

HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

SERIES 2: 98 - WOMEN SAYING KADDISH

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- We saw previously that mourner's kaddish evolved around 900 years ago in Ashkenaz and spread to most part of the Jewish world by the end of the Middle Ages. It was specifically innovated for young children who were unable to lead the service in prayer as the shaliach tzibbur since they were below bar mitzva and not yet halachically obligated in the prayers.
- We also saw that the kaddish after Aleinu, although one of the required 7 kaddishim which form part of the daily service, was given to mourners who were either too young or otherwise unable to lead the prayers, specifically kaddish and barchu.
- This leads to the question of women saying kaddish. On the one hand, kaddish is considered a *davar shebekedusha* which requires a minyan and women are not included in the count of ten to create a minyan. Nevertheless, mourner's kaddish was created specifically for someone in that situation - who could not create the minyan or lead prayers, but was nevertheless able to recite kaddish to elicit the public response. Women are also obligated in the Torah mitzva of kiddush Hashem, which is the central platform of Kaddish.

A] WOMEN AND PRAYER

A1] THE GENERAL OBLIGATION TO PRAY

1. וְעַבְדְּתֶם אֶת ה' אֱלֹהֵיכֶם וּבְרַדְתֶּם אֶת לַחְמֵיכֶם וְאֶת מִימֵיכֶם וְהִסְרֹתִי מִחֶלְקְךָ מִקֶּרְבְּךָ.

שמות כג:כה

The Torah includes a mitzva to 'serve' God.

2. וְהָיָה אִם שָׁמַעַתְּ תִשְׁמָעוּ אֶל מִצְוֹתַי אֲשֶׁר אֶנֶכִי מְצַוֶּה אֶתְכֶם הַיּוֹם לְאַהֲבָה אֶת ה' אֱלֹהֵיכֶם וּלְעֲבֹדוֹ בְּכָל לְבַבְכֶם וּבְכָל נַפְשְׁכֶם.

דברים יא:יג

This service of God must be done in the context of love for God. Just as we love with our minds, so we must serve God with our לב - our mind.

3. וּלְעַבְדוֹ - זו תפלה. או אינו אלא עבודה? תלמוד לומר בכל לבבכם ובכל נפשכם. וכי יש עבודה בלב? הא מה תלמוד לומר ולעבדו - זו תפלה. וכן דוד אומר (תהלים קמא:ב) תִּפְלוֹן תִּפְלֵתִי קִטְרֵת לְפָנֶיךָ מִשְׁאֵת כַּפֵּי מִנְחַת־עֶרְב.

ספרי דברים פרשת עקב פיסקא מא

The Sifra teaches that prayer is like a personal sacrificial service to God - the service of the heart.

4. מצות עשה להתפלל בכל יום שנאמר ועבדתם את ה' אלהיכם. מפי השמועה למדו שעבודה זו היא תפלה שנאמר ולעבדו בכל לבבכם. אמרו חכמים אי זו היא עבודה שבלב - זו תפלה. ואין מנין התפלות מן התורה, ואין משנה התפלה הזאת מן התורה, ואין לתפלה זמן קבוע מן התורה.

רמב"ם הלכות תפילה ונשיאת כפים פרק א הלכה א

The Rambam rules that there is a Torah mitzvah to pray once a day. However, the structure and wording of our prayers is Rabbinic in origin.

5. וכבר ראינו לו צהל' תפלה אחר שחייב אדם בתפלה מן התורה בכל יום וכו' וזה איננו נכון בעיני ... אלא ודאי כל ענין התפלה אינה חובה כלל מה"ת. אבל הוא ממדת חסד הצורא יתצרך עלינו ששומע ועונה בכל קראנו אליו. ועיקר הכתוב ולעבדו בכל לבבכם מלות עשה שחייב כל עבודתו לאל יתעלה בכל לבבנו כלומר כזוונה ראויה שלימה לשמו וכו'. ומה שדרשו 'ולעבדו זה תפלה' אסמכתא היא.

הסגות הרמב"ן בספר המצוות מצוה ה'

The Ramban's position is that the only Torah requirement to pray is in times of distress and to focus properly with kavana when we pray. According to him, the institution of daily prayer is a Rabbinic obligation.

A2] WOMEN'S OBLIGATION TO PRAY

6. **משנה.** נשים ועבדים וקטנים פטורין מקריאת שמע ומן התפילין, וחייבין בתפילה ובמזוזה ובברכת המזון. **גמרא:** וחייבין בתפלה - דרחמי נינהו. מהו דתימא? הואיל וכתוב בה (תהלים נה:יח) **עָרַב וּבָקַר וְצִהָרִים [אֲשִׁיחָה וְאֶהְמָה וַיִּשְׁמַע קוֹלִי]** כמצות עשה שהזמן גרמא דמי - קמשמע לן.

ברכות כ.

The Gemara states that women are obligated in tefilla since, although there is an element of time structure in prayer, ultimately it is a plea for mercy which applies equally to men and women.

7. ולפיכך נשים ועבדים חייבין בתפלה לפי שהיא מצות עשה שלא הזמן גרמא. אלא חיוב מצוה זו כך הוא שיהא אדם מתחנן ומתפלל בכל יום. ומגיד שבחו של הקדוש ברוך הוא ואחר כך שואל צרכיו שהוא צריך להם בבקשה ובתחנה. ואחר כך נותן שבח והודיה לה' על הטובה שהשפיע לו כל אחד לפי כחו.

רמב"ם תפילה ונשיאת כפים פרק א הלכה ב

The Rambam rules that women and men are obligated by the Torah to pray to God once a day. That tefilla must contain three elements: (i) Praise of God; (ii) Request for our needs; (iii) Thanks to God.

- According to the Rambam, the fundamental Torah mitzva of tefilla is NOT time-bound. However, women would be exempted from the other time bound Rabbinic aspects of tefilla - ie a set system of Shacharit, Mincha and Ma'ariv.
- According to the Ramban's approach, daily tefilla is a Rabbinic mitzva and IS clearly time-bound. However, Chazal obligated women equally to men. Even though it is a time-bound mitzva, since women are in need of Divine mercy as much as men, Chazal included them in the obligation. As such, women have the same fundamental obligation to daven as men.

8. נשים ועבדים שאע"פ שפטורים מק"ש חייבים בתפלה מפני שהיא מ"ע שלא הזמן גרמא.

שולחן ערוך אורח חיים סימן קו סעיף ב

The Shulchan Aruch rules like the Rambam.

- According to the Rambam/Shulchan Aruch, women are obligated to pray every day, but this can be any short prayer that they wish to say; they would not be obligated in the set Amida structure. However, the Mishna Berura (106:4) rules that most poskim follow the position of the **Ramban**. As such, according to that approach, women should daven a full Amida for Shacharit and Mincha.¹

B] WOMEN AND COMMUNAL PRAYER

B1] THE IMPORTANCE OF PRAYER IN/OF A COMMUNITY

9. רבי נתן אומר: מנין שאין הקדוש ברוך הוא מואס בתפלתן של רבים? שנאמר: (איוב לז:ה) **קִוֵּי אֵל כְּבִיר וְלֹא יִמָּאָס.**

ברכות ח.

Chazal stress that God does not reject the prayer of the community.

10. מנין שהקדוש ברוך הוא מצוי בבית הכנסת שנאמר: (תהלים פב:א) **אֵלֶּקִים נֹצֵב בְּעֵדֹת־אֵל.** ומנין לעשרה שמתפללין ששכינה עמהם - שנאמר: **אֵלֶּקִים נֹצֵב בְּעֵדֹת־אֵל.**

ברכות ו.

Chazal also learn that God is present in the synagogue since the 'edah' of the Jewish people is there, represented by the ten who pray there. It does not specifically address whether these 10 are men² or not, but a key word is 'edah'.

- Rav Soloveitchik³ makes an important distinction between **tefilla be-tzibbur** - the individual turning to God together with the community, and **tefillat ha-tzibbur** - the communal recitation of the prayers.

