

The Status of Daughters of *Kohanim* And *Leviyim* for Aliyot

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This responsum was adopted on November 15, 1989 by a vote of seven in favor, seven opposed, and two abstaining. Members voting in favor: Rabbis Elliot N. Dorff, Richard Eisenberg, Arnold M. Goodman, Lionel E. Moses, Joel Rembaum, Seymour J. Rosenbloom, Joel Roth. Members voting in opposition: Rabbis Kassel Abelson, Ben Zion Bergman, Jerome M. Epstein, Howard Handler, David H. Lincoln, Mayer E. Rabinowitz, Gordon Tucker. Members abstaining: Rabbis Reuven Kimelman, Herbert Mandl.

שאלה

What is the status of daughters of kohanim and leviyim for aliyot?

תשובה

Since the passage of the position allowing women to receive aliyot, the Law Committee has been asked with some regularity regarding the status of the daughters of kohanim and leviyim in this regard. In the fall of 1977, papers on the subject were prepared by Rabbis Aaron Blumenthal and Steven Schatz. These papers were never acted upon (or, apparently, even discussed) by the CJLS, because the Committee took action at a meeting on January 9, 1978, which seemed to obviate the need for action upon the papers which had been prepared.

The minutes of the meeting of January 9, 1978, record a lengthy discussion of the question. The result was the acceptance of four options by the Committee.

1) In congregations which keep kohen, levi, yisrael distinctions, a male would still be called to the Torah for the kohen and levi aliyot. (This position expressed the view of eight members of the Committee, including its chairman, Rabbi Seymour Siegel.)

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

2) Where the distinctions are kept, a bat kohen or a bat levi can be called to the Torah for the first two aliyot. (This position expressed the view of one member.)

3) The wife of a kohen or a levi can be called for the appropriate aliyot. (This position expressed the view of one member.)

4) Each congregation should choose its own option. (This position expressed the view of three members.)

In 1982, the secretary to the Law Committee sent a letter to Rabbi Alvin Wainhaus listing all of these options. To these he added a suggestion made by Rabbi Ben Zion Bokser in 1981, that if a woman is called for either of the first two aliyot, she may simply be called *rishon* or *sheni*. Alternatively, she may be called to the last aliyah, *aḥaron*, “to which traditionally the kohen, levi or yisrael may be called.”

In 1988, Rabbi Ben Zion Bergman submitted a paper on the subject entitled, “Once a bat kohen, Always a bat kohen.” This paper was discussed by the Committee, but did not receive a sufficient number of votes to validate its conclusion (evident from its title) as a position of the Law Committee.

As a result, the CJLS still has four different options for action by congregations. These four remain the same as those voted upon at the meeting of January 9, 1978.

Considering the fact that those options were voted upon without papers, and considering the fact that the contents of the discussion were not sufficiently thorough (in my opinion), and considering the fact that RA members seem to me to be seeking guidance, and not *carte blanche*, it seems appropriate to me to try once more to provide a more definitive answer to our colleagues.

The Order of the Aliyot

Substantive discussion of the issue must begin with the Mishnah which mandates the order of aliyot. The Mishnah reads:¹

כהן קורא ראשון ואחריו לוי ואחריו ישראל מפני דרכי שלום.

A priest reads first, and a levite after him, and a Yisrael after him – in the interests of peace.” Rashi explains: “In order that members of the community not come to strife, the sages ordained this order of aliyot. Since it is a rabbinic ordinance, it is not possible to change it, and, thus, it prevents one who is not a priest from claiming, ‘I will read first.’²

If we discover that there is no other impediment to allowing the daughter of a priest or of a levite to ascend for the first two aliyot, we

would still have to determine whether having them do so would violate the “interests of peace.” It seems to me that it would not. If it is determined that such women qualify as recipients of these aliyot because of their lineage, they become eligible for them on an equal footing with male priests and levites. It is no more reasonable to expect non-priests or non-levites to claim the honor of the first two aliyot instead of these women than it would be to expect them to claim the honor instead of males.

If we discover that there are other impediments to their receiving these aliyot, it would be forbidden to grant them to them even if the “interests of peace” are not violated by doing so.

In essence, then, our next step must be to determine whether or not there are other impediments to granting these aliyot to the daughters of priests or levites. If there are not, the “interests of peace” will be insufficient to overrule the permission: and if there are, the “interests of peace” will be insufficient to overrule the refusal.

