WOMEN AND MINYAN

Over the past 15 years, a plethora of books, papers and articles have dealt with the status of women and Halakha from a variety of perspectives. One of the central issues raised is the inclusion of women in a minyan—the minimum quorum of ten individuals necessary for many religious rituals.¹ In this paper,² we shall review the major halakhic positions on this question in the hope of eliminating the confusion and misunderstandings which have continued to plague this issue. We trust as well that the reader will be convinced that “Women” and “Minyan” are not necessarily mutually exclusive terms.

A. THE NECESSITY FOR A MINYAN

The mishna in Megilla,³ which lists those rituals requiring a quorum of ten participants, reads as follows:

When less than ten are present, we do not repeat the shema and its attendant blessings in an abbreviated form; nor appoint a hazzan (to say kaddish, barekhu or repeat the shemoneh esreih with kedusha); nor do the priests bless the congregation; nor do we read the Torah in public; nor read the haftara from the Prophets; nor practice the funeral halts; nor pronounce the mourner’s benediction, or the mourner’s consolation (after burial), or the nuptial blessings; nor say zimmun be-shem (i.e., introduce the blessings after meals using the name of God).

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Although the necessity for a quorum of ten is common to all the rituals enumerated above, the basis for this requirement in each instance is not uniform. The Talmud (Megilla 23b) explains that the first few cases listed in the mishna fall under the category of devarim she-bi-kedusha—acts or declarations of sanctification of the Holy One. Such acts require the presence of ten in accordance with the verse, "I shall be sanctified in the midst of the children of Israel." This verse is further linked to the term edah (community) which in the Scripture is applied to the ten sinful spies (Numbers 14:27); hence a community or congregation is established by ten participants. The Jerusalem Talmud, on the other hand, draws a parallel to the ten brothers of Joseph who came to Egypt in search of food.

The Talmud gives a different rationale for the requirement of ten as a prerequisite for funeral halts and zimmun be-shem, namely, accepted protocol. Some of the other cases have particular Scriptural sources. The requirement of ten for the groom's blessings, for example, is derived either from the verse, "He took ten men from the local elders," or the verse, "In congregations bless God."

In addition to the rituals mentioned in the mishna, the Sages required a minyan in the following three instances:

1) The recitation of the Ha-Gomel blessing—based upon the verse "Let them exalt Him in the congregation of the people";

2) The reading of Megillat Esther on a day other than the fourteenth of Adar (or the fifteenth in walled cities)—in order to publicize the miracle of Purim;

3) Public martyrdom—which the Talmud bases on the verse, "I shall be sanctified in the midst of the children of Israel."

The compilers of the various lists of the 613 commandments understand the application of this last verse to public martyrdom as a bona fide derivation (derasha). Consequently, the requirement of ten for this mitsvah is a biblical obligation. Most commentators contend, however, that the derivations cited in the other rituals—all of them blessings and prayers—are not true derashot but rather asmakhtot (mnemonic devices for rabbinic obligations). As noted by Rabbenu Nissim Gerondi, this logically follows from the fact that blessings and prayers are themselves only of rabbinic origin.

The question of women and minyan stems from the unanimous ruling that the quorum for those rituals designated as devarim she-bi-kedusha must consist of ten male adult freemen—to the exclusion of women, children and slaves. Several different reasons have been offered for this ruling. One suggestion is that since the Talmud Bavli derives the number ten from the number of sinful spies reporting to
Moses, the individuals constituting a minyan for a davar she-bi-kedusha must be of the same status as the spies—male adult freemen. A similar conclusion can be drawn regarding the Talmud Yerushalmi’s derivation from the brothers of Joseph, who were all male. Others have pointed out that the source text for devarim she-bi-kedusha uses the words “benei Yisrael,” which is loosely taken to mean “children of Israel” but is more literally translated as “sons of Israel.” Hence it is not surprising that this verse is understood halakhically to require males.

These derashot, however, relate exclusively to those rituals which have been considered devarim she-bi-kedusha. It is still necessary to determine whether or not women may constitute the minyan quorum for those cases cited in the mishna but not so categorized. Furthermore, we have seen that the above-mentioned derivations, even as they relate to devarim she-bi-kedusha, are only asmakhtot and the resulting laws rabbinic. It is important, therefore, to determine the logical reason for these rabbinic rules.

An examination of the many sources concerning the participation of women in a minyan reveals fundamentally three schools of thought. The first contends that women may participate in a minyan whenever their obligation is equal to that of men. The second contends that under no conditions may women constitute part of a minyan? The third school distinguishes between a minyan that is a precondition for fulfilling an obligation, from which women are excluded, and one that is necessary for publicizing a miracle or the fulfillment of a ritual obligation in which women may participate.

**B. THE FIRST SCHOOL**

The first school of scholars defines minyan as ten individuals of equal maximal obligation. Accordingly, women cannot constitute a minyan, whether together with men or wholly on their own, for those rituals in which they are either not obligated or lack the maximal obligation of men. On the other hand, they may indeed participate in a minyan for the performance of those mitsvot, whether of biblical or rabbinic authority, where they share an equal obligation with men. In the words of Meiri: “In matters that require ten, there are those who claim that since the obligation of women is equal to that of men, they may constitute the quorum.” Many rishonim and aharonim share this view and for the sake of clarity and convenience, I shall list them by topic.

1. Public prayer. Although women are obligated to pray, they are not obligated to participate in public prayer. By the reasoning
presented above, they are accordingly ineligible to constitute a minyan for any obligation that is part of the public prayer service, such as kaddish, kedusha, barekhu, the repetition of the shemoneh esreh and the priests’ blessing. Thus, R. Reuven Margaliot writes, “Public martyrdom (in whose quorum women may be counted) is not comparable to public prayer; a woman may not participate in the minyan for public prayer because she is not obligated in the latter.”

The status of women according to this explanation is similar to that of an onen (the mourner in the hours between death and burial), who does not participate in the constitution of a minyan because he is exempt from all positive obligations, including public prayer. Interestingly, there is a discussion among the aharonim whether an onen may recite kaddish; those who permit it also allow his inclusion in the minyan for the recital of the kaddish. This further demonstrates the interrelationship between obligation and minyan eligibility.

2. Reading of the Torah. The rishonim and aharonim disagree as to whether the public reading of the Torah has the status of a davar she-bi-kedusha. In any event, the majority opinion is that women are exempt from this obligation. The noted posek and author of Pri Megadim, R. Joseph Teomim, utilizes this fact to explain why women do not constitute a minyan for this purpose: “Women are not obligated in the reading of the Torah, so how could they constitute (the quorum)?” A similar statement is found in Responsa Orah la-Tsaddik. In reaction to a colleague’s suggestion, the author queries: “Who told you that [a woman] can be included in a minyan for the reading of the Torah in the same way that she can be for the reading of the megilla? The cases are not comparable, for women are obligated in the reading of the megilla, but not in the reading of the Torah.” Again we find minyan and obligation linked.

3. Parashat Zakhor. Parashat Zakhor (Deuteronomy 25:17–19) is read from the Torah with a minyan on the Shabbat before Purim. There is a well-known dispute among halakhic authorities on whether women are included in this obligation, though the majority opinion seems to be that they are not. Interestingly, several authorities support the exemption of women from this mitsvah based on an incident recorded in Berakhot 47b where the noted Tanna R. Eliezer freed his non-Jewish slave so that he could be included in a minyan. R. Asher b. Yehiel (Rosh) ad locum suggests the possibility (which he quickly rejects) that the slave was freed for the purpose of reading Parashat Zakhor. These scholars, in the spirit of the “first school,” argue that were women and likewise slaves obligated to hear the zakhor reading, the slave could have joined the minyan without being freed.
On the other hand, the Hatam Sofer, like his mentor R. Natan Adler, maintains that women are indeed obligated to hear Parashat Zakhor. Nonetheless, he too acknowledges the interdependence between obligation and minyan. In his extensive discussion of the case of R. Eliezer, he notes that according to the conclusion of the Rosh the slave was freed for the purpose of a regular public Torah reading in which women and slaves are not obligated and therefore do not constitute a minyan for this purpose. For Parashat Zakhor, however, women can be counted for the quorum since they are obligated like men. Clearly, the Hatam Sofer too views eligibility for constituting a minyan as a natural corollary of obligation.

4. Megilla. There is a controversy as to whether women’s obligation to read Megilat Esther is equivalent to that of men. Halakhot Gedolot maintains that it is not; a woman’s obligation is to hear the megilla, not to read it. Therefore, she cannot read the megilla for a man, who has a greater obligation. Rema (Orah Hayyim 689:2) follows this opinion. Tur and Beit Yosef (ad locum), on the other hand, cite other authorities who maintain that there is no distinction between the obligation of men and women and, therefore, women may discharge the obligation for men.

