

OH 55:15.2001

Wired to the Kadosh Barukh Hu: Minyan via Internet

RABBI AVRAM ISRAEL REISNER

This paper was approved by the CJLS on March 13, 2001, by a vote of eighteen in favor, two opposed, and one abstaining (18-2-1). Voting in favor: Rabbis Kassel Abelson, Eliezer Diamond, Elliot N. Dorff, Paul Drazen, Baruch Frydman-Kohl, Myron S. Geller, Nechama D. Goldberg, Arnold M. Goodman, Judah Kogen, Alan B. Lucas, Aaron L. Mackler, Daniel S. Nevins, Avram Israel Reisner, Joel E. Rembaum, James S. Rosen, Joel Roth, Elie Kaplan Spitz, and Gordon Tucker. Voting against: Rabbis Ben Zion Bergman and Jerome M. Epstein. Abstaining: Rabbi Paul Plotkin.

שאלה

May one pray over the Internet? Constitute a minyan over the Internet? Through e-mail, in chat rooms, only with a real-time audio or video connection? Is this permissible in telephone or video conferences? If it is not now permissible, is there some foreseeable technological advance that would make it so?

תשובה

At the time of the Camp David accords, there was a joke making the rounds that then President Carter divulged to his partners at Camp David that he had had a special phone line installed, long distance, directly to God. They consulted with God throughout the deliberations, running up quite a bill. Despite the expense, President Sadat of Egypt immediately installed such a phone at his office in Cairo, and he, too, regularly used the connection. On one occasion, complaining to Israel's Prime Minister about the high cost of the service, Begin responded: "Oh, I just use my desk phone, and it doesn't cost me anything." "How is that possible?," fumed Sadat. Said Begin, "From here it's a local call."

Now God, by divine nature, does not need our ingenuity of wire or wave in order to hear our prayers. But in order for us to get together for prayer, which is an essential requirement of Jewish communal prayer, we might wish to consider technological solutions. Particularly for Jews in far-flung communities, where a minyan is not possible, could virtual assembly serve the purpose of allowing communal prayer? Clearly, there is unlikely to be an unequivocal ruling on this question in our ancient sources; these technological developments were largely undreamed of even earlier in our own generation. We need to seek precedents that will establish principles which can guide our inference and extrapolation to present realities and beyond.

What Constitutes a Minyan

The guiding precedent in the matter of constituting a minyan is found in Shulkhan Arukh, Orah Hayim 55. The text considers several cases, standing us in good stead to extrapolate the operant principles. I cite the relevant numbers in full:

ג] צריך שיהיו כל העשרה במקום אחד וש"ץ עמו. והעמוד בתוך הפתח — מן האף ולחוץ דהיינו כשסוגר הדלת' במקום שפה פנימית של עובי הדלת ולחוץ לחוץ.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

Notes for the Instructor

This paper was approved — Note the large majority voting 1 favor of adopting this *teshuvah*. Perhaps this is due to the perceived need of a *pesak halakhah*, to the carefully permissive conclusion, and the quality of the argument, support, and scholarship.

May one pray — Is the first *sh'elah* a *halakhic* question? Perhaps we can add, "... and fulfill one's obligation over the Internet?"

If it is not now — Note that the last *sh'elah* is very, very open-ended.

Other *שאלות* come to mind, outside the purview of this *teshuvah*: Can one constitute a *beit din* virtually for conversion, *gittin*, *dinei mammonot*, etc? Take testimony over the internet?

A Brief Background of the Teshuvah

Although we are sometimes surprised at the speed of technological change, the electronically-connected world today did not emerge suddenly. Even before this *teshuvah* was submitted in 2001, the [CJLS responded](#) (in 1982, 1984, and 1989) debated various *teshuvot* addressed to the wider question of, May one photograph on, or record or broadcast services, on Shabbat? The present question can be seen as a simple technological extension of some of these issues.

Why have questions of this nature cropped up regularly, and why do they demand so much rabbinic attention? For the answer, we only need to look at the devices we keep at the ready in our pockets and on our desks!

[יד] מי שעומד אחורי בית הכנסת וביניהם חלון אפילו גבוה כמה קומות אפילו אינו רחב ארבע ומראה להם פנים משם — מצטרף עמהם לעשרה. הגה: גגין ועליות אינן בכלל בית' והעומד עליהם אינו מצטרף.
 טו] אם מקצתן בפנים ומקצתן בחוץ ויש'ץ תוך הפתח — הוא מצטרף.
 יח] אם קצת העשרה בבית הכנסת וקצתם בעזרה — אינם מצטרפין.

13] The ten (who constitute the minyan) must be in one place and the leader with them. If one stands in the doorway — from the threshold and outward, that is, were the door closed, from the point where the interior face of the door rests and outward is treated as outside.

14] If a person is standing outside the synagogue and there is a window, even if it is several stories high and smaller than four cubits [six feet] wide, if he shows his face (in the window) he may be counted. Note: Roofs and upper floors are not considered to be in the house. One who stands there is not counted.

15] If a few of them (vi. the potential minyan) are inside and a few are outside, and the leader is positioned in the entrance — he connects them (to form one minyan).

18] If part of the ten were in the synagogue and part were in the courtyard — they do not connect (to form a minyan).

What constitutes the same place?

