

# In the Eye of the Storm: Shabbat Observance During a Hurricane or Severe Weather Event

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There is an apocryphal tale that during the cholera epidemic of the 1830s, Rabbi Yisrael Salanter stood up in the synagogue on Yom Kippur morning and ate in front of his entire congregation.<sup>1</sup> (Actually, he urged anyone who was feeling weak to eat.) He acted in such a dramatic fashion out of fear that the members of his community would become susceptible to the fatal disease were they to fast. Therefore, he exhorted his parishioners to eat on Yom Kippur. When questioned about his apparent disregard for the most holy day of the Jewish calendar, he responded that he was not being lenient on the laws of Yom Kippur but rather, he was strictly observing the sacred commandment of protecting and not risking one's life.<sup>2</sup>

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1. Eliezer Mermelstein, "Eating on Yom Kippur While Ill or During an Epidemic," *Kovets Ets Hayyim* 3:1 (October 2008): 273-294 (Hebrew); see also a discussion on a modification of this story in Jacob Mark, *Bi-Mechitsatam Shel Gedolei ha-Dor* (1957-1958, Jerusalem), pp. 68-69 and Lucy S. Dawidowicz, *The Golden Tradition* (1967, Canada), p. 173.

2. For further elaboration on eating on Yom Kippur in the face of communal health challenges, see, "Introduction," in *Biur Halachah Shulchan Aruch, Orach Chaim* # 618; *Sedei Chemed ha-Shalem*, vol. 9, s.v. *Yom ha-Kippurim, siman* 3.4, p. 148; *Magen Avraham, Orach Chaim* 576:2; and *She'elot*

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The hurricane and severe weather protocols that follow are written in the spirit of one of halacha's cardinal tenets: the primacy of life. With the rarest of exceptions, the biblical commandment of *ve-chai ba-hem* (*Vayikra* 18:5) (a person should live by the Torah, but not die because he is observing mitzvot) demands the suspension of commandments when they put at risk our physical life or mental health. However, when it comes to violating the Shabbat to preserve life (or any other matter for which the Shabbat laws may be suspended), it is desirable to keep the "violation" to a minimum (*dechuyah*), in both the number of violations done and the method in which the violations are performed. Throughout this essay, I will explain the reasoning behind the halachic and severe weather protocols that are suggested herein to help people deal with severe meteorological challenges during hurricane season, or some other disaster.<sup>3</sup>

## Definition of Severe Weather

The designation of severe weather is not a function of how many feet of snow are on the ground, or how fast the rain is falling or the wind is blowing. For our purposes, severe weather conditions are defined when walking to synagogue is hazardous due to the lack of light, downed live power lines, falling trees,<sup>4</sup> or dangerous debris on the street. In these conditions, the obligation of *ve-chai ba-hem* takes precedence

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*u-Teshuvot Chatam Sofer* 6:23.

3. I am indebted to Rabbi Yehoshua Fass, Executive Director and Co-Founder of Nefesh B'Nefesh, and Rabbi Efreim Goldberg, Senior Rabbi of the Boca Raton Synagogue, who worked with me during times when these protocols needed to be written, adapted and implemented. These protocols can be found on [http://yu.convio.net/site/MessageViewer?em\\_id=9761.0](http://yu.convio.net/site/MessageViewer?em_id=9761.0).

4. On March 13, 2010, during a severe storm, 49-year-old Ovadia Mussaffi *ob"m* and 54-year-old Lawrence Krause *ob"m* were struck by a large falling oak tree around 7 p.m., in Teaneck, N.J. after they left synagogue on Shabbat evening.

over various aspects of Shabbat and holiday observance.<sup>5</sup> As mentioned, our purpose is to explore the halachic protocols in these situations.

## Attending Synagogue

Attending synagogue and praying with a *minyan* have important halachic significance. This experience affords many spiritual opportunities such as the ability to recite *devarim she-be-kedushah*,<sup>6</sup> taking part in the synagogue communal environment which has a special significance on Shabbat or Yom Tov,<sup>7</sup> as well as fulfilling the legislative decree of Moshe to read the Torah on Shabbat day or Yom Tov.<sup>8</sup> However, in a situation where walking to synagogue may cause a concern of *pikuach nefesh* (mortal danger) or injury, the responsibility to attend *minyan* is suspended.

## Missed *Parashat HaShavua*

When a storm creates conditions in which synagogue attendance is dangerous, the *parashat ha-shavua* (mandated weekly Torah reading) which was not read should be read at a later date. When should that be?

The Rema indicates that it should be read the following Shabbat along with the regularly scheduled *parashah*.<sup>9</sup> Rabbi Chaim Azulai (Chida) states that even if attendance for that

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5. Yoma 85b; Rambam, *Hilchot Yesodei ha-Torah* 5:1; Rambam, *Hilchot Shabbat*, chap. 2; *Shulchan Aruch, Orach Chaim* 329:1.

6. *Megillah* 23b; Rambam, *Hilchot Tefillah*, 8:4-6.

7. Ramban, *Vayikra* 23:2.

8. Jerusalem Talmud, *Megillah* 4:1(75a); Rambam, *Hilchot Tefillah* 12:1. Further expansion of reading the Torah during prayer services was enacted by Ezra, see *Baba Kama* 82a; Jerusalem Talmud ad. loc.; Rambam ad. loc.

See also *Aruch ha-Shulchan, Orach Chaim*, 135:1, 2; and *Torah Temimah, Shemot*, 15:22.

9. *Shulchan Aruch, Orach Chaim* 135:2.

