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under a heap of rubble and is in terrible shape with hopes of living only for a short while [certainly not until next Shabbat] – Shabbat restrictions are nonetheless set aside and all efforts must be made in an attempt to maintain the victim alive for as long as possible.

R. Waldenburg explains that these few extra moments of potential life are certainly filled with great suffering, but nonetheless, the rescuers are commanded to do everything in their power to promote survival for as long as possible. He understands this obligation to override even protest from the victim himself requesting to be left to die. R. Waldenburg explains that human beings cannot understand the “value” or “worth” of even ephemeral moments of life and, therefore, the decision to promote survival must, by definition, be a halachic one, certainly not left to the emotional turmoil surrounding the moments before death.

Conclusion

The halachic world includes a wide range of opinions as to when therapy must be continued and when it may be stopped, and definitive rules are elusive. This article is meant only to serve as a springboard for discussion – to highlight the various important issues and to bring to light some of the major halachic opinions on these matters. It is intended to inform and relay the important issues at hand that can make a practical consultation with a *posek* more substantive. May all of these issues remain within the realm of the theoretical.

Praying with a Minyan on an Airplane

Rabbi Jason Weiner

Communal prayer is a great mitzvah and the hallmark of a religious Jew's daily life. However, a minyan on an airplane can be very disruptive. People are awakened to join the minyan, even though they may have struggled for hours to fall asleep on a long flight and may prefer to be left alone. Additionally, other passengers are often disturbed, food service is delayed by clogged aisles, passenger safety is compromised, and other passengers may not be able to access the restrooms.

A conscientious Jew is thus faced with a dilemma: to pray quietly in his seat, or to join a minyan which may cause these and other disruptions. Rav Shlomo Zalman Auerbach's students report that their Rebbe was “opposed to forming minyanim during a flight because it disturbs the other passengers.”¹ Rav Shlomo Zalman's reasoning is not explained in detail, but we will humbly attempt to do so below.

Chazal praised and extolled the importance of praying with a minyan. For example, the Gemara states that despite the mitzvah of keeping a slave,² R. Eliezer once freed his slave in order to complete a minyan.³ Based on this incident, the *Shulchan Aruch Harav* writes, “Even though communal prayer

1. *Halichot Shlomo, Hilchot Tefillah*, p. 96 fn. 12.

2. *Vayikra* 25:46.

3. *Berachot* 47b.

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is of rabbinic origin, it is greater than a positive commandment of the Torah, for it publicly sanctifies *Hashem*.⁴ Furthermore, in a number of powerful rabbinic statements, we are taught that prayer is most acceptable to God if it is said with a minyan.⁵

However, despite the great lengths that *Chazal* go through to emphasize the value of prayer with a minyan, the *Shulchan Aruch* simply writes that one should "*yishtadel*", make an effort, to pray with a minyan.⁶ Many have posited that the *Shulchan Aruch* uses such a nonobligatory term because the primary mitzvah is not prayer with a minyan but the endeavor to make our prayers more readily acceptable to *Hashem*.⁷ Since

4. *Shulchan Aruch HaRav, Orach Chaim* 90:17.

5. The *Midrash Rabba Devarim* 2:12 says that communal prayer is always answered, "*leolam aina chozeret reikam*"; *Sotah* 33a says that God listens to prayer of the public, and Rashi adds that God is never disgusted by communal prayer; *Yevamot* 49b claims that God is always found in communal prayer; *Berachot* 8a states that prayer with a minyan is "*ait ratzon - a propitious time*"; *Berachot* 6a says in the name of Rav Yochanan that God only hears prayers in the Synagogue, but *Tosafot* in *Avodah Zarah* 4b s.v. "*kivan d'ika*" quotes this Gemara as meaning that God only listens to communal prayer. The *Rif* quotes this Gemara and starts the quote referring to prayer in the Synagogue, but concludes it in reference to communal prayer. The *Rosh* and *Tur* also combine these two ideas and conclude that "One should only pray in a synagogue with a minyan, for Rav Yochanan said that a person's prayer is only heard in a synagogue, which means with a minyan." According to the *sefer Beit Haotzar* 1:27, communal prayer is heard even if one does not have *kavvana* (proper intent). According to the *Mabit, sefer Beit Elokim* 11, this is either because one has better *kavvana* with a minyan or since it is the proper way to pray.

