

SURVEY OF RECENT HALAKHIC PERIODICAL LITERATURE

THE RABBINATE: PROBLEMS, PROBLEMS . . .

One might expect the likelihood of a manpower shortage in the Israeli rabbinate to be roughly equivalent to the probability of a scarcity of coals in Newcastle. Yet, strange as it may seem, despite Israel's myriad religious institutions and countless Torah scholars, there are numerous positions, particularly in far-flung settlements, which remain vacant because of a paucity of qualified candidates willing and able to assume posts as communal rabbis. It is never easy to engage in self-analysis or to examine one's own shortcomings with an introspective and dispassionate eye. It is even more challenging to transform abrasive self-criticism into a positive force. The Tevet 5731 issue of *Ha-Ma'ayan* contains a symposium on the role of the rabbi in Israel today which merits our readers' attention for its candid and forthright discussion of a topic which has too often been swept under the carpet.

While no far-reaching solutions emerge from this discussion the issues are at least confronted squarely and honestly: the yawning chasm between Israeli rabbi and layman, the dearth of rabbis committed to youth work, the many settlements and communities bereft of spiritual

leadership, the negativism toward a rabbinic career prevalent among yeshivah students, the inadequate preparation of yeshivah graduates in matters of practical rabbinics and their painful inability to communicate with those beyond their immediate cultural and religious circle. In the words of one participant:

Tens of thousands of Israeli inhabitants have no contact whatsoever with Torah. This is not because they have purposefully made a conscious, reasoned decision to reject such contact. The fact is simply that they do not find a way to the rabbi nor does the rabbi find a way to them. In such a situation who can dare to say that there is nothing we can do?

The editors of *Ha-Ma'ayan* are to be commended for convening this forum and presenting its deliberations to the public. There remains the far more difficult task of seeking remedies for the failings which have been uncovered and, where necessary, of suggesting radical therapy. Hopefully, this discussion will be the first of many grappling with these problems and exploring concrete solutions. Perhaps such constructive criticism, undertaken in the spirit of *setirat zekaynim binyan*, will ultimately effect changes of magnitude.

While the American scene presents its own unique problems many

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obvious parallels may be drawn. Undoubtedly, one of the greatest areas of concern is the recruitment of rabbis and educators to serve communities located at a distance from the centers of Jewish population. It is understandable that a young man who has spent his formative years in an environment vibrant with Jewish life will hesitate to accept a position in the cultural hinterlands. Reluctance based upon considerations of educational opportunities for his own children plays no small part in determining the young rabbi's geographic preferences.

Perhaps a solution to this particular problem both here and in Israel may lie in the fashioning of a Torah Corps — somewhat akin to the Peace Corps — designed to provide a reservoir of sorely-needed personnel for Jewishly underdeveloped areas. In order to attract suitable applicants the volunteers would have to be assured of an opportunity for a change of professional venue after a stipulated period of service. This in turn could be made feasible only through the cooperation of rabbinic and synagogue groups functioning through a central organization responsible for rabbinic placement. Before the educational and religious fabric of our small Jewish communities becomes hopelessly unravelled it would be wise to heed the proverbial stitch in time and exercise imagination and foresight in communal planning on a national scale.

MEDICAL EXPERIMENTATION UPON SEVERED ORGANS

A recurrent question in rabbinic

literature concerns the status of organs and limbs removed from living persons during the course of surgery. There is often a need for protracted examination of such organs in conjunction with medical research. Such experimentation poses two halakhic questions: (1) Is the commandment to bury the dead applicable only after death has occurred or does it also include an obligation to bury limbs and organs removed from living persons? (2) A corpse is deemed to be *assur behana'ah*, i.e., it is forbidden to derive benefit from the body of the deceased (other than in face of immediate danger to human life). Is this prohibition limited to the body of a deceased person or does it also encompass lifeless organs and limbs which have been removed from a living person?

