



Shinui and Shabbos: Knuckles, Thimbles, and Left Hands

On six days work may be done, but the seventh day shall be holy for you, a day of complete rest for Hashem; whoever does work on it shall be put to death.

(Shemos 35:2)

One of the fundamental principles in the definition of the *Melachos* of Shabbos is "*Melech Machsheves*". Generally invoked as a leniency, *Melech Machsheves* is the concept that the Torah did not forbid any of the *Melachos* unless they are performed in the regular and original manner. In other cases, *Melech Machsheves* may be invoked as a stringency. A person who deliberately performs a *Melacha* indirectly may be liable if his intentions were fulfilled as it would be considered *Melech Machsheves* (see *Bava Kama* 60a regarding the *Melacha* of *Zoreh*)¹.

The source of *Melech Machsheves* is cited by the Gemara (*Shabbos* 49b & *Beitza* 13b) which notes the juxtaposition (in this week's Parsha) of the description of the building of the *Mishkan* and the Mitzva of Shabbos. *Chaza"l* (in the *Mechilta* cited by *Rashi ad. loc.*) explain that by ordering the Jewish people to observe Shabbos before commanding them to build the *Mishkan*, the Torah implies that the building of the *Mishkan* does not override Shabbos. The Gemara explains that we further derive that the *Melachos* that are forbidden on Shabbos are precisely those same acts that are involved in building the *Mishkan*. Just as the construction of the *Mishkan* was explicitly described as *Melech Machsheves*, so must all of the *Melachos* of Shabbos be *Melech Machsheves*.

In order to be liable for performing a forbidden act on Shabbos, the *Halacha* of *Melech Machsheves* requires that it be done without a *Shinui* or *Ki'l'achar Yad* (in an unusual manner). The *Mishna* in *Shabbos* (92a) states:

Somebody who takes an item out [to the public domain], whether with his right hand or his left hand, in his lap or on his shoulders – is liable, for this was the manner of transportation of the sons of Kehas. If he carried it on the back of his hand, with his foot, mouth, elbow, ear, in his hair, in his money-belt that is upside down, between his money-belt and his cloak, in the hem of his cloak, in his shoe or sandal – he is exempt, as he did not take it out in the manner of those who transport things outside.

¹ For more discussion about *Melech Machsheves*, see *Minchas Asher*, *Shemos* 63.



We see that in order to be liable for performing a *Melacha* on Shabbos, a person must do it in the regular manner (as was the case in the Mishkan when the sons of *Kehas* carried the vessels). One who performs the *Melacha* in an unusual manner is exempt, although it is still *Assur mi'd'Rabbanan*.²

The connection between *Melechtes Machsheves* and the law of *Shinui* is not intuitive. In order to understand it, let us examine another *Halacha* that is based on *Melechtes Machsheves*³ - *Melacha She'eina Tzricha l'Gufa*.

R' Shimon holds that a person who performs a *Melacha She'eina Tzricha l'Gufa* is exempt. Therefore, the Mishna in *Shabbos* (93b) explains that a person who carries a corpse out of his house on Shabbos (into a *Reshus haRabim*) is exempt. *Rashi* explains: "And any *Melacha* that is not needed (for itself), but only to remove [an item – in this case, the corpse] – is a *Melacha She'eina Tzricha l'Gufa*, as he would have preferred that it [the corpse] not come to him at all, and he does not need it. Therefore it is not considered to be a *Melechtes Machsheves* according to *R' Shimon*." In other words, if a *Melacha* is performed for the purpose of an incidental outcome⁴, it is not considered *Melechtes Machsheves*.

Other *Rishonim* disagree with *Rashi* and maintain that *Melacha She'eina Tzricha l'Gufa* is not related to *Melechtes Machsheves*. *Rashi* who holds that the two are related is consistent with his opinion in *Masechet Beitza* (13b) where he explains that *Melechtes Machsheves* means "*Melechtes Umnus*" – the work of an artisan or expert. An act that is performed for an incidental outcome cannot be considered *Melechtes Umnus*.

