



ST ALBANS MASORTI SYNAGOGUE

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Policy on Bat Cohen

Question:

As a community that gives first *aliyot* to *cohanim* and (otherwise) gives *aliyot* equally to men and women, which *aliyot* should the daughters of *cohanim* receive?

Also, does the marriage of a daughter of a *cohen* to a non-*cohen*, or the marriage of a *yisraelit* to a *cohen*, change matters regarding the *aliyot* that she should receive?

Also, what appellation should be given to a woman who is the daughter/wife of a *cohen*?

Finally, is there any difference between the law as applies for the daughters of *cohanim* and those of *leviim*?

Answer:

This is an untidy issue for Masorti jurisprudence. We are caught, as a movement, between one ancient tradition that gives special honour to a select few and the desire to honour all, a tradition that has ancient roots, but is also shaped particularly by a contemporary understanding of the role of women. Moreover, we are standing on thin ice in the search for Rabbinic authority on which to rely, the tradition not having dealt systematically with the issue of giving women aliyot until 1955.

The two leading treatments are by Rabbi Joel Roth in a paper accepted by the American CJLS¹ (which suggests that women should receive first aliyot) and a paper by Rabbi Raphael Harris accepted by the Israeli Vaad Halacha (which suggests they should not)².

The Cohen and the First Aliyah (As Applied to Males)

Mishnah Gittin 5:8 reads,

The cohen reads first, the *levi* after him and the *yisrael* after him, because of the ways of peace [*mipnei darkei shalom*].

By the time of the Shulchan Arukh it is settled that, 'even if the *cohen* is an ignoramus, they still read first, even before the wisest scholar in Israel' (OH 135:4). It is also settled halachah that one cannot call a *cohen* to anything other than the first *aliyah*, *maftir* or extra *hosafot aliyot*. The exception to this is in the case:

Where there is no *levi* in the Synagogue. Then the cohen who read first, blesses a second time in place of [bimkom] the *levi*. But you don't call a different cohen, lest people say the first is flawed [pagum]. (SA OH 135:8)

¹ http://rabbinicalassembly.org/teshuvot/docs/19861990/roth_daughtersaliyot.pdf

² <http://www.responsafortoday.com/vol3/vol3.htm>

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This concern not to suggest that a *cohen* is flawed, or *pagum*, is an important feature in the laws relating to distribution of *aliyot*. The concern is so strong that the Mishnah Brurah even prohibits calling the son of the first *cohen* to read *bimkom levi* since one might think that the father married a divorcee or otherwise made profane the priestly standing of his own son (OH 135:29). There is, throughout the relevant material in the Shulchan Arukh and Mishneh Brurah, a concern not to embarrass anyone with genuine *cohen* lineage by giving them, or anyone else, an *aliyah* that might suggest otherwise.

The Rabbis use a number of verses to find scriptural authority for this claim. The most satisfactory claim is based on Leviticus 21:8, as understood by the Talmud Gittin 59b.³

And you shall make [the Priest] kodesh.

The school of Yishmael taught 'make *kodesh*' in all matters connected to *kedushah*. To open first [receive the first *aliyah*], to bless first [lead *birkat hamazon*] and to get first choice on the best portions.

Holiness, in a post-Temple Jewish world, becomes 'going first'. This explanation stresses the connection between getting the first *aliyah* and *avodat hakodesh* – the work of the Priest in the Temple. The first *aliyah*, therefore, is some kind of *zecher l'mikdash* – a memory of the time of the Temple; however the extent to which this is the case will be addressed in more detail below.

The Status, Rights and Obligations of the Daughter of a Cohen

The child of any *kosher* marriage takes the status of the father, and this applies equally to sons and daughters. Mishnah Kiddushin 3:12 states:

Whenever there is *kiddushin* and there is no sin [in the coupling of father and mother], the child follows [the status] of the male [the father].

And who is this? This is a female *Cohen*, *Levite* or *Israelite* to a male *Cohen*, *Levite* or *Israelite*.⁴

Therefore the daughters of a male *cohen* and a parent allowed to marry a *cohen* are considered *cohanot* (a Rabbinic term used, as we will see below, in the Mishnah).

