

# The Use of Elevators and Escalators On Shabbat and Yom Tov

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## I. Introduction

This article will discuss the halachic issues involved in using elevators on Shabbat and Yom Tov and is divided into two parts. The first section reviews the general halachic principles related to using elevators. The next section will focus on five different practical cases. The first of these involves using an automatic elevator set to stop on preselected floors;<sup>1</sup> the second discusses using an elevator to go to whichever floor the elevator is summoned to (by the person who calls the elevator); the third is whether a Gentile may be instructed to summon and direct the elevator; the fourth discusses escalators; and finally, the fifth section explains the special "Shabbat elevators" one occasionally

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1. In America this is commonly called a "Shabbat elevator."

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encounters in Israel.

An understanding of how elevators work is helpful to grasp the halachic issues involved. Elevators operate like complex pulleys, with an elevator cab on one end and a counter-weight on the other. The motor, functioning like a pulley wheel, determines whether the elevator goes up or down by whether the motor turns clockwise or counter-clockwise. In many elevators, the counter-weight is equal to the weight of the empty elevator cab, so that when a person enters the elevator cab and wishes to ascend, the motor has to produce enough force to lift that person. Descending needs no assistance from the motor.<sup>2</sup> In many other elevators the counter-weight is equal to the weight of the cab plus 40% of its rated cab weight (its maximum number of passengers). In such an elevator, when a single person enters an empty elevator and wishes to ascend, no assistance from the motor is needed. Assistance is needed, however, to descend in such circumstances.<sup>3</sup>

## II. Elevators: The Basic Halachic Issues

Four seminal *teshuvot* (responsa) were published in the early 1960's on the use of elevators, each of which addressed

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2. And indeed the motor might be needed to function as a brake, as discussed *infra* at note 7.

3. For more information on elevators, see *Encyclopedia Britannica*, "Elevator" 4:443-445 (15th ed., 1991) and a slightly different (and more complete) article in *Encyclopedia Britannica*, "Elevator" (14th ed., 1971).

There was a time when most elevators were hydraulically powered. They no longer are, and except for flight decks on aircraft carriers and other very short hauls elevators (one or two stories) where very heavy loads are lifted, they no longer exist, and are not discussed in this article.

the issue from a different perspective. Two prominent rabbinic authorities ruled that one is forbidden to use all elevators on Shabbat, even automatic elevators. On the other hand, two significant decisors ruled that one is permitted to ride on an elevator on Shabbat so long as one does not push any buttons.<sup>4</sup>

Rabbi Yitzchak Weisz<sup>5</sup> and Rabbi Yaakov Breisch<sup>6</sup> both adopt the view that it is prohibited to ride even an automatic elevator on Shabbat. Rabbi Weisz argues that – even on a fully automatic elevator – an individual's additional weight in the elevator car causes the elevator motor to work harder and thus its motor to draw more current, and it is prohibited to use any such elevator.<sup>7</sup> Rabbi Breisch rules that one may

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4. Pushing buttons in an elevator is forbidden according to nearly all opinions because it involves completing electric circuits (see generally Broyde & Jachter "The Use of Electricity on Sabbath and Holidays According to Jewish Law", *J. Halacha & Contemporary Society* 21:4-47 (1991) at pp. 12-23). Rabbi Halperin notes (*Maalot B'Shabbat*, pp. 32-33) that all would agree that pushing the buttons in an elevator involves only a rabbinic prohibition since the completed circuit will be automatically broken shortly after it is completed (since the trips on an elevator are short, the circuits are completed and opened very frequently). A prohibited activity whose result will last only briefly is forbidden only rabbinically (see Broyde "Modern Technology and Sabbath Observance: Some Observations," *J. Halacha & Contemporary Society* 23:63-100 (1992) at pp. 91-92).

5. *Minchat Yitzchak* 3:60. This is agreed to by Rabbi Binyamin Zilber, *Brit Olam, Mechabe Umavir* #2.

6. *Chelkat Yaakov* 3:137.

7. This is true, in his opinion, whether the elevator is going up or down. Rabbi Weisz states that when the elevator is going up, the increase in weight certainly increases the current draw. It is unclear what rationale Rabbi Weisz accepts to prohibit descent in an elevator. However, it appears that Rabbi Weisz' analysis accepts the ruling of Rabbi Halperin that actions caused by one's weight is

not ride an elevator on Shabbat because it is a weekday type of activity which is not in keeping with the spirit of Shabbat (*uvdah dechol*). He cites as a precedent Rabbi Yitzchak Schmelkes' ruling<sup>8</sup> that the Talmud's<sup>9</sup> prohibiting one from being transported in a chair carried by others is because it is not in keeping with the spirit of Shabbat,<sup>10</sup> and this teaches that it is not keeping with the spirit of Shabbat to ride a subway or trolley on Shabbat. Rabbi Breisch argues "what is the difference between riding horizontally or vertically" – both are prohibited.<sup>11</sup>

Rabbi Yosef Henkin<sup>12</sup> and Rabbi Yehuda Unterman<sup>13</sup>

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considered an action (discussed in II:A), and thus would generally prohibit descending on elevators. Rabbi Weisz states "He, himself, by the very act of standing [in the elevator] causes an increase in current flow;" *Minchat Yitzchak*, 3:60.

In addition it appears that the factual correctness of Rabbi Weisz' assertion that there is increased electrical activity even when ascending depends on the type of elevator. As noted in the introduction, there are some elevators where the weight of the counter-weight is equal to the cab weight plus 40% of the rated passenger weight. In such an elevator, the presence of the person is causing the elevator to draw less -- rather than more -- current when it is ascending, as the presence of every passenger up to 40% of the rated elevator weight increases the balance between the weight and the counter-weight, thus decreasing the motor's load.

It is unclear whether Rabbi Weisz would rule differently on Yom Tov than he would on Shabbat.

