וכל שכן שאינו מצטרף אם עומד בחלל הפתח בחלק החיצוני אחרי קו נעילת הדלת כלפי חוץ (היינו כאשר מיקום סגירת הדלת, הינו בקצה חלל הפתח לצד פנים בית הכנסת). [ראה ביאוה"ל ד"ה של, לדעת מרן]

אולם אם עומד בחלל הפתח לצד פנים (שמיקום סגירת הדלת, הינו בקצה חלל הפתח לצד חוץ בית הכנסת), **הרי הוא** כעומד בתוך בית הכנסת, ומצטרף לעומדים בבית הכנסת. [משנ"ב ס"ק נא, שו"ת איש מצליח ח"א סי' יב, ועי' כה"ח ס"ק עא]

ואם אין שם דלת כלל, נחשב העומד בתוך חלל הפתח כמי שנמצא מחוץ לבית הכנסת, ואינו מצטרף לנמצאים בבית הכנסת. [שו"ת איש מצליח שם. ועי' כה"ח ס"ק עב]

מד. כל היכא שאמרנו שאין העומדים בפתח מצטרפים לאלו שבתוך בית הכנסת, הוא אפילו כאשר רואים אלו את אלו. [כה"ח ס"ק ע. ודלא כביאוה"ל ד"ה ולחוץ]. כמבואר לעיל הלכה מ"א.

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he stands under the outer portion of the lintel beyond the doors' position.[359] If he stands in a place that would be inside the synagogue if the doors were closed, he is considered inside the synagogue and he can be counted with the others.[360] If the entrance has no doors, the entire breadth of the lintel is considered outside the synagogue, and a person standing anywhere under the lintel cannot be counted together with those inside.[361]

Day 66

As above

44) In all those cases when the ruling is that a person standing under the lintel cannot be counted together with those inside the synagogue, this is the case even if they can see each other, as explained above in halakha 41.

Matzli'ah (Vol. I, #12) refuted the position of the *Evven Ha'ozer*.

The *Bet Oved* commented that in light of this debate, we must rule stringently in practice and not count a person standing under the lintel together with those inside the synagogue. On the other hand, that person cannot be counted together with those who are outside the synagogue either, since the *Tanya Rabbati* ruled that he is considered inside the building. The *Kaf Hahayim* Sofer likewise ruled that he cannot be counted together with those inside or with those outside. The responsa *Ish Matzli'ah* (ibid.) remarked that this is correct from a standpoint of an abundance of caution, but that technically the halakha follows the *Shulhan Arukh* that the space under the lintel is considered outside the room, and someone standing there can be counted together with others who are outside.

359. The *Mishna Berura* (*Bi'ur Halakha*) asserted that this follows the ruling of the *Shulhan Arukh*, which concurs with that of Rabbenu Yeruham. The *Yad Efrayim* likewise ruled that this person is halakhically considered to be outside. According to the *Tanya Rabbati* and Harav Eliyahu of Vilna, however, he can count together with the people inside.

360. The *Mishna Berura* (55:53) cited the *Yad Efrayim* stating that all the *Poskim* agreed that in this case the person is considered inside. The *Mishna Berura* added that according to the *Peri Megadim's* interpretation of Rabbenu Yeruham's opinion, the person is considered outside even in this case. Nevertheless, he concluded that we can be lenient about this since many *Poskim* disagreed with Rabbenu Yeruham.

The *Kaf Hahayim* Sofer (55:71) ruled that even a person standing under the inner portion of the lintel should not be counted together with those who are inside, but the responsa *Ish Matzli'ah* (Vol. I, #12) refuted this ruling, explaining that according to the *Shulhan Arukh* this person is considered inside. The *Halakha Berura* (page 175) concurred.

361. The *Hikre Lev* pondered the halakha regarding the lintel of an entranceway where there are no doors attached. One might argue that the lintel can be considered outside if there are doors that close leaving a section of the lintel outside, but if there are no doors there is no reason to consider this space outside. In contrast, the *Bet Oved* wrote that if there are no doors the space under the lintel is definitely considered outside. In light of this debate, the *Kaf Hahayim* Sofer (55:72) ruled to take the stringent view of both opinions and a person standing under the lintel cannot be counted together with the people inside or with the people outside.