1. Ma'ariv was originally a less binding tefilla which men accepted as an obligation but women did not. As such, it remains 'reshut' for them. There is a debate in poskim as to whether woman are obligated to daven Mussaf.

2. A unit of 10 can sometimes be significant irrespective of whether they are men or women. Avraham asked for Sodom to be saved if 10 righteous people could be found there. Bereishit Rabba 49:25 is very clear that these were made up of men and women - Avraham thought that the 10 righteous would be Lot, his wife, their 4 daughters and sons-in-law, but in the end his sons-in-law were wicked. Similarly, the Midrash says that Avraham did not ask for the city to be saved for 8 since the world was not saved for 8 righteous people - Noach, his wife and their three sons and daughters-in-law. Also, the mitzva of Kiddush Hashem.

3. See Reshimat Shiurim Gri'd Soloveitchik Succah 38a, p. 187.

11. עיקר התפלה בצבור הוא תפלת יח, דהיינו שיתפללו עשרה אנשים שהם גדולים ביחד. ולא כמו שחושבין ההמון שעיקר להתפלל בעשרה הוא רק משום לשמוע קדיש וקדושה וברכו ...

חיי אדם חלק א כלל יט ו

The Chayei Adam rules that the main expression of tefilla be-tzibbur is where each individual davens their private Amida together with a congregation. This has nothing specifically to do with a davar shebekedusha.

12. וכיצד היא תפלת הציבור? יהיה אחד מתפלל בקול רם והכל שומעים. ואין עושין כן בפחות מעשרה גדולים ובני חורין. ושליח ציבור אחד מהם.

רמב"ם הלכות תפילה ונשיאת כפים ח"ד

However tefillat ha-tzibbur is the public repetition of the Amida led by the shaliach tzibbur. He is not simply being 'motzei' other individuals in the congregation through the halachic principle of 'shomea ke'one'. He is leading a public service with its own halachic status of davar shebekedusha.

• Women are included in the merit of praying their own individual davening together with the community - tefilla be-tzibbur, and are also included in that community. But a woman is not able to act as a shaliach tzibbur in tefillat ha-tzibbur for a *davar shebekedusha*.

13. ואין דבר שבקדושה מסור לנשים.

בית הבחירה למאירי ברכות מז:

Women are not assigned the role of shaliach tzibbur. We will explore the reasons for this below⁴.

B2] WOMEN AND THE 'PUBLIC' - FARHESIA

14. וְלֹא תִחַלְלוּ אֶת-שֵׁם קִדְשֵׁי וְנִקְדְּשֵׁי בְּתוֹךְ בְּנֵי יִשְׂרָאֵל אֲנִי ה' מְקַדְּשֵׁכֶם:

ויקרא כב:לב

The mitzva of kiddush Hashem, on which Kaddish is ultimately based, applies both to men and women.⁵

15. ואם הוא בפרהסיא, דהיינו בפני עשרה מישראל, חייב ליהרג ולא יעבור (פתחי תשובה (פ) - צפני עשרה מישראל עיין מ"ט לעיל צענין חס נשים מלטרפות לזה או נימא דאימעטו מזני ישראל ולא צנות ישראל ...)

שולחן ערוך יורה דעה הלכות עבודת כוכבים סימן קנו סעיף א

A number of halachic issues require the presence of 10 to form a 'public' - farhesia. There is a significant debate as to whether women also count to create such a 'farhesia'.

Consider, for instance, whether women and men combine for the purposes of the following mitzvot⁶:

- The reading of megila and the requirement of 10 to recite *ha-rav et riveinu* afterwards
- public martyrdom
- the *ha-gomel*/blessing
- circumcision
- Chanukah lighting in the synagogue.

B3] WOMEN AND MINYAN FOR 'DAVAR SHEBEKEDUSHA'

16. אין עוברין לפני התיבה ואין נושאים את כפיהם ואין קורין בתורה ואין מפטירין בנביא פחות מעשרה.

משנה מגילה ד:ג

17. ואין אומרים קדיש וברכו פחות מעשרה.

מסכת סופרים יו

We saw previously the Mishna which requires a minyan of 10 for certain aspects of the tefilla. We also saw Mesechet Sofrim that adds Kaddish to that list of prayers that require a minyan.

4. See also <https://www.deracheha.org/tefilla-be-tzibbur/> for further analysis/.

5. See Igrot Moshe OC 4:49 who rules that, in terms of intrinsic kedusha as a Jew, there is no difference between men and women. See also Shu't Chavot Yair who explicitly states אשה מצווה על קידוש השם

6. See *Women and Minyan*, R. Aryeh Frimer Tradition 24:4, (Summer 1989), pp. 54-77. For a short summary of R. Frimer's article see <https://www.torahmusings.com/2011/01/women-and-minyan-ii/>. R. Frimer creates a comprehensive list of Rishonim and Acharonim who rule that women combine to create a quorum for specific mitzvot (see the end of his article and related footnotes). His breakdown is as follows: : [1] *Ha-rav et riveinu* - 4 rishonim and 15 Acharonim; [2] public martyrdom - 11 Acharonim; [3] *ha-gomel* - 7 Acharonim; [4] circumcision - 2 Acharonim; [5] Chanuka lighting in the synagogue - 2 Acharonim.

18. גמרא. מנא הני מילי? אמר רבי חייא בר אבא אמר רבי יוחנן: דאמר קרא ונקדשתי בתוך בני ישראל - כל דבר שבקדושה לא יהא פחות מעשרה. מאי משמע? דתני רבי חייא: אתיא 'תוך' 'תוך'. כתיב הכא ונקדשתי בתוך בני ישראל, וכתיב התם (במדבר טו:כא) הַבְּדִלוּ מִתּוֹךְ הָעֵדָה. ואתיא 'עדה' 'עדה'. דכתיב התם (במדבר יד:כז) עַד-מִתֵּי לַעֲדָה הַרְעָה הַזֹּאת. מה להלן עשרה - אף כאן עשרה.

מגילה כג:

The Bavli learns that a davar shebekedusha requires a minyan of 10 men. This is derived through word associations between the mitzva of kiddush Hashem and the episode of Korach, and then between Korach and the sin of the spies. Ultimately, a davar shebekedusha requires a halachic 'edah', which is based on the 10 spies - all adult Jewish males.

19. ר' בא ור' יסא בשם ר' יוחנן נאמר כאן עדה (קרצן העדה - (ויקרא יט:כ) דִּצְרַן אֶל-כָּל-עַדַּת בְּנֵי-יִשְׂרָאֵל ... ושמעין דדדברי קדושה צעין עדה) ונאמר להלן (במדבר יד:כז) עַד-מִתֵּי לַעֲדָה הַרְעָה הַזֹּאת. מה עדה האמורה להלן עשרה אף כאן עשרה. א"ר סימון נאמר כאן תוך (קרצן העדה - ונקדשתי בתוך בני ישראל) ונאמר להלן (בראשית מב: ה) וַיְבָאוּ בְנֵי יִשְׂרָאֵל לִשְׁבַר בְּתוֹךְ הַבָּאִים. מה תוך שנה' להלן עשרה אף כאן עשרה.

תלמוד ירושלמי מסכת מגילה פרק ד הלכה ד

The Yerushalmi brings two derivations to learn that a minyan for a davar shebekedusha requires 10 adult Jewish men. These connect with the sin of the spies and also, more positively than the Bavli, connect the word 'toch' to the mitzva of kedusha and also to the 10 sons of Ya'akov.

- The requirement of 10 adult males for a davar shebekedusha is a unanimous position and was codified very early.⁷

20. אומרים קדיש. ואין אומרים אותו בפחות מי' זכרים בני חורין גדולים שהביאו ב' שערות. והוא הדין לקדושה וברכו שאין נאמרין בפחות מעשרה.

שולחן ערוך אורח נה"א

The Shulchan Aruch rules that Kaddish, Barchu and all devarim shebekedusha require a minyan of 10 Jewish males who are both 13 and have reached puberty.

- Many poskim understand that the halachic basis for this psak is the 10 adult males constituted in the spies or the sons of Ya'akov, as seen in the drashot above. Others learn it from a drash on the expression B'nei Yisrael⁸.