Shabbat Mincha in shul is possible, the Torah reading at Mincha is limited to reading only verses from the beginning of the following week's scheduled Torah portion.<sup>10</sup> He rules that the unread *parashah* should be read on the following Shabbat, combined with the regularly scheduled *parashah*, and that the *aliyot* should be divided between the two *parashiyot*.<sup>11</sup>

A large group of *poskim*, however, differ with the ruling of Rabbi Chaim Azulai. Instead, they suggest that the Torah portion and *haftorah* missed on Shabbat morning should be read later on the same Shabbat when possible.<sup>12</sup> Reading the morning's missed Torah portion prior to Mincha is suggested by the Chafetz Chaim (*Mishnah Berurah Sha-ar Tziyon* 135:5) and later by Rabbi Eliezer Waldenberg (*Tzitz Eliezer* 13:27). When the missed morning's *parashah* is read prior to Mincha, then Mincha's Torah reading should be the standard verses from the coming week's *parashah*. If scheduling the Torah reading prior to Mincha is impossible, then the missed morning *parashah* and the *haftorah* are to be read at Mincha in lieu of the standard section of the upcoming week's *parashah*. However, Rabbi Yechiel Epstein (*Aruch ha-Shulchan, Orach Chaim* 135:6, 7) indicates that even if the missed morning's *parashah* is read at Mincha, the standard Mincha Torah portion should also be included. The protocol would then consist of the following: begin with this week's *parashah* and then continue with the verses normally read at Shabbat Mincha. The view of Rabbi Epstein, however, seems to be a lone opinion, not mentioned by other halachists.

In a personal letter to me, Rabbi Hershel Schachter shared Rabbi Soloveitchik's opinion on this matter:

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10. The same is true for Monday and Thursday, in that only the text from next week's *parashah* may be read. Therefore the complete Torah reading for Shabbat could not be read on a Monday or Thursday.

11. *Chaim Sha-al* 1:71 #5; 2:16.

12. *Mishnah Berurah*, 135:2; *Aruch ha-Shulchan, Orach Chaim* 135:6,7.

Rabbi Soloveitchik *zt'l* in his *shiurim* on the Laws of *Kriyat ha-Torah* (the reading of the Torah) favored the opinion of the Chida (R. Chaim Azulai)...Although one can fulfill the requirement of *kriyat ha-Torah* for Monday and Thursday the entire day – even after the time for *Shacharit* (morning service) has passed – nevertheless, on Shabbat where a different Torah reading was legislated for Mincha, perhaps one can fulfill the morning Torah reading only at the time that one may recite *Shacharit* ... If you write an essay [on this issue] it is appropriate to mention this position.<sup>13</sup>

There is an argument within halacha concerning the following situation: Due to severe weather conditions, the synagogue had limited attendance, with the majority of the regular participants not attending. May those that missed the Torah portion read it the coming week? Rabbi Ephraim Zalman Margolioth in the *Sha'arei Efrayim*<sup>14</sup> indicates that it is appropriate to do so.

### Carrying on Shabbat without an *Eruv*

Evaluating which weather conditions invalidate an *eruv* rests outside the parameters of this essay; such a discussion requires an understanding of the characteristics of the *eruv* in a particular community. Relevant considerations would include: is the *eruv* predominantly made up of *tzurot ha-petach* or halachically defined walls such as slopes, sea walls, or canal walls? What material was used to construct the *eruv*? What is the *eruv's* vulnerability to the elements? What are the weekly maintenance needs of the *eruv*? What role does *chazakah* play in this case and what type of storm creates a *reiutah* (a

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13. The letter was received on June 1, 1999; translated from the original Hebrew.

14. *Sha-ar* 7:10. Rabbi Elijah Wolf in his commentary *Eliyahu Rabbah* (*Orach Chaim* 135:2) disagrees with this perspective. I thank Rabbi Josh Flug for sharing with me these sources.

challenge) to the *chazakah*? The community rabbi would need to determine which weather conditions might compromise the *eruv's* integrity and which storms the *eruv* can withstand.

We will explore the circumstances when the *eruv* has been compromised. Are there situations in which it is still permitted to carry?

There are two paradigms of public thoroughfares. The first paradigm is when the public thoroughfare is considered in the category of *reshut ha-rabim*, a public domain, rendering it biblically forbidden to carry to, from, or within it. For the most part, cities in the modern age are not considered halachic public domains;<sup>15</sup> rather they are part of a second category, thoroughfares classified as *karmelit*, considered biblically private domains. The prohibition to carry to, from, and within these types of domains was enacted by rabbinic legislation out of concern that these thoroughfares resemble biblical public domains. The present study will focus on the public domains which are classified as *karmelit*, in which the prohibition of

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15. In Rabbi Yosef Gavriel Bechhofer's, *The Contemporary Eruv*, he explains in great detail the various components that go into defining a halachic public domain (chapter 2.5 and chapter 3). While some cities of old may have been considered public domains, the structural growth in our cities and various forms of city planning have created the irony that according to many *poskim* our larger cities may be biblically private domains or a *karmelit*. Of particular note is the approach of *Beit Ephraim* and the *Chazon Ish*. See *Chazon Ish, Orach Chaim* 107, *se'ifim* 5-7, which explains why cities in our times are not halachic public domains while cities of the past may have been. In *se'if* 7 he states: "that in our time all the marketplaces and roads [even] in the largest of cities are biblically private domains. For in all [of the cities] you will find at least [one street] enclosed by three walls (where buildings enclose the majority of at least three sides of a street); and all the [side] streets that intersect the major street (which is primarily enclosed on three sides) become [biblically] private domains. Since this is the situation [we may enable carrying] through the use of a *tzurat ha'petach*. The *Mishnah Berurah* in *siman* 345 writes at length that it is difficult to be lenient [that it is not defined as a public domain] because there are less than 600,000 people traveling [through the city] especially when so many are traveling to engage in business. Nevertheless, based on the leniency just articulated [regarding the major streets being enclosed by walls] for our cities the issue is clear and broad."

carrying is rabbinic in nature. The analysis below takes this factor into account.

**1. Carrying is permitted to obviate danger to life or limb.** In this situation there is no difference whether the domain is deemed a *reshut ha-rabim*, biblically prohibited, or a *karmelit*, rabbinically decreed as prohibited (*Shulchan Aruch, Orach Chaim* 328:2). When possible, and if treatment will not be delayed, carrying should be done with a *shinui* (in a fashion irregular from the norm).

