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The Rabbinical Council of Greater Washington is pleased to present another issue of its *halachic* bulletin which will be published, *im yirtzeh Hashem*, semi-annually, before *Pesach* and before the *Yamim Noraim*.

The articles herein are *halachic* in nature and address contemporary issues and questions revolving around *Yom Tov* observance. Their purpose is not only to increase general knowledge about the topics at hand but also to provide a portal for in-depth *Torah* study and analysis. As such, references to original sources are provided and readers are strongly encouraged to explore them on their own. The reader will note that final *halachic* positions – *psakim* – on particular issues are based on the author's analysis of the topic. The bulletin does not seek to present itself as the final *halachic* authority on any question. For that please consult with the author or with your local Rav.

Questions, comments, and suggestions are most welcome and may be sent to vaadbulletin@gmail.com.

Wishing you all a *ksiva v'chasima tova,*
Rabbi Moshe Walter

The Shofar, God, and the Jewish People

Rabbi Yosef Singer
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Chazal (*Zohar Parshas Vayera 381-382,Medrash Shochar Tov, Tehillim chapter 47*) understand that that when *Bnei Yisrael* blow shofar (on *Rosh Hashanna*), *HaKadosh Barcuh Hu* moves from His throne of justice to His throne of mercy. (1) How is it possible that the action of blowing into a ram's horn and producing halachically prescribed sounds result in this profound reorientation of *Hashem*'s Divine perspective? Putting that question temporarily aside, we move on to another issue. Among Rav Saadiah Gaon's ten symbolic allusions associated with the *mitzvah* of *tekias shofar* is a reminder of *akeidus Yitzchok*, the binding of Isaac by his father *Avrohom*. This reminds us and the *Ribbono Shel Olam* of the great spiritual prowess and devotion of our forefathers. Now, we know that Hashem is the source of all truth and His very existence is truth. (2) How is it that we can seek His mercy based upon the heroic actions of our ancestors? Is that any different than reminding an earthly judge of his close and abiding relationship with a person whose grandson is about to be sentenced by that judge for a series of repeated violations of the law? To mitigate the sentence based up on a circumstance that is completely irrelevant to the case at hand – like a friendship - represents a egregious perversion of justice and from the *Torah's* vantage point, a violation of several *issurim*. From this perspective, it becomes inconceivable that *Hashem* could be swayed from meting out the punishments we deserve - which His attributes of truth and justice demand – by an impassioned reminder of an ancient relationship through the instrument of shofar. *The Michtav M'Eliyahu,* Vol I, page 8 in his essay *"Biur inyan Middas Harachamim"* asks a very similar question but in the context of *zchus avos* in general, and by implication the nusach of *Shemoneh Esreh* in particular. How is it, Rav Dessler zt"l asks that we constantly seek Hashem's mercy by reminding Him that we are children of *Avrohom, Yitzchok*, and *Yaakov*, His beloved patriarchs?. And if *Hashem* were to be merciful to us and spare us from His harsh judgements based upon that reminder, does that constitute a perversion, *chas v'shalom*, of His attributes of truth and justice?

The answer to the second question is based upon the *Ruach Chaim*, Rav Chaim Voloziner's, zt'l, commentary on *Pirkei Avos*, *Mishne* 5:3 in which he analyzes *Mishlei* 20:7, "One who walks in his innocence is a righteous man, fortunate are his sons after him." This speaks to the phenomenon of *"maaseh avos siman l'banim"*, Iiterally the acts of the fathers are a sign for the children. It means that there are many desirable character traits that a *tzadik* strives to attain not only for himself but for his children as well. We see that many otherwise simple people are willing to sacrifice their lives to sanctify the Divine Name, to give up material comforts to live in Eretz Yisroel, or to accept all heavenly decrees without complaint no matter how painful they may be. This spiritual strength derives from the soul of *Avrohom Avinu, zt"l*, who was always willing to make any sacrifice to do the will of Hashem. That devotion has become part and parcel of our spiritual DNA. As such, it represents a potential for great *ruchnius* that we, his children, can exercise if we choose to do so. Similarly when we remember *akeidas Yitzchok* at the time of the blowing of the shofar, we are reminded of, in the clearest and most dramatic terms, our own spiritual potential, bequeathed to us from our

holy Avos. More importantly, it represents our commitment to exercise that spiritual potential to the best of our abilities. In this context, we are prepared to answer the first question: we see that that blowing shofar is much more than wresting notes from a ram's horn. It is a passionate and eloquent expression of our fundamental desire to reconnect with our Creator, no matter the distance and no matter the sacrifice, and devote our lives to His service. This yearning is so deep that it transcends speech itself. Words are simply unable to convey the depth of these feelings adequately. Only the sounds of the shofar will do.

Now, perhaps we can also understand how Hashem's attribute of justice and His attribute of mercy are not contradictory. The Mesilas Yesharim writes in Chapter 1 that "Man was created only to get pleasure from his closeness to Hashem and to bask in the radiance of the *shechina* At the moment a Jew hears the sounds of the shofar and is *mosar nefesh* to do the will of *Hashem*, he has fulfilled that will and embodies the words of Mesilas Yesharim. If the purpose of *din*, Divine justice, is to bring a person to his senses, reorder priorities, or atone for previous mistakes to facilitate *teshuva* and reconnection with *Hashem*, then there is no further need for harsh decrees. At *tkias shofar* we are already there and we can reasonably hope, albeit with considerable trepidation, that *Hashem* will facilitate that closeness through His *midas harachamim*, his attribute of mercy. In short, *Hashem* moves from His throne of justice to His throne of mercy because when the Jewish people blow shofar, they are demonstrating their commitment to fully realize the great spiritual potential bequeathed to them by Avos – and that is the ultimate purpose of creation itself.

The Recitation of *L'dovid Hashem Ohri V'yishei* During the Months of *Elul* and *Tishrei*

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Many communities usher in the month of *Elul* with the recitation of *Tehillim* chapter 27, *L'dovid Hashem Ohri V'yishei*. This *mizmor* is recited through the holiday of *Shminei Atzeres*[1] twice daily, once toward the conclusion of *Tefilas Shachris* and either at the conclusion of *Minchah* or *Maariv.*[2] The duration of its recitation, extent of its recitation and *halachic* dialogue which surrounds its recitation clearly points to its significance in relation to the *Yamim Noraim* and *Sukkos*. *L'dovid*, as it has affectionately become known has developed into one of the hallmark *minhagim* of this most auspicious time period on the Jewish calendar. As such it behooves to better understand the issues that surround the recitation of *L'dovid* which in turn will allow for a greater appreciation of this powerful *mizmor*. This essay will:

1. Trace the source of the addition of *L'dovid* to our daily *Tefillah during* the months of *Elul* and *Tishrei*, and to the *Siddur* in general.

2. Explain the reasons offered and suggested for the recitation of *L'dovid*.

3. Explain the reason why many great sages opposed the recitation of *L'dovid*.

4. Address the practical *halachic* issues that surround the recitation of *L'dovid*.

Although a number of classic *halachic* codes of the twentieth century mention the custom of reciting *L'dovid* during the months of *Elul* and *Tishrei*, no mention of this custom exists in the *halachic* literature of the *Rishonim* and early *Acharonim*. Rarely, if ever, do we find an addition to the *Siddur*, or change in the structure of *Tefillah* at such a late juncture. When then, and how did this chapter of *Tehillim* emerge as the classic *minhag* of these months? It has been suggested that the *minhag* can be traced to the *Sefer Shem Tov Katan* first published in 1706 and *Sefer Chemdas Yamim* first published in 1731.

Rabbi Binyamin Beinish HaCohen in *Sefer Shem Tov Katan* writes that "anyone who recites the *mizmor* from *Rosh Chodesh Elul* until after *Simchas Torah*, even an evil decree that has been placed upon man from heaven can be annulled"[3]. After explaining the significance of *L'dovid* the author writes "It (*L'dovid)* should be said on Monday and Thursday of *Elul* when one is fasting and immerses in the *Mikvah*, and throughout the ten days of repentance in general, and specifically after *Shemoneh Esreh*."[4] While at first glance the two comments may seem to contradict one another vis-à-vis the appropriate duration of time for the recitation of *L'dovid*, it seems that the author first gives general instructions as to when *L'dovid* is recited, and only

1 *Sefer Mateh Ephrayim, siman* 581 #6 and *Mishnah Berurah siman* 581 #2.
2 See footnote 26 which sources the various customs.
3 *Sefer Shem Tov Katan* – page 22. *Hanhagos, viduim, v'tefillos Kedoshos v'naraos m'rosh Chodesh Elul v'yamim Noraim.*
4 Ibid.

after explaining why the chapter is recited, then details the specific time for its recitation. The author also mentions other appropriate chapters of *Tehillim* to recite along with *L'dovid*, explaining that each of these chapters contain the name "*Hashem*" thirteen times corresponding to the thirteen attributes of *Hashem* which are recited throughout the month of *Elul*.

