

S·E·P·H·A·R·D·I·C HALACHA JOURNAL

Family, Business, & Jewish Life Through the Prism of Halacha



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STAYING SAFE AND SECURE

Are All Security Measures Permitted On Shabbat?

Highlights of a Shuir by Rav Yosef Greenwald

The terrible tragedy that occurred in Pittsburgh left us all with a sense that we are not as safe as we'd like to be. Many people seek to increase the security of our public institutions. To this end, it is important to delve into the *Halachot* that relate to security measures on *Shabbat*.

FIREARMS ON SHABBAT:

The act of shooting a gun is clearly forbidden *MiD'Orayta* – a Biblical prohibition – as when one shoots a gun, he creates a combustion that is equivalent to making a fire.

We can assume that one would actually shoot a gun only if he was faced with a situation of serious danger to one's life – *Pikuah Nefesh* – in which case any measures may be taken. Therefore, practically, this prohibition is not usually relevant.

More relevant would be the prohibition of carrying a gun to a shul through an area that is not encircled by an *Eruv*. If one must pass through a real *Reshut HaRabim*, carrying a gun would be a Biblical prohibition. The concept of *Pikuah Nefesh* would not apply to this prohibition, as one need not place himself into this situation. Even if it is deemed necessary to have armed guards in shul, one may not transgress a *D'Orayta* in order to be able to daven in a shul.

However, carrying firearms to shul may be done through non-Jews. While it is forbidden to ask a non-Jew to perform a *Melacha D'Orayta* on *Shabbat* specifically for one's self, it is permitted in a case of "*Tzorech Gadol*" – a great need, and going to shul on *Shabbat* is such a need.

If there is an *Eruv* in the area, can a Jew bring the gun to shul or is a gun *Muktze*?

An object that is used exclusively in a way that is forbidden on *Shabbat* has the status of "*Muktze Mahamat Issur*" (item used exclusively for prohibited purposes). Such items may not be handled on *Shabbat* at all. However, if an object can be used in a permissible way on *Shabbat*, even if its main use is in a way that is forbidden, it has the status of a "*K'li Sh'Melachto L'Issur*" (item used primarily for prohibited purposes) and may be handled in two ways: either "*L'Tzorech Gufo*", for use in a permissible way, or "*L'Tzorech Mekomo*", to move because its place is needed. A hammer, for example, is used for the act of building, but can also be used to crack nuts. Therefore, it may be moved for one of those two reasons.

A gun falls under the category of *K'li Sh'Melachto L'Issur* because, in addition to its use as a firearm, it also is used to serve as a deterrent. Just seeing an armed guard will deter most criminals from approaching a shul, and that, in and of itself, can be considered a use. Thus, it would be permitted to carry a gun for this purpose. However, as soon as one gets home, he must put down the gun.

SECURITY CAMERAS AND METAL DETECTORS:

The installation of security cameras and metal detectors leads to another *Halachic* discussion.

This question arose a number of years ago when surveillance cameras were installed in the Old City of Jerusalem, which led to the concern that when one walks in front of these cameras he has transgressed the prohibition of *Kotev*, writing, as he is causing his image to be created on the screen.

The contemporary *Poskim*,
(continued on back)



By Rav Yosef Greenwald

HOLY LIGHTS: LIGHTING HANUKKAH CANDLES IN SHUL *How do we make a Beracha on just a Minhag?*

The *Minhag* is to light *Hanukkah* candles in shul with a *Beracha*.

The problem:

The *Gemara* states (*Shabbat* 21b) that the obligation is "*Ner Ish U'Veto*" (one candle for each household). How is the shul considered one's house?

How can we recite a *Beracha* on a *Minhag*, to which the word "*V'Tzivanu*" – and [Hashem] commanded us – is entirely inapplicable?

