Shevitat Keilim: Benefit from Automatically Performed Melachot on Shabbat

Shiur 10

In previous shiurim we discussed whether one may benefit from melacha performed by people, Jews or non-Jews. Over the next two shiurim, we will discuss whether one may benefit from melacha that is automatically performed by objects.

A Jew may not transgress Shabbat; may a Jew benefit from an act of Shabbat transgression? A non-Jew may transgress Shabbat, but a Jew may not ask a non-Jew to perform melacha on his or her behalf.

At the beginning of this shiur, we will learn that as opposed to the prohibition of benefitting from melacha performed by humans, according to Beit Hillel it is not forbidden to set up objects before Shabbat in such a way that they will continue performing melacha on Shabbat. While the concept of benefitting from objects is in itself permitted, however, we will see that there are nonetheless certain restrictions – pertaining to renting out possessions, selling goods through them, and inappropriate noise that may result from the operation of certain systems on Shabbat. We will discuss these parameters over the next two shiurim.

1. Shevitat Keilim

The first chapter of Tractate Shabbat discusses a dispute between Beit Hillel and Beit Shammai regarding melachot that begin on Friday and automatically continue into Shabbat:

בכית שמאיображенיא ישראל וטוענים שאסור unethicalתTôi טלוכס וכנסים אלא כדי שישוריו מבעוד יום ובית הלל מתירין: בית שמאי אומרים אין נותנים אונין של פשתן לתוך התנור אלא כדי שיהבילו מבעוד יום ולא את הצמר ליורה אלא כדי שיקלוט העין ובית הלל מתירין בית שמאי אומרים אין פורשים מצודות חיה ועופות ודגים אלא כדי שיצודו מבעוד יום ובית הלל מתירין: בית שמאי אומרים אין מוכרין לעובד כוכבים ועועט אין او מקיבין עליה אלא כדי שונים תפוקה קור בנו: בית שמאי אומרים אין נותנים של פשתן מנופץ לתוך אגודות אלא לפני השבת אונין נ скачать על התנור, בכדי שיתחממו ויתלבנו בשבת, אלא בזמן שיש בו בכדי שיהبيلו מבעוד יום:==========

Beit Shammasi forbid setting up a system that will continue melacha on Shabbat, while Beit Hillel permit this. Their respective opinions both stem from the same intriguing source:
Why does the Torah state that we should work for six days and rest on the Shabbat? If Shabbat is a day of rest, the first six times are obviously the time allotted for work!

The verse emphasizes that all our work should take place during these six days. From this emphasis, Beit Shammai extrapolates that no *melacha* should take place on Shabbat at all, even *melacha* that is performed automatically. Beit Hillel, in contrast, holds that the language of the verse, “For six days you shall perform your work, and on the seventh day” means that certain work is permitted on Shabbat – work that is performed automatically, by objects. As halacha follows Beit Hillel, then there is ostensibly no problem with allowing *melacha* to take place through objects:

- רמב"ם הלכות שבת פרק ג הלכה א

  נמותר להתחיל במלאכה מערב שבת אף על פי שהיא נגמרת מאליה בשבת, שלא נאסר עלינו לעשות מלאכה אלא בעצמו של יום, אבל כשתעשה המלאכה מעצמה בשבת מותר לנו ליהנות بما שנעשה בשבת מאליו.

Nonetheless, we will spend these next two *shiurim* discussing the limitations of this rule. This *shiur* will explore benefitting from one’s possessions on Shabbat and commerce that takes place on Shabbat, while the next *shiur* will discuss *Avsha Milta*, conspicuous *melacha*.

### 2. The Prohibition of Renting Out One’s Possessions on Shabbat

**תלמוד ירושלמי (וילנא) מסכת שבת פרק ג ה**

Why does Beit Shammai forbid renting one’s possessions on Shabbat? Overtly, this is Beit Shammai’s opinion. The *Rishonim* explain that this is the reason that the Rif omits this *beraita*.

- המאור הקטן מסכת שבת דף ז עמוד א

  והא דתנו רבנן לא ישכיר אדם כליו לנכרי בערב שבת לא כת בהרי"ף ז"ל, ונראה מ라도 הוא סובר דבית שמאי הוא דאית להו שביתת כלים

The Rambam’s ruling directly contradicts this *beraita*.

- רמב"ם הלכות שבת פרק ו הלכה טז

  מותר להשאיל כלים ולהשכירן לגוי אף על פי שהוא עושה בהן מלאכה בשבת מפני שאין אנו מצווים על שביתת הכלים, אבל בהמתו ועבדו אסור מפני שאנו מצווים על שביתת בהמה ועבד.

If we assume that the *beraita* follows Beit Shammai, we can offer two understandings as to why Beit Shammai holds that possessions must not perform *melacha* on Shabbat:

1. Just as people must refrain from *melacha*, everything around them must similarly refrain. The verse states that one’s servants and animals must also cease their work, and the same holds true for their possessions (although animals may do as they please – the prohibition applies to making animals work for human benefit. Objects have no will of their own, so this distinction is not relevant).