Sefer Chemdas Yamim suggests reciting a variety of Chapters of *Tehillim* during *Elul* and adds; "I am custom to say chapter 27, *L'dovid*"[5] The author also explains that the reason for the recitation of these chapters is because the name "*Hashem*" is mentioned thirteen times. The author concludes that it is appropriate to recite these chapters early in the morning with *Selichos*.

There are four points that can be gleaned from the words of the *Shem Tov Katan* and *Chemdas Yamim*:

1. Both works suggest the recitation of *L'dovid* and other chapters of *Tehillim.*
2. Both works suggest the same reason behind the recitation of *L'dovid.*
3. Both works have a different formulation regarding the placement of *L'dovid* in *Tefillah*, and both suggestions are not the commonly followed place where the *mizmor* is inserted contemporarily.
4. Both works are heavily sourced and influenced by *Kabbalah* which impacted the circle or circles of its acceptance.

The first *halachic* code to mention the custom to recite *L'dovid* is the *Sefer Mateh Ephrayim* first printed in 1834 by Rabbi Ephrayim Zalman Margolis. He writes "It is the custom in these countries from *Rosh Chodesh Elul* and onward until *Yom Kippur* to recite daily at the conclusion of *Tefillah, mizmor* 27 in *Tehillim, L'dovid Hashem Ohri V'yishei* morning and evening.[6] In Rabbi Margolis's commentary *Elef L'mateh* explaining the *Halachic* conclusions of the *Mateh Ephrayim* he writes that the reason for the custom is based upon the *Medrash* which reads "*Ohri-B'Rosh HaShanah, V'yishei B'Yom HaKippur,* and after, *Ki Yitzpenenei B'sukkah* which hints to *Sukkos*".[7] Rabbi Margolis posits that the reason for reciting this chapter specifically during this time period is because the words, *Ohri* (light), *Yishei* (salvation), and *Sukkah* are understood by the *Medrash* to be referring to *Rosh HaShanah*, *Yom Kippur*, and *Sukkos.*

The *Mateh Ephrayim's* formulation and explanation of the recitation of *L'dovid's* is quite different from the *Sefer Shem Tov Katan* and *Chemdas Yamim* for at least three reasons:

1. The *Mateh Ephrayim* suggests a different reason and source for the recitation of *L'dovid.*
2. The *Mateh Ephrayim* specifically mentions the custom of reciting *L'dovid* alone without other chapters of *Tehillim.*
3. The *Mateh Ephrayim* clearly delineates when and at what point in the *Tefillah L'dovid* should be recited.

As such, the position and explanation of the *Mateh Ephrayim* raises the following questions:

5 *Sefer Chemdus Yamim, Chodesh Elul V'Rosh HaShanah, Biur Selichos V'nuschasam* #11. Some have suggested that Rav Binyamin Halevi of Tzefat, a student of the Arizal is the author of *Chemdas Yamim*.
6 *Sefer Mateh Ephrayim siman* 581 #6.
7 *Elef L'mateh* ibid #6.

1. Why recite *L'dovid* in *Elul* if the reason for its recitation is specific to *Rosh HaShanah*, *Yom Kippur*, and *Sukkos* which fall in *Tishrei*?[8]

2. The *Medrash* only states "*Ohri-B'Rosh HaShanah* and *Yishei B'Yom Kippur*" and does not comment on the words "*Ki Yitzpeneini B'sukkah*"?[9]

3. If the reason for the recitation of *L'dovid* is because of the reference to *Rosh Hashanah* and *Yom Kippur* why not recite other chapters of *Tehillim* which also heavily reference *Rosh Hashanah* and *Yom Kippur*.[10]

4. The *Medrash* in its explanation of *L'dovid* also extrapolates this chapter in reference to the exodus from Egypt and splitting of the sea, why then is it not recited over the course of the holiday of *Pesach*?[11]

It can be suggested that as a result of the many other works and *siddurim* which explained, discussed and printed *L'dovid* as part of the *Elul Tefillos* that the *Mateh Ephrayim* supported the *minhag* with a non-*Kabalistic* reason of his own. The author then carefully outlined the specifics of how and when it should be recited.[12] The *Kitzur Shulchan Aruch* and *Mishnah Berurah* quote the *minhag* of reciting *L'dovid* based on the reason and *halachic* conclusions of the *Mateh Ephrayim.*[13]

Other reasons have been offered and suggested as to why *L'dovid* is recited in *Elul* and *Tishrei.* The following are two popular approaches:

1. Rav Tzadok HaKohen of Lublin writes that the word "*Lulay*" in the verse "*Lulay H'emante L'iros B'tuv Hashem*" (Had I not trusted that I would see the goodness of *Hashem*) spelled backwards spells *Elul*, and as such is recited.[14]

2. The theme of the entire *mizmor* is one that speaks of man's yearning and passion for closeness with *Hashem*. The emotions which *Dovid HaMelech* elicits in this chapter are the essence of how every individual should approach these special days. Reciting the powerful words of this *mizmor* twice daily for close to two months helps concretize and focus on the job of the Jew during *Elul* and *Tishrei.*[15]

Although the recitation of *L'dovid* can be sourced, explained and supported nonetheless many great sages

8 One can suggest that the reason for it's recitation in *Elul* is in preparation for the days of awe ahead.

9 See *Sefer Elef HaMagen* #9 on *Sefer Mateh Ephrayim* ibid who notes the omission of *Sukkos* from the *Medrash.* The *Medrash* can be found in *Medrash Shochar Tov, Tehillim* chapter 27, and *Medrash V'yikrah Rabbah* chapter 21. *Sefer Baruch Sh'eamar* end of *Tefillas Shacharis*, entry *L'dovid Hashem* page 201 (of Rabbi Boruch Halevi Epstein,author of *Sefer Torah Temima*)suggests that *L'dovid* only be recited until *Yom Kippur* based on the *Medrash* and that it is only a "*minhag*" to recite *L'dovid* in *Elul* as a result.

10 *Sefer Shaar HaKollel* of Rabbi Avraham Dovid Laviyaat cited in *Sefer Moadim L'Simcha – Elul, Tishrei* by Rabbi Tuvyah Frynd.

11 *Sefer Baruch Sh'eamar* ibid raises this question and suggests a novel resolution.

12 *Chidah* in his *Moreh Eitzbah siman* 37 and at the end of his *Sansan L'yair* supports the recitation of *L'dovid.* See also *Sefer Nitay Gavriel-Hilchos Rosh Hashanah* chapter 3 footnote 3, *Sefer Piskei Teshuvos siman* 581 #11 footnotes 75 and 76, and *Sefer Moadim L'simcha, Elul-Tishrei siman* 2 footnotes 8-14 who all quote a plethora of mainly *Kabalistic* sources who quote and support the recitation of *L'dovid.*

13 *Kitzur Shulchan Aruch siman* 128 *seif* 2. *Mishnah Berurah siman* 581 #2. Although both *Kitzur Shulchan Aruch* and *Mishnah Berurah* don't directly quote *Mateh Ephrayim* it is clear based on their comments that they are both coming directly from the *Mateh Ephrayim*. This author did not find any other classic *halachic* works from the 20th century that cite this *minhag*.

14 *Sefer Pri Tzadik – L'Rosh Chodesh Elul* #2 d"h *H'Bal Haturim.* According to this reason we find a basis to recite *L'dovid* in *Elul*. See footnote 9 which questions this based upon the *Medrash.* See as well *Sefer Moadim L'simcha*, ibid who quotes other reasons and possibilities for reciting *L'dovid* during *Elul* and *Tishrei.*

15 See commentaries of *Radak* and *Malbim* to *Tehillim* chapter 27. See as well *Sefer Panim Yafos* of the *Haflaah Pashas Achrei Mos* d"h *B'yad Iti* who also raises this possibility.

were opposed to it's recitation for different reasons:

1. *Sefer Maaseh Rav* notes that the Vilna Gaon was opposed to the recitation of *L'dovid* –

   "From *Rosh Chodesh Elul* through *Yom Kippur* chapter 27 is not recited".[16] Two reasons have been suggested to explain the G"ra's position. One, the G"ra consistently opposed adding any *mizmor* that was not part of the standard order of *Tefillah* to the *Siddur, L'dovid* is yet another example.[17] Secondly, it would be a strain on the congregation, *tirchah tzibur,* to add more prayers to that which already exists. As such, the Gr"a opposed its recitation.[18]

2. Many Chasidic masters and Chasidic dynasties including the *Divrei Chaim* of Tzanz, *Chozeh* of Lublin, *Yid HaKodesh*, *Rebbi* of Tzdichov, and Rebbi of Ropshitz opposed the recitation of *L'dovid.*[19] Responsa *Divrei Moshe* explains that their reasoning was due to the questionable author of the *Sefer Chemdas Yamim.*[20] Although the recitation of *L'dovid* precedes the *Chemdas Yamim* and is suggested by other great *Kabalists*, *Divrei Moshe* explains that it was the *Chemdas Yamim* who explicitly suggested that *L'dovid* be incorporated into *Tefillah B'tzibbur,* (public prayer) which is specifically that which these sages opposed.

