



מכון לינדנבאום ללימוד הלכה
שע"י ישיבת חובבי תורה

LINDENBAUM CENTER FOR HALAKHIC STUDIES
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MAY A WOMAN LEAD SELICHOT?

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QUESTION

May a woman lead *selichot* if she does so with a minyan of men present, and from her side of the mechitza?

ANSWER

For the purposes of this teshuva, I will bracket the larger discussion of partnership minyanim. I will also bracket any discussion of *kol isha*, as there is sufficient evidence that this is not a problem with chanting, as opposed to singing, in a serious-minded context, such as that of a *beit kneset* or of a funeral.¹ I will look only at the question of whether the *selichot* is a *davar she'bikdusha* or something similar that would formally exclude a woman from leading them.

Although our practice of reciting *selichot* is not found in the Gemara, an aggadah in Rosh HaShanah (17b) discusses the reciting of the י"ג מדות של רחמים, the Thirteen Divine Attributes, which form the centerpiece of our *selichot*:

ויעבור ה' על פניו ויקרא. אמר רבי יוחנן:
אלמלא מקרא כתוב אי אפשר לאומרן, מלמד
שנתעטף הקדוש ברוך הוא כשליח צבור והראה
לו למשה סדר תפלה. אמר לו: כל זמן שישראל
חוטאין - יעשו לפני כסדר הזה, ואני מוחל
להם....

אמר רב יהודה: ברית כרותה לשלש עשרה
מדות שאינן חוזרות ריקם, שנאמר הנה אנכי
כרת ברית

'And God passed before him' (Shemot 34:6) -
Said R. Yochanan: Were the verse not written,
it would not be possible to say such a thing.
It teaches that the Holy One wrapped Him-
self in a *tallit* as a prayer leader, and showed
Moshe the order of prayer. He said to him:
'Whenever Israel sins, let them perform be-
fore Me this order, and I will forgive them.' ...

Said Rav Yehudah: A covenant is made with
the י"ג מדות, that [when recited] they do not

return unanswered, as it says, 'Behold I make
a covenant.'

This aggadic passage, while not a halakhic statement, serves as the model for the use of the י"ג מדות as a central form of our prayers for repentance. It also indicates that this prayer is a communal one ("when Israel sins... let them perform this order") and that the person leading the service has a status of a *shaliach tzibbur*, a prayer leader of communal prayer.

If this aggadah were to define the halakhic nature of the recitation of the י"ג מדות, we would most likely conclude that it would be a communal prayer which would require a minyan of 10 men, as this is the classic halakhic definition of a community. However, since the text does not explicitly use the term *tzibbur*, perhaps another definition would be possible for the term "Israel" in this context. For example, women might count towards the requirement of 10 for something to be considered to have taken place *bi'farhesya*, in public, or *bi'rabbim*, amongst the many, for example, in the cases of *kiddush HaShem*² and the reading of *megillah*.³ Perhaps the same would be true here.

2 Minchat Chinukh, 296, ד"ה ושל השעת הגזירה; Rav Yosef Engel, Gilyoeni HaShas, Sanhedrin 74b and Yam Shel Shlomo, *ad. loc.*; Pitchei Teshuva, YD 157:7; and others. And see phrasing of Rambam, Yesodei HaTorah 5:2, 4 and 10 in regards to *kiddush haShem* and *chilul haShem* where he refers to עשרה מישראל without any qualifiers. Presumably the same would be true for the definition of שבת מחלל שבת where the general definition found in the *poskim* is עשרה מישראל without any qualifications.

Rambam also uses the phrase עשרה מישראל without qualifiers in regards to the *ma'amad* and *moshav* and the *shura* for a mourner (Hilkhos Avel 12:4 and 13:1), *zimmun bi'Shem* (Hilkhos Berakhot 5:4), reading the *megillah* (Hilkhos Megillah 1:7), and *bo'el kutit bi'farhesya* (Issurei Biah 12:4). These categories, it would seem, are not based on the classic definition of *tzibbur*. In contrast, he mentions the additional criteria of גדולים ובני חורין in the cases of *tfillat ha'tzibbur* and *kriyat haTorah* (Hilkhos Tefillah 8:4, and 12:3), and implicitly by juxtaposition, *kedusha*, *haftarah*, *barkhu*, *kaddish* and *birkhat Kohanim* (Hilkhos Tefillah 8:4-5). He also mentions these criteria for *sheva brakhot* under the *chuppah* (Hilkhos Ishut 10:5).

3 Rema Orah Hayyim 690:18, Hayye Adam 155:12, either based on *farhesya* as opposed to *tzibbur* (see Ramban, Milchamot, Megillah (RIF 3a)) or based on women's equal obligation in reading the *megillah* (see Ran (RIF 6b), ד"ה (הכל כשרין). See also Rambam, Hilkhos Megillah (1:7).

1 A woman in principle may read from the Torah - אפ' אשה - מקוננות - הכל עולים למנין שבעה - at funerals, without a concern of אשה קול being raised. For a discussion of these issues, see Shut Benei Banim 2:10 and 4:2.

The most relevant and specific term, though, is *shaliach tzibbur*, the prayer leader who represents the community. If this aggadic text is treated halakhically, then the act of reciting the *י"ג מדות* would require a *shaliach tzibbur* and by extension a *tzibbur* as well. While it is true that this passage does not say that God was functioning as a *shaliach tzibbur*, but rather that He “wrapped himself like a *shaliach tzibbur*,” there is no doubt that the simple sense is that the recitation of the *י"ג מדות* is led by someone who has the status of a *shaliach tzibbur*. This would mean that not only would 10 men be required for the recitation of *י"ג מדות*, but also that the one who leads the recitation, the *shaliach tzibbur*, would have to be an adult male, the standard criterion for a *shaliach tzibbur*.⁴ The Sefer HaMinhagim⁵ sums up this approach succinctly in the name of Rabbeinu Meshulam:

רבינו משולם אומר די"ג מדות אין לומר ביחיד
כשמתפלל סליחות, מדאמר'י הקדוש ברוך הוא
נתעטף כש"צ ולמדו למשה, ש"מ אין לומר רק
לש"צ בציבור

Rabbeinu Meshulam says that an individual should not say the *י"ג מדות* when he prays *selichot*, since we say that “God wrapped himself like a *shaliach tzibbur* and taught it to Moshe.” From this it may be inferred that they should not be said except by the *shaliach tzibbur* in a *tzibbur*.

Although there are a few voices of dissent, this is the approach adopted by the large majority of Geonim and Rishonim who discuss the issue. They treat this aggadah as halakhically relevant, and require a minyan for the recitation of the *י"ג מדות*. Although only a few mention the requirement of a *shaliach tzibbur* as explicitly as Rabbeinu Meshulam, this requirement is often implied, and indeed follows logically from this approach. We will return to this point after exploring the positions regarding the requirement for a minyan.

4 See Mishna Megillah 4:5-6; Rambam Tefillah 8:11; Shulkhan Arukh, Orah Hayyim 53:6-7. For a conceptual explanation of the relationship of the requirements for a *shaliach tzibbur* and the core membership of the minyan, see Reshimat Shiurim of Rav Soloveitchik, Mesekhet Sukkah, 38a (p. 183). See, also: “Further on Women as Prayer Leaders and Their Role in Communal Prayer: An Exchange, Communal Prayer and Women,” Michael Broyde, Judaism 42:4 (1993).

5 Minhagim Klausner, no. 3

RECITATION OF THE *י"ג מדות* REQUIRES A MINYAN

The majority position that a minyan is required is found first in the Geonim. Seder Rav Amram Gaon quotes Rav Natan Gaon who states that the *י"ג מדות* may only be said in a minyan and are forbidden to be recited by an individual.⁶ Rav Natan is quoted verbatim and *li'halakha* in Siddur Rashi (no. 545), Machzor Vitri (no. 271), Or Zarua (2:416), and Sefer HaManhig (p. 275). A slight reservation appears in Ri Migash, who at the outset states that there is nothing in the Gemara to indicate that an individual could not recite the *י"ג מדות* but then proceeds to quote the opinion of Rav Natan Gaon that they may only be recited with a minyan.⁷

While Rav Natan requires a minyan, he never claims that this recitation is a *davar she'bikdusha* - a recitation that sanctifies God's name and requires the presence of a *tzibbur* - and, indeed, it does not appear in the Gemara Megillah (23b) which discusses the need for a minyan for *devarim she'bikdusha*. Later authorities do designate this recitation as such. Shibolei HaLeket states that an individual reciting *selichot* must skip over the recitation of the *י"ג מדות*, quoting Rav Natan's ruling, and then adds that Rav Avigdor Kohlen Tzedek declared this to be a *davar she'bikdusha*.⁸

6 Seder Rav Amram Gaon, Order of Fasts:

והכי אמר רבינו רב נתן שאין מנהג אצלינו לומר שלש עשרה מדות אלא בצבור ואין רשות ליחיד לומר אותן בתפלתו אלא בצבור. ולואי כשהצבור מתקבצין ומתענין ועושין צדקה ומבקשין רחמים ומכוונין את לבם לאביהן, הב"ה מרחם עליהם ואין מואס תפלתן של רבים ועונה אותן, שנאמר הן אל כביר לא ימאס. וכתב הב"ה ברית עם משה ועם אבותינו שאין חוזרות ריקם שנאמר הנה אנכי כורת ברית. לפיכך אין אומרין אותן אלא בצבור.

