Halachically Speaking is a monthly publication compiled by Rabbi Moishe Dovid Lebovits, a former chaver kollel of Yeshiva Torah Vodaath and a musmach of Harav Yisroel Belsky Shlita. Rabbi Lebovits currently works as the Rabbinical Administrator for the KOF-K Kosher Supervision.

Each issue reviews a different area of contemporary halacha with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant shittos on each topic, as well as the psak of Harav Yisroel Belsky, Shlita on current issues.

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In many shuls, the question arises regarding waiting when a rabbi is taking longer to daven Shemoneh Esrei and people are getting edgy, since they have to make the train to work or drive the kids to school. If there is a minyan in shul does the public have to wait for the rabbi to come to the minyan? Does the shatz have to wait for the rabbi? Is this considered a burden to the public – tircha d’tzibbur? How many people need to be available to answer a shatz before he begins chazaras hashatz? If one takes out the wrong sefer Torah, should he put it back, or should he lein from that one even though it will cause a delay in the completion of the davening? There are seven aliyos on Shabbos morning; are we allowed to add to this number? These and other issues which may be a burden on the public will be dealt with in this article.

Burdening the Public

The Gemara¹ says that the parshah of Balak is not in Krias Shema since it would be a burden for the tzibbur to say the lengthy selection.

Waiting for the Rabbi

Our first discussion in this area of halachah applies to a rabbi who may be late to shul for the minyan, or is davening

¹ Maseches Brachos 12b.
a long Shemoneh Esrei. The public needs to wait for him to come or finish Shemoneh Esrei.

The Gemara\(^2\) says that Rabbi Akiva would shorten his davening to avoid burdening the public.\(^3\) The Pri Megadim\(^4\) says that one who davens too long and is a burden on the tzibbur will be punished for it.\(^5\) Davening too long means spending too much time on each word, and being overly lengthy with your supplications.\(^6\)

The Rema\(^7\) says that if there is a minyan in shul and the rav is not there yet, the minyan need not wait for him before they start davening.\(^8\) The Magen Avraham\(^9\) says that today we wait for the rav to come and to finish Shemoneh Esrei. One reason is that most congregants daven quickly, while others savor every word. These individuals would not be able to say Kedushah with the tzibbur since they will be in middle of Shemoneh Esrei. Therefore, we wait for the rav who will daven slowly as well, so these individuals can recite Kedushah properly. Others explain that the congregants are mochel the rabbi for taking a long time to daven, and it is not a bother to the tzibbur.\(^10\)

In any case, if a rav is being too lengthy in his Shemoneh Esrei one does not have to wait for him.\(^11\) If the rav wishes to take his time, he should motion to the shatz not to wait for

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2 Ibid. 31a. See Meiri, ibid.
3 See Magen Avraham 124:7; Elyah Rabbah 6; Shulchan Aruch Harav 5; Machatzis Hashekel 7; Chessed L’alafim 2.
4 Eishel Avraham 124:8.
5 See Chessed L’alafim 124:2; Pela Yoetz “tzibbur” page 180 (new).
6 Machatzis Hashekel 124:8.
7 O.C. 124:3. See Binyan Zev 168.
8 Levush 124:10.
9 124:8; Mishnah Berurah 13; Kaf Hachaim 12; Yalkut Yosef 104:8. See Elyah Rabbah 6.
10 Ibid. 124:6.
11 Ibid.; Magen Avraham 124:8; Mishnah Berurah 13.
him. Some maintain that after he finishes the first *Yiheyu L'ratzon* before *Eloki Netzor* he may take his steps back, and then finish the rest of the *Eloki Netzor*. This way the *shatz* can start his *chazaras hashatz*.13

Rav Akiva Eiger zt”l is of the opinion that waiting for the rabbi is extremely important.14 The *rav* should not be *mochel* on the rule that the *tzibbur* should wait for him, especially on Shabbos when there is a lot of time in the day and people are not rushing to leave shul.15

The *Sefer Chassidim*16 says that if a *rav* senses that his congregation is waiting for him and this makes him unable to concentrate properly,17 he can actually take three steps back to indicate he is finished so the *shatz* can start. Then he may return to his place and continue *Shemoneh Esrei*. The steps are not considered a *hefsek* since there is a slight need for it so the *shatz* can start *chazaras hashatz*.18 Others do not agree with this concept.19

