

ליקוטי ופסקי הלכות

"חוקי חיים"

ותלמוד
"חוקי חיים"
לעשות רצונך
בלבב שלם



שע"י "חדר הודאה" שכונת מנחת יצחק פעיה"ק ירושלים תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

Halochos compiled by HaRav Chaim Bleier – Translated from the Hebrew edition by R' Zerachya Shicker

Halochos of

Chiyuvim

Kaddish

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A Son Gives Zechus to His Father

At this time, many Yidden are returning to shuls and batei medrash, b'ezras Hashem, to once again daven alongside many others in a tzibbur. Sadly though, many people lost loved ones recently and now have a chiyuv to daven for the amud. It was therefore requested that we cover several halachos about chiyuvim to daven for the amud; Kaddish; who has precedence; and the ramifications thereof.

Benefits of Saying Kaddish

- Source for saying Kaddish.** We find in Midrashim that when a son says Kaddish and Barchu in a tzibbur, he saves his father from the judgment of Gehinnom. They tell the story of Rabbi Akiva: upon seeing someone punished with great torment in Gehinnom, he went and learned with the man's young son. As soon as the boy learned to say Kaddish, his father was freed from his suffering. Based on this, the minhag developed to say Kaddish for a father or mother for the first year after their passing, when a person is judged in Gehinnom if he was found to be a rasha (רמ"א יו"ד סי' שע"ו סי' ד, לבוש שם, מ"ב סי' קל"ב סק"י).
- The purpose of Kaddish.** This Kaddish is not a tefillah that one davens to Hashem to lift his father out of Gehinnom. Rather, it is a zechus and mitzvah for a father when his offspring sanctifies Hashem's great, honorable, awesome Name in front of a whole tzibbur, causing Hashem and His Name to be unified before the tzibbur when they answer, "אמן יהא שמיה רבא." It is a major kaparah for a father's soul when someone who came from his very being causes Hashem's great and awesome Name to be publicly sanctified (ש"ת בנימין זאב סי' ר"ב).

Benefits of Davening for the Amud

- When a son davens and says Kaddish in public, he redeems his father and mother from Gehinnom, as Chazal say (גמ סנהדרין דף ע"א ע"א), "A son gives zechus to his father." Therefore, one who knows how to daven should daven, and the tefillah will achieve more than Kaddish (רמ"א שם), because of both the inherent value of the tefillah and the Kaddishim within the tefillah – which are the main Kaddishim – and Barchu.

Saying Kaddish in Unison

Just One Person Says Kaddish

- The minhag of Ashkenaz was that just one aveil would say Kaddish in shul, not multiple aveilim in unison (מהר"ם מינ"ץ, מהר"ל). In places that strictly follow the minhagim of Ashkenaz, they still do this today. The Chazon Ish was also careful about this. [When just one person says Kaddish, it is necessary to know the halachos of precedence, which will be discussed below.]
- Some say the reason for this is that the main benefit of Kaddish is that it causes the tzibbur to say "יהא שמיה רבא וכו'." If many people say Kaddish simultaneously, there is a concern that one person will rush to be first so that he is the main cause and the others are secondary. Therefore, they decreed that one person should say Kaddish (ש"ת דינים). Others say it resembles two shliach tzibburs (והנהגות פ"ד אות ז'). A third reason is because "two voices are not heard" (הגר"י סלנטר הוחר בתשובה"ג ח"א סי' קג). Alternatively, it is because they will go at different speeds and confuse the tzibbur (ש"ת בנין ציון סי' קכ"ב).
- Multiple chiyuvim.** After the cholera epidemic of 5591/1831, there were many people who had to say Kaddish, so Rabbi Akiva Eiger ruled that they should all say Kaddish together. A year later, he ruled that once again, just one person should say Kaddish, but one Kaddish after Shacharis could be said by multiple people so that there would not be a situation where an aveil would not say Kaddish on any given day because of someone else's precedence (ש"ת רע"א המאור ה"ד עמ"ק כ"ה).

They All Say Kaddish

- However, the minhag in most places in the world is that multiple chiyuvim say Kaddish together. This avoids lots of potential arguments as well as the relevance of the halachos of precedence since they all say Kaddish together (פתח"ת יו"ד סי' שו"ע סק"ו). Sephardim everywhere have this minhag as well as those who daven Nussach Sephard and Chassidim. Many people who daven Nussach Ashkenaz do this too.