21. וצריך שיהיו כלם אנשים ולא יהיה מהמנין נשים שנאמר ונקדשתי בתוך בני ישראל - ולא בנות ישראל.

אורחות חיים חלק א הלכות תפלה אות עה

Orchot Chaim learns that 'Bnei' Yisrael in the verse relating to kiddush Hashem is masculine - the men and not women.⁹

- Others flag the halachic concept that only those with the same level of halachic obligation can join together to be 'motzei' others.

22. כל שהיא צריכה לעשרה יש אומרים הואיל וחיוב הנשים שוה בה לאנשים מצטרפות הן לעשרה.

בית הבחירה למאירי מגילה ה.

The Meiri understands that women can join to make a quorum only in those mitzvot in which they are fully obligated. While women ARE included in the core obligation of tefilla, they do not have the same specific obligations for the set requirements of tefilla - eg minyan, tefilla be-tzibbur¹⁰.

- Others learn that the paradigm of community representation in the Jewish community is adult males¹¹

23. ואלו העשרה לריבון להיות עשרה זכרים גדולים ... דכתיב (ויקרא כג:כ) ונקדשתי בתוך בני ישראל וגוי'. שפירושו כל דבר שבקדושה יקדשו אותי בתוך בני ישראל. ואין נקרא בתוך בני ישראל אלא בעשרה דאחיה גזירה שוה.... וסתם בני ישראל דכל התורה בגדולים זכרים קמייני ועצד ואשכ וקטן אין מלטרפין שאינם חייבים צמלות.

לבוש אורח חיים נה"ד

The Levush learns that the default position of the Torah is to define the community - Adat Yisrael - as free adult men.

7. For instance, Rav Sa'adya Gaon in his siddur (9th century) writes שהגיעו גברים עשרה הוא עשרה גברים שהגיעו לפרקם.
 8. There are yet other ways of learning that women do not count towards the 10 needed for a davar shebekedusha. See Berachot 45b and Tosafot ibid s'v veba. See also <https://www.deracheha.org/minyan/#d1e4559> for a more detailed analysis of these sources.
 9. This is somewhat problematic since we saw above that, according to many poskim, women ARE included in the 'public' required for the mitzva of kiddush Hashem. One could argue that this drash follows the opinion of those who rule otherwise - that women are not included in this 'public'. This can be seen in the Pitchei Teshuva above who suggests this exact drasha - *bnei velo bnot Yisrael* - to explain that only men are included. Alternatively, one might distinguish between the two cases and rule that the requirements for a *davar shebekedusha* as more specific than that for *farthesia*. See Yabia Omer 4: 9 where R. Ovadia Yosef rules this way, suggesting that for a *davar shebekedusha* the group of ten must be together in the same place but for public martyrdom they need not be.
 10. See Shu't Shevut Ya'akov 3:54 who rules explicitly that women have no obligation whatever to pray in a minyan - שהאשה אינה מצוה כלל להתפלל בעשרה - The level of obligation for a man to pray in a minyan is debated and beyond the scope of this shiur. Nevertheless, the obligation on women is clearly different.
 11. See for instance Bamidbar 1:2-3 where '*Adat Yisrael*' is defined as male only. On the other hand, that case is restricted to males over 20. See also Magen Avraham 46:9 who writes *ואפילו הכי אשה בכלל* - ie Torah uses the word 'bnei' in a non-gendered neuter manner to include women. The Malbim (Vayikra #8) discusses this at length and analyses whether the default position of the Torah is that bnei/ben is neuter and should only be read as masculine if the context requires it or vice versa.

C] WOMEN SAYING KADDISH - EARLY PRECEDENTS

• Women are clearly obligated in the laws of mourning and in the laws of honoring parents. But how this manifests in terms of kaddish is debated. The first such modern precedent¹² is what became known simply as "the Amsterdam case".

24. **שאלה:** דבר זר נעשה באמשטרדם ומפורסם שם. שאחד נעדר בלי בן וצוה לפני פטירתו שילמדו עשרה כל יום תוך י"ב חודש בביתו בשכרם, ואחר הלימוד תאמר הבת קדיש. ולא מיחו בידה חכמי הקהילה והפרנסים. ואף כי אין ראיה לשתור הדבר כי גם אשה מצוות על קידוש השם, גם יש מנין זכרים מקרי בני ישראל. ואף כי מעשה דר"ע שממנו מקור אמירת יתומים קדיש בבן זכר היה, מ"מ יש סברא דגם בבת יש תועלת ונחת רוח לנפש כי זרעו היא. מ"מ יש לחוש שע"י כך יחלשו כח המנהגים של בני ישראל שג"כ תורה הם ויהיה כל אחד בונה במה לעצמו ע"פ סברתו ומחזי מילי דרבנן כחוכא ואטלולא ויבואו לזלזל בו. ולכן בנדון זה שיש אסיפה ופרסום יש למחות. ...

שר"ת חוות יאיר סימן רכב

R. Yair Bachrach (17th century, Germany) recounts a case in Amsterdam where a man died leaving no sons, but requested in his will (and left financial provision) that a minyan should gather every day in his house to learn in his merit and, at the end of the learning, his daughter should say kaddish. This was done and the community expressed no objections¹³. R. Bachrach accepts in principle that there is no technical reason why the woman should not have said kaddish. However, he objects in practice on the ground that this is an erosion of minhag Yisrael¹⁴ and is the type of activity which begins a slippery slope towards a more general breakdown of rabbinic authority and the halachic system.

25. נפטר איש אחד ולא היה לו כי אם שתי בנות קטנות והגדולה שבהן היא בת ארבע שנים. ובשעת חוליו צוה אלי שאתן לו התרה שבתו הגדולה תאמר קדיש, ולא בבה"כ כלל. ועתה בא אביו של הנפטר לומר קדיש על בנו בבה"כ עם שאר אבילים דמהיכי תיתי יעלה על הדעת שאביו יאמר קדיש? ברא מזכה אבא אבל לא להיפך
תשובה בנדון שלפנינו שכבר הניח בת שאומרת קדיש בבית אצל מנין (כי בבה"כ בודאי אין להניח לה לומר קדיש כלל) ...ונראה דגם לענין התפלה יש לאביו להתפלל רק בבית אצל המנין שאומרת הבת קדיש אבל בשאר תפלות וקדישים אין להם זכות נ"ל....

שר"ת שבות יעקב חלק ב סימן צג

R. Ya'akov Reischer (early 18th century, Germany) was asked concerning a man who died with no sons but two young daughters, the oldest being only 4. In his final illness, the man asked for his daughter to say kaddish with a minyan at home. After his death, the father of the niftar also asked to be allowed to say kaddish for his son in shul and most of the responsa deals with this point. Concerning the daughter, R. Reischer rules that she should be allowed to continue saying kaddish at home but not in the synagogue¹⁵. He also rules that the grandfather should say kaddish with her at home since he does not have any right to take the kaddishim in shul. R. Reischer also indicates that he is coming to this case after the fact. It is not clear if her would have permitted the daughter to say kaddish had he been asked lechatchila¹⁶.

26. ח מי שאין לו בנים רק בת וצוה לפני פטירתו שילמדו עשרה בביתו בשכרם ואחר הלימוד תאמר הבת קדיש, אין לשמוע לו ויש למחות שלא לעשות כן. ומכ"ש שאין להניח שתאמר קדיש של תפלה ואפילו אם היא פנויה אסורה. ומכ"ש א"א חלילה להשמיע קולה לרבים באמירת קדיש בין בבה"כ בין במנין. אלא אם תרצה לזכות את אביה תהיה זהירה בכל עתות התפלה בין בבה"כ בין במנין להטות אזנה באמירת קדישים לענות אמן בכוונה רצויה. ויודע מחשבות יחשוב לה כאלו אמרה וקיימה מצות אביו.

