

Counting a Minyan Under One Roof, In Separate Rooms

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Please note that this is not an official responsum of the CJLS.

Question: For congregations that may gather small in-person minyanim, or use a hybrid model over with at least 10 people in one physical location, spread out, while also streaming/zooming: can temporary partitions that essentially box off one person from another, to reduce proximity & potential spread of germs, be used? Or do they effectively create different domains, such that they would inhibit the constitution of a minyan? Connected to this, do all 10 persons need to be in one room within the building, or can a lobby, ante-chamber, or different room altogether, contain part of the minyan and still count towards the whole?

Answer:

Based on the textual analysis below:

- a) Placing partitions, even solid ones, into one room to separate participants does not negate their status as being in the same room, unless those partitions reach the ceiling on all sides.
- b) One may count a minority (up to 4) in a connected room if there's an opening between the two rooms, and 6-9 others are in the main room.
- c) If deemed absolutely necessary for getting to a quorum, this minority could even be in a disconnected room that is still tangentially connected to the larger domain (courtyard, sukkah/gazebo, another room) if there's the possibility that they'd be able to see one another.

This question is both uncomplicated and very complicated. In Siman 55 of both the Arba'ah Turim Ha-Shalem and the Shulhan Arukh (*sa'if 13*), and also in the Mishneh Torah (Laws of Prayer, 8:6):

...וצריך שיהיו כולם במקום אחד וש"צ עמהם.

...And all [10] need to be in one place, and the prayer leader with them.

On the surface it seems quite simple, but beneath the straightforward directive is a set of assumptions and definitional ideas that emerged from essentially four different sugyot (Pesahim 85b, Sotah 38b, Eruvin 92a/b, Rosh Hashanah 27b) and their medieval commentaries, as there is no single location in early rabbinic texts that explicitly lay out the spatial configurations (“in one place”) of a quorum.

1) Pesahim 85b (in a Mishnah) raises the issue of a Passover Offering that inhabits a liminal space, kind of inside and outside [of Jerusalem] at the same time--smack in the doorframe space--but still leaning more inside or outside. To determine whether or not the sacrifice has been brought out of holy space, the rabbis needed to define which part of the doorframe was in, and which part was out. They conclude that if the sacrificial offering is in the doorframe but more toward the inside, it is in, and if it is more toward the outside, it is out. The *gemara* expands this discussion about determining the status of something in a liminal space to the space of minyan as well, introducing a disagreement between Rav and Rabbi Yehoshua ben Levi:

גמ' אמר רב יהודה אמר רב וכן לתפלה. ופליגא דרבי יהושע בן לוי דאמר רבי יהושע בן לוי: אפילו מחיצה של ברזל אינה מפסקת בין ישראל לאביהם שבשמים.

Rav Yehuda said in the name of Rav: This is also the case for prayer. And this conflicts with Rabbi Yehoshua ben Levi, as he said: Even an iron partition does not interpose between the Jewish people and their Parent in Heaven.

Rashi comments^[1] on Rav's assertion (that this inside/outside ruling applies to prayer) that a person who is “from the doorframe and outside would not count in a *minyan*”, thereby transitioning from whatever Rav may have meant by “prayer” to be about the construction of a quorum.

It is these [seemingly] competing ideas, namely, a) that all 10 need to be in the same domain space, b) but also that walls are not barriers when it comes to God's capacity to receive prayers, that produce the very tension/anxiety so many of us feel right now. And it is this complexity that the *Tosofot* will attempt to smooth over (see below).

2) Eruvin 92a/b explores different domains and how they may connect to each other for the purpose of transporting items back and forth. The following Mishnah is the core text

from which the talmudic discussions follow:

גג גדול סמוך לקטן, הגדול מתר והקטן אסור. חצר גדולה שנפרצה לקטנה, גדולה מתרת, וקטנה אסורה, מפני שהיא כפתחה של גדולה.