Saying Kaddish in Complete Unison

- Together.** When many people say Kaddish together, they should all lechatchilah make sure to say every word together. No one should go ahead of anyone else so that the whole tzibbur answers to all of them and does not get mixed up.
- Standing together.** It would be best if all the chiyuvim would stand together in one place, e.g., next to the bimah or aron kodesh (מנהג בית (המדור הגדול בעלזא, ס' מקוה ישראל עמ' ע"ב בשם הגה"צ מנאסייד). That way, each one of them can hear the others and say Kaddish in precise unison (תשובות והנהגות ח"א סי' ק"ג).
- When they do not quite say it together.** If many people are saying Kaddish at different speeds and they are within toch kedei dibbur of each other, the tzibbur should answer to just the first or just the last person, and it is like they answered to them all, even if there is more than toch kedei dibbur between the first and last ones. If the chiyuvim are not within toch kedei dibbur of each other, the tzibbur should answer to each one (פתח"ת שם, מ"ב סי' נ"ה סק"ד). In a big shul with people in every corner saying Kaddish together, one should answer to someone next to him that he can hear well (שלחן טהור סי' קל"ב ס"ד).

Davening for the Amud

Average Speed

- One of the challenges of davening for the amud is davening to the satisfaction of everyone there. It is nearly impossible, as some people want to daven fast, others want to daven slow, and for others, it depends on their days plans and how packed their schedule is... This creates a situation where there are always complaints about the chiyuv who regularly davens for the amud. It seems that this is part of the aveilus and difficulty that an aveil has to endure in his year of aveilus...
- Thus, it is a good idea to daven according to the speed of the average person in the shul so that at least most people are satisfied (פלא יועץ). Alternatively, one should get specific instructions from the gabbai regarding the speed of davening and refer all complaints to him.

Order of Precedence for Davening and Kaddish

The Need for Halachos of Precedence

- In order to prevent arguments, the poskim gave rules for an order of precedence. Following these rules and avoiding conflict is the greatest possible thing a person can do to benefit the neshamos in Gan Eiden he is davening for. Just like everyone understands that an aveil does not daven for the amud on Shabbos and Yom Tov since they are times that it is not proper for an aveil to daven, so too if an aveil does not daven for the amud because of a chiyuv who has precedence, that is a tefillah that is not proper for him to daven; the neshamos in the Olam Ha'emes know this too.
- The halachos of precedence apply to davening for the amud (ביאהל) since there can only be one shliach tzibbur. They also apply in places where just one person says Kaddish at a time (above, 4). They do not apply regarding Kaddish in places where all the aveilim say Kaddish together – which is most places in the world.

15. **Lots.** If there are two equivalent chiyuvim, e.g., two people in shloshim or two people with a yahrzeit, in the past they used pieces of paper with letters on them as lots to determine who would daven for the amud. It seems they cast lots every day or before each tefillah. Nowadays, we do not find that people cast lots to decide who will daven for the amud. If possible, the chiyuvim should divide things equally, e.g., by the tefillah or the day, and settle things together.
16. **Gabbai.** Every shul has a gabbai. Thus, it is always recommended to consult the gabbai regarding when and in which minyan one can daven for the amud. When there are multiple chiyuvim, if the gabbai is knowledgeable in the halachos of precedence and can determine who should daven, and decide in a situation of uncertainty, much strife and unpleasantness among the different chiyuvim can be avoided.
17. **Yield or insist?** Sometimes, people want to yield their chiyuv for someone else's benefit. However, they end up robbing the niftar in whose zechus they are davening. At other times, people insist on davening when they do not have the right to, causing pain to others.
18. The proper approach is as follows: if it is clear that someone has precedence, he should not yield to someone else, as it is the niftar's zechus, and unless someone else will be very distressed, he does not have the right to give that up (עמק ברכה). If the matter is uncertain, it is a zechus and better for the neshamah to yield to the other person. If it is clear the other person has the right to daven, it is a terrible thing to insist on davening, chas veshalom. If one davens for the amud when he does not have the right to, the zechus for his tefillah goes to the neshamah he is stealing from (שו"ת חת"ס סי' שמ"ה בשם שב יעקב).