6. *Shulchan Aruch Orach Chaim* 90:9.

7. *Piskei Teshuvot*, vol. 1, p. 690; *Yalkut Yosef*, vol. 5, pp. 240-41, also comes to the conclusion that communal prayer is not a mitzvah in and of itself, but since communal prayer is more effective than individual prayer, it is best to pray with a minyan as an attempt to get our prayers answered. As proof for this contention, he cites the language of various *rishonim*. For example, when the *Rambam* records an obligation to pray with a minyan, he prefaces the statement by noting communal prayer is always heard, then continues, "therefore, one should pray with a minyan (*Rambam, Hilchot Tefillah* 8:1)." See also *Teshuvot V'hanhagot* 1:97. Rav Moshe Feinstein *Iggerot Moshe* OC

prayer with a minyan is not the essential mitzvah, but a means to an end, the *Shulchan Aruch* and other halachic authorities permit one to pray without a minyan when they are "*Anus*" (unable).⁸ Additionally, according to the Gemara, Rav Nachman was not accustomed to attending synagogue to pray with the congregation because he "was unable to do so," further emphasizing the possibility of praying alone.⁹ Rashi explains that he was very weak, and it was too troublesome for him to assemble a minyan in his home. Based on this, the Magen Avraham rules that one does not have to pray with a minyan if it is very challenging for them to do so or even if they are just weak,¹⁰ which makes it clear that despite the great importance of communal prayer, there are situations in which it would not be obligatory.

Poskim throughout the generations have also argued that in addition to physical difficulty and health concerns, one must forgo public prayer in order to fulfill a mitzvah, even if it is only a rabbinic obligation.¹¹ In addition to fulfilling a greater

2:27 & 3:7. and Dayan Yitzchak Yaakov Weiss have made similar points, though Reb Moshe does hold that when there is no reason to exempt one from communal prayer, there is an obligation ("*Chiyuv*") to pray with a minyan despite the nonobligatory language used by the *Shulchan Aruch*. Dayan Weiss similarly writes that the *Shulchan Aruch's* use of the term "*yishtadel*" is meant to express the fact that communal prayer is so important that even when one is legitimately exempt from communal prayer, he should still try his best to pray with a minyan if possible, *Minchat Yitzchak* 7:6.

8. *Shulchan Aruch* OC 90:9; In addition to a case of *Ones*, the *Mishnah Berurah* 89:20 states that in a *Shaat Hadechak* - time of duress - one would also not be obligated to pray with a minyan.

9. *Berachot* 7b. (Though this implies that one may pray alone under certain circumstances, it also makes clear that without compelling justification one must pray with a minyan if at all able to).

10. Magen Avraham, *Orach Chaim* 90:16. (Also quoted by *Shulchan Aruch HaRav* 90:10, *Mishnah Berurah* 90:29, and *Aruch Hashulchan* 90:13). This is a rather low threshold to permit one to pray without a minyan.

11. The *Mishnah Berurah* 90:53 writes that if one is going to do a *dvar mitzvah* he can miss *tefillah betzibbur*; *Sefer Ishei Yisrael* 12:2 also writes that

mitzvah, prominent *poskim* throughout the generations have ruled that if one would be forced to transgress even a rabbinic prohibition in order to attend minyan, he should avoid communal prayer.¹²

There are also a number of circumstances in which it would not be proper to pray with a minyan, as other values "trump" the value of public prayer, such as if one does not have *tefillin* with him and will not be able to get a pair until after the community has finished its prayers. In such a situation it is better to pray alone with *tefillin* than with the community without *tefillin*.¹³ A similar example is if the only minyan a

