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"Taking Responsibility for Torah"

IN HALAKHIC EMERGENCIES, BREAK GLASS AND THEN READ DIRECTIONS CAREFULLY

Rabbi Aryeh Klapper, Dean

The Purim coronavirus crisis generated numerous public statements that the mitzvah of hearing the megillah could be fulfilled via a livestream. Coincidentally, after the publication of [my Facebook post](#) clarifying the difference between *sh'at hadchak* and *bedieved*, many of those statements were updated to say that livestreaming was sufficient only when no live option was available. Really what they meant to say was that livestreaming **might** be sufficient to fulfill the mitzvah, and that public and private health concerns required us to rely on that possibility when no safe in-person option was available.

Maybe they were right the first time? Rav Moshe Feinstein's three responsa on the subject seem to state clearly that it seems more likely than not that one can fulfill the megillah by hearing it via microphone or telephone.

Rav Moshe is hesitant to permit this in practice because of social policy concerns. Such concerns should not affect the underlying halakhic question of whether one's obligation has been fulfilled. If changed circumstances have obviated Rav Moshe's concerns, or if one simply doesn't share those concerns, then his position should be an adequate basis for relying on livestreaming in non-emergency situations.

I disagree with this read of Rav Moshe. This claim arises from an imprecise reading of Rav Moshe's responsa, which are carefully nuanced and jurisprudentially sophisticated. Let's take a look at them in some detail (complete texts with my translation are available [here](#)).

The opening paragraph of Igrot Moshe OC2:108 states that "it is inappropriate (אין ראוי) to read the megillah so that people will hear via microphone." Rabbi Feinstein then denies a report that he had previously ruled that one need not object (אין למחות בידם) to people who do this.

In the body of the responsum, however, Rav Moshe rejects his correspondent's confident assumption that one cannot fulfill one's obligation via microphone, because the sound is produced by something which is not itself obligated in the mitzvah. Rav Moshe contends that the microphonic sound is more likely than not **considered** to be the voice of the human speaker. He furthermore is not certain that it is physically correct to say that the microphone produces an independent voice. He concludes:

For this reason it is possible that one should not object (אין למחות) on halakhic grounds to those who wish to read the megillah via microphone, and there is no risk of corrupting other mitzvot such as shofar and Torah reading on Shabbat and yom tov, because it is forbidden to speak into a microphone on Shabbat and yom tov, and regarding mitzvot of speech on weekdays, if they were also to read via microphone, if one should not object regarding megillah – all the more so (one should not object) to these.

However, since the matter is not unequivocally permitted, and this is a new matter entirely (ענין חדש בכלל), one should object (יש למחות) in order to restrain them from chasing after other novelties, which they are ardently attracted to in these lands, as Your Honor wrote.

Rav Moshe formally presents the issue as whether one must object to synagogues that read the megillah via microphone. His conclusion is that one must, but on social policy rather than halakhic grounds. Our question is whether this means that on pure halakhic grounds he endorses the position.

On first blush the answer is yes, since he states that it is more likely correct than not.

But on second thought, maybe not. There are at least three other teshuvot in which Rav Moshe states that an answer is more likely correct than not, and nonetheless frames the halakhah as "One should not object" rather than as "One may act so":

1. OC 1:93 - The more likely correct position for a Shabbat blech is that covering the fire is sufficient, and one need not cover the controls. Therefore one can be lenient *bish'at hadchak* and need not object to people who rely on this position in ordinary situations.
2. OC 2:84 - The more likely correct position is that attaching things by sticking a needle through them is permitted on Shabbat. This position is certainly correct regarding diapers, where the attachment is necessarily temporary. However, one should not object to women who attach jewelry this way, even though the attachment may last.
3. OC 4:62 - The more likely correct position regarding Shabbat ending time is that of Arukh HaShulchan, and therefore one should not object to people who rely on it. But perhaps it is appropriate to be stringent and account for the conflicting positions.

What emerges from these cases is that Rav Moshe uses “more likely correct than not” for positions that he would choose where a choice is necessary, but that he would rather have people play it safe and avoid choosing. However, he believes that one cannot object to people who make the choice even when choosing is unnecessary. Applying those rules to our case, he would prefer that people not rely on hearing the megillah via microphone, but if someone had already heard it via microphone, he would tell them not to make the berakhot if they read it for themselves later. Not quite endorsement, but pretty close.