At any rate, according to *Rashi* the reason that a *Melacha She'eina Tzricha l'Gufa* is not considered *Melechtes Machsheves*, is because it is lacking the basic quality of the *Melacha* – its purpose or intent. The same is true of the exemptions of *Misaseik* and *Davar She'eino Miskavein*. However, the same cannot be said of the exemption of *Shinui*. When a person performs a *Melacha* in an unusual fashion, he absolutely intends to fulfill the regular purpose of the *Melacha* – the only difference is in the manner he performs the act.

² See *Shulchan Aruch haRav*, OC:301)

³ According to *Rashi*; other *Rishonim* learn this from other sources.

⁴ As in this example, where the *Melacha* of *Hotza'a* is performed so that the corpse will no longer be in the house, not in order to take the corpse outside.



There is, moreover, a discussion among the *Acharonim* regarding the law of *Shinui* in other areas of Halacha. If the exemption of *Shinui* stems from the *Din* of *Melech Machsheves* then it should not apply to other Halachos where *Melech Machsheves* is not a requirement. But if it is a fundamental aspect of the definition of an action, then it would perhaps affect other Halachos too.

In fact, the Poskim discuss whether a *Get* that is written with a *Shinui* – such as if it is written left-handed – is invalid. If a right-handed person writes with his left hand on Shabbos, he is exempt because doing so is a *Shinui*. However, according to the *Chelkas Mechokek* and *Beis Shmuel* (E.H. 123) a *Get* written left-handed is Kosher as *Shinui* is only an exemption on Shabbos due to *Melech Machsheves* and is irrelevant to the Halachos of Gittin.

Many question the reasoning of the *Chelkas Mechokek* and *Beis Shmuel*. The *Eglei Tal* (Introduction, 3) notes that when a person eats a forbidden item in an unusual manner – “*Shelo k'Derech Achilaso v'Hana'aso*” he is exempt (*Pesachim* 24b). We see that *Shinui* is a reason for exemption even in other areas of Halacha. The *Acharonim* ask a number of other, similar questions. Therefore, the *Kovetz Shiurim* (*Kesubos* 60) concludes that the exemption of *Shinui* is not due to *Melech Machsheves* but is a fundamental condition in all Halachic acts. The *Eglei Tal*, however, proposes that there may be two types of *Shinui*:

1. *Shinui* in the actual *Melacha* and in its essential characteristics. For example, if a person wraps a forbidden food with another item and eats it, he has distorted the regular act of eating. An act of this sort would be considered a *Shinui* in any area of Halacha.
2. A *Shinui* that only affects the manner in which the act is performed, but not the essence of the act or its outcome. For example, if a right-handed person learns how to write with his left hand, while he has utilized a *Shinui*, the product of his actions is not inferior. In this case, the *Shinui* would only be an exemption in *Hilchos Shabbos* but would not affect other areas of Halacha. Therefore, if he writes a *Get* with his left hand, it would be Kosher.

Another important difference between the law of *Shinui* and other conditions of *Melech Machsheves* is that a *Shinui* depends on the time, place, and person in question. For example, the *Rambam* (*Hilchos Shabbos* 11:14, see *Shabbos* 103) rules that if a right-handed person writes on Shabbos with his left hand, or a left-handed person writes with his right hand, he is exempt. If an ambidextrous person writes



with either hand, he is liable. We see that there is no set Halachic parameter that determines how a person must write in order to violate Shabbos – it depends on the person in question and what would constitute a *Shinui* for him.

The Poskim agree that typing on a computer or smartphone is not a *Shinui*, even though it is performed with two hands, as this is the normal method of typing. Therefore (assuming we consider words that are typed on a digital screen to have been “written” - see below), a person will be liable for typing on Shabbos. For other exceptional Halachos of *Shinui*, see footnote⁵.

Since performing a *Melacha* with a *Shinui* is only an *Issur d'Rabbanan*, and *Issurei d'Rabbanan* are waived even if patients are not dangerously ill, this has significant application to medical treatment on *Shabbos*. This is particularly pertinent in hospitals where many of the procedures have *Pikuach Nefesh* ramifications.