health needs, financial concerns, or fulfilling a mitzvah all override *tefillah betzibbur*; *Tefillah K'hilchata* 8:9 says that Rav Shlomo Zalman Auerbach told him that one may knowingly miss *tefillah betzibbur* to fulfill a mitzvah; in 8:27 he explains that this even applies to washing oneself before Shabbat if there is no other chance, and according to the *Be'er Halacha* 250 s.v. "*yashkim baboker*" this also applies to purchasing one's Shabbat needs if they will have no other chance to do so; *Aruch Hashulchan* 90:20 says that going to work to support one's family is considered a *dvar mitzvah* and can exempt one from *tefillah betzibbur*. According to *Ishei Yisrael* 12:30, one is even allowed to skip *tefillah betzibbur* in order to bring needy guests to his house. Indeed, Rav Shlomo Zalman Auerbach, quoted in *Halichot Shlomo* 5:8 (page 63 fn. 28), permits people to miss public prayer in order to perform mitzvot whose time will pass, such as blowing *shofar* or putting on *tefillin*. Quoting *Hatzava K'halacha* 32 fn. 20, Rav Shlomo Zalman Auerbach also rules that if one has a choice to blow *shofar* for soldiers in the Israeli army or to use that time to pray with a minyan, he should blow *shofar*, even on the second day of Rosh Hashanah, when the obligation to hear *shofar* is only rabbinic (as explained in *Halichot Shlomo, Moadim*, p. 28 (11) fn.40) See also *Shevet Halevi* 6:36, that one may even go to a place for Shabbat that does not have a minyan in order to do outreach.

12. For example, the Maharil (*Minhagim, Eruvei Chatzerot* 7) ruled that one may make an *Eruv Techumin* on Shabbat only in order to attend a *dvar mitzvah*, such as a house of mourning or a wedding meal, but was in doubt if one would be able to pray with a minyan, because "To pray with a minyan is not such a mitzvah, for one can simply focus their prayers at home—*להתפלל בעשרה אינה כ"כ מצוה דיכול לכוון תפלתו בביתו*". This ruling is quoted by the *Magen Avraham* OC 415, *Petach Hadvir* 90:2 (9), *Shu"t Rabbi Akiva Eiger* 13. See *Chavot Yair* 112-15 for another example.

13. *Mishnah Berurah* 66:40.

person can find will be praying *mincha* after sunset, it is better to pray alone at the proper time rather than later with this minyan.¹⁴

In addition to the precedence given to fulfilling greater or more pressing mitzvot over public prayer, avoidance of negative consequences is also taken into consideration. For example, if one would have to walk home alone at night or in an unsafe place in order to pray with the community, he is not obligated to do so.¹⁵ Similarly, if a Torah scholar would cause a *chillul Hashem* – desecration of the divine name, by coming late to shul, he would be exempt.¹⁶

We thus see that prayer with a minyan has an unusual status in *Chazal* and halacha: It is very valuable and praiseworthy, yet it is not unconditionally obligatory. We have seen sources in *Chazal* and throughout the ages that offer different valid reasons to forgo prayer with a minyan.

We may now apply the halachic categories to the question of airplane prayer. If a minyan on an airplane is very disruptive and upsetting to the flight crew and one's fellow passengers, then there are both negative and positive values that override the need to pray with a minyan.¹⁷ On the positive side, we

14. *Mishnah Berurah* 233:14; see *Teshuvot V'hanhagot* 1:85 for further discussion of this issue.

15. *Mishnah Berurah* 90:51,52; *Kaf Hachaim* 90:57; *Shearim Metzuyanim B'halacha* 68:4; *Ishei Yisrael* 8:29, 12:16; See *Shevet Halevi* 8:19 that one who must pass through an Arab village to pray with a minyan is better off praying alone, as this could put his life in danger. According to *Orach Ne'eman* 90:54, this is all true even if one is not certain of the danger.

16. *Mishnah Berurah* 90:33. The *Shulchan Aruch* rules that even if one must pray alone, at least he should do so in a synagogue; this source indicates that despite the fact that it is better to pray alone in a synagogue than in one's home, if prayer in a synagogue could create a *chillul Hashem*, it would be better to pray alone.

