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ALEXA, MAY I SPEAK ON SHABBAT?

What can't you say when someone's always listening?

Adapted from a shiur by Rav Mordechai Lebhav

Amazon's Echo and similar "smart speakers" are devices that provide information, take orders for goods, or activate any of an array of services in response to voice commands.

They operate by constantly recording ambient sound and listening for a "wake word," which for the Echo is "Alexa." Say the wake word and the device replies, cheerfully offering its assistance.

The question arises: Given that the Echo is recording all the time, may one speak in its presence on Shabbat?

The *Maharal* explains that the definition of "Melacha" – lit. "work" on Shabbat is: creative activity. Because Hashem rested from Creation on Shabbat, we similarly desist from exercising our own creative powers.

The *Gemara* (*Bava Kama* 60, and many places in *Masechet Shabbat*) teaches us that only "Melechet Mahshevet" – lit. "purposeful" work – violates Shabbat. This has several implications for what qualifies as *Melacha*, including that a *Melacha* must be done with thought; must be performed creatively, not destructively; and must not be done *Kil'Ahar Yad*, in an unusual manner.

There is a debate among the *Tana'im* in the case of a *Davar She'Eino Mitkaven* – an unintentional consequence, such as one who pulls a bench across the ground because he wants it somewhere else. Although the action may

dig a groove in the ground—which constitutes *Hofer* – digging, a form of the *Melacha* of *Horesh*—plowing, that is not the bench-dragger's intent.

The *Halacha* follows the view that this is permitted, because it isn't *Melechet Mahshevet*: the perpetrator's intent is to relocate a bench, not to dig a furrow. But this only holds true in a case where the groove would not inevitably result—a *P'sik Reshe*—from the dragging. If the unintended result is an inevitable consequence of the action, one cannot disassociate the result from the action. If dragging this bench will ineluctably produce a furrow, then the creation of the furrow is virtually intentional and meets the requirements of *Melechet Mahshevet*.

Tosafot in *Ketubot* (6a, s.v. *Hai*) cite the view of the *Sefer He'Aruch* that where the unintended but inevitable result is *lo niha leh* – something the perpetrator doesn't specifically desire, the act remains permissible.

While the *Poskim* generally don't follow the *Aruch's* view on its own, the *Mishna Berura* (337) rules that in a case of *P'sik Reshe* involving a *Shvut DiShvut*—a *D'Rabbanan* atop another *D'Rabbanan* (i.e. telling a non-Jew to do something which is *D'Rabbanan*) we can additionally adduce the *Aruch's* view to rule leniently. The Sephardic *Poskim* generally follow the ruling of the *Terumat HaDeshen* to apply the *Aruch's* view even in the case of a single *D'Rabbanan* (see *Or L'Tzion* Vol. 2 3:10 and *Yabia Omer* 4:30).

In the Echo's case, it is debatable whether a *Melacha* is being performed by the speaker whose voice is being recorded.

Even according to the *Hazon Ish's* view that completing an electrical circuit on Shabbat is forbidden *Mid'Oraita*, in this case one is only adding an insignificant load to an exist-

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A Shiur Halacha by Dayan Shlomo Cohen

ABOVE & BEYOND - GOING BEYOND THE LETTER OF THE LAW

Avraham excelled in the Middah of Hessed: lovingkindness. Yitzhak excelled in the Middah of Pahad: fear of G-d. It is interesting to note, that although Yitzhak grew up in the house of Avraham, he nevertheless excelled in his own Middah and didn't just copy his father's traits (similarly, Yaakov's main trait is Emet, in contrast to his father's Middah of fear).

As descendants of Avraham we possess an inherent inclination to do Hessed and are expected to act as such. We tend to think of Hessed as various acts of kindness in the home – opening the door, helping or giving charity. But in business? We think business is business and one can must be aggressive in order to thrive. But there is a concept of Hessed in business as well!

The *Gemara* in *Bava Metzia* discusses two workers who, while carrying barrels for their boss, trip and break the barrels. Are they liable?

How about their wages, do they get paid?

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spotlight

The *Zichron Gershon* Kollel doubled its members after announcing the studying of *Ribbit* – laws of interest – this Z'man! Given the complexities of the laws of *Ribbit*, it was only natural that many outsiders would take advantage of the rare opportunity to delve into this halachically sensitive topic under the auspices of the *Bet HaVaad. B'Ruchim HaBa'im!*

GENERAL HALACHA

Tuition Quiz: Tough Questions for Schools and Parents

By Rav Daniel Dombroff



The costs of living in the Orthodox community are rising every year. Along with regular expenses, the cost of Yeshiva tuition is also an increasing financial burden. Likewise, many schools are struggling with financial challenges and are having difficulty making ends meet. How can they pay their teachers when the parents do not pay tuition fees?

