

Non-Jews Opening the Ark

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Question: May the ritual opening of the holy ark during worship be performed by non-Jews?

Response

Introduction

Answering the question requires several steps. Given the relative absence of direct comment on this issue in either medieval or modern responsa literature, a case must be developed from similar issues that are addressed. Further, the issue itself is relatively recent. Few non-Jews sought such an honor until relatively recently. The integration of the Jewish community into the wider American context has raised for many congregations a variety of questions around the status of non-Jews that received little attention prior to the modern era.

This teshuvah will first address the question of qualifications to touch a Torah scroll as a means of exploring what requirements might exist in the related and possibly more lenient case of opening the ark. Second, the teshuvah will explore the opening of the ark on its own terms in medieval and modern sources to identify whether or not it can be spoken of separately from removing the Torah. Third, we will explore the symbolic significance of the ark. Fourth, we will look at two sources that directly address opening the ark, though only one with the concern of non-Jews. Fifth, we will identify a number of liturgical practices that may be performed exclusively by Jews. Once all of those areas are understood, we can then determine whether the halakhic system and the symbolic meaning allows for non-Jews to open the ark during a prayer service.

1. Qualifications for Touching a Sefer Torah

None of the standard legal texts refers directly to opening the ark. They do, however, identify the criteria for both leading a service and for reading Torah. Rabbi Joseph Karo, for example, requires someone leading the congregation in prayer to be at least 13 years

and a day old.(Shulhan Arukh OH 53:7) Karo's ruling is based on the Mishnaic principle articulated in Rosh Hashana 3:8:

זה הכלל כל שאינו מחויב בדבר אינו מוציא את הרבים ידי חובתן:

This is the general principle: anyone not obligated in a particular matter may not release a public from their obligation.

Maimonides offers an identical ruling in the Mishneh Torah.¹ The halakhic literature does when necessary identify both optimal and minimal requirements for various prayer related honors. For example, the codes mention Hagbah and Gelilah (Shulhan Arukh OH 134:2 and 148), suggesting that both honors have halakhic criteria around their practice. By contrast, the codes are silent on the matter of opening the ark apparently because this act is a matter of choreography as opposed to ritual necessity.

There is some discussion of holding a Sefer Torah and the minimum requirements to do so in M. Yoma Chapter 7. Here the discussion focuses on talking hold of a Torah scroll during a service. M. Yoma 7:1 speaks of the various honorees who carry the Torah in its procession to the High Priest at Yom Kippur. The honored quality of each participant highlights the symbolic meaning in a prayer service of taking hold of the Torah.

Maimonides in the Mishneh Torah (Tefillin 10:8) says the following about contact with a Torah:

כל הטמאין ואפילו נדות ואפילו כותי מותר לאחוז ספר תורה ולקרות בו, שאין דברי תורה מקבלין טומאה

All those who are impure, even a menstruant or a cuthean, may take hold of a Torah and read from it for a Torah cannot contract impurity.

This list reflects certain cases in which one might suppose incorrectly that someone cannot hold a Torah scroll. Perhaps a woman who is menstruating, and hence in a state of ritual impurity, might be forbidden contact with the sacred scroll. In addition, a cuthean, another name for Samaritan Jews, was in a doubtful Jewish status in the Halakhic literature and for that reason might be forbidden from taking hold of a Torah. Kiddushin 7b records a debate on this topic as to whether cutheans are Jews of a doubtful conversion or wholly non-Jews. Perhaps their doubtful Jewish status would bar them from contact with the Torah. In both cases, the answer is no. In both of these distinct cases, one might imagine for different reasons that certain people cannot handle a Torah. However, Maimonides teaches that a Torah can never become impure and therefore can be handled by people in either of these two categories. Maimonides' formulation relates to handling a Torah outside of a ritual context. Further, he says nothing of the status of someone

¹Mishneh Torah, Laws of Prayer 8:11

certainly non-Jewish. Thus it appears likely that Maimonides would forbid a non-Jew from taking hold of a Torah during a service as well.

This question of those with questionable Jewish identity persists into modern times. Rabbi Eliezer Waldenberg, past President of the Jerusalem Rabbinic court, discusses a case of an uncircumcised Jew whom he at least in theory permits to touch a Torah though not to wrap tefillin.