8. *Beit Yitzchak* 2:30 in the index.

9. *Beitza* 25b.

10. See Rashi ad. locum. *s.v. ein hasuma yotzei*.

11. Rabbi Breisch is the only authority who draws an analogy between a train and an elevator. Apparently, all other decisors do not believe that riding in an elevator violates the spirit of Shabbat.

12. *Kol Kitvei Hagaon Harav Henkin* 2:59.

13. *Shevet Yehuda* xx; *Torah Shebal Pe* 5727 page 13 and *Encyclopedia*

permit riding in an automatic elevator on Shabbat since the elevator, and not the passenger, is doing work. These authorities must argue that the mere weight of a person does not constitute prohibited work from the perspective of halacha.<sup>14</sup> Rabbi Unterman adds<sup>15</sup> that "I have personally witnessed eminent Torah sages entering an elevator and traveling to the floor for which a Gentile passenger pushed the button, and they never raised the possibility of their added weight posing a halachic problem."<sup>16</sup>

### A. The View of Rabbi Halperin

Were the dispute between these two groups of authorities the only halachic issue involved in the use of elevators, it is fairly clear that the normative halacha would have allowed the use of elevators in accordance with the opinion of Rabbis Henkin and Unterman, as the mere increase in current is

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*Talmudit* 18:695-6.

14. This is explicit in Rabbi Unterman's writings and implied by Rabbi Henkin.

15. *Shevet Yehuda*, p. 315. This is agreed to by Rabbi Shlomo Zalman Auerbach; see *Shemirat Shabbat Kehilchata* 23:49.

16. Agreement to this rule can be implied from *Iggerot Moshe Orach Chaim* 2:80 that Rabbi Feinstein agreed with the ruling of Rabbi Henkin, and permitted the use of an elevator when the elevator was not operated by a Jew, and the *amira lenachri* problems have been overcome. This is also agreed to by Rabbi Ovadiah Hadaya, in *Yaskil Avdi Orach Chaim* 4:16.

Rabbi Unterman relates that he was present one Shabbat when Rabbi Israel Meir Kagan (the Chafetz Chaim) was discussing communal issues and he needed something brought to him. Rabbi Kagan asked one of the rabbis to bring him that item and the rabbi retrieved it by riding the elevator along with a Gentile passenger, and none of the rabbis who were present, Rabbi Kagan included, objected to his actions.

generally thought to be permissible on Shabbat and Yom Tov by a broad variety of halachic authorities.<sup>17</sup> This would be even more true in the case of an elevator, where the increase in current is caused indirectly,<sup>18</sup> and is an unintended side effect of a person's actions from which perhaps the person derives no benefit from.<sup>19</sup> However, Rabbi Levi Yitzchak Halperin, the director of the Department of Halacha of the Institute for Science and Halacha in Jerusalem, has argued that in fact the halachic issues relating to elevators are much more complex than realized by many

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17. See "The Use of Electricity", supra note 4, at 35, and *Yabia Omer* 1:19; *Shemirat Shabbat Kehilchata* 23:52. In addition, given the factual uncertainty concerning whether the counter-weight on the elevator is weighted at the cab weight or at the cab weight plus 40% of the rated passenger weight (see introduction), there is doubt as to whether added current really is drawn when one enters an elevator with passengers whose total weight is less than 40% of its rated weight. Indeed, in that circumstance, one causes less current to be drawn. Rabbi Halperin adds to this the fact that the increase in current in an ascending elevator is caused by a *grama*, (through indirect causation); *Ma'alot B'Shabbat*, pp. 72, 172-174.

18. *Sof chama lavo*; see text accompanying note 46 for an explanation.

19. As the increase in current effects only the speed of the elevator, which is of little concern to a person in the cab. This action is a *pesik resha delo necha lei* and since it involves what is apparently an indirect act, a *pesik resha delo necha lei begrama*. Since no light and heat is generated, there would only a rabbinic prohibition, even if done directly; see "Modern Technology and Sabbath Observance", supra note 4, for a review of why this type of conduct is permitted.

It is worth noting that a *pesik resha delo ichpat lai (o delo necha lai) beden derabanan* is permissible according to many Ashkenazi authorities and most Sefardi ones; see "Modern Technology and Sabbath Observance", pp. 79-80. Rabbi Mordechai Willig, Assistant Rosh Kollel Lehoraah at Yeshiva University, notes that it is proper to rule permissively in this case; see Rabbi Mordechai Willig, "Shabbat Laws related to Tractate *Beitza*", *Beit Yitzchak* 23:56,77. Other factors also incline one to rule this way.

authorities of the previous generation. His recent work,<sup>20</sup> entitled *Maaliot B'Shabbat* (Elevators on the Sabbath), concludes that it is always forbidden (according to all authorities) to ride on a descending elevator (unless special modifications have been made to the elevator) and that it is permitted to ride on an ascending elevator.<sup>21</sup>

In *Maaliot B'Shabbat*<sup>22</sup>, Rabbi Halperin explains why one is permitted to ride on an ascending elevator, despite the fact that the passenger's added weight will increase the current flow. Rabbi Halperin agrees that normative halacha does not forbid causing an increased current flow in an already live circuit and he points out that the possibility of the added weight causing increased fuel consumption at the power station is quite remote. Rabbi Shlomo Zalman Auerbach<sup>23</sup> agrees with this assertion of Rabbi Halperin.

Riding a descending elevator is an entirely different matter according to Rabbi Halperin. He asserts, as a matter of technical fact, that elevator motors utilize passenger weight to assist in the descent of the elevator car. More particularly, he advances two different arguments. First he states that the weight of the passenger on the elevator assists in the descent

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20. In the introduction to this work, Rabbi Halperin writes that he and his staff have dedicated more than sixteen years to the study of elevators and that they travelled on numerous occasions to the United States and Europe to meet with engineers from the major elevator manufacturing firms to learn first-hand precisely how elevators work.

