Rishon or Kohen

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שאלה

The question has been raised as to whether calling *rishon, sheni, shlishi* may be substituted in place of calling *kohen, levi, yisrael* for the first three *aliyot* to the Torah.

תשובה

A survey of the various sources dealing with this issue reveals that there is disagreement as to whether calling a *kohen* first is מדוריה (from the Torah) or מרדן (from the Rabbis).

In order to understand the reason for calling a *kohen* first, we must turn to *Mishnah Gittin*¹ which states:

> "The following rules were implemented in the interests of peace. A *kohen* is called up first and after him a *levi* and after him a *yisrael."

This source implies that calling up a *kohen* first is a מדוריה, i.e. it is מרדן. The rabbis explain that they instituted this rule to prevent fighting among the worshipers, all of whom would want to be called up first. Nowhere does this source indicate that calling a *kohen* first is a Biblical requirement.

Sources Claiming מדוריה

A different perspective is presented in the *Bavli*² which quotes a number of biblical verses to try to prove that the calling up of a *kohen* is מדוריה. The *Bavli* finally states:

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*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.*
A Tana of the school of Rabbi Ishmael taught: ‘>a תקועה‘ in every matter involving sanctification: to open proceedings first, to say grace first, and to choose his portion first. Abaye said to Rabbi Joseph: Is this rule only in the interests of peace? Isn’t it biblically derived? He answered: It is biblically derived but it is also in the interests of peace. But the whole Torah is in the interests of peace?... No, said Abaye: it is in accordance with the Master, as it has been taught:... but if he wishes to honor his teacher or a superior he may do so. Commenting on this, the Master said: this applies only in the case of a meal, but not in the synagogue, for it may lead to quarreling.

Rashi³ explains the Mishnah based upon the Bavli as follows: The kohen reads first as it is written in the Torah (токף חברה), and the kohen can not forgo his honor and change the order because of the למפיס חברה שלום (in the interests of peace). According to Rashi the procedure of calling the kohen first is תקועה.

Rabbi Moses ben Jacob of Coucy states that this procedure is תקועה.⁴ The Rambam simply states:

בכל קריאת קוריאת מכל כוהן קראיו ראשות ואחרים ליה והוארש ישראל

On every occasion, a Kohen reads first, after him a Levi and after him a Israelite and the Shulhan Arukh follows suit.⁶ The Tur⁷ says the same thing, but adds:

אל דבריו סאמרו מדרים דרכיה שלומי כל קוהן קרוא ראשות וכרו, הכריסין בפרס ניקיק

These are matters that were ordained in the interst of peace... Rabbi Meir of Rothenburg⁸ accepts Rashi’s point of view, but adds that once the kohen forgoes his honor it is no longer תקועה but rather מדרבנן.

Sources Claiming מדרבנן

The Yerushalmi⁹ understands that there is disagreement as to whether this procedure is מדרבנן מדרבנן or מדרבנן מדרבנן. Tosafot and Tosafot Harosh say explicitly that the verses are an אסמלתא.
Even though we interpret the verse 'קרשת' in every matter of sanctification, to open proceedings first and to say grace first, it is only an אסמכתמ, just as is the case with to choose his portion first, for he cannot collect it in court.

According to the Yad David this procedure is indeed an Amoraic one:

And indeed it seems that we have here an Amoraic disagreement, for those Amoraim who do not interpret it from אסמכתraham, are of the opinion that this interpretation is only an אסמכתraham and קרשת is necessary for that which we interpret in Yevamot (88b) ‘if he refused, he is to be compelled,’ and it definitely must be so, for if it were not so, what is the reasoning of those Amoraim who derive it from another verse.

The Rivash makes this most explicit statement:

"And the fact that they are called up first is nothing but a custom."

In his commentary to the Mishnah, the Rambam writes:

...according to that which we have received by tradition, as I will elaborate, the fact that the kohen precedes the levi and the yisrael is based on the verse ‘and you shall sanctify him since he offers the food of your God . . .’, and we have received it as a tradition that in all matters of sanctification to open proceedings, to say grace first and to choose his portion first.

According to the Rambam, the law existed by virtue of tradition, and the verse is merely a support for an already accepted tradition, but it is not the source for the law.
Analysis: רמברן

As we can see, there is significant disagreement as to whether the calling of a kohen first is מברך הרה מברך קרישה, and this disagreement is stated clearly in the Arukh HaShulhan.14

There would seem to be sufficient reason to follow those Amoraim and Poskim who view this procedure as מברך הרה קרישה for the following reasons:

1. The Mishnah clearly says that it is מברך הרה שלום (in the interests of peace) which is not a case of מברך הרה קרישה. In fact, Rashi, in his commentary to the Mishnah in Gittin, calls this a התוקנה הרבכש (rabbinic enactment).15 Rashi and all the others who claim that it is מברך הרה קרישה based on the verse, כהן שמחל על בכור (a kohen foregoing his honor) into the Mishnah. In fact, if we accept Rashi’s interpretation, then תועקר הפס من המפר (the main item is missing), since the question of a kohen foregoing his honor, is not mentioned in the Mishnah.

2. If the midrash קרישה לכל דרכו בקרישה was the only application of the verse, then a case could be made for considering the law as מברך הרה קרישה. However since this verse is used to derive other laws as well16 it is clear that the מברך הרה is not identical to this midrash. Therefore, the midrash does not have the status of מברך הרה קרישה.17

3. Since there are several authorities who clearly say that the verse is only an במסכתא, and others who do not use the term מברך הרה when quoting the law, and still others, who quote the law with the explanation מברך הרה שלום (in the interest of peace) there seems to be significant support for the position that this practice is not מברך הרה קרישה, but rather מברך הרה קרישה.