In its discussion of this Mishnah, the Gemara asks for the source of this order of aliyot.³ First it quotes Deuteronomy 31:9 – ויכתוב משה את – התורה הזאת ויתנה אל הכהנים בני לוי ויהגשו הכהנים בני לוי 21:5. And finally, the Gemara quotes First Chronicles 23:13:

בני עמרם אהרן ומשה, ויבדל אהרן להקדישו קדש קדשים (הוא ובניו עד עולם להקטיר לפני ה')⁴

Of these three verses, only the final one contains any proof whatsoever that priests and levites should be given the first aliyot. That is, the claim that Aaron was “set apart to be consecrated” could be understood to imply a requirement that the “setting apart” be reflected in granting him the first aliyah. The other two verses seem to prove only that priests precede levites, but do not seem to prove a requirement to call them first.⁵

At this point, the Gemara continues with a final proof, based upon Leviticus 21:8. We quote it at length because it will become the focus of our attention.

ר' חייא בר אבא אמר מהכא: "וקדשתו" לכל דבר שבקדושה. תנא דבי ר' ישמעאל "וקדשתו" לכל דבר שבקדושה, לפתוח ראשון ולברל ראשין וליטול מנה יפה ראשון.

R. Hiyya bar Abba says: this is the source “Sanctify him” in all matters of holiness. Dvei R. Ishmael teaches: “Sanctify him” in all matters of holiness – to read first, to bless first, to take the prime portion.

Note that neither Rabbi Ḥiyya bar Abba, nor the *baraita*, quote any more of the verse than the word וקדשתו. The continuation of the verse, however reads: כי את לחם אלהיך הוא מקריב קדש יהיה לך כי קדוש אני ה' מקדשכם. For he offers the food of God...

General Sanctity or Sacrificial Responsibility?

While the two verses from First Chronicles and Leviticus do not, as quoted by the Gemara, link the aliyah rights to the priestly functioning at the altar, the continuations of these verses do just that.⁶ We shall, therefore, have to analyze whether the rights of the priests and levites to the first two aliyot accrue to them by virtue of their general sanctity, or by virtue of their right to offer sacrifices on the altar. If we discover that their right is dependent on their sacrificial responsibilities, the daughters of kohanim are excluded from aliyot because they do not share any right to offer at the altar with their brethren. If we discover that their right is dependent upon their general sanctity, and not exclusively upon their rights to serve at the altar, we shall have to analyze whether the daughters of priests possess sanctity at all. In the course of the latter discussion, we shall find it necessary to refer to daughters of priests who are married to non-priests as a separate category from unmarried daughters of priests.

In a responsum dealing with the question of whether a kohen who was castrated by the Nazis could continue to be called to the first aliyah, Rabbi Ephraim Oshry wrote the following:⁷

The Pri Megadim wrote in [*Orah Hayyim*], *siman* 135: 'A priest who is a פצוע דכא or a כרות שפכה (maimed) raises some question in my mind concerning whether he retains his sanctity to read first from the Torah... If there is some other priest in the synagogue, it is quite clear that the פצוע דכא or the כרות שפכה should not read first, but if there is no other priest, it is doubtful.' See there, that he (i.e., the Pri Megadim) left the doubt unresolved. But we have already quoted above the view of the Mikraei Kodesh (i.e., Rabbi Jacob Isaac Yutis) who disagrees with the Pri Megadim in this matter, and asserts that even a congenitally blind priest, who is surely in the category of a בעל מום (deformed), may read even פרשת פרה and פרשת זכור. And there he wrote that he may read first because the essence of the claim of the Pri Megadim who forbids him from doing so is from the verse וקדשתו כי את לחם אלהיך היא מקריב, implying that whenever he is disqualified from serving at the altar, וקדשתו "sanctify him" also does not apply for all other elements of priestly sanctity, such as reading first, etc. But, in truth, it is likely that the basis of the law

(concerning priestly sanctity) stems from a different verse – from קדש יהיה,⁸ he shall be holy) – which encapsulates the reason for priestly sanctity. From this it would follow that the elements of priestly prerogative are not contingent upon his serving at the altar at all, and even where a priest is not entitled to serve at the altar, as a בעל מום, he nonetheless retains the sanctity of the priesthood, and the verse קדש יהיה, he shall be holy applies to him.

Rabbi Oshry proceeds to quote from the comments of the *Mizpeh Eitan*,⁹ who himself is attempting to explain the comment of Rashi.¹⁰ As Rashi appears before us, it reads simply: וקדשתו: כי את וכו'. The *Mizpeh Eitan* comments: “It appears that his (i.e. Rashi) intent is to explain in the same way as the Rosh does in *parashat Emor*. (That is) that the (real) basis of this exegesis is not from וקדשתו, but from קדש יהיה, which appears at the end of the verse.” That is, Rashi quotes the next few words of the verse in order to indicate that the midrash of the Gemara requires the remainder of the verse, as well.