Halachos of Precedence

19. There are five levels of chiyuvim; most of the halachos are set forth in the Biur Halacha (ביאור הלכה במאמר קדישין). They are: an aveil in shiva; an aveil in shloshim; an aveil within 12 months of a parent's passing; the "yom hafsakah" (below, 34); and the day of a yahrzeit. It is impossible to go through every last scenario here, so we will just discuss common cases. In all other cases, one should consult the rav or the shul gabbai.

In Shiva

20. A person within seven days of a close relative's burial has precedence over all chiyuvim. Although someone in shiva normally davens at home (שו"ע יו"ד סי' שצ"ג ס"ג), his right to precedence is relevant for Kaddish when he comes to shul on Shabbos (ביאור"ל). Also, when a Yom Tov, e.g., Shavuot, ends the halachos of the shiva aveilus, he is still called a "ben shiva" with respect to precedence. Another application is at Minchah on the seventh day; we do not say "miktzas yom kekulo" regarding the halachah of precedence (ביאור"ל).
21. **Guest vs. resident.** With regards to someone in shiva, there is no difference between a guest and a resident. Also, a guest in shiva takes precedence over a resident in shloshim or with a yahrzeit (ביאור"ל).

In Shloshim

22. A "ben shloshim" is someone whose relative has been buried within the past 30 days. For example, if someone was niftar, lo aleinu, on Sunday and buried on Monday, the shloshim are counted from Monday, and the aveilim are in shloshim through the end of the Tuesday just over four weeks later.
23. Even if a Yom Tov occurs during shloshim, ending the halachos of the shloshim aveilus, the aveil is still in shloshim regarding the halachos of precedence (ביאור"ל).
24. **Shloshim vs. year.** An aveil in shloshim takes precedence over one in the year. Therefore, an aveil in shloshim should at least take the main part of davening and the main Kaddishim, but he should give something to the aveil in the year. A guest in shloshim and a resident in the year should split things equally.
25. **Shloshim vs. yahrzeit.** If there is an aveil in shloshim and one yahrzeit, the aveil in shloshim takes two thirds and gives one third to the one with the yahrzeit. If there are multiple chiyuvim with a yahrzeit that day, they all get a portion, and if there is nothing left for the aveil in shloshim, he gets nothing (ביאור"ל).
26. **Guest vs. resident.** A resident who has a yahrzeit takes precedence over a guest who is an aveil in shloshim (ביאור"ל).
27. **Shloshim vs. yom hafsakah.** An aveil in shloshim completely overrides a chiyuv on the yom hafsakah (שם).

Yahrzeit

28. A yahrzeit is determined based on the day of death, not burial (שו"ע ביאור"ל, ועי' מ"ב). This is also done on the first yahrzeit (סי' תקס"ח סקמ"ד).
29. **Yahrzeit vs. year.** A yahrzeit takes total precedence over an aveil in the year for tefillah, but the aveil in the year gets the less important Kaddishim. A yahrzeit also takes precedence over a yom hafsakah.
30. **Two yahrzeits.** Two people with a yahrzeit divide the tefillah, e.g., one davens until Ashrei-Uva Letziyon, then the other takes over. They can also split up the tefillos. If they cannot come to an agreement, they should cast lots like in the past or have the gabbai decide (see 16 above).
31. **Motzei Shabbos Maariv.** Some people have the minhag to daven on the Motzei Shabbos before the yahrzeit, but this does not override other chiyuvim (שו"ת בקיני תורה ח"ב סי' צ"א).

32. Someone with a yahrzeit on Shabbos takes precedence over someone who wants to daven Mussaf before a yahrzeit which falls during the coming week (ליקוטי תשו' מנחת יצחק סי' י"ב).
33. **Unsure when the yahrzeit is.** If one forgot the exact day of the yahrzeit or he does not know the yahrzeit and designated a certain day instead, e.g., for someone who perished in the Holocaust, his chiyuv does not override other chiyuvim (ביאור"ל).

