

# HALOCHOSCOPE <sup>TOI</sup>

**A machine produces soothing sounds to help people sleep. On Shabbos, may one leave this machine running in a bedroom?**

**The issues:**

**(A) Hashma'as Kol, the sound of a Melacha on Shabbos**

**(B) Whether Mar'is Ayin, prohibitions based on impropriety of appearance, apply in private chambers**

**(C) Oneg Shabbos, particularly in reference to sleep**

**(A) Hashma'as Kol**

Many things that are not *Melachos*, forbidden activities on Shabbos, can still give the impression of *Chilul Shabbos*, desecrating Shabbos. These might be activities that are intrinsically permissible, but lead the onlooker to believe that they are forbidden. It could also be due to confusing this permissible activity with another forbidden activity, due to their similarity or due to an erroneous view of what is actually included in the prohibitions. It could be due to concern that people might mistake this permissible activity with another that is really forbidden. They might "learn" from this that the other activity is what was permitted. People might also confuse the circumstances. All of these are considered *Mar'is Ayin*, activities that are forbidden due to their appearances.

Shabbos prohibitions are normally based on activities done on Shabbos. There are prohibitions, obviously resulting from activities, but based on the results. One of these is *Hashma'as Kol*. The sounds of a Melacha taking place on Shabbos are cause for concern. When such sounds are heard in public, it is disrespectful to Shabbos, known as *Avsha Milsa* and *Zilusa Deshabbos*. In addition, there is the appearance that a Melacha was, or is being done on Shabbos. The true source of this sound is an activity that was done before Shabbos began. Some of the concern is based on the above considerations of *Mar'is Ayin*.

Milling grain is Scripturally forbidden on Shabbos itself, the Melacha of *Tochain*, grinding. The Talmud discusses the permissibility of placing grain in a water powered mill before Shabbos. The mill will run by itself on Shabbos, grinding the grain, but no Melacha will be violated. The milling noise will be

heard. The Talmud cites a ruling that it is only permitted if the job will be completed before Shabbos begins. There ensues a debate on why this is so. One view maintains that it is due to Hashma'as Kol. This means that those who hear the sound will say "this person's mill is grinding on Shabbos." This is disrespectful to Shabbos, Avsha Milsa. The disrespect could be due to the fact that a Melacha is occurring, despite the possibility that no-one did a forbidden activity, or due to the suspicion of a person violating Shabbos to produce the noise, or that the noise is not a Shabbos noise and intrudes on the Shabbos calm.

The other view maintains that it is due to a rule known as *Shvisas Kailim*, forbidding a Melacha to be accomplished by one's utensils. This would prohibit arranging any type of job that would involve automatic use of a person's utensils, such as food left to cook in one's pots. (To make cholent one would be required to renounce ownership of the pot and stove, by making them *Hefker*.)

The Talmud then says that the second view can only concur with a minority view, not followed Halachically. The Poskim debate whether Talmud means that the final conclusion is that the entire issue is attributed to this minority view, or whether only this second viewpoint represents the minority. I.e., the Talmud might be ruling out the first view, forbidding Hashma'as Kol, or it might not be ruling it out but simply explaining the second view. Consequently, the Poskim debate whether Hashma'as Kol is forbidden on Shabbos. In Ashkenazic communities, the practice is to forbid setting up the mill, unless a serious loss will be incurred by refraining from grinding the grain.

However, a utensil which is well known not to involve activity on Shabbos may be used, despite the noise. For example, a chiming clock requires being wound up. This involves the prohibitions of *Tikun Kli*, fixing a utensil and/or *Makeh Bepatish*, completing an item to ready it for use. Since it is known that the clock is wound up well ahead of time, it may be prepared for chiming on Shabbos. This ruling considers Avsha Milsa a restriction based on arousing suspicion of Melacha activity, rather than the impropriety of the Melacha sound. Nowadays, many appliances produce noises, yet are used on Shabbos. It is well known that, for example, air-conditioners and fans do not need to be switched on during Shabbos.

The question is raised with regard to setting an alarm clock to go off on Shabbos. One Posek permits it only if it can not be heard outside the bedroom. His reasoning is based on the dispensation for the chiming clock. The chiming clock is set before Shabbos, but could be set on Shabbos. When the chimes are heard it is clear that the activity needed to set it was done. The only question in the mind of

the listener is when it was set. Since everybody knows that it can be set before Shabbos, it is permitted. This is based on the circumstances. The clock is only wound up once every twenty four hours. People would not suspect the person of winding it on Shabbos. An alarm clock is normally set right before going to bed. Thus, the listener would think it was set up on Shabbos. Therefore, if it can be heard outside the bedroom it is forbidden.

