



OUTDOOR MINYANIM

In the past year, many elements of religious life have been modified due to the pandemic. As we gradually return to our old routines and resume normal life, one element seems to be lagging behind in many Jewish communities — the return to shul. While there are medical, social and emotional reasons for this phenomenon, in this essay, we will focus on the halachic challenges of davening outside the context of a brick-and-mortar shul.

Before beginning our analysis, it is important to frame our discussion in three critical ways:

First, this essay will not discuss the permissibility of starting a new shul in a community that already has a functioning Orthodox shul. There is significant discussion among poskim

about the halachic advantages and pitfalls to starting a new shul.¹ We will limit our discussion to minyanim that function on an ad hoc basis or regularly meet, but in a manner that suggests a temporary setup.

Second, an “outdoor minyan” comes in many different names and forms (and some have even moved indoors). Some such minyanim are more permanent than others. There are minyanim that meet consistently, have an aron kodesh with a sefer Torah, and take place in a space that is never used for anything other than tefillah. More commonly, the minyanim meet in a location that serves as a backyard or other utilized space. We will raise several halachic issues, some of which apply to all minyanim held on a private property and some of which only apply to some minyanim held

outside the confines of a dedicated shul building.

Finally, the topic of this essay does not address formal prohibitions, but simply the ideal way to perform a mitzvah. There is no prohibition to daven in a backyard, just as there is no formal prohibition to daven without a minyan. Clearly, the halacha strongly prefers *tefillah b'tzibbur* and demands making certain sacrifices to daven with a *tzibbur*. The issues at hand are: the optimal way to perform a mitzvah; whether the halacha demands sacrificing convenience in order to daven in a *beis haknesses*; and whether hosting or supporting a backyard minyan, after the danger of the virus has passed, is tantamount to establishing a subpar standard for tefillah.

The Halachic Issues

B’Rov Am Hadras Melech — In Multitudes the King is Glorified (Mishlei 14:28)

The Gemara, citing a pasuk in Mishlei, teaches that when performing mitzvos, it is best to do so with a large group.² The glory of God is said to be enhanced when we serve Him with a large crowd. This concept is applied broadly by poskim to several different mitzvos. For example, the *Beiur Halacha* (155 d.h. *V’yikva*) suggests that we should ideally learn Torah among a large group of people, rather than privately. Due to this concern of *b’rov am hadras Melech*, the *Shulchan Aruch*, OC 90:9, writes that we should always try to daven in a shul with the *tzibbur*. The *Magen Avraham* (90:15) adds that even if we have a minyan in our home, we should still daven in shul because of the larger crowd present in shul.³

When davening in an outdoor minyan, we are very likely to be sacrificing the opportunity of davening with a larger crowd for the sake of the minor convenience of shaving a few minutes off of a walk to shul. Of course, the proliferation of minyanim, even within a shul, and the proliferation of shuls in a given neighborhood, also minimizes the size of the crowd in any given minyan. This is one reason that competent rabbinic authorities should be consulted before starting any new minyan or shul to determine that the need is great enough to warrant the sacrifice of *b’rov am hadras Melech*.

Shachen Ra — A Bad Neighbor

The Gemara, *Berachos* 8a, relates that anyone who has a *beis hakneses* in his city⁴ and doesn’t enter the shul to daven is considered a *shachen ra* — a bad neighbor. The *Shulchan Aruch*,

OC 90:11, codifies this statement. The *Chayei Adam* (*Tzava’as Beis Avraham* no. 7, cited in *Mishna Berura* 90:38) explains that good neighbors tend to visit each other. One who isolates himself in his home exhibits anti-social behavior, which is inexcusable in our relationship with God and man alike. The *Mishna Berura* there points out that the *P’ri Megadim* raises the possibility that we are even required to daven in a shul when the shul doesn’t have a minyan, in order to avoid the title of *shachen ra*. While this Gemara seems to indicate that we should not daven in an outdoor minyan, the *Mishna Berura* there and *Sha’arei Teshuva* (17) point out that if we have a minyan in our house, the Shechina is assumed to be present, and those who daven at the outdoor minyan, while it is certainly inappropriate to do so, have avoided the title of an “evil neighbor.”

It emerges from this discussion that davening in an outdoor minyan would not earn somebody the title of a “bad neighbor,” but would still be discouraged because it is always best to daven in an actual shul.

Kedushas Beis Hakneses — The Sanctity of the Shul

In my opinion, the strongest argument against a more permanent utilization of outdoor minyanim is that they undermine the value of a *beis hakneses*. Considering the halachos governing the usage, structure and honor of a *beis hakneses*, it seems that Chazal were very interested in having Jews daven in a place that has *kedushas beis hakneses*. Indeed, the Gemara, *Berachos* 6, teaches that a person’s tefillos are only heard in shul.⁵ The Meiri there explains that this is not only a function of the *kedusha* of a shul, but also because it is easier to

have proper *kavana* when davening in a shul.