(א) בנוגע לאחיזת ס"ת הסכימו להחכם השואל שמותר בזה מעיקרא דדינא, ברם אם כי שהדין כך אין השעה צריכה לכך ואין להשוותם לישראלים גמורים להתיר להם ההשתמשות בדברי קדושה כל עוד שלא נמולו כי נפיק ממנו חורבא כי יתעצלו מהכנס בבירתו של אברהם אבינו בראותם שעם היותם ערלים אין מונעים מהם דבר וכו'

In regard to taking hold of a Torah, we concur with the Sage being asked that it is permissible from the essence of the law, and even though the rule is such the hour does not require this and it is undesirable to make this person similar to a Jew to permit them use of holy items while they are yet uncircumcised for a destruction will result from this that they will be lazy about entering the covenant of Abraham our Father for they see that uncircumcised people are not prohibited from such a matter. (Tzitz Eliezer 11:9)

In this case, it would be theoretically permissible for such a person to touch a Torah. Though he does not cite Maimonides, he is presumably aware of the source cited above and relies upon it. He too presumably would forbid a non-Jew from touching the Torah during a ritual practice as an halakhic issue. However, in Waldenberg's setting of the uncircumcised Jew he identifies two extra-halakhic considerations to forbid the handling of a Torah. First, "the hour does not need it." That is, it is sociologically undesirable. There is no pressing concern that mandates such a practice. Second, there is a concern lest someone be discouraged from circumcision if they are allowed Torah honors while in an uncircumcised state.

The source above raises no direct objection because of holiness to any Jew, even an uncircumcised one, from handling a Torah. The concerns that arise either relate to a specific setting, such as the special honor attendant to the service at Yom Kippur while the Temple was standing, or sociological concerns such as Waldenberg raises in our own era.

These three examples clarify several related issues. First, opening the ark is of lesser halakhic import than leading a service, though still of meaning and sanctity. Otherwise the codes would mention the requirements for receiving this honor. Second, even those of doubtful Jewish status (a cuthean) or an uncircumcised Jew may touch a Torah during a prayer ritual though someone certainly not Jewish remains an open question.

2. Opening the ark as a distinct honor

While the Halakhic codes omit requirements or even mention of opening the ark, other medieval and modern sources mention the honor as separate from removing the Torah. Mahzor Vitry, a 12th century Ashkenazi compendium of prayer practices, and Sefer Minhagim, Venice 1593, both mention opening the ark on multiple occasions prior to certain *piyytim* or other readings.² In that setting, opening the ark is a distinct honor that does not include contact with the Torah. These collections give the stage direction to open the ark without further explanation.

More recent codes like the Arukh HaShulhan (Yiheil Epstein, 1860s) continue to refer to opening the ark.³ Epstein writes in Laws of Prayer 104 in reference to remaining stationary while reciting the Amidah:

זהו דברי רבינו הב"י דבענין אחר אפילו לדבר מצוה אין לו לצאת ממקומו באמצע התפלה אלא בתחנונים שאחר התפלה אבל לדבר הרשות אסור קודם הפסיעות ויראה לי דדוקא מצוה גמורה אבל אם מכבדים אותו לפתיחת ארון הקודש וכיוצא בזה או אפילו קוראים אותו לעלות לתורה לא ילך בלא הפסיעות

Here are the words of the Beit Yosef on another matter: This issue of being forbidden to move for a matter pertaining to a mitzvah applies only in the middle of the prayer. He can move for the *tahanun* prayers that follow. However, for a permitted matter he may not move at all prior to taking the steps (which conclude the Amidah). It appears to me that this means a true mitzvah, but if he is honored to open the ark and such matters or even to read from or ascend to the Torah, he may not move with the steps.

For Epstein, there is gradation of public honors that might override the personal obligation to remain still during prayer. First is a true mitzvah imperative that conflicts with prayer. Second is being called to read from the Torah, and third is opening the ark. The word “even” in reference to a Torah honor suggests there is an element of obligation involved in reading the Torah that does not apply to opening the ark. While Epstein, consistent with other codes, is silent on who may open the ark, it appears logical to assume that opening the ark would be the third tier of holy action, though still holy.

The honor of opening the ark exists in medieval and modern sources as a distinct act. Further, that honor functions on a level separate from ritual obligation forbidden by M. Rosh Hashanah 3:8. Thus, the omission by Karo is meaningful. He knows of opening the ark as a separate honor and nevertheless chooses to create no requirements for those who open the ark.

² See for example Sefer Minhagim Rosh Hashanah 100, or Yom Kippur 154 or Minhag Marshiliya Shabbat prayers 106

³ see for example Yoreh Deah 372:13

4. Opening the Ark

The question of opening the ark by a minor, is addressed directly by Rabbi Menashe Klein (1924-2011) in Meshanah Halakhot 11:119. He says,

ובדבר שאלתו עוד אי מותר לכבד קטנים לפתוח הארון קודש לשם כניסת ספר תורה והוצאתו.

