wearing a catheter or colostomy bag can get an *aliyya* is not at all a *kevod ha-tsibbur* issue – after all, these appurtenances are covered and hidden. These authorities would permit *aliyyot* 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 stray (*Lo tasur*) 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.

338. JT *Kilayyim* 9:1 (end) and cited by Rosh, *Massekhet Nidda*, *Hilkhot Kilayyim*, 9:1 (32a), *Beit Yosef* and *Levush*, Y.D., 303:1. A similar statement appears in JT *Berakhot* 3:1. This principle has been adopted and applied in practice by several leading scholars; see: *Resp. Noda bi-Yehuda*, O.H., *Mahadura Kamma*, sec. 35; R. David Samuel Pardo, *Resp. Mikhtam le-David*, Y.D., sec. 51; *Resp. Maharsham*, III, sec. 88; R. Abraham Isaac ha-Kohen Kook, *Resp. Da'at Kohen*, sec. 137; *Savinu Morenu* R. Moses Zev Kahn, *Resp. Tiferet Moshe*, sec. 58; R. Aharon Lichtenstein, *supra*, n. 321c; R. Yehudah Herzl Henkin, "Amirat she-Lo Asani Isha be-Lahash," *mi-Peirot ha-Kerem* (Yeshivat Kerem be-Yavneh), 5764, 75-81, sec. B.1, s.v. "la-Aharona"; R. Yehudah Herzl Henkin, *Resp. Bnai Vanim*, IV, sec. 1, no. 3, "la-Aharona"; R. Yehudah Herzl Henkin, personal communication to Aryeh A. Frimer (11/26/07). For a dissenting opinion, see R. Solomon Kluger, *Sefer ha-Hayyim*, O.H., sec. 13, no. 3, s.v. "be-Oto se'if – Im" – who maintains that if the shame is continuous, so may be the violation. Apropos, R. Hayyim Halberstam, *Resp. Divrei Hayyim*, O.H., I, sec. 35 argues that if the violation is passive in nature (*shev ve-al ta'aseh*), it may continue indefinitely.

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 Niyar*; and R. Elijah of London, *Perush R. Eliyahu mi-Londrish u-Pesakav*. Their stance as far as rabbinic prohibitions is unknown. By contrast, many commentaries 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, *Penei Moshe* and *Mareh 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*,

n. 304 therein. R. Jacob Zvi Yalish of Dinov, “*Kevod ha-Beriyot I Dohel Lo Ta’aseh*,” *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 Yitshak*, sec. 54, s.v. “*Yikrat devarav*,” R. Meir Simha of Dvinsk, *Or Same’ah*, *Hilkhot Yom Tov*, 6:14 and *Hilkhot Sanhedrin*, 15:1; R. Jeroham Perlow, Commentary on *Sefer 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 Kasher, “*be-Inyan Gilu’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-beriyot*. 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-beriyot*. 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 supercede *kevod ha-tsiibur*. 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-beriyot*; a lack of honor, by contrast, is an insufficient reason.

A reviewer has challenged the assertion that *kevod ha-beriyot* refers to the “dis-honor” 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-beriyot* to allow women the honor of sewing together the *Torah* parchment sheets. We should note, however, that this invocation of *kevod ha-beriyot* 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-beriyot*, 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-beriyot*. 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-beriyot*. 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-beriyot* 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-beriyot*. 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 *rehitsa* (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-beriyot* cannot permit its active violation (*kum ve-aseh*). More fundamentally,

however, the leniency for a bride has nothing to do with *kevod ha-beriyot*. What is forbidden on *Yom Kippur* is lavng 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 lavng of necessity, not one of pleasure. As Rashi, *Yoma* 73b, s.v. “*ve-haKalla*,” states: “She **requires** beauty until she becomes beloved on her husband...” R. Ovadya of Bartenora, *Mishna Yoma* 10:1, s.v. “*ve-haKalla*,” 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, Inyanim Shonim*, sec. 13, s.v. “*ve-Nireh la-aniiyut da'ati leyashev*,” R. Benjamin Ze'ev (Wolf) ha-Levi Boskowitz, *Seder Mishna, M.T., Hilkhot Shevitat Asor* 3:1; *Encyclopedia Talmudit*, *ibid.* at p. 483. Indeed, R. Boskowitz maintains that the lavng 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 *kevod ha-beriyot*. R. Sperber attempts to use this example to demonstrate that *kevod ha-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 *kevod ha-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 *kevod ha-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] *kevod ha-beriyot*.” This might suggest that *kevod ha-beriyot* is a matter of paying honor, and it is *kevod ha-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 *kevod ha-beriyot* sets aside no prohibitions in this case. Rather, *genevat 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.) Blidstein, *supra*, n. 320a, 162 and references cited therein.

