

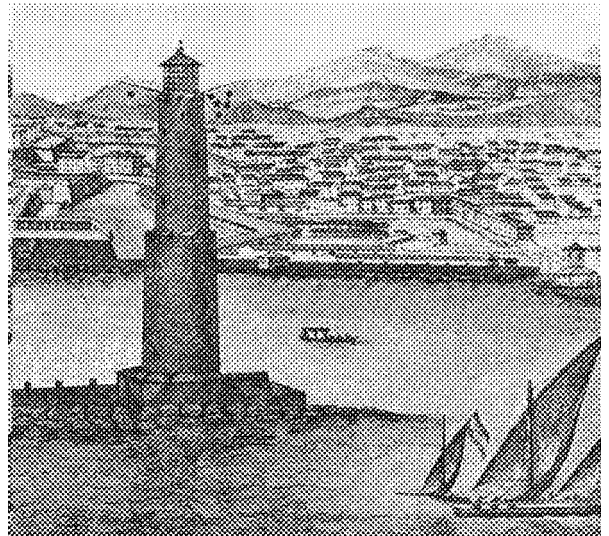
# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## 166 - TEFILLA IN UNUSUAL SITUATIONS PART 1 - PORCH/MIRPESET AND STREET MINYANIM OU ISRAEL CENTER - SPRING 2020

### A] MINYANIM IN LOCKDOWN - HISTORICAL PRECEDENTS

#### A1] THE LAZZARETTI OF LIVORNO

- From the 14th Century onwards, it was common for Italian ports to have Lazzaretti<sup>1</sup> - quarantine areas where goods and passengers were kept in lockdown for 40 days on their arrival in the country to ensure that they were not bringing in the plague!
- The Lazzaretto in Livorno was built in the late 1500s<sup>2</sup>.
- The Chida<sup>3</sup> lived the last part of his life in Livorno and describes in his sefarim<sup>4</sup> how he was locked down in the Lazzaretto on one of his entries to Livorno and was there long enough to finish his sefer<sup>5</sup> Shem Gedolim. He discusses<sup>6</sup> how minyanim were made by groups of less than 10 who were located in different buildings with a guard on the door preventing them from leaving. They could however see each other from across the road<sup>7</sup>. The Chida rules that a group of 6 can join with a group of 4 in a different place to form a minyan.



#### A2] THE DOCKSIDE MINYAN OF R' CHAIM KANIEVSKY

- Rabbi Zvi Ryzman<sup>8</sup> produced an essay<sup>9</sup> on the subject of mirpeset minyanim<sup>10</sup> in which he brings an account from 1963 of when R. Chaim Kanievsky and two others accompanied a group of another four talmidei chachamim (including his brother-in-law R. Shaul Barzam) on their departure from Eretz Yisrael to head the kolel in Strassburg. Once the departing Rabbis had boarded their boat in Haifa, they realized that they needed to daven ma'ariv. R. Chaim and his friends stood on the quay, whilst the others were inside the boat looking through the window. Each group brought in a couple more people until they had a minyan, made up from the two groups who could all see each other. One of the rabbis on the boat (R. Moshe Cohen) was the shaliach tzibur and they started ma'ariv. During the Amida the boat actually pulled away and the question was whether Rav Cohen could say kaddish titkabel with the part minyan remaining in the boat, which he did.<sup>11</sup>



1. Lazzaretto is the Italian name for a leper colony, from the medieval Italian lazzaro, meaning a leper. This in turn comes from the New Testament parable of Lazarus the leper.  
 2. See <https://antoniatoeli.blogspot.com/2016/04/i-lazzaretti-di-livorno.html>. Interestingly, that website describes that it had " ... separate houses for passengers, hospital and cemetery, internal chapel .... so that from afar it was possible to attend the religious services ....[and] so that free relatives or friends could communicate with the interior". The Livorno Lazzaretto was converted into a regular shipyard in the late 1800s.  
 3. R' Chaim Yosef David Azulai (1724-1806).  
 4. Ma'agal Tov p 66.  
 5. The Chida was a prolific writer!  
 6. Bircei Yosef (55:11)  
 7. We will see in Part 2 that the existence of the road between the groups is halachically important and makes this teshuva especially relevant.  
 8. A well-known talmid chacham, marbitz Torah, businessman and philanthropist from Los Angeles. Rabbi Ryzman was recently hospitalized with the virus and is b'H in recovery.  
 9. See also his shiur on coronavirus issues on YU Torah [https://www.yutorah.org/lectures/lecture.cfm/946205/rabbi-zvi-ryzman/coronavirus-in-halacha/together-with-over-80-\(!\)-pages-of-mekorot-at-https://www.yutorah.org/download.cfm?materialID=543399](https://www.yutorah.org/lectures/lecture.cfm/946205/rabbi-zvi-ryzman/coronavirus-in-halacha/together-with-over-80-(!)-pages-of-mekorot-at-https://www.yutorah.org/download.cfm?materialID=543399) and <https://www.yutorah.org/download.cfm?materialID=543400>  
 10. [https://www.hebrewbooks.org/media/%D7%AA%D7%A4%D7%99%D7%9C%D7%94\\_%D7%91%D7%A6%D7%99%D7%91%D7%95%D7%A8\\_%D7%95%D7%91%D7%A8%D7%9B%D7%AA\\_%D7%9B%D7%94%D7%A0%D7%99%D7%9D\\_%D7%91%D7%91%D7%99%D7%93%D7%95%D7%93.pdf](https://www.hebrewbooks.org/media/%D7%AA%D7%A4%D7%99%D7%9C%D7%94_%D7%91%D7%A6%D7%99%D7%91%D7%95%D7%A8_%D7%95%D7%91%D7%A8%D7%9B%D7%AA_%D7%9B%D7%94%D7%A0%D7%99%D7%9D_%D7%91%D7%91%D7%99%D7%93%D7%95%D7%93.pdf)  
 11. Rabbi Ryzman notes that they followed the ruling of the Mishna Berura who permits the creating of a minyan in such a situation and NOT that of the Aruch HaShulchan - see below.