Some might be very hesitant to accept the view of Oshry. He is, after all, dealing with a horrible case of Nazi mutilation and might be willing to “pull out all of the stops” to find a heter (permission) for the poor kohen in question. He might not, some might claim, be willing to rely on these views in less extreme cases.

I am convinced that such hesitancy is unfounded. Whatever Oshry’s impetus may have been, the facts seem very much to support his view. Logically we would expect that if the sanctity of priests were contingent on their ability to worship at the altar, there should be other consequences to their loss of that ability beyond the forfeiture of their right to the first aliyah. Indeed, we would expect them to lose all priestly rights, if those rights accrue to them by virtue of their ability to worship at the altar.

The following short list should suffice, therefore, to demonstrate that the linkage between priestly sanctity and worship at the altar is not definitive.

1) Priests who are בעלי מומין (deformed and therefore ineligible to worship at the altar) may eat of the sacrifices, even if they are קדשי קדשים, (the holiest sacrifices).¹¹

2) Priests who are בעלי מומין may officiate at the ceremony of the עגלה ערופה¹²

3) Priests who are בעלי מומין may participate in the blessing of the people, except if their deformity is such that it rivets the attention of the people and distracts them.¹³

4) Priests who are בעלי מומין may not defile themselves through contact with the dead.¹⁴

It is surely impossible to deny that some priestly prerogatives are contingent upon the right of the priests to worship at the altar. It would, however, be erroneous to infer that all priestly prerogatives are so contingent. This fact alone is sufficient to demonstrate that the claim of Rabbi Oshry should not be dismissed as dependent solely upon the horrible circumstances which gave rise to the question addressed to him. The Gemara itself quotes only the word וקדשתו and not the continuation of the verse. The sanctity of the priest is not totally contingent on כי את לחם אלהיו הוא מקריב, but on קרוש יהיה, at the end of the verse. That is the claim of Oshry against the Pri Megadim, supported by the *Mizpeh Eitan*, supported by the *Rosh*.

We must next investigate whether any of the priestly sanctity accrues to the daughters of kohanim, or whether it is restricted to male priests. Surely we must begin with the assertion that if there is any sanctity for בנות כהנים (the daughters of kohanim), it is not equal with the sanctity of the male priests. The daughters of priests are permitted, for example, to become impure through contact with the dead, based upon Lev. 21: 1 which refers to the sons of Aaron, and is understood to exclude the daughters of priests.¹⁵ Daughters of kohanim may marry פסולי כהונה (those prohibited from functioning in the priesthood)¹⁶ They are forbidden to perform any of the functions associated with sacrifices.¹⁷ They are not allowed to eat from קדשי קדשים.¹⁸

The exclusion of daughters of priests from eating קדשי קדשים (the holiest sacrifices) does imply, however, that they are permitted to eat קדשים קלים (less holy sacrifices), and that provides us our first glimpse of the elements of priestly sanctity which might apply to the daughters of priests.

Rights of Unmarried Daughters of Priests

It is clear that the unmarried daughters of priests may eat from המורם קלים¹⁹ (that which is lifted from the sacrifices) – that is, from the חזוה ושוק of קרבנות שלמים,²⁰ from the ארבעה לחמי תודה,²¹ and from the זרוע חזוה ושוק שלמים to which apply Leviticus 10:14 – במקום טהור and Numbers 18:11 – נתת לך ובנתך אתך ... כל תרומת מתנם לכל תנופות בני ישראל and Numbers 18:19 – נתת לך ובנתך אתך ... נתת לך ובנתך אתך The word אתך (with you) which appears in all three of these verses is interpreted by Rava²³ to mean בזמן שאתך – i.e. when she is unmarried. In theory, of course, it might apply both when she is unmarried because she has never yet been married and when she is unmarried because her husband has divorced her or died. From elsewhere in the *Bavli*, however, it is certain that once the daughter

of a priest becomes disqualified from these things by marrying a non-priest, she may never revert to a status of being qualified (as she may regarding *terumah*, as we shall discuss presently). As the *Bavli* puts it:²⁴

כשהיא חוזרת, חוזרת לתרומה ואינה חוזרת לחזה ושוק.²⁵

When she returns to her father's home, she returns with regard to *terumah*, but not with regard to *חזה ושוק*.