2. What a person’s possessions do is an extension of their owner’s actions. The Yerushalmi implies that both Beit Hillel and Beit Shammai consider this to be true. The difference is that Beit Hillel extrapolate from this verse that one’s possessions are allowed to do *melacha* on the seventh day).

What about possessions that have been rented out to a non-Jew? If one must ensure that their possessions are not performing *melacha* on Shabbat (according to Beit Shammai), this also presumably applies to possessions that have been rented out to a non-Jew. But if the prohibition stems from the fact that *Halacha* considers *melacha* performed by an object an extension of the...
person operating the object, then in such a case the *melacha* would be considered an action by the non-Jew, not by the Jewish owner.

As mentioned, it seems that the *Yerushalmi* follows the second possibility. According to the *Rambam*, however, it seems that the *beraita* follows the first possibility. The *Rambam* therefore compares *shevitat keilim* and the *shevita* of one’s servants and animals.

If so, presenting the *beraita* as following *Beit Shammai* necessarily assumes the first possibility, and this seems to be the case according to the *Rambam* and the *Rif*.

*Tosefot*, however, object that it is problematic to read the *beraita* thus:

If a person must ensure that their possessions are not performing *melacha* on Shabbat, why is one allowed to rent them out on Wednesday and Thursday? This implies that it does not matter when the rental begins, but rather until when it continues. In light of this difficulty, the *Tosefot* explain that the *beraita* in fact follows *Beit Hillel* (once again: according to the first possibility, *Beit Shammai* are more stringent than the *beraita*, while according to the second possibility, *Beit Shammai* accept the *beraita*).

It is unclear whether the *Tosefor* disagree with the *Rambam* and the *Rif’s* interpretation of *Beit Shammai’s* opinion.

*Tosefot* explain that the prohibition stems from the fact that renting something out right before Shabbat will create the impression that the owner is earning *Sechar Shabbat*. If so, the prohibition is not based on the obligation for *shevitat keilim*, but rather on the prohibition of earning rental money from its use on Shabbat. For this reason, *Tosefot* emphasizes that one may not rent out an object to a non-Jew, but one may lend it out. (If, as *Tosefot* hold, the prohibition is based on earning profit, it would presumably be forbidden to rent out possessions to Jews as well; we will discuss this below).

The *Rambam*, in contrast, emphasizes that according to *Halacha* (i.e. *Beit Hillel*), one may lend or rent out one’s possessions. According to the *Rambam’s* understanding of *Beit Shammai*, one may not rent or lend out possessions because Jews must ensure that no one is using them on Shabbat at all.

If the prohibition is based on earning *Sechar Shabbat*, however, then it is irrelevant whether the rented item will be used for *melacha* – the question is whether the owner will earn money from the rental or not.

The *Baal HaMaor* proposes a different understanding, which brings us back to previous *shirurim*:

*Baal HaMaor* explains that if one rents something out to a non-Jew on Friday, it appears as if they specifically asked the non-Jew to perform *melacha* on Shabbat. This would bring us back to *shirur 7*: that one may not assign work to a non-Jew in a way that will necessitate them to perform this work on Shabbat. The *Baal HaMaor* understands that there is no inherent issue with renting the item out for Shabbat, but it cannot be done in a way that makes it seem that the work should be done specifically on Shabbat.

The *Rosh* summarizes the different opinions:

*Rashi* states that this is forbidden for a non-Jew.

The *Shiur* number 10—Shvitat Kelim part 1

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Note that Rabbeinu Yonah emphasizes that the prohibition is based on the type of item – whether it is a kli melacha or not. This emphasis seems calculated to differentiate between his shita and the Ri’s shita. The Ri’s prohibition is based on whether the non-Jew pays rent, and not on the type of item. Rabbeinu Yonah, in contrast, bases his prohibition on whether the item is used for melacha (this also holds true of the Rambam’s analysis of Beit Shammai’s ruling, which also only forbids klei melacha, but this is not relevant as halacha follows Beit Hillel).

It is worth noting that the Bach is essentially explaining that Rabbeinu Yonah (and later on, the Baal HaMaor) is not discussing shiur 7, but shiur 1!

In shiur 1, we learned that according to Rashi, the prohibition of telling a non-Jew to perform melacha is based on the rabanan notion that the non-Jew is acting as the Jew’s shaliach. The Bach explains that Rabbeinu Yonah’s interpretation that the non-Jew becomes the Jew’s shaliach is a derivative of this prohibition.