הנה לענין שהקטן יוציא הס"ת ודאי אסור שהרי קיי"ל דקטן אסור אפילו להחזיק ס"ת כמ"ש המג"א שאין ליתן לקטן להחזיק ס"ת עיין ש"ע א"ח סי' קמ"ז ס"ח ברמ"א ותופסין השניה ועיין מ"ב שם אות כ"ט ולא טוב הדבר וכ"ש להוציאו מהארון קודש אבל לפתוח הארון ולסגור בשעה שמוציאין לא ידעתי בזה איסורא אם לא מפני כבוד הציבור ואם נראה שיש בזה משום כבוד הציבור אז ודאי אין להניחו אבל אם אין בו משום כבוד הציבור לא ידענא איסור בזה והנח להם לבני ישראל אם באים לקרב לבבות ולא למחות בתוקף אבל לכתחילה ודאי כשאין מחלוקות אין נכון ליתן לתינוקות לפתוח הארון קודש וכנ"ל ודו"ק כנלפענ"ד.

To my dear friend, regarding his question as to whether to honor minors to open the holy ark to put away and take out the Torah. As to the matter that a minor may take out a Torah, it is forbidden, since we learn that a minor may not carry the Torah, as the Magen Avraham wrote... and how much more so to take it from the holy ark, but to open it or close it, I know of no prohibition, if not because of the honor of the congregation. And if it seems like there is an issue of honor for the congregation, then certainly you can't allow it, but if there isn't an issue of honor for the congregation, then I don't know of a prohibition in this. So let them, if the children of Israel want to bring hearts closer, and don't protest. However, a priori when there is no disagreement it would be wrong to have a minor open the holy ark.

Rabbi Klein identifies a possible concern of the congregations honor to prohibit a minor opening the ark ab initio. However, should such a practice have already started, this issue lacks sufficient strength to stop such a practice. Further, he says he knows of no other prohibition forbidding a minor from opening the ark. If this practice has the intention of bringing hearts closer, than one should allow the practice to continue. This ruling continues to reinforce the notion that opening the ark is a distinct honor and that the general principle of M. Rosh Hashanah 3:8 does not apply to its being opened.

A Place in the Tent, written by a group of Conservative Rabbis in 2004 around an effort in Northern California to address the status of non-Jews, says the following directly to the issue of a non-Jew opening the ark:

While contact with the ark is not halakhically forbidden, the perception by congregants may be different. Because of the connection with Sinai, there may be a sense of the

sacred associated with the ark. Hence, a KY [*Krovei Yisrael*, their term for non-Jews with Jewish family or other connections] may not directly open the ark but may be permitted to stand near it. (page 20)

They forbid a non-Jew from opening the ark because the connection with Sinai “may” imbue the ark with a sense of the sacred. They concur that there are no halakhic considerations, but rather symbolic or sociological ones.

The Halakhic status of other Choreography Associated with Torah Reading and Prayer

Reading from Torah or receiving an *aliyah* is mentioned by the Shulhan Aruh in turn, citing B. Megillah 23a . One must be over the age of bar mitzvah in order to receive this honor. Only a Jew, then, may have an aliyah. Symbolically, receiving an aliyah or reading from the Torah implies an acceptance of its words. We kiss the Torah in the manner of ancient seals to acknowledge our acceptance of its words. The blessings recited before and after the reading calls out the unique Jewish relationship between text and people.

In the Shulkhan Arukh’s discussion of the choreography for the Torah services, Karo says the following: “The Torah must be lifted and shown to the people, for it is an obligation to see the writing(OH 134:2).” He omits mention of opening the ark. He sees Hagbah, the lifting of Torah, as indeed being a requirement of the service and therefore needing of mention.⁴ The Shulkhan Arukh further says that those who roll the Torah ought to be among those honored to read, meaning both it should be a Jew and someone of honor in the community. The Ramah further comments (OH 147:4) that one person used to do both Hagbah and Gelilah. As a result, this suggests it would be inappropriate for a non-Jew to take on these honors since there is an element of *hiyyuv* or obligation and communal membership about these two honors.

The sources cited above from the Mishnah, from Maimonides, and from Waldenberg all suggest that there are issues with non-Jews touching the Torah during a service. While someone of doubtful Jewish status has the right to touch the Torah, non-Jews as separate from the covenant at Sinai, appear not to be granted such access. The source cited above from Rabbi Menashe Klein that forbids a minor from carrying a Torah but allows that minor to open the ark supports this assertion. Thus it would be problematic for a non-Jew to remove a Sefer Torah, to carry it, or even to dress it during the service.