21. Provided that the elevator is not equipped with electronic weighing devices, which will be discussed in part I:C.

22. Chapters six and thirteen.

23. *Minchat Shlomo*, p. 110 and *Shemirat Shabbat Kehilchata* 23:(n.137). For a summary of this issue see "The Use of Electricity on Sabbath and Yom Tov", pp. 33-35, especially footnote 81.

of the elevator – it is not the motor alone, but rather the motor and the weight of the person that cause the descent of the elevator cab. He writes "if the passenger is responsible for the descent, he is responsible also for illuminating the various lamps, connecting the door motor, the brakes, and numerous other electrical circuits" which are activated during the descent.<sup>24</sup> Thus descending would be rabbinically prohibited, as the person's weight is itself causing the various lamps, motors and brakes to function.

Rabbi Halperin then seeks to demonstrate that the elevator passenger is halachically responsible for the effects of his weight on the descent of the elevator – it is as if the passenger himself is directly lighting the lamps and operating the motor.<sup>25</sup> Among Rabbi Halperin's most significant proofs is a mishnah in *Kilayim* 8:3 which is quoted in *Baba Metzia* 8b. The mishnah states:

One who drives a team of mixed animals [*kilayim*] is punished with forty lashes [a Torah prohibition] and he who rides in the wagon [which causes the animals to plow] is also punished with forty lashes [a Torah prohibition]. Rabbi Meir excuses the individual who sat in the wagon from punishment.

Both Rambam<sup>26</sup> and *Shulchan Aruch*<sup>27</sup> rule that the one who sits in the wagon is responsible for causing the animals to move, in accordance with the Sages' ruling.

Rabbi Halperin understands the mishnah to be teaching that even if the one who is sitting is absolutely passive and

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24. *Maaliot B'Shabbat* at page 11 of the English section.

25. Chapters seven, ten, eleven, and twelve of *Maaliot B'Shabbat*.

26. *Hilchot Kilayim* 9:9.

27. *Yoreh Deah* 297:12.



it is merely his weight that causes the animals to move, the passenger is halachically responsible for the actions caused by his weight. Similarly, although the passenger in an elevator is entirely passive and it is merely his weight that causes the elevator to descend, the halacha holds the person responsible for the actions caused by his weight. Thus, Rabbi Halperin concludes that, although one may ride in an ascending elevator,<sup>28</sup> one is forbidden to ride in a descending elevator, unless special modifications are made to the elevator to prevent the generation of current or its disbursement.<sup>29</sup>

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28. Since one's weight only causes an increased current draw, which is permitted.

29. See chapter 16 of *Maaliot B'Shabbat*. Rabbi Halperin has created an institute which besides its halachic activity also manufactures such elevators and certifies those as proper for use on Shabbat; See Part II:5 and "What's Up in Israel? Elevators, Thanks to a Special Institute; Engineer-Theologians Solve Conflicts of Ancient [Jewish] Law and Modern Technology", *Wall Street Journal*, December 3, 1990, A1, which states:

Nothing has so captivated his theological concern as the problem of the elevator. It is a pressing question in Israel, where the suburbs of Tel Aviv and Jerusalem are filled with apartment blocks. "It is central to the problem of modern life," he says. Today, after 17 years of research, Rabbi Halperin is probably the world's leading authority on how to make elevator use on the Sabbath permissible under halacha.

He has written a 200-page book on this, complete with diagrams. He has journeyed twice to New York to consult with secular experts at Otis Elevator. "The first time, I went there to learn," he says. "The second time, I felt I was teaching."

Rabbi Halperin also presents a second reason. He states:

When the car is descending with a heavy passenger load it may speed up to a point where the counter-force developed in the motor is greater than the force of the electric power station. When this condition occurs, the motor, rather than aiding the descent, is used to brake the car thus preventing dangerous over-speed. When the speed of a motor increases to a value about that for which it is designed, it automatically becomes a generator. Instead of

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Automation solved the obvious problem of pushing the button: Elevators simply stop at every floor on the Sabbath. So going up is no problem; people just step in and step out, without doing anything or making any demands on energy. But there is still a problem with going down. Millions of elevator riders aren't aware of this, but Rabbi Halperin learned that if the elevator and its passengers weigh more than the elevator's counterweight, an automatic restraining system slows it, preventing it from plummeting to the ground.

But in most elevators, this action creates energy. In most efficient buildings, that energy usually is channeled through electrical wires to power other functions in the building. Thus, he concluded, by stepping into a down elevator on the Sabbath, an Orthodox Jew is directly contributing to the creation of energy that may be turning on lights or operating machines -- all things forbidden by halacha.

What to do? The institute's engineers designed a system that automatically prevents this new energy from being used elsewhere on the Sabbath. Such elevators now are widely used.

consuming electrical energy it generates power which is fed into the electric company lines to be used by consumers in the immediate vicinity"<sup>30</sup>

## B. Criticism of Rabbi Halperin's View

Numerous decisors have disagreed with the basic assertion of Rabbi Halperin's work that a person is responsible for the actions caused by his or her mere weight.<sup>31</sup> There are five basic arguments to permit riding on a descending elevator even though the passenger's weight plays a significant role in the elevator's descent. First, Rabbi Auerbach suggests that:

Since the passengers did not cause any change in the pace of the elevator,<sup>32</sup> either quicker or slower, for even without the passengers everything would have occurred precisely

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30. *Maaliot B'Shabbat* p. 19 of the English section. This argument is replied to in text accompanying notes 47 to 49.

