



Parshas Beha'aloscha 5767

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Permanency – קיום

Is permanency a criterion with Hilchos Shabbos?

For a *melacha* do be considered a *melacha d'oraissa* it must have some durability. The general rule for most *melachos* is that a *melacha* that has permanence is *ossur mid'oraissa*, a *melacha* that is not permanent is *ossur mid'rabanan* and one that has no permanence at all, is permitted.

Can you please provide examples?

It is biblically prohibited to write with ink or a pencil on paper, because both leave permanent impressions. It is a rabbinical prohibition to write letters or draw pictures on a frosted window. It is not biblical because it is not permanent and will disappear after a short time.¹ One may "draw" letters in plain air using one's finger etc. because nothing is being done.² One should not decide on one's own what is permanent and what is not, because as we will see, permanence can be for a short while as well.

How long is permanent?

The *Mishna* in *Shabbos* 102b states: Whoever performs a *melacha* and his *melacha* lasts, on Shabbos, is *chayav* (violated a biblical prohibition).

*Rashi*³ understands that the words "on Shabbos" refer to the person doing the action, thus the *Mishna* would read: Whoever performs a *melacha* on Shabbos and his *melacha* lasts..." implying that for the *melacha* to be biblically liable it must last indefinitely or at least for a long time.

¹ There might be other explanations to this phenomenon.

² See *simon* 340:4 and *M"B* 14.

³ *Rashi Shabbos* 102b ה' בשבת"ל.

The *Rambam*⁴ discusses the issur of painting on Shabbos and writes that one is only liable if the paint is durable. He concludes the *halacha* saying and if his *melacha* does not last for the Shabbos one is not *chayav* – וכל שאין מלאכתו מתקיימת בשבת פטור. Many authorities⁵ learn that the *Rambam* does not require the *melacha* to last longer than the Shabbos.⁶ The *Rambam* would understand the words 'on Shabbos' in the *Mishna* to refer to the *melacha*, thus the *Mishna* would read:

Whoever performs a *melacha*, and his *melacha* lasts on Shabbos, is *chayav*.

The *Rambam* requires much understanding, because we know for example that for a knot to be permanent it must last for a very long time, if not indefinitely. We will not deal with this issue in this capacity, but you may further investigate at your discretion.

Several examples

- ❖ One may not scribble or write on an eraser board – the type where one writes and lifts the top sheet to erase the letters, because until one raises the top sheet the letters are permanent.⁷ Writing on such a pad would be an *issur d'oraissa*.
- ❖ One may not fashion a toothpick by breaking a cocktail stick in half, even though it will be used once and discarded. It is *ossur mid'oraissa* on account of *makeh b'patish*.

⁴ *Shabbos* 9:13.

⁵ See *Tikunim Umiluim* page 10 footnote 53.

⁶ A difficult point to understand is whether it must last 24 hours or suffice if the *melacha* was done, let's say, 12 o' clock midday and it will last till after Shabbos.

⁷ Heard from Rav Shlomo Zalman Auerbach זצ"ל.

- ❖ One may tie a bow (without a single knot beneath it) for an indefinite amount of time, because a bow has no permanence whatsoever.

Permanent Constructions

The *melacha* of Construction – בונה is divided into three parts, permanent, temporary and time limited.⁸

1. A **permanent** structure, such as a building, a large cupboard, a wall or tent are all acts of *boneh d'oraissa*. The definition is construction of a structure that will remain standing for a very long period.
2. A **temporary** structure such as a flimsy tent or a wall comprised of stones without cement that will not last very long, is *ossur mid'rabanan*. *Chazal* instituted a *g'zeira* prohibiting temporary construction lest one inadvertently constructs a permanent structure.
3. A **time limited** construction is defined as one that could last for a long period but that is not the intention. There are various degrees of time-limited construction, where some cases are *ossur mid'oraissa*, some are *ossur mid'rabanan* and some are permitted. The *Chasam Sofer* and *Tiferes Yisrael* learn that a construction deemed for demolition that same day is not *boneh*, whereas *Nodah Bibuda* and *Ohr Sameach* learn that such a construction is *Boneh*.⁹ The major *poskim* held a dispute over the temporary nature of an umbrella, as to whether it is *boneh* or not.

It is interesting to note that we learn the 39 *melachos* from the construction of the *Mishkan*, which was often constructed and demolished that very day. To complicate matters, the *Mishkan* was never intended to be permanent,

because they were constantly told by *Hashem* to demolish the *Mishkan* and move on. We can either say that a time limited *binyan* is *boneh* and bring perfect proof from the *Mishkan*. We can also say that they were not told in advance when the *Mishkan* needed to be demolished and thus it is not "time-limited" and is a permanent construction.

Yerushalmi Shabbos 7:2.

The *Yerushalmi* (7:2) begins by saying that constructing the *Mishkan* was not **לשעה** (time-limited). R' Yossi says it was permanent because their travels were according to the words of *Hashem*. R' Yossi bar Bon says it was time-limited because *Hashem* promised them entry to the Holy land.¹⁰

Vort on the Parsha

The possuk tells us that when we go to war with our enemies we will blow the trumpets (10:9). In the *Sifri* it states that the enemy referred to is Gog and Magog, because it says in the possuk that you will be saved from your enemies and the ultimate salvation, without any more wars, is after Gog and Magog.

The *Meshech Chochma* explains that *Sifri* understands this from the words **the** trumpets, when it could have said trumpets. Obviously it is referring to the trumpets crafted by Moshe Rabeinu, which Rashi says were hidden to be used in the future. So the possuk is referring to **the** specific trumpets that are to be blown in the final war.¹¹

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לזכר נשמת חנה בת ברוך

⁸ For a comprehensive understanding of this *melacha*, one should learn the *sefer Binyan Shabbos*. This particular issue can be found in *Binyan Shabbos* on page 1'.

⁹ We are not issuing a ruling, merely pointing at the complexity of the matter.

¹⁰ It is worthwhile looking it up. It can be found at the end of *halacha* ב'.

¹¹ See the *Meshech Chochma* Kuperman edition where he points out a *kushya* on this *p'shat*.

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Note: The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone's awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p'sak.