341. *Resp. Rivash*, sec. 226; *Resp. Harvot 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 *kevod ha-beriyot* can be invoked to temporarily overturn a rabbinic injunction even when the shame or emotional pain is minor: R. Joseph Teomim, *Shoshannat ha-Amakim, kelal* 6; R. Jonathan Eybeschuetz, *Urim ve-Tumim, Hilkhot Edut*, sec. 28, end of no. 12; R. Meir Arik, *Tal Torah, Berakhot* 20a. *Melo ha-Ro'im* and *Shoshannat 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-beriyot* can be invoked.

342. *Resp. Rivash*, sec. 226. See also R. Raphael haKohen, *Sifteï Kohen*, vol. 1, *Berakhot* 19b, sec. 5.

343. Responsum of R. Naftali Amsterdam quoted in R. Isaac Blazer, *Resp. Pri Yitshak*, sec. 53; R. Elhanan Bunim Wasserman, *Kovets Shiurim*, I, *Bava Batra*, sec. 49; R. Makiel Zvi ha-Levi Tannenbaum, *Resp. Divrei Malkiel*, I, sec. 67 and III, sec. 82; R. Chaim Zev Reines, *supra*, n. 323b, 157; R. Joseph B. Soloveitchik, *Divrei Hashkafa*, 234-235; R. Joseph B. Soloveitchik cited by R. Zvi Schachter, “*mi-Peninei Rabbeinu*,” *Beit Yitshak*, 36 (5764), 320ff; R. Israel Shepansky, *supra*, n. 323c, 225, n. 48; R. David Povarsky, *Sefer Bad Kodesh* on *Berakhot*, *Zera'im*, *Shabbat* and *Eiruvin* (Bnai Brak, 5767), *Berakhot*, sec. 4, 13-18, at p. 17; R. Elijah Bakshi Doron, *Resp. Binyan Av*, II, sec. 55, no. 3. Note that our formulation of an objective standard is essentially that of R. Bakshi Doron.

R. Isaac Blazer, *Resp. Peri Yitshak*, sec. 54, dissents, maintaining that *kevod ha-beriyot* 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-beriyot* 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-beriyot* 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 *aharonim* 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. 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-beriyot* 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 sensibilities. Here the overwhelming consensus of codifiers is that one cannot be lenient and *kevod ha-beriyot* cannot be invoked.

Also cited by R. Sperber (*ibid.*, p. 88) in support of complete subjectivity in *kevod ha-beriyot* is the fact that the monetary remuneration for publicly shaming someone (*boshet*) – 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*,

"*Boshet*," III, 42-50, at p. 46. However, it is clear that the legal concept of shame for the purpose of quantifying damages payments 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* I 5768 (February 22, 2008), 7.

347. See discussion in text above, after n. 325.

348. R. Meir Simha of Dvinsk, *Or Same'ah*, *Bava Metsia* 32b; R. Isaac Blazer, *Resp. Peri Yitshak*, sec. 55; *Resp. Mishpitei Uziel*, I, Y.D., sec. 28, s.v. "*Ulam ma she-katav*" – reprinted in *Piskei Uziel bieShe'eilot ha-Zeman*, sec. 32, s.v. "*Ulam ma she-katav*," 175-176; R. Joseph B. Soloveitchick, *Divrei Hashkafa*, 234-235; R. Joseph B. Soloveitchick cited by R. Zvi Schechter, "*mi-Peninci Rabbenu*," *Beit Yitshak*, 36 (5764), 320ff; R. Joseph B. Soloveitchik cited by R. Zvi Schechter, "*Divrei ha-Rav* (Jerusalem: *Mesorah*, 5770/2010), 160-161; R. Jacob Israel Kanievsky, *Karyana de-Iggarta*, I, secs. 162 and 163; R. Avigdor Nebenzahl, "Without Fear of God there is nothing," *Parsha Values* (Yeshiva Netiv Aryeh) – *va-Yera* 5762, available online at: <http://tinyurl.com/39xsp4>; R. Asher Weiss, *Kovets Darkei Hora'a*, Kovets 5 (*Nissan* 5766), sec. 3, 78-79, s.v. "*ve-Af im nani'ab*"; 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, s.v. "*la-Aharona*"; R. Yehudah Herzl Henkin, personal communication to Aryeh A. Frimer (11/26/07); R. Samuel Jacob ha-Levi Haber, *Et Tsenu'im Hokhma*, II (Karnei Shomron, 5767), sec. 14, 302-305. See also: R. Ari Friedman, *Kavod haBerios*, *Parsha Encounters* (Chicago Community Kollel), 8 *Tammuz* 5765 (July 15, 2005) - available online at: <http://tinyurl.com/2rfxf>.