31. See generally, *Encyclopedia Talmudit* 18:691-704. Rabbi Shlomo Zalman Auerbach's criticism of an early presentation of Rabbi Halperin's views is presented in *Shemirat Shabbat Kehilchata* 23:n.140 and *Teshuvot Minchat Shlomo* 91:10. The Torah journal *Techumin* contains essays by Professor Zev Lev and Rabbi Yisrael Rozen which criticize Rabbi Halperin's work *Maaliot B'Shabbat*; see Professor Zev Lev, "Using Automatic Elevators on Shabbat" *Techumin* 5:58 (5744) and Rabbi Yisrael Rozen, "Automatic Elevators on Shabbat" *Techumin* 5:75 (5744). These authorities all argue that one is permitted to ride not only on an ascending elevator but even a descending elevator.

32. See *Maaliot B'Shabbat*, chapter 12, where he points out that the passengers cause the elevators to descend a very little bit faster and that in hydraulic elevators the change is somewhat significant as a result of the passenger's weight. See note 3 for a discussion of hydraulic elevators.

the same, it is considered that the passenger's actions are irrelevant and halachically insignificant.<sup>33</sup>

Second, Rabbi Auerbach, Professor Lev, and Rabbi Rozen seek to demonstrate that a person is not halachically responsible for the actions that occur purely as a result of his weight. For example, Professor Lev<sup>34</sup> argues that the mishnah in *Kilayim* discussed above, which states that one who sits in the wagon is responsible for causing the animals to move, does not prove Rabbi Halperin's contention. Professor Lev argues that *the act of sitting down* in the wagon (rather than merely being seated) is what causes the animals to move, and not the weight of the passenger. Professor Lev also points out the fact that many eminent Sages travelled on steam powered ships on Shabbat despite the fact that they were aware that the more weight carried by the ship, the more fuel it consumes.<sup>35</sup> Apparently, they believed that the passengers are not responsible for the actions caused by their weight.

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33. *Minchat Shlomo* 91:10. Rabbi Auerbach seeks to prove this suggestion from many sources and Rabbi Halperin in *Maaliot B'Shabbat*, chapter 9 vigorously disputes Rabbi Auerbach's proofs.

34. Professor Lev, *supra* note 31, at 63.

35. The correctness of this analogy could be factually disputed. As noted by Rabbi J. David Bleich, *Contemporary Halakhic Problems* 1:137, in his discussion of using cars on Shabbat for medical emergencies, it is not at all clear that the number of violations increases at all when weight is added to a vehicle. (The same should be true for ships.) Rather it is related to a host of independent factors, which even if fixed at a constant, would make it impossible to predict whether increased weight would in fact lead to increased kindlings. Indeed, in cars, Rabbi Bleich quotes an expert who asserts that an increase in weight, can "under certain conditions" lead to fewer prohibited acts.

A third argument is presented by Rabbi Rozen.<sup>36</sup> He writes that even if one is responsible for the action performed as a result of his weight, one could argue that a person is not responsible when another is utilizing his weight for the other's purpose. For example, Tosafot write that if someone throws another person on a baby and kills the child, only the one who threw the person is responsible.<sup>37</sup> The person who was thrown would be excused from punishment, Tosafot explain, because "he is not considered to have performed an act." Similarly, argues Rabbi Rozen, one is not using his weight to cause the elevator to descend. Rather, the elevator's motor is utilizing the passenger's weight to cause the elevator to descend, and according to Tosafot the passenger should be considered as not performing an act.<sup>38</sup>

A fourth argument is presented by Rabbi Auerbach. The basis for this argument is the talmudic discussion in *Shabbat* 92b-93b concerning the law when two people perform prohibited work which could have been accomplished by one person. The Talmud rules that if each person was unable to do the action without the aid of the other,<sup>39</sup> then each person is responsible for the action which was performed. However, if one was able to accomplish the act without the aid of the other,<sup>40</sup> then only the stronger person is responsible for having done the prohibited work. The person who aids is regarded by the Talmud "as an aider whose actions have

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36. Rabbi Rozen, 85-86.

37. *Sanhedrin* 72b s.v. *v'ha Esther*.

38. The essence of this proof demonstrates that a person is not responsible for actions caused by his mere weight.

39. *Zeh yachol v'zeh yachol*.

40. And the aider cannot do the act alone.

no substance".<sup>41</sup> Authorities disagree as to whether the aider is in violation of a rabbinic prohibition with his assistance, or no prohibition at all.<sup>42</sup> Most authorities rule that the aider does not violate even a rabbinic prohibition.<sup>43</sup> Based on this, Rabbi Auerbach states that "it is considered as if the elevator is able to accomplish the task alone, and the passenger is merely an aider. This is so because the elevator is set to ascend and descend regardless of whether anyone enters it."<sup>44</sup> So too, the mere weight of the passenger – absent the electrical assistance of the motor – would not be sufficient to allow the elevator to descend.

One last argument is suggested by Rabbi Auerbach. The argument is based on the concept of "*grama*", that on Shabbat one is responsible only for direct results of one's actions and not indirect actions.<sup>45</sup> Rabbi Auerbach posits that since the elevator's descent occurs after the passenger enters the elevator and only as a result of electric current that flows after the passenger enters the elevator, the passenger would be considered to be only "indirectly" causing the descent.<sup>46</sup>

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41. *M'sayaiah ein bo mamash*.

42. Compare *Turei Zahav (Taz)*, *Yoreh Deah* 198:21 and *Nekudot Hakesef* (Shach), commenting on id.

43. See *Mishnah Berura* 328:11 and *Aruch HaShulchan OC* 328:20.

44. In chapters 10 and 11 of *Maaliot B'Shabbat*, Rabbi Halperin vigorously seeks to disprove this contention of Rabbi Auerbach. Professor Lev and Rabbi Rozen, in turn, seek to defend Rabbi Auerbach's assertion. All three of these discussions are excellent and provide outstanding, albeit varying, understandings of this important area of halacha.