If the *rav* stepped out in middle of *davening* or *krias haTorah* for some reason, the *tzibbur* does not have to wait for him.20

It is disrespectful for a *shatz* to *daven* longer than the *rav*, and the congregants must wait for the *shatz* to finish. One

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12 *Sha'arei Teshuvah* 104:1; *Mishnah Berurah* 104:1; *Lekach Hakemach Hachadash* 104:7, 124:4; *Michtav L'Chizkiyahu* 9; *Aruch Hashulchan* 124:8; *Teshuvos V’hanhagos* 1:116; *Divrecha Yair*, O.C. 1:6.
13 *Yalkut Yosef* 104:8. This was the custom of Harav Ovadia Yosef zt”l (*Yalkut Yosef* 124, footnote 8).
16 784. Brought in *Magen Avraham* ibid.
17 *Machatzis Hashekel* 124:8.
18 *Pri Megadim, Eishel Avraham* 124:8.
20 *Aruch Hashulchan* 124:8.
who is davening for the amud should make sure to finish his Shemoneh Esrei before the rav.

If a minyan is known to have a slow davening, then it is not an issue of burdening the public even if it takes longer than usual.

**Shatz Davening Long**

If the shatz daven an extended davening so that people can hear his voice, it is not proper. If he is happy that Hashem gave him a nice voice\(^\text{21}\) and daven to inspire the tzibbur then it is permitted. Nevertheless, he should not daven too long since it is a burden on the tzibbur.\(^\text{22}\) This applies even on Shabbos and Yom Tov without the consent of the tzibbur. Even if the tzibbur agrees, it should not be too long.\(^\text{23}\)

If it is known that the shatz takes a long time, it appears that there is no issue of burdening the public.\(^\text{24}\)

Some have the custom of singing in many different places in davening. This is done to inspire the congregation to daven with kavanah.\(^\text{25}\)

Many frown upon the new custom of having chazzanim who daven long to show off their voices.\(^\text{26}\)

**Waiting to Start Minyan**

Once ten men gather, one does not have to wait for a rav

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\(^{21}\) See Magen Avraham 53:14; Mishnah Berurah 53:44.


\(^{23}\) Elyah Rabbah 16; Mishnah Berurah 36. Refer to Yabia Omer, O.C. 7:14:4 about a shatz repeating words to fit a song he is singing.

\(^{24}\) Shaarei Horaah 8, page 135.

\(^{25}\) Refer to Mishneh Halachos 11:49.

to begin the minyan.\textsuperscript{27} This is true even if there is enough time for Krias Shema or tefillah.\textsuperscript{28} The Mishnah Berurah\textsuperscript{29} says the custom is to wait for the rav since many times after davening the rav learns with the congregants. If they would daven without him, then the learning might be canceled.\textsuperscript{30} On Motza’ei Shabbos if one does not wait for the rav to begin they may daven too early.\textsuperscript{31}

In any case the rav should come to shul early so the minyan does not have to wait for him.\textsuperscript{32}

**When to Begin Chazaras Hashatz**

Every shul is faced with the same dilemma. During the week, people need to go to work right after davening. If some people are still davening Shemoneh Esrei, is there an obligation to wait until nine people are available to listen to chazaras hashatz? If nine have finished but the majority have not, is it necessary to wait?

The Shulchan Aruch\textsuperscript{33} rules that if one of the ten people who davened with them cannot answer the brachah, he may still count toward a minyan. Some extend this leniency to even four people, as long as six can answer.\textsuperscript{34} Others argue that it is mandatory to have nine men plus the shatz.\textsuperscript{35}