Clearly the model that the sages had in mind was a physical model of place. May we extend that notion into hyper-space?

Paragraph numbers 13 and 14 derive from Mishnah Pesahim 7.12 and the relevant gemara. The Mishnah concerns the eating of the Pesah, which, by Biblical mandate, may only be eaten “in one house” (Ex. 12.46). The Mishnah defines the parameters of “one house” in clearly physical terms, considering the door and window spaces. In the gemara, on page 85b, Rav Yehudah states in Rav’s name, without challenge — לתפילה — “The same is true for prayer”. The analogy is telling. The eating of the Pesah demands real physical proximity. No foreseeable technology would allow people distant from one another to share the sacrifice. It is thus clear to me that “one house” in the Biblical verse needs to be taken physically. Whereas that might not be obvious with regard to prayer, the dictum of Rav establishes the equation. We are led to conclude, tentatively, that no Internet minyan is permissible.

Countervailing Sources

A. Mishnah Rosh Hashanah 3.7 reports the following:

מי שהיה עובר אחורי בית הכנסת או שהיה ביתו סמוך לבית הכנסת ושמוע קול שופר או קול מגילה — אם כוון לבו — יצא ואם לאו — לא יצא.

A person passing by a synagogue, or one whose house was adjacent to a synagogue, who heard the sound of the shofar or of the Megillah — if he was attentive — he fulfilled (the requirement), and if not — he did not.

This law predicates fulfilling one’s obligation on hearing alone, plus proper concentration. It is codified in Shulkhan Arukh, Orah Hayim 589.9.

This precedent might lead to extending the notion of minyan, if not to keyboard connections, such as e-mail and chatrooms, at least to connections with a real time voice component. This would require, however, that we are able to neutralize Rav’s dictum that the physical attributes associated with the Pesah sacrifice are to

Notes for the Instructor

may only be eaten “in one house”
 (Ex. 12:46) —

בבית אחד יאכל
 לא-תוציא מן-הבית מן-הבשר חוצה
 ועצם לא תשפך בו.

are led to conclude, tentatively —
 the use of the word “tentatively”
 hints that this *humra* may not be the
 last word. Keep this in mind: What
 seems to motivate Reisner *l’kula*?

A. Mishnah Rosh Hashanah — For
 the Mishnah, the difference is
 “presence” versus “hearing the
 sound” — which is paramount?
 Experience is a broad sense, or literal
 experience of the sense of hearing?

be applied to prayer.

This issue was considered and settled by three Tosafot on Pesahim 85b, beginning לתפילה וכן, on Eruvin 92b, on a related sugya, beginning בגדולה תשעה, and on Sotah 38a and 39b, beginning מציצה מאי. Rav's view, though unchallenged, is found, in Pesahim, to be inconsistent with the view of R. Yehoshua ben Levi that God recognizes no partitions. In Pesahim and Eruvin, in the name of Rabbenu Yitzhak, the Tosafot establish a tripartite split in the legal materials. With regard to counting in the minyan, they argue, both Rav and R. Yehoshua ben Levi agree that one must be in the same place. With regard to fulfilling personal obligations that do not require a quorum both agree that one may fulfill an obligation as long as one hears and attends to the relevant sound. Their disagreement, according to Rabbenu Yitzhak, is exclusively with regard to hearing those prayers that require a minyan. Rav would hold that one outside is not part of the quorum, and therefore may not respond. R. Yehoshua ben Levi would disagree. If a proper quorum has been constituted, thereafter anyone who hears may answer. With regard to that limited uncertainty, the Tosafot in Sotah rules that the law is in accordance with R. Yehoshua ben Levi in that matter, and that position appears codified before us, as paragraph number 20 in Orah Hayim 55.¹ Thus one location remains the rule for constituting a minyan. Once a minyan is in existence, however, even one who is not in the minyan, but simply overhears, may respond and fulfill obligations thereby.

B. About zimmun, the invitation to three or more to a common Grace After Meals, the Talmud reports that the connection of sight allows counting in the quorum. Mishnah Berakhot 7.5 is explicit.

שתי חברות שהיו אוכלות בבית אחד — בזמן שמקצתן רואין אלו את אלו הרי אלו מצטרפין לזימון.

If two groups are eating in one house — if some in each party are able to see one another, they are connected for the purpose of zimmun.

Still, an aural connection is presupposed, for how else can one answer to zimmun. A connection of sound is also reported on Berakhot 45b:

אמר רב דימי בר יוסף אמר רב: שלשה שאכלו כאחת ויצא אחד מהם לשוק — קוראין לו ומזמנין עליו. אמר אביי וחזא דקרי ליה ועני.

Rav Dimi bar Yosef cites Rav who says: If three ate together and one went to the market—they call him and count him in zimmun. Says Abaye: Only if they called and he answered.

Both are codified in Shulkhan Arukh, Orah Hayim 194-95.

However, these precedents do not appear to be relevant. The Talmud on Berakhot 45b continues explicitly:

אמר מר זוטרא: ולא אמרן אלא בשלשה אבל בעשרה עד דניית... והלפתא כמר זוטרא מאי טעמא? כיון דבעי לאדכורי שם שמים' בציר מעשרה לאו אורח ארעא.

Mar Zutra says: This only applies to three, but as regards ten, they must come... The law follows Mar Zutra. What is the reason? Since they wish to mention God's name, less than ten would not be acceptable.