The presence of a minyan is preferred, though not absolutely required, whenever the megilla is read, provided it is done so on its designated date, i.e., the fourteenth of Adar generally and the fifteenth of Adar for walled cities. However, it is a necessary condition for reading the megilla with its attendant blessings at other times. In addition, the concluding benediction “ha-rav et riveinu” requires a minyan at all times. Rabbenu Nissim (Ran) writes: “There is an opinion that although [women] may discharge the obligation [for men], they may not constitute the minyan of ten . . . I, however, [disagree, for] . . . how could it be that they can discharge the obligation of men but not join them in the constitution of the minyan? They definitely can constitute the quorum.” Similarly, Meiri states: “For the reading of the megilla, [women] can constitute the quorum and discharge the obligation of the community, since their obligation in this matter is equal.” This opinion is also quoted in Sefer ha-Mikhtam as the position of “several authorities” and cited by later codifiers as well. Interestingly, several rishonim recommend against counting women in a minyan for megilla because of “immodesty,” implying that they are technically eligible since they are obligated. We will have more to say about this shortly (section B.7).

It should be emphasized that all of these opinions agree that women can constitute a minyan, and not because the eligibility
requirements regarding *megilla* are less rigorous than elsewhere (which is indeed the conclusion reached by the third school discussed below). On the contrary, they are eligible because their obligation is equal to that of men for this purpose. This is in contradistinction to other cases where they are ineligible for the *minyan* because their obligation is inferior to that of men or because they are exempt altogether.

5. **Zimmun be-Shem.** Three or more men who eat a meal including bread are obligated to recite the blessing after the meal (*birkat ha-mazon*) together, prefacing this recitation with the *zimmun* introduction. In the presence of ten men there is an additional obligation of *zimmun be-shem*, namely to invoke the name of God by adding “*Elokeinu*” to the *zimmun* text. It is clear from the Talmud (*Berakhot* 45b) that three women who eat together may also constitute a *zimmun* quorum, although Tosafot and Rosh (*ad locum*) disagree as to whether a women’s *zimmun* is optional or obligatory. The consensus follows Tosafot, that a women’s *zimmun* is optional, although the Vilna Gaon nevertheless favors Rosh’s stance that women too are obligated in *zimmun*. The Talmud does not, however, discuss the status of ten women who eat together. Maimonides seems to be the first to raise the question and rules that women may not in fact perform *zimmun be-shem*. Despite some dissenting opinions among the *rishonim* (*vide infra*), the view of the Rambam is unanimously cited by all the later codifiers.

Maimonides gives no clear source for his ruling. Some argue that invoking God’s name transforms the *zimmun* into a *davar she-hi-kedusha* from which women are excluded. Others have suggested that the obligation of adding God’s name to the *zimmun* in the presence of a *minyan* derives from the verse “In congregations bless God,” and women do not have the status of a “congregation.” We have, however, argued above (and will cite further evidence in Section 6) that such derivations are merely *asmakhtot*, but not true rationales for the exclusion of women from these rabbinic rituals. A more fundamental reason given in the *Sefer ha-Me’orot*, *Sefer ha-Menuha* and *Arukh ha-Shulhan* is that women are not obligated in *zimmun* and hence cannot constitute a *minyan* for *zimmun be-shem*. It is clear that these codifiers belong to the first school and base the ineligibility of women on their exemption from obligation.

We have noted above that despite the unanimity among *aharonim*, there are *rishonim* who disagree with the Rambam as to the status of ten women who ate together. Thus the *Meiri*, *Sefer ha-Me’orot* and *Shiltei ha-Gibborim* cite opinions allowing ten women to perform *zimmun be-shem*. Interestingly, *Shiltei ha-Gibborim*
quotes this opinion in the name of Rosh, which would be in line with Rosh's view (cited above) that women are indeed obligated in zimmun.

It should be obvious then, that those authorities who obligate women in zimmun, yet rule against their doing so be-shem, must necessarily subscribe to one of the other schools of thought discussed below concerning women's minyan eligibility. This is true, for example, for the Gaon of Vilna who, as we will shortly see (section C), belongs to the second school.

6. Martyrdom. The Talmud (Sanhedrin 74a) discusses the laws of kiddush ha-shem, i.e., the sanctification of God's name through martyrdom. It concludes that, with the exception of murder, idolatry and forbidden sexual relations, one may under threat of death transgress in private even biblical commandments. However, in periods of religious persecution and forced conversions or when the transgression will be performed in public, one is obligated to martyr oneself rather than transgress even a minor commandment. The Talmud further clarifies that "Less than ten [Jews] is not considered to be in public . . . as is written,5 ‘I shall be sanctified in the midst of the children of Israel.’" We have noted previously that in the case of martyrdom this derivation is bona fide6 (not an asmakhta), referring specifically to martyrdom in public.55

Women share this obligation equally with men. Numerous authorities,56 therefore, conclude that women may be included in the minyan for this purpose. R. Yaakov Emden, for example, writes:56

It remains to be determined whether the presence of ten women is considered to be “in public.” It is clear that, even though the term “children (sons) of Israel” is used concerning this mitsvah, women are definitely commanded to sanctify the name of God equally with men, and hence regarding this mitsvah they are not excluded from the class of “men.” Therefore, it is “in public” before them as well.

R. Emden, as well as many others,56 rejects the very possibility that women might be obligated in this mitsvah but not included in the audience necessary to give it its public quality. It is clear to them that quorum eligibility follows naturally and inexorably from obligation.57 This is despite the fact that there is no greater act of sanctification—no greater davar she-bi-kedusha—than martyrdom. We must perforce conclude that, in the view of the first school, the unanimous exclusion of women from the quorum of devarim she-bi-kedusha19. 20 is limited to those rituals incorporated in the public prayer service—from which women are exempted.

The situation is now rather paradoxical. After all, the necessity for a minyan to sanctify God's name either through kiddush ha-shem
(martyrdom) or via the davar she-bi-kedusha public prayers or rituals is derived from the same verse,5 "I shall be sanctified (venikdashti) in the midst of the children of Israel." Nonetheless, while many authorities include women in the quorum for public martyrdom, they are ineligible with regard to public prayer! In reality though, as we stated at the outset, the verse is actually referring only to martyrdom; it is borrowed for rabbinic davar she-bi-kedusha prayers and rituals only in a secondary sense, as an asmakhta. Such a mnemonic device cannot itself serve as the basis for deciding the eligibility of women. The scholars of the first school accept equality of obligation as the most appropriate criterion.

7. Modesty Considerations. Finally, we should perhaps include in the first school all those scholars who recommend against counting women for a minyan together with men for a particular mitsvah merely out of fear that such a practice might encourage immodesty.58 I have already cited the opinion of the Sefer ha-Ittur 47 concerning megilla that "just as women can form a zimmun, but do not join men in constituting this quorum (because of immodesty), so too their inclusion in a minyan (for megilla) is not recommended." Similarly, R. Simcha ha-Levi Bamberger59 writes: "Women are disqualified rabbinically from inclusion in a minyan, even for those mitsvot in which they are obligated, because association with them is improper." R. Yitshak Palache 60 cites the ruling of Sefer Kol Bo that "women may discharge the obligation (of megilla) for men. Nonetheless, it is not proper to include them in the minyan; for wherever ten are required, the intention is for ten men." R. Palache explains that "he is concerned lest their inclusion lead (the men) to be in seclusion (yihud) with them."

According to this approach, were it not for the possible violation of the rules of modesty, women could indeed be included in any minyan together with men, provided their obligation is equal to that of the men. One could further argue that their inclusion in a minyan is valid after the fact (bediavad), since women are technically eligible to constitute the quorum. Similarly, it is possible that ten women might be able to constitute a minyan on their own, since there is then no violation of the rules of modesty, as we have already seen regarding zimmun. We will pursue these very points further in section F.

C. THE SECOND SCHOOL

The second school rejects categorically the inclusion of women in any minyan quorum whatsoever. The basis for this opinion is the
Talmud’s statement (Berakhot 45b) regarding a zimmun of three women that “A hundred women are like two men.” Rashi ad locum understands the Talmud to be exploring the possibility of an optional two-man zimmun. In this regard, the Talmud points out that even a hundred women are no more obligated in zimmun than are two men. Yet, three women can form an optional zimmun and perhaps the same is true for two men. Accordingly, the Talmud’s statement has no implications regarding other mitsvot that require a quorum. Indeed, it is Rashi’s interpretation which is presumably adopted by the first school.

The Tosafot and other rishonim prefer to generalize the Talmud’s statement, arguing that it means to preclude women from the minyan of public prayer “and everything that requires ten.” Numerous aharonim maintain the position of the Tosafot and apply it to various ceremonies. For example, the Responsa Binyan Tsiyyon, explicitly rejecting the first school, excludes women from the minyan of parashat zakhor: “Even though [women] are obligated in the reading [of parashat zakhor] they are not eligible to complete the minyan. This is not dependent on obligation.”

This position is also maintained by the Responsa Torat Hesed regarding parashat zakhor; by the Sefer ha-Roke‘ah, Tsafenat Pa‘ane‘ah and Minhat Hinnukh regarding the laws of martyrdom; and by the Gaon of Vilna and R. Shlomo Zalman of Liady regarding zimmun be-shem.