**B] THE TORAH OBLIGATION OF TEFILLA**

1. וְעַבְדְּתֶם אֶת ה' אֱלֹהֵיכֶם וּבְרַדְתֶּם אֶת־לַחְמֶיךָ וְאֶת־מִימֶיךָ וְהִסְרֹתִי מִיְּמֶיךָ מִקֶּרְבְּךָ

שמות כג:ה

*The Torah includes a mitzva to 'serve' God.*

2. וְהָיָה אִם שָׁמַעַתְּ תִשְׁמָעוּ אֶל מְצוֹתַי אֲשֶׁר אֶנְכִי מְצַוֶּה אֶתְכֶם הַיּוֹם לְאַהֲבָה אֶת ה' אֱלֹהֵיכֶם וּלְעֲבֹדוֹ בְּכָל לְבַבְכֶם וּבְכָל נַפְשְׁכֶם

דברים יא:יג

*This service of God must be done in the context of loving Him. Just as we love with our minds, so we must serve Him with our לב - our mind.*

3. דַּתְנִינָא: (דברים יא) לְאַהֲבָה אֶת ה' אֱלֹהֵיכֶם וּלְעֲבֹדוֹ בְּכָל לְבַבְכֶם. אִיזוּ הִיא עֲבוּדָה שֶׁהִיא בְּלִבֵּי - הוּא אוֹמֵר זֶה תְּפִלָּה. וְכַתִּיב בְּתַרְיָה (דברים יא) וּנְתַתִּי מִטַּר אֲרָצְכֶם בְּעֵתוֹ יוֹרֵה וּמִלְקוֹשׁ

תענית ב.

*Chazal identify this as the mitzvah to pray - service of the mind.*

**B1] THE RAMBAM'S POSITION**

4. מְצוֹת עֲשֵׂה לְהִתְפַּלֵּל בְּכָל יוֹם שְׁנֵי מַעֲמָדִים וְעַבְדְּתָם אֶת ה' אֱלֹהֵיכֶם. מִפִּי הַשְּׁמוּעָה לְמַדּוֹ שֶׁעֲבוּדָה זֶה הִיא תְּפִלָּה שְׁנֵי מַעֲמָדִים וְעַבְדוֹ בְּכָל לְבַבְכֶם. אָמְרוּ חַכְמֵי אֵי זֶה הִיא עֲבוּדָה שְׁבֵלָב זֶה תְּפִלָּה. וְאִין מִנִּין הַתְּפִלוֹת מִן הַתּוֹרָה, וְאִין מִשְׁנֵה הַתְּפִלָּה הַזֹּאת מִן הַתּוֹרָה, וְאִין לְתְּפִלָּה זְמַן קָבוֹעַ מִן הַתּוֹרָה

רמב"ם הלכות תפילה ונשיאת כפים פרק א הלכה א

*The Rambam rules that there is a Torah mitzva to pray once a day. The structure and wording of our prayers is Rabbinic.*

**B2] THE RAMBAN'S POSITION**

5. וְקִי־תִבְאוּ מִלְחָמָה בְּאֲרָצְכֶם עַל־הַצָּר הַצָּר אֶתְכֶם וְהִרְעַלְתֶּם בְּחַצְצֹת וּנְזֻפְרֹתֶם לִפְנֵי ה' אֱלֹהֵיכֶם וְנוֹשַׁעְתֶּם מֵאִיְבֵיכֶם:

במדבר י"ט

*The Torah also includes a mitzva to cry out to in times of distress.*

6. וְכִזְבַּר רַאִינוּ לוֹ צַהֲלֵי תְּפִלָּה אָמַר שְׁחִיז אָדָם צַהֲלָה מִן הַתּוֹרָה בְּכָל יוֹם וְכוּ' וְזֶה אֵינּוּ נִכּוֹן צַהֲלֵי ... אֲלָא וְדָאִי כָּל עֵינֵי הַתְּפִלָּה אֵינָה חוֹבָה כָּלל [מ"ח"ת] אֲזַל הוּא מִמַּדַּת חֶסֶד הַצּוֹרֵחַ יִתְצַרְךָ עֲלֵינוּ שְׁמוּעַת וְעוֹנָה בְּכָל קְרָאֵנוּ אֱלֹהֵינוּ. וְעִיקַר הַכְּחוּצָה וְלַעֲזָדוֹ בְּכָל לְבַבְכֶם מֵאֵת עֲשֵׂה שְׂתִיבָה כָּל עֲבוּדָתוֹ לְאֵל יִתְעַלֶּה בְּכָל לְבַבְכֶם כְּלוֹמַר צְבוּנָה רְאוּיָה שְׁלִימָה לְשִׁמּוֹ וְכוּ'. וְהִיא שְׂדֵשׁוֹ 'וּלְעֲזָדוֹ - זֶה תְּפִלָּה' אֲסַמְכָתָא הִיא, אִין לּוֹמַר שֶׁמְכַלֵּל הַעֲבוּדָה שְׁנֵי מַעֲמָדִים תּוֹרָה וְשְׁנֵי תְּפִלָּה אֱלֹהֵינוּ צַהֲלֵי צַהֲלֵי וְהִיא עֲבוּדָה שְׁנֵי מַעֲמָדִים אֵל יִד אֲדוּנִיכֶם.

