

LETTERS TO THE EDITOR

Alcoholism

Rabbi Gil Student, editor of TorahMusings.com and director of the Halacha Commission at the Rabbinical Alliance of America, writes:

HAKIRAH HAS ALWAYS been a journal that takes risks and hits home runs on a regular basis. The anonymously published account of alcoholism is above and beyond even *Hakirah's* exceptional track record and will remain one of the most important and moving articles in the journal's history. *Yashar koach* for making this vivid account available.

This is not just one man's story of his struggle with alcoholism. It is a wake-up call to everyone about curbing excess before it takes over and risks destroying their lives.

I wish the author health and success. May all the good this article accomplishes serve as a *zechut* for him and his family.

Chaim Yebuda Meyer, an attorney in Brooklyn, NY, writes:

It could not have been easy for Anonymous from an Orthodox Jewish community in the United States to share with us "One Year Sober: My Lonely and Painful Journey from Alcoholism to Tentative Recovery" (vol. 37). This man's journey is one we can all learn from. Alcoholism is not just about the amounts we drank, the ability to hold our own, or social drinking. Rather, the wait for that one drink

can be a problem as well (if it impedes our daily functioning). High blood alcohol levels can be dangerous even if we think we can handle it. Finally, *Kiddush*, *Yom Tov*, and *smachot* are no excuse to be reckless with alcohol. Through the lens of Anonymous, *Hakirah* readers see a story of a downward spiral and the great heights this individual attained in acknowledging his problem, seeking help, and finding the courage to aid the reader. We see how the withdrawal symptoms this man felt led him to drink even on Yom Kippur. He cannot be blamed nor should his community. The writer had the support of family and friends in getting the help he needs. Most importantly, he feels a renewed sense of gratitude to Hashem for saving his life. Addiction comes in many forms. We can be helped and help others on the individual level. People should not be so drunk by the time Shabbos comes that the *malachim* have to follow them home in a zigzag fashion. On the other hand, blanket bans on alcohol will just drive drinking under the *shtender*. We, as Anonymous so eloquently has done, should have conversations about moderation, self-control, and free will. Through our networks of rabbis, doctors, friends, and family, we too can overcome and help others on their journey. Thank you *Hakirah* for getting us on that path. Readers will no doubt be inspired to manage themselves, enjoy life's little moments and acknowledge when someone needs help. Zvi Gluck of

Amudim has written an excellent closing statement to Anonymous's roller coaster ride. The resources are there. Sometimes, it takes an article for someone to realize, "I need help." As readers enjoy *Yom Tov* with family and friends, they can do so with a healthier relationship with Hashem, their families, and neighbors. And *Hakirah* is there with thought-provoking articles that deepen our understanding of the issues. We pray every day in *Ahavah Rabbah*: "*ve-tein be-libeinu binah le-havin u-le-haskil*." May it be fulfilled for all of us.

Serving in the IDF

Dov Fischer, Professor of Accounting, Brooklyn College, writes:

THE AUTHOR ADVOCATES that yeshivah boys from abroad (from YU and Touro communities) should be "required" to serve in the IDF because such service constitutes a *milhemet mitzvah*. The author would presumably have included religious girls from abroad as well by the same logic, were it not that the perceived need was specifically for boys to serve in combat units.

I stand at the other extreme of the author's ideology and found the article a painful read. On the plus side, the author's footnotes include many interesting references including those of Rabbis Moshe Feinstein and Ovadiah Yosef, ז"ל. On the minus side, I found the author to be condescending toward *haredim* in general and, in particular, to

those at the opposite ideological extreme. For example, the author includes "R. Yoel Teitelbaum" in a footnote reference, but only to represent the latter's position in the form of a ridiculous straw man that Zionists are not considered Jews. R. Yoel Teitelbaum may well have considered the early Zionist leadership to be *erev-rav*, but he consistently expressed his anxiety about the safety of the Jews in the Land of Israel, particularly during times of war such as 1967 and 1973.

While I strongly disagree with the author's characterization of Israel's never-ending wars of choice as *milhemet mitzvah*, I would like to take up the author's argument on his own terms. My first counterargument is to keep the peace among Orthodox Jewish communities in America. My second counterargument is that it is critical for Israel and the Jewish people to maintain a vibrant American religious community, which is inconsistent with *universal* IDF service by the YU community.

My first counterargument is that after 2023, the previously respectful relationship between the mainstream *haredi* world and the *dati leumi* world in Israel has deteriorated into disrespectful comments by *dati leumi* leaders toward their *haredi* brethren. Some of the comments came from parents of fallen soldiers, who perceive that *haredim* are not carrying their required burden. To date, there have been no similar fractures between American ultra-Orthodox and Modern Orthodox. However, if

the wars and casualties continue apace with universal IDF service by the Modern Orthodox community in America, then there would be fractures in the American Orthodox communities between those who serve and those who do not.

While I aim to address the author's arguments on his own terms (i.e., under the premise that service in the IDF is *milhemet mitzvah*), I should point out that the IDF's appetite for combat troops is insatiable. The more soldiers it has at its disposal, the greater its missions will expand. I do not think the author would disagree with this characterization, only that he would argue that the greater the IDF's missions and their scope, the more *mehudar* and effective is the *milhemet mitzvah*.

My second argument against "requiring" YU and Touro boys to serve in the IDF is that it will become increasingly untenable for the American Jewish community to be overtly associated with the IDF. Views of Israel, particularly among young voters, have turned extremely negative in the aftermath of Israel's war in Gaza (though not in the immediate aftermath of October 7). In national politics, AIPAC has become toxic, and mainstream leaders such as California Governor Newsom have distanced himself from "Apartheid" Israel in a manner that would have previously been unimaginable from a presumed presidential front-runner.

If the author's wish of universal IDF service for boys in the YU and Touro communities came true,

these communities would eventually find themselves outside of the secular American mainstream, which is exactly the opposite of YU's philosophy of integration into the American mainstream. There is a distinction between individual IDF service by some YU boys versus a situation in which it becomes the norm. Should that happen, YU will be known as the IDF Hesder University. Such an image would not be conducive to the goal of YU leadership and parents to place their children in prestigious graduate schools and professions. Forced into untenable contradictions between their worldview and their loyalty to Israel, the community may well fracture. The more ideological element within the YU world would make *aliyah* en-masse. The remainder *dalat ha-am* may revert to ultra-Orthodoxy (e.g., Rabbi Yitzchok Abba Lichtenstein of YU dynasty, now Rosh Yeshivat Torah Vodaath) on the one extreme, or to the secular periphery (Brandeis University and unaffiliated institutions) on the other extreme.

The patriarch Jacob showed us that the Jewish people should not place itself in a single demographic basket. Without being too blunt about it and as evidenced by the events of the last century, the Jewish people as a whole benefit from geographic dispersion, and I would argue also from ideological and religious dispersion.

Ari (Chvat) Shvat responds:

Contrary to his intention, Prof. Dov Fischer's response to my article and his "opposite ideology" emboldens the argument in favor of halakhically obligatory IDF service for healthy Jewish boys in America.

As opposed to my lengthy articulated and painstakingly proven halakhic presentation, complete with some 140 sources and proofs, Prof. Fischer's short letter to the contrary is devoid of even one halakhic contention. In his own words, it is just "ideology." The core hypothesis of my article is that the question of *milhemet mitzvah* is a halakhic issue, no different than *Shabbat* and *kashrut*, and not "just" ideology. As proven, there are no halakhic leniencies **not** to serve in the IDF.

After fighting in the War of Independence, R. Yehuda Amital wrote a pamphlet relating to the mitzvah of serving in the IDF. His wife's grandfather, the famed *posek* R. Isser Zalman Meltzer, was emotionally overcome, explaining how he now understood that Rambam's *Laws of Wars* are once again *halakhah l-ma'aseh*.¹ Wars are not "ideology" and open to everyone's whims, but halakhah. We can no longer make halakhic decisions by seeing the enemies of Israel as a few thugs picking on a few Jews in the Bronx. One

cannot run a country that way, especially not a Jewish one surrounded by millions of Jihadist anti-Semites, when there is a drastic shortage of combat soldiers and a **nuclear threat** upon 8 million Jews. Rambam codified these laws explicitly for our situation.

Prof. Fischer's closest claim to a halakhic exemption is that he "strongly disagrees with [my] characterization of Israel's never-ending wars of choice as *milhemet mitzvah* (self-defense)." This is in contradiction to the many *poskim* who explicitly say it is.² (I am not aware of a single *posek* who disagrees and sides with Prof. Fischer!) As if Israel's present war under discussion is a "war of choice"? As if there was no Oct. 7th Hamas attack with 1,163 Jews butchered, over 3,300 wounded, and 251 kidnapped? As if Iran and Hezbollah, the primary financiers and co-proxy of Hamas, just happened to be stockpiling tens of thousands of ballistic missiles to be aimed against the majority of the world's Jewish population? As if our brothers in Kiryat Shmona have been dashing to the shelters with just 15-second warnings for the past 2.5 years out of "choice"? As if each of my boys and sons-in-law have been away from their wives, children, jobs, and yeshivot for 400 days (more than a year of their lives)

¹ Elyashiv Reichner, "By Faith Alone: The Story of Rabbi Yehuda Amital" (Heb.), p. 126.

² See the many *poskim* I cited in note 2 of my original article, including R. Moshe Feinstein, R. Ovadiah

Yosef, R. Shlomo Zalman Auerbach, R. Isser Zalman Meltzer, R. Asher Weiss, Tzitz Eliezer, R. Ephraim Greenblatt, the Sanz-Klausenburger Rebbe, R. Hershel Schachter, et al.

out of “choice”?

I wish I could concede that even one of Israel’s wars was **not** in retaliation to our enemies’ attacks. Would the author consider the unprovoked invasions of Arab armies in the War of Independence and Yom Kippur War among our “unending wars of choice”? Would he suggest we let our enemies strangle us economically or shell us regularly as in the lead-up to the 1956 Sinai Campaign, the 1967 Six-Day War, the endless Wars of Lebanon and consistent battles in Gaza (all internationally recognized as *Casus Belli*) without retaliating? Would he endanger his own children by living in a place neighboring attack tunnels of Hamas and Hezbollah (still being identified and subsequently destroyed)? Or next to Iranian **nuclear reactors**, and only after it is too late, try thinking of a solution?

These examples are all precisely the definition of *milhemet mitzva*, wars of self-defense. Judaism says there is no “choice,” and even if in doubt, “whoever comes to murder you, precede and kill him first.”³ Do not take chances. Even pre-emptive strikes when the enemy **may** only **possibly** be plotting against Jews, supersede *Shabbat* (how much more so yeshivah and university study) as halakhah, not “ideological” whims.⁴

Prof. Fischer should know that even far-left Israeli pacifists now understand that ours are not “wars of choice.”

Let me simplify using Prof.

Fischer’s own terms. If Israel’s wars were “optional,” then no Israeli should even be allowed to serve in the IDF, and certainly not drive a patrol in violation of *Shabbat*. As we saw, there can be no “wars of choice” without a Sanhedrin, so halakhically either all Jews are forbidden to serve in the IDF and must all move to Brooklyn (at the mercy of Mamdani), or all are obligated to serve.

For 2,000 years we had no “choice” but to try the Christian approach of “turning the other cheek” and it never worked! How much more so in the modern world, where Hiroshima taught us how many tens of thousands of Jews could be instantly murdered, *halilah*, if we are not pro-active and pre-emptive.

Prof. Fischer states that “the IDF’s appetite for combat troops is insatiable and the more soldiers it has at its disposal, the greater its missions will expand.” This pejorative and baseless assessment of his own brethren can only be understood as ingested from the anti-Israel agitators who contend that Israel constantly “over-reacts.” However, halakhic questions of life and death such as drafting into the IDF or preempting the “nukes” are not determined based on the media’s non-objective Israel-bashing. You only consult a caring doctor who will not risk the life of the patient, to be the one to decide whether the patient should eat on Yom Kippur

³. *Sanhedrin* 72a.

⁴. *Shulhan Arukh*, and *Rama*, O. H.