Notes for the Instructor

This issue was considered — Again, the underlying issue behind these Tosafot is whether prayer – *tefillah b'tzibbur* — is defined by sensory experience (hearing the words spoken), or by shared space (community)? And the real issue for us, as Reisner expressed in on the previous page, *if the latter, “may we extend [the notion of presence] into hyper-space?”*

B. About zimmun — “Sight” defines community here.

Still — N.B., hearing is assumed.

A Summary of Reisner's Reading of Tosefot

1. Reported in the name of Rabbenu Yitzhak: Rav and R' Yehoshua b. Levi agree that minyan is physical (shared space), but one can fulfill a personal obligation simply by hearing, since “God recognizes no partitions.”

2. The practical difference between them, however, concerns fulfilling an obligation that requires a *minyan*:

* For Rav, shared space is required for, and its absence precludes, fulfillment a *mitzvah*.

* For RYBL, once there's a minyan constituted, hearing is sufficient (even without proximity).

Reisner notes that RYBL is the *halakhah l'ma'aseh*, but reiterates that this only permits participating remotely in an already constituted *minyan*.

When it comes to a minyan, the precedents continue to point to a requirement of a single physical place, leaving an Internet minyan insufficient.² Responding to a minyan over the Internet or other teleconferencing, however, is perhaps possible.

Several Philosophical Considerations

When forced to consider the issue broadly, outside of the narrow halakhic box, I come to a similar conclusion. Some speculation is in order: When the rabbis moved to require a quorum for communal public prayers and banned response absent a quorum, it seems that they were opting to force the community to come together, whereas otherwise, if one could fulfill all obligations alone, they feared that public communal structures would not develop. They extolled the public praise of God.³ But they faced a quandary, in that sometimes a quorum would be impossible, and they did not wish to exempt any individual of the full complement of his obligations.⁴ They settled upon the format with which we are familiar. It is possible for any individual to fulfill his or her obligations by reciting the Shema and its blessings, but Barekhu would be reserved for the public. It is possible for any individual to fulfill his or her obligations by reciting the Grace After Meals, but a special formula of introduction would be reserved for the public. Now, one might well ask, what possible harm could attend reciting God’s praises alone — whichever ones they be. Yet the sages required a quorum for key prayers, precisely to draw the community together.

What constitutes that togetherness? The halakhah as written seems to demand that that togetherness be physical, tactile, an extension of the need for one party to eat the Pesah. But I could well imagine a definition of ‘togetherness’ that was only auditory or visual. Indeed, the technology to cast our auditory and visual imprint far and wide did not exist in the reality that faced the Rabbis. Is it possible to imagine community based only on remote contact? People might well answer that question differently, and on a fundamental level, whether to go beyond the book halakhah or not will be predicated on one’s answer to that question. Some, indeed, recommend that futuristic outlook. But I find myself taken by the traditional response, that true community demands proximity of place. One’s words can offer comfort, the sight of one’s face or the sound of one’s voice can offer support, but they do not replace a hand on a shoulder or the stroke of one’s hair, or a hug — though these may be silent. Imagine the deaf and the blind. They are not cut off from affection. But the baby who cannot be touched, the prisoner in isolation, these are ultimately alone.⁵ I am not at all convinced that any definition of community short of proximity serves, properly, the purpose for which quorum was established.

I had several other speculations in this regard, each of them leading from very different premises to the same conclusion. It is normative to bury texts which include God’s name. Yet it is becoming normative to rule that electronic representations of God’s name on a computer screen are ephemeral, and may be erased.⁶ Is not an electronic image, then, unreal? By what imagining do we claim it real enough to count in minyan? And if we were to argue that a real, tangible object lies at the heart of a teleconference or Internet transmission, that that distinguishes it from a God-name generated wholly electronically, then I must ask, if one were to scan a God-name from a page in a book into our computer file, would it then gain the protection accorded the real object? How are we to protect a computer byte? And, is it not contrary to the standard laws of physics to claim the same object simultaneously at two different points in space, the real object at home and the real-image counting in a minyan across the globe? Could a person be counted simultaneously in two different minyanim both at home and abroad?⁷ Have we not added a level of complexity that is counter-intuitive at the most fundamental level?

Or this — which, more than anything else, convinced me that Net-minyan was not possible. If a person were impure, and, with clear intention and foreknowledge, allowed himself to be brought up electronically within the precincts of a renewed Temple, is he guilty of impure trespass on holy ground and responsible to bring a sacrifice? The example seems silly, extreme. But if he were counted in a minyan there on the Temple mount under the theory that his presence was felt there, why would he not be? To answer that electronic image is to be counted for purposes of minyan, but not for purposes of Temple impurities nor for purposes of defacing

Notes for the Instructor

I am not convinced — Reisner shows his hand in this sentence. Does he want to be convinced, or is his *teshuvah* an exercise in after-the-fact justification of a presupposition? And is this a good thing (Don’t we all have deeply-held values that we justify intellectually only when called upon to do so?), or a bad thing (some claim that *halakhah* should be more objective than this, almost like a science)?

I had several other speculations — The issues raised in this paragraph may be tangential, but some of these points have been (at least tentatively) worked-out in the many years since this *teshuvah* was written.