To summarize: the beraita states that one must not rent out an item used for melacha to a non-Jew on Friday, but one may do so earlier in the week. We noted three different methods of analysis that the Rishonim use to explain the beraita:

1. **The Rif and the Rambam** hold that this beraita follows Beit Shammai, while Beit Hillel (whom halacha follows) do not forbid this. The Rosh challenges this in two ways: 1. If items belonging to Jews must never be used on Shabbat, then why does it matter when they are rented out (if they might eventually be used for Shabbat later in the week)? 2. Why doesn’t the Gemara specify that this beraita follows Beit Shammai?

2. **The Tosefot** – Beit Hillel also forbid renting an item out to a non-Jew right before Shabbat, because it then appears that the Jew is doing this in order to earn sechar Shabbat. This would apply to all items, both items that are used for melacha and items that are not used for melacha.

3. **Baal HaMaor, Rabbeinu Yonah** – the non-Jew appears to be the Jew’s shaliach for melacha (this could also be an issue of Marit Ayin of assigning melacha, as we discussed in shiur 7, or an issue of shlichut, as we discussed in shiur 1).

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It is worth noting that the Bach is essentially explaining that Rabbeinu Yonah (and later on, the Baal HaMaor) is not discussing shiur 7, but shiur 1!
The Shulchan Arukh mentions all these opinions:
He opens with the Rambam, goes on to discuss the Baal HaMaor and Rabbeinu Yonah – and thus emphasizes that one may not rent out items that are used for *melacha*.
He concludes that in any case, one may not accept rental fees for the items, unless it is earned *b'havlaah*.

To summarize:
Shmot 20:9-10 states: “For six days you shall work and perform all your work, and on the seventh day you must cease.” The Yerushalmi (Shabbat 1:5) explains that Beit Hillel understood from the juxtaposition of “perform all your work” with “on the seventh day,” that *melachot* can be performed automatically on Shabbat. Beit Shammai, however, extrapolate that all work must take place during the first six days, and that no work can take place on Shabbat, even automatically. *Halacha* follows Beit Hillel.

Beit Shammai’s analysis can be understood in one of two ways:

1. Just as one may not make their servant or animal work, they must not employ their inanimate possessions either.
2. Work performed by one’s possessions are considered an extension of their owner’s work. The Yerushalmi seems to imply that one’s possessions must finish performing *melacha* before Shabbat, otherwise it is as if the owner is performing *melacha*.

The practical difference between these understandings is whether Beit Shammai allows others to operate these items on Shabbat.

1. **The Prohibition of Renting out Possessions on Shabbat**

A *beraita* (Shabbat 19a) states that one may not rent out items to a non-Jew on Friday. We discussed three interpretations of this *beraita*:

1. The *Rambam* (Hilchot Shabbat 6:16) rules that one may rent out items to a non-Jew even if they are used for *melacha*, because there is no obligation to stop one’s possessions from performing *melacha* on Shabbat. This implies that the Beraita that prohibited renting out the tools was Beit Shammai’s opinion. This implies further that the Rambam believes that Beit Shammai follows the first possibility presented above. The *beraita*, thus, follows Beit Shammai and is not the *halacha*. The *Rishonim* clarify that the *Rif*, who omits the *beraita*, also holds thus.

The Tosafot argue: if this is the case, why should it make a difference when the item is rented out, if it might eventually be used on Shabbat?

2. The *Tosafot* therefore explain that the prohibition is based on the owner receiving *sechar Shabbat*. It is thus forbidden to rent out one’s possessions, but one may lend them out (unlike the Rambam’s ruling), and this applies equally to the renting of any possession, not just to items that are used for *melacha*.

3. The *Baal HaMaor* and *Rabbeinu Yonah* explain that the prohibition is because giving an item to a non-Jew right before Shabbat makes it seem like the Jew is asking the non-Jew to work specifically on Shabbat. The Baal HaMaor implies that this is a subcategory of *Marit Ayin* (which we discussed in *shiur* 7), while the Bach specifies that it is considered giving instructions to a non-Jew (*shiur* 1).

As per *halacha*: the Shulchan Arukh and the Rema rule according to the Baal HaMaor, but add that one may not profit from renting out an item on Shabbat.

It emerges that the Shulchan Arukh rules like the *beraita*, based on the Baal HaMaor and Rabbeinu Yonah’s interpretation, while learning the prohibition of earning *sechar Shabbat* from a difference source. We will now discuss this issue.
3. איסור קבלת דמי שכירות שבת

1. **A Brief Background of Sechar Shabbat**

We will discuss sechar Shabbat at length in shiur 35. Here we will only expand on issues that arise from the Tosefot and Shulchan Arukh about receiving sechar Shabbat from renting out possessions on Shabbat.

Receiving sechar Shabbat is explicitly prohibited in the Tosefta:

חספתא מסכת שבת פרק יז הלכה כ

השכר את הפועל לשבת לא יתן לו שכרו של שבת

Why not?

רש”י מסכת כתובות דף ס ע”א

שכר שבת - [כמו שמסתבר בבשප] גורו מושמ מותק ומכירה ושכירות

Rashi implies that the prohibition of sechar Shabbat is based on a gezeira against trade. In shiur 34 we will learn that trade is also forbidden because of a gezeira! Rashi means that in order to prevent Shabbat from becoming a business day, Chazal prohibited three things: trade, sechar Shabbat, and sechirut.