329, 6, based upon *Ohr Zarua* 84, 13.

or serve in the IDF, especially when 8 million Jewish lives are at stake. How much more so when the non-caring western press simply does not comprehend the Jihad mindset, where logic and the advantages of peace are irrelevant.

I am sure Prof. Fischer (like the Satmar Rav he cites) sides with Israel, but his terming our battles as “never-ending wars of choice,” implying that it is our fault, shows a lack of understanding of our fundamentalist Moslem attackers. In boxing, if the loser does not surrender, the referee will eventually stop the fight and rule a TKO (Technical Knockout). But their *shahid* understanding of their religion says to fight Jihad “until you go to heaven,” so even when they lose, “they win.” Of course we prefer not to keep fighting, but this is not sport, and our enemies force us to choose between our civilians suffering or theirs, which halakhically leaves us no “choice.” They never and will never surrender, just occasionally ask for a cease-fire until they can regroup and attack again. Halakhically, we have no “choice” to lay down our weapons. It is just a question who will hold them and share in this collective Jewish need and obligation.

Aside from Jihad, the other objective problem (over which we have no control) is non-objective anti-Semitism, where even when the Arabs attack, most quickly side against Israel, regardless of the facts. Also, we must act quickly and thoroughly, because the anti-Semitic world will soon blame us for

the cost of gas, and having a friendly president in the White House will not last forever. I should hope that all Jews would be friendly and consistently side with us, their brothers and the victims, and not with the aggressors and anti-Semites.

If the issue is just “ideology,” even NBA coach Steve Kerr and rapper Kanye West can consider themselves specialists, and have unfortunately been influencing well-intended Jews to define their stand on this important halakhic question. I suggest it be left to our sages and Jew-loving *poskim* based on objective Israeli generals, who in this case are the caring doctors in the above analogy.

Regarding Prof. Fischer’s “counterarguments” for Jews in America not to serve in the IDF, firstly “to keep the peace among Orthodox Jewish communities in America”: Since when are Jews in America considered separate from the Nation of Israel? That misses the point of all the sources cited in my article: *Am Yisrael* is one nation and this partnership of *ahdut* and *areivut* is irrespective of locale. Just as Jews in northern Israel are obligated to repel an attack in the south, so too, halakhically, must the Jews who are farther away in America. The only difference would be if a community is attacked, their obligation is **first**, but not **exclusively**, theirs.

How much more so are we **all** responsible regarding the Land of Israel, which is not just “another” Jewish community but represents

the entire “Jewish Nation.”⁵ Especially in an interconnected global world, we had better become accustomed to solving global Jewish problems together, just as our adversaries do, and rise above the local mindset. Hannah Senesh and Yoni Netanyahu (Entebbe) flew far distances to save Jews, not just Israelis. How much more so must religious Jews in a global world understand their obligation.

Prof. Fischer continues, “My second counterargument is that it is critical for Israel and the Jewish people to maintain a vibrant American religious community, which is inconsistent with *universal* IDF service.” It is important to note that Rambam’s *Laws of War* do not leave room for either of these two theoretical ideas as halakhic exemptions from *milhemet mitzvah*, where there are no exemptions.

Unfortunately, just like unaffiliated Jews, yeshivah boys in Lakewood also do not see *milhemet mitzvah* (nor *aliyah*) on their radar as much as they are cognizant of *gebrokhts* (just as in Bnei Brak the war preoccupies the locals far less than Lag Ba-Omer celebrations). Just like most do not miss *korbanot* or bachelors do not realize how much *taharat ha-mishpachah* is a central *mitzvah*, but that does not mean that they are correct. As the new globalized world has only recently brought *shemittah*, *terumot*, and *ma’asrot* to Boro Park (since Israeli

produce is now sold there), so too cognizance of global anti-Semitism and *milhemet mitzvah* should also permeate their halakhic agenda and awareness, as has begun in YU. If they check how the stock market or how the Yankees fared before how Israel’s war is going, they should realize that something is wrong. The point is that with globalization, they will grasp at least via the price of gas or anti-Semitic graffiti, that Jews are being killed or threatened in the Middle East.

It is unpleasant to write, and even more so to read, that in a globalized world, as we have seen over the past two years, the new form of anti-Semitism is also global, and is apparently here to stay.

If Jews are attacked at Harvard, in Crown Heights, or Pittsburgh, Los Angeles, Monsey, Toronto, Australia, England, France, et al., without necessarily looking Jewish or definitely not “looking” Zionist, but as an expression of international anti-Israel sentiments from both the right and the left yelling “Free Palestine,” we have to get used to this new type of global hate. With the advancement of social media, everything is becoming more extreme, including anti-Semitism.

The single rabbinic source cited by Prof. Fischer is a non-halakhic *midrash* regarding Ya’akov’s division of his camp, to prevent complete destruction by Esav. According to that reasoning, why did David Ha-

⁵ *Horayot* 3a; Rambam, *hil. Shgagot* 13, 2; *ibid.*, *hil. Berakhot* 10, 11, and R. Y. Rozin (the “Rogatchover”),

Tzafnat Pane’ah, *ibid.*; Rambam *Sefer Ha-Mitzvot* 153.

Melech and all the leaders in Tanakh never think of self-exiling and voluntarily partially dispersing during their many wars? Rather, Ya'akov's strategy in that *midrash* is only *b-di'aved*, addressing a hopeless military situation when Jews are outnumbered 400 to 12, and not something we do ideologically.

How much more so in our new global world, where dispersion and diaspora no longer help, for there is nowhere to run.⁶ The Torah promises that Jews in *galut* will never find rest (*Devarim* 28:65), and as that has proven true every time, there is no reason to think that southern Florida will be any different. In short, Israel is fighting the war for all of world Jewry, and it makes sense that young, educated Jews be the first to realize that and join the IDF to fight “your” battle as well.

Israel's “Law of Return” is based upon our national unity, and I have no doubt that many Jews in America will avail themselves of our Jewish State when they need it (probably in the not-too-distant future). But a mature, friendly, and fair understanding obligates reciprocity. Unfortunately, most

haredim in Israel do not understand the situation, but sophisticated YU and Touro students surely do (which may eventually help Israeli *haredim* understand, as well).

Especially during *kibbutz galuyot* when most of World Jewry has **already returned to Israel** for the first time since the exile of the ten tribes⁷ (and the prophets and sages tell us that after this third and final return, there will not be another exile,⁸) it makes even less sense to create an “ideology” (contradicting *halakhah* and all of Tanakh⁹) of diaspora and dispersion, as the G-d of history is uniting us and bringing us in the opposite direction, to where BH we all have the “home-court” advantage. Thank G-d that today we have a solution, but that does not mean we are allowed to rely on miracles.¹⁰

⁶ I elaborated on this in “We Should Stop Seeing Exile as an Alternative,” (Heb.), *Tzohar* 24 (Winter, 2006/ח"תשס"ו), pp. 55–66; and in “Galut Is No Longer an Option,” (Heb.), *Makor Rishon, Musaf Shabbat*, 5 Kislev 2011/א"תשע"א, pp. 14–15.

⁷ See Prof. S. Della-Pergola in Arnon Segal, “Historic Revolution Within this Decade: Most Jews Will Live Here in Israel,” (Heb.), *Makor Rishon*, Shvat 26, 2024.

⁸ I elaborated on this in my article, “Could Zionism Be Just Another False Messiah?” *Tzohar* 21 (Winter 2005/ה"תשס"ה), pp. 111–112.

⁹ Not only ignoring *milhemet mitzvah* but that which our sages teach “Living in Eretz Yisrael is equated with the rest of the *mitzvot* combined,” even when there is no Beit Ha-Mikdash (*Sifre, Devarim* 12).

¹⁰ *Devarim* 6:16; *Pesachim* 64b; *Shabbat* 32a.

Birkat Erusin

Michael Brody, Founding Rabbi of YI in Atlanta, and Professor of Law, Emory University School of Law, writes:

THANK YOU TO Rabbi Dr. Aryeh Frimer for his excellent article titled “May a Woman Recite the Birkat Erusin?” It did a stellar job explaining why one would prohibit such and why the general *minhag Yisrael* was and is not to do so.

In truth, though, the article is not fully persuasive to a “*posek* from Mars”—a halakhic authority who has all the rabbinic sources but no knowledge of any of the facts on the ground. Such a *posek* would, I suspect, conclude that only the groom should make the blessing, since that is the rule endorsed by Rambam, Rif, and Rosh, and *safek berakhah le-hakel*. Of course, contemporary *mesaderei kiddushin* do no such thing, since we have a well-established *minhag* that the *mesader kiddushin* makes the blessing and halakhah

puts aside the rule of *safek berakhah le-hakel* once there is a *minhag* to make a blessing.¹¹

This explains much halakhic practice, unrelated to this specific topic: countless blessings made by only Ashkenazim or only Sefardim or even smaller sub-groups ought to be governed by the rule of *safek berakhah le-hakel*, but are not, since the *minhag* in these *kehilot* is to make the blessing. To be sure, *minhag* trumps the conclusion of the Martian *posek* only when the *minhag* reflects a plausible reading of the sources and has support of some recognized *poskim*. This explains, for example, why so many in the Religious Zionist community follow their *minhag* to make a *berakhah* on Hallel on Yom Ha-Atzma’ut, against the judgment of many *poskim* outside that camp. And, for example, it explains why mixed seating in Conservative synagogues is not a legitimate community *minhag* as it is not supported by halakhic sources or recognized *poskim*.

¹¹. Other than the last concept, all of this is noted in Rabbi Dr. Frimer’s article. The rule that one refrains from reciting a blessing in cases of doubt applies only when there is no established communal custom; where a clear and widely accepted practice exists in a community to recite the blessing, that custom itself resolves the doubt and the blessing is properly recited (*Terumat Ha-Desben* §34; *Rama Oraḥ Hayyim* 422:2; *Kenesset Ha-Gedolah, Hagahot Beit Yosef*, O. H. §219; *Maḡen Avraham* ad loc. §10; *Turei Zahav* (Taz) ad loc. §7; *Eliyahu Rabbah* ad

loc.; *Hida*, *Hayyim Sha’al* II:15 and *Le-David Emet* (*Kuntres Aḥaron*); *Ben Ish Hai* (*Parashat Ekev* §10; *Parashat Nitṣavim* §17); *Kaf Ha-Hayyim*, O. H. 422:36; *Arukh Ha-Shulḥan* O. H. 422:7–8; R. Ovadiah Yosef, *Yehaveh Da’at* III:45; *Mishnah Berurah* O. H. 158:41 (reflecting a pattern of deferring to established communal practice in blessing contexts even amid underlying dispute); *Yalkut Yosef, Rules of Doubtful Blessings*).

This idea allows one to understand the weakness in this excellent article, as well. There is a distinct *shomer Shabbat* community in both America and Israel that has a clear *minhag* to encourage greater participation by women in Jewish ritual life when any reasonable read of the halakhic sources permits such participation: these communities are built on that idea (and others) and apply it in many areas of ritual law. Whether I or Rabbi Frimer are in this community or agree with its values hardly matters. What is clear is that there are many such synagogues and a clear *posek* and they see themselves as a distinct community unbound by the *minhagim* of other communities. Rabbi Frimer agrees that there is a plausible read of the sources that the *Erusin* blessings are *birkat ha-shevah* and he agrees that there are many who consider the possibility that the bride is obligated as well in this blessing, but precludes it through the invocation of *safek berakhah le-hakel*, which does not seem to apply in the face of a clear *minhag in a community in which the mesaderet kiddushin makes birkat erusin*. This is no different from my second blessing on *tefillin*, notwithstanding the many (most?) *rishonim* who oppose such a blessing, since my community makes two blessings.

I suspect that a “*posek* from Mars” would look at all of our *erusin* blessing practices (other than having the groom make the blessing) with quite a bit of halakhic skepticism and insist that they are all

seemingly improper, since *safek berakhot le-hakel* mandates such and would rightly look at the practice of women making the blessing with even more skepticism. But when that Martian *posek* applies the idea that one does not say *safek berakhah le-hakel* in the face of our *minhag* that the one who is the *mesader kiddushin* blesses, they would nod in understanding and let each community continue with its own practice, although they would find the Yemenite practice of having the groom make the blessing to be the best one and having the male *mesader kiddushin* making the blessing instead of the groom better than a woman *mesaderet kiddushin* doing so.