7 Shut Ri Migash, no. 83:

וששאלת אם יש ליחיד לומר בתחנוניו ויעבור ה' על פניו אם לא.

תשובה לא ראיתי בתלמוד מה שיורה על מניעתו מזה אלא שראיתי תשובה לגאון ז"ל נראה ממנה שאין ליחיד לומר ויעבור ונתלה בזה באמרם מנין שאין הב"ה מואס בתפלתם של רבים שנאמר הן אל כביר לא ימאס.

8 Shibolei HaLeket, no. 29

דין שלש עשרה מדות אם ראוי ליחיד לאמרם. ויחיד המתפלל בשני ובחמישי...כשמגיע לומר פסוק ויעבור מדלג... ואין אומר פסוק ויעבור שבו הזכרת שלש עשרה מדות. וכן מצאתי במנהגות לותיר. כשמשימיין בעשרת ימי תשובה לומר תחנונים בעלות השחר אם לא נתקבצו עשרה בבית

Rashba in a teshuva responded similarly, stating that an individual may not recite them because they are כדברים שבקדושה, like *devarim she'bikdusha*.⁹ Rashba does allow an individual to recite them as verses not in the form of prayer because their special status as *devarim she'bikdusha* exists only when these verses are used as a type of prayer.

While there is no textual support in the Gemara for the idea that the recitation of the *י"ג מדות* is a *davar she'bikdusha*, this position makes intuitive sense. The exact definition of *devarim she'bikdusha* is elusive, but it stands to reason that a ritual where the *shaliach tzibbur* is understood to be acting as God, כביכול, as he recites God's Attributes, would be a statement of great holiness and a sanctifying of God's name. Whether this is enough to qualify for the technical definition of *davar she'bikdusha* is less clear. This explains why Rashba says that it is like a *davar she'bikdusha*, indicating that it might not be a *davar she'bikdusha* in the technical sense.¹⁰

Rav Natan, who demands a minyan for the recitation of the *י"ג מדות* but does not define it as a *davar she'bikdusha*, understands that the minyan is coming to serve a different purpose, namely, to create a *tfillat ha'tzibbur*, a communal prayer. Rav

הכנסת אין אומרים י"ג מדות אלא כשמגיע לומר פסוק ויעבור מתחיל וסלחת דהכי אמר רב נתן גאון זצ"ל ושאר חכמים... וכן השיב ה"ר אביגדור כהן צדק נר"ו לר' צדקיהו ב"ר בנימין אחי השני זצ"ל שאין לאמרם בפחות מעשרה לא בסליחות ולא בתחנונים שהן דברים של קדושה וכל דבר שבקדושה אינו בפחות מעשרה אלא מדלג ואומר ויקרא בשם ה' ושם נאמר וסלחת לעונינו ולחטאתנו ונחלתנו:

And similarly, in no. 282:

ומזכירין שלש עשרה מדות בין כל ענייה וענייה ואומר סליחות ויודים כפי רצונם ואם אינם מנין עשרה מדלגין שלש עשרה מדות וכשמגיעין לויקרא בשם ה' ושם נאמר מדלגין ואומר וסלחת לעונינו.

9 Shut HaRashba 1:211:

מה שאמרת אם אומר שלוש עשרה מדות ביחיד? תשובה מסתברא לי שכל שאומרן דרך תפילה ובקשת רחמים אין נאמרין ביחיד וכדבר שבקדושה הן. כמו שאמרו באגדה נתעטף הקדוש ברוך הוא כשליח צבור והראהו למשה בסיני. ואמר כל זמן שישראל חוטאין כשיגיע עת צרה יעשו לפני כסדר הזה ואני מוחל להם. אבל אם בא לאמרו כך דרך קריאה בעלמא אומר כדרך שאומרין אף האופנים וקראי דקדושה דרך קריאה.

10 This point is also made in Betzel HaChakma 5:61. Other poskim assume that according to Rashba it is a real *davar she'bikdusha*. See, for example, Ha'Elef Likha Shlomo, Orah Hayyim 44.

Natan connects the idea that the prayers of the community are never rejected by God - an idea found in Berakhot (8a) - to the Gemara in Rosh HaShanah (17b) which states that the recitation of the *י"ג מדות* do not return unanswered:

כשהצבור מתקבצין... הב"ה מרחם עליהם ואין מואס תפלתן של רבים ועונה אותן... וקרת הב"ה ברית עם משה ועם אבותינו שאין חוזרות ריקם שנאמר הנה אנכי כורת ברית. לפיכך אין אומרין אותן אלא בצבור

And when they gather... God has compassion on them and does not despise the prayers of the community and He answers them... And God made a covenant with Moshe and with our forefathers that they [the *י"ג מדות*] do not return unanswered, as it says, 'Behold I make a covenant.' Therefore, we do not say them except in a *tzibbur* (with a minyan).

Just as God promises to answer every communal prayer, God made a special covenant regarding the communal prayer of the *י"ג מדות*. This prayer exists only as a communal prayer, according to Rav Natan; for the individual it holds no meaning.

The requirement of a minyan for communal rituals is distinct from the requirement of a minyan for *devarim she'bikdusha*. In fact, the Mishna in Megillah (23b) which lists those things which require a minyan includes *devarim she'bikdusha*, like *kaddish* and *barkhu*¹¹, and also rituals which may not be *devarim she'bikdusha* but are *chovot tzibbur*, communal obligations, like the reading of the Torah.¹²

11 This is Rashi's understanding of *posrin al Shema*.

12 The simple sense of the Gemara (Megillah 23b) is that the reading of the Torah and the entire first set of rituals in the mishna (until *ma'amad u'moshav*) are *devarim she'bikdusha*, and this is stated explicitly by Meiri ד"ה ונשוב לביאור המשנה. However, it is not immediately obvious why this is so for the reading of the Torah or the *haftarah*, or even for *birkhat Kohanim*. It is easier to understand these as communal obligations, and not as *devarim she'bikdusha*. This is the position of Ran (on Rif 13b), who explains that *birkat Kohanim* requires 10 based of the verse את תברכו כה בני ישראל, and that *kriyat haTorah* and *haftarah* require 10 because תקון אלא בצבור, these are rabbinic institutions established specifically for the community (See also Ramban, Milchamot HaShem (Megillah 3a, in Rif) who states that all the rituals listed in the Mishna are communal obligations: במשנתנו השנויים כולם חובת ציבור הן).

The difference between these two categories is as follows. *Devarim she'bikdusha* are acts of sanctifying God's name which even when done by an individual, for example *kaddish yatom*, may only take place in the presence of a community based on the verse *ויקדשתי בתוך בני ישראל*. In contrast, the recitation of the *י"ג מדות* for Rav Natan is not a sanctifying of God's name; it is rather a communal prayer to God. The reason a minyan is necessary here is not because this is something that may only be done *in the presence of* a minyan, it is because this is something that may only be done *by* a minyan, by the community as a whole.

Whether recitation of the *י"ג מדות* requires a minyan because it is a *davar she'bikdusha* or a communal *tefillah*, it must be acknowledged that it does not appear in the Mishna Megillah (23b) which lists those rituals that require a minyan. One explanation for this found in the Rishonim is that that Mishna only lists obligatory prayers, and the recitation of the *י"ג מדות* is an opportunity, not an obligation.¹³

The idea that this recitation requires a minyan because it is a *tefillat ha'tzibbur* is also found in Rashbash (Rabbi Shlomo ben Rabbi Simeon Duran). In a *teshuva* (Shut Rashbash, no. 191), Rashbash quotes his father, the Tashbetz, who questions Rav Natan's position that the recitation of the *י"ג מדות* requires a minyan, since there is no textual evidence that the *י"ג מדות* are considered *devarim she'bikdusha*. Rashbash then offers the following explanation:

ואני אומר ליישב המנהג, שכיון שמה שאנו אומרים אותו אינו אלא מהא דאמר ר' יוחנן ... מלמד שנתעטף הקדוש ברוך הוא כשליח צבור וכו', א"כ אין לאומרו אלא כדרך שהראהו הקדוש ברוך הוא למשה בסיני כשליח צבור, שהקב"ה היה דוגמא לש"ץ לכל ישראל שהיו צריכים ומבקשים רחמים וכרת עמהם ברית שלא יחזרו ריקם, אבל שלא כיוצא בזה אין לנו סמך בזה.