מטה אפרים דיני קדיש יתום שער ד סעיף ח

R. Ephraim Margaliyot (18th/19th century, Poland) rules that even if the father requested the daughter to say kaddish, she may not do so, even in a private minyan. He sets out a scale of seriousness of the halachic issues. Her saying kaddish in shul is worse than in a private minyan, a married woman is worse than a single woman and her raising her voice to be heard by the men is the worst of all. But all of these are prohibited. He rules that the daughter should have kavana in shul to listen to kaddish and answer Amen, and this will be taken by God as a fulfillment of her father's wishes.

12. There is no explicit reference in the Rishonim to women saying kaddish. We saw in the previous shiur that the custom of mourners kaddish was itself evolving during this period. The Shulchan Aruch rules (YD 402:12) that where a person was unaware that their relative had died, there is no obligation to tell them, even it was a parent. The Rema adds (based on the Mahari Weil #13) that we would inform a son so that they could say kaddish, but there was no need to inform a daughter since women did not say kaddish.

13. Nevertheless R. Shimon Frankfurter published a manual for women's religious life - Sefer Hachayim - shortly after this in Amsterdam (1703) and he is extremely negative about women saying kaddish, invoking many halachic prohibitions including kol isha. He states that allowing women to say kaddish is a nonsense which will bring the Torah to ridicule.

14. He uses the expression 'each person will build there own private altar'. He may also have been concerned that this man made a private arrangement which by-passed the synagogue and also entitled his family to far more kaddishim than they would have received in the shul rota. See *Women and Mourner's Kaddish* (below) fn 81.

15. Two important issues should be noted concerning women saying kaddish in the synagogue. First, many synagogues had no ezrat nashim, which meant that women would have to enter the men's section to say kaddish. Where there was an ezrat nashim, this was often completely separate from the rest of the shul. The Aruch Hashulchan rules (OC 55:20) that even where there were windows between the ezrat nashim through which the men's section could be seen, it nevertheless constitutes a separate halachic domain such that the women are not considered in the same location as the minyan. Second, kaddish was said by only one person and the halacha developed highly detailed rules of priority to determine who was able to say which kaddish. As such, for a woman to outrank all the men present and be given one of the kaddishim would have been highly controversial.

16. See below where R. Chaim David HaLevi cites this teshuva and makes the point that R. Reischer was not in fact asked about the daughter, only about the rights of the grandfather to say kaddish. Some commentators have implied from this that the issue of the daughter was entirely uncontroversial and obvious. Others suggest that kaddish of the daughter was presented as a *fait accompli* and R. Reischer may not have been in favor of this lechatchila.

27. ולפענ"ד דזמן הזה דשכיח פריעותא אין לעשות כן שתאמר הבת קדיש אפילו צמינן צביתו, ואפילו אחר הלימוד. ואף על פי שאין זה משום קול באשה ערוה מ"מ קרוז שהיא תכוון לצסומי קלא ואמרינן 'זמרן נשי וענין גברי פריעותא'. ועיין בא"ר סימן ע"ה כתב צ"ח שצ"ח ראו ונכון לכל כשרה יראה ה' צין פנויה צין נשואה שלא תשמיע קולה כשיש איש. רק שפתייה נעות וקולה לא ישמע כלל. שאולי יבא האיש השומע לידי הרהור והרהורי עבירה קשין מעבירה. כי אריכה ליזהר שלא ישלחו צ"ח על ידה ... ועכ"פ צ"ח פשיטא שאין לעשות כן שקרוז הדבר שילא שכרה בהפסידה. שבמקום אשר חשבה לזכות שם שמים על ידה צרבים צ"ח מכשול לרבים. וגם מימינו לא ראינו כך וכדי לזכות לאציה תהיה זכירה לילך לצית הכנסת צעות התפלה ולהטות אוזן לאמירת הקדיש ולענות אמן, שגדול העונה אמן יותר מהמזכר. ויודע מחשבות יודע תוכן לצה שאלו היתה זכר היתה מקדשת צרבים. וחישוב לעשות ונאנס ולא עשה מעלה כאלו עשה.

אלף למטה שער ד סעיף ט

In his notes, the Elef Lemateh, R. Margoliyot is clear that his main concern is pritzut - the strong possibility of sexual impropriety when the men listen to the woman saying kaddish. He rules that, although this is not a technically a problem of kol isha, he regards it as a breach of tzniut for women's voices to be heard, including in zemirot¹⁷.

• This approach would resonate in some Jewish communities today. But others would respond that our contemporary perspective on tzniut is different to this. Women's speaking voices are certainly heard today and the impact on men would not be the same¹⁸.

28. ואין לבת בקדיש לא דין ודת ואין זה אלא שטות כי הוא כחוכא ואיטלולא

ספר חסידים מובא בפירוש בית לחם יהודה בהגותיו על שו"ע יו"ד סימן שע"ו ס"ד

The Beit Lechem Yehuda¹⁹ quotes the Sefer Chassidim that allowing a daughter to say kaddish is nonsense and makes Torah a laughing stock.

29.

בעי חיי ונשי לא בעי חיי? יען די להן לקשוט את עצמן דאז להגי נשי במאי קא זכיינ וכו' ולעלמא דאתין?	הן אמת דהקדיש הוא מפאת כבוד אב כמ"ש [כמו שכתוב] לעיל בשם מהר"מ מינץ וכתוב "למען יאריכון ימיה" וכי גברי
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שו"ת תשובה מאהבה חלק ב סימן רכ"ט

R. Eleazar Fleckeles (18/19th century Prague) notes that sons say kaddish for their parents as part of the mitzva of kibbud av ve'em, which grants long life. Are daughters less obligated to their parents or in less need of long life?!

30.

חבל רחמי בק"ק פראג זכה יפה מקדמוכי בעזרת צה"כ
קלוזן שם ישנו זקנים ונקבות עורים ופסחים בשחרית עד
עת לחרים ואומרים בכל יום כל ספר תהלים וזוהרים מי
שלא הגיע אחריו בניס ב"ח צנות קטנות בנות חמש ושש
שנים ואומרים שם הקדיש חבל בזהב"ג המיוחד לתפלה
לא רחמי כזה מעולם ואינו ככין שתבא חשה כלל קטנה
או גדולה לבית תפלת החגשים אשר לדעת הזוהר וחכמי
אמת ז"ל החשה צבית ה' כהעמדת פסל שם ומה לי קטן
או גדול ולא יחזיק הן עבדי אוחן החגשים המביאים צנותיהן
הקטנות לפה"ב יען כשם שחנה לומר דבר הנשמע וכו' :

שו"ת תשובה מאהבה חלק ב סימן רכ"ט

17. This is the subject of the reference to the Sefer Baer Sheva that he cites.
 18. This touches on some fundamental issues in the mitzva of tzniut and how it is defined and applied. See my Reclaiming Dignity for a more detailed analysis. Two short points will suffice here. First, there are strong grounds to argue that habituation is halachically relevant in some (but not all) areas of tzniut. This is seen in the halachic debate (even in the 16th century) on whether it is permitted to have mixed seating at a wedding. Second, the tzniut focus on how women cause a stumbling block to men, while relevant, is not the only, or perhaps the main basis of the mitzva. Questions of dat Yehudit are also central and this will depend on the customs of women in a specific community. It is certainly not possible to simply apply uncritically an 18th century psak on gender issues to a 21st century reality. In Reclaiming Dignity I address the question of subjectivity and objectivity in halacha and why different areas of halacha adopt different approaches on this.
 19. R' Tzvi Hirsch b. Azriel - 18th century, Germany. This is also quoted by other sources including R. Chaim David HaLevi and by R. Yisrael Meir Lau.
 To download more source sheets and audio shiurim visit www.rabbimanning.com

R. Fleckeles goes on to praise a custom in Prague for the old, blind and lame men and women to gather in the morning in the shul courtyard to say Tehillim, after which young girls of 4 or 5 years old whose parents had died leaving no sons, would say kaddish. But this would not be permitted in the shul itself²⁰. He also rules that no girl, young or old, should be permitted in the shul and quotes the Zohar who compares this to bringing an idol into the shul! He seems to accept that the congregation will not listen to him on this last point, but women saying kaddish would not be permitted.

31.