The basic outline of the rights of unmarried daughters of priests to eat *terumah* is very similar to their rights regarding *המורם מקדשים קלים* (that which is lifted from the sacrifices), but both the biblical sources and the rabbinic ones are far more explicit. Leviticus 22:13 clearly proves that unmarried daughters of priests may eat *terumah*, for it says: '... ובת כהן... ושבה אל בית אביה כנעוריה מלחם אביה תאכל' – implying there – by that as a *נערה* in her father's house she could eat. Leviticus 22:12 demonstrates that if she married a non-priest, she lost her right to eat *terumah*, for it says: 'הוא בתרומת הקדשים לא תאכל ובת כהן כי תהיה לאיש זר'. If she was divorced or widowed, but was childless, she may again eat from *terumah*, as is clear from Leviticus 22:13 – 'כי תהיה אלמנה וגרושה זורע אין' – לה, 'ושבה אל בית אביה וגו''. The implication of this verse, namely, that if she has children (or even only grandchildren) from her marriage to a non-priest she may not eat *terumah* again, is made explicit in the Mishnah.²⁶ Similarly, if the daughter of a non-priest marries a priest, she may eat *terumah* even if widowed or divorced by her husband, if they have children; and may not eat *terumah* if they are divorced or he dies, and they are childless.²⁷

One might think that the information provided herein regarding the rights of an unmarried daughter of a kohen are sufficient to demonstrate that at least she (as opposed to a married daughter of a kohen) has some type of lineal *קדושה* (sanctity) that would at least allow us to declare her eligible for the first aliyah. That conclusion, however, would be unwarranted, in my opinion.

Associative *Kedushah* vs. Lineal *Kedushah*

The information which we have discussed now may turn out to be supportive of that conclusion, but it cannot serve as its primary basis. There are, after all, others who have the same rights regarding *terumah* and *המורם מקדשים קלים* (that which is lifted from the sacrifices) to whom we would not attribute any lineal *kedushah*. The non-priestly wives of priests, and even the slaves of priests and their wives, have exactly the same rights in these matters.²⁸ Surely we would not claim that either of them have lineal *kedushah* because of those rights. Thus, we cannot

necessarily conclude that the rights of unmarried daughters of priests reflect lineal *kedushah* any more than we can conclude that those same rights of non-priestly wives and non-Jewish slaves of priests reflect lineal *kedushah*. Indeed, regarding the latter we would clearly assert that their rights arise from their association with the priestly clan. That is, they reflect associative *kedushah* rather than lineal *kedushah*. Their entitlement to eat these sacred foods stems from their being קנויים לכהן (the property of a kohen), to use the talmudic expression. Perhaps, therefore, the rights of unmarried daughters of priests is also because they are קנויות לכהן (the property of a kohen), and not because they possess any lineal sanctity.²⁹

None of this is meant to force us to conclude that there is no lineal *kedushah* to the daughters of priests. It demonstrates only that deducing such *kedushah* from their rights regarding *terumah* and מן הקדשים המורם (that which is lifted from the sacrifices) would not be conclusive. What we must do is attempt to determine by further analysis of other elements of priestly *kedushah* whether the daughters of priests possess only associative *kedushah* or whether they possess lineal *kedushah* as well.

Since we have been discussing *terumah* however, let us look first to another element of it. The Torah mandates that וכל זר לא יאכל קדש³⁰ i.e., non-priests may not eat *terumah*. In addition, it mandates that ואיש כי יאכל קדש בשגגה, ויטף חמשתיו עליו³¹ Not only may non-priests not eat *terumah*, they must pay an additional fifth in compensation for *terumah* which they may have eaten inadvertently. We have already seen that the daughter of a priest married to a non-priest falls under the first ban. Yet the *Mishnah*³² clearly exempts her from the second ban. It reads: בת כהן שנשאת לישראל ואחר כך אכלה תרומה משלמת את הקרן ואינה משלמת את החמש though she is forbidden to eat from *terumah*, she is exempt from the payment of the one-fifth penalty. The *Sifra*³³ provides the rationale behind the statement of the *Mishnah*:

מנין לבת כהן שניסת לישראל ואח"כ אכלה תרומה כהן כהן שאכל תרומת חבירו יכול יהיו חייבים בחמש! ת"ל "וכול זר לא יאכל קדש", "ואיש כי יאכל קדש בשגגה" יצאו אלו שאין זרים לה.

From where do we know concerning the daughter of a priest who married an Israelite and subsequently ate *terumah* of another priest? Is it conceivable that they should have to pay the additional one-fifth? The Torah says: 'No stranger may eat the sacred food,' (and) 'If a person eats the sacred food inadvertently.' (These verses) exclude these cases because (those who ate *terumah* inadvertently in these two cases) are not 'strangers' to *terumah*.

By juxtaposing the daughter of a priest married to an Israelite with a priest, the *Midrash* of the *Sifra* clearly intimates that there must be lineal sanctity to daughters of priests, even if they are married to non-priests. It is clear why one priest who ate the *terumah* of another should not be considered a “stranger” to *terumah*. He is a priest himself. But, if the sanctity of the daughters of priests were entirely associative, why should she not be considered a “stranger”? Her marriage to a non-priest has terminated her associative sanctity to her father. We must say, therefore, that her sanctity as the daughter of a priest is also lineal. Only that claim makes comprehensible why she is exempted from the one-fifth penalty for the inadvertent eating of *terumah*. Her marriage to a non-priest may terminate whatever elements of *kedushah* accrue to her associatively, but it does not negate elements of her sanctity that accrue to her lineally.