What are the *Halachic* considerations in collecting tuition from parents? And how far must parents go in order to pay their obligation?

AGGRESSIVE COLLECTION

Can the school act aggressively in collecting tuition?

The Torah says (*Shemot* 22:24): לא תהיה כנושה – ‘Thou shalt not act as a creditor’.

There is an *Issur*, a Biblical proscription, of exerting excess pressure on one’s debtor. Does this apply to pressuring parents to pay tuition?

The *Kesef Kadashim* rules that the above prohibition is limited to loans. However, when the Yeshiva grants an extension of the

tuition payment, it may, at that point acquire the status of a loan, triggering the restriction of excess pressure. Furthermore, this prohibition is unique in that its only where it’s certain to the lender that the borrower doesn’t have the means to pay and we don’t apply the regular rule of “*Safek D’Oraita L’Humra*” (one must stringent when in doubt regarding a Biblical prohibition).

USING A COLLECTION AGENCY

If the school is unable to collect tuition, are they permitted to turn the debt over to a collection agency?

The *Rema* is stringent, not allowing use of a gentile to collect a debt. The *Rema*, however, in the *Darcho Moshe*, his remarks on the *Tur*, allows selling a financial obligation to a gentile. The *Tumim* also allows using a gentile to collect where the other party is a *Gavra Alima* (a difficult individual). A practical means, perhaps, of efficiently collecting the tuition may be to publicize the delinquency if the other party is uncooperative. Certainly one should consult with rabbinic guidance before exercising this option.

PUNISHING THE CHILDREN

If the tuition is not paid up and the parents are in arrears, may the child be sent home from Yeshiva?

A community is obligated to establish schools. If a parent cannot afford tuition, the community must provide for that individual (the *Vilna Gaon* explains that this is an obligation of *Tzedaka*.) The *Shulhan Aruch HaRav* says that this obligation should be split in the community according to wealth.

We must now determine whether our current school system can be called community schooling, or are our Yeshivas considered private institutions? There are a number of *Halachic* ramifications that can depend on whether we classify our schools as public or private.

If schools are perceived to be private institutions, one could argue that raising funds for parents who cannot pay tuition is not the

obligation of the school, but rather the obligation of the entire community. The leaders of the community should arrange funding for such parents thus avoiding the terrible consequences of a child being sent away from school and learning.

However, if we view the schools as a fulfillment of the communal obligation, then we can suggest that the school board, or leaders within the school of some other capacity, have taken over the responsibility of ensuring that every child merits a proper Torah education. It goes without saying, that there must be a consistency as far as how the schools project themselves.

OVEREXTENDING THE PARENTS

How far are the parents obligated to extend themselves in order to pay their tuition fees?

Paying tuition should be treated with at least as much respect as any other financial obligation (if a person is truly in need of *Tzedaka*, see the previous section for the details). As far as *Bal Talin* is concerned (the obligation for one to pay their financial obligation in a timely manner on the day of service), it is necessary for us to determine if the service provided by the school is like that of a worker, or considering that one is not paying the teacher directly, we would view it like a sale of goods in which case *Bal Talin* would not apply. Furthermore, if the school obligates the parents to pay in the beginning of the month, that may also cause us to view the service provided by the school as a sale (as a worker is generally paid at the completion of the job) and therefore there will not be an issue of *Bal Talin*. However, once the month ends, perhaps it transforms at that point into an obligation for the work, thus invoking *Bal Talin*.

The discussion on paying tuition debts can be an emotional and heated one. It is important to remember the *Halachic* rulings in every step of the tuition-collection process. This article is intended for educational purposes only, and when practically relevant, one should contact a competent *Halachic* authority.

EVENTS AT BET HAVAAD

Bet HaVaad Launches Haburat Even Ha'Ezer for Rabbanim

In a groundbreaking development, the Bet HaVaad is launching an all new project to study and educate community Rabbanim on the practical Halachot related to Gittin and Even Ha'Ezer, as well as exploring the associated Halachot from a Hoshen Mishpat (monetary Halacha) perspective. Under the leadership of Rav Yaakov Simiatitzki shlit"n,

this program will begin with a curriculum for community Rabbanim as well as a weekly shiur for practical application. Rav Simiatitzki brings with him a wealth of practical experience sitting on Siddur Gittin in Eretz Yisrael and Lakewood, and we wish him and all the Rabbanim Hatzlaha Rabba!

