

Etz Chaim: Some Conservative congregations consider electricity fire and some do not.

Jewish Law: A combination of legal texts (Torah, Talmud, Codes) and Case Law (practical application within the lived experience of communities by decisions). Therefore, two different applications of Jewish law can both be legitimate applications of the law. Regional and temporal pluralism, though within the standards of halakhic argumentation [good arguments must be made, following established legal principles].

THE USE OF ELECTRICAL AND ELECTRONIC DEVICES ON SHABBAT Rabbi Daniel S. Nevins - Committee on Jewish Law and Standards - Approved (17-2-2) by the CJLS on May 31, 2012.
79 pages!

Begins:

In the tempestuous ocean of time and toil there are islands of stillness where man may enter a harbor and reclaim his dignity. The island is the seventh day, the Sabbath, a day of detachment from things, instruments and practical affairs, as well as of attachment to the spirit.

--Abraham Joshua Heschel, The Sabbath

What does this tell us about the legal paper?

It continues:

The flick of a switch. This action, so effortless and casual, is nonetheless a powerful marker of modernity. The switch completes or breaks a circuit, unleashing or suspending the flow of electrons which power every conceivable type of machine. With electricity we control our physical environment, altering the shape and structure of objects and yielding light and dark, heat and cool, sound and silence, and innumerable other environmental adaptations. Electrical motors⁶ move people and objects in every direction, enabling those with disabilities to function more fully, and all to avoid unwanted exertion. Motion sensors are increasingly embedded in appliances such as public sinks, toilets, lights and doors, and security cameras have proliferated, making it challenging to function in modern buildings without an electronic transaction.

We use electricity to control not only our physical reality, but also the digital information which is integral to contemporary life. The prevalence of batteries and wireless networks has untethered the digital device, giving us instant access to people and information to help us navigate our lives no matter where we are.

Using electricity makes us powerful, yet there is a cost to being permanently

networked. Our digital servants have the tendency to become tyrants, and it is nearly impossible to escape their reach. Instant access leads to the loss of privacy and the erosion of social intimacy. Work that used to end when we left the office now follows us out the door, down the street, and into our homes. Even on vacation it is common to see people with laptops and smart phones busily keeping up with their demanding tasks. Simple pleasures such as sitting with family and friends over an undisturbed meal, reading in a quiet room, and taking a leisurely stroll have become rare in our culture. We need a break, and Shabbat is here to help us, even as it helped earlier generations rest from the physically intensive tasks that typified their work.

This paper, like many contemporary presentations of halakhah, is an effort to explain the meaning and the benefits of normative observance in addition to clarifying the technical legal aspects of the matter.

Elsewhere stated: These papers are intended for people who are trying to live halakhically, not for those who are not. Is this a legal issue? Is this prejudging the matter? Is it making assumptions or proving arguments? Or is Halakhah about lifestyle, not the sum of individual actions? (The fact that something could be permitted, should it be?)

[The paper argues that we now use the term Shomer Shabbat to mean not engaging with electricity. To do so is actually Hillul Shabbos, the desecration of Shabbat as a capital offense in Ex 31:14.

MELAKHAH

While the Torah repeatedly bans melakhah in the strongest of terms, it does not provide an abstract description of the nature of melakhah which could fill the void left by its sparse list of banned activities.

Mishnah Shabbat (7:2) List of “forty less one”⁴⁶ primary categories of forbidden labor

אבות מלאכות ארבעים חסר אחת הזורע והחורש והקוצר והמעמר הדש והזורע הבורר הטוחן והמרקד והלש והאופה הגוזז את הצמר המלבנו והמנפצו והצובעו והטווה והמיסך והעושה שתי בתי נירין והאורג שני חוטין והפוצע ב' חוטין הקושר והמתיר והתופר שתי תפירות הקורע ע"מ לתפור שתי תפירות הצד צבי השוחט והמפשיט המולח והמעבד את עורו והמוחק והמחתכו הכותב שתי אותיות והמוחק על מנת לכתוב שתי אותיות הבונה והסותר המכבה והמבעיר המכה בפטיש המוציא מרשות לרשות הרי אלו אבות מלאכות ארבעים חסר אחת

Principal occupations there are forty less one: to sow, to plough, to mow, to gather into sheaves, to thrash, to winnow, to sift [grain], to grind, to sieve, to knead, to bake, to shear wool, to wash wool, to card, to dye, to spin, to warp, to shoot two threads, to weave two threads, to cut and tie two threads, to tie, to untie, to sew two stitches, to tear thread with intent to sew two stitches, to catch a stag [game], to slaughter it, to skin, to salt [cure] a

hide, to singe a hide, to tan, to cut up a skin, to write two letters, to erase with intent to write two letters, to build, to demolish, to extinguish fire, to kindle fire, to hammer, to carry [or convey] from one reshuth [domain] into another. Thus these principal occupations are forty less one.