מטו"ת חו"י סג"ל ודברי הרב זאח"ע ל"ע. והנה מקרוב נשאלתי מעיר
 כסמוכה שר"ס אחד מהקרימלאקים שתאמר כבת קדיש על אביה
 כמה בלא בנים זכרים וכשואל עכב בידו עד בא השוכני והשוכני
 להם שאין רשאים לשנות ולעשות חדשה בארץ ואף אם יש מנהג זה
 בין האשכנזים הנה בין הספרדים לא נשמע דבר זה בשום מקום
 והעדר טוב וזה כלל שב ואל תעשה עדיף וקבלו השוכני והמונע
 היטה מלומר קדיש על אביה :

שדה חמד מערכת אבילות ס' 160 (אסיפת דיים א-ג)

*The Sdei Chemed (19th century, Turkey) rules that a woman may not say kaddish since this would be a new and unacceptable custom. He does however acknowledge that this was an Ashkenazi minhag!*²¹

32. ... ובתשובת כנסת יחזקאל כתב דדוקא בן הבן אצל בן הבת לא יאמר קדיש וכ"ש לבת אין לה קדיש כלל צב"כ. ואם רואים לעשות
 לה מנין רשות בידם.

באר היטב אורח חיים סימן קלב ס"ק ה

*The Baer Heitiv quotes Keneset Yechezkel (18th century, Germany) as ruling that a woman may not say kaddish in shul but he rules that she may say it at a private minyan.*²²

33. הבת אין לה לומר קדיש בבית הכנסת. אך יש אומרים שאם רוצים לעשות מנין בביתה שתאמר שם הרשות בידם (כנ"י). ויש
 אומרים דגם זאת אין לעשות (חוות יאיר סימן רכ"ב).

קיצור שולחן ערוך כו"כ

*The Kitzur Shulchan Aruch (19th century, Hungary) permits women to say kaddish in a private minyan*²³, but not in shul.

- The Ben Ish Chai²⁴ rules that women should not say mourner's kaddish since this could lead to her reciting the regular kaddish in the service, which is not permitted.
- Note also R. Eliezer Zalman Grayevsky²⁵ who discusses the matter at length and rules that women (not specifically daughters) may say kaddish.

20. It is very likely that the shul had no specific ezrat nashim. My own great-grandmother (1897-1994) grew up in the small Lithuanian village of Riteve, with was 80% Jewish at that time. She lived a long life and was mentally sharp to the end. I asked her about early memories of the shul there and she told me that she remembers going there as a young girl to say kaddish for her father. When I pressed her to see if she meant Yizkor, she insisted that it was kaddish. From my own family research it does fit that she lost her father when very young. Rabbi Yitzchak Shurin has discussed Riteve with me many times since his father, R. Yisrael Shurin, was also raised there. R. Yisrael Shurin recalled 3 sisters in Riteve who came to the back of the shul to say kaddish. R. Maurice Lamm in his book *The Jewish Way in Death and Mourning* (p.160) quotes Rav Soloveitchik as reporting that, when he was in Vilna, women recited kaddish in the synagogue (Klaus) of the Vilna Gaon. There was no ezrat nashim in that shul and the women came into the back to say kaddish. R. Ezra Bick also quotes the same report from R. Soloveitchik - see R. Wolowelsky, *Women and Kaddish* 1995 (below). R. Bick adds that, after checking with others, a number of people told him that they remember such incidents from Europe, including his father's experience in the minyan of his grandfather, R. Chaim Yechiel Bick who was the rav in Medzhibush in the Ukraine. R. Wolowelsky brings other reports of women saying kaddish in Eastern Europe. In his words:

"Rabbi Pinchos Zelig Prag ... told me that one of the congregants, Rabbi Moshe Maaruch, who was born and raised in Vilna and who studied at the Mirrer Yeshiva recalled that when his cousin died leaving an adult daughter and no sons, Rabbi Hayyim Ozer Grozinsky had allowed her to say Kaddish daily in the synagogue, another recalled that the Hafetz Hayyim had similarly ruled. Prof. Yaffa Eliach relates similar occurrences in her study of Eisheshok. Tsipora Hutner Kravitz, wife of Rabbi Yosef Kravitz, recalled to Dr. Eliach that in 1935, when she was 14 years old, her brothers were out of town when her father, Rabbi Naftali Menahem Hutner, the dayan of the town, died. She said Kaddish at the graveside and continued to say Kaddish in both the town's New Bet Midrash and Shtibel until her brother returned. She recalled that at the same time Gitel Gordon, then 18 years old, said Kaddish in the Shtibel. Another townsman recalled that when the girls said Kaddish, they wore a beret and stood in the men's section in the first row to the right of the amud. Rabbi Yosef Eliyahu Henkin also recalled that in his youth young women said Kaddish."

21. The Sdei Chemed quotes the sources we saw above. He understands the Chavat Yair to prohibit kaddish entirely, whether in the synagogue or at home. Although he acknowledges that the Shevut Ya'akov permits a woman to say kaddish in a private minyan, he regards this as a da'at yachid which cannot be relied upon.

22. Note however that the Sdei Chemed (ibid) quotes the Knesset Yechezkel as ruling that a woman may not say kaddish at all and leaves the wording of the Baer Heitiv as a tzarich iyun! R. Joel Wolowelsky seeks to resolve this difficult in his 1995 article *Women and Kaddish* (see below) by suggesting that, although the Knesset Yechezkel does indeed prohibit ALL situations of women saying kaddish, the Baer Heitiv understood that this was for policy reasons and that this did not apply in the same manner in his community.

23. He also records this as the position of the Knesset Yechezkel.

24. I was unable to find the source for this.

25. Sefer Kaddish Le'olam (11a-b). R. Grayevsky (1843-1899) was a posek in Lithuania and later in England. Rahel Berkovits quotes this source at length in her article. Sefer Kaddish Le'olam bears a hashkama from R. Shmuel Salant, then Ashkenazi Chief Rabbi of the Old Yishuv in Yerushalayim.

D] 20TH CENTURY POSKIM WHO PROHIBIT WOMEN SAYING KADDISH

34. **אמירת קדיש מפי הבנות לעילוי נשמת הוריהן שלא זכו לבנים.** (ב"ה ירושלים יב שבט תש"ב).
 מתוך דברי הראשונים במדרשיהם ודרושיהם, רזי תורה והלכותיהם מתברר שכל ענין הקדיש הוא קבלה מדברי רז"ל. וכיון שכן אין לנו להוסיף על דבריהם ולחדש סברות מדעתנו בדרוש טעמי הקבלה שאין שכלנו מגיע להבנת טעמיה וסודותיה. ולכן אין להו להוסיף על דבריהם ולא לגרע מהם מדעתנו, הלכך אין לחדש מנהג זה של הגדת הקדיש מפי הבנות.
 ואל יעלה על הדעת שזה הוא מפני שאין הבנות מזכות את אביהם, שיותר מזה מצאנו, שהן מזכות את כל העם כאמהות ונביאות ישראל שזכרן וזכותן לא יסוף לנצח מקרב עם ישראל, וגדולה הבטחה שהבטיח הקדוש ברוך הוא לנשים ובזכות נשים צדקניות נגאלו ישראל ממצרים. אלא מפני שאין לנו בענינים כאלה אלא מה שקבלנו מפי קדמונינו שלאורם או הולכים.
 ואולם אעפ"י שאין לנו יד בנסתרות, יש למצוא טעם בדבר על יסוד מה שאמרו רז"ל: ברא מזכה אבא. ודבר זה כמובן אינו מתמלא אלא על ידי הבנים שהם מצטרפים לעדה מישראל ולא על ידי הבנות. ולכן אינן אומרות קדיש בצבור

שו"ת פסקי עוזיאל בשאלות הזמן סימן ג

*Rav Benzion Uziel, in a 1942 teshuva, rules that women may not say kaddish. Since the recitation of kaddish is dependant on a quorum of ten men, only someone who can make up that quorum is permitted to say it.*²⁶