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. Iggerot 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 Metsuyyanim 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'aniyyot, 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-laBat*, sec. 37, no. 25, n.e 25; R. Shlomo Aviner cited online at <http://www.kikarhashabat.co.il/1-הלכה-אכנה-אכנה.html>; R. Ben Zion Mutsafi cited online at <http://www.moresheet.co.il/web/shut/shut2.asp?id=134214>. R. Yitzhak Abadi, *Or Yitzhak* 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'avur*, and this is the viewpoint R. Abadi adopts. See discussion in: R. Isaac Jacob Fuchs, *Halikhot Bat Yisrael*, ch. 7, no. 14, n. 29; R. Samuel Jacob ha-Levi Haber, *Et Tsenu'im Hokhma*, II (Karnei Shomron, 5767), sec. 14, 298-305; R. Aaron Sonnenshein, "Letters to Editor: Handshaking," *Hakirah – The Flatbush Journal of Jewish Law and Thought*, vol. 5 (Fall 2007), 8-20; R. Samuel Katz, *Kedoshim Tihyu* (Jerusalem: 5740) 227; R. Menahem Adler, *Binah va-Daat: Hilkhoh Me Halelei Shabbat bi-Zmaneinu* (2008), ch. 6, no. 33, 116-118. See also the stringent opinion of R. Elyakim Levanon, "*Lilehots Yad Isha?*," available online at: <http://tinyurl.com/25zxkhd>. R. Joseph Shalom Elyashiv has ruled that, under dire circumstances, a man may shake a woman's outstretched hand if he is wearing gloves; see R. Joseph Shalom Elyashiv, "*Pesakim be-Hilkhoh Yehud u-Tsenu'ut*," *Kovets Beit Hillel*, vol. 11, no. 42 (*Tammuz* 5770), 33-36, *Hilkhoh Tsniut* no. 7 at 36 – available online at www.shtaygen.net/sprim/byt_hll_42.pdf.

By contrast, in a 1914 responsum, R. Solomon Carlebach (Rabbi of Lübeck, Germany) maintained that refraining from handshaking with women is merely a laudable stringency, which can be set aside by *kevod ha-beriyot*; see: R. Solomon Carlebach "*Mareh Mekomot le-Issur Peri'at Rosh be-Isha ve-Dinei Pe'ah Nokhrit*," *le-David Tsevi* (Berlin, 5674), 218-219. This seems to have been the general position and practice of the German Orthodox Rabbinate at that time; see: R. Joseph Joshua Appel, *Ha-darom*, 64 (Elul, 5755), 166-167 – regarding the "scholarly and God fearing" R. Dr. Munk and R. Dr. Meier Hildesheimer of Berlin; *Halikhot Bat Yisrael* and *Et Tsenu'im Hokhma*, *ibid*. Similar positions are attributed to R. Samson Raphael Hirsch, cited by R. David Cohen (Synagogue Gevul Ya'avets) – available online at <http://tinyurl.com/25zxkhd> comment 67; R. Chaim Belin, *Resp. Nishmat Hayyim*, sec. 135, no. 6; R. Elimelekh Bar Shaul, in a letter cited by R. Samuel Katz, *Kedoshim Tihyu* (Jerusalem: 5740) 227; R. Moshe Feinstein, cited by R. Zvi Lampel in consultation with R. Reuven Feinstein, available online at <http://tinyurl.com/mpwf66>; R. Joseph B. Soloveitchik cited by R. Gil Student, available online at: <http://tinyurl.com/n9eun3>; R. Yaakov Kaminetzky, *Titen Emet le-Yaakov al ha-Tur ve-Shulkhan Arukh*, 405, n. 4; R. Nathan Bulman, cited by his daughter Toby Katz – available online at <http://tinyurl.com/mpwf66>. See also the related comments of: R. Yehuda Herzl Henkin, *ha-Ma'ayan*, 18:4 (*Tammuz* 5738), 78-95, at 90 – reprinted in *Resp. Bnei Vanim*, I, sec. 37; R. Yehuda Henkin, "Is Handshaking a Torah Violation," *Hakirah – The Flatbush Journal of Jewish Law and Thought*, vol. 4 (Winter 2007), 115-120, at 119 – reprinted in R. Yehuda Henkin, *Understanding Tsniut* (Jerusalem: Urim, 2008), ch. 4, 95-100; R. Yehuda Henkin, "Letters to Editor: Handshaking," *Hakirah – The*

