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

When a *Minyan* is Lost Mid-Davening

Rabbi Mordechai Fleisher

May kaddish or kedusha be recited if the minyan was lost?

May kriyas haTorah continue if the minyan was lost?

An interesting halachic scenario arises when a *minyan* loses its necessary quorum of ten adult men in middle of *davening*. During the COVID pandemic, when smaller *minyanim* have been much more common, this scenario has occurred with greater frequency. This article will seek to explore what to do when a *minyan* is lost in middle of *davening*.

Source: The Mishna (Megillah 23a) provides a list of things that require a ten people, including many areas of prayer and Torah reading. The Talmud Yerushalmi (Megilla 3:4) lists a number of these things and says that if a *minyan* was present when they began but some people left in middle, they may be completed. The Yerushalmi concludes that regarding the person who left in middle, the verse (Yeshaya 1:28) states, "And those who abandon Hashem will be destroyed¹."

Tosafos (Megillah 23a s.v. *ain porsin*) cites this Yerushalmi. The Ran (ibid. *dapei HaRif* 13b s.v. *Yerushalmi*) cites it, as well, and adds that there would still need to be a majority of a *minyan* (i.e., six people) present.

The Rashba (Responsa 1:95) was asked whether *kedusha* may be recited if the *minyan* was lost after *chazaras hashatz* (the chazzan's repetition of *Shemone Esrei*) began. The Rashba concludes that *kedusha* is part of the *Shemone Esrei* of *chazaras hashatz* and it should be recited. In a similar vein, the Terumas Hadeshen (15) states that both *kedusha* and *kaddish shaleim*² may be recited, as they are considered the completion of *Shemone Esrei*. On the other hand, says the Terumas Hadeshen, if *Birchos Kriyas Shema* began with a *minyan* but it was lost before *Shemone Esrei*, *kedusha* and *kaddish* may not be recited, as *Birchos Kriyas Shema* is a separate entity from *Shemone Esrei*. By the same token, the Terumas Hadeshen continues, a *minyan* present during *Shemone Esrei* will not allow *kriyas haTorah* (Torah reading) to take place, as it is a separate entity.

What emerges from these sources is that although a *minyan* was lost

¹ The Mishna Berura (55:12) notes that one may not leave during the particular section that requires a *minyan*, but may leave at the completion of one section of *davening* even though there will not be a *minyan* for the next section. For example, one may leave immediately after *Shemone Esrei* of *shacharis* or *mincha*, before *chazaras hashatz* begins, since *chazaras hashatz*, as discussed, later) is the start of a new section of *davening*.

See Aishel Avraham-Butchatch (55:2) regarding whether this verse is applied to one who leaves during any section that requires a *minyan* or only certain parts that are more stringent.

See also Bi'ur Halacha 55:2 s.v. *mikol makom* regarding whether the ninth (or eighth etc. until the sixth) person may leave once the tenth person has already left.

² The Rishonim only mention *kaddish*, but they are referring to *kaddish shaleim*, also known as *kaddish tiskabeil*, which is recited at the end of an entire *tefila* prior to the recitation of *aleinu* (and any other pieces recited at the end of the *tefila*). This *kaddish* is tied to the main *tefila* - *Shemone Esrei* - as *kaddish shaleim* closes with a request that the prayers of the Jewish People be accepted before Hashem. See Rema Orach Chaim 55:3.

during *davening*, the part of *tefila* that started with a *minyan* may be completed if a majority of six people remain, but a new section that requires a *minyan* may not begin. However, it also emerges that determining what exactly is included in a particular part of *davening* is less than clear. We must now determine what is included in the various parts of *davening*.

What is included in different sections of *davening*: Although the aforementioned Terumas Hadeshen states that *Birchos Kriyas Shema* and *Shemone Esrei* are two distinct entities, the Darchei Moshe (Orach Chaim 55:3) cites a Maharash that the entire *davening* from *yishtabach* through the order of *kedusha* (i.e., *chazaras hashatz*) are one unit, and a *minyan* present at the recitation of *barchu* will allow everything to be recited despite the subsequent loss of the *minyan*³. The Darchei Moshe then says that the Abudraham seems to say that the Rambam is of the opinion that even if a *minyan* was present for *Shemone Esrei*, the *kaddish shaleim* may not be recited, and notes that the language of the Tur (Orach Chaim 55) seems to indicate this, as well. The Darchei Moshe notes that there are several other sources that rule in accordance with the Terumas Hadeshen and, indeed, the Rema (Orach Chaim 55:3) (author of the Darchei Moshe) rules in accordance with the Terumas Hadeshen, saying that a *minyan* at the start of *Birchos Kriyas Shema* will not allow *chazaras hashatz* to be recited, but if a *minyan* was present for the start of *chazaras hashatz*, the entire *chazaras hashatz*, including *kedusha*, is recited, along with *kaddish shaleim*. *Kriyas haTorah*, however, may not take place. Rabi Akiva Eiger (Glosses to Shulchan Aruch ibid.) adds that the *chatzi kaddish* (half-*kaddish*) that follows the recitation of *chazaras hashatz/tachanun* at *shacharis* is also recited. However, the *kaddish* customarily recited following *aleinu* or after the other parts recited at the end of *davening* is not said if no *minyan* is actually present, as this *kaddish* is only a *minhag* (custom) (Mishna Berura ibid.:20).