The tenth and most recent volume of *Tzitz Eli'ezer* deals extensively with a multitude of pertinent medical questions. In no. 25, ch. 8, of this work, Rabbi Eliezer Waldenberg discusses in detail the halakhic problems attendant upon medical experimentation utilizing severed organs. Two recent issues of *Kol Torah* (Adar-Iyar and Sivan-Elul 5730) contain a further discussion of this important topic by Rabbi David Cohen of Yeshivat Chevron.

The *Yad ha-Melekh* commenting on Rambam, *Mishneh Torah, Hilkhot Avel* 2:14, declares that there exists an obligation to bury parts of the body removed from a living person. The halakhah prohibits a *kohen* from defiling himself through contact with severed organs even when these are removed from the persons of those close relatives

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whose burial requires his participation and defilement. The implication, argues *Yad ha-Melekh*, is that such limbs and organs require burial even though a *kohen* may not defile himself in conjunction with their interment. Rabbi Waldenberg rejects this contention, arguing that burial is required not as a fulfillment of the commandment concerning interment of the dead but simply as a means of preventing inadvertent defilement of *kohanim* who may come into contact with such limbs or organs. Quoting *Maharil Diskin* (*Kuntres Acharon*, no. 188) who describes the interment of severed organs as a practice mandated by custom rather than by law, Rabbi Waldenberg concludes that there exists no prohibition against deriving benefit from such organs. Were this not the case burial would be obligatory as a matter of law rather than custom as is the halakhah with regard to all substances from which it is prohibited to derive benefit (*issurei hana'ah*). Accordingly, Rabbi Waldenberg rules that there is no halakhic objection to medical experimentation upon organs and limbs removed from living persons.

Rabbi Waldenberg draws a sharp distinction between the status of an aborted fetus and that of removed organs. The preponderance of halakhic opinion is that burial of a fetus is halakhically mandated as a matter of law. In his analysis of this subject Rabbi Cohen seizes upon this point and contends that the status of removed organs is identical with that of a fetus. The halakhic obligation to bury a fetus is derived by inference from the stipulation that a *kohen* may not

defile himself in order to bury his own fetal progeny. From this it is deduced that, although a *kohen* may not defile himself, interment of the fetus is obligatory (*Magen Avraham, Orach Chaim*, 526:2). This obligation with regard to the fetus is deemed to be included in the obligation to bury the dead and is not regarded as a precautionary stipulation designed to prevent *kohanim* from inadvertently defiling themselves through contact with the fetus. This line of reasoning parallels that of *Yad ha-Melekh* with regard to separated organs. Thus, Rabbi Cohen argues, the halakhah forbidding a *kohen* to defile himself through contact with organs removed from close relatives should be viewed as establishing an obligation with regard to the interment of organs removed from living persons. Furthermore, contends Rabbi Cohen, those authorities who view burial of organs separated from a living person as a mere custom similarly maintain that burial of individual organs separated from a corpse is a custom, not an obligation. In terms of definitive halakhah this latter opinion is rejected and the accepted view deems it obligatory to bury individual organs of the deceased. Therefore, Rabbi Cohen concludes that, with regard to burial, there is no distinction between organs separated from a corpse and those separated from a living person.

In practice, when such organs are utilized for purposes of scientific research, they should be accorded dignified burial upon completion of the necessary pathological procedures.

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SETTLEMENT IN ISRAEL IN FACE OF DANGER

One of the primary concerns of Jewry today is the pressing need for *aliyah*. Writing in the 5730 issue of *Torah She-be-'al Peh*, Rabbi Aaron Soloveitchik, Rosh Yeshivah of the Hebrew Theological College in Chicago, analyzes an interesting question related to the *mitzvah* of settlement in Israel.