An Educational Point

Educators use the term “Essential Questions” when describing big, overarching, basic questions — equally important for children and adults to consider. Essential Questions generally do not have a single, simple answer, and ask that we think about the query carefully and at length.

When Reisner asks “What constitutes that togetherness?”, he is really asking an Essential Question: What constitutes community? Is it physical togetherness? Sight? Hearing each others’ voices? Something intangible, difficult to nail down? Moving away from technology, in asking ourselves this question, we must also ask about those who are prevented, through no fault of their own, from making these empirical connections: the deaf, the blind, the physically disabled. The way we presently count a *minyan* might give us insight to answer this question, and, as we shall see, helps answer the *halakhic* question before us.

God's name — is in fact possible. We could claim that electronic image does not rise to the level of real existence *d'oraita* — as far as Biblical norms are concerned, but that it does so *d'rabbanan* — in rabbinic matters such as prayer. But Rav's dictum equating prayer to Pesah bridges that divide, and intuition leads me to reject that as well.

The Real Problem — Restated

The essential dilemma that might cause us to wish to allow Internet minyanim has an altogether other solution. The problem is that some individual Jews, far from an organized community, would wish, or need at times, to participate in communal prayers. For that, we need not offer to count them in the minyan at all, but only to allow them to participate. This solution grows from Tosafot's solution of the disagreement between Rav and R. Yehoshua ben Levi. The conclusion, there, was that Rav's dictum maintaining that the rules of the quorum require real physical proximity are true of constituting the quorum, but that once a duly constituted quorum is formed, anyone may respond to its prayers. At issue, then, is not whether one may constitute a quorum over the Internet — one may not; but whether one may respond and fulfill one's obligations from outside the quorum site, if one has heard the prayer of the minyan. Here, the precedents suggest that one may, indeed, do so. Thus, a person needing to hear the Megillah but unable to read it alone and unable to attend a minyan might hook up by telephone or modem to a site which is holding a minyan and fulfill their obligations thereby.

I referred to it before, but it bears quoting in full. The very section of Shulkhan Arukh that provided essential guidance with regard to the limitations of constituting the minyan goes on to say:

[כ] היו עשרה במקום אחד ואמרים קדיש וקדושה — אפילו מי שאינו עמהם יכול לענות. ויש אומרים שצריך שלא יהא מפסיק טיף או עבר'ם.

20] If ten people were in one place and were reciting Kaddish and Kedushah — even if one were not with them, he may answer. There are those who say that there cannot be any filth or appurtenances of idolatry separating them.

With an Internet or telephone connection, it is safe to dispense with any concern about the intervening space, for the sound does not travel freely through the space, but is contained in wires that do not interact with their surroundings. Even cellular telephone connections, which propagate through waves as did the sound considered in the case before us, are sent in a scrambled signal that is inaudible to the human ear and are intended only to be unscrambled by the specific receiver for which they are intended. Unlike sound waves, that were audible to the human ear at the place where filth interposed, these signals are carried in the form of electromagnetic waves and cannot be said to interact at all with the biological structures in the environment prior to their arrival and retranslation at their destination. Moreover, this concern for the intervening space is the stringency of only some.

As a matter of policy, should we allow this? To allow accessing of the minyan from remote locations, even though some minyan must yet convene, is to reduce the need of individuals to go out of their way to attend the minyan. Jan Urbach, a rabbinical student and attorney, asked whether busy attorneys who are currently making time for attendance at minyan will not be seduced into the easier route of connecting by video wall to their minyan? Indeed, some threat of such a phenomenon is present, but to rule against this distance rule would also be a hardship with regard to shut-ins and nursing-home patients for whom we would want to be able to offer distant connections to functioning services. Though no halakhic conclusions follow therefrom, at a conference in New Jersey on March 22, 1998, R. Saul Berman argued that the origin of the synagogue service may well have been in the Maamadot services described in Mishnah Taanit, chapter 4. The question was how a distant individual could participate in the sacrificial service that was being offered for him in Jerusalem. The solution was to set up delegations of Kohanim from outlying towns who were represented at the Temple

Notes for the Instructor

intuition leads me — *Halakhic* decision-making is not an objective, empirical process. The *posek* is always present in the *pesak*.

but only to allow them — Again, we need to read this *teshuvah* as a reasonable and realistic solution in 2001.

he may answer — and fulfill an obligation thereby.

busy attorneys — Even today, with advances in technology, the easier path of Skyping in is hardly as powerful as being present physically (although, as technology marches on — Virtual Reality is here, and who knows what will be next? — we will have to keep an open mind about this point).

service in Jerusalem while, simultaneously, the townsfolk gathered to pray in their various towns, thus partaking vicariously in the goings on in Jerusalem — a clever construct. One cannot help but wonder what arrangement would have been made had our current technology for distant connection been available.

The crux of the matter lies here. We have not permitted convening a minyan via long-distance connection. Will even the lesser technology of long distance audio connection threaten the drawing power of our synagogues? While much that is in modern culture does indeed compete with our synagogues for the attention of our members, it is hard to imagine that as a large scale phenomenon our members will stay home from synagogue and connect to it via computer.⁸ It is the social aspect of the service which will remain our greatest attraction. Only in rare or exigent cases, with regard to shut-ins and hospital patients, those traveling or simply resident in distant parts, in hurricane or blizzard conditions, is the advantage of this use of distant-connection to the minyan compelling. Indeed, such use is already assumed by this body (Teshuvah, CJLS 1989 by R. Gordon Tucker). It is only in those extraordinary conditions that we imagine its use.

