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WOMEN'S ALIYYOT IN CONTEMPORARY SYNAGOGUES

For many women, exclusion from meaningful participation in the public service, including *aliyyot* to the Torah, is the starkest and most grating example of what they perceive as Orthodoxy's insufficient sensitivity to their needs as spiritual beings. Rabbi Mendel Shapiro, arguing that innovation helps insure a system's adaptability to new challenges while still balancing stability and flexibility, suggested that contemporary realities create many halakhic opportunities for women to be called up to the Torah and receive *aliyyot*.¹

R. Shapiro is not the only one to have made this argument,² but his article in an Orthodox journal sponsored by Edah has been identified most frequently and prominently as the supporting evidence for a small number of Orthodox congregations having adopted this practice, most notably Congregation Shira Hadasha in Jerusalem. Both for its inherent interest as an attempt to mine sources creatively and for its impact on the current Orthodox world, R. Shapiro's analysis deserves serious consideration.

Alongside his article, Edah published a rejoinder by Rabbi Yehuda Herzl Henkin, author of several books including four volumes of *Responsa Benei Banim*.³ R. Henkin is a strongly independent-minded halakhic thinker open to innovation, and his moderated acceptance of some of R. Shapiro's ideas gives them all that much more credibility. R. Henkin's overall view, however, was negative, concluding that congregations that allow women's *aliyyot* are "not Orthodox in name and will not long remain Orthodox in practice."⁴ He was somewhat more comfortable with women receiving *aliyyot* both in some private *minyanim* and in the women's section of regular synagogues on *Simhat Torah*, as we will see below. R. Shapiro argued in return that elements of R. Henkin's own reasoning supported his view, a contention R. Henkin denied in a brief final response.

Analyzing R. Shapiro's ideas is no simple task, as he presented a detailed and lengthy brief in support of his claims. Relevant to this dis-

cussion are his thoughts on the obligation of public Torah reading, whether women can enter the men's section to read, and the impact of *kol isha*—often interpreted as a prohibition on hearing women sing in public—on Torah reading.

Our discussion here will instead focus on his core arguments, those that directly justify a community's changing its practice to allow women's *aliyyot*. In doing so, we will pay attention to R. Shapiro's claims, R. Henkin's responses, and the comments of readers who wrote in to Edah.

R. SHAPIRO'S ARGUMENTS

In brief summary, R. Shapiro claims:

1) The only impediment to women being called to the Torah is the talmudic statement (found similarly in the Tosefta) that the Sages took away the option of women being called up among the seven *olim* on Shabbat morning because of *kevod ha-tsibbur*, loosely translatable as “dignity” of the congregation.

2) “Dignity” reflected a social reality. In our times, when women's functioning in public does not affront sensibilities, communities should be able to redefine their “dignity.”

3) To the extent that “dignity” still applies, halakha allows communities to choose to waive, forego, or ignore the issue.

4) The *ba'al kerī'a* mitigates “dignity” even further, since the woman is not herself reading.

5) “Dignity” only applies to actual congregations. Services held outside a regular congregational setting—*ad hoc* or impromptu—need not worry about “dignity.”

Though other points are discussed, these are most central to R. Shapiro's argument. We will take them up seriatim.

ONLY “DIGNITY” PREVENTS WOMEN READING THE TORAH

R. Shapiro's first point accurately represents the talmudic evidence, which explicitly acknowledges that women and children may be included among the seven, but for that the Sages said (or instituted) that women should not read because of *kevod ha-tsibbur*, the “dignity of the congregation.”⁵ The proper understanding of that statement raises

questions that govern any reconsideration of women's *aliyyot*, such as: Did the Rabbis *institute* a prohibition on women's reading or register their opinion of it? Were women originally allowed to read any of the seven *aliyyot* or only some, and, if so, which? What does "dignity" mean? Can its meaning change? Can it be waived?

IMPROMPTU SERVICES NEED NOT CARE ABOUT DIGNITY OF THE CONGREGATION

Least broadly, R. Shapiro tries to distinguish readings inside a synagogue from all others. *Ad hoc* or impromptu services, he argues, do not acquire the status of a congregation and therefore sidestep the concern over "dignity." Accepting this view would be the least revolutionary way to allow women's *aliyyot*, since all it does is limit the application of "dignity."⁶ An immediate flaw with this claim is that at least some sources explicitly apply "dignity" to any gathering of ten adult Jewish men.⁷

R. Shapiro does not address those sources directly, but he does cite Rambam, *Bab, Mahzor Vitry*, and *Sefer ha-Batim*. Each of these takes a different place in the halakhic universe; as we take up their comments, we will need to consider not only whether we agree with his reading, but whether the views provide sufficient support for the weight R. Shapiro gives them.

Rambam

R. Shapiro reads Rambam as equating community with synagogue in his view of Torah reading in general and in women's readings,⁸ among others. Considering Rambam's stature in Jewish thought generally and halakha specifically, his support would be crucial.

R. Shapiro notes that Rambam recorded the laws of Torah reading only after codifying the requirement to build a synagogue in chapter 11 of *Hilkhhot Tefilla*.⁹ Rambam also adds the word *be-tsibbur* (before the congregation) when he records the "dignity" problem of women's reading, implying that such problems exist only before a congregation. For R. Shapiro, that means in a synagogue.

Rambam's opening words in the eighth chapter of *Hilkhhot Tefilla* further link community to synagogue, in R. Shapiro's reading:

The prayer of the congregation (*tefillat ha-tsibbur*) is always heard, and even if there are sinners amongst them, the Holy One blessed be He

does not refuse the prayers of the multitude. Accordingly, a person should participate with the congregation (*ha-tsibbur*) and should not pray alone (*be-yahid*) whenever he can pray with the congregation, and one should visit the synagogue in the morning and evening because it is only in the synagogue that his prayer will always be heard.