Halakhah stipulates that either husband or wife may insist upon the acquiescence of the other in establishing residence in Israel. However, the *Shulchan Arukh* (*Even ha-Ezer* 75:5) cites an opinion to the effect that either partner may properly insist upon migration to Israel only if there is no danger attendant upon the move. If, however, the journey involves an element of danger neither partner can force the other to take up residence in Israel. The ruling is both obvious and problematic. It is virtually axiomatic that an obligation with regard to the performance of any commandment is suspended in the face of accompanying danger. It should therefore be obvious that there is no room for coercion with regard to residence in Israel in time of danger. Yet the phraseology employed by the *Shulchan Arukh* would indicate that although neither partner may coerce the other, either one may himself or herself seek to establish residence in Israel despite the attendant hazards. This apparently contradicts the general principle that one may not place oneself in danger in order to fulfill a commandment. An even greater difficulty is presented by the *Shitah*

Mekubetzet (*Ketubot* 110b) who declares that while neither partner is empowered to coerce the other to emigrate from the Diaspora to Israel in face of danger, nevertheless, either one may lawfully prevent the other from leaving Israel even if continued residence in the Holy Land is fraught with danger.

Rabbi Soloveitchik resolves these issues by noting that Ramban derives the obligation to establish residence in Israel from the verse "And you shall inherit the land and you shall dwell therein" (*Numbers* 33:53). This verse, of course, deals primarily with the commandment to wage war against the inhabitants of Canaan in order to establish a Jewish homeland. In every war there is naturally an element of physical danger; yet the commandment to wage war is binding despite such danger. Hence obligatory wars constitute an exception to the general principle that fulfillment of precepts is suspended in face of danger.

The commandment "And you shall inherit the land," according to Ramban has two facets: an obligation on the part of the community of Israel to conquer the land and, secondly, a personal obligation devolving upon each individual to "inherit" the land by means of settlement. The *Shulkhan Arukh* is of the opinion that while the first obligation is binding even in face of danger, the second is not mandatory when such danger is present. Yet even the second aspect of this commandment is not entirely suspended in time of peril. Although such performance is not mandatory, neither is it forbidden.

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This commandment *may* be fulfilled in face of danger even by an individual; it is mandatory in face of danger only with regard to the community. The permissibility of individual settlement in face of danger may be deduced from the mandatory communal obligation. Even in communal exercise of the obligation to engage in war the fulfillment (*kiyum*) of the commandment is individual, i.e., each person performs the *mitzvah* of "inheriting the land" in contributing to the communal endeavor. Hence it may be inferred that settlement in Israel by an individual constitutes a permissible voluntary fulfillment of this commandment even when accompanied by an element of danger.

There is a further ramification of this problem not discussed by Rabbi Soloveitchik. May *aliyah* be forced upon a reluctant spouse despite attendant hazards in a situation in which continued residence in the Diaspora is also fraught with danger and risk? The irony of our contemporary situation is that one could well argue that residence virtually anywhere in the world today — in the Western Hemisphere no less than in the Middle East — is accompanied by an element of danger. All the more reason for believing Jews, *ma'aminim b'nei ma'aminim*, to turn their steps to Zion.

RESIDENCE IN SPAIN

Permission granted by the Franco government for the repair of an ancient synagogue in Madrid has brought to the fore the question of whether permanent Jewish set-

tlement in Spain is proper. An article by Rabbi Judah Gershuni in the Tishri 5731 issue of *Ha-Darom* deals with this topic as do a prolonged series of brief items appearing in the *Ha-Ma'or* over a period of several months. The Kislev-Tevet 5729 issue of the *Ha-Ma'or* contains a note bearing the initials of the editor stating that although no source can be cited it is well-known that following the expulsion of Jews from Spain, the rabbinic authorities of that generation placed the country under an interdict forbidding any Jew to establish residence there upon pain of anathema. This prohibition was originally promulgated for a period of only four hundred years but was voluntarily accepted by later generations as a permanent decree. The editor further asserts that in light of the fact that this prohibition has been accepted by "all of Israel" no subsequent *Bet Din* may annul the decree.

The latter point is disputed both by Rabbi Shlomo Wahrman, writing in the following issue of the *Ha-Ma'or*, and more recently by Rabbi Gershuni. Rabbi Wahrman cites a discussion of this prohibition in *Teru'at Melekh*, no. 13. This authority, Rabbi Joseph Susmanovitz, son-in-law of the renowned R. Moshe Mordekhai Epstein of Slobodka, states clearly that the decree did not extend to "all of Israel" but merely to those who were expelled from Spain and therefore can be rescinded by subsequent authorities. Furthermore, the prohibition was not promulgated in the form of a decree but was proclaimed as a *cherem* (interdict) which may be

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annulled by another *Bet Din*.