A large roof close to a small roof: the large one is permitted but that of the small one is forbidden. If [the wall of a] large courtyard which shared a wall with a small courtyard was broken down, the use of the large one is permitted, but that of the smaller one is forbidden (to carry in it), because the gap is like a doorway to the large one.

In the case of a smaller domain connected to a larger one, the gap that connected the spaces functions like a doorway for the bigger space, but for the smaller one, it is essentially missing a wall, therefore not a full domain. The *gemara* lays out the general principle that will apply to *minyan*: "*Learn from the mishnah that the rights of the residents of the large courtyard extend into the small one, but the rights of the residents of the small courtyard do not extend into the large one...*"

That is to say, what occurs in the larger domain determines the status of that which is in the smaller [non]domain. The *gemara* therefore concludes from the general principle:

צבור בגדולה ושליח צבור בקטנה יוצאין ידי חובתן. ציבור בקטנה ושליח צבור בגדולה אין יוצאין ידי חובתן. תשעה בגדולה ויחיד בקטנה מצטרפין תשעה בקטנה ואחד בגדולה אין מצטרפין.

If the congregation was in the large courtyard, and the prayer leader in the small one, they fulfill their obligation. The congregation in the small, and the prayer leader in the large one, they do not fulfill their obligation. Nine in the large and one in the small one, they join. Nine in the small and one in the large one, they do not join.

Note that the *gemara* itself, in either of these first two sources, doesn't mention the capacity for participants to see one another. Rather, it seems the combination of people is based entirely on their physical location, such that determining the legal status of each semi-connected domain is critical.

3) Sotah 38b discusses whether or not partitions can physically and theologically divide the prayer space, particularly for Birkat Kohanim. After determining that the Priestly blessing extends far beyond the walls of the Beit HaKnesset, reaching even those working in the fields, a question is raised about physical barriers between the Priests and those who are to receive the Priestly Blessing.

גופא: תנא אבא בריה דרב מנימין בר חייא--עם שאחורי כהנים, אינן בכלל ברכה. פשיטא אריכי באפי גוצי, לא מפסקי. תיבה לא מפסקא. מחיצה מאי? ת"ש דאמר רבי יהושע בן לוי אפילו מחיצה של ברזל

Back to a matter. Abba, son of Rav Minyamin bar Ḥiyya, taught: The people who are standing behind the priests are not included in the blessing (Rashi: for there would be no end to the matter!). It is obvious that tall people standing in front of short people do not create a barrier. A chest [or ark], does not create a barrier. But what about a wall/partition? Come and hear -- Rabbi Yehoshua ben Levi said: Even an iron partition does not interpose between the Jewish people and their Parent in Heaven.

In this case, the capacity to see one another doesn't determine whether the prayer reaches the intended recipient. Barriers can in fact be present between the Priests offering the blessing and the others in the *kahal*. Rabbi Yehoshua ben Levi's assertion functionally ends this debate, the theological claim of God's expansive capacity to receive prayer, both potent and intuitively true.

4) Finally, **Rosh Hashanah 27b** describes people outside the prayer space fulfilling core obligations via leaders on the inside:

וכן מי שהיה עובר אחורי בית הכנסת או שהיה ביתו סמוך לבית הכנסת ושמע קול שופר או קול מגילה
אם כוון לבו, יצא. ואם לאו לא, יצא. אע"פ שזה שמע וזה שמע זה כוון לבו וזה לא כוון לבו.

And similarly, if one was passing behind a synagogue, or her house was adjacent to the synagogue, and she heard the sound of the *shofar* or the sound of the Scroll of Esther, if she focused her heart (listen to the shofar to fulfill RH obligation), she has fulfilled [her obligation]; but if not, she has not fulfilled [her obligation]. Even though this one heard and also the other one heard, nevertheless, this one focused her heart to but the other one did not focus her heart.