Rambam further implies a community/synagogue link in his comments on using a *humash* (partial scroll) for Torah readings. R. Shapiro cites the Talmud's rejection of reading from such a scroll—written exactly like a Torah but containing only one of the books of the Bible—as proof that congregations only exist in synagogues, since *Gittin* 60a explicitly mentions “synagogue” in that context.¹⁰

In this last case, R. Henkin argues that Rambam's mention of synagogues actually points *away* from R. Shapiro's conclusion for women, since Rambam does *not* refer to synagogues when he mentions women's exclusion from reading in public. His mentioning synagogues only in some of the references to “dignity” would seem to say that a synagogue is not necessary to that concept.¹¹

R. Henkin does accept R. Shapiro's claim that partial scrolls are only a problem in communal readings in a synagogue, despite *Shulhan Arukh's* omitting this locution in codifying the rule. R. Yosef Karo's flatly prohibiting reading from such scrolls indicates that he saw “dignity” as independent of location.¹²

Moving back to Rambam, his addition of the words “in synagogues” seems not to carry the weight R. Shapiro assigns it, since he cites the talmudic statement in two of his responsa without those words.¹³ If, as Rabbis Shapiro and Henkin assume, Rambam meant to emphasize that partial scrolls present a problem only in that kind of location, those words should have been crucial. Rambam also clearly invalidates such scrolls *generally*, not just because of a technical “dignity” issue.¹⁴ R. Shapiro would have to argue, then, that Rambam meant to permit using invalid Torah scrolls as long as it was done outside a physical synagogue.

We suggest instead that Rambam equated community with synagogue as a matter of fact and assumption, not as a legal category. Particularly in the citation above, Rambam was contrasting individual to communal prayer, urging Jews to partake of the latter. For him, that meant attending synagogue, but he also refers to “whoever has a synagogue in his city.” Some congregations do not have synagogues; members of such a community must still join congregational prayer.

***Bayit Hadash* (=Bah; R. Joel Sirkes)**

R. Shapiro writes that:

[The] understanding of *kevod ha-tsibbur* as referring to public settings appears also in *Bah*:

In all matters where the issue of the “dignity of the congregation” arises with respect to *qeri’at ha-Torah*, it is of concern as well with respect to the reading of the *Megillah*, because the same reasoning applies to both cases. Accordingly, it would appear that although Rambam holds that women may read *Megillah* on behalf of men, nonetheless a woman should not ab initio read [the *Megillah*] before the congregation because of *kevod ha-tsibbur*, just as is the case of *qeri’at ha-Torah*.

Presumably, (R. Shapiro concludes) a woman may read the Torah, just as she may read the *Megillah*, if she does so privately and not before the congregation.¹⁵

Bah understood Rambam to allow a woman to read the Book of Esther for a man in private, but objected to her reading publicly because of “dignity.” For R. Shapiro, this means that non-congregational readings which he sees as private need not worry about “dignity.” R. Henkin does not explicitly address this claim.

According to the *Tur*—the codificatory work *Bah* glossed—and *Bah* himself, “public” and “private” depend on male numbers, not location: ten men are a public congregation. The *Tur* contrasted reading *be-yahid*, individually, to reading publicly with ten. In Rabbinic Hebrew, the counterpart to *be-yahid* is *be-tsibbur*, in a congregation. The *Tur*’s comment assumes that the presence of ten men, regardless of location, constitutes a congregation.

Bah makes that explicit by citing Ran’s (R. Nissim of Gerona) assertion that even Rav—the talmudic scholar who allowed individual *Megilla* reading—preferred that people join a congregation. Ran sees Rav as saying that despite the value of congregational reading, the Sages chose not to burden people by insisting that they gather a group of ten. The topic is congregational versus individual reading, but *Bah* never suggests that location has any relevance to the status of being a congregation.

Mahzor Vitry and Sefer ha-Batim

As we mentioned at the beginning of this section, R. Shapiro cites *Mahzor Vitry* and *Sefer ha-Batim* as further support for his view. R.

Henkin noted that neither was mentioned or cited by other authorities, implying that their view was not accepted.¹⁶ Their own standing in the world of halakha is insufficiently high to serve as the sole supporters of such an innovation.

The citation from *Mazhor Vitry* also does not help R. Shapiro as much as he claims. In order to justify a group of ten men not reciting *Hallel* on *Rosh Hodesh*, *Mahzor Vitry* writes:¹⁷ “Perhaps ten who left the congregation are regarded as individuals when they pray by themselves behind [i.e., outside] the synagogue.” As individuals, they would not need to partake of a practice *Mahzor Vitry* views as communal.

Mahzor Vitry perhaps supports the narrow claim that women could read at *ad hoc* or impromptu gatherings, but could not support the services that currently call women for *aliyyot* regularly. Since *Mahzor Vitry* is discussing ten men who *on a particular occasion* broke off from the main group, he cannot be seen as saying anything about regularly occurring services located outside a synagogue.

Location outside of a synagogue might be *necessary* to exempt a group from congregational rules and responsibilities, but it is not sufficient for it. Once a group meets regularly, regardless of where, *Mahzor Vitry* too would likely see them as a new, separate congregation.

Turning to *Sefer ha-Batim*, R. David b. Samuel of Estelle reports:

One of the great teachers (unidentified) wrote that [with respect to] those who pray in their homes¹⁸ with [a *minyan* of] ten, a woman may read the Torah there, because [a *minyan*] is regarded as a congregation (*tsibbur*) only when they pray in the synagogue.¹⁹

Obviously, this agrees exactly with R. Shapiro, allowing women to read in a private home service regardless of how often it meets. R. Henkin mentions that *Sefer ha-Batim* does not tell us the name of the teacher to whom he was referring, crucial to its halakhic weight.²⁰

Leaving the question of sources aside, R. Shapiro’s argument has an internal inconsistency he seems not to have noticed. He takes the reasonable position that reading the Torah is a communal and not a personal obligation,²¹ but that should mean that reading the Torah inherently occurs in the presence of a congregation.²² If *ad hoc* groups are not congregations, even if they do not need to care about “dignity,” they also should not be able to serve to fulfill congregational responsibilities.²³

While this was only the first of several significant arguments for his position, our examination of his citations has shown that R. Shapiro does not have sufficient support for it. There is little halakhically meaningful

evidence to suggest that groups of ten, regardless of where or how often they meet, can ignore issues of “dignity.” Having women read the Torah outside of the synagogue certainly came up in Jewish history, but never entered the halakhic mainstream as a reasonable option.²⁴

FOREGOING COMMUNAL “DIGNITY”

Those Who Allow

R. Shapiro next suggested that communities could agree to ignore whatever affront a woman’s *aliyya* would create. This, too, leaves the talmudic objection untouched, but would effectively remove the barrier to women’s *aliyyot* for whoever wants to do so. Since no source explicitly refers to foregoing “dignity” in terms of women’s *aliyyot*,²⁵ R. Shapiro has to extrapolate his claim from other situations where such waiving is allowed.