3. There were some *Sephardic* communities, including the *Ben Ish Chai* in Baghdad that did not recite *L'dovid.* [21]

The following *issues* regarding when *L'dovid* is to be recited have been addressed and discussed by *halachic* authorities:

1. Common custom is to begin reciting *L'dovid* on the second day of *Rosh Chodesh Elul.*[22]

2. Common custom is to recite *L'dovid* at *Shacharis* following the *Shir Shel Yom* and on *Rosh Chodesh* following *Borchei Nafshi.*[23]

3. *Kadish* is recited between the *Shir Shel Yom* and *L'dovid.*[24]

16 *M'aaseh Rav* #53.
17 See *M'aaseh Rav* ibid. This seems to be the reason of the G"ra.
18 *Kovetz Meforshim* #30 to *Maaseh Rav Hachadash* citing *Sefer Tefillas Dovid* of the *Aderes.*
19 Introduction of the father of the author of *Sefer Lev Sameach* cited in Responsa *Divrei Moshe (*of Rabbi Moshe Halbershtam) *siman 34*. See as well *Divrei Moshe* ibid, *Sefer Moadim L'simchah* ibid, and *Sefer Piskei Teshuvos* ibid footnote 73.
20 Responsa *Divrei Moshe* ibid.
21 *Ben Ish Chai Shanah Rishonah Parshas Pekudei* #6 see as well *Sefer Moadim L'simchah* ibid who discusses other customs amongst the Separdic community.
22 *Kitzur Shulchan Aruch* ibid.
23 *Mateh Ephrayim* ibid. He explains that the reason is based upon the *Talmudic* concept of *Tadir* – something which occurs more frequently has precedence over something which takes place less frequently. This is also the position of *Mishnah Berurah* ibid. See *Sefer Emes L'yaakov* of Rabbi Yaakov Kaminetsky on *Shulcan Aruch siman* 581 footnote 535 for a further explanation.
24 *Mateh Ephrayim* ibid explains that the reason for the *Kadish* is to show that *L'dovid* is not part of the *Shir Shel Yom*. *Mateh Ephrayim* explains that this concern does not exist when it comes to *Borchei Nafshi* and as such there is no need to separate between the two with a *Kadish. Mishnah Berurah,* however, does not comment that a *Kadish* should be recited between the *Shir Shel Yom* and *L'dovid*.

4. The mourners *Kadish* is recited following the recitation of *L'dovid*.[25]

5. There are different customs regarding if *L'dovid* is recited at *Minchah* or *Maariv*.[26]

6. Common custom is to recite *L'dovid* through *Shminei Atzeres*.[27]

Chazal consistently stress the importance of *Minhag* including statements like "*Minhag* of our fathers is *Torah*",[28] "*Minhag* of our fathers is in our hands"[29] amongst others. The issue of the recitation of *L'dovid* is also based upon communal *minhag* which was of primary importance when *halachic* authorities decided upon its recitation. May *Hashem* help us take advantage of the precious months of *Elul* and *Tishrei* , and bestow upon all of Israel a *Shanah Tova U'mesukah.*

25 *Mateh Ephrayim* ibid, *Mishnah Berurah* ibid.
26 *Mateh Ephrayim* ibid states that it is recited after *Minchah* as does *Mishnah Berurah* ibid. See *Elef L'magen* #10 on *Mateh Ephrayim* ibid who mentions that many have the custom to recite *L'dovid* following *Maariv* which seems to be the prevalent *Minhag Ashkenaz*. See *Sefer Halichos Shlomo – Rosh Hashanah, Orchos Halachah* #3 that one whose custom it is to recite *L'dovid* at *Mincha* and then davens in a shul whose custom it is to recite *L'dovid* at *Maariv* should say *L'dovid* again see *Responsa Divrei Malkiel* volume 6 *siman* #23 who writes that one who forgot to recite *L'dovid* at *Minchah* should say *L'dovid* at *Maariv*. See Responsa *Divrei Moshe Siman* 35 who rules that there is no problem of *Lo Tisgodedu* regarding conflicting practices regarding the recitation of *L'dovid* in one Shul.
27 *Mateh Ephrayim* ibid, *Mishnah Berurah* ibid.
28 *Maseches Menachos* 20B.
29 *Maseches Beitzah* 4B.

To Piyut Or Not To Piyut

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I would like to dedicate this article to the memory of my father, Yosef Yehoshua b. Yissachar Dov z"l, whose love for all things in davening was truly remarkable. The presence of piyutim on the Yamim Noraim was just a welcome opportunity for him to spend additional time in personal communication with his God. May his memory serve as an inspiration and a blessing.

As we approach the Yamim Noraim (the High Holidays), we know that we will be spending significantly more time in shul than we do during the rest of the year. Part of the reason is, of course, that there are extra holy days to celebrate during this season. (One of our kids, when he was two years old, asked us that October, "how many days of Shabbat are there this week?"). But another reason, at least for most Ashkenazim, is the large number of extra paragraphs of liturgy, called generically piyutim (sing. piyut), inserted at various points in the prayers. For those who grew up reciting these texts, what would the High Holidays be without "Unetaneh tokef," "Shema koleinu," "the Avodah," "Aleinu," "Le-Kel orech din," and others, as they appear and are sung mid-repetition of the Amidah and in other parts of the davening on these days? (The use of Aleinu[1] and even of Shema koleinu[2] in other places in the liturgy in our present practice does not raise the same questions nor do they come with the same issues that we discuss here.)

When we open a Mahzor (the special prayer book for the High Holidays), these piyutim appear as a seamless part of the liturgy, except that occasionally, in many Mahzorim, a comment will appear indicating that this or that paragraph is only recited in some communities. If you look around in some of these Mahzorim, you may also find a section, usually in the back of the book, of piyutim that were said by some in some communities, but that are not generally used today. The invention of printing had a big influence on standardizing the piyutim that were said, because the decision to include or exclude a particular piyut in the text of the prayers went a long way in determining its fate as part of the liturgy. Asking people to recite prayers not in their texts or even to turn many pages to find the next section to be recited is discordant with the desire to have a prayer service that flows and is personally meaningful.

I remember as a child going to a small shul that did not provide Mahzorim. For whatever reason, my family had collected several different varieties of these prayer books: a Kol Bo, a Birnbaum, a Phillips, and several old German Mahzorim of different types, and we would trundle off to shul carrying our mini-library of Mahzorim. I remember sitting next to my father, z"l, during the services and periodically, one or the other of us would lean over to share the other's Mahzor because the Chazzan was reciting something that wasn't the same as in the Mahzorim we were using. Even when we moved to a much larger shul that provided standardized Mahzorim for everyone, somehow this liturgical "buddy system" remained part of our personal "minhag" as we continued to use the different texts.[3]

1 At the end of the three daily services as well as at the end of other rituals. For the history of that prayer see the chapter on Aleinu in my Why We Pray What We Pray, Jerusalem, 2010.
2 The sentence Shema koleini … (Hear our voice…) is the first line of the 16th blessing of the daily Shmoneh Esrei.
3 I do not mean this term in the halakhic sense of a custom that is binding, but rather as the description of a personal family activity that comes with a nostalgic warmth that is priceless.

As time went on, I began to realize that piyut was not just part of Yamim Noraim, and that the variation in common practice was sometimes even greater at other periods of the year than it was for Rosh Hashannah and Yom Kippur. For example, on the four special Shabbatot leading to Passover (Parshat Shekalim, Parshat Zakhor, Parshat Parah, and Parshat Ha-chodesh), and on Purim, my shul would break out small, peach-colored booklets that contained the special piyutim inserted into the liturgy for these days. Most of my friends did not recite these prayers at all in their synagogues, and today its extremely hard to find anyone who does say them, except that in Kesher Israel we still recite the piyut for Musaf on Parshat Ha-chodesh, in fealty to our minhag, but to the chagrin of some. In those peach-colored texts that I remember so fondly, but which we don't use in Kesher, there are piyutim for Shacharit on that day as well, along with piyutim for the other special Sabbaths that we also omit.