For certain obligations, being in the same physical locations also doesn't matter regarding one's capacity to fulfill their obligation. Location is less critical than interacting in real-time with the act itself.

It is the combination of these four sources that lead the Tosofot to distinguish the core features of each text from the others, thereby resolving the inconsistencies of principle and practice mentioned above between Rav and Rabbi Yehoshua ben Levi. Tosofot to Eruvin 92b:

תשעה בגדולה ויחיד בקטנה, מצטרפין - דוקא ביחיד בקטנה. אבל חמשה בקטנה, וחמשה בגדולה, אין
מצטרפין...

והא דתנן בפרק כיצד צולין (פסחים דף פה:) מן האגף ולפנים כלפנים ומן האגף ולחוץ כלחוץ וקאמר התם רב בגמרא וכן לתפלה וריב"ל אמר אפילו מחיצה של ברזל אינה מפסקת בין ישראל לאביהם שבשמים.

לכאורה נראה דלענין צירוף פליגי, דלענין לצאת מודה רב דיוצא אפילו חוץ לבית הכנסת כדתנן בפרק ראווה ב"ד (ר"ה דף כז:) היה עובר אחורי בית הכנסת ושמע קול שופר וקול מגילה אם כוון לבו יצא.

וקשיא, דאם כן סוגיא דהכא כרב ובפ' אלו נאמרין (סוטה דף לח:) משמע דקי"ל כריב"ל גבי עם שאחורי הכהנים. ומייתי סתמא דהש"ס ממילתא דריב"ל.

ונראה לפרש דלצירוף מודה ריב"ל דאין מצטרפין כדאמרין הכא ופליגי לענין לענות קדושה או ברכו דקי"ל במגילה (דף כג:) דאין דבר שבקדושה פחות מעשרה

וקסבר רב מן האגף ולחוץ אינו יכול לענות דלא הוי בכלל צבור שבפנים וריב"ל סבר דאפילו מחיצה של ברזל אינה מפסקת והוי בכלל צבור לעניית ברכת כהנים ולענות דבר שבקדושה:

Nine in the big, an individual in the small--they combine [to make 10] -- Specifically one person in the smaller space. But five in the small, and 5 in the large doesn't combine [to make 10]...

And that which is written on Pesachim 85b: From the door-way and within it is as the inside; From the door-way and without is as outside--Rav said there in the *gemara* "and this is also for prayer" and Rabbi Yehoshua ben Levi said "Even an iron partition does not interpose between the Jewish people and their Parent in Heaven.

It appears that the [essential] disagreement is regarding [whether or not] there is a combination [to form a minyan]. For [only] fulfilling obligations, *Rav would agree this could happen even [if someone was] outside the Bet K'neset*, based on what is taught in Rosh Hashanah 27b regarding someone with intention passing behind it and hearing shofar or megillah.

And the difficulty is because then the passage here (Eruvin 92b -- physical location matters) would follow Rav, but in Sotah 38b we learn that the [the law] is established according to Rabbi Yehoshua ben Levi, where people [can be] be behind the Kohanim (location doesn't seem to matter), and *Stam* concludes with his teaching (walls can't divide God/humanity).

And it seems [the way] to explain [this seeming contradiction of sources] is that Rabbi Yehoshua ben Levi would agree that those [outside the synagogue space] don't combine [to make the necessary 10], as it is taught here, and that they [actually] disagree on the question of answering/joining the *kedushah or barehu*, where we follow what is taught in b. Megillah (23b), that *devarim bikdusha* can't be done with less than 10.

Rav holds that someone from the "doorway and without is as outside" can't even answer [*kaddish*, *kedushah*, *barehu*] because she is not considered part of the minyan that is inside. And Rabbi Yehoshua ben Levi [therefore] holds, when he claims walls don't matter, that this applies when there's a full minyan and someone on the outside is joining.

Both Rav and Rabbi Yehoshua ben Levi hold a quorum must be present in the room for certain prayers to occur, but they disagree on what someone outside the room is able to do with that inside group.