מה. מי שעומד אחורי בית הכנסת, וביניהם חלון, אפילו גבוה כמה קומות, אפילו אינו רחב ארבע, ומראה להם פניו משם, מצטרף עמהם לעשרה. [ש"ע סעיף יד].

ומראה להם פניו היינו דוקא שמכניס ראשו מבעד לחלון לתוך בית הכנסת, אבל אם אינו מכניס ראשו מבעד לחלון אל תוך בית הכנסת, אפילו אם אין גבוה, ואפילו רואה את הנמצאים בבית הכנסת והנמצאים בבית הכנסת רואים אותו, אינו מצטרף. [כה"ח ס"ק עה וס"ק עח. הלכה ברורה]

Facing a window from outside

45) If someone is standing by the open window of a synagogue and he inserts his head through the window to face the people inside, he can be counted together with the people inside to form a minyan. This is so even if the window is several stories high, and even if the opening is less than four handbreadths wide. If he does not insert his head through the window, he cannot be counted with them although the window is at ground level and even if he is facing the people inside and they are facing him.[362]

The responsa *Ish Matzli'ah* (Vol. #12) asserted that according to Maran the space under the lintel is considered outside whether or not there are doors. A person standing under the lintel can count with people standing outside, and he cannot count together with people inside. The *Halakha Berura* (page 175) concurred.

362. At first, the *Bet Yosef* cited Rabbenu Yeruham saying that the person standing outside must insert his head and the main part of his body through the window in order to be counted together with the people inside. Then he cited Rabbenu Yitzhak Abohab who recorded a tradition from the *Ga'on* that as long as the person inserts his head through the window he can be counted. The *Orhot Hayim* likewise wrote: "Rabbenu Hai wrote that if someone is standing behind the synagogue and there is an open window between him and the people inside, even if it is several stories high and it is less than four wide, as long as he shows them his face he can be counted to form a minyan." This is the halakha stated in the *Shulhan Arukh* (55:14).

Inserting his head through the window

The words used by the *Orhot Hayim* suggest that as long as the person is facing the people inside he can be counted even without inserting his head through the window. Rabbenu Yitzhak Abohab stated clearly, however, that he must insert his head through the window. The *Bet Yosef* asserted that both are saying the same thing in different words. That is, it could be that they both agree that the person must insert his head through the window, and the *Orhot Hayim* simply did not express it clearly. On the other hand, it might be that they both agree that the person need not insert his head through the window, and Rabbenu Yitzhak Abohab simply exaggerated the case. Since Harav David ben Zimra and Harav Moshe ibn Habib ruled that the person must insert his head through the window, it is likely that there is no exaggeration. Nevertheless, some *Aharonim* (*Magen Avraham*, *Peri Hadash*) ruled that as long as the person faces the people inside, he does not have to insert his head through the window to be counted.

Harav HIDA (*Mahazik Berakha* 55:8) cited the *Malki Bakodesh* and the *Zera Emet* ruling stringently on this matter as well, and he countered that the *Bet David* and Harav Yosef Trani ruled that it is sufficient to be facing the people inside. The *Hikre Lev* (*O.H.* #27), however, concurred with the *Zera Emet*, adding that it is sufficient to insert his head through the window. It is unnecessary for him to insert his body as well, despite the wording used by Rabbenu Yeruham. The *Haye Adam*, on the other hand, ruled that the person standing outside cannot be counted unless he inserts his head and the major portion of his body through the window.

In practice

The *Mishna Berura* (55:52) ruled leniently that it is sufficient to look through the window. He compared this to the halakha regarding forming a *zimun* – if there are two groups of people, as long as some members of one group can see some of the other, they can join together.

The *Kaf Hahayim* Sofer (55:75) ruled stringently, asserting that the *Aharonim* who necessitated the person to insert his head through the window have a strong basis for their ruling. The *Halakha Berura* (page 177) likewise ruled that the person must insert his head through the window, despite the fact that there is a compound doubt on which to base a lenient position. This is because the *Shulhan Arukh* appears to follow the stringent opinion.

