

Iyun Halacha is sponsored by the Dr. Philip & Mrs. Leah Mehler Family Foundation

In memory of their parents Dr. Irving & Mrs. Bernice Mehler & Mr. Gedalja & Mrs. Miriam Zupnik

לעילוי נשמת ר' יצחק מאיר בן אליהו ובריינא בת אברהם ע"ה ור' גדליה בן אברהם מנחם הכהן ומרים בת ישראל ע"ה

Outdoor & Porch *Minyanim*, & *Minyanim* Spread among Multiple Rooms Rabbi Mordechai Fleisher

Can people in two different rooms combine to form a minyan?

Is there any issue with forming a minyan outdoors?

Outdoor *minyanim* have long been a staple of vacation spots and highway rest areas, especially in areas with a heavy concentration of observant Jews, but the COVID19 pandemic has made so-called “porch *minyanim*” and outdoor *minyanim* far more common. In addition, having the ten members of the *minyan* split among multiple rooms has also become common due to social distancing needs. This article will examine some of the halachic issues and challenges that arise with these types of *minyanim*.

A *Minyan* in Two Rooms

The Gemara (Pesachim 85a) discusses whether people on two different sides of a doorway can combine for *tefila*. Rabi Yehuda in the name of Rav says that the doorway separates them. However, says the Gemara, Rabi Yehoshua ben Levi disagrees, for Rabi Yehoshua ben Levi said that even an iron wall does not interpose itself between the Jewish People and their Father in Heaven. Rashi (ibid. s.v. *aina mafsekes*) explains that there is no interposition before Hashem, for He sees everything and nothing blocks His view.

Rashi (ibid. s.v. *vichain*) understands the Gemara to be referring to combining people on two sides of a door to create a *minyan*. Tosafos (ibid. s.v. *vichain*), however, disagree, and cite the Ri who explains that the Gemara is considering whether a person may respond to *kedusha* and *kaddish* being recited by a *minyan* located on the other side of a doorway.

The Shulchan Aruch (Orach Chaim 55:13) rules that all ten people must be in one room together. In addition, the Shulchan Aruch (ibid.:20) rules that if there is a *minyan*, others may answer *kedusha* and *kaddish* even though they are not in the same room. It thus emerges that the Shulchan Aruch rules in accordance with Rabi Yehoshua ben Levi and understands the Gemara as Tosafos did. Based on this, it would seem that a *minyan* requires ten adult men to be located in one room together.

However, there is another factor to consider. The Rashba (Responsa 96) was asked whether a *shliach tzibbur* (prayer leader) who stands in a “box”¹ while leading the services is considered to be part of the rest of the *minyan*, or whether this “box” is considered a separate area². The Rashba says that since this box is meant to serve the main *bais kneses* (synagogue), and not as an entity unto itself, it is regarded as part and parcel of the main room and does not pose a problem. The

¹ It would seem this “box” is similar to a *bimah* that has walls around it. The *bimah* of modern synagogues is used for the Torah reading and, in some congregations, is where the *shliach tzibbur* stands during certain parts of the prayers.

² The *shliach tzibbur* must be in the same room as the rest of the *minyan* (Shulchan Aruch Orach Chaim 55:13).

Rashba adds that “it is possible to say” that since the congregants and the *shliach tzibbur* can see each other, they are considered to be in one room. The Rashba bases this on a different halacha that two groups eating in one house can combine to recite *mezuman* if they can see each other. The Rashba brings proof that this refers even to a case where the two groups are in separate rooms, and applies this to *tefila*, as well.

The Shulchan Aruch (ibid.:19) rules in accordance with the Rashba in the case of the *shliach tzibbur* in a box, even if the *shliach tzibbur* is the tenth person for the *minyan*.

As for the second reason of the Rashba, the Bais Yosef (Orach Chaim 55:14) cites several other *Rishonim* who say that if a person is standing outside the *bais hakneses* and places his face in a window looking into the room that has nine people, he can combine to be the tenth man for the *minyan*. The Bais Yosef rules in accordance with this opinion in the Shulchan Aruch (ibid.:14).