Rabbi Gershuni cites *Igrot Re'iyah* (Vol. II, no. 632) of Rabbi Abraham I. Kook, in which the latter voices his doubts with regard to the nature of this prohibition, but declares that the ban is surely no more stringent than the Biblical prohibition against returning to Egypt. Accordingly only permanent settlement is forbidden; temporary residence for purposes of commerce is permissible. Rabbi Gershuni argues that the ban may have been merely against the establishment of Jewish settlements but once such communities are established in violation of the ban there may be no prohibition against an individual subsequently establishing residence in Spain. Others have suggested that the ban was applicable only during the period of the Spanish monarchy but lapsed with the establishment of the Republic. One who vows not to enter a certain house is bound by the vow only as long as the owner has not died or sold the dwelling. Similarly, it has been argued, Spain, following the establishment of the Republic, may be deemed to be a new country against which an interdiction was never pronounced. Since the text of the ban is not available, Rabbi Gershuni argues, such conjecture serves only to establish a doubt. Violation of this ban may involve a Biblical transgression. The governing canon is *safek de'oraita le-chumra* — actions involving even the possibility of a Biblical violation must be eschewed and hence Rabbi Gershuni concludes that permanent residence in Spain cannot be permitted.

An item in the Av-Elul 5729 issue of the *Ha-Ma'or* reports that at least one authority did permit Jewish settlement in Spain. Rabbi Chaim Elazar Schapiro, popularly known as the Munkatcher Rebbe, published a responsum in *Tel Talpiot* (Tishri 5691) in which he granted permission for residence in Spain provided that the Jewish nationals of that country be granted full religious freedom.

SOUTHERN HEMISPHERE

The Tishri-Cheshvan 5730 edition of the Israeli journal *Kol Torah* contained a hitherto unpublished responsum by Rabbi Zvi Pesach Frank, the late Chief Rabbi of Jerusalem. The same material subsequently appeared in the Kislev 5731 issue of *Ha-Pardes*. This responsum, addressed to the Chief Rabbi of Argentina, Rabbi S. Y. Glicksberg, deals with a halakhic question arising from the climatic variations of the Southern Hemisphere.

Leviticus 19:23 stipulates that the fruit of newly-planted saplings is forbidden for the first three years of the tree's growth. The three-year period is counted not from the date of planting but from the fifteenth of Shevat, the "New Year of Trees." Those fruits which are formed and show a distinct shape before the fifteenth of Shevat of the fourth year are forbidden as *orlah*; those formed afterwards are permitted. The question posed by the interlocuter is whether, in view of the reversed seasons in the Southern Hemisphere, the fifteenth of Shevat marks the termination

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of the period of *orlah* in those lands as well.

The Gemara, *Rosh Hashanah* 14a, explains that the fifteenth of Shevat was ordained as the New Year of Trees because by this date "most of the year's rains have been exhausted." Rashi explains the Gemara quite simply by stating that by this date the major portion of the rainy season has elapsed and hence the fruits are already formed. *Tosafot*, however, maintains that despite reference to the fifteenth of Shevat it is really the first day of Tishri which is the New Year of Trees. Fruit nurtured by rain falling prior to the first of Tishri is considered to be the produce of the previous year even though the fruit itself is formed after the New Year. All fruit formed before the fifteenth of Shevat must have been nurtured by precipitation occurring before Tishri; growth after this date cannot be attributed to rains falling before Tishri. Hence for practical purposes the fifteenth of Shevat marks the boundary between the old crop and the new.

Rabbi Frank notes that according to *Tosafot* the date ordained as the New Year of Trees quite obviously does not depend upon the local rainy season. Fruit nurtured by rain falling before the first of Tishri is deemed to be of the previous year's growth even though the fruit appears at a later date. According to *Tosafot* the Talmudic reference to the rainy season is merely an observation of the agricultural phenomenon that rains falling before the first of Tishri are capable of producing fruit only until the fifteenth of Shevat. Hence

this date is observed as the New Year of Trees in every locale regardless of local seasons of precipitation. The question at hand then arises only according to Rashi's interpretation: Is the date signaling the beginning of a new year with regard to *orlah* statutory with the fifteenth of Shevat marking the beginning of the New Year of Trees because it coincides with the close of the rainy season in the Land of Israel, or are these yearly periods contingent upon the local growing season?