While many *poskim* insist that biblical prohibitions cannot be violated for *sakanat eiver*, danger of loss of limb, including Ramban,<sup>16</sup> Rosh,<sup>17</sup> RaN,<sup>18</sup> Chafetz Chaim,<sup>19</sup> R. Neuwirth<sup>20</sup> and R. Shmuel Vosner,<sup>21</sup> many treat the notion of danger to a limb as no different than danger to life. This school of thought includes: Meiri,<sup>22</sup> Rabbi Meir ha-Kohen of Rothenburg,<sup>23</sup> Rabbi Yechiel Yaakov Weinberg,<sup>24</sup> Rabbi Eliezer Yehuda Waldenberg,<sup>25</sup> and Rabbi Aharon Soloveichik.<sup>26</sup> They would permit even biblical prohibitions to be violated.

This approach of danger-to-limb being considered life-threatening has parameters which must include:

16. *Chidushei haRamban, Avodah Zara* 28b.

17. *Tosafot haRosh, Avodah Zara* 28b, s.v. *Ayin*.

18. *Ran, Shabbat* 39b, s.v. *uma'ha sam'enan*.

19. *Mishnah Berurah, Orach Chaim* 6:25.

20. *Shemirat Shabbat ke-Hilchatah* 33:2.

21. *Shevet ha-Levi* 8:93.

22. *Meiri, Avodah Zarah* 28b, s.v. *Ayin*.

23. *Haggahot Maimuniyyot, Shevitat Asor* 2:8.

24. *Seridei Esh* 2:34.

25. *Tzitz Eliezer* vol. 8, *siman* 15, 10:9.

26. Rabbi Aharon Soloveichik's discussion on the fact that *sakanat eiver* is considered *pikuach nefesh* is found in *The Concise Code of Jewish Law* (New York, 1977), vol. 2, pp.489-490. see also *Nishmat Avraham, Hilchot Shabbat* 328:46.

- Injury or illness that threaten to permanently damage a limb or minimize its functionality.
- When the delay in treatment can cause infection.
- When delay may result in loss of limb.
- An injury/infection that may cause any loss of hearing.<sup>27</sup>

Even according to the *poskim* who do not equate danger to the limb with *pikuach nefesh*, it is well documented that any injury to the upper leg which can cause internal bleeding,<sup>28</sup> a fractured elbow,<sup>29</sup> head trauma,<sup>30</sup> an open break,<sup>31</sup> a severed finger or toe,<sup>32</sup> is to be considered danger to life.

Furthermore, the Talmud makes it clear that for any injury / infection that may cause a challenge to sight, one is mandated to violate the Shabbat.<sup>33</sup>

**2. Carrying is permitted for individuals who need medical attention without which the person's functionality would be compromised. This carrying should preferably be done with a *shinui*.**

The *Shulchan Aruch* rules:

27. This is inferred in the responsa of R. Yair Bachrach (*Chavot Yair* 183) who states that a wound to the outside of the ear is not considered *sakanat eiver* since there is no sensory loss, implying that if the hearing was affected it would be considered *sakanat eiver*; R. Asher Weiss, "Te'ferat Petza b'Shabbat," *Ateret Shlomo* 10 (2004-2005): 149-153 (Hebrew) who states that any organ whose function will be compromised is in the category of *sakanat eiver*; *Halachos of Refuah on Shabbos* (p. 117)

28. *Halachos of Refuah on Shabbos* (p. 115) see also footnote 116 on p. 104.

29. *Ibid* (pp. 115,157).

30. *Ibid* (pp. 221-22).

31. *Ibid* (p. 115, 157).

32. *Ibid* (p. 115) see also footnote 13.

33. *Avodah Zarah* 28b; *Shulchan Aruch, Orach Chaim* 328:3; *Shulchan Shlomo* 328:38.



[The accepted opinion] ... if there is no danger [of loss of] limb [but one's functionality is limited and is bed ridden] one may violate prohibitions with a *shinui* [acting in a manner which is irregular] and if there is a concern of danger [of loss of] limb one can/may violate prohibitions without the need for *shinui* (*Orach Chaim* 328:17).

The classification of prohibitions permitted in the above ruling is subject to an argument between various halachic authorities. Some suggest that the prohibitions permitted in the above context are limited to rabbinic violations only. When there is no danger of loss of limb, what is permitted is a *shvut de-shvut*<sup>34</sup> and when there is danger of loss of limb, a rabbinic prohibition may be violated without the need of a *shinui*.<sup>35</sup>

Others<sup>36</sup> suggest that in this case the *Shulchan Aruch* permits the violation of even biblical prohibitions. When there is no danger of loss of limb, an act normally constituting a biblical prohibition would be permitted with a *shinui*, thereby reducing the infraction to a rabbinic violation only. When there is danger of loss of limb, a biblical prohibition may be violated even without the need of a *shinui*. Whenever possible, these protocols will follow the more stringent interpretation in

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34. *Shvut de-shvut* describes an act prohibited on Shabbat where there are two independent reasons to consider the violation rabbinic in nature. For example, the biblical prohibition of carrying an object applies when the creative act of carrying is done because one wants the object in a new location. However, if the interest is not for the object to be in the new location but rather for it to leave the original location, then the act of carrying is only prohibited rabbinically, and is labeled a *shvut*. When that object is also carried in an unusual manner, then there is a second independent reason to reduce the act to a rabbinic prohibition and it is considered a *shvut de-shvut*.

35. Magen Avraham, *Shulchan Aruch*, *Orach Chaim* 328:12; *Mishnah Berurah*, *Orach Chaim* 328:54.

36. *Shulchan Aruch ha-Rav*, *Orach Chaim* 328:19; *Eglei Tal Melech Tochein*, *siman* 18; *Kalkelet Shabbat* (*Amirah la-Ovdei Nakhrim*, *siman* 6:1), found in *Shishah Sidre Mishnah – Im Shiv'im Ve-achat Peirushim* (Jerusalem, 1972-1973) p. 21.

the *Shulchan Aruch*; when they do not, it will be so indicated.

