

Summary: Parashat Be-ha'alotekha

וביום שמחתכם ובמועדיכם ובראשי חדשיכם ותקעתם בחצצרות

Musical Instruments on Shabbat and Yom Tov

Music has played a central role in religious rites across cultures and throughout time. And yet, traditional Jewish practice has mainly forbidden the use of musical instruments on Shabbat and Yom Tov, days that are uniquely focused on spirituality and on transcending the mundane. Why? What is the basis for this prohibition, both in the textual record and conceptually? How should we think about this prohibition today? We will review the sources and suggests a few different models for thinking about this question.

Let's begin with the meager, but meaningful, biblical evidence for the use of musical instruments on sacred days. The most explicit passage is the following, from our *parashah*:

במדבר י:י

וביום שמחתכם ובמועדיכם ובראשי חדשיכם ותקעתם בחצצרת על עלתיכם ועל זבחי שלמיכם והיו לכם
לזכרון לפני אלקיכם אני ה' אלהיכם:

Bemidbar 10:10

And on your joyous occasions, appointed times and new-moons, you shall sound trumpets when offering your burnt-offerings and well-being-offerings, and they shall be a reminder before your God; I am the Lord your God.

This verse is explicit that horns are used as part of the Temple service, at least on Yom Tov, and seemingly on Shabbat as well. **Vayikra 23:24** and **Bemidbar 29:1** describe the sounding of a horn (a תרועה/piercing blast) on the first day of the seventh month (known to us as Rosh Ha-Shanah), which is described there as a מקרא קדש, or a Yom Tov. **Vayikra 25:9** commands the sounding of a *shofar* in the יובל/Jubilee year on the tenth day of the seventh month—יום הכפורים/Yom Kippur, described elsewhere not just as a מקרא קדש but also as a שבת שבתון—throughout the land, not just in the Temple precincts. **Tehilim 92:1-4** may make a practice involving musical instruments more explicit with regard to Shabbat. This psalm is titled מזמור שיר ליום השבת/“A psalm for the Shabbat day” and seems to have been part of the liturgy for the day, at least in the

Temple. The phrase *עלי עשור ועלי נבל עלי הגיין בכנור* “On a ten-stringed harp, on the harp, on the melodious lyre” thus seems to be an instruction to play these various stringed instruments on Shabbat. All of this is to say that the playing of instruments on Shabbat and Yom Tov is dealt with nonchalantly in the Bible. Based on this part of the canon alone, no one would ever dream of forbidding their use.

It is hard to find explicit evidence one way or the other regarding the use of musical instruments on Shabbat and Yom Tov in non-Rabbinic sources from the Second Temple Period. Scholars have recently faced off over whether such a prohibition can be found in one of the surviving fragments of the Dead Sea Scrolls. Whether or not the text in question provides explicit evidence of a prohibition, it seems fairly obvious that at least some elements of the Dead Sea communities would have forbidden any use of musical instruments, simply on account of their status as an *instrument*. In an earlier essay, I explored the origins of the Rabbinic concept of *muktzeh*, the notion that all kinds of objects are off-limits on Shabbat. This concept, in its purest form, insists that Shabbat is a day when we retreat from manipulating the world in any way, including a near-total avoidance of the utensils we use for that manipulation and that are emblematic of it: tools. Tools represent the human dominance of the physical world, and are a potential threat to emulating God’s total stoppage on the seventh day after creation. We see this prohibition at work in some Dead Sea materials, where one is forbidden to save someone from drowning with a ladder or a rope on Shabbat (Damascus Document XXI). Here, and elsewhere, we see a strong allergy to the use of tools, even non-transformative ones, like a ladder, even in potentially life-threatening situations. Offering one’s hand or clothing to help a person out of a pit is fine; once one reaches for a tool, one has violated the character of the day in a grave fashion (see 4Q265). It is fairly clear that no one subscribing to these teachings would allow the use of musical instruments on Shabbat. Musical instruments are also tools (the Dead Sea Scroll material refers to a *כלי*, which really means any human-fashioned utensil), means of affecting the world through human technology, and symbols of dominance over the environment. While we cannot say for sure how such sources would have felt about the music itself on Shabbat, its production through tools would seem quite obviously beyond what they could tolerate. This tradition would have to cabin off the biblical evidence we offered above as being highly specific to the Temple precincts, in the context of sacrificial worship. Indeed, there are a number of actions, such as the use of fire, that the Torah forbids on Shabbat and yet assumes are permissible

and mandatory in the Temple as part of the sacrificial regime. In parallel, only where the Torah explicitly authorizes the use of such musical instruments can they be tolerated on Shabbat and Yom Tov. Otherwise, the obligation to withdraw from creation demands that such tools be avoided at all costs. We will return to this model and its subsequent echoes later on in our analysis.

