

CENTER FOR MODERN TORAH LEADERSHIP



MAY A CHAZAN LEAD HIGH HOLIDAY SERVICES FROM A WHEELCHAIR? PART FOUR

Rabbi Aryeh Klapper, Dean

Dear Rabbi:

Mr. Toviah Goodman has davened 1st day Rosh Hashannah Shacha Yom Kippur Neilah for our shul since its founding in 1993. However suffered several health setbacks this year, and now is in a wheelchair. Should he continue to serve as shaliach tzibbur, or should we replace someone who is able to stand?

*Sincerely,
The Members of the Ritual Committee, Congregation Mevakshei Ps.*

ANSWER PART 4

We can sum up our pre-20th century precedents as follows:

Maharam and Maharshal prefer blemished shluchei tzibbur.

Mahari Brona and Chavot Yair prefer shluchei tzibbur who are unblemished and physically whole.

Sefer Chassidim is indifferent to the question of blemishes. However, Sefer Chasidim sees disability as an issue if it prevents a shaliach tzibbur from fulfilling the prayer obligation in the manner incumbent upon, or perhaps even preferential for, people without disabilities, lest they learn from him.

In the 20th century, the question of a shaliach tzibbur in a wheelchair was addressed, whether analytically, by reporting anecdotes, or by reporting responses they received, by

1. Rabbi Ezra Batzri in Techumin vol. 4
2. Rabbi Shmuel Toledano in Tzohar vol. 3 (5758), and again in Tzohar vol. 10
3. Rabbi Yitzchak Zilberstein in Chashukei Chemed to Berakhot 30a
4. Rabbi Hillel Herzl Yitzchak in Beit Hillel 35 (5768)
5. Rabbi Yitzchak Isaac Leibes in Responsa Beit Avi OC3:38
6. Rabbi Pinchas Toledano in Responsa Brit Shalom 3:7
7. Rabbi Mordekhai Tzvi HaLevi Tziyyon in #8 **יש"ת השואל**

1. R. Batzri concludes forcefully that there is no halakhic issue so long as the community does not object, and the community ought not to object.

2. R. Shmuel Toledano in Tzohar vol. 3 (5758) concludes that there is no issue ad hoc or when the person has a chiyuv. For Yamim Noraim, the same is true if it is clear that the congregation forgives its dignity in this regard. (However, he discourages appointing an amputee lekhatchilah for the Yamim Noraim or regularly).

He reports that R. Wozner, author of Responsa Shevet Levi, told him that a chazan who cannot stand can be appointed for the Yamim Noraim if he is best for the tzibbur's kavvanah, and that he might remember R. Meir Shapiro, founder of Yeshivat Chakhmei Lublin, sitting while being shaliach tzibbur for the Yamim Noraim.

In Tzohar vol. 10, R. Toledano revisits the issue and provides more fascinating anecdotes:

- a) Rabbi Moshe Shaul Klein reported that the Imrei Chayyim (Gerrer Rebbe) served as shaliach tzibbur on the Yamim Noraim while seated.
- b) R. Chaim Kanievski distinguishes between ad hoc and regular service. The logic seems to be that the shaliach tzibbur standing is a matter of the dignity of the congregation, and the congregations is permitted to forgive its dignity only on an ad hoc basis.

3. R. Zilberstein reports that R. Elyashiv preferred a shaliach tzibbur who could stand even if that meant a decline in piety or vocal ability. He assumes that the shaliach tzibbur standing is not only an issue of the dignity of the congregation, but a fundamental requirement of prayer.

4. In Beit Hillel 35 (5768), Rabbi Hillel Herzl Yitzchak notes that one might argue that when the Chazan is using a wheelchair, everyone will know that he is unable to stand, and there is no risk that people will learn from him to sit. This would remove the proof from Sefer Chassidim. He nonetheless adopts the positions of Rabbis Elyashiv and Kanievski.

5. R. Leibes argued that in America, where in his perception standards had slipped, it is particularly important that the shaliach tzibbur stand. He also finds Chavot Yair's arguments compelling. Unfortunately, the specific question he is responding to is elided on Hebrewbooks.org. It seems that he believed that a shaliach tzibbur who cannot stand should not be allowed to serve on the Yamim Noraim, even if he has already been appointed and will have to be bought off financially.

