

HALOCHOSCOPE

This week's and next week's question:

[This question was addressed ten years ago in a privately circulated issue of Halochoscope. It is reproduced here with much fresh material.]

In a hospital where the locks are all operated by an electromagnet, may one ask a gentile security guard to open the door on *Shabbos* or *Yomtov*?

Assuming that the issue raises serious questions, can the situation be modified? For instance, it might be possible to arrange that the guards do it themselves without being asked to do so directly.

Is there an issue of *muktzeh* when carrying the card with the magnetic code?

The gentile hotel ownership has become aware that Jewish patrons leave their room doors open to avoid using the electronic locks. To protect the customers and, ultimately, themselves, they hired security guards. The guards close the doors that they find open. When a patron wishes to enter his or her room (without using his or her card directly), the guard asks for proof that this is the true occupant. The acceptable 'proof' is the the correctly coded key-card for that room. The guard then tests the card, as part of his job. In the process, the guard opens the lock. Does this constitute a forbidden form of instruction to a gentile to perform a *melacha* on *Shabbos* or *Yomtov* on behalf of a Jew?

Since the card is used to perform this function, is it considered *muktzeh*? If it is, is there a way to permit carrying it as a means of identity?

The issues: *This week*:

- A) Electromagnets and electricity on *Shabbos*
- B) *Amira le'akum*, asking a gentile to do *melacha*

***Next week*:**

- C) *Ada'ata denafshei*, when the gentile does the *melacha* on his own initiative
- D) *Remiza*, when the Jew does not instruct the gentile directly, but drops a hint
- E) *Psik raisha*, doing a permissible act with an inevitable forbidden result
- F) *Muktzeh*

A) *Electricity on Shabbos*

The lock in our case is operated in the following way: The bolt of the lock remains in place until one activates a battery operated electromagnet. The magnet draws the bolt into the lock, leaving it open. To activate the magnet, a card must be placed into the lock. The cards all have a magnetic strip on the back which is encoded. Each room has its own code. If the code matches, the circuit turns on, activating the electromagnet. Thus, to open the door, one must turn on the electromagnet. [There is a slight variation of this kind of security code, in which a bar-code is printed. The bar-code is scanned, and when recognized, it activates a similar process. For the purposes of this discussion, the *halachic* issues are largely the same.] Some locks work slightly differently. The outside handle is in a locked position, disabling it from being opened from outside. The electro-

magnetic card system releases this lock to allow it to be turned.

Some form of *melacha* is violated when electricity is used on *Shabbos* or on *Yomtov*. In some cases, it is clearly a Scriptural violation. In others, it is debated, but most poskim consider it Rabbinical. There is a minority view that permits using electricity outright on *Yomtov*. In addition, due to the nature of the activities that use electricity, it often involves indirect *melacha*, known as *grama*. In some circumstances, this is either permitted or relaxed. However, if the only way the activity is done is through such indirect activity, the *grama* leniency is often restricted.

The most common *melachos* involved are *hav'arah*, igniting, and *kibuy*, extinguishing. A minority view adds *boneh*, building, and *sosair*, demolishing, when completing or breaking a circuit. An appliance becomes usable when it is turned on. Thus, some add *makeh bepatish*, putting final touches on a utensil, or *tikun kli*, fixing a utensil. There is an opinion that considers melting or heating metal a form of *bishul*, cooking.

On *Yomtov*, cooking for *tzorech ochel nefesh*, food preparation, is permitted. Other *melachos* involved in the process are also permitted, including *hav'arah* and *kibuy*. *Machshirei ochel nefesh*, *melachos* needed to prepare for the preparatory process, are somewhat permitted, depending on whether they could have been done before *Yomtov* or not. *Mitoch shehutru letzorech*, once the Torah permits these *melachos* for *ochel nefesh* purposes, it also permits them for other purposes. [This is actually the subject of Talmudic debate, but we follow the lenient view.] The poskim debate the meaning of this dispensation. Some maintain that such *melachos* are permitted outright, while others maintain that there must be some actual non-cooking need for that day of *Yomtov*. In addition, the entire leniency must be considered a need by the general populace, rather than a select few. On *Shabbos*, all *melacha* is forbidden.

In addition, while one may add to an existing flame on *Yomtov*, one may not create a new flame. It is generally accepted that when activating an electrical circuit, one is creating some new form of flame. This requires some more explanation. When igniting a glow of any sort, it would seem obvious that one has kindled a new flame. However, there was a prevailing view that considered an electric light an extension of an existing flame. At the time, this was hotly debated. Nowadays, it is considered an erroneous conclusion, based on a misunderstanding of electricity. The generator sends a current through the wires to the ground at the other end. When one taps into this circuitry to power an appliance or a light, he simply diverts the current to a closer 'ground'. On the way, some of it is spent in powering the appliance. Thus, in many ways, one does not start anything new when he switches on an appliance. However, the light filament is ignited freshly. This is clearly *molid aish*. Other uses of electricity could arguably be considered adding to an existing 'flame' of sorts.

Lighting a filament or an electric coil involves *hav'arah*. Some poskim entertain some discussion on whether it is possible to consider a glow where there is no combustion true *hav'arah*. Nonetheless, while the metal 'coal' does not burn up, it does eventually break down. Accordingly, appliances with a glowing heated part involve the Scriptural *melacha* of *hav'arah*. In addition, there is the opinion that heating the metal involves *bishul*. In many instances, the wires anyhow get hot or warm. However, this is an un-

wanted by-product of the usage of the electricity. This is known as *psik raisha delo nicha lei*. Therefore, it does not involve Scriptural *melacha*. It is still forbidden Rabbinically. Assuming efficient wiring would not get hot, this part of the *melacha* could be avoided.

