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Simcha Fishbane,
Eric Levine, Ben Bond, and
Tirzah Meacham
A Tale of Two Pandemics? How a Law for Torah Reading Became a “Dead Letter” in the Wake of the Black Death—and Was Brought Back to Life by COVID-19

Michael J. Broyde and Steven S. Weiner

INTRODUCTION

Must one who receives an aliya read a portion of text from the Sefer Torah themselves, at least quietly? Or, after reciting the blessing, is it permissible for an olib to listen passively to the ba’al goret (Torah reader) like the rest of the congregation? Strict social distancing during the COVID-19 pandemic has suddenly brought sharp, new relevance to this old halakhic question. Individuals who receive an aliya must keep a safe distance away from others, and so cannot possibly get close enough to the Sefer Torah to read along (quietly) as a ba’al goret reads aloud. Is it permissible to give aliya to such individuals? If not, then what to do?3

Medieval and early modern halakhic authorities debated this question in other contexts. Shulhan Arukh4 rules that one who cannot read from the scroll cannot be given an aliya—even if someone else reads—and so forbids giving aliya to individuals who cannot read due to illiteracy or blindness. Seemsingly there is precedent for this view in the Tosefta,5 which rules that if only one literate person is present in a minyan, then all of the aliya must be given to that one person. However, the Maharil (Rabbi Yaakov ben Moshe Levi Moelin, also known as Mahari Segal, a preeminent halakhic authority of Ashkenazic Jewry who lived c. 1365–1427) was more lenient and permitted aliya for illiterate6 and blind individuals. Ashkenazic authorities (but not Sephardic) ultimately universally accepted Maharil’s lenient ruling in practice.

In this article we examine a fascinating dispute among contemporary posqim (and communities) about public Torah reading under conditions of social distancing. One school of thought avers that an olib need not actually read from the Torah scroll—listening is sufficient—and so distant aliya are permitted. This view invokes Maharil’s leniency regarding illiterate or blind individuals and is likewise comfortable assigning aliya to individuals who must stand too far away to read from the Sefer Torah.5 The second school of thought disagrees. They are not comfortable relying upon Maharil’s ruling in the new context of social distancing, and so instead they assign all aliya by default to the ba’al goret, per the Tosefta’s original ruling for a minyan where only one member can read.6

Tracing the roots of both approaches highlights a challenging, important question that we do not believe has yet been clearly or sufficiently addressed. Maharil’s decision permitting aliya for those who cannot read seems stunningly innovative. It was not a traditional, long-standing practice. To our knowledge, as discussed below in detail, virtually no rishonim until Maharil disputed the long-standing precedent in the Tosefta that every aliya must be assigned to a person who can read. If seven literate people are not present (on Shabbat) then assigning them to the same person, if necessary, before giving an aliya to an unlettered individual is mandatory. Maharil’s lenient, contrary ruling seems, at least at first blush, to be completely unprecedented in halakhic literature.
Why and how could Maharil take the bold step of endorsing a practice in violation of a traditional rule uniformly endorsed by so many of his predecessors? Why did whatever halakhic rationale lay behind Maharil’s surprising leniency escape (or fail to persuade) earlier authorities? Can significant changes in factual (social) circumstances explain and justify the evolution of Halakhah in this way?

This paper attempts to clarify the halakhic rationale behind Maharil’s important, controversial position, including a hypothesis about the impact of one pandemic (Black Death) on that innovation. We also examine the disagreement as to whether Maharil’s leniency should be relied upon for purposes of socially distant aliyot during our contemporary pandemic. In addition to this Introduction and a Conclusion, the paper includes five sections. Part II reviews the Talmudic and post-Talmudic literature mandating that the oley be able to read the text. In Part III, we discuss the innovation of the Maharil and its acceptance by Ashkenazi authorities, and we summarize the difficulties with several classic defenses that have been offered for that innovation. In Part IV, we propose a novel explanation for the underlying halakhic logic of the Maharil, and in Part V we apply this insight to the contemporary problem of socially distant aliyot. In Part VI, we explain our views on the normative Halakhah, and we propose a new rule of Jewish law to address the situation of “mixed” minyanim, which include participants from both Ashkenazic and Sephardic communities.

**MUST AN OLEH READ FROM THE SEFER TORAH?**
**A LONG-STANDING PRECEDENT**

The Tosefta in T. Megillah 3:12 states:

> בַּחַיְּמָה שַׁאֲרָיָל שָׁלוֹם מִשְׁקָרָא אָמַר מַחְטָעַת שָׁמוֹאֵל וּרְשֵׁב תּוֹמָאְמָא יָשֵׁש יָשֵׁש יָשֵׁש יָשֵׁש אֶפֶל שָׁבַט וּפָעַל.

If a synagogue has only one person capable of reading [from the Sefer Torah], then that person should stand up and read; then sit down; then stand [again] and read; then sit down; then stand [again] and read; then sit down—even seven times.

The implicit premise of this Tosefta is that individuals unable to read (Hebrew) may not receive aliyot. After all, if non-readers were eligible, why award all of the aliyot to the lone reader, who “sits down” between sections in order to delineate separate aliyot? Why not distribute aliyot among the congregants, per normal practice?

Although this Tosefta is not cited in Talmud Bavli, a similar law appears in Talmud Yerushalmi (regarding a congregation of non-Hebrew speakers) and in Maschket Sofrim 11:1 (in a city with only one capable reader, this reader receives all aliyot and “sits down” between them), as well as in several Geonic responsa. Moreover, the law enunciated in the Tosefta is endorsed by a very broad spectrum of rishonim including: Rif, Rambam, Rosh, Tur, Or Zarua, Ravya (and citing his grandfather Ravan), Sefer ha-Pardes, Tosafot, Tosafot Rid, Picqri Riaz, Shibbolei ha-Leqet, Rashba, Maharam me-Rottenberg, Mordechai, Sefer ha-Etim, Sefer ha-Agudah, Ran, Ravish, R. Yerucham. This list—by no means exhaustive—represents an impressive consensus of both Ashkenazic and Sephardic rishonim.

Conversely, we are hard-pressed to identify even a single rishon until Maharil ruling that aliyot may be given to illiterate individuals. At most, we find that aliyot may be given to a blind person in limited cases according to Sefer ha-Eshkol (for a blind groom) and Sefer ha-Agudah (for a blind man who is the sole kohen present). But even those two authorities do not specifically permit aliyot for a (not blind but) illiterate person. In fact, Agudah expressly affirms the Tosefta’s rule that that all aliyot must be given to the baal-goreh in a minyan whose other attendees are illiterate.

The Rosh, a very influential authority among the rishonim, asserted that an oley who cannot read from the Torah recites a brakha levatala—an invalid blessing, taking God’s name in vain. He
argued\textsuperscript{15} that this is implicit in the Tosefta’s original ruling; after all, it was merely preferable when possible to avoid giving 
\textit{aliyot} to individuals who cannot read, then in the exceptional case of the Tosefta—where only one literate person is present—surely it would have been better to allocate 
\textit{aliyot} among the other attendees instead of breeching standard protocol and assigning all of the 
\textit{aliyot} to a single reader. Evidently, the Rosh argued, an \textit{aliya} for an \textit{oleh} who does not read from the Torah himself is categorically invalid and hence a \textit{brakha levatala}.

Tur and R. Yerucham (respectively the Rosh’s son and student) took the same position, as did Shibbolei ha-Leqet\textsuperscript{16} and several other \textit{rishonim}. This position is codified in \textit{Shulhan Arukh, Orach Haim} 141:2: an \textit{oleh} must read along quietly lest he be deemed to have recited a \textit{brakha levatala}.

\section*{MAHARIL’S SURPRISING INNOVATION AND ITS ACCEPTANCE BY ASHKENAZIM}

Nevertheless, Maharil (\textit{Minhagim, Laws of Torah Reading}) ruled that \textit{aliyot} could indeed be given to \textit{amei ha-aretz} unable to read, as well as to blind individuals.

\begin{quote}
אמר להם כל קורן ללחם אפיי על יהודי. והם שלחנים, אלא שלא נוהגו מזורזים._rp
\end{quote}

Maharil Segal ruled that we call to the Torah even illiterate people and also blind people. We do not follow the Rosh who rules that a blind person cannot be called to the Torah.

Maharil was undeterred by the strong consensus of earlier \textit{rishonim} who affirmed the Tosefta, nor was he persuaded by Rosh’s argument that such \textit{aliyot} are a \textit{brakha levatala} and invalid. Indeed, he explicitly notes his dissent from the Rosh. What justified Maharil in stating out such an exceptional, lenient stance?

R. Isaac Tyrnnau, a close contemporary of Maharil and author of \textit{Book of Customs}, an important source on Ashkenazic \textit{minhagim}, already wondered about this. In his \textit{Book of Customs},\textsuperscript{17} R. Tyrnnau initially presents the traditional, strict view that \textit{aliyot} may not be given to the blind. He then notes Maharil’s leniency—but asks how it can possibly be squared with Rosh’s ruling that such \textit{aliyot} are forbidden? He leaves that question unanswered.