Even the *Mishna Berura's* suggestion (671:44) of a precedent from the custom of reciting *Hallel* on *Rosh Hodesh* with a *Beracha* won't satisfy the opinion of *Maran* that one doesn't recite a *Beracha* on *Hallel* on *Rosh Hodesh* – because it is a *Minhag*.

Hiddushe HaGriz (on the Rambam):

There are two types of *Minhagim*:

New creations not based directly on any previous *Mitzvah*, such as beating *Aravat* on *Hosha'ana Rabba*, which the *Gemara* (*Sukka* 44a) says

(continued on back)

spotlight

Titchadesh! The new and revitalized Bais HaVaad.org website

From its inception, the *Bet HaVaad* maintained an interactive website with portals for all of its services as well as a vast archive library of *shuirim* on myriad topics. As the *Bet HaVaad* expanded with new programs and services, we upgraded our site to accommodate the increased traffic. Click on www.baishavaad.org and see for yourself!

GENERAL HALACHA

HANUKKAH CANDLES FOR A PERSON WITH FEAR OF FIRE *Performing Mitzvot Under Duress*

Rabbi Micha Cohn



[This post is for educational and enrichment purposes only; not a final Halachic decision]

An elderly woman lives alone. Years before, she had a fire in her home, and is still afraid of open fire. She always goes away for *Shabbat* to avoid lighting *Shabbat* candles at home. How about *Hanukkah*? What are her obligations with regard to lighting *Hanukkah* candles?

In order to fully answer this question, we must explore the minimal requirements for this *Mitzvah*, and the fundamental structure of the obligation to perform a positive *Mitzvah* when it causes emotional duress.

While the prevalent custom is to light the number of lights corresponding to the night of *Hanukkah*, the minimal requirement is one candle per night. The candle should remain

lit for a half-hour. As such, it would be proper to explore the possibility of lighting a single light, perhaps a *Yahrtzeit* candle, for a short period of time after nightfall. Being that this is a complete fulfillment of the obligation, she may make a *Beracha* on the lighting as well. She does not need to do the actual lighting herself, and may ask a neighbor to light the candle for her. Even when somebody else lights for her, she should still say the *Berachot*.

How about going to a neighbor's house to light the *Menorah*? The Talmud says the *Mitzvah* of the *Hanukkah* lights is "*Ner 'Ish U'Veto*" – a candle for a man and his household. This is understood to mean that a person must light in their place of dwelling. Therefore, many *Poskim* conclude that a one may not light in their car, since it is not considered their dwelling. That said, a guest can light where he or she is staying because for now this is their place of dwelling. However, it is questionable if people visiting family or friends for just a few hours can light there – especially if they plan on returning home afterwards. This is because it has not become their place of dwelling.

A patient in the hospital who has relatives at home fulfills his obligation with the *menorah* being lit in their home by others.

The *Poskim* discuss if one fulfills the *Mitzvah* by lighting on a train, or in a wedding hall. There is an argument that although it is not a regular place of dwelling, since they will be there for much of the night, and bought a ticket or rented the hall, it belongs to them for the time being and can be considered their temporary place of dwelling. (*Maharsham, Piske Teshuva*)

As such, it is difficult to say that go-

ing to a neighbor for a short amount of time to watch the *Menorah* being lit is a full fulfillment of this obligation. However, seeing a neighbor's *menorah* lit and listening to the *Beracha* of "*She'asa Nissim*" is a fulfillment of "*Pirume Nisa*" – publicizing the miracle, and should definitely be done.

What about an electric *Menorah*? There is much discussion about electric lights concerning the prohibition to kindle a fire on *Shabbat*, and the obligation to light *Shabbat* and *Hanukkah* lights. While many *Poskim* conclude that an incandescent bulb has the status of a glowing coal, which is considered a fire in respect to the prohibition of kindling a fire on *Shabbat*, it does not meet the requirements for *Hanukkah* which needs a *Ner*, or a lamp. Being that a bulb does not have an actual flame, a wick, and a reserve of fuel, many *Poskim* conclude that it is very questionable if one fulfills their obligation, and a *Beracha* should definitely not be said. (*Be'er Moshe, Yabia Omer*).