In the above situation when a person needs medical attention without which his/her functionality would be compromised, rabbinic prohibitions, including carrying in a *karmelit*, should be modified by carrying with a *shinui* (irregular fashion).<sup>37</sup> The definition of a *shinui*, for example, in the case of carrying medicine to the ill, would include carrying the medicine in a shoe, or placed between the belt and the pants/shirt, in one's waistband, or under one's hat. If the carrying with a *shinui* precludes one's ability to help the ill, carrying may be done in a straightforward fashion.<sup>38</sup>

Limitation of functionality includes any ailment that makes a person bedridden (even with a severe headache), or in which he/she feels weak and sluggish.<sup>39</sup> That person is in the halachic category of *choleh sh'ein bo sakanah* (one who is ill, bed ridden, without danger to life or limb). In severe weather situations, this situation is further complicated. Allowing a person to remain "marginally ill" is easily rectified when medical attention is accessible after Shabbat. However, in the aftermath of a storm, medical attention is often triaged to deal with emergencies, private physicians may be unavailable, and medicine is often difficult to find.<sup>40</sup> Therefore, allowing a

37. *Shabbat* 92a, *Shulchan Aruch*, *Orach Chaim* 328:12; *Mishnah Berurah*, *Orach Chaim* 328:47, 57; *Shemirat Shabbat ke-Hilchatah* 18:51.

38. *Chayei Adam* 69:12, quoted in the *Mishnah Berurah*, *Orach Chaim* 328:102.

39. *Halachos of Refuah on Shabbos* (pp. 39 -42) see also footnote 5.

40. During Hurricane Katrina, patient care became exceedingly difficult as hospitals lost power to operate equipment such as lab and x-ray equipment, dialysis machines, and elevators; family members fanned patients for hours in sweltering hospital rooms; emergency surgery was done by flashlight with little or no anesthesia; there was no running water or working bathrooms (workers were using buckets or plastic bags as toilets). There were reports of critically ill patients carried up and down dark stairwells; there were jerry-rigged ventilators; it was impossible to check lab values or use electronic devices for IV meds; emergency departments were forced to move to the second floor to escape floodwaters, people sleeping on the roof to escape heat and stench, bodies were stacked in stairwells because

person to remain untreated/unmedicated over Shabbat could have even more severe repercussions than just limiting functionality on Shabbat.<sup>41</sup>

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morgues were full and there were no telephones or electronic communication. Post Katrina, 8 out of the 16 hospitals in New Orleans were closed, some permanently, and 2000 of the 3500 practicing physicians were displaced. See H. Rodriguez and B.E. Aguirre (2006), "The Impact of Hurricane Katrina on the Medical and Healthcare Infrastructure: A Focus on Disaster Preparedness, Response, and Resiliency." Retrieved Nov 1, 2011, from Disaster Research Center, University of Delaware: <http://dspace.udel.edu:8080/dspace/bitstream/handle/19716/2380/Australia%20PP%20-%20Havid%C3%A1n%20SPACE%20READY.pdf?sequence=1>.

During the 2004 hurricane season (June 1-November 30), in Florida alone over 74 hospitals were damaged, 8 hospitals closed, most lost cell and regular phone service, 41 hospitals lost electrical power, 9 hospitals lost water supply, 11 hospitals lost crucial support functions, 28 hospitals lost ancillary services, 13 hospitals and 624 patients were evacuated, 59 hospitals canceled 2,842 surgeries and closed outpatient services for a total of 985 days. See K. Streit, A. Castello and R. Rasmussen. (n.d.), "Eye of the Storm: Impact of the 2004 Hurricane Season on Florida Hospitals." Retrieved October 16, 2011, from Florida Hospital Association: <http://www.fha.org/hurricanesurveyweb.pdf> ).

On August 20, 2011, Hurricane Irene formed. During the weekend of August 26, some New York City hospitals were evacuated (Coney Island Hospital in Brooklyn, Veterans Administration Hospital in Manhattan, NYU's Langone Medical Center in Manhattan, and Staten Island University Hospital) and were slowly reopened on Monday, August 29th. More than a dozen nursing and adult care facilities were also evacuated and the North Shore-LIJ hospitals operated on emergency power for a while. See B. Nafziger, (2011, August 29), Dotmed News. Retrieved November 1, 2011, from After Hurricane Irene, NY hospitals begin to re-open: <http://www.dotmed.com/news/story/16777>).

In all of the above situations accessibility to drugs and doctors were challenging during and, for varying durations, after the storm.

41. *Nishmat Avraham*, vol. 1, 328:3; *Halachos of Refuah on Shabbos* (p. 43 footnote 6). See also Rabbi Shlomo Zalman Auerbach, *Shulchan Shlomo* 328, footnote 76.

A child up to eight years old,<sup>42</sup> an infirm senior,<sup>43</sup> or someone with psychological challenges<sup>44</sup> are all considered to be a *choleh sh'ein bo sakanah* (ill, but not in a life-threatening situation). If the parent or caregiver feels that moving locations is in the best interest of the health of the baby, child, one with psychological trauma, or an infirm senior, and the environment of the current location cannot be remedied, (this can be due to the fact that one's home has been damaged or is without electricity and therefore going to another home which may have power or just additional people present would have a calming effect) then carrying in a *karmelit* would be permitted.

In this situation, carrying a child or an adult who can normally walk would be permitted without any *shinui*.<sup>45</sup>

42. The idea that a child is considered a *choleh she'in bo sakanah* is found in the Rema, *Shulchan Aruch, Orach Chaim* 276:1; *Shemirat Shabbat ke-Hilchatah* 37:2; *Halachos of Refuah on Shabbos* (p. 46, n. 11). The age of a child with which we are concerned is a matter of discussion between the *poskim*. Rabbi Avrohom Yeshaya Karelitz seems to describe a child no older than three years (*Chazon Ish, Orach Chaim* 59:3), Rabbi Shlomo Zalman Auerbach follows the Chazon Ish (*Nishmat Avraham*, vol. 1, 328:54), Rabbi Waldenberg states that this applies until six years of age (*Tzitz Eliezer*, 8:15.12), Rabbi Yitzchak Yaakov Weiss states until nine years old (*Minchat Yitzchak* I:78).

43. *Aruch ha-Shulchan, Orach Chaim*, 328:19; I am grateful to Rabbi Tzvi Sobolofsky for sharing this source with me.