A variety of explanations have been offered as to why the sages chose not to allow women to constitute a minyan. Sefer ha-Masbir suggests that Hazal simply followed the Torah’s lead which refrained from counting women in any of the various censuses. R. Yosef Engel maintains that the concept of community is dependent on inheritance and possession of the Land of Israel, for land is what ultimately binds individuals together into a community. Since women did not participate in the inheritance of the Land, they do not constitute a community. R. Gedalia Felder suggests that in order to be part of the community, one must be totally available at any moment for service to the community. Women, however, generally have prior obligations to their husbands and families; the principle of uniformity (lo pelug) rules out the inclusion of unmarried women. R. Moshe Meiselman discusses minyan in light of role-playing in Jewish life. He offers the opinion that men have been delegated the more public role, necessary for the constitution of a minyan, whereas women have been delegated more private roles. This is the intention of the verse (Psalms 45:14), “All the honor of the king’s daughter is within.”
D. THE THIRD SCHOOL

The last school of scholars contends that it is necessary to differentiate between two types of minyanim. Normally, the sages required ten male adults as a prerequisite for the performance of particular rituals, generally communal in nature. However, in certain cases, the minyan is not intrinsic to the performance of the mitsvah, for the obligation is essentially the individual's. Rather the minyan is needed only to give “publicity” to the performance. In such a case, women are counted even if their obligation is not equivalent to that of men. (This, of course, is in sharp contrast to the first school.)

The reading of the megilla is apparently the first case to which this distinction was applied. Ramban, contending that the purpose of the minyan in this case is solely to publicize the miracle of Purim, concludes that the requirements for the constitution of this minyan are less stringent than in other cases. Ran in this regard writes:

The Ramban has written... that all the cases listed (in Megilla 23b) are obligations of the community, and are therefore not performed unless ten, or at least a majority [of the ten], are obligated therein, e.g., if they have not yet heard barekhru or kaddish. However, for megilla, the need for ten is only in order to publicize the miracle. Therefore, we read it in the presence of ten for the sake of a single individual even though the others have already fulfilled their obligation.

R. Aaron ha-Levi (Ra’a) uses this same reasoning to allow an additional leniency, namely the inclusion of women in the minyan. Despite Rema’s hesitancy to follow Ra’a’s lead, a great many prominent authorities, citing the view of the third school, do indeed permit the inclusion of women in the minyan for the reading of the megilla and recitation of the blessing “ha-rav et riveinu” that follows it. Similarly the Sefer ha-Berit states that since the minyan recommended for circumcision is in order to publicize the mila, women are included. Rav Pe’alim and R. Ovadia Yosef allow the inclusion of women in the minyan for the special lighting of the Menorah in the synagogue, which was instituted to further publicize the miracle of Hanukkah. Women are also counted in the audience of ten necessary for the status of the public desecration of Shabbat.

E. THE MINYAN ELIGIBILITY OF WOMEN FOR THE HA-GOMEL BLESSING

Having discussed the various approaches to the question of women and minyan, we can turn now to analyze an issue not explicitly
discussed by the *rishonim* or the early *aharonim*, namely the inclusion of women in the *minyan* quorum of *birkat ha-gomel* (the *Ha-Gomel* blessing). This benediction acknowledges the hand of God in natural miracles and is recited by one who has survived a life-threatening experience, be it a dangerous illness, operation, child-birth, or serious accident. Since the purpose of the *minyan* is to publicize the miracle of salvation, some codifiers maintain that the presence of a *minyan* in this case is only recommended (*le-khathila*). Nevertheless, the consensus of *posekim* is that a *minyan* here too is obligatory and a necessary prerequisite.

Women too, despite the widespread impression to the contrary, are obligated by the majority of *posekim* to recite this blessing in the presence of a *minyan*. The question therefore arises as to whether they can constitute the *minyan* for this purpose. The second school quoted above, which never allows the inclusion of women in a *minyan*, would obviously reply in the negative in this case as well. However, according to the first school, since their obligation is equal to that of men, it follows that they should be eligible for the *minyan*. They should likewise be eligible according to the third school, since the purpose of the ten in the case of this blessing is to publicize the natural miracle of salvation.

As noted above, the *rishonim* and early *aharonim* do not explicitly discuss women’s *minyan* eligibility in this regard. *Keneset ha-Gedola* (*Orah Hayyim* 219), however, states: “The need for ten is only recommended. . . . A woman who cannot recite the blessing in the presence of men may recite it without ten, but before at least one man or [several] women. If she recited it in private, she has discharged her obligation.” *Keneset ha-Gedola* is of the minority opinion which maintains that a *minyan* is optional for *birkat ha-gomel*. More importantly for our purposes, he considers reciting this blessing before other women to be equivalent to reciting it before one man, suggesting that women do not constitute a *minyan* here.

Nevertheless, many contemporary authors have concluded that in this instance ten women or nine women and one man do indeed constitute a valid *minyan*. They derive this from the fact that *Mishna Berura* and others cite the ruling of *Keneset ha-Gedola*, not as “before women or one man,” but as “before women and one man.” While some have found such a halakhic position problematic, we believe it to be in accord with either the first or third schools as explained above.

**F. INCLUSION OF MEN AND WOMEN TOGETHER**

Now that we have clearly established that there are a variety of instances where according to the first and third schools women may
constitute a minyan, the question arises as to whether they may be counted together with men or only in a separate women’s minyan. The answer to this question depends on the various explanations of the mishna (Berakhot 7:2) which states: “Women, slaves and children are not counted for the purpose of the zimmun quorum.” A minority opinion maintains that this mishna only prohibits the formation of a quorum of three for zimmun via the combination of women with slaves or children, but there is no reason why women and men cannot join together for this purpose. Accordingly, in cases where women are eligible for the quorum of ten, they will be able to join men in constituting the minyan.

Most rishonim, however, maintain that the intention of the mishna is to invalidate a zimmun formed by combining men and women. Four reasons are offered for this prohibition. Firstly, some rishonim suggest that a woman’s obligation to recite the blessing after meals may not be biblical in origin; hence women cannot form a zimmun with men because they do not share a common level of obligation. Others argue that the text of the birkat ha-mazon in which women are obligated differs from that of men, because women need not mention the covenant of circumcision or the obligation to learn Torah. A third group of rishonim posits that men and women cannot join together in one zimmun unit because the dining of women together with men is not considered to have an established and permanent nature. However, these three reasons are specific to the blessing after meals; accordingly, in other cases where these reasons are not relevant, women may well be able to join men in constituting a quorum.

The fourth reason offered by commentators for this prohibition is that such a combination of the sexes might lead to “immodesty.” What precisely, though, is immodest about this behavior? Tashbets and other authorities state that mealtime is especially problematical because it is a time of drunkenness, levity and frivolity. This would again lead us to conclude that the prohibition is not general and would not apply to other obligations not performed in the same atmosphere.

Ran and Ritva contend that Halakha is only concerned about immodesty when the presence of the women results in a noticeable change in the text of the ritual, e.g., an additional zimmun blessing is recited in the birkat ha-mazon. Therefore, concludes Ran, if there are already three men present establishing a zimmun, women may join the zimmun since no noticeable change arises by their inclusion. Similarly, he maintains that women may join with men to complete the minyan for the reading of the megilla (assuming that their obligation is equal to that of men) since the blessing made by an
individual or a community is the same and, hence, nothing draws attention to the inclusion of the women. 

Other authorities, however, contend that any combination of men and women is immodest. Tur, quoting Sefer ha-Ittur, specifically mentions megilla in this respect. “It is logical to conclude that just as women form a zimmun but do not join men in constituting this quorum (because of immodesty), so too their inclusion in a minyan (for megilla) is not recommended.” It should be noted that Sefer ha-Ittur used the wording “their inclusion in a minyan is not recommended,” i.e., their exclusion is only preferred (lekhat‘hilla).

R. Yaakov Emden and R. Sraya Devlitzky understand this to mean that the Sefer ha-Ittur would concede that counting women together with men is valid post facto (bediavad), since women are technically eligible to constitute the quorum (when approved by the first or third schools). Moreover, the Sefer ha-Ittur should certainly agree that ten women are not barred from forming a minyan on their own, since in such a case there is no fear of violating the laws of modesty. Thus the many authorities who permit the reading of the megilla by or for a minyan of ten women with the recitation of the “ha-rav et riveinu” blessing at its conclusion.