But what does this mean in terms of the religious rights and responsibilities of the Priesthood? Rabbi Harris suggests there are no implications; that wherever the Rabbis discuss matters of cultic or ritual significance only the males are addressed. In doing so, he claims, they develop the androcentricity of verses regarding the Priesthood in the Bible. Numbers 3:15, for example, states:

Count the *bnei Levi*, according to their tribe and their family, count all the males from one month upwards.

It is clear that both sons and daughters of a male *cohen* are permitted to eat *Terumah* – special foods made available to the *cohen* and, as Leviticus 22:11 states, *anyone born in his house*. However, Rabbi Harris dismisses that this can teach us anything about *aliyot* since the right to eat *terumah* is entirely 'relational', i.e. dependent on her relation to her father and does not vest in the daughter in her own right. Certainly the way in which the Mishnah treats the daughter of a *cohen's* right to eat other foods made available for the Priesthood doesn't suggest her ability to eat them is in any way a special right that is her own.

³ The other attempts are based on Deut 31:9, 21:5 and I Chron 23:13, but they need not delay us at this time

⁴ This explains why the child of a female *cohen* and a *yisrael* is considered a *yisrael*.



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The Thanksgiving offering and the *Shlamim* offering are light offerings ... and they are eaten in any part of the city ... The cuts which are raised up as a heave offering are eaten by Priests, their women, their children and their slaves. (Mishnayot Zevachim 5:5 & 6 conflated for ease of presentation)

Notice the classic Mishnaic triplet of women, kids and slaves. It leads one to consider that the religious idea driving the Mishnah is looking after those who cannot look after themselves (in the eyes of the Mishnah) rather than recognising any inherent holiness in the wife or daughter of a priest.

Mishnah Sotah 3.7 – while recognising the daughters of *cohanim* as *cohanot* – nonetheless makes clear that daughters of *cohanim* have very different (and fewer) rights and obligations than their brothers.

What is the difference between a cohen and cohanot? ...

Cohanot can profane their status [by marrying converts or divorcees], a *cohen* can not.
Cohanot is allowed to become unclean through attending the dead, a *cohen* can not.
Cohanot cannot eat *kodshim* [one category of foods given to the priestly class], a *cohen* can.

These texts and those like them leave Rabbi Harris inclining against upsetting the ancient primacy of the male-cohen in the context of receiving the first *aliyah*. Since, Rabbi Harris claims, the first *aliyah* is intimately related to Priestly service and since women didn't do Priestly service and especially since change might be perceived as controversial, he recommends *shav v'al toseh* – sit tight and don't do anything.

How Close is the Relationship Between Temple Priestly Service and the First Aliyah?

Rabbi Roth suggests that if the contemporary rights and obligations of the Cohen were entirely contingent on being able to do Priestly service in Temple times one would expect that *baalei mumim* – those with certain physical blemishes who were prohibited from Temple service – would also be prohibited from the rights, and exempt from the obligations, of the contemporary *cohen*. But this is not the case. *Baalei mumim* are allowed to eat of the holiest sacrifices, they may officiate at the ceremony of the *egel arufah*, bless the people and must not defile themselves by attending on the dead⁵. This opens the possibility of the *cohen* having rights and obligations that are not contingent on their ability to do Temple service, but rather solely a function of their birth into the family of the sons of Aaron. This raises the question of whether the right to the first *aliyah* should be seen as such a right, or as a right contingent on the ability to do Priestly service.

Rabbi Roth has discovered a fascinating, and tragic, case which casts some light on this issue. A *cohen*, the victim of Nazi persecution, has been castrated. Can he get the first *aliyah*? Rav Oshri held that if there is no other cohen around, the man can since:

The elements of the priestly prerogative [including **the right to receive the first aliyah**] **are not contingent on his serving at the altar at all**, and even where a priest is not entitled to serve at the altar, as a *baal mum*, he nonetheless retains the sanctity of the priesthood and [he should be permitted to receive the first *aliyah*]⁶.

All of which suggests that the right to the first aliyah is not as closely connected to Priestly service (and therefore is not as androcentric) as we might have thought.

When the Daughter of a Priest Marries a Non-Priest

⁵ See Zevachim 101b, Sifra Deut piska 208, Megillah 24b and Sifra to Lev 21:1 & 6 respectively.

⁶ Responsa Mi ma-amikim 2:7, p.41. My emphasis



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Leviticus 22:12 states:

The daughter of a Priest - when she [marries a non-Priest] - should no longer eat the holy *trumah*.

