Practical Modern-Day Controversies

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Sensors

The Halchos of P'sik Reisha

A summary of the weekly Wednesday night shiur by Rabbi Shmuel Stein at the Miami Beach Community Kollel / To receive a copy send an email to InHilchosShabbos@gmail.com

The advancement of technology raises many questions regarding hilchos Shabbos but perhaps the most common question is activating motion sensors. Here are some of the modern-day questions that the poskim discuss:

- Does one need to deactivate his Ring doorbell for Shabbos?
- How can one use a Nest thermostat on Shabbos?
- Is it permissible to walk into a building on Shabbos that is recorded by surveillance cameras?
- Is it permissible to walk past a house that has a motion sensor that causes a light bulb to turn on?
- Is it permissible to open and close the front door of one's home if this will cause the light indicators on the security system to turn on?

To understand the issues involved behind these questions, we will review two of the fundamental principles in hilchos Shabbos – Davar she'eino Miskaven and P'sik Reisha, before returning to discuss how the poskim rule on these issues.

Davar She'eino Miskaven: Performing a Melacha Unintentionally

The Gemara! states that when someone performs a *melacha* unintentionally it is considered a *davar she'eino miskaven* – something which he did not intend for. The *halacha* is that one only violates the thirty-nine *melacha* of Shabbos *if he has intention to perform the melacha*, if he performs a *melacha* unintentionally, without intending to do so, he is not liable for the *melacha* he performed.² The Gemara³ gives a classic example of a *davar she'eino miskaven*:

One may drag a wooden bench through his yard, and he does not need to be concerned that the bench might inadvertently create a ditch or furrow in the ground (which generally violates the melacha of Choresh, Plowing). Since his intention when dragging the bench is not to create a ditch or a furrow, but merely to bring the bench to another place in his yard, any act of plowing which occurs is unintentional. Thus, it is permitted to drag a bench through a yard because even if a ditch is created it is unintentional and is considered a davar she'eino miskaven.

P'sik Reisha: An Inevitable Outcome

Although to be liable on Shabbos one must generally have the intention to perform a melacha, the Gemara¹ adds that there is an exception to this rule: If it is inevitable that one¹s action will cause a melacha to be performed, he would be liable for the melacha even though he had no intention of performing it.⁵ Since it is inevitable that the melacha will occur, it is halachically equivalent to having intention to perform the melacha.⁶ This principle is referred to as p'sik reisha, an inevitable outcome, and is prohibited mid'Oraisa.⁵ For example:

- The Mishna Berura⁹ writes that one may not drag a very heavy table through his yard on Shabbos since it is inevitable that doing so will create a ditch in the ground. Even though one's intention when dragging the table is not to create a ditch, since it is inevitable that a ditch will be made, it is considered a p'sik reisha and is prohibited.⁹ Similarly, one should not drag a chair on the ground as it is inevitable that doing so will create a ditch in the ground.¹⁰
- Rav Moshe Feinstein¹¹ rules that if one forgot to remove the light bulb from a refrigerator before Shabbos began, he may not open the refrigerator door on Shabbos since it will inevitably turn on the light. Even though one's intention when opening the refrigerator door is to remove food from the refrigerator, and not to turn on the light, since it is inevitable that the light bulb will turn on when the door is opened it is considered a p'sik reisha and is forbidden mid'Oraisa.

P'sik reisha d'Io nicha lei: an inevitable but unwanted outcome

Tosafos¹² mentions a dispute regarding whether an act which is a p'sik reisha is forbidden on Shabbos even if the inevitable outcome is unwanted to the one performing the melacha. This is known as a p'sik reisha d'lo nicha lei — an inevitable but unwanted outcome. Since the inevitable outcome is neither wanted nor beneficial for the one performing the melacha, perhaps it is not considered as if he intended to perform it. For example, dragging a heavy table in a neighbor's field would be considered a p'sik reisha d'lo nicha lei because the one dragging the table is not concerned about the ditch which has been made in the field. The Shulchan Aruch¹³ rules that a p'sik reisha d'lo nicha lei is still prohibited, albeit only mid'Rabbanan.¹⁴

To Summarize

To violate the halachos of Shabbos one must intend to perform a melacha. A melacha which occurs unintentionally is considered a davar she'eino miskaven and is permitted. For example,

one may drag a bench (which is not heavy) on the ground, even if the bench creates a ditch. It is permitted because this was not his intention. However, if it is inevitable that one's action will cause a melacha to occur it is considered a p'sik reisha and is forbidden mid'Oraisa, because it is as if he had intention to perform the melacha. However, if the inevitable outcome which occurs from his action is unwanted or unnecessary it is considered a p'sik reisha d'lo nicha lei and is prohibited mid'Rabbanan.