Of course, this short letter lacks many important halakhic discussions, such as (1) how customs can change and (2) when can a group of people or a *posek* accept a minority view and make a blessing and (3) what is a separate community and (4) who is a *posek*, all of which are important secondary issues to my point. So too, a discussion of the impact of social change on the status of woman is needed as it impacts custom. But I think the typical reader of a learned journal like *Hakirah* can intuit the answers each side would provide to this issue.

Let me conclude with a concise summary. I am inclined to disagree with Rabbi Linzer’s approach as a matter of *minhag Yisrael* (for reasons best explained in *Shu”t be-Mareh ha-Bazak* 6:14), but in the presence of a *minhag* and a *posek*, R. Frimer’s ar-

gument of *safek berakhab le-hakel* falters. Can I make a recommendation to those who want a *mesaderet kiddushin*? This would be an excellent opportunity to make a change in *minhag Yisrael* for the halakhically better—have the groom make the blessings, as is the Yemenite custom, and which is the view of Rambam, Rif, and Rosh. This is a suitable change *lehumra* in a community with a nearly universal simple Hebrew literacy rate for a blessing about as long as *birkhat ha-Torah* (which all bar mitzvah boys learn).

Aryeh Frimer responds:

I thank R. Broyde for his kind words about my article. However, our case against women reciting *Birkat Erusin* involved several arguments, not just *safek berakhab le-hakel*. Firstly, we demonstrated that, contrary to R. Dov Linzer's suggestion, the dominant and accepted halakhic understanding among the *poskim* is that *Birkat Erusin* is a *birkat ha-mitzvah* **for the groom** who is the one obligated to betroth. It is the *hatan* that the male *mesader kiddushin*

assists via *areivut*. In addition, while the concept of *rov poskim* may not be dispositive, the scholarly consensus is regularly invoked in halakhic literature as a compelling indicator of the more cogent and controlling view.¹²

But even if one maintains that *Birkat Erusin* is a *birkat ha-shevaḥ*, leading authorities of the past 350 years have underscored that the *berakhab* is still the responsibility of the *hatan*. Thus, the renowned R. Yehezkel Landau explicitly states that *Hazal obligated only the groom* in its recitation, since it is he who is required to do the act of betrothing which the blessing celebrates.¹³ As R. Asher Weiss astutely notes, R. Landau tellingly makes no distinction whether *Birkat Erusin* is a *birkat ha-mitzvah* or perhaps a *birkat ha-shevaḥ*. This approach finds support from pre-eminent contemporary *poskim* such as R. Isaac Zev ha-Levi Soloveitchik, R. Moshe Feinstein, R. Shlomo Zalman Auerbach, Dayan Avraham Kilav, R. Eliyahu Schlesinger, and R. Asher Weiss, among others.¹⁴ Hence, even

¹² Aryeh A. Frimer and Dov I. Frimer, "Partnership Minyanim Revisited: A Response to R. Ysoscher Katz," *Torah Musings Journal*, January 18, 2017, section 4. Available online at: <<http://www.torahmusings.com/2017/01/partnership-minyanim-revisited/>>. See also our response to R. Ysoscher Katz in this volume.

¹³ R. Yehezkel Landau, *Resp. Noda bi-Yehudah*, E.H. Tanyana, sec. 1. See discussion in: R. Asher Weiss,

Minhat Asher, Bereshit (5779 ed.), sec. 42, R. Asher Weiss, *Resp. Minhat Asher*, II, sec. 86; and sources cited in our article note 56.

¹⁴ R. Isaac Zev ha-Levi Soloveitchik (*Griz*), cited in R. Zvi Pesach Frank, *Hadrat Kodesh, Inyanei Nisu'in*, sec. 15; R. Moshe Feinstein, *Resp. Iggerot Moshe*, E.H., I:87; R. Shlomo Zalman Auerbach, *Shalmei Simḥah* (edited by R. Tuvia Freund), sec. 28, p. 182–183; R.

if *Birkat Erusin* is a *birkat ha-shevah*, only males can assist the groom in fulfilling his halakhic duty, not women.¹⁵

It was only at this point in our paper that *safek berakhah le-bakel* was invoked. Thus, even if a case could be built, based upon some opinions, which would allow women to recite the *Birkat Erusin*—that would be insufficient to eliminate the substantial halakhic doubt surrounding this issue. Accordingly, it would still be prohibited for a woman to recite the *Erusin* benedictions pursuant to the halakhic principle of *safek berakhot le-bakel*, such a practice might well involve invoking God's name in vain. This latter point is also argued at length in a responsum of the scholars of the *Eretz Hemdah* Institute and approved by Rabbis Zalman Nechemia Goldberg, Nahum Eliezer Rabinovitch, and Yaakov Ariel.¹⁶

R. Broyde posits, however, that there is an increasing desire in some circles to include women more actively in the wedding ceremony. He then suggests that allowing a *mesaderet kiddushin* or, for that matter, any woman to recite the *Birkat*

Erusin constitutes a new *minhag*, and then invokes “*minhag oker hashash berakhah le-vatalah*,” custom removes the fear of an unnecessary benediction.¹⁷

But, with all due respect, his thesis is questionable for two reasons. Firstly, “*minhag*” must be a broad phenomenon. Yet, the phenomenon of a woman serving as a *mesaderet kiddushin* and/or reciting the *Birkat Erusin* is extremely rare and isolated. Neither we, nor other knowledgeable rabbis across the full spectrum of Orthodoxy with whom we have consulted, have ever been present at, or are aware of, such weddings. Moreover, we—and they—are unaware of anyone agitating for such a practice.

More fundamentally, the custom referred to in the principle “*minhag oker hashash berakhah le-vatalah*,” is a “*minhag vatikin*,” as demonstrated by R. Ovadiah Yosef and other recognized scholars.¹⁸ Such a custom is one which was properly established in accordance with the *psak* and/or the approval of leading *poskim* and recognized experts in halakhah; and is long-standing in both time and tradition. A practice which lacks

Avraham Yitzhak ha-Levi Kilav, *Adat Me-Uzro*, II, sec. 34, par. 1, no. 4; R. Eliyahu Schlesinger, *ha-Ish Mekadesh*, sec. 16.

¹⁵ See our article notes 60 and 61.

¹⁶ *Eretz Hemdah* Institute, *Resp. be-Mareh ha-Bazak*, VI, sec. 14 (5766; 2006), 56–57.

¹⁷ In addition to the sources cited by R. Broyde, see *Resp. Rashba*, III:283, and the references cited by R. Ovadiah Yosef, *Resp. Yabbia*

Omer, IX, O. H., sec. 23, no. 1.

¹⁸ See the sources cited by *Resp. Yabbia Omer*, IX, O. H., sec. 23; and sec. 91, comments on R. Khalfon Moses ha-Kohen, *Resp. Sho'el ve-Nishal*, vol. V, no. 1. For similar approaches, see: R. Menashe Klein, *Resp. Mishneh Halakhot*, X, sec. 4 and R. Isaac Yosef, *Ein Yitzhak*, II, 441–458 and 485–487.

such pre-conditions—even if repeated—cannot supersede the principle of *safeke berakhot le-hakel*. In fact, a recent “custom” which lacks any serious halakhic foundation is considered erroneous (a *minhag ta’ut*) and, hence, null and void.

By contrast, the practice of reciting *Hallel* on *Yom Ha-Atzma’ut*, mentioned by R. Broyde in the third paragraph of his letter, is not at all related to this discussion. The mandate to express one’s joy and thanksgiving to the Almighty upon redemption by reciting *Hallel* is deeply rooted in Jewish tradition. Indeed, the Talmud states (*Pesachim* 117a) that: “The Prophets among them enacted [this *Hallel*] for Israel, that they should recite it on every occasion, and for every trouble, may it not come upon them. When they are redeemed, they recite it over their redemption.” Based upon the enactment of the Prophets, *Hallel*’s recitation with its introductory *berakhab* on *Yom Ha-Atzma’ut* and *Yom Yerushalayim* was approved by a near unanimous decision of the Council of the Chief Rabbinate on 25 Nisan 5734 and 3 Elul 5734,¹⁹ and adopted by the majority of religious Zionist *poskim*, *roshei yeshivah*, and laymen in Israel.

In conclusion, after studying R. Broyde’s critique of our paper, we believe that our analysis stands firm.

Rabbi Ysoscher Katz, Chair, Department of Talmud, Yeshivat Chovevei Torah Rabbinical School, writes:

In a recent essay, R. Aryeh Frimer vehemently rejected the view that a woman may recite the ברכת אירוסין. The permissive position is rooted in the classification of the blessing as a ברכת השבה, rather than a ברכת המצוות tied exclusively to the groom’s unique obligation. R. Frimer asserted two main claims: a) that the majority of *poskim* view it as a *Birkhat Ha-Mitzvot*, and b) that even if the *Birkhat Ha-Mitzvot* classification is not the majority view, the nature of the blessing is, at best, a *safeke* (doubt) between *Birkhat Ha-Mitzvot* and *Birkhat Ha-Shevah*, and as such, the rule of ספק ברכות להקל should apply to prohibit the practice. However, לענין הדבר צריך עיון גדול, as the critique’s reliance on both the principle of a numerical majority and the application of the *safeke berakhot* rule is problematic, and the permissive position remains a compelling and authoritative halakhic view.

It is noteworthy that the basic framework of R. Frimer’s critique is not new. He (along with his brother R. Dov) previously employed these very same arguments to challenge the permissibility of women receiv-

¹⁹. (a) See: <https://www.yeshiva.org.il/midrash/pdf/pdf523/say_hall.pdf>. (b) Only former Chief R. Ovadiah Yosef and R. Shlomo Yosef Zevin dissented; see: R. Ovadiah Yosef,

Resp. Yehaveh Da’at, VII, sec 81, no. 2. Thanks to my brother R. Dov Frimer for reviewing this paper and bringing the source in note 19b to my attention.

ing *aliyot* to the Torah. Their argument at that time also rested on the dual claim that the blessing is a *Birkhat Ha-Mitzvot* (for which women are not obligated) based on the consensus of *rov poskim*, and that the rule of *safek berakhot le-hakel* must be invoked to prohibit the practice. I responded to that critique with a more extensive essay (of which this piece is a condensed version), which explored the various challenges within that methodology. Since the present critique on *Birkhat Erusin* follows the same precise structure, the essential points and conceptual responses developed in my original essay are equally relevant to this discussion.

I. *Birkhat Ha-Mitzvah?*

The argument that the ברכת אירוסין is a standard *Birkhat Ha-Mitzvot* must contend with its distinctly atypical *nusah*. While the blessing does include the phrase אֲשֶׁר קִדְּשָׁנוּ בְּמִצְוֹתַי, its subsequent and concluding sections mark it as different from a classical commandment blessing. Unlike the simple formula of most *Birkhat Ha-Mitzvot*, the *Birkhat Erusin* is unique in that: 1) it continues with a lengthy passage elaborating on the laws of forbidden and permitted relationships; and 2) it concludes with a second *batimah* (בְּרוּךְ אַתָּה ה' מְקַדֵּשׁ עַמּוֹ יִשְׂרָאֵל (עַל יְדֵי חֲפָה וְקִדּוּשִׁין)). This unique and extended *nusah* strongly suggests that the blessing's nature is atypical, and that it should not be confined to the rules governing a typical

birkhat Ha-Mitzvot.

The blessing's atypical nature supports the permissive view, which is buttressed by two main alternative classifications. First, a significant number of *poskim* consider it a ברכת השבחה—a general praise for marriage, which is a *bovab* upon all community members and can be recited by one person (man or woman) as their representative. Second, other authorities propose a unique third category, where the blessing is not on the *hatten's* personal obligation but on the unique legal and spiritual status of *kiddushin* itself. Both interpretations eliminate the justification for gender exclusion because they classify the blessing as a communal requirement, which is inherently gender-neutral. To strictly maintain the *Birkhat Ha-Mitzvot* classification in light of the blessing's atypical *nusah* and the compelling alternative views, presents a significant conceptual difficulty.