Before we review the sources, we should mention that R. Henkin accepts R. Shapiro’s idea, but requires unanimous and explicit consent to effect such a communal foregoing of “dignity.” He further assumes that only occasional services meeting in private meet this requirement since attendance itself registers an agreement to foregoing “dignity.”²⁶

The question of whether a community can appoint a cantor whose beard is not yet full presents the most widely accepted example of ignoring “dignity.” The Talmud (*Hullin* 24b) enunciates the rule in positive form, that one whose beard has filled in is worthy of serving as cantor. Rambam assumes the Talmud meant this as an issue of “dignity.” In his *Bet Yosef*, R. Yosef Karo assumes that Rashba, Ran, and Rambam all saw this “dignity” as a choice, not communal obligation.

That case cannot fully serve as support for ours, however, because of the significant differences between the two. Rashba and Ran explicitly (and Rambam implicitly) understood the Talmud to *prefer* one with a full beard, not prohibit one without. They also read the issue as relevant to appointing a regular or permanent cantor, not whether a younger man could occasionally lead the services. Finally, it was Rambam, not the Talmud, who characterized this as a “dignity” issue; for talmudically defined cases of “dignity,” waiving might be more problematic.

Numerous authorities also permitted ignoring “dignity” to allow publicly rolling the Torah scroll to its proper place. Here, as R. Shapiro correctly noted, the lack of “dignity” was the inconvenience to “the congregation by having it sit idly during the performance of ministerial

tasks.”²⁷ Other situations where the “dignity” principle is mentioned, such as women’s *aliyyot*, reading from a partial scroll, or hiring a too-young cantor, differ in kind from the indignity of inconvenience. Comments about how to handle or ignore one kind of “dignity” need not apply to the other.

Peri Hadash offered more support for voluntary setting aside of “dignity” since he allowed reading from partial scrolls, which, like women’s *aliyyot*, is not an issue of simple inconvenience.²⁸ Still, he was dealing with a temporary strategy for how to handle a less than ideal situation, which would presumably revert to the “dignified” mode as soon as possible. R. Shapiro is arguing for a regular waiver of “dignity” with no intention to change back in the future.

To draw the contrast more clearly, it seems obvious that *Peri Hadash* would not allow a community that possessed a valid scroll to simply choose to read from a partial one, but R. Shapiro is suggesting that communities have exactly that right, to willingly and unlimitedly set aside their “dignity.” So too, incidentally, rolling a Torah scroll would seem to be a question of a particular occasion, not a regular practice of waiting until the community is gathered before preparing the scrolls for that day’s reading.²⁹

Appointing a young cantor is a more regularized foregoing of waiving, but only until he matures; as Abba Eban once said when asked about the low median age of the State of Israel, it is a problem that passes with time. In each case other than R. Shapiro’s, the foregoing is temporary and situational.

R. Henkin explicitly rejects the difference between temporary and permanent surrender of “dignity”—without supporting proof or argumentation—in response to a questioner who had suggested it.³⁰ We find the questioner’s position more reasonable, since to temporarily forego “dignity” is to yield to the force of circumstance. To ignore it permanently is to declare a lack of concern with the Rabbis’ perspective of proper communal conduct.³¹

The Significance of the Opposition to Foregoing “Dignity”

When R. Yosef Karo cited authorities who allowed appointing young cantors, he also noted that Rosh flatly prohibited it. *Bah* thinks even Rambam and Rashba agreed with that position, meaning there was significant opposition to waiving “dignity” even in the easiest case.³² In addition, the reason *Bah* gives for opposing waiver of “dignity” could have been accepted elsewhere even by those who here allowed it.

R. Shapiro saw the debate on this issue as a question of whether “dignity” was a matter of “*kevod ha-tsibbur* or . . . *kevod shamayim*, the glory of heaven. . . .”³³ He more explicitly connects *Bah*’s view to a concern with heaven’s “dignity” later, when he notes the “vigorous opposition of R. Yoel Sirkis (*Bah*), who held that *kevod ha-tsibbur* in fact represented *kevod shamayim* and hence could not be waived.”³⁴ According to him, *Bah* also “argued that decentralizing the concept of *kevod ha-tsibbur* would splinter the community.”³⁵

In fact, *Bah* does not refer to *kevod shamayim*, the “dignity” of heaven;³⁶ claiming that he does misdirects the real focus of his comment. *Bah* says:

The interpretation of “because of the dignity of the congregation” is not that it is an affront to their dignity before people . . . but the meaning is that it is not the dignity of the congregation to send before Him, may He be exalted, one who has no glory of the face (a beard) to speak on the community’s behalf.

To this point, perhaps, one might still argue that *Bah* was contrasting “dignity” of the community with dignity of God. Later in the chapter, though, *Bah* concludes:

Rather, the matter is simply that since the Sages . . . were concerned about the “dignity of the congregation,” the congregation does not have the ability to forego it, and further if they did, all of these areas where the Sages instituted rules because of the “dignity of the congregation”—not to roll the Torah scroll in the congregation, and so too that a woman should not read in the congregation [other examples] . . . if so, the Sages *accomplished nothing with their institutions, for any community will forego and further that Israel will splinter into groups.* . . .³⁷

Seeing a longer excerpt of *Bah*’s comment shows that he thought communities could not set aside their “dignity,” because the Sages had meant their rules to be objective and universal. Given the importance of how a community presents itself to God (for the community, not for God), *Bah* saw the Sages as insisting on certain standards of conduct. In his reading, they consciously chose not to rely on communities’ self-perception out of a mistrust of the choices those communities would make.

Knowing that *Bah* thought the Rabbis were concerned with guaranteeing a certain level of communal self-respect also explains why they would insist on universality. As long as the rules of “dignity” are uniform,

they will remain in force. Once they become a matter for each community to define, we have lost the point of instituting “dignity” at all.

Two of *Bab*’s assertions about “dignity” are particularly relevant to women’s *aliyyot*. First, he treats it as a rule, not a custom; if true of women’s *aliyyot*, it makes change more technically difficult than just deciding to ignore it. Second, he reminds us that the Sages sometimes imposed objective and uniform standards. These views could easily be accepted in our case even by those who disagreed with *Bab*, particularly if they only allowed rolling Torah scrolls (an issue of bother).