From the above discussion we may conclude that most rishonim concur that whenever women are eligible for inclusion in a minyan (according to the first and third schools above), they may join together with men to do so. Although Tur (Orah Hayyim 689) cites the opinion of Sefer ha-Ittur who rules against joint constitution of a minyan, disqualification is only recommended (lekhat‘hilla). Furthermore, Bah and R. Joseph Karo in Beit Yosef (ad loc.) prefer the alternative explanation of Ran outlined above. R. Karo consequently omits altogether from his Shulhan Arukh the opinion of Sefer ha-Ittur, thereby indicating that the Ittur’s view is not definitive halakha. The consensus of the later aharonim also seems to run counter to the view of Sefer ha-Ittur. Thus, we saw in Section E above that several contemporary authorities accept a minyan of nine women and one man for the purpose of reciting birkat ha-gomel. Similarly Hazon Ish, Sha’arei Emet, and R. Zundel Grossberg explicitly permit women to join with men in constituting the minyan necessary to read the megilla. R. Ovadia Yosef permitted their inclusion together with men in the minyan present at Hanukkah candle-lighting in the Synagogue, while Or Hadash, Ura Shahar and others count women together with men in the minyan of public martyrdom. Hence, with the exception of zimmun, men and women may join together to form a minyan when suitable.
G. DOES THE MEHITSA INTERFERE WITH JOINT CONSTITUTION?

We must now determine whether a minyan can be constituted jointly by men and women where they are separated by a mehitsa. After all, Shulhan Arukh (Orah Hayyim, 55:13) rules that the participants in a minyan must be together "in one place," and the mehitsa would seem to have the effect of dividing the room into two distinct locations.

The resolution of this question according to the third school is quite straightforward. The very "publicity" consideration, which allowed women to be counted, also removes any problems that might result from the existence of a physical barrier between members of the minyan. Ritva has already ruled that since the minyan of megilla is merely to publicize the miracle of Purim, we may count towards a minyan even those who are outside the synagogue. This opinion is cited by several contemporary authorities.86

Even according to the first school—which maintains that the eligibility of women to join a minyan results from the fact that their obligation is equal to that of men—it appears that the mehitsa does not bar joint constitution for several reasons. First of all, the mehitsa often consists of no more than a curtain. R. Y. Castro has ruled that a mere curtain hung for the sake of modesty does not interfere with the constitution of the minyan.87

Secondly, even in the case of a solid structure, Sha'arei Teshuva and Mishna Berura accept the inclusion of people in two different rooms, provided there is visual contact between them.88 Therefore, if the mehitsa is not higher than shoulder level (in accordance with the opinion of R. Moshe Feinstein and R. Yehiel Yaakov Weinberg69) or if the women are in a balcony with a low mehitsa, there is no bar to their inclusion.

Even if the mehitsa is above the heads of the women, it does not normally reach the ceiling, in which case the room is not considered to be divided. Precedent for this ruling is found in the various responsa dealing with public prayer on a train, where there are high backs to the seats forming partitions between the benches. If there is a space of eleven inches (three tefahim) under the ceiling, the passengers can be joined in a minyan.90 In this manner, R. Yehuda Herzl Henkin88 explains the ruling of his grandfather, R. Eliyahu Henkin,91 who permitted a daughter to recite the kaddish from the women's side of the mehitsa even though kaddish requires the presence of ten males. This also explains the ruling of the Keneset ha-Gedola (Orah Hayyim 219) and later posekim71 that a woman may recite birkat ha-gomel from the women's section, and be heard by a
minyan of ten men. If the mehitsa does not reach the ceiling, she is considered to be reciting the kaddish or the ha-gomel blessing in the presence of the men.

Recently, R. Y. H. Henkin has argued that even a mehitsa which reaches the ceiling may not interfere with the inclusion of people from both sides in the same minyan. Since the purpose of the women’s section is to serve as a place where women can hear and participate in the service together with the men, the two sections have a common single function; therefore, the women’s section is considered an adjunct to the men’s section. The Responsa Minhat Yitshak offers this same reasoning in the case of a study hall that was extended into a neighboring room. Since the two rooms have a common function, he concludes, they are considered to be a single room.

In summary then, a mehitsa does not prevent men and women from joining together to form a minyan quorum, when appropriate according to either the first or third schools.

H. WOMEN AS ADJUNCT MEMBERS OF A MINYAN

Our discussion until now has assumed only one type of membership in a minyan, namely full constituting membership. Thus, ten fully qualified members constitute a minyan—with the various schools disagreeing as to whether and when women are to be considered fully qualified. In truth, however, there are codifiers who, in the absence of a fully qualified member, permit the completion of the minyan through the participation of one normally disqualified. We will refer to these two different types of membership in a minyan as primary membership (ikkar) and adjunct membership (senif).

For instance, the primary members of a minyan for the purpose of public prayer (kaddish, kedusha, barekhu, and the repetition of the shemoneh esreh) must be free male adults, and according to most opinions, the same is true regarding zimmun be-shem. Rabbenu Tam is perhaps the most prominent authority who permits a minor or a slave to complete the minyan for these purposes. Rabbenu Simha and others maintain that a woman may also be included as an adjunct member in order to complete the quorum for public prayer and zimmun be-shem.

As R. Joseph Karo explains, this opinion maintains that the criterion of “in the midst of the children of Israel,” from which the sages derive that the presence of God rests on any group of ten, applies equally to all members of the Sinaitic covenant—adults or minors, freemen or slaves. Rabbenu Simha clearly maintains that
the same is true for women. However, a valid minyan requires the presence of at least nine ikkarim (free males); more than one senif (woman, minor or slave) would render the minyan invalid, for this would be inconsistent with the honor of heaven.97

Interestingly, R. Karo concludes his discussion of this issue in the Beit Yosef95 by ruling that “since Rabbenu Tam himself refused to implement this practice [of including a woman], who will [dare to] do so. The accepted practice is not to include a woman at all.”98 This is also the definitive halakha as codified in R. Karo’s Shulhan Arukh (Orah Hayyim 55:4) regarding public prayer and in the aharonim regarding zimmun.99

Thus, there is an overwhelming and nearly unanimous consensus regarding the non-inclusion of women in the minyan for public prayer—neither as a primary (ikkar) nor even as an adjunct (senif) member. Nevertheless, over a decade ago, the Conservative movement adopted a position permitting the inclusion of women in all instances (including public prayer) where the necessary minyan quorum of ten is required. This action has been rationalized as being in consonance with the position maintained by the school of Rabbenu Simha.75 As is eminently clear from the above analysis, this understanding of Rabbenu Simha is erroneous. Rabbenu Simha was prepared to count a single woman toward the minyan of public prayer and only as an adjunct (senif). He never entertained the possibility of assigning full status to women as an ikkar for the minyan of public prayer from whose obligation women are free.26 Moreover, as we have pointed out, the overwhelming majority of halakhic decisors have ruled contrary to Rabbenu Simha’s approach. (See also references 1a and b). For these reasons, many within the Conservative Movement itself have attacked this decade-old decision as being a serious break with Halakhah.100

I. CONCLUSION

In the present paper we have explored the rules and rationales of minyan eligibility, in particular as it applies to women. We have reaffirmed that women cannot constitute a minyan—either alone or together with men—for the purpose of public prayer which includes kaddish, kedusha, barekhu, repetition of the shemoneh esreh or the reading of the Torah and the haftarah.101 However, this does not mean that women are excluded from all minyanim. Indeed the majority of posekim posit that women may constitute a minyan, according to one school, if their obligation in a given ritual is identical to that of men or, according to another school, when the
The purpose of the minyan is to “publicize” a miracle or the performance of a mitsvah. Thus, there are a variety of halakhically relevant cases where rabbinic authorities permit, both in theory and practice, the inclusion of women in a minyan. These include: 1) megilla and the “ha-rav et riveinu” benediction that follows it (four rishonim and some fifteen aharonim; 2) public martyrdom (eleven aharonim); 3) the ha-gomel blessing (seven aharonim); 4) circumcision (two aharonim); 5) Hanukkah lighting in the synagogue (two aharonim).

The implications of this paper for the workings of “women’s services” should be obvious, though this innovation itself deserves long and considered evaluation and will be treated by this writer in a subsequent piece. It has long been our conviction that the spiritual needs expressed and the questions raised by modern religious women concerning their standing in Jewish law should and can be tackled seriously, respectfully and sensitively. However, it is only from a position of scholarship and earnestness that we can be sure that our queries are valid and confident that our creativity will not violate the rubric and guidelines of Halakha.