Furthermore, it is not plausible to claim that the daughter’s exemption from the one-fifth penalty is more properly understood as a type of vestigial remnant of the associative *kedushah* which she possessed before marriage and which she might regain in the event of her divorce or the death of her husband. Were that the case, we would expect to find some parallel exemption for an Israelite woman who was married to a priest and whose marriage to him was terminated by death or divorce, or for the slave of a priest who was freed. To the best of my knowledge, no such parallels exist. Thus, the exemption of the daughter of a priest can be accounted for only by her lineal sanctity.³⁴

There are other indications of lineal *kedushah* for the daughters of priests as well. Let us consider the question of the מתנות כהונה (priestly gifts).³⁵

Though we tend to stress the element of the priests’ entitlement when we speak of מתנות כהונה there is another element that we rarely think of, but which is equally important in terms of the mitzvah. An Israelite fulfills his mitzvah of giving the מתנות כהונה only when he gives them to priests. He does not fulfill the mitzvah by giving them to non-priests, *even though the מתנות כהונה may be eaten or used by non-priests without any penalty because they are not sacred.*

The primary part of the מתנות כהונה is the זרוע לחיים וקיבה which is mandated by Deuteronomy 18: 3: וזה יהיה משפט הכהנים מאת העם מאת זבחי: הזבחה אם שור אם שה, ונתן לבהן הזרוע והלחיים והקיבה. Whenever an animal is slaughtered for consumption, the priest must receive the shoulder, the checks, and the stomach. The Gemara³⁶ records: עולא הוה יהיב מתנתא עולא לחהנתא – Ulla used to give these gifts to daughters of priests. Rashi explains:

בת כהן אפילו אשת איש (אשת-ישראל), דחיון דקדושה לית להו דאינן אסורים
לזרים, הרי מותרת בהן – ולא דמי לתרומה. ואי משום "ונתן לכהן" – קסבר
אפי' חהנת במשמע –

(Ulla refers to) the daughter of a priest, even if she is married to a non-priest. Since (the gifts) are not sacred (as evidenced by the fact) that they are not forbidden to non-priests, she is permitted to eat them, and the case is not comparable to *terumah*. And if (one is concerned with the verse that mandates), "He should give them to the priest," he (i.e., Ulla) believes that the verse includes females too."

Clearly the position of Ulla is that daughters of priests even when married to non-priests retain the lineal sanctity of the priesthood sufficiently to be entitled to the gifts. And more importantly, that the Israelite fulfills his mitzvah to give these to priests when he gives them even to the daughter of a priest who is married to an Israelite. Indeed the Gemara³⁷ lists a whole group of amoraim who were non-priests married to the daughters of priests who regularly ate these gifts because they had been given to their wives, or even to them as the husbands of daughters of priests:

רב כהנא אכל בשביל אשתו, רב פפא אכל בשביל אשתו, רב יימר אכל בשביל
אשתו, רב אידי. בר אבין אכל בשביל אשתו

Rav Kahana ate on account of his wife; Rav Pappa . . . etc.

Maimonides codifies the law as follows:³⁸

הכהנת אוכלת המתנות אע"פ שהיא נשואה לישראל, מפני שאין בהן קדושה
ולא עוד אלא הבעל אוכל מתנות בגלל אשתו.

The daughter of a kohen may eat the priestly gifts even though she is married to an Israelite, because they have no sanctity. Furthermore, her husband may eat them on account of his wife.

Surely, therefore, the matter of זרוע לחיים וקיבה clearly indicates that the lineal sanctity of priestliness both exists even for daughters of priests and is retained by them even if they are married to non-priests.

Regarding ראשית הגז which is also mandated by Deuteronomy 18:4 – "You shall give him the first shearing of your sheep" – Maimonides codifies as follows:³⁹

ראשית הגז חולין לכל דבר, לפיכך אני אומר שנותנין אותו לכהנת אע"פ שהיא
נשואה לישראל כמתנות בהמה (= זרוע לחיים וקיבה), ויראה לי שדין שניהם
אחד הוא.

The first shearing is ordinary in every regard. Therefore, I say that one gives it to the daughter of a kohen even though she is married to an Israelite, like animal gifts. It seems to me that one rule applies to both.