Rabbi Henkin and Explicit, Unanimous Consent

As we have mentioned, R. Henkin allowed waiving “dignity” only with unanimous and explicit communal consent. Aside from failing to provide any supporting evidence for that position, R. Henkin also fails to support his further claim that only occasional and private services have implicit unanimous consent.

R. Henkin was perhaps following his halakhic intuition that *aliyyot* in a private setting are less problematic than in a public one, but he ended up taking a position that is neither supported nor consistent. If all we need is explicit, unanimous consent, there is no reason to limit that to private, occasional services. If more is needed, he has failed to properly define the standards that apply.

DEFINING “DIGNITY”

Portraying “Dignity” as Socially Based

In the discussion so far, R. Shapiro suggested allowing women’s *aliyyot* without affecting the validity of the talmudic assertion that *kevod ha-tsibbur* militates against them. His main argument, though, was that the definition of “dignity” shifts with changes in society. R. Shapiro reviews Ritva’s discussion of the topic and concludes that

kevod ha-tsibbur, defined by Ritva as “*me’arab*” is not an essential halakhic category Certainly we today would feel an aversion towards any person of means who supported his parents from funds that should be allocated to charity. But would we intuitively feel the same towards a person who had his wife or son say the grace after meals on his behalf? . . . Perhaps it is time to consider whether...the dignity of the congregation should be defined to include all synagogue attendees, men, women, and youngsters.³⁸

Further on, he asserts that the need to ask

the question—“what is *kevod ha-tsibbur*?”—confirms that we have lost the immediate, intuitive understanding of why women may not read the Torah. *Kevod ha-tsibbur* is a social sensitivity, and the fact that it must be interpreted to us shows how far removed we are from the social culture of the Talmud. It is not surprising that the commentators on the *baraita* did not explain why *qeri’at ha-Torah* by women violated the “dignity of the congregation.” In light of women’s cultural situation and status at the time, no explanation was required.³⁹

Even when discussing *Bah*, who opposes waiving “dignity,” R. Shapiro finds comfort in his agreeing that it only applied *le-khathila*, leading him to write:

We have already seen that R. Joel Sirkus (sic) [*Bah*] regarded *kevod ha-tsibbur* as an *ab initio* concept. Thus, despite his position that the congregation may not waive its dignity, it would appear that *Bah* considered the disqualification of women from *qeri’at ha-Torah*, even if it is said to protect *kevod shamayim*, to reflect essentially aesthetic, cultural sensitivities. Just as a community should choose the imposing figure over the wise man to represent it before the Lord, so the congregation should not denigrate *qeri’at ha-Torah* by performing it through women. This line of thought is out of tune with modern perceptions, even those of most Orthodox circles.⁴⁰

I have quoted R. Shapiro at such length to lay bare his underlying contentions—“dignity of the congregation” reflected the social judgment of the Rabbis, was an essentially social concept, was *ab initio*, and should therefore adjust with the times.

Two central flaws mar his thesis, making it halakhically unreliable. First, *ab initio* mistranslates *le-khathila*. Second, reading “dignity” as a social construct ignores complexities of the topic.

Le-khathila Does Not Indicate a Social Construct

R. Shapiro repeatedly attaches an inappropriate importance to the *le-khathila* standing of the prohibition of women’s reading. Three examples:

1) When he summarizes R. David Pardo’s position, he writes that R. Pardo “in principle permits women to read all *aliyyot*, but prohibits it in practice, *ab initio*,”⁴¹ which implies that the objection to women’s *aliyyot* was practical. Absent that technical problem, women could read.

2) Recall what R. Shapiro saw as a paradox between *Bah*’s prohibit-

ing waiving and his seeing the issue as *le-khathila*. For him, that proved that *Bah* viewed “dignity” as reflecting “essentially aesthetic, cultural sensitivities,”⁴² since *le-khathila* implies a nonessential rule. In addition, R. Shapiro claims that *Bah*’s “opposition to waiver... must be seen as acting along a very narrow band, as *Bah* himself holds that *kevod ha-tsibbur* is no more than an *ab initio* concept.”⁴³

3) R. Shapiro thinks our need to explain “dignity” shows that it was socially based.

The first two of those statements relies on a faulty identification of *le-khathila* and *ab initio*. *Ab initio* means a preferred mode of conduct, the ideal way of performing a certain act. *Le-khathila* is sometimes used that way, but in technical halakhic terms defines the *necessary* ways of performing an act. The fact that a sub-optimal version may also be halakhically acceptable after the fact does not change the *le-khathila* necessity of the proper mode of fulfillment.

Turning to the examples, R. Pardo did not mean to allow women’s *aliyyot* “in principle”; he was discussing how to act where a woman had *already* approached to read. Forced to choose between actively insulting the woman by sending her away or passively foregoing communal “dignity,” he chose the latter. Rather than discussing what was true “in principle,” R. Pardo was analyzing how to deal with a situation gone wrong.⁴⁴

Bah’s prohibiting communal waiver of “dignity” presents no contradiction to his assumption that the rule was instituted *le-khathila*, since the first discusses the proper way to act while the second deals with how to respond either to an already-performed improper act or to circumstances that force an improper performance.

For R. Shapiro’s third point, our lack of immediate comprehension of *kevod ha-tsibbur* does not mean that it was a social construct, just a halakhic one. Until immersed in sources, we similarly cannot know what the Rabbis meant by their rules for the nullification of particles of prohibited food (*bittul*), cooking on Shabbat, and a host of other talmudic ideas that made sense in the Sages’ halakhic world, not their social one. Indeed, much of Torah study involves elucidating halakhic concepts not sufficiently clarified in earlier sources.