NOTES

2. A portion of this paper appeared previously in Hebrew: A. A. Frimer, Or ha-Mizrah, 34 (1, 2), 69 (Tishrei 5746).
3. Megilla 4:3. Note that some of the rituals listed have fallen into disuse.
4. a) See Encyclopedia Talmud, vol. 6, davar she-bi-kedusha. Most opinions include kaddish, kedusha, barekhu, and the repetition of the shemoneh esreh in the category of davar she-bi-kedusha. There is some controversy regarding the status of the reading of the Torah and the haftarah, the recitation of the thirteen attributes of God, the priest’s blessing and zimmun be-shem. The category into which these latter terms fall is of halakhic relevance, since women cannot count towards the minyan of a davar she-bi-kedusha (infra, notes 19–20). If, however, a ritual requires a quorum of ten for reasons other than davar she-bi-kedusha, women may perhaps be counted, this depending on the conditions and schools of thought (vide infra).
   b) Rabbenu Yona (Berakhot 21a, s.v. ve-nikdashti) notes that not all rituals which sanctify the Almighty’s name are classified as devarim she-bi-kedusha. Thus, the acceptance of the heavenly yoke in the recitation of the shema does not require a minyan. As a result, R. Yona suggests that devarim she-bi-kedusha should be defined as those rituals for which the Rabbis saw fit to require the presence of ten because of the sanctification element. These cannot be performed in the absence of the minyan quorum. However, since Hazal never required a minyan for shema, it may be read in private despite its central importance.
5. Leviticus 22:32. See R. Menahem M. Kasher, Torah Shelema, Genesis 42:5 note 30 for a discussion of this and other derivations.
7. Megilla 23b; Berakhot 45b.
8. R. Yaakov Emden (Lehem Shamayim, Megilla 23b) applies this reason to the mourners’ blessing and the consolation of the mourner as well.
11. Psalms 68:27. Kahal (congregation) is assumed to be equivalent to edah and therefore requires ten participants; see Rashi, Ketubbot 7b, s.v. be-makhelot.
12. Berakhot 54b; See Gilyon ha-Shas (ad loc.) and footnote 11.
14. a) Megilla 5a and Rashi and other commentators, ad loc.
    b) Rema, Orah Hayyim (henceforth; OH) 692:1 also requires a minyan to recite the “ha-rav et riveinu” blessing that follows the megilla reading. See Berur Halakha (Zilber) ad locum and Kaf ha-Hayyim 690:124.
    c) It should be noted that regarding megilla reading, there are both stringencies (see e.g., Shulhan Arukh, OH 690:1, 692:8) and leniencies (e.g., ibid., 689:5, 690:18) which result from the presence of a minyan.
15. Sanhedrin 74a.
16. Maimonides, Sefer ha-Mitsvot, positive 9; Sefer ha-Hinnukh 268; Yere'im 403; Semak 44; Metsudat David Ta'amei ha-Mitsvot (Radvaz); 6, Semag, positive 5; Migdal David (Ha-Kokhavi), Sefer Mitsvot positive 11.
17. For an extensive list see reference 2 (footnotes 14 and 15 therein). The first position is Ran, Megilla 23b, s.v. ve-ein nos'im.
19. Shulhan Arukh OH 55:1 and commentaries ad locum: Levush 1; Magen Avraham 1; Mishna Berura 2; Arukh ha-Shulan 6.
21. Ra'avan 185.
22. Levush, OH 55:4. See Malbim, Ha-Torah ve-ha-Mitsvah, Leviticus chap. 1, secs. 7 and 8, and ch. 4, sec. 191. See also Magen Avraham, OH 14, subsection 2 and Pri Megadim ad loc.
23. Meiri, Beit ha-Behira, Megilla 5a.
24. The period of the rishonim (the “early” scholars) begins in the middle of the eleventh century (the time of R. Isaac Alfasi) and continues until the sixteenth century (just prior to the time of R. Joseph Karo and R. Moses Isserles).
25. The period of aharonim (the “late” scholars) starts from the time of R. Joseph Karo and R. Moses Isserles and continues down to the modern period. The 19th- and 20th-century scholars are often referred to as aharonim ha-aharonim.
26. Responsa Shevuot Yaakov, OH 3:54; Resp. Teshuvah me-Ahava 2:229. See the letter of the Gaon of Vilna (Alim li-Teruah) where he advises the women of his family not to attend the synagogue; Resp. Torat Hesed, OH 4:6; Resp. Heikhal Yitshak, OH, 12:5, 9; Resp. Tiferet Moshe (by Mori Zekeri R. Moshe Zev Kahn z’t); 1:29; Resp. Tsemah Tsedek, OH 19:2; Resp. Tsits Eliyzer 9:11; Resp. Beit Avi 4:3; Resp. Sha'arei Moshe 2:3; Resp. be-Tsel ha-Hokhma 4:19, 9; Mo'adim u-Zemanim 1:9.
27. For a discussion of the rationale, see reference 2, note 43.
28. An unusual position is found in Yad Eliyahu (Regolar), vol. 1, pesakim, 7, who maintains that even though women are not included in the minyan, they are counted, if there are ten men present, in order to meet the requirement that the congregation include ten persons who have not yet prayed so that the prayers obtain the special status of tefilla be-tsibbur (public prayer).
29. Margaliot ha-Yam, Sanhedrin 74b, sec. 27; Resp. Orah la-Tsaddik, 3. This also seems to be the view of Levush, OH 55:4 (see reference 2 section 3, 1).
30. Vide infra, section B, 6.
31. Sheyarei Keneset ha-Gedula, OH 55, commentary to Beit Yosef, n. 4. His position is accepted by Olui Tumid and Ba'er Heitev ad loc.; Pit'hei Teshuva, Yoreh De'ah 341:14; Responsa Maharaim Shik, Yoreh De'ah 342; Mishna Berura 55:24; Shevuot Yaukov 2:25.
32. Kol Bo al Aveilut (vol. 1, chs. 2, 4, 9, and vol. 2, chs. 1, 4, 5) prohibits, while Gesher ha-Hayyim (18:2, 3) and Ramat Rahel (Waldenberg) 47 permit.
33. Tosafot, Rosh ha-Shana 33a, s.v. ha; Meiri, Megilla 23a; Ran, Megilla 23a, s.v. ha-kol olim; Sefer ha-Batim, Beit Tefilla, Sha'arei Keriat ha-Torah 2:6; Beit Yosef, OH 282, s.v. ha-kol and Derisha ad loc.; Responsa Orah la-Tsaddik 3; Resp. Maharash, vol. 1, 158; Resp. Mateh Yehuda 282:7; Kisei Rahamim (Hida) on Massekhet Soferim 18:4; Tosafot
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s.v. she-ha-nashim; Aruh ha-Shulhan, OH 282:11. This is obviously the opinion of the Gra, as is apparent from his letter to his wife (above, n. 26). This is also the ruling of Yehaveh Da'at, 4:23, n. 1.

On the other hand, Magen Avraham (OH 282:6)—although he mentions that women customarily leave the synagogue during the reading of the Torah—believes it likely that they are obligated, based on the passage in Massekhet Soferim 18:4; see Mishna Berura 282:12; Birkei Yosef 282:7; Yeshu'ot Yaakov, 282:4. See also Mikra'ei Kodesh (R. Zvi Hirsh Grodzinsky), Sha'arei Kedusha, 4 and Resp. Hillel Omer (R. Hillel Posek) 187, discussed in reference 2, section 3.2.