The halachah\textsuperscript{36} is that if there are not nine people who are

\begin{itemize}
  \item \textsuperscript{27} Rema 124:11; Mishnah Berurah 124:15; Aruch Hashulchan 8. See Levush 124:11.
  \item \textsuperscript{28} Mishnah Berurah 124:14.
  \item \textsuperscript{29} 124:15.
  \item \textsuperscript{30} Mishnah Berurah ibid.
  \item \textsuperscript{31} Biur Halachah 124, “al.” See Lekach Hakemach Hachadash 124:5.
  \item \textsuperscript{32} Elyah Rabbah 124:6; Mishnah Berurah 124:15; Teshuvos V’hanhagos 1:116.
  \item \textsuperscript{33} O.C. 55:6.
  \item \textsuperscript{34} Magen Avraham 55:8; Mishnah Berurah 55:32. See Elyah Rabbah 55:7. Refer to Mishneh Halachos 4:9; Chayei Halevi 3:12:4.
  \item \textsuperscript{35} Mishnah Berurah 55:32. See Taz 55:4; Machatzis Hashekel 8; Pri Chadash 55:6; Birchei Yosef 6.
  \item \textsuperscript{36} Shulchan Aruch, O.C. 124:4.
\end{itemize}
listening and answering to the *chazaras hashatz*, it is “close” to being a *brachah l’vatalah* for the *shatz*.

There is an apparent contradiction between these two *halachos*. There are a few ways to resolve this contradiction:

1. Some maintain that nine people are not really required, and the halachah that said it is close to a *brachah l’vatalah* means it is close but is not an actual *brachah l’vatalah*. In cases of need (perhaps when the *tzibbur* is in a rush), one can be lenient. Others say this is a weak answer.

2. Others say that the halachah does not follow the rule which maintains you need nine to answer in regard to *chazaras hashatz*.

3. The first halachah is talking about Kaddish, *Kedushah*, and *Barchu*. These are permitted even without nine people responding. As long as ten men are present, the *Shechinah* is present and Kaddish, etc. can be recited even if not all are listening. The latter halachah is talking about *chazaras hashatz*.

Many say that for *chazaras hashatz* one should make sure that there are nine who have finished *Shemoneh Esrei* besides the *shatz*, and are listening to *chazaras hashatz*. If there is a minimal *minyan*, if one of the nine is *davening* long he should

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37 Refer to *Pri Chadash* 55:6; *Pri Megadim, Eishel Avraham* 55:8. See *Siach Tefillah* page 440, 7.


41 *Ben Ish Chai*, *Vayechi* 1:5.


43 *Shulchan Aruch Harav* 55:7. See *Biur Halachah* 55, “oh.”

44 *Ben Ish Chai*, *Vayechi* 1:5; *Chayei Adam* 29:1; *Kitzur Shulchan Aruch* 20:2; *Kaf Hachaim* 55:48, 124:17; *Teshuvos V’hanhagos* 1:104; *Orchos Rabbeinu* 1, page 51, 158.
try to shorten his Shemoneh Esrei if he knows the shatz is waiting.45

However, if there is a situation where waiting would result in no minyan at all, since people have to go to work, then one can rely on the lenient opinion above.46 The same would apply when there is a long davening such as on Rosh Chodesh when there is Shacharis and Mussaf, or a day when we recite Selichos.47

Many say that one should wait until most of the tzibbur is finished before starting chazaras hashatz.48 Accordingly, if the minyan has thirty people one should wait for most of the minyan to finish Shemone Esrei (sixteen people) before the shatz begins.49 One reason for this is that chazaras hashatz was instituted so the tzibbur can hear and say Kedushah, and if most of the people in shul are davening then this is not being accomplished.50 Others explain that the purpose is that the tzibbur can answer amen to the brachos of chazaras hashatz.51

In regard to Ma'ariv, some permit Kaddish with six, although it is better to wait until at least nine are listening.52

45 Chayei Halevi 3:12:5.
47 Siach Tefillah page 148, 5.
48 Aruch Hashulchan, O.C. 124:8; Az Nidberu 2:79:3; Halichos Shlomo, Tefillah 9, footnote 2; Massei Nissim 2:55; Avnei Yashpei 4:10:4, quoting the opinion of Harav Elyashiv zt”l, Harav Shlomo Zalman Auerbach zt”l, and Harav Fisher zt”l. Also see Avnei Yashpei, Tefillah page 150, 8, footnote 12*.
50 Ibid.
51 Mishnah Berurah 124:37; Biur Halachah 124:9, “ein tzorech.”
If People Are Not Listening