6. R. Pinchas Toledano in Responsa Brit Shalom 3:7, assumes the issue is purely one of the dignity of the congregation, and concludes that a chazan whom the community desires can therefore serve, as the community may forgive its honor.

7. R. Tziyyon in Responsa HaShoel #8 cites a wealth of contemporary poskim, of varying stature, as follows:

- a) R. Aviner strongly supported Maharam.
- b) R. Nebenzahl also ruled that there was no basis for objecting.
- c) The book *Tefilah Kehilkhatyah* rules like Maharam in principle. However, for the Yamim Noraim it prefers to follow Chavot Yair. However, if there would be a loss of human dignity in excluding someone from serving as shaliach tzibbur, he goes back to Maharam.
- d) R. Shammai Gross (following Magen Avrohom) thought that one should not follow Maharam lekhatchilah
- e) R. Elchanan Prince distinguishes between ad hoc and fixed appointment
- f) R. Eliyahu Schlesinger was opposed
- g) R. Herschel Schachter reports that Rav S.Z. Auerbach ruled the same way as R. Zilberstein's report of R. Elyashiv, and thus Rav Shimon Schwab ceased being shaliach tzibbur for Neilah in Breuer's
- h) R. Tziyyon cites Rav Ovadiah Yosef as opposed. (However, I think this report is an error, and Rav Ovadiah was referring only to a shaliach tzibbur for *keriat haTorah*.)
- i) R. Tziyyon cites the newsletter Vayishma Moshe, however, as reporting some of these same poskim very differently. For example, it cites Rav S. Z. Auerbach as saying that there is no issue if the community is agreeable, whereas Rav Schachter's report indicated a substantive opposition. It also quotes R. Chaim Wozner, son of the author of Shevet Levi, as saying that he could not imagine any Jew raising the issue against someone who wished to be shaliach tzibbur for a yahrtzeit.

Where does all this leave us?

Major contemporary poskim apparently reach conclusions ranging from unqualified paskening like Maharam to a hard lekhatchilah preference for chazanim who can stand, even if they are less pious or musical. However, none of them has given the issue a sustained treatment in print, and the secondhand or anecdotal reports are often contradictory even regarding the same posek.

From my perspective, the two figures here whose opinions might significantly change the landscape of psak are R. S. Z. Auerbach and R. Yosef. However, the former's opinion is reported in contradictory ways, and the report of the latter I think reflects a misunderstanding. So there is no controlling contemporary authority.

One option is to say that there is no real basis for adjudication here. Once all the formal arguments have been made, and all positions have survived relatively and roughly equally intact, the issue can and should be left to the lay community to decide. They may choose to ask a halakhic authority to decide for them anyway, either because leaving it to the congregation would likely lead to intracommunal dissension, or because they resonate with that halakhic authority's religious intuition. But that is their choice, and the decision would not be made on what Modern Orthodoxy generally recognizes as formal halakhic grounds.

A second approach is to evaluate the textual evidence ourselves, without regard to the weight of previous authorities. But in this case, we have already concluded that there is essentially no primary textual evidence.

A third approach is to frame the issue in terms of broader halakhic issues and values. For example, three kinds of dignity, or *kavod*, are mentioned in the responses above.

1. *Kavod hamitzvah* – the dignity of the commandment.
2. *Kavod hatzibbur* – the dignity of the congregation
3. *Kavod haberiyot* – the dignity of the individual human being

Key questions include:

Is there a halakhic hierarchy among these types of *kavod*? How do we evaluate their strength, and relative strength, regarding specific issues and cases?

Modern Orthodoxy often frames itself as strongly committed to the value of "inclusion". Is this just another way of saying "*kavod haberiyot*", or does it have different connotations and implications? How does "inclusion" play out halakhically?

A related but not identical approach is to frame the issue in terms of the experiences of the people involved. For example: Maharam prefers a disabled shaliach tzibbur since "G-d's formal table-service is broken vessels". Would disabled people wish to be shluchei tzibbur if that requires them to perceive themselves as "broken vessels"?

Stay tuned next week for the exciting conclusion of Rabbi Klapper's responsum!