א"כ מה לו ליחיד לאומרו והוא אינו צריך עכשיו לקרות אותם פסוקים יותר משאר פסוקי התורה שיאמרם כקורא בתורה

And I say to defend the practice (of only reciting it in a minyan), that since our recita-

¹³ Rashbash (Shut Rashbash, 191).

tion of it is based only on the statement of Rebbe Yochanan - "... This teaches that God wrapped Himself like a *shaliach tzibbur*, etc." – therefore one may not say it except in a manner similar to how God showed Moshe on Sinai, i.e., like a *shaliach tzibbur*. For God was playing the role of a *shaliach tzibbur* for all of Israel, who needed and were asking for compassion, and God then made a covenant that their prayers (in this manner) would not return unanswered. But under different circumstances (when there is no minyan and no *shaliach tzibbur*), we have no basis for such a thing (a ritual recitation of the *י"ג מדות*).

Therefore, what purpose is there for an individual to say them as if he is reading verses from the Torah, given that he has no need to read them more than any other verses in the Torah?

Rashbash's explanation is simply this: while this recitation does not qualify as a *davar she'bikdusha*, and is not forbidden to be said by an individual, it is a ritual that was given only to the *tzibbur* and which requires a *shaliach tzibbur*. The recitation of the *י"ג מדות* is a *tefillat ha'tzibbur* and never a *tefillat yachid*. Therefore, when an individual recites them they have no more meaning than reading any other verses from the Torah. While not technically forbidden to read them as a form of prayer, it would be ineffectual to do so. One might go further and say that it would be inappropriate to do so, as it would be appropriating a ritual that only has meaning at the communal level.

Rav Soloveitchik (Harerei Kedem, no. 1, section 5),¹⁴ without reference to Rav Natan Gaon or the Rashbash, develops a similar approach based on Rambam's statement (Hilkhos Teshuva 3:4) that the practice during the *asseret yimei teshuva* is to say *selichot* in the synagogue. The emphasis on the synagogue is evidence for Rav Soloveitchik that this recitation is a communal and not an individual prayer. He specifically rejects calling it a *davar she'bikdusha*¹⁵

¹⁴ Harerei Kedem was written by Rav Michal Shorkin based on shiurim he heard from Rav Soloveitchik. The quotes from this sefer, then, are not the actual writings of Rav Soloveitchik.

¹⁵ He writes as follows:

The idea that the recitation of the *י"ג מדות* are a *tfillat ha'tzibbur* is further developed in the Levush (Orah Hayyim 581:1), who says that the entire structure of *selichot* is modeled after the structure of *tefillah*:

קדיש שלם עם תתקבל. אף על גב שבכל ימות השנה אין אומרים תתקבל אלא אחר תפלת שמונה עשרה, שכן הוא משמעות לשון צלותהון שפירושו תפלה, וסתם תפלה רצה לומר תפלת שמונה עשרה, שאני סדר הסליחות שנתקנו כולם על סדר התפלה של כל היום, כי הפסוקים שקודם הסליחות הם כנגד פסוקי דזמרה, והסליחות עם ה"ג מדות שאומרים בין כל אחת ואחת הם במקום תפלת י"ח, שעיקר התפלה הוא י"ג מדות, ואח"כ נופלן על פניהם כמו אחר כל התפילות ומסיימין ואנחנו לא נדע, לכך אומרים אחריהם קדיש שלם עם תתקבל כמו אחר גמר כל תפלות השנה

[One recites after *selichot*] a full *kaddish* with *titkabel*. It is true that during the rest of the year we only recite *titkabel* following Shmoneh Esrei, for this is the meaning of *tzolot'hon* ["let their *tzolot'hon* be accept"], that is, prayers, and "prayer" by itself means the Shmoneh Esrei. The order of *selichot* is nevertheless different [from other non-Shmoneh Esrei prayers], for it was modeled after the structure of the daily prayers. The verses that precede the *selichot* correspond to the *pesukei di'zimra*,¹⁶

ונראה הביאור, דהנה האחרונים נקטו דהטעם דאין לומר י"ג מדות אלא בציבור היינו משום דהוי כמו דבר שבקדושה דצריך עשרה... אך עויין בהריטב"א בר"ה (ז:): דיעבור ה' הוא מלשון עובר לפני התיבה כש"ץ... ולפ"ז נראה דעיקר החפצא של י"ג מדות אינם אלא בציבור ולא מצד דבר שבקדושה... אלא מתחילה כל עיקר תפילה זו לא נתקנה אלא לציבור.

"It seems that the explanation is as follows. The Achronim adopt the position that the reason that we do not say the *י"ג מדות* except in a communal context is because they are like a *davar she'bikdusha* which requires 10 [men]... But see Ritvah on Rosh Hashana (17b), who states that the phrase "and God passed, va'ya'avov [in front of Moshe]" is from the same phrase as "to pass - *o'ver* - in front of the ark like a *shaliach tzibbur*" [showing that it is a prayer that requires a *shaliach tzibbur*]... According to this it seems that the basic "entity" (i.e., ritual recitation) of *י"ג מדות* exists only in a communal context, and not because it is a *davar she'bikdusha*... but rather because from the very outset this entire prayer was only established for the community."

16 It's actually easier to see this Ashrei as paralleling the Ashrei of Mincha, since here, like at Mincha, there is no שמע or קריאת שמע.

the *selichot* with the *י"ג מדות* that are said between the *selichot* are in the place of the Shmoneh Esrei, for the fundamental prayer [of the *selichot*] is the *י"ג מדות*. We then we fall on our faces [and say תחנון], like we do after Shmoneh Esrei, and we conclude this with *קדיש*. Therefore, we say a full *kaddish* with *titkabel* after it, just as we do when we complete all of the Shmoneh Esrei prayers of the year.

For Levush, the central prayers of *selichot* are the recitations of the *י"ג מדות*, which are joined with the supplications that precede them, and which stand in the place of Shmoneh Esrei. When they are said in the *tzibbur*, the *י"ג מדות* become a *tfillat ha'tzibbur* and thus *kaddish titkabel* may be said, and must be said, following its recitation.¹⁷

In summary, we have a long list of Geonim and Rishonim who follow the lead of the aggadah of God wrapping Himself as a *shaliach tzibbur* and require a minyan for the recitation of the *י"ג מדות*, either because this recitation is defined as a *davar she'bikdusha* or as an exclusively communal prayer.

One important implication of this debate is whether it is strictly forbidden for an individual to recite the *י"ג מדות*, or just ineffectual to do so. If we define the recitation as a *davar she'bikdusha*, it would be forbidden outside of a minyan. As the Gemara states: כל דבר שבקדושה לא יהא פחות מעשרה "any *davar she'bikdusha* may not be done with less than ten people" (Berakhot 21b and Megillah 23b). However, if it were a *tfillat ha'tzibbur* it would not be prohibited to be done by an individual just ineffectual and without purpose; it would be no different than reciting any other Biblical verses.¹⁸ The approach that is forbidden for an individual to recite the *י"ג מדות* is implicit in Rashba and Shibalei HaLeket, who state that an individual must either skip the *י"ג מדות* or recite them as Biblical verses, but not as prayer.

17 See a further elaboration of this in Harerei Kedem, vol. 1, no. 1, sec. 1, where Rav Soloveitchik explains that it is for this reason that one must stand during the *selichot* and even the viduy that follows.

18 The reason one is forbidden to do other communal obligations, such as *kriyat haTorah*, without a minyan is because without the communal institution, the blessings would be *brakhot li'vatalah*. That is not a concern here, where no *brakhot* are present.

Consistent with this, they both explain that the recitation of the *י"ג מדות* is a *davar she'bikdusha*. In contrast, Rashbash states merely that such a recitation serves no purpose; it is not technically forbidden to do so: *א"כ מה לו ליחיד לאומרן*. והוא אינו צריך עכשיו לקרות אותם פסוקים. This follows his explanation that the recitation is not a *davar she'bikdusha* but rather a *tefillat ha'tzibbur*.¹⁹

Regardless of which explanation is given, it seems that according to this camp which requires a minyan, a woman could not lead the *י"ג מדות* just as she may not lead *tefillah bi'tzibbur* or *devarim she'bikdusha*.

However, there are some *devarim she'bikdusha* that a woman may lead, such as *kaddish yatom*. We will explore below if this is relevant to the question of a woman reciting the *י"ג מדות*, and to the question of a woman leading the selichot alone, without the recitation of the *י"ג מדות*.