17. Despite the fact that most *poskim* strongly encourage people to pray with a minyan whenever possible unless there is a very difficult case of *ones* or *shaat hadechak*, as mentioned above, we do indeed find instances when *poskim* allow people to pray alone in certain circumstances, as long as it is on

have seen that fulfilling a mitzvah often takes precedence over communal prayer; the mitzvah of *Ahavat Yisrael* (love your neighbor as yourself)¹⁸ and the value of *Kevod Habriyot* (human dignity) must certainly be counted among them.¹⁹ We also have a principle that "*Deracheha darchei noam* – the paths of Torah are pleasant."²⁰ When religious Jews are well behaved and observe their religion with pleasantness, they show that the ways of Torah are pleasant, which is not true when they are rowdy and disturb others with their prayer.

On the negative side, we have seen that causing unnecessary

an irregular basis. For example, Rav Shternbuch (*Teshuvot V'hanhagot* 1:67) was asked if it is better to pray with a minyan that *davens* early in the morning, before sunrise, or pray alone at the proper time, to which he responded that as long as this is not done on a regular basis, a person can pray alone if there is no other choice, but if this were to be one's regular minyan, one should rather pray with the minyan than pray alone every day. Rav Shternbuch gave a similar answer regarding praying with a minyan that *davens mincha* after sunset (*Ibid.*, 1:85). This would be similar to a minyan on an airplane, even if one is normally careful to pray with a minyan, there is room to permit one to pray alone on this irregular occasion. Rav Shternbuch points out that when praying alone, one should be extra careful to have proper *kavana*.

18. The *Sefer Hachinuch*, *Mitzvah* 243 writes that the purpose of "*Ahavat Yisrael*" is to bring about peace between people, and based on this mitzvah one may not cause any sort of harm or anguish to others.

19. We have a principle that *Kevod Habriyot* is so important that it overrides many mitzvot, and most rabbinic prohibitions (*Brachot* 19b, *Shabbat* 81b & 94b, *Menachot* 38a, *Eruvin* 41b). The vast majority of authorities give communal prayer the status of a rabbinic mitzvah. (See *Yalkut Yosef* vol.5 pp. 238-39 & 244, where he proves at length that the consensus opinion is that communal prayer is a rabbinic obligation only, and to some it is even less than a rabbinic obligation). It thus follows that communal prayer would be one of the mitzvot that can be overridden by the principle of *Kevod Habriyot*, particularly in light of what we mentioned above that communal prayer is simply a means of getting our prayers answered but not part of the essence of the mitzvah of prayer, which can also be fulfilled without a minyan, and is thus not as strict as other rabbinic mitzvot and not obligated in any case of *Ones* or *Dachak*.

20. *Mishlei* 3:17. See *Teshuvot Haradvaz* 3:627, for an example of this principle being used to decide difficult cases by favoring the more pleasant behavior.

trouble to others and creating a *chillul Hashem* – a Torah prohibition – also overrides communal prayer.²¹ Indeed, the Gemara emphasizes that the severity of *chillul Hashem* is so great that important mitzvot, including honoring one's Torah teacher, are pushed aside in order to avoid causing a *chillul Hashem*. The Gemara also states, "It is preferable that a letter of the Torah be uprooted than to desecrate the Name of Heaven in public."²² It is usually a *kiddush Hashem* to do a mitzvah in public, but where performance of the mitzvah itself causes disruption and angers co-passengers, it must be viewed as a *chillul Hashem*.

For both of these reasons, in addition to other potential problems, such as proximity to a lavatory or inappropriately dressed members of the opposite gender, praying alone quietly in one's seat²³ seems to be more desirable in this instance than communal prayer. After all, communal prayer is primarily a means to cause *Hashem* to look favorably upon our prayers, which cannot be expected if our prayers disturb others and cause an inappropriate scene that only serves to damage the divine name rather than sanctify it. This logic should apply even to one who has to say *kaddish*, in which we pray, "*yitgadal v'yitkadash shmei rabba* – may His great name be exalted and sanctified."²⁴ It does not make sense to make such

21. *Leviticus* 22:32.

22. *Yevamot* 79a.

23. Regarding prayer on an airplane, Reb Moshe rules that if it is difficult to stand during prayer it is best to sit in one's seat while praying, *Iggerot Moshe* OC 4:20. See also *Halichot Shlomo*, *Hilchot Tefillah*, p. 95 (4).

