

HALOCHOSCOPE



This week's question:

Someone will be reading the *Megillah* in an institution. Some of the *minyan* will be in various stages of dementia or memory loss. Does this count as a *minyan* for *megillah* reading? May they, or the reader, recite the *brocha* after the reading, *harav ess rivainu*?

The issues:

- A) *Minyan* for *davar shebikedusha*
- B) *Minyan* for *mikra megillah*
- C) *Harav ess rivainu*
- D) *Shoteh*, the mentally deficient

A) *Minyan*

For a *davar shebikedusha*, sanctification of Hashem's Name, a *minyan* is required. This is a quorum of ten adult Jewish males. Generally, this refers to those responsive prayers recited as a congregation. Almost all of these prayers are Rabbinically instituted. They include *krias hatorah*, *kaddish*, *kedusha* and *borchu*. The only case in which there is some question of Scriptural requirement is *parshas zachor*, the passage read to remember what *Amalek* did. Many consider the *mitzvah* to read it Scriptural. However, of those *poskim*, may consider the requirement to read it with a *minyan* to be Rabbinical.

One Scriptural *mitzvah* applies only in the presence of a *minyan*: *kiddush Hashem*, sanctifying Hashem's Name. This is manifested in three situations: (i) One may violate any *mitzvah* if his life is threatened, except for three *mitzvos*, idolatry, adultery and murder, that are so severe that one must rather sacrifice his life than violate them; (ii) If a gentile threatens a Jew in public, saying that he will be killed unless he violates a *mitzvah*, he must also give up his life; (iii) One who is distinguished in Torah scholarship and fear of G-d may not behave in an unbecoming manner before his fellow Jews. It is with the second type that we are concerned. "in public" means in the presence of ten Jews. This is derived directly from the language used by the Torah, *besoch*, in the midst. This, in turn is compared to the spies, ten of whom who are referred to a *toch* and as *eidah*.

Another *passuk* teaches us that the divine Presence comes to rest on an *eidah*. Thus we learn that when a *minyan* is present, the divine Presence comes. In one view, the laws of *minyan* for *davar shebikedusha* are derived directly from *kiddush Hashem*, as they are similar. Others maintain that they are separate ideas derived from the same source.

The Torah uses the term *Benei Yisroel*. In the world of *derush*, this refers to males, sons rather than daughters. Minors are not considered part of a qualified group of adults. There is some question on whether women may be considered part of the quorum for *kiddush Hashem*. The view that includes them does not emphasize *benei*. Rather, the qualifying factor in a quorum is the obligation level. Since women are not obliged in

time-bound *mitzvos* and in the usual *davar shebikedusha*, they cannot help form a quorum. Some add, in terms of the divine Presence, men women and according to one view even children, can combine for the quorum. [See Brochos 6a 21b 47b Megillah 23b Pesachim 46a Sanhedrin 74a-b, Poskim. Tur Sh Ar OC 55 90, YD 157:1, (Pischei Teshuva, Gilyon mahasha), commentaries. Minchas Chinuch 295 -296.]

B) Minyan for mikra megillah

Part of the object of reading the *megillah* is *pirsumei nisa*, publicizing the miracle. The Talmud debates the need for a *minyan*, for the reading to be considered truly public. In the lenient view, the *minyan* is only essential when it is read early, for the villagers. Nowadays, this could apply to a group setting out on a trip before Purim, where they will not have the availability of *mikra megillah* on Purim (see Halochoscope XV:18). In rarer cases, when Purim falls on Friday, walled cities read it earlier than their usual date. In these cases a *minyan* is required according to all views. The debate is about Purim itself, for those who are reading it earlier than their usual day. In this view, on Purim itself there is no *minyan* requirement. The other view seems to require a *minyan* on Purim as well.

The poskim debate the meaning of the Talmudic debate. In one view, the issue is whether there is a basic need for a *minyan* to fulfill the *mitzvah*, like for kaddish and *kedusha*. In the other view, both agree that one fulfills the *mitzvah* without a *minyan*. They debate whether there is a separate *mitzvah* to try to find ten people for it. There are three views on how we rule in practice. In one view one does not fulfill his obligation without a *minyan*. In the second, we follow the view that there is a *mitzvah* to find a *minyan*, but one may also fulfill the basic obligation without a *minyan*. The third view maintains that when reading it alone, one fulfills his basic obligation, but it is ideal to find a *minyan*. He may still recite the *brochos*. Furthermore, when nine people need to recite it, it is preferable for them to join as a group. One of them may read it for the rest, with *brochos*. According to some, this is even preferred. A larger measure of publicity is attained this way.