II. 'Rov Poskim'

The critique's reliance on the sheer numerical majority of *poskim* to determine the halakhah is perhaps its central methodological weakness. R. Frimer approaches the debate with a truly prodigious *bekint*, meticulously compiling a vast array of opinions across the generations to then determine the *psak* by identifying the numerical majority. This comprehensive census of *shitot*, while demanding immense respect,

ultimately reduces the core of halakhic decision-making to a mere count. The determination of halakhah is not, however, a mere census of historical opinions, and a closer examination reveals that this approach to counting *poskim* is problematic for the following reasons:

1. **The Deliberative Nature of the Majority:** I maintain that the *rov* relied upon in halakhah must emerge from a structured, engaged, and deliberative process, exemplified by the model of the Sanhedrin. As I demonstrated in my longer piece on women and *aliyot* with extensive support from the *rishonim* and *aharonim*, the *poskim* must debate the issue and consciously decide the matter. Counting opinions from *poskim* across centuries who never addressed or argued with one another does not constitute a deliberative majority. It is an act of historical cataloging, not a valid basis for final halakhic ruling.
2. **לשיטתם לאו כל אנפי שווין:** Even if we were to grant them the idea of numerical *rov*, the way R. Aryeh applies it is unsound because not every opinion should carry equal weight; there needs to be a method of how and whom to count. To arrive at his numerical majority (*rov* vs. *mi'ut*), R. Aryeh merely gathers all available opinions and counts for the majority view. This approach is fundamentally problematic because it assigns equal

weight to every authority, irrespective of their stature or the context of their statement. The principle of following a majority in halakhah is contingent upon the equality of the dissenting authorities in knowledge and stature. The halakhah does not simply follow the greater number. When one grants equal halakhic weight to every opinion recorded—from the most authoritative *rishon* to an *aharon* writing on a tangential point, or from a *posek* to a scholar—one disregards the necessary, core principles of halakhic tradition.

Moreover, a crucial distinction must be maintained between *lomdish sefarim* (conceptual works) and *sifrei pesika* (works of final ruling). Scholarly conjecture, with its focus on definitions and hypotheses, is not automatically binding law. Their views, therefore, are not automatically accorded the full halakhic weight of a *posek*'s final ruling and must be carefully weighed in the process of issuing a *psak*.

The logic of *rov* only applies when the debate is between equals; otherwise, the counting process is simply a census of names, not a judicial methodology. The resulting numerical count is therefore accidental and lacks the judicial basis for a binding conclusion.

3. ***Rov* and Conceptual Argument:** The critique attempts to

justify its reliance on a quantitative *rov* by suggesting it follows the methodology of contemporary *aharonim* such as the *Mishnah Berurah* or R. Ovadiah Yosef ז"ל. This comparison is mistaken. These great *poskim* did not abdicate their judicial discretion to a mere count of opinions. They categorized and reviewed the range of views but based their final ruling on the most conceptually persuasive argument and their own judgment. Their approach is one of conceptual evaluation, not merely quantitative. Therefore, when the permissive position regarding the *Birkhat Erusin* is supported by authoritative conceptual arguments, a rebuttal based solely on a numerical census is an insufficient method for establishing a definitive prohibition.

4. **נטייה (Rov as a Stringency) (להומרא):** It is true that *poskim* sometimes allude to a quantitative *rov* in halakhic history, but this often serves as a basis for adopting a non-compulsory stringency (נטייה להומרא), and not for determining the law מעיקר הדין. A stringency is a recommendation, not a binding *psak*, and a *posek* is entitled to disregard it when the permissive view is itself sound and aligns with other necessary communal considerations.

III. *Mutar vs. Yesh Al Mi Lismokh*

The critique's primary focus on establishing an absolute prohibition diverges from the central question often being asked in this debate. The core inquiry is frequently not whether the permissive view is the single, mandatory הלכה אליבא דכולי, but whether the proponents of the *beter* לסמוך יש להם על מה לסמוך.

Where *poskim* disagree, an authority is justified in ruling according to a minority view, provided that view has a reliable basis. The permissive position on the *Birkhat Erusin* rests on strong, respected conceptual arguments. Consequently, the existence of a strong dissenting voice לאיסור does not negate the validity of the authoritative voices להיתר. By addressing the question of a mandatory *psak* while the communal inquiry is centered on the presence of a legitimate basis for a permissive practice, the critique's conclusion regarding finality is significantly challenged.

IV. *Safek Berakhot Le-hakel*

Finally, the invocation of ספק ברכות is inapplicable to this debate. This principle instructs us to refrain from reciting a blessing when there is doubt as to whether one is obligated to say the blessing at all, thus avoiding a blessing in vain.

The issue here is not whether the blessing must be said, it is universally required. The doubt concerns אישים, who is eligible to recite the established blessing and fulfill the obligation, as the permissive

opinion holds that a woman is included. Since the debate concerns the *person* and not the *existence* of the obligation, the rule of ספק ברכות להקל is conceptually irrelevant and cannot be used to prohibit the woman from participating.

In conclusion, the permissive position regarding women reciting the *Birkhat Erusin* is based on strong textual and conceptual arguments regarding the blessing's unique nature. The critique that opposes it relies on a questionable methodological approach to halakhic ruling and on a misapplication of the *safek berakhot* principle. The permissive view, supported by authoritative sources, remains a compelling and halakhically defensible practice.

Aryeh and Dov Frimer respond:

As indicated by R. Ysoscher Katz, his critique of Aryeh's *Birkat Erusin* piece (henceforth, **BE**) includes methodological comments which are also applicable to a previous paper of "The Brothers Frimer" on Women's Aliyyot (**WA**)²⁰; hence, we will be responding here together. What R. Katz fails to mention is that after his critical review²¹ of **WA**, we published a detailed response "Partnership Minyanim Revisited" (**PMR**),²² much of which is relevant to his present critique as well. Moreover, anyone who reads **BE** carefully, will see that most of R. Katz's arguments were already anticipated both in the wording of the text or in the more extensive footnotes. We turn now to his central challenges with the caveat that we have been requested to be brief, despite the weighty issues raised. Perforce, we must assume that the reader is acquainted with the halakhic terminology and has access to our paper **PMR**.

(1) **Birkat ha-Mitzvah**: R. Katz's first criticism is that *Birkat Erusin* cannot be a *birkat ha-mitzvah* since

²⁰ Aryeh A. Frimer and Dov I. Frimer, "Women, *Keri'at ha-Torah* and *Aliyyot*," *Tradition*, 46:4 (2013), 67–238. This article is available online at <<https://traditiononline.org/special-supplement-women-keriat-ha-torah-and-aliyyot/>>.

²¹ R. Ysoscher Katz, "Women and *Kriyat HaTorah*," (March 1, 2016) available online at <[https://li-](https://library.yctarah.org/lindenbaum/women-and-kriyat-ha-torah/)

library.yctarah.org/lindenbaum/women-and-kriyat-ha-torah/>.

²² Aryeh A. Frimer and Dov I. Frimer, "Partnership Minyanim Revisited: A Response to R. Ysoscher Katz," *Torah Musings Journal*, January 18, 2017. Available online at: <<http://www.torahmusings.com/2017/01/partnership-minyanim-revisited/>>.

its formulation is “atypical.” Although it opens with אֲשֶׁר קִדְּשָׁנוּ בְּמִצְוֹתָיו, it then moves to the laws of forbidden and permitted relationships and concludes with Israel’s sanctity. Since the formulation is different from that of the commonly accepted for *birkhot ha-mitzvah*, he concludes that *Birkat Erusin* is a *birkat ha-shevah*. As such, R. Katz posits, the obligation to recite this benediction falls on the entire community present, male or female.

R. Katz has erred in thinking that **formulation** is the primary criterion for a *birkat ha-mitzvah*. There are many *berakhot* that are **formulated** as *birkhot ha-shevah* and lack אֲשֶׁר קִדְּשָׁנוּ בְּמִצְוֹתָיו, but, nonetheless, are *birkhot ha-mitzvah* in essence and **function**. One of the key consequential differences between *birkhot ha-shevah* and *birkhot ha-mitzvah* is that when reciting a *birkhat ha-shevah*, one can be *motzi* another via *shome’a ke-oneh* **only** when both are performing the same act at the same time. By contrast, for *birkhot ha-mitzvah* there is *areivut* and the principle of “*af al pi she-yatza motzi*” kicks in. Provided one is inherently obligated, he can assist another to fulfill their obligation. (See **BE** text at notes 21–27). There are many benedictions that are seemingly formulated as *birkhot ha-shevah* but are actually classified as *birkhot ha-mitzvah* and thus follow the rules of “*af al pi she-yatza motzi*.” Classic examples, among many, are *Kiddush* on *Yom Tov* and *Havdalah*. According to many leading halakhic authorities—such as Gra, to name but one—

Birkhot Keri’at ha-Torah is another. (For discussion and documentation, see **BE** note 27.) The formulation of the *berakhab* was not determinative; it was the essence and character of the benediction that was dispositive. This anomaly occurs because of the evolution in the formulation of *birkhot ha-mitzvah*, as documented by R. David Henshke in his now classic article on the subject. (**BE** notes 27 and 39.)

The view that *Birkat Erusin* is a *birkat ha-mitzvah* finds adherents in all the post-Talmudic periods of Jewish law: *geonim*, *risbonim*, and *apharonim* down to our very day. It finds expression in the works of the great codifiers including Rambam, *Tur*, and *Shulhan Arukh*. In asserting that *Birkat Erusin* is a *birkat ha-mitzvah*, none of these authorities express or demonstrate any concern resulting from the formulation of the benediction. It, therefore, is apparent that contrary to R. Katz’s view, the formulation of the *berakhab* does **not** necessarily reflect its fundamental halakhic character.

There is another critical flaw in R. Katz’s critique. As indicated above, he argues that since *Birkat Erusin* is a *birkat ha-shevah*, then the obligation to recite it falls on the entire community present, **male or female**. But this latter assertion does not flow from *Birkat Erusin* being categorized as a *birkat ha-shevah*. Indeed, the renowned R. Yechezkel Landau explicitly maintains that *Hazal* **obligated only the groom** in its recitation, since it is he **who is**

required to do the act of betrothing which the blessing celebrates.²³ As R. Asher Weiss astutely notes, R. Landau makes no distinction between *Birkat Erusin* being a *birkat ha-mitzvah* or a *birkat ha-shevaḥ*. Furthermore, we note that *berakhot* as a rule are gender-neutral, yet the *Birkat Erusin* is clearly written from a male perspective, as it says: "...and prohibited to us those women who are betrothed with *erusin*, but permitted to us those women who are married to us...." This unequivocal male focus obviously results from the fact that the *Birkat Erusin* was intended to be said by a male, as understood by *Noda bi-Yehudah*.

R. Landau's view finds support from pre-eminent contemporary *poskim* such as R. Isaac Zev ha-Levi Soloveitchik,²⁴ R. Moshe Feinstein,²⁵ R. Shlomo Zalman Auerbach,²⁶ Dayan Avraham Kilav, R. Eliyahu Schlesinger,²⁷ and R. Asher Weiss, among others (see: **BE** notes 59–61). Hence, even if *Birkat Erusin* is a *birkat ha-shevaḥ*, only males—who themselves are obligated to recite *Birkat Erusin*, were they to betroth a woman—can halakhically

assist the groom in fulfilling his duty, not women.²⁸

(2) **Rov Poskim:** R. Katz further charges us with simple "reliance on the sheer numerical majority of *poskim* to determine the halakhah." This is surprising. Anyone who reads the papers under discussion will unquestionably see our multi-step analysis. Indeed, as is appropriate in a work of practical halakhic import, we first carefully present our arguments. We then buttress our conclusions by demonstrating that they represent the dominant position of the Torah scholars and codifiers over the generations, as well as the judgment of the acknowledged *poskim* of the modern period ("rov *poskim*").

