

“Streaming Services on Shabbat and Yom Tov” -- a Dissent and a Challenge

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As history and culture and faith tradition progress, we are periodically faced with pivotal moments. Jewish tradition has endured through plagues and destruction, persecution and the march of culture from antiquity through medieval times, from enlightenment through the age of technology because ל"רנ crafted the halakhic process anchored in two absolutes: absolute allegiance to the covenant forged at Sinai and an absolute and astounding humility that compelled them to aver that knowledge and circumstances would inexorably develop and progress in directions they could not possibly envision from their own times and places.

Scholars and scientists, statesmen and faith leaders almost universally share the premise that this era of Covid-19 is just such a pivotal moment. We are never going back. The challenge of leadership in 2020 is to anticipate and provide for the “new normal.”

This dissent to Rabbi Joshua Heller’s erudite teshuvah, “Streaming Services on Shabbat and Yom Tov” is grounded in the conviction that as the lives of millions are threatened by a seemingly unbridled pandemic, anticipated by numerous dystopian films that strike fear in the hearts of viewers, we actually do not yet know what kind of “pivot” is going to be necessary in order for us to maintain and transmit that covenantal relationship.

Scientists will develop effective therapies and vaccines. In unprecedentedly short time spans.

And so this dissent constitutes a call for rabbinic and lay leaders of Conservative/Masorti communities around the world to go back to basics. To the two absolutes of ל"רנ: We must absolutely dedicate ourselves to maintaining our covenant with God as we absolutely declare with humility that we do not yet know exactly what we will be dealing with over the coming months and, yes, perhaps years.

Although Rabbi Heller makes a case for this period of time representing a שעת הדחק, the issue is not entirely clear. Before declaring that the halakhah can accommodate practices that invite less detail-oriented readers to desecrate Shabbat, festivals and the Days of Awe, it seems wiser to take a step back, think creatively about ways to preserve community, deepen personal interactions, provide opportunities for members of Conservative and Masorti communities to own ritual leadership roles while leaving the Shabbat framework ... d’oraita and d’rabanan ... intact.

Once the premise is in question that we are intractably in a שעת הדחק moment, the complex methods Rabbi Heller devises for streaming, Zooming, recording, logging on and off virtual services lose their most compelling element. Our lives are not at risk ... indeed the welfare of our congregations are not at risk ... if we relate to this Covid-19 period as perplexing, challenging but something less than שעת הדחק. That is not to say that physical distancing, handwashing, masks and gloves are not necessary. They are. And their efficacy in containing the spread of the Covid-19 virus has been proven repeatedly in parts of the world

where they have been most strictly imposed. The question is: is the existence of Jews per se and Jewish community per se threatened to the point where the emergency principles of שעת הדחק and סכנת נפשות need to be invoked? Viewed through the double lenses of absolute allegiance to maintaining the covenant and the absolute humility woven into the fabric of the halakhic process, the principle of flexibility within parameters, this dissent comes to say “no, we are not at that point.”

I take exception to two cases posited on pages 19 and 20 of Rabbi Heller’s teshuvah which are part of his examination of streaming, Zooming and recording as לפני עיוור. Inviting guests to a Shabbat meal in one’s home knowing that it is likely that those guests will drive is an event in an entirely different context than a congregation officially offering streaming, Zooming and recording on Shabbat and אג. One is a private invitation extended by hosts to potential guests to join them for a Shabbat meal in their home ... the other is the official act of a congregation under the supervision of a Conservative / Masorti rabbi and m’ara d’atra arranging a complex procedure that involves participants in the desecration of sacred time.

The second case is allowing the use of condoms (a rabbinic transgression) in the face of potential risk of life due to exposure to AIDS (I would add to that the cases of venereal disease and women for whom pregnancy itself is life-threatening). But in all of these cases, the condom provides protection against a direct life-threatening act. Participating in virtual services in whatever format does not spare the participant from engaging in a life-threatening activity. At the very least, those congregations in areas that are permitting group activity indoor will be conducting services with proper adherence to physical distancing, requiring masks, etc. and therefore attending such services will not be life-threatening.

In regard to the discussion of שמא יתקן (page 22). First off, the process of streaming and the process of recording are distinguishable. One can stream without recording ... one cannot record without having something to record, i.e. the streaming. I also posit that the challenge of שמא יתקן cannot be dismissed: the number of elements required to livestream or Zoom is not inconsequential: microphones, an undetermined number of wifi routers, computer screens, speakers, keyboards, “mice”, headphones and at least one video camera and the internal structure that links them all at the source of the streaming. Even given the presence of a non-Jew employed by the congregation to support the process (itself questionable), the overwhelming majority of those participating remotely are not going to have a non-Jew in their employ to address whatever malfunctions may arise during the course of the service. The likelihood of such in-the-moment intervention to keep the streaming going and being received is far higher than the classic case of the blown bicycle tire.

If the streaming / recording is of a service that is, indeed, being held within the synagogue building with members of the congregation sitting at appropriate distances from one another and wearing masks, etc, there remains the issue of streaming or recording someone who does not wish to appear before a camera during these sacred times. As Rabbi Heller acknowledges, one can easily be recorded walking to shul on a public street or entering a synagogue. But the cameras recording these actions are in place on the principle of פיקוח נפש, which does not apply to livestreaming or recording the service. Indeed, even the synagogues that do monitor their entrances with cameras for security purposes would not have cameras in their sanctuaries for the same purpose. I agree that the synagogue is a

public space, but the sanctuary is meant to be a sanctuary from the vast public spaces that are not subject to halakhic standards.