⁴ His use of the word mitzvah implies that Hagbah may indeed fall in the category of honors for which a person must be him or herself obligated in order to fulfill on behalf of others. The inclusion by Karo of this honor suggests it would be open only to a Jew because only a person obligated to see the Torah can help another person so obligated to fulfill this mitzvah.

Similarly, leading any service for which there is a *hiyyuv*, such as *shaharit*, requires the leader to be Jewish. The Shulhan Arukh again mentions the requirements to lead the community and delineates age, dress, and general quality of prayer leadership. From the purely *halakhic* perspective, a prayer leader must be able to release others from their obligation to pray. Thus, only a Jewish person with the same level of obligation can pray on behalf of another Jew. Symbolically, the prayer leader is the representative of the community. This person is carrying the prayers of the community to God. That leader can represent a Jewish community prayer only by being Jewish. Psekei Dzimra, which is not a required part of shaharit, can only be recited by a Jew since it contains a berahah as its central formulation.

There are a number of possible grey areas that also seem problematic. For example, a non-Jew might be allowed to lead *kabbalat shabbat*. These psalms are meant to help enter into Shabbat, but are more an act of recitation than of required prayer. The leader keeps the community together but there is no *halakhic* obligation from which to release people. Symbolically, however, this service represents a Jewish approach to prayer and a Jewish introduction to those prayers. It is also a place of entry into Shabbat around which we affirm a uniquely Jewish connection. Further, the leader needs a certain level of Hebrew knowledge and prayer skills. The leader is customarily designated as a Sh'liach Tzibur with the responsibility for leading a congregation in prayer. The leader, in his or her effort to create a communal prayer experience, ought to represent and be a member of the community and the covenant. All these factors indicate the need for a Jewish leader of Jewish prayer.

Conclusions

Halakhic Considerations

Halakhic literature is largely silent on the question of opening the ark at all and entirely silent whether non-Jews may do so. Maimonides permits Cutheans to handle a Torah. Eliezer Waldenberg finds no halakhic barrier to permitting uncircumcised Jews from having an aliyah even though he forbids it in practice for sociological reasons. Menashe Klein explicitly permits a minor to open the ark. Halakhic considerations would suggest that touching the ark is a more lenient case than handling a Torah and therefore would be permitted in all of the above cases.

Further, opening the ark exists as a category in other contemporary and medieval literature. That the codes omit a discussion of who may open the ark implies that they see no need for such a discussion. Since opening the ark is not in the category of obligation or *hiyyuv*, there would be no reason to discuss who may or may not open the ark. The halakhic principle that only someone obligated in a matter may fulfill the obligations of others does not apply to opening the ark. The Mishneh Torah, the Rosh, and the

Shulkhan Arukh all list no requirements for this particular honor and never even mention it as an honor at all even though contemporary Siddurim and compendia of practice do.

According to correspondence of the Committee on Jewish Law and Standards non-Jews may be asked to take any role for which there is no *hiyyuv* or obligation [070678B Minutes of the CJLS]. A *hiyyuv* means a ritual act that releases others in the community from said obligation. For this reason, the CJLS ruling would prohibit a non-Jew from leading the community in prayer since the person leading the Amidah must be Jewish so as to release others from the obligation. Similarly, the person reading or being called to the Torah must be Jewish because it is an obligation to hear the Torah read. The ruling is quite terse, but probably includes both issues of actual *hiyyuv*, like an aliyah, and issues related to *hiyyuv*, like leading *Kabbalat Shabbat* as noted above.

The halakhic sources, both classical and modern, raise no barriers to a non-Jew opening the ark.

Symbolic Considerations

While there are no purely *halakhic* grounds for forbidding a non-Jew from opening the ark, a person might raise either sociological or symbolic considerations. The act of opening the ark is of great meaning. It may be viewed to imply an acceptance of Torah, therefore suggesting the celebrant should be a member of the covenant. Similarly, if it is viewed as leading or representing the congregation, that symbolic substitution would require the honoree to be Jewish for the same reasons the Shulhan Arukh requires honored members of the community to dress the Torah as cited above.

By the same token, there are arguments in favor of allowing non-Jews to open the ark. The ark symbolizes the revelation at Sinai. That revelation was directed both to Jews and non-Jews. First was the “mixed multitude,” those who had left with the community from Egypt.⁵ That mixed multitude, according to various Midrashic traditions, included many Egyptians moved by the miracles of the Exodus but who had not chosen to become Jewish. Further, according to the Talmud, all the souls that would become Jewish, meaning converts who had not yet converted, were present that day as well.⁶ The revelation at Sinai was aimed primarily at the Jewish people – it was not aimed exclusively at the Jewish people. The Torah portion of revelation is named for a non-Jew, Jethro. This non-Jew is treated as a man of great holiness and even teaches Moses to organize the Sanhedrin of elders.