Rabbinic sources clearly inherit a prohibition on at least some musical instruments on Shabbat. This prohibition is, in fact, never explicitly articulated in classical sources, but it is assumed throughout. The reasons for this prohibition, however, vary depending on text and period. They can be organized into four models (see the longer essay for documentation and analysis):

- 1) *Avoiding loud noise.* This approach focuses on decibel levels, not instruments *per sé*. It draws strength from many Tannaitic sources (e.g. Mekhilta de-Rabbi Shimon b. Yoḥai 12:16, that forbids clapping, dancing, and smacking on Shabbat), from many voices in the Talmud Yerushalmi (Beitzah 5:2, 63a), and Ulla in the Talmud Bavli (Eruvin 104a), all of which forbid loud sounds on Shabbat, including white noise. This formulation is favored by **R. Hananel** (on Eruvin 104a), and the Meiri reports that the **students of Ramban** played soft instruments on Shabbat, showing that they must clearly have held a similar position (Magen Avot #10).
- 2) *Avoiding musical and rhythmic noise.* This approach cares about specific types of noise, but emphatically dismisses any concerns about white noise, and does not primarily engage the axis of volume. It draws strength from Rabbah in the Talmud Bavli and the deflections offered there on his behalf (Eruvin 104a), and is picked up chiefly by the **Rif** (Eruvin 35b), but also in the **Meiri's** deflection of Ramban's students' practice; it becomes the main view codified in the **Shulhan Arukh** (Orah Hayyim 338:1).
- 3) *Derivative concern of making/fixing a musical instrument.* This approach sees our entire topic as lacking a primary motivation. There is no concern about noise or music *per sé*, just their potential for leading to the performance of an illegal *melakhah*. It draws strength from the formulation of the **stam** (the anonymous Talmudic redactor) that this is the root of the problem, and takes that explanation seriously as a matter of

law (Beitzah 36b). The most prominent supporters of this approach were the **Tosafot** (Beitzah 30a s.v. *tenan*), as well as the **Ra'aviah** (III:795). This picks up traction in Ashkenaz especially (though Shulhan Arukh cites him at Orah Hayyim 338:2; but see the **Rema** there who takes the ruling much further than R. Yosef Caro; also see their difference of opinion later at 339:3).

- 4) *Muktzeh/avoiding inappropriate use of tools*. In addition to whatever concerns we might have about certain kinds of loud noises, this approach sees the problem as the use of musical *instruments*. It unconsciously draws on the traditions we saw in the Dead Sea Scrolls material, and taps into ancient Rabbinic traditions that avoid tools on Shabbat, except for targeted activities (see, for example, Tosefta Shabbat 14:1).

I would like to explore the last of these models as a way of understanding the debate about musical instruments most fully.

The context I alluded to above (and in the earlier essay) should remind us that the original default setting of all tools in Rabbinic culture was off-limits. Only tools that had a purpose were gradually brought into the material world of Shabbat. Even as this included category grew dramatically, some tools never made it in. Mishnah Shabbat 17:4 speaks about the peg in a plow and a large saw as two such exceptions. I want to suggest that musical instruments were another such exception. It is not that someone decided to ban their use; rather, their exclusion from the material world of Shabbat is *prior* to all subsequent discussions of noise and music-making. Even once those later legal cultures underwent dramatic shifts, the actual instruments themselves remained outside of the material culture of Shabbat, as much on an instinctive level as a legal one. Jews retained a residual, vestigial opposition to the use of tools on Shabbat, even as they practically released formal prohibitions in this area virtually comprehensively. Even if one dropped all instinctive and reasoned opposition to the generation of music on Shabbat, one would, if following this model, still deeply resist the use of a tool in order to generate this sort of sound.

Indeed, this helps makes great sense out of the broadly held permission—very prominent in Ashkenazi circles—to whistle on Shabbat. **Rema** explicitly permits this. At first glance, it is hard to understand why whistling should be any different than playing a flute. Good whistlers can actually simulate the sound of a wind instrument! Indeed, from the perspective of any of our

first three models, there is no reason to distinguish between the cases. Both generate noise, both generate rhythmic, musical sound, and both might lead to making or fixing a musical instrument due to one's involvement with the music. But from the perspective of מוקצה, there is all the difference in the world: One uses a tool and one doesn't. And this can also help explain why singing was never put on the table as problematic, no matter how musical and melodic it was.