הסגות הרמב"ן בספר המצוות מצוה ה'

*The Ramban's position is that the only Torah requirement to pray is in times of distress<sup>12</sup>. According to him, the institution of daily prayer is a Rabbinic obligation.*

**C] HOW AND WHY DOES TEFILLA 'WORK'?**

7. מֵה שֶׁהִבִּיא הָאֲנָשִׁים לְפַקְדֵי בְּתְּפִלָּה ... וְאִם נִגְזַר אֵין צָרִיךְ תְּפִלָּה, וְאִם לֹא נִגְזַר אֵין תּוֹעִיל הַתְּפִלָּה לְשֵׁנוֹת רַצוֹן הַשֵּׁם לְגִזּוֹר עֲלֵינוּ טוֹב אַחַר שֶׁלֹּא נִגְזַר? שְׁלֵא יִשְׁתַּנֶּה הַשֵּׁם מִן הַרְצוֹן אֵל לֹא רַצוֹן וְלֹא מֵלֵא רַצוֹן אֵל רַצוֹן. וְעַבְדוֹ זֶה יֹאמְרוּ שֶׁלֹּא יוֹעִיל כְּשֶׁרוֹן הַמַּעֲשֵׂה אֵל שִׁיגִיעַ לְאָדָם מֵהַשֵּׁם בְּעִבּוּרוֹ טוֹב מֵהַ, וְכֵן יֹאמְרוּ שֶׁלֹּא תּוֹעִיל הַתְּפִלָּה לְהַשִּׁיג טוֹב מֵהַ אוֹ לְהַנְצִל מֵרַע שֶׁנִּגְזַר עֲלֵינוּ ...

וְזֶה הַדְּעָתָא אֵינוּ נִכּוֹן, שֶׁהַשְּׁפָעוֹת הָעֲלִיוֹנוֹת יוֹשְׁפָעוּ עַל הַמְּקַבֵּל בְּהִיוֹתוֹ בְּמַדְרָגָה יוֹדְעָה וְהַכְּנָה יוֹדְעָה לְקַבֵּל. וְאִם לֹא יִכּוֹן הָאָדָם עֲצָמוֹ לְקַבֵּל הַשְּׁפָעָה הַזֶּה הוּא הַמוֹנֵעַ טוֹב מֵעֲצָמוֹ. שֶׁאִם נִגְזַר עַל אִישׁ מֵהַ עַל דְּרָךְ מִשְׁלֵי שִׁיחִיחוֹ תְּבוּאוֹתָיו בְּשֵׁנָה פְּלוֹנִית וְהוּא לֹא יִחְרֹשׁ וְלֹא יִרַע בְּשֵׁנָה הַזֵּה.

12. Rav Soloveitchik understood that this was not a fundamental disagreement between the Rambam and the Ramban on the question of the Torah obligation to pray, but rather on the definition of a 'time of distress'. The Ramban restricts this to unusual crises. The Rambam sees everyday life as a series of challenges which make every day a 'time of distress' in which we need to reach out to God.

אף אם ימטיר השם מטרות עזו על פני תבל ארצה לא תצלחנה תבואותיו אחר שלא חרש וזרע, והוא מונע מעצמו הטוב ההוא בשלא הכין עצמו לקבלו ....  
ומזה הצד הוא שתועיל התשובה לרשע, שעל ידי התשובה הוא כאלו נהפך לאיש אחר שלא נגזרה עליו אותה גזרה .... ועל זה הדרך הוא מבואר שתועיל התפלה .... ואין להקשות ולומר איך ישתנה רצון השם יתברך על ידי התפלה? שכך היה רצון השם מתחלה שתתקיים הגזירה בהיותו באותה מדרגה ואותה הכנה, ואם תשתנה ההכנה תשתנה הגזרה.

ספר העיקרים מאמר ד פרק יח

*The Sefer Halkarim writes that people often question how tefilla could 'work'<sup>13</sup>. God is unchanging and unchangeable and it is ridiculous (and philosophically unsound) to suggest that we can 'change God's mind'. If a Divine decree has been made, how could that be changed? He answers that tefilla, like teshuva, changes the person themselves. Every Divine decree has an effect on a person in the context of how connected they are to Divine downflow. If they deepen and strengthen their connection to God, this fundamentally changes who they are, and also the extent to which any Divine decree will act upon them.*

• As such, tefilla is fundamentally a self-reflective process, designed to strengthen a person's connection to God, change and improve them as an individual, and thereby open them up to a different down-flow of influence from God.

8. Hitpallel, from which "Tefillah" is derived, originally meant to deliver an opinion about oneself, to judge oneself or an inner attempt at so doing such as the hitpael (reflexive) form of the Hebrew verb frequently denote. .... Thus it denotes to step out of active life in order to attempt to gain a true judgment about oneself, that is, about one's ego, about one's relationship to God and the world, and of God and the world to oneself. It strives to infuse mind and heart with the power of such judgement as will direct both anew to active life - purified, sublimated, strengthened. In English we call Tefillah "prayer," but this word only incompletely expresses the concept "to pray," i.e., to ask for something is only a minor section of Tefillah.