Flatbush Journal of Jewish Law and Thought, vol. 5 (Fall 2007), 20-23; R. Asher Benzion Buchman, "Letters to Editor: Handshaking," *Hakirah – The Flatbush Journal of Jewish Law and Thought*, vol. 5 (Fall 2007), 23-27; R. Elyakim Getsel Ellinson, *Hatsne'a Lekhet – ha-Isha ve-Hamitsvot, Sefer Sheni* (Jerusalem: *Histadrut ha-Tsionit ha-Olamit*: 5741), ch. 2, no. 12, nn. 96-97; R. Yuval Cherlow, "Mekor Issur Magga be-Isha" available online at: <http://www.ypt.co.il/print.asp?id=40541>.

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-beriyot*. 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-beriyot* 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, *Resp. Beit Shlomo*, O.H., II, sec. 111. See also R. Moses Sofer, *Hiddushei Hatam Sofer*, *Shabbat* 81b, s.v. "*ha-Gemara, Eitveih Ravina*."

353. *Resp. Rivash*, sec. 226. See also R. Raphael ha-Kohen, *Sifteih Kohen*, vol. 1, *Berakhot* 19b, sec. 5.

354. *Resp. Iggerot Moshe*, Y.D., part II, sec. 77, end of s.v. "*u-miTa'am she-hu*."

355. *Resp. Rivash*, *ibid*.

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.) Blidstein, *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.) Blidstein, *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 menstruant 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, menstruant visited the sanctuary on the High Holidays would be a classic example of *kevod ha-beriyot* overruling a *humra be-alma*. [As we discuss later, in sec. XI below, in actuality this is not a case of *kevod ha-beriyot* but of *nahat ruah*.]

(b) In the famous case of the wedding performed on Shabbat by R. Moses Isserlish, *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. Tsits Eliezer*, XVIII, sec. 59, permits the practice and cites several responsa which concur

without ever mentioning *kevod ha-beriyot*. 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 "Afikei Yehudah – Rabbi Yehuda Gershuni zt'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-beriyot* only to prevent needless *humrot* – where none in his opinion were justified. See case (a), above. See also, R. Ephraim Bezael 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-beriyot* 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-beriyot* 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-beriyot* has been invoked which are not cited by R. Sperber, but they too follow the guidelines outlined above. For further cases where *kevod ha-beriyot* has been invoked to set aside *humrot*, see: R. Yuval Sherlo, "Reshut Lebahmir" (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 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. Under such conditions, *kevod ha-beriyot* 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-di'avad*. Note that *kevod ha-beriyot* 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-di'avad*. Under such conditions, the *hazzan* has no permission to recite the resulting *berakhot* – which are rendered *le-vattala* despite the *kevod ha-beriyot* considerations. [*Be'ur Halakha* leaves this issue partially open because one could argue that, because of *kevod ha-beriyot*, *Haza*"] removed the prohibition to pray – and hence no *berakhot le-vattala*

accrue. It is clear, however, that according to *Be'ur Halakha*, *kevod ha-beriyot* 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-beriyot* as a factor in their decision. Here again, however, *kevod ha-beriyot* 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-Einayyim*,” *Tehumin*, 10, 282-287) has permitted tattooing eyebrows onto a woman who is missing them, relying in part on *kevod ha-beriyot*. He did so only after citing arguments suggesting that tattooing in such a case is perfectly permitted. For a related discussion, see R. Ovadiah Yosef, *Taharat ha-Bayit*, 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 England-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-Rav 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 Metsuyyanim be-Halakha*, *Hagiga* 16b, s.v. “*de-Amar*.”