35. דבר זה נפתח בגדולים, וכנראה שדעת רוב גדולי הפוסקים היא למנוע אמירת קדיש מהבת אפילו במנין שבבית.
 וגם במקורם אין הדברים ברורים די הצורך. כי אם אמנם אמת הוא שזה דבר חדש וזר לאלה שלא ראוהו מעולם, אך למה דבר זה יגרום להחלשת מנהגי ישראל? ולמה ייראו דברי חכמים כחוכא ואיטלולא אם תאמר הבת קדיש במנין שבבית? ולמה קשה להסביר שגם בתו היא יוצאת חלציו, וכשמקדשת שם שמים במנין שבבית עושה נחת רוח לנשמת הוריה ממש כמו אמירת קדיש ע"י הבן וכמו שנבאר להלן?
 מעתה, הרב "שבות יעקב" לא נשאל אם בת יכולה לומר קדיש או לאו, וכתב זה כדבר פשוט ביותר על פי מה שהורה הרב השואל. וגם הרב השואל הורה בפשיטות להתיר לבת לומר קדיש ללא כל דיון הלכתי בעצם הענין. ומשמע מזה שאמירת קדיש ע"י הבת היה להם היתר פשוט וברור, וכנראה שכן נהגו בקהלותיהם. ולכן, תשובת הרב שבות-יעקב איננה יחידה לגבי סברת החולקים, אלא עדות מהימנה שאכן כך נהגו באותן קהלות
 ובנדון דידן הדבר מחוייב גם מסברא, שכן ענין אמירת קדיש שמועיל לנשמת המת, היא אותה זכות שעומד בנו של אדם יוצא חלציו, שהוא הביאו לעולם, ומקדש שם שמים ברבים פשוט ביותר שהוא הדין והוא הטעם גם בבת, שכל האמור לגבי בן כיוצא חלציו, שייך ממש גם בבת. אלא שכן הוא חייב במצוות, והוא המשתתף בתפלת צבור שעליה נאמר: ונקדשתי בתוך בני ישראל
 אך כאמור ודאי שלא בבית-הכנסת וכפי שכתבנו לעיל גם בשם הפוסקים המתירים. והטעם פשוט ביותר שלא יתכן לעסוק בדברי קדושה ובמקום קדוש בצורה ובדרך העלולים לגרום הרהור עבירה אפילו קל שבקלים. ובבית-הכנסת מצויים כל מיני בני אדם כמובן מאליו.
 ומטעם זה לא התרתי בנדון דידן לבת לומר קדיש בבית הקברות, כי גם שם מצויים אנשים רבים ואין זה מדרך הצניעות. וגם בבית לא התרתי אלא במנין של חוג בני המשפחה בלבד, ולא בשעה שבאים רבים להתפלל בצבור כנהוג בבתי-אבלים, שאז חזר החשש כמו בבית-הכנסת, ואין מצוה באה בעבירה.
 ולכן הגבלתי ההיתר למנין של חוג המשפחה בלבד, כדי לגרום נחת רוח לנשמת הנפטר, וגם לקיים דברי צאתו.

שו"ת עשה לך רב חלק ה סימן לג

R. Chaim David Halevi understands that, in principle, a daughter has the same special merit to help the parent's soul as the son. He also does not accept that permitting a woman to say kaddish will erode rabbinic authority or authentic Jewish custom. Further, unlike other poskim, he does not regard the position of the Shevut Ya'akov as a lone opinion. But he is very concerned with considerations of tzniut and also the potential for men to look and think inappropriately at the woman saying kaddish. On that basis, he permits the kaddish at a private minyan comprising of family members, but not in shul, or at a regular shiva house nor at the cemetery.

• Others recent poskim who prohibit women saying kaddish in shul include:

- R. Yisrael Meir Lau²⁷
- R. Yitzchak Weiss²⁸
- R. Chaim Kanievsky²⁹
- R. Moshe Sternbuch³⁰
- R. Ovadia Yosef³¹

26. R. Uziel also suggests, based on kabbala, that the mystical power for the child to raise the soul of the parent vests in the son and not the daughter.

27. Benetiv Chesed V'emet 5748:pages 40-43. R. Lau even prohibits a woman saying kaddish at a private minyan.

28. Minchat Yitzchak 4:30. He quotes the psak of R. Yosef Henkin (see below) but argues that since there is no minyan in the ezrat nashim it is prohibited to say kaddish there.

29. Quoted in Kol Bo (yartzeit) 2, page 61.

30. Ibid p.64. See also Halachically Speaking 17:4 at <https://thehalacha.com/wp-content/uploads/Vol17Issue4.pdf>. R. Moshe Lebovits gives other sources of poskim who prohibit, as well as those who permit women saying kaddish.

31. Chazon Ovadia (Aveilut v. 1 p. 356). R. Yosef rules that a woman may say kaddish at a private minyan. See however <https://sephardicu.com/prayers/kaddish-by-women/which> To download more source sheets and audio shiurim visit www.rabbimanning.com.

36. If the deceased left only daughters, although some have permitted a daughter to recite *Kaddish* at a prayer service in her home³², virtually all the other Poskim disagree and rule that a daughter should not recite *Kaddish*, even in her home, and even if her father commanded her to do so.

Mourning in Halacha, R. Chaim Binyamin Goldberg, Artscroll 1991, p359³³

The key word here is 'virtually'! In fact the poskim who permit³⁴ are some of the most significant in 20th century America.

E] 20TH CENTURY POSKIM WHO PERMIT WOMEN SAYING KADDISH

E1] R. YOSEF ELIYAHU HENKIN

- R. Henkin permitted women to say kaddish from the women's section of the shul together with men³⁵.

37.

ומה יהא צער להנפטרים ולא קורת רוח כלל ואף שכ"ז (שכל זה) אסור גם מחוץ לביהכ"נ (לבבית הכנסת), אבל הביהכ"נ (הבית הכנסת) הוא המבצר האחרון ששמירתו נותנת תקוה לקדושה בכלל, אבל בהריסת הקדושה בו, הכל אבד ח"ו (חס ושלום). והי"ת (והשם יתברך) יעזרנו לקדש ולהתקדש עם כל ישראל.

(לבבית הכנסת) של אנשים אפילו בלבושי צניעות ומכ"ש (ומה כל שבן בלבושי אמריקה שהם היפך הקדושה שעיקרה פרישה מהעריות ואביזריהו שהם קול ומראה ופריצות המלבושים כ"ז (כל זה) הוא היפך מקידוש ש"ש (שם שמים).

ונבא לענין ההצעה של קדיש לבת. אם הבת תבוא להתפלל בעזרת נשים ותכשיר מעשיה בקדושת שבת, כשרות וטהרה וצניעות שכ"ז (שכל זה) הם עיקרים ותחפוץ לומר גם קדיש בפני הנשים, בזמן שאומרים קדיש בביהכ"נ (לבבית הכנסת) של האנשים, אפשר שאין קפידא. אבל אם תבוא לביהכ"נ

הפרדס שנה לח חוברתו (1963) סימן מ"ד עמ' 5-6

In Rav Henkin's 1963 essay he permits (although not without hesitation³⁶) a woman who is otherwise observant and appropriately dressed for shul to say kaddish from the ezrat nashim. However, he is concerned at the chilul Hashem (and pain to the niftar) caused if proper tzniut is not observed.

E2] R. MOSHE FEINSTEIN??

38. ב. אם צריך מחיצה לחוץ רק בפני מעט נשים

שאלת אם צריך מחיצה לחוץ רק בפני אשה אחת או שתים. והנה בכל הדורות נהגו שלפעמים היתה נכנסת אשה ענייה לבית המדרש לקבל צדקה, או אבלה לומר קדיש. וההלכה למעשה בעניין זה צריכה עיון

שר"ת אגרות משה אורח חיים חלק ה סימן יב

R. Moshe Feinstein is discussing the issue of when a mechitza is needed for prayer outside a fixed synagogue in the presence of a small number of women. As an aside, he mentioned that it was always the case that women sometimes entered into a beit midrash to collect tzedaka or to say kaddish.