Rav Samson Raphael Hirsch, Horeb Part VI, Avodah Chapter 98, Section 618 (trans Dayan Grunfeld)

9. HAVING shown in the preceding chapter that of all living beings mankind alone is directly under the control of Divine Providence, I will now add the following remarks. .... Hence it follows, in accordance with what I have mentioned in the preceding chapter, that the greater the share is which a person has obtained of this Divine influence, on account of both his physical predisposition and his training, the greater must also be the effect of Divine Providence upon him, for the action of Divine Providence is proportional to the endowment of intellect, as has been mentioned above. The relation of Divine Providence is therefore not the same to all men; the greater the human perfection a person has attained, the greater the benefit he derives from Divine Providence. This benefit is very great in the case of prophets, and varies according to the degree of their prophetic faculty: as it varies in the case of pious and good men according to their piety and uprightness. For it is the intensity of the Divine intellectual influence that has inspired the prophets, guided the good in their actions, and perfected the wisdom of the pious.<sup>14</sup>  
In the same proportion as ignorant and disobedient persons are deficient in that Divine influence, their condition is inferior, and their rank equal to that of irrational beings: and they are "like the beasts" (Ps. xlix. 21). .... This belief that God provides for every individual human being in accordance with his merits is one of the fundamental principles on which the Law is founded. ....  
..... every person has his individual share of Divine Providence in proportion to his perfection. For philosophical research leads to this conclusion, if we assume, as has been mentioned above, that Divine Providence is in each case proportional to the person's intellectual development. It is wrong to say that Divine Providence extends only to the species, and not to individual beings, as some of the philosophers teach. For only individual beings have real existence, and individual beings are endowed with Divine Intellect. Divine Providence acts, therefore, upon these individual beings.

Moreh Nevuchim 3:18

• This connects directly with a deeper understanding of Hashgacha Pratit. Most Rishonim<sup>15</sup> take the view that human beings receive direct Divine Providence only in proportion to their connection to God. Tefilla, Teshuva and Torah will impact significantly on this.

## D] WHAT IS A MINYAN?

- As we saw above, tefilla is highly personal and goes to the root of an individual's connection to God. This model of tefilla should always form part of our davening<sup>16</sup>.
- However, Chazal stressed the importance of 'tefilla betzibur' - communal prayer.

13. For an excellent article setting out different conceptions of the mechanisms of tefilla by Rabbi Josh Amaru see <https://www.etzion.org.il/en/shiur-12-prayer>

14. We see here that the reason greater people experience more hashgacha is not simply that, as a result of their piety, God rewards them with Providence. Rather, Providence is a natural outgrowth of their perfection. Moreover, God will protect the chassid by helping him make good decisions. See also Mishne Torah Hilchot Deot 11:5.

15. People often mistakenly identify this as the unique opinion of the Rambam, but see also Ramban on Bereishit 18:19, Rabbeynu Bachya (ibid) and Seforno on Vayikra 13:47.

16. The origin of the Yiddish word 'daven' is unclear. It certainly dates from at least as far back as the 16th Century. Here are some suggestions as to its etymology: (i) from the same Latin root as the English word "divine, emphasizing the One to whom prayer is directed; (ii) from Arabic (diwan - a collection of poems or prayers); (iii) from French (devoner, 'to devote' or 'dedicate' or possibly from the French 'devant' - 'in front of', as in 'know before Whom you stand); (iv) a Slavic word meaning "to give" (davati) - a translation of the Hebrew word 'mincha', which was used by Jews to explain to their non-Jewish colleagues why they were praying in the afternoons; (v) from the Aramaic de'avuhon or d'avinun, meaning 'of their/our forefathers', since the tefillot originated with the Avot. ; (vi) from the Talmudic phrase, "ka davai lamizrach", 'gazing wistfully to the east' (Shab. 35a); (vii) from the Turkish root 'tabun' - to pray, and in Kipchak Turkish, the 't' morphs into 'd' - see [https://en.wikipedia.org/wiki/Jewish\\_prayer](https://en.wikipedia.org/wiki/Jewish_prayer)

## D1] THE IMPORTANCE OF TEFILLA BETZIBUR

10. אמר ליה רבי יצחק לרב נחמן: מאי טעמא לא אתי מר לבי כנישתא לצלויי? אמר ליה: לא יכילנא. אמר ליה: לכנפי למר עשרה וליצלי. אמר ליה: טריחא לי מלתא. - ולימא ליה מר לשלוחא דצבורא, בעידנא דמצלי צבורא ליתי ולודעיה למר. - אמר ליה: מאי כולי האי? אמר ליה: דאמר רבי יוחנן משום רבי שמעון בן יוחי, מאי דכתיב (תהלים סט:יד) וְאַנְּךָ תִּפְלְתֵי לְךָ ה' עֵת קְצֹן. אימתני עת רצון? בשעה שהצבור מתפלל... תניא נמי הכי, רבי נתן אומר: מנין שאין הקדוש ברוך הוא מואס בתפלתן של רבים? שנאמר: (איוב לו:ה) הֲיֵן-אֶל כְּבִיר וְלֹא יִמָּאֵס [כְּבִיר כָּח לֵב]. וכתוב: (תהלים נה:ט) פְּדֵה בְּשִׁלּוֹם נַפְשִׁי מִקְּרֹב-לֵי [כְּיִבְרֵי בָיִם קִינֵי עֲמֻדִי]. אמר הקדוש ברוך הוא - כל העוסק בתורה ובגמילות חסדים ומתפלל עם הצבור - מעלה אני עליו כאילו פדאני לי ולבני, מבין אומות העולם.

ברכות ז

Chazal bring multiple sources in Tanach for the importance of tefilla betzibbur. This advantage of public prayer applies of course to women no less than to men!

11. תפלת הציבור נשמעת תמיד, ואפילו היו בהן חוטאים אין הקדוש ברוך הוא מואס בתפלתן של רבים. לפיכך צריך אדם לשתף עצמו עם הציבור ולא יתפלל ביחיד כל זמן שיכול להתפלל עם הציבור. .... וכל מי שיש לו בית הכנסת בעירו ואינו מתפלל בו עם הציבור נקרא שכן רע.

רמב"ם הלכות תפילה ונשיאת כפים פרק ח הלכה א

This is ruled in halacha by the Rambam - a person is required to daven with the community if possible.