34. Rosh Yosef (Teomim), Megilla 23a, s.v. leima.
36. A survey of the different opinions can be found in Responsa Yehaveh Da'at 1, 84; Encyclopedia Talmudit, vol. 12, zechirat ma'aseh Amalek, sec. 3 (p. 222); Halikhot Beiti'ah, 9:5, n. 8; Halikhot Bat Yisra'el, 22:1, n. 1–4. To the list of those who favor exemption should be added: Responsa Zekher Simha (Bamberger) 75 (printed in Responsa Yad ha-Levi [R. Y. D. Bamberger] vol. 2); R. Y. D. Bamberger (Ha-Ma'ayan Tevet 5739 [19] p. 33); Sha'arei Emet 3, Hemdat Aryeh (R. Moshe L. Litsch-Rosenberg), ch. 5, 5; Responsa Torah Lishmah 187; Mo'adim u-Zemanim 2,167, addenda in vol. 8; Pithei Olam u-Mat'amai ha-Shulhan (Karasik) OH 685:7. To those who obligate should be added Responsa Minhat Yitshak 9:68; R. Y. Y. Neuwirth, Madrikh Halakhot la-Ahayot be-Batei Holim, (Jerusalem 5736) p. 56, no. 1.; Derashot Hatam Sofer, v. 3, Derush le-Bar Mitsvah p. 72.
37. Yehaveh Da'at and Mo'adim u-Zemanim cited above, n. 36. Mo'adei Yeshurun (Felder), Hilkhot Purim 1:3, n. 9 quotes R. Moshe Feinstein that the opinion of R. Natan Adler is not accepted and women may fulfill the obligation with a printed humash. It is somewhat surprising, therefore, that Minhat Yitshak (above, n. 36) states that the majority opinion maintains full obligation.
38. R. Moshe L. Bamberger and R. Simcha Bamberger in Responsa Zekher Simha, (above, n. 36); Responsa Binyan Tsion ha-Hadashot 8; Sha'arei Emet (above, n. 36); Hazon Ish as quoted by R. C. Kanievsky cited in Purim ve-Hodesh Adar (R. Zvi Cohen), p. 21.
39. While the obligations of women and non-Jewish slaves are similar in many instances, the rationale is radically different. A slave is obligated in fewer mitsvot because he lacks the sanctity of the Jew. Not so with Jewish women who are of equal sanctity, yet are freed of many mitsvot in order to allow them to manage their time in accordance with family obligations. See: R. S. Kasher, Torat ha-Rogatchovi—Rabbenu Yosef Rosen (Jerusalem; 5726) p. 50; Dibberot Moshe (Feinstein), Kiddushin, v. 1, 46; Resp. Iggerot Moshe, OH 4:49; R. Joseph B. Soloveitchik as quoted by R. Hershel Schachter, Or ha-Mizrah, 34 (1, 2), 54 (especially p. 64). See also sources in footnote 1.
40. It should be noted that even if women are biblically obligated to read Parashat Zakhor, nevertheless many leading posekim (infra, n. 41) maintain that they need not do so in a minyan or with the appropriate benedictions. These requirements are part of the general rabbinic Torah reading obligations from which women are exempted. Formulated somewhat differently, even if women are biblically obligated to read Parashat Zakhor, unlike men they may not be rabbinically obligated to do so publicly. Indeed, many communities have an annual special reading of Parashat Zakhor for women without the presence of a minyan and without the customary blessings (infra, n. 42). Furthermore, many authorities maintain that a woman fulfills her biblical obligation even by reading the portion from a printed humash or by reciting it by heart (infra, n. 43). Hence, it could well be argued that even according to the first school, a woman's obligation in Parashat Zakhor does not necessarily lead to her eligibility for inclusion in a minyan for it.
41. Kaf ha-Hayyim 685:30; Mishna Berura 685:16 (Sha'ar ha-Tsiyyon 5); She'arim ha-Metsuyyanim ba-Halakha Kuntrus Aharon, 140:1, citing the Responsa Binyan Shlomo; R. Ben-Tzion Lichtman in Noani 7 (5724), p. 361, and Bnei Tsiyyon, v. 2, 55:1–2. See, however, the discussion in Berur Halakha (Zilber) 146:2 and Aseh lekha Rav (R. H. D. Halevi) 7:41.
42. Purim Meshullash 2:8, n. 20, that this is the custom in Bnei Brak. I have also witnessed this custom in Borough Park, Brooklyn, and Rehovot. Indeed the Pri Megadim in Rosh Yosef (Megilla 23b) sees no prohibition in reading from a Torah scroll without its attendant blessings in the absence of a minyan. This position is also maintained by R. Y. Y.
Halberstam, *Moriah* 14 (1, 2) Adar 5745, 34; see especially p. 46. *Mo'aidei Yeshurun*, op. cit., however, quotes R. M. Feinstein to the effect that such behavior shows disrespect to the Torah. This is quite surprising since R. Mordechai Tendler in a well publicized responsum on the subject of women's services, dated 4 Sivan 5743, cites his grandfather (R. M. Feinstein) to the effect that women can read from the Torah without a *minyan* or blessings. Nevertheless, see *Halikhot Bat Yisra'el* 22, n. 3, who quotes R. S. Eliashiv that *Parashat Zakhor* requires the presence of ten men. See also *Adar ve-Purim* (Schwartz) 3:3,1 who cites R. Moshe Stern as permitting the gathering of a *minyan* of men to read *Parashat Zakhor* for women without the Torah blessings. R. Menashe Klein is quoted as disagreeing with this institution of a new custom.

43. *Mo'adim u-Zemanim*, (above, n. 36); *Mo'adei Yeshurun*, (above, n. 36), in the name of R. Moshe Feinstein; *Responsa Minhat Elazar* 2, 1, 4ff; *Resp. Torat Hesed*, OH 37; *Pithei Olam u-Matamei ha-Shulhan*, (above, n. 36). R. Aharon Lichtenstein has also ruled that women can fulfill their *zakhor* obligation, even if biblical in nature, by reading the requisite portion from a printed *humash* in private.

44. OH 690:18; *Misha Berura* 690:61 and *Sha'ar ha-Tsiyyun* ad loc. Concerning the possibility of reading on the fourteenth in a walled city, see *Yehayveh Da'at* 1:4, n. 1, and *Yabia Omer* 6:46.

45. Rema OH 690:18 as understood by *Hayyei Adam* 155:12; see Eliyahu Rabba ad loc. (There are several explanations for the uncertainty of Rema; see reference 2, n. 78.) See also *Sha'arei Emet* 3, *Hemdat Aryeh* 4:5.

46. *Sefer ha-Ittur*, *Hilkhot Megilla* is quoted with the qualification “le-khat'hilla” (i.e., not preferred or not recommended) by the Hiddushei ha-Ran (actually Hiddushei Talmidei ha-Ramban), Megilla 4a, Beit Yosef ad loc. However, some *rishonim* quote the ruling of *Sefer ha-Ittur* without the qualification “le-khat'hilla”; see Meiri Megilla 4a ("the scholars of Provence") and 5a, s.v. kol; *Me'orot* and *Mikhtam*, Megilla 5a; *Shilitei ha-Gibborim*, *Megilla* 4a; Ran on the Rif, *Megilla* 19b. It should also be noted that *Sefer ha-Ittur* itself does not cite modesty as the reason, but Ran (on the Rif), Meiri, *Me'orot*, and *Bah* do. See also *Mor u-Ketsia* 199 s.v. *di-be-din*.

47. Other authorities are cited by the *Encyclopedia Talmudit*, vol. 12, *zimmun*, sec. 8.

49. *Shulhan Arukh*, OH 199: 6ff; the Vilna Gaon (ad loc.) dissents.


51. Meiri, *Berakhot* 47b; *Kesef Mishneh*, *Hilkhot Berakhot* 5:7; Beit Yosef, OH 199, s.v. u-ma she-katav; Kiryat Sefer ad loc.; *Kehillat Yaakov* (Karlin) *Berakhot* 45b; *Mishna Berura* 199:15. This explanation is problematic, however, since the *Talmud* (Megillah 23b; *Berakhot* 45b) explicitly states that the exclusion of women is due to “accepted protocol.” R. Yaakov Sofer (*Torat Hesed*, OH 199:11) suggests that the intention of Beit Yosef is not to offer a reason for the exclusion, but only to indicate that the quorum requirements of *zimmun be-shem* are equivalent to those of the *devarim she-bi-kedusha* listed in the *misnha*, which require ten adult free males. A similar approach is found in *Noda bi-Yehuda Even ha-Ezer* vol. 1, 56 and *Arukh ha-Shulhan*, *Even ha-Ezer* 62:13.

52. Meiri, *Berakhot* 47b; *Sefer ha-Menuha*, *Hilkhot Berakhot* 5:7. *Benei Tsiyyon* (R. Bentzion Lichtman) 3, 199, 6, 6, argues that this is also the opinion of the Rambam, contrary to the view of the *Kesef Mishneh*, above n. 51. See also n. 62.

53. *Me'orot*, *Berakhot* ch. 7; *Sefer ha-Menuha* ibid.; *Arukh ha-Shulhan*, OH 199:2. It should be noted that although *Shulhan Arukh* (OH 199:7) maintains that ten women who dined with three men are indeed obligated in *zimmun*, they still cannot recite the *zimmun* introduction *be-shem* for two reasons: firstly, a change in the text because of the presence of the women is considered a breach of modesty (*vide infra* section F); secondly, the women’s obligation is only by extension from the men and not an intrinsic one (see Levush, OH 199:7). Hence, they lack the maximal obligation which according to the first school is a prerequisite for *minyan* eligibility.

54. Meiri, *Berakhot* 47a; *Me'orot*, *Berakhot* 45b; *Shilitei ha-Gibborim*, *Berakhot* 7:2 citing Rosh. See reference 2 note 25. *Benei Tsiyyon* (above, n. 52) explains this opinion at length, stating: “The reason is that *barekhnu* which precedes the reading of the *shema* is intended as a blessing of God’s name and sanctity, and therefore is considered a *davar she-bi-kedusha*; whereas, the *barekhnu* or *nevarekh* in the *zimmun* is a blessing for the enjoyment of what
was eaten, as though he said explicitly, 'bless God for what we have eaten.' Therefore, it is not a davar she-bi-kedusha. . . . Nevertheless, when he says 'to our God' in the plural, there must be ten people present."

55. This is the opinion of Semak (44); Lehem Mishneh and Kiryat Sefer (Hilkhot Yesodei ha-Torah 5:4); Pri Hadash (Yoreh De’ah 157), Minhat Hinukh (296), and Shelah (Sha’ar ha-Otiyyot, 1). Mirkevet ha-Mishneh, Hilkhot Yesodei ha-Torah 5:4 and Hamra ve-Hayyei, quoting Meiri (Sanhedrin 74b), contend that there exists a biblical obligation to sanctify the name of God in private as well.