Redemption of Firstborn

Our discussion of פדיון הבן (redemption of the first born) will be in two parts. First, is there an indication of lineal sanctity for daughters of priests in terms of their entitlement to *receive* the money for הבן and second, is there an indication of their lineal *kedushah* as a result of the exemption of their own first born sons from the requirement for redemption.

The *Rishonim* disagree on the question of whether the daughters of priests may redeem first borns. The *Tosafot* say:⁴⁰

משמע שלא היה (רב כהנא) כהן, והא דאמרינן בפ"ק דקידושין (ח ע"א) רב כהנא שקל סודרא בפדיון הבן, בשביל אשתו היה לוקח כדאמרינן בפ' הזרוע, רב כהנא הוה אכיל בשביל אשתו.

This implies that [Rav Kahana] was not a priest. As regards the report in Kiddushin (8a) that Rav Kahana received payment at a redemption of the first born. That was on behalf of his wife, as it says: Rav Kahana ate on account of his wife.

From this it follows that the daughter of a priest may redeem, and even that her husband may serve as her agent.⁴¹ The Rosh quotes the same view in the name of Rashi.⁴²

On the other hand, Maimonides codifies the law thus:⁴³

וכן פדיון הבן לזברי כונה שכן נאמר בו. (במד' ג: נא) ונתת הכסף לאהרון ולבניו

Thus redemption of the first born is for male kohanim, for it says; (Num. 3:51) "You shall give the money to Aaron and his sons." The same view is expressed by the Rosh himself,⁴⁴ and by the Rashba.⁴⁵

Surely according to the *Tosafot* and the Rosh in Rashi's name, פדיון הבן is another indication of lineal sanctity for the daughters of priests, even if married. It is equally important to note, too, that Maimonides' view does not either preclude or deny lineal sanctity to daughters of priests. Their exclusion from the right to redeem is based on the biblical statement לאהרון ולבניו.⁴⁶

We turn finally to the exemption from the requirement of redemption for the first born males of daughters of priests and levites. As a practical matter of law, it is clear that they are exempt. The source appears in the *Gemara*,⁴⁷ and reads:

אמר רב אדא בר אהבה לוייה שילדה בנה פטור מה' סלעים. דאיעבר ממאן! ... א' דאעבר מישראל, למשפחותם לבית אבותם כתיב (במד' א: ב) ... מר בריה דרב יוסף אמר משמיה דרבא. לעולם דאיעבר מישראל ושאני התם דאמר קרא פטר רחם, כפטר רחם תלא רחמנא.

Rav Ada bar Ahava says: The daughter of a levite who gives birth – her son is exempt...impregnated by whom?...If she were impregnated by an Israelite, does it not say “according to their families, their father’s houses”...Mar son of Rav Yosef says in the name of Rava: Even were she impregnated by an Israelite. This case differs because scripture says “first issue of the womb”. The matter depends on the “first issue of the womb.

Since Scripture seems to mandate that one be counted to “his father’s house,” it would seem to follow that the father should determine the need for redemption. The first-born son of the daughter of a priest or levite is exempt, however, because Scripture makes redemption contingent also on “the opening of the womb.” Since the womb was from the priestly or levitical clans, the child is exempt from redemption. This is the view expressed by Rav Ada bar Ahava.

That the law follows this position is explicit in the Gemara itself,⁴⁸ which states:

והלכתא כוותיה דרב אדא. בר אהבה לוייה שילדה בנה. פטור מה' סלעים.

The law follows Rav Ada bar Ahava...

To this Rashi comments:

ואשמעינן רב אדא דלוייה כלוי אליבא דמר בריה דרב יוסף דמוקי לה לדרב אדא בר אהבה... אפילו איעברא מישראל דבפטור רחם תלא רחמנא, והרי רחם שיצא ממנו לאו דחיובא הוא.

Rav Ada teaches that the daughter of a levite is like a levite...

And *Tosafot* comments:⁴⁹ כוותיה פסקינן בחולין בריש הזרוע ואהא סמכינן השתא לפטור בן לוייה וכהנת אשת ישראל מה' סלעים.

We rule this way in *Hullin*... and rely upon it today to exempt the son of the daughter of a levite or the daughter of a kohen, the wife of an Israelite. Maimonides⁵⁰ and Caro⁵¹ also record the law in this way.

If we claimed that daughters of priests and levites possess only associative sanctity there would be no grounds whatsoever for exempting their first-born sons from the requirement of redemption. Even the פטור רחם (first issue of the womb) would not suffice. The womb of such women is priestly or levitical only because of lineal sanctity, since at the time the womb is actually opened they are already no longer “associated” with their fathers, but rather with their husbands. Clearly, then, the exemption of their sons from the requirement for redemption can be attributed only to their own lineal sanctity.