Finally, regarding koteiv. Rabbi Danny Nevins in his comprehensive, masterful teshuvah on the use of electricity on Shabbat concludes: "The intentional recording of data--whether of text, images or sound--is forbidden on Shabbat as a derivative form of writing. While this form of recording may not employ the same mechanism as the writing used in the tabernacle (whatever that was), it has the same purpose and result--to preserve information for later display. We cannot claim that such writing is akin to the category of כלאחר יד, with the back of the hand, because this form of writing is efficient and effective to an extent which is equal to or greater than that of conventional writing. Rather this form of writing should be considered a derivative form of the prohibition (תולדת כותב) which is biblically prohibited on Shabbat and Yom Tov." (pg. 35). There is, in addition, the digital and unintentional writing that takes place every time we use a computer, tablet or cell phone ... recording when we open and close every program or app, at the very least.

I suppose it is within the realm of the possible that an organization like צומת in Israel, which develops electrical devices that are Shabbat compliant, may also develop a Shabbat compliant computer. Until that happens, the entire framework proposed by Rabbi Heller seems unacceptable for use during sacred times.

"More than Jews have kept the Sabbath, the Sabbath has kept Jews" -Aḥad Ha'Am

Let us, instead, consider this to be an opportunity to think creatively about ways to address some of the most pressing challenges of living a life in Jewish community at a time of physical distancing.

In an interview in April 2020, former Surgeon General Vivek Murthy commented: "I think there's a real possibility that the physical distancing we're being asked to observe to tamp down this wave of COVID-19 infection could very well contribute to more loneliness. I think it could contribute to a social recession, if you will, marked by deepening levels of loneliness as we stay apart for longer and longer periods of time." [NPR's Hidden Brain Podcast, "A Social Prescription: Why Human Connection is Crucial to Our Health." April 20, 2020]

Jewish community has been crafted, since we left Egypt dependent on each other for survival, to deepen human connection, to respect each individual and guide us into respecting and caring for each individual's needs. This should be the mission of Jewish community in these uncertain times.

Yes, Shabbat has kept the Jews ... and it is the challenge of our moment to think creatively about ways for Shabbat (and our other מקראי קודש) to keep us. By enhancing the uniqueness of the 7th day instead of using the tools that engage us during the 6 days of our creating and working and producing.

I offer the following suggestions in recognition that none of these will work for every community, or that any one of these in particular will work for any specific Conservative/Masorti community. But they are offered here in the spirit of inspiration. Let's

think out of the box ... out of the digital box ... and create new opportunities for the members of our communities to meet each other's needs, own new skills and share them.

1. Let us train a cadre of shofar blowers who can meet small groups in the backyards or balconies or parks where members live, and blow shofar for them on Rosh Hashanah so that the clarion call can be heard without the filter of microphones and computer speakers.
2. A place for reviving havurot: spread around suburban areas, many members of congregations do not even know which of their neighbors may actually be members of their own kehillah. Let us prepare abbreviated versions of services for Shabbat, for festivals and Days of Awe and coach members in different neighborhoods to run those services together ... perhaps even renting largish spaces in neighborhood community centers or churches or schools where small groups can meet in parallel.
3. Let rabbinic colleagues Zoom drashot ... not during Shabbat and chagim, but immediately before, setting the mood and providing inspiration as the community's small groups set out to run their own services.
4. The same should hold for cantorial colleagues ... for a pre-Shabbat or Chag recitation of iconic texts and melodies shared with the community online immediately before candlelighting will create the mood and inspiration that our kehillah members crave as they come together in smaller groups.
5. In the same vein, let us offer streaming and Zooming selihot services and be creative about them. Adopting the Sephardic tradition of engaging in Selihot the entire month of Elul, our congregations could offer a series of virtual Selihot experiences that would include both the iconic texts and melodies that are so evocative for us as well as opportunities to delve into music or poetry or art around selihot themes, or a creative writing workshop producing some new texts that the above-mentioned havurot might share in their small gatherings.
6. Small groups or teams may gather at the home (private or institutional) of homebound members to run abbreviated services. Embracing (while physically distancing!) these community members will allay everyone's sense of loneliness and isolation.
7. There is no halakhic imperative to conduct יזכור on Chag or even on Yom Kippur. There are compelling reasons why that has long been the case, but it is not a requirement. Therefore, congregations should make provisions to stream or Zoom יזכור services within a day or two of each these sacred times.

A final, geographic note: Rabbi Heller acknowledges (page 8, note 26) that in Israel the solution of the non-Jew fulfilling certain prohibited roles on behalf of the Jews of the community may be less practical. As the Rabbinical Assembly deepens its awareness of the global nature of Conservative/Masorti Judaism, it is imperative to acknowledge that the rabbis and communities of North America are under intense and extensive social and cultural pressures. These pressures do not exist to the same extent in Europe and Israel. Indeed, the force of this teshuvah creates intense and extensive pressure and complications for those of us working in European and Israeli settings as we continue to strive for the stability and acknowledged legitimacy of Conservative/Masorti Judaism in our respective countries.

The Conservative/Masorti community that dedicates time, creativity and resources to addressing the loneliness and isolation of its members, deepening everyone's experience of sacred time and empowering members to take care of each other will emerge from this uncertain time stronger, with newly minted or strengthened community ties. This seems to me to be a more significant way, in the coming months, to enhance sacred time for the members of our communities than exacerbating isolation through encouraging our members to spend yet a seventh day on a screen and in doing so to engage in actions that may, in retrospect, do irrevocable harm to the fabric of Conservative/Masorti halakhah.