The implication of the Rema and others who say that once *Shemone Esrei* begins "in a loud voice" - meaning *chazaras hashatz* - is that a *minyan* present for the silent *Shemone Esrei* will not allow *chazaras hashatz* nor *kaddish shaleim* to be recited if the *minyan* is lost. However, the Rema (ibid.) indicates that for *ma'ariv*, where there is no *chazaras hashatz*, *kaddish shaleim* may be recited⁴ if there was a *minyan* for the silent *Shemone Esrei*. Indeed, Rabi Akiva Eiger (Glosses to Shulchan Aruch ibid.) wonders why the silent *Shemone Esrei* suffices for *kaddish shaleim* at *ma'ariv* but not for *shacharis* and *mincha*. The Noda Biyehuda

³ It is odd that the Darchei Moshe initially states that this unit begins from *yishtabach* but then says that the *minyan* was present for *barchu* and *yotzeir ohr*, which is after both *yishtabach* and the *chatzi kaddish* (half-*kaddish*) that follows it.

⁴ As well as *chatzi kaddish* and *yosheiv/vi'ata kadosh* on Motzoei Shabbos (Mishna Berura ibid. 22).

(Tinyana Orach Chaim 7) explains that since Chazal instituted *chazaras hashatz* (or, at the very least, the out-loud recitation of the first three blessings of *Shemone Esrei*), they attached the *kaddish shaleim* to *chazaras hashatz*, not to the silent *Shemone Esrei*. For *ma'ariv*, however, there is no *chazaras hashatz*, and so *kaddish shaleim* is tied to the silent *Shemone Esrei*.

Birchas Kohanim is regarded as a separate entity, and if the *minyan* was lost during *chazaras hashatz*, the *kohanim* would not recite it (see Mishna Berura *ibid.*:10 and Bi'ur Halacha 128:1 s.v. *bipachos*)⁵. However, the *shli'ach tzibur* recites the prayer of *elokeinu... barcheinu* added to *chazaras hashatz* in place of the full *Birchas Kohanim*, as this is considered an addition to *Shemone Esrei* itself (Mishna Berura *ibid.*).

The Pri Megadim (Aishel Avraham 55:1) wonders whether the *chatzi kaddish* recited following *yishtabach* at *shacharis* and following *ashrei* at *mincha* can be recited if there was a *minyan* present for *Pesukei Dezimra* at *shacharis* and *ashrei* at *mincha*. He explains that his uncertainty hinges on whether this *kaddish* is connected to *Pesukei Dezimra/ashrei*, in which case it is recited, or whether it is a separate entity. The Sha'arei Teshuva (*ibid.*:6) cites the Elya Rabba that the *kaddish* is recited. However, the Mishna Berura (*ibid.*:7), after mentioning the aforementioned opinions, cites a number of Acharonim who say it should not be recited; Sefer Ishei Yisrael (14:46) rules that it is not recited.

The Mishna Berura (*ibid.*:9) cites a dispute regarding the recitation of *barchu* where a *minyan* was present for the *chatzi kaddish* following *yishtabach*. The Derech Hachaim cites the Elya Rabba that they are considered one unit, and so *barchu* is recited, but the Ma'amar Mordechai disagrees.

At *ma'ariv*, if *barchu* was recited with a *minyan*, *chatzi kaddish* is recited before *Shemone Esrei*, since this *kaddish* is connected to *Birchos Kriyas Shema* of *ma'ariv* (Levush 55:3; see Mishna Berura *ibid.*:22).

Kriyas haTorah: As discussed earlier, *kriyas haTorah* is an independent entity. If a *minyan* was present once *kriyas haTorah* began, however, it may be completed (Shulchan Aruch Orach Chaim 143:1).