However, careful attention to Rav Moshe’s language in OC 2:108 reveals an additional wrinkle. In addition to the language of “more likely correct than not,” Rav Moshe offers another ground for not issuing a definitive ruling:

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since the matter is not unequivocally permitted, and this is a new matter

The phrase *inyan chadash* also appears in YD 3:30, where the issue is whether placing items in a steam oven constitutes the method of koshering known as *bag'alab*. Rav Moshe states that it seems reasonable that this works. However, because it is a new matter that never came before the rishonim, he permits it only for items that are clean, have been unused for 24 hours, are not generally used for sharp foods. He also states that one should not be lenient even to that extent for Pesach koshering, because even “negative absorbed taste” is forbidden. All this seems more definitive and less positive than his rulings in the three cases above that do not involve a “new matter.” Moreover, the hesitations here are not connected in any way to fears of sociological impact.

Like our case, YD 3:30 is a new matter because it involves new technology. I suggest that Rav Moshe regards rulings about unprecedented technology as inherently tentative. One might have misunderstood the reality, or misjudged the stakes, or erred in some other crucial way. The ruling in such cases will be to avoid choosing among positions if at all possible.

This insight helps explain two confusing elements of a different *teshuvah* regarding microphones.

In OC 4:91:4, dated 5732, Rav Moshe rules that a hospitalized woman should hear *havdalab* by phone if no in-person option is available, and cites his *psak* in OC2:208 as precedent. But he adds two surprising things.

1. *Havdalab* is like all other weekday speech mitzvot in this regard, **except for *keriyat Sh'ma* and *Birkat HaMazon*. One must object** to anyone setting out to fulfill the Shema and Birkat HaMazon via microphone.

If Rav Moshe endorses the position that hearing via microphone fulfills one’s obligation, why should one object in those two cases?

2. One must answer Amen to blessings heard via telephone or microphone out of doubt = *misafek*.

Why is this considered a doubt? If it is more likely true than not, we have a majority = *rov*!

I suggest that the answer to both questions is that Rav Moshe had a sort of metadoubt about all rulings issued with regard to new scientific realities. Such rulings may seem “more likely than not,” but the overall odds never go above 50%, i.e. never escape the category *safek*. Therefore: One should object to the use of microphones to fulfill Biblical commandments, such as *keriat shema* and *birkat hamazon*. (*Havdalab* is only Biblical when it actually ends Shabbat for you; once you’ve said *atah chonantannu* or *barukh hamavdil ben kodesh lechol* it becomes Rabbinic.)

In OC 4:126, dated 5740, Rav Moshe returns to the question of whether one can hear the megillah via microphone. A school knew that when its *beit kneset* was packed, as for example to hear the *megillah*, the female students could not hear without a microphone. They had the option of delaying the reading until the cafeteria was cleaned up, and having two smaller minyanim, or else of using the microphone. Rav Moshe insisted that they delay the reading despite what he acknowledges as a “slight *dchak*,” without detailing his rationale.

Delaying the megillah means delaying the breakfast. So Rav Moshe imposes a high standard to be considered a sufficient *sh'at hadchak* to allow reliance on microphones. Since he does not mention sociological concerns here, his concerns presumably are genuinely halakhic. This demonstrates again that his *psak* in this context was tentative.

In other words – forced to choose, Rav Moshe chose the position that hearing the megillah by microphone or telephone was sufficient. But he tried to avoid the choice whenever possible, He took a much stronger position against relying on technology for Biblical mitzvot, and emphasized that Amen is answered out of doubt, because he understood that changes in scientific understanding, halakhic understanding, and reality might reveal that his evaluation was wrong. **He was trying to rule as necessary in the moment while avoiding setting a precedent.**

In the forty years since Rav Moshe’s third teshuvah, the world has changed enormously. Wireless connections and digital signal processing mean that we are dealing with completely different technology than he discussed. His notion that the propagation of sound waves (which he is somewhat skeptical of) is no different than the transformation of speech into bits seems off. He never discusses systems where microphones generate sound through multiple speakers handling different frequencies. The internet and virtual reality have radically different social roles.

For all these reasons, I think that Rav Moshe’s position is a weak reed to build on. In a truly extreme *sh'at hadchak* such as mass quarantines, it can still be relied on. But the halakhic dialogue about fulfilling mitzvot via electronic transmission or other forms of virtual reality should begin from first principles.