RECITATION OF THE *י"ג מדות* MAY BE DONE BY AN INDIVIDUAL

There are Rishonim who disagree with the above-quoted authorities and state that a minyan is not required for the recitation of the *י"ג מדות*. Trumat HaDeshen quotes a number of authorities, including Sefer HaMinhagim,²⁰ who allow an individual to recite the *י"ג מדות*. Trumat HaDeshen rules in the end against this position, and allows an individual to say the *י"ג מדות* only if he reads them with cantillation. This is similar to Rashba's position, quoted earlier, that the *י"ג מדות* may only

19 Another possible difference between these approaches would be the question discussed in the poskim whether an individual has to interrupt his davening to respond to the *י"ג מדות* – something that we would expect if they are framed as *devarim she'bikdusha* but not if they are a communal *tefillah*. See Ha'Elef Likha Shlomo, Orah Hayyim 44, Tzitz Eliezer 11:3.6, and Betzel HaChakhma 5:61.

20 He is likely referring to Sefer HaMinhagim Klausner, no. 3, written by R. Avraham ben Hayim Klausner, uncle and mentor of Rav Yisrael Isserlin, the author of Trumat HaDeshen. Sefer HaMinhagim quotes Rabbeinu Eliezer miMetz (author of the Yireiyim) who states that an individual is allowed to say the *י"ג מדות*, as long as he does not insert it into the Shmoneh Esrei.

ורבינו אליעזר ממיץ אומר דווקא תוך י"ח ברכות אין לומר ביחיד אלא בציבור, שאין רשאי להפסיק ב"ח ברכות, אבל כשאין הפסק בתוך י"ח ברכות, כגון זה ובי' ימי תשובה רשאי לומר י"ג מדות וכן אנו נוהגין.

be read by an individual if it is not done in the form of a prayer. This is achieved for Trumat HaDeshen by the use of cantillation which identifies the act as a non-prayer reading of Torah verses.

Tur clearly states that a minyan is not required. After quoting Rav Natan, Tur states (OH 565):

ואיני יודע מה חשש יש בדבר הרי אינו אלא כקורא בתורה שהרי לא אמרו חכמים אלא כל דבר שבקדושה כגון קדיש וקדושה וברכו

But I do not understand what concern there should be with this (an individual reciting the *י"ג מדות*, behold he is doing nothing more than reading from the Torah. For the Rabbis did not say [that a minyan was required] except for a *davar she'bikdusha*, such as *kaddish*, *kedushah* and *barkhu*.

Tur seems to rule that in principle the *י"ג מדות* may be said by an individual.²¹ This position is not unique to Tur. Beit Yosef cites the Abudraham who states that this is also the position of Rabbeinu Yonah. Likewise, Rema in Darkhei Moshe (565:4) quotes Sefer HaMinhagim that an individual may recite the *י"ג מדות* as long as he does not do so in the middle of the Shmoneh Esrei, which used to be the practice on fast days. This position is found in more than one of the Ashkenazi works on Minhagim²² and seems to reflect an existing practice that individuals recited the *י"ג מדות*. In fact, one of the Sefer HaMinhagim ends his discussion by saying *אנו נוהגים*, וכן, and this is our practice.²³

HALAKHIC CONCLUSION REGARDING RECITATION OF *י"ג מדות* BY AN INDIVIDUAL

Although Beit Yosef and Rema both quote positions that support the Tur, in their final rulings they side

21 See, however, Maharlach (in new edition of the Tur), who understands the Tur to be stating the position of the Rashba and Trumat HaDeshen, that it is permitted for an individual to recite them if he does so as if he is reading Biblical verses. Tur, however, seems to be adopting a more principled position, that there is no need for a minyan at all. See Yechave Da'at 1:47, who understands Tur similarly.

22 This is found both in Sefer HaMinhagim Tyrnau (Laws of Elul) and Sefer HaMinhagim Klausner (no. 3). This position is also found in Trumat HaDeshen.

23 Sefer HaMinhagim Klausner, *ad. loc.*

with the majority that requires a minyan for the recitation of the *י"ג מדות*. Beit Yosef concludes his quote of Abudraham by saying *לא נהוג עלמא הכי*, the practice of the world does not follow this, that is, the practice is to not allow an individual to recite the *י"ג מדות*. And Darkhei Moshe follows up his quote from Minhagim by quoting Mahari Weil and Trumat HaDeshen who only allow an individual to recite them if he does so in the form of reciting Biblical verses.

This is also the ruling in Shulkhan Arukh. Addressing the practice of saying *selichot* on fast days, Shulkhan Arukh (Orah Hayyim 565:5) states:

אין היחיד רשאי לומר שלש עשרה מדות דרך תפלה ובקשת רחמים, דדבר שבקדושה הם; אבל אם בא לאומרם דרך קריאה בעלמא, אומרם

An individual is not allowed to say the *י"ג מדות* in the form of a prayer or supplication, because it is a *davar she'bikdusha*. But if he wants to say them as a mere reading of verses, he may do so."

Rema reinforces this:

וכן אין ליחיד לומר סליחות או ויעבור

And an individual should similarly not say *selichot* or [the verse] *va'yaavor* [which introduces the *י"ג מדות*].

The second part of this statement echoes the Shulkhan Arukh that an individual may not recite the *י"ג מדות*, clarifying that this starts at *ויעבור*. It is not clear whether Rema agrees with Shulkhan Arukh's formulation that the recitation is a *davar she'bikdusha*, or whether he understands it as a *tfillat ha'tzibbur*; either way an individual may not recite the *י"ג מדות*.

The first part of Rema's statement, that an individual may not recite *selichot*, is more difficult to understand, since until now it was only the recitation of the *י"ג מדות* that was considered to be a *davar she'bikdusha* or a *tfillat ha'tzibbur*, and not the *selichot* themselves. Rema is not alone in this position. Shalah, a contemporary of Rema, posits that the entire *selichot* are considered to be

devarim she'bikdusha and may not be recited by an individual.²⁴

Rema's source for this position is Or Zarua (2:416), who says that *selichot* may not be recited by an individual: *דאין היחיד אומר סליחות כלל*. Or Zarua bases this on the position that an individual may not say the *י"ג מדות*; it is likely that Or Zarua only meant to prohibit an individual from reciting *selichot* as they are usually recited, that is, together with the *י"ג מדות*. This is the position of Bach (OH 565), who states that even according to Or Zarua it is permissible for an individual to recite *selichot* if he does not recite the *י"ג מדות*. Taz (OH 565, no. 5) interprets Rema's prohibition to be referring to the *selichot* which make mention of the *י"ג מדות* in the text of the *selichot* themselves.²⁵ The consensus among the Achronim is to follow Bach and reject Rema completely. They rule that an individual may say all the *selichot* as long as he or she does not do the recitation of the *י"ג מדות* that follows the *selichot*.²⁶ As Mishna Brurah states: *והסכימו ודסליחות בלא י"ג מדות יכול יחיד לומר*, "and the

²⁴ Shalah, Hullin, Emek HaBrakha, p. 126b, *י"ג מדות*:

דכדאי הם פסוקי הסליחות שאומרים אותם קודם היום לברך בעדם ברכת ענט"י כמו לק"ש ותפילה או ברכת שחרית הואיל והם פסוקי דרחמי רבו כמו רבו אזכרות מתחילת לך ה' הצדקה עד סיום הסליחות וכל הפסוקים כלם שמותיו של הקב"ה הם ותוכן רצוף אהבה שלש עשרה מדות שאינן חוזרות ריקם קדושים הם ולפי שהם דברים שבקדושה סוברים קצת שאין נאמרין ביחיד וז"ל שבלי לקט ח"א סימן ר"ב מצאתי בשם ר' נתן גאון וז"ל ושאר חכמים אין מנהג לומר שלש עשרה מדות אלא בצבור וכו' וכן השיב הרב אביגדור כ' וז"ל שאין לאומרם בפחות מעשרה לא בסליחות ולא בתחנונים שהן דברים של קדושה ולא יהיה פחות מעשרה מדלג ואומר וכו' וגם אנו אומרים הווידויים אשמנו כו' ג"פ והזכרות אבות העולם אברהם יצחק ויעקב משה ואהרן דוד ושלמה ושבתים ואמהות ואומרים ג"כ ענינות ופזמון וקדיש בתחילה וקדיש בסוף ואם כן הואיל ואנו מזכירים בסליחות דברים שבקדושה כ"כ ראוי מפני זה להיותם נחשבים כק"ש ותפלה עצמה לענין לברך על נטילה זו זו ברכת ענט"י

And see Tana deBei Eliyahu - Eliyahu Zuta (23), which states that God showed Moshe סדר סליחה – not specifically the *י"ג מדות* – and instructed him that it should be recited by Israel אחת, as one unit, i.e., *bi'tzibbur*.

²⁵ This idea is already present in Shibolei HaLeket, 29:

וכן השיב הר"ר אביגדור כהן צדק נר"ו לר' צדקיהו ב"ר בנימין אחי השני זצ"ל שאין לאומרם (דהיינו, השלש עשרה מדות) בפחות מעשרה לא בסליחות ולא בתחנונים שהן דברים של קדושה

²⁶ See, for example. Pri Megadim, Mishbetzot Zahav, 581:1. Some poskim still recommend skipping the *י"ג מדות* when they appear in the text of one of the *selichot*; see Match Ephraim 581:21.

consensus is that *selichot* without the *י"ג מדות* may be recited by an individual." (OH 565, no. 13).