"Yom Hafsakah"

34. The "yom hafsakah" is the day a chiyuv finishes saying Kaddish and davening for the amud – the last day of the 11 months. This chiyuv takes precedence over an aveil in the year but not over an aveil in shloshim or a yahrzeit.

Classification of Residents and Guests

35. Back in the day, the classification of a resident and a guest were somewhat different than they are today. Those halachos are explained by the poskim (ביאור"ל). Today, there are multiple shuls in every city, sometimes with multiple minyanim at different times in the day. We will therefore go through some of the criteria that are applicable nowadays.
36. If someone consistently davens in a certain shul; pays membership to a shul even if he does not daven there consistently; or serves a position in a shul, e.g., a gabbai or shamash, even if he does not pay membership (שו"ע יו"ד סי' שע"ו), he has the status of a resident with respect to the halachos of precedence and comes before someone classified as a guest who is not a regular at that shul, in accordance with the abovementioned halachos.
37. **Davens in another shul.** If someone regularly davens in a certain shul and comes to a different shul wanting to daven for the amud for a chiyuv, all the fixed chiyuvim take precedence over him for everything. Since he regularly davens in a different shul, he does not even have the status of a guest. Someone is only a guest if he is from another city and finds himself in a city where he spends no time at all (ביאור"ל).
38. If someone from one shul went to another shul because the amud was open and davened there for several months, and then one of the regulars became a chiyuv, the second one takes precedence over the first since he is a regular, and he does not even need to split things up. However, if the first one set that shul as his shul from now on, he gets to split things with the second chiyuv.
39. **Shtieblach.** Someone who consistently davens in a certain minyan in a shtieblach is considered a regular relative to a second person who always davens in a different minyan in that shtieblach. The second person still takes precedence over a third person who does not regularly daven in that shtieblach at all.
40. People who always daven in the same shtieblach but do not have any sort of set minyan must divide things equally among themselves, and they take precedence over guests who do not regularly daven there at all. Again, it is always recommended to consult with the shtieblach's gabbai to avoid arguments, ch"v (see above, 15).
41. The titles of resident and guest are determined based on the degree of consistency of the chiyuvim, not the niftar. Thus, out-of-town children davening in their late father's shul have the status of guests, not residents, relative to the other regular chiyuvim (שו"ע סק"יב).

Some Rules of Precedence

42. **According to the aveilim.** The halachos of precedence are for the aveilim, not the niftar. Thus, an only son does not take precedence over someone who has brothers who are also chiyuvim. They divide things equally even if the only son sometimes ends up not davening at all (רמ"א סי' שע"ז).
43. **For a father or mother.** Someone with a chiyuv for his father does not have precedence over someone with a chiyuv for his mother; their chiyuvim are equal (דברי סופרים פני"ג סני"ג).

No Son to Say Kaddish I'a

44. If a niftar did not leave behind any living sons, his son's son should be allowed to say Kaddish and daven (מג"א בשם תשו' הרמ"א, ביאור"ל). If he has no grandsons from a son, his daughter's son should say Kaddish and daven (פתח"ת סי' שע"ז סק"י). However, if the grandson's parents are alive, it is best if he davens for the amud (שו"ת בצל החכמה) but does not say Kaddish Yasom, even if they are not makpid, in this day and age (שו"ת פרי השדה ח"ד סי' צ"ב).
45. **Son-in-law.** His son-in-law can also daven on his behalf (שמירת שלום) (אבילות אות ק' סקנ"ה) as above.
46. **Other chiyuvim come first.** A grandson or son-in-law does not take precedence over other chiyuvim, and the other chiyuvim do not need to share with them. Still, it is proper to give them some part of the davening and Kaddishim.
47. **Maternal grandfather, father-in-law.** Someone davening for his mother's father takes precedence over someone davening for his father-in-law (שו"ת בשו"ת שבט הקהתי ח"ד סי' רח"צ).
48. **Shliach for one's father.** If a son is alive but cannot daven for the amud due to illness or lack of a minyan, he may appoint his son [the niftar's grandson] as a shliach to daven in his place. Then, the grandson has the same precedence his father would have since he is in his place (שו"ת שר"ג). Some argue with this (שו"ת להורות נתן ח"ה סי' א').

We should be zoche to Besuros Tovos and Techias Hameisim soon!