⁵ See for example Ibn Ezra, Exodus 12:38 or Mekhilta D'Rebbe Yishmael Bo, Pesach 14

⁶ B. Shavuot 39a

Further, the purpose of opening the ark is to awaken greater intention and seriousness. Someone receiving this honor ought to do so in a way that is aware of the powerful symbolism of the moment and that invites the community to a greater level of focus. Jethro plays a key role for Moses in developing the method of promulgating Torah. A non-Jew today can help awaken intention by their own emotional or spiritual response to this significant honor.

The powerful symbolism of opening the ark suggests that anyone doing so ought to have some notion of the meaningful quality of the act. As a result, any first time recipient of this honor, whether Jewish or non-Jewish, ought to get a brief explanation of the act's meaning.

Sociological Consideration

In the absence of clear halakhic criteria, sociological considerations have special relevance. Both Eliezer Waldenberg and Menasheh Klein reference such concerns to forbid that which would otherwise be permitted for their own communities. In our case by contrast, the sociological concerns suggest, though do not require, allowing that which the halakhic system permits. Put another way, the hour may indeed call for this. When Jews request ways of honoring their non-Jewish friends and family, the halakhic latitude suggests permitting non-Jews to open the ark exactly as Klein permits a minor to do so to avoid disagreement. Further, as more and more non-Jews experience Jewish services, Jewish communities have an opportunity to be an *Or L'Goyim*, a light to the nations. When a non-Jew is invited to participate in a meaningful way separate from *hiyyuv*, that non-Jew is embraced and invited to explore their spiritual path. There are now family and personal connections to non-Jews that raise this issue in a new way today.

Opening the ark is one approach to addressing these two concerns of honoring family and friends on the one hand and creating a sense of invitation to non-Jews to enter Judaism on the other. There are many ways of addressing these two concerns, and there is great creativity currently being applied across the Jewish world to this issue. My argument here is that this honor is one good way that deserves to be an option of practice.

Further, extending this honor may encourage some to feel more safe in choosing to convert to Judaism. Converts choose to become Jewish out of deeply held faith commitments rather than a desire to touch a Sefer Torah or to open the ark. It is difficult to imagine a non-Jew who as a result of being allowed to open an ark or even to touch a Torah would then abandon that path of conversion. Further, this change smooths the path for many converts by allowing them to assure their extended family of an ongoing and meaningful place in their children and grandchildren's life cycle events. Rabbi Barry Leff wrestles with a related question in a Teshuvah approved by the CJLS in 2010. In that teshuvah, he permits converts to choose a name honoring a Jewish father even if they have a non-Jewish mother or to honor the memory of a rediscovered Jewish

ancestor. Though they should be encouraged to adopt the traditional connection to Abraham and Sarah, they may opt in other ways to honor family connections and their own desire to be more anonymous when receiving a Torah honor. Here too is a way of honoring family connections.

Finally, this practice would create another opportunity to invite non-Jews into our experience with an opportunity to see the majesty and sacredness of the Jewish service. Experiencing that majesty makes it more likely that someone would then be drawn to it. Feeling welcomed makes further steps of involvement more likely.

Conservative Congregations across the country agree on the need for finding a way to honor non-Jews, especially those involved in the life cycle events of Jews. Some matters, like reading the prayer for peace, are clearly permitted, while others, such as reciting an aliyah, are clearly forbidden. Opening the ark falls in between, where the symbolic meaning may well vary from community to community. Communities vary greatly in the way such involvement by a non-Jew would be perceived. For some, it will be taken as a welcoming act that will encourage conversion and openness. For others, it may be experienced as a leadership act in the service implying a part in the covenant. These local considerations should be weighed seriously prior to any ritual changes.

Pesak: The halakhic, symbolic, and sociological factors all argue in favor of an option for non-Jews to open and close the ark with some countervailing issues. The symbolism of the honor and its connection to revelation suggests including non-Jews who were also traditionally said to be present at revelation. Finally, our moment in history, following the vision of Isaiah, is one of great hopefulness in our interactions with non-Jews that suggest opening our doors in much the same ways as Isaiah imagines opening the Temple practice. For some communities this practice would be a good way to send that message of welcome, though other places may need to find other paths towards this goal. As a result, each rabbi should assess how this honor would be experienced and decide accordingly.

The honor should be done in a meaningful way by Jew and non-Jew alike. As a result, ushers ought to instruct a first time recipient of this honor that it symbolizes revelation and encourages the congregation to a greater level of focus and intensity in prayer.

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