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

364. Our 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 aseh she-haZeman 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 reshut*,” and Meiri, *Hagiga* 16b. According to these early-day authorities, *Hagiga* 16b is **not** dealing with a case where a woman brings her **own korbán**, 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 ibn Hayyim (1555-1632), *Korban Aharon, Safra, va-Yikra*, ch. 2, *parsheta* 2, no. 2; R. Isaac Nunis-Bilmoniti, *Sha'ar ha-Melekh, Ma'aseh Korbanot*, 3:13; R. Israel Zev Gustman, *Kuntresei Shi'urim – Kiddushin*, sec. 20, nos. 3 and 5; R. Joseph Shalom Elyashiv, *He'arot be-Massekhet 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 ruah* can actively set aside rabbinic rulings. Thus, in his gloss to Semag, *Asin* 42, *Hilkhot Shofar*, s.v. “*Aval mishum nahat ruah*,” R. Mizrahi writes that *nahat ruah* 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-Hinneh 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-dahi yabbi yosi issura de-rabbanan mi-kamei nashi*). This formulation is unclear. His words could mean that *nahat ruah* 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,” *Hirhurim-Musings*, January 27, 2013, available online at <http://torahmusings.com/2013/01/partnership-minyanim-ii/>.

366. *Shulhan Arukh, O.H.*, sec. 596, no. 1.

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

368. *Sefer Ra'avya*, 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 *nahat ruah*, this too renders the carrying not needless. See also *Shemateta de-Moshe: Pesakim u-Bei'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. Aval ha-minhag*; *Shulhan Arukh ha-Rav* O.H. sec. 88, no. 2; R. Abraham Adadi, *ha-Shomer Emet*, sec. 7, no. 3; *Hayyei 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. Yabbia Omer* III, E.H. sec. 10, no. 5-7; R. Ovadiah Yosef, *Resp. Yehaveh 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 Meshiv*, II, sec. 20. However, *Kitsur 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 Yatsiv*, Y.D., II, sec. 139.

371. R. Israel ben Petahya Isserlein, *Resp. Terumat ha-Deshen*, *Pesakim u-Ketavim*, sec. 132. R. Isserlein's rationale of *nahat ruah* is cited by *Beirt Yosef*, O.H., sec. 88 and *Bi'urei ha-Gra*, O.H., sec. 88, no. 1, s.v. "*be-Yamim nora'im*." Rema, O.H., sec. 88, no. 1 rules like the *Terumat ha-Deshen*.

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-Yoledet le-Davar she-biKedusha*, sec. 1, 37; R. Ovadiah Yavets, *Resp. Darkhei 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. See: *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; *Hayyei 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'aseh Ish*, O.H., sec. 3; *Resp Tsits Eliezer* X, sec. 8; R. Samuel

Turk, *Resp. Kerem Tsevi*, sec. 41; R. Ovadiah Yosef, *Resp. Yabbia Omer* III, E.H. sec. 10, no. 5-7; R. Ovadiah Yosef, *Resp. Yehavveh Da'at* III, sec. 8; R. Ovadiah Yosef, *Taharat ha-Bayit*, Part 2, sec. 12, no. 43; R. Shlomo Zalman Auerbach cited by R. Nahum Stepansky, *ve-Aleihu Lo Tibbol*, I, O.H., sec. 63.

374. See, for example, R. Mendel Shapiro, n. 23a, *Edah Journal*, 16 and *Women and Men in Communal Prayer*, p. 231; R. Zev Gothold, *Tahkemon*, 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*, *Eruvin* 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 Zarua*, II, *Hilkhot Rosh ha-Shana*, sec. 266, s.v. "Matnitin. Ein." For reviews, see: "Isha," *Encyclopedia Talmudit*, II, 250-251; 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>] sec. A, 8-12.

376. *Berakhot* 33a; M.T., *Hilkhot Berakhot* 1:15 and *Hilkhot Shevu'ot*, 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. "Berakha 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, "Berakha she-Einah Tserikha; R. Asher Weiss, "Berakha she-Eina Tserikha," *Shiur Moreinu ha-Rav Shlita*, *Kuntres Shevu'i*, *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 *nahat 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 *nahat ruah* to permit a blind person to receive an *aliya*. As discussed above in n. 358i, *nahat ruah* is not being invoked to permit the forbidden, but to resolve a halakhic dispute to the side of leniency.