24. The custom for a mourner to recite *kaddish* only has the status of a "*minhag b'alma*," not a mitzvah *d'rabbanan*, even though it is based on important rabbinic sources, as the *Birchei Yosef* states in YD 240:8 as well as *Responsa Maharil* 64. The *Badei Hashulchan*, *Biurim* 376:4, notes that the language used by the Ramo regarding the mourner's *kaddish* implies that the foundation of the obligation is a custom. Rav Ovadia Yosef notes in *Yabia Omer* 3:YD 26, that the custom of saying *kaddish* is very important and should not be taken lightly, as it has been done by all Jewish communities for many generations, and is solidly based in *Chazal*. Indeed, *Badei*

a prayer if it is done in a manner that disparages and desecrates His name. If one is able, however, to make a minyan on an airplane in a location and manner that does not disturb anyone, not only should it be done, but it can serve as a true *kiddush Hashem* – sanctification of His name.

Gezel Sheina

Airplane flights are often very long overnight journeys during which most people attempt to get some sleep. On some routes a minyan often starts to form as soon as light begins to break through the windows, despite the fact that most passengers are still trying to sleep. In addition to disturbing the flight crew and blocking aisles, another negative consequence of the movement and noise that these minyanim generate is waking and disturbing sleeping passengers. The term "*gezel sheina*" has become a common phrase to describe a prohibition against waking another person who wishes to sleep. However, it seems that this prohibition is not taken very seriously by the general public. While waking other passengers is clearly inappropriate and unfair, we will now

Hashulchan suggests that the obligation to say *kaddish* for one's parents may be based on the obligation to honor one's parents. (The same argument is made by *Shearim Metzuyanim B'halacha* 4:143 (7), and *Yabia Omer* 7:OC 10). The level of the obligation to honor one's parents after their death is a matter of dispute, with important authorities on both sides of the question of whether it is rabbinic or biblical. However, whichever way one rules, the obligation to say *kaddish* is much more than merely a custom. Nevertheless, it is hard to argue that the level of this obligation overrides the serious Torah prohibition against causing a *chillul Hashem*.

Furthermore, since the obligation is only based on the connection to honoring one's parents, then, if the act is done in a way that would not bring honor to one's parents, it should not be done. Furthermore, the *Shiurei Brachah* (YD 376:4) argues that the idea that one must say *kaddish* eight times per day is based on a mistaken understanding of the *Zohar*. He quotes Rav Chaim Vital that the proper understanding of the *Zohar* is that one need recite *kaddish* only once a day. One could thus simply say *kaddish* before or after the flight, and will not lose anything by not saying it with a minyan during the flight.

examine if there is such an actual prohibition, and, if so, the nature of such an *issur*.

Rav Vosner writes in his responsa *Shevet Halevi* that although *gezel* (theft) is only prohibited when an actual object is taken, there is nevertheless some prohibition of causing another to lose sleep.²⁵ However, Rav Menashe Klein argues in his *Mishneh Halachot* that in fact there can be *gezel* of a non-tangible object.²⁶ This position is based on the *Tosefta* in *Bava Kama*, which lists seven types of thieves, all of whose theft involves some sort of trickery, not stealing a physical object.²⁷

Indeed, *mussar* sources refer to disturbing another's sleep as being a worse form of theft than stealing mere possessions.²⁸ This is because taking away someone's sleep actually affects his body, not just his belongings. Furthermore, it is recounted that the Chafetz Chaim would warn people not to wake others, arguing that, "Disturbing anyone's sleep is robbery for which restitution cannot be made (*gezeila sh'ain la hashava*)."²⁹ It is told about R. Yisrael Salanter that one morning he criticized one of his students for going out to get water to wash his hands by passing by his neighbors' apartments while they were still sleeping, arguing that, "*netilat yadayim* is only a rabbinic decree, whereas stealing someone's sleep is prohibited by the Torah!"³⁰

As a source for the prohibition of "*gezel sheina*," Rav Klein cites a Gemara in which Rav Nachman said to his servant that if he sees him falling asleep while reciting the first verse of the

25. *Shevet Halevi* 7:224. Rav Vosner also points out that this prohibition is particularly serious regarding people who are ill, in which case awakening them is not just a case of stealing their sleep, but may in fact be stealing their health (*g'zeilat briutam*).