When it comes to transgressing a negative prohibition (*Lo Ta'aseh*), a person is obligated to give all of his or her wealth in order to avoid the transgression. However, for a positive commandment like buying an *Etrog* for *Sukkot*, or *Tefillin*, a person is only obligated to give up to a fifth of their wealth. R' Shlomo HaKohen of Vilna (*Binyan Shelomo 47*) argues that immense anguish is comparable to giving more than a fifth of one's wealth, and therefore is not obligated to perform the *Mitzvah* under such circumstances. Many *Poskim* make this point in similar ways. As such, it would seem that this woman is not obligated to endure such anguish in order to fulfill the *Mitzvah*, but should at least go to a neighbor at the time of lighting in order to partially fulfill the *Mitzvah* by seeing the lights and hearing the *Beracha* of *She'asa Nissim*.

MATTERS OF INTEREST

Avissar Family Ribbit Awareness Initiative: Greeting as a form of Ribbit & more



ONE TIME PENALTIES

If the lender issues an interest-free loan but stipulates that there will be a one-time late fee if the loan is not satisfied by a certain date, one would not be subject to the classical *Biblical Ribbit* prohibition. There is however a rabbinical prohibition. Such an arrangement would be classified as *Ha'arama Ribbit* (a *Ribbit* "trick"), since it can be used as a loophole allowing one to circumvent the prohibition.

However, since this is only a rabbinical prohibition, it is subject to certain leniencies. For example, it is permitted to charge a late fee if the obligation was not initiated as a loan but rath-

er as payment for service or a sale. This being the case, a vendor who offers goods or services on credit may require a late fee if the debt is not satisfied on time.

GREETING THE LENDER

One who usually would not go out of his way to greet his friend, to attend his *Simcha*, or to buy him an *Aliya*, may not do so if that individual has lent him money. There is a question among the *poskim* if he may casually thank his friend for this loan. However, thanking him effusively or buying him a gift to show appreciation for the loan must be avoided.

This *Halacha* applies only during the loan period and at the time of repayment. After the loan has been repaid, there is no prohibition of *Ribbit Devarim*. There is a debate among the *Poskim* as to how soon after the payment one may thank the lender.

GREETING THE LENDER II

A story is told of a student (*Selected Writings* p. 287) who borrowed money from Rav Yerucham Levovitz z"l, the renowned Mirrer *Mashgiach*. The student began thanking him for the loan however Rav Yerucham interrupted and explained the concept of *Ribbit Devarim*.

A year later, the student returned to Rav Yerucham to borrow some more money. Remembering what had happened the year before, the student took the money and left without saying a word. Rav Yerucham called him back

and admonished him for not having proper *Hakarat HaTov* (gratitude)! The student protested that he was not allowed to say "thank you" for the loan, as Rav Yerucham himself had previously explained.

Rav Yerucham responded that although the borrower is prohibited from actually saying "thank you" because of *Hilchot Ribbit*, he must still have the appropriate *Hakarat HaTov* toward the lender. He may not express it by giving the lender a monetary or even a verbal present, but must feel gratitude for the loan. Rav Yerucham sensed that the student lacked the appropriate feelings.

This story illustrates the proper *Hashkafa* (outlook) of *Ribbit Devarim*. Although a loan is clearly a favor for the borrower, and he indeed must be grateful for the loan, the Torah

prohibits the lender from being compensated by the borrower. However, although the borrower is prevented from demonstrating his *Hakarat HaTov*, he must still be appreciative.

In a similar vein, a *Gadol* was once asked whether lending money with the intention to generate friendship is considered *Ribbit*. He replied that *Hilchot Ribbit* encourages us to help each other with free loans. It teaches us how to act towards a fellow Jew. Creating and strengthening friendships by offering free loans is the purpose of *Hilchot Ribbit*, and certainly not a violation of its laws.