56. R. Yaakov Emden, Migdal Oz, Even Bohan 1:69; R. Yosef Engel, Gilyonei ha-Shas (Sanhedrin 74b); Margaliot ha-Yam, Sanhedrin 74b, notes 6 and 27; Einayim la-Mishpat (Sanhedrin 74b); R. Meir Blumenfeld, Or Hadash 8:12; Yesodei Yeshuran, vol. 1, p. 189; R. M. Leiter, Be-Shulei ha-Gilyon (Sanhedrin 74b), quoting Responsa Mahari Ashkenazi, Yoreh De’ah 13 (it should read 16) R. Yerucham Perelman, Or Gadol 1; R. Natan Nata Segal Landau, Ura Shahar, Kedushah, 6; R. Avraham Stern, Melissei Esh, 3 Elul, 163 and Mesader Hillukim ve-Shitiot, Yad 396f. Pithei Teshuva and Gilyon Maharsha on Yoreh De’ah 157 leave the question unresolved.

57. Interestingly, Ran (Sanhedrin 75a) as well as several later commentators (Melo ha-Ro’im, Gur Aryeh and Yad David ad loc.) go so far as to entertain the possibility that even non-Jews—were they obligated in this mitsvah of martyrdom (which they are not)—would be eligible to form a minyan.

58. See sec. F below for a discussion of this term.

59. Resp. Zekher Simha (Bamberger) 75. The phrase “association with them is improper” (she-ein havuratan na’ah) appears first in Rabbenu Yona (Berakhot 45a) in regard to the inclusion of women and men together in a zimmun of three. See, however, footnote 82.

60. Yefei Lev, vol. 2, OH 690:17 and 689:2; Sefer Kol Bo, Hilkhot Megilla, 45.

61. See Ura Shahar, op. cit.

62. Tosafot, Tosefot ha-Rosh, Tosefot Hakhamei Anglia, Tosefot Rabbenu Perets, and Tosefot Rabbenu Yehuda Sirleven to Berakhot 45b; Or Zarua’i, vol. 1, 184; Responsa Maharam mi-Rothenberg (Mossad HaRav Kook 5717) 1:65; Sefer ha-Me’orot, Sefer ha-Mikhtam, and Hiddushei ha-Ran, Megilla 5a; Orhot Hayyim, Hilkhot Megilla 2; Kol Bo 45. See also Tosafot Yeshanim, Yevamot 46b s.v. be-Rabbi Yehoshua who states that “women are not considered to be a nation’’; Sefer ha-Memua, Hilkhot Berakhot 5:7, who states that women “are not considered to be a congregation at all.” A similar statement appears in Riva, Ketubbot 7b, and Meiri, Berakhot 47b. The use of “congregation” (kahal) to exclude women is problematic, however; see reference 2 footnote 99. See also Sefer ha-Roke’ah ha-Gadol, Hilkhot Se’udah, 334 according to Gilyonei ha-Shas (R Joseph Engel), Sanhedrin 74b.

63. Gra, OH 199:6; Shulhan Arukh ha-Rav, OH 199:6-7 and 263:22, Kuntres Aharon 7; Minhat Hinukh 296; Or Same’ah, Hilkhot Berakhot 5:3; Resp. Torat Hesed, OH 37; Tsafenat Pa’aneah, Hafla’ah deletions to Megilla 1:3 and Mahadura Tiyana, Hilkhot Yesodei ha-Torah 5:5; Resp. Maharash (Engel) 3:88; Gilyonei ha-Shas (R. Yosef Engel), Berakhot 45b; Resp. Binyan Tsiyyon, vol. 2, 8; Kehillot Yaakov (Karlin), Berakhot 45a; Or Olam (Blumenfeld), p. 72; Pri Yeshurun (Felder) to Tanya Rabbati, vol. 1, Ker’at Shema, p. 368; She’erit Yosef (Warman), vol. 1, 37; Mishneh Halakhot (Klein), vol. 4, 78; Hiddushei Batra on Sefer ha-Masbir, Berakhot 45b, 334.

64. Nahmanides, Milhamot ha-Shem, Megilla 5a; Ran ad loc.; Ra’a cited by Riva, Megilla 4a.

65. Darkhei Moshe, OH 690:6 citing Or Zarua’i 370; Rema OH 690:18. Several explanations have been offered for the doubt expressed by Rema; see note 66b and reference 2 note 78.

66. a) Mash’ha de-Rabbevata (R. Mas’ud Raphael Alfasi), vol. 2, addenda at the end of the volume, sec. 689; Hazon Ish, OH 155:2; Iggeret ha-Purim (Grosberg), first edition 7:2, second edition 8:3; Salmat Hayyim (Sonnenfeld), vol. 1, 101; Purim Meshullash (Devilsly) 2, 8, 9 and addendum thereto; Mikra’ei Kodesh (Frank): Purim, 35, and 50, n. 3; Tsits Eliyzer 3:73; Rav Pe’alim, OH 2:62; Hug ha-Arets (R. Y. Algazi); Yalkut Yosef, second ed., Hilkhot Mikra Megilla, 7; Likkutei Kol Sinai (R. Ovadia Yosef), p. 47, sec. 23; Halikhot Beitah 24, 17-21 and notes 33, 34, 44 and 48; Adar ve-Purim (Schwartz) 8, 5, 3. However, Kaf ha-Hayyim, OH 690:120 and Arukh ha-Shulhan, OH 690:25 disagree.

b) See Mikra’ei Kodesh, Tsits Eliyzer, Rav Pe’alim, Adar ve-Purim, and Purim Meshullash, all cited above, who state that the doubt expressed by Rema regarding the inclusion of women in a minyan for megilla concerns only their joining together with men
Aryeh A. Frimer

for this purpose, because of modesty considerations. Rema would, however, have no reservations regarding a minyan for megilla made up solely of women.

67. Sefer ha-Berit, Yoreh De'ah 265:6, 79–80. Koret ha-Berit (Posek), Yoreh De'ah 265:47, states that women are included because they are considered to be circumcised, which appears to be in accord with the first opinion.

68. a) Responsum Rav Peh'ali, OH 2:62; b) R. Ovadia Yosef (Yalkut Yosef, second edition, Hilkhah Hanukkah 17) rules that four women may join six men for this purpose.


70. Be'ur Halakha, Mahatsit ha-Shekel, Kaf ha-Hayyim and Berur Halakha to OH 219:3; Sha'arei Ephraim 4:27; Yehaveh Da'at 4:15.

71. Birkei Yosef, OH 219:3; Eliyahu Rabba 219:12; Seder Birka ha-Nehemin 13:3; R. Yaakov Emden, Siddur Sha'arei Shamyaim, Birka ha-Gomel, 2; Sha'arei Ephraim 4, Pithei She'arim 28; Ben Ish Hai, Ekev, 5; Hayyey Adam, OH 65:2; Resp. Tsits Eliezer 13:17; Penei Barukh (Goldberg), Bikkur Holim ke-Hilkhoto 2:33—see also comments of R. Y. Y. Fisher therein noting that the custom nowadays is that women do make the ha-gomel blessing; Zekhor le-Avraham (Alkalai) 2, OH Bet, 12; Siddur Beit Oved (R. Y. S. Ashkenazi), Birka ha-Gomel, law 22; Me-Am Lo'ez, Vayera, p. 348; Derekh Yeshara 2:12; Yehaveh Da'at 4:15; Arukh ha-Shulhan OH 219:10.

72. So understand the Kaf ha-Hayyim, OH 219:3; Penei Barukh, op. cit., note 80; Hiddushei Batra—Haga be-Mishna Berura 219:3.


b) Birka ha-Bayitii (27:24) and Yehaveh Da'at (4:15, second note) also understand Mishna Berura and Keneset ha-Gedola as permitting the inclusion of women but disagree with this position. Arukh ha-Shulhan, OH 219:6 and R. Shlomo Zalman Auerbach (quoted in Halikhot Beitah 13, 7, 13) also exclude women from the minyan of the ha-Gomel blessing. See also reference 2, footnotes 96 and 99.

74. OH 213, Mishna Berura 3, Ba'eri Heitev 1, Birkei Yosef 2; Darkhei Hayyim, Birka ha-Gomel 3; Birkhot Yisrael, vol. 2, 13, 3,684.

75. Mordekhai, Berakhot 7:158 cites Rabbenu Simha. Shiltei ha-Gibborim, Berakhot 7:2 cites Rabbenu Simha, Rabbeno Tam, and Rosh. Responsa Maharit mi-Rothenberg (Kabana ed.) vol. 1, 65; Sefer ha-Agur 240; Beit Yosef, OH 55, s.v. vekatuv and OH 199, s.v. u-ma she-katav; and Bah ad loc. all cite R. Simha and R. ha-Kohen. Shulhan Arukh ha-Rav, OH 55:5 cites Ray Hai Gaon, Rabbeno Tam, and the Ba'al ha-Ma'or. See also R. Yosef Kappah edition, Mishneh Torah, Hilkhah Berakhot 5:7, n. 16, that Maharit and Mabit formed a zimmun by including their wives. A similar tradition regarding other scholars is recorded in Malbushei Yom Tov (Lipman), 197:2 and 199:5, and Sha'arei Teshuva 199:3, citing Gan ha-Melekh.