26. *Mishneh Halachot* 12:443.

27. *Tosefta, Bava Kama* 7:8.

28. R. Avigdor Nebentzal, *Sichot L'sefer Vayikra*, 293; *Ahavat Chinam*, 152.

29. R. Chaim Ephraim Zaichyk, *Hameorot Hagedolim*, p. 376 (1962 edition).

30. *Ibid.*, p. 38.

shema, he should prod him in order to wake him up, but for the rest of the *shema* he should just let him sleep.³¹ Rav Klein argues that this shows that to disturb someone and wake them up, even to recite the rest of *kriyat shema*, is prohibited.³²

Another possible source for the prohibition of *gezel sheina* is a Mishnah which rules that if one resident of a courtyard sets up a store in that courtyard, the other residents can stop him by claiming that they will not be able to sleep due to the noise of the customers.³³ This clearly indicates the problematic nature of disturbing people's sleep, a disturbance which the Meiri refers to as "*hezek sheina* – damaging another's sleep."³⁴

Additionally, the Gemara states that a Noahide incurs the death penalty for theft of even minimal amounts. The Gemara suggests that this is so because of the anguish that the act of theft caused at the time of the robbery.³⁵ We thus see that a fundamental part of the prohibition of theft is the pain and anguish caused to the person being robbed. While the term *gezel sheina* implies that the problem involves some sort of theft, it becomes clear from the above sources that the primary concern may actually be the damage, or pain being caused to others by disturbing their peace.

We are therefore led to the conclusion that waking people up or disturbing them is not only forbidden as a form of theft, but also as a serious biblical prohibition known as *ona'at devarim*. This prohibition, based on the verse, "*v'lo tonu ish et amito*, each of you shall not maltreat his fellow"³⁶ is that one may not cause pain or discomfort to others through speech.³⁷

31. *Berachot* 13b.

32. *Mishneh Halachot* 12:443-444.

33. *Bava Batra* 20b.

34. Meiri, *Bava Batra* 20b.

35. *Sanhedrin* 57a.

36. *Vayikra* 25:17.

37. *Bava Metzia* 58b.

Prominent *rishonim* extend this prohibition to causing any sort of pain, not only that which is brought about by words.³⁸ Based specifically on this prohibition, many *poskim* have concluded that "it is forbidden by the Torah to wake someone from their sleep."^{39 40}

Regardless of which prohibited category *gezel sheina* falls into, it is taken very seriously by *poskim* and has many ramifications in practical halacha. Should one wake up a sleeping person so that he may pray with a minyan? The basic principle in this regard is that a person may only be awakened if it is to afford him the opportunity to perform a biblical obligation, or if it is known that he would be upset if not awakened; in all other cases waking him would be prohibited.⁴¹ R. Shternbuch reasons that the cases in which one may wake someone are based on the assumption that he would be distressed by having slept through the time to perform that particular mitzvah, but if one is in doubt regarding the sleeping person's preference, he must not be disturbed. R. Shternbuch concludes that one should waken someone to pray with a minyan only if one is certain he wants that.⁴²

It is certainly prohibited to wake a person who does not

38. *Sefer Yeraim* 180; *Shaarei Teshuva*, 3:24; *Sefer HaChinuch* 338. See also *Chayei Adam* 143; *Iggerot Chazon Ish* 3:165; *Chafetz Chaim*, *Be'er Mayim Chaim*, Intro 14.

39. *Keren L'dovid* OC 18; *Darchei Choshen* 235; *Pitchei Choshen* 4:15 fn. 3 s.v. "B'sefer;" *Shulchan Aruch Hamekutzar* 8:217.

40. It is interesting to note that the Gemara (*Bava Metzia* 58b) uses an argument in regards to the severity of *ona'at devarim* that is very similar to the one used by *mussar* sources concerning the prohibition of *gezel sheina*. The Gemara writes, "*ona'at devarim* is a worse transgression than *ona'at mammon*...R. Elazar says it is because this one affects one's body, while this one only affects one's possessions. R. Shmuel b. Nachmani says, this [*mammon*] can be returned, and this [*devarim*] cannot."

