

HALOCHOSCOPE

This week's and last week's question:

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

In a hotel 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:

Last week:

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

This 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;
Mekom mitzvah, where the gentiles actions enable performance of a *mitzvah*
- E) *Psik raisha*, doing a permissible act with an inevitable forbidden result
- F) *Muktzeh*

C) *Adaata denafshei*

The two most common exclusions to the restrictions of *amira le'akum* are *adaata denafshei* and *remiza*. *Adaata denafshei* in its most pure form refers to a gentile doing something for his own needs, that a Jew benefits from anyhow. For example, a gentile might need to turn on the light to read his own book. The Jewish bystander may benefit from this *melacha* and use the light himself.

When applied to *amira le'akum*, it means that the gentile need not do this *melacha* for the Jew on *Shabbos*. He does it of his own accord, or on his own initiative. There are two manifestations of this: First, the Jew might not ask the gentile to do the work on

Shabbos. That is, he might ask the gentile to do a certain job involving *melacha*, without setting a time by which it should be completed. He might also give a deadline, but will leave enough time for the job before or after *Shabbos*. For example, one might give clothing to a cleaner to clean by Sunday. If he really wants to, the gentile can do it after *Shabbos*. His doing it on *Shabbos* is of his own choice and for his own convenience. The most common example of this is a *kablan*, a contractor. His job-description is distinct from that of a day laborer. The day laborer is paid for his time, rather than the job. Thus, he is paid for the work done on *Shabbos*. The contractor is paid for the job, and he may do it at his convenience.

The second instance of *ada'ata denafshei* is when the job must be done on *Shabbos*, but need not involve *melacha*. The gentile chooses to do it as a *melacha* for his own convenience, rather than doing it in a permissible manner. For example, a gentile might be hired to check on patients in a care facility. He must record statistics on their charts. He need not write them down right away. If he wishes to, he can wait until after *Shabbos* to write them down. He finds it too much effort to memorize them for the few hours, so he chooses to record them on *Shabbos*. However, he was not told or asked to do so.

In our case, we may assume that the locks have an override. If the batteries go dead, there must be a way to access the room in emergency, apart from breaking the door down. To rely on the high-tech magnetic system is an insurance liability. Since a manual way to open the door exists, the choice of the security guard to open it electronically is his own choice. The same applies to a doorman who buzzes in a Jew on *Shabbos*, when he could open the door manually himself.

However, in an instance where the Jew benefits directly from the activity of the gentile, especially if the benefit is immediate, on *Shabbos*, this exclusion does not help. Most poskim maintain that if the gentile does the activity with clear intent to benefit the Jew, it is forbidden. This could apply even when the Jew never said a word to the gentile. Clearly, the gentile chose to do it of his own accord. This is due, in part, to the same basic reason that the whole restriction on *amira le'akum* was made. In the cases cited earlier, the Jew did instruct the gentile to do a job, but not to do a *melacha*. It was the gentile's choice to do the *melacha* to save himself some effort. The cases where benefit is forbidden are such that the *melacha* is inevitable. In our case, the *melacha* is not inevitable. [See *Shabbos* 19a 121a 122a-b etc. *Avoda Zara* 21b-22a, Poskim. *Tur BY Bach Sh Ar OC* 244-245, commentaries.]

D) Remiza

Remiza means hinting. It is a little more lenient than *ada'ata denafshei*, but also more stringent in one aspect. One may not hint to a gentile to do *melacha* for him. However, if the hint is not made in the form of a request, but more of a comment in passing, it is permitted. This is only permitted if the benefit is not major. For example, let us say one asked a gentile to turn on a lamp in a room where one could see with difficulty. The gain from the gentile's *melacha* is small enough to permit it. There are other ways to mitigate the level of benefit, wherein it is considered qualitatively rather than quantitatively less.

A light or fire affects the Jew's body directly. In our case, the benefit from the *melacha* does not affect the Jew's body directly. Opening the lock does not affect the

Jew's body directly. In fact, the actual *melacha* of using the electricity does not affect the Jew's body at all. It is more significant indirect benefit, since the Jew will be unable to go to sleep or attend to his other needs if he cannot get into his room. However, due to its indirectness, it would be permitted through *remiza*.

In addition, the Jew would prefer to leave the door to his room unlocked. The hotel management does not permit this due to their own security liability. Therefore, the additional benefit to the Jew is small.

However, when relying on *remiza*, one must take care not to hint the gentile to do the *melacha* directly. Rather than making a 'suggestion', one could say something like: "I can't get into my room!" The the gentile must do the *melacha* voluntarily. [See Sh Ar OC 307:22 Rema, commentaries.]