The Mishnah Berurah\(^{53}\) says that if the chazzan suspects that at least nine people will not listen to chazaras hashatz, he should say before beginning chazaras hashatz that if they don’t answer amen to his brachos it should be a tefillas nedavah. Harav Shlomo Zalman Auerbach zt”l practiced this condition in his youth.\(^{54}\) Others are not sure this would work at all.\(^{55}\)

Rolling the Sefer Torah

The halachah is that the sefer Torah is not rolled in public since it is a burden for the public to wait.\(^{56}\) The shames or the ba’al korei should make sure the sefer Torah is ready to be used and rolled to the proper place.\(^{57}\) Many are not careful about this, and they should be told.\(^{58}\)

If the leining will be in two different areas of the Torah (such as Shabbos Rosh Chodesh, or Yom Tov),\(^{59}\) and there is only one sefer Torah in the shul,\(^{60}\) then it is rolled even if it a burden to the tzibbur.\(^{61}\) The reason is that the tzibbur is mochel on the time it takes to roll.\(^{62}\)

If there are additional sifrei Torah, then two (or more) are taken out. If the second sefer Torah needs to be rolled,

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\(^{54}\) Halichos Shlomo, Tefillah 9, page 121, footnote 13. See Birurei Chaim 4, page 440.

\(^{55}\) Refer to Shila D’kaita, introduction.

\(^{56}\) Maseches Yoma 69a; Rambam, Hilchos Tefillah 12:23; Shulchan Aruch 144:3. See Pri Chadash 3 which asks on the opinion that holds today we can be lenient with this.

\(^{57}\) Aruch Hashulchan 144:6.

\(^{58}\) Ibid.

\(^{59}\) Mishnah Berurah 15. See Aruch Hashulchan 6.

\(^{60}\) Shulchan Aruch 144:3.

\(^{61}\) Ibid.

\(^{62}\) Pri Chadash 3; Mishnah Berurah 16. See Mordechai, Maseches Gittin 463; Ritva, Maseches Yoma 70a.
it should be done during the reading from the first one. 63 Others have a custom to roll if necessary during Pesukei D’zimrah so the sefer Torah is ready to use when needed. 64

Occasionally, the wrong sefer Torah is taken, and the mistake is only discovered after it is already opened on the bimah. What should one do in this situation?

Returning the first sefer Torah when taking the second out is embarrassing, and this may outweigh the issue of burdening the public. Also, people might say that the first sefer Torah is pasul and that is why it is being returned. 65 Others maintain that there is no issue with doing so. Harav Moshe Feinstein zt”l 66 maintains that either option is acceptable. If the tzibbur does not care, then the first sefer Torah should be rolled. He says that most people today don’t mind. Others say that the first sefer should not be returned because of a disgrace to the sefer Torah. 67

**Called Kohen But…**

It is very common that a shul has only one kohen. 68 If he is called for an aliya, and the gabbai did not realize that the kohen is in middle of davening and cannot accept the aliya (such as Krias Shema), 69 we do not wait for the kohen

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63 Magen Avraham 6; Mishnah Berurah 13; Kaf Hachaim 12.
64 Darchei Moshe 1; Pri Megadim, Eishel Avraham 144:3; Mishnah Berurah 13.
65 See Salmas Chaim 4:29; Noam 21, page 278.
66 Igros Moshe, O.C. 2:37. See Yabia Omer, O.C. 8:15:4; Shinon Yosef 1, page 158; Olas Kohen, O.C. 144:12.
67 Shemesh Tzedakah, O.C. 31; Mateh Yehudah 282, 144:5; see Machazik Brachah 282 or 144, 1; Halachah Berurah 14, page 253.
68 Pri Megadim, Eishel Avraham 6; Mishnah Berurah 17.
69 Shulchan Aruch 135:5. If he is in middle of birchos Krias Shema some say he can go up for the aliya (Taz 135:4). Others say only if he is in middle of the perakim of birchos Krias Shema (Mishnah Berurah 17). It is possible that during Pesukei D’zimrah he may go as well (Magen Avraham 6; Mishnah Berurah 17, see Machatzis Hashekel 6).
to finish since it is a burden for the public.\textsuperscript{70} A \textit{yisrael} takes his place.\textsuperscript{71}

This applies even before the \textit{sefer Torah} is taken out. The public should not delay taking out the \textit{sefer Torah} so the \textit{kohen} can be ready for the \textit{aliyah}.\textsuperscript{72}