Since Shulkhan Arukh and Rema rule that the recitation of the *י"ג מדות* may only be done *bi'tzibbur*, the logical conclusion is that a woman may not lead this recitation, just as she may not lead other *tefillot ha'tzibbur*.

The consensus position that an individual may recite *selichot* without the *י"ג מדות* since they are not *devarim she'bikdusha* or *tefillat ha'tzibbur* is equally significant for our purposes. **This suggests that a woman might be able to lead the *selichot* sections as long as she does not lead the *י"ג מדות*.** We will explore this point in the conclusion.

עשרת ימי תשובה THE SELICHOT OF

Until now we have been assuming that all recitations of the *י"ג מדות*, whether on fast days or the *asseret yimei teshuva*, have the same status. This is the dominant position (see, for example, Mishne Brurah 581, no. 14)²⁷ with some notable exceptions. The rulings of the Shulkhan Arukh quoted above are in the laws of fast days (OH 565). They are not stated in the section dealing with the *selichot* before Rosh HaShanah and during the *asseret yimei teshuva* (OH 581). Pri Megadim (Eshel Avraham, 581, section 3) questions whether an individual might be permitted to recite the *י"ג מדות* during the *asseret yimei teshuva*. Although he only touches on this topic, his discussion indicates that he is inclined to think that individual would be allowed to recite the *י"ג מדות* during this period.²⁸

27 See also Eliyah Zuta, 581:6, who states that the requirement of a minyan for the *י"ג מדות* is not different during the *asseret yimei teshuva* than during the rest of the year:

וכן הסכימו כל האחרונים, ולאפוקי מה שכתב במנהגים דמברכין. גם נ"ל דאין לנהוג נמי כמ"ש במנהגים דיחיד יכול לומר שלש עשרה מדות בעשרת ימי תשובה, כי כן כתב על פי דברי הטור סוף סימן תקס"ה, אבל בש"ע ואחרונים שם פסקו דאסור, ומשמע אפילו בעשרת ימי תשובה אם לא כשאומרה דרך קריאה בעלמא שלא בדרך תפלה ובקשה, וכ"מ בספר תניא דף ע"ב, ומ"מ הסליחות בלא ויעבור כתבתי לעיל [סי' תקס"ה סק"י] דיותר ליחיד לאומרה

28 A partial support for this position can be found in Shalah, who states that שאין נאמרין ביחיד *י"ג מדות*, "a few authorities are of the opinion that the *י"ג מדות* may not be recited by an individual" (Hullin, Emek HaBrakha,

How are we to understand the position of Pri Migadim? Why should the recitation of the *י"ג מדות* of *asseret yimei teshuva* be treated differently? This position is found in the various Minhagim books quoted by Rema in Darkhei Moshe,²⁹ who state that an individual may recite the *י"ג מדות* if he is not inserting them into the Shmoneh Esrei as was the practice on fast days. This leads these *poskim* to conclude that an individual may recite them during *asseret yimei teshuva*, since during this period *selichot* are recited first thing in the morning and not in the Shmoneh Esrei. This seems inconsistent with how Rema rules since the practice in his time was to recite the *selichot* on fast days after the Shmoneh Esrei and not to insert them in the body of the Shmoneh Esrei itself (see Orah Hayyim 566:4), and he nevertheless forbids an individual to recite the *י"ג מדות* on these days.

There are other reasons why the recitation of *י"ג מדות* might be different during the *asseret yimei teshuva* according to Pri Migadim. As this is a period when everyone is saying *selichot*, one could argue that the recitation of the *י"ג מדות* even when done privately is part of the larger *tefillat ha'tzibbur* of all communities at this time, and thus constitutes a *tefillat ha'tzibbur* for these purposes.³⁰

Rav Soloveitchik in Harerei Kedem (vol.1, no. 1, sec. 5) offers another reason for distinguishing the *selichot* of *asseret yimei teshuva*. According to Rav Soloveitchik, *selichot* on the fast days

p. 126b, *י"ג מדות*). If only a few authorities say that it may not be recited, it means that the majority says it may. This is certainly not true when it comes to fast days, so it is likely that he is referring only to the recitation on *asseret yimei teshuva*, which is the larger context of this passage.

29 Darkhei Moshe OH 565:4. This position is found in Sefer HaMinhagim Tyrnau (Laws of Elul) and Sefer HaMinhagim Klausner (no. 3).

30 This is somewhat analogous to the argument that defends the practice of women praying in the vernacular, even when they pray at home, although one is not allowed to pray in a language other than Hebrew when not praying *bi'tzibbur*. Rosh (Berakhot 2:2) argues that this is allowed because the praying of the text of the communal prayer, even when done privately, it is considered for these purposes to be like *tefillat ha'tzibbur*. This explanation would not work according to the approach that the recitation is considered a *davar she'bikdusha*. If this were the case, it would always require the presence of a minyan when recited, regardless of whether it was considered to be part of a *tefillat ha'tzibbur*.

are the exclusive prerogative of the community, for it is only the community as a whole that has the privilege of approaching God in this way. Since they can only exist as a *tfillat ha'tzibbur*, on a fast day they must be incorporated into the communal repetition of the Shmoneh Esrei or, as is our practice, be recited immediately following the repetition of the Shmoneh Esrei, for it is the connection to the communal Shmoneh Esrei that makes them a *tfillat ha'tzibbur*. During the *asseret yimei teshuva*, however, the prayers of individuals have equal access to God as those of the community. The recitation of the *י"ג מדות* at this time can exist as a *tfillat yachid*, as evidenced by the fact that it is recited first thing in the morning, and not after or during the communal Shmoneh Esrei.³¹

This explanation follows the Sefer HaMinhagim's ruling that a *tzibbur* is only required when the *selichot* are inserted into the Shmoneh Esrei and not when they are recited independently. Rav Soloveitchik makes this consistent with Rema's ruling that requires a minyan on fast days even when the *selichot* are recited after the Shmoneh Esrei by treating the post-Shmoneh

31 Rav Soloveitchik asks why Rema only states his position that an individual cannot recite *selichot* in the laws of fast days but not in the laws of the *asseret yimei teshuva*. He answers that such a recitation might be permitted during the *asseret yimei teshuva*:

דשאני עשיית דכתיב בהו דרשו ה' בהמצאו קראוהו בהיותו קרוב... וע"כ אפשר לעשות בהם סדר תפלה מיוחד של סליחות בפני עצמו שאינו מצורף לתפילת י"ח. וא"כ י"ל דמה"ט הסליחות הם גם ביחידות, עיין בגמ' ר"ה (יח). דבעשרה ימים אלו יחיד כציבור וז"ל הגמ' שם... ויחיד אימת [מצוי לו דכתיב בהמצאו - רש"י] אמר רבה בר אבובא אלו עשרה ימים שבין ראש השנה ליום הכיפורים, ולכן בעשיית שהם זמן של בהמצאו ליחיד אומרים סליחות ביחידות

“The *asseret yimei teshuva* are different [than fast days], for it says regarding them “Seek out the Lord when He may be found, call Him when He is close” (Yishayahu 55:6)... Therefore it is possible to make on these days a special independent prayer of *selichot* that does not adjoin to the Shmoneh Esrei. It is for this reason that *selichot* may be recited by the individual. See the Gemara Rosh HaShana (18a), that during the *asseret yimei teshuva* an individual has the same standing as the community [regarding approaching God]. And this is what the Gemara says there: “When is the time for an individual [when God is close to his calling out – Rashi]? Said Rabba bar Avuha, these are the ten days between Rosh Hashana and Yom Kippur.” Therefore, during the *asseret yimei teshuva*, a time when God is found for the individual (i.e., responsive to his prayers), one may say *selichot* alone (without a minyan).”

Esrei recitation as equivalent to their recitation in the Shmoneh Esrei. This leaves the *asseret yimei teshuva* recitation to be permitted to be done by an individual. Rav Soloveitchik goes further and adds that the same would apply to the saying of *selichot* in the days leading up to Rosh HaShana, as here too the *selichot* are said in the morning and not as part of the Shmoneh Esrei.

We have been exploring the possibility, raised by Pri Migadim, that the recitation of the *י"ג מדות* may be done without a minyan during the *asseret yimei teshuva*. In practice, however, most poskim either reject or ignore Pri Migadim and assume that a minyan is required, whether during a fast day or during the *asseret yimei teshuva* (see, for example, Mishne Brurah 581:14). Regarding Rav Soloveitchik's analysis, is it not clear if he would follow his theoretical discussion to its practical *halakha li'maaseh* implications. In addition, Rav Soloveitchik was only discussing the *selichot*; it is possible that his position would be different regarding the *י"ג מדות*, although his silence on this matter indicates that he would treat them similarly and allow them to be recited by an individual during the *asseret yimei teshuva*.³²

In addition to the Pri Megadim and Rav Soloveitchik, this approach may find support in other poskim as well. We should note that Rav Soloveitchik's approach is actually an explication of the position found in the Minhagim, quoted by Rema in Darkhei Moshe, which stated that the practice was for individuals to recite *selichot* and even the *י"ג מדות* on *asseret yimei teshuva*. This position then carries the weight of these earlier *poskim* and practices as well.