One last example here from the yearly cycle that will be familiar to many. On Pesah, some recite three different versions of a piyut that begins Berakh Dodi. These three texts are said in Shacharit immediately before the blessing of Ga'al Yisroel, which itself is the last of the Keriyat Shema blessings that lead into the Amidah. On the first and second days of Pesah, and on Shabbat Hol Hamoed respectively, these three prayers are recited, with a different piyut, Yom Leyabasha, recited in that slot on the seventh day. There is no corresponding piyut on the eighth day.

In addition, before Musaf on most Yom Tov days, the piyut Kah keli is recited. I have been to shuls on Pesah that recite both piyutim, shuls that recite one or the other, and shuls that recite neither. All of this should tell us that there is far more to the history of piyut than we are aware of when we simply look into a Siddur or Mahzor, and that these texts have engendered quite a bit of debate over the course of Jewish liturgical history. In fact, there are piyutim for every single Shabbat based on the Torah reading and piyutim that were inserted for special events, like a wedding, a circumcision, the three weeks of mourning in the summer, or the personal period of mourning after the death of a close relative, recited by some at some points in Jewish liturgical history. In some communities, there were even piyutim regularly recited on weekdays.[4] Most of those have fallen into disuse. In fact, some sages pushed them in that direction, while others stood as their defenders.

Before we get to the specifics of who, what, and why, I will add one last piece of my personal story that will serve as a final lead in to the halakhic issues we will discuss. When I came to Yeshiva University as a student, annually, in the weeks preceding the High Holidays, I would hear that Reb Chaim Brisker (1853-1918), the originator of the Brisker method of Talmudic study, hosted a private minyan in Brest-Litovsk (Brisk) each year on Rosh Hashannah and Yom Kippur. In the regular shuls of Brest-Litovsk, people davened rather like we do today, but in his minyan no piyutim were recited. Obviously, that made the davening quit a bit shorter. In typical fashion Reb Chaim and his inner circle spent the rest of the time learning.

I am told that to this day, many who study in the Brisker way and live by its customs do not recite piyutim mid-Amidah or during the Shema blessings. Rather, they wait until after the repetition of the Amidah[5] and offer them then. Clearly there is some question for them, and as we will see for others, as to whether

4 For a fairly comprehensive list and for additional discussants on the entire issue of piyut, see Rabbi Yitshak Yosef (b. 1952), the current Sephardi Chief Rabbi of Israel, Yalkut Yosef notes to Orah Haim 68.

5 This custom is mentioned in a number of sources, cf. Rabbi Eliyahu Haku (19th century), Mazah Hen, Hilkhot Tefillah 'Unesiat Kapayim: 13:17 and Yalkut Yosef, Kitsur Shulhan Arukh, Orah Haim: 600:9, which would fit within the guidelines of the Mehaber in Orah Haim 112;2,. See Rabbi Joseph Teomim (1727-1792), Pri Megadim, Orah Haim, Eshel Avraham 565 and Rabbi Shneuer Zalman of Lyada, Shulhan Arukh Harav, 68:1, who say that when praying without a minyan, one should not say piyutim in the middle of a Berakha.

piyutim are allowed to find their way into the regular liturgy, or do they cause a hefsek[6] (an unwarranted interruption)? It is from here that we will begin our halakhic analysis.

The presence of piyut is not just fairly ubiquitous across the Jewish year at least in some communities, but the writing of piyutim by important Jewish scholars also went on for centuries. Some have claimed that the earliest indications of piyut go back to the 2nd or 3rd century CE (late Mishnaic or early Gemara period)[7] and that in some circles, the writing of these liturgies lasted into the 18th or 19th centuries. Part of the problem is that the earliest paytanim were anonymous, so that dating is difficult, and even when names do begin to appear, there is great scholarly controversy as to when they lived.

A second problem is definitional, as scholars debate what exactly is a piyut and what is not. Comparing the early twentieth century's Jewish Encyclopedia's definition, "hymn added to the older liturgy,"[8] with the definition appearing in the mid-twentieth century's Encylopedia Judaica, "a lyrical composition intended to embellish an obligatory prayer or any other religious ceremony, communal or private,"[9] indicates that there are unresolved questions as to what exactly constitutes a piyut.

One element that both definitions share and that brings us back to the basic halakhic question of hefsek is that at least one form of piyut, and particularly the one we know from the High Holidays, involves an interruption or insertion into the liturgy. One further indication of concern about hefsek may well be the very presence of debate or variation in the recitation of different piyutim in different communities, precisely the aspect of piyut that we have highlighted so far. Such debates indicate that the text in question is not part of the fixed liturgy and that, therefore, their recitation does constitute an interruption. Whether that interruption is halakhically concerning or not, rather than just a pragmatic reality, is subject to significant debate, as we shall see.

By this light, Kedusha may well be a very early example of piyut.[10] No one recites Kedusha as part of Maariv, because there is no repetition of the Amidah into which it can be inserted. Since insertion into an older liturgy is a hallmark of piyut, the fact that Kedusha seems dependent on "insertion" may well define its payitanic nature. Further, in the land of Israel (where many of our piyutim originate), as opposed to in Babylonia, Kedusha was not originally recited every day of the year.

The relevant section in rabbinic literature (Massekhet Soferim 20:5) that teaches us this fact, also tells us specifically that Kedusha was understood to be an insertion. It reads:

> The Chazan is required to recite Kadosh (the Kedusha) **in** (emphasis mine) the Shmoneh Esrei of Chanukah and also on New Moons and also on Hol Hamoed (the intermediate days of the

6 Rabbi Shmuel b. R.abbi Natan Nata haLevi Kelin (1724-1806), Mahatsit Hashekel, Orah Haim, 131, reports that there are a number of Poskim who take the position that it is never appropriate to recite piyutim, because they are a hefsek.

7 The word "piyut" itself appears in Bereishit Rabbah 85:3, Yalkut Shimoni, Torah: 144 and Daniel 1063, but in these texts it means a fictional narrative. On the other hand Vayikrah Rabbah 30:1 says that on his death, Rabbi Eleazar son of Rabbi Shimon bar Yochai (second century Tanna) was called a teacher of Torah and Mishnah, a poet (paytan) and a preacher. He may have been Rabbi Eleazar Hakallir as we discuss below.

8 Online at: http://www.jewishencyclopedia.com/articles/12195-piyyut

9 Online at:

http://go.galegroup.com/ps/retrieve.
do?sgHitCountType=None&inPS=true&prodId=GVRL&userGroupName=imcpl1111&resultListType=RELATED_
DOCUMENT&contentSegment=9780028660974&isBOBIndex=true&docId=GALE|CX2587515840#192

10 See Rabbi Yair Chaim b. Moses Samuel Bachrach (1638-1702), Responsa Chavot Yair 238. In addition, Rabbenu Asher b. Yekhiel (c. 1250- 1327), parallels piyutim that interrupt the first three blessings of the Amidah with Yaaleh Veyavoh and Al Hanissim. Also, Tosefos HaRosh, Berahot 34a, sv. Lo yishal, and Radbaz 3:532 see Kedusha as a piyut but distinguish between "Kedushot" and other insertions in that the early piyutim like Kedusha are written in the same style as the Amidah whereas the later piyutim are dissimilar and create at least the strong doubt that they constitute a hefsek.

> festivals), because the Torah writes in regard to them "a perpetual offering." And Rabbi Hiyya taught: Any day that has a Musaf (the additional sacrificial service in the Temple) has sanctity (Kedusha). If it does not have Musaf it does not have Kedusha, with the exception of Chanukah. For even though it does not have Musaf it does have Kedusha. Why? Because it does have [the recitation of] Hallel. And there are those who say; even Purim because it has [the reading of] the Megillah.

This text tells us both that Kedusha is an insert and that---at least in Israel---at the beginning of the Common Era, whose minhag Massekhet Soferim records that it was said only on some days of the year. Those are classic indications that it is a piyut. Also the fact that this was done only on special or sacred days of the year presages one of the classic answers to the problem of piyut creating a hefsek, at least on the Yamim Noraim (i.e., that the sanctity of the holidays in general, and the fact that we stand in the dock of life and death Judgment during the High Holidays permits these interruptions to help us in these desperate moments).[11]

We seem to make reference to this claim in the first extra paragraph recited by the Chazzan during the repetition of the Amidah on Rosh Hashannah and Yom Kippur. This paragraph is called a "reshut" (a paragraph that asks permission), in which the Chazzan asks leave to add these piyutim. In all of the places that this appears, it begins with the words "Mi-sod hachamim unvonim," and apart from some small local differences in the wording,[12] it reads:

> From the esoteric[13] knowledge of the sages and those who know and from the secret knowledge of those who understand, [may] I open my mouth with prayer and supplication to seek audience and compassion from the face of the king, [the king of kings and the Lord of all Lords (Rosh Hashannah)] [full of mercy who pardons and forgives sins (Yom Kippur)].