However, there is significant debate around this ruling. Many *Acharonim* (Mishkenos Yaakov 1: Orach Chaim 75; Hagahus Hagra to Shulchan Aruch Orach Chaim 55:31) say that the Rashba’s proof from *zimun* can be refuted; the Mishkenos Yaakov also points out that the Rashba himself only presented this reason as a possibility, without ruling conclusively in accordance with it. The Chayei Adam (30:1) rules that seeing each other will not help, and understands the ruling cited by the Bais Yosef of “the face in the window” as meaning that the person actually entered his head and most of his body through the opening into the room.

The Aruch Hashulchan (ibid. 55:20) makes a distinction. He says that the ruling cited by the Bais Yosef discusses one who is standing outdoors and is looking in. Such a person can combine for a *minyan*, says the Aruch Hashulchan, because he is outdoors, and not in a completely separate room. However, one who is located in a separate room, such as the women’s gallery above the main sanctuary, would not combine, since that is a completely separate domain.

The Mishna Berura (55:57; Bi’ur Halacha ibid.:17 s.v. *vilachutz*) rules that one should preferably avoid relying on the Rashba’s leniency, but in extenuating circumstances, one may rely on people seeing each other from two different rooms.

There is discussion among various *poskim* regarding the status of rooms adjacent to the main sanctuary; could these rooms be similar to the box discussed by the Rashba, inasmuch as these rooms are often meant to serve the main sanctuary? Regarding a women’s gallery or similar area that has walls that reach the ceiling and is thus a completely separate area from the main sanctuary, the Shevet Halevi

(9:20) rules that it is completely separate and cannot be considered an adjunct to the main sanctuary. The Shevet Halevi points out that the Shulchan Aruch (ibid.:19) cites some who say that if the walls of the box reach the ceiling, it may be considered separate from the rest of the sanctuary. Even those who disagree, continues the Shevet Halevi, do so only in the case of the box because it is intrinsically meant to service the main sanctuary, whereas a women's gallery is a separate area.

This distinction gives rise to a slew of questions regarding rooms that are often adjacent to the main sanctuary, such as a social hall or women's gallery that are on the same level, and often in the same large space, as the main sanctuary but are not completely separate from the main room. Rabbi Menashe Klein (Mishneh Halachos 11:64) rules that if the interposing wall does not reach the ceiling, people in the two spaces may combine *lechatchila* (initially, and not just in extenuating circumstances) if they can see each other. Other types of rooms which have makeshift walls or full walls with large entranceways from one to the other, and are thus effectively one large space, create a plethora of halachic questions (see Rabbi Moshe Shternbuch in Teshuvos Vihanhagos 1:163, regarding multiple rooms in a *bais kneses*), and competent halachic guidance is needed to ascertain the status of such spaces for the purpose of combining people in the two rooms for a *minyan*³.

Everything that has been discussed heretofore has focused on combining people in different spaces to create a *minyan*. There is a separate discussion regarding whether one who wishes to *daven* in a side room when there is a full *minyan* in the main room is considered to be davening with a *minyan*. As noted at the outset, Tosafos understands that Rabi Yehoshua ben Levi says that a wall does not interpose for the purpose of answering *kaddish* and *kedusha*, and this is the ruling of the Shulchan Aruch (ibid.:20). The Mishna Berura (ibid.:60) adds that even if one is quite far away, he may respond (see, however, Mishna Berura ibid.:62 for some possible limitations).

The Shulchan Aruch, however, only mentions answering *kaddish* and *kedusha*, which cannot be recited without a *minyan*. Less clear is whether one *davening* in such a room has fulfilled *tefila bitzibbur* (davening with a *minyan*). The Mishna Berura cites various opinions on the matter but does not provide a conclusive ruling. However, in the Bi'ur Halacha (ibid.:19 s.v. *shliach tzibur*), the Mishna Berura seems to rule that one has indeed fulfilled *tefila bitzibbur*. The Aruch Hashulchan (ibid.:23) and Shaarei Teshuva (ibid.:14) both rule that it is considered *tefila bitzibbur*. However, Rabbi Shlomo Zalman Auerbach (Halichos Shlomo Tefila 5:12 with fn. 18) rules that such an arrangement is only relevant if the person is visible from the main room, and even then, one has not fully fulfilled *tefila bitzibbur*, and it is therefore not proper to *daven* in such a fashion.