- It is not however clear from this that R. Feinstein would specifically permit women to say kaddish and, if so, in what setting.

reports that R. Avraham Yosef and R. Eliyahu Abargel permit women to say kaddish in the synagogue.

32. Quoting the Shevut Ya'akov above.

33. The Artscroll book *Mourning In Halachah* is adapted from the Hebrew original Pnei Baruch and this quote is taken from 34:20. In fact, it is not entirely true to the original since the word of the Pnei Baruch is that ALL poskim other than the Shevut Ya'akov prohibit a woman saying kaddish - "אבל כל הפוסקים חולקים ע"ז בביתה ואפילו אם צוה לה כן אביה". What persuaded the Artscroll editors to add in the word "virtually" in the English adaptation!?

34. This is aside from the pre-20th century classic poskim who permit some form of women's kaddish, such as the Shevut Ya'akov, the Baer Heitiv and the Kitzur Shulchan Aruch.

35. R. Henkin's position is quoted in a number of places. See Teshuvot Ibra 2:4 *Amirat Kaddish al yedei haBat*, 4:1 and an article in Hapardes, 38:6, pp. 5-6. R. Henkin's first 1946 responsum recalls from when he was a child in Russia that a young girl said kaddish in his shul. His grandson, R. Yehuda Henkin also presents his position in Shu't Bnei Banim 2:7 and Hadarom no. 54, Sivan 5745 [1985], pp. 34-48. R. Yosef Eliyahu Henkin notes that in past times, when only one person said Kaddish, that person would stand in the front of the shul, which would be inappropriate for a woman. Now that everyone says Kaddish together from their respective places the woman can say Kaddish. R. Yehuda Henkin writes that his grandfather was the first to officially permit this in writing.

36. In this essay, R. Henkin rules 'efshar she'ein kapeida' - maybe we are not concerned. In an earlier 1946 teshuva R. Henkin gave a stronger approval of a woman saying kaddish from the ezrat nashim and was even prepared to allow her to say it in the men's section provided men were also saying kaddish. R. Henkin received significant push-back from the rabbinic establishment after this earlier psak and it is notable that the 1963 essay has a less permissive tone.

E3] R. YECHIEL MICHEL TUKACHINSKY - GESHER HECHAIM

39.

אפילו הקדיש אחר אין כאלוקינו,
אלא שהברכו אומר גבר. ויש
מקומות שאין מרשים לה כלל
לומר בביה"כ [בבית הכנסת]...
בלתי אם יש מנין בביתה תוכל
לומר שם הקדיש, ובת גדולה לא
מרשים בכל אופן לומר קדיש
בביה"כ [בבית הכנסת].

מזכי אבא). ואם לא השאיר בן
אלא בת אם היא קטנה (פחות
מ"כ [משנים עשרה]) יש מקומות
הרבה שמרשים לה לומר קדיש
בבית הכנסת אחר עלינו ואחר
שיר של יום או קודם ברוך
לאומר. ויש מרשים לה לומר

גשר החיים כרך א' ל"ה

R. Tukachinsky (1947) records the different (Ashkenazi³⁷) minhagim of his time, including those who permit women to say kaddish in the synagogue and those who only permit this in a private minyan. The view he does NOT quote is that which prohibits women saying kaddish entirely.

E4] R. YOSEF BER SOLOVEITCHIK

- R. Yosef Ber Soloveitchik permitted women to say kaddish from the women's section of the shul, whether or not a man was saying kaddish at the same time.³⁸

E5] THE LUBAVITCHER REBBE

- When the Rebbe was asked by a Chabad rabbi about women saying kaddish he responded that the rabbi should consult with other Chabad rabbis on the issues. Their conclusion was that women could say kaddish.³⁹

E6] R. AHARON SOLOVEITCHIK

40.

אנשים ונשים מישראל לוחמים
בעד שיווי הנשים לעומת האנשים
ביחס עם עליות בשביל הנשים
א"כ [אם כן] אם הרבנים החרדים
ימנעו אשה מלומר קדיש במקום
שישנה אפשרות שע"י [שגל די
זה] זה תתרבה ההשפעה של
הרבנים השמרנים והריפורמים
או אסור למנוע בת מלומר קדיש.

ועיין בתשובות חוות יאיר
בתשובה רמ"ב שכתב שאם אין
למת בן רק בת ותבת נשואה או
הבעל צריך לומר קדיש. ואם הבת
אינה נשואה או מצד עיקר הדין
הבת יכולה לומר קדיש אלא שלא
תעשה כן שעל ידי זה יתחלשו
מנהגי ישראל וכיון דאיכא פירסום
יש למחות. ונראה עכשיו שכמה

עוד ישראל יוסף בני חי סימן ל"ב

R. Aharon Soloveitchik rules that, since we live in an age when egalitarian agendas are pushing for far more fundamental breaches of halacha, where it is possible to permit a practice such as Kaddish this should be done. Otherwise, the consistent denial of women's involvement in the service, even where permitted, will actually be counterproductive and push women away from the Orthodox community⁴⁰.

37. See <https://sephardicu.com/prayers/kaddish-by-women/> which says, "There is also the testimony of the author Ya'akov Yehoshua (1905-1982), an author and historian of the old Sephardic community in Jerusalem, that it was customary to see women saying Kaddish in the Ashkenazi synagogues. He adds that Rabbi Shraga Faivel Frank of Yemin Moshe requested in his will that his daughters will say Kaddish for him."

38. R. Soloveitchik's position is attested by a number of sources. See in particular R. Joel Wolowelsky's article *Women and Kaddish* Judaism: A Quarterly Journal of Jewish Life and Thought, Vol 44 Issue 3, Summer 1995. This is confirmed as his view by R. Ezra Bick, R. Aharon Lichtenstein and R. Shlomo Riskin. R. Wolowelsky suggests that R. Soloveitchik's insistence that woman say kaddish only from the women's section stemmed from the opposition to mixed seating which was controversial at the time. Women also report that they were permitted by R. Soloveitchik to say kaddish when davening at Maimonides School in Boston. Rahel Berkovits collects many more personal attestations of R. Soloveitchik's position in her essay.

39. See <https://chabadinfo.com/beis-medrash/women-saying-kaddish/> which reports: "It is interesting to note, that in 1959, the renowned Chassid Rabbi Dovid Bravman from Kfar Chabad passed away, leaving four young unmarried daughters and no sons. His father in law Rabbi Ya'akov Yosef Raskin asked the Rebbe what should be done regarding Kaddish, whether the daughters should recite Kaddish or someone else? The Rebbe responded that he should consult with Rabbonei Anash, who said that the daughters should say Kaddish." A copy of the Rebbe's response in a letter of 4 Tammuz 5719 is also posted.

בהגות לאמירת קדיש יתקצו עם רבני אנ"ש שלי"א.

40. Rahel Berkovits flags the movement of opinion in the Modern Orthodox community in the US by pointing out the difference in presentation of the question of women saying kaddish by R. Maurice Lamm in *The Jewish Way in Death and Mourning*. In the first edition in 1969 R. Lamm explains why the halacha requires the son, rather than the daughter to say

- Other poskim who permit women saying kaddish in shul include:
 - R. Chaim Pinchas Scheinberg⁴¹
 - R. Yehuda Henkin deals with the matter extensively in his teshuvot⁴².
 - R. Herschel Schachter⁴³ rules that the matter depends on the custom of the community.
 - The British Chief Rabbi's office rules that women may say kaddish from the ezrat nashim but only when another man is also saying it.⁴⁴
 - R. Yosef Tzvi Rimon permitted women to say kaddish from the ezrat nashim but only when another man is also saying it.⁴⁵
- It is also important to note that the halachic framework of aveilut has always been very dependant on minhag, which effectively becomes binding⁴⁶.