76. Meiri, Berakhot 47b; Rambam according to R. Kappah (above n. 75).

77. Rashi, Arakhin 3a, s.v. mezammenot.

78. Meiri, Berakhot 47b; Ra'avad, Temim De'im 1.

79. Tashbetz, Me'orot and Mikhtam to Berakhot 45a; Meiri and Nimmukei Yosef (citing Ra'avad) to Megilla 5a.

80. Ran (on Rif), Megilla 19b; Ritva, Megilla 4a. See Tosefot Yom Tov, Pesahim 8:7, who cites a “conclusive proof” to this position; Pri Hadash 690 rejects this proof. See also Kehillat Yaakov (Karlin) Berakhot 45b.

81. Several commentators have pointed out that, when the megilla is read at other than its proper time, a minyan is a prerequisite to the recitation of the attendant blessing. Hence, were the women not to be counted in the minyan, the blessing before the reading of the megilla would not be recited. How then can Ran state that the inclusion of the women does not result in a noticeable change? (See Otsar ha-Shitot, vol. 1, p. 77; Purim Meshullash 2:16, notes). R. Eliyahu Lichtenstein (Hiddushei ha-Ritva, Megilla 4a, n. 379) answers that apparently according to Ran there must be a different version of a blessing in order for
there to be a problem. This suggestion is indeed consistent with the declared position of Ran (above, note 80) that the zimmun introduction is not merely an addition to the birkat ha-mazon but rather “a change in the form of the blessing.” We believe, however, that Ran’s position has been most accurately presented by Shulhan Arukh ha-Rav, OH 199:7, who writes: “It appears to be immodest since the inclusion of women together with men is made noticeable when the leader says ‘let us bless,’ indicating the inclusion of all [men and women].” In other words, in zimmun there is a change in the language that specifically emphasizes the inclusion of women, since they are being called upon to join in the common blessing. This is not the case in the reading of the megilla.

82. R. Simha Bamberger (above, note 59) equates the view of Sefer ha-Ittur with that of Rabbenu Yona (Berakhot 45a), who prohibits men from forming a zimmun even with their wives “because association with them is not proper.” However, Shulhan Arukh ha-Rav, OH 199:7, and Mishna Berura, OH 199:17 and Sha’ar ha-Tsiyyun 7, both understand the view of R. Yonah to be equivalent to that of Ran (above, note 80).

83. Mor u-Ketsia 199; Purim Meshullash (Devitzky) 2, 8, 18.

84. To these opinions one can add Maharam of Rothenberg (above, note 75), cited in Tur OH 199, who disallowed a zimmun formed by men and women. Although Bah (ad loc.) claims that the ruling of Maharam is based on modesty considerations, Eliyahu Rabbah (ad loc.) disagrees, pointing out that Maharam nowhere mentions the concept of immodesty.

85. Also to be included in the camp disagreeing with Sefer ha-Ittur are the authorities who permit the inclusion of a woman in a minyan as an adjourn (see section H).

86. Ritva, Megilla 5b and Rosh ha-Shana 27b; Halikhot Beithah 24, nn. 33–34.


88. Mishna Berura (55:52) and Sha’arei Teshuva (55:16), ruling against the stricter position of Sheyari Kneset ha-Gedola. Kaf ha-Hayyim (55:78) and Arukh ha-Shulhan (55:20) accept the more stringent view. However, R. Y. H. Henkin has correctly noted that the Arukh Ha-Shulhan is actually referring to an instance in which the women’s section is in a separate building, (personal communication 16 Shevat 5744; subsequently published with minor revisions in Ha-Darom [54], Sivan 5745, p. 34).

89. Iggerot Moshe, OH 1:39–43; 3:23–24. A similar conclusion is reached by R. Y. Y. Weinberg, Seridei Esh, 1:14; see also Responsa Benei Banim, 2. In a personal hora’ah halakhic shilta (Cambridge, Mass. 1971) Rabbi Joseph B. Soloveitchik states that a mehitsu need only be 50 inches high.

90. Hit’oreret Teshuva, 3, 13, 2; Responsa Minhat Shai (Schor) 18; Responsa Hemdat Moshe (Beck) 13; based on Hagahot Semak 282:5 who stated that the walls that surround the bima in the synagogue do not interfere with the constitution of the minyan even if they are more than ten rehaim high since they do not reach the ceiling. See also Shulhan Arukh OH 370:3.

91. R. Yosef Eliyahu Henkin, Ha-Pardes, Adar 5723 (6), 5; R. Shalom Rubin-Halberstam disagreed in Ha-Pardes, Tishrei 5724 (1), 14; as does Minhat Yitshak 4:30.

92. Responsa Minhat Yitshak 4:9. Both this responsa and that of Rav Henkin (above, note 88) are based primarily on Responsa Rashba 1:91. See also Adar ve-Purim (8, 5, 4) who concludes as well that women in the women’s section are considered to be praying in public, i.e., in the presence of the men. This latter position is based on the author’s discussion with Rav Y. S. Eliashiv, as clarified to this writer in a personal communication dated 17 Kislev 5744. See also Adar ve-Purim, (8, 5, 3 note 10) who cites R. Moshe Stern as permitting, in the absence of 10 men, the counting of men and women together for a minyan for megilla even though they are separated by a mehitsu.

93. See Beit Yosef, OH 55, s.v. ve’elu ha-asara fl; Einayim la-Mishpat, Berakhot 48a, n. “a”; Encyclopedia Talmudit, vol. 6, davar she-bi-kedusha, sect. 3; Ha-Tefilla be-Tsibbur (R. Yitshak Yaakov Fuchs), chapter 5.

94. Concerning the identity of Rabbenu Simha, see reference 2 n. 23. Examination of Mordekhai, Shittei ha-Gibborim and Maharam (above, note 75) reveals that the ruling of R. Simha was made regarding zimmun be-shem. However, Beit Yosef (above, note 93) applies it to public prayer as well.

95. Beit Yosef, OH 55, s.v. ve-katuv be-Mordekhai; cf. Responsa Mahari Assad, OH 26; Responsa Minhat Yitshak 9:11.
96. This opinion apparently maintains that the derivations quoted in the beginning of this article which exclude women, minors and slaves from the category of “children of Israel” are *asmakhtot* and not of biblical authority. See *Resp. Mahari Assad* (*Yehuda Ya’aleh*), *OH* 26.

97. Presumably, because women, minors and slaves are not obligated in public prayer or *zimmun*, incorporating more than one would be a blatant breach of propriety and a sign of disrespect. It ought to be noted, however, that there are isolated *rishonim* who permit the inclusion of two, three or even four minors, provided the majority (i.e., at least six) of the *minyan* are adults. Nevertheless, these *rishonim* discuss only minors; none explicitly permit women to serve as adjunct members. The distinction between women and male minors is that the latter will eventually become obligated in public prayer. One could conceivably construct a position allowing the inclusion of up to four women as adjuncts by hybridizing the view of Rabbenu Simcha, who talks of only one women adjunct, with the opinion of those permitting four minors as adjuncts. This would, however, create a position that is a minority view several times over. Firstly, the majority opinion is not to include adjuncts at all. Of those permitting adjuncts, the vast majority allow the inclusion of only one. Of those who permit adjuncts, only a minority are willing to include women and many, if not most, of these do so only for *zimmun be-shem* and not for public prayer. Finally, all those who permit adjuncts do so only in extreme need and certainly not as a normative situation. (For sources to all the above, see *Encyclopedia Talmudit*, vol. 6, *davar she-bi-kedushah*, sec. 3.) It is not surprising, therefore, that no *rishon* or *aharon* even hints at the possibility of allowing more than one woman as an adjunct.

98. R. Yaakov Emden (*Mor u-Ketsia, OH* 55) and R. Avraham Hayyim Rodriguez (*Resp. Orah la-Tsaddik*, 2) suggest that the reason for the total exclusion of women as adjuncts is related to the “honor of the community.” See reference 2 section b for a brief discussion of this point.

99. a) Eliyahu Rabbah, *OH* 199:3; Birkei Yosef, 199:2, and Mahazik Berakha, 4; Shulhan Arukh ha-Rav, *OH* 199:7; *Mor u-Ketsia* 199; Kaf ha-Hayyim 199:15; Hazon Ish, *OH* 30:9; Mishna Berura 199:2; Mishneh Halakhot 4:78.

   b) In the case of *zimmun be-shem* (and in contradistinction to public prayer), some of the early *aharonim* accepted the opinion of R. Simha (above, note 75); see reference 2 section b.

100. See D. M. Feldman, *Conservative Judaism*, 26:4 (Summer, 1972), pp. 35–36; *Tomekh ka-Halakhah* (Responsa of the Panel of Halakhic Inquiry of the Union for Traditional Conservative Judaism), volume 1 (*Iyar* 5746, May 1986), Orah Hayyim, Responsa nos. 3 and 6. These articles cite only the “equality of obligation” approach to *minyan*.

101. Since ten women do not form a halakhic *minyan* for public prayer, women who join together to pray form a women’s service—not a women’s *minyan*. 