“Dignity” Defined

R. Shapiro’s view of the meaning of *le-khathila* helped him justify his claim that *kevod ha-tsibbur* reflected the society Hazal inhabited. As R. Henkin pointed out, though, Ritva provided an earlier and systemically coherent reading of “dignity” that had nothing to do with Hazal’s view

of women. Given a choice between dismissing Hazal's view as dependent on their social circumstances and accepting the only view "clearly elaborated in the *rishonim*," we fall in with R. Henkin in concluding that "there is no justification for having recourse to explanations such as that *kevod ha-tsibbur* means that women's participation is intrinsically degrading and denigrating."⁴⁵

Ritva, as R. Shapiro mentioned, linked the "dignity" issue in women's reading *Megillat Esther* for men to another talmudic category: *me'era* (cursed).⁴⁶ Another example of *me'era*, where the Rabbis cursed a person who engaged in certain ways of fulfilling a mitsva is having one's wife or son recite *Birkat ha-Mazon* for oneself. R. Shapiro assumes that the curse stems from this person's fulfilling

the narrow requirements of the law in a manner that discloses their own spiritual impoverishment. . . . At least as understood by Ritva, an illiterate man should recite *hallel* or *birkat ha-mazon* by repeating after a woman or hear *Megillah* from a woman reader rather than forego performance of the *mitzvah*. But woe unto him who is reduced to such shame and disgrace.⁴⁷

Crucial to this passage is the assumption that it was the listener's implied ignorance that offended the Rabbis, a view apparently supported by Rashi. R. Henkin accepts that idea, leading him to the novel suggestion that women might be able to read the Torah whenever it would not imply a lack of learning among the assembled men. As with consent, though, R. Henkin gives only to take away, and unconvincingly at that. In his view, again unsupported by argumentation or sources, women's reading implies ignorance unless it is "superfluous from the standpoint both of its ordinal number [i.e., it is not part of the required number of readings for that day] and its contents [it is not part of the required reading for the day]."⁴⁸ That effectively limits the idea to *Simhat Torah*, when the multiple readings satisfy both conditions.

Leaving that aside, R. Henkin is too quick to assume that only *Simhat Torah* does not imply ignorance.⁴⁹ Consider, for example, a case where it is absolutely obvious that the assembled men know how to read on their own—a convention of professional Torah readers, for example. There too, the woman's reading could not possibly imply anything about men, and R. Henkin should allow for women's reading.

Furthermore, R. Henkin's reasoning supports R. Shapiro's claim that the institution of a *ba'al keri'a* should take away the problem. Since the men are being read for (precisely to avoid embarrassing the

ignorant), a woman's standing next to the *ba'al kerī'a* should mean nothing more than when a man does so.

Accepting R. Henkin's view, in other words, means that we should come to agree with R. Shapiro in practice (at least because of the *ba'al kerī'a*); indeed, R. Shapiro correctly pointed out that R. Henkin's responsum refused to sanction women's *aliyyot* only because custom has not allowed them and because such a practice would support the "assimilationists."⁵⁰

R. Henkin's reading of Ritva, though, sees the Sages as responding to the wrong problem. If the Sages were bothered by the man's ignorance, they should have turned their harsh language against the ignorance itself ("cursed be the man who does not know how to recite Grace"), not on his relying on others for assistance.

We find it more plausible to believe that Ritva (and Rashi) only assumed the ignorance of the person whose wife says *Birkat ha-Mazon* or *Hallel* for him because they knew of a *different* reason to avoid having wives, slaves, or children serve as the agent of mitsva. That prior barrier made it clear that only an ignorant man would act in a way that incurred the Rabbis' wrath.⁵¹

R. Henkin's questioner argues that having one's wife read *Birkat ha-Mazon* or *Hallel* denigrates the mitsva.⁵² In the case of *Hallel*, the wife is not obligated at all; in *Birkat ha-Mazon*, R. Henkin argues that Ritva held that the wife and child in question *were* equally obligated. As he mentions in his responsum, though, the Talmud objected even to two people joining together for Grace. That objection would mean that only an ignorant man would rely on others' recitation to count as his own. The mention of wife and child may simply reflect likely candidates for an ignorant father to turn to; the *me'era* stems not from his ignorance but from the inherently problematic strategy his ignorance forces him to employ.

Transferring that view to women's *aliyyot* means that we would see the Rabbis as opposing women's reading because of some denigration of the mitsva implied by such reading. R. Henkin notes that the reading by male children does not imply ignorance because the children are being trained to be members of the community.⁵³ Ignorance is only implied, then, if we have another reason the person should not read; for women, we need to find that reason.

The most plausible suggestion is that having women read the Torah affronts communal "dignity" because they are not generally members of the obligated public community.⁵⁴ Relying on someone who is not usu-

ally—and in the case of Torah reading, not at all—a member of the public community suggests that the regular members were either unable or chose not to shoulder their communal responsibilities (out of ignorance or apathy).⁵⁵ Outsourcing obligations betrays an undignified attitude toward the obligation itself; educating future members of the congregation does not.

The Obligatory Community

My claim that women's lesser obligation in communal worship makes their reading the Torah an affront to "dignity" might not sound sensible in an environment where performing a public communal function is seen as a privilege rather than an obligation. R. Shapiro himself seems to adhere to this view, twice noting that if his analysis is "tenable, by what moral justification may women be denied a halakhic privilege. . . ?"⁵⁶

The "privilege" view of communal participation misreads the role of the synagogue. In setting up society, the Torah separated private, personal actions and responsibilities from those engaged by and incumbent upon the community as a corporate entity. In that corporate entity, men were assigned the responsibility of ensuring the performance of the various communal functions.⁵⁷

Those men, however, were not *privileged* to join that community; they were *obligated* to, whenever possible. So too, the public congregation meets God regularly not only because it benefits from so doing, but because the Rabbis required it. Letting others fulfill those obligations portrays it as a burden, an attitude the Rabbis reasonably found undignified.

Many communities today have become places to attend as desired and to benefit from as needed; in such circumstances, men's greater participation is simply an unfair advantage. In a proper Jewish community where men realize and perform their communal responsibilities, the lack of "dignity" in having outsiders perform communal functions would be clearer and less offensive.⁵⁸

THE READER

We earlier noted that R. Henkin's focus on implied ignorance helps R. Shapiro's argument that the universal use of a *ba'al keri'a*, a set Torah reader, makes a woman's *aliyya* less problematic, since the woman is not actually reading and the institution itself assumes the prevalence of ignorance.

R. Henkin mentions that his grandfather, R. Yosef Eliyahu Henkin ז"ל, understood the custom of appointing a reader as based on a Tosefta that says that where only one person knows how to read, that person reads, sits down, and gets up again to read (to make seven separate portions). The younger R. Henkin then writes:

There is, in effect, only one person reading the entire portion, and the original enactment of seven individual readers has been superceded. The *poseqim* comment that the blessings recited by the *olim* demarcate between the *aliyyot*, making it unnecessary for the reader to physically sit down and stand up each time.