A third dispensation is sometimes invoked when the *melacha* involved is forbidden Rabbinically: *mekom mitzvah*, if the *melacha* is needed to facilitate performance of a *mitzvah*. The Talmud permits *shevus dishevus*, a doubly Rabbinical restriction, *bimekom mitzvah*. *Amira le'akum* counts as one Rabbinical restriction. When it is coupled with the fact that the *melacha* itself is forbidden Rabbinically, it attains the level needed for this dispensation to apply. *Tzorech Shabbos*, the needs of *Shabbos*, including the usage of one's room in our situation, are often considered *mekom mitzvah*. Some poskim also permit *amira le'akum bimekom mitzvah* when the *melacha* is Scripturally forbidden. *Mekom mitzvah* is not always easy to apply. The needs of the *Shabbos* meal are considered *tzorech Shabbos*. Presumably, the need to get some rest in the room or to sleep overnight would also qualify. [See Sh Ar OC 266:1 276:2-3 306:9-11 307:5 22, commentaries.]

E) Psik Raisha

In our case, the security guard will not open the door to any room until he verifies that those asking him to open it are the occupants. The easiest way to verify this is to try their card in the lock. This is what he will undoubtedly do. As an inevitable by-product of his activity, done for his own reasons, the circuit will be activated. This inevitable by-product is called *psik raisha*, literally, if one cuts the head of a chicken to play with it, inevitably the chicken will be killed! Indeed, he is trying to activate it with their card, or to determine that if it is not activated, they are impostors. However, his intent is not to run the circuit, but to verify their identities. Therefore, it could be argued that the secondary result of his action is a *psik raisha*.

A true *psik raisha* can be as forbidden as the actual *melacha*, depending on whether this inevitable outcome is desired. In cases of absolute necessity, *amira le'akum* to do a *psik raisha* is permitted, especially if it is a Rabbinically forbidden *melacha*. Though this has little bearing on how one approaches the gentile to 'open the door' for him, it serves to mitigate somewhat the severity of the *melacha*. [See MA 253:18 41 259:11.]

In our case, the issues are mitigated even more. The gentile security guards were hired voluntarily by the hotel management. They have chosen to use the key-card as an occupancy test, of their own accord. Thus, there is no issue of the Jewish patrons 'hinting' to the gentiles to perform a *melacha* for them. Indeed, the patrons have little choice but to allow the gentiles to do it. Furthermore, it is not even done for the Jewish patrons, but they benefit from a by-product of the gentile doing his job.

F) *Muktzeh*

Muktzeh means something that has no use on *Shabbos*, and is therefore placed out of mind. It may not be moved in the same ways that non-*muktzeh* items are moved. *Muktzeh* has various categories. One category in particular may be moved for permissible uses. This is a *kli shemelachto leissur*, utensil used to perform something forbidden on *Shabbos*. It may be moved to be used in the performance of a permissible activity, or to free the space that it is taking up. An example would be a hammer that is used to crack nuts. The poskim discuss a passport and an ID card. Passports have a few problems. They are documents used for non-*Shabbos* activities, and may not be read from on *Shabbos*. Furthermore, due to their preciousness, they are categorized as a type of *muktzeh* that is never used for any permissible other use. In times of war, they might need to be carried due to danger. If an inspector visits a home, they may need to be shown. The poskim suggest avoiding handling it, and when necessary, carrying it in an unusual fashion.

ID cards are less problematic. They are used all the time, and are usually not so precious. However, they are also considered documents, rather than a utensil. The key-cards in our case are very different. In fact, they are first and foremost utensils – keys. They can also serve as an ID card. Keys do not perform a forbidden function. However, in this case, the function involves a forbidden *melacha* of some sort. There is no way to use them permissibly for their main function. Theoretically, they could serve as a straight edge when reading or doing something like that. That would mean that it is automatically a *kli shemelachto le'issur*. It may be moved for its permissible uses or its space. The patrons are not planning on using it for that, but for its forbidden uses. In this particular case, the patrons do not put it out of mind. They know that they will need to 'use' it on *Shabbos*. Thus, it has the leniencies applied to passports in wartime. In addition, the 'use' is actually permitted, based on the earlier discussion. The patrons will not open the door themselves, but hand it to the gentile as ID. He will, in turn, use it in a way that is not forbidden to the Jews. Thus, it could be argued that it is not *muktzeh* at all. [See *Shabbos* 42b-47b 122b-126b 128a-b 141a-b 142b-143a, Poskim. Tur Sh Ar 301:23 308 309:1 310-311, commentaries. Maharash Engel II:23 VII:20. Minchas *Shabbos* 90:22a. Shmiras *Shabbos* Kehilchasa 28:6. Halochoscope XIII:47.]

In conclusion, the key-card may be carried and used in the prescribed manner.

On the parsha ... *Do not kindle a fire in all of your homes on Shabbos day .. [35:3] Some say [this melacha] was singled out because it is punishable with lashes but not with death. Others say ... [Rashi]. Why is this melacha specifically treated differently? [See commentaries] People do not view this as a melacha. It seems to be a natural occurrence, rather than a man-made activity. Sometimes, things heat up and burn naturally. Thus, it is a quasi-melacha. [Gur Aryeh] Perhaps this is why electricity seems to be a type of Rabbinical hav'arah. It also occurs naturally. When produced artificially, it is caused, rather than being an actively performed melacha. When used to power something, it is simply tapped from the source.*

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yahrzeit is the 27th of Adar. ם

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