This appears to refer to spring powered clocks and alarms. They must be reset every night. Even an electronic alarm clock must be reset at night after having been shut off in the morning. However, an electric machine that runs all the time, or on a timer that does not need to be reset within the last twenty-four hours, should be permitted based on the chiming clock. Once it is established that the sound need not have resulted from a Melacha done on Shabbos, and it is reasonable enough for the listeners to determine, it should be permitted to set this sound to be heard on Shabbos. [See Shabbos 18a, Poskim. Tur, Shulchan Aruch Orach Chaim 252:5, Bais Yosef end 338, commentaries. Igros Moshe O.C. IV:70:6.]

#### **(B) Mar'is Ayin in private quarters**

Hashma'as Kol is not necessarily an issue of Mar'is Ayin. Therefore, it might not be governed by the same rules. However, assuming that the issue is one of arousing suspicion of violating Shabbos, this would theoretically be permitted when it is out of earshot of the public. In fact, the Talmud says that Mar'is Ayin is forbidden even in private chambers. However, certain Talmud passages indicate the opposite. To reconcile these, the Poskim say that an activity that leads to suspicion of a Scriptural violation is forbidden even in secret. If the activity one would be suspected of is Rabbinically forbidden it is permitted in private.

In our case, the only forbidden activity is completing the electrical circuit. Most Poskim consider this Rabbinically forbidden, unless a light is activated. Furthermore, the indications are that Avsha Milsa, by definition, must be heard by the outsiders in order to become problematic. If it is only heard by the person setting it in his own chambers, it is not Avsha Milsa. This is because Mar'is Ayin is an activity that is forbidden due to its being misunderstood. This activity is then forbidden everywhere. Avsha Milsa is not an activity forbidden, but the sound that is heard is considered a slight to the honor of Shabbos. The reason for this slight might be what people think, and how they assume the sound originated. However, if they don't hear it, there can be no slight. Thus, as we see from the case of the alarm clock, if the sound is contained to the bedroom of the person setting the

machine, the issue of Avsha Milsa should be totally avoided.

One might suggest that while the sound is not heard outside, the bedroom is accessible to outsiders. However, it is apparent from the distinction made earlier in the laws of Mar'is Ayin that in one's private chambers he may presume that he will not be intruded on. This is based on the Talmudic rulings that one is entitled to expect privacy in his own home, both in terms of peeking and in terms of trespass. The Talmud debates whether one can even demand that a neighbor take measures to block his own view of the neighboring property, under certain circumstances. Both opinions agree that one is entitled to such privacy in his house. Some say that this is based on Pesukim, where Bilam praises the Jews for arranging their tents in discreet manner. [See Baba Basra 2a-3a 59b-60a, Poskim, commentaries.]

### (C) *Oneg Shabbos*

One more consideration might affect the ruling in our case. The machine is meant to help people fall asleep. We have already cited the conclusion of the Poskim regarding Hashma'as Kol or Avsha Milsa. Really, many Poskim maintain that it is not forbidden. The Ashkenazic practice is to forbid it except in cases where refraining will lead to a monetary loss. Thus, we see that the ruling is not iron-clad, but in the realm of a *Chumra*, stringency. This was adopted and became binding on the communities practicing it. It was not intended to be binding when it caused loss.

There is a Mitzvah to enjoy Shabbos. A large part of enjoyment is the sleep one has on Shabbos. [See HalochoScope VIII:27.] When the Poskim discuss extenuating circumstances to permit applying leniencies, they group together financial loss with loss of Oneg Shabbos. Thus, if food might otherwise be considered forbidden due to a *Kashrus* situation, certain leniencies are invoked to permit it in cases of loss or the needs of Shabbos. This is due to the Mitzvah to enjoy the *Seuda*, festive meal on Shabbos. Accordingly, we may add that in our case, the entire stringency of Avsha Milsa might not apply in cases of loss of Oneg Shabbos. Furthermore, the listener would immediately recognize the sounds as coming from such a machine. They would conclude that it is there to ensure the Oneg Shabbos. [See e.g. Yoreh Deah 31:1 (Pischei & Shaarei Teshuva) 68:11 69:6 92:7, commentaries. 242, Shach Klalei Hora'ah 3.]