Wherever possible in such cases, it is clearly desirable to establish a two-way audio-video connection to the whole minyan, since it is the minyan that enables the communal prayers to be held at all, and this best approximates being present given our current technology, now and in the foreseeable future. However, since the individual connected electronically is in the position of one overhearing from outside the room,⁹ it would be sufficient for the shaliach tzipbur to have voice contact with the individual who wishes to respond, or, indeed, for the contact to be exclusively one way.

Kaddish

There remain a few nagging questions. Whereas hearing and responding, even fulfilling one’s obligations thereby, are covered by the precedents, what about the Mourner’s Kaddish, where it is the congregation’s response to the individual mourner which is the matter of greatest concern? How can an individual who is not part of the minyan recite the Mourner’s Kaddish as a representative of that minyan? What solace can he receive at a distance from the group? Yet there is no situation that is likelier to arise than the demand to permit saying kaddish at a distance, for whatever one feels are the demands of one’s personal ritual obligations, the filial obligation to honor the deceased is perceptibly stronger. Is this, too, permissible, or must we draw the line here?

Minimally, it would seem that we could permit an individual to respond to the Mourner’s Kaddish, and to fulfill his or her own obligation to recite kaddish thereby, though they would remain mute except to respond. Where there was a two-way voice connection to the whole of the minyan, as in an audio or video conference-call, our preference, it would be proper for the individual mourner to recite the Mourner’s Kaddish along with the minyan. Though the distant mourner is not technically part of the minyan, kaddish is generic praise, neither utilizing God’s name nor constituting a berakhah, thus we are under no constraint to limit its recitation on that account. However, even in that case, the individual is not part of the minyan, and should not be the sole reciter to which the minyan responds.¹⁰ Rather, some representative of the minyan must recite the Kaddish along with the individual at a distance. But it seems to me possible to be lenient even with one who hears and is not heard, allowing recitation of the kaddish by a distant mourner whom the congregation cannot hear as well. Whereas kaddish is only to be recited in the presence of a minyan, the individual reciting kaddish at home along with a duly constituted minyan, but unheard by that minyan, is in a materially similar position to one muttering softly within the minyan among louder recitations. It is necessary to reiterate, however, that comfort finds its greatest expression in tactile contact and human warmth. By a distant connection to a minyan, where no other connection is possible, one may fulfill one’s obligations as a mourner to honor the deceased, but the corollary value of the minyan as a source of comfort cannot be found in a distant connection that does not, at least, have two-way capability, and will be found best in the proximate contact with a minyan. As Leon Wieseltier wrote simply in his recent, extended meditation on the personal meaning of saying kaddish, “I am here for them, and they are here for me.”¹¹

Notes for the Instructor

it is hard to imagine — In 2001, who could have imagined how our young would live more and more of their lives virtually?

threaten the drawing power — This *teshuvah* concerns taking advantage of an already-constituted *minyan*. But who will make the *minyan*, especially if more and more opt-in virtually? Finally, contributing one’s own self — helping to “make the *minyan*” — is a part of the experience of *tefillah b’tzibbur*.

what solace — Reciting *kaddish* is as much a pastoral issue as it is a *halakhic* one

obligation — now explicitly stated.

that comfort finds — As above. Pastoral, extra-legal issues, are a part of the *halakhic* process — a fact that the Conservative Movement has always articulated.

I am here for them — Gently touching on the selfishness of the distance-*davven*er who acts out of less than necessity.

The Issue of Time Zones

It was pointed out to me that distant participation in the minyan might entail the attempt to fulfill an obligation outside of its proper time, for instance, to hear the reading of the Megillah that is being done in Israel on Purim night while it is yet the previous afternoon in the location wherein the listener resides, or to fulfill the requirement of reciting the Shema and its blessings in shaharit while it is yet dark. It is apparent to me that to fulfill any time-bound obligation this way, the listener would need to do so by connecting to a minyan functioning within the relevant time-frame of the one wishing to fulfill the obligation.¹² Another corollary flows from this concern. There are many who attempt to say kaddish at every opportunity during their months of mourning. Nor is kaddish limited to specific times. Rather, a mourner says kaddish whenever the opportunity presents itself. Allowing global access to minyanim at various locations might suggest that a mourner should be perpetually prowling the internet or telephone links for minyanim with which to say kaddish. This is clearly untenable. It needs only to be noted that even now one could say kaddish more often if one moved from synagogue to synagogue catching different minyanim (or even within one synagogue if they hold multiple minyanim), or if one tacked on numerous psalms, saying kaddish after each. Wisely, our sources worried about the tendency to multiply kaddeshim and regularly advised against it.¹³ It is sufficient to say kaddish, as far as possible, at the statutory times of prayer. There is no need to do more, and such practice is to be discouraged.