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

382. R. Dov Linzer, "A Response to 'Women's Eligibility to Write Sifrei Torah,'" *Meorot: A Forum of Modern Orthodox Discourse*, 6:2 (*Marheshvan* 5768; November 2007) 1-11, at p. 11 – available online at <http://tinyurl.com/23eqjl>. See also the comments of R. Emanuel Feldman, "Orthodox Feminism and Feminist Orthodoxy," *Jewish Action*, 70:2 (Winter 5760/1999), 12-17 at p. 15.

383. See: Aryeh A. Frimer, "Feminist Innovations in Orthodoxy Today: Is Everything in Halakha - Halakhic?" *JOFA Journal*, 5:2 (Summer 2004/*Tammuz* 5764), 3-5 - available online at: <http://tinyurl.com/cfgjclx>.

384. Yeshayahu Leibowitz, "On Faith and Science," Rabbi Moshe Zev Kahn - Mr. Samuel G. Bellows Memorial Lecture, Rabbi Jacob Berman Community Center – Tiferet Moshe Synagogue, Rehovot Israel, April 1986.

385. Regarding the issue of women reading Megillat Esther for men, see Aryeh A. Frimer, "Women's *Megillah* Reading," In "Traditions and Celebrations for the *Bat Mitzvah*," Ora Wiskind Elper, Editor; Urim Publications: Jerusalem, 2003; 281-304. Available online at: <http://tinyurl.com/63xfmpn>; http://www.lookstein.org/articles/women_megilla_reading.htm and <http://www.daat.ac.il/daat/english/tfila/frimer2.htm>.

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*.

387. For a definition and discussion of these practices from a positive/supportive perspective, see: (a) The website of the Jewish Orthodox Feminist Alliance (JOFA) at http://www.jofa.org/Resources/Partnership_Minyanim; (b) Elitzur A. Siegel and Michal Bar-Asher Siegal, "A Guide to the Halachic *Minyan*," *Shevat* 5768; available online at <http://tinyurl.com/a7ju84h>. (c) R. Micha'el Rosenberg and R. Ethan Tucker, "Egalitarianism, Tefillah and Halakhah," available online at: <http://tinyurl.com/2vm4n93>. Regarding the issue of women leading Hallel, see: (d) William Friedman, "Women as Shelihot Tsibbur for Hallel on Rosh Hodesh," *Milín Havivin* 1, 2005, 84-94; (e) Debby Koren, "Everyone is an Expert in Hallel: On William Friedman's Women as Shelihot Tsibur for Hallel on Rosh Hodesh" (Hebrew), *Milín Havivin* 2, 2006, 226-219; (f) William Friedman, "A Response to Debby Koren," *Milín Havivin* 2, 2006, 189-194. Regarding Kabbalat Shabbat, see (g) Debby Koren, "Women Leading Kabbalat Shabbat with Men Present" <http://www.jofa.org/pdf/Women%20and%20Kabbalat%20Shabbat.pdf>; (h) R. Zev Farber, "Partnership *Minyanim*: A Defense and Encomium," available online at <http://morethodoxy.org/2013/01/25/partnership-minyanim-a-defense-and-encomium/>; (i) R. Zev Farber, "Partnership *Minyanim*: A Follow Up," <http://morethodoxy.org/2013/01/30/partnership-minyanim-a-follow-up-by-rabbi-zev-farber/>; (j) Chaim Trachtman, "Partnership *Minyanim*: A Response to Rabbi Barry Freundel," available online at <http://morethodoxy.org/?s=Trachtman>. These three papers are in response to Rabbi Freundel's pieces below.