Rosh Hashanna is the day when God's rule is most manifest, and Yom Kippur is when judgment of our sins reaches its peak. The reshut paragraph tells us that these are the reasons why we feel compelled to add piyutim to respond to these spiritual realities on these days.[14]

Nonetheless, the debate about piyut and hefsek is joined in the Shulhan Arukh between the Mehaber, Rabbi Joseph Karo, and Rabbi Moses Isserless (1520-1572) in two different locations. The first text reads:.[15]

> There are places where they interrupt in the blessings of Shema to say piyutim, and it is appropriate to refrain from reciting them because they constitute a hefsek.

And Ramo comments:

> And there are those who say that there is no prohibition in this matter and so the custom in all places is to recite them.

11 Cf . the discussion of the vidui of Rabbenu Nissim below

12 In Worms on Rosh Hashannah the paragraph ends the King of Kings full of mercy (maleh rahamim).

13 See Rabbi Jacob b. Joseph Reischer (1670-1733), Responsa Shevut Yaakov 1:12, who uses the esoteric nature of the piyutim to defend their use. He says: And the reason (why we can interrupt the prayers to recite piyutim), is that these piyutim were established by Hakallir and his colleagues on the basis of awesome secret knowledge, so deep who can find them. And this concern (that no changes be made in the piyutim) applies not only to those who wish to change the texts, but even to those who wish to change their location in the prayers while trying to avoid concerns about a hefsek. See also Rabbi Eleazar ben David Fleckeles (1754-1826), Teshuva Me'ahava 1:1.

14 Cf. Rabbi Moshe Sternbuch (b. 1926), Teshuvot Vehanhagot 2:41.

15 Orah Hayim 68

Ramo also adds:

> Perforce a person may not separate himself from the community in a place where they are accustomed to recite them, and he is to recite along with them.

The second text reads:[16]

> One should not recite either piyutim or krovet"z in the prayer (the Amidah).

To which Ramo responds:

> There are those who permit, because these deal with the needs of the many, and so the custom exists in all places to recite them.

There is a long history to this debate that is worth discussing. In a very real sense, it does break down in large measure to Ashkenazim who sanction lots of piyutim,[17] and Sefardim who recite very few, if any. One of the earliest discussants of the issue is Rabbi Simha of Vitry in the earliest Ashkenazi siddur, which is known as Mahzor Vitry.[18] He cites the Talmudic passage that prohibits asking for one's needs in the first or last three blessings of the Amidah[19] and suggests that this may preclude the use of Piyutim in the Amidah. In response, he cites a pivotal figure in the piyut debate, Rabbenu Tam (Rabbi Jacob b. Meir, 1100-1171), who rules that one may add material to any blessing in the Amidah, whether that material is praise, prayer or request, because ultimately, these things are part of the theme of the blessing. Therefore, this is not considered a hefsek at all.

On this basis, some make a distinction between piyutim recited in the Shema blessings between Barkhu and the Amidah, which is prohibited because it is a hefsek, while those in the Amidah are permitted.[20]

Another answer to the problem of hefsek is identifying the main author, or at least the author who established the halakhic precedent for these types of piyutim as a Tanna. As indicated above, the earliest piyutim were composed anonymously. Neither the authors nor their contemporaries left any record of who wrote which part of these liturgies. The frequent appearance of acrostics spelling out the author's name, as seen in later piyut, is not there in the early centuries of these texts. According to scholars the earliest paytan known to us is Yose b. Yose, who lived in Israel no later than the 6th century. He, along with a large group of others such as Yannai, Simon ibn Megash, and Eleazar Hakallir, who is arguably the most important for our purposes, all lived and wrote in Israel before the Arab conquest of the land in 636. However, no scholar has been able to date many of these people with absolute accuracy, and the period in doubt may stretch a hundred years or more.

In that connection, one of the ways in which the deviations that piyutim display from talmudically accepted liturgical rules such as hefsek can be explained, is to identify Eleazer Hakallir with a second century Tanna or scholar of the Mishnah.[21] But even those who make this identification cannot agree as to which Eleazar he was. Many say Rabbi Eliezer b. Rabbi Shimon (bar Yohai),[22] while some say Kallir was his grandfather's

16 Orah Haim, 112:2.
17 Even the insertion of an appropriate Yiddish phrase is sanctioned by some Ashkenazim, Rabbi Shlomo Kluger (1785-1869), Responsa Ha'elef Lekha Shlomo, Orah Haim 58.
18 Mahzor Vitri 325
19 B. Berakhot 34a.
20 Cf. Yalkut Yosef, Orah Haim 68.
21 For possible meanings of his name see Rabbi Eliyahu b. Rabbi Binyamin Wolf Shapiro (c. 1660-1712), Eliyahu Rabbah 112:1.
22 Based on the Vayikra Rabbah source cited in n. 7 above.

name,[23] and others identify him with Rabbi Eleazar b. Arakh.[24] In any case, the result is the same.[25]

A Tanna has the authority to argue with any halakhic conclusion from the Talmudic era found in the Talmud. As such, none of the issues that have been raised to challenge piyut, including the issue of hefsek, are really problems, because the author, who is claimed to be a Tanna, has the authority to argue with the Talmud. Similarly, we have the right and have exercised the option of choosing to establish the law in accord with his view. This allowed later paytanim to follow Kallir and compose as he did.[26]

One of the major defenders of piyut is the previously mentioned Rabbenu Jacob Tam (1100-1171), and he is probably the major authority on whose shoulders Ashkenazim stood as they accepted Piyutim. But even he was not sure exactly who Hakalir was.

Rabbi Meir b. Rabbi Yekutiel Hakohen (d. 1298), author of Hagahot Maimaniyot, tells us of some of the debate about piyut and of Rabbenu Tam's position. He writes:[27]

> And so too Hakalir established Krovet"z (a sub-category of piyut),[28] and he was from Kiryat Sefer,[29] [30] and in his day they sanctified (the month) based on visible sighting (of the new moon),[31] and he was a Tanna. Perhaps he was Rabbi Eleazar b. Shimon, as is clear in the Pesikta.[32] But even if he is not Rabbi Eleazar b. Shimon, he is a Tanna, as has been explained, and he may be relied on as Rabbenu Tam has explained.[33] And this is also the opinion of our teacher, the author of this

23 See Rabbi Eleazar b. David Flekeles, Teshuva Mei'ahava 1:1.

24 Flekeles, loc. cit. This would make him an early Amora.

25 Flekeles, loc. cit.

26 Flekeles also discusses the possibility that he was post-talmudic from the era of the Geonim, which is closer to the scholarly position as to when he lived than anything we have seen to this point.

27 In his comment to Rambam Hilkot Tefillah 6:3.

28 The name is traditionally understood as an acrostic for "kol rina veyeshua beahalei tsadikim" (the sound of song and salvation in the tents of the righteous, Psalms 118:15), cf. Rabbi Joseph b. Ephraim Karo (1488-1575), Bet Yosef Orah Haim 68 and Rabbi Yechiel Michel ben Rabbi Aaron HaLevi Epstein (1829-1908), Orah Hashulkhan, ad. loc. There is however some suggestion that the term is a misprint of "Krovot," prayers that are offerings or that bring one closer to God, cf. the 1906 edition of the Jewish Encyclopedia online at http://www.jewishencyclopedia.com/articles/12195-piyyut. In fact Rabbi Yitschak b. Moshe of Vienna (1180-1250), Sefer Ohr Zarua 1:19, in a parallel source to this quote from Hagahot Maimaniyot reads "Krovot" not "Krovet"z," as does Rabbi David b. Joseph Abudraham (13th century), Sefer Abudraham, Birkhot Keriyat Shema.

29 There is no text in Rabbinic literature that identifies any Tannaitic Rabbi Eliezer as coming from this city. One of the characteristics of Piyut is the use of words or phrases from classic Jewish literature in a symbolic way to include an important idea that appears in the original source that is now carried into the later text. That seems to be the case here. The Midrash (Yalkut Shimoni, Torah 682, Joshua 4, 24 and see also B. Temurah 16a) says that many laws were forgotten when Moses died. These were restored through the casuistry of Otniel b. Kenaz. The Biblical proof text for this speaks of the capture of Kiryat Sefer by Otniel b. Kenaz (Joshua 15:15-16, Shoftim 1:11-13). Referring to someone as coming from Kiryat Sefer credits that individual with establishing halakha as it should be. Using the phrase here indicates that Hakalir's work in Piyut established the law as is correct in the same way that Otniel did all those years ago. See Flekeles loc. cit. who agrees with this approach.