44. Those with emotional distress due to the severe weather event would be considered *choleh she'in bo sakanah*. This is evident from the responsa of *Minchat Yitzchak* 6:105.2 and Rabbi Moshe Sternbuch (*Teshuvot v'Hanhagot* 4:82, *s.v. v'ammam*). For further elaboration of the halachic response to individuals with mental challenges and the need to be concerned about their mental health in situations where the current situation might lead to additional instability, see *Encyclopedia Hilchatit Refu'it* (vol. 6, pp. 426 – 431). That we violate rabbinic prohibitions for a *choleh she'in bo sakanah* to deal with issues of psychological trauma is found in *Biur Halacha* 328, *s.v. Kol S'regelim*.

45. Since the child/senior is normally capable of walking on his/ her own, the act of carrying is considered rabbinic, and since the rabbinic carrying is being done in a *karmelit* in which carrying is prohibited only rabbinically, it is considered a *sh'vut de-sh'vut* which we have already indicated is permitted for *choleh she'in bo sakanah*. See also *Shemirat Shabbat ke-Hilchatah* 18:51.

However a child or senior who does not have the normal capacity to walk would need to be carried or wheeled in a stroller/wheelchair with a *shinui*. Alternatively, the action can be reduced to only a rabbinic concern, making it permissible in our unique situation, when the act of carrying is performed by two people (when only one is necessary),<sup>46</sup> or when two people simultaneously carry or wheel the individual in need. The permission to carry also includes carrying food, when possible with a *shinui*, for the above group of people when one feels that it may be necessary.

As mentioned earlier, the need to employ a *shinui* is not required when the *shinui* will impede one's ability to help the ill individual. Furthermore, in a situation where the goal is to leave the damaged home, carrying the person may also be done without any need for *shinui*. Any objects accompanying the person, when possible, should be carried with a *shinui*.<sup>47</sup>

In addition, it is permissible to carry one who needs medical attention regardless of his or her classification as a *choleh sh'ein bo sakanah* (ill, but not in a life-threatening situation). This is unique in a situation like ours in which leaving the person unattended may lead to life/limb threatening after Shabbat as medical resources are being triaged.<sup>48</sup>

46. *Shabbat* 3a.

47. Normally the prohibition of carrying from one domain to another is predicated upon the desire to move the object from its place of origin to its destination with a specific benefit of having the object in this new location. In our situation, the interest is not specifically to be in the new location but rather to leave the present one. Therefore, this carrying is *melacha she-enah tzrichah le-gufah* which is permitted in a case of a *choleh she'in bo sakanah* (*Shabbat* 30a; *Meiri* ad. loc.) This additional allowance creates a permissibility to carry even without a *shinui*. See also *Sefer Shulchan Shlomo, Orach Chaim* 328:25, and *Ha-Elef Lecha Shlomo, Orach Chaim* 146, where he permits a parent, wanting to attend synagogue to recite kaddish, to carry his child in a *karmelit*.

48. This idea of suspending rabbinic enactments even for a potential *choleh she'in bo sakanah* is suggested in a number of sources including: *Nishmat Avraham*, vol. 1, 328:3; *Shemirat Shabbat ke-Hilchatah*, chap. 32, n. 13; *Be-ikvei ha-Tzon* #10; *Halachos of Refuah on Shabbos*, p. 43.

### 3. Summary: it is permitted to:

a. Carry an ill person who is a *choleh sh'ein bo sakanah* to a treatment location.

b. Use a Gentile to help in any circumstance of *choleh sh'ein bo sakanah*.<sup>49</sup>

c. As stated in the *Shulchan Aruch* above, a Jew may help a *choleh sh'ein bo sakanah* with any rabbinic (or perhaps biblical) prohibitions with the use of a *shinui*.

d. When there is danger of loss of limb, it is often considered *pikuach nefesh*. In certain circumstances there is uniformity and in other circumstances there are different perspectives. Even those that are stricter maintain that rabbinic prohibitions may be violated without the need of *shinui*.

e. Carry a person not in the category of a *choleh sh'ein bo sakanah*, if leaving the person in the current location would lead to danger of life or limb.

f. Carry a baby, infirm senior, a person with psychological challenges, or a child/adult traumatized by the event to another location to enable that person to function without compromise.

### Use of Candles, Flashlights, and Glow Sticks:

In severe storms, especially in regions of the country where electrical lines are above ground, power outages are very common. Therefore, prior to Shabbat, one should hang or place lit flashlights (with fresh batteries), open glow sticks and freeze them (freezing suspends their expiration), or kindle *yahrzheit* or hurricane candles safely in key locations.

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49. *Shabbat* 129a; *Shulchan Aruch, Orach Chaim* 328:17; *Shulchan Aruch, Orach Chaim* 276:1.

## Lighting candles/ flashlights on Shabbat

If the light or flashlight went out on Shabbat or if the individual did not prepare light prior to Shabbat and now requires light, what may be done?

### Light to care for a child, for one in trauma, or for the infirm:

When light is necessary to care for a child, one in trauma, or the infirm, and no other light is available, a Gentile may kindle the light or change the batteries. As we have already explained, this is permitted based on the fact that they are considered within the category of *choleh sh'ein bo sakanah*. Therefore the rabbinic prohibition of telling a Gentile to do a biblical prohibition is suspended (*Shulchan Aruch, Orach Chaim 276:1*). Furthermore, in case of trauma, or to preclude a member of the family from becoming a *choleh sh'ein bo sakanah*, it would be permitted to ask a Gentile to refresh the batteries in a flashlight. If no Gentile is available, following the approach mentioned above that even biblical prohibitions may be performed for a *choleh sh'ein bo sakanah*, a Jew may do so with a *shinui*.<sup>50</sup>

### Light to enable one to eat:

Rabbi Binyamin Zilber explains (*Az Nidbaru 5:54*) that it is also permitted for a Gentile to kindle the light, change the batteries even for a healthy adult to eat a Shabbat meal or to pray, provided that this action is done by a Gentile in an irregular fashion (*kil'achar yad*).<sup>51</sup> An example of this is a right-

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50. The interpretation of *Shulchan Aruch Orach Chaim 328:17* by R. Shneur Zalman of Liadi, *Shulchan Aruch ha-Rav, Orach Chaim 328:19* and, *Eglei Tal Melech Tochein siman 18*. See also *Shemirat Shabbat ke-Hilchatah*, chap. 33, n. 17\*; *Shevet ha-Levi 8:93; Halachos of Refuah on Shabbos*, p. 50, n. 28.