Several critical discussions have also appeared: (k) R. Michael J. Broyde, "Women Leading Kabbalat Shabbat: Some Thoughts," *Hirhurim – Torah Musings*, August 19, 2010, available online at <http://tinyurl.com/3rfaovt>. (l) R. Barry Freundel, "Kabbalat Shabbat: Recited by the Community; But Is it Communal?" *Tradition* 44:2 (2011), 35-51; (m) R. Barry Freundel, "Putting the Silent Partner Back Into Partnership *Minyanim*," *Hirhurim-Torah Musings*, January 22, 2013, available online at <http://>

torahmusings.com/2013/01/partnership-minyanim/; the full annotated article is available at <http://torahmusings.com/wp-content/uploads/2013/01/partnership-minyanim.pdf>; (n) R. Barry Freundel, "Partnership *Minyanim* II," *Hirhurim - Torah Musings*, January 27, 2013 – available online at <http://torahmusings.com/2013/01/partnership-minyanim-ii/>; (o) R. Barry Freundel, "Partnership *Minyanim* II," *Hirhurim - Torah Musings*, February 3, 2013 – available on line at <http://torahmusings.com/2013/02/partnership-minyanim-iii/>; (p) R. Barry Freundel, "Partnership *Minyanim* IV," *Hirhurim - Torah Musings*, February 12, 2013, available online at: <http://torahmusings.com/2013/02/partnership-minyanim-iv/>; (q) R. Barry Freundel, "Partnership *Minyanim* V," *Hirhurim - Torah Musings*, February 27, 2013, available online at: <http://torahmusings.com/2013/02/partnership-minyanim-v/>; (r) Aryeh A. Frimer and Dov I. Frimer, "Partnership *Minyanim*," *Text and Texture* (Rabbinical Council of America), May 23, 2010; available online at <http://text.rcarabbis.org/?p=909> – reprinted in Dov I. Frimer, *Nediv Lev* (Jerusalem: 2010), 331*-347*; (s) Marc. B. Shapiro, "Partnership *Minyanim* and More," *Seferim Blog*, May 26, 2013, sec. 1, available online at: <http://tinyurl.com/orsfznp>. For a recent review, see: (t) Joel B. Wolowelsky, "Women and Communal Prayer: Review Essay," *Shofar: An Interdisciplinary Journal of Jewish Studies*, 30:4 (Summer 2012), 149-160.

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 le-Tsiyyon*, II, sec 5, no. 3, 44-5; *Resp. Yeharve 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. Otserot Yosef*, sec. 3; R. Pesah Elijah Falk, *Resp. Mahazeh Eliyahu*, sec. 15; R. Shlomo Aviner, *Resp She'eilat 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 Tsiyyun* 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*.

388. For documentation, see Aryeh A. Frimer, "Women and *Minyan*," *Tradition* 23:4 (1988), 54-77; Aryeh A. and Dov I. Frimer, "Women's Prayer Services — Theory and Practice; Part I: Theory" *Tradition*, 32:2, 5-118, n. 85 (Winter 1998); Aryeh A. Frimer, "*Ma'amad ha-Isha be-Halakha—Nashim u-Minyan*," *Or ha-Mizrah* 34:1, 2 (*Tishrei* 5746), 69-86.

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 Hannuka*," in *Kovets Torani Hilkhati Mevakshei Torah – Hannuka*, Part IV, no. 56, *Nisan* 5773, 16, no. 3 – "*Ta'am she-Nashim Einan Motsi'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 *Mourner's 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 Yitshak* 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 I - 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 Shimoni* 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 megillot* as well. Indeed, following the ruling of R. Elijah Kramer of Vilna (*Be'ur ha-Gra*, O.H. sec. 490, no. 9, s.v. "*ve-Nohagin*"), the general custom in Israel is to recite "*al mikra megilla*" and "*she-Hehiyanu*" 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 *megillot*, 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* (*Arakbin* 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 megillah, whereas women are obligated only to hear the megillah. 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 *teshuva* 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.” *Tam 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 Heitev O.H.*, sec. 14, no. 3, subsec. 6; *Divrei Hamudot* to Rosh, *Halakhhot Ketanot*, *Hilkhot Tsitsit*, 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; *Elya Rabba*, *O.H.*, sec. 18, n. 2; *Ba'er Heitev 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-sheHi metsuyyetset*”; *Mishna Berura*, *O.H.*, sec. 18, no. 3, subsec. 5; *Resp. Mishne Halakhot* sec. 23. *Mishna Berura*, *O.H.*, sec. 14, no. 3, subsec. 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 Minhag Ashkenaz*, I, *Tallit mi-Shum Kevod ha-Tsibbur*, 112-140. The general custom of having the *hazzan* wear a *tallit* for *Kabbalat Shabbat* out of *kevod 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 Beit haKenesset leLeil 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 *tefillot* including *pesukei de-zimra* or *kabbalat Shabbat*. Nonetheless, it is important to emphasize that *tefillot 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 *sheli'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 *sheli'ah tsibbur* to lead in the recitation of *pesukei de-zimra* beginning with *berakha – 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 *tefilla be-tsibbur* and as such commands the rules of *kevod 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 *piyyut 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. Yechiel Goldhaber, “*Likrat Shabbat Lekhu ve-Nelkha (Part A)*,” *Kovets Beit Aharon ve-Yisrael*, XI:4 (64), *Nissan-Iyar* 5756, 119-138, at 127ff. *Kabbalat Shabbat* is generally said