45. See "Modern Technology and Sabbath Observance", pp. 95-100, and *Encyclopedia Talmudit* XVIII:701-02.

46. *Encyclopedia Talmudit* 18:701-02. The analogy appears to be to the case of "*grama*" presented in *Sanhedrin* 77a, that "if someone ties another outside while it is dark and afterwards the sun rises

Finally in his response to Rabbi Halperin's argument<sup>47</sup> that sometimes during descent the motor develops a counter-rotation that turns it into a generator which powers the elevator, Professor Lev asserts that any power that is generated by the elevator is dissipated in the surrounding electric wires and is of no use.<sup>48</sup> The authors' research indicates that in America for small elevators Professor Lev's assertion is correct, but in large elevators in very tall buildings Rabbi Halperin's assertion holds true. In any case Professor Lev appears to be entirely correct that even if Rabbi Halperin's facts are correct, the creation of this energy involves only a rabbinic prohibition.<sup>49</sup>

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and the person subsequently dies of sun stroke" ("*sof chama lavo*") the perpetrator is not considered to have directly murdered the person he tied up. This is indirect because the sun was not present when he tied up the victim. The elevator situation is analogous because the motor is not operating when the passenger enters the elevator car.

In addition, as with all situations where a person is doing prohibited work unintentionally and is completely unaware that he is causing the work, the leniencies of *mitasek*, (completely uninvolved), are present, which exempt one from liability; see "Modern Technology and Sabbath Observance", pp. 89-91. The person who steps onto the elevator is completely unaware of the prohibited activities, which are unintended. This argument is first noted by Professor Lev.

47. See text accompanying note 30.

48. Professor Lev, p. 72.

49. Ibid page 65 n.1. Since it is a "*melacha sh'eina tzricha l'gufa*" (see "Modern Technology and Sabbath Observance", pp. 86-88). Professor Lev asserts that "the results of the elevator trip which have no connection to the essential functioning of the elevator ride, such as creation of electric current which may enable various acts of Shabbat violations which have no connection to the elevator ride per se and to its purpose, are indeed considered to be a "*melacha sh'eina tzricha l'gufa*." Rabbi Halperin's attempt to demonstrate

### C. Weighing Mechanisms in Newer Elevators

One additional factor needs to be addressed. Most newer elevators are equipped with electronic weighing devices which pose an additional halachic problem. Depending on the elevator, the weighing mechanism – whose purpose is to determine the weight of the passengers in the car so as to optimize the motor's speed and efficiency – involves completing a circuit or increasing current in an already completed circuit.<sup>50</sup>

Rabbi Halperin rules that if these weighing mechanisms have not been turned off one is forbidden to ride the elevator, even if it is ascending.<sup>51</sup> It should be noted, however, that our research reveals that most older elevators and all smaller elevators are not equipped with these weighing mechanisms. If one is uncertain whether an elevator is equipped with weighing mechanisms, one has encountered the situation of a possible secondary act (*safek psik reisha*).<sup>52</sup> While there are authorities who prohibit such actions,<sup>53</sup> both *Mishnah*

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that it is not a "*melacha sh'eina tzricha l'gufa*" (*Maaliot B'Shabbat*, pp. 65-69) appear not to be at all convincing.

50. *Maaliot B'Shabbat* chapter 15. If an elevator is being specially prepared for use on Shabbat, these weighing mechanisms should be turned off. Rabbi Rozen writes (p. 76) that this can be done without compromising the safety of the passengers or the proper functioning of the elevator. Both *Tzomet* and the Institute for Science and Halacha have the weighing mechanisms turned off on Shabbat in the elevators they modify for use on Shabbat.

51. *Maaliot B'Shabbat* p.187.

52. This refers to a situation in which one is uncertain if an unintended, though forbidden, act will occur and the result depends on a condition in existence prior to his actions about which he is uncertain; See "Modern Technology and Sabbath Observance", pages 84-86.

53. Rabbi Akiva Eiger, commenting on *Yoreh Deah* 87:6.



*Berurah*<sup>54</sup> and Rabbi David Tzvi Hoffman<sup>55</sup> are inclined to rule leniently regarding this issue.<sup>56</sup> Hence, it appears that one may use an elevator if one simply does not know and cannot determine if these weighing devices are in place.<sup>57</sup>

Moreover, even if an elevator has an electronic weighing mechanism, it may still be possible to ride the elevator. At least two factors incline one to rule leniently. Some of these weighing mechanisms involve completing an electric circuit, which is forbidden, and others work by increasing current to an already completed electric circuit, which is permitted according to most authorities.<sup>58</sup> Hence, riding in such an elevator may be only a case of possible unintended violation – a *safek p'sik reisha* – on a rabbinic prohibition<sup>59</sup> which, as

54. *Biur Halacha* 316:3 s.v. *ein mino nitzod*.

55. *Melamed Le'hoil* 3:102.

56. See "Modern Technology and Sabbath Observance", pp 84-86.

57. While at first glance it would appear that if one wishes to use a particular elevator on Shabbat on a regular basis, it is proper to investigate whether the elevator has an electronic weighing mechanism, such need not be the case. It is true that *Shach* states (*Yoreh Deah* 98:9) that "an uncertainty dependent on a lack of knowledge is not a doubt;" however, that rule is limited to cases where the doubt can be resolved with relative ease. Determining whether a particular elevator model has weighing devices and how they work, is not a simple task, and even when one finds an expert who will address these issues, one is frequently confronted with the fact that company representatives – when discussing their product with people technologically unfamiliar with it – sometimes represent their elevators as containing all of the modern accoutrements of the most technologically up-to-date elevators, even when, in fact, they do not. Weighing devices are such items.