In **PMR** (sec. 4 therein), we discussed at great length the function of *rov poskim* in *psak halakhah*; hence, we will present only highlights of our survey here. R. Ysoscher Katz argues that one is not bound by the majority position of decisors unless the disputants thrash out their arguments face to face and vote. Otherwise, the debate is not closed, and

23. R. Yehezkel Landau, *Resp. Noda bi-Yehudah*, E.H. Tanyana, sec. 1. See discussion in: R. Asher Weiss, *Minhat Asher, Bereshit* (5779 ed.), sec. 42, R. Asher Weiss, *Resp. Minhat Asher*, II, sec. 86; and elsewhere.

24. R. Isaac Zev ha-Levi Soloveitchik (*Griz*), cited in R. Zvi Pesach Frank, *Hadrat Kodesh, Inyanei Nisu'in*, sec. 15. Cf., however, R. Frank's view, *ibid.*, and footnotes 2–3.

25. R. Moshe Feinstein, *Resp. Iggerot Moshe*, E.H., I:87.

26. R. Shlomo Zalman Auerbach, *Shalmei Simbah* (edited by R. Tuvia Freund), sec. 28, p. 182–183.

27. R. Avraham Yitzhak Ha-Levi Kilav, *Adat Me-Uzvo*, II, sec. 34, par. 1, no. 4. R. Eliyahu Schlesinger, *ha-Ish Mekadesh*, sec. 16.

28. See also: R. Zvi Pesach Frank, *supra*, note 5, footnote 3.

anyone is free to adopt the minority view should he so desire. Consequently, argues R. Katz, the concept of “*rov poskim*” bears no significant force in *psak halakhah*.

R. Katz’s argument is problematic for a number of reasons. Firstly, he is remiss in not acknowledging those who maintain²⁹ that the majority opinion holds halakhic sway, even if the disputants do not argue face to face. More importantly, even were we to accept that face-to-face debate is required for the majority view to be dispositive,³⁰ nevertheless, the scholarly consensus (*rov poskim*) is regularly invoked in halakhic literature (see at length in **PMR**, sec. 4) as a clear indicator of the more compelling and controlling view. Thus, R. Moshe Isserles (Rama),³¹ based upon the responsum of R. Solomon ben Abraham Aderet (Rashba),³² rules as follows:

One should not say: “I will rule in accordance with whomever I want in a matter of dispute, and if one does so it is a ruling which is a lie. Rather, if he is a great

scholar and can make a determination based upon proof, he is permitted to do so. And if he is not a person of such stature...when it is a ruling concerning matters of the forbidden and the permitted, and it is a Torahdic prohibition, one is to be stringent; and if it is a rabbinic matter, one is to be lenient. But only if the disputants are of equal stature; however, one may not rely on the rulings of one who is of lesser stature against one who is greater in wisdom and students, even in dire circumstances...**Similarly if there is one versus many, we follow the many under all circumstances...**

We emphasize that leading halakhicists demonstrate from numerous sources that the expression “one versus many” does not mean literally “one” but rather a minority versus a majority.³³

This ruling of Rashba and Rama is accepted by all subsequent halakhic authorities. Thus, R. Moses ibn

29. Rashi, *Bava Kama*, 116a, s.v. “*Ein bakhra’a*,” R. David ibn Zimra, *Resp. Radvaz*, IV, sec. 116 (1187); R. Shabbetai Kohen, *Sifte Kohen*, Y.D. end of sec. 242, “*Hanbagat Hora’ot be-Issur ve-Heter*.” See also R. Zvi Hirsch Chajes, *Mishpat ba-Hora’ah*, chap. 5 and Encyclopedia Talmudit, IX, *Halakhah*, note 234.

30. R. Ovadiah Yosef, *Resp. Yehaveh Da’at*, V, *Kelalei Maran ha-Shulhan Arukh*, p. 306, indicates that this is not the general view of the codifiers.

31. Rama, to *Shulhan Arukh*, H.M. 25:2.

32. R. Solomon ben Abraham Aderet, *Resp. Rashba*, I, sec. 253.

33. See: R. Moses ibn Habib, *Get Pashut*, *klal* 5 (beginning) and R. Hayyim Hezkiah Medini, *S’dei Hemed*, *Ma’arekhet Yud*, *Klal* 35 (Friedman Edition, III, 63). *Halakhah Pesuka* (The Harry Fischel Institute for Research in Jewish Law, 1987), II, *H.M.*, sec. 25, no. 12 and note 135, cites additional sources in support of this understanding.

Ḥabib in his *Get Pashut*³⁴ (quoted by R. Katz in note 2) writes: “But if he cannot bring conclusive proofs, or nowadays ... when we do not rely on our proofs to disprove our predecessors..., we determine what is the view of the majority of decisors (*rov ha-poskim*), pillars of *psak*, and rule like the majority, be it lenient or stringent.” R. Zvi Hirsch Chajes in his *Mishpat ha-Hora’ah*, drawing upon R. Moses ibn Ḥabib’s *Get Pashut*, further explains: “Nevertheless, where the majority is not in the presence of all disputants in a common session, there is a special rule for deciding the law and that is “*Yahid ve-rabim, halakhab ke-rabim*,” one vs. many, the law is like the many. [Under such conditions] this is not a [decisive] biblical majority, but rather a rule of logic, for it undoubtedly makes sense that the many are more likely [than the few] to approximate the truth.”³⁵

Similarly, Rabbi Joseph B. Soloveitchik explains that the halakhic principle of following the majority (“*aharei rabim le-hatot*,” Ex. 23:2) contains two components: one, that the view of the majority is dispositive; and the other as a tool to clarify matters of doubt.³⁶ Even where the halakhic, procedural requirements necessary for a majority view to be deemed determinative are lacking, the majority view still

remains compelling for purposes of halakhic clarification. The requirement that disputants argue face to face is a necessary requirement for the majority view to become dispositive. Nonetheless, even where the disputants do not argue face to face and, therefore, the majority view is not conclusive, the majority view still remains compelling to clarify which is the better view to follow.

(3) **Yesh al Mi Lismokh:** Despite our conclusion in the previous section, we note that the Lithuanian halakhic tradition in practice allowed its greatest rabbinic scholars the freedom to muster compelling proofs to rule in accordance with a minority view (see discussion in **PMR**, end of sec. 4). Notable examples from recent generations include the world-renowned halakhic authorities, R. Abraham Isaiah Karelitz, the “*Ḥazon Ish*,” and R. Moses Feinstein. This, however, is **provided** that the scholar is a “*bar bakhi*”—a great Torah scholar of a stature that would allow him to challenge the majority view of the Torah giants of both previous generations and the contemporary one. Otherwise, as the authoritative Lithuanian *posek* R. Yeḥiel Mikhel ha-Levi Epstein rules: “If there is a dispute among the *poskim* and the

³⁴. R. Moses ibn Ḥabib, *Get Pashut*, *ke-lal* 1 and 5.

³⁵. R. Zvi Hirsch Chajes, *Mishpat ha-Hora’ah*, chap. 5. See also: R. Raphael Berdugo (1747–1821), *Mishpatim Yesbarim* (also cited by R. Katz),

sec. 238; R. Joseph Babad, *Minḥat Ḥinukh*, Commandment 78, no. 6.

³⁶. R. Joseph B. Soloveitchik, *Iggerot ha-Grid ha-Levi*, chap. 1 *Hilkhot Mamrim*, secs. 2–3 (end).

judge is not a great Torah scholar so that he is capable of deciding the matter with proofs, and a general consensus in accordance with one particular opinion on the matter has not been established, how should one act?... Where the many authorities dispute the one, go after the many whether in being lenient or in being stringent.”³⁷ Rabbi Epstein reiterates this ruling once again in *Yoreh De’ah*.³⁸ Thus, the concept of “*yesh al mi lismokh*”—which is reserved for cases of exigent circumstances (*she’at ha-dehak*),³⁹ is clearly not a license for one to simply do as he may desire.

Whether or not R. Katz is indeed of the requisite caliber to dispute the view of “the many” is a question that we cannot answer. One thing, however, is evident to anyone who is familiar with the halakhic sources and literature under discussion: R. Katz has presented no compelling proofs that would lead one to conclude that the majority understanding of Torah scholars throughout the generations—in any of the issues we addressed—is flawed.

(4) ***Safek Berakhot le-Hakel***: This

brings us to the final issue discussed by R. Katz, *safek berakhot le-hakel*—the prohibition to recite benedictions in cases where there exists substantial halakhic doubt as to their permissibility under the circumstances of the case at hand. To act otherwise could well involve invoking God’s name in vain. Accordingly, we maintain that in light of our presentation, as well as the number and stature of the *poskim* supporting our position, the recitation of *Birkat Erusin* by a woman would be forbidden. R. Ovadiah Yosef and others⁴⁰ forbid the recitation of benedictions where doubt exists, even if only a minority of *poskim* are stringent. Most authorities, though, permit saying *berakhot* if the majority of codifiers permit their recitation.⁴¹ All concur, however, that the recitation of *berakhot* would be highly problematic should only a minority of authorities allow their pronouncement, as with women and *Birkat Erusin*.

R. Katz closes his critique by asserting that “since the debate concerns the *person* and not the *existence* of the obligation, the rule of *safek berakhot le-hakel* is conceptually irrelevant and cannot be used to prohibit

³⁷. R. Yehiel Mikhel ha-Levi Epstein, *Arukh ha-Shulhan*, H.M., sec. 25, no. 12.

³⁸. *Arukh ha-Shulhan*, Y.D., sec. 242, no. 63.

³⁹. See, for example, *Niddah* 9b.

⁴⁰. R. Ovadiah Yosef, *Resp. Yabbia Omer*, III, O. H., sec. 16, no. 7.

⁴¹. See *Encyclopedia Talmudit*, IV, 291–315, at 303ff; R. Yitzhak Yosef,

Mafte’ah Meforat to Resp. Yehaveh Da’at, Kelalei Safek Berakhot; R. Yitzhak Yosef, *Ein Yitzhak*, II, 456–457, and sources cited by *Resp. Yabbia Omer*, note 40, *supra*. The *poskim* do not permit reciting *birkat ha-shevaḥ* in cases of doubt either, *supra*.

the woman from participating.” To our mind he is charting new territory, and we are unfamiliar with any such distinction in the classical halakhic sources. In fact, the halakhic literature is replete with cases to the contrary—where the doubt concerns a person yet leading *poskim* invoke *safek berakhot le-hakel* nonetheless. So, for example, the rabbis disagree as to whether or not a blind person is obligated to perform *mitzvot* (see: B.K. 87a; Kid. 31a). While Jewish tradition has clearly ruled that the blind are indeed obligated to perform *mitzvot*, the highly respected R. Joseph Molkho⁴² ruled that due to the debate and resulting doubt, the principle of *safek berakhot le-hakel* is applicable. Consequently, a blind person should not recite a *berakhab* upon performing a *mitzvah*. R. Molkho’s ruling was rejected by subsequent halakhic authorities. Yet, tellingly, none of the disputants proffer R. Katz’s argument that since the debate concerns the person, the rule of *safek berakhot le-hakel* is conceptually irrelevant.⁴³ Addressing *Birkat Erusin*, R. Yehezkel Landau⁴⁴ rules that an *androgynous* person may not recite a *berakhab* due to the principle of *safek berakhot le-hakel*. Since there is unresolved doubt as to whether the *androgynous*

is factually a male—and, therefore, eligible to recite *Birkat Erusin*, or female—and, therefore, not eligible to recite *Birkat Erusin*, the rule of *safek berakhot le-hakel* controls. R. Landau (ibid.) similarly queries whether a groom who is deaf should recite *Birkat Erusin*. R. Ovadiah Yosef and R. Asher Weiss, citing R. Landau, rule that *Birkat Erusin* should not be recited, explicitly invoking the principle of *safek berakhot le-hakel*.⁴⁵ R. Ovadiah Yosef also applies this principle to the *erusin* of a minor *batan*. In all these examples, the question concerns the *person* and not the fundamental *existence* of an obligation to recite a *Birkat Erusin* at the wedding. Yet, the halakhic authorities consistently forbid the recitation of *Birkat Erusin* for the relevant groom, applying the principle of *safek berakhot le-hakel*. What’s more, *Kolel Eretz Hemdah*⁴⁶ indicates that in the case of a woman’s recital of *Birkat Erusin*, the latter would be a *sfeik sfeika* (compound doubt) and thus there would be even more reason to prohibit recitation. To wit, if *Birkat Erusin* is a *birkat ha-mitzvah*, only a male is obligated to betroth and can recite the benediction. But even if it is a *birkat ha-shevah*, *Hazal* may well have obli-

⁴² R. Joseph Molkho, *Shulhan Gavo’ah*, sec. 589:10.