Thus, while we are only dealing with the minority positions, there may be room to rely on this in cases such as a girls high school, or women's seminary or a women's *tefillah* group, when no formal minyan is present.

MAY A WOMAN LEAD THE SELICHOT IN A MINYAN?

We have seen that the recitation of the *י"ג מדות*, whether on fast days or *asseret yimei teshuva*,

32 He also notes that Rambam's formulation indicates that even during the *asseret yimei teshuva* the *selichot* are a communal and not individual prayer.

must take place in a minyan, either because it is a *tfillat ha'tzibbur* or a *davar she'bikdusha*. While Pri Migadim raises the possibility that an individual may recite them during *asseret yimei teshuva*, most other poskim do not follow suit. Were one to want to rely on the position of Pri Migadim, would this allow a woman to serve as a prayer leader, since there would not be a need for a *tfillat ha'tzibbur*?

I believe that the answer is still “no.” Even if an individual may recite the י”ג מדות when alone according to Pri Migadim, when recited by a *tzibbur* it would take on the status of *tfillat ha'tzibbur*, no different than Shmoneh Esrei. Although we recite Shmoneh Esrei without a minyan, when it is said in a minyan, it becomes a *tefillah bi'tzibbur* and the repetition may only be done by a *shaliach tzibbur*.

Another possibility suggests itself. Why not just recite the י”ג מדות with the cantillation and the intent that it not serve as a prayer? Done with this intent and in this form, it should be considered a reading of verses and not a *tefillah*, let alone a *tfillat ha'tzibbur*, and may thus be led by a woman. I believe this position is untenable. First, the presence of a minyan might *ipso facto* define the recitation as a *tefillah*, regardless of intent. More to the point, it would be in no way acceptable to forgo the opportunity to recite the י”ג מדות in the standard way. This is a *tfillat ha'tzibbur* which constitutes the central *tefillah* of the *selichot* and of the *asseret yimei teshuva*, and one that we are promised will always be answered. If there is the opportunity to recite the י”ג מדות as a *tefillah* with a minyan, this cannot be exchanged for the recitation of them as Biblical verses.

One argument, however, requires serious consideration. We have been assuming that since halakha derives the need for a minyan for the י”ג מדות from the aggadah of God acting as a *shaliach tzibbur*, this would indicate that the *shaliach tzibbur* for the *selichot* must satisfy the standard halakhic criteria for a *shaliach tzibbur*. As we have seen, this position was stated explicitly by Sefer HaMinhagim:

מדאמר'י הקדוש ברוך הוא נתעטף כש"צ ולמדו
למשה, ש"מ אין לומר רק לש"צ בציבור

Since we say that God wrapped Himself like a *shaliach tzibbur* and taught this to Moshe, we

can derive that they cannot be said except by a *shaliach tzibbur* in a minyan.

This role of the *shaliach tzibbur* is also tacitly assumed by all the Rishonim who treat it as a *davar she'bikdusha* or a *tfillat ha'tzibbur* based on this Gemara.

Against this, one could argue that this may have been true in the past, when it can be surmised that the *shaliach tzibbur* was the only one who recited the י”ג מדות on behalf of the whole *tzibbur*.³³ This would be exactly parallel to God's proclamation of the י”ג מדות to Moshe. If God was acting as a *shaliach tzibbur*, we can reasonably infer that the actual *shaliach tzibbur* would recite it alone with everyone else listening. This is also implicit in the passage from Sefer HaMinhagim who speaks of the *shaliach tzibbur* reciting the י”ג מדות in, but notably not with, a *tzibbur*.

Even in some contemporary Sephardic and Edot Mizrach communities, the *shaliach tzibbur* plays a distinct role as prayer leader. He recites the י”ג מדות first by himself and is then answered responsively by the community. This role is even more pronounced when it comes to the recitation of the *selichot* themselves. In many of these communities, the *shaliach tzibbur* alone recites the *selichot* and the community participates only during the responsive reading of the י”ג מדות.³⁴

None of this is the case in Ashkenazic communities where the *shaliach tzibbur* functions more as a pacer, like the person who leads פסוקי דזמרה. The

33 This is almost certainly true when it comes to the *selichot*. The text of the *selichot* bears this out. See Goldschmidt, *Seder HaSelichot KiMinhag Lita* (Mossad HaRav Kook, 1965), p.9, where he cites the following examples of phrases from the *selichot* that are only intelligible if it were the *shaliach tzibbur* alone who was reciting the *selichot*:

בקר אערוך לך בעד קהלי; הצליחי במשלחי ואשיב שולחי דבר; גשתי פני תבה; כהגון מדות ובתפלה שלם, כזקן ורגיל ולא כגולם; ההוקם סרסור.

Other *selichot* texts were clearly written as a communal performance, with the community serving as a choir or playing a responsive role. It also should be remembered that before printing the text of the *selichot* were not available to the masses, and the community would be dependent on the *shaliach tzibbur* to recite them. In fact, in many communities even now, the *shaliach tzibbur* chooses each day which *selichot* he will recite for that day (Thanks to Dr. Ruth Langer for her help with this).

34 See Goldschmidt, p. 9.

recitation of the *selichot* along with the rest of the *selichot* is done together, unlike when a *shaliach tzibbur* alone repeats the Shmoneh Esrei, and it is done without a responsive component, unlike when a *shaliach tzibbur* leads *barkhu* or *kaddish*. The only distinct role that the *shaliach tzibbur* plays is in prompting the recitation of the *selichot* by reading the verse, and it is not clear that his prompting should be seen as an actual leading of the *selichot*. It will, however, be remembered that Rema, following Ri Migash, Shiblei HaLeket and others, states that when an individual is reciting the *selichot* without a minyan, he must also skip over the lead-in verse, understanding this to be part of the recitation of the *selichot*. The *shaliach tzibbur's* recitation of this opening verse might then identify him as the leader of the *selichot*, although this is not conclusive.

In addition to *selichot*, the *shaliach tzibbur* also functions in a distinct role when he leads the responsive recitation of the *selichot* and *shema*, however neither of these has halakhic status as a *davar she'bikdusha* or *tfillat ha'tzibbur*. The only time that one functions as a classic *shaliach tzibbur* during *selichot* is for the reciting of *kaddish* after Ashrei and at the end of *selichot*. An argument could thus be made that, those *kaddishes* aside, a woman may lead the *selichot*, including the *selichot*.

The problem with this approach is that we would have to conclude that our *selichot* do not constitute a *tfillat ha'tzibbur*. Without a *shaliach tzibbur*, we would have many people praying together, but nothing to unify them as a *tzibbur*. It is helpful to introduce a distinction that Rav Soloveitchik makes between *tefillah bi'tzibbur* and *tfillat ha'tzibbur*. The first one – prayer in a community – describes the silent Shmoneh Esrei. Each individual is saying his or her *tefillah* in the presence of, and together with, the community. In contrast, *tfillat ha'tzibbur* – the prayer of the community – describes the repetition of the Shmoneh Esrei. Here, the entire community, as a single corporate entity, is reciting the Shmoneh Esrei through their representative – the *shaliach tzibbur*, the agent of the community, who is their assigned spokesperson.

Without a *shaliach tzibbur* for the *selichot*, not only would we not have a *tfillat ha'tzibbur*, we

would not even have *tefillah bi'tzibbur*. Unlike Shmoneh Esrei, the recitation of the *selichot* does not exist as a prayer for individuals. As an exclusively communal prayer, it may not be recited by individuals even in the presence of a community. For the recitation of the *selichot*, we can only have the prayer of the community as a whole and without a *shaliach tzibbur* this is not possible.³⁵

This also emerges from the recitation of *kaddish titkabel* which follows the *selichot*. Levush, as we saw earlier, points to the fact that the recitation of the *selichot* is modeled after classic *tefillah bi'tzibbur*. It is preceded with Ashrei and *kaddish*, and followed by *kaddish titkabel*, a structure found in Seder Rav Amram Gaon, as quoted by Tur (OH 581).³⁶ The presence of *kaddish titkabel* as a part of *selichot* says a lot about the nature of this *tefillah*.