12. ישתדל אדם להתפלל בב"ה עם הציבור. ואם הוא אנוס שאינו יכול לבוא לב"ה יכוין להתפלל בשעה שהציבור מתפללים. .... וכן אם נאנס ולא התפלל בשעה שהתפללו הציבור והוא מתפלל ביחיד אעפ"כ יתפלל בב"ה.

שולחן ערוך אורח חיים הלכות תפילה סימן צ סעיף ט

The Shulchan Aruch rules that this a very important, but not an absolute, requirement. One should try<sup>17</sup> to fulfil this, but where it is not possible, one should at least daven at the time when the community prays. If that is not possible, one should at least try to daven alone in the shul. Last option is to daven alone at home at a different time to the community.

## D2] THE MINYAN OF TEN MEN

- As we saw above, the Rabbinic definition of a minimal 'tzibur' is 10 men<sup>18</sup>. What is the origin of this halacha?

13. משנה. אין .... עוברין לפני התיבה, ואין נושאים את כפיהם, ואין קורין בתורה, ואין מפטירין בנביא .... ואין אומרים ברכת אבלים ותנחומי אבלים, וברכת חתנים, ואין מזמנין בשם פחות מעשרה ....  
גמרא. מנא הני מילי? אמר רבי חייה בר אבא אמר רבי יוחנן: דאמר קרא (ויקרא כב:לב) וְנִקְדַּשְׁתִּי בַתּוֹךְ בְּנֵי יִשְׂרָאֵל - כל דבר שבקדושה לא יהא פחות מעשרה. מאי משמע? דתני רבי חייה: אתיא 'תוך' 'תוך'. כתיב הכא ונקדשתי בתוך בני ישראל וכתוב התם (במדבר ט:כא) הַבְּדִילוּ מִתּוֹךְ הָעֵדָה. ואתיא 'עדה' 'עדה' - דכתיב התם (במדבר יד:כז) עַד-מִתֵּי לַעֲדָה הֲרַעְהָ הַזֹּאת. מה להלן עשרה - אף כאן עשרה.

מגילה כג

Chazal ruled that certain communal tefillot and berachot - such as the repetition of the Amida, public Torah reading, sheva berachot and others - are considered 'devarim shebikedusha' and require a minyan of 10 adult men. The Gemara learns the number 10 from a series of 'gezeira sheva' derivations, whereby pesukim are linked through key words. Ultimately the number links to the 10 men who constituted the evil 'congregation' of the spies<sup>19</sup>.

14. א"ר סימון נאמר כאן 'תוך' ונאמר להלן (בראשית מבה) וַיְבָאוּ בְנֵי יִשְׂרָאֵל לְשֹׁבֵר בַּתּוֹךְ הַבָּאִים. מה 'תוך' שנה' להלן עשרה אף כאן עשרה.

תלמוד ירושלמי (וילנא) מסכת מגילה פרק ד

The Yerushalmi offers a similar derivation, and also an alternative which connects more closely to the language of the two verses<sup>20</sup> and also learns from a more illustrious group of 10 men - the 10 sons of Yaakov who came down to Egypt.

17. The question of which circumstances justify a person davening alone are beyond the scope of this shiur. See <https://torah.org/torah-portion/weekly-halacha-5759-vayeira/> for a good summary of how different halachic obligations weigh against each other.

18. They must all be 13 years old and, for Torah mitzvot, also have reached puberty with the growth of two adult hairs. Since this is the case in most people, this requirement is assumed to have been fulfilled in the case of a Rabbinic mitzva such as minyan.

19. 12 minus the two good spies - Yehoshua and Kalev.

20. Containing both 'toch' and 'bnei Yisrael'.

15. וי"א למכ לא הפחית מעשרה? .... ואף על פי שחכמינו ז"ל העתיקו שאין תפלה בלצור פחות מעשרה, גם זה הפסוק יחזיק יד אמונתנו

אבן עזרא בראשית יח:כח

*The Ibn Ezra sees a hint<sup>21</sup> to the idea of 10 being a minimal tzibur in the story of the destruction of Sedom. 10 tzadikim was the lowest number to save the town.*

## E] MIRPESET MINYANIM - THE ISSUES

Halachic issues<sup>22</sup> which affect mirpeset minyanim include:

- How close do the 10 men need to stand to be considered a minyan? Is there any limit within one large room?
- What if some of the men are in an adjacent room?
- What if the 10 men are located outside in an open area eg a park or road?
- Does it make a difference if a public or private road or path divides the minyan.
- What if they are in different areas - yards, balconies etc? Do walls or barriers matter? Does separate ownership make a difference?
- Does it make a difference to any of these cases if the men can see each other? All see each other? Some see others?
- What if they could see each other if they moved or looked around, but can't actually see right now?
- Does it make a difference if they can all see the shaliach tzibur or he can see them, but they can't all see each other?
- Are there any limitations on what can be said, depending on how the minyan is physically constituted - kaddish, barchu, repetition of the amida, kedusha, bircat kohanim, reading the Torah etc.
- Once there is a halachic minyan, can other people located elsewhere, but who can hear the minyan, answer to the tefillot.

## E1] THE SUGYA IN PESACHIM

16. משנה. מן האגף ולפנים כלפנים, מן האגף ולחוץ כלחוץ. החלונות ועובי החומה כלפנים

משנה מסכת פסחים פרק ז משנה יב

*A korban Pesach and korban shelamim had to be eaten within Yerushalayim<sup>23</sup>. The Mishna discussed whether the spaces under the lintels of the doors and windows were 'in' or 'out' of the city for these halachot.*

17. גמרא. אמר רב יהודה אמר רב: וכן לתפלה. ופליגא דרבי יהושע בן לוי. דאמר רבי יהושע בן לוי: אפילו מחיצה של ברזל אינה מפסקת בין ישראל לאביהם שבשמים!