Moreover, at least as puzzling is the fact that Maharil’s lenient opinion prevailed within the Ashkenazic world, despite the contrary ruling of so many influential \textit{rishonim} and the contrary ruling in \textit{Shulhan Arukh}. Rama, whose halakhic opinions are highly authoritative in the Ashkenazic world, is a perfect case in point. In \textit{Darkhei Moshe} (Rama’s glosses on Tur) he twice mentions Maharil’s lenient view, and both times Rama registers his disagreement.\textsuperscript{18} Yet, in Rama’s glosses to \textit{Shulhan Arukh} (\textit{Orach Haim} 139:3) he cites Maharil’s practice without disagreeing. Evidently, despite Rama’s objections in principle to Maharil’s lenient ruling, he ultimately endorsed what had become widespread Ashkenazic practice.\textsuperscript{19} A solid consensus among subsequent Ashkenazic authorities is that Maharil is to be followed on this issue as a matter of normative Halakhah, and hence \textit{aliyot} may indeed be given to blind or illiterate individuals.\textsuperscript{20}

How can the lenient practice of allowing \textit{aliyot} for those unable to read be halakhically justified, when it stands against such a strong consensus of earlier authorities who affirmed the Tosefta’s ruling against such \textit{aliyot}?

Commentators offer various explanations for Maharil’s ruling. We shall now review several of the better-known suggestions and discuss why we believe they are incomplete when standing alone. In the next section, we will propose a more complete rationale for Maharil’s ruling, which builds on earlier explanations but addresses the outstanding problems.

\section*{1. Eishkol’s Leniency for the Blind}

Perhaps the simplest explanation for the Maharil is also the easiest to critique, namely: that the Maharil simply followed the view of the Eishkol\textsuperscript{21} allowing a blind groom to get an \textit{aliya}, and generalized it to unlettered \textit{olim} as well. The
problem with this idea is that, without more, it would mean that two lone voices (instead of one) directly opposed a numerous, broad spectrum of prominent *rishonim* and contradicted the Tosefta. That the lenient view of such a small minority among the *rishonim* should prevail (in Ashkenaz) seems surprisingly inconsistent with the typical norms of Jewish law. Moreover, there is no evidence that Eshkol intended his leniency for a blind groom to extend to cases of illiteracy.\textsuperscript{22}

To the contrary, we see that although the Agudah\textsuperscript{23} adopted a similar leniency for a blind *kohen*, he expressly endorsed the Tosefta’s ruling against granting *aliyot* to the illiterate.\textsuperscript{24} Thus, Maharil’s broad approval of *aliyot* for illiterate individuals seemingly remains an isolated, outlier position with little or no prior support.

2. **Shome’a K’oneh**

Another, important defense of Maharil’s stance is that an *oleh* who listens passively to the *ba’al qoreh*’s reading is deemed as if they read it themselves, under the general halakhic concept *shome’a k’oneh*. In Talmud Yerushalmi, this concept is specifically applied in the context of Megillah reading, for example: one person may read the *megillah* while another person recites the *brakhot*.\textsuperscript{25} This idea is advanced by *Hagahot Ashri* on Rosh Megillah 3:1, and is reiterated in Taz 141, *Biur ha-Gra* 139, and *Mishnah Berurah* 139:12.\textsuperscript{26}

The problem with this explanation is that it seemingly proves too much. Why did the Tosefta, and the many *rishonim* who endorse it, evidently not consider *shome’a k’oneh* to be applicable? If *shome’a k’oneh* means that an *oleh* can simply listen and need not read, then why not simply distribute *aliyot* normally to congregants in the Tosefta’s case—why give all *aliyot* to the *ba’al qoreh*? Evidently, the Tosefta and the many authorities who affirm it held that for some reason an *oleh* must read from the Torah themselves, despite *shome’a k’oneh*.\textsuperscript{27} How could Maharil dispute—and prevail over—a solid consensus of prior authorities on this point?

3. **Establishment of brakhot for middle aliyot (Vilna Gaon).**

An ingenious explanation is suggested by the Vilna Gaon. In a characteristically terse comment, the Gaon posits that the Tosefta’s rule reflected the Tannaitic custom according to which *brakhot* were recited only by the first and final *olim*. *Olim* for the middle *aliyot* recited no *brakha* and simply read the assigned Torah portion. Hence, an *oleh* who could not read was meaningless in those days, at least for the middle *aliyot*, since reading from the Torah is the only role an *oleh* had. Once the law was revised to require *brakhot* even for the middle *aliyot*—as recorded in the Talmud (B. Megillah 21b)—the grounds for the Tosefta’s rule against *aliyot* for the illiterate disappeared and the rule itself was rendered obsolete (it was no longer good law), because even an *oleh* who could not read from the Torah participated actively by simply reciting the *brakhot* and as such was a valid *oleh*.\textsuperscript{28}

However, this approach raises a similar problem. The Gaon in effect claims that the Tosefta’s rule has been inapplicable since adoption of the “newer” practice to recite *brakhot* on the middle *aliyot*—which is described in the Gemara itself and was already well-entrenched before the earliest *rishonim*. If the Gaon is right, then why was the Tosefta adopted and codified by Rif, Rambam, and so many other *rishonim*? If indeed the Gra’s defense of Maharil requires us to assume that the Rif, Rambam, Rosh, and so many other *rishonim* (except Maharil) all misunderstand the Tosefta, then it seems even more surprising that Ashkenazim accept Maharil’s unique, lenient position as normative Halakhah.

4. **The Shift to a Ba’al Qoreh.**

Some suggest Maharil’s innovation can be understood in light of the shift in practice toward
reliance on a single ba’al goref to read the Torah aloud. For example, the Mishnah Berurah (139:12) explains Maharil’s position as follows:

וסようになりました رمضان שטなし,—溧(Configuration)רرياض דרומרא דרומרא ממר

המכה ושלא קפיד על דעתה של משען הוא.

His reasoning is: Because our minhag practice is that the shalitah tzibur (that is, ba’al goref) reads—and he reads (properly) from an actual scroll—we are no longer particular about the oheb reading, for “one who listens is as if he spoke” (shome’a koneh).

We have already discussed above the claim that Maharil can be justified based on shome’a koneh. But, the Mishnah Berurah does not rely on shome’a koneh standing alone. Instead, its author first states that Maharil’s stance is predicated on the relatively newer practice of relying on a ba’al goref. Mishnah Berurah seems to suggest that because we commonly utilize a ba’al goref, it is therefore now also possible to rely on shome’a koneh. By proposing that Maharil’s view is predicated not only on shome’a koneh but also on adoption of the universal custom to use a ba’al goref, Mishnah Berurah neutralizes the objection that we previously raised. Why was shome’a koneh not good enough for the Tosefta and the many early rishonim who endorsed it? Mishnah Berurah’s approach nicely resolves that problem, because the Tosefta as well as early rishonim like Rif and Rambam presumably predate widespread adoption of using a ba’al goref, at least in their communities.

However, this approach poses a different logical challenge. How and why would the legal efficacy of shome’a koneh be altered by virtue of ba’al goref use becoming common practice? If shome’a koneh was not effective for an oheb in the days of the Tosefta and early rishonim, then how could the newer custom of using a ba’al goref change that? On the other hand, if shome’a koneh was legally effective even before ba’al goref usage, then why did the Tosefta and rishonim rule that all aliyot should be given to a single reader if nobody else in the congregation can read? Why not distribute the aliyot and rely on shome’a koneh?

Thus, we still face the seemingly strong and convincing proof brought by Rosh from the Tosefta that a non-reader cannot have an aliyah. For some reason, shome’a koneh was evidently not good enough grounds for the Tosefta, or for the solid consensus of rishonim who affirm it, to permit granting aliyot to non-readers even in the exigent circumstance of a shul with few readers. Why should that law change due to the popularity of using a ba’al goref, a practice that Rosh himself was very familiar with and accepted?

**OUR PROPOSED EXPLANATION OF MAHARIL’S VIEW**

We propose three interrelated ideas to explain the adoption of the Maharil, which in total explain well our practice. First, Maharil understood the Tosefta’s reason differently than the Rosh. Second Maharil’s novel explanation of the Tosefta was grounded in the Rambam and many others and was only argued with by the Rosh and his students. Third, the devastation of the Black Death forced this to the fore to avoid the destruction of communal Torah reading.

**a. Maharil’s Ruling Reflects a Kavod-Based Interpretation of the Tosefta**

In order to more fully explain the Maharil’s ruling, it is very helpful to begin by asking ourselves what exactly was the rationale for the Tosefta’s traditional rule against granting aliyot to non-readers? The Tosefta itself does not explain this rule, and most of the early rishonim who cite the Tosefta as law do not explicitly explain it either.

One possible explanation is to interpret the Tosefta as reflecting a fundamental requirement: reading from the Sefer Torah is an essential aspect of the aliyah, and hence an inability to read invalidates that aliyah. This seems to be the approach adopted by Rosh and his followers, whom we can refer to as the brakha levatala camp.
However, an alternative is to understand the Tosefta’s rule as a le-khathila requirement, that is, a preference against granting aliyot to those who cannot read. Various other halakhic rules and protocols for the assignment of aliyot are certainly based on considerations of communal dignity (kavod ha-tzibbur) or personal dignity. For example, women are fundamentally eligible but are traditionally not given aliyot because of kavod ha-tzibbur. A kohen must not be given an aliya other than the first aliya, to avoid tarnishing his reputation. Such laws are requirements le-khathila: it is normally forbidden to violate these rules, but nonetheless if an aliya is granted in breach of these protocols it is valid bedi’ved and is not a brakha levatala. We shall refer here to such rules generally as kavod-based preferences, which may be set aside when no better choice is available or (arguably) when appropriate communal standards of kavod have significantly changed.

Our claim is that Maharil—and perhaps many of the rishonim who affirmed the Tosefta—understood the rule against aliyot for non-readers as a kavod-based preference, not a fundamental requirement bedi’ved. In addition, and crucially, if the Tosefta represents only a kavod-based preference, then a reasonable halakhic argument was available for Maharil to revise that kavod rule due to new social circumstances, because the standard for what constitutes public dignity is arguably contingent (at least to some extent) on social/communal realities.