Ribbit Devarim applies to other scenarios as well. A borrower may not greet the lender if he would not have done so before the loan (If the lender greets the borrower first, the borrower may return the greeting).

HANUKKAH FAQ'S



Answered by Rabbi Moshe Pinchasi

Q: Where should I light if I get married on Hanukkah?

A: If the *Huppa* will take place after star-break, one would fulfill the obligation with the lighting of his parents. One should also light in one's new home after the wedding, without a *Beracha*, to satisfy the opinions that the place where one sleeps and lives in the following day is considered his main home.[1]

If the *Huppa* will take place before the time of lighting, one must light in their new home with a *Beracha*. This can be done in person, by appointing a *Shaliah* to light at the appropriate time, or after the wedding.[2]

Q: Must the members of the household be present during the Hadlaka?

A: When lighting in the home, the main *Pirsum HaNess* (publicizing the miracle) is among the members of the family. Therefore, one should gather his family to witness the lighting[3]. Nevertheless, if no family members are present and one is lighting at the appropriate time, one should light with a *Beracha*.

If one only got home after his household members are sleeping, the *Ben Ish Hai, Ohr L'Tzuyon*

and others[4] hold that he should light without a *Beracha*, unless he can wake up some household members. However, Hacham Ovadia Yosef, Rav Shlomo Zalman Auerbach and others maintain that one can still follow the simple understanding of the *Shulhan Aruch* that one may still light with a *Beracha* up until dawn, even if he cannot wake up any household members[5].

Q: Can one light one candle of the Menorah from the other?

A: The *Gemara* discusses whether using the fire of one candle to light another is disrespectful to the candle or not. *L'Halacha, Maran*[6] rules that one may light one candle directly from the other, but may not use a regular candle in-between. The *Rama* is strict and forbids even lighting directly from one candle to the next because, essentially, one fulfilled the basic *Mitzvah* with the first candle, and

the rest do not have the same level of *Keddusha*. While the *Kaf HaHayim*[7] writes that the *Minhag* is to be strict like the *Rama*, Hacham Ovadia Yosef rules[8] that one can follow *Maran's* opinion. If, however, a candle blows out after it was lit properly, one may not light it from another *Hanukkah* candle, as the *Mitzvah* of lighting was already fulfilled.

Sources:

- [1] ובאול"צ (ח"ד פרק מז ס"ו) כ' שעדיף שילך לביתו קודם זמן ההדלקה, וידליק שם בברכה וימתין כדי שיעור הדלקה
- [2] אול"צ שם, ילקוט יוסף (חנוכה ס"י תרעב ס"ד) ועוד [3] מג"א (ס"י תרעב ס"ה), משנ"ב (שם ס"ז), בא"ח (ש"א פר"י שב ס"א) ועוד [4] מג"א (שם ס"ז) ומשנ"ב (שם ס"א) ובבא"ח (שם ס"ז), בה"ח (שם ס"ב), אול"צ (ח"ד פמ"ג ס"ו) ועוד [5] חמד משה (שם ס"ג), שלמי מועד (עמי ריח) בשם הגרש"ז אויערבך זצ"ל, חזו"ע (עמי סד) ועוד [6] ס"י תרע"ד ס"א [7] שם ס"ח [8] חזו"ע (עמי קג).

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including Rav Shlomo Zalman Auerbach zt"l and Rav Yosef Shalom Elyashiv zt"l, permitted one to walk in front of these cameras. They explained, based on the words of earlier *Poskim*, that although it is forbidden to perform a *Melacha* on *Shabbat*; however, it is not necessarily forbidden to have a *Melacha* performed as a result of your action if you did nothing consciously to cause it to happen. Therefore, if someone is merely walking down the street, and his picture is taken through no desire of his own, he has not transgressed any prohibition.