This is similarly found in the Tosafot to the *Pesahim* passage (above), where the same contradiction is noted:

ונראה לר"י דהכא מייירי לענין לענות יחיד קדושה ויהא שמיא רבא מברך דאין מחיצה מפסקת לריב"ל.
ולרב יהודה מפסקת כיון דהוי דבר שצריך עשרה וכי היכי דלא מצטרף לא נפיק ידי חובה אבל שופר לא
בעי עשרה:

And it seems according to Rabbi Yitzhak that [for Rabbi Yehoshua ben Levi] it is regarding the answering of an individual to [the communal] *kedushah* or *yehei shmei rabbah mevorakh*, that no wall can divide [between them and God]. And according to Rav Yehuda, the wall does divide them, for these matters require 10. And [therefore for Rav], in the case in which one isn't present with them, they can't fulfill their obligations [that require a minyan]. But this isn't the case for Shofar [one can be outside the prayer space] for this obligation doesn't require a minyan [at all].

It is from this premise that [Rabbi Avram Reisner concluded in 2001](#), with a majority support of *poskim*/codes (and the CJLS), according to Rabbi Yehoshua ben Levi as understood by the *Rishonim*: that as long as 10 are present in one physical location, those outside of that location, but still virtually connected to the events in realtime, may participate in *devarim she-bi'k'dushah*.

From [primarily] these sources we've explored, Rav Karo asserts the following (OH 55), from which the conclusions at the beginning of this paper are drawn:

- 1) As stated at the beginning, all 10 Jews must be in the same physical location. (55:13)
- 2) Somebody in the outside half of the doorway to the public domain is not considered part of the minyan for the purposes of constituting a quorum. (55:13)
- 3) One who is standing outside the synagogue, even if the ground is significantly lower than the synagogue window, but those in the synagogue can see her face, this person

can be included in minyan. (55:14. *This law doesn't seem to have an explicit talmudic source, and also doesn't seem to appear in other medieval codes. It likely migrated over from sources on zimmun found in Berakhot 50a/b and SA, OH, 195:1.*)

4) The prayer leader standing in a doorway with a few people on each side can count to join both groups into 10. (55:15)

5) A large domain directly connected to a smaller one, with an opening that still allows the large domain to be its own domain (i.e., 4 *halakhic* walls), if 9 (though the Rishonim like Rashba and Ritba read it as majority--6, at least 6) are in the large and the rest in the small, they are considered 10. Being on the roof is not sufficient. (55:14, 16)

6) Even if the Prayer Leader is the individual in the small space, alone, she is counted among them, since the principle is that the space is determined by what's present in the larger space. (55:17)

7) If some are in the Beit ha-Knesset, and some in the [disconnected] courtyard, it is not a minyan. (55:18) *This ruling is qualified by the Mishnah Berurah, citing Peri Megadim, that if they can "see" one another (i.e., an opening makes that possible) they can combine to form the required 10. It is a disputed opinion, but the Haffetz Hayyim says it can be relied upon in a forced situation.* (55:18)

8) This next halakhah comes from a long teshuvah by the Rashba (1:96) which asks a question about a prayer Leader who is on a Bimah/Teivah that has walls, something still seen in many non-Ashkenazi synagogues. If there are 9 people in the room, does the Prayer Leader in this "bimah domain" count as one of the 10, since technically the bimah may itself be a separate domain? Rabbi Karo rules, following the Rashba, that yes s/he does. The bimah is definitionally subsumed into the domain of the wider room, so long as the partitions don't reach the ceiling, i.e., become another room in and of themselves. (55:19)

9) If 10 are present in one location, somebody in another location can join in with prayers that require a minyan (55:20, See also Reisner).

וכן לתפלה - העומד מן האגף ולפנים מצטרף לעשרה והעומד חוץ לפתח אין מצטרף: ^[1]