In addition, there is a requirement to go to a *shul* to read *megillah*. This is anyhow an enhanced way to fulfill *pirsumei nisa*. It also provides for a *rov am*, the principle of a multitude doing a *mitzvah* together. The poskim seem to indicate that the idea of *pirsumei nisa* is not necessarily a personal obligation. It applies to the community. Once the community has publicized the miracle, an individual who was absent may read *megillah* without a *minyan* later, especially according to the third view mentioned above.

It seems that even the stringent view does not conclude that this a *davar shebikedusha*, despite the existence of a possible Talmudic view like this. The poskim debate whether to include women in this quorum. This hinges on two issues: women may sometimes form an independent quorum but should not mingle with men; and a quorum should be made up of people with equal obligation levels. There is some debate on the level of the women's obligation in *mikra megillah*, in relation to that of the men. *Ashkenazic* custom is to include women in the quorum. There is further debate on the inclusion of minors. Their obligation level is definitely less than that of adults. In fact, they are not obligated in *mitzvos* themselves. There is a *mitzvah* of *chinuch*, to train them. Some apply this to the parents, while some apply a form of this *mitzvah* to the children. However, it is not on the same level as that of the women. In pressing circumstances a minority Talmu-

dic view is invoked, to allow minors to exempt adults with their reading. Since the entire issue of a *minyan* is for *pirsumei nisa*, minors might help, at least, with the *minyan*. Assuming that minors may be counted, though they are not obligated in *mitzvos*, may a *shoteh* be counted? [See Megillah 4a 5a, Poskim (summary Mikdash Yisroel 107 109). Tur BY Bach Sh Ar OC 688:7 (MB 20) 689:1-2 5-6 690:18 9MB 63), commentaries.]

C) *Harav ess rivainu*

The Yerushalmi says that this is only recited with a *tzibbur*, congregation. In light of the discussion in the last section, it should also apply to any quorum that qualifies for the ideal *mikra megillah*. The poskim debate the nature of this *brocha*. Some consider it similar to the *brocha* after an aliyah on the Torah. Some even say it is linked to the *brochos* before the *megillah*. The majority consider it a separate *brocha* of praise. It was instituted to be recited at the conclusion of reading the *megillah*. Those who connect this *brocha* to the *megillah* reading, would seem to be of the opinion that if a *minyan* is required, it is the same requirement as that of *megillah* itself. Even those who consider it a separate *brocha*, would probably explain the Yerushalmi in the same way that we have explained the *minyan* for *megillah*. It is not a *davar shebikedusha*, but an issue of *pirsumei nisa*. Accordingly, those who qualify for the *minyan* for one, should also qualify for the other.

The poskim are divided on whether we follow this Yerushalmi in practice. Some require an individual to say it. Some say that while an individual might not be obliged, he may say it, since it is not a *bircas hamitzvah*, but a *brocha* of praise. [See Megillah 21a Yerushalmi, Poskim. Tur Sh Ar OC 692:1, commentaries. Divrei Menachem (Teshuvos) 47. Mikdash Yisroel 145-147.]

D) *Shoteh*

A *shoteh* is also exempt from all *mitzvos*. The Talmud usually groups *cheresh*, *shoteh* and *katan* together. They are the deaf mute, the mentally incompetent and the minor. Our question is whether there is any way to include an incompetent in the *pirsumei nisa minyan* for *megillah*. Assuming that a minor may be included, does this mean that the idea is to have ten Jews present, regardless of their level of obligation? Perhaps, a minor has the advantage of being obligated in some form, due to *chinuch*. Furthermore, he may execute certain transactions, based on his level of judgment. In addition, the exemption for the two might not be the same. A second issue could arise in our case: Not all people deemed *shoteh* are treated equally.