58. See note 17. The current trend in technology is to have continuously open circuits.

59. On a rabbinic prohibition (see note 4), as no incandescent light is involved; see "The Use of Electricity on Sabbath and Yom Tov",

noted above is generally considered permissible.<sup>60</sup> In addition, frequently one is completely unaware of the fact that one is being weighed. In such a situation one is also *mitasek* (completely uninvolved), which is also exempt from liability according to most opinions.<sup>61</sup> While it is true that normally, being completely unaware only works once, as one soon realizes that one is causing prohibited work, in this case, however, a person might never be aware of this prohibited work done through his action, particularly as many elevators do not even have these weighing devices or work solely through increased current flow.

These rationales perhaps explain why many books of normative halacha (such as *Shemirat Shabbat Kehilchata*, *Yalkut Yosef*) – all of which are familiar with Rabbi Halperin's work – simply do not concern themselves with these weighing devices and do not rule that the presence of these weighing devices prevent one from using elevators.

### III. Practical Issues

#### A. Using an Elevator Set to Stop Automatically on Preselected Floors

In light of the multiple disputes discussed above, which are present when using automatic elevators and particularly Rabbi Halperin's novel analysis concerning causation from a person's weight, many halachic authorities are hesitant to permit the use of an automatic elevator in all circumstances for both ascending and descending.

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pp. 12-23.

60. See text accompanying notes 53 to 56.

61. See "Modern Technology and Sabbath Observance", pp. 89-91.

For example Rabbi Auerbach is cited<sup>62</sup> as ruling that "one need not rebuke one who is lenient and rides a descending elevator." Rav Ovadiah Yosef is also cited as permitting use of an elevator both for ascending and descending, although noting that it is better to be strict on this matter.<sup>63</sup> Professor Lev adds that one is permitted to be completely lenient in case of need, such as an aged person, a child, pregnant woman or in a very tall building.<sup>64</sup> Rabbi Neuwirth is inclined to permit the use of elevators both to ascend and descend, although, he too indicates that it is better to be strict.<sup>65</sup> However, all agree that – when possible – it is best to modify the elevator to eliminate non-essential prohibited actions, such as the lights which display the floor number, out of concern for Rabbi Halperin's view.<sup>66</sup>

A review of the halachic literature inclines one to believe that all of the concerns except Rabbi Halperin's are not significant halachic concerns.<sup>67</sup> A thorough review of the current halachic literature indicates that, besides Rabbi Halperin himself,<sup>68</sup> there are apparently no halachic authorities who accept as correct the basic argument that a

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62. *Shemirat Shabbat Kehilchata* 23:n.140 (end).

63. *Yalkut Yosef* 4:192 (and particularly note 4).

64. Professor Lev, p. 74 and Rabbi Rozen, page 127.

65. *Shemirat Shabbat Kehilchata* 30:54.

66. See Rabbi Rozen, pages 94-96 for a detailed description of how Tzomet (an Israeli firm which publishes *Techumin* and produces halachic-technical equipment such as Shabbat-phones) modifies elevators for use on Shabbat in accordance with Rabbi Auerbach's views. Of course, the Institute for Science and Halacha modifies elevators for Shabbat use in accordance with Rabbi Halperin's views on this issue. For more on this, see part II:5.

67. See text accompanying note 17.

68. And perhaps Rabbi Weisz; see source cited in note 5.

person is himself directly responsible for the actions caused by the descent of the elevator since his weight contributes to (and partially causes) the descent. However, many authorities do discuss his opinion, and when possible and not difficult, it is appropriate to be strict. However, the *consensus* view of halacha is not in accordance with his rule.<sup>69</sup>

## B. Elevator Roaming

The next issue concerns whether it is permissible to go onto a non-automatic elevator, push none of the buttons, and simply ride the elevator to whatever floor the elevator goes to or to whatever floor the passengers who have pushed the buttons go.<sup>70</sup>

Rabbi Neuwirth rules that one is permitted to ride an elevator which is being directed by a Gentile, in a case where he does not operate the elevator on behalf of the Jew, and the Jew will enter and exit the elevator on the floors where the Gentile enters and exits.<sup>71</sup> The same should be true when one steps into an empty elevator which will be summoned

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69. In addition, the fact that in some elevators the counter-weight is balanced against 40% of the passenger weight, rather than simply the weight of the cab, would mean that the elevator motor is actually in its ascending mode when the cab is descending with only a few passengers. In that case, even Rabbi Halperin would permit the descent.

70. This is a particularly common problem in many hotels where the stairs are locked for security to prevent people from getting from the lobby to the guest quarters without using the elevators. May one simply take the elevator to whichever floor it goes (and walk the rest of the way)?

71. *Shemirat Shabbat Kehilchata* 30:54. However, he writes that it is preferred that one should be concerned for Rabbi Halperin's view and not ride on a descending elevator at all.

to a different floor by a Gentile (even though the car is now empty).<sup>72</sup> In essence, both of these cases are the same as an automatic elevator.<sup>73</sup>

The basic rationale for permitting such conduct is that the Gentile is doing the action solely for himself, and in cases where a Gentile does a prohibited act solely for his own benefit, a Jew may also benefit.<sup>74</sup> Of course, if one accepts either the argument of Rabbi Weisz or Rabbi Halperin, one

72. As in both cases the Gentile is doing the action solely for himself.

73. There is one difference. In the case of the automatic elevator, which is marked as such, there is no problem of *chashad* or *marit ayin*, whereas when one simply rides a regular elevator, these two issues are present. We have found no halachic discussion of these principles in the context of elevators; it is our opinion that while there is a possibility of both *chashad* and *marit ayin*, in fact everyone recognizes that electrical appliances can run without intervention in the modern era, and there is in fact no real problem of *chashad* or *marit ayin* -- just as one may place one's lights on a timer, without the fear that others will see this and think either that one may turn lights on Shabbat or that the person with the timer is actually a sinner. (*Chashad* (suspicion) is the halachic rule that prohibits a person from doing something that leads others to think that this person is sinning (when they are not) and *marit ayin* is that rule which prevents a person from doing something which is permissible, but which resembles something which is prohibited, and those who watch will think that the prohibited act is really permitted.) Rabbi Neuwirth, in *Shemirat Shabbat Kehilchata* 30:54, indicates that because of this reason, it is best to avoid all elevators except for the case of needing to do a mitzvah.