The Tosefta explains how one may receive sechar Shabbat:

חספתא מסכת שבת פרק יז הלכה כ

אם היה שכיר שבת (coma - ש湃, שכיר, שכר, שכר, שכר שבת) (הכוונה היא למסומן - שביעי של שיסים) – מותר ל

שכור לשבת, לפיכך אוחזר בו על שבת

הלכה כ

לא אמרו ל”��ה 파일 שבת”, אלא אמרו ל”��ה ישל השה ייסים”.

If the sachar earned specifically on Shabbat cannot be differentiated from a larger sum one is owed (havla’a, which literally means “swallowed up”), then one may receive the total sum, on the condition that the profits earned on Shabbat are not discernible from the rest.

2. **Sachar and Rent**

The aforementioned Rashi compares sechar Shabbat and rent. The Tosefot mentioned in the previous sugiya also prohibits renting out one’s possession on Friday because it seems to create a situation of sechar Shabbat. The above Tosefta also prohibits accepting rent that is defined as sechar Shabbat. We learn that Chazal are stringent in that even when one receives rent in a permitted way, they must accept it in a way that it will not be obvious that they are accepting rent.

One extreme implication of this appears in Tractate Ketubot, which discusses a married couple who are not fulfilling their mutual obligations in their marriage. Chazal ruled that this affects the price of their ketubah:

משנה מסכת כתובות דף ס Meghan מ iphone

המרדת על בעליה פרושית הלmaktנה את דינר בשבת. בר眊ה אמור Sabha סרטינק ... נכיו מרד על

א어서 מוסיף הל הקתובה שלדינו בשבת רמאי אמור סﾊﾊヨ 준ק: Sechar Shabbat

And in the Gemara there:

תלמוד בבלי מסכת כתובות דף ס Meghan מ iphone

אמר ליה רבי חייא בר יוסף: מאי שנא איהו דיהיבינן ליה שבת, ומאי שנא איהי דלא יהיבינן לה שבת?

איהי דמייפתח קא פוחית - לא מיחзи כשכר שבת, איהי דאוספי קא מוספת – מיחзи כשכר שבת.

רש”י מסכת כתובות דף ס Meghan מ iphone

אמר ליה רבי חייא בר יוסף: מאי שנא איהו דיהיבינן ליה שבת - קשתא ממרדעל עלייה דאה Sabbath sperimental sperimental.
Even though this is a fine related to the failure to fulfill marital obligations, Chazal are adamant that this should not even remotely resemble sechar Shabbat.

However, we learned in shiur 7 that one may earn profits from renting out one’s possessions on Shabbat:

The discussion in the Gemara revolves around the question of Marit Ayin, but the Gemara fails to raise a more basic question: may one earn rent on Shabbat?

The Ran explains that this sugiya is also dependent on the beraita, and one may only receive rent from the bathing house if it is indistinguishable from a bigger sum (havla’a). The poskim rule thus:

The Magen Avraham gives several examples of sechar Shabbat that is prohibited:

It seems that the example most similar to a fine imposed on a ketubah is the money earned from daily interest – in what other situation is there a daily fine for each day of delay?

Is it indeed forbidden to earn daily interest from money in bank accounts? Most rates are based on weekly or monthly profits, or some other factor, and are not affected by specific situations on Shabbat, so this question does not affect most kinds of interest. However, his answer does affect many other situations:
The Magen Avraham's second example is renting out rooms. Is one allowed to profit from renting out hotel rooms on Shabbat?

2. Havla’ based on additional expenses

The Maharshag was asked whether a Jew may receive payment for renting out a combine harvester on Shabbat, and he proposes a revolutionary definition for the concept of havla’:

If the renter has to pay for additional expenses, such as fuel, then the Jew may ask for a higher price.
We have learned three sources related to the prohibition of earning sechar Shabbat: renting out possessions to a non-Jew before Shabbat (according to the Tosafot); renting out a bathhouse to a non-Jew (in Avodah Zarah); and a person who does not fulfill their marital obligations. In all these cases, payment is based solely on time – on time that is Shabbat. The Maharshag explains that the prohibition is based on the definition that time is translated into profit for the owner. In the two examples the Maharshag brings – interest, and renting out the hotel room – the customer’s use of the goods (the money, the hotel room) on Shabbat becomes profit for the owner.

However, as we rule like Beit Hillel, there is no obligation for the possessions to remain unused on Shabbat. One may still earn profit from them – as long as the profit is not a direct “translation” of the object’s use on Shabbat.

Let’s clarify: rent is lending goods to someone for a certain time in exchange for payment. In general, it is calculated according to use multiplied by the duration of its use. If the only time that is calculated in this equation takes place on Shabbat, then it is considered sechar Shabbat. One may not receive interest that is earned specifically on Shabbat, for example.