51. It would seem that in a similar circumstance the Rema might permit this activity without the need for a *kil'achar yad*. See *Shulchan Aruch, Orach Chaim 276:2*.

handed Gentile kindling the candle or changing the batteries with his or her left hand. This, according to Rabbi Zilber, would make the action a *shvut de-shvut* and therefore permitted for activities deemed to be a mitzvah.

When the absence of light isn't just an issue of comfort or inconvenience but has a chance of potentially creating a life-threatening situation (i.e. there is some storm damage in the home), and there is no available Gentile, one may change the batteries or rekindle the candles without hesitation.<sup>52</sup>

## Moving a Candle

Despite the permissibility of having pleasure from the light of a candle, the movement of a candle is forbidden and is considered *muktzah*.<sup>53</sup> However, this rabbinic prohibition is tempered if there is no other way to deal with the following situations: General medical concerns for an adult which, if left unattended, could cause harm that he/she would be considered a *choleh sh'ein bo sakanah* or to help with the comfort and welfare of the elderly; those who have life-threatening medical conditions; children under eight years old; and children above eight years old who are traumatized by the severe storm.<sup>54</sup> In these situations it would be permitted to move the candle. As the *Magen Avraham* states, in a case of *choleh sh'ein bo sakanah*, moving *muktzah* with one's hands is permitted.<sup>55</sup>

52. *Iggerot Moshe, Orach Chaim* 3:69; *Be-ikvei ha-Tzon* #10, end of n. 3

53. *Shabbat* 46b; for an explanation of why a candle is not permitted to be moved even *le-tzorech gufo* (which is the norm), see *Minchat Shlomo* 1:14.

54. All of these situations are at least considered to be a *choleh sh'ein bo sakanah* and the rabbinic prohibition of *muktzah* would be suspended to help them. See *Minchat Shlomo*, *ibid.*; *Shemirat Shabbat ke-Hilchatah*, 33:6; as well as sources mentioned previously in this essay.

55. *Magen Avraham, Orach Chaim* 328:15; *Kalkelet Shabbat (Muktzah, s.v. mutar le-taltel, summary note 3:4, p. 20)* found in *Shishah Sidre Mishnah – Im Shiv'im Ve-achat Peirushim* (Jerusalem, 1972-1973); *Halachos of Refuah on Shabbos*, p. 50, n. 29, 30.



## Moving a flashlight

A flashlight that is lit prior to Shabbat may be moved without any of the above concerns. Since it is made to be carried and its movements will not cause an adjustment in the light that radiates from it, there is no prohibition to carry it from one place to another in the home.<sup>56</sup>

## The Use of a Glow Stick

Glow sticks can last for 6 to 12 hours depending on the temperature (the cooler the temperature, the longer they last), and the size of the stick. Glow sticks generate light due to a chemical reaction. Each glow stick contains within it a small thin-walled glass ampoule containing a solution of hydrogen peroxide. An additional chemical is found in the glow stick, phenyl oxalate ester, surrounding the thin walled glass ampoule. The glow stick is activated when one bends it and hears a little snap. The snap is the glass ampoule breaking. The chemicals inside the ampoule are then released and mixed with the chemicals that once surrounded the ampoule. A chemical reaction occurs and energy is released as visible light.<sup>57</sup> Once the reaction is complete, the system stops emitting light. This chemical reaction does not generate heat because the released energy takes the form of light (electromagnetic radiation) instead of heat (which is actually more typical of an energy-releasing chemical reaction).<sup>58</sup>

Rabbi Israel Rosen and Rabbi Dr. Nachum Rabinovitch address the issues surrounding cracking glow sticks on

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56. *Minchat Shlomo*, *ibid.*

57. The chemical reaction brings the system from a higher to a lower energy state (or from an energized intermediate to a lower energy state) and energy (equivalent to the difference in energy between the two states) is released as visible light.

58. I thank Dr. Chaya Rapp, Associate Professor of Chemistry at Stern College for Women, for her scientific guidance on this issue.

Shabbat or Yom Tov.<sup>59</sup> Both explore the potential prohibitions for such an act and both come to the conclusion that there are no biblical prohibitions. Rabbi Rabinovitch is hard-pressed to suggest any rabbinic prohibitions as well and Rabbi Rosen suggests two possibilities of rabbinic prohibitions.

One suggestion to avoid these prohibitions is to open glow sticks prior to Shabbat and then freeze them, allowing the chemical process to begin prior to Shabbat, avoiding any halachic issues. The cooling of the glow sticks decelerates the chemical reaction, slowing down the glow stick from ceasing to emit light. However, this idea may have limited use, for many may not want to open the freezer to remove the suspended glow sticks, for fear of compromising food stuff in the freezer when there is no electricity.

In our situation, where a state of pitch black darkness can create risks, and there are no prepared glow sticks, it would certainly be permitted to ask a Gentile to crack the glow stick. When that option is not available, a Jew would be permitted to do so to insure that no trauma nor any other physical danger adversely affect any individual.

### Television or Radio

Often people are advised to make use of a television or radio to keep informed of critical safety/ weather information. When this occurs on Shabbat, there are several issues which need to be considered:

1. Turning the television/ radio on and off.
2. Deriving pleasure from prohibited acts, namely the radio/ television programs produced on Shabbat and/ or Yom Tov.
3. Rabbinic prohibition of *hashma'at kol*, prohibiting a

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59. *Techumin* 13 (1991-1992), pp. 135-145.

device that makes noise to remain on for Shabbat/Yom Tov, even if it began to function prior to Shabbat/Yom Tov.

4. Rabbinic prohibition of *shema yetaken keli shir*, prohibiting the use of any device that produces music out of concern that if it breaks on Shabbat/Yom Tov, one may be tempted to repair it and violate a biblical prohibition.
5. Switching channels/radio stations and manipulating the volume.
6. *Muktzah*, or moving a battery-operated radio/television from one location to another within the home.