Rishonim and Acharonim debate the exact parameters of this rule. Rav Yechezkel Landau (*Tz’lach* there) argues that the need to daven specifically in a shul only applies to somebody who will not be davening with a minyan. Given the choice of davening alone at home or davening alone in shul, we should choose to daven in shul where the benefit of the *kedushas kamakom* will impact the acceptance of our tefillah. If we were davening with a minyan, argues the *Tz’lach*, the tefillah would be equally accepted in shul or in a home.⁶ At the other extreme, the *Tur* (90) argues that this rule applies only to a person davening with a *tzibbur*. The combined value of a minyan and *kedushas beis hakneses* serves to help tefillah gain acceptance. If, however, we were davening alone, there is no value to davening in shul rather than at home. The Rambam (*Hilchos Tefillah* 8:1) argues that this rule applies equally to davening with a minyan and davening alone. A tefillah is always enhanced when offered in a shul. The *Shulchan Aruch* (90:9) rules in accordance with the Rambam.

When we choose to daven in an outdoor minyan, we are sacrificing one of the greatest tools to affect the acceptance of our tefillah.⁷ The *Shulchan Aruch* warns us that:

ישתדל אדם להתפלל בבית הכנסת עם הציבור
One should make an effort to daven in shul with a minyan.

The extent of the effort required is not made clear in *Shulchan Aruch*, but the benefit of *kedushas beis hakneses* should certainly be a factor when deciding where to daven.

Additional Issues

There are several other halachic issues that arise from outdoor minyanim. First, the Gemara, *Berachos* 6b, notes that anyone who sets a consistent place to daven is considered humble, pious and a student of Avraham Avinu.⁸ The Talmidei Rabbeinu Yonah limit the need for a set place to daven to one who davens in his home. When davening in shul, the entire room is holy and it therefore makes no difference where in the shul we sit. This itself speaks to the importance of davening in shul. The Rosh (no. 7 there), on the other hand, argues that the requirement to establish a consistent place for tefillah applies even within a shul. We should daven in the same shul as often as possible and be careful to sit in the same seat within that shul. This is more difficult to accomplish in an outdoor minyan setting.

Second, outdoor minyanim typically don't have an aron kodesh or a sefer Torah, since they typically will only bring the sefer Torah out in time for kerias haTorah. While we can certainly

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fulfill the requirement of *tefillah b'tzibbur* without an aron kodesh, and a room without an aron kodesh may have the kedusha of a shul (according to some opinions),⁹ the full sense of standing *lifnei Hashem* (in front of God) can only be achieved in a room with both an aron kodesh and sefer Torah. The Rama (131:2) writes that we do not put our head down for Tachanun in a place with no aron or sefer Torah. Rav Yitzchak Zilberstein (*Chashukei Chemed, Yoma* 68b) points out that the implication is that when there is a sefer Torah present, the place is considered to be *lifnei Hashem* to a greater degree than a place that does not have a sefer Torah.¹⁰ Rav Zilberstein notes though that it is not clear to what extent we are obligated to trouble ourselves, or what distance we must travel in order to ensure this extra sense of *lifnei Hashem*.

Third, the *Shulchan Aruch* (90:23) prohibits davening across from cloth that is woven with images and may distract a person's attention from his *tefillah*. The *Mishna Berura* there adds that any decorations or pictures in a shul should be placed above eye level, so as not to distract people who are davening. Shuls are designed to minimize these types of distractions. Outdoor minyanim are subject to all types of distractions, whether people walking through, common insects and pests, cars driving by, children playing in the next yard and a whole host of other distractions.

The Non-Halachic Issues

In addition to the halachic issues outlined above, davening in an outdoor minyan raises several non-halachic, but also critical, issues that are important to be aware of. First, the Gemara, *Berachos* 8a, tells us that

Rav Yochanan was surprised to learn that there were elderly people in Bavel. After all, the Torah (*Devarim* 11) tells us that we will have long days on our land, implying that a Jew cannot live a long life outside of Eretz Yisrael. When Rav Yochanan heard that these elderly people go to shul early and stay late, he realized that it was in this merit that they lived long lives. Rav Acha bar Chanina adds that one who frequents a shul has "found life."¹¹ Remarkably, the *Yalkut Shimoni* (Ekev 871) tells a story of a woman who was very old, and her quality of life had degenerated to the point that she wished to die. When she told Rav Yosi ben Chalafta that she was always careful to daven in a shul, he advised that she keep away from the shul for several days. After following his advice for three days she fell ill and died. The message of the *Yalkut Shimoni* is that a connection to a shul connects a person to life itself. So long as the woman remained connected to the shul she would not die.