Surveillance Cameras and Motion Sensors

With the understanding of these fundamental principles of hilchos Shabbos we can now discuss the issues involved with activating surveillance cameras and motion sensors on Shabbos.

I. Surveillance cameras

Many buildings and areas are monitored by surveillance cameras. Walking into these areas and being caught on the camera involves the *melacha* of *Koseiv* (writing), ¹⁵ because any act of writing letters or pictures violates the *melacha* of *Koseiv*. ¹⁶ Walking into the area which is being monitored may violate the *melacha* of *Koseiv*, since doing so causes one's image to be "drawn" on the screen. ¹⁷ Although one's intention when walking into the building is not to be recorded, it is nevertheless a *p'sik reisha* as it is inevitable that doing so will cause this *melacha* to occur and thus should be prohibited. Even though we can consider this to be a *p'sik reisha* d'lo nicha lei, since one has no benefit from being recorded, it is still prohibited *mid'Rabbanan*.

Thus, at first glance it would seem problematic to walk into many buildings or homes which are monitored on Shabbos. However, many prominent *poskim* offer a novel leniency which would permit entering these areas on Shabbos. (We will discuss this leniency at length and determine whether we can apply it to other cases of using sensors on Shabbos.)

The leniency of the poskim regarding surveillance cameras

Many poskim¹⁸ argue that walking into an area monitored by a surveillance camera is less of an issue than a normal p'sik reisha d'lo nicha lei, for the following reason: When one walks into a building, he is so distantly removed from the act of the surveillance camera which captures his image, that we cannot associate him with that act at all. These poskim¹⁹ give the following illustration to help understand this leniency:

Whenever someone walks outside in the street he is being videoed by numerous satellites, yet it is nevertheless permissible to walk outside on Shabbos. We are not concerned about the recording which occurs, because the person is merely walking down the street, and we cannot associate him with the picture that is being taken by the satellite, as the association between the two are too distant and removed from each other.

Likewise, when one merely enters a building or home and has neither the intention of nor the interest in being monitored, we cannot associate the video which is being taken with the person who is merely walking into the building.

This cannot be compared to a typical case of a *p'sik reisha d'lo nicha lei*, where the one doing the act is directly involved in and connected to performing the *melacha*. For example, when one drags a heavy table in his neighbor's field and creates an unwanted ditch, he is directly associated with creating it, since he is the one pulling the table. By contrast, when someone walks into an area which is monitored by a surveillance camera, in addition to the fact that he has neither the intention of nor the interest in being recorded on the video, he is also not directly involved in operating the video cameras, and we therefore cannot associate him with the *melacha* which occurs, and it is thus permitted.

When one benefits from being monitored: Entering a hospital

The leniency described above does not apply in a situation where one benefits from being monitored by the surveillance camera, because we can no longer consider his action to be disassociated from the *melacha* which occurs since he has an interest in being recorded. For example, many hospital wings have an entrance which is watched by a security personnel member through a video monitor. Since one cannot enter the building without first appearing on the screen, he walks in front of the video camera with the specific intention to appear on the monitor. Therefore, we must consider his actions to be associated with creating the image on the screen, and walking in front of the camera would be prohibited. In a time of need one must consult a Rav as to how to deal with such a situation.²⁰