30 The use of this city to indicate establishing or reestablishing the halakhah as it should be, appears in the sources that are parallel to this one found in the writings of other medieval scholars discussed below. In addition, Ramban (1194-1270), in his introduction to his Sefer Hazechut to Yevamoth asks God to teach him understanding to be able to complete the Kiryat Sefer he had begun to build. See also Rabbenu Gershom (ca. 960-1028), Temurah 16a. Also see Rashi (1040-1105), ad. loc, sv. Vayilkeda Otniel who asks: what is Kiryat Sefer? And answers: Halakhot. Rashi's student, Rabbi Simha of Vitry (12th century), in his Mahzor Vitri, 427 offers a definition: Kiryat Sefer: Sifrei Halakhot (books of Halakha). In fact the Hagahot Maimaniyot source we are discussing first appears with variation in Mahzor Vitry, 325, where, after raising the question of whether Kallir is really Rabbi Eleazer b. Shimon, Mahzor Vitry concludes that regardless, Kallir certainly came from "Kiryat Sefer". As an extension of the concept Rabbi Ishtori Ha-Parchi (1280-1355), Kaftor Va-Ferach, ch. 44, says that Otniel karah sefer velachad Kiryat Sefer (studied a book and captured Kiryat Sefer)

31 The system changed in the late 350's CE. But some thought that sanctification based on seeing the new moon ended with the destruction of the Temple. The proof for this dating of Kallir and for the claim that he came from Israel is the fact that piyut authored by him never includes texts for second days of holidays, cf. Mahzor Vitri, 325, Rabbi Zedakiah ben Avraham Ha-Rofe (1210-1275), Shibolei Haleket, Inyan Tefillah, 28, Tosefos Ha-Rosh, loc. cit, Abudraham, loc. Cit.

32 See n. 7 above. We have this source in Vayikra Rabbah not in Pesikta.

33 There is no explicit statement by Rabbenu Tam that I can find that says this, however Tosefos Hagigah 13a, sv. Veraglei hahayot, without attribution, makes a parallel statement to the one we are discussing. In addition, there are a number of places in Tosefot where Rabbenu Tam or an anonymous Tosefot (or Rabbenu Elhanan), states that Kalir authored one piyut or another and indicates that Kalir is in accord or in debate with our Talmud. These texts often decide the law in accord with what Kalir included in his piyut,

> work (Rambam), and of all our Rabbis, who enacted and permitted the recitation of Zachreinu and Mi Camocha (two insertions into the beginning of the Amidah recited during the High Holiday period). And this is not in accordance with Halakhot Gedolot,[34] who wrote concerning the talmudic rule that "one should not ask for his needs in the first three blessings,[35] 'from here there emerged from the Rabbis that they enacted not to recite Zachreinu on Rosh Hashannah'"… In truth concerning the (inclusion of) Krovet"z in the first three blessings, Rabbenu Hananel (990-1050) wrote that they did not act appropriately. And in addition, Rabbenu Simha (12th-13th century) brought a proof… (that these insertions are inappropriate).

Many other medieval sources also include a statement that is the same as, or at least quite similar to, the one that identifies Hakallir as a Tanna based on Rabbenu Tam's claim[36] to that effect.[37] Included in many of these sources is also the assertion that Kallir came from the Land of Israel and followed the teachings of the Jerusalem Talmud, which justifies his opposition to the halakha as it appears in the Bavli.[38] As a result, the conclusion for Ashkenazim is generally the same as the one we find in the first Ashkenazi Siddur, Mahzor Vitry, despite the interruptions made by the piyutim in the liturgy:

> Ve'al da ana samikh lomar piyutin … detsarchei tsibbur ninhu
>
> And on this we rely to recite piyutim… as they involve a communal need.

Just as Rabbeinu Tam is famous for his defense of piyut, perhaps the most well-known detractor is Rabbi Abraham ibn Ezra (1089-1164).[39] His longest statement on the subject appears in his commentary to Kohelet 5:1. The verse reads:

> Do not be rash with your mouth, and do not let your heart utter anything hastily before God. For God is in heaven, and you on earth; therefore let your words be few.

In his usual marvelous poetic and linguistically sophisticated style, Ibn Ezra raises several significant concerns. First, beyond the obvious implication of the verse that prayers should be brief and not expansive, Ibn Ezra cites the fact that the High Priest on Yom Kippur recited a Tefillah Ketzara (a brief prayer).[40] Shouldn't that preclude these lengthy piyutim on the Day of Atonement? Are we really to be more pious than the High Priest?

Second, it is prohibited to recite prayers that one does not understand, and most people do not understand the piyutim. Some argue that they are relying on the understanding of the original author, but one cannot rely on that original author and his understanding because everyone makes mistakes. That includes the authors of these texts, but also most certainly the copyists, who transcribed the material repeatedly for hundreds of years before printing was invented and who must have made errors, before the

cf. Rosh Hashannah, 8b, sv. Shehachodesh mitkaseh, 27a, sv. Keman matslinan, , See also Tosefot Eiruvin 21a, sv. Ehad mishloshet, Tosefot Megillah 25a, sv. Mipnei sheoseh, Tosefot Avodah Zarah 35a, sv, Mai Shenah, Tosefot Menahot 35b, sv, vechamah, Tosefot Hullin 109b, sv. Nidah Dam Tohar, Tosefot Bekhorot 55b, sv. Hu Perat, also Mahzor Vitri 325.

34 Rabbi Shimon Kayyara, 9th century.

35 B. Berakhot 34a.

36 Some sources cite the Rosh but the Rosh credits Rabbenu Tam see next note.

37 Mahzor Vitry loc. cit, Tosefos Hagigah loc. cit,, Rabbi Asher b. Jechiel, Rosh Berakhot 5:21,Tosefos Harosh, loc. cit, Shibboleh Haleket, loc. cit. Ohr Zarua, loc. cit. Abudraham loc. cit. Also see Rabbi Alexander Zuslin Hacohen (d. 1349), Sefer Agudah, Berakhot 1:23, who also has a similar statement, but who challenges the idea that Hakallir is Rabbi Eliezer b. Shimon because there is a statement made in a Kallir piyut that contradicts a position of Rabbi Eliezer b. Shimon.

38 Mahzor Vitry loc.cit, Tosefot Hagigah loc. cit., Tosefot Hullin loc. cit. and see Tosefot Avodah Zarah loc. cit, Shibboleh Haleket, loc. cit.

39 For a discussion of this debate see Bachrach, loc. cit.

40 M. Yoma 5:1, Tosefta Yom 2:13, B. Yoma 52b-53a, B. Taanit 24b

prayers entered into our Mahzorim. Under no circumstances should we be reciting prayers on these days that contain mistakes.

Starting with his third point, Ibn Ezra specifically zeros in on his concerns with Kallir and similar paytanim.[41] He is disturbed by the fact that most of these piyutim are composed of riddles and parables. Ibn Ezra refers to the fact that many piyutim include frequent, obscure references to various Biblical and Midrashic [42] sources that draw the meanings of those texts into the piyut. But very few people, if any but the author, will recognize these references and understand them as they were meant to be understood. In fact, noted commentators of Kallir's piyutim debate their meaning and sometimes even what spelling or word he actually used. If we compare Kallir's piyutim to the Biblical prayers of King Solomon[43] or even of Daniel,[44] the clarity of language in those earlier liturgies (as in all of our early prayers) should tell us that the complexity of Kallir's compositions is not a desirable quality.
Ibn Ezra then comments on Kallir's straining and tearing to make his piyutim rhyme, which is another element that is alien to prayers in the Bible. The authors of those earlier prayers make no attempt at making them rhyme. Considering the difficulties and linguistic permutations that Kallir goes through to accomplish his rhyming texts, he would have been far better off if he had not made rhyming a priority in the first place.

Turning now to philological and linguistic concerns, Ibn Ezra raises some other significant issues. The piyutim are not written in pure Hebrew, the holy language (lashon kodesh), but rather there are admixtures of various Talmudic dialects and of Aramaic, Persian, Arabic, and perhaps other tongues. On the other hand, all the regular prayers of the yearly liturgical cycle are written in the pure Hebrew of the Bible. Further, even the Hebrew that Kallir used is replete with significant errors.