❖ Harchavot – the Maharshag’s proof

This helps us understand the aforementioned definitions of the Igrot Moshe and the Mishneh Halachot. If interest is calculated according to twenty four hour periods that begin and end at midnight, then one may define that the money is earned during a time that the Jew may profit from – before and after Shabbat – and not specifically during Shabbat. This is the essence of havla’a in this case.

It similarly follows that if a Jew owns an automatic vending machine, there is no problem with non-Jews making purchases on Shabbat, as the payment is for its use, and not for its specific use on Shabbat.

However, the Mishneh Halachot challenges this definition:

SHIUR NUMBER 10 – SHVATIT KELIM PART 1

One may only employ the leniency of havla’a for a rental fee if the additional charge is something people usually charge for. A person who lends their car to a friend does not expect to receive fees for wear and tear of the brakes or engine, but the friend is obviously expected to pay for the fuel. Similarly, a person may charge for fuel needed for a machine, but not for wear and tear.

3. Redefinition of Sechirut of Sechar Shabbat

Weitzman’s introduction to the halakhot of Sechar Shabbat. The Maharshag explains that...
The Maharshag would presumably permit earning profit from this machine, as its use does not necessarily take place on Shabbat. However, the Mishneh Halachot explains that the situation is more problematic:

The Mishneh Halachot permits owning washing machines people can pay to use because earning rent from their use is only forbidden if a Jew is actively involved in their rental on Shabbat. With automated machines, however, the no-Jew uses them at will, so there is no prohibition.

According to the Maharshag, one may profit from such machines for a different reason – because profit is earned according to use, not per specific time on Shabbat.

Another practical application of these principles relates to profits earned from internet sites on Shabbat. Payments incurred from provision of information, watching movies, listening to music etc., should be permitted, given that it takes place without the Jewish owner’s active involvement.

According to the Maharshag, whether one may profit from websites depends on the type of website. If someone has a membership on a website, then the time they spend on the website on Shabbat is not distinguishable from their use of the site on Shabbat. One may also earn profit from a website which charges per use, as profit is calculated per use and not per time. According to his definitions, the only kind of website which would be considered problematic would be one where people pay for specific amounts of time (so any use of the site that takes place during Shabbat would be considered sechar Shabbat).

The harchavot cite BiMareh HaBazak’s detailed answer about earning profit from websites on Shabbat, and whether such profit appears to be sechar Shabbat.

In summary:

4. A Brief Background: Sechar Shabbat

The Tosefta (Tractate Shabbat 17:26-28) prohibits earning profits from work that takes place on Shabbat – unless payment is made globally or per weekly or monthly rate. Even in this case, it is forbidden to define this as sechar Shabbat.

We will discuss the rationale and parameters of the prohibition in depth in shiurim 33-34.

5. Earning Rent on Shabbat

Rashi implies that just as receiving payment for work is forbidden, so is money incurred during the Shabbat period. An extreme example of this appears in Tractate Ketubot 64a, where Chazal rule that a woman whose husband is not fulfilling his marital obligations may not receive the fine that is due to her from the time that passes on Shabbat.

In shiur 7, however, we learned that one may rent out a bathhouse on Shabbat, as long as there is no concern about Marit Ayin.
The Ran explains that this is allowed when the profits are earned with *havla’a* – they are not discernible among the total payment the Jew receives. This is the poskim’s ruling – that everything we discussed in *shiur 7* is permitted on the condition that profits are earned *b’havla’a*, as explained in the beraita about sechar Shabbat.

6. The Parameters of *Havla’a*

1. *Havla’a* based on time

The two classic examples of problematic profit cited by the Magen Avraham are lending with interest (to a non-Jew) and renting out a room.

Today, most interest is not earned per day, but per longer period. The Igrot Moshe, however, rules that even profits earned on a daily basis are permitted, given that banks count days from midnight to midnight, so that the interest earned on Shabbat is indistinguishable from the total profit earned during that 24 hour period. If Shabbat is preceded by or followed by Yomtov, interest earned during that period would be considered problematic.

The Mishneh Halachot rules similarly in relation to renting out rooms – that one may rent a room as long as the rental period includes a significant period of time that is not Shabbat, so that the price of the time of rent on Shabbat is indistinguishable from the total price.

2. *Havla’a* based on additional expenses

The Maharshag rules that if the rental fee is also incurred from additional expenses (such as fuel), then the rental fees may be considered an indistinguishable part of the total payment. The Mishneh Halachot explains that one may not charge for wear and tear, but only for expenses that people usually pay for. Based on this, one may profit from renting out cars and machines that incur additional fees (such as fuel) on Shabbat.