The Talmud usually uses the term *lav benei deah*, they are not people with knowledge, to explain why any of these three types are exempt. 'Knowledge' in this context means mental competence. A child is considered to be of limited capacity simply because he has not yet developed fully. A *shoteh* is deficient. The question is, is this a logical exclusion, or is there some Scriptural reference to it? The Talmud also cites verses to exclude minors, based on the usage of the word *ish*, meaning a man or adult. Some say that all three types of exclusions due to limited capacity are based on the same word. Some add, this word means a normal man, with normal mental capacity. Others cite various other Rabbinic passages that derive the exclusion of *shoteh*. In one, a *shoteh* is excluded from the obligation of donating to the *mishkan*, because he cannot give with 'a generous mind'. In another a *shoteh* is excluded from the *mitzvah* to appear in the *Bais Hamikdash*

at the *regel* with a *korban olah*, based on a juxtaposition of knowledge to appearing. Some say that this verse is the basis to exclude a *shoteh* from all *mitzvos*.

Another view maintains that a *shoteh* is not excluded from the obligation *per se*. Rather, he is unable to fulfill it due to a handicap, *anuss*, which absolves him from his responsibility. However, he is indeed a *bar chiyuva*, obligated. This definition is hard to reconcile with Talmudic language, but serves to reconcile certain Talmudic rulings. Some even suggest that when the word *ish* is used in connection to a *shoteh*, it means to exclude him based on his handicap, rather than as a class. According to the view that he is *anuss*, the question is whether his performance of a *mitzvah* counts. Generally, one who is exempt from something and performs it is called a *hedyot*, or a fool. In the case of a *shoteh*, this is anyhow true. This does not mean that it is not a *mitzvah* all the same.

Assuming that a *shoteh* is exempted Scripturally from all *mitzvos*, may he be counted as number ten in a *minyan*? The Talmud debates whether those who are not obligated may be counted as the tenth man. The *poskim* seem to rule that while he may not count as the tenth for *tefilah*, he may count towards a quorum for *zimun*, at *bircas hamazon*. Some maintain that these rulings are contradictory. They follow two divergent views on how to rule. Others maintain that the two rulings refer to two types of *shoteh*. One who is partially *shoteh* may count to a quorum. Others suggest that there is a difference between counting them for a *davar shebikedusha*, and for other types of quorum.

There are many discussions on the actual definition of *shoteh*. The Talmud debates whether he must show more than one symptom. The *poskim* debate whether a person can be considered a *shoteh* for some matters, but obliged in others in which he is competent. Conversely, it would seem that if his presence is required for *pirsumei nisa*, it would only be accomplished if he can relate to this matter. Accordingly, if one is able to determine the type of *shoteh*, he might be counted in this particular quorum. Purim is something that many *shotim* can relate to. On the other hand, even a high-functioning dementia patient might be disqualified if he does not understand the concept of *pirsumei nisa*. The *mitzvah* of *mikra megillah* is based in the concept of *zechira*, meaning both remembering and mentioning. [See Mechilta Yisro 20:15. Brochos 47b-48a Terumos 1:1 Yerushalmi Chagigah 3b-4a Yeru. Megillah 19b Gitin 23a (& 7th Perek) Kesubos 48a Erchin 2a, etc., *Poskim*. Rambam Eidus 9:9-10 Nachalos 11:11 Ishus 13:7 Gerushin 2:11. Tur Sh Ar OC 55:8 199:10 YD 1:5 EH 121:1-3 CM 35:8-10 etc., commentaries. Or hayashar, esp. 27 30 34 etc. Sdei Chemed Alef 152, Geiruhin 1. Penei Chaim Acharei Mos. Imrei Binah Eidus 48. Machane Efraim Tzedakah 1. Ketzos Hachoshen 290:3 368. Avnei Miluim 71. Nesivos 39:2. Avnei Nezer YD 8:15 67:4. Beer Yitzchok 1:6. Chelkas Yoav 1. Imrei Moshe 97. Igros Moshe YD:I:230:5. Minchas Chinuch 34. Machane Chaim, Appendix 1.]

In conclusion, If possible, one should try to assemble a quorum without the *shotim*. If the *shotim* are needed for the *minyan*, the *brocha* of *harav ess rivainu* should probably be omitted. However, if one began reciting it, he may continue.

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