Outdoor Minyanim and Porch Minyanim

Many of the pitfalls discussed until now would seem to be absent when a *minyan* takes place outdoors. A porch *minyan*, though, would present an issue of having a *minyan* split into multiple rooms, as a porch, which

³ Often, the whole question can be avoided by encouraging people in the side rooms to enter the main room. In an era of social distancing, however, this presents more of a challenge.

often has walls ten *tefachim* (handbreadths; approx.. 3-4 inches) high (or is ten *tefachim* off the ground), is considered its own domain. Due to COVID19 social distancing restrictions, getting ten adult males onto one porch may not be an option, and one may rely on the lenient opinions and make a *minyan* in such a fashion, assuming there are ten people who can all see each other. Indeed, many contemporary *poskim* have ruled that this is an acceptable option⁴. The Minchas Yitzchak (2:54) adds that at least nine members of the *minyan* must be able to hear the *shliach tzibbur* (see Shulchan Aruch ibid. 124:4).

However, there is another issue that needs to be considered. The Shulchan Aruch (Orach Chaim 195:1) in the laws of *zimun* cites those who say that a *reshus harabim* (public thoroughfare) running between two groups of people who are eating will prevent them from combining for a *mezuman*. The Pri Megadim (ibid. 55 Aishel Avraham 12) says that this would be an issue for *tefila bitzibbur*, as well. Furthermore, the Taz (ibid. 195:2) says that a "public thoroughfare" does not mean the full-fledged, 16-*amah* wide *reshus harabim* referred to when it comes to the laws of Shabbos, but even a private pathway, even one so narrow that one must place one foot in front of the other to traverse, would interpose between groups seeking to combine for a *minyan*. Based upon this, the Minchas Yitzchak (ibid.) says that when holding a *minyan* outdoors, one must be sure that a *minyan* is present in one area without any such path splitting the *minyan* apart.

This problem could pose a challenge for people seeking to create a *minyan* with each family remaining on its lawn or porch. A sidewalk, street, or even an accessible driveway could be considered an interposition that would block people on opposite sides from combining. Rabbi Moshe Shternbuch shlita (Teshuvos Vihanhagos 1:163) debates whether a private path used by the members of the *minyan* would pose a problem, and leans toward leniency.

Rabbi Moshe Shternbuch shlita (in a recent letter written during the COVID19 pandemic) provides a leniency in this matter for porch *minyanim*. He says that since the halachic status of a *reshus harabim* only ascends into the airspace until ten *tefachim*, if there are ten people on porches that are higher than ten *tefachim*, a path or road running between them is not considered an interposition between them. Rabbi Shternbuch concludes that this leniency may be relied upon in extenuating circumstances such as during the pandemic.

Rabbi Asher Weiss shlita, in a responsum written during the pandemic, concludes that there is some room for leniency even when a pathway interposes between the members of the would-be *minyan*, and he rules that in extenuating circumstances such as a pandemic, one may be lenient and create a *minyan*.

This article has sought to present some of the issues that present themselves during the COVID19 era regarding forming a *minyan*. As is evident, there are numerous opinions, including leniencies that would generally be avoided but may be acceptable under unique circumstances such as a pandemic. A halachic authority should be consulted for the best approach for each situation.

⁴ When davening outside, one could argue that since no one is in a room at all, there is nothing to combine the ten people. However, the *poskim* say that the issue is being in two separate domains; having everyone in a large, open area is not an issue. See Shu"t Minchas Yitzchak 2:54.

Points to Ponder:

Is there a halachic preference to daven specifically indoors?

May one answer kaddish and kedusha over a phone or computer?

*Iyun Halacha is a publication of the Denver Community Kollel
Please consult with a qualified halachic authority for all practical questions of halacha*

Halachic Editor: Rabbi Shachne Sommers · General Editor: Rabbi Mordechai Fleisher

1395 Wolff Street, Denver, CO 80204 · 303-820-2855 · info@denverkollel.org · www.denverkollel.org

To receive Halacha Weekly by email, contact info@denverkollel.org