Rabbi Frank quotes Rabbi Y. Cohen, currently a member of the Jerusalem *Bet Din*, in ruling that the New Year of Trees is to be universally observed on the fifteenth of Shevat. Rabbi Cohen advances two reasons for his decision. First, the *Turei Even* in his commentary on *Rosh Hashanah* indicates that the phraseology of the Talmudic passage in question indicates that by this date most of the rainy season has passed and therefore the major portion of the crop has assumed a distinctive form. The fifteenth of Shevat is hence the new year in only a majority of cases, but since it is a valid date for the major portion of the crop it becomes the standard date for all trees. Similarly, the general rule remains valid for countries subject to diverse growing seasons.

Secondly, Halakhah accepts the conditions prevailing in *Eretz Yisrael* as constituting the norm. For example, with regard to the prayer for rain included in the daily *Shemoneh Esreh* during the winter months the *Shulchan Arukh*, *Orach*

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Chaim 117:2, states that even if the conditions prevailing are such that an entire country is in need of rain during the summer months the prayer for rain is not recited other than in the winter. The justification is that this prayer was instituted on the basis of the needs of the Land of Israel. Similarly, argues Rabbi Cohen, the laws of *orlah* were established on the basis of agricultural conditions prevailing in Israel and are applicable without variation throughout the world.

THE MICROPHONE CONTROVERSY

A recent halakhic dispute involving a ruling issued by an Israeli Chief Rabbi to a South African Jewish community and subsequently challenged by other authorities in Israel, the United States and Great Britain was amplified by the press and developed into a controversy whose echoes quickly reverberated around the globe. Unfortunately the extended press coverage of the more dramatic aspects of this issue generated more heat than light. In reality the matter is one of significant practical concern to many rabbis and their congregations and merits detailed examination.

Over the years rabbis and cantors serving synagogues having large seating capacities have experienced difficulties in making themselves heard by worshippers, particularly since many such edifices are plagued by inordinately poor acoustical conditions. These difficulties have over and over again prompted halakhic investigations of the permissibility of employing mi-

crophones and other types of public address systems on the Sabbath and *Yom Tov*. The preponderance of heretofore recorded halakhic opinion has been in the negative. Some time ago Rabbi I. Y. Unterman was queried as to whether new scientific discoveries and recent technological advances might not be employed in order to obviate the halakhic problems associated with the use of such an apparatus on the Sabbath. Rabbi Unterman in turn enlisted the aid of Dr. William Low, a professor of physics at the Hebrew University and Director of the Institute for Science and Halakhah, who drew up detailed plans for a transistorized public address system which was accepted by Rabbi Unterman as being in accordance with Halakhah. Rabbi Unterman signified his approval in an official communication dated the eighth day of Chanukah 5730 and addressed to Rabbi B. M. Casper, Chief Rabbi of the Federation of Synagogues of South Africa. In this letter, which unfortunately does not include the halakhic reasoning upon which his decision is predicated, Rabbi Unterman stresses that his approval is limited to devices constructed in strict accordance with the detailed plans of Professor Low. In an *obiter dictum* Rabbi Unterman declines to sanction the use of amplifying devices in Israeli synagogues, because of his concern lest scrupulous attention not be paid to construction of such microphones in meticulous conformity to all the details of the blueprints prepared by Professor Low. A report on the discussions between himself and Rabbi Unterman as well as a non-

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technical description of the Low system was published by Rabbi Casper in the July 1970 issue of *The Federation Chronicle*. A description of the proposed system appears in a pamphlet published by the Institute for Science and Halakhah entitled "*Shimmush be-Mikrofon be-Shabbat*" dated Tammuz 5729. The reviewer is indebted to Rabbi Casper for making available to him additional information regarding the nature of the system. The following are the salient features of the system devised by Professor Low:

1. The microphone and public address system must be completely transistorized. There must be neither electron tubes nor electric pilot lights in the system. The device should contain no metal or other material which may become heated in the course of amplification.
2. The microphone must be of the condenser or capacitor type. In utilization of the condenser type microphone the voice does not create energy, as is the case with other microphones, but merely manipulates the energy already stored in it.
3. The system must be operated by batteries and not be connected to any other electricity supply.
4. The batteries should be charged before the onset of *Shabbat* or *Yom Tov* and should hold at least twice the amount of current required for use during the *Shabbat* or *Yom Tov* period.
5. The transistorized system should remain open during the entire *Shabbat* or *Yom Tov* period or be switched on and off automatically by means of a time clock.
6. There must be no possibility of increasing or decreasing the volume of amplification on *Shab-*

bat or *Yom Tov*. Accordingly the storage batteries and other equipment must be enclosed in a locked case or closet in order to preclude the possibility of any person adjusting or otherwise tampering with the system on *Shabbat* or *Yom Tov*.

These provisions are designed to eliminate various infractions of the laws concerning forbidden acts on *Shabbat* and *Yom Tov* and, accordingly, Rabbi Unterman stresses that any deviation from the details of the Low system will result in the violation of halakhic restrictions. Rabbi Casper reports that some authorities have expressed objections on the grounds that obvious and readily discernible amplification may lead individuals to draw erroneous inferences regarding the use of electricity on *Shabbat*. Because of ignorance of the technical nature of the amplification system in use some individuals may assume that ordinary use of electrical devices and appliances is permissible. Accordingly, the system as designed by Professor Low, provides for several loudspeakers to be installed throughout the Synagogue in order to reproduce a voice which is not unduly loud and is as natural in tone as possible. Furthermore, it is directed that steps be taken to inform congregants that the system does not function through utilization of the usual sources of electrical current and that the special arrangements are under rabbinic supervision.

Despite the innovations introduced by Professor Low in devising his system many rabbinic authorities took sharp issue with the permissive ruling issued by Rabbi Un-

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terman in approving this device. A negative ruling dated 27 Elul 5730 was issued and signed by Rabbi Moses Feinstein in his capacity as President of the *Agudat ha-Rabbanim*. This ruling specifically bans the use of transistorized systems as constituting desecration of *Shabbat* and *Yom Tov*. It is interesting to note that while Rabbi Unterman relies upon technical information supplied by the Institute for Science and Halakhah, the Institute itself issued a contrary opinion with regard to the use of transistorized systems. The conclusions of the Institute were published in the previously cited pamphlet which may presumably be regarded as an expression of the collective view of the Fellows of the Institute since the pamphlet does not bear the name of an individual author or authors.

Moreover, in recent communications addressed to individuals and Synagogues seeking his guidance, Rabbi Unterman himself has narrowly circumscribed the scope of his original ruling. In a letter dated 21 Iyar 5731, a copy of which is in the possession of this writer, Rabbi Unterman declares that he had granted permission for the use of the system devised by Professor Low "only in communities where, to our regret, desecration of the Sabbath through [use of] the electrical microphone became so deeply rooted that it was as if they had completely forgotten that turning on electricity is a serious form of 'labor' on the Sabbath. But in a place where this did not previously exist we did not permit the installation of the improved [apparatus]

because there are questions with regard to it which cannot be resolved."

The apparatus designed by Professor Low successfully eliminates questions of forbidden "labor" arising from sparking, heating of metal elements, creation of a finished utensil and "giving birth" to newly created electric current (*molid*). The controversy centers around various other considerations:

1. The playing of musical instruments (*mashmi'a kol* — "causing a sound to be heard") on *Shabbat* or *Yom Tov* is rabbinically forbidden lest one be tempted to repair the instrument and thereby transgress a Biblical prohibition. The Remah (*Orach Chaim* 338:1) declares that causing the emission of any sound by a utensil designed for this purpose falls within this category and is forbidden. Consistent with his view that this edict is not limited to musical instruments Remah declares that the use of door-knockers is forbidden on *Shabbat*. Similarly, it is argued, a microphone constitutes a device specifically designed for the production of sound. Microphones do not simply amplify an already existing human voice; rather, through the use of a transducer, the human voice utilizes electric current which in turn creates audio-tones resembling the human voice but higher in volume. The perceived sound is not that of the human voice but a totally different sound produced by electric current. Rabbi Isaac Schmelkes (*Bet Yitzchak, Yoreh De'ah* 11, *Maftehot*, no. 31) declares that the act of speaking on a telephone is forbidden on *Shab-*

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bat because the electric current creates a new sound. Some writers (Rabbi Joseph Tumim, *Ha-Pardes* Sivan 5705 and Rabbi Menachem Poliakov, *Ha-Darom* Nisan 5718) dismiss these arguments on the erroneous assumption that a microphone merely amplifies the human voice whereas, in reality, the microphone through the intermediary of electric current converts the voice into a totally new sound. Even if the microphone were designed merely to amplify the human voice it is not entirely clear that use of such a device would be permissible. Rabbi Samuel Hibner (*Ha-Darom*, Nisan 5719) accepts the premise that in electronic amplification it is the human voice which is heard but nevertheless argues that in the eyes of Halakhah amplification of an existing sound constitutes the creation of a new "voice." The prohibition against "causing a sound to be heard," which applies to transistor microphones no less than to conventional amplification systems, is sufficient reason in and of itself for disallowing the use of microphones on *Shabbat* and *Yom Tov*. Numerous halakhic authorities cite this explanation in ruling against the use of microphones. [See Rabbi Joseph Rosen, *Tzofnat Paneach*, II, no. 19; Rabbi Y. E. Henkin, *'Edut bi-Yisrael*, p. 122; Rabbi Eliezer Waldenberg, *Tzitz Eli'ezer*, IV, no. 26; Rabbi Ben Zion Uziel, *Mishpetei Uziel*, I, *Orach Chaim*, no. 13; Rabbi Yitzchak Y. Weiss, *Minchat Yitzchak*, III, no. 38; Rabbi Yitzchak Glick, *Yad Yitzchak*, III, no. 268; Rabbi Shlomo Zalman Braun, *Sha'arim ha-Metzuyanim be-Halakhah*, II,

80:78; and Rabbi Bernard Bergmann, *Ha-Pardes*, Kislev 5712.] There is, however, no explicit discussion by any of these authorities with regard to the question of whether or not the rabbinic injunction against "causing a sound to be heard" is a blanket prohibition encompassing instruments and utensils which are so designed that they cannot readily be adjusted or repaired on the Sabbath.

The ban against use of microphones, if predicated upon the prohibition against "causing a sound to be heard," may apply not only to speaking or singing into a microphone but also to listening to such amplified voices. According to some authorities the prohibition against use of musical instruments applies not merely to those producing the music but also to those listening to it. R. Yechiel Michal Epstein (*Arukh ha-Shulkhan* 378:5) rules that it is forbidden to allow a radio to remain playing during the Sabbath or to have it turned on and off by means of an automatic clock. According to *Arukh ha-Shulkhan* the prohibition against playing musical instruments encompasses situations in which the "voice" is emitted automatically "for since the prohibition is [based upon the fear] that perchance he will repair the musical instrument, what difference is there if it plays through human action or of its own accord?" In either event there remains a possibility that a malfunctioning instrument may be repaired.

There are, however, other authorities who clearly maintain that the edict forbidding the creation of sound does not apply to the approxi-