### 1. Turning the television/ radio of and off:

The question of turning the television and/or radio on or off revolves around the fact that doing so transgresses a prohibition. While there is an argument regarding the nature of the prohibition, what it is and whether it is rabbinic or biblical,<sup>60</sup> the way to obviate this dilemma is simply to turn it on prior to Shabbat. Rabbi Mordechai Yaakov Breisch suggests that turning on a radio prior to Shabbat to help in the treatment of a *choleh sh'ein bo sakanah* is permitted.<sup>61</sup> In our situation, knowing the weather and safety alerts in a timely

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60. See *Chazon Ish, Orach Chaim* 50, s.v. *u-bpitchat* that the prohibition is *binyan*, creating a circuit. *Tzitz Eliezer* 1:20, chap six; 8:21, classifies the prohibition as the creation of fire, *mavir*, which occurs within the wiring, due to the electrical current passing within it (this biblical prohibition should not apply if the device is battery operated). Rabbi Isser Zalman Meltzer (in a letter of introduction in the *Chelkat Ya'akov*) comments, in the name of Rabbi Chaim Ozer Grodzinsky, that turning on an electrical appliance on Shabbat is biblically prohibited. *Minchat Shlomo*, 12, states that the prohibition of electricity is rabbinic in nature. This is also the same position taken by *Minchat Yitzchak* 3:33 and Rabbi Hershel Schachter (*Mesorah*, vol.20, 2004, p. 61).

61. *Chelkat Ya'akov, Orach Chaim*, 1:63.

fashion during severe meteorological events is the best way to avoid becoming a *choleh she-yesh bo sakanah* or critically ill. Therefore, R. Breisch's ruling may be followed. Rabbi Waldenberg also suggests that in a time of significant need, it is permitted to listen to a television/radio on Shabbat/Yom Tov. Rabbi Waldenberg further suggests that a sign placed on the television/radio should be affixed to the device reminding members of the household that it is Shabbat/Yom Tov and the device should not be turned off.<sup>62</sup>

## **2. Deriving pleasure from prohibited acts, namely the radio/television programs produced on Shabbat and/ or Yom Tov:**

The Talmud (*Shabbat* 38a) prohibits a Jew from receiving pleasure from actions performed by another Jew in desecration of Shabbat/Yom Tov. It also prohibits (*Shabbat* 122a) receiving any pleasure from activities of a Gentile, forbidden to a Jew on Shabbat, when the act is being performed solely for the Jew's benefit. These talmudic prohibitions are codified both in the *Mishneh Torah*<sup>63</sup> and *Shulchan Aruch*.<sup>64</sup>

This concern is really an issue only in the State of Israel for it is only there that the listening audience is predominantly Jewish. Therefore, the listener is prohibited from receiving pleasure even when the technician is a Gentile. Furthermore, since the majority of the population is Jewish, it stands to reason that the technician may be a Jew violating the Shabbat. In such a case, any Jew watching such a program violates the prohibition of receiving pleasure on Shabbat/Yom Tov, from a Jew who, through the program's production, violated the Shabbat.<sup>65</sup>

62. *Tzitz Eliezer*, 3: 16, 12.

63. *Hilchot Shabbat* 3:9, chap 6.

64. *Orach Chaim*, 276:1, 318:1.

65. *Tzitz Eliezer* 3: 16, 12; *Har Tzvi* 1:183; *Yabia Omer*, 6:34; *Aseih Lecha Rav* 1:35; *Chazon Ish*, *Menuchah Nechonah*, 36.

However, outside of Israel where the potential listening population is a Gentile majority, we follow the presumption of the majority, allowing us to assume that the technician is not Jewish, nor is the program being developed for a Jewish population.<sup>66</sup> Since the program is being produced for the safety of the entire population which is being threatened by severe weather, the above prohibitions are negated.<sup>67</sup>

### 3. Rabbinic prohibition of *hashma'at kol*:

The Talmud (*Shabbat* 18a) quoting the Mishnah states the following:

Water may be conducted into a garden on the eve of the Shabbat just before dark, and it may go on being filled the whole day of Shabbat; a perfume brazier may be placed under garments which continue to absorb the perfume the whole day of Shabbat; and sulphur may be placed under [silver] vessels and they undergo the process of sulphuring the whole Shabbat...But wheat may not be placed in a water-mill unless it can be ground when it is still day [Friday]. What is the reason? Rabbah answered, "Because it makes a noise".

While the actions of all the scenarios mentioned in the Mishnah began prior to Shabbat and are therefore permissible, the mill in particular creates noise. This will advertise the fact that creative labor, albeit technically permissible, is "happening" on Shabbat and destroys the spirit of the day. Therefore, even permissible creative actions which create constant noise are forbidden on Shabbat because of the above rabbinic enactment.

In the *Shulchan Aruch's* codification of this law (*Orach Chaim* 252:5), there is a recognition that this rabbinic enactment is not

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66. *Shabbat* 122a.

67. *Aseih Lecha Rav*, ad. loc.

accepted by all. Both the Rambam and Rabbi Yosef Karo<sup>68</sup> reject it and permit the mill to function on Shabbat provided the process began prior to its onset. Even the Rema, who forbids the functioning of the mill, limits the rabbinic enactment to situations where there is no chance of great loss.<sup>69</sup> In our situation, in which such storms can create great loss and even important safety concerns, *pikuach nefesh* applies, and the issue of *hashma'at kol* should be of no concern. Furthermore, Rabbi Shlomo Zalman Auerbach points out (*Minchat Shlomo* 1:9) that the entire prohibition of *hashma'at kol* applies only when the device is outside, creating a noisy public display compromising the spirit of the Shabbat. In our case, when the radio/ television is placed in a side room, this concern is not relevant.

**4. Rabbinic prohibition of *shemah yetaken keli shir*, prohibiting the use of any device that produces music out of concern that if it breaks on Shabbat/Yom Tov one may be tempted to repair it and violate a biblical prohibition:**

The Talmud (*Beiza dh 37b*) states the following:

**Mishnah...** One may not climb a tree,... nor clap the hands, nor dance...**Talmud...**Nor clap the hands, nor slap the thighs, nor dance; it is a preventive measure lest he might repair musical instruments.