CONCLUSION

On the basis of the evidence adduced it seems reasonable and proper for the Law Committee to decide that the daughters of priests and of 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 husbands⁵² but by their own paternal lineage.⁵³

Addendum to “The Status of Daughters of *Kohanim* and *Leviyim* for Aliyot”

I write this addendum to my paper at the behest of the CJLS in order to spell out and clarify the implications of the conclusion which states that “. . . it seems reasonable and proper . . . to decide that the daughters of priests and levites ought to be accorded the same aliyot that are normally accorded to priests and levites.” To wit:

- 1) Such a woman cannot be called to the first aliyah on one day and to a different aliyah on some other day. As a bat kohen she is entitled only to those aliyot which can be given to a priest.
- 2) If the local *mara d'atra* permits male priests to be called to any or all *hosafot*, the same would apply to a bat kohen.
- 3) It was the clear intent of this paper to assert that a woman could not exempt herself from her lineal status as a bat kohen any more than a male priest could. In the event that a **מרא דאתרא** adopted this paper as the governance of his synagogue and a woman of the congregation preferred not to adopt it on the grounds that she disagreed with it, she should be treated exactly as the local rabbi would treat a male priest who attempted to forego his lineal rights.
- 4) If a bat kohen is the offspring of a union that renders her a **חללה**, she should be treated exactly as a male priest who is the offspring of a union that renders him a **חלל**.

The paper does not deal with the following:

- 1) Aliyot for couples. The question was raised in discussion concerning a synagogue that calls a husband and his wife to receive an aliyah as a couple. Would the aliyah received under these circumstances be governed by the lineage of the husband or of the wife? I have not treated this question in my responsum because the CJLS has never discussed the permissibility of joint aliyot. It is a subject worth putting on the agenda. Should it be found permissible, it would then have to be decided how to handle a couple in which the spouses are of different lineal status. If it is found impermissible, the question would become moot.

2) I have not examined how a priest foregoes his right to his aliyah in a synagogue which retains the kohen, levi, yisrael distinctions. Must he leave the room? Can a yisrael be called instead of a priest by saying במחילת הכהן (with permission of the kohen)?

The subject does not affect this paper in any way. However a male foregoes his right would apply, as well, to a female. Rabbi Herbert Mandl has accepted the responsibility to write on this subject and submit a paper to the CJLS.

3) The issue of the permissibility of abolishing the distinction between kohen, levi, and yisrael is a totally separate subject, as I indicated in footnote #53. Rabbi Mayer Rabinowitz is currently working on a responsum on the subject. The only way that paper could impinge on this one would be if Rabbi Rabinowitz concludes that the distinction must be abolished. I find it difficult to believe that one could come to that conclusion, even if one could come to the conclusion that the distinction may be abolished.

NOTES

1. *Gittin* 5:7, 59a.
2. *Ad loc.*, s.v. כהן
3. *Gittin* 59b.
4. The section of the verse enclosed in parentheses is not quoted by the Gemara. It will soon become relevant to our discussion, however.
5. Rashi interprets the verse from Deut. 31:9 in such a way as to make it prove that they be called first. He says: יתנה שיקראו בה כהנית והדר בני לוי.
6. Indeed, Rashi, s.v. וקדשתו, quotes the part of the verse from Leviticus not quoted by the Gemara itself.
7. Responsa *Mima'amakim* II 7, p. 41.
8. Lev. 21:8, following the part; of the verse quoted by the פרי מגדים
9. *Gittin* 59b.
10. ד"ה וקדשתו, and see above, note 7.
11. See Lev. 21:22 and *Zevahim* 101b.
12. See Deut. 21:5 and *Sifre Devarim*, piska 208.
13. See *Mishnah Megillah* 4:7, 24b, *Tosefta Sotah* 7:8. Cf., however, *Pesikta Zutrati*, Ekev, to Deut. 10:7.
14. See Lev. 21:1 and *Sifra ad locum*. Also, Lev 21:6 and *Sifra ad locum*; San. 51b, and Rashi, *ibid.*, ד"ה והיו קדש.
15. See *Mishnah Sotah* 3:7. Note, too that the Mishnah refers to the daughters of priests as כהנות, not as בנות כהנים. Any objection to calling such women to the Torah based on the fact that they are called בנות כהנים as opposed to כהנות is therefore unfounded.