For example, one of the most fundamental requirements of hospital practice is to keep a detailed and accurate record of a patient's treatment, laboratory and imaging results, and medication administration. It is impossible to overstate the critical importance of this practice. For many years, observant doctors have sought guidance how they are to adhere to this on Shabbos, for while it may be possible to rely upon a non-Jew to act as a scribe in some situations, this is often not feasible.

The Poskim have offered many suggestions for reducing the *Melacha* to an *Issur d'Rabbanan*, among them using disappearing ink⁶! Today all records are kept on computers, which may well be less of a problem considering the opinions that the use of electricity on Shabbos is not an *Issur d'Oraisa* and that anything typed on a computer is not considered permanent script for which one violates a *d'Oraisa*⁷.

As we have seen, typing with one's left hand is not necessarily considered a *Shinui*. Is there an alternative way of typing that would constitute a *Shinui*? *HaGaon Rav Asher Weiss Shlit" a* wrote in an as-yet unpublished *Teshuva*:

⁵ Occasionally, even if a person performs an act with a *Shinui*, he is still liable, such as if he performs the *Melacha* of *Borer* with an unusual instrument (see *Shabbos* 74a and *Rashi* ad. loc.) In other cases, when a person employs an extreme *Shinui*, he has not even violated an *Issur d'Rabbanan*, such as if he mashes a banana with the handle of a fork (see *Mishna Berura* 121:25 as to whether two *Shinuyim* need be utilized).

⁶ Which would require everything to be re-written in permanent ink after Shabbos!

⁷ Further discussion of this point is beyond the scope of this essay.



Since, in the hospital in which he works, the computer has taken the place of ordinary writing, and the rules of the hospital dictate that all procedures and medications are accurately recorded, what is permitted and what is forbidden to record on Shabbos?

I have already written in many places, that the law of Pikuach Nefesh of the public is different than the law of Pikuach Nefesh of the individual. Even though in the case of an individual not every farfetched Sakana is considered Pikuach Nefesh, in the case of a hospital it is clear that there is an importance and necessity to record every medical procedure and administration of medication, because in time, the lack of accurate records will bring about a death that would have been possible to avoid. Therefore, one should follow the hospital policies [for documentation] precisely.

*However, since we speak of a somewhat farfetched Pikuach Nefesh, or perhaps a very farfetched Pikuach Nefesh, one should become accustomed to typing on the computer with a Shinui, in order to avoid an actual Issur d'Oraisa. **Any Shinui which impedes the performance of an act, renders it as "Ki'l'achar Yad", and is only an Issur d'Rabbanan as a result.***

As far as typing on the computer is concerned, using the knuckle (as opposed to the tip of the finger) is considered a Shinui. Similarly, typing while wearing a thimble on one's finger, is also considered a Shinui.

Any doctor or nurse who fears Heaven should ensure that they type with a Shinui to avoid an Issur d'Oraisa. Once the Issur is only d'Rabbanan, one may be lenient [even] in the case of a farfetched possible Pikuach Nefesh.

There are two things we may derive from Rav Asher's ruling:

Hospital policies and procedures - that have generally been instituted due to possible situations of *Pikuach Nefesh* (even if danger is remote and unlikely) - broadly override *Issurim d'Rabbanan*.

Secondly, the definition of a *Shinui* is "**anything which impedes the performance of an act**". The reason that people are accustomed to performing an act in its regular manner is that doing so is easier or more convenient. Carrying something in one's hand is easier than transporting it in one's mouth. Writing with



one's right hand is easier than writing with one's left. Therefore, wearing a thimble while typing is considered a *Shinui*.

The Poskim have not yet discussed the question of using a computer mouse on Shabbos. However, it seems that it might be logical to say that using one's left hand would be considered a *Shinui* as using a computer mouse requires accuracy and precision and isn't something generally done with the non-dominant hand. Moreover, a mouse is designed – both in its shape and configuration of its buttons – for use with one's right hand.