Second, while shuls begin to reopen, they rely on having a crowd. If many people go to outdoor minyanim, the shuls suffer from subpar crowds. This has a debilitating effect on the entire atmosphere of the tefillah. A shul that should be alive with electricity on Shabbos is often left feeling dull and pathetic. Those who fail to come to shul, for whatever reason, are responsible for negatively affecting the environment for davening in shul. People often think that their presence doesn't make a difference, but in reality, davening in a packed shul has an entirely different feel to it than davening in a half empty room. In fact, the *Teshuvos Simchas Kohen* (OC no. 45) suggests that even when a community is ready to open a new shul, the consideration of smaller

crowds leading to a diminished sense of energy in the tefillah should be enough of a factor to prevent a second shul from opening.

Third, invariably, halachic questions and problems arise during davening. This is especially true in a place that doesn't have set minhagim and protocols. When davening in a private minyan, questions often come and nobody present is equipped to handle them.¹²

Counter Considerations

To this point, we have demonstrated a clear preference for davening in a shul with a large minyan over davening in an outdoor minyan or in a private home. However, circumstances may arise that allow for, or even encourage, a small minyan outside of shul.

Public Safety

Certainly, the advent of the outdoor minyan played a critical role in ensuring public safety, and in many instances may have saved lives. The value of human life is of supreme halachic importance, and there is no doubt that we were correct to break up into smaller and socially distanced groups when public safety called for it. It is more challenging to assess at precisely what date this consideration is no longer applicable, and each community should follow medical (and halachic) guidance in making those decisions.

Helping a Person Make a Minyan

In the *Tefillah Kehilchasa* (ch. 2 note

29) the author cites Rav Yosef Shalom Elyashiv zt"l who ruled that if one is needed to help make a minyan in a house for people who are physically unable (either due to illness or age) to walk to shul, he may bypass the requirement to daven in shul in favor of doing the chesed of helping those who would otherwise not be able to daven *b'tzibbur*. It is common practice to help people who have suffered an immobilizing injury to make a minyan in their home until they recover.¹³ Even so, if the need is ongoing, a competent rabbinic authority should be consulted before establishing a minyan with any permanence in a home.

Comments from Leading Poskim

In the *Journal of Halacha and Contemporary Society* (volume XLVI), Dr. Steven Oppenheimer records the responses of several leading contemporary poskim about Friday night minyanim in private homes.

Rav Ephraim Greenblatt zt"l said that "when the shul is far away and the walk to shul is too difficult a minyan may be made close by," but he cautions, "the issue of breakaway minyanim is one that is often motivated by personal agenda." Rav Greenblatt's response, while reasonable, is not very clearly defined. How great a distance is considered "far"? How would we define "too difficult"?

Rav Moshe Shternbuch shlit"a gave a more clearly defined way of gauging

whether it is worth making a house minyan. "If the minyan did not exist, and people would otherwise go to shul, they are not permitted to have a minyan in someone's house. Only if the choice is to pray at home without a minyan or have a minyan in someone's house, may one have a minyan in someone's house."

Similarly, Rav Hershel Schachter shlit"a said that "it is improper to have a minyan in someone's house. The Talmud Yerushalmi explains that *dirshu Hashem b'himatzo* (seek out Hashem where He is found) refers to the *beis hakneses*. The Talmud Bavli informs us that *ein tefillah shel adam nishma'as ela b'veis hakneses* (a person's prayers are only heard in the synagogue). The sanctity of the locale augments the efficacy of the prayers, so that even an individual praying by himself should preferably pray in a shul. The Talmud tells us that whoever has a shul in his neighborhood and does not attend services there is considered a *shachen ra*, an evil neighbor."

Concluding Remarks

The purpose of this article is not to question the intentions of those who arrange for and attend outdoor minyanim, but to discuss the issues that may arise should these minyanim continue to function after the threat of COVID is gone. Many people who arrange and daven in such minyanim, and especially those who are willing to use their homes to host these minyanim, not only have the



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best of intentions but indeed have provided a necessary service to their communities. It is my hope that this article served to help clarify some of the halachic pitfalls of continuing these minyanim when the health concerns are long gone (G-d willing), and will motivate people to seek proper rabbinic guidance before deciding whether to participate in such minyanim, just as they seek guidance in other areas of halacha.