7. Redefinition of Sechirut of Sechar Shabbat

The Maharshag defines prohibited *sechar Shabbat* as specific time that translates into profit. If rental fees are calculated according to use multiplied by the duration of its use, and the only time that is calculated in this equation takes place on Shabbat, then it is considered *sechar Shabbat*. One may not receive interest that is earned only on Shabbat, for example. If payment is not based on time but on use, for example, then it is not considered *sechar Shabbat*.

The Mishneh Halachot disagrees with this definition. He holds that owning coin-operated washing machines that people pay to use is considered renting on Shabbat itself, which is more problematic than renting out an item before Shabbat! Ultimately, however, he permits doing so, because that Jews are not taking an active part in renting the machine on Shabbat. The non-Jew chooses to operate the machine on Shabbat without any involvement on the Jew’s part. He considers any payment for a service provided on Shabbat prohibited (unless the payment is an indistinguishable part of a larger payment, or completed without the Jew’s active involvement).

Implications of this discussion for online services is discussed in BiMareh HaBezak’s responsum in the *harchavot*.

We began this *shiur* by stating that a Jew’s possessions may be operated on Shabbat – the prohibition is to earn *sechar Shabbat* from this operation. Therefore we discussed whether one may profit from websites that provide information, as it is similar to renting out information.

We have not yet discussed whether a Jew’s possessions may carry out transactions for the owner on Shabbat, and we will explore this now:
5. **Machines Selling Merchandise on Shabbat**

1. **The Prohibition of Trade on Shabbat**

In *shiur* 34 we will discuss the prohibition of trade in depth. Here, we will provide a basic background, and discuss sales that take place automatically.

Rashi cites two reasons to prohibit trade on Shabbat: 1) Based on "ממצור חפצך ודבר דבר," 2) A *gezeirah* in case this results in writing.

In *shiur* 34 we will see that there is a difference between an individual transaction, which is forbidden for the above two reasons, and the general way of how the market works. It may be that general involvement with trade is prohibited *d’Oraita*.

This prohibition would presumably forbid trade on Shabbat itself. This *shiur* began with a discussion of *shevitat keilim*. According to Beit Hillel (whom halacha follows), there is ostensibly no issue with sales taking place on Shabbat without active human involvement.

The Maharam Shik was asked whether one may place a bid for a land lease if the decision regarding the transaction takes place on Shabbat. He compares this to *shevitat keilim*.

The Maharam Shik explains that after the bid is made, the transaction itself takes place without the bidder’s active participation, so in this sense it is an automatic process like a system put into effect before Shabbat, and it is therefore permitted.

Some poskim disagree:

In the context of High Priest’s service on Yom Kippur, it is written: "He shall atone for himself and his household" (Lev 16:6). Chazal extrapolate from this that the High Priest can only bring atonement if he has a household, i.e., if he is married.

This requirement is discussed at the beginning of Tractate Yoma. According to R. Yehuda, the High Priest must do *kiddushin* for another wife in case his first wife dies, but the High Priest is not allowed to have two wives, so he does conditional *kiddushin* that she will only be considered his wife if the first wife dies. This is an example of a transaction that is automatically completed on Yom Tov.

R. Gamliel points out a problem: if the woman’s *kiddushin* are completed on Shabbat, this will be considered a transaction, which is prohibited on Shabbat! R. Mena replies that this is allowed because it is part of the Temple service. If so, then both of them agree that Chazal forbade transactions that are completed on Shabbat, even if the person is not actually involved on Shabbat.
R. Akiva Eiger proves from the Yerushalmi that one may not set up a transaction that will be completed on Shabbat. Why is this a problem, unlike setting up systems that perform melacha on Shabbat?

The Avnei Nezer explains that objects may perform melacha because the owner is disassociated from the possessions performing the melacha: the watering system waters the field and is not dependent at all on human action. The concept of ownership, on the other hand, is inherently related to the human’s connection with their possession. When a transaction takes effect, the person becomes that possession’s owner. The Avnei Nezer gives an example: if the person dies before the transaction is complete, it will not happen, since it depends on his receiving the goods. One cannot detach a person from this ownership, so transactions cannot be permitted like shvitat keilim is.

We discuss the person’s disassociation from the action in regard to Shabbat timers in the harchavot:

- **Harchavot** – Is using a Shabbat timer disassociated from human action?

According to R. Akiva Eiger and the Avnei Nezer, may vending machines operate on Shabbat?

2. **1. Automated Answering Machines**

The Maharam Shik cites another reason for leniency:

Even if it is prohibited to complete a transferal of ownership on Shabbat, the bid may reach the owner (the feudal lord) on Shabbat.

The reason for this is that making a bid is not transferal of ownership – it is only what convinces the lord to sign a contract with the bidder. If so, the bid may reach the lord on Shabbat.