We therefore propose that Maharil’s lenient and innovative position can be halakhically explained in two logical steps. First, holding that the traditional rule that olim be able to read was a kavod-based preference, not a fundamental requirement. Maharil could draw upon a fair amount of supporting evidence for this conclusion, and he could moreover contend that many of the prior rishonim agreed with him on this front (excluding Rosh and the brakha levatala camp), as we shall discuss in detail in the next section. Second, updating kavod preferences in view of changed social realities. Here, Maharil could argue that those same earlier rishonim would have considered his view legitimate and reasonable because the relevant social facts and circumstances had changed over time.

What new realities modified the kavod calculus for Maharil? The emergence of widespread reliance on a ba’al qoreh was almost certainly one compelling factor. When usage of a ba’al qoreh is the norm, one consequence is that the congregation is much less likely to notice whether an individual oleh reads along—because at most an oleh only reads along very quietly, and communal attention is focused on the ba’al qoreh. An oleh who cannot read barely stands out (if at all) from other olim, and so is far less of an affront to public decorum in such environments. Furthermore, widespread adoption of the minhag to use a ba’al qoreh suggests the likelihood that an increasing number and/or percentage of Jews could no longer be expected on-demand to read competently from the Torah. Judged against realistic expectations, the failure of an oleh to read no longer constituted an insult or affront—rather, it was simply the new standard. The bottom line is that for multiple reasons, the popular adoption of a ba’al qoreh meant that the failure of an individual oleh to read constituted far less of an affront to public kavod.

Our proposed explanation aligns quite well with the terse commentary we quoted earlier from Mishnah Berurah (139:12):

His reasoning is: Because our minhag/practice is that the shaliach tzibur (i.e. ba’al qoreh) reads—and he reads (properly) from an actual scroll—we are no longer particular about the oleh reading, for “one who listens is as if he spoke” (shome’a koneh).

As we observed above, the Mishnah Berurah in effect combines two different points: the change in popular minhag regarding use of a ba’al qoreh, and the doctrine of shome’a koneh. However, it
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does not spell out why both of these two different points are necessary or how they logically work together. Our proposed explanation is one possible way to fill those critical gaps. (1) The traditional doctrine of shome’a k’oneh is the reason why reading by each individual oleh is not necessary bedi’ved in order to satisfy the minimum requirements of an aliya and avoid brakha levatata status. (2) Shome’a k’oneh does not address the kavod-based concern of reading le-khathila; what removed that concern was the communal shift toward using a ba’alu gorer, taking public attention away from the oleh and greatly mitigating the kavod issue.

b. Evidence Supporting a Kavod-Based Interpretation of the Tosefta

Is our theory plausible that the rule in the Tosefta requiring olim to read from the Torah was a kavod-based preference? We believe so, and we submit that a variety of evidence supports this theory: contextual, textual, and legal.

First, we present contextual evidence. In the Tosefta (T. Megilla 3:11–12), the law regarding assignment of aliyyot when only one reader is present is juxtaposed to the familiar kavod-based law that women may not receive aliyyot:

(א) ... אםolated לוחין שלחנין ש剜עה אשה אפיה קום.
(ב) אין מצאיא אית שילה למקדו רבא.
(ג) אם מיתא אית שילה למקדו רבא.
(ד) אם מיתא אית שילה למקדו רבא.
(ה) אם מיתא אית שילה למקדו רבא.
(ו) אם מיתא אית שילה למקדו רבא.

(11) ... Everyone is included in the counting of seven, even a woman, even a minor. One does not bring a woman to read to the public.

(12) If a synagogue has only one who is able to read, he stands, reads, and sits; stands, reads, and sits; stands, reads, and sits—even seven times.

Rambam44 follows suit:

אשא לא חקרא השלום פסח גמרם יתב שילה
ולקרות וידעת למברכיו שלחא ממכי הקדימה.

A woman should not read the Torah publicly, as a token of respect for the community. A minor who knows how to read and is aware of the One who is being blessed may be counted as one of the required number [of people called to the Torah]. . . If there is only one person in the community who knows how to read [from the Torah], he should be called to the Torah, read, descend [from the platform], return and read again a second and a third time until he completes the number of aliyyot designated for that day.

Seder Rav Amram Gaon (in his Shabbat Shaharit portion) maintains the very same juxtaposition, even though he replaces the Tosefta’s phrasing with R. Natronai Gaon’s formulation:

_every_ word of the Torah is connected to the One who is being blessed.

Everyone is included in the counting of seven, even a woman, even a minor. The rabbis of the Talmud stated that a woman should not read from the Torah as a matter of communal dignity. This is what Rav Natronai Gaon stated: in a place where ten come to pray and there are not [enough] who can read from the Torah, the ones who can should read two [that is, multiple times] and that is acceptable.

Several other rishonim, including Sefer ha-Pardes, Or Zarua and Piaqkei Riaz,35 similarly juxtapose the Tosefta’s ruling and the kavod ha-tzibbur policy of no aliyyot for women. Thus, contextual placement of the law against illiterate olim, in both the original Tosefta as well as in Rambam and at least several other rishonim who adopt it, provides evidence that this law is a kavod-based preference.
Secondly, we offer textual evidence. The notion that calling up an ohol who cannot read from the Torah offends kavod ha-tzibbur and/or kavod ha-Torah finds sharp expression in the words of several rishonim. For example, Meiri (Megillah 22b) writes that although our minhag is to give a kohen preference for aliya even if he is an am ha-aretz, that is only true if he can read from the Torah. But woe to the kohen who is unable to read:

אὸὰ פ lý uy 1465150 22 a 4 10 קורא שופך אֶל אֶל יִהוָה ואֵין קורא אלהינו

But if he does not know how to read—cursed is he, cursed is his name, and we do not give him any aliya regardless of the minhag.36

Similarly, Shibbolei ha-Leqet (#35) quotes the Tosafist R. Ephraim of Regensburgh as sharply criticizing communities who rely upon a ba‘al goref and who summon “six simpletons to ‘honor’ the Torah when [in truth] it shame[s] the Torah.”

ותמס רוחם של חוסן שלמה פורה להוריד פרס על אלפים ממשיכים אחריו ו…” הנה

Blasted be the soul/spirit of hazonim (!) when the ohol makes the brakha before and after and [yet] the hazon reads. . . . The hazon calls up six simpletons to “honor” the Torah but it is [in truth] a disgrace to the Torah.

A third category of evidence for the kavod-based nature of the law regarding illiterate olim is found in the relatively lenient legal decisions promulgated by some authorities regarding aliya for blind individuals. Among rishonim, the Agudah is an excellent example. On one hand, the Agudah dutifully records the precedent in the Tosefta as good law, indicating that aliya must not be given to illiterate congregants, even if the only alternative is giving all of the aliya to a single reader.37 Yet Agudah also ruled that aliya may be given to a blind person at least in the limited case of a blind man who is the only kohen present:38

מי האהלא יִבָּקָשׁ לְמַדְּחָא כַּמָּה מְנוֹרָא מְדַמְּרָא אָלָא מְדַמְּרָא

It seems to me that in the place in which the only kohen in a city is blind, it is proper to call him to the Torah and you need not say “there is no kohen” . . . since nowadays the hazon reads.

How can these two rulings of Agudah be reconciled? It seems the inescapable conclusion is that according to the Agudah, the requirement that an ohol must read is only le-khathilha, and an inability to read does not render the aliya invalid or a brakha levatata. Moreover, it is evident that according to Agudah, the obligation to honor a kohen is pertinent in determining whether we should enforce the le-khathilha rule or not. All of that makes very good sense if we explain the Tosefta’s rule as embodying a kavod-based preference, which can give way in favor of an even stronger kavod concern such as the honor due Biblically to kohenim. Furthermore, it well explains why the social policy of the Torah not being honored by an illiterate person does not apply to a blind person, even though on a technical level blind people also cannot read the text and so can be, for legal purposes, formally considered technically illiterate.

Analogously lenient rulings regarding aliya for the blind can be found in the Eshkol;39 and in Levush who, like Agudah, nonetheless clearly prohibits aliya for the illiterate (Orach Haim 141:2–3).

Of course, R. Yosef Karo (Beit Yosef and Shulhan Arukh), Rosh, Tur, and others who sit squarely in the brakha levatata camp could certainly reject our proposed reading of the Tosefta, Rambam, and other sources as based only on kavod.40 But ultimately, we do not need to claim decisive proof that the rule against aliya for non-readers in the Tosefta or Rambam is only
le-khathila and is only based on kavod. Our proposal is simply that Maharil understood the Tosefta as a kavod-based preference, and moreover we find considerable evidence that he was not alone in this among the rishonim. Maharil could have very well deemed his understanding of the Tosefta to be consistent with the views of many prominent rishonim, including Rambam, Rif, and others, based on the supportive evidence we have noted. That is why Maharil notes that he argues only with the Rosh, and not with Rambam and so many others.

**A TALE OF TWO PANDEMICS**

### a. Was Maharil’s Ruling Triggered by a Devastating Pandemic?

We explained above that the widespread phenomenon of reliance on a single ba’al gorer to read aloud from the Torah for his congregation significantly reduced the kavod implications for olim of reading or failing to read. While that rings true, we suspect that other social factors may have also contributed to a reassessment of the kavod standard in Maharil’s time.