I added [in *Benei Banim* I:4, p. 17, and II:7, p. 30] that according to this, considerations of *kevod ha-tsibbur* are put in abeyance as well. . . . The author [R. Shapiro] quotes this . . . considers the distinction to be self-evident, as he casually reads it into the *Shulhan Arukh*. . . . In this he overstates his case, it seems to me . . . the conclusion I drew from the language of the *baraita* that if reading is not involved there is no issue of *kevod tsibbur*, although highly plausible, is not in itself proven. Conceivably, other factors might be involved.⁵⁹

The crux of the claim is that the reader removes all issues of “dignity,” since, in the view of R. Henkin’s grandfather, the institution of the reader fundamentally changed the experience of Torah reading. Whereas before there were seven readers, now there is one “real” reader, with seven symbolic blessing-reciters.

The argument rises and falls on whether we accept that view of the reader. R. Moshe Feinstein, in his *Iggerot Moshe*, viewed the reader differently, a view R. Shapiro himself had cause to discuss in responding to an online questioner, Moshe Kirstein.⁶⁰ Kirstein noted that *Iggerot Moshe*⁶¹ based a minor’s inability to get an *aliyya* on his inability to serve as or appoint a messenger, which assumes that the reader is a messenger for the person being called. R. Shapiro could have responded that he held a different view of the reader, but he did not; instead, he noted that women *should* be able to appoint messengers, implicitly arguing that nothing in *Iggerot Moshe*’s response ruled out his idea.

R. Shapiro is right that women can appoint messengers, but treating the reader as a messenger means that, halakhically, the woman is reading, just through her stand-in;⁶² any lack of “dignity” her own reading would have created is equally present when she is the authorizing agent of the reading. R. Shapiro can adopt a minority position of the role of the reader, but he cannot expect that to lay the groundwork for a significant halakhic innovation unless he proves it more fully than thus far.

CONCLUSION

For all its length and depth, R. Shapiro's argument in favor of women's *aliyyot* rests on two central contentions, each with conspicuously weak textual support. First, he applies the concept of communal waiver of "dignity" where it has not previously been accepted and which would be the first example of a permanent waiver rather than a temporary concession to circumstance. Second, he adopts a reading of "dignity" that allows him to argue that it no longer applies. R. Henkin accepted or anticipated R. Shapiro's basic reasoning on these two most central questions (as well as on the issue of the reader), although he sharply limited the practical conclusions he would allow.

Two Discussions Missing From R. Shapiro

Turning from what we think is inadequate in R. Shapiro's halakhic reasoning to what is importantly absent from his presentation, we note that he did not fully analyze *which* portions of the reading women could perform. While he was consistently careful to write only that women could read "some" portions, he clarifies no further.⁶³

His summary of the positions on that question, however, shows significant differences of opinion. As he presents it, *Or Zarua* and R. David Pardo would allow women to read any or all of the portions of the Torah reading, R. Isaiah de-Trani (Rid) would allow four or three *aliyyot*, R. Jacob Emden would only allow women to read where no men are capable of doing so, and R. Meir ha-Kohen of Rothenburg (*Hagahot Maimoniyot*) only allows their reading the seventh.

Later, he notes that Ran and Rivash were the source of Rema's claim that women could not be called up to read *all* the portions of the Torah. Ran's comment is ambiguous (so that he might agree that they could take any three *aliyyot*), but Rivash assumes that Ran agreed with him that women could only take the seventh or, perhaps, the reading added on for the *maftir*.⁶⁴ Further, when *Hagahot Maimoniyot* limits slaves to the seventh portion, the comment closes by citing his teacher, the more famous R. Meir of Rothenburg.

I mention the names because the halakhic process operates with a hierarchy of authority and influence. All other things being equal, Maharam of Rothenburg, Ran, and Rivash carry greater weight in a traditional halakhic discussion than any of the others cited. Granting all of R. Shapiro's points thus still only supports the conclusion that there was "no halakhic impediment" to calling women for the *seventh* section (and sometimes the additional portion).

He could have noted that his analysis did not take up the important question of which portions women may read, and left the issue for another venue. His neglecting to do so has allowed a situation where the services that claim to follow his ideas call women up for any section they choose. Considering the enthusiasm with which people have used his ideas to support women being called up to the Torah in what they deem an Orthodox setting, more clarity on his part was vital, even if just to emphasize that he was not dealing with this important question.

A second crucial issue not discussed sufficiently, especially once we recognize that the article has had significant practical impact, is that of how and when halakha allows Jews to consciously and proactively change their customs. While R. Shapiro correctly notes that customs change and offers a rubric for the kinds of customs amenable to change, he does not offer a satisfactory theory of *how* that change occurs. As many rely upon his article to institute change, he owed his readers a discussion of why it could be so.

As we bring our discussion to a close, we note that other defenses of women's *aliyyot* exist as well. R. Daniel Sperber, for example, argued that the question of women's *aliyyot* puts two valid halakhic values—*kevod ha-tsibbur* and *kevod ha-beriyot* (the dignity of people, in this case women)—into conflict.⁶⁵ This is a different type of claim, worthy of its own discussion, but beyond our present scope.

Here, we have striven to show only that the attempt to read the talmudic concerns about women's *aliyyot* out of relevance to contemporary Orthodox Jews has not meaningfully succeeded. Discussing R. Shapiro's many suggestions has enriched our understanding of several halakhic concepts and made clearer what would be involved in bringing about acceptable halakhic change on this issue. We can only undertake to continue his search for solutions and innovations that will help Orthodoxy bring all its adherents into a closer connection to their Creator.

NOTES

I wish to thank Dr. Joel Wolowelsky for, among other things, his painstaking and repeated editing of this article and Rabbis Yehuda Herzl Henkin and Aryeh Frimer for their helpful comments on an earlier version.

1. R. Mendel Shapiro, "*Qeri'at ha-Torah* by Women: A Halakhic Analysis," *The Edah Journal* 1:2 (Sivan 5761 [2001]). This and all subsequently quoted articles from *The Edah Journal* can be found online at www.edah.org (accessed December 2005).