I Gemara Shabbos 22a, Shulchan Aruch 337:1 2 see Orchos Shabbos (vol. 3, p. 248) where he explains two reasons why davar she'eiin miskaven is not liable. 3 Shabbos 12a 4 Gemara Shabbos 133a Shulchan Aruch 337:1 5
Even if it is almost certain that the act will cause a melacha, it is prohibited (Biur Halacha 277:1, d''h she'ma). However, in this instance it is prohibited only mid'Rabbanan (unlike a p'sik reisha which will certainly cause a melacha to occur which is prohibited mid'Oraisa) [see Orchos Shabbos 3:30:2, note 9]. 6 39 Melachos p. 182, based on Tosfos Yoma 34b d''h Hani Mili 7 Rambam Shabbos 1:6; Sha'ra ha Tzion 320:53. 8 Shulchan Aruch 337:1 Mishna Berura 337:4 9
Pushing a stroller or a wheelchair on a muddy ground. The poskim explain that it is permissible to push a stroller or a wheelchair on a muddy ground (in an area which has a proper ciruv) even though it is inevitable that the wheels will create a ditch is formed by compressing the ground it is not considered an act of Choresh, because if dirt is not removed it does not prepare the ground for planting (39 Melochos, p. 258). Thus, since pushing a stroller or a wheelchair on the ground creates a ditch by compressing the ground, it is permitted (Orchos Shabbos 1:18: Nishmas Shabbos (6:277); Kovetz Halachos vol 2, p. 1002; The Shabbos Home vol. 2, p. 259; 39 Melochos, p. 258). 10 The Shabbos Home vol. 2, p. 263, ** 11 I Igros Moshe Vol.2:68 12 Shabbos 103a d'h Lu 13 Shulchan Aruch 320:18 see Biur Halacho there, d'h Yeish where he writtes "that it seems that the Shulchan Aruch rules in accordance with the opinions that a p'sik reisha d'lo Nicha lei is prohibited', see also Rama 316:3 14 Mishna Berura 320:53 15 Ray Yosef Shalom Elyashiv, Ray Nissim Karelitz quoted in Orchos Shabbos (bid, end of note 55]. 16 The Rambam (Shabbos) rese Chapter Fifteen, Why we don't use Electricity on Shabbos (bid, end of note 55]. 16 The Rambam (Shabbos) rese Chapter Fifteen, Why we don't use Electricity on Shabbos (bid, end of note 55]. 16 The Rambam (Shabbos I) which r

Allowing a surveillance camera in operate one's home over Shabbos

Allowing a surveillance camera to operate in one's own home over Shabbos is more of an issue. Firstly, poskim²¹ advise that since the leniency which the poskim give regarding surveillance cameras is based on a novel idea, one should rely on this leniency only when there is no other way to avoid being monitorred. This is not the case regarding a surveillance camera in one's home where he can easily turn off the security system before Shabbos.²² Secondly, it is questionable whether the leniency of the poskim regarding surveillance cameras would apply to this case where the Jewish homeowner is the one setting up the surveillance camera to operate on Shabbos. Since the Jewish owner is "operating" the camera, he is automatically associated with the images which are taken on Shabbos. Thus, one would need to deactivate a Ring doorbell before Shabbos so that it does not operate on Shabbos (in the next paragraph we will discuss whether it is sufficient to shut off the monitor). In a time of need one must consult a Rav regarding allowing a surveillance camera to operate in one's home over Shabbos.

Shutting off the monitor before Shabbos. Many poskim²³ rule that even if one shuts off the monitor before Shabbos, one may not allow the surveillance camera to operate on Shabbos, because saving information on a drive is prohibited on Shabbos. [This can be compared to what we discussed in Chapter Four regarding the use of activity trackers on Shabbos.] However, Rav Moshe Heinemann²⁴ holds that merely storing information which cannot be seen is permitted on Shabbos. (All agree that merely covering the screen with a sheet of paper is not sufficient, because although the picture cannot be seen it is still drawn on Shabbos.)²⁵

Motion sensor lights

Many times, walking past a particular house at night will activate a motion sensor which turns on a light. Since it is inevitable that walking by the house will cause the light to turn on, it is a *p'sik riesha* and would seem to be prohibited on Shabbos. Even in the situation where one has no benefit from turning on the light, this would still be a *p'sik reisha d'lo nicha lei* and should still be prohibited *mid'rabbanan*.