\textbf{Choosing Better \textit{Sefer Torah}}

If an older \textit{sefer Torah} is in front of the \textit{aron kodesh}, and a nicer one is behind it, one should not reach past the older one as long as it is not \textit{pasul}.\textsuperscript{73}

\textbf{Adding \textit{Aliyos}}

We generally call up seven people to the Torah on Shabbos.\textsuperscript{74} It is permitted to add to this number,\textsuperscript{75} but one should not burden the public with many additional \textit{aliyos}.\textsuperscript{76}

Since the custom today is that each person makes their own \textit{brachah} when getting an \textit{aliyah}, it is not proper to add \textit{brachos} by adding \textit{aliyos}.\textsuperscript{77} However, if there is a need to do so, i.e., for a \textit{bris} or \textit{chassan}, it is permitted.\textsuperscript{78} In any case there should not be more than ten \textit{aliyos}.\textsuperscript{79} Some maintain that the custom is to add \textit{aliyos} after seven usual \textit{aliyos} have already been called up.\textsuperscript{80} Others have the custom not to add to the \textit{aliyos} on Shabbos.\textsuperscript{81}

\begin{flushright}
\textsuperscript{70} \textit{Shulchan Aruch} 135:5; Magen Avraham 7.
\textsuperscript{71} \textit{Shulchan Aruch} ibid.
\textsuperscript{72} Mishnah Berurah 16.
\textsuperscript{73} Shevet Hakehasi 1:81.
\textsuperscript{74} Maseches Megilla 21a; \textit{Shulchan Aruch} 282:1; Aruch Hashulchan 4.
\textsuperscript{75} \textit{Shulchan Aruch} 282:1; \textit{Shulchan Aruch Harav} 282:1; Nishmas Shabbos 2:261.
\textsuperscript{76} \textit{Shulchan Aruch Harav} 282:3.
\textsuperscript{77} Magen Avraham 282:1; Mishnah Berurah 282:4.
\textsuperscript{78} Magen Avraham ibid.; Mishnah Berurah ibid.
\textsuperscript{79} Elyah Rabbah 282:3; Aruch Hashulchan 282:6.
\textsuperscript{80} Chasam Sofer, O.C. 170. See Nishmas Shabbos 2:261.
\textsuperscript{81} Masei Rav 132.
\end{flushright}
When reading two *parshiyos* on Shabbos, *revi’i* should end the first *parshah* and start at least three *pesukim* from the second *parshah*. Adding *aliyos* to the second *parshah* is not an issue.\textsuperscript{82}

The custom is not to add *aliyos* on Yom Tov\textsuperscript{83} (except for Simchas Torah\textsuperscript{84}). However, if Yom Tov falls on Shabbos we treat it like Shabbos and do add.\textsuperscript{85}

### Kel Malei

When saying a *Kel Malei*, one should be careful not to say too many, for many names is a burden to the public. Rather one should say one *Kel Malei* for all the names.\textsuperscript{86}

### Hallel and Singing

During the week, people often *daven* at a specific *minyan* because they know they will arrive to work on time. When reciting Hallel on Rosh Chodesh, most shuls do not sing since the *minyan* is on a tight schedule. However, some do sing. If they sing every paragraph (some actually do), it causes a burden on the *tzibbur*, and may not be done. In addition, the later ending time will unfortunately cause people to leave early and miss Kaddish and amen, etc. This is the fault of the *chazzan* who decided to sing each stanza and causes these people to miss out of important aspects of *davening*. If one wishes to sing and be part of such a *minyan* he should *daven* where he knows the *tzibbur* appreciates it. Most places do not have such *minyanim* and assume that *davening* will take a few minutes longer because of Hallel, not a much longer period of time.

\textsuperscript{82} *Taz* 1; *Mishnah Berurah* 282:5. See *Kaf Hachaim* 16; *Sha’arei Ephraim* 7:21; *Nishmas Shabbos* 2:261-2.

\textsuperscript{83} *Rema* 282:1.

\textsuperscript{84} Ibid.

\textsuperscript{85} *Taz* 1.

\textsuperscript{86} *Nishmas Yisrael* page 41.
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