

As a preliminary acknowledgement, not all of this ruling represents my original work ('from scratch'). Much credit belongs to Rabbi Michael Broyde and Rabbi Howard Jachter for the work they did in analyzing the relevant issues. What I will do is organize the summarize their analysis so that it can be easily understood. Having done this, I will then draw a Rabbinic conclusion and render a ruling as *Mara d'Atra*¹ If I have erred in my understanding or in my judgement, may I be forgiven by the All Merciful One.

Question:

Given the present scenario of social distancing in light of the COVID-19 pandemic, is it permissible to use a computer to provide or to access livestreaming of worship services on the Sabbath?

Responsum:

1. Historical Precedent

The topic of electricity in halacha is unique to our generation since there are no direct precedents in the Talmud or Rishonim² and the halachic discussion of this topic has been ongoing for less than 100 years. It is only since the technology developed and appliances became electrically powered that many of these questions arose. One of the earliest issues involving electricity found in halachic literature was the permissibility of turning on an incandescent light on Shabbat. The overwhelming majority of the decisors maintain that turning on an incandescent light on Shabbat violated a biblical prohibition.

2. Incandescent Light

The Mishnah in Shabbat (41a) states: *One who heats a metal pot [literally, a boiler] may not pour cold water into it to heat it; however, one may pour water into the pot or a cup in order to temper it.*

Rambam codifies these rules (Shabbat 12:1) by recounting:

One who heats a metal bar in order to temper it in water has violated the biblical prohibition of lighting a flame.

Ravad immediately disagrees as to the nature of the biblical prohibition and rules that heating a metal bar until it glows is prohibited because of either cooking (as Rambam elsewhere appears to classify it (Shabbat 9:6)) or as ma'keh bepatish, completing a nearly finished process. Both authorities, however, agree that a biblical prohibition is violated when metal is heated until it glows. There is no biblical prohibition violated in generating light per se.

Based on the position of Rambam, which most commentaries accept, the overwhelming majority conclude that turning on an incandescent light on Shabbat - an action which heats a metal filament until it glows - violates the biblical prohibition of lighting a flame. Some disagree and, based upon the position of Ravad, maintain that while a biblical prohibition is violated, the prohibition is that of cooking (*bishul*) and not of lighting a flame. As we will see later, this distinction, while seemingly very minute, is important to our question.

¹ Rabbinic authority of Beit Rayim

² *Rishonim* refers to several generations of medieval Talmud scholars responsible for codifying the Talmud (1100-1500), these include both Rashi and Maimonides

Yet a third position is found in the commentaries. These authorities limit the statement of the Talmud and codes - that it is prohibited to heat a metal bar until it glows - to the case where the heating is done in order to affect the metal (in the case of the Rambam, to temper the iron). According to these authorities, there is no biblical prohibition intrinsic in the generation of light and heat; rather, that action is only biblically prohibited when it is intended to affect the metal. The incidental heating of the metal in incandescent lights, however, is an action not intended for its designated purpose (*melacha she'einah tzrichah legufah*) because when one turns on a light one does not intend to affect the metal in the filament. Thus no biblical prohibition occurs. Even the authorities who follow this position concede, however, that a rabbinic prohibition is violated.

3. Non-incandescent lights and other electrical appliances (i.e. processors, monitors)

Everything discussed so far applies only to incandescent lights. These prohibitions do not apply to non-incandescent light (neon, fluorescent, phosphorescent, LEDs etc) which do not operate by heating metal filaments. Other concerns have been raised in regards to non-incandescent lights. They are *molid* (creating something new) *makeh b'patish* (completing a finished product) *boneh* (building, based on the idea that connecting a circuit is part of the process of building) *cooking* (the heating of the transistor or metal wire) *havarah* (the sparks created by turning a device on may be considered to be igniting a flame). These concerns are based on interpretive analogies and although each one of them deserves detailed analysis that is beyond the scope of this responsum.

Among the leading Rabbinic authorities of the 20th century, most hold that at least one of them does apply to non-incandescent lights and other non-light-emitting electric appliances. One of these authorities, Rabbi Shlomo Auerbach (1910-1995) rejects all of the above concerns categorically. Based on his understanding of these prohibitions as laid out in the Talmud, the use of electric appliances is not *molid*, *havarah*, *makeh b'patish*, or *boneh*. The use of electricity itself is not inherently prohibited by Jewish Law, rather it is prohibited only because of *minhag*. This is to say that because of the custom and behavior of observant Jewish communities to treat electricity as *assur* (forbidden) on Shabbat, we must now abide by this prohibition unless there is urgent need to do so.³

4. Do our present circumstances indicate an 'urgent need'?

Preliminarily, one must note that the term 'urgent need' was used by Rav Auerbach in his ruling. He did not provide further definition or qualification of the term before his passing. We thus cannot purport to know how he would have defined 'urgency' or 'need' or if he would consider our present circumstances such a case. We must instead press forward with intellectual honesty and sincerity in our desire to fulfill the commandments of Torah.

In the horrific light of the COVID-19 pandemic, local and federal health authorities have advised 'social distancing' and discouraged gathering in large numbers. As a result, most synagogues across the globe have closed their doors and are not offering worship services. Given the stringency which applies to *pikuach nefesh*—the preservation of human life, and given the severity of this outbreak and its life-threatening potential, to allow congregants to gather for prayers is not only profoundly irresponsible, it is a violation of Jewish Law.

³ By urgent need, Rav Auerbach does not mean a literal life threatening emergency. In such emergencies the mitzvah of *pikuach nefesh* applies, thus rendering all Shabbat prohibitions null and void.

The present situation is more than stressful and unsettling. The economic impact of this pandemic will be nothing short of disastrous. With children out of school and some people unable to work, families and individuals are already feeling considerable hardship. Since the human being is an inherently social organism, the present course of social distancing—the severe limitation of human contact has put us all into the category of ‘at risk’. While these measures are necessary to protect the public, our mental, emotional and even physical wellness will undoubtedly suffer as a result. For many Jewish people, Shabbat worship services offer a much needed reprieve from the stress, conflict, and turmoil of daily life. Given that said stress has now been massively amplified by the current crisis, the simultaneous loss of Shabbat services will serve only to compound the feelings isolation, fear, and frustration.

In conclusion, in light of these serious risks to our mental health, we are well within reason to define our present needs as sufficiently urgent to warrant the use of laptops, smartphones, and other devices to produce and access livestreaming of worship services on Shabbat.

5. Limitations

In order to permit livestreaming on Shabbat, we are relying on the minority ruling of Rav Auerbach—that electricity alone does not *inherently* violate Shabbat—and my conclusion that the present circumstances indicate an urgent need such that we can **temporarily suspend** the *minhag*. This suspension has limitations. At such time as we are once again able to gather in a physical space as a community, the *minhag* will once again come into play. Also, it does not apply to actions which are biblically prohibited independent of electricity. For example, since writing is prohibited on Shabbat, one cannot ‘write’ using an electric device—this would include emails, word processors, etc. By extension, recording of any audio or video is also prohibited, regardless of whether electricity is permitted or forbidden. For a full list of prohibited activities on Shabbat see https://en.wikipedia.org/wiki/Activities_prohibited_on_Shabbat

This ruling applies only to livestreaming of Shabbat services specifically during this time of crisis, which G-d willing, will pass speedily.