41. *Keren L'Dovid*, OC 18.

42. *Teshuvot V'hanhagot*, 2:50.

want or need to be awakened. The fact that letting a person sleep overrides giving him the opportunity to do certain mitzvot indicates the profound significance that halacha places on not disturbing another person's sleep. In fact, Rav Chaim Pinchas Sheinberg has ruled that if one would have to wake another person up in order to get to the minyan or to get to his *tallit* and *tefillin*, he should simply stay in his seat and miss out on both, in order to avoid waking his seatmate.⁴³

We thus see that disturbing others, particularly while sleeping, is clearly prohibited by the Torah. It is seen as a form of theft, and by some as even worse than stealing an object. It also falls into the category of *ona'at devarim*, (distressing someone) and its avoidance is seen as a fulfillment of "*v'ahavta l'raecha k'mocha* – love your neighbor as yourself."⁴⁴ One who disturbs the sleep of others in order to fulfill the mitzvah of communal prayer may thus fall into the classic category of "*yatza s'charo b'hefseido* – his gain is offset by his loss."⁴⁵

We can conclude that although communal prayer is a fundamentally important religious requirement, there are other fundamental religious requirements that may take precedence at certain times. It is easy to favor ritual obligations, but we must not lose sight of the magnitude of our ethical responsibilities.

43. *Kuntres U'velechtechta Baderech*, 5:7 fn. 56. Rav Sheinberg argues that waking another person up is a serious prohibition, thus making them *anus* regarding *tallit* and *tefillin*; regarding *tefillah b'tzibbur*, the entire airplane is considered one room, and a person can thus pray with the minyan while sitting quietly in his seat (see *Mishnah Berurah* 55:8 that any group in the same general room is defined as a "*tzibbur*" even if they can not see each other; and see *Iggerot Moshe* OC 4:20 that one who finds it difficult to pray with *kavvana* on an airplane may pray sitting in his seat *lechatchila*). Some *poskim*, including Rav Eliyashiv, do permit waking someone in order to get to the minyan, though they all agree that it is still not proper to do so.

44. *Iggerot Chazon Ish* 3:165; *Keren L'Dovid* OC 18; R. Avigdor Nebenzal, *Sichot L'sefer Vayikra*, 293; *Ahavat Chinam*, 152.

45. *Pirkei Avot* 5:11,12.

Wireless Networks and Halacha

Rabbi David Etengoff

Introduction

Wireless networks¹ (hereafter called Wi-Fi) have become a ubiquitous part of modern life. Wi-Fi connections are available at airports, restaurants, coffee shops, many public parks, work environments, and throughout a growing number of cities.² Publicly available connections are usually provided without charge. Commercially available connections are provided on a subscription (paid) basis. In addition, private or household-based deployment of Wi-Fi technology is one of the fastest growing areas within the consumer space.³ This relatively new technology,⁴ however, brings with it a host of secular legal and halachic concerns.

1. The technical term for wireless networks is Wi-Fi. This refers to the industry standard known as wireless fidelity. It is also known as the IEEE 802.11 standard. This allows a user with a Wi-Fi enabled device such as a laptop or notebook computer or a PDA (Personal Digital Assistant) to log on to (gain access to) the Internet to surf the World Wide Web and to check E-mail-all without the encumbrance of a wired connection.

2. Cerritos, California, became the first US city to implement this technology in April, 2004. It was followed by Grand Haven, Michigan in July of 2004. Other cities actively involved with Wi-Fi planning include New York, San Francisco, Philadelphia, and post-Hurricane Katrina New Orleans.

3. The number of households using Wi-Fi wireless technology for home networking has surpassed the number using Ethernet [wired] according to Global Digital Living, a recent survey by Parks Associates. This study, which surveyed consumers on technology adoption and use, found 52% of U.S. households with a home network use Wi-Fi and 50% use Ethernet."

4. The first version of Wi-Fi, IEEE 802.11b, was developed in 1997.

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