Finally, Ibn Ezra is concerned with the content. The operative principle that he advocates is that no text should be taken out of its basic (pshat) meaning.[45] Nonetheless, piyut is full of Midrash (levels of meaning beyond the basic text) or Aggadah (homiletics), and we certainly should not pray in ways that include esoteric materials (sod),[46] or parables, or in styles containing words that are counter-halakhic, or that are written in a manner that lends itself to multiple interpretations. Similarly, piyutim that are philosophically or scientifically erroneous, such as those that speak of an infinite universe (sic), whose existence and creation is scientifically impossible, should not be part of the liturgy. These things are not prayers. They are laughable. Ibn Ezra concludes that he cannot describe even 1/1000 of the mistakes in piyut, and, therefore, we should pray only the regular prayers, so that our words will be few and we will not be punished.

Nonetheless, Ibn Ezra himself was unable to resist the temptation to compose piyutim, presumably without the problems he highlighted in Hakallir.[47] Ironically, poets like Ibn Ezra, who were not known as poskim (halakhic decisors), eventually had their credentials questioned in regard to piyut as well. We will mention below the claim that the piyutim themselves and what they contain are evidence of halakhically significant opinions supporting what we find in these liturgical sources. After all, their authors, who were significant Jewish sages, wrote them and thought they were fine from a Jewish legal standpoint. In contrast, Rabbi

41 Rabbi Ovadiah Yosef (1920-2013), Responsa Yabiah Omer: Orah Haim 10:45 argues that Kallir wrote piyutim only for his own generation and subsequent generations are less able to understand them, thus defending both Ibn Ezra and Kallir.
42 For defense of this practice see Flekeles loc. cit.
43 1Kings 8:12f.
44 Daniel 9:4-19.
45 See B. Shabbat 63a, B. Yevamot 11b, 24a.
46 This is in direct contradiction to the reshut paragraph discussed above that begins by asking for permission to draw on esoteric material.
47 These include Ashir Bemeisharim recited by Morrocon Jews on Shabbat Parshat Vayishlah, Eli Eliyahu recited by many Sefardim after Shabbat each week, Lecha Eli Teshukati recited by many Sefardim before Kol Nidrei and perhaps, most well known, Esh Tukad Bekirbi (with the alternating refrain Betzaiti Mimitsrayim and Betzaiti Miyerushalim) recited in all rites on Tisha B'av.

David ben Solomon ibn Avi Zimra (Radbaz, 1479-1573) discusses various mournful piyutim added to the davening on the three Shabbatot leading up to Tisha B'Av, some of which were composed by Rabbi Judah Halevi and Rabbi Solomon ibn Gabirol. In his responsum, Radbaz strongly encourages those who can eschew this practice to do so. In his further discussion he says:

> And don't ask concerning their (the piyutim's) authors, for perhaps they are not masters of Halakhic decision making (Baalei Horaah), but rather they are poets. [48]

Though Radbaz does not mention him by name, it would seem that Abraham ibn Ezra would fit into the poet category and is not generally considered a Baal Horaah.

To round out this story, the Chidah (1724-1806) defends these piyutim and says Yasher Koah to places like the Amsterdam community, which not only maintained the recitation of these texts, but even refused to change the location of these paragraphs in the services, because they thought it most important to maintain the ambient minhag. Nonetheless, it appears that Radbaz's view has become the operative liturgical policy for the three weeks before Tisha B'av each summer, and these piyutim are not recited in the synagogue.

In general, Radbaz, who was another Sephardic scholar, was a major critic of piyutim. He wrote:[49]

> The words of the ignorant fools became mixed into the words of the living God. And therefore I agreed not to include any piyut, not of the early sages nor of the later sages, in the midst of the prayers or the blessings, as a kind of fence.

Yet Sephardim in general, including those already mentioned, strongly defend the piyutim that they do say. For example, Rabbi Yitshak Yosef , the current Sephardi Chief Rabbi of Israel, citing Radbaz himself, says that:[50]

> In the places where the custom is to recite piyutim and the lengthy vidui (confessional) of Rabbenu Nissim, we should not be concerned that this constitutes a hefsek in the repetition. And it is not appropriate to skip them. But one who does away with their recitation, the spirit of the Rabbis is not happy with him.

He also adds that this vidui is remarkably powerful at achieving the desired result of bending the heart and bringing the supplicant closer to God.

One additional concern is that some piyutim seem to be directed at angels, either to respond to the request being made by the supplicant or to intercede for the supplicant with God. In the first category, the prayer for rain recited in the Musaf Amidah repetition of Shmini Atzeret[51] begins by naming Af Beri as the angel in charge of rain and indicating that he is tasked with forming clouds and causing rain to fall. The second type of piyut is represented by one of the paragraphs found towards the end of Selichot that begins Machnisei rahamim (those [angels]who bring mercy [before God]). This would all seem to fly in the face of the fifth of Maimonides (Rambam's) thirteen principles of the faith, which states that one may pray only to God and not to anything else, including specifically angels.[52]

Rabbi Moses Sofer (Hatam Sofer, 1762-1839), deals with this question in one of his responsa.[53] He tells us

48 Responsa Radbaz 3:645
49 Responsa, Yoreh Deah 8:13.
50 Yalkut Yosef, Kitsur Shukhan Arukh, Orah Haim, 621:8. See also Rabbi Joseph Chaim ben Elijah al-Chakam (1835-1909), Responsa Rav Pa'alim, Orah Haim 4:35.
51 In Israel even Ashkenazim have done away with the recitation of this paragraph.
52 See Rambam's Introduction to chapter 10 of Tractate Sanhedrin in his Mishnah Commentary.
53 Responsa Chatam Sofer, Orah Haim 166.

that Judah Loewe (Maharal) of Prague (c. 1520-1609) refused to recite the Machnisei rahamim paragraph for this reason. Hatam Sofer also extended his own silent recitation of a preceding paragraph so that those present would not realize he was not saying this one.

In fact there are quite a number of piyutim (some 20 or more in the selikhot and High Holiday liturgies and close to a dozen more including Friday night's well-known Shalom Aleichem in the regular liturgy) that speak to angels or other intermediaries and not directly to God.[54] Whether this is halakhically acceptable or not is the subject of a major cross-generational debate. In general, more rationalist or philosophical scholars oppose the practice. Along with Rambam, these include: Ramban (1194-1270),[55] Rabbi Shimon b. Tsemakh Duran (1361-1444),[56] Rabbi Joseph Albo (1380-1444),[57] and Rabbi Isaac Abravanel (1437-1508).[58]

On the other side, there are all of those paytanim who authored those piyutim that refer to angels mentioned above. Generally they come from Franco-Germany in the 11-14 centuries. Interestingly, Kalir, who does not come from that era or that region, did not author any piyutim that reference angels. But paytanim like Rabbi Shmuel of Mainz (1030-1080), Rabbi Shimon Hagadol of Mainz (c.925-1020), Rabbi Amitai b. Shaftiyah (sometime between 8-10 century), and Meir b. Isaac the Hazzan (died ca. 1095, Hazzan in Worms, author of Akdamut), Torah scholars all, spoke to angels in their piyutim. Others who defended the practice include Rabbi Menahem Recanati (ca. 1250-ca.1310),[59] Rabbi Shmuel Strasson (1794-1872) who defends it in public but not in private worship,[60] Rabbi Zedekiah b. Rabbi Avraham Ha-Rofeh,[61] Rabbi Isaac Weiss (1873-1942),[62] Rabbi Yekutiel Yehuda Halberstam (1905-1994),[63] and Rabbi Joel Sirkis (1561-1640) as reported by Arukh Hashulkhan.[64]

This issue became a raging debate that split the community and the Rabbis of Trieste in Italy some 300 years ago.[65] The conflict included charges of heresy, inability to understand traditional sources, ignorance of the law and of the tradition. Essentially, it boiled down to a disagreement between more mystical (pro) and more philosophical (anti) Rabbis, but also to Ashkenazim (pro) versus Sephardim (anti).[66] Unfortunately the rhetoric was highly charged and the animosities it created were quite deep and painful. Eventually this issue was turned over to two leading Italian Rabbis of the day, Rabbi Shabtai Elchanan Recanati (17th-18th centuries), and Rabbi Simshon Mipurgo (1681-1740). They accepted and permitted recitation of these piyutim and reminded the interlocutors that it is the business of the Rabbis to "increase peace in the world."[67]

This debate took on renewed life when the Reform movement began its review of and its changes to the traditional liturgy, and often used the anti-angelic arguments discussed here to do away with piyutim. We will not take up that dispute, except to cite one responsum defending the recitation of piyutim from Rabbi Akiva Eiger (1761-1837), written as part of this debate.[68] It brings us back to the concerns raised by Abraham ibn Ezra in his commentary to Ecclesiastes. Eiger writes:

54 See Shlomo Shparcher, Hapulmus al Amirat Machnisei Rahamim, Machon Yeshurun, 2010
55 Bereishit 46:1.
56 Magen Avot 1:4.
57 Sefer Haikarim 2:17.
58 Rosh Amanah ch. 12.
59 Bamidbar 13:2.
60 Rashash, Sanhedrin 44b
61 Shibolei Haleket, Rosh Hashannah 282
62 Responsa Siah Yitshak, 411. While generally supportive, this responsum cites a number of authorities who oppose involving angels in prayer.
63 Responsa Divrei Yatsiv, Yoreh Deah 191.
64 Loc. cit.
65 The Rabbinic Responsa that describe the conflict date from 1722-1744.
66 This distinction is largely but not entirely true. A roughly contemporary responsum that reflects this debate is Rabbi Shmuel Landau (d. 1834), Responsa Shivat Tsion 5.
67 B. Berakhot 64a.
68 Responsa Rabbi Akiva Eiger, Jerusalem, 1974, p. 78-79.