The recitation of *kaddish titkabel* is always done by the *shaliach tzibbur* who led the communal *tefillah*. Without a formal *shaliach tzibbur* it isn't said. Thus, we find that if there was a minyan when the *shaliach tzibbur* began to repeat the Shmoneh Esrei, he may say *kaddish titkabel* even if the minyan is no longer present. In contrast, if there was a minyan for the silent Shmoneh Esrei, but not for its repetition,

35 This is also suggested by the passage in Tana deBei Eliyahu - Eliyahu Zuta (23), which parallels Rosh HaShana (17b) and refers to the people coming together באגודה אחת, as one unit, to say *selichot*:

יענך ה' ביום צרה, היה דוד יודע שעתיד בית המקדש להיות חרב וקרבות בטלין בעונותיהן של ישראל והיה מצטער על ישראל ואמר, בשעה שהצרות באות על ישראל מי מכפר עליהם, אמר לו הקדוש ברוך הוא, דוד אל תצטער שכבר גיליתי סדרי שליחה למשה ואמרתי לו, בשעה שהצרות באות על ישראל יעמדו לפני יחד באגודה אחת ויאמרו לפני סדרי שליחה ואני עונה אותם, והיכן גילה אותם, אמר ר' יוחנן ויעבור ה' על פני ויקרא (שמות ל"ד ו') מלמד שירד הקדוש ברוך הוא מערפל שלו כשליח צבור שמתעטף בטליתו ועובר לפני התיבה וגילה לו סדרי שליחה

Also noteworthy of this passage is the reference to the entire "order of *selichah*" and not just the *selichot*.

36 As quoted by Tur, Rav Amram Gaon states that *selichot* end in *kaddish*, although he does not say which *kaddish*. Nevertheless, given the parallels to the standard structure of *tefillah*, and the practice in all communities, Sefarad and Ashkenaz, to say *kaddish titkabel*, it is reasonable to assume that this is the *kaddish* being referred to. It should be noted that while the Tur's text of reciting a final *kaddish* is found in some editions and manuscripts of Seder Rav Amram Gaon, but not others. Sefer HaMinhagim (Tyrnau, Laws of Elul) states explicitly that *kaddish shalem* is recited after *selichot*.

kaddish titkabel would not be said. It is not enough that a many individuals prayed together; they must have prayed as a community through the agency of the *shaliach tzibbur*.³⁷

If our *selichot* are a *tfillat ha'tzibbur* led by a *shaliach tzibbur*, what are we to make of the phenomenon that the *shaliach tzibbur* is merely reciting the prayers together with everyone else? The answer can be found in a statement in *Perush haTefilot vi'haBrakhot* by Rabbeinu Yehudah ben Yakkar, a teacher of Ramban. He writes in the section on Fast Days:

וטוב להתפלל בדמעה, כי שערי דמעה לא ננעלו,
ולצעוק בקול רם עם החזן בעשרה כשאומר
סליחות

³⁷ See Rema, Shulkhan Arukh, Orah Hayyim 55:3. This stands in contrast to *ma'ariv*, where there is no repetition of the Shmoneh Esrei, and yet we recite *kaddish titkabel*. See Levush, Orah Hayyim, 55:3, Noda BiYehudah Tinyana OH 7; Shaarei Teshuva, 55:6, and Mishna Brurah – Beur Halakha, 55, s.v., *vi'tfilat aravit*. Since *ma'ariv* never had a repetition of the Shmoneh Esrei, the *kaddish titkabel* can connect to the silent Shmoneh Esrei. One possible way to understand this is that the recitation of *chatzi kaddish* before the silent Shmoneh Esrei serves the function of uniting the individuals as a *tzibbur* and thus defining the prayer as a communal *tefillah*. For example, if 9 people started davening Shmoneh Esrei of *ma'ariv*, and a tenth arrived and joined in, it would seem clear that they could not recite *kaddish titkabel* afterwards.

The above discussion follows Rema's understanding that *kaddish titkabel* is so tightly connected to the repetition of the Shmoneh Esrei that it can be said as long as there was a minyan when the repetition began. According to many, the Shulkhan Arukh disagrees and requires a minyan present at the time of the recitation of the *kaddish* regardless; see OH 55:3, Beit Yosef OH 55 התחילו אם ומיהו אם, and Kaf HaChayim, 55:35, 38, and 39. Although this position sees *kaddish titkabel* as independent and not merely a conclusion of the Shmoneh Esrei, it would still recognize that this *kaddish* is only said when there is a *tfillat ha'tzibbur* and, in the case of Shacharit and Mincha, when the repetition of the Shmoneh Esrei took place.

However we understand the *kaddish titkabel* of *ma'ariv*, it is clear that this was a special *kaddish* instituted for a *tefillah* which was never led by a *shaliach tzibbur*. There is no basis to assert that the *kaddish titkabel* of the *selichot* is a similar special case, and should thus not need a formal *shaliach tzibbur*, given that the *selichot* was originally a prayer that was led by a *shaliach tzibbur* and it was in this context that *kaddish titkabel* was instituted. We could only continue saying this *kaddish* if the *selichot* continued to exist as a *tfillat ha'tzibbur*.

It is good to pray with tears, for the gates of tears are not sealed, and to cry out in a loud voice alongside the *chazan* with a minyan, when he says *selichot*.

It is the *shaliach tzibbur* who is reciting the *selichot*, and the rest of the community joins in and adds their voices to his. This is eminently logical. If the institution began with just the *shaliach tzibbur* reciting the *selichot*, as we have surmised, then even at a later stage when everyone recites them together, this does not change his role. Far from it being a recitation of individuals paced by the *shaliach tzibbur*, what we actually have is what we've always had - the primary recitation of the *shaliach tzibbur*, only now, joined by the rest of the community. This is the reality that is being reflected in the leader's reading of the lead-in verse ויעבור: he is the *shaliach tzibbur* for the recitation of the *י"ג מדות*, no different now than in the past.

The discussion above follows the *tfillat ha'tzibbur* model of the recitation of the *י"ג מדות*. If, however, the reason a minyan is required is based on *devarim she'bikdusha* model - and this is the reason given explicitly by Shulkhan Arukh - one could argue that the leader for the *י"ג מדות* does not have a formal status of *shaliach tzibbur*. A simple example of this is *kaddish yatom*, which is a *davar she'bikdusha*. which may be said by women in the presence of a minyan of men (see Teshuvot Chavot Yair, no. 222).

While we cannot assume that this is the case for all *devarim she'bikdusha*,³⁸ it is certainly worth considering for the recitation of the *י"ג מדות*. Once we drop the *tfillat ha'tzibbur* model, who is to say that a woman cannot be the leader or prompter for this recitation?³⁹

³⁸ See Beit Yosef, Orah Hayyim 53, and Shulkhan Arukh 53:10 and Magen Avraham, no. 12, regarding the possibility of a minor leading *ma'ariv*, and saying *kaddish* and *barkhu*.

³⁹ This point is made explicitly by Rabbi Ben Zion Uziel regarding the question of having a minor lead the services in schools for *chinukh* purposes, even when adults are present in the minyan (Mishpetei Uziel, vol. 3, *miluim*, no. 2). In the course of his discussion he writes:

אבל במקום שהשומעים אומרים מלה במלה אחרי המברך והקורא אינו אלא מקריא לפנייהם הדברים, הרי שהם יוצאים ידי חובתן בברכת עצמם והקורא אינו אלא מסדר הדברים פותח וחותרם כל ברכה. וכן בקדושת השם פותח דברי קדושה והקהל עונים אחריו שפיר יכול המקריא להיות קטן או אשה...

The problem with this approach is that it assumes that those who assert that the recitation of the *י"ג מדות* is a *davar she'bikdusha* would say that it is only a *davar she'bikdusha* and not also a *tefillah bi'tzibbur*. But not only is there no evidence to this, it also goes against Rosh HaShanah (17b) which describes the recitation as taking place with God in the role of *shaliach tzibbur* and which was used as the halakhic source for the requirement of a minyan even by those who defined the *י"ג מדות* as a *davar she'bikdusha* (for example, Teshuvot HaRashba 1:211). Once this source defines the halakhic parameters of the recitation of the *י"ג מדות*, it is hard to escape the conclusion that even those who say that the recitation is a *davar she'bikdusha* would agree that it is also a *tefillah bi'tzibbur* and that a *shaliach tzibbur* is required. What is added by saying that it is a *davar she'bikdusha* is that it is forbidden to be recited by an individual, as discussed above.

The more conclusive proof is the practice of reciting *kaddish titkabel* at the end of *selichot*, a practice that goes back to the time of the Geonim. As argued above, this practice clearly shows that the *selichot* or some part of it - i.e., the *י"ג מדות* - is defined as a *tfillat ha'tzibbur*. And this can happen only through the agency of a formal *shaliach tzibbur*, who unifies and represents the *tzibbur* and

[One requires an adult to lead services when it is necessary to discharge others their obligation.] But in a place where the listeners say along word for word after the one making the *brakhot* and the reader is doing nothing more than reading the words in their presence, behold they fulfill their obligation through their own *brakhot* and the reader is only ordering the words, opening and closing each *bracha*. The same is true with *kedusha*, he opens with the words of *kedusha*, and the community recites after him [word for word]. [In such a case] it is acceptable for the reader to be a minor or a woman...