Based on this principle, the Be’er Moshe permits the use of an answering machine to receive orders on Shabbat:

3. **Automatic Vending Machines**

We will now discuss transactions that take place via a machine. The poskim discuss additional issues such as מים, יבלון, and others. In BiMareh HaBezak’s response in the harchavot, all these issues are addressed in depth. The Helkat Yaakov explains that the Yerushalmi’s prohibition against completing transactions on Shabbat mentioned by R. Akiva Eiger refers to a transaction that must necessarily be completed on Shabbat. If, however, the Jew does not gain anything from the...
transaction specifically taking place on Shabbat, there is no problem if the buyers happen to make their purchases on Shabbat.

The vending machine’s owner would be just as happy if all purchases would take place before or after Shabbat. Therefore, the purchases made on Shabbat are defined as *ada ta d’nafshei* – the person’s free will, and the Jew may benefit from them. Based on this, the poskim permit the operation of vending machines on Shabbat:

**Summary**

1. **Shevitat Keilim in the Mishnah**

Shmot 20:9-10 states: “For six days you shall work and perform all your work, and on the seventh day you must cease.” The Yerushalmi (Shabbat 1:5) explains that Beit Hillel understood from the juxtaposition of “perform all your work” with “on the seventh day,” *melachot* can be performed automatically on Shabbat. Beit Shammai, however, extrapolate that all work must take place during the first six days, and that no work can take place on Shabbat, even automatically. *Halacha* follows Beit Hillel.

Beit Shammai’s analysis can be understood in one of two ways:

1. **בשו”ת רעק”א (סי’ קנח) אסר לעשות מעשה קניין בחול כ amatנה שה”חלות” תחול רק בשבת, וךϚוי פסקו עוד אחרונים. ומשמע שלדעתם אסר ליצור מצב שבו תחול “חלות” קניינית שבת, אף שבשבת לא ייעשה כל מעשה. ברם, (א) בשו”ת מהר”ם שי”ק (או”ח סעיף קלא) חולק על רעק”א הנ”ל, וכן דעת עוד הרבה אחרונים, עיין סיכום השיטות בספר “שערים המצויינים בהלכ”ה; (ב) רעק”א מדבר על מקרה שבו אדם עשה מעשה בחול בוודאי יגרום ל“חלות” קניינית שבת, מה שאינו כן בהשארת אתר מסחרי öffenbaar לשימוש. האולף כי לא צוייד İl הכורות על הלכתה של_inputs, והם להכין רמב”י ובעקבותיו, והודר פסודים.

2. **באות ברוך בולוח**
1. Just as one may not make their servant or animal work, they must not employ their inanimate possessions either.
2. Work performed by one’s possessions are considered an extension of their owner’s work. The Yerushalmi seems to imply that one’s possessions must finish performing *melacha* before Shabbat, otherwise it is as if the owner is performing *melacha*.

The practical difference between these understandings is whether Beit Shammai allows others to operate these items on Shabbat.

2. **The Prohibition of Renting out Possessions on Shabbat**

The *beraita* states that one must not rent out an item used for *melacha* to a non-Jew on Friday, but one may do so earlier in the week. We noted three different methods of analysis that the *Rishonim* use to explain the *beraita*:

1. **The Rambam** (Laws of Shabbat 6:16) rules that one may lend or rent possessions to a non-Jew even though they will use them on Shabbat because we are not required to keep shevitat keilim. He interprets that this *beraita* follows Beit Shammai according to the first possibility mentioned above. This *beraita*, if based on Beit Shammai, is not considered the *halacha*, and the *Rishonim* claim that the Rif, who omitted this *beraita*, holds like the Rambam.

   This leads the **Tosefot** to question why there is a difference between renting one’s possessions out right before Shabbat or at any other time?

2. **The Tosefot** therefore explain that this prohibition must be based on the fact that renting out something right before Shabbat creates the appearance of earning *sechar Shabbat*. Therefore the prohibition is only to rent out an item, not to lend it out (unlike the Rambam). This would apply to all items, both items that are used for *melacha* and items that are not used for *melacha*.

3. **Baal HaMaor, Rabbeinu Yonah** explain that the prohibition is based on the fact that the non-Jew appears to be the Jew’s *shaliach* for *melacha* (this could also be an issue of *Marit Ayin* of assigning *melacha*, as we discussed in *shiur* 7, or an issue of *shlichut*, as we discussed in *shiur* 1).

**Halacha:** The Shulchan Arukh and the Rema rule like the Baal HaMaor, but add that one may not earn money from renting out an item on Shabbat.

3. **A Brief Background: Sechar Shabbat**

The Tosefta (Tractate Shabbat 17:26-28) prohibits earning profits from work that takes place on Shabbat – unless payment is made globally or per weekly or monthly rate. Even in this case, it is forbidden to define this as *sechar Shabbat*.

We will discuss the rationale and parameters of the prohibition in depth in *shiurim* 33-34.

4. **Earning Rent on Shabbat**

Rashi implies that just as receiving payment for work is forbidden, so is money incurred during the Shabbat period. An extreme example of this appears in Tractate Ketubot 64a, where Chazal rule that a woman whose husband is not fulfilling his marital obligations may not receive the fine that is due to her from the time that passes on Shabbat.