⁴³ See, for example: R. Ovadiah Yosef, *Resp. Hazon Ovadiah, Pesah*, sec. 20:8.

⁴⁴ R. Yehezkel Landau, *Resp. Noda bi-Yebudab*, E.H. *Tinyana*, sec. 1.

⁴⁵ R. Ovadiah Yosef, *Resp. Yabbia*

Omer, VII, E.H. sec. 17b; R. Asher Weiss, *Resp. Minhat Asher*, II, sec. 86.

⁴⁶ *Resp. be-Mareh ha-Bazak*, VI, sec. 14 (5766; 2006), 56–57. The latter responsum was approved by Rabbis Zalman Nechemia Goldberg, Nahum Eliezer Rabinovitch, and Yaakov Ariel.

gated only males—who are ordained to do the betrothal process—to recite this *berakhab* (as we demonstrated above, at the end of sec. 1).

In summary, after seriously studying R. Ysoscher Katz’s criticism, we believe that our conclusions remain correct as presented. R. Katz fails to come to terms with most of the arguments proffered in our article. His paper neither refutes our conclusions nor successfully challenges the fundamental assumptions of our methodology. If one wishes to advocate deviation from the *mesorat ha-psak* of the generations, his readership has the right to expect rigorous analysis and compelling argumentation. With all due respect, such analysis and argumentation appear at this time to be wanting.

Tefillah be-Zibbur

Aryeh A. Frimer and Dov I. Frimer write:

IN R. TUVY MILLER’S recent two-part study on “Women, *Tefillah*, and *Tefillah be-Zibbur*,”⁴⁷ he carefully examines the many sources related to women’s prayer obligation. As an educator and from his reading of the sources, he is particularly troubled by the fact that public prayer is emphasized for males and de-emphasized for females. In assorted articles, we too have discussed various issues related to women and public prayer.⁴⁸ We believe that there are many points that R. Miller has not taken into consideration in his presentation of the sources. (In this critique we will keep our references to a minimum.)

Firstly, he assumes that both genders share the same obligation in private prayer. This, however, is an oversimplification. R. Miller is correct that the accepted view of the *poskim* maintains that women are obligated in the *Amidah* of *Shaharit* and *Minhah*.⁴⁹ However,

⁴⁷. (a) *Hakirab* 37 (Summer 2025), 469–497; (b) *Hakirab* 38 (Spring 2026), 179–213.

⁴⁸. (a) Aryeh A. Frimer, “*Ma’amad ha-Israhel be-Halakha—Nashim u-Minyan*,” *Or ha-Mizrah* 34:1, 2 (Tishrei 5746, September 1985), 69–86, n. 43 and 43*; (b) Aryeh A. Frimer, “Women and *Minyan*,” *Tradition* 23:4 (1988), 54–77, n. 26–29; (c) Aryeh A. and Dov I. Frimer,

“Women’s Prayer Services—Theory and Practice; Part 1: Theory,” *Tradition*, 32:2, 5–118, n. 85 and 102 (Winter 1998); (d) Aryeh A. Frimer and Dov I. Frimer, “Women, *Keri’at ha-Torah* and *Aliyyot*,” *Tradition*, 46:4 (Winter, 2013), 67–238, n. 388.

⁴⁹. For documentation of the points cited in this paragraph, see: R. David Auerbach, *Halikhot Beitah*,

other than *birkhot ha-Torah* and *birkhot ha-shahar*, women are exempt from most other components of the *davening*, such as: *Korbanot*, *Pesukei de-Zimrah*, *Keri'at Shema* and its introductory benedictions, *Hallel*, *Tahanun*, *Keri'at ha-Torah*, *Ashrei* and other concluding prayers, and *Selihot*. Even *Musaf* is a matter of serious debate. There is also a respected view that maintains that women are obligated in the *Amidah* only once daily.⁵⁰ Finally, the simple custom for many centuries (going back to before the 1600s⁵¹) throughout religious circles is that women do not regularly pray daily with any standard formulation. Nevertheless, they will often do so if and when attending synagogue services on *Shabbat* and holidays. Given the substantial difference between the genders in their private prayer obligations, it is not at all surprising that a woman's public prayer requirement would also be different from that of men.

Secondly, as R. Miller discusses, whether, in fact, *tefillah be-ṣibbur* is obligatory for men or merely a *hiddur mitzvah* (or *mitzvah min-ha-*

munḥar) is the subject of some debate.⁵² Yet, he neglects to point out that even according to the *hiddur mitzvah* school, *tefillah be-ṣibbur* is, nonetheless, a communal obligation (*hovat ha-ṣibbur*).⁵³ It is the **men** of the community who are *obligated* to ensure that a *minyan* is available for public prayer and that there are functionaries to carry it out; only when such has been secured, does actually praying with the *minyan* become a *hiddur mitzvah* for an individual. (A similar analysis has been proffered by others with regard to *keri'at ha-Torah*.⁵⁴) Thus, only males have an inherent obligation regarding *tefillah be-ṣibbur* which women lack. It is because of this obligation that only men can lead the community in fulfilling the special *tefillah be-ṣibbur* rituals and obligations (e.g., *Kaddish*, *Kedushah*, *Barekhu* and *Hazarat ha-Shatz*).⁵⁵ It is also one of the major reasons why only males count for a *minyan* for *tefillah be-ṣibbur* and *devarim she-bi-kedushah*.⁵⁶

Thirdly, it is also clear that the *poskim* over the generations assume that women are exempt from public prayer. The various reasons they

chaps. 3–8; R. Asher Weiss, *Minḥat Asher*, *Bereshit* (5783), sec. 62.

^{50.} See R. Ovadiah Yosef, *Resp. Yabbia Omer*, VI:17; *Yehaveh Da'at*, III:7—and sources cited therein.

^{51.} See R. Abraham Gombiner, *Magen Avraham*, O. H. 106:2.

^{52.} See our discussion in note 48c above, note 102 therein.

^{53.} See, *inter alia*: R. Joseph Elijah Henkin, *Lev Ivra*, pp. 158–159; R. Eliezer Deitch, *Pri ha-Sadeh*, I, sec.

107; R. Aaron Soloveitchik, *Parah Mateh Aharon*, *Sefer Ahavah*, *Hilkehot Tefillah*, 13:20 (p. 75).

^{54.} See note 48c above, note 102 therein, and note 48d above, note 106 therein.

^{55.} This point was stated by R. Yaakov Ariel, “*Hiyyuv Nashim bi-Tefillah be-Minyan*,” on www.toraland.org.il.

^{56.} See notes 48a and 48b, above.

give for this exemption are unsatisfying or unconvincing to R. Miller; we, however, tend to disagree, as we shall soon develop. What is undisputed, though, is that there is a *mesorah* *ha-psak*—a consistent, halakhic tradition—that in practice, women are exempt from *tefillah be-zibbur*.⁵⁷ But while women are freed from the obligation of public prayer, public prayer remains preferable even for women.⁵⁸ Nevertheless, what is optional remains optional, even when its performance is laudatory.⁵⁹

We close with a possible rationale as to why *Hazal* freed women from *tefillah be-zibbur*. This rationale was proposed in our 1985 paper on Women and Minyan,⁶⁰ and waved off by R. Miller without explanation as “less than convincing.”⁶¹ We believe that *Hazal* did not want to force women out of their home, ignoring family responsibilities, to attend prayer services several times daily. This reason is analogous to the proposal put forward by Avudraham for women’s

exemption from *mitzvat aseï she-hazeman gramman* (time-determined commandments) but modernized with the emphasis on family rather than husband. As R. Saul Berman wrote in his seminal piece on the Status of Women in Halakhic Judaism: “Indeed, the Torah modified the civil and religious demands it made upon Jewish women, to assure that no legal obligation could possibly interfere with her performance of that particular role [of wife-mother-homemaker]. If a woman elected to discover her fulfillment in the relation to her husband and children and in the shaping of a home, no law would stand in the way of her performance of that trust.”⁶²

We agree with R. Miller that women should be encouraged to *daven* regularly and attend communal prayers whenever possible. However, as stated above: what is optional remains optional, even when its performance is laudatory.

⁵⁷. See our discussion in note 48c above, note 85 therein. Over the several decades since first writing that article, we have become aware of many additional sources adopting that position. See also well-known halakhic works, such as *Halikhot Beitah*, chap. 6, no. 13; R. Yitzchak Yaacov Fuchs, *Halichos Bas Yisrael*, chap. 2, no. 26.

⁵⁸. R. Yaakov Ariel, note 55 above and R. Yitzchak Yaacov Fuchs, note 57 above. R. Menasheh Klein dissents; see: *Resp. Mishneh Halakhot*, XVII, sec. 92. He maintains that the *shekhinah* resides in the

home of a righteous woman and it is from there that her prayers will be heard. See also *Resp. Mishneh Halakhot*, XV (*Mahadura Tinyana*, V), O.H. sec 39.

⁵⁹. See our discussion in note 48c above, text at note 75ff.

⁶⁰. Note 48a above, note 43 therein.

⁶¹. Note 1a above, note 113 therein.

⁶². R. Saul J. Berman, *Tradition* 14:2 (Fall 1973), 5–28, at p. 16. The application of this approach to *minyan* and *tefillah be-zibbur* appears on p. 18.

Tuvy Miller Responds:

Many thanks to Rabbis Aryeh and Dov Frimer for taking the time to respond to my articles. It is humbling to receive criticism from such distinguished *talmidei hakhamim* whose scholarship has shaped serious discussion on women and *halakhab* for decades. In fact, I cite their work in both of my articles.

They raised three points that they feel I overlooked. I will summarize each one and respond in turn:

The Frimers contend that I oversimplified matters in claiming that, at least according to Rambam, men and women have identical daily prayer obligations, because that only relates to the *Amidah*, but not to many other sections of prayer. In fact, they argue, women are exempt from most of daily prayer, along with special prayers for *Shabbat* and *Yom Tov*. As a result, and due to other opinions that see women's obligation in the *Amidah* as different from men's,⁶³ the Frimers conclude that since men and women have substantively different obligations regarding private prayer, it is unsurprising to find differences related to public prayer.

They are correct that I focused on *Shemoneh Esrei* to the exclusion

of the rest of prayer; this is because when discussing *tefillah be-zibbur*, *Shemoneh Esrei* is the most relevant section of prayer to analyze. At its core, *tefillah be-zibbur* is the optimal or most efficacious way to recite *Shemoneh Esrei*,⁶⁴ even if one argues that public prayer also includes other elements that may fall under the rubric of *tefillah be-zibbur*.⁶⁵ Beyond this, however, it is difficult to sustain their claim that women are exempt from "most other components of davening." The Frimers cite *Halikhot Beitah* as their primary source for this contention and a careful examination of the relevant chapters shows that women may be obligated in a number of these prayer components. In the interest of space, I will note these relevant prayer sections and will elaborate in the footnotes: *Korbanot*,⁶⁶ *Pesukei de-*

⁶³ Either because women are only obligated in one daily *Amidah* (R. Ovadiah Yosef) or in a singular *bakshah* each morning (*Magen Avraham*).

⁶⁴ This is the plain sense of Rambam in *Hil. Tefillah* 8:1. See the ruling of *Hayyei Adam* 1:19:1 where he says

this explicitly.

⁶⁵ Rambam *Hil. Tefillah* 8:4–6.