MATTERS OF INTEREST

Avissar Family Ribbit Awareness Initiative: Ribbit in Unexpected Places



Many common financial transactions involve Ribbit, so pitfalls abound for the unaware. Following are some common business activities that can, depending on the circumstances, constitute ribbit.

- **COSIGNING:** Cosigning on a loan or car lease, even where the lender isn't Jewish or is a publicly-traded financial institution.
- **CREDIT CARDS:** Using a friend's credit card.
- **STRAW PURCHASING:** Purchasing a home in someone else's name.
- **PARTNERS:** Borrowing by one partner on behalf of the partnership.
- **LATE FEES:** Charging ongoing late fees in a contract (a one-time late fee for each occurrence is permitted).

- **RETURNABLE ITEMS:** Selling goods with an unconditional money-back guarantee.
- **CONVERSION:** Borrowing money in a foreign currency.
- **FACTORING:** Purchasing receivables.
- **CASH DISCOUNTS:** Charging different prices for cash and credit.
- **EARLY BIRD DISCOUNT:** Offering a heavily discounted price for paying before a certain date.
- **PRE-PAYMENT DISCOUNT:** Paying today to lock in a reduced price for an item that is not yet available.

HALACHOT OF DAILY LIVING

One Hundred Daily Berachot Part I: The Nature of the Obligation

Topics From The Gerald & Karin Feldhamer OU Kosher Halacha Yomis



The exact nature of the obligation to recite one-hundred *Berachot* a day is a matter of debate. While the origin of this obligation certainly indicates that it is a rabbinic enactment, there are those who maintain

that it is a Torah obligation (perhaps a *Halachah L'Moshe MiSinai* – a law that was communicated orally to Moses at Sinai. Such laws, while unrecorded in the Torah, have the status of Biblical law). Some maintain that one need only participate in one-hundred *Berachot* a day (such as by listening and answering amen to the *Berachot* of others) and that actually reciting one-hundred *Berachot* a day oneself is merely meritorious. It is evident from Maimonides' introduction to his *Sefer HaMitzvot* that some earlier compilers even included reciting one-hundred *Berachot* a day among the 613 *Mitzvot*! [Maimonides himself maintains that it is clearly a rabbinic institution, and thus, should not be counted among the 613 Biblical *Mitzvot*.]

Given the array of opinions as to the law's exact origin and the nature of its obligation, it ought not surprise us that there are also many differences of opinion as to the exact parameters of fulfilling one's daily one-hundred *Berachot*. Among these questions:

Are women obligated? This question will be addressed more thoroughly in our fifth installment of this series, *Be'Ezrat Hashem*.

When does a day start for the purpose of this

obligation – at sunset or dawn? Most authorities maintain that the obligation begins at night. There is also an opinion that one only has the daylight hours to fulfill the obligation.

Does answering a Zimmun count as a *Beracha* towards one's daily obligation?

May one contrive a situation that requires him to recite a *Beracha* he otherwise would not be required to recite (*Beracha Sh'eina Tzericha*) exclusively for the purpose of reciting one-hundred *Berachot*?

When reciting a *Beracha*, must one have in mind the intention that it count as one of his one-hundred daily *Berachot*?

If one starts *Shabbat* early, do his Friday afternoon *Berachot* count for Friday or for *Shabbat*? Similarly, if one recites *Birkat HaMazon* for *Seuda Shelishit* after *Shabbat* has ended, do the *Berachot* count for *Shabbat* or for Sunday?

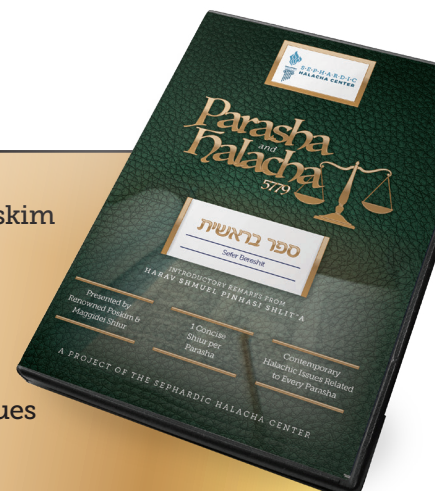
For these and similar questions, it is advisable that one consult one's own rabbi or *Halachic* advisor.