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Endnotes

1. See, for example *Igros Moshe* OC 2:40 and 2:46 and *Teshuvos HaRe'em* 1:53. See also, *Hegyonai Haparsha, Terumah* pg. 320 for a detailed analysis of this question.
2. See, for example *Berachos* 53a, *Pesachim* 64b, *Rosh Hashanah* 32b, *Yoma* 26a, *Yoma* 70a, *Sukkah* 52b, *Megillah* 27b, *Zevachim* 14b and *Menachos* 62a. It is interesting to note that the notion of *b'rov am hadras Melech* is used by Chazal in three distinct ways. In certain instances, it is used to teach that several people, each of whom are performing the entire mitzvah on their own, should do the mitzvah together in a large group, such as the case of the Mishna (*Bikurim* 3:2) where the various people bringing their first fruits to Yerushalayim should first gather outside of the city, so that they can all bring their fruits together in a large parade. In other instances it is used to teach that it shows great respect to God when instead of having a single person perform a mitzvah, a group of people divide the parts of the mitzvah among themselves, such as the case of Kohanim handing the cups of blood from *korbanos Pesach* in a sort of assembly line rather than walking the blood to the mizbeach themselves (*Pesachim* 64). We even find that a large crowd observing somebody doing a mitzvah is preferable to the person doing the mitzvah alone, such as the case of a Kohen Gadol reading from the Torah on Yom Kippur, where the crowd assembled to watch him read is considered to be doing a mitzvah of glorifying God (*Yoma* 70).
3. See *Teshuvos V'hanhagos* 1:127 where Rav

Shternbuch shlit"א rejects the practice of making a separate minyan in shul for a person who has yahrtzeit, because having a person observing a yahrtzeit lead a tefillah is not sufficient grounds to sacrifice *b'rov am*.

4. See *Iyun Yaakov* there that this is only true if the closest shul is in the city. If the shul were outside of the city, even if within the four mil one is required to travel in order to daven with a minyan, failure to frequent the shul would not make a person a bad neighbor.

5. *Lechem Mishneh (Hilchos Tefillah 8:1)* notes that a person's tefillos can also occasionally be heard outside of the confines of a shul, but the guarantee that a tefillah will be heard "at all times" only applies to shuls.

6. The *Tz'lach* argues that the language employed by the Gemara of "אין תפילותיו של אדם נשמעת אלא בבית הכנסת" supports this contention. Only the tefillah "of a person," an individual, needs to be offered in shul in order to be heard.

7. This assumes that the space where the minyan is housed does not enjoy *kedushas beis hakneses*. This is normally a safe assumption. If the space is used for other purposes it clearly does not enjoy *kedushas beis hakneses*.

8. Talmidei Rabbeinu Yonah note that Chazal offer a very similar praise for Shmuel Hakatan (*Sanhedrin* 11). It is somewhat odd that anybody who establishes a consistent place to daven merits that same praise that was used to describe a great tzadik like Shmuel Hakatan (see *Berachos* 29a, *Shabbos* 33a, *Taanis* 25b). Talmidei Rabbeinu Yonah suggest that the insistence on davening in this way is not a sufficient mitzvah to earn these accolades, but are indicative of an exceedingly humble personality who has already earned these accolades. Rav Yechezkel Landau (*Tz'lach* there) explains that only a humble person would assume that he needs the place to elevate his tefillah. An arrogant person would assume that he would have God's ear wherever he chooses to daven.

9. See *Eretz Hatzvi* (no. 12) where Rav Hershel Schachter shlit"א shows, based on the fact that the Aron of the Beis Hamikdash was hidden underground by Yoshiyahu, that the basis for *kedushas Beis Hamikdash*, and in turn *kedushas beis hakneses* is the Aron Kodesh. It was critical that throughout the period of the second Beis Hamikdash, which did not have the Aron, that the Aron at least be hidden on the premises of the Beis Hamikdash.

Rav Schachter argues that a shul without an Aron Kodesh is lacking in the *kedushas beis hakneses*. Rav Schachter writes that it is inappropriate to build an Aron Kodesh recessed into the wall of a shul because the Aron is then considered to be in a separate room, and this takes away from the *kedusha* of the shul.

10. See *Sefer Chasidim* (495) that even those tefillos offered from seats that are closer to the Aron Kodesh in shul, are more readily accepted than those offered from seats that are further away. See also *Teshuvos Yosef Ometz* (37).

11. See *Megillah* 29, where the Gemara says that the shuls in the Diaspora are going to be transported to Eretz Yisraell upon the coming of Mashiach. This highlights the role of the *beis hakneses* as a place that is not limited to the temporary nature of our stay in *galus*.

12. One of the more common questions relates to whether the group should recite the *beracha mei'ein sheva* after Shemoneh Esrei, considering that it isn't a steady minyan in a shul. See *Shulchan Aruch* 268:10 and *Igros Moshe*, OC 4:69.

13. When Rav Hershel Schachter shlit"א was suffering from back problems that prevented him from going to yeshiva, several boys from yeshiva would come to his house to help him make a minyan. He would tell them that they really should not be there as davening in a *beis medrash* is much more valuable than davening in a private home.