However, based on the leniency discussed earlier regarding surveillance cameras, some poskim²⁶ permit walking by a house which activates a motion sensor light as well. Since the person walking by the house has only a distant association with the light turning on, we cannot consider the melacha which occurs to be associated with his action, and it is therefore permitted to walk past that light.²⁷ [However, if one can avoid causing the light to turn on it is preferable to do so.²⁸]

When one benefits from the light turning on

If one does benefit from the light turning on, the above leniency would not apply. For example, if walking up a stairwell causes a light to turn on, it would be prohibited to walk up those stairs on Shabbos, because he certainly benefits from the lights that he caused to turn on.²⁹ Without the light turning on it is difficult to walk up and down stairs and thus his action of walking up the stairs is certainly associated with turning on the light and is prohibited (mid'Oraisa).³⁰ In a case of need one must consult a Rav,³¹

Security systems

Many homes are equipped with security systems. If the security system is not deactivated before Shabbos, opening a door or window will cause the security alarm to go off. One must make sure to deactivate all security systems before Shabbos, to avoid causing the alarms to go off.³² (If a security alarm does go off on Shabbos, one may ask a non-Jew to turn it off.³³)

Additionally, one must ensure that opening the doors and windows of the house does not cause LED lights or words to be displayed on the keypad of the alarm system.³⁴ Since these lights are activated directly by opening and closing a door or window, the one opening it is directly associated with the *melacha* that occurs and we cannot apply the leniency discussed above.³⁵ If someone forgot to disable these lights or he is a guest on Shabbos in a home where these lights cannot be disabled on should consult a Rav.³⁶

However, if an LED light is activated by merely walking by an area, then, in such a case, we cannot directly associate the person with the *melacha* that occurs, and walking by that area is permitted on Shabbos.³⁷

Automatic sliding doors

Many buildings are equipped with electronically operated doors which open automatically when a person walks near the entrance of the door. One may not enter such a building on Shabbos, because doing so causes the door to open electronically. Since the person entering the building benefits from the doors opening, the *melacha* which occurs is directly associated with his action, and we cannot apply the leniency discussed above. If one must enter such a building he should wait for a non-Jew to enter the building and enter immediately behind the non-Jew, before the doors begin to close.

Motion sensors in bathrooms

One must avoid using a bathroom which is equipped with motion sensors that electronically operate the lights, sink, hand dryer or toilets.⁴¹ Since one benefits and wants the electronic functions that these sensors perform, using them would be prohibited on Shabbos.⁴² However, if someone finds himself in a hotel, hospital or other building which does not have another bathroom that does not have motion sensors, he may use the bathroom even though the motion sensors will activate the electrical sensors. This is based on several halachic reasons, including the principle of *kavod ha'brios* (human dignity) which can permit a *melacha d'Rabbanan*.⁴³

An exception to this rule would be if entering the bathroom causes an incandescent or florescent light bulb to turn on as in this case one may not enter the bathroom on Shabbos. Since turning on a light bulb involves a melacha d'Oraisa, the principle of kavod habrios is not sufficient of a basis to permit entering the bathroom.⁴⁴

Staying in a hotel over Shabbos

When staying at a hotel on Shabbos nowadays, it is not uncommon to encounter many halachic issues, some of which we have discussed. Thus, Nishmas Shabbos⁴⁵ writes that before booking a hotel for Shabbos one must ensure that his accommodation does not pose any of the following halachic issues:

Hotel rooms with motion sensors. Some hotel rooms use a smart thermostat and lights which turn on the lights and air conditioners when a guest enters the room. One may not stay at such a hotel over Shabbos as entering and leaving the room causes these *melachos* to occur.⁴⁶

Bathrooms which have automatic lights, toilets and driers. As we discussed earlier, one may not enter a bathroom which has automatic lights that turn on when one enters the room. Thus, Nishmas Shabbos⁴⁷ writes that one may not stay at a hotel on Shabbos which only has bathrooms that have motion sensor lights and therefore before booking a room in the hotel one must ensure that the lights in the bathrooms are not automatic.⁴⁸ Similarly, one must ensure that the bathrooms in the hotel rooms do not use motion sensors to flush the toilets and activate the faucets.⁴⁹

Automatic sliding doors. As we mentioned earlier it is prohibited to cause automatic doors on Shabbos. One may only enter the hotel by waiting for a non-Jew to enter and then enter immediately behind the non-Jew.