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 Tselota de-Avraham*, IV (Shabbat II), 17; R. Issacher Jacobson, *Netiv Bina*, II (Sinai: Tel Aviv, 1987), sec. 1, 33; R. Yechiel Goldhaber, “*Likrat Shabbat Lekhu ve-Nelkha (Part B)*,” *Kovets Beit 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 Beit 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*.

397. See discussion in Aryeh A. Frimer, “Women and *Minyan*,” *supra*, n. 245; Aryeh A. Frimer, “Guarding the Treasure: A Review of Tamar Ross, *Expanding the Palace of the King – Orthodoxy and Feminism*, Brandeis University Press, Waltham 2004, xxiv + 342 pp.,” *BDD - Journal of Torah and Scholarship* 18, English section, 67-106 (April 2007) - available online at www.lookstein.org/articles/treasure_frimer.pdf.

398. For recent reviews, see Joel B. Wolowelsky, “Women and *Kaddish*,” *Judaism* 44:3 (Summer 1995), 282-290; Joel B. Wolowelsky, *Women, Jewish Law and Modernity: New Opportunities in a Post-Feminist Age* (Hoboken, N.J.: Ktav, 1997), 84-94; R. Reuven Fink, “The Recital of *Kaddish* by Women,” *The Journal of Halacha and Contemporary Society* 31 (Spring 1996), 23-37; R. Yehuda Herzl Henkin, Letter to the Editor, *The Journal of Halacha and Contemporary Society* 32 (Fall 1996), 97-102; reprinted in *Equality Lost: Essays in Torah, Halacha and Jewish Thought* (Jerusalem: Urim, 1999), 42-53; R. Yisroel Taplin, *Ta’arikh Yisrael*, sec. 19, no. 19, n. 34; R. Eliav Shochetman, “*Aliyyot Nashim la-Torah*,” *Kovets ha-Rambam* (Jerusalem: Mossad haRav Kook, 5765/2005) [*Sinai* 68:135-136], 271-349, at p. 341 and n. 306. See also the collection of articles at: <http://www.daat.ac.il/daat/tfila/kadish/legufo-2.htm>.

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.

401. See: *Tur* and *Arukh ha-Shulhan*, O.H., sec. 422; R. Joseph B. Soloveitchik in R. Zvi Joseph Reichman, *Reshimot Shiurim* [New York: 5749], *Sukka* 38a, 185-190; R. Barukh David Povarsky, *Bad Kodesh – Berakhot, Zeraim, Shabbat, Eruvin*, sec. 18; R. Moses Mordechai Karp, *Mishmeret Moed, Sukka*, 332-338.

402. Rema O.H., sec. 422, no. 2.

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

404. *Shulhan Arukh*, O.H., sec. 479, no. 1.

405. *Arukh ha-Shulhan*, O.H., sec. 422, no. 8.

406. *Mishna, Sukka* 3:10 (38a).

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*.

408. *Mishna Berura*, O.H., sec. 422, no. 3, n. 19.

409. Confirmed to us by R. Aharon Lichtenstein, R. Moshe Mordechai Karp and R. Avigdor Nebenzahl, *supra*, n. 389.

410. *Tosafot* Rabbenu Perets, *Sukka* 38a.

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

412. M.T., *Hilkhot Megilla ve-Hannuka*, 3:12-14.

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).

415. R. Joseph B. Soloveitchik, *Reshimot Shiurim*, *supra* n. 401; R. Avigdor Nebenzahl, conversation with the authors, Dec. 6, 2011.

416. The above analysis of *kevod ha-tsibbur* limits a womans 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 hovav 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 *hovav 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*

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.

417. Haym Soloveitchik, "Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy," *Tradition*, 28:4 (1994), 64-130; available online at <http://www.lookstein.org/links/orthodoxy.htm>.