פסחים פה:

*In the Gemara, the Amoraim disagree on whether the same definitions apply to tefilla. Rav agrees that if some of the people are out of the room, they do not form part of the minyan. R' Yehoshua ben Levi appears to rule that even metal barriers cannot stop people from joining in tefilla!*

18. וכן לתפלה - בעומד מן האגף ולפנים מלטרף לעשרה, ובעומד חוץ לפתח אין מלטרף.

רש"י שם

*Rashi understands that the discussion concerning tefilla is whether men in different rooms can join to CREATE a minyan. According to Rav, one may not create a minyan with men in different rooms. R. Yehoshua ben Levi rules that one may.*

19. וכן לתפלה - פי' בקונטרס לענין לירוף. ואין נראה! .... דהלכה כר' יהושע בן לוי דאמר אפי' מחיצה של ברזל אינה מפסקת. וצפרק כל גגות (עירובין 3:): משמע סתמא דגמרא דמחיצה מפסקת לירוף. דקאמר 'ט' בקטנה ואחד בגדולה אין מלטרפין'. .... ונראה לר"י דהכא מייירי לענין לענות יחיד קדושה ויהא שמייה רבא מצדק', דאין מחיצה מפסקת לריב"ל, ולרב יהודה מפסקת ...

תוספות פסחים פה:

*Tosafot challenge Rashi from a Gemara in Eruvin which rules that one may NOT create a minyan from men in different rooms. As such, they understand the discussion in Pesach to relate not to whether one can create a minyan, but whether one may ANSWER to the minyan if in a different place. Rav says no, and R. Yehoshua ben Levi says yes.*

21. See also Targum Yonatan on Bereishit 18:28

22. A number of leading contemporary poskim (in addition to many local rabbanim) have addressed this issue in recent weeks. In particular:

- Rav Yosef Tzvi Rimon has produced a 50 page analysis, a short 7 page summary and a chart showing his halachic conclusions. The chart was distributed last week with every copy of Mevor Rishon and is available for download at

<https://www.sulamot.org/%d7%aa%d7%97%d7%9c%d7%99%d7%a3-%d7%9c%d7%98%d7%91%d7%99%d7%9c%d7%aa-%d7%9b%d7%9c%d7%99%d7%9d-%d7%91%d7%a7%d7%95%d7%a8%d7%95%d7%a0%d7%94-2/>

- Rav Osher Weiss published a 100 page pamphlet of teshuvot concerning coronavirus issues, which includes a number of teshuvot about mirpeset minyanim.

- Rav Moshe Sternbuch published a teshuva on the issue.

23. Other korbanot - chatat and asham - had to be eaten within the Temple complex.

20. צריך שיהיו כל העשרה במקום אחד ושליח צבור עמהם. והעומד בתוך הפתח מן האגף ולחוץ - דהיינו כשסוגר הדלת ממקום (שפה) פנימית של עובי הדלת ולחוץ - כלחוץ.

שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף יג

*The Shulchan Aruch rules strictly, like Tosafot. All 10 men must be in the same place to make a minyan.*

21. היו עשרה במקום א' ואומרים קדיש וקדושה, אפילו מי שאינו עמהם יכול לענות. וי"א שצריך שלא יהא מפסיק טינוף או עבודת כוכבים.

שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף כ

*Nevertheless, others who can hear the davening may answer, even if they are far away.*

22. הגה: גגין ועליות אינן צכלל צית, ובעומד עליהם אינו מלטרף

רמ"א שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף יז

*The Rema adds that the roof of the building is considered a separate 'place', so those people on the roof may not join in to create the minyan, (although if there is a minyan in one place, they can of course answer<sup>24</sup>).*

## E2] THE SUGYA IN BERACHOT

23. משנה. שתי חבורות שהיו אוכלות בבית אחד - בזמן שמקצתן רואין אלו את אלו הרי אלו מצטרפים לזמון. ואם לאו, אלו מזמנין לעצמן ואלו מזמנין לעצמן ....

משנה מסכת ברכות פרק ז משנה ה

*The Mishna in Berachot discusses the location of men who wish to join together to make a zimun after a meal. It rules that if they are in one room<sup>25</sup> they may join together as long as they can see each other.*

24. גמרא. רבי יונה ור' אבא בר זימנא בשם ר' זעירא לשני בתים נצרכה. א"ר יוחנן והן שנכנסו משעה ראשונה על מנת כן.

תלמוד ירושלמי (וילנא) מסכת ברכות פרק ז

*The Yerushalmi clarifies that this halacha applies even if they are in two rooms. As long as they can see each other, and provided they intended to join as a group, they can make a zimun.*

• We see, therefore, that when people see each other, even from different places, this can halachically 'connect' them for zimun. Is this also true of minyan?

25. שאלת על מה שסמכו בכל גלילותינו שיהא שליח צבור עומד בתיבה שהיא גבוהה עשרה ורחבה ארבעה, ושיש לה מחיצות גבוהות. ומוציא את הרבים בתפילה ועונין אחריו קדיש וכל דבר שבקדושה. ואי משום דרבי יהושע בן לוי דאמר 'אין מחיצה של ברזל מפסקת בין ישראל לאביהם שבשמים', לא נאמרו דברי רבי יהושע אלא בשיש עשרה במקום שליח צבור...?

**תשובה** ..... ותיבה זו ששליח צבור עומד לתשמיש בית הכנסת עושין אותה גבוהה כדי להשמיע הצבור ומכלל בית הכנסת היא. ומפני זה הרי הוא כאילו הוא בתוך הצבור. ....