Similarly, if someone walks down a street and triggers an automatic light to go on, he has not transgressed any prohibition, as he has not done any act of *Melacha*.

This leniency, however, will not permit someone to walk up to his own house thereby triggering automatic lights or surveillance cameras, as in such an instance he is deliberately doing an act that causes a *Melacha*.

When one walks through a metal detector, knowing that he has metal objects in his pocket that will create an electric current that will set off an alarm, he would seemingly not have this leniency, as he is physically performing an act that causes a *Melacha* to be done.

A similar issue is discussed in Igrot Moshe¹. Rav

Moshe Feinstein ruled that it is forbidden to use a microphone on *Shabbat*, even though when one speaks into a microphone he is not creating a new electric current but is merely magnifying an existing one. He explains that since the magnification of the current is recognizable to all, it is akin to a new current. Accordingly, going through a metal detector that does not create a new current when triggered would only be permitted if the enhancement of the existing current does not make a noise and is not recognizable.

The obvious solution would be to walk through the metal detector with no metal in one's pocket, and without any intention of setting it off. If one does so, he would not be actively performing any *Melacha*.

Regarding walking in front of closed-circuit cameras, one may walk down the street, as we explained earlier, even if that means walking past cameras. However, to specifically walk into one's home or into a shul when one knows he will be pictured on camera would be problematic.

In any event, the actual operation of any such equipment on *Shabbat* should only be done by non-Jews. May we all merit the protection of the One Above!

¹ Helek 4, Siman 84

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is a *Minhag Nevilim*.

Minhagim that are direct extensions of already existing *Mitzvot*,

such as eating *Matza* and *Maror* at a second *Seder* outside *Eretz Yisrael*, which the *Gemara* (*Betzah* 4b) says is based on *Minhag*.

On the first type of *Minhag*, no *Beracha* is recited, as we cannot say "*V'Tzivanu*" on an action that wasn't actually commanded. But the second type of *Minhag* does warrant a *Beracha*, as the original *Mitzvah* was commanded, and the *Minhag* is an extension of the original *Mitzvah*.

Both reciting *Hallel* on *Rosh Hodesh* and lighting *Hanukkah* candles in shul are in the second category, since they are an extension of

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מסכת חולין

This Week's Topics

RAY SHIMUEL YESHAYA YOFFE,
ROSH CHABURA BAIS MEDRASH GOVOLA

- דף י' Rov vs. Chazakah : Part 2
- דף י"א Statistics & Probability
- דף י"ב Rov vs. Chazaka : Part 3
- דף י"ג Thought and Deed
- דף י"ד Canned Food and Muktzeh
- דף ט"ו Benefitting from Chillul Shabbos
- דף ט"ז Ko'ach Sheni and Modern Technology

the original *Mitzvot* of reciting *Hallel* on the other *Mo'adim* and lighting *Hanukkah* candles at home, respectively.

Based on this logic, a *Beracha* is recited on both. [Maran must hold, however, that *Hallel* on *Rosh Hodesh* is not an expansion of the *Halacha* to recite *Hallel* on the other *Mo'adim* but rather an obligation unto itself, that no *Beracha* is recited, like *Hibbut Aravot* (AO).]

BAIS HAVAAD KEHILLA EVENTS

People sometimes ask what occurs on a regular basis in the Bet HaVaad. Given the breadth of our activities in sensitive areas of *Halacha*, it is understandable that the daily activities are constantly changing. Here is a sampling from last Thursday afternoon. In a span of three hours, as the Kollel for Dayanut was studying the complicated halachos of *Ribbit*, there were two *dinei Torah* unfolding in our Bais Din. Across the hall, as part of our *Even HaEzer Habura*, Rabbi Eliezer Cohen presented an intricate shiur on the correct writing and spelling of names in a *Ketuba* and *Get*. Next door, the Director of the Medical Halacha Center was putting the final touches on an upcoming *Shiur* discussing *Hanukkah* challenges in the medical profession. All par for the course.



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