When no glow is produced, Scriptural *hav'arah* is not involved directly. A glow produced from charged gases, such as the small red and green lights on the locks in our question, or fluorescent light, is not considered Scriptural *hav'arah* by most poskim. Indirectly, drawing electricity into a circuit uses power generated by the generators. It could be argued that activating the current causes more combustion. However, there is usually an enormous amount of power running through the main wire to the eventual ground point. The consumer simply taps into it. The consumer simply taps into it. Even if it is so efficient as to produce more power for each usage, the act is *grama*, done with the help of an outside force as well. If the power source is an alternating current, each time one turns on a switch, there is a chance that the current is between the pulses. Thus, when the current comes on right afterwards, it is a further case of *grama*. He placed the circuit in a way that it could receive the current instantaneously. If the power is from a hydro-electric, or other alternative energy source, the consumer does not cause any *hav'arah*.

The entire issue of burning energy is moot when using a battery. Battery power is produced by reacting two metals or other chemicals, which ignites nothing. Sparks ignited when a circuit is completed are not considered a Scriptural *melacha* by most poskim. They are both unwanted and temporary. Nonetheless, they are compared to the Rabbinical prohibition against striking a flint to make a spark.

Some poskim consider electricity *boneh*. This is viewed in two ways, both of which are controversial: In a sense, one could consider the copper wire to have been created with the potential to have a current running through it. Thus, when the electrons are sent along the wire, the copper is reaching its true potential. This can be considered building the wire. Since this is an invisible form of building, this view is very difficult to reconcile. The other way is to view the completion of the circuit as a very minor improvement to the house. *Boneh* can apply even in very minor activities. Some poskim take this view into consideration, though there is no consensus to follow it.

Tikun kli applies when a utensil needs certain adjustments made. If these adjustments make it usable, or improve its use, the *melacha* is considered to have been accomplished. Thus, if an appliance, or a fixture cannot work without the electricity being turned on, turning it on effects the *tikun*. The argument against this is that opening a door or a drawer, or even a unscrewing a bottle-cap is not forbidden. These activities are part of the normal usage. Similarly, if there were no other issues with the appliance, switching on the electricity is not fixing it, but rather *derech tashmisho*, its normal use.

All poskim agree that there is something wrong with using electricity on *Shabbos* and *Yomtov*. The most likely view is that it is a Rabbinical form of *hav'arah*. This applies to all types of electricity, including hydro, solar [and nowadays wind] and battery power.

Extinguishing a flame is *kibuy*. Scripturally, *kibuy* must produce a coal or charcoal. This is the purpose of the ideal form of the *melacha*. If one extinguishes but has no need for the resulting coal, he has still violated the *melacha*. The Talmud debates whether this is a Scriptural or Rabbinical violation. It is called a *melacha she'aina tzricha legufah*, not

needed for its true purpose. *Ashkenazi* Jews follow the view that it is forbidden Rabbini-
cally. Metal coals can never produce charcoal. Therefore, extinguishing a metal coal or a
filament can never be considered Scriptural *kibuy*. It is forbidden Rabbini-
cally. Reducing
power output without shutting it off also involves this. If there is no glowing part, switch-
ing off the electricity still involves a form of Rabbinical *kibuy*, in accordance with the
idea that electricity involves some sort of Rabbinical *hav'arah*. Thus, activating the locks
in question involves some *melacha*, possibly Scriptural and most likely Rabbinical.

Closing the door can also disconnect the circuit and the electromagnet. This can re-
ally complicate matters, as one cannot ask a guard to do everything! However, in many
of these locks, the circuit can shut off as soon as the bolt is opened, long before closing
the door. Especially when the lock is a spring type bolt, only opening requires the card.
Once it is opened, it can revert to its locked position. It will lock with the spring action
by itself when the door is closed. Furthermore, it is likely that only the outside handle
needs to be activated electronically. Thus, activating the locking mechanism need not in-
volve *melacha*. This renders it a *davar she'aino miskavain*, wherein the unintended resul-
tant *melacha* is not inevitable, and the act is permitted. [See references to Halochoscope
I:4 7 11 II:10 36 III:7 10 23 etc. Minchas Shlomo I:9-10. Encyclopedia Talmudis, Nis-
pach Chashmal for comprehensive references.]

B) *Amira le'akum*

Assuming that using the card to open the lock is forbidden to a Jew, he may not tell
a gentile to do the act on his behalf. Scripturally, only a gentile indentured servant of a
Jew is restricted from doing *melacha* for his employer. The main reason for the Rabbini-
cal institution is *shlichus*, agency. *Halachically*, the actions of an agent can be attributed
to the person who engaged him. However, in the case of *melacha*, this does not apply
Scripturally. If the agent is a Jew, he is liable for his own actions. If he is a gentile, he
cannot be held liable for doing something that is not forbidden to him. Nor can the Jew
be held liable for the agent's activities, because such agency has no basis. However, the
Rabbis introduced such agency to protect the sanctity of *Shabbos*. Otherwise, Jews could
practically behave in the same way as on a weekday, having gentiles do their *melachos*.

The institution is linked to a Scriptural reference: *melacha lo yaiaseh bahem*, shall
not **be done**, even by another person. The institution was further strengthened by restrict-
ing benefit from *melacha* done by a gentile to directly benefit the Jew. This means that in
our case, the Jews may not ask the gentile security guard to open their locks. [See
Mehilta Bo 12:16 Mishpatim 23:12. Shabbos 19a 122a Eruvin 67b-68a Avoda Zara
21a-22a etc. Poskim. Tur Sh Ar OC 244247 252:2 276:2 306 307:2-5 22, commentaries.]
To be continued ...

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