⁶⁶ According to *Halikhot Beitah* (pp. 23–25) women are obligated, though some *aharonim* disagree.

Zimrah,⁶⁷ *Tahanun*,⁶⁸ *Hallel*,⁶⁹ *Keriat ha-Torah*,⁷⁰ *Ashrei* and concluding prayers,⁷¹ and *Selihot*.⁷²

Furthermore, their argument that some *poskim* only obligate women in one daily *Shemoneh Esrei* or a single *bakashah* each morning is

beside the point. My contention⁷³ is that Rambam thinks women are obligated in three daily prayers as this understanding coheres best with Rambam's various formulations in *Mishneh Torah* and *Perush ha-Mishnah*. I hesitate to disagree with Magen Avraham or R. Ovadiah Yosef, yet

⁶⁷ According to *Halikhot Beitah* (pp. 25–26) the *aharonim* disagree about this. Regarding contemporary works, *Ishei Yisrael* (7:10 fn. 38) and *Rigshei Lev* (p. 134) say that women are obligated to recite *Pesukei de-Zimrah* while *Peninei Halakhab* (*Tefillat Nashim* 15:4) and *Responsa Mahazeh Eliyahu* (no. 15) exempt them.

⁶⁸ According to *Halikhot Beitah* (p. 51), based on *Responsa Mahazeh Eliyahu* no. 20, women are exempt. This, however, is far from obvious and depends on, among other factors, the degree to which *Tahanun* is an extension of *Shemoneh Esrei* (see *Raz ke-Zvi al Inyanei Nashim ba-Halakhab* 1:5). Furthermore, there are those who have questioned *Mahazeh Eliyahu's* *diyyuk* from *Tur*, which is the basis for his exemption (see *Halikhot Bat Yisrael* 2:12 for those who raise this question). Additionally, the *minhag* described in these works may actually differ by community; anecdotally, in several Modern Orthodox schools, both boys and girls are taught to recite *Tahanun*.

⁶⁹ According to *Halikhot Beitah* (ch. 8), women are generally exempt from *Hallel*, though *Hallel* on the first night and day of *Pesah*, as well as on *Hanukkah*, might be exceptions where women are obligated. Additionally, it is possible that according to Ramban, who holds

that *Hallel* on the *Shalosh Regalim* is *de-orayta* grounded in *simhat Yom Tov*, women might also be obligated in this *Hallel* by virtue of their obligation in *simhah*.

⁷⁰ According to *Halikhot Beitah* (ch. 9), this is subject to a *mahloket aharonim* and may depend on which *keri'at ha-Torah* is under discussion. It is not straightforward to say that women have a blanket exemption from *keri'at ha-Torah*.

⁷¹ According to *Halikhot Beitah* (ch. 7), women are exempt. See, however, *Rigshei Lev* (pp. 257–258) which suggests that perhaps women should be obligated to say *Ashrei*, *Lamnazeh* and *u-Va Le-Zion*.

⁷² According to *Halikhot Beitah* (ch. 7), women are exempt from *Selihot* during the rest of the year because the recitation is just a *minhag*. It is unclear how this justifies an exemption, if that is even the correct term to use in this context. Perhaps *Halikhot Beitah* is arguing that because women do not recite *Selihot*, they must be exempt. Regarding *Selihot* during Elul, however, *Halikhot Beitah* says that the *minhag* among some women is to recite *Selihot*.

⁷³ Part I: pp. 471–476. See the sources cited there in footnotes 17 and 18.

I have great difficulty understanding how they can hold that Rambam exempts women from *tefillah de-rabanan*. Therefore, I would argue that the Frimers have not convincingly demonstrated that men and women have substantively different prayer obligations, certainly regarding *Shemoneh Esrei*, and even with respect to the rest of prayer. As a result, my contention remains that since men and women have identical daily prayer obligations in what is most relevant to *tefillah be-zibbur*, they should both have equal obligations, or lack thereof, in communal prayer.

The Frimers then raise another point they feel I overlooked: even according to those who see *tefillah be-zibbur* as voluntary for individuals, there is still a communal obligation to ensure that *tefillah be-zibbur* occurs. This *hiyyuv* falls on the men of the community, both to ensure the existence of *tefillah be-zibbur*, as well as the “functionaries to carry it out.” As a result, the Frimers argue, individual men do have an inherent

hiyyuv of *tefillah be-zibbur* which women lack and therefore, women are unable to serve as *sheliḥot zibbur* or constitute a *minyan* for *devarim she-be-kedushah*.

They are correct that there is a communal obligation of ensuring *tefillah be-zibbur*, which I addressed in several places throughout both articles,⁷⁴ though I accept the critique that I did not present this clearly enough. Additionally, I should have clarified that even those who see *tefillah be-zibbur* as voluntary for individuals still maintain that the community has an obligation to ensure that *tefillah be-zibbur* takes place. I do not, however, fully agree with the claim that this communal obligation only applies to men since that depends on the obligation’s precise definition. If it is defined as the pool of individuals who must help constitute the *minyan*, that applies primarily to men.⁷⁵ If, however, the communal obligation entails the responsibility for ensuring a *beit kenesset*, *minyan*, or *hazgan* for the community, this should include

⁷⁴ Part I: p. 479n30, pp. 480–481; Part II: pp. 179–180fn6, pp. 190–195.

⁷⁵ See Rama O. H. 55:22. As their primary evidence, both in this letter and in their article on Women’s Prayer Services (pp. 87–88n102), the Frimers cite R. Yosef Eliyahu Henkin as holding that there is a *hovat ha-zibbur* of communal prayer and that this would include each individual man. However, careful examination of R. Henkin’s language shows that his position is perhaps more nuanced and may

only include individuals who are already present in the *beit kenesset*. If a man is at home, he might lack such an obligation even if no *minyan* is present yet in the *beit kenesset*. R. Henkin also does not address the question of whether this could apply to women ensuring that a *minyan* exists.

women.⁷⁶

The Frimers close this section by claiming that women's exclusion from a communal obligation for *tefillah be-ḥibbur* explains why they cannot serve as *shelihot ḥibbur* or constitute a *minyan* for *devarim she-be-kedushah*. These claims require further analysis that is beyond the scope of this response.⁷⁷

The third point that the Frimers raise is that a clear *mesorat ha-psak* exists to exempt women from *tefillah be-ḥibbur* and even though women are exempt, it remains a

laudatory practice for them. As evidence for this *mesorah*, they cite a footnote in their article on Women's Prayer Services. However, the footnote concludes by summarizing a conversation that R. Dov Frimer had with R. Ahron Soloveichik where R. Ahron clearly rejects this *mesorah*.⁷⁸ While the Frimers do not further analyze R. Ahron's position, it is worthwhile noting again that he is not alone in holding that *tefillah be-ḥibbur* should apply equally for men and women as I documented in my second article.⁷⁹ Furthermore, the *poskim* cited

⁷⁶ See Responsa *Berit Ya'akov* O. H. no. 8 about women contributing to the construction of the *ezrat nashim*, and shuls more broadly, and *Mekor Hayyim* O. H. 53:23 regarding women paying for *ḥazḡanim*. It is not entirely clear to me why women cannot bear responsibility for ensuring a *minyan* even if they cannot constitute one. This also relates to the nature of ritually oriented communal *ḥiyuvim*: are they solely about facilitating the performance of a given commandment or more about shaping the character of a Jewish city?

⁷⁷ Regarding women as *shelihot ḥibbur*, see the survey in Joy Goldkrand Cheskin, "By Whom Shall G-d Be Sanctified?" *Matmidot* Scholars Torah Journal (Midreshet Lindenbaum, 2020), pp. 16–52. The Frimers' citation from R. Yaakov Ariel is to a brief online response that he penned which does not fully and precisely flesh out the issue. With respect to women constituting a *minyan*, they cite sections from R. Aryeh Frimer's seminal

Hebrew and English articles on the topic. From the sources cited in the relevant notes in both articles, this distinction between *ḥovat ha-yahid* and *ḥovat ha-ḥibbur* is not made clear. It is likely that at least some of the authorities listed think women are exempt from the *ḥovat ha-yahid* of *tefillah be-ḥibbur*, and as a result cannot constitute a *minyan*. This, then, runs afoul of the critique that I documented in my first article: that *tefillah be-ḥibbur* may not actually be an individual obligation and even if it is, women and men should be equally obligated.

⁷⁸ The Frimers' citation from R. Ahron's *Parah Mateh Aharon* only serves to document the existence of a communal obligation regarding *tefillah be-ḥibbur*, but does not clarify to whom it applies within the community.

⁷⁹ Part II pp. 206–209. It is also worth considering the weight of a *masoret pesikah* when there are strong arguments to the contrary, as well as competing *masorot*.

do not specify whether they are exempting women from an individual or communal obligation of *tefillah be-zibbur*. In my understanding, *tefillah be-zibbur* is likely a voluntary practice for all individuals, and the exact nature and scope of the *hovat ha-zibbur* are murky. Therefore, I concur with the Frimers' formulation of "what is optional remains optional, even when its performance is laudatory," though perhaps not for the reason they intended.

The Frimers close their letter by proposing a rationale for why, in their understanding, women are exempt from *tefillah be-zibbur*. Essentially, to facilitate women caring for their families at home, *Hazal* waived the requirement for women to leave their houses for communal prayer. The Frimers are modernizing the explanation of Abudraham for time-bound positive commandments and drawing from R. Saul Berman's article on women and halakhah where he appears to suggest a similar rationale.

They claim that I "waved off" their rationale as "less than convincing" in a footnote without seriously analyzing it. In truth, I cited the 1985 article because it anticipates one of my central questions, which gave me encouragement. It felt unnecessary to spell out my disagreement with the proposed rationale in a passing reference and I intended no disrespect. That being said, I remain unconvinced by the rationale

and will explain why. As I noted in the section on R. Eliezer Melamed in Part II,⁸⁰ it is difficult to utilize Abudraham's rationale, or even a version of it, because it only applies to some women. Even using the Frimers' modernized rationale, a woman with children has a defined period of time during which she will need to care for them at home. Both before and after that, the rationale does not apply, nor does it apply to many women who are not blessed with children. Even if one invokes *lo plug*, it is perplexing that the rationale would be inapplicable to so many women across different life stages. Even were I to agree with the Frimers that women are exempt from *tefillah be-zibbur*, which I do not, I am skeptical of proposing speculative non-legal rationales for halakhot.

Again, I thank the Frimers for taking the time to critique my articles and for raising important points, even if we disagree on certain core issues.

⁸⁰ Part II pp. 197–199.

Hanukkah

Wallace Greene, Ph.D. in Jewish History from Yeshiva University, writes:

I READ WITH interest Richard Hidary's argument that *Hazal* sought to shift the commemoration of Hanukkah from the Temple to the home.⁸¹ However, an analysis of the key sources indicates that he omitted one significant step in this evolution. There are also some other details that were missed. Hidary demonstrates mastery of the secondary literature, but the primary sources yield superior evidence.

Hanukkah celebrates the victory over the Syrian Greeks as well as a victory against the assimilationists, even among the priestly class. Although many cultures celebrated events around the winter solstice,⁸² Judah Maccabee selected the 25th of Kislev to coincide with the exact date three years earlier when the Temple was profaned.⁸³ The actual military victory occurred in the

month of Heshvan shortly after the Sukkot festival which the Jewish army could not celebrate since they were still engaged in battle.⁸⁴

Obviously the cleansing of the Temple, the removal of idolatrous appurtenances and restoring the building to its proper functionality could not take place overnight!

It is also clear that the first observance of Hanukkah was a make-up, תשלומין, for the recent Sukkot festival that they missed. In fact, the first Hanukkah celebration involved all of the Four Species associated with Sukkot as well as the Sukkot sacrifices.⁸⁵ This is alluded to by the great sage Shammai who believed that the kindling of the home menorah should be in descending order corresponding to the order of the Sukkot sacrifices.⁸⁶

The key question is how were the second, third, fourth, fifth, etc. anniversaries of the re-dedication celebrated? In all probability, for many years after the first Hanukkah they still had public torchlight parades with the Four Species. The

⁸¹ Richard Hidary, "New Light on the History of Hanukah and Its Commemoration: A Literary Analysis of *Shabbat* 21a-24a," *Hakirab* 38/Spring 2026, 81-106.