Presented by Renowned Poskim & Maggidei Shiur

1 Concise Shiur Per Parasha

Contemporary Halachic Issues Related to Every Parasha



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ing circuit by speaking. Although the *Shevut Yitzhak* cites stringent views, Rav Shlomo Zalman Auerbach (*Shulhan Shelomo* 308) permits this.

Additionally, one who speaks on *Shabbat* in his Amazon Echo-equipped home is clearly not intending to record his voice. It may happen anyway, but it is obviously not *niha leh* (see Rav Nissim Karelitz's *Hut Shani*, Vol. 1, *Kuntres HaHashmal*.)

Similarly, though there is *Halachic* debate about the permissibility of speaking on *Shabbat* to a person wearing a hearing aid, all agree that one may speak to a third party even if a hearing-aid wearer is listening in, because this result of one's action is too disconnected from the actor.

Another example of this principle appears in the *Havot Da'at* (Y.D. 91:5), who says that an insubstantial result that doesn't benefit the actor is excluded by *Melechet Mahshevet*. Rav Shmuel Vosner (*Shevet HaLevy* 3:45 and 7:42) permits, on this basis, pouring boiling water into a bowl containing small water droplets. The act is too insignificant to constitute *Melacha*.

Likewise, it would be permitted to walk on the street on *Shabbat* while video of the activity is being recorded by an orbiting satellite.

It would seem that being picked up by the Echo's recorder would be comparable to these examples. The result of the speaker's action, though inevitable, is insignificant, and therefore not prohibited as a *P'sik Reshe*.

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In Halacha, there are various categories of liability: an unpaid guardian

(*Shomer Hinam*), who is only liable for negligence, and a paid guardian (*Shomer Sachar*) who is liable for theft and loss even if they were not negligent (only if the damage was caused by an occurrence completely out of one's control, is a paid guardian exempt).

One such example is a shepherd who passes his flock over a narrow bridge. If one of the sheep falls, the unpaid guardian is exempt, whereas the paid guardian would be liable.

The Gemara in our case of the barrel-carriers, tries to determine whether or not tripping is considered to be negligence. The Gemara concludes that a paid guardian is liable for tripping, and therefore the barrel-carriers must compensate their boss for the value of the barrels. Accordingly, they should also not receive their wages.

Still, the Shulhan Aruch rules that it is fair to exempt them from damage and also to pay them their wages! Because of the risk involved

in such a job and their dealing with expensive merchandise constantly, we must have mercy on them and not withhold their wages. This is an example of going beyond the letter of the law.

Similarly, the Poskim discuss a case of a money-manager that didn't invest the money of his boss properly. The Pithe Hoshen writes that he should also be considered like these poor barrel-carriers and be exempt and paid his wages (there are obvious limits to this Halacha).

There are other examples of going beyond the letter of the law. The Gemara in Bava Batra states that one is allowed to open a shop next to his friend's shop because customer always have a choice to shop where they want. The Aviasaf writes that if one should not open a shop if it will cause a clear loss to the other store owner (i.e. opening a shop at the entrance of a dead-end street). Although Maran doesn't codify this Aviasaf, the Poskim discourage such practices. Similarly, although a large supermarket may open next to a small grocer, it is a form of *Hessed* not to do so (perhaps they can hire the grocer as a manager).

The Daf in Halacha

Bring the Daf to Life!

מסכת מנחות

This Week's Topics

RAV YEHOASHUA GRUNWALD
RAV MOSHE ZEEV GRANEK

- דף ע' Harvesting Chadash, Then & Now
- דף ע"א Cutting Off Branches of Fruit Trees
- דף ע"ב Postponing Kiddush Levana
- דף ע"ג The Mitzva of Eating the Meat of the Korban
- דף ע"ד Ice Cream for Dessert: Does it Require a Beracha?
- דף ע"ה What is a Greek Chaf'?
- דף ע"ו Shehechyanu on Mitzvos

Another example, is one finding two lost objects: theirs and their father's, which should they tend to first? Technically, oneself, as one's own money comes first. Nevertheless, the Shulhan Aruch writes that one who constantly looks out after himself first, will find himself needing others.

Perhaps, one may even make more money by acting with *Hessed* in his business, as all *Parnasah* is from Hashem, and Hashem will see his actions and give him more!



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