2. Such as R. Dr. Daniel Sperber, "Congregational Dignity and Human Dignity: Women and Public Torah Reading," *The Edah Journal* 3:2 (Elul 5763 [2002]). Sperber's approach is notable for its portraying the issue as one of conflict of halakhic values in which we must choose which of competing halakhic values to express most fully in a particular situation.
3. See note 1. The response was titled "*Qeri'at ha-Torah* by Women: Where We Stand Today." Both authors also provided concluding comments.
4. Henkin, p. 6.
5. *Megilla* 23a. Rabbis Shapiro and Henkin analyze the possible distinctions between the reading of that statement in the Tosefta and the Babylonian Talmud, but that discussion matters only if it affects the decisions of the codifiers of Jewish law, which it does not, as we will see.
6. Note that R. Henkin agrees that such services could have women's *aliyyot*, but only because he sees such services as having an implicit unanimous consent on the part of all attendees to waive the community's "dignity," an argument we take up below.
7. *Encyclopedia Talmudit*, vol. 26 (which had not been published when R. Shapiro wrote his article), s.v. *Kevod ha-Tsibbur* (p. 555, note 21) cites Ri Algazi in *Shalmei Tsibbur* and *Responsa Bet Yehuda, Orah Hayyim* (end of § 55), who take for granted that "dignity" applies whenever there are ten men.
8. *Hilkhhot Tefilla* 12:17.
9. Shapiro, p. 6.
10. *Ibid.*, p. 40.
11. R. Henkin offered another reason for the difference in the dignity requirements in his *Responsa*, but the discussion is not relevant to our discussion. Henkin, p. 3, referencing *Benei Banim* II:11.
12. *Orah Hayyim* 143:2.
13. See *Responsa* 162 and 294. The dignity issue here would seem to be using an invalid scroll for a communal obligation, and that problem applies just as well out of the synagogue.
14. As does R. Yosef Karo, *Yoreh De'ah* 282:19, 283:1.
15. Shapiro, p. 40, citing *Bah* to *Orah Hayyim* 690, s.v. *ha-Korei*.
16. Henkin, p. 3.
17. § 241.
18. We noted earlier that R. Shapiro refers to *ad hoc* services, but others apply his ideas to regular meetings. Here, a similar issue arises regarding whether *Sefer ha-Batim* meant private homes only, or any non-synagogue venue. If the former, the status of services in a rented room (a storefront, e.g.) becomes unclear even according to *Sefer ha-Batim*.
19. Shapiro, p. 39, citing *Sefer ha-Batim*, *Bet Tefilla*, *Sha'arei Keri'at ha-Torah*, 2:12.
20. R. David's citing it cannot be taken as indicating agreement, since the next line quotes Rabbenu Tam's view (again without name or editorial comment) that women may not nowadays read the Torah because they may not recite the blessings. That view is not relevant to our discussion, since Ashkenazic Jewish women regularly recite blessings on acts of mitzva in which they are not specifically obligated, as R. Shapiro noted earlier in his article. The citation itself, though, shows that R. David was collecting interesting opinions, even contradictory ones, without any intent of expressing

- his view, leaving us with only anonymous support for it.
21. Shapiro, pp. 5-7. Seeing it as a communal obligation avoided the claim that women cannot read for men, since women are not similarly obligated to the men. The issue of obligation will arise again below.
 22. The teacher cited in *Sefer ha-Batim* may have assumed that reading the Torah was an individual obligation; otherwise, his comment has the same weakness.
 23. R. Henkin, too, assumed that any gathering of ten qualified as a congregation.
 24. R. Shapiro's view of extra-synagogue readings interestingly vitiates a citation he presented as proving that "dignity" can be waived. He quoted R. Ben Zion Abba Shaul's readiness to allow the matriarch of a family to be called to the Torah at a private family service as support for the possibility of a community foregoing its "dignity" (p. 26). However, R. Abba Shaul was actually contemplating a case in which all present have a specific halakhic obligation to give honor, suggesting that he saw that obligation as turning her reading into one that did not create a problem of "dignity." His implicit assumption that this clearly *ad hoc* service would have to worry about "dignity"—since otherwise *any* woman there should have been able to get an *aliyya*—implies a rejection of R. Shapiro's claim about *ad hoc* services and their standing as a community.
 25. R. Shapiro mentions R. Jacob Alfandari, *Shu"t Mutsal me-Esh* 11, as appearing "to resolve the issue in favor of *Beit Yosef*, even in the case of *qeri'at ha-Torah* by women" (p. 36). In an online response to R. Shapiro, R. Ephraim Bezalel Halivni correctly noted that Alfandari does not resolve the issue in favor of *Bet Yosef*, he simply wonders whether *Bet Yosef* would apply his assumption about foregoing "dignity" to other circumstances, such as women's *aliyyot*.

R. Shapiro's claim in response that Alfandari closed his discussion with a dispositive source from *Tur Orach Hayyim* 143 misreads the paragraph; Alfandari had raised numerous sources allowing waiving "dignity," leading him to wonder how broadly the principle would apply. The final one of those sources was a statement in *Bet Yosef* (not *Tur*) that R. Yeruham allowed a community to ignore its dignity in order to read from a partial scroll. This was not a "dispositive source"; it was a source that added to the question.

R. Shapiro also wrongly fails to record Alfandari's other question, whether foregoing "dignity" requires unanimity or simple majority. Alfandari does not resolve that question, but R. Henkin, as we mentioned, assumes that unanimity is required. That R. Shapiro does not address the issue despite its importance to his claim and his clearly having seen this source is a significant lacuna.

The online exchange between Rabbis Halivni and Shapiro may be accessed at www.edah.org/backend/coldfusion/Journal_resplist.cfm (accessed December 2005).

26. R. Henkin does not explain why attending a *minyán* in a private home more clearly states one's agreement to ignore "dignity" than does attending a service prominently identified as one that dispenses with "dignity."
27. Shapiro, p. 25. Rolling Torah scrolls might also be anomalous because the

Jerusalem Talmud notes that while the High Priest on Yom Kippur would roll the Torah from his first reading, Leviticus 16, to his second, Leviticus 23, he would not roll to the third reading, Numbers 29. Instead, he would recite that last one by heart, a difference the Jerusalem Talmud explains by saying that that reading is not inherent to the day.

The Babylonian Talmud does not justify the High Priest's actions. Ritva (*Yoma* 70a) cites and accepts the reasoning of the Jerusalem Talmud, meaning that the relevance of the second reading allows ignoring communal "dignity." Without Ritva, we might have argued that the rolling was not a "dignity" issue at all, since the High Priest could get to the second reading before the translator finished interpreting his first one.

This, in fact, is the implication of the earlier talmudic discussion of when one can skip from one section of the Torah to another.