⁸² The winter solstice is the shortest day and longest night of the year. From Ancient Romans to Indigenous Americans, cultures around the world have long held feasts and celebrated holidays around the winter solstice.

⁸³ *II Maccabees* 10:3-8, *I Maccabees* 4:36-59. Cf. Josephus, *Antiquities* 12.7.6.

⁸⁴ *Megillat Ta'anit* VIII. "On the 23rd of Heshvan the Sorega was torn away from the 'Azarah." See Solomon Zeitlin, *Megillat Ta'anit as a Source for Jewish Chronology and History in the Hellenistic and Roman Periods*, (Philadelphia, 1922). Cf. *II Maccabees* 10:6

⁸⁵ *II Maccabees* 1:9; 10:6-7. This may be similar to *Pesah Sheni* for those who could not observe Passover at the prescribed time. Numbers 9:1-14.

⁸⁶ TB *Shabbat* 21b.

^{86a} Ibid.

Talmud is silent about how Hanukkah was initially celebrated other than the recitation of *Hallel* and other special prayers.^{86a} The debate between Hillel and Shammai concerning how to light the home menorah started close to a century afterwards and continued until the Talmudic period in Babylonia. The key question is when did the public celebration of Hanukkah/Sukkot shift to the home?

We do know that Josephus, writing in the first century, calls Hanukkah “lights”⁸⁷ possibly because they still celebrated Hanukkah with torches, and public parades. Why torches? There are several Talmudic and one *midrashic* source which offer an answer.⁸⁸ During the final assault on the Temple Mount it was guarded by eight Syrian-Greek soldiers with spears. When they saw the large Hasmonean army approaching, they dropped their spears and fled. The victorious Hasmonean made victory torches out of these spears and waved to their brethren below to signal that the Temple is once again in Jewish hands. They then took these spears and fashioned from them the new (temporary) menorah. Eventually it was covered with silver and then

gold. Prof. Hidary cites these sources as well, but fails to make a convincing argument for the shift to a home ritual.

Solomon Zeitlin suggests a plausible explanation to the shift to a home celebration from the public parades with torches and the Four Species. The menorah lighting at home was instituted when public national parades were no longer possible.⁸⁹ This makes sense when one considers that even though the Parthians ruled Judea for a short time before the Romans, their Zoroastrian religion involved fire worship. Primary historical sources are sparse, but the Talmud informs us that before the Persians (i.e., Parthians) reached Babylonia, life there was very comfortable. After the Persians reached Babylonia, the situation changed and living there became more difficult. The same may be inferred for Israel. Parthians would not allow any public fire displays on their holidays.⁹⁰ Given that most ancient religions held observances around the winter solstice, and this corresponds roughly to the time period of Hanukkah, the celebration of Hanukkah went from a public celebration to a home based

⁸⁷ Josephus Flavius, *Antiquities of The Jews*, 12:7:6.

⁸⁸ *TB Avodah Zarah* 33a; *Rosh HaShanah* 24b; *Menahot* 28b; *Pesiqta Rabati* 2:1. This story is also cited in the scholion to *Megillat Ta'anit*.

⁸⁹ If the controlling authority was observing their festival at this time, a public Hanukkah parade could not take place. In some Yemenite and

Greek communities they still hang *badassim* on the walls. A number of years ago I observed *badassim* hanging on a large menorah in one of the prayer nooks in the Kotel Tunnels during Hanukkah.

⁹⁰ *TB Gittin* 17a; Rashi to *TB Shabbat* 21b, s.v. *hasaqana*.

ritual. The torches became *hanukiot*, eight days were retained, but the Four Species were omitted. Then of course came the debate about how many lights to kindle and in what order.⁹¹

Unlike other festive days there is no tractate dedicated to Hanukkah, just a few paragraphs connecting it to the laws of the Shabbat wicks and oils. As great a miracle as rededicating the Temple was, it was severely offset by the Hasmonean behavior in its aftermath. They took upon themselves the joint roles of High Priest and King, a clear violation of Jewish law. Priests came from the tribe of Levi, and kings came from the House of David from the tribe of Judah. Compounding this violation was the fact that in a short time the Hasmonean descendants became Sadducees who denied the validity of the Oral Law. We can only theorize that the Rabbis of the Mishna and Talmud, who fought vigorously against the Sadducees had no interest in promoting their theological enemies despite their heroism and first-generation successes.

Another possibility is that under Roman rule, the Rabbis did not want to encourage the nationalistic fervor of the Hasmonean revolt. The sole exception being Rabbi Akiva's support of the Bar Kochba uprising.

The Rabbis made the cruse of

oil story the focus of almost universal linkage to Hanukkah. The downplaying of the military victory in favor of this miracle is a demonstration of their influence almost as much as most people's unfamiliarity with historical sources.

There is one fascinating footnote to the conflict between the Talmud and other sources regarding Hanukkah. Rabbi Zvi Hirsch Chajes was a brilliant 19th century Galician Talmudist. He was the only traditional rabbinic scholar to utilize a modern scholarly approach to studying and categorizing rabbinic literature. He is unique in that his scientific works on the Mishna and halakha are studied in universities, while his Talmudic commentary is studied in the yeshiva. His commentary is included in every standard Vilna edition of the Talmud. He asked how can we reconcile the story of the oil with the story of the eight spears in *Pesiqta Rabbat*? He concludes that the miracle took place in that first menorah made from the victory torches.⁹²

Richard Hidary responds:

I thank Dr. Wallace Greene for his careful reading of my article and for the opportunity to clarify and strengthen its argument. It is gratifying that we agree on so much: that the cleansing and refurbishing of the Temple required weeks of labor

⁹¹ Cf. Solomon Zeitlin, *Hanukkah. Its Origin and its Significance*, *JQR* XXIX:1 (July, 1938) pp. 1-36; idem, מאי חנוכה, *HaDoar*

XXXVII:5 (Nov. 20, 1956) p. 84.

⁹² See his commentary to *Shabbat* 21b.

after a victory won earlier in the season; and that Judah Maccabee deliberately chose the 25th of Kislev to mark the anniversary of the Temple's defilement (though I would add that the Hellenizers had previously chosen that date to coincide with the winter solstice). We also agree that there is likely historical weight to the source in 2 Maccabees 10 that the first celebration was modeled on the recently missed Sukkot festival, complete with branches and thanksgiving hymns. We similarly deem it likely that the Hasmonean fashioned a makeshift menorah from iron spits—perhaps their own spears as recorded in the *Scholion* to *Megillat Ta'anit*, *Pesikta Rabbati* 2, and parallel Talmudic sources (although no source records Greene's embellishment of eight soldiers guarding the Temple with spears).

Our disagreement, then, concerns not these data points but the "significant step" that Dr. Greene believes I omitted: a period of "public torchlight parades with the Four Species" lasting "many years after the first Hanukkah," which came to an end, following Solomon Zeitlin, only when Parthian Zoroastrians prohibited public displays of fire, thereby driving the celebration indoors. The difficulty with this proposed step is that no source attests to it. Dr. Greene opens by announcing that "the primary sources yield superior evidence," yet he cites the annual torchlight parades with the phrase "in all probability," and the Four Species processions of years two, three, four, and five are

also conjectural. In fact, the primary sources point in the opposite direction. 2 Maccabees 10:6–7 describes the carrying of ivy-wreathed wands and palm fronds specifically as a remembrance of the Sukkot that the fighters had spent "wandering in the mountains and caves"—a make-up celebration, as Dr. Greene and I agree. Precisely for that reason, there is no basis to assume the branches were carried in subsequent years, when Sukkot itself was once again observed in its proper season; as I noted in my article (n. 24), the branch-carrying was most likely a one-time feature of that first makeup celebration. What 2 Maccabees 10:8 does establish as the annual observance is an eight-day festival, which, while the Temple stood, would most naturally have centered on added sacrifices and *Hallel*—the very institution whose language of *hanukat ha-mizbeah* gave the holiday its name.

Josephus, far from testifying to torchlight parades, testifies to his own ignorance: "we call it Lights (φῶτα). I suppose the reason was, because this liberty beyond our hopes appeared to us." Had first-century Jerusalem or the Diaspora celebrated Hanukkah with public torch processions, Josephus—a priest who lived through Temple times—would hardly have needed to guess at the origin of the name. His conjecture is strong evidence that no conspicuous fire ritual was yet widespread in his day. The name "Lights" more plausibly reflects the holiday's placement at the winter solstice, as I discussed, or the

memory of the relit menorah, than an otherwise unattested parade tradition.

The Zeitlin hypothesis of a Parthian prohibition faces even greater obstacles, chronological and geographical. Parthian rule over Judea was a brief episode of roughly three years (40–37 BCE) during the contest between Antigonus and Herod. It strains credulity that so fleeting an occupation permanently transformed a national celebration, and stranger still that the supposed transformation persisted under subsequent Roman rule, when no Zoroastrian scruple would have barred a public bonfire. The Talmudic evidence Dr. Greene adduces—that life in Babylonia was comfortable “before the Persians came” and difficult afterward—in fact refers to the Sasanian conquest of the Parthians in 224 CE. Bavli’s memory runs contrary to his reconstruction: it was under the tolerant Parthians that Babylonian Jewry flourished, and it was the Sasanian Persians, with their Zoroastrian priests (the *ḥabbarim*) who seized lamps on their festivals, who created difficulties (*Gittin* 16b–17a; *Yevamot* 63b). This third-century Babylonian phenomenon, which Geoffrey Herman and Shai Secunda have analyzed and which I cited in my article, cannot explain a ritual shift in first-century BCE Judea. At most it explains Bavli’s own concession that “at the time of danger, he places it on his table”—a clause that presupposes the opposite of Dr. Greene’s thesis. The *baraita*’s default law requires placing the lamp *outside* the entrance of one’s home, at a height and hour

calculated for maximum public visibility. A ritual allegedly instituted *because* public fire displays were forbidden would hardly legislate a publicly displayed fire as its essential form, with indoor lighting permitted only as an emergency dispensation.

As for the rabbis’ alleged suppression of the Hasmoneans—whether as proto-Sadducean usurpers of the crown or as dangerous nationalist exemplars—these are precisely the nineteenth-century theories my article surveyed in its opening pages. They were substantially revised after the 1940s by Alon, Efron, Schwartz, Gafni, and most recently Vered Noam, who documented the many rabbinic traditions that celebrate Hasmonean heroism and lament the dynasty’s end. A theory of rabbinic hostility must also explain why the Talmud legislates the Hanukkah lamp with such detail and enthusiasm, elevates it above Shabbat *Kiddush* when resources are scarce, and defends its blessing as divinely mandated.

My argument for the shift to the home does not rest on the mere citation of the spear-menorah sources, but on the cumulative literary evidence of *Shabbat* 21a–24a: the framing of Hanukkah lamps between Shabbat lamps and the Temple menorah; the application of Temple categories (holiness, *ma’alin ba-kodesh*, lighting as the fulfilling act) to a household rite; the choreography of the doorway; and the retelling of the oil miracle against the background of the Western lamp’s testimony that the *Shekhinah* dwells

in Israel. The datable textual record—altar-centered celebration in the Books of Maccabees, menorah-centered accounts in the *Scholion*, home lamps first attested in the name of Rabbi Yehudah bar Ilai decades after the Destruction, and full elaboration in *Bavli*—yields a coherent development from altar to menorah to home, without recourse to undocumented parades or a supposed short-lived Parthian decree.

Errata

In an article in *Hakirah* 38, "בדין סנהדרין בקידוש החודש" "In an article in *Hakirah* 38, the editors inadvertently left out a reference by the author to an essay by Rav Yosef Dov Soloveitchik קובץ in "קובץ לזכרון הגר"ם וגרי"ד (הגר"ם וגרי"ד) חידושי תורה" (הגר"ם וגרי"ד) חידושי תורה" pp 47ff where a concept expounded upon in the article can be found. We regret the omission.