Using the elevator. One may not stay at a hotel on Shabbos if the only way to get to his room is via an elevator (e.g., his room is on a very high floor), because one may not *l'chatchila* arrange his stay in a way that he will need to ask a non-Jew to call the elevator.⁵⁰ Rather, he must ensure that there is a way to access his room without using an elevator (e.g., to choose a room on a lower floor).⁵¹

Rooms which only open with a keycard. Nishmas Shabbos⁵² writes that "it is obvious that the Jew himself may not use the keycard to open the door on Shabbos. Thus, if he wishes to stay in such a hotel, he must leave the door unlocked (by taping a card over the hole which catches the latch of the door) and placing his valuables in a safe. If one cannot leave the door unlocked, due to the valuables in his room, he must eat his meals in the room and may not leave the room over Shabbos even to daven with a minyan." ⁵³

The intention of this summary is to discuss common practical shaylos. One should consult a Rav concerning p'sak halacha.

19 Rav Nissim Karelitz (sefer Chut Shani 4 p. 165)

20 Rav Shmuel Kamenetzky Kovetz Halachos, vol.2, p. 859; Shevet Halevi (10:60:1); Orchos Shabbos (15, ha'arah 55) citing Rav Yosef Shalom Elyashiv was stringent in such a situation.

However, The Orchos Shabbos (ibid) cites that Rav Moshe Sternbauch and Rav Betzalel Stern were lenient because they did not consider the writing done on a screen to be a halachic "writing" at all. 55) where he quotes Rav Yosef Shalom Elyashiv who allows this leniency "in a time of need." See also Orchos Shabbos 26:31 and The Aura of Shabbos p. 158. 21 See Orchos Shabbos (15, ha'arah 23 Orchos Shabbos 26, note 40; see Shimiras Shabbos Khilichaso 66, note 211, Nishmas Shabbos 7:138; Orchos Shabbos 26:36:3. 24 Star-K 25 Star-K 26 Rav Yosef Shalom Elyashiv and Rav Shmuel Wosner (cited in Orchos Shabbos 26, ha'arah 44 and Shevet Ha'Levi 9:69). 27 However, Rav Nissim Karelitz (Chut Shani Vol. 4 p. 166) does not agree with this argument and prohibits walking by a house when doing so will cause the lights to turn on. Since when one walks by the house the light immediately turns on, it is clearly recognizable that it is the one who walked by the house who triggered the light turn on. Thus, we must associate his walking by the house as the direct cause of the light turning on. Furthermore, Nishmas Shabbos (6, Electricity 72) writes that if one does indeed benefit somewhat from the light which turns on (e.g., on a dark road) it is appropriate to avoid walking by the light.

28 Orchos Shabbos 26:31

29 Orchos Shabbos 26:31

29 Orchos Shabbos 26:31

40 Orchos Shabbos 26:31

29 Orchos Shabbos 26:38

However, if a non-Jew entered the building and caused the lights to turn on, the Jew may enter after him; since the lights are already on, no change occurs when he enters the building (ibid 26:29). Although when he exits the stairwell (after the non-Jew) it will cause the lights to turn off, it is nevertheless permitted due to the fact that it is only a *Grama* (see footnote 30).

30 Orchos Shabbos 26:38

31 Leaving the stairwell and causing the light to turn off. If someone entered the stairwell not knowing that doing so would turn on a light, the may exit the stairwell and does not need to be concerned that doing so will cause the light to turn off (Nishmas Shabbos 6, Electricity 72; Orchos Shabbos 26, note 42). This is due to several halachic considerations including the fact that since the light does not turn off right away, leaving the stairwell is considered a Grama (an indirect act).

32 Orchos Shabbos 26; 134; The Aura of Shabbos, p. 159, based on the leniency of shvus (Amira l'Akum) d'shvus (electricity) in a time of great need. See Chapter Seven, Amira l'Akum 101, Part Two for an elaboration of this leniency. Similarly, if the alarm of one's car begins to ring on Shabbos, one may as a non-Jew to deactivate the alarm (Nishmas Shabbos, ibid).