עוד אני אומר שאפשר לומר שכל שרואין אלו את אלו כאילו הן בבית אחד דמי ומצטרפין. ודומיא דזימון של ברכת המזון, דתנן שתי חבורות שהיו בבית אחד בזמן שמקצתן רואין אלו את אלו הרי אלו מצטרפין לזימון. ....

שר"ת הרשב"א חלק א סימן צו

*The Rashba was asked about a synagogue with a high bima in the middle of the shul. Can the chazan stand on that and still form a minyan (eg the chazan plus nine others)? First, he rules that the bima is really part of the same location as the shul and not a different 'reshut'. Secondly, he makes the connection to zimun, and rules that if one group of men can see the other, even from a different location, they can join to create a minyan.*

• Whilst some Rishonim<sup>26</sup> support this position, many<sup>27</sup> do not. One of the main objections is that minyan is NOT like zimun. Minyan is needed to create kedusha and bring the Shechina to rest on the group. This requires ten men in the same place. Zimun simply connects people who have eaten and enables them to thank God together for the meal.<sup>28</sup>

24. In fact there are 3 levels: (i) what is necessary to CREATE a minyan; (ii) what type of connection to the minyan constitutes 'tefilla betzibur'; (iii) when can one answer kaddish etc.

25. Often means room in this context.

26. Including the Ravva in Berachot 1:134.

27. Ramban Pesachim 85b, Rashbash (Shu't 37). The Mahari Abuhav also ruled that seeing was not sufficient to create a minyan.

28. We will iy'H look at the deeper philosophical roots of this in Part 2.

## E3] THE CONCLUSION OF THE SHULCHAN ARUCH~MISHNA BERURA

• As we saw above, the Shulchan Aruch clearly rules that all 10 men must be in the same place to be considered joined for a minyan. If so, they do not specifically need to see each other<sup>29</sup>. If they are NOT in the same place, does it help if they can see each other?

26. ש"צ בתיבה ותשעה בבהכ"נ, מצטרפין אף על פי שהיא גבוהה י' ורחבה ד' ויש לה מחיצות גבוהות י' מפני שהיא בטלה לגבי בהכ"נ .....

שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף יד

*The Shulchan Aruch rules that the case of the bima in the Rashba's teshuva is permitted since the bima is considered to be in the same halachic location as the rest of the shul. He does NOT mention that the people can see each other<sup>30</sup>.*

27. מי שעומד אחורי בהכ"נ וביניהם חלון, אפילו גבוה כמה קומות, אפילו אינו רחב ארבע, ומראה להם פניו משם, מצטרף עמהם לעשרה.

שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף יד

*However, the Shulchan Aruch DOES rules a different case<sup>31</sup> - of a person standing behind or above the shul but visible through a window. In that case, if the others can see his face, he DOES join to create the minyan. Is that comparable?*

• The later mefarshim disagree as to how to reconcile these apparently conflicting rulings of the Shulchan Aruch:

- that all 10 men have to be in the same room
- no mention of the Rashba's leniency of them being able to see each other if in different locations
- yet a ruling that someone looking over the shul from a window DOES join to create the minyan.

- Many<sup>32</sup> rule strictly - that people in totally different locations cannot join to create a minyan even if they can see each other:
  - The Aruch Hashulchan<sup>33</sup> explains that the case of the person looking through the window is less problematic since the he is not in an entirely different 'reshut'. People in their own yards or balconies are in no sense in the same location and seeing will not help.
  - The Kaf HaChaim<sup>34</sup> rules that at least 6 men have to actually be in the same room. Then four others can look through a window and join them. But if there are not at least 6 together, seeing will not help.

28. (נב) מצטרף עמהם - דאף דיש הפסק מחילה צנייהם כיון דמראה להם פניו דומה למה שמצוה לקמן צסימן קל"ה לענין זימון, דאם מקלמן רואין אלו את אלו דמלטרפין. וא"כ לפ"י פשוט בעומדים בעזרת נשים וצמחילה המפסקת יש חלון ומראה להם פניו משם, מלטרף עמהם לעשרה. וכ"ש דאם יש בלעדו עשרה נחשב תפלה בצבור עי"ו. ואעפ"כ יותר טוב אם בנקל הוא לו לירד לצבכ"נ שירד. דיש מהאחרונים שחולקין על עיקר הדין וסוברין דענייניו אינו דומה כלל לזימון

משנה ברורה סימן נה ס"ק נב

*The Mishna Berura rules that if one group is in the Ezrat Nashim, and the others in the shul can see them, they DO join to create a minyan. But he also rules that, since other poskim, do NOT rely on this, it is better for them to come down.*

29. (מח) כל העשרה - ... אבל אם מקלמם צחדר זה ומקלמם צחדר אחר אינם מלטרפין אף על פי שהפתח פתוח צנייהם משום דאין שם פרצה והפתח גופא כמחילה חשובה, וה"ל שני צתים. ואפילו כשאין דלת צנייהם כל שהם צשני רשויות ואין רואין זה את זה אין מלטרפין ויש מחמירין אפילו צרוואין:

משנה ברורה סימן נה ס"ק מח

*On the issue of people in separate locations, the Mishna Berura also appears to rule that they WILL join to create a minyan, but only if they can see each other. However, again, he brings the view<sup>35</sup> of those poskim who are stricter and will not permit this, even if they can see each other.*

30. ואם רואין אלו את אלו יוכלו להצטרף אפילו עומדים לגמרי לחוץ ... [פר"ח וכן משמע מפמ"ג] ולכתחלה יותר טוב להחמיר בזה שיכנסו לפנים. דקולא זו דמהני רואין אלו את אלו לענין לירוף כמו לענין צהמ"ז לקמן צסימן קל"ה נוצע מתשובת הרשב"א צסימן ל"ו והוא לא כתב שם זה רק צדרך אפשר.