In particular, we are tempted to theorize that the devastation inflicted by the Black Death—which mercilessly ravaged Europe in the middle of the fourteenth century, killing an estimated thirty to sixty percent of the overall population—might have weighed significantly in Maharil’s revision of the kavod-based preference for olim who can read. If communal expectations regarding the ability of individuals to read Torah competently were already in decline, it seems likely that this trend was tragically accelerated and magnified by the Black Death. Not only did European Jews die as a result of the plague itself, they were also murdered in vicious pogroms and massacres by antisemitic populations inflamed with panic who ignorantly blamed Jews for the plague. Thus, the Black Death left European Jewish communities devastated and Ashkenazic yeshivot decimated, presumably reducing Torah literacy in the post-pandemic generation. The introduction to Sefer ha-Minhagim (R. Tynna), written in the decades shortly after the Black Death, explains the urgent need to compile a record of Ashkenazic Jewish customs as follows:

Because the students and scholars have become few, in our many sins. And because people of faith, Torah, and good deeds have been lost and annihilated in Austria, to the extent that I have seen towns and even larger communities in which there are not even two or three individuals who know the true customs of their own city—and kal va-homer [they do not know the customs] of other cities.

Simply put, the faithful remnant of Ashkenazic Jewry who still came to synagogue in the years following Black Death were a smaller group, placing even greater weight on the inclusion and involvement of every precious individual. From that remnant, even fewer had received the education necessary to read the unpunctuated Torah text. It would have been deeply tragic and counterproductive to alienate many of the faithful Jews who survived, even if unlettered, in the name of kavod standards held over from an earlier era. With many minyanim necessarily dependent on a very small number of capable Torah readers, would the traditional practice of giving aliyanot only to those who could read weaken those communities even further by disenfranchising their less erudite members? In towns like those described in Sefer ha-Minhagim, the traditional practice would mean giving every aliya every week to a tiny elite circle—indeed, maybe the same lone person over and over. The result could be insulting and demoralizing for other congregants, whose active participation was more important than ever in order to rebuild shattered communities.
Maharil was born in Germany a few years after the Black Death and lived from approximately 1365 to 1427. A preeminent rabbinical leader, he devoted himself intensely to the project of rebuilding and strengthening the Jewish communities of Ashkenaz. It is very tempting to speculate that Maharil advocated a more inclusive standard for participation in public Torah reading as part of his heroic, successful efforts to strengthen and rebuild the communities of Ashkenaz following the devastation of Black Death. Once again, we suggest that he did so halakhically through two logical steps:

1. Holding that the traditional rule that olim be able to read was a kavod-based preference, and not a fundamental requirement.
2. Updating kavod preferences in view of religiously appropriate, realistic communal standards.

The second step may have reflected demographic changes wrought by the Black Death. While that claim remains speculative, it seems reasonable based on what we do know.

b. A New Pandemic Brings a Dead Letter Law Back to Life!

Acceptance of Maharil’s leniency effectively turned the Tosefta’s rule into a kind of “dead letter” law in the Ashkenazic world. In other words, the Tosefta’s conclusion in principle that all aliyyot should be given to the ba’al qoreh in the absence of a better alternative was not overturned and remained “on the books.” However, the need in practice for such an option was simply rendered moot. Once aliyyot were permitted le-kashkila in Ashkenazic communities for those who cannot read, even in ordinary circumstances, it became hard to imagine a practical scenario in which assigning all aliyyot to the same individual would be a necessary option. Assuming that a valid minyan is present—which, of course, is a necessary condition for public Torah reading—why not simply allocate aliyyot among those present? Why would those present be ineligible for aliyyot, yet valid for a minyan? Only very far-fetched cases might fit that bill.46

Surprisingly, strict social distancing rules that have emerged during the recent/current COVID-19 pandemic create a common scenario fitting that bill. Individuals who receive an aliya must keep a safe distance away from others, and consequently they cannot possibly stand close enough to the Torah to see the text and thus read along (quietly) as a ba’al qoreh reads aloud. We now have a scenario in which those present for a minyan are unable to read. Is it permissible to give aliyyot to such individuals? If not, then what to do?

Many Ashkenazic congregations during the current pandemic have relied upon the Maharil’s leniency and grant aliyyot to individuals present at a minyan despite their inability to come close enough to read from the Sefer Torah.47 Other communities, however—even some Ashkenazic ones—have been reluctant to invoke Maharil’s ruling in the new context of social distancing.48 and so instead assign all aliyyot by default to the ba’al qoreh per the Tosefta’s original recommendation for a minyan with only one member who can read.49 The practice of these latter congregations confirms that in their view, the Tosefta’s ruling to give all aliyyot to the lone capable reader remained good law in principle. The Tosefta became moot in practice—effectively a “dead letter”—once Maharil’s lenient ruling was accepted and aliyyot were permitted for illiterate and blind individuals. The underlying idea in the Tosefta of giving multiple aliyyot to a single individual when no better options exist remained good law in principle.

If our theory is correct, and Maharil’s ruling—consigning the Tosefta to “dead letter” status in Ashkenaz—was triggered by the Black Death pandemic, then how remarkable that a new pandemic, COVID-19, has resuscitated that “dead letter” law and brought the Tosefta’s
practice back to life within some communities in the Ashkenazic world!

But why indeed do some Ashkenazic posqim and congregations view social distancing conditions as falling outside the scope of Maharil’s leniency, necessitating this revival of the Tosefta? And why do other Ashkenazic authorities disagree? While recent responsa have discussed this question,\(^2\) we submit that the halakhic rationale we propose here for the opinion of Maharil can shed further light on this debate, as we explain in the next section.

**Aliyot and Social Distancing: An Analysis of Normative Halakhah for Ashkenazim, Sephardim, and “Mixed” Minyanim**

**a. Choosing between the Maharil Option and the Tosefta Option**

When social distancing restrictions apply and it is considered medically unsafe for an **oleh** to stand close enough to the **baal qoreh** to read along from the *Sefer Torah*, many communities select from among two alternatives. Each of these alternatives is endorsed by a different group of contemporary rabbinical authorities:

1. **“The Tosefta Option”:** award all seven **aliyot** to one reader (the **baal qoreh**). This option prefers to follow the Tosefta in the context of social distancing, and not rely upon the leniency that Maharil established for blind and illiterate non-readers.

2. **“The Maharil Option”:** distribute each **aliya** to a different person. Even though the **olim** stand too far away to read, this option relies on Maharil’s allowance of **aliyot** for non-readers.

It is easy enough to see why a Sephardic minyan would choose the first option. Many Sephardic halakhic authorities, following the lead of the *Beit Yosef* and its codification in *Shulchan Arukh*, reject the Maharil’s view entirely in favor of the Rosh’s position that it is prohibited and is a **brakha levatala to ever give an aliya** to one who cannot read from the Torah. If only a single reader is present, then he must receive every **aliya**.\(^3\) If so, then there is no reason to permit distant **aliyot** in the case of social distancing, and the Tosefta Option is the clear choice.

But why do even some Ashkenazic authorities opine that the Maharil should not be relied on for social distancing purposes?\(^4\) At first blush, that position seems illogical. After all, Ashkenazim rely on Maharil in granting **aliyot** to illiterate and blind individuals *le-khatila* even when other eligible **olim** are present who can read. It would seem to follow a *a fortiori* that we should be comfortable granting **aliyot** to **olim** who cannot read due to social distancing, when our only alternative is to breach a norm by giving multiple **aliyot** to a single person.

We think the choice of the Tosefta Option by some Ashkenazic authorities reflects their *tentative* acceptance of the Maharil’s lenient innovation. In other words, this view cautiously accepts the Maharil’s leniency as normative, but maintains a lingering concern for the contrary opinion of the Rosh and *Shulchan Arukh*. This view approves relying on the Maharil only because singling out the blind or illiterate by permanently denying them **aliyot** would be humiliating. But when there is no risk of shame—such as in a social distancing context, where denying **aliyot** to everyone (except the **baal qoreh**) does not stigmatize anyone—we should not risk running afoul of the pronouncement by the Rosh and *Shulchan Arukh* that such **aliyot** are a **brakha levatala**.

*Mishnah Berurah* exemplifies this approach very well. Thus, in *Bi’ur Halakhah* on 141:2, he argues that the Rama did not endorse the Maharil’s opinion except for purposes of preventing shame, precisely because of the Rama’s doubts about the correction of Maharil’s position:

> **_xlim ** **lile** **r_{a}** **lile**
> **_xlim ** **r_{a}** **lile**
> **_xlim ** **r_{a}** **lile**
> **_xlim ** **r_{a}** **lile**
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> **_xlim ** **r_{a}** **lile**
The Mishnah Berurah in effect only accepts the Maharil on a tentative basis. He points out that even the Rama doubted whether Maharil’s view was correct. Mishnah Berurah therefore holds that we should rely on this leniency only when necessary to prevent stigma or fighting—but not otherwise, nor when doing so endangers our fulfillment of a Biblical commandment like parshat Zähor. Following in the Mishnah Berurah’s footsteps, some contemporary posqim may prefer the Tosefta Option because social distancing poses no risk of stigma, and hence there is insufficient justification to rely on Maharil and discount the Rosh in this new context. This view reasons that the Tosefta Option is the better approach because all halachic authorities agree that Torah reading is fulfilled at least bedi’ieved by that option, whereas the Rosh and Shulhan Arukh would insist that the minimal halachic obligation is not satisfied by the Maharil Option.