In *shiur* 7, however, we learned that one may rent out a bathhouse on Shabbat, as long as there is no concern about *Marit Ayin*.

The Ran explains that this is allowed when the profits are earned with *havla’a* – they are not distinguishable among the total payment the Jew receives. This is the poskim’s ruling – that everything we discussed in *shiur* 7 is permitted on the condition that profits are earned *b’havla’a*, as explained in the *beraita* about *sechar Shabbat*.
5. The Parameters of Havla’a

1. Havla’a based on time

The two classic examples of problematic profit cited by the Magen Avraham are lending with interest (to a non-Jew) and renting out a room. Today, most interest is not earned per day, but per longer period. The Igrot Moshe, however, rules that even profits earned on a daily basis are permitted, given that banks count days from midnight to midnight, so that the interest earned on Shabbat is indistinguishable from the total profit earned during that 24 hour period. If Shabbat is preceded by or followed by Yomtov, interest earned during that period would be considered problematic.

The Mishneh Halachot rules similarly in relation to renting out rooms – that one may rent a room as long as the rental period includes a significant period of time that is not Shabbat, so that the price of the time of rent on Shabbat is indistinguishable from the total price.

2. Havla’a based on additional expenses

The Maharshag rules that if the rental fee is also incurred from additional expenses (such as fuel), then the rental fees may be considered an indistinguishable part of the total payment. The Mishneh Halachot explains that one may not charge for wear and tear, but only for expenses that people usually pay for. Based on this, one may profit from renting out cars and machines that incur additional fees (such as fuel) on Shabbat.

6. Redefinition of Sechirut of Sechar Shabbat

The Maharshag defines prohibited sechar Shabbat as specific time that translates into profit. If rental fees are calculated according to use multiplied by the duration of its use, and the only time that is calculated in this equation takes place on Shabbat, then it is considered sechar Shabbat. One may not receive interest that is earned only on Shabbat, for example. If payment is not based on time but on use, for example, then it is not considered sechar Shabbat.

The Mishneh Halachot disagrees with this definition. He holds that owning coin-operated washing machines that people pay to use is considered renting on Shabbat itself, which is more problematic than renting out an item before Shabbat! Ultimately, however, he permits this, because Jews are not taking an active part in renting the machine on Shabbat. In this case, the non-Jew chooses to operate the machine on Shabbat without any involvement on the Jew’s part. His analysis implies that the prohibition of earning rent is not based on the definition of the cost, as the Maharshag defines. Rather, he considers any payment for a service provided on Shabbat prohibited (unless the payment is an indistinguishable part of a larger payment, or completed without the Jew’s active involvement).

Implications of this discussion for online services is discussed in BiMareh HaBezak’s responsum in the harchavot.

7. The Prohibition of Trade on Shabbat

The Rishonim explain that acts of trade on Shabbat are prohibited based on "ממצוא חפצך"; alternatively, that Chazal forbade trade in case in leads to melacha. It may be, however, that general trade is forbidden d’Oraita – we will explore this further in shiur 34.

The Mahram Shik explains that a transaction that the Jew bid for before Shabbat may conclude on Shabbat as it is comparable to the law of shevitat keilim.

R. Akiva Eiger and the Avnei Nezer, however, learn from the Yerushalmi that one may not participate in a transaction where transferal of ownership will occur on Shabbat. Chazal allowed the High Priest to make conditional kiddushin so that a woman would become his wife on Yom Kippur despite the fact that kiddushin is also considered a transaction. The Avnei Nezer explains that acquisition is inherently linked with a person and that an act of acquisition cannot be disassociated from the owner, so a person is not allowed to begin a transaction before Shabbat and completely disassociate himself from it.
To clarify: if a person puts a system into effect before Shabbat, that system will continue operating independent of its owner. In contrast, if a person dies before a transaction is completed, the transaction will not take place, and thus the transaction is completely dependent on the participant. Nonetheless, there are several important leniencies pertaining to the operation of automatic machines on Shabbat:

**8. 1. Automated Answering Machines**

The Maharam Shik explains that even if it is prohibited to complete a transferal of ownership on Shabbat, the bid may reach the seller on Shabbat. This is because making a bid is not transferal of ownership – it is only what allows a transaction to take place. Based on this principle, the Be’er Moshe permits the use of an answering machine to receive orders on Shabbat, and similarly, BiMareh HaBezak allows a website to receive orders on Shabbat.

**9. 2. Automatic Vending Machines**

The Chelkat Yaakov allows vending machines to operate on Shabbat, explaining that the Jewish owner has no interest in the goods selling at a specific time (i.e. on Shabbat), as long as they sell. The non-Jew’s choice to buy the goods on Shabbat is for the non-Jew’s benefit, not the Jew’s. The Shemirat Shabbat k’Hilchata rules like the Chelkat Yaakov.