The Matter of Electronically Transmitted Sound

This new formulation bears with it a new halakhic concern. The voice issued by the prayer leader has certain finite limits to its natural reach. Is it the case that one may fulfill one's obligations, even hearing the sound, when what one hears is a sound reconstituted well beyond its original natural range? Many halakhic authorities have, indeed, ruled on this question in the negative, prohibiting microphone use in prayer not only on Shabbat but in general. But others have permitted.¹⁴ Certainly we, who have easily accepted the use of fixed microphones on Shabbat, do not dispute the propriety of fulfilling our prayer obligations through conveyed sound. In the words of R. Tzvi Pesah Frank (my translation): One who uses a microphone or a hearing aid “certainly fulfills his obligation... for all follows from the impetus of the reader, and any sound is kosher as long as it comes from an obligated individual.”¹⁵ Similarly, whereas it might have been possible to differentiate a microphone system which is purely analog from various long distance telephone services and the Internet which require the transfer of the signal from an analog wave signal into digital form, and its reconstitution at the point of reception, we do not do so, but permit broadcast of prayer services to shut ins and hospital patients, perhaps even to overflow services, as a matter of course (Teshuvah, CJLS 1989 by Rabbi Gordon Tucker). Thus there can be no objection to fulfilling obligation at a distance through mechanically conveyed sound serving as one's connection to the minyan.

Conclusions

1. A minyan may not be constituted over the Internet, an audio- or video-conference, or any other medium of long distance communication. Only physical proximity, as defined, that is being in the same room with the shaliah tzipbur, allows a quorum to be constituted.
2. Once a quorum has been duly constituted, anyone hearing the prayers being offered in that minyan may respond and fulfill his or her obligations thereby, even over long distance communications of whatever sort.
 - (a) Some would refrain from fulfilling the specific requirement to hear the shofar in this way, due to its specific nature, but others permit. This committee is on record among those who would allow even the hearing of Shofar in this way.¹⁶
3. This specifically refers to hearing. A real-time audio connection is necessary.¹⁷ Two-way connection to the whole minyan is preferable, though connection to the shaliah tzipbur alone or a one way connection linking the minyan to the individual are sufficient. E-mail and chat room or other typewritten connections do not suffice. Video connections are not necessary, and in the absence of audio would not suffice.

Notes for the Instructor

It is sufficient – Reisner asserts, in contrast to the popular view, that the obligation for *kaddish* is not necessarily three times a day. Rather, the obligation for *tefillah* is three times a day, and this provides an opportunity for the mourner to say *kaddish*.

Conclusions — This *teshuvah* results in some interesting *kulot* and *humrot*.

1. Denying the validity of a virtual minyan is a *humra*.
2. Permitting one to fulfill an obligation virtually (even hearing the *shofar*) is a *kula*.
3. Insisting on a real-time audio connection limits the permission, and is a *humra*.

4. A clear hierarchy of preference is discernible here. It is preferable by far to attend a minyan, for the full social and communal effect of minyan for which it was established is only possible in that way. Less desirable, but closest to attendance at a minyan proper, is real-time two-way audio-video connection, wherein the individual, though unable to reach the other minyonnaires, is able to converse with them and see and be seen by them. Only in rare or exigent circumstances should one enact the third, and least desirable, method of fulfilling one's obligation to pray with a minyan by attaching oneself to that minyan through a one-way audio vehicle, essentially overhearing them as one standing outside the synagogue.

5. With regard to Mourner's Kaddish, some member of the minyan must recite the kaddish, but a participant at a distant location may recite it along with him or her, as this is not considered a superfluous blessing (ברכה לבטלה). There is no obligation to pursue additional opportunities to recite kaddish, and this should be discouraged.

6. To fulfill time-bound obligations, the prayers must be offered during the requisite period in the frame of reference of the one whose obligation is to be fulfilled.

Notes

1 The specific ruling in Shulchan Arukh O. H. 55.14 appears problematic. The ruling in Mishnah Rosh Hashanah 3.7 that one may fulfill an obligation outside of the synagogue was interpreted to mean that one may hear and fulfill but not be counted in the minyan. In number 14, R. Karo seems to imply that even such a person could be counted. A review of Karo's own analysis in his Beit Yosef commentary to the Tur, beginning פניו מראה — “showing one's face” is a category wherein the person had stuck his face in the window, whereupon he is considered inside and qualified to be counted in the minyan, whereas the case discussed in Rosh Hashanah refers to a person passing outside.

2 Technically, the limitation to three rather than ten applies in the gemara only to sound connection (קוראין לו). Perhaps adding video by way of video-conferencing or Internet hook-up could be permitted for constituting a minyan? The model — two groups within eyesight of one another — argues that at least one, probably both, would need two-way video capability (ראוין אליו אתו). But see the Beur Halakhah to Mishnah Berurah 195 that some do not allow visual connection except between two groups, each of which on its own have enough to require zimmun, and some would again not permit visual connection where it would complete ten to require the use of God's name. While these are individual opinions, the trajectory of the halakhah is toward allowing visual connection only where the base rules have been met by each group, and my philosophical arguments, which follow, do not lend themselves to accepting two-way video as sufficient to constitute a quorum. See ahead.