We see a similar sentiment in the Talmud, Yevamot 87a, commenting on Numbers 18:19:

I have given you all these holy trumot, to you, your sons and daughters while they are with you. Rava stated 'with you' only when they are with you [i.e. not 'with' anyone else].

This is very significant authority for the notion that a significant part of priestly rights, gained by the daughter of a *cohen* on birth, is lost on her marriage to a non-*cohen*. But it is too much to say that all the rights of the daughter of a priest pass on marriage. Some quasi-priestly rights persist.

Firstly we should consider the case of *pidiyon haben* – redemption of the firstborn. The 'opening of the womb' of a *yisraelit* woman must be redeemed by a *cohen*. However, if the mother was herself a daughter of a *cohen* (or *levi*) the child is exempt, regardless of the status of the father. Even the Talmud professes surprise at this.

But doesn't the Bible say [we should consider the child] according to their families, their father's house [a very common phrase, especially at the beginning of Numbers]. However Mar, son of Rav Yosef says the matter depends on the [status of the woman with the] womb. (Bekhorot 47a).⁷

Secondly, there is the case of eating *trumah bshogeg*. If a non-*cohen* mistakenly eats *trumah* they have to repay to the Priest what they have eaten with a 20% additional fine (see Leviticus 22:14). But if the accidental *trumah* nosher is a Priest's daughter who has married a non-*cohen*, she is exempt from the surcharge (Mishnah Terumot 7:2).⁸

Matanot Cehunah – gifts to the Priests of the shoulders, cheeks and stomach – can also be given to daughters of *cohanim* even when married to non-*cohanim*. Ulla, one of the great Rabbis of the Talmud, specifically understood the relevant verse *he should give them to the priest* (Deut 18:3) to include women married to non-*cohamin*.⁹

The same is true of the first shearing of a sheep, also a priestly gift. As Rambam points out:

The first shearing is ordinary [*ho*] in every regard. Therefore I say that one gives it to the daughter of the cohen even though she is married to an Israelite, like animal gifts. It seems to me that one rule applies to both. (MT Bikurim 10:17)

When Rambam considers the first shearing 'ordinary' he makes a key point – namely that the right to these gifts is NOT connected to the 'holy' Priestly service (performed exclusively by males). This makes clear that there are some rights of the priest that can be considered 'holy' – i.e. intimately connected to Priestly service (and only open to men) while other rights can be considered 'ordinary', i.e. based on being born into a special family and, as such, a right that might apply equally to men and women. The question is whether the right of the first aliyah is a 'holy' or an 'ordinary' right accruing to the priestly line.

⁷ See Bekhorot 47a tosafot DHM Mar, MT Bikurim 11:10, SA YD 301.18. My emphasis.

⁸ See also Emor 6:2, 97d, which explains the reason being that the daughter of a Priest is not to be considered a 'stranger' to *terumah* even after her marriage to a stranger.

⁹ Hulin 131b; see also Rashi.



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Rabbi Roth makes the claim that the right is ordinary; he claims that the collection of instances where the special treatment of a daughter of a cohen persists even post-marriage:

Makes it reasonable and proper for the Law Committee to decide that daughters of priests and levites be accorded the same *aliyot* that are normally accorded to priests and levites. This should be the case whether they are single or married. Their status regarding being called to the Torah should not be determined by the lineage of their husbands, but by their own paternal lineage.

The Teshuvot of Rabbis Roth and Harris

Rabbi Roth makes two claims: firstly that the right of first *aliyah* is 'ordinary' and not directly connected to temple service and secondly that there are enough priestly rights in the daughter of a Priest to allow us to consider that she should receive the first *aliyah* even after she has married a non-cohen.

With a certain amount of trepidation I am not entirely unconvinced by my teacher's analysis, particularly as applied to a married woman.

On the connection between Temple service and the first *aliyah*, while the case of a *baal mum* is of interest, it does not, for me, trump the connection between Priestly service in Temple times and the notion of 'going first'. (See the statement of the School of Yishmael, Gittin 59b discussed above.)