On the basis of this argument he allows a minor to lead the services, including, it seems, *barkhu*, *chazarat ha'shatz*, and *kedusha*, although he pulls back at the end due to concerns for *כבוד הציבור* which may not be able to be waived.

His application of this idea - that the reader nowadays is, at times, just a pacer - to extend even to the repetition of the Shmoneh Esrei and the saying of *kedusha* is very hard to accept. According to him, we never have an actual *shaliach tzibbur*, and in principle should be able to say *kedusha* and *barkhu* without anyone serving as *shaliach tzibbur*. Nevertheless, this argument seems relevant to the case of the reciting of the *י"ג מדות*.

who can thus recite the *kaddish titkabel* following this communal prayer.

It seems clear, that even those who explain the need for a minyan as based on *devarim she'bikdusha*, also agree that the *selichot*, or at least the *י"ג מדות*, constitute a *tfillat ha'tzibbur* when said in a minyan and led by a *shaliach tzibbur*. One could argue that a community could choose to forgo this *tfillat ha'tzibbur* and recite the *י"ג מדות* only as *devarim she'bikdusha* without a formal *shaliach tzibbur*, and to forgo the *kaddish titkabel* at the end. As discussed earlier regarding a similar proposal - the reading of the *י"ג מדות* as verses and not as prayer - this suggestion is not tenable. It sacrifices *tefillah bi'tzibbur* and *kaddish titkabel*, and goes against the Gemara's model of the recitation of the *י"ג מדות* as something led by a formal *shaliach tzibbur*.⁴⁰

Our conclusion, then, is that a woman may not lead the recitation of the *י"ג מדות* as this requires a formal *shaliach tzibbur*.

What about having a woman leading the *selichot* if a man leads the *י"ג מדות*? On the one hand, we have seen that the *selichot* may be said without a minyan, and thus perhaps they should not be considered to be a part of the *tfillat ha'tzibbur* even when said with a minyan. On the other hand, it will be remembered that Rema states that *selichot* are like the *י"ג מדות* and that they as well require a minyan. Rema's position is rejected, and when *selichot* are said by themselves, they may be said by an individual. Nevertheless, the ruling may be different when they are said together with the *י"ג מדות*. When this happens, they become connected to the *י"ג מדות*, and the entire unit - *selichot* and *י"ג מדות* - becomes a *tfillat ha'tzibbur*.

40 Rema's ruling (OH 581:1) that we must look for a person with the highest qualifications to serve as a *shaliach tzibbur* for *selichot*, while seeming to point to formal requirements for a *shaliach tzibbur*, is not relevant for this discussion. Rema's source for this is the Hagahot Ashri (Ta'anit 4:38), who states this in the name of Or Zarua (2:416). Or Zarua, however, is not discussing the reciting of the *י"ג מדות*, but the reciting of the *עניו* prayer, as discussed in tractate Ta'anit (this connection is also made by Gra in his notes on Shulkhan Arukh, *ad. loc.* What status *עניו* has is a discussion for another time. For our purposes, this Rema is not relevant for the role of the *shaliach tzibbur* in the recitation of the *י"ג מדות*).

Levush in fact states that when they are said together they combine as a type of Shmoneh Esrei, and this position is adopted and expanded on by Rav Soloveitchik (Harerei Kedem, 1:1.1). If the *selichot* become part of *tfillat ha'tzibbur* when joined with the *י"ג מדות*, then they too would require a *shaliach tzibbur* and could not be led by a woman.

There is also the fact that the *selichot* are concluded with the recitation of *kaddish tittkabel*. As we have seen, this *kaddish* ties back to the beginning of the *selichot*, and it thus might have the force of incorporating all the *selichot* and *tefillot* which precede it into one unit of prayer. It would seem hard to allow a different prayer leader, who is not a *shaliach tzibbur*, to cut out and lead separately pieces of this single prayer unit, whose core elements – the *י"ג מדות* - require a formal *shaliach tzibbur*.

Finally, and significantly, the texts of many of the *selichot* describe the reciter as a representative of the *tzibbur* who is coming to pray on their behalf before God, that is, as a *shaliach tzibbur*.⁴¹ While this could be seen as a preparation for the recitation of the *י"ג מדות* and not an actual *tfillat tzibbur* itself, it would seem at very least inappropriate for a non-*shaliach tzibbur* to describe herself this way and to recite this preparatory *tefillah* only to have the real *shaliach tzibbur* recite the actual *tefillah* of the *י"ג מדות*. This is different from a case when these *selichot* are recited without a minyan, for while the descriptions of the reciter as *shaliach tzibbur* are inaccurate in that case as well, they are not confusing or misleading, as they would be in this case of a woman leading the *selichot* in a minyan.

Based on these arguments, I would rule that **a woman should not lead the *selichot* even when a man leads the *י"ג מדות***. Nevertheless, for those who want to be lenient, there may be what to rely on. First, the Gemara only discusses the *י"ג מדות* and never discusses, let alone gives any significance to, the *selichot* that precede the *י"ג מדות*. In fact,

it is highly questionable if the Gemara even knew of the practice of reciting *selichot* prior to the *י"ג מדות*,⁴² and they certainly were not given any weight by the Gemara. Thus, from the standpoint of the Gemara, at least, such *selichot* are not part of the *י"ג מדות* and are not considered part of a *tfillat ha'tzibbur*. Whether they took on this status once they became a staple of the recitation of the *י"ג מדות* remains an open question, as discussed above. The evidence strongly points to the conclusion that the *selichot* are now part of the *י"ג מדות*, and this is clearly the position of the Levush. This conclusion, however, is not irrefutable, and an argument could be made that the *selichot* remain independent of the *י"ג מדות* even when said alongside them. If one chooses to rely on this argument – which is not my position – and permit a woman to lead *selichot*, the woman leading should skip over the lines in the *selichot* that describe the reciter as a *shaliach tzibbur* or choose other *selichot* to recite.

CONCLUSION

The following are the rulings that emerge from our discussion above:

1. The recitation of the *י"ג מדות* must be done only in the presence of a minyan, unless they are recited as a reading of Biblical verses.
2. There is a debate whether an individual may say the *י"ג מדות* which are embedded in the *selichot*, and one may rely on those poskim that say it is permissible (see Mishna Brurah, 565:16).
3. The Pri Migadim raises the possibility that an individual may say the *י"ג מדות* for the *selichot* of *asseret yimei teshuva*. While the dominant position is against this, there is room to rely on this opinion. This is relevant not only for individuals praying alone, but also for girls high schools, women's seminaries, and women's *tefillah* groups.
4. When recited in a minyan, the *י"ג מדות* are considered either a *davar she'bikdusha* or a

41 For example, and as quoted above, footnote 32, from Goldschmidt, p. 9:

בקר אערוך לך בעד קהלי; הצליחי במשלחי ואשיב שולחי דבר; גשתי פני תבה; כהגון מדות ובתפלה שלם, כזקן ורגיל ולא כגולם; ההוקם סרסור.

42 According to Goldschmidt, p.6, prior to Rav Amram Gaon (9th century) there were no *selichot* and Biblical verses were used to introduce the *י"ג מדות*. Tana deBei Eliyahu - Eliyahu Zuta (23) refers to סליחות, but this is almost definitely post-Talmudic.

tfillat ha'tzibbur, or both, and the one who leads the recitation has the formal status of a *shaliach tzibbur*.

Regarding what role a woman may play in the presence of a minyan from her side of the mechitza, as a matter of strict halakha and bracketing the larger discussion of partnership minyanim and any other concerns such as communal norms and the like:

5. A woman may not be the *shaliach tzibbur* for the recitation of the *י"ג מדות*.
6. A woman should not lead the *selichot* that are attached to the *י"ג מדות*, even if a man is leading the *י"ג מדות* themselves.
7. A woman may, in principle, lead the portions of the *selichot* service that precede the first of the *selichot* (the *petichah*) and that follow the last of the *י"ג מדות*, including the *שמע קולנו*. While the *שמע קולנו* is recited responsively, there is no evidence to say that this requires a *shaliach tzibbur*. If she is doing so, she should stop before the *עננו* section, so that a man can lead this⁴³ and the *kaddish titkabel* which follows.
8. A woman may not lead the *kaddish titkabel* or the *kaddish* after *Ashrei*, both of which require a formal *shaliach tzibbur*.

43 The *עננו* and *מי שענה* sections are based on the early order of prayer from fast days, as described in Taanit (15a). The role of a prayer leader is pronounced here, and the Gemara's description of the qualities of the prayer leader serves as the basis for Rema's list of qualifications for the *shaliach tzibbur* for *selichot* (OH 581:1), see earlier note 40. Whether this defines this person as a formal *shaliach tzibbur* is not clear, but regardless, a man should take over now so as to allow him to complete the *selichot* with *kaddish titkabel*.



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