4. Throughout the ages various cases have been discussed in which someone other than a kohen has been called first:

   a) 18 רב הווא קדיש במחנה.
   “Rav Huna read in the kohen position.”

   b) 19 אמר הספרין: "היה קדיש אל טשה כDetroit."
   “If the kohen is not learned, a scholar precedes him. If he does not act accordingly, he is guilty.”

   c) Or in a case where the only kohen could not read and the Rashba was asked if a yisrael could read and he answered:

   דיבר כי אל פוטוים המ שמותו רוחם מהרלים כי נודע לכהן יהודא
   יברון על הוהו והך אדרבה אسور על שותי מבוקר והנה אלו דגי אלא מ
   נורתי כן ישאנים תוס שישראל תוס קדיש ול.

   This matter is simple. It is permissible and proper and obligatory. Since he does not know how to read, how can he recite the blessings for the Torah and then read? On the contrary, he is forbidden, for he
is reciting a blessing in vain. And furthermore, according to the law a kohen who is not learned is preceded by a yisrael.

c) An interesting case is the following:

Where there exists a custom that one can purchase the first aliayah when the book of Bereshit is begun, if a yisrael buys it, then the kohen forgoes his honor and leaves the synagogue. One time it happened that the kohen refused to leave. It is permissible to call the local authorities to force him to leave so that the custom and the honor of the Torah are not abolished... Quoting the Kneset HaGedolah, he wrote that even if the kohen does not leave, the yisrael should read.

d) The author of the Arukh HaShulchan laments the fact that kohanim were not called up first:

There are communities today that are not learned and the disease has spread among them that they pay no attention at all to the kohanim, and call a yisrael instead of the kohen even though there are a number of kohanim present. They also do not ask the kohanim to forgo their honor... I shouted at them until they agreed not to do this anymore, and this matter was almost amazing to them.

e) Or the following:

“...The matter needs investigation – why aren’t they careful today to give precedence to the kohen.”

If the practice of calling a kohen first was מודריאית, all these varying customs and explanations would not have developed; but rather the opinion of Rav Amram would have prevailed:
Wherever there is a kohen present a yisrael cannot be called before him, even if he is a Prince in Israel. Rav Natronai wrote similarly that a non-learned kohen precedes a yisrael who is a scholar.

The fact is that this opinion did not prevail. And the very variety of sources and explanations cited above, would seem to indicate that the practice is not מדרובן but rather מדרובן מדרובן.

CONCLUSION

The procedure is מדרובן מדרובן מדרובן. The rationale for the procedure is מדרובן מדרובן מדרובן – (in the interest of peace) a concept which is historically and sociologically impacted. Therefore, as historical and sociological realities change, so must our application of מדרובן מדרובן מדרובן.

Today all kohanim are מדרובן מדרובן מדרובן (considered doubtful Kohanim). The Rambam says:

מִי שֶבֶךָ בּוֹמֵן הָוֹדָה אָמְרָךְ חַכָּה אָמְרִי אָמְרִי נְאֵמָךְ רַעְשָׁנִי מָצֶּלָן אָוֵּת לַכְּלָהוֹת על פִּי

If someone approaches us today and says I am kohen, he is not to be believed, and he is not elevated to the kehunah on the basis of his own testimony, nor should he read first from the Torah.

Since “authenticity” in the matter of הקונה is questionable and not totally reliable, it would seem more consistent with the concept of מדרובן מדרובן מדרובן (in the interests of peace) as it applies to a voluntary honor (not an obligation) to consider all recipients of aliyyot on equal footing, rather than maintaining a hierarchy, based on questionable personal status.

מֶפֶן דֶּרֶךְ שָלָם is a sociological norm and as such it changes with time and circumstances. In certain congregations and situations the limitations and restrictions created by maintaining the kohen, levi, yisrael procedure, rather than maintaining מדרובן מדרובן מדרובן, tend to interfere with them. Where a rabbi feels that a congregation or service would be better served by calling people up to the Torah as rishon, sheni, shlishi, it is entirely permissible to do so. This system allows any congregant who may normally be granted an aliyyah at the service, to be honored with any of the aliyyot during the service.

NOTES

1. 5:8
2. Gittin 59b
3. שם, ר"ח אבר
4. Semag, Asin 171
5. Hilkhot Tefilah 12:18
6. Orah Hayyim 135:3
7. Ibid.
9. Gittin 5:9
10. Hullin 87a
11. Yad David Hidushei Masekhet Gittin, Joseph Zintzenheim, Gittin 59b, מנה מ"ד
12. Rivash 94
13. Gittin 5:8
14. Orah Hayyim 135, #8
15. Gittin 59a מ"ד ראהך חכמים קדומים
16. See Sifra ad locum, and Yevamot 88b
17. See E. Urbach, p. 80
18. Megillah 22a
19. Beit Yosef to Tur, Orah Hayyim 135 ד"ה והיוהי רבין in the name of Rashba
20. Ibid.
21. Magen Avraham, Orah Hayyim 135 ס"כ 6
22. Orah Hayyim 135, #9
23. Perisha to Tur, Orah Hayyim 135, #3
24. Beit Yosef to Tur, Orah Hayyim 135 ד"ה עדלא
25. Hilkhot Issurei Biah 20.13. See also Tur and Shulhan Arukh, Even HaEzer 63 and Magen Avraham, Orah Hayyim, the end of #457. That is why the money received by the Kohen at a redemption of the first born should be returned. See Magen Avraham, Orah Hayyim 211.4