Labors which leave no durable impact on the material environment are not considered to be forbidden as melakhah. As Mishnah Shabbat 12:1 declares, העושה כל הכלל זה, "חייב בשבת מתקיימת ומלאכתו מלאכה" this is the rule: anyone who performs work and his work is stable (or endures) on the Sabbath⁴⁹ is culpable." For example, tying a knot is the 21st archetype of labor, but the rabbis limited this ban to "permanent" knots intended to last for at least 24 hours. A professional knot used to secure a camel's bridle, which is forbidden, is in this way distinguished from tying a shoelace, which is allowed. Rabbi Vidal di Tolosa states in Maggid Mishnah, his commentary to Rambam's Mishneh Torah, that המתקיים דבר בעין שבת, "מלאכת שבכל", all Sabbath labors require a durable result." The one melakhah which appears to be an exception to this rule is carrying from domain to domain.

Although the melakhah were initially limited to a list of 39, many other activities were banned by association. One of the many complicated questions in the laws of Shabbat is the relationship between the primary categories (אבות) and their derivatives (תולדותיהם)

Thus watering is not banned as a form of sowing, but rather is a derivative labor sharing the same goal of causing plants to grow.

If the physical mechanism (פעולה) is different from that of the primary prohibition, but the purpose and the result (תכלית) are identical, then an activity is considered forbidden as a toledah or derivative of the primary category. If the mechanism, purpose and result are different, then the activity under consideration would not be forbidden as melakhah, though it might still be inconsistent with the command to rest on Shabbat.

The question of intention is significant when considering the melakhah possibly involved in using electricity. For example, some electrical switches may create an arc of flame when flipped. It is forbidden to light a fire (מבעיר), but in this case, the creation of sparks is not inevitable and is not the actor's intention and is generally not even observed.⁷⁷ Causing such sparks would therefore be considered only a possible consequence of the act, and certainly not one which benefits the actor. Thus we would deem their creation to be permitted as unintended and unanticipated, 7. דבר שאינו מתכוון F

To summarize this introductory discussion, in order to establish that a given action is biblically prohibited as melakhah, one must show that the act is physically comparable or has comparable intentions and results to one of the primary categories (אבות) or its derivations (תולדות). Absent such results and intentions, the act may still be forbidden by authority of the rabbis (אסור דרבנן), but will not be considered biblically prohibited (אסור דאורייתא). Rabbinic prohibitions are generally binding, but they bear lesser penalties and may be superseded by competing halakhic values as we will see.

Of course electrical appliances which do melakhah (hedge trimmer) are prohibited, but is electricity itself?

Molid, “Making New” - 19th century rabbi, Yitzhak Schmalkis, an appliance absorbing electricity is like a cloth absorbing perfume and therefore becoming something new. 20th century halakhic authorities such as Rabbi Shlomo Zalman Auerbach⁸⁴ and Rabbi Eliezer Waldenberg⁸⁵ rebutted this argument

Boneh, “Building.” Tel Aviv-based Rabbi Avrohom Isaiah Karelitz, generally known for his book of responsa, “Hazon Ish.”⁸⁸ He argues that closing an electrical circuit may be compared to the primary category of labor called building, noting that in the Talmud the ban on Sabbath “building” is applied even to the assembly of pre-existing parts (like sections of a pole which were attached together for use in whitewashing walls).⁸⁹ So too, according to Rabbi Karelitz, should the introduction of electrical current into an appliance be banned as a form of construction

Rabbi Auerbach argues that opening and closing a circuit is comparable to opening and closing a door or window, and is unlike building a wall. When we close a door we don’t consider that we have built a wall, nor do we say that we have destroyed a building when we open the door to exit. So too, closing a circuit is not properly considered to be building, nor is opening the circuit considered to be destroying. Doors and windows are designed to be opened and closed constantly, and so too are electrical circuits.

Adding current allows them to function, just as causing water to run through a tap or toilet allows those appliances to function, but we do not consider these normal operations to be acts of creation which cause durable change.

Bishul, “Cooking.” Rabbi Karelitz writes that the phenomenon of electrical wires growing warm as a result of resistance might be beneficial to the conduction of electricity. If so, then the heating of the wires could be considered forbidden as a type of cooking. This theory is flawed on many levels. The generation of heat through resistance is the result of inefficiency in electrical wiring which is undesired and unhelpful to the transmission. It is unhelpful, and at best an accidental and therefore permitted consequence except for electric heaters. But the connection between cooking and fire is a key halakhic issue. Heating up using hot springs and the sun is permitted in the Talmud, but forbidden by the Shulchan Arukh.

Issue of light bulb: hot and bright. However, the filament is not consumed or changed permanently.

Burning. The most common argument by Orthodox decisions. But nothing is consumed. There is no combustion, no flame and no production of charcoal, and yet many rabbis still consider the operation of an electric light bulb to be forbidden on Shabbat as if it were truly “burning.”

WHOLE HOT METAL THING

Writing: Do electronic devices do writing (say, to the screen)? There is a lenient position in the Talmud that prohibited writing is only Greek and Hebrew. But even if set aside such leniency, the material is key. Writing with juice, in the sand, etc. are permitted. Writing for the purpose of not creating may well be an “unintentional labor.” Interestingly, the permission to write in the sand, with juice, etc. became forbidden by Orthodox decisions in modern time.

How about writing to hard drives? If set up before Shabbat, then it is permissible. If it is a temporary writing, then it's not melakhah, which is a durable change to the environment.

OBLIGATION TO REST