16. See *Yevamot* 84b and *Kiddushin* 73a.
17. *Mishnah Kiddushin* 1:8, and see *Kiddushin* 36a for the biblical verses on which these prohibitions are based.
18. Based upon Lev. 6:11, 22 and 7:6. See *Mishnah Sotah* 3:7.
19. See *Mishnah Zevahim* 5:6, 7.
20. See Lev. 7:34.
21. See Lev. 7:12.
22. See Num. 6:19.
23. *Yevamot* 87a.
24. *Yevamot* 68b.
25. It is noteworthy that the *Yerushalmi* (*Yevamot* 9:8, 10b) asserts that Rabbi Yoḥanan and Resh Lakish believe that she is חזרת לחוזה ושוק.
26. *Yevamot* 9:6.
27. *Mishnah Yevamot* 9:5.
28. See Maimonides, *Terumot* 6:1 and *Ma'aseh ha-Korbanot* 10:5 for final codified positions.
29. Indeed, the distinction between lineal and associative *kedushah* explains the laws regarding *terumah* very well. When the daughter of a priest marries a non-priest she comes under the associative umbrella of her husband, and is no longer under that of her father. The associative umbrella of her husband's clan is removed from her only when the bond to her husband's clan is completely severed, as in divorce or his death, while they are childless. If there are children who still link the woman to the clan of her husband, that remains her primary association by virtue of those children, and she cannot revert to eating *terumah*. The same analysis also applies to the daughter of a non-priest who marries a priest.
30. Lev. 22:10.
31. Lev. 22:14.
32. *Terumot* 7:2.
33. *Emor*, 6:2, 97d.
34. It would be erroneous to assert that the issue of the Israelite woman married to a priest and the slave of a priest is, in fact, dealt with in the *Mishnah Terumot* 8:1. The *Mishnah* states:

האשה שהיתה אוכלת בתרומה, באו ואמרו לה מת בעליך או גרשך: וכן העבד שהיה אוכל ותרומה ובאו ומרו לו מת רבך או מכרך ישראל. ר' אליעזר מחייב קרן וחמש ורבי יהושע פטר.

Maimonides, *Terumot* 10:12, records אלו משלמין הקרן בלבד, i.e., in accordance with the view of Rabbi Yehoshua (i.e., that אקיס means, "exempts from חמש"). In this *Mishnah* the reference is to one who was sitting and eating *terumah* at the time that he/she received the information that eligibility has ceased. It does *not* refer to one who ate *terumah* subsequently. In that case, they would be liable for the additional one-fifth, because they had no lineal sanctity – only

associative. Only a *לִישְׂרָאֵל* remains exempt, because she possesses lineal sanctity, as well.

35. Technically, the priestly gifts include 24 items. In common usage, however, the term refers to *מַעוֹת פְּדוּיֵן הַבֵּן* and *זֵרוּעַ לַחַיִּים וְקִיבָה*, *רֵאשִׁית הַגֵּז*. It is to these three categories that we now turn.

36. *Hulin* 131b.

37. *Hulin* 132a.

38. *Bikkurim* 9:20.

39. *Bikkurim* 10:17.

40. *Pesahim* 49b, *ד"ה אמר*.

41. *Tosafot* repeat this contention in their second explanation in *Kiddushin* 8a, *ד"ה רב כהנא*. But, contrast this with their first explanation there, and in *Hulin* 132a, *ד"ה אמר*.

42. *Hilkhot Pidyon Bekhor* (end of tractate *Bekhorot*), #4. We do not have such a comment in Rashi, and it is possible that we should read *ר"ש*, not *ר"י*, in the Rosh. See *מעדני יום טוב*, *ad loc.*

43. *MT Bikkurim* 1:10.

44. *Loc. cit.*

45. *Responsa of Rashba*, vol. I, #836. See, too, *Responsa of Rabbi Akiva Eger*, #208, for an explanation of the underlying disagreement.

46. I wish to indicate clearly that nothing I have written concerning redemption by daughters of priests should be construed as *הלכה למעשה* (settled law) for redemption of the first born. The purpose of the discussion was to indicate the presence of lineal *kedushah*. The issue *הלכה למעשה* requires a separate paper and independent treatment.

47. *Bekhorot* 47a.

48. *Hulin* 132a.

49. *Bekhorot* 47a, *ד"ה מר*.

50. *MT Bikkurim* 11:10.

51. *Yoreh De'ah* 305:18.

52. Whether or not the non-priestly wives of priests or Levites may be permitted to receive the first two *aliyyot* by virtue of their associative sanctity is a subject for a separate paper. Nothing in this paper should be construed to have implied an answer to that question.

53. Nothing in this paper should be understood to preclude the possibility that it may be halakhically defensible to abolish the distinction between *kohen*, *levi*, and *yisrael* for the purposes of Torah reading, or to call *rishon* and *sheni* instead of *kohen*. Rabbi Mayer Rabinowitz has written on this subject. See pp. 437-443.

This paper is written only according to the view of those who permit women to be called to the Torah. It would be erroneous to conclude from it any attempt by the author to delegitimize the position which forbids *aliyyot* for women. That position remains a valid view of the CJLS.