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mation of the human voice by means of electric current. Rabbi Judah Leib Zirelson (*Atzei Levanon*, no. 10), in a responsum dealing with the permissibility of the use of the telephone on the Sabbath, lists a number of reasons prohibiting the use of this device. Enumerated among these are "giving birth" to an electric circuit, sparking and causing a bell to ring on the other end of the line. Since consideration is given only to the sound produced by the bell, while the question of production of the voice itself is ignored, it may be assumed that this authority did not view the voice produced by electric current as being included in the prohibition against "causing a sound to be heard." Similarly, Rabbi Shlomo Zalman Auerbach (*Sinai*, Adar II 5723) maintains that the prohibition against creating a "voice" or sound is limited to sounds produced by direct human action and does not include sounds indirectly produced by the human voice. A similar position is adopted by *Teshuvot Maharshag* II, no. 118 and *Zlach he-Chadash, Kuntres Acharon*, no. I. [See also Rabbi Simcha Levy, *Ha-Pardes*, Iyar 5712; Rabbi Menachem Poliakov, *Ha-Darom*, Nisan 5718; and Rabbi Shlomo Goren, *Machanayim*, 26 Iyar 5718.]

2. Rabbi Auerbach, however, forbids the use of a microphone on other grounds. Rabbi Yechezkel Landau (*Noda bi-Yehudah*, II, *Orach Chaim*, no. 30) writes that a parasol opened before the Sabbath may not be used on the Sabbath because the beholder has no way of knowing that the parasol

has not been opened on the Sabbath. Rabbi Auerbach argues that the same line of reasoning may be applied to the use of amplification systems since most individuals are not scholars and will not understand the technical differences between a microphone and other electrical appliances and hence may easily be led to Biblical transgressions.

3. Rabbi Joseph Tumim (*Ha-Pardes*, Sivan 5705 and Sivan 5706) presents the interesting argument that microphones may not be used in conjunction with prayer because the microphone constitutes a "musical instrument" and as such its use is forbidden just as, for example, use of an organ is forbidden in conjunction with prayer.

4. There is yet another reason cited by numerous authorities in forbidding the use of a microphone on *Shabbat* and *Yom Tov*. The Remah (*Orach Chaim* 252:5) states that it is forbidden to place wheat in a water mill prior to the Sabbath in order that the wheat may be ground during the Sabbath. This is forbidden even though it is publicly known that the grain was placed therein prior to the Sabbath and that the grinding of the wheat takes place automatically. This activity is rabbinically forbidden despite the absence of human labor because "avsha milta — the thing grows loud." The accompanying noise draws attention to the activity taking place thereby degrading the Sabbath since passersby may believe that the sounds emanating from the mill signal the performance of acts forbidden on the Sabbath. The prohibition of "avsha milta — the thing grows loud" is limited to ac-

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tivities accompanied by sound but encompasses all activities forbidden on *Shabbat* when accompanied by sound even if performed automatically. Rabbi Auerbach cites authorities who forbid a radio to be turned on before *Shabbat* or to be regulated by means of a time clock for the same reason. Thus, Rabbi Auerbach argues, even if it be publicized that the radio or microphone is operated automatically such devices may not be permitted to operate on *Shabbat*. [Other authorities who cite this reason in ruling against the use of microphones include Rabbi Ovadia Yosef, *Yabi'a Omer*, I, no. 20, sec. 12; Rabbi Eliezer Waldenberg, *Tzitz Eli'ezer*, IV, no. 26; Rabbi Yitzchak Y. Weiss, *Minchat Yitzchak*, II, no. 38; and Rabbi Bernard Bergmann, *Ha-Pardes*, Kislev 5712.] This consideration applies to all amplification systems even to those which cannot possibly be adjusted or repaired on the Sabbath.

The preceding has been limited simply to the question of the permissibility of the use of micro-

phones on Sabbath and Holy Days without consideration of the uses to which the microphone might be put. The overwhelming majority of halakhic authorities rule that a microphone cannot be used for fulfillment of such *mitzvot* as blowing the shofar, reading the Torah, reading the Megillah, etc., since the sound heard is an artificial one rather than the requisite sound of the shofar or human voice.

The microphone question is indeed a highly technical matter and it is most unfortunate that the publicity surrounding this controversy tended to obfuscate the issues. The implication that negative rulings on such matters stem from a reactionary stance and that Orthodox rabbis are stubbornly opposed to all innovation is a lamentable distortion. In actuality, Judaism steadfastly refuses to sacrifice religious observance for the sake of convenience but is happy to welcome any scientific advance which satisfies the requirements of Halakhah.