3 Lev. 22.32: ונקדשתי בתוך בני ישראל — “that I may be sanctified in the midst of the Israelite people,” is cited as the source for a minyan on Megillah 23b and Yerushalmi Berakhot 7.3, with the minimum often established by the minimum group of the ten spies (Megillah) or, alternatively, the ten brothers of Joseph who travel to Egypt cited by the Yerushalmi. Elsewhere, Boaz's assembly of ten, in the fourth chapter of Ruth (Ketubbot 7b) or the minimum quorum of ten righteous men in Abraham's pleadings for Sodom (Bereshit Rabbah 49.13) are cited. More broadly, the verses — Psalms 68.27: ברכו ברכו — “In assemblies bless God,” and Proverbs 14.28: רב עם הדרת מלך — “[In] a numerous people is the glory of a king” — serve throughout rabbinic literature to make this point.

4 It is evident that the rabbis knew categories wherein full obligation was not required, e.g. servants and women. They also knew of situations wherein obligations were reduced due to circumstance, e.g. one living outside of the land of Israel or an Onen. They nonetheless did not favor releasing anyone unnecessarily.

5 We have all recently read of a plan to prepare for the rebuilding of the Temple by raising newly born Kohanim in isolation from most human contact that would, presumably, defile them, so that they might be able to prepare the ashes of the red heifer with which the rest of us might become pure. Even those forwarding this radical plan understand that there must, at least, be a reasonable community of kohanim in said “camp” or else the isolation would be unbearable.

6 See Avraham S. Avraham, *Nishmat Avraham*, Vol IV, p. 55 — “There is no Biblical prohibition of writing when one types and letters and words appear on a computer screen, for the letters appear on the screen by firing electrons on a luminous substance which is painted on the inside of the screen which lights up in the form of letters, and R. S. Z. Auerbach wrote me that such firing of electrons is not considered writing by the Torah.” Since this does not constitute writing, its erasure cannot constitute erasure (see Ovadiah Yosef, *Yehaveh Da'at*, Vol. IV, #50). This leniency clearly applies to the screen. It is less clear that it would apply with regard to material saved to disk, which requires further elaboration.

Notes for the Instructor

4. This “hierarchy of preference” falls out of the neat *humra/kula* dichotomy.

5. Permitting distance recitation of *kaddish* is a *kula*. Insisting on a member of the minyan reciting it as well is a *humra* (the virtual recitation doesn't suffice).

6. Virtual participation in time-bound prayers opens up the possibility of time-problems. Pointing these out and insisting on maintaining the traditional time-frames may be a *humra*, or simply a common-sense way of dealing with new realities.

Notes for the Instructor

- 7 I am not certain that this constitutes a valid halakhic argument, but, would it then become possible to “*tanz afen tzvei hassenes*” (to dance at two simultaneous weddings)?
- 8 This raises the matter of the use of electronic appliances on Shabbat. Clearly, use of a computer will require not only turning it on, but manipulating it and dialing into the phone line. All those issues may be resolved with careful consideration of the laws concerning the use of electricity on Shabbat and need not detain us here.
- 9 For a ritual action to fulfill the obligation of an observer, it generally requires the intention and attention of both the actor and the observer (See Shulhan Arukh, Orah Hayim 193.1 and 213.3). Why, then, can one who overhears a blessing ever fulfill his obligation thereby? It seems that the nature of public prayer puts an unusual obligation on the shaliah tzibbur (the prayer leader, literally the congregation’s representative) to represent everyone (see Shulhan Arukh, Orah Hayim 101 and 124, among others, and Arukh HaShulhan on 124 in particular). This includes even those not specifically known to the shaliah tzibbur. (Most explicit, in this regard, is Shulhan Arukh, Orah Hayim 690.14: “If the reader (of the Megillah) is the shaliah tzibbur, it may be assumed that he intends all listeners, even those outside the synagogue.”)
- A somewhat related instance where the question of the proper intention of all parties is raised has to do with the propriety of appointing an agent by telephone or video-conference. There, the primary concern is whether proper identification can be made or whether fraud is possible in such a medium. Writing in the *Journal of Halakhah and Contemporary Society XXV/III*, R. Howard Jachter argues that a video/tele-conference should be permitted for such a purpose where a get could not otherwise proceed. As is our issue, the cogency of the need plays a role in the final determination.
- 10 In *Kol Bo Avelut* by R. Yekutiel Greenwald, p. 371-373, he notes objections among Ashkenazi poskim to the custom that was prevalent among Sephardim and which has become the normative custom, to allow all moumers to recite kaddish as one. They argue that *שני קול לא משמעי* — “Two voices at once cannot be heard,” and they worry about the unnecessary prayer which goes without response. Yet that custom was Sephardic standard custom, and has come to dominate the field. Among the defenses of the prevalent custom that he brings, he cites in note 25 one late responsum that argues explicitly, “that Mourner’s Kaddish does not fulfill any obligation of the respondents, for it was expressly formulated for minors and minors cannot fulfill obligations for others; and it is not a required prayer. Granted that one cannot recite it with less than ten since it is a ‘sanctification’ (דבר שבקדושה), nevertheless, the congregation has no need of it being said,” (my translation).
- 11 Wieseltier, Leon, *Kaddish*. New York: Alfred Knopf, 1998, p. 25.
- 12 That these requirements are adjudged locally is commonplace, see M. Pesahim 4.1 and Bartenura’s commentary there. An interesting side-bar: In the polar regions are areas which do not experience sunrise and sunset during large portions of the year. How are Shabbat and daily prayers to be observed there? Various approaches have been suggested, but the normative approach appears to be either to adjudge the beginning or the end of the day by the last sunrise or sunset observed in that location — extrapolated over twenty-four hour periods, with half treated as night and half treated as day, until sunrise and sunset reassert themselves (see J. David Bleich, *Contemporary Halakhic Problems I*, p. 212, citing R. Menahem Kasher in *Noam* 5730), or to utilize the times of the nearest neighboring Jewish community which still has times in tact (CJLS Index 8.1, and see R. David Shlush, *Torah sheBaal Peh* 7 (1965) and R. Meir Blumenfeld, *Perah Shoshana* #67). This is a specific, difficult case extension of the “local time” principle which has advantages over the more wrenching and artificial move to even days and nights. Similarly, the matter of crossing the international dateline has exercised poskim, with the general ruling being clear that “festivals... must be observed solely in accordance with the reckoning of the geographic locale in which one finds oneself,” (cited from R. Yaakov Yitzhak Weisz, *Minhat Yitzhak Vol. VIII*, #50 in J. David Bleich, *Contemporary Halakhic Problems III*, p. 52 as part of a longer discussion of the particular problems of counting the Omer).
- 13 See *Kol Bo Avelut*, p. 372 and note 26, there.
- 14 The negative position is represented by an article in *Sinai* 22 (1948) by R. Shlomo Zalman Auerbach and more recently in *HaDarom* 5721 (1961) by R. Joshua Feigenbaum, reported by Lord Immanuel Jakobovitz in *Tradition*, Vol. IV, p. 265 and by R. Benzion Hai Uziel in *Mishpetei Uziel* 21. R. Moshe Feinstein takes an equivocal position, arguing the case that it should be possible to fulfill obligation thereby, but opting to prohibit it out of fear of the “new”, in Igrot Moshe, O.H. II, 108. R. Eliezer Waldenberg, however, permits this in a responsum entitled “Hearing Torah-reading, Shofar-blowing and Megillah by Means of a Loudspeaker, Telephone or Radio” (my translation), in *Tzitz Eliezer VIII*, 11 and it is explicitly permitted by R. Israel Rosen in *Tehumin* 15 (1994-5) (with several other modern-day opinions cited therein). Note, in particular, that R. Waldenberg permits fulfilling obligations over the telephone, citing Responsa P’nei Meivin, Orah Hayim 103 and Y’rushat P’leitat 10 (by R. Nateh Shlomo Schlissel (1946)) to that effect, thereby reaching very similar conclusions on this very issue well before this responsum.
- 15 Cited by Waldenberg, op. cit.
- 16 The specific issue of hearing the shofar is often raised, in light of the ruling in M. Rosh Hashanah 3.7 that one needs to hear the shofar and not its reverberation. Thus, many who would generally permit use of a microphone, forbid hearing