34 Orchos Shabbos 26:33; The Aura of Shabbos ibid 35 In a conversation with Rav Simcha Bunim Cohen (based on The Aura of Shabbos ibid). This can be compared to dragging a bench in a yard, which is prohibited because the ditch which is created is a direct result of pulling the bench and is associated with the person pulling the bench. However, see Orchos Shabbos 26 ha'arah 46.

36 See Orchos Shabbos (26:33, note 46) where he writes that b'dieved there are halachic considerations to permit opening and closing the door even though it will cause the lights to turn on. He concludes that preferably one should cover the lights before Shabbos begins.

37 Based on Orchos Shabbos 26:31 and 26:33, and conversation with Rav Simcha Bunim Cohen
Nishmas Shabbos 6, Electricity 72-2; The Aura of Shabbos p. 171

39 If one did not realize that it was an automatic door and wishes to leave. Nishmas Shabbos (ibid) writes "I am unsure whether someone who approached the door not realizing that it was an automatic door, and only once he got near the door did it open automatically, if may he leave his place. Since when he leaves his place the sensor will notice that he left and immediately close the doors it is considered a direct act and may be prohibited." However, Orchos Shabbos (26:26, note 39) is lenient in this situation as he considers entering the building and causing the doors to close to be a *Grama*; see next 40 Ordros Shabbos ibid. Although the non-lew will enter the door and this means that when the Jew enters, he will cause the doors to close it is nevertheless permissible because of several halachic considerations (namely: one has no benefit from the doors closing, it can be considered a *Grama* since it occurs only after a few seconds, etc.). [However, if it is possible to enter before the non-jew it is preferable to do so (ibid).]

41 Nishmas Shabbós
6, Electricity 11, 72-3, 74. However, he adds that if one did not realize that the sink was automatic, he may remove his hands since the water does not shut off immediately and is considered a *Grama*.

42 Ray Yisroel Belsky (*Shulchan* 43 lbid. 44 lbid; Nishmas Shabbos 6, Electricity 11. 45 If one entered the bathroom without realizing that doing so will activate the lights, he may not leave the bathroom as this will cause the lights to turn off (Nishmas Shabbos, ibid 12). However, if he must leave the bathroom to perform a mitzva (i.e., to daven) he may exit the bathroom as leaving the bathroom is only a p'sik reisha d'lo nicha lei (Nishmas Shabbos, ibid). However, one may call a non-Jew to enter the bathroom so that when he leaves the bathroom it does not cause the lights to turn off (ibid).

46 Nishmas Shabbos, ibid

47 Nishmas Shabbos 6, Electricity 11-3; The Aura of Shabbos p. 117. B'deved, in a time of need, if one is staying in such a hotel, he may leave the room (as the melachos which occur are not benefiting him) but may not reenter the room over Shabbos (ibid).

50 Nishmas Shabbos (ibid).

48 Nishmas Shabbos adds that if someone ended up in a hotel which only has bathrooms with motion sensor lights, he must do the following: Before entering the bathroom, he should ask a non-Jew to enter the bathroom so that the light turns on, then the non-Jew may leave. But when the Jew wishes to leave the bathroom (which will cause the lights to turn off) he must again call the non-Jew to enter the bathroom so that he can leave.

49 See The Aura of Shabbos p. 117. However, as we mentioned earlier, if one is stuck in a situation where there are no other bathrooms available, b'dieved, he may use the bathroom based on several halachic reasons, including the principle of kavod ha'brios (human dignity) which can permit a melacha d'Rabbanan (however this would not permit the use of the automatic sinks).

50 Nishmas Shabbos 6, Electricity 69-2; see Chapter Fourteen regarding the use of elevators on Shabbos.

51 He adds that b'dieved in a situation where one is stuck without a way to go in and out of his room without using the elevator it is preferable to stay in his room the entire Shabbos even if this will mean missing tefilla b'tzibur and krias hatorah.

52 Nishmas Shabbos, ibid 73 53 Orchos Shabbos 26:48 writes this as well. Asking a non-Jew to open the door. Asking a non-Jew to open the door violates the prohibition of Amira l'Akum and is thus not brought as a valid option to open one's hotel door on Shabbos (Orchos Shabbos 26:48; The Aura of Shabbos p. 116). If one needs to stay in the hotel for a d'var mitzvah he should consult a Rav.