A second group of posqim instead champions the Maharil Option, including Rabbi Moshe Sternbuch and (after due consideration) Rabbi Asher Weiss. We think this camp can respond to the concerns of the Tosefta Option camp in at least two different ways. First, endorsing the Maharil Option may simply reflect a confident acceptance of the Maharil, halakhically speaking. In other words, this camp may feel that having adopted Maharil’s leniency, Ashkenazim need not look cautiously over their shoulder at dissenting opinions, and so there is no reason to limit the leniency. Many posqim including the Arukh ha-Shulhan, the Taz, and others who endorse the Maharil’s practice as proper to follow le-khathila do not express the limitations urged by the Mishnah Berurah. The Arukh ha-Shulhan (OH 139:3), for example, writes:

ארך חיבור תהליך זה למד כל אדמו”ר במאה ששה עתים
שנƪי כל פרשיות ובאראת משה
מ”מ ו”י שלום
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But Torah giants of the world have already written that even an utterly unlettered person who cannot [even] read in repetition of the *hazon* nonetheless can receive an *aliya*, since listening is like answering, and he can make the blessing. Even the *Beit Yosef* himself writes this in the name of the *Zohar* (Vayakel) that here listening is like reading. And this is the simple custom in most Jewish communities . . .

Importantly, Arukh ha-Shulhan never cautions us against giving the *aliya* for Zahor or Parah to a blind or illiterate person, nor does he confine the Maharil to situations of potential humiliation or anger. This is not to say that *poskim* in this camp have no questions about the Maharil’s position as a theoretical matter;57 rather, they maintain that, as a matter of halakhic methodology, the dispute is over once we have ruled in the Maharil’s favor, and dissenting views (like the Rosh) whom we ruled against need not constrain our practical halakhic choices.58

In addition, there is a second way to defend the Maharil Option, even if we admit to some lingering reluctance to rely on the Maharil’s leniency. In a social distancing context, the only alternative to the Maharil Option is the Tosefta Option—which, in turn, conflicts with our normal policy against assigning multiple *aliyot* to the same person. Which concern is paramount?59 Advocates of the Maharil Option may contend that any lingering worries about relying on the Maharil’s opinion are simply outweighed by our traditional opposition to granting multiple *aliyot* to the same individual when not absolutely necessary.

In summary, a reasonable case can be made for both sides of this dispute. If Ashkenazic acceptance of the Maharil’s leniency is halakhically confident, per the Arukh ha-Shulhan and others, then the Maharil Option is appropriate; but if such acceptance is only cautious, per the *Mishnah Berurah*, then the Tosefta Option is arguably best.60 However, a “tie breaker” favoring the Maharil Option is the fact that granting multiple *aliyot* to one person is generally disfavored and is only an option of last resort.61 Therefore, even if our endorsement of Maharil is tentative, any reservations about relying on his leniency are arguably outweighed by our reluctance to unnecessarily give one person multiple *aliyot*. Furthermore, we submit that the Maharil Option is buttressed by our proposal in this paper reconciling the Maharil’s position with the views of many earlier, authoritative *rishonim*. Those *rishonim* arguably objected to illiterate *olim* on *kavod* grounds only, and they may well have accepted Maharil’s updated reassessment of *kavod* standards; or would at most object to Maharil only *le-khathila*.62 Our perspective on the *rishonim* thus lends further support to contemporary *posqim* who recommend the Maharil Option.

Of course, we recognize that Sephardic communities have traditionally adopted the view of the Rosh and the *Shulhan Arukh* as normative. According to this view, since *aliyot* for the blind are not allowed, neither are *aliyot* for *olim* who are too far away to read because of social distancing. Adopting the Tosefta Option is thus a viable option for such communities; distant *aliyot* are not.

b. “Mixed” *Minyanim*: A Proposal

From our analysis of the debate over whether to adopt the Maharil Option or the Tosefta Option, we think an important insight emerges with respect to *minyanim* that are regularly attended by a mixture of Ashkenazim and Sephardim. In the United States, it is very common to find a mixture of Ashkenazic and Sephardic Jews in shuls that align along ideological lines (for example, Haredi or modern) rather than along ethnographical lines. Sephardim often find themselves in the minority; perhaps on average making up five to ten percent of a typical
Modern Orthodox community in America. There are of course numerous Sephardic minyanim; but in some communities, and especially where overall numbers are smaller, Orthodox Sephardim must frequently participate in minyanim that are predominantly Ashkenazic. For “mixed” minyanim, the question of how to handle aliya during social distancing is even more complex. Ashkenazic congregants and leaders might incline toward the Maharil Option; but what about the needs of Sephardic members, whose halakhic tradition forbids distant aliya and considers them a brakha levatala?

We propose the following rule for such situations:

Synagogues that serve both Ashkenazic and Sephardic congregants should adopt the halakhic position that Ashkenazic and Sephardic posqim both agree minimally fulfills the communal obligation—even if it is less than “ideal” for one or both communities.44

Following the clear lead of the Shulhan Arukh, many Sephardic authorities adopt the view that the oleh must read along and that the Maharil is not to be relied upon, with many holding that such aliya are a brakha levatala and that such a Torah reading does not even fulfill their obligation beided.45 Therefore, we submit that in ethnographically mixed shuls (even if Ashkenazic in overall ritual practice and rabbinate), the Tosefta Option is the better choice. The ba’al qoreh who reads the Torah should receive all of the aliya, so that all congregants including Sephardim at least minimally fulfill their obligation.46

Special consideration for mixed minyanim is especially important during the pandemic, when many Ashkenazic synagogues which normally hosted separate minyanim for Sephardic congregants were compelled to contract their operations and ceased offering separate Sephardic services. If such a synagogue elects the Maharil Option, instead of the Tosefta Option, then Sephardic members will effectively be disenfranchised: aliya will only be given to Ashkenazim, because Sephardim cannot accept distant aliya, which they believe violate Halakhah; moreover, the granting of distant aliya (to Ashkenazic congregants) precludes Sephardim from properly fulfilling their obligation of Torah reading.48

In conclusion, the Maharil Option, endorsed by Rabbi Moshe Sternbuch, seems very appropriate for Ashkenazic shuls of the type he is presumably addressing—namely, an Ashkenazic minyan with no Sephardic members who depend on that minyan. However, for typical “mixed” minyanim in the United States, where the ritual practices of the shul follow Ashkenazic practice and the rabbi is Ashkenazic but a noticeable percentage of the community identifies as Sephardic, we suggest that adopting the Tosefta Option in order to minimally fulfill the obligations of all members is better than the Maharil Option—because while the latter choice is ideal for Ashkenazim, it is not even minimally sufficient for many Sephardim.49

**SUMMARY AND CONCLUSION**

This article has analyzed the question of aliya for non-readers from several angles: historical and contemporary; theoretical and normative. We have shown that the view of the Tosefta that when only one person can read from the Torah Scroll, that lone reader should receive every aliya is universally accepted by the rishonim as proper halakhic practice—but its basis is actually subject to an important dispute among the rishonim. One group, led by the Rosh, holds that this is the law because a person who cannot read is ineligible for an aliya: his blessings are void and the obligation to read is unfulfilled. Others including Rambam (we think), and certainly the Agudah and Eshkol, hold the Tosefta’s requirement that each oleh actually read is merely a rule of proper decorum and conduct, and not an essential element of the aliya or of Torah reading. Consequently, this latter group
allows for exceptions. Maharil expanded those exceptions, since by his time the Torah was virtually always read aloud in any case by a single ba‘al qoreh, and so it was reasonable to conclude that there was no longer any lack of public decorum in allowing a blind or illiterate person to receive an aliya. Subsequent authorities split as to whether the Maharil’s leniency should be (1) rejected entirely, (2) relied upon but only cautiously and when warranted (to avoid shame), or (3) relied upon broadly.

In the times of the modern pandemic, this question has returned in full force: Given the need to distance, contemporary halakhic authorities disagree over whether to have a single ba‘al qoreh receive all seven aliyyot on Shabbat or allow people to be oleyh from a distance despite being too far away to read from the text. Sephardic authorities generally follow the Tosefta’s original rule (per the Rosh and Shulhan Arukh) of giving a single reader all of the aliyyot, while Ashkenazi decisors are split. We explained both sides of this dispute and argued (for Ashkenazim) in favor of granting distant aliyyot in reliance on the Maharil. Finally, we also argue that a special halakhic policy is warranted in many North American communities where Ashkenazim and Sephardim commonly pray together in “mixed” minyanim and synagogues. In such an environment, we propose that communities adopt the rule of consensus: select the option that both Ashkenazic and Sephardic decisors all agree is minimally satisfactory. In the context of social distancing, the rule of consensus means following the Shulhan Arukh and assigning all aliyyot to the ba‘al qoreh.

REFERENCES

1 Some propose creative ways enabling olim to read along despite social distancing; see Rabbi Yitzchak Yosef’s various suggestions such as assigning extremely short aliyyot (three verses each), “Halakhic Provisions due to the Easing of the Guidelines of the Ministry of Health” [Hebrew], 28 Nissan 5764 (April 19, 2004), https://7d4ab068-0603-408d-89df-fac4580e17c4.filesusr.com/ugd/8b9b1c_6657f207a1194e788f2d257c2d3bb610.pdf. His suggestion of positioning a second Torah at a location where each oleyh can read along quietly, thus preserving the basic traditional model is the most novel and merits separate discussion beyond the scope of this paper. For COVID Halakha generally see Kol Corona, https://www.kolcorona.com/halachot. The responsa of Rabbis Rimon, Sternbuch, Weiss, Schachter, Willig, and Yosef all cited in this article can be found at this webpage and are not specifically linked to beyond this reference.

2 Orah Haim 139:2 (one who cannot read from the Sefer Torah even when prompted by a skilled reader may not receive an aliyya); 141:2 (an oleyh who does not at least read quietly is deemed to have recited a brakha levatala); and 143:5 (endorsing the Tosefta’s rule for a minyan with only a single capable reader).