F] SUMMARY OF ARGUMENTS FOR AND AGAINST WOMEN SAYING KADDISH⁴⁷

AGAINST

- Kaddish is a *davar shebekedusha* and, as such, is a part of the service that women are not obligated in or able to be motzei others.
- Since there is no minyan in the ezrat nashim, it is prohibited to say kaddish there.⁴⁸
- The classical mystical sources only spoke of the son's special merit to assist the soul of the parent⁴⁹.
- For women to say kaddish in public settings is a breach of tzniut. On the question of *kol isha* see below.
- Saying kaddish is not as important as answering to kaddish. So a daughter can achieve just as much or even more for the niftar by having proper kavana when answering kaddish. There are also many other ways to bring merit to the niftar.
- It may ultimately support anti-halachic trends in non-Orthodox movements⁵⁰.

FOR

- The original concern that women saying kaddish is a new custom which will strengthen non-Orthodox movements is no longer relevant - (i) since the issues which separate the movements are now far more fundamental and (ii) since there is now an established custom in many Orthodox communities for women to say kaddish.
- Those traditional opinions who prohibit women saying kaddish in the synagogue relate to the practice in those times when one person said kaddish. Today, when everyone says kaddish together, the halacha would be different⁵¹.
- Similarly, the traditional opinions who prohibit women saying kaddish in the synagogue were usually addressing synagogues with no ezrat nashim, so the woman saying kaddish would have to walk into the shul and stand at the back without a mechitza. Today, when almost all shuls have an ezrat nashim, this is not a concern⁵².
 - The halachic question of *kol isha* seems not be central here. First, if this was a concern, this should also have been the case in a private minyan and we see that many poskim permitted this. *Kol isha* would not be a concern here for a number of reasons: (i) the woman can say kaddish and does not need to sing or chant it; (ii) even if she chanted it, this may not be prohibited in the context of kedusha associated with kaddish⁵³; (iii) today kaddish is said by many aveilim so the woman's voice would not be prominent⁵⁴.

kaddish. By the revised edition of 2000, he changes his position significantly, justifying why it is permitted for women to say kaddish.

41. Quoted in *Kol Bo (Yahrzeit)* 2, p61.

42. See Bnei Banim 2:7.

43. B'ikvei Hatzon p. 24 no. 5.

44. See <https://chiefrabbi.org/wp-content/uploads/2016/01/US-WOMEN-KADDISH-Booklet.pdf>

45. This is the practice in the New Shul in Alon Shevut. There is a button in the ezrat nashim which can be pressed by a woman who wishes to say kaddish. This illuminates a light on the amud of the shaliach tzibbur informing him to say kaddish in the event that no other aveilim are present. On other rulings of R. Lichtenstein see <https://www.deracheha.org/answers/kaddish-at-bat-mitzva-siyum/>. They report as follows: "Rav Aharon Lichtenstein maintained that it was technically permissible for a woman to recite kaddish alone at a siyyum, but that whether or not it should actually be done in a given setting would depend on the setting and on communal sensitivities and practice. For example, in Alon Shevut he permitted a woman to recite kaddish on her own at a private siyyum held at her home with ten men present, but advised a couple asking about their daughter reciting kaddish at her bat mitzva that that would be more of an issue, since it would be more public. Kaddish at a public celebration may more closely resemble recitation by a prayer leader at synagogue." At Beit Midrash Migdal Oz, women do not recite kaddish when making a siyyum. Rav Lichtenstein's daughter, Rabbanit Esti Rosenberg, had her father recite the kaddish at the siyyumim made at all of her children's bar or bat mitzvahs

46. See Yam Shel Shlomo Kiddushin 1:63 who writes that the customs of kaddish had effectively acquired the status of rabbinic law.

47. A number of women have written at length on this issue. Rachel Berkovits has a long analysis with extensive source material in *Hilkhot Nashim Vol 1 (Maggid 2018) pp1-140*. Rochelle L. Millen's article *The Female Voice of Kaddish* appears in *Jewish Legal Writings by Women (Urim, 1998) pp 179-202*. This is an expanded version of her article *Women and Kaddish: Reflections on Responsa*, *Modern Judaism* 10 (1990) 191-203. Millen is Professor Emerita of Religion at Wittenberg University.

48. R. Yehuda Henkin rules, and brings other sources to prove, that women in the ezrat nashim ARE halachically connected to the minyan in the men's section.

49. R. Yehuda Henkin responds that this issue is not raised by the Ashkenazi poskim and is not relevant to the Ashkenazi community.

50. R. Yisrael Meir Lau, *Shu't Yacheil Yisrael* 2:90.

51. See <https://www.daat.ac.il/he-il/tfila/mitpalel/kadish-yetoma/henkin-legufo.htm> where R. Yehuda Henkin makes this point.

52. R. Yehuda Henkin notes that almost all synagogues today in the US are designed in such a manner that the ezrat nashim is under the same roof as the men's sections. As such, the minyan will be considered halachically present in both sections.

53. Chazal rule that, in principle, women could be called up to read from the Torah but this is not permitted in practice due to kavod hatzibbur. They do not cite *kol isha* as a concern.

54. This does not mean that the men have to drown out the woman's voice. We also saw above that some poskim permit a woman to say kaddish even if no men are also saying it at the same time.

Nevertheless, this does not exclude other tznit considerations and there may be a legitimate objection in some communities to a woman saying kaddish on the basis that this goes against the customs and tznit practice (dat yehudit) of that community.

- There are public policy reasons which stress the importance of encourage the connection of women to the community - see below.

41. It is important to be aware of the conscious effort here to separate the posek's social responsibility from his allegiance to the logic of halakhah. Hawot Ya'ir makes no attempt to suggest that halakha dictates forbidding women to say Kaddish. On the contrary, he rules that despite the apparent permissibility of her doing so, he must forbid it because of the danger that a permissive ruling might post to the fabric of his community. Such a decision, of course, is by definition applicable only to a specific community at a specific time.

R. Joel Wolowelsky - *Women, Jewish Law and Modernity*, p.86

- Nevertheless, the Chavot Yair clearly flags that broader metahalachic principles are also relevant in issues such as this. How these impact specific communities will need to be considered carefully by the posek. 'Technical' halachic issues are always relevant, but are not the only consideration.

42. I fear that if we allow daughters to say Kaddish as allowed by R. Henkin, the those of our contemporaries who are out to cause confusion - their aim being to create a new Torah and, God forbid, change our traditions⁵⁵, always looking for a high peg on which to hand their nonsense, saying that the most stringent have already allowed it.

R. Shlomo Halevi Wahrman, *She'erit Yosef Vol 2 (1981) p.299 ff*⁵⁶

- When considering broader hashkafic and policy issues of this nature, many factors must be weighed including (in no specific order):
 - the nature of the community and its reaction to the woman saying kaddish;
 - the relationship of the woman in question with the community;
 - the importance of empathy and nichum aveilim for the bereaved daughter⁵⁷;
 - the importance of encouraging the participation of women generally and this woman in particular in the community⁵⁸;
 - the concern of introducing practices which weaken the mesora and minhagim of the shul and wider community, opening the potential for further erosion.⁵⁹

55. Rav Yisrael Meir Lau also expressed similar concerns, based on the issues raised by the Chavot Yair. In his teshuva (Yachel Yisrael 2:90 (1992) p479, he write that "Reformers might follow and draw the conclusion that women may act has chazzan ... Therefore we cannot allow women to say Kaddish in any way."

56. R. Wahrman escaped from Leipzig before the Shoah and wrote extensively about his experiences. He was a Rosh Yeshiva and dean of Hebrew Academy of Nassau County

57. In his book *Kaddish* (1998), Leon Wieseltier suggests that asking the question 'May a woman say kaddish' sounds far more controversial than 'May a daughter say kaddish'. His point is that this question is as much about a bereaved child as about women's issues in halacha.

58. A famous letter on this issue was written by Henrietta Szold in 1916 after the death of her mother. She was one of eight sisters and no brothers and a friend offered to say kaddish for her mother. Her response to him sets out the reasons why she feels that women should be able to say kaddish for their parents.

59. See also an article by R. Reuven Fink - *The Recital of Kaddish By Women*, in the Journal of Halacha and Contemporary Society (XXXI p. 23) . R. Fink analyses many of the sources above and concludes that there is little precedent to permit women to say kaddish and that "tampering with the synagogue's customary practices is clearly a step fraught with great danger".