> And so too with piyutim. one should not change the wording that was established by the highest holy ones. Even though Rabbi Ibn Ezra … made fun of and stormed against Hakallir, may his honor remain in place.[69] And may the good God forgive Rabbi Ibn Ezra concerning his immense error concerning this matter.

On the other hand, to show that these debates sometimes end differently, a controversy from around the same time about piyut in general and whether it creates a hefsek appears to end with the opposite opinion holding sway. Rabbi Judah b. Isaac Ayash (d. 1760), head of the religious court in Algiers, tells an intriguing story and answers the resultant halakhic question in his responsa.[70] Apparently the custom in Algiers was for the Chazan to chant piyut before the first aliyah, when there was a hatan (groom) in shul. One Shabbat, when there was such a joyous occasion, the Cantor recited one piyut. When he completed that text, the Cohen recited Barkhu and the Barukh response. At that point the Chazan began a second piyut and, despite complaints from the community, insisted on silencing the Cohen and finishing the piyut. The question was asked of Rabbi Ayash whether this was a hefsek that would require the Cohen to repeat the entire Torah blessing, and he decided that it was an unwarranted interruption even if it was designed to praise God and so the Cohen needed to recite the entire blessing again. "To piyut or not to piyut" certainly has a long and sometimes acrimonious history.

In the end, the disagreement about angels in piyut may come down to a debate between a text in the Babylonian Talmud and another in the Palestinian Talmud. B. Shabbos 12b warns us:

> Rabbi Johanan said: When one petitions for his needs in Aramaic, the Ministering Angels do not heed him, for they do not understand Aramaic.

This text certainly suggests that angels are involved, and must be involved, in the prayer process. Hence, other than at peak moments when we allow ourselves to speak to God directly, Aramaic is not to be the language of prayer. Sherira Gaon (906-1006) goes even further in explaining this text. He says that there are things that angels can do without first asking God. If one wants to access those things, one cannot pray in Aramaic, because the angels won't understand. However, if the prayer is to God, then one can pray in any language. [71]

On the other hand, the Jerusalem Talmud says:[72]

> If a difficulty comes upon an individual, he should not cry out to Michael or Gabriel (the most important ministering angels), but he should cry out to Me, and I (God) will respond to him immediately.

This would seem to negate the idea of involving angels in one's prayer.

Finally, a word about sod, the esoteric knowledge that many piyutim are based on, that will tie together the perceived need for the intrusion of piyut into the set prayers, the frequent mention of angels, the 11th-14th century Franco-German origin of many piyutim, and the subtext that piyutim are designed to create in the High Holiday davening. The esoteric knowledge that we find here comes from the ancient Jewish mystical tradition that the Talmud calls Maasei Merkava (the works of the chariot), also known as Heikhalot

69 See Teshuva Meiahava, loc. cit, for a defense of Ibn Ezra on this issue.
70 Responsa Beit Yehudah, Orah Haim 30. Also Rabbi Ovadiah Yosef responsa Yehave Daat 2:7 and 5: 17, discusses interrupting the prayers with this type of piyut.
71 Responsa Hagaonim Harkavi #373, Otsar Hagaonim, Shabbat, 4-7.
72 J. Berahot 9:1 (13a).

literature. Prototypical for that literature is the story of the four sages who entered Pardes with only Rabbi Akiva emerging successfully.[73] During that journey, the mystic travels through the seven heavens to stand before God's throne, where he joins with the angels in singing the Almighty's praises and particularly in reciting Kedusha, the angelic prayer par excellance.

The piyutim on Rosh Hashannah and Yom Kippur take us on just such a journey, often more than once in a particular tefillah.[74] First, they typically carry us upwards to an initial peak moment, not surprisingly at the recitation of Kedusha. Piyutim like Unetaneh Tokef, Lekel Orekh Din, and Melekh Elyon, which immediately precede Kedushah, indicate that we are reaching this peak, and piyutim recited earlier in the Amidah repetition carry us through the beginning stages of our climb to God. A second peak comes with the Avodah on Yom Kippur or with the Malkhiyot, Zichronot ,and Shofarot blessings of the Musaf Amidah on Rosh Hashanna. Yet a third peak is reached with the martyrology and the story of the ten sages brutally murdered by Hadrian the Roman emperor during the years 135-138, recited in the Yom Kippur Musaf. Piyutim are used to present and to build to these moments in very specific ways.

For this reason, in their own terms, they are of optimum spiritual impact if inserted into the Amidah repetition, as they lead to elements like Kedusha that are intrinsically part of that repetition. This is precisely where we find the piyutim in most Mahzorim.

Further, Heaven, in Heikhalot literature, is a place filled with countless angels who make their appearances in many roles as the mystical journey continues, therefore, reference to these celestial beings is certainly what one would expect as we make our climb to God. Finally, since the 11th-14th centuries, Hassidei Askenazi and those who followed their legacy in Franco-Germany wrote most of these piyutim, the Heikhalot material in the liturgy makes sense. This community was the last one in Jewish history that followed the Heikhalot tradition.[75]

That is why these texts are as we find them, and why it was particularly in more Heikhalot oriented communities and among Rabbis who tended to the esoteric, that these piyutim have been defended and preserved. For those whose custom it is to recite them, the imagery of this metaphysical journey to God's throne to beg for forgiveness and the blessing of a good year, may well add another element to these holy days that aid us in our Kavanah (focus in prayer), at this most important time of the year.

In the end, most in the Ashkenazi community fall in line with another position taken by Rabbi Moses Sofer, or with something similar. He writes that all the sages of France, Rashi, the Tosafists, Rabbi Meir of Rothenberg (Maharam, 1220-1993), Rabbenu Asher, and his son Yaakov (d. before 1340),[76] all prayed using the Ashkenazi rite (which includes piyutim), "and their prayers rose to heaven."[77] He goes on to tell us that the piyutim that we recite on Rosh Hashannah and Yom Kippur were chosen by Rabbi Shimon Hagadol, as endorsed by the Ari, based on esoteric truth (Ha'emet), following the model of Hakallir. He then cites a responsum of Rosh, in which he states that even when in a Sephardic community, he followed the custom of Ashkenaz and "our tradition and the heritage of our ancestors the sages of Ashkenaz, to whom the Torah was an inheritance to them from our ancestors, from the days of the Temple's destruction".

73 Tosefta Hagigah 2:3, B, Hagigah 14b,
74 For a detailed description see my article on the Yom Kippur, Musaf Amidah repetition in the forthcoming series of books on Tefillah to be published by Yeshiva University called Metokh Haohel.
75 See Joseph Dan, Jewish Mysticism v. II: "The Middle Ages," pp. lxviii-lxix (introduction).
76 The author of the Tur.
77 ibid. 16.

Writ large and moving beyond the Ashkenazi community, Levush (1530-1612) says:[78]

> In those places where they were accustomed to recite it [piyut], they recite it. In those places where they were accustomed not to recite it, they don't recite it. Because both opinions have authorities to rely on.

Similarly, Magen Avraham (Avraham Gombiner, 1637-1683), cites[79] a passage from the Jerusalem Talmud that says:

> "Even though we sent you the order of the prayers do not change from the custom of your ancestors".[80]

Particularly during the High Holidays, evoking the merit of our ancestors seems an appropriate thing to do.

Shanna Tova to all.

78 Mordecai Yoffe, Orah Haim 68.
79 Ad. loc.
80 J. Eiruvin 3:9 (21c). The wording is not quite the same as Magen Avraham writes.

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