28. *Peri Hadash, Orah Hayyim* 53:6.
29. Halivni, in the online response referenced above (note 25), cogently argues that the only time one can waive "dignity" is in order to confront a particular problem.
30. *Benei Banim* II:11.
31. R. Shapiro also mischaracterizes *Magen Avraham* as having held that "kevod ha-tsibbur may in principle be waived, but . . . doing so should be avoided, *ab initio*," citing *Magen Avraham, Orah Hayyim* 53:9 (p. 36). That formulation sounds as if setting aside communal "dignity" is a less desired but plausible option, but *Magen Avraham* was actually inferring from *Shulhan Arukh's* language that R. Yosef Karo (who, as we have seen, often assumed that communities *could* waive their "dignity") prohibited actively sending forward a not-yet-bearded cantor. For all his acceptance of waiving "dignity," he did not allow direct action to do so.
That, in conjunction with *Bah's* general opposition to waiving communal "dignity," led *Magen Avraham* to rule unequivocally against such actions. Rather than "accepting in principle but prohibiting *ab initio*," *Magen Avraham* was noting that communal "dignity" *prima facie* implies an ability to ignore it, but the significant opposition of *Bah* and *Shulhan Arukh* means that we may not actively set aside "dignity."
32. Shapiro, p. 26, from *Tur Orah Hayyim* 53. *Bet Yosef* and *Bah's* comments each appear in paragraphs beginning with the word *ve-Ein*.
33. *Ibid.*
34. *Ibid.*, p. 35.
35. *Ibid.*
36. *Taz* (R. David ha-Levi) does so (*Orah Hayyim* 53:2) as R. Henkin noted in *Benei Banim*.
37. *Bah, Tur Orah Hayyim* 53, emphasis added.
38. Shapiro, p. 25.
39. *Ibid.*, p. 26.
40. *Ibid.*
41. *Ibid.*, p. 21.
42. *Ibid.*, p. 26.
43. *Ibid.*, p. 36.
44. Incidentally, R. Pardo's contemplation of a woman presenting herself for an *aliyya* suggests that he too was living in a time and social circumstance

where the instinctive aversion to women's reading had been lost (since the woman stepped forward without arousing the vigorous protest of the assemblage), and yet he assumed the relevance of the concept of "dignity," meaning that he too saw "dignity" as a halakhic construct, not a social one.

45. Henkin, pp. 3-4.
46. Ritva makes his comment in *Megilla* 4a, s.v. *she-af*.
47. Shapiro, p. 25.
48. Henkin, p. 5.
49. Arguing that the Rabbis tended to make universal rules would mean that their ruling should continue to apply even if the implication is no longer there, so it would not help us.
50. Shapiro, p. 34.
51. See Rashi, *Sukka* 38a, s.v. *me'era*.
52. *Benei Banim* II:11, 45-7.
53. Focusing on the issue of communal membership also shows why R. Shapiro might have erred in assuming that *Hagahot Maimoniyot* allowed women to read the seventh portion. *Hagahot Maimoniyot* only mentions a slave, but R. Shapiro assumes that was just the example. In fact, though, a slave could be freed and instantly become a full member of the community, as in *Berakhot* 47b, whereas a woman could not.
54. Both R. Henkin and R. Aryeh Frimer, responding to an earlier version of this article, noted that Ritva (*Megilla* 4a, s.v. *she-af*) also excludes women from reading the *Megilla* for reasons of "dignity" and says that this is included in *me'era*, despite their being obligated in that mitsva. I have therefore chosen the locution in the text that their not generally being members of the public community means that they have a different status even within those public mitsvot where they are obligated.
55. Even though Torah reading is a communal rather than an individual obligation, only men bear the obligation to ensure the communal fulfillment of its responsibilities.
56. Shapiro, p. 2 and in his response to R. Henkin's comments.
57. The choice of men to uphold the public side of life is too complicated to discuss fully here. A start is to recognize that women, historically and currently, often had pressing responsibilities that precluded their being obligated to participate in the public community. In the Torah's two-parent model, men were available to leave the house when necessary and women covered the home.

That setup has many roots, sociological, biological, and practical. For most of human history, men supported the family, while women took care of the home, bore the children, and raised them. Even today, many women feel the pull of a version of motherhood that would contradict taking on significant extra-household responsibilities.

My reasoning here, incidentally, echoes that of Rabbi Saul Berman in "The Status of Women in Halakhic Judaism," *Tradition* 14:2 (Summer 1973), pp. 5-28.

58. Seeing *me'era* as rooted in women's not being members of the public community explains why their exclusion from *aliyyot* is not subject to changing social mores, but does not explain why Judaism would exclude them from such an important religious experience. The answer, that being called up to

an *aliyya* is a relatively insignificant Jewish experience, may not immediately convince readers who inhabit a society that inordinately emphasizes Shabbat morning services.

That this emphasis misrepresents the world of Hazal jumps out from the most casual reading of the Talmud, where the Rabbis registered no objection to people living in small villages without regular public worship. They instead simply helped such people fulfill their communal obligations, even carving out extra days for them to read the *Megilla* around Purim time. A lack of communal worship takes away some positive aspects of Jewish life, but not the ability to relate fully to one's Creator. Excluding women from Torah reading says nothing about their opportunities to create a fully productive relationship with God; it just closes off one of an infinite number of avenues.

59. Henkin, p. 4.

60. Response to Moshe KIRSTEIN (7/19/2002), www.edah.org/backend/cold-fusion/Journal_resp.cfm?id=31 (accessed December 2005).

61. *Iggerot Moshe, Orah Hayyim* 2:72.

62. As *Iggerot Moshe* explicitly notes regarding children. Public perception of the reader also supports this view. It is because we see the person called up to the Torah as the "real" reader that people congratulate him when he returns to his seat, why he is given the right to have prayers of blessing recited for him, and why people are so interested in getting called up.

63. Shapiro, p. 2.

64. R. Shapiro cites Rivash § 326 as proof that they could only take that additional reading. In responsum 35, though, Rivash seems to limit a woman or child to the seventh section, which he deduces from the Talmud's referring to "even a woman, even a child," rather than "even women and children." In both places, Rivash is clear that the person in question could *not* read the additional portion if it was inherently connected to the order of the day (such as on a holiday), an important halakhic position R. Shapiro leaves out of the article. Rivash assumes that Ran agrees with him by noting "and so wrote Ran on the *Halakhot*." It is not clear, though, that Ran meant what Rivash claims.

65. See note 2.