Notes for the Instructor

a shofar in that way. See R. Waldenberg's responsum for relevant citations. Indeed, R. Waldenberg appears, at first, to take this position himself, as does Rabbi Frank, cited there. (Oddly, R. Rosen, in his article, warns against use of a microphone for both Shofar and Megillah, though his grounds for including the latter are unclear to me.) However, R. Waldenberg seems ultimately to rely on a responsum of Y'rushat P'leilah, cited above, which permits even hearing the shofar over the telephone and his deduction that a similar permission may be derived from the discussion of P'nei Meivin; and this committee, in the responsum of R. Tucker, permits, although R. Tucker includes a caveat that the sound of the shofar should not be distorted lest it be invalid. It seems to me that this permission might be defended, as R. Waldenberg argues, in light of the perception that the echo that is specifically banned for shofar in the Mishnah continues, disembodied, after the voice of origin has ceased (n.b. For this reason, according to all, fulfilling one's obligation by responding to a recording is clearly prohibited.) But in the case of a telephone, loudspeaker, or real-time broadcast or computer link, the received voice follows (with barely any perceptible delay) directly from the speaker where it originates. This is not the case, however, with satellite transmissions of two-way audio-video feeds where the delay is obvious.

- 17 Rabbi Judah Kogen raises the concern for error implicit in requiring the hearer to determine that he is listening to a real-time broadcast, rather than a recording. It seems to me that we are not required to control for intentional fraud in this regard (Gittin 17b — לרמאי לא חיישינן, and see Rashi there), and it is appropriate to put the burden of determining that it is a real-time broadcast on the individual who wishes to fulfill his or her obligations thereby. In the case of uncertainty (ספק) the rule is not to utter God's name in cases of doubt (conveyed as the principle *לחלוקה ספק* — meaning that when in doubt about the propriety of a blessing, do less, rather than more, vi. do not recite the blessing).

Some related pages and sites (*all accessed January 31, 2016*)

1. A [blog entry](#) and an [article](#) from the *New York Jewish Week* by an R.A. colleague on this issue who cites our *teshuvah*.
2. Saying *kaddish* over Skype, [as told by the rabbi of a mourner](#).
3. From the [CCAR Responsa Committee](#) (very close in *pesak* and tone to Reisner).
4. [Two other opinions](#) on our issue, one Orthodox, one Reform.
5. The [OU “rules” on the issue](#) (more didactic than *halakhic*).
6. We may cringe at online [“rabbinic ordinations,”](#) here [Zeek](#) (backed by the venerable *Jewish Daily Forward*) gives them a soapbox.