74. See generally, *Shulchan Aruch Orach Chaim* 325:10-11. In a situation where the Gentile knows the Jew and pushes the button for the Jew's floor as a favor for the Jew, even if not asked, a Jew may not get off at that floor, as that action is for the Jew's benefit (unless this is a case where asking a Gentile is permitted, which is discussed in section II:4. For more on these general issues, see *Orach Chaim* 325:11-12.

concludes that such tagging along is prohibited, as the Jew's presence on the elevator increases the prohibited work done, even if the Jew pushes no buttons or does any other prohibited work.<sup>75</sup>

The case of an elevator operated by a non-observant Jew on Shabbat is complex, as the question that has to be addressed is whether the violations committed by this person have the status of *shoggeg* (unintentional), *maizid* (intentional) or *ones* (duress) violations. Furthermore, we must establish the status of modern day secular Jews – are they *tinokot shenishbu* ("captive children") or not?<sup>76</sup> If their violations are considered unintentional, then another Jew may derive benefit from their actions since only a rabbinic prohibition is violated.<sup>77</sup>

On the other hand, if their violations are considered deliberate, then one may not.<sup>78</sup> In addition, a case can be made that even if the violations are intentional, since it involves no permanent change in the item itself (the elevator will return to its place later none the different) maybe all the rules of "prohibited benefit" do not apply.<sup>79</sup> This is

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75. Rabbi Unterman remarks (*Shevet Yehuda*, p. 315,) that "I have personally witnessed eminent Torah sages entering an elevator and traveling to the floor for which a Gentile passenger pushed the button, and they never raised the possibility of their added weight posing a halachic problem." This also indicates that the practice is to be lenient on this issue.

76. Compare Rambam *Shegagot* 2:6 and the remarks of *Kesef Mishneh* and *Lechem Mishneh* with Rashi, *Kritut* 2a and *Chut Meshulash* (Rav Chaim of Volozhin) 13. See also *Shabbat* 68b.

77. See *Biur Halacha* 318:1 (*hamevashel*). See Rabbi Chaim David HaLevi, *Aseh Lecha Rav* 5:53 (short *teshuvot*).

78. *Ibid.*

79. See generally *Shemirat Shabbat* volume 3 2:11(7) and n.41;

explicitly stated to be the rule concerning electricity by Rabbi T.P. Frank,<sup>80</sup> but apparently disputed by Rabbi Neuwirth<sup>81</sup> in the context of elevators.<sup>82</sup> This matter requires further analysis.<sup>83</sup>

### C. Asking a Gentile to Operate the Elevator

Generally speaking, one may not ask a Gentile to do work on one's behalf on Shabbat.<sup>84</sup> However, in certain cases, such as for the sake of performance of a mitzvah or for the

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*Mishnah Berurah* 257(8) and *Shulchan Aruch HaRav* 405:9; but see *Iggerot Moshe OC* 2:77 and compare this with *Shemirat Shabbat Kehilchata* 18:56. It is important to understand that Rabbi Feinstein rules that it is prohibited to derive benefit from a prohibited action, even when the benefit is secondary. Thus, Rabbi Feinstein rules that one may not enter a house whose door was opened with a key that was carried (through a biblical violation), whereas Rabbi Auerbach permits that type of benefit. Rabbi Auerbach would appear to permit a person to ride an elevator that was brought to one's floor because a Jew rode up to the floor, and one merely wished to ride it down.

80. *Har Tzvi OC* 181.

81. *Shemirat Shabbat Kehilchata* 23:51.

82. But affirmed in other context; see *ibid.* 18:n.244.

83. Indeed, before one permits this, one would have to consider the *chillul hashem* (desecration of God's name) issue, lest one appear to be encouraging a violation of Jewish law. In terms of *chillul hashem*, a distinction is possible between the case of a Jew who rides an elevator up to your floor and then leaves to go to his residence (providing you with an elevator that will go down) and actually joining a Jew in an elevator cab when that person had summoned the car in violation of Jewish law. For an example of this, see Rabbi Shmuel David, *Shealot Uteshuvot Merosh Tzurim* p. 509.

84. *Shulchan Aruch OC* 307:3-5.

needs of even a mildly sick person or great need, one may ask a Gentile to perform a rabbinically forbidden activity.<sup>85</sup> Therefore, since pressing a button summoning an elevator involves only a rabbinic prohibition,<sup>86</sup> it would appear that one is permitted to ask a Gentile to press an elevator button in order to facilitate a mitzvah such as going to synagogue or participating in a Shabbat meal (or returning from any of these).<sup>87</sup>

In a case where a Jew boards an elevator that has a Gentile on it and the Jew intends merely to go to whatever floor the Gentile leaves, and the Gentile asks the Jew which floor he wants, it is prohibited (absent great need, the needs of a sick person, or the fulfillment of a mitzvah) for the Jew to reply by asking the Gentile to press the button of the Jew's floor.<sup>88</sup>

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85. Ibid.

86. See above notes 4 and 7. The fact that the lights which display the floor numbers are usually incandescent lights, which are biblically forbidden, does not constitute a problem since the Gentile does not intend to cause the lights to turn on. Even though it is inevitable (*psik reisha*) that the lights will turn on, the prohibition of requesting a Gentile to do work does not obtain when the Gentile does not intend to do the activity which is forbidden for the Jew (*Mishnah Berurah* 253:99); see Rabbi Mordechai Willig "On the Topic of Asking a Gentile on Shabbat," *Beit Yitzchak* 22:90-91 (5750).