ביאור הלכה סימן נה סעיף יג ד"ה ולחוץ כלחוץ

*In the Bi'ur Halacha, he also recommends NOT to rely on this Rashba if possible<sup>36</sup>, since the Rashba himself was not certain of the extension from zimun to tefilla.*

29. One could be standing behind a bookshelf or around a corner.

30. Although the Magen Avraham (55:14) does bring this reasoning.

31. Based on a discussion of the Orchof Chaim in the name of Rav Hai Gaon. It is easy however to see the differences between the case of the Rashba, where the bima was in the middle of the shul, the case of the Ezrat Nashim with an adjacent window, and the mirpeset minyan where each person is located in an entirely different location.

32. Also Shayarei Keneset Hagedola (OC 55:19), Eliyah Rabba (55:12), Chayei Adam (30:1), Aruch Hashulchan (55:20) and more.

33. 55:24. Although Rav Vosner rules like the Aruch HaShulchan on this, Rav Osher Weiss rejects this position as a 'chiddush'.

34. 55:79

35. See also MB 55:57 where he writes להקל שיש להקל וצמקום דהמקל אפשר שיש להקל

36. Rav Osher Weiss is very clear that the Bi'ur Halacha only recommended stringency where it was possible for the minyan to come together, which is not the case in our situation.

• Nevertheless, the Mishna Berura, and others<sup>37</sup>, do bring the lenient position on this issue. Most poskim<sup>38</sup> have ruled that one may rely on this in our current situation when the shuls are closed.

#### E4] WHAT IS 'SEEING'?

- We have learnt that there are lenient opinions on which one can rely to create a minyan of ten people when they can 'see' each other. This itself raises various questions, including:
  - How many have to see the others? Do 10 men all need to be in visual contact with each other, or is it enough that some individuals can see each other?
  - Does it help if they can see the shaliach tzibur (shatz) or if he can see them?
  - Do they need to see faces, or is it enough for them to see parts of other people's bodies?

31. **משנה.** ... שתי חבורות שהיו אוכלות בבית אחד, בזמן שמקצתן רואין אלו את אלו - הרי אלו מצטרפין לזמון, ואם לאו - אלו מזמנין לעצמן ואלו מזמנין לעצמן...  
**גמרא.** ... (ב) שתי חבורות וכו'. תנא: אם יש שמש ביניהם - שמש מצרפן.

ברכות נ.

*In the sugya of zimmun, the Gemara rules that a waiter serving two separate groups can halachically combine them, even if they cannot physically see each other. Would this be true of a shatz for tefilla?*

32. אם מקצתן בפנים ומקצתן בחוץ, ושליח צבור תוך הפתח, הוא מצרפן.

שולחן ערוך אורח חיים הלכות ברכות השחר ושאר ברכות סימן נה סעיף טו

*The answer in the Shulchan Aruch is yes! The shatz can be an anchor linking two groups of men to create a minyan, even if the groups cannot see each other.*

33. (נד) הוא מצרפן - דכיון שהוא ש"ץ כל אחד נותן דעתו עליו והוא מחברן יחד. .... וצאדם אחר שאינו ש"ץ, אפילו הוא לדור על מפתח הבית, אינו מצטרף עמם ... וכ"ז דוקא בשאינן רואין אלו לאלו. אבל אם מקצתן רואין אלו את אלו בכל גווי מצטרפי לכדדי.

משנה ברורה סימן נה ס"ק נד

*The Mishna Brurah explains that everyone is focused on the shatz. So if all 10 men can see him, even if they cannot see each other, that will create a minyan. However, another man in the minyan who is not the shatz cannot achieve this and it will not help if that person can see everyone else. However, the Mishna Berura rules at the end of this source that if 'some can see the others', this will work to create a minyan.*

- Does 'some can see the others' mean one group can see the other group, eg 7 can see the other 3, and there are ten than can all see each other? Or does it mean that individuals can see other individuals, but no person can see the whole group? This is not clear. Some poskim<sup>39</sup> rules that this will be acceptable only for kaddish, kedusha and borchu, but not where there is a concern of beracha levatala - ie there should not be a repetition of the amidah.

- Does one actually need to see faces? The expression used in Hebrew is 'ומראה להם פניו', which sounds like this IS necessary. Although some poskim<sup>40</sup> say this is required, most do not mention it.

#### E5] THE EFFECT OF A ROAD PASSING THROUGH

- This is a major topic, which will have a major impact on the halacha of creating the minyan AND also the hashkafic underpinnings of what exactly a minyan is trying to achieve. We will pick it up iy'H in Part 2 and will also reach some conclusions as to the positions of today's leading poskim on these questions.

- We will also look at some of the other halachic issues affecting outdoor minyanim, and also those indoors who can hear them and may be uncertain how to respond to the davening.

- Some of these same hashkafic (and some different halachic) issues will apply to the fascinating question of davening across the internet and Zoom Kaddish/minyanim. We will also look at this in detail iy'H in Part 2.

To be continued .....

37. Pri Chadash (55:13), Pri Megadim (A.A. 55:12), Shulchan Aruch HaRav (55:17).

38. Rav Rimon and Rav Weiss certainly follow the lenient position on this. Rav Weiss comprehensively shows that this was also the mainstream position in halacha (supported not only by the Shulchan Aruch but also by the Rema, Magen Avraham and Taz) and therefore should not be doubted.

39. Rav Yosef Tzvi Rimon, *Minyan Mipesot VeChatzerot*.

40. The Aruch Hashulchan (55:20) writes that, since we are trying to bring the Shechina, and we see that the Shechina shone from Moshe's face, it can only be the face which connects the men for the minyan. Whilst a fascinating aggadic idea, many poskim reject this as a halachic chiddush.