3 T. Megillah 3:12.

4 We use the terms “illiterate” and “unlettered” in this paper as shorthand to denote an individual who does not know how to read Hebrew text. Those terms are not intended to include the blind or vision-impaired, for example, or those unable to read from a text because they are standing too far away. We use the term “non-readers” instead when we intend to include all those who, for whatever reason, cannot (or will not) read from a text.

5 Following, for example, Rabbi Moshe Sternbuch response at Kol Corona; and Rabbi Asher Weiss #31 ibid.

6 Following, for example, Rabbi Hershel Schachter responsa above; see also Rabbi Asher Weiss #26, discussed at length below.

7 “If [only] one person knows [how to read] the parsha, then he reads all of it; if seven know [how to read] at least three verses each, then they can each read; and if [only] one person knows [how to read] three verses, then he reads them over and over.” Y. Megillah 4:3.

8 See for example, Geonim ha-Hadashot #34; citations in Shibbolei ha-Leqet 37 to R. Netronai and R. Nissim.
9 Rif Megillah 14a; Rambam, Rules of Tefillah 12:17; Rosh Megillah 3:1, 3:10; Tur, Orah Ḥayim 141; Or Zaru’a, Hilkhōt Qr’āt ha-Torah 2:383 and Hilkhōt Shabbat 2:24; Ravya Megillah 577; Sefer ha-Pardes, Sha’ar ha-Ma’aseh—Birkat Qr’āt ha-Torah; Tosafot Gittin 59b, s.v. ki ḥa-amrinnan; Tosafot Rid Megillah 23a, s.v. zeh ha-kklal; Piskei Ratz Megillah 3:12; Shishbolei ha-Leqet 36; Shut Rashba 1:13; Shut Maharam me-Rotenberg (Levov) 402; Mordechai Megillah 3:811; Sefer ha-Itrim 182; Sefer ha-Agudah Megillah 21b; Ran Megillah 14a (Rif pages); Shut Rivash 204; Y. Rerucham, Toldot Adam v’Hava 2:3.

10 Mahārīl’s opinion is discussed in parts III and IV below.

11 Interestingly, a student of Maharam me-Rotenberg named R. Asher bar Moshe sent a letter to his teacher in which he argues, in passing, that the Tosefta’s rule should no longer apply in our times because we are accustomed to having a single ba’al qoreh read for the congregation. See Shut Maharam me-Rotenberg, Krinoma edition, 8. But as noted, Maharam himself endorsed the Tosefta, as did his leading students Mordechai and Rosh. While an argument in favor of waiving or loosening the rule against illiterate olim may well have been raised a generation or two before Mahārīl (or perhaps even earlier), we found no rishonim who actually ruled counter to the Tosefta until Mahārīl. To the contrary, the leading authorities before Mahārīl—including Maharam, his students, and many others—evidently were not persuaded by such arguments and continued to endorse the Tosefta’s rule as good law.

12 We analyze and discuss the Agudah and Eshkol below at length in the material between notes 36 and 40.

13 Agudah Megillah 3 (21b).

14 Rosh Megillah 3:1, 3:10, Teshuvot ha-Rosh 3:12. From the latter source:

It is improper for an ignoramus to read from the Torah, for since he makes a blessing, he must also read in order to avoid a brakha levatala. However, if he reads along with the hadar and knows how to connect the letters and read the words in the hadar, that is called reading. But for him to recite a blessing on what the hadar reads while he himself does not read is utterly improper.

15 Rosh Megillah 3:10.

16 Supra, note 9.

17 Sefer ha-Minhagim, Minhag shel Shabbat, Hagahot ha-Minhagim #40.

18 Darkhei Moshe, Orah Ḥayim 135:4, 141:1. Some propose that this Darkhei Moshe has been misconstrued: the acronym in 141:1 is not correctly expanded to (I agree with [the words of Beit Yosef]). When in actuality Rama intended rather (Incorrect are [the words of Beit Yosef]). If so, it is also necessary to invert the analogous acronym in 135:4, in the opposite direction. This suggestion is quoted in the name of Rabbi Ovadia Hadaya (Sephardic dayan and mystic, 1889–1969) by Rabbi Ovadia Yosef in Yabia Omer OC 9:83, but Rabbi Yosef rejects it.

19 See, for example, Mishnah Berurah, Sha’ar ha-Tziyun 139:6:

For as to this rule of the Mahari, the Darkhei Moshe in OC 135 and 141 has already written that he does not agree with it, both for a blind person and an illiterate one [if he cannot read along with the hadar]. But since the community follows the Mahari, the Rama cites it.

Arukh ha-Shulhan 139:7 comments similarly:

Our teacher, Rama, writes that nowadays we call a blind person to the Torah like we call an illiterate person. He writes this in the name of the Mahari to say that this is the custom even as Rama does not agree as he writes in the Darkhei Moshe.
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20 See Taz 141:3; Magen Avraham 139:4; Eliya Rabbah 139; as well as Mishnah Berurah 139:12 and 143:33 and Arukh ha-Shulhan 139.3, 139.7–8 and 141:5. One is hard-pressed indeed to find an Ashkenazic authority who rejects the Maharil.

21 Eshkol, Hilkhot Qrit ha-Torah, 68b
22 Interestingly, R. Yosef Karo in Beit Yosef OC 141 seems to posit that the holdings of Eshkol and Agudah reflect the position that even if an aleph is absolutely required to read, it may suffice legally if the aleph simply repeats b’al peh (by heart) what he hears the ba’al qoreh read—even without reading himself from the written text of the Sefer Torah. In other words, Beit Yosef treats Eshkol and Agudah as a kind of workaround for non-readers to receive alyot if—and only if—they can accurately repeat the words that they hear the ba’al qoreh recite. R. Karo goes on to reject the Eshkol and Agudah on the issue of reading by heart, concluding that they are opposed by a solid majority of authorities (איל לא멤ר עלราชיהו נג כהרמבון), including Rambam and Rashba who both forbid a Torah reader from reciting even a single word by heart. In any case, per the Beit Yosef, even the Eshkol fails to support the Maharil’s broad leniency for illiterate individuals, as Maharil never specified a limitation that an illiterate person may only have an alyah if he is capable of reading along by heart. Indeed, subsequent Ashkenazic poskim who follow Maharil state clearly that the illiterate may receive alyot even if they cannot read along at all, see, for example, Arukh ha-Shulhan 139:3 and sources cited there.

23 Supra, note 12.
24 Agudah on Baba Qama ch. 8 #104.
25 Y. Megillah 4:1.

26 It is also raised in Beit Yosef 141, without citing Maharil, in the course of analyzing the view of Rosh and Tur that an aleph must read from the Torah and not merely listen. R. Karo raises a concern: the Zohar cautions against two people simultaneously reading in public from a Sefer Torah. R. Karo therefore questions Rosh’s requirement that each aleph read along quietly with the ba’al qoreh. Contending that the Zohar takes priority over rishonim like Rosh, R. Karo tentatively suggests (in the Beit Yosef) that perhaps an aleph should not read along, and he defends this tentative suggestion—contra Rosh—by invoking shome’a k’oneh. However, R. Karo ultimately concludes that quiet reading along by the aleph does not violate the Zohar, and in Shulhan Arukh he adopts Rosh’s position normatively as we have seen.

27 Commentators have suggested various reasons why shome’a k’oneh may be inapplicable or insufficient for purposes of Torah reading by an aleph. See, for example, Minhat Asher, Responsa #31 (blessing must be recited by one who physically performs a mitzvah, not by their agent). Or perhaps Torah reading is a purely communal obligation, like a hazzan’s repetition of tefillah, and the role of the audience is simply to listen to the reader, not to read vicariously; whereas shome’a k’oneh is only applicable for a listener who is obligated to read. An aleph who listens passively is like any other member of the congregation and is not deemed to have read. Bi’ur Halakha 141:2.

28 Bi’ur ha-Gra, Orach Haim 139:3, s.v. u-Maharil katav.

29 A brief review of the background to this shift may be helpful. During the Talmudic period, each aleph would typically read their alyah aloud to the congregation themselves from the Torah. Thus, the Mishnah (M. Megillah 4:2) formulates the rule for the number of alyot on various days in terms of the number of readers: “The general rule is: On any day when a musaf sacrifice is brought it is not a ‘holiday’ [that is, work is permitted]—four read; on a holiday—five; on Yom Kippur—six; on Shabbat—seven.” Rambam’s formulation (Rules of Tefillah 12:16) is similar: “How many readers are there? On Shabbat morning seven read; on Yom Kippur—six, and on holidays—five . . . and on Rosh Hodesh and Hoi ha-Moed four read. . . .” However, during the era of the rishonim, the practice of using a ba’al qoreh gradually took hold in many Jewish communities. For example, Tosafot (Rosh ha-Shana 27a, s.v. avil shnayim la) discusses use of a ba’al qoreh, and so does Rosh (thirteenth century) and many who follow; whereas Rambam never mentions a ba’al qoreh, and Shabbatei ha-Leqet (35) quotes twelfth-century Tosafist R. Ephraim of Regensburg as sharply critical of the practice (himfiv ‘orshos shel hefe‘os shehame‘os lekhor ba‘erorim mebirch lehinei olam zom’erim to‘ar).

30 Rosh Megillah 3:1.
31 B. Megillah 23a.
32 B. Gittin 59b.

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34 Rambam, Rules of Tefillah and Priestly Blessings 12:17. Rambam consistently refers to olim as qor’im (readers). This suggests Rambam viewed reading as a core element of the aliya; but it provides no clear basis to assume heconsidered passive reading invalid (shome’a k’oneh).

35 See supra, note 9.

36 Ely A Rabbah (139, s.v. sumah), which concurs with Maharil, in a similar spirit permits aliya for aremi ha-aretz, blind, and mamzerim—all in one breath. The only conceivable issue raised by mamzerut is kavod, which is an excellent example of our point.

