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 read in our pockets and on our desks!
may only be eaten “in one house”

Ex. 12:46 —

— the use of the word “tentatively” hints that this _hamura_ may not be the last word. Keep this in mind: What seems to motivate Reisner’ _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?

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 — שֶׁאָכֵל נַכַּר — “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:

—from the hearing 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 Shulhan Arukh, Orah Hayim 589.9.

This precedent might lead to extending the notion of minyan, if not to keyboard connections, such as email 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
be applied to prayer.

This issue was considered and settled by three Tosafot on Pesahim 85b, beginning on Ervin 92b, on related sugya, beginning on Tosefot, and on Satoh 38a and 39b, beginning on Tosefot. 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 Ervin, the name of Rabbenu Yitzchak, 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 Yitzchak, 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 Satoh 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 Oran Hayim 55. 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.

אמר בר דriminator תפוקל מח::~
לפי PRIVACY POLICY.

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 בר דriminator תפוקל מח::~
לפי PRIVACY POLICY.

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 Shulchan Anidah, Oran Hayim 194-95.

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

אמר בר דistrator תפוקל מח::~
לפי PRIVACY POLICY.

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 Tosefot is whether prayer — tefillah b’zibbur — 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 Yitzchak: 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. 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 halachic 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 trying 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 excelled the public praise of God. 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. 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 Barakhu 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 attending 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 halakah 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 halakah 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. 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. 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? 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:

א‎ך‎ שי‎ה‎ו‎ ו‎א‎כ‎פ‎ר‎י‎ו‎ ש‎מ‎ר‎י‎ ש‎ל‎מ‎ו‎ ה‎י‎ מ‎ם‎ ב‎פי‎ן‎ א‎כ‎ר

כ‎ל‎ לַעֲבֹד י‎ו‎שׁ א‎פ‎ר‎י‎ו‎ ש‎מ‎ר‎י‎ ש‎ל‎מ‎ו‎ תִּפְסָק א‎כ‎ר

—all working, even those who count, shall be considered a quorum.

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 audible 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 Tamid, 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. 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 (Teshuva, CILS 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, it would be sufficient for the shali'ah t'zibbur to have voice contact with the individual with whom he 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 whom the minyan responds. 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 murmuring 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.”

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 teshuva 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-davvener 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.13 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 at different synagogues (or even one synagogue if they hold multiple minyanim), or if one talked on numerous pralms, saying kaddish after each. Wisely, our sources worried about the tendency to multiply kaddishim 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 obliged 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, CILS 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 shalit zibbur, 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 shalit zibbur alone or a one way connection linking the minyan to the individual are sufficient. E-mail and chat room or other two-way electronic 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 a 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 minyan members, 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 overbearing 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 superfusious blessing (רביעיות ברכה). 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 Shulhan 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 shows that ked mi nisakim—“showing one’s face” is a category wherein the person had stuck his face in the window, whereas he is considered inside and qualified to be counted in the minyan. Why 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 (תודה קול). 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, probably both, would need two-way video capability (תודה ותודה), but see the Beur Halakhot to Mishnah Berahah 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 halakhatim 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: חכמים ושבטים וקטנות — “that I may be sanctified in the midst of the Israelite people,” is cited as the source for a minyan on Megilah 23b and Yerushalmi Berakhot 7.7, with the minimum often established by the minimum group of the ten spies (Megillah), or, alternatively, the ten brothers of Joseph who traveled to Egypt cited by the Yerushalmi. Elsewhere, Beur’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 Rabba 49.13) are cited. More broadly, the verses — Psalms 68:27: חכמים ושבטים וקטנות — “In assemblies bless God,” and Proverbs 14:28: חכמים ושבטים וקטנות — “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 Omen. 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 Aruch ha-Shana, “Shabbos and festivals; the letter of the oración. It is not considered writing by the Torah. Since this does not constitute writing, its erasure cannot constitute erasure (see Oved Yosef, Teher Ravo, Vol IV, #250). 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

7. I am not certain that this constitutes a valid halakhic argument, but, would it then become possible to “dance on two simultaneous weddings”? 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 act to fulfill the obligation of an observer, it generally requires the intention and attention of both the actor and the observer (see Shulhan Arukh, Orach Hayyim 193.1 and 213.5). 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 shaliach tznim (the prayer leader). Literally the congregation’s representative to represent everyone (see Shulhan Arukh, Orach Hayyim 101 and 124, among others; and Arukh HaShulhan on 124 in particular). This includes even those not specifically known to the shaliach tznim. (Most explicit, in this regard, is Shulhan Arukh, Orach Hayyim 690.14: “If the reader (of the Megillah) is the shaliach tznim, it may be assumed that he intends all listeners, even those outside the synagogue.”)

10. In Kol Bo Avoda by Y. Yeshuel Greenwald, p. 371–373, he notes objections among Aaskenazi poskim to the custom that was prevalent among Sephardim and which has become the normative custom, to allow all mourners to recite kaddish as one. They argue that it is הַלָּוֵי וַיִּשְׁחַר הָאָדָם הָאָדָם (see also לָוֵי וַיִּשְׁחַר הָאָדָם), “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 responsa 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 (תהליך סי ה), nevertheless, the congregation has no need of it being said,” (my translation).


12. That these requirements are adjudged locally is commonplace, see M. Pesahim 4.1 and Baranum’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. See, for instance, this question in that location — extrapolated over twenty-four hour periods, with half treated as night and half treated as day, until sunrise and sunset reassess themselves (see J. David Bleich, Contemporary Halakhic Problems I, p. 212, citing R. Menahem Kashar in Nevei 5730), or to utilize the times of the nearest neighboring Jewish community which still has times in fact (CRS Index 8.1, and see R. David Shles, Torah SheBekhah Peh 7 (1965) and R. Meir Blumenfeld, Perush Shulhan #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 Yitzchak Weiss, Mishpat Yizhak Vol. VIII, #50 in J. David Bleich, Contemporary Halakhic Problems III, p. 52 of a longer discussion of the particular problems of counting the Omer). See Kol Bo Avoda, 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 HaZaron 5721 (1961) by R. Joshua Figerbaum, reported by Lord Immmanuel Jakobowitz in Tradition, Vol. IV, p. 265 and by R. Berlson HaUziel in Mishmar 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 responsa entitled “Hearing Torah-reading, Shofar-blowing and Megillah by Means of a Loudspeaker, Telephone or Radio?” (my translation), in Tzitz Elucidar VIII, 11 and it is explicitly permitted by R. Israel Rosen in Tehumin 13 (1994-5) (with several other modern-day opinions cited therein). Note, in particular, that R. Waldenberg permits fulfilling obligations over the telephone, citing Responsa Pnin Melvin, Orach Hayyim 103 and V’rushah P’letah 10 (by R. Natsh Shlomo Schlessel (1946)) to that effect, thereby reaching very similar conclusions on this very issue well before this responsa.


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
Instructor’s Edition

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 Meshulam, 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 R. Meir in the responsum of R. Tzvi, permits, although R. Tzvi 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.

Rabbi Jadal Kagan 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 — לעיינו מיני laděmם, 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 (דִּבְרָה) the rule is not to utter God’s name in cases of doubt (conveyed as the principle לפֶּן תִּשְׁמַר הַקַּנֵּחַ — 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.