There are thus four basic practical ways to think about the question of using musical instruments on Shabbat and Yom Tov:

- 1) A community might attempt to create as quiet a Shabbat as possible, forbidding banging, loud dancing, and the use of musical instruments. This approach would accord with Ulla and would say that Shabbat is intended to be a serene time with an atmosphere devoid of all loud sounds. One might still claim, as did Ramban's students, that certain instruments—such as an acoustic guitar played softly, or more conservatively, a tuning fork—fall below the threshold of concern. Such a community would have meaningful restrictions on volume both with respect to musical instruments (no electric guitar, synthesizer, or drums) and to other forms of noise (no clapping, no banging on tables as part of singing). In terms of the history of *halakhah*, this was overwhelmingly the path not taken.
- 2) A community might assert that musical noise has the power to affect the mood in ways that other noise does not, and that such an effect is against the spirit of the more relaxed, passive world we try to create on Shabbat. White noise is acceptable (such as non-rhythmic table banging), but more manipulative and affecting noise (music and rhythmic clapping and tabletop drumming) is to be avoided. This is more or less the approach of R. Ovadiah Yosef. Again, one might claim, in a variation on this approach, that certain sounds are soft enough that they fundamentally facilitate ongoing activities rather than shape them (the distinction between musical accompaniment and a concert, or more conservatively, something like a pitch pipe). This last extension would be controversial.
- 3) A community might abandon all concern for any kind of noise, arguing that even the playing of very loud musical instruments is in keeping with the atmosphere of Shabbat. Given that this approach essentially ignores the insights of the first two approaches, it

would only really be acceptable in halakhic language once it had been established as a fact on the ground, and even then, its acceptance would likely be transitional and highly contested. One can imagine a sufficiently intensive and observant community that *happens to have as one of its practices* the playing of musical instruments on Shabbat receiving justification for its behavior in this regard. It would remain contested, just as those articulations are contested, and many communities would reject the practice, just as there remain many Jewish communities that refrain from clapping or dancing on Shabbat and Yom Tov. This third model would then essentially be—as are many cases of this sort of change—a historical gamble, where the communities using musical instruments on Shabbat without concern for their volume might succeed in creating sufficiently learned and observant communities to find a place within halakhic discourse. Failing that, however justified this practice might seem to such a community, it is likely they would ultimately become a curious footnote in a larger halakhic story that ultimately maintained some fidelity to the notion of noise and quiet playing a central role in determining the atmosphere of Shabbat.

- 4) Finally, a community might say that we never use tools to generate noise or music on Shabbat, even as we have dropped all other restrictions on noisemaking. In practice, this is the way most traditionally Shabbat-observant Ashkenazi Jews run things. This fourth model subconsciously taps into pre-Rabbinic and early Rabbinic restrictions around tools on Shabbat. Even as rabbinic Judaism has allowed more and more tools into the material culture of Shabbat, a ban on musical instruments is a meaningful and powerful vestige of that earlier model. This is perhaps simultaneously the most radical and the most conservative approach. It, following Tosafot, jettisons all of the sources around noise that anchored this conversation in the Rabbinic period. But it also maintains a deep fidelity to an ancient tradition of withdrawing from the world on Shabbat.

This topic is perhaps as good an example as one can find for feeling the difference between treating *halakhah* as an obstacle to get around, as opposed to as a source of wisdom for shaping one's practice. If one's entire goal is to find a way to play musical instruments on Shabbat, it is fairly clear that there are pathways to explore. There are clearly hooks on which one can hang

one's hat, but one does so at the cost of a host of other insights, including manifesting at least some element of a culture of quiet, nervousness about overly manipulating the Shabbat atmosphere and, most important, maintaining the value of a culture that steps back from tools on Shabbat. The collective force of the sources I lay out in the longer essay point clearly, in my view, to embracing a Shabbat where those tools are put aside when the day begins. As I said, I am not for running the opposing view out of town, and I can imagine a rigorously observant Judaism that integrates musical instruments into its Shabbat practice. But a great deal would be lost and it is not a choice I make for myself, nor do I recommend it to my colleagues and students. When we shift our thinking about *halakhah* from legal compliance to growing in wisdom, sometimes the more restrictive option is the wiser one. The case of musical instruments on Shabbat is truly one where multiple voices compete for our attention. We can try to pick out the individual melody lines and listen to them alone, or we can attempt to hear the symphony in its entirety.