37 See supra, note 12 and text.

38 Agudah on Baba Qama, ch. 8 #104.

39 Eshkol, Hilkhot Qri’at ha-Torah, 68b.

40 See above, note 22.


42 See Robert S. Gottfried, The Black Death: Natural and Human Disaster in Medieval Europe (New York: Simon and Schuster, 2010), 74: “The overall impact of what can only be called a holocaust was calamitous. By 1351, 60 major and 150 smaller Jewish communities had been extirpated, and over 350 separate massacres had taken place.” See also “Persecution of Jews during the Black Death,” https://en.wikipedia.org/wiki/Persecution_of_Jews_during_the_Black_Death.

43 Rabbi Aviad Tabory, The Black Death 1347–1351, https://www.etzion.org.il/en/shiur-08-black-death-1347-1351 (link inactive now): “An entire generation of Torah scholars perished, along with their yeshivot and Torah centers. The challenge of rebuilding the world of Torah fell on the shoulders of a new generation. . . . One of these rabbis was the Maharil, Rav Ya’akov ben Moshe Levi Moelin. . . . ”

44 We know of no grounds to assume that blindness became more common during or after the Black Death. But our point is simply that concern for including illiterate congregants was the key driver to remove the kavod-based requirement that olim read. As a consequence, blind individuals could have aliya too. The original description of Maharil’s ruling by his students is aptly worded to convey this nuance.

45 See Mishnah Berurah 143:33 and Arukh ha-Shulhan OH 143:8, commenting on the rule of the Tosfeeta as affirmed by the Shulhan Arukh:

משנה בורה קמינו: אוכי למד שהגר prac"א שמחתך ה' ז骈 חורף אפויי על"ה זאו פורים אגיי ופיי לברחא איריא הקא começar שמחתך משבח"א וס"א ז諮詢 והא דלדלאו צ"י לברחא שבחוープיא ופייון בריא הפריסיאן.

Mishnah Berurah 143:33: But according to that which Rama 139:5 [in our text it’s 139:3] wrote that we give an aliya to an illiterate person even if he cannot read along with the hazan as we note there in the Mishnah Berurah, therefore this rule has changed and we must always call up seven people who make the brakha and the reader fulfills their obligation with his reading.

עדכון השולחון אודו הוי מימין הקמינו: הוא חכמ רבני ב"א שמחתך ה' פרסיי ה' זפני פורים אגיי ופיי לברחא איגי הקא começa שמחתך משבח"א וס"א זциальн והא דלדלאו צ"י לברחא שבחוープיא ופייון בריא הפריסיאן.

Arukh ha-Shulhan 143:8 Our teacher the Beit Yosef in 143:5 notes that in a synagogue which lacks anyone but one to read, that one person should read some verses, bless and conclude with the blessing and then return and bless, read more verses and bless again; and he should do this as many times as needed for the aliya of this day. But it seems that this rule is not applicable in our times as the olim do not read themselves, but rather the hazan reads, and so in such a situation [that is, a synagogue with only one capable reader] it is obvious that all of them can be oleyth to the Torah and the one who knows how to read will read, and this is our practice.
46 Such as a minyan of mute men and a single person who can speak serving as the ba’al qoreh.
47 Following, for example, Rabbi Sternbuch.
48 Below we explore more deeply why this may be so.
49 Following, for example, Rabbi Schachter; see also Rabbi Weiss #26, discussed infra, note 56. This is what the CRC and the OU recommend. See for example, the instructions of Rabbi Yona Reiss, Av Bet Din of the Chicago Rabbinical Council:

At this time, it is still recommended for only one person to stand at the opening of the Aron or at the bimah at any moment in time. Accordingly, the ba’al keriya should ideally receive all the aliyyos. If the laining needs to be split between two people (such as with double parshiyos that may be difficult in certain cases for one person to prepare or lain alone) the aliyyos should be split between those two individuals, with each receiving all the aliyyos that relate to the portion of the double-parsha read by them.


50 Rabbi Asher Weiss #26, and compare with Rabbi Asher Weiss #31 and Rabbi Moshe Sternbuch.
51 Shulhan Arukh Oh 143:5.
52 Responsa of Rabbi Schachter; recommendations of CRC (Rabbi Yona Reiss), supra, note 49.
53 See also his Sha’ar ha-Tzivyin 136:6 in which he discusses the sources further and concludes that “It is certainly proper to be strict for these [foroyta] Torah readings” (לועניי מרשויות אלו בדיא ימי למדאתי) and we should not give the aliyyot of Zohar or Parah to blind or iliterate individuals.
54 This approach is consistent with the Mishnah Berurah’s overall methodology of seeking to satisfy all halachic opinions from major authorities when possible. For more on this, see Michael J. Bro ide and Ira Bedzow, The Codification of Jewish Law and an Introduction to the Jurisprudence of the Mishna Berura (Boston, MA: Academic Studies Press, 2014), especially chaps. 5 and 6 (discussing Mishnah Berurah’s preference to be strict when possible in order satisfy all reasonable views).
55 Rabbi Mordechai Willig notes that some have expressed concern that if the Tosefta Option is followed, the ba’al qoreh should not repeat blessings on each aliya lest he recite a bakrha levatala:

As Rabbi Willig states, the source that most clearly opposes giving a person consecutive aliyyot and reciting blessings each time is the Sefer ha-Ittur (Ten Commandments, Hallel, 95d), which rules that when no Levite is present but a kohen is, the kohen receives the first aliya but should not be given the second aliya because for the same kohen to recite a blessing over both aliyyot would be a bakrha levatala. Thus, the ittur reads:

Abaye says (B. Gitin 59b) that if no Levite is present, then a kohen should be oley instead of a Levite— but only the same kohen [who received the first aliya], because [calling up a different kohen for the second aliyya] would tarnish the first kohen’s reputation. . . . [However, it seems] one can question the blessing on the Torah, seeing as he [the same kohen] has already read and would now be making a blessing for the second time, and that seems like a brakha levatala. We can answer that [Abaye’s suggestion that the same kohen receive two consecutive aliyyot] comes from a time before the enactment [of blessings on the middle aliyya], when only the first and last oley recited a blessing and one
could therefore read the first aliya and stand, and [then] sit down and stand back up again and read multiple times; while [Abaye’s ruling that the same kohen receives the both aliya] is presumably without making a [second] blessing. But Rav Amram [Gaon] says a blessing is recited each time—but this does not seem correct, because [at the time of Abaye’s law] there was no enactment yet [that blessings be recited by every olen]. Nowadays however we should not call [a kohen up] in lieu of a Levite, even if he stands and then sits [between the two aliya], as this a blessing in vain. Instead I say that the hazzan should announce “Arise Israelite, in place of a Levite” and there is no concern [of offense to the kohanim], or alternatively “Arise kohen in place of a Levite” [that is, a different kohen than the one who received the first aliya].

As Rabbi Willig points out, present practice rejects this lttur: we commonly grant consecutive aliyaot to a kohen if no Levite is present, and the kohen recites the blessings on both aliya. Therefore, Rabbi Willig concludes, a reader who receives all of the aliya in the case of social distancing should similarly recite the blessings on each aliya.

Initially, Rabbi Weiss contended (responsa #26, in one argument) that the Maharil’s leniency for blind and illiterate people should not be extended to new scenarios (אף על פי שהייתה תורתоф בדבורה (“אף על פי שהייתה תורתоф בדבורה”), such as social distancing. However, Rabbi Weiss himself retracts this argument in a later responsa (#31) published in the same collection, and he concedes that Maharil may be relied upon in common situations of social distancing. He still maintains that a different problem exists if an olen is located on a different balcony or rooftop than the Sefer Torah (a common situation in Israel, and the scenario that he addressed in #26)—namely, that each olen must “approach” the Torah. That position is fascinating and creative, but the fact pattern is less common in North America and lies outside the scope of our present paper.

Arukh ha-Shulhan 139:7–8, for example, that Rama was critical of Maharil in Darkhei Moshe, and he questions the Taz’s proof for the applicability of shome’a koneh. But this is by way of analysis, and not bottom-line halakhic conclusion.

We believe this approach is methodologically characteristic of the Arukh ha-Shulhan.

One side of the equation is how negatively to view the option of giving all aliyaot to a single reader. Everyone knows that normally we do not give multiple aliyaot to one individual. When the Tosefta rules that one individual gets every aliya in a shul with only one capable reader, we understand this as anomalous and as permitted only because no better option exists. Thus, Bach OH 143 writes:

For this reading—in which the same person reads seven times—was only permitted by the Sages for exigent circumstances where only one person can read.

The implication is that assigning multiple aliyaot to one person is an option of last resort. Moreover, one of us contends that the very fact that the Tosefta became a “dead-letter law” and fell out of practice for centuries (for Ashkenazic Jews) weighs further against returning it to practice; and he finds support for this position in the way that Mishnah Berurah 143:33 and Arukh ha-Shulhan OH 143:8 (supra, note 45) both seem to characterize the Tosefta as permanently obsolete. In any case, there is room for debate as to whether invoking the Tosefta Option is warranted and permissible for Ashkenazim merely in order to accommodate the stricter view of the Rosh that olim must read.

Surprisingly, a third camp argues that unless each aliya can be assigned to a different olen and each olen can somehow come close enough to read, Ashkenazim should not read the Torah at all during social distancing! This camp insists that the Tosefta Option may not be invoked unless absolutely necessary—and that in situations of social distancing, other alternatives are indeed available, as a practical matter and as a theoretical legal matter:

- as a practical matter, in the sense that there are might be other people in the room who can read at least the minimum requisite verses [even if barely], or who can stand at a safe distance but at a suitable angle to see the text in the Sefer Torah well enough to read along. See infra note 1, regarding the resourceful suggestions of Rabbi Yitzchak Yosef.