מו. אם מקצת מן המנין נמצאים בפנים בית הכנסת, ומקצתן מחוץ לבית הכנסת, ושליח צבור עומד תוך חלל הפתח, השליח צבור מצרפן. [ש"ע סט"ו]. ואפילו שאינם רואים אלו את אלו, מצטרפין, כל שכל המנין רואין את השליח צבור. [ש"ע הרב סי"ז]. והטעם בזה, שכיון שהעומד בפתח הוא שליח צבור, כל אחד נותן דעתו עליו, והוא מחברן יחד. [משנ"ב ס"ק נד]

Cantor under the lintel

46) If some members of a minyan are inside the synagogue while the others are outside, but the cantor stands under the lintel of the entrance, the two groups are connected to form a minyan. Even if the two groups cannot see each other, as long as both groups can see the cantor, they can be counted together. Each person considers himself subordinate to the cantor, and therefore the cantor's presence in the entranceway connects all of them into one group.[363]

Through a windowpane

The *Kaf Hahayim* Sofer (55:76) stated that even the *Poskim* who ruled that it is sufficient to face the people inside to be counted with them agreed that this is so only if the window is open and there is no partition separating his face from those who are inside. If there is a glass windowpane, he definitely cannot be counted with those who are inside, since the glass pane constitutes a halakhic partition. For example, if someone is standing alongside a windowpane and there is excrement on the other side, it is permissible for him to pray since the glass separates him from the filth.

Window bars

The *Kaf Hahayim* added that even if there is no pane of glass in the window, if it is fitted with window bars that prevent a person from inserting his head through the window, all the *Poskim* agreed that the person outside cannot be counted with those who are inside although he faces them. See responsa *Tif'eret Yisrael* (Vol. I, *O.H.* #10), proving that according to the *Petah Hadevir* (240:7) the bars constitute a partition although there are spaces between them.

363. The source for this halakha is the *Arba'a Turim*, citing his father Rabbenu Asher. The *Bet Yosef* suggested that Rabbenu Asher derived the halakha from a similar Talmudic ruling regarding the forming of a *zimun*. See the *Shulhan Arukh* 195:2.

Harav Zalman wrote (55:17) that the cantor connects the two groups since he can see both of them, and it therefore is similar to a case where a group standing inside the synagogue is in view of a group standing outside – the two groups count together to form a minyan. This seems to contradict halakha 41 above, which states that if two groups are in two separate locations they cannot be counted together although they can see one another.

Apparently, since it is the cantor who is standing under the lintel, he connects all those for whom he leads the prayers. The *Mishna Berura* (55:54) explained that the people who are praying set their attention on the cantor, and therefore it is as if both groups are located in one place. Even if the two groups cannot see each other, they can be counted together. It is no different than ten people inside the synagogue, who can be counted together even if they cannot see each other.

Cantor under the lintel and 9 people inside

The *Perisha* and Harav Akiva Eiger deduced from this halakha that we certainly can count the cantor together with nine people standing inside the synagogue. The *Peri Megadim*, however, ruled that in this case they do not form a minyan. When the cantor is standing between two groups, one inside and one outside, he then connects the two groups into one minyan. When all the people are inside the synagogue, however, the cantor under the lintel does not connect with those who are inside. The *Mishna Berura* (ibid.) ruled leniently like the *Perisha*, while the *Kaf Hahayim* Sofer (55:80) ruled stringently like the *Peri Megadim*, arguing that we cannot stretch the lenient ruling of the *Shulhan Arukh* to include other situations.

Perhaps this case, with the cantor under the entrance, gives us more opportunity for leniency, since there are *Poskim* who ruled that the space under the lintel is considered inside. Thus, a compound doubt (*safek sefeka*) can be offered for leniency. Perhaps the halakha follows the opinion that anyone standing under the lintel is considered inside. Even if he is considered outside, perhaps the halakha follows the *Perisha's* ruling that when the cantor stands under the lintel he can be counted together with nine people who are inside. Moreover, as long as the people can see the cantor and he can see them, we have yet another basis for leniency. The *Halakha Berura* (page 178) concurred with the lenient ruling of the *Perisha* and the *Mishna Berura*.