87. See *Shulchan Aruch Orach Chaim* 613:5 and comments of *Mishnah Berurah* on 613:15 for an explanation of why returning from a mitzvah has the same status as going to a mitzvah.

88. There is more room to be lenient on Yom Tov, than on Shabbat, and some rule that it is permissible to ask a Gentile to summon the elevator. First, there are those authorities who rule that the mitzvah of a joyous Yom Tov is sufficiently important that this case becomes one of a double rabbinic prohibition in a case of mitzvah (*shevut deshevut bemakom mitzvah*) which is permissible; see Rabbi Ovadiah Yosef, *Yabia Omer* OC 2:26 which concludes that it is generally



### D. Escalators<sup>89</sup>

Escalators pose fewer halachic issues than elevators. American escalators lack the elaborate feedback mechanism found in modern elevators. The motor operates at a fixed speed independent of the number of people on it and there is no weighing mechanism. So, too, current flow appears to neither decrease nor increase based on the number of passengers.<sup>90</sup> Thus, it appears permissible to use escalators

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permissible to ask a Gentile to turn on electrical appliances on Yom Tov; but see *Mishnah Berurah* 510:23 and *Shaar Haztiun* 510:24 who indicates that it is better to be strict.

In addition, it is possible to add that there are halachic authorities who maintain that the operation of electrical lights and appliances are permitted even by a Jew on Yom Tov (see "The Use of Electricity on Sabbath and Yom Tov", at 23-27). Rabbi Neuwirth rules (*Shemirat Shabbat Kehilchata* 30:n.47) that there is no prohibition to ask a Gentile to do an action whose propriety for a Jew to do is in dispute. Thus one might be able to ask a Gentile to summon an elevator on Yom Tov.

While one could question why one could not ask a Gentile even on Shabbat to turn on electrical appliances, as there is an extremely well reasoned opinion that argues as a matter of theory that when there is no generation of light and heat, there is no prohibition (See Rabbi Shlomo Zalman Auerbach, *Minchat Shlomo* page 74, 84 and "The Use of Electricity on Sabbath and Yom Tov", pp. 20-21) the answer is that since even Rabbi Auerbach concedes that the custom is to treat the use of electricity (when no light and heat is generated) as a rabbinic prohibition, that custom applies equally well to the case of asking a Gentile to do a prohibited action.

89. For more information on escalators, see *Encyclopedia Britannica* "Escalators" 4:553-554 (15th ed., 1991).

90. Rather, experts have told us that the speed of the escalator changes ever so slightly based on the number of passengers. While it is probable that Rabbi Breisch would prohibit escalators for the same reasons that he would prohibit elevators, it is possible to distinguish escalators from elevators, since escalators do not move from one point to another at all (but merely rotate), which would

on Shabbat, providing that the escalator is already functioning before the Jew steps on it.<sup>91</sup> It is important to note that Rabbi Halperin's argument, which distinguishes between ascending and descending, is inapplicable to escalators, since escalators are closed systems on a rotating power wheel.<sup>92</sup> This fact seems to have eluded some authorities who apparently counsel observing Rabbi Halperin's strictures for escalators also.<sup>93</sup>

There are authorities who rule that escalators and elevators are identical.<sup>94</sup> It has been suggested that, given the vastly higher cost of electricity in Israel, escalators built in Israel contain feedback mechanism that moderate motor speed based on passenger traffic.

### E. Israeli Shabbat Elevators

One who lives or vacations in Israel will occasionally see elevators in Israel which have certificates attesting that they can be used on Shabbat. Two different certifications are available; one is provided by the Machon Letechnology Vehalacha (The Institute for Technology and Jewish Law) and conforms to the standards of Rabbi Halperin, and the other is provided by Tzomet, and conforms to the standards

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not be prohibited even by Rabbi Breisch's argument that elevators are analogous to trains.

91. See *Shemirat Shabbat Kehilchata* 23:52 which permits the use of escalators in all circumstances.

92. Whose rate of descent is determined simply by motor speed. This is in contrast to elevators, which are on a pulley system.

93. See *Menuchat Ahava* 1:24(18).

94. See *Yalkut Yosef Shabbat* vol. 4, pp. 195-196, and *Menuchat Ahava* 1:24(18), which both analogize escalators to elevators, and rule that one should try to avoid escalators when possible.

of Professor Lev and Rabbi Shlomo Zalman Auerbach. As discussed above, each of these two standards aims to solve different things. Both organizations modify the elevator so that the weighing mechanism does not operate on Shabbat.<sup>95</sup> An elevator certified by Rabbi Halperin has its circuitry modified so that when it is descending the electricity generated is completely dissipated, rather than being returned to the power grid of the hotel. So too, these elevators are modified so that the effect of the passenger's weight is neutralized and their descent itself does not cause any lights to go on or off.<sup>96</sup> On the other hand, Professor Lev's certification does not require this.<sup>97</sup>

#### IV. Conclusion

The issue of riding an elevator on Shabbat is complex. While it is true that some halachic authorities permit one to use an elevator both for ascent and descent, it is clearly better to avoid putting oneself in a situation where one will need to routinely rely on lenient opinions.<sup>98</sup>

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95. It is worth noting that neither organization changes the method of operation of the elevators so that the number of people on the elevator does not directly effect the current drawn by the motor to eliminate the objection to all elevators posited by Rav Weisz.

96. For a detailed description of the various modifications, see *Maaliot B'Shabbat*, at chapter 16.

97. See Rabbi Israel Rozen, pages 94-96.

98. See *Shemirat Shabbat Kehilchata* 23:50-51 and 30:54. For example, it would be better not to move into an apartment on a high floor with the intent of regularly relying on the lenient opinions of both using a Gentile to go home from synagogue and the opinions that it is completely permissible to regularly use an elevator to descend.