- as a theoretical legal matter, in the sense that per the Mishnah Berurah, as discussed, we accept the Maharil but only tentatively. Therefore, we cannot use the Maharil Option, because it may be a brakha levatala if the Rosh is right; but on the other hand, we should not use the Tosefta Option either,
because if the Maharil is correct, then in truth there are plenty of eligible olim and giving the ba’al qoreh every aliya is unnecessary and improper.

This position rests on two premises: (1) that unnecessarily giving multiple aliya to the same individual is halakhically worse than not leyning altogether, and (2) that the practical and/or legal-theoretical alternatives they identify mean the Tosefta Option is unnecessary here. In our view, both premises are highly questionable. The first premise lacks authoritative sources. Perhaps the closest analogy is a disputed ruling by Maharam me-Rotenberg, quoted by his prominent disciple Mordechai (Gittin no. 404), that in a community whose members are all adult male kohanim the Torah should not be read at all (!), because assigning aliya after the first aliya to kohanim would risk impugning their reputation. However, this opinion reflects specific, exceptional concern for the reputation of kohanim, and thus kohanim cannot be called even if there is no alternative. No light is shed on our question of awarding multiple aliya to a single individual—which is clearly a far lesser concern, as it is expressly permitted when there is no alternative, unlike aliya with reputational risk for kohanim (per Maharam). Moreover, the Mordechai himself (ibid.) goes to cite a conflicting view which holds that in a town of only kohanim, all aliya should indeed be granted to a single kohen. We are hard-pressed to find a convincing source for the proposition that granting multiple aliya to a single non-kohen is worse than not leyning at all.

The second premise—that the Tosefta Option is unnecessary—best turns on the question of how to define “necessary” in this context. Rabbinical authorities might well believe that in their communities, for example, pressuring individual olim to read aloud verses from the Torah publicly without adequate preparation, subject to audible correction and coaching, would result in public humiliation, and a highly selective approach to olim would lead to stigma. The “alternative” of compelling each oleh to read aloud is thus arguably not a true alternative. Nor is the theoretical availability of the Maharil Option a true alternative for a community whose leadership determines they are halakhically obligated to defer to the Rosh’s opinion and avoid distant aliya if possible, per the Mishna Berurah.

In sum, we do not see sufficient merit in support of this camp’s extreme position to opt for no leyning at all over either the Tosefta Option or the Maharil Option. That said, Rabbi Yitzchak Yosef’s creative suggestions for a “third way” that assigns each aliya to a different oleh who can each read despite social distancing surely deserve consideration by rabbinical leaders for their respective communities. Such options are likely better suited for some communities than others.

61 See above, note 57.

62 In addition, some authorities view inability to read the Torah due to blindness as far less of an affront to kavod than illiteracy (Levush 141:3), because the blind individual has not shirked a duty of learning to read. The same is true for aliya which cannot come close enough to the Torah to read because of social distancing restrictions. Therefore, to permit aliya for socially distant olim, we need not even go as far as Maharil did in permitting aliya for the illiterate. It suffices to hold the obligation to read is kavod-based and that this concern is easier to overcome if an oleh’s inability to read is not due to ignorance. As we have noted, the Eshkol and Agudat evidently embraced this position; and there is scant evidence that other rishonim outside the brakha levatala camp disagreed with them.

63 See “More Ashkenazi Jews Have Gene Defect that Raises Inherited Breast Cancer Risk,” The Oncologist 1/5 (1996): 33S, which notes a slightly smaller number than we see in our own communities. Perhaps the Sephardic community is larger in Modern Orthodox communities in America than other Jewish communities in America.

64 This approach is implied in the writings of Rabbi Yosef Zvi Rimon, “Porch and Yard Minyanim,” which can be found in the Kol Corona, when he notes:

It is thus clear that for Sephardim, it is preferable for the ba’al qoreh to receive all the aliya. And since this solution is acceptable for Ashkenazim as well, it is best to have one unified solution, and not divide Am Yisrael into two with an additional ruling unnecessarily, especially when there are minyanim consisting of both Sephardim and Ashkenazim.

65 This is the view of the Rosh, Shibolet ha-Leqet, Tur, and Shulhan Arukh, as we have noted many times, and it should come as no surprise that historically this has been the normative Sephardic view, since it is the view of the Shulhan Arukh, the foundational source of modern Sephardic practice. See for example Peri Hadash 139:3; Hidah, Le-David Emet 5:9; and Keneset ha-Gdola commenting on Beit Yosef OC 141, who notes that this is the view of the Sephardic
community. This is also noted by Kaf ha-Haim 139:16 as the view of those who follow the Shulhan Arukh. This makes much sense as a matter of Sephardic practice.

66 Of course, like other diverse traditions, Sephardic practice is not uniform. We are aware of the view that Sephardi Rabbis should follow the Maharal and give the blind aliya; see, for example, Rabbi Ben Zion Abba Shaul, Ohr Le-Tzion 2, 86, note 6, but our understanding is that this is not the dominant view in the Sephardic community. More importantly, we are also aware of the remarks of Rabbi Eliyahu Hazon, Talmud Lev OC 1:3, who—after endorsing the view that a blind person cannot get an aliya as the proper Sephardic practice—concludes his discussion with the following statement:

In summary, I say that in a place that follows the view of the Shulhan Arukh, like all the land of Israel and the Orient, it is not proper to give an aliya to a blind person, even a Torah scholar. . . . If, notwithstanding this fact, he goes up to the Torah, he need not descend and it is not proper to rebuke him since nonetheless he has [authority] to rely on and there is the possibility of a fight [God forbid] particularly at the time of Torah reading and great is the value of peace, such that one can rely on those who are lenient.

Rabbi Yitzchak Yosef (Yalqut Yosef OC 139), current Chief Sephardic Rabbi in Israel, follows his father Rav Ovadia Yosef (Yabia Omer 9:83 and 9:108[74]) in ruling that aliya for the blind are prohibited, but if a blind person is nevertheless called up for an aliya they may proceed and should not be forced to descend from the bima or rebuked, based on this Talmud Lev. Yabia Omer reads as follows:

The conclusion as a matter of the law is that . . . the fundamental law should be followed: because we accept the Shulhan Arukh’s rule that a blind person cannot get an aliya, even if the hazzan helps him read, it is better that he “be passive, not active” [and not receive an aliya], and since he hears all the blessings from the other olim and the Torah reading from the reader he fulfills his obligation as if he was olen. (As is written in Talmud Lev 1:3.) Nonetheless, if he has gone up for an aliya, he should not descend and not be rebuked since he has [authority] to rely on.

Yalqut Yosef codifies:

4. Le-khatbila one may not give a blind person an aliya to the Torah, even for “extra” aliya, and especially not in these areas [that is, Israel] that are under the jurisdiction of Rabbi Karo. Nonetheless, if a blind person ascends for an aliya, he need not descend and we do not rebuke him, since he has [credible authority] to rely on. Furthermore, on Simchat Torah when the whole congregation gets an aliya, or at a family joyous event when all family members get an aliya, one can call a blind person up for an “extra” aliya to avoid suffering.

This more liberal view, which does not force a blind olen to descend once called up, is, we think, predicated on the general approach of both Rabbis Yosef that one should not be rebuked for their action, as long as they have even minimal halakhic support for their act and rebuke would likely generate public fighting and contempt. In such a situation, one should instead explain to the person privately that their conduct is wrong. The phrase 'אף גי עתה ב' is
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used in this way by Rabbis Yosef in Yalqut Yosef Qitzur 207:26, Yalqut Yosef Shabbat 1 267:18, Yabia Omer OC 4:21, and many other places. (One of us contends that Yalqut Yosef can perhaps be read as only permitting the blind oleş not to descend once he has been called up for a hosafa, that is, an “extra” aliya after the minimum requisite Torah reading is complete. Such “extra” aliya do not fulfill any obligation, and if the oleş is content to make a blessing based on his understanding of the halakha, there is no problem or concern for others or the community. In this reading, even according to the relatively liberal view of the Yosefs, a blind oleş does not satisfy the Torah reading obligation. The alternative to this view is to acknowledge that the Yosefs believe that one can actually rely on the Maharil bedi’eved, against the rule of the Shulhan Arukh.

For example, Rabbi Asher Weiss in responsa #32 discusses the case of an Ashkenazic minyan with only a single kohen—who happens to be Sephardic and thus unable to accept a distant aliya. Rabbi Weiss rules that aliya should simply be given to (Ashkenazic) non-kohanim, in accordance with the Maharil Option, and that our normal obligation to honor kohanim does not apply when the kohen who is present cannot accept an aliya for whatever reason.

See supra, note 62.

Our recommended approach is also applicable in analogous cases. For example, consider the case of an Ashkenazic and Sephardic roommate who want to hang a mezuzah; vertical or slanted? We claim that since Sephardic rule that a slanted mezuzah does not fulfill the obligation, while Ashkenazim aver that slanted is preferable but vertical is acceptable bedi’eved, a mixed apartment should hang a mezuzah vertically. (This is indeed suggested in note 517 of a draft work Sefer mi-Mizrah umi-Ma’arav by Rabbi Yonatan Nacson). Of course, our rule does not apply in cases where neither choice satisfies both communities bedi’eved—such as אֵלֶּה or הָיוֹן in a Torah, or choosing which haftarah to say. The broader question of optimal ritual conduct in “mixed” communities merits further analysis and discussion.