There is some debate as to exactly what this means, however. The Kesef Mishna (Hilchos Tefila 1:6) wonders if only the person who was called to the Torah and began the reading when the *minyan* was present may recite the blessings after his *aliya* is complete, or if every person who receives an *aliya* may do so. The Kesef Mishna concludes that he is inclined to rule that all of the *aliyos* may take place. This is, indeed, the ruling of the Magen Avraham (143:1), who adds that no extra *aliyos* beyond the minimum number required for the particular Torah reading (seven on Shabbos, five on a holiday, six on Yom Kippur) may be added. The *chatzi kaddish* recited after *kriyas haTorah* may also be recited (Mishna Berura 143:6)⁶. The Magen Avraham seems to say that *maftir* is included in this, but the Levushei Serad and Machatzis

⁵ Of course, if the *kohanim* began *Birchas Kohanim* and the *minyan* was then lost, they may complete it, since *Birchas Kohanim* itself began with a *minyan*.

⁶ See Ishei Yisrael 15:fn. 141 that the *chatzi kaddish* recited at *mincha* on Shabbos and fast days before *Shemone Esrei* is actually connected to *kriyas hatorah*, and so if a *minyan* was present for *kriyas hatorah* but was lost before *Shemone Esrei*, the *chatzi kaddish* is recited.

Hashekel say that the Magen Avraham means that the *maftir* should serve as the final *aliya* (e.g., on Shabbos it would be the seventh *aliya*), but an additional *aliya* for *maftir* should not take place. The Mishna Berura (*ibid.*) rules this way as well, and continues that the blessings for the *haftara* certainly cannot take place. The Mishna Berura adds that some say that the *haftara* should be recited without the blessings. The Mishna Berura continues that if a *minyan* was present for the blessings at the start of the *haftara*, the entire *haftara* and its concluding blessings may be recited. The Sha'ar Hatziyun (*ibid.* 5) notes, however, that if a *minyan* was present for *maftir*, this would not allow the *haftara* blessings to be recited (despite the connection between *maftir* and *haftara*).

The reasoning behind the halacha: There is a fascinating debate regarding the reasoning behind the allowance to complete a section of *davening* that requires a *minyan* so long as a *minyan* was present when it began. The Noda Biyehuda (Kama Even Ha'ezzer 56) explains that on a Torah level, these things can be recited/performed without ten people. Chazal, however, required ten people for these things, but made an allowance that if they began with ten, they may be completed even though the *minyan* was lost. He therefore concludes that *bid'veved* (after the fact), one has fulfilled the obligation even if ten people were not present.

The Magen Giborim (Shiltei Giborim Orach Chaim 10:2) disagrees and says that once a *minyan* gathers, the *Shechina* is present, and remains until the end of whatever is being recited or performed, even though the *minyan* was lost, and this allows the completion of what already started. He therefore disagrees with the Noda Biyehuda's proof that *bid'veved* one has fulfilled the obligation even without ten people.

This dispute may have ramifications on a different question relevant to the current discussion⁷. The Ben Ish Chai in Rav Pe'alim (1:5) brings proofs that if it was known from the outset that the *minyan* would not last until the end of whatever was being recited, they may not begin. The Shu"t Levushei Mordechai (Tinyana Orach Chaim 15), however, states that "the end is pulled by the start" in all circumstances⁸. This dispute can be understood in light of the two aforementioned opinions: If this is a special dispensation of Chazal, as the Noda Biyehuda posits, that once there were ten at the beginning, they may complete despite the loss of the *minyan*, it is entirely possible that this allowance was limited to an unanticipated loss of the *minyan*. If, however, one takes the approach of the Magen Giborim that once the *Shechina* arrives, it remains until the end even though the *minyan* was lost, it should not make a difference whether the loss of the *minyan* was anticipated or not.

In conclusion, while a person is not supposed to leave in middle of a section of *davening* that requires a *minyan* if this will cause the *minyan* to be lost, such scenarios do occur. Knowing beforehand what should be done will alleviate a great deal of confusion when such a situation does arise.

⁷ See Sefer Tehila Liyona Megila 23b [pgs. 235-236] for other possible ramifications of this dispute.

⁸ See there further regarding whether the person who makes clear from the start that he will leave in middle is included in the verse of "And those who abandon Hashem will be destroyed."

Points to Ponder:

If new people arrived, but subsequently some of the original six left, may the section of davening still be completed if there are still six people?

May kaddish be recited following korbanos without a minyan if there were ten people during part of its recitation?

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