This prohibition is suggested by some *poskim* to forbid the use of the radio or television on Shabbat or Yom Tov.<sup>70</sup> This is due to the fact that these are instruments through which music is heard, and the concern is that if the radio or television

68. *Mishneh Torah, Hilchot Shabbat* 3:1, 2; *Shulchan Aruch*, ad. loc.

69. Rema, *Shulchan Aruch*, ad. loc.; *Magen Avraham, Orach Chaim* 252:20; *Pri Megadim, Aishel Avraham* 252:21, states that even Rabbi Moshe Isserles permits it *me'dina* (based on a pure halachic analysis), yet he encourages one to be stricter due to the fact that so many of the late rabbinic codifiers had a more stringent view of this issue.

70. *Tzitz Eliezer*, ad.loc.; *Aseih Lecha Rav*, ad.loc.

would break, one might fix it on Shabbat or Yom Tov, thereby violating the biblical prohibition of *makeh be-patish*. Below are some of the reasons that this concern is obviated in our case:

a. The *Magen Avraham* (*Orach Chaim* 338:1) limits the prohibition of *shemah yi-takein keli shir* only to a situation in which music is being heard. In our case, the intention is just to listen to the news and emergency announcements, and therefore this rabbinic enactment would not apply. The *Magen Avraham* gives examples of the same instrument used for two different purposes, one for music and the other as a wake-up device, and states that due to the different nature of the use, the applicability of the rabbinic enactment is to be viewed differently.<sup>71</sup>

b. The Rema (*Orach Chaim* 339:3) indicates that since common people are not able to fix musical devices (and surely not televisions or radios), the prohibition no longer applies.<sup>72</sup>

c. Even if one would disagree with the Rema and suggest that the rabbinic enactment is relevant, built into this legislation is a suspension clause to care for the needs of a *choleh sh'ein bo sakanah*.<sup>73</sup> In our situation, the rabbinic enactment conflicts with the need to be informed to secure the safety and security of oneself and one's family and protect one's household from a potential life-threatening situation. Avoiding being placed in a circumstance in which one would be considered a *choleh sh'ein bo sakanah*,<sup>74</sup> or worse, being placed in grave danger, allows one the same halachic consideration as if one were

71. See also *Machzit haShekel*, 338:1.

72. *Iggerot Moshe*, *Orach Chaim* 4:84, 4, seems to acknowledge this approach when discussing the prohibition of using a microphone on Shabbat. He suggests that *shemah yetaken keli shir* is applicable since its adjustment and volume correction can be done by anyone.

73. *Eruvin* 104a; *Magen Avraham*, *Orach Chaim* 338:1.

74. See above n. 52.

already a *choleh sh'ein bo sakanah* or in grave danger.<sup>75</sup> Therefore this enactment would be suspended.

### 5. Switching channels/ radio stations and manipulating volume:

The issue of switching channels or manipulating volume is discussed by Rabbi Shlomo Zalman Auerbach (*Minchat Shlomo* 1:9), who indicates that raising/lowering the volume on a radio or changing the station is not a prohibited act. He bases this on the fact that the manipulation of electrical flow is not the same as creating a flow anew and is therefore not forbidden. This would permit one to change the volume/channel on a radio or television –but only in which there are no LED displays. If LED displays would be affected by adjusting the volume/channel, it may preclude the changing of the channel/volume on such devices.<sup>76</sup> However, a simple radio or older television which does not have such displays would not be problematic.

A representative of Duracell and Energizer<sup>77</sup> indicated that keeping the volume low on the device is a variable in the drain rate of the battery. Therefore, the radio's volume will affect the amount of hours a battery operated radio will play uninterrupted.<sup>78</sup> Keeping the radio low should be encouraged

75. *Mishnah Berurah, Orach Chaim* 328:17.

76. Elaborated upon by Rabbi Zev Lev, *Ma'archei Lev* (Jerusalem, 1995), Chapter 4; *Encyclopedia Talmudit*, Vol. 18, pp. 715-716.

77. I thank Ms. Orli Haken, The David Mitzner Presidential Fellow for Yeshiva University Center for the Jewish Future, who was in touch with both Energizer and Duracell to research these facts and helped in various ways to ensure the completion of this essay.

78. The fact that raising the volume to hear the news increases the drain rate on the battery is not of halachic consequence. One might suggest that it be considered *g'ram kilkul* (indirectly causing a destructive act of draining the battery which is not manifested until the battery ceases to function). *G'ram kilkul* is another example of two independent concurrent reasons to consider the action rabbinic in nature. As we have explained earlier this is classified as a *shvut de-shvut*. In the case where a battery-operated radio



until there is a need to listen to the news. This will avoid the need to have the batteries switched in the middle of Shabbat which poses a halachic challenge. If for some reason the batteries die, then the protocols mentioned above for changing the batteries in the flashlight should be followed.

**6. *Muktzah*, moving a battery operated radio/television from one location to another within the home:**

It is preferable that the radio/ television be placed in a side room and only be listened to when necessary for the safety and security of one's home and family. If for some reason the radio needs to be moved, it may be done only by moving the device without the need to shut it off (i.e. a battery-operated radio/television). While a radio/television is normally considered *muktzah*, in a situation in which listening to the radio is permitted, moving it would not be prohibited.<sup>79</sup>

## Conclusion

As the guarantors of Torah, we are compelled to examine every phenomenon that occurs in our lives through its prism. Through such activity, we guarantee the eternality of the Jewish people's covenantal relationship with God. The topics discussed here reflect that reality and, at the same time, demonstrate an example of halacha's sensitivity to challenges that often occur in our communal and personal lives. Let us hope that the above protocols are limited to a theoretical conversation and our communities will not be exposed to these or other challenges.

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needs to be used because the extreme nature of the weather has/or will cause a power outage and awareness of the news has been requested by authorities so that one can determine if additional protective precautions are necessary; all those in that geographical area would be considered in the category of being in potential danger. Therefore, a *shvut de-shvut* would be permitted.

<sup>79</sup> Magen Avraham, Orach Chaim 309:1; R. Aryeh Fromer, *Shei'elot u-Teshuvot Eretz Tzvi* #64.