Moreover, while some vestiges of priestly rights do remain with the daughter of a *cohen* after her marriage, the examples cited above should be read narrowly and not as a general case. It is no surprise to see the focus on the 'womb' (mother) in the case of *pidiyon ha-ben*, particularly given other applications of this rule. The case of the accidental *trumah* nosher can be explained simply in terms of a concession to a reality – she used to be able to eat *terumah*, so if she makes a mistake in her married state there ought to be some understanding here. This leaves the issue of Priestly gifts, which is hardly a crushing precedent, certainly when compared to the far more general notion that a daughter of a priest who marries a non-priest is considered to have left the house of her father to join that of her husband.

I also have serious misgivings with the approach of Rabbi Harris. His claim that, in matters relating to religious ritual, there is no *kedushah* applied to the daughter of the priest goes too far, particularly in the case of the unmarried daughter. Furthermore, Harris's recommendation, *shav v'al toseh* – sit tight and don't do anything – is not a workable principle for a community where you have to make some decision about what *aliyot* to give women. It is wrong to claim that these women are not *cohanot* (at least until marriage) and therefore giving her a later *aliyah* is an affront and suggests a *p'gamah* or flaw in her priestly lineage, which I am unwilling to do. One could duck the issue by only giving such women *maftir* or *hosafot* (rarely distributed) *aliyot*, but this seems cowardly and is frankly unfair (might one even say an affront to *darkei shalom* – the ways of peace). That said, I consider Harris correct in claiming that the wife of a *cohen* has only a relationship to the *cehuna* and should not be considered a *cohen* in her own right.

Appellations

None of this has any impact on the name by which a woman is called to the Torah. The daughter of a cohen is to be called *X bat Y Ha-Cohen*, regardless of who she subsequently marries. The reason for retaining the marker '*ha-cohen*' has nothing to do with the status of the woman; rather it is a reference to the father. We can learn this principle from laws relating to the writing of legal documents, such as bills of divorce.



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In our lands [when putting the names of a husband into a get] we write X ben Y ha-cohen, or ha-levi. This is also the standard regarding the father of the woman, we write [X bat Y] ha-cohen, or halevi even if [the woman's father] has become an apostate. (Kav Naki, Seder Ha-Get par. 24).¹⁰

The fact that this statement appears in discussion of a woman who has been married makes it clear that the daughter of a *cohen* retains the honorific in her name regardless of who she marries. We can also learn, from this focus on the father of the person, that a *yisraelit* who marries a *cohen* does not pick up an honorific on marriage.

Conclusion

I would like to chart a middle path between Rabbis Roth and Harris. Daughters of a *cohen* do have some personal connection to the *kedushah* of their fathers and they should therefore receive the first *aliyah* while they are 'with their fathers', i.e. not married. However, if they marry a non-*cohen* they should be considered to have left the house of their father and entered that of their husband. The wife of a *cohen* has only a relationship to the priesthood and her marriage should not impact on the *aliyot* that she should receive. I should also state that I have seen nothing applicable to the matter at hand that suggests that the wives or daughters of *leviim* should be treated differently from *cohanim*.

Halachah L'Maseh – Practical Matters

- The unmarried daughter of a *cohen* should be eligible only for first *aliyah* (as *cohen*), *maftir* and *hosafot*.
- The daughter of a *cohen* who marries a non-*cohen* shall be eligible for the same *aliyot* as her husband,¹¹ though she shall still be called to the Torah *X bat Y Ha-Cohen*.
- The daughter of a *yisrael* who marries a *cohen* shall continue to be only eligible for *shlishi* and subsequent *aliyot*.
- The same rules shall apply to the daughter of a *levi*. With the exception that the daughter of a *levi* who marries a *cohen* does not become eligible for the first *aliyah*; rather she should continue to receive second *aliyah*, *maftir* and *hosafot*.

¹⁰ I am grateful to Rabbi Charles Kraus for providing me with this source

¹¹ This would also apply in the case of daughter of a *cohen* who married a *levi*. She would be able to receive the second *aliyah* even though the daughter of a *yisrael* who marries a *levi* remains a *yisrael*. *Cohanim* should correctly be seen as a subset of *leviim*, not a different grouping. Therefore such a woman leaves the particular (the *cehunah*) and enters the general category of her husband (in this case the family of *levi*) in the same way that the daughter of a *cohen* who marries a *yisrael* leaves the particular (the *cehunah*) and enters the general category of her husband (the family of *yisrael*).